



*Please Note: the Minutes are yet to be endorsed by Council as true and correct and will be submitted to the next Council Meeting for confirmation.*

# MINUTES

## of the Ordinary Meeting of Council

held in

Council Chambers

Civic Centre, Elizabeth Street, Moss Vale

on

**Wednesday 23 October 2019**

The meeting commenced at 3.30pm

*File No. 100/219*

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**MINUTES OF THE ORDINARY MEETING OF COUNCIL**

Wednesday 23 October 2019



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**MINUTES OF THE ORDINARY MEETING OF WINGECARRIBEE SHIRE COUNCIL HELD IN COUNCIL CHAMBERS, CIVIC CENTRE, ELIZABETH STREET, MOSS VALE ON WEDNESDAY 23 OCTOBER 2019 COMMENCING AT 3.30PM**

**Present:** Clr G J Andrews  
Clr K J Halstead OAM  
Clr G McLaughlin  
Clr P W Nelson  
Clr I M Scandrett  
Clr L A C Whipper

**In Attendance:**

General Manager	Ms Ann Prendergast
Deputy General Manager Operations, Finance and Risk	Mr Barry W Paull
Deputy General Manager Corporate Strategy and Development Services	Mr Mark Pepping
Group Manager Corporate and Community	Ms Danielle Lidgard
Group Manager Planning, Development and Regulatory Services	Mr Nicholas Wilton
Group Manager Project Delivery	Mr Ned Tripkovic
Chief Financial Officer	Mr Richard Mooney
Chief Information Officer	Mr John Crawford
Legal Counsel	Mr Ian Lacy (in part)
Coordinator Media and Communications	Mr David Sommers
Administration Officer	Ms Michelle Richardson

The General Manager addressed the meeting to advise that in the absence of both the Mayor and Deputy Mayor a chairperson must be elected, as in accordance with *clause 7.2 Code of Meeting Practice*.

The General Manager called for nominations for a chairperson for the meeting.

**MN 486/19**

**MOTION** moved by Clr K J Halstead OAM and seconded by Clr G McLaughlin

**THAT** Clr Whipper be elected as Chair for the Ordinary Meeting of Council of 23 October 2019.

**PASSED**

## 1. OPENING OF THE MEETING

Clr L Whipper opened the meeting and welcomed members of the public and the press.

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## 2. ACKNOWLEDGEMENT OF COUNTRY

Clr McLaughlin acknowledged country:

*"I would like to acknowledge the Traditional Custodians of this land and pay my respect to Elders both past and present. I would also like to extend that respect to all Aboriginal and Torres Strait Islanders present here today."*

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## 3. PRAYER

The meeting was led in prayer by Reverend Graham Thomas Robertson, Anglican Church.

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## 4. APOLOGY

Leave of absence for this meeting was previously granted to Clr G Markwart.

PERS

**MN 487/19**

**MOTION** moved by Clr G McLaughlin and seconded by Clr P W Nelson

**THAT** the apology of Councillors T D Gair and G M Turland be accepted and leave of absence granted.

**PASSED**

Clr Scandrett requested his dissenting vote be recorded

## 5. CONFIRMATION OF MINUTES

MINUTES OF THE ORDINARY MEETING OF COUNCIL HELD ON WEDNESDAY 9 OCTOBER 2019

**MN 488/19**

**MOTION** moved by Clr I M Scandrett and seconded by Clr G McLaughlin

**THAT** the minutes of the Ordinary Meeting of Council held on Wednesday 09 October 2019 MN 470/19 to MN 485/19 inclusive, copies of which were forwarded to Councillors, be adopted as a correct record of the proceedings of the meeting.

**PASSED**

## 6. DECLARATIONS OF INTEREST

101/3, 101/3.1

That where necessary any Councillor now disclose any interest and the reason for declaring such interest in the matters under consideration by Council at this Meeting and to complete the appropriate form to be handed up at the Meeting.

