

# MINUTES

## OF THE ORDINARY MEETING OF COUNCIL

*File No. 100/08*



held on Wednesday, 8 October 2008

The meeting commenced at 3.35 pm.



## MINUTES OF THE ORDINARY MEETING OF COUNCIL

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

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## MINUTES OF THE ORDINARY MEETING OF COUNCIL

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**COMMENCING AT:** 3.35 pm

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

**IN ATTENDANCE:** General Manager, Director Corporate Services, Director  
Environment & Planning, Director Technical Services, Manager  
Administration Services and Secretary Director Corporate Services  
(S/DCS)

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### PRAYER

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100/1

The meeting was opened in prayer led by Pastor Ian Salmon of Church of Christ Bowral.

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### APOLOGY

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Nil

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### PUBLIC FORUM ADDRESS

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Mr William Croese requested and was granted permission to address Council on the  
following item in the agenda.

*o-EP5 Draft DCP, Bowral OLSH Site*

The Mayor thanked Mr Croese for his comments.

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## MINUTES OF THE ORDINARY MEETING OF COUNCIL

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### CONFIRMATION OF MINUTES – Wednesday, 10 September 2008

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MINUTES OF THE ORDINARY MEETING OF COUNCIL HELD ON WEDNESDAY, 10  
SEPTEMBER 2008

100/1, 8100/8

**MN 374/08**

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

**THAT** the minutes of the Ordinary Meeting of Council held on Wednesday, 10 September 2008 MN 352/08 to MN 367/08 inclusive, copies of which were forwarded to Councillors, be adopted as a correct record of the proceedings of the meeting with it being noted that the declaration of interest by Clr T D Gair should be indicated against o-TS1- Bowral Golf Course Detention Scoping Study not o-TS2 as indicated in the Minutes.

**PASSED**

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### CONFIRMATION OF MINUTES – Monday, 29 September 2008

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MINUTES OF THE EXTRAORDINARY MEETING OF COUNCIL HELD ON MONDAY, 29  
SEPTEMBER 2008

100/1

**MN 375/08**

**MOTION** moved by Clr P B Tuddenham and seconded by Clr J G Arkwright

:

**THAT** the minutes of the Extraordinary Meeting of Council held on Monday, 29 September 2008 MN 368/08 to MN 373/08 inclusive, copies of which were forwarded to Councillors, be adopted as a correct record of the proceedings of the meeting.

**PASSED**

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## MINUTES OF THE ORDINARY MEETING OF COUNCIL

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### **CERTIFICATES OF APPRECIATION**

*Files 1850/13, 1611/3*

On behalf of the Heart Foundation the General Manager presented the Mayor, Cllr T D Gair, with a certificate of appreciation for the introduction of a policy that provides for smoke free public areas and thus providing for a healthy community.

On behalf of the Scouting Association the General Manager presented the Mayor, Cllr T D Gair, with a framed scarf, celebrating 100 years of scouting from 1908 to 2008

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### **BUSINESS ARISING**

Nil

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### **DECLARATIONS OF INTEREST**

*101/3*

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Cllr D Stranger declared a pecuniary interest in Item o-EP4 which related to a Site Compatibility Certificate, Chelsea Gardens, Moss Vale, as his business managers the residential tenancies on adjoining properties, Coomungie & Park Leigh and also that Jim Avery is a competitor and colleague. He stated he would leave the chamber when this matter was discussed, take no part in the debate and refrain from voting thereon.

Cllr G McLaughlin declared a non pecuniary interest in Item o-EP5 which related to the Draft DCP for OLSH site, Bowral as he lives in the area of West Bowral. He stated he would leave the chamber when this matter was discussed, take no part in the debate and refrain from voting thereon.

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**MINUTES OF THE ORDINARY MEETING OF COUNCIL**  
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**MAYORAL MINUTE**

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<b>MAYORAL MINUTE</b>
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<b>c-MM1 Retiring Councillors</b>
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REF.	GM	101
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Recognising the service of two former Councillors who served during the last term of Council. The General Manager advised that Clr May King and Clr Malcolm Murray were unable to attend tonight's meeting.

