



# MCKINLAY SHIRE COUNCIL

## ***CONFIRMED MINUTES***

OF THE

***ORDINARY MEETING OF COUNCIL***

HELD AT THE

BOARD ROOM, CIVIC CENTRE  
JULIA CREEK

**19<sup>th</sup> March 2014**

CONFIRMED MINUTES

**TABLE OF CONTENTS**

|  |          |
|--|----------|
| 1. Opening   | 3        |
| 2. Attendance  | 3        |
| 3. Confirmation of Minutes   | 3        |
| 4. Business Arising out of minutes of previous Meetings  | 3        |
| <b><u>5. ENGINEERING REPORT</u></b>  | <b>4</b> |
| 5.1 Report - Engineering Works Report  | 4        |
| 5.2 Report – Queensland Fluoridation Capital Assistance Program (QFCAP)  | 4        |
| <b><u>6. ENVIRONMENT AND REGULATORY SERVICES REPORT</u></b>  | <b>4</b> |
| 6.1 Report – Environment and Regulatory Services Report  | 4        |
| 6.2 Report – Proposed acquisition of part of Lot 16 EN 34 Water Reserve to Resolve Boundary Encroachment                   | 5        |
| 6.3 Report - Trustee Lease McKinlay Paddock 3 and Kynuna Race Course Paddock   | 5        |
| 6.4 Report - Sale of Lots 23, 24 and 28 on AL 75, Wylde Street McKinlay to Jefferis  | 6        |
| <b><u>7. COMMUNITY SERVICES REPORT</u></b>   | <b>7</b> |
| 7.1 Report – Community Services Report   | 7        |
| 7.2 Report – Middle School   | 7        |
| 7.3 Report - Regional Arts Development Fund – 2014/2015 Expression of Interest   | 7        |
| <b><u>8. CORPORATE SERVICES REPORT</u></b>   | <b>8</b> |
| 8.1 Report – Corporate Services Report   | 8        |
| 8.2 Report - Large-sized Contractual Arrangement Exception   | 8        |
| <b><u>9. CHIEF EXECUTIVE OFFICER REPORT</u></b>  | <b>8</b> |
| 9.1 Report – Chief Executive Officer’s Report  | 8        |
| 9.2 Report – Appointment of Acting Chief Executive Officer   | 8        |
| 9.3 Report – Proposal to Undertake a study into Sustaining Roads Maintenance Work Crews in Rural and Remote Queensland.    | 8        |
| 9.4 Report – Economic Development Solar Initiative   | 9        |
| 9.5 Report – Agreement for Road/Rail Interfaces between McKinlay Shire Council and Queensland Railway                      | 9        |
| 9.6 Report – Management of 2013 NDRRA Works  | 10       |
| 9.7 Report - Zoning of Land Sold by public tenders August 2008 – Lot 32 on SP 159777 County of Eddington, Parish of Hilton | 10       |
| 10. Members business   | 11       |
| 11. Closure of Meeting   | 11       |

CONFIRMED MINUTES

**1. OPENING BUSINESS**

All Councillors having signed the Attendance Book, the Mayor declared the meeting open at 10:10am

**2. ATTENDANCE**

Mayor: Cr. B Murphy  
Members: Cr. E Hick, Cr. N. Walker, Cr. A Batt

Staff:  
Interim Chief Executive Officer: Mr John Kelly  
Director of Corporate and Community Services: Mrs Tenneil Cody  
Director of Engineering: Mr. Greg Chesterfield  
Director of Environment and Regulatory Services: Mr. Geoff Rintoul  
Executive Assistant: Mrs Linda McNab

APOLOGIES:

Cr. Philip Curr

Moved Cr. Hick                      Seconded Cr. Walker

That Council accept the leave of absence from Councillor Philip Curr

CARRIED

Resolution No.163/1314

**3. CONFIRMATION OF MINUTES**

Confirmation of minutes from the Ordinary Meeting on 18<sup>th</sup> February 2014 as previously circulated to Councillors.

