

# Minutes of the Ordinary Meeting of Council

Held at the Council Chambers, 86 Market Street, Mudgee  
on 17 June 2020, commencing at 5.31pm and concluding at 5.47pm

**PRESENT** Cr D Kennedy, Cr S Paine, Cr P Cavalier, Cr R Holden, Cr A Karavas, Cr E Martens, Cr J O'Neill, Cr P Shelley, Cr JP Thompson (speaker phone).

**IN ATTENDANCE** General Manager (Brad Cam), Director Community (Simon Jones), Director Development (Julie Robertson), Director Operations (Garry Hemsworth), Chief Financial Officer (Leonie Johnson), Manager Governance (Tim Johnston) and Executive Assistant (Mette Sutton).

## Item 1: Apologies

There were no apologies.

## Item 2: Disclosure of Interest

Councillor Cavalier declared a pecuniary conflict of interest in item 9.4 as he is a Director of a company that may be in receipt of assistance and a significant non-pecuniary conflict of interest in item 14.2 as he is a resident and family member of related and involved parties.

Councillor Martens declared a less than significant non-pecuniary conflict of interest in item 8.2 as she has made a submission in relation to DA0202/2020.

Chief Financial Officer, Leonie Johnson, declared a pecuniary conflict of interest in item 9.4 as she is a relative of an applicant, and a significant non-pecuniary conflict of interest in item 14.2 as she is a resident of Black Lead Lane

## Item 3: Confirmation of Minutes

**180/20 MOTION: Shelley / Cavalier**

**That the Minutes of the Ordinary Meeting held on 20 May 2020 be taken as read and confirmed.**

*The motion was carried with the Councillors voting unanimously.*

## Item 4: Matters in Progress

**181/20 MOTION: Cavalier / Shelley**



**That the matter in progress - Regent Theatre Res 87/20 Ordinary Meeting 18/03/2020, be noted as complete.**

*The motion was carried with the Councillors voting unanimously.*

**182/20 MOTION: Holden / Shelley**

**That Item 8.3 – Create NSW Grant Funding Acceptance, be accepted as Urgent Business Without Notice.**

*The motion was carried with the Councillors voting unanimously.*

**Item 5: Mayoral Minute**

Nil

**Item 6: Notices of Motion or Rescission**

Nil

**Item 7: Office of the General Manager**

7.1 ENTERPRISE RISK MANAGEMENT FRAMEWORK  
GOV400087, GOV400087

**183/20 MOTION: Shelley / Martens**

**That Council:**

- 1. receive the report by the Executive Manager, Human Resources on the Enterprise Risk Management Framework; and**
- 2. adopt the Enterprise Risk Management Framework.**

*The motion was carried with the Councillors voting unanimously.*

7.2 OLG COVID-19 ECONOMIC STIMULUS PACKAGE  
GOV400087, A0170031, PUB600025

**184/20 MOTION: Shelley / Cavalier**

**That Council:**

- 1. receive the report by the General Manager on the OLG COVID-19 Economic Stimulus Package; and**



2. **authorise the General Manager to sign the funding agreement with the Office of Local Government for the COVID-19 Economic Stimulus Package.**

*The motion was carried with the Councillors voting unanimously.*

### 7.3 COUNCIL MEETING SCHEDULE 2020 / 2021

GOV400087, GOV400088

185/20

**MOTION: Holden / Shelley**

**That Council:**

1. **receive the report by the Director Community on the Council Meeting Schedule 2020 / 2021; and**
2. **confirm the dates for Ordinary Meetings of Council for 2020 through to June 2021 as follows;**
  - **Wednesday 15<sup>th</sup> July 2020**
  - **Wednesday 12<sup>th</sup> August 2020**
  - **Wednesday 16<sup>th</sup> September 2020**
  - **Wednesday 21<sup>st</sup> October 2020**
  - **Wednesday 18<sup>th</sup> November 2020**
  - **Wednesday 9<sup>th</sup> December 2020**
  - **Wednesday 17<sup>th</sup> February 2021**
  - **Wednesday 17<sup>th</sup> March 2021**
  - **Wednesday 21<sup>st</sup> April 2021**
  - **Wednesday 19<sup>th</sup> May 2021**
  - **Wednesday 16<sup>th</sup> June 2021**

