



# **MINUTES**

**Ordinary Council Meeting**

**13 December 2017**

**MINUTES OF NARRANDERA SHIRE COUNCIL  
ORDINARY COUNCIL MEETING  
HELD AT THE COUNCIL CHAMBERS  
ON WEDNESDAY 13 DECEMBER 2017 AT 2.00PM**

The Mayor declared the meeting opened at **2.05pm** and welcomed the Councillors, Staff, Media and Members of the Gallery.

**1 ACKNOWLEDGEMENT OF COUNTRY**

*I would like to acknowledge the Wiradjuri people who are the Traditional Custodians of the Land. I would also like to pay respect to their people both past and present and extend that respect to other Aboriginal Australians who are present*

**2 HOUSE KEEPING**

*Advice provided of Council's Work, Health and Safety (WHS) Evacuation Plan and location of the Amenities.*

**3 DISCLOSURE OF POLITICAL DONATIONS**

Advice provided to those present, of the legislative requirement for Disclosure of Political Donations:

*The Environmental Planning and Assessment Act 1979, Section 147 requires a person submitting planning applications or submissions regarding a planning application, to disclose any reportable political donation and/or gifts to any local Councillor or employee of Council. Reportable political donations include those of, or above, \$1,000. The Disclosure Statement forms are available on Councils website or from the Customer Service Centre and must be lodged in accordance with the Act.*

*There were no Disclosure of Political Donations received by the Chairperson.*

**4 PRESENT**

Cr Neville Kschenka, Cr David Fahey, Cr Narelle Payne, Cr Jenny Clarke, Cr Kevin Morris, Cr Wesley Hall, Cr Tracey Lewis, Cr Barbara Bryon

**In Attendance**

Julian Geddes (Deputy General Manager Infrastructure), Martin Hiscox (Deputy General Manager Corporate & Community), George Cowan (General Manager), Edwina Foley (CO), Vicki Maher (PA)

## 5 APOLOGIES

### RESOLUTION 17/349

Moved: Cr David Fahey  
Seconded: Cr Wesley Hall

That apologies from Cr Tammy Galvin be received and accepted.

**CARRIED**

## 6 DECLARATIONS OF INTEREST

Cr Neville Kschenka declared a Non Significant Non Pecuniary Interest in this Item 20.1 Weir Park Road Narrandera – Proposed Boundary Adjustments under the Local Government Act as One party has purchased products from my Business and will remain and take part in discussion or voting.

Cr Wesley Hall declared a Non Pecuniary Significant Interest in this Item 20.1 Weir Park Road Narrandera – Proposed Boundary Adjustments under the Local Government Act as Business Relationship with Interested Party and will leave the meeting and take no part in debate or discussion.

Cr Wesley Hall declared a Pecuniary Interest in this Item 21.1 November Development Services under the Local Government Act as Subdivision Applicant and will leave the meeting and take no part in debate or discussion.

## 7 PUBLIC QUESTION TIME

Nil

## 8 PRESENTATIONS

Nil

## SUSPENSION OF STANDING ORDERS

### RESOLUTION 17/350

Moved: Cr Narelle Payne  
Seconded: Cr David Fahey

A motion was moved that Council suspend standing orders at 2.07.

**CARRIED**

## 9.1 WEIR PARK ROAD ALIGNMENT

### PRESENTATION

A presentation was not held regarding Weir Park Road.

**9.2 DRAFT BARELLAN FLOODPLAIN RISK MANAGEMENT STUDY AND PLAN**

**PRESENTATION**

Draft Barellan Floodplain Risk Management Study and Plan.

Presentation by BMT WBM Project Manager; Daniel Williams and Manager Projects and Assets; Fred Hammer.

**RESUMPTION OF STANDING ORDERS**

**RESOLUTION 17/351**

Moved: Cr David Fahey

Seconded: Cr Narelle Payne

A motion was moved that Council resume standing orders.