Moved Cr. Walker                      Seconded Cr. Batt

That the minutes of the Ordinary meeting held on 18<sup>th</sup> February 2014 be confirmed.

CARRIED

Resolution No. 164/1314

Confirmation of minutes from the Special Meeting of Council on 25<sup>th</sup> February 2014 as previously circulated to Councillors.

Moved Cr. Batt                              Seconded Cr. Hick

That the minutes of the Special meeting held on 25<sup>th</sup> February 2014 be confirmed.

CARRIED

Resolution No. 165/1314

**4. BUSINESS ARISING FROM PREVIOUS MINUTES**

CONFIRMED MINUTES

**5. ENGINEERING SERVICE REPORT**

**5.1 Engineering Works Report**

Moved Cr. Walker                      Seconded Cr. Hick

That Council receive the Engineering Services Works Report

CARRIED

Resolution No.166/1314

Moved Cr. Batt                      Seconded Cr. Walker

That Council agree to change the order of the agenda to include the Chief Executive Officer's report, *Queensland Fluoridation Capital Assistance Program (QFCAP)* into the Engineering Service Report.

CARRIED

Resolution No.167/1314

**5.2 Queensland Fluoridation Capital Assistance Program (QFCAP)**

In 2013, Council applied for and gained approval to participate in a State Government funded program to lower the level of naturally occurring fluoride in the Julia Creek water supply.

Council commissioned Cardno BTO Limited to prepare a concept report which was submitted to the Department of State Development, Infrastructure and Planning (DSDIP) for evaluation before proceeding to full design documentation.

The funding program ends on 30 June 2014 and DSDIP is now seeking advice from Council as to our intentions to proceed with the project. Given the short timeframes, staff recommend that DSDIP be advised that Council does not have the resources to expedite the project and consequently withdraws from the program.

Moved Cr. Batt                      Seconded Cr. Walker

That Council advise the Department of State Development, Infrastructure and Planning that due to the imminent end of the State Government funded Fluoridation Assistance Scheme as of 30 June 2014, Council's limited technical human resources and other high priority works projects, Council is unable to sufficiently advance the project prior to the 30 June 2014 deadline and accordingly withdraws from the scheme.

CARRIED

Resolution No.168/1314

**Attendance** – Director of Engineering Greg Chesterfield left the meeting at 11:25am

**RECESS: 11:26am – 11:39** The Mayor adjourned the meeting for morning tea

**6. ENVIRONMENT AND REGULATORY SERVICES REPORT**

**6.1 Environment and Regulatory Works Report – March 2014**

Moved Cr. Walker                      Seconded Cr. Batt

That Council receive the Environment and Regulatory Services Works Report

CARRIED

Resolution No. 169/1314

CONFIRMED MINUTES

**6.2 Proposed acquisition of part of Lot 16 EN 34 Water Reserve to Resolve Boundary Encroachment**

This report makes recommendation to Council for the proposed the acquisition of part of Lot 16 EN 34 Water Reserve to Resolve Boundary Encroachment from Lot 20 on EN 128.

A survey of Lots 20 and 21 of EN 128, as part of an internal reconfiguration of the lots, established a number of building and structures located on the southern boundary of Lot 20 encroached the common boundary between Lot 16 and lot 20. The furthest most encroachment is some 3.24 meters. These structures may or may not have building approval, however have been constructed for some time. Dealing with unauthorized structures is a matter for Council to deal with separately to this particular matter. This matter was formally reported to the Department of Natural Resources and Mines (DNRM) by the applicant's surveyor.

Council approved a Development Approval (MCK 3012\_13) relating to the Reconfiguration of Lots 20 and 21 in January 2014. The reconfiguration is yet to be formalised, however the key to this matter is the future boundary of lot 20 will be common to Lot 16.

The owners of Lot 20 and 21 of EN 128 have requested Council provide comment to DNRM in response to the request to either lease or purchase part of Lot 16. Further provide any comment and or condition(s) that Council may have as part of proposal.

