



MINUTES OF THE ORDINARY MEETING OF COUNCIL AS AMENDED

commencing at 6.30pm on

TUESDAY 20 SEPTEMBER 2022

Council Chambers
11 Manning Street, KIAMA NSW 2533

Amended as per 22/302OC:

That the Minutes of the Ordinary Council Meeting held on 20 September 2022 and adjourned to 21 September 2022 be received and accepted with the following amendments:

1. That Item 9.3 *Executive summary of minutes: South Precinct – 11 August 2022* is amended to read:
That Council:
 1. *Receives the Executive Summary of the minutes of the South Precinct Committee Meeting held on 11 August 2022.*
 2. *Notes that South Precinct strongly supports the many submissions from the community members reflecting their concerns on the Blackwood Street development relating to issues of traffic, overdevelopment / scale, and concerns around flooding.*
 3. *Confirms that community members will have the opportunity to provide written submissions related to parks, play spaces and other open spaces in addition to the online survey – as detailed on the Council website.*
2. that the recorded declaration of interest on item 12.3 *10.2018.290.2 – 3 Belvedere Street, Kiama* be removed as Councillor Renkema-Lang withdrew her declaration.
3. at item 15 *Information Reports*, the recorded point of order raised by Councillor Renkema-Lang be recorded as a procedural motion.
4. that the defamatory statement at item 17.2 *Notice of Motion: Forsyths' Forensic Audit Assessment Report and independent investigation* be changed to read "we [as in Council] have been too dismissive".

**MINUTES OF THE ORDINARY MEETING OF
THE COUNCIL OF THE MUNICIPALITY OF KIAMA
HELD IN THE COUNCIL CHAMBERS
ON TUESDAY 20 SEPTEMBER 2022 AT 6.30PM**

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, Acting
Chief Financial Officer/ Interim Blue Haven Chief Operating
Officer and Director Engineering and Works

1 APOLOGIES

Nil

2 ACKNOWLEDGEMENT OF TRADITIONAL OWNERS

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

3 CONFIRMATION OF MINUTES OF PREVIOUS MEETING

3.1 Ordinary Council on 16 August 2022

22/254OC

Resolved that the Minutes of the Ordinary Council meeting held on 16 August 2022 be received and confirmed.

(Councillors Croxford and Draisma)

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

Against: Nil

3.2 Extraordinary Council on 24 August 2022

22/255OC

Resolved that the Minutes of the Extraordinary Council Meeting held on 24 August 2022 be received and confirmed.

(Councillors Croxford and Draisma)

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

Against: Nil

4 BUSINESS ARISING FROM THE MINUTES

Nil

5 DECLARATIONS OF INTEREST

Disclosure of Interest – Councillor Renkema-Lang

Councillor Renkema-Lang declared a less than significant non-pecuniary interest in Item 12.3 *10.2018.290.2 – 3 Belvedere Street, Kiama* as she has collaborated with the proponent on a number of community not-for-profit organisations (R3, Kiama Microplastic Surveys and Community Radio). Councillor Renkema-Lang proposed to disclose, remain in the chamber and vote on this matter.

Disclosure of Interest – Councillor Renkema-Lang

Councillor Renkema-Lang declared a less than significant non-pecuniary interest in Item 13.1 *Proposed road closure adjoining 2A Pheasant Point Drive, Kiama* as the proponent contributed to development of her election campaign documentation. Councillor Renkema-Lang proposed to disclose, remain in the chamber and not vote on this matter.

Disclosure of Interest – Councillor Keast

Councillor Keast declared a less than significant non-pecuniary interest in Item 12.2 *10.2021.156.1 – 96 Rose Valley Road, Rose Valley* as the public access speakers are known to Councillor Keast and communicate regularly. Councillor Keast proposed to disclose and vote on this matter.

Disclosure of Interest – Councillor Keast

Councillor Keast declared a less than significant non-pecuniary interest in Item 15.6 *Question for future meeting: Chapman Reserve amenities* as a resident of Chapman Street who has been liaising with Council and Councillors is the mother of a previous work colleague. Councillor Keast proposed to disclose and vote on this matter.

Councillor Kathy Rice

Councillor Rice declared a less than significant non-pecuniary interest in Item 12.2 *10.2021.156.1 – 96 Rose Valley Road, Rose Valley* as the public access speakers are known to her and communicate regularly. Councillor Rice proposed to disclose and vote on this matter.

Councillor Matt Brown

Councillor Brown declared a less than significant non-pecuniary interest in Item 12.6 *Post exhibition endorsement: Topic 12.7 Kiama Town Centre of Kiama DCP 2020 and preparation of Planning Proposal to amend Kiama LEP 2011* as the public access speaker was on Councillor Brown's election ticket. Councillor Brown proposed to disclose and vote on this matter.

6 TABLING OF PETITIONS AND OTHER DOCUMENTS

Nil

7 PUBLIC ACCESS SUMMARY

The Chief Executive Officer formally reported the Public Access speakers as follows:

Name	Item No.	Subject
Ken and Debra Sandy	12.2	10.2021.156.1 - 96 Rose Valley Road, Rose Valley
Glenn Walker and Sheena McGhee	12.3	10.2018.290.2 - 3 Belvedere Street, Kiama
Morgan Lewis and Christie Lewis	12.6	Post exhibition endorsement: Topic 12.7 Kiama Town Centre of Kiama DCP 2020 and preparation of Planning Proposal to amend Kiama LEP 2011
Ryan Gorman	13.1	Proposed road closure adjoining 2A Pheasant Point Drive, Kiama
Stuart Geddes	17.2	Notice of Motion: Forsyth's Forensic Audit Assessment Report and independent investigation
Ros Neilson	17.3	Notice of Motion: Jamberoo Mountain Road management
John Ashworth	20.1	Notice of Motion: Blue Haven
Debra Murphy – in <i>confidential</i>	11.3	Regional Development Australia Illawarra - Greater Cities Partnership Illawarra Shoalhaven

8 MAYORAL MINUTE

8.1 Vale Her Majesty The Queen - 1926 - 2022

22/256OC

Resolved that Council acknowledge the passing of Her Majesty Queen Elizabeth II and pause for one minute of silence.

(Councillor Reilly)

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

Against: Nil

8.2 EveryAge Counts

22/257OC

Resolved that Council agrees to:

1. Support the EveryAGE Counts campaign to end ageism and join with others in our communities to create a society where every person is valued, connected and respected, regardless of age.
2. Take the Pledge to stand for a world without ageism where all people of all ages are valued and respected and their contributions are acknowledged. We commit to speak out and take action to ensure older people can participate on equal terms with others in all aspects of life.
3. Take the Pledge to stand for a world without ageism where all people of all ages are valued and respected and their contributions are acknowledged. We commit to speak out and take action to ensure older people can participate on equal terms with others in all aspects of life.
4. Promote Council's signing of the pledge to end ageism amongst residents and raise awareness of the impacts of ageism.
5. Inform relevant Federal and State parliamentarians of our support for EveryAGE Counts and that we have taken the pledge to end ageism.

