

MINUTES

of the
Extraordinary Meeting of Council
held in
Council Chambers,
Wingecarribee Shire Council Civic Centre,
68 Elizabeth Street, Moss Vale
on

Tuesday 11 October 2022

The meeting commenced at **3:30 pm**

**MINUTES OF THE EXTRAORDINARY MEETING OF COUNCIL
TUESDAY 11 OCTOBER 2022**

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**MINUTES OF THE ORDINARY MEETING OF WINGECARRIBEE SHIRE COUNCIL HELD IN
COUNCIL CHAMBERS, CIVIC CENTRE, ELIZABETH STREET, MOSS VALE ON TUESDAY 11
OCTOBER 2022 COMMENCING AT 3:30 PM**

Present:	Interim Administrator	Mr Viv May PSM
In Attendance:	General Manager	Ms Lisa Miscamble
	Director Communities and Place	Mr Adan Davis
	Acting Director Service and Project Delivery	Mr Greg Bray
	Executive Manager People and Culture	Ms Sally Sammut
	Group Manager Corporate and Community	Ms Danielle Lidgard
	Chief Financial Officer	Mr Pav Kuzmanovski
	Chief Information Officer	Mr John Crawford
	Acting Manager Business Services	Mr Clinton McAlister
	Coordinator Media and Communications	Mr David Sommers
	Coordinator Property Services	Ms Mandy McCullagh
	Governance Officer	Ms Michelle Gordon
	Governance Officer	Ms Olivia Nettleton

1 OPENING OF THE MEETING

The Administrator, Mr Viv May PSM, opened the meeting and welcomed members of the public and the press.

2 ACKNOWLEDGEMENT OF COUNTRY

The Administrator, Mr Viv May PSM acknowledged country:

“Wingecarribee Shire Council acknowledge the Gundungurra and Tharawal people as the traditional custodians of this land we now call the Wingecarribee Shire. I pay my respect to Elders both past, present and emerging. I would also like to extend that respect to all Aboriginal and Torres Strait Islanders present here or watching today.”

3 STATEMENT OF ETHICAL OBLIGATIONS

“As Administrator I will undertake the duties of the Office of Administrator in the best interests of the people of the Wingecarribee Shire Council area and to act faithfully and impartially carry out the functions, powers, authorities and discretions vested in me under the Local Government Act 1993 or any other Act to the best of my ability and judgement.

I am committed to the declaration of conflicts of interest in relation to items listed for consideration on the Agenda or which are considered at this meeting, in accordance with the Code of Conduct and Code of Meeting Practice.”

4 APOLOGIES

Nil.

5 DECLARATIONS OF INTEREST

Nil.

6 REPORTS

6.1 Project 24 Receival, Processing and Disposal for Municipal Waste - Tender Evaluation Report

Report Author: Acting Manager Business Services

Authoriser: Director Service and Project Delivery

OFFICER'S RECOMMENDATION

THAT:

1. Council endorse the attached confidential Tender Evaluation Report for RFT T21/13; and
2. Council endorse the recommended resolutions as per the Tender Evaluation Report.

The Acting Manager Business Services introduced the item.

The General Manager addressed the meeting on this item.

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MOTION moved by the Administrator

THAT:

1. Council receives the confidential Tender Evaluation Report (Report) for RFT T21/13 (RFT);
2. Council,
 - a. in accordance with s. 178 (1) (b) of the Local Government (General) Regulation 2021 (NSW) (Regulation), declines to accept any of the tenders submitted in response to the RFT; and
 - b. in accordance with s. 178 (3) (e) of the Regulation, resolves to enter into negotiations with the persons identified for that purpose in the Report (Nominated Persons), in respect of the particular services for which each Nominated Person is nominated in the Report, and in the manner described in the Report, with a view to entering into a contract (or contracts) for the services relating to the subject matter of the RFT with one or more of the Nominated Persons;
3. Council, in accordance with s. 178 (4)(a) of the Regulation, notes that the reason for Council declining to invite fresh tenders or applications as referred to in ss. 178(3)(b)-(d) of the Regulation, is that:
 - a. it is not expected that further market testing will provide a more satisfactory result; and

