

File No. 100/08  
Our Ref: JMP

3 October 2008

Dear Councillor

You are kindly requested to attend an **ORDINARY COUNCIL MEETING** of Wingecarribee Shire Council to be held in the Council Chambers, Elizabeth Street, Moss Vale on **Wednesday, 8 October 2008** commencing at **3.30pm**.

Yours faithfully

Mike Hyde  
General Manager

3.30pm	Council Meeting begins
5.30pm	Questions from the Public
6.30pm	Closed Council

# BUSINESS

1. OPENING OF THE MEETING
2. PRAYER – *Captain Patricia Day (Bowral Salvation Army)*
3. PUBLIC FORUM
4. APOLOGIES
5. ADOPTION OF MINUTES OF ORDINARY MEETING HELD ON *Wednesday, 10 September 2008*  
ADOPTION OF MINUTES OF EXTRAORDINARY MEETING HELD ON *Monday, 29 September 2008*
6. BUSINESS ARISING FROM THE MINUTES
7. DECLARATIONS OF INTEREST
8. MAYORAL MINUTE (*if any*)
9. OPEN COUNCIL CHAIRED BY *CLR T D GAIR*
  - Visitor Matters
  - Environment and Planning
  - Corporate Services
  - Technical Services
11. COUNCIL MATTERS
  - General Manager
  - Corporate Services
12. NOTICES OF MOTION
13. DELEGATES REPORTS
14. PETITIONS
15. QUESTIONS FROM THE PUBLIC
16. CORRESPONDENCE FOR ATTENTION
17. QUESTIONS WITH NOTICE
18. COMMITTEE REPORTS (*Tabled*)
19. COMMITTEE REPORTS (*Attached*)
20. GENERAL BUSINESS
21. CLOSED COUNCIL

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# Our Values

**EQUITY, JUSTICE and CONSULTATION** in our obligations;

**PRIDE** in our lifestyle and environment;

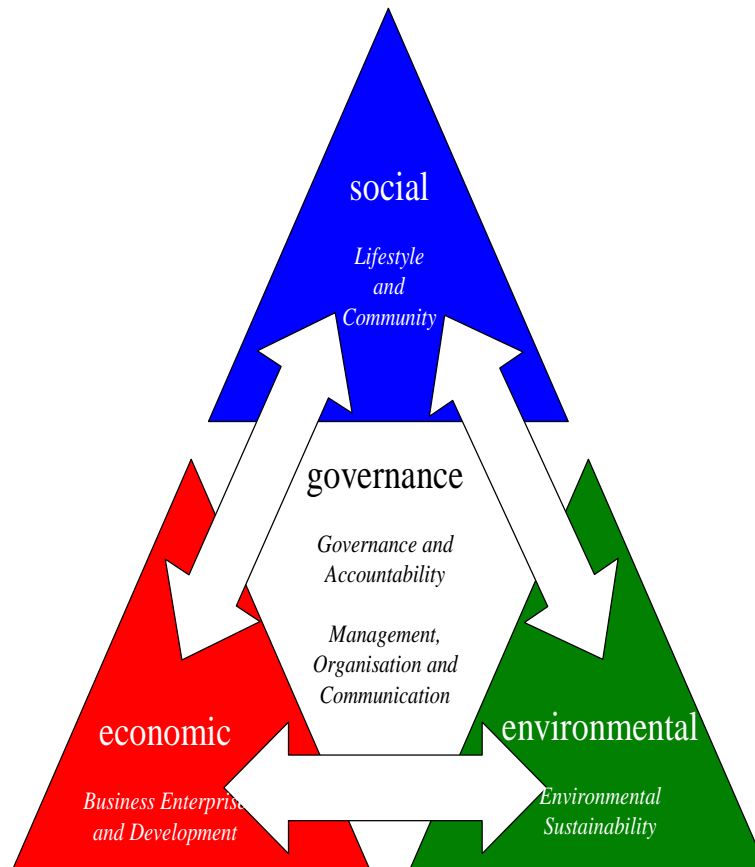
**EXCELLENCE** in the provision of services;

**TEAMWORK, INNOVATION and CO-OPERATION** in our business;

**INTEGRITY**, skill and **DEDICATION** in the achievement of our objectives;

**LEADERSHIP** in the growth and prosperity of our community.

## COUNCIL'S MANAGEMENT PLAN PROGRAMS



### **QBL ⇔ Sustainability**

**Economic** – The role of business with special attention to tourism in our community.

**Governance** – The way we go about making decisions and the supporting processes that enable action within our community

**Environmental** – Managing our natural and urban surrounds.

**Social** – All things that affect quality of life and our interactions in the southern highlands.

Each of these have a program associated with it. A program is a grouping of functional projects or services that Council provides to help feed each of these quadrants in the QBL. We have formed program teams in order to foster communication across branches. This then develops a holistic view of what the Council's role is within our community.



**ORDINARY MEETING OF COUNCIL**

held in the Council Chamber, Civic Centre, Elizabeth St,  
Moss Vale on Wednesday, 8 October 2008

**DECLARATIONS OF INTEREST**

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**DECLARATION OF INTEREST**

*101/3*

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Councillors are requested to declare any Pecuniary or Non Pecuniary Interests for items on the agenda.

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## ORDINARY MEETING OF COUNCIL

held in the Council Chamber, Civic Centre, Elizabeth Street,  
Moss Vale on Wednesday, 8 October 2008

### MAYORAL MINUTE

#### MAYORAL MINUTE

#### c-MM1 Retiring Councillors

REF.	GM	101
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Recognising the service of two former Councillors who served during the last term of Council.

#### REPORT

Five of our former Councillors, including three former Mayors, did not seek re-election for election on 13<sup>th</sup> September 2008.

In the last meeting of the former Council on 10<sup>th</sup> September 2008, those five former Councillors were recognised for their service to the community.

It is now appropriate to record the service of these additional two former Councillors in their respective terms serving Wingecarribee Shire Council as elected members.

I thank these former Councillors for their service to the community and hard work at many committee meetings, information nights, functions and Council meetings.

#### **May King (2004 to 2008)**

Elected in 2004 as part of the *Time for Change* team with Nick Campbell-Jones, Penny George and Malcolm Murray, May King took an active interest in all aspects of Council's operations. She was chair of the Tourism Committee, Arts and Culture Board and the Heritage committee. May had a passion for other projects championing the cause of the Mittagong Bowling Club and Joadja, among other projects. She travelled to China with the Wingecarribee Shire contingent and was a strong advocate of the villages.

#### **Malcolm Murray (2004 to 2008)**

Malcolm Murray made a significant contribution in his one term on Council, particularly in the areas of finance and job creation. As part of the *Time for Change* team, he worked hard to establish the position of Economic Development Officer and was a strong advocate of the Moss Vale Enterprise zone. Malcolm's professional expertise was very important in his role as chair of the Legal Committee, as was his financial background when chairing the Expenditure Review Committee. He took a very active interest in the operation of Council and did well to juggle his legal work commitments with a very full schedule of Council commitments.

#### RECOMMENDATION

THAT the service of former Councillors May King and Malcolm Murray be acknowledged with the awarding of certificates of service and those certificates be presented by the Mayor.



**ORDINARY MEETING OF COUNCIL**

held in the Council Chamber, Civic Centre, Elizabeth Street,  
Moss Vale on Wednesday, 8 October 2008

**REPORT OF DIRECTOR ENVIRONMENT & PLANNING**

**OPEN COUNCIL**

**ENVIRONMENT & PLANNING DIVISION**

**Business Enterprise and Economic Development**

**o-EP1 Development Consents Under Delegated Authority**

DCM

5302

Submitting a list of development consents executed under delegated authority of the Director of Environment and Planning between 2/9/08 and 26/9/08.

**RECOMMENDATION**

THAT the information relating to Development Consent Nos 1-21 under Delegated Authority be received and noted.

**Development Applications (DAs) Determined – 02/09/2008 to 26/09/2008  
(Excluding Small Lot Subdivisions and Domestic Applications)**

	<b>Date Finalised</b>	<b>Appl/Proc ID</b>	<b>Property Legal Description</b>	<b>Property Address</b>	<b>Description</b>
1	12/09/2008	LUA08/0700	Lot 22 DP 738201	250 Bong Bong St Bowral	Freestanding Pylon Sign
2	5/09/2008	LUA07/0984	Lot 1 DP 68288	294 Bong Bong St Bowral	Change of Use Restaurant
3	18/09/2008	LUA08/0696	Lot A DP 376350	2 Erith Street Bundanoon	Awning Over Service Bay
4	9/09/2008	LUA08/0200	Lot A DP 377098	185 Old Hume H'way Mittagong	First Occupation The Reject Shop
5	4/09/2008	LUA08/0758	Lot 10 DP 873430	Old Hume H'way Mittagong	Change of Use Shed Sales & Business ID Signs
6	11/09/2008	LUA08/0607	Lot 1 DP 774501	33-35 Inkerman Rd Balaclava	Storage Shed
7	16/09/2008	LUA07/1158	No related land	19 Lyell St Mittagong	First Occupation Plumbing Workshop warehouse & Offices
8	3/09/2008	LUA08/0303	Lot 1 DP 784321	52 Shepherd St Bowral	Change of Use to Tourist Accommodation Holiday Leasing
9	3/09/2008	LUA08/0819	Lots 4-5 DP 6103 & Lot 33 DP 736050 & Lot 1 DP 738800	Moss Vale Showground The Illawarra H'way Moss Vale	POPE Circus Tent & Seating Capacity 634
10	2/09/2008	LUA08/0658	Lot 3 DP 560298	Wildes Meadow Rd Wildes Meadow	The Proposal is for stage 1 of a 2 part DA for the approval For the concept of a Dwelling under Sec 83B of EP & A Act

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**REPORT OF DIRECTOR ENVIRONMENT & PLANNING**

**Development Applications (DAs) Determined – 02/09/2008 to 26/09/2008  
(Excluding Small Lot Subdivisions and Domestic Applications)  
(Continued)**

	<b>Date Finalised</b>	<b>Appl/Proc ID</b>	<b>Property Legal Description</b>	<b>Property Address</b>	<b>Description</b>
11	5/09/2008	LUA08/0719	Lot 6 S/P 41585	6/310-318 Bong Bong St Bowral	First Occupation Café / Coffee Shop Licenced Premises
12	5/09/2008	LUA08/0859	Lot 7 DP 244642	33 Retford Rd Bowral	Shed / Bird Room & Reclad Existing Bird Avery
13	18/09/2008	LUA08/0877	Lot 6, 7 & 11 Sec 36 DP 758098	Wilkinson St Berrima	Reinstatement of 5 Damaged Buildings
14	18/09/2008	LUA08/0817	Lot 42 DP 775025	Greenhills Rd Berrima	Establish Olive Grove of 220 Trees Covering 0.95HA
15	15/09/2008	LUA08/0748	Lot 4 DP 828569	Lot 4 Wombala Rd Berrima	Detached Workshop Garage & Cellar
16	25/09/2008	LUA08/0154	Lot 307 DP 1040419	Milton Park Country House Hotel Horderns Rd Bowral	Additional Accommodation 32 x Hotel Rooms
17	22/09/2008	LUA08/0612	Lot 5 DP 1051615	42B Toongoon Rd Burradoo	Dual Occupancy SEPP 1 has been applied for.
18	11/09/2008	LUA08/0644	Lot 4 S/P 75970	4/4 Vera St Hill Top	Shop Re-fitout for Chinese Restaurant
19	25/09/2008	LUA08/0846	Lot 11 DP 1091676	197 Old Hume H'way Mittagong	Nail & Waxing Shop Shop 6
20	4/09/2008	LUA08/0867	Lot 3 DP 1114582	Station St Bowral	Radio Studio
21	24/09/2008	LUA07/1052	Lot 9 Sec 5 DP 841	23 Crimea St Balaclava	Change of Use & Alterations & Additions to Use as a Child Care Centre



## ORDINARY MEETING OF COUNCIL

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### REPORT OF DIRECTOR ENVIRONMENT & PLANNING

## Governance and Accountability

### o-EP2 List of Development Applications Received By Council

DCM

5302

Submitting a list of development applications which have been received between 2/9/08 and 26/9/08, some of which will be dealt with under delegated authority of the Director of Environment & Planning.

### RECOMMENDATION

THAT the information regarding the List of Land Use Applications Nos 1-24 received by Council be received and noted.