(Councillor Reilly)

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

Against: Nil

Procedural motion

22/258OC

Resolved that that Council bring forward, move in globo and adopt the recommendations contained within the report, for items 9.1, 9.2, 11.1, 11.2, 11.3, 11.4, 15.5, 15.7, 15.9.

(Councillors Draisma and Brown)

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

Against: Nil

9.1 Minutes: Kiama Local Traffic Committee Meeting - 6 September 2022**22/259OC**

Resolved that the Minutes of the Kiama Local Traffic Committee Meeting held on 6 September 2022 be received and the following recommendations accepted:

22/001LTC That the Committee recommends approval be given to the organisers of the Kiama Sky Show event at Black Beach Reserve, to be held on Saturday 31 December 2022, to implement proposed traffic changes, subject to the organisers and suitably qualified traffic controllers complying with the following conditions:

1. All road closures, diversions and traffic changes be undertaken by suitably qualified traffic controllers in compliance with the Traffic Control Plan TLTCP-AS-41549 prepared by Traffic Logistics Pty Ltd.
2. The organisers be responsible for the supply, erection and removal of all traffic control devices, equipment and personnel associated with the implementation of the approved Traffic Control Plan.
3. The following provisions be made to address anti-terrorism, hostile vehicle guidelines and provide a safe environment for attendees to the event:
 - a. Road closure on a section of Terralong Street, from Railway Parade to Manning Street roundabout, between 2pm and 10:30pm and from Railway Parade to Collins Street roundabout, between 4pm and 10:30pm; intended to allow for attendees to exit the event using Terralong Street as a pedestrian zone free from vehicles until 10:30pm.
 - b. Road closure on a section of Shoalhaven Street, from Minnamurra Street roundabout to Terralong Street, from 4pm – 10:30pm; intended to provide a safe environment for attendees to walk between the event sites in Hindmarsh Park and Black Beach reserve; and amplify the event by delivering an 'Eat Street' on Shoalhaven Street.
4. Lodgement with Council of an application for a Section 138 Roads Act permit and payment of associated fee.
5. Notification of proposed traffic changes be given to police, local emergency services, businesses and residents effected by the closure.
6. An advertisement be placed in the local media advising of the closure.
7. That the event organiser works closely with the provider of the VMS information boards, to ensure they are placed in the appropriate locations.

(Councillors Draisma and Brown)

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

Against: Nil

9.2 Executive summary of minutes: Central Precinct - 23 August 2022

22/260OC

Resolved that the executive summary of the minutes of the Central Precinct meeting held on 23 August 2022 be received and noted.

(Councillors Draisma and Brown)

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

Against: Nil

11.1 Designated Persons Annual Returns 2021/2022

22/261OC

Resolved that Council:

1. note the names and positions set out on page 2 of Attachment 1 of this report who have been identified as the designated persons for the lodgement of Disclosure of Interest Forms for Kiama Municipal Council, for the period 1 July 2021 to 30 June 2022
2. note the tabling of the Pecuniary Interest Register 2021/2022 comprising the Disclosure of Interest returns for designated staff and independent representatives of the Audit, Risk and Improvement Committee for the 2021-2022 financial year.

(Councillors Draisma and Brown)

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

Against: Nil

11.2 Healthy Cities Illawarra - constitution change

22/262OC

Resolved that Council disagrees to the proposed change in Section 19 of the Healthy Cities Illawarra constitution, and that the Chief Executive Officer prepares

correspondence highlighting that the Healthy Cities Illawarra Board need to give further consideration for the election process used to resolve all councils into one elected representative role and what the proposed benefit of this change is for member councils.

(Councillors Draisma and Brown)

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

Against: Nil

11.3 Regional Development Australia Illawarra - Greater Cities Partnership Illawarra | Shoalhaven

22/263OC

Resolved that Council:

1. Endorses the Regional Development Australia Illawarra Cities Partnership Deal collateral for use in the campaign for Phase II of the Partnership.
2. Apply as part of a future expression interest process for a representative with requisite skills and interest in the Kiama Local Government Authority to participate on the Board of Regional Development Australia Illawarra.

(Councillors Draisma and Brown)

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

Against: Nil

11.4 Request for donation: Kiama Arts Society Art Exhibition

22/264OC

Resolved that Council make a financial contribution of \$2,150 to the Kiama Art Society for the 2023 Art Exhibition.

(Councillors Draisma and Brown)

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

Against: Nil

15 Reports for information

22/265OC

Resolved that the following Reports for Information listed for the Council's consideration be received and noted

15.5 Question for future meeting: Bong Bong Street speed humps

15.7 Question for future meeting: Fortnightly meetings with the Unions

15.9 Response to Cr Larkins Notice of Motion: Bombo Quarry timeline

(Councillors Draisma and Brown)

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

Against: Nil

The meeting was adjourned at 6.45pm due to technical issues.

At 6.54pm the meeting resumed.

9 MINUTES OF COMMITTEES

The following items were dealt with earlier in the meeting as part of the in globo resolution:

Item 9.1: *Minutes: Kiama Local Traffic Committee Meeting – 6 September 2022*

Item 9.2: *Executive summary of minutes: Central Precinct – 23 August 2022*

9.3 Executive summary of minutes: South Precinct - 11 August 2022

22/266OC

Resolved that Council:

1. Receives the Executive Summary of the minutes of the South Precinct Committee Meeting held on 11 August 2022.
2. Notes that South Precinct strongly supports the many submissions from the community members reflecting their concerns on the Blackwood Street development relating to issues of traffic, overdevelopment / scale, and concerns around flooding.
3. Confirms that community members will have the opportunity to provide written submissions related to parks, play spaces and other open spaces in addition to the online survey – as detailed on the Council website.

(Councillors Renkema-Lang and Larkins)

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

Against: Councillors Brown and Croxford

10 PUBLIC ACCESS REPORTS

Nil public access reports were brought forward.

11 REPORT OF THE CHIEF EXECUTIVE OFFICER

The following items have been deal with earlier in the meeting as part of the in globo resolution:

Item 11.1: *Designated Persons Annual Returns 2021/2022*

Item 11.2: *Healthy Cities Illawarra – constitution change*

Item 11.3: *Regional Development Australia Illawarra – Greater Cities Partnership Illawarra | Shoalhaven*

Item 11.4: *Request for donation: Kiama Arts Society Art*

12 REPORT OF THE DIRECTOR ENVIRONMENTAL SERVICES

12.1 2022/23 Strategic Planning Works Program

22/267OC

Resolved that Council note:

1. the attached Strategic Planning Works Program, and
2. that Council will host its first quarterly Planning and Development Forum in October 2022.

