

**MINUTES OF THE ORDINARY COUNCIL MEETING OF THE MUSWELLBROOK SHIRE COUNCIL  
HELD IN THE CHAMBERS, ADMINISTRATION CENTRE, MUSWELLBROOK ON TUESDAY 25  
AUGUST, 2020 COMMENCING AT 6.00PM.**

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**PRESENT:** Cr M.L. Rush, Cr M. Bowditch, Cr J.F. Eades, Cr J.P. Foy, Cr J.L. Ledlin (VC), Cr G.T. McNeill, Cr R.W. Scholes, 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), Ms N. Cowley (Executive Manager – Office of the Chief Financial Officer), Ms S. Pope (Executive Manager – Planning and Environment), Mr P. Chambers (Chief Engineer) (VC), Mr J. Brown (Manager – Integrated Planning, Risk & Governance), Mr M. Lysaught (Manager – Works, Property & Building Services), Mrs M. Sandell-Hay (PA to General Manager), 2 people in the public gallery and 4 people in the public gallery via video conferencing.

## **1 ACKNOWLEDGEMENT OF COUNTRY**

The Acknowledgement of Country was read by the General Manager.

## **2 CIVIC PRAYER**

The Civic Prayer was read by Cr Reynolds.

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

Nil

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

**33** RESOLVED on the motion of Crs Woodruff and Bowditch that:

The Minutes of the Ordinary Meeting held on 28 July 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 M. Bowditch** – declared an insignificant non-pecuniary interest in Item 11.1. Cr Bowditch advised Council that his employer has quoted on this project for the applicant.

**Cr M. Bowditch** – declared an insignificant non-pecuniary interest in Item 12.7. Cr Bowditch advised Council that his employer is contracting to Mt Arthur.

**Cr J. Foy** – declared a non-pecuniary interest in Item 10.1. Cr Foy advised Council that a former neighbour is an objector.

**Cr J. Foy** – declared a non-pecuniary interest in Item 12.8. Cr Foy advised Council that the report refers to an exhibition featuring Muswellbrook High School's HSC Visual Arts works which is a project he is involved in as a teacher from the school.

**Cr S. Reynolds** – declared a significant non-pecuniary interest in Item 11.1. Cr Reynolds advised Council that he is currently finalising legal proceedings with the applicant.

**Cr S. Reynolds** – declared a significant non-pecuniary interest with Item 12.7. Cr Reynolds advised Council that he is currently finalising legal proceedings with the applicant.

**Ms F. Plesman** – declared a pecuniary interest in Item 19.

## 6 PUBLIC PARTICIPATION

### Disclosure of Interest

Cr Jason Foy declared a non-pecuniary interest in Item 10.1. Cr Foy advised Council that a former neighbour is an objector. Cr Foy left the meeting at 6.03pm and therefore took no part in discussion on this matter.

**Amy and Paul Jones** – Item 10.1 – spoke in opposition to the proposed development

**Rachel McNeil** – Item 10.1 – spoke in support of the proposed development.

## 7 MAYORAL MINUTES

Nil

## 8 GENERAL BUSINESS

Nil

## 9 BUSINESS ARISING

Nil

## 10 ENVIRONMENTAL SERVICES

### 10.1 DA 72/2003(3) - SECTION 4.55(2) MODIFICATION - ALTER RESTAURANT (MCDONALDS) HOURS OF OPERATION BY MAINTAINING 5AM DRIVE-THRU OPENING HOURS

#### Disclosure of Interest

Cr Jason Foy declared a non-pecuniary interest in this item. Cr Foy advised Council that a former neighbour is an objector. Cr Foy remained absent from the meeting and therefore took no part in discussion or voting on this matter.

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

This matter be deferred for consideration at the Ordinary Council Meeting to be held on 29 September, 2020 to clarify with the proponent as to what community consultation occurred.

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

Against: Nil.

At 6.20pm Cr Jason Foy returned to Council Chambers.

### 10.2 DA 8/2020 - NOTIFICATION OF DRAFT PLANNING AGREEMENT

**35** RESOLVED on the motion of Crs Scholes and Ward that:

#### OFFICER'S RECOMMENDATION:

Council resolve to notify the draft Planning Agreement, provided in Attachment A, for public inspection for a period of no less than 28 days.

