

**MINUTES OF THE ORDINARY COUNCIL MEETING OF THE MUSWELLBROOK SHIRE COUNCIL HELD IN THE TRAINING ROOM, UNIVERSITY OF NEWCASTLE - UPPER HUNTER CAMPUS, 87 HILL STREET, MUSWELLBROOK ON TUESDAY 23 AUGUST, 2022 COMMENCING AT 6.00PM.**

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**PRESENT:** Cr J.A. Lecky (Chair) Cr A. Barry, Cr M. Bowditch, Cr D. Douglas, Cr J. Drayton, Cr L. Dunn, Cr G.T. McNeill, Cr R. Mahajan, Cr D.E. Marshall Cr R. Scholes and Cr B.N. Woodruff.

**IN ATTENDANCE:** Mr D. Finnigan (Acting General Manager), Mr D. Walsh (Director – Corporate Services & Chief Financial Officer), Ms S. Pope (Director – Planning & Environment), Ms S. Welchman (Director - Community & Economy), Mr P. Chambers (Chief Engineer), Mr M. Lysaught (Director – Property & Place), Ms M. Cleary (Manager – Governance), Ms A. Hathway (Corporate Lawyer), Mr H. McTaggart (Development Co-ordinator), Mrs C. Middleton (Co-ordinator Media & Communications), Ms E. Lane (Co-ordinator - Administration & Customer Service) and Mrs K. Morris (Team Leader Administration & Customer Service).

## **1. Acknowledgement of Country**

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

## **2. Civic Prayer**

The Civic Prayer was read by Cr D. Marshall.

## **3. Apologies and Applications for a Leave of Absence or Attendance by Audio Visual Link by Councillors**

30 RESOLVED on the motion of Cr G. McNeill and Cr J. Drayton 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: Cr S. Reynolds, Cr J. Lecky, Cr A. Barry, Cr M. Bowditch, Cr D. Douglas, Cr J. Drayton, Cr L. Dunn, Cr G. McNeill, Cr R. Mahajan, Cr D. Marshall, Cr R. Scholes and Cr B. Woodruff.

Against: Nil.

## **4. Confirmation of Minutes**

### **Ordinary Council Meeting held on 26 July, 2022**

31 RESOLVED on the motion of Cr D. Marshall and Cr G. McNeill that:

The Minutes of the Ordinary Council Meeting held on **26 July, 2022**, a copy of which has been distributed to all members, be taken as read and confirmed as a true record.

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



Against: Nil.

## 5. Disclosure of any Pecuniary or Non-Pecuniary Interests

**Cr G. McNeill** - Declared an insignificant non-pecuniary interest in item 16.1. Cr McNeill advised Council that his employer had made a significant contribution to the project.

**Cr D. Marshall** - Declared a significant non-pecuniary interest in item 9.2.3 & 9.2.4. Cr Marshall advised Council that his daughter was employed with the contractor for this project.

**Cr M. Bowditch** - Declared an insignificant non-pecuniary interest in items 9.2.4 & 16.2. Cr Bowditch advised Council that his daughter is undertaking work experience with the sub-contractor.

**Cr A. Barry** - Declared an insignificant non-pecuniary interest in item 16.1 - Cr Barry advised that her employer AGL had a \$250,000 contribution for vegetation control.

**Cr R. Mahajan** - Declared a pecuniary interest in item 9.2.3 - Cr Mahajan advised Council that he owns the business and property adjacent to the works site.

## 6. Mayoral Minute

Nil

## 7. Public Participation

Nil.

## 8. Business Arising (From Previous Meetings)

Nil

## Adjournment of Ordinary Council Meeting

32 RESOLVED on the motion of Cr M. Bowditch and Cr D. Marshall that:

Council move into Committee of the Whole at 6.10PM.

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

Against: Nil.

33 RESOLVED on the motion of Cr D. Marshall and Cr R. Mahajan that:

Council resume Ordinary Council Meeting at 6.21PM

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

Against: Nil.





## 9. Business (Specific Reports)

### 9.1. Planning and Environment

9.1.1.	<b>Monthly Report to Council - Planning, Environment and Regulatory Services</b>
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34 RESOLVED on the motion of Cr M. Bowditch and Cr D. Marshall that:  
The information contained in this report be noted.

