
WYONG SHIRE COUNCIL

MINUTES OF THE
ORDINARY COUNCIL MEETING OF COUNCIL
HELD IN THE COUNCIL CHAMBER
WYONG CIVIC CENTRE, HELY STREET, WYONG
ON 25 September 2013
COMMENCING AT 5:01 PM

PRESENT

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

IN ATTENDANCE

General Manager, Acting Director Development and Building, Director Infrastructure and Operations, Director Land Management, Acting Director Community and Recreation Services, General Counsel, Communications Officer, and three administration staff.

The Mayor, Councillor Eaton, declared the meeting open at 5.01pm and advised in accordance with the Code of Meeting Practice that the meeting is being recorded.

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

APOLOGIES

An apology for the inability to attend the meeting was received on behalf of Councillor Vincent due to work commitments, Councillor Matthews due to family commitments and Councillor Greenwald.

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

1179/13 That Council accept the apologies.

The Mayor congratulated Alison Whitmore from Wyong Shire Council childcare on receiving the award for Outstanding Contribution by an Individual for National Child Care Week.

At the commencement of the ordinary meeting report nos 1.1, 2.2, 2.1, 4.1, 4.2, 5.1, 5.2, 5.3, 5.4, 5.6, 6.6, and 6.7, were dealt with first and the remaining reports by the exception, method. However for the sake of clarity the reports are recorded in their correct agenda sequence.

1.1 Disclosures of Interest

2.2 - RZ/8/2012 - Planning Proposal (Rezoning) - 223 Scenic Drive Colongra - Woolworths Proposal

Councillor Best declared a non-pecuniary insignificant interest in the matter for the reason that his daughter has done some part time work after school at the local Woolworths store and participated in consideration of this matter.

Councillor Best 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 in my view this is a very minor conflict."

5.1 - Draft Voluntary Planning Agreement Variation - GP Superclinic – Woongarra

Councillor Taylor declared a non-pecuniary insignificant interest in the matter for the reason that he attends the medical centre and has known the Applicant for many years. He left the chamber at 5.53pm, took no part in discussion, did not vote and returned to the chamber at 5.57pm.

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

1180/13 That Council receive the report on Disclosure of Interest and note advice of disclosures.

PROCEDURAL MOTION

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

1181/13 That Council allow meeting practice to be varied.

1182/13 That Council use the exception method to deal with the balance of the Agenda

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

1183/13 That with the exception of report numbers 2.1, 2.2, 4.1, 4.2, 5.1, 5.2, 5.3, 5.4, 5.6, 6.6, and 6.7 Council adopt the recommendations contained in the remaining reports.

1.2 Proposed Inspections and Briefings

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

1184/13 That Council receive the report on Proposed Inspections and Briefings.

1.3 Confirmation of Minutes of Previous Meeting

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

- 1185/13 That Council confirm the minutes of the previous Extraordinary Meeting of Council and the Ordinary Meeting of Council held on Wednesday 11 September 2013.

Business Arising

There was no business arising.

1.4 Notice of Intention to Deal with Matters in Confidential Session

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

- 1186/13 That Council consider the following matters in Confidential Session, pursuant to Sections 10A(2)(c)(d)(i) of the Local Government Act 1993:

8.1 Metro Cinemas - Update

- 1187/13 That Council note its reason for considering Report No 8.1 – Metro Cinemas - Update 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.
- 1188/13 That Council note its reason for considering Report No 8.1 – Metro Cinemas - Update as commercial information of a confidential nature that would, if disclosed: prejudice the commercial position of the person who supplied it.
- 1189/13 That Council request the General Manager to report on this matter in open session of Council.

1.5 Address By Invited Speakers

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

- 1190/13 That Council receive the report on Invited Speakers.
- 1191/13 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.

1.6 Mayoral Minute - Proposed Amendment to the Ordinary Meeting Schedule

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

- 1192/13 That Council note that four Councillors have indicated an inability to attend the Ordinary Meeting of 9 October 2013.
- 1193/13 That Council considers that the meeting of 9 October 2013 is at risk of not achieving a quorum should disclosure of interest requirements or sickness prohibit participation in the meeting by any of the remaining six Councillors.
- 1194/13 That Council amend its meeting schedule to cancel the Ordinary Meeting of 9 October 2013.
- 1195/13 That Council provide appropriate public notice of the amended Ordinary Meeting schedule.

