

Minutes of the Ordinary Meeting of Council

Held at the Council Chambers, 86 Market Street, Mudgee
on Wednesday 16 October 2013, commencing at 6.17pm and concluding at 7.20pm

PRESENT Cr D Kennedy (Mayor), Cr P Cavalier (Deputy Mayor), Cr EE Martens (AM),
Cr PA Shelley, Cr JP Thompson, Cr MB Walker, Cr JK Weatherley,
Cr JR Webb, Cr L White.

IN ATTENDANCE General Manager (WL Bennett), Director Mid-Western Operations (B Cam),
Director Development and Community Services (C Van Laeren), Director
Finance and Administration (C Phelan), Manager Governance (I Roberts),
Minute Secretary (P Goldsmith)

MEDIA REPRESENTATIVES Mudgee Guardian / The Weekly (R Murray), Radio 2MG (C Bassett)

Item 1: Apologies

There were no apologies.

Item 2: Disclosure of Interest

There were no disclosures of interest.

Resignation of Director Finance and Administration

The Mayor noted that the Director Finance and Administration, Clare Phelan, had accepted a position at Port Hedland Council in Western Australia and was leaving Council's employ. On behalf of Council and the community he expressed appreciation for her efforts during her seven years at Council. The Council responded by acclamation.

Item 3: Confirmation of Minutes

393/13 MOTION: Weatherley / Cavalier

That the Minutes of the Ordinary Meeting held on 3 October 2013 (Minute Nos. 374/13 to 392/13) be taken as read and confirmed.

The motion was put and carried.

Item 4: Matters in Progress

Welcome Signs

394/13 MOTION: Cavalier / Shelley

That Minute no. 388/13 be noted as completed.

The motion was put and carried.

Item 5: General Business

5.1 NOTICES OF MOTION

5.1.1 ONGOING MEMBERSHIP TO THE WESTERN REGION ACADEMY OF SPORT

A0100056, A0100035

395/13 MOTION: Shelley / Cavalier

That Council seeks ongoing membership to the Western Region Academy of Sport.

The motion was put and carried.

5.2 REPORTS TO COUNCIL

5.2.1 DA 0504/2013 - ALTERATIONS TO BP SERVICE STATION, LOT 41 DP 998528, 77 CHURCH STREET, MUDGEE

GOV400029, A0100056, P00221

396/13 MOTION: Shelley / Weatherley

That:

- 1. the report by the Statutory Planner regarding Development Application 0504/2013, Alterations to the existing BP Service Station at Lot 41 DP 998528, 77 Church Street Mudgee be received;**
- 2. Development Application 0504/2013, Alterations to the existing BP Service Station at Lot 41 DP 998528 77 Church Street Mudgee be approved in accordance with the following conditions of consent.**

APPROVED PLANS

- 1. Development is to be carried out generally in accordance with stamped plans identified in the table below and the Application received by Council on 21 June 2013 except as varied by the conditions listed herein. Any minor modification to the approved plans will require the lodgement and consideration by Council of amended plans. Major modifications will require the lodgement of a new development application.**

Plan Description	Drawing No:	Issue:	Drawn By	Dated
Proposed Site Plan	SK-08933-A001	2	SKM	29 April 2013
Site Demolition Plan	SK-08933-A002	2	SKM	29 April 2013
Canopy Elevations and Priceboard Details	SK-08933-A003	2	SKM	29 April 2013
Forecourt Pollution Control and Site Drainage Plan	SK-08933-D001	2	SKM	29 April 2013
Sedimentation and Erosion Control Plan	SK-08933-D002	2	SKM	29 April 2013
Fuel Tank Farm and Spel Purceptor Section	SK-08933-T001	2	SKM	29 April 2013

PRIOR TO THE ISSUE OF A CONSTRUCTION CERTIFICATE

2. Where a private certifier is appointed that is not the Council, an application under S68 of Local Government Act shall be lodged with Council for the carrying out of any plumbing and drainage works prior to those works commencing.

