AMENDED ITEM

Item No: 1.2

Title: Confirmation of Minutes of Previous Meeting

Department: Governance

8 February 2021 Ordinary Council Meeting

Trim Reference: F2021/00035 - D14435345

Summary

Confirmation of minutes of the Extraordinary Meeting of Council held on 3 February 2021.

Recommendation

That Council confirm the minutes of the Extraordinary Meeting of Council held on the 3 February 2021.

Attachments

1 Minutes - Extraordinary Meeting - 3 February 2021 D14459223

Central Coast Council

Extraordinary Council Meeting

Held in the Council Chamber
49 Mann Street, Gosford

3 February 2021

MINUTES

Present

Dick Persson AM

In Attendance

Rik Hart	Acting Chief Executive Officer
Malcolm Ryan	Chief Operating Officer
Natalia Cowley	Acting Director Corporate Affairs
Boris Bolgoff	Director Roads, Transport, Drainage and Waste
Julie Vaughan	Director Connected Communities
Scott Cox	Director Environment and Planning
Jamie Loader	Director Water and Sewer

Notes

The Administrator, Dick Persson AM, declared the meeting open at 6.49pm and advised in accordance with the Code of Meeting Practice that the meeting is being recorded.

The Administrator, Dick Persson AM acknowledged the traditional custodians of the land on which the meeting was being held, and paid respect to Elders past, present and emerging.

The Administrator, Dick Persson AM adjourned the meeting at 6.50pm and advised the meeting would resume following the conduct of the Open and Public Forums.

The Open Forum commenced at 6.50pm with the speakers addressing the Council on each of the subjects below;

- Ms Angela Brewer – Arts on the Coast
- Mr Brett Maltby – Appointment of Rate Payer Representative to Council during and potentially after the Administrative period
- Mr Gary Blaschke OAM – Disability Access
- Ms Joy Cooper – Public land being used for private benefit and by Council to store materials
- Ms Susan Greene – Query into professional indemnity insurance
- Mr Greg Best – Current SRV review and community consultation

- Mr Daniel Harrison – Issues regarding rate rise
- Mr Gary Chestnut – Public thank you and public release of report on Coastal Open Space System

The Public Forum commenced at 7.33pm with the speakers addressing the Council on each of the items below;

Item 2.2 - Chain Valley Colliery/Delta Coal Community Funding Program 2020

- Mr Gary Chestnut

Item 3.1 – Business Recovery Plan

- Ms Marianne Hamilton

Item 3.3 - Meeting Records of Advisory Group and Committee meetings held in November and December 2020

- Mr Gary Chestnut

Item 5.2 - Kincumber Waste Management Facility Closure

- Mr Barry Hughes

The Public Forum closed with the Ordinary Meeting resuming at 7.55pm.

Procedural Motion

Time commenced: 7.55pm

Moved: Mr Persson AM

1/21 Resolved

That Council consider item 5.2 – Kincumber Waste Management Facility Closure first with the remaining items in order, however for the sake of clarity the items are recorded in their correct agenda sequence.

1.1 Disclosures of Interest

Time commenced: 7.58pm

Moved: Mr Persson AM

2/21 Resolved

That Council receive the report on Disclosure of Interest and note advice of disclosures.

1.2 Confirmation of Minutes of Previous Meeting

Time commenced: 7.58PM

Moved: Mr Persson AM

3/21 Resolved

That Council confirm the minutes of the Ordinary Meeting of Council held on the 14 December 2020 and the Extraordinary Meeting of Council held on the 18 December 2020.

