



MINUTES OF THE ORDINARY MEETING OF COUNCIL

commencing at 5pm on

TUESDAY 26 JUNE 2018

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 26 JUNE 2018 AT 5PM**

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

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

1 APOLOGIES

Nil

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 Ordinary Council meeting held on 15 May 2018

OC-18/175

Resolved that the Minutes of the Ordinary Council Meeting held on 15 May 2018 be received and accepted.

(Councillors Way and Westhoff)

3.2 Extraordinary Council meeting held on 6 June 2018

OC-18/176

Resolved that the Minutes of the Extraordinary Council Meeting held on 6 June 2018 be received and accepted.

(Councillors Reilly and Rice)

4 BUSINESS ARISING FROM THE MINUTES

Motion

OC-18/177

Resolved that Council arrange a meeting with Nick Daoud to explain the reasons why Council decided not to provide any further option agreement to Nicolas Daoud & Co Pty Ltd and to outline Council's current position on the Akuna Street development.

(Councillors Steel and Watson)

For: Councillors Brown, Honey, Reilly, Steel, Watson and Way

Against: Councillors Rice, Sloan and Westhoff

5 PUBLIC ACCESS SUMMARY

Name	Item No.	Subject
Chris Murray	9.6	2018-19 Draft Operational Plan
Robert King (Bob)	9.6	2018-19 Draft Operational Plan
Tricia Ashelford	9.6	2018-19 Draft Operational Plan
Karen Lang	10.2	Planning Committee - Terms of Reference (TOR)
Ross Jauncey	10.4	10.2017.195.1 – Lot 189 DP 33904 - 5 Gwinganna Avenue, Kiama - Use of lower ground floor already converted into an attached dual occupancy
Robert Budd Paul McClelland	10.6	10.2017.286.1 - Lot 1 DP 1045061 - 35 Bele Place, Kiama - Detached Dual Occupancy Development
Robert Sciacchitano	10.6	10.2017.286.1 - Lot 1 DP 1045061 - 35 Bele Place, Kiama - Detached Dual Occupancy Development
Natalie Allan	10.7	10.2017.320.1 - Lot 324 DP 703905 - 82 Barton Drive, Kiama Downs - Demolition of Existing Carport and 2 Lot Torrens Title Subdivision
Warwick Davidson	14.12	Question for future meeting: Waste bins
Rusty Moran	19.5	Surf School Operation - Seven Mile Beach Gerroa

6 MAYORAL MINUTE

6.1 NSW Rural Fire Service Awards

OC-18/178

Resolved that Council formally congratulate the following recipients of National Rural Fire Service awards:

- Gerard Blunden (Jamberoo) – National Medal for 16 years' service
- Terry Sharman (Jamberoo) – National Medal and Long Service Medal 1st Clasp for 19 years' service
- Joanne Grant (Jamberoo) – National Medal and Long Service Medal 1st Clasp for 21 years' service
- Snr Deputy Captain William McParland (Jamberoo) – National Medal 1st Clasp for 27 years' service
- Deputy Captain Greg Ball (Gerringong) – National Medal 1st Clasp for 28 years' service
- Group Captain Andrew Sweeney (Gerringong) – National Medal 1st Clasp for 28 years' service
- Debra Murphy (Jamberoo) – Long Service Medal 2nd Clasp for 31 years' service
- Lawrence Knight (Jamberoo) – Long Service Medal for 12 years' service
- Andy Mullan (Jamberoo) – Long Service Medal for 13 years' service
- Thomas Conboy (Carrington Falls) – Long Service Medal for 19 years' service
- Craig Downes (Jamberoo) – Long Service Medal 1st Clasp for 21 years' service
- Cameron McInerney (Jamberoo) – Long Service Medal 1st Clasp for 21 years' service

(Councillor Honey)

6.2 Emeritus Mayor Sandra McCarthy, OAM

OC-18/179

Resolved that Council formally congratulates Mrs Sandra McCarthy on receiving the Order of Australia award.

(Councillor Honey)

6.3 Winifred Elizabeth Chittick (Betty), OAM*OC-18/180*

Resolved that Council formally congratulates Miss Betty Chittick on receiving the Order of Australia award.

(Councillor Honey)

7 MINUTES OF COMMITTEES**7.1 Catchment and Flood Risk Management Committee Meeting - 15 May 2018***OC-18/181*

Resolved that the Minutes of the Catchment and Flood Risk Management Committee Meeting held on 15 May 2018 be received and accepted.

(Councillors Westhoff and Sloan)

7.2 Economic Development Committee Meeting - 22 May 2018*OC-18/182*

Resolved that the Minutes of the Economic Development Committee Meeting held on 22 May 2018 be received and the recommendations therein accepted subject to the following amendment, that in item 4 the reference to the Kiama Advisory Committee be changed to the Destination Kiama Tourism Advisory Committee

(Councillors Watson and Brown)

7.3 Kiama Local Traffic Committee Meeting - 5 June 2018*OC-18/183*

Resolved that the Minutes of the Kiama Local Traffic Committee Meeting held on 5 June 2018 be received and accepted.

(Councillors Way and Westhoff)

7.4 Youth Advisory Committee meeting held 7 June 2018**OC-18/184**

Resolved that the Minutes of the Youth Advisory Committee Meeting held on 7 June 2018 be received and accepted.

(Councillors Reilly and Steel)

7.5 Planning Committee Minutes - 17 May 2018**OC-18/185**

Resolved that the Minutes of the Planning Committee Meeting held on 17 May 2018 be received and accepted.

(Councillors Watson and Way)

7.6 Access Committee meeting held 1 June 2018**OC-18/186**

Resolved that the Minutes of the Access Committee Meeting held on 1 June 2018 be received and accepted.

