

**Muswellbrook Shire Council**

**EXTRA ORDINARY COUNCIL  
MEETING**

**BUSINESS PAPER**

**14 JUNE 2022**



**EXTRA ORDINARY COUNCIL MEETING, 14 JUNE 2022**

MUSWELLBROOK SHIRE COUNCIL

P.O Box 122  
**MUSWELLBROOK**  
7 June, 2022

Councillors,

You are hereby requested to attend the Extra Ordinary Council Meeting to be held in the Loxton Room, Administration Centre, Campbells Corner, 60-82 Bridge Street, Muswellbrook on **14 June, 2022** commencing at 5.00pm.

Fiona Plesman  
**GENERAL MANAGER**

# Order of Business

ITEM	SUBJECT	PAGE NO
1	ACKNOWLEDGEMENT OF COUNTRY	4
2	CIVIC PRAYER	4
3	APOLOGIES AND LEAVE OF ABSENCE	4
4	DISCLOSURE OF ANY PECUNIARY AND NON-PECUNIARY INTEREST	4
5	PUBLIC PARTICIPATION	4
6	ENVIRONMENTAL SERVICES	5
	6.1 BENGALLA MOD5 - DISPOSAL OF TYRES	5
7	CORPORATE AND COMMUNITY SERVICES	12
	7.1 LOCATION OF ORDINARY MEETINGS OF COUNCIL	12
8	ADJOURNMENT INTO CLOSED COUNCIL	14
	9.1 UPPER HUNTER ECONOMIC DEVELOPMENT CORPORATION	
	<i>Item 9.1 is classified CONFIDENTIAL under the provisions of Section10A(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.</i>	
9	CLOSED COUNCIL	14
10	RESUMPTION OF OPEN COUNCIL	15
11	CLOSURE	15



## MUSWELLBROOK SHIRE COUNCIL

# AGENDA

### **1 ACKNOWLEDGEMENT OF COUNTRY**

### **2 CIVIC PRAYER**

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

### **4 DISCLOSURE OF ANY PECUNIARY AND NON-PECUNIARY INTEREST**

Section 451 of the Local Government Act requires that if a councillor or member of a council or committee has a pecuniary interest in any matter before the council or committee, he/she must disclose the nature of the interest to the meeting as soon as practicable and must not be present at, or in sight of, the meeting, when the matter is being discussed, considered or voted on.

A pecuniary interest is an interest that a person has in a matter because of a reasonable likelihood or expectation of financial gain or loss (see sections 442 and 443 of the Local Government Act).

A non-pecuniary interest can arise as a result of a private or personal interest which does not involve a financial gain or loss to the councillor or staff member (eg friendship, membership of an association, or involvement or interest in an activity). A councillor must disclose the nature of the interest to the meeting as soon as practicable.

Council's Model Code of Conduct now recognises two forms of non-pecuniary conflict of interests:

- Significant
- Less than significant

A Councillor must make an assessment of the circumstances and determine if the conflict is significant.

If a Councillor determines that a non-pecuniary conflict of interests is less than significant and does not require further action, they must provide an explanation of why it is considered that the conflict does not require further action in the circumstances.

If the Councillor has disclosed the existence of a significant non-pecuniary conflict of interests at a meeting they must not be present at, or in sight of, the meeting, when the matter is being discussed, considered or voted on.

### **5 PUBLIC PARTICIPATION**

## 6 ENVIRONMENTAL SERVICES

### 6.1 BENGALLA MOD5 - DISPOSAL OF TYRES

Attachments:	A. BMC Presentation to MSC Modification 5 - Tyre Disposal <a href="#">↓</a>
Responsible Officer:	Fiona Plesman - General Manager
Author:	Theresa Folpp - Development Compliance Officer
Community Plan Issue:	<i>A Council that is well managed, efficient and properly resourced and that is responsive to its communities and stakeholders</i>
Community Plan Goal:	<i>Maintain a strong focus on financial discipline to enable Council to properly respond to the needs of the communities it serves.</i>
Community Plan Strategy:	<i>Provide efficient and effective Development Application, Complying Development Certificate, Construction Certificate and Occupational Certificate assessment services.</i>

#### PURPOSE

This report has been prepared to brief Councillors on the status of the Bengalla Modification 5 (MOD5), specifically where the modification proposes to dispose of off the road (OTR) tyres in-pit.

