

MINUTES

OF THE ORDINARY MEETING OF COUNCIL

File No. 100/08



held on Wednesday, 10 December 2008

The meeting commenced at 3.30 pm.



MINUTES OF THE ORDINARY MEETING OF COUNCIL

held in the Council Chamber, Civic Centre, Elizabeth Street, Moss Vale
on Wednesday, 10 December 2008

CONTENTS

CONFIRMATION OF MINUTES	2
OPEN COUNCIL	5
ENVIRONMENT & PLANNING DIVISION	5
o-EP9 Norlex Holdings – Proposed extraction, storage & loading of groundwater onto tankers at Governors Road, Bundanoon	5
VISITOR ITEM	6
REPORT OF ENVIRONMENT & PLANNING DIVISION	6
v-EP1 Demolition of Existing Building & Erection of Supermarket & Car Parking, Lot A DP152824 and Lot1318 DP1065670, 199 Lackey Road, Moss Vale	6
v-EP2 Amalgamation of 34 Lots & Creation of 12 Lot Subdivision Inclusive of Road Realignment at Oldbury and Countess Streets, Berrima	8
v-EP3 Demolition of Existing Dwelling & Erect Strata Commercial Medical Suites and Chemist, Lot A DP377731, 166 Argyle Street, Moss Vale.....	9
REPORT OF CORPORATE SERVICES DIVISION	12
v-CS1 Proposed Position of Events Coordinator	12
OPEN COUNCIL	13
ENVIRONMENT & PLANNING DIVISION	13
o-EP1 Development Consents Under Delegated Authority	13
o-EP2 List Of Land Use Applications Received By Council	13
o-EP3 Land Use Applications Determined.....	14
o-EP4 Proposed Dog Breeding Kennels, 12 Drapers Road, Colo Vale	15
o-EP5 Proposed Primary School, 28 Garrett Street, Moss Vale	16
o-EP6 Proposed use of 'Hopewood' for reception events, conference centre, open garden exhibitions and antique openings.....	17
o-EP7 Road widening, Blue Gum Road, Bundanoon	18
o-EP8 25 residential lot and 1 open space lot subdivision, Exeter Quarry site, Rockleigh Road, Exeter	19
o-EP10 Draft DCP 63 for Steiner School site, Bowral	20
o-EP11 Amendment to Moss Vale Enterprise Corridor - DCP 60	21
o-EP12 Remediation of Contaminated Land – Lot 2 Alfred St, Mittagong.....	22
o-EP13 Development Contributions Plans.....	23
o-EP14 Staff Delegations for Development Applications.....	24
o-EP15 Proposed Remaining Council Owned Land Identified for Reclassification from Community to Operational	25
CORPORATE SERVICES DIVISION	26
o-CS1 Committee Appointments & Resignations	26
o-CS2 Review of Privacy Management Plan	26
o-CS3 Provision of Independent Financial Advice	27
TECHNICAL SERVICES DIVISION	28
o-TS1 Floodplain Risk Management Program Funding	28
o-TS2 Capital Improvements - RRC Infrastructure.....	29
o-TS3 Old South Road Embankment – Additional Work.....	30
COMMITTEE REPORTS TABLED	31
c-CR1 Management and Advisory Committee Reports	31



MINUTES OF THE ORDINARY MEETING OF COUNCIL

held in the Council Chamber, Civic Centre, Elizabeth Street, Moss Vale
on Wednesday, 10 December 2008

COMMITTEE REPORTS ATTACHED	31
c-CR2 Minutes of the Finance & Internal Audit Committee	31
c-CR3 Minutes of the Traffic Committee	31
CORPORATE SERVICES DIVISION	35
c-CS1 Closed Council	35
REPORT OF GENERAL MANAGER	37
c-GM1 Lump Sum Contract 8/06 – Rehabilitation of Water & Sewer Mains	38



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on Wednesday, 10 December 2008

COMMENCING AT: 3.30 pm

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

IN ATTENDANCE: Director Technical Services, Director Environment & Planning, Acting Director Corporate Services, Mr Doug Neville, Manager Administration Services and Administration Officer (AOE)

PRAYER

100/1

The meeting was opened in prayer led by *Pastor Joshua Miller of the Christian Centre, Moss Vale.*

APOLOGY

PERS

MN 436/08

MOTION moved by Clr D Stranger and seconded by Clr P B Tuddenham:

THAT the apology of Clr J G Arkwright be accepted and leave of absence granted.

PASSED



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CONFIRMATION OF MINUTES

MINUTES OF THE ORDINARY MEETING OF COUNCIL HELD ON WEDNESDAY, 26
NOVEMBER 2008

100/1

MN 437/08

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

THAT the minutes of the Ordinary Meeting of Council held on Wednesday, 26 November 2008 MN 414/08 to MN 435/08 inclusive, copies of which were forwarded to Councillors, be adopted as a correct record of the proceedings of the meeting.

PASSED

BUSINESS ARISING

Nil



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DECLARATIONS OF INTEREST

DECLARATIONS OF INTEREST

101/3

Clr D Stranger declared a pecuniary interest in Item v-EP1 Demolition of Existing Building & Erection of Supermarket & Car Parking, Lot A DP 152824 and Lot 1318 DP 1065670, 199 Lackey Road, Moss Vale, as the Applicant is a client of his business. He stated that he would leave the chamber when this matter was discussed, take no part in the debate and refrain from voting thereon.

Clr G McLaughlin declared a non-pecuniary interest in Item v-EP2 Amalgamation of 34 Lots and Creation of 12 Lot Subdivision Inclusive of Road Realignment at Oldbury and Countess Streets, Berrima, as the owner of the land at Berrima ran on his ticket at the last Council election. He stated that he would leave the chamber when this matter was discussed, take no part in the debate and refrain from voting thereon.

Clr K Halstead declared a non-pecuniary interest in Item v-EP2 Amalgamation of 34 Lots and Creation of 12 Lot Subdivision Inclusive of Road Realignment at Oldbury and Countess Streets, Berrima, as he stated that his daughter-in-law works for the Applicant, Allman Johnston. He stated that he would leave the chamber when this matter was discussed, take no part in the debate and refrain from voting thereon.



