

# Gundagai Council

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## MINUTES

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**EXTRAORDINARY  
COUNCIL MEETING  
17 MAY 2016**

*Christine Ferguson*

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## EXTRAORDINARY COUNCIL MEETING

17 MAY 2016

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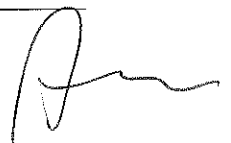
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- 1) RESCISSIONS MOTION – MINUTE NUMBER 120 OF THE FORMER GUNDAGAI SHIRE COUNCIL MEETING OF 10 MAY 2016

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**THIS IS THE AGENDA TO THE EXTRAORDINARY MEETING OF GUNDAGAI COUNCIL TO BE HELD ON 17 MAY 2016 2016 IN COOTAMUNDRA COUNCIL CHAMBERS COMMENCING AT 3.30 PM.**

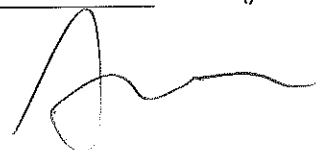
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**PRESENT**

**Administrator Christine Ferguson and the Interim General Manager Ken Trethewey**

**APOLOGIES**

**Nil**



**Explanatory**

**Local Government Act 1993 (NSW)**

**Calling of extraordinary meeting on request by councillors**

*s.366 Calling of extraordinary meeting on request by councillors. If the mayor receives a request in writing signed by at least 2 councillors, the mayor must call an extraordinary meeting of the council to be held as soon as practicable but in any event within 14 days after receipt of the request.*

**Notice of meetings**

*s.367(1) The general manager of a council must send to each councillor, at least 3 days before each meeting of the council, a notice specifying the time and place at which and the date on which the meeting is to be held and the business proposed to be transacted at the meeting.*

*s.367(2) Notice of less than 3 days may be given of an extraordinary meeting called in an emergency.*

**Request for Meeting**

This meeting was requested by Administrator Christine Ferguson on 17 May 2016.  
See Tabled Document 1 Extraordinary Meeting (Page 1).

**Calling of Meeting**

The notice of meeting has been called by the Administrator Christine Ferguson

**Local Government (General) Regulation 2005 (NSW)**

**Agenda for extraordinary meetings**

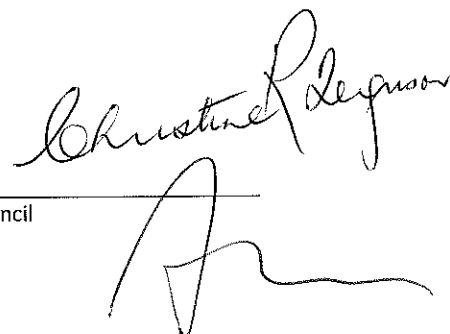
*r.242(1) The general manager must ensure that the agenda for an extraordinary meeting of a council deals only with the matters stated in the notice of the meeting.*

*r.242(2) Despite subclause (1), business may be transacted at an extraordinary meeting of a council even though due notice of the business has not been given to the councillors.*

*However, this can happen only if:*

*(a) a motion is passed to have the business transacted at the meeting, and*

*(b) the business proposed to be brought forward is ruled by the chairperson to be of great urgency. Such a motion can be moved without notice but only after the business notified in the agenda for the meeting has been disposed of.*



## 2. COUNCIL

### 1) RESCISSION MOTION – MINUTE NUMBER 120 OF THE FORMER GUNDAGAI SHIRE COUNCIL MEETING OF 10 MAY 2016

#### Introduction

Council has received a rescission motion from the Administrator of Gundagai Council appointed pursuant to the *Local Government (Council Amalgamation) Proclamation 2016*, Christine Ferguson, seeking to rescind Minute Number 120 of the former Gundagai Shire Council meeting of 10 May 2016.