Since submission of Council's resolution to Department of Planning and Environment (DPE), representatives from Bengalla Mining Company (Bengalla) met with Council staff to discuss Council's resolution. The outcomes of this meeting are discussed below.

#### OFFICER'S RECOMMENDATION

**Council accepts the commitments made by Bengalla by email dated 31 May 2022 and advise DPE that satisfactory arrangements have been made with Council regarding the disposal of off the road (OTR) tyres in-pit initially, and off-site disposal when technologically feasible and environmentally responsible.**

Moved: \_\_\_\_\_ Seconded: \_\_\_\_\_

#### BACKGROUND

Bengalla submitted the Bengalla MOD5 Report to DPE in January 2022. The exhibition period for the modification concluded on 2 February 2022.

In February 2022, Council staff made an initial submission on MOD5 that included the following key recommendations:

- Bengalla identify purchasing opportunities from signatories of the Tyre Product Stewardship Scheme to drive solutions for the sustainable management, recycling, and productive use of end-of life tyres; and
- Conditioning for disposal of waste in an environmentally responsible manner (where the first two priorities of the Waste Avoidance and Resource Recovery Act 2001).

On the 1 March 2022, Council resolved to make a further submission to DPE, as follows:

#### **MOTION**

1. Council support Bengalla's development application to landfill tyres subject to the following further conditions:

- (a) The Environmental Protection License is granted on the basis of an annual review having regard to the State's hierarchy of waste: avoidance, re-use, recycling, waste-to-energy and landfilling.

- (b) *Bengalla provide to Council \$50,000 to support investigation into potential industry options that might provide a more sustainable and preferable outcome in terms of the NSW waste hierarchy and the local economy.*
2. *Council seek expressions of interest from a suitably qualified industry expert to undertake an investigation into potential options in the event Bengalla agrees to the payment of \$50,000.*
3. *That if the Office of Environment and Heritage or Bengalla do not agree to the above conditions, the matter be referred back to Council for further consideration*

## REPORT

On 31 May 2022, Bengalla met with Council staff to discuss the abovementioned submissions. Bengalla made a presentation on the current position of the OTR tyre recycling initiatives in Australia and NSW (see **Attachment A**).

In summary, Bengalla described the following (emphasis added):

- *Tyre Stewardship Australia has been formed to implement the National Tyre Product Stewardship Scheme (the Scheme) to promote the development of viable markets for end-of-life tyres. They are actively involved in researching emerging technologies and assessing viable options for end-of-life tyres.*
- *Major OTR tyre importers Bearcat, Bridgestone Mining Solutions, Goodyear, KALTIRE, Michelin and Yokohama committed to joining the Scheme from January 2022.*
- *The Scheme is a voluntary national product stewardship scheme formed to effectively reduce the environmental, health and safety impacts of end-of-life tyres and promote the development of viable end markets for tyre derived products.*
- *There are currently limited commercial uses for heavy vehicle waste tyres generated at mining operations.*
- ***Some of the technologies to recycle OTR waste tyres are still developing.***
- ***In NSW there is limited capacity to commercially recycle OTR tyres primarily due to their size.***
- ***Beyond the existing re-use of tyres on-site, transportation logistics, safety and environmental costs of that transport likely currently outweigh the resource recovery potential for re-use offsite.***
- ***Onsite disposal of waste tyres is currently the most 'reasonable and feasible' disposal option.***

In an email dated 31 May 2025, Bengalla made the following commitments:

1. *Refer in the Response to Submissions report to be submitted to DPE, that an additional option to on-site disposal of OTR tyres, being off-site disposal of OTR tyres when technologically feasible, environmentally responsible and commercially viable.*
2. *Make payment of \$50,000 to Muswellbrook Shire Council (MSC) regarding appointment of a suitably qualified expert to investigate OTR tyre recycling opportunities.*
3. *Bengalla request the payment to MSC be separate to the approval process of SSD-5170 Modification 5, as such, Bengalla request MSC provide further correspondence to the DPE withdrawing the request for the \$50,000 payment.*

In summary, Bengalla is open to consider additional alternate options for the disposal of OTR tyres off-site and to working with MSC, industry experts and companies to improve environmental, social and governance outcomes at Bengalla and the wider mining industry in a practical, commercially viable and environmentally responsible manner.