(Councillors Westhoff and Brown)

COMMITTEE OF THE WHOLE**OC-18/187**

Resolved that this time, 5.15pm, 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 Acting Director Corporate, Commercial & Community Services
Report of the Director Blue Haven
Addendum to Reports

(Councillors Steel and Way)

8 PUBLIC ACCESS REPORTS

OC-18/188

Committee recommendation that at this time, 5.15pm, Council bring forward and deal with the matters pertaining to the Public Access Meeting.

(Councillors Watson and Reilly)

9.6 2018-19 Draft Operational Plan

OC-18/189

Committee recommendation that Council:

1. Notes, in accordance with Sections 402 to 406 of the *Local Government Act 1993*, that Council is required to prepare Integrated Planning documents with respect to:
 - a) a Community Strategic Plan for 10 years
 - b) a Delivery Program for four years
 - c) an Operational Plan for one yearand also notes that the Community Strategic Plan 2017-27, and the Delivery Program 2017-21 were adopted by Council on 22 June 2017.
2. Notes that the Draft Operational Plan 2018-19 and the Delivery Program 2017-21 were placed on public exhibition at various locations for a period of 28 days as required under the *Local Government Act*. The community was advised that written submissions could be made to Council at any time during the exhibition period, also in accordance with legislation.
3. Resolves to adopt the Operational Plan 2018-19 (including Budget and Revenue Policy) in accordance with Sections 402 to 406 of the *Local Government Act 1993*, including the following amendments:
 - a) account 0056. CID Office Equipment – Original budget \$699,709 reduced by \$50,000 to \$649,709 as part of the program has been delayed until the 2019-20 financial year
 - b) account 0071. Civic activities – Mayoral Allowance – Original budget \$42,962 increased by \$208 to \$43,170 in accordance with the Local Government Remuneration Tribunal decision to increase Councillor and Mayoral fees by 2.5% for 2018-19
 - c) account 0072. Civic activities – Members Fees – Original budget \$177,266 increased by \$846 to \$178,112 in accordance with the Local Government Remuneration Tribunal decision to increase Councillor and Mayoral fees by 2.5% for 2018-19
 - d) account 0073. Civic activities – Members Expenses – Original budget \$0 increased by \$36,000 to a total of \$36,000 to provide sufficient available

funding to achieve the Office of Local Government requirements for elected members

- e) account 2346. Environmental administration – original budget \$0 increased by \$35,000 to a total of \$35,000 for the Kiama Coastal Management Program – 50/50 matching for grant program
- f) account 3640. Plant running expenses control – original budget \$1,533,750 increased by \$18,908 to \$1,552,658 due to proposed contributions from insurance provider
- g) account 0030. Finance and admin insurance premiums – original budget \$225,495 increased by \$23,680 to \$249,175 due to proposed contributions from insurance provider
- h) account 7060. Land development – other – original budget (\$5,268,000) decreased by \$5,268,000 to a total of \$0 to correct error however; this change does not affect the Income Statement/Budget Statement for 2018-19.

The original Draft Budget resulted in 0.75% Operating Performance Ratio. The amended budget results in 0.63% Operating Performance Ratio.

4. Resolves to adopt the Fees and Charges for 2018-19 as proposed in the Draft Operational Plan 2018-19, with the following variations:
- a) Corporate and Commercial Services, Miscellaneous Charges, Photocopies A4 from \$2.00 to \$1.50 due to administrative error.
 - b) Strategic Planning, Certificate Section 10.7 (2) & (5) – Urgency fee rounded up from \$194.67 to \$195.00 due to administrative error.
 - c) Building and Development, Miscellaneous Fees, “Dwelling Entitlement Search” fee removed due to being repelled under a sunset clause within the LEP.
 - d) Companion Animals, Lifetime Registration Costs, Fees increased due to statutory requirement from the Office of Local Government as follows:
 - i. Entire (undesexed) cat or dog from \$201.00 to \$207.00.
 - ii. Entire cat or dog owned by a registered breeder from \$55.00 to \$57.00.
 - iii. Desexed cat or dog from \$55.00 to \$57.00.
 - iv. Desexed cat or dog owned by a pensioner \$23.00 to \$24.00.
 - v. New fee of Animal under 6 months not desexed \$57.00.
 - e) Waste Management Services, Waste Services applying to Waste Zones where organics Kiama Collection services are provided, 140L bin serviced fortnightly changed from \$556.97 to \$557.00 and 240L bin serviced weekly STRA changed from \$1,347.30 to \$1,347.85 due to administrative error.
 - f) Waste Management Services, Special Medical needs waste collection charge (subject to application approval), 140L bin weekly service changed from \$556.97 to \$557.00 due to administrative error.
 - g) Waste Management Services, Changing the Size of the Garbage bin from

