

**MINUTES OF THE ORDINARY COUNCIL MEETING OF THE MUSWELLBROOK SHIRE COUNCIL
HELD IN THE CHAMBERS, ADMINISTRATION CENTRE, MUSWELLBROOK ON TUESDAY 31
AUGUST, 2021 COMMENCING AT 6.00PM.**

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

IN ATTENDANCE: Ms F. Plesman (General Manager), Mr D. Finnigan (Deputy General Manager), Mr D. Walsh (Manager – Corporate Services & Chief Financial Officer (VC)), Ms S. Pope (Executive Manager – Planning & Environment (VC)), Ms K. Manwarring (Manager – Community Services (VC)), Mr P. Chambers (Chief Engineer (VC)), Mr M. Lysaught (Manager – Works, Property & Building Services (VC)), Ms M. Cleary (Manager – Governance (VC)), Mrs M. Sandell-Hay (PA to General Manager), Ms A. Hathway (Corporate Lawyer (VC)), Ms K. Cotter (Governance Officer (VC)), Ms C. Middleton (Media Co-Ordinator) and 17 people in the virtual public gallery.

1 ACKNOWLEDGEMENT OF COUNTRY

The Acknowledgement of Country was read by the General Manager.

2 CIVIC PRAYER

The Civic Prayer was read by Cr Janelle Eades.

3 APOLOGIES AND LEAVE OF ABSENCE

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

The apologies for inability to attend the meeting submitted by Cr M. Bowditch and Cr B. Woodruff be ACCEPTED and the necessary Leave of Absence be GRANTED.

4 CONFIRMATION OF MINUTES OF PREVIOUS MEETING

53 RESOLVED on the motion of Crs Foy and Reynolds that:

The Minutes of the Ordinary Meeting held on 27 July 2021, 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. Reynolds declared an insignificant non-pecuniary interest in Item 12.9. Cr Reynolds advised Council that he volunteers and promotes sport at Olympic Park.

Cr G. McNeill declared an insignificant pecuniary interest in Item 13.2. Cr McNeill advised Council that attachment B refers to Liddell Power Station which is his place of employment.

6 PUBLIC PARTICIPATION

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

Each person in public participation be provided three minutes each to address Council.

- i. **Mr Peter York** – In opposition to Item 10.1
- ii. **Mr Nigel Wood** – In opposition to Item 10.1
- iii. **Ms Brigitte Thomas** – In opposition to Item 10.1
- iv. **Mr Andrew Wilson** – in support of Item 10.1

- v. **Ms Amy Jones** – in opposition to Item 10.2
- vi. **Mr Philip Wilson** – In support of Item 10.2
- vii. **Mr John Marco** – In support of Option 3 in Item 12.9
- viii. **Mr Gus Mather** – In support of Option 3 in Item 12.9

7 MAYORAL MINUTES

Nil

8 GENERAL BUSINESS

Nil

9 BUSINESS ARISING

Nil

10 ENVIRONMENTAL SERVICES

10.1 DA 2021-33 CONTINUED OPERATION OF WIND MONITORING MAST - LOT 197 AND 199 DP752444 - SANDY CREEK ROAD, MCCULLYS GAP

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

Development Application No. 2021-33 for the Continued Operation of a Wind Monitoring Mast on Lot 197 and 199 DP 752444 - Sandy Creek Road McCullys Gap, be approved subject to the conditions in Attachment B to the report for a further six months from the date of this determination.

In Favour: Crs J. Eades, J. Foy, J. Ledlin, G. McNeill, S. Reynolds, R. Scholes and S. Ward.

Against: Nil.

10.2 DA 2021-30 - CHANGE OF OPERATIONAL HOURS (MCDONALDS) - 83-89 MAITLAND STREET, MUSWELLBROOK

56 RESOLVED on the motion of Crs Reynolds and Eades that:

Development Application No. 2021-30, proposing 24 hours per day, 7 days per week (24/7) trade for McDonalds Muswellbrook at Lot 101 DP 1266515 83-89 Maitland Street Muswellbrook

1. be approved for 24 hours per day, 7 days per week (24/7) Drive-Thru trade for a trial period of twelve (12) months subject to the conditions in Appendix C of the report.
2. The General Manager liaise with the proponent regarding residential area signage, in particular to ensure the size of the signage is satisfactory.

