

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 24 October 2006 at 7:06pm.

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
A C Norton
D J Swiderczuk
S K Tilley
R T Donaldson
S G Hodge
C E Umaphysivam
R A Thomas
I S Walker

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

1. OPENING

His Worship the Mayor, declared the meeting open with prayer at 7:06pm.

2. APOLOGIES

2.1 For Absence Nil

2.2 Leave of Absence Nil

3. PRESENTATION

His Worship the Mayor presented:

- The Local Government Workers Compensation Scheme 20th Anniversary Award;
- The International Councils for Local Environment Initiatives Awards for Cities for Climate Protection Milestone 5 achievement;
- Cities for Climate Protection Plus; and
- The International Councils for Local Environment Initiatives Water Campaign Milestone 1 Community Module.

4. CONFIRMATION OF MINUTES

Councillor Holt moved and Councillor Norton seconded that the minutes of the Ordinary Meeting of Council held on 10 October 2006 be taken as read and confirmed.

CARRIED

5. MAYORAL REPORT

From 17 September 2006 to 15 October 2006.

Councillor Bouchée moved and Councillor Donaldson seconded that the report be received and noted.

CARRIED

6. QUESTIONS BY MEMBERS**6.1 Without Notice****6.1.1 Water Leakage at The Beachouse**

Councillor Tilley asked if any action had been taken regarding the water leakage from the west side of The Beachouse, since the last Council meeting.

Acting General Manager Strategy and Development provided a response.

Councillor Tilley asked if it was Council's role to monitor the condition of the wall.

Acting General Manager Strategy and Development provided a response.

6.1.2 Car parked adjacent to Glenelg Town Hall

Councillor Bouchée asked whether and when Council would have ownership of the laneway at Glenelg between Hope Street and the beach, to allow enforcement of parking controls.

Acting General Manager Strategy and Development advised that Council did not currently own the land in question, and that transfer of land in Holdfast Shores Stage 2B to end owners was expected to be complete in the next two weeks.

Councillor Bouchée asked whether there would be a report on the reason why Council's cleaners' vehicles were not permitted access to park beside the Glenelg Town Hall.

The Chief Executive Officer advised that he had noted the matter, that no report was likely, but the matter would be referred to administration for action if required.

6.1.3 Cleanliness of Laneway between Hope Street and the Beach

Councillor Bouchée asked who was responsible for the cleaning of the laneway between Hope Street and the beach.

The Chief Executive Officer advised that it was his understanding that the Stage 2B area Community Corporation is responsible for the cleaning of the laneway.

Councillor Bouchée moved and Councillor Tilley seconded that the questions and answers to Councillor Bouchée's Questions Without Notice be recorded in the minutes.

CARRIED

6.1.4 Accuracy of statements made in the Glenelg Residents Association Newsletter

Councillor Macaskill asked about the accuracy of the following statement that formed a part of a recent newsletter issued by the Glenelg Residents Association –

"We have a new Development Plan which puts more houses, more people and more cars into Holdfast Bay. There is yet another Development Plan proposed which has the potential for even more high-rise and high density buildings in Glenelg."

His Worship the Mayor ruled that all questions relating to Election material will be taken on notice and answers provided in the next agenda papers.

Councillor Lush moved and Councillor Deakin seconded that the Council not agree with the Mayor's ruling, and that an answer to Councillor Lush's question be provided.

A division was called.

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

HIS WORSHIP THE MAYOR DECLARED THE MOTION CARRIED

Acting General Manager Strategy and Development answer.

Amongst other changes, the Residential Policies and Miscellaneous PAR authorised in February 2006 collated a large number of disparate Residential zones into one 'Residential' Zone. As a result there are some pockets within the Holdfast Bay Council (i.e. Glenelg North) where the current Development Plan facilitates a slightly increased density potential when compared to the previous Development Plan. There are also areas, notably in central Glenelg, Glenelg East and Seacliff, where the minimum allotment size has increased, limiting the density potential. A large portion of the council area remains unchanged in terms of density by the new Development Plan. Overall, the majority of the Council area has not experienced an increase in density potential.

