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PRESENT Clr I Gosper (in the Chair), Clrs G Dean, M Nash, L MacSmith, M Hayes, S Wilcox, A Durkin, G Treavors, K Walker and J Culverson.

Also present were the Acting General Manager, Acting Director of Finance & Corporate Services, Acting Director of Engineering & Technical Services, Director of Environmental Services, Administration Manager, Administration Officer and Acting Economic Development Manager.

ITEMS FOR DETERMINATION

ITEM - 1 APPLICATIONS FOR LEAVE OF ABSENCE

Proceedings in Brief

An apology was tendered on behalf of Clr Davison for his absence from the meeting.

MOTION (Wilcox/Durkin)

THAT the apology tendered be accepted and the necessary leave of absence be granted.

16/10/01 Carried

ITEM - 2 DECLARATIONS OF INTEREST

Proceedings in Brief

Clr Nash declared an interest (identified as a pecuniary interest and previously notified as a general disclosure) in item 2 of Closed due to her son being an employee at the Quarry.

MOTION (Treavors/Dean)

THAT the Declarations of Interest be noted.

16/10/02 Carried

ITEM - 3 DECLARATIONS FOR POLITICAL DONATIONS

Proceedings in Brief

It was noted that there were nil declarations of political donations.

MOTION (Wilcox/Nash)

THAT it be noted there were nil declarations of political donations.

16/10/03 Carried

ITEM - 4 ANNUAL FINANCIAL STATEMENTS

MOTION (Wilcox/Walker)

THAT the Mayor, Deputy Mayor, Acting General Manager and Acting Director of Finance & Corporate Services sign the Statement by councillors and management in the approved format, for both the General Purpose and Special Purpose Financial Statements.

16/10/04 Carried

It was noted the time being 2:03pm the Chair announced that the Council would now be resolving into a Committee of the Whole.

PROCEDURAL ITEM - COMMITTEE OF THE WHOLE SECTION OF THE MEETING

MOTION (Durkin/Wilcox)

THAT Council hereby resolve itself into Committee of the Whole.

16/10/05 Carried

CONFIDENTIAL ITEMS

ITEM - 1 CARRYING OF COUNCIL RESOLUTION INTO CLOSED COMMITTEE OF THE WHOLE MEETING

RECOMMENDATION (Durkin/Wilcox)

THAT the committee now hereby resolve into Closed Committee of the Whole for the purpose of discussing matters of a confidential nature relating to personnel or industrial matters, personal finances and matters which the publicity of which the Committee considers would be prejudicial to the Council or the individual concerned and that the press and the public be excluded from the meeting in accordance with the conditions of Council's Confidentiality Policy AND FURTHER that as reports to the Closed Committee of the Whole are likely to be confidential and their release prejudicial to the public interest and the provisions of Council's confidentiality policy, that copies of these reports not be made available to the press and public.

1. Carried

It was noted, the time being 2:04pm Clr Nash declared an interest (identified as a pecuniary interest) due to her son being an employee at the quarry in the following item and left the Chambers.

* **ITEM - 2 MOLONG LIMESTONE QUARRY PLANT**

RECOMMENDATION (Dean/Treavors)

THAT Council approve the sale by auction of the plant items as outlined in the report with reserve being set at the lower value of the price ranges given subject to signing of the lease.

2. Carried

It was noted, the time being 2:08pm Clr Nash rejoined the meeting.

ITEM - 3 OFFER TO PURCHASE LOT 11 BLUEBELL ST, CANOWINDRA

RECOMMENDATION (Hayes/Durkin)

THAT:

1. Council accept the offer as outlined in the report to purchase Lot 11 Bluebell St, Canowindra;
2. Council authorise affixing of Council's seal to the land sale contract and transfer documents; and
3. Council authorise the General Manager to negotiate future land sales as outlined in the report.

3. Carried

It was noted the time being 2:09pm the Chair asked all staff to leave the room to allow the Acting General Manager and Councillors to discuss legal advice relating to the following item.

It was noted the time being 2:25pm the Chair resumed the ordinary meeting. Staff and members of the gallery re-entered the Chambers.

The Acting General Manager read out the closed committee recommendations.

REPORT & RESOLUTIONS OF COMMITTEE OF THE WHOLE

MOTION (Culverson/Hayes)

THAT the Report and Recommendations of the Committee of the Whole Meeting held on Tuesday 11 October, 2016 be adopted.

16/10/06 Carried

It was noted the time being 2:26pm, Item 5 was dealt with.

