

Kyogle Council

Unconfirmed Minutes of the Ordinary Meeting held in the Council Chambers, Stratheden Street, Kyogle, on 8 July 2013.

PRESENT

Cr. Ross Brown (Mayor in the Chair), Cr Janet Wilson, Cr Chris Simpson, Cr John Burley, Cr Robert Dwyer, Cr Maggie Creedy, Cr Danielle Mulholland, Cr Lindsay Passfield and Cr Michael Reardon.

IN ATTENDANCE

The General Manager, Executive Manager Planning and Environment, Executive Manager Infrastructure Works, Executive Manager Urban and Assets, and the Personal Assistant to the General Manager and Administration and Community.

MEETING COMMENCEMENT

The Mayor declared the meeting open at 5.00pm.

ITEM 1 APOLOGIES

Nil

ITEM 2 OPENING PRAYER

The Mayor read the opening prayer.

ITEM 3 TRADITIONAL LANDS ACKNOWLEDGEMENT

The Mayor acknowledged that the meeting was being held on the Traditional Lands of the Bundjalung people.

ITEM 4 DECLARATION OF INTERESTS

Cr. Danielle Mulholland declared an interest in the following item/s:

- o Item 13B.1 Development Applications Received, Determined and Outstanding for the period 1 June 2013 to 30 June 2013 – 2011/181

Reason for Declaration – Neighbour of the property owner.

Cr. Chris Simpson declared an interest in the following item/s:

- o Item 13B.1 Development Applications Received, Determined and Outstanding for the period 1 June 2013 to 30 June 2013 – 2012/39

Reason for Declaration – Neighbour of the property owner.

ITEM 5 QUESTION TIME

- Liz Thomas on behalf of Kyogle Chamber of Commerce asked whether the 2013-2014 Fees and Charges adopted at the 24 June meeting could be rescinded. She said the annual charge on businesses using the footpath for street vending or alfresco dining was of particular concern to the Chamber and asked if a working party involving the Chamber and Council representatives could be formed to devise an alternative.

The General Manager responded that it was possible to change the adopted Fees and Charges however the Council would need to advertise any proposed changes for 28 days to allow for public comment.

Mayor Ross Brown reaffirmed a previous commitment to attend the next Kyogle Chamber of Commerce meeting to discuss the Fees and Charges issue as well as other matters of concern to the Chamber. He advised that while Council had adopted the 2013-2014 Fees and Charges at the June meeting, they would not be implemented until September 1 and that all local business owners should have received or would receive a letter from Council in relation to the Fees and Charges. Councillor Brown advised the Chamber that any request to the Council in relation to the Fees and Charges should be put in writing to Council.

- Anne Reardon asked who on Council made the decision to remove the rose bushes from Kyogle's main street and wanted to know why the community was not consulted about the decision. She said many people in the community were very upset by the decision and felt strongly that Council should have consulted with the Kyogle Tidy Towns Committee, the Kyogle Garden Club and the Kyogle Chamber of Commerce before removing the roses.

The Executive Manager Urban and Assets said he had made the decision, in consultation with other Council staff, to transplant the roses to the Kyogle Cemetery in response to safety concerns. The roses were too high, were difficult for motorists to see through and had become a traffic hazard. He said the rose bushes would be replanted in a special garden at the cemetery to commemorate the Centenary of Anzac Day and that the garden beds in the main street would be replanted with more suitable plants.

The General Manager said Council would put the relocation of the rose bushes on hold while it consulted with various groups in the community about appropriate plants to put in the main street gardens. He said Council would also consult with the Red Cross about a previous undertaking to plant red and white roses in the main street with the aim of finding a more suitable plant for the location.

- Anne Reardon asked who had authorised the removal of shrubs from a garden at the Kyogle Senior Centres without first consulting the Kyogle Garden Club members of which had originally constructed the Seniors Centre gardens.

The Executive Manager Urban and Assets said he had made the decision to remove the plants, including the gum trees planted under power lines, after receiving complaints from the public that the garden in question was overgrown and was obstructing access and the footpath. He said the intention was to leave the area as grass.