**CARRIED**

**9 CONFIRMATION OF MINUTES**

**RESOLUTION 17/352**

Moved: Cr Narelle Payne

Seconded: Cr Barbara Bryon

That the minutes of the Ordinary Council Meeting held on 21 November 2017 be confirmed.

**CARRIED**

**10 MAYORAL REPORT**

**11.1 DECEMBER MAYORAL MONTHLY REPORT**

**RESOLUTION 17/353**

Moved: Cr Neville Kschenka

Seconded: Cr Tracey Lewis

That the December Mayoral Report be received and noted.

**CARRIED**

**11.2 MAYORAL MINUTE - ATTENDANCE AT THE 2018 LGNSW ANNUAL CONFERENCE**

**RESOLUTION 17/354**

Moved: Cr Neville Kschenka

Seconded: Cr Narelle Payne

That Council:

- (a) Receive and note the report on the 2017 LGNSW Conference.

- (b) Note the proposed changes to the Model Codes of Conduct and Meeting Procedures.
- (c) Resolve to take part in the “Small Business Friendly Council Initiative”.

**CARRIED**

**11 NOTICES OF RESCISSION**

Nil

**12 NOTICES OF MOTION**

Nil

**13 COUNCILLOR REPORTS**

Nil

**14 COMMITTEE REPORTS**

**15.1 MINUTES - PARKSIDE COTTAGE MUSEUM COMMITTEE - 13 NOVEMBER 2017**

**RESOLUTION 17/355**

Moved: Cr Barbara Bryon

Seconded: Cr Tracey Lewis

- 1. That the Minutes of the Parkside Cottage Museum Committee held on Monday 13 November 2017 be received and noted.

**CARRIED**

**15.2 MINUTES - RAILWAY STATION BUILDING MANAGEMENT COMMITTEE - 15 NOVEMBER 2017**

**RESOLUTION 17/356**

Moved: Cr Narelle Payne

Seconded: Cr Barbara Bryon

- 1. That the Minutes of the Railway Station Building Management Committee held on Wednesday 15 November 2017 be received and noted.

**CARRIED**

**15 OUR COMMUNITY**

**16.1 NARRANDERA ROD RUN 2018**

**RESOLUTION 17/357**

Moved: Cr David Fahey

Seconded: Cr Narelle Payne

- 1. That Council provide inkind financial assistance of \$5,610.07 to Earlies Street Rod & Custom

Club for traffic control services, waste management provided by Council, funded from the Events Activities and Promotional Expense budget.

**CARRIED**

## **16.2 MUSEUM ADVISOR'S PROGRAM**

### **RESOLUTION 17/358**

Moved: Cr Barbara Bryon

Seconded: Cr Tracey Lewis

That Council:

1. Support an application to Arts NSW for the Museum Advisor's Program to employ an advisor to assist with projects pertaining to the Narrandera Parkside Cottage Museum, Barellan Museum and the proposed Narrandera Interpretive Centre through the allocation of \$7,000.00 in matching, (50/50), funding.
2. Approve the allocation of \$7,000.00 from General Fund in the 2017-18 Budget.

**CARRIED**

## **16 OUR ENVIRONMENT**

Nil

## **17 OUR ECONOMY**

### **18.1 EVALUATION REPORT FOR TASTE RIVERINA FESTIVAL 2017**

#### **RESOLUTION 17/359**

Moved: Cr Narelle Payne

Seconded: Cr Wesley Hall

1. That Council receive and note the content of the Evaluation Report Taste Riverina 2017 Festival.

**CARRIED**

### **18.2 NARRANDERA LOCAL ENVIRONMENTAL PLAN - AMENDMENT 1**

#### **RESOLUTION 17/360**

Moved: Cr David Fahey

Seconded: Cr Jenny Clarke

1. That Council receive and note the report on the Narrandera Local Environmental Plan - Amendment 1.

**CARRIED**

**18 OUR INFRASTRUCTURE****19.1 BARELLAN SEWERAGE UPDATE****RESOLUTION 17/361**

Moved: Cr Kevin Morris

Seconded: Cr Wesley Hall

1. That Council notes this information and seeks an update after completion of the Integrated Water Cycle Management Plan.

