



MINUTES OF THE EXTRAORDINARY MEETING OF COUNCIL

Held on

Monday, 31 May 2024

10:00am

In

NEWA Meeting Room, 2/129 Rusden Street, Armidale

Present: Interim Administrator John Rayner (Chair), and
Tim Weeks – General Manager

**MINUTES OF EXTRAORDINARY MEETING OF NEW ENGLAND
COUNTY COUNCIL HELD ON 31 MAY 2024**

MINUTES OF THE EXTRAORDINARY MEETING OF COUNCIL

The Chair advised that while the meeting was not being live-streamed, an audio recording of the meeting will be available on the County Council's website.

PRESENT: Interim Administrator John Rayner
Tim Weeks – General Manager

APOLOGIES: None

DECLARATION OF INTEREST:

In regard to pecuniary interest, it is noted the Model Code of Conduct, Clause 4.6, does not require disclosure:

- Of interest relating to the payment of fees to Councillors
- An interest relating to the payment of expenses and the provision of facilities to Councillors”

INTERIM ADMINISTRATORS MINUTE

4.1 Suspension of Council

By Government Gazette on 17th May 2024, the Minister for Local Government suspended the Board of the New England County Council for a period of three months from the date of the gazettal. The same Government Gazette Notice has appointed John Rayner as Interim Administrator for the period during which the Council is suspended by the Order.

The Councillors on the Board retain their positions with the constituent Councils. I note that following the Board's consideration of the Minister's 'Notice of Intention to Suspend' on 29th April 2024 Councillors unanimously resolved:

1. That the Board acknowledges the concerns raised by the Minister of Local Government, the Hon Ron Hoenig MP, and supports the appointment of an Administrator.
2. That the member Councils acknowledge the critical nature of the services provided by NEWA and would be highly supportive of working with the Administrator to resolve the governance and financial issues to ensure the continuation of these services. The Minister has determined that the Interim Administrator shall have the following functions:
 - To perform the role and function of the governing body of the County Council under the Local Government Act and any other Act.

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- To exercise the role of the governing body and councillors identified in sections 390, 391, 391A, and 400 of the Local Government Act. The Letter of Appointment from the Minister states the role will also include:

- a) Undertaking an urgent assessment of NEWA's current financial position and ensuring it is able to meet its immediate financial obligations.
- b) Recommending and implementing a Strategic Improvement Plan or any other required interventions.
- c) Ensuring compliance with accounting principles including as provided in the Local Government Act, Regulations and Code of Accounting Practice.
- d) Restoring NEWA's compliance with its statutory responsibilities.
- e) Developing strategies to improve its current financial circumstances, including the preparation of a Liquidity Plan.
- f) Recommending and developing longer term strategies to assess NEWA's long-term financial sustainability.

The appointment means that the Administrator takes on the role of the Chairperson and Councillors, not the General Manager. However, given the seriousness of governance and financial issues and the contents of Reports from the NSW Audit Office there may be actions that have to be taken to prevent a deterioration of the financial position.

The day-to-day operations of the New England Weeds Authority will continue; staff operations are not directly impacted by the Suspension Order.

For those that do not know me:

- 50 plus years in local government, starting in Grafton, and including Mudgee and Lithgow before starting 33 years as Shire Clerk (as it was known in those days) to General Manager to Sutherland Shire Council,
- retired from Sutherland Shire Council in 2015.
- Administrator Georges River Council upon the amalgamation of Hurstville and Kogarah Councils.
- In more recent years Acting General Manager at Edward River, Armidale Regional and Moree Plains Councils
- Financial Controller/Temporary Advisor, appointed by the Minister for Local Government to Armidale Regional and Dubbo Regional Councils.

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Residents and Councillors of the constituent Councils can be assured that while I hold the position of Interim Administrator, I will do my best to independently serve in an honest, open and transparent way. It is my intention to address the issues raised in the Suspension Order and the Notice of Intention to Suspend. Attention will also be given to the most recent Independent Auditor's Report giving particular attention to the most serious Disclaimer of Opinion from that Report, The Engagement Closing Report and when it is received, the finalised Management Letter.

In an endeavour to ensure improvement to the organisation, I will be addressing many other aspects of the workings of the County Council. Discussions are being held with the Councillors suspended from the Authority and the Mayors of the constituent Councils. I will have an open door to anyone else who may wish to have discussions with me. The importance of confidentiality is well known to me, and residents and staff (current and former) alike should not hesitate to make contact.

4.2 Financial Position

The financial position of the Council is dire! The impact is noted in Report 10.2 'Quarterly Business Review' to the 14th May Council Meeting, "Ordinarily, Quarterly Budget Reviews are undertaken in an environment of relative certainty. In this instance, there is significant uncertainty surrounding Council's operational environment and its capacity to continue operations without a substantial cash injection. These difficulties have been rapidly escalating due, in the most part, to the continuing delays in obtaining OLG approval for the proposed loan funding, and also the extraordinary delay in the Department of Primary Industries and Regional Development releasing the Weeds Action Program (WAP) funding, which is an integral part of Council's funding mix, and for which Council's own funds have been utilised in advance of funding, in order to achieve relevant delivery targets.

