



QUALITY NATURE - QUALITY HERITAGE - QUALITY LIFESTYLE

MINUTES OF ORDINARY COUNCIL MEETING WEDNESDAY, 21 DECEMBER 2016

MINUTES OF THE **Ordinary Council Meeting** OF TENTERFIELD SHIRE held at the Tenterfield Shire Council Chambers on Wednesday, 21 December 2016 commencing at 9.45am.

ATTENDANCE

Councillor Peter Petty (Mayor)
Councillor Greg Sauer (Deputy Mayor)
Councillor Don Forbes
Councillor John Macnish
Councillor John Martin
Councillor Brian Murray
Councillor Tom Peters
Councillor Bronwyn Petrie
Councillor Michael Petrie
Councillor Gary Verri

ALSO IN ATTENDANCE

General Manager (Damien Connor)
Actg Executive Assistant & Media (Sarah Watson)
Director of Corporate Services (Allan Shorter)
Director of Strategic Planning & Environmental Services (James Ruprai)
Director of Engineering Services (Stephen Bell)

Clause 254(b) of the Local Government (General) Regulation 2005 requires that the names of the mover and seconder of the motion or amendment are recorded and shown in the Minutes of the meeting.

A handwritten signature in black ink, appearing to be 'Peter Petty', is written over a red background at the bottom right of the page.

OPENING AND WELCOME

The Mayor took the time to acknowledge the passing of Mr Roger Braham with Council observing a minutes silence.

CIVIC PRAYER

We give thanks for the contribution by our pioneers, early settlers and those who fought in the various wars for the fabric of the Tenterfield Community we have today.

May the words of our mouths and the meditation of our hearts be acceptable in thy sight, O Lord.

ACKNOWLEDGEMENT OF COUNTRY

I would like to acknowledge the traditional custodians of this land that we are meeting on today. I would also like to pay respect to the Elders both past and present of the Jukembal, Kamilaroi and Bundjalung Nations and extend that respect to other Aboriginal people present.

APOLOGIES

Nil.

DISCLOSURE & DECLARATIONS OF INTEREST

Nil.

CONFIRMATION OF PREVIOUS MINUTES

306/16 **Resolved** that the Minutes of the Council meeting held on Wednesday, 23 November 2016, as circulated, be confirmed and signed as a true record of the proceeding of the meeting.

(Brian Murray/John Martin)

Motion Carried

TABLING OF DOCUMENTS

Nil.

URGENT, LATE & SUPPLEMENTARY ITEMS OF BUSINESS

ADDENDUM REPORTS

307/16 **Resolved** that the following Addendum Report be received.

- Confidential Item GOV38/16 – Performance Order

(Brian Murray/Gary Verri)

Motion Carried

308/16 **Resolved** that the following Addendum Report be received.

- Confidential Item ECO12/16 – Tender 01-16/17 Wallaby Creek Bridge



Construction.

(Michael Petrie/Tom Peters)

Motion Carried

309/16 **Resolved** that the following Addendum Report be received.

- Urgent Motion without Notice – Small Business Advisory Position

(Greg Sauer/Gary Verri)

Motion Carried

COMMUNITY CONSULTATION (PUBLIC ACCESS)

1. Mr Peter Robinson – (Item NM20/16) Operational Options – Tenterfield Visitor Information Centre
2. Mr Barry O'Connor - (Item NM20/16) Operational Options – Tenterfield Visitor Information Centre

MAYORAL MINUTE

Nil.

RECOMMENDATIONS FOR ITEMS TO BE CONSIDERED IN CONFIDENTIAL SECTION

CONFIDENTIAL ITEMS TO BE CONSIDERED

310/16 **Resolved** that the following items be considered in the Confidential Section of the Meeting:

- Sale of Industrial Land – Lot 9
- Appointment Terms – General Manager Damien Connor
- Tender 01-16/17 Wallaby Creek Bridge Construction
- Performance Order

(John Martin/Greg Sauer)

Motion Carried

OPEN COUNCIL REPORTS

OUR COMMUNITY

Nil.

