

PRESENT: Cr R.W. Scholes, Cr M. Bowditch (VC), Cr J.F. Eades, Cr J.P. Foy (VC), Cr J.L. Ledlin, Cr G.T. McNeill, Cr S.M. Reynolds, Cr S.J. Ward and Cr B.N. Woodruff.

IN ATTENDANCE: Ms F. Plesman (General Manager), Mr D. Finnigan (Deputy General Manager), Mr D. Hagger (Chief Financial Officer (VC)), Ms S. Pope (Executive Manager – Planning & Environment (VC)), Mr P. Chambers (Shire Engineer (VC)), Ms K. Manwarring (Manager – Community Services (VC)), MSs M. Cleary (Manager – Governance (VC)), Mr M. Lysaught (Manager – Works, Property & Building Services (VC)), Mrs M. Sandell-Hay (PA to General Manager), Mrs J. Vincent (PA to Mayor), 30 people in the public gallery and 11 people attending via video conferencing.

1 ACKNOWLEDGEMENT OF COUNTRY

The Acknowledgement of Country was read by the General Manager.

2 CIVIC PRAYER

The Civic Prayer was read by the Cr J. Eades.

3 APOLOGIES AND LEAVE OF ABSENCE

Nil

4 CONFIRMATION OF MINUTES OF PREVIOUS MEETING

- 1 RESOLVED on the motion of Crs Woodruff and Eades that:

The Minutes of the Ordinary Meeting held on 29 June 2021, a copy of which has been distributed to all members, be taken as read and confirmed as a true record.

5 DISCLOSURE OF ANY PECUNIARY AND NON PECUNIARY INTEREST

Cr B. Woodruff – Declared a pecuniary interest in Item 11.7. Cr Woodruff advised Council that his employer undertakes work for the applicant.

6 PUBLIC PARTICIPATION

Mr Keith Campbell – spoke in opposition to Item 11.7.

Mrs Margot White - Spoke in opposition to Item 11.7

Mr Mark White – spoke in opposition to Item 11.7

Mr Brian Pease – Spoke in Support of Item 11.7

Ms Jade Richardson – Spoke in opposition to Item 10.1

Ms Amy Jones – Spoke in opposition to Item 10.3

Mr Philip Wilson - Spoke in support of Item 10.3

Mr Yannis Comino – Spoke in support of Item 10.3

7 MAYORAL MINUTES

Nil

8 GENERAL BUSINESS

Nil

9 BUSINESS ARISING

Nil

10 ENVIRONMENTAL SERVICES

10.1 DA 2019/2 - CONSTRUCTION OF MULTI-DWELLING HOUSING COMPRISING SIXTEEN (16) DWELLINGS AND ASSOCIATED SITE WORKS - 19 JOHN HOWE CIRCUIT, MUSWELLBROOK

2 RESOLVED on the motion of Crs Eades and Reynolds that:

Council REFUSE Development Application 2019/2 sixteen (16) multi dwelling housing dwellings and associated works at 19 John Howe Circuit, Muswellbrook (Lot 514 DP 1089307), for the following reasons:

1. Pursuant to Section 4.15(1)(a)(iii) of the *Environmental Planning and Assessment Act 1979* the proposed development is incompatible with the development controls and objectives of Section 6.3.1 Topography of the Muswellbrook Development Control Plan that relate to the extent of cut and fill permitted for residential development.
2. Pursuant to Section 4.15(1)(b) the proposed development would have a significant adverse environmental impact on the amenity of adjoining residential properties, by way of visual, privacy, acoustic and social impacts.
3. Pursuant to Section 4.15(2)(c) the proposed development is a development unsuitable for the subject site. The steep and undulating topography of the site is not compatible with the proposal and the reshaping of the site and its development is considered to result in adverse environmental impacts.
4. Pursuant to Section 4.15(1)(e) the proposed development is incompatible with the public interest. The proposed development would have significant adverse impacts on established residential properties in the development locality and would detract from the regional centre character and liveability of that residential precinct and the Muswellbrook Township.

In Favour: Crs J. Eades, J. Foy, J. Ledlin, G. McNeill, S. Reynolds, R. Scholes, S. Ward and B. Woodruff.

