

WARRUMBUNGL E SHIRE COUNCIL

MINUTES OF THE ORDINARY MEETING OF THE WARRUMBUNGL E SHIRE COUNCIL
HELD AT THE COUNCIL CHAMBERS, COOLAH ON THURSDAY, 21 APRIL 2011
COMMENCING AT 11.13AM. PAGE 1

PRESENT: Cr Shinton (Chairman), Cr Campbell, Cr Coe, Cr Powell, Cr Sullivan, Cr Todd, Acting General Manager (Kevin Tighe), Acting Director Environmental Services (Tony Meppem), Acting Director Corporate Services (John McHugh) and Director Community Services (Rebecca Ryan).

In attendance: C Nasmith (minutes)

The Mayor welcomed Councillors to the meeting.

APOLOGIES: Cr Schmidt, Cr Dissanyake and Cr Lewis.

337 RESOLVED that the apologies of Cr Schmidt, Cr Dissanyake and Cr Lewis be accepted.

Coe/Sullivan
The motion was carried

FORUM 11.15am

Mr Mike Wheeler, Australian National University's Research School for Astronomy and Astrophysics School Manager and Mr Steven Watt, Marketing Manager, spoke to Council regarding a Regional Development Australia funding application and the need to establish a partnership with Council to obtain the funding for extensive upgrades at Siding Springs Observatory, Coonabarabran.

11.30am

The Mayor called for Declarations of Interest (to declare pecuniary or non-pecuniary interest) from Councillors and senior staff in any matter listed in the Agenda for consideration at the meeting. There were no declarations at this time.

CONFIRMATION OF MINUTES OF THE ORDINARY MEETING OF WARRUMBUNGL E SHIRE COUNCIL HELD 17 MARCH 2011

338 RESOLVED that the minutes of the ordinary meeting of the Warrumbungle Shire Council held on 17 March 2011 be endorsed.

Coe/Todd
The motion was carried

CONFIRMATION OF MINUTES OF THE SPECIAL MEETING OF WARRUMBUNGL E SHIRE COUNCIL HELD 31 MARCH 2011

339 RESOLVED that the minutes of the Special meeting of the Warrumbungle Shire Council held on 31 March 2011 be endorsed.

Powell/Campbell
The motion was carried

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ADOPTION OF THE RECOMMENDATIONS OF THE WARRUMBUNGLE SHIRE TRAFFIC ADVISORY COMMITTEE MEETING HELD 24 MARCH 2011

340 RESOLVED that the minutes of the Warrumbungle Shire Traffic Advisory Committee Meeting held 24 March 2011 be adopted.

Todd/Sullivan
The motion was carried

ADOPTION OF THE RECOMMENDATIONS OF THE WARRUMBUNGLE SHIRE OH & S COMMITTEE MEETING HELD 3 MARCH 2011

341 RESOLVED that the minutes of the Warrumbungle Shire OH & S Committee Meeting held 3 March 2011 be adopted.

Powell/Campbell
The motion was carried

ADOPTION OF THE RECOMMENDATIONS OF THE WARRUMBUNGLE SHIRE CONSULTATIVE ADVISORY COMMITTEE MEETING HELD 27 OCTOBER 2010

342 RESOLVED that the minutes of the Warrumbungle Shire Consultative Advisory Committee Meeting held 27 October be adopted.

Campbell/Sullivan
The motion was carried

ADOPTION OF THE RECOMMENDATIONS OF THE YULUWIRRI KIDS ADVISORY COMMITTEE MEETING HELD 24 MARCH 2011

343 RESOLVED that the minutes of the Warrumbungle Shire Yuluwirri Kids Advisory Committee Meeting held 24 March 2011 be adopted.

Campbell/Powell
The motion was carried

11.45am

ACTING GENERAL MANAGER'S REPORT

1.1 Notice of Motion – Local Government support for Constitutional Change

344 RESOLVED that Warrumbungle Shire Council declares its support for financial recognition of local government in the Australian Constitution so that the Federal Government has the power to fund local government directly and also for inclusion of local government in any new Preamble to the Constitution if one is proposed, and calls on all political parties to support a referendum by 2013 to change the Constitution to achieve this recognition.

Campbell/Coe
The motion was carried

1.2 Notice of Motion – Unmanned Tips in Warrumbungle Shire

345 RESOLVED that a Business Plan for operating each of the waste transfer stations using an on-site supervisor is prepared and presented to Council for further consideration.

Campbell/Powell
The motion was carried

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1.3 Establishment of Internal Audit Framework

346 RESOLVED that :

1. Council pursue a memorandum of agreement with the following Councils for the purposes of engaging the services of an Internal Auditor and common audit committee chairman; Warren Shire Council, Gilgandra Shire Council, Narromine Shire Council and Coonamble Shire Council. Furthermore, should agreement be reached with these five Councils, the General Manager is authorised to execute the agreement on behalf of Warrumbungle Shire Council,
2. Should a memorandum of agreement be developed and implemented amongst other Councils for the engagement of an Internal Auditor, the process of establishing an audit committee is undertaken and referred back to Council for appointment of Committee members, and
3. An allocation of \$30,000 is made in the draft 2011/2012 budget for the purpose of establishing an internal audit function.

Powell/Sullivan
The motion was carried

1.4 Korea War Veterans Association – NSW Proposal for Commemorative Plaques on War Memorials

347 RESOLVED that Council provide in-principle support to the proposal by the Korea War Veterans Association of NSW to erect a plaque commemorating the 1950 – 1956 Korean War on existing war memorials, subject to consultation with the local RSL sub branch prior to any plaque being erected

Sullivan/Campbell
The motion was carried

1.5 Delegations to the General Manager

348 RESOLVED that Council delegate the functions of the General Manager as listed to Mr Steve Loane from 2 May 2011 and **FURTHER** that the prior delegations for the acting position of General Manager be revoked as at 2 May 2011.

