

MINUTES OF THE ORDINARY COUNCIL MEETING OF THE MUSWELLBROOK SHIRE COUNCIL HELD IN TRAINING ROOM, LEVEL 1, UNIVERSITY OF NEWCASTLE - UPPER HUNTER CAMPUS, 87 HILL STREET, MUSWELLBROOK ON TUESDAY 22 NOVEMBER, 2022 COMMENCING AT 6.00PM.

PRESENT: Cr S.M. Reynolds (Mayor), Cr A. Barry, Cr M. Bowditch (VC), Cr D. Douglas, Cr J. Drayton, Cr L. Dunn, Cr J.A. Lecky, Cr R. Mahajan, Cr D.E. Marshall (VC), 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), Mr P. Chambers (Chief Engineer), Ms S. Welchman (Director - Community & Economy (VC)), Mr M. Lysaught (Director – Works, Property & Building Services), Ms A. Hathway (Corporate Lawyer), Ms K. Scholes (Manager - Roads, Drainage & Technical Services), Mr P. Ball (Manager - Works), Mrs C. Middleton (Communications & Media Co-Ordinator), Mrs M. Sandell-Hay (Governance Officer), Ms K. McCann (EA to the Mayor), Ms A. Cox (Corporate Planning and Reporting Officer) 5 people in the public gallery and 1 media representative.

1. Acknowledgement of Country

The Acknowledgement of Country was read by Cr D. Douglas.

2. Civic Prayer

The Civic Prayer was read by Cr J. Lecky.

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

135. RESOLVED on the motion of Cr J. Drayton and Cr L. Dunn that:

The apologies for inability to attend the meeting submitted by Cr G McNeill 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.

136. RESOLVED on the motion of Cr A. Barry and Cr R. Mahajan that:

Authority be given for Cr M. Bowditch and Cr D. Marshall to attend the Council Meeting via video link.

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 in 25 October, 2022

- 137 RESOLVED on the motion of Cr B. Woodruff and Cr D. Douglas that:
The Minutes of the Ordinary Council Meeting held on 25 October, 2022, a copy of which has been distributed to all members, be taken as read and confirmed as a true record.

In Favour: Cr S. Reynolds, Cr J. Lecky, Cr A. Barry, Cr M. Bowditch, Cr D. Douglas, Cr J. Drayton, Cr L. Dunn, 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 B. Woodruff - Declared a pecuniary interest in Item 9.2.1. Cr Woodruff advised Council that his employer undertakes work for the applicant.

Cr B. Woodruff - Declared a pecuniary interest in Item 9.2.2. Cr Woodruff advised Council that his employer undertakes work for the applicant.

Cr B. Woodruff - Declared a pecuniary interest in Item 9.2.3. Cr Woodruff advised Council that his employer undertakes work for the applicant.

Cr B. Woodruff - Declared a pecuniary interest in Item 9.2.4. Cr Woodruff advised Council that his employer undertakes work for the applicant.

Cr B. Woodruff - Declared a pecuniary interest in Item 9.2.5. Cr Woodruff advised Council that his employer undertakes work for the applicant.

Cr B. Woodruff - Declared a pecuniary interest in Item 16.10. Cr Woodruff advised Council that his employer undertakes work for the applicant.

Cr D. Douglas - Declared a pecuniary interest in Item 9.2.1. Cr Douglas advised Council that her employer receives funding from the applicant.

Cr D. Douglas - Declared a pecuniary Interest in Item 9.5.3. Cr Douglas advised Council that she is employed by the Land Council and sits on the Committee as the CEO of the Wanaruah Local Aboriginal Land Council.

Cr M. Bowditch - Declared a non-pecuniary interest in Item 9.2.5. Cr Bowditch advised Council that he is a member of a sporting association that is sponsored by Bengalla.

Cr M. Bowditch - Declared a pecuniary interest in Item 9.2.6. Cr Bowditch advised Council that his daughter is employed on a casual basis by the Contractor.

Cr M. Bowditch - Declared a pecuniary interest in Item 16.3. Cr Bowditch advised Council that his daughter is employed on a casual basis for a company mentioned in the report.



