

ORDINARY COUNCIL MINUTES

held in the Council Chambers Ray Walsh House, 437 Peel Street, Tamworth

TUESDAY 26 JULY 2011 at 6:30pm

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PRESENT: Cr Col Murray (Mayor), Cr Paul Durant, Cr Helen Tickle, Cr Ray Tait, Cr James Treloar, Cr Russell Webb, Cr Juanita Wilson and Cr Warren Woodley.

IN ATTENDANCE: The General Manager, Director Water Enterprises, Director Corporate and Governance, Director Business and Economic Development, Director Planning and Community Services and Director Regional Services.

1 APOLOGIES

An apology was announced as having been received from Cr Betts who was unable to attend the Meeting due to personal business.

MOTION

Moved Cr Durant/Cr Webb

205/11 RESOLVED

That the apology be accepted from Cr Betts and leave of absence granted from the Meeting.

2 COMMUNITY CONSULTATION

2.1 TAMWORTH REGIONAL COUNCIL WASTE MANAGEMENT WORKING GROUP MINUTES – FILE NO SF3101

Mr Geoff Webster, convenor of the Attunga Tip Working Group, addressed Council and stated that he had not made any political donation or gift to any Councillor or Council employee. He stated that he would like to make three points in relation to Item 7.2 of the Business Paper:

- (i) that the Working Group wish to thank Council for allowing the presentation of their case;
- (ii) that the Working Group urge Council to accept the Waste Committee's recommendations; and
- (iii) that it was now up to the residents of the Attunga area to justify that the tip has an important place in the community, and it is acknowledged that the onus is on the community to prove this.

2.2 DWELLING ON LOT 34 IN DP 755322 NOWENDOC ROAD, NIANGALA – FILE NO DA0403/2011

Ms Judith Capp addressed Council and stated that she had not made any political donation or gift to any Councillor or Council employee. Ms Capp stated that she was going to address the objections that were put forward in regards to her Development Application.

Objection No 1 – that the land did not meet the minimum lot size specified by the Lot Site Map; in this instance 400 hectares. Ms Capp declared that she had no intentions of subdividing or selling any parcel of the land, she also stated that her land was closer to Walcha Council than Tamworth, and that Walcha Council would approve this Development Application.

Objection No 2 – the development was inconsistent with the objectives of the RU1 Primary Production Zone. Ms Capp stated that after the land was cleared of pine trees, she would be returning the land back to pasture, in keeping with her neighbouring properties and creating biodiversity.

Objection No 3 – that the land should be used for development of rural related purposes. Ms Capp stated that she was not a developer nor would she be subdividing the land, the objective was to build a home for her retirement.

Objection No 4 – that the land would prejudice agriculture production in the area. Ms Capp referred to clause 4.6 of the Tamworth Regional Local Environmental Plan 2010 and stated that in accordance with this clause compliance with the development standard is unreasonable or unnecessary in the circumstances of the case.

2.3 SALE OF COUNCIL LAND AT 121-139 PEEL STREET, TAMWORTH – FILE No SF937

Mr Gary Chillingsworth addressed Council and stated that he had not made any political donation or gift to any Councillor or Council employee. He stated that he was in favour of a proposal to sell Jack Woolaston Oval, currently leased to the North Tamworth Rugby League Club for the development of a commercial enterprise. He stated that this should be on the understanding that the money derived from the sale of the land, of which the North Tamworth Rugby League Club has a large infrastructure investment, would be used to construct a high quality Regional Sports Centre on Moore Creek Road.

Mr Chillingsworth stated that this proposed new Regional Sports Centre could be constructed at minimal cost to Council by applying for Government Grants. Mr Chillingsworth stated that Tamworth is known for its sporting facilities, however, Tamworth does not have a high quality outdoor Sports Centre and the sale of this land will have the potential to provide such a facility to our Community.