This matter has been considered and there is no reasonable ground for Council to object to this request. Further it is considered beneficial to progress with the acquisition in order to deal with encroachment matters, instead of taking actions to have the owner remove the structures.

Moved Cr. Hick                      Seconded Cr. Walker

That Council advises the Department of Natural Resources and Mines and the owners of Lot 20 and 21 that there are no objections to the acquisition subject to the following conditions:

- a. The Land is purchased from the State;
- b. The Minimum set back from existing buildings/structure of 10 meters;
- c. The realignment is along the entire boundary of lot 16;
- d. The applicant is responsible for all costs associated with the purchase;
- e. The applicant is responsible for the construction of a fence suitable for the area along the entire boundary of Lot 16;
- f. Any services located within the area is relocated at applicants cost.

CARRIED

Resolution No.170/1314

**6.3 Trustee Lease McKinlay Paddock 3 and Kynuna Race Course Paddock**

This report makes recommendation to Council for the formalisation of trustee leases for McKinlay Paddock 3 and Kynuna Race Course Paddock.

All Trustee leases paddocks were tendered for lease over two years or so ago with the formal leases on all but two (2) being formalised 1 September 2013. The duration for these leases is five (5) years. Council will be aware of the finalisation of a number of trustee lease paddocks within the shire for general use for grazing after some two plus years of processing. These paddocks are generally located on "Town Common" areas and owned by the State with Council as trustee.

McKinlay Paddock 3 and the Kynuna Race Course paddocks were offered as part of the tenders, however for a number of reasons, formal leases were never finalised, this being essentially due to the successful tenderers not progressing with the leases. The proposal now is to offer these paddocks for tender and enter into a Trustee Lease Agreement.

CONFIRMED MINUTES

Moved Cr. Walker

Seconded Cr. Hick

The initial report brought to Council was to include the tender of the Kynuna Race Course along with McKinlay Paddock 3. After much deliberation Council have chosen to withdraw the Kynuna Race Course Paddock to enable Director of Environment and Regulatory Services to research any possible existing lease arrangements. Council therefor offers by tender McKinlay Paddock 3 based on the following conditions:

- a. The tendering process is managed by Council staff.
- b. The duration of the lease has the end of lease falling due on or near 1 September 2018;
- c. The tender and assessment process is the same used in previous tenders and completed by the CEO and Director of Environment and Regulatory Services.
- d. Formal approval of tenders is made by Council once the assessment process has been completed;
- e. Trustee leases and Land Management Plans are of the same configuration as those of the current leases;

CARRIED

Resolution No.171/1314

#### **6.4 Sale of Lots 23, 24 and 28 on AL 75, Wylde Street McKinlay to Jefferis**

This report makes recommendation to Council for the sale of land at Lots 23, 24 and 28 on AL 75, Wylde Street McKinlay to Jefferis.

Council received a request from Rodger Grant Jefferis and Lorena Dawn Jefferis, via Councils solicitors (Roberts Nehmer McKee), to purchase Lots 23, 24 and 28 Wylde Street McKinlay. This offer was received on Monday 10 February 2013(4). The solicitors made contact with Council on 14 February 2014.

The request was based on the proposed sale of lots in Late 2012. However the contracts were never executed by the successful tenderer within the prescribed time under the contract and now the contract is considered void. Council should note that Lot 604 of this offer was sold in late 2012. At its meeting in October, 2012, Council passed a motion to accept the tender from Elrose Enterprises Pty Ltd to sell of Lots 23, 24 and 28 Wylde Street McKinlay. Contract documents were drawn up and forwarded to the successful tenderer for execution on 15 November 2012. However the documents were never executed. The offers for the lots as follows:

1. Lot 23 on AL75 for \$1,200.00,
2. Lot 24 on AL75 for \$1,200.00, and
3. Lot 28 on AL75 for \$750.00

It is understood that discussion were held with Council regarding this matter in Late December/early January 2012/13 requesting a delay in executing the contract due to financial hardship. Further it is understood that approval was given for this matter to be progressed at a later date. In discussions with Council and Senior Staff on 10 March 2014, it was confirmed that this was likely correct. Lots 23, 24 and 28 are part of a larger number of lots owned by Council and located on vacant between at the south western end Wylde and Middleton Streets McKinlay. Council still owns ten (10) and will still own the remaining seven (7) lots of land on the block should this sale proceed.

