

**PRESENT:** Cr M.L. Rush, Cr S.L. Bailey, Cr J.F. Eades, Cr M.I. Green, Cr G.T. McNeill, Cr R.W. Scholes, 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 – Environment & Community Services), Ms N. Cowley (Executive Manager – Office of the Chief Financial Officer), Ms S. Pope (Assistant Director – Environment & Community Service), Mr G. Abeywardena (Assistant Director – Community Infrastructure/Chief Engineer), Mr J. Brown (Manager – Integrated Planning, Risk & Governance), Mr A. Mitreski (Policy Analyst Economic Transition & Innovation), Mrs M. Sandell-Hay (PA to General Manager), Miss M. Meadows (PA to Mayor) 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**

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

The apologies for inability to attend the meeting submitted by Cr M. Bowditch, Cr J. Foy and Cr J.L. Ledlin be ACCEPTED and the necessary Leave of Absence be GRANTED.

## **4 CONFIRMATION OF MINUTES OF PREVIOUS MEETING**

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

The Minutes of the Ordinary Meeting held on 11 June 2019, and the Extra Ordinary Meeting held on 26 June 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. Green – declared a pecuniary interest in Items 19.5 & 19.11. Cr Green advised Council that her husband is employed by BHP Mt Arthur.

Cr S. Reynolds – declared an insignificant non-pecuniary interest in Item 11.4. Cr Reynolds advised Council that his house backs on to Karoola Reserve a distance away from the development.

Cr S. Reynolds – declared a significant non-pecuniary interest in Items 19.5 and 19.11. Cr Reynolds advised Council that he is currently in legal action with the mine mentioned in the reports.

Cr S. Reynolds – declared an insignificant non-pecuniary interest in Item 19.10. Cr Reynolds advised Council that his brother is employed by Mangoola Coal.

Cr Scholes – declared a pecuniary interest in Items 19.5 and 19.11. Cr Scholes advised Council that he is employed at Mt Arthur Coal.

**6 PUBLIC PARTICIPATION**

Nil

**7 MAYORAL MINUTES**

Nil

**8 GENERAL BUSINESS**

Nil

**9 BUSINESS ARISING**

Nil

**10 ENVIRONMENTAL SERVICES**

**10.1 DA 117/2018 - COMMERCIAL ALTERATIONS AND ADDITIONS (EXPANSION OF BOTTLE SHOP)**

**3** RESOLVED on the motion of Crs Rush and Reynolds that:

Determination of the Development Application be delegated to the Development Assessment Committee.

In Favour: Crs S. Bailey, J. Eades, M. Green, G. McNeill, S. Reynolds, M. Rush, R. Scholes, S. Ward and B. Woodruff.

Against: Nil.

**10.2 DA 21/2019 - ALTERATIONS TO EXISTING RETAIL PREMISES AND SIGNAGE - 31-35 RUTHERFORD ROAD, MUSWELLBROOK**

**4** RESOLVED on the motion of Crs Reynolds and Woodruff that:

Council APPROVES Development Application No. 21/2019, involving alterations to the existing retail premises and signage to the Aldi retail store at Lot 1 DP 1090457, subject to the conditions in Appendix B to the report.

In Favour: Crs S. Bailey, J. Eades, M. Green, G. McNeill, S. Reynolds, M. Rush, R. Scholes, S. Ward and B. Woodruff.

Against: Nil.

**10.3 DA 35/2019 - ANCILLARY STRUCTURE (INSTALLATION OF A 45 SQUARE METRE ELECTRONIC BIG SCREEN) - SHEPPARD AVENUE, MUSWELLBROOK**

**5** RESOLVED on the motion of Crs Scholes and Bailey that:

Council approve Development Application No. 35/2019, for an ancillary structure (Big Screen) at Muswellbrook Race Club, Lot 150 DP 708030, subject the conditions in Appendix A to the report.

In Favour: Crs S. Bailey, J. Eades, M. Green, G. McNeill, S. Reynolds, M. Rush, R. Scholes, S. Ward and B. Woodruff.

Against: Nil.

**10.4 DA 1994-410 - S4.55 (1A) MODIFICATION - EXTRACTIVE INDUSTRY - LOT 72 DP1199484  
DALSWINTON ROAD, DALSWINTON**

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

The determination of this Development Application be delegated to the Development Assessment Committee.