Powell/Campbell
The motion was carried

DELEGATIONS OF AUTHORITY TO THE GENERAL MANAGER SECTION 377, 379 and 381 LOCAL GOVERNMENT ACT 1993

FUNCTIONS OF THE GENERAL MANAGER

In pursuance of Section 335 of the Local Government Act, 1993, the General Manager is generally responsible for the efficient and effective operation of the Council's organisation and for ensuring the implementation, without undue delay, of decisions of the Council. The General Manager shall have the following particular functions:

- i. the day to day management of the Council;
- ii. to exercise such of the functions of the Council as are delegated by the Council to the General Manager;
- iii. to appoint staff in accordance with the organisation structure and resources approved by the Council provided the General Manager may appoint or dismiss Senior Staff only after consultation with the Council;
- iv. to direct and dismiss staff; and
- v. to implement the Council's equal employment opportunity management plan.

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DELEGATIONS OF AUTHORITY TO THE GENERAL MANAGER

In pursuance of Section 377, 379 & 381 of the Local Government, 1993, the Warrumbungle Shire Council hereby delegates to the **GENERAL MANAGER**, the exercise of the powers, functions, duties and authorities contained in the Local Government Act, 1993 and the various other Acts listed in Schedule 1.

This instrument of delegation shall commence on the 2 May 2011 and remain in force until otherwise amended or revoked in writing.

Generally the following are delegated as well as schedules 1 and 2 hereto attached.

GENERALLY

Administration

- To carry out the regular services and operations of the Council within the sums voted by the Council for expenditure thereon and in accordance with the resolutions of the Council.
- To authorise the payment of the salaries and wages of the employees of Council within the sums voted by Council for expenditure thereon.
- To exercise and implement the powers, authorities, duties and functions of the Council under the Local Government Act and any other Act of Parliament or any rule, regulation, ordinance or bylaw under or pursuant to any such Act, subject to compliance with Section 377 and Council's adopted policies.
- To exercise and implement any resolution or policy of the Council subject to Section 377.
- To control all correspondence of Council with all official mail to be addressed to the General Manager and for all outgoing mail, Section 603 Certificates of Local Government Act and Section 149 Certificates of Environment and Planning Act to be signed by himself or other persons authorised by him in any emergent circumstances.
- To determine the matters which are to be included in the business papers of Council in line with Council's policies and general practice and, in particular, matters to be referred to Closed Meeting in line with Council's policy in relation to confidentiality and the provisions of the Local Government Act, 1993, (Section 10). These would generally include:
 - i. reports on matters which cannot be determined under delegated authority;
 - ii. reports required to be submitted under any Act or Regulation.
 - iii. matters requiring a determination of Policy;
 - iv. reports directed by the Council to be submitted;
 - v. matters essential for the Council's information;
 - vi. matters requested by the Mayor;

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- To authorise the purpose and travel arrangements of Council's representatives and staff outside Council's area on Council business and the reimbursement of the associated expenses including the attendance of the General Manager and Directors to attend one only annual conference or their professional organisation each year ie the Local Government Managers Association, the Institute of Professional Engineers Association, the Health and Building Surveyors Association.
- To authorise the purchase of stationery, seek quotes for office equipment, and acceptance of quotes for amounts covered within the budget.
- To authorise the issue of letters of reference by the General Manager.

Accounts - Payment

- Authority to pay all accounts as they fall due.

Cheques/Orders for Goods - Signing

- To sign and or to specify the servants authorised to sign cheques and orders for goods of Council.

Complaints and Requests

- Instruct staff to take any necessary action in connection with any complaints or requests received, subject to all major matters being reported to Council.

Correspondence

- To reply to routine correspondence not involving a monetary vote by Council, not effecting Council policy and not requiring the consideration of Council. Further a reply is not necessary where the item is actioned and completed within 21 days of receipt.

Staff Matters

- Exercise the powers of the Council in relation to:
 - a The day to day management of Council employees.
 - b The conduct of staff education and staff attendance at training courses and computer user group.
 - c Engage and dismiss casual staff as and when required within the provisions made in the approved estimates.
 - d Deal with all industrial disputes involving the Council and its staff, subject to any formal dispute being referred to Council.
 - e Within the funds voted by Council to approve overtime being worked by staff in all departments or divisions of Council when considered necessary subject to any directions or policy of Council from time to time.
 - f Authority to approve staff leave.

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Responsible Accounting Officer

- To be or designate an appropriate employee of Council as the responsible accounting officer in accordance with Part 4 of the Local Government (Financial Management) Regulation 1993.

Advances - Cash

- To fix and vary the level of cash advances.

SCHEDULE 1

LOCAL GOVERNMENT ACT, 1993

(a) Chapter 6 - Services Function

(i) PART 2 - PUBLIC LAND

Section 54 - Issue of Land Classification Certificates.

(b) Chapter 7 - Regulatory Function

(i) PART 1 - APPROVALS

Section 68 - Approval of activities specified in the table (Section 68 Local Government Act), except in so far as the Local Government Act, 1993, the regulations or a local policy adopted by the Council allows the activity to be carried out without approval.

Section 82 - To modify provisions of Clauses 54 and 55 of the (Approvals) Regulations.

Section 94 - Determination of Applications by granting approval, either conditionally or subject to conditions, or by refusing approval.

Section 95 - Exercising Council's power for deferred commencement of approvals.

Section 96 - Exercising Council's power to grant Staged Approval.

Section 97 - Exercising Council's power to apply Conditions concerning security.

Section 98 - Exercising Council's power to impose Other Conditions.

Section 99 - Giving of notice to applicants of determination of Applications.

Section 100 - Review of Determination where made by a delegation of Council.

Section 106 - Exercising Council's power to amend an approval, in accordance with the procedures outlined in Section 106.

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Section 107 - Exercise Council's power to extend or review an approval.

Section 108/109 - Exercise Council's power to revoke or modify an approval in any of the following circumstances:-

- (a) if the approval was obtained by fraud, misrepresentation or concealment of facts;
- (b) for any cause arising after the granting of the approval which, had it arisen before the approval was granted, would have caused the Council not to have granted the approval (or not have granted it in the same terms);
- (c) for any future failure to comply with a requirement made by or under the Local Government Act, 1993 relating to the subject of the approval; and
- (d) for any failure to comply with a condition of the approval.

