

**MINUTES OF THE ORDINARY COUNCIL MEETING OF THE MUSWELLBROOK SHIRE COUNCIL
HELD IN THE CHAMBERS, ADMINISTRATION CENTRE, MUSWELLBROOK ON TUESDAY 14
FEBRUARY, 2017 COMMENCING AT 6:00PM.**

PRESENT: Cr M.L. Rush, Cr S.L. Bailey, Cr M. Bowditch, Cr J.F. Eades, Cr J.P. Foy, Cr M.I. Green, Cr G.T. McNeill, Cr S.M. Reynolds, Cr S.J. Ward and Cr B.N. Woodruff.

IN ATTENDANCE: Mr S.J. McDonald (General Manager), Mr N.W. Pope (Director, Community Infrastructure), Ms F. Plesman (Acting Director, Planning, Community & Corporate Services), Mr P. Redan (Executive Manager, Water and Waste), Ms O. Harris (Manager, Planning & Environmental Services), Mr M. Lysaught (Manager, Property & Buildings), Mr J. Wisniewski (Waste, Reuse, Environment & Operations Manager), Mr R. Fox (Asset Manager), Mr G. Gardner (Acting Manager, Strategic Planning), Mrs D. Watson (Development Planner) Mrs M. Sandell-Hay (PA to General Manager), 13 people in the public gallery and 3 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 Mayor.

3 APOLOGIES AND LEAVE OF ABSENCE

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

The apologies for inability to attend the meeting submitted by Cr J.L. Ledlin and Cr. R. Scholes be ACCEPTED and the necessary Leave of Absence be GRANTED.

4 CONFIRMATION OF MINUTES OF PREVIOUS MEETING

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

The Minutes of the Ordinary Meeting held on 13 December 2016, the Extra Ordinary Meeting held on 21 December 2016, the Extra Ordinary Meeting held on 25 January 2017, and the Extra Ordinary Meeting held on 7 February 2017, 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. Eades - Disclosed as pecuniary interest in Item 19.4. Cr Eades advised Council that she works in the area that the report is regarding.

Cr M. Green – Disclosed a pecuniary interest in Item 10.1. Cr Green advised that she owns a property in close proximity to the proposed development.

Cr G. McNeill – Disclosed a non-pecuniary interest in Item 10.1. Cr McNeill advised Council that a close friend owns property in close proximity to the proposed development. Cr McNeill also disclosed a pecuniary interest in Item 11.1. Cr McNeill advised that his wife is employed by the company that manages properties for MACH Energy. Cr McNeill also disclosed a pecuniary interest in Item 19.2. Cr McNeill advised Council that he is employed by AGL.

Cr S. Reynolds – Disclosed an insignificant non-pecuniary interest in Item 10.1. Cr Reynolds advised Council that a relative has made a submission regarding the proposed development. Cr

Reynolds also disclosed an insignificant non-pecuniary interest in Item 12.3. Cr Reynolds advised Council that he is associated with a number of clubs that utilise Olympic Park.

6 PUBLIC PARTICIPATION

FORESHADOWED MOTION:

Cr Rush advised that he would be foreshadowing a motion to defer Item 10.3 to next meeting and asked whether the participants in public participation regarding Item 10.3 wanted to address Council now or when the matter was decided. Both participants agreed to wait until the matter was considered.

Cr M. Green – Item 10.1

Disclosure of Interest

Cr McNeill disclosed a non-pecuniary interest in Item 10.1. Cr McNeill advised that a close friend owns property in close proximity to the proposed development.

Cr Reynolds disclosed an insignificant non-pecuniary interest in this item. Cr Reynolds advised that a relative made a submission in regards to the proposed development. At 06:09 PM Cr Graeme McNeill and Cr Steven Reynolds left the Council Chambers and therefore took no part in discussion or voting on item 10.1

Cr Green spoke in opposition to the proposed development raising concerns with the impact of noise, lighting, visual amenity, possible decrease in house prices and disruption to shift workers

7 BUSINESS ARISING

Nil

8 MAYORAL MINUTES

Nil

9 BUSINESS ARISING

Nil

10 ENVIRONMENTAL SERVICES

10.1 DEVELOPMENT APPLICATION 95/2016 - CONSTRUCTION OF A TWO STOREY VEHICLE SALES PREMISES

Disclosure of Interest

Cr Green disclosed a pecuniary interest in this item. Cr Green advised that she owns property in close proximity to the proposed development. At 06:18 PM Cr Michelle Green left the Council Chambers and therefore took no part in discussion or voting on this item.

