

**MINUTES OF THE ORDINARY COUNCIL MEETING OF THE MUSWELLBROOK SHIRE COUNCIL
HELD IN THE CHAMBERS, ADMINISTRATION CENTRE, MAITLAND STREET, MUSWELLBROOK
ON TUESDAY 28 APRIL, 2020 COMMENCING AT 6.00PM.**

PRESENT: Cr M.L. Rush, Cr M. Bowditch, Cr J.F. Eades (VC), Cr J.P. Foy (VC), Cr J.L. Ledlin (Phone), Cr G.T. McNeill, Cr R.W. Scholes (VC), Cr S.M. Reynolds, Cr S.J. Ward (VC) and Cr B.N. Woodruff.

IN ATTENDANCE: Ms F. Plesman (General Manager), Mr D. Finnigan (Director - Community Infrastructure -VC), Ms N. Cowley (Executive Manager – Officer of the Chief Financial Officer -VC), Ms S. Pope (Assistant Director – Planning & Community Service -VC), Ms C. O'Brien (Manager - Community Services -VC), Mr P. Chambers (Shire Engineer -VC), Mr J. Brown (Manager – Integrated Planning, Risk & Governance -VC), Mr M. Lysaught (Manager – Works, Property & Building Services -VC), Mr A. Mitreski (Policy Analyst Economic Development & Innovation -VC), Mr A. Willis (Corporate Lawyer -VC), Mr A. Pirillo (Policy Officer VC), Mrs M. Sandell-Hay (PA to General Manager -VC), Miss M. Meadows (PA to Mayor) 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 Cr Reynolds.

3 APOLOGIES AND LEAVE OF ABSENCE

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

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

4 CONFIRMATION OF MINUTES OF PREVIOUS MEETING

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

The Minutes of the Ordinary Meeting held on 31 March 2020, and the Extra Ordinary Meeting held on 14 April 2020, 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 Reynolds – declared a pecuniary interest in items 11.2 and 11.3. Cr Reynolds advised Council that he is currently involved in legal action with the Company listed in the reports.

6 PUBLIC PARTICIPATION

Mr John Bancroft – spoke in opposition to traffic concerns with regard to Item 10.1.

Mr Paul Williams (Austam Homes) – in opposition to Item 11.8 – Road Development Policy

7 BUSINESS ARISING

Nil

8 MAYORAL MINUTES

9 BUSINESS ARISING

Nil

10 ENVIRONMENTAL SERVICES

10.1 DA 47/2019 - SECTION 8.3 REVIEW - 111 SKELLATAR STOCK ROUTE, MUSWELLBROOK

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

This matter be deferred for consideration at the May Ordinary Meeting of Council and in the interim the matter be referred to Council's Traffic Committee for comment.

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

Against: Nil.

11 COMMUNITY INFRASTRUCTURE

11.1 EDDERTON ROAD SECTION 138 ROADS ACT APPROVAL - COMPLETION OF STAGE 1 WORKS

Disclosure of Interest

Cr Reynolds declared a pecuniary interest in this item. Cr Reynolds advised Council that he is currently involve in legal action with the Company listed in the report.

At 06:08pm Cr Reynolds left the Council Chambers and therefore took no part in discussion or voting on this matter.

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

This matter be deferred for consideration at the May Ordinary Council Meeting.

11.2 EDDERTON ROAD STAGE 2 UPGRADE SECTION 138 ROAD ACT 1993 APPROVAL

Disclosure of Interest

Cr Reynolds declared a pecuniary interest in this item. Cr Reynolds advised Council that he is currently involve in legal action with the Company listed in the report.

Cr Reynolds remained absent from Council Chambers and therefore took no part in discussion or voting on this matter.

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

This matter be deferred for consideration at the May Ordinary Council Meeting.

At 06:09pm Cr Reynolds returned to Council Chambers.

