

MINUTES OF THE ORDINARY COUNCIL MEETING OF THE MUSWELLBROOK SHIRE COUNCIL HELD IN THE TRAINING ROOM, UNIVERSITY OF NEWCASTLE - UPPER HUNTER CAMPUS, LEVEL1, TEC1 BUILDING, 87 LOWER HILL STREET, MUSWELLBROOK ON TUESDAY 27 FEBRUARY 2024 COMMENCING AT 6.00PM.

PRESENT: Cr S.M. Reynolds (Mayor), 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. Scholes and Cr B.N. Woodruff.

IN ATTENDANCE: Mr D. Finnigan (General Manager), Ms S. Pope (Director – Planning & Environment), Ms S. Welchman (Director - Community & Economy), Mr M. Lysaught (Director – Property & Place), Ms E. Lane (Manager – Governance & Risk), Mr J. Hogan (Chief Financial Officer), Mr P. Chambers (Chief Engineer), Mrs C. Middleton (Communications Co-Ordinator), Mrs M. Sandell-Hay (Governance Officer), Ms K. Hamm (EA to the Office of the Mayor and GM) and 9 people in the public gallery.

1. Applications for Attendance via Audio Visual Link

Nil.

2. Acknowledgement of Country

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

3. Civic Prayer

The Civic Prayer was read by Cr L. Dunn.

4. Apologies and Applications for a Leave of Absence

Nil.



4a Presentation of Australia Day Awards

The Mayor advised Council that Yasmin and Porscha Jimmieson, who were the recipients of the Young Citizen of the Year Award and Senior Sportsperson of the Year Award at the recent Australia Day Ceremony, were in attendance at the meeting to receive their Awards.

The Mayor invited Ms Yasmin Jimmieson to come forward, and presented her with the Young Citizen of the Year Award for her selfless contribution to Muswellbrook Shire through her leadership positions within the SES, dedication with the Australian Air Force Cadets, attending leadership programs including Burn Bright National Leadership Camp, Rotary Youth, and volunteering for numerous youth organisations, including Little Dreamers Young Carer Organisation, One Door Mental Health on Fire Youth Program, Beautiful Minds Youth Enrichment Programs, Rotary Programs, and Virtus Oceania Asia Games, as well as being selected for the Premier's ANZAC Ambassador's Program.

The Mayor invited Ms Porscha Jimmieson to come forward and presented her with the Senior Sportsperson of the Year Award for her commitment to sports by being selected to represent Australia in swimming at the 2023 Virtus Global Games in France, receiving the Hunter Blue Award for Swimming, which is the highest individual sports award within the Hunter Region for secondary schools.

5. Confirmation of Minutes

277 RESOLVED on the motion of Cr G. McNeill and Cr D. Douglas that:

The Minutes of the Ordinary Council Meeting held on **23 January 2024**, 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 G. McNeill, Cr R. Mahajan, Cr D. Marshall, Cr R. Scholes and Cr B. Woodruff.

Against: Nil.



6. Disclosure of any Pecuniary or Non-Pecuniary Interests

Cr G. McNeill - Declared a pecuniary interest in Item 10.1.4 - Cr McNeill advised Council that he is employed at Bayswater Power Station.

Cr G. McNeill - Declared a pecuniary interest in Item 10.1.2 - Cr McNeill advised Council that his employer is part owner of the Pumped Hydro Project.

Cr M. Bowditch - Declared a non pecuniary interest in Item 10.1.5 - Cr Bowditch advised Council that he is the Chairperson of Group 21 of which Bengalla is a major Sponsor.

Cr M. Bowditch - Declared a non pecuniary interest in Item 11.1 - Cr Bowditch advised Council that he is the Chairperson of Group 21 of which Bengalla is a major Sponsor.

Cr R. Mahajan - Declared a non pecuniary interest in Item 17.8 - Cr Mahajan advised Council that the applicant is a friend.

