

Minutes of the Extraordinary Meeting of Council

Held at the Council Chambers, 86 Market Street, Mudgee
on 26 October 2016, commencing at 4.10 and concluding at 6.08pm.

PRESENT Cr P Cavalier, Cr P Shelley, Cr E Martens, Cr JP Thompson, Cr S Paine,
Cr A Karavas, Cr R Holden.

IN ATTENDANCE General Manager (Brad Cam), Director Operations (Daryl Colwell), Director
Community (Simon Jones), Director Development (Julie Robertson),
Governance Co-ordinator (Tim Johnston), Executive Manager, Human
Resources (Michele George), Chief Financial Officer (Leonie Johnson).

Item 1: Apologies

Cr D Kennedy, Cr J O'Neill

319/16 MOTION: Shelley / Thompson

That the Apologies for Cr D Kennedy and Cr J O'Neill be accepted.

The motion was carried with the Councillors voting unanimously.

Item 2: Confidential Session

320/16 MOTION: Holden / Shelley

That pursuant to the provisions of Section 10 of the Local Government Act, 1993, the meeting be closed to the public to seek legal opinion.

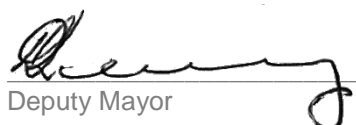
The motion was carried with the Councillors voting unanimously.


Following the motion to close the meeting being moved and seconded, the General Manager announced that the following matters would be considered in confidential session and the reason why it was being dealt with in this way.

2.1 ICAC Investigation Report

The reason for dealing with this report confidentially is that it relates to personnel matters concerning particular individuals (other than Councillors), information that would, if disclosed, prejudice the maintenance of law and alleged contraventions of any code of conduct requirements applicable under section 440 in accordance with Section 10A(2)(a); (e) and (i) of the Local Government Act, 1993.

Discussion of this matter in an open meeting would be, on balance, contrary to the public interest as it involves discussion of (e) information that would, if disclosed, prejudice the


Deputy Mayor


General Manager

maintenance of law (i) alleged contraventions of any code of conduct requirements applicable under section 440.

The General Manager advised that there were two written representations in respect of this matter and that a member of the gallery wished to make verbal representations.

Lindsay Taylor from Lindsay Taylor Lawyers, Council's legal advisors, then addressed Council on a range of matters including the *Government Information (Public Access) Act 2009*, privacy, defamation and natural justice.

MOTION: Cavalier / Holden

That Cr Thompson be removed from the meeting for five minutes.

The motion was lost with the Councillors voting as follows:

Councillors	Ayes	Nayes
Cr Shelley	✓	
Cr Martens		✓
Cr Thompson		✓
Cr Cavalier	✓	
Cr Paine		✓
Cr Karavas		✓
Cr Holden	✓	

Item 3: Open Council

321/16 MOTION: Shelley / Holden

That: Council move to Open Council.

The motion was carried with the Councillors voting unanimously.

Item 4: Urgent Confidential Business Without Notice


4.1 PURCHASE OF HIGH SECURITY WATER LICENCES

322/16 MOTION: Cavalier /

That: Council deal with the matter of as Urgent Confidential Business Without Notice.

The motion was carried with the Councillors voting unanimously.


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General Manager

Item 2 (cont.): Confidential Session**323/16 MOTION: Thompson/Paine**

That pursuant to the provisions of Section 10 of the Local Government Act, 1993, the meeting be closed to the public.

The motion was carried with the Councillors voting unanimously.

Following the motion to close the meeting being moved and seconded, the General Manager announced that the following matters would be considered in confidential session and the reason why it was being dealt with in this way.

2.1 ICAC Investigation Report

The reason for dealing with this report confidentially is that it relates to personnel matters concerning particular individuals (other than Councillors), information that would, if disclosed, prejudice the maintenance of law and alleged contraventions of any code of conduct requirements applicable under section 440 in accordance with Section 10A(2)(a); (e) and (i) of the Local Government Act, 1993.

Discussion of this matter in an open meeting would be, on balance, contrary to the public interest as it involves discussion of (e) information that would, if disclosed, prejudice the maintenance of law (i) alleged contraventions of any code of conduct requirements applicable under section 440.

The General Manager advised that there were two written representations in respect of this matter and that a member of the gallery wished to make verbal representations.

4.1 Purchase of High Security Water Licences

The reason for dealing with this report confidentially is that it relates to information that would, if disclosed, confer a commercial advantage on a competitor of the council in accordance with Section 10A(2)(d)(ii) of the Local Government Act, 1993.

Discussion of this matter in an open meeting would be, on balance, contrary to the public interest as it involves discussion of Commercial in confidence information.


324/16 MOTION: Cavalier / Shelley

That Council allow representations on the matter to be made in the Closed session of Council.

The motion was lost with the Councillors voting as follows:

Councillors	Ayes	Nayes
Cr Shelley	✓	
Cr Martens		✓
Cr Thompson	✓	


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Cr Cavalier	✓
Cr Paine	✓
Cr Karavas	✓
Cr Holden	✓

There were three representations made on the matter during the confidential session. One of these was in person and two were written submissions.