- Peter Lewis said buses using the bus stop outside the former Westpac Bank building in Kyogle's main street restricted vision of the pedestrian crossing and asked if the bus stop met the appropriate planning and safety standards. He also asked if Council had given any consideration to relocating the bus stop.

The Executive Manager Urban and Assets said the bus stop was originally located on the other side of the intersection where it had continually impeded vision of the crossing. At its present location, vision of the crossing was only impeded for the short time buses were pulled up at the bus stop. The Executive Manager Urban and Assets said there was currently a proposal before the Traffic Committee to review all the bus stops in the Kyogle CBD in consultation with local bus operators and other interest groups.

- Tom Fitzgerald asked if the Council could clean the bird droppings in Kyogle's main street which appeared to be coming from Kyogle Memorial Institute. He said the mess created a bad impression for visitors to the town. Mr Fitzgerald also drew Council's attention to Member for Page Janelle Saffin's recent advertising supplement in the Richmond River Express Examiner re grant money coming to the Page electorate. He said neighbouring centres received significantly more than Kyogle, which had received only \$1.2 million in recent years and said Council should make a firm commitment to applying for grants as they become available.

- Phil Gome, before asking his questions, commended Councillors for resolving to ensure that written answers provided to questions asked at Council meetings, were included in the agenda for the following meeting. He then asked if Council had a consistent policy, procedure or formula for determining a Section 94 Contributions Plan, or whether a Section 94 Contribution Plan is in fact required, or a Voluntary Planning Agreement, when assessing all development applications? And if not why not.

The General Manager took the question on notice.

- Mr Gome stated Council acknowledged that it knew of the development application for the Cedar Point Quarry in October 2009 (Council correspondence to Planning NSW dated 26 October 2009). The Joint Regional Planning Panel made its determination on 21 June 2012, some 31 months from the time when Council was aware of the Cedar Point Quarry development application. At the 23 July 2012 Council meeting, in answer to a question regarding why there was no Section 94 Contribution Plan or Voluntary Planning Agreement in place for the Cedar Point Bridge, "the General Manager advised that Council did not have the current resources to put a Section 94 Plan in place". Mr Gomes wanted to know in the period since October 2009 when, how and by whom was it determined that Council did not have the current resources to put a Section 94 Contributions Plan or Voluntary Planning Agreement in place for the Cedar Point Bridge before the determination of the Cedar Point Quarry on 21 June 2012?

The General Manager took the question on notice.

- Mr Gome stated that it was important to note that:
 - a) The Cedar Point Bridge was a weight restricted single lane bridge built in 1938, making it 75 years old;
 - b) The Cedar Point Quarry had been approved to allow 80 trucks per day, five and a half days a week for the next 40 years;
 - c) Council administration had knowledge of the development application since October 2009 – 31 months
 - d) The 2013 TCorp Report on pages 36 and 37 outlines the purpose of Section 94 contributions.

He then asked how Council administration justified to Councillors, ratepayers and developers who had paid and who would pay Section 94 contributions for Council infrastructure, or who have or would enter Voluntary Planning Agreements with Council, that it had acted with due diligence, fairness, equity and with the best long term interests of all ratepayers, when it failed to develop a Section 94 Contributions Plan for the Cedar Point Bridge or enter into a Voluntary Planning Agreement with the proponents of the Cedar Point Quarry?

The General Manager took the question on notice.

- Peter J Ellem stated that at the 24 June 2013 Council meeting he asked a question in relation to a Council Resolution for an independent assessment of the TCorp Report. He quoted from the replying Council correspondence dated 1 July 2013 from the Acting General Manager: "I can also advise that it has been determined not to progress further with this resolution." Mr Ellem then asked the General Manager how was it possible for Council to overrule a resolution that was passed unanimously by Councillors?

The General Manager responded that the resolution was to obtain a quote for an independent assessment of the TCorp Report. He said that quote was received and the decision had been made not to proceed with the matter any further. The General Manager advised the decision did not go against Council's resolution.