Cr Rush sought clarification with regard to conditions 72 to 76.

Cr Bailey raised concerns with traffic flow on the site especially given that a disability support service is located next door.

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

The item be deferred to the next meeting to allow the issues raised to be further considered.

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

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FEBRUARY, 2017 COMMENCING AT 6:00PM.**

Against: Nil.

At 06:37 PM Cr Michelle Green, Cr Steven Reynolds and Cr Graeme McNeill returned to the Council Chambers.

10.2 DEVELOPMENT APPLICATION 95/2015 - DEMOLITION AND CONSTRUCTION OF NEW SERVICE STATION, LOT 1 DP 410315, 1612 MERRIWA ROAD, SANDY HOLLOW

MOTION:

Cr Rush and Cr Ward moved that Development Application No. 95/2015 be REFUSED.

The motion was put to the vote and LOST.

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

Development Application No. 95/2015 proposing demolition of the existing and construction of a new service station at Lot 1 DP 410315, 1612 Merriwa Road, Sandy Hollow be approved subject the conditions in Appendix A to the report.

In Favour: Crs S. Bailey, M. Bowditch, J. Eades, J. Foy, M. Green, G. McNeill, S. Reynolds and B. Woodruff.

Against: Crs M. Rush and S. Ward.

10.3 DEVELOPMENT APPLICATION 98/2016 - FREE RANGE POULTRY EGG OPERATIONS, LOT 9 DP 1012622, 68 PRETORIA ROW, MUSWELLBROOK

RECOMMENDATION

Recommended that the matter be deferred to the next Ordinary Meeting of Council so that a site visit can be undertaken prior to Council considering the development application.

In Favour: Crs S. Bailey, J. Eades, J. Foy, G. McNeill, M. Rush, S. Ward and B. Woodruff.

Against: Crs M. Bowditch, M. Green and S. Reynolds.

10.4 MUSWELLBROOK SHOWGROUND – DRAFT DEVELOPMENT CONTROL PLAN AND DRAFT SECTION 94 CONTRIBUTION PLAN

209 RESOLVED on the motion of Clrs Rush and Bailey that

The draft Development Control Plan (dated January 2017) and Section 94 Contribution Plan (dated December 2016) for Muswellbrook Showground be endorsed.

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

Against: Nil.

10.5 DIRECTOR'S REPORT - PLANNING, COMMUNITY & CORPORATE SERVICES

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

The information contained in this report be noted.

10.6 MUSWELLBROOK TOWN CENTRE STRATEGY

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

The Draft Muswellbrook Town Centre Strategy (dated December 2016) be endorsed.

**10.7 NSW PLANNING REFORMS – ENVIRONMENTAL PLANNING AND ASSESSMENT
AMENDMENT BILL 2017**

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

Council delegate the General Manager with responsibility for making a submission on behalf of Council to the NSW Government on the Environmental Planning and Assessment Amendment Bill 2017.

11 COMMUNITY INFRASTRUCTURE

11.1 MT PLEASANT S138 CONSENT

Disclosure of Interest

Cr McNeill disclosed a pecuniary interest in this item. Cr McNeill advised Council that his wife is employed by the company that manages property for MACH Energy.

At 06:48 PM Cr Graeme McNeill left the Council Chambers and therefore took no part in discussion or voting on this matter.

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

Council:

1. Delegate to the General Manager authority to sign the Section 138 (Roads Act) consents for the works proposed in Attachment A by MACH Energy generally in accordance with the Conditions outlined in Attachments B, C and E.
2. Requires that a suitable form of security be negotiated by the General Manager with MACH Energy prior to commencement works.
3. That an additional Special Condition be applied that: "The length of Wybong Road to be covered by the Maintenance Management Plan and ongoing maintenance for the life of the development under Condition 41 be extended to Gates 20 and 21."

At 06:48 PM Councillor Graeme McNeill returned to Council Chambers.

11.2 WASTE COMPLIANCE REPORT

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

The Council notes the information contained in Waste Compliance Report to November, 2016.

11.3 2016-2017 Q2 COMMUNITY INFRASTRUCTURE CAPITAL WORKS STATUS REPORT

215 RESOLVED on the motion of Crs McNeill and Ward that:

Council note the information contained in the 2016–2017 Community Infrastructure Capital Works Status Report updated to 31 December 2016.

11.4 WATER AND WASTE PROGRAM TO ACHIEVE FORTY PERCENT RENEWABLE ENERGY TARGET

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

Council endorse the Water and Waste Department strategy to achieve its portion of Council's forty (40) percent renewable energy target by 2020.

