



muswellbrook  
shire council

Muswellbrook Shire Council

# EXTRA-ORDINARY COUNCIL MEETING

BUSINESS PAPER

TUESDAY 4 JUNE 2024



**MUSWELLBROOK SHIRE COUNCIL**

P.O Box 122  
MUSWELLBROOK  
1 June 2024

Councillors,

You are hereby requested to attend the Extra-Ordinary Council Meeting to be held in the Loxton Room, Administration Centre, Campbell's Corner 60-82 Bridge St, Muswellbrook NSW 2333 on **Tuesday 4 June 2024** commencing at 6:00 pm.

Derek Finnigan  
**GENERAL MANAGER**



# Council Meetings

## Meeting Principles

Council and committee meetings should be:

- Transparent:* Decisions are made in a way that is open and accountable.
- Informed:* Decisions are made based on relevant, quality information.
- Inclusive:* Decisions respect the diverse needs and interests of the local community.
- Principled:* Decisions are informed by the principles prescribed under Chapter 3 of the Act.
- Trusted:* The community has confidence that councillors and staff act ethically and make decisions in the interests of the whole community.
- Respectful:* Councillors, staff and meeting attendees treat each other with respect.
- Effective:* Meetings are well organised, effectively run and skilfully chaired.
- Orderly:* Councillors, staff and meeting attendees behave in a way that contributes to the orderly conduct of the meeting.

## Public Forums

The council may hold a public forum prior to each ordinary meeting of the council for the purpose of hearing oral submissions from members of the public on items of business to be considered at the meeting. Public forums may also be held prior to extraordinary council meetings and meetings of committees of the council.

To speak at a public forum, a person must first make an application to the council in the approved form. Applications to speak at the public forum must be received by no later than 9.00 am two (2) days prior to the day of the meeting before the date on which the public forum is to be held, and must identify the item of business on the agenda of the council meeting the person wishes to speak on, and whether they wish to speak 'for' or 'against' the item.

Approved speakers at the public forum are to register with the council any written, visual or audio material to be presented in support of their address to the council at the public forum, and to identify any equipment needs no more than 3 days before the public forum. The general manager or their delegate may refuse to allow such material to be presented.

Each speaker will be allowed 2 minutes to address the council. This time is to be strictly enforced by the chairperson.



## Declarations of Interest

### **Statement of Ethical Obligations**

Councillors are reminded of their oath or affirmation of office, made under section 233A of the NSW Local Government Act 1993, to undertake the duties of the office of Councillor in the best interests of the people of Muswellbrook Shire and Muswellbrook Shire Council and to faithfully and impartially carry out the functions, powers, authorities and discretions vested in them, under the Local Government Act 1993 or any other Act, to the best of their ability and judgment. Pursuant to the provisions of the Muswellbrook Shire Council Code of Meeting Practice and the Muswellbrook Shire Council Code of Conduct, Councillors are reminded of their obligations to disclose and appropriately manage conflicts of 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.



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- 1. Application to Attend via Audio Visual Link**
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- 5. Disclosure of any Pecuniary or Non-Pecuniary Interests**
- 6. Mayoral Minute**

Nil

- 7. Public Participation**
- 8. Business**

#### **8.1. Planning and Environment**

Nil



## 8.2. Community Infrastructure

### 8.2.1. FOGO additional service Eligibility Criteria

**Attachments:** Nil

**Responsible Officer:** Derek Finnigan – General Manager

**Author:** Joann Polsen (Senior Coordinator Waste Operations)

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#### **PURPOSE**

To submit for Council's consideration a draft protocol, with eligibility criteria, to determine the allocation of a subsidised additional 140L red lid bin or upsize to a 240L red lid bin for the first 12 months of introducing the recovery of food organics and garden organics (FOGO) service operations from 1 July 2024, for households with demonstrated genuine need.

Further, to outline a review/phase out process after the 12 months trial period.

#### **OFFICER'S RECOMMENDATION**

Council:

1. ENDORSES the protocol and eligibility criteria for the subsidised provision of an additional 140L red lid bin or upsize to a 240L red lid bin for the first 12 months of the food organics and garden organics (FOGO) service operations, for households with genuine need; and
2. Requests a review and subsequent report to Council regarding the implementation of the 12 month trial period of the protocol and eligibility criteria.

