

**MINUTES OF THE ORDINARY COUNCIL MEETING OF THE MUSWELLBROOK SHIRE COUNCIL
HELD IN THE CHAMBERS, ADMINISTRATION CENTRE, MUSWELLBROOK ON TUESDAY 28
SEPTEMBER, 2021 COMMENCING AT 6.00PM.**

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

IN ATTENDANCE: Ms F. Plesman (General Manager), Mr D. Finnigan (Deputy General Manager), Mr D. Walsh (Manager – Corporate Services & Chief Financial Officer (VC)), Ms S. Pope (Executive Manager – Planning & Environment (VC)), Ms K. Manwarring (Manager – Community Services (VC)), Mr P Chambers (Shire Engineer (VC)), Ms M. Cleary (Manager – Governance (VC)), Miss K. Cotter (Governance Officer (VC)), Miss A. Hathway (Corporate Lawyer (VC)), Mrs M. Sandell-Hay (PA to General Manager), Mrs J. Vince (PA to Mayor) and 3 people in the public gallery.

1 ACKNOWLEDGEMENT OF COUNTRY

The Acknowledgement of Country was read by the General Manager.

2 CIVIC PRAYER

The Civic Prayer was read by Cr J. Eades.

3 APOLOGIES AND LEAVE OF ABSENCE

83 RESOLVED on the motion of Crs McNeill and Scholes that:

The apologies for inability to attend the meeting submitted by Cr S.M. Reynolds, be ACCEPTED and the necessary Leave of Absence be GRANTED.

4 CONFIRMATION OF MINUTES OF PREVIOUS MEETING

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

The Minutes of the Ordinary Meeting held on 31 August 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 G. McNeill – declared a significant non-pecuniary interest in Item 14.1. Cr McNeill advised Council that the item relates to a request for an apology for himself.

Cr G. McNeill – declared an insignificant non-pecuniary interest in Item 10.1. Cr McNeill advised Council that he lives close to the affected resident.

Cr B. Woodruff – declared a pecuniary interest in Item 11.1. Cr Woodruff advised Council that his employer undertakes work for the applicant.

Cr B. Woodruff – declared a pecuniary interest in Item 19.1. Cr Woodruff advised Council that his employer undertakes work for the applicant.

Cr R. Scholes – declared an insignificant non-pecuniary interest in Item 12.1. Cr Scholes advised that he is a member of the Race Club.

Cr R. Scholes – declared an insignificant non-pecuniary interest in item 19.7. Cr Scholes advised Council that a family member is the Manager of one of the Surveying Services that has submitted a tender.

Cr J. Eades – declared a non-pecuniary interest in Item 11.3. Cr Eades advised Council that her employer utilises some of the buildings mentioned in the report.

Cr M. Bowditch – declared a pecuniary interest in Item 12.2. Cr Bowditch advised Council that he was involved in the Maxwell Ventures CCC and provided a submission regarding the movement of the rehabilitation.

6 PUBLIC PARTICIPATION

Nil

7 GENERAL BUSINESS

7.1 ELECTION OF MAYOR AND DEPUTY MAYOR

The Mayor vacated the chair and the General Manager, as Returning Officer, conducted the election of Mayor and Deputy Mayor until the end of this term.

Cr Rod Scholes was the only nomination received for the Office of Mayor and was re-elected as Mayor until the end of this term.

Cr Jacinta Ledlin was the only nomination received for the Office of Deputy Mayor and was re-elected as Deputy Mayor until the end of this term.

7.2 FIXING DAY AND HOUR OF OCTOBER 2021 COUNCIL MEETING

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

The October, 2021 Ordinary Meeting of the Council be held in the Council Chambers, Muswellbrook, on Tuesday 26 October, 2021 commencing at 6.00pm.

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

Against: Nil.

8 MAYORAL MINUTES

8.1 MAYORAL MINUTE - INFRASTRUCTURE CONTRIBUTIONS REFORMS

86 RESOLVED on the motion of Crs Scholes and Eades that:

Council calls on the NSW Government to:

1. Withdraw the Environmental Planning and Assessment Amendment (Infrastructure Contributions) Bill 2021 (the Bill) from the NSW Parliament.
2. Undertake further consultation with the local government sector on any proposed reforms to the infrastructure contributions system.

