



ORDINARY MEETING OF COUNCIL

ENCLOSURES

Tuesday 15 August 2017

TABLE OF CONTENTS

ITEM	SUBJECT	PAGE NO
13.1	Support for the Top End Slam Down Under Masters	
Enclosure 1	Sponsorship request from wheelchair sports NSW for the 2017 Top End Slam Down Under Masters	2
14.5	Minnamurra Progress Association - Minutes	
Enclosure 1	Minnamurra Progress Association - Annual General Meeting - Minutes 4 July 2017	3
14.15	Minnamurra Progress Association Meeting - Minutes	
Enclosure 1	Minnamurra Progress Association Minutes - Meeting 1 August 2017	5
14.17	South Precinct Meeting - Minutes	
Enclosure 1	Minutes - South Precinct Meeting - 20/07/17	6
14.18	ICAC - Lobbying Local Government Councillors - A guide for Councillors, constituents and other interested parties	
Enclosure 1	Lobbying local government councillors.....	9



Carole Johnston
Strategic Tourism and Marketing Manager
Kiama Municipal Council
11 Manning Street
Kiama NSW 2533

Re: Support for the Top End Slam Down Under Masters

Dear Carole

On behalf of the organising committee of the Top End Slam Down Under Masters wheelchair basketball tournament, thank you for the support that Kiama Municipal Council has provided for the first 2 years of this event.

Wheelchair Sports NSW has the mission of enhancing the lives of people with a physical disability through sport. The Top End Slam Down Under Masters, on October 18 & 19 2017, is central to the continued support of our members over the age of 40 staying active and enjoying the physical, social and emotional benefits of sport.

This year we anticipate a minimum of 4 teams competing at the Kiama Leisure Centre with 2 teams from the Illawarra and 1 each from Sydney and the Riverina. We have also invited the Department of Veterans Affairs to enter their Invictus Games team. In total we expect to have 50 people visit Kiama for this event with around half requiring accommodation for up to 5 nights.

The support we seek from Kiama Municipal Council is

- Funding of the hire cost of Kiama Leisure Centre basketball stadium for the event
- Promotion of the event to increase participants and spectators
- Information in terms of accommodation options for visitors (preferably wheelchair accessible) and other wheelchair friendly activities in the Kiama LGA.

Thank you for your consideration in supporting the Top End Slam Down Under Masters again in 2017.

Regards

A handwritten signature in black ink, appearing to read "Todd Parker".

Todd Parker
WS NSW Regional Sports Development Officer (Southern)
On behalf of the Top End Slam Down Under Organising Committee

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Item 13.1

Enclosure 1

Minnamurra Progress Association

Minutes of Annual General Meeting 4 July 2017

Present:

President Cliff Mason	Kath LeBas	John LeBas
Annette Siemsen	Wayde Siemsen	Carl Ellefsen
Norma Gore	Glenda Foster	Barry Mahoney

Apologies:

Graeme Collinson-Smith, Wendy Hooper, David Probert, Max Osborne, Ian Dodsworth, Councillor Mark Way.

Minutes:

The Minutes of the previous Annual General Meeting held on 5 July 2016 were accepted unanimously. [Prop: Carl Ellefsen; Sec: John LeBas]

Annual Report:

The report for the 2016-17 year by the President was accepted unanimously. [Prop: Norma Gore; Sec: Carl Ellefsen]

Treasurer's Annual Report:

This had been audited and approved by John LeBas. It showed that income plus money on deposit for the year was \$2192.52. Expenditure totaled \$704.00. A copy of the full report is attached.

President Cliff thanked the outgoing Treasurer, Glenda Foster for her excellent service over the past eight years, and this was carried with acclamation.

Election of Office Bearers:

Carl Ellefsen assumed the Chair from President Cliff and declared all positions vacant. He called for nominations for the position of President.

Cliff Mason, was reappointed by unanimous approval. [Prop: Norma Gore; Sec: Glenda Foster]. Cliff resumed the Chair from Carl for the election of the remaining positions.

