

MINUTES OF THE ORDINARY MEETING

Meeting Date: Monday, 27 March 2023
Location: Council Chambers, City Administrative Building, Bridge Road, Nowra
Time: 5.30pm

The following members were present:

Clr Amanda Findley - Chairperson
Clr John Kotlash
Clr Matthew Norris
Clr Liza Butler
Clr Moo D'Ath (Remotely)
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

Declaration of Interests

Clr Wells – MM23.10 - Congratulations to all the Shoalhaven International Women's Day Award Winners – Less than Significant Non Pecuniary – a member of Clr Wells family was an award winner - will remain in the room and take part in discussion and vote.

MAYORAL MINUTE

MM23.9 Mayoral Minute - Congratulations NSW Regional Woman of the Year 2023 - Gayle Dunn **HPERM Ref: D23/91194**

Recommendation

That Council congratulates Gayle Dunn, Founder and President of the Dunn Lewis Youth Foundation on winning the 2023 NSW Minerals Council Regional Woman of the Year Award.

RESOLVED (Clr Findley / Clr White) MIN23.146

That Council congratulates Gayle Dunn, Founder and President of the Dunn Lewis Youth Foundation on winning the 2023 NSW Minerals Council Regional Woman of the Year Award.

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

MM23.10 Mayoral Minute - Congratulations to all the Shoalhaven International Women's Day Award Winners **HPERM Ref: D23/95690**

Recommendation

That Council acknowledges and congratulates all of the winners in the Shoalhaven in the 2023 International Women's Day Awards.

RESOLVED (Clr Findley / Clr Wells) MIN23.147

That Council acknowledges and congratulates all of the winners in the Shoalhaven in the 2023 International Women's Day Awards.

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

Confirmation of the Minutes

RESOLVED (Clr Norris / Clr Copley) MIN23.148

That the Minutes of the Ordinary Meeting held on Monday 13 March 2023 be confirmed.

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

CL23.97 – Notice of Motion – Proposed 'Community Centre and Resilience Hub' for Kangaroo Valley

Mr Wesley Hindmarch and Ms Kirsty Hambrook addressed the meeting to speak FOR the recommendation.

Introduction of Items as Matters of Urgency

RESOLVED (Clr Wells / Clr White)

MIN23.149

That the following addendum report be introduced as matters of urgency:

- CL23.100 - SF10948 – 13 Silver Sands Dr – Lot 6 DP 234796

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

The Chairperson ruled the matters as ones of urgency as they relate to urgent business of Council and allowed their introduction.

CALL OVER OF THE BUSINESS PAPER

Call Over of Business Paper - En bloc

RESOLVED (Clr Wells / Clr Watson)

MIN23.150

That the following items be resolved en bloc:

- YA23.5 - Youth Advisory Committee - Terms of Reference Review
- CL23.89 - Investment Report - February 2023
- CL23.90 - Update - Notice of Motion - North Durras & Depot Beach – Shared Access Pathway
- CL23.91 - Exemption to Tendering - Stormwater Pipe Renewal - Scott Street Shoalhaven Heads
- CL23.92 - Membership - Northern Coastal Management Program Advisory Committee
- CL23.93 - Acceptance of Grant Funding - NSW Public Library Infrastructure Grants 2022/23 - Sanctuary Point Library Fit Out
- CL23.94 - Payment of Dividend from Shoalhaven Water 2021-2022
- CL23.100 - SF10948 – 13 Silver Sands Dr – Lot 6 DP 234796

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

Procedural Motion - Bring Item Forward

RESOLVED (Clr Wells / Clr White)

MIN23.151

That the following item be brought forward for consideration:

- CL23.97 - Notice of Motion - Proposed “Community Centre and Resilience Hub” for Kangaroo Valley

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

CL23.97 Notice of Motion - Proposed "Community Centre and Resilience Hub" for Kangaroo Valley

**HPERM Ref:
D23/96230**

Recommendation

That Council:

1. Receive and note the detailed background information presented in support of the Notice of Motion.
2. Support in-principle the proposed Community Centre and Resilience Hub for Kangaroo Valley noting that Council has voted \$75,000 to prepare a Masterplan for the Kangaroo Valley Showground.
3. Include relevant Actions in the Draft 2023/24 Delivery Program & Operational Plan to enable resources to be allocated to:
 - a. Support the project stakeholders in coordinating wider community consultation and provide assistance in developing a business and governance plan for the facility.
 - b. Assist the stakeholders in developing a clear statement of purpose and functions of the facility that could lead to the development of a concept design and detailed design suitable for DA lodgement and subsequent grant applications.
4. Subject to the successful progression of the Actions noted in recommendation 3 above, include the Community Centre and Resilience Hub for Kangaroo Valley as a proposed grant funded project in Council's 10-year Capital Works Programs for consideration in future budget deliberations.
5. Advise the Kangaroo Valley Community Groups of Council's resolution on the Notice of Motion and thank them for their work in preparing the detailed background information.

