

**MINUTES OF THE ORDINARY COUNCIL MEETING OF THE MUSWELLBROOK SHIRE COUNCIL  
HELD IN THE CHAMBERS, ADMINISTRATION CENTRE, MUSWELLBROOK ON TUESDAY 14  
NOVEMBER, 2017 COMMENCING AT 6.00PM.**

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**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 J.L. Ledlin, Cr G.T. McNeill, Cr R.W. Scholes, Cr S.M. Reynolds, and Cr B.N. Woodruff.

**IN ATTENDANCE:** Mr S.J. McDonald (General Manager), Mr N.W. Pope (Director, Community Infrastructure), Ms F. Plesman (Director, Planning, Community & Corporate Services), Mr J. Wisniewski (Acting Executive Manager, Water and Waste), Ms G. Bobsien (Executive Manager – Economic Development & Innovation), Ms N. Cowley (Manager, Corporate Services), Mr P. Gunasekara (Acting Manager, Planning & Environmental Services), Mr M. Lysaught (Manager, Property & Building), Ms D. Watson (Development Planner), Mrs M. Sandell-Hay (PA to General Manager), 5 people in the public gallery 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 Mayor.

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

**111** RESOLVED on the motion of Crs Woodruff and Eades that:

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

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

**112** RESOLVED on the motion of Crs Scholes and Woodruff that:

The Minutes of the Ordinary Meeting held on 10 October 2017, and the Extra Ordinary Meeting held on 25 October 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 S. Bailey – Declared a significant non-pecuniary interest in Item 10.2. Cr Bailey advised Council that the President of the Club that he is employed by is a representative of applicant.

Cr S. Bailey – Declared a significant non-pecuniary interest in Item 10.3. Cr Bailey advised Council that one of the objectors to the proposed development is a Director of the Club that he is employed by.

## **6 PUBLIC PARTICIPATION**

Ryan Falkenmire – representing Caltex spoke in support of the development application listed as Agenda Item 10.1.

Lisa Wrightson – representing Haydon Street Development trust spoke in support of the development application listed as Agenda Item 10.3.

## **7 MAYORAL MINUTES**

Nil

## **8 GENERAL BUSINESS**

Nil

## **9 BUSINESS ARISING**

Nil

## **10 ENVIRONMENTAL SERVICES**

### **10.1 DEVELOPMENT APPLICATION NO. 67/2017 - DEMOLITION AND RECONSTRUCTION OF SERVICE STATION, SYDNEY STREET, MUSWELLBROOK**

**113** RESOLVED on the motion of Crs Rush and Woodruff that:

The matter be deferred to be considered later in the agenda to allow staff time to provide further information.

### **10.2 DEVELOPMENT APPLICATION 57/2017 - CONSTRUCTION OF FORD AND ISUZU SHOWROOM, VEHICLE DISPLAY AND SIGNAGE, MAITLAND STREET, MUSWELLBROOK**

#### **Disclosure of Interest**

Cr Bailey declared a significant non-pecuniary interest in this item. Cr Bailey advised Council that the President of the Club who he is employed by is a representative of the applicant. At 06:24 PM Cr Bailey left the Council Chambers.

**114** RESOLVED on the motion of Crs Rush and Bowditch that:

This matter be deferred for consideration at the next ordinary Council meeting and that the General Manager liaise with the applicant on a masterplan for the site which better integrates the various components.

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

Against: Nil.

In Favour: Nil.

Against: Nil.

### **10.3 DEVELOPMENT APPLICATION NO. 70/2017 18 ROOM BOARDING HOUSE, 14 HAYDON STREET, MUSWELLBROOK**

#### **Disclosure of Interest**

Cr Bailey declared a significant non-pecuniary interest in this item. Cr Bailey advised Council that one of the objectors is a Director of the Club who he is employed by. Cr Bailey remained absent from the Council Chambers for the duration of this item.

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

Development Application No. 70/2017 proposing a 18 room boarding house at 14 Haydon Street, Muswellbrook be REFUSED for the following reason:

1. Pursuant to Section 79C(1)(b) of the Environmental Planning and Assessment Act 1979 the proposal is considered to impact;
  - (a) the built environment given it does not adequately consider the impacts of overshadowing of the dwelling to the south and loss of solar access to building and providing an undesirable dwelling for current and future occupants.
  - (b) Social environment given it does not adequately consider the impacts of privacy to adjoining properties and the enjoyment of their private open spaces.
2. Pursuant to Section 79C(1)(e) of the Environmental Planning and Assessment Act 1979 the proposal is considered to be in the public interest given the proposal:
  - a) does not adequately consider the impacts the social environment given it does not adequately consider the impacts of privacy to adjoining properties and the enjoyment of their private open spaces.
  - b) Is not consistent with the Muswellbrook town centre masterplan
  - c) Is considered to impact on the locality given it does not adequately consider the heritage significant of the area.