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

Against: Nil.

### 9.2. Community Infrastructure

#### 9.2.1. Waste Service Extension - project update

35 RESOLVED on the motion of Cr R. Scholes and Cr D. Marshall that:  
The information contained in this report be noted.

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

Against: Nil.

#### 9.2.2. Waste Management Facility Opening Hours

36 RESOLVED on the motion of Cr G. McNeill and Cr R. Scholes that:  
The information contained in this report be noted.

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

Against: Nil.

#### 9.2.3. Lorne Street Drainage

##### Disclosure of Interest

**Cr D. Marshall** declared a significant non-pecuniary interest in this item. Cr Marshall advised Council that his daughter was employed with the contractor for this project.

**Cr R. Mahajan** declared a pecuniary interest in this item. Cr Mahajan advised Council that he owns the business and property adjacent to the works site.



Cr Marshall and Cr Mahajan left the Meeting at this stage and therefore took no part in discussion or voting on this item.

- 37           RESOLVED on the motion of Cr B. Woodruff and Cr D. Douglas that:  
Council notes the information contained in the report.

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

Against:     Nil.

Cr Mahajan returned to the Meeting and resumed his chair at the meeting table.

#### **9.2.4.     2020-2021-0404 Hunter Beach Draft Final Civil Design**

##### **Disclosure of Interest**

**Cr D. Marshall** declared a significant non-pecuniary interest in this item. Cr Marshall advised Council that his daughter was employed with the contractor for this project.

**Cr M. Bowditch** declared an insignificant non-pecuniary interest in this item. Cr Bowditch advised Council that his daughter is undertaking work experience with the sub-contractor.

Cr Marshall remained absent from the meeting room and Cr Bowditch left the meeting and therefore took no part in discussion or voting on this item.

- 38           RESOLVED on the motion of Cr R. Scholes and Cr J. Drayton that:
1. Council endorses the draft final civil design for the 2020-2021-0404 Hunter Beach Project to be finalised for construction.
  2. Council engage a hydrologist to assess the timber water deflection to confirm it is the correct design for the project's location.
  3. Council consider opening hours for the beach to allow to lock up at night and reopening in morning.
  4. Council consider motion sensor lighting in the final design.

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

Against:     Nil.

Cr Bowditch and Cr Marshall returned to the meeting and resumed their chairs at the meeting table.



### **9.3. Property and Place**

#### **9.3.1. Denman Heritage Village - Project Update**

- 39 RESOLVED on the motion of Cr B. Woodruff and Cr A. Barry that:
- Council:
1. Notes the report, and
  2. Endorses the use of the proposed image on the façade of the building.
  3. The plans are investigated to confirm there is a missing roller door on the Western side which needs to be accessible for stage 2 of the development.

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

Against: Nil.

#### **9.3.2. Fee Waiver - Athletics Carnival**

- 40 RESOLVED on the motion of Cr J. Drayton and Cr M. Bowditch that:
- Council endorses the fee waiver request from King Street Public School, Singleton, for the Upper Hunter Primary School Zone Athletics Carnival held on Wednesday, 10 August 2022 at Weeraman Fields.

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

Against: Nil.

### **9.4. Corporate Services**

#### **9.4.1. 2021/2022 Operational Plan - 30 June, Quarterly Review**

- 41 RESOLVED on the motion of Cr B. Woodruff and Cr D. Douglas that:
- Council notes the 2021/2022 Operational Plan Review dated 30 June 2022.

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

Against: Nil.



#### **9.4.2. Payment of Expenses and Provision of Facilities to Councillors Policy**

42 RESOLVED on the motion of Cr R. Scholes and Cr D. Marshall that:  
The *Councillors Expenses and Facilities Policy* be ADOPTED with amendments, as below.  
Item 6.5 of the *Councillors Expenses and Facilities Policy* be amended to read:

“For all travel expenditure, the application for travel is to outline:

1. Who is to take part in the travel;
2. The objectives to be achieved, including any staff professional development, organisational or community benefits;
3. Details of costs;
4. Any contribution proposed by the applicant.

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

Against: Nil.

