

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

IN ATTENDANCE: Mr S.J. McDonald (General Manager), Mr N.W. Pope (Director, Community Infrastructure), Ms F. Plesman (Director - Planning, Community & Corporate Services), Mr P. Redan (Executive Manager, Water and Waste), Ms G. Bobsien (Executive Manager – Economic Development & Innovation), Ms N. Cowley (Manager, Corporate Services), Mr P. Gunasekara (Acting Manager, Planning & Environmental Services), Mrs C. O'Brien (Manager, Community Services), Mr J. Brown (Executive Services Co-Ordinator), Mr M. Lysaught (Manager, Property & Building Services), Mr P. Higgins (Manager, Technical Services), Mrs M. Sandell-Hay (PA to General Manager), 6 people in the public gallery.

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

Nil

4 CONFIRMATION OF MINUTES OF PREVIOUS MEETING

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

The Minutes of the Ordinary Meeting held on 8 August 2017, a copy of which has been distributed to all members, be taken as read and confirmed as a true record.

5 DISCLOSURE OF ANY PECUNIARY AND NON PECUNIARY INTEREST

Cr M. Bowditch – Declared a pecuniary interest in Item 10.3. Cr Bowditch advised Council that he is employed by a Company that Contracts to Mangoola Mine.

Cr M. Green – Declared a pecuniary interest in Item 19.3. Cr Green advised Council that her husband is an employee of BHP Billiton.

Cr G. McNeill – Declared a non-pecuniary interest in Item 12.8. Cr McNeill advised that his wife holds a position on the Muswellbrook Junior Cricket Committee which uses Victoria Park.

Cr S. Reynolds – Declared a pecuniary interest in Item 19.3. Cr Reynolds advised Council that he is an employee of BHP Billiton.

Cr S. Ward – Declared a significant non-pecuniary interest in Item 10.4. Cr Ward advised that the Pig Races raise money for the Westpac Rescue Helicopter which he has utilised in the past.

Ms G. Bobsien – Declared a pecuniary interest in Item 19.3. Ms Bobsien advised Council that her partner works for BHP Billiton.

6 PUBLIC PARTICIPATION

1. Megan Duncan – In support of Item 10.1 – DA 58/2017 – Change of Use – Continued Use of a Dwelling, Jerdan Street, Denman

2. Dawid Boshoff (Mt Arthur Coal) – Item 19.1 – This matter was held over to Closed Council

7 MAYORAL MINUTES

Nil

8 GENERAL BUSINESS

8.1 FIXING DAY AND HOUR OF REGULAR COUNCIL MEETINGS

54 RESOLVED on the motion of Crs McNeill and Green that:

1. Ordinary Meetings of the Council be held in the Council Chamber, Muswellbrook, on the second Tuesday of each calendar month commencing at 6.00pm.
2. No Council meeting be held in January, 2018 due to the holiday period.
3. The Council meeting scheduled to be held on 9 April, 2018 be held in the Denman RSL hall.
4. The Infrastructure Committee meetings be held in the Councillors Room, Administration Centre, Muswellbrook on the last Wednesday of each calendar month commencing at 4.30pm.
5. The Corporate Policy and Planning Committee meetings be held in the Councillors Room, Administration Centre, Muswellbrook on the last Wednesday of each calendar month commencing at the conclusion of the Infrastructure Committee.
6. As the December 2017 Infrastructure Committee and Corporate Policy and Planning Committee meetings fall on 27 December, 2017 during which time the Council Administration Centre will be closed, the meetings be held on 20 December, 2017.
7. As the April 2018 the Infrastructure and Corporate Policy & Planning Committee Meetings fall on a Public Holiday the meeting be held on Wednesday 18 April, 2018.

9 BUSINESS ARISING

Nil

10 ENVIRONMENTAL SERVICES

10.1 DEVELOPMENT APPLICATION NO 58/2017 - CHANGE OF USE - CONTINUED USE OF A DWELLING, JERDAN STREET, DENMAN

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

Development Application No. 58/2017 proposing a change of use – continue use as a dwelling at Lot 1 DP 151236, 18 Jerdan Street, Denman be approved subject to the conditions in Appendix A to the report.

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

Against: Nil.

