

**MINUTES OF THE ORDINARY MEETING OF THE
DISTRICT COUNCIL OF BARUNGA WEST
HELD AT THE BUTE COUNCIL CHAMBERS ON 10th
FEBRUARY 2009 AT 7.00 PM**

1.0 PRESENT:

Mayor Dolling, Cr. I Burgess (Deputy Mayor), Cr. B Rooney, Cr. M McDonald, Cr. T Schkabaryn, Cr G. Simmons, Cr. L Kerley, Cr. M Weedon, Cr. R Smith, N Hand (District Manager), M Marziale (Manager – Environmental Services), L Jolly (Manager – Finance & Administration), R Linke (Manager Works) and Ms C Hewett (Minutes Secretary)

2.0 APOLOGIES AND LEAVE OF ABSENCE:

2.1 Leave of Absence

Nil

2.2 Apologies

Cr S Ireland

3.0 CONFLICT OF INTEREST PROVISIONS

3.1 The District Manager advised that he had a Conflict of Interest with Agenda Item 11.2.3 – Port Broughton Kindergarten.

3.2 Cr. Dolling advised that he had a Conflict of Interest with Agenda Item 11.4.2- Fisherman’s Bay Management Pty Ltd.

3.3 Cr. McDonald advised that she has a Conflict of Interest with Agenda Item 11.2.2 – Port Broughton Combined Sporting Club Inc.

4.0 CONFIRMATION OF COUNCIL MINUTES

4.1 Ordinary Meeting – 13th January 2009

Cr. Smith moved, Cr. Rooney seconded

“That the minutes of the Ordinary Meeting of Council held on 13th January 2009 be confirmed as printed and supplied.”

5.0 BUSINESS ARISING FROM THE COUNCIL MINUTES

5.1 Nil

6.0 DEPUTATIONS

6.1 Mr. and Mrs. M. McDonald appeared before Council (at 7.45p.m.) to speak about their letter regarding agistment of horses in the Bute Parklands. – Refer Agenda Item 11.1.7 – District Manager’s Report. The Deputation left at 7.55 p.m.

7.0 MEMBERS REPORTS

Cr. DOLLING

26th December – Australia Day Breakfast Government House
9th February - Sale of closed roads meeting Kulpara
10th February - Audit Committee

Cr. SMITH

Nil

Cr. ROONEY

26th January – Australia Day breakfast
8th February – Sale of closed roads meeting Kulpara
10th February – Audit Committee meeting

Cr. McDONALD

21st January – Port Broughton District Hospital & Health Service Advisory Council meeting
26th January – Australia Day Breakfast Port Broughton
9th February – Port Broughton Area School Governing Council meeting

Cr. SCHKABARYN

6th February – Marine Parks meeting
7th February – Fisherman’s Bay Progress Association meeting
10th February – Audit Committee meeting

Cr. SIMMONS

26th January- Australia Day Breakfast Bute
3rd February – YPCT meeting Maitland
9th February - Bute Sporting Club meeting
10th February – Barunga Village Building meeting

Cr. WEEDON

Nil

Cr. KERLEY

Nil

Cr. BURGESS

26th January – Australia Day breakfast Bute
28th January – Bute 2000 Onwards Committee meeting
10th February –Audit Committee meeting

8.0 PETITIONS OR MEMORIALS

8.1 No Petitions were received for consideration by the Council.

9.0 QUESTIONS WITH NOTICE

9.1 Cr. Schkabaryn sought answers for a number of questions relating to the allotment which houses the Fisherman’s Bay Progress Association Shed on Snook Road (proposed allotment 150). These questions were answered by the Manager – Environmental Services.

Q1. Has the Council got the right to cancel the Fisherman's Bay Progress Association license?

A1. As current owner of the land, only FB Management P/L have rights to vary or cancel a licence on their land. Council has no involvement in the issuing of licences, except where they trigger a requirement for a development application ie land division by licencing.

Q2. Then why is the Council not allowing amendments to the Plan?

