



# Brighton Council

**MINUTES OF THE ORDINARY COUNCIL MEETING  
OF THE BRIGHTON COUNCIL HELD  
IN THE COUNCIL CHAMBER, COUNCIL OFFICES  
OLD BEACH AT 6.15 P.M. ON TUESDAY,  
20<sup>th</sup> MAY 2014**

**PRESENT:** Cr Foster (Mayor); Cr Taylor (Deputy Mayor); Cr Geard;  
Cr Gray; Cr Jeffries; Cr Owen and Cr Williams.

**IN ATTENDANCE:** Mr R Sanderson (General Manager); Mr G Davoren  
(Deputy General Manager); Mr H Macpherson (Municipal  
Engineer) and Mr S Wells (Senior Planner); and Mrs J  
Banks (Governance Manager)

## **1. CONFIRMATION OF MINUTES:**

1.1 CONFIRMATION OF MINUTES OF THE ORDINARY COUNCIL MEETING  
OF 15<sup>th</sup> APRIL 2014.

*Cr Owen moved, Cr Gray seconded that the Minutes of the Ordinary Council Meeting of the 15<sup>th</sup> April 2014, be confirmed.*

**CARRIED**

### VOTING RECORD

**In favour**                      **Against**

Cr Foster  
Cr Geard  
Cr Gray  
Cr Jeffries  
Cr Owen  
Cr Taylor  
Cr Williams

1.2 CONFIRMATION OF MINUTES OF THE PARKS & RECREATION  
COMMITTEE MEETING OF 13<sup>TH</sup> MAY 2014.

*Cr Geard moved, Cr Williams seconded that the Minutes of the Parks & Recreation Committee Meeting of the 13<sup>th</sup> May 2014, be confirmed.*

**CARRIED**

**VOTING RECORD**

<b>In favour</b>	<b>Against</b>
Cr Foster	
Cr Geard	
Cr Gray	
Cr Jeffries	
Cr Owen	
Cr Taylor	
Cr Williams	

**1.3 CONFIRMATION OF MINUTES OF THE PLANNING COMMITTEE MEETING OF 13<sup>TH</sup> MAY 2014.**

*Cr Gray moved, Cr Geard seconded that the Minutes of the Planning Committee Meeting of the 13<sup>th</sup> May 2014, be confirmed.*

**CARRIED**

**VOTING RECORD**

<b>In favour</b>	<b>Against</b>
Cr Foster	
Cr Geard	
Cr Gray	
Cr Jeffries	
Cr Owen	
Cr Taylor	
Cr Williams	

**2. APPLICATIONS FOR LEAVE OF ABSENCE:**

Cr Curran requested leave of absence as she was overseas.

*Cr Taylor moved, Cr Geard seconded that Cr Curran and Cr Garlick be granted leave of absence.*

**CARRIED**

**VOTING RECORD**

<b>In favour</b>	<b>Against</b>
Cr Foster	
Cr Geard	
Cr Gray	
Cr Jeffries	
Cr Owen	
Cr Taylor	
Cr Williams	

### **3. PUBLIC QUESTION TIME AND DEPUTATIONS:**

*There was no requirement for question time.*

### **4. DECLARATION OF INTEREST:**

In accordance with Part 5, Section 48 of the *Local Government Act 1993*, the Chairman of a meeting is to request Councillors to indicate whether they have, or are likely to have an interest in any item on the agenda; and

Part 2 Regulation 8 (7) of the *Local Government (Meeting Procedures) Regulations 2005*, the Chairman of a meeting is to request Councillors to indicate whether they have, or are likely to have, a pecuniary interest in any item on the agenda.

Accordingly, Councillors are requested to advise of any interest they may have in respect to any matter appearing on the agenda, or any supplementary item to the agenda, which the Council has resolved to deal with, in accordance with Part 2 Regulation 8 (6) of the *Local Government (Meeting Procedures) Regulations 2005*.