PRIOR TO THE COMMENCEMENT OF WORKS

3. Prior to commencing any construction works, the following provisions of the Environmental Planning and Assessment Act 1979 (the 'Act') are to be complied with;
- a) A Construction Certificate is to be obtained in accordance with Section 81A(2)(a) of the Act.
 - b) A Principal Certifying Authority is to be appointed and Council is to be notified of the appointment in accordance with Section 81A(2)(b) of the Act and form 7 of schedule 1 to the Regulations.
 - c) Council is to be given at least two days notice of the date intended for commencement of building works, in accordance with Section 81A(2)(c) of the Act and Form 7 of Schedule 1 to the Regulations.
4. A revised Traffic Control Plan is to be submitted which allows for a minimum 1.2 metre pedestrian walkway around the site during construction and remediation works.
5. An Erosion and Sediment Control Plan for the development is to be prepared and implemented in accordance with the LANDCOM guidelines and requirements as outlined in the latest edition of "Soils and Construction – Managing Urban Stormwater". Points to be considered include, but are not limited to:
- using erosion control measures to prevent on-site damage;
 - rehabilitating disturbed areas quickly;
 - maintenance of erosion and sediment control structures;
 - a schedule of operations is to be submitted to ensure all appropriate works are undertaken at the correct stage.

6. If the work involved in the erection/demolition of the building is likely to cause;
 - pedestrian or vehicular traffic in a public place to be obstructed or rendered inconvenient,
 - or the building work involves the enclosure of a public place

A hoarding or fence must be erected between the work site and the public place. If necessary, an awning is to be erected, sufficient to prevent any substance from, or in connection with, the work falling into the public place. Any such hoarding, fence or awning is to be removed when the work has been completed.

DURING WORKS

7. The site shall be provided with a waste enclosure (minimum 1800mm X 1200mm) that has a lid or secure covering for the duration of the construction works to ensure that all wastes are contained on the site. The receptacle is to be emptied periodically to reduce the potential for rubbish to leave the site. Council encourages the separation and recycling of suitable materials.
8. Any soil / water retention structures are to be constructed prior to the bulk stripping of topsoil, to ensure sediment from the whole site is captured.
9. All earthworks, filling, building, driveways or other works, are to be designed and constructed (including stormwater drainage if necessary) so that at no time will any ponding of stormwater occur on adjoining land as a result of this development.
10. A sign must be erected in a prominent position on any work site on which involved in the erection or demolition of a building is carried out;
 - a) stating that unauthorized entry to the work site is prohibited, and
 - b) showing the name of the person in charge of the work site and a telephone number at which that person may be contacted outside working hours.
11. Construction work noise that is audible at other premises is to be restricted to the following times:
Monday to Saturday - 7.00am to 5.00pm
12. The installation of the underground petroleum storage tanks is to be carried out as per the requirements of the Protection of the Environment Operation (Underground Petroleum Storage Systems) Regulation 2008.
13. The forecourt design, excluding the disposal of waste water to sewer, is to comply with the Office of Environment and Heritage (formerly the Department of Environment and Climate Change) document titled 'Environmental Action for Service Stations'

GENERAL CONDITIONS

14. All building work must be carried out in accordance with the provisions of the Building Code of Australia, the Environmental Planning & Assessment Act 1979 and Regulations and the relevant Australian Standards.
15. The placing of building materials or the carrying out of building operations upon or from Council's footway or roadway is prohibited unless prior consent in writing is obtained from Council.
16. All mandatory inspections required by the Environmental Planning & Assessment Act and any other inspections deemed necessary by the Principal Certifying Authority being carried out during the relevant stage of construction.
17. Connection of any discharge from refuelling points at the service station to Council's sewerage system is prohibited effective since 1 June 2012 in accordance with NSW Office of Water new requirements for improving Risk Management for Discharges from Premises with Refuelling Points in Non-metropolitan NSW.

Note: As the existing premises with a refuelling point will be refurbished, in accordance with the new requirements, the discharge from this area must be disconnected from Council's sewerage system. Where the premises do not have other trade waste discharges (eg. from a restaurant, vehicle wash, mechanical workshop), trade waste fees and charges would no longer apply.