1.3 Notice of Intention to Deal with Matters in Confidential Session

Time commenced: 7.58PM

Moved: Mr Persson AM

4/21 Resolved

1 That Council resolve that the following matters will not be dealt with in closed session.

2 That Council resolve pursuant to s. 10A(2) of the Local Government Act 1993 the reports and attachments will remain confidential for the following reasons:

Item 6.1 – CPA/3220 – Tender Evaluation – Adelaide Street Oval, Killarney Vale – New Amenities Building

2(d) commercial information of a confidential nature that would, if disclosed:

(i) prejudice the commercial position of the person who supplied it

That Council resolve, pursuant to section 11(3) of the Local Government Act 1993, that this report and Attachments remain confidential in accordance with section 10A(2)(d)(i) of the Local Government Act as is contains commercial information of a confidential nature that would, if disclosed prejudice the commercial position of the person who supplied it and because consideration of the matter in open Council would on balance be contrary to the public interest as it would affect Council's ability to obtain value for money services for the Central Coast community

Item 6.2 – Kibbleplex Parking Station Lease

2(d) commercial information of a confidential nature that would, if disclosed:

(i) prejudice the commercial position of the person who supplied it

That Council resolve, pursuant to section 11(3) of the Local Government Act 1993, that this report and attachments remain confidential in accordance with section 10A(2)(d)(i) of the Local Government Act as it contains commercial information of a confidential nature that would, if disclosed prejudice the commercial position of the person who supplied it and because consideration of the matter in open Council would on balance be contrary to the public interest as it would affect Council's ability to obtain value for money services for the Central Coast community.

Item 6.3 - Peninsula Leisure Centre Heating, Ventilation and Airconditioning Replacement

2(c) contains commercial information of a confidential nature that would, if disclosed, confer a commercial advantage on a person with whom the Council is conducting (or proposes to conduct) business.

That Council resolve, pursuant to s.11(3) of the Local Government Act 1993, that this report remain confidential in accordance with Section 10A(2)(c) of the Local Government Act as it contains information that would, if disclosed, confer a commercial advantage on a person with whom the Council is conducting (or proposes to conduct) business and because consideration of the matter in open Council would on balance be contrary to the public interest as it would affect Council's ability to obtain value for money services for the Central Coast community.

1.4 Administrator's Minute - Council Meetings during Administration

Time commenced: 7.59pm

Moved: Mr Persson AM

5/21 Resolved

That Council resolve that during the period of Administration, Ordinary Council Meetings will be held on Tuesdays effective from 9 February 2021.

1.5 Administrator's Minute - Administrator's 3 Month Progress Report

Time commenced: 8.00pm

Moved: Mr Persson AM

6/21 Resolved

1 That Council note the tabling of the Administrator's 3 Month Progress Report.

2 That Council note the Administrator has today provided a copy of the report to the Minister for Local Government, The Hon Shelley Hancock MP and the Deputy Secretary, Local Government, Planning and Policy, Mr Tim Hurst.

1.6 Administrator's Minute - Referendum for a reduction in Councillors and Wards

Time commenced: 8.14pm

Moved: Mr Persson AM

7/21 Resolved

1 That Council resolve to conduct a Constitutional Referendum for the reduction of Councillors (from 15 to 9) in conjunction with the September 2021 Local Government Elections.

2 That Council undertake community consultation to include: whether to reduce the ward structure from 5 to 3; have no wards; maintain the status quo with 15 councillors and 5 wards, and provide a report back to Council before mid April 2021.

3 That Council request the Acting Chief Executive Officer to notify the NSW Electoral Commission of this Administrator's Minute and resolution within 21 days as required under Schedule 10 of the Local Government (General) Regulation 2005.

4 That Council settle the proposed Constitutional Referendum question and provide this wording to the NSW Electoral Commission before mid April 2021 for the election.

5 That Council make provision in the 2021/22 budget for the additional costs of the NSW Electoral Commission running a Referendum in conjunction with the September 2021 Local Government Elections and the cost of Council fulfilling its obligations in relation to the explanatory material.

2.1 Working Together Staying Strong COVID Grants - September 2020

Time commenced: 8.18pm

Moved: Mr Persson AM

8/21 Resolved

That Council receive the report on Working Together Staying Strong COVID Grants - September 2020 as outlined in the following report and Attachments 1 and 2.

