

PRESENT: Cr M.L. Rush, Cr M. Bowditch, Cr J.F. Eades, Cr J.P. Foy, Cr J.L. Ledlin, Cr R.W. Scholes, Cr S.J. Ward (VC) and Cr B.N. Woodruff.

IN ATTENDANCE: Ms F. Plesman (General Manager), Mr D. Finnigan (Director - Community Infrastructure), Ms N. Cowley (Executive Manager – Officer of the Chief Financial Officer - VC), Ms S. Pope (Assistant Director – Environment & Planning - VC), Mr P. Chambers (Chief Engineer – VC), Mr J. Brown (Manager – Integrated Planning, Risk & Governance), Mr A. Mitreski (Policy Analyst Economic Transition and Innovation), Mrs M. Sandell-Hay (PA to General Manager - VC), 2 people in the public gallery via Video Conferencing 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 J. Eades.

3 APOLOGIES AND LEAVE OF ABSENCE

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

The apologies for inability to attend the meeting submitted by Cr. G. McNeill and Cr. S. Reynolds be ACCEPTED and the necessary Leave of Absence be GRANTED.

4 CONFIRMATION OF MINUTES OF PREVIOUS MEETING

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

The Minutes of the Ordinary Meeting held on 26 May 2020, 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 B. Woodruff - declared a pecuniary interest in Item 10.8. Cr Woodruff advised Council that his employer undertakes works for Mangoola Coal.

Cr B. Woodruff – declared a pecuniary interest in Item 10.9. Cr Woodruff advised Council that a member of his immediate family is employed by the applicant.

Cr B. Woodruff – declared a pecuniary interest in Item 11.1. Cr Woodruff advised Council that his employer undertakes works for the applicant.

Cr M. Bowditch – declared a pecuniary interest in Item 10.8. Cr Bowditch advised Council that he undertakes work for Mangoola Coal.

Cr M. Bowditch – declared a non-pecuniary interest in 10.9. Cr Bowditch advised Council that he is a member of the Board of the Wanaruah Local Aboriginal Land Council who is mentioned in the report.

Cr M. Bowditch – declared a pecuniary interest in Item 11.1. Cr Bowditch advised Council that he is contracted to do work by the applicant.

Cr J. Foy – declared a non-pecuniary interest in Item 19.2. Cr Foy advised Council that his daughter is enrolled to attend the Music School.

6 PUBLIC PARTICIPATION

Mr D. Walmsley – Spoke in support of Item 10.1.

7 BUSINESS ARISING

Nil

8 MAYORAL MINUTES

Nil

9 BUSINESS ARISING

Nil

10 ENVIRONMENTAL SERVICES

10.1 DA 47/2019 - SECTION 8.3 REVIEW - CENTRE BASED CHILD CARE FACILITY - 111 SKELLATAR STOCK ROUTE, MUSWELLBROOK

ADJOURNMENT OF MEETING

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

The meeting adjourn for 5 minutes to allow a further recommendation to be drafted.

The meeting adjourned at 6.12pm

The Meeting reconvened at 6.17pm

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

Council determine the Section 8.3 review for DA 2019/47, being a Centre Based Child Care Facility and the Subdivision of one (1) lot into two (2) lots at St James School, 111 Skellatar Stock Route, Muswellbrook (Lot 1 DP 1070178), by amending the determination of DA 47/2019 to approve the development application subject to the recommended conditions of consent contained in Attachment A.

In Favour: Crs M. Bowditch, J. Eades, J. Foy, J. Ledlin, M. Rush, R. Scholes, S. Ward and B. Woodruff.

Against: Nil.

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

Pursuant to section 217 of the Roads Act, the owner of land of Lot 1, DP 1070178 adjoining Skellatar Stock Route be required to contribute 50 percent of the cost towards the construction of kerb and guttering and footpath across the frontage of the development site as required by Council's Kerb and Gutter and Footpath Contributions Policy (No. K10/1).

In Favour: Crs M. Bowditch, J. Eades, J. Foy, J. Ledlin, M. Rush, R. Scholes, S. Ward and B. Woodruff.

Against: Nil.

**10.2 DA 37/2019 - SECTION 8.3 REVIEW - CONSTRUCTION OF PIPES AND PUMP
INFRASTRUCTURE TO RETURN SEEPAGE WATER FROM LAKE LIDDELL DAM ALL TO
LAKE LIDDELL**

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

Council determine the Section 8.3 Review for DA 37/2019 by confirming its 4 May 2020 determination of DA 37/2019 and declining any change to its decision.