Cr B. Woodruff - Declared a pecuniary interest in Item 11.1 - Cr Woodruff advised Council that his employer undertakes work for Bengalla.

Cr D. Douglas - Declared a pecuniary interest in Item 10.1.1 - Cr Douglas advised Council that the applicant is Wanaruah Local Aboriginal Land Council of which she is the CEO.

Cr A. Barry - Declared a pecuniary interest in Item 10.1.2 - Cr Barry advised Council that she is employed by AGL, who is a member of the Pumped Hydro Venture.

Cr A. Barry - Declared a pecuniary interest in Item 10.1.4 - Cr Barry advised Council that she is employed by AGL and works at Bayswater Power Station.

Cr S. Reynolds - Declared an insignificant non pecuniary interest in Item 10.3.3 - Cr Reynolds advised Council that he undertakes sports videography at this location.

Cr S. Reynolds - Declared a non pecuniary interest in Item 10.3.4 - Cr Reynolds advised Council that his wife is employed by Hunter Disability Services.

Cr S. Reynolds - Declared an insignificant non pecuniary interest in Item 10.1.5 - Cr Reynolds advised Council that his son previously received a scholarship from Bengalla.

Cr S. Reynolds - Declared an insignificant non pecuniary interest in Item 11.1 - Cr Reynolds advised Council his son previously received a scholarship from Bengalla.

7. Mayoral Minute

Nil.



8. Public Participation

Mr Stuart Galway - in support 10.1.2 DA 2023-56 Geotechnical Investigations (lower) - Muswellbrook Pumped Hydro.

Disclosure of Interest

Cr A. Barry declared a pecuniary interest in Item 10.1.2. Cr Barry advised Council that she is employed by AGL who is a member of the Pumped Hydro Venture

Cr G. McNeill declared a pecuniary interest in Item 10.1.2. Cr McNeill advised Council that his employer is part owner of the Pumped Hydro Project.

Cr Barry and Cr McNeill left the meeting at 6.13pm and therefore took no part in discussion on this matter.

Cr Barry and Cr McNeill returned to the meeting at 6.15pm and resumed their chairs at the meeting table.

Mr Brett O'Kane - in support 10.1.3 DA 2002/205 Section 4.55 Modification Application - Muswellbrook Coal Mine MOD9 - Closure and Rehabilitation Amendments and Accommodate Muswellbrook Bypass

Ms Julie Thomas - in support 10.1.3 DA 2002/205 Section 4.55 Modification Application - Muswellbrook Coal Mine MOD9 - Closure and Rehabilitation Amendments and Accommodate Muswellbrook Bypass

9. Business Arising (From Previous Meetings)

Nil



10. Business (Specific Reports)

10.1. Planning and Environment

10.1.1. DA 2022-124 - Community Facility Shed - 17-19 Maitland Street

Disclosure of Interest

Cr D. Douglas declared a pecuniary interest in this item. Cr Douglas advised Council that the applicant is Wanaruah Local Aboriginal Land Council of which she is the CEO.

At 6:16 pm Cr Douglas left the Council Chambers and therefore took no part in discussion or voting on this item.

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RESOLVED on the motion of Cr J. Drayton and Cr J. Lecky that:

Council APPROVES:

1. Development Application DA 2022/124 for the construction of a shed for a community facility at 17-19 Maitland Street, Muswellbrook, Wanaruah Local Aboriginal Land Council (Lot 11 DP 552780), subject to the recommended conditions of consent included in Attachment B and subject to the following amendments:

2. Update recommended condition 9 as follows:

Prior to the issue of a Construction Certificate a car parking plan is to be prepared by a suitably qualified person submitted to and approved by Council and documentary evidence provided to the Certifying Authority confirming that approval. The car parking plan shall include the detailed design of a car park comprising fourteen (14) car parking spaces together with one (1) accessible parking space (total 15), together with, in accordance with the manoeuvring areas, access ways, and turning areas, to be fully sealed and line marked in accordance with AS.2890.1 2004 Parking Facilities and the relevant provisions of AS1428.1 and AS1428.4. The car parking plan is to be accompanied by a stormwater management plan prepared by an appropriately qualified engineer detailing the stormwater management of all additional proposed hardstand and impervious areas related to the car park. This stormwater management plan is to accompany any Section 68 permit for the drainage of stormwater submitted under related conditions of consent.