11.3 MANAGEMENT OF CROWN LANDS

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

Council:

1. Appoint two Native Title Managers – Mr P Chambers and Mr M Lysaught and notify the Minister of the appointments;
2. Council accept the Department of Industry suggestions for assigning initial categories (for community land Reserves) and notify the Minister of accepted categories; and
3. Council approve the engagement of a suitably qualified contractor to prepare Plans of Management for Fitzgerald Reserve, Denman Recreation Area and a generic template for multiple reserves.

11.4 COMMENCEMENT OF THE AMENDED FUTURE FUND SCHEDULE

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

The Future Fund Schedule (as amended 26 June 2019) commence on 1 July 2020.

11.5 EMULSION TANK BUDGET ALLOCATION

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

Council reallocate the budget for the purchase of an emulsion tank as identified in the report.

11.6 REPLACEMENT OF SOUTHERN (ULAN LINE) RAIL BRIDGE CROSSING BRIDGE STREET, MUSWELLBROOK

321 RESOLVED on the motion of Crs Reynolds and Bowditch that:

Council notes the information contained in the report.

11.7 ADVERSE EVENT PLAN

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

Council ADOPTS the Adverse Event Plan as attached to the report.

11.8 ROAD DEVELOPMENT STANDARDS POLICY

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

1. Council endorses the draft Road Development Standards Policy for public exhibition for a period of 28 days; and

2. Council ADOPTS the Road Development Standards Policy at the conclusion of the public exhibition period subject to receiving no public comment that materially affects the intent or application of the policy.

12 CORPORATE AND COMMUNITY SERVICES

12.1 GOVERNANCE POLICY REVIEW

- 324 RESOLVED on the motion of Crs Woodruff and Reynolds that:

Council provisionally adopt the revised Governance Policy provided in attachment A subject to it being reviewed by Councillors and resubmitted to the May Ordinary Meeting of Council.

12.2 ENTERPRISE RISK MANAGEMENT POLICY AND FRAMEWORK

- 325 RESOLVED on the motion of Crs Reynolds and Scholes that:

Council endorses the Draft Enterprise Risk Management Policy and Framework for public exhibition for a period of 28 days.

12.3 REPORT ON INVESTMENTS HELD AS AT 31 MARCH 2020

- 326 RESOLVED on the motion of Crs Ledlin and Eades that:

The information showing Council's investments as at 31 March 2020 be noted.

12.4 PLANNING AND ENVIRONMENT SERVICES

Disclosure of Interest

Cr G. McNeill declared a pecuniary interest in this item relating to DA 37/2019. Cr McNeill advised that his employer is mentioned in the report,

At 06:46 pm Cr McNeill left the Council Chambers and therefore took not part in discussion or voting on this item.

- 327 RESOLVED on the motion of Crs Woodruff and Reynolds that:

Council notes the information with respect to DA 37/2019 on page 259 of the business paper.

At 06:47pm Councillor Graeme McNeill returned to Council Chambers.

- 328 RESOLVED on the motion of Crs McNeill and Reynolds that:

The balance of the information contained in this report be noted.

12.5 COMMUNITY SERVICES

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

The information contained in this report be noted.

13 REPORTS FROM COMMITTEES

13.1 DEVELOPMENT ASSESSMENT COMMITTEE - 6/04/2020

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

The Minutes of the Development Assessment Committee Meeting held on Monday 6 April 2020 be received and the recommendations contained therein ADOPTED.

13.2 LOCAL TRAFFIC COMMITTEE - 14-APR-20

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

The Minutes of the Local Traffic Committee Meeting held on Tuesday 14 April 2020 be received and the recommendations contained therein ADOPTED.

14 NOTICES OF MOTION / RESCISSION

Nil

15 QUESTIONS WITH NOTICE

Nil

16 COUNCILLORS REPORTS

Nil

17 QUESTIONS FOR NEXT MEETING

17.1 DUE DILIGENCE REPORT FROM PREVIOUS MEETING

Cr Reynolds inquired as to whether a copy of the Due Diligence Report could be made available to Councillors?

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

With respect to this matter that Councillors have access to the entirety of the report for six weeks for inspection at the Administration Centre.

