

MINUTES

OF THE ORDINARY MEETING OF COUNCIL

File No. 100/10



held on Wednesday, 24 February 2010

The meeting commenced at 3.30 pm.



MINUTES OF THE ORDINARY MEETING OF COUNCIL

held in the Council Chamber, Civic Centre, Elizabeth Street, Moss Vale
on Wednesday, 24 February 2010

CONTENTS

CONFIRMATION OF MINUTES	3
VISITOR ITEM	5
v-EP1 Hobby Storage Shed and Continuing Use of Existing Structures at Lot 1 DP 618173, Grey Gum Lane, Bundanoon	5
OPEN COUNCIL	7
ENVIRONMENT & PLANNING DIVISION	7
o-EP1 Development Consents Determined by Way of Approval Under Delegated Authority	7
o-EP2 List of Land Use Applications Received By Council.....	8
o-EP3 Staged Concept Development Consent for a Tourist Accommodation Development at Lot 2 DP 8146881, Gullies Road, Bundanoon	9
o-EP4 Section 96 Modification and SEPP 1 Objection – Four Lot Residential Subdivision, Balaclava Street, Balaclava (Applicant: Harmony, The Dombroski Foundation Ltd).....	10
o-EP5 Section 96 Modification to Proposed 3 Lot Subdivision, Lots 7 and 8 DP1002939, No. 8 Sullivan Road, Burradoo.....	11
o-EP6 Proposed Modification of Consent under S96(1a) for Fitout of Shop, “The Intersection”, Station Street, Bowral.....	12
o-EP7 Proposed 17 Lot Subdivision, “Wandevan”, Southey Street, Mittagong.....	13
o-EP8 Alterations and Additions to General Store, New Dwelling, Tourist Facility, Cellar Door, Local Produce Building & Commercial Shops (Staged Development) at Canyonleigh General Store, Tugalong Road, Canyonleigh	14
o-EP9 Wingecarribee Open Space, Recreation, Cultural and Community Facilities Needs Study and Strategy – Review	15
o-EP10 Council submission in regards to Draft Guidelines for Part 5B Development Contributions	16
o-EP11 Local Infrastructure Fund – Interest Free Loan Offer.....	17
o-EP12 “Vine Lodge” – 25 lot subdivision, Exeter Road, Exeter.....	18
CORPORATE SERVICES DIVISION	19
o-CS1 Investments as at 31 January 2010	19
o-CS2 Tape Recording and/or Taking Photographs at Council Meetings	20
o-CS3 Payment of Expenses and Provision of Facilities to the Mayor and Councillors Policy.....	21
QUESTIONS FROM THE PUBLIC	23
CORPORATE SERVICES DIVISION (CONT)	24
o-CS4 Survey and Community Consultation Exeter Park and Exeter Hall	24
INFRASTRUCTURE SERVICES DIVISION	25
o-IS1 Reconstruction of Range Road, Mittagong	25
o-IS2 Berrima River Reserve Camping Ground.....	26
COUNCIL MATTERS	27
GENERAL MANAGER’S REPORTS	27
c-GM1 General Manager’s Quarterly Report	27
COMMITTEE REPORTS ATTACHED	28
c-CR1 Finance Sub Committee.....	28
c-CR2 Finance Committee	29
GENERAL BUSINESS	30



MINUTES OF THE ORDINARY MEETING OF COUNCIL

held in the Council Chamber, Civic Centre, Elizabeth Street, Moss Vale
on Wednesday, 24 February 2010

CORPORATE SERVICES DIVISION	34
c-CS1 Closed Council	34
CLOSED COUNCIL	36
c-GM1 Proposed Acquisition of Land for Road Widening Purposes - Range Road Reconstruction at Webb Street Intersection, Mittagong	36
c-GM2 Tender for Plant and Equipment Hire (15/10)	37



MINUTES OF THE ORDINARY MEETING OF COUNCIL

held in the Council Chamber, Civic Centre, Elizabeth Street, Moss Vale
on Wednesday, 24 February 2010

COMMENCING AT: 3.30 pm

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

IN ATTENDANCE: General Manager
Director Corporate Services
Director Environment & Planning
Director Infrastructure Services
Manager Administration & Library
Services
Administration Officer

Mr Jason Gordon
Mr Barry Paull
Mr Scott Lee
Mr Michael Brearley

Mr Peter Nelson
Ms Liz Johnson

OPENING OF MEETING AND ACKNOWLEDGEMENT OF COUNTRY

1826/4

The Mayor Clr T D Gair opened the meeting and acknowledged country:

"We acknowledge the Traditional Owners and Custodians of this Land and we pay respect to the past and present Elders of the Country we are meeting on today."

