

CITY OF COCKBURN

SUMMARY OF MINUTES OF SPECIAL COUNCIL MEETING HELD ON MONDAY, 22 MARCH 2010 AT 7:00 PM

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CITY OF COCKBURN

MINUTES OF SPECIAL COUNCIL MEETING HELD ON MONDAY, 22 MARCH 2010 AT 7:00 PM

PRESENT:

ELECTED MEMBERS

Ms L Smith	-	Councillor
Ms H Attrill	-	Councillor
Mr I Whitfield	-	Councillor
Mr T Romano	-	Councillor
Mrs S Limbert	-	Councillor
Mrs V Oliver	-	Councillor
Mrs R O'Brien	-	Councillor

IN ATTENDANCE

Mr S. Cain	-	Chief Executive Officer
Mr D. Green	-	Director, Administration & Community Services
Mr S. Downing	-	Director, Finance & Corporate Services
Mr M. Littleton	-	Director, Engineering & Works
Mr D. Arndt	-	Director, Planning & Development
Ms V. Viljoen	-	Personal Assistant to CEO

1. DECLARATION OF MEETING

The Chief Executive Officer declared the meeting open at 7.00pm and advised that in the absence of the Mayor and Deputy Mayor, a Presiding Member would need to be appointed.

2. APPOINTMENT OF PRESIDING MEMBER (If required)

(MINUTE NO 4202) (SCM 22/03/2010) - APPOINTMENT OF PRESIDING MEMBER

COUNCIL DECISION

MOVED Clr S Limbert SECONDED Clr I Whitfield that Clr Tony Romano be appointed Presiding Member for this Special Council Meeting.

CARRIED 7/0



Reason for Decision

In the absence of Mayor Howlett and Deputy Mayor Allen, it was necessary to appoint a Presiding Member.

3. **DISCLAIMER (To be read aloud by Presiding Member)**

Members of the public, who attend Council Meetings, should not act immediately on anything they hear at the Meetings, without first seeking clarification of Council's position. Persons are advised to wait for written advice from the Council prior to taking action on any matter that they may have before Council.

4. **ACKNOWLEDGEMENT OF RECEIPT OF WRITTEN DECLARATIONS OF FINANCIAL INTERESTS AND CONFLICT OF INTEREST (by Presiding Member)**

Nil

5 **(SCM 22/03/2010) - APOLOGIES & LEAVE OF ABSENCE**

Mayor Logan Howlett	-	Apology
Deputy Mayor Kevin Allen	-	Apology
Clr Carol Reeve-Fowkes	-	Apology

6 **(SCM 22/03/2010) - PUBLIC QUESTION TIME**

Robyn Scherr, Coogee

Q1 Out of interest, I note that neither the Mayor, Deputy Mayor nor Clr Reeve-Fowkes are here tonight. I understand all three were on the mediation team. What is the reason for their absence this evening?

A1 CEO – The Mayor fell ill on Friday and will be off work for the next few days with, we believe, the flu. The Deputy Mayor has a previously declared interest in this matter and he also had another meeting to attend tonight. Clr Reeve-Fowkes' husband is in hospital having had major heart surgery today, and she is unable to attend the meeting.

Q2 Where are we at? I know you are not allowed to give me details, but has some decision been made by the SAT? I notice there is a flurry of activity at the southern end of Port Coogee that is one of the contentious areas, I understand, in the changes to the Structure Plan. They have been very busy the last few days.



- A2 CEO – There has been no decision of Council. You may be referring to work on Lot 749 on the southern end. You will be aware that at the last meeting the City had issued a directive to Australand that some of the site had been over-built and, as a result of verification, I suspect what you see there is the contractor removing some of that fill.
- Q3 Is that what was agreed – that they would remove that fill and is that what they have been doing these last few days?
- A3 Director Planning & Development – Yes, that is correct.
- Q4 Are there any other items which were taken out and that were agreed to that they could proceed with or are they still waiting for a final decision?
- A4 CEO – That was not part of Council’s decision on the determination. It is a separate matter, just to do with compliance on the development of the lot and you may be aware we had some queries from members of the public as to whether that area had been over-filled. It is not a matter that has come about as a result of a decision by Council. It is an administrative action by the staff after confirming there has been some extra fill having been placed on that site – we directed it to be removed.
- Q5 After tonight’s meeting, can we expect there will be a decision announced in the very near future?
- A5 CEO – That will depend on the nature of the decision made by Council. Obviously, it is a requirement to take any decision of Council back to the SAT for further consideration and, depending on how that is dealt with by the SAT, there may or may not be an announcement in the near future.