3 CONFIRMATION OF MINUTES OF PREVIOUS MEETING

MOTION

Moved Cr Treloar/Cr Webb

206/11 RESOLVED

That the Minutes of the Ordinary Meeting of the Council held on Tuesday 12 July 2011, copies of which were circulated, be taken as read and confirmed as a correct record of the proceedings of the Meeting.

MATTERS ARISING FROM THE MINUTES

Cr Treloar spoke in relation to Resolution No 204/11, Destination Tamworth Business Structure and Strategy Report. Cr Treloar stated that it was reported in the Northern Daily Leader that he voted against the report.

Cr Treloar clarified that he fully supports the proposal however, it was the recommendation of the report that he was voting against. He stated that the community has a right to know what Council is discussing and a right to have input into the decision making process. Cr Treloar felt that recommendation was a significant change from Council's adopted 2011/2014 Management Plan and therefore, he believed the proposal should have been displayed for a period of twenty eight days to allow for the community to comment on the changes prior to Council voting on the matter.

4 DISCLOSURE OF INTEREST

Cr Treloar declared a conflict of interest in Item 7.3 "301-305 Peel Street Awning, Tamworth" of the Business Paper, for reason that he is a shareholder and a Director of a Company that owns property adjoining the building. Cr Treloar further stated that he has no pecuniary interest in the matter and would remain in the Chamber and participate in the debate.

5 MAYORAL MINUTE

Nil

COUNCIL REPORTS

OPEN COUNCIL REPORTS

6 ENVIRONMENT & PLANNING

6.1 DWELLING ON LOT 34 IN DP 755322 NOWENDOC ROAD, NIANGALA – FILE No DA0403/2011

DIRECTORATE: PLANNING AND COMMUNITY SERVICES

AUTHOR: Lucy Walker, Senior Development Assessment Planner

MOTION

Moved Cr Webb/Cr Durant

That in relation to Development Application No DA0403/2011 for a dwelling on Lot 34 in DP 755322 Nowendoc Road, Niangala, the application be determined by refusal of development consent for the following reasons:

- (i) the land does not satisfy the provisions of clause 4.2B of the Tamworth Regional Local Environmental Plan 2010 for a dwelling, specifically subclause (3)(a) which requires compliance with the minimum area specified by the Lot Size Map;

- (ii) the proposal is contrary to the objectives of the RU1 Primary Production Zone of the Tamworth Regional Local Environmental Plan 2010, specifically points 1, 2, 3 and 4;
- (iii) the proposal is contrary to the Planning Principles for Rural Development contained within the State Environmental Planning Policy (Rural Lands) 2008, specifically clauses (a), (b), (c) and (d); and
- (iv) the site is not suitable for the development pursuant to 79C(1)(c) of the Environmental Planning and Assessment Act 1979, as the surrounding locality is comprised of dwellings on large rural holdings utilised for genuine agricultural pursuits and the proposal will prejudice future agricultural production.

The Motion, with the consent of the seconder was **WITHDRAWN**. The Mayor consented to the withdrawal of the Motion.

FURTHER MOTION

Moved Cr Webb/Cr Durant

207/11 RESOLVED

That, in relation to Development Application No DA0403/2011 for a Dwelling on Lot 34 in DP 755322 Nowendoc Road, Niangala, Council:

- (i) refer the application to the Director-General of Planning and Infrastructure for concurrence pursuant to clause 4.6(4)(b) of the Tamworth Regional Local Environmental Plan 2010; and
- (ii) determine the application following receipt of the Director-General’s advice.