Against: Nil.

10.2 DA 2020/133 - BACKPACKERS' ACCOMMODATION - 14 HAYDON STREET, MUSWELLBROOK

3 RESOLVED on the motion of Crs McNeill and Reynolds that:

Council defers consideration of this item to the August Council meeting to ensure adjoining neighbours have been notified and have the opportunity to consider and comment on the proposed development.

In Favour: Crs M. Bowditch, J. Eades, J. Foy, J. Ledlin, G. McNeill, S. Reynolds, R. Scholes, S. Ward and B. Woodruff.

Against: Nil.

10.3 DA 2021-30 - CHANGE OF OPERATIONAL HOURS (MCDONALDS) - 83-89 MAITLAND STREET, MUSWELLBROOK

4 RESOLVED on the motion of Crs Reynolds and McNeill that:

Council defers consideration of this item to the August Council meeting to allow clarification of conflicting information.

In Favour: Crs J. Eades, J. Foy, J. Ledlin, G. McNeill, S. Reynolds, R. Scholes, S. Ward and B. Woodruff.

Against: Nil.

10.4 DA 2020-82 - COMMERCIAL FITOUT/BEER GARDEN - ROYAL HOTEL - BRIDGE STREET, MUSWELLBROOK

5 RESOLVED on the motion of Crs Reynolds and Eades that:

Development Application No.2020-82- proposing new kitchen, beer garden and car park at Lot 2 DP 1230519 10-16 Bridge Street Muswellbrook be approved subject the conditions in Appendix C.

In Favour: Crs J. Eades, J. Foy, J. Ledlin, G. McNeill, S. Reynolds, R. Scholes, S. Ward and B. Woodruff.

Against: Nil.

10.5 DA 2020-136 - TOURIST ACCOMMODATION AND FUNCTION CENTRE - 1831 MERRIWA ROAD, SANDY HOLLOW

6 RESOLVED on the motion of Crs Ledlin and Woodruff that:

Council:

1. Approve Development Application 2020/136 for Tourist Accommodation and a Function Centre at 1831 Merriwa Road, Sandy Hollow (Lot: 2 DP: 1179404), subject to the recommended conditions of Consent in Attachment B; and
2. Refuse the request that Council waive Section 7.12 Contributions (formerly Section 94A) for the development.

In Favour: Crs J. Eades, J. Foy, J. Ledlin, G. McNeill, S. Reynolds, R. Scholes, S. Ward and B. Woodruff.

Against: Nil.

10.6 DA 2021-43 - DWELLING HOUSE - PEBERDYS ROAD, SANDY HOLLOW

7 RESOLVED on the motion of Crs Eades and McNeill that:

Council approves Development Application 2021/43 for the construction of a dwelling on Lot 2 DP 1210270 (Peberdys Road, Sandy Hollow) subject to the recommended conditions of consent in Attachment B.

In Favour: Crs J. Eades, J. Foy, J. Ledlin, G. McNeill, S. Reynolds, R. Scholes, S. Ward and B. Woodruff.

Against: Nil.

10.7 PLANNING PROPOSAL (PP018) TO REZONE THE FORMER FORESTRY SITE - 72-74 MAITLAND STREET, MUSWELLBROOK

8 RESOLVED on the motion of Crs Foy and Woodruff that:

Council:

1. Prepare a draft planning proposal, pursuant to Section 3.33 of the *Environmental Planning and Assessment Act 1979*, for an amendment to the *Muswellbrook Local Environmental Plan 2009* (MLEP 2009) to:
 - i) amend the zoning of the land from RU3 Forestry to R1 General Residential;
 - ii) introduce a Minimum Lot Size (MLS) for the site;
 - iii) introduce a Floor Space Ratio (FSR) for the site; and
 - iv) introduce a maximum building height for the site.
2. Forward the draft planning proposal to the *Department of Planning, Industry and Environment* requesting a Gateway Determination, and exhibit the proposal in accordance with that determination, pursuant to Sections 3.34-3.35 of the *Environmental Planning and Assessment Act 1979*; and
3. Request that the Director General of the *Department of Planning, Industry and Environment* issue a Written Authorisation to Council to Exercise Delegation of the plan making functions under Section 3.36 of the *Environmental Planning and Assessment Act 1979* in respect of the planning proposal.