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

**BACKGROUND**

At the 14 May 2024 Extraordinary Council Meeting, Council resolved as follows in relation to report '8.2.1 FOGO collection system':

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**8.2.1. FOGO Collection System****MOTION**

MOVED by Cr B. Woodruff and Cr D. Marshall that:

Council endorses the establishment of the following ongoing protocols to assist the community in the transition to Food Organics Garden Organics (FOGO):

1. Weekly red bin pickup, subject to application, for an additional fee.
2. Upsized red lid bin, subject to application, for an additional fee.
3. Discounts for additional bins, subject to application and medical need.
4. Support to transition to cloth nappies, education programme and workshops.

**AMENDED MOTION**

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

Council endorses the establishment of the following ongoing protocols to assist the community in the transition to Food Organics Garden Organics (FOGO):

1. Weekly red bin pickup, subject to application, for an additional fee.
2. Upsized red lid bin, subject to application, for an additional fee.
3. Discounts for additional bins, subject to application and medical need.
4. Support to transition to cloth nappies, education programme and workshops.
5. Rate payers, on application and approval by Council, can upgrade to a larger bin or a second smaller bin free of charge for a period of 12 months and reviewed after that period.
6. A draft protocol to be submitted to Council with the criteria.

In Favour Cr M. Bowditch, Cr D. Douglas, Cr J. Drayton, Cr L. Dunn, Cr G. McNeill and Cr R. Mahajan

Against: Cr J. Lecky, Cr D. Marshall and Cr B. Woodruff

Council's resolution demonstrates a strong commitment towards ensuring support is provided to those households in our community who require assistance in managing their waste. With the new Food Organics Garden Organics (FOGO) service moving the red lid bin pickup to a fortnightly collection, it is understood that some residents may genuinely need additional red lid bin services due to their circumstances. This report provides eligibility criteria for subsidised red bin services.

At the Councillor Workshop conducted 23 May 2024, the following eligibility criteria were discussed:

**Eligibility Criteria**

For property owners to apply for the subsidised provision of:

- A. One additional 140L red lid bin, or
- B. Exchange one existing 140L bin for one 240L red lid bin,





one or more of the following criteria must be met:

1. Household with two or more children in nappies.
2. A large household of 6+ residents (excluding rooming houses, Airbnb's, other holiday and business rentals – businesses are encouraged to seek commercial waste and recycling services).
3. Household with one or more members with medical conditions generating excess waste.
4. A household demonstrating genuine additional need and under financial hardship.

Additionally, it was clarified that landlords will be able to apply for subsidised provision on behalf of their tenants.

### **Protocol**

#### **Application**

An Application Form is to be developed. The form will outline the conditions of application, including the eligibility criteria for subsidy.

To establish genuine need in applying the eligibility criteria, residents will need to provide their details and confirm their circumstances, for example, by way of statutory declaration.

Applicants who do not satisfy any of the eligibility criteria may still take advantage of an additional red lid bin or upsize by accepting the relevant charges.

#### **Limitations**

Only one subsidy applies per dwelling/household.

Requested services beyond those eligible for subsidy will incur charges.

#### **Funding**

Kerbside waste services are only funded by the Domestic Waste Management Charge(s) (DWM) levied on property rates, as set out in the *Local Government Act 1993*.

Consequently, to subsidise eligible applicants in genuine need, the actual costs must be recovered through an increase to the DWM charged on all properties in the collection area. Therefore, it is important to ensure subsidised services are kept to a strict minimum and that they apply only to households in genuine need who meet the eligibility criteria.

If the number of households in genuine need exceed estimates, then either the level of subsidy will need to be reduced or other kerbside waste services will need to be reduced or modified to fund the subsidy.

#### **Review/Phase out by June 2025**

It is understood that household circumstances change over time. Additionally, ongoing waste reduction education and assistance, and the evolution of recycling habits, will assist all households to reduce their waste generation, reducing the need for red bin capacity. As a result, the following options will be available:

- Within 12 months, households will be able to surrender the additional 140L red lid refuse bin or downsize from the 240L bin to the 140L red lid refuse bin, incurring no charges.
- If a household requires an extension of subsidised services beyond 12 months, they will need to submit a written request to be reported to Council to waive charges.
- Any subsidised services still active at the end of 12 months will have annual charges applied from 1 July 2025.

Households can contact Council to request changes to their services, such as downsizing or surrender of bin(s), and annual charges are adjusted so they only pay for the part of the year the bin was in place at the property.