In Favour: Crs J. Eades, J. Ledlin, S. Reynolds and R. Scholes.

Against: Crs J. Foy, G. McNeill and S. Ward.

10.3 AMENDMENT TO MUSWELLBROOK DCP 2009 - SECTION 13 - FLOODING AND SECTION 16 - CAR PARKING AND ACCESS

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

Council approves the placing of the following draft sections of Council's Development Control Plan on public exhibition for a period of sixty (60) days:

1. Section 13 – Flooding, as provided in Attachment A of the report; and
2. Section 16 - Car Parking and Access, as provided in Attachment B.

Further, should no public submissions be received that would require alteration of Section 13 – Flooding, the General Manager is authorised to apply Section 13 – Flooding to the assessment of development on an interim basis until a further report is submitted to Council.

In Favour: Crs J. Eades, J. Foy, J. Ledlin, G. McNeill, S. Reynolds, R. Scholes and S. Ward.

Against: Nil.

10.4 PLANNING PROPOSAL - ADDITIONAL CLAUSES FOR RURAL HOUSING AND BOUNDARY ADJUSTMENTS.

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

Council RESOLVES to:

1. Prepare a draft planning proposal, pursuant to Section 3.33 of the *Environmental Planning and Assessment Act 1979*, for an amendment to the *Muswellbrook Local Environmental Plan 2009* (MLEP 2009) to:
 - i) insert a new clause 4.1C Exceptions to minimum subdivision lot size for boundary adjustments;
 - ii) amend clause 7.5 Erection of dwelling houses on land in certain rural and environmental protection zones to ensure dwellings are still permitted on lots created under previous planning instruments;
2. Forward the draft planning proposal to the *Department of Planning, Industry and Environment* requesting a Gateway Determination, and exhibit the proposal in accordance with that determination, pursuant to Sections 3.34-3.35 of the *Environmental Planning and Assessment Act 1979*; and
3. Request that the Director General of the *Department of Planning, Industry and Environment* issue a Written Authorisation to Council to Exercise Delegation of the plan making functions under Section 3.36 of the *Environmental Planning and Assessment Act 1979* in respect of the planning proposal.

In Favour: Crs J. Eades, J. Foy, J. Ledlin, G. McNeill, S. Reynolds, R. Scholes and S. Ward.

Against: Nil.

10.5 MAJOR LANDCARE PROJECT BUDGET CAPITAL SPEND FOR 2021-22

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

Council endorses the 2021-22 Major Landcare Projects program of works as identified in the Report.

In Favour: Crs J. Eades, J. Foy, J. Ledlin, G. McNeill, S. Reynolds, R. Scholes and S. Ward.

Against: Nil.

11 COMMUNITY INFRASTRUCTURE

11.1 DEVELOPMENT SERVICING PLANS - WATER SUPPLY AND SEWERAGE SERVICES

60 RESOLVED on the motion of Crs Reynolds and Foy that:

Council:

1. Approves placing the draft Development Servicing Plan – Water Supply and draft Development Servicing Plan – Sewerage Services on public exhibition for a period of thirty working days; and
2. Requests a further report be submitted to Council following the period of public exhibition of the draft Development Servicing Plans.

In Favour: Crs J. Eades, J. Foy, J. Ledlin, G. McNeill, S. Reynolds, R. Scholes and S. Ward.

Against: Nil.

12 CORPORATE AND COMMUNITY SERVICES

12.1 2021 COMMUNITY SATISFACTION SURVEY

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

1. Council notes the attached 2021 Community Satisfaction Survey report outlining the results of a random telephone survey of 400 adult residents in the Muswellbrook Shire, conducted by Jetty Research on behalf of Council.
2. A Councillor workshop be undertaken to address recommendations identified in the report.