3. Include an additional condition to require that a landscape plan is prepared and submitted for approval to soften and mask the shed that is visible to the front of the building.

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

Against: Nil.

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



10.1.2. DA 2023-56 Geotechnical Investigations (lower) - Muswellbrook Pumped Hydro

Disclosure of Interest

Cr G. McNeill declared a pecuniary interest in this item. Cr McNeill advised Council that his employer is part owner of the Pumped Hydro Project.

Cr A. Barry declared a pecuniary interest in this item. Cr Barry advised Council that she is employed by AGL, who is a member of the Pumped Hydro Venture.

At 6:24 pm Cr Barry and Cr McNeill left the Council Chambers and therefore took no part in discussion or voting on this item.

279 RESOLVED on the motion of Cr B. Woodruff and Cr M. Bowditch that:

Council grants development consent to DA 2023-56 for the Geotechnical Investigations and associated works at Lot 1 DP 1004305, Lot 59 DP 752484, Lot 60 DP 752484, Lot 61 DP 1113302, Lot 62 DP 752484 & Lot 44 DP 1112699, subject to the recommended conditions of consent included in Attachment B.

In Favour: Cr S. Reynolds, Cr J. Lecky, 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 6:26 pm Cr Barry and Cr McNeill returned to Council Chambers and resumed their chairs at the meeting table.

10.1.3. DA 2002/205 Section 4.55 Modification Application - Muswellbrook Coal Mine MOD9 - Closure and Rehabilitation Amendments and Accommodate Muswellbrook Bypass

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

Council approves the s4.55(1A) modification to Development Application No. 2002/205, subject to the recommended conditions of consent 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 G. McNeill, Cr R. Mahajan, Cr D. Marshall, Cr R. Scholes and Cr B. Woodruff.

Against: Nil.



10.1.4. **Planning Proposal - Additional Permitted Uses - Bayswater Power Station site**

Disclosure of Interest

Cr G. McNeill declared a pecuniary interest in this item. Cr McNeill advised Council that he is employed at Bayswater Power Station.

Cr A. Barry declared a pecuniary interest in this item. Cr Barry advised Council that she is employed by AGL, who is a member of the Pumped Hydro Venture.

At 6:27 pm Cr Barry and Cr McNeill left the Council Chambers and therefore took no part in discussion or voting on this item.

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

281 Council RESOLVES to:

1. Prepare a Planning Proposal, pursuant to Section 3.33 of the Environmental Planning and Assessment Act 1979, for an amendment to the Muswellbrook Local Environmental Plan 2009 (MLEP 2009) to an additional permitted use of "industry" on land adjacent to the Bayswater Ash Dam;
2. Request a Gateway Determination from the Department of Planning and Environment, and exhibit the proposal in accordance with that determination, pursuant to Sections 3.34-3.35 of the Environmental Planning and Assessment Act 1979; and
3. Request that the Director General of the Department of Planning and Environment issue a Written Authorisation to Council to exercise delegation of the plan making functions under Section 3.36 of the Environmental Planning and Assessment Act 1979 in respect of the planning proposal.

In Favour: Cr S. Reynolds, Cr J. Lecky, 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 6:29 pm Cr Barry and Cr McNeill returned to Council Chambers and resumed their chairs at the meeting table.

**10.1.5. Council representation on Community Consultative Committees****Disclosure of Interest**

Cr M. Bowditch declared a non pecuniary interest in this item. Cr Bowditch advised Council that he is the Chairperson of Group 21 of which Bengalla is a major Sponsor.