## BMC Modification 5 Application

### Response to Submissions – Off The Road Tyre Disposal

Date: 31 May 2022

**BENGALLA**



## Mod 5 RTS – Off The Road Tyre Disposal



The purpose of today's meeting is to provide an update regarding Bengalla Mining Company and its advisors enquires into Off The Road tyre recycling and to discuss the way forward.

### Developments

There have been a number of studies and developments completed.

### International – Chile Example

The Bill N° 20.920 about "Waste Management, Extended Producer Responsibility and Recycling Promotion" (The Bill), encourages the reduction in the generation of wastes and promotes recycling, by holding producers and importers accountable for funding a correct management of the wastes generated by the products that are traded in the national market, whether they are imported or nationally manufactured.

Chile is home to six of the 10 largest copper mines in the world and nearly 500,000 tonnes of scrap tyres.

During 2020 KALTIRE opened a thermal conversion recycling facility in Antofagasta, a port community in the heart of Chile's mining industry. (Information from KALTIRE website 30 May 2022)

Bengalla Mining Company

## Mod 5 RTS – Off The Road Tyre Disposal



### Australian Context

#### Studies

- Management of Waste Tyres in the Mining Industry  
Australian Coal Association Research Program – July 2000
- Mining Industry – Off The Road Used Tyre Analysis  
Tyre Stewardship Australia – January 2020

Commonwealth Grant (State grants not listed)

Agency: Department of Agriculture, Water and the Environment

Approval Date: 12-Mar-2021

Value (AUD): \$1,086,488.70 (GST inclusive where applicable)

Purpose: A grant has been awarded to accelerate work on an industry led product stewardship scheme and improve rates of recycling.

Recipient Name: TYRE STEWARDSHIP AUSTRALIA LIMITED

Bengalla Mining Company

## Mod 5 RTS – Off The Road Tyre Disposal



### Examples of east coast Off the Road Tyre Recycling Facilities

- The Pearl Global facility at Staplyton Queensland is receiving small quantities of Off the Road large tyres. Technology at commercial scale in development.
- Novum and Queensland miners are investigating the construction of an Off The Road tyre recycling facility in central Queensland.
- In NSW there are tyre recycling facilities for passenger tyres and light commercial vehicle but there is very limited facilities currently available for commercial quantities of recycling large Off The Road tyres used on mining heavy machinery.

Note: Further investigation is being undertaken to determine whether other Off The Road tyre recycling facilities are in development or operation.

## Mod 5 RTS – Off The Road Tyre Disposal



### Summary

- Tyre Stewardship Australia has been formed to implement the National Tyre Product Stewardship Scheme (the Scheme) to promote the development of viable markets for end-of-life tyres. They are actively involved in researching emerging technologies and assessing viable options for end-of-life tyres.
- Major Off The Road tyre importers Bearcat, Bridgestone Mining Solutions, Goodyear, KALTIRE, Michelin and Yokohama have committed to joining the Scheme from January 2022.
- The Scheme is a voluntary national product stewardship scheme formed to effectively reduce the environmental, health and safety impacts of end-of-life tyres and promote the development of viable end markets for tyre derived products.
- There are currently very limited commercial uses for heavy vehicle waste tyres generated at mining operations.
- Some of the technologies to recycle Off The Road waste tyres are still developing.
- In NSW there is very limited capacity to commercially recycle Off The Road mine tyres primarily due to their size.
- Beyond the existing re-use of tyres on-site transportation logistics, safety and environmental costs of that transport likely currently outweigh the resource recovery potential for re-use offsite.
- Onsite disposal of waste tyres is currently the most 'reasonable and feasible' disposal option.

