

**MINUTES OF THE ORDINARY COUNCIL MEETING OF THE MUSWELLBROOK SHIRE COUNCIL  
HELD IN THE THE DENMAN MEMORIAL HALL, OGILVIE STREET, DENMAN ON TUESDAY 5 APRIL,  
2022 COMMENCING AT 6.00PM.**

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**PRESENT:** Cr A. Barry, Cr M. Bowditch, Cr D. Douglas, Cr J. Drayton, Cr L. Dunn, Cr J.A. Lecky, Cr G.T. McNeill, Cr R. Mahajan, Cr D.E. Marshall, Cr R.W. Scholes 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), Ms S. Pope (Executive Manager – Planning & Environment), Mr P. Chambers (Shire Engineer), Ms K. Manwarring (Manager – Community Services), Mr M. Lysaught (Manager – Works, Property & Building Services), Ms M. Cleary (Manager – Governance), Miss K. Cotter (Governance Officer), Mrs J. Vince (PA to Mayor), 4 people in the public gallery.

## **1 ACKNOWLEDGEMENT OF COUNTRY**

The Acknowledgement of Country was read by Cr M. Bowditch.

## **2 CIVIC PRAYER**

The Civic Prayer was read by Cr L. Dunn.

## **3 APOLOGIES AND LEAVE OF ABSENCE**

[260] RESOLVED on the motion of Crs McNeill and Mahajan that:

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

In Favour: Crs A. Barry, M. Bowditch, D. Douglas, J. Drayton, L. Dunn, J. Lecky, R. Mahajan, D. Marshall, G. McNeill, R. Scholes and B. Woodruff.

Against: Nil.

## **4 CONFIRMATION OF MINUTES OF PREVIOUS MEETING**

261 RESOLVED on the motion of Crs Woodruff and Douglas that:

The Minutes of the Ordinary Meeting held on 1 March 2022, a copy of which has been distributed to all members, be taken as read and confirmed as a true record.

In Favour: Crs A. Barry, M. Bowditch, D. Douglas, J. Drayton, L. Dunn, J. Lecky, R. Mahajan, D. Marshall, G. McNeill, R. Scholes and B. Woodruff.

Against: Nil.

## **5 DISCLOSURE OF ANY PECUNIARY AND NON PECUNIARY INTEREST**

**Cr J. Drayton** – declared a significant Non-Pecuniary interest in Item 12.7. Cr Drayton advised Council he is employed by a Company who undertake work for MACH Energy.

**Cr M. Bowditch** – declared a Pecuniary interest in Item 12.7. Cr Bowditch advised Council he is a member of a sports club of which the President works for Mt Pleasant.

**Cr M. Bowditch** – declared a Pecuniary interest in Item 19.2. Cr Bowditch advised Council he works for the Company who is mentioned in the Report.

**Cr B. Woodruff** – declared a significant Pecuniary interest in Items 11.3 and 11.4. Cr Woodruff advised Council that his Employer undertakes work for Mangoola Coal.

**Cr B. Woodruff** – declared a significant Pecuniary interest in Item 12.7. Cr Woodruff advised Council that his Employer undertakes work for Mt Pleasant.

**Cr D. Marshall** – declared a Non-Pecuniary interest in Item 12.7. Cr Marshall advised Council that his Employer works for the Company.

**Cr D. Douglas** – declared a Pecuniary interest in Item 12.7. Cr Douglas advised Council that the Company she works for has a contract with Mt Pleasant.

**Cr L. Dunn** – declared an insignificant Non-Pecuniary interest in Item 11.4. Cr Dunn advised Council that her Parents previously owned land next to both property owners.

## **6 PUBLIC PARTICIPATION**

**Mr J. Wolfgang** – in support of the Recommendation in Item 19.1.

**Mr G. Walker and Mrs M. Walker** – in opposition to Item 19.2.

## **7 MAYORAL MINUTES**

Nil

## **8 GENERAL BUSINESS**

Nil

## **9 BUSINESS ARISING**

Nil

## **10 ENVIRONMENTAL SERVICES**

### **10.1 ADMINISTRATIVE AMENDMENT TO MUSWELLBROOK LOCAL ENVIRONMENTAL PLAN 2009 - 3 RACECOURSE ROAD, MUSWELLBROOK**

**262** RESOLVED on the motion of Crs Scholes and McNeill that:

Council:

1. Endorses the Planning Proposal contained in Attachment A (Planning Proposal – Administrative Amendment 3 Racecourse Road Muswellbrook (PP\_2020\_MUSWE\_001\_00) and requests a Parliamentary Counsel Opinion to amend the Muswellbrook Local Environmental Plan 2009; and
2. Makes the amending Plan under delegation pursuant to section 3.36 of the Environmental Planning and Assessment Act 1979.

