

MINUTES OF THE ORDINARY MEETING OF UPPER HUNTER SHIRE COUNCIL HELD ON MONDAY 28 NOVEMBER 2022 IN THE COUNCIL CHAMBERS COMMENCING AT 5.00PM

PRESENT:

Cr Maurice Collison (Mayor), Cr James Burns (Deputy Mayor), Cr Ron Campbell, Cr Tayah Clout, Cr Liz Flaherty, 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 Infrastructure & Planning Services), and Mrs Robyn Cox (Executive Assistant).

APPLICATIONS FOR ATTENDING MEETING VIA VIDEO LINK:

Nil

APOLOGIES / APPLICATIONS FOR LEAVE OF ABSENCE BY COUNCILLORS:

Nil

PUBLIC PARTICIPATION:

SCR.11.1 Environmental & Community Services Committee - ESC.11.1

Aristo Drakoulis – representation self – against the recommendation

G.11.2 Annual Presentation – Scone Neighbourhood Resource Centre

Lee Watts, Manager Scone Neighbourhood Resource Centre

I.11.1 Sale of Road – Killoe Road, Merriwa

Heidi & Tony Inder – representing themselves – for the recommendation

CONFIRMATION OF MINUTES:

RESOLVED that the Minutes of the Ordinary Council Meeting held on 31 October 2022 be adopted.

Moved: Cr J Burns

Seconded: Cr T Clout

CARRIED UNANIMOUSLY

DISCLOSURES OF INTEREST:

G.11.2 Annual Presentation – Scone Neighbourhood Resource Centre

Cr Lee Watts declared a pecuniary interest / significant conflict for the reason that she is the manager of the Scone Neighbourhood Resource Centre. Cr Watts advised that she would leave the meeting and take no part in discussion and voting.

H.11.1 Request for Donations

Cr James Burns declared a non-pecuniary interest / significant conflict for the reason that he is a Council of UHSC and on the executive of the Chamber of Commerce. Cr Burns advised that he would leave the meeting and take no part in discussion and voting.

I.11.1 Sale of Road – Killoe Road, Merriwa

Cr Ron Campbell declared that he had no conflict of interest in this matter as his property does not join the subject road. Cr Campbell would remain in the meeting and take part in discussion and voting.

MAYORAL MINUTES

A.11.1 **RESIGNATION OF COUNCILLOR**

RESPONSIBLE OFFICER: Greg McDonald - General Manager

AUTHOR: Robyn Cox - Executive Assistant

RESOLVED

That Council:

1. note the resignation received from Sue Abbott as Councillor of Upper Hunter Shire Council;
2. recognise the contributions Sue made during her time with Council.

Moved: Cr L Watts

Seconded: Cr T Clout

CARRIED UNANIMOUSLY

STANDING COMMITTEE REPORTS

SCR.11.1 **ENVIRONMENTAL & COMMUNITY SERVICES COMMITTEE**

RESPONSIBLE OFFICER: Greg McDonald - General Manager

AUTHOR: Mathew Pringle - Director Planning & Infrastructure Services

RESOLVED

That Council:

1. adopt the minutes of the Environmental & Community Services Committee meeting held on 11 November 2022.

Moved: Cr R Campbell

Seconded: Cr L Watts

CARRIED UNANIMOUSLY

2. ESC.11.1 – refuse Development Application No. 105/2022 for the subdivision of 1 lot into 2 lots at Lot 810 DP 1061912, 3 Caulfield Place, Scone for the reasons given in Attachment 2.

Moved: Cr A McPhee

Seconded: Cr L Watts

AMENDMENT

That Council defer Development Application No. 105/2022 for the subdivision of 1 lot into 2 lots at Lot 810 DP 1061912, 3 Caulfield Place, Scone for the reasons given in Attachment 2.

Moved: Cr J Burns

Seconded: Cr L Watts

CARRIED

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

With the votes being equal the Mayor used a casting vote and voted for the amended recommendation.