### Development Applications (DAs) Received – 02/09/2008 to 26/09/2008 (Excluding Small Lot Subdivisions and Domestic Applications)

	Date Created	LUA No	Property Address	Description	Council	Delegation
1	4/09/08	LUA08/0901	Lot 126 DP 586683 27 Arthur St, Moss Vale (near corner Spring St)	Alterations & Proposed Bed & Breakfast		✓
2	8/09/08	LUA08/0910	Lot 17 DP 997145 44 Bendooley St Bowral	Alterations & additions - enclose verandah & open to existing bathroom	✓	
3	17/09/08	LUA08/0948	Lot 56 DP 664260 Craigieburn 43 Centennial Rd Bowral	2 New External Doors & Internal Alterations to Existing Conference Rooms		✓
4	10/09/08	LUA08/0923	Lot 85 Sec 1 DP 10173 25 Dora St Hill Top	Swimming Lessons Splish n Splash Aquatic Training Propose open 6 days a week for 30min lessons.		✓
5	9/09/08	LUA08/0913	Lot 24 DP 1097006 28 Garrett Street Moss Vale	Erect Primary School Buildings & Alter Building for Administration		✓
6	22/09/08	LUA08/0965	Lot 211 DP 748192 20 Holly Road, Burradoo	Alterations to make family room and Double Carport & Tennis Court		✓
7	8/09/08	LUA08/0909	Lot 101 DP 585154 21 Holly Rd, Burradoo	Change of Use of Existing Dwelling to Studio & Guest Accommodation		✓
8	25/09/08	LUA08/0980	Lot 1 DP 633623 79-81 Kirkham Rd, Bowral	Bio-Diesel Plant (old service station, near corner Oxleys Hill Road)		✓
9	19/09/08	LUA08/0951	Lot C DP 390215 27 Lyell St, Mittagong near cnr Old Hume Hw	Demolition of Dwelling / Garage		✓
10	24/09/08	LUA08/0974	Lot 22 DP 9331 33 Neerim Street, Bundanoon (near corner Birriga Street)	Studio (not for residential or commercial purposes)		✓

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**REPORT OF DIRECTOR ENVIRONMENT & PLANNING**

**Development Applications (DAs) Received – 02/09/2008 to 26/09/2008  
(Excluding Small Lot Subdivisions and Domestic Applications)**

(Continued)

	Date Created	LUA No	Property Address	Description	Council	Delegation
11	15/09/08	LUA08/0932	Lot 1 DP 307664 Governors Street, Bundanoon	Extraction of Groundwater onto Tankers for Removal	✓	
12	17/09/08	LUA08/0943	Lot 1 DP 771685 Runnymede, 13 Sunninghill Avenue, Burradoo	Demolition of existing & new 3 brm Dwelling & Detached 3 Car Garage / Double Carport - Demolition?		✓
13	4/09/08	LUA08/0898	Lot 1 DP 56241 Clover Hill, Illawarra Hwy, Sutton Forest	Part demolish semi detached part of bldg, & restore existing 2 storey Dwelling	✓	
14	22/09/08	LUA08/0963	Lot 2 DP 14181 12 Illawarra Hwy, Moss Vale (near corner Elizabeth Street)	Demolition of existing & construction of new single storey consulting rooms		✓
15	10/09/08	LUA08/0925	Lot 1 DP 814098 St Michaels School, Alfred St, Mittagong	Alterations & Additions to Primary School – increase space, undercover walkways & verandahs		✓
16	19/09/08	LUA08/0954	Lot 6 DP 828149 119 Bowral St, Bowral	Additions to Dwelling / New Garage & Demolish Existing Garage		✓
17	4/09/08	LUA08/0902	Lot 1 DP 435373 & Lot 5A DP 16192 & Lot 1 DP 126196 - Centennial Rd, Bowral	A Day on the Green Outdoor Concert Event at Centennial Winery		✓
18	22/09/08	LUA08/0958	Lot 1 DP 844253 Kareela Rd, Penrose	Attached Dual Occupancy & Relocate existing shed		✓
19	8/09/08	LUA08/0907	Lot 10 DP 1003705 Bundanoon Road, Exeter (corner Ringwood Road)	3 x Lot Subdivision		✓
20	23/09/08	LUA08/0967	Corbett Plaza, Bong Bong St, Bowral	Outdoor Dining (new paved area near old fountain)		✓
21	9/09/08	LUA08/0914	Lot 4 DP 1115913 Yarrowa Rd, Moss Vale (Harbison)	Voluntary Fire Upgrade		✓
22	17/09/08	LUA08/0940	Lot 4 DP 1115913 Yarrowa Rd. Moss Vale	Expansion of Harbison Care Moss Vale 36 Independent Living Units & a Community Centre (8 x 3 brm units, 20 x 2 units, 8 x 1 brm units)	✓	
23	22/09/08	LUA08/0964	Lot 103 DP 1123372 Berrima Park Lodge, Iona Park Rd, Moss Vale	Demolish existing stables & construct 4 x new stables covered arena & dwelling alterations & additions		✓
24	5/09/08	LUA08/0904	Lot 11 DP 1129998 Lapwing Place, Moss Vale (newly created road)	16 x Lot Subdivision		✓

## Environment and Sustainability

<b>o-EP3</b>	<b>Proposed Extension &amp; Carport 'Kalaurgan', 24 Browley St, Moss Vale</b>
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REF: DCM	LUA08/0735
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Reporting on proposed demolition of an internal bathroom, and extension to the existing dwelling and a car port at Lot A, DP 329683, 24 Browley Street, Moss Vale. In summary:

- *Kalaurgan is listed as an item of environmental heritage under Schedule 2 of Wingecarribee Local Environmental Plan 1989.*
- *There are no relevant DCP provisions.*
- *The main issue is the potential impact of the proposed development upon the significance of a heritage item.*
- *The application has been referred to Council's Heritage Advisor.*
- *The application is supported.*

Applicant: Martin O'Toole, Architects.

REPORT
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The application proposes the demolition of an existing bathroom, weatherboard extensions and a new car port. As previously stated Kalaurgan is heritage listed, and the statement of significance is as follows:

*"The property known as No. 24 containing the dwelling known as Kalaurgan House circa 1840 – 1850 possess significant historical and architectural attributes that warrant its consideration as an item of heritage significance.*

*The property has historical significance with the early formation and subdivisional growth of Moss Vale. Its significance is supported by its association with the early property owners and occupiers associated with the growth and subdivision of Moss vale land in the area adjoining Wyatt's Creek such as John Waite, John Morrice and Robert Pemberton Richardson with the latter's association with the growth of "Richardson and Wrench".*

*The Kalaurgan House residence both two storey brick structure and adjoining single storey weatherboard addition has both historical and architectural significance. It has historical links to the earlier use of the building as a residence, boarding school and possibly convent school and associations with religious and educational organisation's involved over the years in the growth of the Moss Vale township.*

*The building exhibits a high intactness of an example of a mid Victorian imposing two storey residence with attractive timber detailed gables, dormer windows and verandah and window elements."*

The house is also associated with the Sisters of St Josephs in the 1880's and it is understood that Mother Mary McKillop may have visited the building during her visit to Moss vale in 1884. The owner has indicated that she may be seeking future use of the site as a function centre catering to religious pilgrims/events. This will be the subject of a future application.

The proposed extension is a weatherboard structure with a gable roof presenting to the Browley Street elevation. The extension will connect to the existing weatherboard addition to the rear of the masonry two storey section of the building. The use of a gable roof and end fronting Browley Street (although set back 27m from the street) reduces the impact of the extension to the overall building.

### **STATUTORY PROVISIONS**

1. Existing Zoning – WLEP 1989 (as amended)

The land is in Zone No. 2(b), and the proposed development is permissible.

2. Other LEP Provisions

*Clause 27* requires the submission of a heritage impact statement (HIS) and an assessment of the application to determine the potential impact of the significance of a heritage item. The application has been assessed in relation to the provisions of clause 27 and it is considered that the proposal will not diminish nor negatively impact upon the significance of the item.

3. Development Control Plans (DCPs)

There are no applicable DCPs in relation to this matter.

4. Draft LEP2007

The land is proposed to be included in Zone R3, and the proposed development would be permissible.

5. Drinking Water Catchments Regional Environmental Plan No. 1

This Plan states that Council must not grant consent to the carrying out of development within the Catchment unless it has considered whether the proposed development will have an impact on water quality.

It is considered that the development is minor and will have a negligible impact as it is an extension to an existing dwelling which drains to Browley Street and is connected to reticulated water and sewer systems.

6. Ecologically Sustainable Development (EP and A Act)

The principles of ESD have been considered as follows:

*Environmental Factors:* It is considered that the proposed development will have a minimal environmental impact.

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*Social Factors:* It is considered that the proposed development will not significantly impact upon the heritage significance of the item.

*Economic Factors:* It is considered that the proposed development will have a negligible impact.

## **CONSULTATION**

### 1. Internal Referrals

The application was referred to Council's Heritage Advisor who advised:

*In general, the bulk, scale and architectural treatments of the additions complement the existing building. The architectural design is high quality.*

*Recommendations relate to detail of drawing notes and could be included as conditions of consent (but should preferably be amended on the drawings):*

- ❖ *Roof to be Custom orb profile galvanised finish.*
- ❖ *Door and window frames to be timber.*
- ❖ *Weatherboard cladding to be timber.*
- ❖ *Roll cap ridges and barge roll.*
- ❖ *Colours of paint finishes to match existing (or a colour scheme to be provided for heritage adviser comment).*

### Comment

The above recommendations by the Heritage Advisor should be included as special conditions within the consent (Attachment).

### 2. Neighbour Notification (or Advertising)

The development application was Neighbour Notified for a period of two weeks and Council received no submissions.

## **OPTIONS**

The options to Council are to:

1. Delegate authority to the DEP to determine the development application;
2. Defer determination of the development application (*for reasons to be determined by Council*); or
2. Refuse the development application.

Option 1 is recommended.

If Council resolves to refuse the development application it must also determine the specific reasons for refusal as this cannot be delegated.

## **FINANCIAL IMPLICATIONS**

There are no financial implications identified in this report.

### **MANAGEMENT PLAN ISSUES OR IMPLICATIONS**

Nil.

### **POLICY IMPLICATIONS**

Nil.

### **BUDGET IMPLICATIONS**

Nil.

### **ECOLOGICAL SUSTAINABLE DEVELOPMENT ISSUES**

- (i) Environmental Factors  
N/A.
- (ii) Social Factors  
N/A.
- (iii) Economic Factors  
N/A.

## **SUMMARY**

In summary, the application will not diminish the significance of the item. The materials proposed will be consistent with the existing addition.

### **ATTACHMENTS**

There are three Attachments to this report as follows:

1. Location Plan.
2. Plans.
3. Special Conditions.



## ORDINARY MEETING OF COUNCIL

held in the Council Chamber, Civic Centre, Elizabeth Street,  
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## REPORT OF DIRECTOR ENVIRONMENT & PLANNING

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### RECOMMENDATION

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THAT authority be delegated to the DEP to determine development application LUA2008/0735 for the demolition of an existing bathroom, weatherboard extensions to the existing dwelling and a new car port on Lot A DP 329683 at No. 24 Browley Street, Moss Vale subject to conditions that include the recommendations from Council's Heritage adviser.

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## ORDINARY MEETING OF COUNCIL

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## REPORT OF DIRECTOR ENVIRONMENT & PLANNING

### Environment and Sustainability

#### o-EP4 Site Compatibility Certificate, Chelsea Gardens, Moss Vale

REF: DEP PN1682700; PN1705662; PN1703359

Reporting on an application for a Site Compatibility Certificate under the *State Environmental Planning Policy Seniors Living*, for the property, Chelsea Gardens, Moss Vale.

#### REPORT

At its meeting of 10 September, Council dealt with an application for a Site Compatibility Certificate for the property Chelsea Gardens at Moss Vale. Council's resolution was as follows:

- “1. THAT Council advise the Department of Planning that it is Council Policy for it to approve any comments in relation to Compatibility Certificates for seniors living developments in the Shire.
2. THAT as Council is in Caretaker mode, as decreed by the Department of Local Government, it advise the Regional Director of Planning at the Department of Planning (Illawarra) that Council is unable to meet the deadline given for their comments on the application for Site Compatibility Certificate at Chelsea Gardens, Moss Vale.
3. THAT Council advise the Department of Planning at (Illawarra) that it will consider the request for a site compatibility certificate at its first meeting following the Council election.
4. THAT Council reminds the Department of Planning (Illawarra) of its recently submitted letter to the Minister for Planning requesting a moratorium on SEPP 5 developments in the Wingecarribee Shire.’