In Favour: Crs S. Bailey, J. Eades, M. Green, G. McNeill, S. Reynolds, M. Rush, R. Scholes, S. Ward and B. Woodruff.

Against: Nil.

## **11 COMMUNITY INFRASTRUCTURE**

### **11.1 WASTE COMPLIANCE REPORT**

7 RESOLVED on the motion of Crs Scholes and Bailey that:

The information contained in this report be noted.

### **11.2 MOUNT PLEASANT STAGE 2 RAIL LOOP**

8 RESOLVED on the motion of Crs Rush and Bailey that:

Council notes the information provided in the report.

### **11.3 BOX CULVERT ACROSS SANDY CREEK AT MANGOOLA ROAD**

9 RESOLVED on the motion of Crs Woodruff and Scholes that:

Council transfers \$455,000 from the Infrastructure Reserve to enable the replacement of the identified box culvert across Sandy Creek at Mangoola Road.

### **11.4 KARoola PARK AND WEERAMAN FIELDS MASTER PLANS**

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

1. Council adopt the Weeraman Fields Master Plan.
2. Council adopt the Karoola Park Master Plan as amended to include native vegetation planting except where there are active areas and for pockets where higher profile lawn is established

Cr McNeill commended the efforts of Mr Chandler and Lysaught and Cr Green on their work in the preparation of these documents.

**11.5 NEW COMMUNITY INFRASTRUCTURE DEPOT - PRELIMINARY SITE PLAN**

- 11 RESOLVED on the motion of Crs Reynolds and Woodruff that:

Council endorse the Preliminary Site Plan for the new Community Infrastructure depot and proceed with planning for design development.

**11.6 2019-2020 - GENERAL RECREATION PROGRAM**

- 12 RESOLVED on the motion of Crs Rush and Reynolds that:

This matter be deferred for consideration at the Ordinary Council meeting scheduled for 27 August, 2019.

**11.7 2019-20 CAPITAL WORKS PROGRAM ROADS AND DRAINAGE**

- 13 RESOLVED on the motion of Crs Woodruff and Scholes that:

1. Council endorse the following priority lists of work and the undertaking of the 2019-20 Capital Works Programs to the extent of funding under the various programs:  
Footpath Renewals as per attachments A and B,  
Kerb and Gutter Renewals as per attachment C,  
Road Resealing as per attachment D, E and F,  
New Footpath construction as per attachment G with the missing link in Palace St (Turtle to Anglican Church ) to be constructed using the current allocation,  
Safety Devices as per attachment H,  
Heavy Patching as per attachment I.
2. Council accept the grant funding of \$134,640 from the 2019-20 Active Transport Program for construction of a cycleway in the Olympic Park Precinct and Council's co contribution of \$134,640 required to implement the work be sourced from Corporate directorate -Wilkinson Bridge Carryover.

**12 CORPORATE AND COMMUNITY SERVICES**

**12.1 MUSWELLBROOK MECHANICAL COURSING CLUB SPONSORSHIP**

- 14 RESOLVED on the motion of Crs Woodruff and Bailey that:

1. Council consider the request from the Muswellbrook Mechanical Coursing Club for sponsorship for the 2019 Mayor's Cup and a waiving of land and water rates for 2019/20 as an application to Council's Community Grants Program.
2. Council approve up to \$10,000 towards the development of a strategic master plan for the Muswellbrook Mechanical Coursing Club, conditional upon the provision of matched funding by the Club and the agreement to terms set by the General Manager.

## **12.2 SOCIAL MEDIA ENGAGEMENT**

- 15 RESOLVED on the motion of Crs McNeill and Scholes that:

Council disable the comments function on its public Facebook page, enable the use of private messaging and advise the community of the change in response to a recent decision of the Supreme Court of NSW.

## **12.3 STRATEGIC PLANNING WORKSHOP**

- 16 RESOLVED on the motion of Crs Rush and Scholes that:

Delegate the decision of this matter to the General Manager.

## **12.4 CHANGE TO ORGANISATIONAL STRUCTURE ESTABLISHMENT**

- 17 RESOLVED on the motion of Crs Reynolds and Scholes that:

Council endorse a change to the staff establishment to merge the roles of Personal Assistant to the Mayor and Administration Officer into one 1.0 FTE at the grade of Grade 2, Level 4.