Reason: Council views conditions 16 and 17 as reasonable and related to the development as Lake Liddell was constructed for and continues to serve the Liddell Power Station.

In Favour: Crs M. Bowditch, J. Eades, J. Foy, J. Ledlin, M. Rush, R. Scholes, S. Ward and B. Woodruff.

Against: Nil.

**10.3 DA 50-2019 - NOTIFICATION OF DRAFT PLANNING AGREEMENT - ASPHALT PLANT -
43-45 ENTERPRISE CRESCENT, MUSWELLBROOK**

388 RESOLVED on the motion of Crs Scholes and Foy that:

Council resolve to notify the draft Planning Agreement, provided in Attachment A, for public inspection for a period of no less than 28 days.

In Favour: Crs M. Bowditch, J. Eades, J. Foy, J. Ledlin, M. Rush, R. Scholes, S. Ward and B. Woodruff.

Against: Nil.

**10.4 DA 54/2018 - DEMOLITION OF A COMMERCIAL BUILDING, CONSTRUCTION OF A NEW
THREE(3) STOREY COMMERCIAL BUILDING (TEC 2) AND ALTERATIONS TO AN
EXISTING COMMERCIAL BUILDING (LOXTON HOUSE).**

389 RESOLVED on the motion of Crs Foy and Ledlin that:

Council:

1. Approve Development Application No 54/2018 being for the demolition of a commercial building, construction of a tertiary education establishment and food and drink premises, alterations and additions to 'Loxton house' (heritage listed item), the use of level 1 of this building as a tertiary education establishment and ancillary works at Lots 1-5 DP 11221, Lot 7 DP 71755 and Lot 8 Section 6 DP 758740, 126-142 Bridge Street and 83-87 Hill Street, Muswellbrook, subject to the recommended conditions of consent put forward by Barker Ryan Stewart Consultants included in Attachment B and the Heritage Council General Terms of Approval included in Attachment C.
2. Approve an exemption from Section 7.12 Development Contributions for the proposed development, based on the predominant use of the site as an educational facility and involving the adaptive reuse of heritage items on the site.

In Favour: Crs M. Bowditch, J. Eades, J. Foy, J. Ledlin, M. Rush, R. Scholes, S. Ward and B. Woodruff.

Against: Nil.

10.5 ADMINISTRATIVE AMENDMENT TO MLEP 2009 - 3 RACECOURSE ROAD, MUSWELLBROOK

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

Council:

1. Resolves to prepare a Planning Proposal to amend the Muswellbrook LEP 2009 to permit a dwelling house on 3 Racecourse Road Muswellbrook (Lot 41 DP 592207), in accordance with the draft Planning Proposal provided in Attachment A.
2. Write to the Department of Planning, Industry and Environment requesting a Gateway Determination to the Planning Proposal and request the Department authorise Council to exercise the plan making powers delegated to it by the Department in relation to this matter.
3. Delegate to the General Manager, the completion of any required public or agency consultation and the making of amendments to the planning proposal required as an outcome of the Department of Planning, Industry and Environment's Gateway Determination.
4. Following the completion of any public and agency consultation required by the Gateway Determination, where Council receives no submissions objecting to the proposal, delegate to the General Manager the authority to exercise Council's plan making powers to make the requested amendment to the Muswellbrook LEP 2009.

10.6 DRAFT MUSWELLBROOK LOCAL STRATEGIC PLANNING STATEMENT

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

Council resolves to:

- A. Endorse the draft Muswellbrook Local Strategic Planning Statement in Attachment A for public notification; and
- B. Receive a report back following the public exhibition period, unless no public submissions are received, in which case the draft Muswellbrook Local Strategic Planning Statement is to be adopted.

10.7 FLYING FOX GRANTS PROGRAM

392 RESOLVED on the motion of Crs Foy and Ledlin that:

Council permits Flying-Fox Stream 2 grant funds to be released when received and to carry over to the 2020-21 financial year any grant funds received in the 2019-20 financial year.

10.8 MANGOOLA COAL CONTINUED OPERATIONS PROJECT

Disclosure of Interest

Cr B. Woodruff declared a pecuniary interest in this item. Cr Woodruff advised Council that his employer undertakes works for Mangoola Coal.

