PRESENT: Cr M.L. Rush, Cr M. Bowditch, Cr J.F. Eades, Cr M.I. Green, Cr J.L. Ledlin, Cr

G.T. McNeill, Cr S.M. Reynolds, Cr S.J. Ward and Cr B.N. Woodruff.

IN ATTENDANCE: Ms F. Plesman (General Manager), Mr D. Finnigan (Director - Community

Infrastructure), Ms C. O'Brien (Acting Director – Planning & Community Services), Ms G. Bobsien (Executive Manager – Economic Development & Innovation), Ms N. Cowley (Executive Manager – Officer of the Chief Financial Officer), Ms S. Pope (Assistant Director – Planning & Community Services), Mr M. Lysaught (Manager – Works, Property & Building Services), Mr H. McTaggart (Development Co-Ordinator), Mr A. Willis (Corporate Lawyer), Mr A. Mitreski (Policy Officer), Mrs M. Sandell-Hay (PA to General Manager), Miss M. Meadows (Administration Officer), 12 people in the public gallery and 1 media

representative.

1 ACKNOWLEDGEMENT OF COUNTRY

The Acknowledgement of Country was read by the General Manager.

2 CIVIC PRAYER

The Civic Prayer was read by the Mayor.

3 APOLOGIES AND LEAVE OF ABSENCE

264 RESOLVED on the motion of Crs Woodruff and Reynolds that:

The apologies for inability to attend the meeting submitted by Cr. J. Foy, Cr. R. Scholes and Cr. S. Bailey be ACCEPTED and the necessary Leave of Absence be GRANTED.

4 CONFIRMATION OF MINUTES OF PREVIOUS MEETING

265 RESOLVED on the motion of Crs Woodruff and Reynolds that:

The Minutes of the Ordinary Meeting held on 12 March 2019, a copy of which has been distributed to all members, be taken as read and confirmed as a true record.

5 DISCLOSURE OF ANY PECUNIARY AND NON PECUNIARY INTEREST

- **Cr M. Bowditch** Declared a non-pecuniary interest in Item 13.1. Cr Bowditch advised that his brother is employed at Mangoola.
- **Cr M**. **Bowditch** Declared a pecuniary interest in Item 13.2. Cr Bowditch advised that he works for a company subcontracted to Mt Pleasant.
- **Cr M**. **Bowditch** Declared a pecuniary interest in Item 19.3. Cr Bowditch advised Council that he works for a company subcontracted to Mt Arthur.
- **Cr M. Bowditch** Declared a pecuniary interest in Item 19.6. Cr Bowditch advised that he works for the company that subcontracts to the Companies mentioned in the report.
- **Cr J. Eades** Declared a pecuniary interest in Item 12.7. Cr Eades advised that she works for a company that is asking to be funded under the My Community Projects.

- **Cr M. Green** Declared a pecuniary interest in item 13.5. Cr Green advised that Bengalla Mine is her place of employment.
- **Cr M. Green** Declared a pecuniary interest in item 19.3. Cr Green advised that her husband is employed by BHP Mt Arthur Coal.
- **Cr M. Green** Declared a pecuniary interest in item 19.6. Cr Green advised that her husband is employed by one of the employees involved in legal action.
- **Cr S. Reynolds** Declared a non-pecuniary interest in item 13.1. Cr Reynolds advised that his brother is employed by Mangoola Coal.
- **Cr S. Reynolds** Declared a non-pecuniary interest in item 13.2. Cr Reynolds advised that a close friend is an employee of Mt Pleasant Mine.
- **Cr S. Reynolds** Declared a non-pecuniary interest in item 13.5. Cr Reynolds advised that his nephew received a scholarship on his own academic merit from Bengalla Mine.
- **Cr S. Reynolds** Declared a pecuniary interest in item 19.3. Cr Reynolds advised that he has current court proceedings with the current applicant.
- **Cr S. Reynolds** Declared a pecuniary interest in item 19.6. Cr Reynolds advised that he has current court proceedings with a proposed defendant.