The amendment becomes the motion:

RESOLVED

That Council defer Development Application No. 105/2022 for the subdivision of 1 lot into 2 lots at Lot 810 DP 1061912, 3 Caulfield Place, Scone for the reasons given in Attachment 2.

FOR	AGAINST
Councillor Burns	Councillor Campbell
Councillor Clout	Councillor McPhee
Councillor Collison	Councillor Williamson
Councillor Flaherty	
Councillor Watts	
Total (5)	Total (3)

3. **ESC.11.2 – refuse Development Application No. 183/2021 for a multi-dwelling housing development on Lot 1 DP 611620, No. 51 Barton Street, Scone, for the reasons in Attachment 3.**

Moved: Cr Watts Seconded: Cr Burns CARRIED UNANIMOUSLY

4. **ESC.11.3 – approve Development Application No. 120/2022 for a dwelling and shed at 6 Camp Street Gundy (Lot 2 DP 758490) subject to the conditions of consent in Attachment 4.**

Moved: Cr Watts Seconded: Cr Burns CARRIED UNANIMOUSLY

SCR.11.2 *INFRASTRUCTURE SERVICES COMMITTEE*

RESPONSIBLE OFFICER: Greg McDonald - General Manager

AUTHOR: Mathew Pringle - Director Planning & Infrastructure Services

RESOLVED

That Council:

1. **adopt the minutes of the Infrastructure Services Committee meeting held on Tuesday 8 November 2022;**
2. **adopt the Drought and Emergency Response Management Plan (DERMP); and**
3. **not proceed with the implementation of a sewerage scheme for Cassilis at this time and ‘Abandon’ the Deed for RNSW819 – Cassilis Sewerage Upgrade.**

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

SCR.11.3 *CORPORATE SERVICES COMMITTEE*

RESPONSIBLE OFFICER: Greg McDonald - General Manager

AUTHOR: Wayne Phelps - Manager Finance

RESOLVED

That Council adopt the minutes of the Corporate Services Committee meeting held on 18 November 2022.

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

COMMITTEE/DELEGATES REPORTS

C.11.1 *ABERDEEN DISTRICT COMMUNITY ADVISORY COMMITTEE*

RESPONSIBLE OFFICER: Kristian Enevoldson - Director Corporate & Community Services

AUTHOR: Amanda Catzikiris - Community Services Officer

RESOLVED

That Council

1. adopt the minutes of the Community Advisory Committee meeting held on 11 October 2022, provided as attachment 1 to the report,
2. accept the nomination from Shane Lloyd for membership on the Australia Day Subcommittee – Scone and Aberdeen District.

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

C.11.2 *MURRURUNDI DISTRICT COMMUNITY ADVISORY COMMITTEE*

RESPONSIBLE OFFICER: Kristian Enevoldson - Director Corporate & Community Services

AUTHOR: Heather Ranclaud - Community Services Officer - Murrurundi

RESOLVED

That Council adopt the minutes of the Murrurundi District Community Advisory Committee meeting held on 10 November 2022.

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

C.11.3 *2023 AUSTRALIA DAY AWARDS NOMINATIONS*

RESPONSIBLE OFFICER: Kristian Enevoldson - Director Corporate & Community Services

AUTHOR: Amanda Catzikiris - Community Services Officer

RESOLVED That Council:

1. move into Closed Council to consider nominations;
2. endorse the nominees for 2023 Australia Day Awards;
3. adopt the recommendations made by the Australian Day Sub-committees for the 2023 Australia Day Awards to be announced on 26 January 2023;
4. determine the following Upper Hunter Shire Australia Day Awards, to be announced on 26 January 2023:
 - a. Upper Hunter Shire Citizen of the Year
 - b. Upper Hunter Shire Young Citizen of the Year

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

GENERAL ADMINISTRATION REPORTS

G.11.1 *DISCLOSURES OF PECUNIARY INTERESTS AND OTHER MATTERS*

RESPONSIBLE OFFICER: Greg McDonald - General Manager

AUTHOR: Robyn Cox - Executive Assistant

RESOLVED

That Council note the tabled Disclosures of Pecuniary Interests and Other Matters return completed by Cr Flaherty and former Cr Abbott.

