
WYONG SHIRE COUNCIL

MINUTES OF THE ORDINARY COUNCIL MEETING OF COUNCIL HELD IN THE COUNCIL CHAMBER WYONG CIVIC CENTRE, HELY STREET, WYONG ON 13 FEBRUARY 2013 COMMENCING AT 5:00 PM

PRESENT

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

IN ATTENDANCE

General Manager, Acting Director Development and Building, Acting Director Land Management, Director Infrastructure and Operations, Director Community and Recreation Services, General Counsel, Executive Manager to the General Manager, Manager Open Space, Communications and Marketing Coordinator and two administration staff.

Prior to the commencement of the meeting the following presentations were made:

Mr Tony Booth, Chairman of The Wyong District Cricket Centenary Committee, and Mr Doug Trigg, President of the Wyong District Cricket Club, presented Council with a copy of their 100th Anniversary Celebration Book, which is to be included in Council's Library catalogue.

On behalf of Council Mr Brett Sherar, Manager of Open Space, congratulated Henry Wagener of Ourimbah for being included in the 2012 Hidden Treasures Honour Roll for her continuous outstanding contribution to the community.

Mayor Eaton, personally and on behalf of Council, thanked both Mr David Jack, former Director of Corporate Services, and Ms Gina Vereker, former Director of Environment and Planning Services, for the tireless and extremely hard work they have undertaken for the community during their time at Council. The Mayor also presented both Gina and David with a gift as a token of Council's appreciation, and wished them both success in their future endeavors.

The Mayor, Councillor Eaton, declared the meeting open at 5.22 pm and advised in accordance with the Code of Meeting Practice that the meeting is being recorded.

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

APOLOGIES

Apologies for the inability to attend the meeting were received on behalf of Councillors Troy and Matthews.

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

78/13 That Council accept the apology and grant Councillor Matthews leave of absence from the meeting for the reason that she attending the Life Guard Challenge Finals being held in Bondi.

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

79/13 That Council accept the apology and grant Councillor Troy leave of absence from the meeting for the reason that he is absent due to work duties.

At the commencement of the ordinary meeting report numbers 1.1, 2.1, 2.2, 2.3, 2.4, 2.5, 3.1, 5.5, 6.2, 6.3, 8.1 and 4.1 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

3.1 Rebuild of Alison Homestead at 1 Cape Road Wyong for Wyong District Museum and Historical Society

Councillor Nayna declared a non-pecuniary insignificant conflict of interest in the matter for the reason that he is employed by the State Member for Wyong, Mr Darren Webber.

Councillor Nayna 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."

8.1 Notice of Motion - Reducing Serious and Fatal Accidents Ruttleys Road Mannering Park

Councillor Eaton declared a non-pecuniary significant conflict of interest in the matter for the reason that his business premises are located on Ruttley's Road, left the chamber at 6.39 pm, took no part in voting and returned to the chamber at 7.00 pm.

8.1 Notice of Motion - Reducing Serious and Fatal Accidents Ruttleys Road Mannering Park

Councillor Greenwald declared a non-pecuniary insignificant conflict of interest in the matter for the reason that the motion refers to the NSW Police Force and he is an employee of the NSW Police.

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 because the NSW Police is not the focus of the motion so it will not affect my decision making or voting on the motion."

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

80/13 That Council receive the report on Disclosure of Interests and note the advice of the disclosures.

PROCEDURAL MOTION

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

81/13 That Council allow meeting practice to be varied.

82/13 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 TAYLOR:

83/13 That with the exception of report numbers 2.1, 2.2, 2.3, 2.4, 2.5, 3.1, 4.1, 5.5, 6.2, 6.3 and 8.1, 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 TAYLOR:

84/13 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 TAYLOR:

85/13 That Council receive the report on Invited Speakers.

86/13 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.

1.4 Confirmation of Minutes of Previous Meeting

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

87/13 That Council confirm the minutes of the previous Ordinary Meeting of Council held on Wednesday 23 January 2013.