6 PUBLIC PARTICIPATION

- Margaret Morgan Item 10.1 DA 72/2003— Section 4.55(2) Modification Alter Hours Of Operation Of Restaurant Drive — Thru (McDonalds) in objection
- **Granville Taylor** Item 10.1 DA 72/2003— Section 4.55(2) Modification Alter Hours Of Operation Of Restaurant Drive Thru (McDonalds) in objection
- Phil Wilson, Benjamin Young and Michelle Welsh Item 10.1 DA 72/2003— Section 4.55(2) Modification Alter Hours Of Operation Of Restaurant Drive Thru (McDonalds) in Support
- Graeme McNeill Lorne Street Trees

7 MAYORAL MINUTES

Nil

8 BUSINESS ARISING

Nil

9 GENERAL BUSINESS

Nil

10 ENVIRONMENTAL SERVICES

10.1 DA 72/2003 SECTION 4.55(2) MODIFICATION - ALTER HOURS OF OPERATION OF RESTAURANT DRIVE-THRU (MCDONALDS)

RESOLVED on the motion of Crs Rush and Reynolds that:

Council grant approval to the modification of the DA 72/2003 to allow drive-thru trading to commence at 5:00am on a daily basis for a 1 year trial period in accordance with the modified conditions of consent put forward in Attachment B subject to the following amendments:

Amend condition 1.11a as follows:

* The inclusion of a new requirement as 1.11A(a)(iv) to read as follows:

Litter patrols are to be carried out on the western side of the new England Highway adjacent to the site and on both sides of the new England Highway following the commission of the Thompson Street/New England Highway signals.

* Adjusting the wording from the paragraph below 1.11(a)(iii) to reference 1.11A(a)(iv)

The inclusion of a new condition 1.11A(d)

Within three (3) months of the date of this approval, the person acting with this consent shall prepare and submit to Council's satisfaction for approval, a waste minimisation action plan in relation to the premises. The plan must be prepared in accordance with provisions of section 24 of the Muswellbrook Development Control Plan that relate to waste management and recycling for commercial developments. At all times the person acting with this consent must carry out the development in accordance with the requirements of the approved waste minimisation and management plan.

The inclusion of a new condition 1.11A(e)

Within three (3) months of the date of this approval the person acting on this consent shall prepare and submit to Council's satisfaction a local resident signage plan in an effort to inform customers of the impact that traffic has on the local residential neighbourhood. The person acting with this consent must consult local residents through the preparation of the plan. The person acting with this consent must comply with the recommendations of this plan and install all required signage.

The inclusion of a new condition 1.11A(f)

In addition to the requirements of Condition 1.11A(a) the management plan is to be amended to require lights at the premises other than security lights to be turned off each night at the close of business and the person acting with this consent is to ensure that the premises is operated in accordance with this requirement at all times.

The inclusion of a new condition 1.11A(g)

In addition to the requirements of Condition 1.11A(a) to the extent the Management Plan does not require noise from an antenna to be managed in the drive thru that the management plan be amended to manage antenna noise and all measures put forward for management of this noise source implemented by the person acting with this consent.

Consen

In Favour:

Crs M. Bowditch, J. Eades, M. Green, J. Ledlin, S. Reynolds, M. Rush, S. Ward and

B. Woodruff.

Against: Cr G. McNeill.

10.2 DA 18/2018 - HUNTER WINERIES

267 RESOLVED on the motion of Crs Woodruff and Ward that:

Council approves Development Application No. 18/2018, for a water treatment and recycling plant ancillary to the existing winery and distillery on Lot 1 DP 995228 Hunter Street, Muswellbrook, subject to the conditions in Appendix B subject to the following condition being amended

(2) scope of approved development and inconsistencies with DA 239/2002

This Notice of Determination grants consent for the works specified in the plans referenced in condition 1 and the operation of the waste treatment and re-use plant as set-out in the statement of environmental effects. All other aspects of the operation of the premises are to remain in accordance with the conditions of consent for DA 239/2002, and any other relevant development consents issued by Council in relation to the site. The conditions of consent associated with DA 18/2018 prevail over any inconsistencies with conditions of consent associated with DA 239/2002 and any other development consents issued for the site.

