



# **MINUTES OF THE EXTRAORDINARY MEETING OF COUNCIL**

**commencing at 5pm on**

**THURSDAY 12 MAY 2022**

Council Chambers  
11 Manning Street, KIAMA NSW 2533

**MINUTES OF THE EXTRAORDINARY MEETING  
OF THE COUNCIL OF THE MUNICIPALITY OF KIAMA  
HELD IN THE COUNCIL CHAMBERS, KIAMA  
ON THURSDAY 12 MAY 2022 AT 5PM**

- PRESENT:** Mayor – Councillor N Reilly,  
Deputy Mayor – Councillor I Draisma,  
Councillors M Brown, K Rice, W Steel, J Keast, S Larkins,  
K Renkema-Lang and M Croxford
- IN ATTENDANCE:** Chief Executive Officer, Director Environmental Services, Chief  
Financial Officer and Director Engineering and Works
- OBSERVER:** Office of Local Government Case Manager

## **1 APOLOGIES**

Nil.

## **2 ACKNOWLEDGEMENT OF TRADITIONAL OWNERS**

The Mayor declared the meeting open and acknowledged the traditional owners.

## **3 DECLARATIONS OF INTEREST**

Nil.

## **4 CONFIDENTIAL SUMMARY**

### **Public Representations:**

The Mayor called for representations regarding issues which had been proposed to be disclosed in Confidential Committee of the Whole. No such representations were received.

### **4.1 Exclusion Of Press And Public:**

*22/0570C*

**Resolved** that at this time, 5.01pm, in accordance with Sections 10 and 10A of the Local Government Act, 1993 as amended, Council close the meeting of the

Confidential Committee of the Whole to the Press and Public to deal with the following matters on the grounds as detailed below.

#### 4.1 FORENSIC ACCOUNTING ASSESSMENT

**Reason for Confidentiality:** This matter deals with details of systems and/or arrangements that have been implemented to protect council, councillors, staff and Council property as per Section 10A(2)(f) of the Local Government Act and advice concerning litigation, or advice as comprises a discussion of this matter, that would otherwise be privileged from production in legal proceedings on the ground of legal professional privilege as per Section 10A(2)(g) of the Local Government Act.

#### 4.2 REFINEMENTS TO THE BLUE HAVEN ADVISORY BOARD POLICY

**Reason for Confidentiality:** This matter deals with advice concerning litigation, or advice as comprises a discussion of this matter, that would otherwise be privileged from production in legal proceedings on the ground of legal professional privilege as per Section 10A(2)(g) of the Local Government Act.

(Councillors Steel and Brown)

For: Councillors Brown, Croxford, Draisma, Keast, Larkins, Reilly,  
Renkema-Lang, Rice and Steel

Against: Nil

## 5 CONFIDENTIAL REPORTS

### 5.1 Forensic accounting assessment

It was **moved** by Councillor Brown and seconded by Councillor Steel that Council:

1. Receive the confidential forensic accounting assessment report of historic data, noting the findings and actions which will be required to be updated in the Strategic Improvement Plan for Kiama Municipal Council.
2. For the purposes of protecting and sustaining the core role of the local government authority that delegated authority be given to the Chief Executive Officer to sign all documentation associated with the contract to McVay Real Estate for the purposes of undertaking a sale through public tender for Blue Haven Lot 71 DP831089 and Lot 2 DP1215276.
3. List for inclusion in the conditions of the contract with McVay Real Estate specified at two (2) above, the following:
  - The high standard in quality of care for the residents and families of the Blue Haven Residential Aged Care Facility be maintained, protected and uninterrupted and continue to meet the requirements of the Federal Government Aged Care Act 1997 requirements.
  - The good reputation and care invested in our Blue Haven Independent Living Unit Community be maintained, protected, uninterrupted and continue to meet the requirements of the Retirement Villages Act 1999.

- The good reputation, working environment, and conditions for Blue Haven Staff of Kiama Municipal Council be maintained and protected.
  - The probity lawyers are appointed to act in Council's interest and sound tender processes are used to ensure compliance with the Local Government Act.
4. Develop for consideration at the next extraordinary meeting of Council a strategic liquidity plan for submission to the Audit Office and the Office of Local Government.