Note: Business operators of such premises may remove spilled fuel by dry methods and/or direct any wastewater from refuelling points to a blind sump with an appropriate capacity. Such a sump must be pumped out by a suitable contractor for off-site management, when required.

18. The existing grassed area adjoining the eastern boundary of the site is to be retained.
19. A Validation Report for the removal of the underground petroleum storage tanks is to be provided to Council within 60 after the tanks are replaced and any remediation works carried out as per the requirements of the Protection of the Environment Operation (Underground Petroleum Storage Systems) Regulation 2008.
20. A bunded area that is capable of withstanding 110% of the liquid storage capacity will be required for the proposed tank area.
21. All plumbing and drainage work must be carried out by a licensed plumber and drainer and must comply with the requirements of

AS 3500 (National Plumbing & Drainage Code) and the NSW Code of Practice - Plumbing & Drainage. The selected plumber/drainer must provide Council with a drainage diagram detailing the location of the drainage system and the relevant connections.

- 22. A Notice of Completion for the remediation work is to be provided to Council within 30 days after the completion of work and shall include the following details prescribed by State Environmental Planning Policy 55 – Remediation of Land:**
- a) be in writing prepared and signed by the person who carried out the work, and**
 - b) provide the person's name, address and business telephone number, and**
 - c) provide details of the person's qualifications to carry out the work, and**
 - d) specify, by reference to its property description and street address (if any), the land on which the work was carried out, and**
 - e) provide a map of the location of the land, and**
 - f) state when the work was completed, and**
 - g) specify the uses of the land, and the substances, that contaminated it in such a way as to present a risk of harm to human health or some other aspect of the environment, and**
 - h) specify the uses of the land immediately before the work started, and**
 - i) briefly describe the method of remediation used in the work, and**
 - j) specify the guidelines that were complied with in the work, and**
 - k) specify the standard of remediation achieved (in the light of the use proposed for the land), and**
 - l) show in what manner the work (if a category 1 remediation work) complied with the conditions of the relevant development consent, and**
 - m) state what action must be maintained in relation to the land after the completion of the remediation work if the standard of remediation achieved is to be maintained.**
- 23. The signage is to be securely affixed and is not to flash, move or be objectionably glaring.**
- 24. Any further signage proposed on the site is subject to a separate Development Application.**

PRIOR TO THE ISSUE OF AN OCCUPATION CERTIFICATE

- 25. All public footways, foot paving, kerbs, gutters and road pavement damaged during the works are to be restored to match existing conditions at the developer's/ Demolisher's expense.**

The motion was put and carried with Councillors voting as follows:

Councillors	Ayes	Nayes
Cr Cavalier	✓	
Cr Kennedy	✓	
Cr Martens	✓	
Cr Shelley	✓	
Cr Thompson	✓	
Cr Walker	✓	
Cr Weatherley	✓	
Cr Webb	✓	
Cr White	✓	

5.2.2 DRAINAGE CONCEPT PLANS FOR MUDGEE

GOV400029, A0100056, A0420128

397/13

MOTION: Cavalier / Shelley

That:

1. the report by the Manager Strategic Planning on the Drainage Plans for Mudgee be received;
2. Council allocate \$25,000 from the Section 94 Plan Administration Fund to the preparation of a drainage concept plan for Mudgee.

The motion was put and carried.

5.2.3 MANDATORY SWIMMING POOL INSPECTION PROGRAM

GOV400029, A0100056, DEV700006

398/13

MOTION: Weatherley / Cavalier

That:

1. the report by the Manager Health & Building on the Mandatory Swimming Pool Inspection Program be received.
2. Council note that no submissions were received during the public exhibition.
3. the Mandatory swimming pool inspection program commence by the 29 October 2013 with an initial inspection fee of \$100 and a re-inspection fee of \$100 (if required).

The motion was put and carried.

5.2.4 APPEAL BY MAC GROUP PTY LTD – PROGRESS REPORT

GOV400029, A0100056, A0420251

399/13

MOTION: Martens / Cavalier

That the report by the Manager, Statutory Planning on the Appeal by Mac Group Pty Ltd – Progress Report be received.