The Executive Summary from the application is **Attachment 1**.

The Draft Local Environmental Plan process to date has combined the sites of Chelsea Gardens and the adjoining property Coomungie, as a major potential urban release area for the Shire. Section 62 consultations with Government Departments and Agencies have taken place for the development of the whole site. Council is seeking a Section 65 Certificate from the Department of Planning to enable exhibition of a Draft LEP. Council is therefore supportive of the potential of this locality to provide part of the supply of new housing opportunities for the Shire.



## ORDINARY MEETING OF COUNCIL

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## REPORT OF DIRECTOR ENVIRONMENT & PLANNING

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However, the Seniors Housing proposal the subject of the Site Compatibility Certificate application appears independent of the remainder of the site and the current LEP process being undertaken. The main issue from Council's point of view is the potential impact such a proposal would have on the implementation of the wider rezoning of the combined Chelsea Gardens/Coomungie properties as a future urban release area. Council has provided its commitment to the investigation of both properties for a combined development following the preparation of various reports which supported the rezoning of the site for urban purposes. The consideration of the subject proposal is in isolation of the remainder of the site with no details provided on how it would be integrated.

It also locks in a significant proportion of the release area to seniors housing without the opportunity for Council and the community to analyse whether the chosen location is the most appropriate and whether the balance between seniors housing and general housing stock is appropriate.

In summary there needs to be a whole of site (Chelsea Gardens/Coomungie) overview/concept plan to show how such a proposal fits in with the wider scheme of urban release for the Shire and to ensure that the orderly development of the remainder of the site is not compromised. Council has in past meetings with the proponents made it quite clear that the development of Chelsea Gardens in isolation of Coomungie would not be supported on a number of grounds. In particular, proper assessment of traffic implications and infrastructure requirements require a coordinated approach. Council needs to be able to negotiate a planning agreement for the provision of developer contributions commensurate with the urban development of the whole of the potential release area. It then needs to be able to develop a comprehensive Development Control Plan for this locality that will reinforce the proper master planning for the release area and ensure that good urban design outcomes are realised.

For these reasons it is considered that the consideration of a substantial Seniors Living development will compromise the orderly development of the total release area and therefore is considered premature to be supported at this point in time.

### MANAGEMENT PLAN ISSUES OR IMPLICATIONS

Nil.

### POLICY IMPLICATIONS

The application is premature and contrary to the proper application of strategic planning principles.

### BUDGET IMPLICATIONS

The application if supported may reduce the opportunity for Council to negotiate an appropriate planning agreement that would provide the necessary contributions to infrastructure commensurate with a large scale urban release area.

**ECOLOGICAL SUSTAINABLE DEVELOPMENT ISSUES**

- (i) Environmental Factors  
The rezoning process currently being undertaken for the Chelsea Gardens/Commungie locality is the appropriate forum for the analysis of environmental factors.
- (ii) Social Factors  
The social implications of a large proportion of a potential urban release area being exclusively for seniors housing have not been adequately addressed.
- (iii) Economic Factors  
The application does not adequately canvass potential economic implications.

**ATTACHMENTS**

There is one attachment to this report (Executive Summary from Site Compatibility Certificate application prepared by Urbis) which has been circulated separately.

**RECOMMENDATION**

THAT the Department of Planning be advised that Council does not support the application for a Site Compatibility Certificate under the State Environmental Planning Policy Seniors Living for the property Chelsea Gardens on the basis that the proper strategic planning process already under way for the potential rezoning of Chelsea Gardens and Coomungie is the most appropriate way to deal with the development opportunities provided by this locality.

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## ORDINARY MEETING OF COUNCIL

held in the Council Chamber, Civic Centre, Elizabeth Street,  
Moss Vale on Wednesday, 8 October 2008

## REPORT OF DIRECTOR ENVIRONMENT & PLANNING

### Environment and Sustainability

#### o-EP5 Draft DCP for OLSH site, Bowral

REF: DEP

5700/62

Report on the exhibition of the draft Development Control Plan (DCP) for the OLSH site, (Lots 1 and 2, DP1101892 and Lots 4 – 11, DP1109214), Centennial Road, Bowral.

#### REPORT

#### Background

At its meeting of 23 July 2008, Council resolved to prepare a site specific DCP for the OLSH site (Lots 1 and 2 DP1101892 and Lots 4 – 11 DP1109214), in Centennial Road, Bowral, to assist in dealing with the proposed redevelopment of the site under the State Environmental Planning Policy - Seniors Living (SEPP SL). Council had previously resolved to include the OLSH site into Schedule 1 of the draft Wingecarribee Local Environmental Plan 2008 to ensure that development consistent with the SEPP SL remained as permissible development. Therefore the DCP will be a tool in the assessment process to assist in achieving the most desirable development outcome for the site by highlighting issues particular to the site to complement the broad based statutory provisions of the SEPP SL.

An information session was held with Councillors on 30 July 2008 to discuss ideas and a draft DCP was prepared by staff. Council resolved on 13 August 2008 to exhibit that draft plan. A copy of the draft DCP as exhibited is attached.

Main features of the draft DCP include:

- the plan will apply only to the OLSH site and only for the purpose of assessing development proposed under the SEPP SL provisions;
- the plan will require consideration of the retention and adaptive reuse of existing buildings in recognition of their potential as items of local heritage;
- access to the site for vehicles will be to Centennial Road only, not from Kirkham Road or Mount Road;
- existing native vegetation on site to be retained, in particular the two stands of EEC (Southern Highlands Shale Woodlands);
- presentation to Centennial Road to reflect the existing residential character of the locality;
- restrictions on the use of non residential facilities provided on the site and their use by the general public;
- requirements for staging plans that minimise potential disturbance to local residents and the environment during the construction phases;
- the plan will state Council's preference to enter into a Voluntary Planning Agreement to deal with contributions arising from development of the site;
- recognises Council's decision to rezone the south east corner of the site along the Mittagong Creek, back to public recreation.



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### REPORT OF DIRECTOR ENVIRONMENT & PLANNING

The Draft Plan was on public exhibition from Wednesday 20 August to Wednesday 17 September 2008 with copies available at Council's Customer Service Centre as well as from Council's website. Exhibition details were advertised in the Southern Highlands News and interested parties were invited to inspect the Draft Plan and make a submission.

#### Review of Neighbour Submissions

Eleven submissions were received from residents living in the vicinity of the OLSH site. Many expressed appreciation for Council's preparation of the draft DCP. The concerns identified by residents are summarised below. The number in brackets after each issue indicates the number of submissions which included discussion of that particular issue.

Issue	Council response
Prefer that the word <i>important</i> within the section on Character - "it is <i>important</i> that the character of the development, as viewed from passing traffic on Centennial Road, be similar to the low density residential character of the area in general" - be replaced with <i>essential</i> . (1)	Noted. This change can be made if Council agrees.
Concern that the subdivision pattern along Centennial Road will not be respected in future development of the site. (1)	If the site is developed for SL as per the Australand proposal, the existing subdivision pattern will no longer apply as the development will apply to the entire site and will be assessed according to this DCP.
Concern that the statement "Centennial Road frontage must have ... the appearance of separate dwelling houses, although they may contain more than one dwelling" will result in dual occupancy development. (1)	The development would not be 'dual occupancy' but would form part of the SL development with street facing buildings to appear as single detached dwellings.
Concerns that the State Government will approve the Australand proposal because of that company's reported donations to the NSW Labor Party, and because of the Government's support for World Youth Day with possible flow-on support for the Sisters of Our Sacred Heart. (1)	These are not planning matters and Council is not in a position to respond to these statements.
Provision of a bikeway/walkway within the area proposed to be rezoned RE1 Public Recreation. (2)	Council can review this as part of future bikeway planning.
It is important to ensure that a wide buffer zone is provided around the EEC. (1)	The Arborist's report will address this. The applicant has also engaged an ecologist to assist in site planning having regard to the EEC.
Council should do its own vegetation assessment to ensure that the Arborist's Report is unbiased. (2)	The Arborist's professional report will be sufficient as it will be an independent assessment.



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### REPORT OF DIRECTOR ENVIRONMENT & PLANNING

Issue	Council response
Seniors Living development is not an appropriate land use for this site and should be refused. (4)	Such development is permissible with consent under the 1989 LEP and Council has resolved to allow such development under the draft LEP by including the site in Schedule 1.
Seniors Living development on the site will increase rainwater runoff from hard surfaces and affect the flooding of the creek. This in turn will jeopardize trees along the creek. (1)	Stormwater management reports are essential for any development application and this includes water quality considerations to ensure that the Neutral or Beneficial Effects test is satisfied.
There are insufficient health facilities to cope with large numbers of aged people. The hospital system can't cope now and in-coming aged will reduce the quality of the health system for everyone. (1)	Provision of hospital services are a state government responsibility. This comment is not a comment related to the draft DCP.
There should be no Seniors Living development in Bowral west of the railway. (1)	Council and the Department of Planning consider the site as being suitable for SL development in some form.
Would prefer the site to be retained as a school or training facility with one acre (4,000m <sup>2</sup> ) allotments on the street. (2)	Noted. This is possible under the current and proposed zonings but it is not what is currently being proposed.
The DCP does not have the same weight in law as an LEP or SEPP. The DOP may override the DCP. It is important that the LEP does not further enable the development of a SL development. (1)	Council has resolved to include the site in Schedule 1, listing Seniors Living as a permissible development.
The draft LEP prohibits SL development in the R5 zone and the Seniors Housing Discussion Paper states that "The purpose of these changes is to limit Seniors Housing opportunities to locations within and adjacent to Residential and Commercial zones". Therefore, why was the site included in Schedule 1 to permit SL development? (1)	The land has been zoned R5 to reflect the surrounding land use, but the site is also unusual in being located in close proximity to an urban centre. This is one reason why Council supported the inclusion of the site in Schedule 1 of the draft LEP.
Additional demands on infrastructure from new development must be paid for by the developer and not the existing community. (1)	This will be provided through s.94 developer contributions or a Voluntary Planning Agreement, which the applicant has stated they are willing to enter into as part of their Development Application.
Compatibility Certificates appear to be a form of early approval without any opportunity for community comment. (1)	Compatibility Certificates are issued by the Director General of the DoP and are not intended to circumvent the proper development assessment process. There will be full community consultation if a Development Application is lodged.



## ORDINARY MEETING OF COUNCIL

held in the Council Chamber, Civic Centre, Elizabeth Street,  
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### REPORT OF DIRECTOR ENVIRONMENT & PLANNING

Issue	Council response
Support Council's request for exemption from the SL SEPP. Do not want Southern Highlands to become a haven for old people. (1)	Noted. Council has secured a meeting with the Minister for Planning to progress this matter.
Hopes that the 'heritage value' of the existing buildings is assessed on architectural merit rather than being an emotional decision. Assessment should not preclude demolition if this is warranted. (1)	All aspects of the site will be objectively assessed on their merit.
The DCP should not apply just to SL development, but to any future development of the OLSH site. (1)	The DCP has been created to specifically apply to a SL proposal. If that proposal does not proceed the controls for the site will need to be reviewed. Many of the issues covered by the DCP are relevant to other forms of development.
The DCP should be extended to include the adjacent 'Neerim' site and the nearby 'Eukarima' site as these sites also have the potential for SL development. (1)	Council's resolution was specific to the OLSH site. A Development Application has already been lodged for the Neerim site and will be dealt with on its merits. Council has made no resolutions specific to the Eukarima site.
Consideration should be given to locating the main access point on Mount Road east of the creek to minimize additional traffic impacts on Centennial Road which is narrow and not capable of being widened and sight-lines are poor. It is acknowledged that this would require a flood-free crossing of the creek. (1)	This entry point could also conflict with the recreational use of the land and the potential development of a bikeway/walkway along the creek. Centennial Road is considered the preferred option for access.
The DCP should also provide height restrictions to comply with existing objectives for 2(a) land and proposed objectives for R5 land in order to retain the existing character of the area. (1)	These can be included if Council agrees. As a residential development, a maximum of 2 storey development would be appropriate.
It appears as if the rezoning of the land for residential allotments was to increase the value of the site. Rezoning should benefit the whole community, not just the owners. (1)	The decision to rezone part of the site for future residential subdivision and development was made on planning grounds.
The DCP should include specific reference to retaining the small brick cottage on site. (1)	The DCP provides for an independent assessment of all buildings on the site to assess their importance as local heritage items.
The Heritage section of the DCP should be extended to include Aboriginal heritage. An extensive study should be carried out on Lot 4 on the corner of Centennial and Kirkham Roads. (1)	This can be included if Council agrees.
The DCP should include controls to protect the ecologically sensitive flood prone areas on Lot 4. (1)	Independent environmental assessments will consider this.

