

**MINUTES OF THE ORDINARY COUNCIL MEETING OF THE MUSWELLBROOK SHIRE COUNCIL
HELD IN THE CHAMBERS, ADMINISTRATION CENTRE, MUSWELLBROOK ON TUESDAY 22
DECEMBER, 2020 COMMENCING AT 6.00PM.**

PRESENT: Cr M.L. Rush, Cr M. Bowditch, Cr J.F. Eades, Cr J.P. Foy, Cr J.L. Ledlin, Cr R.W. Scholes, Cr S.J. Ward and Cr B.N. Woodruff.

IN ATTENDANCE: Ms F. Plesman (General Manager), Mr D. Finnigan (Deputy General Manager), Mr D. Hagger (Chief Financial Officer), Ms S. Pope (Executive Manager – Planning & Environment), Ms K. Manwarring (Manager – Community Services), Mr P. Chambers (Chief Engineer), Mr M. Lysaught (Manager – Works, Property & Building Services), Mr A. Mitreski (Policy Analyst – Economic Development & Innovation), Mrs M. Sandell-Hay (PA to General Manager), 7 people in the public gallery and 1 person via video conference.

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 Janelle Eades.

3 APOLOGIES AND LEAVE OF ABSENCE

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

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

Council sends its best wishes to Cr McNeill for a speedy recovery and sympathies to his family and work colleagues.

4 CONFIRMATION OF MINUTES OF PREVIOUS MEETING

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

The Minutes of the Ordinary Meeting held on 24 November 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 J. Foy – Declared a non-pecuniary interest in Item 11.3. Cr Foy advised that he is a Director of the Richard Gill Music School which has submitted an application for funding.

Cr J. Foy – Declared a non-pecuniary interest in Item 19.6. Cr Foy advised that he has personal and work relationships with some of the nominees.

Cr S. Ward – Declared a non-pecuniary interest in Item 10.1. Cr Ward advised Council that he is a member of the Denman Lion's Club who's hut borders the property that the Men's Shed is located on.

Cr M. Bowditch – Declared a non-pecuniary interest in Item 11.3. Cr Bowditch advised Council that he is a Committee Member of the Muswellbrook Netball Association who may have applied for funding.

Cr R. Scholes – Declared a non-pecuniary interest in Item 11.3. Cr Scholes advised Council that he is a Life Member and Committee Member of the Muswellbrook Rugby Union Club who may have applied for funding.

6 PUBLIC PARTICIPATION

Jeff Wolfgang – Item 10.1 - DA 16/2019

Andrew Janssen – Item 10.1 - DA 16/2019

Catherine Reddish – Item 10.1 - DA 16/2019

Brett Keeping – Item 10.2 - DA 90/2019

Sally Flannery (Orbit Planning) – Item 10.2 - DA 90/2019

Colin Jackson – Item 10.3 – S96 Amendment

7 MAYORAL MINUTES

Nil

8 GENERAL BUSINESS

Nil

9 BUSINESS ARISING

Nil

10 ENVIRONMENTAL SERVICES

10.1 DA 16/2019 - INFORMATION AND EDUCATION FACILITY (MUSEUM) - TURNER STREET, DENMAN

Disclosure of Interest

Cr ward declared a non-pecuniary interest. Cr Ward advised Council that he is a member of the Denman whose hut borders the property the Men's Shed is located on. At 6:07pm Cr Ward left the Council Chambers and therefore took no part in discussion or voting on this item.

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

Council approve Development Application 16/2019, involving the erection of an Information and Education Facility (Museum) at the Turner Street field part Lot 231 DP 729996, subject to the conditions in Appendix B to the report.

Cr Woodruff thanked everyone for their efforts in getting this project to where it is.

Cr Rush also thanked Cr Woodruff for the work he has undertaken also.

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

Against: Nil.

At 6:09pm Cr Ward returned to Council Chambers.

10.2 DA 90/2019 - SUBDIVISION OF ONE (1) LOT INTO TWENTY (20) - 9 YARRAWA ROAD, DENMAN

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

1. Development Application No. 2019/90 involving the subdivision of one (1) Lot (Lot 1 DP 323945, 9 Yarrowa Road, Denman) into twenty (20) Lots BE APPROVED subject to the

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amended recommended conditions of consent contained in Attachment B.