The motion was put and carried.

5.2.5 REVIEW – COMPLIANCE POLICY

GOV400029, A0100056, A0100049, A0100021

400/13 MOTION: Weatherley / Cavalier

That:

- 1. the report by the Manager, Statutory Planning on the Review of the Compliance Policy be received;**
- 2. Council adopt the Compliance Policy with no amendments.**

The motion was put and carried.

5.2.6 REVIEW 'OCCUPATION OF CARAVANS, MOBILE HOMES AND TEMPORARY RESIDENTIAL STRUCTURES ON PRIVATE LAND' POLICY

GOV400029, A0100056, A0100021

401/13 MOTION: Cavalier / Walker

That:

- 1. the report by the Manager Health and Building on the Review of the Policy – 'Occupation of Caravans, Mobile Homes and Temporary Residential Structures on Private Land' be received;**
- 2. Council adopt the amended Occupation of Caravans, Mobile Homes and Temporary Residential Structures on Private Land policy attached to this report.**

The motion was put and carried.

5.2.7 REVIEW – 'PROTECTIVE FENCING AND OVERHEAD PROTECTIVE STRUCTURE IN PUBLIC PLACES' POLICY

GOV400029, A0100056, A0100021

402/13 MOTION: Weatherley / Cavalier

That:

- 1. the report by the Manager Health and Building on the Review of the Policy – Protective Fencing and Overhead Protective Structures in Public Places be received;**
- 2. Council adopt the amended Protective Fencing and Overhead Protective Structures in Public Places policy attached to this**

report subject to the word Council being replaced with the term General Manager or his delegate.

The motion was put and carried.

5.2.8 PUBLIC ART POLICY

GOV400029, A0100056, A0420172

403/13 MOTION: White / Martens

That:

- 1. the report by the Director of Development and Community Services on the Public Art Policy be received;**
- 2. Council adopt the Public Art Policy as attached to this report.**

The motion was put and carried.

5.2.9 CRUDINE RIDGE WIND FARM

GOV400029, A0100056, A0420255

404/13 MOTION: Shelley / Martens

That:

- 1. the report by the General Manager on the Crudine Ridge Wind Farm be received;**
- 2. Council strongly requests that the Department of Planning & Infrastructure place the application for the Crudine Ridge Wind Farm back on public exhibition for a further 60 days, because the proposed transportation routes are significantly different from the previously exhibited environmental assessment, and thus the effect on the community is much wider than previously envisaged;**
- 3. Council strongly opposes the transportation of oversized and overweight loads for the Crudine Ridge Wind Farm to travel through the residential areas of Gulgong and Mudgee;**
- 4. Council strongly opposes the transportation of oversized and overweight loads for the Crudine Ridge Wind Farm on Ulan Road as the current traffic volumes on Ulan Road are very high and such oversized and overweight vehicles will cause disruption and compromise safety beyond what is considered reasonable;**
- 5. Council requires the Crudine Ridge Wind Farm proponents to maintain the position that they must use the Hill End, Windeyer and Pyramul Roads and upgrade those roads as per the Council submission dated March 2013; Council would accept the**

proposed route for travel on the edge of the Gulgong township, with travel on appropriate roads;

6. If Aarons Pass Road from the Castlereagh Highway intersection to the project site entrance (distance 19.2 kilometres) is to be used for the transportation of oversized and overweight loads then the road to be upgraded at the proponents costs to the following standards.

Traffic Lanes (sealed)	2 x 3.5 metres
Shoulder (sealed)	2 x 0.5 metres
Shoulder (unsealed)	2 x 1.0 metres
TOTAL CARRIAGEWAY	10.0 metres

The motion was put and carried.