2.1 RZ/4/2009 - Rezoning Proposal - 5 Anderson Road Glenning Valley

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

- 1196/13 That Council prepare a Planning Proposal to amend Wyong Local Environmental Plan, 1991, (or pending timing, Wyong Standard Instrument Local Environmental Plan) pursuant to Section 55 of the Environmental Planning and Assessment (EP & A) Act, 1979, to enable residential development.
- 1197/13 That Council forward the Planning Proposal to the Department of Planning and Infrastructure (DoPI) accompanied by a request for a "Gateway Determination", pursuant to Section 56 of the EP&A Act 1979.
- 1198/13 That Council request the General Manager to apply to accept plan making delegations for the rezoning.
- 1199/13 That Council undertake community and government agency consultation in accordance with the requirements of the "Gateway Determination".
- 1200/13 That Council consider a further report on results of the community consultation.

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

2.2 RZ/8/2012 - Planning Proposal (Rezoning) - 223 Scenic Drive Colongra - Woolworths Proposal

Councillor Best declared a non-pecuniary insignificant interest in the matter for the reason that his daughter has done some part time work after school at the local Woolworths store and participated in consideration of this matter.

Councillor Best 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 in my view this is a very minor conflict."

Mr Michael Rumble and Mr Anthony Iannuzzi, representing Woolworths, addressed the meeting at 5.14pm, answered questions and retired at 5.26pm.

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

1201/13 That Council refuse Planning Proposal RZ/8/2012, given the economic impact on surrounding business centres and the lack of strategic justification for this proposal.

1202/13 That Council inform the applicant, in accordance with the requirements of Clause 10A of the Environmental Planning and Assessment Regulation 2000, that it does not support the request to prepare a planning proposal.

1203/13 That Council direct the General Manager to instruct staff to continue to work with the applicant to find an alternative site for the proposal that will result in employment generating development.

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

AGAINST: NIL

3.1 Accommodation Agreement for Water Supply Authority

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

1204/13 That Council renew the Accommodation Agreement for the Water Supply Authority for use of Council's administration building at Hely Street, Wyong and Council's works depots and grounds at Depot Road, Charmhaven and Yakalla Street, Long Jetty on the basis of a one third share use of facilities for three years from 1 September 2013 to 31 August 2016 at a commencing rent of \$1,049,281.10.

1205/13 That Council authorise the Common Seal of Wyong Shire Council to be affixed to the Accommodation Agreement between Wyong Shire Council and the Authority.

1206/13 That Council authorise the Mayor and the General Manager to execute all documents relating to the Accommodation Agreement between Wyong Shire Council and the Authority.

4.1 CPA/216733 - Demolition of Mardi Intake Tower

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

- 1207/13 That Council accept the tender from the company nominated as Tenderer '4' in the attached Tender Evaluation Report, for the lump sum amount of \$268,125 (excl GST) for Contract CPA/216733 – Demolition of Old Mardi Intake Tower.
- 1208/13 That Council determines 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.
- 1209/13 That Council approve the contingency sum as detailed in the Tender Evaluation Report in Attachment A.

4.2 CPA/219153 - Construction of Retaining Wall at Alison Road, Wyong

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

- 1210/13 That Council notes the report on CPA/219153 – Construction of Retaining Wall at Alison Road, Wyong.

5.1 Draft Voluntary Planning Agreement Variation - GP Superclinic - Woongarra

Councillor Taylor declared a non-pecuniary insignificant interest in the matter for the reason that he attends the medical centre and has known the Applicant for many years. He left the chamber at 5.53pm, took no part in discussion, did not vote and returned to the chamber at 5.57pm.

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

- 1211/13 That Council refer the Voluntary Planning Agreement back to the applicant to give consideration to establish a contributions credit for the extra contributions paid.

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

AGAINST: NIL

5.2 Policy for Purchase Cards

Councillor Troy left the meeting at 5.57pm and returned to the meeting at 5.58 pm during consideration of this item.