Cr Rush also thanked staff involved for work undertaken to prepare the strategy.

12 CORPORATE AND COMMUNITY SERVICES

12.1 SMALL CAPITAL GRANTS (SPORT AND RECREATION) ROUND 2 - APPLICATIONS

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

Council:

1. Award funding to all eligible applicants in accordance with the amended schedule with additional funds sourced from Recreation Reserves; and
2. Require that applicants in future programs further demonstrate how the projects improve public recreation facilities and/or increase public participation.

12.2 FINANCIAL ASSISTANCE POLICY F16-1

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

Council adopt the Financial Assistance Policy F16/1 as revised on 13 December, 2016 and publicly exhibited during January and February 2017.

12.3 OLYMPIC PARK MASTER PLAN AND CAR PARK

Disclosure of Interest

Cr Reynolds disclosed an insignificant non-pecuniary interest in this item. Cr Reynolds advised that he is associated with a number of clubs that utilise Olympic Park. At 06:54 PM Councillor Steven Reynolds left the Council Chambers and therefore took no part in discussion or voting on this item.

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

Council:

1. Support the construction of the Car Park Stage 1 to follow the completion of the Olympic

Park Master Plan; and

2. Endorse the scope of the Olympic Master Plan as outlined in the report.

At 06:54 PM Councillor Steven Reynolds returned to Council Chambers.

12.4 PROPERTY AND BUILDING SERVICES CAPITAL WORKS - STATUS UPDATE

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

The information contained in this report be noted.

12.5 DECEMBER 2016 QUARTERLY BUDGET REVIEW

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

Council adopt the recommended changes and include them in the 2016/17 Operating and Capital Budgets.

12.6 SOCIAL IMPACTS OF MINING - CALL FOR SUBMISSIONS

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

Council delegate to the General Manager the making of a submission on behalf of Council to the Department of Planning and Environment with respect to the draft social impact assessment guidelines for State significant resource projects.

12.7 2016 - 2017 PROPOSED GENERAL BUILDING PROGRAM

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

Council approve the proposed General Building Program as outlined in the report.

12.8 NSW ASIAN CUP 2015 LEGACY FUND

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

Council support Muswellbrook Football Club's grant funding application to the NSW Asian Cup 2015 Legacy Fund as outlined in the report.

Councillors thanked Matt Lysaught for the work undertaken regarding the grant funding application which has a good outcome for Council.

13 REPORTS FROM COMMITTEES

13.1 LOCAL TRAFFIC COMMITTEE - 20/12/2016

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

The Minutes of the Local Traffic Committee Meeting held on Tuesday 20 December 2016 be

received and the recommendations contained therein ADOPTED.

13.2 INFRASTRUCTURE COMMITTEE - 21/12/2016

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

The Minutes of the Infrastructure Committee Meeting held on Wednesday 21 December 2016 be received and the recommendations contained therein ADOPTED.

13.3 CORPORATE POLICY AND PLANNING COMMITTEE - 21/12/2016

227 RESOLVED on the motion of Crs Eades and McNeill that:

The Minutes of the Corporate Policy And Planning Committee Meeting held on Wednesday 21 December 2016 be received and the recommendations contained therein ADOPTED.

14 NOTICES OF MOTION / RESCISSION

14.1 EXPRESSION OF INTEREST - WEIDMANN COTTAGE

228 RESOLVED on the motion of Crs Rush and Bailey that:

1. Following completion of the heritage and associated works to the building, the General Manager seek expressions of interest from the public for the operation of a small bar or other retail uses from the historic Weidmann Cottage;
2. For the purpose of such expression of interest, Council note that it may be prepared to assist an operator with some of the fit out and associated costs;
3. That the results of the expression of interest process be reported to Council.

15 QUESTIONS WITH NOTICE

Nil

16 COUNCILLORS REPORTS

16.1 BUSH FIRE EMERGENCIES

Cr Martin Rush thanked everyone involved in the bush fire emergencies experienced over weekend, including the RFS, Police, SES and their families. Muswellbrook Shire experienced 7 spot fires which were extinguished quickly due to the preparations and fantastic response and strategies adopted by the Rural Fire Service.

17 QUESTIONS FOR NEXT MEETING

17.1 EMERGENCY SERVICES SPOKESPERSON

Cr Reynolds inquired whether the Emergency Services Spokesperson had been contacted over the weekend?

Cr Rush advised that he hadn't.