In Favour: Crs M. Bowditch, J. Eades, J. Foy, J. Ledlin, G. McNeill, S. Reynolds, R. Scholes, S. Ward and B. Woodruff.

Against: Nil.

10.8 MONTHLY REPORT TO COUNCIL - PLANNING, ENVIRONMENT AND REGULATORY SERVICES

9 RESOLVED on the motion of Crs Eades and Ledlin that:

The information contained in this report be noted.

11 COMMUNITY INFRASTRUCTURE

11.1 INTEGRATED WATER CYCLE MANAGEMENT STRATEGY

10 RESOLVED on the motion of Crs Ward and Woodruff that:

Council:

1. ADOPTS the Integrated Water Cycle Management Strategy; and
2. Delegates to the General Manager the making of any required changes to the adopted Integrated Water Cycle Management Strategy in order to facilitate concurrence of the document by the Department of Planning, Industry and Environment – Water.

11.2 2021-22 CAPITAL WORKS PROGRAM ROADS AND DRAINAGE

11 RESOLVED on the motion of Crs Ward and Woodruff that:

Council endorses the following priority lists of work and the undertaking of the 2021-22 Capital Works Programs to the extent of funding under the various programs:

1. Footpath Renewals as per attachment A and Pram Ramps as per attachment E;
2. Kerb and Gutter Renewals as per attachment C;
3. Road Resealing as per attachment G;
4. New Footpath construction as per attachment D with the missing link in Ironbark Road, from Calgaroo Ave to Ironbark Ridge Estate, to be constructed using the current allocation;
5. Urban and Rural Road Renewal Program as per attachment F with the rehabilitation of Lorne St (New England Hwy to Mitchell St) undertaken as priority 1 and Mangoola Road Ch 8 to Ch 10.6 km as priority 1;
6. Heavy Patching as per attachment B;
7. Safety Devices as per attachment H; and
8. Carparks as per attachment I with works in Hill St carpark undertaken as priority 1.

Cr Bowditch arrived at the meeting.

11.3 ANIMAL SHELTER PROJECT FLOOD IMPACT ASSESSMENT

12 RESOLVED on the motion of Crs Reynolds and Bowditch that:

Council:

1. Notes the information provided in the report;
2. Notes that no new properties are flooded above floor level as a result of the 100-year ARI flood event; and
3. Considers the construction of the project on a raised pad in the existing location to be the most effective design option.

11.4 MAJOR PROJECTS STATUS REPORT

13 RESOLVED on the motion of Crs Woodruff and Ward that:

Council notes the information contained in the report.

11.5 WATER AND WASTEWATER LEVELS OF SERVICE FOR THE FOURTH QUARTER OF 2020-21

14 RESOLVED on the motion of Crs McNeill and Woodruff that:

Council notes the information contained in the report

11.6 GENERAL DESIGN PROGRAMME - COUNCIL CHAMBERS AND ARTS CENTRE

15 RESOLVED on the motion of Crs Scholes and Woodruff that:

Council endorse progressing the concept designs for Council Chambers and Arts Centre with further design work including the lodgement of development applications.

**11.7 MANGOOLA COAL CONTINUED OPERATIONS PROJECT - S138 ROAD ACT 1993
APPLICATION AND PROPOSED ROAD CLOSURE WYBONG POST OFFICE ROAD**

Disclosure of Interest

Cr B. Woodruff declared a pecuniary interest in this item. Cr Woodruff advised Council that his employer undertakes work for the applicant. At 7.28pm Cr Woodruff left the Council Chambers and therefore took no part in discussion or voting on this item.

