
WYONG SHIRE COUNCIL

MINUTES OF THE ORDINARY COUNCIL MEETING OF COUNCIL HELD IN THE COUNCIL CHAMBER WYONG CIVIC CENTRE, HELY STREET, WYONG ON 26 MARCH 2014 COMMENCING AT 5.00PM

PRESENT

Councillors D J Eaton (Chairperson), G P Best, R L Graham, K G Greenwald, L S Taylor, A Troy, D P Vincent and L D Webster.

IN ATTENDANCE

General Manager, General Council/Acting Director Development and Building, Director Infrastructure and Operations, Director Property and Economic Development, Director Community and Recreation Services, Manager Corporate Governance, Manager Communications, IT Infrastructure Administrator and two administration staff.

The Mayor, Councillor Eaton, declared the meeting open at 5.00pm and advised in accordance with the Code of Meeting Practice that the meeting is being recorded.

John Hardwick delivered the opening prayer and Councillor Vincent read an acknowledgment of country statement.

APOLOGY

A request for leave of absence for the inability to attend the meeting was received on behalf of Councillor Nayna due to work commitments and Councillor Matthews.

RESOLVED unanimously on the motion of Councillor GREENWALD and seconded by Councillor WEBSTER:

245/14 That Council grant leave of absence from the meeting.

Brett Sherar, Manager Open Space and Recreation and Kathy Simmons, Principal Landscape Architect, Recreation Planning and Development presented the following two awards to the Mayor which were won by Wyong Shire Council at The Parks and Leisure Australia Regional Awards:

- Bamayi Reserve Playground, Blue Haven – Play space Award of Excellence for projects under \$250,000
- Canton Beach – All Access Play space for the visually impaired – Play space Award of Excellence for projects over \$250,000.

All items were dealt with in the correct agenda sequence.

1.1 Disclosures of Interest

Councillor Vincent declared a non-pecuniary significant conflict of interest in the matter 2.6 - Proposed Memorandum of Understanding - Woolworths Ltd Potential Land Swap at Budgewoi for the reason that he is an employee of Delta Electricity who owns land involved in the report. Councillor Vincent left the Chamber at 6.10pm, took no part in discussion, did not vote and returned to the Chamber at 6.35pm.

Councillor Greenwald declared a non-pecuniary insignificant interest in the matter 6.2 - Report on proceedings before the Land and Environment Court of NSW in respect to the refusal of development applications DA/481/2013 and DA/582/2013 – subject to client legal privilege for the reason that information was supplied by the NSW Police who he works for in an unrelated area and location and participated in consideration of this matter.

Councillor Greenwald stated:

“I choose to remain in the chamber and participate in discussion and voting as the conflict has not influenced me in carrying out my public duty.”

RESOLVED unanimously on the motion of Councillor BEST and seconded by Councillor GREENWALD:

246/14 That Council receive the report on Disclosure of Interest and note advice of disclosures.

PROCEDURAL MOTION

RESOLVED unanimously on the motion of Councillor BEST and seconded by Councillor TAYLOR:

247/14 That Council allow meeting practice to be varied.

248/14 That Council use the exception method to deal with the balance of the Agenda.

RESOLVED unanimously on the motion of Councillor GREENWALD and seconded by Councillor WEBSTER:

249/14 That with the exception of report numbers 1.6, 2.1, 2.3, 2.4, 2.6, 5.1, and 6.2 Council adopt the recommendations contained in the remaining reports.

1.2 Proposed Inspections and Briefings

RESOLVED unanimously on the motion of Councillor GREENWALD and seconded by Councillor WEBSTER:

250/14 That Council receive the report on Proposed Inspections and Briefings.

1.3 Address By Invited Speakers

RESOLVED unanimously on the motion of Councillor GREENWALD and seconded by Councillor WEBSTER:

251/14 That Council receive the amended report on Invited Speakers.

252/14 That Council agree meeting practice be varied to allow reports from Directors and/or the General Manager to be dealt with following an Invited Speaker's address.

1.4 Confirmation of Minutes of Previous Meeting

RESOLVED unanimously on the motion of Councillor GREENWALD and seconded by Councillor WEBSTER:

253/14 That Council confirm the minutes of the previous Ordinary Meeting of Council held on Wednesday 12 March 2014.

Business Arising

There was no business arising.