PRAYER

100/1

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



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PUBLIC FORUM

LUA08/1042

Mr Peter Grigg on behalf of the Exeter Park Management Committee, Exeter Village Association and some members of the Exeter community, requested and was granted approval to speak on the following matter in the agenda:

Item o-EP12 – “Vine Lodge” – 25 Lot Subdivision, Exeter Road, Exeter.

The Mayor Clr T D Gair thanked Mr Grigg for his comments which would be taken into account when the matter was considered later in the meeting.

APOLOGY

PERS

M/N 46/10

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

THAT the apology of Clr Ken Halstead be accepted and leave of absence granted.

PASSED



MINUTES OF THE ORDINARY MEETING OF COUNCIL

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on Wednesday, 24 February 2010

CONFIRMATION OF MINUTES

MINUTES OF THE ORDINARY MEETING OF COUNCIL HELD ON WEDNESDAY,
10 FEBRUARY 2010

100/1

MN 47/10

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

THAT the minutes of the Ordinary Meeting of Council held on Wednesday, 10 February 2010 MN 24/10 to MN 45/10 inclusive, copies of which were forwarded to Councillors, be adopted as a correct record of the proceedings of the meeting.

PASSED

BUSINESS ARISING

1. FOUR (4) CYLINDER CAR POLICY

841/5

Clr L A C Whipper referred to the General Business Question (*Number 11*) he had raised regarding Council's policy on the use of four (4) cylinder cars and asked if there was an update on this matter.

The General Manager advised that a report regarding the policy on the use of four (4) cylinder cars will be forwarded to Council on Wednesday, 24 March 2010.



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DECLARATIONS OF INTEREST

101/3

Clr G McLaughlin declared a non-significant/non-pecuniary interest in Item o-EP7 Proposed 17 Lot Subdivision, "Wandevan", Southey Street, Mittagong – as he is a friend of the owners. He stated that he will stay in the Chamber, take part in the debate and will vote thereon.

OPEN COUNCIL

MN 48/10

107/10

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

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

PASSED



VISITOR ITEM

**v-EP1 Hobby Storage Shed and Continuing Use of Existing Structures at Lot 1
DP 618173, Grey Gum Lane, Bundanoon**

REF: MDBS

LUA09/0270

Reporting on LUA 09/0270 which seeks development consent for a hobby storage shed and continuing use of existing structures at Lot 1 DP618173, Grey Gum Lane, Bundanoon.

The Applicant Mr Les Rundle addressed Council on this matter.

The Director Environment & Planning addressed Council on this matter.

OC 21/10

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

THAT LUA09/0270, for the continued use of the shipping container, other existing structures detailed on plans, the addition to an existing shed, the re-cladding of an existing shed and the demolition of the existing carport at Lot 1 DP 618173, Grey Gum Lane, Bundanoon be approved, subject to the conditions of consent as described in Attachment 4 to the report, with the exception of Condition No 7 which is to read as follows:

7. Prior to Commencement of Work

- (a) ***All landscaping will be installed as per the landscaping plan dated the 22nd September 2009 and as per the information submitted by Winter Hill Tree Farm dated 21st September 2009.***
- (b) ***The Shipping Container shall be painted on all four (4) sides in an Ironbark colour the roof painted in a Mist Green colour.***
- (c) ***All second hand cladding will be removed and replaced by a new colourbond corrugated sheeting in an Ironbark colour.***

All works shall be completed by 90 days from the date of this consent.

PASSED

.....Cont'd



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REPORT OF DIRECTOR ENVIRONMENT & PLANNING

.....Cont'd

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

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



OPEN COUNCIL

ENVIRONMENT & PLANNING DIVISION

o-EP1 Development Consents Determined by Way of Approval Under Delegated Authority

REF: MDBS 5302

Submitting list of development consents executed under delegated authority of the Director of Environment and Planning between 1 February and 15 February 2010.

Clr D Stranger asked if the timeframe, ie, the number of days for an application to be approved, could be provided.