***MN 376/08***

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

***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.***

***PASSED***

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**MINUTES OF THE ORDINARY MEETING OF COUNCIL**  
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**MAYORAL MINUTE**

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**OPEN COUNCIL**

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Clr T D Gair stated that he would be chairing this and the next meeting in full, and then rotate with the senior councillors to give the new Councillors a chance to become more familiar with the proceedings.

**MN 377/08**

107/10

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

**THAT** Council moves into Open Council to discuss various matters listed in the Agenda with Mayor, *Clr TD Gair* in the Chair.

**PASSED**

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**OPEN COUNCIL**

**ENVIRONMENT & PLANNING DIVISION**

**Business Enterprise and Economic Development**

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

REF: 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.

**OC 239/08**

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

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

**PASSED**

**Matter arising from Development Consents under Delegated Authority**

1. Clr P B Tuddenham referred to Item 1 LUA 08/0700 Lot 22 DP738201, 250 Bong Bong Street Bowral – Freestanding Pylon Sign and requested further information on what the sign was.

The Director Environment & Planning stated that he would advise councillors via the Weekly Circular.

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**Governance and Accountability**

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

REF: 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.

**OC 240/08**

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

1. **THAT the information regarding the List of Land Use Applications Nos 1-24 received by Council be received and noted.**
2. **THAT an information session be held as soon as possible to review the delegations relating to planning matters.**
3. **THAT a report on item no 24, LUA08/0904 Lot 11 DP 1129998 Lapwing Place, Moss Vale (newly created road)- 16 lot subdivision be presented to a future meeting of Council for consideration.**

**PASSED**

**Matters Arising from Development Applications received by Council**

2. Clr P B Tuddenham referred to items 1, 5, 8, 12 & 14 and requested additional details on these developments to be provided in the weekly circular

1	LUA08/0901	Lot 126 DP 586683 27 Arthur St, Moss Vale (near corner Spring St)	Alterations & Proposed Bed & Breakfast
5	LUA08/0913	Lot 24 DP 1097006 28 Garrett Street Moss Vale	Erect Primary School Buildings & Alter Building for Administration
8	LUA08/0980	Lot 1 DP 633623 79-81 Kirkham Rd, Bowral	Bio-Diesel Plant (old service station, near corner Oxleys Hill Road)
12	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?
14	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

The Director Environment & Planning stated that he would provide further details in the Weekly Circular.



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**REPORT OF DIRECTOR ENVIRONMENT & PLANNING**

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3. ALTERATIONS TO MAKE FAMILY ROOM AND DOUBLE CARPORT & TENNIS COURT, Lot 211 DP 748192 20 HOLLY ROAD, BURRADOO LUA08/0965

Clr L A C Whipper referred to items 6 and asked if the application for the tennis court has lights.

The Director Environment & Planning stated that he would provide further details in the Weekly Circular.

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## Environment and Sustainability

<b>o-EP3</b>	<b>Proposed Extension &amp; Carport 'Kalaorgan', 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.

### **OC 241/08**

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

***THAT the 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 be approved subject to conditions that include the recommendations from Council's Heritage adviser.***

### **PASSED**

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

Voting against the Motion: Nil

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## Environment and Sustainability

<b>o-EP4 Site Compatibility Certificate, Chelsea Gardens, Moss Vale</b>
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REF: DEP PN1682700; PN1705662; PN1703359
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Reporting on an application for a Site Compatibility Certificate under the *State Environmental Planning Policy Seniors Living*, for the property, Chelsea Gardens, Moss Vale.

### **OC 242/08**

**Interest:** Clr D Stranger declared a pecuniary interest in this item as his business managers the residential tenancies on adjoining properties, Coomungie & Park Leigh and Mr Avery is a competitor and colleague. He left the chamber, took no part in the debate and refrained from voting thereon.

