

Minutes 14 July 2009

Port Stephens

C.O.U.N.C.I.L

... a community partnership

Minutes of Ordinary meeting of the Port Stephens Council held in the Council Chambers, Raymond Terrace, on 14th July 2009, commencing at 8.30pm.

PRESENT: Councillors B. MacKenzie (Mayor); R. Westbury (Deputy Mayor); G. Dingle; S. Dover, P. Kafer; K Jordan, J. Nell; S. O'Brien; S. Tucker, F. Ward; General Manager; Corporate Excellence Group Manager, Facilities and Services Group Manager; Sustainable Planning Group Manager; Commercial Services Group Manager & Executive Officer.

207	Councillor Peter Kafer Councillor John Nell	It was resolved that apologies be received and noted from Cr Glenys Francis.
		No Declarations of Interest were received.

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MOTIONS TO CLOSE

ITEM NO. 1

FILE NO: 3200-003

MOTION TO CLOSE MEETING TO THE PUBLIC

REPORT OF: TONY WICKHAM – EXECUTIVE OFFICER

RECOMMENDATION:

- 1) That pursuant to section 10A(2)(g) of the Local Government Act, 1993, the Committee and Council resolve to close to the public that part of its meetings to discuss Confidential Item 1 on the Ordinary Council Meeting agenda namely ***Unauthorised Depot : 645 Cabbage Tree Road, Williamtown.***

 - 2) That the reasons for closing the meeting to the public to consider this item is that the discussion will include information concerning the commercial arbitration and legal costs incurred and advice that would otherwise be privileged from production in legal proceedings on the ground of legal professional privilege

 - 3) That disclosure of the information would, on balance, be contrary to the public interest, as it would prejudice Council's legal position and Council has an obligation to protect its interests and the interests of ratepayers.

 - 4) That the report of the closed part of the meeting remain confidential until the matter is settled.
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OPERATIONS COMMITTEE – 14th July 2009

RECOMMENDATION:

	Councillor Bruce MacKenzie Councillor Ken Jordan	That the Motion to Close be deferred to the Ordinary Council meeting on the 14 th July 2009.
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ORDINARY COUNCIL – 14th July 2009

208	Councillor Ken Jordan Councillor Peter Kafer	It was resolved that the recommendation be adopted.
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ITEM NO. 2

FILE NO: PSC2005-4319

MOTION TO CLOSE MEETING TO THE PUBLIC

REPORT OF: TONY WICKHAM – EXECUTIVE OFFICER

RECOMMENDATION:

- 1) That pursuant to section 10A(2)(d) (ii) of the Local Government Act, 1993, the Committee and Council resolve to close to the public that part of its meetings to discuss Confidential Item 2 on the Ordinary Council Meeting agenda namely **Proposed 2nd Stage of Capital Development at 562 Gan Gan Road, One Mile – Samurai Bach Resort.**
- 2) That the reasons for closing the meeting to the public to consider this item be that the report and discussion will include:
 - a) details of commercial information of a confidential nature that would, if disclosed, confer a commercial advantage on a competitor of the Council.
- 3) That on balance it is considered that receipt and discussion of the matter in open Council would be contrary to the public interest, as it may prejudice Council's commercial position and Council should have the same protection for its confidential commercial activities as that applying to other persons.
- 4) That the minutes of the closed part of the meeting are to be made public as soon as possible after the meeting and the report is to remain confidential.

OPERATIONS COMMITTEE – 14th July 2009

RECOMMENDATION:

	<p>Councillor Bruce MacKenzie Councillor Ken Jordan</p>	<p>That the Motion to Close be deferred to the Ordinary Council meeting on the 14th July 2009.</p>
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ORDINARY COUNCIL – 14th July 2009

<p>209</p>	<p>Councillor Ken Jordan Councillor Peter Kafer</p>	<p>It was resolved that the recommendation be adopted.</p>
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ITEM NO. 3

FILE NO: PSC2005-1950

MOTION TO CLOSE MEETING TO THE PUBLIC

REPORT OF: TONY WICKHAM – EXECUTIVE OFFICER

RECOMMENDATION:

- 1) That pursuant to section 10A(2)(d) of the Local Government Act, 1993, the Committee and Council resolve to close to the public that part of its meetings to discuss Confidential Item 3 on the Ordinary Council Meeting agenda namely **Waste and Recycling Contract Extension Option**.
 - 2) That the reasons for closing the meeting to the public to consider this item be that:
 - i) The report and discussion will include details of commercial information of a confidential nature that would, if disclosed, prejudice the commercial position; and
 - ii) In particular, the report includes confidential pricing information in respect of the **Waste and Recycling Contract Extension Option**.
 - 3) That on balance, it is considered that receipt and discussion of the matter in open Council would be contrary to the public interest, as disclosure of the confidential commercial information could compromise the commercial position.
 - 4) That the report of the closed part of the meeting is to remain confidential and that Council makes public its decision including the name and amount of the successful tenderer in accordance with Clause 179) of the Local Government (General) Regulation 2005.
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OPERATIONS COMMITTEE – 14th July 2009

RECOMMENDATION:

	Councillor Bruce MacKenzie Councillor Ken Jordan	That the Motion to Close be deferred to the Ordinary Council meeting on the 14 th July 2009.
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MINUTES FOR ORDINARY MEETING – 14 JULY 2009

ORDINARY COUNCIL – 14th July 2009

210	Councillor Ken Jordan Councillor Peter Kafer	It was resolved that the recommendation be adopted.
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ITEM NO. 4

FILE NO: T18-2009

MOTION TO CLOSE MEETING TO THE PUBLIC

REPORT OF: TONY WICKHAM – EXECUTIVE OFFICER

RECOMMENDATION:

- 1) That pursuant to section 10A(2)(d) of the Local Government Act, 1993, the Committee and Council resolve to close to the public that part of its meetings to discuss Confidential Item 4 on the Ordinary Council Meeting agenda namely **Ferodale Sport Complex Netball Courts and Carparks – T18-2009**
- 2) That the reasons for closing the meeting to the public to consider this item be that:
 - i) The report and discussion will include details of commercial information of a confidential nature that would, if disclosed, prejudice the commercial position of the tenderers; and
 - ii) In particular, the report includes confidential pricing information in respect of the **Ferodale Sport Complex Netball Courts and Carparks – T18-2009**
- 3) That on balance, it is considered that receipt and discussion of the matter in open Council would be contrary to the public interest, as disclosure of the confidential commercial information could compromise the commercial position of the tenderers and adversely affect Council's ability to attract competitive tenders for other contracts.
- 4) That the report of the closed part of the meeting is to remain confidential and that Council makes public its decision including the name and amount of the successful tenderer in accordance with Clause 179) of the Local Government (General) Regulation 2005.

OPERATIONS COMMITTEE – 14th July 2009

RECOMMENDATION:

	Councillor Bruce MacKenzie Councillor Ken Jordan	That the Motion to Close be deferred to the Ordinary Council meeting on the 14 th July 2009.
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MINUTES FOR ORDINARY MEETING – 14 JULY 2009

ORDINARY COUNCIL – 14th July 2009

211	Councillor Ken Jordan Councillor Peter Kafer	It was resolved that the recommendation be adopted.
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ITEM NO. 5

FILE NO: T16-2009

MOTION TO CLOSE MEETING TO THE PUBLIC

REPORT OF: TONY WICKHAM – EXECUTIVE OFFICER

RECOMMENDATION:

- 1) That pursuant to section 10A(2)(d) of the Local Government Act, 1993, the Committee and Council resolve to close to the public that part of its meetings to discuss Confidential Item 5 on the Ordinary Council Meeting agenda namely **Medowie Parks Maintenance Shed – T16-2009**.
 - 2) That the reasons for closing the meeting to the public to consider this item be that:
 - i) The report and discussion will include details of commercial information of a confidential nature that would, if disclosed, prejudice the commercial position of the tenderers; and
 - ii) In particular, the report includes confidential pricing information in respect of the **Medowie Parks Maintenance Shed – T16-2009**.
 - 3) That on balance, it is considered that receipt and discussion of the matter in open Council would be contrary to the public interest, as disclosure of the confidential commercial information could compromise the commercial position of the tenderers and adversely affect Council's ability to attract competitive tenders for other contracts.
 - 4) That the report of the closed part of the meeting is to remain confidential and that Council makes public its decision including the name and amount of the successful tenderer in accordance with Clause 179) of the Local Government (General) Regulation 2005.
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OPERATIONS COMMITTEE – 14th July 2009

RECOMMENDATION:

	Councillor Bruce MacKenzie Councillor Ken Jordan	That the Motion to Close be deferred to the Ordinary Council meeting on the 14 th July 2009.
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MINUTES FOR ORDINARY MEETING – 14 JULY 2009

ORDINARY COUNCIL – 14th July 2009

212	Councillor Ken Jordan Councillor Peter Kafer	It was resolved that the recommendation be adopted.
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CONFIDENTIAL ITEMS



In accordance with Section 10A, of the Local Government Act 1993, Council can close part of a meeting to the public to consider matters involving personnel, personal ratepayer hardship, commercial information, nature and location of a place or item of Aboriginal significance on community land, matters affecting the security of council, councillors, staff or council property and matters that could be prejudice to the maintenance of law.