In Favour: Crs M. Bowditch, J. Eades, M. Green, J. Ledlin, G. McNeill, S. Reynolds, M. Rush,

S. Ward and B. Woodruff.

Against: Nil.

10.3 DA 107/2018 - STORAGE PREMISES (INDUSTRIAL PLANT AND EQUIPMENT) - 11 ENTERPRISE CRESCENT, MUSWELLBROOK

268 RESOLVED on the motion of Crs Reynolds and Woodruff that:

Council approve Development Application No. 107/2018, for a storage premises (Industrial Plant and Equipment) at Lot 4 DP 1119843, subject to the recommended conditions of consent contained Attachment B of this Report.

In Favour: Crs M. Bowditch, J. Eades, M. Green, J. Ledlin, G. McNeill, S. Reynolds, M. Rush,

S. Ward and B. Woodruff.

Against: Nil.

10.4 DA 108/2018 - STORAGE PREMISES (INDUSTRIAL PLANT AND EQUIPMENT) - 9 ENTERPRISE CRESCENT, MUSWELLBROOK

269 RESOLVED on the motion of Crs Reynolds and Woodruff that:

Council approve Development Application No. 108/2018, involving a storage premises (Industrial Plant and Equipment) at Lot 3 DP 1119843, subject to the recommended conditions of consent contained Attachment B of this Report.

In Favour: Crs M. Bowditch, J. Eades, M. Green, J. Ledlin, G. McNeill, S. Reynolds, M. Rush,

S. Ward and B. Woodruff.

Against: Nil.

10.5 DA 116/2018 - DWELLING HOUSE AND ANCILLARY DEVELOPMENT (GARAGE, SWIMMING POOL, TENNIS COURT AND PERGOLA) - 3679 BYLONG VALLEY WAY, BAERAMI

270 RESOLVED on the motion of Crs Woodruff and Green that:

Development Application No. 116/2018, involving the erection of a dwelling house and ancillary development (garage, swimming pool, tennis court and pergola) at, Lot 8 & 109 DP 755437 known as 3679 Bylong Valley Way, Baerami, be approved subject to the recommended conditions contained in Appendix B.

In Favour: Crs M. Bowditch, J. Eades, M. Green, J. Ledlin, G. McNeill, S. Reynolds, M. Rush,

S. Ward and B. Woodruff.

Against: Nil.

11 COMMUNITY INFRASTRUCTURE

Nil

12 CORPORATE AND COMMUNITY SERVICES

12.1 2019/2020 OPERATIONAL PLAN ADOPTION SCHEDULE

271 RESOLVED on the motion of Crs Woodruff and Green that:

Extra-Ordinary meetings of Council be held on 21 May 2019 and 26 June 2019 to consider the 2019/2020 Operational Plan (including the Revenue Policy, Budget and Fees and Charges).

12.2 NEW POLICY AND PROCEDURE ON THE EMPLOYMENT OF RELATIVES

272 RESOLVED on the motion of Crs Woodruff and Ledlin that:

Council endorses the Employment of Relatives Policy and Procedure for public exhibition for a period of 28 days.

12.3 POLICY UPDATE - STAFF HOUSING ASSISTANCE POLICY AND RECORDS MANAGEMENT POLICY

273 RESOLVED on the motion of Crs Ledlin and Green that:

Council adopts the Staff Housing Assistance Policy and Records Management Policy.

12.4 RENEWAL OF ALCOHOL FREE ZONES

274 RESOLVED on the motion of Crs McNeill and Ledlin that:

Council ADOPT the continuation of the current Alcohol Free Zones as attached in Appendix A and B.

12.5 DIRECTOR'S REPORT - ENVIRONMENT AND COMMUNITY SERVICES

275 RESOLVED on the motion of Crs Ledlin and Reynolds that:

The information contained in this report be noted.

12.6 AQUATIC CENTRE OPERATIONAL BUDGET

276 RESOLVED on the motion of Crs Rush and Woodruff that:

Council ENDORSE an increased budget allocation of \$87,850 from the Waste Fund Reserve.

