

NAMBUCCA SHIRE COUNCIL

Ordinary Council Meeting

MINUTES OF THE ORDINARY COUNCIL MEETING HELD ON 13 JUNE 2019

The following document is the minutes of the Ordinary Council meeting held **13 JUNE 2019**. These minutes are subject to confirmation as to their accuracy at the next meeting to be held on Thursday 27 June 2019 and therefore subject to change. Please refer to the minutes of 27 June 2019 for confirmation.

PRESENT

Cr Rhonda Hoban (Mayor) OAM
Cr Martin Ballangarry OAM
Cr David Jones
Cr Anne Smyth

Cr John Ainsworth
Cr Susan Jenvey
Cr Janine Reed
Cr John Wilson (Deputy Mayor)

ALSO PRESENT

Michael Coulter (General Manager)
Paul Gallagher (AGM Engineering Services)
Rochelle McMurray (Minute Secretary)

Robert Hunt (AGM Corporate Services)
Teresa Boorer (Grants and Contributions Officer)

APOLOGIES

Cr Brian Finlayson

DISCLOSURE OF INTEREST

Councillor John Wilson declared a non-pecuniary interest – significant in Item 9.2 *Request by Lesley Flanders to Purchase Land West of the Bowraville Racecourse* under the Local Government Act as Cr Wilson has had many business dealings with both Ms Lesley Flanders and Mr Paul Hoffman. Cr Wilson left the meeting for this item.

Mr Michael Coulter declared a pecuniary - significant conflict of interest in Item 12.2 *General Manager's 2018/19 Performance Review and 2019/20 Performance Agreement* under the Local Government Act as the report concerns his employment. Mr Coulter and all staff left the meeting for this item.

CONFIRMATION OF MINUTES - ORDINARY COUNCIL MEETING

SUBJECT: CONFIRMATION OF MINUTES - ORDINARY COUNCIL MEETING 30 MAY 2019

278/19 **RESOLVED:** (Wilson/Reed)

That the minutes of the Ordinary Council Meeting of 30 May 2019 be confirmed.

NOTICE OF MOTION - CR WILSON

ITEM 5.1 SF2547 130619 NOTICE OF MOTION - Request leave of absence from 28 June 2019 to 7 July 2019 inclusive

279/19 **RESOLVED:** (Wilson/Jones)

That Cr John Wilson be granted leave of absence in accordance with Section 234(d) of the Local Government Act for the period 28 June to 7 July 2019 inclusive.

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NOTICE OF MOTION - CR AINSWORTH

ITEM 5.2 SF2547 130619 NOTICE OF MOTION - Additional Pedestrian Crossing, High Street between George and Belmore Streets, Bowraville

280/19 **RESOLVED:** (Ainsworth/Jenvey)

That Council, in consultation with the Bowraville Chamber of Commerce, investigate constructing an additional pedestrian crossing in High Street, Bowraville between George and Belmore Streets.

PUBLIC FORUM AND DELEGATIONS

RECOMMENDATION

That the following delegations be heard:

PUBLIC FORUM

i Glen Heaton - Nambucca Valley Tourism

DELEGATIONS

ITEM 9.2 Request by Lesley Flanders to Purchase Land West of the Bowraville Racecourse

ii Renee Burgess – Against recommendation

iii Paul Hoffman (on behalf of the Hoffman and Whitaker families) - Against recommendation

iv Dr Danny Ryan on behalf of Nambucca Valley Legal - for Lesley Flanders

ITEM 11.1 Policy Review - ES 16 Roadside Vegetation Management

v Paula Flack - Against recommendation

vi Matthew McGovern - Against recommendation

PUBLIC FORUM

i Glen Heaton - Nambucca Valley Tourism addressed Council with notes placed on file SF2549 21874/2019.

