

**MINUTES OF THE ORDINARY COUNCIL MEETING OF THE MUSWELLBROOK SHIRE COUNCIL
HELD IN THE CHAMBERS, ADMINISTRATION CENTRE, MUSWELLBROOK ON TUESDAY 11
DECEMBER, 2018 COMMENCING AT 6.00PM.**

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 G.T. McNeill, Cr R.W. Scholes, Cr S.M. Reynolds and Cr B.N. Woodruff.

IN ATTENDANCE: Ms F. Plesman (General Manager), Mr D. Finnigan (Director - Community Infrastructure), Ms C. O'Brien (Acting Director – Environment & Community Services), Ms G. Bobsien (Executive Manager – Economic Development & Innovation), Ms S. Pope (Assistant Director – Planning & Community Services), Mr M. Lysaught (Manager – Works, Property & Building Services), Mr J. Brown (Manager – Integrated Planning, Risk & Governance), Mrs M. Sandell-Hay (PA to General Manager), Mr A. Mitreski (Policy Officer), 1 person in the public gallery and 2 media representatives.

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

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

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

4 CONFIRMATION OF MINUTES OF PREVIOUS MEETING

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

The Minutes of the Ordinary Meeting held on 13 November 2018, and the Extra Ordinary Meeting held on 20 November 2018, copies of which have 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 M. Bowditch – declared an insignificant non-pecuniary interest in Item 14.1. Cr Bowditch advised Council that the company he works for has work at Mt Pleasant.

Cr J. Eades – declared a pecuniary interest in Item 10.1. Cr Eades advised Council that she runs a playgroup from the Stan Thiess Centre and that her family has made submissions.

Cr J. Foy – declared a non-pecuniary interest in Item 11.1. Cr Foy advised Council that he has a child that attends Muswellbrook Public School who is one of the grant applicants.

Cr M. Green – declared a pecuniary interest in Item 14.1. Cr Green advised Council that she works at Bengalla Mine and her husband is employed by BHP.

Cr M. Green – declared a pecuniary interest in Item 19.4. Cr Green advised Council that her husband is employed by BHP.

Cr J. Ledlin – declared a significant non-pecuniary interest in Item 11.1. Cr Ledlin advised Council that she is a member of the Denman Pony Club Committee.

Cr S. Reynolds – declared an insignificant non-pecuniary interest in Item 11.1. Cr Reynolds advised Council that his daughter is a student at Muswellbrook Public School.

Cr S. Reynolds – declared an insignificant non-pecuniary interest in Item 14.1. Cr Reynolds advised Council that he is in legal proceedings against his former employer.

Cr S. Reynolds - declared an insignificant non-pecuniary interest in Item 19.4. Cr Reynolds advised Council that he is in legal proceedings against his former employer.

Cr R. Scholes – declared a pecuniary interest in Item 19.4. Cr Scholes advised Council that he is employed as a contractor by Thiess who contract to Mt Arthur Coal.

Cr R. Scholes – declared a pecuniary interest in Item 14.1. Cr Scholes advised Council that he is employed as a contractor by Thiess who contract to Mt Arthur Coal.

Cr B. Woodruff – declared a pecuniary interest in Item 14.1. Cr Woodruff advised Council that he undertakes work on behalf of his employer at two of the sites mentioned in the report.

Cr B. Woodruff – declared a pecuniary interest in Item 19.4. Cr Woodruff advised Council that he undertakes work on behalf of his employer at the site mentioned in the report.

Cr B. Woodruff – declared a pecuniary interest in Item 12.3. Cr Woodruff advised Council that he undertakes work on behalf of his employer at one of the sites mentioned in the report.

6 PUBLIC PARTICIPATION

Mr Paul Davidson – representing Telstra Corporation

7 MAYORAL MINUTES

Nil

8 GENERAL BUSINESS

Nil

9 BUSINESS ARISING

9.1 QUESTION WITHOUT NOTICE - IMPACTS OF MINING ON LOCAL AREA

177 RESOLVED on the motion of Crs McNeill and Reynolds that:

Council notes the response to the question without notice.