*There were no declarations of interest.*

### **5. REPORTS FROM COUNCILLORS:**

#### **5.1 MAYOR'S COMMUNICATIONS:**

FILE REFERENCE: 0205-6

AUTHOR: Mayor  
(Cr T Foster)

The Mayor's communications were as follows:-

- Apr 16 GM and I met with Metro Chairman Lyn Mason, Metro CEO Heather Hazelgrove and Minister for Infrastructure Rene Hidding at the Brighton Office to discuss future arrangements for the Metro system in our Municipality.
- Apr 17 Along with some senior staff we visited the Westland Nursery at Seven Mile Beach to look at Trees for the Army Camp and to also discuss needs for our roundabouts.
- Apr 24 Senior staff and I met with Tony and Ingrid Harrison to discuss BCN and new signage for the Municipality.
- Apr 25 I attended the Anzac Day dawn service at Bridgewater along with Cr Gray.

**Ordinary Council Meeting**

20/5/14

- Apr 25 I attended the Anzac Day memorial service at Pontville along with other Councillors ( Deputy Mayor, Cr Gray and Cr Curran ) that I know of.
- Apr 28 Budget information meeting with GM, DGM and Manager Engineering.
- Apr 29 GM and I attended an STCA Board meeting in Hobart.
- May 05 Meeting with GM and DGM.
- May 08 Meeting and tour with Scott Percey.
- May 09 GM, DGM and Manager Engineering and I met with senior executives of the Brighton Community and Bowls Club to discuss proposed plans for extensions to current building.
- May 12 Meeting in Launceston with Chairman of Taswater, CEO of Taswater, Company Secretary of Taswater and Director of Taswater Brian Bayley.
- May 13 Chaired a meeting of Taswater shareholders ( 29 Council's ) in Launceston. GM was in attendance.
- May 13 Planning Committee meeting.
- May 13 Budget 2014-2015 workshop.
- May 14 GM and I had a meeting with Minister Matthew Groom.
- May 16 Taswater Owner Representatives and GM's quarterly briefing at Moonah Office.
- May 20 Citizenship Ceremony.
- May 20 Official Opening of Federal Lyons Member Eric Hutcheson's Brighton Office.
- May 20 Ordinary Council meeting.

**RECOMMENDATION:**

That the Mayor's communications be received.

**DECISION:**

*Cr Taylor moved, Cr Jeffries seconded that the report be received.*

**CARRIED**

**VOTING RECORD**

<b>In favour</b>	<b>Against</b>
Cr Foster	
Cr Geard	
Cr Gray	
Cr Jeffries	
Cr Owen	
Cr Taylor	
Cr Williams	

**5.2 REPORTS FROM COUNCIL REPRESENTATIVES WITH OTHER ORGANISATIONS:**

FILE REFERENCE: 0205-6

Southern Waste Strategy Board Joint Authority – Cr Geard representative.

*Cr Jeffries moved, Cr Williams seconded that Cr Geard's report on SWSA be received.*

**CARRIED**

**VOTING RECORD**

<b>In favour</b>	<b>Against</b>
Cr Foster	
Cr Geard	
Cr Gray	
Cr Jeffries	
Cr Owen	
Cr Taylor	
Cr Williams	

**5.3 CORRESPONDENCE FROM SOUTHERN TASMANIAN COUNCILS ASSOCIATION (STCA), LGAT, TASWATER AND JOINT AUTHORITIES:**

Correspondence and reports from the STCA, LGAT, Taswater and Joint Authorities e.g. Southern Waste Authority are received periodically by Council.

If any Councillor wishes to view documents received contact should either be made with the Manager Governance and Human Services or General Manager.