(c) Chapter 7 - Regulatory Function

(i) PART 2 - ORDERS

Section 124 - Order a person to do or refrain from doing a thing specified in Column 1 Table No.2 (Chapter 7 - Orders) if the circumstances specified opposite in Column 2 of the Table exists and the person comes within the description opposite it in Column 3 of the Table.

Section 125 - Order a person responsible for a public nuisance to abate such nuisance.

Section 132 - Give notices of an Order under Section 121.

(d) Chapter 8 - Ancillary Functions

(i) PART 1 - ACQUISITION OF LAND

Section 186/187 - Negotiate on Council's behalf for the acquisition of land for the purpose of exercising any of the functions, up to the stage of presenting offers to Council for determination.

(ii) PART 2 - ENTRY ON TO LAND AND OTHER POWERS

Section 191/ 192 - Authorise Council employees (or other persons) to enter any premises for the purpose of enabling the Council to exercise its functions.

Section 194 - Authorise the use of force for the purposes of entering premises.

Section 201 - Make application to an authorised Justice for the issue of a Search Warrant.

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(e) Chapter 11 – How Are Councils Staffed

(i) PART 3 – PUBLIC OFFICER

Section 342 - Designate a member of staff as a Public Officer.

Section 353 - Prohibit staff from engaging in private employment or contract work outside Council.

(f) Chapter 12 - Operation of Councils

(i) PART 3 - SALE OF COUNCIL PROPERTY - PLANT AND EQUIPMENT

To dispose of Council plant and equipment by way of sale at the best offer received when:

(1) the sale of such item of plant and equipment is approved in the current year's annual operating plan and budget or approved by the Asset Management Committee; or

(2) the item of plant, equipment or material is obsolete, unserviceable and/or surplus to Council's requirements and the sale of such item of plant or equipment represents the most cost effective option.

(ii) PART 4 - INSURANCE

Section 382 - Make arrangements for adequate insurance against public liability and professional liability.

(g) Chapter 15 - Council Finances

(i) PART 3 - ORDINARY RATES

Section 548A - Determine applications for aggregation of land values by Council and to adjust and re-levy accordingly.

(ii) PART 5 - LEVYING OF RATES AND CHARGES

Section 552 - Determination of what land may be subject to a water supply special rate or charge.

Section 553 - Determination of time at which land becomes subject to special rate or charge.

(iii) PART 6 - RATEABLE LAND

Section 555 - Determination of what land is exempt from all rates.

Section 556 - Determination of what land is exempt from all rates, other than water supply special rates and sewerage special rates.

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(iv) PART 7 - PAYMENT OF RATES AND CHARGES

Section 564 - Approval of agreements as to periodical payment of rates and charges.

Section 569 - Issue and serve notices on occupiers for liability for payment of unpaid rates and charges.

(v) LOCAL GOVERNMENT GENERAL REGULATION (2005)

Clause 131 - To write off Rates and Charges in accordance with the regulation under this clause.

- To write off Rates and Charges up to \$10,000 in accordance with this clause (errors, at law or cost effectiveness).
- To write off debts to Council up to \$500.00 in accordance with this clause.

(vi) PART 13 - INVESTMENTS

Section 625 - Arrange the investment of money that is not, for the time being, required by the Council for any other purpose.

Money may only be invested in the following:-

- a. in any security authorised by the Trustee Act; or
- b. in a form of investment notified by order of the Minister published in the Government Gazette.

(vii) LOCAL GOVERNMENT GENERAL REGULATION, 2000

Clause 144 - To apply water restrictions under the terms of this clause.

OTHER ACTS

The General Manager is further delegated to act specifically in terms of the following Acts and Regulations:

RURAL FIRES ACT 1997

- Section 66 - Issue Notices requiring owners or occupiers (not being a public authority) of land to carry out bush fire hazard reduction work.
- Section 67 - Resolve objections to Section 66 Notices.
- Section 70 - Enter on land and carry out bush fire hazard reduction work.
- Division 2A - Investigate bush fire hazard complaints.
- Sections 100D, 100E, 100F, 100G - Issue bush fire hazard Certificates.
- Section 100H - Remedy and restraint for breaches under Sections 100F and 100G by bringing proceedings in the Land & Environment Court.
- Section 131 - To serve penalty notices on a person.

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COMPANION ANIMALS ACT, 1998

To authorise staff to carry out and undertake all Council's functions and take legal actions under the Companion Animals Act, 1998 and Regulations.

FOOD ACT, 2003 AND FOOD REGULATIONS 2004

Powers and authorities as the appropriate enforcement agency under the Food Act 2003 and Food Regulations 2004.

IMPOUNDING ACT 1993

To appoint designated Impounding Officers and carry out all Council's functions and take legal actions under the Impounding Act 1993.

PROTECTION OF THE ENVIRONMENT OPERATIONS ACT 1997

Section 91 - Issue Clean Up Notices.

Section 92 - Undertake clean up and recover costs in relation to reasonable costs and expenses.

Section 94 - Recover costs.

Section 96 - Issue Prevention Notices.

Section 98 - Take action where a person does not comply with Prevention Notice.

Section 187 - Appoint authorised officers

Section 224 - Serve a Penalty Notice

Section 264 - Issue Noise Control Notices

PROTECTION OF THE ENVIRONMENT OPERATIONS (CLEAN AIR) REGULATION 2002

Issue and revoke approvals for the Control of Burning under part 2A, subject to:

- Such conditions as may be specified
- Consideration of the matters as listed under Section 6G
- No approvals for burning vegetative matter being issued in village zones, industrial or rural residential zones except in exceptional circumstances as determined in consultation with the Department of Environment & Conservation, NSW Rural Fire Service or NSW Fire Brigade
- No approvals for burning of vegetative matter being issued during periods in which a permit is required to be issued by the NSW Rural Fire Service or other authority unless a permit is issued
- No approvals being issued for burning during periods of Total Fire Bans.