Cr S. Reynolds declared an insignificant non pecuniary interest in this item. Cr Reynolds advised Council that his son previously received a scholarship from Bengalla.

At 6.36pm Cr Bowditch left the Council Chambers and therefore took no part in discussion or voting on this item.

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

Council endorses:

- A. The Environmental Planning Officer being Council's representative at mine Community Consultative Committee meetings in accordance with the Community Consultative Committee (CCC) Guidelines (June 2023);
- B. The General Manager writing to the Minister for Planning, Housing, and Infrastructure (DPHI) seeking a change to the Guidelines, or the interpretation of the Guidelines, by DPHI staff, to enable more than one Council representative, composed of Councillors and Council staff, to be Council's representatives at CCC meetings; and
- C. Council to nominate the Councillor Representatives and the nominated Councillor to write to the relevant mines seeking to be accepted as Community Representatives at the relevant mine CCC.

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

Against: Nil.

At 6:38 pm Cr M. Bowditch returned to Council Chambers and resumed their chair at the meeting table.

**10.1.6. Reducing the Impact of Balloons at Events****MOTION**

Moved by Cr D. Marshall and Cr G. McNeill that:

Council supports an update to the Sustainable Events Procedure and the Sportsground, Park or Facility Booking Request form being undertaken to:

1. Advise event organisers that Council discourages the free give away or sale of balloons (whether filled with water, air, helium or not filled) at outdoor events held on community land; and
2. That Council staff shall not purchase balloons to be given away for free at Council supported outdoor events.

The motion was WITHDRAWN

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

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This item be deferred for consideration to allow further information to be provided to 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 G. McNeill, Cr R. Mahajan, Cr D. Marshall, Cr R. Scholes and Cr B. Woodruff.

Against: Nil.

10.1.7. Rural Landcare Funding

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

Council:

1. Notes the outcomes of the expression of interest for funding from the Rural Landcare budget;
2. Authorises staff to request formal funding applications from the two Expression of Interest (EOI) submitters;
3. Delegates to the General Manger authority to determine the applications, provided the projects are substantially the same as the EOIs; and
4. Allocates any remaining funds to natural area maintenance along Muscle Creek.

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.



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

285 RESOLVED on the motion of Cr A. Barry 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.

10.2. Community Infrastructure

10.2.1. Guideline for the Installation and Management of Public Gates (Stock Grids)

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

Council:

1. APPROVES placing the *Guideline – Installation and Management of Public Gates (Stock grids)* on public exhibition for a period of 28 days; and
2. Requests that, at the conclusion of the 28 day public notification period, a further report is submitted to Council providing detail of any submissions received.

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.

10.2.2. Baerami Creek Causeway Replacement

287 RESOLVED on the motion of Cr B. Woodruff and Cr M. Bowditch that:

Council ENDORSES, in principle, the concept designs for stream stabilisation and the replacement of the causeway at Ch 16.5 km Baerami Creek Road attached to the report, on the basis that a peer review of the concepts is undertaken by an independent expert certified by Engineers Australia to conduct a peer review of the design.

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.



10.2.3. Urban Road Renewal Programme 2023-24

288 RESOLVED on the motion of Cr M. Bowditch and Cr D. Douglas that:
Council ENDORSES the attached priority list for Urban Road Renewal and the undertaking of the projects under the 2023-24 Capital Works Program to the limit of approved funding.

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.