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

**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.**

### **PASSED**

Voting for Motion: Clr J G Arkwright, Clr J Clark, Clr T D Gair, Clr K Halstead, Clr J Mauger, Clr G McLaughlin, Clr P B Tuddenham, Clr L A C Whipper,

Voting against the Motion: Nil

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## Environment and Sustainability

<b>o-EP5</b>	<b>Draft DCP for OLSH site, Bowral</b>
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REF: DEP	5700/62
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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.

**Interest:** Clr G McLaughlin declared a non pecuniary interest in this item as he lives in the area of West Bowral. He left the chamber, took no part in the debate and refrained from voting thereon.

### **OC 243/08**

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

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 (as listed below) in the Conclusions, be adopted and come into force on the date of the required public notice;**
  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.**
2. **THAT in relation to proposed changes to the DCP an additional point number six(6) be included as follows: "That the two (2) existing ecological communities on the site be linked" and come into force on the date of the required public notice.**
3. **THAT all relevant parties be advised of Council's decision.**

**PASSED**

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**REPORT OF DIRECTOR ENVIRONMENT & PLANNING**

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Voting for Motion: Clr J G Arkwright, Clr J Clark, Clr T D Gair, Clr K Halstead, Clr J Mauger, Clr P B Tuddenham, Clr L A C Whipper, Clr D Stranger

Voting Against the Motion: Nil

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**DCP FOR EUKARIMA**

**OC 244/08**

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

**THAT a site specific DCP be prepared for Eukarima and that the draft be brought to council for consideration before going on Public Exhibition.**

**PASSED**

Voting for Motion: Clr J G Arkwright, Clr J Clark, Clr T D Gair, Clr K Halstead, Clr J Mauger, Clr P B Tuddenham, Clr L A C Whipper, Clr D Stranger

Voting Against the Motion: Nil

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## Environment and Sustainability

<b>o-EP6</b>	<b>Proposed Dwelling Alteration, No 44 Bendooley Street, Bowral</b>
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REF: DCM	LUA08/0910
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Reporting on proposed alteration to a dwelling at Lot 17, DP 997145, No. 44 Bendooley Street, Bowral. Applicant: Clarence Croft.

### **OC 245/08**

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

**THAT the development application LUA08/0910 for alteration to a dwelling at Lot 17, DP 997145, No. 44 Bendooley Street, Bowral be approved.**

### **PASSED**

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

Voting Against the Motion: Nil

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**CORPORATE SERVICES DIVISION**

**Governance and Accountability**

<b>o-CS1</b>	<b>Investments as at 31 August 2008</b>
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REF	FSM	2104
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**OC 246/08**

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

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

**PASSED**

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<b>o-CS2 Pecuniary Interest Returns as at 30 September 2008</b>
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REF: DCS
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101/3
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Tabling Register of Pecuniary Interest Declarations as at 30 September 2008 as per Section 450A of the Local Government Act 1993,

**OC 247/08**

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

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

**PASSED**

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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.

#### **OC 248/08**

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

**THAT the Deed of Agreement to assign Contract 0702036 be executed under the Common Seal of Council.**

**PASSED**

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**Environment and Sustainability**

<b>o-TS2</b>	<b>IPART Determination of the Bulk Water Price Paid To Sydney Catchment Authority</b>
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REF:	WSM
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7730/2
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Reporting on the proposed price for purchase of bulk water from Sydney Catchment Authority (SCA), to be determined by IPART.

**OC 249/08**

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

**1. THAT Council advise IPART:**

- a. *it is not 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, however agree to pay under duress.*
- b. *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 makes presentation by Clr J Mauger, Clr K Halstead, Clr J G Arkwright and Director Technical Services to the public hearing on Wednesday 19 November 2008 requesting that the annual charge be reduced.**

**PASSED**

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<b>c-GM2</b>	<b>2008 Local Government Constitutional Summit – A Special National General Assembly to be held from 8-11 December 2008 in Melbourne</b>
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REF.	GM
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203/1.1
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Reporting on the 2008 Local Government Constitutional Summit – A Special National General Assembly to be held from 8-11 December 2008 in Melbourne.