*The motion was carried with the Councillors voting unanimously.*



**Item 8: Development****8.1 SSD-9872 ST MATTHEWS COLLEGE EIS SUBMISSION  
GOV400087, LAN900096****186/20 MOTION: Shelley / Cavalier****That Council:**

- 1. receive the report by the Director Development on the SSD-9872 St Matthews College EIS Submission;**
- 2. approve the draft submission prepared by staff.**

*The motion was carried with the Councillors voting unanimously.*

Councillor Martens declared a less than significant non-pecuniary conflict of interest in item 8.2 as she has made a submission in relation to DA0202/2020 but did not leave the room.

**8.2 MONTHLY DEVELOPMENT APPLICATIONS PROCESSING  
AND DETERMINED  
GOV400087, DEV700023****187/20 MOTION: Shelley / Cavalier****That Council receive the report by the Director Development on the Monthly Development Applications Processing and Determined.**

*The motion was carried with the Councillors voting unanimously.*

**8.3 CREATE NSW GRANT FUNDING ACCEPTANCE  
GOV400087, GRA600041****188/20 MOTION: Holden / Cavalier****That Council:**

- 1. receive the report by the Manager Economic Development on the 0;**
- 2. if successful, accept \$10,000 in grant funding from Create NSW to be utilised towards supporting local talent at the proposed Fermenta Festival;**
- 3. amend the 2020/21 Budget and draft 2020/21 Operational Plan as follows:**



- increase grant funding received for Fermenta by \$10,000 and increase project expenditure by \$10,000; and
4. if successful, authorise the General Manager to finalise and sign the funding agreement with Create NSW for Fermenta Festival

The following recommendations (item 9.1 to item 12.2) were adopted as a whole, being moved by Cr Shelley, seconded by Cr Holden and carried with Councillors voting unanimously. Each recommendation is recorded with a separate resolution number commencing at resolution No. 189/20 and concluding at resolution No. 203/20.

## Item 9: Finance

### 9.1 ROAD CLOSURE LAND TRANSFER DEED ULAN-WOLLAR ROAD

GOV400087, ROA100367

189/20 MOTION: Shelley / Holden

That Council:

1. receive the report by the Revenue and Property Manager on the Road Closure Land Transfer Deed Ulan-Wollar Road; and
2. acknowledge at clause 2.3 of the Road Closure Land Transfer Deed that the reference to the Road Closure Land in the Heads of Agreement for Opening New Aligned Sections of Ulan-Wollar Road has been varied to exclude Lot 100 DP 755454; and
3. agree to the terms in the Road Closure Land Transfer Deed as appended as Attachment 1 to this Report; and
4. authorise the General Manager to endorse the Road Closure Land Transfer Deed as appended as Attachment 1 to this Report; and
5. require Peabody Pastoral Holdings P/L or Wilpinjong Coal P/L be responsible for all reasonable costs incurred by Council in discharging its tasks in accordance with the Road Closure Land Transfer Deed as appended as Attachment 1 to this Report, including all legal and other out of pocket costs; and



6. authorise the General Manager to sign all documentation, where necessary, to transfer the ownership of the different parts of the Road Closure Land, if and when closed, to Peabody Pastoral Holdings P/L and Moolarben Coal Mines P/L as cited in the Road Closure Land Transfer Deed appended as Attachment 1 to this Report; and
7. authorise the Mayor to sign all documentation, where additionally required to do so, to transfer the ownership of the different parts of the Road Closure Land, if and when closed, to Peabody Pastoral Holdings P/L and Moolarben Coal Mines P/L as cited in the Road Closure Land Transfer Deed appended as Attachment 1 to this Report; and
8. authorise the Common Seal of Council be affixed to all documentation, where necessary, to transfer the ownership of the different parts of the Road Closure Land, if and when closed, to Peabody Pastoral Holdings P/L and Moolarben Coal Mines P/L as cited in the Road Closure Land Transfer Deed appended as Attachment 1 to this Report.