In Favour: Crs A. Barry, M. Bowditch, D. Douglas, J. Drayton, L. Dunn, J. Lecky, R. Mahajan, D. Marshall, G. McNeill, R. Scholes and B. Woodruff.

Against: Nil.

**10.2 DA 2021-87 - COMMERCIAL CHANGE OF USE AND ALTERATIONS AND ADDITIONS - 12 OGILVIE STREET, DENMAN**

263 RESOLVED on the motion of Crs Woodruff and Drayton that:

Council:

1. Accepts the six (6) off-street car parking spaces proposed as achieving the objectives of Muswellbrook Development Control Plan 2009; and
2. Delegates the determination of Development Application No. 2021/87 for the change of use of a retail premises to a restaurant and the carrying out of commercial alterations and additions at 12 Ogilvie Street, Denman (Lot 1 DP 997824 and Lot 12 DP 1277745) to the General Manager pending the submission of further information related to site contamination and remediation.

In Favour: Crs A. Barry, M. Bowditch, D. Douglas, J. Drayton, L. Dunn, J. Lecky, R. Mahajan, D. Marshall, G. McNeill, R. Scholes and B. Woodruff.

Against: Nil.

**10.3 MONTHLY REPORT TO COUNCIL - PLANNING, ENVIRONMENT AND REGULATORY SERVICES**

264 RESOLVED on the motion of Crs Mahajan and Marshall that:

The information contained in this report be noted.

In Favour: Crs A. Barry, M. Bowditch, D. Douglas, J. Drayton, L. Dunn, J. Lecky, R. Mahajan, D. Marshall, G. McNeill, R. Scholes and B. Woodruff.

Against: Nil.

**10.4 LOCAL INFRASTRUCTURE CONTRIBUTION PLAN REVIEW**

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

Council:

1. Resolves to prepare a new Local Infrastructure Contribution Plan (s. 7.11) to replace the *Muswellbrook Section 94 Contributions Plan 2001*;
2. Agrees in principle to funding the construction of an upgraded intersection for Bimbadeen Drive and New England Highway, Muswellbrook, to satisfy Transport for NSW requirements; and
3. Supports the cost of the Bimbadeen intersection upgrade being recouped from new development via the new Local Infrastructure Contribution Plan.

In Favour: Crs A. Barry, M. Bowditch, D. Douglas, J. Drayton, L. Dunn, J. Lecky, R. Mahajan, D. Marshall, G. McNeill, R. Scholes and B. Woodruff.

Against: Nil.

## 11 COMMUNITY INFRASTRUCTURE

### 11.1 MAJOR PROJECTS STATUS REPORT

266 RESOLVED on the motion of Crs McNeill and Barry that:

The information contained in this report be noted.

In Favour: Crs A. Barry, M. Bowditch, D. Douglas, J. Drayton, L. Dunn, J. Lecky, R. Mahajan,  
D. Marshall, G. McNeill, R. Scholes and B. Woodruff.

Against: Nil.

### 11.2 ALMOND STREET DENMAN

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

Council approves to continue to not maintain the additional 1.8 km length of Almond Street, in line with Council's Road Development Standards Policy, until such time as Almond Street is constructed to the specified standards contained in current and future Development Consent proposals.

In Favour: J. Drayton, L. Dunn, J. Lecky, D. Marshall, G. McNeill, R. Scholes and B. Woodruff.

Against: Crs A. Barry, M. Bowditch, D. Douglas and R. Mahajan.

### 11.3 MANGOOLA COAL CONTINUATION OPERATIONS WYBONG ROAD OVERBRIDGE INFRASTRUCTURE

#### Disclosure of Interest

**Cr B. Woodruff** – declared a significant Pecuniary interest in this Item. Cr Woodruff advised Council that his Employer undertakes work for Mangoola Coal.

At 6.22pm Cr Woodruff left the Council Chambers and therefore took no part in discussion or voting on this item.