In relation to the reference to the current PAR (Residential Coastal and Residential Foreshore Zone PAR), to date no policies have been drafted for this PAR which is still in 'investigation' phase. However the statement's reference to this PAR having '*the potential for even more high-rise and high density buildings in Glenelg*' is not technically incorrect as there is the potential for all sorts of policies to be incorporated into a PAR subject to the endorsement of such policies by Council and then by State Government.

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

CARRIED

6.1.5 Design of Moseley Square

At the meeting of Council on 10 October 2006, Councillor Bouchée asked a question about the design of Moseley Square and its continuing use as a Market venue.

Acting General Manager Strategy and Development answer.

There are no design issues that prevent Moseley Square from being used as a Market venue, and the Glenelg Art and Craft Markets Organising Committee has advised Administration that their markets will re-commence in Moseley Square from December 2006. Prior to the commencement of each market season, the Markets Organising Committee reviews various operational aspects with Administration -- this year the Committee sought Administration's views on a possible four-week trial of the markets on Colley Reserve South, immediately adjacent to the Glenelg Community Centre. As part of the assessment of this request, measurements were taken and on-site discussions were held to properly analyse all circumstances. It is the joint view of relevant Environment and Engineering as well as Tourism and Business Development staff that a Market trial on Colley Reserve South could be sustained if this remained the wish of the Organising Committee.

As previously mentioned, the Committee has since advised Administration of the desire for the markets to remain in Moseley Square for the 2006-2007 season. The re-design of Moseley Square, in particular the water feature, will require Market stall holders to set up closer to the Pioneers Memorial this year. As in previous years, throughout the season stall holders will provide on-going feedback to Administration re the Markets' operations and effectiveness.

6.1.6 Broadway Kiosk Lease

At the meeting of Council on 10 October 2006, Councillor Crutchett asked a question about the lease documents for the Broadway Kiosk, concerning the description of the land included in the public consultation documents.

Executive Manager Finance and Corporate answer.

A title reference was not included in the draft lease document because, at that stage, a title had not been created.

At the meeting of Council on 10 October 2006, Councillor Crutchett asked a question about the inclusion of costs associated with the construction of the Broadway Kiosk, when public consultation was undertaken.

Executive Manager Finance and Corporate answer.

Financial matters are not the subject of public consultation. Public consultation relates to the exclusion of community land by way of lease or licence.

At the meeting of Council on 10 October 2006, Councillor Crutchett asked a question about the "buy back" provisions of the proposed Broadway Kiosk Lease (clause 4.1.6) and its impact on Council's financial position due to the liability.

Executive Manager Finance and Corporate answer.

The draft lease does not impose an obligation on Council to purchase plant, stock and equipment on expiry of the lease term.

Pursuant to clause 4.3, the lessee has an obligation to remove his plant, stock and equipment on expiry or surrender of the lease. In the event that the lessee fails to do so, Council has the right to deal with the abandoned goods in accordance with section 76 of the *Retail and Commercial Leases Act 1995*.

In the event of a breach or default by the lessee as defined in clause 4.1.2 of the draft lease, Council has the right to terminate the lease and re-enter and re-possess the premises. In addition, under clause 4.1.6 of the lease, Council has the right to elect to purchase the lessee's stock, fixtures, fittings, plant and equipment at the date of re-entry to recover all amounts due and payable by the lessee.

6.1.7 Water Leakage from The Beachouse

At the Strategy and Development Committee Meeting on 10 October 2006, Councillor Tilley asked the following question - If someone slipped and fell, who would have responsibility for any injury/damage as a result of the water on the paving?

Acting General Manager Strategy and Development answer.

