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# WYONG SHIRE COUNCIL

## MINUTES OF THE ORDINARY COUNCIL MEETING OF COUNCIL HELD IN THE COUNCIL CHAMBER WYONG CIVIC CENTRE, HELY STREET, WYONG ON 24 FEBRUARY 2016 COMMENCING AT 5.00PM

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### PRESENT

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

### IN ATTENDANCE

Acting Chief Executive Officer, Director Development and Building, Director Infrastructure and Operations, Director Property and Economic Development, Director Community and Recreation Services, General Counsel, Communications Coordinator, IT Infrastructure Administrator and two administration staff.

The Mayor, Councillor Eaton OAM, declared the meeting open at 5.02pm and advised in accordance with the Code of Meeting Practice that the meeting is being recorded.

Councillor Eaton delivered the opening prayer and Councillor Matthews read an acknowledgment of country statement.

### APOLOGIES

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

***151/16 That Council note there were no apologies.***

***152/16 That Council grant Councillor Webster leave of absence from the 7 March 2016 until the 18 March 2016 for any Ordinary Council meetings, Committee Meetings or any Extraordinary Meetings that may be held during that time.***

At the commencement of the ordinary meeting report nos 1.1, 1.2, 1.3, 7.1 and 1.4, were dealt with first then the remaining reports in order. However for the sake of clarity the reports are recorded in their correct agenda sequence.

**1.1 Disclosure of Interest**

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**5.3 Q2 Business Report 2015-16**

Councillor Vincent declared a non-pecuniary insignificant interest in the matter for the reason that there are road works at the western end of Vincent Close Buff Point and participated in consideration of this matter.

Councillor Vincent 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 because the works are in the general locality to where I live and do not provide any benefit or connect directly to my property."*

**6.3 The Art House, Wyong Performing Arts and Conference Centre - Board of Directors**

Councillor Eaton declared a non-pecuniary significant conflict of interest in the matter for the reason that he is the Chair of the Art House Board. Councillor Eaton left the chamber at 6.56pm, took no part in discussion, did not vote and returned to the chamber at 7.08pm.

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

**153/16 That Council receive the report on Disclosure of Interest and note advice of disclosures.**

**PROCEDURAL MOTION**

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

**154/16 That Council allow meeting practice to be varied.**

**155/16 That Council use the exception method to deal with the balance of the Agenda.**

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

**156/16 That with the exception of report numbers 1.4, 1.6, 2.1, 3.1, 5.3, 5.4, 6.1, 6.3 and 6.4 Council adopt the recommendations contained in the remaining reports.**

**1.2 Proposed Briefings and Inspections**

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

**157/16 That Council receive the report on Proposed Briefings and Inspections.**

**158/16 That Council note there will be no briefings on the 9 or 10 March 2016.**

**1.3 Address By Invited Speakers**

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

**159/16 That Council receive the report on Invited Speakers.**

**160/16 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**

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

**161/16 That Council confirm the minutes of the previous Ordinary Meeting of Council held on 10 February 2016.**

**Business Arising**

There was no business arising.

**1.5 Notice of Intention to Deal with Matters in Confidential Session**

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

**162/16 That Council consider the following matters in Confidential Session, pursuant to Section 10A (2)(d)(ii) of the Local Government Act 1993:**

**8.1 – Coregas Oxygen Injection**

**163/16 That Council note its reason for considering Report No 8.1 – Coregas Oxygen Injection, as it contains commercial information of a confidential nature that would, if disclosed confer a commercial advantage on a competitor of the Council.**

**164/16 That Council request the Acting Chief Executive Officer to report on these matters in open session of Council.**

**165/16 That Council resolve, for the purposes of s. 55(3)(i) of the Local Government Act (where applicable), the following in respect to “item 8.1 Coregas Oxygen Injection” at:**

**(a) the extension of the contract is made due to extenuating circumstances set out in the confidential report; and**

**(b) a satisfactory result would not have been achieved by inviting tenders, due to:**

**i. the need for a further period to complete the current odour control review, which is expected to include a recommendation for odour control and identified costs savings; and**

- ii. the costs of inviting tenders for the supply of bulk oxygen for a further 12 month period are significant;*
- iii. if tenders were invited and the current supplier was not the successful tenderer then Council would need to pay significant disestablishment to the current supplier and significant establishment costs to the new supplier;*
- iv. the likelihood that the odour control review will influence the content of future invitations for tender for the supply of bulk oxygen; and*
- v. if the Wyong and Gosford local government areas are amalgamated as proposed, the new merged council for the amalgamated area may invite tenders for the supply of bulk gas to the waste water systems within that much larger area.*

**166/16** That Council further note that, in respect to “item 8.1 Coregas Oxygen Injection:

- (a) it has considered the “Guidelines on council decision making during merger proposal periods” published by the Chief Executive of the Office of Local Government pursuant to s. 23A of the Local Government Act 1993; and*
- (b) that the expenditure during the 12 month extension is less than 1% of the Council’s rates revenue for the 2014/15 rating year and is within budget; and*
- (c) the extension of the contract is necessary to meet Council’s ongoing service delivery commitments in respect to waste water.*

#### **1.6 Mayoral Minute - Ordinary Meeting 9 March 2016**

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Councillor Best left the meeting at 6.00pm and returned to the meeting at 6.02pm and as a result took no part in voting.