16 RESOLVED on the motion of Crs Ward and Scholes that:

Council

1. Delegate to the General Manager the authority to negotiate the "Wybong Road Overbridge and Works Deed" as outlined in the report and that the 'Deed' be subject to a further report to Council for Council's consideration.
2. Delegate to the General Manager authority to continue to negotiate and sign the s.138 *Roads Act 1993* approval generally in accordance with the draft Special Conditions set out in the report;
 - (a) The consent be provisional on a suitable form of security to be agreed with the General Manager prior to the commencement of construction of the mine owned asset infrastructure within Council's road reserves and the use of Council road reserves to access construction sites;
 - (b) As outlined in the draft Special Conditions, insurances, detailed design and Traffic Management Plans are to be submitted and certified by suitably qualified consultants and accepted by the General Manager Council;
 - (c) The consent be provisional on the 'Special Conditions' including the condition that the physical closure of Wybong Post Office Road is not permitted until safety upgrades identified in the Road Safety Audit for Ridgeland Road (between Wybong Road and Yarraman Road) are constructed by Mangoola Coal to Council's satisfaction prior to the physical closure of Wybong PO Road.
 - (d) Delegate to the General Manager to formally liaise with the Wybong community in relation to the closure of Wybong Post Office Road.

At 07:40pm Cr Brett Woodruff returned to Council Chambers.

12 CORPORATE AND COMMUNITY SERVICES

12.1 EMERITUS MAYOR

At 07:41pm Cr Steven Reynolds left the Council Chambers and therefore took no part in discussion or voting on this item.

17 RESOLVED on the motion of Crs Ward and Woodruff that:

Council

1. Recognises the long service provided to the community by former mayor Martin Rush by granting him the title of Emeritus Mayor.
2. Approves an application to be made to Local Government NSW to have previous Mayor Martin Rush named as an Emeritus Mayor and included on the Honour Roll.

At 07:42pm Cr Reynolds returned to Council Chambers.

12.2 COUNCIL'S MEMBERSHIP OF THE HUNTER JOINT ORGANISATION

18 RESOLVED on the motion of Crs Reynolds and McNeill that:

1. Muswellbrook Shire Council remain a member of the Hunter Joint Organisation of Councils.
2. Council notifies the HJO that after reconsidering the decision made by MSC on 25 August 2020 it has now decided to remain as a member of the HJO.

12.3 DRAFT VOLUNTARY PLANNING AGREEMENT BETWEEN THE MAXWELL VENTURES (MANAGEMENT) PTY LTD AND MUSWELLBROOK SHIRE COUNCIL

19 RESOLVED on the motion of Crs Ward and Reynolds that:

The draft Voluntary Planning Agreement provided in attachment B, between Muswellbrook Shire Council and the Maxwell Ventures (Management) Pty Ltd, be placed on public exhibition for 28 days and a further report be submitted to Council.

12.4 COUNCIL CARETAKER PROVISIONS

20 RESOLVED on the motion of Crs Reynolds and Ledlin that:

Council

1. Notes the extension of the current Council term to December 2021; and
2. Defers consideration of the Council Caretaker Provisions report to the October 2021 Ordinary Meeting of Council.

12.5 USE OF COUNCIL MATERIAL DURING ELECTION PERIOD

21 RESOLVED on the motion of Crs Reynolds and Ledlin that:

Council

1. Notes the extension of the current Council term to December 2021; and
2. Defers consideration of the Use of Council Material Report to the October 2021 Ordinary Meeting of Council.

12.6 GOVERNANCE ARRANGEMENTS - COMMITTEES OF COUNCIL

22 RESOLVED on the motion of Crs Reynolds and Ledlin that:

Council

1. Notes the extension of the current Council term to December 2021; and
2. Defers consideration of the Governance Arrangements – Committees of Council Report to the October 2021 Ordinary Meeting of Council.

12.7 HONEY LANE & SANDY HOLLOW MASTERPLAN

23 RESOLVED on the motion of Crs Ledlin and Woodruff that:

Council supports the continued development of a Masterplan for the village of Sandy Hollow.

12.8 DRAFT LIBRARY MEMBERSHIP AND COLLECTION MANAGEMENT POLICIES

24 RESOLVED on the motion of Crs Woodruff and Eades that:

The Library Collection Management Policy and Library Membership Policy be placed on public exhibition for a period of 28 days and a report be submitted to Council at the end of the public exhibition period.