10.3. Property and Place

10.3.1. Regional Entertainment Centre Development Advisory Committee - Terms of Reference

289 RESOLVED on the motion of Cr D. Marshall and Cr D. Douglas that:
Council APPROVES the following:

1. The Regional Entertainment Centre Development Advisory Committee be an Advisory Committee to Council;
2. The Committee will meet as required but no less than quarterly;
3. The Draft Terms of Reference be ADOPTED; and
4. Subject to confirmation of representatives, the Committee will comprise the following membership:
 - (i) Councillor L. Dunn (Chair)
 - (ii) Councillor J. Lecky (Deputy Chair)
 - (iii) Councillor R. Scholes
 - (iv) Authorised representative of Muswellbrook Amateur Theatrical Society
 - (v) Authorised representative of Upper Hunter Conservatorium of Music
 - (vi) Authorised representative of Muswellbrook & Upper Hunter Eisteddfod
 - (vii) Authorised representative of Muswellbrook High School
 - (viii) Authorised representative of Australian Rail Track Corporation
 - (ix) 1 local dance group representative invited through an Expression of Interest
 - (x) 1 independent member of the community invited through an Expression of Interest.



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.

10.3.2. Olympic Park Precinct Development Advisory Committee - Terms of Reference

290 RESOLVED on the motion of Cr A. Barry and Cr M. Bowditch that:

Council APPROVES the following:

1. The Olympic Park Development Advisory Committee be an Advisory Committee to Council;
2. The Committee will meet as required but no less than quarterly;
3. The Draft Terms of Reference be ADOPTED; and
4. Subject to confirmation of representatives, the Committee shall comprise the following membership:
 - (i) Cr A Barry (Chair)
 - (ii) Cr G McNeill (Deputy Chair)
 - (iii) Authorised representative of Muswellbrook Junior League
 - (iv) Authorised representative of Muswellbrook Senior Rugby League
 - (v) Authorised representative of Muswellbrook Touch Association
 - (vi) Authorised representative of Olympic Park Tennis Club
 - (vii) Authorised representative of Park Tennis Club
 - (viii) Authorised representative of Muswellbrook Cycle Club
 - (ix) Authorised representative of Muswellbrook Swimming Club
 - (x) Authorised representative of Australian Rail Track Corporation
 - (xi) Independent community representative
 - (xii) Independent community representative

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.



10.3.3. Olympic Park Status Report

Disclosure of Interest

Cr S. Reynolds declared an insignificant non pecuniary interest in this item. Cr Reynolds advised Council that he undertakes sports videography at this location.

291 RESOLVED on the motion of Cr A. Barry and Cr D. Douglas 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 G. McNeill, Cr R. Mahajan, Cr D. Marshall, Cr R. Scholes and Cr B. Woodruff.

Against: Nil.

10.3.4. Market Street Pathway Adjoining CWA Hall and Hunter Disability Services

Disclosure of Interest

Cr S. Reynolds declared a non pecuniary interest in this item. Cr Reynolds advised Council that his wife is employed by Hunter Disability Services.

At 6:54 pm Cr S. Reynolds left the Council Chambers and therefore took no part in discussion or voting on this item.

Cr G McNeill assumed the role of chair for the conduct of this item.

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

292 Council:

1. APPROVES staff to negotiate transfer of ownership of the existing pathway allotment adjoining allotments 4 Market Street and Lot 255 DP 728952 Market Street to Hunter Disability Services Pty Ltd and the creation of Right of Footway for the Country Women's Association as part of an upgrade agreement; and
2. Requests that, following negotiation with the relevant parties, a further report will be submitted 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.

At 6:55 pm Cr Reynolds returned to Council Chambers and resumed the role of Chair for the remainder of the meeting.



10.3.5. Major Project Status Report

293 RESOLVED on the motion of Cr A. Barry and Cr J. Lecky 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 G. McNeill, Cr R. Mahajan, Cr D. Marshall, Cr R. Scholes and Cr B. Woodruff.

Against: Nil.

10.4. Corporate Services

10.4.1. Fraud and Corruption Control Policy MSC18E for ADOPTION

294 RESOLVED on the motion of Cr J. Lecky and Cr B. Woodruff that:
Council ADOPTS the attached *Fraud and Corruption Control Policy*.

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.

