

MINUTES OF THE ORDINARY MEETING OF UPPER HUNTER SHIRE COUNCIL HELD ON MONDAY 24 APRIL 2023 IN THE COUNCIL CHAMBERS, SCONE COMMENCING AT 5.00PM

PRESENT:

Cr Maurice Collison (Mayor), Cr James Burns (Deputy Mayor), Cr Ron Campbell, Cr Tayah Clout, Cr Elizabeth Flaherty, Cr Belinda McKenzie, Cr Allison McPhee, Cr Lee Watts and Cr Adam Williamson.

IN ATTENDANCE:

Mr Greg McDonald (General Manager), Mr Wayne Phelps (Acting Director Corporate & Community Services), Mr Mathew Pringle (Director Planning & Infrastructure Services) and Mrs Robyn Cox (Executive Assistant). Mr Ian Roberts (Governance & Risk Advisor) attended the closed session of the meeting via video link.

PRAYER

ACKNOWLEDGEMENT OF COUNTRY

ODE OF REMEMBRANCE

The Deputy Mayor, Cr James Burns, recited the Ode of Remembrance.

STATEMENT OF ETHICAL OBLIGATIONS

APPLICATIONS FOR ATTENDING MEETING VIA VIDEO LINK:

Nil

APOLOGIES / APPLICATIONS FOR LEAVE OF ABSENCE BY COUNCILLORS:

Nil

PUBLIC PARTICIPATION:

Nil

CONFIRMATION OF MINUTES:

23/090

RESOLVED that the minutes of the ordinary Council meeting held on 27 March 2023 be adopted.

Moved: Cr L Watts

Seconded: Cr T Clout

CARRIED UNANIMOUSLY

DISCLOSURES OF INTEREST:

Nil

STANDING COMMITTEE REPORTS

SCR.04.1

INFRASTRUCTURE SERVICES COMMITTEE

RESPONSIBLE OFFICER: Greg McDonald - General Manager

AUTHOR: Mathew Pringle - Director Planning & Infrastructure Services

23/091

RESOLVED

That Council adopt the:

1. minutes of the Infrastructure Services Committee meeting held on Tuesday 14 March 2023 with an amendment to include mention of the MR358 rectification works update discussed in Closed Committee; and
2. briefing note – “Murrurundi Dam Future Use” attached to this report.

Moved: Cr R Campbell Seconded: Cr T Clout CARRIED UNANIMOUSLY

SCR.04.2

CORPORATE SERVICES COMMITTEE

RESPONSIBLE OFFICER: Greg McDonald - General Manager

AUTHOR: Wayne Phelps - Acting Director Corporate & Community Services

23/092

RESOLVED

That Council adopt the:

1. minutes of the Corporate Services Committee meeting held on 14 April 2023 and their recommendations with the amendment to the resolution for Item CORP.05.1 to read ‘*that Council note the updates on the Property Strategy*’; and
2. proposed budget variations as provided in attachment 2.

Moved: Cr J Burns Seconded: Cr A Williamson CARRIED

FOR	AGAINST
Councillor Burns	Councillor Flaherty
Councillor Campbell	
Councillor Clout	
Councillor Collison	
Councillor McKenzie	
Councillor McPhee	
Councillor Watts	
Councillor Williamson	
Total (8)	Total (1)

COMMITTEE/DELEGATES REPORTS

C.04.1

SCONE TOWN REVITALISATION COMMITTEE

RESPONSIBLE OFFICER: Wayne Phelps - Acting Director Corporate & Community Services

AUTHOR: Chloe Leake - Strategic Projects Support Officer

23/093

RESOLVED

That Council

1. adopt the minutes from the Scone Town Revitalisation Committee meeting held on 1 March 2023;

2. adopt the minutes from the Scone Town Revitalisation Committee meeting held on 5 April 2023; and
3. support the request that public art at 133 Kelly Street be placed on hold until the adjacent Niagara Café mural is restored as recommended by the Committee.

Moved: Cr T Clout

Seconded: Cr J Burns

CARRIED UNANIMOUSLY

C.04.2 ***BILL ROSE SPORTS COMPLEX USER GROUP COMMITTEE -
ADDITIONAL MEMBERSHIP NOMINATION***

RESPONSIBLE OFFICER: Mathew Pringle - Director Planning & Infrastructure Services

AUTHOR: Sam Wooden - Manager Works Delivery

23/094

RESOLVED

That Council accept the additional nomination received from Renee Park to join the Bill Rose Sports Complex User Group as an alternate to the Scone Junior Rugby Union Club.