- \$35.00 to \$36.00 due to administrative error.
- h) Non-Residential Waste Management, Commercial (Non-Residential) Waste Management Service, 240L bin serviced weekly from \$727.35 to \$727.36 due to rounding error.
 - i) Sewage Licensing Scheme, Inspection Fee, Low Risk from \$165.00 to \$168.00 and detail changed from \$40.00 pa to \$42.00 pa with inspection completed every 4 years due to administrative error.
 - j) Waste Management Services, Commercial Recyclable Materials Collection, Paper/Cardboard and/ or co-mingled recycling 1100 litre container, changed from \$22.00 to \$21.63 due to rounding error.
5. Resolves to increase the Mayoral and Councillor fees payable for the 2018-19 financial year by 2.5% in accordance with the recent determination of the Local Government Remunerations Tribunal.
6. Resolves to make and levy rates with an increase of 6% for the 2018-19 financial year as approved by the Independent Pricing and Regulatory Tribunal, as below:
- a) Make and levy an ordinary rate comprising a base charge of \$744.00 on each separate parcel of land subject to the rate which represents 49.84% of the total amount payable by the levying or the rate and an ad valorem amount of 0.001801 cents in the dollar on the land value of \$3,996,417,917 (base date 01-07-2016) of all rateable land categorised as Residential be now made for 2018-19 in accordance with the *Local Government Act 1993*.
 - b) Make and levy an ordinary rate comprising a base charge of \$744.00 on each separate parcel of land subject to the rate which represents 25.76% of the total amount payable by the levying of the rate and an ad valorem amount of 0.002023 cents in the dollar on land value of \$140,980,712.00 (base date 01-07-2016) of all rateable land categorized as Rural Residential be now made for 2018-19 in accordance with the *Local Government Act 1993*.
 - c) Make and levy an ordinary rate comprising a base charge of \$744.00 on each separate parcel of land subject to the rate which represents 28.34% of the total amount payable by the levying of the rate and an ad valorem amount of 0.001324 cents in the dollar on land value of \$331,149,700 (base date 01-07-2016) of all rateable land categorized as Farmland now be made for 2018-19 in accordance with the *Local Government Act 1993*.
 - d) Make and levy an ordinary rate of 0.00531 cents in the dollar on the land value of \$200,967,970 (base date 01-07-2016) of all rateable land in the Kiama Council area determined to be a centre of activity which is used or zoned for commercial, professional, industrial or trade purposes and sub-categorised as Business – “Commercial/industrial” be now made for 2018-19 with a minimum amount of rate which will apply in respect to each parcel of land being \$744.00 in accordance with the *Local Government Act 1993*.
 - e) Make and levy an ordinary rate of 0.003644 cents in the dollar on the land value of \$11,649,570 (base date 01-07-18) of all rateable land not being

categorized as Residential, Rural Residential or Farmland and not including rateable land used or zoned for commercial, professional, industrial or trade purposes, categorized as Business - Ordinary now be made for 2018-19 in accordance with the *Local Government Act 1993*.

7. Resolves to adopt a rate of interest of 7.5% accruing daily on rates and charges that remain unpaid after they become due and payable for 2018-19 in accordance with Section 566 of the *Local Government Act 1993*.
8. Resolves to make and levy a Domestic Waste Service Annual Charge for 2018-19 for services to all service collection zones, as follows:
 - a) For premises currently receiving this service or for new services the charge is \$747.35 for a fortnightly garbage 240 litre bin, 240 litre weekly recycling bin, weekly food/garden organics 240 litre bin, one kerbside clean-up service and one household bulky waste drop-off.
 - b) For premises currently receiving this service or for new services the charge is \$557.00 for a fortnightly garbage 140 litre bin, 240 litre weekly recycling bin, weekly food/garden organics 240 litre bin, one kerbside clean-up service and one household bulky waste drop off.
 - c) For premises currently receiving this service or for new services the charge is \$531.65 for a fortnightly garbage 80 litre bin, 240 litre weekly recycling bin, weekly food/garden organics 240 litre bin, one kerbside clean-up service and one household bulky waste drop off.
 - d) \$61.50 for vacant land
 - e) \$94.85 for an additional 240 litre bin recycling bin serviced weekly
 - f) \$94.85 for an additional 240 litre food/garden organics bin serviced weekly
 - g) \$274.20 for an additional 240 litre garbage bin serviced fortnightly
 - h) For premises currently receiving this service or new services, a weekly rather than fortnightly garbage service can be provided, subject to application and approval for the collection of medical treatment wastes. For this service the annual charge will be for an 80 litre weekly garbage bin service \$531.65, for a 140 litre weekly garbage bin service \$557.00 and for a 240 litre weekly garbage bin service \$747.35.
9. Resolves to make and levy a Commercial Waste Service Annual Charge for 2018-19 for specific commercial waste services, as follows:
 - a) \$727.36 for a weekly 240 litre garbage bin service, a 240 litre weekly recycling bin service and a 240 litre weekly food/garden organics bin service* – only available to childcare centres, preschools, churches, neighbourhood and community centres, rural fire and emergency services premises or other similar facilities upon request and approval.
 - b) \$661.88 for a weekly 240 litre garbage bin service, a 240 litre fortnightly recycling bin service and a 240 litre weekly food/garden organics bin service. The weekly food/garden organics service is only available to childcare centres, pre-schools, churches, neighbourhood and community centres, rural fire and emergency services premises or other similar facilities upon request and approval.
 - c) \$13.70 for each additional garbage or recycling or food/garden organics

240 litre bin service* (if applicable).

