

**MINUTES OF THE ORDINARY COUNCIL MEETING OF THE MUSWELLBROOK SHIRE COUNCIL
HELD IN THE CHAMBERS, ADMINISTRATION CENTRE, MUSWELLBROOK ON TUESDAY 12
FEBRUARY, 2019 COMMENCING AT 6.00PM.**

PRESENT: Cr R.W. Scholes (Chair), 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 S.M. Reynolds, Cr S.J. Ward and Cr B.N. Woodruff.

IN ATTENDANCE: Ms F. Plesman (General Manager), Mr D. Finnigan (Director - Community Infrastructure), Ms C. O'Brien (Acting Director – Planning & Community Services), Ms G. Bobsien (Executive Manager – Economic Development & Innovation), Ms S. Pope (Assistant Director – Planning & Community Services), Mr G. Abeywardena (Assistant Director – Community Infrastructure), Mr M. Lysaught (Manager – Works, Property & Building Services), Mr J. Brown (Manager – Integrated Planning, Risk & Governance), Mrs L. Payne (Finance Co-Ordinator), Mr A. Mitreski (Policy Officer), Mrs M. Sandell-Hay (PA to General Manager), 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 Deputy Mayor.

3 APOLOGIES AND LEAVE OF ABSENCE

216 RESOLVED on the motion of Crs McNeill and Bailey that:

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

4 CONFIRMATION OF MINUTES OF PREVIOUS MEETING

217 RESOLVED on the motion of Crs Green and Bowditch that:

The Minutes of the Ordinary Meeting held on 11 December 2018, and the Extra Ordinary Meeting held on 30 January 2019, 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 S. Bailey declared a pecuniary interest in Item 10.1. Cr Bailey advised Council that the business is a competitor.

Cr G. McNeill declared an insignificant non-pecuniary interest in Item 10.1. Cr McNeill advised Council that he is a social member of the club.

Cr M. Green declared a Pecuniary interest in Item 12.4. Cr Green advised that her husband's business Final Form Regeneration is linked to a number of current and potential future projections mentioned in the report.

Cr M. Bowditch declared an insignificant non-pecuniary interest in Item 12.4. Cr Bowditch advised Council that the Company he works for is tendering for with the Sustainability Team.

Cr M. Bowditch declared a pecuniary interest in Item 19.1. Cr Bowditch advised Council that the company he works for has hired excavators to KCE.

Cr M. Bowditch also declared an insignificant non-pecuniary interest in Item 19.2. Cr Bowditch advised Council that he has engaged with the Tenderer for him to work with his company in October 2018 and November 2018.

6 PUBLIC PARTICIPATION

Nil

7 BUSINESS ARISING

Nil

8 MAYORAL MINUTES

Nil

9 GENERAL BUSINESS

Nil

10 ENVIRONMENTAL SERVICES

10.1 DA 88/2018 - ALTERATIONS AND ADDITIONS TO MUSWELLBROOK GOLF COURSE - BELL STREET MUSWELLBROOK

Disclosure of Interest

Cr Bailey declared a pecuniary interest in this item. Cr Bailey advised Council that the applicant is a competitor of his work. Cr Bailey left at 6.08pm and therefore took no part in discussion or voting on this item.

218 RESOLVED on the motion of Crs Ward and Woodruff that:

Council approves Development Application No. 88/2018, involving commercial alterations and additions to the Muswellbrook Golf Club, at Lot 265 DP 1030447, subject to the conditions in Appendix B.

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

Against: Nil.

At 6.09pm Cr Bailey returned to Council Chambers.

11 COMMUNITY INFRASTRUCTURE

11.1 NSW WASTE LEVY - SAVE OUR RECYCLING CAMPAIGN

219 RESOLVED on the motion of Crs Woodruff and McNeill that:

Council:

1. Endorse Local Government NSW's campaign, Save Our Recycling, to realise the reinvestment of 100% of the Waste Levy collected each year by the NSW Government into waste minimisation, recycling and resource recovery.
2. Council make representation to the local State Member, Michael Johnsen MP, in support of this campaign objective - for the NSW Government to commit to reinvest 100% of the Waste Levy into waste minimisation, recycling and resource recovery.