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 CONCEPT DESIGN - EDDERTON ROAD RECONSTRUCTION CH 6.0 TO CH 10.6KM

#### Disclosure of Interest

**Cr M. Bowditch** – declared an insignificant non-pecuniary interest in this Item. Cr Bowditch advised Council that his employer has quoted on this project for the applicant.

**Cr S. Reynolds** – declared a significant non-pecuniary interest in this Item. Cr Reynolds advised Council that he is currently finalising legal proceedings with the applicant.

At 6.23pm Cr Bowditch and Cr Reynolds left the Council Chambers and therefore took no part in discussion or voting on this item.

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

Council endorses:

- (a) The Detailed Concept Design for the construction of Edderton Road Ch 6.0km to 10.6km, attached as A to the report; and
- (b) The allocation of the amount of \$1,468,937 from the Edderton Road Reserve toward the construction of Edderton Road and the budget amended to include the additional funding for the project.

At 6.24pm Cr Bowditch and Cr Reynolds returned to Council Chambers.

### 11.2 HUNTER BEACH PROJECT

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

This matter be deferred for consideration at the Ordinary Council Meeting scheduled for 29 September, 2020.

### 11.3 MUSWELLBROOK SEWAGE TRANSPORTATION STRATEGY

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

1. Council approves the replacement of Sewer Pumping Station 1, Sydney Street, Muswellbrook, to be carried out in 2020-21.
2. In addition to the 2020-21 Sewer Transportation System Improvement Budget of \$1,000,000, Council approves the allocation of \$900,000 from the s64 Sewer Reserve to enable the replacement of Sewer Pumping Station 1.

### 11.4 2019-20 QUARTER FOUR COMMUNITY INFRASTRUCTURE PROJECT STATUS REPORT

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

The information contained in this report be noted.

## **11.5 REVIEW OF CEMETERY POLICY**

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

Council:

1. Endorse the reviewed Draft General Cemetery, Lawn Cemetery, Memorial Walls Policy to be placed on public exhibition for a minimum period of 28 days; and
2. A further report be prepared for Council after public exhibition.

## **12 CORPORATE AND COMMUNITY SERVICES**

### **12.1 MUSWELLBROOK SHIRE COUNCIL APP**

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

Council authorises the General Manager to pursue the development of a Muswellbrook Shire Council App to support Council's communication and engagement with the community.

### **12.2 2019/2020 OPERATIONAL PLAN 30 JUNE QUARTERLY REVIEW**

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

The 2019/2020 Operational Plan Review dated 30 June 2020 be noted.

### **12.3 AUTHORISATION PURSUANT TO SECTION 226 OF THE LOCAL GOVERNMENT ACT 1993**

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

Council note the information provided.

### **12.4 NEW MODEL CODE OF CONDUCT AND PROCEDURES FOR THE ADMINISTRATION OF THE CODE OF CONDUCT**

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

Council adopts the new Model Code of Conduct and Procedures for the Administration of the Model Code of Conduct.

### **12.5 REPORT ON INVESTMENTS HELD AS AT 31 JULY 2020**

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

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

**12.6 JULY 2020 MONTHLY FINANCIAL REPORT**

- 46 RESOLVED on the motion of Crs Ledlin and Scholes that:

The Financial Report for the month ending 31 July 2020 be noted.

**12.7 REPORT UPDATING ERRORS IN MT ARTHUR'S VOLUNTARY PLANNING AGREEMENT  
MINUTES FOR 2020/2021 AND ASSOCIATED COUNCIL REPORT ON 30 JUNE 2020**

**Disclosure of Interest**

**Cr M. Bowditch** – declared an insignificant non-pecuniary interest in this Item. Cr Bowditch advised Council that his employer is contracting to Mt Arthur.

**Cr S. Reynolds** – declared a significant non-pecuniary interest in this Item. Cr Reynolds advised Council that he is currently finalising legal proceedings with the applicant.

At 6.27pm Cr Bowditch and Cr Reynolds left the Council Chambers and therefore took no part in discussion or voting on this matter.

- 47 RESOLVED on the motion of Crs Scholes and Woodruff that:

Council correct Minute 410 to the following:

1. The Minutes of the Mangoola Community Funding Investment Committee Meeting held on 22 May 2020, the Mt Arthur Community Funding Investment Committee Meeting held on 26 June, 2020 be received and the recommendations contained therein ADOPTED.
2. The Minutes of the Mt Arthur Community Funding Investment Committee Meeting held on 10 June 2020 be received and approving the following contributions:
  - a. \$388,407 for the Tertiary Education Centre Stage 2.
  - b. \$179,593 for the Outdoor Pool Refurbishment
  - c. endorses a reduction in the allocation for the older pool by \$20,000 and transferring that \$20,000 to progressing the Karoola Park Masterplan.