## **12.5 COMMUNITY RURAL HALLS FUNDING**

- 18 RESOLVED on the motion of Crs Reynolds and Green that:

Council accept the Rural Hall Funding Program recommendations.

## **12.6 WRITE OFF OF DEBTS**

- 19 RESOLVED on the motion of Crs Woodruff and Bailey that:

1. Pursuant to clause 131(1) of the *Local Government (General) Regulation 2005*, Council fix the amount of \$1,000 as the threshold amount of unpaid rates and charges, above which any individual rate or charge may be written off only by resolution of the Council.
2. Pursuant to clause 213(1) of the *Local Government (General) Regulation 2005*, Council fix the amount of \$1,000 as the threshold amount of any amount owed to Council for which the *Local Government Act 1993* or regulations thereunder does not otherwise make specific provision for writing off such an amount, above which any debt may be written off only by resolution of the Council.

**12.7 DENMAN MEMORIAL HALL OPENING BUDGET**

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

The information contained in this report be noted.

**12.8 REPORT ON INVESTMENTS HELD AS AT 30 JUNE 2019**

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

The information showing Council's investments as at 30 June 2019 be noted and the exceeded trading limits of one issuer be accepted.

**12.9 JUNE 2019 MONTHLY FINANCIAL REPORT**

22 RESOLVED on the motion of Crs Bailey and Scholes that:

The Financial Report for the month ending 30 June 2019 (and before end of year journals are finalised) be noted.

**12.10 DIRECTOR'S REPORT - ENVIRONMENT AND COMMUNITY SERVICES**

23 RESOLVED on the motion of Crs Scholes and Eades that:

The information contained in this report be noted.

**12.11 FUTURE FUND POLICY**

24 RESOLVED on the motion of Crs Rush and Green that:

Council adopt as amended the reviewed Future Fund Policy.

**13 REPORTS FROM COMMITTEES**

**13.1 ABORIGINAL RECONCILIATION COMMITTEE - 19/06/2019**

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

The minutes for the Aboriginal Reconciliation Committee meeting held on Wednesday 19 June 2019 be NOTED.

**13.2 DEVELOPMENT ASSESSMENT COMMITTEE - 17/06/2019**

26 RESOLVED on the motion of Crs Woodruff and Scholes that:

The Minutes of the Development Assessment Committee Meeting held on Monday 17 June 2019 be received and the recommendations contained therein ADOPTED.

**13.3 DEVELOPMENT ASSESSMENT COMMITTEE - 1/07/2019**

27 RESOLVED on the motion of Crs Woodruff and Scholes that:

The Minutes of the Development Assessment Committee Meeting held on Monday 1 July 2019 be received and the recommendations contained therein ADOPTED.

**14 NOTICES OF MOTION / RESCISSION**

Nil

**15 QUESTIONS WITH NOTICE**

Nil

**16 COUNCILLORS REPORTS**

Nil

**17 QUESTIONS FOR NEXT MEETING**

**17.1 WATER RESTRICTION ADVERTISING**

Cr G. McNeill inquired whether Council could advertise the water restrictions over the radio to increase awareness?

The meeting was advised that this had commenced and that efforts would continue to promote the mandatory water restrictions. There is a grace period until 1 September, 2019 before any enforcement action is taken, which aligns with the approach by Singleton and Upper Hunter Councils.

**17.2 REBATE SCHEME FOR WATER TANKS**

Cr McNeill advised that a motion was passed at a previous council meeting that, in collaboration with Singleton and Upper Hunter, Council make a submission to reintroduce the rebate scheme for rainwater tanks and a report be submitted to Council and inquired whether this had been undertaken?

Mr Brown advised the meeting that the Federal Government did have a scheme and a report is being prepared for the August Council Meeting.

## 18 ADJOURNMENT INTO CLOSED COUNCIL

RESOLVED on the motion of Crs Bailey and Reynolds that:

- 28 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 REQUEST TO WAIVE RATES

Item 19.1 is classified CONFIDENTIAL under the provisions of Section 10A(2)(b) of the local government act 1993, as it deals with discussion in relation to the personal hardship of a resident or ratepayer, and Council considers that discussion of the matter in an open meeting would be, on balance, contrary to the public interest.

### 19.2 DEBT WRITE OFF

Item 19.2 is classified CONFIDENTIAL under the provisions of Section 10A(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.

### 19.3 EXECUTION OF REFINANCING OF \$12.5M FUTURE FUND LOAN

Item 19.3 is classified CONFIDENTIAL under the provisions of Section 10A(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.