3. Council write to the Premier, the Hon Gladys Berejiklian MP, the Opposition Leader, the Hon Michael Daley MP, the Minister for Local Government and the Minister for the Environment, the Hon Gabrielle Upton MP, and the Shadow Minister for the Environment and Heritage, Penny Sharpe MLC, seeking bipartisan support for the 100% reinvestment of the Waste Levy collected each year into waste minimisation, recycling and resource recovery.
4. Council take a lead role in activating the Local Government NSW Save Our Recycling campaign locally by endorsing the distribution and display of the Local Government NSW Save Our Recycling information on Council premises, as well as involvement in any actions arising from the initiative.
5. Council formally advise Local Government NSW that Council has endorsed the Save Our Recycling advocacy initiative and sends a copy of this correspondence to all member Councils of the Hunter Joint Organisation.
6. A vote of thanks be provided to the author of the report.

11.2 PROCUREMENT OF NEW JETTER AND SEWAGE PIPE CAMERA FOR WATER AND WASTEWATER OPERATIONS

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

Council redirects \$428,000 from the 'Sewer Pump Station 2' Sewer Capital budget towards the procurement of a new fit for purpose jetter and intra-sewage pipe camera for the Water & Wastewater Networks team.

12 CORPORATE AND COMMUNITY SERVICES

12.1 MODEL CODE OF CONDUCT AND MODEL CODE OF MEETING PRACTICE

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

1. Council adopts the new Model Code of Conduct and Procedures for the Administration of the Model Code.
2. Council exhibits the new Model Code of Meeting Practice for 42 days.

12.2 POLICY UPDATES

222 RESOLVED on the motion of Crs Green and McNeill that:

Council:

1. ENDORSES the Financial Assistance and Sponsorship Policy MSC05E and Volunteer Policy MSC06E for a period of public exhibition of 28 days.
2. RESCINDS the following policies:
 - Gifts, Bribes, & Benefits B15/1;
 - Fraud and Corruption;
 - Coat of arms C45/1;
 - Council Colours C40/1;
 - STAFF – Employee Assistance Program S25/10;

- STAFF – Harassment and Workplace Bullying Policy S25/29;
 - STAFF – Critical Incident Management Policy S25/6;
 - Workplace Display Material S25/35;
 - Compensation Claims – Stained Clothing C50/1;
 - Buy locally Policy – Plant Purchased Above \$20 000 B50/1;
 - Travel Policy T30/1; Council – Smoke Free Premises C39/2;
 - Council Buildings or Property – No Smoking C38/8;
 - Staff - No Smoking policy S25/13;
 - Council Administration Centre Smoke Free Premises C39/1;
 - Keeping of Roosters in Residential Areas N1/1;
 - Horses on Private property H10/1;
 - Financial Assistance F16/1; and
 - Corporate Sponsorship of Council Events or Activities S20/1.
3. NOTES that the General Manager has adopted the following policies:
- Water Drinking Quality Policy MSC05I; and
 - Equal Employment Opportunity Policy MSC04I.

12.3 DECEMBER BUDGET REVIEW 2018

223 RESOLVED on the motion of Crs Bailey and Woodruff that:

Council adopt the list of proposed changes and incorporate them into the 2018/19 Budget including the offset of the Job Creation to the Music School.

12.4 DIRECTOR'S REPORT - ENVIRONMENT AND COMMUNITY SERVICES

Disclosure of Interest

Cr Bowditch declared a pecuniary interest in this item. Cr Bowditch advised Council that the company he works for is tendering for work with Sustainability.

Cr Green declared a pecuniary interest in this item. Cr Green advised Council that he husband's business is linked to a number of current and potential future projects mentioned in the report.

At 06:11pm Cr Bowditch and Cr Green left the Council Chambers and therefore took no part in discussion or voting on this item.

224 RESOLVED on the motion of Crs Woodruff and Foy that:

The information contained in this report be noted.

At 06:12pm Cr Bowditch and Cr Green returned to Council Chambers.