Issue	Council response
The Landscape section of the DCP should contain controls for the protection of the <i>Eucalyptus macarthurii</i> , which is an endangered species, on the corner of Centennial and Kirkham Roads. (1)	The Arborist's report will consider this.
The DCP should include controls to protect the night sky and wildlife from excessive night lighting. (1)	This can be included if Council agrees.
A thorough traffic and parking assessment should be undertaken to ensure that traffic movement is as efficient as possible. (1)	This will be done with any DA that is lodged.
The DCP should include a sustainable, environmentally sensitive building code for buildings to provide a 5-star green building certificate from the Green Building Council of Australia. (1)	Any development will need to satisfy Basix, which is the State government endorsed energy efficiency rating scheme.
Lot 4 on the corner of Centennial and Kirkham Roads was excluded from rezoning to residential under LEP 122 "to help preserve the scenic vista across the site as viewed from Centennial Road near the intersection with Kirkham Road" (Council report of 26 Nov, 2003). In keeping with this sentiment can this land continue to be exempt from residential development? (1)	This can be included if Council agrees by identifying this view corridor on the DCP map and including provisions that restrict buildings in this location.

### **Australand Submissions**

Two submissions were also received from Australand, the proponents of the Seniors Living development. These submissions note that Australand began consultation with Council in September 2007 and the company questions that, some 12 months later, a DCP has been prepared without any consultation with the owner. The company is concerned that Council does not have the detailed studies available on which to base a comprehensive DCP. Australand believes that the DCP is "*specifically intended to prevent the development of the site as communicated to Council in good faith without any consideration given to the investment and time that has currently been undertaken by Australian Unity and Australand to date*". Australand considers this to be "*very poor planning practice*".

*Council Response* - The purpose of the draft DCP is to formalise a response to issues already raised with the proponents during their meetings with Council. It is intended to provide broad guidelines rather than detailed controls and in no way replaces the process of considering a Development Application on its merits once it is lodged with Council. The current owners of the site were advised that the draft DCP was on exhibition and were provided with a copy of that draft.



## ORDINARY MEETING OF COUNCIL

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## REPORT OF DIRECTOR ENVIRONMENT & PLANNING

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### Conclusions

The draft DCP formalises the key issues affecting the site – existing buildings, stands of significant vegetation, areas of flood liable land and other environmentally sensitive parts of the site. It is not considered that the Plan would unfairly or artificially restrict development of the site beyond those existing constraints already identified by Council and communicated to the proponents.

Generally, residents are supportive of the draft DCP and as a result of submissions received the following changes to the DCP are recommended:

1. Replace the word *important* with *essential* within the section on Character - “it is *important* that the character of the development, as viewed from passing traffic on Centennial Road, be similar to the low density residential character of the area in general”.
2. Provide a maximum 2 storey height restriction on residential development.
3. Include Aboriginal Heritage in the Heritage section of the DCP with particular reference to a survey of Lot 4 on the corner of Centennial and Kirkham Roads.
4. Include controls to protect the night sky and wildlife from excessive night lighting.
5. Include provisions that restrict buildings on a portion of Lot 4 on the corner of Centennial and Kirkham Roads and identify the view corridor on the DCP map.

### MANAGEMENT PLAN ISSUES OR IMPLICATIONS

Nil.

### POLICY IMPLICATIONS

Nil.

### BUDGET IMPLICATIONS

Nil.

**ECOLOGICAL SUSTAINABLE DEVELOPMENT ISSUES**

- (i) Environmental Factors  
N/A.
- (ii) Social Factors  
N/A.
- (iii) Economic Factors  
N/A.

**ATTACHMENTS**

There are two attachments to this report which have been circulated separately.

1. Attachment 1 is the draft DCP as exhibited.
2. Attachment 2 is the draft DCP, amended to include recommendations 1-5 within the report. The proposed amendments are in bold type. The proposed amendment to the map is also included in Attachment 2.

**RECOMMENDATION**

1. THAT the draft Development Control Plan for the OLSH site, Centennial Road, Bowral, incorporating the proposed changes to the exhibited Plan, described at 1-5 in the Conclusions, be adopted and come into force on the date of the required public notice; and
  2. THAT all relevant parties be advised of Council's decision.
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## ORDINARY MEETING OF COUNCIL

held in the Council Chamber, Civic Centre, Elizabeth Street,  
Moss Vale on Wednesday, 8 October 2008

## REPORT OF DIRECTOR ENVIRONMENT & PLANNING

### Environment and Sustainability

#### o-EP6 Proposed Dwelling Alteration, No 44 Bendooley Street, Bowral

REF: DCM

LUA08/0910

Reporting on proposed alteration to a dwelling at Lot 17, DP 997145, No. 44 Bendooley Street, Bowral. Applicant: Clarence Croft.

#### REPORT

### 1. PRECIS

An application has been received for alteration to a dwelling at No 44 Bendooley Street, Bowral. The property is located within the Bowral Conservation zone and in accordance with Schedule 4 of *Wingecarribee Local Environmental Plan 1989* the dwelling is a Heritage Item as it is located in Bendooley Street.

The proposed alteration involves the enclosure of an existing verandah to enlarge an existing bathroom. The work would be located under the existing roof line, and create an additional internal floor area of 13.4 square metres (1.74 x 3.2 metres).

The application complies with all relevant DCPs.

The area to be enclosed is greater than 10 metres to any boundary and is located at the rear of the building, and will not be visible from any adjoining property due to the extensive existing landscaping.

The proposed alteration will have no impact on the adjoining neighbours, streetscape or the heritage nature of the building, and should be approved.

### 2. BACKGROUND

The subject property is located on Bendooley Street. In accordance with Schedule 4 of *Wingecarribee Local Environmental Plan 1989* the property is a Heritage Item. Being a Heritage Item, as per previous Council resolution, the Director, Environment & Planning does not have delegation to determine the application, regardless of the size and nature of the application.

### 3. THE PROPOSAL

The development application lodged is for a small alteration to the existing dwelling. The proposed alteration involves the enclosure of an existing verandah to enlarge the adjacent bathroom. All work will be carried out under the current roof and there will be no increase in the building footprint. The area to be enclosed is only 1.74m x 3.2m, and involves the relocation of a door, and provision of a new window.

The proposed area to be enclosed is located at the rear of the building and is not visible from Bendooley Street. The property has extensive existing landscaping, which prohibits the proposed area being viewed from adjoining properties.

The new work will be in keeping with the existing external materials, and will not diminish the significance of the building or the setting in the conservation area.

#### **4. STATUTORY PROVISIONS**

- *Wingecarribee Local Environmental Plan 1989*

##### Zoning

The land is in a 2(a) zone, and a dwelling is permissible. In accordance with Schedule 4, the property is a heritage item.

- The following DCPs have been considered:
  - Residential DCP – the proposal complies with all requirements of the DCP.
  - DCP 44 – ‘Erection of Buildings’ – the proposal complies with all requirements of the DCP.
  - DCP 39 – ‘Energy Efficient Homes’ – the proposal complies with all requirements of the DCP.
- Draft LEP 2007 – The land is proposed to be included in Zone R2 and the proposed development would be permissible.
- Matters for consideration (*Environmental Planning & Assessment Act 1979*) – The matters in Section 79C have been considered and a summary is attached to the file.

#### **5. SUMMARY**

The development application received for 44 Bendooley Street, Bowral involves a very small alteration to the existing building, with all work located under the existing roof and within the existing building footprint.

The property fronts Bendooley Street and thus is considered an Item of Heritage in accordance with Schedule 4 of *Wingecarribee Local Environmental Plan 1989*.

The proposed work will not diminish the significance of the building or the setting in the conservation area.

<b>MANAGEMENT PLAN ISSUES OR IMPLICATIONS</b>
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Nil.

**POLICY IMPLICATIONS**

Nil.

**BUDGET IMPLICATIONS**

Nil.

**ECOLOGICAL SUSTAINABLE DEVELOPMENT ISSUES**

- (i) Environmental Factors  
N/A
- (ii) Social Factors  
N/A
- (iii) Economic Factors  
N/A

**ATTACHMENTS**

There are three attachments to this report which have been circulated separately:

1. Location plan.
2. Floor plan and site plan.
3. Elevations.

**RECOMMENDATION**

THAT authority be delegated to the Director, Environment & Planning to determine the development application LUA08/0910 for alteration to a dwelling at Lot 17, DP 997145, No. 44 Bendooley Street, Bowral.

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Scott Lee  
**Director, Environment Planning**  
**1 October 2008**

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**ORDINARY MEETING OF COUNCIL**

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Moss Vale on Wednesday, 8 October 2008

**REPORT OF DIRECTOR CORPORATE SERVICES**

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**CORPORATE SERVICES DIVISION**

**Governance and Accountability**

**o-CS1 Investments as at 31 August 2008**

REF	FSM	2104
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Submitting details of Council's Investments as at 31 August 2008.

**REPORT**

Submitting details of Council's Investments as at 31 August 2008. (See Attachment 1).

**ATTACHMENTS**

Investment Reconciliation as at 31 August 2008.

**RECOMMENDATION**

THAT the information on Council's Investments as at 31 August 2008 be received and noted.

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## ORDINARY MEETING OF COUNCIL

held in the Council Chamber, Civic Centre, Elizabeth Street,  
Moss Vale on Wednesday, 8 October 2008

### REPORT OF DIRECTOR CORPORATE SERVICES

## ATTACHMENT 1

<b>INVESTMENT RECONCILIATION AS AT 31 August 2008</b>							
Bank	Certificates	Rate	Term(days)	Due Date	Value	Consideration	Total
<b>Lehman Brothers</b>							
<b>Individual Managed Portfolio</b>							
Adelaide Bank FR Sub Debt		bbsw + .50%		9/06/2016	3,500,000.00	3,392,063.84	-107,936.16
ANZ		8.25%		17/07/2017	750,000.00	661,628.42	-88,371.58
Bank of Qld Sub Debt		bbsw + .29%		2/12/2010	7,000,000.00	6,988,109.59	-11,890.41
Elders Rural Bank Sub Debt		bbsw + .85%		13/07/2015	500,000.00	479,587.67	-20,412.33
Elders Rural Bank Sub Debt		bbsw + .83%		7/09/2015	1,000,000.00	963,870.14	-36,129.86
Elders Rural Bank Sub Debt		bbsw + .75%		13/10/2015	500,000.00	475,471.92	-24,528.08
HSBC FRN		bbsw + .28%		22/09/2016	6,500,000.00	6,001,714.45	-498,285.55
Macquarie Bank Sub Debt		bbsw + .70%		15/09/2014	500,000.00	498,533.70	-1,466.30
Royal Bank Scotland		bbsw + .28%		17/02/2012	2,000,000.00	1,862,189.98	-137,810.02
Elders Rural Bank		bbsw + .60%		6/03/2017	1,000,000.00	907,654.69	-92,345.31
Westpac		bbsw + .35%		21/01/2015	500,000.00	494,687.96	-5,312.04
St George		bbsw + 0.31%		26/07/2016	1,000,000.00	964,007.95	-35,992.05
Lehman		bbsw + 0.00%		15/06/2009	560,000.00	498,400.00	-61,600.00
					25,310,000.00	24,187,920.31	-1,122,079.69
<b>Liquid Securities</b>							
Aphex Glenelg (AA-)		bbsw + 1.25%		22/12/2014	2,250,000.00	1,355,792.36	-894,207.64
Corsair Kakadu (AA)		bbsw + 1.00%		20/03/2014	1,500,000.00	653,987.77	-846,012.23
Corsair Torquay (AA)		bbsw + 1.20%		20/06/2013	2,500,000.00	1,331,965.92	-1,168,034.08
Helium Esperance (BBB+)		bbsw + 1.10%		20/03/2013	2,000,000.00	1,162,145.34	-837,854.66
Helium Scarborough (A+)		bbsw + 1.30%		23/06/2014	2,700,000.00	1,520,286.04	-1,179,713.96
Magnolia Flinders (AA)		bbsw + 1.50%		20/03/2012	5,100,000.00	3,918,728.55	-1,181,271.45
Omega Henley (AA-)		bbsw + .80%		22/06/2012	2,000,000.00	1,352,349.28	-647,650.72
Starts Blue Gum (AA-)		bbsw + 1.40%		22/06/2013	1,050,000.00	551,100.84	-498,899.16
Cypress Tree Lawson (A-)		bbsw + 1.30%		30/12/2010	1,000,000.00	935,122.59	-64,877.41
MAS6-7 Parkes (A)		bbsw + 2.00%		20/06/2015	2,000,000.00	615,128.90	-1,384,871.10
Bishopgate Wentworth (AA-)		bbsw + 1.50%		30/09/2010	500,000.00	473,481.16	-26,518.84
Zircon Coolangatta (AA)		bbsw + 1.30%		20/09/2014	2,000,000.00	673,967.25	-1,326,032.75
Saphir Endeavour (AAA)		bbsw + 1.30%		4/08/2011	140,000.00	123,835.91	-16,164.09
Beryl (AA)		bbsw + 0.60%		20/09/2014	4,000,000.00	3,189,611.22	-810,388.78
Zircon Merimbula (AA)		bbsw + 1.05%		20/06/2013	500,000.00	155,995.24	-344,004.76
					29,240,000.00	18,013,498.37	-11,226,501.63
<b>Medium - Long Term Securities</b>							
<b>Total Securities</b>							
							42,201,418.68
<b>Bank Accepted Commercial Bills</b>							
NAB	Various	7.35	39	16/09/2008	1,500,000.00	1,488,311.66	
NAB	Various	7.52	63	7/10/2008	3,000,000.00	2,961,559.77	
							4,449,871.43
Macquarie Cash Management Trust							
						375,931.58	
							375,931.58
<b>Short Term</b>							
NAB							
						4,300,000.00	
							4,300,000.00
							51,327,221.69

"I certify that the investments detailed in the above table have been made in accordance with the Local Government Act 1993, the Local Government (Financial Management) Regulation 1999 and Council's Investment Policies".