Moved: Cr A McPhee

Seconded: Cr J Burns

CARRIED UNANIMOUSLY

ENVIRONMENT/HEALTH REPORTS

E.04.1 ***UNDERGROUND PETROLEUM STORAGE SYSTEMS (UPSS)
REGULATION AND AUDIT PROGRAM***

RESPONSIBLE OFFICER: Greg McDonald - General Manager

AUTHOR: Mathew Pringle - Director Planning & Infrastructure Services

23/095

RESOLVED

That Council receive the report and note the information.

Moved: Cr A McPhee

Seconded: Cr A Williamson

CARRIED UNANIMOUSLY

FINANCE REPORTS

F.04.1 ***DRAFT DELIVERY PROGRAM 2022/2023 - 2024/2025 AND
OPERATIONAL PLAN 2023/2024***

RESPONSIBLE OFFICER: Greg McDonald - General Manager

AUTHOR: Wayne Phelps - Acting Director Corporate & Community Services

23/096

RESOLVED

That Council:

1. endorse the draft Delivery Program 2022/2023 to 2024/2025 & Operational Plan 2023/2024 and place documents on exhibition for a period of not less than 28 days, commencing on Friday, 29 April 2023 and closing on Monday, 29 May 2023;
2. undertake community engagement prior to finalising the draft Delivery Program 2022/2023 to 2024/2025 & Operational Plan 2023/2024.

Moved: Cr J Burns

Seconded: Cr A McPhee

CARRIED UNANIMOUSLY

GENERAL ADMINISTRATION REPORTS

G.04.1 *TEN MILE MOUNTAIN TELECOMMUNICATIONS FACILITY*

RESPONSIBLE OFFICER: Greg McDonald - General Manager

AUTHOR: Mathew Pringle - Director Planning & Infrastructure Services

23/097

RESOLVED

That Council:

1. support in principle the installation of a GRN telecommunications facility within a Council road reserve at Ten Mile Mountain, Beales Creek Road, Kars Springs.
2. (a) enter into a licence agreement with the NSW Government Telecommunications Authority for a 20 year term; and
(b) delegate authority to the General Manager to negotiate the terms of, and execute, the licence agreement and conduct all relevant functions under the licence; subject to all relevant approvals for the facility being obtained.

Moved: Cr A McPhee Seconded: Cr R Campbell CARRIED UNANIMOUSLY

G.04.2 *CASA SURVEILLANCE REPORT*

RESPONSIBLE OFFICER: Greg McDonald - General Manager

AUTHOR: Greg McDonald - General Manager

23/098

RESOLVED

That Council note the report.

Moved: Cr A McPhee Seconded: Cr T Clout CARRIED UNANIMOUSLY

G.04.3 *PLANNING AGREEMENT OFFER - GOULBURN RIVER SOLAR FARM PROJECT*

RESPONSIBLE OFFICER: Greg McDonald - General Manager

AUTHOR: Mathew Pringle - Director Planning & Infrastructure Services

MOTION

That Council make the following counter-offer to Lightsource bp:

Enter into a planning agreement to seal 4.7km of unsealed road on Wollara road up the Goulburn River National Park (valued at \$4.4 million) and make an annual contribution of:

- (a) \$529 (indexed to CPI) x the number of MW installed on the land as at the due date for payment; or
- (b) \$291,000 (indexed to CPI), whichever is the greater.

Moved: Cr R Campbell Seconded: Cr E Flaherty

FORESHADOWED MOTION 1

That Council defer this matter until staff have had time to go back to Lightsource bp and negotiate a better settlement.

Moved: Cr J Burns Seconded: Cr T Clout

Cr Campbell withdrew the original motion.

FORESHADOWED MOTION 2

In the event that the first foreshadowed motion is lost, that Council adopt the original recommendation.

Moved: Cr A McPhee

RESOLVED That Council defer this matter until staff have had time to go back to Lightsource bp and negotiate a better settlement.

