

MINUTES OF THE ORDINARY COUNCIL MEETING OF THE MUSWELLBROOK SHIRE COUNCIL HELD IN THE TRAINING ROOM, UNIVERSITY OF NEWCASTLE - UPPER HUNTER CAMPUS, LEVEL1, TEC1 BUILDING, 87 LOWER HILL STREET, MUSWELLBROOK ON TUESDAY 23 JANUARY 2024 COMMENCING AT 6.00PM.

PRESENT: Cr G.T. McNeill (Deputy Mayor) (Chair), Cr A. Barry, Cr M. Bowditch, Cr D. Douglas, Cr J. Drayton (VC), Cr L. Dunn, Cr J.A. Lecky, Cr R. Mahajan, Cr D.E. Marshall Cr R. Scholes and Cr B.N. Woodruff.

IN ATTENDANCE: Mr D. Finnigan (General Manager), Ms S. Pope (Director – Planning & Environment), Ms S. Welchman (Director - Community & Economy), Mr M. Lysaught (Director – Property & Place), Ms E. Lane (Manager – Governance & Risk), Mr J. Hogan (Acting Chief Financial Officer) (VC), Mrs C. Middleton (Communications Co-Ordinator), Mrs M. Sandell-Hay (Governance Officer), Ms K. Hamm (Executive Assistant) and 1 person in the public gallery.

1. Applications for Attendance via Audio Visual Link

254 RESOLVED on the motion of Cr B. Woodruff and Cr D. Marshall that:

Authority be given for Cr J. Drayton to attend the Council Meeting via video link.

In Favour: Cr J. Lecky, Cr A. Barry, Cr M. Bowditch, Cr D. Douglas, Cr J. Drayton, Cr L. Dunn, Cr G. McNeill, Cr R. Mahajan, Cr D. Marshall, Cr R. Scholes and Cr B. Woodruff.

Against: Nil.

2. Acknowledgement of Country

The Acknowledgement of Country was read by Cr M. Bowditch.

3. Civic Prayer

The Civic Prayer was read by Cr L. Dunn.



4. Apologies and Applications for a Leave of Absence

255 RESOLVED on the motion of Cr R. Mahajan and Cr D. Marshall that:

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

In Favour: Cr J. Lecky, Cr A. Barry, Cr M. Bowditch, Cr D. Douglas, Cr J. Drayton, Cr L. Dunn, Cr G. McNeill, Cr R. Mahajan, Cr D. Marshall, Cr R. Scholes and Cr B. Woodruff.

Against: Nil.

5. Confirmation of Minutes

Ordinary Council Meeting held in 19 December, 2023

256 RESOLVED on the motion of Cr D. Douglas and Cr J. Lecky that:

The Minutes of the Ordinary Council Meeting held on 19 December 2023, a copy of which has been distributed to all members, be taken as read and confirmed as a true record.

In Favour: Cr J. Lecky, Cr A. Barry, Cr M. Bowditch, Cr D. Douglas, Cr J. Drayton, Cr L. Dunn, Cr G. McNeill, Cr R. Mahajan, Cr D. Marshall, Cr R. Scholes and Cr B. Woodruff.

Against: Nil.

6. Disclosure of any Pecuniary or Non-Pecuniary Interests

Cr A. Barry - Declared a non-pecuniary interest in Item 10.1.1. Cr Barry advised Council that she works for AGL who are an energy supplier and retailer.

Cr A. Barry - Declared a pecuniary interest in Item 17.2. Cr Barry advised Council that she is employed by AGL who are mentioned in the report.

Cr D. Douglas - Declared a non-pecuniary interest in Item 17.2. Cr Douglas advised that AGL supply grant funding to Wanaruah Local Land Council in which she is the CEO.

Cr G. McNeill - Declared a non-pecuniary interest in Item 10.1.1. Cr McNeill advised Council that he works for AGL who are an energy supplier and retailer.

Cr G. McNeill - Declared a pecuniary interest in Item 17.2. Cr McNeill advised Council that he is employed by AGL who are mentioned in the report.



7. Mayoral Minute

Nil

8. Public Participation

Nil

9. Business Arising (From Previous Meetings)

9.1. Question With Notice - Rubbish on Footpaths

257 RESOLVED on the motion of Cr R. Scholes and Cr J. Lecky that:
Council NOTES the information contained in the report.

In Favour: Cr J. Lecky, Cr A. Barry, Cr M. Bowditch, Cr D. Douglas, Cr J. Drayton, Cr L. Dunn, Cr G. McNeill, Cr R. Mahajan, Cr D. Marshall, Cr R. Scholes and Cr B. Woodruff.

