

MINUTES OF THE ORDINARY MEETING

Meeting Date: Monday, 14 November 2022
Location: Council Chambers, City Administrative Building, Bridge Road, Nowra
Time: 5.31pm

The following members were present:

Clr Amanda Findley - Chairperson
Clr John Kotlash
Clr Matthew Norris
Clr Liza Butler
Clr Moo D'Ath – left 8.15pm
Clr Serena Copley
Clr Paul Ell
Clr Evan Christen
Clr Patricia White
Clr John Wells
Clr Greg Watson
Clr Mark Kitchener
Clr Tonia Gray

The Chairperson read a statement advising those present that the proceedings of this meeting (including presentations, deputations and debate) will be webcast and may be recorded and broadcast under the provisions of the Code of Meeting Practice.

The meeting was opened by an Acknowledgement of Country by the Chairperson, followed with a Moment of Silence & Reflection and the playing of the Australian National Anthem.

Apologies / Leave of Absence

Nil

Confirmation of the Minutes

RESOLVED (Clr Wells / Clr Kotlash) MIN22.838

That the Minutes of the Ordinary Meeting held on Monday 31 October 2022 be confirmed.

FOR: Clr Findley, Clr Kotlash, Clr Norris, Clr Butler, Clr D'Ath, Clr Copley, Clr Ell, Clr Christen, Clr White, Clr Wells, Clr Watson, Clr Kitchener and Clr Gray

AGAINST: Nil

CARRIED

Minutes Confirmed Monday 28 November 2022 – Chairperson.....

Declarations of Interest

Clr Gray – CL22.600 - Notice of Motion - Update and Proposed Next Steps - Land Use Planning Changes for Agritourism – less than significant non pecuniary interest declaration – she owns an RU2 zoned property in the Shoalhaven and a close relative of hers is employed by Destination Sydney Surround South – will remain in the room and will take part in discussion and vote.

MAYORAL MINUTE

Nil

Procedural Motion - Bring Item Forward Call Over of the Business Paper

RESOLVED (Clr D'Ath / Clr Norris) MIN22.839

That the Call Over of the Business be dealt with prior to Deputations.

FOR: Clr Findley, Clr Kotlash, Clr Norris, Clr Butler, Clr D'Ath, Clr Copley, Clr Eil, Clr Christen, Clr White, Clr Wells, Clr Watson, Clr Kitchener and Clr Gray

AGAINST: Nil

CARRIED

CALL OVER OF THE BUSINESS PAPER

Call Over of Business Paper - En bloc

RESOLVED (Clr White / Clr Copley) MIN22.840

That the following item of the Nowra CBD Revitalisation Strategy Committee be resolved en bloc:

- CBD22.36 - Election of Chairperson and Notification of Council Resolution.

Note – the items will be marked with an asterisk (*) in these Minutes.

FOR: Clr Findley, Clr Kotlash, Clr Norris, Clr Butler, Clr D'Ath, Clr Copley, Clr Eil, Clr Christen, Clr White, Clr Wells, Clr Watson, Clr Kitchener and Clr Gray

AGAINST: Nil

CARRIED

Call Over of Business Paper - En bloc

RESOLVED (Clr Christen / Clr Wells) MIN22.841

That the following items from City Performance Directorate be resolved en bloc:

- CL22.582 - Draft Financial Statements for the year ended 30 June 2022
- CL22.586 - Ongoing Register of Pecuniary Interest Returns - October 2022

Note – the items will be marked with an asterisk (*) in these Minutes.

FOR: Clr Findley, Clr Kotlash, Clr Norris, Clr Butler, Clr D'Ath, Clr Copley, Clr Eil, Clr Christen, Clr White, Clr Wells, Clr Watson, Clr Kitchener and Clr Gray

AGAINST: Nil

CARRIED

Call Over of Business Paper - En bloc

RESOLVED (Clr Wells / Clr White) MIN22.842

That the following item from City Futures Directorate be resolved en bloc:

- CL22.588 - Planning Agreement and Works In Kind Agreement Policy Review

Note – the items will be marked with an asterisk (*) in these Minutes.

FOR: Clr Findley, Clr Kotlash, Clr Norris, Clr Butler, Clr D'Ath, Clr Copley, Clr Eil, Clr Christen, Clr White, Clr Wells, Clr Watson, Clr Kitchener and Clr Gray

AGAINST: Nil

CARRIED

Call Over of Business Paper - En bloc

RESOLVED (Clr D'Ath / Clr White) MIN22.843

That the following items from City Services Directorate be resolved en bloc:

- CL22.591 – Proposed Transfer of Lot 1 DP 915430 Brooman Road, Morton from the Minister for Public Works to Shoalhaven City Council
- CL22.592 - IPART Review of Domestic Waste Charges

Note – the items will be marked with an asterisk (*) in these Minutes.

FOR: Clr Findley, Clr Kotlash, Clr Norris, Clr Butler, Clr D'Ath, Clr Copley, Clr Eil, Clr Christen, Clr White, Clr Wells, Clr Watson, Clr Kitchener and Clr Gray

AGAINST: Nil

CARRIED

Call Over of Business Paper - En bloc

RESOLVED (Clr Christen / Clr White) MIN22.844

That the following item from City Development Directorate be resolved en bloc:

- CL22.438 - Policy - Companion Animals (Impacts on Native Fauna) - Conditions of Development Consent

Note – the items will be marked with an asterisk (*) in these Minutes.

FOR: Clr Findley, Clr Kotlash, Clr Norris, Clr Butler, Clr D'Ath, Clr Copley, Clr Eil, Clr Christen, Clr White, Clr Wells, Clr Watson, Clr Kitchener and Clr Gray

AGAINST: Nil

CARRIED

Call Over of Business Paper - En bloc

RESOLVED (Clr Wells / Clr Eil) MIN22.845

That the following items from the City Lifestyles Directorate be resolved en bloc:

- CL22.593 – Policy – Shoalhaven Sports Board Terms of Reference
- CL22.594 – Policy – Terms of Reference - Inclusion and Access Advisory Group and Aboriginal Advisory Committee

- CL22.595 – Rescind Policy - Community Facilities - Use and Hire for Commercial Activities

Note – the items will be marked with an asterisk (*) in these Minutes.