(Councillors Rice and Renkema-Lang)

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

Against: Nil

12.2 10.2021.156.1 - 96 Rose Valley Road, Rose Valley

Disclosure of Interest – Councillor Rice

Councillor Rice declared a less than significant non-pecuniary interest in this item. Councillor Rice disclosed and voted on this matter.

Disclosure of Interest – Councillor Keast

Councillor Keast declared a less than significant non-pecuniary interest in this item. Councillor Keast disclosed and voted on this matter.

22/268OC

Resolved that Development Application No 10.2021.156.1 be refused under Section 4.16 of the Environmental Planning and Assessment Act, 1979 for the following reasons:

1. The EIS submitted with the Development Application for a Designated Development does not comply with the minimum requirements of the SEARs and Schedule 2 of the EP&A Regulation 2000. The EIS has not been prepared strictly in accordance with the requirements of Schedule 2 – Environmental Impact Statements, of the EP&A Regulation 2000. Specifically, it does not satisfactorily address all mandatory requirements of the NSW Planning Secretary’s Environmental Assessment Requirements (SEARs) issued for the proposed abattoir.
2. The EIS submitted with the Development Application for a Designated Development does not comply with the minimum requirements of the SEARs and Schedule 2 of the EP&A Regulation 2000. As stated in EP&A Regulation 2000, Schedule 2 – Clauses 6 Form of Environmental Impact Statement and 7 Content of Environmental Impact Statement, each of the stated requirements must be provided. On this basis, the EIS is deemed inadequate whereby Clause 5.7(1) of the Environmental Planning and Assessment Act 1979 requires that Council cannot lawfully grant consent to the proposal, irrespective of its merits.
3. The EIS submitted with the Development Application for a Designated Development does not comply with the minimum requirements of the SEARs and Schedule 2 of the EP&A Regulation 2000 because:
 - a) The EIS does not provide adequate justification for the development, in that it does not address all the principles of ecologically sustainable development which is a specific assessment requirement of Schedule 2 – Clause 7 of the Regulation.
 - b) The Water Quality Assessment Report identifies a slight increase in gross pollutants, with no mitigation measures recommended to counter this impact on the water quality of downstream receiving waters. Accordingly, concern is raised that gross pollutants from the proposal may adversely affect water quality and negatively impacting on downstream aquatic ecosystems.
 - c) The EIS defers assessment of key operational matters including managing animal welfare, disease control, biosecurity and human health; traffic management impacts; acid sulphate soils; water quality monitoring for wastewater; environmental management and construction management to separate future management plans. In deferring these matters the EIS fails to satisfactorily consider all potential impact and provide adequate mitigation measures as required.
 - d) The discussion on ‘project alternatives’ does not identify alternative local sites/areas where the proposed abattoir is permissible with consent and the land would be suitable for such a land use. The analysis of feasible alternatives is therefore inadequate.
 - e) Accordingly, the EIS fails to satisfy the relevant provisions of S.4.15 of the EP&A Act to enable a full assessment of all likely impacts, accordingly, Council cannot lawfully grant development consent.

8. Given the deficiencies, in the application, the proposal has not demonstrated that approval would be in the public interest and is therefore not considered to be in the public interest.

(Councillors Draisma and Rice)

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

Against: Nil

12.3 10.2018.290.2 - 3 Belvedere Street, Kiama

Disclosure of Interest – Councillor Renkema-Lang withdrew her declaration.

22/269OC

Resolved that Council:

1. Approve Modification Development Application No 10.2018.290.2 for self-storage units at 3 Belvedere Street, Kiama, subject to the attached conditions of consent.
2. Advise persons who made a submission on Development Application No 10.2018.290.2 of Council's decision.

(Councillors Brown and Croxford)

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

Against: Nil

12.4 Endorse for public exhibition: draft Kiama Municipal Council Committees Policy and Standard Terms of Reference

22/270OC

Resolved that Council:

1. Seek community feedback on the draft Kiama Municipal Council Committee Policy and Framework by placing the draft Committee Policy and Framework on public exhibition for a minimum of 28-days.
2. Note that the draft Committee Policy and Framework seeks to dissolve/repurpose the following committees, formed at the extraordinary February 2022 meeting:
 - a. Access and Movement Committee
 - b. Arts & Cultural Committee
 - c. Catchment and Flood Risk Management Committee

- d. Companion Animals Management Advisory Committee
 - e. Destination Kiama Advisory Committee
 - f. Environmental Management and Sustainability Committee
 - g. Finance Advisory Committee
 - h. Jamberoo Youth Hall s355 Committee
 - i. Performance Review Committee
 - j. Youth Advisory Committee
3. Note that the draft Committee Policy and Framework seeks to form the following committees:
- a. Audit, Risk and Improvement Committee – NSW Legislated Committee;
 - b. Traffic Committee – NSW Legislated Committee;
 - c. Planning and Development Committee – **Committee of Council**;
 - d. Performance Review Committee – **Committee of Council** (as formed at the Extraordinary February 2022 meeting (Resolution Number 22/011OC));
 - e. Community and Culture Advisory Committee - **Advisory Committee**;
 - f. Environmental Management and Sustainability Advisory Committee - **Advisory Committee**;
 - g. Tourism & Economic Development Advisory Committee (incorporating the Tourism Advisory Committee) - **Advisory Committee**;
 - h. Connected and Liveable Community Advisory Committee - **Advisory Committee**;
 - i. Finance Advisory Committee – **Advisory Committee**.
4. Seek community feedback on the draft amendments to the Precinct System Operational Guidelines by placing the draft guidelines on public exhibition for a minimum of 28-days.
5. Note that the draft amendments to the Precinct System Operational Guidelines seek to establish/reinforce the relationship between Council and the Precincts and Community Associations and confirm that Councillors may not be a voting member of a Precinct or Community Association.

(Councillors Larkins and Brown)

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

Against: Councillor Renkema-Lang

12.5 Endorse for public exhibition: Updates to Planning Proposal Policy

22/271OC

Resolved that Council seek feedback from the community and other external stakeholders on the draft amendments to the Planning Proposal Policy by placing the draft Policy on public exhibition for at least 28 days.

(Councillors Draisma and Croxford)

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

Against: Nil

12.6 Post exhibition endorsement: Topic 12.7 Kiama Town Centre of Kiama DCP 2020 and preparation of Planning Proposal to amend Kiama LEP 2011

Disclosure of Interest – Councillor Brown

Councillor Brown declared a less than significant non-pecuniary interest in this item. Councillor Brown disclosed and voted on this matter.

