



# REPORT CONFIDENTIAL COMMITTEE OF THE WHOLE MEETING 27 JULY 2020

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**PRESENT:** Councillors V Etheridge, D Grant, D Gumley, A Jones, S Lawrence, G Mohr, K Parker, J Ryan and B Shields.

**ALSO IN ATTENDANCE:**

The Chief Executive Officer, the Executive Manager Governance and Internal Control, the Manager Governance Operations, the Communications Partner, the Director Organisational Performance, the Director Culture and Economy, the Director Infrastructure, the Director Development and Environment and the Director Liveability.

Councillor B Shields assumed chairmanship of the meeting.

The proceedings of the meeting commenced at 6.06pm.

It was noted by the Chair that Councillor A Jones was in attendance at this meeting via audio only, under the current COVID-19 Provisions.

**CW20/14 ACQUISITION OF 92 MACQUARIE STREET - OLD DUBBO GAOL REDEVELOPMENT (ID20/786)**

The Committee had before it the report dated 13 July 2020 from the Property Specialist regarding Acquisition of 92 Macquarie Street - Old Dubbo Gaol Redevelopment.

Moved by Councillor A Jones and seconded by Councillor D Gumley

**MOTION**

**That members of the press and public be excluded from the meeting during consideration of this item, the reason being that the matter concerned information that would, if disclosed, confer a commercial advantage on a person with whom the Council is conducting (or proposes to conduct) business (Section 10A(2)(c)).**

Moved by Councillor G Mohr and seconded by Councillor J Ryan

**MOTION**

1. That the Chief Executive Officer be authorised to negotiate the purchase of 92 Macquarie Street (Lot 1 DP 726705 and Lot 9 DP 40398) within the price range as detailed within the report of the Property Specialist dated 13 July 2020.
2. That Council seek to compulsorily acquire 92 Macquarie Street (Lot 1 DP 726705 and Lot 9 DP 40398) failing an agreement by negotiation being reached in accordance with the *Land Acquisition (Just Terms Compensation) Act 1991*.
3. That all documentation in relation to this matter be executed under Power of Attorney.
4. That the documentation and considerations in regard to this matter remain confidential to Council.

**CARRIED**

**CW20/15 SALE OF COUNCIL OWNED LAND - PART LOT 7 DP 1249927, 154 TALBRAGAR STREET, TO SUPPORT NSW GOVERNMENT OFFICE DEVELOPMENT (ID20/799)**

The Committee had before it the report dated 14 July 2020 from the Property Specialist regarding Sale of Council Owned Land - Part Lot 7 DP 1249927, 154 Talbragar Street, to Support NSW Government Office Development.

Moved by Councillor A Jones and seconded by Councillor D Gumley

**MOTION**

**That members of the press and public be excluded from the meeting during consideration of this item, the reason being that the matter concerned commercial information of a confidential nature that would, if disclosed, confer a commercial advantage on a competitor of the Council (Section 10A(2)(d)(ii)).**

Moved by Councillor G Mohr and seconded by Councillor K Parker

**MOTION**

1. The Council agree to sell 1,255m<sup>2</sup> of part Lot 7 in DP 1249927 to Castlerock Property Pty Ltd, under the terms as detailed in this report.
2. That Council agree to enter into a six month Option Agreement with Castlerock Property P/L at a fee of \$7,500 (excluding GST) with a further six month Option being offered by Council for an additional \$7,500.
3. That the land sale only proceed if Castlerock Property are awarded the tender to construct the NSW Government office building in this location.
4. That all documentation in relation to this matter be executed under Power of Attorney.
5. That documents and considerations in regard to this matter remain confidential to Council.

**CARRIED**

**CW20/16     11 WELCHMAN STREET, DUBBO - TRANSFER OF CROWN LAND MANAGEMENT TO DUBBO REGIONAL COUNCIL FOR THE PURPOSE OF MEN'S SHED (ID20/784)**

The Committee had before it the report dated 10 July 2020 from the Property Specialist regarding 11 Welchman Street, Dubbo - Transfer of Crown Land Management to Dubbo Regional Council for the Purpose of Men's Shed.

