

PRESENT: Cr M.L. Rush, Cr M. Bowditch, Cr J.P. Foy, Cr M.I. Green, Cr J.L. Ledlin, Cr G.T. McNeill, Cr R.W. Scholes, Cr S.M. Reynolds and Cr S.J. Ward.

IN ATTENDANCE: Ms F. Plesman (General Manager), Mr D. Finnigan (Director - Community Infrastructure), Ms N. Cowley (Executive Manager – Officer of the Chief Financial Officer), Ms S. Pope (Assistant Director – Planning & Community Service), Mr M. Lysaught (Manager – Works, Property & Building Services), Mr J. Wisniewski (Manager - Waste, Reuse, Environment & Operations), 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), 1 person 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 Cr Steve Reynolds.

3 APOLOGIES AND LEAVE OF ABSENCE

47 RESOLVED on the motion of Crs McNeill and Foy that:

The apologies for inability to attend the meeting submitted by Cr. S. Bailey, Cr J.F. Eades and Cr. B. Woodruff be ACCEPTED and the necessary Leave of Absence be GRANTED.

4 CONFIRMATION OF MINUTES OF PREVIOUS MEETING

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

The Minutes of the Ordinary Meeting held on 30 July 2019, and the Extra Ordinary Meeting held on 13 August 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 Non-Pecuniary Interest in Item 19.2. Cr Green advised Council that the owner of 14 Lorne Street, Muswellbrook is the daughter of her son's family day care provider, whose property adjoins the property in the report.

Cr M. Green – Declared a Pecuniary Interest in Item 19.7. Cr Green advised Council that the company in the report is her husband's employer.

Cr M. Bowditch – Declared a Pecuniary Interest in Item 10.1. Cr Bowditch advised Council that the company he works for has a contract with Maxwell.

Cr M. Bowditch – Declared a Pecuniary Interest in Item 10.2. Cr Bowditch advised Council that his brother contracts to Mangoola.

Cr M. Bowditch – Declared a Pecuniary Interest in Item 19.3. Cr Bowditch advised Council that the company he works for is employed by Mt Pleasant Mine.

Cr M. Bowditch – Declared a Pecuniary Interest in Item 19.7. Cr Bowditch advised Council that the company he works for is employed by Mt Arthur Coal.

Cr S. Reynolds – Declared a Pecuniary Interest in Item 10.2. Cr Reynolds advised Council that a family member works at Mangoola.

Cr S. Reynolds – Declared a Pecuniary Interest in Item 19.7 Mt Arthur Coal. Cr Reynolds advised Council that he is currently involved in legal action with Mt Arthur.

Cr R. Scholes – Declared a Pecuniary Interest in Item 19.7. Cr Scholes advised Council that he currently works at Mt Arthur Mine.

Cr G. McNeill – Declared an Insignificant Non-Pecuniary Interest in Item 19.2. Cr McNeill advised Council that his residence is in the same street.

6 PUBLIC PARTICIPATION

Nil

7 MAYORAL MINUTES

7.1 MANOBALAI NATURE RESERVE

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

Council endorse the Gazettal by the Minister for Energy and Environment of the Crown land parcel to the south of the Manobalai Nature Reserve as National Park.

8 GENERAL BUSINESS

Nil

9 BUSINESS ARISING

Nil

10 ENVIRONMENTAL SERVICES

10.1 MAXWELL UNDERGROUND COAL MINE PROJECT SUBMISSION

Disclosure of Interest

Cr M. Bowditch declared a pecuniary interest in this item. Cr Bowditch advised Council that the company he works for has a contract with Maxwell Underground Mine. At 6:34pm Cr Bowditch left the Council Chambers for the conduct of Item 10.1 and 10.2 and therefore took no part in discussion or voting on these matters.

50 RESOLVED on the motion of Crs Reynolds and Scholes that:

The report be noted and the General Manager provide a draft submission for consideration by Council to the Extra-Ordinary Council Meeting scheduled for 10 September, 2019.

10.2 MANGOOLA COAL CONTINUED OPERATIONS PROJECT SUBMISSION

Disclosure of Interest

Cr M. Bowditch declared a pecuniary interest in this item. Cr Bowditch advised Council that his brother contracts to Mangoola.

Cr S. Reynolds declared a pecuniary interest in this item. Cr Reynolds advised Council that a

family member works at Mangoola.

At 6:35pm Cr Steven Reynolds left the Council Chambers and therefore took no part in discussion or voting on this matter.

51 RESOLVED on the motion of Crs Ward and Scholes that:

Council delegates authority to the General Manager to prepare a submission on behalf of Council regarding the proposed Mangoola Coal Continued Operations Project at Wybong.