10 ENVIRONMENTAL SERVICES

10.1 DA 76/2018 - KORDIA SOLUTIONS AUSTRALIA - INSTALLATION OF NEW TELECOMMUNICATIONS FACILITY

Disclosure of Interest

Cr Eades declared a pecuniary interest in this item. Cr Eades advised Council that she runs a playgroup from the Stan Thiess Centre and that her family has made submissions. At 06:11pm Cr Eades left the Council Chambers and therefore took no part in discussion or voting on this matter.

178 RESOLVED on the motion of Crs Rush and Woodruff that:

That pursuant to section 377 of the *Local Government Act* 1993, Council delegate the

**MINUTES OF THE ORDINARY COUNCIL MEETING OF THE MUSWELLBROOK SHIRE COUNCIL
HELD IN THE CHAMBERS, ADMINISTRATION CENTRE, MUSWELLBROOK ON TUESDAY 11
DECEMBER, 2018 COMMENCING AT 6.00PM.**

determination under Clause 4.15 of the *Environmental Planning and Assessment Act, 1979* of Development Application No. 76/2018 proposing telecommunications facility at Lot 18 DP 1075238, Victoria Park, Hill Street, Muswellbrook to the Hunter Joint Regional Planning Panel.

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

Against: Nil.

At 06:14pm Cr Eades returned to Council Chambers.

10.2 JOINT REGIONAL PLANNING PANEL - APPOINTMENT OF MEMBERS

Disclosure of Interest

Cr Woodruff declared a pecuniary interest in this item. Cr Woodruff advised Council that he undertakes work on behalf of his employer at one of the sites mentioned in the report. At 06:14pm Cr Woodruff left the Council Chambers and therefore took no part in discussion or voting on this matter.

179 RESOLVED on the motion of Crs Scholes and Bowditch that:

Council delegate to the General Manager the authority to appoint two (2) nominees as Council's representatives on the Hunter Joint Regional Planning Panel for a term to expiry at the end of the current Council term in 2020.

At 06:15pm Cr Woodruff returned to Council Chambers.

11 COMMUNITY INFRASTRUCTURE

11.1 SPORT AND RECREATION GRANTS PROGRAMME

Disclosure of Interest

Cr J. Foy declared a non-pecuniary interest in this item. Cr Foy advised Council that he has a child that attends Muswellbrook Public School who is one of the grant applicants.

Cr J. Ledlin declared a significant non-pecuniary interest in this Item. Cr Ledlin advised Council that she is a member of the Denman Pony Club Committee.

Cr S. Reynolds declared an insignificant non-pecuniary interest in this Item. Cr Reynolds advised Council that his daughter is a student at Muswellbrook Public School.

At 06:15pm Cr Foy, Cr Ledlin and Cr Reynolds left the Council Chambers and therefore took no part in discussion or voting on this item.

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

Council allocate funding as identified in the report.

At 06:16pm Cr Foy, Cr Ledlin and Cr Steven Reynolds returned to Council Chambers.

11.2 INCLUSIVE PLAYGROUNDS

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

Council support the application under the Everyone Can Play in NSW Grants Program as identified in the report.

11.3 REVIEW OF STRATEGIC ASSET MANAGEMENT PLAN

182 RESOLVED on the motion of Crs Scholes and Woodruff that:

Council endorses the reviewed Strategic Asset Management Plan for public exhibition from 12 December 2018 to 10 January 2019.

12 CORPORATE AND COMMUNITY SERVICES

12.1 DIRECTOR'S REPORT - ENVIRONMENT & COMMUNITY SERVICES

183 RESOLVED on the motion of Crs Ledlin and Scholes that:

The information contained in this report be noted.

12.2 LOCAL HERITAGE ASSISTANCE FUND 2018-2019

184 RESOLVED on the motion of Crs Rush and Reynolds that:

Council approve the request for a one-off cash contribution, from the Local Heritage Assistance Fund, of:

1. \$1400 for bullnose verandah roof repainting works at 33 Brentwood Street, Muswellbrook; and
2. \$2000 for replacement verandah works at 5 Midanga Avenue, Muswellbrook.