Councillor John Wilson left the meeting before the commencement of this item, the time being 5:47 PM

DELEGATION

ITEM 9.2 Request by Lesley Flanders to Purchase Land West of the Bowraville Racecourse

ii Renee Burgess addressed Council with notes placed on file SF2549 22105/2019.

iii Paul Hoffman (on behalf of the Hoffman and Whitaker families) addressed Council with notes placed on file SF2549 21741/2019.

iv Dr Danny Ryan on behalf of Nambucca Valley Legal for Lesley Flanders with notes placed on file SF2549 21560/2019.

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ITEM 9.2 SF600 130619 Request by Lesley Flanders to Purchase Land West of the
Bowraville Racecourse

281/19 **RESOLVED:** (Smyth/Ballangarry)

That:

- 1 Council proceed to close the section of road, create a title and transfer the land to Ms Lesley Flanders subject to Ms Flanders meeting all of Council's costs and paying an agreed price to be determined by Council.**

(Council noted that the Flanders family acknowledged the land has no dwelling entitlement and that it is unlikely under current planning provisions to get a dwelling entitlement.)

Councillor John Wilson returned to the meeting at the completion of this item, the time being 6:37 PM

ITEM 11.1 Policy Review - ES 16 Roadside Vegetation Management

- iv Paula Flack - Against Resolution addressed Council with notes placed on file SF2549 22104/2019.*
- v Matthew McGovern Against Resolution with notes placed on file SF2549 21910/2019*

ITEM 11.1 SF1031 130619 Policy Review - ES 16 Roadside Vegetation Management

282/19 **RESOLVED:** (Hoban/Ainsworth)

That:

- 1 Council endorse the revised Roadside Vegetation Management Policy ES 16 (9265/2017), with the amendments emanating from the public consultation and the inclusion of a statement that reflects the work done to date to minimise the impact of chemical use and notes Council's commitment to continue to monitor best practice and any improvements in technology and place it on Council's website and delete the current Roadside Maintenance Policy (Our Ref: 25823/2007).**
 - 2 Council formalise a register within the Geographical Information System that recognises approved private residents who are certified organic or biodynamic producers, or are chemically sensitive, or have a philosophical aversion to the use of herbicides.**
 - 3 Council formalise an approval process to ensure that approved private residents, who are a certified or biodynamic producer, or are chemically sensitive, or have a philosophical aversion to the use of herbicides for the roadside frontage, manage the roadside vegetation control in accordance with Council requirements for weed control and road safety.**
 - 4 Any cost associated with the establishment of the no spray register be funded by the environmental levy up to the sum of ten thousand dollars (\$10,000) for the next 12 months. Both the policy and costs be reviewed in 12 months' time.**
-

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ASKING OF QUESTIONS WITH NOTICE

There were no questions with notice.

QUESTIONS FOR CLOSED MEETING WHERE DUE NOTICE HAS BEEN RECEIVED

There were no questions for Closed Meeting where due notice has been received.

GENERAL MANAGER REPORT

ITEM 9.1 SF959 130619 Outstanding Actions and Reports

283/19 **RESOLVED:** (Ainsworth/Reed)

That the list of outstanding actions and reports be noted and received for information by Council.

ITEM 9.2 was dealt with in Delegations

ITEM 9.3 SF770 130619 Review of Prices for Land Valuation Services provided by the Valuer General to Councils

284/19 **RESOLVED:** (Reed/Wilson)

That the information concerning the saving to Council from IPART's determination of prices for land valuation services provided by the Valuer General to councils be received.

ITEM 9.4 SF621 130619 Notification of Aboriginal Land Claims

285/19 **RESOLVED:** (Ballangarry/Wilson)

That:

- 1 Council advise the Aboriginal Land Claim Investigation Unit (ALCIU) as follows:**
 - a) It has no interest Aboriginal Land Claim No's 48603, 48604, 48608, 48609 and 48610;
 - b) Claim No. 48604 seems to relate to a section of closed road that was purchased in 2014;
 - c) Claim No. 48608 includes Lot 15 DP 1173273 which appears to be bisected by a property access.
- 2 The Aboriginal Land Claim Investigation Unit be provided with a copy of this report and its attachments.**

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ITEM 9.5 SF600 130619 Council Property - Sales, Purchases and Future Development -
Status Report

286/19 **RESOLVED:** (Reed/Ainsworth)

That the information concerning the status of Council property sales, property purchases and land development be received.