At this point in time, Council has been unable to pay suppliers and contractors for several months and operations have been reduced to an absolute minimum, including substantially reduced activity on project and private works, which has only exacerbated the cashflow position. Council is now in the unthinkable position where the lack of available funding will result in the inability to pay staff within a very short period of time.

In the light of the above, the proposed budget variations represent a scenario where the projected financial position at 30 June 2024, is extremely difficult to predict. To the extent possible, the predicted Operating result for the year is a deficit of \$190K, whereas the original Budget had presented a proposed surplus of \$198K. This reflects the circumstances where Council has effectively entered a hibernation mode of operation, which is not sustainable."

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Since taking up the role of Administrator, I have established the extent of the money owing to creditors, ATO and others and the situation is extremely serious. I have engaged an expert in local government finance to undertake an independent and urgent cash flow analysis to 30th June 2025. The Council had been relying on the *Weeds Action Program Grant* to address its cash flow and a \$700,000 loan to partly assist in funding the depot and office development in the Airside Business Park.

4.3 Weeds Action Program Grant

This grant is now allocated on a competitive basis, and it was expected approximately \$460,000 would be received. Local Land Services (LLS) has agreed to release part of the funds for works undertaken in good faith and declared as such by the General Manager. This allocation may be in excess of \$345,000. The remainder of the funds will only be released, when a Forensic Audit by LLS confirms that the WAP funds have been expended on the works required to be done.

4.4 CBA Loan \$700,000

Council has been relying on this loan to part fund the Depot/Office project. The Contractor is owed a significant sum. As the Council is now under Administration the CBA has withdrawn its offer and will require a new loan application which will include "a report by the Administrator, including a summary of findings and proposed actions." If approved, a condition of funding will be a letter signed by the Minister for Local Government confirming approval of the borrower. There is no certainty the loan funds will come through.

4.5 Meeting with Mayors

Once the cash flow analysis is complete, a meeting will be held with the Mayors and General Managers of the member Councils, to consider the status of NEWA and to consider a strategy for the future.

4.6 Priority of Payments

Over the coming months there will be competing requests for the limited funds available. Decisions on priority will be taken by the Administrator on advice from the staff. In this regard the Administrator will be the signatory on banking transactions.

4.7 Audit Risk and Improvement Committee (ARIC)

The Council had commenced the process of appointing its initial Audit Risk and Improvement Committee. A priority will be the appointment of the Committee with the view it meeting in June or July 2024. The [attached Charter](#) is proposed for adoption. See 5.0 below.

4.7 Delegations

It is proposed that the current delegations to the Chairperson and Deputy Chairperson be extended to include the Interim Administrator.

4.8 Councillor Expenses and Facilities Policy

This policy needs to be amended to include the Interim Administrator.

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4.9 Next Ordinary Council Meeting

Due to prior commitments the Interim Administrator will be unable to conduct the Ordinary Council Meeting scheduled for 18th June 2024. It is proposed the next Ordinary Council be held at **10am Friday 21st June 2024**.

- Resolved: 19/24**
- 1 That the Minute from the Interim Administrator be received and noted.
 - 2 That the Administrator be authorised to determine the priority for payments of creditors and others and payroll commitments following advice from staff.
 - 3 That the Administrator be the authorised signatory to banking transactions.
 - 4 That the attached charter for the Audit Risk and Improvement Committee be adopted.
 - 5 That the following be appointed to the Audit Risk and Improvement Committee: Dr Merideth Caselli, Mr Stephen Coates and Ms Mel Jacobs.
 - 6 That fees paid be commensurate with fees paid to ARIC members in Constituent Councils.
 - 7 That the delegations to the Chairperson and Deputy Chairperson be extended to include the Interim Administrator.
 - 8 That the Councillor Expenses and Facilities Policy be amended to add Interim Administrator in each clause where there is mention of 'Member', 'Chairperson' or 'Councillor'.
 - 9 That the Councillor Expenses and Facilities Policy be amended to include the clause "The Council shall reimburse the Interim Administrator for any reasonable expenses incurred in relation to visits to the within the boundary of the New England County Council including travel, accommodation and associated expenses. Claims shall be submitted by invoice and supported by receipts and/or tax invoices and submitted to the General Manager."
 - 10 That Council give notice of the proposed amendments to the Councillor Expenses and Facilities Policy as required under Clause 253(1) of the Local Government Act.
 - 11 That the next Ordinary Meeting of the Council be held at 10am 21st June 2024.

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- 12 Due to the time that has elapsed since negotiations occurred on the General Manager's Contract of Employment, the offers and any draft contract be withdrawn.

MATTERS OF URGENCY – ANY OTHER BUSINESS

There were no matters of urgency.

NEXT MEETING – 10:00am, 21 June 2024

CLOSE: 10:16am