



MINUTES OF THE ORDINARY MEETING OF COUNCIL

commencing at 5.07pm on

TUESDAY 19 DECEMBER 2017

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 19 DECEMBER 2017 AT 5.07PM**

PRESENT: Mayor – Councillor M Honey,
Deputy Mayor – Councillor K Rice,
Councillors N Reilly, A Sloan, W Steel, D Watson, M Way and
M Westhoff

IN ATTENDANCE: General Manager, Director Environmental Services, Director
Corporate, Commercial and Community Services, Director
Engineering and Works, and Acting Director Community
Services

1 APOLOGIES

An apology was tendered on behalf of Councillor Brown who had been granted leave of absence.

OC-17/203

Resolved that the apology as tendered be accepted.

(Councillors Honey and Watson)

2 ACKNOWLEDGEMENT OF TRADITIONAL OWNERS

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

“On behalf of those present, I would like to show my respect and acknowledge the traditional owners of the Land, of Elders past and present, on which this meeting takes place, and extend that respect to other Aboriginal and Torres Strait Islander people present.”

3 CONFIRMATION OF MINUTES OF PREVIOUS MEETING

3.1 Blue Haven Advisory Committee on 6 December 2017

OC-17/204

Resolved that the Minutes of the Blue Haven Advisory Meeting held on 6 December 2017 be received and accepted.

(Councillors Reilly and Westhoff)

3.2 Ordinary Council Meeting on 21 November 2017**OC-17/205**

Resolved that the Minutes of the Ordinary Meeting held on 21 November 2017 be received and accepted subject to the following amendment:

That in relation to Item 10.8 (10.2017.137.1 – Proposed dual occupancy and Strata subdivision – Lot 27 DP 1193900 – 27 Chapel Lane, Jamberoo), the division for voting on this item is recorded as unanimously in favour.

(Councillors Steel and Sloan)

4 BUSINESS ARISING FROM THE MINUTES

Nil.

5 PUBLIC ACCESS

For/ Against	Name	Item No.	Subject
For	Glenys Day	10.1	Jamberoo DCP
Against	Lisa Tierney	10.4	10.2017.215.1 - Lot 100 DP 1230058 - 8 and 10 Blackwood Street Gerringong – part demolition and relocation of part of Gerringong Historical Society museum building and restoration of Gerringong School of Arts building, which will include construction of a library and community facilities
Against	Julie Donnellan	10.5	10.2017.241.1 - Lot 16 DP 1206612 - 11 Northpoint Place Bombo – construction of an attached dual occupancy and subsequent 2 lot Torrens title subdivision
For	Alex Kelly	10.5	10.2017.241.1 - Lot 16 DP 1206612 11 Northpoint Place Bombo – construction of an attached dual occupancy and subsequent 2 lot Torrens title subdivision
Against	Cathy O'Connor	10.6	10.2017.156.1 - Lot 17 DP 1123051 – 29 Tasman Drive Gerringong – dwelling and swimming pool

For/ Against	Name	Item No.	Subject
For	Adam Roser	10.6	10.2017.156.1 - Lot 17 DP 1123051 – 29 Tasman Drive Gerringong – dwelling and swimming pool
Against	Chris George	10.7	10.2017.38.1 – Lot 1 DP 709368 – 4 Dido Street, Kiama – alterations and additions to existing dwelling for a change of use to childcare facility for 39 children and onsite car parking

6 MAYORAL MINUTE

6.1 Resident Amanda Reid receives NSW Athlete of the Year with a Disability award

OC-17/206

Resolved that Council formally congratulate Amanda Reid on being awarded the NSW Athlete of the Year with a Disability award.

(Councillors Honey and Way)

OC-17/207

Resolved that at this time, 5.11pm Council bring forward and deal with the Mayoral Minutes Items 15.1 and 15.2 of the Addendum to Reports.

(Councillors Sloan and Westhoff)

15.1 Seasons Greetings

OC-17/208

Committee recommendation that Council extends to all, the wish for a happy and peaceful Christmas and for a safe and prosperous New Year.

(Councillor Honey)

15.2 Local Government NSW Outstanding Service Award - Councillor Steel

OC-17/209

Committee recommendation that Council formally congratulate Councillor Steel on receiving the Local Government NSW Outstanding Service award acknowledging over 20 years of service.

(Councillor Honey)

7 MINUTES OF COMMITTEES**7.1 Minutes of the Streets and Reserve Naming Committee meeting held on 6 November 2017****OC-17/210****Resolved that:**

1. the Minutes of the Streets and Reserve Naming Committee meeting held on 6 November 2017 be received and recommendations accepted with the exception of recommendation CR032.
2. Council approve the second option of Blowhole Road for naming of the existing road around Blowhole Point, Kiama.

