



Minutes

Ordinary Meeting of Council

11 December 2018

ORDINARY MEETING OF COUNCIL
HELD IN THE COUNCIL CHAMBERS, MORUYA
ON TUESDAY 11 DECEMBER 2018

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**MINUTES OF THE
ORDINARY MEETING OF COUNCIL
HELD IN THE COUNCIL CHAMBERS, MORUYA
ON TUESDAY, 11 DECEMBER 2018
COMMENCING AT 10.02AM**

PRESENT: Councillor Liz Innes, Mayor (in the Chair)
Councillors Anthony Mayne, Jack Tait, Lindsay Brown, Maureen Nathan,
Patrick McGinlay and Phil Constable

Staff: Dr Catherine Dale, General Manager
Mr L Usher, Director, Planning and Sustainability Services
Mr B Corven, Acting Director, Infrastructure Services
Mr A O'Reilly, Director, Finance and Business Development
Mrs K Arthur, Director, Community, Arts and Recreation
Mrs K Green, Minute Secretary

1. WELCOME, ACKNOWLEDGEMENT OF COUNTRY AND EVACUATION MESSAGE

The Mayor welcomed everyone to the meeting, acknowledged the Traditional Owners and advised of the Evacuation Procedure.

2. APOLOGIES

18/369 MOTION Councillor Tait/Councillor Nathan

THAT apologies be received from Councillors James Thomson and Rob Pollock OAM and leave of absence be granted.

(The Motion on being put was declared **CARRIED**)

3. PUBLIC FORUM (AGENDA ITEMS ONLY)

(Minutes of the Public Forum are a summary only and do not purport to be a complete transcript of the proceedings.)

PF18/110 PSR18/092 Moruya Recycling Facility and Container Deposit Scheme

Mr Peter Bernard addressed Council in relation to item PSR18/092 Moruya Recycling Facility and Container Deposit Scheme. A copy of Mr Bernard's submission is available on Council's website.

PF18/111 CCS18/061 Code of Conduct Statistics Report

Mr Lei Parker addressed Council in relation to item CCS18/061 Code of Conduct Statistics Report. A copy of Mr Parker's submission is available on Council's website.

EXTENSION OF TIME

18/370 MOTION Councillor Constable/Councillor McGinlay

THAT Mr Parker be granted an extension of three minutes to complete his presentation.

(The Motion on being put was declared **CARRIED**)

4. CONFIRMATION OF MINUTES OF PREVIOUS MEETING

18/371 MOTION Councillor Nathan/Councillor Tait

THAT the minutes of the Ordinary Meeting held on 27 November 2018 be confirmed.

(The Motion on being put was declared **CARRIED**)

5. DECLARATIONS OF INTEREST OF MATTERS ON THE AGENDA

Councillor Innes declared a significant, non-pecuniary conflict of interest in CCS18/066 Legalisation of Clouts Road, Mogendoura and stated that she did believe her interest would preclude her from voting.

Reason: Councillor Innes declared an interest as she has a political association with two of the affected residents.

Councillor Nathan declared a non-significant, non-pecuniary conflict of interest in CCS18/066 Legalisation of Clouts Road, Mogendoura and stated that she did not believe her interest would preclude her from voting.

Reason: Councillor Nathan declared an interest as two residents affected by this decision volunteered during the local government electoral campaign. Councillor Nathan has had no association since.

Councillor Tait declared a non-significant, non-pecuniary conflict of interest in CCS18/066 Legalisation of Clouts Road, Mogendoura and stated that he did not believe his interest would preclude him from voting.

Reason: Councillor Tait declared an interest as two residents affected by this decision, volunteered during the local government electoral campaign. Councillor Tait indicated that he had not met these people.

6. MAYORAL REPORTS

MR18/011 RAINDANCE EUROBODALLA

File Ref: E12.6001

MOTION Councillor Innes

THAT:

1. The report be received and noted.
2. 50% of the funds raised be transferred to Cobar Shire Council for distribution through its determined governance process.
3. A further report detailing the governance process for the distribution of funds to Eurobodalla farmers be presented to the first Council meeting in 2019.

