

**MINUTES OF THE ORDINARY COUNCIL MEETING OF THE MUSWELLBROOK SHIRE COUNCIL  
HELD IN THE CHAMBERS, ADMINISTRATION CENTRE, MUSWELLBROOK ON TUESDAY 13  
FEBRUARY, 2018 COMMENCING AT 6.00PM.**

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**PRESENT:** Cr M.L. Rush, Cr S.L. Bailey, Cr M. Bowditch, Cr J.F. Eades, Cr J.P. Foy, Cr M.I. Green, Cr J.L. Ledlin, Cr R.W. Scholes, Cr S.M. Reynolds, Cr S.J. Ward and Cr B.N. Woodruff.

**IN ATTENDANCE:** Mr S.J. McDonald (General Manager), Mr D. Finnigan (Interim Director, Community Infrastructure), Ms F. Plesman (Director, Planning, Community & Corporate Services), Mr P. Redan (Executive Manager, Water and Waste), Ms G. Bobsien (Executive Manager – Economic Development & Innovation), Ms N. Cowley (Manager, Corporate Services), Mr P. Gunasekara (Acting Manager, Planning & Environmental Services), Mr M. Lysaught (Manager, Property & Building), Mrs D. Watson (Development Planner), Mr A. Mitreski (Policy Officer), Mrs M. Sandell-Hay (PA to General Manager), 3 people in the public gallery and 1 media representative.

## **1 ACKNOWLEDGEMENT OF COUNTRY**

The Acknowledgement of Country was read by the General Manager.

## **2 CIVIC PRAYER**

The Civic Prayer was read by the Mayor.

## **3 APOLOGIES AND LEAVE OF ABSENCE**

181 RESOLVED on the motion of Crs Bailey and Foy that:

The apologies for inability to attend the meeting submitted by Cr. G. McNeill be ACCEPTED and the necessary Leave of Absence be GRANTED.

## **4 CONFIRMATION OF MINUTES OF PREVIOUS MEETING**

182 RESOLVED on the motion of Crs Ledlin and Bailey that:

The Minutes of the Ordinary Meeting held on 12 December 2017, and the Extra-Ordinary Meeting held on 31 January 2018, a copy of which has been distributed to all members, be taken as read and confirmed as a true record.

## **5 DISCLOSURE OF ANY PECUNIARY AND NON PECUNIARY INTEREST**

**Cr Mark Bowditch** declared a pecuniary interest in item 10.2. Cr Bowditch advised that he works for the landowner.

**Cr Stephen Ward** declared a significant non-pecuniary interest in Item 12.10. Cr Ward advised that Mangoola Coal has recently provided funding to St Joseph's Primary School Denman which his children attend.

**Cr Steve Reynolds** declared a non-pecuniary interest in Item 10.2. Cr Reynolds advised that his former sister-in-law is an employee of the applicant.

**Cr Rod Scholes** declared non-pecuniary interest in Item 10.2. Cr Scholes advised that one of the public speakers is a personal friend.

**Cr Rod Scholes** also declared a pecuniary interest in Item 12.9. Cr Scholes advised that he works as a contractor for Bengalla.

**Cr Scott Bailey** declared an insignificant non-pecuniary interest in Item 10.4. Cr Bailey advised that the President of his employer is a sometime representative of the applicant.

## **6 PUBLIC PARTICIPATION**

**Mr Jeff Thompson** – Item 10.1 – Spoke in support of the Development

**Mr Robert Booth** – Item 10.4 – Spoke in support of the Development

Cr Bailey declared a non-pecuniary interest in Item 10.4. Cr Bailey advised the meeting that the president of his employer sometimes represents the applicant. At 06:05pm Cr Bailey left the Council Chambers.

At 06:20 pm Cr Bailey returned to Council Chambers.

**Mr John McTaggart** – Item 10.2 - Spoke in support of the proposed Development

Cr Bowditch declared a pecuniary interest in Item 10.2. Cr Bowditch advised that he works for the landowner.

Cr Reynolds declared a non-pecuniary interest in Item 10.2. Cr Reynolds advised that his former sister in law is an employee of the applicant.

Cr Scholes declared a non-pecuniary interest in Item 10.2. Cr Scholes advised that Mr McTaggart is a personal friend.

At 06:20 pm Crs Bowditch, Cr Reynolds and Cr Scholes left the Council Chambers.

At 06:25 pm Cr Bowditch, Cr Reynolds and Cr Scholes returned to Council Chambers.