12.3 COMMUNITY CONSULTATIVE COMMITTEE COUNCIL NOMINEES

Disclosure of Interest

Cr Woodruff declared a pecuniary interest in this Item. Cr Woodruff advised Council that he undertakes work on behalf of his employer at one of the sites mentioned in the report. At 6:18pm Cr Woodruff left the Council Chambers and therefore took no part in discussion or voting on this item.

185 RESOLVED on the motion of Crs Rush and McNeill that:

Council delegate the General Manager to appoint a member of Council staff to attend as a Council representative for each of the Bengalla and Malabar Coal Community Consultative Committees.

At 6:18 pm Cr Woodruff returned to Council Chambers.

12.4 2017-2021 DELIVERY PROGRAM REVIEW

186 RESOLVED on the motion of Crs Green and Woodruff that:

1. Council endorse the reviewed Delivery Program for public exhibition from 12 December 2018 to 10 January 2019.
2. An Extraordinary Meeting of Council be convened on 30 January 2019 to consider the adoption of the reviewed Delivery Program.

12.5 NEW FEE - MUSWELLBROOK SHIRE AQUATIC CENTRES

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

Council adopt the new fee relating to Aqua Aerobics for seasonal members at both the Denman and Muswellbrook Aquatic Centres to \$5.00 (Seniors) and \$9.00 (individuals).

12.6 RELOCATION OF COUNCIL CHAMBERS STEERING COMMITTEE

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

This item be considered as the last item of business for the meeting.

12.7 PARKING FINE CONCESSIONS

189 RESOLVED on the motion of Crs Bailey and Bowditch that:

Council introduce concessions for minimum parking fines from 1 March 2019.

13 REPORTS FROM COMMITTEES

13.1 LOCAL TRAFFIC COMMITTEE - 20/11/2018

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

The Minutes of the Local Traffic Committee Meeting held on Tuesday 20 November 2018 be received and the recommendations contained therein ADOPTED.

13.2 DEVELOPMENT ASSESSMENT COMMITTEE - 26/11/2018

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

The Minutes of the Development Assessment Committee Meeting held on Monday 26 November 2018 be received and the recommendations contained therein ADOPTED.

13.3 INFRASTRUCTURE COMMITTEE - 28/11/2018

192 RESOLVED on the motion of Crs Woodruff and Scholes that:

The Minutes of the Infrastructure Committee Meeting held on Wednesday 28 November 2018 be received and the recommendations contained therein ADOPTED.

13.4 CORPORATE POLICY AND PLANNING COMMITTEE - 28/11/2018

193 RESOLVED on the motion of Crs Reynolds and Eades that:

The Minutes of the Corporate Policy And Planning Committee Meeting held on Wednesday 28 November 2018 be received and the recommendations contained therein ADOPTED.

13.5 ABORIGINAL RECONCILIATION COMMITTEE - 27/11/2018

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

The minutes for the Aboriginal Reconciliation Committee meeting held on Tuesday 27 November 2018 be NOTED.

14 NOTICES OF MOTION / RESCISSION

14.1 ROAD CLOSURE RESOLUTION

Procedural motion

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

Council delegate to the Development Assessment Committee the power to determine council's policy with respect to the subject matter of the motion.

15 QUESTIONS WITH NOTICE

Nil

16 COUNCILLORS REPORTS

16.1 SCONE GRAMMAR SCHOOL ANNUAL PRESENTATION

Cr Michelle Green reported that she attended the Scone Grammar School Awards Presentation held last week. Cr Green was impressed with the high standard of speeches provided by both the Junior students and senior students.

16.2 UPPER HUNTER COMMUNITY SERVICES CINEMA UNDER THE STARS

Cr Janelle Eades thanked Council for the support provided to Upper Hunter Community Services Cinema Under the Stars event which included the waiving of the venue hire fees.

17 QUESTIONS FOR NEXT MEETING

17.1 EPA NOTIFICATION OF INCIDENTS

Cr McNeill advised that he had received a high level of emails regarding dust levels and inquired whether Council was notified by the EPA when complaints were received?