At 6:36pm Crs Bowditch and Reynolds returned to Council Chambers and resumed their usual chairs at the meeting table.

**10.3 DA 342/2002 SECTION 4.55(2) MODIFICATION APPLICATION - WILDS GRAVEL QUARRY
- 8440 NEW ENGLAND HIGHWAY, MUSWELLBROOK**

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

The determination DA 342/2002 Section 4.55(2) Modification Application - Wilds Gravel Quarry - 8440 New England Highway, Muswellbrook be delegated to the Development Assessment Committee.

In Favour: Crs M. Bowditch, J. Foy, M. Green, J. Ledlin, G. McNeill, S. Reynolds, M. Rush, R. Scholes and S. Ward.

Against: Nil.

11 COMMUNITY INFRASTRUCTURE

11.1 WASTE COMPLIANCE REPORT

53 RESOLVED on the motion of Crs Scholes and Ledlin that:

The information contained in this report be noted.

11.2 ENVIRONMENTAL MANAGEMENT PLAN - WASTE FACILITIES

54 RESOLVED on the motion of Crs Scholes and Reynolds that:

The information contained in this report be noted.

11.3 PROPOSED SIGNALISED INTERSECTION - MAITLAND STREET AND THOMPSON STREET, MUSWELLBROOK

55 RESOLVED on the motion of Crs Scholes and Ledlin that:

Council endorses the 'Design' Drawings for the signalised intersection of Thompson Street and Maitland Street, Muswellbrook attached as Attachment A to the report.

12 CORPORATE AND COMMUNITY SERVICES

12.1 REPLACEMENT OF AQUATIC CENTRES 25M POOL BLANKETS AND AUTO ROLLER

56 RESOLVED on the motion of Crs Rush and Reynolds that:

The matter be considered as part of the September Budget Review.

12.2 MUSWELLBROOK LOCAL ART PRIZE PROPOSED CHANGES

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

The matter be considered at the Ordinary Council Meeting scheduled for 24 September, 2019.

12.3 BLUE HEELER FILM FESTIVAL 2019 - UPDATE

58 RESOLVED on the motion of Crs Rush and Ledlin that:

The information contained in this report be noted.

12.4 MUSWELLBROOK REGIONAL ARTS CENTRE - PLANNED CHANGES TO ACCOMMODATE CAFE AND VISITOR INFORMATION CENTRE

59 RESOLVED on the motion of Crs Rush and Foy that:

The information contained in this report be noted.

12.5 MUSWELLBROOK AQUATIC CENTRE - INVESTIGATIONS INTO WATER USEAGE DURING SUMMER AND POSSIBLE REMEDIATION

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

Council;

1. Transfers \$42K from the Corporate Services Capital Contingency towards the operations budget of the Muswellbrook Aquatic Centre to cover the cost of water use at the centre during 2019/20;
2. Carry out full and detailed painting of the 50m pool;
3. Council endorse progressing Option 2 in the Structural Assessment Report.

12.6 HUNTER BIO-VALLEY STUDY RESERVE

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

Council approves the relocation of \$35,000 from the Bio-Valley Study reserve to the Job Creation budget.

12.7 ADMINISTRATION CENTRE CLOSURE

62 RESOLVED on the motion of Crs McNeill and Reynolds that:

Council endorses the closure of Council offices as follows:

- * Friday 11 October, 2019 – Union Picnic Day
- * Friday 13 December, 2019 – Staff Christmas Function
- * Monday 23 December, 2019 to 7.30am Thursday 2 January, 2020 – Christmas/New Year

12.8 2019 COMMUNITY SATISFACTION SURVEY

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

Council notes the attached 2019 Community Satisfaction Survey report outlining the results of a random telephone survey of 505 adult residents in the Muswellbrook Shire, conducted by Jetty Research on behalf of Muswellbrook Shire Council.

At 6:48 pm Cr Stephen Ward left the Council Chambers.

12.9 2018/2019 OPERATIONAL PLAN 30 JUNE QUARTERLY REVIEW

64 RESOLVED on the motion of Crs Green and Scholes that:

The 2018/2019 Operational Plan Review dated 30 June 2019 be noted.

12.10 2018/19 ANNUAL FINANCIAL STATEMENTS

65 RESOLVED on the motion of Crs Rush and Scholes that:

Council:

1. Authorise the submission of the 2018/19 General Purpose Financial Reports, Special Purpose Financial Reports and Special Schedules for Muswellbrook Shire Council to the Auditor; and
2. The Mayor, one other Councillor, General Manager and Responsible Accounting Officer be authorised to sign the reports upon completion of the audit.