BUSINESS ARISING

There was no business arising.

1.5 Mayoral Minute - Proposed Special Rate Variation

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

88/13 That Council direct the General Manager to prepare a further option for the proposed Special Rate Variation of 6.9% (including the rate cap) each year for seven years for Council's consideration.

89/13 That this be reported to Council on 27 February 2013 along with the results of the community consultation on the existing options of 3.4% (rate peg only) and 9.5% (including the rate peg).

PROCEDURAL MOTION

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

90/13 That Council allow meeting practice to be varied.

91/13 That Council consider items 2.1, 2.2, 2.3 and 2.4 simultaneously.

92/13 That Council adopt the staff recommendations for items 2.1, 2.2, 2.3 and 2.4, with the following addition:

"That Council vary the section 94 contributions to 35% of a DU in accordance with Council's current interim policy."

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

AGAINST: NIL

2.1 DA/726/2012 - Proposed Secondary Dwelling to be Incorporated into an Existing Two Storey Dwelling at Norah Head

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

93/13 That Council grant consent subject to the conditions detailed in the schedule attached to the report, having regard to the matters for consideration detailed in Section 79C of the Environmental Planning and Assessment Act and other relevant issues.

94/13 That Council vary DCP 2005 Chapter 99 Building line to permit the development.

95/13 That Council vary the section 94 contributions to 35% of a DU in accordance with Council's current interim policy.

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

AGAINST: NIL

2.2 DA/1052/2012 - Detached Secondary Dwelling at Bateau Bay

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

96/13 That Council grant consent subject to the conditions detailed in the schedule attached to the report, having regard to the matters for consideration detailed in Section 79C of the Environmental Planning and Assessment Act and other relevant issues.

97/13 That Council vary the section 94 contributions to 35% of a DU in accordance with Council's current interim policy.

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

AGAINST: NIL

2.3 DA/1018/2012 Single Dwelling and Detached Secondary Dwelling at Blue Haven

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

98/13 That Council grant consent subject to the conditions detailed in the schedule attached to the report, having regard to the matters for consideration detailed in Section 79C of the Environmental Planning and Assessment Act and other relevant issues.

99/13 That Council vary the section 94 contributions to 35% of a DU in accordance with Council's current interim policy.

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

AGAINST: NIL

2.4 DA/1066/2012 Detached Secondary Dwelling at Gorokan

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

100/13 That Council grant consent subject to the conditions detailed in the schedule attached to the report, having regard to the matters for consideration detailed in Section 79C of the Environmental Planning and Assessment Act and other relevant issues.

101/13 That Council vary the section 94 contributions to 35% of a DU in accordance with Council's current interim policy.

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

AGAINST: NIL

2.5 Delegations for Plumbing and Sewer Inspectors

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

- 102/13 That Council accept the delegated functions under the Plumbing and Drainage Act 2011 as determined by NSW Fair Trading and pursuant to the attached Instrument of Delegation.
- 103/13 That Council sub-delegate the functions in point 1 above to the General Manager for further consideration.
- 104/13 That Council authorise the affixing of the Common Seal of Wyong Shire Council to the Instrument of Delegation under Section 21 of the Plumbing and Draining Act 2011.
- 105/13 That Council authorise the Mayor and the General Manager to execute all documents relating to the Delegation of Authority.

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

AGAINST: NIL

3.1 Rebuild of Alison Homestead at 1 Cape Road Wyong for Wyong District Museum and Historical Society

Councillor Nayna declared a non-pecuniary insignificant conflict of interest in the matter for the reason that he is employed by the State Member for Wyong, Mr Darren Webber.

Councillor Nayna 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."

Councillor Vincent left the meeting at 5.54 pm and returned to the meeting at 5.55 pm during consideration of this item.