2.2 Chain Valley Colliery/Delta Coal Community Funding Program - 2020

Time commenced: 8.19pm

Moved: Mr Persson AM

9/21 Resolved

1 That Council note that Attachment 1 – Chain Valley Colliery Voluntary Planning Agreement has not been provided as part of the public agenda as Council has been advised that the document is subject to copyright.

2 That Council allocate $80,467.82 (exclusive of GST) from the 2020 Chain Valley Colliery Community Funding Program as outlined in the following report and attached tables.

3.1 Business Recovery Plan

Time commenced: 8.19pm

Moved: Mr Persson AM

10/21 Resolved

That Council receive the report "Business Recovery Plan – Status Report".

3.2 Amendments to Policy for Investment Management - November 2020

Time commenced: 8.20pm

Moved: Mr Persson AM

11/21 Resolved

That Council adopt the Amendments to Policy for Investment Management - November 2020.

3.3 Meeting Records of Advisory Group and Committee meetings held in November and December 2020

Time commenced: 8.20pm

Moved: Mr Persson AM

12/21 Resolved

That Council receive the report on Meeting Records of Advisory Group and Committee meetings held in November and December 2020.

3.4 Investment Report for December 2020

Time commenced: 8.20pm

Moved: Mr Persson AM

13/21 Resolved

That Council receive the Investment Report for December 2020.

4.1 Meeting Records of the Catchments and Coast Committee meetings held 24 November 2020 and 9 December 2020

Time commenced: 8.21pm

Moved: Mr Persson AM

14/21 Resolved

1 That Council note the Meeting Record of the Catchments and Coast Committee Brisbane Water and Gosford Lagoons held 24 November 2020.

2 That Council note the Meeting Record of the Catchments and Coast Committee Tuggerah Lakes held 9 December 2020.

3 That Council note the Catchments and Coast Committee Brisbane Water and Gosford Lagoons considered inviting affected Wamberal Beach residents to meetings in accordance with Resolution 718/20, but believes this action is superseded by the function of the Wamberal Seawall Advisory Taskforce, and that as a result, Council instead endorse retention of the current committee membership and not call for additional representation at this time.

4 That Council note an investigation of the potential flooding impacts of the Kangy Angy Rail Facility has been completed as per Resolution 404/20, and no issues have been found that warrant further flood modelling investigation.

4.2 Request for Amendment - Planning Proposal RZ/3/2019 - 45 Mulloway Road Chain Valley Bay

Time commenced: 8.21pm

Moved: Mr Persson AM

15/21 Resolved

1 That the Planning Proposal endorsed under Resolutions 288/20 to 295/20 be modified to rezone the subject sites from E3 Environmental Management to RE2 Private

Recreation, E2 Environmental Conservation and R2 Low Density Residential by amending the Wyong Local Environmental Plan 2013 (or Central Coast Local Environmental Plan), whichever is in effect at the time.

2 That Council request an amendment to the current Gateway Determination from the Department of Planning, Industry and Environment (DPIE) to include the R2 Low Density Residential Zone.

4.3 Outcomes of consultation the draft Smoke-free Outdoor Public Places Policy

Time commenced: 8.22pm

Moved: Mr Persson AM

16/21 Resolved

That Council adopt the amended draft Smoke-free Outdoor Public Places Policy (attachment 2 to this report) which contains the following amendments:

a) under Section 6a. Natural Areas t*he words 'including bushland, beaches, waterways, wetlands and foreshores' have been added; and*

b) under Section 6e General Community Use the words 'including beaches' have been added.

4.4 Cost of Emergency Works at Wamberal Beach and The Entrance North Beach

Time commenced: 8.23pm

Moved: Mr Persson AM

17/21 Resolved

1 That Council receive and note the report on Cost of Emergency Works at Wamberal Beach and The Entrance North Beach.

2 That Council acknowledge the recent commitment from the NSW State Government to partially reimburse Council to the value of $992,501 for emergency works that were undertaken at Wamberal at the direction of the Local Emergency Operations Controller.