FOR: Clr Findley, Clr Kotlash, Clr Norris, Clr Butler, Clr D'Ath, Clr Copley, Clr Eil, Clr Christen, Clr White, Clr Wells, Clr Watson, Clr Kitchener and Clr Gray

AGAINST: Nil

CARRIED

Call Over of Business Paper - En bloc

RESOLVED (Clr Wells / Clr Gray)

MIN22.846

That the following items from Shoalhaven Water be resolved en bloc:

- CL22.596 – Acquisition of Easement for Water Supply - Lot 3 DP 595695 - 109 Main Road Cambewarra
- CL22.597 – Classification of Land - Lot 21 DP 1284124 Abernethys Lane Meroo Meadow

Note – the items will be marked with an asterisk (*) in these Minutes.

FOR: Clr Findley, Clr Kotlash, Clr Norris, Clr Butler, Clr D'Ath, Clr Copley, Clr Eil, Clr Christen, Clr White, Clr Wells, Clr Watson, Clr Kitchener and Clr Gray

AGAINST: Nil

CARRIED

Call Over of Business Paper - En bloc

RESOLVED (Clr Kitchener / Clr Christen)

MIN22.847

That the following Councillor Conference Report be resolved en bloc:

- CL22.598 – Australian Regional Tourism Convention

Note – the items will be marked with an asterisk (*) in these Minutes.

FOR: Clr Findley, Clr Kotlash, Clr Norris, Clr Butler, Clr D'Ath, Clr Copley, Clr Eil, Clr Christen, Clr White, Clr Wells, Clr Watson, Clr Kitchener and Clr Gray

AGAINST: Nil

CARRIED

DEPUTATIONS AND PRESENTATIONS

CL22.572 - Notice of Motion - Affordable Housing

Mr Peter Dover addressed the meeting to speak FOR the recommendation.

CL22.589 - Report Back - Short Term Protection Options – Former Anglican Church, Huskisson

Ms Joanne Warren representing Huskisson Heritage Association (HHA) addressed the meeting to speak FOR the recommendation.

CL22.599 – Rescission Motion - CL22.547 - Tree Management in Shoalhaven - Proposed Trial Amendment to Shoalhaven Development Control Plan 2014 - 45 Degree Rule and Asset Protection Zone Clearing

Mr Mark Fleming addressed the meeting to speak AGAINST the recommendation.

Ms Carlene Timbs addressed the meeting to speak FOR the recommendation.

Mr Ian Little addressed the meeting to speak AGAINST the recommendation.

CL22.600 - Update and Proposed Next Steps - Land Use Planning Changes for Agritourism

Mr Stuart Coughlan representing The Berry Forum addressed the meeting to speak FOR the recommendation.

CL22.601 – Notice of Motion – Call in and Councillor Briefing – Hitchcock’s Lane - SF10965

Mr Rick Gainford representing Huntingdale Park Residents Action Group addressed the meeting to speak FOR the recommendation.

CL22.603 – Notice of Motion - Urgent Inclusion of Character Considerations in Shoalhaven’s Key Planning Instruments

Mr Bruce Goldsmith representing Sanctuary Point Community Champions addressed the meeting to speak FOR the recommendation.

Mr John Jeston addressed the meeting to speak FOR the recommendation.

Procedural Motion - Bring Items Forward

RESOLVED (Clr Butler / Clr Ell)

MIN22.848

That the following items be brought forward for consideration:

- CL22.572 - Notice of Motion - Affordable Housing
- CL22.589 - Report Back - Short Term Protection Options - Former Anglican Church, Huskisson
- CL22.599 - Rescission Motion - CL22.547 - Tree Management in Shoalhaven - Proposed Trial Amendment to Shoalhaven Development Control Plan 2014 - 45 Degree Rule and Asset Protection Zone Clearing
- CL22.600 - Notice of Motion - Update and Proposed Next Steps - Land Use Planning Changes for Agritourism
- CL22.601 - Notice of Motion - Call in and Councillor Briefing - Hitchcock’s Lane - SF10965
- CL22.603 - Notice of Motion - Urgent Inclusion of Character Considerations in Shoalhaven’s Key Planning Instruments

FOR: Clr Findley, Clr Kotlash, Clr Norris, Clr Butler, Clr D’Ath, Clr Copley, Clr Ell, Clr Christen, Clr White, Clr Wells, Clr Watson, Clr Kitchener and Clr Gray

AGAINST: Nil

CARRIED

CL22.572 Notice of Motion - Affordable Housing

**HPERM Ref:
D22/449280**

Note: A Deputation was received on this item.

Recommendation

That Council:

1. Prioritise the envisaged five-year review of its adopted Affordable Housing Strategy (2018) in 2023 to identify and confirm the work Council can undertake to contribute to improving housing affordability and increase the supply of affordable (rental) housing.
2. Concurrently with the review of the adopted Strategy, investigate in detail the potential to establish an “Affordable Housing Development Contribution Scheme”. This work should identify

the viability of such a scheme, opportunities and mechanisms to apply it, and the work required to implement it in Council's planning documents, including the Local Environmental Plan, Development Contributions Plan, and a new policy governing the use of Voluntary Planning Agreements to achieve this aim.

3. As the work on Parts (a) and (b) proceeds, consider the establishment of a restricted reserve for the provision of various forms of affordable housing, housing for seniors and people with a disability, and crisis and transitional housing. The use of the reserve to provide these types of housing to be in partnership with recognised community housing and homelessness services operating in Shoalhaven.

RESOLVED (Clr Wells / Clr Findley)

MIN22.849

That Council:

1. Prioritise the envisaged five-year review of its adopted Affordable Housing Strategy (2018) in 2023 to identify and confirm the work Council can undertake to contribute to improving housing affordability and increase the supply of affordable (rental) housing.
2. Concurrently with the review of the adopted Strategy, investigate in detail the potential to establish an "Affordable Housing Development Contribution Scheme". This work should identify the viability of such a scheme, opportunities and mechanisms to apply it, and the work required to implement it in Council's planning documents, including the Local Environmental Plan, Development Contributions Plan, and a new policy governing the use of Voluntary Planning Agreements to achieve this aim.
3. As the work on Parts (1) and (2) proceeds, consider the establishment of a restricted reserve for the provision of various forms of affordable housing, housing for seniors and people with a disability, and crisis and transitional housing. The use of the reserve to provide these types of housing to be in partnership with recognised community housing and homelessness services operating in Shoalhaven.