**CARRIED**

**19.2 DRAFT BARELLAN FLOODPLAIN RISK MANAGEMENT STUDY AND PLAN****RESOLUTION 17/362**

Moved: Cr David Fahey

Seconded: Cr Narelle Payne

That Council:

1. Adopt for the purpose of public comment the Draft Barellan Floodplain Risk Management Study and Plan including the Flood Modelling Study and place on public exhibition. Closing date for public comment will be close of business Monday 12 of February 2018.
2. Following the public exhibition period, Council further consider the Draft Barellan Floodplain Risk Management Study and Plan including the Flood Modelling Study Report in conjunction with any public comment or submissions received at its meeting to be held 20 March 2018.

**CARRIED**

**19.3 WET HIRE OF ROAD CONSTRUCTION EQUIPMENT SET TENDER****RESOLUTION 17/363**

Moved: Cr Wesley Hall

Seconded: Cr Narelle Payne

1. That Council accept the Tenders from Earth Plant Pty Ltd and Menz Plant Pty Ltd and that the tenderers form a panel of approved contractors to undertake flood damage restoration works as per tender T-17/18-2 Wet hire of road construction equipment set.
2. Give approval to affix the Common Seal of Council, if required, to this and any future documentation necessary relating to this matter.

**CARRIED**

At 3:05 pm, Cr Wesley Hall, after earlier declaring an Interest in Item 20.1, vacated the Chambers during discussions and voting on the matter.

**19 OUR CIVIC LEADERSHIP****20.1 WEIR PARK ROAD NARRANDERA - PROPOSED BOUNDARY ADJUSTMENTS****RESOLUTION 17/364**

Moved: Cr Narelle Payne

Seconded: Cr Kevin Morris

That Council

1. Acknowledge the 5 submissions received through the consultation process for the proposed part road closure adjacent to Lots 1, 2 and 3 DP 1010971 Weir Park Road, Narrandera.
2. That after consideration of the submissions received Council resolve to proceed with the part road closure and submit an application to NSW Department of Primary Industries (Crown Lands) to progress the part road closure.
3. Approve the sale of the newly created lot 1(639.7m<sup>2</sup>) and lot 2 (1463m<sup>2</sup>) to the owners of Lot 2 DP101971 Weir Park Road after independent land valuation is undertaken.
4. Approval is given to affix the Common Seal of Council, if required, to this and any future documentation necessary relating to this matter.
5. That proceeds from the sale of the newly created lots are quarantined and used for possible removal the tree that is an issue and for road improvement works on Weir Park Road.

In Favour: Crs Neville Kschenka, David Fahey, Narelle Payne, Jenny Clarke, Kevin Morris, Tracey Lewis and Barbara Bryon

Against: Nil

**CARRIED 7/0**

At 3:13 pm, Cr Wesley Hall returned to the meeting.

**20.2 JOINT ORGANISATION OF COUNCILS (JOCS)****RESOLUTION 17/365**

Moved: Cr David Fahey

Seconded: Cr Narelle Payne

That Council

- (a) Receive and note the report on the formation of Joint Organisations.
- (b) Authorise the Mayor to represent Council in discussions on the formation of a Joint Organisation in the Region and
- (c) Receive a further report at the 20 February 2018 meeting to enable Council to make a decision on its future membership.

**CARRIED**



At 3:19 pm, Cr Wesley Hall, after earlier declaring an Interest in Item 20.1, vacated the Chambers during discussions and voting on the matter.