(Councillors Reilly and Way)

7.2 Minutes of the Kiama Local Traffic Committee meeting held electronically on 5 December 2017**OC-17/211**

Resolved that the Minutes of the Kiama Local Traffic Committee meeting held electronically on 5 December 2017 be received and the recommendations accepted.

(Councillors Steel and Reilly)

7.3 Minutes of the Destination Kiama Tourism Advisory Committee meeting held 6 December 2017**OC-17/212**

Resolved that the Minutes of the Destination Kiama Tourism Advisory Committee meeting held on 6 December 2017 be received and accepted.

(Councillors Westhoff and Watson)

7.4 Minutes of the Health and Sustainability Committee meeting held on 5 December 2017**OC-17/213**

Resolved that the Minutes of the Health and Sustainability Committee meeting held on 5 December 2017 be received and accepted.

(Councillors Reilly and Sloan)

COMMITTEE OF THE WHOLE

OC-17/214

Resolved that at this time, 5.20pm, Council form itself into a Committee of the Whole to deal with matters listed in the reports as set out below:

- Report of the General Manager
- Report of the Director Environmental Services
- Report of the Director Corporate, Commercial & Community Services
- Report of the Director Engineering and Works
- Report of the Director Blue Haven
- Addendum to Reports

(Councillors Steel and Sloan)

8 PUBLIC ACCESS REPORTS

OC-17/215

Committee recommendation that at this time, 5.20pm, Council bring forward and deal with the matters pertaining to the Public Access Meeting.

(Councillors Reilly and Sloan)

10.1 Jamberoo DCP

OC-17/216

Committee recommendation that Council adopt the final draft of the draft Kiama DCP Chapter 33 – Jamberoo Village as outlined in this report and attachments with the following amendments:

1. Inserting the following text after paragraph 2 on page 5:
Application of this Chapter prevails in the event of an inconsistency between Chapter 33 – Jamberoo Village and any other Chapter of the Kiama DCP 2012.
2. In section A6.1 for both single dwelling and dual-occupancy sections – amend the wording to:
The primary roof structure shall be a pitched roof with a minimum pitch of 25°. Lower pitch skillion roofs are permitted on verandahs and other minor elements of the building.
3. With regards to outbuildings in section A11 for both single dwelling and dual occupancy sections, increase the side boundary setback from 900mm to 1.5m or according to any applicable easement for consistency with dwelling setback. Retain 900mm for rear setback.

(Councillors Rice and Reilly)

For: Councillors Honey, Reilly, Rice, Sloan, Steel, Watson, Way and Westhoff

Against: Nil

10.4 10.2017.215.1 - Lot 100 DP 1230058 - 8 and 10 Blackwood Street Gerringong – part demolition and relocation of part of Gerringong Historical Society museum building and restoration of Gerringong School of Arts building, which will include construction of a library and community facilities

OC-17/217

Committee recommendation that Council approve Development Application 10.2017.215.1 under Section 80 of the Environmental Planning and Assessment Act 1979 subject to conditions at the end of the report.

(Councillors Westhoff and Way)

For: Councillors Honey, Reilly, Rice, Sloan, Steel, Watson, Way and Westhoff

Against: Nil

10.5 10.2017.241.1 - Lot 16 DP 1206612 11 Northpoint Place Bombo – construction of an attached dual occupancy & subsequent 2 lot Torrens title subdivision

OC-17/218

Committee recommendation that Council refuse Development Application 10.2017.241.1 pursuant to Section 80 of the Environmental Planning and Assessment Act 1979, as the proposal:

1. is an overdevelopment of the allotment
2. is too high and too close to the rear boundary
3. has inadequate vehicular access and parking
4. will result in allotments which will be inadequate with one of the dwellings also exceeding the permissible floor space ratio as outlined in Part 4 Clause 4.4(2) of the Kiama Local Environmental Plan 2011.

(Councillors Steel and Watson)

For: Councillors Honey, Reilly, Rice, Sloan, Steel, Watson, Way and Westhoff

Against: Nil

10.6 10.2017.156.1 - Lot 17 DP 1123051 – 29 Tasman Drive Gerringong – dwelling & swimming pool**OC-17/219**

Committee recommendation that Council approve the amended Development Application 10. 2017.156.1, dated 19 December 2017, under Section 80 of the Environmental Planning and Assessment Act 1979, subject to the amended plans submitted.