PUBLIC HEALTH ACT 1991

Section 10 - Exercise Functions

Section 10F - Power to Enter and Inspect Premises of a Supplier of Water

Section 10I - Closure of Water Supply

Section 47 - Power of Authorised Officer under Part 4 – Microbial Control

Section 51 - Power of Authorised Officer under Part 5 – Skin Penetration

Section 70 - Inspection of Records

Section 72 - Power of Entry

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PUBLIC HEALTH (DISPOSAL OF BODIES) REGULATIONS 2002

Section 28 - Supervision of Exhumations

Section 49 - Power to Enter and Inspections

PUBLIC HEALTH (SKIN PENETRATION) REGULATIONS 2000

Section 4 - Powers to Enter and Inspection

PUBLIC HEALTH (SWIMMING POOLS & SPAS) REGULATIONS 2000

Section 6 - Powers of Entry and Inspection

Section 7 - Powers to Close Swimming Pool or Spa

PUBLIC HEALTH REGULATIONS

Section 39 - Supervision of Exhumations

Section 57 - Power of Entry and Inspection

SWIMMING POOL ACT 1992

Section 27 - Power to Appoint Inspector

Section 28 - Power of Entry and Inspection

Section 24 - Issue Compliance Certificates

Section 34 - Serve Notices

Section 35 - Issue Penalty Notices

ENVIRONMENTAL PLANNING & ASSESSMENT ACT 1979

i) The authority to determine development applications lodged for consent under Part 4 of the Environmental Planning & Assessment Act, 1979 which:

- a) comply with the provisions of any Environmental Planning Instrument;
- b) are consistent with relevant Development Control Plans, Codes or Policies adopted by the Council;
- c) may be considered under Part 4 Division 2 (Existing Use) of the Environmental Planning & Assessment Act, 1979;
- d) are the subject of public submissions to which the objection relates; [Section 90]
 - (i) solely to the type of development proposed;
 - (ii) to a design standard contained within an adopted Development Control Plan, Code or Policy;
 - (iii) to an issue that may be reasonably alleviated by the imposition of a condition of development consent.

ii) The authority to, on behalf of the Director-General, prepare Section 65 Certificates and Section 69 Reports to the Minister to approve such amendments.

(N.B. Council must still apply to the Director to complete the relevant documents under Sections 65 and 69 of the Act).

iii) The authority to impose conditions on a development consent granted under Part 4 of the Environmental Planning & Assessment Act, 1979, which are:

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- a) for a purpose identified in Section 80 and 80A of the Environmental Planning and Assessment Act 1979;
 - b) in accordance with the terms of any environmental planning instrument;
 - c) in accordance with any development control plan, code or policy adopted by the Council;
 - d) requirements specified by any public authority or public undertaking.
- iv) The authority to refuse a development application which:
- a) is prohibited under the provisions of any environmental planning instrument;
 - b) does not comply with the statutory provisions of the Environmental Planning & Assessment Act, 1979;
 - c) does not contain adequate information to enable assessment under the relevant heads of consideration listed in Section 76(C) of the Environmental Planning & Assessment Act, 1979.
- v) The authority to determine any request for reconsideration or variation of a condition of development consent under Section 96 of the Environmental Planning & Assessment Act, 1979.
- vi) The authority to approve an extension of any development consent in accordance with the provisions of Section 95 of the Environmental Planning & Assessment Act, 1979.
- vii) The function of the Council in relation to Part 5 of the Environmental Planning & Assessment Act, 1979 for an activity which is not of a prescribed kind or an activity that is not likely to significantly affect the environment.
- viii) The authority to reject a development application within 7 days after its receipt if it is not clear as to the development consent sought or it is not easily legible.
- ix) The function of the Council under Section 118B of the Environmental Planning and Assessment Act 1979 to authorise a person to carry out inspections for the purposes of that Act, the regulations under that Act and any environmental planning instrument under that Act.
- x) The function of the Council under Section 123 of the Environmental Planning and Assessment Act 1979 to bring proceedings to remedy or restrain a breach of that Act.
- xi) Authority to forward a Draft Local Environmental Plan under Section 68 of the Environmental Planning & Assessment Act, 1979 to the Department of Planning where no public submissions are received as a result of the public exhibition required under Section 66 of the Act.
- xii) Authority to vary any numeric standard contained within any Council code, policy or development control plan by up to 10% provided the development still meets the objectives of the particular code, policy or development control plan.

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- xiii) The authority to require the lodgement of a cash bond or bank guarantee for work outstanding in any partly completed development with the amount of the bond being sufficient to complete the approved work allowing for inflation and administration costs or as provided for in Council's policy.
- xiv) The authority to act on Council's behalf in relation to legal proceedings lodged with the Land & Environment Court as follows:
 - (a) To determine the nature of action to be taken to defend the appeal and thereafter institute any action deemed necessary in the circumstances.
 - (b) To negotiate on matters in issue during conferences between parties when presided over by an assessor appointed by the Land & Environment Court and to delegate such authority to the Director - Works and/or the Director – Environmental & Community Services, where appropriate.
- xv) The function of the Council under Section 149, 149A, 149C and 149D.
- xvi) The authority to issue Certificates under Part 4A including Construction, Occupation, Compliance and Subdivision Certificates.
- xvii) Part 6 - Division 1A Power of Entry onto Land and Other Powers.
- xviii) Issue Notice of Intent under Section 21H for an Order under Section 121B.
- ixx) Issue Orders under Section 121B.

ENVIRONMENTAL PLANNING & ASSESSMENT REGULATIONS 2000

Issue Fire Safety Orders, Notices, Schedules, Certificates and Offences under Part 9 – Fire Safety and Matters Concerning the Building Code of Australia.

INDEPENDENT COMMISSION AGAINST CORRUPTION ACT, 1988

To exercise the statutory role of the Principal Officer in accordance with Section 11 of the Independent Commission against Corruption Act, 1988, as and when considered appropriate.

PRIVACY AND PERSONAL INFORMATION PROTECTION ACT, 1998

To implement Council's functions under the Act.

