

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 10 January 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
P L Holt
C J Lush
P L Macaskill
D J Swiderczuk
S K Tilley (from 7:06pm)
R T Donaldson
D G Chamberlain
C A Sheffield
C E Umapathysivam
S L Ditter

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

1. OPENING

His Worship the Mayor, declared the meeting open with prayer at 7:00pm.

2. PRESENTATION

Mayor Rollond presented to Council a framed Coat of Arms and citation which was designed and prepared by Mr Robin Kidney and presented by the Somerton Surf Lifesaving Club on the occasion of the opening of the new Club building. Chief Executive Officer, Mr Donaldson presented a second copy of the Coat of Arms and citation.

3. APOLOGIES

3.1 For Absence Councillor S K Tilley (until 7:06pm)
Councillor A C Norton

3.2 Leave of Absence Nil

4. CONFIRMATION OF MINUTES

Councillor Lush moved and Councillor Holt seconded that the minutes of the Ordinary Meeting of Council held on Tuesday 6 December 2005 and the Special Meeting of Council held on Wednesday 14 December 2005 be taken as read and confirmed.

CARRIED

5. QUESTIONS BY MEMBERS

5.1 Without Notice

5.1.1 Legal Advice

At the meeting of Council held on 10 January 2006, Councillor Bouchée asked the following question.

Can Elected Members have access to legal advice received in accordance with Council's previous resolutions relating to possible litigation by the Mayor and his wife, given the advice contained in the Chief Executive Officer's memo "Letter from the Mayor" dated 10/1/06 that the Mayor is considering an intention to commence legal action involving Council and Councillors, "jointly and severally"?

Chief Executive Officer's response

The Chief Executive Officer took the question on notice.

5.2 With Notice

5.2.1 Broadway Kiosk

At the meeting of Council on 6 December 2005 Councillor Tilley referred to questions with notice and answers presented and asked the following questions.

1. Was Councillor Edwards' statement that no decision had been made regarding the Council or a developer constructing the Broadway Kiosk correct?

General Manager Economic and Corporate Response

Councillor Edwards did not make the statement that has been attributed to him by Councillor Tilley. He answered a question about whether or not the Council had selected a tenant from those parties that had lodged expressions of interest, with the response "no". This answer was and remains correct.

2. If this is true and Council has not made a decision in regard to building the Kiosk, or whether to call tenders for a developer to build, and have a long term lease on the Kiosk, when will a decision be made by Council, and will Community Consultation be involved in the process and the final decision.

General Manager Economic and Corporate Response

There has already been significant consultation in regard to the proposed development.

Prior to demolition of the former kiosk all residents in the immediate vicinity of the proposed development received a circular by way of a letter-box drop. The "catchment" area was as follows: both sides of the Broadway from the Esplanade to the roundabout on the corner of Moseley Street (excluding the Marco Polo property); properties on the Esplanade radiating out from the kiosk to Kent Street to the north and to Weewanda Street to the south) and provided with the opportunity of making comment on the proposed development. Report No 328/04 of 13 July 2004 and Council resolution CC04/0084 refer.

5.2 With Notice (Cont'd)

5.2.1 Broadway Kiosk (Cont'd)

A second round of consultation occurred when the development application was considered by the Development Assessment Commission. Persons residing in, or owning, properties "likely to be affected to a significant degree" were provided with the opportunity of making representations to the DAC, and several did so.

A final community consultation on the lease will occur, once the lease details are finalised, as required under Council's public consultation policy. Council will retain the ability to vary lease terms and conditions based on the outcomes of the public consultation process.

Administration is hopeful that a decision will be made on the commencement of the Broadway Kiosk early in 2006.

6. REPORTS BY DELEGATES OR REPRESENTATIVES Nil

7. PETITIONS AND DEPUTATIONS Nil

8. NOTICES OF MOTION

8.1 RESCISSION MOTION – GLENELG TOWN HALL LIFT PROJECT

C100106/001 Councillor Bouchée moved and Councillor Holt seconded that the following resolution:-

"SD090805/065

2. *That initial works to the Glenelg Town Hall be undertaken during 2005/2006 to both enhance accessibility to the first floor and prepare the Council Chamber in anticipation for meetings to be reconvened at Glenelg at an appropriate time. Such works to include installation of a new service-type lift in the north-eastern corner of the Town Hall and associated stair replacement, and a limited refurbishment of the Council Chamber at an estimated total cost in the order of \$300,000.*

CARRIED"

be rescinded.