FOR: Clr Findley, Clr Kotlash, Clr Norris, Clr Butler, Clr D'Ath, Clr Copley, Clr Ell, Clr Christen, Clr White, Clr Wells, Clr Watson, Clr Kitchener and Clr Gray

AGAINST: Nil

CARRIED

CL22.589 Report Back - Short Term Protection Options - Former Anglican Church, Huskisson

HPERM Ref: D22/445321

Note: A Deputation was received on this item.

Recommendation

That Council

1. Receive and note the options outlined in this report.
2. Note that the landowner has been advised in writing that development consent is required to carry out scraping work within 1m of lot boundaries and a written undertaking sought to the effect that no works will be done in that area unless and until development consent is obtained.

RESOLVED (Clr Christen / Clr Findley)

MIN22.850

That Council:

1. Receive and note the options outlined in this report.

2. Note that the landowner has been advised in writing that development consent is required to carry out scraping work within 1m of lot boundaries and a written undertaking sought to the effect that no works will be done in that area unless and until development consent is obtained.
3. Note that on 13 November 2022, the Commonwealth Government issued an Emergency Declaration under Section 18 of the Aboriginal and Torres Strait Islander Heritage Protection Act 1984 in relation to the former Anglican Holy Trinity Church grounds, in Huskisson that is now in place until 5.00pm 15 November 2022.
4. Take the necessary steps to enable Council to seek an injunction in the event that scraping works are undertaken within 1 metre of lot boundaries without the required development consent.
5. Write to the NSW Minister for Heritage and ask that an Interim Heritage Order (IHO) be made for the site under s.24(1) of the Heritage Act.
6. Consider:
 - a. Writing to the NSW Heritage Council requesting that it revoke the s.140 Excavation Permits that have been issued.
 - b. Writing to the Secretary of the NSW Department of Planning and Environment requesting that the Secretary consider making a stop works order and/or recommend that the Minister issue an Interim Protection Order under the NPW Act over the Site. Council could also request that the Minister consider declaring the Site to be an Aboriginal place by notice in the Gazette.
7. Seek assurance from the landowner that the surface scraping will be deferred for an appropriate period while offering to facilitate with external independent assistance a negotiation/conciliation process with the key parties.
8. Receive a status report on or prior to the Ordinary Meeting, 12 December 2022.

FOR: Clr Findley, Clr Kotlash, Clr Norris, Clr Butler, Clr D'Ath, Clr Christen and Clr Gray

AGAINST: Clr Copley, Clr Ell, Clr White, Clr Wells, Clr Watson and Clr Kitchener

CARRIED

CL22.599 Rescission Motion - CL22.547 - Tree Management in Shoalhaven - Proposed Trial Amendment to Shoalhaven Development Control Plan 2014 - 45 Degree Rule and Asset Protection Zone Clearing	HPERM Ref: D22/463435
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Note: Deputations were received on this item.

Recommendation

That Council rescind the Motion relating to Item CL22.547 - Tree Management in Shoalhaven - Proposed Trial Amendment to Shoalhaven Development Control Plan 2014 - 45 Degree Rule and Asset Protection Zone Clearing of the Council Meeting held on Monday 31 October 2022.

MOTION (LOST) (Clr Watson / Clr Ell)

MIN22.851

That Council rescind the Motion relating to Item CL22.547 - Tree Management in Shoalhaven - Proposed Trial Amendment to Shoalhaven Development Control Plan 2014 - 45 Degree Rule and Asset Protection Zone Clearing of the Council Meeting held on Monday 31 October 2022.

FOR: Clr Copley, Clr Ell, Clr White, Clr Wells, Clr Watson and Clr Kitchener

AGAINST: Clr Findley, Clr Kotlash, Clr Norris, Clr Butler, Clr D'Ath, Clr Christen and Clr Gray

LOST

**CL22.600 Notice of Motion - Update and Proposed Next Steps -
Land Use Planning Changes for Agritourism**

**HPERM Ref:
D22/469317**

Note: A Deputation was received on this item.

Clr Gray – less than significant non pecuniary interest declaration – she owns an RU2 zoned property in the Shoalhaven and a close relative of hers is employed by Destination Sydney Surround South – remained in the room and took part in discussion and voted.

Note: Clr D’Ath left the meeting at 8.15pm during discussion on this item.

Recommendation

That Council:

1. Urgently inform the NSW Government that Council insists that the new ‘Agritourism’, ‘Farm experience premises’ and ‘Farm gate premises’ land use terms be prohibited across all zones in the Shoalhaven LEP 2014, including in the RU1, RU2 and C3 zones.
2. Remind the DPE of its many assurances via the Explanation of Intended Effect, statements on the Planning Portal and various emails that councils could “*identify zones in which they wish to allow the new farm events and farm gate land uses*”, and “*councils could decide to amend their LEPs to prohibit these new uses in all zones.*”
3. Strongly object to the ambiguity and quasi mandating of ‘Agritourism’ and its sub terms as permissible with consent in the Shoalhaven LEP 2014 from 1 December 2022 and February 2023.
4. Strongly object to the significant weakening of the development standards in the exempt and complying provisions that were exhibited in 2021 and have been amended and notified without any meaningful consultation with Council.
5. Note Council’s strong disappointment with the lack of meaningful or transparent consultation with local constituents and communities, and the disregard for the LGNSW President Darrirea Turley’s letter outlining serious concerns (dated Oct 13, 2022).
6. Should the NSW Government persist with effectively mandating ‘Agritourism’ in certain zones in Shoalhaven:
 - a. Opt-in to the ‘Farm gate premises’ and ‘Farm stay accommodation’ optional clauses for Shoalhaven LEP 2014 and the ‘Farm stay accommodation’ optional clause for the Shoalhaven LEP (Jerberra Estate) 2014.
 - b. Commence the preparation of a Planning Proposal to provide additional development standards relating to the ‘Farm gate premises’ and ‘Farm stay accommodation’ optional clauses. Report the draft Planning Proposal back to Council with the draft Tourism Amendment to Shoalhaven Development Control Plan 2014, in due course.
 - c. Strongly request a deferral from the commencement of the Agritourism Reforms until February 2024, to enable the preparation, exhibition and finalisation of a Planning Proposal and detailed Development Control Plan provisions (as required), that will establish additional Shoalhaven specific development standards for the range of agritourism land uses.
7. Request that the NSW Government commit to:
 - a. Arranging public information sessions, as a matter of urgency, to explain the reforms to the public and interested communities; and

