

**MINUTES OF THE ORDINARY COUNCIL MEETING OF THE MUSWELLBROOK SHIRE COUNCIL
HELD IN THE CHAMBERS, ADMINISTRATION CENTRE, MUSWELLBROOK ON TUESDAY 29
SEPTEMBER, 2020 COMMENCING AT 6.00PM.**

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

IN ATTENDANCE: Ms F. Plesman (General Manager), Mr D. Finnigan (Deputy General Manager), Ms N. Cowley (Executive Manager – Officer of the Chief Financial Officer), Ms S. Pope (Executive Manager – Planning & Environment), Mr J. Brown (Manager – Integrated Planning, Risk & Governance), Mr P. Chambers (Shire Engineer (VC)), Mr M. Lysaught (Manager – Works, Property & Building Services), Mr A. Mitreski (Policy Analyst – Economic Development & Innovation), Mrs M. Sandell-Hay (PA to General Manager), Miss M. Meadows (PA to Mayor (VC)), 12 people in the public gallery and 4 people in the public gallery via VC.

1 ACKNOWLEDGEMENT OF COUNTRY

The Acknowledgement of Country was read by the General Manager.

2 CIVIC PRAYER

The Civic Prayer was read by the Cr S. Reynolds.

ONE MINUTES SILENCE

One Minutes' Silence was held in respect of the late Ray Budden who sadly passed away early Monday morning just a few days short of his 102nd birthday. Ray was a former Councillor of Muswellbrook Shire Council and the Municipal Council and undertook extensive volunteer work especially at Mt Providence Aged Care Facility.

3 APOLOGIES AND LEAVE OF ABSENCE

Nil

4 CONFIRMATION OF MINUTES OF PREVIOUS MEETING

70 RESOLVED on the motion of Crs Scholes and Bowditch that:

The Minutes of the Ordinary Meeting held on 25 August 2020, and the Extra Ordinary Meeting held on 8 September 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 M. Bowditch – declared an insignificant non-pecuniary interest in Item 10.5. Cr Bowditch advised Council that he has previously undertaken work for the owner.

Cr M. Bowditch – declared an insignificant non-pecuniary interest in Item 19.1. Cr Bowditch advised Council that he has previously undertaken work for the owner.

Cr J. Eades – declared a significant non-pecuniary interest in Item 19.3. Cr Eades advised Council that she is a friend of the owner of the property.

Cr G. McNeill – declared a significant non-pecuniary interest in Item 10.3 and 10.4. Cr McNeill advised Council that he is close friends with an interested party.

Cr G. McNeill – declared an insignificant non-pecuniary interest in Item 10.5. Cr McNeill advised Council that he is close friends with one of the objectors.

Cr G. McNeill – declared a pecuniary interest in Item 10.7. Cr McNeill advised Council that he owns property affected by Muswellbrook Coal's western lease.

Cr G. McNeill – declared a pecuniary interest in Item 11.1. Cr McNeill advised Council that his son is employed at Bengalla.

Cr S. Reynolds – declared an insignificant non-pecuniary interest in Item 11.1. Cr Reynolds advised Council that he has a family member employed at Bengalla.

Cr M. Rush - declared a significant non-pecuniary interest in Item 10.3 and 10.4. Cr Rush advised Council that a relation is a Board Member.

Cr R. Scholes – declared a significant non-pecuniary interest in Item 10.3 and 10.4. Cr Scholes advised Council that the President of the Workers Club is a personal friend.

Cr R. Scholes – declared a significant non-pecuniary interest in Item 10.5. Cr Scholes advised Council that he is a personal friend of the proponent and some of the objectors.

Cr B. Woodruff – declared a pecuniary interest in Item 10.7. Cr Woodruff advised Council that a member of his immediate family is employed by Muswellbrook Coal Company.

Cr B. Woodruff – declared a pecuniary interest in Item 11.1. Cr Woodruff advised Council that his employer undertakes work for Bengalla Mining Company.