Senior Vice Presidency: David Hooper is unable to continue. By a vote of 8 to 1, it was agreed that this post should remain open for the time being. [Prop: John LeBas; Sec: Glenda Foster]

Junior Vice President: It was then agreed that the two Vice Presidencies be merged and that Graeme Collinson-Smith should be appointed to the post, subject to his acceptance. [Prop: Norma Gore; Sec: Kath LeBas]

Treasurer: It was agreed that Carl Ellefsen should be appointed to the post and that he be authorized to sign bank documents, including cheques, on behalf of the Minnamurra Progress Association. [Prop: Kath LeBas; Sec: John LeBas]

Secretary & Public Officer: It was agreed that Barry Mahoney be reappointed as Secretary and to assume the position of Public Officer from David Hooper, who is unable to continue. [Prop: Carl Ellefsen; Sec: Cliff Mason]

Additional Members on the Committee: Ian Dodsworth, Rae McClymont, Ray Smith, Glenda Foster (subject to agreement of the first three who were absent).

The Annual General Meeting Closed at 8:05 p.m.

Item 14.5

Enclosure 1

MINNAMURRA PROGRESS ASSOCIATION

MINUTES MEETING 1st AUGUST 2017

ATTENDANCE : 31 as per signing sheet.

APOLOGIES: Barry Mahoney, Wendy Hooper. Moved/Seconded/Carried.

President Cliff welcomed guests Mark Honey, Mark Way, Gino Belsito.

MINUTES OF LAST MEETING: Moved John LeBas, seconded David Probert. CARRIED.

1. President Cliff introduced Mayor Mark Honey who outlined issues that need consultation with the Estuary Management group [re mangroves, etc] and other Government Agencies. A lot of work needs to be done re approvals from other bodies.
2. Gino Belsito spoke about this week being Local Government Week. He showed displays of things done by Kiama Council

2016/17 -----Black Beach toilet, South Bombo Beach amenities, Jones Beach picnic shelters, Riverside Drive roundabout, Gerringong Boat Harbour fish tables, are some.

2017/18-----Kevin Walsh Oval amenities, Kiama Arts precinct, Gerringong Library, Arthur Campbell Reserve, Kiama Ambulance +73 parking spaces, Jamberoo pool.

This year \$41 m work [mainly aged care facility].

FUTURE WORKS: Bombo Headland, possible autonomous vehicle, and MINNAMURRA BOARDWALK.

He then spoke at length about the Boardwalk. Initially \$30,000 then a State Gov grant allocated. It will be at least 2.5 m wide and be a walkway, cycleway combined. Different Concept Development options were shown. Modular building units.

Various questions and responses from attendees.

FUTURE STEPS: Council will discuss with community for ideas, concerns, and issues.

President Cliff thanked Gino, and Mayor Honey acknowledged work done by Councillor Way.

Raffle won by David Probert.

3. MOTION: Pay insurance of Public Liability. Pat Phelan/Ray Smith. CARRIED.
4. MOTION: Pay fees for Public Office. David Probert/ Ray Smith. CARRIED.
5. MOTION: To renew lease at public school. David Probert/ Ray Smith. CARRIED.

MEETING CLOSED 8.31 pm.

MINUTES OF THE SOUTH PRECINCT MEETING
held on Thursday 20 July 2017 at Gerringong Town Hall

Meeting Opened: with Stephen Brazier in the chair

Attendance: 18 people present

Chair: Stephen Brazier

Minutes: Linda Brazier

Apologies: Raewyn Thomson, Chris Cassidy, Howard Jones, Mayor Mark Honey,
Warren Holder

Councillor Neil Reilly and Councillor Andrew Sloane were welcomed to the meeting.

Minutes of Previous Meeting

Moved: that the minutes of the ordinary meeting of 15 June 2017 be accepted.

Darrell Clingan/Graham Fairbairn **carried**

Business Arising From Minutes

1. Jupiter Street, DA not approved.
2. Gardens near Town Hall – deferred to General Business

Correspondence IN: nil

Correspondence OUT: nil

Executive's Report

1. Commercial signage on town hall

Confirmation from KMC that commercial signage is not permitted without appropriate DA to Council. All signs have been removed.

