



SNOWY MONARO
REGIONAL COUNCIL

Minutes

Ordinary Council Meeting

5 July 2018

**ORDINARY COUNCIL MEETING
HELD IN COUNCIL CHAMBERS, 81 COMMISSIONER STREET, COOMA NSW 2630
ON THURSDAY 5 JULY 2018**

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**MINUTES OF THE ORDINARY COUNCIL MEETING
HELD IN COUNCIL CHAMBERS, 81 COMMISSIONER STREET, COOMA NSW 2630**

**ON THURSDAY, 5 JULY 2018
COMMENCING AT 5.00PM**

PRESENT: Mayor John Rooney
Deputy Mayor Linley Miners
Councillor John Castellari
Councillor James Ewart
Councillor Rogan Corbett
Councillor Sue Haslingden
Councillor John Last
Councillor Brian Old
Councillor Bob Stewart Arrived at 5:02pm.

APOLOGIES: Councillor Anne Maslin
Councillor Peter Beer

Staff: Joe Vescio, General Manager
Suneil Adhikari, Director Operations & Infrastructure
Peter Smith, Director Environment & Sustainability
Peter Cannizzaro, Director Corporate & Community Services
Amanda Shepherd, Governance Administration Officer
Belinda Cuzner, Governance Office
Nola Brady, Group Manager Governance
Nathan Thompson, Communications Officer
Linda Nicholson, Project Manager

Notes: The Mayor opened the meeting at 5.00PM. Cllr Stewart joined the meeting at 5:02 pm during the opening of the meeting by the Mayor. Councillor Maslin was absent from this meeting with leave of absence previously granted at the Ordinary Council Meeting held 07 May 2018. Councillor Beer was absent from this meeting with leave of absence previously granted at the Ordinary Council Meeting held 21 June 2018. Cllr Last having declared a conflict of interest with DA0014/2016 East Jindabyne, left the meeting and was absent from the meeting from 5:09pm for the duration of the four (4) members of public forum regarding DA0014/2016, returning at 5:44pm taking no part in discussion or voting on this item. The General Manager was absent from the meeting from 6:25pm during Item 8 – Delegate’s Report – for the duration of the discussion of Interim General Manager, returning at 6:32pm during same item. Cllr Last having declared a conflict of interest with this item (refer Item 15.1 above), left the meeting and was absent from the meeting from 6:34pm for the duration of Item 15.1 - DA0014/2016 21 Lot Residential Subdivision Rushes Bay Avenue East Jindabyne, returning at 6:49pm, taking no part in discussion or voting on this item. Director of Operations and Infrastructure was absent from the meeting from 6:56pm during Item 18.1 Notice of Motion – John Castellari - Flying of the Aboriginal Flag, returning at 6:59pm during same item. Governance Officer was absent from the meeting from 7:00pm during Item 18.1 Notice of Motion – John Castellari - Flying of the Aboriginal Flag, returning at 7:03pm during same item. At 7:04 pm the meeting adjourned for dinner. The meeting resumed at 7:31pm. Councillor Old was absent from the meeting from 7:35pm during Item 18.2 - Rescission Motion – Councillor Sue Haslingden Mayoral Minute, returning at 7:38pm during the same item. Councillor Stewart was absent from the meeting from 7:48pm during Item 19.1 - Motion of Urgency by Councillor Castellari, returning at 7:50pm during same item. At 8:40 pm the meeting was closed to the press and public. At 9:36 pm the Closed Session ended and the Council meeting continued in Open Session. There being no further business the Mayor declared the meeting closed at 9:36pm.

The Mayor opened the meeting at 5.00PM.

Note 1: Note: Attendance of Councillor

Clr Stewart joined the meeting at 5:02 pm during the opening of the meeting by the Mayor.

1. APOLOGIES

Note 2: Note: Leave Previously Granted

Councillor Maslin was absent from this meeting with leave of absence previously granted at the Ordinary Council Meeting held 07 May 2018.

Note 3: Note Leave Previously Granted

Councillor Beer was absent from this meeting with leave of absence previously granted at the Ordinary Council Meeting held 21 June 2018.

2. CITIZENSHIP CEREMONY

Nil.

3. PRESENTATIONS

Nil.

4. PUBLIC FORUM

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

COUNCIL RESOLUTION

260/18

That members of the public be granted permission to address Council.

Moved Councillor Castellari

Seconded Councillor Ewart

CARRIED

4.1 SHANE TRENGOVE - DA0014/2016 EAST JINDABYNE

Shane Trengove, of JERCs. addressed Council on the Rushes Bay Development in East Jindabyne (DA0014/2016). Mr Trengove wanted to address Council on the report written for DA0014/2016, and why he believes Council should endorse the recommendations for the rejection of the Development Application. Mr Trengove believes the DA does not meet the requirements of the E3 Zoning, and the nature of the current proposal is in contrary to the current LEP.

