



Minutes

Ordinary Meeting of Council

12 October 2021

ORDINARY MEETING OF COUNCIL
HELD IN THE COUNCIL CHAMBERS, MORUYA
ON TUESDAY 12 OCTOBER 2021

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**MINUTES OF THE
ORDINARY MEETING OF COUNCIL
HELD IN THE COUNCIL CHAMBERS, MORUYA
ON TUESDAY, 12 OCTOBER 2021
COMMENCING AT 11.00AM**

PRESENT: Councillor Rob Pollock OAM, Deputy Mayor (in the Chair)
Councillors Anthony Mayne, Jack Tait, James Thomson, Lindsay Brown,
Maureen Nathan, Patrick McGinlay and Phil Constable

Staff: Dr Catherine Dale, General Manager
Mr L Usher, Director, Planning and Sustainability Services
Mr W Sharpe OAM, Director, Infrastructure Services
Mrs K Arthur, Director, Community, Arts and Recreation
Mr J Phillips, Divisional Manager, Governance and Administration
Mrs K Green, Minute Secretary

1. WELCOME

The Deputy Mayor welcomed everyone to the meeting.

2. ACKNOWLEDGEMENT OF COUNTRY

The Deputy Mayor acknowledged the Traditional Custodians of the Land, of Elders past and present, whose land we are gathered here today.

3. EVACUATION MESSAGE

The Deputy Mayor advised of the Evacuation Procedures.

4. APOLOGIES

21/175 MOTION Councillor Constable/Councillor Thomson

THAT apologies be received from Councillor Liz Innes and leave of absence be granted due to the Mayor experiencing technical difficulties.

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

Division

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

Against the Motion: Nil.

5. CONFIRMATION OF MINUTES OF PREVIOUS MEETING

21/176 MOTION Councillor Nathan/Councillor Tait

THAT the minutes of the Ordinary Meeting held on 28 September 2021 be confirmed.

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

Division

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

Against the Motion: Nil.

6. DECLARATIONS OF INTEREST OF MATTERS ON THE AGENDA

Councillor Mayne declared a non-significant, non-pecuniary conflict of interest in CAR21/020 Bay Pavilions Fees and Charges – post exhibition and stated that he did not believe his interest would preclude him from voting.

Reason: Councillor Mayne declared an interest as he is the President and Producer at the Red Door Theatre company.

Due to the Mayor having technical difficulties, the General Manager announced the Declaration of Interest for the Mayor, should she resolve her technical issues and attend the meeting.

Councillor Innes declared a significant, non-pecuniary conflict of interest in CAR21/020 Bay Pavilions Fees and Charges – post exhibition and stated that she did believe her interest would preclude her from voting.

Reason: Councillor Innes declared an interest as a member of her family has an interest in the Gym industry in Batemans Bay.

Councillor Innes declared a significant, non-pecuniary conflict of interest in GMR21/048 Bulk Construction Material Supply Panel and stated that she did believe her interest would preclude her from voting.

Reason: Councillor Innes declared an interest as she has had an association with a tenderer within the Panel.

7. MAYORAL REPORTS

Nil

8. NOTICES OF MOTION

Nil

9. QUESTIONS ON NOTICE FROM COUNCILLORS

**QON21/008 MODIFICATION OF DEVELOPMENT APPLICATION (DA) MDA0124/20 AND DA
2248/1983 PROPOSED SUBDIVISION - LOT 325 DP 244559**

File Ref: S006-T00001

21/177 MOTION Councillor Mayne/Councillor Constable

THAT the response to the question regarding the modification of development application (DA) MDA0124/20 and DA 2248/1983 proposed subdivision - Lot 325 DP 244559 by Councillor Anthony Mayne, be received and noted.

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

Division

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

Against the Motion: Nil.

10. PETITIONS

PET21/003 BROULEE MOSSY POINT COMMUNITY ASSOCIATION PETITION

File Ref: S012-T00029

21/178 MOTION Councillor Mayne/Councillor Constable

THAT Council receive and note the petition.

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

Division

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

Against the Motion: Nil.