OUR ECONOMY

(ITEM ECO9/16) NATIONAL LOCAL ROADS & TRANSPORT CONGRESS 2016

SUMMARY

The purpose of this report is to provide Council with a brief overview of the 2016 National Local Roads and Transport Congress, which was held at Toowoomba in Queensland from 9 to 11 November 2016.

- 311/16** **Resolved** that Council receive and note the report of the Mayor and Director Engineering Services regarding attendance at the 2016 National Local Roads and Transport Congress at Toowoomba on the 9 to 11 November 2016.

(Peter Petty/Greg Sauer)

Motion Carried

(ITEM ECO10/16) MARYLAND-CULLENDORE ROAD & BOONOO BOONOO FALLS ROAD - CLOSURE OF A SECTION OF EACH ROAD THROUGH THE NATIONAL PARK

SUMMARY

The purpose of this report is to provide an update to Council on the proposed road closures of both Maryland-Cullendore Road and Boonoo Boonoo Falls Road within the boundaries of the adjacent National Parks. Both roads have previously been resolved by Council to be closed, with the care and control of each section of road to be under the jurisdiction of the National Parks and Wildlife Service (NPWS).

- 312/16** **Resolved** that Council:

1. Proceed with the closing of a section of Maryland-Cullendore Road within the boundary of the Maryland National Park, with the closed section of road to be under the care and control of the NPWS in accordance with a previous Council resolution of March 2006 (CM193/06);
2. Proceed with the closing of a section of Boonoo Boonoo Falls Road within the boundary of the Boonoo Boonoo National Park, with the closed section of road to be under the care and control of the NPWS in accordance with a previous Council resolution of June 2006 (CM403/06);
3. Write to the NPWS advising of Council's resolution to formally transfer the care and control of a section of Maryland-Cullendore Road within the boundary of the Maryland National Park and Boonoo Boonoo Falls Road within the boundary of the Boonoo Boonoo National Park to the NPWS;
4. Is prepared to transfer the care and control of a section of Maryland-Cullendore Road within the boundary of the Maryland National Park and Boonoo Boonoo Falls Road within the boundary of the Boonoo Boonoo National Park subject to each section of road being available for access to the Rural Fire Service and other emergency service

agencies and no costs being borne by Council to formally close the road;

5. Once the subject sections of road are closed within each National Park boundary, Council proceed with renaming the sections of road affected by the closure of Maryland-Cullendore Road.

(Michael Petrie/Tom Peters)

Motion Carried

OUR ENVIRONMENT

(ITEM ENV53/16) PLANNING/DEVELOPMENT UPDATE

SUMMARY

The purpose of the report is to provide up to date statistics for Councillors on development activities, the information is also forwarded to the Australian Bureau of Statistics (ABS).

- 313/16** **Resolved** that Council receives and notes the Report "Planning/Development Update".

(Bronwyn Petrie/Greg Sauer)

Motion Carried

OUR GOVERNANCE

(ITEM GOV32/16) CODE OF CONDUCT COMPLAINTS STATISTICS REPORT

SUMMARY

The purpose of this report is to provide Council with a Code of Conduct Complaints Statistics Report for the period 1 September 2015 to 31 August 2016.

- 314/16** **Resolved** that Council notes the Model Code of Conduct Complaint Statistics.

(Donald Forbes/Michael Petrie)

Motion Carried

The Meeting adjourned for morning tea, the time being 10.25 am.

The Meeting reconvened with the same members present, the time being 10.44 am.

(ITEM GOV33/16) POLICY AMENDMENT - SEWERAGE AVAILABILITY CHARGES

SUMMARY

The purpose of this report is to consider amending Council's Revenue Policy in respect of the application of Sewerage Availability Charges where Council issues an Order to connect under Clause 124 of the Local Government Act and Clause 96 of the Local Government (General) Regulation 2005.

