

# MINUTES

## OF THE ORDINARY MEETING OF COUNCIL

*File No. 100/09*



held on Wednesday, 12 August 2009

The meeting commenced at 3.31pm.



## MINUTES OF THE ORDINARY MEETING OF COUNCIL

held in the Council Chamber, Civic Centre, Elizabeth Street, Moss Vale  
on Wednesday, 12 August 2009

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**COMMENCING AT:** 3.31 pm

**PRESENT:** Cllr T D Gair (Mayor) in the Chair  
Cllr K Halstead (Deputy Mayor)  
Cllr J G Arkwright  
Cllr J R Clark  
Cllr J Mauger  
Cllr G McLaughlin  
Cllr D Stranger  
Cllr P B Tuddenham  
Cllr L A C Whipper

**IN ATTENDANCE:** Acting General Manager, Mr Michael Brearley  
Director Corporate Services, Mr Barry Paull  
Director Environment & Planning, Mr Scott Lee  
Manager Administration Services, Mr Peter Nelson  
Administration Officer, Ms Liz Johnson

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### PRAYER

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100/1

The meeting was opened in prayer led by Reverend Jeremy Tonks of the Anglican Church, Exeter.

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### APOLOGY

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There were no apologies at this meeting.

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**CONFIRMATION OF MINUTES**

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MINUTES OF THE ORDINARY MEETING OF COUNCIL HELD ON WEDNESDAY, 22 JULY 2009

100/1

**MN 322/09**

**MOTION** moved by Clr L A C Whipper and seconded by Clr D Stranger:

**THAT the minutes of the Ordinary Meeting of Council held on Wednesday, 22 July 2009 MN 307/09 to MN 321/09 inclusive, copies of which were forwarded to Councillors, be adopted as a correct record of the proceedings of the meeting, it being noted that Item o-EP3 Robertson Inn – New Shops and Alterations was recorded incorrectly and is now detailed correctly as follows:**

**PASSED**

“o-EP3      ROBERTSON INN – NEW SHOPS AND ALTERATIONS

LUA07/0958

-

The Committee on a **MOTION** moved by Clr G McLaughlin and seconded by Clr J R Clark  
**RECOMMENDED:**

1. **THAT** along with any other consent conditions the Director Environment & Planning imposes upon the development to maintain and enhance the existing village and landscape character of Robertson Village:
    - (i) The proposed new shops on the western end be set back 4.6 m to ensure a clear line of site to the original 1887 building originally known as the “Criterion Hotel” when viewed from Hoddle Street.
    - (ii) The double storey eastern addition be re-modelled to present a more sympathetic presentation to Hoddle Street, that the use of glazing be reduced and that the building not obscure the eastern roof pitch of the original Criterion Hotel.
  2. **THAT** the Director Environment & Planning be given delegation to reduce car parking sufficient enough to allow the loss of commercial floor space to be regained by extending into the rear car park.
  3. **THAT** the matter be referred to Council’s Heritage Officer for comment prior to it being approved.
  4. **THAT** these conditions of consent remain valid for a period of two (2) years from the approval date **AND THAT** any modification to this consent come back to Council for approval.
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## MINUTES OF THE ORDINARY MEETING OF COUNCIL

held in the Council Chamber, Civic Centre, Elizabeth Street, Moss Vale  
on Wednesday, 12 August 2009

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**AMENDMENT** moved by Clr K Halstead and seconded by Clr J Mauger:

**THAT** LUA07/0958 for boundary adjustment, demolition of part of the existing structure and erection of eight (8) new shops (two with flats on first floor) at the Robertson Inn, Lot 2, DP 758882 and Lots 10 and 11 DP 546726 Hoddle Street, Robertson, be approved subject to the conditions being approved by the Director Environment & Planning following a discussion of interested Councillors regarding the conditions of approval.

In accordance with the Local Government Act (section 375A – Recording of voting on planning matters) Council must record the Councillor's vote in relation to this matter.

Councillor	For	Against
Clr T D Gair	A	
Clr K Halstead	x	
Clr J G Arkwright	x	
Clr J R Clark		x
Clr G McLaughlin		x
Clr J Mauger	x	
Clr D Stranger	x	
Clr P B Tuddenham		x
Clr L A C Whipper		x

Voting on the amendment was tied at four (4) all and therefore, in accordance with Council's Code of Meeting Practice the matter is referred to the full Council with the Acting Mayor Clr K Halstead in the Chair for determination (*refer M/N 315/09*).

### **NOTE:**

When the matter was considered by the "Full Council" with Clr K Halstead (Acting Mayor) in the Chair, Council resolved to refer the matter to the Ordinary Meeting of Council to be held on Wednesday, 12 August 2009 for consideration (*refer MN 315/09 – page 29*).

### **BUSINESS ARISING**

Nil



## MINUTES OF THE ORDINARY MEETING OF COUNCIL

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### DECLARATIONS OF INTEREST

*101/3*

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There were no declarations of interest at this meeting.

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## MINUTES OF THE ORDINARY MEETING OF COUNCIL

held in the Council Chamber, Civic Centre, Elizabeth Street, Moss Vale  
on Wednesday, 12 August 2009

### MAYORAL MINUTE

#### MAYORAL MINUTE

#### c-MM1 Mittagong Bowling Club

REF: MAYOR

6606/3 (cc 102/5)

Reporting on independent legal advice received concerning Mittagong Bowling Club.

Clr P B Tuddenham asked for clarification of the second last paragraph of the Mayoral Minute where it states that the buildings on the land were illegal. Clr Tuddenham advised that the information he has received, including legal advice received by Council and advice received from the Attorney General's Department, has never declared the buildings "illegal". Clr Tuddenham stated that information should not be going out to the community that the buildings are "illegal" unless Council has legal advice to that effect, and if that advice is available he would like to see it. He stated that nowhere in the legal advice received from Mr Bohdan Bilinsky, Mr Mark Leeming, SC and Mr Cliff Ireland, and the advice from the Attorney General's Department has it been stated that the buildings are "illegal".

The Mayor Clr T D Gair advised that this will be one of the questions that will be addressed when seeking further legal advice and also the likelihood of re-development or sale of the land will form part of the questions.

The Mayor Clr T D Gair referred to correspondence from the NSW Government, Attorney General's Department dated 1 June 2009, which stated in part:

*"As indicated in 2006, the Attorney General is of the view that the presence of a lawn bowling club and licensed premises on land gifted to the Wingecarribee Shire Council for use as a public recreation reserve by the inhabitants of Mittagong constitutes a breach of trust. However, as the club is not functioning and the premises vacated, it is not considered necessary for the Attorney General to intervene to take any action, beyond advising the Council that the use of the land for such a purpose is likely to be contrary to the declaration of trust.*

*Following from this, indoor recreational activities would not be permissible under the terms of the trust. Any recreational activity or use of the land must be consistent with the charitable purpose, namely, a public recreation reserve."*

The Mayor Clr T D Gair stated that in view of the apparent conflicting advice from within the Department, then with Council's indulgence and support, the issue will be further investigated.

.....Cont'd

.....Cont'd

**MN 323/09**

**MOTION** moved by Cllr T D Gair and seconded by Cllr L A C Whipper:

1. **THAT** Council seek further advice from its legal advisers following receipt of the opinion provided by Francis Douglas QC and Kevin Connor QC for the Stop Environmental Vandalism Committee **AND THAT** Councillors be provided with a copy of the legal advice.
2. **THAT** included in the questions to be addressed by Council's legal adviser, the following question be addressed:
  - (i) ***Did the decision made by the Attorney General predicate Council's position to develop and then sell the site?***
3. **THAT** prior to obtaining legal advice, the Mayor and Director Corporate Services meet with the Stop Environmental Vandalism Committee to formulate the questions to be addressed by Council's legal advisers.
4. **THAT** following receipt of the legal advice the matter be referred to the Attorney General for comment.