11. GENERAL MANAGER'S REPORTS

GMR21/038 2022 COUNCIL MEETING DATES

File Ref: S012-T00025

At **11:14 am** Councillor McGinlay left the meeting.

At **11:15 am** Councillor Innes joined the meeting.

21/179 MOTION Councillor Brown/Councillor Nathan

THAT Council:

1. Endorse the following 19 dates as the meeting schedule for Council meetings for the 2022 calendar year:
 - (a) 8 February 2022
 - (b) 22 February 2022
 - (c) 8 March 2022
 - (d) 22 March 2022
 - (e) 12 April 2022
 - (f) 26 April 2022
 - (g) 10 May 2022
 - (h) 24 May 2022
 - (i) 14 June 2022
 - (j) 28 June 2022
 - (k) 26 July 2022
 - (l) 9 August 2022
 - (m) 23 August 2022
 - (n) 13 September 2022
 - (o) 11 October 2022
 - (p) 25 October 2022
 - (q) 8 November 2022
 - (r) 22 November 2022
 - (s) 13 December 2022
2. Endorse the following 11 dates as the Public Access sessions for the 2022 calendar year:
 - (a) 1 February 2022
 - (b) 1 March 2022

- (c) 5 April 2022
 - (d) 3 May 2022
 - (e) 7 June 2022
 - (f) 19 July 2022
 - (g) 2 August 2022
 - (h) 6 September 2022
 - (i) 4 October 2022
 - (j) 1 November 2022
 - (k) 6 December 2022
3. Note that the schedule of meeting dates may be amended at any time, as required.

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

Division

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

Against the Motion: Nil.

At **11:17 am** Councillor McGinlay returned to the meeting.

**GMR21/044 AUDIT, RISK AND IMPROVEMENT COMMITTEE ANNUAL REPORT FOR YEAR
ENDING 30 JUNE 2021**

File Ref: S004-T00048

21/180 MOTION Councillor Brown/Councillor Thomson

THAT the Audit, Risk and Improvement Committee annual report for year ending 30 June 2021 be received and noted.

(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, R
Pollock, J Tait and J Thomson.

Against the Motion: Nil.

**GMR21/045 DRAFT FINANCIAL STATEMENTS FOR THE YEAR ENDED 30 JUNE 2021 -
REFERRAL TO AUDIT**

File Ref: S011-T00002

At 11:25 am Councillor Innes left the meeting and took no further part in the meeting.

21/181 APOLOGY Councillor Mayne/Councillor Tait

THAT apologies be received from Councillor Liz Innes and leave of absence be granted due to the technical difficulties experienced by the Mayor.

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

Division

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

Against the Motion: Nil.

21/182 MOTION Councillor Thomson/Councillor Tait

THAT:

1. The Draft Annual Financial Statements for the year ended 30 June 2021 be referred to audit.
2. The statement by Councillors and Management be made pursuant to section 413(2)(c) of the *Local Government Act 1993* (as amended) and signed by the Mayor, Deputy Mayor (or Councillor), General Manager and Responsible Accounting Officer at the Council meeting on 12 October 2021.
3. The audited Financial Statements, together with the Auditor's report and financial Commentary, be presented to the public at an Extraordinary Council meeting to be held on 2 November 2021.

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

Division

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

Against the Motion: Nil.

GMR21/046 DIVIDENDS FROM WATER AND SEWER FUNDS

File Ref: S011-T00022

21/183 MOTION Councillor Brown/Councillor Thomson

THAT Council resolve to transfer dividends from the Water and Sewer Funds based upon 2020-21 audited results in the Water and Sewer Funds, subject to achievement of substantial compliance with Best Practice Guidelines and approval from the Department of Primary Industries, Water. Current estimate of these dividend amounts is \$651,210 for Water Fund and \$310,060 for Sewer Fund.

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

Division

For the Motion: Clrs L Brown, P Constable, M Nathan, R Pollock, J Tait and J Thomson.

Against the Motion: Clrs A Mayne and P McGinlay.