2. Rose Valley abattoir

Phil Costello, Director of Environmental services, advised SP that there was no provision to vary the strictly defined land use and hence vary the number of animals slaughtered.

3. Planning Alerts Website

Moved : that SP support this organisation with a \$100 donation.

Darrell Clingan/Hedi Stein **carried**

4. New contact details for SP:

Email: spkmcfern@gmail.com

Postal: PO Box 105, Gerringong. 2534

Treasurer's Report

Balance at 30/6/17: \$418.47

Noted: Post office box cost is \$120/annum

Council Papers

1. Berry Trails Project
2. Cars for sale in Fern Street
3. Deed of Agreement for 98 Fern Street
4. Gerringong library/museum progress

Traffic Committee

1. Building materials on Noble Street have been removed after Council requests to the builder.
2. Fern street pedestrian refuge – endorsed
3. Crossing signage outside IGA - investigate

Guest Speaker: Councillor Neil Reilly 20/20 Vision

Cr Reilly gave an enthusiastic presentation outlining his proposed planning reforms which would impose stricter and more sympathetic development of our built environment in keeping with the area's heritage and scenic values. His ideas received very favourable support.

General Business

1. Garden Beds around Gerringong Town Hall

Moved: That Council be requested:

(i) not to remove any native plants from the garden bed on the Fern Street frontage to the Old School Park or from the small garden in the north west corner of the Old School Park;

(ii) to plant suitable native (only) plants in any gaps along the Fern Street frontage where there is currently wood chips or when existing native plants die;

(iii) to ensure that appropriate native plants are available to the Council's Parks and Gardens staff so that it is not necessary, through lack of access to stock, to replace any existing native plantings with non-native species.

(iv) to inform the South Precinct of the policies and guidelines that apply to plantings in Council's parks and gardens.

Howard Jones/ Graham Fairbairn **carried**

2. Garden Club thank you

Moved: That SP send a letter of thanks to the garden club for their excellent work in beautifying the front of the town hall and other locations on the approaches to Gerringong CBD.

Darrell Clingan/Alma McPherson **carried**

3. Traffic congestion on Noble Street/Belinda Streets

Moved:

(i) That Council investigate the traffic issues in the town of Gerringong both current and ongoing, in view of creating an overall traffic management plan for the future;

(ii) Current traffic congestion in the vicinity of Belinda and Cole Streets due construction works needs to be addressed as a matter of urgency including a reduction in speed limits where applicable.

Phillip Trick/Darrel Clingan **carried**

4. Arthur Campbell Reserve

\$20,000 has been promised from Council budget to further this project.

5. Library and Museum

Councillors attended a special morning tea at the museum and were very favourable about the proposed developments.

6. 98 Fern Street Development

Moved: That SP request from Council a copy of the Deed of Agreement between the developer and KMC.

Darrel Clingan/Graham Fairbairn

carried

Meeting closed at 8.50 pm

Next Meeting: Thursday 17 August 2017 at 7.30pm.

Item 14.17

Enclosure 1



Introduction

In this brochure, the term "lobbying" is used to cover those types of communication between local government councillors and the community that include representations to councillors by special interest groups, by individuals with a direct interest in a council decision and by advocates acting on behalf of others.

Lobbying is common in local government. The most common form occurs when a group or individual makes direct contact with a councillor in an attempt to influence a council decision. Councillors are lobbied over such issues as:

- development matters
- the upgrading of local facilities, including playgrounds and sporting amenities
- revenue decisions, including the setting of business, mining, farming or special rates.

The Commission's view is that appropriate lobbying of councillors is normal. In many cases lobbying is part of the democratic process and is an acceptable feature of the relationship between citizens and their elected representatives.

Section 232(2) of the *Local Government Act 1993* also makes it clear that councillors have a representative role in considering the views of constituents and communicating with them. Section 232(2) states:

- (2) The role of a councillor is, as an elected person:
- to represent the interests of the residents and ratepayers
 - to provide leadership and guidance to the community
 - to facilitate communication between the community and the council.