Mr J. Brown - declared a pecuniary interest in Item 12.6. Mr Brown advised Council that he is a Councillor of the Upper Hunter Shire Council.

8.1 ELECTION OF MAYOR AND DEPUTY MAYOR

The Mayor vacated the chair and the General Manager, as Returning Officer, conducted the election of Mayor and Deputy Mayor for the next 12 months term of office.

Cr Martin Rush was the only nomination received for the Office of Mayor and was re-elected as Mayor for the ensuing 12 months. This was met with acclamation.

Two nominations were received for the Office of Deputy Mayor - Cr R. Scholes and Cr S. Reynolds.

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

The method of voting for the office of Deputy Mayor be by open voting/show of hands.

Ms Plesman conducted the election.

Cr Scholes received 7 votes, Cr Reynolds received 2 votes.

Cr Scholes was re-elected as Deputy Mayor for the ensuing 12 months. This was met with acclamation.

Cr Rush resumed the role of Chair and thanked Ms Plesman, for conducting the election.

At 06:15pm Councillor Jason Foy left the Council Chambers.

6 PUBLIC PARTICIPATION

Mr P. Wilson spoke in support of Item 10.1.

Mrs J. & Mr L. Webster – spoke in opposition to Item 10.2.

Mr R. Dwyer – External Planner Item 10.2 answered questions regarding Item 10.2

Disclosure of Interest –

Cr M. Bowditch – declared an insignificant non-pecuniary interest in Item 10.5. Cr Bowditch advised Council that he has previously undertaken work for the owner.

Cr G. McNeill - declared an insignificant non-pecuniary interest in Item 10.5. Cr McNeill advised Council that he is friends with some of the objectors.

Cr R. Scholes – declared a significant non-pecuniary interest in Item 10.5. Cr Scholes advised Council that he is a personal friend of the proponent and some of the objectors.

At 6:33pm Cr Mark Bowditch Cr Graeme McNeill and Cr Rod Scholes left the Council Chambers.

Neil Pollard – spoke in opposition to Item 10.5.

Grant Lloyd – spoke in opposition to Item 10.5.

Fred Baker – spoke in opposition to Item 10.5.

Michael Cole – spoke in support of Item 10.5.

At 6:56pm Cr Bowditch, Cr McNeill and Cr Scholes returned to Council Chambers.

7 MAYORAL MINUTES

Nil

8 GENERAL BUSINESS

8.2 FIXING DAY AND HOUR OF REGULAR COUNCIL MEETINGS

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

1. Ordinary Meetings of the Council be held in the Council Chambers, Muswellbrook, on the last Tuesday of each calendar month commencing at 6.00pm.
2. The Council meeting scheduled to be held on 27 April, 2021 be held in the Denman Memorial Hall.
3. As the December 2020 Council Meeting falls on 28 December, 2020 during which time the Council Administration Centre will be closed, the meeting be held on 21 December, 2020.

9 BUSINESS ARISING

Nil

10 ENVIRONMENTAL SERVICES

10.1 DA 72/2003(3) - SECTION 4.55(2) MODIFICATION - ALTER RESTAURANT (MCDONALDS) HOURS OF OPERATION BY MAINTAINING 5AM DRIVE-THRU OPENING HOURS

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

This matter be delegated to the General Manager for determination.

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

Against: Nil.

10.2 DA 2020/43 - ANIMAL BOARDING ESTABLISHMENT AND COMMUNITY FACILITY - 127-129 SYDNEY STREET, LOT 2 DP 1243931, MUSWELLBROOK

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

This matter be deferred to later in the meeting until a copy of the hydrology study can be provided to Councillors.

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

Cr Woodruff be appointed as Chair for the consideration of Items 10.3 and 10.4.

10.3 DA 18/2017 - COMPLIANCE WITH CAR PARKING CONSTRUCTION REQUIREMENTS - 29 SYDNEY STREET, MUSWELLBROOK

Disclosures of Interest

Cr M. Rush - declared a significant non-pecuniary interest in this Item. Cr Rush advised Council that a relation is a Board Member.