Cr M. Bowditch - Declared a non-pecuniary interest in Item 16.11. Cr Bowditch advised Council that he is a member of a sporting associated that is sponsored by Bengalla.

Cr D. Marshall - Declared a pecuniary interest in Item 9.2.6. Cr Marshall advised Council that his daughter is employed on a casual basis for a company mentioned in the report.

6. Mayoral Minute

6.1. Statewide Road Emergency

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

Council joins with Local Government NSW and Country Mayors Association of NSW in declaring a Statewide Road Emergency.

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

Against: Nil.

7. Public Participation

Geoff Small - Spoke in regards to Item 9.4.4 - Management of Trees on Roads and Public Land Policy.

Marcos Pescara (SD Civil Engineering) - Spoke in regards to Item 16.7 - Project Thompson Street Signalisation Intersection - Contractor Claim for Variations.

Damien Gainsford (Pacific Brook Christian School) - In support of Item 9.1.2 - Planning Agreement Offer - Pacific Brook Christian School.

8. Business Arising (From Previous Meetings)

Nil



9. Business (Specific Reports)

9.1. Planning and Environment

9.1.1. DA 2021-30.2 Change of Operation Hours - McDonalds

139 RESOLVED on the motion of Cr R. Scholes and Cr J. Lecky that:
Council approves the Section 4.55 Modification of Development Application No. 2021-30, to permit the McDonald's restaurant drive-through at Lot 101 DP 1266515 83-89 Maitland Street, Muswellbrook, to operate 7 day per week (24/7) subject to the conditions in Attachment B.

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

Against: Nil.

9.1.2. Planning Agreement Offer - Pacific Brook School 72-74 Maitland Street, Muswellbrook

140 RESOLVED on the motion of Cr J. Drayton and Cr D. Douglas that:
Council:
1. Agrees to the offered schedule of contributions listed in this report and in the Letter of Offer in Attachment B;
2. Authorises staff to notify the Department of Planning and Environment that Council agrees to the proposed contributions set out in the Letter of Offer; and
3. Authorises public notification of a draft Planning Agreement once legal review is completed.

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

Against: Nil.

9.1.3. Public Exhibition of Planning Agreement relating to Dartbrook Mine

141 RESOLVED on the motion of Cr J. Lecky and Cr R. Scholes that:
Council:
1. Endorses the draft Planning Agreement for Dartbrook Mine for public notification and exhibition in accordance with the Environmental Planning



and Assessment Act 1979 and the Environmental Planning and Assessment Regulation 2021; and

2. Delegates authority to the Acting General Manager to execute the Planning Agreement following public exhibition and to make appropriate amendments to the Planning Agreement which do not alter the intent of the draft Planning Agreement as exhibited or result in material changes to the Planning Agreement following consideration of any public submissions.

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

Against: Nil.

9.1.4. Landcare Grants

142 RESOLVED on the motion of Cr B. Woodruff and Cr A. Barry that:
Council approves grant funding under the Small Landcare Grants Program for:

- A. Martindale Creek Catchment Landcare Inc. - \$8,000
- B. Hunter Sustainability Landcare Team - \$800
- C. Lake Liddell Recreation Area Reserve Land Manager - \$1,134
- D. Muswellbrook Golf Club (Muswellbrook RSL Sub Branch) - \$2,008.60

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

Against: Nil.

9.1.5. Waste Extension Consultation

143 RESOLVED on the motion of Cr D. Douglas and Cr R. Mahajan that:
Council requests that staff undertake further consultation within the two areas outlined in this report by holding community meetings at locations convenient to residents within these areas and include advertising and marketing of these community meetings.

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

Against: Nil.



9.1.6.	Monthly Report to Council - Planning, Environment and Regulatory Services
---------------	--

144 RESOLVED on the motion of Cr J. Lecky and Cr R. Mahajan 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 R. Mahajan, Cr D. Marshall, Cr R. Scholes and Cr B. Woodruff.

Against: Nil.

9.2. Community Infrastructure

9.2.1. Mount Pleasant Operations Interim Water Discharge Pipeline Section 138 Roads Act 1993 Approval

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.