**6. NOTIFICATION OF COUNCIL WORKSHOPS:**

In accordance with the requirements of the Local Government (Meeting Procedures) Regulations 2005, it was reported that a workshop was held on the 13<sup>th</sup> May 2014, to discuss the 2014/15 budget. The following Councillors attended the workshop – Cr Foster; Cr Garlick; Cr Geard; Cr Gray; Cr Jeffries; Cr Owen; Cr Taylor and Cr Williams.

(This includes workshop, seminar or meeting, other than a meeting that is conducted by or on behalf of the council for the councillors.)

## 7. NOTICE OF MOTION:

*There were no Notices of Motion.*

## 8. CONSIDERATION OF SUPPLEMENTARY ITEMS TO THE AGENDA:

In accordance with the requirements of Part 2 Regulation 8(6) of the Local Government (Meeting Procedures) Regulations 2005, the Council, by absolute majority may approve the consideration of a matter not appearing on the agenda, where the General Manager has reported:

- (a) the reason it was not possible to include the matter on the agenda, and
- (b) that the matter is urgent, and
- (c) that advice has been provided under Section 65 of the *Local Government Act 1993*.

## RECOMMENDATION:

That the Council resolve by absolute majority to deal with any supplementary items not appearing on the agenda, as reported by the General Manager in accordance with the provisions of the Local Government (Meeting Procedures) Regulations 2005.

## DECISION:

The General Manager advised that a Petition had been received from residents in Dollery Court, Brighton opposing Council's planned development of the Park in Dollery Court.

*Cr Gray moved, Cr Jeffries seconded that Council note that the petition regarding Dollery Park had been tabled.*

**CARRIED**

## VOTING RECORD

In favour	Against
Cr Foster	
Cr Geard	
Cr Gray	
Cr Jeffries	
Cr Owen	
Cr Taylor	
Cr Williams	

**9. REPORTS FROM COMMITTEES:**

**9.1 PARKS & RECREATION COMMITTEE – 13/5/14:**

The recommendations of the Parks and Recreation Committee Meeting of 13<sup>th</sup> May 2014, were submitted to Council for adoption.

*Cr Geard moved, Cr Williams seconded that the recommendations of the Parks & Recreation Committee Meeting of the 13<sup>th</sup> May 2014, be confirmed.*

**CARRIED**

**VOTING RECORD**

<b>In favour</b>	<b>Against</b>
Cr Foster	
Cr Geard	
Cr Gray	
Cr Jeffries	
Cr Owen	
Cr Taylor	
Cr Williams	

**9.2 PLANNING COMMITTEE – 13/5/14:**

The recommendations of the Planning Committee Meeting of 13<sup>th</sup> May 2014, were submitted to Council for adoption.

*Cr Gray moved, Cr Geard seconded that the recommendations of the Planning Committee Meeting of the 13<sup>th</sup> May 2014, be confirmed.*

**CARRIED**

**VOTING RECORD**

<b>In favour</b>	<b>Against</b>
Cr Foster	
Cr Geard	
Cr Gray	
Cr Jeffries	
Cr Owen	
Cr Taylor	
Cr Williams	

## **10. COUNCIL ACTING AS PLANNING AUTHORITY:**

In accordance with the provisions of Part 2 Regulation 25 of the Local Government (Meeting Procedures) Regulations 2005, the intention of the Council to act as a planning authority pursuant to the *Land Use Planning and Approvals Act 1993* is to be noted. In accordance with Regulation 25, the Council will act as a planning authority in respect to those matters appearing under Item 10. on this agenda, inclusive of any supplementary items.

*There were no planning items listed on this agenda.*

## **11. REPORTS FROM OFFICERS:**

### **11.1 309 TEA TREE ROAD, BRIGHTON – UNSIGHTLY PREMISES:**

**FILE REFERENCE:** TETREE/309

**AUTHOR:** Governance Manager  
(Mrs J Banks)

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#### **Background:**

In 2005 the Manager Environment & Development Services (Robert Higgins) and Environmental Health Officer (Brent Bastian) visited 309 Tea Tree Road, Brighton to discuss the unsightly property as Mr Higgins wished to improve the condition of the property before complaint/s were received against it. Unfortunately when Council officers approached the owner at that time he became aggressive and abusive. The officers decided to not pursue the nuisance issue until complaints were received. No further action was taken.

