



EXTRAORDINARY MEETING OF COUNCIL

To be held at 4.30pm on

Thursday 13 October 2022

Council Chambers

11 Manning Street, KIAMA NSW 2533

Order of Business

- 1 Apologies
- 2 Acknowledgement of Traditional owners
- 3 Notice of Motion
- 4 Confidential Summary
- 5 Confidential Reports
- 6 Closure

Members

Mayor
Councillor N Reilly
Deputy Mayor
Councillor I Draisma
Councillor M Brown
Councillor M Croxford
Councillor J Keast
Councillor S Larkins
Councillor K Renkema-Lang
Councillor K Rice
Councillor W Steel

10 October 2022

To the Chairman and Councillors:

NOTICE OF EXTRAORDINARY MEETING

You are respectfully requested to attend an **Extraordinary Meeting** of the Council of Kiama, to be held in the **Council Chambers, 11 Manning Street, KIAMA NSW 2533** on **Thursday 13 October 2022** commencing at **4.30pm** for the consideration of the undermentioned business.

Yours faithfully

A handwritten signature in black ink, appearing to read 'Jane Stroud', written in a cursive style.

Jane Stroud

Chief Executive Officer

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**AGENDA FOR THE
EXTRAORDINARY MEETING OF KIAMA MUNICIPAL COUNCIL
THURSDAY 13 OCTOBER 2022**

1 APOLOGIES

2 ACKNOWLEDGEMENT OF TRADITIONAL OWNERS

"I would like to acknowledge the traditional owners of the land on which we meet, the Wadi Wadi people of the Dharawal nation, and pay my respect to Elders past and present."

DECLARATIONS OF INTEREST

3 NOTICE OF MOTION

3.1 Notice of Rescission Motion: Blue Haven

The Councillors identified have submitted the following Notice of Motion of Rescission:

MOTION

That Council rescind the motion 20.1 (22/283OC) from the September 2022 ordinary meeting and replace with the following:

That Council:

1. Retain Blue Haven Terralong (Lot 71 DP 831089) in Council ownership and ensures comprehensive engagement with the community and residents, giving consideration to future use of the decommissioned aged care facility.
2. Undertake to sell Blue Haven Bonaira (Lot 2 DP1215276) inclusive of the process for converting the land to operational through delegated authority of the Chief Executive Officer, to ensure compliance with Council Policy and the Local Government Act 1993.
3. Continue to inform and engage with the community, including those who are cared for by Blue Haven, to reassure all parties that the quality of care and standard of service of the Independent Living Units and Residential Aged Care Facility will be maintained, regardless of ownership.
4. Continue the work on the urgent need to improve cash flow to demonstrate 'going concern' status and improve the long-term financial position of Council, including, but not limited to:
 - a) Paid parking and resident permits
 - b) Ensuring a proportion of revenue generated from any sale or divestment of any assets be invested in strategies for the generation of income and continuous revenue streams.
5. Rescind its previous resolution on the sale through open tender for Barney Street lot and refer to the separate confidential report on this subject matter.

Councillors: Neil Reilly
Mark Croxford
Warren Steel
Matt Brown

Received 21 September 2022

Notice of Motion

3.1 Notice of Rescission Motion: Blue Haven (cont)

Background

The financial challenges Kiama Council are experiencing with their residential Aged Care business are not uncommon; more than 50% of aged care operators incurred losses in 2021. In past years, the then council's decision to expand aged care facilities may have been financially sound, however the increasing cost of meeting aged care standards, the relative decline in demand for residential aged care and the rising costs associated with COVID have combined to make residential aged care a marginal proposition that falls outside of a council's core business.

In May 2022, in item 22/104OC, council conditioned any sale requiring an analysis of all options (lease, sell, joint venture, or retain) of the component parts of Blue Haven Care, including the RACF, ILUs and home care packages and sites (Lot 2 DP1215276 and Lot 71 DP831089) being presented to Councillors for approval of the preferred option. The recommendation of this current motion, with regard to Blue Haven, is to sell Blue Haven Bonaira, retain Blue Haven Terralong and is silent on the Home care Packages business.

Whilst the requested analysis is underway and will be completed soon, there is an urgent imperative to take decisive action. Council's task of being financially prudent & responsible is mandated by the Local Government Act. Our responsibilities have been made clear in a letter by the Minister, described by our Audit Risk and Improvement Committee and our Financial Advisory Committee as 'A final warning'. Inaction now would be to ignore the well-documented financial crisis of the council. It would be seen as negligent.

The recommendation to sell Blue Haven Bonaira is taken in the light that the outlook will become even worse. Implementation of the suggestions from the Aged Care Royal Commission will increase, a chronic labour shortage, rising labour costs and other inflationary pressures will continue to make Residential Aged Care facilities a challenging business model for our council for many years ahead, as identified in our Long-Term Financial Plan. The outlook for an unprofitable, non-core business has ominous consequences for Kiama Municipal Council given warnings from both the Auditor General and Minister for Local Government.