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

1212/13 That Council approve the policy for purchase cards and allow for immediate adoption.

5.3 Vacation Care Services - Expression of Interest Recommendation

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

1213/13 That Council accept the Expression of Interest (EOI) from San Remo Neighbourhood Centre Inc. to take over management and operations of Blue Haven Vacation Care from 1 January 2014.

1214/13 That Council notify the Department of Education and Communities (DEC), Australian Children's Education and Care Quality Authority (ACECQA) and Department of Education Employment and Workplace Relations (DEEWR) of transfer of auspice of Blue Haven Vacation Care and forgo the recurrent funding allocated to this service.

1215/13 That Council direct the General Manager to liaise with Department of Education and Communities to ensure a suitable vacation care provider is established to operate vacation care from the location of Ourimbah Public School from 1 January 2014.

1216/13 That Council notify the Department of Education and Communities (DEC), Australian Children's Education and Care Quality Authority (ACECQA) and Department of Education Employment and Workplace Relations (DEEWR) of Council's decision to cease operations at Ourimbah Vacation Care Service at the end of October 2013 school holidays and forgo the recurrent funding allocated to this service.

1217/13 That Council provide information to users of Blue Haven Vacation Care and Ourimbah Vacation Care and refer them to alternate providers and new operators.

1218/13 That Council promote San Remo Neighbourhood Centre as the provider of vacation care at Blue Haven on Council's website for a minimum period of 12 months, as per the terms of the EOI.

5.4 Planning Proposal for Draft Wyong Local Environmental Plan 1991, No 190 (RZ/1/2012) 'Key' Site, The Entrance - Evaluation of Public Exhibition Submissions

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

- 1219/13 That Council adopt the planning proposal for Draft Wyong Local Environmental Plan 1991 – No 190, subject to gazettal of the above LEP.
- 1220/13 That Council forward the Planning Proposal for Draft Wyong LEP No 190, to the Director General, Department of Planning and Infrastructure (DoPI) requesting that the Minister make Draft Wyong Local Environmental Plan (1991) No 190.
- 1221/13 That Council delegate responsibility to the General Manager to execute the Voluntary Planning Agreement relating to the planning proposal.
- 1222/13 That Council adopt the Draft site specific development control plan for the subject site, comprising Lot 1 DP 513519 (2 Ocean Parade, The Entrance) and Lot 2 DP 536168 (14 The Entrance Road, The Entrance) , subject to gazettal of the above LEP.

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

AGAINST: NIL

5.5 Recommendations and Minutes of the Employment and Economic Development Committee 4 September 2013

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

- 1223/13 That Council receive and note the minutes of the EEDC meeting held on 4 September 2013.
- 1224/13 That Council formally recognise the Chinese Cultural Village Theme Park as a significant regional development and a priority project for Council.
- 1225/13 That Council direct the General Manager to authorise appropriate Council officers to participate as members of the Chinese Cultural Village Theme Park project control group (PCG) in combination with members from the proponent and Central Coast Tourism in order to facilitate development outcomes that align with Council's Strategic Plan.
- 1226/13 That Council submit regular progress reports from the PCG to the EEDC.
- 1227/13 That Council allocate a budget of \$20,000 to the PCG with funding to be determined in the next quarterly review.
- 1228/13 That Council request the office of Coal Seam Gas to provide an overview of the economic benefits to this region including local employment opportunities and opportunities around the possible establishment of an energy user's industry cluster/hub.

