

Richmond
Valley
Council



MINUTES

**Ordinary Council Meeting
22 October 2024**

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**MINUTES OF RICHMOND VALLEY COUNCIL
ORDINARY COUNCIL MEETING
HELD AT THE COUNCIL CHAMBERS, 10 GRAHAM PLACE, CASINO
ON TUESDAY, 22 OCTOBER 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, Cr Robert Hayes, Cr Sandra Humphrys, Cr Lyndall Murray, Cr John Walker.

IN ATTENDANCE: Vaughan Macdonald (General Manager), Angela Jones (Director Community Service Delivery), Ryan Gaiter (Director Organisational Services), Ben Zeller (Director Projects & Business Development), Jenna Hazelwood (Chief of Staff), Julie Clark (Personal Assistant to the General Manager and Mayor), 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 PUBLIC ACCESS

Ms Jocelyn Reese on behalf of Stop Iron Gates Incorporated, addressed Council in relation to

- Item 14.1 Iron Gates Development: Notice of Intention to Appeal, advocating for Richmond Valley Council to pursue an appeal of the Land and Environment Court's decision on the Iron Gates development.

Mr Doug Luke addressed Council in relation to

- Item 14.1 Iron Gates Development: Notice of Intention to Appeal, speaking against the development. Mr Luke raised concerns about potential impacts on the community and advocated for Council to pursue an appeal of the Land and Environment Court decision.

Dr Richard Gates on behalf of Evans Head Residents for Sustainable Development Incorporated, addressed Council in relation to

- Item 14.1 Iron Gates Development: Notice of Intention to Appeal, raising concerns with the Land and Environment Court decision and advocating for Council to apply for leave of the Court for an extension of time to consider further questions of law arising from the decision that may support an appeal.

The Mayor thanked Ms Reese, Mr Luke, and Dr Gates for their attendance and address to the meeting.

A full recording of the public address segment is available at:

<https://richmondvalley.nsw.gov.au/council/council-meetings/council-meeting-videos/>

4 APOLOGIES

Nil

5 MAYORAL MINUTES

5.1 MAYORAL MINUTE - HER EXCELLENCY THE HONOURABLE MARGARET BEAZLEY AC KC, GOVERNOR OF NEW SOUTH WALES, AND MR DENNIS WILSON VISIT TO THE RICHMOND VALLEY

RESOLUTION 221024/1

Moved: Cr Robert Mustow

Seconded: Cr Stephen Morrissey

That Council writes to Her Excellency the Honourable Margaret Beazley AC KC, Governor of New South Wales, and Mr Dennis Wilson to thank them for visiting the Richmond Valley area and showing support and encouragement to our community.

CARRIED

6 CONFIRMATION OF MINUTES

6.1 MINUTES ORDINARY MEETING HELD 20 AUGUST 2024

RESOLUTION 221024/2

Moved: Cr Sandra Humphrys

Seconded: Cr Sam Cornish

That Council confirms the Minutes of the Ordinary Meeting held on 20 August 2024.

CARRIED

6.2 MINUTES EXTRAORDINARY MEETING HELD 9 OCTOBER 2024

RESOLUTION 221024/3

Moved: Cr Stephen Morrissey

Seconded: Cr Sam Cornish

That Council confirms the Minutes of the Extraordinary Meeting held on 9 October 2024.

CARRIED

7 MATTERS ARISING OUT OF THE MINUTES

7.1 ORDINARY MEETING MINUTES 20 AUGUST 2024

Cr Robert Hayes referred to Item 7 of the Minutes, regarding concerns with heavy vehicle movements on McDonald Street Broadwater and current load limits on the Wardell Bridge. He noted that there were plans for further discussions with Transport for NSW, with the outcome to be presented to the next Traffic Committee meeting and requested an update on progress.

The General Manager advised that a date had been set for the first Traffic Committee meeting in the new council term, and that discussions would be had with TfNSW prior to the meeting and that the matter would be addressed at this meeting.

8 DECLARATION OF INTERESTS

Cr Sam Cornish declared a non-pecuniary – insignificant conflict (perceived conflict) in relation to Item 19.7 – Correspondence Submission: Inquiry into Options for Essential Worker Housing in NSW, due to being employed as a NSW “essential worker”.