**Doug Neville**  
Financial Services Manager



## ORDINARY MEETING OF COUNCIL

held in the Council Chamber, Civic Centre, Elizabeth Street,  
Moss Vale on Wednesday, 8 October 2008

### REPORT OF DIRECTOR CORPORATE SERVICES

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#### **o-CS2 Pecuniary Interest Returns as at 30 September 2008**

REF: DCS

101/3

Tabling Register of Pecuniary Interest Declarations as at 30 September 2008.

#### **REPORT**

All Councillors and “designated employees” must lodge a Disclosure of Interest Return within three (3) months of commencement of their employment with Council and then annually.

Section 450A of the Local Government Act 1993, requires that these Returns be tabled at the first Council meeting after the last date of lodgement.

The Returns of Councillors and designated persons will be tabled at the meeting.

#### **MANAGEMENT PLAN ISSUES OR IMPLICATIONS**

Nil.

#### **POLICY IMPLICATIONS**

Nil.

#### **BUDGET IMPLICATIONS**

Nil.

#### **ECOLOGICAL SUSTAINABLE DEVELOPMENT ISSUES**

- (i) Environmental Factors  
Nil.
- (ii) Social Factors  
Nil.
- (iii) Economic Factors  
Nil.

#### **ATTACHMENTS**

There are no attachments to this report.



**ORDINARY MEETING OF COUNCIL**

held in the Council Chamber, Civic Centre, Elizabeth Street,  
Moss Vale on Wednesday, 8 October 2008

**REPORT OF DIRECTOR CORPORATE SERVICES**

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**RECOMMENDATION**

THAT the information be received and noted.

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Barry W Paull  
**Director Corporate Services**  
3 October 2008

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## ORDINARY MEETING OF COUNCIL

held in the Council Chamber, Civic Centre, Elizabeth Street,  
Moss Vale on Wednesday, 8 October 2008

### REPORT OF DIRECTOR TECHNICAL SERVICES

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## TECHNICAL SERVICES DIVISION

### Governance and Accountability

<b>o-TS1</b>	<b>Mittagong Water Supply Augmentation – Assignment of Contract</b>
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REF: MBW
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7740/11
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Reporting on the need to assign a contract for the Mittagong Water Supply Augmentation to a new corporate entity.

<b>REPORT</b>
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Contract 0702036, for the structural design and construction of a water supply reservoir at Willow Vale and construction of associated pipelines to augment the Mittagong water supply system, was awarded to CLM Excavations Pty Ltd on 7 April 2008. The contract price was \$7,098,760.90 including GST.

This company has recently been purchased by Jemena Asset Management Pty Ltd, which has established a separate company (CLM Infrastructure Pty Ltd) to continue this business.

To facilitate ongoing payments for work under Contract 0702036, Council will need to enter into the attached Deed of Agreement with the respective parties. Council's Solicitor has reviewed this agreement and indicated that it appears satisfactory.

Council's Project Manager, the Department of Commerce, has confirmed that these companies have the financial capacity and technical capability to complete the contract. CLM Infrastructure Pty Ltd has already provided replacement bank guarantees for the contract security deposit.

<b>ATTACHMENTS</b>
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1. Proposed Deed of Agreement.

<b>RECOMMENDATION</b>
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THAT the Deed of Agreement to assign Contract 0702036 be executed under the Common Seal of Council.

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**ORDINARY MEETING OF COUNCIL**

held in the Council Chamber, Civic Centre, Elizabeth Street,  
Moss Vale on Wednesday, 8 October 2008

**REPORT OF DIRECTOR TECHNICAL SERVICES**

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**ATTACHMENT 1**

**CLM INFRASTRUCTURE PTY LTD  
ABN 131 091 971**

**JEMENA ASSET MANAGEMENT PTY LTD  
ABN 53 086 013 461**

**CLM EXCAVATIONS PTY LTD  
ACN 002 278 757  
"the Assignor"**

**WINGECARRIBEE SHIRE COUNCIL  
ACN 49 546 344 354  
("the Principal")**

**ASSIGNMENT DEED**

## ASSIGNMENT DEED

**THIS DEED** is made on the ..... day of ..... 2008

**BETWEEN:** CLM Infrastructure Pty Ltd ABN 45 131 091 971 a company incorporated in Victoria having its registered office at 321 Ferntree Gully Road Mount Waverley Victoria 3149 ("**CLMI**")

**AND** Jemena Asset Management Pty Ltd ABN 53 086 013 461 a company incorporated in Victoria having its registered office at 321 Ferntree Gully Road Mount Waverley Victoria 3149 ("**JAM**")

(together "**the Assignee**") of the one part

**AND:** CLM Excavations ABN 97 002 278 757, a company incorporated in New South Wales and having its registered office at 51 Fourth Avenue Blacktown NSW 2148 ("**the Assignor**") of the second part

**AND:** Wingecarribee Shire Council ("**the Principal**") of the third part.

1. On and from the beginning of 14 August 2008 (**Date of Assignment**), the **Assignor** assigns to the **Assignee** the *Mittagong Water Supply Augmentation – Design and Construction of a 10ML Reservoir and Construction of Associated Access Road and Pipelines, Contract No. 0702036* ("**the Contract**").
  2. The **Assignee** agrees with the **Principal** that in consideration of the **Principal** consenting to this assignment, the **Assignee** will:
    - 2.1 perform the obligations of the **Assignor** under the Contract as if the Contract had been made between the **Principal** and the **Assignee** in the first instance;
    - 2.2 On or before the Date of the Assignment, produce to the **Principal**:
      - (a) security as required by the Contract and on behalf of the **Assignee**, in place of the security lodged by the **Assignor**;
      - (b) proof of insurance under the contract in the name of the **Assignee**; and
      - (c) payment of \$450 being the Principal's legal costs
    - 2.3 Be liable to the **Principal** for any negligent acts or omissions of the **Assignor** under the Contract as if they were negligent acts or omissions of the **Assignee** under the Contract.
  3. The **Assignee** has made its own enquires concerning the Contract and amounts which may be payable and is not relying upon any information from the **Principal** or any employee or agent of the **Principal**.
  4. CLMI and JAM will be jointly and severally bound by the Contract, and will each enjoy all the rights and benefits conferred on the Assignor under the Contract
  5. Any moneys payable by the **Principal** under the Contract will, on and after the Date of Assignment, be paid to the **Assignee** whether they were due before or after the Date of Assignment.
  6. The **Principal** consents to the assignment.
-



**ORDINARY MEETING OF COUNCIL**

held in the Council Chamber, Civic Centre, Elizabeth Street,  
Moss Vale on Wednesday, 8 October 2008

**REPORT OF DIRECTOR TECHNICAL SERVICES**

**EXECUTED as a Deed.**

**EXECUTED by CLM INFRASTRUCTURE PTY )  
LTD (ABN 45 131 091 971) by its duly )  
authorised officer in the presence of: )**

.....  
Signature of Witness

.....  
Signature of Authorised Officer  
**(CLM Infrastructure Pty Ltd)**

.....  
Name of Witness  
(Please print)

.....  
Name of Authorised Officer  
(Please print)

.....  
Office held

.....  
Office held

**EXECUTED by JEMENA ASSET )  
MANAGEMENT PTY LTD (ABN 53 086 013 )  
461) by its duly authorised officer in the )  
presence of: )**

.....  
Signature of Witness

.....  
Signature of Authorised Officer  
**(Jemena Asset Management Pty Ltd)**

.....  
Name of Witness  
(Please print)

.....  
Name of Authorised Officer  
(Please print)

.....  
Office held

.....  
Office held

**Signed, sealed and delivered by )  
CLM EXCAVATIONS PTY LTD )  
ACN 002 278 757 )**

.....  
Signature of Witness

.....  
Signature of Authorised Officer  
**CLM Excavations Pty Ltd**

.....  
Name of Witness  
(Please print)

.....  
Name of Authorised Officer  
(Please print)

.....  
Office held

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Office held

**Signed, sealed and delivered by )  
WINGECARRIBEE SHIRE COUNCIL )  
ACN 49 546 344 354 )**



**ORDINARY MEETING OF COUNCIL**

held in the Council Chamber, Civic Centre, Elizabeth Street,  
Moss Vale on Wednesday, 8 October 2008

**REPORT OF DIRECTOR TECHNICAL SERVICES**

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.....  
Signature of Witness

.....  
Signature of Authorised Officer  
**WINGECARRIBEE SHIRE COUNCIL**

.....  
Name of Witness  
(Please print)

.....  
Name of Authorised Officer  
(Please print)

.....  
Office held

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Office held

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## ORDINARY MEETING OF COUNCIL

held in the Council Chamber, Civic Centre, Elizabeth Street,  
Moss Vale on Wednesday, 8 October 2008

### REPORT OF DIRECTOR TECHNICAL SERVICES

## Environment and Sustainability

### o-TS2 IPART Determination of the Bulk Water Price Paid To Sydney Catchment Authority

REF: wsm 7730/2

Reporting on the proposed price for purchase of bulk water from Sydney Catchment Authority (SCA), to be determined by IPART.

### REPORT

#### 1. Background

The Independent pricing and Regulatory Tribunal (IPART) determine that price that Council pays for the purchase of untreated, or "bulk water" from the Sydney Catchment Authority (SCA). The price path for the next four years from 1 July 2009 is now being reviewed by IPART. The timetable for this review is reprinted below.

TABLE 1 : Indicative Timetable for IPART Review

Task	Timeframe*
Release Issues Paper	18 July 2008
Receive submission from SCA	23 September 2008
Receive public submissions	21 October 2008
Public Hearing	19 November 2008
Release draft report	February 2009
Received submissions to the draft report	April 2009
Release final report	June 2009

\*Note: Please note that these dates are indicative and may be subject to change

The Submission from the Sydney Catchment Authority has now been released, and Council is required to lodge its submission with IPART prior to 21 October 2008

Council purchases approximately 4000 metgalitres per annum from the Sydney Catchment Authority for treatment at the Wingecarribee Water Filtration Plant and supply to residents of the Shire.

The previous determination of the bulk water price applied on 1 July 2005. During the review process for this determination, Council lodged a submission with IPART that strongly challenged the large increases proposed at that time by the Sydney Catchment Authority. The current proposals by Sydney Catchment Authority seek to maintain the 4 year price path at the current level of \$210.10 per megalitre with CPI increases.