4.2 MARGARET MACKINNON - DA0014/2016 EAST JINDABYNE

Margaret Mackinnon, resident of Jindabyne, addressed Council on the Rushes Bay Development in East Jindabyne (DA0014/2016). Mrs Mackinnon presented a slideshow to the Councillors, and expressed her beliefs about the Development Application not complying with legislation, in regards to Threatened Species, Fisheries Management, Water Management, Environmental Planning and Assessment, Native Vegetation and Noxious Weeds. Mrs Mackinnon also spoke about the Development Application not complying with the Snowy River Local Environment Plan, SMRC Delivery Plan Strategy, and the DPI Fisheries Policy and Guidelines for Fish Habitat Conservation and Management. Mrs Mackinnon asked Council to ensure development assessment is undertaken in accordance with adopted Policies and

Legislation.

4.3 PETER COCKER - DA0014/2016 EAST JINDABYNE

Peter Cocker, resident of Thredbo, addressed Council on the Rushes Bay Development in East Jindabyne (DA0014/2016). Mr Cocker has been involved with the land since 2003, and he feels he knows the land and the area very well. Mr Cocker believes that Lot 6 is unique, is a part of the area's history, and believes the land should be on the Heritage Listing. Mr Cocker also passed photos around of the current erosion in the area, and views of the land from the top of the area. Mr Cocker thinks that turning the area into a reserve and adding a walking track, would provide access to the Lake, and would be an attraction to the residents and tourists.

4.4 DR DANNY WOTHERSPOON - DA0014/2016 EAST JINDABYNE

Dr Danny Wotherspoon – of ABEL Ecology, addressed Council on the report he has put together for the Developer, in support of the DA0014/2016 East Jindabyne. Dr Wotherspoon believes the area is not bushfire prone, and there is no basis for the assertion. The OEH is not accepting the proposal on the basis of not being able to avoid mitigation offset. Dr Wotherspoon advised he has provided many a submission to the OEH and Council, that they have provided what is required for the submission. Dr Danny also believes there are a few misconceptions within the Business Paper and report, that would take some time to address.

4.5 RICHARD HOPKINS - CANBERRA TO EDEN RAILWAY

Richard Hopkins, of the Cooma Progress Association (CMPA), addressed Council on the Canberra to Eden Railway proposal. The plan is commended for the Council's consideration as a proposed stakeholder. CMPA resolves to apply to Council for \$5000 to enable the commissioning of a preliminary cost estimate and a cost/benefit analysis of the plan. CMPA has recognised that a railway through the Monaro can be part of the National Railway system. CMPA plan to link by rail, our National Capital with an uncongested port in Eden NSW, 300 kilometres in distance. The concept is to find a railway to descend the South Coast Range to the Eden Port.

4.6 PETER HEWARD - COMMERCIAL RECYCLING AND HARMONISATION OF CHARGES

Peter Heward, resident of Rockton, addressed Council on commercial recycling and harmonisation of charges for Bombala. Mr Heward believes harmonisation of charges will not be good for the Bombala area, as Bombala does not have a cash injection coming into the town each year, and the town will not be able to afford the fees under the harmonisation of charges. Mr Heward is also concerned that businesses in the Bombala area will not be able to afford the rise in cost for commercial recycling, and expressed that the \$272.00 to take a load of rubbish to the waste disposal facility, is an amount that a business in Bombala would make in one (1) day, and is not cost effective.

4.7 ANDREW THALER - STREETSCAPES IN NIMMITABEL

Andrew Thaler – of Nimmitabel, briefly addressed Council on his letter previously received regarding being banned from Council Meetings. Mr Thaler also addressed Council on the Streetscape Meeting in Nimmitabel, and the process around the Consultation period to the Public. Mr Thaler wants to put the Streetscape motion on hold, and consult the people within Nimmitabel first, before any work is carried out.

Note 4: Attendance of Councillor Last – Conflict of Interest

Clr Last having declared a conflict of interest with DA0014/2016 East Jindabyne, left the meeting and was absent from the meeting from 5:09pm for the duration of the four (4) members of public forum regarding DA0014/2016, returning at 5:44pm taking no part in discussion or voting on this item.

5. DISCLOSURE OF INTEREST

5.1 COUNCILLOR LAST

Councillor Last declared an interest in Item 15.1 as he has a conflict of interest in this item due to “Was the Lawyer involved with DA0014/2016”. Councillor Last left the meeting at 6:34pm and returned at 6:49pm. Councillor Last did not take “part in discussion or voting on this item.

5.2 GENERAL MANAGER

General Manager declared an interest in Item 8 – Delegate’s Report: Discussion on Interim General Manager, as he has a conflict of interest in this item due to “Having a conflict in the matter as the matter involves the arrangements to be put in place following my resignation”. The General Manager left the meeting at 6:25pm and returned at 6:32pm. The General Manager did not take part in discussion or voting on this item.

5.3 GENERAL MANAGER

General Manager declared an interest in Item 22.6 – Discussion regarding employment of Interim General Manager, as he had a perceived non-significant conflict of interest in this item due to “Having a conflict in the matter as the matter involves the arrangements to be put in place following my resignation”. At the request of the Council the General Manager remained in the meeting to assist Council with the process. The General Manager took part in discussion but did not vote on this item.

6. MATTERS DEALT WITH BY EXCEPTION

Nil.

