



Minutes

Ordinary Meeting of Council

12 April 2016

ORDINARY MEETING OF COUNCIL
HELD IN THE COUNCIL CHAMBERS, MORUYA
ON TUESDAY 12 APRIL 2016

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**MINUTES OF THE
ORDINARY MEETING OF COUNCIL
HELD IN THE COUNCIL CHAMBERS, MORUYA
ON TUESDAY, 12 APRIL 2016
COMMENCING AT 10.01AM**

PRESENT: Councillor Lindsay Brown, Mayor (in the Chair)
Councillors Danielle Brice, Neil Burnside, Gabi Harding, Liz Innes, Milton
Leslight, Rob Pollock OAM and Peter Schwarz

Staff: Dr Catherine Dale, General Manager
Ms A Jones, Acting Director, Planning and Sustainability Services
Mr W Sharpe OAM, Director, Infrastructure Services
Mr A O'Reilly, Director, Finance and Business Development
Mrs K Arthur, Director, Community, Arts and Recreation
Mrs C Hodges, Minute Secretary

1. WELCOME AND EVACUATION MESSAGE

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

2. APOLOGIES

Nil

3. QUESTIONS FROM PUBLIC GALLERY (AGENDA ITEMS ONLY)

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

PF16/027 PSR16/010 M386/12 – Residential Accommodation Units (33) and General Store – Lot 26, 28 & 30 Wharf Road, Batemans Bay

File Ref: E16.0042 80.2583.D6

Mr Steve Bayer, architect, addressed Council on behalf of the applicant for PSR16/010. A copy of Mr Bayer's submission is available on Council's website.

EXTENSION OF TIME

16/83 MOTION Councillor Pollock/Councillor Leslight

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

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

3. QUESTIONS FROM PUBLIC (Agenda Items Only) (contd)

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

PF16/028 FBD16/015 Investments Made as at 29 February 2015

File Ref: E16.0042; E99.3517;

Mr Owen Cartledge addressed Council in relation to FBD16/015 Investments made as at 29 February 2016. A copy of Mr Cartledge's submission is available on Council's website.

EXTENSION OF TIME

16/84 MOTION Councillor Leslight/Councillor Burnside

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

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

3. QUESTIONS FROM PUBLIC (Agenda Items Only) (contd)

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

PF16/029 PSR16/009 Rezoning/Reclassification of Excess Land – Albert Ryan Park, Batemans Bay; GMR16/009 Floodplain Management Australia Conference, and FBD16/015 Investments Made as at 29 February 2016.

File Ref: E16.0042; E99.3517; E98.2461; E95.9197; E81.1928; E16.0196

Mr Peter Bernard addressed Council in relation to PSR16/009 Rezoning/Reclassification of Excess Land – Albert Ryan Park, Batemans Bay; GMR16/009 Floodplain Management Australia Conference; and FBD16/015 Investments made as at 29 February 2016. A copy of Mr Bernard's submission is available on Council's website.

EXTENSION OF TIME

16/85 MOTION Councillor Brice/Councillor Leslight

THAT Mr Bernard 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

E87.6800; E06.0429

Councillor Harding stated that she had concerns about the accuracy of the minutes of the meeting held on 22 March 2016 in relation to item FBD16/012 Licence for Use of Crown Reserve – Narooma.

The Mayor, Councillor Lindsay Brown, advised that he had declared an interest in this matter at the previous meeting, and therefore he will again declare an interest and vacate the Chair while discussion on this matter takes place.

Declaration of Interest:

Councillor Lindsay Brown declared a significant, non-pecuniary conflict of interest in *Confirmation of the Minutes of the meeting held on 22 March 2016*, in relation to item *FBD16/012 Licence for Use of Crown Reserve - Narooma* and left the Chamber for discussion and voting on this matter.

Reason: A close family member is employed by one of the tenderer's executive members.

At 10.58am the Mayor, Councillor Brown left the Chambers.

The Deputy Mayor, Councillor Rob Pollock OAM, assumed the Chair.

16/86 MOTION Councillor Burnside/Councillor Pollock

THAT the minutes of the Ordinary Meeting held on 22 March 2016 be confirmed.

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

Councillors Harding, Brice and Leslight voted against the Motion.)

At 11.19am the Deputy Mayor adjourned the Ordinary Meeting of Council.

At 11.29am the Mayor, Councillor Brown, resumed the Chair and reconvened the Ordinary Meeting of Council.

5. DECLARATIONS OF INTEREST OF MATTERS ON THE AGENDA

Councillor Danielle Brice declared a non-significant, non-pecuniary conflict of interest in *FBD16/017 Lease for Rural Fire Service Station - Belowra* and stated that she did not believe her interest would preclude her from voting.