At the request of Councillor Larkins and by consent, the motion was varied to read as follows –

That Council:

1. Receive the confidential forensic accounting assessment report of historic data, noting the findings and actions which will be required to be updated in the Strategic Improvement Plan for Kiama Municipal Council.
2. That following improvements in Kiama Municipal Council's financial position and preferably by the 2023-2024 financial year, that the forensic accounting assessment report be publicly released, subject to legal advice.
3. For the purposes of protecting and sustaining the core role of the local government authority that delegated authority be given to the Chief Executive Officer to sign all documentation associated with the contract to McVay Real Estate for the purposes of undertaking a sale through public tender for Blue Haven Lot 71 DP831089 and Lot 2 DP1215276.
4. List for inclusion in the conditions of the contract with McVay Real Estate specified at two (2) above, the following:
  - The high standard in quality of care for the residents and families of the Blue Haven Residential Aged Care Facility be maintained, protected and uninterrupted and continue to meet the requirements of the Federal Government Aged Care Act 1997 requirements.
  - The good reputation and care invested in our Blue Haven Independent Living Unit Community be maintained, protected, uninterrupted and continue to meet the requirements of the Retirement Villages Act 1999.
  - The good reputation, working environment, and conditions for Blue Haven Staff of Kiama Municipal Council be maintained and protected.
  - Probity lawyers are appointed to act in Council's interest and sound tender processes are used to ensure compliance with the Local Government Act.
5. Develop for consideration at the next extraordinary meeting of Council a strategic liquidity plan for submission to the Audit Office and the Office of Local Government (including accelerating the sale of appropriate englobo parcels of land identified in the Property Divestment Opportunity Register).

At the request of Councillor Renkema-Lang, and by consent, the motion was varied to read as follows –

1. Receive the confidential forensic accounting assessment report of historic data, noting the findings and actions which will be required to be updated in the Strategic Improvement Plan for Kiama Municipal Council.
2. That following improvements in Kiama Municipal Council's financial position and preferably by the 2023-2024 financial year, that the forensic accounting assessment report be publicly released, subject to legal advice.
3. For the purposes of protecting and sustaining the core role of the local government authority that delegated authority be given to the Chief Executive Officer to sign all documentation associated with the contract to McVay Real Estate for the purposes of undertaking a sale through public tender for Blue Haven Lot 71 DP831089 and Lot 2 DP1215276.
4. List for inclusion in the conditions of the contract with McVay Real Estate specified at two (2) above, the following:
  - The high standard in quality of care for the residents and families of the Blue Haven Residential Aged Care Facility be maintained, protected and uninterrupted and continue to meet the requirements of the Federal Government Aged Care Act 1997 requirements.
  - The good reputation and care invested in our Blue Haven Independent Living Unit Community be maintained, protected, uninterrupted and continue to meet the requirements of the Retirement Villages Act 1999.
  - The good reputation, working environment, and conditions for Blue Haven Staff of Kiama Municipal Council be maintained and protected.
  - Probity lawyers are appointed to act in Council's interest and sound tender processes are used to ensure compliance with the Local Government Act.
5. Develop for consideration at the next extraordinary meeting of Council a Strategic Liquidity Plan for submission to the Audit Office and the Office of Local Government (including accelerating the sale of appropriate englobo parcels of land identified in the Property Divestment Opportunity Register).
6. Delegate to the Chief Executive Officer to advise TCorp of the above decisions and commence discussions and negotiations on acceptable loan repayment options.

At the request of Councillor Rice, and by consent, the motion was varied to read as follows –

That Council:

1. Receive the confidential forensic accounting assessment report of historic data, noting the findings and actions which will be required to be updated in the Strategic Improvement Plan for Kiama Municipal Council.
2. That following improvements in Kiama Municipal Council's financial position and preferably by the 2023-2024 financial year, that the forensic accounting assessment report be publicly released, subject to legal advice.
3. For the purposes of protecting and sustaining the core role of the local government authority that delegated authority be given to the Chief Executive Officer to sign all documentation associated with the contract to McVay Real

- Estate for the purposes of undertaking a sale through public tender for Blue Haven Lot 71 DP831089 and Lot 2 DP1215276.
4. List for inclusion in the conditions of the contract with McVay Real Estate specified at two (2) above, the following:
    - The high standard in quality of care for the residents and families of the Blue Haven Residential Aged Care Facility be maintained, protected and uninterrupted and continue to meet the requirements of the Federal Government Aged Care Act 1997 requirements.
    - The good reputation and care invested in our Blue Haven Independent Living Unit Community and Home Care Support Services be maintained, protected, uninterrupted and continue to meet the requirements of the Retirement Villages Act 1999.
    - The good reputation, working environment, and conditions for Blue Haven Staff of Kiama Municipal Council be maintained and protected.
    - Probity lawyers are appointed to act in Council's interest and sound tender processes are used to ensure compliance with the Local Government Act.
  5. Develop for consideration at the next extraordinary meeting of Council a strategic liquidity plan for submission to the Audit Office and the Office of Local Government (including accelerating the sale of appropriate englobo parcels of land identified in the Property Divestment Opportunity Register).
  6. Delegate to the Chief Executive Officer to advise TCorp of the above decisions and commence discussions and negotiations on acceptable loan repayment options.