18/372 AMENDMENT Councillor McGinlay/Councillor Constable

THAT

1. The report be received and noted.
2. 75% of the funds raised be transferred to Cobar Shire Council for distribution through its determined governance process.
3. A further report detailing the governance process for the distribution of funds to Eurobodalla farmers be presented to the first Council meeting in 2019.

(The Amendment on being put became the Motion and on being put was declared **CARRIED**)

MR18/012 CHANGES TO NSW GOVERNMENT REGULATIONS – PARKING FINES

File Ref: E12.6001

MOTION Councillor Innes

THAT Council resolves to reduce parking fines from \$112 to \$80 in line with changes made to NSW Government regulations.

(The Motion on being put was declared **CARRIED**).

Division

For the Motion: Clr P Constable, L Innes, P McGinlay M Nathan and J Tait.

Against the Motion: Clr L Brown and A Mayne.

7. NOTICES OF MOTION

Nil

ADJOURNMENT

18/373 MOTION Councillor Tait/Councillor Constable

THAT the Ordinary Council Meeting be adjourned for a period of ten minutes.

(The Motion on being put was declared **CARRIED**)

At 11.23am the meeting adjourned

At 11.38am the meeting reconvened.

8. QUESTIONS ON NOTICE FROM COUNCILLORS

QON18/009 IMPACT OF THE RURAL LANDS STRATEGY ON THE OYSTER INDUSTRY

File Ref: E16.0182

18/374 MOTION Councillor Mayne/Councillor Tait

THAT the response to the question regarding impact of the Rural Lands Strategy on Eurobodalla's oyster industry raised by Councillor Anthony Mayne be received and noted.

(The Motion on being put was declared **CARRIED**)

9. PETITIONS

PET18/006 REOPEN SCHNEIDER DRIVE TO MYSTERY BAY ROAD

File Ref: E98.2475

18/375 MOTION Councillor Brown/Councillor Constable

THAT Council move into Committee of the Whole to discuss item PET18/006 Reopen Schneider Drive to Mystery Bay Road.

(The Motion on being put was declared **CARRIED**).

At 11.57am the meeting moved into Committee of the Whole.

18/376 MOTION Councillor Mayne/Councillor Brown

THAT Council resume open session.

(The Motion on being put was declared **CARRIED**).

At 12.18pm the Council resumed open session.

18/377 MOTION Councillor Constable/Councillor Brown

THAT:

1. Council staff investigate this proposal and a further report be presented to Council on the outcomes of this investigation in early 2019.
2. The Traffic Committee consider that the 50km speed zone be extended to the west of its existing boundary to incorporate the intersections of Schneider Drive and Sunnyside Road.

(The Motion on being put was declared **CARRIED**)

NOTE : Council can enable access in case of an emergency or as required.

10. GENERAL MANAGER'S REPORTS

GMR18/031 SAFETY AND EMERGENCY SERVICES GRANT 2017-21

File Ref: E18.1726

18/378 MOTION Councillor Tait/Councillor Brown

THAT Council endorse the recommendations detailed in the confidential attachment, awarding Safety and Emergency Services grants to seven organisations for 2017-21.

(The Motion on being put was declared **CARRIED**)

11. PLANNING AND SUSTAINABILITY REPORTS

PSR18/093 NAROOMA OYSTER FESTIVAL

File Ref: E08.2294

18/379 MOTION Councillor Brown/Councillor Constable

THAT Council support the allocation of \$20,000 to support the Narooma Oyster Festival event for 2019.

(The Motion on being put was declared **CARRIED**)

PSR18/094 MORUYA RECYCLING FACILITY AND THE CONTAINER DEPOSIT SCHEME

File Ref: L.0599

18/380 MOTION Councillor Tait/Councillor Brown

THAT Council receive and note the report regarding the Moruya Recycling Facility and the Container Deposit Scheme.

(The Motion on being put was declared **CARRIED**)

PSR18/095 DRAFT TOURISM WAYFINDING AND SIGNAGE STRATEGY 2018

File Ref: E16.0341

18/381 MOTION Councillor Tait/Councillor Brown

THAT Council adopt the draft Eurobodalla Tourism Wayfinding and Signage Strategy 2018.

