



MINUTES OF THE ORDINARY MEETING OF COUNCIL

commencing at 5pm on

TUESDAY 15 MARCH 2022

Council Chambers
11 Manning Street, KIAMA NSW 2533

**MINUTES OF THE ORDINARY MEETING OF THE COUNCIL OF THE
MUNICIPALITY OF KIAMA HELD IN THE COUNCIL CHAMBERS,
KIAMA, ON TUESDAY 15 MARCH 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 and
Director Engineering and Works

1 APOLOGIES

Nil

2 ACKNOWLEDGEMENT OF TRADITIONAL OWNERS

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

At this time, 5.04pm, Sing Australia performed Advance Australia Fair.

At this time, 5.06pm, the Mayor presented the 2022 Australia Day Awards to Maria Baden, Citizen of the Year; Helen McDermott, Senior Citizen of the Year and WIRES Illawarra, Community Group of the Year.

3 CONFIRMATION OF MINUTES OF PREVIOUS MEETING

3.1 Extraordinary Council Meeting on 24 February 2022

22/013OC

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

(Councillors Steel and Croxford)

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

Against: Nil

3.2 Ordinary Council Meeting on 15 February 2022

22/014OC

Resolved that the Minutes of the Ordinary Council Meeting held on 15 February 2022 be received and accepted.

(Councillors Steel and Croxford)

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 Larkins

Councillor Larkins declared a significant non-pecuniary interest in item 17.1 Notice of Motion: Requesting assistance from Federal Government for Blue Haven as he is an employee of Federal Government. Councillor Larkins declared to take no part in discussion or voting on this matter.

Councillor Larkins declared a non-significant non-pecuniary interest in item 8.2 Lions Carers Cottage as he is a volunteer of the specified company or other body and declared to take part in discussion and vote on this matter.

Disclosure of Interest - Councillor Brown

Councillor Brown declared a non-significant non-pecuniary interest in item 20.2 Legal Advice 38-40 Manning Street as the applicant was on the same ticket as Councillor Brown at the 2021 election and declared to take part in discussion and vote on this matter.

Disclosure of Interest – Councillor Renkema-Lang

Councillor Renkema-Lang declared a non-significant non-pecuniary interest in item 8.2 Lions Carers Cottage as she is a volunteer of the specified company or other body and declared to take part in discussion and vote on this matter.

Disclosure of Interest – Councillor Steel

Councillor Steel declared a non-significant non-pecuniary interest in item 8.2 Lions Carers Cottage as he is a volunteer of the specified company or other body and declared to take part in discussion and vote on this matter.

6 TABLING OF PETITIONS AND OTHER DOCUMENTS

Nil

7 PUBLIC ACCESS SUMMARY

Name	Item No.	Subject
James Harris	12.2	10.2021.150.1 - Lot 2 DP 1256113 Jamberoo Road, Croom
Gina Cash	12.2	10.2021.150.1 - Lot 2 DP 1256113 Jamberoo Road, Croom
Paul Chetcuti	12.4	Nos 32 and 34 Wyalla Road, Jamberoo - Request for Removal of Right of Carriageway
Stuart Richards	12.8	10.2021.44.1 - 150 Wyalla Road, Jamberoo
Kevin Jones	12.8	10.2021.44.1 - 150 Wyalla Road, Jamberoo
Tony Pratt	12.9	10.2021.248.1 - 143 Terralong Street, Kiama
Melissa Matters	12.10	10.2021.282.1 - 18 Belinda Street, Gerringong
Jonathon Nichol & Meegan Dignam	12.10	10.2021.282.1 - 18 Belinda Street, Gerringong
Chick Butcher	12.12	10.2021.208.1 - 7 Marks Street, Kiama
Sebastian Tauni representing Tim Fitzgerald	12.12	10.2021.208.1 - 7 Marks Street, Kiama
Howard R Jones	17.4	Notice of Motion: TOR Housing Strategy
Greg McCarthy	12.6	10.2021.1531 – 290 Rose Valley Road, Rose Valley

8 MAYORAL MINUTE

8.1 Attunga Avenue and Kalang Road, Kiama Heights

22/015OC

Resolved that Council support the Local Member, Gareth Ward MP in his request to the Minister for Transport New South Wales to transition The land comprising four separate allotments on the north and south sides of both Attunga Avenue and Kalang Road in Kiama Heights to community management for the recreational use of residents

(Councillors Reilly and Steel)

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

Against: Nil

8.2 Lions Carers Cottage

Disclosure of Interest - Councillor Larkins

Councillor Larkins declared a non-significant non-pecuniary interest in item 8.2 *Lions Carers Cottage* as he is a volunteer of the specified company or other body. Councillor Larkins took part in discussion and voted on this matter.