Moved: Cr J Burns

Seconded: Cr T Clout

CARRIED

FOR	AGAINST
Councillor Burns	Councillor McPhee
Councillor Campbell	
Councillor Clout	
Councillor Collison	
Councillor Flaherty	
Councillor McKenzie	
Councillor Watts	
Councillor Williamson	
Total (8)	Total (1)

G.04.4

PLANNING AGREEMENT OFFER - BOWMANS CREEK WIND FARM

RESPONSIBLE OFFICER: Greg McDonald - General Manager

AUTHOR: Mathew Pringle - Director Planning & Infrastructure Services

23/099

RESOLVED

That Council accept the offer from Ark Energy to enter into a planning agreement in respect of the Bowmans Creek Wind Farm based on an annual contribution of \$686 per MW installed on land within the Upper Hunter Shire LGA (indexed to CPI).

Moved: Cr T Clout

Seconded: Cr A Williamson

CARRIED UNANIMOUSLY

G.04.5

RETURN & EARN - REVERSE VENDING MACHINE - SCONE

RESPONSIBLE OFFICER: Greg McDonald - General Manager

AUTHOR: Mathew Pringle - Director Planning & Infrastructure Services

23/100

RESOLVED

That Council:

- 1. support the establishment of a Return and Earn reverse vending machine at Lot 21 DP 1134921, Lawrence Lane, Scone (behind the Coles Complex) subject to favourable community consultation and all approvals being met.**
- 2. receive a further report on the outcome of community consultation should any objections be received.**

Moved: Cr L Watts

Seconded: Cr A Williamson

CARRIED UNANIMOUSLY

G.04.6**REQUESTS FOR DONATIONS****RESPONSIBLE OFFICER:** Greg McDonald - General Manager**AUTHOR:** Karen Boland - Governance & Executive Support Officer

23/101

RESOLVED That Council:

1. provide a donation to Tyla Brown for \$500.00 for financial assistance towards representing Australia in the U20 Mixed Emu's Youth Touch Football in Brisbane from 12 to 14 May 2023;

Moved: Cr L Watts Seconded: Cr A McPhee CARRIED UNANIMOUSLY

23/102

RESOLVED That Council:

2. provide a donation to St Joseph's Primary School Merriwa P & F Association for \$200.00 for sponsorship of the St Joseph's Primary School Merriwa Junior Campdraft and Fete to be held on Saturday 1 July 2023;

Moved: Cr R Campbell Seconded: Cr B McKenzie CARRIED UNANIMOUSLY

23/103

RESOLVED that Council:

3. provide a donation to Scone Tidy Towns Committee to assist with the costs of members attending the 'Keep Australia Beautiful Tidy Towns Awards' in King Island on Friday 19 May 2023 to the value of \$500 as per point 3 in the report;

Moved: Cr J Burns Seconded: Cr L Watts CARRIED UNANIMOUSLY

MOTION

4. That Council not provide a donation to NSW Rural Doctors Network for the 2023 Bush Bursary Program.

Moved: Cr J Burns Seconded: Cr A McPhee

FORESHADOWED MOTION

To provide a donation to NSW Rural Doctors Network to the value of \$3,000 without the additional support.

Moved: Cr L Watts Seconded: Cr E Flaherty

23/104

RESOLVED that Council:

4. not provide a donation to NSW Rural Doctors Network for the 2023 Bush Bursary Program.

Moved: Cr J Burns Seconded: Cr A McPhee CARRIED

FORCouncillor Burns
Councillor Campbell
Councillor Collison
Councillor McKenzie
Councillor McPhee**Total (5)****AGAINST**Councillor Clout
Councillor Flaherty
Councillor Watts
Councillor Williamson**Total (4)**

The original motion was carried therefore the foreshadowed motion was not considered.

LATE REPORT

G.04.7 *RETURN & EARN - REVERSE VENDING MACHINE - MERRIWA*

RESPONSIBLE OFFICER: Greg McDonald - General Manager

AUTHOR: Mathew Pringle - Director Planning & Infrastructure Services

23/105

RESOLVED

That Council:

1. support the establishment of a Return and Earn reverse vending machine within the road reserve adjoining Lot 6 DP 244849, 46 King George V Avenue, Merriwa subject to available funding, favourable community consultation and all approvals being met.
2. receive a further report on the outcome of community consultation should any objections be received.

Moved: Cr R Campbell Seconded: Cr A Williamson CARRIED UNANIMOUSLY

INFRASTRUCTURE REPORTS

I.04.1 *PROPOSED SALE OF ROAD - KILLOE ROAD, MERRIWA*

RESPONSIBLE OFFICER: Mathew Pringle - Director Planning & Infrastructure Services

AUTHOR: Sam Wooden - Manager Works Delivery

23/106

RESOLVED

That Council not permanently close nor sell Killoe Road.