A2. Council, through delegations to its Executive Committee, has agreed to accept a second application for Variations to the Consent Previously Given in DA 344/D006/99. No such application has yet been received, at the time of this response, however one is expected to be lodged in the first half of 2009.

Q3. Can the Council in its own rights instruct the Manager – Environmental Services to allow the amendments without triggering a full new application?

A3. Council can determine to accept an application to Vary a Consent Previously Given pursuant to Section 39(4)(a) of the Development Act 1993, provided that the variations to not change the essential nature of the proposed development.

To test the proposed variations presented to the Council's Authorised Officer under the Development Act 1993, FB Management P/L was given a set of criteria against which any proposed variations would be assessed as to their significance. Please find a copy attached to this Response.

Council has not allowed or approved any variations to date. Council has not received an application to vary the consent previously granted. However, pre-application advice has been given in accordance with the established criteria as discussed in the previous paragraph.

Q4. Why are we not negotiating now?

A4. For the purposes of this response, the term "we" in the Q4.has been taken to mean FB Progress Association Inc. Council is not aware of, or cannot know why, the FB Progress Association is not negotiating with FB Management P/L.

As Council did not require engineering plans for the Fisherman Bay settlement from the developer as a condition of approval, it cannot make a reasonable or proper assessment of the engineering needs for approved lot 150. Therefore, it would be premature for Council to enter into joint negotiations with FB Progress Association Inc., and FB Management P/L, regarding the future use or subdivision of approved lot 150, given the absence of a qualified engineers' report with recommendations for the storm water drainage, and sea level rise mitigation infrastructure requirements for the Fisherman Bay township.

Q5. Why?

A5. No comment

Cr. Smith moved, Cr. Rooney seconded

"That the issue of a parcel of land on the proposed allotment 150, for Fisherman's Bay Association Inc., be deferred to the Council meeting pending an inspection by members of the Works and Infrastructure Committee, and a report from the Manager – Environmental Services on what issues need to be considered by Council in allowing a variation to the current application of Fisherman's Bay Management Pty Ltd for freeholding of Fisherman's Bay, and the effects that this may have on concluding this application."

CARRIED

10.0 QUESTIONS WITHOUT NOTICE

- 10.1 **Cr. Simmons** – Enquiring as to whether the Dog & Cat Management Policy is correctly implemented by council staff when utilising cat traps, and whether people using the cat traps are also aware of this policy. Also what are the actions taken when destroying animals? The District Manager advised that he would ensure all staff, and users of Council’s cat traps that they are aware of Council’s requirements for the use of the traps.
- 10.2 **Cr. Kerley** – Enquiring if Casey Road will continue through to Dale Road in the near future. The District Manager advised of the new “access route” to Dale Road from Casey Street, when the current proposed developments are completed on Casey Street.

11.0 COUNCIL BUSINESS – Managers Reports

11.1 *District Manager’s Report*

Cr. Burgess moved, Cr. Schkabaryn seconded

“That the District Manager’s Report for the February 2009 meeting be received and noted.”

CARRIED

11.1.1 **Elector Representation Review**

A report was received outlining the Council’s next stage for preparing a Representation Review Report as part of its Elector Representation Review.

Cr. Burgess moved, Cr. Schkabaryn seconded

“That following consideration of the responses received from the community as part of its Public Consultation process, and the issues raised in the District Manager’s Report, that the District Manager prepare a Representation Review Report, for public consultation as part of Council’s Electoral Representation Review. This Report will include the Council’s resolution that the Council should be constructed as follows

- (a) The Presiding Member shall be appointed by the elected members in accordance with the provisions of Section 51(1)(b) of the Local Government Act 1999.*
- (b) That the number of elected members remains at 10 , and*
- (c) That the current system of No Wards be retained.”*