The General Manager advised that this matter is being reviewed and additional information will be provided in line with the way that the Department of Planning reports the statistics.

OC 22/10

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

THAT the information relating to Development Consents Nos 1-11 Approved and Development Consents Refused under Delegated Authority - Nil for this Period - be received and noted.

PASSED



o-EP2 List of Land Use Applications Received By Council

REF: MDBS 5302

Submitting list of development applications which have been received between 1 February and 15 February 2010, some of which will be dealt with under delegated authority of the Director of Environment & Planning.

OC 23/10

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

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

PASSED

Matters Arising from Land Use Applications Received by Council

1. ITEM 2 - GREAT MOSCOW CIRCUS, APEX PARK, MOSS VALE ROAD, BURRADOO LUA10/0087

Clr J R Clark asked about Item No 2 and if there was a timeframe on this application, noting that the matter is to be referred to Council.

The Manager Development & Building Services advised that further information is awaited from the applicant in relation to traffic management. He advised that there are problems with the particular location and at this stage he cannot provide a timeframe of when the report will be brought before Council.

2. ITEM 5 – DEMOLITION OF DWELLING AND SHEDS, WILLOWCROFT, ILLAWARRA HIGHWAY, ROBERTSON LUA10/0107

Clr L A C Whipper asked for further information on this development.

The General Manager advised that information will be provided in the Weekly Circular.



o-EP3 Staged Concept Development Consent for a Tourist Accommodation Development at Lot 2 DP 8146881, Gullies Road, Bundanoon

REF: MDBS

LUA09/1013

Reporting on LUA 09/1013 which seeks staged concept development consent for a Tourist Accommodation development at Lot 2 DP 8146881, Gullies Road, Bundanoon.

The Manager Development & Building Services addressed Council on this matter.

OC 24/10

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

1. **THAT LUA 09/0200 which seeks staged concept development consent for a Tourist Accommodation at Lot 2 DP 8146881, Gullies Road, Bundanoon, be approved subject to conditions as described in Attachment 5 AND THAT appropriate sterilised seeding be replanted on disturbed areas to prevent erosion.**
2. **THAT a restriction as to user must be imposed upon the lot to:**
 - (i) **Prevent the use of the accommodation for permanent residency; and**
 - (ii) **Limit the length of stay by any guest to a maximum of twenty eight (28) days for a single stay, and to no more than four (4) times per year by the same guest.**

PASSED

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

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



o-EP4 Section 96 Modification and SEPP 1 Objection – Four Lot Residential Subdivision, Balaclava Street, Balaclava (Applicant: Harmony, The Dombroski Foundation Ltd)

REF: MDBS

LUA09/0535.01

Reporting on a Section 96 Modification and SEPP 1 Objection to a previously approved four lot residential subdivision involving Lot 50 DP622648 and Lots 1 and 2 DP124279, Balaclava Street, Balaclava.

OC 25/10

The Manager Development & Building Services addressed Council on this matter.

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

THAT the proposed amendment to LUA09/0535 which seeks consent for a four (4) lot subdivision of Lot 50 DP622648 and Lots 1 and 2 DP124279, Balaclava Street, Balaclava, be approved subject to conditions of consent described in Attachment 4 to the report.

PASSED

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

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



**o-EP5 Section 96 Modification to Proposed 3 Lot Subdivision, Lots 7 and 8
DP1002939, No. 8 Sullivan Road, Burradoo**

REF: MDBS

LUA2009/0401

Reporting on a Section 96 modification application for a proposed 3 lot subdivision of Lots 7 and 8 DP 1002939 Sullivan Road and The Avenue, Burradoo.

OC 26/10

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

THAT the proposed modification to development consent LUA09/0401 for a three (3) lot subdivision of Lots 7 and Lot 8 DP 1002939, Sullivan Road, Burradoo, which involves a minor alteration to lot boundaries as described in the report, be approved subject to the conditions as set out in Attachment 3 to the report.

PASSED

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

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



o-EP6 Proposed Modification of Consent under S96(1a) for Fitout of Shop, "The Intersection", Station Street, Bowral

REF: MDBS

LUA09/0464

This report deals with an application under Section 96(1a) of the Environmental Planning & Assessment Act, 1979 (EP & A Act 1979) for the modification of conditions of consent relating to deliveries for the previously approved fitout of the vacant shop area at "The Intersection".

