



## **Minutes of the Ordinary Meeting of Council**

**Wednesday 26 February 2020**

4.00pm

Council Chambers

209 Comur Street, Yass

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## Open Forum

### Presentations to Council – Items on the Meeting Agenda

Item 6.4 DA190192 – Home Industry, 4498 Gundaroo Road, Gundaroo  
**Tim Sides**

### Presentations to Council

Police Presentation – Yass Local Area  
**Sgt Dave Cowell**

**Council Meeting - The Deputy Mayor declared the meeting open at 4.33 pm.**

### Present

Councillors Nathan Furry, Deputy Mayor, in the chair, Cecil Burgess, Geoff Frost, Allison Harker, Jasmin Jones, Michael McManus, Mike Reid and Kim Turner.

Also present were the General Manager – Chris Berry, Acting Director of Planning – Liz Makin, Director of Engineering – Stan Robb, Director of Finance & Corporate – Mark Eady and Corporate Planning & Executive Support Officer – Shirree Garland.

### Acknowledgement of Country

#### 1. Prayer

A minutes silence was observed in respect of the late Sharon Hutch, Council's former General Manager and Director Finance & Corporate.

#### 2. Apologies

***RESOLVED that apologies be received from Councillor Abbey due to her attending Federal Ministerial meetings, and leave of absence be granted.***

***(Turner/McManus) 1***

FOR: Councillors C Burgess, G Frost, N Furry, A Harker, J Jones, M McManus, M Reid and K Turner

AGAINST: Nil

#### 3. Declaration of Interest/Disclosures

**Councillor Harker** declared a significant, non-pecuniary conflict of interest in Item 6.6 2019/0 Community Grants and stated that she believed her interest would preclude her from voting.

**Reason:** Councillor Harker declared an interest as she is a member of the Yass Pony Club.

**Councillor Harker** declared a non-significant, non-pecuniary conflict of interest in Item 7.2 Road Reserve Weed Spraying Trial and stated that she did not believe her interest would preclude her from voting.

**Reason:** Councillor Harker declared an interest as her residence is on one of the trial roads.

**Councillor Jones** declared a non-significant, non-pecuniary conflict of interest in Item 6.1 Department of Education Planning Update and stated that she did not believe her interest would preclude her from voting.

**Reason:** Councillor Jones declared an interest as she has a child at the school, but holds no executive position.

**Councillor Reid** declared a non-significant, non-pecuniary conflict of interest in Item 6.6 2019/20 Community Grants and stated that he did not believe his interest would preclude him from voting.

**Reason:** Councillor Reid declared an interest as he is a member of the Murrumbateman Landcare Group.

**Chris Berry**, General Manager, declared a pecuniary conflict of interest in Items 5.2 and 13.2 Mayoral Minute General Manager Performance Agreement.

**Reason:** Chris Berry declared an interest as the matter for consideration directly relates to the General Manager's position.

#### **4. Confirmation of Minutes**

***RESOLVED that the minutes of the Ordinary Council Meeting held on 18 December 2019 covered by page numbers 1-11 inclusive and resolution numbers 281-304 inclusive, copies of which had been circulated to all Councillors, be taken as read and confirmed.***

**(Jones/Reid) 2**

FOR: Councillors C Burgess, G Frost, N Furry, A Harker, J Jones, M McManus, M Reid and K Turner

AGAINST: Nil

#### **5. Mayoral Minute**

##### **5.1 MAYORAL MINUTE: GENERAL MANAGER PERFORMANCE PANEL**

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#### **SUMMARY**

Presenting a report on the *Guidelines for the Appointment & Oversight of General Managers* and recommend that future performance reviews of the General Manager be undertaken in accordance with the guidelines.

***RESOLVED that the General Manager's Performance Review Panel consist of all Councillors.***

**(Frost/Jones) 3**

FOR: Councillors C Burgess, G Frost, N Furry, A Harker and J Jones

AGAINST: Councillors M McManus, M Reid and K Turner

Foreshadowed Motion

1. The performance review of the General Manager be undertaken in accordance with the Guidelines for the Appointment & Oversight of General Managers (July 2011).
2. A Councillor be nominated for the General Manager Performance Review Panel.