Section 79C of the *Environmental Planning and Assessment Act 1979* (EP&A Act) also makes it clear that relevant views of members of the public are applicable to the merit assessment of development applications.

Interactions with community members are also a way for councillors to obtain information that may be relevant to their decision-making. In development matters, for example, the Land and Environment Court has made it clear that where council determines a development application, councillors should not rely exclusively on council officers to consider all matters relevant to the determination but must also consider the relevant matters themselves.¹

Inappropriate lobbying

It is in the public interest that lobbying is fair and does not undermine public confidence in impartial decision-making. Lobbying is a two-way process between councillors and lobbyists. Occasionally a lobbyist can try to improperly influence a councillor's decision-making. Councillors should take care that their duty to consider issues fairly and properly is not compromised by participating in lobbying practices that are outside the bounds of appropriate or lawful behaviour.

It is not possible to define every type of activity that could constitute inappropriate or unlawful lobbying. Generally, however, inappropriate or unlawful conduct on the part of someone lobbying a councillor usually involves an attempt to obtain preferential consideration or treatment based on factors other than the merits of a matter.

Examples of inappropriate or unlawful conduct by councillors that could occur during the lobbying process include:²

- accepting undisclosed payments or benefits whilst making a decision that affects the gift giver's interests
- accepting a political donation in return for the favourable exercise of discretion during decision-making. Ideally, councillors should keep the lobbying and fundraising activities in which they are involved quite separate to avoid even the perception that a political donation could influence their decision-making

Lobbying local government councillors

- granting access to a particular individual or group while *unreasonably* denying similar access requested by another party. The Commission is, however, mindful of the fact that the part-time nature of councillors' work can impose time constraints on their ability to meet all requests for meetings
- fettering discretion by giving undertakings to an interested party prior to considering all the information relevant to a decision. Councillors are under a particular obligation to give real consideration to all mandated matters when dealing with statutory powers such as section 79C of the EP&A Act
- acting in a manner that exceeds the role of a councillor as defined in section 232 of the Local Government Act as a result of being lobbied. An example could be directing council staff over the content of any advice or recommendation on a council matter as a result of being lobbied by a third party¹
- disclosing confidential information whilst being lobbied
- being unduly influenced by factors that are irrelevant to the merits of the matter under consideration.

Councillors who are lobbied over council matters by close friends, associates or relatives should also consider whether the nature of their relationship with the proponent and the impact of the matter on the proponent's interests give rise to a pecuniary or non-pecuniary interest. In such cases, councillors should manage the matter in accordance with the provisions of the Local Government Act (in the case of a pecuniary interest) and the DLG Model Code of Conduct (in the case of a non-pecuniary interest).

Transparency

Councillors work in a unique environment which is often characterised by:

- a lack of time during business hours to attend to council matters
- a likelihood of chance encounters with people who have an interest in council matters
- limited availability of resources such as support staff
- high community demand for accessibility.

The Commission acknowledges that this environment can make it difficult for councillors to avoid informal discussions with constituents who seek to lobby them. It would also be unnecessarily onerous and impractical to require councillors to avoid such contact, especially for routine and non-controversial matters.

Nevertheless, councillors should exercise judgement when deciding whether to be involved in private meetings with people seeking to influence a council decision. Suspicions of inappropriate lobbying can occur when lobbying is not open to public scrutiny. Regardless of whether such suspicions are justified, they still have the potential to undermine public confidence in council decision-making and adversely affect a councillor's reputation.

Transparency is a useful means of governing accountability and perceptions of fairness in lobbying processes. There are a number of ways councillors can help ensure transparency whilst being lobbied. These include:

- documenting meetings with proponents
- generally conducting meetings in official locations such as council premises
- having other people present during meetings
- inviting applicants who have approached them for a meeting to discuss a significant development to write to council seeking a meeting with all councillors and relevant staff
- providing copies of information presented during lobbying meetings to council officers for consideration and assessment (if required), distribution to other councillors and filing as part of council's records
- asking people who have requested a meeting to put their arguments in writing
- making a declaration at a council meeting about lobbying activities they have been engaged in that are not part of council's formal processes.