19/0974

*Clr I M Scandrett declared a less than significant non-pecuniary interest in Item 9.1 DA 19/0974 - Multi Dwelling Housing - 9 Dwellings, Lot 10 DP 38607 and Lot 53 DP 1120498, 51-53 Kirkham Street Moss Vale as the applicant's firm has done architectural work for his family. He would remain in the Chamber when this matter was discussed and take part in the debate and voting thereon.*

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**7. MAYORAL MINUTES**

Nil

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**8. PUBLIC FORUM**

Nil

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**9. VISITOR MATTERS**

**OPERATIONS**

Nil

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## CORPORATE AND STRATEGY

### 9.1 DA 19/0974 - Multi Dwelling Housing - 9 Dwellings, Lot 10 DP 38607 and Lot 53 DP 1120498, 51-53 Kirkham Street Moss Vale

Reference:	19/0974
Report Author:	Development Assessment Planner
Authoriser:	Group Manager Planning, Development and Regulatory Services
Applicant:	Kathy Barnsley Architect Pty Ltd
Owner:	Joer Pty Ltd
Link to Community Strategic Plan:	Conserve the key natural resources of the Shire and minimise the impact from development

#### PURPOSE

The purpose of this report is to consider Development Application 19/0974 which seeks approval at Lot 10 DP 38607 and Lot 53 DP 1120498 – 51-53 Kirkham Street Moss Vale, for Multi Dwelling Housing development – 9 Dwellings involving:

1. Demolition of existing dwelling at 53 Kirkham Street and a number of detached garage/garden shed structures to the rear of the properties at 51-53 Kirkham Street Moss Vale.
2. Construction of nine (9) single storey villa style dwellings over Lot 10 DP 38607 and Lot 53 DP 1120498 – 51-53 Kirkham Street Moss Vale.

The application was referred to Council and considered by Council at its Ordinary Meeting held on 11 September 2019 as it involves a significant policy departure in relation to provision of landscaping.

Ms Patricia Bann addressed Council in relation to this item.

The Group Manager Planning, Development and Regulatory Services addressed Council on this item

#### VOTING ON THE MOTION

Councillors are required to record their votes on this matter.

**MOTION** moved by *Clr I M Scandrett*

1. THAT Development Application 19/0974 for Multi Dwelling Housing at Lot 10 DP 38607 and Lot 53 DP 1120498 51-53 Kirkham Street Moss Vale involving:
  - Demolition of existing dwelling at Kirkham Street and a number of detached garage/garden shed structures to the rear of the properties at 51-53 Kirkham Street Moss Vale.
  - Construction of nine (9) single storey villa style dwellings over Lot 10 DP 38607



and Lot 53 DP 1120498 – 51-53 Kirkham Street Moss Vale;  
be APPROVED subject to standard conditions of consent; and;

2. THAT the following additional condition of consent be included:

- suitable fencing and hedging take place along the north west boundary to accommodate neighbouring properties.

**MOTION LOST THROUGH WANT OF A SECONDER**

**MN 489/19**

**MOTION** moved by Clr G J Andrews and seconded by Clr K J Halstead OAM

**THAT** Development Application 19/0974 for Multi Dwelling Housing at Lot 10 DP 38607 and Lot 53 DP 1120498 51-53 Kirkham Street Moss Vale involving:

1. **Demolition of existing dwelling at Kirkham Street and a number of detached garage/garden shed structures to the rear of the properties at 51-53 Kirkham Street Moss Vale.**
2. **Construction of nine (9) single storey villa style dwellings over Lot 10 DP 38607 and Lot 53 DP 1120498 – 51-53 Kirkham Street Moss Vale;**

**be REFUSED due to the reasons included in (Attachment 1).**

**VOTING ON THE MOTION**

**For the motion:** Clr G J Andrews, Clr K J Halstead OAM, Clr G McLaughlin, Clr P W Nelson and Clr L A C Whipper

**Against the motion:** Clr I M Scandrett

**PASSED**

## **10. EN BLOC MOTION**

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## 11. OPERATIONS FINANCE AND RISK

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### 11.1 Investment Report - September 2019

Reference:	2104
Report Author:	Accounting Officer (Banking and Investments)
Authoriser:	Chief Financial Officer
Link to Community	
Strategic Plan:	Effective financial and asset management ensure Council's long term sustainability

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#### **PURPOSE**

The purpose of this report is to present Council's Investment Portfolio held at 30 September 2019.