5.2.10 TRIAMBLE ROAD RESIDENT PROPOSAL

GOV400029, A0100056, R4008001

405/13

MOTION: Walker / Weatherley

That:

1. the report by the General Manager on the Triamble Road Resident Proposal be received;
2. Council confirms its stance to the Triamble Valley Residents that it requires the signatures and approvals of all affected property owners including the Echo property owner before Council will commit any further resources to this access matter;
3. Council seeks legal advice as to whether compensation is payable on land taken for road reserve through the Echo property in accordance with the points made in the public submissions; and
4. Council investigates whether the road through Echo property was ever gazetted as a military road.

The motion was put and carried.

5.2.11 RYLSTONE AERODROME DEVELOPMENT – PAYMENT OF FEES AND CHARGES

GOV400029, A0100056, P1463461

406/13

MOTION: Shelley / Webb

That:

1. the report by the General Manager on the Rylstone Aerodrome development – payment of fees and charges be received;

2. Council create a new rating subcategory under business called Rylstone Aeropark Aviation Purpose Only for the hangar sites only (Lots 27-63), with a minimum rate set of \$200;
3. that Council adhere to the Section 94 Plan that allows a deferment of the payment of Section 94 contributions that is consistent with the criteria specified in the Section 94 Plan including a time limit of 2 years from the date of this resolution and lodgement of a bank guarantee (which includes CPI increases).

The motion was put and carried.

5.2.12 DRAFT ANNUAL REPORT 2013

GOV400029, A0100056, COR400008

407/13

MOTION: Weatherley / Cavalier

That:

1. the report by the Director, Finance & Administration on the Annual Report 2013 be received;
2. Council adopt the Annual Report 2013 and authorise it for release by the General Manager following finalisation of the Regional State of the Environment Report.

The motion was put and carried.

5.2.13 MONTHLY STATEMENT OF MID-WESTERN REGIONAL COUNCIL BANK BALANCES AND INVESTMENTS AS AT 30 SEPTEMBER 2013

GOV400029, A0100056, A0140304

408/13

MOTION: Walker / Cavalier

That:

1. the report by the Financial accountant on the Monthly statement of Mid-Western Regional Council bank balances and investments as at 30 September 2013 be received;
2. the certification by the Responsible Accounting Officer be noted.

The motion was put and carried.

5.2.14 FINANCIAL ASSISTANCE APPLICATIONS

GOV400029, A0100056, A0140201

409/13

MOTION: Cavalier / Walker

That:

1. the report by the Financial Accountant on the Financial Assistance Applications be received;
2. Council provide financial assistance to the following applicants in accordance with the criteria and guidelines of the Financial Assistance Policy, subject to those requirements being met, with the funding from the general financial assistance vote:

Mudgee Indoor Swimming Club \$375
3. the amount of \$1,300 be allocated from Councillor White's discretionary fund towards the purchase of public art.

The motion was put and carried.

5.2.15 LOCAL INFRASTRUCTURE RENEWAL SCHEME ROUND 2

GOV400029, A0100056, FIN300062, FIN300030

410/13

MOTION: Martens / Cavalier

That:

1. the report by the Director, Finance & Administration on the Local Infrastructure Renewal Scheme Round 2 be received;
2. Council accept the funding offer of a 3% interest subsidy on borrowings relating to enabling infrastructure on the Caerleon Development;
3. Council authorise the application of the Common Seal to the funding agreement.

The motion was put and carried.

5.2.16 CLASSIFICATION OF LAND – LOTS 35 & 36 DP 1183478 DRAINAGE RESERVES HOLLINGSWORTH ESTATE GULGONG

GOV400029, A0100056, P2234011, P2236111

411/13

MOTION: Cavalier / Shelley

That:

1. the report by the Revenue & Property Manager on the Classification of land – Lots 35 & 36 DP 1183478 Drainage Reserves Hollingsworth Estate Gulgong be received;
2. Council notify the public of its intention to classify Lots 35 & 36 DP 1183478 in the Hollingsworth Estate as Operational by exhibiting the proposal for 28 days and should there be no submissions from the public, the lands be so classified as Operational.

The motion was put and carried.