- 315/16** **Resolved** that Council:



(1) Amend the Revenue Policy 2016-17 Section 3.1 (paragraph no 3) to read:

1. "A Sewerage Availability Charge shall be applied to every rates assessment for each sewerage connection from 1 July in each rating year when the property subject to the rate assessment is within the Tenterfield or Urbenville Town areas and;
 - a) is connected to the Council's sewer main; or
 - b) is not connected to the Council's sewer main but any part of the property is no more than 75 metres from the Council's sewer main, and
 - c) is land from which sewerage can be discharged into any sewer of the Council.
2. A Sewerage Availability Charge shall not be applied to a parcel of rateable land which is the subject of an Order to connect to Council's sewer main until the land is connected to Council's sewer main, or the date specified in the Order by which the connection is required to have taken place has expired, whichever occurs first."

(2) Approve the amendment to the Revenue Policy 2016-17 to apply retrospectively from 1 July 2016.

(Gary Verri/Michael Petrie)

Motion Carried

FORESHADOWED MOTION

That Council:

(1) *Amend the Revenue Policy 2016-17 Section 3.1 (paragraph no 3) to read:*

1. *"A Sewerage Availability Charge shall be applied to every rates assessment for each sewerage connection from 1 July in each rating year when the property subject to the rate assessment is within the Tenterfield or Urbenville Town areas and;
 - a) *is connected to the Council's sewer main; or*
 - b) *is not connected to the Council's sewer main but any part of the property is no more than 75 metres from the Council's sewer main, and*
 - c) *is land from which sewerage can be discharged into any sewer of the Council.*
 - d) *and there is a building on the property from which sewerage can be discharged into Council's sewer main.**
2. *A Sewerage Availability Charge shall not be applied to a parcel of rateable land which is the subject of an Order to connect to Council's*



sewer main until the land is connected to Councils sewer main, or the date specified in the Order by which the connection is required to have taken place has expired, whichever occurs first."

The completion date in the order shall be 12 months unless an extension of time is given by the General Manager to assess extension of time requests.

- (2) Approve the amendment to the Revenue Policy 2016-17 to apply retrospectively from 1 July 2016.

(John Martin)

(ITEM GOV34/16) LONG TERM FINANCIAL PLAN PERFORMANCE INDICATOR RESULTS 2015/16

SUMMARY

The purpose of this report is to present to Council its financial performance for the year ended 30 June 2016 against the industry benchmarks in the Long Term Financial Plan.

- 316/16** **Resolved** that Council receives and notes the report "Long Term Financial Plan Performance Indicator Results 2015/16".

(Brian Murray/John Martin)

Motion Carried

(ITEM GOV35/16) FINANCE AND ACCOUNTS

SUMMARY

In accordance with Clause 212 of the Local Government (General) Regulation 2005 the Responsible Accounting Officer must provide a written report setting out details of all money that the Council has invested under Section 625 of the Local Government Act 1993. The report must be made up to the last day of the month immediately preceding the meeting.

- 317/16** **Resolved** that Council receive and note the Manager Finance's Report "Finance and Accounts" for the period ended 30 November 2016.

(Brian Murray/Michael Petrie)

Motion Carried

(ITEM GOV36/16) POSTED EXPENDITURE REPORT

SUMMARY

The purpose of this report is to monitor progress on major and critical expenditure items and flag when the expenditure reaches 60% of budget whether the item will meet budgeted targets.

- 318/16** **Resolved** that Council receive and note the "Posted Expenditure Report" for the period ended 30 November 2016.

(Gary Verri/Tom Peters)

Motion Carried



REPORTS OF DELEGATES & COMMITTEES

(ITEM RC41/16) REPORTS OF COMMITTEES & DELEGATES - 2016 LOCAL GOVERNMENT NSW ANNUAL CONFERENCE - 16 TO 18 OCTOBER 2016

SUMMARY

The Mayor and General Manager attended the 2016 Local Government NSW Annual Conference in Wollongong from 16 to 18 October 2016.

319/16 **Resolved** that the report from Mayor, Cr Peter Petty be received and noted.
(Peter Petty/Greg Sauer)

Motion Carried

NOTICES OF MOTION

(ITEM NM17/16) REMOVAL OF MARRIAGE EQUALITY PROCLAMATION

SUMMARY

The purpose of this motion is to remove the "Marriage Equality Proclamation" from Council's official documents.