**PASSED**

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**MINUTES OF THE ORDINARY MEETING OF COUNCIL**

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**MAYORAL MINUTE**

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**OPEN COUNCIL**

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**MN 324/09**

107/10

**MOTION** moved by Clr J R Clark and seconded by Clr J Mauger:

**THAT Council moves into Open Council to discuss various matters listed in the Agenda with Clr Paul Tuddenham in the Chair.**

**PASSED**

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## AGENDA FOR THE ORDINARY MEETING OF COUNCIL

held in the Council Chamber, Civic Centre, Elizabeth Street, Moss Vale  
on Wednesday, 12 August 2009

### REPORT OF ACTING GENERAL MANAGER

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#### VISITOR ITEM

#### REPORT OF ACTING GENERAL MANAGER

#### v-GM1 Position of WSC on Wind Power for Southern Council Group

REF: EDO

5480/1, 205, 205/1

Reporting on the concept study submitted to the Southern Council Group (SCG) for consideration of a wind power project within the SCG region.

Council's Economic Development Officer, Mr Carl Pemberton, addressed Council on this matter.

#### OC 102/09

The Committee on a **MOTION** moved by Clr J R Clark and seconded by Clr G McLaughlin  
**RECOMMENDED:**

1. **THAT Council receive and note the Wind Power Concept Study (WPCS) Report prepared for the Southern Council Group (SCG) and endorse it for public release by SCG with the Commercial-in-Confidence elements excluded.**
2. **THAT Council support the progression of the WPCS Report to the State Government and other appropriate sources seeking financial support for a pre-feasibility study.**
3. **THAT Council advise the SCG Executive of their support for wind power and other sustainable energy initiatives, providing always that any such initiative within Wingecarribee Shire remains within the control and approval of Council and, should it proceed, that Wingecarribee Shire Council have a part to play in any sub-group.**
4. **THAT Council develop a policy on sustainable energy projects for the Shire.**
5. **THAT wind power and other forms of sustainable energy form part of the Community Strategic Plan engagement.**

**PASSED**

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**ENVIRONMENT & PLANNING DIVISION**

<b>v-EP1</b>	<b>Section 82A Review – Proposed Dog Breeding Kennels, 12 Drapers Road, Colo Vale</b>
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REF:	DBSM
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LUA08/0280
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A Section 82A request has been submitted seeking a review of Council's earlier refusal on 10 December 2008, which is reproduced below:

*REASONS FOR REFUSAL*

1. *Proximity to the residential area of Willow Vale.*
2. *Noise emanating from the dogs and impacting on neighbouring properties.*

Mr John Williams, a representative of the objectors addressed Council on this matter.

The applicant (Mr Darren Hogan, Bureaucracy Busters, on behalf of the owner Mrs Sharon Burnley) addressed Council on the matter.

**OC 103/09**

The Committee on a **MOTION** moved by Clr T D Gair and seconded by Clr J Mauger **RECOMMENDED:**

**THAT the Section 82A Review for Proposed Dog Breeding Kennels, 12 Drapers Road, Colo Vale, be refused for the following reasons:**

- (a) ***Proximity to the residential area of Willow Vale.***
- (b) ***Noise emanating from the dogs and impacting on neighbouring properties.***

**PASSED**

In accordance with the Local Government Act (section 375A – Recording of voting on planning matters) Council must record the Councillor's vote in relation to this matter.

<b>Councillor</b>	<b>For</b>	<b>Against</b>
Clr T D Gair	X	
Clr K Halstead	X	
Clr J G Arkwright	X	
Clr J R Clark	X	
Clr G McLaughlin	X	
Clr J Mauger	X	
Clr D Stranger	X	
Clr P B Tuddenham	X	
Clr L A C Whipper	X	



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**OPEN COUNCIL**

**ENVIRONMENT & PLANNING DIVISION**

**o-EP1 Development Consents Determined by way of Approval under Delegated Authority**

REF: DBSM 5302

Submitting list of development consents executed under delegated authority of the Director of Environment and Planning between 13/07/09 and 27/07/09.

**OC 104/09**

The Committee on a **MOTION** moved by Clr L A C Whipper and seconded by Clr G McLaughlin **RECOMMENDED:**

**THAT the information relating to Development Consent Nos 1-5 under Delegated Authority be received and noted.**

**PASSED**

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**o-EP2 List Of Land Use Applications Received By Council**

REF: DBSM 5302

Submitting list of development applications which have been received between 13/07/09 and 27/07/09, some of which will be dealt with under delegated authority of the Director of Environment & Planning.

**OC 105/09**

The Committee on a **MOTION** moved by Clr G McLaughlin and seconded by Clr D Stranger **RECOMMENDED:**

**THAT the information regarding the List of Land Use Applications Nos 1 – 8 received by Council, be received and noted.**

**PASSED**

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**o-EP3 Draft Amendment to Development Control Plan No.12 – Off-street Parking, Loading and Access Code.**

REF: SPM 5700/12

The purpose of this report is to advise the outcome of the exhibition of Draft Amendment F to Development Control Plan (DCP) No12 – Off-Street Parking, Loading and Access Code.

**OC 106/09**

The Committee on a **MOTION** moved by Clr D Stranger and seconded by Clr J R Clark  
**RECOMMENDED:**

1. ***THAT Council adopt Draft Amendment F of Development Control Plan 12 Car Parking, Loading, Unloading and Manoeuvring Development Control Plan circulated to Councillors under separate cover.***
2. ***THAT the amended Development Control Plan be implemented in accordance with the EPA Regulation 2000.***

**PASSED**

In accordance with the Local Government Act (section 375A – Recording of voting on planning matters) Council must record the Councillor's vote in relation to this matter.

<b>Councillor</b>	<b>For</b>	<b>Against</b>
Clr T D Gair	X	
Clr K Halstead	X	
Clr J G Arkwright	X	
Clr J R Clark	X	
Clr G McLaughlin	X	
Clr J Mauger	X	
Clr D Stranger	X	
Clr P B Tuddenham	X	
Clr L A C Whipper	X	



## MINUTES OF THE ORDINARY MEETING OF COUNCIL

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### REPORT OF DIRECTOR CORPORATE SERVICES

#### **o-EP4 Robertson Inn – New Shops and Alterations**

REF: DEP

LUA07/0958

Reporting on application for boundary adjustment, demolition of part of the existing structure and erection of eight (8) new shops (two with residential flats on first floor) at the Robertson Inn, Lot 2, DP 758882 & Lots 10 and 11 DP 546726 Hoddle Street, Robertson.

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*The Committee on a **MOTION** moved by Clr G McLaughlin and seconded by Clr L A C Whipper **RECOMMENDED**:*

1. THAT along with any other consent conditions the Director Environment & Planning imposes upon the development to maintain and enhance the existing village and landscape character of Robertson Village:
  - (i) The proposed new shops on the western end be set back 4.6 m to ensure a clear line of site to the original 1887 building originally known as the "Criterion Hotel" when viewed from Hoddle Street.
  - (ii) The double storey eastern addition be re-modelled to present a more sympathetic presentation to Hoddle Street, that the use of glazing be reduced and that the building not obscure the eastern roof pitch of the original Criterion Hotel.
2. THAT the Director Environment & Planning be given delegation to reduce car parking sufficient enough to allow the loss of commercial floor space to be regained by extending into the rear car park.
3. THAT the matter be referred to Council's Heritage Officer for comment prior to it being approved.
4. THAT these conditions of consent remain valid for a period of two (2) years from the approval date AND THAT any modification to this consent come back to Council for approval.