Disclosure of Interest - Councillor Renkema-Lang

Councillor Renkema-Lang declared a non-significant non-pecuniary interest in item 8.2 *Lions Carers Cottage* as she is a volunteer of the specified company or other body. Councillor Renkema-Lang took part in discussion and voted on this matter.

Disclosure of Interest - Councillor Steel

Councillor Steel declared a non-significant non-pecuniary interest in item 8.2 *Lions Carers Cottage* as he is a volunteer of the specified company or other body. Councillor Renkema-Lang took part in discussion and voted on this matter.

22/016OC

Resolved that Council review the cost to our tenant, Kiama Lions Club, for the lease of the Carers Cottage and explore a means of sale by limited tender application as per section 55 (1) (g) of the Lg Act from not for profit organisations, who are based in and provide direct service to the Kiama Community, for the sale of the lion's cottage.

(Councillors Reilly and Croxford)

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

Against: Nil

9 MINUTES OF COMMITTEES

9.1 Minutes: Jamberoo Youth Hall s355 Committee - 3 February 2022

22/017OC

Resolved that the Minutes of the Jamberoo Youth Hall s355 Committee meeting held on 3 February 2022 be received and accepted.

(Councillors Draisma and Rice)

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

Against: Nil

The variation proposed by Councillor Renkema-Lang (that the maintenance tasks requested in Item 4 of the minutes be included in Council's 2022/23 maintenance program) was accepted by the mover.

9.2 Minutes: Kiama Local Traffic Committee Meeting - 1 March 2022**22/018OC**

Resolved that the Minutes of the Kiama Local Traffic Committee Meeting held on 1 March 2022 be received and the following recommendation accepted:

1. That Council approves the Traffic Control Plan for Barney Street, Kiama provided in Attachment 2, and it is endorsed for implementation for the duration of the construction works.

(Councillors Larkins and Croxford)

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

Against: Nil

COMMITTEE OF THE WHOLE**22/019OC**

Resolved that at this time, 5.22pm, Council form itself into a Committee of the Whole to deal with matters listed in the reports as set out below:

Report of the Chief Executive Officer
Report of the Director Environmental Services
Report of the Director Engineering and Works
Report of the Director Blue Haven
Addendum to Reports

(Councillors Rice and Renkema-Lang)

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

Against: Nil

10 PUBLIC ACCESS REPORTS

Nil

11 REPORT OF THE CHIEF EXECUTIVE OFFICER**11.1 Monthly Financial Report February 2022****22/020OC**

Resolved that Council:

1. Receive and adopt the information relating to the Monthly Financial Report for February 2022, noting that the format and content is still be worked on to improve quality of information.

(Councillors Keast and Larkins)

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

Against: Nil

11.2 State of the Organisation monthly report on progress and key issues - February 2022

22/0210C

Resolved that Council receive the February to March 2022 update from the Chief Executive Officer on the State of the Organisation report and the progress in preparing strategic improvement plans for the organisation.

(Councillors Rice and Brown)

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

Against: Nil

11.3 Statement of Investments February 2022

22/0220C

Resolved that Council:

1. receive and adopt the information relating to the Statement of Investments
2. resolve the following four (4) movements in the External and Internal Reserves:
Externally Restricted Fund Movements:
 - a. Developer Contributions – Increased by \$63,958 with a carrying amount of \$5,041,702
 - b. Loan Restrictions TCorp – Increased by \$420,836 due to extra sale of Blue Haven Bonaira Independent Living Units with a carrying amount of \$28,054,673
 - c. Loan Restrictions TCorp – Increased by \$420,836 due to extra sale of Blue Haven Bonaira Independent Living Units with a carrying amount of \$28,054,673
 - d. Unrestricted Fund Movements – Increase over the last 3 months with a carrying amount of \$4,537,806 due to the timing of income and expenditure.

(Councillors Renkema-Lang and Brown)

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

Against: Nil

11.4 Financial Reporting Timetable 2022

22/023OC

Resolved that Council receive and adopt the information relating to the Financial Reporting requirement for the year.