- b. Depending on what eventuates, undertaking a 12 month review of the reforms to enable them to be refine, improve or adjust if needed or appropriate.
8. Send a copy of this resolution to:
- a. The Director, Planning Legislation & Economic Policy at the Department of Planning and Environment, Ms Paulina Wythes.
 - b. The Deputy Premier and Minister for Regional NSW, the Hon. Paul Toole.
 - c. The Shadow Minister for Regional NSW and Shadow Minister for Agriculture, the Hon. Mick Veitch.
 - d. The Minister for Planning and Minister for Homes, the Hon. Anthony Roberts.
 - e. The Former Minister for Planning and Minister for Homes, the Hon. Rob Stokes.
 - f. The Shadow Minister for Planning and Public Spaces, the Hon. Paul Scully.
 - g. The Minister for Agriculture, the Hon. Dugald Saunders.
 - h. The NSW Minister for Environment and Heritage, the Hon. James Griffin.
 - i. The Member for the South Coast, the Hon. Shelley Hancock.
 - j. The Member for Kiama, Mr Gareth Ward.
 - k. Local Government NSW, Attn: LGNSW President Darriea Turley.
 - l. The community members/industry representatives who have previously engaged with Council on this issue.

RESOLVED (Clr Gray / Clr Copley)

MIN22.852

That Council:

1. Urgently inform the NSW Government that Council insists that the new 'Agritourism', 'Farm experience premises' and 'Farm gate premises' land use terms be prohibited across all zones in the Shoalhaven LEP 2014, including in the RU1, RU2 and C3 zones.
2. Remind the DPE of its many assurances via the Explanation of Intended Effect, statements on the Planning Portal and various emails that councils could "*identify zones in which they wish to allow the new farm events and farm gate land uses*", and "*councils could decide to amend their LEPs to prohibit these new uses in all zones.*"
3. Strongly object to the ambiguity and quasi mandating of 'Agritourism' and its sub terms as permissible with consent in the Shoalhaven LEP 2014 from 1 December 2022 and February 2023.
4. Strongly object to the significant weakening of the development standards in the exempt and complying provisions that were exhibited in 2021 and have been amended and notified without any meaningful consultation with Council.
5. Note Council's strong disappointment with the lack of meaningful or transparent consultation with local constituents and communities, and the disregard for the LGNSW President Darriea Turley's letter outlining serious concerns (dated Oct 13, 2022).
6. Should the NSW Government persist with effectively mandating 'Agritourism' in certain zones in Shoalhaven:
 - a. Opt-in to the 'Farm gate premises' and 'Farm stay accommodation' optional clauses for Shoalhaven LEP 2014 and the 'Farm stay accommodation' optional clause for the Shoalhaven LEP (Jerberra Estate) 2014.
 - b. Commence the preparation of a Planning Proposal to provide additional development standards relating to the 'Farm gate premises' and 'Farm stay accommodation' optional clauses. Report the draft Planning Proposal back to Council with the draft Tourism

Amendment to Shoalhaven Development Control Plan 2014, in due course.

- c. Strongly request a deferral from the commencement of the Agritourism Reforms until February 2024, to enable the preparation, exhibition and finalisation of a Planning Proposal and detailed Development Control Plan provisions (as required), that will establish additional Shoalhaven specific development standards for the range of agritourism land uses.
7. Request that the NSW Government commit to:
 - a. Arranging public information sessions, as a matter of urgency, to explain the reforms to the public and interested communities; and
 - b. Depending on what eventuates, undertaking a 12 month review of the reforms to enable them to be refine, improve or adjust if needed or appropriate.
 8. Send a copy of this resolution to:
 - a. The Director, Planning Legislation & Economic Policy at the Department of Planning and Environment, Ms Paulina Wythes.
 - b. The Deputy Premier and Minister for Regional NSW, the Hon. Paul Toole.
 - c. The Shadow Minister for Regional NSW and Shadow Minister for Agriculture, the Hon. Mick Veitch.
 - d. The Minister for Planning and Minister for Homes, the Hon. Anthony Roberts.
 - e. The Former Minister for Planning and Minister for Homes, the Hon. Rob Stokes.
 - f. The Shadow Minister for Planning and Public Spaces, the Hon. Paul Scully.
 - g. The Minister for Agriculture, the Hon. Dugald Saunders.
 - h. The NSW Minister for Environment and Heritage, the Hon. James Griffin.
 - i. The Member for the South Coast, the Hon. Shelley Hancock.
 - j. The Member for Kiama, Mr Gareth Ward.
 - k. Local Government NSW, Attn: LGNSW President Darriea Turley.
 - l. The community members/industry representatives who have previously engaged with Council on this issue.
 9. Work with Byron Shire Council and any other Councils that can be identified to seek an opt out clause after 12 months and that this and other concerns need to be raised as a Ministerial Delegation
 10. Acknowledges the importance traditional farming plays in our local community, and seeks to strengthen land use protections to minimise conflicts.

FOR: Clr Findley, Clr Kotlash, Clr Norris, Clr Butler, Clr D'Ath, Clr Copley, Clr Ell, Clr Christen, Clr White, Clr Wells and Clr Gray

AGAINST: Clr Watson and Clr Kitchener

CARRIED

CL22.601 Notice of Motion - Call in and Councillor Briefing - Hitchcock's Lane - SF10965

HPERM Ref: D22/463472

Note: A Deputation was received on this item.

Recommendation

That:

1. Councillors be briefed on the application for Hitchcock's Lane (SF10965).
2. The application SF10965 be called up to Council for decision due to public interest.

RESOLVED (Clr Norris / Clr White)

MIN22.853

That:

1. Councillors be briefed on the application for Hitchcock's Lane (SF10965).
2. The application SF10965 be called up to Council for decision due to public interest.

FOR: Clr Findley, Clr Kotlash, Clr Norris, Clr Butler, Clr Copley, Clr Ell, Clr Christen, Clr White, Clr Wells, Clr Watson, Clr Kitchener and Clr Gray

AGAINST: Nil

CARRIED

Procedural Motion - Bring Item Forward

RESOLVED (Clr White / Clr Norris)

MIN22.854

That the matter of item CL22.602 - Notice of Motion - Councillor Briefing - RA21/1003 - South Moss Vale Road Subdivision be brought forward for consideration.