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

Against: Nil.

9 BUSINESS ARISING

Nil

10 ENVIRONMENTAL SERVICES

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

Disclosure of Interest

Cr G. McNeill declared an insignificant non-pecuniary interest this Item. Cr McNeill advised Council that he lives close to the affected resident.

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87 RESOLVED on the motion of Crs Ledlin and Foy that:

Council approves Development Application No. 2020/133, for the construction of Backpackers' Accommodation at Lots 1 and 2 DP 551973, 14 Haydon Street, Muswellbrook, subject to the conditions of consent recommended in Attachment B.

In Favour: Crs M. Bowditch, J. Eades, J. Foy, J. Ledlin, R. Scholes and S. Ward.

Against: Crs G. McNeill and B. Woodruff.

10.2 DA 2021/66 - CARPORT - BROOK STREET MEDICAL - 62-68 BROOK STREET, MUSWELLBROOK

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

Council approves Development Application 2021/66 for the construction of a carport on Lot 833 DP 1095968, 62-68 Brook Street Muswellbrook, subject to the recommended conditions of consent in Attachment B of the report.

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

Against: Nil.

10.3 NET ZERO 2050 ROADMAP

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

Council:

1. Adopts the Muswellbrook Shire Council Net Zero Roadmap Strategy in Attachment A for implementation;
2. Commits to a 35% reduction in operational greenhouse gas emissions by 2030 from a 2005 baseline and commits to net zero operational greenhouse gas emissions by 2050;
3. Requests Council staff to create an action plan over the next 12 months, to be submitted for Council's approval, with a timeline and target dates for completion of projects and annual updates on approved projects to ensure actions and targets are being achieved; and
4. Agrees to annual funding of a minimum of \$250,000 (with annual CPI increases) to implement actions identified in the Net Zero Roadmap Strategy. Any unspent funds are to be retained in Reserve for allocation in future budgets.

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

Against: Cr G. McNeill.

Council also acknowledged the author of the report for the information contained in the report.

10.4 SUBMISSION ON SPECIAL FLOOD CONSIDERATIONS CLAUSE

90 RESOLVED on the motion of Crs McNeill and Ward that:

Council authorises the General Manager to make a submission on Council's behalf to seek inclusion of the Special Flood Considerations clause in Muswellbrook LEP 2009.

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

Against: Nil.

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

91 RESOLVED on the motion of Crs Ledlin and Foy that:

The information contained in this report be noted.

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

Against: Nil.

11 COMMUNITY INFRASTRUCTURE

11.1 MOUNT PLEASANT OPERATIONS S.138 ROADS ACT 1992 RAIL SALVAGE PROJECT

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 6.27pm Cr Woodruff left the Council Chambers and therefore took no part in discussion or voting on this item.

92 RESOLVED on the motion of Crs Ledlin and Ward that:

1. Council delegates to the General Manager authority to sign the s.138 *Roads Act 1993* approval generally in accordance with the draft Special Conditions set out in the report.
2. As outlined in the draft Special Conditions, insurance, detailed design and Traffic Management Plans are to be submitted and certified by suitably qualified consultants and accepted by Council.

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

Against: Nil.

At 6.28pm Cr Woodruff returned to Council Chambers.

11.2 GENERAL RECREATION PROGRAMME 2021-2022

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

Council:

1. Approves the General Recreation Programme 2021-2022 as specified in the report; and
2. Approves the transfer of \$15,000 from the General Cemetery Programme (3722.5297.504) to the General Recreation Programme (3710.5293.504).

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

Against: Nil.

11.3 GENERAL BUILDING RENEWAL PROGRAMME 2021-2022

Disclosure of Interest

Cr J. Eades declared a non-pecuniary interest in this Item. Cr Eades advised Council that her employer utilises some of the buildings mentioned in the report. At 6.29pm Cr Eades left the meeting and therefore took no part in discussion or voting on this item.

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

Council approves the 2021-2022 General Building Renewal Programme as specified in the report.

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

Against: Nil.

At 6.31pm Cr Eades returned to the meeting.