RECOMMENDATION:

That Council removes the "Marriage Equality Proclamation" from its official documents.

(Donald Forbes/Michael Petrie)

Motion Lost

Councillor Brian Murray called for a Division – seconded by Councillor Forbes.

Voting for the Motion were Crs MP Petrie, D Forbes, B Murray and J Macnish Total (4).

Voting against the Motion were Crs TP Peters, G Verri, PP Petty, B Petrie, J Martin and G Sauer Total (6).

(ITEM NM18/16) REINSTATE NON-DENOMINATIONAL SERVICE IN AUSTRALIA DAY CELEBRATIONS

SUMMARY

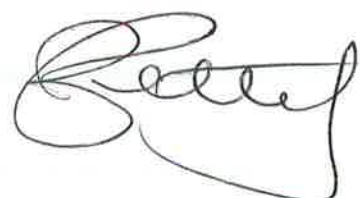
The purpose of this report is to reinstate the non-denominational service in the Australia Day celebrations.

RECOMMENDATION:

That Council amends the motion of February 2015 meeting to reinstate the non-denominational service in the Australia Day celebrations format beginning in 2017 as was the case for decades up to and including 2015.

(Donald Forbes/Brian Murray)

Motion Lost



FORESHADOWED MOTION

That Council amends the motion of February 2015 meeting to instate a non-denominational prayer/blessing by a person of the Mayors choosing in the Australia Day celebrations format beginning in 2017.

(Bronwyn Petrie/Greg Sauer)

320/16 **Resolved** that Council amends the motion of February 2015 meeting to instate a non-denominational prayer/blessing by a person of the Mayors choosing in the Australia Day celebrations format beginning in 2017.

(Bronwyn Petrie/Greg Sauer)

Motion Carried

(ITEM NM19/16) DEDICATION OF FUNDS FOR UPKEEP OF THE MEMORIAL BATHS

SUMMARY

The purpose of this report is to ensure Council has a commitment to funding for the planned maintenance and upkeep of the Tenterfield Memorial Baths.

321/16 **Resolved** that Council incorporated in its Strategic and Operational Plan a commitment to dedicate funds to provide for planned maintenance and upkeep of the Memorial Baths and develop a plan for its upgrade and associated facilities.

(Donald Forbes/Michael Petrie)

Motion Carried

(ITEM NM20/16) OPERATIONAL OPTIONS - TENTERFIELD VISITOR INFORMATION CENTRE

SUMMARY

The purpose of this report is for Council to consider a Notice of Motion regarding operational options for the Tenterfield Visitor Information Centre.

RECOMMENDATION:

That Council initiate discussions with the Chamber of Commerce or other interested organisations to explore prospects for that organization or other organisations to takeover and manage the Visitor Information Centre, with an arrangement similar to that the Tenterfield & District Visitors Association had with the Tenterfield Shire Council.

(Donald Forbes/Brian Murray)

Motion Lost

Councillor Murray called for a Division – seconded by Councillor Forbes.

Voting for the Motion were Crs MP Petrie, D Forbes, B Murray and J Macnish Total (4).

Voting against the Motion were Crs TP Peters, G Verri, PP Petty, B Petrie, J Martin and G Sauer Total (6).



RESOLUTION REGISTER

(ITEM RES5/16) COUNCIL RESOLUTION REGISTER - DECEMBER 2016

SUMMARY

The purpose of this report is to provide a standing monthly report to the Ordinary Meeting of Council that outlines all resolutions of Council previously adopted and yet to be finalised.

322/16 **Resolved** that the Council Resolution Register to December 2016 be received and noted.

(Brian Murray/Michael Petrie)

Motion Carried

LATE URGENT NOTICE OF MOTION – POSITION OF SMALL BUSINESS ADVISOR

SUMMARY

The purpose of this report is for Council to consider a Notice of Motion regarding the position of Small Business Advisor based in northern part of New England.

323/16 **Resolved** that the Tenterfield Shire Council write to the Hon Thomas George MP to advocate on our behalf to the appropriate Minister to restore the position of the Small Business Advisor based in the northern part of the New England e.g. Armidale north and that the business model for the small business advisor remain the same i.e. fledgling business receive the service at a subsidised rate and established business pay the full cost.