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

- 106/13 That Council defer this matter pending further discussions with staff, The Wyong District Historical Society, interested Councillors and key stakeholders, with a view to considering alternate options.
- 107/13 That Council extend an invitation to Darren Webber, Member for Wyong, to attend the discussions with key stakeholders and Council, with regards to Alison Road Homestead.

4.1 CPA/218854 - Design of Upgrades to Five Sewer Pump Stations - Tender Evaluation

Councillor Graham left the meeting at 6.02 pm returned to the meeting at 6.03 pm during consideration of this item.

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

108/13 That Council consider item 4.1 in Confidential session, pursuant to Section 10A 2(d) (ii) of the Local Government Act 1993.

109/13 That Council note its reasons for considering item 4.1, CPA/218854 - Design of Upgrades to Five Sewer Pump Stations - Tender Evaluation, as it contains commercial information of a confidential nature that would, if disclosed would confer a commercial advantage on a competitor of the Council.

110/13 That Council request the General Manager to report on this matter in open session of Council.

4.1.1 MATTER ARISING from Item 4.1 - CPA/218854 - Design of Upgrades to Five Sewer Pump Stations - Tender Evaluation

Councillor Vincent left the meeting at 7.35 pm, returned to the meeting at 7.38 pm and as a result took no part in voting on this item.

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

111/13 That Council request the General Manager to organise a briefing of the Tender Assessment Panel for CPA/218854, to explain their tender assessment process, the criteria established and the weightings allocated in accordance with Council's policy, in particular the Local Preference Policy.

112/13 That Council request the General Manager to review and report on the procurement processes, including the detailed assessment reports that come to Council, so that information around how criteria is established, how weightings are allocated and how the Local Preference Policy is captured

113/13 That Council direct the General Manager to review the Local Preference Policy and to undertake a briefing with Council to capture a higher recognition of engagement of local companies in future procurement processes.

114/13 That Council refer this matter to the Employment and Economic Development Committee prior to the Council briefing.

4.2 CPA/199535 - Supply and Application of Pavement Markings and Associated Works

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

- 115/13 That Council accept the tender from Tenderer No3 for a period of Three (3) years with a Two (2) year option as the first ranked supplier for Contract CPA/199535 – Supply and Application of Pavement Markings and Associated Works.
- 116/13 That Council accepts the tender from Tenderer No 5 for a period of Three (3) years with a Two (2) year option as the second ranked supplier for Contract CPA/199535 – Supply and Application of Pavement Markings and Associated Works.
- 117/13 That Council accepts the tender from Tenderer No 4 for a period of Three (3) years with a Two (2) year option as the third ranked supplier for Contract CPA/199535 – Supply and Application of Pavement Markings and Associated Works.
- 118/13 The estimated annual expenditure against this contract is \$230,244.00 (excl GST), however actual expenditure may vary significantly with fluctuations in demand
- 119/13 That Council approve the contingency sum as detailed in the Tender Evaluation Report in Attachment A.
- 120/13 That Council determines the Tender Evaluation Report 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.

4.3 CPA/221963 - SCADA Systems Integration - Tender Evaluation Report

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

- 121/13 That Council accepts the tender from the company nominated as ‘Tenderer 7’ in the attached confidential Tender Evaluation Report for Contract CPA/221963 -SCADA Systems Integration, Control Systems and Related Services.
- 122/13 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.

5.1 Conference Attendance - 2013 LGSA Tourism Conference

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

123/13 That Council receive the report on Conference Attendance - 2013 LGSA Tourism Conference .

124/13 That Council meet reasonable expenses incurred in Councillors attending the above conference in accordance with Council's Facilities and Expenses Policy for Councillors.

5.2 Conference Attendance - 2013 ALGWA NSW Conference

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

125/13 That Council authorise interested councillors to attend the 2013 ALGWA NSW National Conference being held in Ettalong, NSW from Thursday 14 to Saturday 16 March 2013.