ITEM 9.6 SF2524 130619 Assignment of Sublease from Rintoul to Lee & Rehn Pty Ltd -
Kiosk and Boatshed, Riverside Drive, Nambucca Heads

287/19 **RESOLVED:** (Wilson/Ballangarry)

That:

- 1 Council in its capacity as Reserve Manager R85113 endorse the proposed Nambucca Heads RSL Club – assignment of sublease and transfer of leases for shops 1 & 2 from Rintoul to Lee & Rehn Pty Ltd.**
- 2 Council authorise the General Manager and the Mayor to execute and affix Council's seal on the deed of assignment to lease and transfer of leases as required.**

ITEM 9.7 SF2566 130619 Project Update - Extension to Nambucca Heads Library and
Activation of Cultural Space

288/19 **RESOLVED:** (Jenvey/Ballangarry)

That:

- 1 The information regarding the priority areas for the Library expansion, together with key elements of the project be noted.**
- 2 Council endorse the minutes of the meeting held on 8 May 2019 of the Project Control Group for the Extension to Nambucca Heads Library and Activation of Cultural Space project.**

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ITEM 9.8 SF2535 130619 Minutes of the Nambucca Shire Council Access Committee meeting held 23 April 2019

289/19 **RESOLVED:** (Ainsworth/Smyth)

That:

- 1 **Members of the Committee examine accessibility of the southern side of River Street, Macksville when the disabled parking space has been moved and then provide a report back to the Access Committee.**
- 2 **Aiden Mulvihill be endorsed as a member of the Access Committee.**
- 3 **Council endorse the minutes of the Nambucca Shire Council Access Committee meeting held 23 April 2019.**

ITEM 9.9 SF607 130619 Companion Animal Policy

290/19 **RESOLVED:** (Smyth/Wilson)

That Council adopt the draft Companion Animals Policy contained within attachment 1.

ITEM 9.10 SF2537 130619 Undetermined Development Applications either greater than 12 months or where submissions received to 6 June 2019

291/19 **RESOLVED:** (Ainsworth/Reed)

That the information contained in the report on undetermined Development Applications either greater than 12 months or where submissions have been received to 6 June 2019 be noted by Council.

ITEM 9.11 SF544 130619 Draft 2019 Review Section 7.11 Developer Contributions Plan: Mines and Extractive Industries Road Maintenance for Approval

292/19 **RESOLVED:** (Wilson/Ballangarry)

That Council adopt the Draft Section 7.11 Developer Contributions Plan: Mines and Extractive Industries Road Maintenance.

For the motion: Councillors Hoban, Wilson, Ballangarry, Jenvey, Smyth, Reed, Jones, Ainsworth
Total (8)

Against the motion: Nil
Total (0)

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ITEM 9.12 SF2523 130619 Feasibility Assessment of Council Land - Biodiversity
Conservation Act Stewardship

293/19 **RESOLVED:** (Reed/Ainsworth)

That:

- 1 Council forward a copy of the feasibility assessment to relevant officers in the RMS, local credit brokers, the Biodiversity Conservation Trust and other organisations who may be seeking credits in this bioregion;
 - 2 Council ensure that the Off River Water Storage area is appropriately identified on the expressions of interest register and update the credits available to reflect the credits identified in this feasibility assessment.
 - 3 Council write to the relevant section of DPI Crown lands in respect to the potential to identify the Coastal Reserves in Nambucca Heads as a potential stewardship site.
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ITEM 9.13 SF2546 130619 TO37/2018 Heritage Near Me Macksville Bridge Lighting - Report
in Open

294/19 **RESOLVED:** (Ainsworth/Reed)

That:

- 1 In accordance with clause 178(3) of the Local Government Regulation Council cancel the tender and carry out the requirements of the proposed contract itself.
- 2 Council note the Heritage Near Me Program has provided an extension to the funding agreement until November 2019 to complete the project.
- 3 Council note the information in the report in closed meeting pertaining to this matter.