*The motion was carried with the Councillors voting unanimously.*

9.2 WRITE-OFF OF DEBTS - PERIOD 24/5/2019 TO 19/5/2020  
GOV400087, GOV400067, A0140197

190/20

**MOTION:** Shelley / Holden

**That Council:**

1. receive the report by the Assistant Manager Revenue and Property and Chief Financial Officer on the Write-off of Debts - Period 24/5/2019 to 19/5/2020;
2. note the write-offs totalling \$2,008.82 made under delegated authority as stipulated in Attachment 1 to this Report for the period 24/5/2019 to 19/5/2020; and
3. authorise the write-off of those debts greater than \$2,500 and totalling \$3,744.90 as stipulated in Attachment 1 to this Report for the period 24/5/2019 to 19/5/2020.

*The motion was carried with the Councillors voting unanimously.*

9.3 VARIATION TO THE MRT CONTRACT - COVID-19 RELIEF  
GOV400087, F0770077

191/20

**MOTION:** Shelley / Holden



**That Council:**

1. receive the report by the Chief Financial Officer on the Variation to the MRT contract;
2. note the contract term is due to end on 30 June 2021;
3. authorise the following variations to the contract:

**Clause 2:** The term of this agreement will be five (5) years, commencing on 1 July 2017 and ending on 30 June 2022, unless terminated earlier in accordance with Clause 3.

**Clause 4. B:** the funding for the period 1 July 2020 – 30 June 2021 will be payable as a lump sum in July 2020; the funding for all other periods will be payable by twelve (12) instalments with each instalment to be paid monthly in advance and to be of equal amount subject to rounding off;

**Clause 4. C:** MWRC will be entitled to deduct rent and other monies payable by MRT to MWRC under the Lease from the contract payments;

4. authorise the General Manager to negotiate any additional minor terms that may be impacted by the above variations, in line with the intent of the variations; and
5. authorise the General Manager to sign the variation to the contract.

*The motion was carried with the Councillors voting unanimously.*

9.4 POST EXHIBITION - INTERIM COVID-19 FINANCIAL ASSISTANCE POLICY - LOCAL BUSINESS BOOSTER  
GOV400087, PUB600025, GOV400047, FIN300274

192/20

**MOTION:** Shelley / Holden

**That Council:**

1. receive the report by the Financial Accountant on the Post Exhibition - Interim COVID-19 Financial Assistance Policy - Local Business Booster;
2. endorse the Interim COVID-19 Financial Assistance Policy – Local Business Booster;



3. **receive the following submissions to the Interim COVID-19 Financial Assistance Policy, and respond to the authors;**
  - 3.1 **Paul A Christopherson be thanked for his submission and his opposition to the program noted;**
  - 3.2 **Allan Brindley be thanked for his submission and authorise the Chief Financial Officer to respond accordingly;**
4. **approve financial assistance of \$1000 to all qualifying applicants who have applied and met the eligibility criteria as set out in the Interim COVID-19 Financial Assistance Policy – Local Business Booster, these recipients are shown in Table A;**
5. **approve the following applications under the Interim COVID-19 Financial Assistance Policy – Local Business Booster, these recipients are shown in Table B.**