**11.4 FUNDING REQUEST FOR THE UPGRADE OF THE FLUORIDE DOSING SYSTEM AT
MUSWELLBROOK WATER TREATMENT PLANT**

95 RESOLVED on the motion of Crs Ward and Foy that:

1. Council approves \$376,800, exclusive of GST, from the Water Reserve for the design and construction of a new fluoride dosing system at the Muswellbrook Water Treatment Plant; and
2. The total cost of the project is to be reimbursed from the NSW Government Department of Health upon completion.

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

Against: Nil.

11.5 SECURITY FENCING MUSWELLBROOK WASTE & RECYCLING CENTRE

96 RESOLVED on the motion of Crs McNeill and Ward that:

1. Council approves the transfer of \$75,000 funding from the Waste Reserve to enable improvements in security to be carried out at the Muswellbrook Waste & Recycling Centre.
2. Any unexpended funds are to be returned to the Waste Reserve.

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

Against: Nil.

11.6 DRAFT RECYCLED WATER POLICY

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

1. Council approves placing the draft Recycled Water Policy on public exhibition for a period of 28 days; and
2. Council ADOPTS the proposed Recycled Water Policy at the conclusion of the public exhibition period subject to receiving no public comment that could significantly affect the intent of the policy.

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

Against: Nil.

11.7 BRIDGE STREET RAIL BRIDGE REPLACEMENT PROJECT STATUS UPDATE

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

Council notes the information contained in the report.

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

Against: Nil.

11.8 MAJOR PROJECTS STATUS REPORT

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

Council notes the information contained in the report.

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

Against: Nil.

11.9 COVID LOCKDOWN AND COUNCIL SERVICE DELIVERY

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

Council notes the report and commended Management on how they have looked after staff during this time.

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

Against: Nil.

12 CORPORATE AND COMMUNITY SERVICES

12.1 SPONSORSHIP REQUEST - MUSWELLBROOK RACE CLUB - 2021 MAYOR'S CUP

Disclosure of Interest

Cr Scholes declared an insignificant non-pecuniary interest in this Item. Cr Scholes advised that he is a member of the Race Club. At 6.35pm Cr Scholes left the Council Chambers and therefore took no part in discussion or voting on this matter.

Cr Ledlin assumed the role of Chair for this item.

101 RESOLVED on the motion of Crs McNeill and Foy that:

Council approve the request from the Muswellbrook Race Club for sponsorship of \$5,000 for the 2021 Mayor's Cup.

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

Against: Nil.

At 6.36pm Cr Scholes returned to Council Chambers and resumed the role of Chair for the remainder of the meeting.

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

Disclosure of Interest

Cr M. Bowditch declared a pecuniary interest in this Item. Cr Bowditch advised Council that he was involved in the Maxwell Ventures CCC and provided a submission regarding the movement of the rehabilitation. At 6.36pm Cr Bowditch left the Council Chambers and therefore took no part in discussion or voting on this item.

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

The General Manager be delegated authority to sign Voluntary Planning Agreement provided in attachment B, between Muswellbrook Shire Council and the Maxwell Ventures (Management) Pty Ltd.

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

Against: Nil.

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At 6.38pm Cr Bowditch returned to the meeting.

12.3 STREET NAMING APPLICATION

103 RESOLVED on the motion of Crs Ward and Bowditch that:

1. Council approves the proposed street names for exhibition and notification to the Geographical Names Board:
 - Winx Close
 - Redzel Close
 - Sunline Street
2. A further report be submitted to Council at the conclusion of the advertising and notification period to consider any submissions and make a final determination regarding the proposed street names.

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

Against: Nil.

12.4 AUSTRALIA DAY 2022 AWARDS AND CITIZENSHIP CEREMONY

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

Council endorses the plans for Australia Day Award and Citizenship Ceremonies to occur on the 26 January 2022.

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

Against: Nil.

12.5 DRAFT LIBRARY MEMBERSHIP AND COLLECTION MANAGEMENT POLICIES

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

Council accepts the Library Collection Management and the Library Membership Policies.

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

Against: Nil.

