



ORDINARY MEETING OF COUNCIL

HELD ON

TUESDAY 22 SEPTEMBER 2009

AT 5:01 PM

MINUTES

PRESENT

Administrators Dr C Gellatly AO (in the Chair), G Kibble AO and R McGregor AM

IN ATTENDANCE

General Manager - D Farmer, Director Corporate and Community Services – I Halliday, Director Environment and Planning – A Carfield and Acting Director Infrastructure and Works - P Coyte

INDEX

PAGE NO.

Confirmation of Minutes of Ordinary Meeting of Council Held on Tuesday, 25 August 2009	1
---	---

PUBLIC ACCESS FORUM

Mr L Gripton – Item 3 - Tender for Proposed Lease to Operate and Occupy the Bulli Beach Café/Kiosk and Ancillary Accommodation	1
Dr R Robinson – Item 6 – Creation of Right-of-Way over Land at Underwood Street, Corrimal	1
Mr P Matters – Systemic Corruption in the City of Wollongong / Prevention of Corruption	2
Ms V Curran – Concerns for the Berkeley Environment.....	2

PLANNING AND ENVIRONMENT DEPARTMENT

ITEM 1 Report on Exhibition of draft LEP Proposing the Reclassification of Seven Car park Sites (CMI66/09)	2
ITEM 2 Establishment of Wollongong Heritage Advisory Committee (CMI67/09).....	3

INFRASTRUCTURE AND WORKS DEPARTMENT

ITEM 3 Tender for Proposed Lease to Operate/Occupy the Bulli Beach Cafe/Kiosk and Ancillary Accommodation - Part Lot 68 DP 1102884 Trinity Row, Bulli - Tender T09-20 (CMI68/09)	3
ITEM 4 Cliff Stabilisation Works at Harry Graham Drive, Kembla Heights - Tender No. T09-19 (CMI69/09)	3
ITEM 5 Establishment of Pre-Approved Lists - Supply and Delivery of Road Works Materials to Council - Tenders T09/07, T09/14, T09/15 (CMI70/09).....	3
ITEM 6 Creation of Right-of-Way over Land at Underwood Street, Corrimal (CMI71/09).....	5
ITEM 7 Proposed road closure and sale of portion of Hicks Road, Thirroul adjoining No 27 Mount Gilead Road (CMI72/09)	5

PAGE NO.

ITEM 8	Proposed Dedication of Lanes in Dapto as Public Road (CMI 73/09)	5
ITEM 9	Proposed Easement for Access for Litter Boom over Lot 1 DP 228880 Stuart Park, North Wollongong (CMI 74/09).....	6

CORPORATE AND COMMUNITY SERVICES DEPARTMENT

ITEM 10	Annual Financial Reports for the Year ending 30 June 2009 (CMI 75/09)	6
ITEM 11	August 2009 Financials (CMI 76/09).....	6
ITEM 12	Statement of Investments - August 2009 (CMI 77/09).....	6
ITEM 13	Bi-Monthly Tabling of Returns of Disclosures of Interest (CMI 78/09).....	7

IHAP MATTER

ITEM 14	22 Shiraz Drive Dapto - Continued Use of Awning and Construction of Granny Flat - IHAP Report (CMI 79/09)	7
----------------	--	----------

Minute No.

CONFIRMATION OF MINUTES OF ORDINARY MEETING OF COUNCIL HELD ON TUESDAY, 25 AUGUST 2009

- 142 **RESOLVED UNANIMOUSLY** that the Minutes of the Ordinary Meeting of Council held on Tuesday, 25 August 2009 (a copy having been circulated to Administrators) be taken as read and confirmed.

PUBLIC ACCESS FORUM

MR L GRIPTON - ITEM 3 - TENDER FOR PROPOSED LEASE TO OPERATE AND OCCUPY THE BULLI BEACH CAFÉ/KIOSK AND ANCILLARY ACCOMMODATION

Mr Gripton advised that his family first acquired the Bulli Beach Café/Kiosk (Ruby's) some seven years ago and had invested over \$400,000 in the business. The lease being determined at this meeting has been the first opportunity to plan for the future and Mr Gripton advised that he had intended to invest a further \$200,000 into the business. He also advised that his family had very strong community support, employed some 40 locals, bought locally and as well, supported clubs, schools and not-for-profit organisations.