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

Against: Nil.

At 06:27 PM Cr Scott Bailey returned to Council Chambers.

**10.4 REQUEST TO WAIVE SECTION 68 APPLICATION FEE - COMPASS HOUSING  
COMMUNITY CHRISTMAS PARTY**

**116** RESOLVED on the motion of Crs McNeill and Eades that:

1. Council waive the fee of \$311.50 payable by Compass Housing for the application 10/2017.
2. The fee amount to be allocated from the Sundries Donations budget.

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

Against: Nil.

**10.1 DEVELOPMENT APPLICATION NO. 67/2017 - DEMOLITION AND RECONSTRUCTION OF  
SERVICE STATION, SYDNEY STREET, MUSWELLBROOK**

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

Development Application No. 67/2017 proposing the demolition of existing and construction of a new Service Station at Lot 1 DP 1072849, Lot 2 DP 668639, Lots 1 and 2 DP 1072979, Lot 1 DP 137128 and Lot 1 DP 798715, 12 – 26 Sydney Street be approved subject the conditions in Appendix A to the report subject to the following additional conditions:

**20A** . Prior to the issuing of any Construction Certificate, a permit for the work must be obtained from Council, under Section 138 of the Road Act 1993 for works within the

footpath and road reserve.

Note: *Where possible the stone kerb and gutter is to be retained and the above Section 138 application is to be submitted with a Statement of Heritage Impact for the works and include a design in accordance with Council's Public Domain Manual Muswellbrook CBD May 2012.*

- 71A.** Prior to issue of any Occupation Certificate the footpath along the frontage of Sydney Street shall be constructed in accordance with Council's Public Domain Manual Muswellbrook CBD May 2012 as approved under the Section 138 Permit.

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

Against: Nil.

## **11 COMMUNITY INFRASTRUCTURE**

Nil

## **12 CORPORATE AND COMMUNITY SERVICES**

### **12.1 WATER REFILL STATIONS**

- 118** RESOLVED on the motion of Crs Scholes and Green that:

Council

1. Choose the 'Meet PAT' model water refill station; and
2. Choose 3 locations for installation of water refill stations.

### **12.2 ANNUAL REPORT**

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

Council endorse the 2016/2017 Annual Report including the audited Financial Statements prior to their submission to the Office of Local Government.

### **12.3 ENTERTAINMENT CENTRE DESIGN COMPETITION**

- 120** RESOLVED on the motion of Crs Foy and Ledlin that:

Council endorse the proposed design competition for the Entertainment Centre subject to funding being recommended to Council by the Mt Pleasant Community Funding Investment Committee.

### **12.4 DIRECTOR'S REPORT - PLANNING, COMMUNITY & CORPORATE SERVICES**

- 121** RESOLVED on the motion of Crs Bailey and McNeill that:

The information contained in this report be noted.

**12.5 2016/17 ANNUAL FINANCIAL STATEMENTS**

122 RESOLVED on the motion of Crs Bailey and Green that:

Council accept the General Purpose Financial Reports, Special Purpose Financial Reports, Special Schedules and Audit Reports for the year ended 30 June 2017.

**13 REPORTS FROM COMMITTEES**

**13.1 INFRASTRUCTURE COMMITTEE - 25/10/2017**

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

The Minutes of the Infrastructure Committee Meeting held on Wednesday 25 October 2017 be received and the recommendations contained therein ADOPTED.

**13.2 CORPORATE POLICY AND PLANNING COMMITTEE - 25/10/2017**

124 RESOLVED on the motion of Crs Bailey and Foy that:

The Minutes of the Corporate Policy And Planning Committee Meeting held on Wednesday 25 October 2017 be received and the recommendations contained therein ADOPTED.

**14 NOTICES OF MOTION / RESCISSION**

Nil

**15 QUESTIONS WITH NOTICE**

Nil

**16 COUNCILLORS REPORTS**

**16.1 REMEMBRANCE DAY**

Cr Scholes advised Council that he attended the Remembrance Day Ceremony held at Muswellbrook on 11 November, 2017 where the Mayor was the trumpeter.

**17 QUESTIONS FOR NEXT MEETING**

**17.1 INVITATIONS TO FUNCTIONS**

Cr McNeill inquired whether an invitation was issued for the recent events that Council held, i.e. Beersheba Memorial as he found it helpful to have a paper invitation to be able to provide to his employer.

The meeting was advised that an invitation for this event had been emailed to Councillors.

**17.2 IPWEA AWARD**

Cr Scholes advised that Council had recently been awarded a 'highly commended' in Category 2 of The Institute of Public Works Engineering Australia Awards, for new or improved techniques

in Asset Management for the relining of the Water Main in Brook Street project. Can Councils congratulations be passed on to staff involved?