9 PETITIONS

Nil

10 NOTICE OF MOTION

Nil

11 MAYOR'S REPORT

11.1 MAYORAL ATTENDANCE REPORT 16 AUGUST -15 OCTOBER 2024

RESOLUTION 221024/4

Moved: Cr Robert Mustow

Seconded: Cr Stephen Morrissey

That Council receives and notes the Mayoral Attendance Report for the period 16 August – 15 October 2024.

CARRIED

12 DELEGATES' REPORTS

12.1 DELEGATES' REPORT AUGUST 2024 - ROUS COUNTY COUNCIL

RESOLUTION 221024/5

Moved: Cr Sandra Humphrys

Seconded: Cr Robert Mustow

That Council receives and notes the Delegates' Report – Rous County Council for August 2024.

CARRIED

13 MATTERS DETERMINED WITHOUT DEBATE

13.1 MATTERS TO BE DETERMINED WITHOUT DEBATE

RESOLUTION 221024/6

Moved: Cr Robert Hayes

Seconded: Cr Sandra Humphrys

That item 17.1 identified be determined without debate.

CARRIED

14 GENERAL MANAGER

14.1 IRON GATES DEVELOPMENT: NOTICE OF INTENTION TO APPEAL

EXECUTIVE SUMMARY

The proposed Iron Gates residential development at Evans Head, has a long, complex and controversial history dating back more than 40 years. There have been numerous development applications and legal challenges over that time, however this report focuses on the most recent determination of the Land and Environment Court, which overturned the Northern Region Planning Panel's previous refusal of the development.

Council now has an option to appeal the Land and Environment Court's decision, if it believes there are sufficient questions of law that may be challenged. This report considers the options, relevant legal advice, current and potential costs relating to the matter to support Council's final determination on whether or not it wishes to proceed with an appeal.

MOTION

Moved: Cr John Walker

Seconded: Cr Sandra Humphrys

That Council:

1. Notes the long and complex history of the Iron Gates development and the significant community interest in this matter;
2. Notes the judgement of Preston CJ in *Goldcoral Pty Ltd (Receiver and Manager Appointed) v Richmond Valley Council* regarding this matter and acknowledges the constraints of Section 57 (1) of the *Land and Environment Court Act 1979* in limiting appeal options to questions of law;
3. Further notes the expert legal advice received regarding this matter, concluding that an appeal from the Judgement under s.57(1) of the *Land and Environment Court Act 1979* would not enjoy reasonable prospects of success;
4. Acknowledges the significant expenditure of Council resources in addressing the Land and Environment Court matter and notes the estimated further expenditure and resourcing to pursue an appeal;
5. Having regard to these considerations and noting that a successful appeal of the matter will not preclude future development from occurring on the site, determines not to pursue this matter in the Court of Appeal and advises the Court of this decision;
6. Continues to work with all stakeholders to achieve the best possible outcome for the community from the approved development, in accordance with the development consent conditions.

AMENDMENT

Moved: Cr Robert Mustow

Seconded: Cr Robert Hayes

That Council:

1. Notes the long and complex history of the Iron Gates development and the significant community interest in this matter;
2. Notes the judgement of Preston CJ in *Goldcoral Pty Ltd (Receiver and Manager Appointed) v Richmond Valley Council* regarding this matter and acknowledges the constraints of Section 57 (1) of the *Land and Environment Court Act 1979* in limiting appeal options to questions of law;
3. Further notes the expert legal advice received regarding this matter, concluding that an appeal from the Judgement under s.57(1) of the *Land and Environment Court Act 1979* would not enjoy reasonable prospects of success;
4. Acknowledges the significant expenditure of Council resources in addressing the Land and Environment Court matter and notes the estimated further expenditure and resourcing to pursue an appeal;
5. Having regard to these considerations and noting that a successful appeal of the matter will not preclude future development from occurring on the site, determines not to pursue this matter in the Court of Appeal and advises the Court of this decision;
6. Continues to work with all stakeholders to achieve the best possible outcome for the community from the approved development, in accordance with the development consent conditions.
7. Investigates options to levy charges to cover all costs associated with the establishment and construction of the development from the developer, and rates and/or charges that can be levied on future residents for ongoing maintenance costs including the bioswales.