A division was called.

Voted For

Councillor Bouchée
Councillor Crutchett
Councillor Deakin
Councillor Dixon
Councillor Donaldson
Councillor Edwards
Councillor Holt
Councillor Tilley

Voted Against

Councillor Swiderczuk
Councillor Lush
Councillor Macaskill

HIS WORSHIP THE MAYOR DECLARED THE MOTION CARRIED

**9. ADJOURNMENT (TO ENABLE PERMANENT COMMITTEES TO MEET)
(7:08PM)**

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

CARRIED

10. RESUMPTION

Councillor Lush moved and Councillor Holt seconded that Council resume at 8:11pm.

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

12. DEVELOPMENT ASSESSMENT PANEL

Councillor Macaskill moved and Councillor Lush seconded that the minutes of the Development Assessment Panel held on Tuesday 13 December 2005, circulated to Elected Members under separate cover on 14 December 2005, be received.

CARRIED

The Presiding Member, Councillor Macaskill reported that the Development Assessment Panel had processed the business contained in the agenda documents on Tuesday 13 December 2005 and had made certain recommendations to Council in relation to the following DAP Item.

Item 7.2 APPEAL – 15 DOWNING STREET, HOVE 110/00664/05 (Report No: 657/05)

Following the lodgement of an appeal against the Panel's refusal of an application to construct a two-storey detached dwelling and associated garage at 15 Downing Street, Hove, the appellant has submitted a planning assessment report in support of the application and a revised landscaping plan for further consideration. The revised plans show that the significant Willow Myrtle tree located in the front yard would be retained; further landscaping would be provided and external colours and materials have been amended. No fundamental changes have been made to the design and siting of the proposed dwelling and as such, Administration reaffirms its recommendation for refusal.

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 for reasons that it is contrary to Council Wide Objective 34 and Principles 58, 191 and 200; and Residential A zone Principles 12, 13 and 17 of the City of Holdfast Bay Development Plan. More specifically, the application does not meet the intent of the Development Plan in relation to:

- **The maintenance and enhancement of the character and amenity of the locality**
- **A desired built form consistent with the Objectives and Principles of Development Control applicable for the Zone with respect to built-form and set-backs from the primary road frontage**
- **The visual prominence of the proposed dwelling**
-

C100106//002

Councillor Holt moved and Councillor Lush Councillor seconded that the recommendations of the Development Assessment Panel held on Tuesday 13 December 2005 for Item No: 7.2 be adopted.

CARRIED**13. REPORTS OF ADVISORY COMMITTEES AND/OR SUB-COMMITTEES**
Nil**14. REPORTS OF REGIONAL SUBSIDIARIES****14.1 Southern Region Waste Resource Authority**

Minutes of the Meeting held Monday 12 December 2005.

Councillor Deakin moved and Councillor Bouchée seconded that the minutes of the Southern Region Waste Resource Authority be received.

CARRIED

15. REPORTS BY OFFICERS**15.1 Items in Brief (Report No: 08/06)**

Report No: 08/06 was presented detailing items which were presented for the information of Members and did not require a separate resolution.

C100106/003 Councillor Edwards moved and Councillor Lush seconded that the report be noted and items of interest be discussed.

CARRIED

15.2 King Street Bridge – Survey and Consultation Distribution Costs (Report No: 10/06)

Report No: 10/06 was presented following the recent Elected Members' Workshop regarding future directions of the King Street Bridge, and the proposed method of consultation and survey of residents of Holdfast Bay on the future direction, this report updates Council on the direct production costs and distribution costs of material to be sent out.

Due to the large costs associated with the consultation and the limited budget, it is recommended that this work is considered for deferral to next financial year

C100106/004 Councillor Bouchée moved and Councillor Deakin seconded that the report be received.

CARRIED

C100106//005 Councillor Crutchett moved and Councillor Holt seconded that administration reports further on the cost of survey of registration and garage location of vehicles using King Street Bridge, to support Council's argument that a significant proportion of traffic using the bridge is not of local origin.

POINT OF ORDER

In accordance with the Local Government (Procedures at Meetings) Regulations 2000, Councillor Lush raised a point of order, drawing the Presiding Member's attention to an alleged breach of Regulation 29(1)(a) by Councillor Bouchée.

In accordance with Regulation 29(3) of the Local Government (Procedures at Meetings) Regulations 2000, His Worship the Mayor advised that he considered that Councillor Bouchée may have acted in contravention of Regulation 29(1)(a).