It was **moved** by Councillor Renkema-Lang and seconded by Councillor Rice that Council:

1. Defer adoption of Topic 12.7 – Draft Kiama Town Centre of the Kiama Development Control Plan 2020 (DCP) subject to incorporating the following changes:
 - a) Maintain the current maximum height of 11m (3 storeys) along the southern side of Terralong Street, between Thomson Street and Collins Street and update Figure 18 of the draft DCP accordingly.
 - b) Change the maximum height of the Akuna Street strategic site to 14m (4 storeys) in the areas marked as 17m and 21m and update Figure 29 the draft DCP accordingly.
 - c) remove Site F: Kiama Surf Lifesaving Club noting that the Kiama SLSC has been assessed as high risk in appendix E1 of the Coastal Management Program Stage 2 report, and that Clause 15 of the Coastal Management SEPP states that councils and consent authorities should take a precautionary approach to assessing risks associated with current and future coastal hazards pending the adoption of relevant CMPs.
2. Resubmit the revised draft DCP and associated updated planning proposal recommendations at the earliest opportunity for Council adoption.
3. Note the amendments being made to Council's 10.7 certificates (part 5) to acknowledge properties in the Kiama Local Government Area business districts may be subject to greater intrusion from sound generating activities through the evening such as live music, entertainment and pedestrian movement.

The Motion was deemed by the Mayor to be an **unlawful motion**.

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

1. Adopt and publish on the Council's website the enclosed Topic 12.7 – Kiama Town Centre of the Kiama Development Control Plan 2020 (DCP), as attached to this report.
2. Prepare a Planning Proposal to Sheet HOB_012 of the Kiama Local Environmental Plan 2011 to increase the maximum height of buildings permitted:
 - a. Along the southern side of Terralong Street, between Thomson Street and Collins Street, to 14m, (as shown on Figure 15 of the attached Kiama Development Control Plan).
 - b. Parts of Kiama Centrepoint Shopping Mall, to 14m, (as shown on Figure 41 of the attached Kiama Development Control Plan).
 - c. Parts of the Akuna Street strategic site, to 14m, 17m and 21m (as shown on Figure 29 of the attached Kiama Development Control Plan).
3. Prepare a Planning Proposal to Sheet FSR_012 of the Kiama Local Environmental Plan 2011 to increase the maximum floor space ratio permitted:
 - a. Along the southern side of Terralong Street, between Thomson Street and Collins Street, to 2:1, (as shown on Figure 15 of the attached Kiama Development Control Plan).
 - b. Parts of Kiama Centrepoint Shopping Mall, to 2:1, (as shown on Figure 41 of the attached Kiama Development Control Plan).
 - c. Parts of the Akuna Street strategic site, to 2:1, 2.5:1 and 3:1 (as shown on Figure 29 of the attached Kiama Development Control Plan).
4. Prepare a Planning Proposal to amend clause 6.8 of the Kiama Local Environmental Plan 2011 to outline that the active street frontage development standards, within the Kiama Town Centre, only apply to the areas marked as 'primary active frontages' in Figure 11 of the attached Kiama Development Control Plan.
5. Prepare a Planning Proposal to amend clause 6.8 of the Kiama Local Environmental Plan 2011 to rezone Lot 154 DP 751279, 72 Manning Street (i.e. Silica Restaurant) from RE1 Public Recreation to B2 Local Centre and apply a 11m maximum building height and a floor space ratio of 1.5:1.
6. Submit the above Planning Proposal/s to the NSW Department of Planning & Environment for a Gateway Determination.
7. Undertake consultation with relevant State agencies and the community in accordance with the Gateway Determination and the Kiama Community Participation Plan 2019.
8. Following consultation prepare a future report to enable the elected Council to formally make the above amendments to the Kiama Local Environmental Plan 2011.
9. Note the amendments being made to Council's 10.7 certificates (part 5) to acknowledge properties in Kiama LGA business districts may be subject to

greater intrusion from sound generating activities through the evening such as live music, entertainment and pedestrian movement.

10. Notify those who made submissions of this resolution.

A **variation** was requested by Councillor Renkema-Lang but **not accepted** by the mover Councillor Brown that the motion include:

That Council:

- a) remove Site F: Kiama Surf Lifesaving Club noting that the Kiama SLSC has been assessed as high risk in appendix E1 of the Coastal Management Program Stage 2 report, and that Clause 15 of the Coastal Management SEPP states that councils and consent authorities should take a precautionary approach to assessing risks associated with current and future coastal hazards pending the adoption of relevant CMPs.

An **amendment** was **moved** by Councillor Renkema-Lang and seconded by Councillor Keast that Council:

1. Adopt and publish on the Council's website the enclosed Topic 12.7 – Kiama Town Centre of the Kiama Development Control Plan 2020 (DCP), as attached to this report.
2. Prepare a Planning Proposal to Sheet HOB_012 of the Kiama Local Environmental Plan 2011 to increase the maximum height of buildings permitted:
 - a. Along the southern side of Terralong Street, between Thomson Street and Collins Street, to 14m, (as shown on Figure 15 of the attached Kiama Development Control Plan).
 - b. Parts of Kiama Centrepoint Shopping Mall, to 14m, (as shown on Figure 41 of the attached Kiama Development Control Plan).
 - c. Parts of the Akuna Street strategic site, to 14m, 17m and 21m (as shown on Figure 29 of the attached Kiama Development Control Plan).
3. Prepare a Planning Proposal to Sheet FSR_012 of the Kiama Local Environmental Plan 2011 to increase the maximum floor space ratio permitted:
 - a. Along the southern side of Terralong Street, between Thomson Street and Collins Street, to 2:1, (as shown on Figure 15 of the attached Kiama Development Control Plan).
 - b. Parts of Kiama Centrepoint Shopping Mall, to 2:1, (as shown on Figure 41 of the attached Kiama Development Control Plan).
 - c. Parts of the Akuna Street strategic site, to 2:1, 2.5:1 and 3:1 (as shown on Figure 29 of the attached Kiama Development Control Plan).
4. Prepare a Planning Proposal to amend clause 6.8 of the Kiama Local Environmental Plan 2011 to outline that the active street frontage development standards, within the Kiama Town Centre, only apply to the

areas marked as 'primary active frontages' in Figure 11 of the attached Kiama Development Control Plan.

5. Prepare a Planning Proposal to amend clause 6.8 of the Kiama Local Environmental Plan 2011 to rezone Lot 154 DP 751279, 72 Manning Street (i.e. Silica Restaurant) from RE1 Public Recreation to B2 Local Centre and apply a 11m maximum building height and a floor space ratio of 1.5:1.
6. Remove Site F: Kiama Surf Lifesaving Club noting that the Kiama SLSC has been assessed as high risk in appendix E1 of the Coastal Management Program Stage 2 report, and that Clause 15 of the Coastal Management SEPP states that councils and consent authorities should take a precautionary approach to assessing risks associated with current and future coastal hazards pending the adoption of relevant Coastal Management Plans
7. Submit the above Planning Proposal/s to the NSW Department of Planning & Environment for a Gateway Determination.
8. Undertake consultation with relevant State agencies and the community in accordance with the Gateway Determination and the Kiama Community Participation Plan 2019.
9. Following consultation prepare a future report to enable the elected Council to formally make the above amendments to the Kiama Local Environmental Plan 2011.
10. Note the amendments being made to Council's 10.7 certificates (part 5) to acknowledge properties in Kiama LGA business districts may be subject to greater intrusion from sound generating activities through the evening such as live music, entertainment and pedestrian movement.
11. Notify those who made submissions of this resolution.