7. ADOPTION OF MINUTES OF PREVIOUS MEETING

7.1 ORDINARY COUNCIL MEETING 21 JUNE 2018

COUNCIL RESOLUTION	261/18
THAT the minutes of the Ordinary Council Meeting held on 21 June 2018 are confirmed as a true and accurate record of proceedings.	
Moved Councillor Castellari	Seconded Councillor Corbett
	CARRIED

7.2 CLOSED SESSION OF THE ORDINARY COUNCIL MEETING 21 JUNE 2018

COUNCIL RESOLUTION	262/18
THAT the minutes of the Closed Session of the Ordinary Council Meeting held on 21 June 2018 are	

confirmed as a true and accurate record of proceedings.

Moved Councillor Haslingden

Seconded Councillor Ewart

CARRIED

7.3 EXTRAORDINARY COUNCIL MEETING 28 JUNE 2018

COUNCIL RESOLUTION

263/18

THAT the minutes of the Extraordinary Council Meeting be deferred and considered at the next Council Meeting on the 19 July 2018.

Moved Councillor Last

Seconded Councillor Haslingden

CARRIED

8. DELEGATE'S REPORT (IF ANY)

8.1 LOCAL GOVERNMENT NSW BOARD ELECTION NOMINATIONS

COUNCIL RESOLUTION

264/18

That Council note the information from the Mayor regarding a request from Local Government New South Wales, for three (3) Councillors to be nominated for the purposes of electing a Vice President for the Board and appoint as its Nominees the Mayor John Rooney, Deputy Mayor Lynley Miners and Councillor John Castellari.

Moved Councillor Ewart

Seconded Councillor Corbett

CARRIED

8.2 MAYOR ROONEY

Mayor Rooney briefly discussed with Councillors the resignation of the General Manager, and advised that the employment of an Interim General Manager will be discussed in the Closed Session of this Council Meeting.

8.3 COUNCILLOR CASTELLARI

Councillor Castellari attended the Jindabyne Action Group Meeting. It was a very well-run and constructive meeting. They discussed Aged Care for Jindabyne, and do want to work towards having a facility. There has been a huge amount of Community Support for the facility. Also attended a NAIDOC event at the Jindabyne Central School. It was a constructive, warm and welcoming event for everyone who attended.

8.4 COUNCILLOR CORBETT

Councillor Corbett attended the Young LEO Club Dinner, where the new team was inducted for the year. Was a very good and interesting night for all who attended the event.

8.5 COUNCILLOR EWART

Councillor Ewart attended the Changeover Dinner for Rotary. It was a very well attended event- one of their best events. Rotary advised they are very excited to work with Council in future projects.

8.6 COUNCILLOR HASLINGDEN

Councillor Haslingden has a meeting with Create NSW, and they gave a presentation on who they were. This was following on from a Networking Lunch Councillor Haslingden has also attended for South East Arts.

Note 5: Tabling a letter in questions without notice

Clr Haslingden tabled a letter from the Delegate Progress Society regarding motions from the Delegate Progress Society.

8.7 COUNCILLOR OLD

Councillor Old, along with Councillor Castellari, attended the Jindabyne Action Group meeting, where a few issues were raised. The two (2) major concerns discussed were the Aged Care in Jindabyne, and problem with parking and congestion at Jindabyne Central School.

COUNCIL RESOLUTION

265/18

That Council receive and note reports by Mayor and Councillors.

Moved Deputy Mayor Miners

Seconded Councillor Corbett

CARRIED

Note 6: Note: Attendance of General Manager – Conflict of Interest

General Manager declared an interest in Item 8 – Delegate’s Report: Discussion on Interim General Manager, as he has a conflict of interest in this item due to “Having a conflict in the matter as the matter involves the arrangements to be put in place following my resignation”. The General Manager left the meeting at 6:25pm and returned at 6:32pm. The General Manager did not take part in discussion or voting on this item.

9. ADOPTION OF COMMITTEE MINUTES/RECOMMENDATIONS

Nil.

10. CORPORATE BUSINESS - KEY THEME 1. COMMUNITY

Nil

11. CORPORATE BUSINESS - KEY THEME 2. ECONOMY

Nil

12. CORPORATE BUSINESS - KEY THEME 3. ENVIRONMENT

Nil

13. CORPORATE BUSINESS - KEY THEME 4. LEADERSHIP

Nil

14. CORPORATE BUSINESS - KEY THEME 5. LIFESTYLE

Nil.

SERVICE DELIVERY TO RETAIN THE THINGS WE VALUE

15.1 DA0014/2016 21 LOT RESIDENTIAL SUBDIVISION RUSHES BAY AVENUE EAST JINDABYNE

Record No:

Responsible Officer:	Director Environment & Sustainability
Author:	Manager Development Assessment
Key Direction:	6. Managing Development and Service Delivery to Retain the Things We Value
Delivery Plan Strategy:	DP6.2.1.1 Ensure that Council's land use planning and development policies enhance liveability.
Operational Plan Action:	OP6.11 Ensure development assessment is undertaken in accordance with adopted Local Environmental Plans, Development Control Plans, Council Policy and State and Federal legislation.
Attachments:	<ol style="list-style-type: none">1. DA0014/2016 Subdivision Plans <i>(Under Separate Cover)</i> ⇨2. DA0014/2016 Applicants Response to Council reports, including bushfire and ecological reports <i>(Under Separate Cover)</i> ⇨3. DA0014/2016 Correspondence regarding deferral of application and extension of time for further information to be provided <i>(Under Separate Cover)</i> ⇨4. DA0014/2016 Request for additional time to provide information March 2018 <i>(Under Separate Cover)</i> ⇨5. DA0014/2016 Request from Applicant for Deferred Commencement <i>(Under Separate Cover)</i> ⇨6. DA0014/2016 Further request for deferral of application and provision of further information <i>(Under Separate Cover)</i> ⇨7. DA0014/2016 Various Correspondance relating to the application <i>(Under Separate Cover)</i> ⇨8. DA0014/2016 Statement of Environmental Effects <i>(Under Separate Cover)</i> ⇨9. DA0014.2016 Visual Impact Statement <i>(Under Separate Cover)</i> ⇨10. DA0014/2016 Traffic Documents and Information Requests <i>(Under Separate Cover)</i> ⇨11. DA0014/2016 Flora and Fauna Assessment Trevor Hawkeswood (Part 1) <i>(Under Separate Cover)</i> ⇨12. DA0014/2016 Flora and Fauna Assessment Trevor Hawkeswood (Part 2) <i>(Under Separate Cover)</i> ⇨13. DA0014/2016 Flora and Fauna Assessment Abel Ecology pages 1- 48 <i>(Under Separate Cover)</i> ⇨14. DA0014/2016 Flora and Fauna Assessment Abel Ecology pages 49-96 <i>(Under Separate Cover)</i> ⇨15. DA0014/2016 Flora and Fauna Assessment Abel Ecology pages

- 97-144 (*Under Separate Cover*) ⇨
16. DA0014/2016 Flora and Fauna Assessment Abel Ecology pages 145-183 (*Under Separate Cover*) ⇨
 17. DA0014/2016 Flora and Fauna Assessment Abel Ecology pages 184-219 (*Under Separate Cover*) ⇨
 18. DA0014/2016 Correspondance from Council and OEH regarding Flora and Fauna issues on site (*Under Separate Cover*) ⇨
 19. DA0014.2016 Response from Abel Ecology to OEH (*Under Separate Cover*) ⇨
 20. DA0014/2016 Response from Abel Ecology to OEH final correspondance of 15/5/2018 (*Under Separate Cover*) ⇨
 21. DA0014/2016 Confirmation of date of Second Abel Ecology Report being sent to OEH (*Under Separate Cover*) ⇨
 22. DA0014/2016 OEH Principles for the use of biodiversity offsets in NSW (*Under Separate Cover*) ⇨
 23. DA0014/2016 OEH Cultural Heritage Response (*Under Separate Cover*) ⇨
 24. DA0014/2016 Correspondence from JERCs regarding the cultural heritage significance of the site (*Under Separate Cover*) ⇨
 25. DA0014/2016 Objections (*Under Separate Cover*) ⇨
 26. DA0014/2016 Applicants Response to Objections (*Under Separate Cover*) ⇨
 27. DA0014/2016 Submission to Dec 2017 Council meeting from Jindabyne East Residents Committee (*Under Separate Cover*) ⇨
 28. DA0014/2016 Submissions from DPI Fisheries (*Under Separate Cover*) ⇨
 29. DA0014/2016 Submissions received May 2018 relating to further information received (*Under Separate Cover*) ⇨
 30. DA0014.2016 Application Form (*Under Separate Cover*) ⇨
 31. DA0014/2016 Authority for Last and Maxwell Solicitors to act for Applicant (*Under Separate Cover*) ⇨

Further Operational Plan Actions:

Applicant Number:	DA0014/2016
Applicant:	Bottomline Group Pty Ltd
Persons acting for the applicant	Last and Maxwell Solicitors Vision Town Planning Consultants Bob Griffiths Surveyor
Owner:	Bottomline Group Pty Ltd
DA Registered:	6/08/2015
Property Description:	Lot 17 DP 236151 Ph Jinderboine , 1A Jerrara Drive EAST JINDABYNE NSW 2627
Property Number:	101319
Area:	13.86 hectares
Zone:	E3 – Environmental Management

Current Use:	Dwelling house
Proposed Use:	21 lot subdivision for residential purposes
Permitted in Zone:	No – however land is subject to an Additional Permitted Use under the provisions of Schedule 1 of the Snowy River Local Environmental Plan 2013
Recommendation:	<p>That the application be refused for the following reasons:</p> <ol style="list-style-type: none"> 1. The subdivision lay out as presented in the application does not adequately mitigate, avoid or offset its negative impacts on the threatened species habitat and <i>the endangered ecological community of Snow gum woodland</i> located on site. 2. The site proposed within lot 17 to situate the 20 residential allotments is not suitable for this residential density as it does not meet objectives of the E3 Zone being: <ul style="list-style-type: none"> • to protect, manage and restore areas with special ecological, scientific, cultural or aesthetic values; and • to provide for a limited range of development that does not have an adverse effect on those values

EXECUTIVE SUMMARY

The purpose of this report is to seek determination of development application DA0014/2016 for a 21 lot residential subdivision of lot 17 DP236151. The property is zoned E3 – Environmental Management and is the subject of an additional permitted use provision contained within Schedule 1 of the Snowy River Local Environmental Plan 2013.

The application was referred to the Office of Environment and Heritage for advice regarding the potential for threatened species onsite and the endangered ecological community found on the property. The development site is constrained with environmental, scenic, and infrastructure issues.