RECORD OF VOTING ON DEVELOPMENT OR PLANNING MATTERS – SECTION 375A(3) LOCAL GOVERNMENT ACT 1993

DIVISION

COUNCILLORS WHO VOTED FOR THE DECISION	COUNCILLORS WHO VOTED AGAINST THE DECISION
1. Cr Col Murray, Mayor 2. Cr Paul Durant 3. Cr Ray Tait 4. Cr Helen Tickle 5. Cr James Treloar 6. Cr Russell Webb 7. Cr Juanita Wilson 8. Cr Warren Woodley	NIL

6.2 PLANNING PROPOSAL TO PERMIT WITH CONSENT DWELLINGS AND SECONDARY DWELLINGS IN THE SP3 TOURIST ZONE – FILE No 5190

DIRECTORATE: PLANNING AND COMMUNITY SERVICES

AUTHOR: Megan Purkiss, Strategic Planner

MOTION

Moved Cr Durant/Cr Wilson

208/11 RESOLVED

That in relation to the Gateway Determination for the Planning Proposal to permit with consent dwellings and secondary dwellings in the SP3 Tourist Zone, Council:

- (i) apply to the Department of Planning and Infrastructure for an extension of the allocated timeframe to allow 12 months to finalise the amended Local Environmental Plan; and
- (ii) agree not to progress the Planning Proposal until such time as the Draft South Tamworth Rural Lands Master Plan has been endorsed for exhibition by Council.

RECORD OF VOTING ON DEVELOPMENT OR PLANNING MATTERS – SECTION 375A(3) LOCAL GOVERNMENT ACT 1993

DIVISION

COUNCILLORS WHO VOTED FOR THE DECISION	COUNCILLORS WHO VOTED AGAINST THE DECISION
1. Cr Col Murray, Mayor 2. Cr Paul Durant 3. Cr Ray Tait 4. Cr Helen Tickle 5. Cr James Treloar 6. Cr Russell Webb 7. Cr Juanita Wilson 8. Cr Warren Woodley	NIL

7 INFRASTRUCTURE AND SERVICES

7.1 STATE EMERGENCY SERVICE – APPOINTMENT OF LOCAL CONTROLLER AND UNIT CONTROLLERS WITHIN THE TAMWORTH REGIONAL COUNCIL LOCAL GOVERNMENT AREA – FILE NO SF211

DIRECTORATE: REGIONAL SERVICES

AUTHOR: John Davis, Manager Waste Services

MOTION

Moved Cr Tait/Cr Wilson

209/11 RESOLVED

That in relation to the report “State Emergency Service – Appointment of Local Controller and Unit Controllers within the Tamworth Regional Council Local Government Area”, Council support the appointment of:

- (i) Mr Neil Carless as Tamworth Local Controller;
- (ii) Ms Vicki Blinman as Manilla Unit Controller;
- (iii) Mr Eugene McCullen as Barraba Unit Controller; and
- (iv) Ms Jennifer Wright as Nundle Unit Controller

7.2 TAMWORTH REGIONAL COUNCIL WASTE MANAGEMENT WORKING GROUP MINUTES – FILE NO SF3101

DIRECTORATE: REGIONAL SERVICES

AUTHOR: John Davis, Manager Waste Services

MOTION

Moved Cr Tait/Cr Durant

210/11 RESOLVED

That in relation to the report “Tamworth Regional Council Waste Management Working Group Minutes”, Council:

- (i) receive and note the minutes of the Waste Management Working Group meeting held on 12 July 2011;
- (ii) approve an extension of the timeframe for waste management trials in the Attunga locality for a further three months to include the continued servicing of four common waste collection points and the opening of the Attunga landfill site for four hours each month to operate as a waste transfer facility; and
- (iii) request the Waste Management Working Group, through the Director of Regional Services, provide a further report following completion of the Attunga waste management trials.

7.3 301-305 PEEL STREET AWNING, TAMWORTH – FILE NO RF444

DIRECTORATE: REGIONAL SERVICES

AUTHOR: Warren Faulkner, Manager Infrastructure Planning

Cr Treloar declared a conflict of interest in this report for reason that he is a shareholder and a Director of a Company that owns property adjoining the building. Cr Treloar further stated that he has no pecuniary interest in the matter and would remain in the Chamber and participate in the debate.

