

Richmond
Valley
Council



MINUTES

**Extraordinary Council Meeting
6 August 2024**

ORDER OF BUSINESS

1	ACKNOWLEDGEMENT OF COUNTRY	3
2	PRAYER	3
3	APOLOGIES	3
4	DECLARATION OF INTERESTS	3
5	MATTERS DETERMINED WITHOUT DEBATE	3
6	PROJECTS & BUSINESS DEVELOPMENT	4
6.1	Land Acquisition 115 Upper Cherry Tree Road for Road Widening.....	4
6.2	Land Acquisition Naughtons Gap Road Widening.....	5
6.3	Dedication and Closure of Public Roads	6
7	MATTERS REFERRED TO CLOSED COUNCIL	7
7.1	Tender VP416665 - Construction of Casino Pool Clubhouse Upgrade.....	7
7.2	Tender VP411925 - Construction of Broadwater Bridge Replacement	7
7.3	Tender VP416151 - Casino Sewage Treatment Plant Concept Design	7
7.4	Tender VP417765 - Evans Head Sewage Treatment Plant Stage 2 Detailed Design.....	7
8	RESOLUTIONS OF CLOSED COUNCIL	8

**MINUTES OF RICHMOND VALLEY COUNCIL
EXTRAORDINARY COUNCIL MEETING
HELD AT THE COUNCIL CHAMBERS, 10 GRAHAM PLACE, CASINO
ON TUESDAY, 6 AUGUST 2024 AT 6PM**

Please note: these minutes are subject to confirmation at the next Council Meeting. Decisions recorded in the draft minutes are subject to the Council's Code of Meeting Practice in relation to rescinding decisions.

PRESENT: Cr Robert Mustow (Mayor), Cr Stephen Morrissey (Deputy Mayor), Cr Sam Cornish (via videolink), Cr Robert Hayes, Cr Sandra Humphrys, Cr Patrick Deegan, Cr Debra McGillan

IN ATTENDANCE: Vaughan Macdonald (General Manager), Angela Jones (Director Community Service Delivery), Ryan Gaiter (Director Organisational Services), Ben Zeller (Director Projects & Business Development), Kate Allder-Conn (Governance Coordinator), Charlene Reeves (Executive Assistant Projects and Business Development), Simon Breeze (IT Support Coordinator)

1 ACKNOWLEDGEMENT OF COUNTRY

The Mayor provided an Acknowledgement of Country by reading the following statement on behalf of Council:

"Richmond Valley Council recognises the people of the Bundjalung Nations as Custodians and Traditional Owners of this land and we value and appreciate the continuing cultural connection to lands, their living culture and their unique role in the life of this region in the past, present and future."

2 PRAYER

The meeting opened with a prayer by the General Manager.

3 APOLOGIES

Nil

4 DECLARATION OF INTERESTS

Nil

5 MATTERS DETERMINED WITHOUT DEBATE

Nil

6 PROJECTS & BUSINESS DEVELOPMENT

6.1 LAND ACQUISITION 115 UPPER CHERRY TREE ROAD FOR ROAD WIDENING

EXECUTIVE SUMMARY

During the February 2022 natural disaster flood event, a major land slip occurred on the road adjoining 115 Upper Cherry Tree Road, Upper Mongogarie. During immediate reconstruction works, Council entered into an interim Licence Agreement with the adjoining landowner to re-align the road onto their land to restore access to the residents.

Due to the extensive damage to the site, the intent of the Licence Agreement was that the diversion road will be permanently realigned, and that Council will act accordingly to formalise.

Following the disaster claim assessment, evaluation, and tender process Council received funding approval for the reconstruction of the landslip from Transport for NSW (TfNSW) on 8 July 2024. The NSW Essential Public Asset Restoration Guidelines require that Council reinstate the road on the existing alignment.

Council's Asset Planning and Infrastructure Recovery staff support the land acquisition as per the intent of the original Licence Agreement as an alternative contingency protection for this road. It is recommended that Council continues with the land acquisition including the constructed side road. The affected landholder has requested that the unformed Crown Road is provided as compensation for the loss of land.

