



MINUTES OF THE EXTRAORDINARY MEETING OF COUNCIL

commencing at 5pm on

MONDAY 23 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
ON MONDAY 23 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, Blue Haven Chief Operating 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 REPORT OF THE CHIEF EXECUTIVE OFFICER

- 4.1 Draft Community Strategic Plan, Delivery Program and Operational Plan, Budget, Fees and Charges and associated documents - endorsement for public exhibition**

22/1010C

Resolved that Council:

1. endorse the draft Community Strategic Plan for public exhibition for a period of 28 days
2. endorse the draft Delivery Program and Operational Plan for public exhibition for a period of 28 day, noting that the activities and actions provided in this document will be subject to ongoing review given Council's current financial

state, the findings of the Forensic Audit, the State of the Organisation Report and our Strategic Improvement Plan

3. endorse the draft Budget for public exhibition for a period of 28 days, noting the urgent and significant work that needs to be undertaken within the 28-day exhibition period to further refine and reduce our budget deficit by at least \$3M
4. endorse the draft Fees and Charges document for exhibition for a period of 28 days
5. provide the outcomes of the exhibition process and the final document back to Council for adoption prior to 30 June 2022
6. to reduce expenditure due to rework of documents as a result of the exhibition process, undertake further graphic design elements and illustrative features of all documents once formally adopted by Council.

(Councillors Brown and Steel)

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

Against: Nil

4.2 Draft Long Term Financial Plan - endorsement for public exhibition

22/102OC

Resolved that Council:

1. subject to ongoing review during the exhibition period, place on public exhibition the draft Long Term Financial Plan 2022/23 – 2031/32, noting that the assumptions and financial results presented in this document will be subject to ongoing review given Council's current financial state, the findings of the Forensic Audit, the State of the Organisation Report and our Strategic Improvement Plan
2. provide the outcomes of the exhibition process and the final document back to Council for adoption prior to 30 June 2022.

(Councillors Brown and Keast)

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

Against: Nil

5 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.

5.1 Exclusion of press and public:

22/1030C

Resolved that at this time, 5.38pm, 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.

6.1 RESCISSION MOTION: RESOLUTION 22/0580C OF THE EXTRAORDINARY COUNCIL MEETING HELD ON 12 MAY 2022 - ITEM 6.1 FORENSIC ACCOUNTING ASSESSMENT

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 information that would, if disclosed, prejudice the maintenance of law as per Section 10A(2)(e) of the Local Government Act. .

(Councillors Steel and Brown)

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

Against: Nil

6 CONFIDENTIAL REPORTS

6.1 Rescission Motion: Resolution 22/0580C of the Extraordinary Council meeting held on 12 May 2022 - Item 5.1 Forensic accounting assessment

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

That Council rescind motion 22/0580C and replace with:

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. develops and implements a community consultation plan in accordance with the Community Engagement Strategy that includes Blue Haven staff and residents, as well as publicly releasing:
 - a) the background to any proposed divestment of community assets in response to the Strategic Improvement Plan
 - b) an Executive Summary of the Forsyth's Forensic Accounting Assessment Report, adopting advice from Maddocks dated 17 May 2022
 - c) the Forsyth's report, preferably by the 2023-2024 financial year, subject to further legal advice.

3. gives delegated authority 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, subject to:
 - a) 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
 - b) Council adoption of a Strategic Liquidity Plan, draft Acquisition and Disposal of Land and Easements Policy and relevant business cases
 - c) Council endorsement of the 2022-23 budget and Long-Term Financial Plan
 - d) appointment of Probity lawyers to act in Council's interest and sound tender processes are used to ensure compliance with the Local Government Act
4. commit to ensuring decisions relating to Blue Haven, including those made in negotiations with McVay Real Estate will maintain the following:
 - a) 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
 - b) 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
 - c) the good reputation, working environment, and conditions for Blue Haven Staff of Kiama Municipal Council be maintained and protected
5. develop for consideration at the next available opportunity a Strategic Liquidity plan for submission to the Audit Office and the Office of Local Government including, identification of appropriate parcels of land from the Property Divestment Opportunity Register that could be accelerated for sale) and provides the CEO delegated authority to engage third parties as necessary to complete the business case
6. further to 22/043OC write to the federal Minister for Aged Care and the relevant NSW Ministers and NSW Shadow Ministers for advice on potential financial assistance and loans available to aged care providers
7. delegate to the Chief Executive Officer to advise TCorp of the above decisions and commence discussions and negotiations on acceptable loan repayment options.