Dan Scherr, Coogee

- Q1 How will the absence of two of the major negotiators affect your decision tonight? Can you give us any indication on that?
- A1 Obviously, I am not at liberty to speak for the Elected Members, but the absences, as explained, are real and highly personal and that will be up to the Elected Members to give consideration to when they move behind closed doors to make their deliberations.
- Q2 It is my understanding that those Elected Members are privy to a lot of first-hand information that the other Councillors are not privy to, having sat in the meetings and getting a feel for what is going on. Would it not be quite a loss for you to try to deliberate without their presence?



A2 That would be a silly and subjective remark for us to make whether it would or it wouldn't. There has been a considerable amount of information shared with all Elected Members in the last few weeks, certainly since the last consideration and additional matters shared as a result of some alternatives passed by a number of Elected Members on this. I think there is a good opportunity and if there is further need for any clarification some of the City's experts – in this case, the Director of Planning & Development who has been to all of those negotiation sessions, is here tonight and can provide additional information if called upon.

7. DECLARATION BY COUNCILLORS WHO HAVE NOT GIVEN DUE CONSIDERATION TO MATTERS CONTAINED IN THE BUSINESS

Nil

8 (SCM 22/03/2010) - PURPOSE OF MEETING

The purpose of the meeting is to consider results of further mediated negotiations with Australand on Port Coogee Structure Plan (*a confidential matter which will not be open to the public*).

9. COUNCIL MATTERS

(MINUTE NO 4203) (SCM 22/03/2010) - MEETING TO GO BEHIND CLOSED DOORS

COUNCIL DECISION

MOVED Clr S Limbert SECONDED Clr V Oliver that, pursuant to Section 5.23(2)(a) of the Local Government Act 1995, Council proceeds behind closed doors to consider Item 9.1.

CARRIED 7/0

Reason for Decision

Item 9.1 is a confidential matter.

NOTE: MEETING WENT BEHIND CLOSED DOORS, THE TIME BEING 7.10PM.



9.1 **(MINUTE NO 4204) (SCM 22/03/2010) - STATE ADMINISTRATIVE TRIBUNAL MEDIATION - REVISED PORT COOGEE LOCAL STRUCTURE PLAN - OWNER: AUSTRALAND HOLDINGS PTY LTD - APPLICANT: TAYLOR BURRELL BARNETT (9662) (D ARNDT) (ATTACH)**

RECOMMENDATION

That Council advise the State Administrative Tribunal that it is prepared to accept Australand's offer in relation to application for review on the revised Port Coogee Local Structure Plan, as outlined in their correspondence dated 4 February 2010, in accordance with the Grounds of Settlement, as provided under separate, confidential cover.

COUNCIL DECISION

MOVED Clr R O'Brien that Council:

- (1) defers a determination on Australand's offer in relation to the application for review on the revised Port Coogee Local Structure Plan, as outlined in their correspondence dated 4 February 2010, until after the City has conducted a briefing to the community. The matter to be re-considered at a Special meeting of Council to be conducted before the end of April 2010;
- (2) provides a briefing to the community giving an overview of the revised Local structure Plan, Marina Village Master Plan and Port Coogee Transport Report. The briefing to be conducted in April 2010; and
- (3) Informs the State Administrative Tribunal of its decision, as outlined in the preceding points, and requests the Tribunal adjourn any mediation or hearings, relating to the application for review on the revised Port Coogee Local Structure Plan, until Council has made a determination in respect to Australand's offer.

MOTION LAPSED FOR WANT OF A SECONDER

MOVED Clr R O'Brien that Council advises the State Administrative Tribunal that it is not prepared to accept Australand's offer in relation to the application for review on the revised Port Coogee Local Structure Plan, as outlined in their correspondence dated 4 February 2010.

MOTION LAPSED FOR WANT OF A SECONDER



MOVED Clr R O'Brien that Council advise the State Administrative Tribunal that it is prepared to accept Australand's offer in relation to the application for review on the revised Port Coogee Local Structure Plan, as outlined in their correspondence dated 4 February 2010, in accordance with the revised Grounds for Settlement, as provided under separate, confidential cover.

MOTION LAPSED FOR WANT OF A SECONDER

MOVED Clr R O'Brien that Council advise the State Administrative Tribunal that it is prepared to accept Australand's offer in relation to the application for review on the revised Port Coogee Local Structure Plan, as outlined in their correspondence dated 4 February 2010, in accordance with the revised Grounds for Settlement, as provided under separate, confidential cover.

MOTION LAPSED FOR WANT OF A SECONDER

MOVED Clr T Romano SECONDED Clr S Limbert that Council advise the State Administrative Tribunal that it is prepared to approve the revised Port Coogee Local Structure Plan, the Marina Village Masterplan and Port Coogee Transport Report, in accordance with the revised Grounds for Settlement, as provided under separate, confidential cover.