The request is now considered as a Counter Offer to the original contract. Council has a number of options, including:

1. Not progress with the counter offer – this is a viable option as the applications did not execute the contracts. Further this will allow Council to hold all the lots of the 10 Lots; Or
2. Accept the Counter Offer for the lots. This will require the redrawing up of the Contract Documents and subsequent execution of same.

Noting Council's general acceptance of this offer, consideration is given to progresses with the sale of the lots.

CONFIRMED MINUTES

Moved Cr. Hick                      Seconded Cr. Walker

That Council advises the Roberts Nehmer McKee (the Solicitors) to progress with the sale of Lots 23, 24 and 28 on AL75 to Rodger Grant Jefferis and Lorena Dawn Jefferis based on the following conditions:

- a. Council accepts the Counter offer for the sale of the lots;
- b. Give notice to the applicants to terminate the original contract;
- c. Progress relevant documents for execution of the Contract for the sale of the lots
- d. The purchaser is responsible for all costs associated with this matter;
- e. There are no changes to the other applicable conditions of Contract.

CARRIED

Resolution No.172/1314

**Attendance** – Director of Environment and Regulatory Services Geoff Rintoul left the meeting at 12:03pm

**Attendance** – Director of Corporate and Community Services Tenneil Cody entered the meeting at 12:05pm

**7. COMMUNITY SERVICES REPORT**

**7.1 Community Service Report**

Moved Cr. Walker                      Seconded Cr. Batt

That Council receive the Community Services Report.

CARRIED

Resolution No 173/1314

**7.2 Middle School**

Council has been working closely with the community and government departments since 2012 to establish a middle school in Julia Creek. This month Council has been given approval to move forward with the proposed delivery model which will require a financial commitment of Council.

Moved Cr. Hick                      Seconded Cr. Walker

That Council commit to the Middle School project as proposed, confirming a financial commitment required in the 2014/15 financial year of \$25,000 which will be included at the budget determinations.

CARRIED

Resolution No 174/1314

**7.3 Regional Arts Development Fund – 2014/2015 Expression of Interest**

The purpose of this report is to seek Council's commitment to the Regional Arts Development Fund for the 2014-2015 financial year.

Moved Cr. Walker                      Seconded Cr. Hick

That Council commit \$9000 to the Regional Arts Development Fund in the 2014-2015 financial year.

CARRIED

Resolution No 175/1314

CONFIRMED MINUTES

**8. CORPORATE SERVICES REPORT**

**8.1 Corporate Services Report**

Moved Cr. Hick                      Seconded Cr. Batt

That Council receive the Corporate Services Report

CARRIED

Resolution No 176/1314

**8.2 Large-sized Contractual Arrangement Exception**

In accordance with *Section 226 of the Local Government Regulation 2012*, all purchases exceeding \$200,000 are considered large sized contracts and therefore require tenders to be sought. Due to circumstances out of our control, an exception under *Section 235 (c) of the Local Government Regulation 2012* is sought for the procurement of services for the "Senior Living Road Development Project".

Moved Cr. Walker                      Seconded Cr. Batt

That Council grants an exception to enter into a large-sized contractual arrangement without first inviting written tenders for the project "Senior Living Road Development", as per Section 235 (c) of the Local Government Regulation 2012; a genuine emergency exists.

CARRIED

Resolution No 177/1314

**9. CHIEF EXECUTIVE OFFICERS REPORT**

**9.1 Chief Executive Officers Report**

Moved Cr. Hick                      Seconded Cr. Walker

That Council receive the Chief Executive Officers Report.