12.9 FINANCIAL POLICIES

25 RESOLVED on the motion of Crs Reynolds and Bowditch that:

1. The following policies be placed on public exhibition for a period of 28 days:
 - a) MSC20E - Financial Reserve Management Policy
 - b) MSC13E - Borrowing Policy
 - c) MSC21E - Financial Management Policy
 - d) MSC14E - Investment (Financial Securities) Policy

- e) MSC19E - Debt Recovery Policy
- f) MSC15E - Hardship Policy
- 2. The policies be resubmitted to Council for consideration once the public exhibition period has been completed.

12.10 CARRYOVER PROJECTS FOR 2021/22

- 26 RESOLVED on the motion of Crs McNeill and Woodruff that:

Council approves the carryover projects as identified in the report.

12.11 2020/21 ANNUAL FINANCIAL STATEMENTS

- 27 RESOLVED on the motion of Crs Ledlin and Scholes that:

Council Authorise:

- 1. The submission of the 2020/21 General Purpose Financial Reports, Special Purpose Financial Reports and Special Schedules for Muswellbrook Shire Council to the Auditor; and
- 2. The Mayor, one other Councillor, General Manager and Responsible Accounting Officer be authorised to sign the reports upon completion of the audit.

12.12 REPORT ON INVESTMENTS HELD AS AT 30 JUNE 2021

- 28 RESOLVED on the motion of Crs Ward and Woodruff that:

Information showing Council's investments as at 30 June 2021 be noted.

12.13 REPORT ON COUNCIL GRANT FUNDING JULY 2021

- 29 RESOLVED on the motion of Crs Scholes and Ledlin that:

Council notes the information contained in the report and staff involved be commended with regards to the success Council has had in obtaining Grant funding.

12.14 AUTHORISATION UNDER SECTION 226 OF THE LOCAL GOVERNMENT ACT

Cr Reynolds advised Council that he would be providing an email to the General Manager in regards to the first item listed in this report.

- 30 RESOLVED on the motion of Crs Eades and Ledlin that:

Council note the information provided.

12.15 DENMAN CHILDRENS CENTRE EXTENSION

Cr Woodruff requested that Council Officers be thanked for assisting in this matter.

31 RESOLVED on the motion of Crs Ward and Woodruff that:

Council note the report on the commencement of the Memorandum of Understanding.

12.16 TREATY PROJECT

32 RESOLVED on the motion of Crs Ledlin and Bowditch that:

Council note the progress of the Treaty Project.

12.17 COMMUNITY SERVICES

33 RESOLVED on the motion of Crs Eades and Ledlin that:

The information contained in this report be noted.

12.18 END OF TERM REPORT

34 RESOLVED on the motion of Crs Reynolds and Ledlin that:

Council

1. Notes the extension of the current Council term to December 2021; and
2. Defers consideration of the End of Term Report to the October 2021 Ordinary Meeting of Council

13 REPORTS FROM COMMITTEES

13.1 STATE SIGNIFICANT DEVELOPMENT - 1/07/2021 & 5/07/2021

35 RESOLVED on the motion of Crs Scholes and Ward that:

The minutes for the State Significant Development meeting held on Thursday 1 July 2021 and Monday 5 July, 2021 be NOTED.

13.2 FINANCE REVIEW AND ADVISORY COMMITTEE - 8/07/2021, 15/07/2021 & 22/07/2021

36 RESOLVED on the motion of Crs Ledlin and Scholes that:

The minutes for the Finance Review and Advisory Committee meeting held on Thursday 8 July 2021, Thursday 15 July, 2021 and Thursday 22 July, 2021 be NOTED.

13.3 LOCAL TRAFFIC COMMITTEE - 13/07/2021

37 RESOLVED on the motion of Crs Reynolds and Woodruff that:

The Minutes of the Local Traffic Committee Meeting held on Tuesday 13 July 2021 be received and the recommendations contained therein ADOPTED.

14 NOTICES OF MOTION / RESCISSION

Nil

15 QUESTIONS WITH NOTICE

Nil

16 COUNCILLORS REPORTS

Nil

17 QUESTIONS FOR NEXT MEETING

17.1 OLYMPIC PARK

Cr McNeill inquired whether a breakdown of funding for Olympic Park be provided.