**OC 251/08**

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

**THAT Councillor Clr J G Arkwright, Councillor Clr P B Tuddenham and the General Manager or nominee be appointed as Councils delegates to attend the 2008 Local Government Constitutional Summit – A Special National General Assembly to be held from Monday 8- Thursday 11 December 2008 in Melbourne.**

**PASSED**

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**COMMITTEE REPORTS**

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**COMMITTEE REPORTS TABLED**

<b>c-CR1</b>	<b>Management and Advisory Committee Reports</b>
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REF.	DCS	107/1
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Submitting minutes of thirteen (13) Committee meetings that will be tabled for information.

**OC 252/08**

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

**THAT the information contained in the Committee Reports be noted.**

**PASSED**

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**COMMITTEE REPORTS**

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<b>c-CR2</b>	<b>Water &amp; Sewer Advisory Committee Report</b>
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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.

***OC 253/08***

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

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

***PASSED***

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**COMMITTEE REPORTS ATTACHED**

<b>C-CR3</b>	<b>Legal Committee</b>
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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.

Clr L A C Whipper referred to Item 3 of the Legal Minutes – (Royal Hotel) and requested an update on how council was progressing with the matter relating to the approved extent of the licensed area.

The Director Environment & Planning advised that the matter will be considered at the next Legal Committee meeting.

**OC 254/08**

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

1. **THAT the recommendations as detailed in the minutes of the Legal Committee meeting held Wednesday, 10 September 2008 be adopted with the exception of item 7, Annesley – Usage of Non Residential Facilities on page 49 of the business paper.**

**PASSED**

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

PN 1753570

**OC 255/08**

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

1. **THAT before consideration of Item 7 in the Legal Committee minutes, Annesley – Usage Of Non Residential Facilities, be deferred pending a meeting of representatives from Annesley, interested councillors and local residents to take place at 12.30pm on Wednesday 12 November 2008, immediately prior to the next Legal Committee meeting**

**PASSED**

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<b>C-CR4</b>	<b>Traffic Committee</b>
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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.

Clr L A C Whipper referred to Additional Item 5 - Highland Wheels & Wings at Mittagong Airport and stated that one of the neighbouring properties is a Heritage Listed house and concerns had been raised at one stage about undermining the stability. Has this property owner been notified in relation to this.

The Director Environment & Planning stated that subject to confirmation this would have been carried out under normal Neighbourhood Notification procedures.

Clr L A C Whipper referred to Additional item No 7 on page 64 of the business paper – Concealed Driveway Sign on South Street, Robertson concerning sight distance.

The Director Technical Services agreed to provide additional information in the Weekly Circular concerning sight distance and signposting.

**OC 256/08**

The Committee on a MOTION moved by Clr T D Gair and seconded by Clr P B Tuddenham  
**RECOMMENDED:**

**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.**

**PASSED**

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**QUESTIONS FROM THE PUBLIC**

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**QUESTIONS FROM THE PUBLIC**

- 1 IPART DETERMINATION OF THE BULK WATER PRICE PAID TO SYDNEY CATCHMENT AUTHORITY 7730/2

Mrs Pam Cooper referred to item o-TS2 in the business paper and asked when the pipeline to Goulburn is completed and in use, to whom will Goulburn Mulwaree Council pay for its water pumped from the Wingecarribee Dam.

The Director Technical Services advised that Goulburn Mulwaree Council will pay the Catchment Authority and the price proposed will be the same as this Council.

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2. GAS FIRED ELECTRICITY GENERATING STATION AT PENROSE 6321, 5302

Mr Terry Oakes Ash asked if Wingecarribee Shire Council supported the proposed application by the Loran Group to build a gas fired electricity generating station at Penrose. He also stated that it was his understanding that this application has gone directly to NSW State Planning as being a site of State significance.

The Director Environment & Planning stated that the Loran Group had made presentation to Council regarding that proposal. Subsequently they made a decision to go down the path of Part 3A and that is where it resides at the moment. Council will have opportunity to make comment on the environmental assessment criteria and ultimately the environmental assessment itself at a later stage. He stated that as a Part 3A matter the council is no longer the consent authority but an interested party.