RESOLVED (Clr Gray / Clr Norris)

MIN23.152

That Council:

1. Receive and note the detailed background information presented in support of the Notice of Motion.
2. Support in-principle the proposed Community Centre and Resilience Hub for Kangaroo Valley noting that Council has voted \$75,000 to prepare a Masterplan for the Kangaroo Valley Showground.
3. Include relevant Actions in the Draft 2023/24 Delivery Program & Operational Plan to enable resources to be allocated to:
 - a. Support the project stakeholders in coordinating a wider community and RFS consultation and provide assistance in developing a business and governance plan for the facility.
 - b. Assist the stakeholders in developing a clear statement of purpose and functions of the facility that could lead to the development of a concept design and detailed design suitable for DA lodgement and subsequent grant applications.
4. Subject to the successful progression of the Actions noted in recommendation 3 above, include the Community Centre and Resilience Hub for Kangaroo Valley as a proposed grant funded project in Council's 10-year Capital Works Programs for consideration in future budget deliberations.
5. Advise the Kangaroo Valley Community Groups of Council's resolution on the Notice of Motion and thank them for their work in preparing the detailed background information.

6. Document the process and learnings for guidance that Council can use in other localities of the Shoalhaven.

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

REPORT OF THE YOUTH ADVISORY COMMITTEE - 1 MARCH 2023

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

YA23.5	Youth Advisory Committee - Terms of Reference Review	HPERM Ref: D23/28913
---------------	-------------------------------------------------------------	---------------------------------

RESOLVED* (Clr Wells / Clr Watson) MIN23.153

That Council accept the proposed amendments and new format (Attachments 1 & 2) for the Youth Advisory Committee Terms of Reference as recommended by the Youth Advisory 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'.

CL23.89	Investment Report - February 2023	HPERM Ref: D23/84996
----------------	------------------------------------------	---------------------------------

RESOLVED* (Clr Wells / Clr Watson) MIN23.154

That Council:

1. Receive the Record of Investments for the period to 28 February 2023.
2. Note that Council's total Investment Portfolio (excluding the Long-Term Growth Fund) returned 3.31% per annum for the month of February 2023, outperforming the benchmark AusBond Bank Bill Index (3.18% pa) by 13 basis points (+0.13%).
3. Note the performance of the Long-Term Growth Fund as presented in the report.
4. Receive a briefing from its Investment Advisors Imperium Markets in relation to Council's current investment strategy.

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

CL23.90 Update - Notice of Motion - North Durras & Depot Beach – Shared Access Pathway **HPERM Ref: D22/391172**

RESOLVED* (Clr Wells / Clr Watson) MIN23.155

That Council note that \$75,000 has been added to the 2023-2023 Draft Capital Budget List (for consideration in the 2023/2024 Budget Deliberations), for investigation and design of a Shared User Path from North Durras to Depot Beach.

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

CL23.91 Exemption to Tendering - Stormwater Pipe Renewal - Scott Street Shoalhaven Heads **HPERM Ref: D23/101003**

RESOLVED* (Clr Wells / Clr Watson) MIN23.156

That Council consider a separate confidential report in accordance with Section 10A(2)(d)(i) 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

CL23.92 Membership - Northern Coastal Management Program Advisory Committee **HPERM Ref: D23/84283**

RESOLVED* (Clr Wells / Clr Watson) MIN23.157

That Council:

1. Endorse the appointment of Alasdair Stratton as a Community Representative on the Northern CMP Advisory Committee.
2. Provide the unsuccessful applicants an outcome letter and thank them for their application.

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

CL23.93 Acceptance of Grant Funding - NSW Public Library Infrastructure Grants 2022/23 - Sanctuary Point Library Fit Out **HPERM Ref: D23/87642**

RESOLVED* (Clr Wells / Clr Watson) MIN23.158

That Council:

1. Accept the offer of funding for the successful grant application under the NSW Public Library Infrastructure Grants 2022/23 for the new Sanctuary Point Library Fit Out for the amount of \$450,000.
2. Make arrangements to forward a letter of thanks to the relevant NSW Minister once known after the State Election.