#### ***MN 490/19***

**MOTION** moved by *Clr G McLaughlin* and seconded by *Clr P W Nelson*

**THAT** the information on Council's Investments as at 30 September 2019 be received and noted.

**PASSED**

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## 12. CORPORATE STRATEGY AND DEVELOPMENT SERVICES

### 12.1 Provision of Expenses and Facilities to Councillors

Reference:	101/4, 101/5
Report Author:	Governance Officer
Authoriser:	A/Coordinator Corporate Strategy and Governance
Link to Community	
Strategic Plan:	An enhanced culture of positive leadership, accountability and ethical governance that guides well informed decisions to advance agreed community priorities

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#### **PURPOSE**

To report on the provision of expenses and facilities to Councillors for the year ended 30 June 2019.

#### **MN 491/19**

**MOTION** moved by Cllr P W Nelson and seconded by Cllr G McLaughlin

**THAT** the information in this report in relation to the provision of expenses and facilities to Councillors for the year ended 30 June 2019 be received and noted.

**PASSED**

## 12.2 Appointment of Community Representative to the Community Development Advisory Committee

Reference:	1800/58
Report Author:	Coordinator Community Development
Authoriser:	Group Manager Corporate and Community
Link to Community Strategic Plan:	An enhanced culture of positive leadership, accountability and ethical governance that guides well informed decisions to advance agreed community priorities

### **PURPOSE**

To fill a casual vacancy for a community representative on the Community Development Advisory Committee.

### **MN 492/19**

**MOTION** moved by Cllr G McLaughlin and seconded by Cllr I M Scandrett

**THAT** Council appoint Ms Monica O'Connor to the Community Development Advisory Committee as a community representative.

**PASSED**

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## 13. GENERAL MANAGER

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### 13.1 Legal Report

Reference: 107/22  
Report Author: General Counsel  
Authoriser: Group Manager Corporate and Community  
Link to Community  
Strategic Plan: An enhanced culture of positive leadership, accountability and ethical governance that guides well informed decisions to advance agreed community priorities

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#### PURPOSE

The purpose of this report is to update Council on the status of legal proceedings reported at the ordinary meeting of Council on Wednesday 25 September 2019.

#### **MN 493/19**

**MOTION** moved by Cllr P W Nelson and seconded by Cllr G McLaughlin

1. **THAT** the information relating to the ongoing legal costs in Attachment 1 to the report be noted.
2. **THAT** the status of the legal proceedings involving Council be considered in Closed Council – Item 19.1.

**PASSED**

**14. DELEGATE REPORTS**

Nil

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**15. PETITIONS**

Nil

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## 16. COMMITTEE REPORTS

### 16.1 Management and Advisory Committee Reports

Reference: 107/1  
Report Author: Committee Coordinator

#### **PURPOSE**

This report provides the Minutes of the following Committee Meetings, copies of which will be tabled for information:

#### **MN 494/19**

**MOTION** moved by Cllr P W Nelson and seconded by Cllr I M Scandrett

**THAT** the information contained in the following Committee Reports be noted:

1. *Loseby Park Community Hall Management Committee Minutes held on 16 August 2019;*
2. *Bong Bong Common Management Committee Annual General Meeting held on 16 July 2019;*
3. *Moss Vale Senior Citizens Hall Management Committee held on 17 June 2019*
4. *Tourist Road Oval Management Committee Annual General Meeting held on 7 August 2019;*
5. *Mittagong Memorial Hall Management Committee Meeting held on 5 September 2019.*