In accordance with Regulation 29(3) of the Local Government (Procedures at Meetings) Regulations 2000, Councillor Bouchée gave a personal explanation.

In accordance with Regulation 29(4) of the Local Government (Procedures at Meetings) Regulations 2000, Councillor Bouchée left the meeting at 8:27pm.

C100106/006 Councillor Tilley moved and Councillor Deakin seconded, in accordance with Regulation 29(5) of the Local Government (Procedures at Meetings) Regulations 2000, that Council resolve that Councillor Bouchée did not behave in an improper or disorderly manner, that no further action be taken and that Councillor Bouchée be invited to return to the Meeting.

CARRIED

Councillor Bouchée returned to the meeting at 8:34pm.

His Worship the Mayor referred the meeting to the substantive motion of Councillor Crutchett and Councillor Holt.

THE MOTION WAS THEN CARRIED.

15.2 King Street Bridge – Survey and Consultation Distribution Costs (Report No: 10/06) (Cont'd)

C100106/007 Councillor Tilley moved and Councillor Bouchée seconded that Council await the outcome of the current traffic origin and destination survey before further consideration of public consultation processes.

Councillor Swiderczuk left the meeting at 8:40 pm.

AMENDMENT

Councillor Lush moved and Councillor Macaskill seconded that Council await the outcome of the current traffic origin and destination survey, and the Government's response to it, before further consideration of public consultation processes.

**THE AMENDMENT WAS CARRIED
THE AMENDMENT THEN BECAME THE MOTION AND WAS CARRIED**

Councillor Swiderczuk returned to the meeting at 8:43 pm.

15.3 Shark Risks (Report No: 13/06)

Report No: 13/06 was presented following two separate incidences of shark attacks resulting in fatalities (one off West Beach and one off Glenelg) the Member for Morphett, Dr Duncan McFetridge has commenced a campaign to have a shark barrier installed off Glenelg Beach from the Patawalonga mouth to The Broadway. This report overviews the risks and Council's role and outlines the State Government's responsibilities.

Councillor Lush left the meeting at 8:58pm.

Councillor Lush returned to the meeting at 9:00pm.

C100106/008 Councillor Edwards moved and Councillor Deakin seconded:

1. **That Council offer in principle support to the Member for Morphett, Dr Duncan McFetridge, in his endeavours to have the State Government reduce shark attack risks along the metropolitan coast.**
2. **That Council request a response from the State Government on the issues and questions in Attachment 3 to Report 13/06 to allow Council's further consideration.**

A division was called.

Voted For

Councillor Deakin
Councillor Donaldson
Councillor Edwards
Councillor Holt
Councillor Tilley

Voted Against

Councillor Lush
Councillor Crutchett
Councillor Bouchée
Councillor Dixon
Councillor Swiderczuk
Councillor Macaskill

THE MOTION WAS LOST.

C100106/009 Councillor Macaskill moved and Councillor Lush seconded that

1. **That Council offers in principle support to the Member for Morphett, Dr Duncan McFetridge, in his endeavours to have the State Government reduce shark attack risks along the metropolitan coast, however Council does not support any form of electronic device or physical shark barrier for the City of Holdfast Bay coastline.**
2. **That Council requests a response from the State Government on the issues and questions in Attachment 4 to Report 13/06 to allow Council's further consideration.**

A division was called.

Voted For

Councillor Bouchée
Councillor Crutchett
Councillor Deakin
Councillor Dixon
Councillor Donaldson
Councillor Edwards
Councillor Holt
Councillor Lush
Councillor Macaskill
Councillor Swiderczuk

Voted Against

Councillor Tilley

HIS WORSHIP THE MAYOR DECLARED THE MOTION CARRIED

The Chief Executive Officer, Mr Donaldson left the meeting at 9:14pm having declared a conflict of interest in item15.4.

15.4 Somerton Coast Park – Community Reference Group Selection (Report No: 12/05)

Councillor Lush declared that her husband owns property in the subject area described, however that they were part of a substantial class and there was no conflict of interest.

C100106/010 Councillor Crutchett moved and Councillor Holt seconded that Councillor Lush’s explanation be recorded in the minutes.

CARRIED

Report No: 12/05 was presented as part of the Community Consultation Plan for Somerton Coast Park, a Community Reference Group is to be established to provide direct community input into the Somerton Coast Park project.

This report provides an update on the process and recommends eight people for selection on the Group.