## **7 MAYORAL MINUTES**

Nil

## **8 GENERAL BUSINESS**

Nil

## **9 BUSINESS ARISING**

Nil

## **10 ENVIRONMENTAL SERVICES**

### **10.1 DEVELOPMENT APPLICATION 99/2017 - TWO STEEL SHEDS, 2 ARMITAGE AVENUE, MUSWELLBROOK**

**183** RESOLVED on the motion of Crs Rush and Woodruff that:

Development Application No. 99/2017 proposing two steel sheds at Lot 1 DP 367389, 2 Armitage Avenue Muswellbrook be approved subject the conditions in APPENDIX A to the report.

In Favour: Crs S. Bailey, M. Bowditch, J. Eades, J. Foy, M. Green, J. Ledlin, S. Reynolds, M. Rush, R. Scholes, S. Ward and B. Woodruff.

Against: Nil.

**10.2 DEVELOPMENT APPLICATION NO 103/2017 - PLACEMENT OF FOUR (4) TEMPORARY  
DEMOUNTABLE BUILDINGS, 3 THOMAS MITCHELL DRIVE, MUSWELLBROOK**

**Disclosures of Interest**

Cr Bowditch declared a pecuniary interest in this item. Cr Bowditch advised Council that he works for the landowner.

Cr Reynolds declared a non-pecuniary interest in this item. Cr Reynolds advised Council that his former sister in law is an employee of the applicant.

Cr Scholes declared a non-pecuniary interest in this item. Cr Scholes advised Council that he is a personal friend of the applicant.

At 06:26 pm Cr Bowditch, Cr Reynolds and Cr Scholes left the Council Chambers and therefore took no part in discussion or voting on this item.

**184** RESOLVED on the motion of Crs Rush and Woodruff that:

Subject to the applicant providing an amended application seeking only 12 months that the finalisation of the matter be delegated to the General Manager with a view to being supported.

In Favour: Crs S. Bailey, J. Eades, J. Foy, M. Green, J. Ledlin, M. Rush, S. Ward and B. Woodruff.

Against: Nil.

At 06:29 pm Cr Bowditch, Cr Reynolds and Cr Scholes returned to Council Chambers.

**10.3 REQUEST TO WAIVE FEES FOR DEVELOPMENT APPLICATION FOR YIELD EVENT**

**185** RESOLVED on the motion of Crs Bailey and Ledlin that:

1. Council waive the fee of \$365.40 payable for the lodgement of the development application for the Cultural YIELD event.
2. The fee amount to be allocated from the Sundries Donations budget

In Favour: Crs S. Bailey, M. Bowditch, J. Eades, J. Foy, M. Green, J. Ledlin, S. Reynolds, M. Rush, R. Scholes and B. Woodruff.

Against: Nil.

**10.4 DEVELOPMENT APPLICATION 57/2017 - CONSTRUCTION OF FORD AND ISUZU  
SHOWROOM, VEHICLE DISPLAY AND SIGNAGE, MAITLAND STREET, MUSWELLBROOK**

**Disclosure of Interest**

Cr Bailey declared a non-pecuniary interest in this item. Cr Bailey advised Council that the President of his employer sometimes represents the applicant. At 6.31pm Cr Bailey left the Council Chambers and therefore took no part in discussion or voting on this item.

**186** RESOLVED on the motion of Crs Rush and Foy that:

Subject to an amended application seeking a ten year application of that part of the application that seeks to develop on residential zone the matter be delegated to the General Manager.

In Favour: Crs M. Bowditch, J. Eades, J. Foy, M. Green, J. Ledlin, S. Reynolds, M. Rush, R. Scholes, S. Ward and B. Woodruff.

Against: Nil.

At 06:33 pm Cr Bailey returned to Council Chambers.

## **11 COMMUNITY INFRASTRUCTURE**

Nil

## **12 CORPORATE AND COMMUNITY SERVICES**

### **12.1 PROPOSED VOLUNTARY PLANNING AGREEMENT BETWEEN MUSWELLBROOK COAL COMPANY LIMITED AND MUSWELLBROOK SHIRE COUNCIL**

187 RESOLVED on the motion of Crs Scholes and Green that:

1. The Draft Voluntary Planning Agreement between Muswellbrook Shire Council and Muswellbrook Coal Company Limited be endorsed.
2. The General Manager be authorised to sign the Voluntary Planning Agreement between Muswellbrook Shire Council and Muswellbrook Coal Company Limited.