(Councillors Way and Steel)

For: Councillors Honey, Reilly, Rice, Sloan, Steel, Watson, Way and Westhoff
Against: Nil

10.7 10.2017.38.1 - Lot 1 DP 709368 - 4 Dido Street, Kiama - alterations and additions to existing dwelling for a change of use to childcare facility for 39 children and onsite car parking

Councillor Watson sought leave and left the meeting at 5.53pm and returned to the meeting at 6pm.

OC-17/220

Committee recommendation that Council approve the amended Development Application 10.2017.38.1, dated 19 December 2017, under Section 80 of the Environmental Planning and Assessment Act 1979, subject to conditions at the end of this report.

(Councillors Way and Reilly)

For: Councillors Reilly, Rice, Sloan, Steel, Watson, Way and Westhoff
Against: Councillor Honey

9 REPORT OF THE GENERAL MANAGER

Nil

10 REPORT OF THE DIRECTOR ENVIRONMENTAL SERVICES

10.2 Report to Council seeking endorsement of the Planning Proposal for Housekeeping amendments to the Kiama LEP 2011

OC-17/221

Committee recommendation that Council proceed with the preparation and finalisation of the draft Kiama Local Environmental Plan, for amendments to the subdivision controls, in conjunction with Parliamentary Counsel and the Department of Planning and Environment.

(Councillors Way and Westhoff)

For: Councillors Honey, Reilly, Rice, Sloan, Steel, Watson, Way and Westhoff

Against: Nil

10.3 Report to Council Supporting Initial Gateway Consideration of the Planning Proposal for Housekeeping amendments to the Kiama LEP 2011

It was moved by Councillor Reilly and seconded by Councillor Watson that 1(c) be amended to refer to 45% of the total floor area of the principal dwelling.

The **Motion** was put and **lost**

For: Councillors Reilly, Steel and Watson

Against: Councillors Honey, Rice, Sloan, Way and Westhoff

OC-17/222

Committee recommendation that Council:

1. Endorse this Planning Proposal to amend the Kiama LEP 2011 in order to:
 - (a) permit Bed & Breakfasts with consent in the RU1, RU2 & E3 zones;
 - (b) permit Eco Tourist Facilities with consent in the RU2 & E3 zones; and
 - (c) reduce the total floor area of secondary dwellings to 25% of the total floor area of the principal dwelling.
2. Proceed to the Department of Planning and Environment for a Gateway determination.
3. Request plan making delegations for this proposal as a part of the Gateway determination.
4. On receipt of the Gateway Determination, proceed with recommendations including requesting any further studies and public exhibition.
5. Concurrently prepare an amendment to Chapter 13 – Bed and Breakfast/Farm Stay of the Kiama Development Control Plan 2012 to include development controls for Eco Tourist Facilities. Report the draft amendment to Council for endorsement to proceed with community consultation.

(Councillors Sloan and Way)

For: Councillors Honey, Rice, Sloan, Steel, Way and Westhoff

Against: Councillors Reilly and Watson

10.8 10.2017.225.1 - Lot 2 DP 1073383 – 31 Jupiter Street Gerringong – dwelling

OC-17/223

Committee recommendation that Council approve development application 10.2017.225.1, pursuant to Section 80 of the Environmental Planning and Assessment Act 1979, subject to the conditions at the end of this report.

(Councillors Way and Reilly)

For: Councillors Honey, Reilly, Rice, Sloan, Steel, Watson, Way and Westhoff

Against: Nil

11 REPORT OF THE DIRECTOR CORPORATE, COMMERCIAL & COMMUNITY SERVICES

11.1 Music in the Park

OC-17/224

Committee recommendation that Council approve:

1. to call for Expressions of Interest for a three-year contract
2. the Music in the Park season to run from May to November each year.

(Councillors Way and Steel)

11.2 Statement of Investments - November 2017

OC-17/225

Committee recommendation that Council:

1. receive and adopt the information relating to the Statement of Investments for November 2017.
2. request a report from the Director on the review of the investment policy.

(Councillors Sloan and Way)

11.3 Audited Annual Financial Statements 2016/2017**OC-17/226****Committee recommendation that:**

1. The Annual Financial Statements and Audit Reports for the period ended 30 June 2017 be received and adopted.
2. The Audited Financial Statements and Audit Reports be forwarded to the Office of Local Government.

(Councillors Steel and Westhoff)

12 REPORT OF THE DIRECTOR ENGINEERING AND WORKS

Nil

13 REPORT OF THE DIRECTOR BLUE HAVEN**13.1 Illawarra Academy of Sport sponsorship proposal - athlete access to Leisure Centre****OC-17/227**

Committee recommendation that Council, as part of its sponsorship to the Illawarra Academy of Sport, provide silver student membership to the Kiama Leisure Centre for scholarship holders in the Kiama LGA.