The first official complaint for the 'unsightly' state of the property at 309 Tea Tree Road, Brighton was lodged with Council on 11<sup>th</sup> November 2013, although Council has received comments about why hasn't Council done something about this property previously; yet people have not wanted to lodge a formal complaint until now.

Other complaints received previously have related to offensive burning off on the property. Council Officers have spoken to the owner when these complaints are received. Complaints of this nature i.e. burning off are still being received by Council Officers.

Under Division 6 of the *Local Government Act 1993*, the property constitutes a nuisance and Council Officers have been dealing directly with the owner without a satisfactory outcome to date.

#### **Consultation:**

Governance Manager, General Manager, Senior Environmental Health Officer, Environmental Health Officer.



### **Risk Implications:**

If no action is taken then this may set a precedent for other owners of identified nuisance properties not to take action.

Council under the *Local Government Act 1993*, is required to act on complaints regarding nuisances.

### **Financial Implications:**

If Council undertakes the works to abate the nuisance there is a cost to Council, however the debt can be charged to the property and is recoverable the same as rates and charges.

### **Other Issues:**

The following is an extract from Division 6 of the Local Government Act 1993, regarding nuisances:

#### **199. Interpretation of Division 6**

In this Division –

*land*, in relation to a public health matter, includes premises;

*nuisance* includes anything that –

- (a) causes, or is likely to cause, danger or harm to the health, safety or welfare of the public; or
- (b) causes, or is likely to cause, a risk to public health; or
- (c) gives rise to unreasonable or excessive levels of noise or pollution; or
- (d) is, or is likely to be, a fire risk; or
- (e) constitutes an unsightly article or rubbish.

#### **200. Abatement notices**

(1) If a council is satisfied that a nuisance exists, the general manager must serve a notice on–

(a) any person whose act or default contributes to or causes the nuisance whether or not that act or default occurs wholly or only partly in its municipal area; or

(b) if the person cannot be ascertained or found, on the owner or occupier of the land on, or from which, the nuisance arises.

(1A) If the owner or occupier of land on or from which a nuisance arises cannot be ascertained or found, the general manager is to display a copy of a notice referred to in subsection (1) in a prominent position on that land.

(2) A notice under subsection (1) is to state –

(a) the nature of the nuisance; and

- (b) any reasonably necessary action to be taken to abate the nuisance; and
- (c) the period within which such action is to be taken; and
- (d) the person or persons responsible for ensuring that such action is taken; and
- (e) that the council may take action under section 201.
- (f) . . . . .

(3) A person served with, or specified in, an abatement notice must comply with the notice, unless the person lodges an appeal under subsection (5).

Penalty:

Fine not exceeding 20 penalty units.

(4) For the purpose of ascertaining whether a nuisance exists, the general manager may–

- (a) enter and remain on land; and
- (b) do any thing reasonably necessary for that purpose.

(5) A person served with, or specified in, an abatement notice may appeal to a magistrate within 14 days after service of the notice on any one or more of the following grounds:

- (a) that a nuisance does not exist;
- (b) that an action required by the abatement notice is unreasonable;
- (c) that the period stated in the abatement notice is unreasonable.

(6) A magistrate may –

- (a) order that the person is to comply with the abatement notice; or
- (b) modify the abatement notice and order that the person and the council are to comply with the modified notice; or
- (c) order that the council withdraw the abatement notice.

**201. General manager may take necessary action**

(1) The general manager may take the necessary action to abate a nuisance if–

- (a) there is an immediate danger to any person or property; or
- (b) the person causing the nuisance cannot be ascertained or found; or
- (c) an abatement notice has not been complied with.

