

**CITY OF HOLDFAST BAY**

**Minutes of the Ordinary Meeting of Council of the City of Holdfast Bay held in the Kingston Room, Civic Centre, 24 Jetty Road, Brighton, on Tuesday 11 July 2006 at 7:00pm.**

**PRESENT**

His Worship the Mayor  
Deputy Mayor  
Councillors

A K Rollond  
R D C Edwards  
R M Bouchée  
P N Crutchett  
J L Deakin  
P W Dixon  
J Donaldson  
C J Lush  
P L Holt  
P L Macaskill  
A C Norton  
D J Swiderczuk

Chief Executive Officer  
Acting Executive Manager Finance and Corporate  
General Manager Environment and Engineering  
General Manager Social and Organisation  
Acting General Manager Strategy and Development

R T Donaldson  
C M Bates  
C A Sheffield  
C E Umaphysivam  
R A Thomas

**1. OPENING**

His Worship the Mayor, declared the meeting open with prayer at 7:03pm.

**2. PRESENTATION**

**His Worship the Mayor presented a certificate received from the Rotary Club of Hallett Cove.**

**3. APOLOGIES**

**3.1 For Absence** Councillor S K Tilley

**3.2 Leave of Absence**

**4. CONFIRMATION OF MINUTES**

**Councillor Edwards moved and Councillor Swiderczuk seconded that the minutes of the Ordinary Meeting of Council held on 27 June 2006 be taken as read and confirmed.**

**CARRIED**

**5. QUESTIONS BY MEMBERS**

**5.1 Without Notice**

Councillor Crutchett asked a question about the process for signing and sealing documents.

**The Chief Executive Officer provided a response.**

Councillor Lush asked the following questions of His Worship the Mayor.

1. Did you approach anyone to sign the petition known as the Redevelopment of Broadway Kiosk petition?

**His Worship the Mayor advised that he did approach people to sign the Redevelopment of Broadway Kiosk petition.**

**Councillor Lush moved and Councillor Norton seconded that the question and answer be recorded in the minutes.**

**CARRIED**

2. Did anyone sign the petition after you had approached them?

**His Worship the Mayor advised that people had signed the petition after he had approached them.**

**Councillor Lush moved and Councillor Swiderczuk seconded that the question and answer be recorded in the minutes.**

**CARRIED**

3. Did you obtain the signatures of Felicity Lewis, John Trainer, Trevor Starr and Fiona Barr on page 71 of the petition?

**His Worship the Mayor advised that he did obtain the signatures on page 71 of the petition.**

**Councillor Lush moved and Councillor Macaskill seconded that the question and answer be recorded in the minutes.**

**CARRIED**

4. Were you behind or involved in the planning of the petition?

**His Worship the Mayor advised that he was not behind the petition but was part of the group which decided upon it.**

**Councillor Lush moved and Councillor Macaskill seconded that the question and answer be recorded in the minutes.**

**CARRIED**

Councillor Bouch e asked the Mayor three questions relating to the questions asked by Councillor Lush.

**His Worship the Mayor provided responses.**

Councillor Macaskill foreshadowed that she would seek leave to make a personal explanation under Urgent Business.

Councillor Bouch e asked a question relating to the Mayor's awareness of a recent community forum.

**His Worship the Mayor provided a response.**

**5.2 With Notice****5.2.1 Holdfast Shores 2B Development**

In accordance with this notice Councillor Crutchett asked the following question:

As an equal 3<sup>rd</sup> party signatory to the Holdfast Shores 2B Development along with the State Government and the Baulderstone Hornibrook Consortium, does the City of Holdfast Bay Council Minutes/Reports contain any specific details that may support the argument put by Bronwyn Norton, Hove (Guardian Messenger 28 June 2006) that "the contract for Holdfast Shores was signed and sealed long before this present Council was elected" in May 2003?

Please provide copies of any contract documents that may support the Bronwyn Norton argument.

What was the signatory date on the Contract that allowed Holdfast Shores 2B to proceed and the removal of Magic Mountain?

**Chief Executive Officer response**

The advice of Jonathan Wells QC, received by Council during the course of the Stage 2B negotiation process, contains relevant content. Attached are extracts from advice tabled at the Council meeting (then in confidence) on 23 March 2004 and received by Council (also then in confidence) on 1 June 2004. They are, respectively, clause 9 (headed "IFA", for Infrastructure Agreement) and clause 6 (headed "Our Advice of 2004 based on the Finlaysons materials).