2. A Development Control Plan be prepared for the Yarrowa Road 'Urban Release Area', to which DA 2019/90 relates.

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

Against: Nil.

10.3 DA 2000-212 - S96 1(A) MODIFY CONDITION OF CONSENT TO EXTEND PERIOD OF OPERATION AND AMENDMENT TO ACCESS (HAULAGE ROAD) - ROSEBROOK SAND AND GRAVEL - 2449 DENMAN ROAD, DENMAN

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

Council delegates approval of the s96 1(A) request for Development Application 2000/212, proposing an extended timeframe for quarry operations and a new haulage road, on Lot 12 DP 1027580 and Lot 2 DP 449330, 2449 Denman Road, Denman, to the General Manager.

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

Against: Nil.

10.4 DEVELOPMENT ASSESSMENT COMMITTEE REVIEW

187 RESOLVED on the motion of Crs Scholes and Foy that:

Council resolves to:

1. Disband the Development Assessment Committee; and
2. Amend the delegations to the General Manager in accordance with Attachment A of the report.

10.5 NATURAL DISASTERS CLAUSE FOR DWELLINGS - LEP 2009

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

Council write to the Minister for Planning to:

1. Confirm that Council agrees to have the clause inserted into Muswellbrook LEP 2009 by way of the Amending SEPP; and
2. Advise that the proposed clause should apply in the RU1 Primary Production and E3 Environmental Management zones.

10.6 LOCAL HERITAGE ASSISTANCE FUND

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

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

1. \$2000 Repaint shutters and windows on Ground Floor at 33 Brentwood Street,

Muswellbrook; and

2. \$2000 for Chimney conservation work at 5 Midanga Avenue, Muswellbrook.

10.7 RETAINING WALLS POLICY REVIEW

- 190 RESOLVED on the motion of Crs Ward and Foy that:

Council adopts the reviewed Retaining Walls Policy provided in Attachment A, with no public exhibition period, as no substantive changes have been made to the Policy.

10.8 PLANNING AND ENVIRONMENTAL SERVICES

- 191 RESOLVED on the motion of Crs Ledlin and Woodruff that:

The information contained in this report be noted.

11 COMMUNITY INFRASTRUCTURE

11.1 CONCEPT DESIGN - SANDY HOLLOW POCKET PARK

- 192 RESOLVED on the motion of Crs Ledlin and Woodruff that:

Council endorses the Concept Plan for the Sandy Hollow Pocket Park attached to the report as A, B, C and D.

11.2 PRELIMINARY WORKS: DENMAN TO SANDY HOLLOW WATER PIPELINE PROJECT

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

Council APPROVES:

1. the transfer of \$350,000 from the Water Fund Reserve to enable the carrying out of works detailed in the report, and to enable the engagement of an external project manager for the Denman to Sandy Hollow water pipeline project for a period of nine months; and
2. the creation of a discrete capital project ledger number to which the approved funds from the Water Fund Reserve will be transferred.

11.3 SPORT AND RECREATION SMALL AND LARGE CAPITAL GRANTS PROGRAMME 2020

Disclosure of Interest

Cr Foy declared a non-pecuniary interest in this item. Cr Foy advised Council that he is a Director of the Richard Gill Music School which has submitted an application for funding.

Cr Bowditch declared a non-pecuniary interest in this item. Cr Bowditch advised Council that he is a Committee of the Muswellbrook Netball Association who may have submitted a funding application.

Cr Scholes declared a non-pecuniary interest in this item. Cr Scholes advised that he is a Life Member and Committee Member of the Muswellbrook Rugby Union Club who may have submitted a funding application.

At 6.15pm Crs Bowditch, Foy and Scholes left the Council Chambers and therefore took no part in discussion on this matter.

Discussion took place on this matter and it was noted that a procedural motion would be submitted.

At 6.15pm Crs Bowditch, Foy and Scholes returned to Council Chambers.

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

The determination of matter be delegated to the General Manager

11.4 WATER AND WASTEWATER LEVELS OF SERVICE FOR THE FIRST QUARTER OF 2020 - 2021

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

Council notes the information contained in the report.