MINUTES OF THE ORDINARY MEETING OF COUNCIL

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OPEN COUNCIL

OPEN COUNCIL

MN 438/08

107/10

MOTION moved by Clr J R Clark and seconded by Clr P B Tuddenham:

THAT Council moves into Open Council to discuss various matters listed in the Agenda with Clr J R Clark in the Chair.

PASSED

Clr J R Clark acknowledged the traditional owners of the land on which Council meets, the D'harawal and Gundungurra people.

SUSPENSION OF STANDING ORDERS

Clr J Clark requested that standing orders be suspended to allow Item o-EP9 – Norlex Holdings – Proposed extraction, storage and loading of groundwater onto tankers at Governors Road, Bundanoon, be heard at this juncture of the meeting as there were many members of the Bundanoon community present in the gallery.

OC 294/08

The Committee on a **MOTION** moved Clr J R Clark and seconded Clr L A C Whipper
RECOMMENDED:

THAT standing orders be suspended to allow Item o-EP9 – Norlex Holdings – Proposed extraction, storage and loading of groundwater onto tankers at Governors Road, Bundanoon, to be considered.

PASSED



MINUTES OF THE ORDINARY MEETING OF COUNCIL

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OPEN COUNCIL

OPEN COUNCIL

ENVIRONMENT & PLANNING DIVISION

Environment and Sustainability

o-EP9 Norlex Holdings – Proposed extraction, storage & loading of groundwater onto tankers at Governors Road, Bundanoon

REF: DEP

LUA08/0932

Reporting on the proposed extraction, storage and loading of ground water onto tankers for removal at Lot 1 DP307664, Governors Road (aka Osborne Street), Bundanoon.

OC 295/08

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

THAT LUA08/0932 for the extraction, storage and loading of ground water onto tankers for removal at Lot 1 DP307664, Governors Road be refused for the following reasons:

- (a) *The proposed development is likely to have an unacceptable impact on existing vegetation along Governors Street and at the intersection of Governors Street and Church Street.*
- (b) *The development will lead to the inappropriate passage of articulated heavy tanker vehicles along Governors Road and Church Road.*
- (c) *Insufficient information has been submitted with the application to enable Council to adequately discharge its legal obligations with regard to the potential impact on the heritage item and storm water quality.*
- (d) *The development is contrary to development which would be in keeping with what should be considered in the location and particularly having regard to the heritage value of Jackman's Cottage and its interim listing on the National Trust, and*

Conditions of refusal imposed having regard to matters listed for consideration under Section 79C (1) (a –e) of the Environment and Planning Assessment Act 1979.

PASSED

VOTING ON THE MOTION:

Voting for the Motion:

*Clr T D Gair, Clr K Halstead, Clr J R Clark,
Clr G McLaughlin, Clr J Mauger, Clr D Stranger,
Clr P B Tuddenham and Clr L A C Whipper*

Voting Against the Motion:

Nil



ORDINARY MEETING OF COUNCIL

held in the Council Chamber, Civic Centre, Elizabeth Street, Moss Vale
on Wednesday, 10 December 2008

REPORT OF DIRECTOR ENVIRONMENT & PLANNING

VISITOR ITEM

REPORT OF ENVIRONMENT & PLANNING DIVISION

Environment and Sustainability

v-EP1 Demolition of Existing Building & Erection of Supermarket & Car Parking, Lot A DP152824 and Lot1318 DP1065670, 199 Lackey Road, Moss Vale

REF: DEP

LUA08/1011

Reporting on a proposal to demolish an existing building and erect a Supermarket with Car Parking at Lots A & 1318, DP's 152824 and 1065670. The applicant and a representative of the objectors have been invited to address Council.

Mr Vaughan McInnes from Site Plus Pty Ltd, the Applicant, addressed Council on this matter.

Interest: Clr D Stranger declared a pecuniary interest in this matter as the Applicant is a client of his business. He left the chamber, took no part in the debate and refrained from voting thereon.

OC 296/08

The Committee on a MOTION moved by Clr T D Gair and seconded by Clr L A C Whipper
RECOMMENDED:

THAT LUA 08/1011 to erect a Supermarket with Car Parking at Lots A & 1318, DP's 152824 and 1065670, Lackey Road, Moss Vale, be refused for the following reasons:

- (a) the proposal is inconsistent with the provisions of the Draft Wingecarribee Local Environmental Plan 2007 in which supermarkets are prohibited in the proposed R3 Residential zone;
- (b) the subject site is poorly located for the proposed use as a supermarket which would create a separate node of retail development, contrary to Council's objective of an integrated town centre.

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

THAT Council approve LUA08/1011 for the development of a supermarket with car parking at Lot A DP 152824 and Lot 1318 DP 1065670, 199 Lackey Road, Moss Vale, as it complies with the provisions of the current LEP, and be subject to the conditions as required by Council which shall include a voluntary planning agreement with the applicant AND THAT the matter be brought back to Council for determination.

PASSED



ORDINARY MEETING OF COUNCIL

held in the Council Chamber, Civic Centre, Elizabeth Street, Moss Vale
on Wednesday, 10 December 2008

REPORT OF DIRECTOR ENVIRONMENT & PLANNING

VOTING ON THE AMENDMENT:

Voting for the amendment: ***Clr J Mauger, Clr K Halstead, Clr P B Tuddenham
and Clr G McLaughlin***

Voting against the amendment ***Clr J R Clark, Clr L A C Whipper and Clr T D Gair***

AMENDMENT BECAME THE MOTION

MOTION PASSED

VOTING ON THE MOTION:

Voting for the Motion: ***Clr J Mauger, Clr K Halstead, Clr P B Tuddenham
and Clr G McLaughlin***

Voting Against the Motion: ***Clr J R Clark, Clr L A C Whipper and Clr T D Gair***



ORDINARY MEETING OF COUNCIL

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REPORT OF DIRECTOR ENVIRONMENT & PLANNING

Environment and Sustainability

v-EP2	Amalgamation of 34 Lots & Creation of 12 Lot Subdivision Inclusive of Road Realignment at Oldbury and Countess Streets, Berrima
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REF:	DCM	LUA08/0598
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Reporting on a proposal for the amalgamation of 34 existing lots to create a 12 lot subdivision inclusive of road realignment at Lots 1-14 Section 28 DP 758098 Countess Street and Lots 1-18 Section 27 DP 758098 Oldbury Street, Berrima. The proposed development does not comply with Clause 50 (2) of the *WLEP89* in that 9 of the proposed 12 lots do not comply with the minimum standard of 1 hectare. Lot sizes for proposed lots 1 – 9 range from 2000m² to 4000m². Accordingly the application is accompanied by a SEPP 1 Objection. The applicant and objectors have been invited to address Council.