.....Cont'd

.....Cont'd

**OC 107/09**

**AMENDMENT** moved by Clr K Halstead and seconded by Clr J Mauger:

***THAT LUA07/0958 for boundary adjustment, demolition of part of the existing structure and erection of eight (8) new shops (two with flats on first floor) at the Robertson Inn, Lot 2, DP 758882 and Lots 10 and 11 DP 546726 Hoddle Street, Robertson, be approved subject to the conditions being approved by the Director Environment & Planning following a discussion of interested Councillors regarding the conditions of approval.***

**PASSED**

In accordance with the Local Government Act (section 375A – Recording of voting on planning matters) Council must record the Councillor's vote in relation to this matter.

<b>Councillor</b>	<b>For</b>	<b>Against</b>
Clr T D Gair	X	
Clr K Halstead	X	
Clr J G Arkwright	X	
Clr J R Clark		X
Clr G McLaughlin		X
Clr J Mauger	X	
Clr D Stranger	X	
Clr P B Tuddenham	X	
Clr L A C Whipper		X

**AMENDMENT BECAME THE MOTION**

**MOTION PASSED**

In accordance with the Local Government Act (section 375A – Recording of voting on planning matters) Council must record the Councillor's vote in relation to this matter.

<b>Councillor</b>	<b>For</b>	<b>Against</b>
Clr T D Gair	X	
Clr K Halstead	X	
Clr J G Arkwright	X	
Clr J R Clark		X
Clr G McLaughlin		X
Clr J Mauger	X	
Clr D Stranger	X	
Clr P B Tuddenham	X	
Clr L A C Whipper		X



## MINUTES OF THE ORDINARY MEETING OF COUNCIL

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### REPORT OF DIRECTOR CORPORATE SERVICES

#### **o-EP5 Request for Council Seal - Foldgarth Way, Burradoo**

REF: DBSM

LUA04/1127

Reporting on request for Council seal to enable the building envelope to be removed from Lot 2 DP 1102306, Foldgarth Way, Burradoo.

#### **OC 108/09**

The Committee on a **MOTION** moved by Clr K Halstead and seconded by Clr J G Arkwright  
**RECOMMENDED:**

**THAT the Release of Restriction on the Use of Land in respect of Lot 2 DP 1102306, (Foldgarth Way, Burradoo), be executed under the Common Seal of Council.**

#### **PASSED**

In accordance with the Local Government Act (section 375A – Recording of voting on planning matters) Council must record the Councillor's vote in relation to this matter.

<b>Councillor</b>	<b>For</b>	<b>Against</b>
Clr T D Gair	X	
Clr K Halstead	X	
Clr J G Arkwright	X	
Clr J R Clark	X	
Clr G McLaughlin	X	
Clr J Mauger	X	
Clr D Stranger	X	
Clr P B Tuddenham	X	
Clr L A C Whipper	X	



## MINUTES OF THE ORDINARY MEETING OF COUNCIL

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### REPORT OF DIRECTOR CORPORATE SERVICES

#### **o-EP6 Proposed Retail Nursery, 129 Lackey Road, Moss Vale**

REF: DBSM

LUA09/0559

Reporting on proposed retail plant nursery at 129 Lackey Road, Moss Vale.

#### **OC 109/09**

The Committee on a **MOTION** moved by Clr J R Clark and seconded by Clr T D Gair  
**RECOMMENDED:**

**THAT LUA 09/0559 for a retail plant nursery at 129 Lackey Rd Moss Vale be approved subject to conditions of consent including a condition requiring two (2) carspaces and on site loading area to comply with DCP 12 standards.**

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**AMENDMENT** moved by Clr L A C Whipper and seconded by Clr G McLaughlin:

1. THAT LUA 09/0559 for a retail plant nursery at 129 Lackey Rd Moss Vale be approved subject to conditions of consent including a condition requiring two (2) carspaces and on site loading area to comply with DCP 12 standards.
2. THAT a further condition be applied that prevents the propagation or sale of any declared noxious weed or any plant listed in Council's Environmental Weeds list.

#### **LOST**

In accordance with the Local Government Act (section 375A – Recording of voting on planning matters) Council must record the Councillor's vote in relation to this matter.

<b>Councillor</b>	<b>For</b>	<b>Against</b>
Clr T D Gair	X	
Clr K Halstead	X	
Clr J G Arkwright	X	
Clr J R Clark	X	
Clr G McLaughlin	X	
Clr J Mauger	X	
Clr D Stranger	X	
Clr P B Tuddenham	X	
Clr L A C Whipper		X

.....Cont'd

.....Cont'd

**MOTION PASSED**

In accordance with the Local Government Act (section 375A – Recording of voting on planning matters) Council must record the Councillor's vote in relation to this matter.

<b>Councillor</b>	<b>For</b>	<b>Against</b>
Clr T D Gair	X	
Clr K Halstead	X	
Clr J G Arkwright	X	
Clr J R Clark	X	
Clr G McLaughlin	X	
Clr J Mauger	X	
Clr D Stranger	X	
Clr P B Tuddenham	X	
Clr L A C Whipper	X	

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**o-EP7 Moss Vale Enterprise Corridor DCP Amendment**

REF: SPM

5700/60; 5602/11

The purpose of this report is to advise that a request has been received to further amend the current biodiversity constraint map notation contained in Figure 3 of the Moss Vale Enterprise Corridor (MVEC) - Development Control Plan (DCP) No 60 (Amendment 2).

**OC 110/09**

The Committee on a **MOTION** moved by Clr L A C Whipper and seconded by Clr G McLaughlin **RECOMMENDED:**

1. **THAT Council resolve to exhibit the proposed amendment to Figure 3 of the Moss Vale Enterprise Corridor DCP 60 as shown in Attachment 3 and place the amended Figure 3 on public exhibition for a period of 28 days in accordance with the Environmental Planning & Assessment Regulation 2000.**
2. **THAT Council advise the owners that the proposed amendment to the Moss Vale Enterprise Corridor DCP 60 will be placed on public exhibition for comment.**
3. **THAT a report be brought back to Council following the closure of the exhibition period to consider any submissions received.**

**PASSED**

In accordance with the Local Government Act (section 375A – Recording of voting on planning matters) Council must record the Councillor's vote in relation to this matter.

<b>Councillor</b>	<b>For</b>	<b>Against</b>
Clr T D Gair	X	
Clr K Halstead	X	
Clr J G Arkwright	X	
Clr J R Clark	X	
Clr G McLaughlin	X	
Clr J Mauger	X	
Clr D Stranger	X	
Clr P B Tuddenham	X	
Clr L A C Whipper	X	



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### REPORT OF DIRECTOR CORPORATE SERVICES

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#### CHAIRPERSON

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At this juncture, the time being 5.30 pm, the Mayor, Cllr T D Gair, resumed the Chair to conduct the remainder of Council Business.

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#### ACKNOWLEDGEMENT

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The Mayor Cllr T D Gair advised Council of the passing over the weekend of a long-term resident of the Shire, Mr John Hawksley. The Mayor advised that Mr Hawksley had been a member of the former Bowral Municipality, he ran for the amalgamated Wingecarribee Shire Council, but was not successful. He served on the Tourism Board from 2001 to 2004 and was Chairman of the Board during those years, his last meeting being in October 2004. The Mayor acknowledged the contribution the late Mr Hawksley made to the Shire.

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## MINUTES OF THE ORDINARY MEETING OF COUNCIL

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### REPORT OF DIRECTOR CORPORATE SERVICES

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#### QUESTIONS FROM THE PUBLIC

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1. CONSULTANCY FEES 6551/2

Mrs Jan Hainke asked if she could be advised of the cost of the consultant engaged to report on Cunningham Park and when will the public be consulted?

The Acting General Manager advised that the matter will be taken on notice and a reply provided to Mrs Hainke.