(The Motion on being put was declared **CARRIED**)

PSR18/096 PLANNING PROPOSAL - 3 BROWN CLOSE, MORUYA HEADS

File Ref: E17.1328

18/382 MOTION Councillor Tait/Councillor Constable

THAT Council:

1. Resolves to make the amendment to the *Eurobodalla Local Environmental Plan 2012* Lot Size Map so that a minimum lot size of 1,500 square metres is applied to Lot 3 DP 701983, 3 Brown Close Moruya Heads.
2. Forwards the proposal to Parliamentary Counsel to draft the amendment and to the NSW Department for Planning and Environment for reporting purposes.
3. Notify in writing the people who have made a submission to the proposal and inform them of Council's decision.

(The Motion on being put was declared **CARRIED**)

**PSR18/097 PLANNING PROPOSAL - RECLASSIFICATION OF COMMUNITY LAND
(AMENDMENT 17)**

File Ref: E16.0182

18/383 MOTION Councillor Tait/Councillor Nathan

THAT Council:

1. Endorse the redaction of the reclassification and rezoning of land at Lot 21 DP 547034, Batemans Bay and rezoning of a portion of Lot 574 DP 32008, Malua Bay from the Rural Lands Planning Proposal.
2. Endorse the independent Public Hearing report and recommendation attached to the report.
3. Endorse the submission of new Planning Proposal for the reclassification and rezoning of land at Batemans Bay and Malua Bay.
4. Forward the Planning Proposal to the Minister for Planning for a Gateway Determination pursuant to Section 56 of the Environmental Planning and Assessment Act 1979.

(The Motion on being put was declared **CARRIED**)

12. INFRASTRUCTURE REPORTS

Nil

13. CORPORATE AND COMMERCIAL SERVICES REPORTS

**CCS18/060 REQUEST FOR TENDER NO. 2019/CCD022 - EUROBODALLA SHELLFISH
HATCHERY**

File Ref: E18.1520

18/384 MOTION Councillor Mayne/Councillor Tait

THAT Council

1. Reject the tenders received in response to Request for Tender (RFT) No. 2019/CCD022 – Eurobodalla Shellfish Hatchery.
2. Not invite fresh tenders because it does not believe this will achieve a better outcome for the project given the Tender Evaluation Panel’s assessment of the tenders received and the delay in delivering the project if fresh tenders are called.
3. Enter into negotiations based on the conditions outlined in ‘Request for Tender (RFT) No. 2019/CCD022 – Eurobodalla Shellfish Hatchery’ with the tenderer identified in the confidential attachment to the Council report ‘Request for Tender (RFT) No. 2019/CCD022 – Eurobodalla Shellfish Hatchery’ because they ranked the highest of the tenders received.
4. Delegate to the General Manager to conclude these negotiations and if appropriate, enter into contracts with the tenderer identified in the Confidential Attachment to the Council report ‘Request for Tender (RFT) No. 2019/CCD022 – Eurobodalla Shellfish Hatchery’

(The Motion on being put was declared **CARRIED**)

CCS18/061 CODE OF CONDUCT COMPLAINTS STATISTICS REPORT

File Ref: E13.7162

18/385 MOTION Councillor Tait/Councillor Nathan

THAT Council receive and note the Code of Conduct Complaints Statistics Report.

(The Motion on being put was declared **CARRIED**)

CCS18/062 NAROOMA MEN'S SHED

File Ref: E15.9331

18/386 MOTION Councillor Constable/Councillor Brown

THAT Council

1. Approve a lease to Council from Roads and Maritime Services over Lots 1 and 2, DP 1068027, and a sub-lease to Narooma Men's Shed from Council over Lots 1 and 2, DP 1068027.
2. Delegate to the General Manager to finalise negotiations with Narooma Men's Shed and Roads and Maritime Services.
3. Take all other actions required to implement the leases including applying the Common Seal of Council to any lease documents.