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

CL23.94 Payment of Dividend from Shoalhaven Water 2021-2022

**HPERM Ref:
D23/92872**

RESOLVED* (Clr Wells / Clr Watson)

MIN23.159

That Council

1. Has effective, evidence-based strategic planning in place under the Regulatory and Assurance Framework for Local Water Utilities, July 2022 and the dividend (\$163,000) will be paid from the Water Fund as declared in 2021-22.
2. Has effective, evidence-based strategic planning in place under the Regulatory and Assurance Framework for Local Water Utilities, July 2022 and the dividend (\$1,567,770) will be paid from the Sewer Fund as declared in 2021-22.

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

NOTICES OF MOTION / QUESTIONS ON NOTICE

CL23.95 Rescission Motion - MM23.6 - Mayoral Minute - Support for Local Print Media: Reinstate New Bush Telegraph as a Service Provider for Council Information Dissemination

**HPERM Ref:
D23/95543**

Recommendation

That Council rescind the Motion relating to Item MM23.6 Mayoral Minute - Support for Local Print Media: Reinstate New Bush Telegraph as a Service Provider for Council Information Dissemination of the Council Meeting held on Monday 13 March 2023.

MOTION (Clr Eil / Clr White)

MIN23.160

That Council rescind the Motion relating to Item MM23.6 Mayoral Minute - Support for Local Print Media: Reinstate New Bush Telegraph as a Service Provider for Council Information Dissemination of the Council Meeting held on Monday 13 March 2023.

FOR: Clr Copley, Clr Eil, 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

CL23.96 Notice of Motion - MM23.6 - Mayoral Minute - Support for Local Print Media: Reinstate New Bush Telegraph as a Service Provider for Council Information Dissemination **HPERM Ref: D23/100118**

Recommendation

That Council:

1. Affirms support for a free and independent press in the Shoalhaven and beyond and eschews any attempt at political interference with that principle.
2. Affirms the existing resolution of Council not to provide funding or advertising to the New Bush Telegraph.
3. Subject to part 2, affirms the policy that any decision about placement of advertising is an operational one and should be made by appropriate staff after due consideration of cost effectiveness and potential message penetration to the target audience.
4. Receive a briefing in relation to media advertising (print & digital), including budget and sources used by Council.

This item was not dealt with as the preceding Rescission Motion was LOST. See MIN23.160

CL23.97 Notice of Motion - Proposed “Community Centre and Resilience Hub” For Kangaroo Valley **HPERM REF: D23/96230**

Item dealt with earlier in the meeting see MIN23.152

CL23.98 Notice of Motion - Proposed Nowra Museum Extension – Shoalhaven Historical Society **HPERM Ref: D23/104664**

Recommendation

That Council:

1. Continue to provide in principle support to Shoalhaven Historical Society in the proposed Nowra Museum Extensions.
2. Work with the Executive Committee of the Shoalhaven Historical Society to:
 - a. Obtain landowners consent as a matter of urgency for the Development Application and boundary survey.
 - b. Progress the completion of the boundary survey and adjustment works for the lot where the museum is located.
3. On lodgement of the required Development Application waive the application fees (except for advertising costs)
4. Provide further reports back to Council as required.

RESOLVED (Clr Copley / Clr Ell) MIN23.161

That Council:

1. Continue to provide in principle support to Shoalhaven Historical Society in the proposed Nowra Museum Extensions.
2. Work with the Executive Committee of the Shoalhaven Historical Society to:
 - a. Obtain landowners consent as a matter of urgency for the Development Application and boundary survey.

- b. Progress the completion of the boundary survey and adjustment works for the lot where the museum is located.
3. On lodgement of the required Development Application waive the application fees (except for advertising costs)
4. Provide further reports back to Council as required.

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

AGAINST: Nil

CARRIED

CL23.99 Notice of Motion - Myola Active Transport Improvement Project

**HPERM Ref:
D23/106572**

Recommendation

That Council:

1. Note that the Federal Government's advice that it is unable to extend the grant funding past the end of April 2023.
2. Write to the grant body requesting a mutual termination of the grant deed.
3. Quarantine the remaining unspent Council contribution budget of \$355K in the 2022/23 for the Myola Active Transport Improvement Project.
4. Revote into the 2023/24 budget the funds of \$355K for the Myola Active Transport Improvement Project.
5. Continue to seek grant opportunities as a high priority in order to complete the project as soon as practicable.