Cr R. Scholes – declared a significant non-pecuniary interest in this Item. Cr Scholes advised Council that the President of the Workers Club is a personal friend.

Cr G. McNeill - declared a significant non-pecuniary interest in this Item. Cr McNeill advised Council that he is close friends with an interested party.

At 7.09pm Cr Martin Rush, Cr Rod Scholes and Cr Graeme McNeill left the Council Chambers and therefore took no part in discussion or voting on this item.

76 RESOLVED on the motion of Crs Bowditch and Reynolds that:

Council APPROVES the following actions:

1. Issue a Notice of Intention to issue an Order, requiring the submission of evidence to demonstrate that the consolidation of lots has been achieved, in accordance with Condition 3 of the Notice of Determination of the development consent for DA 18/2017. This Notice of Intention is to be subject to a 14-day period for the making of submissions and the associated Order a further period of 3 months to achieve compliance.
2. Issue a Notice of Intention to issue an Order, requiring construction of the car park and driveways required by Conditions 1 and 3 of the Notice of Determination for DA 18/2017. The Notice of Intention is to be subject to a 1-month period for the making of submissions and the associated Order a period of 2 months for construction to commence on all required works and a further 3 months for their completion.

In Favour: Crs M. Bowditch, J. Eades, J. Ledlin, S. Reynolds, S. Ward and B. Woodruff.

Against: Nil.

10.4 DA 2020/5 - CHANGE OF USE FROM A RESTAURANT TO A COMMUNITY FACILITY

Disclosures of Interest

Cr M. Rush - declared a significant non-pecuniary interest in this Item. Cr Rush advised Council that a relation is a Board Member.

Cr R. Scholes – declared a significant non-pecuniary interest in this Item. Cr Scholes advised Council that the President of the Workers Club is a personal friend.

Cr G. McNeill - declared a significant non-pecuniary interest in this Item. Cr McNeill advised Council that he is close friends with an interested party.

At 7.09pm Cr Martin Rush, Cr Rod Scholes and Cr McNeill remained absent from the Council Chambers and therefore took no part in discussion or voting on this item.

77 RESOLVED on the motion of Crs Reynolds and Bowditch that:

Council approve Development Application No. 2020/5, involving the change of use from a restaurant to a community facility, at 29 Sydney Street Muswellbrook (Lot 1 DP 69766), subject to the recommended conditions of consent put forward in Attachment B.

In Favour: Crs M. Bowditch, J. Eades, J. Ledlin, S. Reynolds, S. Ward and B. Woodruff.

Against: Nil.

At 7.11pm Cr Rush, Cr Scholes and Cr McNeill returned to Council Chambers.

10.2 DA 2020/43 - ANIMAL BOARDING ESTABLISHMENT AND COMMUNITY FACILITY - 127-129 SYDNEY STREET, LOT 2 DP 1243931, MUSWELLBROOK

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

This matter be deferred to the October Council Meeting to ensure that all appropriate neighbours have been advised of the proposed development.

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

Against: Nil.

10.5 PP016 - REZONING - IRONBARK RIDGE

Disclosure of Interest

Cr M. Bowditch - declared an insignificant non-pecuniary interest in this Item. Cr Bowditch advised Council that he has previously undertaken work for the owner.

Cr G. McNeill – declared an insignificant non-pecuniary interest in this Item. Cr McNeill advised Council that he is close friends with one of the objectors.

Cr R. Scholes – declared a significant non-pecuniary interest in this Item. Cr Scholes advised Council that he is a personal friend of the proponent and some of the objectors.

At 7:19pm Cr Bowditch, Cr McNeill and Cr Scholes left the Council Chambers and therefore took no part in discussion or voting on this item.