12.11 REPORT ON INVESTMENTS HELD AS AT 31 JULY 2019

66 RESOLVED on the motion of Crs Ledlin and Scholes that:

The information showing Council's investments as at 31 July 2019 be noted and the exceeded trading limits of one issuer be accepted.

12.12 JULY 2019 MONTHLY FINANCIAL REPORT

67 RESOLVED on the motion of Crs Rush and Foy that:

The Financial Report for the month ending 31 July 2019 be noted.

12.13 DIRECTOR'S REPORT - ENVIRONMENT AND COMMUNITY SERVICES

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

The information contained in this report be noted.

At 6:49pm Cr Stephen Ward returned to Council Chambers.

13 REPORTS FROM COMMITTEES

13.1 DEVELOPMENT ASSESSMENT COMMITTEE - 5/08/2019

69 RESOLVED on the motion of Crs Reynolds and Scholes that:

The Minutes of the Development Assessment Committee Meeting held on Monday 5 August 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 COMMUNITY MEETING WITH RESIDENTS NEAR MCDONALDS

Cr Reynolds inquired whether the community meeting with residents near McDonalds had occurred?

Cr Rush advised that this would be investigated.

17.2 LANDSCAPING WORKS AT THE HOLDEN DEALERSHIP

Cr Green inquired whether a follow up could be undertaken with the Holden Dealership consent regarding the landscaping as no landscaping has been undertaken to date and it is an eyesore from Woollybutt Way, Muswellbrook?

Cr Rush advised that this would be investigated.

17.3 DENMAN MEMORIAL PARK

Cr McNeill advised that Mr Keith Campbell from Denman had made inquiries in regards to the timeline for the renewal of the amenities block in Denman Memorial Park?

Cr Rush advised that the present amenities will be demolished in September, 2019 and new amenities constructed commencing in October, 2019.

18 ADJOURNMENT INTO CLOSED COUNCIL

70 RESOLVED on the motion of Crs Reynolds and Green 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 AUDIT, RISK AND IMPROVEMENT COMMITTEE

Item 19.1 is classified CONFIDENTIAL under the provisions of Section 10A(2)(a) of the local government act 1993, as it deals with personnel matters concerning particular individuals (other than councillors), and Council considers that discussion of the matter in an open meeting would be, on balance, contrary to the public interest.

19.2 DRAINAGE CHANNEL - 14 LORNE STREET, MUSWELLBROOK

Item 19.2 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.

19.3 PROPOSED CLOSURE OF SKIPPENS LANE AND ROSEBROOK LANE

Item 19.3 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.

19.4 PROPOSAL TO ALTER HOURS OF OPERATION AT THE MUSWELLBROOK WASTE MANAGEMENT FACILITY AND THE DENMAN TRANSFER STATION

Item 19.4 is classified CONFIDENTIAL under the provisions of Section 10A(2)(a) and 10A(2)(d)(ii) of the local government act 1993, as it deals with personnel matters concerning particular individuals (other than councillors), and 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 BUREEN ROAD RATIONALISATION

Item 19.5 is classified CONFIDENTIAL under the provisions of Section 10A(2)(a) of the local government act 1993, as it deals with personnel matters concerning particular individuals (other than councillors), and Council considers that discussion of the matter in an open meeting would be, on balance, contrary to the public interest.

**19.6 2017-2018-0338 SUPPLY AND DELIVERY OF A CLOSE RADIUS TRACKED
EXCAVATOR**

Item 19.6 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.

19.7 MOUNT ARTHUR COAL

Item 19.7 is classified CONFIDENTIAL under the provisions of Section 10A(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.

Members of the public and media left the meeting at 6.55pm

19 CLOSED COUNCIL

19.1 AUDIT, RISK AND IMPROVEMENT COMMITTEE

71 RESOLVED on the motion of Crs Rush and Reynolds that:

Council:

1. Endorses the appointments of Mr Paul Quealey and Mr Mitchell Morley as independent members of Council's reconstituted Audit, Risk and Improvement Committee (ARIC);
2. Appoints Mr Mitchell Morley as Chair of the Committee; and
3. Appoints Cr Scholes to Council's reconstituted ARIC.

19.2 DRAINAGE CHANNEL - 14 LORNE STREET, MUSWELLBROOK

Disclosure of Interest

Cr M. Green declared a non-pecuniary interest in this item. Cr Green advised Council that the owner of 14 Lorne Street, Muswellbrook is the daughter of her son's family day care provider, whose property adjoins the property in the report. At 7:00pm Cr Green left the Council Chambers and therefore took no part in discussion or voting on this matter.