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2. VEGETATIVE SCREEN PLANTINGS 203/4, 107/18

Mrs Jan Hainke referred to Item o-CS5 Vegetative Screen Plantings on today's Agenda, and asked if Council will look at the wider picture of high hedge problems, not simply views and vistas?

The Mayor Clr T D Gair advised that the matter will be considered later in the meeting.

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3. PURCHASING PRACTICES OF COUNCIL 107/21

Mr Ian Scandrett representing "We Still Care", referred to Item o-CS1 Purchasing Practices of Council and Consideration of Local Preference Policy on today's Agenda, and asked that their appreciation and thanks be recorded in relation to this matter.

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**o-EP8 Joint Regional Planning Panels**

REF: DEP

5300

Reporting on the latest progress with the implementation of Joint Regional Planning Panels (JRPP) and recommending that Council commence an Expression of Interest process for local nominees.

**MN 325/09**

**MOTION** moved by Clr P B Tuddenham and seconded by Clr K Halstead:

1. **THAT Council immediately call for Expressions of Interest from suitably experienced and qualified individuals to serve as Council appointed members on the Joint Regional Planning Panel ('JRPP') to deal with matters within the Wingecarribee Shire Council area.**
2. **THAT a selection committee consisting of the Mayor, Deputy Mayor, Acting General Manager and Director Environment and Planning be established to consider the Expressions of Interest received and provide recommendations to Council on the preferred appointees no later than the Council meeting of 23 September 2009.**
3. **THAT the selection criteria for applicants include sound local knowledge, a demonstrable commitment to the Wingecarribee Shire and qualifications and/or work experience relevant to the task of assessing and determining significant Development Applications.**
4. **THAT Council write to the NSW State Government expressing its concern at the implementation of the JRPP and the erosion of Council's powers AND THAT Council also express its concern to the Local Government Conference in Tamworth by way of Notice of Motion.**

**PASSED**

In accordance with the Local Government Act (section 375A – Recording of voting on planning matters) Council must record the Councillor's vote in relation to this matter.

Councillor	For	Against
Clr T D Gair	X	
Clr K Halstead	X	
Clr J G Arkwright	X	
Clr J R Clark		X
Clr G McLaughlin	X	
Clr J Mauger	X	
Clr D Stranger	X	
Clr P B Tuddenham	X	
Clr L A C Whipper	X	



## MINUTES OF THE ORDINARY MEETING OF COUNCIL

held in the Council Chamber, Civic Centre, Elizabeth Street, Moss Vale  
on Wednesday, 12 August 2009

### REPORT OF DIRECTOR CORPORATE SERVICES

#### **o-EP9 Location of Bert Flugelman Sculpture**

REF: DEP

1650/21

Reporting on consultations with the Bowral Chamber of Commerce in regard to the location of the Bert Flugelman sculpture in Corbett Plaza and submitting a recommendation in regard to the location.

**MN 326/09**

**MOTION** moved by Clr G McLaughlin and seconded by Clr J G Arkwright:

**THAT the Bert Flugelman sculpture be located west of the trees at the Bong Bong Street end of Corbett Plaza in the position shown on the diagram in this report.**

**PASSED**

In accordance with the Local Government Act (section 375A – Recording of voting on planning matters) Council must record the Councillor's vote in relation to this matter.

<b>Councillor</b>	<b>For</b>	<b>Against</b>
Clr T D Gair	X	
Clr K Halstead	X	
Clr J G Arkwright	X	
Clr J R Clark	X	
Clr G McLaughlin	X	
Clr J Mauger		X
Clr D Stranger	X	
Clr P B Tuddenham	X	
Clr L A C Whipper	X	



## MINUTES OF THE ORDINARY MEETING OF COUNCIL

held in the Council Chamber, Civic Centre, Elizabeth Street, Moss Vale  
on Wednesday, 12 August 2009

### REPORT OF DIRECTOR CORPORATE SERVICES

#### **o-EP10 Rural Dwelling, Gibraltar Road, Bowral**

REF: DBSM

LUA09/0429

Reporting on application for a rural dwelling at Lot 9 DP 631955, Gibraltar Road, Bowral, variation to DCP 16 minimum lot size.

At this juncture Clr K Halstead left the Chamber.

**MN 327/09**

**MOTION** moved by Clr D Stranger and seconded by Clr G McLaughlin:

**THAT** approval be granted for a dwelling and shed on Lot 9 DP 631955 Gibraltar Road, Bowral with conditions to reflect the recommendations of the Southern Geotechnics Report and the specific conditions for the upgrading of Gibraltar Road as contained in Attachment 3.

**PASSED**

In accordance with the Local Government Act (section 375A – Recording of voting on planning matters) Council must record the Councillor's vote in relation to this matter.

<b>Councillor</b>	<b>For</b>	<b>Against</b>
Clr T D Gair	X	
Clr K Halstead	A	
Clr J G Arkwright	X	
Clr J R Clark	X	
Clr G McLaughlin	X	
Clr J Mauger	X	
Clr D Stranger	X	
Clr P B Tuddenham	X	
Clr L A C Whipper	X	



## MINUTES OF THE ORDINARY MEETING OF COUNCIL

held in the Council Chamber, Civic Centre, Elizabeth Street, Moss Vale  
on Wednesday, 12 August 2009

### REPORT OF DIRECTOR CORPORATE SERVICES

#### **o-EP11 Storage of Fireworks at Carribee Close, Berrima**

REF: DBSM

LUA09/0050

Reporting on development application for storage of fireworks at Lot 5 DP 816975 Carribee Close, Berrima.

At this juncture Clr K Halstead returned to the Chamber.

**MN 328/09**

**MOTION** moved by Clr D Stranger and seconded by Clr J Mauger:

1. **THAT** LUA09/0050 for the storage of fireworks at Lot 5 DP 816975, Carribee Close, Berrima, be refused as it constitutes prohibited development within the Rural 1c zone of the Wingecarribee Local Environmental Plan 1989.
2. **THAT** the applicant be advised of the reasons for Council's decision.

**PASSED**

In accordance with the Local Government Act (section 375A – Recording of voting on planning matters) Council must record the Councillor's vote in relation to this matter.

<b>Councillor</b>	<b>For</b>	<b>Against</b>
Clr T D Gair	X	
Clr K Halstead	X	
Clr J G Arkwright	X	
Clr J R Clark	X	
Clr G McLaughlin		X
Clr J Mauger	X	
Clr D Stranger	X	
Clr P B Tuddenham	X	
Clr L A C Whipper	X	

CORPORATE SERVICES DIVISION

o-CS1	Purchasing Practices of Council and Consideration of Local Preference Policy
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REF:	DCS	107/21
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Reporting on purchasing practices of Council and consideration of a Local Preference Policy.

Council's Director Corporate Services, Mr Barry Paull, addressed Council on this matter.

**MN 329/09**

**MOTION** moved by Cllr J Mauger and seconded by Cllr G McLaughlin:

1. **THAT** Council endorse the Draft Local Purchasing Preference Policy that confirms Council's support and preference to source goods and services locally whilst maintaining a best value for money approach, giving full consideration to:
  - (i) The advantages of dealing with local businesses;
  - (ii) Local content;
  - (iii) The purchase or contract whole-of-life costs;
  - (iv) Compliance with specifications, guidelines and requirements;
  - (v) Supplier capability to fulfil the specified requirements, legal, financial, experience etc;
  - (vi) The supplier's commitment to supporting other local businesses through their subcontracting and supplier arrangements;
  - (vii) Net benefits to the Council including the benefits of maintaining an ongoing, innovative and competitive local business environment;
  - (viii) Environmental management, supply of recycled/recyclable products and waste reduction; and
  - (ix) Job creation potential.
  
2. **THAT** the draft Local Purchasing Policy be implemented by adopting the natural justice process, namely Sections 158 to 167 of the Local Government Act, 1993.