### **12.2 HUNTER JOINT ORGANISATION OF COUNCILS**

188 RESOLVED on the motion of Crs Green and Reynolds that:

1. Council inform the Minister for Local Government of Council's endorsement of the Minister recommending to the Governor the establishment of a Joint Organisation in accordance with this resolution.
2. Council approve the inclusion of the Muswellbrook Local Government Area in the Joint Organisation's area.
3. The Joint Organisation be established to cover the Council's area and any one or more of the following council areas:
  - a. Singleton LGA
  - b. Upper Hunter LGA
  - c. Maitland LGA
  - d. Dungog LGA
  - e. Cessnock LGA
  - f. Newcastle LGA
  - g. Lake Macquarie LGA
  - h. Port Stephen LGA
4. On the expiry of a period of 28 days from the making of this resolution, the General Manager provide the Minister:
  - a. with a copy of this resolution including the date on which Council made this resolution, and
  - b. inform the Minister that this resolution has not been rescinded, for the purpose of the Minister issuing a certificate under section 400P of the Act.

**12.3 PUBLIC ART POLICY - RESULTS OF CONSULTATION PERIOD**

189 RESOLVED on the motion of Crs Foy and Reynolds that:

Council adopt the revised Public Art Policy, September, 2017 (V.1).

**12.4 EASTER FAMILY FUN DAY - Highbrook Park (Lizard Park)**

190 RESOLVED on the motion of Crs Green and Reynolds that:

Council approve the coordination and implementation of an Easter Family Fun Day in Highbrook Park.

**12.5 VICTORIA PARK FIELD RENOVATION OPTIONS**

191 RESOLVED on the motion of Crs Rush and Scholes that:

Council endorse the recommendations identified in the report and delegate the finalisation of the matter to the General Manager after discussion with the Spokesperson for Sport & Rec

**12.6 DENMAN MEMORIAL HALL CONCEPT**

192 RESOLVED on the motion of Crs Foy and Ward that:

Council:

1. Notes the submissions received from the public exhibition of the Denman Memorial Hall concept.
2. Endorses the amended design to proceed to development application.

**12.7 DRAFT STAGE 1 OLYMPIC PARK MASTER PLAN - PUBLIC EXHIBITION**

193 RESOLVED on the motion of Crs Rush and Foy that:

1. Council note the submissions received from the public exhibition of the draft Stage 1 Olympic Park Master Plan.
2. ADOPT stage 1 masterplan as amended by 3.
3. Support the proposed Stage 1 car parking as described in the report.

**12.8 SUSPENSION OF ALCOHOL FREE ZONE**

194 RESOLVED on the motion of Crs Foy and Eades that:

Council suspend the section of the Bridge Street Alcohol Free Zone between Weidman Cottage

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and the Forecourt area of the Muswellbrook Library between the hours of 7:30pm and 9:30pm on Friday 9 March, 2018 for the Cultural event YIELD.

**12.9 ACCESS TO THE HUNTER RIVER UNDER KEY'S BRIDGE**

**Disclosure of Interest**

Cr Scholes declared a pecuniary interest in this Item. Cr Scholes advised Council that he works a contractor for Bengalla. at 06:37 pm Cr Scholes left the Council Chambers and therefore took no part in discussion or voting on this item.

195 RESOLVED on the motion of Crs Rush and Bowditch that:

The General Manager approach Bengalla Mining Company with a view to co-funding a masterplan for the site.

At 06:40 pm Councillor Rod Scholes returned to Council Chambers.

**12.10 DECEMBER 2017 BUDGET REVIEW**

**Disclosure of Interest**

Cr Ward declared a significant non-pecuniary interest in this Item. Cr Ward advised that Mangoola Coal has recently provided funding to St Joseph's Primary School Denman which his children attend. At 06:40 pm Cr Ward left the Council Chambers and therefore took no part in discussion or voting on this item.

**CLOSED COUNCIL**

196 RESOLVED on the motion of Crs Rush and Bailey that:

The meeting moved into closed Council to discuss this matter further.

Members of the public left the meeting at this stage.

197 RESOLVED on the motion of Crs Rush and Bailey that:

Council adopt the changes set out in the report and incorporate them into the 2017/18 Budget in the except in so far as the internal loan between the General Fund and Future Fund is concerned.

198 RESOLVED on the motion of Crs Bailey and Foy that:

The meeting return to Open Council

At 6.49pm Cr Ward returned to Council Chambers.

Members of the public returned to the meeting

**12.11 FINAL PROJECT FOR MEETING 40% RENEWABLE ENERGY TARGET**

199 RESOLVED on the motion of Crs Rush and Scholes that:

This matter be considered as part of the 2018/19 budget.

**12.12 DIRECTOR'S REPORT - PLANNING, COMMUNITY & CORPORATE SERVICES**

200 RESOLVED on the motion of Crs Eades and Green that:

The information contained in this report be noted.