The application was notified and advertised, and initially 20 submissions were received. Following receipt of additional information, further notification was made and additional submissions were received. A summary of issues raised through both the initial and subsequent submissions is detailed below, and redacted copies of each submission are attached.

The Jindabyne East Residential Committee ('JERC') made submissions which raise concerns regarding the impact of the development on the natural and built environment and the existing residential amenity of the surrounding neighbourhood.

The site is subject to an existing approval for a six lot subdivision which had commenced, with a subdivision certificate being issued in 2011. This approval has therefore not lapsed and can be continued. It should be noted, however, that continuation of the existing approval means that the number of dwellings that could be erected on the lots created, form part of the overall maximum number permitted under Schedule 1 of the LEP (i.e. maximum of 20 dwellings).

Councillors will note that all of the attachments from the previous Council reports are included as attachments to this report, along with correspondence and submissions received since the last report to Council in March, up until 20 June 2018.

After assessment of the application has been carried out it is considered that it does not comply with all

relevant provisions of the Snowy River LEP 2013, including the relevant zone objectives for the E3 zone, that need to be satisfied prior to the issuing of a development consent, and when assessed against the further provisions of Section 4.15 (formerly s79C) of the Environmental Planning and Assessment Act 1979 if fails to satisfy all relevant matters for consideration required for approval of a development application.

As such Pursuant to section 4.16(1) (formerly s 80(1)) of the Environmental Planning and Assessment Act 1979 it is recommended that the development application be refused and those that made submissions to the application be notified of Councils decision.

NOTE: Council is able to determine the application otherwise than as shown in the recommendation. If Council determines to do so, it must follow the procedure adopted through resolution 18/18 of 15 February 2018.

COUNCIL RESOLUTION

266/18

A. That pursuant to Section 4.16 (formerly Section 80(1)(a)) of the *Environmental Planning and Assessment Act 1979 (as amended)* it is recommended that DA0014/2016 being a Twenty One (21) Lot Torrens Title Subdivision on Lot 17 DP 236151 Ph Jindabyne be refused for the following reasons:

- 1 The subdivision lay out as presented in the application does not adequately mitigate, avoid or offset its negative impacts on the threatened species habitat and the endangered ecological community of Snow gum woodland located on site.
- 2 The site proposed within lot 17 to situate the 20 residential allotments is not suitable for this residential density as it does not satisfy objectives of the E3 Zone being:
 - to protect, manage and restore areas with special ecological, scientific, cultural or aesthetic values; and
 - to provide for a limited range of development that does not have an adverse effect on those values

B. That those persons who made a submission are advised of the determination.

Moved Councillor Castellari

Seconded Councillor Stewart

CARRIED

Note 7: Record of Voting for 15.1 – DA0014/2016 21 Lot Residential Subdivision Rushes Bay Avenue East Jindabyne.

Councillors For

Mayor Rooney, Councillor Castellari, Councillor Corbett, Councillor Ewart, Councillor Haslingden, Councillor Last, Councillor Old and Councillor Stewart.

Councillors Against

Deputy Mayor Miners.

Note 8: Attendance of Councillor Last – Conflict of Interest

Clr Last having declared a conflict of interest with this item (refer Item 15.1 above), left the meeting and was absent from the meeting from 6:34pm for the duration of Item 15.1 - DA0014/2016 21 Lot Residential Subdivision Rushes Bay Avenue East Jindabyne, returning at 6:49pm, taking no part in discussion or voting on this item.

15.2 DEVELOPMENT APPLICATION 10.2003.222.2 - MODIFY CONDITION 5 TO REMOVE S94 FEES

Record No:

- Responsible Officer: Director Environment & Sustainability
- Author: Urban and Rural Planner
- Key Direction: 6. Managing Development and Service Delivery to Retain the Things We Value
- Delivery Plan Strategy: DP6.2.1.1 Ensure that Council’s land use planning and development policies enhance liveability.
- Operational Plan Action: OP6.11 Ensure development assessment is undertaken in accordance with adopted Local Environmental Plans, Development Control Plans, Council Policy and State and Federal legislation.
- Attachments:
1. Notice of Determination - Refused - Draft to Council ⇨
 2. 18 11129 Modified Development Consent DA222 03 - 26 Feb 2007 ⇨
 3. 18 11128 Approved Plan of 53 Lot Subdivision DA222 03 ⇨
 4. 17 35906 Letter - Applicant - Dedication of Public Reserve - 1996 06 24 ⇨
 5. 18 11127 Letter to Applicant - Subdivisions at Cooma East - 15 Jan 2009 ⇨

Further Operational Plan Actions:

Applicant Number:	10.2003.222.2
Applicant:	Ignazio Mondello
Owner:	Ignazio Mondello
DA Registered:	01/12/17
Property Description:	Monaro Avenue COOMA 2630
Property Number:	Lot: 19 DP: 860066
Area:	
Zone:	R2 Low Density Residential
Current Use:	Residential
Proposed Use:	Residential
Permitted in Zone:	<p>2 Permitted without consent Environmental protection works; Home-based child care; Home occupations</p> <p>3 Permitted with consent Bed and breakfast accommodation; Boarding houses; Car parks; Caravan parks; Centre-based child care facilities; Community facilities; Dual occupancies; Dwelling houses; Environmental facilities; Exhibition</p>

	homes; Group homes; Home occupations (sex services); Neighbourhood shops; Places of public worship; Plant nurseries; Recreation areas; Recreation facilities (indoor); Recreation facilities (outdoor); Respite day care centres; Roads; Seniors housing; Signage; Water supply systems 4 Prohibited Any development not specified in item 2 or 3
Recommendation:	Refusal

EXECUTIVE SUMMARY

The purpose of this report is to provide Council with the information to make a determination of the proposed modification under the *Environmental Planning and Assessment Act 1979 (the Act)*.