Clr D Stranger returned to the chamber at 4.45 pm.

Interest: Clr G McLaughlin declared a non-pecuniary interest in this matter as the owner of the land ran on his ticket at the last elections. He left the chamber, took no part in the debate and refrained from voting thereon.

Interest: Clr K Halstead declared a non-pecuniary interest in this matter as his daughter-in-law works for the Applicant, Allman Johnston. He left the chamber, took no part in the debate and refrained from voting thereon.

Mr William Taylor, the owner, addressed Council on this matter.

Mr Keith Walker-Smith, President of the Berrima Residents' Association Inc, addressed Council on behalf of the objectors.

OC 297/08

The Committee on a **MOTION** moved by Clr T D Gair and seconded by Clr L A C Whipper
RECOMMENDED:

THAT LUA08/0598 for the Amalgamation of 34 Lots and Creation of 12 Lot Subdivision Inclusive of Road Realignment at Oldbury and Countess Streets, Berrima, be deferred and be included in the next site inspection by Council.

PASSED

VOTING ON THE MOTION:

Voting for the Motion:	Clr T D Gair, Clr J R Clark, Clr J Mauger, Clr D Stranger, Clr P B Tuddenham and Clr L A C Whipper
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Voting Against the Motion:	Nil
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ORDINARY MEETING OF COUNCIL

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on Wednesday, 10 December 2008

REPORT OF DIRECTOR ENVIRONMENT & PLANNING

v-EP3 Demolition of Existing Dwelling & Erect Strata Commercial Medical Suites and Chemist, Lot A DP377731, 166 Argyle Street, Moss Vale

REF: DCM

LUA08/1047

Reporting on LUA 08/1047 which has been received to demolish an existing dwelling and erect a 2 storey building containing strata commercial medical suites and chemist with basement parking for 188 cars at Lot A DP 377731, 166 Argyle St Moss Vale. The applicant and a representative of the objectors have been invited to address Council.

Clr G McLaughlin returned to the chamber at 5.02 pm.

Clr K Halstead returned to the chamber at 5.02 pm.

Mr Sam Ibrahim, the Applicant, addressed Council on this matter.

Mr Warwick Rusco addressed Council on behalf of the objectors.

OC 298/08

The Committee on a **MOTION** moved by Clr T D Gair and seconded by Clr L A C Whipper
RECOMMENDED:

1. **THAT** Application No LUA08/1047 for the erection of a building containing commercial medical suites and chemist at Lot A DP377731, 166 Argyle Street, Moss Vale, be approved subject to appropriate conditions of development consent including the following:

- (a) ***Provision of an integrated traffic management plan as requested by the Traffic Committee with the knowledge that the maximum length of a rigid vehicle will be 8.8 metres long;***
- (b) ***Information on traffic generation, directional split and impact upon Argyle Street / Illawarra Highway roundabout; and***
- (c) ***Provision of plans addressing improved architectural treatment of the side elevations of the proposal,***

to the satisfaction of the Director of Environment and Planning.

2. **THAT** those people who made submissions be advised of Council's decision.

PASSED

VOTING ON THE MOTION:

Voting for the Motion:

**Clr T D Gair, Clr K Halstead, Clr J R Clark,
Clr G McLaughlin, Clr J Mauger, Clr D Stranger,
Clr P B Tuddenham and Clr L A C Whipper**

Voting Against the Motion:

Nil



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QUESTIONS FROM THE PUBLIC

CHAIRPERSON

At this juncture, the time being 5.40 pm, the Mayor resumed the Chair to conduct the remainder of Council Business.

QUESTIONS FROM THE PUBLIC

1. COUNCIL'S DRAFT LEP 5900

Mr Barry Anstee asked if Council could look at having an information session regarding the new LEP and for the dealing with applications.

Clr T D Gair advised that it would be taken on notice, but advised that if Mr Anstee had a particular question on the LEP he should complete a Questions From the Public Form and include his name and the question he wished to ask.

2. STORMWATER RUN-OFF IN THE AREA OF THE ROUNDABOUT AT KANGALOO ROAD, ROAD AND THE ROTHERWOOD GARDENS DEVELOPMENT 8117

Mr Trevor Atkinson of Mittagong on behalf of his mother, Mrs Jean Atkinson of 15 Holmhale Street, Bowral, asked why Council has not checked the stormwater run-off at this area as it affects his mother's house?

Clr T D Gair advised that the matter will be taken on notice and that if Mr Atkinson can leave his telephone number the matter will be investigated and the Director of Environment & Planning will contact him.

3. RESOURCE RECOVERY CENTRE 7811/1, 7503/25

Mr Terry Oakes Ash asked if it is true that recycled crushed concrete and brick is being sold as being suitable for road construction but without an appropriate validation certificate being available?

The Director Technical Services advised that verbal notice of the validation certificate was issued today.

The Manager of the Resource Recovery Centre confirmed that verbal notice has been given that the certificate will be issued this week and that testing has been done as required by the regulations.

4. "VINE LODGE" AND EXETER QUARRY DEVELOPMENTS AT EXETER
LUA04/0716

Mrs Pam Cooper asked if the same guidelines in the Exeter DCP 54 will apply to both the "Vine Lodge" and the Old Quarry Developments, especially in relation to housing height?



ORDINARY MEETING OF COUNCIL

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QUESTIONS FROM THE PUBLIC

The Director Environment & Planning advised that the matter will be investigated and Mrs Cooper would be advised of the outcome.

5. "VINE LODGE" AND EXETER QUARRY DEVELOPMENTS AT EXETER LUA04/0716

Mrs Pam Cooper noted that there were at least 5 submissions received and not 2 as stated on page 43 of the Council agenda.