(Councillors Keast and Croxford)

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

Against: Nil

11.5 Councillor Briefing Sessions Policy

22/024OC

Resolved that Council

1. adopt the draft Councillor Briefing Session policy and after operating the open briefing sessions for a trial period of six (6) months, review the sessions effectiveness and finalise the policy
2. that the notes or presentations be circulated to Councillors.

(Councillors Brown and Draisma)

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

Against: Nil

The variation proposed by Councillor Rice (that the notes or presentations be circulated to Councillors) was accepted by the mover.

12 REPORT OF THE DIRECTOR ENVIRONMENTAL SERVICES

12.1 Endorsement of draft Amendments to Local Infrastructure Contribution Plans for Public Exhibition

22/025OC

Resolved that Council:

1. in accordance with the *Kiama Community Participation Plan 2019*, seek feedback from the community, by way of a twenty-eight (28) day public exhibition process, on the proposed amendments to:
 - Section 94 Contributions Plan No.1 – Municipal Wide Plan
 - Section 94 Contributions Plan No.2 – Northern Region
 - Section 94 Contributions Plan No.3 – Southern Region
 - Section 94 Indirect Contributions Plan
2. following the public exhibition process, report the final amendments to the elected Council for formal adoption
3. repeal Section 94 Contributions Management Plan No.7 – West Kiama Urban Release Area & Cedar Ridge/Silver Hill as all projects have been completed and any new projects for this location will be included within Plan No. 1 and 2.

(Councillors Croxford and Renkema-Lang)

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

Against: Nil

12.2 10.2021.150.1 - Lot 2 DP 1256113 Jamberoo Road, Croom

22/026OC

Resolved that Council:

1. approve Development Application No 10.2021.150.1 for the demolition of an existing farm building, the construction of a principal and secondary dwelling including ancillary features (access road and effluent management systems), swimming pool and the removal of three trees, at Lot 12 DP 866128 Jamberoo Road, Croom, subject to the conditions of consent as attached to this report, with the inclusion of:
 - a. the access road is to be completed prior to commencement of development
 - b. the main power box be relocated to an area that does not require access via the neighbouring property.
2. advise persons who made a submission on Development Application No 10.2021.150.1 of Council's decision.

(Councillors Brown and Croxford)

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

Against: Councillor Keast

The variation proposed by Councillor Renkema-Lang (to include consent conditions requiring the access road is to be completed prior to commencement

of development and for the main power box to be relocated to an area that does not require access via the neighbouring property) was accepted by the mover.

12.3 10.2021.269.1 - 459 Saddleback Mountain Road, Saddleback Mountain

22/0270C

Resolved that Council:

1. approve Development Application No 10.2021.269.1 for the demolition of the existing shed, construction of a new dwelling, detached garage, associated access and amendment to building envelope at Lot 6 DP: 827151 - 459 Saddleback Mountain Road, Saddleback Mountain, subject to the recommended conditions of consent as attached to this report
2. sign the relevant documentation allowing the amended building envelope to be registered on Lot 6 DP 1068326.

(Councillors Brown and Croxford)

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

Against: Nil

12.4 Nos 32 and 34 Wyalla Road, Jamberoo - Request for Removal of Right of Carriageway

22/0280C

Resolved that Council delegate authority to the Chief Executive Officer to affix the Council seal to the relevant documentation to release the restriction as to user which is referred to as item number four (4) in the Section 88B Instrument attached to DP 1209559, for Lots 401 and 402.

(Councillors Draisma and Rice)

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

Against: Nil

12.5 10.2021.271.1 - 2/12 Brown Street, Kiama

22/0290C

Resolved that Council:

1. approve Development Application No 10.2021.271.1 for alterations and additions at Lot 2 DP 285049 - 2/12 Brown Street, Kiama subject to the conditions of consent as attached to this report

2. permit variation to the registered building envelope which is the restriction on the use of land referred to in Deposited Plan 285049 for Lot 2.

(Councillors Renkema-Lang and Brown)

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

Against: Nil

12.6 10.2021.153.1 - 290 Rose Valley Road, Rose Valley

It was MOVED by Councillor Brown and SECONDED by Councillor Croxford that Council approve Development Application No 10.2021.153.1 – 290 Rose Valley Road, Rose Valley, subject to standard conditions of consent.

Councillor Rice FORESHADOWED a MOTION should Councillor Brown's Motion be defeated that Council refuse Development Application No 10.2021.153.1 – 290 Rose Valley Road, Rose Valley for the reasons as outlined in the staff report.