FORESHADOWED MOTION

Moved: Cr Lyndall Murray

That Council:

1. Considers instructing its legal counsel to seek a leave of absence or extension of time from the Land and Environment Court to lodge particulars for the appeal, so that Council can complete additional due diligence, given it was under caretaker mode for the majority of time that has lapsed under the current timeline, due to the Local Government Election.
2. Briefs and engages a third party to review the case to underscore the recommendation provided by Jason Lazaurus SC and to consider any other prospective grounds for appeal.

The amendment was put to the vote and carried.

In Favour: Crs Robert Mustow, Stephen Morrissey, Sam Cornish, Robert Hayes and Sandra Humphrys

Against: Crs Lyndall Murray and John Walker

CARRIED 5/2

The amendment became the motion.

The motion was put to the vote and was carried.

RESOLUTION 221024/7

Moved: Cr Robert Mustow

Seconded: Cr Robert Hayes

That Council:

1. Notes the long and complex history of the Iron Gates development and the significant community interest in this matter;
2. Notes the judgement of Preston CJ in *Goldcoral Pty Ltd (Receiver and Manager Appointed) v Richmond Valley Council* regarding this matter and acknowledges the constraints of Section 57 (1) of the *Land and Environment Court Act 1979* in limiting appeal options to questions of law;
3. Further notes the expert legal advice received regarding this matter, concluding that an appeal from the Judgement under s.57(1) of the *Land and Environment Court Act 1979* would not enjoy reasonable prospects of success;
4. Acknowledges the significant expenditure of Council resources in addressing the Land and Environment Court matter and notes the estimated further expenditure and resourcing to pursue an appeal;
5. Having regard to these considerations and noting that a successful appeal of the matter will not preclude future development from occurring on the site, determines not to pursue this matter in the Court of Appeal and advises the Court of this decision;
6. Continues to work with all stakeholders to achieve the best possible outcome for the community from the approved development, in accordance with the development consent conditions.
7. Investigates options to levy charges to cover all costs associated with the establishment and construction of the development from the developer, and rates and/or charges that can be levied on future residents for ongoing maintenance costs including the bioswales.

In Favour: Crs Robert Mustow, Stephen Morrissey, Sam Cornish, Robert Hayes, Sandra Humphrys and John Walker

Against: Cr Lyndall Murray

CARRIED 6/1

15 COMMUNITY SERVICE DELIVERY

15.1 NORTHERN REGIONAL PLANNING PANEL - COUNCIL APPOINTED DELEGATES

EXECUTIVE SUMMARY

Following the 2024 local government election, Council is required to reconsider its current appointments to the Northern Regional Planning Panel (NRPP). The Regional Planning Panel has five members, three appointed by the NSW Government and two selected by Council. Under the guidelines, at least one of the council members must have expertise in one or more of the following areas: Planning, architecture, heritage, the environment, urban design, land economics, traffic and transport, law, engineering, or tourism. Panel members may only be appointed for up to three years, although members are eligible for re-appointment.

Council's first Panel member role has traditionally been filled by a Councillor, with an alternate/backup Councillor delegate also appointed.

In recent years, Council's second Panel member role has been filled via an expert from Lismore City Council under a reciprocal arrangement whereby an expert from Richmond Valley Council holds a similar role on Lismore's Planning Panel equivalent.

This report seeks to appoint a Councillor delegate, and their alternate, to confirm the continued reciprocal Planning Panel arrangement with Lismore City Council, and to determine appropriate remuneration for Council's Panel members.

RESOLUTION 221024/8

Moved: Cr Robert Mustow

Seconded: Cr Stephen Morrissey

That Council:

1. Appoints a Councillor as one of Council's delegates on the Northern Regional Planning Panel, as well as a second Councillor as the Councillor backup/alternate delegate;
2. Reconfirms its reciprocal Planning Panel arrangement with Lismore City Council by appointing Mr Eber Butron as Council's second (expert) Planning Panel delegate, along with Mr Brendan Logan as his backup/alternate; and
3. Sets remuneration for Councillor attendance at Panel meetings/hearings at:
\$240 per meeting/hearing, plus allowances for travel and meals as per Council's *Payment of Expenses and Provision of Facilities to Councillors*; policy.