#### **9.4.3. Authorisation Under Section 226 of the Local Government Act**

43 RESOLVED on the motion of Cr G. McNeill and Cr R. Scholes that:  
Council notes the information provided in the report.

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

Against: Nil.

#### **9.4.4. Report on Investments Held as at 31 July 2022**

44 RESOLVED on the motion of Cr D. Douglas and Cr R. Scholes that:  
Council notes the Council's Investments as at 31 July 2022.

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

Against: Nil.



#### **9.4.5. Monthly Financial Reports - July 2022**

45 RESOLVED on the motion of Cr B. Woodruff and Cr R. Scholes that:  
Council notes the Financial Reports for the month ending 31 July 2022.

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

Against: Nil.

#### **9.4.6. Report on Council Grant Funding and Community Engagement**

46 RESOLVED on the motion of Cr B. Woodruff and Cr A. Barry that:

1. Council notes the information contained in the report; and
2. Endorses staff to investigate the various site for possible installation of Electric Vehicle Chargers and to finalise a grant application for funding to purchase and install appropriate software to facilitate progress of the project.

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

Against: Nil.

### **9.5. Community and Economy**

#### **9.5.1. Community Services**

47 RESOLVED on the motion of Cr D. Marshall and Cr R. Mahajan that:  
The information contained in this report be noted.

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

Against: Nil.

### **10. Minutes of Committee Meetings**

Nil

### **11. Notices of Motion**

Nil





## 12. Councillors Reports

### **Cr. Bowditch**

Cr Bowditch reported to advise that he had apologised for the previous meeting conduct and that it would not happen again.

### **Cr Scholes**

Cr Scholes reported that he had represented Muswellbrook Shire Council at the Vietnam Veterans Day and that it was a successful and moving ceremony.

### **Cr McNeill**

Cr McNeill reported that he, with Cr Barry and the Acting General Manager, attended the Denman Sport and Rec Committee Meeting and gave thanks to Mr Matt Lysaught and Mr Paul Chandler for their work and management of the portfolio.

Cr McNeill also advised Council that a representative from the Denman Pony club had raised an issue regarding the road at the entrance of the facility.

### **Cr Woodruff**

Cr Woodruff added to Cr McNeill's report to advise that the developer still have a section of the road to develop and tar, which would reduce the cost of the works.

### **Cr Marhsall**

Cr Marshall reported that he attended 4 National Tree planting days which were all well attended. Cr Marshall also attended the Vietnam Veterans Day and observed that it was a moving ceremony.

### **Cr Lecky**

Cr Lecky reported that she attended the meeting at Mangoola and advised that she was impressed with the rehabilitation and propagation of an extinct orchid at the site.

## 13. Written Questions

Nil

## 14. Questions for Next Meeting

### **Cr B. Woodruff:**

1. Would Council consider formulating a Buy Australia policy to be implemented within Council?
2. Can Council confirm if fees at the Denman tennis courts are still waived for children and reduced for sporting groups?

## 15. Adjournment into Closed Council

48           RESOLVED on the motion of Cr M. Bowditch and Cr D. Marshall 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 provisions outlined in Section 17 below.



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

Against: Nil.

## 16. Closed Council

### 16.1. Tender 2020-2021-0404 - Hunter Beach Amenities

*This report is CONFIDENTIAL under the provisions of Section 10A(2)(c) of the Local Government Act 1993, as it relates to information that would, if disclosed, confer a commercial advantage on a person with whom the council is conducting (or proposes to conduct) business.*

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

#### Disclosure of Interest

**Cr G. McNeill** declared an insignificant non-pecuniary interest in this item. Cr McNeill advised Council that his employer had made a significant contribution to the project.

**Cr A. Barry** declared an insignificant non-pecuniary interest in this item. Cr Barry advised Council that her employer had made a significant contribution for vegetation control.

Cr Barry and Cr McNeill left the meeting at this stage and therefore took no part in discussion or voting on this item.

49 RESOLVED on the motion of Cr R. Scholes and Cr D. Douglas that:

1. Council notes the amenities approved from the Expressions of Interest for 2020-2021-0404 Hunter Beach with the awarded contractor;
2. Council notes the alternative options for amenities including associated costs; and
3. Council endorses their preferred options of amenities for the project.

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

Against: Nil.