## 7 CORPORATE AND COMMUNITY SERVICES

### 7.1 LOCATION OF ORDINARY MEETINGS OF COUNCIL

<b>Attachments:</b>	<b>Nil</b>
<b>Responsible Officer:</b>	<b>Fiona Plesman - General Manager</b>
<b>Author:</b>	<b>Michelle Sandell-Hay - EA to the General Manager &amp; Mayor</b>
<b>Community Plan Issue:</b>	<b><i>Genuine and well informed community participation in decision making</i></b>
<b>Community Plan Goal:</b>	<b><i>Utilise best practice models of community engagement to ensure decision making is meeting the expectations of the community.</i></b>
<b>Community Plan Strategy:</b>	<b><i>Undertake a comprehensive community consultation program as per the Community Engagement Strategy.</i></b>

#### PURPOSE

To seek Council's endorsement for a change of location for the ordinary meetings of council from the Denman Memorial Hall to the Tertiary Education Centre Muswellbrook until the new Muswellbrook Shire Council Chamber is constructed.

#### OFFICER'S RECOMMENDATION

**Council change the location of monthly ordinary meetings of council as follows:**

**28 June 2022 Muswellbrook Tertiary Education Centre**

**26 July 2022 Sandy Hollow Hall**

**23 August 2022 Muswellbrook Tertiary Education Centre**

**27 September 2022 Muswellbrook Tertiary Education Centre**

**25 October 2022 Denman Memorial Hall**

**29 November 2022 Muswellbrook Tertiary Education Centre**

**20 December 2022 Muswellbrook Tertiary Education Centre**

**Moved: \_\_\_\_\_ Seconded: \_\_\_\_\_**

#### BACKGROUND

Council is constructing a new meeting chamber adjacent to the Council Administration Centre in Campbells Corning Muswellbrook. Until the new chamber is completed Council approved all ordinary meetings of council be held in the Denman Memorial Hall. Three ordinary meetings of council have been held in the Denman Memorial Hall. Despite the best efforts of council officers each of those meetings have limited connection to the internet and poor information communication technology support limiting the opportunity for webcast or community participation via video conferencing.

#### CONSULTATION

Council IT Team

Director – Corporate Services & Chief Financial Officer

Manager Governance

#### REPORT

Webcasting is not available, and the recording quality of council meetings has been poor for the ordinary meetings of council held in the Denman Memorial Hall. Until such a time as information technology

support for the Denman Memorial Hall has been upgraded council officers recommend that the majority of the ordinary meetings of council be held temporarily in the Muswellbrook Tertiary Education Centre; until construction of the new council chambers adjacent to the Administration Centre is complete.

**OPTIONS**

Council continue with the current arrangement.

**CONCLUSION**

Officers recommend that the majority of ordinary meetings of council take place in the Muswellbrook Tertiary Education Centre until a new council chamber is constructed.

**SOCIAL IMPLICATIONS**

Improved webcast and recording opportunity is available at the Tertiary Education Centre.

**FINANCIAL IMPLICATIONS**

There is minimal impact to council's budget in change location of council meetings.

**POLICY IMPLICATIONS**

No implications.

**STATUTORY IMPLICATIONS**

Under the local government act council must hold a minimum of ten ordinary meetings of council per annum.

**LEGAL IMPLICATIONS**

Under the local government act council must hold a minimum of ten ordinary meetings of council per annum.

**OPERATIONAL PLAN IMPLICATIONS**

No implications

**RISK MANAGEMENT IMPLICATIONS**

No implications

**WASTE MANAGEMENT IMPLICATIONS**

No implications

**COMMUNITY CONSULTATION/MEDIA IMPLICATIONS**

No implications

## **8 ADJOURNMENT INTO CLOSED COUNCIL**

In accordance with the Local Government Act 1993, and the Local Government (General) Regulation 2005, in the opinion of the General manager, the following business is of a kind as referred to in Section 10A(2) of the Act, and should be dealt with in a Confidential Session of the Council meeting closed to the press and public.

### **RECOMMENDATION**

**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:**

#### **9.1 UPPER HUNTER ECONOMIC DEVELOPMENT CORPORATION**

Item 9.1 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.

**Moved:** \_\_\_\_\_ **Seconded:** \_\_\_\_\_

## **9 CLOSED COUNCIL**

**10 RESUMPTION OF OPEN COUNCIL**

**11 CLOSURE**