In Favour: Crs J. Eades, J. Foy, J. Ledlin, G. McNeill, S. Reynolds, R. Scholes and S. Ward.

Against: Nil.

12.2 2020/2021 OPERATIONAL PLAN 30 JUNE QUARTERLY REVIEW

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

The 2020/2021 Operational Plan Review dated 30 June 2021 be noted.

In Favour: Crs J. Eades, J. Foy, J. Ledlin, G. McNeill, S. Reynolds, R. Scholes and S. Ward.

Against: Nil.

12.3 AUSTRALIA DAY 2022 AWARDS AND CITIZENSHIP CEREMONY

63 RESOLVED on the motion of Crs Ledlin and Reynolds that:

Council approves the establishment of an internal Australia Day 2022 Working Party.

In Favour: Crs J. Eades, J. Foy, J. Ledlin, G. McNeill, S. Reynolds, R. Scholes and S. Ward.

Against: Nil.

12.4 MUSWELLBROOK AQUATIC CENTRE - OUTDOOR POOL PUMP AND FILTRATION SYSTEM

64 RESOLVED on the motion of Crs Scholes and Ward that:

Council allocate the budget as identified to progress the detailed design of the new plant.

In Favour: Crs J. Eades, J. Foy, J. Ledlin, G. McNeill, S. Reynolds, R. Scholes and S. Ward.

Against: Nil.

12.5 HALF-DAY PUBLIC HOLIDAY 2022

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

Council make an application to the Minister for the Public Service and Employee Relations for the declaration of a half-day public holiday for the Muswellbrook Cup Day from noon on Friday, 1 April 2022.

In Favour: Crs J. Eades, J. Foy, J. Ledlin, G. McNeill, S. Reynolds, R. Scholes and S. Ward.

Against: Nil.

12.6 SECTION 355 COMMITTEE GUIDELINES

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

Council:

1. Endorses the Section 355 Committee Guidelines for public exhibition for a period of not less than twenty-eight (28) days.
2. Adopts the Section 355 Committee Guidelines at the conclusion of the public exhibition period if no substantive changes are recommended in any submissions received.

In Favour: Crs J. Eades, J. Foy, J. Ledlin, G. McNeill, S. Reynolds, R. Scholes and S. Ward.

Against: Nil.

12.7 MT PLEASANT OPTIMISATION PROJECT - PROPOSED PLANNING AGREEMENT

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

Council:

1. Notes the letter of offer regarding a draft Planning Agreement between MACH Energy and Muswellbrook Shire Council (Attachment A).
2. The General Manager begin negotiations with MACH Energy to finalise the Planning Agreement based upon, as a minimum, contribution amounts payable in the 2021-22 financial year under the current VPA.
3. The draft Planning Agreement, once amended in line with negotiations between the General Manager and MACH Energy, be placed on public exhibition for 28 days if the Independent Planning Commission approves the Mt Pleasant Optimisation Project.

In Favour: Crs J. Eades, J. Foy, J. Ledlin, G. McNeill, S. Reynolds, R. Scholes and S. Ward.

Against: Nil.

12.8 SPONSORSHIP FOR HUNTERWISE OUTREACH PROGRAM FOR 2022

68 RESOLVED on the motion of Crs Ledlin and Foy that:

Council approves \$20,000 for Option 1: School Sponsorship of the HunterWiSE Outreach program for 2022.

In Favour: Crs J. Eades, J. Foy, J. Ledlin, G. McNeill, S. Reynolds, R. Scholes and S. Ward.

Against: Nil.

12.9 OLYMPIC PARK MASTER PLAN - GRANDSTAND AND AMENITIES DESIGN (UPDATED)

Disclosure of Interest

Cr S. Reynolds declared an insignificant non-pecuniary interest in this item. Cr Reynolds advised Council that he volunteers and promotes sport at Olympic Park.