10.2 DEVELOPMENT APPLICATION 69/2017 NEW FIRE STATION, VIRGINIA STREET, DENMAN

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

The General Manager be delegated authority to determine Development Application No. 69/2017.

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

Against: Nil.

10.3 DEVELOPMENT APPLICATION NO 72/2017 - DEMOLITION OF DWELLING, 640 WYBONG ROAD, MUSWELLBROOK

Disclosure of Interest

Cr M. Bowditch declared a pecuniary interest in this item. Cr Bowditch advised Council that he is employed by a Company contracted to Mangoola Mine who is the applicant. At 6.06PM Cr Mark Bowditch left the Council Chambers and therefore took no part in discussion or voting on this matter.

57 RESOLVED on the motion of Crs Reynolds and Bailey that:

Development Application No. 72/2017 proposing the demolition of a dwelling at Lot 1 DP 213293, 640 Wybong Road, Muswellbrook be APPROVED subject the conditions in Appendix A to the report.

At 06:07 PM Cr Mark Bowditch returned to Council Chambers.

10.4 SECTION 68 APPLICATION NO. 9/2017 - DENMAN PIG RACES - REQUEST TO WAIVE APPLICATION FEES

Disclosure of Interest

Cr S. Ward declared a significant non-pecuniary interest in this item. Cr Ward advised Council that he has utilised the services of the Westpac Rescue Helicopter which the event is raising money for. At 6.07 PM Cr Stephen Ward left the Council Chambers and therefore took no part in discussion or voting on this matter.

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

1. Council waive the fee of \$311.50 payable by the Westpac Rescue Helicopter Service Denman Volunteer Support Group for the application 9/2017.
2. The fee amount to be allocated from the Sundries Donations budget.

At 6.10 PM Cr Stephen Ward returned to Council Chambers.

10.5 GAZETTAL OF PLASHETT CLOSE, MUSWELLBROOK

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

Council support the publishing of the Erratum Notice in the next available issue of the Government Gazette to correctly name the road "Plashett Close".

10.6 DRAFT POLICY ON CONTROL OF OPEN BURNING

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

1. The Draft Policy on Control of Open Burning be placed on public exhibition for a minimum of 28 days.
2. A further report be prepared for Council after public exhibition.

11 COMMUNITY INFRASTRUCTURE

Nil

12 CORPORATE AND COMMUNITY SERVICES

12.1 MUSCLE CREEK COMMUNITY ART PROJECT

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

Council to support implementation of a Muscle Creek community art project to be implemented as part of the 2018/19 Operational Plan.

12.2 RECYCLING FOR PUBLIC AREAS

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

Council:

1. Retrofit four existing bin enclosures in the Muswellbrook CBD area.
2. A budget bid be considered as part of the 2018/19 Budget to purchase four dual Ecobins for installation in key Council managed facilities such as the Arts Centre, Aquatic Centre and Libraries in Muswellbrook and Denman.

12.3 FLYING FOX CAMP MANAGEMENT PLAN

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

1. Council approve the public exhibition of the Flying Fox Camp Management Plan.
2. Council consider a budget of \$42,500 in the 2018/19 Operational Budget to implement the Flying Fox Camp Management Plan.

12.4 AUSTRALIA DAY 2018

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

The General Manager be delegated authority to determine this matter after consultation with the Councillors.

12.5 UNION PICNIC DAY 2017

65 RESOLVED on the motion of Crs McNeill and Ward that:

Council endorse the staff Union Picnic Day as Friday 6 October 2017.

12.6 RECREATION ASSET MANAGEMENT PLAN AND BENCHMARKING

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

1. The information contained in this report be noted.
2. A report be submitted to Council following the completion of the Yardstick Benchmarking.

12.7 PROPOSED GENERAL BUILDING PROGRAMME

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

Council approve the proposed General Building Programme as outlined in the report.

12.8 PROPOSED GENERAL RECREATION PROGRAMME

Disclosure of interest

Cr G. McNeill declared a non-pecuniary interest in this item. Cr McNeill advised Council that his wife holds a position on the Muswellbrook Junior Cricket Committee which uses Victoria Park. At 06:14 PM Councillor Graeme McNeill left the Council Chambers and therefore took no part in discussion or voting on this item.