Cr D. Douglas - Declared a pecuniary interest in this item. Cr Douglas advised Council that her employer receives funding from the applicant.

At 6.40pm Cr Woodruff and Cr Douglas left the Meeting Room and therefore took no part in discussion or voting on this item.

145 RESOLVED on the motion of Cr R. Scholes and Cr J. Drayton that:

1. Council delegates to the Acting General Manager authority to sign the Section 138 Roads Act 1993 approval generally in accordance with the special conditions set out in the attachment to this report; and
2. As per the conditions outlined in 1 above, prior to construction works within Council's road reserves, fees are to be paid, insurances provided, detailed design plans are to be submitted and certified by a suitably qualified consultant and accepted by the Acting General Manager.

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

Against: Nil.

At 6.41pm Cr D. Douglas returned to Council Chambers and resumed her chair at the meeting table.

**9.2.2. Mangoola Coal Closing Public Roads-Mining Procedure****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.

Cr Woodruff remained absent for the conduct of this item.

- 146 RESOLVED on the motion of Cr R. Scholes and Cr M. Bowditch that:
Council uses its delegated authority to approve the Mangoola Closing Public Road- Mining Procedure for the temporary closure of Council public roads when blasting within 500m of the road.

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

Against: Nil.

9.2.3. Mangoola Coal Continued Operations Project Yarraman Road Upgrade**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.

Cr Woodruff remained absent for the conduct of this item.

- 147 RESOLVED on the motion of Cr J. Drayton and Cr R. Scholes 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. Provide concurrence that the Detailed Design Plans for the Yarraman Road Portion Upgrade are satisfactory
 - a. pending the inclusion of the additional length of Yarraman Road to extend the design to the southern limit of work to the old Yarraman Wine Estate access as detailed in the report;
 - b. any recommendations from the Road Safety Audit be included in the final design;
 - c. providing that the design will provide a smooth connection to Wybong Post Office Road,
 - d. providing that Specifications for flexible pavements - for unbound granular base are in accordance with RMS 3051- Granular Base and Sub- Base materials with a minimum edition 6.
 2. Approve the Review of Environmental Factors for the Yarraman Road Portion Upgrade.



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

Against: Nil.

9.2.4. Permanent Legal Closure of Part of 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.

Cr Woodruff remained absent for the conduct of this item.

148 RESOLVED on the motion of Cr J. Lecky and Cr R. Scholes that:

Council resolves to:

1. Permanently legally close the part of Wybong Post Office Road as described below in accordance with Division 3 Part 4 of the *Roads Act 1993*;
2. Following the legal closure of part of Wybong Post Office Road, dispose of the land comprising the former public road to Mangoola Coal Operations Pty Ltd in accordance with the "Road Closure and Works Deed" dated 18 November 2021;
3. Affix the seal of Council to the Transfer dealing to effect the disposal of the land referred to in (2);
4. Authorise the Acting General Manager to execute any other relevant documents at the Acting General Manager's discretion;
5. Council agreeing to that part of Yarraman Road from the Wybong Road intersection to Wybong Post Office Road intersection be expressly transferred to Council from Crown Lands (as per attached letter);
6. The land comprised in the road proposed to be closed is operational land for the purposes of the *Local Government Act 1993*; and
7. Money received from the proceeds of sale of the land is not to be used by Council except for acquiring land for public roads or for carrying out road work on public roads in accordance with s.43 (4) *Roads Act 1993*.

The proposed closed road portion comprises the Council Public Road known as part of Wybong Post Office Road being that part commencing at the intersection of Wybong Road for a length of 1.955km as shown on the attached map and separating the following land noted below:

- Lot 42 DP531030 from Lot 7002 DP93041;
- Lots 656 (part), 657, 658 & 659 DP633417 and Lot 1 DP727239 from Lots 3 & 5 DP1280220 (formerly Lots 21 & 22 DP706943), Lots 16 (part), 17 & 18 DP240086.

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

Against: Nil.



9.2.5. Bengalla Link Road Rehabilitation Section 138 Roads Act 1993 Permit Approval

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.

Cr M. Bowditch - Declared a non-pecuniary interest in this item. Cr Bowditch advised Council that he is a member of a sporting association that is sponsored by Bengalla.