ROADS ACT, 1993

To authorise the North West Weight of Loads Group to proceed or not proceed with prosecution for breaches of regulations made under Section 108(2) of the Roads Act, 1993.

The function under section 71 of the Roads Act to decide to carry out work on any public road in respect of which the Council is the roads authority under the Act and on any other land under its control.

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The function under section 78 of the Roads Act to decide to construct bridges and tunnels across navigable waters.

The function under section 86 of the Roads Act to direct the owner of a private road to carry out work on the road or to decide that the Council is to carry out the work.

The function under section 87(2) of the Roads Act to decide to carry out traffic control work on a classified road with the consent of the Roads and Traffic Authority (RTA).

The function under section 87(3) of the Roads Act to decide to carry out traffic control work on any unclassified road, and on any public street that is not a public road, except where otherwise notified by the RTA.

The function under section 92(1) of the Roads Act to decide to alter the landform of land adjoining a public road to ensure the stability of the road.

The function under section 93 of the Roads Act to direct the owner of any land adjoining a public road to fill in any excavation that, in the Council's opinion, threatens the stability of the road.

The function under section 94 of the Roads Act to carry out drainage work in or on any land in the vicinity of a public road.

The function under section 95 of the Roads Act to direct the occupier of land from which matter has been washed or blown onto a public road to take action to remove the obstruction and prevent its recurrence.

The function under section 96 of the Roads Act to direct the occupier of any land in the vicinity of a public road to alter a fence, provide floodgates in any such fence or repair any such fence or floodgates.

The function under section 97 of the Roads Act to direct any person who is entitled to place utility services in on or over a public road to locate new or replacement services in a conduit and to make payments in respect of the costs incurred by the Council in constructing the conduit.

The function under section 98 of the Roads Act to direct the person having control over any work or structure that is situated in on or over a public road to alter the work or structure or its location.

The function under section 99 of the Roads Act to direct a private body established under the legislation referred to in the section to repair or maintain any water supply or drainage work situated in on or over a public road and that is controlled by that body.

The function under section 100(1)(b) of the Roads Act to direct the owner of a private railway which is passed over under or across by a public road to repair or replace the bridge or level crossing or the road under an overbridge.

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The function under section 101(1) of the Roads Act to direct any person by whom a public road is dug up to restore the road to its previous condition.

The function under section 101(4) of the Roads Act to decide to take such action as is necessary to restore a road that has been dug up to its previous condition instead of giving a direction under section 101(1).

The function under section 103(1) of the Roads Act to direct the owner or occupier of land to erect or install fences lights or other equipment on or around any premises in the circumstances set out in the section.

The function under section 107 of the Roads Act to direct any person who causes an obstruction or encroachment on a public road, or the owner of any land that is used or is able to be used in connection with an obstruction or encroachment on a public road, to remove the obstruction or encroachment.

The function under section 115 of the Roads Act to decide to regulate traffic on a public road by means of barriers or notices conspicuously displayed on or adjacent to the road.

The function under section 122 of the Roads Act to decide to regulate traffic on specified or all public roads for which the Council is the Roads Authority under the Act in the manner set out in the section.

The function under section 125 of the Roads Act to grant an approval that allows a person who conducts a restaurant adjacent to a footway to a public road that is vested in fee simple in the Council to use part of the footway for the purposes of the restaurant.

The function under section 126(1) of the Roads Act to authorise the holder of an approval under section 125 to erect and maintain structures in on or over any part of the footway the subject of the approval or, if requested by the holder of the approval, erect and maintain any such structure.

The function under section 126(2) of the Roads Act to decide to erect and maintain structures in on over any part of the footway the subject of an approval for the protection of public health and safety.

The function under section 128 of the Roads Act to permit the occupier of any land through which an unfenced public road passes to erect a gate across the road at any place at which the road intersects a boundary fence.

The function under section 130 of the Roads Act to revoke a permit granted under section 128.

The function under section 133(1) of the Roads Act to permit the construction of a by-pass for vehicles as provided for in the section.

The function under section 136 of the Roads Act to revoke a permit granted under section 133(1).

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The function under section 138 of the Roads Act to grant consent for works and other structures in respect of public roads.

The function under section 140 of the Roads Act to decide to revoke a consent granted under section 138.

The function under section 144 of the Roads Act to grant a permit to conduct a road event (as defined in the Act) on a public road.

The function under section 174 of the Roads Act to decide to apply to an authorised Justice to enter and inspect land for the purposes of the Act and in the circumstances set out in the section.

The function under section 242 of the Roads Act to decide to take proceedings in a Local Court for an offence against the Act or any Regulations made under the Act.

The function of deciding to bring, defend, appear in or settle such proceedings, as may be competently brought defended, appeared in or settled by Council.

Conditions and Limitations

This function may only be exercised with the concurrence of the General Manager.

The function of deciding to bring, defend, appear in or settle such proceedings, as may be competently brought defended, appeared in or settled by Council.

The function under section 246 of the Roads Act to decide to take such action as is necessary to rectify a contravention of the Act.

Conditions and Limitations

The function under section 246 of the Roads Act may only be exercised with the concurrence of the General Manager.

The function under section 247 of the Roads Act to decide to recover money owed to the Council under the Act as a debt in a court of competent jurisdiction.

The exercise of all the functions of the Authority under:

1 Division 2 of Part 8 (Regulation of Traffic by Roads Authorities) of the Roads Act 1993

Conditions and Limitations

1 A council and its sub-delegate must not exercise a function:

- (1) Outside the area constituted under the Local Government Act 1993 for which council is the council, or*
- (2) On a classified road under the Roads Act 1993 (except where exercising a function in respect of portable traffic control light signals).*

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2 A Council and its sub-delegate may only exercise a function in respect of any prescribed traffic control device (defined in clause 131 of the Road Transport (Safety and Traffic Management) (Road Rules) Regulation 1999 for the purposes of section 50 of the Road Transport (Safety and Traffic Management) Act 1999 being:

(1) any prescribed traffic control device contained in the document, "Regulatory Signs" Version 1.0 dated may, 2001 (Reference No RTA/Pub 01.038 issued by the Authority, but excluding those which are indicated as 'Not delegated to Council' as listed in that document, and

(2) any portable traffic control lights,

and under no circumstances, that is, despite (1) above, will a council or its sub-delegate be permitted to exercise a function in respect of any internally illuminated traffic control device.