10. Resolves to make and levy a Commercial Recyclable Materials Charge for 2018-19 for specific recycling services, as follows:
 - a) \$21.63 cost per service for a 1100 litre paper/cardboard and/or co-mingled recycling bin.
 - b) \$10.30 cost per service for a 240 litre glass, aluminium, steel, PET, HDPE, etc., bin.
 - c) \$15.46 cost per service for a 360 litre glass* (if available), aluminium, steel, PET, HDPE, etc., bin.
11. Resolves to make and levy a Commercial Food Organics only charge for 2018-19, as follows:
 - a) \$25.30 cost per 1 x 240 litre bin service
 - b) \$50.60 cost per 3 x 240 litre bins service
 - c) \$67.50 cost per 4 x 240 litre bins service
 - d) \$101.20 cost per 6 x 240 litre bins service
 - e) The Commercial Food Organics only service may be available to commercial food premises, holiday parks and aged care facilities only.
12. Resolves to make and levy an Annual Waste Charge for 2018-19 for services to all Multi-storey Tourist Accommodation, as follows:
 - a) \$467.50 for a weekly 80 litre garbage bin service and a fortnightly 240 litre recycling bin service (no food/garden organics collection service, kerbside clean-up service or household bulky-waste drop-off provided)
 - b) \$492.05 for a weekly 140 litre garbage bin service and a fortnightly 240 litre recycling bin service (no food/garden organics collection service, kerbside clean-up service or household bulky-waste drop-off provided)
 - c) \$709.95 for a weekly 240 litre garbage bin service and a fortnightly 240 litre recycling bin service (no food/garden organics collection service, kerbside clean-up service or household bulky-waste drop-off provided)
13. Resolves to make an levy Special Events and Casual Hire Waste Service charges for 2018-19, as follows:
 - a) \$20.10 cost per service for a 240 litre garbage bin
 - b) \$29.90 cost per service for a 360 litre garbage bin* (if available)
 - c) \$20.10 cost per service for a 240 litre recycling bin
 - d) \$29.90 cost per service for a 360 litre recycling bin* (if available)
 - e) \$20.10 cost per service for a 240 litre food organics bin
 - f) \$29.90 cost per service for a 360 litre food organics bin* (if available)
 - g) \$4.80 per bin for delivery and collection costs for a 240 litre or 360 litre bin* (if available)
 - h) \$48.25 cost per service for a 1100 litre container of cardboard or paper or mixed recycling
 - i) \$48.25 per container for delivery and collection costs for a 1,100 litre

container or \$29.40 per container if delivered with 240 litre bins

- j) \$4.80 bin cleaning cost per bin
 - k) \$17.00 container cleaning cost per container.
14. Resolves to make and levy Waste Service Charges for 2018-19 for premises used as Short Term Rental Accommodation (STRA) for holiday purposes, as follows:
- a) For STRA properties ONLY in Urban Collection Zones, \$1,347.85 for a weekly 240 litre garbage bin service, a weekly 240 litre recycling bin service, a weekly 240 litre food/garden organics bin service, one kerbside clean-up service and one household bulky waste drop-off.
15. Resolves to make and levy a Rural Waste Service Annual Charge for 2018-19 of \$437.75 for premises currently receiving this service or for new services of a fortnightly 240 litre garbage bin service, a fortnightly 240 litre recycling bin service and one household bulky-waste drop-off. Rural collections do not include food/garden organics services, kerbside clean-up or weekly recycling services.
16. Resolves to make and levy the following charges for the supply and delivery of new or replacement garbage, recycling or food/garden organics bins:
- a) \$117.00 per 360 litre bin
 - b) \$82.00 per 240 litre bin
 - c) \$76.00 per 140 litre bin
 - d) \$70.00 per 80 litre bin.
17. Resolves to make and levy a Stormwater Management Service Charge for all rateable land within the Kiama Council area, as follows:
- a) an annual charge of \$25 for each property rated as “Residential”
 - b) an annual charge of \$12.50 per unit for all “Residential strata units”
 - c) an annual charge of \$25/350m² (or part thereof) for all “Business properties”.

An annual fee of \$25/350m² (or part thereof) for all “Business strata lots” divided on a pro-rata basis between the lots.

(Councillors Reilly and Brown)

It was **Moved** by Councillor Way and seconded by Councillor Brown that Council adopt the 2018-19 Draft Operational Plan with the following amendments:

1. That the following projects be included in the capital works program for 2018/2019 if there are savings from the adopted capital works program and after considering other budget expenditure in the 4th quarter and a formal report being submitted to Council:
 - An additional \$54,000 be allocated to Shoalhaven and Bong Bong Streets PAMP implementation
 - Design and investigate mini break wall in Kiama Harbour - \$45,000
 - Minnamurra Progress Association – various issues (uncosted)

- Cameron Boyd Viewing Platform - \$15,000
 - Kiama Downs Surf Lifesaving Club Car Park - \$80,000
 - Sports ground plaques - \$6,000
2. That the South Bombo Beach footpath, at a cost of \$10,800, be added to the 2018/2019 renewal program from unallocated footpath renewal.

OC-18/190

Amended Committee recommendation that Council adopt the 2018-19 Draft Operational Plan with the following amendments:

1. That the following projects be included in the capital works program for 2018/2019 if there are savings from the adopted capital works program and after considering other budget expenditure in the 4th quarter and a formal report being submitted to Council:
 - An additional \$54,000 be allocated to Shoalhaven and Bong Bong Streets PAMP implementation
 - Minnamurra Progress Association – various issues (uncosted)
 - Cameron Boyd Viewing Platform - \$7,500
 - Kiama Downs Surf Lifesaving Club Car Park - \$80,000
 - Sports ground plaques - \$6,000
2. That the South Bombo Beach footpath, at a cost of \$10,800, be added to the 2018/2019 renewal program from unallocated footpath renewal.
3. That Council seek to provide education on the identification of troublesome weeds to urban residents wherever possible to the extent that budget allows.
4. That all submission makers be responded to advising of Council's resolution.

The **Amendment** on being put was **Carried**.

The **Amendment** became the adopted **Motion**.

(Councillors Reilly and Watson)

It was **Moved** by Councillor Rice and seconded by Councillor Reilly that due to their constrained hours and self-provision of electricity that fees for the Kiama Farmers Market are set at the reduced rate of \$6 per market stall.

The **Motion** on being put was **Lost**.

10.1 10.2018.55.1 - Lots 279 & 280 DP 30126 - 4 & 6 Elanora Road, Kiama Heights - Attached dual occupancy and 2 lot Torrens Title subdivision**OC-18/191**

Committee recommendation that Council approve Development Application 10.2018.55.1 under Section 4.16 of the Environmental Planning and Assessment Act, 1979, subject to conditions at the end of the report.