If a person suffers injury or damage to property on Council land then Council will be exposed to a potential liability. If it can be proved that a third party caused or contributed to the hazard which caused the damage, then that third party could be liable also to contribute to the claim.

If there is an agreement between Council and the third party, such as a lease or permit, then the terms of the agreement might affect the position as to who is liable.

6.2 With Notice

Nil

7. REPORTS BY DELEGATES OR REPRESENTATIVES**8. PETITIONS AND DEPUTATIONS****8.1 Deputation from Mrs Val Oldfield-Arbon**

Councillor Macaskill moved and Councillor Dixon seconded that Council receive the deputation from Mrs Oldfield-Arbon.

CARRIED

Councillor Dixon moved and Councillor Norton seconded that Mrs Oldfield-Arbon be allowed 5 minutes to speak.

CARRIED

8.2 Petition regarding 10 Sturt Street, Glenelg North

A petition has been received from Mrs Val Oldfield-Arbon, on behalf of herself and seven (7) residents on Sturt Street and Mary Street at Glenelg North.

The petition states as follows:

“Currently under construction is a two storey dwelling located at No. 10 Sturt Street, Glenelg North.

We are aware that the rear windows installed are NOT fixed and therefore severely impact upon our privacy.

We wish the developer to replace the rear first floor windows with FIXED opaque glass with an alternative window system to retain our privacy.”

Attached for the information of Elected Members are copies of the covering letter, petition and photographs relating to the recent construction of two, two-storey semi-detached dwellings at 10 Sturt Street. The concerns of the residents relate to potential privacy loss from upper level windows within the new dwellings.

BACKGROUND

Application 110/656/04 to construct the dwellings was granted Planning Consent on 18 October 2004 subject to a number of conditions including the following:

Condition 5

That upstairs windows on the side and rear elevations shall have minimum window sill heights of 1.7 metres above finished floor level, or any glass below 1.7 metres shall be manufactured obscure glass (chosen from the list of glass types in the relevant Council policy or equivalent to one of those glass types), fixed shut other than by a wind out mechanism (to no greater than 200mm) and hinged at the top of the window panel, or as otherwise approved by Council. Further details of this requirement shall be provided at Building Rules Assessment stage.

Following receipt of the petition and accompanying letter and photos Council staff inspected the recently constructed dwellings to confirm if there had been a breach of any Conditions or of the approved plans. An inspection revealed that the development has been constructed in accordance with the approval and in particular, that the upper storey windows achieve the requirement of Condition 5, that being obscure glass hinged at the top with a wind out mechanism not exceeding 200mm.

While it is recognised that persons occupying the dwellings at 10 Sturt Street could attempt to gain views from the rear windows into adjoining properties if the windows were wound out to their full extent as per the photos provided, to gain such views would require the occupant to make a deliberate attempt with some effort to peer out of the gaps at the side of the windows. Realistically, views of some sort could be achieved from any upper level window on any dwelling. The Building Code of Australia requires that all bedroom windows be operable to provide for natural ventilation and therefore the windows cannot be fixed.

It is acknowledged that the adjoining property owners do not accept that the window design chosen for the upper level windows is sufficient to protect their privacy and request that Council require the owner/s of 10 Sturt Street to modify their windows. However, as there has not been a breach of the Development Act, Council has no authority to require the windows to be altered. The Condition stated above is a standard condition used on virtually all multi-level residential developments and is considered to achieve reasonable privacy protection, consistent with the aim of the Development Plan which is to minimise overlooking, not prevent it completely which is clearly not feasible in a suburban, residential environment.

On this basis it is recommended that the Council receives the petition and advise the head petitioner that no further action on this matter is able to be taken as the development is not in breach of the Development Approval for application 110/656/04.