5.2.17 NAMING OF NEW UNNAMED ROADS OFF BATEMAN AVENUE
GOV400029, A0100056, R0790141

412/13 MOTION: Weatherley / Cavalier

That:

- 1. the report by the Revenue & Property Manager on the Naming of New Unnamed Road off Bateman Avenue be received;**
- 2. Council replace the preliminarily approved name of Janets Place with Sawyers Place in relation to road no. 1.**

The motion was put and carried.

5.2.18 TENDER PANEL FOR ASPHALT SUPPLY & LAY
GOV400029, A0100056, COR400049

413/13 MOTION: Webb / Cavalier

That:

- 1. the report by the Procurement Manager on the Tender panel for Asphalt Supply & Lay be received;**
- 2. Council appoints the following suppliers under Tender 2013/15 for asphalt supply lay as a panel of suppliers for a contract term of 3 years starting 21 October 2013 and expiring 21 October 2016:**
 - Downer**
 - Boral Asphalt**
 - Accurate Asphalt & Road Repairs**
- 3. Provision be made for a 12 month extension based on satisfactory supplier performance which may take this tender through to 21 October 2017;**
- 4. Supplier prices are in accordance with the Schedule of Rates submitted by each tenderer.**

The motion was put and carried.

5.2.19 APPLICATION FOR GATE ON GRATTAI CREEK RD
GOV400029, A0100056, R0061001

414/13 MOTION: Webb / Martens

That:

- 1. the report by the Manager Technical Services on the Application for Gate on Grattai Creek Rd be received;**

2. Council approve the application for a gate and a grid on Grattai Creek Rd approximately 4.8km from the intersection of Grattai Creek Rd and Hill End Rd between Lot 27 DP756884 and Lot 2 DP1145607.

The motion was put and carried.

5.2.20 MUDGEE SHOWGROUND MANAGEMENT COMMITTEE

GOV400029, A0100056, F0650007

415/13 MOTION: Webb / Cavalier

That:

1. the report by the Director, Mid-Western Operations on the Mudgee Showground Management Committee be received;
2. the Minutes of Mudgee Showground Management Committee of 3 September 2013 be received.

The motion was put and carried.

5.2.21 CONDUCT OF COUNCIL ELECTIONS

GOV400029, A0100056, A0120012

416/13 MOTION: Walker / Weatherley

That:

1. the report by the Manager Governance on the conduct of Council elections be received;
2. Mid-Western Regional Council resolves that:
 - a) pursuant to Section 296(2) and (3) of the Local Government Act 1993 (NSW) ("the Act") and election arrangement be entered into by contract for the Electoral Commissioner to administer all elections of the Council;
 - b) pursuant to Section 296(2) and (3) of the Act, as applied and modified by Section 18, a council poll arrangement be entered into by contract for the Electoral Commissioner to administer all council polls of the Council; and
 - c) pursuant to Section 296(2) and (3) of the Act, as applied and modified by Section 18, a constitutional referendum arrangement be entered into by contract for the Electoral Commissioner to administer all constitutional referenda of the Council.

The motion was put and carried.

Item 6: Urgent Business Without Notice

6.1 Request to Close the Majority of Carrs Gap Road

GOV400029, A0100056, R0790175

417/13 MOTION: Weatherley / Cavalier**That this matter be dealt with as urgent business without notice.***The Mayor having ruled the matter to be of great urgency, the motion was put and carried.***418/13 MOTION: Webb / Martens****That:**

1. the report by the Revenue & Property Manager on the Request to Close the Majority of Carrs Gap Road be received; and
2. Council agree to the closure of that section of Carrs Gap Road at the western end from the western boundary of the adjacent lot 1 DP 803204 to the intersection of Murragamba Road at the eastern end as shown on the plan in Attachment 1 to this report and make an application to the Crown Land Lands Division for the closure; and
3. If, upon closure of that section of Carrs Gap Road all of the land in that section or land in part/parts of that section vests in Council, Council authorises:-
 - a) that upon transfer of title to Council, public notice be given of the intention to classify the land as "Operational" and should Council not receive any submissions during the 28 day notification period, the land be so classified ; and
 - b) the General Manager to negotiate the terms of the sale of the land including fire trails to be included in the rehabilitation plan to Moolarben Coal Mines P/L including the proponent being responsible for any and all associated costs.
4. Council authorises the Common Seal of Council to be affixed to all documentation necessary in relation to the Road Closure; and if applicable, to all documentation necessary in relation to the sale of the land to Moolarben Coal Mines P/L.