Against: Nil.

9.2. Question With Notice - Inquiry on FOGO

258 RESOLVED on the motion of Cr D. Douglas and Cr A. Barry that:
Council NOTES the information contained in the report.

In Favour: Cr J. Lecky, Cr A. Barry, Cr M. Bowditch, Cr D. Douglas, Cr J. Drayton, Cr L. Dunn, Cr G. McNeill, Cr R. Mahajan, Cr D. Marshall, Cr R. Scholes and Cr B. Woodruff.

Against: Nil.



10. Business (Specific Reports)

10.1. Planning and Environment

10.1.1. Submission on draft NSW Energy Policy Framework

Disclosure of Interest

Cr A. Barry declared a non-pecuniary interest in this item. Cr Barry advised Council that she works for AGL who are an energy supplier and retailer.

Cr G. McNeill declared a non-pecuniary interest in this item. Cr McNeill advised Council that he works for AGL who are an energy supplier and retailer.

259 RESOLVED on the motion of Cr B. Woodruff and Cr M. Bowditch that:
Council resolves that Staff arrange for Council's submission on the draft Energy Policy Framework, including amendments, to be provided to the Department of Planning, Housing and Infrastructure.

In Favour: Cr J. Lecky, Cr A. Barry, Cr M. Bowditch, Cr D. Douglas, Cr J. Drayton, Cr L. Dunn, Cr G. McNeill, Cr R. Mahajan, Cr D. Marshall, Cr R. Scholes and Cr B. Woodruff.

Against: Nil.

10.1.2. Road Naming Application

260 RESOLVED on the motion of Cr D. Marshall and Cr J. Lecky that:
Council:
1. Approves the proposed street names for exhibition and notification to the Geographical Names Board:

- Red Gum Parade
- Jasmine Close
- Honeysuckle Place

2. Delegates to the General Manager determination of the road naming application following the conclusion of the advertising and notification period.

In Favour: Cr J. Lecky, Cr A. Barry, Cr M. Bowditch, Cr D. Douglas, Cr J. Drayton, Cr L. Dunn, Cr G. McNeill, Cr R. Mahajan, Cr D. Marshall, Cr R. Scholes and Cr B. Woodruff.

Against: Nil.



10.2. Community Infrastructure

10.2.1. Classification of Shire Local Roads

261 RESOLVED on the motion of Cr R. Scholes and Cr D. Marshall that:

Council:

1. APPROVES staff commencing negotiations with TfNSW regarding the reclassification and upgrading of identified local roads to support the transport of renewable energy project components; and
2. Requests further reports be provided to Council prior to selection of a preferred approach to the classification and upgrading of the identified local roads.

In Favour: Cr J. Lecky, Cr A. Barry, Cr M. Bowditch, Cr D. Douglas, Cr J. Drayton, Cr L. Dunn, Cr G. McNeill, Cr R. Mahajan, Cr D. Marshall, Cr R. Scholes and Cr B. Woodruff.

Against: Nil.

10.3. Property and Place

10.3.1. Major Projects Status Report

262 RESOLVED on the motion of Cr B. Woodruff and Cr L. Dunn that:

Council NOTES the information contained in the report.

In Favour: Cr J. Lecky, Cr A. Barry, Cr M. Bowditch, Cr D. Douglas, Cr J. Drayton, Cr L. Dunn, Cr G. McNeill, Cr R. Mahajan, Cr D. Marshall, Cr R. Scholes and Cr B. Woodruff.

Against: Nil.

10.4. Corporate Services

10.4.1. Monthly Financial Report - December 2023

263 RESOLVED on the motion of Cr R. Mahajan and Cr B. Woodruff that:

Council NOTES the Financial Reports for the month ending 31 December 2023.

In Favour: Cr J. Lecky, Cr A. Barry, Cr M. Bowditch, Cr D. Douglas, Cr J. Drayton, Cr L. Dunn, Cr G. McNeill, Cr R. Mahajan, Cr D. Marshall, Cr R. Scholes and Cr B. Woodruff.

Against: Nil.



10.4.2. Report on Investments held as at 31 December 2023

264 RESOLVED on the motion of Cr R. Scholes and Cr J. Lecky that:
Council NOTES Council's Investments as at 31 December 2023.