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

Council;

1. Acknowledges receipt of written certification from independent expert Lyndsay Dynan Consulting Engineers Pty Limited, in the form of a Structural Verification Report dated 20 January 2022, for the Wybong Road Overpass Precast Arch and Reinforced Earth Wall, verifying that the Infrastructure Works have been designed to all applicable standards.
2. Authorises for Mangoola Coal Operations Pty Limited to be notified that the detailed design plans and the written certification provided under Clause 6.1 (c ) of the Deed are satisfactory.

In Favour: Crs A. Barry, M. Bowditch, D. Douglas, J. Drayton, L. Dunn, J. Lecky, R. Mahajan,  
D. Marshall, G. McNeill and R. Scholes.

Against: Nil.

#### 11.4 MANGOOLA COAL CONTINUED OPERATIONS PROJECT YARRAMAN ROAD UPGRADE

##### Disclosure of Interest

**Cr B. Woodruff** – declared a significant Pecuniary interest in this Item. Cr Woodruff advised Council that his Employer undertakes work for Mangoola Coal.

At 6.22pm Cr Woodruff left the Council Chambers and therefore took no part in discussion or voting on this item.

269 RESOLVED on the motion of Crs Scholes and Douglas that:

Council endorses the following matters pertaining to the Yarraman Road Portion Upgrade as outlined in the “Road Closure and Works Deed” for the Mangoola Coal Continued Operations Project:

1. The Option 2 A (incorporating Motif #1) concept design plan for the new Yarraman Road bridge spanning Wybong Creek;
2. The proposed Yarraman Road realignment route nominated on attachment C;
3. Council staff to commence negotiations with affected landowners to acquire the land required for road purposes as shown on the concept bridge/road realignment survey plan; and
4. Council authorises the General Manager to negotiate the compensation required for the land required for road purposes as shown on the concept road realignment plan.

In Favour: Crs A. Barry, M. Bowditch, D. Douglas, J. Drayton, L. Dunn, J. Lecky, R. Mahajan, D. Marshall, G. McNeill and R. Scholes.

Against: Nil.

At 6.24pm Cr Woodruff returned to Council Chambers and resumed his chair at the meeting table.

#### 11.5 TRANSPORT FOR NSW PROPOSED ROAD REHABILITATION DENMAN ROAD

270 RESOLVED on the motion of Crs Marshall and Barry that:

Council:

1. Notes the information contained in this report; and
2. Endorses the comments on the 80% design drawings listed in the report to be forwarded to Transport for NSW for review.

In Favour: Crs A. Barry, M. Bowditch, D. Douglas, J. Drayton, L. Dunn, J. Lecky, R. Mahajan, D. Marshall, G. McNeill, R. Scholes and B. Woodruff.

Against: Nil.

**11.6 BRIDGE STREET RAIL BRIDGE REPLACEMENT PROJECT SOFT LANDSCAPING DESIGN**

271 RESOLVED on the motion of Crs McNeill and Drayton that:

Council endorses the soft landscaping design provided in the report.

In Favour: Crs A. Barry, M. Bowditch, D. Douglas, J. Drayton, L. Dunn, J. Lecky, R. Mahajan, D. Marshall, G. McNeill, R. Scholes and B. Woodruff.

Against: Nil.

**11.7 MUSWELLBROOK SKATEPARK**

272 RESOLVED on the motion of Crs Bowditch and Mahajan that:

Council:

1. Approves the installation of Transport for NSW conforming pedestrian fencing along the footpath between the Rutherford Road roundabout and Muswellbrook skatepark; and
2. Requests a report to be submitted to the Local Traffic Committee for the provision of safe pedestrian access across Rutherford Road, from the Muswellbrook skatepark to Muswellbrook Fair.

In Favour: Crs A. Barry, M. Bowditch, D. Douglas, J. Drayton, L. Dunn, J. Lecky, R. Mahajan, D. Marshall, G. McNeill, R. Scholes and B. Woodruff.

Against: Nil.

**11.8 LOCAL GOVERNMENT RECOVERY GRANTS PROGRAM**

273 RESOLVED on the motion of Crs Scholes and Barry that:

Council:

1. Approves placing into a Natural Disaster Reserve the \$1,000,000 received under the Local Recovery Grants Programme; and
2. Following the finalisation of project costs, the funds be removed from Reserve to the relevant expenditure ledger numbers.