**RESOLVED unanimously on the motion of Councillor EATON:**

**167/16** That Council note that 6 Councillors have indicated their possible inability to attend the Ordinary Meeting of Council scheduled to be held on 9 March 2016.

**168/16** That Council reschedule the Ordinary Meeting of Council scheduled to be held on 9 March 2016 to 10 March 2016 commencing at 6pm.

**169/16** That Council give appropriate public notice of the rescheduled meeting.

**2.1 Public Exhibition of Planning Proposal at Gwandalan**

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Councillor Best left the meeting at 6.00pm and returned to the meeting at 6.02pm during consideration of this item.

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

**170/16 That Council note that there were no submissions made during the formal public exhibition period.**

**171/16 That Council request the Acting Chief Executive Officer to exercise the Written Authorisation to Exercise Delegation for RZ/8/2014, to amend the Wyong Local Environmental Plan (WLEP 2013) to insert an enabling provision within Schedule 1-Additional Uses, to permit a form of "tourist and visitor accommodation" on the land (Amendment No. 22).**

FOR: CRS G BEST, D EATON, B GRAHAM, K GREENWALD, L MATTHEWS, L TAYLOR, A TROY, D VINCENT AND L WEBSTER

AGAINST: NIL

**2.2 Results of Public Exhibition draft Development Control Plan 2013 Chapter 3.1 - Site Waste Management**

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

**172/16 That Council adopt the revised Wyong Development Control Plan 2013 Chapter 3.1 Site Waste Management and appropriate public notice be given within 28 days that the draft DCP as amended will come into effect.**

**173/16 That Council forward a copy of the amended Wyong DCP 2013 to the Secretary of the NSW Department of Planning and Environment within 28 days of the DCP becoming effective.**

FOR: CRS G BEST, D EATON, B GRAHAM, K GREENWALD, L MATTHEWS, L TAYLOR, A TROY, D VINCENT AND L WEBSTER

AGAINST: NIL

**2.3 RZ/4/2014 - Outcome of pre gateway review process for 425 Bushells Ridge Road, Bushells Ridge (Site 4)**

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

**174/16 That Council advise the Department of Planning and Environment that it will accept the role of being the Relevant Planning Authority (RPA) for the planning proposal for 425 Bushells Ridge Road, Bushells Ridge (Site 4).**

**175/16 That Council progress the rezoning planning proposals for 425 Bushells Ridge Road, Bushells Ridge (Site 4) and Wyee Road, Doyalson (Site 3).**

- 176/16 *That Council resolves to prepare a planning proposal to amend Wyong Local Environmental Plan 2013, pursuant to Section 55 of the Environmental Planning and Assessment (EP&A) Act, 1979 to rezone the subject land generally in accordance with the proposed zoning plan for site 4 in Attachment 1.*
- 177/16 *That Council forward the Planning Proposal to the Department of Planning and Environment accompanied by a request for a gateway determination, pursuant to Section 56.*
- 178/16 *That Council request the Acting Chief Executive Officer to apply to accept plan making delegations for the LEP Amendment.*
- 179/16 *That Council prepare an appropriate amendment to Wyong Development Control Plan (WDCP 2013) to provide provisions for the sites to be placed on public exhibition for 28 days concurrent with the planning proposal.*
- 180/16 *That Council amend the Section 94 Contributions Plans (if required) to support the development of the land subject to this Planning Proposal.*
- 181/16 *That Council authorise the Acting Chief Executive Officer (or delegate) to sign any voluntary planning agreement to support the rezoning. This agreement shall:*
- a Address the cost, timing, staging and responsibilities for funding and provision of infrastructure to service the development.*
  - b Ensure that Council is not responsible for the cost of any public infrastructure required to support the development such as hard infrastructure (including, roads water and sewer and drainage) and soft infrastructure (which includes open space, community facilities and environmental corridors).*
- 182/16 *That Council authorise the Acting Chief Executive Officer (or delegate) to sign any documentation associated with any future application for biodiversity certification of the lands (as this can only be made by a planning authority).*
- 183/16 *That Council undertake community and public authority consultation, in accordance with the requirements of the gateway determination.*
- 184/16 *That Council consider a further report on results of community and public authority consultation.*

FOR: CRS G BEST, D EATON, B GRAHAM, K GREENWALD, L MATTHEWS, L TAYLOR, A TROY, D VINCENT AND L WEBSTER

AGAINST: NIL

### **3.1 Classification of Land, Lot C DP 360458 at 7 Anzac Avenue, Wyong**

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The Acting Chief Executive Officer advised that new information has come to light and that the report has been withdrawn and will be presented to a future Council meeting.

