



# **Minutes**

**Ordinary Meeting of Council**

**10 May 2016**

**ORDINARY MEETING OF COUNCIL**  
**HELD IN THE COUNCIL CHAMBERS, MORUYA**  
**ON TUESDAY 10 MAY 2016**

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**MINUTES OF THE  
ORDINARY MEETING OF COUNCIL  
HELD IN THE COUNCIL CHAMBERS, MORUYA  
ON TUESDAY, 10 MAY 2016  
COMMENCING AT 10.01AM**

**PRESENT:** Councillor Lindsay Brown, Mayor (in the Chair)  
Councillors Neil Burnside, Gabi Harding, Milton Leslight and Peter Schwarz

**Staff:** Dr Catherine Dale, General Manager  
Mr L Usher, Director, Planning and Sustainability Services  
Mr W Sharpe OAM, Director, Infrastructure Services  
Mr A O'Reilly, Director, Finance and Business Development (until 11am)  
Mr J Phillips, Divisional Manager, Governance and Information (after 11am)  
Ms K Bush, Acting 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**

**APOLOGY**

**16/119 MOTION** Councillor Burnside/Councillor Schwarz

THAT apologies be received from Councillors Pollock, Brice and Innes and leave of absence be granted.

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

**3. CONFIRMATION OF MINUTES OF PREVIOUS MEETING**

**16/120 MOTION** Councillor Burnside/Councillor Schwarz

THAT the minutes of the Ordinary Meeting held on 26 April 2016 be confirmed.

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

**4. DECLARATIONS OF INTEREST OF MATTERS ON THE AGENDA**

Nil

**5. FINANCE AND BUSINESS DEVELOPMENT REPORTS**

**SUSPENSION OF STANDING ORDERS**

**16/121 MOTION** Councillor Harding/Councillor Burnside

That Standing Orders be suspended in order to bring forward items FBD16/022 and FBD16/023.

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

**FBD16/022 INVESTMENTS MADE AS AT 31 MARCH 2016**

File Ref: E99.3517

**16/122 MOTION** Councillor Burnside/Councillor Schwarz

THAT the certification that the investments as at 31 March 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**)

**FBD16/023    ATTRACTING INVESTMENT**

File Ref: E88.0056

**16/123 MOTION** Councillor Harding/Councillor Leslight

THAT Council receive and note the work completed by Pico Group.

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

**FBD16/023    ATTRACTING INVESTMENT**

**16/124 MOTION** Councillor Harding/Councillor Leslight

THAT Council engage with relevant agencies to progress investment attraction plans.

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

Councillor Harding voted against the Motion.)

**6. 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.)

E15.9191; E16.0042

**PF16/029 MR16/003 Grey Headed Flying Fox Camp**

Ms Trish Hellier addressed Council on MR16/003 Grey Headed Flying Fox Camp. A copy of Ms Hellier's submission is available on Council's website.

At 10.20am during the presentation by Ms Hellier, Councillor Leslight left the Chambers without the permission of the Chair.

As Councillor Leslight was leaving the Chambers, the Mayor advised him that the meeting would be without a quorum if he left the room. Councillor Leslight acknowledged the Mayor's advice and left the Chambers.

Therefore due to the lack of a quorum, the Mayor adjourned the meeting.

At 10.23am Councillor Leslight returned to the Chambers.

The Mayor reconvened the Ordinary meeting of Council.

Ms Hellier resumed her presentation.

The Mayor asked Ms Hellier to refrain from making comments about Councillors.

**EXTENSION OF TIME**

**16/125 MOTION** Councillor Harding/Councillor Burnside

THAT Ms Hellier be granted an extension of three minutes to complete her presentation.

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



**6. QUESTIONS FROM THE PUBLIC GALLERY (AGENDA ITEMS ONLY) (contd)**

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

80.2583.D6 E16.0042

**PF16/030 PSR16/014 M386/12 – Residential Accommodation Units (33) and General Store**

Mr Peter Campbell representing the developers and also as the Private Certifier for the development, addressed Council in relation to PSR16/014. A copy of Mr Campbell's submission is available on Council's website.

**EXTENSION OF TIME**

**16/126 MOTION** Councillor Harding/Councillor Leslight

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

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

## 7. MAYORAL REPORTS

At 11.12pm during debate on the motion, Councillor Leslight left the Chamber without the permission of the Chair.

As Councillor Leslight was leaving the Chambers, the Mayor advised him that the meeting would be without a quorum if he left the room. Councillor Leslight acknowledged the Mayor's advice and left the Chambers.

Therefore due to the lack of a quorum, the Mayor adjourned the meeting.

At 11.15am Councillor Leslight returned to the Chambers.

The Mayor reconvened the Ordinary meeting of Council.