- Mr Ellem said that in the TCorp Report on pages 4, 6, 17, 19, 20, 23 and 27 it was clearly stated that Council's LTFP Statement of Cashflow information was not supplied by Council to TCorp staff for the purposes of the report. He then asked if Council's Records Management System contained information referred to in the TCorp Report and if so, why was that information not provided to T Corp staff so that the ensuing report generated was based on full provision of information and not flawed by estimations?

The General Manager took the question on notice.

ITEM 6 PUBLIC ACCESS

Nil.

ITEM 7 CONFIRMATION OF MINUTES

7.1 CONFIRMATION OF 24 JUNE 2013 ORDINARY MINUTES

080713/1 RESOLVED

Moved by Councillor Robert Dwyer, seconded by Councillor Janet Wilson:

That the Minutes of the Ordinary Meeting held on 24 June, 2013 be adopted

CARRIED

FOR VOTE - Unanimous vote

ITEM 8 MAYORAL MINUTE

Nil.

ITEM 9 NOTICES OF MOTION

9.1 NOTICE OF MOTION - COUNCILLOR MICHAEL REARDON FUNDS FOR MALLANGANEE PROGRESS ASSOCIATION

Moved by Councillor Michael Reardon, seconded by Councillor Lindsay Passfield:

That Kyogle Council fund to the amount of \$6000 to the Mallanganee Progress Association to able the committee to relocate the old Telstra Shed to the Council compound and set up as a storage area.

Council Danielle Mulholland foreshadowed a motion that Council obtain a written confirmation from Telstra that the asset has been transferred to Council prior to any works being commenced.

080713/2 RESOLVED

That Kyogle Council fund to the amount of \$6000 to the Mallanganee Progress Association to able the committee to relocate the old Telstra Shed to the Council compound and set up as a storage area.

CARRIED

FOR VOTE - Unanimous vote

080713/3 RESOLVED

Moved by Councillor Danielle Mulholland, seconded by Councillor Lindsay Passfield:

That Council obtain a written confirmation from Telstra that the asset has been transferred to Council prior to any works being commenced.

CARRIED

FOR VOTE - Unanimous vote

080713/4 RESOLVED

Moved by Councillor Ross Brown, seconded by Councillor Danielle Mulholland:

That Council utilise the unexpended 2012-2013 Futures Funding Allocation for Mallanganee and the 2013-2014 Futures Funding Allocation to complete this project and other associated works.

CARRIED

FOR VOTE - Unanimous vote

9.2 NOTICE OF MOTION - COUNCILLOR DANIELLE MULHOLLAND LETTER TO THE PREMIER SEEKING SUPPORT FOR REFERENDUM TO RECOGNISE LOCAL GOVERNMENT IN THE CONSITUTUIN

080713/5 RESOLVED

Moved by Councillor Danielle Mulholland, seconded by Councillor Lindsay Passfield:

That Council write to the Premier of NSW the Hon Barry O'Farrell asking him to support Federal recognition of local government, as he committed to in the last State election campaign.

CARRIED

FOR VOTE - Ross Brown, Janet Wilson, John Burley, Lindsay Passfield, Danielle Mulholland

AGAINST VOTE - Michael Reardon, Chris Simpson, Maggie Creedy, Bob Dwyer

ITEM 10 QUESTIONS WITH NOTICE FROM COUNCILLORS

10.1 QUESTIONS FROM LAST COUNCIL MEETING

During discussions on Questions from the last Council meeting Councillor Robert Dwyer said a question he raised on extra work being carried out on Campbells Bridge had not been addressed in the agenda and asked if the Executive Manager Infrastructure Works had any information on the matter.

The Executive Manager Infrastructure Works responded that there had been erosion of abutments resulting from flooding at Campbells Bridge. Works to rectify the damage by way of an addition of concrete wing walls with steel piles were done with flood damage money. There has been discussion with stakeholders during which the issue of changed water course was raised and the possibility of diverting the stream to the original course discussed. Relevant government agencies were consulted and the response indicates that extensive consultation would be required prior to carrying out any works to remove vegetation or the divert creek. A report will be presented to the next Council meeting.

080713/6 RESOLVED

Moved by Councillor Robert Dwyer, seconded by Councillor Lindsay Passfield:

That the report on Questions From The Last Council Meeting be received and noted.