Councillor Brown's motion on being PUT was LOST

In favour: Brown, Croxford, Steel, Reilly

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

22/0300C

Committee recommendation that Council refuse Development Application No 10.2021.153.1 – 290 Rose Valley Road, Rose Valley for the following reasons:

1. having regard to the matters for consideration in the Environmental Planning and Assessment Act 1979 contained in Section 4.15 and the requirements of Council's LEP and DCP as it:
 - a. increases the bushfire risk to residents, their assets and emergency services workers due to the siting of the dwelling
 - b. does not maintain the rural landscape character of the land
 - c. does not ensure that development does not detract from the natural, cultural, and agricultural values of the Kiama Local Government Area
 - d. is sited on a ridgeline or knoll; and
 - e. does not minimise earthworks; and
 - f. is carried out on slopes greater than 20%.
2. having regard to the matters for consideration in the Environmental Planning and Assessment Act 1979 contained in Section 4.15 and the requirements of Council's LEP and DCP:
 - a. the distant siting of the proposal from the existing dwelling and farm buildings increases the potential for land use conflict between rural dwellings and agricultural activities due to the scattering of the development on the site; and
 - b. the siting of the proposal on a ridge and removed from the existing dwelling and farm buildings is not considered to maintain Kiama's scenic rural landscapes and low-density residential nature representing a poor site planning outcome

- c. the likely adverse impacts of the development on the rural environment and the visual impacts of the development being located on a ridge adversely impacting the scenic quality of the rural landscape
 - d. the site planning is focused on rural residential purposes and results in a proliferation of dwellings/structures that do not contribute to the land being used for agricultural purposes; and
 - e. the dispersal of the development on the site will likely give rise to land use conflicts with little opportunity for mitigation
3. having regard to the matters for consideration in the Environmental Planning and Assessment Act contained in Section 4.15(1)(d) the proposal is unacceptable because submissions have been lodged objecting to the development on grounds of:
 - a. not clustering development; and
 - b. adverse visual impacts; and
 - c. size and nature of secondary dwelling; and
 - d. rural character and context; and
 - e. precedence
4. having regard to the matters for consideration in the Environmental Planning and Assessment Act contained in Section 4.15(1)(e) the proposed development is not in the public interest since the relevant objectives and controls of Development Control Plan 2020 have been generally consistently applied by the Council since its adoption and have not been abandoned by decisions made by the Council, and controls should be given determinative weight.

(Councillors Rice and Keast)

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

12.7 10.2021.45.1 – 110 North Kiama Drive, Kiama Downs

The Chief Executive Officer advised that item has been removed from the agenda after Development Application 10.2021.45.1 was withdrawn by the applicant.

12.8 10.2021.44.1 - 150 Wyalla Road, Jamberoo

22/0310C

Resolved that Council refuse Development Application No 10.2021.44.1 – 150 Wyalla Rd Jamberoo Rose for the following reasons:

1. having regard to the matters for consideration in the Environmental Planning and Assessment Act 1979 contained in Section 4.15 and the requirements of Council's LEP and DCP the development is refused as it:
 - a. increases the bushfire risk to residents, their assets and emergency services workers due to the siting of the dwelling
 - b. does not maintain the rural landscape character of the land

- c. does not ensure that development does not detract from the natural, cultural, and agricultural values of the Kiama Local Government Area
2. having regard to the matters for consideration in the Environmental Planning and Assessment Act 1979 contained in Section 4.15 and the requirements of Council's LEP and DCP the development is refused as:
 - a. the distant siting of the proposal from the existing dwelling and farm buildings increases the potential for land use conflict between rural dwellings and agricultural activities due to the scattering of the development on the site
 - b. the likely adverse impacts of the development on the rural environment and the visual impacts of the development adversely impact on the scenic quality of the rural landscape
3. having regard to the matters for consideration in the Environmental Planning and Assessment Act contained in Section 4.15(1)(c) the proposal is unacceptable because the site is not suitable for the proposed development since:
 - a. the site planning is focused on rural residential purposes and results in a proliferation of dwellings/structures that do not contribute to the land being used for agricultural purposes; and
 - b. the dispersal of the development on the site will likely give rise to land use conflicts with little opportunity for mitigation
4. having regard to the matters for consideration in the Environmental Planning and Assessment Act contained in Section 4.15(1)(d) the proposal is unacceptable because submissions have been lodged objecting to the development on grounds of:
 - a. clustering of rural development
 - b. fragmentation of agricultural land
 - c. removal of vegetation
 - d. impacts on adjoining properties
5. having regard to the matters for consideration in the Environmental Planning and Assessment Act contained in Section 4.15(1)(e) the proposed development is not in the public interest since the relevant objectives and controls of Development Control Plan 2020 have been generally consistently applied by the Council since its adoption and have not been abandoned by decisions made by the Council, and controls should be given determinative weight.