### MR16/003 GREY HEADED FLYING FOX CAMP

File Ref: E15.9191

#### 16/127 MOTION Councillor Brown

THAT:

1. Council progress with the following components of Stage 1 of the dispersal plan:
  - a. preparation of communication strategy;
  - b. completion of field investigation of existing and alternate camp habitats within 30km;
  - c. investigation and preliminary enquiries regarding the potential availability of personnel and resourcing options, vaccination, availability and procurement requirements for required equipment.
2. Council place the draft Grey Headed Flying Fox Dispersal Plan (as attached to the report) on exhibition to receive written submissions from the community and other relevant Agencies such as NSW Health, Local Land Services, Essential Energy by close of business on Friday 27 May 2016.
3. Council refer the draft Grey Headed Flying Fox Dispersal Plan to the NSW Office of Environment and Heritage and the Australian Department of Environment for their review and comment prior to receiving the final plan for assessment and approval.
4. Council engage Micromex to undertake a community survey to determine the broader community's understanding of the flying fox issue and level of support for dispersal.
5. The submissions received and the advice obtained from the NSW Office of Environment and Heritage, the Australian Department of Environment and other parties, be considered in finalising a draft Grey Headed Flying Fox Dispersal Plan for consideration by Council.
6. The independent professional advice being obtained from consultants Ecological and Ecosure on the management of the current Grey Headed Flying Fox camps, be provided to councillors and placed on Council's web site with the draft Grey Headed Flying Fox Dispersal Plan for the information of the community.

7. At the earliest possible time, a report be presented to Council for consideration, containing the results of the consultation and a final draft Grey Headed Flying Fox Dispersal Plan.
8. Council undertake emergency clearing works to the drain within the Batemans Bay Soldiers Club to improve the drainage and to remove the risk of the Grey Headed Flying Fox Camp expanding into this vegetation.
9. Council erect signage at the Waters Gardens explaining that disturbing Flying Foxes increases the impacts on the adjoining residents and increases possible health risks.

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

(Clr Leslight voted against the Motion.)

**8. NOTICES OF MOTION**

Nil

**9. QUESTIONS ON NOTICE FROM COUNCILLORS**

Nil

**10. PETITIONS**

Nil

**11. GENERAL MANAGER'S REPORTS**

Nil

**SUSPENSION OF STANDING ORDERS**

**16/128 MOTION** Councillor Burnside/Councillor Schwarz

That Standing Orders be suspended in order to bring forward report PSR16/014 M386/12 Residential Accommodation Units (33) and General Store – Lots 26, 28 and 30 wharf Road, Batemans Bay.

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

**PSR16/014 M386/12 - RESIDENTIAL ACCOMMODATION UNITS (33) AND GENERAL STORE -  
LOTS 26, 28 AND 30 WHARF ROAD, BATEMANS BAY**

File Ref: 80.2583.D6

**16/129 MOTION** Councillor Burnside/Councillor Schwarz

THAT:

1. In accordance with Clause 122 of the *Environmental Planning and Assessment Regulations 2002*, notice is given that development consent number 386/12 has been modified by modification application 386/12-M2. The development is modified as follows:

1a. **Approved plans**

Any reference on the original consent to plans stamped and numbered 386/12 is replaced with plans stamped and numbered 386/12- M2. [ 2.18 ]

8a. **Signage**

The signs must be within the boundaries of the property to which they apply, be structurally adequate, not cause offence to the public, or face or adjoin residential premises. Any attachments on or adjacent to the structure/sign will require additional approval.

20. **Accessibility**

Access and facilities for persons with disabilities are to be provided in accordance with the Building Code of Australia and Australian Standard AS 1428.1 and 1428.2 – Design for Access and Mobility. In addition a minimum of four (4) Residential Accommodation Units are to be built in accordance with Australian Standard AS4299 – Adaptable Housing.

Complete details of compliance with these instruments is to be provided to the Principal Certifying Authority prior to the issue of a Construction Certificate.

49. **Floor Level**

The minimum floor level of the residential units shall be at or above 4.3 metres AHD and 2.6 metres AHD for the commercial building. This level is to be certified by registered surveyor prior to the structure proceeding past the nominated level.[7.09]

2. A review of the Adaptable housing standards contained in the Development Control Plan (DCP) be undertaken and a report is provided to Council.

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

Division

For the Motion: Clrs L Brown, N Burnside, G Harding, M Leslight and P Schwarz.

Against the Motion: Nil.)

**12. PLANNING AND SUSTAINABILITY REPORTS**

**PSR16/007 DRAFT TOMAKIN, MOSSY POINT, BROULEE AND MOGO FLOOD STUDY**

File Ref: E14.8350

**16/130 MOTION** Councillor Harding/Councillor Burnside

THAT Council:

1. Endorse the draft Tomakin, Mossy Point, Broulee and Mogo Flood Study for public exhibition between 16 May and 24 June 2016.
2. Write to property owners and local residents' associations within the draft flood planning area to advise them of the exhibition.
3. Make copies of the study available on Council's website, administration centre and local libraries.
4. Present a report at the conclusion of the exhibition to Council advising the Council of any issues raised by the community.