The Director Environment & Planning advised that the matter will be investigated Mrs Cooper will be advised of the outcome.

6. \$750,000 GRANT FROM THE FEDERAL GOVERNMENT 2151/3

Mrs Pam Cooper asked if Council has made a decision on what projects the \$750,000 from the Federal Government will be spent.

The Director Technical Services advised that a report is being prepared for the next Council meeting on 17 December 2008 for adoption.

7. COUNCIL PARKS 6500, 7142

Mrs Pam Cooper asked if Council parks are available for use by caravans and mobile homes other than as those specified?

The Director Technical Services advised that the matter will be taken on notice and Mrs Cooper will be advised.



REPORT OF CORPORATE SERVICES DIVISION

v-CS1	Proposed Position of Events Coordinator
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REF.	DCS	1671/8
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Seeking approval to appoint a full-time Events Coordinator on a three (3) year contract.

Mr Steve Rosa, Council's Tourism Manager, addressed Council on this matter.

MN 439/08

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

1. **THAT** Council approve the appointment of an Event's Coordinator within the organisational structure of Corporate Services/Tourism Branch.
2. **THAT** the position detailed in recommendation (1) be funded from within the existing budget, being the allocation of funds to Bowral Tulip Time (which is primarily a self-funded event).

PASSED



OPEN COUNCIL

ENVIRONMENT & PLANNING DIVISION

Governance and Accountability

o-EP1 Development Consents Under Delegated Authority

REF: DCM 5302

Submitting list of development consents executed under delegated authority of the Director of Environment and Planning between 14 November 2008 to 1 December 2008.

MN 440/08

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

THAT the information relating to Development Consent Nos 1 - 11 under Delegated Authority be received and noted.

PASSED

o-EP2 List Of Land Use Applications Received By Council

REF: DCM 5302

Submitting list of development applications which have been received between 14 November to 1 December 2008, some of which will be dealt with under delegated authority of the Director of Environment & Planning.

MN 441/08

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

THAT the information regarding the List of Land Use Applications Nos 1 - 7 received by Council be received and noted.

PASSED



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 ENVIRONMENT & PLANNING

o-EP3 Land Use Applications Determined

REF: DCM

5302

Submitting list of Land Use applications determined under delegated authority of the Director of Environment & Planning for the month of November 2008.

MN 442/08

MOTION moved by Clr K Halstead and seconded by Clr D Stranger:

THAT the information regarding the List of Land Use Applications Received by Council for the month of November 2008, be received and noted.

PASSED

VOTING ON THE MOTION:

Voting for the Motion:

***Clr T D Gair, Clr K Halstead, Clr J R Clark,
Clr G McLaughlin, Clr J Mauger, Clr D Stranger,
Clr P B Tuddenham and Clr L A C Whipper***

Voting Against the Motion:

Nil



Environment and Sustainability

o-EP4 Proposed Dog Breeding Kennels, 12 Drapers Road, Colo Vale

REF: DCM

LUA08/0280

Re-submitting report on proposed dog breeding kennels at Lot 6 DP 10008, 12 Drapers Road, Colo Vale, following an Inspection Meeting on 10 December 2008.

The Development Assessment Manager, Mr Les Pawlak, addressed the meeting and answered questions on this matter.

MN 443/08

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

THAT LUA08/0280 for Proposed Dog Breeding Kennels at Lot 6 DP 10008, 12 Drapers Road, Colo Vale, be refused on the following grounds:

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

On being put to the meeting, voting on the Motion was tied four-all, whereupon the Mayor exercised his casting vote in favour of the Motion, which was declared **PASSED**.

VOTING ON THE MOTION:

Voting for the Motion: *Clr J Mauger, Clr P B Tuddenham, Clr T D Gair and Clr D Stranger*

Voting Against the Motion: *Clr K Halstead, Clr L A C Whipper, Clr G McLaughlin and Clr J R Clark*



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 ENVIRONMENT & PLANNING

Environment and Sustainability

o-EP5 Proposed Primary School, 28 Garrett Street, Moss Vale

REF: DCM

LUA08/0913

Re-submitting report on proposed primary school at Lot 24 DP 1097006, 28 Garrett Street, Moss Vale, following an Inspection Meeting on 10 December 2008.

Correspondence from Mr Peter Gillies, MET Goulburn Pty Ltd, dated 10 December 2008, was distributed to Councillors at the meeting.

The Development Assessment Manager, Mr Les Pawlak, addressed the meeting and answered questions on this matter.

MN 444/08

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

1. **THAT** Council raise no objections to Development Application LUA08/0913 for the erection of primary school buildings and altering the existing building for administration on Lot 24 DP 1097006 at No. 28 Garrett Street, Moss Vale.
2. **THAT** the height of the dividing fence be the height of the windows on the adjoining property and be a minimum of 1.8 metres.
3. **THAT** the Director of Environment and Planning be authorised finalise the determination of LUA08/0913 following further discussions with the applicant in regard to stormwater management, site contamination and compliance with BCA.
4. **THAT** construction of the dividing fence be given priority.

PASSED

VOTING ON THE MOTION:

Voting for the Motion:

*Clr T D Gair, Clr K Halstead, Clr J R Clark,
Clr G McLaughlin, Clr J Mauger, Clr D Stranger,
Clr P B Tuddenham and Clr L A C Whipper*

Voting Against the Motion:

Nil



MINUTES OF THE ORDINARY MEETING OF COUNCIL

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REPORT OF DIRECTOR ENVIRONMENT & PLANNING

Environment and Sustainability

o-EP6	Proposed use of 'Hopewood' for reception events, conference centre, open garden exhibitions and antique openings
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REF:	DCM
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LUA07/1386

Re-submitting report on proposed use of 'Hopewood' at Lot 6 DP 634569 Centennial Road, Bowral, following an inspection Meeting on 10 December 2008.

It was noted that Council previously considered this matter at its meeting held on 26 November 2008, not 12 November 2008 as detailed in the report.

The Development Assessment Manager, Mr Les Pawlak, addressed the meeting and answered questions on this matter.