For the motion: Councillors Hoban, Wilson, Ballangarry, Jenvey, Smyth, Reed, Jones, Ainsworth
Total (8)

Against the motion: Nil

Total (0)

ITEM 9.14 SF2537 130619 2019 May - Approved Construction and Complying Development
Certificates

295/19 **RESOLVED:** (Smyth/Wilson)

That the Construction and Complying Development Certificates approved for May 2019 be noted and received for information by Council.

Ordinary Council Meeting

MINUTES OF THE ORDINARY COUNCIL MEETING HELD ON 13 JUNE 2019

ITEM 9.15 SF2537 130619 2019 April - Development Applications and Complying
Development Applications Received

296/19 **RESOLVED:** (Reed/Ainsworth)

That the Development Applications and Complying Development Applications received in May 2019 be received for information.

ASSISTANT GENERAL MANAGER CORPORATE SERVICES REPORT

ITEM 10.1 SF1031 130619 Draft ICT Wireless Network Policy No CS 26

297/19 **RESOLVED:** (Ainsworth/Ballangarry)

That Council adopt the attached draft ICT Wireless Network Policy No CS 26 (Doc No 20791/2019).

ITEM 10.2 SF337 130619 Nominations to the Taylors Arm Sports Reserve Committee

298/19 **RESOLVED:** (Reed/Ainsworth)

That:

- 1 Council accept the nominations of Amanda Barnett and Marc Barnett to be members of the Taylors Arm Sports Reserve Committee and they be advised accordingly of their success.**
- 2 Both be provided with a copy of the S355 Committee Guidelines, the Code of Conduct for Delegates and the Volunteers Handbook.**

ITEM 10.3 SF2513 130619 Request for Donation - Blackbutt Cemetery Committee and Mary
Boulton Cottage & Museum Committee of Management

299/19 **RESOLVED:** (Ainsworth/Reed)

That Council approve a Section 356 donation of \$317.90, being the cost of one of the commemorative plaques, for the collaborative project to reinstall memorials for the late Mary Ann McNally, Annie Matilda Hall and baby Annie M G Hall interred in the historical Blackbutt Cemetery.

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ITEM 10.4 SF2513 130619 Request for Donation - Valla Beach Tennis Club

300/19 **RESOLVED:** (Wilson/Smyth)

That Council approve a Section 356 donation of \$500.00, towards the cost of purchasing two (2) new nets and a net winding mechanism for the Valla Beach Tennis Centre.

ITEM 10.5 SF251 130619 Schedule of Council Public Meetings 2019

301/19 **RESOLVED:** (Ballangarry/Ainsworth)

That the schedule of dates for June to December 2019 be noted.

ITEM 10.6 SF342 130619 Valla Beach Tennis Club Committee of Management - Annual General Meeting - 20 March 2019

302/19 **RESOLVED:** (Smyth/Jenvey)

That Council endorse the minutes of the Valla Beach Tennis Club Committee of Management Annual General Meeting held on 20 March 2019 and thank the outgoing Committee for their work in the past twelve months.

ASSISTANT GENERAL MANAGER ENGINEERING SERVICES REPORT

ITEM 11.1 was dealt with under Delegations

ITEM 11.2 T010/2019 130619 Tender T010/2019 Panel Tender for the supply of Plant and Truck Hire and Road Maintenance Services

303/19 **RESOLVED:** (Wilson/Reed)

That:

- 1 Council accept all thirty-two (32) submissions for Tender T010/2019 for the Supply of Plant and Truck Hire and Road Maintenance Services for the period commencing 1 July 2019 to 30 June 2021 to allow Council the best opportunity of price and flexibility of services, and update the Contract Register (TRIM 31325/2016).**
- 2 A provision be allowed by Council for a 12 month extension subject to contractors satisfying Council's Performance Assessment Criteria which may take this contract through to 30 June 2022.**