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

Council:

1. Endorses the Planning Proposal contained in Attachment A (Planning Proposal – Rezoning

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- Ironbark Ridge Extension (PP_2014_MUSWE_003_00) and requests a PC Opinion to amend Muswellbrook Local Environmental Plan 2009;
- 2. Makes the amending Plan under delegation pursuant to section 3.36 of the Environmental Planning and Assessment Act 1979; and
- 3. Resolves to prepare site specific Development Control Plan provisions for the land, generally in accordance with the plan prepared by MM Hyndes Bailey dated 20.08.2020 and marked as File 205116 offset_v5.

In Favour: Crs J. Eades, J. Ledlin, S. Reynolds, M. Rush, S. Ward and B. Woodruff.

Against: Nil.

At 7.33pm Cr Bowditch, Cr McNeill and Cr Scholes returned to Council Chambers.

10.6 ADOPTION OF MUSWELLBROOK LOCAL STRATEGIC PLANNING STATEMENT 2020-2040

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

Council defer consideration of the matter to the October 2020 meeting.

10.7 MUSWELLBROOK COAL DRAFT AIR QUALITY MANAGEMENT PLAN

Disclosure of Interest

Cr G. McNeill – declared a pecuniary interest in this Item. Cr McNeill advised Council that he owns property affected by Muswellbrook Coal's Western Lease.

Cr B. Woodruff – declared a pecuniary interest in this Item. Cr Woodruff advised Council that a member of his immediate family is employed by Muswellbrook Coal Company.

At 7.34pm Cr Graeme McNeill and Cr Brett Woodruff left the Council Chambers and therefore took no part in discussion or voting on this item.

81 RESOLVED on the motion of Crs Reynolds and Bowditch that:

Council approve the request to remove the Muscle Creek Fire Station air quality monitor and determines that the following requirements need to be met by Muswellbrook Coal Mine:

- a) Muswellbrook Coal continues all attempts to minimise and control spontaneous combustion on site;
- b) Continues daily Odour and Visual Observation records from May to Oct, and makes these records available on request to Council, the EPA or members of the community;
- c) Agrees to reinstate an air quality monitor at Muscle Creek Fire Station if there are more than 10 unique complaints received by Council, the Mine Operator or the EPA in the cooler months (May to Oct period) and Council is satisfied that the complaints received are not vague or vexatious. The Annual Environmental Management Report is to explicitly identify odour complaints made in the May to Oct period;
- d) Improves direct liaison with the household who made submissions regarding removal of the air quality monitor, provided the households agree to Council supplying their contact details to the Mine Operator.

11 COMMUNITY INFRASTRUCTURE

11.1 PROPOSED COUNCIL PUBLIC ROAD CLOSURES - BENGALLA MINE CONTINUED OPERATIONS PROJECT

Disclosure of Interest

Cr G. McNeill – declared a pecuniary interest in this Item. Cr McNeill advised Council that his son is employed at Bengalla.

Cr B. Woodruff – declared a pecuniary interest in Item 11.1. Cr Woodruff advised Council that his employer undertakes work for Bengalla Mining Company.

Cr S. Reynolds – declared an insignificant non-pecuniary interest in this Item. Cr Reynolds advised Council that he has a family member employed at Bengalla.

At 7.34pm Steven Reynolds left the Council Chambers while Cr McNeill and Cr Woodruff remained absent from the meeting room and therefore took no part in discussion or voting on this item.

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

Council:

1. Endorses, subject to the relevant statutory processes and negotiation of the relevant agreement(s), the closure and sale of the unnamed Council public roads as outlined in the report;
2. Approves staff to proceed with the road closure process in accordance with Division 3 Part 4 of the *Roads Act 1993*;
3. Deems that construction has taken place on the unnamed Council public roads under consideration and as such remain vested in Council upon closure, in accordance with s. 38E (2) (a) of the *Roads Act 1993*;
4. Subject to resolution 1 above, delegates to the General Manager:
 - (a) the negotiation of the commercial terms of the contemplated sale of the roads; and
 - (b) the execution of all relevant documents required to carry out the road closure and sale process.

At 7.35pm Cr McNeill, Reynolds and Cr Woodruff returned to Council Chambers.