The **motion** on being put was **lost**.

For: Councillors Keast, Renkema-Lang and Rice

Against: Councillors Brown, Croxford, Draisma, Larkins, Reilly and Steel

22/272OC

Resolved that Council:

1. Adopt and publish on the Council's website the enclosed Topic 12.7 – Kiama Town Centre of the Kiama Development Control Plan 2020 (DCP), as attached to this report.
2. Prepare a Planning Proposal to Sheet HOB_012 of the *Kiama Local Environmental Plan 2011* to increase the maximum height of buildings permitted:
 - a. Along the southern side of Terralong Street, between Thomson Street and Collins Street, to 14m, (as shown on Figure 15 of the attached Kiama Development Control Plan).
 - b. Parts of Kiama Centrepoint Shopping Mall, to 14m, (as shown on Figure 41 of the attached Kiama Development Control Plan).

- c. Parts of the Akuna Street strategic site, to 14m, 17m and 21m (as shown on Figure 29 of the attached Kiama Development Control Plan).
3. Prepare a Planning Proposal to Sheet FSR_012 of the *Kiama Local Environmental Plan 2011* to increase the maximum floor space ratio permitted:
 - a. Along the southern side of Terralong Street, between Thomson Street and Collins Street, to 2:1, (as shown on Figure 15 of the attached Kiama Development Control Plan).
 - b. Parts of Kiama Centrepoint Shopping Mall, to 2:1, (as shown on Figure 41 of the attached Kiama Development Control Plan).
 - c. Parts of the Akuna Street strategic site, to 2:1, 2.5:1 and 3:1 (as shown on Figure 29 of the attached Kiama Development Control Plan).
4. Prepare a Planning Proposal to amend clause 6.8 of the *Kiama Local Environmental Plan 2011* to outline that the active street frontage development standards, within the Kiama Town Centre, only apply to the areas marked as 'primary active frontages' in Figure 11 of the attached Kiama Development Control Plan.
5. Prepare a Planning Proposal to amend clause 6.8 of the *Kiama Local Environmental Plan 2011* to rezone Lot 154 DP751279, 72 Manning Street (i.e. Silica Restaurant) from RE1 Public Recreation to B2 Local Centre and apply a 11m maximum building height and a floor space ratio of 1.5:1.
6. Submit the above Planning Proposal/s to the NSW Department of Planning & Environment for a Gateway Determination.
7. Undertake consultation with relevant State agencies and the community in accordance with the Gateway Determination and the Kiama Community Participation Plan 2019.
8. Following consultation prepare a future report to enable the elected Council to formally make the above amendments to the *Kiama Local Environmental Plan 2011*.
9. Note the amendments being made to Council's 10.7 certificates (part 5) to acknowledge properties in Kiama LGA business districts may be subject to greater intrusion from sound generating activities through the evening such as live music, entertainment and pedestrian movement.
10. Notify those who made submissions of this resolution.

(Councillors Brown and Croxford)

For: Councillors Brown, Croxford, Larkins, Reilly and Steel

Against: Councillors Draisma, Keast, Renkema-Lang and Rice

13 REPORT OF THE DIRECTOR ENGINEERING AND WORKS

13.1 Proposed road closure adjoining 2A Pheasant Point Drive, Kiama

Disclosure of Interest – Councillor Renkema-Lang

Councillor Renkema-Lang disclosed a less than significant non-pecuniary interest in this item. Councillor Renkema-Lang remained in the chamber and took no part in discussion or voting on this matter.

22/273OC

Resolved that Council:

1. approve the closure of the section of surplus road reserve adjoining No.2A Pheasant Point Drive, Kiama (Lot 1 DP 1026897) approximately 64m² in area as identified by the survey plan attached to this report.
2. classify the subject area of surplus road reserve as operational land upon closure and issue of a certificate of title following public notice of the proposed classification under Section 34 *Local Government Act 1993*.
3. provide owner's consent for the landowner of No.2A Pheasant Point Drive Kiama to lodge a planning proposal for consideration of rezoning the subject land to R2 Low Density Residential following completion of the road closure process in Recommendation 2 above.
4. delegate authority to the Chief Executive Officer to sign under seal or sign on behalf of Council any documentation associated with the road closure.
5. endorse the future sale of the closed section of road to the adjoining owner of No.2A Pheasant Point Drive, Kiama in accordance with the Acquisition and Disposal of Land and Easements Policy.
6. note that a separate report will be provided to Council to dispose of the closed section of road reserve subject to market valuation advice at the time.

(Councillors Draisma and Steel)

For: Councillors Brown, Croxford, Draisma, Larkins, Reilly, Rice and Steel

Against: Councillor Keast

14 REPORT OF THE DIRECTOR BLUE HAVEN

14.1 Post exhibition endorsement: Aged Care Prudential Standards Policy

22/274OC

At the request of Councillor Rice and by consent, the **motion was varied and resolved** as follows:

That Council endorse the Aged Care Act Prudential Standards Policy with the following amendments:

1. That in accordance with Division 52N of the Aged Care Act 1997 the Policy is altered under 2.0 Permitted Uses, to include the further point: g) for a use permitted by the Fees and Payments Principles.
2. That the calculations are removed from the Policy.

(Councillors Larkins and Renkema-Lang)

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

Against: Nil

Councillor Renkema-Lang raised a **Point of Order** whether a seconder can move a motion. The Public Officer advised that following general meeting protocols by seconding a motion the seconder is fully endorsing the motion as put and would therefore not be amending the motion.

At 8.38pm Councillor Larkins left the Chamber

At 8.40pm Councillor Larkins returned to the Chamber

15 REPORTS FOR INFORMATION

Disclosure of Interest – Councillor Keast

Councillor Keast declared a less than significant non-pecuniary interest in item 15.6. Councillor Keast disclosed and voted on this matter.

22/2750C

Resolved that the following Reports for Information listed for the Council's consideration be received and noted

- 15.1 Grants update
- 15.2 Letter from The Hon. Wendy Tuckerman MP, Minister for Local Government
- 15.3 Minutes: Jamberoo Valley Ratepayers and Residents Association – 2 August 2022 and 6 September 2022
- 15.4 Question for future meeting: Aged care facility on community land
- 15.6 Question for future meeting: Chapman Reserve amenities
- 15.10 Questions for Future Meeting Register - September 2022.