(McManus)

At 04:53 pm General Manager, Chris Berry left the Chambers.

## 5.2 MAYORAL MINUTE: GENERAL MANAGER PERFORMANCE AGREEMENT

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### SUMMARY

To present for consideration a draft General Manager Performance Agreement for the period Oct 2019 to October 2020.

***RESOLVED that this item of the Mayoral Minute: General Manager Performance Agreement be classified as confidential in accordance with s10A(2)(a) Local Government Act 1993 as the information is a personnel matter related to a particular individual.***

(Turner/Harker) 4

FOR: Councillors C Burgess, G Frost, N Furry, A Harker, J Jones, M McManus, M Reid and K Turner

AGAINST: Nil

At 04:54 pm Chris Berry returned to the Chambers.

## 6. Director of Planning Reports

### 6.1 DEPARTMENT OF EDUCATION PLANNING UPDATE

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### SUMMARY

Providing an update on the planning for a school at Murrumbateman and the Yass High Multi-Purpose Indoor Sports Centre.

***RESOLVED that :***

1. The Mayor write to the NSW Minister for Education to request a timeline for the completion of planning for a school at Murrumbateman and the design of the Yass High School Multi - Purpose Indoor Sports Centre, with a commitment to their construction within two years.
2. The Mayor write to the Member for Goulburn to request support to finalise the school planning, design and construction processes.

(Jones/Reid) 5

FOR: Councillors C Burgess, G Frost, N Furry, A Harker, J Jones, M McManus, M Reid and K Turner

AGAINST: Nil

**6.2 DEVELOPMENT CONSENT NO. DA155133E - LAND & ENVIRONMENT COURT  
APPEAL, TRUCK DEPOT, 46 CARRINGTON ROAD, SPRINGRANGE**

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**SUMMARY**

A Class 1 appeal has been lodged in the NSW Land & Environment Court in relation to modification DA155133E which was determined by Council in March 2019. The appeal seeks a merit review of Council's decision to refuse to grant approval to the removal of the condition which restricts the movement of heavy vehicle movements along Carrington Road during the school bus period. In the proceedings the Applicant is seeking an order for the condition to be removed by the Court.

Solicitors and an independent expert has been engaged on behalf of Council. This report presents consideration of the legal and independent expert advice, and seeks direction from Council on the proceedings.

***RESOLVED that this item of the Acting Director Planning's report be classified as CONFIDENTIAL in accordance with Section 10A(2)(g) of the Local Government Act 1993, which permits the meeting to be closed to the public for business relating to advice concerning litigation, or advice that would otherwise be privilege from production in legal proceedings on the ground of legal professional privilege.***

**(Jones/Turner) 6**

FOR: Councillors C Burgess, G Frost, N Furry, A Harker, J Jones, M McManus, M Reid and K Turner

AGAINST: Nil

**6.3 DEVELOPMENT APPLICATION NO DA190179 - HORSE ARENA COVER, MCINTOSH  
CIRCUIT, MURRUMBATEMAN**

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**SUMMARY**

Presenting the assessment of Development Application No DA190179 for the erection of a horse arena cover at McIntosh Circuit, Murrumbateman. The proposal is referred to Council due to the scale of the development and refusal is recommended.

***RESOLVED that Development Application No DA190179 for a horse arena cover at Lot 3 DP1257138, McIntosh Circuit, Murrumbateman be refused on the basis that the scale of the development is inconsistent with that of the locality and the R2 Low Density Residential zoning of the land.***

**(Jones/Turner) 7**

FOR: Councillors C Burgess, G Frost, N Furry, J Jones, M McManus, M Reid and K Turner

AGAINST: Councillor A Harker

#### **6.4 DEVELOPMENT APPLICATION NO. DA190192 - HOME INDUSTRY, 4498 GUNDAROO ROAD, GUNDAROO**

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##### **SUMMARY**

Presenting the assessment of Development Application No DA190192 for a home industry (beer production only) and residential swimming pool at 4498 Gundaroo Road. The application is referred to Council due to the number of submissions received, however the proposal has been significantly amended in response to concerns in the submissions. Approval is recommended following receipt of a satisfactory waste water management report and the response from Transport for NSW.