(The Motion on being put was declared **CARRIED**)

**CCS18/063 LICENCES FOR OUTDOOR EATING AREAS - MARA MIA WALKWAY,
BATEMANS BAY**

File Ref: 94.7308.D

18/387 MOTION Councillor Nathan/Councillor Mayne

THAT:

1. A licence be granted to the proprietor of a business at 4/3 Orient Street, Batemans Bay for an outdoor eating area within Lot 7035 DP 102950 being part Crown Reserve R96919 with terms and conditions including:
 - (a) A five-year term.
 - (b) Payment of a rental fee in accordance with Council's fees and charges.
 - (c) Payment of an annual licence administration fee in accordance with Council's fees and charges.
 - (d) Provision of evidence and maintenance of public liability insurance in the amount of \$20 million during the licence period.
 - (e) Compliance with the Operator's responsibilities set out in Council's Footpath Trading Code.

2. A licence be granted to the proprietor of a business at 4/3 Orient Street, Batemans Bay for an outdoor eating area adjacent to the shop boundary on Mara Mia Walkway, being Lot 323 DP 45828, Mara Mia Walkway within Crown Reserve R96919 with terms and conditions including:
 - (a) A one-year term.
 - (b) Payment of a licence establishment fee in accordance with Council's fees and charges.
 - (c) Payment of a rental fee in accordance with Council's fees and charges.
 - (d) Payment of an annual licence administration fee in accordance with Council's fees and charges.
 - (e) Provision of evidence and maintenance of public liability insurance in the amount of \$20 million during the licence period.
 - (f) Compliance with the Operator's responsibilities set out in Council's Footpath Trading Code.

(The Motion on being put was declared **CARRIED**)

CCS18/064 LICENCE FOR BUS SHELTER - MORT AVENUE, DALMENY

File Ref: E02.6655

18/388 MOTION Councillor McGinlay/Councillor Constable

THAT:

1. A licence for a bus shelter be entered into with the land owner of Lot 31 DP 618340 for a term of 20 years with conditions including:
 - (a) Licence fee of \$1 per annum payable in advance for the term of the licence.
 - (b) Termination by either party giving six months' notice.
 - (c) The infrastructure as built to remain in the ownership, care, control and maintenance of Council.
 - (d) With the exception of alcohol or gambling products, Club Dalmeny be allowed to attach advertising signs to the bus shelter side walls promoting the club's services.
 - (e) Council to install a blue fingerboard sign at its cost on Mort Avenue, Dalmeny adjacent to the Princes Highway, subject to compliance with the Eurobodalla Shire Council Fingerboard Signs Local Directional Policy, the text to read 'Bowling Club' or similar.
2. All surveying and legal costs associated with the licence be borne by Council.

(The Motion on being put was declared **CARRIED**)

CCS18/065 LICENCE FOR RED HOT SUMMER TOUR EVENT - MACKAY PARK, BATEMANS BAY

File Ref: E15.9343

18/389 MOTION Councillor Brown/Councillor Tait

THAT:

1. Subject to no objections being received during the notification period Council as Crown Land Manager grant a five-day licence in accordance with Section 2.20 of the *Crown Land Management Act 2016* to Regional Touring Pty Limited to stage the Red Hot Summer Tour event on Crown Reserve D580022 Mackay Park, Batemans Bay with terms and conditions including:
 - (a) The licence period be from 21 March 2019 to 25 March 2019 inclusive.
 - (b) The fee be the fee set out in the confidential attachment to the report *Licence for Red Hot Summer Tour Event – Mackay Park, Batemans Bay* dated 11 December 2018.
 - (c) Payment of a bond in the amount of \$3,000 to be made 30 days prior to the event.
 - (d) The provision of an event management plan acceptable to Council for the event.
 - (e) Other conditions in line with previous licences for this event.
2. If any objections are received during the notification period a further report be presented to Council for consideration.

(The Motion on being put was declared **CARRIED**)

CCS18/066 LEGALISATION OF CLOUDS ROAD, MOGENDOURA

File Ref: 83.7035.B; 03.7105.B&D

Councillor Innes declared a significant, non-pecuniary conflict of interest in CCS18/066 Legalisation of Clouts Road, Mogendoura and stated that she did believe her interest would preclude her from voting.