(Councillors Draisma and Brown)

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

Against: Nil

The following items were dealt with earlier in the meeting as part of the in globo recommendation:

Item 15.5: *Question for future meeting: Bong Bong Street speed humps*

Item 15.7: *Question for future meeting: Fortnightly meetings with the Unions*

Item 15.9: *Response to Cr Larkins Notice of Motion: Bombo Quarry timeline*

Councillor Lang raised a **procedural motion** whether it is legal to move a motion from the floor. The Public Officer responded it is not strictly in accordance with the Code of Meeting Practice and should be raised as a Notice of Motion at a future meeting.

It was agreed that Councillor Brown's question for future meetings raised at the August Council meeting regarding youth and mental health services be reported to the October Council meeting.

15.8 Question for future meeting: Property boundary encroachments

It was agreed this item be brought to the next Council meeting.

16 ADDENDUM TO REPORTS

16.1 Blue Haven Financial Report

22/276OC

Resolved that Council note the information contained in the July 2022 Blue Haven Financial Report.

(Councillors Draisma and Rice)

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

Against: Nil

16.2 Statement of Investments - August 2022

22/277OC

Resolved that Council:

1. Receive the information relating to the Statement of Investments.
2. Resolve the following movements in the External and Internal Reserves:

Externally restricted fund movements

- Developer contributions – increased by \$122,534 with a carrying amount of \$10,378,956.
- Crown Holiday Parks – decreased by \$288,618 with a carrying amount of \$157,319

Internal restricted fund movements

- Waste Business Unit – increased by \$40,682 with a carrying amount of \$1,003,370

(Councillors Keast and Draisma)

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

Against: Nil

16.3 Monthly Financial Report - July 2022

22/278OC

Resolved that Council receive the information relating to the Monthly Financial Report for July 2022.

(Councillors Rice and Brown)

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

Against: Nil

17 NOTICE OF MOTION

17.1 Notice of Motion: Flood and stormwater risks

It was **moved** by Councillor Renkema-Lang and seconded by Councillor Keast that Council:

1. Receive a report at the Ordinary Council meeting as soon as possible that details:
 - a. all incidents reported to Council over the past two years where intense rain and flooding has resulted in people having to evacuate, having to be rescued from flood waters, or being isolated because of landslides or flooded roads.
 - b. a list of specific assets (roads, bridges, stormwater) for which the functional confidence level is low and that consequently may present a high risk to Council and to the safety of residents or the public during future stormwater events.

- c. the actions and upgrade and renewal projects specific to stormwater and road assets in high-risk locations, approved at the 28 June 2022 Ordinary
 - d. additional actions or upgrades necessary to mitigate the risks to Council and to the safety of residents or the public during future stormwater and flood events, and
 - e. all strategies Council is pursuing to secure additional funding and to reprioritise capital works expenditure as necessary.
2. Hold a public briefing to inform the community on the matters detailed in 1a. to 1e. above, and explicitly inviting all residents who live in the affected areas who have contacted Council expressing concerns for their safety.

On being **put** the motion was **lost**.

For: Councillors Keast, Renkema-Lang and Rice

Against: Councillors Brown, Croxford, Draisma, Larkins, Reilly and Steel

Councillor Brown raised a **Point of Order** that Councillor Renkema-Lang should request a report under Questions for Future Meetings rather than raising a Notice of Motion. The Mayor overruled this point.

Councillor Brown raised a **Point of Order** that Councillor Renkema-Lang was reading a speech which is against the Code of Meeting Practice. The Mayor advised Councillor Renkema-Lang to continue.

Councillor Steel raised a **Point of Order** that a member of the public gallery was waiting for an item which was to be held in confidential committee and therefore it was not necessary for that person to wait.

17.2 Notice of Motion: Forsyth's Forensic Audit Assessment Report and independent investigation

It was **moved** by Councillor Draisma and seconded by Councillor Larkins that Council:

1. Subject to the identification of a suitable funding source at the Quarterly Budget Review, and commence as a priority the additional work required to enable the release of an Executive Summary (the Summary) of the Forsyth's Forensic Audit Assessment Report (the Audit) adopting:
 - a. Section 3.3.5 of advice received from Maddocks, dated 22 April 2022.
 - b. The Summary which is released publicly notes that the financial analysis provided to Council was true and correct upon its adoption at the meeting held 13 May 2022 (22/058OC).
2. Provide a report on the mechanisms available to Council for an independent investigation of the performance of Kiama Municipal Council between 2016 to 2022, which exceeds the scope of the Audit, as noted in Section 5.2 of advice from Maddocks, dated 22 April 2022.

A **variation** was requested by Councillor Rice but **not accepted** by the mover Councillor Draisma that Council:

1. Subject to the identification of a suitable funding source, commence as a priority the additional work required to enable the release of an Executive Summary of the Forsyth's Forensic Audit Assessment Report (the Audit) adopting:
 - a. Section 3.3.5 of advice received from Maddocks, dated 22 April 2022."
2. When engaging Forsyth's to produce the Executive Summary, provides them with all available additional information about funding the Blue Haven project, so that this component of the summary can be reviewed and updated if necessary.

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

1. Subject to the identification of a suitable funding source, commence as a priority the additional work required to enable the release of an Executive Summary of the Forsyth's Forensic Audit Assessment Report (the Audit) adopting:
 - a. Section 3.3.5 of advice received from Maddocks, dated 22 April 2022."
2. When engaging Forsyth's to produce the Executive Summary, provides them with all available additional information about funding the Blue Haven project, so that this component of the summary can be reviewed and updated if necessary.

On being **put** the amendment was **lost**.

For: Councillors Keast, Renkema-Lang and Rice

Against: Councillors Brown, Croxford, Draisma, Larkins, Reilly and Steel

22/279OC

Resolved that Council:

1. Subject to the identification of a suitable funding source at the Quarterly Budget Review, and commence as a priority the additional work required to enable the release of an Executive Summary (the Summary) of the Forsyth's Forensic Audit Assessment Report (the Audit) adopting:
 - a. Section 3.3.5 of advice received from Maddocks, dated 22 April 2022.
 - b. The Summary which is released publicly notes that the financial analysis provided to Council was true and correct upon its adoption at the meeting held 13 May 2022 (22/058OC).
2. Provide a report on the mechanisms available to Council for an independent investigation of the performance of Kiama Municipal Council between 2016 to 2022, which exceeds the scope of the Audit, as noted in Section 5.2 of advice from Maddocks, dated 22 April 2022.

(Councillors Draisma and Larkins)

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

Against: Councillors Croxford and Rice

Councillor Brown raised a **Point of Order** that Councillor Renkema-Lang had made defamatory statements of staff being “we [as in Council] have been too dismissive of facts”. The Mayor requested Councillor Renkema-Lang retract her remarks. Councillor Renkema-Lang withdrew her statement.