MATTER OF GREAT URGENCY - LAND & ENVIRONMENT COURT - JUDGEMENT

Proceedings in Brief

It was noted the additional item 5 was ruled by the Chair to be a matter of great urgency and was to be dealt with now that the agenda items were addressed.

MOTION (Culverson/Walker)

THAT Additional Item 5 relating to the Land & Environment Court – Judgement be treated as a matter of great urgency and be dealt with.

16/10/07 Carried

ADDITIONAL ITEM - 5 LAND & ENVIRONMENT COURT - JUDGEMENT

Proceedings in Brief

In response to a question from Clr MacSmith as to timeframes the Acting General Manager clarified that whilst the Court allows 28 days to lodge notice of intention to appeal, if no action is taken by Cabonne Council within 7 days the State Government can issue a proclamation.

In response to a question from Clr Nash as to legal costs which would result from the recommendation the Acting General Manager advised that only the notice of intention is to be lodged. He will not give permission to prepare an appeal case. The Mayor added that costs will be minimal.

The Mayor stated that he believes the Woollahra Council appeal ruling will be a significant factor to Cabonne Council's case with the ruling expected soon – which he explained could be 2 days to 2 months. He added that he does not believe an appeal should be lodged by Cabonne Council until after that ruling is made public, if Woollahra Council are successful, but felt time was needed to wait for the outcome. If Woollahra loses then that would be time to stand down.

The Mayor acknowledged the impact on the staff in waiting on a decision and noted that public opinion is changing regarding the spending of funds on this matter. He also noted that in relation to moneys received from the State Government in relation to flood damage it was actually beneficial that the merger had not yet taken place as the money was granted on a per council basis.

Clr Culverson noted that some ratepayers wish to move forward with merger.

Clr Wilcox noted that her view was that a lot of ratepayers want to fight to the end.

Clr Nash noted the recommendation was only for an intention to appeal and was not binding Council to lodge a formal appeal.

MOTION Hayes/Culverson

THAT Council set aside any appeals and notify the NSW State Government that they will merge with Blayney Shire Council and Orange City Council.

Lost

The Chair called for a division which resulted in a vote against the motion (noting the absence of Clr Davison – apology) as follows:

For: Clrs Dean, Hayes, Treavors and Culverson.

Against: Clrs Gosper, Nash, MacSmith, Wilcox, Durkin and Walker.

MOTION (Durkin/Nash)

THAT:

1. Council lodge a Notice of Intention to Appeal against the judgement brought down by the Land & Environment Court against Council on 7 October 2016 and seek agreement from the State Government not to take any further action prior to the Woollahra Council Supreme Court appeal determination and for seven days thereafter;
2. Council seek an injunction or interlocutory orders to stay any action should the State Government not agree to an undertaking as requested in 1. above;
3. Should the State Government not agree to give an undertaking as requested in 1. above, Council consider lodging a formal appeal subject to further advice from counsel and consideration by Council at the earliest opportunity.

An amendment was moved as follows:

AMENDMENT (MacSmith/Hayes)

THAT:

1. Council lodge a Notice of Intention to Appeal against the judgement brought down by the Land & Environment Court against Council on 7 October 2016 and seek agreement from the State Government not to take any further action prior to the Woollahra Council Supreme Court appeal determination and for seven days thereafter;
2. Should the State Government not agree to give an undertaking as requested in 1. above, Council not lodge a formal appeal.

The Amendment was withdrawn.

The Motion was put.

MOTION (Durkin/Nash)

THAT:

1. Council lodge a Notice of Intention to Appeal against the judgement brought down by the Land & Environment Court against Council on 7 October 2016 and seek agreement from the State Government not to take any further action prior to the Woollahra Council Supreme Court appeal determination and for seven days thereafter;
2. Council seek an injunction or interlocutory orders to stay any action should the State Government not agree to an undertaking as requested in 1. above;
3. Should the State Government not agree to give an undertaking as requested in 1. above, Council consider lodging a formal appeal subject to further advice from counsel and consideration by Council at the earliest opportunity.

16/10/08 Carried

The Chair called for a division which resulted in a vote for the motion (noting the absence of Cllr Davison – apology) as follows:

For: Cllrs Gosper, Nash, MacSmith, Wilcox, Durkin and Walker.

Against: Cllrs Dean, Hayes, Treavors and Culverson.

There being no further business, the meeting closed at 2:51pm.

CHAIRMAN.

Chairman of the Ordinary Meeting of Cabonne Council held on the 25 October, 2016 at which meeting the listed minutes were confirmed and the signature hereon was subscribed.