**20.1-1 WEIR PARK ROAD NARRANDERA - PROPOSED BOUNDARY ADJUSTMENTS - LATE SUBMISSION BY MR DAVIES**

**RESOLUTION 17/366**

Moved: Cr Narelle Payne

Seconded: Cr Tracey Lewis

That Council note the issues raised and responses provided within the Late Submission.

Issue raised in the submission	Response
In overview it appears that the only beneficiary of the proposed action will be the Menzies, owner of the subject house.	The benefit to the adjoining owners is the ability to erect a fence and landscaping with a reasonable setback to Weir Park Road. There is a benefit to the other users in that the current hedge that has been requested to be trimmed to improve safety will be removed. Further the overall risk of children or animals accessing the road inadvertently is reduced.
There is no demonstrable benefit to the community should this proposal succeed.	The proposal has been publicly notified to the broader community. Submissions have been received on behalf of properties on Weir Park Road. There is no impact from this proposal on the broader community. Also see comments above.
Letters of objection by community members and essential services i.e. the Fire Brigade have not been included with some exception.	It was not deemed necessary to include these as attachments.
The claim that the proposal is 'professionally recommended is deficient. (There is no 'proper person' as author.	Councils standard report template does not indicate individuals as authors.
The full comprehensive report of Mr. Wes Croft has been ignored in its entirety.	At the time of writing the report the author of this document was unknown except for a title "Procert". Company and internet searches could not verify this name or the credentials of the author.
The proposal document is misleading. Much of the included correspondence is so heavily edited as to be meaningless and has been cut and pasted from different authors so as to give a leading assumption as to this situation.	It is not agreed the document is misleading and Council may seek clarifications if required.
The document fails to demonstrate the compliance status of the offending dwelling house. The following documents should have been included:  Section 149 certificate, DA approval details, Complying Development Certificate and Occupancy approval.	The intention of the proposal is to provide a reasonable setback for the dwelling so a fence and landscaping can be provided without encroaching onto the road reserve. Any minor unauthorized structures do not have a bearing on the proposal. This can be dealt with separately. Detailed searches for the documents listed were not necessary.
Extensive searches have failed to locate precedent of this nature. There are however cases of permissive occupancies being granted under similar circumstances where it could be demonstrated that there would be <i>No Negative</i>	Permissive occupancies have been replaced by licenses where Crown Lands are concerned. While the process to close a road is done through DPI Lands this is a council owned road and council is the roads authority.

<p><i>Impact on neighbours or community amenity.</i></p>	<p>Section 149 of the Roads Act Leasing of land above or below a public road states:</p> <p>(1) A roads authority may lease the air space above, or land below the surface of, any public road (other than a Crown road) that is owned by the authority.</p> <p>(2) Such a lease may not be granted by a roads authority other than RMS except with the approval of the Secretary of the Department of Planning and Environment.</p> <p>(3) The Secretary of the Department of Planning and Environment must not approve a lease in respect of a public road if the granting of the lease would be inconsistent with the rights of passage and access that exist with respect to the road.</p> <p>(4) The term of a lease, together with any option to renew, must not exceed 99 years.</p> <p>On reading this clause it refers to airspace above the road for example bridges not for structures on the road.</p> <p>Clause 153 and 157 of the Roads Act 1993 deal with short term leases. Clause 153 only applies to unused public roads. If it can be established the section of road is unused then clause 157 restricts leases to 5 years.</p> <p>It is maintained there will be no restriction of the right of passage for the community along Weir Park Rd.</p>
<p>Upon closure of Weir Park Road, the road reserve becomes <i>Community Land not council land</i>. It is the minister's decision that IF in doing so it is in the public interest and IF council as an agency is an appropriate owner and manager of the land. (Community Land Development 1989) Further it is the view that sale of community land should have <i>community benefit</i> – which must be demonstrated, and not to simply benefit an adjoining land holder.</p>	<p>This is incorrect. Section 43(2) of the Roads Act 1993 <i>Disposal of Land Comprising Former Public Road Owned By Council</i> states:</p> <p><i>Land to which this section applies is <u>operational land</u> for the purposes of the Local Government Act 1993 unless, before the land becomes vested in the council, the council resolves that it is to be community land, in which case the land is community land.</i></p> <p>The sale of the land will be as a result of an independent valuation and at market rates.</p> <p>Clause 43(3) of the Roads Act 1993 states:</p> <p><i>If the land is disposed of by sale, the proceeds of the sale (less the costs of the sale) are to be paid to the council.</i></p> <p>Clause 43(4) of the Roads Act 1993 states:</p> <p><i>Money received by a council from the proceeds of sale of the land is not be used by the council except for acquiring land for public roads or for carrying out road work on public roads.</i></p>