(Councillors Brown and Reilly)

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

Against: Nil

10.2 Planning Committee - Terms of Reference (TOR)

An amendment was **Moved** by Councillor Rice and seconded by Councillor Sloan that Council approve the term Community Representatives is maintained and applied consistently throughout the Planning Committees TOR. Further, that point ii. under the heading Responsibility, is amended to read that Committee Members will: Be broadly representative of the community without specific responsibility to any particular community group.

The **Amendment** on being put was **Lost**.

OC-18/192

Committee recommendation that Council endorse the Terms of Reference attached to this report.

(Councillors Brown and Steel)

Councillors Rice and Sloan requested their dissenting vote be recorded.

10.4 10.2017.195.1 – Lot 189 DP 33904 - 5 Gwinganna Avenue, Kiama - Use of lower ground floor already converted into an attached dual occupancy**OC-18/193**

Committee recommendation that Council refuse Development Application 10.2017.195.1 under Section 4.16 of the Environmental Planning and Assessment Act 1979, for the following reasons:

1. It is considered that the proposed development is inconsistent with the overall objectives of Chapter 4 of Kiama DCP 2012 as the development is not considered to result in acceptable amenity for residents of the proposed dual occupancy dwellings.

2. The proposed development breaches performance Controls C29 & C48 of DCP 2012 Chapter 4 requiring that the deck/balcony may count as part but not all of a dwelling's private open space; and that each dwelling in a dual occupancy development/secondary dwelling development must have a clearly defined and identifiable street entrance. These non-compliances are not considered to be acceptable in the circumstances.
3. The Building Code of Australia Report for the change of use to a dual occupancy Class 2 building for the Class 1 dwelling has identified multiple fire-safety non-compliance issues with the current construction based on the Deemed to Satisfy provisions of the Building Code of Australia. The change of use would be reliant upon Fire Engineering Performance Solutions known as Alternative Solution. Whilst it has been concluded that some solutions can be achieved and there are others that only **may** be able to achieve compliance with the Performance Requirements of the National Construction Code (NCC). A Performance Solution only complies with the NCC when the solution is demonstrated and achieves compliance with the Performance Requirements and given this uncertainty the proposal cannot be supported.
4. The applicant has not provided details prepared by a suitably qualified person demonstrating compliance with the BCA requirements for acoustic measures between sole occupancy units.
5. The proposed development is not considered to be suitable for the site having regard to DCP breaches brought about by the proposed dual occupancy development.
6. It is considered that in the circumstances of the case, approval of the modified development would set an undesirable precedent and is therefore not in the public interest.

(Councillors Watson and Westhoff)

For: Councillors Brown, Honey, Rice, Sloan, Watson and Westhoff

Against: Councillors Reilly, Steel and Way

10.6 10.2017.286.1 - Lot 1 DP 1045061 - 35 Bele Place, Kiama - Detached Dual Occupancy Development

It was **Moved** by Councillor Steel and seconded by Councillor Watson that Council approve Development Application 10.2017.286.1 under Section 4.16 of the Environmental Planning and Assessment Act 1979, subject to conditions at the end of this report.

The **Motion** on being put was **Lost**.

For: Councillors Brown, Reilly, Steel and Watson

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

OC-18/194

Committee recommendation that Council refuse Development Application

10.2017.286.1 for the following reasons:

1. The development is inconsistent with the Objectives of the Kiama LEP for the R5 Large Lot Residential Zone, in particular:
 - *To provide residential housing in a rural setting while preserving, and minimising impacts on, environmentally sensitive locations and scenic quality.*
 - *To ensure that development in the area does not unreasonably increase the demand for public services or public facilities.*
2. Does not satisfy the intent of Chapter 16 - Control C1 of the Silver Hill/Cedar Ridge Estate DCP, namely that a maximum development density of 1 dwelling per 1,000 m² (exclusive of access handles) of site area (regardless of dwelling size) applies, because the curtilage of siting of the proposed dwelling has an area of 570 m².
3. Does not satisfy the objectives of Kiama DCP Chapter 2 - Section 12 – Building Lines in Urban Areas, in circumstance where the amenity and character of the area is not protected due to unreasonable building siting, overlooking, overshadowing and visual intrusion arising from the bulk of the building in the context.
4. Fails to satisfy the objectives of Kiama DCP Chapter 4 – Low Density Development, to protect the character of areas, to provide a high level of visual and acoustic privacy for existing residents, and related controls:
 - i. C5 – Privacy
 - ii. C13 - Maintain existing and future desired character/amenity; and
 - iii. C14 - New buildings should respect the scale, form and orientation of buildings in the street.

(Councillors Sloan and Rice)

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

Against: Councillors Brown, Reilly, Steel and Watson

10.7 10.2017.320.1 - Lot 324 DP 703905 - 82 Barton Drive, Kiama Downs - Demolition of Existing Carport and 2 Lot Torrens Title Subdivision

OC-18/195

Committee recommendation that Council defer Development Application 10.2017.320.1 to the July 2018 Council meeting to allow consideration of the information provided at Public Access.

(Councillors Brown and Watson)

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

Against: Nil

14.12 Question for future meeting: waste bins**OC-18/196**

Committee recommendation that Council relocate the dog waste bin from the current location adjacent to 41 Tingira Crescent, Kiama to its original location in the dog-off leash area on Marsden Headland.

(Councillors Sloan and Steel)

9 REPORT OF THE GENERAL MANAGER**9.1 Australian Chapter of the Alliance for Healthy Cities - nomination for election to steering committee****OC-18/197**

Committee recommendation that Council:

1. agree to nominate Kiama Council as the Australian Chapter member of the Alliance for Healthy Cities Steering Committee.
2. nominate Councillor Rice as Council's representative on the Committee.