Further information on any item that is listed for consideration as a confidential item can be sought by contacting Council.

ORDINARY COUNCIL – 14th July 2009

213	Councillor John Nell Councillor Peter Kafer	It was resolved that Council move into Confidential Session.
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CONFIDENTIAL

ITEM NO. 1

FILE NO: PSC2009-00384

UNAUTHORISED DEPOT: 645 CABBAGE TREE ROAD, WILLIAMTOWN

REPORT OF: ANTHONY RANDALL – ACTING MANAGER, DEVELOPMENT AND BUILDING

ORDINARY COUNCIL MEETING – 14 JULY 2009

214	Councillor Daniel Maher Councillor Ken Jordan	It was resolved that Council issue an order on the owner of Lot 5 DP747925 pursuant to Section 121B of the Environmental Planning and Assessment Act 1979 requiring that, within 6 month from the date of issue of the order, the unauthorised Depot cease operating at the site as this land use is prohibited by Port Stephens LEP 2000. The unauthorised increase in the number of cranes using the existing access poses a significant and unacceptable risk to road users.
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In accordance with the Local Government Act 1993, a division is required for this item.

Those for the Motion: Councillors Bruce MacKenzie, Ken Jordan, Daniel Maher, Steve Tucker, Shirley O'Brien, Bob Westbury, Geoff Dingle, John Nell, Frank Ward, Sally Dover and Peter Kafer.

Those against the Motion: Nil.

CONFIDENTIAL

ITEM NO. 2

FILE NO: PSC2005-4319

PROPOSED 2ND STAGE OF CAPITAL DEVELOPMENT AT 562 GAN GAN ROAD, ONE MILE - SAMURAI BEACH RESORT

REPORT OF: PHIL BUCHAN – MANAGER, COMMERCIAL ENTERPRISES

ORDINARY MEETING – 14TH JULY 2009

215	Councillor Bruce MacKenzie Councillor Ken Jordan	It was resolved that the recommendation be adopted in principle and that the General Manager be requested to write to the Minister seeking an extension of the lease.
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CONFIDENTIAL

ITEM NO. 3

FILE NO: PSC2005-1950

WASTE AND RECYCLING CONTRACT EXTENSION OPTION

REPORT OF: MICK LOOMES – MANAGER, ENGINEERING SERVICES

ORDINARY MEETING – 14TH JULY 2009

216	Councillor Geoff Dingle Councillor Ken Jordan	It was resolved that Council :- 1. Extends the waste and recycling contract with Solo Resource Recovery for three years resulting in the contract ending on 30 June 2015 2. Authorise the Mayor and General Manager to sign an agreement with Solo Resource Recovery that details the terms of the extension to the "Waste Collection, Recyclables Collection and Processing and Waste Haulage Deed of Contract" Legal Document reference C165.
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CONFIDENTIAL

ITEM NO. 4

FILE NO: T18-2009

FERODALE SPORT COMPLEX NETBALL COURTS AND CAR PARKS – T18-2009

REPORT OF: PETER AVIS – MANAGER, PROJECT SERVICES

ORDINARY MEETING – 14TH JULY 2009

217	Councillor Geoff Dingle Councillor Peter Kafer	It was resolved that Council accepts the tender offered by Dannenberg Civil Pty Ltd to construct the Ferodale Sport Complex Netball Courts and Car Parks.
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CONFIDENTIAL

ITEM NO. 5

FILE NO: T16-2009

MEDOWIE PARKS MAINTENANCE SHED – T16-2009

REPORT OF: PETER AVIS – MANAGER, PROJECT SERVICES

ORDINARY MEETING – 14TH JULY 2009

218	Councillor Geoff Dingle Councillor Ken Jordan	It was resolved Council accept the tender offered by Williams River Steel to supply and construct a maintenance shed at Ferodale Sport Complex Medowie
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There being no further business the meeting closed at 8.45pm.

I certify that pages 1 to 17 of the Open Ordinary Minutes of Council 14 July 2009 and the pages 18 to 76 of the Confidential Ordinary Minutes of Council 14 July 2009 were confirmed by Council at its meeting held on 28 July 2009.

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Cr Bruce MacKenzie
MAYOR