12.7 MY COMMUNITY PROJECTS PROPOSALS

Disclosure of Interest

Cr J. Eades declared a pecuniary interest in this Item. Cr Eades advised Council that she works for a company that is asking to be funded under the My Community Projects.

At 7.13pm Cr Janelle Eades left the Council Chambers and therefore took no part in discussion or voting on this item left the Council Chambers.

277 RESOLVED on the motion of Crs Woodruff and Green that:

Council approves sponsorship of the project proposals identified in the report.

At 7.13pm Cr Eades returned to the Council Chambers.

13 REPORTS FROM COMMITTEES

13.1 MANGOOLA COAL COMMUNITY FUNDING INVESTMENT COMMITTEE - 12/03/2019

Disclosure of interest

Cr S. Reynolds declared a non-pecuniary interest in this item. Cr Reynolds advised Council that his brother is employed by Mangoola Coal.

Cr M. Bowditch declared a non-pecuniary interest in this Item. Cr Bowditch advised Council that his brother is employed at Mangoola.

At 07:13pm Cr Steven Reynolds and Cr Mark Bowditch left the Council Chambers and therefore took no part in discussion or voting on this item.

278 RESOLVED on the motion of Crs Ward and Ledlin that:

The Minutes of the Mangoola Coal Community Funding Investment Committee Meeting held on Tuesday 12 March 2019 be received and the recommendations contained therein ADOPTED.

13.2 MT PLEASANT COMMUNITY FUNDING INVESTMENT COMMITTEE - 18/03/2019

Disclosure of interest

- Cr S. Reynolds declared a non-pecuniary interest in this item. Cr Reynolds advised Council that a close friend is an employee of Mt Pleasant Mine.
- Cr M. Bowditch declared a pecuniary interest in this Item. Cr Bowditch advised Council that he works for a company subcontracted to Mt Pleasant.

Crs Reynolds remained absent from the Room and therefore took no part in discussion or voting on this item.

279 RESOLVED on the motion of Crs Woodruff and Green that:

The Minutes of the Mt Pleasant Community Funding Investment Committee Meeting held on Monday 18 March 2019 be received and the recommendations contained therein ADOPTED.

At 7.14pm Crs Bowditch and Reynolds returned to the Council Chamber.

13.3 ABORIGINAL RECONCILIATION COMMITTEE - 19/03/2019

280 RESOLVED on the motion of Crs Ledlin and McNeill that:

The minutes for the Aboriginal Reconciliation Committee meeting held on Tuesday 19 March 2019 be NOTED.

13.4 DEVELOPMENT ASSESSMENT COMMITTEE - 25/03/2019

281 RESOLVED on the motion of Crs Woodruff and Rush that:

The Minutes of the Development Assessment Committee Meeting held on Monday 25 March 2019 be received and the recommendations contained therein ADOPTED.

13.5 BENGALLA MINING COMPANY COMMUNITY FUNDING INVESTMENT COMMITTEE - 26/03/2019

Disclosure of interest

- **Cr M. Green** declared a pecuniary interest in this item. Cr Green advised Council that Bengalla Mine is her place of employment
- **Cr S. Reynolds** declared a non-pecuniary interest in this item. Cr Reynolds advised Council that his nephew received a scholarship on his own academic merit from Bengalla Mine.
- At 7.15pm Cr Michelle Green and Cr Steven Reynolds left the Council Chambers and therefore took no part in discussion or voting on this item.
- 282 RESOLVED on the motion of Crs Eades and Ledlin that:

The Minutes of the Bengalla Mining Company Community Funding Investment Committee Meeting held on Tuesday 26 March 2019 be received and the recommendations contained therein ADOPTED.

At 7.16pm Cr Michelle and Cr Reynolds returned to Council Chambers.

13.6 CORPORATE POLICY AND PLANNING COMMITTEE - 27/03/2019

283 RESOLVED on the motion of Crs Woodruff and Bowditch that:

The Record of Proceedings of the Corporate Policy And Planning Committee Meeting held on Wednesday 27 March 2019 be received and the recommendations contained therein ADOPTED.