***RESOLVED that Conditional Development Consent be issued for a home industry (beer production only – no retail) and a swimming pool at 4498 Gundaroo Road, Gundaroo following receipt of a satisfactory waste water management report and the response from Transport for NSW.***

**(Frost/Turner) 8**

FOR: Councillors C Burgess, G Frost, N Furry, A Harker, J Jones, M McManus, M Reid and K Turner

AGAINST: Nil

#### **6.5 DEVELOPMENT APPLICATION NO. DA190204 - STORAGE SHED, 32 LUTE STREET, GUNDAROO**

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##### **SUMMARY**

Presenting the assessment of Development Application DA190204 for the erection of a storage shed at 32 Lute Street, Gundaroo. The proposal is referred to Council as the location of the storage shed is forward of the building line set by the dwelling house and therefore contrary to Council's setback policy. Refusal is recommended.

***RESOLVED that Development Application No DA190204 for a storage shed at 32 Lute Street, Gundaroo be approved.***

**(Burgess/Jones) 9**

FOR: Councillors C Burgess, G Frost, N Furry, A Harker, J Jones, M Reid and K Turner

AGAINST: Councillor M McManus

At 05:10 pm Councillor Harker left the Chambers.

#### **6.6 2019/20 COMMUNITY GRANTS**

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##### **SUMMARY**

Recommending grants to be made through Council's Community Grants Program.



MOTION

1. *The following grants be made under Council's Community Grants Program for expenditure in 2020, subject to incorporation requirements being met:*

| <i>Organisation</i>                     | <i>Grant amount</i> | <i>Purpose</i>  |
|---|---------------------|---|
| <i>Wee Jasper Community Association</i> | <i>\$4,000</i>      | <i>Sanding and sealing of the Wee Jasper Hall dance floor and kitchen floor</i>   |
| <i>Murrumbateman Landcare Group</i>     | <i>\$3,200</i>      | <i>An ecological survey of the Murrumbateman Bush Cemetery, installation of signs showing images of flora and fauna found in the cemetery and small scale re-seeding of specific areas of the cemetery with tube stock.</i> |
| <i>Yass Pony Club</i>                   | <i>\$4,000</i>      | <i>Purchase of 20 portable show-jump wings and flags and a jumps trailer.</i>   |
| <i>Yass Railway Heritage Centre</i>     | <i>\$2,600</i>      | <i>Construction of a replacement roof for a display locomotive.</i>   |

2. *Up to \$4,000 of the 2019/20 Community Grants funding allocation be expended on grants application writing workshops for members of community organisations.*
3. *The Gundaroo Soldiers Memorial Hall Management Committee be invited to submit a budget specification for the proposed lighting and circulation upgrade project, for the 1st round of funding, for consideration at the March 2020 Council meeting.*
4. *A 2<sup>nd</sup> round of the 2019/20 Community Grants funding be opened.*

*(Jones/Frost)*

FOR: Councillors C Burgess, G Frost and J Jones

AGAINST: Councillors N Furry, M McManus, M Reid and K Turner

MOTION LOST

**RESOLVED that :**

1. *The following grants be made under Council's Community Grants Program for expenditure in 2020, subject to incorporation requirements being met:*

| <i>Organisation</i>                     | <i>Grant amount</i> | <i>Purpose</i>  |
|---|---------------------|---|
| <i>Wee Jasper Community Association</i> | <i>\$4,000</i>      | <i>Sanding and sealing of the Wee Jasper Hall dance floor and kitchen floor</i>   |
| <i>Murrumbateman Landcare Group</i>     | <i>\$3,200</i>      | <i>An ecological survey of the Murrumbateman Bush Cemetery, installation of signs showing images of flora and fauna found in the cemetery and small scale re-seeding of specific areas of the cemetery with tube stock.</i> |
| <i>Yass Pony Club</i>                   | <i>\$4,000</i>      | <i>Purchase of 20 portable show-jump wings and flags and a jumps trailer.</i>   |
| <i>Yass Railway Heritage Centre</i>     | <i>\$2,600</i>      | <i>Construction of a replacement roof for a display locomotive.</i>   |

2. *Up to \$4,000 of the 2019/20 Community Grants funding allocation be expended on grants application writing workshops for members of community organisations.*
3. *A 2<sup>nd</sup> round of 2019/20 Community Grants funding be opened following the completion of the grants application writing workshops.*

*(Turner/McManus)* 10

FOR: Councillors C Burgess, G Frost, N Furry, J Jones, M McManus, M Reid and K Turner

AGAINST: Nil

At 05:37 pm Councillor Harker returned to the Chambers.