The proposed modification is seeking to amend Condition 5 of the Consent to remove the requirement to pay Section 94 contribution fees on an additional 3 lots.

All Section 94 contribution fees have been applied in accordance with Council’s adopted policy at the time and the provisions of Section 94 of the *Environmental Planning and Assessment Act, 1979*.

The position of the applicant is that Section 94 Contributions (as made in the form of public reserves and monetary contributions) for stage 2 were to cover the requirements for any future changes to Stage 2 of the subdivision, including any changes to overall lot numbers following re-subdividing proposed Lot 8. This is incorrect, as Section 94 Contributions are payable on any additional lots. The letters and agreements the applicant has referred to are directly related only to Stage 1 but through various modifications are also relatable to Stage 2. However they clearly do not exempt the applicant from contributions payable for further subdivision. It is therefore considered that the proposed modification has no evidence to support the applicant’s request.

This application is being submitted to Council for a decision because it involves an application that has previously been reported to Council issues relating to Section 94 Contributions.

COUNCIL RESOLUTION	267/18
That Council defer, for one (1) month, DA 10.2003.222.2 – Modify Condition 5 to remove S94 fees to the Council Meeting on the 2 August 2018.	
Moved Councillor Old	Seconded Councillor Haslingden CARRIED

Note 9: Record of Voting for 15.2 – Development Application 10.2003.222.2 – Modify Condition 5 to remove s94 fees.

Councillors For *Mayor Rooney, Deputy Mayor Miners, Councillor Castellari, Councillor Corbett, Councillor Ewart, Councillor Haslingden, Councillor Last, Councillor Old and Councillor Stewart.*

Councillors Against *Nil.*

16. CORPORATE BUSINESS - KEY DIRECTION 7. PROVIDING EFFECTIVE CIVIC LEADERSHIP AND CITIZEN PARTICIPATION

Nil

17. REPORTS BY GENERAL MANAGER

17.1 GENERAL MANAGER'S REPORT

The General Manager advised he will provide an update on Council's resolution regarding a property it owns in Bombala, subject of a report in the Confidential Session at the last Ordinary Council Meeting. The General Manager advised he will update Councillors in a workshop on the Staff survey within the next six (6) to eight (8) weeks.

COUNCIL RESOLUTION

268/18

That Council receive and note reports by the General Manager.

Moved Councillor Stewart

Seconded Councillor Castellari

CARRIED

18. NOTICE OF MOTION

18.1 COUNCILLOR JOHN CASTELLARI - FLYING OF THE ABORIGINAL FLAG

Record No:

Responsible Officer: General Manager

Author: Councillor John Castellari

Attachments: Nil

Councillor John Castellari has given notice that at the Ordinary Meeting of Council on 5 July 2018, he will move the following motion.

COUNCIL RESOLUTION

269/18

That Council demonstrate its respect for the indigenous community by flying the Aboriginal flag wherever and whenever it flies the Australian flag on SMRC buildings and facilities.

Moved Councillor Castellari

Seconded Councillor Haslingden

CARRIED

Note 10: Attendance of Director of Operations and Infrastructure

Director of Operations and Infrastructure was absent from the meeting from 6:56pm during Item 18.1 Notice of Motion – John Castellari - Flying of the Aboriginal Flag, returning at 6:59pm during same item.

Note 11: Attendance of Governance Officer

Governance Officer was absent from the meeting from 7:00pm during Item 18.1 Notice of Motion – John Castellari - Flying of the Aboriginal Flag, returning at 7:03pm during same item.

Note 12: Adjournment of Meeting

At 7:04 pm the meeting adjourned for dinner.

Note 13: Resumption of Meeting

The meeting resumed at 7:31pm.

18.2 RECISSION MOTION - COUNCILLOR SUE HASLINGDEN MAYORAL MINUTE

Record No:

Responsible Officer: Director Corporate and Community Services
Author: Councillor Sue Haslingden
Attachments: 1. Motion to Rescind Resolution - Councillor Sue Haslingden →

Councillor Suzanne Haslingden has given notice that at the Ordinary Meeting of Council on 5 July 2018, she will move the following motion.

MOTION

That the Council resolution relating to

Minutes: OC_21062018_MIN_983_CLOSED

Item No. 22.6 Discussion Regarding the Barring of a Member of the Public from Council Meetings

22.6 DISCUSSION REGARDING THE BARRING OF A MEMBER OF THE PUBLIC FROM COUNCIL MEETINGS

COUNCIL RESOLUTION [255/18]

That Council confirms the decision of the Mayor undertaken Sections 226(d) and 226(f) of the Local Government Act 1993, to ban a member of the public from future Council Meetings until further notice.

