

**MINUTES OF THE ORDINARY COUNCIL MEETING OF THE MUSWELLBROOK SHIRE COUNCIL
HELD IN THE CHAMBERS, ADMINISTRATION CENTRE, MUSWELLBROOK ON TUESDAY 17
DECEMBER, 2019 COMMENCING AT 6.00PM.**

PRESENT: Cr M.L. Rush, Cr M. Bowditch, Cr J.F. Eades, Cr M.I. Green, Cr J.L. Ledlin, Cr G.T. McNeill, Cr R.W. Scholes, Cr S.J. Ward and Cr B.N. Woodruff.

IN ATTENDANCE: Ms F. Plesman (General Manager), Mr D. Finnigan (Director - Community Infrastructure), Mr A. Irving (Acting Director – Planning & Community Services), Ms S. Pope (Assistant Director – Planning & Community Service), Mr P. Chambers (Chief Engineer), Mr M. Lysaught (Manager – Works, Property & Building Services), Mr J. Brown (Manager – Integrated Planning, Risk & Governance), Mr A. Mitreski (Policy Analyst Economic Development & Innovation), Mr A. Pirillo (Policy Officer), Mr H. McTaggart (Development Co-Ordinator), Mrs M. Sandell-Hay (PA to General Manager), Miss M. Meadows (Administration Officer), 5 people in the public gallery and no 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 Cr Eades.

3 APOLOGIES AND LEAVE OF ABSENCE

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

The apologies for inability to attend the meeting submitted by Cr. J. Foy, Cr S. Reynolds and Cr. S. Bailey be ACCEPTED and the necessary Leave of Absence be GRANTED.

4 CONFIRMATION OF MINUTES OF PREVIOUS MEETING

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

The Minutes of the Ordinary Meeting held on 26 November 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 McNeill – Declared a pecuniary interest in Item 10.3. Cr McNeill advised Council that he is an employee of Applicant

Cr McNeill – Declared a significant non-pecuniary interest in Item 11.1. Cr McNeill advised Council that he owns a property in the vicinity of the proposed intersection upgrade.

Cr Woodruff – Declared a significant non - pecuniary interest in Item 19.7. Cr Woodruff advised that a family member is one of the nominees.

Cr Eades – Declared a pecuniary interest in Item 19.7. Cr Eades advised that she is employed by Upper Hunter Community Services who are associated with nominees.

Cr Ward - Declared a significant non - pecuniary interest in Item 19.7. Cr Ward advised that he is a member of the Denman Lions Club who have been nominated for an award.

Cr Scholes – Declared a significant non - pecuniary interest in Item 19.7. Cr Scholes advised that a family member is one of the nominees.

Cr Rush – Declared a significant non - pecuniary interest in Item 19.7. Cr Rush advised that one of the applicants has been nominated by a relative.

6 PUBLIC PARTICIPATION

1. **Ben Tebutt** – In support of Item 10.6 - Broadlands Caravan Park - Objection Under Section 82 Of The Local Government Act 1993
2. **Lisa Blandford** – In support of Item 10.6 - Broadlands Caravan Park - Objection Under Section 82 Of The Local Government Act 1993.

7 BUSINESS ARISING

Nil

8 MAYORAL MINUTES

Nil

9 GENERAL BUSINESS

Nil

10 ENVIRONMENTAL SERVICES

10.1 AMENDMENTS TO MUSWELLBROOK DCP 2009 IN RELATION TO 9 YARRAWA RD, DENMAN AND 9027 NEW ENGLAND HWY, MUSWELLBROOK.

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

Council delegate the determination of this item to the Development Assessment Committee

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

Against: Nil.

10.2 DA 50/2019 - INDUSTRIAL DEVELOPMENT - ASPHALT PLANT (DESIGNATED DEVELOPMENT)

209 RESOLVED on the motion of Crs McNeill and Ledlin that:

Council approve Development Application No. 50/2019, involving the construction and operation of a General Industry (Asphalt Plant) at Lot 14 DP 1119843, 43-45 Enterprise Crescent Muswellbrook, subject the conditions of consent included in Attachment B.

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

Against: Nil.

**10.3 DA 37/2019 - CONSTRUCTION OF PIPES AND PUMP INFRASTRUCTURE TO RETURN
SEEPAGE WATER FROM LAKE LIDDELL DAM WALL TO LAKE LIDDELL**

Disclosure of interest

Cr McNeill disclosed a pecuniary interest in this item. Cr McNeill advised Council that he is employed by the applicant. At 6:10pm Cr Graeme McNeill left the Council Chambers and therefore took no part in the discussion or voting on this item.

210 RESOLVED on the motion of Crs Rush and Ward that:

Council delegate the determination of this item to the Development Assessment Committee.