CARRIED

FOR VOTE - Unanimous vote

ITEM 11 DELEGATES REPORTS

Nil.

ITEM 12 INFORMATION PAPERS

12.1 COUNCIL RESOLUTIONS REQUIRING ACTION

080713/7 RESOLVED

Moved by Councillor Danielle Mulholland, seconded by Councillor Janet Wilson:

That the Council Resolutions Requiring Action report be received and noted.

CARRIED

FOR VOTE - Unanimous vote

12.2 FINANCIAL REPORT JUNE 2013

080713/8 RESOLVED

Moved by Councillor Janet Wilson, seconded by Councillor John Burley:

That the information contained in the Monthly Finance Report – June 2013 be received and noted

CARRIED

FOR VOTE - Unanimous vote

**12.3 RESPONSE TO QUESTION TIME ORDINARY MEETING 24 JUNE 2014
MR PETER J ELLEM**

080713/9 RESOLVED

Moved by Councillor Janet Wilson, seconded by Councillor Danielle Mulholland:

That Council receive and note the response provided by the Acting General Manager to Mr Peter J Ellem in regard to his Question at the 24 June 2013 ordinary Council Meeting.

CARRIED

FOR VOTE - Unanimous vote

ITEM 13 GENERAL MANAGER 'S REPORT

ITEM 13A TECHNICAL SERVICES REPORT

ITEM 13A.1 Mayor Ross Brown deferred consideration of item 13A.1 SWIMMING POOLS CAPITAL WORKS until after Council considered Item 13F.1

ITEM 13B PLANNING SERVICES REPORT

**13B.1 DEVELOPMENT APPLICATIONS RECEIVED, DETERMINED AND
OUTSTANDING FOR THE PERIOD 1 JUNE 2013 TO 30 JUNE
2013**

080713/10 RESOLVED

Moved by Councillor Lindsay Passfield, seconded by Councillor Janet Wilson:

That, with the exception of the following items in which Councillors Danielle Mulholland and Chris Simpson have declared an interest,

- Cr Mulholland 13B.1 Development Applications Received, Determined and Outstanding DA 2011/181 - Reason for Declaration - Neighbour of the property owner.
- Cr Simpson 13B.1 Development Applications Received, Determined and Outstanding DA 2012/39 - Reason for Declaration - Neighbour of the property owner.

the information contained in the report Development Applications Received, Determined and Outstanding for the period 1 June 2013 to 30 June 2013 be received and noted

CARRIED

FOR VOTE - Unanimous vote

Councillor Danielle Mulholland and Councillor Chris Simpson left the meeting at 5.50pm.

080713/11 RESOLVED

Moved by Councillor Lindsay Passfield, seconded by Councillor Robert Dwyer:

That the information contained in the report Development Applications Received, Determined and Outstanding for the period 1 June 2013 to 30 June 2013 only in relation to DA 2011/181 and 2012/39 in which Councillors Mulholland and Simpson have declared an interest be received and noted.

CARRIED

FOR VOTE - Unanimous vote

ABSENT DID NOT VOTE – Councillor Danielle Mulholland, Councillor Chris Simpson.

Councillor Danielle Mulholland and Councillor Chris Simpson returned to the meeting at 6.51 pm.

13B.2 COUNCIL'S ROLE IN REGARD TO MINING EXPLORATION LEASES AND MINING RESPONSE TO NOTICE OF MOTION

080713/12 RESOLVED

Moved by Councillor Lindsay Passfield, seconded by Councillor Janet Wilson:

That Council receive and note the report in response to the Notice of Motion on Council's role and authority in regard to mining exploration leases and mining in general.

CARRIED

FOR VOTE - Unanimous vote

ITEM 13C ENVIRONMENT SERVICES REPORT

Nil.