(Councillors Brown and Sloan)

9.2 8th Global Conference of the Alliance for Healthy Cities**OC-18/198**

Committee recommendation that Council nominate Councillor Rice to attend the 8th Global Conference of the Alliance for Healthy Cities.

(Councillors Brown and Sloan)

9.3 Delegations of the General Manager**OC-18/199**

Committee recommendation that Council endorse the delegations listed in this report.

(Councillors Westhoff and Rice)

9.4 Illawarra Shoalhaven Joint Organisation (ISJO) Second Delegate and Alternates

It was **Moved** by Councillor Reilly and seconded by Councillor Steel that Council appoint Councillor Neil Reilly as the additional voting delegate to represent Council on the ISJO Board and appoint Councillor Warren Steel as the alternate delegate.

The **Motion** on being put was **Lost**.

It was **Moved** by Councillor Sloan and seconded by Councillor Rice that :

1. Council endorse the Deputy Mayor as the additional voting delegate to represent Council on the ISJO Board
2. Council elect an alternate delegate to represent Council on the ISJO Board as required.
3. The election of the alternate councillor delegate be by the standard process of show of hands.
4. The appointments be for the term of Council to ensure consistent representation.

The **Motion** on being put was **Lost**.

OC-18/200

Committee recommendation that:

1. Council elect the additional voting delegate to represent Council on the ISJO Board
2. Council elect an alternate delegate to represent Council on the ISJO Board as required.
3. The election of the alternate councillor delegate be by the standard process of show of hands.
4. The appointments be for the term of Council to ensure consistent representation.

(Councillors Way and Reilly)

The following nominations and election were made for the additional voting delegate:

- Councillor Way nominated Councillor Sloan - 4 votes
- Councillor Steel nominated Councillor Reilly - 5 votes
- Councillor Rice nominated herself - 0 votes

Councillor Reilly was declared the ISJO additional voting delegate.

The following nominations and election were made for the alternate delegate:

- Councillor Sloan nominated himself - 5 votes
- Councillor Reilly nominated Councillor Steel - 4 votes

Councillor Sloan was declared the ISJO alternate delegate.

9.5 Cities Power Partnership Summit | 18-19 October 2018**OC-18/201**

Committee recommendation that Council recommend that Councillors Sloan, Steel, Watson and Honey attend the Cities Power Partnership Summit held in Kiama on 18-19 October 2018.

(Councillors Reilly and Rice)

10 REPORT OF THE DIRECTOR ENVIRONMENTAL SERVICES**10.3 Housekeeping Amendments to the Kiama LEP 2011****OC-18/202**

Committee recommendation that Council

1. Endorse the preparation of a Planning Proposal for minor housekeeping amendments to the Kiama LEP 2011 for:
 - The addition of minor activities and events on public land to be included in Schedule 2 Exempt Development;
 - Amendment of the land use table in the IN2 Light Industrial Zone by removing Industrial Training Facilities from the prohibited land uses;
 - The addition of an Essential Services clause to be added to Part 6 of the Kiama LEP 2011.
2. Forward the Planning Proposal to the Department of Planning and Environment for Gateway Determination.
3. Request plan-making delegations from the Department of Planning and Environment.

(Councillors Reilly and Way)

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

Against: Nil

10.5 Amendments to the Kiama LEP 2011 to introduce dual occupancy and multi dwelling housing development standards**OC-18/203**

Committee recommendation that Council:

1. Endorse this Planning Proposal for amendments to the Kiama LEP 2011 to

proceed to the Department of Planning and Environment for a Gateway determination to:

- a. Introduce a minimum lot size and/or a dwelling density for dual occupancy, manor house and multi dwelling housing (terrace) development in zoned R2 Low Density Residential and R3 Medium Density Residential land,
 - b. Make multi dwelling housing (terraces) permissible in the R2 Low Density Residential zone, and
 - c. Rezone the western portion of Silver Hill/Cedar Ridge area from R5 Large Lot Residential to E4 Environmental Living.
2. Request plan making delegations for this proposal as a part of the Gateway determination.
 3. On receipt of the Gateway Determination, proceed with recommendations including requesting any further studies and public exhibition.

(Councillors Sloan and Westhoff)

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

Against: Nil

10.8 Submission Points for Cleary Bros. Modification Application

It was **Moved** by Councillor Sloan and seconded by Neil Reilly that:

1. Council staff prepare a submission to the Department of Planning and Environment in relation to the public exhibition of the application to modify the existing approval to extract sand at the Gerroa sand mine and request appropriate consideration of Council's concerns in relation to flora and fauna, flooding, surface and groundwater, noise and heritage
2. the submission to be amended to more clearly articulate concerns about noise and visual impacts, flooding, and question whether this should be considered as a new application rather than an extension given it is on the other side of Blue Angle Creek and has a significantly larger surface area than the currently approved mine.

The **Motion** on being put was **Lost**.

It was **Moved** by Councillor Brown and seconded by Councillor Steel that Council staff prepare a submission to the Department of Planning and Environment in relation to the public exhibition of the application to modify the existing approval to extract sand at the Gerroa sand mine and request appropriate consideration of Council's concerns in relation to flora and fauna, flooding, surface and groundwater, noise and heritage.

The **Motion** on being put was **Lost**.

OC-18/204**Committee recommendation** that :

1. Council staff prepare a submission to the Department of Planning and Environment in relation to the public exhibition of the application to modify the existing approval to extract sand at the Gerroa sand mine and request appropriate consideration of Council' concerns in relation to flora and fauna, flooding, surface and groundwater, noise and heritage, and
2. the submission to be amended to more clearly articulate concerns about noise and visual impacts, flooding.