**PASSED**

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**MINUTES OF THE ORDINARY MEETING OF COUNCIL**

held in the Council Chamber, Civic Centre, Elizabeth Street, Moss Vale  
on Wednesday, 12 August 2009

**REPORT OF DIRECTOR CORPORATE SERVICES**

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**o-CS2 Tourism NSW India Trade Mission**

REF: ETM, RMC

1900

The purpose of this report is to seek approval for the Executive Tourism Manager to participate in the forthcoming Tourism NSW India Trade Mission (ITM) in mid September 2009.

**MN 330/09**

**MOTION** moved by *Clr P B Tuddenham* and seconded by *Clr L A C Whipper*:

**THAT** Council grant approval for the Executive Manager Tourism to undertake the India Trade Mission in September 2009 **AND THAT** on his return the Executive Manager Tourism address Council in relation to the India Trade Mission.

**PASSED**

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## MINUTES OF THE ORDINARY MEETING OF COUNCIL

held in the Council Chamber, Civic Centre, Elizabeth Street, Moss Vale  
on Wednesday, 12 August 2009

### REPORT OF DIRECTOR CORPORATE SERVICES

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<b>o-CS3</b>	<b>Committee Appointments and Resignations</b>
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REF: MAS
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7224/1
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Reporting on Management Committee Appointments and Resignations.

**MN 331/09**

**MOTION** moved by *Clr L A C Whipper* and seconded by *Clr G McLaughlin*:

1. **THAT** *Yvette Cotter, Peter Hellyer, Frances Ryall, Fergus Scott and Cheryl Sharp* be appointed to the *Yerrinbool Hall Management Committee* **AND THAT** they be notified of Council's determination.
2. **THAT** the *Yerrinbool Hall Management Committee* be notified of Council's determination.

**PASSED**

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**MINUTES OF THE ORDINARY MEETING OF COUNCIL**  
held in the Council Chamber, Civic Centre, Elizabeth Street, Moss Vale  
on Wednesday, 12 August 2009  
**REPORT OF DIRECTOR CORPORATE SERVICES**

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<b>o-CS4 Investments as at 30 June 2009</b>
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REF: FSM	2104
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Submitting details of Council's Investments as at 30 June 2009.

***MN 332/09***

***MOTION moved by Clr J G Arkwright and seconded by Clr K Halstead:***

***THAT the information on Council's Investments as at 30 June 2009 be received and noted.***

***PASSED***

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## MINUTES OF THE ORDINARY MEETING OF COUNCIL

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### REPORT OF DIRECTOR CORPORATE SERVICES

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<b>o-CS5</b>	<b>Consideration of Motion to Local Government Association Annual Conference 2009</b>
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REF: MALS
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203/4, 107/18
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Reporting on consideration of Motion for the Local Government Association Annual Conference 2009.

**MN 333/09**

**MOTION** moved by Cllr K Halstead and seconded by Cllr P B Tuddenham:

1. **THAT Council not submit a Motion to the Local Government Association of NSW Annual Conference in 2009 in relation to "Vegetative Screen Plantings".**
2. **THAT Council make representations to Mr Matt Brown, MP, Member for Kiama, to arrange a meeting with him and the Hon Kristina Kerscher Kenneally, MP, Minister for Planning, to discuss Council's Motions to the Local Government Association of NSW Annual Conference in 2006 and 2007 in respect of "Vegetative Screen Plantings".**

**PASSED**

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## MINUTES OF THE ORDINARY MEETING OF COUNCIL

held in the Council Chamber, Civic Centre, Elizabeth Street, Moss Vale  
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### REPORT OF DIRECTOR CORPORATE SERVICES

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#### **o-CS6      General Business Questions**

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REF:        MALS, RMC

100/1,    5509/2

Reporting on General Business Question raised at Council meeting on Wednesday, 22 July 2009 by Councillor Mauger.

**MN 334/09**

**MOTION** moved by Cllr L A C Whipper and seconded by Cllr J R Clark:

**THAT** council amends its Code of Meeting Practice regarding item 10.10 General Business Questions as follows:

- (i)      **Councillors may ask up to a maximum of three (3) general business questions at the council meeting.**
- (ii)     **Appropriate paper be provided for Councillors to record their question.**
- (iii)    **The question be read out at the meeting.**
- (iv)    **The question be handed up to the General Manager for inclusion in the Ordinary Minutes of Council. (It being noted that Council staff will précis the question if it is not clear).**

**PASSED**

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**MINUTES OF THE ORDINARY MEETING OF COUNCIL**

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on Wednesday, 12 August 2009

**REPORT OF DIRECTOR CORPORATE SERVICES**

**o-CS7 Mount Gibraltar Landcare and Bushcare – Request for Assistance**

REF: DCS

6527/15.1

Reporting on request for assistance from Mount Gibraltar Landcare and Bushcare for an interest free loan and assistance with management of funds by Council.

**MN 335/09**

**MOTION** moved by Cllr J G Arkwright and seconded by Cllr G McLaughlin:

1. **THAT Council provide an interest free loan of \$4500 for a period of up to twelve (12) months to the Mount Gibraltar Landcare and Bushcare Group to assist with the reprinting of the Mount Gibraltar Book.**
2. **THAT Council act as the grant recipient for funds to be allocated by the Hawkesbury Nepean Catchment Management Authority.**
3. **THAT Council provide limited administrative support for the project including receipt and expenditure of funds, and by providing quarterly reconciliations of the trust account.**
4. **THAT no interest be accrued for any funds held in trust on behalf of the Mount Gibraltar Landcare and Bushcare Group.**

**PASSED**



## MINUTES OF THE ORDINARY MEETING OF COUNCIL

held in the Council Chamber, Civic Centre, Elizabeth Street, Moss Vale  
on Wednesday, 12 August 2009

### REPORT OF DIRECTOR CORPORATE SERVICES

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<b>o-CS8</b>	<b>LGSA Request for Assistance with Legal Costs</b>
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REF: MALS	203/4
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Reporting on correspondence received from the Local Government and Shires Association of NSW regarding a request on behalf of Berrigan Shire Council for assistance under the Legal Assistance Policy in the matter of *Berrigan Shire Council v Iramoo Flyer Pty Limited*.

**MN 336/09**

**MOTION** moved by Cllr K Halstead and seconded by Cllr D Stranger:

1. **THAT** the request for contributions from the Local Government Shires Association of NSW towards legal costs incurred by Berrigan Shire Council in the sum of \$532.04 be approved.
2. **THAT** funding in relation to (1) above be allocated from Council's contingency vote.

**PASSED**

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## MINUTES OF THE ORDINARY MEETING OF COUNCIL

held in the Council Chamber, Civic Centre, Elizabeth Street, Moss Vale  
on Wednesday, 12 August 2009

### REPORT OF DIRECTOR CORPORATE SERVICES

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<b>o-CS9 Pensioner Rate Rebate - Write Off and Claim</b>
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REF: FSM
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2211/2007
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Submitting a report on the details of amounts abandoned for pensioner rates rebates granted on general rates, garbage accounts, water and sewerage accounts from 1 September 2008 to 30 June 2009.

**MN 337/09**

**MOTION** moved by Clr J R Clark and seconded by Clr G McLaughlin:

1. **THAT** Council authorise the abandonment and write off of \$371,110.03 for Pensioner Rebates granted from 1 September 2008 to 30 June 2009.
2. **THAT** \$204,110.52 be claimed from the State Government as part of Claim No 140 due to be lodged by 1 October 2009.

**PASSED**

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Clr K Halstead retired from the meeting at 6.50 pm.

**SUPPLEMENTARY REPORT**

<b>o-CS10</b>	<b>Legal Action – Dante Series CDO's</b>
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REF: DCS	2104
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Reporting on the current status of legal action in the United Kingdom to secure collateral underwriting Dante Series CDO's.