C241006/266 Councillor Crutchett moved and Councillor Macaskill seconded:

1. **That Council receives and notes the petition;**
2. **That Council writes to the owner of the new dwellings at 10 Sturt Street, Glenelg North, to advise them of Mrs Oldfield-Arbon's concerns and request that consideration be given to altering the windows and/or rear elevation of the building to reduce overlooking; and**
3. **That Council refers the matter to the new Council to redress Council's "obscure glazing policy" in relation to this overlooking concern that has been identified.**

CARRIED

9. **NOTICES OF MOTION** Nil

10. **ADJOURNMENT (TO ENABLE PERMANENT COMMITTEES TO MEET)
(7:48PM)**

Councillor Lush moved and Councillor Macaskill seconded that Council stand adjourned to enable the permanent Economic and Corporate and Environment and Engineering Committees to meet.

CARRIED

11. **RESUMPTION**

Councillor Deakin moved and Councillor Donaldson seconded that Council resume at 9:10pm.

CARRIED

12. COMMITTEE RECOMMENDATIONS FOR CONSIDERATION**12.1 Economic and Corporate Committee**

The Chairperson, Councillor Deakin reported that the Economic and Corporate Committee had met this evening and had processed the business contained in the agenda documents.

Councillor Swiderczuk rejoined the meeting at 9:10pm.

Councillor Deakin moved and Councillor Tilley seconded that the report of the Economic and Corporate Committee, the agenda documents and approved recommendations, together with the additional recommendations from the meeting be adopted.

CARRIED

12.2 Environment and Engineering Committee

The Chairperson, Councillor Dixon reported that the Environment and Engineering Committee had met this evening and had processed the business contained in the agenda documents.

Councillor Dixon moved and Councillor Deakin seconded that the report of the Environment and Engineering Committee, the agenda documents and approved recommendations, together with the additional recommendations from the meeting be adopted.

CARRIED

13. DEVELOPMENT ASSESSMENT PANEL

C241006/267 Councillor Tilley moved and Councillor Deakin seconded that the minutes of the Development Assessment Panel held Wednesday 11 October 2006 be received.
CARRIED

14. REPORTS OF ADVISORY COMMITTEES AND/OR SUB-COMMITTEES**Alwyndor Aged Care Board of Management Finance Sub-Committee**

Attached are the Minutes of the Meeting held 18 September 2006.

Alwyndor Aged Care Board of Management

Attached are the Minutes of the Meeting held 18 September 2006.

15. REPORTS OF REGIONAL SUBSIDIARIES

Nil

16. REPORTS BY OFFICERS**16.1 Items in Brief (Report No: 506/05)**

Report No: 506/06 was presented detailing items which were presented for the information of Members and did not require a separate resolution.

Councillor Norton left the meeting at 9:12pm.

Councillor Dixon rejoined the meeting at 9:12pm.

C241006/269 Councillor Tilley moved and Councillor Macaskill seconded that the report be noted and items of interest be discussed.

CARRIED

**16.2 Holdfast Shores Stage 2B – Variation to Retail Tenancy T06
(Report No: 502/06)**

Council has received correspondence from Planning SA advising of an application for external signage, the proposed addition of a mezzanine floor (with no public access) and a ground-level tenancy fit-out to one of the retail buildings proposed to front Holdfast Walk as part of the Holdfast Shores Stage 2B development. Planning SA, on behalf of the Development Assessment Commission, is seeking Council's comments in relation to the proposal prior to making a decision on the application.

Councillor Macaskill left the meeting at 9:15pm.

Councillor Norton rejoined the meeting at 9:15pm.

Councillor Macaskill rejoined the meeting at 9:17pm.