Councillors can consider these options in situations where it would be beneficial to have some form of record about what transpired between themselves and a proponent. Examples include matters where complaints of preferential treatment have already been made, or in matters involving individuals who have been the subject of complaints of preferential treatment in the past.

Late submissions

Most councils invite public participation, by way of lobbying, by interested parties when called upon to determine development applications. Codes and practices intended to control and manage the process vary from council to council. Some prohibit accepting submissions later than two days before the meeting at which the development application is to be determined. Others invite submissions (mostly oral) at the meeting at which the development application is to be determined.

Lobbying local government councillors

It goes without saying that councils, in the discharge of their planning discretion, are entitled to develop appropriate codes of practice. It is, however, the law that a body discharging a public function is not entitled to adopt a code or practice which has the effect of precluding receipt of relevant matters for consideration.

On the other hand, councils are entitled to regulate, in a general way, how to deal with submissions and the like and they are entitled to discourage or prohibit manipulative lobbying practices – both by those who support the development and those who oppose it.

Councils must discharge their public function fairly and impartially. But what amounts to fairness and impartiality varies according to the circumstances of the case.

When dealing with lobbying in the context of determining development applications, a council must first ask whether the received submission should be entertained (and bearing in mind that it must be relevant to the development application applied for and may not be significantly different from it). The next is to determine how it should be managed and in this regard issues of significance and fairness would need to be addressed.

Tendering

The lobbying of councillors by tenderers about the outcome of a tender process is an exception to the principle that lobbying is permissible. In other words, lobbying of councillors by tenderers is normally NOT permissible. The conditions which govern tender processes are based on a request for tender (RFT). RFTs usually contain statements prohibiting proponents from approaching councillors (and council officers not nominated as contact people) during a tender process.

RFTs also contain selection criteria for choosing a successful tenderer. Most selection criteria are based on objective technical and pricing issues and do not involve a 'political' dimension or subjective decisions. Tender processes also typically do not include mechanisms for community feedback. Community views on issues like the decision to undertake a tender process, and in what form, are typically sought prior to the issuing of an RFT.

Further information

Further information can be obtained by contacting the Commission on (02) 8281 5999 or toll free on 1800 463 909 (for callers outside metropolitan Sydney).

Further information can also be obtained from the DLG Model Code of Conduct available from the DLG website at www.dlg.nsw.gov.au.

Endnotes

- ¹ In *Centro Properties Limited v. Hurstville City Council & Anor* (2004) NSW LEC 401, McCellan CJ advised (at 55), "In the absence of the delegation of the decision-making function to an officer, the corporate body must itself consider the issues relevant to the development application before it. It may be informed about those issues by the council officer's report which may not, and often will not, disclose all of the information considered by the officer and his or her complete reasoning processes." There may be cases where councillors need to make some enquiry to discharge their obligation to consider relevant matters and this may entail communicating with affected/interested parties.
- ² Many of the examples referred to in this section also contravene the provisions of the Department of Local Government's Model Code of Conduct.
- ³ Section 352 of the Local Government Act also makes it clear that a member of staff is *not* subject to direction by council or an individual councillor as to the content of any advice or recommendation.

Caveat on use of this brochure

This publication provides readers with advice, guidance and/or recommendations regarding specific governance issues.

The advice relates to what the Commission considers at the time of publication to be best practice in relation to these issues. It does not constitute legal advice and failure to implement the advice, guidance and recommendations contained herein would not necessarily constitute corrupt conduct, which is defined in the *Independent Commission Against Corruption Act 1988*.

Councils are welcome to refer to this publication in their own publications. References to and all quotations from this brochure must be fully referenced.

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BUSINESS HOURS	9.00am–5.00pm Monday to Friday



Item 14.18

Enclosure 1