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

1. Council approve the proposed General Recreation Programme as outlined in the report, except for as provided by 3.
2. Award \$15,100 to the Early Rifle and Pistol Club Range funded from the remaining budget allocation of 2016/17 Large Capital Grants programme.
3. Renew soft-fall at Simpson Park be recreation renewal at Simpson Park.
4. Council allocate \$200,000 from the Recreation Reserve for works done at Victoria Park ovals.

At 06:14 PM Councillor Graeme McNeill returned to Council Chambers.

12.9 CODE OF CONDUCT REVIEW

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

Council endorse the draft Code of Conduct for public exhibition for a period of 28 days.

12.10 RELATED PARTY DISCLOSURE POLICY AND PROCEDURES

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

Council adopt the Related Party Disclosure Policy and Procedures.

12.11 2016/17 ANNUAL FINANCIAL STATEMENTS

71 RESOLVED on the motion of Crs Bailey and Woodruff that:

Council:

1. Authorise the submission of the 2016/17 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.

12.12 DIRECTOR'S REPORT - PLANNING, COMMUNITY & CORPORATE SERVICES

72 RESOLVED on the motion of Crs Ledlin and Bailey that:

The information contained in this report be noted.

13 REPORTS FROM COMMITTEES

13.1 LOCAL TRAFFIC COMMITTEE - 15/08/2017

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

The Minutes of the Local Traffic Committee Meeting held on Tuesday 15 August 2017 be received and the recommendations contained therein ADOPTED.

13.2 INFRASTRUCTURE COMMITTEE - 30/08/2017

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

The Minutes of the Infrastructure Committee Meeting held on Wednesday 30 August 2017 be received and the recommendations contained therein ADOPTED.

13.3 CORPORATE POLICY AND PLANNING COMMITTEE - 30/08/2017

75 RESOLVED on the motion of Crs Bailey and Foy that:

The Minutes of the Corporate Policy And Planning Committee Meeting held on Wednesday 30 August 2017 be received and the recommendations contained therein ADOPTED.

13.4 ABORIGINAL RECONCILIATION COMMITTEE - 15/06/2017

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

The minutes for the Aboriginal Reconciliation Committee meeting held on Thursday 15 June 2017 be NOTED.

13.5 WORLD WAR I CENTENARY WORKING GROUP - 3/08/2017

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

1. The minutes for the World War I Centenary Working Group meeting held on Thursday 3 August 2017 be NOTED.
2. Council allocate a contingency of \$15,000 for the Battle of Beersheba Commemorative Events to be funded from the GST refund held by the RSL Sub-branch.

14 NOTICES OF MOTION / RESCISSION

Nil

15 QUESTIONS WITH NOTICE

Nil

16 COUNCILLORS REPORTS

16.1 SPUR HILL

Cr Stephen Ward advised that he attended the Spur Hill Underground Coal Mine Community Forum.

16.2 MANGOOLA COAL

Cr Stephen Ward also advised that he attended the Mangoola Coal Community Forum which provided information on Wild Dog and Fox control and mine operations. Cr Ward also advised that the Mine are drilling and intend to extract 45,000,000 tonnes of coal in the next 6 years.

16.3 BLUE HEELER FILM FESTIVAL

Cr Scott Bailey thanked staff for their efforts in with the Blue Heeler Film Festival. Cr Bailey advised that next year's event should go from strength to strength and congratulated staff for their efforts.

16.4 SUSTAINABILITY HUB

Cr Scott Bailey reported that he attended the Sustainability Hub which saw a cross section of the Community come together to discuss sustainability. Cr Bailey thanked the staff involved in organising this event.

16.5 GOOD SPACE SUICIDE AWARENESS

Cr Michelle Green reported that she had attended the Good Space Suicide Awareness Seminar held at the Library and thanked staff for the networking opportunities that such seminars provide. Cr Green advised that another five or six seminars had been programmed.

16.6 EXHIBITION OPENING

Cr Jason Foy reported that he had attended the Exhibition Opening held on 1 September, 2017 at the Muswellbrook Regional Arts Centre which had approximately 200 people attend. Cr Foy congratulated staff for contacting the Pre-School and High School to encourage student's attendance at the Opening.