**PASSED**



## 16.2 Minutes of the Sport & Recreation Advisory Meeting held on 19 September 2019

Reference: 107/30  
Report Author: Asset Coordinator Parks and Buildings  
Authoriser: Manager Assets  
Link to Community Strategic Plan: Increase promotion of healthy lifestyle choices

### **PURPOSE**

This report provides the Minutes of the Sport & Recreation Advisory Committee Meeting held on 19 September 2019.

### **MN 495/19**

**MOTION** moved by Cllr G J Andrews and seconded by Cllr G McLaughlin

**THAT** recommendations Nos SR11/19 to SR18/19 – as detailed in the Minutes of the Sport & Recreation Advisory Committee Meeting held on Thursday 19 September 2019 be adopted, save for any items which have budgetary implications AND THAT any item with budgetary implications and which is unfunded, be referred to the Finance Committee for consideration.

**PASSED**

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## 16.3 Minutes of the Traffic Committee Meeting 3 October 2019

Reference: 107/6  
Report Author: Traffic Engineer (Contractor)  
Authoriser: Manager Assets  
Link to Community Strategic Plan: Work in partnership to ensure a safe road network

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### **PURPOSE**

This report provides the Minutes of the Traffic Committee Meeting electronically held on Thursday 3 October 2019.

**MN 496/19**

**MOTION** moved by Cllr K J Halstead OAM and seconded by Cllr P W Nelson

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**THAT** recommendations Nos TC49/19 to TC50/19 – as detailed in the Minutes of the Traffic Committee Meeting held on 3 October 2019 be adopted.

**PASSED**

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## 16.4 Minutes of the Finance Committee Meeting held on Wednesday, 16 October 2019

Reference:	107/21
Report Author:	Administration Officer (Meetings)
Authoriser:	Deputy General Manager Corporate, Strategy and Development Services
Link to Community Strategic Plan:	An enhanced culture of positive leadership, accountability and ethical governance that guides well informed decisions to advance agreed community priorities

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### **PURPOSE**

This report provides the Minutes of the Finance Committee Meeting held on Wednesday, 21 August 2019.

### **MN 497/19**

**MOTION** moved by Cllr G McLaughlin and seconded by Cllr G J Andrews

**THAT** recommendations Nos FC 26/19 to FC 31/19 – as detailed in the Minutes of the Finance Committee Meeting held on Wednesday, 16 October 2019 be adopted.

**PASSED**

## 17. QUESTIONS WITH NOTICE

### 17.1 Question with Notice 19/2019 - Signage and Outdoor Advertising

**Reference:** 101/2 7415/2  
**Report Author:** Administration Officer (Meetings)  
**Authoriser:** Group Manager Corporate and Community  
**Link to Community Strategic Plan:** An enhanced culture of positive leadership, accountability and ethical governance that guides well informed decisions to advance agreed community priorities

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**To:** General Manager  
**From:** Deputy Mayor Clr G Turland  
**Received:** 9 October 2019

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**Subject:** Section 10 -Signage and Outdoor Advertising

**Question:**

Can Council staff review this policy that relates to 10.7 Digital Signage including VMS; and A1.7.2 Permissibility. VMS is prohibited but it does not include digital signage. Why?

**Response:**

Councillors would recall that the section 10.7 Digital Signage Provisions were updated within Council's Development Control Plan suite in 2018 following amendments to the State Environmental Planning Policy (Advertising Structures) – SEPP 64. The Development Control Plan was amended for these types of advertising structures to be consistent with these controls.

Council staff will review the signage controls relating to digital advertising structures as part of the comprehensive Development Control Review program.