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**CHAIRPERSON**

At 5.00 pm, being the conclusion of Open Council, the Mayor, Cllr T D Gair, remained in the Chair and conducted the remainder of Council business.

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SOUTHERN COUNCILS GROUP – COUNCIL DELEGATES

205

***MN 378/08***

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

***THAT Clr T D Gair, and General Manager be appointed delegates to Southern Council Group AND THAT Clr J G Arkwright be appointed as alternate delegate.***

**PASSED**

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**GENERAL BUSINESS**

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1 BLUE GUM ROAD BUNDANOON

RD1809

Clr J Clark referred to the resolution of the previous Council to arrange for Councillors and residents to carry out an inspection of Blue Gum Road, Bundanoon regarding the proposed road widening and requested that an inspection be arranged as soon as possible.

Clr T D Gair suggested that all available Councillors be present at the next inspection committee meeting.

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2 LORAN ENERGY POWER PLANT – HANGING ROCK

6321, 5302

Clr J Clark following on from the comments of Clr L A C Whipper regarding the Loran Energy Power plant and enquired if Council could make formal submission on the Hanging Rock Power Station proposal.

Director Environment & Planning advised that he would provide further details in weekly circular.

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3. POTENTIAL QUARRY DEVELOPMENTS WITHIN THE SHIRE

7950, 5305

Clr L A C Whipper asked if the Director Environment & Planning could provide councillors with information on a proposal of a DA by Austral Bricks.

The Director Environment & Planning advised that there is information on this matter in issue 38/08 on two (2) quarry development proposals. Staff attended the focus meeting and have subsequently responded back to the Department of Planning highlighting the issues from Councils perspective. These will be made available in the Weekly circular as well.

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**GENERAL BUSINESS**

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4. EQUESTRIAN CENTRE

LUA06/1142

Clr L A C Whipper referred to the equestrian centre at Wallaby Hill Road in relation to traffic use as a result of the application. He asked if they are complying with their development control approvals could information be provided on this and in particular the wear and tear of the roads by the heavy vehicles that are using the road.

The Director Environment & Planning advised that the Manager of Develop Control has been investigating the proposal and has been on site himself and that in conjunctions with the Director Technical Services they will update this matter via the Weekly Circular.

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5. MEETING WITH NEW PLANNING MINISTER – SEPP5 DEVELOPMENTS

5320/5

Clr L A C Whipper asked on behalf of the SEPP HS Moratorium Steering Group, if a meeting can be convened prior to the delegation to the Planning Minister on Wednesday 22<sup>nd</sup> October.

Clr T D Gair advised that Council has been asked to reduce the numbers of delegated Councillors to three. The delegation will consist of Clr L A C Whipper, Clr G McLaughlin, Clr T D Gair (Mayor) with Clr K Halstead (Deputy Mayor) as alternate. He also stated that the Director Environment & Planning will also attend the meeting.

The Director Environment & Planning advised that a meeting has been arranged for 3pm next Monday 13 October 2008 before the delegation goes to the minister so that discussion with the Steering Group can occur. The issues that come out of this meeting will be passed onto the delegation for the discussions with the Minister.

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6. ROUNABOUT OLD SOUTH ROAD RANGE ROAD – SLIPPAGE

600/17, 6330/08.6, RD3189, RD1587

Clr K Halstead referred to the road collapse item in Southern Highland News and asked when will the Director Technical Services bring forward a report on the failure of the road works on the roundabout and will the Director report on the construction techniques adopted.

The General Manager stated that the entire issue is under active investigation where as soon as we are at the point where we have detailed information, an information session will be presented to Councillors and a full explanation on what occurred.

The Director Technical Services advised that remedial work is now well advanced and a comprehensive report will be brought back to Council.

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**GENERAL BUSINESS**

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7. ILLEGAL USE OF A GARDEN STUDIO PN 1703773 5302/9

Clr J G Arkwright referred to three letters sent to General Manager and councillors from a constituent regarding the illegal use of a garden studio. The letters were dated 16 April 2007, 25 September 2007 and 30 September 2008 and a reply has not been received.