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

**PSR16/012 DRAFT COASTAL ZONE MANAGEMENT PLAN - WHARF ROAD, NORTH  
BATEMANS BAY**

File Ref: E12.6263

**16/131 MOTION** Councillor Harding/Councillor Burnside

THAT Council:

1. Endorse the Coastal Zone Management Plan - Wharf Road, North Batemans Bay for public exhibition between Monday 16 May 2016 and Monday 6 June 2016
2. Write to property owners with land at immediate risk from coastal hazards advising them of the exhibition
3. Make copies of the report available at the Batemans Bay Library and Moruya administration centre.

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

**PSR16/013 RURAL LANDS STRATEGY - RURAL PRODUCERS' ADVISORY COMMITTEE**

File Ref: E12.6254

**16/132 MOTION** Councillor Schwarz/Councillor Burnside

THAT Council:

1. Endorse the Terms of Reference for the Rural Producers' Advisory Committee;
2. Commence an Expression of Interest process to establish the Rural Producers' Advisory Committee.

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



### 13. INFRASTRUCTURE REPORTS

#### IR16/019 BATEMANS BAY CBD DRAFT LANDSCAPE CONCEPT PLAN

File Ref: E15.9271

#### 16/133 MOTION Councillor Harding/Councillor Burnside

THAT:

1. Council adopt the Batemans Bay CBD Landscape Concept Plan with the following amendments to Option 2, as recommended by the Batemans Bay Streetscape Sunset Advisory Committee:
  - a. Removal of the following trees:
    - one tree in the alfresco dining area in front of No 3 Orient Street (St George Bank) to cater for street lighting; and
    - one tree in front of No 15 Orient Street to cater for signage visibility requirements and parking.
  - b. Relocation of the proposed tree in front of No 20 (Bayview Hotel) to align with the Bayview coffee house and one additional tree to provide an even spread of trees in the southern sector.
  - c. The preferred tree be either *Cupaniopsis anacardioides* (Tuckeroo) or *Tristaniopsis laurina* (Water Gum).
  - d. The Local Traffic Committee be requested to investigate parallel parking being provided in front of No 13 Orient Street, with timing restrictions to enable a dedicated loading zone at non-peak times in same location, including undertaking appropriate consultation with businesses on this specific proposal.
  - e. Public Art:
    - Totem locations avoid unreasonable conflict with lighting, alfresco and seating.
    - Investigate involvement of community groups and Council's Public Arts Advisory Committee to assist in developing style and interpretive information at each location.
  - f. Review bin, bike parking and furniture locations to ensure an adequate number and effective locations.
  - g. Further work be undertaken to develop a scope and budget for the proposed information/community structure in Orient Street with a view to inclusion as part of the streetscape works, noting this item was not part of the original budget estimate.
2. Council investigate the additional works, and provide information back to the Batemans Bay Streetscape Sunset Advisory Committee, including:
  - a. the renewal and upgrade of the public 'Plaza' pedestrian thoroughfare to the 'Village Centre' and the laneway from Orient Street through to Murra Murra Mia walkway

- b. the pathway on the north side of North Street and west side of Clyde Street linking back to the proposed pathway works associated with the redevelopment of the Bridge Plaza site
- c. the street furniture within the reserve near Ampol Wharf (opposite North Street/Clyde Street intersection).

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

**14. COMMUNITY, ARTS AND RECREATION REPORTS**

Nil

**15. DELEGATE REPORT**

Nil

**16. QUESTIONS/URGENT BUSINESS**

Nil

**17. DEALING WITH MATTERS IN CLOSED SESSION**

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 a confidential report.

The report is classified confidential under Section 10A(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 items on the agenda for the Ordinary Council meeting be dealt with in Closed Session for the reasons specified below:

File Ref: E98.2462

**CON16/012 Financial Matter**

Item CON16/012 is confidential in accordance with s10(A)(2)(c) of the Local Government Act because 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 and discussion of the matter in an open meeting would be, on balance, contrary to the public interest.

At 11.30am the Ordinary Meeting of Council moved into Closed Session.

At 11.33am the Ordinary Meeting of Council resumed.

**18. CONFIDENTIAL MATTERS**

The General Manager advised the following recommendation was declared carried in Closed Session.

**CON16/012 FINANCIAL MATTER**

File Ref: E98.2462

THAT:

1. The Broulee Surf Life Saving Club Incorporated be offered interest free bridging finance to be repaid in full by 31 December 2016.
2. The Council seal be affixed to the interest free bridging finance agreement with the Broulee Surf Life Saving Club Incorporated.

**THE MEETING CLOSED AT 11.34AM**

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**CHAIRPERSON**

Chairperson of the Ordinary Council Meeting held on Tuesday 24 May 2016 at which meeting the signature hereon was subscribed.