Moved by Councillor A Jones and seconded by Councillor D Gumley

**MOTION**

**That members of the press and public be excluded from the meeting during consideration of this item, the reason being that the matter concerned commercial information of a confidential nature that would, if disclosed, reveal a trade secret (Section 10A(2)(d)(iii)).**

Moved by Councillor J Ryan and seconded by Councillor D Gumley

**MOTION**

- 1. That Council apply to become appointed as Crown Land Managers of Lot 430 DP 42125 Reserve 94495.**
- 2. The Council commence discussions with the Men's Shed Committee to seek concurrence to the use of 11 Welchman Street for the relocation of the Men's Shed.**
- 3. That any documents in relation to this matter are executed under Power of Attorney.**
- 4. That the documentation and considerations in regard to this matter remain confidential to Council.**

**CARRIED**

**CW20/17     CODE OF CONDUCT MATTER (ID20/892)**

The Committee had before it the report dated 22 July 2020 from the Manager Governance Operations regarding Code of Conduct Matter.

Moved by Councillor A Jones and seconded by Councillor D Gumley

**MOTION**

**That members of the press and public be excluded from the meeting during consideration of this item, the reason being that the matter concerned alleged contraventions of any code of conduct requirements applicable under Section 440 (Section 10A(2)(i)).**

Moved by Councillor V Etheridge and seconded by Councillor S Lawrence

**MOTION**

In light of the independent investigators Code of Conduct finding that on 13 February 2020 Councillor Jane Diffey contacted a council staff member in her capacity as the Senior Electorate Officer to Dugald Saunders MP, to pressure a change of council operating procedure to favour her employer, council resolves:

1. That the Final Investigation Report by the independent Sydney based investigator be noted by Council.
2. That Council note the findings of the Final Investigation Report, being that Councillor Diffey's actions constitute a breach of the Code of Conduct at:  
    Clause 3.1 You must not conduct yourself in a manner that:  
    (b) is contrary to statutory requirements or the Council's administrative requirements or policies; and  
    Clause 7.2 Councillors and Administrators must not:  
    (c) contact a member of the staff of the Council on Council-related business unless in accordance with the policy and procedures governing the interaction of Councillors and Council staff that have been authorised by the Council and the Chief Executive Officer.
3. That Council attend to the revision of its Policy for the Provision of Information to and Interactions Between Councillors and Staff to provide explicit guidance for Councillors in situations where they hold dual role; and as part of this revision, all Councillors are to receive a briefing on their obligations on the revised Policy, as recommended in the Final Investigation Report.
4. That the office of Dugald Saunders MP be formally advised of all councillors obligations regarding Code of Conduct and Conflict of Interest Matters and request that he instructs his staff members not to use their role as a councillor to advocate for the benefit of the local member's office.
5. That Councillor Diffey be requested to voluntarily issue a written apology through the CEO to the staff member involved.
6. That the documents and considerations with regard to this matter remain confidential to the Council.

**CARRIED**

As one or more Councillors voted against the motion, in accordance with Clause 11.5 of Council's Code of Meeting Practice, the following votes were recorded:

<b>FOR</b>	<b>AGAINST</b>
Councillor Etheridge	
Councillor Grant	
Councillor Gumley	
Councillor Jones	
Councillor Lawrence	
Councillor Mohr	
Councillor Parker	
Councillor Ryan	
Councillor Shields	
<b>Total (9)</b>	<b>Total (0)</b>

At this juncture the Chief Executive Officer left the room and was out of sight during the Committee's consideration of this matter.

**CW20/19 CHIEF EXECUTIVE OFFICER PERFORMANCE REVIEW 2019/2020 (ID20/892)**

The Committee had before it the Mayoral Minute dated 20 July 2020 regarding the Chief Executive Officer Performance Review 2019/2020.

Moved by Councillor A Jones and seconded by Councillor D Gumley

**MOTION**

**That members of the press and public be excluded from the meeting during consideration of this item, the reason being that the matter concerned alleged contraventions of any code of conduct requirements applicable under Section 440 (Section 10A(2)(i)).**

Moved by Councillor B Shields

**MOTION**

- 1. That Council accepts the Performance Review Panel's determination of the Chief Executive Officer's performance for the period 2019/2020 and congratulates the Chief Executive Officer on his performance.**
- 2. That the Mayor be authorised to consult with the Chief Executive Officer in the development of the new performance plan for 2020/2021.**

**CARRIED**

The Chief Executive Officer returned to the meeting at the conclusion of this discussion.

**CW20/18 LEAVE OF ABSENCE**

A request for leave of absence was received from Councillor J Diffey who was absent from the meeting due to the personal reasons.

Moved by Councillor A Jones and seconded by Councillor G Mohr

**MOTION**

**That such request for leave of absence be accepted and Councillor J Diffey be granted leave of absence from this meeting.**

**CARRIED**

The meeting closed at 6.17pm.

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CHAIRMAN