OC 27/10

The Manager Development & Building Services and General Manager addressed Council on this matter.

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

THAT the application under section 96(1a) of the Environment Planning and Assessment Act, for modifications to the delivery/unloading requirements of development consent LUA09/0464 for the fitout of the IGA shop at "The Intersection", Station Street, Bowral be refused for the following reasons:

- (i) As a consequence of the proposed deliveries by a 14.5 metre articulated vehicle, or the alternative of deliveries by medium rigid vehicle more than two (2) times per week, the modification would result in a "large shop" as defined in Development Control Plan No 12 and not a "medium shop" as approved by Council.***
- (ii) The change to a "large shop" would result in a shortfall of five (5) carparking spaces and it has not been demonstrated how this shortfall will be addressed.***
- (iii) The proposed "large shop" is not substantially the same development as the "medium shop" approved by Council, and therefore a modification pursuant to s96 of the Environmental Planning and Assessment Act, 1979 is inappropriate.***

PASSED

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

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



o-EP7 Proposed 17 Lot Subdivision, "Wandevan", Southey Street, Mittagong

REF: MDBS

LUA 09/1008

Council is in receipt of a development application proposing a seventeen (17) lot subdivision of "Wandevan", Lot 112 DP 616941 Southey Street, Mittagong. This report recommends approval of the application subject to conditions. The property has heritage significance although it is currently not listed as an item of heritage within Council's Local Environmental Plan.

Interest: Clr G McLaughlin declared a non-significant/non-pecuniary interest in this item, as he is a friend of the owners. He remained in the Chamber, took part in the debate and voted thereon.

The Manager Development & Building Services addressed Council on this matter.

OC 28/10

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

- 1. THAT LUA 09/1008 for a seventeen (17) lot subdivision of the property known as Wandevan, being Lot 112 DP 616941, Southey Street, Mittagong, be approved subject to the conditions of consent as set out in Attachment 4 to the report.***
- 2. THAT prior to the release of the subdivision construction certificate, the applicant must provide Council with a plan which demonstrates how the pise outbuilding is to be restored or, if it is not practical to do so, to at least protect this outbuilding from deteriorating further.***
- 3. THAT this property be included in the work currently being undertaken by Council staff for additional heritage listing of properties under the Wingecarribee Local Environmental Plan.***

PASSED

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

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



MINUTES OF THE ORDINARY MEETING OF COUNCIL

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REPORT OF DIRECTOR ENVIRONMENT & PLANNING

o-EP8 Alterations and Additions to General Store, New Dwelling, Tourist Facility, Cellar Door, Local Produce Building & Commercial Shops (Staged Development) at Canyonleigh General Store, Tugalong Road, Canyonleigh

REF: MDBS

LUA09/0659

This is an assessment report on a Development Application lodged over Lot 1 DP 852803 Tugalong Road, Canyonleigh (the Canyonleigh General Store) for alterations and additions to the general store, construction of a new dwelling, tourist facility, a local produce building including cellar door sales, and a separate new building comprising 4 commercial shops (Refer to **Attachment 1** accompanying this report).

OC 29/10

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

THAT LUA09/0659 for alterations and additions to General Store, New Dwelling, Tourist Facility, Cellar Door, Local Produce Building and Commercial Shops (Staged Development) at Canyonleigh General Store, Tugalong Road, Canyonleigh, be deferred for consideration to a future Ordinary Meeting of Council.

PASSED

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

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



**o-EP9 Wingecarribee Open Space, Recreation, Cultural and Community Facilities
Needs Study and Strategy – Review**

REF: SPM

5701/5, 5702/2, 5703/3

This report discusses the findings and key points of a review of the *Wingecarribee Open Space, Recreation, Cultural and Community Facilities Needs Study and Strategy* (2004) by Parsons Brinkerhoff (PB).

The General Manager requested a change to the recommendation by replacing the word “resource” with the word “reference”.

Council’s Director Environment & Planning addressed Council on this matter.

OC 30/10

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

THAT Council receive and note the *Wingecarribee Open Space, Recreation, Cultural and Community Facilities Needs Study and Strategy – Review* as a reference document.

PASSED



o-EP10 Council submission in regards to Draft Guidelines for Part 5B Development Contributions

REF: SPM

5702

This report discusses Council's response to the Department of Planning's Draft Guidelines for Part 5B Development Contributions pursuant to the Environmental Planning and Assessment Amendment Act 2008.