C241006/270 Councillor Deakin moved and Councillor Swiderczuk seconded that Council advises the Development Assessment Commission (C/- Planning SA) that it has reviewed the proposed variation to retail tenancy T06 of the Holdfast Shores Stage 2B Development dated 26 September 2006, comprising a mezzanine floor area for the purposes of equipment storage (with no public access), and ground level fit-out comprising changes to the shop front glazing and the erection of a proposed sign protruding out onto Holdfast Walk above the entrance to tenancy T06 and advises the following:

- 1. That the proposed bi-fold windows on the eastern elevation of the retail tenancy (entrance to the premises) are secured completely within the confines of the tenancy and do not encroach onto Holdfast Walk.**
- 2. That a condition be placed on any approval that, at all times, the signage (including its structure and advertising material thereon) shall be maintained in good condition.**
- 3. That a further condition be placed on any approval stipulating that the signage shall not be of a light intensity as to cause a light overspill which causes unreasonable nuisance to adjoining land and buildings.**
- 4. That the mezzanine floor area shall be used only for the purposes of storage of equipment that is ancillary to the approved land use of tenancy T06 and shall not be accessed by the public at any time.**
- 5. The proposed mezzanine floor area for the purpose of storage in Tenancy T06 may result in an increase of the area/floor space available for retail activity at ground level within the tenancy and hence, may impact on car parking provision for the retail complex. Council therefore requests that the Development Assessment Commission give due regard to the impacts on car parking in the precinct, both now and in the future, as a result of the proposed mezzanine floor, particularly given that an approval under the Development Act 1993 will be a 'life' approval.**

A division was called.

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

HIS WORSHIP THE MAYOR DECLARED THE MOTION CARRIED

**16.3 Holdfast Shores Stage 2B – Variation to Retail Tenancy T03
(Report No: 503/06)**

Council has received correspondence from Planning SA advising of an application for external signage for one of the retail buildings proposed to front Holdfast Walk as part of the Holdfast Shores Stage 2B development. Planning SA, on behalf of the Development Assessment Commission, is seeking Council's comments in relation to the proposal prior to making a decision on the application.

Councillor Dixon left the meeting at 9:18pm.

C241006/271 Councillor Lush moved and Councillor Swiderczuk seconded that Council advises the Development Assessment Commission (c/- Planning SA) that it has reviewed the proposed variation to retail tenancy T03 of the Holdfast Shores Stage 2B Development dated 27 September 2006, comprising the erection of an additional sign on the building façade above the entrance to tenancy T03 and advises that it supports the proposal subject to the following conditions being placed on any approval:

- 1. The signage (including its structure and advertising material thereon) shall be maintained in good condition at all times.**
- 2. The signage shall not be of a light intensity as to cause a light overspill which causes unreasonable nuisance to adjoining land and buildings.**
- 3. Approval excludes all outdoor dining as indicated on the plans.**

A division was called.

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

HIS WORSHIP THE MAYOR DECLARED THE MOTION CARRIED

16.4 Service Evaluation of City Clean Program (Report No: 504/06)

On 28 February 2006, Council resolved to undertake a review of its City Clean Program as its next service evaluation priority and subsequently endorsed the Terms of Reference, membership of the Review Team and draft Project Plan for undertaking the evaluation. The purpose of this report is to present the findings of the "Assessment" report forming Stage 1 of the service evaluation and seek Council's endorsement of the next steps in the evaluation process.

C241006/272 Councillor Dixon moved and Councillor Deakin seconded that:

- 1. Council notes the outcomes of the "Assessment" stage of the evaluation of the City Clean service contained in Attachment 1 to Report Number 504/06.**
- 2. That an independent consultant be engaged to undertake any work on Stage 2 of the service evaluation of the City Clean Program, comprising detailed risk assessment and cost benefit analysis of future service options outlined in the Stage 1 "Assessment Report" located at Attachment 1 to Report Number 504/06 and based on Council's adopted Service Evaluation Policy.**
- 3. That prior to undertaking a consultancy tender process for Stage 2, Administration report further to Council regarding the scope of the consultancy and budget implications.**

CARRIED

16.5 505 Yachting World Championships 2007 (Report No: 523/06)

Brighton and Seacliff Yacht Club Incorporated (B&SYC) have recently been successful in their tender to stage the 505 World Championship Regatta between Sunday 21 January and Friday 2 February 2007.