## **7. Director of Engineering Reports**

### **7.1 SWIMMING POOLS - FREE ENTRY TRIAL**

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#### **SUMMARY**

In December 2019 Council determined to conduct a trial of the Yass and Binalong Pools to allow free entry on days here the expected temperature was 40°C or above. This report presents the outcomes of this trial.

#### **RESOLVED that :**

1. *The additional impact on 2019/20 operational cost associated with the operation of the Yass and Binalong pools as a result of the 'free entry' trial in December 2019 and January 2020 be noted.*
2. *The application of 'free entry' days to the Yass and Binalong pools be considered as part of the 2020/21 budget deliberations, subject to:*
  - a. *Free entry to Yass and Binalong pools be restricted to residents and ratepayers of Yass Valley Local Government Area except those days where wider natural disasters (such as bushfires) occur.*
  - b. *The number of 'free entry' days be restricted to a maximum of 10 per season, with no more than five in any given month.*
  - c. *No refunds or further rebates being provided to season ticket holders for any given 'free entry' days.*

*(Jones/McManus)*11

FOR: Councillors C Burgess, N Furry, A Harker, J Jones, M McManus, M Reid and K Turner

AGAINST: Councillor G Frost

## 7.2 ROAD RESERVE WEED SPRAYING TRIAL

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### SUMMARY

This report is to present a proposed road reserve priority weed spraying trial on selected roads within Yass Valley with the view to consider expanding this program as part of the 2020/21 budget considerations.

#### **RESOLVED that :**

- 1. \$50,000 be allocated from the 2019/20 roads maintenance budget to undertake a limited targeted weed spraying trial along selected sealed roads.**
- 2. Funding of \$200,000 to undertake a program of maintenance works associated with the spraying of priority weeds along Council managed and maintained road reserves be considered in the 2020/21 Budget deliberations.**

**(Turner/McManus) 12**

FOR: Councillors C Burgess, G Frost, N Furry, A Harker, J Jones, M McManus, M Reid and K Turner

AGAINST: Nil

## 7.3 DRAFT WATER RESTRICTIONS POLICY

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### SUMMARY

In November 2019 Council determined to place a draft *Water Restrictions Policy* on public exhibition and adopted if no significant submissions were made. Three submissions have been received.

**RESOLVED that the item be deferred to a Councillor Workshop to review the draft Water Supply Restriction Policy.**

**(Frost/McManus) 13**

FOR: Councillors C Burgess, G Frost, N Furry, A Harker, J Jones, M McManus, M Reid and K Turner

AGAINST: Nil

## **8. Director of Finance & Corporate Reports**

### **8.1 DRAFT UNREASONABLE CONDUCT BY CUSTOMER POLICY**

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#### **SUMMARY**

In November 2019, Council determined to place a draft *Unreasonable Conduct by Customer Policy* on public exhibition and adopt it if no significant submissions were made. One submission was received.

***RESOLVED that CA-POL-05 Unreasonable Conduct by Customer Policy be adopted as exhibited.***

***(Burgess/Reid) 14***

FOR: Councillors C Burgess, G Frost, N Furry, A Harker, J Jones, M McManus, M Reid and K Turner

AGAINST: Nil

### **8.2 INVESTMENT AND BORROWINGS REPORT**

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#### **SUMMARY**

In accordance with Clause 212 *Local Government (General) Regulation 2005*, this report provides a summary of Council's investments as at 31 January 2020. In accordance with paragraph (1)(b), it can be certified that the investments listed have been made in accordance with the Act, the Regulations and Council's Investment Policy.

***RESOLVED that Investment Report as at 31 January 2020 be received and it be noted that the summary has been prepared in accordance with the Act, the Regulations and Council's Investment Policy.***

***(Frost/Harker) 15***

FOR: Councillors C Burgess, G Frost, N Furry, A Harker, J Jones, M McManus, M Reid and K Turner

AGAINST: Nil

### **8.3 RATE ARREARS**

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#### **SUMMARY**

To update Council on rate arrears to the end of the second quarter of the 2019/20 financial year.