At 6.28pm Cr Bowditch and Cr Reynolds returned to Council Chambers.

**12.8 COMMUNITY SERVICES**

**Disclosure of Interest**

**Cr J. Foy** – declared a non-pecuniary interest in this Item. Cr Foy advised Council that the report refers to an exhibition featuring Muswellbrook High School's HSC Visual Arts works which is a project he is involved in as a teacher from the school.

At 6.28pm Foy left the Council Chambers and therefore took no part in discussion or voting on this matter.

- 48 RESOLVED on the motion of Crs Eades and Scholes that:

The information contained in this report be noted.

At 6.29pm Foy returned to Council Chambers.

## **12.9 PLANNING AND ENVIRONMENT SERVICES**

49 RESOLVED on the motion of Crs Bowditch and Ledlin that:

The information contained in this report be noted.

## **13 REPORTS FROM COMMITTEES**

### **13.1 AUDIT, RISK AND IMPROVEMENT COMMITTEE MEETING HELD ON WEDNESDAY 20 MAY, 2020**

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

The minutes of the Audit, Risk and Improvement Committee meeting on Wednesday 20 May, 2020 be noted.

### **13.2 DEVELOPMENT ASSESSMENT COMMITTEE - 10/08/2020**

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

The Minutes of the Development Assessment Committee Meeting held on Monday 10 August 2020 be received and the recommendations contained therein ADOPTED.

### **13.3 DEVELOPMENT ASSESSMENT COMMITTEE - 13/08/2020**

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

The Minutes of the Development Assessment Committee Meeting held on Thursday 13 August 2020 be received and the recommendations contained therein ADOPTED.

## **14 NOTICES OF MOTION / RESCISSION**

Nil

## **15 QUESTIONS WITH NOTICE**

Nil

## **16 COUNCILLORS REPORTS**

### **16.1 MARTINDALE BRIDGE**

Cr Stephen Ward advised the meeting that he was happy with the work that had occurred on Martindale Bridge.

### **16.2 MANGOOLA CCC**

Cr Stephen Ward reported that he attended the Mangoola CCC meeting recently which discussed air quality.

**16.3 SPUR HILL CCC**

Cr Stephen Ward reported that he attended the Spur Hill CCC meeting recently which discussed the exploration licence.

**17 QUESTIONS FOR NEXT MEETING**

**17.1 IRONBARK ROAD FOOTPATH**

Cr McNeill advised Council that residents had raised concerns regarding the lack of a footpath along sections of Ironbark Road and asked if this could be brought forward on the list of priorities?

Cr Rush advised Council that the construction of footpaths have been prioritised and Ironbark Road is on top of the unapproved list.

Cr McNeill also inquired whether the cost of the footpath is so onerous that it could not be fast tracked due to the safety concerns and proximity to the school?

Cr McNeill also inquired whether a costing could be provided for construction of the footpath in Ironbark Road?

Cr Rush advised that this will be provided.

**17.2 RICHARD GILL SCHOOL**

Cr McNeill asked what the subsidy per child was for the school?

Cr Rush advised that he responded on the last occasion but noted it was an almost impossible exercise to undertake and should not be assessed against the first year of enrolments as it is a capital contribution.

**17.3 MARTINDALE BRIDGE CONSULTATION**

Cr Reynolds asked for an update on the community consultation held recently regarding Martindale Bridge?

Mr Finnigan advised the meeting that Council has been contacted by the bus company and Council has approached concerning the behaviour of the contractor which are carrying out maintenance work at Martindale?

**17.4 DENMAN HERITAGE MUSEUM**

Cr Woodruff inquired whether Council could investigate a source of funds for the Denman and District Heritage Museum?

Cr Rush advised the meeting that the next step would be the submission of a business case to Council.

**17.5 RURAL ROADS NETWORK PRIORITY**

Cr McNeill inquired whether the Rural Roads Network had been prioritised and whether a report was available?

Cr Rush advised that the Rural Roads Network had been prioritised. Mr Finnigan advised that the matrix on how roads are prioritised will be provided.