MN 445/08

MOTION moved by *Clr G McLaughlin* and seconded by *Clr K Halstead*:

THAT Development Application LUA07/1386 on Lot 6 DP634569 'Hopewood' Centennial Road, Bowral, for use of the pavilion area to accommodate wedding receptions, conferences, charity events, and antique openings, use of two existing cottages for holiday accommodation, with the grounds to be made available for open garden exhibitions, be approved subject to conditions of consent including those as set out in Attachment 6 to the report of 26 November 2008 **AND THAT** an overflow area to support 20 car parking spaces be provided namely Grasscrete or the like.

PASSED

VOTING ON THE MOTION:

Voting for the Motion:

*Clr T D Gair, Clr K Halstead, Clr J R Clark,
Clr G McLaughlin, Clr J Mauger, Clr D Stranger,
Clr P B Tuddenham and Clr L A C Whipper*

Voting Against the Motion:

Nil



Environment and Sustainability

o-EP7 Road widening, Blue Gum Road, Bundanoon

REF: DCM

RD1809; LUA04/1132; LUA04/0302

Re-submitting report on proposed road widening following an Inspection Meeting on 10 December 2008.

MN 446/08

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

THAT the proposed road widening of Blue Gum Road, Bundanoon associated with conditions of consent attached to LAU 04/1132 and LAU 04/0302 be varied to restrict road (carriageway) width to 6 metres with grass swale drains and concrete edge beam to preserve existing roadside vegetation where practical.

PASSED

VOTING ON THE MOTION:

Voting for the Motion:

***Clr T D Gair, Clr K Halstead, Clr J R Clark,
Clr G McLaughlin, Clr J Mauger, Clr D Stranger,
Clr P B Tuddenham and Clr L A C Whipper***

Voting Against the Motion:

Nil



Environment and Sustainability

o-EP8	25 residential lot and 1 open space lot subdivision, Exeter Quarry site, Rockleigh Road, Exeter
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REF:	DCM
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LUA04/0716

Reporting on a proposal for a 25 residential lot and 1 open space lot subdivision at the Exeter Quarry site, Rockleigh Road, Exeter.

MN 447/08

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

1. **THAT** Council raise no objections to LAU 04/0716 for the 26 lot subdivision of Exeter Quarry in accordance with plans prepared by Campbell & Anderson Consulting Surveyors Drawing No. 16889-DA 1 Issue A dated 5 December 2007.
2. **THAT** the Director Environment and Planning be authorised to approve LUA04/0716 upon the finalisation of all outstanding engineering matters.

PASSED

VOTING ON THE MOTION:

Voting for the Motion:

*Clr T D Gair, Clr K Halstead, Clr J R Clark,
Clr G McLaughlin, Clr J Mauger, Clr D Stranger,
Clr P B Tuddenham and Clr L A C Whipper*

Voting Against the Motion:

Nil



MINUTES OF THE ORDINARY MEETING OF COUNCIL

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on Wednesday, 10 December 2008

REPORT OF DIRECTOR ENVIRONMENT & PLANNING

Lifestyle and Community

o-EP10 Draft DCP 63 for Steiner School site, Bowral

REF: DEP

5700/63

Report on the exhibition of the draft Development Control Plan (DCP) for the Steiner School site, (Lot 1 DP1100260 and Lots 4 DP1000259), Kirkham Road, Bowral.

MN 448/08

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

1. **THAT** the draft Development Control Plan for the Steiner School site in Bowral be adopted, and implemented in accordance with the provisions of the Environmental Planning and Assessment Regulation, and
2. **THAT** all relevant parties be advised of Council's decision.

PASSED

VOTING ON THE MOTION:

Voting for the Motion:

***Clr T D Gair, Clr K Halstead, Clr J R Clark,
Clr G McLaughlin, Clr J Mauger, Clr D Stranger,
Clr P B Tuddenham and Clr L A C Whipper***

Voting Against the Motion:

Nil

Lifestyle and Community

o-EP11 Amendment to Moss Vale Enterprise Corridor - DCP 60

REF: SPM

5700/60; 5602/11

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

The requested amendment is to remove the biodiversity constraint notation over two adjoining properties (Lot 4 DP 623038 & Lot 12 DP 527683) located on the corner of Douglas Road and Carribee Road, Moss Vale (highlighted in attachment 1 & 3).

In responding to this request, this report outlines Council's options and provides a recommendation.

MN 449/08

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

1. **THAT Council resolve to amend Figure 3 in the Moss Vale Enterprise Corridor DCP 60 as shown in Attachment 3 by altering the area of Biodiversity Conservation and place the amendment on public exhibition for a period of 28 days in accordance with the requirements of the Environmental Planning & Assessment Regulations 2000.**
2. **THAT Council advise the owner 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

VOTING ON THE MOTION:

Voting for the Motion:

**Clr T D Gair, Clr K Halstead, Clr J R Clark,
Clr G McLaughlin, Clr J Mauger, Clr D Stranger,
Clr P B Tuddenham and Clr L A C Whipper**

Voting Against the Motion:

Nil



Environment and Sustainability

o-EP12 Remediation of Contaminated Land – Lot 2 Alfred St, Mittagong

REF: DEP, FSM, PO

PN14400

Reporting on an ongoing matter involving the payment of compensation to the property owner of Lot 2 DP577450 as a result of land contamination.

MN 450/08

MOTION moved by Clr K Halstead and seconded by Clr G McLaughlin:

- 1. THAT compensation for Mr and Mrs Gasson to the value of \$100,000 be allocated from Capital Projects Reserve.***
- 2. THAT negotiations with Mr and Mrs Gasson be completed and an appropriate Deed of Release be prepared by Council's solicitor and entered into with the Gassons.***
- 3. THAT the General Manager be delegated to complete these actions.***
- 4. THAT the Deed of Release be executed under the Common Seal of Council.***

PASSED

VOTING ON THE MOTION:

Voting for the Motion: ***Clr T D Gair, Clr K Halstead, Clr J R Clark,
Clr G McLaughlin, Clr J Mauger, Clr D Stranger,
Clr P B Tuddenham and Clr L A C Whipper***

Voting Against the Motion: ***Nil***



Lifestyle and Community

o-EP13 Development Contributions Plans

REF: MSP

5701

This report discusses in detail the major proposed changes to the Environmental Planning and Assessment Act 1979 (EPA Act); proposed changes to the Environmental Planning and Assessment Regulation 2000 (EPA Reg); and the impacts these changes will have on Council's Contributions Plans.