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

Against: Nil.

At 06:10pm Cr Graeme McNeill returned to Council Chambers.

**10.4 DA 30/2019 - DEMOLITION OF EXISTING DWELLING AND SHEDS, CONSTRUCTION OF
ADDITIONAL MOTEL UNITS, EXTENSION OF RESTAURANT AND CONSOLIDATION OF
TITLES - 26 – 32 MAITLAND STREET, MUSWELLBROOK**

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

Council approve Development Application No. 30/2019, involving the demolition of an existing dwelling and sheds, construction of additional motel units, extension of restaurant and consolidation of titles of Lot 2 DP 6758 and Lot 100 DP 1193814 subject to the following condition being included:

Footpaths fronting the property to be compliant with the Transport for NSW specification for shared pathways.

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

Against: Nil.

10.5 REMOVAL OF SECTION 4 - NOTIFICATIONS - FROM MUSWELLBROOK DCP 2009

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

Council resolves:

1. To publicly exhibit amendments to *Muswellbrook DCP 2009, Section 4 – Notifications*, by proposing to remove the section; and
2. To receive a report back following the public exhibition period, unless no public submissions are received, in which case Section 4 – Notifications of Muswellbrook DCP 2009 is to be removed.

10.6 BROADLANDS CARAVAN PARK - OBJECTION UNDER SECTION 82 OF THE LOCAL GOVERNMENT ACT 1993

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

Council resolves:

1. To support the principle of the on-site construction of relocatable dwellings at the Broadlands Gardens Caravan Park, 9080 New England Highway, Muswellbrook (Lot 132 DP 610464);
2. To delegate to the General Manager the determination of Section 68 Applications for the installation of manufactured homes at the Broadlands Gardens Caravan Park site, 9080 New England Highway, Muswellbrook (Lot 132 DP 610464), where accompanied by an objection under Section 82 of the Local Government Act 1993 to compliance with the provisions of Clause 135(1) of the Local Government (Manufactured Home Estates, Caravan Parks, Camping Grounds and Moveable Dwellings) Regulation 2005.

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

Against: Nil.

11 COMMUNITY INFRASTRUCTURE

11.1 PROPOSED SIGNALISED INTERSECTION UPGRADE - NEW ENGLAND HIGHWAY AND LORNE STREET, MUSWELLBROOK

Cr McNeill declared a significant non-pecuniary interest in this Item. Cr McNeill advised Council that he owns a property in the vicinity of the proposed intersection upgrade. At 06:13 pm Councillor Graeme McNeill left the Council Chambers and therefore took no part in the discussion or voting of this item.

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

The information contained in the report be noted, and Council endorse the provision of comments to Transport NSW on the proposed design as detailed in the report.

At 06:14 pm Councillor Graeme McNeill returned to Council Chambers.

12 CORPORATE AND COMMUNITY SERVICES

12.1 STORE & MATERIALS STOCKTAKE - 20 NOVEMBER 2019

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

Council notes that the report on the stocktake carried out 20 November 2019 and an amount of \$1,362.49 be written off the inventory register.

12.2 NOVEMBER 2019 MONTHLY FINANCIAL REPORT

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

The Financial Report for the month ending 30 November 2019 be noted.

12.3 REPORT ON INVESTMENTS HELD AS AT 30 NOVEMBER 2019

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

The information showing Council's investments as at 30 November 2019 be noted and the exceeded trading limits on the BBB security group be accepted.

12.4 PROVISION OF ELECTION SERVICES

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

1. Council approve the contract with the NSW Electoral Commission to conduct the 2020 Muswellbrook Shire Council elections.
2. Council allocate an increase in the election services 2020/2021 budget by \$29k to cover a shortfall in funds resulting from a 32% increase in election costs.

12.5 DIRECTOR'S REPORT - ENVIRONMENT AND COMMUNITY SERVICES

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

The information contained in this report be noted.

12.6 INVESTMENT (FINANCIAL SECURITIES) POLICY REVIEW

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

Council adopts the reviewed Investment (Financial Securities) Policy.

13 REPORTS FROM COMMITTEES

13.1 DEVELOPMENT ASSESSMENT COMMITTEE - 18/11/2019

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

The Minutes of the Development Assessment Committee Meeting held on Monday 18 November 2019 be received and the recommendations contained therein ADOPTED.

13.2 ABORIGINAL RECONCILIATION COMMITTEE - 27/11/2019

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

The Minutes of the Aboriginal Reconciliation Committee Meeting held on Wednesday 27 November 2019 be received and the recommendations contained therein ADOPTED.

13.3 DEVELOPMENT ASSESSMENT COMMITTEE - 2/12/2019

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

The Minutes of the Development Assessment Committee Meeting held on Monday 2 December 2019 be received and the recommendations contained therein ADOPTED.