12.6 FINANCIAL POLICIES

106 RESOLVED on the motion of Crs Ledlin and Scholes 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 contained
 - c) MSC21E - Financial Management Policy
 - d) MSC14E - Investment (Financial Securities) Policy
 - e) MSC19E - Debt Recovery Policy
 - f) MSC15E - Hardship Policy
2. The policies be endorsed and approved by Council once the public exhibition period had been completed and no material amendments are proposed and accepted.

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

Against: Nil.

12.7 MUSWELLBROOK REGIONAL ARTS CENTRE (MRAC) STRATEGY AND PROPOSED NAME CHANGE

MOTION

Moved by Crs Eades and Ledlin that Council approve name change of the Muswellbrook Regional Arts Centre to Muswellbrook Art Gallery.

Discussion took place regarding this matter and the MOTION was WITHDRAWN.

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

Consideration of this matter be deferred to the October Meeting to allow further discussions to be undertaken.

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

Against: Nil.

12.8 REPORT ON COUNCIL GRANT FUNDING AND COMMUNITY ENGAGEMENT - SEPTEMBER 2021

108 RESOLVED on the motion of Crs Woodruff and Bowditch that:

Council notes the information contained in the report.

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

Against: Nil.

12.9 AUGUST 2021 MONTHLY FINANCIAL REPORT

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

The Financial Report for the month ending 31 August 2021 be noted.

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

Against: Nil.

12.10 REPORT ON INVESTMENTS HELD AS AT 31 AUGUST 2021

110 RESOLVED on the motion of Crs Ledlin and Ward that:

The information showing Council's investments as at 31 August 2021 be noted and that the minor discrepancy with the issuer trading limits be approved.

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

Against: Nil.

12.11 COMMUNITY SERVICES

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

The information contained in this report be noted.

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

Against: Nil.

13 REPORTS FROM COMMITTEES

13.1 FINANCE REVIEW AND ADVISORY COMMITTEE - 9/09/2021

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

The minutes for the Finance Review and Advisory Committee meeting held on Thursday 9 September 2021 be NOTED.

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

Against: Nil.

13.2 STATE SIGNIFICANT DEVELOPMENT - 6/09/2021

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

The minutes for the State Significant Development meeting held on Monday 6 September 2021 be NOTED.

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

Against: Nil.

13.3 PASSIVE MOWING - 8/04/2019

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

The minutes for the Passive Mowing Ad Hoc Committee meeting held on Monday 8 April 2019 be NOTED subject to the following amendment:

Item 5.1 recommendation to read as follows:

RECOMMENDED on the motion of Cr Rush and Cr Woodruff that:

Council delegate to the General Manager pursuant to s377(1)(i) of the Local Government Act 1993 of the Act 1993 to accept a tender for the provision of passive mowing and horticultural services.

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

Against: Nil.

14 NOTICES OF MOTION / RESCISSION

14.1 COUNCIL STATEMENT RE MANGOOLA 21 APRIL 2021

Disclosure of Interest

Cr G. McNeill declared a significant non-pecuniary interest in this Item. Cr McNeill advised Council that the item relates to a request for an apology for himself. At 6.55pm Cr McNeill left the Council Chambers and therefore took no part in discussion or voting on this matter.

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

The General Manager's response be noted.

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

Against: Nil.

At 7.02pm Cr McNeill returned to Council Chambers.

15 QUESTIONS WITH NOTICE

15.1 QUESTION WITH NOTICE - COVID-19 ALLOCATIONS

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

The information be noted.

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

Against: Nil.

15.2 QUESTION WITH NOTICE - REGIONAL ENTERTAINMENT CENTRE

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

The information be noted

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

Against: Nil.

15.3 QUESTION WITH NOTICE - CIVIC TOWN SQUARE

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

The Information be noted.

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

Against: Nil.

16 COUNCILLORS REPORTS

16.1 MANGOOLA COMMUNITY CONSULTATIVE COMMITTEE

Cr Stephen Ward reported that he had attended a Mangoola Community Consultative Committee recently and advised that the rehabilitation project is very good and that construction of a 6.3m overpass on Wybong Road, a 3x3 box culvert on Big Hat Creek and an 11kV transmission tower and relocating the Telstra fibre optic cable would commence in early 2022.