(Councillors Croxford and Steel)

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

Against: Nil

12.9 10.2021.248.1 - 143 Terralong Street, Kiama

22/032OC

Resolved that Council:

1. approve Development Application No 10.2021.248.1 at 143 Terralong Street, Kiama subject to the conditions of consent as attached to this report
2. advise persons who made a submission on Development Application No 10.2021.248.1 of Council's decision.

(Councillors Brown and Croxford)

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

Against: Nil

12.10 10.2021.282.1 - 18 Belinda Street, Gerringong

It was MOVED by Councillor Croxford and SECONDED by Councillor Steel that Council

1. approve Development Application No 10.2021.282.1 at 18 Belinda Street, Gerringong subject to the conditions of consent as attached to this report, but with the following changes:
 - a. Delete sub-paragraph E on page 623 being "Takeaway food – the takeaway is to be limited to serving takeaway beverages and pre-prepared food, with no cooking permitted within the takeaway premises. Reason – to minimise cooking fumes in close proximity to the property boundary that may affect the amenity of neighbouring residents."; and
 - b. Amend sub-paragraph F to read "no earlier than 6:00am Monday – Saturday" rather than 7:00am
2. advise persons who made a submission to Development Application No 10.2021.282.1 of Council's decision.

Councillor Rice FORESHADOWED a MOTION should Councillor Croxford's Motion be defeated that Council defer Development Application No 10.2021.282.1 at 18 Belinda Street Gerringong to enable further consideration of amenity impacts on neighbours and the loss of resident's roadside parking that could occur nearby.

Councillor Croxford's motion on being PUT was LOST

In favour: Brown, Croxford and Steel

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

22/0330C**Committee recommendation that Council:**

1. That Council defer Development Application No 10.2021.282.1 at 18 Belinda Street Gerringong to enable further consideration of amenity impacts on neighbours and the loss of resident's roadside parking that could occur nearby.

(Councillors Rice and Draisma)

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

Against: Councillors Brown, Croxford, Reilly and Steel

12.11 Energy Efficiency and Sustainability Upgrades of Council Facilities

22/034OC

Resolved that Council note the information provided in this report.

(Councillors Draisma and Croxford)

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

Against: Nil

12.12 10.2021.208.1 - 7 Marks Street, Kiama

22/035OC

Committee recommendation that Council:

1. Grant deferred commencement consent to Development Application No 10.2021.208.1 at 7 Marks Street, Kiama subject to the conditions as attached to this report with the following amendments:
 - a. Condition 2 under 'Operational Conditions' to read as follows:
 - i. "Pursuant to S.4.17 of Environmental Planning and Assessment Act 1979, Exhibition events with a maximum of 80 guests are approved on a 3 year consent from the date of commencement and that Council staff will provide annual briefings to Councillors on the consent. Continuation of Exhibition events beyond the 3 year period is subject to the applicant demonstrating compliance with conditions of consent and submitting a S.4.55 modification of consent to Council requesting its consideration of such extension of the approval period
 - b. Condition 4 under 'Operational Conditions' to read as follows:
 - i. "The outdoor area is not to be occupied by guests after 10.00pm, after which all attendants are required to be located indoors to minimise noise audible to neighbours
 - c. Delete Condition 6 under 'Operational Conditions'
2. Advise persons who made a submission on Development Application No. 10.2021.208.1 of Council's decision.

(Councillors Brown and Croxford)

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

Against: Councillors Renkema-Lang and Rice

12.13 10.2021.196.1 - 37 Pheasant Point Drive, Kiama**22/036OC****Resolved** that Council:

1. Approve Development Application No 10.2021.196.1 at 37 Pheasant Point Drive Kiama subject to the conditions of consent as attached to this report.
2. Advise persons who made a submission on Development Application No 10.2021.196.1 of Council's decision.