The contract document to which the Wells advice refers was the 1997 Infrastructure Agreement, to which Council is a party. Attached is an extract of what appear to be the relevant portions of that document.

The Holdfast Shores 2B "contract document" is the Infrastructure Agreement Implementation Agreement, dated 10 June 2004.

**5.2.2 Re-painting of Glenelg Community Centre**

Councillor Tilley asked about the scheduled re-painting of the Glenelg Community Centre.

**General Manager Social and Organisation response**

When the building works associated with the Holdfast Shores entertainment precinct are complete, a mural will be painted on the western wall and this will extend somewhat along the side walls. We are currently awaiting a quote for painting the rest of the building and will advise Council once this has been received. It is proposed that the remainder of the building remain the same colours as present.

**6. REPORTS BY DELEGATES OR REPRESENTATIVES**

Nil

**7. PETITIONS AND DEPUTATIONS****7.1 Deputations before Council re Multiple Dwellings – 12 Jervois Street, Glenelg North(110/80/06), 23 Sturt Street, Glenelg North (110/81/06) and 7 Highet Avenue, Brighton (110/82/06).**

At the Council meeting held on 27 June 2006, Council resolved (C270606/173) to contact and invite all representors to make a brief presentation to the Council regarding the subject sites.

For the information of Elected Members details of the Development Applications relating to the above properties are circulated to Elected Members as a separate document with the agenda paper).

At the time of Agenda compilation, all representors have been invited to attend the meeting and have been asked to indicate their desire to be heard as a deputation in response to Council's invitation. Final responses will be confirmed by the time of the Council Meeting.

**Councillor Dixon moved and Councillor Holt seconded that deputations be heard from interested residents, for a maximum of five minutes each, in relation to the three multiple dwelling sites.**

**CARRIED**

Deputation Speakers:

Ms N Tucker, Jervois Street GLENELG NORTH  
 Mr P Kauschke, Jervois Street GLENELG NORTH  
 Ms Edwards, Principal of St Leonard's Primary School, GLENELG NORTH  
 Mr J Gaynor, Sturt Street GLENELG NORTH  
 Mr G Vecchio, Highet Avenue BRIGHTON  
 Mr P Maley, Highet Avenue BRIGHTON

Each deputation speaker addressed the meeting.

**Councillor Deakin moved and Councillor Bouchè seconded that Council now consider item 12 on the agenda**

**CARRIED**

**12. DEVELOPMENT ASSESSMENT PANEL**

**C110706/190 Councillor Lush moved and Councillor Deakin seconded that the minutes of the Development Assessment Panel held on Wednesday 28 June 2006, circulated to Elected Members under separate cover on 29 June 2006, be received.**

**CARRIED**

The Presiding Member, Councillor Macaskill reported that the Development Assessment Panel had processed the business contained in the agenda documents on Wednesday 28 June 2006 and had made certain recommendations to Council in relation to the following DAP Items.

**DEVELOPMENT ASSESSMENT PANEL:**

Item 7.2 APPEAL – 4 FULTON STREET, GLENELG NORTH (Report No: 313/06)

Following the lodgement of an appeal against the Panel's refusal of an application to attach shadecloth to an existing chain mesh fence along rear and portion of side boundaries, the appellant has submitted an amended proposal for further consideration. The amended proposal shows that the amount of shadecloth along the rear boundary would be reduced to cover only the top 1.3 metres of the chain mesh fence. It is considered that the amendments made adequately address the visual amenity and overshadowing issues with the previous proposal and that the compromise proposal has merit for support.

**It was the consensus of the Development Assessment Panel that the Development Assessment Panel recommends to Council that the Environment Resources and Development Court be advised that Council supports the amended proposal for Development Application 110/00842/05 subject to the following conditions:**

- 1. That the design and siting of all buildings and structures and site works shall be as shown on the amended plans submitted to and approved by Council unless varied by any subsequent conditions imposed herein.**
- 2. That the structure shall be maintained, kept tidy, free of graffiti and in good repair and condition to the reasonable satisfaction of Council at all times.**
- 3. That the shadecloth be removed in its entirety within eighteen (18) months of the granting of Development Approval.**

Item 7.3 APPEAL – 51 GLADSTONE ROAD, NORTH BRIGHTON (Report No: 314/06)

Following the lodgement of an appeal against the Panel's refusal of an application for a carport and other additions to a dwelling an amended plan has been submitted for the consideration of the Panel. A Directions Hearing has been listed for 12 July 2006 to set an appropriate hearing date pending the outcome of the Panel's consideration.