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**MATTER OF URGENCY**

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1. LEGAL ACTION – DANTE SERIES CDO'S 2104

The Mayor Clr T D Gair requested that the matter of Legal Action – Dante Series CDO's, be treated as a matter of urgency.

***MN 338/09***

***MOTION moved by Clr L A C Whipper and seconded by Clr J G Arkwright:***

***THAT the matter of Legal Action – Dante Series CDO's be considered as a matter of urgency.***

***PASSED***

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The Mayor ruled that this is a matter of urgency.

***MN 339/09***

***MOTION moved by Clr G McLaughlin and seconded by Clr J G Arkwright:***

1. ***THAT as a matter of urgency Council confirm its support for legal action to defend the Judgement handed down in the High Court of England and Wales on 28 July 2009, which is currently the subject of an appeal to be heard by the relevant court in September 2009.***
2. ***THAT Council note the estimate of costs for this action and allocate \$27,000 in the 2009/10 budget to fund Council's potential costs to be an active party in this matter.***

***PASSED***

Dissenting Vote - Clr J Mauger requested that his dissenting vote be recorded in respect of this item.

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**INFRASTRUCTURE SERVICES DIVISION**

<b>o-IS1</b>	<b>Construction of Robertson Shared Path, Stage 1</b>
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REF: DPM	6690/15, 7830
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Reporting on the planning and design for Stage 1 of the shared path along Illawarra Highway, Robertson.

Council's Director Infrastructure Services, Mr Michael Brearley addressed Council on this matter.

***MN 340/09***

***MOTION moved by Cllr L A C Whipper and seconded by Cllr J Mauger:***

- THAT Council confirm the action of the Acting General Manager to accept the grant offer of \$241,000 for Stage 1 of the Robertson shared path.***
- THAT Council writes to Mr Matt Brown, MP, to thank him for supporting this project.***
- THAT Council allocate \$98,000 from the carry-over of the IRS Seal of Approval (SOA) program to match the RTA funding and that it be noted that the sealing of Alcorn Lane Robertson be delayed until 2010/11.***

***PASSED***

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**o-IS2 Construction of Shared Recreational Path – Illawarra Highway, Robertson – Agreement with Landowner**

REF: DPM, PO

PN1348900

Reporting on agreement negotiated with Councillor Jim Mauger, Director of Wongabell Pty Ltd, the registered proprietor of Lot 334 Deposited Plan 734696, Illawarra Highway Robertson.

**Interest:** Clr J Mauger declared a pecuniary interest in this matter as he is the landowner adjoining the path and will be in receipt of compensation. He left the chamber, took no part in the debate and refrained from voting thereon.

Council's Director Infrastructure Services, Mr Michael Brearley, addressed Council on this matter.

Note: It was noted that Council has considered the matter, and raised issues of concern in relation to the amount of the compensation being paid, but noted that there is a clear advantage to Council and benefit to the community.

**MN 341/09**

**MOTION** moved by Clr L A C Whipper and seconded by Clr G McLaughlin:

1. **THAT** a deed of agreement be executed under the common seal of Council between Council and Wongabell Pty Limited, being the registered proprietor of Lot 334 Deposited Plan 734696 Illawarra Highway, Robertson outlining the terms and conditions as follows:
  - (a) That Council replace the existing barbed wire fence with a 6 strand 10 gauge high tensile wire fence (1.2m high) on the correct boundary line for the entire length of the northern frontage of DP 734696.
  - (b) That Council remove most of the existing trees on the frontage to the property, to allow the construction of a 2.5 metre wide shared pathway immediately adjacent to the northern fence.
  - (c) That Council fill the area in the vicinity of the western gate and replace this gate with a new standard farm pipe gate.
  - (d) That Council construct a compacted earth batter (1 in 5 slope) within the property extending from behind the proposed shared path for the entire length of the property fronting the Illawarra Highway and the batter be grassed.
  - (e) That Council construct stormwater drainage pipework.
  - (f) That Council compensate Wongabell Pty Ltd the amount of \$2,000.
2. **THAT** due to the sensitive nature of this matter the Mayor, Acting General Manager and Clr J Mauger conduct informal discussions regarding the issues of concern raised at the meeting.

**PASSED**



**o-IS3 Draft Plan of Management for Hammock Hill Reserve, Bowral**

REF: PPM 6500/23, 6535/1

Submitting the draft Plan of Management for Hammock Hill Reserve, in East Bowral for adoption by Council.

**MN 342/09**

**MOTION** moved by Clr L A C Whipper and seconded by Clr J R Clark:

**THAT** the draft Plan of Management for Hammock Hill Reserve, be adopted **AND THAT** this document be known as the Plan of Management Hammock Hill Reserve.

**PASSED**

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**o-IS4 Draft Plan of Management for Mansfield Reserve, Bowral**

REF: PPM 6500/23, 6532/2

Submitting the draft Plan of Management for Mansfield Reserve, Bowral for adoption by Council.

**MN 343/09**

**MOTION** moved by Clr J R Clark and seconded by Clr G McLaughlin:

**THAT** the draft Plan of Management for Mansfield Reserve, Bowral be adopted **AND THAT** this document be known as the Plan of Management for Mansfield Reserve.

**PASSED**

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<b>o-IS5</b>	<b>Wingecarribee Our Future Environment Levy</b>
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REF: PPM	5465/29.1, 107/25
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The purpose of the report is for Council to consider obtaining community feedback on the need to extend the Wingecarribee Our Future Environment (WOFE) program.

**MN 344/09**

**MOTION** moved by Clr L A C Whipper and seconded by Clr D Stranger:

1. **THAT** Council proceed with option 1 as outlined in the report of Wednesday, 12 August 2009, with the aim of presenting a submission to the Department of Local Government ('DLG') by Wednesday, 31 March 2010.
2. **THAT** the Public Consultation phase of the process commence on Monday, 7 September 2009 with forums to start in the week commencing Monday, 28 September 2009.
3. **THAT** a further report be presented to Council at the Meeting on Wednesday, 9 December 2009.
4. **THAT** pending successful consultation, a formal submission be made to the DLG by Wednesday, 31 March 2010 for an "in perpetuity" Environmental Rate for the purpose of Environmental works within the Shire.

**PASSED**

Dissenting Vote - Clr J Mauger requested that his dissenting vote be recorded in respect of this item.

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**EXTENSION OF TIME**

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100/1

**MN 345/09**

**MOTION** moved by Clr J G Arkwright and seconded by Clr D Stranger:

**THAT** in accordance with Council's Code of Meeting Practice, Council approves an extension of time to 8.00 pm.

**PASSED**

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## MINUTES OF THE ORDINARY MEETING OF COUNCIL

held in the Council Chamber, Civic Centre, Elizabeth Street, Moss Vale  
on Wednesday, 12 August 2009

### REPORT OF DIRECTOR INFRASTRUCTURE SERVICES

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<b>o-IS6</b>	<b>Rural Fire Service Control Centre Extensions</b>
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REF: DIS
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6450
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Report on the quotation process for alterations and additions for the Rural Fire Service (RFS) Control Centre at Mittagong and the need to waive the required tender process due to extenuating circumstances.

**MN 346/09**

**MOTION** moved by Cllr D Stranger and seconded by Cllr L A C Whipper:

1. **THAT** Council notes there are extenuating circumstances in accordance with Part 3 of Section 55 of the Local Government Act 1993 in relation to proposed works for the alterations to the existing administration office, construction of new operations centre and fit out of the vehicle servicing building at the RFS Control Centre Mittagong.
2. **THAT** Council resolve not to call tenders for the proposed alterations to the existing administration office, construction of a new operations centre and fit out of the vehicle servicing building at the RFS Control Centre Mittagong, due to the extenuating circumstances of having to complete the project prior to the commencement of the 2009/10 bushfire danger period to ensure adequate fire service protection to the community during this period **AND THAT** it is noted that competitive quotations have been obtained that demonstrate that the quotation of Elmwood Homes provides a best value outcome for Council and that a satisfactory result would not be obtained by inviting tenders, given the potential impact on RFS operations.
3. **THAT** Council confirm acceptance of the quotation of Elmwood Homes for the alterations to the existing administration office, construction of a new operations centre and fit out of the vehicle servicing building at the RFS Control Centre at Mittagong.