17.3 Notice of Motion: Jamberoo Mountain Road management

22/280OC

Resolved that Council:

1. Notes resolution 22/011OC – Mayoral Advocacy List and the need for addressing west road linkages.
2. Notes Jamberoo Mountain Road has been significantly impacted by adverse weather events, particularly in 2021 and 2022, which has resulted in long road closures, and lasting economic and community impacts for those affected by the road being closed.
3. That the Mayor and Chief Executive Officer jointly write to the NSW Minister for Regional Transport and Roads, the Hon Sam Farraway MLC advocating for Transport for NSW to reclassify the road from a Regional Road to a State road, removing its responsibility from local government and recognising the state-significant east west linkages it plays in the Illawarra region.
4. That a copy of the letter is provided to the NSW Shadow Minister for Regional Transport and Roads, Ms Jenny Aitchison MP

(Councillors Larkins and Draisma)

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

Against: Councillors Brown and Croxford

At 9.25pm the Mayor called for a 5 minute recess.

At 9.38pm the meeting reconvened.

Procedural Motion

22/281OC

Resolved that Council bring Item 20.1 out of confidential into open Council.

(Councillors Draisma and Reilly)

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

Against: Nil

18 QUESTIONS FOR FUTURE MEETINGS

18.1 Golden Valley Road subdivision

Councillor Keast requested a report on the status of the development application for the proposed Golden Valley Road subdivision. This matter was referred to the Director Environmental Services for action.

18.2 Public land available for a wombat compound

Councillor Rice requested a report on whether Council has any bush land of at least 7x7m² that could be made available to WIRES to use as a compound for wombats in rehabilitation from bushfire and other trauma? Development of a suitable site for this purpose would incur no expense to Council. This matter was referred to the Director Engineering & Works for action.

18.3 Kiama Walking Track Grant

Councillor Reilly requested a report on enacting the Council resolution of September 2020 and making an application for the second stage of the Kiama Walking Track. This matter was referred to the Director Engineering & Works for action.

Procedural motion

22/282OC

Resolved that the meeting be extended to 10.15pm.

(Councillors Reilly and Draisma)

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

Against: Councillor Croxford

20.1 Notice of Motion: Blue Haven

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

1. Call for Expressions of Interest (EOI) to explore the sale of Blue Haven Lot 71 DP831089 and Lot 2 DP1215276, comprising of either all or some of the parts of Blue Haven, including the residential aged care facility, independent living units, home care packages and sites. This will be managed through delegated authority of the CEO in alignment with Council Policy and the Local Government Act 1993.
2. Require that a detailed plan for any revenue generated from any sale or divestment of assets related to Blue Haven is prepared and provides not only an improved cashflow position, but future strategies for the generation of income and continuous revenue streams which enable Kiama Municipal Council to be sustainable.
3. Receive a report, in the form of a business case, following the completion of the EOI process for careful consideration and determination of the preferred way forward.
4. Continue to inform and engage with the broader community and those who are cared for by Blue Haven to reassure all parties that the quality of care and standard of service will be maintained during the EOI process.

On being **put** the motion was **lost**.

For: Councillors Brown, Croxford, Reilly and Steel

Against: Councillors Draisma, Keast, Larkins, Renkema-Lang and Rice

22/283OC

Resolved that Council:

1. Note the urgent need to improve cash flow in the next two years to demonstrate going concern status and improve the long-term financial position of Council, which in the outer years of the long-term financial plan shows continued deficits.
2. Restore cash reserves and the balance sheet in the order of \$30 to \$40 million by exploring all divestment and capital works reductions opportunities and prepare an options report to Council and the community that fully considers the following significant divestments:
 - a. Call for Expressions of Interest (EOI) to explore the subdivision and sale for only the decommissioned Blue Haven aged care facility which is located on Lot 71 DP 831089. This will be managed through delegated authority of the CEO in alignment with Council Policy and the Local Government Act 1993.
 - b. Undertake an EOI process for the Barney Street Quarry Lot 9 DP 850163.
3. Additionally consider the following to restore cash reserves and balance sheet:
 - a. Service reductions and cost efficiencies that reduce Council's capital program
 - b. Paid parking and resident permits

- c. Special rate variation/s
4. Continue the work on previously resolved sell/keep/lease options for Blue Haven and receive the reports on valuation, asset management plan and accreditation results prior to the December ordinary meeting.
 5. Include in the options paper noted at resolution (2) above how revenue generated from any sale or divestment of any assets may be invested in strategies for generation of income and continuous revenue streams will be used to restore the balance sheet.
 6. Continue to inform and engage with the broader community and those who are cared for by Blue Haven to reassure all parties that the quality of care and standard of service will be maintained.
 7. Examine the 2022/23 Capital Budget at the Quarterly Budget Review, with the intention to reduce expenditure.

(Councillors Draisma and Larkins)

For: Councillors Draisma, Keast, Larkins, Renkema-Lang and Rice

Against: Councillors Brown, Croxford, Reilly and Steel

Procedural Motion

22/284OC

Resolved that the meeting be extended to 10.30pm.

(Councillors Croxford and Reilly)

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

Against: Nil

The meeting being adjourned, closed at 10.23pm on 20 September 2022.

The meeting reconvened and commenced at 4pm on 21 September 2022.

Apologies were received from Councillor Brown.

19 CONFIDENTIAL SUMMARY

22/285OC

Resolved that at this time, 4.04pm, Council form itself into a Confidential Committee of the Whole to deal with matters listed in the recommendations as set out below subject to the consideration of any representations relating to such action.

(Councillors Keast and Draisma)

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

Against: Nil

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.

19.1 Exclusion Of Press And Public:

22/286OC

Committee 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 to deal with the following matters on the grounds as detailed below.

20.2 NOTICE OF MOTION: DUTY TO REPORT

Reason for Confidentiality: This matter deals with alleged contraventions of any code of conduct requirements applicable under section 440 as per Section 10A(2)(i) of the Local Government Act.

20.3 AKUNA STREET LANDHOLDING

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.

20.4 PROCUREMENT TENDER - COUNCIL'S ORGANIC MATERIAL

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.

20.5 REQUEST FOR DEBT WRITE-OFF UNDER COUNCIL'S HARDSHIP POLICY

Reason for Confidentiality: This matter deals with personnel matters concerning particular individuals (other than councillors) as per Section 10A(2)(a) of the Local Government Act and discussion in relation to the personal hardship of a resident or ratepayer as per Section 10A(2)(b) of the Local Government Act.

20.6 REQUEST FOR EARLY PART-RELEASE OF RESIDENT ENTRY PAYMENT REFUND

Reason for Confidentiality: This matter deals with personnel matters concerning particular individuals (other than councillors) as per Section 10A(2)(a) of the Local Government Act.

20.7 AGENDA ITEM 20.3 SUPPLEMENTARY ATTACHMENT: AKUNA STREET LANDHOLDING

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.