(Gary Verri/John Martin)

Motion Carried

CONFIDENTIAL BUSINESS

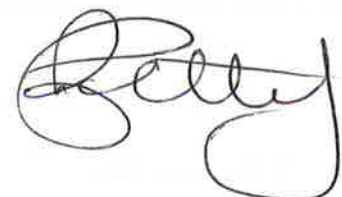
CONFIDENTIAL MATTERS FOR CONSIDERATION IN CLOSED PART OF MEETING

324/16 **Resolved** that:

- a) the meeting be closed to the public and members of the press because of the need for confidentiality, privilege or security, as specified below and provided for under Section 10A(2) of the Local Government Act, 1993; and
- b) the Agenda and associated correspondence, unless specified are not to be released to the Public as they relate to a matter of either personal hardship, personal matters, trade secrets or matters which cannot be lawfully disclosed.

(Bronwyn Petrie/Tom Peters)

Motion Carried



SUSPENSION OF STANDING ORDERS

325/16 **Resolved** that the following report be moved to the last item on the agenda.

- (Item GOV37/16) Appointment Terms - General Manager Damien Connor

(Gary Verri/Bronwyn Petrie)

Motion Carried

(ITEM ECO11/16) SALE OF INDUSTRIAL LAND - LOT 9

That above item be considered in Closed Session to the exclusion of the press and public in accordance with Section 10A(2) (c) (d(i)) (d(ii)) of the Local Government Act, 1993, as the matter involves information that would, if disclosed, confer a commercial advantage on a person with whom the Council is conducting (or proposes to conduct) business; AND commercial information of a confidential nature that would, if disclosed (i) prejudice the commercial position of the person who supplied it; AND commercial information of a confidential nature that would, if disclosed (ii) confer a commercial advantage on a competitor of the Council.

SUMMARY

The purpose of this report is to inform Council of an offer on a land parcel in our Industrial Estate.

MOVED:

That Council agree to proceed with the sale of land in line with option (A) as stated in the "Report section" of this Confidential report.

(John Martin/Michael Petrie)

Mayor Peter Petty left the Meeting, the time being 11.57am, Deputy Mayor, Greg Sauer acted as Chairperson.

Mayor Peter Petty returned to the Meeting, the time being 11.59am.

AMENDMENT

326/16 **Resolved** that Council agree to proceed with the sale of land in line with option (A) as stated in the "Report section" of this Confidential report, Conditional upon lodgement of a DA within 6 months and commencement within 2 years of a consent being issued.

(Bronwyn Petrie/Brian Murray)

Motion Carried

(ITEM ECO12/16) TENDER 01-16/17 WALLABY CREEK BRIDGE CONSTRUCTION

That above item be considered in Closed Session to the exclusion of the press and public in accordance with Section 10A(2) (d(i)) (d(ii)) (d(iii)) of the Local Government Act, 1993, as the matter involves commercial information of a confidential nature that would, if disclosed (i) prejudice the commercial position



of the person who supplied it; AND commercial information of a confidential nature that would, if disclosed (ii) confer a commercial advantage on a competitor of the Council; AND commercial information of a confidential nature that would, if disclosed (iii) reveal a trade secret.

SUMMARY

The purpose of this report is for the Council to consider the submissions received from the advertising of Tender 01-16/17 Wallaby Creek Bridge Construction. It will be a recommendation to the Council that the Tender received from Ozwide Bridge Rail & Civil be accepted for a lump sum tender price of \$375,595.00 (GST Inclusive).

327/16 **Resolved** that Council awards Tender 01-16/17 for construction of Wallaby Creek Bridge to OzWide Bridge Rail & Civil for a cost of \$375,595.00 (GST inclusive).

(Greg Sauer/Tom Peters)

Motion Carried

(ITEM GOV3816) – PERFORMANCE ORDER

That above item be considered in Closed Session to the exclusion of the press and public in accordance with Section 10A(2) (c) (d(i)) (d(ii)) of the Local Government Act, 1993, as the matter involves information that would, if disclosed, confer a commercial advantage on a person with whom the Council is conducting (or proposes to conduct) business; AND commercial information of a confidential nature that would, if disclosed (i) prejudice the commercial position of the person who supplied it; AND commercial information of a confidential nature that would, if disclosed (ii) confer a commercial advantage on a competitor of the Council.