CARRIED

The General Manager then called for nominations for the Councillor delegate and alternate positions, with only one nomination being received. Accordingly, Cr Robert Hayes. was appointed as Council's delegate on the Northern Regional Planning Panel.

16 PROJECTS & BUSINESS DEVELOPMENT

Nil

17 ORGANISATIONAL SERVICES**17.1 FINANCIAL ANALYSIS REPORT - AUGUST AND SEPTEMBER 2024****EXECUTIVE SUMMARY**

The purpose of this report is to inform Council of the status and performance of its cash and investment portfolio in accordance with the *Local Government Act 1993* s.625, Local Government (General) Regulation 2021 cl.212, Australian Accounting Standard (AASB 9) and Council's Investment Policy.

The value of Council's cash and investments at 31 August and 30 September 2024 is shown below:

Month	Bank Accounts	Term Deposits	Floating Rate Notes	Fixed Rate Bonds	TCorp IM Funds	Total
August	\$20,543,774	\$30,000,000	\$6,750,390	\$4,500,000	\$16,815,504	\$78,609,668
September	\$24,539,992	\$30,000,000	\$6,750,390	\$4,500,000	\$16,956,455	\$82,746,837

The weighted average rate of return on Council's cash and investments at 31 August 2024 was 4.22% which was above the Bloomberg AusBond Bank Bill Index for August of 0.38%, which is Council's benchmark.

The weighted average return on Council's cash and investments for September was 5.89% which was above the Bloomberg AusBond Bank Bill Index for September of 0.36%.

RESOLUTION 221024/9

Moved: Cr Robert Hayes

Seconded: Cr Sandra Humphrys

That Council adopts the Financial Analysis Report detailing the performance of its cash and investments for the months of August and September 2024.

CARRIED

17.2 DRAFT FINANCIAL STATEMENTS 2023/2024

EXECUTIVE SUMMARY

Council's draft financial statements for the year ended 30 June 2024 have been prepared and subjected to external audit by the Audit Office of New South Wales. A copy of the draft financial statements and draft auditor's report have been provided separately to Councillors for information.

Council's external auditor, the Audit Office of New South Wales has advised that its representative firm, HLB Mann Judd GCNC will be attending the Ordinary Meeting of Council 19 November 2024 and will provide a presentation on the 2023/2024 financial statements and the final audit report.

Council's operating result from continuing operations for 2023/2024 was a surplus of \$26.955 million, compared to a budgeted surplus of \$12.175 million. Council recorded a deficit before capital grants and contributions of \$14.446 million for 2023/2024, compared to the original budgeted deficit of \$1.628 million.

Council experienced a number of challenges this year with increased depreciation, loss on disposal of assets and the challenges facing the economy as a whole with escalating cost of materials and labour.

Total revenue decreased slightly to \$109.782 million, from \$125.401 million in 2022/2023 with \$41.401 million in capital grants and contributions, which is consistent with the previous year. Council received \$13.329 million in operating grants and contributions during 2023/2024, which was a decrease of \$13.306 million from the previous year which largely comprised of disaster recovery funding.

Total operating expenditure was \$82.827 million, a slight increase from \$81.144 million in the previous year.

Council's overall financial position remains strong with net assets of \$1.163 billion, including cash and cash equivalents of \$82.296 million. Council has met the benchmark in five out of nine of its key performance measure ratios.