Moved: Cr A McPhee Seconded: Cr R Campbell CARRIED UNANIMOUSLY

I.04.2 *DRAFT BILL ROSE SPORTS COMPLEX MASTER PLAN*

RESPONSIBLE OFFICER: Mathew Pringle - Director Planning & Infrastructure Services

AUTHOR: Sam Wooden - Manager Works Delivery

MOTION

That Council:

1. endorse the draft Bill Rose Sports Complex Master Plan and place it on exhibition for a period no less than 28 days.
2. undertake community engagement prior to finalising the draft Bill Rose Sports Complex Master Plan.

Moved: Cr J Burns Seconded: Cr A McPhee

AMENDMENT TO THE MOTION

That Council:

1. endorse the draft Bill Rose Sports Complex Master Plan and place it on exhibition for a period no less than 28 days.
2. undertake community engagement prior to finalising the draft Bill Rose Sports Complex Master Plan.
3. That the RV Park area allocated to remain in the Bill Rose Sports Complex Master Plan.

Moved: Cr R Campbell Seconded: Cr A Williamson LOST

FOR	AGAINST
Councillor Campbell	Councillor Burns
Councillor Collison	Councillor Clout
Councillor McKenzie	Councillor Flaherty
Councillor Williamson	Councillor McPhee
	Councillor Watts
Total (4)	Total (5)

23/107

RESOLVED

That Council:

- 1. endorse the draft Bill Rose Sports Complex Master Plan and place it on exhibition for a period no less than 28 days.**
- 2. undertake community engagement prior to finalising the draft Bill Rose Sports Complex Master Plan.**

Moved: Cr J Burns Seconded: Cr A McPhee CARRIED

FOR	AGAINST
Councillor Burns	Councillor Campbell
Councillor Clout	Councillor Collison
Councillor Flaherty	Councillor McKenzie
Councillor McPhee	Councillor Williamson
Councillor Watts	
Total (5)	Total (4)

CORRESPONDENCE

CORR.04.1

CORRESPONDENCE

RESPONSIBLE OFFICER: Greg McDonald - General Manager

AUTHOR: Robyn Cox - Executive Assistant

23/108

RESOLVED

That Council note the correspondence received from:

- 1. Hon Barnaby Joyce – advice to Council that Phase 4 of the Local Roads and Community Infrastructure (LRCI) Program will be delivered to local government councils;**
- 2. Dr Kerry Chant, Chief Health Officer and Deputy Secretary, Population and Public Health, thanking Council for its commitment to the NSW Sewage Surveillance Program.**

Moved: Cr J Burns Seconded: Cr A McPhee CARRIED UNANIMOUSLY

CLOSED COUNCIL

23/109

RESOLVED

That Council move into Closed Council with the press and public excluded in accordance with Section 10(2) of the Local Government Act 1993.

Moved: Cr A McPhee Seconded: Cr L Watts CARRIED UNANIMOUSLY

CONFIDENTIAL REPORTS

CR.04.1 *ADVICE FROM OLG ON CODE OF CONDUCT MATTER 7 JULY 2022*

RESPONSIBLE OFFICER: Greg McDonald - General Manager

AUTHOR: Ian Roberts - Governance & Risk Advisor

This matter is considered to be confidential under Section 10A(2) (i) of the Local Government Act 1993, as it deals with alleged contraventions of any code of conduct requirements under section 440.

Consideration of this matter in an open meeting would be contrary to the public interest as it would reveal confidential correspondence from the Office of Local Government.

23/110

RESOLVED

That Council receive and note the letter from the Office of Local Government dated 30 March 2023.

Moved: Cr J Burns

Seconded: Cr A McPhee

CARRIED UNANIMOUSLY

The Mayor asked Cr Flaherty if she would like to make a statement on CR.04.2 and CR.04.3 to which she replied she would not. At the Mayor's suggestion, Cr Flaherty then left the meeting.

CR.04.2 *CODE OF CONDUCT MATTER 9 NOVEMBER 2022*

RESPONSIBLE OFFICER: Greg McDonald - General Manager

AUTHOR: Ian Roberts - Governance & Risk Advisor

This matter is considered to be confidential under Section 10A(2) (i) of the Local Government Act 1993, as it deals with alleged contraventions of any code of conduct requirements under section 440.