(Councillors Brown and Croxford)

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

Against: Nil

13 REPORT OF THE DIRECTOR ENGINEERING AND WORKS**13.1 Hindmarsh Park Refurbishment Consultation Report and Concept Plan Submission****22/037OC****Resolved** that Council:

1. accepts the outcomes of the Community Consultation for Hindmarsh Park Redevelopment as outlined in the Community Consultation Report
2. approve the Concept plan for Hindmarsh Park for progression to 35% Construction drawings
3. advocates to the State Government to extend the timeframe for completion of Hindmarsh Park given the significance of this project for Kiama Municipal Council

(Councillors Draisma and Larkins)

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

Against: Nil

The variation proposed by Councillor Renkema-Lang (that the 22/23 budget allows for development of an ongoing maintenance management plan for Hindmarsh Park, including estimates for the annual costs and Council explicitly notifies the public (and community consultation participants) of the dates reports and briefings regarding the Hindmarsh Park Redevelopment will be put to Council) was accepted by the mover.

13.2 Public Car Parking Easement - 143 Terralong Street, Kiama**22/038OC**

Resolved that Council:

1. authorise the Chief Executive Officer to commence negotiations with the owners of Lot 211 DP875581 (Kiama Village Shopping Centre) as outlined in Option 3 of this report involving the extinguishment of the easement and restriction as to user for car parking and all associated rights and interests conveyed by DP1133133 and receive commercial consideration for the extinguishment based on the recommendation of Council's appointed valuer
2. give delegation to the CEO to sign all documentation associated with the extinguishment of the easement of Lot 211 DP875581 and any financial transaction relating to that.

(Councillors Rice and Draisma)

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

Against: Nil

13.3 Active Transport Walking and Cycling Grants for 2022/23**Resolved** that Council:

1. retrospectively approve funding applications submitted under the State Government's 2022/23 Active Transport Walking and Cycling Program for:
 - a. a Pedestrian Access & Movement Plan around Kiama Public School (\$20,000); and
 - b. updates to the Kiama Cycleway Maps (\$20,000)
2. note that Council has already secured \$3.3 million from the State Government to support active transport walking and cycling facilities projects including the Jamberoo Valley Cycleway, and
3. specifically seek funding through the 2023/24 round of the NSW Government's Active Transport Walking and Cycling Program, and other suitable grant programs, for Council's resolution 21/019OC Improved E-bike cycling infrastructure, to progress.

(Councillors Rice and Draisma)

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

Against: Nil

14 REPORT OF THE DIRECTOR BLUE HAVEN

Nil

15 REPORTS FOR INFORMATION

22/039OC

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

15.1 Questions for Future Meeting Register as at 9 March 2022

15.2 Minutes: Kiama Liquor Accord Meeting - 23 February 2022

15.3 Question for Future Meeting: Removing caravans and boats from being parked on streets

(Councillors Croxford and Steel)

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

Against: Nil

RESUMPTION OF ORDINARY BUSINESS

22/0400C

Resolved that at this time, 7.05pm, Council resume the ordinary business of the meeting with all Councillors and Staff present at the adjournment of the meeting being present.

(Councillors Draisma and Croxford)

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

Against: Nil

ADOPTION OF COMMITTEE OF THE WHOLE REPORT

22/0410C

Resolved that Council formally confirm, adopt and endorse the Committee recommendations made by Council sitting as a Committee of the Whole as detailed in the Committee recommendations numbered 22/0190C to 22/0420C above.

(Councillors Croxford and Steel)

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

Against: Nil

16 ADDENDUM TO REPORTS

The following items will be dealt with in Confidential:

20.1 - Class 4 Legal Proceedings - 219 Donovan Road, Broughton Village

20.2 - Legal Advice - 38-40 Manning Street, Kiama

17 NOTICE OF MOTION

17.1 Notice of Motion: Requesting assistance from Federal Government for Blue Haven

Councillor M Brown left the meeting at 7.02pm

Councillor M Brown returned to the meeting at 7.03pm

Disclosure of Interest - Councillor Larkins

Councillor Larkins declared a significant non-pecuniary interest in item 17.1 *Notice of Motion: Requesting assistance from Federal Government for Blue Haven* as he is an employee of Federal Government and took no part in discussion or voting on this matter.

Councillor S Larkins left the meeting at 7.06pm.

22/0430C

Resolved that Council contact the Member for Gilmore Mrs Fiona Phillips MP, seeking a meeting with the local member and minister for aged care services:

1. highlighting, as detailed in the Royal Aged Care Commission report, the urgent need for increased federal funding across the aged care sector
2. seeking advice on all existing grant and other funding sources available to aged care providers.
3. acknowledging the joint responsibility of aged care providers and the Federal Government to provide a duty of care for residents in aged care facilities and recipients of aged care services
4. acknowledging the joint responsibility of providers and Federal Government to provide ongoing aging in place options for residents who live in aged care facilities such as Bonaira and Terralong Street independent living units
5. acknowledging the broad ranging benefits that Blue Haven, under Council ownership and management, has brought to our community.

