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# MINUTES OF THE ORDINARY MEETING OF THE DISTRICT COUNCIL OF BARUNGA WEST HELD AT THE BUTE COUNCIL CHAMBERS ON 13<sup>th</sup> JANUARY 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, Cr S Ireland, 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

Nil

### 3.0 CONFLICT OF INTEREST PROVISIONS

- 3.1 Mayor Dolling advised that he had a Conflict of Interest with Agenda Items 11.4.2.b) and 11.4.3 – Fisherman's Bay Management Pty Ltd

### 4.0 CONFIRMATION OF COUNCIL MINUTES

#### 4.1 Ordinary Meeting – 9<sup>th</sup> December 2008

Cr Kerley moved, Cr Simmons seconded

*“That the minutes of the Ordinary Meeting of Council held on 9<sup>th</sup> December 2008 be confirmed as printed and supplied.”*

**CARRIED**

### 5.0 BUSINESS ARISING FROM THE COUNCIL MINUTES

- 5.1 A response has been received from the Local Government Association regarding a legislative change for Councils to fund defamation action that may be taken by an elected member. They advise that the LGA does not have a policy position to pursue legislative change, and that this issue has not been discussed with the State Government.

- 5.2 A response has been received from the Local Government Association regarding the current status of the “Elected Members Remuneration Review.” They advise that proposed legislative changes have now been prepared for consideration by Councils. Refer Agenda Item 11.1.8 (District Managers Report)

### 6.0 DEPUTATIONS

- 6.1 Mr Grant Rowlands – Palate2Palette Restaurant

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Mr. Rowlands addressed the meeting in relation to his concerns with the application of the Dock of the Bay Café to apply to the Office of the Liquor and Gambling Commissioner, for a restaurant liquor licence.

Cr Burgess moved Cr McDonald seconded

*“That Council endorses the actions taken by the Manager of Environmental Services in advising the Office of the Liquor and Gambling Commissioner that the Council has no comments to make in regards to the application of the Dock of the Bay Café for a Restaurant Licence.”*

**CARRIED**

### 7.0 MEMBERS REPORTS

#### **Cr DOLLING**

16<sup>th</sup> December – Care for our Community meeting at Crystal Brook

#### **Cr SMITH**

Nil

#### **Cr ROONEY**

Nil

#### **Cr McDONALD**

10th December – Port Broughton Area School Awards Day

13<sup>th</sup> December – Port Broughton Christmas Pageant

Cr Schkabaryn moved Cr Simmons seconded

*“That Cr. M. McDonald be nominated to be the Council representative on the Port Broughton and Districts Hospital Health Advisory Committee”*

**CARRIED**

#### **Cr SCHKABARYN**

19<sup>th</sup> November –CRLG meeting Clare

28<sup>th</sup> December – Fisherman’s Bay Progress Association Annual General meeting (re-elected as Chairman)

#### **Cr SIMMONS**

12th December – Senior Citizens Christmas Lunch

24<sup>th</sup> December – Bute Christmas Party

13<sup>th</sup> January – Barunga Village building meeting

13<sup>th</sup> January – Barunga Village General meeting

#### **Cr WEEDON**

Nil

#### **Cr KERLEY**

13th December – Port Broughton Christmas Pageant

#### **Cr BURGESS**

24<sup>th</sup> December – Bute Christmas Party

#### **Cr IRELAND**

Nil

### 8.0 PETITIONS OR MEMORIALS

**8.1** No Petitions were received for consideration by the Council.

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## 9.0 QUESTIONS WITH NOTICE

9.1 Nil

## 10.0 QUESTIONS WITHOUT NOTICE

10.1 Cr Kerley – Enquiring about the tables and chairs outside the Jitter Bean coffee van. The District Manager advised that the Manager - Environmental Services has been working with the proprietors to ensure all conditions of their approval are met.

10.2 Cr Kerley – Enquiring on the proposed shades to be erected on the northern end of the foreshore and as to where they will be situated to maximise shade.

10.3 Cr Kerley – Enquiring on the Wind Farm donations to community groups for specific projects. More information will be available in the next Council newsletter.

10.4 Cr McDonald – Enquiring about the bike racks for Bay Street, and also the handrail for the footpath in front of the Chemist. The Manager Works advised that the bike rack and the handrail will be erected when the Works gang returns from Annual Leave.

10.5 Cr Dolling – Enquiring on the possibility of getting additional handrails onto the pontoon at the Port Broughton boat ramp. The Manager Works responded that large boats can hit the handrails and in turn damage the pontoons, however, will look at putting an extra one on the northern pontoon.

## 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 January 2009 meeting be received and noted.”*

**CARRIED**

#### 11.1.1 Commonwealth Government Community Infrastructure Fund

A report was presented on the application process for the above fund, for the four projects nominated by Council.

#### 11.1.2 Council By-law No. 2 – Moveable Street signs

A report was presented outlining the staff actions in requiring commercial business operators in Port Broughton to comply with the By-law for signs and the requirements for permits to display goods on the footpath.