(Councillors Way and Watson)

14 REPORTS FOR INFORMATION**OC-17/228**

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

- 14.1 NSW Coastal Conference 2017 - Councillor Neil Reilly report
- 14.2 Conference Report - NSW Coastal Conference - Councillor Sloan and Reilly
- 14.3 Legislative Updates to the Environmental Planning and Assessment Act 1979 and supporting Regulation
- 14.4 Parking Statistics - November 2017
- 14.5 Catchment and Flood Risk Management Committee - Minutes – 21 November 2017

- 14.6 Questions for Future Meeting - Neighbourhood Character and Kiama LEP 2011
- 14.7 Kiama Liquor Accord Meeting Minutes - 29 November 2017
- 14.8 Minutes of the Kiama Liquor Accord AGM held on Wednesday 29 November 2017
- 14.9 Legislative Updates to a number of State Environmental Planning Policies
- 14.10 Question for Future Meeting: Aboriginal Cultural Heritage Management Development Assessment Toolkit
- 14.11 Question for Future Meeting: Use of rural sheds for low scale industrial manufacturing
- 14.12 Kiama Regional Economic Development Strategy
- 14.13 The 2017 Global Eco Asia-Pacific Tourism Conference
- 14.14 Question for Future Meeting: Relocation of Administration Centre
- 14.15 Election of Local Government NSW Board
- 14.16 Australian Coastal Council Association AGM Minutes - 24 November 2017
- 14.17 Letter of Appreciation - Remembering Kiama District Hospital Heydays
- 14.18 Health in All Councils Survey
- 14.19 Questions for Future Meetings register as at 12 December 2017
- 14.20 Councillor Meetings Register as at 12 December 2017
- 14.21 Acting General Manager
- 14.22 South Precinct Committee Meeting Minutes - 16 November 2017.

(Councillors Reilly and Steel)

15 ADDENDUM TO REPORTS

OC-17/229

Resolved that at this time Council bring forward and deal with matters pertaining to the Addendum to Reports.

(Councillors Reilly and Steel)

15.3 Australia Day Awards

OC-17/230

Committee recommendation that Council note the report and endorse the recommendations of the Judging Panel for Australia Day Award recipients.

(Councillors Reilly and Westhoff)

15.4 Christmas Wishes

OC-17/231

Committee recommendation that Council receive and note this Report for Information.

(Councillors Reilly and Steel)

RESUMPTION OF ORDINARY BUSINESS

OC-17/232

Committee recommendation that at this time, 6.29pm, Council resume the ordinary business of the meeting with all Councillors and Staff present at the adjournment of the meeting being present.

(Councillors Reilly and Steel)

ADOPTION OF COMMITTEE OF THE WHOLE REPORT

OC-17/233

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 OC-17/215 to OC-17/232 above.

(Councillors Reilly and Steel)

16 NOTICE OF MOTION

Nil

17 QUESTIONS WITHOUT NOTICE

17.1 Gerringong CBD - parking issues

Councillor Reilly requests a report on the status of the proposal to enhance and increase parking behind the Gerringong IGA, to alleviate parking difficulties for residents, visitors and retailers.

The Mayor referred this matter to the Director Engineering & Works for investigation and report.

17.2 Affordable Housing State Environmental Planning Policy (SEPP70)

Councillor Sloan commented that several Sydney councils have been granted approval to implement a new housing affordability measure under SEPP70 and requests a report on whether SEPP70 could be used in the Kiama Local

Government Area and/or whether other measures might be better to encourage construction of an appropriate amount of affordable housing.

The Mayor referred this matter to the Director Environmental Services for investigation and report.

17.3 Protection of residential amenity in medium density and dual occupancies

Councillor Sloan commented that the role and ability of our Development Control Plans to protect amenity (views, sunlight, privacy etc) may have been undermined by changes made to the EP&A Act recently and requests a report on how Council can introduce clauses into local planning instruments to achieve “quality and amenity for the end users” of new units, townhouses and dual occupancies that will be enforceable.

The Mayor referred this matter to the Director Environmental Services for investigation and report.

17.4 Strengthening Development Control Plan provisions

Councillor Sloan requests a report on providing general advice about the best way for Council to strengthen and enforce our DCPs.

The Mayor referred this matter to the Director Environmental Services for investigation and report.

17.5 Arthur Campbell Reserve - funding

Councillor Westhoff requests a report on ongoing funding available in the 2018/19 budget for continued work at the Arthur Campbell Reserve, Gerringong.