(Councillors Renkema-Lang and Rice)

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

Against: Nil

Councillor S Larkins returned to the meeting at 7.25pm.

17.2 Notice of Motion: Requesting assistance from NSW Government

This motion was withdrawn by Councillor Renkema-Lang.

17.3 Notice of Motion: Volunteer Week 2022**22/044OC**

Resolved that Council, as part of Volunteer Week 2022 (16-22 May):

1. acknowledges the impact that volunteer organisations have in our community
2. will seek funding through future grant streams for Volunteer Week 2023 to coordinate a Volunteer Expo, which will;
 - a. offer an opportunity to community organisations to have stalls; and
 - b. be advertised to the wider community through appropriate channels.

(Councillors Draisma and Larkins)

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

Against: Nil

17.4 Notice of Motion: TOR Housing Strategy**22/045OC**

Resolved that Council:

1. temporarily pauses the Housing Strategy reference group, and other groups and committees under Councils management
2. develops and formally establishes a Policy on committees, working groups and reference groups that:
 - a. ensures conflicts of interest are managed in line with ICACs Managing Conflicts of Interest in the NSW Public Sector and Obtaining Independent Advice: Dos and Don'ts
 - b. ensures Councillor representation on groups and committees tasked with development of strategic documents (such as the housing strategy)
 - c. includes mechanisms to allow for open and transparent opportunities for representatives across all relevant business sectors to provide advice to reference groups or committees
 - d. prohibits active property developers, or any other business entities, from participating on groups or committees that can unduly influence land zonings, LEP controls and development standards
 - e. ensures appointment of members to committees, reference groups and working groups is publicly announced prior to the first meeting of such groups
3. develops model Terms of References for committees and reference groups that align with the policy

4. revises TORs and membership of all existing committees, reference groups and working groups to align with the policy and model TORs as soon as practical.

(Councillors Renkema-Lang and Draisma)

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

Against: Nil

18 QUESTIONS FOR FUTURE MEETINGS

18.1 Quarterly Budget Review requests

Councillor Keast made the following requests to ensure compliance with Clause 203 of the Local Government (General) Regulations, that Council provides to the April 2022 Council meeting:

1. A written explanation on:
 - a. why the quarterly budget review statement for the period 1 July 2021 to 30 Sept 2021 have not yet been tabled at a Council meeting;
 - b. how Council plan to address these issues; and
 - c. progress to date on these issues
2. A confirmation that the next Quarterly Budget Review Statements will be tabled no later than the April 2022 Council meeting
3. An annual timetable confirming the future Council meetings dates when the quarterly budget review statements will be tabled

18.2 Financial Statements

Councillor Keast requested Council to provide:

- a detailed project plan to ensure the General Purpose Financial Statements are prepared and audited within four (4) months of the end of the financial year, as per Clause 413 of the Local Government Act 1993; and
- the resourcing strategy to ensure the deadline is met.

18.3 Budget variances

Councillor Keast requested that Council establish & implement a policy whereby major variances from budget are reported in the monthly and quarterly financial report. This policy would establish tolerance levels, such as where if actuals figures vary from budget by a certain % or a certain \$ figures, the reasons are provided in the written report.

18.4 Monthly Financial Report January 2022

Councillor Keast requested that Council provide further information in relation to Report 11.1 Monthly Financial Report Jan 2022 in relation to the reasons why actuals vary from budget for the following items:

- p.69: -
 - operating revenue
 - user charges and fees - \$951k less than budget
 - capital grants and contributions - \$1,147k less than budget

- operating expenditure
 - Material and services - \$821k less than budget
 - Borrowing costs - \$692k less than budget
- p.67:
 - consolidated YTD Operating Expenses are \$1,921k *below* budget to Jan 2022, however by 30 June it will be \$2,595 *above* budgeted expenditure – this mean that over the next 5 months, Operating expenses will be over budget by \$4.5m (i.e. \$900k over budget each month). Can you please provide a report explaining the drivers behind this?

18.5 Landcare Illawarra

Councillor Rice requested an update on discussions with Landcare Illawarra towards partnering in developing a significant tree register. Dates from around September 2020.