11.2 PERMANENT LEGAL CLOSURE OF PART OF EDDERTON ROAD

83 RESOLVED on the motion of Crs Reynolds and Ward that:

Council resolves to:

- (i) permanently legally close the “proposed closed road portion” of Edderton Road as described below in accordance with Division 3 Part 4 of the *Roads Act 1993*;
- (ii) following the legal closure of the “proposed closed road portion”, dispose of the land comprising the former public road to Hunter Valley Energy Coal in accordance with the Edderton Road Realignment Deed;
- (iii) affix the seal of Council to the Transfer dealing to effect the disposal of the land referred to in (ii); and
- (iv) authorise the General Manager to execute any other relevant documents at the General

Manager's discretion.

The "proposed closed road portion" comprises the Council Public Road known as part of Edderton Road being that part commencing at the intersection of Denman Road for a length of 4.2km separating the following land noted below:

- Lot 1 DP806149 from 2 DP806149;
- Lot 1 DP385720 from Lot 20 DP550431 & Lot 2 DP843634;
- Lot 2 DP385720 from Lot 7 DP1259663 (*formerly part Lot 8 DP26211);
- Lot 4 DP1259663 (formerly part Lot 1 DP372862) from Lot 7 DP1259663 *;
- Lot 5 DP1259663 (formerly part Lot 154 DP752500) from Lot 7 DP1259663 *

11.3 ROAD CLASSIFICATION REVIEW AND TRANSFER PROJECTS

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

1. Council approves the following roads to be nominated for reclassification under the NSW Road Classification Review:
 - (i) Thomas Mitchell Drive;
 - (ii) Wybong Road;
 - (iii) Bengalla Link Road; and
 - (iv) Bylong Valley Way.
2. A further report is to be submitted to Council following feedback provided by the Independent Panel carrying out the Review.

11.4 FUTURE FUND CAPITAL WORKS PRIORITIES

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

Council:

1. Endorse the capital works priorities and programme; and
2. Allocate the capital budget as identified in the report.

11.5 IPART REVIEW OF COUNCIL DOMESTIC WASTE MANAGEMENT CHARGES

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

Council endorses the attached draft submission to the NSW Independent Pricing and Regulatory Tribunal review of Domestic Waste Management Charges.

11.6 HUNTER BEACH PROJECT

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

1. Council endorses Option B for the development of Hunter Beach; and
2. The detailed design for Option B will be submitted to Council for review and approval.

**11.7 WATER AND WASTEWATER LEVELS OF SERVICE FOR THE FOURTH QUARTER OF 2019
-2020**

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

Council notes the information contained in the report.

11.8 WATER STOP VALVE REPLACEMENT PROGRAMME

89 RESOLVED on the motion of Crs McNeill and Scholes that:

Council approves:

1. an allocation of \$200,000 from the Water Reserve to enable the implementation of a prioritised programme of water stop valve replacement; and
2. the creation of a discrete capital expenditure budget item to enable the funding allocation to be provided for the carrying out of the works.

11.9 WATER AND WASTEWATER 2020-21 CAPITAL WORKS PROGRAMME

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

Council approves:

1. the transfer of funding as detailed in the Financial Implications section of the report; and
2. the prioritised lists of work and the undertaking of the 2020-21 Capital Works programmes for Water and Wastewater to the extent of funding available under each of the various programmes.

11.10 PROPOSED BRIDGE CONCEPTS - OLYMPIC PARK

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

Council approves:

1. Concept Option 3 for the design and construction of a two lane, two way bridge with a minimum traffic lane measuring a width of 7.0 metres with dedicated walk cycle lane of minimum 3.0 metre width;
2. The bridge design to include heritage elements based on the design and features of the existing Keys Memorial Gates;
3. A loan to be sought for the amount specified in the Financial Implications section of the

report; and

4. A report to be submitted to the October 2020 Ordinary Council meeting clarifying the funding available to carry out the project.