MOTION

Moved Cr Woodley/Cr Tickle

That in relation to the report “301-305 Peel Street Awning, Tamworth”, Council:

- (i) as the owner of the land, and as authorised under Section 138 of the Roads Act 1993, advise the applicant that owners consent to lodge the development application, as it is currently presented, is not granted; and
- (ii) agree, in principle, that the installation of posts in the Peel Street Central Business District of Tamworth, to support building awnings, is not supported on the grounds of visual amenity and public liability, unless under exceptional circumstances.

The Motion, with the consent of the seconder was **WITHDRAWN**. The Mayor consented to the withdrawal of the Motion.

FURTHER MOTION

Moved Cr Woodley/Cr Tait

211/11 RESOLVED

That in relation to the report “301-305 Peel Street Awning, Tamworth”, Council:

- (i) as the owner of the land, and as authorised under Section 138 of the Roads Act 1993, advise the applicant that owners consent to lodge the development application, as it is currently presented, is not granted; and
- (ii) request the Director Planning and Community Services to investigate the issue of posts on street awnings in the Peel Street Central Business District in consultation with the Tamworth City Centre Working Group and present a further report to Council.

8 CORPORATE & GOVERNANCE

8.1 CONTRACT WITH ACCESS ECONOMICS PTY LTD UNDER THE AUSTRALIAN GOVERNMENT STRENGTHENING BASIN COMMUNITIES PROGRAM – FILE No SF5076

DIRECTORATE: OFFICE OF THE GENERAL MANAGER

AUTHOR: Peter Thompson, General Counsel

MOTION

Moved Cr Woodley/Cr Durant

212/11 RESOLVED

That in relation to the Contract with Access Economics Pty Ltd for the work funded by the Australian Government Department of the Environment, Water, Heritage and the Arts under the Strengthening Basin Communities Program, Council authorise the affixing of the Council Seal to the Deed of Novation to novate the Contract terms from Access Economics Pty Ltd to Deloitte Access Economics Pty Ltd.

8.2 PAYMENT OF EXPENSES AND PROVISION OF FACILITIES TO COUNCILLORS – FILE No SF828

DIRECTORATE: CORPORATE AND GOVERNANCE

AUTHOR: Robert Charlesworth, Manager Governance

MOTION

Moved Cr Woodley/Cr Webb

213/11 RESOLVED

That in relation to the report “Payment of Expenses and Provision of Facilities to Councillors”, Council:

- (i) in accordance with Section 252 of the Local Government Act 1993, adopt the “Payment of Expenses and Provision of Facilities to Councillors” Policy as per the ANNEXURE appended to the report;
- (ii) in accordance with Section 253 of the Local Government Act 1993, give public notice of the Policy identified as per the ANNEXURE appended to the report for the ensuing 12 months and allow at least 28 days for the making of public submissions;
- (iii) confirm adoption of the Policy identified as per the ANNEXURE appended to the report at the 27 September 2011, Ordinary Meeting of the Council having regard to any public submissions received; and
- (iv) include in the Policy the provision for Councillors iPads inclusive of the 3 gigabytes of download per month.

8.3 GOVERNMENT INFORMATION (PUBLIC ACCESS) ACT 2009 (GIPA) – PUBLICATION GUIDE UPDATE– FILE No SF4633

DIRECTORATE: CORPORATE AND GOVERNANCE
AUTHOR: Karen Litchfield, Manager Administration and Customer Service

MOTION

Moved Cr Webb/Cr Wilson

214/11 RESOLVED

That in relation to the report “Government Information (Public Access) Act 2009 (GIPA) – Publication Guide Update”, Council:

- (i) adopt the updated Publication Guide as required under the Government Information (Public Access) Act 2009; and
- (ii) note that the updated Publication Guide was provided to the NSW Office of the Information Commissioner on the 15 July 2011.