In Favour: Cr J. Lecky, Cr A. Barry, Cr M. Bowditch, Cr D. Douglas, Cr J. Drayton, Cr L. Dunn, Cr G. McNeill, Cr R. Mahajan, Cr D. Marshall, Cr R. Scholes and Cr B. Woodruff.

Against: Nil.

10.4.3. Section 355 Committee Guidelines MSC22E for ADOPTION

265 RESOLVED on the motion of Cr M. Bowditch and Cr D. Marshall that:
Council ADOPTS the *Section 355 Committee Guidelines*.

In Favour: Cr J. Lecky, Cr A. Barry, Cr M. Bowditch, Cr D. Douglas, Cr J. Drayton, Cr L. Dunn, Cr G. McNeill, Cr R. Mahajan, Cr D. Marshall, Cr R. Scholes and Cr B. Woodruff.

Against: Nil.

10.5. Community and Economy

10.5.1. Regional Development Roadmap Submission

266 RESOLVED on the motion of Cr J. Lecky and Cr R. Scholes that:
Council ENDORSES the attached draft submission to the State Government on the review of the Regional Development Act 2004 provided in Attachment B of the report.

In Favour: Cr J. Lecky, Cr A. Barry, Cr M. Bowditch, Cr D. Douglas, Cr J. Drayton, Cr L. Dunn, Cr G. McNeill, Cr R. Mahajan, Cr D. Marshall, Cr R. Scholes and Cr B. Woodruff.

Against: Nil.



11. Minutes of Committee Meetings

11.1. Olympic Park Precinct Development Advisory Committee - 21 November 2023 and 12 December 2023

267 RESOLVED on the motion of Cr A. Barry and Cr D. Marshall that:
The Minutes for the Olympic Park Precinct Development Advisory Committee meeting held on 21 November and 12 December 2023 be ADOPTED.

In Favour: Cr J. Lecky, Cr A. Barry, Cr M. Bowditch, Cr D. Douglas, Cr J. Drayton, Cr L. Dunn, Cr G. McNeill, Cr R. Mahajan, Cr D. Marshall, Cr R. Scholes and Cr B. Woodruff.

Against: Nil.

Cr Drayton left the meeting at 6:24pm due to technical issues.

11.2. Sports and Recreation Committee - 22 November 2023

268 RESOLVED on the motion of Cr D. Marshall and Cr A. Barry that:
The minutes for the Sports and Recreation Committee meeting held on 22 November 2023 be NOTED.

In Favour: Cr J. Lecky, Cr A. Barry, Cr M. Bowditch, Cr D. Douglas, Cr L. Dunn, Cr G. McNeill, Cr R. Mahajan, Cr D. Marshall and Cr B. Woodruff.

Against: Cr R. Scholes.

12. Notices of Motion

Nil

13. Councillors Reports

Nil

14. Written Questions

Nil



15. Questions for Next Meeting

Cr B. Woodruff - Can Council investigate moving the Councillor Briefing Session to the Monday prior to Tuesday's Meeting to allow for further in-depth discussion?

The General Manager advised that a trial of Councillor Woodruff's proposal will be conducted prior to the February Ordinary Council Meeting.

Cr J. Drayton returned to the meeting at 6:36pm.

Cr M Bowditch - Can you please advise if there are any details on timeframes and/or funding on the blackspot at Kerrabee?

The General Manager advised staff are liaising with Transport NSW as it is a Regional Road and that this will be taken on notice.

16. Adjournment into Closed Council

269 RESOLVED on the motion of Cr R. Scholes and Cr D. Marshall 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 provisions outlined in Section 17 below.

In Favour: Cr J. Lecky, Cr A. Barry, Cr M. Bowditch, Cr D. Douglas, Cr J. Drayton, Cr L. Dunn, Cr G. McNeill, Cr R. Mahajan, Cr D. Marshall, Cr R. Scholes and Cr B. Woodruff.

Against: Nil.

Members of the Public left the meeting at this stage.

Ms Pope left the meeting at 6.41pm



17. Closed Council

17.1. **Muswellbrook Shire Council Voluntary Planning Agreement Allocation 2023/2024 and 2024/2025**

270 RESOLVED on the motion of Cr D. Douglas and Cr D. Marshall that:

Council endorses:

1. The proposed allocation of funds received through voluntary planning agreements as detailed in this report for the 2023/2024 financial year;
2. The proposed allocation of funds received through voluntary planning agreements for the 2024/2025 financial to inform the 2024/2025 budget preparation process; and
3. Approves consultation being carried out with the relevant Muswellbrook Shire mining companies to progress VPA funding allocations as detailed in the report.