MN 451/08

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

THAT the matter be deferred until the first Ordinary meeting in February 2009 (Wednesday, 12 February 2009) having regard to budgetary considerations.

PASSED

VOTING ON THE MOTION:

Voting for the Motion: *Clr T D Gair, Clr K Halstead, Clr J R Clark, Clr G McLaughlin, Clr J Mauger, Clr D Stranger, Clr P B Tuddenham and Clr L A C Whipper*

Voting Against the Motion: *Nil*

Environment and Sustainability

o-EP14 Staff Delegations for Development Applications

REF: DEP

800/10; 5302

Reporting on proposed minor changes to staff delegations relating to the determination of Development Applications.

MN 452/08

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

THAT Council amend the existing Schedule of Staff Delegations relating to the determination of Development Applications to reflect the following:

1. **Section 96 Amendments – full delegation to staff except where the proposed amendment relates to a Development Application originally dealt with by Council and the proposed amendment is related to a non standard condition of consent or to a matter particularly considered by Council in its original deliberations.**
2. **S82A reviews – full delegation to staff except in two circumstances:**
 - (a) **where a Development Application has been refused on merit and upon review it is again being recommended for refusal; or**
 - (b) **where a Development Application was refused on merit and upon review it is being recommended for approval and there are outstanding objections.**
3. **Heritage items – full delegation for the Director Environment & Planning with opportunity for Councillor to call up items if deemed necessary by Councillors AND THAT information pertaining to all these Development Applications be notified to the members of the Heritage Working Group and will be provided regularly via the Weekly Circular so that Councillors remain informed.**

PASSED

VOTING ON THE MOTION:

Voting for the Motion:

**Clr T D Gair, Clr K Halstead, Clr J R Clark,
Clr G McLaughlin, Clr J Mauger, Clr D Stranger,
Clr P B Tuddenham and Clr L A C Whipper**

Voting Against the Motion:

Nil



MINUTES OF THE ORDINARY MEETING OF COUNCIL

held in the Council Chamber, Civic Centre, Elizabeth Street, Moss Vale
on Wednesday, 10 December 2008

REPORT OF DIRECTOR ENVIRONMENT & PLANNING

Lifestyle and Community

o-EP15	Proposed Remaining Council Owned Land Identified for Reclassification from Community to Operational
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REF:	SPM	5900
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The purpose of this report is to re-submit to Council an amended report of 12 November 2008 on the proposed remaining council owned land identified in the Draft Local Environmental Plan 2007 for reclassification from community to operational following discussion at the LEP Sunset Working Group Meeting held on 3 December 2008.

MN 453/08

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

THAT the report on Proposed Remaining Council Owned Land Identified for Reclassification from Community to Operational be deferred for consideration to the Ordinary Council meeting to be held on Wednesday, 17 December 2008.

PASSED

VOTING ON THE MOTION:

Voting for the Motion:

***Clr T D Gair, Clr K Halstead, Clr J R Clark,
Clr G McLaughlin, Clr J Mauger, Clr D Stranger,
Clr P B Tuddenham and Clr L A C Whipper***

Voting Against the Motion:

Nil

CORPORATE SERVICES DIVISION

Governance and Accountability

o-CS1	Committee Appointments & Resignations
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REF:	MAS	107/1 6536/1.1 6530/1.1
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Reporting on Management Committee Appointments and Resignations.

MN 454/08

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

- THAT Council accepts with regret the resignation of Murray Loan and appoints Helen Coventry to the Exeter Park Management Committee AND THAT Murray Loan and Helen Coventry be notified of Council's determination***
- THAT Council appoints Peter Falk to the Bong Bong Common Management Committee AND THAT Peter Falk be notified of Council's determination.***
- THAT the Exeter Park Management Committee and Bong Bong Common Management Committee be notified of Council's determination.***

PASSED

o-CS2	Review of Privacy Management Plan
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REF:	MAS	1420/16
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Reporting on a revised Privacy Management Plan to Council for adoption.

MN 455/08

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

THAT the revised Privacy Management Plan, distributed to Councillors under separate cover, dated 26 November 2008 be adopted.

PASSED



MINUTES OF THE ORDINARY MEETING OF COUNCIL

held in the Council Chamber, Civic Centre, Elizabeth Street, Moss Vale
on Wednesday, 10 December 2008

REPORT OF DIRECTOR CORPORATE SERVICES

o-CS3	Provision of Independent Financial Advice
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REF.	FSM
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2104

Submitting a request to seek independent financial advice on Council's investments.

MN 456/08

MOTION moved by Cllr T D Gair and seconded by Cllr D Stranger:

THAT the report on the Provision of Independent Financial Advice be deferred to the Ordinary meeting of Council to be held on Wednesday, 12 February 2009.

PASSED



MINUTES OF THE ORDINARY MEETING OF COUNCIL

held in the Council Chamber, Civic Centre, Elizabeth Street, Moss Vale
on Wednesday, 10 December 2008

REPORT OF DIRECTOR TECHNICAL SERVICES

TECHNICAL SERVICES DIVISION

Environment & Sustainability

o-TS1	Floodplain Risk Management Program Funding
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REF:	DPM	8100/4; 8100/5; 8100/6; 8100/7; 8100/8
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Reporting on project funding under the Floodplain Risk Management Program for the 2008/2009 financial year.

MN 457/08

MOTION moved by Clr K Halstead and seconded by Clr L A C Whipper:

1. **THAT** Council accepts the Acting Ministers notional 2/3 funding allocation of \$87,000 from the Floodplain Risk Management Program for 2008/2009 for the following projects with proposed expenditures of:

Bowral Golf Course - Detention Basin Investigation & Design	\$14,000
Bowral Floodplain - Risk Management Study & Plan	\$36,000
Burradoo Catchment BU2 - Flood Study and Floodplain Risk Management Study	\$ 9,000
Whites Creek - Floodplain Risk Management Study & Plan	\$12,000
Retford Park - Detention Basin Scoping Study	\$16,000

2. **THAT** Council funds its matching 1/3 contribution of \$43,500 from the 2009/10 Stormwater Drainage Levy for the following projects with proposed expenditures of:

Bowral Golf Course - Detention Basin Investigation & Design	\$ 7,000
Bowral Floodplain Risk Management Study & Plan	\$18,000
Burradoo Catchment BU2 Flood Study and Floodplain Risk Management Study	\$ 4,500
Whites Creek - Floodplain Risk Management Study	\$ 6,000
Retford Park - Detention Basin Scoping Study	\$ 8,000

PASSED

o-TS2	Capital Improvements - RRC Infrastructure
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REF: MRR	7503/25
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Reporting on Capital Improvements to RRC infrastructure.