## **18 ADJOURNMENT INTO CLOSED COUNCIL**

**125** RESOLVED on the motion of Crs Bailey 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 WEST DENMAN URBAN RELEASE AREA KENILWORTH STREET EXTENSION**

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 AWARD OF TENDER FOR THE SUPPLY & INSTALLATION OF NEW MEMBRANE FILTERS FOR DENMAN WATER TREATMENT PLANT - 2016-2017-0296**

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 RAIL NOISE ABATEMENT PROJECT - DESIGN AND PROJECT MANAGEMENT TENDER**

Item 19.3 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.

### **19.4 PROVISION AND MANAGEMENT OF COMPANION ANIMAL IMPOUNDING FACILITY (ANIMAL SHELTER)**

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 REVIEW AND SELECT A LOAN FUNDING OPTION FOR THE SEWER**

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 CLOSED COUNCIL**

### **19.1 WEST DENMAN URBAN RELEASE AREA KENILWORTH STREET EXTENSION**

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

Council

1. Approve the proposal to purchase part of Lot 2 in DP616013 for the amount specified in the report for the future extension of Kenilworth Street, Denman from current Section 94 Contributions "Road Upgrade Denman";
2. Grant authority to sign associated documents under the Seal of Council in accordance with the regulations;
3. Classify the land as "Operational Land" within the meaning of Division 1, Part 2, Chapter 6 of the Local Government Act 1993;
4. Council authorise the General Manager to execute all relevant documentation relating to the purchase of the subject property by Council; and
5. Approve the lease back of part of Lot 2 in DP616013 required for the extension of Kenilworth Street to the current landowner at the rate detailed in the report.

### **19.2 AWARD OF TENDER FOR THE SUPPLY & INSTALLATION OF NEW MEMBRANE FILTERS FOR DENMAN WATER TREATMENT PLANT - 2016-2017-0296**

127 RESOLVED on the motion of Crs Scholes and Reynolds that:

1. Pentair Water Australia Pty Ltd (Pentair) be awarded the contract 10010161/2016-2017-0296 for the supply and installation of new membrane filters for Denman Water Treatment Plant (WTP), for the amount of \$191,775 (excluding GST); and
2. The budget for the project be as set out in this report.

### **19.3 RAIL NOISE ABATEMENT PROJECT - DESIGN AND PROJECT MANAGEMENT TENDER**

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

Council award, subject to a satisfactory financial assessment by NSW Public Works Advisory, the contract to GHD Pty Ltd in accordance with their tender submission 2017-2018-0320 Consultancy Services for Muswellbrook Shire Council – Rail Noise Abatement Project for the amount of \$339,532 including GST.

### **19.4 PROVISION AND MANAGEMENT OF COMPANION ANIMAL IMPOUNDING FACILITY (ANIMAL SHELTER)**

**Motion**

Moved by Crs Green and Woodruff that Council supports Option 2

The motion was put to the vote and LOST



**129** RESOLVED on the motion of Crs Rush and Bowditch that:

1. Council establish a Sunset Companion Animal Committee to report to Council by December Council Meeting with a recommendation for delivery of a Companion Animal Management Strategy.
2. The following be appointed to the Committee:
  - \* Cr Spokesperson for Development Application & Regulation
  - \* Cr J. Ledlin, Cr M. Green, Cr R. Scholes and Cr S. Reynolds
  - \* Any staff that the General Manager approves

## **19.5 REVIEW AND SELECT A LOAN FUNDING OPTION FOR THE SEWER**

At 7.16pm Cr Jacinta Ledlin left the Meeting.

At 7.20pm Cr Scott Bailey left the Council Chambers.

**130** RESOLVED on the motion of Crs Scholes and Woodruff that:

Council proceeds with securing the \$10m fixed interest portion of the Re-use Water Treatment Plant loan with a bank that offers the best final rate.

## **20 RESUMPTION OF OPEN COUNCIL**

**131** RESOLVED on the motion of Crs Reynolds and Eades that:

The meeting return to Open Council.

## **21 CLOSURE**

The meeting was declared closed at 7.25 pm.

**THE MINUTES OF THE MEETING (PAGES 1 TO 8) WERE CONFIRMED AT THE ORDINARY  
COUNCIL MEETING OF THE MUSWELLBROOK SHIRE COUNCIL HELD ON TUESDAY 12  
DECEMBER, 2017 AND ARE A FULL AND ACCURATE RECORD OF PROCEEDINGS OF  
THE MEETING HELD ON TUESDAY 14 NOVEMBER, 2017**

.....  
Mr S. McDonald  
**General Manager**

.....  
Cr M. Rush  
**Chairperson**