- 1229/13 That Council sponsor CASAR Park in the amount of \$5,000 for seed funding and that staff seek an agreement with CASAR as to naming and branding opportunities as part of the sponsorship agreement.
- 1230/13 That Council request the General Manager to report on the estimated economic returns to the community from the CASAR Park development.
- 1231/13 That Council identify this funding as part of the next quarterly budget review.
- 1232/13 That Council consider the adoption of the following policies and procedures in relation to the stimulus plan of temporary reductions in Section 94 contributions:
- a That Council accept Voluntary Planning Agreements (VPAs) that are lodged accompanied by or related to development applications and these be deemed to be properly lodged and capable of being executed and effective.
 - b Works in kind may be in separate agreements reached post VPA agreement.
 - c Land dedication in VPAs to be at the rates in the new draft Warnervale/Wadalba Section 94 plan or in the current Section 94 plan for other districts.
 - d Council will use its best endeavours to negotiate VPAs, for public exhibition, within 30 days of lodgement.
 - e Council may not require registration of VPAs but VPAs will contain provision for assignment to a future owner.
 - f The Director of Development and Building is authorised to negotiate VPAs.
 - g Dates in the stimulus policy are amended by extending the date for lodgement of VPAs to 30 March 2014, for commencement of infrastructure by 30 September 2014 and for issue of subdivision certificate by 30 June 2015.
 - h Where contribution rates are lower in the exhibited draft contribution plan for Warnervale/Wadalba than \$25,000 per lot , the draft contribution rate be accepted by Council in the VPAs processed under the stimulus plan instead of the \$25,000 rate.

5.6 Draft Plan of Management and Management Plan covering Various Foreshore Reserves

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

- 1233/13 That Council endorse both the draft Plan of Management No 16 and the draft Management Plan for the foreshore reserves from Bateau Bay to Long Jetty for the purposes of public exhibition, subject to approval being given

to exhibit the documents from the Department of Primary Industries – Crown Lands.

1234/13 *That Council recommend both draft plans be exhibited for public comment for a period of 28 days.*

1235/13 *That Council consider a further report outlining the results of the public consultation process following public exhibition.*

5.7 Disclosure of Interest Returns - 1 April to 30 June 2013

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

1236/13 *That Council receive the report on Disclosure of Interest Returns – 1 April to 30 June 2013.*

6.1 End of Financial Year Update on Developer Contributions

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

1237/13 *That Council receive the End of Financial Year Update on Developer Contributions.*

6.2 Works in Progress - Water Supply and Sewerage

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

1238/13 *That Council receive the report on Works in Progress - Water Supply and Sewerage.*

6.3 Activities of the Development Assessment and Building Certification and Health Units

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

1239/13 *That Council receive the report on Activities of the Development Assessment and Building Certification and Health Units for August 2013.*

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

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

1240/13 That Council receive the report on Results of Water Quality Testing for Beaches and Lake Swimming Locations.

6.5 Investment Report for August 2013

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

1241/13 That Council receive the Investment Report for August 2013.

6.6 Wyong Shire Council Beach Services Agreement

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

1242/13 That Council receive the report on Wyong Shire Council Beach Services Agreement.

1243/13 That Council direct the General Manager to ensure that Council changes its lifeguard uniform to red and yellow no later than September 2014.

1244/13 That Council ensure the design be consistent with the red and yellow worn by Surf Lifesaving NSW volunteer lifesavers.

6.7 Woolworths Retail Facility - Warnervale Town Centre

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

1245/13 That Council receive the report on the Woolworths Retail Facility - Warnervale Town Centre.

6.8 Outstanding Questions on Notice and Notices of Motion

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

1246/13 That Council receive the report on Outstanding Questions on Notice and Notices of Motion.

Confidential item 8.1 was resolved via the exception method during open session. The General Manager reported on this item as follows:

8.1 Metro Cinemas – Update

1247/13 *That Council receive and note the terms of the Heads of Agreement to be executed by the parties.*

1248/13 *That Council note that a Final Investment Proposal will be submitted to Council for endorsement prior to the execution of a binding Construction Agreement and Lease.*

QUESTIONS ON NOTICE

**Q41/13 The New Minnesota Road
Councillor Greg Best**

Mr General Manager further to the recent re-opening of the 5.6 million dollar Minnesota Road I would appreciate if you would extend my appreciation and indeed Council's appreciation on this outstanding result?

Particular thanks should go to the Director, Greg McDonald, Mr Stuart Baverstock and Mr Luke Blackhall for their outstanding efforts in this project. Further, it is noted the project has come in some half a million dollars under budget and was well managed given the engineering difficulties and the impact on local residents and the need to communicate with local residents around the necessary lengthy closure. Thanks to all involved.

THE MEETING closed at 6.39pm.