20.8 TWO YEAR CASH FLOW FORECAST JULY 2022 TO JUNE 2024

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.

(Councillors Keast and Draisma)

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

Against: Nil

20 CONFIDENTIAL REPORTS

Item 20.1: *Notice of Motion: Blue Haven* was dealt with earlier in the meeting as it was resolved to bring the item out of confidential committee to the open council meeting.

20.2 Notice of Motion: Duty to Report

22/287OC

Committee recommendation that as a precautionary measure Council:

1. Self-report to the Independent Commissioner Against Corruption detailing concerns of the possibility of corrupt conduct noting:
 - a) that in March 2022 Council engaged an independent firm to conduct a forensic accounting assessment and to prepare a report on financial

accounting and reporting issues, areas of control improvements, areas requiring further investigation and recommended policy and procedure improvements

- b) that while no conclusions could be drawn from the investigation that fraud or corruption did in fact take place, matters were identified that required further investigation to rule out the possibility of fraud and corruption (Ref forensic assessment report dated April 2022)
 - c) the matters detailed in sections 3.5, 5.1, and 5.2 of the Letter of Advice dated 17 May 2022 (Ref MJW:BDYE) that identify areas that require further investigation before the possibility that fraud or corrupt conduct can be ruled out
 - d) that Council has notified the Minister of Local Government and Office of Local Government of Council's possible matters of maladministration
 - e) that Council has been taking all steps necessary to correct the financial situation of the organisation with a sense of urgency and will continue to work constructively with the NSW Government to correct the situation.
2. Receive a report advising of further internal investigations required (if any) to rule out suspicion of fraud or corruption relating to the matters detailed in section 5 of the Legal Advice dated 31 August 2022 (MJW:MNN:8955791)
 3. Note the Legal Advice provided in the email letter dated 31 August 2022 (MJW:MNN:8955791) that *"No proof of corrupt conduct is required, and in general, ICAC encourages principal officers to err on the side of caution and report a matter. There are no risks to Council should you choose to report."*

(Councillors Renkema-Lang and Rice)

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

Against: Nil

The Mayor noted Councillors must understand this is a matter of confidentiality and to speak of it publicly would be a breach of that confidentiality.

20.3 Akuna Street landholding

22/288OC

Committee recommendation that Council:

1. Proceed to open tender for the sale of Council's operational landholdings described as Lot 4 DP229319, Lot 5 DP229319, Lot 6 DP229319 and Lot 11 DP229319.
2. Delegate to the Chief Executive Officer authorisation to sign and execute any documentation required to commence as a matter of priority the open tender process for the sale of Council's operational landholdings described as Lot 4 DP229319, Lot 5 DP229319, Lot 6 DP229319 and Lot 11 DP229319 and appoint a Probity Lawyer to oversee the process.

3. Delegate to the Chief Executive Officer the ability to actively promote Council's endorsed Town Centre DCP in any marketing campaign for Lot 4 DP229319, Lot 5 DP229319, Lot 6 DP229319 and Lot 11 DP229319.

(Councillors Croxford and Larkins)

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

Against: Nil

20.4 Procurement Tender - Council's organic material

22/2890C

Committee recommendation that Council:

1. In accordance with Clause 178(1)(a) of the Local Government (General) Regulation 2005, accept the tender of Re.Group Pty Ltd for Tender RFT KT230322 – Processing of Food Organics & Garden Organics (FOGO) for the rate of \$112.00 (plus GST) per Tonne for a three (3) year term with the option of four (4) x one (1) year extensions depending on performance
2. Note that the total value of this contract over its three (3) year life, is estimated to be worth over \$2.1 million.
3. Delegate to the Chief Executive Officer the authority to finalise and execute the contract for the Processing of Food Organics & Garden Organics as specified in resolution one (1) above, and any other documentation required to give effect to this resolution.
4. Grant authority for the use of the Common Seal of Council on the contract for the Processing of Food Organics & Garden Organics as specified in resolution one (1) above and any other documentation, should it be required, to give effect to this resolution.

(Councillors Draisma and Steel)

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

Against: Nil

20.5 Request for debt write-off under Council's Hardship Policy

22/2900C

Committee recommendation that Council

1. Prepare correspondence in return to that received by a van owner advising that the hardship request described in the letter dated 26 July 2022 is refused.

2. Advise the correspondent that they do have the ability to sell the van and annex, and not the site; with sale proceeds to be paid against the outstanding fees totalling \$6,751.60 , prior to removal of the van from the site.
3. Advise the correspondent that should the sale proceeds not fully repay the debt of \$6,751.60 that Council will seek recovery through the usual repayment processes.

(Councillors Larkins and Rice)

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

Against: Nil

20.6 Request for early part-release of resident entry payment refund

22/2910C

Committee recommendation that Council approve the additional \$100,000 requested towards a total refund of \$600,000 as an early part-release of a resident entry payment for Blue Haven Bonaira Independent Living Units to the resident and that no further special request negotiations will be entered into.

(Councillors Renkema-Lang and Rice)

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

Against: Nil

20.7 Agenda item 20.3 supplementary attachment: Akuna Street landholding

This item was an attachment only.

20.8 Two year cash flow forecast July 2022 to June 2024

22/2920C

Committee recommendation that Council:

1. Note the significance of the correspondence from the NSW Audit Office and follow-up meeting with the Minister for Local Government, recognising the urgent need to improve Cash Flow, Cash Reserves and its Balance Sheet in the next two years to demonstrate going concern status and improve the long-term financial sustainability of Council and confirm that Council is taking all steps possible to correct the situation.
2. Accept the Cash Flow Option requiring the short-term restoration of cash reserves and the balance sheet in the order of \$30 to \$40 million by exploring

all possible asset divestment opportunities and capital works reductions over the next 2 years

3. Delegate to the CEO to release the cash flow scenarios as detailed in the confidential report to the Audit Office of NSW, Office of Local Government and TCorp, noting that Council is still to formally decide:
 - Other revenue raising opportunities
 - Sale of Blue Haven, in full or part
 - Other property divestment opportunities
4. Supplement the cash flow scenarios with a letter that describes all the other ways that Council is becoming more efficient, and forward this to the abovementioned bodies.

(Councillors Keast and Renkema-Lang)

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

Against: Nil

Close of Confidential Committee of the Whole:

22/293OC

Committee recommendation that at this time, 5.19pm, the Confidential Committee of the Whole revert to Open Council.

(Councillors Draisma and Keast)

For: Councillors 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.

22/294OC

Resolved that that the Confidential Committee of the Whole recommendations numbered 22/286OC to 22/293OC be confirmed and adopted.

(Councillors Reilly and Larkins)

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

Against: Councillor Steel

21 CLOSURE

There being no further business the meeting closed at 5.31pm.

These Minutes were confirmed at the Ordinary Meeting of Council held on
18 October 2022.

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Mayor