ITEM 13D CORPORATE SERVICES REPORT

13D.1 MINUTES OF INTERNAL AUDIT COMMITTEE MEETING 27 JUNE 2013

080713/13 RESOLVED

Moved by Councillor Ross Brown, seconded by Councillor Janet Wilson:

1. That the Minutes of the Internal Audit Committee meeting 27 June, 2013 be received and noted.

CARRIED

FOR VOTE - Unanimous vote

080713/14 RESOLVED

Moved by Councillor Chris Simpson, seconded by Councillor Danielle Mulholland:

1. That a further report on the recommendations made by WHK be provided to the Internal Audit Committee that addresses points made in the minutes.
2. That a further report be provided to the Internal Audit Committee on the Risk Management System.

CARRIED

FOR VOTE - Unanimous vote

ITEM 13E COMMUNITY SERVICES REPORT

Nil.

ITEM 13F GENERAL MANAGER'S REPORT

13F.1 ROUND FIVE REGIONAL DEVELOPMENT AUSTRALIA FUND

Moved by Councillor Lindsay Passfield, seconded by Councillor Janet Wilson:

That the report on Round Five of the Regional Development Australia Fund be received and noted.

Councillor Janet Wilson foreshadowed a motion that Council proceed with the application to RDA to use total Round 5 funds at the KMI Hall to upgrade the facility for the creative industries and to include the restoration of the entrance hall.

080713/15 RESOLVED

That the report on Round Five of the Regional Development Australia Fund be received and noted.

CARRIED

FOR VOTE - Unanimous vote

Moved by Councillor Janet Wilson, seconded Councillor Robert Dwyer that:

Council proceed with the application to RDA to use total Round 5 funds at the KMI Hall to upgrade the facility for the creative industries and to include the restoration of the entrance hall.

An amendment to the motion was moved by Councillor Chris Simpson, seconded by Councillor Danielle Mulholland:

That two thirds of RDA money -- \$153,000 go towards KMI -- and that the \$148,382 and \$16,893 left from 2012-13 budget be added to RDA money making a total \$318,275 for the KMI; and that \$76,587 go towards the following projects identified on the document titled "Potential RDA Projects" distributed at the meeting; line items 1, 3, 5, 6, 7.

The amendment was put to the vote and was carried unanimously.
The amendment then became the motion.

080713/16 RESOLVED

That two thirds of RDA money -- \$153,000 go towards KMI -- and that the \$148,382 and \$16,893 left from 2012-13 budget be added to RDA money making a total \$318,275 for the KMI; and that \$76,587 go towards the following projects identified on the document titled "Potential RDA Projects" distributed at the meeting; line items 1, 3, 5, 6, 7.

CARRIED

FOR VOTE - Unanimous vote

080713/17 RESOLVED

Moved by Councillor Ross Brown moved, seconded by Councillor Lindsay Passfield:

That a report be provided to Council that outlines the scope of works intended to be done with the allocation of funds recognised in the above recommendation \$318,275, and a comparison between that and the finalised plan.

CARRIED

FOR VOTE - Unanimous vote

13A.1 SWIMMING POOLS CAPITAL WORKS

Moved by Councillor Robert Dwyer, seconded by Councillor Danielle Mulholland:

That the report on Swimming Pools Capital Works be received and noted.

Councillor Lindsay Passfield foreshadowed a motion:

1. That an additional \$140,000 be added to the Swimming Pools Capital Works budget for 2013/14 for the upgrade of the chemical dosing and storage equipment at the Bonalbo and Woodenbong Pools.
2. That the \$140,000 be funded from Building Reserves

080713/18 RESOLVED

That the report on Swimming Pools Capital Works be received and noted.

CARRIED

FOR VOTE - Unanimous vote

080713/19 RESOLVED

Moved by Councillor Lindsay Passfield, seconded by Councillor Danielle Mulholland that:

1. That an additional \$140,000 be added to the Swimming Pools Capital Works budget for 2013/14 for the upgrade of the chemical dosing and storage equipment at the Bonalbo and Woodenbong Pools.
2. That the \$140,000 be funded from Buildings Reserves

CARRIED

FOR VOTE - Unanimous vote

ITEM 14 URGENT BUSINESS WITHOUT NOTICE

Nil.