Cr Rush advised the meeting that Council is only informed when Council is the complainant.

Ms Pope advised the meeting that Mines are required to publish a register of complaints and that this is available on their websites.

Cr Scholes also advised the meeting that incidents are reported to the respective Community Consultative Committees.

18 ADJOURNMENT INTO CLOSED COUNCIL

196 RESOLVED on the motion of Crs McNeill and Reynolds 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 MAINTENANCE OF WASTE FACILITY LANDFILL LIDS

Item 19.1 is classified CONFIDENTIAL under the provisions of Section 10A(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.

19.2 DOG ATTACK 16TH NOVEMBER 2018 SOWERBY STREET MUSWELLBROOK

Item 19.2 is classified CONFIDENTIAL under the provisions of Section 10A(2)(g) of the local government act 1993, as it deals with advice concerning litigation, or advice as comprises a discussion of this matter, that would otherwise be privileged from production in legal proceedings on the ground of legal professional privilege, and Council considers that discussion of the matter in an open meeting would be, on balance, contrary to the public interest.

19.3 DISASTER RECOVERY FUNDING ARRANGEMENTS 2018

Item 19.3 is classified CONFIDENTIAL under the provisions of Section 10A(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 EDDERTON ROAD REALIGNMENT

Item 19.4 is classified CONFIDENTIAL under the provisions of Section 10A(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 STUDENT HOUSING

Item 19.5 is classified CONFIDENTIAL under the provisions of Section 10A(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.

19.6 2017-2018-0275 - REGIONAL ENTERTAINMENT CONFERENCE CENTRE - DESIGN COMPETITION PANEL RECOMMENDATION

Item 19.6 is classified CONFIDENTIAL under the provisions of Section 10A(2)(d)(i) of the local government act 1993, as it deals with commercial information of a confidential nature that would, if disclosed prejudice the commercial position of the person who supplied it, and Council considers that discussion of the matter in an open meeting would be, on balance, contrary to the public interest.

19.7 POTENTIAL CIVIC PRECINCT PURCHASE

Item 19.7 is classified CONFIDENTIAL under the provisions of Section 10A(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 MAINTENANCE OF WASTE FACILITY LANDFILL LIDS

197 RESOLVED on the motion of Crs Woodruff and Scholes that:

Council approve an amount of \$30,000 to be taken from the Waste Reserve for the repair of the Muswellbrook Waste Facility's landfill lids.

19.2 DOG ATTACK 16TH NOVEMBER 2018 SOWERBY STREET MUSWELLBROOK

198 RESOLVED on the motion of Crs Green and Woodruff that:

Council note the information in this report regarding the inclusion of an enforcement guideline regarding nuisance, menacing and dangerous dogs in the existing ranger operating procedure that reflects the Office of Local Government – Guideline on the exercise of functions under the Companion Animals Act.

19.3 DISASTER RECOVERY FUNDING ARRANGEMENTS 2018

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

1. Council opts out of the NSW Office of Emergency Management 2018 Disaster Recovery Funding Arrangements proposal;
2. Written notification is to be provided to the Office of Emergency Management advising of Council's decision to opt out of the 2018 Disaster Recovery Funding Arrangements;
3. Negotiations will continue with the Office of Emergency Management during 2019, and a further report to Council will be provided should the benefits to Council be such that consideration should be given to Council opting in to the new Disaster Recovery Funding Arrangements.

19.4 EDDERTON ROAD REALIGNMENT

Disclosure of Interest

Cr M. Green declared a pecuniary interest in this Item. Cr Green advised Council that her husband is employed by BHP.

Cr B. Woodruff declared a pecuniary interest in this Item. Cr Woodruff advised Council that he undertakes work on behalf of his employer at the site mentioned in the report.

**MINUTES OF THE ORDINARY COUNCIL MEETING OF THE MUSWELLBROOK SHIRE COUNCIL
HELD IN THE CHAMBERS, ADMINISTRATION CENTRE, MUSWELLBROOK ON TUESDAY 11
DECEMBER, 2018 COMMENCING AT 6.00PM.**

Cr R. Scholes declared a pecuniary interest in this Item. Cr Scholes advised Council that he is employed as a contractor by Thiess who contract to Mt Arthur Coal.