8.4 NAMOI COUNCILS INCORPORATION – FILE No SF2414

DIRECTORATE: CORPORATE AND GOVERNANCE
AUTHOR: Robert Charlesworth, Manager Governance

MOTION

Moved Cr Durant/Cr Webb

215/11 RESOLVED

That in relation to the report “Namoi Councils Incorporation”, Council consent to the Incorporation of Namoi Councils under the Associations Incorporation Act (NSW) 2009.

8.5 VARIATION OF RESTRICTION ON THE USE OF LAND – FILE No LF22449

DIRECTORATE: OFFICE OF THE GENERAL MANAGER
AUTHOR: Peter Thompson, General Counsel

MOTION

Moved Cr Wilson/Cr Woodley

216/11 RESOLVED

That in relation to Lot 26 in Deposited Plan 1142114, Council resolve to:

- (i) enter into a Deed of Agreement authorising the relocation of the building envelope on Lot 26 a distance of 25m to the south west of the current location with the new location to be specifically identified by a plan attached to the Deed;
- (ii) execute the Real Property Act Form titled “Variation or Modification of Restriction on the Use of Land” to be registered at the Office of Land and Property

Information to record that Council has exercised its discretion to vary the Restriction as to the Use of Land as described in the Deed of Agreement; and

- (iii) affix the Council Seal to the Deed of Agreement and the Real Property Act Form identified in resolutions (i) and (ii) above.

8.6 COUNCIL INVESTMENTS JUNE 2011 – FILE No SF4917

DIRECTORATE: CORPORATE AND GOVERNANCE

AUTHOR: Rick Sanderson, Acting Manager Financial Services

MOTION

Moved Cr Durant/Cr Woodley

217/11 RESOLVED

That the report on Council's Investments for the month of June 2011, be received and noted.

8.7 NUNDE COMMON TRUST – APPLICATION FOR ENROLMENT – FILE No SF2055

DIRECTORATE: CORPORATE AND GOVERNANCE

AUTHOR: Kay Burnes, Section 355 Committee Co-ordinator

MOTION

Moved Cr Woodley/Cr Webb

218/11 RESOLVED

That in respect of the applications received by Council as Trustee of the Nundle Common, Council approve the applications of Andrew Robinson and Joanne Robinson and direct that their names be entered on the Commoners' Roll for the Nundle Common.

8.8 SUB-LEASE OF HANGAR No 1 – FILE No SF296

DIRECTORATE: BUSINESS AND ECONOMIC DEVELOPMENT

AUTHOR: Michael Dubois, Business Manager

MOTION

Moved Cr Tait/Cr Woodley

219/11 RESOLVED

That in relation to a request for a sub-lease arrangement of Hangar No 1 by Eastern Australian Airlines (QantasLink) Council:

- (i) approve the sub-lease arrangement on a month to month basis by Eastern Australian Airlines (QantasLink) to Singapore Airlines Flying College; and

- (ii) review the sub-lease after a period of 12 months with a further report to Council, if the aircraft have not been sold.

MATTER ARISING FROM THE REPORT – FILE NO SF80

Cr Tait stated that the Fokker F27 is still parked at the airport. Cr Tait questioned why this aircraft was on Council Land when the owner has been asked to remove the aircraft following the Strategy and Finance Committee Meeting held 10 February 2010. The General Manager informed Cr Tait that discussions had been held on rehabilitating the aircraft however, those discussions have not led to a successful outcome and that the owner will be advised to remove the aircraft from the airport as a matter of urgency.

9 REPORTS FROM DELEGATES

Nil

10 QUESTIONS AND MATTERS OF CONCERN

10.1 WORKSHOP ON MINING – FILE NO SF444

Cr Wilson questioned the status of a Councillor workshop on Mining Licences in the Tamworth Region. Director of Planning and Community Services advised that Council officers are currently working on a discussion paper for Tamworth Regional Council that will be completed within three weeks, a workshop will be held following the assessment of the discussion paper.