In conclusion, Mr Gripton felt that the tender process was too heavily based around the financial aspect and he believed that his whole package in terms of what his family had given to Council and the community, outshone other tenders.

DR R ROBINSON - ITEM 6 - CREATION OF RIGHT-OF-WAY OVER LAND AT UNDERWOOD STREET, CORRIMAL

With respect to the right of way Dr Robinson advised that there appears to be no evidence that the owners of properties disadvantaged by the closure of the unnamed road and now possibly advantaged by the right of way, have been consulted and their particular views known. Dr Robinson also stated that the right-of-way infers explicitly that the developer will build a multi storey complex on the southern boundary, however, the exhibition of the development application appears to indicate that a multi storey shopping complex does not extend this far, and in fact the development stops by some ten's of metres from the laneway.

Council resolved to sell the land in a closed meeting on 16 October 2007. A recent ruling by Justice Lloyd in the Land and Environment Court has declared null and void agreements that have a reasonable apprehension of bias. There appears to be an inference that this sale agreement may be biased and the right-of-way could be premature. Dr Robinson sought that any Deed of Agreement or Memorandum of Understanding be made public.

Minute No.

MR P MATTERS – SYSTEMIC CORRUPTION IN THE CITY OF WOLLONGONG / PREVENTION OF CORRUPTION

Mr Matters advised that Council's website did not appear to contain any policies to inform the citizens of Wollongong as to what is being put in place to prevent a repeat of the systemic corruption which occurred at this Council. He said that the issue of corruption was raised some 16 years ago by the South Coast Labour Council and also that concerns previously raised by employees of this Council were dismissed by investigators. Earlier action on the complaints would have prevented some of the abuse and corruption which took place. Mr Matters said that the Code of Ethics had failed dismally in terms of preventing corruption. Also, he felt that the tendering process at Council was unsafe and lacked transparency.

Wollongong Against Corruption will be providing Administrators with a detailed submission on this matter.

MS V CURRAN – CONCERNS FOR THE BERKELEY ENVIRONMENT

Ms Curran voiced various concerns with respect to the Berkeley 'wastelands' which previously supported many threatened species. She advised that Berkeley residents had been contacting Council over many years in relation to unauthorised landfill and have persistently raised concerns about the destruction of habitats in creeks, watercourses changing colour and the illegal use of land. Ms Curran tabled photographs (which will be provided to Council) taken recently in the Berkeley area and pointed out that the water quality had a pH level of 2.5 – 3 and was highly acidic.

Ms Curran also pointed out that although the area has been deemed 'high flood risk' since the 1950's, a flood study had not yet been carried out and she urged Administrators to pay some attention to the area.

Administrator Gellatly requested that a report on this matter be submitted to Council.

PLANNING AND ENVIRONMENT DEPARTMENT

ITEM I - REPORT ON EXHIBITION OF DRAFT LEP PROPOSING THE RECLASSIFICATION OF SEVEN CAR PARK SITES (SU26466) - REPORT OF MANAGER ENVIRONMENTAL STRATEGY AND PLANNING (JB) 9/09/09

This item was withdrawn from the agenda, as further technical information was required.

Minute No.

ITEM 2 - ESTABLISHMENT OF WOLLONGONG HERITAGE ADVISORY COMMITTEE (SU20994) - REPORT OF MANAGER ENVIRONMENTAL STRATEGY AND PLANNING (JT) 9/09/09

143 **RESOLVED UNANIMOUSLY** that -

- 1 The Heritage Advisory Committee provide advice to Council on policy matters relating to the conservation and promotion of Wollongong's Heritage.
- 2 The proposed Heritage Advisory Committee Charter (Attachment I of the report) be endorsed.
- 3 The membership structure of the Heritage Advisory Committee be endorsed and delegation be granted to the General Manager for the appointment of Committee Members.
- 4 The Heritage Reference Group be dissolved.