RESOLUTION 060824/1

Moved: Cr Sandra Humphrys

Seconded: Cr Stephen Morrissey

That Council:

1. Acquires the land by private agreement by the authority contained in the *Roads Act 1993*. The land identified as being required for the public road realignment affecting 115 Upper Cherry Tree Road, Upper Mongogarie within part Lot 1 Deposited Plan 832403.
2. Authorises the General Manager to:
 - (i) Negotiate the final boundaries of the land acquisition in accordance with this report;
 - (ii) Negotiate the compensation of land acquisition under the provisions to achieve genuine agreement between all parties.
 - (iii) Sign the necessary documentation to implement this resolution, including affixing the Seal of Council as required.
3. Dedicates the acquired land, as public road.
4. Supports an application to the NSW Crown Lands as requested by the affected property owner to formally close the subject Crown Road offered in compensation created from the road realignment.

CARRIED

6.2 LAND ACQUISITION NAUGHTONS GAP ROAD WIDENING

EXECUTIVE SUMMARY

Council received funding in 2020 from the Fixing Local Roads Program for improvements and road widening to approximately 300 metres of Naughtons Gap Road (southern boundary of 92 Naughtons Gap Road to the Northern boundary of 925 Naughtons Gap Road).

The construction works were completed in April 2024, which included surface corrections and improvements to the geometric shape of the road to improve safety. The new road alignment encroaches into the adjoining property and Council is required to acquire land for the purpose of widening the road.

Council has been negotiating with the affected property owner to secure the land acquisition by agreement during the design and construction period and aims to reach an agreement by negotiation.

RESOLUTION 060824/2

Moved: Cr Robert Mustow

Seconded: Cr Stephen Morrissey

That Council:

1. Acquires the land identified as Lot 1 DP1307756 required for public road by private agreement, acquisition by consent or through the compulsory acquisition process under the *Land Acquisition (Just Terms Compensation) Act 1991* by the authority contained in the *Roads Act 1993*.
2. Approves the making of an application to the Minister for Local Government for the issue of a Proposed Acquisition Notice under the *Land Acquisition (Just Terms Compensation) Act 1991* with respect to the subject land.
3. Authorises the General Manager to:
 - i. Negotiate the final boundaries of the land acquisition in accordance with this report;
 - ii. Negotiate the compensation of the land acquisition under the provisions of the *Land Acquisition (Just Terms Compensation) Act 1991* to achieve genuine agreement between all parties.
 - iii. Sign the necessary documentation to implement this resolution, including affixing the Seal of Council as required.
4. Dedicates the acquired land, as public road.

CARRIED

6.3 DEDICATION AND CLOSURE OF PUBLIC ROADS

EXECUTIVE SUMMARY

During investigations for the activation of land specific to the Johnston Street Industrial precinct as identified in the Richmond Valley Regional Jobs Precinct, Council has acknowledged the need to pursue the due process to formalise the dedication of public roads and the closure of unnecessary roads within the precinct.

Prior to the *Local Government Act 1919*, roads were created but often not dedicated to the local Council. The *Roads Act 1993*, under sections 16 and 17, provides a process to resolve doubts concerning the status of those roads by publication of a notice to dedicate the public road in the NSW Government Gazette. The Act provides that no compensation is payable.

Two laneways each adjoining Patricia Street, Casino are used as drainage reserves and provide no current or future need as a public road. It is proposed that these laneways are closed and classified as Council operational land. This will support the future planning and development of the Johnston Street Industrial precinct as part of the Regional Jobs Precinct activation.

The road closure process requires public exhibition, notification to relevant authorities and consultation with affected landowners. A future report will be presented to Council for consideration of any submissions received during the road closure exhibition period.

RESOLUTION 060824/3

Moved: Cr Robert Mustow

Seconded: Cr Sandra Humphrys

That Council:

1. In accordance with Section 16 and 17 of the *Roads Act 1993*;
 - (a) serve 28 days' notice on the owners of the land the intention to dedicate the residual roads within deposited plan 976660 as public road, and
 - (b) should no application be made by the owners to the Land and Environment Court within 28 days of that notification, a notice be placed in the NSW Government Gazette dedicating the land as public roads.
2. In accordance with Section 38B of the *Roads Act 1993*, undertake the relevant consultation to close the laneways adjoining Patricia Street as operational land.
3. A further report be submitted to Council at the completion of the consultation.

CARRIED

7 MATTERS REFERRED TO CLOSED COUNCIL

RECOMMENDATION

That Council considers the confidential report(s) listed below in a meeting closed to the public in accordance with Section 10A(2) of the Local Government Act 1993:

7.1 Tender VP416665 - Construction of Casino Pool Clubhouse Upgrade

This matter relates to (d)(i) commercial information of a confidential nature that would, if disclosed prejudice the commercial position of the person who supplied it.

7.2 Tender VP411925 - Construction of Broadwater Bridge Replacement

This matter relates to (d)(i) commercial information of a confidential nature that would, if disclosed prejudice the commercial position of the person who supplied it.