Moved: Cr T Clout Seconded: Cr L Watts CARRIED UNANIMOUSLY

G.11.2

**ANNUAL PRESENTATION - SCONE NEIGHBOURHOOD
RESOURCE CENTRE**

RESPONSIBLE OFFICER: Kristian Enevoldson - Director Corporate & Community Services

AUTHOR: Robyn Cox - Executive Assistant

DISCLOSURE OF INTEREST

Cr Lee Watts declared a pecuniary interest / significant conflict for the reason that she is the manager of the Scone Neighbourhood Resource Centre. Cr Watts left the meeting and took no part in discussion or voting.

RESOLVED

That Council receive a presentation from the Scone Neighbourhood Resource Centre.

Moved: Cr J Burns

Seconded: Cr T Clout

CARRIED

FOR

Councillor Burns
Councillor Campbell
Councillor Clout
Councillor Collison
Councillor McPhee
Councillor Watts
Councillor Williamson

Total (7)

AGAINST

Councillor Flaherty

Total (1)

Cr Watts returned to the meeting.

G.11.3

REQUESTS FOR DONATIONS

RESPONSIBLE OFFICER: Greg McDonald - General Manager

AUTHOR: Robyn Cox - Executive Assistant

DISCLOSURE OF INTEREST

Cr James Burns declared a non-pecuniary interest / significant conflict for the reason that he is a Councillor of UHSC and on the executive of the Chamber of Commerce. Cr Burns remained in the meeting.

RESOLVED

That Council provide the following donations:

1. **\$85 to Aberdeen Lions Club to assist with the costs of their 'Lap the Map for Diabetes' held on 13 November 2022.**
2. **\$500 to Scone Tidy Towns Committee to assist with the costs of members attending the 'Keep Australia Beautiful Tidy Towns Awards' in Singleton from 3 to 5 March 2023.**
3. **\$500 to Murrurundi Landcare Tidy Town Group to assist with the costs of members attending the 'Keep Australia Beautiful Tidy Towns Awards' in Singleton from 3 to 5 March 2023.**
4. **\$200 to the Koori Kids to assist with the printing and distribution costs for their 2023 NAIDOC Week School Initiatives program**

Moved: Cr L Watts

Seconded: Cr R Campbell

CARRIED UNANIMOUSLY

POLICY MATTERS

H.11.1 ***POLICIES FOR REVIEW - GENERAL MANAGER'S UNIT***

RESPONSIBLE OFFICER: Greg McDonald - General Manager

AUTHOR: Robyn Cox - Executive Assistant

RESOLVED

That Council:

1. adopt the following policies:
 - a. Financial Management – Debtors – Water Usage from Undetected Leaks
 - b. Financial Management – Borrowings
 - c. Plant, Equipment & Stores – Replacement & Disposal – Plant, Equipment & Vehicles - with the following amendments:
 - Objective
 - A fifth point under “The aim of the Plant and Vehicle Replacement Policy is to:”
Support local businesses where possible.
 - Sustainable Fleet Replacement
 - Second paragraph
That Council applies its local buying policy where possible up to 5% of \$2500 whichever is less.
 - d. Grants and Subsidies – Programs – Section 356 Rental Subsidies
 - e. Grants and Subsidies – Programs – Section 356 General Donations
2. amend the review period for policies adopted within the last 12 months to four (4) years.

Moved: Cr J Burns

Seconded: Cr T Clout

CARRIED UNANIMOUSLY

INFRASTRUCTURE REPORTS

I.11.1 ***SALE OF ROAD - KILLOE ROAD, MERRIWA***

RESPONSIBLE OFFICER: Mathew Pringle - Director Planning & Infrastructure Services

AUTHOR: Sam Wooden - Manager Works Delivery

RESOLVED

That Council:

1. undertake community consultation for the permanent closure of Killoe Road as described below under Division 3 Part 4 of the Roads Act 1993 and for the disposal of the land comprising the former public road by sale to the adjoining land owner;
2. obtain a valuation of the land to be disposed.