Cr M. Bowditch declared a pecuniary interest in this item. Cr Bowditch advised Council that he is contracted to undertake work for Mangoola Coal.

Crs Woodruff and Bowditch left the meeting at 6.28pm and therefore took no part in discussion or voting in this matter.

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

Council:

1. Seeks expert advice in relation to the impact of the Mangoola Coal Continued Operation Project.
2. Allocates an additional \$30,000 to the 2020/2021 budget for expert advice on the impact of the Mangoola Coal Continued Operation Project with funds to be sourced from unrestricted cash.
3. Authorises the General Manager to make a submission on Council's behalf prior to the close of exhibition of the Mangoola Coal Continued Operation Project.

10.9 DA 2020-40 - GEOTECHNICAL INVESTIGATIONS (EARTHWORKS AND BOREHOLES) AND VEGETATION CLEARING

Disclosure of Interest

Cr B. Woodruff declared a pecuniary interest in this item. Cr Woodruff advised Council that an immediate family member is employed by the applicant.

Cr M. Bowditch declared a non-pecuniary interest in this item. Cr Bowditch advised Council he is a member of the Board of the Wanaruah Local Aboriginal Land Council who is mentioned in the report.

Crs Woodruff and Bowditch remained absent from the meeting room and therefore took no part in discussion or voting in this matter.

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

Council approve Development Application No. 2020-40 ,being for Geotechnical Investigation (earthworks) and Vegetation Clearing at Lot 61 DP 1113302, Lot 1 DP184481, Lot 180 DP 627509, Lot 1 DP 1004305, Lot 1 DP 723294 and Lot 59 & 60 DP 752484, Limestone Road Muswellbrook, subject to the conditions in Attachment C.

In Favour: Crs J. Eades, J. Foy, J. Ledlin, M. Rush, R. Scholes and S. Ward.

Against: Nil.

11 COMMUNITY INFRASTRUCTURE

11.1 CROWN ROADS PROPOSED TO BE CLOSED AT WYBONG

Disclosure of Interest

Cr B. Woodruff declared a pecuniary interest in this item. Cr Woodruff advised Council that his employer undertakes works for the applicant.

Cr M. Bowditch declared a pecuniary interest in this item. Cr Bowditch advised Council that he is contracted to undertake work for the applicant.

Crs Woodruff and Bowditch remained absent from the meeting room and therefore took no part in discussion or voting in this matter.

395 RESOLVED on the motion of Crs Rush and Eades that:

The matter be deferred for consideration at the July Council Meeting following discussion with the Wanaruah Local Aboriginal Land Council and other Aboriginal Groups.

Crs Bowditch and Woodruff returned to the meeting room at 6.32pm

11.2 REG THORNTON MEMORIAL DRIVE

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

Council negotiates licence agreements with NSW Police and Telstra for access to, and maintenance of, Reg Thornton Memorial Drive, Denman.

11.3 CONCEPT DESIGN - AMENITIES AT MEMORIAL PARK DENNMAN

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

Council endorses the Concept for the external colours and features of the Memorial Park Amenities attached as B to the report, including the features detailed in the report.

11.4 WATER AND WASTEWATER LEVELS OF SERVICE FOR THE THIRD QUARTER OF 2019-2020

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

Council notes the information contained in the report.

11.5 PROJECT 2019-2020-0390 - ENVIRONMENTAL IMPACT STATEMENT AND PRELIMINARY ENGINEERING DESIGN FOR A FOOD AND GARDEN ORGANICS (FOGO) PROCESSING FACILITY

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

The information contained in this report be noted.

11.6 CONTRACT 2019-2020-0414: MUSWELLBROOK REGIONAL ART GALLERY HEATING, VENTILATION AND COOLING UPGRADE - REQUEST TO CARRY OVER FUNDING TO 2020-21

400 RESOLVED on the motion of Crs Foy and Ledlin that:

Council approves the carrying over to 2020-21 of the funding identified in the report.

12 CORPORATE AND COMMUNITY SERVICES

12.1 2020/2021 COUNCILLOR FEES

401 RESOLVED on the motion of Crs Woodruff and Foy that:

Council

1. Note the 2020 Annual Determination of the Local Government Remuneration Tribunal.
2. Approve the annual fee of \$12,160 for Councillors for 2020/21; and
3. Approve an additional fee of \$26,530 for the position of Mayor for 2020/21.