*The motion was carried with the Councillors voting unanimously.*





## 9.5 ROAD CLOSURE & EASEMENT CREATION PART FAUCETT DRIVE

GOV400087, P1318811, ROA100007

193/20

**MOTION:** Shelley / Holden

**That Council:**

1. receive the report by the Revenue and Property Manager on the Road Closure & Easement Creation Part Faucett Drive;
2. agree to close that part of Faucett Drive as identified in Attachment 1 to this Report and create the required easements for Right of Carriageway benefitting the allotments having frontage to the proposed road closure land and the easement for services and; progress the road closure in accordance with Part 4 Division 3 Roads Act 1993 and Council's Land Acquisition and Disposal Policy; and
3. authorise the General Manager to determine the terms and conditions in relation to the details of granting the required easement for Right of Carriageway benefitting the allotments having frontage to the proposed road closure land and the easement for services and;
4. authorise the General Manager to sign all documentation, where necessary, in relation to the processes involved in the proposed closure of that part of Faucett Drive and the creation of the easements as identified in Attachment 1 to this Report; and
5. authorise the Mayor to sign any documentation, where additionally required to do so, in relation to the processes involved in the proposed closure of that part of Faucett Drive and the creation of the easements as identified in Attachment 1 to this Report; and
6. authorise the Common Seal of Council to be affixed to all documentation, where necessary, in relation to the processes involved in the proposed closure of that part of Faucett Drive and the creation of the easements as identified in Attachment 1 to this Report.
7. direct that the proponent of the proposed subdivision on allotment 1 DP1046119 bear the cost for the physical construction of the driveway over the full length of the proposed Right of Carriageway as identified in Attachment 1 to this Report.

*The motion was carried with the Councillors voting unanimously.*



## 9.6 MONTHLY BUDGET REVIEW - MAY 2020

GOV400087, FIN300201

194/20

**MOTION: Shelley / Holden****That Council:**

1. receive the report by the Manager Financial Planning on the Monthly Budget Review - May 2020;
2. amend the 2019/20 Budget in accordance with the variations as listed in the Monthly Budget Review attachment to this report; and
3. note that the General Manager used the emergency delegation conveyed to him at 3.1 of his delegation to authorise:
  - 3.1 \$70,000 continuation of the bushfire recovery works at the Upper Turon Road; and
  - 3.2 \$90,000 continuation of the bushfire recovery works at Kerrys Ridge.

*The motion was carried with the Councillors voting unanimously.*

## 9.7 CLASSIFICATION OF LAND - LOT 69 DP1262954 DRAINAGE RESERVE AT 21 STEEL DRIVE SPRING FLAT, MUDGEES

GOV400087, P25884

195/20

**MOTION: Shelley / Holden****That Council:**

1. receive the report by the Property Officer on the Classification of Land - Lot 69 DP 1262954 Drainage Reserve at 21 Steel Drive Spring Flat, Mudgee;
2. give public notice of a proposed resolution to classify Lot 69 DP1262954 as Operational Land in accordance with Chapter 6, Part 2, Division 1 Local Government Act 1993 (the Act); and
3. receive a further report after the public notice exhibition period to consider any submissions and deal with the next steps in the classification process as required by the Act.



*The motion was carried with the Councillors voting unanimously.*

9.8 MONTHLY STATEMENT OF INVESTMENT AND BANK  
BALANCES AS AT 31 MAY 2020

GOV400087, FIN300053

**196/20 MOTION: Shelley / Holden**

**That Council:**

- 1. receive the report by the Manager Financial Planning on the Monthly Statement of Investment and Bank Balances as at 31 May 2020; and**
- 2. note the certification of the Responsible Accounting Officer.**

*The motion was carried with the Councillors voting unanimously.*

**Item 10: Operations**

10.1 RURAL ROAD STANDARDS FOR SUBDIVISION

GOV400087, ROA100082

**197/20 MOTION: Shelley / Holden**

**That Council:**

- 1. receive the report by the Director Operations on the Rural Road Standards for Subdivisions; and**
- 2. approve the standards as set out in the body of the report to be included in the next update of the Development Control Plan.**

*The motion was carried with the Councillors voting unanimously.*

10.2 BARIGAN RD SEALING

GOV400087, R0023001

**198/20 MOTION: Shelley / Holden**

**That Council:**

- 1. receive the report by the Manager Works on the Barigan Rd Sealing;**



2. approve Council completing the upgrade and sealing of 5.1km of Barigan Rd Wollar on behalf of Wollar Solar Development Pty Ltd at no cost to council;
3. authorise the Director Operations to negotiate final terms and sign all necessary contractual documentation to formally accept the \$2,006,000 excluding GST plus or minus 10% from Wollar Solar Development Pty Ltd;
4. amend the 2020/21 Budget to allocate \$2,006,000 for Barigan Rd Sealing to be funded from contributions to capital works; and
5. authorise the Director Operations to negotiate any positive variations to the contract with Wollar Solar Development Pty Ltd up to an additional \$1,000,000 with any such variations reported to Council through the monthly budget report.