ITEM 15 QUESTIONS FOR NEXT ORDINARY MEETING

Councillor Danielle Mulholland

1. When will the next Traffic Committee meeting be held?

Councillor Chris Simpson responded that the Traffic Committee would meet on 9 July 2013.

Councillor John Burley

1. Asked if the report on the Toonumbar Road had been completed as Council needed to know what standard of road had to be built.

Councillor Maggie Creedy

1. Asked if the Kyogle Community Cinema and the Woodenbong Cinema had received their allocation of \$10,000 and \$5000 respectively to help with their purchases of digital projectors and if not, why not?

ITEM 16 CONFIDENTIAL BUSINESS PAPER

16.01 MOVED INTO CLOSED MEETING

Item 16.1 -- 2011/12- Annual Tenders for Bituminous Surfacing

Item 16.2 – Annual Tenders

These items are classified CONFIDENTIAL under Section 10A(2)(d) of the Local Government Act 1993, which permits the meeting to be closed to the public for business relating to the following:-

- (d) Commercial information of a confidential nature.

It is not in the public interest and would be contrary to privacy provisions to reveal these details.

Pursuant to Section 10A(4), the public were invited to make representations to the council meeting before any part of the meeting was closed, as to whether that part of the meeting should be closed.

080713/20 RESOLVED

Moved by Councillor Lindsay Passfield, seconded by Councillor Danielle Mulholland.

1. That Council resolve to move into closed council to consider business identified, together with any late reports tabled at the meeting.
2. That pursuant to section 10A(1)-(3) of the Local Government Act 1993, the media and public be excluded from the meeting on the basis that the business to be considered is classified confidential under the provisions of section 10A(2) as outlined above.

3. That the correspondence and reports relevant to the subject business be withheld from access to the media and public as required by section 11(2) of the Local Government Act 1993.

CARRIED

FOR VOTE – Unanimous.

Council closed its meeting at 6.58pm. The public and the media left the Chamber.

16.02 OPEN COUNCIL RESUMES

080713/23 RESOLVED

Moved by Councillor Lindsay Passfield, seconded by Councillor Robert Dwyer.

That Council move out of closed Council and into open Council

CARRIED

Open Council resumed at 7.02 pm.

The Mayor reported the following resolutions made in the closed meeting.

16.1 -- 2011/12- Annual Tenders for Bituminous Surfacing

080713/21CON RESOLVED

1. That tenders for Asphalt Services be extended for a further 12 months with SAS as primary tender and Clark Asphalt as alternate.
2. That tenders for Bitumen Surfacing be extended for a further 12 months with SAS and Boral with no primary or alternate tenderer qualification.

CARRIED

FOR VOTE - Unanimous vote

16.1 Annual Tenders

080713/22CON RESOLVED

1. That the following contractors be placed on the list of preferred suppliers for hire of plant from which contractors will be engaged, dependent on Council's requirements, service provided and availability during the 2013/14 financial year.

J Fraser
Burley Rolling
Mark Lamond
Blair Flynn
H J Standfield
Maslen Contracting
MJ Smith

Barry Bros Specialised Services
D-Rex Excavator & Bobcat Hire
Smith Plant
Richmond Valley Tree Service Pty Ltd
Kyogle Earthworx
Conplant
Ellis Profiling
R Davis Bobcat Hire
Sherrin Rentals
M & M Crushing
BSM Trading
Ace Rentals
Richmond Waste
Australian Grader Hire Pty Ltd
Martin Bros
Coates Hire
Barry Cormack
Dynosaw Tree Services
Dynamic Excavations
Kuma Pty Ltd
McGeary Bros Engineering
Farragher & Whitehead
Ben Harris
Rockhead Pty Ltd

2. That the following contractors be placed on the list of preferred suppliers for hire of trucks from which contractors will be engaged, dependent on Council's requirements, service provided and availability during the 2013/14 financial year.

Smith Plant
H J Standfield
Lowstone Pty Ltd
Maslen Contractors
John Miller
Kyogle Earthworx
M J Smith
Rockhead Pty Ltd

CARRIED

FOR VOTE - Unanimous vote

MEETING CLOSURE

There being no further business the Mayor declared the meeting closed at 7.03 pm.