INFRASTRUCTURE AND WORKS DEPARTMENT

ITEM 3 - TENDER FOR PROPOSED LEASE TO OPERATE/OCCUPY THE BULLI BEACH CAFE/KIOSK AND ANCILLARY ACCOMMODATION - PART LOT 68 DP I 102884 TRINITY ROW, BULLI - TENDER T09-20 (04.17.02.352) - REPORT OF DIRECTOR INFRASTRUCTURE & WORKS (WD) 2/09/09

144 **RESOLVED UNANIMOUSLY** that -

- 1 In accordance with the Local Government (General) Regulations 2005, Clause 178 (1) (a), Council accept the tender by Sea Salt at Bulli Beach for the lease to operate/occupy the Bulli Beach Café/Kiosk and ancillary accommodation for the tendered sum of \$138,476.
- 2 Authority be granted to enter into a lease as follows:

Lessee:	Sea Salt on Bulli Beach
Area to be Leased:	Kiosk and residence located on Part Lot 68 DP I 102884 Trinity Row, Bulli
Permitted Use:	Predominant Use – Kiosk for sale of food, non-alcoholic drinks (subject to Clause 24) and bathing accessories; and Secondary Use – Accommodation for the lessee only to the extent that it is ancillary to the predominant use.
Term:	5-year plus 5-year option
Date of Commencement:	1 November 2009 (tentative)
Commencing Rent:	\$138,476 + GST payable monthly in advance
Review of Rent:	Annual reviews at 4% during the term of the lease with an additional rent of 2% of gross annual turnover in excess of \$2 million.

Minute No.

- | | |
|-------------------------|--|
| Security Amount: | The equivalent of three (3) months rent (+GST). |
| Outgoings: | The Lessee is to be responsible for the payment of all outgoings whatsoever related to the leased area. |
- 3 Council delegate to the General Manager the authority to finalise and execute the lease and any other documentation required to give effect to this resolution.
- 4 Council grant authority for the use of the Common Seal of Council on the lease and any other documentation, should it be required, to give effect to this resolution.

ITEM 4 - CLIFF STABILISATION WORKS AT HARRY GRAHAM DRIVE, KEMBLA HEIGHTS - TENDER NO. T09-19 (04.17.02.344) - REPORT OF MANAGER INFRASTRUCTURE (PS) 8/09/09

145 **RESOLVED UNANIMOUSLY that -**

- 1 In accordance with the Local Government (General) Regulation 2005, Clause 178 (1) (a), Council accept the tender of Specialised Geo Pty Ltd for the tendered sum of \$347,430 (GST Excl) and authorise the General Manager to finalise and execute the contract.
- 2 Council delegate to the General Manager the authority to finalise and execute the contract and any other documentation required to give effect to this resolution.
- 3 Council grant authority for the use of the Common Seal of Council on the contract and any other documentation, should it be required, to give effect to this resolution.

ITEM 5 - ESTABLISHMENT OF PRE-APPROVED LISTS - SUPPLY AND DELIVERY OF ROAD WORKS MATERIALS TO COUNCIL - TENDERS T09/07, T09/14, T09/15 (04.17.02.376) - REPORT OF MANAGER CITY WORKS (DG) 7/09/09

146 **RESOLVED UNANIMOUSLY that -**

- 1 In accordance with the Local Government (General) Regulation 2005, Clause 178 (1) (a), Council accept and endorse each of the recommendations for the various road works supply and delivery tenders to Council.
- 2 Council delegate to the General Manager the authority to finalise and execute the contracts and any other documentation required to give effect to this resolution.
- 3 Council grant authority for the use of the Common Seal of Council on the contracts and any other documentation, should it be required, to give effect to this resolution.

Minute No.

ITEM 6 - CREATION OF RIGHT-OF-WAY OVER LAND AT UNDERWOOD STREET, CORRIMAL (05.02.09.006) - REPORT OF MANAGER PROPERTY AND RECREATION (NR) 7/08/09

- 147 **RESOLVED UNANIMOUSLY** that the matter be deferred pending clarification of the issues raised in the Public Access Forum by Dr Robinson.