OC 31/10

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

1. **THAT Council endorses the draft submission as included in Attachment 2 on the Department of Planning's Draft Guidelines for Part 5B Development Contributions.**
2. **THAT the submission be forwarded to the Department of Planning before the closing date of 26 February 2010.**

PASSED

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

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



o-EP11 Local Infrastructure Fund – Interest Free Loan Offer

REF: SPM 5602/11, 5701/27

This report discusses the Local Infrastructure Fund Interest Free Loan offer from the Department of Planning for \$2.65 million towards the provision of sewer infrastructure and upgrade of Douglas Road within the Moss Vale Enterprise Zone.

Council's Director Corporate Services addressed Council on this matter.

OC 32/10

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

1. **THAT Council accepts the New South Wales Local Infrastructure Fund Loan Agreement as included in Attachment 1 and informs the Department of Planning of its decision.**
2. **THAT the Loan Agreement be signed by the Mayor and General Manager and be executed under the Common Seal of the Council.**
3. **THAT Council invite the relevant Ministers to present the grant and turn the first sod.**
4. **THAT Council acknowledge the work carried out by the staff involved in this project.**

PASSED



o-EP12 "Vine Lodge" – 25 lot subdivision, Exeter Road, Exeter

REF: MDBS

LUA08/1042

Reporting on additional information sought by Councillors in respect of the conditions of consent for LUA 08/1042, in particular, the proposed new access to Exeter Park.

The General Manager and Manager Development & Building Services addressed Council on this matter.

OC 33/10

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

1. ***THAT*** LUA 08/1042 "Vine Lodge" – 25 Lot Subdivision, Exeter Road, Exeter, be deferred pending an on-site inspection by Councillors at the next inspection date ***AND THAT*** the Applicant and Exeter associations and residents be invited to attend the onsite inspection.
2. ***THAT*** a further report be forwarded to the Ordinary Meeting of Council to be held on Wednesday, 24 March 2010.
3. ***THAT*** authority be delegated to the General Manager to determine any s96 application to LUA08/1042 lodged by the applicant to modify the development consent by deleting 41(b)(ii)(a) which relates to the provision of a separate access to Exeter Park.

PASSED

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

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



CORPORATE SERVICES DIVISION

o-CS1 Investments as at 31 January 2010

REF: FSM 2104

Submitting details of Council's Investments as at 31 January 2010.

Council's Director Corporate Services addressed Council on this matter.

OC 34/10

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

THAT the information on Council's Investments as at 31 January 2010 be received and noted.

PASSED

CHAIRPERSON

At this juncture, the time being 5.02 pm, the Mayor, Clr T D Gair, remained in the Chair to conduct the remainder of Council Business.



o-CS2 Tape Recording and/or Taking Photographs at Council Meetings

REF: MALS

100/3

Reporting on a request from a local newspaper to use a digital note-taker during Council Meetings. In conjunction with this request, it is opportune to also review our policy on the taking of photographs at Council Meetings.

Council's Director Corporate Services addressed Council on this matter.

MN 49/10

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

1. **THAT Council refuse the request to tape record Council Meetings.**
2. **THAT Council's Code of Meeting Practice be amended to request any member of the public to seek permission from Council to take photographs at any of its Council Meetings or Committee meetings as follows:**

10.3.6 **A person may take photographs of a meeting of Council or a committee of Council only with the authority of the Council or committee (wsc).**

PASSED

VOTING ON THE MOTION:

Voting Against the Motion: Clr T D Gair, Clr J R Clark, Clr G McLaughlin, Clr P B Tuddenham and Clr L A C Whipper

Voting against the Motion: Clr J G Arkwright, Clr J Mauger and Clr D Stranger



o-CS3 Payment of Expenses and Provision of Facilities to the Mayor and Councillors Policy

REF: MALS

101/5

Reporting on public exhibition of Council's *Payment of Expenses and Provision of Facilities to the Mayor and Councillors* policy in accordance with the provision of Section 252 of the *Local Government Act, 1993*

MN 50/10

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

1. ***THAT*** Council amend its Policy for the Payment of Expenses and Provision of Facilities to the Mayor and Councillors as follows:

“(a) 1.2.3 Travel

(i) Travel by Vehicle

(a) Where a Councillor uses a private vehicle, the Councillor shall be reimbursed on a per kilometre basis at the rate of \$0.64 cents for vehicles with an engine capacity less than 2.5L and \$0.73 cents per kilometre for vehicles with an engine capacity greater than 2.5L. Wherever possible to minimise such costs Councillors may use Council vehicles and share with other Councillors and staff where appropriate.