126/13 That Council meet reasonable expenses incurred in councillors attending the above conference in accordance with Council's Facilities and Expenses Policy for Councillors.

5.3 Constitutional Recognition of Local Government - First Installment Payment

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

127/13 That Council confirm its support of the ALGA and LGSA proposals for the financial recognition of Local Government in the Australian Constitution.

128/13 That Council allocate \$34,468.55 (inc GST) over three years, to support the national advertising campaign to raise awareness of local government with the objective of gaining Constitutional Recognition for Local Government.

129/13 That Council allocate the first instalment of \$11,489.52 in the 2012-13 Q3 budget review.

5.4 Disclosure of Interest Returns - 1 October to 31 December 2012

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

130/13 That Council receive the report on Disclosure of Interest Returns – 1 October to 31 December 2012.

5.5 Minutes of the Employment and Economic Development Committee held on 30 January 2013

Councillor Vincent left the meeting at 6.16 pm, returned to the meeting at 6.17 pm and as a result took no part in voting on this item.

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

- 131/13 That Council receive the minutes of the Employment and Economic Development Committee meeting held on 30 January 2013.
- 132/13 That Council initiate the development of a modification to the section 94 contributions plans, as to allow the transfer of the unused development contributions within the plan area.
- 133/13 That Council refer the amended Section 94 Contributions Refund Policy to the Employment and Economic Development Committee meeting prior to consideration by Council.
- 134/13 That Council defer the review of standard development conditions of consent pending the appointment of the Director Development and Building.
- 135/13 That Council adopt the recommendations contained in the Minutes of the Confidential Session of the Employment and Economic Development Committee.

5.6 Facilities and Expenses Policy for Councillors

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

- 136/13 That Council note that no submissions were received during the exhibition period.
- 137/13 That Council adopt the Facilities and Expenses Policy for Councillors as exhibited.
- 138/13 That Council provide the Department of Local Government with a copy of the adopted policy.
- 139/13 That Council propose further amendments to the policy as follows:
- a Reimbursement of costs of up to \$500 per annum for communications and media information accessed for Council business and/or Councillor professional development (for example: professional journals, news and current affairs publications).
 - b Reimbursement of costs up to \$600 per annum for electricity charges associated with use of private facilities to conduct Council business.
- 140/13 That Council advertise the proposed amendment in accordance with the provisions of the Local Government Act.

5.7 Adoption of Code of Meeting Practice

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

141/13 That Council note that no submissions were received during the exhibition period.

142/13 That Council adopt the Code of Meeting Practice as exhibited.

6.1 One Association Ballot Results

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

143/13 That Council receive the report on One Association Ballot Results.

6.2 Road Capital Works Program

Councillor Vincent left the meeting at 6.16 pm and returned to the meeting at 6.17 pm during consideration of this item.

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

144/13 That Council receive the report on the status of the Council's Road Capital Rolling Works Program.

6.3 Meeting Procedure

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

145/13 That Council receive the report on Meeting Procedure.

PROCEDURAL MOTION

It was moved by Councillor VINCENT and seconded by Councillor GREENWALD:

1 That Council allow meeting practice be varied.

2 That Council recommit item 1.5, Mayoral Minute – Proposed Special Rate Variation.

The MOTION was put to the vote and declared LOST.

6.4 Outstanding Questions on Notice and Notices of Motion

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

146/13 That Council receive the report on Outstanding Questions on Notice and Notices of Motion.

8.1 Notice of Motion - Reducing Serious and Fatal Accidents Rutleys Road Mannering Park

Councillor Eaton declared a non-pecuniary significant conflict of interest in the matter for the reason that his business premises are located on Rutley's Road, left the chamber at 6.39 pm, took no part in voting and returned to the chamber at 7.00 pm.

Councillor Greenwald declared a non-pecuniary insignificant conflict of interest in the matter for the reason that the motion refers to the NSW Police Force and he is an employee of the NSW Police.