Cr Schkabaryn moved Cr Burgess seconded

*“That Council agree to rescind any application fees for Development Act approval of any existing signs on verandahs that require approval”*

**CARRIED**

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### 11.1.3 OHS & W Self Audit Report

A detailed report of the recent OHS & W Self Audit undertaken by the Local Government Workers Compensation Scheme, which confirms that Council received a score of 86% (up from 83% last year).

### 11.1.4 Primo Australia – Port Wakefield

Cr Smith moved, Cr Simmons seconded

*“That the District Manager advises Primo Australia that it supports its request for the a major review of the Carbon Pollution Reduction Scheme, to ensure that there is a” level playing field” for all agricultural industries in Australia, with its major trading competitors, and seek from Primo Australia its comments on the recent announcement of the Minister of Climate Change on reductions to the Scheme.”* **CARRIED**

### 11.1.5 LGA Comparative Performance Measurement Project – 2009 Community Survey

A letter has been received from the LGA (Copy attached to my report) inviting Councils to participate in the 2009 Community Survey.

Cr Smith moved, Cr Simmons seconded

*“That Council advise the LGA that they will not participate in the 2009 Community Survey”* **CARRIED**

### 11.1.6 Central Region of Local Government – Quarterly meeting

Council was advised that the next meeting of the Central Region of Local Government will be held on Friday 13<sup>th</sup> February 2009, and be hosted by our Council, and that arrangements have been made for the meeting to be held at the Port Broughton Combined Sporting Club and be catered for the Club.

### 11.1.7 Partial Dry Zone

The application for the Partial Dry Zone has been submitted for consideration. The Office of the Liquor and Gambling Commissioner has advised that they have received the application, but consideration will only be given for an initial period of twelve months, and then be subject to a review. (A period of five years – maximum – was sought).

### 11.1.8 Office of Local Government

Advice has been received from the Department of Planning and Local Government detailing the following documents

- (a) Local Government Accountability Proposals Paper, which outlines a range of measures aimed at strengthening Council’s financial and administrative accountability. It proposes improvements to the framework for internal and external review, and the regulation of appropriate standards in some key areas. It also looks at issues recently raised by the Ombudsman.

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- (b) Consultation Draft Bill – the Statutes Amendment (Council Allowances) Bill, which sets out the scheme for the fixing of Council members allowances by the Remuneration Tribunal..
- (c) Consultation Draft Bill – Local Government (Miscellaneous) Amendment Bill, which contains generally minor and technical amendments designed to clarify the intention or improve the operation of various provisions of the Local Government Act 1999.

### 11.1.9 Caring for our Country Workshop

A meeting was held on 8<sup>th</sup> January to discuss with a representative from the Federal Government's Caring for our Country Program, looking at projects within our Council area.

### 11.1.10 Department of Local Government – Independent Review of Elections

Following the last Local Government elections, the State Government undertook a review of those elections, and produced a substantial document, which had 24 recommendations for changing the legislation or processes for the conduct of a Local government election.

### 11.1.11 Sale of Council House at Bute

Advice has been received from the Professionals Real Estate that there has been a number of enquiries for the sale of the Council house at 2 Everard Street, Bute, with tenders closing on 16<sup>th</sup> January 2009.

### 11.1.12 Bute Memorial Hall

No report has been received from Trevor Mace at this stage on the condition report for the Bute Memorial Hall, due to the Christmas period.

### 11.1.13 Alford School Site

No report has been received from the Department of Environment and Heritage regarding the price for the Alford School Site.

*Cr Kerley moved, Cr Simmons seconded*

*“Pursuant to Section 90(2) of the Local Government Act 1999 the Council orders that all persons, except Nigel Hand, District Manager, be excluded from attendance at the meeting for Agenda Item 11.1.14 Confidential Memo from the District Managers to Elected Members.*

*The Council is satisfied that, pursuant to Section 90(3)(e) of the Act, the information to be received, discussed or considered in relation to this Agenda Item is related to matters affecting the security of The Council and the District Manager, in respect of issues of concern from the District Manager.*

*The Council is satisfied that the principle that the meeting be conducted in a place open to the public has been outweighed in the circumstances.”*

**CARRIED**

### 11.1.14 Confidential Memo – District Manager

*Cr Rooney moved, Cr Burgess seconded*

*“That, having considered Agenda Item 11.1.14, Confidential Memo from the District Managers to Elected Members, in respect of issues of concern*

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*from the District Manager. in confidence under Section 90(2) and (3)(e) of the Local Government Act 1999, the Council, pursuant to Section 91(7) of that Act orders that the Confidential Memo be retained in confidence for a period of 12 months, and that this order be reviewed every 12 months“.*

**CARRIED**

### **11.2 Manager – Finance and Administration**

Cr Burgess moved, Cr Ireland seconded

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

**CARRIED**

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

#### **11.2.2. Review and Upgrade of IT Operations**

A report was given on the upgrade of the Council’s computer system

Cr Rooney moved, Cr Schkabaryn seconded

*“That Council endorses the IT equipment upgrades and associated financial arrangements as reported.”*

**CARRIED**

#### **11.2.3 Kulpara Progress Association**

Cr Rooney moved, Cr Ireland seconded

*“That Council approves a donation of \$1,000 to the Kulpara Progress Association to assist in community activities.”*

**CARRIED**

#### **11.2.4 Port Broughton Uniting Church Opportunity Shop**

The Opportunity Shop has donated \$1,000 to upgrading the Port Broughton Foreshore for which appropriate seating will be installed as requested.