In Favour: Crs A. Barry, M. Bowditch, D. Douglas, J. Drayton, L. Dunn, J. Lecky, R. Mahajan, D. Marshall, G. McNeill, R. Scholes and B. Woodruff.

Against: Nil.

**12 CORPORATE AND COMMUNITY SERVICES**

**12.1 REPORT ON COUNCIL GRANT FUNDING AND COMMUNITY ENGAGEMENT**

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

Council notes the information contained in the report.

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In Favour: Crs A. Barry, M. Bowditch, D. Douglas, J. Drayton, L. Dunn, J. Lecky, R. Mahajan,  
D. Marshall, G. McNeill, R. Scholes and B. Woodruff.

Against: Nil.

## **12.2 COUNCILLORS WRITTEN RETURNS OF INTERESTS**

**275** RESOLVED on the motion of Crs McNeill and Douglas that:

The information contained in this report be noted.

In Favour: Crs A. Barry, M. Bowditch, D. Douglas, J. Drayton, L. Dunn, J. Lecky, R. Mahajan,  
D. Marshall, G. McNeill, R. Scholes and B. Woodruff.

Against: Nil.

## **12.3 CODE OF MEETING PRACTICE SUBMISSIONS AND ADOPTION**

**276** RESOLVED on the motion of Crs Drayton and Scholes that:

Council determined to reject the Officer's Recommendation as detailed in the report; and opted to not adopt the revised *2022 Model Code of Meeting Practice* and retain the current Code.

In Favour: D. Douglas, J. Drayton, L. Dunn, J. Lecky, R. Mahajan, D. Marshall, G. McNeill, R.  
Scholes and B. Woodruff.

Against: Crs A. Barry, M. Bowditch.

## **12.4 APPOINTMENT OF GENERAL MANAGER'S PERFORMANCE PANEL**

**277** RESOLVED on the motion of Crs McNeill and Douglas that:

Council delegates the General Manager's performance review to a panel comprising:

- The Mayor
- The Deputy Mayor
- A Councillor nominated by Council: Cr G. McNeill
- A Councillor nominated by the General Manager: Cr A. Barry\_\_\_\_\_

In Favour: Crs A. Barry, M. Bowditch, D. Douglas, J. Drayton, L. Dunn, J. Lecky, R. Mahajan,  
D. Marshall, G. McNeill, R. Scholes and B. Woodruff.

Against: Nil.

## 12.5 REPORT ON INVESTMENTS HELD AS AT 28 FEBRUARY 2022

278 RESOLVED on the motion of Crs Scholes and Marshall that:

The information showing Council's investments as at 28 February 2022 be noted.

In Favour: Crs A. Barry, M. Bowditch, D. Douglas, J. Drayton, L. Dunn, J. Lecky, R. Mahajan,  
D. Marshall, G. McNeill, R. Scholes and B. Woodruff.

Against: Nil.

## 12.6 FINANCIAL POLICIES

279 RESOLVED on the motion of Crs Woodruff and Douglas 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 has been completed and no material amendments are proposed.

In Favour: Crs A. Barry, M. Bowditch, D. Douglas, J. Drayton, L. Dunn, J. Lecky, R. Mahajan,  
D. Marshall, G. McNeill, R. Scholes and B. Woodruff.

Against: Nil.

## 12.7 MT PLEASANT MODIFICATION - NEW VOLUNTARY PLANNING AGREEMENT

### Disclosure of Interest

**Cr M. Bowditch** – declared a Pecuniary interest in this Item. Cr Bowditch advised Council he is a member of a sports club of which the President works for Mt Pleasant.

**Cr D. Douglas** – declared a Pecuniary interest in this Item. Cr Douglas advised Council that the Company she works for has a contract with Mt Pleasant.

**Cr J. Drayton** – declared a significant Non-Pecuniary interest in this Item. Cr Drayton advised Council he is employed by a Company who undertake work for MACH Energy.

**Cr D. Marshall** – declared a Non-Pecuniary interest in this Item. Cr Marshall advised Council that his Employer works for the Company.

**Cr B. Woodruff** – declared a significant Pecuniary interest in this Item. Cr Woodruff advised Council that his Employer undertakes work for Mt Pleasant.

At 6.35pm Crs Bowditch, Douglas, Drayton, Marshall and Woodruff left the Council Chambers and therefore took no part in discussion or voting on this item.