For the motion: Councillors Hoban, Wilson, Ballangarry, Jenvey, Smyth, Reed, Jones, Ainsworth
Total (8)

Against the motion: Nil

Total (0)

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ITEM 11.3 LF5679 130619 Proposed road closure of unformed Council Public Road through Lot 232 in DP 598397 from Southern boundary of Lot 232 in DP 598397 to Buckra Bendinni Creek to rectify and encroachment from a dwelling onto road reserve

304/19 **RESOLVED:** (Ainsworth/Jenvey)

That Council agree to the closure of the unformed Council Public Road through Lot 232 in DP 598397 from the southern boundary of Lot 232 in DP598397 to Buckra Bendinni Creek (excluding section where it crosses Upper Buckra Bendinni Road, subject to the following:

- a) **The applicants enter into a formal and binding agreement with Council to pay all costs associated with the closure (but not limited by) survey, legal, valuation and Council fees; and**
- b) **The applicants consolidate the title of the closed road with their existing holding thereby creating one (1) lot after the road closure has been finalised.**

Teresa Boorer (Grants and Contributions Officer) leaves 7:58PM

COUNCIL IN CLOSED MEETING (CLOSED TO THE PUBLIC)

305/19 **RESOLVED:** (Wilson/Reed)

That:

- 1 Council consider any written representations from the public as to why the Meeting should not be Closed to the public.
- 2 Council move into Closed Meeting to discuss the matters for the reason(s) listed below.

Reason reports are in Closed Meeting:

GENERAL MANAGER REPORT

For Confidential Business Paper in Closed Meeting

ITEM 12.1 SF2546 130619 Matters Pertaining to Fines, Penalties, Prosecutions, Appeals, Claims, Loss of Reputation

It is recommended that the Council resolve into closed session with the press and public excluded to allow consideration of this item, as provided for under Section 10A(2) (g) of the Local Government Act, 1993, on the grounds that the report contains advice concerning litigation, or advice that would otherwise be privileged from production in legal proceedings on the ground of legal professional privilege.

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For Confidential Business Paper in Closed Meeting

ITEM 12.2	SF2546	130619	General Manager's 2018/19 Performance Review and 2019/20 Performance Agreement
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It is recommended that the Council resolve into closed session with the press and public excluded to allow consideration of this item, as provided for under Section 10A(2) (a) of the Local Government Act, 1993, on the grounds that the report contains personnel matters concerning particular individuals.

For Confidential Business Paper in Closed Meeting

ITEM 12.3	SF2546	130619	TO37/2018 Heritage Near Me Macksville Bridge Lighting
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It is recommended that the Council resolve into closed session with the press and public excluded to allow consideration of this item, as provided for under Section 10A(2) (c) of the Local Government Act, 1993, on the grounds that the report contains information that would, if disclosed, confer a commercial advantage on a person with whom the Council is conducting (or proposes to conduct) business.

CLOSED MEETING

The Ordinary Council Meeting's Meeting **IN CLOSED MEETING** commenced at 7:58pm.

RESUME IN OPEN MEETING

RECOMMENDATION:

That Ordinary Council Meeting resume in Open Meeting. The Ordinary Council Meeting resumed **IN OPEN MEETING** at 8:18PM.

FROM COUNCIL IN CLOSED MEETING

The Mayor then read the confidential resolutions.