14 NOTICES OF MOTION / RESCISSION

Nil

15 QUESTIONS WITH NOTICE

Nil

16 COUNCILLORS REPORTS

16.1 ABORIGINAL RECONCILIATION COMMITTEE APPRECIATION

Cr Ledlin advised that at the recent Aboriginal Reconciliation Committee members discussed the involvement of the Aboriginal Community in the Australia Day events which included recognition of Aboriginal History and how welcome and comfortable they were in attending the events that were held. Cr Ledlin advised that the Committee and asked that their appreciation be passed on to Councillors, Staff and the Australia Day Committee

16.2 MUSWELLBROOK CUP 2019

Cr Reynolds advised Council that he attended the Muswellbrook Cup and congratulated everyone involved in changing the date of this important racing event in the Shire. Cr Reynolds also advised Council that this had been well received by the community and public in general.

17 QUESTIONS FOR NEXT MEETING

17.1 ROAD SUBSIDENCE - OGILVIE STREET, DENMAN

Cr Woodruff advised Council that he had recently submitted a works request for subsidence of the roadway in Ogilvie Street, Denman in front of IGA Denman.

17.2 COMPREHENSIVE OPERATIONAL PLAN

Cr McNeill advised that it would valuable to have a comprehensive report on the operational plan including a column on the right indicating funding and inquired whether this could be provided?

18 ADJOURNMENT INTO CLOSED COUNCIL

284 RESOLVED on the motion of Crs Woodruff and Reynolds 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 following provisions:

19.1 ACQUISITION AND DISPOSAL OF ASSETS

Item 19.1 is classified CONFIDENTIAL under the provisions of Section10A(2)(c) of the local government act 1993, as it deals with information that would, if disclosed, confer a commercial advantage on a person with whom the council is conducting (or proposes to conduct) business, and Council considers that discussion of the matter in an open meeting would be, on balance, contrary to the public interest.

19.2 AWARD OF CONTRACT NO 2018-2019-0356 C - REPLACEMENT OF ROOF, LADDERS AND INTERNAL COATING OF RESERVOIR NO 5 AT MUSWELLBROOK

Item 19.2 is classified CONFIDENTIAL under the provisions of Section10A(2)(c) of the local government act 1993, as it deals with information that would, if disclosed, confer a commercial advantage on a person with whom the council is conducting (or proposes to conduct) business, and Council considers that discussion of the matter in an open meeting would be, on balance, contrary to the public interest.

19.3 EDDERTON ROAD DESIGN FOR STAGE 1 TEMPORARY ROAD PORTION CONSTRUCTION WORKS

Item 19.3 is classified CONFIDENTIAL under the provisions of Section10A(2)(f) of the local government act 1993, as it deals with details of systems and/or arrangements that have been implemented to protect council, councillors, staff and council property, and Council considers that discussion of the matter in an open meeting would be, on balance, contrary to the public interest.

19.4 HUNTER RIVER - FLOOD RISK MANAGEMENT STUDY AND PLAN - FLOOD MODEL REVISION REPORT

Item 19.4 is classified CONFIDENTIAL under the provisions of Section10A(2)(c) of the local government act 1993, as it deals with information that would, if disclosed, confer a commercial advantage on a person with whom the council is conducting (or proposes to conduct) business, and Council considers that discussion of the matter in an open meeting would be, on balance, contrary to the public interest.

19.5 DRAFT ANIMAL CARE FACILITY BUSINESS PLAN 2019/21

Item 19.5 is classified CONFIDENTIAL under the provisions of Section10A(2)(c) of the local government act 1993, as it deals with information that would, if disclosed, confer a commercial advantage on a person with whom the council is conducting (or proposes to conduct) business, and Council considers that discussion of the matter in an open meeting would be, on balance, contrary to the public interest.

19.6 REQUEST TO INCREASE THE 18-19 BUDGET FOR LEGAL FEES

Item 19.6 is classified CONFIDENTIAL under the provisions of Section10A(2)(g) of the local government act 1993, as it deals with 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, and Council considers that discussion of the matter in an open meeting would be, on balance, contrary to the public interest.