3 (1) A Council and its sub-delegate must not exercise a function in respect of the following activities including the referral of the matter to the Local Traffic Committee until a Traffic management Plan, which must include an assessment of the impact of the exercise of the function and proposed measures to ameliorate such impact, has been approved by the Authority:

(a) the prohibition of the passage of traffic on a public road or road or road related area to any one or more of the following classes of traffic:

- pedestrians
- vehicles
- motor vehicles

by physical means or regulatory signs (whether a prescribed traffic control device or otherwise) or both;

(b) the installation or display of the following traffic control signs on roads or road related areas:

- No Right Turn
- No Left Turn
- No Entry
- No Turns
- Left Turn Only
- Right Turn Only
- No Trucks
- No Buses
- No Pedestrians

or the installation or display of any other sign or road marking prohibiting or compelling a turning movement;

(c) changing a two-way street into a one-way street or reversing the direction of a one-way street;

(d) the construction of a median strip including a painted island which prevents a turn by a vehicle at the intersection of public roads or roads or road related areas;

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- (e) *reduction in the number of traffic lanes on a public road or road or road related area by physical means or regulatory signs (whether a prescribed traffic control device or otherwise) or both.*
- (2) *A Traffic management Plan is not required if council certifies to the Authority in writing that a No Trucks or No buses traffic control sign is to be erected solely for the purpose of protecting a road from damage by the passage of motor vehicles.*
- 4 *A council and its sub-delegate must not exercise a function in respect of portable traffic control light signals unless:*
- (1) *the signals are used in connection with the carrying out of road work on public roads as authorised by the roads Act 1993; and*
- (2) *no fixed equipment or fixed cables are used.*
- 5 *A sub-delegate must not exercise a function in respect of Division 2 or Part 8 (Regulation of Traffic by Roads Authorities) of the Roads Act 1993.*
- 6 *A council or its sub-delegate must not exercise a function until they have notified the Commissioner of Police and the Authority of any decision taken to exercise a function except where:*
- (1) *the advice of the Local Traffic Committee is unanimous; and*
- (2) *the council or its sub-delegate propose to follow such advice.*
- 7 *Where a council or its sub-delegate has notified or should have notified the commissioner of Police and the Authority of a decision to exercise a function, the council or its sub-delegate must not exercise a function for a period of fourteen (14) days from the date of notification.*
- 8 *Where an appeal has been made to the Chairperson of a Regional Traffic Committee in respect of a decision taken by a council or its sub-delegate to exercise a function, a council or its sub-delegate must not exercise the function until the Chairperson of the Regional Traffic Committee determines the appeal.*
- 9 *Where the chairperson of the Regional Traffic Committee has determined an appeal, the council and its sub-delegate must not exercise the function in respect of which an appeal has been made, otherwise than in accordance with the determination of the Chairperson.*
- 10 *Before installing or displaying a prescribed traffic control device, a council and its sub-delegate must authorise installation or display (or interference with, alteration or removal) of the device in writing in accordance with section 51 of the Road Transport (Safety and traffic Management) Act 1999.*
- 11 *A council or its sub-delegate shall keep a record of installation, display, alteration or removal of a traffic control device. Such a record must include the following:*
- *Type and location of the traffic control device;*
 - *Time and date of completion of installation, display, alteration or removal of the traffic control device.*

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12 Where a council or its sub-delegate wishes to exercise a function in respect to a "Roadwork Speed Limit" traffic sign (Speed Series (R4) Sign No R4-212 in the document, "regulatory Signs" Version 1.0 dated may, 2001 reference No RTA/Pub 01.038, issued by the Authority), the following conditions apply:

- (1) When the installation period of a 'Roadwork Speed Limit' sign is to be for 6 working days or less:
 - a) authorisation of the use of the 'Roadwork Speed Limit' sign must be carried out by council or a sub-delegate who holds a current Traffic Control at worksites certificate issued by the Authority; and
 - b) the nearest office of the Authority is to be notified in writing of Council's intention to implement a roadwork speed limit prior to works commencing; and
 - c) the nearest Police Station is to be notified in writing of Council's intention to implement a roadwork speed limit prior to works commencing.
- (2) When the installation period of a 'Roadwork Speed Limit' sign is to be for more than 6 working days:
 - a) authorisation of the use of the 'Roadwork Speed Limit' sign must be carried out by council or a sub-delegate who holds a current Traffic Control at Worksites Certificate issued by the Authority, and
 - b) the nearest office of the Authority is to be notified in writing of Council's intention to implement a roadwork speed limit 7 days prior to works commencing; and
 - c) the nearest Police Station is to be notified in writing of Council's intention to implement a roadwork speed limit 7 days prior to works commencing.
- (3) The need for a 'roadwork Speed Limit' sign shall be determined in accordance with the document, "traffic Control at worksites" Version 2.0 dated October 1998 (Reference No TTT-003) issued by the Authority;
- (4) 'Roadwork Speed Limit' signs shall be installed in accordance with the "Traffic Control at Worksites" document (as already referred to);
- (5) Records maintained by a council and its sub-delegate in respect to a 'Roadwork Speed Limit' sign must include:
 - a) council's or its sub-delegate's written authorisation of the installation [The sub-delegate's Traffic Control at Worksites Certificate number must be shown],
 - b) the location,
 - c) the installation time and date, and
 - d) the removal time and date.
- (6) The 'Roadwork Speed Limit' sign is to be removed as soon as practicable after the road works have been completed.

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13 Council and its sub-delegate must not exercise a function in respect to any of the roads within Sydney Olympic Park including the roads that are coloured mauve on the drawing marked "Sydney Olympic park Authority, Sydney Olympic Park, Drawing Number HS-J-L-006" dated 29 May 2001 and deposited in the office of the Sydney Olympic Park Authority (being all the roads referred to in section 41 of the Sydney Olympic Park Authority Act 2001).