**It was the consensus of the Development Assessment Panel that the Development Assessment Panel recommends to Council that the Environment, Resources and Development Court be advised that Council does not support the amended proposal to vary Development Application 110/881/05 for the reasons that it is contrary to Council Wide Objective 83 and Principles 189, 191 and 198 and Residential A Principles 13 and 16 of the City of Holdfast Bay Development Plan. More specifically, the application does not meet the intent of the Development Plan in relation to:**

- Carport siting;**
- Impact on streetscape and character of locality.**

**C110706/191 Councillor Deakin moved and Councillor Holt seconded that the recommendations of the Development Assessment Panel held on Wednesday 28 June 2006 for Item Nos: 7.2 and 7.3 be adopted.**

**CARRIED**

Item 7.4, 14 June 2006 12 JERVOIS STREET, GLENELG NORTH, 23 STURT STREET, GLENELG NORTH, 7 HIGHET AVENUE, BRIGHTON (Report No: 297/06)

Consideration is sought on Item 7.4 in light of the deputations heard by Council on 27 June 2006 from the applicant's Lawyer Mr George Manos; and subsequently from representors in relation to the three applications at Council's meeting of 11 July 2006.

Following the lodgement of an appeal against the Panel's refusal of three separate development applications proposing the use of three dwellings as multiple dwellings and the conversion of outbuildings at two of the properties as habitable rooms, the Applicant has submitted a compromise proposal for the Panel's consideration. Accordingly the matter is before the Panel for its determination before it is reconsidered by the Court.

**The Development Assessment Panel recommends to Council that the Environment Resources and Development Court be advised that Council does not support the compromise proposal submitted for applications 110/80/06 (12 Jervois Street Glenelg North), 110/81/06 (23 Sturt Street, Glenelg North) and 110/82/06 (7 Highet Avenue, Brighton), each for a lodging house accommodating five (5) occupants living independently of one another, for reasons that the proposals do not meet the intent of the Development Plan in relation to:**

- The type of residential use proposed on the land;
- The enhancement and protection of safe, pleasant, convenient residential zones;
- Detrimental impact on the amenity of the locality;
- A residential density and standard of accommodation which is sufficiently compatible with the locality;
- A residential accommodation arrangement which facilitates proper care and maintenance of a property; and
- Provision of on-site car parking

Councillor Crutchett moved and Councillor Bouchée seconded that the matter be adjourned to allow consideration of relevant matters in confidence.

**CARRIED**

Councillor Crutchett moved and Councillor Bouchée seconded that, pursuant to Section 90(2) and 90(3)(i) of the Local Government Act 1999 the Council order that the public be excluded from attendance at the meeting, with the exception of Council officers and any other visitors permitted to remain, after taking into account the relevant considerations under Section 90(3), on the basis that it will receive, discuss or consider the following:

- information relating to actual litigation, or litigation that the Council or Council Committee believes on reasonable grounds will take place, involving the Council or an employee of the Council.

**CARRIED**

**ORDER TO RETAIN DOCUMENTS IN CONFIDENCE**

**Councillor Crutchett moved and Councillor Bouch e seconded that pursuant to Section 90(2), 90(3)(i) and 91(7) of the Local Government Act 1999:**

- 1. The Council orders that the documents and minutes relating to Report No: 297/06 kept confidential and not available for public inspection on the basis that they deal with information relating to actual litigation, or litigation that the Council or Council Committee believes on reasonable grounds will take place, involving the Council or an employee of the Council, under Section 90 (2) and 90(3)(i) of the Act.**
- 2. This resolution be reviewed once the matter has been resolved by the ERD court.**

**CARRIED**

**Councillor Bouch e moved and Councillor Holt seconded that the Council resume as an open meeting of Council at 8:00pm.**

**CARRIED**

**Councillor Dixon moved and Councillor Holt seconded that the debate of the adjourned matter resume.**

**CARRIED**

**C110706/192 Councillor Deakin moved and Councillor Norton seconded that the recommendations of the Development Assessment Panel held on Wednesday 14 June 2006 for Item No: 7.4 be adopted.**

**CARRIED**

**7.2 Broadway Kiosk Petition**

At the Council Meeting held on 27 June 2006, a further four pages of the petition regarding the Redevelopment of the Broadway Kiosk were presented by Mayor Rollond.