In September 2006, Council Officials met with a Club delegation to discuss the event and formally received a request for the City of Holdfast Bay involvement and assistance in conducting the 2007 World Championship Regatta for the 505 class of racing dinghy.

The organising of this event is at an advanced stage with over 100 entries, including 10 overseas countries, received to date. The event organisers anticipate that 18 countries will enter this competition. With the crew, officials and supporters involved in this event, the B&SYC club expects to cater for over 600 people daily during its fourteen day duration.

Some local beach inconvenience is expected to occur due to race demands, including car parking, storage of international containers, security and boat launching facilities. However the Yacht Club is working closely with Council staff and advisors from the Coastal Management Branch to ensure minimal disruption to local beach conditions.

C241006/273 Councillor Tilley moved and Councillor Holt seconded that Council:

- 1. Supports the staging of the 505 World Yachting Championships 2007 held in and around the environs of the Brighton & Seacliff Yacht Club.**
- 2. Supports the joint approach to community notification with the Brighton & Seacliff Yacht Club to inform local residents on the Esplanade, Seacliff and adjoining streets (south of Wheatland Street) of the forthcoming 505 World Championships 2007 and the temporary impact the event may have on their local environment.**

3. **Agrees to the establishment of a temporary, secure, floodlit and fenced “beach boat park” to be located on the beach in front of the Brighton & Seacliff Yacht Club and constructed to the agreed specifications provided by the Coastal Management Branch.**
4. **Supports the restricted use of the public boat ramp located on the Esplanade at Seacliff, by the general public, during the staging of the 505 World Championships 2007.**
5. **Agrees to provide the Brighton & Seacliff Yacht Club with use of the open space area adjacent to the Tjilbruke Spring Site, Kingston Park for temporary housing of shipping containers during the staging of the 505 World Yachting Championships 2007.**
6. **Agrees to the temporary closure of the Esplanade, Seacliff public car park and its use as a “permit only” car park during the staging of the 505 World Yachting Championships 2007.**

CARRIED

17. URGENT BUSINESS

17.1 Elected Members Supper

Councillor Crutchett moved and Councillor Bouchée seconded that the previous motion of 6 December 2005 laid on the table, regarding invitation of members of the meeting gallery into the Elected Members’ Supper be removed from the table, for further consideration.

A division was called.

Voted For
Councillor Crutchett
Councillor Tilley
Councillor Bouchée

Voted Against
Councillor Dixon
Councillor Norton
Councillor Macaskill
Councillor Swiderczuk
Councillor Deakin
Councillor Donaldson
Councillor Lush
Councillor Holt
Councillor Edwards

HIS WORSHIP THE MAYOR DECLARED THE MOTION LOST

18. ITEMS IN CONFIDENCE**18.1 Verbal update on the Broadway Kiosk**

Council officers remaining: Mr Donaldson, Mrs Umapathysivam, Mr Hodge, Ms Thomas and Mr Walker

C241006/274 Councillor Lush moved and Councillor Macaskill 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

Verbal update on the Broadway Kiosk

Councillor Deakin moved and Councillor Lush seconded that the meeting proceed to the next business.

CARRIED

ORDER TO RETAIN DOCUMENTS IN CONFIDENCE

C241006/275 Councillor Lush moved and Councillor Deakin 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 discussion and minutes relating to the verbal update on the Broadway Kiosk with the exception of Resolution No:C241006/274. 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 interest

under Section 90(2) and 90(3)(b) of the Act

2. This resolution will be reviewed on or before 30 June 2007 by the Council.

A division was called.

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

HIS WORSHIP THE MAYOR DECLARED THE MOTION CARRIED

18.2 Elected Member Code of Conduct (Report No: 513/06)

Council officers remaining: Mr Donaldson, Mrs Umapathysivam, Mr Hodge, Ms Thomas and Mr Walker

C241005/276 Councillor Lush moved and Councillor Macaskill seconded that, pursuant to Section 90(2) and 90(3)(a) 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 the disclosure of which would involve the unreasonable disclosure of information concerning the personal affairs of a person or persons (living or dead).**

CARRIED

His Worship the Mayor advised he had a conflict of interest in this item because it involved him personally, and made a statement before leaving the meeting at 9:55pm.