Reason: Councillor Brice declared an interest as a member of the Tuross Head Rural Fire Service, RFS Community Safety Assistant and a member of the RFS Community Education Team.

6. MAYORAL REPORTS

MR16/001 GREY HEADED FLYING FOXES

E15.9191

16/87 MOTION Councillor Brown/Councillor Innes

THAT Council:

1. Endorse the proposal by the Mayor to lead a delegation of mayors from areas affected by Grey Headed Flying Foxes, to meet with the Minister for the Environment, the Hon Mark Speakman MP;
2. Staff seek an urgent meeting with officers from the Office of Environment and Heritage to address the problems caused by Grey Headed Flying Foxes throughout Eurobodalla Shire;
3. Hold a community Information and Feedback meeting in Batemans Bay to hear from residents first hand, about their experiences living with the current influx of flying-foxes;
4. Strongly urge the Office of Environment and Heritage (OEH) to attend the community meeting to hear from the residents impacted by the flying-foxes colony;
5. Invite the Premier the Hon Mike Baird MP, the Minister for the Environment the Hon Mark Speakman MP, the local State Member the Hon Andrew Constance MP, local Federal Members and the Federal Minister for the Environment, to attend the public meeting in Batemans Bay.
6. Note the considerable efforts and expenditure that have been taken to alleviate the dreadful conditions currently being suffered by local residents.

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

At 11.45am Councillor Leslight left the Chambers and took no further part in proceedings.

7. NOTICES OF MOTION

Nil

8. QUESTIONS ON NOTICE FROM COUNCILLORS

Nil

9. PETITIONS

Nil

10 SUSPENSION OF STANDING ORDERS

SUSPENSION OF STANDING ORDERS

16/88 MOTION Councillor Harding/Councillor Pollock

That Standing Orders be suspended in order to deal with items *FBD16/015 Investments made as at 29 February 2016*, and *FBD16/020 Licence for Farmers Markets – Riverside Park*.

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

FBD16/015 INVESTMENTS MADE AS AT 29 FEBRUARY 2016

File Ref: E99.3517

16/89 MOTION Councillor Schwarz/Councillor Burnside

THAT the certification that the investments as at 29 February 2016 made in accordance with the Act, Council's investment policy and the provision of Clause 1 (Reg 212) of the Local Government (General) Regulation 2005, be received.

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

FBD16/020 LICENCE FOR FARMERS MARKETS - RIVERSIDE PARK

File Ref: E05.9368

16/90 MOTION Councillor Schwarz/Councillor Burnside

THAT:

1. Subject to consent from the Minister administering the Crown Lands Act, 1989, Council as Trust Manager for the Eurobodalla (Central) Reserve Trust, grant a five-year licence to operate a weekly Tuesday farmers market to Sustainable Agriculture & Gardening Eurobodalla Inc.(SAGE) based on a standard Crown Lands' licence with stall fees in accordance with Council's adopted Fees and Charges with additional conditions including:
 - (a) Random audits of stall numbers;
 - (b) Monthly reporting on weekly stall numbers;
 - (c) Annual provision of the licensee's audited financial details;
 - (d) Provision of Licensee's market committee report minutes;
 - (e) The licensee must abide by the licensee's governance provisions and constitution as detailed in its submission to the Expression of Interest for conducting weekly markets in Riverside Park;
 - (f) Written notice by given by the licensor to the licensee of breaches to the licensee's governance provisions or constitution outlined in (e) above; and
 - (g) The licensee to show cause why the licence should not be terminated following three written notices given in respect of (f) above.
 - (h) Vehicles will only be allowed in market area during set-up and set-down times except if:
 - (i) A Vehicle is required as part of stall, e.g. coffee van, donut van etc,
 - (ii) A Stallholder's disability necessitates the need to have the vehicle, or
 - (iii) Inclement weather may be imminent.
2. Council allocate to SAGE for the term of the licence, an amount equivalent to forty percent (40%) of fees received from the licence granted, to fund grower education programs and other initiatives in partnership with Council and in line with their strategic plan.
3. Fees not be waived for any stallholders.

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

11. GENERAL MANAGER'S REPORTS

GMR16/009 56TH FLOODPLAIN MANAGEMENT AUSTRALIA CONFERENCE

File Ref: E95.9197; E81.1928

16/91 MOTION Councillor Innes/Councillor Harding

THAT Council not be represented by a Councillor at the 56th Floodplain Management Australia Conference in Nowra, NSW from 17-20 May 2016.