Attached for the information of Elected Members are copies of the additional four pages of the petition. Administration has verified that the number of signatures attached is 89 and the total number of signatures received is 2,315, including that of Mr Messenger.

**Councillor Deakin moved and Councillor Holt seconded that the additional "Redevelopment of Broadway Kiosk" petition signatures be received.**

**CARRIED**

**8. NOTICES OF MOTION Nil**

**9. ADJOURNMENT (TO ENABLE PERMANENT COMMITTEES TO MEET) (8:10 PM)**

**Councillor Deakin moved and Councillor Lush seconded that Council stand adjourned to enable the permanent Social and Organisation and Strategy and Development Committees to meet.**

**CARRIED**

**10. RESUMPTION**

**Councillor Swiderczuk left the meeting at 8.43pm.**

**Councillor Lush moved and Councillor Macaskill seconded that Council resume at 8:43pm.**

**CARRIED**

**11. COMMITTEE RECOMMENDATIONS FOR CONSIDERATION****11.1 Social and Organisation Committee**

The Chairperson, Councillor Lush reported that the Social and Organisation Committee had met this evening and had processed the business contained in the agenda documents.

**Councillor Lush moved and Councillor Donaldson seconded that the report of the Social and Organisation Committee be received, and the agenda documents and approved recommendations be received and tabled, together with the additional recommendations from the meeting, and the recommendations be adopted.**

**CARRIED**

**11.2 Strategy and Development Committee**

The Chairperson, Councillor Edwards reported that the Strategy and Development Committee had met this evening and had processed the business contained in the agenda documents.

**Councillor Edwards moved and Councillor Holt seconded that the report of the Strategy and Development Committee be received, and the agenda documents and approved recommendations be received and tabled, together with the additional recommendations from the meeting, and the recommendations be adopted.**

**CARRIED**

**13. REPORTS OF ADVISORY COMMITTEES AND/OR SUB-COMMITTEES Nil**

**14. REPORTS OF REGIONAL SUBSIDIARIES Nil**

**15. REPORTS BY OFFICERS****15.1 Items in Brief (Report No: 336/06)**

Report No: 336/06 was presented detailing items which were presented for the information of Members and did not require a separate resolution.

**C110706/193 Councillor Holt moved and Councillor Edwards seconded that the report be noted and items of interest be discussed (except 15.1.1).**

**CARRIED**

**15.1.1 Broadway Kiosk Correspondence**

A copy of correspondence received from Mrs Elizabeth Olesnicki with regard to the loss of the old Broadway Kiosk and asking that it be replaced with a similar style of kiosk, is attached for consideration by Members.

**C110706/194 Councillor Lush moved and Councillor Macaskill seconded that Council write to Mrs Elizabeth Olesnicki assuring her that Council's proposed Broadway Kiosk is intended to be suitable to meet the community's expectations of an affordable, quality and community-friendly venue.**

A division was called.

Voted For	Voted Against
Councillor Dixon	Councillor Crutchett
Councillor Norton	Councillor Bouch�e
Councillor Macaskill	
Councillor Swiderczuk	
Councillor Deakin	
Councillor Donaldson	
Councillor Lush	
Councillor Holt	
Councillor Edwards	

**HIS WORSHIP THE MAYOR DECLARED THE MOTION CARRIED**

**Councillor Swiderczuk rejoined the meeting at 8:46pm.**

**Councillor Donaldson left the meeting at 8:46pm.**

**Councillor Donaldson rejoined the meeting at 8:48pm.**

**15.2 Holdfast Shores Stage 2B – Primary Residential Community Strata Application for Platinum Apartments and associated Car Parking (Report No: 334/06)**

Council on 27 June 2006 considered a late item regarding an application by Norman Waterhouse Lawyers on behalf of the Baulderstone Hornibrook Urban Construct Joint Venture to deposit a plan of community division for the Platinum Apartments for Council's agreement and execution. Council subsequently adjourned the item for further consideration.