C100106/011 Councillor Holt moved and Councillor Macaskill seconded that the late item, being the response to Mr West’s letter, be received.

CARRIED

Councillor Holt left the meeting at 9:23pm.

Councillor Holt returned to the meeting at 9:25pm.

C100106/012 Councillor Macaskill moved and Councillor Edwards seconded that Council endorses the eight nominations selected by the sub committee and their selection basis as listed below, as the community representatives on the Somerton Coast Park Community Reference Group:

• Lisa Doolette	Female 51-60. Collector road resident. Interests in walking. Open minded about options including one-way.
• Craig Clark	Male 31-60. Side street resident. To represent disabled views.
• Ian McGregor	Male 60+. Esplanade resident. Interests in KESAB and the environment.
• John Rumpff	Male 31-60. Wider community views (not in project area). Interested in accessibility to beach, walking, parking near beach, yacht club member.
• David Kinnear	Male 31-60. Collector road resident. Somerton Surf Life Saving Club president. Institutional representative.
• Christina Von Muenster	Female 19-30. Esplanade resident. Interested in streetscape, walking and cycling.
• Gerald England	Male 60+. Side street resident. Interested in walking and cycling and environmental issues.
• Anne McAvaney	Female 31-60. Esplanade resident. User of the area with children. Interested in traffic management of the area.

15.4 Somerton Coast Park – Community Reference Group Selection (Report No: 12/05) (Cont'd)

- 2. That Council note the Warren West letter at Attachment 5 and, reply tabled at the Council meeting.**
- 3. That Council endorses the project process outlined in Attachment 1.**

A division was called.

Voted For

Voted Against

Councillor Bouchée

Councillor Tilley

Councillor Crutchett

Councillor Deakin

Councillor Dixon

Councillor Donaldson

Councillor Edwards

Councillor Holt

Councillor Lush

Councillor Macaskill

Councillor Swiderczuk

HIS WORSHIP THE MAYOR DECLARED THE MOTION CARRIED

15.5 Somerton Coast Park Project, Chief Executive Officer Conflict of Interest (Report No: 20/06)

Report No: 20/06 was presented advising that the Chief Executive Officer has a conflict of interest in the Somerton Coast Park project and will not act in relation to the project unless and until the Council determines that he should so act.

C100106/013 Councillor Macaskill moved and Councillor Lush seconded that the report be received and noted.

CARRIED

Councillor Crutchett left the meeting at 9:26pm.

Councillor Dixon left the meeting at 9:27 pm.

The Chief Executive Officer returned to the meeting at 9:28pm

Councillor Crutchett returned to the meeting at 9:29pm.

15.6 Delegations under the Fire and Emergency Services Act 2005 (Report No: 22/06)

Report No: 22/06 was presented advising that with the introduction of the new Fire and Emergency Services Act 2005 and the relevant regulations, it is necessary to update the delegation to the Chief Executive Officer.

This report is presented to allow this to be formalised.

C100106/014 Councillor Bouchée moved and Councillor Lush seconded that Council endorses the delegation of powers under Section 44 of the Local Government Act 1999, and delegates to the Chief Executive Officer the powers and functions under the Fire and Emergency Services Act 2005 and the Fire and Emergency Services Regulations 2005 as described in Attachment 1 to Report No. 22/06.

CARRIED

16. URGENT BUSINESS**16.1 Australia Day Celebrations**

The Chief Executive Officer reminded Members regarding the robing arrangements for Australia Day.

**Councillor Macaskill left the meeting at 9:29pm
Councillor Dixon returned to the Meeting at 9:30pm**

17. ITEMS IN CONFIDENCE**17.1 BROADWAY KIOSK REDEVELOPMENT UPDATE (REPORT NO: 09/06)**

C100106/015 Councillor Lush moved and Councillor Donaldson seconded that, pursuant to Section 90(2) and 90(3)(b) 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)(b), on the basis that it will receive, discuss or consider the following:

- information or matter the disclosure of which –
 - (i) could reasonably be expected to confer a commercial advantage on a person with whom the council is conducting, or proposing to conduct, business, or to prejudice the commercial position of the council; and
 - (ii) would, on balance, be contrary to the public interest.