**280** RESOLVED on the motion of Crs Dunn and McNeill that:

1. Council endorses the VPA as submitted by MACH energy; and
2. Mt Pleasant is requested to increase the engagement of apprentices from 4 to 6 and that 2 of the apprentices are to be adult apprentices.

In Favour: Crs A. Barry, L. Dunn, J. Lecky, R. Mahajan, G. McNeill and R. Scholes.

Against: Nil.

At 6.36pm Crs Bowditch, Douglas, Drayton, Marshall and Woodruff returned to Council Chambers and resumed their chairs at the meeting table.

## **12.8 FEBRUARY 2022 MONTHLY FINANCIAL REPORTS**

**281** RESOLVED on the motion of Crs Bowditch and Mahajan that:

The Financial Reports for the month ending 28 February 2022 be noted.

In Favour: Crs A. Barry, M. Bowditch, D. Douglas, J. Drayton, L. Dunn, J. Lecky, R. Mahajan, D. Marshall, G. McNeill, R. Scholes and B. Woodruff.

Against: Nil.

## **12.9 COMMUNITY SERVICES**

**282** RESOLVED on the motion of Crs Douglas and Barry that:

The information contained in this report be noted.

In Favour: Crs A. Barry, M. Bowditch, D. Douglas, J. Drayton, L. Dunn, J. Lecky, R. Mahajan, D. Marshall, G. McNeill, R. Scholes and B. Woodruff.

Against: Nil.

## **12.10 GIFTS, BRIBES AND BENEFITS POLICY**

**283** RESOLVED on the motion of Crs McNeill and Scholes that:

1. Council endorses the draft Gifts, Bribes and Benefits Policy for public exhibition for a period of 28 days;
2. Council adopts the *draft Gifts, Bribes and Benefits Policy* at the conclusion of the public exhibition period if no substantive changes are recommended in any submissions received.

In Favour: Crs A. Barry, M. Bowditch, D. Douglas, J. Drayton, L. Dunn, J. Lecky, R. Mahajan, D. Marshall, G. McNeill, R. Scholes and B. Woodruff.

Against: Nil.

**12.11 SUPERANNUATION PAYMENTS FOR COUNCILLORS**

**284** RESOLVED on the motion of Crs Marshall and Mahajan that:

Council nominates to provide superannuation payments in line with the Local Government Act 1993.

In Favour: Crs A. Barry, M. Bowditch, D. Douglas, J. Drayton, L. Dunn, J. Lecky, R. Mahajan, D. Marshall, G. McNeill, R. Scholes and B. Woodruff.

Against: Nil.

**12.12 CHANGE OF DATE FOR ORDINARY MEETINGS OF COUNCIL**

**285** RESOLVED on the motion of Crs Woodruff and Douglas that:

Council approve a change to the date of the Ordinary Meetings of Council from Tuesday in the first week of the month to Tuesday in the fourth week of each month, to be held at Denman Memorial Hall until the new Council Chambers are completed and the July 2022 Meeting to be held at Sandy Hollow.

In Favour: Crs A. Barry, M. Bowditch, D. Douglas, J. Drayton, L. Dunn, J. Lecky, R. Mahajan, D. Marshall, G. McNeill, R. Scholes and B. Woodruff.

Against: Nil.

**12.13 REQUEST FOR COUNCILS SUPPORT TO PROVIDE ADDITIONAL SPONSORSHIP FUNDS TO FACILITATE THE ANNUAL SANDY HOLLOW WESTPAC RESCUE HELICOPTER CHARITY HORSE RIDE**

**286** RESOLVED on the motion of Crs Scholes and Douglas that:

Council supports the allocation of \$3,000 for additional sponsorship for the annual Sandy Hollow Westpac Rescue Helicopter Charity Horse Ride.

In Favour: Crs A. Barry, M. Bowditch, D. Douglas, J. Drayton, L. Dunn, J. Lecky, R. Mahajan, D. Marshall, G. McNeill, R. Scholes and B. Woodruff.

Against: Nil.

**12.14 PUBLIC EXHIBITION - DRAFT MUSWELLBROOK SHIRE 2022-2032 COMMUNITY STRATEGIC PLAN**

**287** RESOLVED on the motion of Crs Woodruff and Marshall that:

Council endorses the *DRAFT 2022-2032 Muswellbrook Shire Community Strategic Plan* for public exhibition from 6 April 2022 to 17 May 2022.

