



**Minutes from meeting of:
SPECIAL COUNCIL**

**Held
Wednesday 7 November 2007
5.00pm
Council Chambers, Civic Centre
184 - 194 Bourke Street, Goulburn**

VISION

*A sustainable vibrant community protecting, enhancing and
enjoying Goulburn Mulwaree's rich social, environmental
and economic heritage.*

Mission

To serve the Community

**Minutes of the Ordinary Meeting of Council held Tuesday 7
November 2007 commencing at 5pm in the Council Chambers**

Present

His Worship the Mayor – Cr P Stephenson, Cr R Craig, Cr M Eddy, Cr D Sturgiss,
Cr O’Neill, Cr Sullivan, Cr Hadlow & Cr Lamarra.

Also Present

General Manager (Mr L Johnson), Director Planning and Community Services (Mr C
Berry), Director Engineering Services (Mr P Hansen), Director Corporate Services
(Mr D Holwerda), Manager Economic Development & Administration (Mr K
Wheeldon), Manager Water Services (Greg Finlayson) and Manager Executive
Engineering (Terry Cooper)

Opening Prayer

Read by Cr O’Neill.

Apologies

An apology from Cr Harris was received.

Resolved 07/606

Cr Lamarra/ Cr Hadlow

That the apology from Cr Harris be received and leave of absence be granted.

Disclosure of Interest

Cr Lamarra declared an interest in Item 6 of the Corporate Services Report to
Council.

Mayoral Minute – Highland Source Clarification Report

Recommendation 1

That Council confirm its absolute and ongoing support for the Highland Source
Project, as contained in the 2007/08 Management Plan, on the basis on the estimated
Project Cost of \$50M, with \$20M funding from each of the State and Australian
Governments and a \$10M loan from Council.

Recommendation 2

That Council acknowledge that any cost variations above the budgeted amount of
\$50M will be brought back to Council for determination at that time and will include
modelling of the long-term financial impacts.

Recommendation 3

That Monthly reports be presented to Council providing details on Project activities, expenditure to date and total estimated Project costs as planning, survey, design and tenders are progressively developed.

Recommendation 4

That Council record its concern over any possible escalation in the Project cost above budget and the impact that this may have on the viability of the Project and cost to the community.

Recommendation 5

That Council re-affirm its legal position under the Local Government Act 1993, as confirmed by two legal advices, that the Notice of Rescission Motion considered by Council at its meeting of 17th July 2007 failed.

- *Cr O'Neill asked for an apology from the Mayor for the breach of meeting procedure*
- *The Mayor gave an apology for the failure to put the Notice of Motion at the 17 July 2007 meeting*
- *Cr Hadlow questioned the use of Gerry Holmes on issues of local government law when he had not been formally appointed during the legal services tender process. – The General Manager advised that Mr Holmes ongoing work related to projects commenced prior to the Legal Services Tender.*

Resolved 07/607

Cr Hadlow/ Cr Craig

That the Mayor Minute be received and noted.

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Executive Services Report

Item 1 Highlands Source (Wingecarribee Pipeline) Loan Agreement Conditions

Reporting Officer

Manager of Finance – Brendan Hollands

Purpose of Report

To advise Council of the conditions contained within the loan contract in regard to the early repayment of the \$10 million Highlands Source loan.

Recommendation

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That Council note the low risk condition attaching to the loan.

Moved **Cr Hadlow/ Cr Lamarra**

That Council not enter into the borrowing until the final cost of the project is known.

Following debate the motion was amended by leave of the mover and seconder to:

Resolved 07/608 **Cr Hadlow/ Cr Lamarra**

“That Council not proceed with the borrowing at this time and that authorisation be granted to continue work to determine the cost of the Project from reserves held in the Water Fund.”

A division was called for.

*For the resolved motion: Mayor, Cr Lamarra, Cr Hadlow, Cr O’Neill and Cr Eddy
Against the resolved motion: Cr Sullivan, Cr Sturgiss and Cr Craig*

Note:

During debate Cr Sullivan foreshadowed a motion that in the event of the motion being lost he would move:

“That the loan be taken up as determined by Council at its last meeting”

*The foreshadowed motion was not moved.
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Item 2 Closed Council

Reporting Officer

General Manager – Luke Johnson

Purpose of Report

To consider moving into Closed Council.