Cr. Smith moved an **amendment** to the motion, Seconded Cr. Dolling

“That following consideration of the responses received from the community as part of its Public Consultation process, and the issues raised in the District Manager’s Report, that the District Manager prepare a Representation Review Report, for public consultation as part of Council’s Electoral Representation Review. This Report will include the Council’s resolution that the Council should be constructed as follows

- (a)The Presiding Member shall be appointed by the elected members in accordance with the provisions of Section 51(1)(b) of the Local Government Act 1999.*
- (b)That the number of elected members be reduced to 7, and*
- (c)That the current system of No Wards be retained*

The Amendment was put to the vote and was **DEFEATED**

The Motion was then put to the vote and **CARRIED**

11.1.2 Sale of Bute House

Cr. Schkabaryn moved, Cr. Weedon seconded

“That following an unsuccessful attempt to sell the property at 2 Everard Street Bute by a tender process, that the Council engage Professionals Real Estate (Port Broughton) to sell the above Council house by a Private Treaty process, in accordance with the provisions of its Policy for the Disposal of Council property, with a minimum price to be established with negotiations between the Real Estate Agency and the District Manager.”

CARRIED

11.1.3 Alford School

Cr. Rooney moved, Cr. Smith seconded

“That Council formally advise the Department of Environment and Heritage that it is prepared to pay \$30,000 for the former Alford School Site (101, 7,8,18 and 19, and part 9 and 16), which is, to include the Toilet Block and associated sewerage connection, and that should any survey work be required, that Council will contribute 50% toward the cost of the survey work, to a maximum contribution by Council of \$2,000.”

CARRIED

11.1.4 Port Broughton Office Extension

Cr. Burgess moved Cr. McDonald

“That a Public Consultation process be undertaken in respect of the future of the former Port Broughton Council Chambers, in regards to the proposed extension of the existing Council Offices which will also house the new Police Station”

CARRIED

Cr. Kerley called for a DIVISION

Those who voted FOR the Motion – Crs. Kerley, McDonald, Simmons, Burgess, Rooney, Weedon and Dolling,

Those who voted AGAINST the Motion – Crs. Smith and Schkabaryn

11.1.5 Bute Development

A verbal report was presented on the meeting with Mosel Browne Surveyors and the process to get the necessary approvals and works program. It is hoped to have allotments available late this year.

Cr. Burgess moved, Cr. McDonald seconded

“That the District Manager arrange for public consultation, utilising the Council Newsletter to seek community comments on appropriate names for the following

- (a) The proposed Estate for the Bute residential developments*
- (b) Names of the roads within the above development*
- (c) Names of roads for the new developments at Tickera”*

CARRIED

11.1.6 NRM Grant – On Ground Works

A report was given on two grant applications that had been submitted to the local NRM Board

11.1.7 Mrs H. McDonald – Horse Agistment

Cr. Rooney moved, Cr. Kerley seconded

“That the Bute Pony Club be advised of the previous arrangements for the agistment area, and that Mrs. H. McDonald be advised that she can continue to agist her horses in the current paddock, and further the Bute Pony Club and Mrs. McDonald be encouraged to communicate with each other to ascertain any mutual arrangements that can be made.”

CARRIED

11.1.8 Bute Hall Review

The District Manager advised that a detailed report had been received on the requirements to upgrade the Hall, but it had been received after the Agendas had been distributed.

Cr. Burgess moved, Cr. Weedon seconded

“That the report on the Bute Memorial Hall, by Trevor Mace Engineering, be deferred to the next meeting of Council (10th March 2009) for consideration by Council.”

CARRIED

11.1.9 Legislative Review

Wallman’s Lawyers have conducted the Legislative Audit in the Governance and Development Act areas of the Council’s operations on 3rd and 4th February 2009. A report will be tabled upon receipt by Council. The District Manager advised of the problems that had been associated with not receiving the Minister of Planning’s consent for our Council’s application to utilise the District Council of Copper Coast’s Council Development Assessment Panel, which was forwarded some 18 months ago.