12 CORPORATE AND COMMUNITY SERVICES

12.1 ADMINISTRATION CENTRE RELOCATION AND CLOSURE DATES

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

Council endorses the closure of Council offices as follows:

- * Monday 19 October, 2020 – Front Counter Administration Centre Campbell’s Corner
- * Friday 9 October, 2020 – Union Picnic Day
- * Friday 11 December, 2020 – Staff Christmas Function
- * 5.00pm Wednesday 23 December, 2020 to 7.00am Monday 4 January, 2021 – Christmas/New Year.

12.2 MODEL CODE OF MEETING PRACTICE

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

Council adopt the revised Code of Meeting Practice.

12.3 INTERNAL REPORTING AND PUBLIC INTEREST DISCLOSURES POLICY REVIEW

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

1. Council endorse the reviewed Internal Reporting and Public Interest Disclosure Policy for a period of not less than twenty-eight (28) days.
2. Council adopt the Internal Reporting and Public Interest Disclosure Policy at the conclusion of the public exhibition period if no substantive changes are recommended in any submissions received.

12.4 HALF DAY PUBLIC HOLIDAY 2021

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

Council make an application to the Minister for the Public Service and Employee Relations for the declaration of a half day public holiday for the Muswellbrook Cup Day from noon on Friday, 26 March 2021.

12.5 AUSTRALIA DAY 2021 AWARDS CEREMONY AND COMMUNITY CELEBRATION

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

Council:

1. Endorses the plans for the Australia Day 2021 Awards Ceremony and Community Celebration; and
2. Approves the establishment of an internal Australia Day 2021 Working Party.

12.6 UPPER HUNTER LIBRARY NETWORK

Disclosure of Interest

Mr J. Brown - declared a pecuniary interest in this Item. Mr Brown advised Council that he is a Councillor of the Upper Hunter Shire Council.

At 7.43pm Mr Brown left the Council Chambers.

97 RESOLVED on the motion of Crs Eades and Reynolds that:

Council endorse the recommendation to dissolve the Upper Hunter Library Network and continue discussion with Upper Hunter Shire Council.

At 7.43pm Mr Brown returned to the meeting.

12.7 PRELIMINARY SEPTEMBER BUDGET REVIEW 2020

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

Council adopt the list of proposed changes and incorporate them into the 2020/21 Budget.

12.8 REPORT ON INVESTMENTS HELD AS AT 31 AUGUST 2020

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

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

12.9 AUGUST 2020 MONTHLY FINANCIAL REPORT

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

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

12.10 PLANNING AND ENVIRONMENT SERVICES

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

The information contained in this report be noted.

12.11 COMMUNITY SERVICES

102 RESOLVED on the motion of Crs Eades and Reynolds that:

The information contained in this report be noted.

13 REPORTS FROM COMMITTEES

13.1 LOCAL TRAFFIC COMMITTEE - 24/08/2020

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

The Minutes of the Local Traffic Committee Meeting held on Monday 24 August 2020 be received and the recommendations contained therein ADOPTED.

13.2 DEVELOPMENT ASSESSMENT COMMITTEE - 24/08/2020

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

The Minutes of the Development Assessment Committee Meeting held on Monday 24 August 2020 be received and the recommendations contained therein ADOPTED.

13.3 DEVELOPMENT ASSESSMENT COMMITTEE - 7/09/2020

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

The Minutes of the Development Assessment Committee Meeting held on Monday 7 September 2020 be received and the recommendations contained therein ADOPTED.

14 NOTICES OF MOTION / RESCISSION

Nil

15 QUESTIONS WITH NOTICE

Nil

16 COUNCILLORS REPORTS

16.1 DENMAN U18 RUGBY LEAGUE

Cr Graeme McNeill acknowledged the Denman U18 Football community, committee and players for getting a team together and joining the Newcastle competition. Cr McNeill also congratulated the team on being Runners Up in the competition and asked if Council would acknowledge the community contribution during such adverse times.

17 QUESTIONS FOR NEXT MEETING

17.1 VICTORIA PARK

Cr Woodruff inquired as to whether a report could be provided on the status of Victoria Park?