**GMR21/051 AUSTRALIAN GOVERNEMENT DEPARTMENT OF INDUSTRY, SCIENCE, ENERGY
AND RESOURCES FUNDING FOR MORUYA AIRPORT TAXIWAY - ACCEPTANCE
OF FUNDING**

File Ref: S014-T00019

21/187 MOTION Councillor Tait/Councillor Brown

THAT Council endorses the actions taken to accept the funding offer of \$300,000 from the Department of Industry, Science, Energy and Resources towards the upgrade to the taxiway to existing hangars at the Moruya Airport.

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

Division

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

Against the Motion: Nil.

GMR21/052 FENCE ON ROAD RESERVE INTERSECTION OF COOPERS ISLAND ROAD AND PRINCES HIGHWAY

File Ref: S028-T00001

21/188 MOTION Councillor Pollock/Councillor Tait

THAT Council:

1. Notes that the adjoining landowner has removed the unapproved fencing on the Council's Road Reserve and installed the fence on the correct boundary of the Road Reserve and the landowner's property (Lot 2 DP12290).
2. Thank the adjoining landowner for completing these works efficiently.

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

Division

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

Against the Motion: Nil.

GMR21/053 COOPERS ISLAND ROAD PUBLIC GATE PERMIT PUBLIC EXHIBITION

File Ref: S028-T00001

21/189 MOTION Councillor Pollock/Councillor Tait

THAT:

1. Council approves the gate application on Coopers Island Road, Bodalla.
2. The permit contain the appropriate provisions.

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

Division

For the Motion: Clrs L Brown, M Nathan, R Pollock, J Tait and J Thomson.

Against the Motion: Clrs P Constable, A Mayne and P McGinlay.

12. PLANNING AND SUSTAINABILITY REPORTS

**PSR21/046 OPTIONAL SPECIAL FLOOD CONSIDERATIONS CLAUSE IN THE EUROBODALLA LEP
2012**

File Ref: SO017-T00008

21/190 MOTION Councillor Tait/Councillor Thomson

THAT Council:

1. Adopts the optional Local Environmental Plan clause 5.22 Special Flood Considerations.
2. Conveys the resolution to the NSW Department of Planning, Industry and Environment for DPIE to include the clause in the *Eurobodalla Local Environmental Plan 2012*.

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

Division

For the Motion: Clrs L Brown, A Mayne, P McGinlay, R Pollock, J Tait and J Thomson.

Against the Motion: Clrs P Constable and M Nathan.

PSR21/047 PARTNERSHIP AGREEMENT - SERVICE NSW FOR BUSINESS

File Ref: S007-T00003

21/191 MOTION Councillor Brown/Councillor Tait

THAT:

1. Council delegates authority to the General Manager to enter into a Partnership Agreement with Service NSW for the provision of the Business Concierge Service
2. The Partnership Agreement and related documents be authorised for execution under the Common Seal of Council.

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

Division

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

Against the Motion: Nil.

PSR21/048 LICENCES - MACKAY PARK, HANGING ROCK AND BILL SMYTH OVAL

File Ref: S023-T00017

21/192 MOTION Councillor Nathan/Councillor Tait

THAT

1. Council, as Crown Land Manager, grant licences to organisers hosting events at the following sites that have DA approvals in place for events:
 - (a) Mackay Park, Batemans Bay: Lots 259, 30 and 31 DP 755902, Lot 1 and 2 DP 1049123, Reserve No. 580022
 - (b) Hanging Rock, Catalina: Lots 2 and 3 DP 1171024, Reserve No. 66122
 - (c) Bill Smyth Oval, Narooma: Lot 2 DP 1205774, Reserve No. 80515.
2. Payment of annual licence fees in accordance with Council's adopted fees and charges.
3. Provision of evidence of public liability insurance cover in the amount of at least \$20 million.
4. Conditions generally in line with similar event licences.
5. The General Manager be given delegated authority to negotiate further licences to organisers hosting events to operate within the reserves set out in 1 above.

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

Division

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

Against the Motion: Nil.