At 6.43pm Cr Bowditch left the Meeting Room and therefore took no part in discussion or voting on this item. Cr Woodruff remained absent for the conduct of this item.

149 RESOLVED on the motion of Cr J. Lecky and Cr A. Barry that:
Council:

1. Delegates to the Acting General Manager authority to sign the s.138 *Roads Act 1993* permit approval for works to be undertaken on Bengalla Link Road as documented in the report; and
2. Advises Bengalla Mining Company that approval will be dependent on fees to be paid, insurances provided, and detailed design plans being accepted by the Acting General Manager.

In Favour: Cr S. Reynolds, Cr J. Lecky, Cr A. Barry, Cr D. Douglas, Cr J. Drayton, Cr L. Dunn, Cr R. Mahajan, Cr D. Marshall and Cr R. Scholes.

Against: Nil.

At 6.44pm Cr Woodruff returned to the Meeting Room and resumed his chair at the meeting table.

**9.2.6. 2019-2020-0404 Hunter Beach Draft Landscaping Plan****Disclosure of Interest**

Cr M. Bowditch - Declared a non-pecuniary interest in this item. Cr Bowditch advised Council that his daughter is employed on a casual basis by the Contractor.

Cr D. Marshall - Declared a pecuniary interest in this Item. Cr Marshall advised Council that his daughter is employed on a casual basis for a company mentioned in the report.

At 6.44pm Cr Marshall left the Meeting Room and therefore took no part in discussion or voting on this item. Cr Bowditch remained absent for the conduct of this item.

- 150 RESOLVED on the motion of Cr R. Scholes and Cr J. Drayton that:
Council endorses the draft landscaping design and proposed amendments for the 2019-2020-0404 Hunter Beach Project to be finalised for final design and construction.

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

Against: Nil.

At 6.45pm Cr Marshall and Cr Bowditch returned to the Meeting Room and resumed their chairs at the meeting table.

9.3. Property and Place**9.3.1. Street Sign Name Blades**

- 151 RESOLVED on the motion of Cr A. Barry and Cr J. Lecky that:
Council endorses:
1. Street sign name blades with black writing on white background with Council logo (without text) before the street name.
 2. All lettering on street name blades be capitalised.
 3. Street abbreviations and contractions following the Australian Government Style Manual – Australian Place Names.

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

Against: Nil.



9.3.2. Major Projects: Status Update

152 RESOLVED on the motion of Cr B. Woodruff and Cr R. Mahajan that:
Council notes the report.

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

Against: Nil.

9.4. Corporate Services

9.4.1. 2022/2023 Operational Plan - 30 September, Quarterly Review

153 RESOLVED on the motion of Cr J. Lecky and Cr A. Barry that:
Council notes the 2022/2023 Operational Plan Review dated 30
September 2022.

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

Against: Nil.

9.4.2. 2021/2022 Annual Report

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

1. Council endorses the 2021/2022 Annual Report including the audited Financial Statements;
2. The Acting General Manager be delegated authority to publish the 2021/2022 Annual Report on Council's website and forward a link to the Report to the NSW Office of Local Government, Minister for Local Government and the Minister for Disability Services.

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

Against: Nil.



9.4.3. ADOPTION - Muswellbrook Shire Council Community Engagement Strategy 2022

- 155 RESOLVED on the motion of Cr B. Woodruff and Cr M. Bowditch that:
Council:
1. Considers submissions received during the public exhibition of the DRAFT *Muswellbrook Shire Council Community Engagement Strategy 2022*;
 2. ADOPTS the *Muswellbrook Shire Council Community Engagement Strategy 2022*.

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

Against: Nil.

9.4.4. DRAFT Management of Trees on Roads and Public Land Policy

- 156 RESOLVED on the motion of Cr J. Lecky and Cr R. Scholes that:
The Management of Trees on Roads and Public Land Policy be adopted by Council.

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

Against: Nil.

9.4.5. Quarterly Budget Review - September 2022

- 157 RESOLVED on the motion of Cr A. Barry and Cr J. Lecky that:
Council adopts the proposed changes in the September 2022 Quarterly Budget Review.