Reason: Councillor Innes declared an interest as she has a political association with two of the affected residents.

At 12.45PM Councillor Innes left the Chamber and the Chair.

As the Mayor had left the meeting, the General Manager advised that Council would need to elect a Chairperson. The General Manager called for nominations for Chairperson. One nomination was received from Councillor Mayne.

MOTION

18/390 MOTION Councillor Nathan/Councillor Brown

THAT Councillor Anthony Mayne be elected Chair for item CCS18/066 Legalisation of Clouts Road, Mogendoura.

(The Motion on being put was declared **CARRIED**)

At 12.47pm Councillor Mayne took the Chair.

Councillor Nathan declared a non-significant, non-pecuniary conflict of interest in CCS18/066 Legalisation of Clouts Road, Mogendoura and stated that she did not believe her interest would preclude her from voting.

Reason: Councillor Nathan declared an interest as two residents affected by this decision volunteered during the local government electoral campaign. Councillor Nathan has had no association since.

Councillor Tait declared a non-significant, non-pecuniary conflict of interest in CCS18/066 Legalisation of Clouts Road, Mogendoura and stated that he did not believe his interest would preclude him from voting.

Reason: Councillor Tait declared an interest as two residents affected by this decision, volunteered during the local government electoral campaign. Councillor Tait indicated that he had not met these people.

18/391 MOTION Councillor Nathan/Councillor Brown

THAT

1. Deeds of Agreement be entered into with the land owners of Lot 15 DP 1071577, Lot 1 DP 126080, Lot 20 DP 755946, Lot 21 DP 755946, Lot 2 DP 926143, Lot 22 DP 755946, Lot 19 DP 755946 and Lot 15 DP 755946 providing for the dedication of part of their land for public road purposes subject to Council taking all necessary action to have part of Clouts Road, Mogendoura closed, transferred and consolidated with the residue of the relevant lots and any relevant works to take place.
2. A proposal to close Council road reserve adjacent to Lot 15 DP 1071577, Lot 1 DP 126080, Lot 20 DP 755946, Lot 21 DP 755946, Lot 2 DP 926143, Lot 22 DP 755946, Lot 19 DP 755946 and Lot 15 DP 755946 be publicly notified in accordance with the provisions of the Roads Act 1993 for a period of 28 days.
3. Subject to no objections being received the closure of Council road reserve noted in 2. above proceed.
4. When closed the land be transferred to the land owners of adjoining lots noted in 2. above and consolidated with their relevant properties.
5. Where the existing maintained road passes through the Lots listed within this recommendation, a road reserve be created and be dedicated as public road, subject to 4 above. The public road reserve is to be created within Part Lot 15 DP 1071577, part Lot 1 DP 126080, part Lot 20 DP 755946, part Lot 21 DP 755946 and part Lot 22 DP 755946.
6. All costs associated with the proposed road opening and closing including the land owners reasonable costs be borne by Council.
7. Consent be given to affix the Common Seal of Council to all relevant documentation.

(The Motion on being put was declared **CARRIED**)

At 12.50pm Councillor Liz Innes returned to the Chamber.

Councillor Anthony Mayne informed the Mayor of the decision in relation to CCS18/066 Legalisation of Clouts Road, Mogendoura.

CCS18/067 LEASE ACQUISITION - MINI GOLF

File Ref: E96.0041

MOTION Councillor Brown/Councillor Constable

THAT Council move into confidential to discuss CCS18/067 Lease Acquisition – Mini Golf.

In accordance with Section 10A(4) of the Local Government Act 1993, the General Manager invited members of the public to make verbal representations to the Council on whether the meeting should be closed to consider CCS18/067 Lease Acquisition – Mini Golf.

Discussion on this report is classified confidential under Section 10(A)(2) (c) of the Local Government Act 1993, which permits the meeting to be closed to the public for business relating to the following:

- c) Information that would, if disclosed, confer a commercial advantage on a person with whom the Council is conducting (or proposes to conduct) business.

It was noted that there were no public verbal representations on whether the meeting should be closed to consider the matter.