Rate arrears totalled \$1,289,675.96 as at 30 June 2019 and this has now been reduced to \$540,578.36 as of 31 December 2019. This represents an improvement of \$749,097.60 or 58.08%.

***RESOLVED that the report on rate arrears be noted.***

***(Turner/Reid) 16***

FOR: Councillors C Burgess, G Frost, N Furry, A Harker, J Jones, M McManus, M Reid and K Turner

AGAINST: Nil

#### **8.4 SIX MONTHLY REPORTING ON THE 2017/18- 2020/21 DELIVERY PROGRAM AND 2019/2020 OPERATIONAL PLAN**

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##### **SUMMARY**

In line with the Integrated Planning and Reporting Framework, Council is required to prepare every six months, a report on progress against the actions and activities identified in its Delivery Program and Operational Plan. This report contains the status of actions and activities undertaken for the period 1 July 2019 to 31 December 2020. This report will be placed on Council's website.

***RESOLVED that the six monthly Progress Report for the 2017/18 – 2020/21 Delivery Program and 2019/20 Operational Plan for period 1 July 2020 to 31 December 2020 be noted.***

***(Turner/Jones) 17***

FOR: Councillors C Burgess, G Frost, N Furry, A Harker, J Jones, M McManus, M Reid and K Turner

AGAINST: Nil

#### **8.5 2ND QUARTER BUDGET REVIEW 2019/20**

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##### **SUMMARY**

This report represents the 2nd Quarterly Budget Review Statement (QBRS) for the period 1 October 2019 to 31 December 2019 in the financial year ending 30 June 2020.

***RESOLVED that :***

- 1. The 2<sup>nd</sup> Quarterly Budget Review Statement adjustments as detailed in the attachments be adopted and the relevant income and expenditure budget adjustments be approved.***
- 2. In accordance with Clause 203 (2)(a) Local Government (General) Regulation, Council's financial position as at 31 December 2019 is satisfactory, having regard to revised projected estimates of income and expenditure, and the original budgeted income and expenditure.***

***(Burgess/Reid) 18***

FOR: Councillors C Burgess, G Frost, N Furry, A Harker, J Jones, M McManus, M Reid and K Turner

AGAINST: Nil

## **9. General Manager Reports**

### **9.1 INDEPENDENT OMBUDSMAN**

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#### **SUMMARY**

Presenting a report seeking clarification on the terms of reference for the engagement of an Independent Ombudsman service to review several unresolved complaints.

#### **RESOLVED that :**

- 1. *It be noted the Independent Ombudsman Service was identified as a process to enable the Smiths to air what they considered to be their outstanding complaints to a third party and at arm's length from Council and staff.***
- 2. *It be noted the Council decision in August 2019 was to engage an independent ombudsman service to review the complaints raised by the Smiths in respect of matters not relating to the Liberty Theatre referred to (but not detailed) in the Probity Report (noting that not every matter will be suitable for review due to the age of the underlying incidents, or because relevant staff are no longer employed by Council, or where the prospect of remedy is unavailable or unlikely in all the circumstances).***
- 3. *It be noted that the decision in August 2019 was not an open ended decision for an independent service for every past, existing and future complaint by the Smiths.***
- 4. *The engagement of Centium to undertake the independent ombudsman service be endorsed subject to any interview with the Smiths being conducted by their staff who have not been exposed to the background information provided by Council staff.***
- 5. *If the above arrangements are not suitable to the Smiths then:***
  - *The Independent Ombudsman Service be abandoned, and***
  - *The Smiths be advised that if they continue to be dissatisfied with the responses received from Council on any of their concerns they should refer to matters to the appropriate oversight organisation for Local Government (eg NSW Ombudsman, ICAC, Office of Local Government).***

**(Jones/Frost) 19**

FOR: Councillors C Burgess, G Frost, N Furry, J Jones, and K Turner

AGAINST: Councillors A Harker, McManus and M Reid

### **9.2 INFRASTRUCTURE PLANNING PRIORITIES**

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#### **SUMMARY**

To present the initial infrastructure priorities discussed at recent Councillor Workshops for endorsement.