- 185/16 *That Council note that this item has been withdrawn.*

**4.1 CPA/266418 – Supply, Delivery and Lay of Cultivated Turf**

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

- 186/16 That Council accept the tender from Yarra Turf Supplies Pty Ltd as the first ranked tenderer for a period of three years for Contract CPA/266418 – Supply, Delivery and Lay of Cultivated Turf.
- 187/16 That Council accept the tender from Qualturf Pty Ltd as the second ranked tenderer for a period of three years for Contract CPA/266418 – Supply, Delivery and Lay of Cultivated Turf.
- 188/16 That Council approve the contingency sum as detailed in the Tender Evaluation Report in Attachment A.
- 189/16 That Council note the estimated expenditure under the contract is approximately \$543,834.27(excl. GST) however actual expenditure may vary significantly with fluctuations in demand.
- 190/16 That Council determine the Tender Evaluation Report in Attachment 1 remains confidential in accordance with Section 10 A (2) (d) of the Local Government Act 1993 as the report contains commercial information of a confidential nature, except for the name of the successful tenderer(s), which may be disclosed after Council has resolved to accept those tenders.

**4.2 CPA/268922 - Construction of In-Ground GPT at Murrawal Road, Wyongah**

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

- 191/16 That Council accept the tender from Kerroc Constructions Pty Ltd, for the lump sum amount of \$172,750.00 (excl GST) for Contract CPA/268922 – Construction of In-ground Gross Pollutant Trap at Murrawal Road, Wyongah.
- 192/16 That Council determine the Tender Evaluation Report in Attachment A, remains confidential in accordance with Section 10 A (2) (d) of the Local Government Act 1993 as the report contains commercial information of a confidential nature, except for the name of the successful tenderer, which may be disclosed after Council has resolved to accept that tender.
- 193/16 That Council approve the contingency sum as detailed in the Tender Evaluation Report in Attachment A.

**5.1 Proposed Councillors' Community Improvement Grants**

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

**194/16 That Council allocate an amount of \$5,800 from the 2015-16 Councillors' Community Improvement Grants as follows:**

<b>Concertante Ensemble (\$4000)</b>	<b>Venue hire and marketing.</b>	<b>700</b>
<b>Ourimbah United Football Club (\$3059.65)</b>	<b>To provide members with socks, shorts and footballs</b>	<b>1,900</b>
<b>The Entrance District Cricket Club (\$4000)</b>	<b>Refurbishment of cricket nets.</b>	<b>2,500</b>
<b>YMCA Toukley Aquatic Centre (\$2000)</b>	<b>Annual Swimathon</b>	<b>700</b>

**5.2 Councillor Attendance - Australian Local Government Women's Association 2016 NSW Conference**

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

**195/16 That Council note the approval granted by the Acting Chief Executive Officer for Councillors to attend the Australian Local Government Women's Association 2016 NSW Conference in accordance with the Council's Facilities and Expenses Policy for Councillors.**

**196/16 That Council authorise the reimbursement of expenses for Councillors in accordance with the Council's Facilities and Expenses Policy for Councillors.**

**5.3 Q2 Business Report 2015-16**

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Councillor Vincent declared a non-pecuniary insignificant interest in the matter for the reason that there are road works at the western end of Vincent Close Buff Point and participated in consideration of this matter.

Councillor Vincent 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 because the works are in the general locality to where I live and do not provide any benefit or connect directly to my property."*

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

**197/16 That Council receive the Q2 Business Report on progress against Year 3 of the 2013-2017 Delivery Program.**

**198/16 That Council note that Council's Responsible Accounting Officer has declared the financial position of Wyong Shire Council to be satisfactory.**



199/16 That Council approve the proposed budget amendments included in the Q2 Business Report for 2015-16 with the following changes to the capital works program to result in a full year budget of \$106.1 million:

- Addback of Magenta Shared Pathway budget \$1.3 million
- Add Buff Point foreshore repair project \$0.1 million
- Add Alison Road street lights project \$0.1 million
- Defer the Remote Access Security System for Community Facilities project into later years (\$0.2 million)

#### **5.4 Wyong Shire Council's Submission to the Council Boundary Review**

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

200/16 That Council endorse the attached submission to be sent to the Delegate appointed to examine and undertake public consultation on the proposed amalgamation of Wyong Shire and Gosford City Councils.

201/16 That Council express its outrage at Lake Macquarie City Council's attempted land grab of this shire's northern suburbs.