Therefore pursuant to Section 10A of the Local Government Act, 1993 the following discussions be dealt with in Closed Session for the reasons specified below:

- c) Information that would, if disclosed, confer a commercial advantage on a person with whom the Council is conducting (or proposes to conduct) business.

18/392 MOTION Councillor Brown/Councillor Constable

THAT Council move into confidential to discuss CCS18/067 Lease Acquisition – Mini Golf.

(The Motion on being put was declared **CARRIED**)

At 12.53pm the Council moved into Closed session.

18/393 MOTION Councillor McGinlay/Councillor Tait

THAT Council resume open session.

(The Motion on being put was declared **CARRIED**)

At 1.02pm the meeting resumed open session

The Mayor declared that no recommendations were made during the Closed session.

18/394 MOTION Councillor Brown/Councillor Nathan

THAT Council

1. Negotiates with the operator of the Batemans Bay Mini Golf to acquire its lease.
2. Delegates to the General Manager to conclude these negotiations and acquire the lease in accordance with the Confidential Attachment.
3. Seeks the consent of the Minister of Local Government and the Governor to issue a Proposed Acquisition Notice to acquire the lease by compulsory process if required.
4. Takes all other required actions to acquire the lease including applying the Council Seal to any documents if required.

(The Motion on being put was declared **CARRIED**)

Division

For the Motion: Clrs L Brown, P Constable, L Innes, A Mayne, P McGinlay, M Nathan and J Tait.

Against the Motion: Nil.

CCS18/068 LEASE - MORUYA AIRPORT

File Ref: E89.2941

18/395 MOTION Councillor Brown/Councillor Tait

THAT

1. Council take all necessary actions to grant a lease over part Lot 12 DP 1244089 for a term of 25 years plus a 25 year option, to the business named, and subject to conditions and rent as outlined in the Confidential Attachments to the report 'Lease - Moruya Airport' of 11 December 2018.
2. Consent be given to affix the Common Seal of Council to all necessary documents associated with the lease.
3. Costs associated solely with this lease be borne by the Lessee.

(The Motion on being put was declared **CARRIED**)

14. COMMUNITY, ARTS AND RECREATION REPORTS

CAR18/040 MACKAY PARK DRAFT PLAN OF MANAGEMENT

File Ref: E96.0041

18/396 MOTION Councillor Brown/Councillor Tait

THAT:

1. The draft Mackay Park Plan of Management be endorsed for the purpose of public exhibition for 63 days from 12 December 2018 until 12 February 2019.
2. The category of 'general community use' for the reserve be recommended for consideration by the Minister for Local Government.
3. A further report, detailing the results of the public hearing and any submissions received, be presented to Council following the conclusion of the exhibition period.

(The Motion on being put was declared **CARRIED**)

15. DELEGATE REPORT

DR18/006 NATIONAL GENERAL ASSEMBLY

File Ref: E91.3255

18/397 MOTION Councillor Mayne/Councillor Tait

THAT the delegates report from Councillors Jack Tait, Phil Constable and Anthony Mayne be received and noted.

(The Motion on being put was declared **CARRIED**)

16. URGENT BUSINESS

Nil

17. DEALING WITH MATTERS IN CLOSED SESSION

Nil

18. CONFIDENTIAL MATTERS

Nil

Message from the Mayor

Prior to the close of the meeting, the Mayor took the opportunity to reflect on the incredible year and thank her fellow Councillors for the open and respectful manner in which they have performed their duties throughout 2018. The achievements that this Council has accomplished for its community this year is astounding. Not only are we preparing local plans, policies and strategies with our community for our future, we have also obtained major investment from the NSW Government and commitments from the Australian Government. This investment is testament to the faith that the current Governments have in this Council.

I would like to wish all the staff a safe and Merry Christmas and encourage them to take time out with their families to enjoy our beautiful Shire. Finally, I pass on my best regards to all our emergency services volunteers, who will be ensuring that we are safe over the festive season.

Merry Christmas and I look forward to working with everyone in 2019.

THE MEETING CLOSED AT 1.19pm

CHAIRPERSON

Chairperson of the Ordinary Council Meeting held on Tuesday, 12 February 2019 at which meeting the signature hereon was subscribed.