18 ADJOURNMENT INTO CLOSED COUNCIL

333 RESOLVED on the motion of Crs Eades 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

**MINUTES OF THE ORDINARY COUNCIL MEETING OF THE MUSWELLBROOK SHIRE COUNCIL
HELD IN THE CHAMBERS, ADMINISTRATION CENTRE, MAITLAND STREET, MUSWELLBROOK
ON TUESDAY 28 APRIL, 2020 COMMENCING AT 6.00PM.**

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 2019-2020-0381 - THOMPSON STREET / NEW ENGLAND HIGHWAY, MUSWELLBROOK, INTERSECTION UPGRADE AND SIGNALISATION

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 TENDER 2019-2020-0411 - CONSTRUCTION OF WILLIAMS BRIDGE, MARTINDALE

Item 19.2 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.

19.3 CONTRACT 2019-2020-414 - MUSWELLBROOK REGIONAL ART GALLERY HEATING, VENTILATION AND COOLING REPLACEMENT/UPGRADE

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 COVID-19 WORKPLACE HEALTH AND SAFETY COMPLIANCE

Item 19.4 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.

19.5 REGIONS IN TRANSITION PROGRAM REPORT

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 MUSWELLBROOK AQUATIC CENTRE UPGRADE PROJECT - TENDER NEGOTIATIONS

Item 19.6 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 CLOSED COUNCIL

19.1 TENDER 2019-2020-0381 - THOMPSON STREET / NEW ENGLAND HIGHWAY, MUSWELLBROOK, INTERSECTION UPGRADE AND SIGNALISATION

Suspension of Standing Orders

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

The Standing Orders be suspended to allow further discussion on this matter.

Resumption of Standing Orders

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

The Standing Orders resume

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

1. Determination of this matter be delegated to the General Manager.
2. a further report be submitted to the Ordinary Council Meeting scheduled for May, 2020.

19.2 TENDER 2019-2020-0411 - CONSTRUCTION OF WILLIAMS BRIDGE, MARTINDALE

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

1. The alternative tender submitted by Waeger Constructions Pty Ltd be accepted subject to a satisfactory financial assessment; and
2. The General Manager be delegated authority to sign and affix Council's seal to the Contract 2019-2020-0411.

19.3 CONTRACT 2019-2020-414 - MUSWELLBROOK REGIONAL ART GALLERY HEATING, VENTILATION AND COOLING REPLACEMENT/UPGRADE

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

Council:

1. Allocates funding from the Renewable Energy Target capital programme as identified in the report; and
2. Awards contract 2019-2020-414 – Muswellbrook Regional Art Gallery Heating, Ventilation and Cooling Replacement/Upgrade for Option 1 to RMS Service (NSW) Pty Ltd for \$183,665 exclusive of GST.

19.4 COVID-19 WORKPLACE HEALTH AND SAFETY COMPLIANCE

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

Council note the report.

19.5 REGIONS IN TRANSITION PROGRAM REPORT

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

Council notes the information in this report.

19.6 MUSWELLBROOK AQUATIC CENTRE UPGRADE PROJECT - TENDER NEGOTIATIONS

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

Council:

1. Endorses the awarding of the tender for all three stages for 2019-2020-0406 Muswellbrook Aquatic Centre Upgrade Project;
2. Allocate the funding required as part of the adoption of 2020/21 Operational and Capital budget; and
3. Request a detail report on the costs and options to refurbish the 50 metre outdoor pool.

20 RESUMPTION OF OPEN COUNCIL

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

The meeting return to Open Council.

21 CLOSURE

The meeting was declared closed at 8.08pm.

THE MINUTES OF THE MEETING (PAGES 1 TO 8) WERE CONFIRMED AT THE ORDINARY COUNCIL MEETING OF THE MUSWELLBROOK SHIRE COUNCIL HELD ON TUESDAY 26 MAY, 2020 AND ARE A FULL AND ACCURATE RECORD OF PROCEEDINGS OF THE MEETING HELD ON TUESDAY 28 APRIL, 2020

.....
Ms F. Plesman
General Manager

.....
Cr M. Rush
Chairperson