**Financial Implications of a subsidised Service - Example:**

If 5% of serviced properties (400 residences) apply for an upsized bin, at full subsidy:

Upsize bin = \$100 supply + \$266 annual fee = \$366 multiplied 400 properties = \$146,400.

To subsidise this service, an increase of \$20.90 per urban property would be required to be charged as DWM in 2024-25.



## Domestic Waste Management Charges and Collection Frequency

With the inclusion of FOGO, the proposed fortnightly red bin pickup frequency has been structured to maintain Council's Domestic Waste Management Charges as one of the lowest in the Hunter Region.

As part of the NSW Government's Waste and Sustainable Materials Strategy (WaSM), the NSW Government's target is to halve the amount of organic waste sent to landfill by 2030. To help achieve this target and the achievement of net zero emissions from organics in landfill by 2030, the NSW Government has mandated the separate collection of food and garden organics (FOGO) from all NSW households by 2030.

Therefore, the fundamental goal of FOGO is to encourage waste behaviour change, increasing the recovery of organics, and reducing the amount of waste material going into refuse bins, which ends up buried in landfill and unable to be recovered.

Below is a summary of the services Council has endorsed for the transition to FOGO:

*Table 1: Waste Collection services from 1 July 2024.*

	Endorsed service from 1 July 2024	Need more red bin space?	Benefits	Risks	DWM Charges
A	<p><b>Weekly FOGO 240L (green lid bin)</b></p> <p><b>Fortnightly Recycle 240L (yellow lid bin)</b></p> <p><b>Fortnightly Refuse 140L (red lid bin)</b></p> <p>NSW Councils with this combination:</p> <ul style="list-style-type: none"> <li>Albury</li> <li>Lismore</li> <li>Tweed</li> <li>Byron</li> </ul>	<p>Application and payment available for the following options for increased red bin capacity:</p> <p>A. One additional 140L red lid refuse bin, or</p> <p>B. Exchange one existing 140L bin for one 240L red lid refuse bin, or</p> <p>C. Ad hoc weekly 140L red lid refuse bin.</p> <p>Additionally, proposed eligibility criteria to apply on application for above options for increased red bin capacity at a subsidised fee for 12 months for</p>	<p>Collection frequency with existing kerbside collection contract, with no need for contract variation and minimising per-bin collection contract fees.</p> <p>Weekly FOGO will yield maximum possible organics recovery, ensuring the cost effectiveness of the processing contract.</p> <p>The minority of households supported by waste surveys who have a need for additional red bin capacity have options available.</p> <p>Weekly FOGO bin collection frequency supported by grant funding.</p>	<p>Proposed subsidised applications supported with increases to DWM charges for all properties.</p>	<p>Charges have been calculated for 2024-25 and publicly exhibited.</p>



	<ul style="list-style-type: none"> <li>Penrith</li> </ul>	households in genuine need.			
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There is a range of alternatives for collection frequency and size options. The collection mixes require a variety of increasing DWM charges per household. The most efficient collection mix is to ensure user pays, which is fairest overall option, ensuring that most households are not subsidising the minority who can pay.

Collection frequency and size alternative options below provide a summary of benefits, risks, and financial implications.

	Alternative	Benefits	Risks	DWM
B	<p>Weekly FOGO 240L</p> <p>Fortnightly Recycle 240L</p> <p>Fortnightly Refuse bins <b>upsized to 240L</b></p> <p>NSW Councils with this combination:</p> <ul style="list-style-type: none"> <li>Bellingen</li> <li>Federation</li> <li>Clarence Valley</li> <li>Port Macquarie-Hastings</li> <li>Forbes</li> <li>Nambucca</li> <li>Coffs Harbour</li> <li>Ballina</li> <li>Shellharbour</li> <li>Richmond Valley</li> <li>Upper Hunter Shire</li> </ul>	<p>Renewed bin fleet.</p> <p>Providing the option of a larger bin can enhance community satisfaction with Council by accommodating the needs of those with greater refuse requirements.</p> <p>Only one 240L bin to put to the kerbside each fortnight, which takes up less kerb space than two 140L bins side by side for some households.</p>	<p>Current lead time for ad-hoc bin orders currently can be over six weeks. Unknown timeframe for a mass production.</p> <p>There is no provision in existing contract for mass new bin rollout – this would require a contract variation or Go To Market for a specialised Request For Quotation from a third party.</p> <p>Estimated cost to Council for supply of 7000 new 240L refuse bins = \$350,000 with an additional charge for delivery.</p> <p>Cost to remove 7000 of 140L refuse bins, approximately 24 truckloads back to Sulo or Mastec to melt down, at cost unknown. If this was not possible bins would be landfilled or stockpiled.</p> <p>Increased refuse bin capacity will likely lead to increased waste generation – more tonnage into landfill and increases in DWM charges.</p> <p>Reduced incentive to use the recycling bin and separate for FOGO, as changing waste behaviour is difficult, for example, it may be easy to put it all in the refuse bin.</p> <p>The properties who do not require the 240L will still be</p>	<p>Estimated increase in total cost of 30% from the endorsed service (A). The logistics of bin changes and costs are largely unknown until formally quoted.</p>