	<p>The intention in this regard is to undertake works on Weir Park Rd to improve the road for the benefit of all users like removing the tree that has been mentioned in the submissions. The value of the land is unknown until the valuation is completed so the scope of work is yet to be determined. A council resolution could be provided to this effect.</p>
<p>The proposal is short-sighted in as much as the document fails to note the impacts of the decision on future (predicted by council) plans to build flood mitigation works along Weir Park Road (In a cost effective manner and to the benefit of the community). Further rumoured extension of residential land affecting Mr. Broad's property adjoining Weir Park Road to the north.</p>	<p>The report provides details on both these items.</p>
<p>The community of resident ratepayers having viewed the proposal seek a properly audited 'cost benefit review' of this council action, which appears to favour one Maverick landholder (who is a council preferred contractor trading as Menzplant) over adjoining land holders and the broader community that used the amenity of the road. The cost alone of the preparation of this faulty/deficient document at ratepayers' expense is unacceptable to this community.</p>	<p>There seems to be an assumption of impropriety. Council staff are dealing with the facts at hand in an unbiased and transparent manner.</p>
<p>The council is reminded of the Responsible Governance and Accountability Act.</p>	<p>The Public Governance Performance and Accountability Act 2013 is federal legislation that applies to commonwealth entities. It is an Act about the governance, performance and accountability of, and the use and management of public resources by, the Commonwealth, Commonwealth entities and Commonwealth companies, and for related purposes. It has no relevance to this issue</p>
<p>The affected neighbours Ashcroft and Broad have been denied equal opportunity in defending their interests by the misuse of clause 3 of the GIPA (freedom of information act) by refusing to supply documents on the grounds that only the commissioner can determine, NOT a council staff member. This matter will be addressed by the commissioner (preferably initiated by your General Manager) if not by the community.</p>	<p>Clause 3 of the Government Information (Public Access) Act 2009 contains the objects of the act Mr. Ashcroft has had discussions with Council staff and is fully aware of the procedures to be followed in seeking information which relates to third parties. No GIPA application has been received by Council at this time</p>
<p>The claim that comprehensive community consultation has occurred is simply untrue and in fact any discussion on the proposal that related to the community, to my knowledge, has been either 'it won't affect me/us' or in the negative with people or organisations saying 'no or why?' The 'why?' answer being totally unanswered in the proposal.</p>	<p>Extensive community consultation has been undertaken in relation to this application. The application to close a section of Weir Park Road has followed the required processes, including the recent advertising oversight. The flood study consultation is stated in the report.</p>
<p>The passage of this proposal is under close</p>	<p>No comment required.</p>

<p>scrutiny, many allegations have been made concerning the probity of both councillors and council in this matter and it is widely felt that the closure of Weir park road would be the action of a Maverick council unconcerned with the ethical and moral expectations of the Narrandera community.</p>	
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**CARRIED**

At 3:20 pm, Cr Wesley Hall returned to the meeting.

*Item has been considered at another section.*

**20.3 2017 NSW PLA CONFERENCE**

**RESOLUTION 17/367**

Moved: Cr Narelle Payne  
 Seconded: Cr Barbara Bryon

That Council:

1. Receive and note the report on the 2017 NSW Public Libraries Association Conference.
2. Extend an invitation to NSW PLA for an executive to attend a Narrandera Shire Council meeting during 2018.