Moved Councillor Beer Seconded Councillor Castellar [CARRIED]

PASSED AT THE COUNCIL MEETING HELD ON : 21 June 2018

be and is hereby RESCINDED”.

Note 14: Motion Ruled Out of Order

In accordance with Clause 5.4(3) of Council’s Code of Meeting Practice the Mayor ruled the notice of motion from Councillor Haslingden out of order as it had an unlawful purpose or that deals with a matter that is outside the jurisdiction of the Council given that the Office of Local Government have advised that Council resolution 255/18 is Ultra Vires and therefore has no legal standing.

Note 15: Attendance of Councillor Old

Councillor Old was absent from the meeting from 7:35pm during Item 18.2 - Rescission Motion – Councillor Sue Haslingden Mayoral Minute, returning at 7:38pm during the same item.

18.3 NOTICE OF MOTION - BOMBALA WATER

Record No:

Responsible Officer: Director Corporate and Community Services
Author: Councillor Sue Haslingden
Attachments: Nil

Councillor Suzanne Haslingden has given notice that at the Ordinary Meeting of Council on 5 July 2018, she will move the following motion.

COUNCIL RESOLUTION

270/18

That Council advertise an amendment to its Revenue Policy for a rebate of \$1.56 for the water charges for Bombala residents for one (1) billing period due to the water quality issues.

Moved Councillor Haslingden

Seconded Councillor Stewart

CARRIED

Note 16: Amendment to Original Motion

The above recommendation was an amendment to the original motion. The amendment was accepted by the mover and seconder thereby becoming the substantive motion.

The original motion Moved: Clr Haslingden, Seconded: Clr Stewart was:

“That Council consider a generous quarterly one off adjustment in water rates for the residents of Bombala who have been seriously affected by the quality of the water supplied by SMRC”.

19. MOTIONS OF URGENCY

19.1 MOTION OF URGENCY - COUNCILLOR CASTELLARI

That Council:

- A) Confirms its commitment to the joint project with the Department of Education at Jindabyne Central School (reference Item 22.7 of Council meeting 15 February 2018) by committing to providing funds of up to 2 million dollars towards the project, and;
- B) Commitment of the funds to be conditional on the State Government, before the signing of a binding Heads of Agreement, satisfactorily conducting a community consultation in Jindabyne, to explain the joint use concept, similar to the workshop attended recently by Councillors, and to answer residents’ questions concerning all aspects of the project. The community meeting is to be conducted jointly with Council in sufficient time to allow a subsequent ordinary meeting of Council to reaffirm commitment to the project.

Note 17: Lost Motion

The above motion moved Clr Castellari and seconded Clr Old was put to the vote and LOST.

As there was no foreshadowed motion before the meeting, the matter lapsed and the Chair moved to the next item of business

19.2 MOTION OF URGENCY - COUNCILLOR STEWART

A late notice of Motion was submitted by Councillor Stewart, in the following terms:

That Council have a discussion on a process that was handled with the Mayor over the expulsion and the reinstatement of a member of the public from Council Meetings.

Note 18: Note: Matter Ruled Not of Great Urgency

In accordance with Clause 15 (5) of the Code of Meeting Practice:

Despite subclause (1) Business may be transacted at a meeting of Council even though due notice if the business has not been given to the Councillors. However, this can only happen if:

- a) A motion is passed to have the business transacted at the meeting; and*
- b) The business proposed to be brought forward is ruled by the Chairperson to be of great urgency (cl 241 of the Regulation)*

Such a motion can be moved without notice.

The above motion of urgency was put to the vote and carried.

Mayor Rooney as Chair ruled that whilst the matter was important it was not of great urgency and could be discussed at the Council Meeting on the 19 August 2018, along with a report to Council.

Note 19: Attendance of Councillor

Councillor Stewart was absent from the meeting from 7:48pm during Item 19.1 - Motion of Urgency by Councillor Castellari, returning at 7:50pm during same item.

20. QUESTIONS WITH NOTICE

Nil

21. QUESTIONS TAKEN ON NOTICE

21.1 COUNCILLOR LAST - TREE INSPECTION ENQUIRY

Question: Concerning Mr. Mondello, he has a building problem with his building facing Amos Street. There is a row of trees there that are upsetting the structure of the building. Is it possible for the appropriate Council Officer to inspect those trees and come back with an appropriate report on the damage those trees are causing? The trees are on council land

Answer: Taken on Notice.

21.2 COUNCILLOR STEWART - RECYCLING COSTS

Question: Can we can a report on the new recycling costs that have been implemented from the 30th June? Including previous costs

Answer: Taken on Notice.

21. QUESTIONS WITHOUT NOTICE

Nil

22. CONFIDENTIAL MATTERS

COUNCIL RESOLUTION

271/18

1. THAT pursuant to Section 10A subsections 2 & 3 and Section 10B of the Local Government Act, 1993 (as amended) the following items on the agenda for the Ordinary Council meeting be dealt with in Closed Session for the reasons specified below:

22.1 Legal Actions and Potential Claims Against SMRC as at 31 May 2018

Item 22.1 is confidential in accordance with s10(A)(2)(e) of the Local Government Act because it contains information that would, if disclosed, prejudice the maintenance of law and discussion of the matter in an open meeting would be, on balance, contrary to the public interest.