Cr. Simmons moved, Cr. Schkabaryn seconded

“That the Council endorses the actions of the District Manager, in proposing to establish our Council’s own Council Development Assessment Panel (CDAP), by seeking the support of the District Council of Copper Coast’s independent members of their Panel, supplemented with our own elected members, and to meet at the same time and place as the District Council of Copper Coast’s CDAP.”

CARRIED

11.1.10 Marine Parks in South Australia

A report was given at the meeting regarding proposed marine parks in South Australia. There are no such Parks covering our Council area, but some concerns may arise with commercial fishing restrictions within the Parks.

11.1.11 OHS&W – Special Committee meeting

On 28th January 2009 the OHS&W Committee held a Special Meeting to adopt four new policies. These were the result of the recent Work Cover Audit of Local Government.

11.1.12 N & Y NRM Board – Request for representatives-Working Party

A request has been received from the N & Y NRM Board seeking nominations from interested persons to be a part of a working group to investigate the activity of Pied Cormorants (Shags) on Yorke Peninsula.

Cr. Kerley moved, Cr. Schkabaryn seconded

“That the Council nominates Mayor Dolling to be appointed to the N & Y NRM Board as our Council representative to the Working Party to investigate the activity of the Pied Cormorant (Shag) in the region’s coastal areas.”

CARRIED

11.1.13 Annual Leave

Cr Kerley moved, Cr. Simmons seconded

“That the Council endorses the action of the District Manager to appoint Lawrence (Blue) Jolly as Acting District Manager for the period ending 30th June 2009, for any period of time that the District Manager is on Annual Leave during that period. This is in accordance with the provisions of Section 102(b) of the Local Government Act 1999.”

CARRIED

11.1.14 Australian Local Government Association

Cr. Schkabaryn moved, Cr. Burgess seconded

That the Mayor and the District Manager be authorised to attend the Australian Local Government Association National General Assembly in Canberra on 21st to 24th June 2009.”

CARRIED

11.2 Manager – Finance and Administration

Cr. Burgess moved, Cr. McDonald seconded

“That the Manager – Finance and Administration Report for the February 2009 meeting be received and noted.”

CARRIED

11.2.1 Balances of ANZ Bank & LGFA 24 Hour Investment Fund and Reserves

Cr. McDonald advised that she was a Committee member of the Port Broughton Combined Sporting Club declared a conflict of interest, with Agenda Item 11.2.2, in accordance with the provisions of Section 73 (2) (a) of the Local Government Act 1999.

Cr. McDonald left the meeting at 8.48 pm.

11.2.2 Port Broughton Combined Sporting Clubs Inc - Application for Community Loan by LGFA Debenture

Cr .Smith moved, Cr. Burgess seconded

“That Council obtains funds totalling \$30,000 in the form of a Debenture Loan from the Local Government Financial Authority of SA, for a term of 6 years, at the current interest rate, on behalf of the Port Broughton Combined Sporting Clubs Inc to assist in the upgrade of the netball and tennis courts at Port Broughton. Furthermore, the Mayor and District Manager are authorised to sign, under Council Seal, all documentation associated with the Debenture.”

CARRIED

Cr McDonald returned to the meeting at 8.50pm.

The District Manager advised that he was Patron of the Port Broughton Kindergarten and declared that he felt that he had a Conflict of Interest with Agenda Item 11.2.3, in accordance with the provisions of Section 74 (4a)(c)(ii) of the Local Government Act 1999. He was not required to leave the room.

11.2.3 Port Broughton Kindergarten – Assistance for purchase of educational equipment

Cr. Weedon moved, Cr. Schkabaryn seconded

“That Council do not support the Port Broughton Kindergarten with a financial donation to purchase an interactive whiteboard.”

CARRIED

11.2.4 Local Government Association Mutual Liability Scheme - 2009 Special Distribution

A cheque for \$11,600 has been received from the Scheme which represents a Special Distribution for 2009.