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 because the NSW Police is not the focus of the motion so it will not effect my decision making or voting on the motion."

Mayor Eaton vacated the chair at 6.39 pm and Councillor Webster assumed the chair for the reporting of this item.

RESOLVED unanimously on the motion of Councillor BEST and seconded by Councillor NAYNA

147/13 That Council note with great concern the recent spate of serious and fatal accidents on Rutleys Road, where excessive speed appears to have been a significant contributor in some accidents.

148/13 That Council request the traffic committee to trial a speed limit reduction on Rutley's Road to improve road safety.

149/13 That Council request the local area command of the police service to increase patrolling and enforcement of current and future speed limits in this area.

150/13 That Council recognise the excellent preliminary works done on this issue by staff, the Roads and Maritime Services, Local Area Command and the Traffic Committee in partnership with our Local State Member for Swansea, Mr Garry Edwards.

151/13 That Council seek to have Rutley's Road identified as a regional road to assist in accessing further funding options.

152/13 That Council direct the General Manager to seek the actual recorded reasons for the major traffic accidents on Rutley's Road and report them to Council.

Mayor Eaton resumed the chair at 7.00 pm.

CONFIDENTIAL SESSION

Councillor Taylor left the meeting at 7.01 pm, returned to the meeting at 7.03 pm and as a result took no part in voting on this item.

Councillor Best left the meeting at 7.02 pm, returned to the meeting at 7.03 pm and as a result took no part in voting on this item.

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

153/13 That Council move into Confidential Session.

At this stage of the meeting being 7.02 pm 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.

OPEN SESSION

Council resumed in open session at 7.32 pm and the General Manager reported on proceedings of the confidential session of the ordinary meeting of council as follows:

4.1 CPA/218854 - Design of Upgrades to Five Sewer Pump Stations - Tender Evaluation

154/13 That Council accept the tender from the company nominated as Tenderer 3 in the attached Tender Evaluation Report, for the lump sum amount of \$505,000 (excl GST) for Contract CPA/218854 – Central Coast Pumps and Pipes Panel Work Package W01 (Design of upgrades to SPS WS11, B5, B6, WS29 and WS30).

155/13 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.

156/13 That Council approve the contingency sum as detailed in the Tender Evaluation Report in Attachment A.

QUESTIONS ON NOTICE

**Q5/13 Land Slips and Erosion at Norah Head Marine Rescue Head Office
Councillor Luke Nayna
F2010/00500**

“Can the General Manager please provide an update on issues around land slips and coastal erosion affecting the Norah Head Marine Rescue Head Office. What steps have WSC taken to assist in addressing these issues and what role can we play in partnership with the NSW State Government.”

Q6/13 First 100 Days
Councillor Greg Best
F2010/00500

"My Mayor,

It has been approx 100 working days since the 8 September 2012 election, clearly community message was a demand for change, efficiencies and a fresh "can do" approach.

Could you outline this Council's key achievements and fresh strategic direction to date over the past 100 days?"

Q7/13 Cost Shifting Theft
Councillor Greg Best
F2010/00500

"Mr Mayor,

At Council's recent service delivery review workshop, the community clearly articulated the need for council to get back to basics and focus on core Council business. Also the insidious issue of cost shifting by both past and present state and federal government's, was repeatedly raised identifying that some \$23million has been taken from our rate payers via various state and federal government taxes and levies. Could you urgently list the areas that make up the \$23million rate payer rip off!"

Q8/13 Follow up on Notice of Motion - Wyong Skills Centre
Councillor Lloyd Taylor
F2010/00500

"Mr General Manager,

I refer to Notice of Motion 7.4 of 10 October 2012 moved by Councillor Nayna, wherein Council resolved to proceed with the Wyong Skills Centre in partnership with CCGT.

Mr General Manager, can you please advise on the progress of this vital youth employment initiative?"

THE MEETING closed at 7.43 pm.