10.2 EXELOO TOILETS IN ANZAC PARK – FILE NO PF9

Cr Tait referred to the Exeloo Toilet in Anzac Park which is now operational, and asked the General Manager to evaluate the cost of the facility over the next six months and investigate the possibility of expanding the project. Cr Tait requested the General Manager provide a report to Council following the evaluation and investigation.

10.3 PEDESTRIAN CROSSING IN MARIUS STREET – FILE NO SF242

Cr Woodley referred to the ongoing issues for the safety of pedestrians at the traffic lights in Marius Street and quoted an incident he was personally involved in. He suggested that Council continue to monitor the situation.

10.4 MULTI PURPOSE HALL AT CALROSSY ANGLICAN SCHOOL – FILE NO LF1784

Cr Webb stated that he had been advised by the Calrossy Anglican School that there were issues in obtaining an Occupation Certificate for the new hall at the William Cowper Campus on Moore Creek Road, built under the Federal Government's Building the Education Revolution funding.

Cr Webb stated that the School is in need of the facility and asked if the Director of Planning and Community Services could liaise with the School in an attempt to resolve the matter.

11 REPORTS TO BE CONSIDERED IN CLOSED COUNCIL

MOTION

Moved Cr Tait/Cr Durant

220/11 RESOLVED

That the confidential reports as listed be considered in a meeting closed to the public in accordance with Section 10A(2) of the Local Government Act 1993.

11.1 SALE OF COUNCIL LAND AT 121-139 PEEL STREET, TAMWORTH – FILE No SF937

DIRECTORATE: OFFICE OF THE GENERAL MANAGER

AUTHOR: Peter Thompson, General Counsel

The Council will determine this matter in the meeting closed to the public pursuant to Section 10A(2)(c) of the Local Government Act 1993 on the grounds that the matter and information is information that would, if disclosed, confer a commercial advantage on a person with whom the Council is conducting (or proposes to conduct) business.

* * * * *

At 7.52 pm, the Chairperson offered the opportunity to members of the public to make representations as to whether any part of the Council Meeting should not be considered in Closed Council.

There was no response from the public. The General Manager advised the Chairperson that no written public submissions or representations had been received as to whether or not part of the meeting should be closed to the public.

The Chairperson advised that it is a requirement of clause 253 of the *Local Government (General) Regulation 2005* that any resolution passed in Closed Council, be made public as soon as practicable after the meeting has ended. At the end of Closed Council meeting and upon resumption into Open Council, the Chairperson will provide a summary of those resolutions passed in Closed Council.

12 CLOSED COUNCIL REPORTS

12.1 SALE OF COUNCIL LAND AT 121-139 PEEL STREET, TAMWORTH – FILE No SF937

DIRECTORATE: OFFICE OF THE GENERAL MANAGER

AUTHOR: Peter Thompson, General Counsel

MOTION

Moved Cr Webb/Cr Woodley

221/11 RESOLVED

That in relation to the offer to purchase part Lots 15 and 16 in DP 858511 from Tamworth Property and Investment Pty Limited, Council:

- (i) authorise the Mayor and General Manager to enter into preliminary negotiations for the sale of the land, by way of a purchase option, under terms as detailed in the report; and
- (ii) following finalisation of preliminary negotiations, request the General Manager to provide a further report on this matter giving details of the negotiations, recommendations or otherwise for the sale of the land, and recommendations for the relocation and re-establishment of the community group/s currently occupying the land.

13 RESOLUTIONS PASSED IN CLOSED COUNCIL

At 8.12 pm the meeting moved back into Open Council.

In accordance with clause 253 of the *Local Government (General) Regulation 2005* the Chairperson provided a summary of the resolutions passed in Closed Council.

Closure: There being no further business the Ordinary Meeting of Council concluded at 8.13 pm.

Chairperson

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