72 RESOLVED on the motion of Crs Rush and Scholes that:

1. Council allocate funding of \$100,000 from the Drainage Devices Program and funding of \$25,000 from Developer Coordinated Works Program to construct the piped drainage channel adjacent to 14 Lorne Street and create the drainage easement for a width of 5.0m and variable width extending for the length of the property in line with the drainage path as outlined in the report.
2. Delegate authority to the General Manager to negotiate with the property owners to seek additional funding of the amount of \$36,000 to construct the additional 20m of piping if the total length of piping of 60m is preferred by the property owners.

At 7:05pm Cr Green returned to Council Chambers and resumed her usual chair at the meeting table.

19.3 PROPOSED CLOSURE OF SKIPPENS LANE AND ROSEBROOK LANE

Disclosure of Interest

Cr Bowditch declared a pecuniary interest in this item. Cr Bowditch advised Council that the Company he works for is employed by Mt Pleasant Mine. At 7:06pm Cr Bowditch left the Council Chambers and therefore took no part in discussion or voting on this matter.

73 RESOLVED on the motion of Crs Rush and Scholes that:

Council considers the closure and sale of Skippens Lane and Rosebrook Lane following adoption of the reviewed and updated Mine Affected Roads Network Plan.

At 7:11pm Cr Bowditch returned to Council Chambers and resumed his usual chair at the meeting table.

19.4 PROPOSAL TO ALTER HOURS OF OPERATION AT THE MUSWELLBROOK WASTE MANAGEMENT FACILITY AND THE DENMAN TRANSFER STATION

MOTION

MOVED by Crs Rush and Foy that Council approves the trial of altered opening and closing hours and days of operation at the Muswellbrook waste management facility and Denman waste transfer station as outlined in the report.

The MOTION was put to the vote and LOST.

74 RESOLVED on the motion of Crs Bowditch and McNeill that:

Council approves a three month trial of altered opening and closing hours of 11am to 2.30pm on Saturdays and Sundays and 9.30am to 4.30pm Mondays to Fridays at the Muswellbrook Waste Management Facility and 9.00am to 4.00pm on Friday and Saturday at the Denman waste transfer station.

19.5 BUREEN ROAD RATIONALISATION

75 RESOLVED on the motion of Crs Rush and Scholes that:

1. Council agree to close the unnecessary section of Bureen Road and dedicate the existing road alignment as public road under the provisions of the Roads Act 1993;
2. Upon closure of the road sections, approve the exchange of land with the adjoining landowners for land required for road purposes;
3. Grant authority to affix Council's seal in accordance with the regulations to the documents required to finalise this matter.

19.6 2017-2018-0338 SUPPLY AND DELIVERY OF A CLOSE RADIUS TRACKED EXCAVATOR

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

Council award the contract 2017-2018-0338 Supply and Delivery of a Close Radius Tracked Excavator to Hitachi Construction Machinery (Aust.) Pty Ltd and optional extras identified for \$212,237.50 excluding GST.

19.7 MOUNT ARTHUR COAL

Disclosure of Interest

Cr M. Green declared a pecuniary interest in this item. Cr Green advised Council that the company in the report is her husband's employer.

Cr M. Bowditch declared a pecuniary interest in this item. Cr Bowditch advised Council that the company he works for is employed by Mt Arthur.

Cr R. Scholes declared a pecuniary interest in this item. Cr Scholes advised Council that he works at Mt Arthur.

Cr S. Reynolds declared a pecuniary interest in this item. Cr Reynolds advised Council that he is currently involved in legal action with Mt Arthur.

At 7:25pm Crs Mark Bowditch, Michelle Green, Steven Reynolds and Rod Scholes left the Council Chambers and therefore took no part in discussion on this matter.

THE MINUTES BECAME A RECORD OF PROCEEDINGS AS A QUORUM WAS NOT PRESENT

At 7:26pm Crs Bowditch, Green, Reynolds and Scholes returned to Council Chambers and resumed their usual chairs at the meeting table.

THE RECORD OF PROCEEDINGS RETURNED TO MINUTES AS A QUORUM WAS PRESENT

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

The determination of this matter be delegated to the General Manager.

20 RESUMPTION OF OPEN COUNCIL

78 RESOLVED on the motion of Crs Reynolds and Foy that:

The meeting return to Open Council.

21 CLOSURE

The meeting was declared closed at 7.27pm.

THE MINUTES OF THE MEETING (PAGES 1 TO 10) WERE CONFIRMED AT THE ORDINARY COUNCIL MEETING OF THE MUSWELLBROOK SHIRE COUNCIL HELD ON TUESDAY 24 SEPTEMBER, 2019 AND ARE A FULL AND ACCURATE RECORD OF PROCEEDINGS OF THE MEETING HELD ON TUESDAY 27 AUGUST, 2019

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Ms F. Plesman
General Manager

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Cr M. Rush
Chairperson