The motion was put and carried.

6.2 Overtaking Lanes on Ulan Road

419/13 MOTION: Shelley / Thompson

That this matter be dealt with as urgent business without notice.

The Mayor having ruled the matter to be of great urgency, the motion was put and carried.

420/13 MOTION: Webb / Thompson

That Council negotiate the inclusion of overtaking lanes on Ulan Road as part of the upgrade of the Ulan Road.

The motion was put and carried.

Item 7: Confidential Session

421/13 MOTION: Webb / Cavalier

That pursuant to the provisions of Section 10 of the Local Government Act, 1993, the meeting be closed to the public.

Following the motion to close the meeting being moved and seconded, the Manager Governance announced that the following matter would be considered in confidential session and the reason why it was being dealt with in this way.

Subject: 7.1.1 Mayoral Minute – General Manager’s Performance Agreement

The reason for dealing with this matter confidentially is that it relates to personnel matters concerning particular individuals (other than Councillors) and in accordance with Section 10A(2)(a) of the Local Government Act, 1993.

Subject: 7.2.1 Code of Conduct Complaint

The reason for dealing with this matter confidentially is that it is a matter concerning alleged contravention of any code of conduct requirement applicable under Section 440 in accordance with Section 10A(2)(j) of the Local Government Act, 1993.

Discussion of this matter in an open meeting would be, on balance, contrary to the public interest as it could adversely impact on Council’s investigative functions.

Following an enquiry from the Mayor, the Manager Governance advised that there were no written representations in respect of this matter and that no person in the gallery wished to make verbal representations.

The motion was put and carried.

7.1.1 Mayoral Minute - General Manager's Performance Agreement
GOV400029, A0100056, A0381421

422/13 MOTION: Walker / Weatherley

That Council adopt the 2013/14 Performance Agreement with the General Manager.

The motion was put and carried.

7.2.1 Code of Conduct Complaint 24 May 2013
GOV400029, A0100056, A0000021

Councillor Thompson left the meeting at 6.55pm and did not participate in discussions or vote in relation to this matter.

After seeking Council's indulgence, Councillor Shelley made an oral submission to Council which he read from a prepared statement. He then left the meeting at 7.00 pm and did not participate in further discussions or vote in relation to this matter.

423/13 MOTION: Walker / Cavalier

That:

- 1. the report by the Manager Governance on the Code of Conduct Complaint 24 May 2013 be received;**
- 2. The Council resolves not to adopt the recommendations of the conduct reviewer for the following reasons:**
 - a) The Councillor concerned has offered to apologise and that offer was rejected outright;**
 - b) Nothing would be gained by proceeding with the findings of the conduct reviewer;**
 - c) The recommendation includes reference to staff and the community who were not part of this complaint; and**
 - d) The matter is internal amongst Councillors and is not of public interest.**

AMENDMENT: Webb / Martens

That:

1. the report by the Manager Governance on the Code of Conduct Complaint 24 May 2013 be received;
2. Councillor Peter Shelley publicly apologise to Councillor Percy Thompson and the Council for his statements made at the meeting of Council held on 1 May 2013 in relation to Councillor Thompson. Such apology to be made at the meeting at which this report is presented or at the first ordinary meeting of Council thereafter;

3. Councillor Peter Shelley be counselled on the role and responsibilities of a Councillor including the responsibility to act with respect for fellow Councillors, staff and the community;
4. the report and findings of inappropriate conduct be made public.

The amendment was put and lost. The motion was put and carried.

Councillor Martens and Webb requested that their names be recorded as having voted against the motion.

Councillor Shelley and Thompson returned to the meeting at 7.18pm.

Item 8: Open Council

The Manager Governance announced the decisions taken in Confidential Session.

Closure

There being no further business the meeting concluded at 7.20pm.