(2) If the general manager takes action under subsection (1), the general manager is to notify the owner and occupier of the land on, or from which, the nuisance arises accordingly.

(3) For the purpose of abating a nuisance under subsection (1), the general manager may authorise a person to–

- (a) enter and remain on any land; and

- (b) close off or fence any place; and
- (c) do anything reasonably necessary for that purpose.

(4) The council may charge the owner or occupier of land for the cost of any action taken under subsection (1).

(5) A charge under subsection (4) is a charge on the land and is recoverable in the same manner as rates and charges.

#### **204. Costs**

(1) In proceedings under this Division, a court may give any orders in relation to costs it thinks reasonable, including an order –

(a) for the person on whom an abatement notice is served to pay the council any costs incurred by it –

(i) in the proceedings before it; and

(ii) in taking any action to abate a nuisance under section 200 or 201; or

(b) for a council to pay any costs incurred by the owner or occupier of land in respect of which the council took action under section 200 or 201.

(2) If any costs awarded to a council are not paid within 3 years, the council may sell the land in respect of which an abatement notice is served in accordance with Division 11 of Part 9 as if the unpaid costs were unpaid rates.

#### **Assessment:**

Timeline:

11<sup>th</sup> November 2013 – Official complaint received regarding the unsightly property and offensive burning off on-site.

25<sup>th</sup> November 2013 – EHO (Michael Westcott) visited the property to advise the occupant that a complaint had been received and the property in its current condition could be regarded as “unsightly”. The owner once again became abusive and aggressive and Mr Westcott left the property.

13<sup>th</sup> December 2013 – A letter was sent to the property owner explaining that a complaint had been received and the property in its current state was viewed to be unsightly and Council, under the *Local Government Act 1993*, were required to take action. Works were requested to be undertaken by 3<sup>rd</sup> February 2014.

31<sup>st</sup> January 2014 – The owner responded stating that Council officers were incompetent and he was not prepared to speak with Mr Westcott. He also addressed the works suggested by Council to remove the items stating the construction of a fence would be better suited to shield the items from view.

14<sup>th</sup> February 2014 – SEHO (Brent Bastian) responded to the owner’s letter supporting the construction of a fence or any other suggestion to abate the unsightly nuisance. The letter also requested a meeting to discuss these options with the owner.

24<sup>th</sup> February 2014 – Mr Westcott was asked to obtain photographic evidence of the state of the property from Tea Tree Road. As Mr Westcott parked to take photos on the opposite side of the road the owner appeared and aggressively approached the vehicle on foot, while another male rushed to a nearby car and started to pursue Mr Westcott. Concerned for his safety Mr Westcott returned to the car and left.

4<sup>th</sup> March 2014 – letter was received from the owner stating that he was not interested in having a meeting with Council to discuss the issue.

7<sup>th</sup> April 2014 – Governance Manager (Janine Banks) wrote to the owner requesting he construct a fence along the front of the property to abate the unsightly nuisance and was advised to contact Council within fourteen (14) days if he wished to accept this salutation.

9<sup>th</sup> April 2014 – the complainant called and asked why nothing had been done so far as the property was still unsightly and offensive (there had been further burning off).

To date no further correspondence or contact has been received from Mr. Tilyard.

Council officers have been patient with the owner however due to the non-compliance of Council's request of the 7<sup>th</sup> April 2014, further legal action is requested to be taken.

**Options:**

1. As per the recommendation.
2. That Council not serve an abatement notice on the owner and advise that complainant that Council is not going to pursue abating the nuisance.

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**RECOMMENDATION:**

That Council serve an abatement notice under Section 200 of the *Local Government Act 1993*, on the owner of 309 Tea Tree Road, Brighton to abate the nuisance i.e. request the construction of a 1.8m colour bond or paling fence along the designated areas as identified by Council.