17 QUESTIONS FOR NEXT MEETING

Nil

18 ADJOURNMENT INTO CLOSED COUNCIL

119 RESOLVED on the motion of Crs McNeill and Eades 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 MANGOOLA EXTENSION PROJECT

Item 19.1 is classified CONFIDENTIAL under the provisions of Section 10A(2)(d)(ii) and 10A(2)(g) 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 advice concerning litigation, or advice as comprises a discussion of this matter, that would otherwise be privileged from production in legal proceedings on the ground of legal professional privilege, and Council

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

19.2 REQUEST TO WAIVE PROPERTY RATES

Item 19.2 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.

19.3 MUSWELBROOK SHIRE AQUATIC & FITNESS CENTRE - BUSINESS PLAN

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 FUTURE FUND SCHEDULE AND LONG TERM FINANCIAL PLAN

Item 19.4 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.

19.5 HOUSING SUPPORT FOR DOMESTIC AND FAMILY VIOLENCE

Item 19.5 is classified CONFIDENTIAL under the provisions of Section10A(2)(a) of the local government act 1993, as it deals with personnel matters concerning particular individuals (other than councillors), and Council considers that discussion of the matter in an open meeting would be, on balance, contrary to the public interest.

19.6 TENDER 2020-2021-0404 HUNTER BEACH 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 TENDER NO 2020-2021-0482 - SUPPLY OF SURVEYING SERVICES AND MINOR CIVIL DESIGN

Item 19.7 is classified CONFIDENTIAL under the provisions of Section10A(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.

19.8 TENDER 2020-2021-0455 - YARRAWA ROAD UPGRADE WORKS CH14.0-CH16

Item 19.8 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.

19.9 TENDER 2020-2021-0463 - REGIONAL ENTERTAINMENT AND CONFERENCE CENTRE - NEGOTIATIONS

Item 19.9 is classified CONFIDENTIAL under the provisions of Section10A(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.

19.10 REFURBISHMENT AND FIT-OUT OF RESTAURANT INCLUDING FLOOR REPAIRS TO LOXTON HOUSE

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Item 19.10 is classified CONFIDENTIAL under the provisions of Section 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 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 CLOSED COUNCIL

19.1 MANGOOLA EXTENSION PROJECT

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 7.06pm Cr Woodruff left the Council Chambers and therefore took no part in discussion or voting on this matter.

120 RESOLVED on the motion of Crs McNeill and Ward that:

Council endorse the direction taken by Council Officers in negotiating with Mangoola Coal Operations in relation to:

1. Wybong Post Office Road Closure and Purchase;
2. Mangoola construct or fund construction of a one in twenty-year flood mitigation crossing over Wybong Creek on Yarraman Road; and
3. Bank Guarantee regarding removal obligations for the Mangoola extension Haul Road Overbridge.

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

Against: Nil.

At 7.09pm Cr Brett Woodruff returned to Council Chambers.

19.2 REQUEST TO WAIVE PROPERTY RATES

121 RESOLVED on the motion of Crs Woodruff and Bowditch that:

Council does not approve the waiving of property rates as identified in the report.

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

Against: Nil.

19.3 MUSWELLBROOK SHIRE AQUATIC & FITNESS CENTRE - BUSINESS PLAN

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

Council adopts the Muswellbrook Aquatic & Fitness Centre Business Plan (2021-23) and the improvement actions contained within the Plan.

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

Against: Nil.

19.4 FUTURE FUND SCHEDULE AND LONG TERM FINANCIAL PLAN

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

This matter be deferred to the next meeting of Council to allow a Councillor workshop to be undertaken.

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

Against: Nil.

19.5 HOUSING SUPPORT FOR DOMESTIC AND FAMILY VIOLENCE

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

Council allocate a property and progress a partnership project with Upper Hunter Homeless Support to provide housing support for individuals or families escaping domestic and family violence.

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

Against: Nil.

19.6 TENDER 2020-2021-0404 HUNTER BEACH PROJECT

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

1. Council approves the Tender Evaluation Panel's recommendation to shortlist Keller Civil Engineering (KCE) and continue negotiations to Design and Construct Hunter Beach Part 1 as specified in the report;
2. Council approves the recommended reduction in scope for the Hunter Beach project; and
3. The General Manager be authorised to sign and seal the contract.