RESOLUTION 221024/10

Moved: Cr Sam Cornish

Seconded: Cr Robert Hayes

That Council:

1. Adopts the general purpose financial statements, special purpose financial statements and special schedules for the year ended 30 June 2024.
2. Certifies the following in respect of the general purpose financial statements and special purpose financial statements for the year ended 30 June 2024:
 - (a) Council's general purpose financial statements and special purpose financial statements have been prepared in accordance with:
 - (i) The *Local Government Act 1993 (NSW)* and the regulations made thereunder, and
 - (ii) The Australian Accounting Standards and other pronouncements of the Australian Accounting Standards Board, and
 - (iii) The Local Government Code of Accounting Practice and Financial Reporting.
 - (b) The general purpose financial statements and special purpose financial statements present fairly Council's financial position and operating result for the year ended 30 June 2024 and:

- (i) The reports are in accordance with Council's accounting and other records;
 - (ii) The signatories to this statement being the Mayor, a Councillor, General Manager and Responsible Accounting Officer are not aware of anything that would make the financial statements false or misleading in any way;
3. Fixes Tuesday 19 November 2024 as the date for the meeting to present the financial statements for the year ended 30 June 2024 to the public, invites submissions in writing and provides appropriate public notice of this meeting;
4. Adopts the restricted assets (reserves) schedule as detailed in this report.

CARRIED

18 GENERAL BUSINESS

Nil

19 MATTERS FOR INFORMATION

RESOLUTION 221024/11

Moved: Cr Stephen Morrissey

Seconded: Cr Sandra Humphrys

That the following reports submitted for information be received and noted.

CARRIED

19.1 INFRASTRUCTURE RECONSTRUCTION UPDATE

RESOLUTION 221024/12

Moved: Cr Stephen Morrissey

Seconded: Cr Sandra Humphrys

That Council receives and notes the information provided in the Infrastructure Reconstruction Update.

CARRIED

19.2 DEVELOPMENT APPLICATIONS DETERMINED UNDER THE ENVIRONMENTAL PLANNING AND ASSESSMENT ACT FOR THE PERIOD 1 AUGUST 2024 - 31 AUGUST 2024 AND 1 SEPTEMBER 2024 - 30 SEPTEMBER 2024

RESOLUTION 221024/13

Moved: Cr Stephen Morrissey

Seconded: Cr Sandra Humphrys

That Council receives and notes the Development Application report for the period 1 August 2024 to 30 September 2024.

CARRIED

19.3 AUDIT, RISK AND IMPROVEMENT COMMITTEE MINUTES, 28 AUGUST 2024**RESOLUTION 221024/14**

Moved: Cr Stephen Morrissey

Seconded: Cr Sandra Humphrys

That Council receives and notes the Minutes of the Audit, Risk and Improvement Committee held on 28 August 2024.

CARRIED

19.4 CODE OF CONDUCT COMPLAINT STATISTICS**RESOLUTION 221024/15**

Moved: Cr Stephen Morrissey

Seconded: Cr Sandra Humphrys

That Council receives and notes the Code of Conduct complaint statistics for the period 1 September 2023 to 31 August 2024.

CARRIED

19.5 CUSTOMER EXPERIENCE REPORT 1 JULY - 30 SEPTEMBER 2024**RESOLUTION 221024/16**

Moved: Cr Stephen Morrissey

Seconded: Cr Sandra Humphrys

That Council receives and notes the Customer Experience Report for the period 1 July – 30 September 2024.

CARRIED

19.6 GRANT APPLICATION INFORMATION REPORT - AUGUST AND SEPTEMBER 2024**RESOLUTION 221024/17**

Moved: Cr Stephen Morrissey

Seconded: Cr Sandra Humphrys

That Council receives and notes the Grant Application Information Report for the months of August and September 2024.

CARRIED

19.7 CORRESPONDENCE - SUBMISSION: INQUIRY INTO OPTIONS FOR ESSENTIAL WORKER HOUSING IN NSW**RESOLUTION 221024/18**

Moved: Cr Stephen Morrissey

Seconded: Cr Sandra Humphrys

That Council receives and notes Richmond Valley Council's Submission - Inquiry into provision of

essential worker housing in NSW - September 2024.

CARRIED

20 QUESTIONS ON NOTICE

Nil

21 QUESTIONS FOR NEXT MEETING (IN WRITING)

Nil

The Meeting closed at 7.25 pm.

The minutes of this meeting were confirmed at the Ordinary Council Meeting held on 19 November 2024.

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CHAIRPERSON