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

Against: Nil.



9.4.6. Monthly Financial Report - October 2022

158 RESOLVED on the motion of Cr R. Mahajan and Cr D. Douglas that:
Council notes the Financial Reports for the month ending 31 October 2022.

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

Against: Nil.

9.4.7. Report on Investments Held as at 31 October 2022

159 RESOLVED on the motion of Cr J. Lecky and Cr R. Mahajan that:
Council notes the Council's Investments as at 31 October 2022.

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

Against: Nil.

9.4.8. Report on Council Grant Funding and Community Engagement

160 RESOLVED on the motion of Cr J. Lecky and Cr A. Barry that:
Council notes the information contained in the report.

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

Against: Nil.

**9.4.9. Denman to Sandy Hollow Water Pipeline Project**

161 RESOLVED on the motion of Cr B. Woodruff and Cr J. Drayton that:
Council:

1. Delegates to the Acting General Manager authority to execute a Funding Deed with The Treasurer as the Minister administering section 8(a) of the Restart NSW Fund Act 2011 (NSW) for the Denman to Sandy Hollow pipeline project;
2. Authorises the expenditure of Council funds in the amount of \$9,575,318.77 towards the Project;
3. Endorses obtaining a loan for the amount of \$9,575,318.77.

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

Against: Nil.

9.4.10. ARIC Chair Annual Report to Council

162 RESOLVED on the motion of Cr J. Lecky and Cr L. Dunn that:
Council notes the update provided by the Audit Risk and Improvement Committee Chairperson.

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

Against: Nil.

9.5. Community and Economy**9.5.1. Australia Day 2023 - Citizenship & Community Award Ceremony**

163 RESOLVED on the motion of Cr S. Reynolds and Cr D. Douglas that:
Council:

1. Notes the report; and
2. Establishes an Australia Day Nominations Committee to consider the Citizens of the Year recipients consisting of all Councillors.

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

Against: Nil.



9.5.2. Events Steering Committee Terms of Reference

164 RESOLVED on the motion of Cr J. Drayton and Cr D. Douglas that:
Council endorses the Events Steering Committee Terms of Reference.

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

Against: Nil.

9.5.3. Committee Name Change - Aboriginal Reconciliation Committee

Disclosure of Interest

Cr D. Douglas - Declared a pecuniary Interest in this Item. Cr Douglas advised Council that she is employed by the Land Council and sits on the Committee as the CEO of the Wanaruah Local Aboriginal Land Council.

At 6.53pm Cr D. Douglas left the Meeting Room and therefore took no part in discussion or voting on this item.

165 RESOLVED on the motion of Cr R. Scholes and Cr M. Bowditch that:
Council renames the Aboriginal Reconciliation Committee the
Aboriginal Cultural Inclusion Committee.

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

Against: Nil.

At 6.54pm Cr D. Douglas returned to the Meeting Room and resumed her chair at the meeting table.

9.5.4. Community Services

166 RESOLVED on the motion of Cr R. Scholes and Cr A. Barry 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 R. Mahajan, Cr D. Marshall, Cr R. Scholes and Cr B. Woodruff.

Against: Nil.



10. Minutes of Committee Meetings

10.1. Events Steering Committee Meetings - 21/09/2022 and 18/10/2022

167 RESOLVED on the motion of Cr J. Drayton and Cr D. Douglas that:
The minutes for the following Events Steering Committee meetings be NOTED:

1. Events Steering Committee Meeting held on 21 September 2022
2. Events Steering Committee Meeting held on 18 October 2022

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

Against: Nil.

10.2. Local Traffic Committee November Minutes - 8/11/2022

168 RESOLVED on the motion of Cr D. Marshall and Cr M. Bowditch that:
The minutes for the Local Traffic Committee meeting held on 8 November 2022 be received and the recommendations contained therein ADOPTED by Council.

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

Against: Nil.