### 19.4 CONTRACT 2018-2019-0361 - PROVISION OF CLEANING SERVICES FOR MUSWELLBROOK SHIRE COUNCIL BUILDINGS AND PUBLIC TOILETS

Item 19.4 is classified CONFIDENTIAL under the provisions of Section 10A(2)(d)(ii) of the local government act 1993, as it deals with information that would, if disclosed, confer a commercial advantage on a competitor of the council, and Council considers that discussion of the matter in an open meeting would be, on balance, contrary to the public interest.

### 19.5 CONTRACT 2018-2019-0360 - PROVISION OF REUSE WATER - UPDATE

Item 19.5 is classified CONFIDENTIAL under the provisions of Section 10A(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 MUSWELLBROOK RACE CLUB REQUEST FOR FUNDING VARIATION & SPONSORSHIP

Item 19.6 is classified CONFIDENTIAL under the provisions of Section 10A(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.

### 19.7 T501920HUN PROVISION OF ROAD RESURFACING

Item 19.7 is classified CONFIDENTIAL under the provisions of Section 10A(2)(d)(i) of the local government act 1993, as it deals with commercial information of a confidential nature that would, if disclosed prejudice the commercial position of the person who supplied it, and Council considers that discussion of the matter in an open meeting would be, on balance, contrary to the public interest.



**19.8 TENDERS - SUPPLY AND DELIVERY OF NETWORKS VEHICLES**

Item 19.8 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.

**19.9 MUSWELLBROOK ANIMAL CARE FACILITY - PUBLIC EXHIBITION**

Item 19.9 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.

**19.10 MANGOOLA COAL CONTINUED OPERATIONS PROJECT**

Item 19.10 is classified CONFIDENTIAL under the provisions of Section10A(2)(d)(i) of the local government act 1993, as it deals with commercial information of a confidential nature that would, if disclosed prejudice the commercial position of the person who supplied it, and Council considers that discussion of the matter in an open meeting would be, on balance, contrary to the public interest.

**19.11 EDDERTON ROAD CLOSURE**

Item 19.11 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 CLOSED COUNCIL**

**19.1 REQUEST TO WAIVE RATES**

29 RESOLVED on the motion of Crs Woodruff and McNeill that:

Council approves the waiving of rates applying to the residential property identified in the report for the period 29 January 2019 to 12 July 2019.

**19.2 DEBT WRITE OFF**

30 RESOLVED on the motion of Crs Green and Bailey that:

Council approves the write-off of \$1,588.60 for the uncollectable debt identified in the report.

**19.3 EXECUTION OF REFINANCING OF \$12.5M FUTURE FUND LOAN**

31 RESOLVED on the motion of Crs Rush and Bailey that:

1. Council approve the borrowing as set out in the report on terms agreed to by the General Manager.
2. Council approves the principal loan payment of \$917,434 from 18-19's unrestricted cash on 14 August 2019 to Australia and New Zealand Banking Group.

**19.4 CONTRACT 2018-2019-0361 - PROVISION OF CLEANING SERVICES FOR MUSWELLBROOK SHIRE COUNCIL BUILDINGS AND PUBLIC TOILETS**

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

Council accept the tender and award Contract No 2018-2019-0361 Provision of Cleaning Services for Muswellbrook Shire Council Buildings and Public Toilets to Cleveland Property Services Pty Ltd, for the period of three years, for the amount of \$163,359.43 per annum (Exclusive of GST).

**19.5 CONTRACT 2018-2019-0360 - PROVISION OF REUSE WATER - UPDATE**

**Disclosure of Interest**

**Cr Reynolds** declared a significant non-pecuniary interest in this item. Cr Reynolds advised council that he is currently in legal action with the Mine mentioned in the report.

**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 R. Scholes** declared a pecuniary interest in this item. Cr Scholes advised council that he is employed at Mt Arthur Coal.

At 07:30pm Cr Reynolds left the Council Chambers for the remainder of the meeting.

At 07:30pm Cr Scholes and Cr Green left the Council Chambers at this time and therefore took no part in discussion.

THE MINUTES BECAME A RECORD OF PROCEEDINGS DUE TO LACK OF QUORUM

At 07:32pm Cr Scholes and Cr Green returned to Council Chambers.