In Favour: Crs A. Barry, M. Bowditch, D. Douglas, J. Drayton, L. Dunn, J. Lecky, R. Mahajan, D. Marshall, G. McNeill, R. Scholes and B. Woodruff.

Against: Nil.

## **12.15 ADDITIONAL RATE VARIATION - APPLICATION PROPOSAL**

**288** RESOLVED on the motion of Crs Scholes and Barry that:

Council endorses an application to IPART seeking an additional rate variation of 1.8%.

In Favour: Crs A. Barry, M. Bowditch, D. Douglas, J. Drayton, L. Dunn, J. Lecky, R. Mahajan,  
D. Marshall, G. McNeill, R. Scholes and B. Woodruff.

Against: Nil.

## **13 REPORTS FROM COMMITTEES**

### **13.1 LOCAL TRAFFIC COMMITTEE - 8/03/2022**

**289** RESOLVED on the motion of Crs Bowditch and Marshall that:

The Minutes of the Local Traffic Committee Meeting held on Tuesday 8 March 2022 be received and the recommendations contained therein ADOPTED.

In Favour: Crs A. Barry, M. Bowditch, D. Douglas, J. Drayton, L. Dunn, J. Lecky, R. Mahajan,  
D. Marshall, G. McNeill, R. Scholes and B. Woodruff.

Against: Nil.

### **13.2 STATE SIGNIFICANT DEVELOPMENT - 21/03/2022**

**290** RESOLVED on the motion of Crs Scholes and Bowditch that:

The minutes for the State Significant Development meeting held on Monday 21 March 2022 be NOTED.

In Favour: Crs A. Barry, M. Bowditch, D. Douglas, J. Drayton, L. Dunn, J. Lecky, R. Mahajan,  
D. Marshall, G. McNeill, R. Scholes and B. Woodruff.

Against: Nil.

### **13.3 FINANCE REVIEW AND ADVISORY COMMITTEE - 24/03/2022**

**291** RESOLVED on the motion of Crs Mahajan and McNeill that:

The minutes for the Finance Review and Advisory Committee meeting held on Thursday 24 March 2022 be NOTED.

In Favour: Crs A. Barry, M. Bowditch, D. Douglas, J. Drayton, L. Dunn, J. Lecky, R. Mahajan,  
D. Marshall, G. McNeill, R. Scholes and B. Woodruff.

Against: Nil.

## 14 NOTICES OF MOTION / RESCISSION

### 14.1 FOOD AND GARDEN ORGANICS COLLECTION

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

#### MOTION

1. Muswellbrook Shire Council incorporate a food organics & garden organics (FOGO) collection into our waste management scheme.
2. That the timing of the introduction of said service be at the best advantage to the current contract for waste collection, the expertise of Council staff and the provision of the service to our community.

In Favour: Crs A. Barry, M. Bowditch, D. Douglas, J. Drayton, L. Dunn, J. Lecky, R. Mahajan, D. Marshall, G. McNeill, R. Scholes and B. Woodruff.

Against: Nil.

### 14.2 NOTICE OF MOTION COUNCILLOR MCNEILL

293 RESOLVED on the motion of Crs McNeill and Lecky that:

#### MOTION

##### Background:

Our Shire has some fantastic attractions, parks and other facilities. I feel it is essential that we promote these to drive economic benefit and tourism to our Shire and showcase what Muswellbrook Shire has to offer.

#### MOTION:

That the General Manager submits a report to the May 2022 ordinary meeting for the consideration of Council, which:

1. outlines a project plan for the development of an externally produced tourism video and photographic package to showcase our Shire;
2. identifies specific Shire businesses and recreational facilities to be featured in the package;
3. estimates the financial and associated resources required to complete the project;
4. identifies an available source of funding in the adopted 2021/22 budget for allocation to the project.

In Favour: Crs A. Barry, M. Bowditch, D. Douglas, J. Drayton, L. Dunn, J. Lecky, R. Mahajan, D. Marshall, G. McNeill, R. Scholes and B. Woodruff.

Against: Nil.

## 15 QUESTIONS WITH NOTICE

Nil

## **16 COUNCILLORS REPORTS**

### **16.1 AUSTRALIA DAY**

Cr McNeill advised the meeting that he had the opportunity to speak to the two Elders who had performed the smoking and didgeridoo ceremonies at Council's Australia Day event, during which they explained the meaning of the ceremonies, which he found very powerful. Cr McNeill requested that Council send a letter to the Elders to thank them.