## 18 ADJOURNMENT INTO CLOSED COUNCIL

53 RESOLVED on the motion of Crs Scholes 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 CONTRACT 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 REQUEST FOR REVIEW OF WATER USAGE

Item 19.2 is classified CONFIDENTIAL under the provisions of Section 10A(2)(b) of the local government act 1993, as it deals with discussion in relation to the personal hardship of a resident or ratepayer, and Council considers that discussion of the matter in an open meeting would be, on balance, contrary to the public interest.

### 19.3 RURAL FIRE SERVICE STATIONS

Item 19.3 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.

### 19.4 HUNTER JOINT ORGANISATION

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 CAMPBELLS CORNER FIRE SAFETY MEASURES

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 CONTRACT NO. 2019-2020-0434: REFURBISHMENT OF 50 METRE OUTDOOR POOL AND ASSOCIATED WORKS

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.



**19.7 GENERAL MANAGER - EXTENSION OF TERM CONTRACT**

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 CLOSED COUNCIL**

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

54 RESOLVED on the motion of Crs Scholes and Eades that:

1. The tender submitted by SD Group Pty Ltd for Contract 2019-2020-0381 Thompson Street Street/New England Highway, Muswellbrook, intersection upgrade and signalisation be accepted;
2. The General Manager be delegated authority to sign and affix Council's seal to Contract 2019-2020-0381.
3. An amount of \$282,025 be allocated to the project from the Waste Reserve, on the understanding that should the grant funding submission for the replacement of the Mangoola Road culvert be successful, the \$282,025 amount will be returned the Waste Reserve and replaced by \$282,025 funding from the 2020-21 Roads to Recovery funding allocation.

**19.2 REQUEST FOR REVIEW OF WATER USAGE**

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

Be Delegated to the General Manager for determination.

**19.3 RURAL FIRE SERVICE STATIONS**

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

Council endorses providing in principle support to progress the use of sites for Martindale and Kayuga rural fire sheds as identified in the report.

**19.4 HUNTER JOINT ORGANISATION**

57 RESOLVED on the motion of Crs Foy and Bowditch that:

1. Council withdraws as a member of the Hunter Joint Organisation; and
2. Gives notice in writing to the Hunter Joint Organisation of its determination to withdraw as a member of the Organisation.

## **19.5 CAMPBELLS CORNER FIRE SAFETY MEASURES**

**58** RESOLVED on the motion of Crs Bowditch and Scholes that:

1. Council notes the extension of time; and
2. Allocates the additional funding as detailed in the report.

## **19.6 CONTRACT NO. 2019-2020-0434: REFURBISHMENT OF 50 METRE OUTDOOR POOL AND ASSOCIATED WORKS**

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

1. Council accepts the tender from Dalski Pty Ltd, for the recommended fee of \$1,266,198.42 (exclusive of GST), subject to the approval of budget allocations as described in the report; and
2. Council approves an allocation of \$720,000 to be provided from the Waste Reserve in order to facilitate the awarding of the Contract. Should Council's grant submission under the Drought Communities Programme Extension be successful, the identified \$720,000 will be returned to the Waste Reserve.

Ms Plesman, Ms Pope, Ms Cowley, Mr Chambers and Mr Lysaught left the meeting at this stage.

## **19.7 GENERAL MANAGER - EXTENSION OF TERM CONTRACT**

**60** RESOLVED on the motion of Crs Rush and Scholes that:

1. Council notes the recommendation on behalf of the Performance Review Committee and agrees to offer an extension of twelve (12) months to the term of the General Manager's contract of employment.
2. Council appoints a panel to negotiate the terms of the extension consisting of the Mayor, Deputy Mayor and Cr Woodruff.
3. The panel report back to Council with the outcomes of its negotiations.

## **20 RESUMPTION OF OPEN COUNCIL**

**61** RESOLVED on the motion of Crs Reynolds and Bowditch that:

The meeting return to Open Council.

## **21 CLOSURE**

The meeting was declared closed at 6.51pm.

**THE MINUTES OF THE MEETING (PAGES 1 TO 10) WERE CONFIRMED AT THE  
ORDINARY COUNCIL MEETING OF THE MUSWELLBROOK SHIRE COUNCIL HELD ON  
TUESDAY 29 SEPTEMBER, 2020 AND ARE A FULL AND ACCURATE RECORD OF  
PROCEEDINGS OF THE MEETING HELD ON TUESDAY 25 AUGUST, 2020**

.....  
Ms F. Plesman (**General Manager**)      Cr M. Rush (**Chairperson**)