This report summarises the relevant sections of the IPART Issues Paper and the submission of Sydney Catchment Authority and recommends that Council advise IPART that it is satisfied with the proposals of the Sydney Catchment Authority. Should Councillors wish to review a full copy of these documents, copies may be downloaded from the IPART website or will be made available by contacting the Director Technical Services

## **2. IPART Issues Paper (July 2008)**

An extract from the IPART Issues Paper released in July 2008 relevant to Wingecarribee Shire Council is reprinted below:

### **4.3.2 Charges to local councils**

In the 2005 Determination, IPART decided to transition SCA's volumetric charges to Wingecarribee Shire Council and Shoalhaven City Council towards cost-reflective pricing. These councils do not currently pay a fixed service charge.

Under the 2005 Determination, SCA's usage charges to these councils increased from \$105.08 per ML in 2004/2005 to \$192.97 per ML in 2008/09. According to IPART, these charges reflected its decision that:

...water usage charges for Wingecarribee Shire Council and Shoalhaven City should be increased in an orderly manner so that their water usage charges reach a similar level to Sydney Water's charges in the next determination period.<sup>44</sup>

## **3. Submission of Sydney Catchment Authority**

An extract from the SCA submission released on 23 September 2008 relevant to Wingecarribee Shire Council is reprinted below:

**Wingecarribee Shire Council**

Wingecarribee Shire Council currently purchases about 4,000 megalitres of water per year from the SCA for treatment and resale to its customers. This water is drawn from the nearby Wingecarribee Reservoir. The SCA's sales and revenue related to Wingecarribee Shire Council during the current price path are shown in the table below.

**Table 14: Water Sales to Wingecarribee Shire Council**

	2003-04	2004-05	2005-06*	2006-07	2007-08
Rate charged (\$/ML)	93.90	105.08	126.88	152.84	181.22
Consumption (ML)	3,447	3,337	3,594	4,221	4,042
Charge (\$)	323,694	350,652	456,033	645,070	732,558

\* 2004-05 rate charged until 30 Sep 05

The current price determination calls for Wingecarribee Shire Council's usage price to increase by approximately \$22 per megalitre each year above CPI to allow the prices to increase to a level comparable to Sydney Water's usage charge. However, unlike Sydney Water, Wingecarribee Council does not pay a fixed charge.

In keeping with IPART's previous determinations, the SCA proposes that Wingecarribee Shire Council continue to pay a usage charge only. Given the proposed changes to Sydney Water's tariff structure, the SCA recommends that the price be increased from the 2008-09 price at CPI only.

**Table 15: Prices to Wingecarribee Shire Council**

(\$ of 2008-09)	2008-09	2009-10	2010-11	2011-12	2012-13
Volumetric price (\$/ML)	210.1	210.1	210.1	210.1	210.1

**4. Comment regarding Proposed Price Path**

The price charged by Sydney Catchment Authority (SCA) has been increasing by approximately 20% per annum since 2003/04. SCA now proposes that the price remain fixed at \$210.10 per megalitre for the next price period (four financial years – 2009/10 to 2012/13) with only CPI increases imposed during this time.

In their submission, SCA advise that that they have provided \$17.7 million dollars to Councils for works under the Accelerated Sewerage Program. Included in this is \$0.6 million for Bowral plant, \$2.6 million for Bundanoon plant and \$6.3 million towards Robertson sewerage. This funding replaces funding that was removed from the Country Towns Water Supply and Sewerage program in 2004. SCA also make the comment that their capital expenditure was lower than forecast because they were not able to undertake major capital works in raising Tallowa Dam.

The SCA also advise that the price paid by Councils reflects about a 40% discount to that paid by Sydney Water because Councils do not pay a fixed charge.

Council has received excellent service from the SCA in regards to raw water quality monitoring and reporting, and incident management during the past four years.

As the price proposed by SCA will be capped at \$210.10 per megalitre for the next four financial years (except for CPI), it is suggested that Council advise IPART that it satisfied with the 4 year price path proposed by SCA. Accordingly, it is suggested that Council need not make a presentation to the public hearing on 19 November 2008.



## ORDINARY MEETING OF COUNCIL

held in the Council Chamber, Civic Centre, Elizabeth Street,  
Moss Vale on Wednesday, 8 October 2008

### REPORT OF DIRECTOR TECHNICAL SERVICES

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#### 5. Comment regarding SCA Funding for Pollution Reduction Program

The Sydney Catchment Authority is jointly funding network flow gauging and performance assessment studies for all five sewerage schemes in the Shire. The project has cost \$700,000 with a 50% contribution from SCA. The studies will identify the potential for overflows from the sewerage system and propose an extensive capital works program in order to control, minimise or eliminate overflows. Council officers are concerned that this works program could commit Council to expenditure that is not affordable and is more extensive than the works program nominated in the 30 year Strategic Business Plan. A substantial funding commitment would be required from SCA for this works program to occur.

It is suggested that Council's submission to IPART include a request that SCA include a funding commitment in their expenditure forecasts towards physical works identified in the pollution reduction network performance assessment studies

#### ATTACHMENTS

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There are no attachments with this report.

#### RECOMMENDATION

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1. THAT Council advise IPART:
    - it is satisfied with the four (4) year (2009/2010 to 2012/2013) price path proposed by Sydney Catchment Authority being \$210.10 per megalitre with CPI increases.
    - funding from the Sydney Catchment Authority will be required to undertake physical works identified through the pollution reduction network performance assessment studies in Wingecarribee Shire.
  2. THAT Council not make a presentation to the public hearing on 19 November
- 

M J Brearley  
**Director Technical Services**

2 October 2008

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## ORDINARY MEETING OF COUNCIL

held in the Council Chamber, Civic Centre, Elizabeth Street,  
Moss Vale on Wednesday, 8 October 2008

## REPORT OF THE GENERAL MANAGER

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### COUNCIL MATTERS

#### GENERAL MANAGER'S REPORTS

#### c-GM1 Weekly Circulars

REF.	GM	203/2008, 100/8
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Confirming receipt of weekly circulars from the Local Government Association and Council weekly circulars.

#### REPORT

Weekly circulars from the Local Government Association and Council weekly circulars have been received and circulated to all Councillors.

#### ATTACHMENTS

There are no attachments to this report.

#### RECOMMENDATION

THAT the information relating to Local Government Weekly Circular No 38/08 and Council Weekly Circular No 38/08 be noted.

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**ORDINARY MEETING OF COUNCIL**

held in the Council Chamber, Civic Centre, Elizabeth Street,  
Moss Vale on Wednesday, 8 October 2008

**REPORT OF THE GENERAL MANAGER**

**c-GM2 2008 Local Government Constitutional Summit - A Special National General Assembly to be held from 8-11 December 2008 in Melbourne**

REF. GM 203/1.1

Reporting on the 2008 Local Government Constitutional Summit - A Special National General Assembly to be held from 8-11 December 2008 in Melbourne.

**REPORT**

A 2008 Local Government Constitutional Summit - A Special National General Assembly is to be held from 8-11 December 2008 in Melbourne.

A determination is required by Council as to:

1. whether Council will be represented at the 2008 Local Government Constitutional Summit – A Special National General Assembly to be held in Melbourne from 8 to 11 December 2008; and
2. should Council determine it will be represented, then Council needs to confirm names of those attending.

**ATTACHMENTS**

There are no attachments to this report

**RECOMMENDATION**

THAT Council confirms its attendance at the 2008 Local Government Constitutional Summit - A Special National General Assembly to be held from 8-11 December 2009 in Melbourne as follows:

- Councillor.....
- Councillor.....
- Councillor.....
- General Manager or nominee

Mike Hyde  
**General Manager**

2 October 2008



## ORDINARY MEETING OF COUNCIL

held in the Council Chamber, Civic Centre, Elizabeth Street,  
Moss Vale on Wednesday, 8 October 2008

## COMMITTEE REPORTS

### COMMITTEE REPORTS TABLED

#### c-CR1 Management and Advisory Committee Reports

REF.	DCS	107/1
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Submitting minutes of thirteen (13) Committee meetings that will be tabled for information.

#### REPORT

1. Exeter Park Management Committee meeting Saturday 13 September 2008.
2. Exeter Park Management Committee Annual General meeting Monday 4 August 2008.
3. Exeter Park Management Committee meeting Monday 4 August 2008.
4. Hampden Park Management Committee meeting Wednesday 6 August 2008.
5. Mittagong Senior Citizens & Community Centre Management Committee Annual General meeting Thursday 14 August 2008.
6. Mittagong Senior Citizens & Community Centre Management Committee meeting Thursday 14 August 2008.
7. Mittagong Memorial Hall Management Committee Annual General meeting Thursday 7 August 2008.
8. Mittagong Memorial Hall Management Committee meeting Thursday 7 August 2008.
9. Mittagong Memorial Hall Management Committee meeting Thursday 4 September 2008.
10. Welby Hall Management Committee meeting Monday 14 July 2008.
11. Welby Hall Management Committee meeting Monday 8 September 2008.
12. Mittagong Senior Citizens & Community Centre Management Committee meeting Thursday 11 September 2008.
13. East Bowral Community Centre Management Committee meeting Tuesday 26 August 2008.

#### ATTACHMENTS

There are no attachments to this report.

#### RECOMMENDATION

THAT the information contained in the Committee Reports be noted.



## ORDINARY MEETING OF COUNCIL

held in the Council Chamber, Civic Centre, Elizabeth Street,  
Moss Vale on Wednesday, 8 October 2008

## COMMITTEE REPORTS

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### **c-CR2      Water & Sewer Advisory Committee Report**

REF.	TO
------	----

7799/2
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Submitting minutes of the Water and Sewer Advisory Committee Minutes of Wednesday, 13 August 2008 that will be tabled for information.

#### **REPORT**

1. Water and Sewer Advisory Committee Minutes of Wednesday, 13 August 2008.

#### **RECOMMENDATION**

THAT the Water and Sewer Advisory Committee Minutes held on Wednesday, 13 August 2008 be noted.



## ORDINARY MEETING OF COUNCIL

held in the Council Chamber, Civic Centre, Elizabeth Street,  
Moss Vale on Wednesday, 8 October 2008

### COMMITTEE REPORTS

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#### COMMITTEE REPORTS ATTACHED

<b>c-CR1</b>	<b>Legal Committee</b> ( <i>refer minutes page 47</i> )
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REF	DEP	107/22
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Submitting minutes of the Legal Committee meeting held on Wednesday, 10 September 2008.

<b>RECOMMENDATION</b>
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THAT the recommendations as detailed in the minutes of the Legal Committee meeting held Wednesday, 10 September 2008 be adopted.

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<b>c-CR2</b>	<b>Traffic Committee</b> ( <i>refer minutes page 53</i> )
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REF	TE	107/6
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Submitting minutes of the Traffic Committee meeting held on Monday, 29 September 2008.

<b>RECOMMENDATION</b>
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THAT the recommendations TC131/08 to TC 157/08 as detailed in the minutes of the Traffic Committee meeting held Monday, 29 September 2008 be adopted.

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## ORDINARY MEETING OF COUNCIL

held in the Council Chamber, Civic Centre, Elizabeth Street,  
Moss Vale on Wednesday, 8 October 2008

## COMMITTEE REPORTS

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### **MINUTES OF THE LEGAL COMMITTEE MEETING**

**HELD AT 1.30pm ON WEDNESDAY 10 September 2008  
in the Nattai Room**

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*File No. 107/22*

<b>PRESENT:</b>	Clr M Murray (Chairman) Clr P Yeo Clr P Tuddenham Clr D Gair (arr 1.45pm)
<b>IN ATTENDANCE:</b>	Clr J Clark Clr N Campbell-Jones (arr 2.00pm) Mr M Hyde GM (from 2.00pm) Mr E Anderson (for Item 13) Mr S Lee DEP Mr L Pawlak DCM
<b>APOLOGIES:</b>	Mr B Bilinsky

---

The Meeting Commenced at 1.30pm.

### **REPORTS FROM ENVIRONMENT & PLANNING**

#### **(A) NEW MATTERS**

1. **DELLAROSE BAEVSKI – ‘BELLE CHEVAL’**      **502/68; LUA08/0389**

Council has received an appeal against a deemed refusal for proposed erection of an enclosure over an existing Dressage Arena, Canopy over existing tack shed and new storage and machinery sheds at Lot 1 DP 737470 Myra Vale Road, Robertson. For preliminary conference 9 October 2008.

#### **RECOMMENDATION**

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

---

**2. WSC –V- LARRY TUIE – APPEAL AGAINST DECISION OF COMMISSIONER MOORE LUA07/1170; 502/54**

Council has received an appeal against the decision of Commissioner Moore, made on 1 August 2008. The appeal is limited to alleged errors of law and will be heard by a single judge of the Land and Environment Court. The options available to the judge will be to either dismiss the appeal, or order a re-hearing of the application before another Commissioner or a judge of the court. The matter is for callover on 25 September 2008.