**13 REPORTS FROM COMMITTEES**

**13.1 LOCAL TRAFFIC COMMITTEE - 19/12/2017**

201 RESOLVED on the motion of Crs Reynolds and Bailey that:

The Minutes of the Local Traffic Committee Meeting held on Tuesday 19 December 2017 be received and the recommendations contained therein ADOPTED.

**13.2 INTERNAL AUDIT COMMITTEE - 14/12/2017**

202 RESOLVED on the motion of Clrs Bailey and Bowditch that:

The minutes for the Internal Audit Committee meeting held on Thursday 14 December 2017 be NOTED.

**13.3 INFRASTRUCTURE COMMITTEE - 20/12/2017**

203 RESOLVED on the motion of Crs Bailey and Scholes that:

The Minutes of the Infrastructure Committee Meeting held on Wednesday 20 December 2017 be received and the recommendations contained therein ADOPTED.

**13.4 CORPORATE POLICY AND PLANNING COMMITTEE - 20/12/2017**

204 RESOLVED on the motion of Crs Green and Ledlin that:

The Minutes of the Corporate Policy And Planning Committee Meeting held on Wednesday 20 December 2017 be received and the recommendations contained therein ADOPTED.

**13.5 INFRASTRUCTURE COMMITTEE - 31/01/2018**

205 RESOLVED on the motion of Crs Scholes and Foy that:

The Minutes of the Infrastructure Committee Meeting held on Wednesday 31 January 2018 be received and the recommendations contained therein ADOPTED.

**13.6 CORPORATE POLICY AND PLANNING COMMITTEE - 31/01/2018**

206 RESOLVED on the motion of Crs Reynolds and Ledlin that:

The Minutes of the Corporate Policy And Planning Committee Meeting held on Wednesday 31 January 2018 be received and the recommendations contained therein ADOPTED.

**14 NOTICES OF MOTION / RESCISSION**

Nil

**15 QUESTIONS WITH NOTICE**

Nil

**16 COUNCILLORS REPORTS**

**16.1 SPUR HILL UNDERGROUND**

Cr Stephen Ward reported that he attended the Malabar Coal Spur Hill Underground Community Meeting held recently which provided information on earthworks and civil works.

**17 QUESTIONS FOR NEXT MEETING**

Nil

**OTHER BUSINESS:**

The Mayor advised the meeting that the General Manager, Steve McDonald had resigned from Council to take up the General Manager's position at Upper Hunter Shire Council. Cr Rush thanked Mr McDonald for his long service to Muswellbrook Shire which spans 17 years, 12 of which as General Manager. Cr Rush looked forward to continuing working with Upper Hunter Shire and sees enormous benefits and very promising future for both Councils.

Mr McDonald advised the meeting that it had been his privilege to be General Manager of this Council and indicated that he was the third General Manager in 45 years. Mr McDonald further advised the meeting that he was very passionate about the Muswellbrook Community which is becoming very innovative. Mr McDonald also thanked staff for "stepping up" to the challenges.

**18 ADJOURNMENT INTO CLOSED COUNCIL**

207 RESOLVED on the motion of Crs Bailey and Foy that:

Council adjourn into Closed Session and members of the press and public be excluded from the meeting of the Closed Session, and access to the correspondence and reports relating to the items considered during the course of the Closed Session be withheld unless declassified by separate resolution. This action is taken in accordance with Section 10A(2) of the Local Government Act, 1993 as the items listed come within the following provisions:

**19.1 AWARD OF CONTRACT NO. 2016-2017-0266 C1 - DEWATERING AND REMOVAL OF SLUDGE FROM SLUDGE LAGOONS AT DENMAN SEWAGE TREATMENT PLANT**

Item 19.1 is classified CONFIDENTIAL under the provisions of Section 10A(2)(d)(ii) of the local government act 1993, as it deals with information that would, if disclosed, confer a commercial



advantage on a competitor of the council, and Council considers that discussion of the matter in an open meeting would be, on balance, contrary to the public interest.

#### **19.2 OFFER OF LAND**

Item 19.4 is classified CONFIDENTIAL under the provisions of Section10A(2)(d)(ii) of the local government act 1993, as it deals with information that would, if disclosed, confer a commercial advantage on a competitor of the council, and Council considers that discussion of the matter in an open meeting would be, on balance, contrary to the public interest.

#### **19.3 2017-2018-0233 PROVISION OF PROPERTY AND BUILDING TRADES AND SERVICES**

Item 19.2 is classified CONFIDENTIAL under the provisions of Section10A(2)(c) of the local government act 1993, as it deals with information that would, if disclosed, confer a commercial advantage on a person with whom the council is conducting (or proposes to conduct) business, and Council considers that discussion of the matter in an open meeting would be, on balance, contrary to the public interest.