12 CORPORATE AND COMMUNITY SERVICES

12.1 STATE SIGNIFICANT DEVELOPMENT COMMITTEE

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

1. Council establish a State Significant Development Standing Committee with the function of providing advice to Council on state significant development, prepare submissions and responses relating to state significant development in the Muswellbrook Shire and such further functions as may be delegated to it from time to time.
2. For the purposes of such Committee:
 - a. the Committee be constituted by the:
 - i. Council Spokesperson on Infrastructure, Development Assessment and Regulation (as Chair);
 - ii. Council Spokesperson on Innovation, Land use Planning, Heritage and Events;
 - iii. Council Spokesperson on Utilities and Sustainability;
 - iv. General Manager; and
 - v. Such further Staff officers as the General Manager may appoint.
 - b. the Committee meet at such times and at such places as it may determine; and
 - c. the Committee may invite such persons to participate in its processes as it may determine most efficiently and effectively allow it to discharge its functions.

12.2 2019/2020 ANNUAL REPORT

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

1. Council endorses the 2019/20 Annual Report including the audited Financial Statements;
2. The General Manager be delegated authority to post the 2019/20 Annual Report on Council's website and forward a link to the Report to the NSW Office of Local Government, Minister for Local Government and the Minister for Disability Services.

12.3 2019/2020 ANNUAL FINANCIAL STATEMENTS

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

Council receives the General-Purpose Financial Statements, Special Purpose Financial Statements, Special Schedules and Audit Reports for the year ended 30 June 2020.

12.4 REPORT ON COUNCIL GRANT FUNDING DECEMBER 2020

199 RESOLVED on the motion of Crs Eades and Ward that:

The report be noted.

12.5 NOVEMBER 2020 MONTHLY FINANCIAL REPORT

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

The Financial Report for the month ending 30 November 2020 be noted.

12.6 REPORT ON INVESTMENTS HELD AS AT 30 NOVEMBER 2020

201 RESOLVED on the motion of Crs Ward and Ledlin that:

Information showing Council's investments as at 30 November 2020 be noted.

12.7 STORE AND MATERIAL STOCKTAKE - 30 NOVEMBER 2020

202 RESOLVED on the motion of Crs Eades and Foy that:

Council notes the report on the stocktake carried on 30 November 2020 and that an amount of \$6,005.24 be added to the inventory register.

12.8 COMMUNITY SERVICES

203 RESOLVED on the motion of Crs Eades and Foy that:

The information contained in this report be noted.

13 REPORTS FROM COMMITTEES

13.1 DEVELOPMENT ASSESSMENT COMMITTEE - 30/11/2020

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

The Minutes of the Development Assessment Committee Meeting held on Monday 30 November 2020 be received and the recommendations contained therein ADOPTED.

13.2 ABORIGINAL RECONCILIATION COMMITTEE - 28/10/2020

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

The minutes for the Aboriginal Reconciliation Committee meeting held on Wednesday 28 October 2020 be NOTED.

14 NOTICES OF MOTION / RESCISSION

Nil

15 QUESTIONS WITH NOTICE

Nil

16 COUNCILLORS REPORTS

Nil

17 QUESTIONS FOR NEXT MEETING

17.1 CR MCNEILL

Has Council done anything for the McNeill Family?

Cr Rush advised yes Council has sent flowers and messages to the McNeill's.

17.2 DOYLE LANE

Cr Woodruff advised that residents of the Doyle Lane had contacted him to thank Council for work undertaken on this road.

18 ADJOURNMENT INTO CLOSED COUNCIL

206 RESOLVED on the motion of Crs Bowditch and Foy 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 INSTALLATION OF MAX WATTERS SCULPTURE

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 2019-2020-0423 SUPPLY AND DELIVERY OF 12,000 LITRE WATER CART

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 2020-2021-0443 COMMUNITY INFRASTRUCTURE DEPOT (RE-ISSUE)

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 PANEL TENDER FOR PROVISION OF LINEMARKING SERVICES

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 PANEL TENDER FOR TREE MAINTENANCE SERVICES

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 DETERMINATION OF AUSTRALIA DAY 2021 AWARDS

Item 19.6 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.

19.7 2020-2021-0448 UPPER HUNTER INNOVATION CENTRE STAGE 2 - CONSTRUCTION TENDER

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.

19 CLOSED COUNCIL

19.1 INSTALLATION OF MAX WATTERS SCULPTURE

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

1. The quotation from Klarfeld Bronzes for the amount of \$106,235 as recommended by the internal panel be accepted.
2. The budget shortfall of \$21,000 be transferred from the Cultural Reserve (\$18,000) and Contingency Reserve (\$3,000) to complete the project.