The General Manager advised that he may not have seen the letters but will ensure a response is forwarded and he will provide Councillors with a copy of that correspondence.

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8 CONDITIONS OF ROADSIDE – MAUGERS ROAD & ILLAWARRA HWY  
7810/10.1, RD3654

Clr J Mauger referred to the conditions of Maugers Road in Robertson and asked when is it likely that RTA will carry out roadside clearing and grading. He noted that the road had not been graded for over two years. He also noted that between Fountaindale Road and Illawarra Highway Robertson a number of trees were overgrowing onto the roadway and it was considered dangerous for motorists. He requested that roadside clearing is needed as a matter of urgency.

The Director Technical Services advised that the work will be undertaken.

Clr Tuddenham advised that this matter will be included in the agenda for the next Traffic Committee meeting.

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9 CAPERNRWAY LUA06/1457 502/63

Clr T D Gair congratulated the planning staff and legal representation in relation to the Capernwray matter. He stated that it had been a great result and a moral victory for Council. It was noted in the summary that generally the evidence of Council's planner, Mr Peter Malloy was preferred to the various experts giving evidence for the applicant. Clr Gair asked that the Director Environment and Planning also pass on Council's thanks to Mr Malloy.

The Director Environment & Planning advised that he would pass on Council's thanks to Mr Malloy for his representation at court and to the planning staff.

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**CORPORATE SERVICES DIVISION**

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

To consider moving into Closed Council.

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

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

**Objections:** Clr K Halstead uncomfortable going into closed committee.

**MN 379/08**

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

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

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

**Relevant Legal Provisions**

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

**Brief Description**

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

**Public Interest**

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

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

**PASSED**

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**CORPORATE SERVICES DIVISION**

<b>c-CS1</b>	<b>Update on Lehman Brothers Australia</b>	
REF.	DCS	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.*

The Committee on a MOTION moved by Clr P B Tuddenham seconded by Clr D Stranger  
**RECOMMENDED:**

- 1 **THAT the information provided in relation to WSC V Lehman Brothers Australia be received and noted.**
- 2 **THAT a media release from the Mayor be prepared which includes costs to date that Council has incurred in its case against Lehman Brothers Australia.**

**PASSED**

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**OPEN COUNCIL**

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**MN 380/08**

107/10

**MOTION** moved by Cllr P B Tuddenham seconded by Cllr L A C Whipper

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

**PASSED**

No members of the public were present in the Chamber.

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**ADOPTION OF CLOSED COUNCIL**

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**MN 381/08**

107/9

**MOTION** moved by Cllr P B Tuddenham seconded by Cllr L A C Whipper

**THAT the recommendations of the Closed Council held on Wednesday, 2008 (Items c-CS1) be adopted.**

**PASSED**

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**ADOPTION OF OPEN COUNCIL**

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**MN 382/08**

107/10

**MOTION** moved by Cllr P B Tuddenham seconded by Cllr L A C Whipper

**THAT the recommendations of the Open Council held on Wednesday, being OC239 /08 to OC256 /08, be adopted.**

**PASSED**

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**MINUTES OF THE ORDINARY MEETING OF COUNCIL**  
held in the Council Chamber, Civic Centre, Elizabeth Street,  
Moss Vale on Wednesday, 8 October 2008



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THERE BEING NO FURTHER BUSINESS, THE MEETING CLOSED AT 6.30 PM

In accordance with the provisions of Section 375(2) of the Local Government Act, these Minutes of the Ordinary Council Meeting held Wednesday, 8 October 2008 numbered MN 374/08 to MN382/08, were signed by me hereunder at the Council Meeting held on Wednesday, 22 October 2008.

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CHAIRMAN

READ AND CONFIRMED THIS WEDNESDAY, 22 October 2008

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CHAIRMAN

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PUBLIC OFFICER



**MINUTES OF THE ORDINARY MEETING OF COUNCIL**  
held in the Council Chamber, Civic Centre, Elizabeth Street,  
Moss Vale on Wednesday, 8 October 2008

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