69 RESOLVED on the motion of Crs Foy and McNeill that:

1. Council endorses the Grandstand and Amenities Design - Option 3 to be placed on public exhibition for a period of not less than twenty-eight (28) days, and to include feedback from NSW Country Rugby League; and
2. Council proceeds to prepare a Development Application for the Grandstand and Amenities Design - Option 3 at the conclusion of the public exhibition period if no substantive changes are recommended in any submissions received.

In Favour: Crs J. Eades, J. Foy, J. Ledlin, G. McNeill, S. Reynolds, R. Scholes and S. Ward.

Against: Nil.

12.10 JULY 2021 MONTHLY FINANCIAL REPORT

70 RESOLVED on the motion of Crs Ledlin and Foy that:

The Financial Report for the month ending 31 July 2021 be noted.

In Favour: Crs J. Eades, J. Foy, J. Ledlin, G. McNeill, S. Reynolds, R. Scholes and S. Ward.

**MINUTES OF THE ORDINARY COUNCIL MEETING OF THE MUSWELLBROOK SHIRE COUNCIL
HELD IN THE CHAMBERS, ADMINISTRATION CENTRE, MUSWELLBROOK ON TUESDAY 31
AUGUST, 2021 COMMENCING AT 6.00PM.**

Against: Nil.

12.11 REPORT ON INVESTMENTS HELD AS AT 31 JULY 2021

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

Information showing Council's investments as at 31 July 2021 be noted and that the minor discrepancy with the issuer trading limits be approved.

In Favour: Crs J. Eades, J. Foy, J. Ledlin, G. McNeill, S. Reynolds, R. Scholes and S. Ward.

Against: Nil.

12.12 REPORT ON COUNCIL GRANT FUNDING AUGUST 2021

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

Council notes the information contained in the report.

In Favour: Crs J. Eades, J. Foy, J. Ledlin, G. McNeill, S. Reynolds, R. Scholes and S. Ward.

Against: Nil.

12.13 COMMUNITY SERVICES

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

The information contained in this report be noted.

In Favour: Crs J. Eades, J. Foy, J. Ledlin, G. McNeill, S. Reynolds, R. Scholes and S. Ward.

Against: Nil.

13 REPORTS FROM COMMITTEES

13.1 FINANCE REVIEW AND ADVISORY COMMITTEE - 19/08/2021

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

The minutes for the Finance Review and Advisory Committee meeting held on Thursday 19 August 2021 be NOTED.

In Favour: Crs J. Eades, J. Foy, J. Ledlin, G. McNeill, S. Reynolds, R. Scholes and S. Ward.

Against: Nil.

13.2 STATE SIGNIFICANT DEVELOPMENT - 26/07/2021

Disclosure of Interest

Cr McNeill declared an insignificant pecuniary interest in this Item. Cr McNeill advised Council that one matter in Attachment B refers to Liddell Power Station which is his place of employment.

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

The minutes for the State Significant Development meeting held on Monday 26 July 2021, 16 August, 2021 and 23 August, 2021 be NOTED.

In Favour: Crs J. Eades, J. Foy, J. Ledlin, G. McNeill, S. Reynolds, R. Scholes and S. Ward.

Against: Nil.

14 NOTICES OF MOTION / RESCISSION

Nil

15 QUESTIONS WITH NOTICE

15.1 QUESTION WITH NOTICE - UNIVERSITY AWARDED \$2 MILLION INDUSTRY FUNDING

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

The information be noted

In Favour: Crs J. Eades, J. Foy, J. Ledlin, G. McNeill, S. Reynolds, R. Scholes and S. Ward.

Against: Nil.

15.2 QUESTION WITH NOTICE - MANGOOLA CONTINUED OPERATIONS OBJECTION

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

The information be noted.

In Favour: Crs J. Eades, J. Foy, J. Ledlin, G. McNeill, S. Reynolds, R. Scholes and S. Ward.

Against: Nil.

15.3 QUESTIONS WITH NOTICE - OLYMPIC PARK - BREAKDOWN OF FUNDING

78 RESOLVED on the motion of Crs Scholes and McNeill that:

The information be noted.

In Favour: Crs J. Eades, J. Foy, J. Ledlin, G. McNeill, S. Reynolds, R. Scholes and S. Ward.