Moved: Cr J Burns

Seconded: Cr R Campbell

CARRIED UNANIMOUSLY

CLOSED COUNCIL

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 J Burns

Seconded: Cr T Clout

CARRIED UNANIMOUSLY

CR.11.1 **TENDER EVALUATION ON MOONAN BROOK ROAD**

RESPONSIBLE OFFICER: Kristian Enevoldson - Director Corporate & Community Services

AUTHOR: Chris Agosto - Project Manager

This matter is considered to be confidential under Section 10A(2) (c) of the Local Government Act, as it deals with information that would, if disclosed, confer a commercial advantage on a person with whom the Council is conducting (or proposes to conduct) business.

RESOLVED

That Council:

- 1. not award a contract to construct the Moonan Brook Road Initial Seal;**
- 2. obtain approval from the funding bodies to reduce the scope to a length of 3,500m;**
- 3. undertake the works internally as part of Council's road construction program.**

Moved: Cr J Burns

Seconded: Cr T Clout

CARRIED

FOR

Councillor Burns
Councillor Campbell
Councillor Clout
Councillor Collison
Councillor McPhee
Councillor Watts
Councillor Williamson

Total (7)

AGAINST

Councillor Flaherty

Total (1)

CR.11.2

MURRURUNDI WASTE TRANSFER STATION - LAND ACQUISITION

RESPONSIBLE OFFICER: Greg McDonald - General Manager

AUTHOR: Mathew Pringle - Director Planning & Infrastructure Services

This matter is considered to be confidential under Section 10A(2) (c) of the Local Government Act, as it deals with information that would, if disclosed, confer a commercial advantage on a person with whom the Council is conducting (or proposes to conduct) business.

RESOLVED

That Council:

- 1. delegate authority to the General Manager to negotiate the withdrawal of the Aboriginal Land Claims over Part Lots 199 and 200 DP 728353 (Crown Reserve 87624) and to offer compensation to the claimant up to the value nominated in Option 1 of the report.**
- 2. proceed with the compulsory acquisition of Part Lots 199 and 200 DP 728353 (Crown Reserve 87624) for the purpose of a waste transfer station in accordance with the requirements of the Land Acquisition (Just Terms Compensation) Act 1991.**
- 3. undertake community consultation in relation to the establishment of a new waste transfer station on the land.**

Moved: Cr J Burns

Seconded: Cr A Williamson

CARRIED UNANIMOUSLY

CR.11.3

PROPOSED ACQUISITION OF LOT 1 DP 1275541 - 54A BARTON STREET, SCONE

RESPONSIBLE OFFICER: Greg McDonald - General Manager

AUTHOR: Wayne Phelps - Manager Finance

This matter is considered to be confidential under Section 10A(2) (c) of the Local Government Act, as it deals with information that would, if disclosed, confer a commercial advantage on a person with whom the Council is conducting (or proposes to conduct) business.

RESOLVED

That Council:

1. provide delegated authority to the General Manager to negotiate to acquire the land at a maximum purchase price disclosed in Option 1 of the Council report;
2. provide delegated authority to the General Manager to execute all associated documents;
3. authorise the placement of an advertisement indicating Council's intention that the land will be classified as Operational Land in accordance with the provisions of the Local Government Act 1993. Subject to no objections being received within the 28-day statutory period, Lot 1 DP 1275541 as described in this report will be classified as Operational Land.

Moved: Cr T Clout

Seconded: Cr J Burns

CARRIED UNANIMOUSLY

CR.11.4

ACQUISITION OF LAND FOR MERRIWA CYCLEWAY PROJECT

RESPONSIBLE OFFICER: Mathew Pringle - Director Planning & Infrastructure Services

AUTHOR: Tegan Annas - Graduate Water Engineer

This matter is considered to be confidential under Section 10A(2) (c)(d)(i) of the Local Government Act, as it deals with 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.