MN 458/08

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

- THAT tenders be invited to construct a structure to enclose RRC Transfer Station Bays one and two.***
- THAT the Transfer Station project be funded from external loan borrowings of \$500,000, the 2008/09 Waste Improvement payment of \$150,000 and \$65,000 from the Domestic Resource Recovery Reserve.***
- THAT tenders be invited to establish a working slab on the site of the proposed RRC C&D MRF and that this Tender include an option for push up walls to be included.***
- THAT the C&D Project be funded from existing borrowing in the Resource Recovery Budget.***
- THAT quotations be invited for the provision of a second weighbridge at the RRC and upgraded gatehouse accommodation.***
- THAT the funding of the Weighbridge project be considered in conjunction with the report on the Regional and Local Community Infrastructure Program Grants at the Council meeting scheduled 17 December 2008.***

PASSED



MINUTES OF THE ORDINARY MEETING OF COUNCIL

held in the Council Chamber, Civic Centre, Elizabeth Street, Moss Vale
on Wednesday, 10 December 2008

REPORT OF DIRECTOR TECHNICAL SERVICES

Governance and Accountability

o-TS3	Old South Road Embankment – Additional Work
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REF:	RTM	6330/08.6, RD3189, RD1587
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Providing Council with a report as a result of the additional work carried out on the Old South Road embankment.

MN 459/08

MOTION moved by Cllr K Halstead and seconded by Cllr J Mauger:

THAT the report on Old South Road Embankment – Additional Work be deferred to the Ordinary meeting of Council to be held on Wednesday, 28 January 2009 (first meeting of council for 2009).

PASSED

COMMITTEE REPORTS TABLED

c-CR1 Management and Advisory Committee Reports		
REF.	DCS	107/1

Submitting minutes of four (4) Committee meetings that will be tabled for information.

MN 460/08

MOTION moved by Clr K Halstead and seconded by Clr J R Clark:

THAT the information contained in the Management and Advisory Committee Reports be noted.

PASSED

COMMITTEE REPORTS ATTACHED

c-CR2 Minutes of the Finance & Internal Audit Committee		
REF.	DCS	107/21

Submitting minutes of the Finance & Internal Audit Committee held 26 November 2008.

MN 461/08

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

THAT the recommendations being FIA 13/08 to FIA 15/08 as detailed in the minutes of the Finance & Internal Audit Committee held Wednesday, 26 November 2008 be adopted.

PASSED

c-CR3 Minutes of the Traffic Committee		
REF.	TE	107/6

Submitting minutes of the Traffic Committee held Monday, 1 December 2008. (It was noted that the Traffic Committee meeting was held on Monday 1 December 2008 and not Wednesday 26 November 2008 as detailed in the Agenda).

MN 462/08

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

THAT the recommendations being TC 158/08 to TC 179/08 as detailed in the minutes of the Traffic Committee held Monday, 1 December 2008 be adopted.

PASSED

GENERAL BUSINESS

1. LOCAL GOVERNMENT AMENDMENT (LEGAL STATUS) BILL 2008 201/2, 203/4

Clr K Halstead noted in Local Government Weekly Circular 47/08 which referred to the de-corporatisation of NSW Local Government and the Amendment Bill which stated that Councils that were constitutional corporations have been removed from coverage of the Federal industrial relations jurisdiction and have reverted back to the State Industrial relations jurisdiction. He considered that this was a positive move for Local Government.

2. PAINTING OF FENCE AT THE BUNDANOON CEMETERY 7190/10

Clr K Halstead advised that he has a received letter from a former Council employee requesting provision of bushes and paint to paint the fences at the cemetery at Bundanoon, noting that the labour would be done by two former Council employees at no cost to Council. Clr Halstead queried the issue of insurance for this work and suggested that the work be carried out.

3. COUNCILLORS STRATEGIC WORKSHOP AT THE BRIARS 101/12

Clr K Halstead questioned the cost of the Councillors Workshop held recently at the Briars and asked which Councillors had stayed the night at the Briars. Clr Halstead advised that he had received many calls from ratepayers questioning the need for Councillors to stay overnight and requested the Mayor to provide a full and thorough report as he has been inundated by telephone calls from ratepayers.

Clr T D Gair advised that the Workshop was an opportunity for Councillors and staff get away from the Council chambers and it was a worthwhile exercise. He noted the recent publicity in the local press and radio station about Councillors staying overnight at the Briars. Clr Gair advised that he had stayed the night at the Briars and had no problem with doing so. Clrs L Whipper, G McLaughlin, Clr D Stranger, and the General Manager had also stayed the night, and it was his opinion that Councillors should be able to meet at a social level while undertaking a strategic workshop.

Clr T D Gair advised he was happy to supply more detail.

4. TRUCKS PARKING AT BRAEMAR LODGE AND THE POPLARS 5504/6

Clr P B Tuddenham noted a problem with trucks parking opposite Braemar Lodge and the Poplars. He had received complaints of the dumping of rubbish and suggested that some rocks may be placed in the area to stop trucks parking, and perhaps the Rangers could look at the problem.

The Director Environment & Planning advised that he would investigate the matter.

5. LIGHT SPILL 5450

Clr L A C Whipper asked the Director Environment & Planning what Council's policy, if any, was on light spill.

The Director Environment & Planning advised that he will investigate the request and provide a reply in the Weekly Circular.

6. COUNCILLORS STRATEGIC WORKSHOP AT THE BRIARS 101/2

Clr L A C Whipper noted that he considered staying at the Briars as an opportunity of team building and it was a shame that more councillors did not chose to stay the night for that reason and supported the Mayor in his comments.