FOR: Clr Findley, Clr Kotlash, Clr Norris, Clr Butler, Clr Copley, Clr Ell, Clr Christen, Clr White, Clr Wells, Clr Watson, Clr Kitchener and Clr Gray

AGAINST: Nil

CARRIED

CL22.602 Notice of Motion - Councillor Briefing - RA21/1003 - South Moss Vale Road Subdivision

HPERM Ref: D22/469401

Recommendation

That Councillors receive a briefing on the application for South Moss Vale Rd submitted with Council (RA21/1003).

RESOLVED (Clr Norris / Clr Gray)

MIN22.855

That Councillors receive a briefing on the application for South Moss Vale Rd submitted with Council (RA21/1003).

FOR: Clr Findley, Clr Kotlash, Clr Norris, Clr Butler, Clr Copley, Clr Ell, Clr Christen, Clr White, Clr Wells, Clr Watson, Clr Kitchener and Clr Gray

AGAINST: Nil

CARRIED

CL22.603 Notice of Motion - Urgent Inclusion of Character Considerations in Shoalhaven's Key Planning Instruments

**HPERM Ref:
D22/471521**

Note: Deputations were received on this item.

Recommendation

That Council

1. Discuss and consider this critical community issue as part of the special Strategic Planning Working Party meeting that has been scheduled for 26 November 2022.
2. Receive a report back as soon as possible following the Working Party meeting on the immediate steps that can be taken to strengthen the important recognition and consideration of character in Councils key planning instruments (Local Environmental Plan and Development Control Plan); and,
3. Request that the report in Recommendation 2., include: setting of timeframes to expedite this critical work; resulting potential resourcing implications; and options for consideration in this regard.

RESOLVED (Clr Christen / Clr Gray)

MIN22.856

That Council:

1. Discuss and consider this critical community issue as part of the special Strategic Planning Working Party meeting that has been scheduled for 26 November 2022.
2. Receive a report back as soon as possible following the Working Party meeting on the immediate steps that can be taken to strengthen the important recognition and consideration of character in Councils key planning instruments (Local Environmental Plan and Development Control Plan); and,
3. Request that the report in Recommendation 2., include:
 - a. Setting of timeframes to expedite this critical work;
 - b. Outlining potential resourcing implications with options for consideration;
 - c. Ensuring adequate community input into the development of character statements through multiple options.

FOR: Clr Findley, Clr Kotlash, Clr Norris, Clr Butler, Clr Copley, Clr Ell, Clr Christen, Clr White, Clr Wells, Clr Watson, Clr Kitchener and Clr Gray

AGAINST: Nil

CARRIED

Procedural Motion - Bring Item Forward

RESOLVED (Clr Kotlash / Clr Findley)

MIN22.857

That the matter of item CL22.585 - Misuse of Council Resources – March 2023 State Election be brought forward for consideration.

FOR: Clr Findley, Clr Kotlash, Clr Norris, Clr Butler, Clr Copley, Clr Ell, Clr Christen, Clr White, Clr Wells, Clr Watson, Clr Kitchener and Clr Gray

AGAINST: Nil

CARRIED

CL22.585 Misuse of Council Resources – March 2023 State Election

**HPERM Ref:
D22/462835**

Recommendation

That the information in relation to use of council resources and electoral matter in advance of the 2023 State Government elections be noted.

RESOLVED (Clr Kotlash / Clr Norris)

MIN22.858

That the information in relation to use of council resources and electoral matter in advance of the 2023 State Government elections be noted.

FOR: Clr Findley, Clr Kotlash, Clr Norris, Clr Butler, Clr Copley, Clr Eil, Clr Christen, Clr White, Clr Wells, Clr Watson, Clr Kitchener and Clr Gray

AGAINST: Nil

CARRIED

REPORT OF THE NOWRA CBD REVITALISATION STRATEGY COMMITTEE - 25 OCTOBER 2022

Items marked with an * were resolved ‘en block’.

CBD22.36 Election of Chairperson and Notification of Council Resolution

**HPERM Ref:
D22/424923**

RESOLVED* (Clr White / Clr Copley)

MIN22.859

That Council:

1. Note the Committee received the report regarding Council Resolution – Re-establishment for information; and
2. Reaffirm James Caldwell as Chairperson for the period to September 2023 for the Nowra CBD Revitalisation Committee.

FOR: Clr Findley, Clr Kotlash, Clr Norris, Clr Butler, Clr D'Ath, Clr Copley, Clr Eil, Clr Christen, Clr White, Clr Wells, Clr Watson, Clr Kitchener and Clr Gray

AGAINST: Nil

CARRIED

REPORTS

Items marked with an * were resolved 'en block'.

CL22.582 Draft Financial Statements for the year ended 30 June 2022

**HPERM Ref:
D22/457081**

RESOLVED* (Clr Christen / Clr Wells)

MIN22.860

That:

1. Council receives and notes the draft Financial Statements for the year ended 30 June 2022 and commentary on the draft Statements presented as Attachments 1, 2 and 3 to this report.
2. The Mayor, Deputy Mayor, Chief Executive Officer and Responsible Accounting Officer sign the statements on the preparation of the Financial Statements for the year ended 30 June 2022 in accordance with Section 413(2)(c) of the Local Government Act 1993 and requirements under the Local Government Code of Accounting Practice and Financial Reporting 2021-22 presented as Attachments 4 and 5 to this report.
3. The draft Financial Statements for the year ended 30 June 2022 be formally referred to Council's External Auditor, Audit Office of New South Wales, in accordance with Section 413 of the Local Government Act 1993.
4. Council, in anticipation of receiving the Auditor's Report, set the Council Meeting to be held on 12 December 2022 as the meeting at which the audited Financial Statements for the year ended 30 June 2022 and Audit Report be presented to the public in accordance with Section 418 of the Local Government Act 1993.

FOR: Clr Findley, Clr Kotlash, Clr Norris, Clr Butler, Clr D'Ath, Clr Copley, Clr Ell, Clr Christen, Clr White, Clr Wells, Clr Watson, Clr Kitchener and Clr Gray

AGAINST: Nil

CARRIED

CL22.583 DPOP 2022-23 - Quarterly Performance and Budget Report (July - September)

**HPERM Ref:
D22/432241**

Recommendation

That Council:

1. Receive the September Quarterly Performance Report on the 2022-2026 Delivery Program and 2022-2023 Operational Plan and publish on Council's website.
2. Receive the September 2022 Quarterly Budget Review Report.
3. Adopt the budget adjustments as outlined in the September 2022 Quarterly Budget Report Document.