17.2 PARKING ZONE IN FRONT OF BROOK MEDICAL CENTRE

Can the Bus parking zone in front of Brook Medical Centre be reviewed to allow the drop off and pick up of patients that have limited mobility such as the elderly?

17.3 EDDERTON ROAD PAVEMENT

Can an update on the pavement failure of Edderton Road be provided?

Mr Finnigan advised Council that staff are aware of the failure of this road which has occurred due to recent rain events. Mr Finnigan also advised Council the Contractor has applied an initial seal which is to be maintained until the final seal has been applied, and is required to appropriately maintain the pavement and seal until completion of the project to the required standard.

18 ADJOURNMENT INTO CLOSED COUNCIL

38 RESOLVED on the motion of Crs Reynolds and Ledlin that:

Council adjourn into Closed Session and members of the press and public be excluded from the meeting of the Closed Session, and access to the correspondence and reports relating to the items considered during the course of the Closed Session be withheld unless declassified by separate resolution. This action is taken in accordance with Section 10A(2) of the Local Government Act, 1993 as the items listed come within the following provisions:

**19.1 CONTRACT 2018-2019-0373 SUPPLY AND INSTALLATION OF PIPE ON GROUND
AERATED STATIC PILE SYSTEM**

Item 19.1 is classified CONFIDENTIAL under the provisions of Section 10A(2)(d)(i) of the local

government act 1993, as it deals with commercial information of a confidential nature that would, if disclosed prejudice the commercial position of the person who supplied it, and Council considers that discussion of the matter in an open meeting would be, on balance, contrary to the public interest.

19.2 TENDER 2020-2021-0472 REPLACEMENT OF BOX CULVERT, ROSEMOUNT ROAD

Item 19.2 is classified CONFIDENTIAL under the provisions of Section10A(2)(d)(ii) of the local government act 1993, as it deals with information that would, if disclosed, confer a commercial advantage on a competitor of the council, and Council considers that discussion of the matter in an open meeting would be, on balance, contrary to the public interest.

19.3 TENDER 2019-2020-0419 OLYMPIC PARK INTELLIGENT LIGHTING

Item 19.3 is classified CONFIDENTIAL under the provisions of Section10A(2)(c) of the local government act 1993, as it deals with information that would, if disclosed, confer a commercial advantage on a person with whom the council is conducting (or proposes to conduct) business, and Council considers that discussion of the matter in an open meeting would be, on balance, contrary to the public interest.

19.4 TENDER 2020-2021-0463 - DESIGN AND CONSTRUCTION OF REGIONAL ENTERTAINMENT AND CONFERENCE CENTRE

Item 19.4 is classified CONFIDENTIAL under the provisions of Section10A(2)(c) and 10A(2)(d)(ii) of the local government act 1993, as it deals with information that would, if disclosed, confer a commercial advantage on a person with whom the council is conducting (or proposes to conduct) business, and information that would, if disclosed, confer a commercial advantage on a competitor of the council, and Council considers that discussion of the matter in an open meeting would be, on balance, contrary to the public interest.

19.5 REGIONAL TENDER FOR MATTRESS RECYCLING

Item 19.5 is classified CONFIDENTIAL under the provisions of Section10A(2)(c) of the local government act 1993, as it deals with information that would, if disclosed, confer a commercial advantage on a person with whom the council is conducting (or proposes to conduct) business, and Council considers that discussion of the matter in an open meeting would be, on balance, contrary to the public interest.

19.6 APPROVAL OF FUNDING TO COMPLETE 2020-2021-0439 WATER MAIN REPLACEMENT PROJECT

Item 19.6 is classified CONFIDENTIAL under the provisions of Section10A(2)(c) of the local government act 1993, as it deals with information that would, if disclosed, confer a commercial advantage on a person with whom the council is conducting (or proposes to conduct) business, and Council considers that discussion of the matter in an open meeting would be, on balance, contrary to the public interest.