17.2 CUSTOMER REQUEST SYSTEM

Cr Reynolds commended the Customer Request System that was in place which provided a computer ID No. and asked that more advertising be undertaken to ensure the community is aware of the ways in which customer requests can be made.

18 ADJOURNMENT INTO CLOSED COUNCIL

229 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 AWARD OF TENDER FOR THE CONSTRUCTION OF THE NEW RECYCLE WATER TREATMENT WORKS - 2010-2011-0032 C4

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 DEVELOPMENT OF WASTE CONTRACT SPECIFICATION - POST JULY 2018 SERVICES

Item 19.2 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.

19.3 DENMAN DESTINATION INFRASTRUCTURE - CONCEPT DESIGN FUNDING

Item 19.3 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.

19.4 NEW SOUTH WALES LAND AND HOUSING CORPORATION - VACANT LAND

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 SMALL SITES ENERGY CONTRACT

Item 19.9 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 FUTURE FUND ACQUISITIONS

Item 19.10 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 REVISED ORGANISATION STRUCTURE

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.

Members of the public and media left the meeting at this stage.

19 CLOSED COUNCIL

19.1 AWARD OF TENDER FOR THE CONSTRUCTION OF THE NEW RECYCLE WATER TREATMENT WORKS - 2010-2011-0032 C4

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

Council:

1. approve the acceptance of the tender submitted by Downer Utilities Australia Pty Ltd, in the amount of \$24,949,377.13 excluding GST and contingencies, and enter into a contract for the construction of the Muswellbrook recycle water treatment works (RWTW) (Construction Contract No. 2010-2011-0032 C4 (RFT 10003231A)).
2. approve the further contracting of NSW Public Works Advisory for the project management, engineering, safety & environmental auditing, including obtaining the works and liability insurance cover on behalf of Council, functioning as the Contract Authorised person.
3. approve the supplementary provision of additional funds towards the design, quality, commissioning and validation Consultancy Contract 2010-2011-0032 C2.
4. accept the prospective approval and award of potential variations within stipulated contingency provisions for the main construction Contract and consultancies contracts utilising the existing delegation given to the Executive Manager Water & Waste.

19.2 DEVELOPMENT OF WASTE CONTRACT SPECIFICATION - POST JULY 2018 SERVICES

231 RESOLVED on the motion of Crs Green and Reynolds that:

1. Council allocate \$40,000 from the Domestic Waste Fund, in the 2016-17 Budget, to fund the development of the waste tender and specifications for a contract for collection of waste and recoverable resources to commence post July 2018.
2. Council accept the recommendations made in the Shire Waste Management Sunset Review Committee report as to the content of the specifications.

19.3 DENMAN DESTINATION INFRASTRUCTURE - CONCEPT DESIGN FUNDING

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

Council approve an allocation of \$40,000 from Tourism s94 Fund for the development of a concept design and cost estimate for RV destination infrastructure works for Denman.

19.4 NEW SOUTH WALES LAND AND HOUSING CORPORATION - VACANT LAND

Disclosure of Interest

Cr Eades disclosed a pecuniary interest in this item. Cr Eades advised Council that she works in the area that the report is regarding. At 07:04 PM Cr Janelle Eades left the Council Chambers and therefore took no part in discussion or voting on this item.

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

Council make an offer on the property as outlined in the report.

At 07:05 PM Councillor Janelle Eades returned to Council Chambers.

19.5 SMALL SITES ENERGY CONTRACT

Disclosure of Interest

Cr McNeill disclosed a pecuniary interest in this item. Cr McNeill advised that he is employed by AGL. At 07:05 PM Councillor Graeme McNeill left the Council Chambers and therefore took no part in discussion or voting on this item.

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

Council endorse a contract with AGL for the supply of electricity to all Council small sites.

At 07:06 PM Councillor Graeme McNeill returned to Council Chambers.

19.6 FUTURE FUND ACQUISITIONS

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

Council NOTES the report.

19.7 REVISED ORGANISATION STRUCTURE

236 RESOLVED on the motion of Crs Rush and Bowditch that:

Council support the recommended organisation structure subject to the development of suitable budgetary and industrial relations outcomes.

20 RESUMPTION OF OPEN COUNCIL

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

The meeting return to Open Council.

21 CLOSURE

The meeting was declared closed at 7.07 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 14 MARCH, 2017 AND ARE A FULL AND ACCURATE RECORD OF
PROCEEDINGS OF THE MEETING HELD ON TUESDAY 14 FEBRUARY, 2017

.....
Mr S. McDonald

General Manager

.....
Cr M. Rush

Chairperson