202/16 That, despite the fact that this Council provides all essential services such as water, sewerage and waste to the shire's north, Council provide the local communities north of Doyalson with the opportunity to voice their views around this issue through Council's provision of a statistically valid survey.

203/16 That Council note the funding for the survey be provided through the Q3 review.

FOR: CRS G BEST, D EATON, L TAYLOR, A TROY AND L WEBSTER

AGAINST: CRS B GRAHAM, K GREENWALD, L MATTHEWS AND D VINCENT

#### **6.1 Quarterly Update on EP & LGA Developer Contributions**

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

204/16 That Council refer the quarterly update report to the Employment and Economic Development Committee (EEDC) for consideration of section 94 contribution credits to be expended.

#### **6.2 Investment Report for January 2016**

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

205/16 That Council receive the Investment Report for January 2016.

**6.3 The Art House, Wyong Performing Arts and Conference Centre - Board of Directors**

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Councillor Eaton vacated the chair and Councillor Webster assumed the Chair for consideration of this item.

Councillor Eaton declared a non-pecuniary significant conflict of interest in the matter for the reason that he is the Chair of the Art House Board. Councillor Eaton left the chamber at 6.56pm, took no part in discussion, did not vote and returned to the chamber at 7.08pm.

Councillor Greenwald left the meeting at 6.56pm and returned to the meeting at 6.58pm during consideration of this item.

Councillor Matthews left the meeting at 7.07pm and returned to the meeting at 7.08pm and as a result took no part in voting.

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

**206/16 That Council receive the report on The Art House, Wyong Performing Arts and Conference Centre - Board of Directors.**

FOR: CRS G BEST, B GRAHAM, K GREENWALD, L TAYLOR, A TROY AND L WEBSTER

AGAINST: CR D VINCENT

**6.4 Draft Minutes of the Tuggerah Lakes Estuary, Coastal and Floodplain Management Committee - 4 February 2016**

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Councillor Matthews left the meeting at 7.07pm and returned to the meeting at 7.08pm during consideration of this item.

Councillor Greenwald left the meeting at 7.08pm and returned to the meeting at 7.09pm during consideration of this item.

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

**207/16 That Council receive the Minutes of the Tuggerah Lakes Estuary, Coastal and Floodplain Management Committee meeting held on 4 February 2016.**

**208/16 That Council request that the Acting Chief Executive Officer provide a report which records photographic evidence of gross pollutant trap contents for use in education programs be referred to the Committee.**

**209/16 That Council request that the Acting Chief Executive Officer provide a report on the existing proposed and completed works and actions contained within adopted floodplain risk management plans to the Committee.**

**6.5 Wyong Water - Works in Progress**

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

**210/16 That Council receive the report on Wyong Water - Works in Progress.**

**6.6 Results of Water Quality Testing for Beaches and Lake Swimming Locations**

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

**211/16 That Council receive the report on Results of Water Quality Testing for Beaches and Lake Swimming Locations.**

**6.7 Activities of the Development and Rezoning and Building Certification Compliance and Health Units - January 2016**

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

**212/16 That Council receive the report on Activities of the Development and Rezoning and Building Certification, Compliance and Health Units for the month of January 2016.**

**6.8 Outstanding Questions on Notice and Notices of Motion**

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

**213/16 That Council receive the report on Outstanding Questions on Notice and Notices of Motion.**

**7.1 Notice of Motion - Remote Piloted Vehicles (RPVs) / Drone Ports**

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Councillor Taylor left the meeting at 5.49pm and returned to the meeting at 5.50pm during consideration of this item.

Mr David Inwood, representing Bravo Drones, addressed the meeting at 5.06pm, answered questions and retired at 5.36pm.

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

**214/16 That, due to the escalating popularity of Remote Piloted Vehicles (RPVs), Council recognise the need to better manage, educate and police their usage.**

- 215/16 *That Council seek to engage local user groups, key stake holders and regulators to best identify how Council can assist in managing this emerging and innovative industry sector.*
- 216/16 *That Council review options around possible suitable usage locations/ drone ports, with a view to developing a policy to assist safe recreational and professional usage of these devices.*

Confidential items 8.1 was resolved via the exception method during open session. The Acting Chief Executive Officer reported on these items as follows:

**8.1 Coregas Oxygen Injection**

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- 217/16 *That Council approve a one year extension to Contract CPA/159634 – Supply and delivery of bulk oxygen to various sewerage sites.*
- 218/16 *That Council approve a contract variation of \$695,000.00 (excl GST) to Contract CPA/159634 – Supply and delivery of bulk oxygen to various sewerage sites.*

**QUESTIONS ON NOTICE**

**Q4/16 Train Maintenance Facility - Kangy Angy**  
**Councillor Lisa Matthews**

*“Can staff please provide an update on the proposed train maintenance facility at Kangy Angy?”*

**THE MEETING** closed at 7.20pm.