10.3. Audit Risk and Improvement Committee Meetings - 2/03/2022, 6/08/2022, 13/10/2022 & 17/11/2022

169 RESOLVED on the motion of Cr J. Lecky and Cr R. Scholes that:
The minutes for the following meetings be NOTED:

1. Audit Risk & Improvement Committee Ordinary meeting held on 2 March, 2022;
2. Audit Risk & Improvement Committee Ordinary meeting held on 8 June, 2022
3. Audit Risk & Improvement Committee Ordinary meeting held on 13 October, 2022
4. Audit Risk & Improvement Committee Extra-Ordinary meeting held on 17 November, 2022

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

Against: Nil.



11. Notices of Motion

Nil

12. Councillors Reports

12.1 Local Government NSW Annual Conference

Cr Barry advised council that she had attended the 2022 Local Government NSW Annual Conference with the Mayor which was held at Pokolbin. Cr Barry advised Council that she had attended Disaster Planning which looked at what was happening around disaster planning especially with what happened at Lismore in best practice improvements that can be made such as relocating infrastructure services such as essential services out of bushfire or flood prone areas e.g. moving things such as hospitals out of flood zones.

Cr Barry advised that John Robins presented on behalf of Lifeline International looking at the various issues that Lifeline International have been faced with over the last three years between bushfires, Covid, floods etc. Cr Barry also advised It was noted that rural communities were quite happy to communicate via text more so than phone calls. They also talked about the numbers of calls per day that Lifeline were getting prior to Covid and bushfires which were approximately 2,400 calls per day to now receiving 3900 calls per day with a lot of that relating to the bushfires.

Cr Barry also advised that a presentation was provided by a data analyst which indicated where the population was going, where our workforce was coming from and where it was heading, assisting mums to head back into the workforce.

Cr Barry also advised that there were a number of motions that needed to be considered. Cr Barry further advised that Singleton's motion regarding management of vegetation in river and creek beds was endorsed whereas another motion around nuclear energy asking Local Government to remove any impediments that prevent nuclear energy as a viable option was not endorsed.

Cr Barry also advised Council that the next Conference would be held in Sydney and suggested that any motions put forward by Muswellbrook Shire Council required as much evidence as possible to ensure motions are listed in that Business Paper.

13. Written Questions

13.1. Installation of Safety Fence at Skate Park, Muswellbrook

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

The information contained in the 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 R. Mahajan, Cr D. Marshall, Cr R. Scholes and Cr B. Woodruff.

Against: Nil.



14. Questions for Next Meeting

Investigation of Installation of Levee - Hunter River

Cr Bowditch inquired whether Council could investigate the cost of installing a retaining wall/levee from Muscle Creek to beyond Barn Vets to protect residents from a 1 in 20 year flood event?

15. Adjournment into Closed Council

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

Against: Nil.

Members of the public and media left the meeting at this stage.

16. Closed Council

16.1. **Regional Procurement Tender T152223HUN - Supply and Delivery of Bulk Water Treatment Chemicals**

At 7.03pm Cr L. Dunn left the Meeting and therefore took no part in discussion or voting on this item.

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

Council RESOLVES as follows:

1. The tenderers listed by Schedule in the table below be awarded the Supply and Delivery of Bulk Water Treatment Chemicals contract as the single source supplier to Muswellbrook Shire Council for the period 1 January 2023 to 31 December 2024;
2. A provision be allowed for a 12-month extension based on satisfactory supplier
3. performance, which may take this contract through to 31 December 2025; and
4. Schedule K Sodium Fluorosilicate – Na₂ SiF₆ (kg) be declined.

SCHEDULE	PRODUCT DESCRIPTION	TENDERER
B	Aluminium Sulphate	Omega Chemicals



C	Hydrated Lime	Ixom Operations
D	Sodium Hypochlorite	Colonial Chemicals
E	Ferric Sulphate	Omega Chemicals
F	Sodium Silicofluoride	Consolidated Chemical Company
G	Wastewater: FLOPLAM EM 640 HIB	SNF (Australia)
H	Liquid Carbon Dioxide	BOC
J	Sodium Hydroxide	Omega Chemicals
K	Sodium Fluorosilicate – Na₂ SiF₆ (kg)	Redox
L	Liquid Aluminium Chlorohydrate	Omega Chemicals
M	Water Polymer: Magnafloc LT20 (BASF manufactured)	SNF (Australia)
N	Soda Ash	Omega Chemicals
O	Sodium Fluoride	Redox
P	Hydrochloric Acid 33%	Ixom

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

Against: Nil.