19.7 2021-22 MEMORANDUM OF UNDERSTANDING WITH UPPER HUNTER SHIRE COUNCIL FOR THE DISPOSAL OF KERBSIDE MIXED WASTE

Item 19.7 is classified CONFIDENTIAL under the provisions of Section10A(2)(c) of the local government act 1993, as it deals with information that would, if disclosed, confer a commercial advantage on a person with whom the council is conducting (or proposes to conduct) business, and Council considers that discussion of the matter in an open meeting would be, on balance, contrary to the public interest.

19.8 PROCUREMENT UNDER EXTENUATING CIRCUMSTANCES

Item 19.8 is classified CONFIDENTIAL under the provisions of Section10A(2)(c) of the local government act 1993, as it deals with information that would, if disclosed, confer a commercial advantage on a person with whom the council is conducting (or proposes to conduct) business,

and Council considers that discussion of the matter in an open meeting would be, on balance, contrary to the public interest.

19.9 APPLICATION UNDER POLICY W5/4 - UNDETECTED WATER LEAKS

Item 19.9 is classified CONFIDENTIAL under the provisions of Section10A(2)(b) of the local government act 1993, as it deals with discussion in relation to the personal hardship of a resident or ratepayer, and Council considers that discussion of the matter in an open meeting would be, on balance, contrary to the public interest.

19.10 PURCHASE OF LAND FOR STAFF HOUSING

Item 19.10 is classified CONFIDENTIAL under the provisions of Section10A(2)(c) of the local government act 1993, as it deals with information that would, if disclosed, confer a commercial advantage on a person with whom the council is conducting (or proposes to conduct) business, and Council considers that discussion of the matter in an open meeting would be, on balance, contrary to the public interest.

19.11 UPDATE ON THE MUSWELLBROOK AQUATIC AND FITNESS CENTRE PROJECT

Item 19.11 is classified CONFIDENTIAL under the provisions of Section10A(2)(c) of the local government act 1993, as it deals with information that would, if disclosed, confer a commercial advantage on a person with whom the council is conducting (or proposes to conduct) business, and Council considers that discussion of the matter in an open meeting would be, on balance, contrary to the public interest.

19.12 2019-2020-0404 HUNTER BEACH TENDER

Item 19.12 is classified CONFIDENTIAL under the provisions of Section10A(2)(c) of the local government act 1993, as it deals with information that would, if disclosed, confer a commercial advantage on a person with whom the council is conducting (or proposes to conduct) business, and Council considers that discussion of the matter in an open meeting would be, on balance, contrary to the public interest.

19 CLOSED COUNCIL

19.1 CONTRACT 2018-2019-0373 SUPPLY AND INSTALLATION OF PIPE ON GROUND AERATED STATIC PILE SYSTEM

39 RESOLVED on the motion of Crs Woodruff and Ward that:

Council award Contract 2018-2019-0373 Supply and Installation of Pipe on Ground Aerated Static Pile System to C-Wise for \$182,900.00, exclusive of GST.

19.2 TENDER 2020-2021-0472 REPLACEMENT OF BOX CULVERT, ROSEMOUNT ROAD

40 RESOLVED on the motion of Crs Scholes and Ward that:

1. Council accepts the Tender submitted by MCS Civil (NSW) Pty Ltd for Contract 2020-2021-0472- Replacement of Box Culverts and Rosemount Road works, for a price of \$352,500.62, exclusive of GST, subject to a satisfactory financial assessment;
2. The General Manager be delegated authority to sign Contract 2020-2021-0472.

19.3 TENDER 2019-2020-0419 OLYMPIC PARK INTELLIGENT LIGHTING

- 41 RESOLVED on the motion of Crs Foy and Scholes that:

Council accepts the tender from Aura Renewable Energy Ltd for Contract 2019-2020-0419 Olympic Park Intelligent Lighting for \$113,600, exclusive of GST.

19.4 TENDER 2020-2021-0463 - DESIGN AND CONSTRUCTION OF REGIONAL ENTERTAINMENT AND CONFERENCE CENTRE

- 42 RESOLVED on the motion of Crs Woodruff and Foy that:

Council:

1. Decline to accept any of the tenders for Contract 2020-2021-0463 Design and Construction of the Regional Entertainment and Conference Centre as further tender and contract clarifications are required;
2. In accordance with clause 177(3)(e) of the Local Government (General) Regulation 2005 enter into negotiations with the preferred tenderer as it is considered most likely to achieve the best value outcome for Council; and
3. A report be submitted to Council for determination of the awarding of contract.