18 ADJOURNMENT INTO CLOSED COUNCIL

106 RESOLVED on the motion of Crs Woodruff and Ledlin 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 TENDER 2019-2020-0395 - REPLACEMENT OF A CULVERT AT MANGOOLA ROAD

Item 19.1 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.

19.2 RURAL ROADS IMPROVEMENT PROGRAMME

Item 19.2 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.

19.3 POTENTIAL STORMWATER DRAINAGE MANAGEMENT RESERVE

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 TENDER 2019-2020-0409B - SUPPLY AND INSTALLATION OF DENMAN MEMORIAL PARK PLAYGROUND

Item 19.4 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 CLOSED COUNCIL

19.1 TENDER 2019-2020-0395 - REPLACEMENT OF A CULVERT AT MANGOOLA ROAD

Disclosure of Interest

Cr M. Bowditch – declared an insignificant non-pecuniary interest in this Item. Cr Bowditch advised Council that he has previously undertaken work for the owner.

At 7.48pm Cr Mark Bowditch left the Council Chambers and therefore took no part in discussion or voting on this item.

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

1. The tender submitted by KCE Pty Ltd be accepted subject to a satisfactory financial assessment; and
2. The General Manager be delegated authority to sign and affix Council's seal to Contract 2019-2020-0395.

At 7.49pm Councillor Mark Bowditch returned to Council Chambers.

19.2 RURAL ROADS IMPROVEMENT PROGRAMME

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

Council:

1. Notes the information contained in the report.
2. Approves a discrete capital budget to be created as described in the Financial Implications section of the report.

19.3 POTENTIAL STORMWATER DRAINAGE MANAGEMENT RESERVE

Disclosure of Interest

Cr J. Eades – declared a significant non-pecuniary interest in this Item. Cr Eades advised Council that she is a friend of the owner of the property.

At 7.50pm Cr Janelle Eades left the Council Chambers and therefore took no part in discussion or voting on this item.

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

In relation to the block of land identified in the report, Council:

1. Approves proceeding to negotiate purchase of the property.
2. Authorises the General Manager to negotiate the terms and execute all relevant documentation relating to the purchase of the subject property by Council.
3. Authorise if necessary for the Council Seal to be affixed to the Contract of Sale and Transfer document relating to the purchase by Council of the subject property.
4. The subject property be classified as "Operational" land within the meaning of Division 1, Part 2 of Chapter 6 of the Local Government Act 1993.

At 7.50pm Cr Eades returned to Council Chambers.

**19.4 TENDER 2019-2020-0409B - SUPPLY AND INSTALLATION OF DENMAN MEMORIAL
PARK PLAYGROUND**

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

1. Council accepts the tender from Moduplay Group Pty Ltd – Option 1 with an amendment to remove the garden bed to install an inground trampoline, for the fee of \$350,000.00 (excluding GST);
2. The project is to be funded as follows:
 - (i) \$200,000 grant funding as described in the report;
 - (ii) \$75,000 from section 7.11 Open Space Reserve;
 - (iii) \$47,402 from Denman Gateway Programme capital budget; and
 - (iv) \$27,598 from Denman Streetscape Works Programme;
3. A discrete capital budget be created to consolidate approved funding for the project.

20 RESUMPTION OF OPEN COUNCIL

111 RESOLVED on the motion of Crs Ward and Reynolds that:

The meeting return to Open Council.

21 CLOSURE

The meeting was declared closed at 7.50pm.

THE MINUTES OF THE MEETING (PAGES 1 TO 15) WERE CONFIRMED AT THE
ORDINARY COUNCIL MEETING OF THE MUSWELLBROOK SHIRE COUNCIL HELD ON
TUESDAY 27 OCTOBER, 2020 AND ARE A FULL AND ACCURATE RECORD OF
PROCEEDINGS OF THE MEETING HELD ON TUESDAY 29 SEPTEMBER, 2020

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Ms F. Plesman
General Manager

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Cr M. Rush
Chairperson