### **11.3 Manager – Works**

Cr Smith moved, Cr Simmons seconded

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

**CARRIED**

#### **11.3.1 Requirement for Cemetery Burials**

Cr McDonald moved, Cr Weedon seconded

*“That council applies a fee of \$100.00 for attending the Port Broughton, Bute and Alford Cemeteries, and \$150.00 for attending Kulpara and South Hummocks cemeteries, for travelling to sight the “doctor’s certificate of cause of death”.”*

**CARRIED**

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## 11.3.2 Patrol Grading Contract

Advice was given that D & S Aitchison has formally advised council that they have sold their patrol grading contract to Kenneth Naisbitt.

## 11.4 Manager - Environmental Services

Cr Burgess moved, Cr Schkabaryn seconded

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

**CARRIED**

### 11.4.1 Approved Development Report – Period 1<sup>st</sup> – 31<sup>st</sup> December 2008.

Noted.

### 11.4.2. ERD Court Action Updates

#### 11.4.2.1 Appeal by G Button – LAND DIVISION DA 344/D008/07- Update.

Council has received a copy of the Court’s Minutes of Order, approving an amended version of the application, with conditions attached by both Council and the Dept of Transport Energy and Infrastructure, attached to this Report.

*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, in accordance with the provisions of Section 73 (2) (g) of the Local Government Act 199.*

*Mayor Dolling left the meeting at 8.35 pm.*

#### 11.4.2.2 Appeal by Fisherman’s Bay Management Pty Ltd - DA 344/D006/99 V1;

The Manager Environmental Services has been contacted by Directors and the solicitor for FBM Pty Ltd, and advised to expect the arranged transaction of final documentation relating to the freeholding, including the bonding agreement for the Waste Collection and Treatment system, and an application for variations to the Consent previously given (Version 2), and others, in February 2009.

*Mayor Dolling returned to the meeting at 8.50 p.m.*

#### 11.4.2.3 Appeal by J Ireland –Two Storey Dwelling- DA 344/133/08

Council has received notice that the appeal has been withdrawn.

*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, in accordance with the provisions of Section 73 (2) (g) of the Local Government Act 199.*

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*Mayor Dolling left the meeting at 8.55 pm.*

*Cr Rooney moved, Cr Smith seconded*

*“Pursuant to Section 90(2) of the Local Government Act 1999 the Council orders that all persons, except N Hand – District Manager; M Marziale - Manager of Environmental Services; B Jolly – Manager Finance; Fred Linke- Manager of Works; Corinne Hewett, Administration Officer, be excluded from attendance at the meeting for Agenda Item 11.4.3 Environmental Services Report, regarding the Council’s legal and financial situation with regard to the subject land division of Fisherman Bay, the projected liabilities in the Confidential Draft National Climate Change Coastal Vulnerability Assessment, and advice from Norman-Waterhouse Lawyers.*

*The Council is satisfied that, pursuant to Section 90(3) (h) of the Act, the information to be received, discussed or considered in relation to this Agenda Item is legal advice from Paul Leadbeter, of Norman – Waterhouse Solicitors, regarding Council’s legal position with specific regard to the information contained in the Confidential Draft National Climate Change Coastal Vulnerability Assessment and the freeholding/land division of the Fisherman Bay township in DA 344/D006/99.*

*The Council is satisfied that the principle that the meeting be conducted in a place open to the public has been outweighed in the circumstances.”*

**CARRIED**

- 11.4.3 CONFIDENTIAL: Department of Climate Change DRAFT National Climate Change Coastal Vulnerability Assessment: Projected Financial Impacts on Council related to the Freeholding Land Division of Fisherman Bay in DA 344/D006/99; and related Legal Advice.**

*Cr Rooney moved, Cr Schkabaryn seconded*

*“That having considered Agenda Item 11.4.3 CONFIDENTIAL: Department of Climate Change DRAFT National Climate Change Coastal Vulnerability Assessment: Projected Financial Impacts on Council related to the Freeholding Land Division of Fisherman Bay in DA 344/D006/99 in confidence under Section 90(2) and (3)(h) of the Local Government Act 1999, the Council, pursuant to Section 91(7) of that Act orders that the Agenda Item 11.4. 3 in the Manager of Environmental Services Report for the Meeting held 13 January 2009 be retained in confidence for a period of three (3) years, with this motion to be reviewed every twelve months”.*

**CARRIED**

*Mayor Dolling returned to the meeting at 9.15pm*

**12. NOTICES OF MOTION**

No Notices of Motion were received for this meeting.

**13. COMMITTEE MEETINGS**

No Committee meetings were held during the past month.

**14. CLOSURE**

The Mayor declared the meeting closed at 9.50 pm.

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**Cr. D. DOLLING  
MAYOR**