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

12. PLANNING AND SUSTAINABILITY REPORTS

PSR16/008 LITTER INITIATIVES

File Ref: E02.6071

16/92 MOTION Councillor Harding/Councillor Innes

THAT Council:

1. Continue to support community litter reduction and collection activities.
2. Write to the relevant NSW and Australian Government Ministers supporting a plastic bag ban and suitable container deposit scheme.
3. Receive a report on Eurobodalla Shire moving toward becoming a plastic bag free Shire by 2024.

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

**PSR16/009 REZONING/RECLASSIFICATION OF EXCESS LAND – ALBERT RYAN PARK,
BATEMANS BAY**

File Ref: E98.2461; E16.0196

16/93 MOTION Councillor Innes/Councillor Pollock

THAT:

1. Council resolve to proceed with initial consultation prior to the preparation of a planning proposal to amend the Local Environmental Plan (LEP) 2012 to rezone and reclassify lots 10 and 11, DP 236342, being part of Albert Ryan Park, Beach Road, Batemans Bay.
2. Following the consultation period, a report on submissions received and a planning proposal will be presented to Council.

(The Motion on being put was declared **CARRIED**.
Councillor Harding voted against the Motion.)

At 12.15pm Councillor Innes left the Chambers with the permission of the Chair and took no further part in proceedings.

**PSR16/010 M386/12 - RESIDENTIAL ACCOMMODATION UNITS (33) AND GENERAL STORE -
LOT 26, 28 & 30 WHARF ROAD, BATEMANS BAY**

File Ref: 80.2583.D6

16/94 MOTION Councillor Pollock/Councillor Burnside

THAT the matter be deferred pending further discussion with the applicants, and a report be brought back to Council for determination at an appropriate time.

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

PSR16/011 TENDER SURF BEACH SPECIALTY WASTE CENTRE

File Ref: E15.9358

16/95 MOTION Councillor Pollock/Councillor Burnside

THAT Council:

1. Endorse the selection of the CBC Project Management Group, a division of CBC Innovation Pty Ltd as the preferred tendered for 2016/PLS090 Design and Construction for Surf Beach Specialty Waste Centre.
2. Accordingly approve the entering into of a contractual arrangement with CBD Project Management Group, subject to the terms specified in the Request for Tender (RFT) unless otherwise varied in accordance with this report.

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

13. INFRASTRUCTURE REPORTS

IR16/013 TENDER NO 2016/ISD083 - CLEANING OF COUNCIL WORKS DEPOTS

File Ref: E13.7309

16/96 MOTION Councillor Pollock/Councillor Burnside

THAT Council:

1. Endorses the selection of the tenderers listed below for Request for Tender No 2016/ISD083 – Cleaning of Council Works Depots:
Batemans Bay Works Depot – A Clean Above;
Moruya Works Depot – OPS Cleaning Service;
Narooma Works Depot – Mary’s TLC Home & Office Cleaning; and
2. Accordingly approves the entering into of a contractual arrangement with the preferred tenderers, subject to the terms specified in the Request for Tender unless otherwise varied in accordance with this report.

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

IR16/014 GRANT FUNDING - 2015-16 ACTIVE TRANSPORT PROGRAM

File Ref: E01.5635

16/97 MOTION Councillor Harding/Councillor Burnside

THAT Council endorse the actions of staff in accepting the offer of funding for \$25,000 from Roads and Maritime Services' 2015-16 Active Transport Program for a pedestrian refuge in River Street, Moruya.

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

14. FINANCE AND BUSINESS DEVELOPMENT REPORTS

FBD16/016 ROAD CLOSURE - CHEESE FACTORY ROAD, EUROBODALLA

File Ref: 01.5702.B

16/98 MOTION Councillor Pollock/Councillor Schwarz

THAT:

1. Subject to a Deed of Agreement being entered into with the applicant for the closure of that part of Cheese Factory Road, Eurobodalla within Lot 2 DP 1087259 requiring the applicant to undertake to:
 - a. Pay all costs associated with the closure of part of Cheese Factory Road; and
 - b. Consolidate the area of closed road with the adjoining Lot 2 DP 1087259; and
 - c. Pay compensation set out in the Confidential Attachment to Report FBD16/016 and under the same Deed of Agreement for Council to undertake to:
 - a. Make application to the Crown Lands Division of the Department of Primary Industries to close that part of Cheese Factory Road subject to the creation of an easement for access 10 metres wide in favour of Council with the burdened property to be responsible for the maintenance of the access; and
 - b. Transfer the road, if closed, to the applicant for an amount set out in the Confidential Attachment to Report FBD16/016.