16.2. **Tender 2022-2023-0541 - Cleaning Services for Muswellbrook Shire Council Buildings and Public Toilets**

173 RESOLVED on the motion of Cr J. Drayton and Cr B. Woodruff that:
Council:

1. In accordance with S178 of the Local Government (General) Regulation 2005, declines to accept any tenders for Cleaning Services for Muswellbrook Shire Council Buildings and Public Toilets – 2022-2023-0541 for the reason that:

a) All tenders are not within the budget allocation



2. In accordance with Section 178 (3)(e) of the Local Government (General) Regulation 2005 enter into negotiations with any person (whether or not the person was a tenderer) with a view to entering into a contract in relation to the subject matter of the tender.
3. Council investigate the possibility of providing this service in-house by the employment of staff.

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

Against: Nil.

16.3. Tender 2022-2023-0545 - Oakleigh Bridge Replacement

Disclosure of Interest

Cr Bowditch declared a pecuniary interest in this item. Cr Bowditch advised Council that his daughter undertakes casual work for one of the tenderers.

At 7.18pm Cr Bowditch left the meeting room and therefore took no part in discussion or voting on this item.

174 RESOLVED on the motion of Cr R. Scholes and Cr A. Barry that:

Council:

1. Accepts the Tender submitted by Hunter Wide Civil Pty Ltd for Contract 2022-2023-0545 – Oakleigh Bridge Replacement for the lump sum of \$432,190.00 exclusive of GST, subject to a satisfactory financial assessment.
2. Delegates to the Acting General Manager authority to sign Contract 2022-2023-0545 – Oakleigh Bridge Replacement.

In Favour: Cr S. Reynolds, Cr J. Lecky, Cr A. Barry, Cr D. Douglas, Cr J. Drayton, Cr R. Mahajan, Cr D. Marshall, Cr R. Scholes and Cr B. Woodruff.

Against: Nil.

At 7:18pm Cr M. Bowditch returned to the meeting room and resumed his chair at the meeting table.



16.4. Tender 2021-2022-0535 - Supply and Deliver of Tractor

175 RESOLVED on the motion of Cr B. Woodruff and Cr D. Douglas that:

Council:

1. Accepts the tender from Double R Machinery for contract 2021-2022-0535 Supply and Delivery of Tractor; and
2. Authorises the Acting General manager to enter into a contract with Double R Machinery for supply.

In Favour: Cr S. Reynolds, Cr J. Lecky, Cr A. Barry, Cr D. Douglas, Cr J. Drayton, Cr R. Mahajan, Cr D. Marshall, Cr R. Scholes and Cr B. Woodruff

Against: Nil.

At 7.20 pm Cr Dunn returned to the Meeting Room and resumed her usual chair at the meeting table.

16.5. Tender 2022-2023-0550 - Supply and Installation of LED Fire Danger Signs in Muswellbrook

176 RESOLVED on the motion of Cr B. Woodruff and Cr J. Drayton that:

Council:

1. Accepts the quotation from Hi Vis Group for \$139,463.25, exclusive of GST; and
2. Authorises the Acting General Manager to enter into a contract with Hi Vis Group for the Supply and Installation of Electronic (LED) Fire Danger Signs

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

Against: Nil.

**16.6. Request for Quotations - 2022-2023-0542 - Event Management Services - Reconnecting our Community Rock'n th**

177 RESOLVED on the motion of Cr J. Drayton and Cr D. Douglas that:
Council:

1. Accepts the quotation from Hunter Events Group for Contract 2022-2023-0542 Event Management Services for Reconnecting our Community Rock'n the Brook Event and authorises the General Manager to enter into a Contract with Hunter Events Group for the provision of services under the Contract; and
2. Council approves the funding \$32,000 from ledger number 0402.2821.500 (Reconnecting Regional NSW) and \$178,185 from ledger number 0833.2994.500 (Economic Development) to enable fulfilment of the contract.

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

Against: Nil.