PSR21/049 LAND AND ROAD RESERVE CLASSIFICATION - CLARKE STREET, BROULEE

File Ref: S023-T00012/Land ID 33328

21/193 MOTION Councillor Pollock/Councillor Tait

THAT:

1. A proposal to close the road reserve at the corner of Broulee Road and Clarke Street, Broulee is publicly notified in accordance with the provisions of the *Roads Act 1993* for a period of 28 days.
2. Subject to no objections being received, the closure of the road reserve noted in 1 above proceed.
3. If required, application be made to the NSW Government (Minister for Water, Property and Housing) to transfer the (former) road reserve to Council.
4. The (former) road reserve be reclassified as community land.
5. A proposal to classify Lot 89 in DP 1093710 as community land be publicly notified in accordance with ss.33 and 34 of the *Local Government Act 1993*.
6. Subject to no objections being received, the reclassification of the land noted in 5 above as community land proceed.
7. If objections are received to the road closure or the reclassification of Lot 89 in DP 1093710, a further report be presented to Council to consider these objections.
8. Easement(s) be created for existing water line and any other required infrastructure within the (former) road reserve.
9. Consent be given to affix the Common Seal of Council, if required, to all necessary documents associated with the closure of the road reserve, application to the NSW Government and classification as community land and reclassification of Lot 89 in DP 1093710 as community land.

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

Division

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

Against the Motion: Nil.

3. INFRASTRUCTURE REPORTS

IR21/029 JACK BUCKLEY MEMORIAL PARK FISHING PLATFORM - RECREATIONAL FISHING TRUST - ACCEPTANCE OF FUNDING

File Ref: S014-T00007

21/194 MOTION Councillor Mayne/Councillor Tait

THAT Council endorse the acceptance of \$9,865 in grant funding under the NSW Government's Recreational Fishing Trust program for the installation of a concrete fishing platform in Jack Buckley Park, Tomakin.

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

Division

For the Motion: Ctrs L Brown, P Constable, A Mayne, P McGinlay, M Nathan, R Pollock, J Tait and J Thomson.

Against the Motion: Nil.

4. COMMUNITY, ARTS AND RECREATION REPORTS

CAR21/020 BAY PAVILIONS FEES AND CHARGES - POST EXHIBITION

File Ref: S026-T00023

Councillor Mayne declared a non-significant, non-pecuniary conflict of interest in CAR21/020 Bay Pavilions Fees and Charges – Post Exhibition and stated that he did not believe his interest would preclude him from voting.

Reason: Councillor Mayne declared an interest as he is the President and Producer at the Red Door Theatre company.

21/195 MOTION Councillor Brown/Councillor Tait

THAT Council:

1. Adopt the new schedule of fees and charges by including them into the 2021-22 Fees and Charges, incorporating the following amendments:
 - (a) Remove spectator fee
 - (b) Add new concessional rate for Older Adults/Pilates/Yoga/Wellness Class at \$12
 - (c) Reduce concessional rate for Group Exercise Class (casual visit) from \$13 to \$12
 - (d) Allow the provision for promotion by accepting marketing periods of a no joining fee and free membership trial
 - (e) Increase adult rate for Older Adults/Pilates/Yoga/Wellness Class from \$12 to \$15
2. Notify submitters of Council resolution and thank them for their submission.

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

Division

For the Motion: Clrs L Brown, P Constable, M Nathan, R Pollock, J Tait and J Thomson.

Against the Motion: Clrs A Mayne and P McGinlay.

CAR21/021 PUBLIC ARTWORK GIFT TO COUNCIL

File Ref: S003-T00034

21/196 MOTION Councillor Brown/Councillor Nathan

THAT Council:

1. Endorse the Public Art Advisory Committee's (PAAC) unanimous recommendation to accept the gift of the Terrence Plowright sculpture 'Ocean Exuberance' to be placed on the grounds near the Basil Sellers Exhibition Centre and Moruya Library; and
2. Support the allocation of a \$10,000 budget to install and light the sculpture on the site.

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

Division

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

Against the Motion: Nil.

5. DELEGATE REPORT

Nil

6. URGENT BUSINESS

Nil

7. DEALING WITH MATTERS IN CLOSED SESSION

Nil

8. CONFIDENTIAL MATTERS

Nil

THE MEETING CLOSED AT 12.21pm

CHAIRPERSON

Chairperson of the Ordinary Council Meeting held on Tuesday, 26 October 2021 at which meeting the signature hereon was subscribed.