**RECOMMENDATION**

**THAT** Council engage Mr CW McEwen SC in defence of the appeal.

---

**INTEREST**

*Clr M Murray declared a Pecuniary Interest in the following matter as the hotel is owned by his children's grandfather. He left the room and took no part in the debate.*

**3. ROYAL HOTEL, BOWRAL LUA08/0089**

Matter relating to approved extent of Licensed area. The Licensee has indicated to Council staff that a development application to regularise the situation will be lodged. The owner is, however, overseas and until his signature can be obtained the application cannot be made.

**RECOMMENDATION**

**VOTING ON THE RECOMMENDATION:** (Clr Gair / Clr Tuddenham)

1. **THAT** it be determined whether the original development application was dealt with by staff or by Council.
  2. **THAT** Council allow a period of twenty-eight (28) days for the lodgement of the development application, and after this period, commence an Order process under the *Environmental Planning & Assessment Act 1979* should no application be received.
- 

**4. PENALTY INFRINGEMENT NOTICE – JIM KNOX PN1702933; 5302/9  
Lot 2 DP 842779 Hume Highway, Alpine**

Council has received a written request from Jim Knox to exercise leniency on the Penalty Infringement Notices issued.

On 24 July 2008 two infringement notices were issued. Council may choose to dispense with one of the Penalty Notices as a sign of good faith after a development application for the works is lodged (no application submitted at date of report).

**RECOMMENDATION**

**THAT** this matter be deferred until the next Legal Committee meeting.

---

5. **MR J O'LOUGHLIN – 5 SEPP UNITS, MOSS VALE ROAD, BURRADOO –**

LUA07/1243

A Council report for LUA07/1243, No 537 Moss Vale Road, Burradoo, proposing 5 Seniors living units was considered at the meeting of 13 August 2008. Council resolved to defer the determination of this application until the Minister for Planning has decided to issue Council an exemption under the SEPP.

**RECOMMENDATION**

THAT this matter be deferred until the first meeting of the new Council.

---

**(B) ONGOING MATTERS**

6. **MRS BODOR – COMPLIANCE WITH RFS REQUIREMENTS**

**Lot 33 DP 751267 Colo Road, Hill Top - 502/67; PN393700; LUA02/0995**

Appeal against development application refusal for a dwelling. The application was refused due to inadequate information being received for determination. A Section 82A review application has also been lodged with Council. Amended plans are required to be submitted to the NSW Rural Fire Service. The matter is listed for callover on 13 October 2008 and if consent is issued prior to this date, the application will be discontinued.

**RECOMMENDATION**

THAT the information be received and noted.

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7. **ANNESLEY – USAGE OF NON-RESIDENTIAL FACILITIES**

**PN1753570;**

**PN3200; LUA03/1979; 99/0976**

The Legal Committee and Council resolved:

*'THAT the matter be deferred to the next Legal Committee Meeting on 10 September 2008 AND THAT the Committee be provided with copy of the Statement of Environmental Effects, consent conditions and approved plans.'*

**RECOMMENDATION**

1. THAT a letter be sent to the owners of Annesley asking that they cease commercial usage of the gym.
  2. THAT the applicant be required to provide a timetable as to how many times and for what purpose the hall (conference room) will be used for the next 12 months.
-



## ORDINARY MEETING OF COUNCIL

held in the Council Chamber, Civic Centre, Elizabeth Street,  
Moss Vale on Wednesday, 8 October 2008

### COMMITTEE REPORTS

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**8. AUSTRALIAN LIFESTYLE CORPORATION PTY LTD 'CAPERNWRAY,' MOSS VALE ROAD, BURRADOO - 502/63; LUA06/1457;**

The matter was heard 23-26 June 2008 before the Chief Judge of the Court. Judgement was reserved.

**RECOMMENDATION**

THAT the information be received and noted.

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**9. BOEN BOE PIGGERY (ZAMMIT) 502/8**

Richard Smyth has been progressing the matter with correspondence being received from Government Departments. A meeting with objectors has also been organised by Mr Smyth for 14 September 2008. For further teleconference with the court on 20 October 2008.

**RECOMMENDATION**

THAT the information be received and noted.

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**10. WSC ats Humphrey & Edwards, Architects – enforcement of conditions of LUA05/0732 – The Intersection, Cnr Station & Bowral Sts, Bowral 502/57; PN222600; LUA05/0732**

A Notice of Intention has now been served on the owner and Architects. The recipients have an opportunity to respond to the Notice prior to Council then considering the issue of the proposed Order.

**RECOMMENDATION**

THAT this matter be referred back to the Legal Committee.

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**11. COMPLIANCE ISSUES 5210/1**

Current active Compliance Register is attached.

**RECOMMENDATION**

THAT the information be received and noted.

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## **GENERAL BUSINESS**

### **12. LEGAL EXPENSES**

**502**

Attached is an updated legal expenses report. Any items that are running between financial years have previous expenditure included. The report is current to the end of July 2008.

### **RECOMMENDATION**

THAT the information be received and noted.

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## **REPORTS FROM CORPORATE SERVICES**

### **13. OUTSTANDING DEBT – TUJILLO Pty Ltd PROPERTY AT MILTON PARK 2104; PN1760260**

Further to Council's resolution on 27 August 2008:

*'THAT Number 1 of Item 12 (Outstanding Debt of \$7,000) on page 76 of the Legal Committee minutes be referred back to the next Legal Committee meeting to be held on Wednesday, 10 September 2008 for further consideration'*

Following the last meeting of the Committee, Council wrote to Tujilo Pty Ltd on 17 August 2008 offering to settle the outstanding debt of \$9,308 for \$7,000. A response was received from Tujilo dated 24 August 2008 rejecting the \$7000 settlement counter offer.

### **RECOMMENDATION**

THAT the offer of \$5,000 from Tujilo Pty Ltd be rejected and the previous request for an amount of \$7,000 be sought within 14 days, after which the offer be withdrawn and a debt be placed on the property in accordance with the *Noxious Weeds Act*.

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**LEGAL COSTS (SEPTEMBER 2008 as at JULY 2008)**

<b>LAND &amp; ENVIRONMENT COURT</b>		
<b>2007/08</b>	<b>2008/09 (at July 08)</b>	
33,429.47		WSC v Norlex Holdings Pty Ltd - - LUA 07/1170 - water extraction Bundanoon
118,204.82		WSC ats Larry Tuite (Norlex) water extraction Bundanoon
25,972.08		WSC v Ghassibe - 502/48 Greyhound breeding - modification of consent, Nandi Rd, Canyonleigh 07/0146
12,462.50		WSC ats Zammit - Boen Boe Piggery LUA03/0783
4,444.42		WSC ats Humphrey & Edwards, The Intersection, corner Bowral St and Station St, conditions of consent
104,122.33		Aust Lifestyle Corp (Capernwray) 79 self care units under the Seniors Living state policy, Moss Vale Rd opposite The Briars, LUA06/1457
<b>\$298,635.62</b>	-	

<b>2007/2008</b>	<b>2008/09 (at July 08)</b>	
<b>OTHER</b>		
	1,321.00	WSC v Powell - Companion Animals Act. \$100 fine payable. Matter closed.
-	<b>\$1,321.00</b>	

<b>SALE OF LAND</b>		
<b>2007/08</b>	<b>2008/09 (at July 08)</b>	
1,370.05		RTA land Lot 31 DP 831268 Drapers Road, Mittagong
567.50		WSC to Lyons, Lot 12 DP788983 Drapers Rd, Colo Vale PN452600
481.00		Sale Lot 45 Bulwer Road, Moss Vale
<b>\$2,418.55</b>		

<b>ACQUISITION</b>		
<b>2007/08</b>	<b>2008/09 (at July 08)</b>	
	217.00	WSC from Mereworth P/L Cnr Taylor Ave, Medway Rd & Old Hume Hwy roundabout. Draft Deed of Agreement
-	<b>\$217.00</b>	

There being no further business, the meeting closed at 2.50pm.

***A COPY OF THE TRAFFIC COMMITTEE AGENDA IS IN THE COUNCILLORS' ROOM.***

**MINUTES OF THE TRAFFIC COMMITTEE 29 SEPTEMBER 2008**

**COMMENCING AT: 10.00 am**

**PRESENT:** Mr Frank Perger, Traffic Engineer (Chairperson)  
Mr Danny Benedetti, Roads & Traffic Authority  
Snr Constable Phil Pollard, Goulburn LAC  
Mr John Brew (Representing Member for Goulburn, Ms Pru Goward MP)

**IN ATTENDANCE:** Mr Scott Lee, Director Environment & Planning (part of meeting)  
Mr Frank Iacono, Design Engineer  
Ms Helen Stokes, Secretary

**APOLOGIES:** Ms Charmaine Cooper

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<b>1 REPORT OF THE TRAFFIC COMMITTEE MEETING HELD 18 AUGUST 2008</b>
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REF	TE	107/6
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Reporting on the Traffic Committee meeting held on 18 August 2008.

**TC 131/08**

<b>RECOMMENDATION</b>
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THAT the information be received and noted.

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**ORDINARY MEETING OF COUNCIL**

held in the Council Chamber, Civic Centre, Elizabeth Street,  
Moss Vale on Wednesday, 8 October 2008

**COMMITTEE REPORTS**

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**2 TEMPORARY CHAIR OF THE TRAFFIC COMMITTEE**

REF.

107/6

Requesting permission for Council's Traffic Engineer to temporarily chair the Traffic Committee meeting.

**TC 132/08**

**RECOMMENDATION**

THAT Council endorses Council's Traffic Engineer as the chair of the Traffic Committee meeting held on 29 September 2008.

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**3 ROAD SAFETY OFFICER PROGRESS REPORT**

REF. RSO

7410/5

Reporting on promotions and activities of the Road Safety Officer.

**TC 133/08**

**RECOMMENDATION**

THAT the projects/campaigns currently co-ordinated by Council's Road Safety Officer be noted, particularly the workshop for learner drivers and their supervisors.

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**4 NO RIGHT TURN FROM BOWRAL STREET INTO STATION STREET, BOWRAL**

REF. TE

rd1519, Rd3204

Reporting on the right turn ban from Bowral Street into Station Street, Bowral.

**TC 134/08**

**RECOMMENDATION**

THAT Changed Traffic Conditions Ahead signs be installed and left arrows be marked for westbound traffic on Bowral Street on approach to Station Street, Bowral AND THAT these signs and markings be removed once the roundabout planned for this junction is built.

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**5 NO STANDING ZONES**

REF. TE

7415/2

Reporting on the demise of No Standing zones.

**TC 135/08**

RECOMMENDATION

THAT the information be received and noted.

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**6 ACCESSIBLE PARKING SPACE IN ELIZABETH STREET CARPARK IN MOSS VALE**

REF. TE

7455, 7472/5

Requesting an accessible parking space in the Elizabeth Street carpark in Moss Vale.

**TC 136/08**

RECOMMENDATION

THAT an accessible parking space be marked in north-east corner of the Elizabeth Street carpark in Moss Vale.

---

**7 ACCESSIBLE PARKING SPACE IN THE EMPIRE CINEMA CARPARK**

REF. TE

7455, LUA06/1405

Requesting an accessible parking space in the Empire Cinema Carpark.

**TC 137/08**

RECOMMENDATION

THAT this matter be deferred and reported to the next meeting of the Traffic Committee.

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**8 BLACK SPOT AND BLACK LENGTH FUNDING APPLICATIONS FOR 2009-10**

REF. TE

7410/3

Reporting on black spot and black length funding applications for 2009-10.

**TC 138/08**

**RECOMMENDATION**

THAT a roundabout is the preferred treatment at the Junction of Wilson Drive (MR7635) and Church Avenue (MR7635), Colo Vale AND THAT funding be sought for the roundabout from the Roads and Traffic Authority.

---

**9 PARKING RESTRICTIONS IN ARGYLE STREET, MOSS VALE**

REF. TE

7455

Reporting on parking restrictions in Argyle Street, Moss Vale.

**TC 139/08**

**RECOMMENDATION**

THAT one hour parking restrictions be signposted on the western side of Argyle Street, Moss Vale to the southern side of Ivan Mackay Motors.

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**10 PARKING RESTRICTIONS IN REGENT LANE CARPARK, MITTAGONG**

REF. TE

7471/5

Reporting on parking restrictions in Regent Lane Carpark, Mittagong

**TC 140/08**

**RECOMMENDATION**

THAT the Design Section prepare a design for the Regent Lane Carpark in Mittagong to formalise the layout and maximise the number of car spaces.