RESOLVED (Clr Wells / Clr Butler)

MIN22.861

That Council:

1. Receive the September Quarterly Performance Report on the 2022-2026 Delivery Program and 2022-2023 Operational Plan and publish on Council's website.
2. Receive the September 2022 Quarterly Budget Review Report.
3. Adopt the budget adjustments as outlined in the September 2022 Quarterly Budget Report Document.

4. Allocate \$50K for the consultation and detailed design for a new playground for the Kangaroo Valley community and source that funding through a budget adjustment in a future quarterly budget review.
5. Notes the Murramarang Rd – Pedestrian Bawley Point Shared User Path (\$1.8M) was unsuccessful in its grant application and it be listed in the next quarterly review as an “unfunded” project and Council actively seek grant funding to fund this project.
6. Notes the Sheaffe Street, Callala Bay footpath, be listed in the next quarterly review as an “unfunded” project and Council actively seeks grant funding to fund this project.

FOR: Clr Findley, Clr Kotlash, Clr Norris, Clr Butler, Clr Copley, Clr Ell, Clr Christen, Clr White, Clr Wells, Clr Watson, Clr Kitchener and Clr Gray

AGAINST: Nil

CARRIED

CL22.584 Policy - Privacy Management Plan for Adoption

**HPERM Ref:
D22/325016**

Recommendation

That Council

1. Adopt the Privacy Management Plan with changes as detailed in the attachment.
2. The amended Privacy Management Plan be forwarded to the Privacy Commissioner of NSW in accordance with Section 33 of the Privacy & Personal Information Protection Act, 1998.

RESOLVED (Clr Ell / Clr White)

MIN22.862

That Council:

1. Adopt the Privacy Management Plan with changes as detailed in the attachment.
2. The amended Privacy Management Plan be forwarded to the Privacy Commissioner of NSW in accordance with Section 33 of the Privacy & Personal Information Protection Act, 1998.

FOR: Clr Findley, Clr Kotlash, Clr Norris, Clr Butler, Clr Copley, Clr Ell, Clr Christen, Clr White, Clr Wells, Clr Watson, Clr Kitchener and Clr Gray

AGAINST: Nil

CARRIED

CL22.585 Misuse of Council Resources – March 2023 State Election

**HPERM REF:
D22/462835**

Item dealt with earlier in the meeting see MIN22.858

**CL22.586 Ongoing Register of Pecuniary Interest Returns -
October 2022**

**HPERM Ref:
D22/429088**

RESOLVED* (Clr Christen / Clr Wells)

MIN22.863

That the report of the Chief Executive Officer regarding the Ongoing Register of Pecuniary Interest Returns lodged for the period of 1 October to 31 October 2022 be received for information.

FOR: Clr Findley, Clr Kotlash, Clr Norris, Clr Butler, Clr D'Ath, Clr Copley, Clr Ell, Clr Christen, Clr White, Clr Wells, Clr Watson, Clr Kitchener and Clr Gray

AGAINST: Nil

CARRIED

**CL22.587 Proposed Voluntary Planning Agreement - Part of
Mundamia Urban Release Area**

**HPERM Ref:
D22/436072**

Recommendation

That Council:

1. Provide in-principle support to enter into a Voluntary Planning Agreement (VPA) with the owner and developer (Jemalong Mundamia Pty Ltd) of Lot 30 DP 1198692, George Evans and Jonsson Roads, in the Mundamia Urban Release Area in relation to:
 - a. The design and construction of Roundabout 01 by the Developer - Council will contribute 58% of the additional cost of the roundabout.
 - b. The design and construction of Roundabout 03 by the Developer - Council will contribute 18% of the additional cost of the roundabout.
 - c. The dedication or acquisition, by Council, of any land adjoining the roundabouts required to facilitate construction, except where the Developer owns the required land, where the land will be dedicated to Council at no cost.
 - d. The design and construction of the threshold on Jonsson Road by the Developer - Council will contribute 100% of the additional construction cost.
 - e. The design and construction of the Community Hall by the Developer, as approved via DA20/1652.
 - f. Conditioned s7.11 contributions for project 01CFAC0014 (Community Hall) will not be payable by the Developer.
 - g. The dedication of the proposed central public reserve (6,344m²) to Council by the Developer, at no cost.
 - h. Payment of maintenance costs for the roundabouts and community centre by the Developer, if required.
 - i. Bushfire management measures that need to be considered in the VPA by the Developer, following the resolution of the deferred commencement conditions, if any.
2. Endorse the allocation of deleted funds, where available, to cover Council's contribution and any surplus value relating to the delivery of the community hall (01CFAC0014).
3. Delegate authority to Council's Chief Executive Officer, or his delegate, to:
 - a. Finalise negotiations including acceptance of plans and independent costings of works.
 - b. Prepare the draft VPA and associated Explanatory Note.
 - c. Publicly exhibit the draft VPA and associated Explanatory Note for a minimum period of 28 days as required by legislation.

- d. Enter into the Voluntary Planning Agreement consistent with the detailed key terms in Part 1 above, except where objections or substantial issues are raised as a result of public notification, in which case the Voluntary Planning Agreement is to be reported to Council before it is entered into.

RESOLVED (Clr Kotlash / Clr Norris)

MIN22.864

That Council:

1. Provide in-principle support to enter into a Voluntary Planning Agreement (VPA) with the owner and developer (Jemalong Mundamia Pty Ltd) of Lot 30 DP 1198692, George Evans and Jonsson Roads, in the Mundamia Urban Release Area in relation to:
 - a. The design and construction of Roundabout 01 by the Developer - Council will contribute 58% of the additional cost of the roundabout.
 - b. The design and construction of Roundabout 03 by the Developer - Council will contribute 18% of the additional cost of the roundabout.
 - c. The dedication or acquisition, by Council, of any land adjoining the roundabouts required to facilitate construction, except where the Developer owns the required land, where the land will be dedicated to Council at no cost.
 - d. The design and construction of the threshold on Jonsson Road by the Developer - Council will contribute 100% of the additional construction cost.
 - e. The design and construction of the Community Hall by the Developer, as approved via DA20/1652.
 - f. Conditioned s7.11 contributions for project 01CFAC0014 (Community Hall) will not be payable by the Developer.
 - g. The dedication of the proposed central public reserve (6,344m²) to Council by the Developer, at no cost.
 - h. Payment of maintenance costs for the roundabouts and community centre by the Developer, if required.
 - i. Bushfire management measures that need to be considered in the VPA by the Developer, following the resolution of the deferred commencement conditions, if any.
2. Endorse the allocation of deleted funds, where available, to cover Council's contribution and any surplus value relating to the delivery of the community hall (01CFAC0014).
3. Council staff brief Councillors on the outcome and progress of VPA negotiations.
4. After Recommendation 3 is undertaken, delegate authority to Council's Chief Executive Officer, or his delegate, to:
 - a. Finalise negotiations including acceptance of plans and independent costings of works.
 - b. Prepare the draft VPA and associated Explanatory Note.
 - c. Publicly exhibit the draft VPA and associated Explanatory Note for a minimum period of 28 days as required by legislation.
 - d. Enter into the Voluntary Planning Agreement consistent with the detailed key terms in Part 1 above, except where objections or substantial issues are raised as a result of public notification, in which case the Voluntary Planning Agreement is to be reported to Council before it is entered into.

FOR: Clr Findley, Clr Kotlash, Clr Norris, Clr Butler, Clr Copley, Clr Ell, Clr Christen, Clr White, Clr Wells, Clr Watson, Clr Kitchener and Clr Gray

AGAINST: Nil

CARRIED

Items marked with an * were resolved 'en block'.

CL22.588 Planning Agreement and Works In Kind Agreement Policy Review

**HPERM Ref:
D22/443899**

RESOLVED* (Clr Wells / Clr White)

MIN22.865

That Council reaffirm the Planning Agreement Policy (POL19/78) and Works In Kind Policy (POL19/79), with the minor changes and additions changes outlined in Attachment 1 and 2.

FOR: Clr Findley, Clr Kotlash, Clr Norris, Clr Butler, Clr D'Ath, Clr Copley, Clr Ell, Clr Christen, Clr White, Clr Wells, Clr Watson, Clr Kitchener and Clr Gray

AGAINST: Nil

CARRIED

CL22.589 Report Back - Short Term Protection Options - Former Anglican Church, Huskisson

**HPERM REF:
D22/445321**

Item dealt with earlier in the meeting see MIN22.850

CL22.590 Proposed Land Disposal - North Crescent Culburra Beach

**HPERM Ref:
D22/173460**

Recommendation

That Council

1. Authorise the sale and consolidation of:
 - a. Proposed Lot 2 (108.4m²) to the owner of Lot 738 DP 12278 (112 Penguin Head Road, Culburra) for \$6,600 (plus GST if applicable).
 - b. Proposed Lot 3 (73.6m²) to the owner of Lot 1 DP 28615 (37 Allerton Ave, Culburra), for \$4,500 (plus GST if applicable).
 - c. Proposed Lot 4 (308.7m²) to the owner of Lot 7621 DP 1205582 (118 Marina Lane, Culburra), for \$110,000 (plus GST if applicable).
2. The purchasers of proposed Lots 2, 3 and 4 are responsible for all costs involved with lot consolidation and their legal costs;
3. Authorise the proceeds from sale of the closed road to be allocated to the Property Reserve – Roads, in accordance with the *Roads Act 1993*;
4. Authorise for the Common Seal of the Council of the City of Shoalhaven to be affixed to any documentation requiring to be sealed and delegate to the CEO authority to sign any documentation necessary to give effect to this resolution.

RESOLVED (Clr Christen / Clr Kotlash)

MIN22.866

That the matter relating to Proposed Land Disposal - North Crescent Culburra Beach be deferred to a Clr Briefing.

FOR: Clr Findley, Clr Kotlash, Clr Norris, Clr Butler, Clr Copley, Clr Ell, Clr Christen, Clr White, Clr Wells, Clr Watson, Clr Kitchener and Clr Gray

AGAINST: Nil
CARRIED

Items marked with an * were resolved 'en block'.

CL22.591 Proposed Transfer of Lot 1 DP 915430 Brooman Road, Morton from the Minister for Public Works to Shoalhaven City Council **HPERM Ref: D22/435603**

RESOLVED* (Clr D'Ath / Clr White) **MIN22.867**

That Council

1. Accept the transfer of Lot 1 DP 915430 from The Minister for Public Works for the purpose of Public Road at nil compensation;
2. Upon transfer the land be dedicated as public road in accordance with Section 10 of the *Roads Act 1993*;
3. Pay all associated costs from Property Reserve Roads; and
4. Grant authority to affix the Common Seal of the Council of the City of Shoalhaven to any documents required to be sealed and that the Chief Executive Officer be authorised to sign any documents necessary to give effect to this resolution.

FOR: Clr Findley, Clr Kotlash, Clr Norris, Clr Butler, Clr D'Ath, Clr Copley, Clr Ell, Clr Christen, Clr White, Clr Wells, Clr Watson, Clr Kitchener and Clr Gray

AGAINST: Nil
CARRIED

CL22.592 IPART Review of Domestic Waste Charges **HPERM Ref: D22/459895**

RESOLVED* (Clr D'Ath / Clr White) **MIN22.868**

That Council accept the IPART review of domestic waste management service charges and their recommendations as follows:

1. To not publish an indicative 'benchmark' waste peg or report on Council's performance against such a benchmark;
2. To continue making decisions on whether to limit domestic waste management (DWM) annual charges in future years in the context of the NSW Office of Local Government (OLG)'s regulatory role and commitment to its recommended regulatory approach for DWM annual charges; and
3. Request the NSW Office of Local Government (OLG) develop and implement, in consultation with stakeholders, its recommended regulatory approach that OLG:
 - a. Update its Council Rating and Revenue Raising Manual to provide further guidance to Councils on setting DWM annual charges; and
 - b. Work with the NSW Audit Office to initiate performance audits on a case-by-case basis of any Council or Councils that may be imposing unjustifiably high DWM annual charges on their communities.

FOR: Clr Findley, Clr Kotlash, Clr Norris, Clr Butler, Clr D'Ath, Clr Copley, Clr Ell, Clr Christen, Clr White, Clr Wells, Clr Watson, Clr Kitchener and Clr Gray

AGAINST: Nil

CARRIED

Items marked with an * were resolved 'en block'.