1.5 Notice of Intention to Deal with Matters in Confidential Session

RESOLVED unanimously on the motion of Councillor GREENWALD and seconded by Councillor WEBSTER:

254/14 That Council consider the following matters in Confidential Session, pursuant to Sections 10 A (2) (a) and 10 A (2) (g) of the Local Government Act 1993:

6.1 – Sick Leave Cash-out Option

6.2 – Report on Proceedings Before the Land and Environment Court of NSW in Respect to the Refusal of Development Applications DA/481/2013 and DA/582/2013 – Subject to Client Legal Privilege

255/14 That Council note its reason for considering Report No 6.1 – Sick Leave Cash-out Option as it contains personnel matters concerning particular individuals (other than Councillors).

256/14 That Council note its reason for considering Report 6.2 – Report on Proceedings Before the Land and Environment Court of NSW in Respect to the Refusal of Development Applications DA/481/2013 and DA/582/2013 – Subject to Client Legal Privilege as it contains advice concerning litigation, or advice that would otherwise be privileged from production in legal proceedings on the ground of legal professional privilege.

257/14 That Council request the General Manager to report on these matters in open session of Council.

1.6 Mayoral Minute - Wyee Boundary Adjustment

RESOLVED on the motion of Councillor EATON:

- 258/14 That Council receive and notes this report and the report of the Local Government Independent Panel.
- 259/14 That Council direct the General Manager to prepare a draft water and sewerage servicing plan for the Wyee district and report back to Council.
- 260/14 That Council authorise the Mayor to continue representations on this matter for the benefit of the wider community.

FOR: COUNCILLORS BEST, EATON, GRAHAM, TAYLOR, TROY AND WEBSTER

AGAINST: COUNCILLORS GREENWALD AND VINCENT

2.1 Water Usage Charge Concessions For Home Dialysis

RESOLVED unanimously on the motion of Councillor BEST and seconded by Councillor WEBSTER:

- 261/14 That Council adopt the Water Usage Charge Concessions for Home Dialysis Policy.

2.2 Amendment to the Facilities and Expenses for Councillors Policy

RESOLVED unanimously on the motion of Councillor GREENWALD and seconded by Councillor WEBSTER:

- 262/14 That Council note that the exhibition period for the review of its Facilities and Expenses Policy has concluded and no submissions were received.
- 263/14 That Council adopt the attached advertised amended Facilities and Expenses Policy for Councillors with additional and amended clauses as follows:
- a **Counselling - Councillors will be provided with access to the Council staff Counselling Program subject to the same conditions offered to staff.**
 - b **Daily sustenance limit for sustenance - amend clauses at D9, D40 and items in the Table of Limits and Reconciliation to \$150 per day.**
 - c **Partner Attendance at Conference events/functions – amend clause to separately cover partner costs, while in company of the councillor, at conference events/functions where previously included under partner registration costs.**
 - d **Telecommunications – delete the proposal for cost of privately purchased equipment to be claimed as a depreciation over a four year period and replace with a provision for the cost of the private equipment to be reimbursed up front.**

- e *Definition of Council Business – Amend the definition of Council business to assist clarity in use of private vehicle for travel.*
- f *Accompanying persons - include children of Councillors under 18 with the exception of air travel costs.*

264/14 *That Council deem the additional amendments 2a, 2b and 2c not substantial and adopt the advertised policy and the amendment immediately.*

265/14 *That Council deem the additional amendments 2d, 2e and 2f as substantial and place the policy on further exhibition in accordance with the Local Government Act, 1993.*

266/14 *That Council provide the Department of Local Government with a copy of the adopted policy.*

2.3 Reviewed Policy - Nuclear Free Zone

RESOLVED on the motion of Councillor BEST and seconded by Councillor TROY:

267/14 *That Council repeal the Reviewed Policy - Nuclear Free Zone.*

2.4 Draft Minutes of the Tuggerah Lakes Estuary, Coastal and Floodplain Management Committee held on 6 March 2014

RESOLVED unanimously on the motion of Councillor TAYLOR and seconded by Councillor TROY:

268/14 *That Council receive the Minutes of the Tuggerah Lakes Estuary, Coastal and Floodplain Management Committee meeting held on 6 March 2014.*

269/14 *That Council write to the Minister for the Environment to expedite the release of the coastal reforms.*

2.5 Draft Minutes of the Employment and Economic Development Committee Meeting - 5 March 2014

RESOLVED unanimously on the motion of Councillor GREENWALD and seconded by Councillor WEBSTER:

270/14 *That Council receive and note the draft minutes of the Employment and Economic Development Committee meeting held on 5 March 2014.*

271/14 *That Council present Councillors with an opportunity to inspect sites nominated by Councillors as part of the Stage 2 Land Reclassification.*

272/14 *That Council support the CASAR Race Track Community Matching Fund Grant application for \$75,000.*