Ms Plesman advised the meeting that Council had sent thank you letters to all participants of the Australia Day event.

## **17 QUESTIONS FOR NEXT MEETING**

Nil

## **18 ADJOURNMENT INTO CLOSED COUNCIL**

**294** RESOLVED on the motion of Crs McNeill and Scholes 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 TENDER 2021-2022-500 - DENMAN AND DISTRICT HERITAGE VILLAGE**

Item 19.1 is classified CONFIDENTIAL under the provisions of Section 10A(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.

### **19.2 HUNGERFORD ROAD MAINTENANCE AND ACCESSIBILITY**

Item 19.2 is classified CONFIDENTIAL under the provisions of Section 10A(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 RICHMOND GROVE ROAD**

Item 19.3 is classified CONFIDENTIAL under the provisions of Section 10A(2)(g) of the local government act 1993, as it deals with 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.

### **19.4 APPLICATION UNDER UNDETECTED WATER LEAKS POLICY W5/4**

Item 19.4 is classified CONFIDENTIAL under the provisions of Section 10A(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.

### **19.5 VISITOR INFORMATION CENTRE - MUSWELLBROOK**

Item 19.5 is classified CONFIDENTIAL under the provisions of Section 10A(2)(c) of the local

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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 TENDER 2021-2022-0439 WATER MAIN REPLACEMENT PROGRAMME**

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 LOXTON HOUSE STRUCTURAL REPAIRS**

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 TENDER 2020-2021-456 - CONCEPT DESIGN FOR DENMAN TO SANDY HOLLOW WATER PIPELINE**

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.

In Favour: Crs A. Barry, M. Bowditch, D. Douglas, J. Drayton, L. Dunn, J. Lecky, R. Mahajan, D. Marshall, G. McNeill, R. Scholes and B. Woodruff.

Against: Nil.

## **19 CLOSED COUNCIL**

**19.1 TENDER 2021-2022-500 - DENMAN AND DISTRICT HERITAGE VILLAGE**

**295** RESOLVED on the motion of Crs Woodruff and Marshall that:

Council:

1. Accepts the tender submitted by Westbury Pty Ltd for \$1,767,378 exclusive of GST for Contract 2021-2022-500 Denman District Heritage Village; and
2. Authorises the General Manager to execute the contract.

In Favour: Crs A. Barry, M. Bowditch, D. Douglas, J. Drayton, L. Dunn, J. Lecky, R. Mahajan, D. Marshall, G. McNeill, R. Scholes and B. Woodruff.

Against: Nil.

## 19.2 HUNGERFORD ROAD MAINTENANCE AND ACCESSIBILITY

### Disclosure of Interest

**Cr M. Bowditch** – declared a Pecuniary interest in this Item. Cr Bowditch advised Council he works for the Company who is mentioned in the Report.

At 6.56pm Cr Bowditch left the Council Chambers and therefore took no part in discussion or voting on this item.

296 RESOLVED on the motion of Crs McNeill and Mahajan that:

This item be deferred to the next meeting of Council.

In Favour: Crs A. Barry, D. Douglas, J. Drayton, L. Dunn, J. Lecky, R. Mahajan, D. Marshall, G. McNeill, R. Scholes and B. Woodruff.

Against: Nil.

At 6.58pm Cr Bowditch returned to Council Chambers and resumed his chair at the meeting table.

## 19.3 RICHMOND GROVE ROAD

297 RESOLVED on the motion of Crs Scholes and Marshall that:

Council:

1. Endorses Option 2 – to refuse the surrender of the 2010 Consent and investigate the proposal to close Richmond Grove Road at Ch 1.4km for its remaining length; and
2. Delegates to the General Manager responsibility to negotiate the sale of Richmond Grove Road to the adjacent property owner Stroud Agricultural Company Pty Limited.

In Favour: Crs A. Barry, M. Bowditch, D. Douglas, J. Drayton, L. Dunn, J. Lecky, R. Mahajan, D. Marshall, G. McNeill, R. Scholes and B. Woodruff.

Against: Nil.

## 19.4 APPLICATION UNDER UNDETECTED WATER LEAKS POLICY W5/4

298 RESOLVED on the motion of Crs McNeill and Douglas that:

Council approves a reduction of \$1,282.24 for the assessed water account as detailed in the report.

