

MINUTES OF THE EXTRA ORDINARY COUNCIL MEETING OF THE MUSWELLBROOK SHIRE COUNCIL HELD IN THE CHAMBERS, ADMINISTRATION CENTRE, MUSWELLBROOK ON TUESDAY 12 OCTOBER, 2021 COMMENCING AT 5.00PM.

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

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), Mr P. Chambers (Chief Engineer (VC)), Ms M. Cleary (Manager – Governance(VC)), Miss A. Hathway (Corporate Lawyer), Miss K. Cotter (Governance Officer (VC)), Mrs M. Sandell-Hay (PA to General Manager) and Mrs J. Vince (PA to Mayor).

1 ACKNOWLEDGEMENT OF COUNTRY

The Acknowledgement of Country was read by the General Manager.

2 CIVIC PRAYER

The Civic Prayer was read by Councillor Eades.

3 APOLOGIES AND LEAVE OF ABSENCE

Nil

4 DISCLOSURE OF ANY PECUNIARY AND NON-PECUNIARY INTEREST

Cr B. Woodruff – Declared a significant pecuniary interest in Item 6.1. Cr Woodruff advised council that his employer undertakes work for the applicant.

Cr B. Woodruff – Declared a significant pecuniary interest in Item 8.3. Cr Woodruff advised council that his employer undertakes work for the applicant.

5 PUBLIC PARTICIPATION

Nil

6 COMMUNITY INFRASTRUCTURE

6.1 MANGOOLA COAL CONTINUED OPERATIONS PROJECT - S138 ROAD ACT 1993 APPLICATION

Disclosure of Interest

Cr B. Woodruff declared a significant pecuniary interest in this item. Cr Woodruff advised Council that his employer undertakes work for the applicant. At 05:07pm Cr Woodruff left the Council Chambers and therefore took no part in discussion or voting on this item.

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

Council

1. Delegate to the General Manager authority to sign the s.138 *Roads Act 1993* approval generally in accordance with the draft Special Conditions set out in the report:
 - (a) The consent be provisional on a suitable form of security to be agreed with the General Manager prior to the commencement of construction of the mine owned asset infrastructure within Council's road reserves and the use of Council road reserves to access construction sites as outlined in the schedule;

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- (b) As outlined in the draft Special Conditions, insurances, detailed design and Traffic Management Plans are to be submitted and certified by suitably qualified consultants and approved by the General Manager; and

- (c) The removal of the following requirement imposed at the 27 July 2021 Ordinary Meeting of Council:

“That the consent be provisional on the ‘Special Conditions’ including the condition that the physical closure of Wybong Post Office Road is not permitted until safety upgrades identified in the Road Safety Audit for Ridgeland Road (between Wybong Road and Yarraman Road) are constructed by Mangoola Coal to Council’s satisfaction prior to the physical closure of Wybong PO Road. The physical closure of Wybong Post Office Road at a point and time to be negotiated during the construction phase of the project previously imposed by Council at the 27 July 2021 Ordinary meeting of Council”.

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

Against: Nil.

At 5:09pm Cr Woodruff returned to Council Chambers.

6.2 BRIDGE STREET RAIL BRIDGE REPLACEMENT AESTHETIC CONSIDERATIONS

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

Council endorses the following Bridge Street rail bridge aesthetic treatment options:

1. The rusted truss façade on the bridge girder,
2. Retaining Wall Panel Option 3.
3. Soft landscaping plan with the addition of gazanias on the sloped embankment and installation of irrigation as detailed in the report.
4. The artwork for Retaining Wall Panel Option 3 is to be reported to the 26 October 2021 Ordinary Council Meeting.

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

Against: Nil.

7 ADJOURNMENT INTO CLOSED COUNCIL

133 RESOLVED on the motion of Crs Woodruff 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:

8.1 EXPRESSION OF INTEREST (EOI) - SYDNEY STREET PROPERTY

Item 8.1 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,

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and Council considers that discussion of the matter in an open meeting would be, on balance, contrary to the public interest.

8.2 FUTURE FUND SCHEDULE AND LONG TERM FINANCIAL PLAN

Item 8.2 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.

8.3 MANGOOLA EXTENSION PROJECT

Item 8.3 is classified CONFIDENTIAL under the provisions of Section 10A(2)(d)(ii) and 10A(2)(g) 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 advice concerning litigation, or advice as comprises a discussion of this matter, that would otherwise be privileged from production in legal proceedings on the ground of legal professional privilege, and Council considers that discussion of the matter in an open meeting would be, on balance, contrary to the public interest.

Cr Ledlin arrived at 5.15pm

8 CLOSED COUNCIL

8.1 EXPRESSION OF INTEREST (EOI) - SYDNEY STREET PROPERTY

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

Council:

1. Proceed with the purchase of the property 131 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 M. Bowditch, J. Eades, J. Foy, J. Ledlin, G. McNeill, S. Reynolds, R. Scholes, S. Ward and B. Woodruff.

Against: Nil.

SUSPENSION OF STANDING ORDERS

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

Standing Orders be suspended in order to allow staff time to consult the Code of Meeting Practice to determine whether Item 8.2 can be considered in Open Council.

8.3 MANGOOLA EXTENSION PROJECT

Disclosure of Interest

Cr B. Woodruff declared a significant pecuniary interest in this item. Cr Woodruff advised

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Council that his employer undertakes work for the applicant. At 5:17pm Cr Woodruff left the Council Chambers and therefore took no part in discussion or voting on this item.

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

Council endorse the agreement reached with Mangoola Coal Operations:

1. Mangoola to provide a cash contribution to Council for the purposes of road maintenance in the sum of \$100,000.00;
2. Mangoola to purchase Wybong Post Office Road for the sum of \$500,000.00;
3. Mangoola to construct turning circle on Wybong Post Office Road;
4. Mangoola to construct a one in twenty-year flood mitigation crossing over Wybong Creek on Yarraman Road including an upgrade to the approaches to the crossing on Yarraman Road; and
5. Mangoola to provide a bank guarantee to secure their obligations in relation to the maintenance and removal of the Haul Road Overbridge for the sum of \$3,000,000.00.

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

Against: Nil.

At 5:18pm Cr Woodruff returned to Council Chambers.

8.2 FUTURE FUND SCHEDULE AND LONG TERM FINANCIAL PLAN

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

1. Council approves the revised Future Fund Policy (MSC03E), including 'The Schedule' for Public Exhibition
2. Council endorses the Future Fund LTFP (in line with Option #3 outlined in this report).

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

Against: Cr S. Reynolds.

9 RESUMPTION OF OPEN COUNCIL

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

The meeting return to Open Council.

10 CLOSURE

The meeting was declared closed at 5.23pm.

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Ms F. Plesman
General Manager

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Cr R. Scholes
Chairperson