**CARRIED**

At 3:25 pm, Cr Wesley Hall, after earlier declaring an Interest in Item 21.1, vacated the Chambers during discussions and voting on the matter.

**20 STATUTORY AND COMPULSORY REPORTING – DEVELOPMENT SERVICES REPORTS**

**21.1 NOVEMBER DEVELOPMENT SERVICES ACTIVITIES**

**RESOLUTION 17/368**

Moved: Cr Narelle Payne  
 Seconded: Cr Jenny Clarke

That Council receive and note the Development Services Activities Report for November 2017.

**CARRIED**

At 3:26 pm, Cr Wesley Hall returned to the meeting.

**21 STATUTORY AND COMPULSORY REPORTING – FINANCIAL / AUDIT REPORTS**

**22.1 NOVEMBER CAPITAL WORKS PROGRAM**

**RESOLUTION 17/369**

Moved: Cr Barbara Bryon

Seconded: Cr Narelle Payne

1. That Council receive and note the information contained in the Capital Works report as at 30 November 2017.

**CARRIED**

**22.2 NOVEMBER INCOME STATEMENT**

**RESOLUTION 17/370**

Moved: Cr Wesley Hall

Seconded: Cr Narelle Payne

That Council receive and note the information contained in the Income Statement report as at 30 November 2017.

**CARRIED**

**22.3 NOVEMBER STATEMENT OF RATES AND RECEIPTS**

**RESOLUTION 17/371**

Moved: Cr Narelle Payne

Seconded: Cr Wesley Hall

That Council receive and note the information contained in the Statement of Rates and Receipts report as at 30 November 2017.

**CARRIED**

**22.4 NOVEMBER STATEMENT OF INVESTMENTS**

**RESOLUTION 17/372**

Moved: Cr Wesley Hall

Seconded: Cr Barbara Bryon

**ECOMMENDATION**

That Council receive and note the information contained in the Statement of Investments report as at 30 November 2017.

**CARRIED**

**22.5 NOVEMBER STATEMENT OF BANK BALANCES****RESOLUTION 17/373**

Moved: Cr Narelle Payne

Seconded: Cr Wesley Hall

1. That Council receive and note the information contained in the Statement of Bank Balances report as at 30 November 2017

**CARRIED****22 STATUTORY AND COMPULSORY REPORTING – OTHER REPORTS**

Nil

**23 CONFIDENTIAL BUSINESS PAPER REPORTS****RESOLUTION 17/374**

Moved: Cr Narelle Payne

Seconded: Cr Barbara Bryon

That Council considers the confidential report(s) listed below in a meeting closed to the public in accordance with Section 10A(2) of the *Local Government Act 1993*:

**24.1 Narrandera Shire Australia Day 2018 Awards**

This matter is considered to be confidential under Section 10A(2) - a of the Local Government Act, and the Council is satisfied that discussion of this matter in an open meeting would, on balance, be contrary to the public interest as it deals with personnel matters concerning particular individuals (other than councillors).

**CARRIED****24.1 NARRANDERA SHIRE AUSTRALIA DAY 2018 AWARDS****RESOLUTION 17/375**

Moved: Cr Narelle Payne

Seconded: Cr Barbara Bryon

1. That Council endorse the 2018 Australia Day award recipients as selected by the Australia Day Planning Committee.

**CARRIED**

**RESUMPTION OF STANDING ORDERS**

**RESOLUTION 17/376**

Moved: Cr Wesley Hall  
Seconded: Cr Narelle Payne

A motion was moved that Council resume standing orders.

**CARRIED**

**The Meeting closed at 3.45pm.**

**The minutes of this meeting were confirmed at the Ordinary Council Meeting held on 20 February 2018.**



.....  
**GENERAL MANAGER**



.....  
**CHAIRPERSON**