The Mayor referred this matter to the Director Engineering & Works for investigation and report.

17.6 Pop-up trucks/shops on roadsides

Councillor Westhoff requests a report on the rules surrounding pop-up trucks/shops that sell fruit, flowers, etc in the small lay-bays between Kiama and Gerringong.

The Mayor referred this matter to the Director Environmental Services for investigation and report.

17.7 Memorial Path, Gerringong

Councillor Westhoff requests a report on the proposal to construct a memorial path from the Gerringong cemetery towards the Lone Pine Memorial to commemorate 100 years since the first Armistice in 1918 as requested by the Gerringong RSL Sub-branch.

The Director Engineering & Works provided a verbal report advising that arrangements with the Gerringong RSL for the footpath and associated landscaping are to be implemented in early 2018.

18 CONFIDENTIAL SUMMARY

OC-17/234

Resolved that at this time, 6.36pm, 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 Way and Steel)

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.

18.1 Exclusion Of Press And Public:

OC-17/235

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.

19.1 AKUNA STREET DEVELOPMENT

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.

19.2 KIAMA AGED CARE CENTRE OF EXCELLENCE

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.

19.3 LOT 200 DP107091, LOT 100 DP1211389, LOT 1 DP50193 AND LOT 1 DP506764 (EXCLUDING LOT 3 DP40304) BETWEEN TERRALONG, AKUNA AND SHOALHAVEN STREETS, KIAMA

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.

19.4 GERRINGONG LIBRARY, MUSEUM AND COMMUNITY FACILITY

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.

19.5 KIAMA AGED CARE CENTRE OF EXCELLENCE

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.

(Councillors Sloan and Watson)

19 CONFIDENTIAL REPORTS

19.1 Akuna Street Development

OC-17/236

Committee recommendation that Council

1. accept the legal advice and the considered view that Council should require the developer to initiate a road closure and purchase the basement stratum under the existing laneway.
2. give approval for the General Manager to be authorised to:
 - seek a valuation for the basement stratum
 - enter into direct negotiation with the developer for the sale of this area below the existing laneway
 - prepare all relevant documentation to formalise the road closure for this area.
 - in the event that the sale option is delayed or is not approved then the General Manager is authorised to negotiate the easement option and to develop the conditions to protect the Council's assets associated with the existing laneway including the basement stratum.

(Councillors Sloan and Watson)

For: Councillors Honey, Reilly, Rice, Sloan, Steel, Watson, Way and Westhoff

Against: Nil

19.2 Kiama Aged Care Centre of Excellence**OC-17/237**

Committee recommendation that Council receive and consider a late report in relation to the negotiations undertaken with the two highest scoring tenderers for the Kiama Aged Care Centre of Excellence.

(Councillors Reilly and Steel)

19.3 Lot 200 DP107091, Lot 100 DP1211389, Lot 1 DP50193 and Lot 1 DP506764 (excluding Lot 3 DP40304) between Terralong, Akuna and Shoalhaven Streets, Kiama**OC-17/238**

Committee recommendation that Council grant a further four-month extension option with a non-refundable fee of \$80,000 + GST to Nicolas Daoud & Co Pty Ltd.

(Councillors Rice and Sloan)

19.4 Gerringong Library, Museum and Community Facility**OC-17/239**

Committee recommendation that Council:

1. confirm the previous resolution of Council that neighbours do not enjoy any legal right of access over the Gerringong School of Arts land and associated community land.
2. will not prevent reasonable access requests on a needs basis.

(Councillors Rice and Westhoff)

19.5 Kiama Aged Care Centre of Excellence**OC-17/240**

Committee recommendation that Council enter into a Main Works Contract with the preferred tenderer.

(Councillors Westhoff and Reilly)

For: Councillors Honey, Reilly, Rice, Sloan, Steel, Watson, Way and Westhoff

Against: Nil

Close of Confidential Committee of the Whole:**OC-17/241**

Committee recommendation that at this time, 6.55pm, the Confidential Committee of the Whole revert to Open Council.

(Councillors Sloan and Way)

Adoption of Report

The General Manager formally reported the recommendations of the Confidential Committee of the Whole more particularly set out above.

OC-17/242


Resolved that that the Confidential Committee of the Whole recommendations numbered OC-17/235 to OC-17/241 be confirmed and adopted.

(Councillors Sloan and Way)

20 CLOSURE

There being no further business the meeting closed at 6.56pm

These Minutes were confirmed at the Ordinary Meeting of Council held on
6 February 2018



.....
Mayor