Note: Car Allowance (costs per km) is based on payments made to staff under the provisions of Clause 13(iii) of the Local Government (State) Award 2007

(b) Legal Expenses and Obligations

Council may also reimburse reasonable expenses of legal costs for an inquiry, investigation or hearing into a Councillor's conduct by an appropriate investigative or review body including:

- Local Government Pecuniary Interest and Disciplinary Tribunal***
- Independent Commission Against Corruption***
- Office of the NSW Ombudsman***
- Division of Local Government, Department of Premier and Cabinet***
- NSW Police Force***
- Director of Public Prosecutions***
- Council's Conduct Review Committee/Reviewer***

.....Cont'd



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REPORT OF DIRECTOR CORPORATE SERVICES

.....Cont'd

Note: This is provided that the subject of the inquiry, investigation or hearing arises from the performance in good faith of a Councillor's functions under the Act and the matter before the investigative or review body has proceeded past any initial assessment phase to a formal investigation or review. In the case of a conduct complaint made against a Councillor, legal costs may only be made available where a matter has been referred by the general manager to a conduct reviewer/conduct review committee to make formal enquiries into that matter in accordance with the procedures in the Model Code of Conduct. In the case of a pecuniary interest or misbehaviour matter legal costs may only be made available where a formal investigation has been commenced by the Division of Local Government.

In addition, legal costs may only be provided where the investigative or review body makes a finding that is not substantially unfavourable to the Councillor. This may include circumstances in which a matter does not proceed to a finding in relation to a Councillor's conduct, a finding by an investigative or review body that an inadvertent minor technical breach had occurred may not necessarily be considered a substantially unfavourable outcome.

Authorisation of the payment or reimbursement of legal expenses for a Councillor will be subject to approval by Council, following consideration of the relevant matters, including this policy, via a report to open Council."

2. ***THAT*** the Policy as amended be submitted to the Department of Local Government as per the requirements of Section 252 of the Local Government Act 1993.

PASSED



QUESTIONS FROM THE PUBLIC

1. CUNNINGHAM PARK DRAFT MASTERPLAN 7124/3

Mrs Jan Hainke asked in relation to this matter:

- (i) How many submissions were received?
- (ii) Are the submissions available to be viewed by the public?
- (iii) Is she able to view them?

The Director Infrastructure Services advised that he will take the matter on notice. He advised that once the submissions have been collated, a report is sent to Council at which time the submissions would be available to Councillors.

The Mayor Clr T D Gair advised that the protocol would be for Councillors to view the submissions prior to them being made available to the public.



CORPORATE SERVICES DIVISION (CONT)

o-CS4	Survey and Community Consultation Exeter Park and Exeter Hall
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REF:	MALS	7209, 6536/1
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Reporting on results from community consultation regarding Exeter Park and Exeter Hall.

MN 51/10

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

1. ***THAT Council notes the results of the Community Survey.***
2. ***THAT the project to construct a new amenities block at Exeter Park be submitted for consideration in the 2010/11 Management Plan and Budget.***

PASSED



MINUTES OF THE ORDINARY MEETING OF COUNCIL

held in the Council Chamber, Civic Centre, Elizabeth Street, Moss Vale
on Wednesday, 24 February 2010

REPORT OF THE GENERAL MANAGER

INFRASTRUCTURE SERVICES DIVISION

o-IS1 Reconstruction of Range Road, Mittagong

REF: DPM RD3212, RD3189, PN1260300, PN1260200

Reporting on the proposed reconstruction of Range Road, Mittagong in the vicinity of Webb Street.

MN 52/10

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

THAT Council endorses the project, being the reconstruction of Range Road, Mittagong in the vicinity of Webb Street AND THAT equal amounts of offset plantings, other than Frensham, occur on public land and in consultation with the Environment & Sustainability Committee so as to ensure their long-term protection.