14.4 ICAC INVESTIGATION REPORT

GOV400054, GOV400041

MOTION: Shelley / Paine

That Council:

1. receive the report by the General Manager on the ICAC Investigation Report; and
2. Make the ICAC Investigation Report available for public access under the guidelines provided by the Access to Information Policy and the *Government Information (Public Access) Act 2009*.
3. Release immediately the following information contained in the ICAC report:

Operation Farra is an investigation by the NSW Independent Commission Against Corruption ("the Commission") into allegations of corrupt conduct concerning two councillors and a former general manager of the Mid-Western Regional Council (MWRC). The allegations were to the effect that certain private interests had been preferred to the interests of the MWRC or to the interests of the local community in the exercise of public official functions.


The Commission does not find that any person affected by the investigation engaged in corrupt conduct. In this report, the Commission summarises the large amount of information obtained by the Commission in the course of its investigation, makes findings of fact from that information and makes two recommendations to address corruption risks identified by the investigation.


The Commission has made the following recommendations:

Recommendation 1

That, upon commencement of a new general manager contract, the MWRC ensures that comprehensive, meaningful key performance indicators (KPIs) are developed as a matter of priority. If the MWRC encounters difficulty in promptly developing such KPIs, it should seek external assistance, preferably from the Office of Local Government.

Recommendation 2


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That the MWRC adopts procedural requirements when holding briefing sessions with regard to:

- requiring councillors to declare relevant interests that they hold
- preventing briefing sessions from being a decision-making forum
- any additional mechanisms that may be needed in particular circumstances, such as when:
 - external organisations give presentations to briefing sessions
 - contentious issues are discussed at briefing sessions any additional probity measures that it deems appropriate.

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AMENDMENT: Holden/Karavas

1. **receive the report by the General Manager on the ICAC Investigation Report; and**
2. **Make the ICAC Investigation Report available for public access under the guidelines provided by the Access to Information Policy and the *Government Information (Public Access) Act 2009*.**

The amendment was put and carried and became the motion with the Councillors voting as follows:

Councillors	Ayes	Nayes
Cr Shelley		✓
Cr Martens	✓	
Cr Thompson	✓	
Cr Cavalier		✓
Cr Paine		✓
Cr Karavas	✓	
Cr Holden	✓	

FURTHER AMENDMENT: Thompson/Martens


That Council:

1. Request the ICAC release the report into Mid-Western Regional Council; and
2. Request the Minister for Local Government release the report into Mid-Western Regional Council; and
3. Put in place the recommendations made on page seven of the ICAC report receive the report by the General Manager on the ICAC Investigation Report; The Commission has made the following recommendations:

Recommendation 1

That, upon commencement of a new general manager contract, the MWRC ensures that comprehensive, meaningful key performance indicators (KPIs) are developed as a matter of priority. If the MWRC


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encounters difficulty in promptly developing such KPIs, it should seek external assistance, preferably from the Office of Local Government.

Recommendation 2

That the MWRC adopts procedural requirements when holding briefing sessions with regard to:

- requiring councillors to declare relevant interests that they hold
- preventing briefing sessions from being a decision-making forum
- any additional mechanisms that may be needed in particular circumstances, such as when:
 - external organisations give presentations to briefing sessions
 - contentious issues are discussed at briefing sessions any additional probity measures that it deems appropriate.

The further amendment was lost with the Councillors voting as follows:

Councillors	Ayes	Nayes
Cr Shelley		✓
Cr Martens	✓	
Cr Thompson	✓	
Cr Cavalier		✓
Cr Paine		✓
Cr Karavas		✓
Cr Holden		✓

The new motion was then put and carried with the Councillors voting unanimously.

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SUPPLEMENTARY MOTION: Cavalier / Shelley


That Council write to the ICAC and the Minister for Local Government expressing Council's disappointment in their failure to release the report.

The motion was carried with the Councillors voting unanimously:

Item 4 (cont.): Urgent Confidential Business Without Notice

Cr Shelley left the meeting at 6.03pm


Deputy Mayor


General Manager

4.1 PURCHASE OF HIGH SECURITY WATER LICENCES

GOV400054, A0420213, WAT500046

327/16

MOTION: Holden / Paine**That Council:**

1. Delegate authority to the General Manager to tender for the purchase of a Macquarie High Security Permanent Surface water license parcel for the purpose of security of future town water supply, up to the rate per Mega litre as determined in the closed meeting of Council;
2. Authorises the General Manager to complete the Conditions of Tender for the purchase of certain water rights of Cobbora Holding Company, including the Form of Tender, Acceptance Notice and Contract, in accordance with Councils resolution;
3. Council authorises the General Manager and Mayor to sign the water license Sale and Purchase Agreement, and to sign any other purchase related documents, as required, and in accordance with Councils resolution;
4. Council authorises the Council Seal to be placed on the water license Sale and Purchase Agreement and purchase documentation, as required;
5. Amends the 2016/17 Operational Plan to allocate \$2,000,000 to the purchase of Water licenses, funded from Water Reserves.

The motion was carried with the Councillors voting unanimously:

Item 7: Open Council

328/16


MOTION: Holden/Karavas**That: Council move to Open Council.**


The motion was carried with the Councillors voting unanimously.

The General Manager announced the decisions taken in Confidential Session.

Item 8: Closure

There being no further business the meeting concluded at 6.08pm.


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General Manager