12.2 ENTERPRISE RISK MANAGEMENT POLICY AND FRAMEWORK

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

Council adopt the Enterprise Risk Management Policy and Framework as attached to this report.

12.3 ROAD DEVELOPMENT STANDARDS POLICY

403 RESOLVED on the motion of Crs Woodruff and Eades that:

Council ADOPTS the Road Development Standards Policy.

12.4 INFORMATION ACCESS AND MANAGEMENT POLICY

404 RESOLVED on the motion of Crs Scholes and Foy that:

Council endorses the draft Information Access and Management Policy for a period of public exhibition not less than 28 days.

12.5 INSURANCE REBATE

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

The 2020/21 budget be amended reducing the Statewide Mutual rebate revenue line item from \$31,992.00 to \$0.00.

12.6 COMMUNITY GRANTS PROGRAM

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

Council approves the recommended grants in an amount of \$13,813.40 to be funded from the Sundry Donations Allocation, with any unspent amount to be carried over, if the end-of-year payment processing deadline is missed.

12.7 STORE AND MATERIAL STOCKTAKE - 21 MAY 2020

407 RESOLVED on the motion of Crs Eades and Ledlin that:

Council notes the report on the stocktake carried on 21 May 2020 and that an amount of \$1,676.63 be written off the inventory register and \$1,170.96 be allocated to appropriate GL codes for the 3 missing water meters, which were located post stocktake.

12.8 CARRYOVER PROJECTS FOR 2020/21

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

1. The attached lists of Operating and Capital Carryovers be adopted.
2. The final value, based on the adjusted actual 2019/20 expenditure, be incorporated into the 2020/21 Budget prior to the September 2020 Budget Review.

12.9 MUSWELLBROOK SHIRE COUNCIL - TREATY DOCUMENT

409 RESOLVED on the motion of Crs Ledlin and Foy that:

Council endorse the expenditure of \$22,000 from the General Manager's Discretionary Operating budget (2020/21) to supplement the existing 2019/20 budget (\$28K), to allow for the engagement of a Consultant and Community Engagement with our Aboriginal Community regarding the development of Local Treaty Documentation.

12.10 REPORT ON 2020/2021 VOLUNTARY PLANNING AGREEMENTS

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

The Minutes of the Mangoola Community Funding Investment Committee Meeting held on 22 May, 2020, the Mt Arthur Community Funding Investment Committee Meeting held on 10 June, 2020, Meeting held on and 26 June, 2020 be received and the recommendations contained therein ADOPTED.

12.11 REPORT ON INVESTMENTS HELD AS AT 31 MAY 2020

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

The information showing Council's investments as at 31 May 2020 be noted.

12.12 MAY 2020 MONTHLY FINANCIAL REPORT

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

The Financial Report for the month ending 31 May 2020 be noted.

12.13 PLANNING AND ENVIRONMENT SERVICES

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

The information contained in this report be noted.

12.14 COMMUNITY SERVICES

414 RESOLVED on the motion of Crs Eades and Woodruff that:

The information contained in this report be noted.

13 REPORTS FROM COMMITTEES

Nil

14 NOTICES OF MOTION / RESCISSION

Nil

15 QUESTIONS WITH NOTICE

Nil

16 COUNCILLORS REPORTS

16.1 LIONESSE CHANGEOVER DINNER

Cr Rod Scholes reported that he attended the Lioness Club Changeover Dinner on the weekend where he was advised that Lions International were closing down Lioness Clubs, and that the Lioness Club will cease to exist. The members will make a decision about their future in the coming months. Cr Scholes advised Council that he had asked the Lioness Club to keep Council informed of this matter.

16.2 CAWSEY PARK QUARRY

Cr Ward advised that he attended the community information session held recently on the Cawsey Park development which is going to mine sand and gravel.

17 QUESTIONS FOR NEXT MEETING

17.1 ENVIRONMENTAL IMPACT STATEMENT – EDDERTON ROAD AND ENDANGERED FLORA AND FAUNA

Cr Bowditch advised Council that the EIS for Edderton Road Stage 2 doesn't clearly state what is going to happen in the area where endangered flora and fauna are located and inquired whether a report could be provided?

17.2 EDDERTON ROAD

Cr Bowditch inquired whether an update on the opening of the new section of Edderton Road could be provided?

Cr Rush advise that a decision on Edderton Road is likely to come before the July Council Meeting.