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**11 PARKING AREA SIGNAGE**

REF. TE

7415/2

Reporting on parking area signage.

**TC 141/08**

**RECOMMENDATION**

THAT the Moss Vale, Bowral and Mittagong Chambers of Commerce be contacted to advise of any additional locations that would benefit from P parking signs.

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**12 BIG W CARPARK ENTRANCE**

REF. TE

LUA06/0226

Reporting on improving the traffic congestion in Roscoe Street at the access to Mittagong Marketplace.

**TC 142/08**

**RECOMMENDATION**

1. THAT the Traffic Committee supports the traffic arrangements that were put in place at the Mittagong Marketplace during Christmas 2007 whereby traffic enters through northern driveway and exits from southern driveway in Roscoe Street.
  2. THAT the Traffic Committee considers that due to the expected increase in traffic generation following the opening of Aldi and the development on the western side of Roscoe Street and the increase in queue lengths at the traffic signals, that separate in and out treatments in Roscoe Street for the Mittagong Marketplace carpark are inevitable.
-



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**13 SPEEDING IN EXETER**

REF. TE

RD2308, RD6000 0069

Requesting traffic calming devices on Middle Road at Exeter.

**TC 143/08**

**RECOMMENDATION**

THAT the Speed Busters program be carried out on Middle Road and Werai Road, with assistance from the Police Service.

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**14 PARKING RESTRICTIONS IN ROWLAND ROAD, BOWRAL**

REF. TE

7460/8

Requesting parking restrictions in Rowland Road, Bowral

**TC 144/08**

**RECOMMENDATION**

1. THAT parking restrictions are not supported on the southern side of Rowland Road east of Boardman Road in Bowral.
  2. THAT the Design & Project Section investigates a formal area for parking along Rowland Road and improvements to the junction with Cutter Place.
-

**15 PEDESTRIANS ISSUES SURROUNDING RANGE ROAD BRIDGE, MITTAGONG**

REF. TE

7430/26

Reporting on pedestrian issues surrounding the Range Road bridge.

**TC 145/08**

**RECOMMENDATION**

1. THAT Council note that any improvements to the Range Road bridge in Mittagong or the construction of a new pedestrian bridge would be at Council's cost and include all future maintenance costs;
  2. THAT the Design & Project Section investigates the provision of a free-standing pedestrian bridge beside the Range Road railway overbridge;
  3. THAT pedestrian and traffic counts be undertaken over the Range Road railway overbridge.
- 

**16 HEADLAM/SUTTOR ROAD JUNCTIONS ON MOSS VALE ROAD, MOSS VALE**

REF. TE

RD3353, RD8260

Reporting on the Headlam Road and Suttor Road junctions on Moss Vale Road, Moss Vale

**TC 146/08**

**RECOMMENDATION**

THAT the Design & Project Section investigates improvements to Moss Vale Road (MR260) between Headlam Road and Suttor Road in Moss Vale and report back to the Traffic Committee.

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**17 BUS BAYS AND REFUGE ON ARGYLE STREET, MOSS VALE**

REF. TE

RD 8260, 7321/1

Reporting on bus bays and refuge on Argyle Street, Moss Vale

**TC 147/08**

**RECOMMENDATION**

THAT a plan and an estimate be prepared for two bus bays and a refuge on Argyle Street (MR260) at its junction with Mawson Terrace, Moss Vale.

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**18 TRAFFIC ARRANGEMENTS FOR BONG BONG PICNIC RACES**

REF. TE

7420/6

Requesting approval of the traffic arrangements for the 2008 Bong Bong Picnic Races

**TC 148/08**

**RECOMMENDATION**

THAT permission be granted to Bong Bong Picnic Race Club Ltd to organise traffic control for the Bong Bong Picnic Races to be held on Wednesday 12 November 2008 subject to the satisfactory completion of the requirements of the Guide to Traffic and Transport for Special Events for a Class 2 Event.

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**19 DATE OF THE NEXT TRAFFIC COMMITTEE MEETING**

REF. TE

107/6

Reporting on the date for the next Traffic Committee meeting.

**TC 149/08**

**RECOMMENDATION**

THAT the next Traffic Committee meeting be held in the Joadja Room at 9.30am on Monday 1 December 2008.

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## ADDITIONAL ITEMS

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### ADDITIONAL ITEM 1

<b>CONTINGENCY PLANS FOR "A DAY ON THE GREEN" AT CENTENNIAL WINERY</b>		
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REF.	TE	LUA 08/0902
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Reporting on the traffic arrangements and the wet weather contingency plans for "A Day on the Green" at Centennial Winery, Centennial Road, Bowral.

#### TC 150/08

<b>RECOMMENDATION</b>
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1. THAT approval be granted to Roundhouse Entertainment to carry out traffic management for "A Day on the Green" to be held at Centennial Winery on 14 December 2008 subject to the completion of a Traffic Management Plan and approval from the Police Service in accordance with the Guide to Traffic and Transport Management for Special Events for a class 2 event;
2. THAT the applicant note that a Road Occupancy Licence will be required from the RTA for any signage on classified roads such as Mittagong Road (MR260);
3. THAT attendees from the Sydney direction be directed via the Old Hume Highway and the western end of Centennial Road to use the western driveway and associated carparking and return the same way AND THAT attendees using the eastern end of Centennial Road be directed to use the eastern driveway and associated carparking and return the same way.
4. THAT the Traffic Committee conduct an on-site inspection of the proposed wet weather contingency plans for "A Day On The Green" at Centennial Winery in Bowral.

**NOTE:** Following the on-site inspection, the Traffic Committee does not support the proposal to use one half of the divided carriageway of the Old Hume Highway south of Centennial Road for wet weather contingency parking for "A Day On The Green".

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### ADDITIONAL ITEM 2

<b>ELIZABETH STREET CARPARK – THREE HOUR RESTRICTIONS</b>		
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REF:	TE	7472/5
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Reporting on the parking restrictions in the Elizabeth Street and Masonic Lodge car parks in Moss Vale

#### TC 151/08

<b>RECOMMENDATION</b>
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THAT the parking restrictions and occupancy of the Elizabeth Street and Masonic Lodge car parks in Moss Vale be kept under review.



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#### ADDITIONAL ITEM 3

##### PROPOSAL TO SIGNPOST PART OF SPRING LANE AS ONE-WAY

REF: DE

LUA 07/0459

Reporting on a proposal to restrict part of Spring Lane (Queen Street car park) to one way traffic.

#### TC 152/08

##### Recommendation

THAT the section of Spring Lane beside the Community Services Centre building in Moss Vale be signposted as one-way traffic in a northerly direction.

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#### ADDITIONAL ITEM 4

##### HUME HIGHWAY EXIT RAMPS AT THE SUTTON FOREST SERVICE CENTRE

REF. TE

7411

Reporting on the Hume Highway exit ramps at the Sutton Forest Service Centre

#### TC 153/08

##### RECOMMENDATION

THAT an inspection of the Hume Highway exit ramps at the Sutton Forest Service Centre be carried out by members of the Traffic Committee.

**NOTE:** Following the on-site inspection, the Roads and Traffic Authority proposes to rationalise the signposting arrangement on each exit ramp with a view to improving sight distance to the roundabouts.

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#### ADDITIONAL ITEM 5

##### HIGHLAND WHEELS AND WINGS AT MITTAGONG AIRPORT

REF. TE

7420/6

Reporting on Highland Wheels and Wings event at Mittagong Airport on 9 November 2008

#### TC 154/08

##### RECOMMENDATION

1. THAT a detailed submission on the internal safety arrangements for the events proposed to be held on the airstrip be referred to the Traffic Committee;
  2. THAT the applicant gain approval for the event from the relevant Australian motor sport authority;
  3. THAT Council note that the Police have concerns with the arrangements for the event scheduled in November 2008 as they have not yet been approached;
  4. THAT Council note that as the applicant has failed to satisfy the minimum lead time for agency approvals of three months for vehicle races, the event should not be approved.
- 

#### ADDITIONAL ITEM 6

##### CONCEALED DRIVEWAY SIGN ON INKERMAN ROAD, MITTAGONG

REF. TE

7415/2

Requesting concealed driveway sign on Inkerman Road, Mittagong

#### TC 155/08

##### RECOMMENDATION

THAT a concealed driveway sign be erected for the benefit of 21-25 Inkerman Road, Mittagong

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#### ADDITIONAL ITEM 7

##### CONCEALED DRIVEWAY SIGN ON SOUTH STREET, ROBERTSON

REF. TE

7415/2

Requesting concealed driveway sign on South Street, Robertson

#### TC 156/08

##### RECOMMENDATION

THAT the driveway at 19 South Street, Robertson be assessed for sight distance and concealed driveway signposting be erected if stopping sight distance (45m in a 50 km/h zone) is not available.

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#### ADDITIONAL ITEM 8

##### BUNDANOON RSL MEMORIAL DEDICATION

REF. TE

7420/3

Requesting permission to close Osborn Avenue for the Bundanoon RSL Memorial Dedication on 11 October 2008

#### TC 157/08

##### RECOMMENDATION

THAT approval be granted to the Bundanoon RSL to close Osborn Avenue for the Memorial Dedication on 11 October 2008 subject to the completion of a Traffic Management Plan and approval from the Police Service in accordance with the Guide to Traffic and Transport Management for Special Events for a class 3 event.

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### CLOSED COUNCIL

## CORPORATE SERVICES DIVISION

<b>CS1</b>	<b>Closed Council</b>	
REF.	DCS	107/9

To consider moving into Closed Council

## REPORT

### BACKGROUND

The following confidential reports have been distributed separately:

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

### 2. STATUTORY

Section 10A of the Local Government Act 1993, empowers Council and Committees of which all the members are Councillors to close a part of a meeting in certain circumstances in accordance with the requirements of the Act, and relevant Regulations and Guidelines.

Subject to the provisions of Section 10 of the Act, so much of a meeting may be closed as comprises certain information as outlined in Section 10A(2).

However, the Act also contains the following provisions qualifying the use of Section 10A(2).

#### Section 10B

- (1) *[Time spent closed to be minimised] A meeting is not to remain closed during the discussion of anything referred to in section 10A(2):*
  - (b) *Except for so much of the discussion as is necessary to preserve the relevant confidentiality, privilege or security, and*
  - (c) *If the matter concerned is a matter other than a personnel matter concerning particular individuals, the personal hardship of a resident or ratepayer or a trade secret-unless the council or committee concerned is satisfied that discussion of the matter in an open meeting would, on balance, be contrary to the public interest.*
- (2) *[Qualification of 10A(2)(g)] A meeting is not to be closed during the receipt and consideration of information or advice referred to in section 10A(2)(g) unless the advice concerns legal matters that:*

## ORDINARY MEETING OF COUNCIL

held in the Council Chamber, Civic Centre, Elizabeth Street,  
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### CLOSED COUNCIL

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- (a) *are substantial issues relating to a matter in which the council or committee is involved, and*
  - (b) *are clearly identified in the advice, and*
  - (d) *are fully discussed in that advice.*
- (3) *[Qualification of 10A(3)] If a meeting is closed during the discussion of a motion to close another part of the meeting to the public (as referred to in section 10A(3)), the consideration of the motion must not include any consideration of the matter or information to be discussed in that other part of the meeting (other than consideration of whether the matter concerned is a matter referred to in section 10A(2)).*
- (4) *[Irrelevant matters] For the purpose of determining whether the discussion of a matter in an open meeting would be contrary to the public interest, it is irrelevant that:*
- (a) *a person may misinterpret or misunderstand the discussion, or*
  - (b) *the discussion of the matter may:*
    - (i) *cause embarrassment to the council or committee concerned, or to Councillors or to employees of the council, or*
    - (ii) *cause a loss of confidence in the council or committee.*

Attention is also drawn to provisions contained in Part 7 of Council's Code of Meeting Practice.

### 3. DIRECTOR GENERAL'S GUIDELINES

The Director General of the Department of Local Government has issued guidelines concerning the use of Section 10 of the Act. A copy of the Director General's guidelines has been sent to all Councillors. Section 10B(5) of the Act requires that council have regard to these guidelines when considering resolving into Closed Session.

<b>RECOMMENDATION</b>
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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:
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### CLOSED COUNCIL

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- 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.

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

Barry W Paull  
**Director Corporate Services**

3 October 2008



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**CLOSED COUNCIL**

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