The purpose of this report is to seek Council's agreement to this documentation and to provide a response to both Planning SA and Norman Waterhouse Lawyers.

**Councillor Lush left the meeting at 9:01pm**

**Councillor Lush rejoined the meeting at 9:02pm.**

**C110706/195 Councillor Edwards moved and Councillor Deakin seconded that Council:**

- 1. Authorise the Mayor and Chief Executive Officer to sign and seal the Certificate of Consent for the Deposit of a Community Division for the Platinum Apartments contained in Attachment 2 to Report Number 334/06 in order to create the necessary easements proposed to be vested in Council.**
- 2. Advise Norman Waterhouse Lawyers and Planning SA that it has reviewed both the draft revised Scheme Description submitted with the Application to Deposit a Plan of Community Division for the Platinum Apartments and the Development Contract amended on 4 June 2006 and:**
  - 2.1. considers that the amended Scheme Description appears to adequately address previous concerns raised by Council on 28 March 2006; and**
  - 2.2. considers that the amended Development Contract is consistent with the Scheme Description and appears to be in order.**
- 3. Advise the Development Assessment Commission (C/- Planning SA) that while Council has agreed to sign and seal the Certificate of Consent for the Deposit of a Community Division for the Platinum Apartments as part of the Holdfast Shores Stage 2B development in order to create the necessary easements proposed to be vested in Council, previous concerns raised its letter to Planning SA dated 5 April 2006 regarding a short-fall in car parking numbers for Platinum Apartments and other outstanding issues raised in this letter must be given further consideration by the Government as part of the development assessment process.**

A division was called.

Voted For  
 Councillor Dixon  
 Councillor Norton  
 Councillor Macaskill  
 Councillor Swiderczuk  
 Councillor Deakin  
 Councillor Donaldson  
 Councillor Lush  
 Councillor Holt  
 Councillor Edwards  
 Councillor Crutchett

Voted Against  
 Councillor Bouchée

**HIS WORSHIP THE MAYOR DECLARED THE MOTION CARRIED**

## **16. URGENT BUSINESS**

**Councillor Bouchée left the meeting at 9.07 pm.**

### **16.1 Proclamation Day Luncheon**

**His Worship the Mayor advised that he had been advised, although not yet confirmed in writing, that SA Great would be withdrawing from joint involvement in Council's Proclamation Day Event.**

**16.2 Councillor Macaskill sought leave to make a personal explanation in relation to previous concerns expressed in the Council Chamber.**

**Councillor Bouch e rejoined the meeting at 9.10 pm.**

**Councillor Bouch e left the meeting at 9.12 pm.**

**Councillor Lush moved and Councillor Norton seconded that Councillor Macaskill be granted leave by the Council to make a personal explanation**

**CARRIED**

**Councillor Macaskill’s Personal Explanation – July 11 2006**

**I ask you to cast your minds back to the meeting of Council on Tuesday June 27 2006 when I told the chamber I had made contact with some “notable” signatories of the Broadway Kiosk Petition to ask what information they received when being asked to sign the petition. I also spoke to a number of Holdfast Bay ratepayers who had signed the petition.**

**As you will no doubt recall at that time Councillor Bouch e alleged that the people I had spoken to felt bullied and threatened by my phone call and had rung her to complain and she declined to name the people concerned in case I bullied them again.**

**I have now spoken to every person to whom I spoke initially and all have denied feeling either bullied or threatened.**

**They have denied complaining to Councillor Bouch e or anyone else about my phone call.**

**I regard the Councillor’s allegation as serious and damaging to me personally as a Councillor of this City.**

**My legal advice today is that the allegations are and I quote “actionable defamation”.**

**Based on this information I request to Councillor Bouch e to explain her comments, to withdraw her comments or to provide a list of the people who rang her to complain.**

**I would like my statement and Councillor Bouch e’s response recorded in the minutes and I move that motion.**

**Councillor Bouch e rejoined the meeting at 9:18pm.**

**Councillor Macaskill moved and Councillor Dixon seconded that the personal statement of Councillor Macaskill, and the existence of her related statutory declaration be recorded, in the Council minutes.**

**CARRIED**

**17. CLOSURE**

**The Meeting closed at 9:25pm.**

**CONFIRMED**

**Tuesday 25 July 2006**

**MAYOR**