13.4 LOCAL TRAFFIC COMMITTEE - 10/12/2019

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

The Minutes of the Local Traffic Committee Meeting held on Tuesday 10 December 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 MUSWELLBROOK SOUTH PUBLIC SCHOOL ANNUAL PRESENTATION

Cr Rod Scholes reported that he attended the Muswellbrook South Annual Presentation.

16.2 MUSWELLBROOK RED CROSS CHRISTMAS LUNCHEON

Cr Rod Scholes reported that that he also attended the Red Cross Christmas Luncheon.

16.3 DENMAN PUBLIC SCHOOL PRESENTATION

Cr Stephen Ward reported that he attended the St Josephs Denman Primary School and Denman Public School Presentations.

16.4 ST JOSEPH'S CATHOLIC SCHOOL PRESENTATION

Cr Stephen Ward reported that he also attended the Denman St Joseph's Catholic School Presentation.

16.5 ANNUAL PRESENTATIONS

Cr Martin Rush reported that he attended the Muswellbrook Public School Annual Presentation.

17 QUESTIONS FOR NEXT MEETING

Nil

18 ADJOURNMENT INTO CLOSED COUNCIL

225 RESOLVED on the motion of Crs Woodruff and Ledlin 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 RETENDER - SUPPLY AND DELIVERY OF NETWORKS VEHICLES

Item 19.1 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.

19.2 CONTRACT 2019-2020-0390 - PRELIMINARY ENGINEERING DESIGN AND ENVIRONMENTAL IMPACT STATEMENT FOR A FOOD ORGANICS & GARDEN ORGANICS (FOGO) PROCESSING FACILITY

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 PROVISION OF ROAD STABILISING - T731920HUN

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 SUPPLY AND DELIVERY OF BULK WATER TREATMENT CHEMICALS - T711920HUN

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 CHANGE TO ORGANISATIONAL STRUCTURE: WORKS, PROPERTY, AND BUILDING SERVICES POSITIONS REVIEW

Item 19.5 is classified CONFIDENTIAL under the provisions of Section 10A(2)(a) of the local government act 1993, as it deals with personnel matters concerning particular individuals (other than councillors), and Council considers that discussion of the matter in an open meeting would be, on balance, contrary to the public interest.

19.6 QUESTIONS WITH NOTICE

Item 19.6 is classified CONFIDENTIAL under the provisions of Section 10A(2)(a) of the local

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government act 1993, as it deals with personnel matters concerning particular individuals (other than councillors), and Council considers that discussion of the matter in an open meeting would be, on balance, contrary to the public interest.

19.7 DETERMINATION OF AUSTRALIA DAY 2020 AWARDS

Item 19.7 is classified CONFIDENTIAL under the provisions of Section10A(2)(a) of the local government act 1993, as it deals with personnel matters concerning particular individuals (other than councillors), and Council considers that discussion of the matter in an open meeting would be, on balance, contrary to the public interest.

**19.8 2019-2020-0406 - MUSWELLBROOK AQUATIC CENTRE UPGRADE -
CONSTRUCTION TENDER**

Item 19.8 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.

19.9 FUTURE FUND COMMITTEE RECOMMENDATIONS

Item 19.9 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 CLOSED COUNCIL

19.1 RETENDER - SUPPLY AND DELIVERY OF NETWORKS VEHICLES

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

Council:

1. Award the contract 2019-2020-0397 Supply and Delivery of Water and Wastewater Networks - First Response Vehicle to AACPK Investments Pty Ltd t/as Wideland Trucks & Machinery for \$206,415.26 excluding GST;
2. Award the contract 2019-2020-0398 Supply and Delivery of Sewer Jetter Truck to Sewerquip Group for \$329,045.50 excluding GST; and
3. Adopt the proposed budget changes as identified under Financial Implications.

**19.2 CONTRACT 2019-2020-0390 - PRELIMINARY ENGINEERING DESIGN AND
ENVIRONMENTAL IMPACT STATEMENT FOR A FOOD ORGANICS & GARDEN
ORGANICS (FOGO) PROCESSING FACILITY**

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

Council accept the tender and award Contract 2019-2020-0390 Preliminary Engineering Design and Environmental Impact Statement for Food Organics & Garden Organics (FOGO) Processing Facility to Pitt & Sherry Pty Ltd, for the amount of \$245,292 (Exclusive of GST), funded from the Waste Reserve.

19.3 PROVISION OF ROAD STABILISING - T731920HUN

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

Council resolves that:

1. The best fit for purpose tenderers be awarded this contract as the Panel Source supplier for the Provision of Road Stabilising to Muswellbrook Shire Council for the period 1 January 2020 to 31 December 2021, and
2. A provision be allowed for a 12-month extension based on satisfactory supplier performance, which may take this contract through to 31 December 2022.