It is critical to develop strategies that put a stop to significant, almost overwhelming, ongoing losses. Reducing operating costs is particularly challenging when the major costs are relating to labour and compliance, which are expected to increase due to chronic labour shortages in the industry. Relying on government bailouts is not a viable strategy. Despite appeals, we are advised that Federal and State governments will not provide support for failing business models and if government support is provided, it is tied to Capital Projects or to implement changes to Industry standards, and not to be used to fund existing costs.

Given the reported ongoing operating losses and the outlook for the residential aged care industry, it should not be surprising Council are seeking divestment of their Aged Care business. Timing is critical in this decision, knowing that as every day further losses are sustained which will need to be recouped either from asset sales or future revenue from our community. Furthermore, third parties such as TCorp, the Office of Local Government and the Audit Office which have a vested interest in the financial stability of Council, have become increasingly concerned about any delays in decisions and may recommend council's dismissal.

Notice of Motion

3.1 Notice of Rescission Motion: Blue Haven (cont)

Chief Executive Officer response

The ability to lodge rescission motions is a right that Councillors possess, as guided by the Code of Meeting Practice.

No commentary is made on the nature of or the intent of the Notice of Motion as staff are to remain apolitical.

It is noted that any sale of Council assets requires planning and process requiring time and dedicated effort by staff. It is likewise noted that staff have provided a wide range of briefings, reports and information to Councillors on the challenges associated with Council's current financial position and the urgent need to ensure going concern status and take all steps necessary to secure operational funding in the order of \$30M to \$40M. Work continues on many aspects of this work, in line with Council's previous resolutions.

It is noted that this notice of motion does impact significantly on community members, residents of Blue Haven Bonaira and also the staff of Blue Haven and Kiama Council. Managing these impacts has been complex and challenging to date and will continue to remain an essential focus of the organisation pending whatever decision Council resolves. The executive and management of the organisation remain focused on supporting our staff, and residents and giving steadfast focus on the continued uninterrupted service provision of all aspect of both the aged care and local government services and businesses.

Continuing to effectively operate the Blue Haven residential aged care facility and retirement village services until such time as any sale or settlement occurs will be a core priority of the team. Blue Haven has a long and proud history and the standard of care that is provided, needs to meet Federal Government requirements, State legislation and community expectation.

Our residents at Bonaira and Terralong do feel worried about their current state and are disappointed with the financial position of Kiama Municipal Council and the entity that they bought into for a range of reasons. Many of these concerns are regularly discussed and shared with Council at monthly meetings.

Likewise, many ratepayers have expressed concern and sentiments of frustration and disappointment over Council's current financial position and the sequence of decisions and factors that have led to this moment.

What is clear, is that Council is spending more than it earns and the long-term financial plan shows a returned and sustained deficit position that places the organisation at risk in terms of its going concern status. Council is running two businesses, aged care and local government services, and simply does not have sufficient working capital or operational funds. Significant divestment of assets, business efficiencies and improved revenue must be realised. Fiduciary responsibilities must be considered and decisions that are hard, will no doubt need to be made. The impacts of whatever decisions are made will garner both positive and negative reactions from the community, stakeholders and staff. What is also clear is that continuing on with service levels and existing business models, and making no changes, is not a viable option for Kiama Municipal Council.

4 CONFIDENTIAL SUMMARY

CONFIDENTIAL COMMITTEE OF THE WHOLE

Submitted to the Ordinary Meeting of Council held on 13 October 2022

PROCEDURE

- Recommendation to go into Closed Committee.
- Mayoral call for Public Representations.
- Consideration of Representations and issues to be removed from Closed Committee.
- Recommendation to exclude Press and Public if required.
- Closed Committee discussions if required.

4.1 Exclusion Of Press And Public:

RECOMMENDATION

That 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 on the grounds detailed under the report headings as detailed below.

5.1 LANDHOLDING BARNEY STREET

Reason for Confidentiality: This matter deals with information that would, if disclosed, confer a commercial advantage on a person with whom the Council is conducting (or proposes to conduct) business as per Section 10A(2)(c) of the Local Government Act and commercial information of a confidential nature that would, if disclosed prejudice the commercial position of the person who supplied it as per Section 10A(2)(di) of the Local Government Act.

5 CONFIDENTIAL REPORTS

5.1 Landholding Barney Street

CSP Objective: Outcome 12: Public funds and assets are managed strategically, transparently and efficiently

CSP Strategy: 12.2 Manage our assets so that they create financial sustainability for Council

Delivery Program: 12.2.2 Identify Council owned land and property for future use or disposal opportunity; and manage in accordance with the Local Government Act

REASON FOR CONFIDENTIALITY

This item is classified CONFIDENTIAL under the provisions of Section 10A(2) of the Local Government Act 1993, which permits the meeting to be closed to the public for

business relating to information that would, if disclosed, confer a commercial advantage on a person with whom the Council is conducting (or proposes to conduct) business and commercial information of a confidential nature that would, if disclosed prejudice the commercial position of the person who supplied it.

6 CLOSURE

Item 5.1 CONFIDENTIAL