To exercise Council's functions and responsibilities under the Roads Act, 1993.

Section 15 - Grant Approval for Structures on Footpaths.

WATER MANAGEMENT ACT 2000

The function under Section 306 of the Act, as a Water Supply Authority, to require an applicant for a certificate of compliance under Section 305 of the Act to do either or both of the following:

- (a) To pay a specified amount to the Water supply Authority by way of a contribution towards the cost of such water management works as are specified in the notice, being existing works or projected works, or both;
- (b) To construct water management works to serve the development.

The function under Section 307 of the Act to grant a certificate of compliance for development:

- (a) Within 60 days after an application under Section 305 of the Act for the Granting of such a certificate is made; or
- (b) If, within the period, the Water Supply Authority imposes a requirement on the applicant, as soon as it is satisfied that the requirement has been complied with.

FREEDOM OF INFORMATION ACT 1989

To authorise the conduct of an internal review.

Authorisation to carry out the duties and functions of the Information Officer.

LEGAL AND OTHER DOCUMENTS

To sign and execute documents under the Common Seal of the Council in conjunction with the Mayor.

OCCUPATIONAL HEALTH & SAFETY ACT, 2002

To implement Council's responsibilities under the Act.

MEDIA STATEMENTS AND PRESS RELEASES

To make Media Statements and issue Press Releases in respect of Council resolutions and decisions.

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MINES INSPECTION ACT, 1901

Authorisation to nominate the General Manager and Production Manager.

HERITAGE ACT, 1977

Section 25 - Make Interim Orders for items of local significance.

(i) To make Interim Heritage Orders for items in the Liverpool Plains Shire Local Government Area in accordance with Section 25 of the Heritage Act, 1977, and subject to the following conditions:

1. A Council must not make an Interim Heritage Order (IHO) unless:

(a) an environmental planning instrument containing a schedule of heritage items derived from a heritage study and provisions for the management plan of those items is in force in the Local Government area;

(b) it has considered a preliminary heritage assessment of the item prepared by a person with appropriate heritage knowledge, skills and experience employed or retained by the Council and considers that:

i) the items is or is likely to be found, on further enquiry and investigation, to be of local heritage significance;

ii) the items is being or is likely to be harmed;

iii) the IHO is confined to the item determined as being under threat; and

(c) where the IHO is made over land which includes an item which is likely to be found, on further enquiry and investigation, to be of significance to Aboriginal people, a Council must refer the proposal to make an IHO to the Heritage Office for assessment regarding significance and community consultation, before the IHO is made. Council must comply with the recommendations of the Heritage Office made in its assessment prepared pursuant to the referral.

2. A Council must not make an IHO where:

(a) the item is listed on:

i) an environmental planning instrument as an item of environmental heritage;

ii) the item is within a conservation area identified in an environmental planning instrument;

(b) the item is covered by an order under Section 130 or Section 136 of the Heritage Act 1977;

(c) the Council has previously placed an IHO on the item;

(d) the Court has granted development consent in relation to the item that permits the item to be harmed and the development consent is still in force.

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3. A Council must not make an IHO in relation to item (s) that are located on land:
- (a) that is Crown Land;
 - (b) which is being developed by or on behalf of the Crown;
 - (c) which is subject to a development declared to be State Significant Development under the Environmental Planning & Assessment Act, 1979.

For the purposes of this clause, “the Crown” includes State Government Agencies, State Owned Corporations, Statutory Corporations, Statutory Authorities and Ministerial Corporations. “Crown” is also taken to have the same meaning as specified in Section 57 (1A) (b) of the Heritage Act, 1977.

4. A Council must not make an IHO in respect of an item (which includes a building, work, relic or place) that is subject to an approval, consent, licence, permit, permission or any other form of authorisation that requires or permits the item to be harmed and that is issued by the Crown, an office or employee of the Crown or a Minister.

For the purposes of this clause, the “Crown” includes State Government Agencies, State Owned Corporations, Statutory Corporations, Statutory Authorities and Ministerial Corporations. “Crown” is also taken to have the same meaning as specified in Section 57 (1A) (b) of the Heritage Act, 1977. This clause does not apply to an approval, consent, licence, permit, permission or any other form of authorisation that requires or permits the item to be harmed and that is issued by the Council.

5. An IHO made by a Council must contain the following condition:

- a) “This Interim Heritage Order will lapse after six months from the date it is made unless the local Council has passed a resolution before that date;
- b) in the case of an item which, in the Council’s opinion is of local significance, to place the item on the heritage schedule of a local environmental plan (LEP) with appropriate provisions for protecting and managing the item; and
- c) in the case of an item which in the Council’s opinion is of State heritage significance, to nominate the item for inclusion on the State Heritage Register.”

6. A Council must ensure that the authorisation is carried out in accordance with guidelines issued from time to time by the Heritage Council and/or Heritage Office.

7. A Council must publish annually in its State of Environment Report or Annual Report a summary of all decisions regarding IHOs for that year and provide a copy to the NSW Heritage Office.

8. A Council will be responsible for defending proceedings in any Court relating to its decisions made under this authorisation (including the bearing of all costs).

- (ii) That where it is considered that if upon further investigation of any item that Council may determine the item to be of local heritage significance and that it considers is being or is likely to be harmed.

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Section 61 - To determine if public notice is to be given.

Section 62 - To determine applications for approval by granting approval either unconditionally or subject to conditions, or by refusing approval.

Section 63 - Determine deferred commencement approvals.

Section 63B - Grant particular conditional approvals.

Section 64 - Issue Notice of Determination

Section 65A - Determine applications for modification of approvals.

STATE EMERGENCY & RESCUE MANAGEMENT ACT, 1989

Carry out Council's functions under the State Emergency and Rescue Management Act, 1989 and authorised to appoint Local Emergency Management Officer.