CARRIED

Resolution No. 178/1314

**9.2 Appointment of Acting Chief Executive Officer**

The purpose of this report is to seek Council's confirmation of the appointment of John Francis KELLY as Acting Chief Executive Officer in the interim period prior to the commencement of a permanent Chief Executive Officer of the McKinlay Shire Council.

Moved Cr. Batt                      Seconded Cr. Walker

That Council confirm the action of Mayor Belinda Murphy in recruiting and appointing John Francis KELLY to the position of Acting Chief Executive Officer for the period 24 February 2014 until the commencement of the new permanent Chief Executive Officer anticipated to be on or around 16 May 2014 unless sooner determined by the Mayor and Deputy Mayor.

CARRIED

Resolution No.179/1314



CONFIRMED MINUTES

**9.3 Proposal to Undertake a study into Sustaining Roads Maintenance Work Crews in Rural and Remote Queensland**

Local Governments in Queensland's rural and remote areas depend heavily on funding from the State and Commonwealth to maintain and enhance our roads and provide employment in our communities. In recent times the availability and predictability of funding has diminished, threatening the long term sustainability of skilled road workforces in our areas.

LGAQ presented a project proposal to the 5 March 2014 meeting of NWQRR&T Group seeking the commitment of member Councils to fund a study to identify road maintenance and renewable delivery arrangements that are sustainable for Councils and are consistent with State Government policy and fiscal responsibility objectives. This will include accepted Commission of Audit recommendations and the Queensland Plan.

Moved Cr. Hick                      Seconded Cr. Walker

That Council agree to participate in the proposal by LGAQ to undertake a study into sustaining roads maintenance works crews in rural and remote Queensland and to contribute \$5,000 - \$7,000 to assist with the funding of the study which will be undertaken by KPMG under the direction of LGAQ and that the required funding provision be referred to the forthcoming budget discussions for inclusion in the 2014/15 budget.

CARRIED

Resolution No.180/1314

**9.4 Economic Development Solar Initiative**

At the 18 February 2014 Ordinary Meeting, Council received a report by Mrs. Tenneil Cody, Director Corporate and Community Services outlining an economic development initiative to assist the 22 local businesses in the Shire which have a shop front to install a solar energy system.

The proposal has since been discussed with senior officers of Ergon and the Department of Local Government, Community Recovery and Resilience (DLGCRR) and is now re-presented to Council for authorization to proceed to consultation with the 22 local businesses.

Moved Cr. Hick                      Seconded Cr. Batt

With respect to the proposed Solar Initiative for shop front businesses as reported to the 18 February 2014 ordinary Meeting:

1. Council agrees in principle with the proposal subject to community consultation, further investigations of the financial modeling of the scheme and subsequent consideration by Council ,
2. The Mayor now proceed to community consultations with 22 local shop front businesses in the Shire to present the proposed Solar System Installation scheme and to invite their level of interest in participating in the scheme, and
3. Further reporting will be presented to a future meeting of Council.

CARRIED

Resolution No.181/1314

**9.5 Agreement for Road/Rail Interfaces between McKinlay Shire Council and Queensland Railway**

Queensland Rail (QR) forwarded for Council consideration a draft Agreement for road/rail interfaces on 10 April, 2012. On the 10 February 2014 the Director-General of Department of Transport and Main Roads reminded Council that failure to comply could incur significant penalties.

I have obtained the documents and examined the Agreement and see no consequences that differ from the current arrangements and recommend Council enter into the Agreement.

CONFIRMED MINUTES

Moved Cr. Walker

Seconded Cr. Hick

That Council authorize the Mayor and Acting Chief Executive Officer to execute an Agreement for management of road/rail interface risks between Queensland Rail Limited and McKinlay Shire Council pursuant to the report presented to the Ordinary Meeting of Council held on 19 March 2014.