EXTENSION OF TIME

MN 463/08

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

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

PASSED

7. LANDSCAPING BERRIMA ROAD INDUSTRIAL UNITS LUA06/0772

Clr J R Clark enquired whether the industrial units on the northern side of Berrima Road to the west of Council's Works Depot have a landscaping plan to deal with the bulk and prominence of the concrete wall to the east of the buildings visible to west bound traffic on Berrima Road.

The Director Environment & Planning advised that he will investigate the matter and provide details in the Weekly Circular.

8. PROVISION OF PARKING FOR MOTOR CYLCES 7460/8, 7460/26

Clr G McLaughlin asked if some designated parking could be provided for motor cycles at Council Chambers and also in Bowral.



MINUTES OF THE ORDINARY MEETING OF COUNCIL

held in the Council Chamber, Civic Centre, Elizabeth Street, Moss Vale
on Wednesday, 10 December 2008

GENERAL BUSINESS

9. COUNCILLORS STRATEGIC WORKSHOP AT THE BRIARS 101/2

Clr G McLaughlin also noted that he had been receiving some bad press about the fact that he had stayed overnight at the Briars on the weekend of the Councillors Workshop. Clr McLaughlin believed that it was a valuable weekend to have the “togetherness” to work through certain strategic issues for Council and the community.

10. PROPOSED CLOSURE OF KANGALOON PRIMARY SCHOOL 1510/8

Clr G McLaughlin noted that he was pleased that the Director of Education Graham Kennedy has decided not to close the Kangaloon Primary School at this stage.



MINUTES OF THE ORDINARY MEETING OF COUNCIL

held in the Council Chamber, Civic Centre, Elizabeth Street, Moss Vale
on Wednesday, 10 December 2008

CLOSED COUNCIL

CORPORATE SERVICES DIVISION

c-CS1	Closed Council
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To consider moving into Closed Council.

At this juncture, the time being 7.41 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.

MN 464/08

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

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-CS1 **BRIEFING ON CURRENT STATUS OF LEGAL MATTER WSC V LEHMAN BROTHERS AUSTRALIA** 107/9, 2104

Relevant Legal Provisions

This report is placed in Closed Committee under Clause 10A2(g) of the Local Government Act, as it contains information that references advice that may be subject of legal professional privilege.

Brief Description

Considering an update on the current status of legal matters. WSC V Lehman Brothers Australia.

Public Interest

It would on balance be contrary to the public interest to consider this information in Open Council because it contains information that may be subject of legal professional privilege.

c-GM1 **LUMP SUM CONTRACT 8/06 – REHABILITATION OF WATER & SEWER MAINS**

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.



MINUTES OF THE ORDINARY MEETING OF COUNCIL

held in the Council Chamber, Civic Centre, Elizabeth Street, Moss Vale
on Wednesday, 10 December 2008

CLOSED COUNCIL

Brief Description

Reporting on tenders received for the rehabilitation of approximately 1,980 metres of sewerage mains and 2580 metres of water mains in various locations in Bowral, Mittagong, Moss Vale and Bundanoon.

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



MINUTES OF THE ORDINARY MEETING OF COUNCIL

held in the Council Chamber, Civic Centre, Elizabeth Street, Moss Vale
on Wednesday, 10 December 2008

CLOSED COUNCIL

CORPORATE SERVICES DIVISION

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

It was noted that Council agreed not to consider the Closed Council item c-CS1, the reason being that there was no further information at this time and therefore the item was withdrawn.

REPORT OF GENERAL MANAGER

Environment & Sustainability

c-GM1	Lump Sum Contract 8/06 – Rehabilitation of Water & Sewer Mains
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REF: WSM	6330/09.1, 7799
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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

Reporting on tenders received for the rehabilitation of approximately 1,980 metres of sewerage mains and 2580 metres of water mains in various locations in Bowral, Mittagong, Moss Vale and Bundanoon.

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

1. **THAT** the Lump Sum tender in the sum of \$486,050.00 submitted by Veolia Water be accepted for Schedule 1 of Contract 1/09.
2. **THAT** the Lump Sum tender in the sum of \$245,837.00 submitted by CLM Trenchless Pty Ltd be accepted for Schedule 2 of Contract 1/09.
3. **THAT** the Lump Sum tender in the sum of \$146,867.21 submitted by Interflow Pty Ltd be accepted for Schedule 3 of Contract 1/09.
4. **THAT** the Mayor and General Manager be given authority to execute the contract(s) under the Common Seal of Council.

PASSED



MINUTES OF THE ORDINARY MEETING OF COUNCIL

held in the Council Chamber, Civic Centre, Elizabeth Street, Moss Vale
on Wednesday, 10 December 2008

OPEN COUNCIL

MN 465/08

107/10

MOTION moved by Clr T D Gair seconded Clr L A C Whipper:

THAT Council moves back into Open Council.

PASSED

No members of the public were present in the Chamber.

ADOPTION OF CLOSED COUNCIL

MN 466/08

107/9

MOTION moved by Clr T D Gair seconded Clr L A C Whipper:

THAT the recommendations of the Closed Council held on Wednesday, 10 December 2008 (Item c-GM1) be adopted.

PASSED

ADOPTION OF OPEN COUNCIL

MN 467/08

107/10

MOTION moved by Clr T D Gair seconded by Clr L A C Whipper:

THAT the recommendations of the Open Council held on Wednesday, 10 December 2008 being OC 294/08 to OC 298/08, be adopted.

PASSED



MINUTES OF THE ORDINARY MEETING OF COUNCIL

held in the Council Chamber, Civic Centre, Elizabeth Street, Moss Vale
on Wednesday, 10 December 2008

THERE BEING NO FURTHER BUSINESS, THE MEETING CLOSED AT 7.45 PM

In accordance with the provisions of Section 375(2) of the Local Government Act, these Minutes of the Ordinary Council Meeting held Wednesday, 10 December 2008 numbered M/N 436/08 to M/N 467/08, were signed by me hereunder at the Council Meeting held on Wednesday, 17 December 2008.

CHAIRMAN

READ AND CONFIRMED THIS 17th DAY OF DECEMBER 2008

CHAIRMAN

PUBLIC OFFICER