16.7. Project Thompson St Signalised Intersection - Contractor Claim for Variations

178 RESOLVED on the motion of Cr J. Drayton and Cr M. Bowditch that:
Council endorses:

1. the 'proposed' letter of response attached to the report for sending to the Contractor,
2. the existing budget allocations for Roads Capital Contingency \$100,000 and Urban Roads Renewal \$372,000 to be reallocated to GL 3500.4277.504 Thompson St, New England Highway.
3. the use of funding from the Road Reserve for the amount of \$229,641.34, to be reallocated to GL 3500.4277.504 Thompson St, New England Highway.

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

Against: Nil.



16.8. 2019-2020-0406 Muswellbrook Aquatic Centre – Construction Stage contract - Unapproved Variations

179 RESOLVED on the motion of Cr J. Drayton and Cr R. Scholes that:
Council:

1. Rejects the Deed of Settlement and Release offered by Renascent;
2. Authorises the Acting General Manager to negotiate a revised Deed of Settlement and Release; and
3. Requests a further report detailing the revised Deed of Settlement and Release be submitted for Council's review

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

Against: Nil.

At 7.43pm Cr Bowditch left the meeting.

16.9. Rate of Pay - Regional Planning Panel Community Member

180 RESOLVED on the motion of Cr S. Reynolds and Cr J. Lecky that:
This matter be deferred to allow further consultation to take place.

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

Against: Nil.

16.10. Industrial Land Discussions

181 RESOLVED on the motion of Cr R. Scholes and Cr J. Drayton that:
Council endorses the Acting General Manager to enter discussions with BHP Mt Arthur to investigate the future use of land on Thomas Mitchell Drive adjacent to the existing industrial estate.

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

Against: Nil.



16.11. Water Supply Agreement

Disclosure of Interest

Cr Woodruff declared a pecuniary interest in this item. Cr Woodruff advised Council that his employer undertakes work for the company mentioned in the report.

At 7:47pm Cr Woodruff left the Meeting Room and therefore took no part in discussion or voting on this item.

182 RESOLVED on the motion of Cr R. Scholes and Cr J. Lecky that:

Council delegates to the Acting General Manager authority to execute the Water Agreement on terms which do not alter the intent of the draft Water Agreement attached to this report.

In Favour: Cr S. Reynolds, Cr J. Lecky, Cr A. Barry, Cr D. Douglas, Cr J. Drayton, Cr L. Dunn, Cr R. Mahajan, Cr D. Marshall and Cr R. Scholes.

Against: Nil.

At 7.48pm Cr Woodruff returned to the meeting room and resumed his chair at the meeting table.

16.12. 41 Maitland Street - Class 1 Appeal

COMMITTEE OF THE WHOLE

183 RESOLVED on the motion of Cr L. Dunn and Cr J. Lecky that:

The meeting move into Committee of the Whole to allow further discussion on this matter.

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

Against: Nil.

RESUMPTION OF CLOSED COUNCIL

184 RESOLVED on the motion of Cr D. Douglas and Cr B. Woodruff that:

The meeting return to Closed Council.

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

Against: Nil.



- 185 RESOLVED on the motion of Cr R. Scholes and Cr R. Mahajan that:
- Council delegates to the Acting General Manager and Director Environment and Planning, jointly and severally, authority to reach agreement on behalf of Council in matter 2022/00217248 in the section 34 conciliation conference in Class 1 proceedings in the Land and Environment Court.

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

Against: Nil.

17. Resumption of Open Council

- 186 RESOLVED on the motion of Cr J. Drayton and Cr A. Barry that:

The meeting return to Open Council.

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

Against: Nil.

Members of the public were invited back into the meeting.

The Mayor read out the recommendations from Closed Council.

18. Closure

The meeting was declared closed at 8.05pm

THE MINUTES OF THE MEETING (PAGES 1 to 25) WERE CONFIRMED AT THE ORDINARY COUNCIL MEETING OF THE MUSWELLBROOK SHIRE COUNCIL HELD ON 20 DECEMBER, 2022 AND ARE A FULL AND ACCURATE RECORD OF PROCEEDINGS OF THE MEETING HELD ON 22 NOVEMBER, 2022

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

.....
Cr S. Reynolds
Chairperson