17.3 CASTLEROCK ROAD

Cr Bowditch inquired whether Council could undertake an investigation of the road verge between 650 and 780 Castlerock Road is an undulating section of the road and in at least three parts of the verge there is displacement up to 300ml deep and have been advised of an incident where a resident's car has suffered damage due to the displacement of the road?

17.4 CARPARKS IN FRONT OF MEMORIAL HALL

Cr Woodruff inquired whether an update could be provided on the removal of three car parking spaces at the front of Memorial Hall, Denman.

17.5 DENMAN ROAD

Cr Woodruff inquired whether maintenance could be undertaken on Thomas Mitchell Drive as the surface of the road shoulders is quite rough, and asked for information in relation to the maintenance schedule for Thomas Mitchell Drive.

18 ADJOURNMENT INTO CLOSED COUNCIL

415 RESOLVED on the motion of Crs Ledlin and Eades 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 DEBT WRITE OFF

Item 19.1 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.

19.2 RICHARD GILL SCHOOL - LEASE TERMS

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 ECONOMIC DEVELOPMENT OPPORTUNITY

Item 19.3 is classified CONFIDENTIAL under the provisions of Section10A(2)(d)(l) 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.

19.4 CONTRACT 2019-2020-0424: REMOVAL OF ASBESTOS FROM OLD MUSWELLBROOK WATER TREATMENT PLANT

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.

Members of the public left the meeting at this stage.

19 CLOSED COUNCIL

19.1 DEBT WRITE OFF

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

Council approves the write-off of \$8,940.40 of sundry, uncollectable debts, as listed in the "Debt Write Off List" attachment.

19.2 RICHARD GILL SCHOOL - LEASE TERMS

Disclosure of Interest

Cr J. Foy declared a non-pecuniary interest in this item. Cr Foy advised Council that his daughter is enrolled in the school. Cr Foy left the meeting at 6.47pm and therefore took no part in discussion or voting in this matter.

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

Council:

1. Note the lease terms between Council and the Richard Gill School;

**MINUTES OF THE ORDINARY COUNCIL MEETING OF THE MUSWELLBROOK SHIRE COUNCIL
HELD IN THE CHAMBERS, ADMINISTRATION CENTRE, MUSWELLBROOK ON TUESDAY 30 JUNE,
2020 COMMENCING AT 6.00PM.**

2. Endorse an Option Deed for Richard Gill School to purchase part of Lot 2 DP 1118310 for a nominal sum at the end of the lease; and
3. Endorse a covenant/restriction on the use of the land Lot 2 DP 1118310 (for educational purposes), and that this be registered before Council enters into the Option Deed.

Cr Foy returned to the meeting room at 6.48pm

19.3 ECONOMIC DEVELOPMENT OPPORTUNITY

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

1. Council notes the concept feasibility assessment in this report.
2. Council allocates \$30,000 from the Job Creation Fund for a site suitability assessment and survey.

19.4 CONTRACT 2019-2020-0424: REMOVAL OF ASBESTOS FROM OLD MUSWELLBROOK WATER TREATMENT PLANT

419 RESOLVED on the motion of Crs Scholes and Foy that:

Council:

1. Approves the carry-over of the unspent funds from GL: 5310.4560.504 – Water Treatment Plant Renewals and Replacements to be allocated for the asbestos removal works under Contract 2019-2020-0424 in the 2020-2021 Financial Year;
2. Accepts the submission from Perfect Contracting PL under Local Government Procurement contract LGP119: Asbestos Removal, Remediation Works and Associated Services (LGP119) for the lump sum of \$257,010.00 exclusive of GST.
3. Approves the contingency amount defined in the report.

20 RESUMPTION OF OPEN COUNCIL

420 RESOLVED on the motion of Crs Eades and Bowditch that:

The meeting return to Open Council.

21 CLOSURE

The meeting was declared closed at 6.50pm.

**THE MINUTES OF THE MEETING (PAGES 1 TO 12) WERE CONFIRMED AT THE
ORDINARY COUNCIL MEETING OF THE MUSWELLBROOK SHIRE COUNCIL HELD ON
TUESDAY 28 JULY, 2020 AND ARE A FULL AND ACCURATE RECORD OF
PROCEEDINGS OF THE MEETING HELD ON TUESDAY 30 JUNE, 2020**

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Ms F. Plesman
General Manager

.....
Cr M. Rush
Chairperson