**PASSED**

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## MINUTES OF THE ORDINARY MEETING OF COUNCIL

held in the Council Chamber, Civic Centre, Elizabeth Street, Moss Vale  
on Wednesday, 12 August 2009

### NOTICES OF MOTION

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#### COUNCIL MATTERS

#### NOTICES OF MOTION

<b>c-NM1</b>	<b>15/2009 – Notice of Motion – Master Plan Committees</b>	<b>100/4</b>
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Clr Larry Whipper has given notice that it is his intention to move the following Notice of Motion at the Ordinary Meeting of Council on Wednesday 12 August 2009:

1. THAT Council consider re-instating the Master Plan Committees within the Shire.
2. THAT a meeting be convened with Councillors and previous members of these committees to discuss an appropriate model and terms of reference for the Committee/s.

It was noted that Clr Whipper withdrew his above Notice of Motion.

***MN 347/09***

***MOTION moved by Clr L A C Whipper and seconded by Clr P B Tuddenham:***

***THAT Council hold an Information Session for Councillors to consider re-instating the Master Plan Committees within the Shire.***

***PASSED***

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## MINUTES OF THE ORDINARY MEETING OF COUNCIL

held in the Council Chamber, Civic Centre, Elizabeth Street, Moss Vale  
on Wednesday, 12 August 2009

### QUESTIONS WITH NOTICE

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#### QUESTIONS WITH NOTICE

<b>c-QWN1 QWN 02/09 – Abandoned Vehicles</b>
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REF: AGM	101/2
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**To:** Acting General Manager  
**From:** Clr Jim Mauger  
**Received:** 4 August 2009

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It was decided to treat question 1 separately from questions 2 and 3.

**Subject: Abandoned Vehicles**

**Question:**

1. As a result of discussions with senior ranger Mark Rich, I am lead to believe that a document/memorandum of understanding exists which contains procedures to be adopted to log and record all impoundments, be they abandoned vehicles or whatever. Will you supply me with a copy of this document complete with all signatories' names and the names of all persons who have been made aware of the contents and date of signing?

Acting GM Comment

*The Rangers operate within the requirements of the Impounding Act 1993. The senior ranger will shortly finalise the drafting of an internal procedure that reflects the provisions of the Impounding Act 1993 and will be used as a reference by all rangers when dealing with the impoundment of articles. There is no Memorandum of Understanding as suggested in the question.*

*I trust that although brief, this is sufficient. By next Wednesday, 19 August 2009, the drafting of the procedure may be finalised.*

**MN 348/09**

**MOTION** moved by Clr J Mauger and seconded by Clr P B Tuddenham:

**THAT** the information be received and noted.

**PASSED**

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.....Cont'd

.....Cont'd

2. In a reply to me, then General Manager, Mike Hyde, said he had advised former Mayor Gordon Lewis in detail about abandoned vehicles. From records when did this take place and what details were conveyed?

Acting GM Comment

*The Mayor Councillor Gair has advised that he has discussed this matter with the former Mayor, Mr Gordon Lewis, who has confirmed that he was advised by the former General Manager, Mr Mike Hyde, of this matter, the fact that it had been referred to ICAC and that there was an investigation being conducted. There does not appear to be any file notes regarding this advice.*

3. A final report done in-house dated 22 June 2007 by staff was apparently conveyed to Wollondilly Shire Council, will you please advise if this is true and if so supply a copy of all correspondence between Wingecarribee and Wollondilly Shire Councils?

Acting GM Comment

*The internal review and report in relation to this matter contains information that has been provided in accordance with General Managers Practice Note 16 Protected Disclosures Act – Procedures for Internal Reporting and Investigation. As such the review of this matter and the information received and the information referred to another public authority, and their subsequent review are protected disclosures under the Act. It is noted that the aforementioned information has also been referred to ICAC for review.*

**MN349 /09**

**MOTION** moved by Cllr J Mauger and seconded by Cllr P B Tuddenham:

**THAT the information be received and noted.**

**PASSED**

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**MINUTES OF THE ORDINARY MEETING OF COUNCIL**

held in the Council Chamber, Civic Centre, Elizabeth Street, Moss Vale  
on Wednesday, 12 August 2009

**QUESTIONS WITH NOTICE**

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**c-QWN2 QWN 03/09 – General Manager Salary Increase**

REF.	GM	101/2
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**To:** Acting General Manager  
**From:** Clr Jim Mauger  
**Received:** 4 August 2008

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**Subject: General Manager Salary Increase**

**Question:**

1. Can the Mayor provide explanation of the statements he made on radio 2ST on 28 July 2009, in relation to the salary increase for former General Manager, Mike Hyde, in particular his statement that the increase was somehow approved by former Mayor, Gordon Lewis?

Mayor, Clr Gair Comment

*The decision made by Council on Wednesday, 22 July 2009, to approve a 3.9% increase in the former General Manager's remuneration package as of 31 January 2009, is a decision of the current Council and was made after considering all relevant information.*

**MN 350/09**

**MOTION** moved by Clr G McLaughlin and seconded by Clr P B Tuddenham:

**THAT** the information be received and noted.

**PASSED**

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**COMMITTEE REPORTS TABLED**

<b>c-CR1      Management and Advisory Committee Reports</b>
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Submitting minutes of three (3) Committee meetings that will be tabled for information.

**MN 351/09**

**MOTION** moved by Clr J R Clark and seconded by Clr G McLaughlin:

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

1. **Bong Bong Common Management Committee held on Tuesday 23 June 2009.**
2. **East Bowral Community Centre Management Committee held on Tuesday 29 July 2009.**
3. **Loseby Park 355 Management Committee held on Thursday 9 July 2009.**

**PASSED**

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**COMMITTEE REPORTS ATTACHED**

<b>c-CR2</b>	<b>Minutes of the Environment and Sustainability Committee</b>
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REF:	NRC
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5465/29.01
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Submitting minutes of the Environment and Sustainability Committee held Wednesday, 15 July 2009.

It was noted that action had been undertaken to provide financial and "in kind" support in regard to Item 7 Bundanoon Bottled Water Free Town.

***MN 352/09***

***MOTION moved by Clr L A C Whipper and seconded by Clr D Stranger:***

***THAT recommendations Numbers 1 to 15 as detailed in the minutes of the Environment and Sustainability Committee held Wednesday, 15 July 2009 be adopted with the exception of Recommendation 3 – BTL Update on page 106 of the Agenda.***

***PASSED***

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1. BTL UPDATE

5200/14, 5450/17.2

***MN 353/09***

***MOTION moved by Clr P B Tuddenham and seconded by Clr L A C Whipper:***

***THAT prior to any further action being taken in relation to the BASIX rating and the use of the 6 star green building rating, an Information Session be held for all Councillors on the matter.***

***PASSED***

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<b>c-CR3</b>	<b>Minutes of the Southern Regional Livestock Exchange Strategic Advisory Board</b>
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REF:	PPM	7170/01
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Submitting minutes of the Southern Regional Livestock Exchange Strategic Advisory Board held Friday, 19 June 2009.

***MN 354/09***

***MOTION*** moved by Clr D Stranger and seconded by Clr T D Gair:

***THAT*** recommendations Numbers 1 to 3 as detailed in the minutes of the Southern Regional Livestock Exchange Strategic Advisory Board held Friday, 19 June 2009 be adopted.