19.2 CONTRACT 2019-2020-0423 SUPPLY AND DELIVERY OF 12,000 LITRE WATER CART

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

Council awards Contract 2019-2020-0423 Supply and Deliver 12,000 litre water cart to AACPK Investments Pty Ltd t/as Wideland Trucks & Machinery for \$275,167.70, exclusive of GST.

19.3 CONTRACT 2020-2021-0443 COMMUNITY INFRASTRUCTURE DEPOT (RE-ISSUE)

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

1. In accordance with Section 178 of the Local Government (General) Regulation 2005, Council declines to accept submissions received for contract 2020-2021-0443 Community Infrastructure Depot, as the tender is non-conforming in that it exceeds the approved project budget;
2. In accordance with Section 178 (3)(e) of the Local Government (General) Regulation 2005, Council:
 - (i) declines to invite fresh tenders or applications as referred to in Section 178 subclause (3) (b)-(d) as it would delay the project; and
 - (ii) determines to enter into direct negotiations with the preferred tenderer as it most likely to achieve the best value for money outcome.
3. Council delegates authority to the General Manager for determination of the award of the contract following negotiations with the identified tenderer.

19.4 PANEL TENDER FOR PROVISION OF LINEMARKING SERVICES

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

1. Council accepts the tenders of the following contractors as a Panel for Provision of Linemarking Services for the period 1 January 2021 to 30 September 2022:

- a. Jenalad Pty Ltd t/a Whiteline Road Services
 - b. Workforce Road Services Pty Ltd
 - c. J & M Road Marking Specialists Pty Ltd; and
2. A provision be allowed for a 12-month extension based on satisfactory supplier performance, which may extend this contract to 30 September 2023.

19.5 PANEL TENDER FOR TREE MAINTENANCE SERVICES

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

1. Council accept the tenders of the following contractors as a Panel for Provision of Tree Maintenance Services for the period from 1 January 2021 to 30 September 2022:
 - a. Agility Professional Tree Service Pty Ltd
 - b. CJ Murphy Tree Recycling Services Pty Ltd
 - c. D & C Tree Services Pty Ltd
2. A provision be allowed for a 12-month extension based on satisfactory supplier performance, which may extend this contract to 30 September 2023.

19.6 DETERMINATION OF AUSTRALIA DAY 2021 AWARDS

Disclosure of Interest

Cr J. Foy declared a non-pecuniary interest in this item. Cr Foy advised Council that he has personal and professional relationships with some of the nominees.

At 6.22pm Cr Foy left the Council Chambers and therefore took no part in discussion or voting on this item.

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

1. Council constitute an Australia Day Sunset Committee that has the function of identifying suitable candidates for the Australia Day Awards and awarding those Awards for 2021.
2. The Sunset Committee consist of all Councillors.
3. The Committee be given permission to meet electronically.

At 6.30pm Cr Foy returned to Council Chambers.

19.7 2020-2021-0448 UPPER HUNTER INNOVATION CENTRE STAGE 2 - CONSTRUCTION TENDER

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

1. In accordance with S178 of the Local Government (General) Regulation 2005, Council decline to accept any tenders for 2020-2021-0448 Upper Hunter Innovation Centre Stage 2 as all tenders received exceed the project budget.
2. In accordance with Section 178 (3)(e) 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) (b)-(d) as it would delay the project; and
 - (ii) Council determines to enter into direct negotiations with the preferred tenderers as it most likely to achieve the best value outcome.
3. A further report be provided to the February Extraordinary Council meeting with a recommendation following negotiations, for Council's consideration.

20 RESUMPTION OF OPEN COUNCIL

214 RESOLVED on the motion of Crs Eades and Bowditch that:

The meeting return to Open Council.

21 CLOSURE

The meeting was declared closed at 6.30pm.

**THE MINUTES OF THE MEETING (PAGES 1 TO 11) WERE CONFIRMED AT THE
ORDINARY COUNCIL MEETING OF THE MUSWELLBROOK SHIRE COUNCIL HELD ON
TUESDAY 23 FEBRUARY, 2021 AND ARE A FULL AND ACCURATE RECORD OF
PROCEEDINGS OF THE MEETING HELD ON TUESDAY 22 DECEMBER, 2020**

.....
Ms F. Plesman
General Manager

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Cr M. Rush
Chairperson