RESOLVED

That Council:

1. accept the offer from the owner of Lot 11 in DP1098130, 1 Vennacher Street, Merriwa in relation to the acquisition of land by Council for the Merriwa Cycleway project.
2. delegate authority to the General Manager to negotiate the final agreement with the land owner.

Moved: Cr J Burns

Seconded: Cr R Campbell

CARRIED UNANIMOUSLY

CR.11.5

GUMMUN PLACE HOSTEL UPDATE

RESPONSIBLE OFFICER: Greg McDonald - General Manager

AUTHOR: Kristian Enevoldson - Director Corporate & Community Services

This matter is considered to be confidential under Section 10A(2) (d)(i) of the Local Government Act, as it deals with commercial information of a confidential nature that would, if disclosed prejudice the commercial position of the person who supplied it.

RESOLVED

That this matter remain confidential.

Moved: Cr J Burns

Seconded: Cr R Campbell

CARRIED UNANIMOUSLY

CR.11.6

2023 AUSTRALIA DAY AWARDS NOMINATIONS

RESPONSIBLE OFFICER: Kristian Enevoldson - Director Corporate & Community Services

AUTHOR: Amanda Catzikiris - Community Services Officer

This matter is considered to be confidential under Section 10A(2) (a) of the Local Government Act, as it deals with personnel matters concerning particular individuals.

RESOLVED

The award recipients remain confidential until 26 January 2023.

Moved: Cr J Burns

Seconded: Cr T Clout

CARRIED UNANIMOUSLY

CR.11.7

CODE OF CONDUCT MATTER

RESPONSIBLE OFFICER: Kristian Enevoldson - Director Corporate & Community Services

AUTHOR: Kristian Enevoldson - Director Corporate & Community Services

This matter is considered to be confidential under Section 10A(2) (a) of the Local Government Act, as it deals with personnel matters concerning particular individuals.

The Mayor advised Cr Flaherty that she has the right to address Council before leaving the room. Cr Flaherty addressed Council then left the meeting.

RESOLVED

That Council:

1. not adopt the recommendation of the independent investigator;
2. note the reasons for the breach identified in the Independent Investigation Report namely that between 1 June 2022 and 31 July 2022 Cr Flaherty engaged in inappropriate conduct by bullying and harassing staff, including the General Manager of Upper Hunter Shire Council, and other inappropriate interactions with Council staff;
3. in accordance with clause 7.58 (c)(i) of the Procedures for Administration of The Model Code of Conduct, formally censure Councillor Flaherty for the breaches of the Code of Conduct for Councillors under section 440G of the Local Government Act;
4. in accordance with clause 7.58 (c)(ii) of the Procedures for Administration of The Model Code of Conduct, refer the matter to the Office of Local Government for further action under the misconduct provisions of the Local Government Act;
5. in accordance with clause 7.60 of the Procedures for Administration of The Model Code of Conduct, advise the Office of Local Government that the reason for not adopting the investigator's recommendation was because Council believes the breach was serious enough to be forwarded to the Office of Local Government for their investigation as it not only contained bullying and harassing behaviour but the behaviour also clearly demonstrates a lack of basic understanding of conflicts of interest and the responsibility of a Councillor in this regard, is ongoing, and demonstrates a lack of respect for both Council staff and fellow Councillors alike.

Moved: Cr A McPhee

Seconded: Cr R Campbell

CARRIED UNANIMOUSLY

RETURN TO OPEN COUNCIL

RESOLVED That the meeting move back into Open Council.

Moved: Cr J Burns

Seconded: Cr T Clout

CARRIED

The meeting was adjourned for a period of time due to a medical emergency.

Cr Flaherty left the Council Chambers and did not return to the meeting when Open Council resumed.

Upon resuming Open Council, and in accordance with Council's Code of Meeting Practice, the General Manager provided a summary of six of the seven resolutions and the Manager Governance and Risk provided the seventh resolution passed in Closed Council.

THERE BEING NO FURTHER BUSINESS THE MEETING CLOSED AT 6.55PM.