13 REPORTS FROM COMMITTEES

13.1 INFRASTRUCTURE COMMITTEE - 19/12/2018

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

The Minutes of the Infrastructure Committee Meeting held on Wednesday 19 December 2018

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be received and the recommendations contained therein ADOPTED.

13.2 CORPORATE POLICY AND PLANNING COMMITTEE - 19/12/2018

226 RESOLVED on the motion of Crs Woodruff and Eades that:

The Minutes of the Corporate Policy And Planning Committee Meeting held on Wednesday 19 December 2018 be received and the recommendations contained therein ADOPTED.

13.3 CORPORATE POLICY AND PLANNING COMMITTEE - 30/01/2019

227 RESOLVED on the motion of Crs Ledlin and Woodruff that:

The Minutes of the Corporate Policy And Planning Committee Meeting held on Wednesday 30 January 2019 be received and the recommendations contained therein ADOPTED.

13.4 DEVELOPMENT ASSESSMENT COMMITTEE - 17/12/2018

228 RESOLVED on the motion of Crs Woodruff and Foy that:

The Minutes of the Development Assessment Committee Meeting held on Monday 17 December 2018 be received and the recommendations contained therein ADOPTED.

13.5 DEVELOPMENT ASSESSMENT COMMITTEE - 14/01/2019

229 RESOLVED on the motion of Crs Foy and Woodruff that:

The Minutes of the Development Assessment Committee Meeting held on Monday 14 January 2019 be received and the recommendations contained therein ADOPTED.

13.6 RELOCATION STEERING COMMITTEE - 23/01/2019

230 RESOLVED on the motion of Crs Woodruff and Foy that:

The Minutes of the Relocation Steering Committee Meeting held on Wednesday 23 January 2019 be received and the recommendations contained therein ADOPTED.

14 NOTICES OF MOTION / RESCISSION

Nil

15 QUESTIONS WITH NOTICE

Nil

16 COUNCILLORS REPORTS

16.1 SCHOOL HOLIDAY PROGRAMS

Cr Michelle Green thanked the staff and volunteers of the various services on the excellent school holiday programs that were held in the Shire. Cr Green also commended indoor playground that was set up in the Marketplace during the school holiday period.

16.2 DENMAN MEMORIAL HALL

Cr Brett Woodruff reported that he had attended the Denman Memorial Hall Rendering project held last Friday. Cr Woodruff advised that 137 locals had attended the event and had fun smearing the render over everything including themselves.

17 QUESTIONS FOR NEXT MEETING

17.1 MUSWELLBROOK SHIRE COUNCIL -V- HUNTER VALLEY ENERGY COAL PTY LTD

Cr Steven Reynolds advised that he had received an email from a resident inquiring whether Council had sought an alternative order in the Hunter Valley Energy Coal matter as the 28 day time limit had expired and how much were the costs incurred by the first and second respondents as ordered by Judge Robson and will ratepayers be paying for this failed exercise in the Land and Environment Court?

Ms Plesman advised the meeting that a response would be prepared and emailed to Councillors.

17.2 DENMAN HERITAGE VILLAGE

Cr Brett Woodruff advised Council that the Denman Heritage Village have been provided with conflicting advice by staff and a local resident on the precise location of the waterline on the land where the proposed museum is to be located which is causing concern to the group. Is it possible for staff to provide an exact location for the water line on the land where the Denman Heritage Village is proposing to locate the museum?

Mr Finnigan advised the meeting that a response would be prepared and provided to Councillors and the Denman Heritage Village.

17.3 EASTBROOK LINKS EMERGENCY CONCERNS

Cr Michelle Green raised concerns with Eastbrook Links Estate having only one entry/exit route. Cr Green inquired whether a risk assessment had been undertaken regarding emergency evacuations that might be needed and whether the provision of a second entry/exit route had been flagged by Council.

Ms Plesman advised the meeting that a response would be prepared and provided to Councillors.

18 ADJOURNMENT INTO CLOSED COUNCIL

231 RESOLVED on the motion of Crs Bailey and McNeill 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 TENDER NO. 2018-2019-0077 - UPGRADE OF THOMAS MITCHELL DRIVE - STAGE 4A

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 TENDER - 2017-2018-0322 RECONSTRUCTION OF FOOTPATH, DENMAN CBD

Item 19.2 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.