At 5.50pm the Chair decided the proposed amendment was procedurally deficient (section 10.11 of Council's Code of Meeting Practice), however in the spirit of open debate the Chair allowed the amendment if accepted by the mover.

At the request of Councillor Brown, and by consent, the motion was varied to remove the words “and relevant business cases (22/026OC)” from clause 3b) and read as follows –

That Council rescind motion 22/0580C and replace with:

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. develops and implements a community consultation plan in accordance with the Community Engagement Strategy that includes Blue Haven staff and residents, as well as publicly releasing:
 - a) the background to any proposed divestment of community assets in response to the Strategic Improvement Plan
 - b) an Executive Summary of the Forsyth’s Forensic Accounting Assessment Report, adopting advice from Maddocks dated 17 May 2022
 - c) the Forsyth’s report, preferably by the 2023-2024 financial year, subject to further legal advice.
3. gives delegated authority 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, subject to:
 - a) 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
 - b) Council adoption of a Strategic Liquidity Plan, draft Acquisition and Disposal of Land and Easements Policy
 - c) Council endorsement of the 2022-23 budget and Long-Term Financial Plan
 - d) appointment of Probity lawyers to act in Council’s interest and sound tender processes are used to ensure compliance with the Local Government Act
4. commit to ensuring decisions relating to Blue Haven, including those made in negotiations with McVay Real Estate will maintain the following:
 - a) 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
 - b) 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
 - c) the good reputation, working environment, and conditions for Blue Haven Staff of Kiama Municipal Council be maintained and protected

5. develop for consideration at the next available opportunity a Strategic Liquidity plan for submission to the Audit Office and the Office of Local Government including, identification of appropriate parcels of land from the Property Divestment Opportunity Register that could be accelerated for sale) and provides the CEO delegated authority to engage third parties as necessary to complete the business case
6. further to 22/043OC write to the federal Minister for Aged Care and the relevant NSW Ministers and NSW Shadow Ministers for advice on potential financial assistance and loans available to aged care providers
7. delegate to the Chief Executive Officer to advise TCorp of the above decisions and commence discussions and negotiations on acceptable loan repayment options.

22/104OC

The **motion** as varied by consent **was recommended** as read –

That Council rescind motion 22/0580C and replace with:

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. develops and implements a community consultation plan in accordance with the Community Engagement Strategy that includes Blue Haven staff and residents, as well as publicly releasing:
 - a) the background to any proposed divestment of community assets in response to the Strategic Improvement Plan
 - b) an Executive Summary of the Forsyth's Forensic Accounting Assessment Report, adopting advice from Maddocks dated 17 May 2022
 - c) the Forsyth's report, preferably by the 2023-2024 financial year, subject to further legal advice.
3. gives delegated authority 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, subject to:
 - a) 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
 - b) Council adoption of a Strategic Liquidity Plan, draft Acquisition and Disposal of Land and Easements Policy
 - c) Council endorsement of the 2022-23 budget and Long-Term Financial Plan
 - d) appointment of Probit lawyers to act in Council's interest and sound tender processes are used to ensure compliance with the Local Government Act

4. commit to ensuring decisions relating to Blue Haven, including those made in negotiations with McVay Real Estate will maintain the following:
 - a) 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
 - b) 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
 - c) the good reputation, working environment, and conditions for Blue Haven Staff of Kiama Municipal Council be maintained and protected
5. develop for consideration at the next available opportunity a Strategic Liquidity plan for submission to the Audit Office and the Office of Local Government including, identification of appropriate parcels of land from the Property Divestment Opportunity Register that could be accelerated for sale) and provides the CEO delegated authority to engage third parties as necessary to complete the business case
6. further to 22/043OC write to the federal Minister for Aged Care and the relevant NSW Ministers and NSW Shadow Ministers for advice on potential financial assistance and loans available to aged care providers
7. delegate to the Chief Executive Officer to advise TCorp of the above decisions and commence discussions and negotiations on acceptable loan repayment options.

(Councillors Renkema-Lang and Rice)

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

Against: Councillors Brown, Croxford, Reilly and Steel

Adoption of Report

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

Close of Confidential Committee of the Whole

22/105OC

Committee recommendation that at this time, 6.25pm, the Confidential Committee of the Whole revert to Open Council.

(Councillors Draisma and Rice)

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

Against: Nil

22/106OC

Resolved that that the Confidential Committee of the Whole recommendations numbered 22/104OC to 22/105OC be confirmed and adopted.

(Councillors Draisma and Rice)

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

Against: Nil

7 CLOSURE

There being no further business the meeting closed at 6.26pm

These Minutes were confirmed at the Ordinary Meeting of Council held on 28 June 2022.

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Mayor