CARRIED

**Council officers remaining: Mr Donaldson, Mr Chamberlain,
Mrs Umapathysivam, Mrs Ditter and Mr Sheffield**

Broadway Kiosk Redevelopment Update (Report No: 09/06)

ORDER TO RETAIN DOCUMENTS IN CONFIDENCE

C100106/016 Councillor Lush moved and Councillor Macaskill seconded that pursuant to Section 90(2), 90(3)(b) and 91(7) of the Local Government Act 1999:

1. The Council orders that the documents and minutes relating to Report No: 09/06 with the exception of Resolution No: C100106/015 for going into confidence be kept confidential and not available for public inspection on the basis that they deal with information the disclosure of which:
 - (i) could reasonably be expected to confer a commercial advantage on a person with whom the council is conducting, or proposing to conduct, business, or to prejudice the commercial position of the council; and
 - (ii) would, on balance, be contrary to the public interestunder Section 90(2) and 90(3)(b) of the Act

2. This resolution will be reviewed on or before 31 December 2006 by the Council.

CARRIED

17. ITEMS IN CONFIDENCE (Cont'd)

Councillor Macaskill returned to the meeting at 9:35pm

17.2 TEMPORARY BROADWAY KIOSK (REPORT NO: 19/06)

C100106/017 Councillor Lush moved and Councillor Holt seconded that, pursuant to Section 90(2) and 90(3)(b) 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)(b), on the basis that it will receive, discuss or consider the following:

- information or matter the disclosure of which –
 - (i) could reasonably be expected to confer a commercial advantage on a person with whom the council is conducting, or proposing to conduct, business, or to prejudice the commercial position of the council; and
 - (ii) would, on balance, be contrary to the public interest.

CARRIED

Council officers remaining: Mr Donaldson, Mr Chamberlain,
Mrs Umaphysivam, Mrs Ditter and Mr Sheffield

Temporary Broadway Kiosk (Report No: 19/06)

ORDER TO RETAIN DOCUMENTS IN CONFIDENCE

C100106/018 Councillor Lush moved and Councillor Macaskill seconded that pursuant to Section 90(2), 90(3)(b) and 91(7) of the Local Government Act 1999:

1. The Council orders that the documents and minutes relating to Report No: 19/06 with the exception of Resolution No: C100106/017 for going into confidence be kept confidential and not available for public inspection on the basis that they deal with information the disclosure of which:
 - (i) could reasonably be expected to confer a commercial advantage on a person with whom the council is conducting, or proposing to conduct, business, or to prejudice the commercial position of the council; and
 - (ii) would, on balance, be contrary to the public interestunder Section 90(2) and 90(3)(b) of the Act
2. This resolution will be reviewed on or before 31 December 2006 by the Council.

CARRIED

17. ITEMS IN CONFIDENCE (Cont'd)**17.3 MOSELEY SQUARE REDEVELOPMENT – STAGE 2 BUDGET UPDATE (REPORT NO: 21/06)**

C100106/019 Councillor Macaskill moved and Councillor Lush seconded that, pursuant to Section 90(2) and 90(3)(b) 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)(b), on the basis that it will receive, discuss or consider the following:

- information or matter the disclosure of which –
 - (i) could reasonably be expected to confer a commercial advantage on a person with whom the council is conducting, or proposing to conduct, business, or to prejudice the commercial position of the council; and
 - (ii) would, on balance, be contrary to the public interest.

CARRIED

Council officers remaining: Rob Donaldson, Dennis Chamberlain, Christine Umapathysivam, Shanti Ditter and Charles Sheffield.

Moseley Square Redevelopment – Stage 2 Budget Update (Report No: 21/06)

ORDER TO RETAIN DOCUMENTS IN CONFIDENCE

C100106/020 Councillor Lush moved and Councillor Macaskill seconded that pursuant to Section 90(2), 90(3)(b) and 91(7) of the Local Government Act 1999:

1. The Council orders that the documents and minutes relating to Report No: 21/06 with the exception of Resolution No: C100106/019 for going into confidence be kept confidential and not available for public inspection on the basis that they deal with information the disclosure of which:
 - (i) could reasonably be expected to confer a commercial advantage on a person with whom the council is conducting, or proposing to conduct, business, or to prejudice the commercial position of the council; and
 - (ii) would, on balance, be contrary to the public interestunder Section 90(2) and 90(3)(b) of the Act
2. This resolution will be reviewed on or before 31 December 2006 by the Council.

CARRIED

18. RESUMPTION

Councillor Holt moved and Councillor Lush seconded that Council resume as an open meeting of Council at 9:45pm.

CARRIED

19. CLOSURE

The meeting closed at 9:45pm.

CONFIRMED

Tuesday 24 January 2006

MAYOR