### 22/058OC

**The motion** as varied by consent **was resolved** being that Council:

1. Receive the confidential forensic accounting assessment report of historic data, noting the findings and actions which will be required to be updated in the Strategic Improvement Plan for Kiama Municipal Council.
2. That following improvements in Kiama Municipal Council's financial position and preferably by the 2023-2024 financial year, that the forensic accounting assessment report be publicly released, subject to legal advice.
3. For the purposes of protecting and sustaining the core role of the local government authority that delegated authority be given to the Chief Executive Officer to sign all documentation associated with the contract to McVay Real Estate for the purposes of undertaking a sale through public tender for Blue Haven Lot 71 DP831089 and Lot 2 DP1215276.
4. List for inclusion in the conditions of the contract with McVay Real Estate specified at two (2) above, the following:
  - The high standard in quality of care for the residents and families of the Blue Haven Residential Aged Care Facility be maintained, protected and uninterrupted and continue to meet the requirements of the Federal Government Aged Care Act 1997 requirements.

- The good reputation and care invested in our Blue Haven Independent Living Unit Community and Home Care Support Services be maintained, protected, uninterrupted and continue to meet the requirements of the Retirement Villages Act 1999.
  - The good reputation, working environment, and conditions for Blue Haven Staff of Kiama Municipal Council be maintained and protected.
  - Probity lawyers are appointed to act in Council's interest and sound tender processes are used to ensure compliance with the Local Government Act.
5. Develop for consideration at the next extraordinary meeting of Council a strategic liquidity plan for submission to the Audit Office and the Office of Local Government (including accelerating the sale of appropriate englobo parcels of land identified in the Property Divestment Opportunity Register).
  6. Delegate to the Chief Executive Officer to advise TCorp of the above decisions and commence discussions and negotiations on acceptable loan repayment options.

(Councillors Brown and Steel)

For: Councillors Brown, Croxford, Draisma, Larkins, Reilly, Renkema-Lang and Steel

Against: Councillors Keast and Rice

## 5.2 Refinements to the Blue Haven Advisory Board Policy

It was **moved** by Councillor Brown and seconded by Councillor Croxford that Council:

1. Extends its thanks to the Blue Haven Advisory Board for their continued work as an advisory board to the local government authority of Kiama Municipal Council, who is the approved provider for aged care services operating under the Local Government Act.
2. Agree that the Blue Haven Advisory Board shall monitor and provide focused skilled expertise and advice to Council through its Chief Executive Officer on the following:
  - The standard of clinical care provided by the Blue Haven residential aged care facility;
  - The development of the Blue Haven aged care facility operating model, including the identification of opportunities for efficiency and the delivery of financial sustainability;
  - Blue Haven's progress toward achieving compliance with the Aged Care Quality and Safety Standards; and
  - Opportunities to maximise the value of Blue Haven.

Councillor Renkema-Lang raised a **point of order** in relation to Councillor Croxford's comments during the debate regarding point 2 of the amended motion. Councillor Croxford retracted his comments.

### **22/059OC**

**An amendment** was moved by Councillor Rice and seconded by Councillor Rankema-Lang that Council:

1. Extends its thanks to the Blue Haven Advisory Board for their continued work as an advisory board to the local government authority of Kiama Municipal Council, who is the approved provider for aged care services operating under the Local Government Act.
2. Council notes the recent resignation of former General Manager, Michael Forsyth and specifically thanks him for his service to the Board
3. Agree that the Blue Haven Advisory Board shall monitor and provide focused skilled expertise and advice to Council through its Chief Executive Officer on the following:
  - The standard of clinical care provided by the Blue Haven residential aged care facility;
  - The development of the Blue Haven aged care facility operating model, including the identification of opportunities for efficiency and the delivery of financial sustainability;
  - Blue Haven's progress toward achieving compliance with the Aged Care Quality and Safety Standards; and
  - Opportunities to maximise the value of Blue Haven.

(Councillors Rice and Renkema-Lang)

For: Councillors Brown, Croxford, Draisma, Keast, Larkins, Reilly,  
Renkema-Lang, Rice and Steel

Against: Nil

### **Adoption of Report**

The Chief Executive Officer formally reported the recommendations of the Confidential Committee of the Whole more particularly set out above.

### **22/060OC**

**Resolved** that that the Confidential Committee of the Whole recommendations numbered 22/058OC to 22/059OC be confirmed and adopted.

(Councillors Renkema-Lang and Keast)



For: Councillors Brown, Croxford, Draisma, Keast, Larkins, Reilly,  
Renkema-Lang, Rice and Steel

Against: Nil

**6 CLOSURE**

There being no further business the meeting closed at 6.13pm.

These Minutes were confirmed at the Ordinary Meeting of Council  
held on 17 May 2022.

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Mayor