#### **RESOLVED that :**

- 1. *The following infrastructure priorities be endorsed:***
  - *Council Administration Complex, library and commercial space***
  - *Yass War Memorial Swimming Pool redevelopments***

- *Murrumbateman Community Hall*
  - *Amenities at the Yass Pool/Skate Park, Murrumbateman and Yass CBDs*
  - *New Companion Animals Facility*
  - *Parks and playgrounds upgrades*
  - *Bike park, Adventure Playground and Yass River activation*
  - *Memorial Hall*
  - *Murrumbateman Dog Park*
2. *\$250,000 from the Property Reserve be considered as part of the 2020/21 Operational Plan and budget process for the preparation of plans for the Council Administration Complex, Yass Swimming Pool upgrade and Murrumbateman Community Hall.*
  3. *Toilet amenities at the Yass Swimming Pool/Skate park and Murrumbateman and a new dog park at Murrumbateman be considered as part of the 2020/21 Capital Works Program.*
  4. *Strategic planning work be undertaken in 2020/21 for leisure infrastructure across whole of Yass Valley including an adventure playground, bike park, parks and playground facilities.*
  5. *Investigations be undertaken in 2020/21 into the use of Crown Land in Murrumbateman and near the Yass Dam for parklands.*
  6. *A further report be presented to a future Council meeting reviewing the operational and strategic needs of Council land.*

(Jones/Frost) 20

FOR: Councillors C Burgess, G Frost, N Furry, A Harker, J Jones, M McManus, M Reid and K Turner

AGAINST: Nil

### 9.3 ORGANISATIONAL REALIGNMENT

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#### SUMMARY

Presenting a proposed realignment of the organisational structure to reflect recent Council decisions.

#### **RESOLVED that :**

1. *A three divisional structure headed by three Directors continue.*
2. *The revised organisational structure be endorsed with the Library and Economic Development and Tourism being moved into the Corporate & Community Directorate.*
3. *All Directors continue to be classified as 'Senior Staff' positions and employed on performance based contracts on the minimum remuneration package as specified under s332 Local Government Act 1993.*
4. *The position of Director Finance and Corporate Services be renamed Director Corporate & Community.*
5. *The position of Director Engineering be renamed Director Infrastructure & Assets.*
6. *The position of Director Planning be renamed Director Planning & Environment.*

(Harker/Reid) 21

FOR: Councillors C Burgess, G Frost, N Furry, A Harker, J Jones, M McManus, M Reid and K Turner

AGAINST: Nil

#### **9.4 PETITION - PROPOSED DISTILLERY, WEE JASPER**

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##### **SUMMARY**

Tabling a petition lodged requesting Council to review the Development Application for a proposed distillery so that the iconic views and access to Wee Jasper General Store, the fuel forecourt and parking arrangements be preserved.

***RESOLVED that the tabled petition on the Development Application for a proposed distillery in Wee Jasper be noted.***

**(Frost/Turner) 22**

FOR: Councillors C Burgess, G Frost, N Furry, A Harker, J Jones, M McManus, M Reid and K Turner

AGAINST: Nil

#### **10. Notice of Motion**

Nil

#### **11. Questions with Notice**

Nil

#### **12. Minutes and Recommendations of Council Committees**

##### **12.1 MINUTES OF THE LOCAL EMERGENCY MANAGEMENT COMMITTEE AND RESCUE COMMITTEE MEETINGS**

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***RESOLVED that the minutes of the Local Emergency Management Committee and Rescue Committee meetings held on 4 February 2020 be noted.***

**(Reid/Frost) 23**

FOR: Councillors C Burgess, G Frost, N Furry, A Harker, J Jones, M McManus, M Reid and K Turner

AGAINST: Nil



## 12.2 MINUTES OF THE TRAFFIC COMMITTEE MEETING HELD ON 5 FEBRUARY 2020

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**RESOLVED** that the minutes of the Traffic Committee meeting held on 5 February 2020 be noted and the following recommendation be endorsed:

**Item 7.2 Request for Additional Parking Signs from the Yass office of NSW Fire and Rescue**

**That the request from the Yass office of NSW Fires and Rescue to install an additional parking restriction sign (Meehan Street) to improve access to their facility be approved.**