3 That the Administrator write to the NSW Premier seeking reimbursement of the total cost of works undertaken at the direction of the Local Emergency Operations Controller at an estimated total cost of $2,886,640.

4 That should a full reimbursement not be provided, that the money spent by Council in undertaking the works be acknowledged as a credit in any funding model developed for a long-term solution at each respective location.

4.5 Request to Prepare a Planning Proposal for Jilliby Stage 2 Rural-Residential Area

Time commenced: 8.25pm

Moved: Mr Persson AM

18/21 Resolved

1 That Council prepare a Planning Proposal to amend the Wyong Local Environmental Plan 2013 (WLEP 2013), or draft Central Coast Council Local Environmental Plan (if in effect), by the rezoning of the subject lands as follows:

- *Lot 2 DP 246727, 40 Sandra Street - Proposed E4 Environmental Living;*
- *Lot 3 DP 246727, 50 Sandra Street - Proposed E4 Environmental Living;*
- *Lot 4 DP 246727, 60 Sandra Street – Proposed E3 Environmental Management;*
- *Lot 11 DP 613648, 70 Sandra Street – Proposed E3 Environmental Management;*
- *Lot 10 DP 613648, 80 Sandra Street - Proposed E4 Environmental Living; and*
- *Lot 11 DP 258965, 11 Cottesloe Road - Proposed E4 Environmental Living*

2 That Council forward the Planning Proposal to the Minister requesting a Gateway Determination.

3 That Council request delegation for Council to finalise and make the draft Local Environmental Plan.

4 That Council authorise the Chief Executive Officer (or delegate) to enter into a Planning Agreement (PA), and to negotiate and execute all documentation in relation to the finalisation of the PA (if required).

5 That if required Council prepare and exhibit an amendment to the relevant Section 7.11 Development Contributions Plan and Development Control Plan to support the development of the land subject to this planning proposal.

6 That Council undertake public authority and community consultation in accordance with the Gateway Determination requirements, including the concurrent exhibition of the draft Voluntary Planning Agreement, draft Development Control Plan amendment and the draft Section 7.11 Development Contributions Plan amendment (if required).

4.6 Policy for Development Application Functions

Time commenced: 8.26pm

Moved: Mr Persson AM

19/21 Resolved

That Council endorse the draft Policy on Assessment of Development Applications (Attachment 1) for the purposes of a 28 day consultation period.

4.7 Revocation of Council Policies

Time commenced: 8.26pm

Moved: Mr Persson AM

20/21 Resolved

That Council resolve:

- *To revoke the Section 149 Certificate - Natural and Other Hazards Encoding Policy; and*
- *To revoke the Setbacks Policy for Creeks, Rivers & Lagoons; and*
- *Resolve, pursuant to 11(3) of the Local Government Act 1993, that Attachment 4 (legal advice) to the report be treated as confidential because it relates to 10A(2)(g) Advice that would otherwise be privileged from production in legal proceedings on the ground of legal professional privilege.*

5.1 Central Coast Stadium Final Strategy Report

Time commenced: 8.26pm

Moved: Mr Persson AM

21/21 Resolved

That Council defer consideration of the Central Coast Stadium Final Strategy Report for a further three Ordinary Meetings to be held on 9 March 2021.

5.2 Kincumber Waste Management Facility Closure

Time commenced: 7.55pm

Moved: Mr Persson AM

22/21 Resolved

1 That Council note the report in relation to the current closure, status and options for the Kincumber Waste Management Facility.

2 That the Kincumber Waste Management Facility remain closed with further reviews for future opportunities at the site to be undertaken.

3 That Council communicates the decision to maintain the closure of the Kincumber Waste Management Facility and promote the range of existing alternative options available to those local residents impacted by its current closure.