***PASSED***

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<b>c-CR4</b>	<b>Minutes of the Community Services Consultative Advisory Committee</b>
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REF:	SPL	1800/17
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Submitting minutes of the Community Services Consultative Advisory Committee held Tuesday, 21 July 2009.

***MN 355/09***

***MOTION*** moved by Clr J R Clark and seconded by Clr D Stranger:

***THAT*** the recommendations as detailed in the minutes of the Community Services Consultative Committee held Tuesday, 21 July 2009 be adopted.

***PASSED***

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**MINUTES OF THE ORDINARY MEETING OF COUNCIL**  
held in the Council Chamber, Civic Centre, Elizabeth Street, Moss Vale  
on Wednesday, 12 August 2009  
**GENERAL BUSINESS**

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**GENERAL BUSINESS**

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The Mayor, Clr T D Gair suspended General Business at this meeting due to time constraints.

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## MINUTES OF THE ORDINARY MEETING OF COUNCIL

held in the Council Chamber, Civic Centre, Elizabeth Street, Moss Vale  
on Wednesday, 12 August 2009

### CLOSED COUNCIL

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#### CORPORATE SERVICES DIVISION

c-CS1	Closed Council	107/9
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To consider moving into Closed Council.

At this juncture, the time being 7.58 pm, pursuant to section 10A(4), the Mayor offered the opportunity to members of the public to make representations to Council as to whether any items of the Closed Council should not be considered in Closed Council.

This information would, if disclosed, prejudice the maintenance of the law, AND THAT the press and public be excluded from Closed Council as it is the opinion of the General Manager that publication of the proceedings would be prejudicial to the public interest by reason of the confidential nature of the business to be transacted.

No objections were received from the members of the public.

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.....Cont'd

**MN 356/09**

**MOTION** moved by Clr K Halstead and seconded by Clr P B Tuddenham:

1. **THAT** Council moves into Closed Council in accordance with the requirements of Section 10 of the Local Government Act 1993 as addressed below to consider the following reports:

**c-GM1 RECRUITMENT OF GENERAL MANAGER**

**503/60**

**Relevant Legal Provisions**

*This matter has been placed in Closed Council as it deals with commercial information of a confidential nature that would if disclosed prejudice the commercial position of the person who supplied it.*

**Brief Description**

*This report deals with the appointment of the recruitment consultant for the appointment of a new General Manager.*

**Public Interest**

*It would on balance be contrary to the public interest to consider this information in Open Council because it may prejudice the commercial position of the person who supplied it.*

**c-GM2 BUNDANOON SEWERAGE AUGMENTATION INSTALLATION  
OF IRRIGATION EQUIPMENT - TENDER ASSESSMENT**

**7614**

**Relevant Legal Provision**

*This report is placed in Closed Committee as it contains information that would, if disclosed, confer a commercial advantage on a person with whom the council is conducting (or proposes to conduct) business under Clause 10A(2)(c) of the Local Government Act.*

**Brief Description**

*Presenting details of tenders for the supply and installation of irrigation equipment associated with the Bundanoon Sewerage Augmentation.*

**Public Interest**

*It would be contrary to the public interest to consider this information in Open Council because it contains information which could confer a commercial advantage.*

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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## MINUTES OF THE ORDINARY MEETING OF COUNCIL

held in the Council Chamber, Civic Centre, Elizabeth Street, Moss Vale  
on Wednesday, 12 August 2009

### CLOSED COUNCIL

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<b>c-GM1</b>	<b>Recruitment of General Manager</b>
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REF:	MALS	503/60
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Reporting on the appointment of the consultants to appoint the General Manager

#### Relevant Legal Provisions

This matter has been placed in Closed Council as it deals with commercial information of a confidential nature that would if disclosed prejudice the commercial position of the person who supplied it.

#### Brief Description

This report deals with the appointment of the recruitment consultant for the appointment of a new General Manager.

#### Public Interest

It would on balance be contrary to the public interest to consider this information in Open Council because it may prejudice the commercial position of the person who supplied it.

The Committee on a **MOTION** moved by Clr P B Tuddenham and seconded by Clr G McLaughlin **RECOMMENDED**:

1. **THAT** John Kleem Consulting in association with Blackadder Associates Pty Ltd be appointed to assist Councillors in the process of appointing a General Manager **AND THAT** in the event of some unforeseen circumstances John Kleem Consulting in association with Blackadder Associates Pty Ltd are unable to perform the duties involved with the process then ETM Search & Selection be appointed in their place.
2. **THAT** the source of funds for the engagement of a consultant to assist with the appointment of a new General Manager be referred to the September quarterly budget review.

**PASSED**

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## MINUTES OF THE ORDINARY MEETING OF COUNCIL

held in the Council Chamber, Civic Centre, Elizabeth Street, Moss Vale  
on Wednesday, 12 August 2009

### CLOSED COUNCIL

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<b>c-GM2 Bundanoon Sewerage Augmentation Installation of Irrigation Equipment - Tender Assessment</b>
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REF: MBW	7614
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#### Relevant Legal Provision

This report is placed in Closed Committee as it contains information that would, if disclosed, confer a commercial advantage on a person with whom the council is conducting (or proposes to conduct) business under Clause 10A(2)(c) of the Local Government Act.

#### Brief Description

Presenting details of tenders for the supply and installation of irrigation equipment associated with the Bundanoon Sewerage Augmentation.

#### Public Interest

It would be contrary to the public interest to consider this information in Open Council because it contains information which could confer a commercial advantage.

The Committee on a **MOTION** moved by Clr P B Tuddenham and seconded by Clr L A C Whipper **RECOMMENDED**:

1. **THAT** contract number 0900659 for the installation of irrigation equipment associated with the Bundanoon Sewerage Augmentation Scheme be awarded to Aquawest Pty Ltd for the lump sum amount of \$260,795.91 (including GST).
2. **THAT** the contract number 0900659 be executed under the Common Seal of Council.

**PASSED**

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**MINUTES OF THE ORDINARY MEETING OF COUNCIL**

held in the Council Chamber, Civic Centre, Elizabeth Street, Moss Vale  
on Wednesday, 12 August 2009

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**OPEN COUNCIL**

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**MN 357/09**

107/10

**MOTION** moved by Clr L A C Whipper and seconded by Clr G McLaughlin:

**THAT Council moves back into Open Council.**

**PASSED**

No members of the public were present in the Chamber.

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**ADOPTION OF CLOSED COUNCIL**

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**MN 358/09**

107/9

**MOTION** moved by Clr L A C Whipper and seconded by Clr G McLaughlin:

**THAT the recommendations of the Closed Council held on Wednesday, 12 August 2009 (Items c-GM1 and c-GM2) be adopted.**

**PASSED**

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**ADOPTION OF OPEN COUNCIL**

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**MN 359/09**

107/10

**MOTION** moved by Clr D Stranger seconded by Clr J G Arkwright:

**THAT the recommendations of the Open Council held on Wednesday, 12 August 2009 being OC 102/09 to OC 110/09, be adopted.**

**PASSED**

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## MINUTES OF THE ORDINARY MEETING OF COUNCIL

held in the Council Chamber, Civic Centre, Elizabeth Street, Moss Vale  
on Wednesday, 12 August 2009

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### THERE BEING NO FURTHER BUSINESS, THE MEETING CLOSED AT 8.05 PM

In accordance with the provisions of Section 375(2) of the Local Government Act, these Minutes of the Ordinary Council Meeting held Wednesday, 12 August 2009 numbered M/N 322/09 to M/N 359/09, were signed by me hereunder at the Council Meeting held on Wednesday, 26 August 2009.

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CHAIRMAN

READ AND CONFIRMED ON WEDNESDAY, 26 AUGUST 2009

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CHAIRMAN

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PUBLIC OFFICER