**MN 498/19**

**MOTION** moved by Clr I M Scandrett and seconded by Clr P W Nelson

**THAT** the information in relation to Question with Notice 19/2019 - Signage and Outdoor Advertising - be noted.

**PASSED**

## **18. NOTICES OF MOTION**

Nil

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## 19. CLOSED COUNCIL

### MOVING INTO CLOSED SESSION

107/9

At this juncture, the time being 4.07 pm, Council moved into Closed Council.

#### **MN 499/19**

**MOTION** moved by Cllr G J Andrews and seconded by Cllr G McLaughlin

1. **THAT Council moves into Closed Council in accordance with the requirements of Section 10A(2) of the Local Government Act 1993 as addressed below to consider the following reports that are confidential for the reasons specified below:**

#### 19.1 Legal Report - Closed Council

##### Relevant Legal Provisions

This report is referred to Closed Committee in accordance with s10A(2) of the Local Government Act, 1993, under clause 10A(2)(a) as it contains personnel matters concerning particular individuals (other than councillors), under clause 10A(2)(e) as it contains information that would, if disclosed, prejudice the maintenance of law and under clause 10A(2)(g) as it contains 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 the Council considers that it would be on balance contrary to the public interest to consider this information in Open Council.

##### Brief description

The purpose of this report is to update Council on the status of legal proceedings reported to Council at the meeting of 25 September 2019.

2. **THAT the minutes of the Closed Council part of the meeting (being the Council's resolution) be made public.**

**PASSED**

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## 19.1 Legal Report - Closed Council

Reference:	107/22
Report Author:	General Counsel
Authoriser:	Group Manager Corporate and Community
Link to Community Strategic Plan:	An enhanced culture of positive leadership, accountability and ethical governance that guides well informed decisions to advance agreed community priorities

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### CONFIDENTIAL ITEM

*This report is confidential in accordance with s10A(2) of the Local Government Act, 1993, under clause 10A(2)(a) as it contains personnel matters concerning particular individuals (other than councillors), under clause 10A(2)(e) as it contains information that would, if disclosed, prejudice the maintenance of law and under clause 10A(2)(g) as it contains 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.*

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### PURPOSE

The purpose of this report is to update Council on the status of legal proceedings reported to Council at the meeting of 25 September 2019.

Legal Counsel addressed Council in relation to this item

**MN 500/19**

**MOTION** moved by Cllr I M Scandrett and seconded by Cllr P W Nelson

**THAT the information in the Legal Report be noted.**

**PASSED**

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## 20. RESUMPTION OF OPEN AGENDA

107/10

### **MN 501/19**

**MOTION** moved by Clr I M Scandrett and seconded by Clr P W Nelson

**THAT Council moves from Closed Council into Open Council.**

**PASSED**

No members of the public were present in the Chamber.

The recording and live streaming of the meeting recommenced and all present were reminded that the meeting was being recorded and live streamed via the internet for public viewing.

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## ADOPTION OF CLOSED COUNCIL

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107/9

### **MN 502/19**

**MOTION** moved by Clr G McLaughlin and seconded by Clr P W Nelson

**THAT the recommendations of the Closed Council held on Wednesday, 23 October 2019 being MN 500/19 be adopted.**

**PASSED**

The General Manager read out the adopted Motion from Closed Council.



## **21. MEETING CLOSURE**

THERE BEING NO FURTHER BUSINESS, THE MEETING CLOSED AT 4.15 PM

In accordance with the provisions of Section 375(2) of the Local Government Act, these Minutes of the Ordinary Council Meeting held Wednesday 23 October 2019 numbered M/N 486/19 to M/N 502/19 were signed by me hereunder at the Council Meeting held on Wednesday 13 November 2019.

\_\_\_\_\_  
CHAIRMAN

**READ AND CONFIRMED ON WEDNESDAY 13 NOVEMBER 2019**

\_\_\_\_\_  
CHAIRMAN

\_\_\_\_\_  
PUBLIC OFFICER