16.7 12/16 HUNTER RIVER LANCERS ANNUAL DINNER

Cr Brett Woodruff reported that he attended the 12/16 Hunter River Lancers Dinner on 2 September, 2017 where Major John Millerd was the guest speaker. Cr Woodruff advised that Major Millerd delivered a very heartfelt and direct acquittal of the re-enactment of the Charge of Beersheba.

16.8 SOUTH MUSWELLBROOK

Cr Graeme McNeill reported that he was a member on the South Muswellbrook Monitoring Group which was set up to address concerns of residents in this area. Cr McNeill advised that the Group was working well and had been very positive.

17 QUESTIONS FOR NEXT MEETING

17.1 COMMUNITY CONSULTATION

Cr Green advised that she attended the Mangoola Community Consultative Committee recently and spoke about the LEP forums with the Wybong residents with a large number of those residents advising that they did not know the forums were being held. Cr Green inquired whether in future postal drops could be looked at as a way of getting information the residents in smaller communities?

Cr Rush advised that Council would need to send to all residents not just one particular community and that he expects greater participation in next round of consultation and will look at a communication strategy for such events.

17.2 ALMOND STREET DENMAN

Cr Bowditch inquired whether Council could investigate the gravel sections of Almond Street, Denman with a view to determining who is responsible for the upkeep of that section of the road?

Mr Pope asked that the resident contact Council as Council maintains the road up to a certain section as the road becomes Crown Road.

17.3 COMMUNITY ENGAGEMENT SUNSET COMMITTEE

Cr Reynolds inquired whether a Sunset Committee could be formed that looked at all community engagement activities?

Cr Rush advised that he, as the Community Engagement Spokesperson, has the authority to establish this Committee subject to consulting with fellow councillors.

17.4 USE OF POLICE MOTORBIKES

Cr Reynolds noted that Council had provided assistance with the purchase of motorbikes for the Police and inquired whether Council could ask the Police whether the bikes were still be utilised in this area?

Cr Rush advised Council that he had met with the Local Area Command recently who indicated that the motorbikes were being utilised in rescue operations in National Parks.

17.5 CARS WITHIN KARoola PARK

Cr Reynolds inquired whether Council's Rangers could undertake patrols at Karoola Park during the times when schools are commencing and finishing for the day to deter motorists from utilising the Park?

17.6 HASTINGS STREET

Cr Eades advised the work had been undertaken at the end of Hastings Street which installed bollards to stop motorists from entering Karoola Park which seems to have worked but there is now a pile of dirt which bike riders are using as a jump can this be raised with the Police?

18 ADJOURNMENT INTO CLOSED COUNCIL

78 RESOLVED on the motion of Crs Bailey and Foy 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 AWARD OF TENDER FOR THE REHABILITATION OF BRIDGE STREET WATER RETICULATION MAINS 2016-2017-0289

Item 19.1 is classified CONFIDENTIAL under the provisions of Section 10A(2)(c) and 10A(2)(d)(i) 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 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.

19.2 REGIONAL CODE OF CONDUCT REVIEW PANEL 2017

Item 19.2 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.

19.3 MT ARTHUR'S PROPOSAL TO TEMPORARILY CLOSE EDDERTON ROAD AND PROVIDE AN ALTERNATIVE ROUTE FOR THE DURATION OF MINING.

Item 19.3 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.

Members of the public left the meeting at this stage except for the BHP Billiton representatives.

PUBLIC PARTICIPATION: Mr Dawid Boshoff (Mt Arthur Coal) provided a brief presentation on Mt Arthur's proposal to temporarily close Edderton Road and provide an alternative route for the duration of mining.

Following the presentation BHP Billiton representatives left the meeting.

19 CLOSED COUNCIL

19.1 AWARD OF TENDER FOR THE REHABILITATION OF BRIDGE STREET WATER RETICULATION MAINS 2016-2017-0289

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

Council:

1. Approve the award of tender No. RFT-10009781 / 2016-2017-0289, submitted by Abergeldie Watertech Pty Ltd for the amount of \$305,385.29 (excl. GST, contingencies, supervision and safety management);
2. Approve the allocations of funding towards contingencies, supervision and safety management as detailed in the report;
3. Approve the transfer of \$300,000 from General ledger 5310.4321.504 for reservoir renewals to General ledger 5320.4340.504 to cater for anticipated increased reticulation works replacement and refurbishment.