22.2 Proposed Purchase of Property in Cooma

Item 22.2 is confidential in accordance with s10(A)(2)(dii) of the Local Government Act because it contains information that would, if disclosed, confer a commercial advantage on a competitor of the council and discussion of the matter in an open meeting would be, on balance, contrary to the public interest.

22.3 Uncontrolled Disposal of Septic Waste into Council Sewer System

Item 22.3 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 (f) of the Local Government Act because it contains and details of systems and/or arrangements that have been implemented to protect council, councillors, staff and Council property and discussion of the matter in an open meeting would be, on balance, contrary to the public interest.

meeting would be, on balance, contrary to the public interest.

22.6 Discussion Regarding Employment of Interim General Manager

Item 22.6 is confidential in accordance with s10(A)(2)(a) of the Local Government Act because it contains personnel matters concerning particular individuals (other than councillors) and discussion of the matter in an open meeting would be, on balance, contrary to the public interest.

2. The press and public be excluded from the proceedings of the Council in Closed Session on the basis that these items are considered to be of a confidential nature.
3. That the Minutes and Business Papers including any reports, correspondence, documentation or information relating to such matter be treated as confidential and be withheld from access by the press and public, until such time as the Council resolves that the reason for confidentiality has passed or become irrelevant.
4. That the resolutions made by the Council in Closed Session be recorded in the Minutes of the Council Meeting.
5. That upon this recommendation being moved and seconded, the Chairperson invite representations from the public as to whether this part of the meeting should be closed to consider the nominated item.

Moved Councillor Corbett

Seconded Councillor Ewart

CARRIED

22.4 PROPOSAL FOR FUTURE OF COUNCIL OFFICES IN COOMA

COUNCIL RESOLUTION

272/18

That Council defer Item 22.4 - Proposal for Future of Council Offices in Cooma, and confidential information be removed from the report. The report be presented in open session with Confidential attachments at the next meeting on the 19 July 2018.

Moved Councillor Haslingden

Seconded Councillor Last

CARRIED

22.5 TERRY STREET DEVELOPMENT

COUNCIL RESOLUTION

273/18

That Council defer Item 22.5- Terry Street Development, and confidential information be removed from the reports The report be presented in open session with Confidential attachments at the meeting in one (1) months' time.

Moved Councillor Ewart

Seconded Deputy Mayor Miners

CARRIED

Note 20: Note: Consideration of Confidential Items in Open Council

That Council requested that Item 22.4 and 22.5 be considered in Open Council.

Note: Invitation to Public

Upon the above motion being moved and seconded, the Mayor invited representations from the public as to whether this part of the meeting should be closed to consider the nominated items. There were no requests by members of the public to make any representations.

Note 21: Confidential Session of Committee

At 8:40 pm the meeting was closed to the press and public.

Note 22: Resumption of Open Committee Meeting

At 9:36 pm the Closed Session ended and the Council meeting continued in Open Session.

23. REPORT FROM CONFIDENTIAL SESSION

22.1 LEGAL ACTIONS AND POTENTIAL CLAIMS AGAINST SMRC AS AT 31 MAY 2018

COUNCIL RESOLUTION

274/18

That Council receive and note the information in this report

Moved Councillor Castellari

Seconded Councillor Ewart

CARRIED

22.2 PROPOSED PURCHASE OF PROPERTY IN COOMA

COUNCIL RESOLUTION	275/18
That Council Resolve not to proceed with the purchase of the property identified in the report.	
Moved Councillor Old	Seconded Councillor Haslingden
	CARRIED

22.3 UNCONTROLLED DISPOSAL OF SEPTIC WASTE INTO COUNCIL SEWER SYSTEM

COUNCIL RESOLUTION	276/18
That Council receive and note the information in the report on current disposal of septage into Councils sewerage system in Delegate and approve the following action:	
A) Meet with the contractor and arrange for proper testing to identify whether it complies with liquid trade waste discharge and bring a further report to Council after the testing	
Moved Councillor Stewart	Seconded Councillor Haslingden
	CARRIED

22.6 DISCUSSION REGARDING EMPLOYMENT OF INTERIM GENERAL MANAGER

COUNCIL RESOLUTION	279/18
That council establish a panel, comprising of the General Manager, Mayor Rooney, Deputy Mayor Miners, Councillor Stewart and Councillor Haslingden to interview the two (2) nominated persons for the interim General Manager position, and then make a report back to the full Council on the recommendation.	
Moved Councillor Stewart	Seconded Councillor Last
	CARRIED

Note 23: Attendance of General Manager – Conflict of Interest

General Manager declared an interest in Item 22.6 – Discussion regarding employment of Interim General Manager, as he had a perceived non-significant conflict of interest in this item due to “Having a conflict in the matter as the matter involves the arrangements to be put in place following my resignation”. At the request of the Council the General Manager remained in the meeting to assist Council with the process. The General Manager took part in discussion but did not vote on this item.

There being no further business the Mayor declared the meeting closed at 9:36pm.

CHAIRPERSON



The above minutes of the Ordinary Council Meeting of Snowy Monaro Regional Council held on 5 July 2018 were confirmed by Council at a duly convened meeting on 19 July 2018 at which meeting the signature hereon was subscribed.