33 RESOLVED on the motion of Crs Rush and Bailey that:

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

**19.6 MUSWELLBROOK RACE CLUB REQUEST FOR FUNDING VARIATION & SPONSORSHIP MOTION**

Moved by Crs Rush and Ward

Council:

1. Releases \$100,000 to Muswellbrook Race Club as Council's 50% contribution towards the cost of the purchase and installation of a screen for broadcasting at the venue;
2. Considers the other requests at the September Ordinary Council meeting.

The motion was put to the vote and LOST

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

Council delegate authority to the General Manager to negotiate with the Muswellbrook Race Club.

**19.7 T501920HUN PROVISION OF ROAD RESURFACING**

35 RESOLVED on the motion of Crs Woodruff and Scholes that:

Council accepts:

1. The best fit for purpose tenderers be awarded Category 1 of this contract as the Panel Source supplier to Muswellbrook Shire Council for the period 1 July 2019 to 30 June 2022;
2. The best fit for purpose tenderers be awarded Category 2 of this contract as the Panel Source supplier to Muswellbrook Shire Council for the period 1 July 2019 to 30 June 2022;
3. The best fit for purpose tenderers be awarded Category 3. of this contract as the Panel Source supplier to Muswellbrook Shire Council for the period 1 July 2019 to 30 June 2022;
4. The best fit or purpose tenderers be awarded Category 4. of this contract as the Panel Source supplier to Muswellbrook Shire Council for the period 1 July 2019 to 30 June 2022;
5. The best fit for purpose tenderers be awarded Category 5. of this contract as the Panel Source supplier to Muswellbrook Shire Council for the period 1 July 2019 to 30 June 2022; and
6. That a provision be allowed for a 12-month extension based on satisfactory supplier performance, which may take this contract through to 30 June 2023.

**19.8 TENDERS - SUPPLY AND DELIVERY OF NETWORKS VEHICLES**

36 RESOLVED on the motion of Crs Woodruff and Scholes that:

1. Council decline to accept any of the tenders for the proposed contracts 2018-2019-0363 Supply and Delivery of Water and Wastewater Networks - First Response Vehicle and 2018-2019-0364 Supply and Delivery of Sewer Jetter Truck; and
2. Invite fresh tenders for the proposed contracts in accordance with Clause 169 of the *Local Government (General) Regulation 2005*.

**19.9 MUSWELLBROOK ANIMAL CARE FACILITY - PUBLIC EXHIBITION**

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

Council notes the public consultation submissions.

**19.10 MANGOOLA COAL CONTINUED OPERATIONS PROJECT**

**Disclosure of Interest**

Cr Reynolds declared an insignificant non-pecuniary interest in this item. Cr Reynolds advised Council that his brother is an employee of Mangoola Coal.

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

Council notes the information contained in the report.

#### 19.11 EDDERTON ROAD CLOSURE

##### Disclosure of Interest

**Cr Reynolds** declared a significant non-pecuniary interest in this item. Cr Reynolds advised Council that he is currently involved in legal action with the mine listed in the report.

**Cr Green** declared a pecuniary interest in this item. Cr Green advised Council that her husband is employed by BHP Mt Arthu.

**Cr Scholes** declared a pecuniary interest in this item. Cr Scholes advised that he is employed at Mt Arthur Coal.

At 07:43pm Cr Green and Cr Scholes left the Council Chambers and therefore took no part in discussion on this item.

At 07:56pm Cr Green and Cr Scholes returned to Council Chambers.

- 39 RESOLVED on the motion of Clrs Rush and Eades that:

Council consider the matter after Council receives the Mining Affected Roads Network Strategy

#### 20 RESUMPTION OF OPEN COUNCIL

- 40 RESOLVED on the motion of Crs Eades and Bailey that:

The meeting return to Open Council.

#### 21 CLOSURE

The meeting was declared closed at 7.58pm.

THE MINUTES OF THE MEETING (PAGES 1 TO 12) WERE CONFIRMED AT THE  
ORDINARY COUNCIL MEETING OF THE MUSWELLBROOK SHIRE COUNCIL HELD ON  
TUESDAY 27 AUGUST, 2019 AND ARE A FULL AND ACCURATE RECORD OF  
PROCEEDINGS OF THE MEETING HELD ON TUESDAY 30 JULY, 2019

.....  
Ms F. Plesman  
**General Manager**

.....  
Cr M. Rush  
**Chairperson**