19.5 REGIONAL TENDER FOR MATTRESS RECYCLING

- 43 RESOLVED on the motion of Crs McNeill and Reynolds that:

Council APPROVES participation in the Regional Tender for Mattress Recycling and that the contract for Muswellbrook Shire Council be awarded to Mattress Recycling Australia for a term of 3 years.

19.6 APPROVAL OF FUNDING TO COMPLETE 2020-2021-0439 WATER MAIN REPLACEMENT PROJECT

- 44 RESOLVED on the motion of Crs Eades and Ward that:

Council approves a variation of \$75,000, exclusive of GST, to enable completion of Contract 2020-2021-0439 Muswellbrook Water Main Renewal Program, using funds available in the water main capital replacement budget 5320.4340.504.

19.7 2021-22 MEMORANDUM OF UNDERSTANDING WITH UPPER HUNTER SHIRE COUNCIL FOR THE DISPOSAL OF KERBSIDE MIXED WASTE

- 45 RESOLVED on the motion of Crs McNeill and Ledlin that:

Council approves Price C as the price to be applied to the 2021-22 Memorandum of Understanding with Upper Hunter Shire Council for the acceptance and disposal of 240 litre mobile garbage bin mixed waste generated from its kerbside waste collection service.

19.8 PROCUREMENT UNDER EXTENUATING CIRCUMSTANCES

46 RESOLVED on the motion of Crs Scholes and Ledlin that:

Council:

1. Approves the amending of the Procurement Policy and Procurement Procedure to include the concept of direct engagement under extenuating circumstances; and
2. Requests a further report to be submitted to Council advising of the result of ongoing discussion with the potential service provider identified in the report.

19.9 APPLICATION UNDER POLICY W5/4 - UNDETECTED WATER LEAKS

47 RESOLVED on the motion of Crs Reynolds and McNeill that:

Council approves a \$2,685.37 reduction in water bill for the 17 December 2020 to 21 April 2021 billing period as detailed in the Concealed Leaks Adjustment Sheet appended to the report.

19.10 PURCHASE OF LAND FOR STAFF HOUSING

48 RESOLVED on the motion of Crs Ledlin and Eades that:

Council:

1. Approve the purchase of the subject property for the development of staff housing for the price listed in the report.
2. Authorise the General Manager to negotiate the terms and execute all relevant documentation relating to the purchase of the subject property by Council.
3. Authorise if necessary for the Council Seal to be affixed to the Contract of Sale and Transfer document relation to the purchase of the subject property.
4. The subject property be classified as 'Operational' land within the meaning of Divisions 1, Part 2 of Chapter 6 of the Local Government Act 1993.

19.11 UPDATE ON THE MUSWELLBROOK AQUATIC AND FITNESS CENTRE PROJECT

49 RESOLVED on the motion of Crs Woodruff and McNeill that:

Council authorises the General Manager to proceed as identified in the report

19.12 2019-2020-0404 HUNTER BEACH TENDER

50 RESOLVED on the motion of Crs Reynolds and Bowditch that:

1. Council rejects the single non-conforming tender received for the project;
2. Council delegates to the General Manager authority to negotiate alternative strategies to progress the project; and
3. A further report be submitted to Council for endorsement prior to progressing the project.

20 RESUMPTION OF OPEN COUNCIL

51 RESOLVED on the motion of Crs McNeill and Ledlin that:

The meeting return to Open Council.

21 CLOSURE

The meeting was declared closed at 9.10pm.

**THE MINUTES OF THE MEETING (PAGES 1 TO 16) WERE CONFIRMED AT THE
ORDINARY COUNCIL MEETING OF THE MUSWELLBROOK SHIRE COUNCIL HELD ON
TUESDAY 31 AUGUST, 2021 AND ARE A FULL AND ACCURATE RECORD OF
PROCEEDINGS OF THE MEETING HELD ON TUESDAY 27 JULY, 2021**

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Ms F. Plesman
General Manager

.....
Cr R. Scholes
Chairperson