RESOLVED (Clr White / Clr EII)

MIN23.162

That Council:

1. Note that the Federal Government's advice that it is unable to extend the grant funding past the end of April 2023.
2. Write to the grant body requesting a mutual termination of the grant deed.
3. Quarantine the remaining unspent Council contribution budget of \$355K in the 2022/23 for the Myola Active Transport Improvement Project.
4. Revote into the 2023/24 budget the funds of \$355K for the Myola Active Transport Improvement Project.
5. Continue to seek grant opportunities as a high priority in order to complete the project as soon as practicable.

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

AGAINST: Nil

CARRIED

ADDENDUM REPORTS

CL23.100 SF10948 – 13 Silver Sands Dr – Lot 6 DP 234796

**HPERM Ref:
D23/79503**

RESOLVED* (Clr Wells / Clr Watson)

MIN23.163

That Council:

1. Confirm that it supports the clause 4.6 variation of 29.9% for Lot 1 and 36.08% for Lot 2, with respect to the lot size of the proposed subdivision.
2. Approve the Development Application SF10954 for a one (1) into two (2) lot Torrens title subdivision of an existing and approved Dual Occupancy development at Lot 6 DP 234796 13 Silver Sands Drive, Berrara, as detailed in the draft conditions of consent (Attachment 1) to this report.

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

CONFIDENTIAL REPORTS

Pursuant to Section 10A(4) the public were invited to make representation to the meeting before any part of the meeting is closed, as to whether that part of the meeting should be closed.

No members of the public made representations.

Note: Clr Butler left the room, the time being 6:35pm

RESOLVED (Clr Wells / Clr Kotlash)

MIN23.164

That the press and public be excluded from the Meeting, pursuant to section 10A(1)(a) of the Local Government Act, 1993, to consider the following items of a confidential nature.

CCL23.9 Exemption to Tendering - Stormwater Pipe Renewal - Scott Street Shoalhaven Heads

Commercial information of a confidential nature that would, if disclosed prejudice the commercial position of the person who supplied it. 10(A)(2)(d)(i)

There is a public interest consideration against disclosure of information as disclosure of the information could reasonably be expected to reveal commercial-in-confidence provisions of a contract, diminish the competitive commercial value of any information to any person and/or prejudice any person's legitimate business, commercial, professional or financial interests.

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

AGAINST: Nil

CARRIED

The meeting moved into confidential the time being 6:35pm.

The meeting moved into open session, the time being 6:37pm.

Note: Clr Butler re-joined the meeting, the time being 6:37pm

REPORT FROM CONFIDENTIAL SESSION

The following resolutions of the meeting, whilst closed to the public, were made public.

CCL23.9 Exemption to Tendering - Stormwater Pipe Renewal - Scott Street Shoalhaven Heads

**HPERM Ref:
D23/99082**

RESOLVED

MIN23.165C

That Council

1. Endorses the decision to continue to use the current contractor (CBK Constructions Pty Ltd) for the urgent rectification work and approves an exemption from tendering in accordance with Section 55(3)(i) of the Local Government Act 1993, for the renewal of the stormwater pipe drainage system alongside properties fronting Scott St Shoalhaven Heads, noting that a satisfactory result would not necessarily be achieved by inviting tenders due to extenuating circumstances noting that:
 - a. Sink holes have been occurring and growing larger above and adjacent to the existing large diameter stormwater pipes and there is an urgent need to continue to address the damage;
 - b. It is crucial to address immediately to prevent further deterioration of the ground and potential damage to public and private infrastructure;
 - c. The current methodology involving isolated repairs is proving to be slow, costly and inadequate. A change to the methodology is required.
 - d. The current contractor (CBK Constructions Pty Ltd) undertaking the current repairs have become experienced with the local ground and groundwater conditions;
 - e. CBK Constructions Pty Ltd have become familiar with the risks and constraints affecting the project and have worked with Council in implementing risk management practices (vibration monitoring, ground water monitoring, house movement monitoring and dilapidation reporting);
 - f. CBK Constructions Pty Ltd have assisted the design consultant and council in developing the new design;
 - g. Council is receiving numerous complaints about the delays in progressing the work;
 - h. Residents have become increasingly frustrated with the duration of the repair work and now again with the planned change in approach to the rectification work.
 - i. Direct appointment will save another 6 weeks of preparing, calling, assessing and reporting on tenders, as well as the risk of many more weeks of delay in site establishment and familiarisation if another contractor was introduced.
2. Authorises the CEO (Director City Services) to negotiate and enter into a new contract with CBK Constructions Pty Ltd for the repair of the stormwater pipe renewal.
3. Advise the Office of Local Government of Council's decision in respect of the use of the s55(3)(i) exemption in this matter.

CARRIED

There being no further business, the meeting concluded, the time being 6:41pm.

Clr Findley
CHAIRPERSON