CL22.438 Policy - Companion Animals (Impacts on Native Fauna) - Conditions of Development Consent **HPERM Ref: D22/262981**

RESOLVED* (Clr Christen / Clr White) MIN22.869

That Council adopt the revised Companion Animals (Impacts on Native Fauna) – Conditions of Development Consent policy.

FOR: Clr Findley, Clr Kotlash, Clr Norris, Clr Butler, Clr D'Ath, Clr Copley, Clr Eil, Clr Christen, Clr White, Clr Wells, Clr Watson, Clr Kitchener and Clr Gray

AGAINST: Nil

CARRIED

Items marked with an * were resolved 'en block'.

CL22.593 Policy - Shoalhaven Sports Board Terms of Reference **HPERM Ref: D22/462097**

RESOLVED* (Clr Wells / Clr Eil) MIN22.870

That Council re-adopt the Shoalhaven Sports Board Terms of Reference.

FOR: Clr Findley, Clr Kotlash, Clr Norris, Clr Butler, Clr D'Ath, Clr Copley, Clr Eil, Clr Christen, Clr White, Clr Wells, Clr Watson, Clr Kitchener and Clr Gray

AGAINST: Nil

CARRIED

CL22.594 Policy - Terms of Reference - Inclusion and Access Advisory Group and Aboriginal Advisory Committee **HPERM Ref: D22/428510**

RESOLVED* (Clr Wells / Clr Eil) MIN22.871

That Council reaffirm the Terms of Reference for:

1. The Inclusion and Access Advisory Group (Attachment 1)
2. The Aboriginal Advisory Committee (Attachment 2)

FOR: Clr Findley, Clr Kotlash, Clr Norris, Clr Butler, Clr D'Ath, Clr Copley, Clr Eil, Clr Christen, Clr White, Clr Wells, Clr Watson, Clr Kitchener and Clr Gray

AGAINST: Nil

CARRIED

CL22.595 Rescind Policy - Community Facilities - Use and Hire for Commercial Activities **HPERM Ref: D22/453103**

RESOLVED* (Clr Wells / Clr Eil) MIN22.872

That Council rescind the Community Facilities - Use and Hire for Commercial Activities Policy (POL16/77).

FOR: Clr Findley, Clr Kotlash, Clr Norris, Clr Butler, Clr D'Ath, Clr Copley, Clr Eil, Clr Christen, Clr White, Clr Wells, Clr Watson, Clr Kitchener and Clr Gray

AGAINST: Nil

CARRIED

Items marked with an * were resolved 'en block'.

CL22.596 Acquisition of Easement for Water Supply - Lot 3 DP 595695 - 109 Main Road Cambewarra	HPERM Ref: D22/414134
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RESOLVED* (Clr Wells / Clr Gray)

MIN22.873

That Council:

1. Acquire an Easement for Water Supply, 6 metres wide over part of Lot 3 DP 595695, 109 Main Road Cambewarra;
2. Pay compensation of \$11,000 (plus GST if applicable) and reasonable costs associated with the acquisition, in accordance with the provisions of the Land Acquisition (Just Terms Compensation) Act 1991;
3. Fund all costs for acquisition of the water supply easement from Council's Water Fund;
4. If applicable, adjust the compensation in accordance with the area of the easement determined by the final registered survey plan;
5. Authorise the affixing of the Common Seal of the Council of the City of Shoalhaven to any documents required to be sealed and that the Chief Executive Officer be authorised to sign any documents necessary to give effect to this resolution.

FOR: Clr Findley, Clr Kotlash, Clr Norris, Clr Butler, Clr D'Ath, Clr Copley, Clr Eil, Clr Christen, Clr White, Clr Wells, Clr Watson, Clr Kitchener and Clr Gray

AGAINST: Nil

CARRIED

CL22.597 Classification of Land - Lot 21 DP 1284124 Abernethys Lane Meroo Meadow	HPERM Ref: D22/393497
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RESOLVED* (Clr Wells / Clr Gray)

MIN22.874

That Council classify the land described as Lot 21 DP 1284124 Abernethys Lane, Meroo Meadow, as Operational Land within the meaning of the Local Government Act 1993.

FOR: Clr Findley, Clr Kotlash, Clr Norris, Clr Butler, Clr D'Ath, Clr Copley, Clr Eil, Clr Christen, Clr White, Clr Wells, Clr Watson, Clr Kitchener and Clr Gray

AGAINST: Nil

CARRIED

Items marked with an * were resolved 'en block'.

CL22.598 Australian Regional Tourism Convention **HPERM Ref: D22/470525**

RESOLVED* (Clr Kitchener / Clr Christen) **MIN22.875**

That Council receive the report from Clr Mark Kitchener on the Australian Regional Tourism Convention for information.

FOR: Clr Findley, Clr Kotlash, Clr Norris, Clr Butler, Clr D'Ath, Clr Copley, Clr Ell, Clr Christen, Clr White, Clr Wells, Clr Watson, Clr Kitchener and Clr Gray

AGAINST: Nil

CARRIED

NOTICES OF MOTION / QUESTIONS ON NOTICE

CL22.599 Rescission Motion - CL22.547 - Tree Management in Shoalhaven - Proposed Trial Amendment to Shoalhaven Development Control Plan 2014 - 45 Degree Rule and Asset Protection Zone Clearing **HPERM REF: D22/463435**

Item dealt with earlier in the meeting see MIN22.851

CL22.572 Notice of Motion - Affordable Housing **HPERM REF: D22/449280**

Item dealt with earlier in the meeting see MIN22.849

CL22.600 Notice of Motion - Update and Proposed Next Steps - Land Use Planning Changes for Agritourism **HPERM REF: D22/469317**

Item dealt with earlier in the meeting see MIN22.852

CL22.601 Notice of Motion - Call in and Councillor Briefing - Hitchcock's Lane - SF10965 **HPERM REF: D22/463472**

Item dealt with earlier in the meeting see MIN22.853

CL22.602 Notice of Motion - Councillor Briefing - RA21/1003 - South Moss Vale Road Subdivision **HPERM REF: D22/469401**

Item dealt with earlier in the meeting see MIN22.855

CL22.603 Notice of Motion - Urgent Inclusion of Character Considerations in Shoalhaven's Key Planning Instruments

**HPERM REF:
D22/471521**

Item dealt with earlier in the meeting see MIN22.856

There being no further business, the meeting concluded, the time being 9.07pm.

Clr Findley
CHAIRPERSON