19.2 REGIONAL CODE OF CONDUCT REVIEW PANEL 2017

80 RESOLVED on the motion of Crs Bailey and McNeill that:

Council endorse the list of conduct reviewers, attached as appendix A to this report, be endorsed as Muswellbrook Shire Council's Conduct Review Panel for 2017-21.

19.3 MT ARTHUR'S PROPOSAL TO TEMPORARILY CLOSE EDDERTON ROAD AND PROVIDE AN ALTERNATIVE ROUTE FOR THE DURATION OF MINING.

Disclosure of Interest

Cr M. Green declared a pecuniary interest in this item. Cr Green advised that her husband is an employee of BHP Billiton.

Cr S. Reynolds declared a pecuniary interest in this item. Cr Reynolds advised Council that he is employed by BHP Billiton.

Ms G. Bobsien declared a pecuniary interest in this item. Ms Bobsien advised that her partner is employed by BHP Billiton.

At 06:45 PM Cr Green, Cr Reynolds and Ms Bobsien left the Council Chambers and therefore took no part in discussion or voting on this item.

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

1. Council note the request from Hunter Valley Energy Coal Pty Ltd (Mt Arthur) concerning the temporary closure of Edderton Road, the construction of a temporary new road to the west of the current Edderton road, and the reconstruction of Edderton Road on its existing alignment following mining.
2. The General Manager commence negotiations with Mt Arthur with a view to entering into a Deed of Agreement (the Deed) on consequential matters arising from any Application by Council pursuant to the Roads Act 1993 including (without limitation):
 - (a) Agreement that the reconstructed road will:
 - (i) be on the same (or improved) vertical and horizontal alignment;
 - (ii) be constructed to the prevailing road standard – and in all events to Council's satisfaction;
 - (iii) be no worse in terms of travel times and speeds for all vehicle categories;
 - (b) Agreement that the temporary road will:
 - (i) be constructed to the prevailing road standard – and in all events to Council's satisfaction;
 - (ii) be maintained to Council's satisfaction by Mt Arthur;
 - (c) Agreement that a bond or other form of guarantee for the reconstructed works will be provided by Mt Arthur in an amount which covers all costs associated with the reconstruction including (without limitation) statutory and other approvals, environmental assessments, consultations, earthworks (including gross land re-shaping associated with open-cut coal mining emplacement and rehabilitation), road construction and any other associated matter;
 - (d) The provision of appropriate compensation to Council, on behalf of the community, for the loss of efficiency caused by temporary realignment;
3. Agreement that no part of the Deed will fetter Council's ultimate decision on whether or not to apply to close Edderton Road or the consultation and consideration of issues and objections contemplated by the Roads Act.
4. That a further report be prepared for Council once the parties have agreed to a Deed.

**MINUTES OF THE ORDINARY COUNCIL MEETING OF THE MUSWELLBROOK SHIRE COUNCIL
HELD IN THE CHAMBERS, ADMINISTRATION CENTRE, MUSWELLBROOK ON TUESDAY 12
SEPTEMBER, 2017 COMMENCING AT 6.00PM.**

At 06:49 PM Cr Green, Cr Reynolds and Ms Bobsien returned to Council Chambers.

20 RESUMPTION OF OPEN COUNCIL

82 RESOLVED on the motion of Crs Bailey and Foy that:

The meeting return to Open Council.

21 CLOSURE

The meeting was declared closed at 6.49 pm.

**THE MINUTES OF THE MEETING (PAGES 1 TO 12) WERE CONFIRMED AT THE
ORDINARY COUNCIL MEETING OF THE MUSWELLBROOK SHIRE COUNCIL HELD ON
TUESDAY 10 OCTOBER, 2017 AND ARE A FULL AND ACCURATE RECORD OF
PROCEEDINGS OF THE MEETING HELD ON TUESDAY 12 SEPTEMBER, 2017**

.....
Mr S. McDonald
General Manager

.....
Cr M. Rush
Chairperson