19.4 SUPPLY AND DELIVERY OF BULK WATER TREATMENT CHEMICALS - T711920HUN

229 RESOLVED on the motion of Crs McNeill and Scholes that:

Council resolves that:

1. The tenderers listed by Schedule in the table below be awarded the Supply and Delivery of Bulk Water Treatment Chemicals contract as the single source supplier to Muswellbrook Shire Council for the period 1 January 2020 to 31 December 2021, and
2. A provision be allowed for a 12-month extension based on satisfactory supplier performance, which may take this contract through to 31 December 2022.
3. Schedule D Sodium Hypochlorite and Schedule L Sodium Fluorosilicate Na₂ SiF₆ be declined.

SCHEDULE	PRODUCT DESCRIPTION	TENDERER
B	Aluminium Sulphate	Omega Chemicals
C	Hydrated Lime	Graymont
E	Ferric Sulphate	Omega Chemicals
F	Sodium Silicofluoride	Consolidated Chemicals
H	Liquid Carbon Dioxide	BOC
J	Sodium Hydroxide	Omega Chemicals
M	Liquid Aluminium Chlorohydrate	Omega Chemicals
O	Soda Ash	Ixom
P	Sodium Fluoride	Redox
Q	Hydrochloric Acid	Ixom
R	Citric Acid	Omega Chemicals
S	Sodium Hypochlorite	Redox

19.5 CHANGE TO ORGANISATIONAL STRUCTURE: WORKS, PROPERTY, AND BUILDING SERVICES POSITIONS REVIEW

230 RESOLVED on the motion of Crs McNeill and Ledlin that:

Council:

1. Approves the changes in positions as identified in the report; and
2. The progression of the Engineering Development Programme.

19.6 QUESTIONS WITH NOTICE

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

The information contained in this report be noted.

19.7 DETERMINATION OF AUSTRALIA DAY 2020 AWARDS

Disclosure of Interest

Cr Woodruff declared a significant non - pecuniary interest in this Item. Cr Woodruff advised that a family member is one of the nominees.

Cr Eades declared a pecuniary interest in this Item. Cr Eades advised that she is employed by Upper Hunter Community Services who are associated with nominees.

Cr Ward declared a significant non - pecuniary interest in this Item. Cr Ward advised that he is a member of the Denman Lions Club who have been nominated for an award.

Cr Scholes declared a significant non - pecuniary interest in this Item. Cr Scholes advised that a family member is one of the nominees.

Cr Rush declared a significant non - pecuniary interest in this Item. Cr Rush advised that one of the applicants has been nominated by a relative.

Councillors remained in the Chambers and a procedural motion was put due to the number of disclosures of interest.

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

The determination of this item be delegated to the General Manager subject to consultation being undertaken with Councillors by way of survey.

19.8 2019-2020-0406 - MUSWELLBROOK AQUATIC CENTRE UPGRADE - CONSTRUCTION TENDER

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

1. In accordance with Regulation 178 of the Local Government (General) Regulation 2005, Council decline to accept any tender for 2019-2020-0406 Muswellbrook Aquatic Centre Upgrade Project as all the tenders received are non-conforming and exceed the project

budget.

2. In accordance with Regulation 178 (3)(b) of the Local Government (General) Regulation 2005, it is recommended that –
 - (i) Council decline to invite fresh tenders or applications as referred to in subclause (3) (c) & (d) as it would delay the project and risk grant funding; and
 - (ii) Council determines to invite fresh applications following review of the scope through a selective tendering method from interested contractors listed in the report with a view to entering into a contract in relation to the subject matter of the tender for a shortened period of 14 days.

19.9 FUTURE FUND COMMITTEE RECOMMENDATIONS

234 RESOLVED on the motion of Crs Rush and Eades that:

1. Council adopt the recommendations of the Future Fund Committee as outlined in the report; and
2. Allocate budgets as described under Financial Implications.

20 RESUMPTION OF OPEN COUNCIL

235 RESOLVED on the motion of Crs Ward and Bowditch that:

The meeting return to Open Council.

21 CLOSURE

The meeting was declared closed at 6:31 pm.

**THE MINUTES OF THE MEETING (PAGES 1 TO 11) WERE CONFIRMED AT THE
ORDINARY COUNCIL MEETING OF THE MUSWELLBROOK SHIRE COUNCIL HELD ON
TUESDAY 28 JANUARY, 2020 AND ARE A FULL AND ACCURATE RECORD OF
PROCEEDINGS OF THE MEETING HELD ON TUESDAY 17 DECEMBER, 2019**

.....
Ms F. Plesman
General Manager

.....
Cr M. Rush
Chairperson