Consideration of this matter in an open meeting would be contrary to the public interest as it would reveal an independent investigator's confidential report on a code of conduct complaint.

23/111

RESOLVED That:

1. In relation to the Code of Conduct complaint lodged on 9 November 2022, Council note that, after investigation, an independent investigator found that:
 - a) Councillor Elizabeth Flaherty has publicly criticised Council without utilising the course available to her to make complaints under the Procedures; she has criticised resolutions of Council with respect to attending meetings by videoconference; she has publicly incorrectly reported that she was not given an opportunity to submit a Pecuniary Interest Declaration form and she has been critical of Council for meeting its statutory obligations under the Local Government Act in respect of reporting her failure to lodge a form on time.
 - b) The action of Councillor Flaherty in publishing the article in www.scone.com.au on or about 2 November 2022, constituted a breach of the Code of Conduct in that, her conduct was such that it was likely to bring Council or Council officials into disrepute. Councillor Flaherty also failed to uphold and represent accurately the policies and decisions of Council including the decision to govern the attendance at Council meetings by videoconference.
2. In accordance with clause 7.37(c) of the Procedures for the Administration of the Model Code of Conduct, Council:
 - a) Formally censure Councillor Flaherty for a breach of the Upper Hunter Shire Council Code of Conduct for Councillors under section 440G of the Local Government Act 1993; and
 - b) Refer the matter to the Office of Local Government for further action under the misconduct provisions of the Local Government Act 1993.

Moved: Cr A McPhee

Seconded: Cr T Clout

CARRIED UNANIMOUSLY

RESPONSIBLE OFFICER: Greg McDonald - General Manager**AUTHOR:** Ian Roberts - Governance & Risk Advisor

This matter is considered to be confidential under Section 10A(2) (i) of the Local Government Act 1993, as it deals with alleged contraventions of any code of conduct requirements under section 440.

Consideration of this matter in an open meeting would be contrary to the public interest as it would reveal an independent investigator's confidential report on a code of conduct complaint.

Cr Burns left the meeting.

23/112

RESOLVED That:

1. In relation to the Code of Conduct complaint lodged on 21 December 2022, Council note that, after investigation, an independent investigator found that:
 - a) on or about 19 December 2022, Councillor Elizabeth Flaherty published on the website www.scone.com.au matters which were the subject of discussion during a closed session of the Ordinary Meeting of Council held on 19 December 2022;
 - b) the actions of Councillor Flaherty in publishing this material is a breach of Parts 3.1, 8.9, 8.10, 8.11 & 8.13 of the Code of Conduct for Councillors in that she acted in a manner contrary to statutory and administrative requirements, used Council information for her own private purposes, failed to maintain the integrity and security of confidential information, failed to protect confidential information, released confidential information without authority, used confidential information for her own purposes to secure a private benefit, used confidential information to cause harm or detriment to the Council, disclosed confidential information discussed during a confidential session of the Council and used Council resources for private purposes; is contrary to clauses 14 and 15 of the 2013 Guidelines on the Closure of Council Meetings to the Public in that Councillor Flaherty failed to maintain the integrity and security of confidential information and potentially exposed herself to disciplinary action; and is a breach of section 664 of the Local Government Act 1993 in that Councillor Flaherty misused confidential information provided to her in her role as a Councillor.
2. In accordance with clause 7.37(c) of the Procedures for the Administration of the Model Code of Conduct, Council:
 - a) Formally censure Councillor Flaherty for a breach of the Upper Hunter Shire Council Code of Conduct for Councillors under section 440G of the Local Government Act 1993; and
 - b) Refer the matter to the Office of Local Government for further action under the misconduct provisions of the Local Government Act 1993.

Moved: Cr A McPhee Seconded: Cr R Campbell CARRIED UNANIMOUSLY

Cr Burns returned to the meeting.

RETURN TO OPEN MEETING

23/113

RESOLVED That the meeting move back into Open Council.

Moved: Cr T Clout Seconded: Cr B McKenzie CARRIED UNANIMOUSLY

Cr Flaherty returned to the meeting.

Upon resuming Open Council, and in accordance with the Code of Meeting Practice, the General Manager provided a summary of the resolutions passed in Closed Council.

THERE BEING NO FURTHER BUSINESS THE MEETING CLOSED AT 5.56PM.