#### Discussion

Minute number 120 reads as follows:

#### ***Moved:*** Cr Gain that Council:

- *instruct Patterson Byfield Bryen Solicitors of Walcha to act for it together with Walcha, Oberon and Cabone to have Council commence an action against the State of NSW based on a want of procedural fairness in the process leading to and consequent upon the determination of the minister for Local Government to merge Gundagai Shire, and*
- *The estimated cost of 30k be funded from a 50k contribution for legal costs of the action from the plant reserve with the Gm and mayor receiving delegated authority to contract for and progress the application.*

*Seconded:* Cr Magnone

120 *HAVING BEEN PUT THE MOTION CARRIED.*

Minute Number 120 appears to be in contravention of the Office of Local Government, COUNCIL DECISION MAKING DURING MERGER PROPOSAL PERIODS, Guidelines issued under section 23A of the *Local Government Act 1993*, particularly:

#### **FINANCIAL MANAGEMENT**

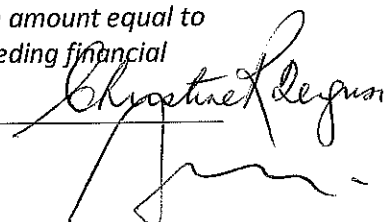
##### ***Expenditure during merger proposal periods***

*During a merger proposal period, councils should only expend monies in accordance with the detailed budget adopted for the purposes of implementing their Operational Plans for the relevant year.*

*There should be clear and compelling grounds for any expenditure outside of a council's adopted budget. Expenditure outside of the adopted budget should be approved by the council at a meeting that is open to the public.*

*The council's resolution approving the expenditure should disclose the reasons why the expenditure is required and warranted.*

*Should such expenditure be outside of a council's adopted budget and be of an amount equal to or greater than \$250,000 or 1% of the council's revenue from rates in the preceding financial*



year (whichever is the larger), then such a variation shall be advertised and public comments invited.

Councils the subject of merger proposals should not make decisions that will impose a significant and/or ongoing financial commitment on a new council.

**Entry into contracts and undertakings**

Councils the subject of merger proposals should not enter into a contract or undertaking involving the expenditure or receipt by the council of an amount equal to or greater than \$250,000 or 1% of the council's revenue from rates in the preceding financial year (whichever is the larger), unless:

- the contract or undertaking is being entered into as a result of a decision made or procurement process commenced prior to the start of the merger proposal period; or
- entry into the contract or undertaking is reasonably necessary for the purposes of:
  - meeting the council's ongoing service delivery commitments to its community; or
  - implement an action previously approved under a council's Delivery Program or the Operational Plan for the relevant year

The reason for the rescission motion is twofold:

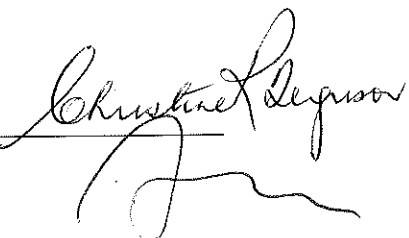
1. That the Gundagai Shire Council ceased to exist at 12.10pm Thursday 12 May 2016, and legal actions undertaken on behalf of Gundagai Shire Council which have the effect of involving the newly appointed Gundagai Council need to be ended.
2. That the expenditure of Plant Reserve funds on legal action is over 1% of the rates, is not a legitimate use of Plant Reserve funds, and was not contemplated by either the adopted 2015/16 Operational Plan of the former Gundagai Shire Council or any subsequently adopted Quarterly Budget Review Statement of the former Gundagai Shire Council.

**RECOMMENDATION**

**That Council rescind Minute Number 120 of the former Gundagai Shire Council meeting of 10 May 2016.**

**01/E105/16      RESOLVED – Moved: Ferguson      Seconded: Ferguson**

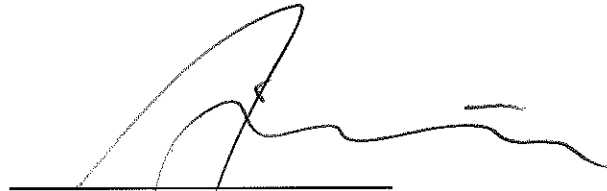
**That Council rescind Minute Number 120 of the former Gundagai Shire Council meeting of 10 May 2016.**



There being no further business the meeting closed at 3:40pm.

These Minutes were confirmed and endorsed by:

  
ADMINISTRATOR

  
GENERAL MANAGER