10.4.2. Awarding of Sponsorship, Grants and Contributions Policy and the Council Seeking Sponsorship Policy for ADOPTION

295 RESOLVED on the motion of Cr L. Dunn and Cr D. Marshall that:
Council ADOPTS the:

1. *Awarding of Sponsorship and Grants and Contributions Policy*; and the
2. *Council Seeking Sponsorship Policy*.

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.



10.4.3. Annual Conference Attendance by Councillors

296

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

1. Council appoints Councillor delegates to attend each of the following conferences being held in 2024:
 - a) Australian Local Government Women's Association (ALGWA) NSW Conference: Cr J. Lecky
 - b) Rural and Regional Summit: Cr L. Dunn
 - c) Waste 2024 Conference – Cr D. Douglas
 - d) Local Government NSW (LGNSW) Destination and Visitor Economy Conference 2024 – Cr D. Marshall
 - e) Australian Local Government Association (ALGA) National General Assembly of Local Government – the Mayor and Deputy Mayor, with the Mayor also being Council's voting delegate.
 - f) Local Government NSW (LGNSW) Water Management Conference 2024 – Cr R. Scholes
 - g) Local Government NSW (LGNSW) Annual Conference – the Mayor, and another Councillor to be determined after the 2024 LG NSW elections, who will also be Council's two nominated voting delegates.
2. Council reimburses expenses in accordance with MSC02E Councillor Expenses & Facilities Policy.
3. Arrangements be made for registration, accommodation, and travel to the Conferences.
4. Councillor delegates provide a written report for the information of Council within three months of conference attendance.

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.

10.4.4. School Based Trainees

297

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

Council APPROVES the engagement of two School Based Trainees as identified 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 G. McNeill, Cr R. Mahajan, Cr D. Marshall, Cr R. Scholes and Cr B. Woodruff.

Against: Nil.



10.4.5. December 2023 Quarterly Budget Review

298 RESOLVED on the motion of Cr R. Mahajan and Cr J. Lecky that:
Council ADOPTS the proposed changes in the December 2023 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 G. McNeill, Cr R. Mahajan, Cr D. Marshall, Cr R. Scholes and Cr B. Woodruff.

Against: Nil.

10.4.6. Report on Investments held as at 31 January 2024

299 RESOLVED on the motion of Cr J. Lecky and Cr R. Scholes that:
Council NOTES Council's Investments as at 31 January 2024.

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.

10.4.7. Monthly Financial Report - January 2024

300 RESOLVED on the motion of Cr J. Lecky and Cr R. Mahajan that:
Council NOTES the Financial Reports for the month ending 31 January 2024.

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.



10.5. Community and Economy

10.5.1. Opportunities and Challenges Document

301 RESOLVED on the motion of Cr J. Lecky and Cr D. Douglas that:
Council ENDORSES the 2024 Opportunities and Challenges document.

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.

10.5.2. Economic Development Update December 2023

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

Against: Nil.

10.5.3. Report on Council Grant Funding and Community Engagement

303 RESOLVED on the motion of Cr D. Douglas and Cr J. Lecky that:
Council notes the information contained in the report and endorses the following:

1. Apply for funding to stage a “come and try sports day” at Olympic Park in January or February 2025 under the Australian Sports Commission Play Well Participation Grant Program;
2. Re-submit a previously unsuccessful application for a flip screen for use at Council’s waste facility under the NSW EPA Local Government Waste Solutions Fund Round 2;
3. Apply for up to \$150,000 under the NSW Open Streets Program to assist with the staging of a Wine, Food, and Film themed event in Denman in October this year; and
4. Council’s Community Grants program to re-open for applications on Thursday, 29 February 2024 and close on Friday, 29 March 2024.

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.



11. Minutes of Committee Meetings

11.1. Bengalla Community Funding Investment Committee - 6 December, 2023

Disclosure of Interest

Cr B. Woodruff declared a pecuniary interest in this item. Cr Woodruff advised Council that his employer undertakes work for Bengalla.

Cr M. Bowditch declared a non pecuniary interest in this item Cr Bowditch advised Council that he is the Chairperson of Group 21 of which Bengalla is a major Sponsor.