The following confidential reports have been distributed separately:

Division	Report
<u>Engineering Services</u>	<i>Item 1 – Availability of Land 144 Gorman Road Goulburn</i>

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Statutory Requirements

Section 10A *Local Government Act 1993*, empowers Council and Committees of which all the members are Councillors to close a part of a meeting in certain circumstances in accordance with the requirements of the Act, and relevant Regulations and Guidelines.

Subject to the provisions of s10 of the Act, so much of a meeting may be closed as comprises certain information as outlined in s10A(2) which states:

(1) a council, or a committee of the council of which all the members are councillors, may close to the public so much of its meeting as comprises:

- (a) the discussion of any of the matters listed in subclause (2), or*
- (b) the receipt or discussion of any of the information so listed.*

(2) the matters and information are the following:

- (a) personnel matters concerning particular individuals (other than councillors),*
- (b) the personal hardship of any resident or ratepayer,*
- (c) information that would, if disclosed, confer a commercial advantage on a person with whom the council is conducting (or proposes to conduct) business,*
- (d) commercial information of a confidential nature that would, if disclosed:*
 - (i) prejudice the commercial position of the person who supplied it, or*
 - (ii) confer a commercial advantage on a competitor of the council, or*
 - (iii) reveal a trade secret,*
- (e) information that would, if disclosed, prejudice the maintenance of law,*
- (f) matters affecting the security of the council, councillors, council staff or council property,*
- (g) advice concerning litigation, or advice that would otherwise be privileged from production in legal proceedings on the ground of legal professional privilege,*
- (h) information concerning the nature and location of a place or an item of Aboriginal significance on community land.*

(3) a council, or a committee of the council of which all the members are councillors, may also close to the public so much of its meeting as comprises a motion to close another part of the meeting to the public.

(4) a council, or a committee of a council, may allow members of the public to make representations to or at a meeting, before any part of the meeting is closed to the public, as to whether that part of the meeting should be closed.

However, the Act also contains the following provisions qualifying the use of Section 10A(2).

Section 10B

- (1) [Time spent closed to be minimised] A meeting is not to remain closed during the discussion of anything referred to in section 10A(2):*
 - (a) except for so much of the discussion as is necessary to preserve the relevant confidentiality, privilege or security, and*
 - (b) if the matter is concerned is a matter other than a personnel matter concerning particular individuals, the personal hardship of a resident or ratepayer or a trade secret – unless the council or committee concerned is satisfied that discussions of the matter in an open meeting would, on balance, be contrary to the public interest.*
- (2) [Qualification of 10A(2)(g)] A meeting is not to be closed during the receipt and consideration of information or advice referred to in section 10A(2)(g) unless the advice concerns legal matters that:*
 - (a) are substantial issues relating to a matter in which the council or committee is involved, and*
 - (b) are clearly identified in the advice, and*
 - (c) are fully discussed in that advice.*
- (3) [Qualification of 10A(3)] If a meeting is closed during the discussion of a motion to close another part of the meeting to the public (as referred to in section 10A(3)), the consideration of the motion must not include any consideration of the matter or information to be discussed in that other part of the meeting (other than consideration of whether the matter concerned is a matter referred to in section 10A(2)).*
- (4) [Irrelevant matters] For the purpose of determining whether the discussion of a matter in an open meeting would be contrary to the public interest, it is irrelevant that:*
 - (a) a person may misinterpret or misunderstand the discussion, or*
 - (b) the discussion of the matter may:*
 - (i) cause embarrassment to the council or committee concerned, or to councillors or to employees of the council, or*

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(ii) *cause a lot of confidence in the council or committee.*

Recommendation

That Council move into Closed Council in accordance with the requirements of s10 *Local Government Act 1993* to consider the following matter:

Engineering Services

Item 1 Availability of Land – 144 Gorman Road Goulburn

Section 10A(2)(c) – information that would, if disclosed, confer a commercial advantage on a person with whom the council is conducting (or proposes to conduct) business.

Purpose of Report

To update Council on the Auction of 144 Gorman Road Goulburn.