18.6 Kiama Harbour clean up

Councillor Rice requested an update on progress with engaging relevant community groups in discussion about co-operation towards harbour clean ups. Dates from around August 2021

18.7

Councillor Croxford asked whether over the past 15 years has Council ever conducted a maturity assessment of the organisation to determine the competency and effectiveness? If so, how many times has that occurred? If not, can monies be set aside in the 2022/2023 budget to enable an organisation-wide maturity model assessment to be conducted?

18.8

Councillor Croxford asked whether Council have in place a framework of incentives to give business owners across the LGA the confidence to invest in their business and employ more locals to address the net exporting of working-age jobs outside the LGA? And if not, can consultation be completed with the business community in order to establish a framework and set aside monies in the 2022/2023 budget?

18.9 Endeavour Energy

Councillor Brown requested a report on our relationship with Endeavour Energy, who I understand owns and manages the power poles in the municipality. Specifically, could Council provide our policy, if any, on the replacement of power poles in consideration of:

- a) The email written by a constituent (name known to CEO) to Council dated 8 March; and
- b) The safety and environmental benefits, along with long term cost savings, of having underground power like we have in the Gainsborough area of our municipality.

19 CONFIDENTIAL SUMMARY

22/046OC

Resolved that at this time, 8.00pm, 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 Draisma and Renkema-Lang)

For: Councillors Brown, 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:

22/047OC

Resolved 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.

20.1 CLASS 4 LEGAL PROCEEDINGS - 219 DONOVAN ROAD, BROUGHTON VILLAGE

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

20.2 LEGAL ADVICE - 38-40 MANNING STREET, KIAMA

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

(Councillors Draisma and Renkema-Lang)

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

Against: Nil

20 CONFIDENTIAL REPORTS

20.1 Class 4 Legal Proceedings - 219 Donovan Road, Broughton Village

22/048OC

Resolved that Council:

1. consider the request to form a delegation of no more than three Councillors, for the purposes of a without prejudice legal meeting with the owner of 219 Donovan Road, Broughton Village (and a support person) in order to resolve within a three (3) week timeframe all of the matters addressed in the issued development control order
2. subject to that consideration of the request as detailed in recommendation one (1) above, delegate to the Chief Executive Officer the authority to seek summary dismissal of the Class 4 proceedings on the legal matter 219 Donovan Road, Broughton Village at the 6th May 2022 hearing and commence enforcement action of the development control order.

(Councillors Draisma and Croxford)

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

Against: Nil

20.2 Legal Advice - 38-40 Manning Street, Kiama

Disclosure of Interest - Councillor Brown

Councillor Brown declared a non-significant non-pecuniary interest in item 20.2 Legal Advice 38-40 Manning Street as the applicant was on the same ticket as Councillor Brown at the 2021 election. Councillor Brown took part in discussion and voted on this matter.

22/049OC

Resolved that Council resolves to:

1. advise Fillmore's that if they wish to continue to operate as a café and within the requirements of the CDC approval they must operate in accordance with State Government Legislation as follows:
 - a. have a total seating capacity of 50 seats and guests
 - b. only open (including pack up and guests leaving site) until 10pm on Monday to Saturday (any night of the year) and till 8pm on a Sunday
 - c. noise from the development must not exceed an LA (15min) of 5dB(A) above background noise when measured at any lot boundary of the property
2. advise Fillmore's that if the business wishes to expand and continue to provide live amplified music and included a larger number of patrons than 50

- seats that there is a need to obtain Development Consent for the operations occurring at the venue and an application must be submitted to Council delegate to the Chief Executive Officer to provide a letter of support for the liquor license at the site subject to compliance
3. consider and undertake as a matter of priority specific planning processes that support creative industries, such as special entertainment precincts, planning certificates that support night time economic development, acoustic privacy conditions, coordinated noise complaints processes, etc.

(Councillors Brown and Draisma)

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

Against: Nil

Close of Confidential Committee of the Whole:

22/0500C

Resolved that at this time, 8.18pm, the Confidential Committee of the Whole revert to Open Council.

(Councillors Reilly and Draisma)

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

Against: Nil

Adoption of Report

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

22/0510C

Resolved that that the Confidential Committee of the Whole recommendations numbered 20.1 to 20.2 be confirmed and adopted.

(Councillors Croxford and Keast)

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

Against: Nil

21 CLOSURE

There being no further business the meeting closed at 8.24pm

These Minutes were confirmed at the Ordinary Meeting of Council held on 19 April
2022

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Mayor