At 6:32pm Cr Green, Cr Scholes and Cr Brett Woodruff left the Council Chambers and therefore took no part in discussion or voting on this matter.

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

Council;

1. Acknowledges receipt of the Edderton Road (Stage 1 Works - Temporary Road Portion) – 90% Design Drawings filed as Doc ID 932396 and Edderton Road (Stage 1 Works - Temporary Road Portion) – Detailed Design Report (Doc ID932399,932400,932401) and Edderton Road (Stage 1 Works - Temporary Road Portion) – Geotechnical Investigation (Doc. ID932398)
2. Notes that HVEC will be advised that until RMS comment is provided on the 90% Detailed Design Council cannot fully assess the design to determine if it is satisfactory.

At 6:32pm Cr Green, Cr Scholes and Cr Woodruff returned to Council Chambers.

19.5 STUDENT HOUSING

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

Council authorise the General Manager to negotiate the terms of the offer and undertake due diligence, and provide a preliminary business case in order to provide a report back to Council.

19.6 2017-2018-0275 - REGIONAL ENTERTAINMENT CONFERENCE CENTRE - DESIGN COMPETITION PANEL RECOMMENDATION

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

1. Council not accept any tenders for Contract No: 2017-2018-0275A - Consultancy Services for Muswellbrook Regional Entertainment and Conference Centre, on the basis that all tenders departed from the concept design.
2. Council enter into negotiations with FJMT Pty Ltd with a view to entering into a contract in relation to Contract No: 2017-2018-0275A - Consultancy Services for Muswellbrook Regional Entertainment and Conference Centre as they had the highest panel ranking and public support.
3. Council award the winning design to FJMT Pty Ltd.

19.7 POTENTIAL CIVIC PRECINCT PURCHASE

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

Council:

1. Proceed with the purchase of the property as identified in the report subject to the vendor's remediation of site included in the contract.
2. Authorise the General Manager to negotiate and execute all other relevant

documentation relating to the purchase of the subject property by Council.

3. Authorise if necessary for the Council Seal to be affixed to the Contract of Sale and Transfer document relating to the purchase by Council of the subject property.
4. The subject property be classified as "Operational" land within the meaning of Division 1, Part 2 of the Local Government Act 1993.

20 RESUMPTION OF OPEN COUNCIL

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

The meeting return to Open Council.

12.6 RELOCATION OF COUNCIL CHAMBERS STEERING COMMITTEE

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

1. Council establish a Council Chambers and Administration Relocation Steering Committee with the following functions:
 - (i) To provide advice to Council on the relocation of the Muswellbrook Council Chambers and Administration to the Muswellbrook town centre; and
 - (ii) To accept such further delegations the Council may choose to give it.
2. The Council Chambers and Administration Relocation Steering Committee be constituted as follows:
 - (i) Councillor Woodruff (as Chair);
 - (ii) the Mayor;
 - (iii) the Deputy Mayor;
 - (iv) the General Manager;
 - (v) a staff member appointed by the General Manager; and
 - (vi) such other non-voting staff members in an advisory capacity as determined by the General Manager.

in the absence of any of the councillors set out in (i) to (iii) any other councillor nominated by the Committee Chair or Acting Chair (as the case may be).

21 CLOSURE

The meeting was declared closed at 6.54pm.

**THE MINUTES OF THE MEETING (PAGES 1 TO 10) WERE CONFIRMED AT THE
ORDINARY COUNCIL MEETING OF THE MUSWELLBROOK SHIRE COUNCIL HELD ON
TUESDAY 25 DECEMBER, 2018 AND ARE A FULL AND ACCURATE RECORD OF
PROCEEDINGS OF THE MEETING HELD ON TUESDAY 11 DECEMBER, 2018**

.....
Ms F. Plesman
General Manager

.....
Cr M. Rush
Chairperson