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- b. it is anticipated that a satisfactory result can be achieved through negotiating with one or more of the Nominated Persons in the manner described in the Report;*
- 4. Council, in accordance with s. 178 (4)(b) of the Regulation, notes that the reason for Council determining to enter into negotiations with the Nominated Persons, is that:**
- a. Council is satisfied that each of the Nominated Persons would be capable of undertaking the relevant services for which they have been nominated in the Report; and*
- b. it is anticipated that a satisfactory outcome can be achieved through negotiations with one or more of the Nominated Persons;*
- 5. that all tenderers are notified as appropriate that no tenders for RFT T21/13 were accepted; and**
- 6. that the General Manager:**
- a. be authorised to directly negotiate with one or more of the Nominated Persons in the manner described in the Report, for the purpose of entering into a contract with one or more Preferred Tenderers in relation to the subject matter of the RFT; and*
- b. at the completion of negotiations, return a report to Council for acceptance by further resolution.*
- 7. The Tender Evaluation Report (Attachment 1) and Tender Legal Advice (Attachment 2) be withheld from access to the media and public as required by Section 11(2) of the Local Government Act 1993 for the following reasons:**
- a. Tender Evaluation Report is confidential in accordance with s10A(2) of the Local Government Act, 1993, under clause 10A(2)(c) - information that would, if disclosed, confer a commercial advantage on a person with whom the council is conducting (or proposes to conduct) business.*
- b. Tender Legal Advice is is confidential in accordance with s10A(2) of the Local Government Act, 1993, under clause 10A(2)(g) - advice concerning litigation, or advice that would otherwise be privileged from production in legal proceedings on the ground of legal professional privilege.*
- 8. The questions posed by the Administrator of staff and staff responses in relation the Tender Evaluation Report (Attachment 1) and Tender Legal Advice (Attachment 2) be withheld from access to the media and public in accordance with Section 11(2) of the Local Government Act 1993 for the following reasons:**
- a. Tender Evaluation Report is confidential in accordance with s10A(2) of the Local Government Act, 1993, under clause 10A(2)(c) - information that would, if disclosed, confer a commercial advantage on a person with whom the council is conducting (or proposes to conduct) business.*
- b. Tender Legal Advice is is confidential in accordance with s10A(2) of the Local Government Act, 1993, under clause 10A(2)(g) - advice concerning litigation, or advice that would*

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otherwise be privileged from production in legal proceedings on the ground of legal professional privilege.

DECLARED CARRIED BY THE ADMINISTRATOR

6.2 Road Reserve through 70 Drapers Creek Road Colo Vale - Proposed Road Closure

Report Author: Property and Project Officer

Authoriser: Director Corporate Strategy and Resourcing

OFFICER'S RECOMMENDATION

THAT:

1. Council endorse the application for closure of the road reserve which runs through 70 Drapers Creek Road, Colo Vale by the applicant (being the owners of 70 Drapers Creek Road, Colo Vale) **AND THAT** it be noted that all costs in relation to the closure and potential future sale of the road reserve are to be paid by the applicant.
2. Council give a minimum twenty-eight (28) days public notice of its intention to close the road reserve referred to in Resolution 1 above **AND THAT** if any objections are received, a further report be forwarded to a future ordinary meeting of Council for determination.
3. If there are no objections received by Council during the period of public exhibition, that pursuant to Part 4, Division 3 of the *Roads Act 1993*, Council as roads authority formally approve the closure of the road reserve referred to in Resolution 1 above and that upon closure the newly created lot will be classified as Operational Land pursuant to the *Local Government Act, 1993*.
4. The General Manager and Administrator be delegated authority to execute under the Common Seal of Council any agreement, plan, real property dealing or any other document in respect of the proposed closure of the road reserve referred to in Resolution 1 above.
5. Authority be delegated to the General Manager to execute on behalf of Council any other document associated with the road closure referred to in Resolution 1 above which does not require the affixing of the Common Seal of Council.
6. Following the closure and sale of the portion of road reserve, the applicants are required to consolidate the newly created lot (being the former segment of closed road) with the applicants' property.

The Coordinator Property Services introduced the item.

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MOTION moved by the Administrator

THAT:

1. Council endorse the application for closure of the road reserve which runs through 70 Drapers Creek Road, Colo Vale by the applicant (being the owners of 70 Drapers Creek Road, Colo Vale) **AND THAT** it be noted that all costs in relation to the closure and potential future sale of the road reserve are to be paid by the applicant.