			charged for the provision of the bin and the service.	
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	Alternative	Benefits	Risks	DWM
C	<p>Weekly FOGO 240L Fortnightly Recycle 240L <b>Weekly Refuse 140L</b></p> <p>NSW Councils with this combination:</p> <ul style="list-style-type: none"> <li>Wagga Wagga</li> <li>Randwick</li> <li>Bega Valley</li> <li>Wollongong</li> <li>Kempsey</li> <li>Snowy Valleys</li> </ul>	<p>Providing the option of a weekly refuse bin can enhance community satisfaction with Council by accommodating the needs of those with greater refuse requirements.</p>	<p>Continuation of weekly red lid bin collection service may lead to increased waste generation – more tonnage into landfill and increases in DWM charges.</p> <p>Currently no provision in existing contract for weekly refuse collection as a standard offering from 1 July 2024. Contractor may have to procure additional vehicles, additional staff, and recalculate collection routes.</p> <p>Reduced incentive to use the recycling bin and separate for FOGO, as changing waste behaviour is difficult, for example, it may be easy to put it all in the refuse bin.</p> <p>One week 2 bins to the kerb, second week, 3 bins to the kerb. Some people may have issues with available space.</p>	<p>Annual collection costs would increase by approximately \$370,000, or 35% against endorsed service.</p> <p>This would increase DWM charge on each urban property to increase by at least \$61 on current estimates.</p>

	Alternate	Benefits	Risks	DWM
D	<p><b>Fortnightly FOGO 240L</b> Fortnightly Recycle 240L</p>	<p>Potential to halve transport costs, possible annual saving of \$40,000.</p> <p>Subject to engagement with FOGO and tonnage</p>	<p>Continuation of weekly red lid bin collection service may lead to increased waste generation – more tonnage into landfill and increases in DWM charges.</p> <p>Reduced FOGO collection frequency leads to reduced FOGO yield. Less FOGO yield to the processor than</p>	<p>To be confirmed with waste contractor.</p>



	<p><b>Weekly Refuse 140L</b></p> <p>NSW Councils with this combination:</p> <ul style="list-style-type: none"><li>• Gwydir</li><li>• Cootamundra - Gundagai</li><li>• Murray River</li><li>• Coolamon</li><li>• Goulburn Mulwaree</li><li>• Narrabri</li><li>• Moree Plains</li><li>• Queanbeyan-Palerang Regional</li><li>• Armidale Regional</li></ul>	<p>collected for processing the per tonne cost may be reduced.</p>	<p>proposed in the contract could change the commercial terms of the contract, as the volume expected is 3,500 tonnes.</p> <p>Reduced incentive to use the recycling bin and separate for FOGO, as changing waste behaviour is difficult, for example, it may be easy to put it all in the refuse bin.</p> <p>Non-compliant with Go FOGO grant conditions; Council would forgo \$62,000 in grant funding.</p> <p>Currently no provision in existing contract for weekly refuse and fortnightly FOGO collection.</p> <p>If people use FOGO as intended, then they will likely experience excessive odour issues, particularly in the second week and during warmer months.</p>	
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The most cost effective option, that is consistent with FOGO targets, is Council's endorsed service maintaining low DWM charges while providing options for households with genuine need. It is considered that this option incentivises the community to reduce waste going into landfill. Waste behaviour change is difficult, however, there are long-term benefits to the environment and to the community being ready for changes in waste management as the NSW Government's Waste and Sustainable Materials Strategy is implemented over time.



### **8.3. Property and Place**

Nil

### **8.4. Corporate Services**

Nil

### **8.5. Community and Economy**

Nil

## **9. Notices of Motion**

Nil

## **10. Closed Council**

Nil

## **11. Closure**

**Date of Next Meeting:** Ordinary Council Meeting 25 June 2024