19.3 TENDER 2018-2019-0348 - SUPPLY AND DELIVERY OF A 32T LANDFILL COMPACTOR

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 LEGAL SERVICES TENDER

Item 19.4 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.

19.5 REGIONS IN TRANSITION PROGRAM

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.

Members of the public left the meeting at this stage

19 CLOSED COUNCIL

19.1 TENDER NO. 2018-2019-0077 - UPGRADE OF THOMAS MITCHELL DRIVE - STAGE 4A

Disclosure of Interest

Cr Bowditch declared a pecuniary interest in this item. Cr Bowditch advised that he has hire excavators to KCE. At 06:16 pm Cr Bowditch left the Council Chambers and therefore took no part in discussion or voting on this item.

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

1. The tender submitted by KCE Pty Ltd. For Upgrade of Thomas Mitchell Drive Stage 4A be accepted subject to a satisfactory financial assessment; and

2. The General Manager be delegated authority to sign and affix Council's seal the contract.

19.2 TENDER - 2017-2018-0322 RECONSTRUCTION OF FOOTPATH, DENMAN CBD

Disclosure of Interest

Cr Mark Bowditch declared an insignificant non-pecuniary interest in this item. Cr Bowditch advised that he has engaged with the tenderer to work for his employer in October 2018 and November 2018. Cr Bowditch remained absent from the Chambers and therefore took no part in discussion or voting on this item.

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

1. The tender submitted by PS and KE Wear for the reconstruction of footpath in Ogilvie Street Denman be accepted subject to a satisfactory financial assessment and ensuring the actual expenditure for this project does not exceed the budgeted amount of \$2.4m for 2018-19;
2. The General Manager be delegated authority to sign and seal the contract.

At 06:17 pm Cr Bowditch returned to Council Chambers.

19.3 TENDER 2018-2019-0348 - SUPPLY AND DELIVERY OF A 32T LANDFILL COMPACTOR

234 RESOLVED on the motion of Crs Ward and Woodruff that:

1. Council accept the tender of GCM Enviro Pty Ltd for the supply and delivery of a 32 tonne landfill compactor for the net sum of \$735,400 (GST excl.) for Contract 2018-2019-0348.
2. Council accept the optional offer of GCM Enviro Pty Ltd for the installation of a compaction hardware/software system (Carlson Machine Control) and training for an additional \$69,065 (GST excl) and funds the \$24,465 (GST excl) shortfall from the Waste Reserve.
3. The General Manager be delegated authority to sign and affix Council's seal to the contract.

19.4 LEGAL SERVICES TENDER

235 RESOLVED on the motion of Crs Eades and Bailey that:

The following legal firms be appointed to Council's Legal Services Panel for a period of three (3) years:

1. Coutts Legal
2. Local Government Legal
3. Moray & Agnew
4. Lyndsay Taylor Lawyers
5. Maddocks
6. Hones Lawyers

19.5 REGIONS IN TRANSITION PROGRAM

236 RESOLVED on the motion of Crs Woodruff and Bailey that:

1. Council authorises the proposed program of travel by the Mayor and one member of Council's staff to further economic diversification and transition opportunities for the Muswellbrook Shire in partnership with the University of Newcastle and other prospective institutions.
2. Following the completion of travel, a report be provided to Council detailing the outcomes and opportunities arising from the visit.

20 RESUMPTION OF OPEN COUNCIL

237 RESOLVED on the motion of Crs Foy and McNeill that:

The meeting return to Open Council.

21 CLOSURE

The meeting was declared closed at 6.38pm.

THE MINUTES OF THE MEETING (PAGES 1 TO 9) WERE CONFIRMED AT THE ORDINARY COUNCIL MEETING OF THE MUSWELLBROOK SHIRE COUNCIL HELD ON TUESDAY 12 MARCH, 2019 AND ARE A FULL AND ACCURATE RECORD OF PROCEEDINGS OF THE MEETING HELD ON TUESDAY 12 FEBRUARY, 2019

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Ms F. Plesman
General Manager

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Cr R. Scholes
Chairperson