SUMMARY

The purpose of this report is for Council to consider the draft Performance Improvement Order served on Council by the Office of Local Government on the 6th December 2016. The report also explores the lack of validity of such and considers the best approach for the response to such.
GOV 38/16– Performance Order

328/16 **Resolved** that:

- 1) Council reply to the Minister for Local Government, with details as set out in this report, and request that he withdraw the draft Performance Improvement Order served on Tenterfield Shire Council without delay;
- 2) Whilst awaiting response from the Minister for Local Government, Council begin the process to engage a major Audit, Assurance and Accounting Firm to undertake an independent assurance engagement with regard to Councils Fit for the Future projections if the draft Order is not removed;
- 3) If as expected Councils forward projections are held to be reasonable, achievable and consistent with those across the sector by a suitable qualified and independent Assurance Firm, then a public apology and explanation be issued to Council from the Office of Local Government and the Minister for Local Government for the public issuing of the draft Performance Improvement Order;



- 4) Council lodge a formal complaint to the Minister for Local Government that demonstrates Councils strongest disappointment and disapproval of the Office of Local Government with regard to:
 - i) the severely flawed reassessment of Councils Fit for the Future Plans;
 - ii) the completely inadequate level of detail and explanation for the reassessment finding and the failure of the Office of Local Government to provide appropriate factual responses to questions raised with them since the issuing of the draft Order;
 - iii) the non-justification for issuing a draft Performance Improvement Order in these circumstances and the advice given to the Minister by the Acting General Manager regarding such; and
 - iv) the unprofessional manner in which this entire process has been handled by the Office of Local Government and the cynical timing of such.
- 5) An in person meeting with the Minister for Local Government and Council Delegates be organised for the earliest possible time in January 2017.
- 6) Copies of Councils response to the Minister for Local Government be provided to Councils local members requesting their support in the matter, including; State Member for Lismore the Hon Thomas George MP; Deputy Prime Minister and Federal Member for New England the Hon Barnaby Joyce MP; and Parliamentary Secretary for Northern NSW Mr Adam Marshall MP.
- 7) A copy of the reply also be forwarded to the Secretary - Department of Premier & Cabinet, Mr Blair Comley PSM.

(Greg Sauer/Michael Petrie)

Motion Carried

The General Manager, Director of Corporate Services, Director of Strategic Planning & Environmental Services and Director of Engineering Services left the Meeting, the time being 12.40pm.

(ITEM GOV37/16) APPOINTMENT TERMS - GENERAL MANAGER DAMIEN CONNOR

That above item be considered in Closed Session to the exclusion of the press and public in accordance with Section 10A(2) (a) of the Local Government Act, 1993, as the matter involves personnel matters concerning particular individuals.

SUMMARY

The purpose of this report is for Council to review the General Manager's remuneration package following his six (6) monthly review.

MOVED:

That Council approve the increase of the General Manager's total remuneration package to a percentage increase of ...%.

(Peter Petty/Greg Sauer)



AMENDMENT

That Council approve the increase of the General Manager's total remuneration package to a percentage increase of 3%.

(John Macnish/Bronwyn Petrie)

329/16 **Resolved** that Council approve the increase of the General Manager's total remuneration package to a percentage increase of 3%.

(John Macnish/Bronwyn Petrie)

Motion Carried

MOVE OUT OF CONFIDENTIAL PART OF MEETING

330/16 **Resolved** that the meeting move out of Closed Committee.

(Gary Verri/Bronwyn Petrie)

Motion Carried

The meeting moved out of Committee and the doors were opened to the public, the time being 1.03 pm.

The Mayor read the resolutions as resolved by Council whilst in Closed Committee.

MEETING CLOSED

There being no further business the Mayor declared the meeting closed at 1.10 pm.



Councillor Peter Petty
Mayor/Chairperson