Cr S. Reynolds declared an insignificant non pecuniary interest in this item. Cr Reynolds advised Council that his son previously received a scholarship from Bengalla.

At 7:05pm Cr Woodruff and Cr Bowditch left the Council Chambers and therefore took no part in discussion or voting on this item.

304

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

The minutes for the Bengalla Community Funding Investment Committee meeting held on 6 December, 2023 be NOTED.

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

Against: Nil.

At 7:06 pm Cr Bowditch and Cr Woodruff returned to Council Chambers and resumed their chairs at the meeting table.

11.2. Local Traffic Committee Minutes - 12 December, 2023

305

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

The minutes for the Local Traffic Committee meeting held on 12 December 2023 be noted 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 G. McNeill, Cr R. Mahajan, Cr D. Marshall, Cr R. Scholes and Cr B. Woodruff.

Against: Nil.



12. Notices of Motion

Nil.

13. Councillors Reports

13.1 Upper Hunter Homelessness Forum

Cr Reynolds commended Upper Hunter Homelessness on the forum they hosted last week, it was very enlightening and there is a lot of work to be done in that space and Council will continue to work with them.

13.2 Upper Hunter Homelessness Forum

Cr Scholes also attended the forum along with Cr Marshall, Cr Dunn and Cr Drayton. Cr Scholes advised Council that the forum highlighted the issues in our community, in most cases it is a hidden issue and we need to work together to work out what needs to be done and how it can be done particularly in relation to the current housing shortage.

14. Written Questions

Nil.

15. Questions for Next Meeting

15.1 Flood Studies

Cr G. McNeill asked if there is any plans that the Flood Studies will be brought up to date considering global warming and weather events?

Mr Chambers advised Council that several consultants had recently been engaged who will consider climate change and the impacts of global warming in any future projects.

15.2 FOGO – Bin Collection

Cr J. Drayton and Cr D. Douglas asked if Councillors could indicate if they would like the Red Bin Collection to remain weekly, FOGO is introduced as planned with a trial of 6 monthly of the Red Bin weekly collection as an introduction.

The General Manager advised Council that as the Councillors indicated they would like the red bin to remain weekly a report would be submitted to the March Ordinary Council Meeting with confirmation of the red bin collection to remain at weekly collection for a trial period of 6 months, including costings.

15.3 New Chief Financial Officer

Cr B Woodruff congratulated Mr Josh Hogan on his new appointment as Chief Financial Officer.



16. Adjournment into Closed Council

306 RESOLVED on the motion of Cr A. Barry 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 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.

Members of the Public left the meeting at 7.19pm.

17. Closed Council

17.1. General Terms of Offer - Community Benefits - Muswellbrook Solar Project

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

This matter to be deferred to allow further information to be provided to 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 G. McNeill, Cr R. Mahajan, Cr D. Marshall, Cr R. Scholes and Cr B. Woodruff.

Against: Nil.

**17.2. Regional Procurement Tender T452324HUN - Panel Contract for Road Safety Barriers**

308 RESOLVED on the motion of Cr D. Marshall and Cr R. Scholes that:

1. Accepts the following companies to be awarded as panel source suppliers to Muswellbrook Shire Council in Category 1 of Contract T452324HUN for Provision of Road Safety Barrier Systems for the period 1 April 2024 to 31 March 2026, and that a provision be allowed for a 12-month extension based on satisfactory supplier performance, which may take the contract through to 31 March 2027:
 - a. Destraz Pty Ltd t/as D&P Fencing Contractors;
 - b. Guardrail Infrastructure Pty Ltd t/a Guardrail Installations Australia;
 - c. Guardrail Systems Pty Ltd;
 - d. Ingal Civil Products;
 - e. RBK Pty Ltd t/a Topnotch Fencing;
 - f. Road Safety Barriers Pty Ltd;
 - g. A J & L J Irwin Family Trust t/a Irwin Fencing Pty Ltd; and
 - h. Western safety Barriers t/a Western Safety Barriers Group Pty Ltd.
2. Declines to accept any suppliers for Category 2 of Contract T452324HUN for Provision of Road Safety Barrier Systems.