Councillor Deakin moved and Councillor Swiderczuk seconded that Deputy Mayor Rod Edwards take the role of presiding member of the meeting.

CARRIED

Deputy Mayor Rod Edwards took the chair at 9:55pm.

Elected Member Code of Conduct (Report No: 513/06)

Following consideration of a Code of Conduct complaint that the Mayor may have breached the Conflict of Interest provision of the Local Government Act, Council resolved to refer the matter to the Minister for State/Local Government Relations.

Correspondence from the Acting Executive Director of the Office for State/Local Government Relations advises that whilst the Mayor probably had a conflict of interest in the matter being discussed, due to the reasonable expectation of a non-pecuniary benefit being provided to a close associate, it would not be in the public interest to bring proceedings against the Mayor or to investigate the matter any further.

C241006/277 Councillor Holt moved and Councillor Macaskill seconded:

1. That the information in Report No: 513/06 be received.
2. That the parties to the Code of Conduct Complaint be formally advised of the outcome.
3. That no further action be taken with regard to this matter.

CARRIED

RETENTION OF DOCUMENTS IN CONFIDENCE

C241006/278 Councillor Holt moved and Councillor Deakin seconded that pursuant to Section 90(2), 90(3)(a) and 91(7) of the Local Government Act 1999:

1. The Council orders that the documents and minutes relating to Report No: 513/06 be released from confidence.

Councillor Bouchée left the meeting at 10:08pm.

Councillor Holt withdrew his motion.

Councillor Crutchett moved and Councillor Tilley seconded that pursuant to Section 90(2), 90(3)(a) and 91(7) of the Local Government Act 1999:

1. The Council orders that the documents and minutes relating to Report No: 513/06 with the exception of Resolution No:C241006/276 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 would involve the unreasonable disclosure of information concerning the personal affairs of a person or persons (living or dead) under Section 90 (2) and 90(3)(a) of the Act.
2. This resolution will be reviewed on or before 30 June 2007 by the Council.

A division was called.

Voted For
Councillor Holt
Councillor Crutchett
Councillor Tilley

Voted Against
Councillor Dixon
Councillor Norton
Councillor Macaskill
Councillor Swiderczuk
Councillor Deakin
Councillor Donaldson
Councillor Lush

THE DEPUTY MAYOR DECLARED THE MOTION LOST

Councillor Crutchett moved and Councillor Tilley seconded that pursuant to Section 90(2), 90(3)(a) and 91(7) of the Local Government Act 1999:

- 1. The Council orders that the documents and minutes relating to Report No: 513/06 with the exception of Resolution No:C241006/276 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 would involve the unreasonable disclosure of information concerning the personal affairs of a person or persons (living or dead) under Section 90 (2) and 90(3)(a) of the Act.**
- 2. This resolution will be reviewed on or before 30 June 2007 by the Council; and**
- 3. That Administration seek legal advice on the appropriateness of release of the confidential minutes and report further to Council.**

A division was called.

Voted For
Councillor Holt
Councillor Crutchett
Councillor Tilley

Voted Against
Councillor Dixon
Councillor Norton
Councillor Macaskill
Councillor Swiderczuk
Councillor Deakin
Councillor Donaldson
Councillor Lush

THE DEPUTY MAYOR DECLARED THE MOTION LOST

19. RESUMPTION

Councillor Deakin moved and Councillor Macaskill seconded that Council resume as an open meeting of Council at 10:15pm.

CARRIED

20. CLOSURE

The Meeting closed at 10:15pm.

CONFIRMED

Tuesday 7 November 2006

MAYOR