6.1 CPA/3220 - Tender Evaluation - Adelaide Street Oval, Killarney Vale - New Amenities Building

Time commenced: 8.28pm

Moved: Mr Persson AM

23/21 Resolved

1 That Council declines to accept any of the tenders received for Contract CPA/3306 Adelaide Street Oval, Killarney Vale New Amenities Building – Construction for the reasons outlined in this report as per cl.178 (1b) of the Local Government (General) Regulation 2005, for the reasons outlined in this report and the confidential Tender Evaluation Process Report (D14268127) - Attachment 1.

2 That Council approves the invitation of fresh tenders for a new proposed Contract with a revised Scope of Work for the reasons outlined in this report in accordance with cl.178 (3b) Local Government (General) Regulation 2005.

3 That Council resolve, pursuant to section 11(3) of the Local Government Act 1993 , that this report and attachments remain confidential in accordance with section 10A(2)(d)(i) of the Local Government Act as it contains commercial information of a confidential nature that would, if disclosed prejudice the commercial position of the person who supplied it and because consideration of the matter in open Council would on balance be contrary to the public interest as it would affect Council's ability to obtain value for money services for the Central Coast community.

6.2 Kibbleplex Parking Station Lease.

Time commenced: 8.30pm

Moved: Mr Persson AM

24/21 Resolved

1 That Council resolves to undertake measures staff have outlined in the report in relation to the Kibbleplex car park lease as detailed in the preferred options and Recommendations 1, 2, 3 and 4.

2 That Council resolve, pursuant to section 11(3) of the Local Government Act 1993 , that this report and attachments remain confidential in accordance with section 10A(2)(d)(i) of the Local Government Act as it contains commercial information of a confidential nature that would, if disclosed prejudice the commercial position of the person who

supplied it and because consideration of the matter in open Council would on balance be contrary to the public interest as it would affect Council's ability to obtain value for money services for the Central Coast community.

6.3 Peninsula Leisure Centre Heating, Ventilation and Air Conditioning Replacement

Time commenced: 8.31pm

Moved: Mr Persson AM

25/21 Resolved

1 That Council declines all tenders received for Contract CPA/1532 – Peninsula Leisure Centre HVAC Replacement in accordance with Section 178 of the Local Government (General) Regulation 2005.

2 That Council declines to invite fresh tenders or applications as referred to in Section 178 subclause (3)(b)-(d) of the Local Government (General) Regulation 2005 and enters negotiations with any person (whether or not the person was a tenderer) with a view to entering into a contract in relation to the subject matter of the tender.

3 That Council, in accordance with Section 178(4) of the Local Government (General) Regulation 2005, notes that the reasons for entering negotiations and not calling fresh tenders are:

a Given the tender was in the open market for 15 weeks, the tenderers, and other parties who did not lodge a tender but did actively participate in the tender process prior to the publication of the Council's current financial situation, could be said to represent the total interest from the relevant industries in this contract.

b If negotiations are entered into with some or all of these interested parties, they all have sufficient experience and standing within the market place to achieve both the Contract's technical requirements and provide a value for money outcome for Council.

c Inviting fresh tenders at this stage for the same scope of works is not expected to result in any significant benefits considering time delays and additional costs associated with a new tender process.

4 That Council identifies the project as a continuing project and the 2021-22 capital works program be increased by the unspent budget as at 30 June 2021 to allow completion.

5 That Council approves the project as a continuing project and approves a budget of $3,200,000 in the 2021-22 capital works program.

6 That Council resolve, pursuant to s.11(3) of the Local Government Act 1993, that this report remain confidential in accordance with Section 10A(2)(c) of the Local Government Act as it contains information that would, if disclosed, confer a commercial advantage on a person with whom the Council is conducting (or proposes to conduct) business and because consideration of the matter in open Council would on balance be contrary to the public interest as it would affect Council's ability to obtain value for money services for the Central Coast community.

The Meeting closed at 8.32 pm.