

**MINUTES
OF THE SPECIAL MEETING OF COUNCIL MEETING OF THE CITY OF TEA TREE
GULLY HELD ON TUESDAY 30 APRIL 2024 AT 6:30 PM IN THE COUNCIL
CHAMBERS, 571 MONTAGUE ROAD, MODBURY**

1. Opening and Welcome

The Mayor read the Opening Prayer and Acknowledgement of Country Statement.

2. Attendance Record:

2.1 Present

Her Worship Mayor M Ryan, Crs B Keane, J Hawkvelt, L Jones, R Unger, L Petrie, K Drozdoff, B Lawrenson, M Champion, S Keane and K Foreman (*entered 6.34pm*).

2.2 Apologies

Crs T Sinclair and I Zagladov.

2.3 Leave of Absence

Nil

2.4 Record of Officers in Attendance (physical or electronic)

Ryan McMahon	Chief Executive Officer
Justin Robbins	General Manager Strategy & Finance
Shannon Hockley	Acting General Manager Corporate Services
Felicity Birch	General Manager City Operations
Michael Pereira	General Manager Community Services
Deana Taglierini	Coordinator, Governance
Marley Marks	Risk Officer
Rebecca Baines	Manager Finance & Rating Services

2.5 Record of Number of Persons in the Public Gallery - Physical Attendance

10 Attendees

3. Public Forum - Nil

4. Deputations

4.1 Deputation – Kym Dorrestyn and Robyn Lingard

Kym Dorrestyn and Robyn Lingard provided a deputation in relation to the management report titled ‘Internal Review of Council Decision -To Construct a Footpath at O’Leary Place, Wynn Vale’.

Leave of the meeting was sought to bring forward the management report titled ‘Internal Review of Council Decision – To Construct a Footpath at O’Leary Place, Wynn Vale’. Leave was granted.

5. Matters for Discussion

5.1 Internal Review of Council Decision - To Construct a Footpath at O'Leary Place, Wynn Vale (D24/28210)

During the moving of the motion, the Mayor sought leave of the meeting to allow Cr Foreman a short extension of debating time. Leave was granted.

Moved Cr Foreman, Seconded Cr S Keane

1. That Council resolves to not uphold the original decision of Council on 5 July 2022 and 27 June 2023 to construct a footpath on O’Leary Place, Wynn Vale for the following reasons:
 - a. The threshold for constructing a footpath does not meet the criteria in the Footpath Policy (section 2.1.1 (b)) as the footpath does not provide a link to the existing footpath network.
 - b. The letter to residents on 2 September 2022 (Attachment 1) was unclear and led residents to believe the footpath would be constructed on side of O’Leary Place running from Maidment Court to Fergusson Court.
2. That Council resolves to revisit the need for a footpath on O’Leary Place, Wynn Vale in 5 years’ time.

Lost

Cr Foreman called for a Division.

The Mayor declared the vote set aside.

The following members voted in the affirmative:

Crs Foreman, S Keane, Drozdoff and B Keane.

The following members voted in the negative:

Crs Champion, Lawrenson, Petrie, Unger, Jones and Hawkvelt.

The Mayor declared the motion **Lost**.

Moved Cr Lawrenson, Seconded Cr Petrie

That Council resolves to uphold the original decision of Council on 5 July 2022 and 27 June 2023 to construct a footpath on O’Leary Place, Wynn Vale for the following reasons:

1. The Annual Business Plan 2023-2024 (‘ABP’) identified O’Leary Place, Wynn Vale as a location where a new footpath would be constructed from Maidment Ct to the western end of the road (‘the Footpath’).
2. The ABP was adopted by Council in the course of ordinary budget processes and included citywide community consultation for residents to make their views heard.
3. When including footpaths to the ABP, it is not ordinary practice that the side of the road is made known in the adoption process.
4. The cl 2.1.1 of the Footpath Policy at the time (‘the Policy’) sets out criteria for Council Staff to recommend the inclusion of footpaths, being:
 - a. The Annual Average Daily Vehicular Traffic volume is greater than 300 vehicles per day (vpd), and less than 3,000 vpd, and
 - b. The footpath provides a link to the existing footpath network.
5. Council notes that cl 2.1.1 of the Policy has been amended since the original decision to state:
 - a. The Annual Average Daily Vehicular Traffic volume is greater than 100 vehicles per day (vpd) and less than 3,000 vpd, or
 - b. The footpath provides a well patronised link to the existing footpath network.
6. The Footpath was identified for inclusion as part of the capital works budget by Council Staff to provide better pedestrian connections on O’Leary Place and improve access under cl 2.1.1(b) of the Policy.
7. It is noted that the Footpath will connect to the existing footpath network at Maidment Court, Wynn Vale.

8. Council may choose to accept or reject recommendations from Council Staff in the course of the development of the ABP, with the ultimate decision for inclusions and exclusions being that of Council
9. The decision made in adopting the ABP was in accordance with legislation and Council's previously adopted policy positions.
10. As a review of a previous Council decision, it is noted that there is presently no reason identified as to why the decision should be overturned as the decision is appropriate to Council's policy position, lawful, and valid.
11. Clause 2.3 of the Internal Review of Council Decisions Policy states that the review should consider whether the original decision was fair and reasonable. As such, the issues that arose since adopting the ABP are not relevant to the validity and fairness of the original decision.
12. These reasons should not be construed to prejudice the Council in making a decision to remove the Footpath from the ABP.
13. That the footpaths construction be placed on hold for a period of three weeks.

Carried (443)

Cr Lawrenson called for a Division.

The Mayor declared the vote set aside.

The following members voted in the affirmative:

Crs Foreman, S Keane, Champion, Lawrenson, Drozdoff, Petrie, Hawkvelt and B Keane.

The following members voted in the negative:

Crs Unger and Jones.

The Mayor declared the motion **Carried**.

6. Presentations - Nil

7. Matters for Discussion

7.1 Draft Annual Business Plan for 2024-2025 for Community Consultation (D24/27052)

During the moving of the motion, Crs Foreman and S Keane left the meeting at 7.39pm and returned after the meeting had concluded.

Moved Cr Champion, Seconded Cr B Keane

That Council having considered the report titled “Draft Annual Business Plan for 2024-2025 for Community Engagement” and dated 30 April 2024:

1. adopts the draft Annual Business Plan 2024-2025 for the purpose of public consultation as outlined in Attachment 1 of the abovementioned report noting that the publishing and formatting will be updated to incorporate minor changes and any resolutions of Council.
2. undertakes public consultation on the draft Annual Business Plan in accordance with the draft Annual Business Plan 2024-2025 Community Engagement Strategy outlined in Attachment 2 of the abovementioned report.
3. That at a meeting of Council at which the community are invited and provided with the opportunity to ask questions and make verbal submissions on the draft Annual Business Plan 2024-2025, be held as part of the scheduled Council Meeting held on 28 May 2023, commencing at 8.00pm.
4. That Council sets aside, for the purpose of the public meeting as per resolution 3 above, no less than one hour as required under section 123 of the Local Government Act 1999.

Carried Unanimously (444)

Crs Foreman and S Keane were not present for vote.

8. Notice(s) of Motion - Nil

9. Question(s) on Notice - Nil

10. Section 90(2) Local Government Act 1999 – Confidential Items - Nil

The Mayor declared the meeting closed at 7.44pm.

Confirmed.....
Mayor