Application be made to the Crown Lands Division of the Department of Primary Industries to close that part of Cheese Factory Road, Eurobodalla subject to the creation of an easement for access 10 metres wide in favour of Council with the burdened property to be responsible for the maintenance of the access.
2. All costs associated with the closure application including Crown Lands' fee, survey and plan registration fees and Council's stage 2 processing fee of \$1,160 be borne by the applicant.
3. If closed, the land be transferred to the applicant for the amount set out in the Confidential Attachment to Report FBD16/016.
4. Consent be given to affix the Common Seal of Council to:
 - (a) The Deed of Agreement.
 - (b) The Transfer for the closed road.

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

FBD16/017 LEASE FOR RURAL FIRE SERVICE STATION - BELOWRA

File Ref: 16.0157.BD

16/99 MOTION Councillor Brice/Councillor Harding

THAT:

1. The offer from the registered proprietors of Part Lot 33 DP 752128 to grant a lease for a permanent Rural Fire Service station be accepted.
2. Council enter into a 25-year lease with a 25-year option subject to conditions including:
 - (a) Rent to be \$500 p.a.
 - (b) Council to be responsible for all outgoings.
 - (c) The lease to terminate in the event the site is not used for RFS purposes for a period of twelve months.
3. Council to be responsible for all costs associated with the establishment of the lease including:
 - (a) Survey and plan registration,
 - (b) Lease preparation and registration, and
 - (c) The lessee's reasonable legal costs.
4. Consent be given to affix the Common Seal of Council to the Lease of Part Lot 33 DP 752128.
5. The registered proprietors of Part Lot 33 DP 752128 be thanked for their offer to the Belowra community.

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

Declaration of Interest:

Councillor Danielle Brice declared a non-significant, non-pecuniary conflict of interest in *FBD16/017 Lease for Rural Fire Service Station - Belowra* and stated that she did not believe her interest would preclude her from voting.

Reason: Councillor Brice declared an interest as a member of the Tuross Head Rural Fire Service, RFS Community Safety Assistant and a member of the RFS Community Education Team.

FBD16/018 ASSIGNMENT OF LEASE - MORUYA AIRPORT

File Ref: E07.1491

16/100 MOTION Councillor Pollock/Councillor Burnside

THAT:

1. Consent be given to the assignment of a quarter interest in the Lease of Lot 2 DP 1061675 at Moruya Airport to the party named in the confidential attachment to Report FBD16/017 subject to all costs associated with the proposed assignment including Council's legal costs and an administrative fee of \$1,200 including GST being borne by the lessee.
2. Consent be given to affix the Common Seal of Council to:
 - (a) The Deed of Assignment, and
 - (b) The Transfer of Lease associated with the assignment of the lease of Lot 2 DP 1061675.

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

FBD16/019 ASSIGNMENT OF LEASE - TUROSS HEAD

File Ref: E80.0163

16/101 MOTION Councillor Pollock/Councillor Brice

THAT:

1. Council consent to the assignment of lease AI150059T over part of the Tuross Beach Holiday Park to the party named in the confidential attachment to Report FBD16/018 subject to all costs associated with the assignment including Council's legal costs being borne by the current lessees.
2. Council as Trust Manager for the Eurobodalla (Central) Reserve Trust grant consent to the current lessees to assign the lease AI738066A over part of the Tuross Beach Holiday Park to the party named in the confidential attachment to Report FBD16/018 subject to all costs associated with the assignment including Council's legal costs being borne by the current lessees.
3. Consent be given to affix the Common Seal of Council to:
 - (a) The Deed of Assignment associated with the assignment of leases AI150059T and AI738066A; and
 - (b) The Transfers of Leases AI150059T and AI738066A.

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

15. COMMUNITY, ARTS AND RECREATION REPORTS

Nil

16. DELEGATE REPORT

DR16/006 NSW COASTAL CONFERENCE - FORSTER - 11-13 NOVEMBER 2015

File Ref: E09.3154; E91.3255

16/102 MOTION Councillor Harding/Councillor Brice

THAT Councillor Gabi Harding's delegate's report on the NSW Coastal Conference held in Foster from 11-13 November 2015, be received and noted.

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

17. QUESTIONS/URGENT BUSINESS

Nil

18. DEALING WITH MATTERS IN CLOSED SESSION

Nil

19. CONFIDENTIAL MATTERS

Nil

THE MEETING CLOSED AT 12.33PM

CHAIRPERSON

Chairperson of the Ordinary Council Meeting held on Tuesday, 26 April 2016 at which meeting the signature hereon was subscribed.