- 273/14 *That Council support the CASAR Race Track initiative through its membership on the Department of Premier and Cabinet Enabling Taskforce (Central Coast Sites).*
- 274/14 *That Council seek to assist the applicant of the CASAR Race Track initiative to expedite any planning issues through pre-lodgement meetings.*
- 275/14 *That Council note that the CASAR Race Track initiative is an employment generating development and would therefore trigger priority application timeframes.*
- 276/14 *That Council seek further efficiencies for approval of development assessments.*
- 277/14 *That Council hold a Service Club Summit where all local service clubs are invited to be fully briefed regarding Council's initiative to provide affordable aged living accommodation.*
- 278/14 *That Council request all future amendments to the Wyong LEP be reported to the Employment and Economic Development Committee.*

2.6 Proposed Memorandum of Understanding - Woolworths Ltd Potential Land Swap at Budgewoi

Councillor Vincent declared a non-pecuniary significant conflict of interest in the matter 2.6 - Proposed Memorandum of Understanding - Woolworths Ltd Potential Land Swap at Budgewoi for the reason that he is an employee of Delta Electricity who owns land involved in the report. Councillor Vincent left the Chamber at 6.10pm, took no part in discussion, did not vote and returned to the Chamber at 6.35pm.

Councillor Best left the meeting at 6.10pm and returned to the meeting at 6.12pm during consideration of this item.

Councillor Taylor left the meeting at 6.13pm and returned to the meeting at 6.14pm during consideration of this item.

Councillor Troy left the meeting at 6.17pm and returned to the meeting at 6.19pm during consideration of this item.

RESOLVED on the motion of Councillor EATON and seconded by Councillor TROY:

- 279/14 *That Council note that it does not support the proposal by Woolworths to rezone land at Colongra.*
- 280/14 *That Council acknowledge that it would prefer that Woolworths establish a new supermarket within the retail centre of Budgewoi.*
- 281/14 *That Council note that preliminary discussions have occurred between the Mayor, Senior Council Officers and representatives from Woolworths over the possibility of facilitating a land swap between both parties as it relates to land holdings at Colongra and Budgewoi.*
- 282/14 *That Council note that any possible land swap will be subject to significant public engagement and will only proceed if all appropriate approvals are received.*

- 283/14 That Council note that any proposal to rezone or reclassify the Halekulani Oval will require approval from the NSW Department of Planning and Infrastructure.
- 284/14 That Council authorise the General Manager to negotiate an appropriate Memorandum of Understanding with Woolworths that will include but not be limited to the following principles:
- a Woolworths will withdraw its Planning Proposal – Pre-Gateway Review for its land at Colongra (Lot 1 DP 1049201 Scenic Drive).
 - b Woolworths will offer its land at Colongra referred to above to Council in exchange for a portion of the existing Council owned Halekulani Oval subject to Council's land being rezoned and reclassified to operational land.
 - c Woolworths agree to develop a new supermarket on the Halekulani Oval site subject to gaining appropriate planning approvals.
 - d Woolworths will make a contribution (works and/or cash) towards the establishment of a regional sporting complex on the land at Colongra and the adjoining Council and Delta owned land.
 - e Council is successful in negotiating ownership or a long term lease of the Delta lands (Lots 500 and 501 DP 755266) for use as sporting fields.
- 285/14 That Council commence the process to reclassify Lot 1 DP 385077 Scenic Drive, Budgewoi (being Halekulani Oval) from Community Land to Operational Land.

FOR: COUNCILLORS BEST, EATON, GRAHAM, TAYLOR, TROY AND WEBSTER
AGAINST: COUNCILLORS GREENWALD

3.1 Works in Progress - Water Supply and Sewerage

RESOLVED unanimously on the motion of Councillor GREENWALD and seconded by Councillor WEBSTER:

- 286/14 That Council receive the report on Works in Progress - Water Supply and Sewerage.

3.2 Results of Water Quality Testing for Beaches and Lake Swimming Locations

RESOLVED unanimously on the motion of Councillor GREENWALD and seconded by Councillor WEBSTER:

- 287/14 That Council receive the report on Results of Water Quality Testing for Beaches and Lake Swimming Locations.

3.3 Activities of the Development Assessment and Building Certification Compliance and Health Units

RESOLVED unanimously on the motion of Councillor GREENWALD and seconded by Councillor WEBSTER:

288/14 That Council receive the report on Activities of the Development Assessment and Building Certification Compliance and Health Units for the month of February 2014.

3.4 Quarterly Risk Management Report

RESOLVED unanimously on the motion of Councillor GREENWALD and seconded by Councillor WEBSTER:

289/14 That Council receive the Quarterly Risk Management Report and note the current status of high level risks in Wyong Shire Council as at February 2014.