*The motion was carried with the Councillors voting unanimously.*

## **Item 11: Community**

### 11.1 AFFORDABLE HOUSING POLICY REVIEW

GOV400087, A0420252

**199/20 MOTION: Shelley / Holden**

**That Council:**

1. receive the report by the Manager, Community Services on the Affordable Housing Policy Review;
2. place the draft reviewed Affordable Housing Policy 2020 on public exhibition for 28 days; and
3. adopt the draft reviewed Affordable Housing Policy 2020 if no submissions are received.

*The motion was carried with the Councillors voting unanimously.*

### 11.2 LIBRARY SERVICES - QUARTERLY REPORT

GOV400087, F0620020

**200/20 MOTION: Shelley / Holden**

**That Council receive the report by the Manager Library Services on the Library Services - Quarterly Report.**



*The motion was carried with the Councillors voting unanimously.*

11.3 LEGISLATIVE COMPLIANCE POLICY

GOV400087,

201/20

**MOTION: Shelley / Holden**

**That Council:**

1. receive the report by the Manager Governance on the Legislative Compliance Policy; and
2. adopt the Legislative Compliance Policy

*The motion was carried with the Councillors voting unanimously.*

**Item 12: Reports from Committees**

12.1 AUDIT RISK AND IMPROVEMENT COMMITTEE'S 19/20 ANNUAL REPORT

GOV400087, COR400236

202/20

**MOTION: Shelley / Holden**

**That Council:**

1. receive the report by the ARIC Executive Manager, Human Resources on the Audit Risk and Improvement Committee's 19/20 Annual Report; and
2. note the ARIC 19/20 Annual Report.

*The motion was carried with the Councillors voting unanimously.*

12.2 AUDIT RISK AND IMPROVEMENT COMMITTEE MINUTES 15 MAY 2020

GOV400087, COR400236

203/20

**MOTION: Shelley / Holden**

**That Council:**



1. receive the report by the Executive Manager, Human Resources on the Audit Risk and Improvement Committee Minutes 15 May 2020;
2. endorse the minutes and recommendations of the Audit Risk and Improvement Committee meeting 15 May 2020;
3. make representations to the Office of Local Government for an earlier issue of the Local Government Code of Accounting Practice and Financial Reporting; and
4. submit the ARIC representations to Local Government NSW and seek the support of the Joint Organisation.

*The motion was carried with the Councillors voting unanimously.*

### 12.3 LOCAL TRAFFIC COMMITTEE - MAY MEETING 2020

GOV400087, A100009

204/20

**MOTION: Holden / Martens**

**That Council:**

1. receive the report by the Administration Officer, Operations on the Local Traffic Committee - May Meeting 2020;
2. agree that the Traffic Committee are to review TCP's when provided for the Classic Outback Trial
3. not Use Percy Nott rest area as a U-turn bay.

*The motion was carried with the Councillors voting unanimously.*

### **Item 13: Urgent Business Without Notice**

Nil

### **Item 14: Confidential Session**

205/20

**MOTION: Shelley / Martens**

**That pursuant to the provisions of Section 10 of the Local Government Act, 1993, the meeting be closed to the public.**

*The motion was carried with the Councillors voting unanimously.*



Following the motion to close the meeting being moved and seconded, the General Manager announced that the following matters would be considered in confidential session and the reason why it was being dealt with in this way.