**DECISION:**

*Resolved that this item be deferred to the next Ordinary Council Meeting.*

## 11.2 ARMY CAMP ROUNDABOUT, BRIGHTON:

### FILE REFERENCE:

**AUTHOR:** Asset Services Manager  
(Mr H Macpherson)

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### Background:

As part of the Army Camp subdivision a roundabout was required at the intersection of the new access road, Jordan Downs Drive and Brighton Road.

The Municipal Engineer will provide an update on the proposed drawings and layout of the entrance at the Council Meeting.

### Consultation:

Nil

### Risk Implications:

Nil

### Financial Implications:

Not Applicable

### Other Issues:

Nil

### Assessment:

Nil

### Options:

1. As per the recommendation
  2. Not receive the report
- 

### RECOMMENDATION:

That the report be received

### DECISION:

*Cr Taylor moved, Cr Jeffries seconded that the report be received.*

**CARRIED**

### VOTING RECORD

In favour	Against
Cr Foster	
Cr Geard	

Cr Gray  
Cr Jeffries  
Cr Owen  
Cr Taylor  
Cr Williams

### **11.3 ANDREW STREET ROUNDABOUT, BRIGHTON:**

#### **FILE REFERENCE:**

**AUTHOR:** Asset Services Manager  
(Mr H Macpherson)

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#### **Background:**

As part of the Brighton Streetscape works it is proposed to install a roundabout at the intersection of Andrew Street and Brighton Road, Brighton. This would also incorporate the access into the Bakery/Brighton Hotel.

The Municipal Engineer will provide an update of the progress of the proposal and concept designs.

#### **Consultation:**

Nil

#### **Risk Implications:**

Nil

#### **Financial Implications:**

Nil

#### **Other Issues:**

Nil

#### **Assessment:**

Nil

#### **Options:**

1. As per the recommendation
  2. Not receive the report
- 

#### **RECOMMENDATION:**

That the report be received.

**DECISION:**

*Cr Gray moved, Cr Jeffries seconded that the report be received.*

**CARRIED**

**VOTING RECORD**

<b>In favour</b>	<b>Against</b>
Cr Foster	
Cr Geard	
Cr Gray	
Cr Jeffries	
Cr Owen	
Cr Taylor	
Cr Williams	

**11.4 BUDGET 2014–2015:**

**FILE REFERENCE:** 0100  
**AUTHOR:** Deputy General Manager  
(Mr G Davoren)

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**Background:**

The draft 2014-2015 budget and Fees & Charges Register has been provided to all Councillors. A review of the budget was undertaken at a workshop held on Wednesday 13<sup>th</sup> May 2014. Adjustments to the draft budget have been completed in accordance with Councillors demands and it is now ready to be adopted in principle.

**Consultation:**

Councillors, Senior Management, Ratepayers and other stakeholders.

**Risk Implications:**

Nil

**Financial Implications:**

As per the budget.

**Other Issues:**

Nil

**Assessment:**

In accordance with the *Local Government Act 1993*, the budget may not be adopted more than one month before the start of that financial year. It is intended that the Budget be adopted in principle only.

**Options:**

1. As per the recommendation.
  2. Review the budget and make further changes prior to adoption in principle
- 

**RECOMMENDATION:**

That the 2014-2015 budget finalised on Tuesday 13<sup>th</sup> May 2014, be adopted in principle.

**DECISION:**

*Cr Gray moved, Cr Williams seconded that the recommendation be adopted.*

**CARRIED**

**VOTING RECORD**

<b>In favour</b>	<b>Against</b>
Cr Foster	
Cr Geard	
Cr Gray	
Cr Jeffries	
Cr Owen	
Cr Taylor	
Cr Williams	

**12. QUESTION ON NOTICE:**

*There were no questions on notice.*

The meeting closed at 7.35 pm.

Confirmed:

\_\_\_\_\_  
(Mayor)

Date:

\_\_\_\_\_  
17<sup>th</sup> June 2014