(Councillors Sloan and Brown)

11 REPORT OF THE DIRECTOR CORPORATE, COMMERCIAL & COMMUNITY SERVICES**11.1 2018 Youth Engagement Meeting at Kiama High School****OC-18/205**

Committee recommendation that Council endorse the 2 August for holding the 2018 Youth Engagement Meeting.

(Councillors Reilly and Westhoff)

11.2 Native Title Tribunal - Claimant Application - South Coast People**OC-18/206****Committee recommendation** that Council:

1. become a party to the claimant application – Federal Court number NSD1331/2017 - South Coast People.
2. compile a list of all Crown Land that may be affected by the Native Title Claim and submit as part of the application and/or legal proceedings.
3. complete and submit the prescribed Form 5 of Councils intention to become a party to the application.
4. give the General Manager and/or Mayor delegated authority to sign on behalf of Council.

(Councillors Reilly and Westhoff)

11.3 Request for CCTV cameras in Jamberoo*OC-18/207***Committee recommendation** that Council note the motion.

(Councillors Reilly and Westhoff)

11.4 Renewal of Lease - Blowhole Point (R87397) Reserve Trust and Kiama Tennis Club Inc*OC-18/208***Committee recommendation** that Council

1. enter into a two (2) year lease with the Kiama Tennis Club Inc due to potential geotechnical issues onsite.
2. endorse rental in accordance with Crown Lands minimum statutory rental.
3. delegate authority to the Mayor and the General Manager to sign under seal or on behalf of Council as required.

(Councillors Reilly and Westhoff)

11.5 Kiama Health Plan Review Report - results from the survey and consult*OC-18/209***Committee recommendation** that Council endorse the “Kiama Health Plan Review Report – results from community survey and consultations”, to inform the Kiama Health Plan and other Council policies where applicable.

(Councillors Reilly and Westhoff)

11.6 Statement of Investments - May 2018*OC-18/210***Committee recommendation** that Council receive and adopt the information relating to the Statement of Investments for May 2018.

(Councillors Reilly and Westhoff)

11.7 Investment Policy Review*OC-18/211*

Committee recommendation that the Investment Policy Revised June 2018 be received and adopted.

(Councillors Reilly and Westhoff)

11.8 Kiama Cultural Board - meeting 24 May 2018*OC-18/212*

Committee recommendation that Council:

1. note the minutes from the meeting
2. not endorse a motion from the meeting for an increase of an additional thirty hours per week to the role of community and cultural development.

(Councillors Reilly and Westhoff)

11.9 Request for Partnership - Collaborative branding for Green Caffein Project*OC-18/213*

Committee recommendation that Council provide Green Caffein with funding support of \$5,000 to enable co-branding of 2500 reusable swap and go coffee cups and include a condition that the Destination Kiama logo be printed on the cups.

(Councillors Reilly and Westhoff)

11.10 Invitation for Council's Manager Community & Cultural Development to present in Singapore on the Dementia-friendly Kiama Project.*OC-18/214*

Committee recommendation that Council approve Nick Guggisberg accepting the invitation to present in Singapore.

(Councillors Reilly and Westhoff)

11.11 2018 Illawarra Business Awards Supporting Partnerships Sponsorship*OC-18/215*

Committee recommendation that Council agree to provide sponsorship of \$2,000 in Partnership funding to the 2018 Illawarra Business Awards.

(Councillors Reilly and Westhoff)

12 REPORT OF THE DIRECTOR ENGINEERING AND WORKS

Nil

13 REPORT OF THE DIRECTOR BLUE HAVEN**13.1 Blue Haven Historical decisions***OC-18/216*

Committee recommendation that Council note the information contained in the report.

(Councillors Way and Westhoff)

14 REPORTS FOR INFORMATION*OC-18/217*

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

- 14.1 Minutes: Central Precinct - April and May 2018
- 14.2 Question for future meeting: Building Certification by Private Certifiers
- 14.3 Question for future meeting: Dual occupancy applications approved under delegation where minimum solar access has not been met
- 14.4 Funding offer for completion of the Kiama Coastal Management Program from the Office of Environment and Heritage
- 14.5 Minutes: Jamberoo Valley Ratepayers and Residents Association meeting - 1 May 2018
- 14.6 Parking Statistics - May 2018
- 14.7 Design upgrade - Stationery and correspondence
- 14.8 Seven Mile Beach Policy Review
- 14.9 Question for future meeting: Markets and events conducted at Black Beach

Reserve

- 14.10 Renewal of Lease for Jamberoo Croquet Club
- 14.11 Minutes: Minnamurra Progress Association meeting - 5 June 2018
- 14.13 Question for future meeting: Tree and Vegetation Vandalism Policy
- 14.14 Licence for use of Part Lot 53 DP 884475, Fern Street, Gerringong
- 14.15 Conference Report - Integrated Seniors Housing
- 14.16 Minutes: South Precinct meeting - 17 May 2018
- 14.17 Questions for Future Meetings Register as at 20 June 2018

(Councillors Brown and Steel)

14.2 Question for future meeting: Building Certification by Private Certifiers -

It was **Moved** by Councillor Way and seconded by Councillor Sloan that Council:

1. consult with local builders to ascertain what requirements must be met to make Council competitive in the market place to transfer business to Council as Principal Certifying Authority. This may take the form of a forum, survey and/or face-to-face individual consultations.
2. receive a report at the conclusion of this process by the October 2018 Council meeting for consideration to employ an additional staff member to assist and meet the performance criteria and expectations of builders in the market place.

The **Motion** being put was **Lost**.

RESUMPTION OF ORDINARY BUSINESS

OC-18/218

Committee recommendation that at this time, 7.17pm, Council resume the ordinary business of the meeting with all Councillors and Staff present at the adjournment of the meeting being present.