Cr Barry and Cr McNeill returned to the meeting at this stage and resumed their chairs at the meeting table.



## 16.2. **Tender 2021-2022-0537 - Operate Cafe at Muswellbrook Regional Art Centre**

*This report is CONFIDENTIAL under the provisions of Section 10A(2)(c) of the Local Government Act 1993, as it relates to information that would, if disclosed, confer a commercial advantage on a person with whom the council is conducting (or proposes to conduct) business.*

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

50       RESOLVED on the motion of Cr B. Woodruff and Cr D. Marshall that:  
Council:

1. Decline to accept any of the tenders, as responses were restricted and negotiation is likely to result in a better value outcome;
2. In accordance with clause 178(3)(e) of the Local Government (General) Regulation 2005, enter into negotiations with any person, and that this is administered through an advertised Expression of Interest process; and
3. A further report be submitted to Council for determination.

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

Against: Nil.

## 16.3. **Tender T052223HUN - Provision of Water Meter Reading**

*This report is CONFIDENTIAL under the provisions of Section 10A(2)(c) of the Local Government Act 1993, as it relates to information that would, if disclosed, confer a commercial advantage on a person with whom the council is conducting (or proposes to conduct) business.*

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

51       RESOLVED on the motion of Cr G. McNeill and Cr B. Woodruff that:

1. Council ACCEPTS the tender from Asplundh Tree Expert Australia Pty Ltd, trading as Summit Open Space Services, for Contract T052223HUN Provision of Water Meter Reading;
2. Council Authorises the General Manager to enter into a Contract with Asplundh Tree Expert Australia Pty Ltd, for the provision of water meter reading, for the period 1 October 2022 to 30 September 2024; and
3. A provision be allowed for a 12-month extension based on satisfactory supplier performance, which may take this contract through to 30 September 2025.

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

Against: Nil.

**16.4. Town Centre - Stage 1**

*This report is CONFIDENTIAL under the provisions of Section 10A(2)(c) of the Local Government Act 1993, as it relates to information that would, if disclosed, confer a commercial advantage on a person with whom the council is conducting (or proposes to conduct) business.*

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

52 RESOLVED on the motion of Cr A. Barry and Cr D. Douglas that:

Council:

1. Endorses the request for allocation of grant funding to the completion of Town Centre - Stage 1 works as identified in the report;
2. Approves the additional work for North Construction to undertake the landscaping and funding contingencies;
3. Delegates the assessment and resolution of variations with North Construction beyond the delegation of staff to the Acting General Manager; and
4. Requests an amended Capital Expenditure Review for the Muswellbrook Town Centre project be reported to Council.

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

Against: Nil.

**16.5. Request for Assistance**

*This report is CONFIDENTIAL under the provisions of Section 10A(2)(b) of the Local Government Act 1993, as it relates to the personal hardship of any resident or ratepayer.*

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

53 RESOLVED on the motion of Cr B. Woodruff and Cr R. Scholes that:

Council approves the provision of assistance as detailed in the report.

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

Against: Nil.



## 16.6. Confidential Questions With Notice

*This report is CONFIDENTIAL under the provisions of Section 10A(2)(c) of the Local Government Act 1993, as it relates to information that would, if disclosed, confer a commercial advantage on a person with whom the council is conducting (or proposes to conduct) business.*

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

54 RESOLVED on the motion of Cr B. Woodruff and Cr J. Drayton that:  
The Confidential Questions With Notice be noted.

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

Against: Cr M. Bowditch and Cr D. Douglas.

## 17. Resumption of Open Council

55 RESOLVED on the motion of Cr M. Bowditch and Cr R. Mahajan that:

The meeting return to Open Council.

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

Against: Nil.

## 18. Closure

The meeting was declared closed at 8.08pm.

**THE MINUTES OF THE MEETING (PAGES 1 to12) WERE CONFIRMED AT THE  
ORDINARY COUNCIL MEETING OF THE MUSWELLBROOK SHIRE COUNCIL HELD ON  
27 SEPTEMBER, 2022 AND ARE A FULL AND ACCURATE RECORD  
OF PROCEEDINGS OF THE MEETING HELD ON 23 AUGUST, 2022.**

.....  
Mr D. Finnigan  
**Acting General Manager**

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