#### **14.1 FlyPelican Regional Service Subsidy**

***The reason for dealing with this report confidentially is that it relates to commercial information of a confidential nature that would, if disclosed prejudice the commercial position of the person who supplied it in accordance with Section 10A(2)(d)(i) of the Local Government Act, 1993.***

***Discussion of this matter in an open meeting would be, on balance, contrary to the public interest as it involves discussion of commercial details relating to the regional air service.***

#### **14.2 Black Lead Lane Gulgong - Illegal Water Connection - Update**

***The reason for dealing with this report confidentially is that it relates to advice concerning litigation, or advice as comprises a discussion of this matter, that would otherwise be privileged from production in legal proceedings on the ground of legal professional privilege in accordance with Section 10A(2)(g) of the Local Government Act, 1993.***

***Discussion of this matter in an open meeting would be, on balance, contrary to the public interest as it involves discussion of Matters for discussion are of legal professional privilege..***

Following an enquiry from the Mayor, the General Manager advised that there were no written representations in respect of this matter and that no person in the gallery wished to make verbal representations.

### 14.1 FLYPELICAN REGIONAL SERVICE SUBSIDY

GOV400087, ECO800028

206/20

**MOTION: Holden / Cavalier**

**That Council:**

1. receive the report by the Director Development on the FlyPelican Regional Service Subsidy;
2. authorise the General Manager to extend the air service subsidy agreement with FlyPelican for 1 flight per week for a 3 month period from 1 July 2020 to 30 September 2020;
3. amend the 2019/20 Budget and draft 2020/21 Budget to roll the regional flight subsidy for the unused balance of \$52,000 to 2020/21, funded from unrestricted cash;
4. authorise the General Manager to assess the need for any additional subsidy beyond 30 September 2020, renegotiate




**and extend the terms, as required, within the approved budget allocation for 2020/21; and**

- 5. note that Council has already satisfied its requirement to publicly exhibit the provision of up to \$130,000 in financial support to FlyPelican for a period of 28 days with no public submissions received.**

*The motion was carried with the Councillors voting unanimously.*

Councillor Cavalier declared a pecuniary conflict of interest in item 9.4 as he is a Director of a company that may be in receipt of assistance and a significant non-pecuniary conflict of interest in item 14.2 as he is a resident and family member of related and involved parties, left the Chambers at 5:41pm and did not participate in discussion or vote in relation to this matter.

Chief Financial Officer, Leonie Johnson, declared a pecuniary conflict of interest in item 9.4 as she is a relative of an applicant, and a significant non-pecuniary conflict of interest in item 14.2 as she is a resident of Black Lead Lane and left the Chambers at 5:41pm.

#### 14.2 BLACK LEAD LANE GULGONG - ILEGAL WATER CONNECTION - UPDATE

GOV400087, RIS900491

**207/20**

**MOTION: Holden / Karavas**

**That Council:**

- 1. receive the report by the Director Operations on the Black Lead Lane Gulgong - Illegal Water Connection - Update;**
- 2. give notice to residents connected to the illegal water main in Black Lead Lane Gulgong, that the water main will be disconnected 31 July 2020**
- 3. provide in kind financial assistance to eight (8) effected residents on Black Lead Lane Gulgong up to a total cost of \$5,000 to be funded from Community Grants for the provision of a once only 12,000 litres of water per resident for the fill of water tanks.**

*The motion was put and carried with Councillors voting as follows:*

Councillors	Ayes	Nayes
Cr Kennedy	✓	
Cr Paine	✓	
Cr Holden	✓	
Cr Karavas	✓	
Cr Martens	✓	






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Cr O'Neill	✓
Cr Shelley	✓
Cr Thompson	✓

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**Item 15: Urgent Confidential Business Without Notice**

Nil

**Item 16: Open Council**

208/20

**MOTION: Holden / Martens****That Council move to Open Council.**

Councillor Cavalier and the Chief Financial Officer returned to the Chambers at 5:46pm.

The General Manager announced the decisions taken in Confidential Session.

**Item 17: Closure**

There being no further business the meeting concluded at 5.47pm.