CRIMES ACT 1996

Issue penalty infringement notices under the Fines Act 1996 in relation to all offences under any Act or Regulation which enables such notices to be issued by Council.

SCHEDULE 2

- (1) The function of delegation and sub-delegation by the General Manager pursuant to Section 378 of the Local Government Act, 1993 shall be exercised in writing signed by the General Manager.
- (2) The Council may by resolution, direct the General Manager in the exercise of any of the functions herein delegated.
- (3) The General Manager shall exercise the functions herein delegated in accordance with and subject to:-
 - (i) the provisions of the Local Government Act, 1993 and other relevant legislation;
 - (ii) Council Management Practices Manuals, Codes and Practices and Guidelines; and
 - (iii) each and every policy of the Council adopted by resolution and current at the time of the exercise of the function herein delegated.

1.6 Proposal to obtain funding to manage a project to upgrade the Visitor Centre at Siding Springs

349 RESOLVED that :

1. Warrumbungle Shire Council formalise a consortium with Australian National University and Siding Springs Observatory for the purposes of submitting for funding from the Regional Development Australia Fund for the upgrade of Siding Springs Exploratory and The Lodge, and
2. Warrumbungle Shire Council submit an application to Regional Development Australia on behalf of the Australian National University.

Sullivan/Powell
The motion was carried

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12.16pm

DIRECTOR OF CORPORATE SERVICES REPORT

2.1 Bank Accounts and Investments as at 31 March 2011

350 RESOLVED that the following reports be received as information:

- 2.1 Bank Accounts and Investments as at 31 March 2011
- 2.2 Investments held as at 31 March 2011
- 2.3 Reconciliation of General Fund Bank Account – as at 31 March 2011
- 2.4 Rates and Charges Collection – up to and including end March 2011.

Todd/Powell
The motion was carried

2.5 Appointment of Debt Collection Agency

351 RESOLVED that Council appoint S R Law to provide Debt Collection services for Rates, Water and Debtors for a period of two (2) years.

Sullivan/Powell
The motion was carried

12.27pm

DIRECTOR OF TECHNICAL SERVICES REPORT

3.1 Request For Water Connection, Aerodrome Road, Baradine

352 RESOLVED that no further water connections be permitted on Aerodrome Road, Baradine.

Powell/Sullivan
The motion was carried

3.2 Proposed Tree Project, Wellington Street, Baradine

353 RESOLVED that the proposed Wellington Street Tree Project is placed on exhibition and submissions invited on the two options as shown in attachment 1.0. **Further**, that a third option be offered of not proceeding with the project.

Campbell/Powell
The motion was carried

3.3 Monthly Fuel Stocktake

354 RESOLVED that the information regarding the monthly fuel Stocktake be received and noted.

Sullivan/Coe
The motion was carried

12.45pm

ACTING DIRECTOR OF ENVIRONMENTAL SERVICES REPORT

4.1 Re-establishment of Alcohol Free Zones

355 RESOLVED that Council seeks input from the local police area commander to define the adequacy of the current alcohol free zones within Coonabarabran, Dunedoo, Coolah, Baradine, Binnaway and Mendooran and should the commander deem the current zones to be adequate Council begin the consultation process with a view to the re-establishment of those zones for a further four (4) year period

Powell/Todd
The motion was carried

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4.2 Applications Received for Month of March 2011

356 RESOLVED that Council note the Applications Received for the month of March 2011, the Applications Held Pending and their status, of those approved under Delegated Authority.

Coe/Sullivan
The motion was carried

12.55pm

DIRECTOR OF COMMUNITY SERVICES REPORT

5.1 Community Builders Programme

357 RESOLVED that Council authorise the Acting General Manager to sign the Department of Human Services, Community Services (NSW) Service Specification Agreement for July 2011-June 2014; and further a report be bought back following the commencement of the Transition Plan and completion of the Service Results Review.

Powell/Sullivan
The motion was carried

1.00pm

358 RESOLVED that Council go into closed committee to consider business relating to the following:

In accordance with the Local Government Act 1993 and the Local Government (General) Regulation 2005, in the opinion of the General Manager, the following business is of a kind as referred to in Section 10A(2) of the Act, and should be dealt with in a part of the meeting closed to the media and public.

The items relate to the sale of land for unpaid rates and personnel and are classified CONFIDENTIAL under Section 10A(2)(a) and (b) of the Local Government Act 1993, which permits the meeting to be closed to the public for business relating to the following:

- (a) personnel matters concerning particular individuals (other than councillors),
- (b) the personal hardship of any resident or ratepayer

Sullivan/Campbell
The motion was carried

1.17pm

359 RESOLVED that Council move out of closed committee and into open council.

Campbell/Todd
The motion was carried

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The Mayor announced the following resolutions to the general meeting:

360 RESOLVED:

1. That no reserves are set on any of the properties to be auctioned,
2. Delegation is given to the General Manager to bid on Council's behalf at auction on any property/s Council decides to purchase, and
3. To write off any outstanding rates and charges not covered in the purchase price so that the properties can be transferred to the purchaser in accordance with Section 718.

Sullivan/Campbell
The motion was carried

361 RESOLVED that Council endorse the actions of the Acting General Manager in regard to the claims received by the NSW Industrial Commission, GIPA and Residential Tenancy Tribunal, and that a supplementary vote is made to cover legal expenses as they arise.

Campbell/Todd
The motion was carried

The Acting Director Corporate Services left the meeting at 1.17pm and did not return.

QUESTIONS WITHOUT NOTICE

Cr Powell on behalf of Cr Lewis

Requested a verbal update on the situation regarding the Boxing Gym and Youth Club in Coonabarabran.

Cr Powell

Requested a report be brought to Council regarding a proposed sewer extension to service the last two homes in the northern village area of Coolah.

Cr Sullivan

Asked if the termination payout to the former General Manager be taken from the allocation for leave entitlements.

Acting General Manager, Kevin Tighe

Advised of the NSW Local Roads Congress to be held in Pyrmont on 17 May, 2011 should any Councillor be interested in attending.

There being no further business the meeting closed at 1.30pm.

.....
CHAIRMAN