Against: Nil.

16 COUNCILLORS REPORTS

Nil

17 QUESTIONS FOR NEXT MEETING

Councillor Reynolds has submitted a number of questions in writing to the General Manager.

18 ADJOURNMENT INTO CLOSED COUNCIL

79 RESOLVED on the motion of Crs Foy 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 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 FUTURE FUND COMMITTEE

Item 19.1 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.

19.2 EXPRESSION OF INTEREST (EOI) - SYDNEY STREET PROPERTY

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.

In Favour: Crs J. Eades, J. Foy, J. Ledlin, G. McNeill, S. Reynolds, R. Scholes and S. Ward.

Against: Nil.

19 CLOSED COUNCIL

19.1 FUTURE FUND COMMITTEE

MOTION

MOVED by Cr Scholes and Eades that:

Council appoints the following nominees to the Future Fund Committee:

- a) Reverend Angela Peverell (Chair)
- b) Ross Peasley
- c) Martin Rush
- d) The Mayor of MSC (as observer)
- e) Fiona Plesman (Secretary)
- f) David Walsh (Treasurer)

The MOTION was put to the vote and LOST

In Favour: Crs J. Eades, S. Reynolds and R. Scholes.

Against: Crs J. Foy, J. Ledlin, G. McNeill and S. Ward.

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

Council appoints the following nominees to the Future Fund Committee:

- a) Reverend Angela Peverell (Chair)
- b) Ross Peasley
- c) Martin Rush
- d) The Mayor of MSC
- e) Fiona Plesman (Secretary)
- f) David Walsh (Treasurer)

In Favour: Crs J. Foy, J. Ledlin, G. McNeill and S. Ward.

Against: Crs J. Eades, S. Reynolds and R. Scholes.

19.2 EXPRESSION OF INTEREST (EOI) - SYDNEY STREET PROPERTY

MOVED by Cr Reynolds:

Council:

1. Proceed with the purchase of the property Lot 1 in Deposited Plan 1243931 Sydney Street, Muswellbrook NSW 2333, up to the value of \$2.2m.
2. Authorise the General Manager to negotiate the terms and execute all relevant documentation relating to the purchase by Council.
3. Authorise if necessary, for the Council Seal to be affixed to the Contract of Sale and Transfer document relating to the purchase by Council of the property.
4. The property be classified as "Operational" land within the meaning of Division 1, Part 2 of Chapter 6 of the Local Government Act 1993.

The MOTION LAPSED for the want of seconder.

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

Council:

1. Proceed with the purchase of the property Lot 1 in Deposited Plan 1243931 Sydney Street, Muswellbrook NSW 2333, Lot 1 in Deposited Plan 1243931 up to the value as identified in the report.
2. Authorise the General Manager to negotiate the terms and execute all relevant documentation relating to the purchase by Council.
3. Authorise if necessary, for the Council Seal to be affixed to the Contract of Sale and Transfer document relating to the purchase by Council of the property.
4. The property be classified as "Operational" land within the meaning of Division 1, Part 2 of Chapter 6 of the Local Government Act 1993.

In Favour: Crs J. Eades, J. Foy, J. Ledlin, G. McNeill, R. Scholes and S. Ward.

Against: Cr S. Reynolds.

20 RESUMPTION OF OPEN COUNCIL

82 RESOLVED on the motion of Crs Foy and Reynolds that:

The meeting return to Open Council.

21 CLOSURE

The meeting was declared closed at 7.56pm.

**THE MINUTES OF THE MEETING (PAGES 1 TO 10) WERE CONFIRMED AT THE
ORDINARY COUNCIL MEETING OF THE MUSWELLBROOK SHIRE COUNCIL HELD ON
TUESDAY 28 SEPTEMBER, 2021 AND ARE A FULL AND ACCURATE RECORD OF
PROCEEDINGS OF THE MEETING HELD ON TUESDAY 31 AUGUST, 2021**

.....
Ms F. Plesman
General Manager

.....
Cr R. Scholes
Chairperson