MOTION LOST 3/4

MOVED Clr I Whitfield SECONDED Clr V Oliver that the recommendation be adopted.

CARRIED 5/2

NOTE: CLRS LIMBERT AND O'BRIEN REQUESTED THAT THEIR VOTE AGAINST THE MOTION BE RECORDED.

Background

On 16 October 2009 Australand lodged an Application for Review (Appeal) with the State Administrative Tribunal on the basis that the Structure Plan was deemed refused, as the City had not made a determination within the specified timeframe under the Scheme.



The matter was considered at a Special meeting of Council on the 225 February 2010, where it was resolved to advise the State Administrative Tribunal that it is prepared to approve the revised Port Coogee Local Structure Plan, the Marina Village Masterplan and Port Coogee Transport Report, in accordance with the Grounds for Settlement.

Submission

To receive the Officer's Report and adopt its recommendation.

Report

The City's Director of Planning & Development Services and three Elected Members have attended numerous mediation meetings with Australand and their consultants. Following extensive negotiations, this matter appeared to be the subject of general agreement and was referred to Council for its consideration. Council resolved to accept the mediation outcomes subject to a number of amendments. Following further mediation Australand have provided a further offer in order to finalise an agreement. If the Council agrees to the offer then this advice will be conveyed to the State Administrative Tribunal and if they agree then the Tribunal will issue Minute Consent Orders and the Appeal will have deemed to have been settled by agreement.

Section 54(6) of the State Administrative Tribunal Act 2004 requires mediation to be held in private, unless the Mediator directs otherwise. Accordingly, the Grounds for Settlement remain confidential.

Strategic Plan/Policy Implications

Employment and Economic Development

- To plan and promote economic development that encourages business opportunities within the City.

Natural Environmental Management

- To ensure development of the district is undertaken in such a way that the balance between the natural and human environment is maintained.

Budget/Financial Implications

Costs of \$32,867 have been billed to 01 February 2010. This includes a briefing to Council by Council's solicitors in October 2009, an independent planning consultant who has been engaged to assist in the preparation of respondent statements, attendance at mediation, site meetings and drafting of conditions and an independent economic analysis of the retail study. These costs are covered within the 2009/10 budget.



Legal Implications

Planning and Development Act 2005
State Administrative Tribunal Regulations 2004

Section 54(6) of the State Administrative Tribunal Act 2004 requires mediation to be held in private, unless the Mediator directs otherwise. Accordingly, the Grounds for Settlement remain confidential.

Community Consultation

N/A

Confidential Attachment(s)

(1) Officer's Report and Recommendations.

Advice to Proponent(s)/Submissioners

Australand Holdings Pty Ltd has been advised that this matter is to be referred to a Special Meeting of Council on 22 March 2010.

Implications of Section 3.18(3) Local Government Act, 1995

Nil.

(MINUTE NO 4205) (SCM 22/03/2010) - OPEN MEETING TO THE PUBLIC

COUNCIL DECISION

MOVED Clr I Whitfield SECONDED Clr S Limbert that Council open the meeting to the public.

CARRIED 7/0

Reason for Decision

Opening the meeting to the public will allow the Presiding Member to inform the public of council's decision.

AT THIS POINT THE MEETING WAS OPEN TO THE PUBLIC THE TIME BEING 8.03PM.



THE PRESIDING MEMBER ADVISED THE MEETING OF THE DECISION OF COUNCIL WHILST BEHIND CLOSED DOORS.

10. **(MINUTE NO 4206) (SCM 22/03/2010) - RESOLUTION OF COMPLIANCE (SECTION 3.18(3), LOCAL GOVERNMENT ACT 1995)**

RECOMMENDATION

That Council is satisfied that resolutions carried at this Meeting and applicable to items concerning Council provided services and facilities, are:-

- (1) integrated and co-ordinated, so far as practicable, with any provided by the Commonwealth, the State or any public body;
- (2) not duplicated, to an extent Council considers inappropriate, services or facilities as provided by the Commonwealth, the State or any other body or person, whether public or private; and
- (3) managed efficiently and effectively.

COUNCIL DECISION

MOVED Clr V Oliver SECONDED Clr S Limbert that the recommendation be adopted.

CARRIED 7/0

11 **(SCM 22/03/2010) - CLOSURE OF MEETING**

MEETING CLOSED AT 8.04PM.

CONFIRMATION OF MINUTES

I, (Presiding Member) declare that these minutes have been confirmed as a true and accurate record of the meeting.

Signed: Date:/...../.....