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.

17.3. 2020-2021-0452 - Muswellbrook Animal Care and Sustainability Hub - Contract Settlement

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

Council:

1. Continues to negotiate with the Contractor as detailed in the report with the inclusion of the high risk identified items;
2. If the negotiations are unsuccessful, Council defends the full claim as per the Final Payment Schedule; and
3. Authorises the General Manager to negotiate, finalise, and execute a Deed of Settlement and Release with the Contractor.

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.



17.4. 2020-2021-0448 - Upper Hunter Innovation Centre - Donald Horne Building - Contract Settlement

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

Council:

1. Provides the Final offer as recommended in the report; and
2. Authorises the General Manager to negotiate, finalise, and execute a Deed of Settlement and Release with the Contractor.

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.

17.5. Request for Assistance in Removing Public Gates - Giants Creek Road

311 RESOLVED on the motion of Cr M. Bowditch and Cr J. Drayton that:

Council APPROVES the use of funds from GL 3500.4035 - Heavy Patching for the reinstatement of the three (3) road sections on Giants Creek Road conditional upon the removal of the existing public gates by the permit holder.

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.

17.6. Variation of Lease for Woolworths Muswellbrook Proposal

312 RESOLVED on the motion of Cr J. Drayton and Cr D. Marshall that:

Council:

1. Approves proceeding as recommended in the report; and
2. Requires a further report be submitted to Council, upon resolution of the matter, advising of the outcome.

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.



17.7. 54 Kunapalari Street Throsby Wonderschool Site Review

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

Council APPROVES proceeding as recommended 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 G. McNeill, Cr R. Mahajan, Cr D. Marshall, Cr R. Scholes and Cr B. Woodruff.

Against: Nil.

17.8. Blue Flame Restaurant Lease Proposal

Disclosure of Interest

Cr R. Mahajan declared an insignificant non pecuniary interest in this item. Cr Mahajan advised Council that the applicant is a friend.

At 7:39 pm Cr Mahajan left the Council Chambers and therefore took no part in discussion or voting on this item.

314 RESOLVED on the motion of Cr B. Woodruff and Cr M. Bowditch that:

Council APPROVES proceeding as recommended 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 G. McNeill, Cr D. Marshall, Cr R. Scholes and Cr B. Woodruff.

Against: Nil.

At 7:40 pm Cr Mahajan returned to Council Chambers and resumed their chair at the meeting table.

17.9. Ironbark Estate Drainage Easement

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

Council does not approve any additional topsoil being provided to the Ironbark Estate Drainage Easement as detailed 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 G. McNeill, Cr R. Mahajan, Cr D. Marshall, Cr R. Scholes and Cr B. Woodruff.

Against: Nil.



18. Resumption of Open Council

316 RESOLVED on the motion of Cr A. Barry and Cr D. Marshall that:

The meeting return to Open 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 G. McNeill, Cr R. Mahajan, Cr D. Marshall, Cr R. Scholes and Cr B. Woodruff.

Against: Nil.

Members of the public were invited to return to the meeting.

The Chair read out the resolutions of Closed Council.

19. Closure

The meeting was declared closed at 7.45pm.

THE MINUTES OF THE MEETING (PAGES 1 to 24) WERE CONFIRMED AT THE ORDINARY COUNCIL MEETING OF THE MUSWELLBROOK SHIRE COUNCIL HELD ON 26 MARCH, 2024 AND ARE A FULL AND ACCURATE RECORD OF PROCEEDINGS OF THE MEETING HELD ON 27 FEBRUARY, 2024.

.....
Mr D. Finnigan
General Manager

.....
Cr S. Reynolds
Chairperson