3.5 Investment Report for February 2014

RESOLVED unanimously on the motion of Councillor GREENWALD and seconded by Councillor WEBSTER:

290/14 That Council receive the Investment Report for February 2014.

3.6 Outstanding Questions on Notice and Notices of Motion

RESOLVED unanimously on the motion of Councillor GREENWALD and seconded by Councillor WEBSTER:

291/14 That Council receive the report on Outstanding Questions on Notice and Notices of Motion.

5.1 Notice of Motion - Development Application 493/2012 Darkinjung Aboriginal Land Council Amended Application Halekulani

Councillor Greenwald left the meeting at 6.35pm and returned to the meeting at 6.36pm during consideration of this item.

Ms Tracy Brown and Ms Jade Hamilton, Residents, addressed the meeting at 6.31pm, answered questions and retired at 6.46pm.

RESOLVED unanimously on the motion of Councillor BEST and seconded by Councillor TROY:

292/14 That Council note the strong community interest in the original proposal for a 251 Manufactured Home Sites (Caravan Park) on Darkinjung Aboriginal Land at Halekulani.

293/14 That Council note that an amended application for that proposal has been submitted.

- 294/14** *That Council extend the exhibition period for the revised plan for an additional month to provide the local community with adequate time to review and respond to the amended proposal.*
- 295/14** *That Council urgently broaden its formal notification of the amended application to include all 2,157 residents that made a submission to the original proposal.*
- 296/14** *That Council now renotify by mail all those local residents that made submissions.*

FOR: COUNCILLORS BEST, EATON, GRAHAM, GREENWALD, TAYLOR, TROY, VINCENT
 AND WEBSTER

AGAINST: NIL

At this stage of the meeting, 7.06pm, the Mayor adjourned the meeting for a period of 3 minutes to allow the public gallery to clear.

The Mayor resumed the meeting at 7.09pm.

CONFIDENTIAL SESSION

Councillor Vincent left the meeting at 7:08pm and returned to the meeting at 7.10pm and as a result took no part in voting.

Councillor Best left the meeting at 7:08pm and returned to the meeting at 7.10pm and as a result took no part in voting.

RESOLVED unanimously on the motion of Councillor TAYLOR and seconded by Councillor TROY:

297/14 *That Council move into Confidential Session.*

At this stage of the meeting being 7.10pm Council moved into Confidential Session with the members of the press and public excluded from the meeting of the closed session and access to the correspondence and reports relating to the items considered during the course of the closed session being withheld. This action is taken in accordance with Section 10a of The Local Government Act, 1993 as the items listed come within the following provisions:-

OPEN SESSION

Council resumed in open session at 7.23pm and the General Manager reported on proceedings of the confidential session of the ordinary meeting of council as follows:

6.1 Sick Leave Cash-out Option

298/14 That Council write to each of the 117 eligible staff and seek agreement from each to pay out 90% of their current sick leave entitlement during a window of opportunity from 1 May 2014 to 30 June 2014 in return for signing a deed of release waiving any future claims for payout of sick leave on termination, resignation or retirement. The offer to include two options:

- a) Continue with the current frozen entitlement, or
- b) Take 90% of the current entitlement (up to a maximum of 52 weeks) as cash now (with a minimum balance of six weeks maintained upon cash out) and waive any further claims to cashing in sick leave, or place as much as legally possible into superannuation at a reduced rate of tax (15%) via a salary sacrifice deduction and taking the balance as cash and waive any future claims to cashing in sick leave.

6.2 Report on proceedings before the Land and Environment Court of NSW in respect to the refusal of development applications DA/481/2013 and DA/582/2013 – subject to client legal privilege

299/14 That Council authorise the General Manager, or his delegate, to participate in the conciliation conferences in proceedings 14/10057 and 14/10058 before the Land and Environment Court of NSW so as to resolve those proceedings substantially in accordance with the following:

- a) In respect to proceedings 14/10057, to refuse the appeal in respect to development application DA/481/2013; and
- b) In respect to proceedings 14/10058, to uphold the appeal and to grant consent to DA/582/2013 subject to the conditions set out in Attachment 1 to this report along with an additional deferred commencement condition that requires the removal of all of the caravans and the mobile home that are subject of DA/481/2013 from the subject site.
- c) That any consent that is negotiated is limited to a 12 month term.

300/14 That Council note the strong community concern over this development.

301/14 That Council note its Legal Advice.

302/14 That Council note the expression of interest in the redevelopment of the site by Retire Australia.

QUESTIONS ON NOTICE

There were no Questions on Notice.

THE MEETING closed at 7.25pm.