This matter is referred for discussion in Closed Council due to the commercial nature of the information.

Resolved 07/609

Cr Hadlow/ Cr Eddy

That Council consider the following matter in Closed Council in accordance with the requirements of s10 Local Government Act 1993:

Engineering Services

Item 1 Availability of Land – 144 Gorman Road Goulburn

Section 10A(2)(c) – information that would, if disclosed, confer a commercial advantage on a person with whom the council is conducting (or proposes to conduct) business.

Purpose of Report

To update Council on the Auction of 144 Gorman Road Goulburn.

This matter is referred for discussion in Closed Council due to the commercial nature of the information.

Resolved 07/610

Cr Craig/ Cr Sullivan

That a further item being Corporate Services late Item 2 – Goulburn Airport Land Classification, be admitted to the agenda and considered in closed Council on the grounds of urgency.

The Mayor ruled that the matter was urgent.

Late Item 2 Goulburn Airport Land Classification

Section 10A(2)(c) – information that would, if disclosed, confer a commercial advantage on a person with whom the council is conducting (or proposes to conduct) business.

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Purpose of Report

*To advise of recent correspondence received in relation to the above matter
and Council's proposed response*

*This matter is referred for discussion in Closed Council due to the
commercial nature of the information.*

Resolved 07/611

Cr Hadlow/ Cr Eddy

That the meeting be adjourned and the General Purposes Committee be held.

The meeting was adjourned at 5.57pm.

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The meeting reconvened at 7.48pm.

Corporate Services Report

**Item 1 Sale of Goulburn Airport - Proposed Addendum
to Request for Expressions of Interest
(Attachment)**

Reporting Officer

Manager of Economic Development and Administration - Ken Wheeldon

Purpose of Report

To recommend the deletion of proposed capital improvements at the Goulburn
Airport as part of the Request for Expressions of Interest (REOI) process.

Recommendation

Council defer the two capital improvements referred to in this report and advise
proponents by Addendum that the works will not be undertaken by Council.

Resolved 07/612

Cr O'Neill/ Cr Craig

*Council defer the two capital improvements referred to in this report and advise
proponents by Addendum that the works will not be undertaken by Council.*

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Closed Council

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Cr Lamarra left the meeting at 7.48pm and did not return.

Resolved 07/613

Cr Sturgiss/ Cr Craig

That Council resolve into closed session and close the meeting to the press and public to discuss confidential matters referred to in the Business Paper.

The items listed in Executive Report Item 2 where discussed.

That Council Resume in Open Session

Resolved 07/614

Cr Sturgiss/ Cr Craig

That the resolutions of the closed session meeting including the following reports which were submitted to Closed Session in accordance with Section 10A of the Local Government Act 1993 (refer General Managers Report Item 2) be adopted.

These motions were:

Engineering Services

Item 1 Availability of Land 144 Gorman Road Goulburn

Resolved 07/615

Cr Hadlow/ Cr Sullivan

That Council continue to negotiate with the aim to purchase 144 Gorman Road and that the Council seal be attached to all relevant documentation and that the purchase be funded by transfer from the reserves in the Sewer Fund and an application be made for funding under the Country Towns Water Supply and Sewerage Scheme.

Corporate Services

**Late Item 2 Goulburn Airport Land Classification
(Attachment)**

Resolved 07/616

Cr Craig/ Cr Sullivan

That the further item being Corporate Services late Item 2 – Goulburn Airport Land Classification, be admitted to the closed Council agenda on the grounds of urgency.

The Mayor ruled that the matter was urgent.

Late Item 2 Goulburn Airport Land Classification

Section 10A(2)(c) – information that would, if disclosed, confer a commercial advantage on a person with whom the council is conducting (or proposes to conduct) business.

Purpose of Report

To advise of recent correspondence received in relation to the above matter and Council's proposed response

This matter is referred for discussion in Closed Council due to the commercial nature of the information.

Resolved 07/617

Cr Sturgiss/ Cr Craig

That the draft response forwarded to the Department of Local Government be confirmed and formally forwarded to the Department of Local Government and the Environmental Defender's Office Ltd.

.....
Cr Paul Stephenson
Mayor

.....
Mr Luke Johnson
General Manager