GENERAL MANAGER REPORT

For Confidential Business Paper in Closed Meeting

ITEM 12.1	SF2546	130619	Matters Pertaining to Fines, Penalties, Prosecutions, Appeals, Claims, Loss of Reputation
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306/19 **RESOLVED:** (Ainsworth/Reed)

- 1 That the information concerning incidents pertaining to regulatory non-compliance, fines, penalties, prosecutions, potential major claims or loss of reputation be received.
 - 2 That Council note the \$15,000 fine by the EPA for the sewage spill at Bellwood and that the review of the fine was unsuccessful.
-

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ITEM 12.3 SF2546 130619 TO37/2018 Heritage Near Me Macksville Bridge Lighting

307/19 **RESOLVED:** (Ainsworth/Reed)

That:

- 1 In accordance with clause 178(3) of the Local Government Regulation Council cancel the tender and continue to carry out the requirements of the proposed contract itself.
- 2 That Council note the Heritage Near Me program has provided Council with an extension to our funding agreement until November 2019 to implement the program.

For the motion: Councillors Hoban, Wilson, Ballangarry, Jenvey, Smyth, Reed, Jones, Ainsworth
Total (8)

Against the motion: Nil

Total (0)

Mr Michael Coulter and all other staff left the meeting before the commencement of this item, the time being 7:58 PM

For Confidential Business Paper in Closed Meeting

ITEM 12.2 SF2546 130619 General Manager's 2018/19 Performance Review and 2019/20 Performance Agreement

308/19 **RESOLVED:** (Ainsworth/Smyth)

- 1 That the report from the Performance Review Panel on the outcomes of the annual Review of the General Manager's Performance April 2018 to April 2019 be received and noted.
- 2 That the General Manager's 2019/20 Performance Agreement be endorsed.
- 3 That Council endorse a 10% increase in the General Manager's total remuneration package in accordance with Clause 8.3 of his contract of employment effective from 1 April 2019.
- 4 That the minutes provide for the following Mayoral comment to be made in open Council:

"Council's General Manager is employed under a Contract of Employment, which is in the standard format required by the Department of Premier and Cabinet – Office of Local Government.

A requirement of that contract is for reviews to be undertaken of the General Manager's performance.

Council appointed a Performance Review Panel to undertake these reviews – I am on that Panel, together with all Councillors.

The Panel undertook a detailed review of the General Manager's performance for the 2018/19 financial year, based on his Performance Agreement with Council. That review was held on Thursday 16 May 2019.

The outcome of that review was an overall rating of better than satisfactory.

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The Panel have recommended, in accordance with Clause 8.3 of the General Manager's contract of employment, that his total remuneration package be increased by 10%. In making this determination the Panel noted:

- *that the General Manager has been employed in his current position for 13 years,*
- *that he had never had an increase in his total remuneration package over this period other than the baseline increase determined by the Statutory and Other Officers Remuneration Tribunal that is applied for senior executive office holders, which includes senior executives in the State Government and all General Managers in New South Wales' Councils,*
- *that his performance over the past 13 years was assessed each year as being better than satisfactory which made him eligible for an increase in his total remuneration package under clause 8.3 of his contract in each of those years. However, due to Council's challenging financial position such increases were not applied, and*
- *that his performance has continued to improve each year and he had a very good year in 2018/19.*

The Panel also noted information provided on the comparative remuneration of similar Councils which indicated that the General Manager was at the lower end of the comparative range.

For these reasons the panel have recommended at 10% increase which goes some way to compensating him for remuneration forgone in the past 13 years and is a tangible recognition of his continued strong performance over this period.

In accordance with Guidelines issued by the Department of Premier and Cabinet, the details of this review are to be reported to Council in Closed session, and all associated documents are to remain confidential.

On behalf of all Councillors, I wish to thank the General Manager for his efforts and support, which are very much valued by Council. It is not an easy job, and we appreciate the contributions he has made and the leadership he continues to provide in the Council and in our Community."

Mr Michael Coulter and all other staff returned to the meeting at the completion of this item, the time being 8:18PM

For Confidential Business Paper in Closed Meeting

CLOSURE

There being no further business the Mayor then closed the meeting the time being 8:20PM.

Confirmed and signed by the Mayor on 27 June 2019.

**Cr Rhonda Hoban OAM
MAYOR
(CHAIRPERSON)**