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

Against: Nil.

19.7 TENDER NO 2020-2021-0482 - SUPPLY OF SURVEYING SERVICES AND MINOR CIVIL DESIGN

Disclosure of Interest

Cr Scholes declared an insignificant non-pecuniary interest in item 19.7. Cr Scholes advised Council that a family member is the Manager of one of the Surveying Services that has submitted a tender. At 7.15pm Cr Scholes left the Council Chambers and therefore took no part in discussion or voting on this matter.

Cr Ledlin assumed the role of the Chair for this item.

126 RESOLVED on the motion of Crs Woodruff and Bowditch that:

1. Council accepts the tenders submitted by BTE Consulting Pty Ltd, Fyfe Pty Ltd, Hanlons Consulting Pty Ltd, JJ Ryan Consulting Pty Ltd, MM Hyndes Bailey & Co, Monteath and Powys Pty Ltd, RHM Consulting Engineers, RPS Australia East Pty Ltd, Tony Mexon & Associates Pty Ltd, and VFT Engineering Surveyors Pty Ltd to undertake works for a

**MINUTES OF THE ORDINARY COUNCIL MEETING OF THE MUSWELLBROOK SHIRE COUNCIL
HELD IN THE CHAMBERS, ADMINISTRATION CENTRE, MUSWELLBROOK ON TUESDAY 28
SEPTEMBER, 2021 COMMENCING AT 6.00PM.**

period of two (2) years with the option of extending a further 12 months on satisfactory performance.

2. The General Manager be authorised to sign and affix Council's seal to the contracts.

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

Against: Nil.

At 7.17pm Cr Scholes returned to Council Chambers and resumed the role of Chair for the remainder of the meeting.

19.8 TENDER 2020-2021-0455 - YARRAWA ROAD UPGRADE WORKS CH14.0-CH16

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

Council:

1. Accepts the Tender submitted by KCE Pty Ltd for Contract 2020-2021-0455 - Yarrawa Road upgrade works, for a price of \$2,233,200, exclusive of GST, subject to a satisfactory financial assessment;
2. Approves the contingency and management overhead allowance amounts specified in the Financial Implications section of the report.;
3. Delegates to the General Manager authority to sign and affix Council's seal to Contract 2020-2021-0455.

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

Against: Nil.

19.9 TENDER 2020-2021-0463 - REGIONAL ENTERTAINMENT AND CONFERENCE CENTRE - NEGOTIATIONS

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

Council:

1. Accept the tender submitted by Built Construction Pty Ltd, in the recommended revised negotiated amount of \$26,997,604 (excluding GST) for Contract No. 2020-2021-0463 Design and Construction of the Regional Entertainment and Conference Centre including Enabling Works and allocate funding as recommended in the report, and
2. Council authorises the General Manager for determination of the design novation arrangements.

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

Against: Cr S. Ward.

Council also recognised the work undertaken by Mr M. Lysaught in progressing this project.

**19.10 REFURBISHMENT AND FIT-OUT OF RESTAURANT INCLUDING FLOOR REPAIRS TO
LOXTON HOUSE**

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

Council allocates an additional budget amount as identified in the report to enable floor repair and refurbishment works to the ground and lower ground floors of Loxton House.

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

Against: Nil.

20 RESUMPTION OF OPEN COUNCIL

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

The meeting return to Open Council.

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

Against: Nil.

21 CLOSURE

The meeting was declared closed at 7.24pm.

THE MINUTES OF THE MEETING (PAGES 1 TO 15) WERE CONFIRMED AT THE
ORDINARY COUNCIL MEETING OF THE MUSWELLBROOK SHIRE COUNCIL HELD ON
TUESDAY 26 OCTOBER, 2021 AND ARE A FULL AND ACCURATE RECORD OF
PROCEEDINGS OF THE MEETING HELD ON TUESDAY 28 SEPTEMBER, 2021

.....
Fiona Plesman
General Manager

.....
Cr R.W. Scholes
Chairperson