(Councillors Sloan and Rice)

ADOPTION OF COMMITTEE OF THE WHOLE REPORT

OC-18/219

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 18/188 to 18/218 above.

(Councillors Way and Westhoff)

15 ADDENDUM TO REPORTS

OC-18/220

Resolved that at this time, 7.18pm Council bring forward and deal with matters pertaining to the Addendum to Reports.

(Councillors Way and Westhoff)

15.1 Destination Kiama Tourism Advisory Committee meeting held 22 June 2018

OC-18/221

Committee recommendation that the Minutes of the Destination Kiama Tourism Advisory Committee meeting held on 22 June 2018 be received and accepted.

(Councillors Brown and Reilly)

16 NOTICE OF MOTION

Nil

17 QUESTIONS FOR FUTURE MEETINGS

17.1 Adequacy of lighting in Lockett Place

Councillor Rice requested a report on the adequacy of lighting along Lockett Place to Belvedere Street, Kiama, following safety concerns of a resident. Does existing lighting provide sufficient illumination for the evening placement of rubbish bins to Belvedere Street?

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

17.2 Free Camping the Local Government Area

Councillor Westhoff requested a report on designated free camping areas/zones in the Kiama Local Government Area. Are there any, and if there are, where are they and are there any restrictions. Is there signage and are there any amenities nearby to these areas?

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

17.3 Terms of Reference definitions

Councillor Reilly requested a report on Council defining specific terms that are used in our Terms of Reference for Committees.

The Mayor referred this matter to the General Manager for investigation and report.

18 CONFIDENTIAL SUMMARY

Public Representations:

The Mayor called for representations regarding issues which had been proposed to be disclosed in Confidential Committee of the Whole. No such representations were received.

18.1 Exclusion Of Press And Public:

OC-18/222

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.

19.1 BLUE HAVEN ADVISORY COMMITTEE

Reason for Confidentiality: This matter deals with information that would, if disclosed, confer a commercial advantage on a competitor of the council as per Section 10A(2)(dii) of the Local Government Act.

19.2 BUSINESS DEVELOPMENT STRATEGY - WERRI BEACH HOLIDAY PARK

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 LAND AND ENVIRONMENT COURT CLASS 1 APPEALS - LEGAL STATUS REPORT - JUNE 2018

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.

19.4 PROPOSED ROAD CLOSURE - NOORINAN STREET, 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.

19.5 SURF SCHOOL OPERATION - SEVEN MILE BEACH GERROA

Reason for Confidentiality: This matter deals with information that would, if disclosed, reveal a trade secret as per Section 10A(2)(diii) of the Local Government Act.

(Councillors Brown and Way)

OC-18/223

Resolved that at this time, 7.22pm, 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 Brown and Westhoff)

19 CONFIDENTIAL REPORTS

19.1 Blue Haven Advisory Committee

OC-18/224

Committee recommendation that Council:

1. call for Expressions of Interest for new members of the Blue Haven Advisory Committee
2. revise the Terms of Reference for the Advisory Committee
3. agree to create a Blue Haven Management Board, comprised of all elected Councillors
4. write to existing Committee members and thank them for their contribution to Blue Haven.

(Councillors Honey and Steel)

19.2 Business Development Strategy - Werri Beach Holiday Park

OC-18/225

Committee recommendation that Council:

1. adopts the Business Development Strategy and Master Plan for Werri Beach Holiday Park,
2. approves the commencement of the planning stage for the capital works program, as detailed in the Business Development Strategy & Master Plan, but with an anticipated start date for the preliminary planning and design of July 2019, and the redevelopment works of May 2020, and

3. endorses the disbandment of the Holiday Parks Advisory Committee, and create a Working Committee made up of Councillors and Council staff.
4. agrees to publicly release the Master Plan without the Commercial in Confidence components.

(Councillors Westhoff and Brown)

19.3 Land and Environment Court Class 1 Appeals - Legal Status Report - June 2018

OC-18/226

Committee recommendation that Council note the report.

(Councillors Sloan and Westhoff)

19.4 Proposed Road Closure - Noorinan Street, Kiama

OC-18/227

Committee recommendation that Council

1. approve the closure of the road reserve adjoining Lot 2 DP 628003 as outlined in the attached survey.
2. classify the subject parcel as operational land upon closure and the issue of a Certificate of Title subject to public notice of the proposed classification under Section 34 of Local Government Act.
3. approve if required, for a formal road closure application to be lodged with Crown Lands seeking closure of the subject road reserve adjoining Lot 2 DP628003.
3. give the General Manager and Mayor delegated authority to sign under seal and documentation associated with the road closure.
4. requires the applicant to meet all on-going relevant costs associated with the road closure and purchases the subject land at/or within the range determined in value by the registered Valuer.

(Councillors Brown and Way)

19.5 Surf School Operation - Seven Mile Beach Gerroa

OC-18/228

Committee recommendation that Council:

1. notes the report of the Director Environmental Services which makes recommendation in relation to the preparation of a Planning Proposal to address this matter.

2. terminate the current licence with Surf Camp Australia Pty Limited.
3. amend the Surf School Policy following the approval of the Planning Proposal and Kiama Local Environmental Plan 2011 amendment.

(Councillors Steel and Watson)

Close of Confidential Committee of the Whole:

OC-18/229

Committee recommendation that at this time, 7.29pm, the Confidential Committee of the Whole revert to Open Council.

(Councillors Reilly 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-18/230


Resolved that that the Confidential Committee of the Whole recommendations numbered 18/224 to 18/229 be confirmed and adopted.

(Councillors Reilly and Westhoff)

20 CLOSURE

There being no further business the meeting closed at 7.30pm.

These Minutes were confirmed at the Ordinary Meeting of Council held on
17 July 2018.



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Mayor