11.2.5 Fence at Finance Managers Residence 10 Dalling Street.

A climber on the fence between 10 and 12 Dalling Street is causing health problems to the neighbor and needs to be removed, however this will cause the fence to fall down.

Cr Schkabaryn moved Cr Smith seconded

“That the Council endorse the actions taken for the fence between 10 and 12 Dalling Street to be removed and replaced”

CARRIED

11.3 Manager – Works

Cr. Burgess moved, Cr. Schkabaryn seconded

“That the Manager – Works Report for the February 2009 meeting be received and noted.”

CARRIED

11.3.1 Request for tree removal

Cr. Simmons gave the following Notice of Motion for the next meeting of Council.

“That notice is hereby given for the following Notice of Motion for the Council meeting of 10th March 2009,

That Council rescind the following minute from the December Council Meeting

That the two Athol pines in front of 133 John Lewis Drive be removed and if the tree in front of 129 John Lewis Drive is ascertained as not to be on private property, that this tree also be removed,

And further that

(a) Council remove the tree in front of 133 John Lewis Drive.

(b) That the tree sea-side of 129 John Lewis Drive not be removed, and

(c) That council trench and insert a root barrier between 129 & 131 John Lewis Drive.”

CARRIED

11.3.2 Grader Tender

Advice was given that a Tender for the new grader has been advertised with a closing date of Thursday 19th February 2009.

11.3.3 Special Local Roads Grants

Advice was given that an application under this program for the Port Broughton Bypass Road has been submitted to the Central Local government Region.

11.4 Manager - Environmental Services

Cr. Burgess moved, Cr. Schkabaryn seconded

“That the Manager – Environmental Services Report for the February 2009 meeting be received and noted.”

CARRIED

11.4.1 Approved Development Report – Period 1st – 31st January 2009.

Noted.

Mayor Dolling advised that he has a relative on the Board of Directors of the Fisherman’s Bay Management Pty Ltd and declared a conflict of interest, with Agenda Item 11.4.2, in accordance with the provisions of Section 73 (2) (g) of the Local Government Act 199. Mayor Dolling left the meeting at 9.15 pm.

11.4.2. ERDC 397 – 2006 – Appeal by Fisherman’s Bay Management Pty Ltd - DA 344/D006/99 V1;

The Manager gave a progress report on the above appeal.

Mayor Dolling returned to the meeting at 9.20pm

11.4.3. Environmental Health Officer – Position Vacant.

The Manager advised that due to personal reasons our Contract Environmental Health Officer has resigned, and arrangements are being made to fill this position.

11.4.4. Public and Environmental Health (Legionella) Regulations 2008.

Details on the above legislation and the requirements of Council was presented.

12. NOTICES OF MOTION

No Notices of Motion were received for this meeting.

13. COMMITTEE MEETINGS

13.1 Audit Committee – 10th February 2009

Cr. Rooney moved, Cr. Smith seconded

That the following recommendations of the Audit Committee meeting held on 10th February 2009 be accepted by the Council:

1. That in accordance with Section 7 (2) of the Local Government (Financial Management) Regulations 1999 it is recommended that Council adopts the Budget Review as at 31st December 2008, as tabled.
2. That the following policies have been reviewed and are recommended to Council for adoption, subject to any changes:
 - Revenue and Financing
 - Treasury
 - Reserve
 - Asset Revaluation
 - Asset Impairment
3. That it is recommended to Council the Business Continuity Plan be adopted, as tabled.

14. OTHER URGENT BUSINESS

14.1 Victorian Bushfires

Cr. Simmons moved Cr. Kerley seconded
“that Council make a donation of \$1000 to the Victorian Bushfire Appeal”

CARRIED

14.2 District Manager’s Performance Review

The Mayor presented a report from Ms. A. Ashby (AME Recruiting) outlining Key performance Indicators for the next twelve months following the recent Performance Review of the District Manager, which were accepted by the Council and the District Manager.

15. CLOSURE

The Mayor declared the meeting closed at 9.28 pm.

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Cr. D. DOLLING
MAYOR