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2. *Council give a minimum twenty-eight (28) days public notice of its intention to close the road reserve referred to in Resolution 1 above AND THAT if any objections are received, a further report be forwarded to a future ordinary meeting of Council for determination.*
3. *If there are no objections received by Council during the period of public exhibition, that pursuant to Part 4, Division 3 of the Roads Act 1993, Council as roads authority formally approve the closure of the road reserve referred to in Resolution 1 above and that upon closure the newly created lot will be classified as Operational Land pursuant to the Local Government Act, 1993.*
4. *The General Manager and Administrator be delegated authority to execute under the Common Seal of Council any agreement, plan, real property dealing or any other document in respect of the proposed closure of the road reserve referred to in Resolution 1 above.*
5. *Authority be delegated to the General Manager to execute on behalf of Council any other document associated with the road closure referred to in Resolution 1 above which does not require the affixing of the Common Seal of Council.*
6. *Following the closure and sale of the portion of road reserve, the applicants are required to consolidate the newly created lot (being the former segment of closed road) with the applicants' property.*

DECLARED CARRIED BY THE ADMINISTRATOR

6.3 Part 477 Belmore Falls Road, Robertson - Land Acquisition

Report Author: Property and Project Officer

Authoriser: Director Corporate Strategy and Resourcing

OFFICER'S RECOMMENDATION

THAT:

1. The General Manager be delegated authority to negotiate with the owner of 477 Belmore Falls Road, Robertson for the acquisition of part 477 Belmore Falls Road, Robertson (being part Lot 305 in Deposited Plan 751302) for the purpose of road **AND THAT** compensation be negotiated within 10% range of formal valuation plus road infrastructure and valuation and legal fees.
2. The acquisition of land referred to in Resolution 1 above be funded through the Property Operations Budget.
3. If the acquisition referred to in Resolution 1 cannot be negotiated by agreement Council resolves to:
 - a. acquire the land by compulsory acquisition under sections 186 and 187 of the Local Government Act 1993 (NSW) and in accordance with the requirements of the Land Acquisition (Just Terms Compensation) Act 1991 (NSW);
 - b. approve the making of an application to the Minister of Local Government for the issue of a proposed Acquisition Notice under the Land Acquisition (Just Terms Compensation) Act 1991 (NSW) with respect to the Land **AND THAT** Council request that the Minister for Local Government approve a reduction in the notification period from ninety (90) days to sixty (60) days;
 - c. approve the making of an application to the Governor for the publication of an Acquisition Notice in the NSW Government Gazette under Land Acquisition (Just Terms Compensation) Act 1991 (NSW) with respect to the land.
4. Council affix the Common Seal of Council to any documents required to be sealed for acquisition of the land for road purposes referred to in Resolution 1 above **AND THAT** authority be delegated to the General Manager and Mayor/Administrator to execute those documents.
5. Authority be delegated to the General Manager and Mayor/Administrator to execute on behalf of Council any documents associated with the acquisition of the land for road purposes referred to in Resolution 1 above that does not require the Common Seal of Council.
6. Upon acquisition of the land referred to in resolution 1 above, the land be classified operational land.

The Coordinator Property Services introduced the item.

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MOTION *moved by the Administrator*

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THAT:

1. *The General Manager be delegated authority to negotiate with the owner of 477 Belmore Falls Road, Robertson for the acquisition of part 477 Belmore Falls Road, Robertson (being part Lot 305 in Deposited Plan 751302) for the purpose of road AND THAT compensation be negotiated within 10% range of formal valuation plus road infrastructure and valuation and legal fees.*
2. *The acquisition of land referred to in Resolution 1 above be funded through the Property Operations Budget.*
3. *If the acquisition referred to in Resolution 1 cannot be negotiated by agreement Council resolves to:*
 - a. *acquire the land by compulsory acquisition under sections 186 and 187 of the Local Government Act 1993 (NSW) and in accordance with the requirements of the Land Acquisition (Just Terms Compensation) Act 1991 (NSW);*
 - b. *approve the making of an application to the Minister of Local Government for the issue of a proposed Acquisition Notice under the Land Acquisition (Just Terms Compensation) Act 1991 (NSW) with respect to the Land AND THAT Council request that the Minister for Local Government approve a reduction in the notification period from ninety (90) days to sixty (60) days;*
 - c. *approve the making of an application to the Governor for the publication of an Acquisition Notice in the NSW Government Gazette under Land Acquisition (Just Terms Compensation) Act 1991 (NSW) with respect to the land.*
4. *Council affix the Common Seal of Council to any documents required to be sealed for acquisition of the land for road purposes referred to in Resolution 1 above AND THAT authority be delegated to the General Manager and Mayor/Administrator to execute those documents.*
5. *Authority be delegated to the General Manager and Mayor/Administrator to execute on behalf of Council any documents associated with the acquisition of the land for road purposes referred to in Resolution 1 above that does not require the Common Seal of Council.*
6. *Upon acquisition of the land referred to in resolution 1 above, the land be classified operational land.*

DECLARED CARRIED BY THE ADMINISTRATOR

7 MEETING CLOSURE

THERE BEING NO FURTHER BUSINESS, THE MEETING CLOSED AT 3:47 pm