In Favour: Cr J. Lecky, Cr A. Barry, Cr M. Bowditch, Cr D. Douglas, Cr J. Drayton, Cr L. Dunn, Cr G. McNeill, Cr R. Mahajan, Cr D. Marshall, Cr R. Scholes and Cr B. Woodruff.

Against: Nil.



17.2. **Approval of Price Variation 2021-2022-0538 Solar PV Array at RWTW**

Disclosure of Interest

Cr A. Barry declared a pecuniary interest in this item. Cr Barry advised Council that she is employed by AGL who are mentioned in the report.

Cr D. Douglas declared a non-pecuniary interest in this item. Cr Douglas advised that AGL supply grant funding to Wanaruah Local Land Council in which she is the CEO.

Cr G. McNeill declared a pecuniary interest in this item. Cr McNeill advised Council that he is employed by AGL who are mentioned in the report.

At 6:44 pm Cr A. Barry, Cr D. Douglas and Cr G. McNeill left the Council Chambers and therefore took no part in discussion or voting on this item.

Cr B. Woodruff assumed the role of Chair for conduct of this item.

271 RESOLVED on the motion of Cr R. Scholes and Cr D. Marshall that:
Council:

1. APPROVES the capacity change of the Solar PV array from 400kW to 396kW;
2. ACCEPTS the price variation submitted by Sustainable Business Energy Solutions (AGL) for contract 2021-2022-0538 from \$580,733, exclusive of GST, to \$612,165, exclusive of GST;
3. APPROVES the total project budget to be adjusted to \$700,000, through the December 2023 Budget Review process; and
4. AUTHORISES the General Manager to enter into a Contract with Sustainable Business Energy Solutions for the Design and Construction of the Solar PV Array at the revised price.

In Favour: Cr J. Lecky, Cr M. Bowditch, Cr J. Drayton, Cr L. Dunn, Cr R. Mahajan, Cr D. Marshall, Cr R. Scholes and Cr B. Woodruff.

Against: Nil.

At 6:47 pm Cr A. Barry, Cr D. Douglas and Cr G. McNeill returned to Council Chambers and resumed their chairs at the meeting table.

Cr G. McNeill resumed the role of Chair for the remainder of the meeting.



17.3. Animal Care and Sustainability Hub - Fencing Layout and Contribution

272 RESOLVED on the motion of Cr B. Woodruff and Cr D. Marshall that:
Council APPROVES contributing equally to the fencing that will follow the property boundary and will be set back from the shared road.

In Favour: Cr J. Lecky, Cr A. Barry, Cr M. Bowditch, Cr D. Douglas, Cr J. Drayton, Cr L. Dunn, Cr G. McNeill, Cr R. Mahajan, Cr D. Marshall, Cr R. Scholes and Cr B. Woodruff.

Against: Nil.

17.4. Class 1 Appeal

273 RESOLVED on the motion of Cr M. Bowditch and Cr A. Barry that:
Council delegates to the Director – Environment and Planning authority to reach agreement with the Applicant and settle the Class 1 proceedings in the Land and Environment Court being Case Number 2022/00325617.

In Favour: Cr J. Lecky, Cr A. Barry, Cr M. Bowditch, Cr D. Douglas, Cr J. Drayton, Cr L. Dunn, Cr G. McNeill, Cr R. Mahajan, Cr D. Marshall, Cr R. Scholes and Cr B. Woodruff.

Against: Nil.

18. Resumption of Open Council

274 RESOLVED on the motion of Cr M. Bowditch and Cr D. Marshall that:

The meeting return to Open Council.

In Favour: Cr J. Lecky, Cr A. Barry, Cr M. Bowditch, Cr D. Douglas, Cr J. Drayton, Cr L. Dunn, Cr G. McNeill, Cr R. Mahajan, Cr D. Marshall, Cr R. Scholes and Cr B. Woodruff.

Against: Nil.

Public were invited to return to the meeting.

The Chair read out the resolutions of Closed Council.



19. Closure

The meeting was declared closed at 6.55pm.

THE MINUTES OF THE MEETING (PAGES 1 to 12) WERE CONFIRMED AT THE ORDINARY COUNCIL MEETING OF THE MUSWELLBROOK SHIRE COUNCIL HELD ON 27 FEBRUARY 2024 AND ARE A FULL AND ACCURATE RECORD OF PROCEEDINGS OF THE MEETING HELD ON 23 JANUARY 2024.

.....
Mr D. Finnigan
General Manager

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Cr G. McNeill
Chairperson