ITEM 7 - PROPOSED ROAD CLOSURE AND SALE OF PORTION OF HICKS ROAD, THIRROUL ADJOINING NO 27 MOUNT GILEAD ROAD (28.15.01.065) - REPORT OF MANAGER PROPERTY AND RECREATION (RMC) 11/09/09

- 148 **RESOLVED UNANIMOUSLY** that -

- 1 Council consent to the closure of the portion of public road adjoining Lot 11 DP 1058484 No. 27 Mount Gilead Road, Thirroul, as shown on Attachment 1 of the report, and upon closure, declare the land Operational under the Local Government Act 1993.
- 2 Subject to formal closure, Council authorise the sale of the portion of closed road to the adjoining owner, or his nominee, on the following conditions:
 - a A purchase price of \$9,500 (GST inc).
 - b The purchaser be responsible for all costs associated with the closure and sale including legal fees, survey and plan lodgement fees and Council's reasonable legal fees.
 - c Easements be created in favour of Integral Energy and Telstra.
- 3 Authority be granted to affix the Common Seal of Council to the plan of survey, Section 88B Instrument and transfer documents, together with any other documentation required to give effect to this resolution.

ITEM 8 - PROPOSED DEDICATION OF LANES IN DAPTO AS PUBLIC ROAD (28.01.009) - REPORT OF MANAGER PROPERTY AND RECREATION (RMC) 27/08/09

- 149 **RESOLVED UNANIMOUSLY** that in accordance with Section 16 of the Roads Act 1993, Council approve the dedication as public road of the lanes in Dapto, as shown on Attachment 1 of the report, by the placement of a notice in the NSW Government Gazette.

Minute No.

ITEM 9 - PROPOSED EASEMENT FOR ACCESS FOR LITTER BOOM OVER LOT 1 DP 228880 STUART PARK, NORTH WOLLONGONG (PR51425) - REPORT OF MANAGER PROPERTY AND RECREATION (RMC) 31/08/09

- 150 **RESOLVED UNANIMOUSLY** that -
- 1 Council authorise the acquisition of an easement for access from Sydney Water over Lot 1 DP 228880 Virginia Street, North Wollongong, as shown on Attachment 1 of the report.
 - 2 Council vote the sum of \$3,000 (GST inc) from Account No P979900 Land Acquisitions - Community Infrastructure Fund for the acquisition of the easement for access over Lot 1 DP 228880 Virginia Street, North Wollongong.

CORPORATE AND COMMUNITY SERVICES DEPARTMENT**ITEM 10 - ANNUAL FINANCIAL REPORTS FOR THE YEAR ENDING 30 JUNE 2009 (SU20986) - REPORT OF MANAGER FINANCE (KG) 3/09/09**

- 151 **RESOLVED UNANIMOUSLY** that -
- 1 Mr Hanger be thanked for his presentation.
 - 2 The Annual Financial Reports be endorsed and an opinion be formed in the prescribed format (as per Attachments 2 and 3 of the report) on the General Purpose Financial Reports and the Special Purpose Financial Reports.
 - 3 The audited Financial Reports, together with the Auditor's Report and Financial Commentary (Attachment 4 of the report) be presented to the public at the 27 October 2009 Council meeting.

ITEM 11 - AUGUST 2009 FINANCIALS (12.01.01.001) - REPORT OF MANAGER FINANCE (TR) 10/09/09

- 152 **RESOLVED UNANIMOUSLY** that the report be received and noted.

ITEM 12 - STATEMENT OF INVESTMENTS - AUGUST 2009 (SU23508) - REPORT OF MANAGER FINANCE (EC) 3/09/09

- 153 **RESOLVED UNANIMOUSLY** that Council receive the Statement of Investments for August 2009.

Minute No.

ITEM 13 - BI-MONTHLY TABLING OF RETURNS OF DISCLOSURES OF INTEREST (22.05.01.006) - REPORT OF MANAGER GOVERNANCE AND INFORMATION (PW) 1/09/09

- 154 **RESOLVED UNANIMOUSLY** that Council note the tabling of the Returns of Disclosures of Interest as required by Section 450A of the Local Government Act 1993.

IHAP MATTER

ITEM 14 - 22 SHIRAZ DRIVE DAPTO - CONTINUED USE OF AWNING AND CONSTRUCTION OF GRANNY FLAT - IHAP REPORT (DA-2008/1793) - REPORT OF MANAGER CITY PLANNING (CM) 10/09/09

- 155 **RESOLVED UNANIMOUSLY** that Council grant development consent to DA-2008/1793 subject to conditions.

THE MEETING CONCLUDED AT 5.39 PM

Confirmed as a correct record of proceedings at the Ordinary meeting of the Council of the City of Wollongong held on 27 October 2009.

Chairperson