#### **19.4 CONTAINER DEPOSIT SCHEME - REVERSE VENDING MACHINE**

Item 19.4 is classified CONFIDENTIAL under the provisions of Section10A(2)(c) of the local government act 1993, as it deals with information that would, if disclosed, confer a commercial advantage on a person with whom the council is conducting (or proposes to conduct) business, and Council considers that discussion of the matter in an open meeting would be, on balance, contrary to the public interest.

#### **19.5 PROVISION AND MANAGEMENT OF COMPANION ANIMAL IMPOUNDING FACILITY (ANIMAL SHELTER)**

Item 19.5 is classified CONFIDENTIAL under the provisions of Section10A(2)(c) of the local government act 1993, as it deals with information that would, if disclosed, confer a commercial advantage on a person with whom the council is conducting (or proposes to conduct) business, and Council considers that discussion of the matter in an open meeting would be, on balance, contrary to the public interest.

Members of the public left the meeting at this stage.

### **19 CLOSED COUNCIL**

#### **19.1 AWARD OF CONTRACT NO. 2016-2017-0266 C1 - DEWATERING AND REMOVAL OF SLUDGE FROM SLUDGE LAGOONS AT DENMAN SEWAGE TREATMENT PLANT**

**208** RESOLVED on the motion of Crs Reynolds and Woodruff that:

Council

1. Approve the acceptance of the tender submitted by Conhur Pty Ltd, in the amount of \$194,764 (excl. GST and Contingencies) for the Dewatering and Removal of Sludge at Denman Sewage Treatment plant, Contract 2016-2017-0266 C1;
2. Approve the contingency and technical services provisions as detailed in the report.

## **19.2 OFFER OF LAND**

209 RESOLVED on the motion of Crs Scholes and Foy that:

Council inform Muswellbrook Coal Company that it does not wish to accept the proposed Voluntary Planning Agreement by Muswellbrook Coal Company.

## **19.3 2017-2018-0233 PROVISION OF PROPERTY AND BUILDING TRADES AND SERVICES**

210 RESOLVED on the motion of Crs Woodruff and Reynolds that:

1. Council accepts the tenderers under each Part for the contract 2017-2018-0233 Provision of Property and Building Trades and Services for the following contractors:

Part 1:

- EMF Group Pty Ltd
- Maxwell Spark Electrical Pty Ltd
- S&G Solutions Pty Ltd (Valley Wide Electrical)

Part 2:

- G & E Wilkinson Plumbing Pty Ltd
- Gavin Scott Plumbing Pty Ltd

Part 3:

- Munro Engineering and Fabrication Pty Ltd
- EMF Group Pty Ltd

Part 4:

- Bradley Baker Carpentry

Part 5:

- Clint's Excavations Pty Ltd

Part 6:

- Paul Stringer Painting

2. Council call tenders for additional panel contractors for Carpentry and Building Works services, Earthmoving Works services, and Painting and Decorating services.

## **19.4 CONTAINER DEPOSIT SCHEME - REVERSE VENDING MACHINE**

211 RESOLVED on the motion of Crs Rush and Green that:

Negotiations be delegated to the General Manager as a job lot which includes Muswellbrook and Denman with the functionality to be able to support local community groups in each location.

**19.5 PROVISION AND MANAGEMENT OF COMPANION ANIMAL IMPOUNDING FACILITY  
(ANIMAL SHELTER)**

212 RESOLVED on the motion of Crs Rush and Green that:

1. Council proceed with the purchase of the subject land as recommended.
2. Authorise the General Manager to execute all relevant documentation relating to the purchase of the subject land.
3. Authorise the Council Seal to be affixed to the Contract of Sale and Transfer document if required.
4. The subject land be classified as "Operational" land within the meaning of Division 1, Part 2 of the Local Government Act 1993.

**20 RESUMPTION OF OPEN COUNCIL**

213 RESOLVED on the motion of Crs Bailey and Foy that:

The meeting return to Open Council.

**21 CLOSURE**

The meeting was declared closed at 7.10pm.

THE MINUTES OF THE MEETING (PAGES 1 TO 11) WERE CONFIRMED AT THE  
ORDINARY COUNCIL MEETING OF THE MUSWELLBROOK SHIRE COUNCIL HELD ON  
TUESDAY 13 MARCH, 2018 AND ARE A FULL AND ACCURATE RECORD OF  
PROCEEDINGS OF THE MEETING HELD ON TUESDAY 13 FEBRUARY, 2018

.....  
Steve McDonald  
**General Manager**

.....  
Cr M. Rush  
**Chairperson**