19 CLOSED COUNCIL

19.1 ACQUISITION AND DISPOSAL OF ASSETS

285 RESOLVED on the motion of Crs Rush and Woodruff that:

Council sell the property identified in the report as number 4, subject to a sale price within or above the market appraisal range.

19.2 AWARD OF CONTRACT NO 2018-2019-0356 C - REPLACEMENT OF ROOF, LADDERS AND INTERNAL COATING OF RESERVOIR NO 5 AT MUSWELLBROOK

286 RESOLVED on the motion of Crs Woodruff and Bowditch that:

Council

- Approves the acceptance of the tender submitted by Geelong Abrasive Blasting Pty Ltd, in the amount of \$1,040,004 (excl. GST provisional sums and Contingencies) for the Replacement of Roof, Ladders and Internal Coating of reservoir No 5, Muswellbrook, Contract 2018-2019-0356 C;
- 2. Approves the contingency provision allocation as detailed in the report to cover provisional sums and possible variations.

19.3 EDDERTON ROAD DESIGN FOR STAGE 1 TEMPORARY ROAD PORTION CONSTRUCTION WORKS

Disclosure of interest

Cr M. **Bowditch** declared a pecuniary interest in this Item. Cr Bowditch advised Council that he works for a company subcontracted to Mt Arthur.

Cr M. Green declared a pecuniary interest in this Item. Cr Green advised Council that her husband is employed by BHP Mt Arthur Coal.

Cr S. Reynolds declared a pecuniary interest in this Item. Cr Reynolds advised Council that he has current court proceedings with the applicant.

At 7.21pm Cr Mark Bowditch, Cr Michelle Green and Cr Steven Reynolds left the Council Chambers and therefore took no part in discussion or voting on this item.

At 7.22pm Cr Mark Bowditch, Cr Michelle Green and Cr Steven Reynolds returned to Council Chambers.

PROCEDURAL MOTION

287 RESOLVED on the motion of Crs Rush and Ward that:

Authority be delegated to the General Manager to determine this matter.

19.4 HUNTER RIVER - FLOOD RISK MANAGEMENT STUDY AND PLAN - FLOOD MODEL REVISION REPORT

288 RESOLVED on the motion of Crs Ward and Eades that:

- 1. Council endorses the 'Floodplain Risk Management Study and Plan'.
- 2. Council endorses the 'Hunter River Flood Study Model Revisions Report', October 2017.'

19.5 DRAFT ANIMAL CARE FACILITY BUSINESS PLAN 2019/21

289 RESOLVED on the motion of Crs Rush and McNeill that:

Council ENDORSE the draft Animal Care facility business plan.

19.6 REQUEST TO INCREASE THE 18-19 BUDGET FOR LEGAL FEES

Disclosure of interest

Cr M. Green declared a pecuniary interest in this Item. Cr Green advised Council that her husband is employed by one of the companies involved in legal action.

Cr S. Reynolds declared a pecuniary interest in this Item. Cr Reynolds advised Council that he has current court proceedings with a proposed defendant.

Cr M. Bowditch declared a pecuniary interest in Item 19.6. Cr Bowditch advised that he works for the company that subcontracts to the Companies involved in legal action.

At 7.23pm Cr Mark Bowditch, Cr Michelle Green and Cr Steven Reynolds left the Council Chambers and therefore took no part in discussion or voting on this item.

THIS MATTER LAPSED FOR WANT OF A QUORUM

At 7.37pm Cr Mark Bowditch, Cr Michelle Green and Cr Steven Reynolds returned to Council Chambers.

20 RESUMPTION OF OPEN COUNCIL

290 RESOLVED on the motion of Crs Reynolds and Ledlin that:

That the meeting return to Open Council.

21 CLOSURE

The meeting was declared closed at 7.37pm.

				•		,	ONFIRMED COUNCIL	
TUES	DAY 1	4 MAY,	2019 A	FULL AN	D ACCU		D OF PROC	
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Ms F. Plesman Cr M Rush

General Manager Chairperson