7.3 Tender VP416151 - Casino Sewage Treatment Plant Concept Design

This matter relates to (d)(i) commercial information of a confidential nature that would, if disclosed prejudice the commercial position of the person who supplied it.

7.4 Tender VP417765 - Evans Head Sewage Treatment Plant Stage 2 Detailed Design

This matter relates to (d)(i) commercial information of a confidential nature that would, if disclosed prejudice the commercial position of the person who supplied it.

The above listed matters are considered to be confidential under Section 10A(2) - (d)(i) of the Local Government Act, and the Council is satisfied that discussion of this matter in an open meeting would, on balance, be contrary to the public interest as it deals with commercial information of a confidential nature that would, if disclosed prejudice the commercial position of the person who supplied it.

RESOLUTION 060824/4

Moved: Cr Stephen Morrissey

Seconded: Cr Robert Hayes

That:

1. Council enters Closed Council to consider the business identified in Item 6, together with any late reported tabled at the meeting.
2. Pursuant to section 10A(2) of the *Local Government Act 1993*, the media and public be excluded from the meeting on the basis the business to be discussed is classified confidential under the provisions of section 10(2) as outlined above.
3. The correspondence and reports relevant to the subject business be withheld from access to the media and public as required by section 11(2) *Local Government Act 1993*.

CARRIED

The General Manager reported that no written representations had been received in respect of the items listed for consideration in Closed Council.

The Chair called for representations from the gallery.

There were no verbal representations from the gallery in respect of this item.

The Chair advised that under section 10A Local Government Act 1993, the media and public are to be excluded from the meeting on the basis that the business to be discussed is classified confidential under the provisions of section 10(2) as outlined above.

Council closed its meeting to the public at 6.10pm.

The Open Council meeting resumed at 6:24pm.

The resolutions of the Closed Council meeting were read by Ben Zeller, Director Projects & Business Development (Item 7.1 and 7.2) and Angela Jones, Director Community Services Delivery (Item 7.3 and 7.4).

8 RESOLUTIONS OF CLOSED COUNCIL

7.1 TENDER VP416665 - CONSTRUCTION OF CASINO POOL CLUBHOUSE UPGRADE

That:

1. Council accepts the tender from G.J Bennett & S.C Robertson which represents the best value for Council at \$561,850.00 (exclusive of GST); and
2. The General Manager be authorised to negotiate and finalise the terms and conditions of any contract or agreement, in line with the content of this report and the available budget and affixing the seal of Council where necessary.

7.2 TENDER VP411925 - CONSTRUCTION OF BROADWATER BRIDGE REPLACEMENT

That:

1. Council accepts the tender from Ark Construction Group Pty Ltd which represents the best value for Council at \$1,545,398.18 (exclusive of GST); and
2. The General Manager be authorised to negotiate and finalise the terms and conditions of any contract or agreement, in line with the content of this report and the available budget and affixing the seal of Council where necessary.
3. Council budgets a 25% contingency (\$400,000) to accommodate for project management costs, design review, surveillance, and outcomes from a load capacity report of the current structure to accommodate lifting methods throughout the construction and dismantling process of the project.

7.3 TENDER VP416151 - CASINO SEWAGE TREATMENT PLANT CONCEPT DESIGN

That Council:

1. Declines the submission received for Tender VP416151 – Casino Sewage Treatment Plant Concept Design due to the lack of acceptance by Tenderers of the General Conditions of Contract.
2. Applies Clause 178 (3)(e) of the Local Government (General) Regulation 2021 to authorise the General Manager to enter into direct negotiations with suitably qualified consultants with a view to procure works that provide Council with the best outcome both from a financial and delivery perspective, and to finalise terms of the contract or agreement and affixing the seal of Council where necessary.
3. Notes that the outcome of the negotiations will be reported to Council for information at a future meeting.

7.4 TENDER VP417765 - EVANS HEAD SEWAGE TREATMENT PLANT STAGE 2 DETAILED DESIGN

That Council:

1. Accepts the assessed tender price from New South Wales Public Works which represents the best value for Council at \$446,040.00 (exclusive of GST); and
2. The General Manager be authorised to negotiate and finalise the terms and conditions of any contract or agreement, in line with the content of this report and the available budget and affixing the seal of Council where necessary.

The Meeting closed at 6:29pm.

The minutes of this meeting were confirmed at the Ordinary Meeting of the Richmond Valley Council held on 20 August 2024.

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CHAIRPERSON