**Jones/Harker) 24**

FOR: Councillors C Burgess, G Frost, N Furry, A Harker, J Jones, M McManus, M Reid and K Turner

AGAINST: Nil

## **13. Confidential Matters**

**RESOLVED** that pursuant to Section 10A of the Local Government Act, 1993 the following items on the agenda be classified as **CONFIDENTIAL** and considered in the Closed Meeting of Council in accordance with Section 10A(2) of the Local Government Act for the reasons as specified:

**13.1 Development Consent No DA155133E - Land and Environment Court Appeal - Truck Depot - 46 Carrington Road, Springrange**

**Item 13.1 is confidential in accordance with section s10(A)(2)(g) of the Local Government Act because it contains advice concerning litigation, or advice that would otherwise be privileged from production in legal proceedings on the ground of legal professional privilege and discussion of the matter in an open meeting would be, on balance, contrary to the public interest.**

**13.2 Mayoral Minute: General Manager Performance Agreement**

**Item 13.2 is confidential in accordance with section s10(A)(2)(a) of the Local Government Act because it contains personnel matters concerning particular individuals (other than councillors) and discussion of the matter in an open meeting would be, on balance, contrary to the public interest.**

**(McManus/Jones) 25**

FOR: Councillors C Burgess, G Frost, N Furry, A Harker, J Jones, M McManus, M Reid and K Turner

AGAINST: Nil

At 7.01 pm Councillor Harker left the Meeting.

Closed Council commenced at 7.01 pm.

### **13.1 DEVELOPMENT CONSENT NO DA155133E - LAND AND ENVIRONMENT COURT APPEAL - TRUCK DEPOT - 46 CARRINGTON ROAD, SPRINGRANGE**

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#### **SUMMARY**

A Class 1 appeal has been lodged in the Land & Environment Court in relation to modification DA155133E which was determined by Council in March 2019. The appeal seeks a merit review of Council's decision to refuse to grant approval to the removal of the condition which restricts the movement of heavy vehicle movements along Carrington Road during the school bus period. In the proceedings the Applicant is seeking an order for the condition to be removed by the Court.

Solicitors and an independent expert has been engaged on behalf of Council. This report presents consideration of the legal and independent expert advice, and seeks direction from Council on the proceedings.

It is recommended that Council provide delegation to planning staff to participate in a Conciliation Conference and negotiate a reduced restriction period, but if the Applicant does not accept, that the matter should proceed to a Hearing in order to settle it conclusively.

#### **RESOLVED that:**

- 1. Staff be delegated authority to participate in the Conciliation Conference in relation to appeal DA155133E and negotiate per the following approach:**
  - **Firstly seek to retain the current condition in its present form**
  - **If there is no movement from the Applicant, a reduced restriction duration for morning and afternoon be put forward**
- 2. If an outcome is not negotiated at the Conciliation Conference the matter proceeds to Hearing.**

**(Jones/Frost) 26**

FOR: Councillors C Burgess, G Frost, N Furry, J Jones, M McManus, M Reid and K Turner

AGAINST: Nil

At 7.23 pm Councillor Reid left the meeting.

### **13.2 MAYORAL MINUTE: GENERAL MANAGER PERFORMANCE AGREEMENT**

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#### **SUMMARY**

Presenting for consideration a draft General Manager Performance Agreement for the period Oct 2019 to October 2020.

**RESOLVED that the General Manager Performance Agreement be endorsed for the period October 2019 to October 2020.**

**(Turner/Frost) 27**

FOR: Councillors C Burgess, G Frost, N Furry, J Jones, M McManus and K Turner

AGAINST: Nil

***RESOLVED that the meeting move into Open Council.***

***(Burgess/McManus) 28***

FOR: Councillors C Burgess, G Frost, N Furry, J Jones, M McManus and K Turner

AGAINST: Nil

Open Council resumed at 7.24 pm.

***RESOLVED that the recommendations in Closed Council be adopted.***

***(McManus/Burgess) 29***

FOR: Councillors C Burgess, G Frost, N Furry, J Jones, M McManus and K Turner

AGAINST: Nil

The meeting closed at 7.25 pm.

Nathan Furry  
**Deputy Mayor**