CARRIED

Resolution No.182/1314

### 9.6 Management of 2013 NDRRA Works

Provisional approval has been received from QRA for \$7.7M to fund repair of damage caused by the declared 2013 Natural Disaster Relief and Recovery Arrangements (NDRRA) event.

Council is committed to completing these works by June 2015 and in the process should maximize funding recovery through delivery and acquittal of eligible works whilst minimizing risk of ineligible expenditure which would adversely impact Council's budget.

The scope and volume of work in this time period in addition to Council's other works program represents a challenge to Council in terms of capacity, management and cash flow.

To address this situation, the engagement of additional Engineering Project Management services is recommended.

Moved Cr. Walker

Seconded Cr. Hick

That Council authorize staff to examine all options and competitive prices for the provision of project management services for the approved NDRRA recovery works for the 2013 event and delegate authority to the Mayor, Deputy Mayor and Chief Executive Officer to proceed with the most favorable option.

CARRIED

Resolution No.183/1314

**Attendance** – Cr. Belinda Murphy left the meeting at 1:32pm . Deputy Mayor Anthony Batt will now Chair the meeting.

**ADJOURNMENT: 1:36pm – 1:54pm** The Deputy Mayor adjourned the meeting for lunch.

### 9.7 Zoning of Land Sold by public tenders August 2008 – Lot 32 on SP 159777 County of Eddington, Parish of Hilton

Land previously described as Lot 32 on SP 159777 County of Eddington, Parish of Hilton was offered for sale by public tender in August 2008 and subsequently sold to the highest bidder pursuant to Council resolution at a Special Meeting held on 24 September 2008. The tender document did not specify that the land was zoned "Industrial" under the Planning scheme of 2005.

The purchasers of the land, Kevin Wayne MURPHY and Trevor & Janene FEGAN, wrote to Council on 26 November 2013 and 2 December 2013 respectively advising that it has only now come to their attention that the land is zoned "Industrial". This is contrary to their belief that it was zoned "Rural Residential" at the time of their tender and purchase. The owners are requesting Council to formally amend the planning scheme to change the zoning of this land from "Industrial" to "Rural Residential".

CONFIRMED MINUTES

I have endeavoured to thoroughly investigate this matter in the three weeks that I have been aware of it. The absence of comprehensive files on the tender including successful and unsuccessful tenders, sales details, subsequent Lot re-configuration and paper trail of changes to rating classifications for this land has made this very difficult. There are at least three options available to Council:

1. Advise the owners that Council accedes to their request and will commence the process to achieve an amendment to the planning scheme on the grounds that Council has sole responsibility for this confusion through failure to identify the zoning in the tender documents and that Council rate records show the land as "Rural Residential".
2. Advise the owners that Council will share on a 50/50 basis the cost of the application process to seek an amendment to the planning scheme as requested by the owners on the condition that the applicant initiate and manage the process.
3. Advise the owners that Council does not consider it has any responsibility for the confusion over the zoning of their land as the obligation rests with the purchaser of land to exercise due diligence by securing formal property searches prior to settlement which would have revealed the true zoning of the land. However, Council would have no objection to the land owner commencing a rezoning application which would be considered on merit when submitted.

Moved Cr. Walker

Seconded Cr. Batt

That Council advise the owners of Lots 1 to 4 on SP 229752, Kevin Wayne MURPHY and Trevor and Janene FEGAN, that Council does not consider it has any responsibility for any misunderstanding by the owners as the obligation rests with the purchaser of any land to exercise due diligence by securing formal property searches prior to settlement which would have revealed the true zoning of the land. However, Council would have no objection to the land owner commencing a rezoning application which would be considered on merit when submitted.

CARRIED

Resolution No.184/1314

**10. MEMBERS BUSINESS**

**11. CLOSURE OF MEETING**

The Chair of the meeting, Cr. Anthony Batt, Deputy Mayor, declared the meeting closed at 2:27pm

\_\_\_\_\_  
Cr Anthony Batt  
Deputy Mayor