In Favour: Crs A. Barry, M. Bowditch, D. Douglas, J. Drayton, L. Dunn, J. Lecky, R. Mahajan, D. Marshall, G. McNeill, R. Scholes and B. Woodruff.

Against: Nil.

## **19.5 VISITOR INFORMATION CENTRE - MUSWELLBROOK**

**299** RESOLVED on the motion of Crs Scholes and Douglas that:

1. Councillors be provided with a further report regarding costings and timings for the establishment of a Visitor Information Centre in Muswellbrook.

In Favour: Crs A. Barry, M. Bowditch, D. Douglas, J. Drayton, L. Dunn, J. Lecky, R. Mahajan, D. Marshall, G. McNeill, R. Scholes and B. Woodruff.

Against: Nil.

## **19.6 TENDER 2021-2022-0439 WATER MAIN REPLACEMENT PROGRAMME**

**300** RESOLVED on the motion of Crs Woodruff and Bowditch that:

Council:

1. Accepts the tender from Utilstra Pty Ltd, under Contract 2021-2022-0439, for the carrying out of water main replacement works, for the amount of \$420,757.85 (exclusive of GST) be accepted;
2. Authorises the General Manager to execute the contract;
3. Approves a sum of \$532,260 to complete the project as detailed in the Financial Implications section of the report;
4. Approves the transfer of \$4,573 from General Ledger 5310.4563.001 and \$50,427 from General Ledger 5310.4563.504 to General Ledger 5320.4340.504 Water Mains Renewal and Replacement; and
5. Approves the transfer of \$227,260 from the Water Reserve to General Ledger 5320.4340.504 Water Mains Renewal and Replacement to enable the carrying out of the works.

In Favour: Crs A. Barry, M. Bowditch, D. Douglas, J. Drayton, L. Dunn, J. Lecky, R. Mahajan, D. Marshall, G. McNeill, R. Scholes and B. Woodruff.

Against: Nil.

## **19.7 LOXTON HOUSE STRUCTURAL REPAIRS**

**301** RESOLVED on the motion of Crs Scholes and Marshall that:

Council notes the funding arrangements and project timing to complete the structural repair works at Loxton House.

In Favour: Crs A. Barry, M. Bowditch, D. Douglas, J. Drayton, L. Dunn, J. Lecky, R. Mahajan, D. Marshall, G. McNeill, R. Scholes and B. Woodruff.

Against: Nil.



**19.8 TENDER 2020-2021-456 - CONCEPT DESIGN FOR DENMAN TO SANDY HOLLOW  
WATER PIPELINE**

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

Council:

1. Accepts the tender from GHD Pty Ltd for Contract 2020-2021-456 Denman to Sandy Hollow High Security Water Pipeline Concept Design, for the amount of \$300,953.75, exclusive of GST; and
2. Authorises the General Manager to execute the contract.

In Favour: Crs A. Barry, M. Bowditch, D. Douglas, J. Drayton, L. Dunn, J. Lecky, R. Mahajan, D. Marshall, G. McNeill, R. Scholes and B. Woodruff.

Against: Nil.

**20 RESUMPTION OF OPEN COUNCIL**

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

That the meeting return to Open Council.

The Gallery was notified of the Recommendations made during Closed Council.

Mr Wolfgang thanked Council for their decision on Item 19.1.

Council thanked Mr Wolfgang for his efforts with the Denman and Districts Heritage Village.

In Favour: Crs A. Barry, M. Bowditch, D. Douglas, J. Drayton, L. Dunn, J. Lecky, R. Mahajan, D. Marshall, G. McNeill, R. Scholes and B. Woodruff.

Against: Nil.

**21 CLOSURE**

The meeting was declared closed at 7:15pm.

**THE MINUTES OF THE MEETING (PAGES 1 TO 17) WERE CONFIRMED AT THE  
ORDINARY COUNCIL MEETING OF THE MUSWELLBROOK SHIRE COUNCIL HELD ON  
TUESDAY 3 MAY, 2022 AND ARE A FULL AND ACCURATE RECORD OF PROCEEDINGS  
OF THE MEETING HELD ON TUESDAY 5 APRIL, 2022**

.....  
Ms F. Plesman  
**General Manager**

.....  
Cr J. Lecky  
**Chairperson**