PASSED



MINUTES OF THE ORDINARY MEETING OF COUNCIL

held in the Council Chamber, Civic Centre, Elizabeth Street, Moss Vale
on Wednesday, 24 February 2010

REPORT OF THE GENERAL MANAGER

o-IS2	Berrima River Reserve Camping Ground
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REF:	PPM	6526/15, 6526/15.1
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The purpose of this report is for Council to consider the fees and regulations to be applied for camping of the Berrima River Reserve Camping Ground.

MN 53/10

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

1. **THAT Council place on exhibition for 28 days the proposed camping fee for Berrima River Reserve \$15 (GST inclusive) per site for a maximum of 2 days.**
2. **THAT the following Council Regulations, applying as a condition of camping to the Berrima River Reserve, be placed on public exhibition for 28 days:**
 - (a) **Use of generators is prohibited**
 - (b) **No waste water is to be discharged on the ground**
 - (c) **Lighting of Fires is not permitted**
 - (d) **Maximum 2 night stay**
 - (e) **One Vehicle per camp site.**
3. **THAT Council forward the recommended regulations to the Land & Property Management Authority for approval.**
4. **THAT the fees collected be used for future improvements to the Berrima River Reserve in accordance with the Plan of Management.**
5. **THAT if approval from the Land & Property Management Authority occurs prior to completion of the exhibition period, all camping fees will be waived until such time as they have been considered by Council**

PASSED



COUNCIL MATTERS

GENERAL MANAGER'S REPORTS

c-GM1 General Manager's Quarterly Report

REF: GM	506/1
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Submitting the General Manager's Quarterly Report to 31 December 2009.

The General Manager addressed Council on this matter.

MN 54/10

MOTION moved by Cllr J G Arkwright and seconded by Cllr D Stranger:

THAT the information in respect of the General Manager's Quarterly Report to 31 December 2009 be received and noted.

PASSED



MINUTES OF THE ORDINARY MEETING OF COUNCIL

held in the Council Chamber, Civic Centre, Elizabeth Street, Moss Vale
on Wednesday, 24 February 2010

REPORT OF DIRECTOR CORPORATE SERVICES

COMMITTEE REPORTS ATTACHED

c-CR1	Finance Sub Committee
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REF:	DCS
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107/34.1

Submitting minutes of the Finance Sub Committee held on Wednesday, 27 January 2010.

The Director Corporate Services addressed Council on this matter.

MN 55/10

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

THAT the recommendation as detailed in the minutes of the Finance Sub Committee meeting held on Wednesday, 27 January 2010 be adopted.

PASSED



MINUTES OF THE ORDINARY MEETING OF COUNCIL

held in the Council Chamber, Civic Centre, Elizabeth Street, Moss Vale
on Wednesday, 24 February 2010

REPORT OF DIRECTOR CORPORATE SERVICES

c-CR2	Finance Committee
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REF:	DCS
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107/21

Submitting minutes of the Finance Committee held on Wednesday, 17 February 2010.

The Director Corporate Services addressed Council on this matter.

MN 56/10

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

THAT the recommendations as detailed in the minutes of the Finance Committee meeting held on Wednesday, 17 February 2010 be adopted.

PASSED



MINUTES OF THE ORDINARY MEETING OF COUNCIL

held in the Council Chamber, Civic Centre, Elizabeth Street, Moss Vale
on Wednesday, 24 February 2010

REPORT OF DIRECTOR CORPORATE SERVICES

GENERAL BUSINESS

1. FAILURE OF FIRE APPLIANCE

6417, 6310

Clr J Mauger referred to the failure of the Robertson Fire Appliance to start at 7.30 am on Sunday, 21 February 2010 when there was an emergency situation at Robertson. He advised that the volunteers of the Bush Fire Brigade had requested, over a number of months, that the batteries be replaced. Clr Mauger asked for an assurance from the Rural Fire Service that all batteries on fire appliances throughout the Wingecarribee Shire will be checked, with the onset of cooler weather.

The Mayor Clr T D Gair advised that Clr Mauger's request was noted, and that this should be a maintenance procedure.

The General Manager advised that the matter will be raised with the Rural Fire Service (RFS) with a request that all batteries be checked and also for confirmation from the RFS that they have a maintenance programme in place for all fire vehicles.

2. NORTHERN GATEWAY DRAFT LEP

5901

Clr D Stranger referred to an item he had received by registered mail from Shaw Reynolds Bowen & Gerathy, Lawyers, regarding an objection to the proposed zoning, which is quite detailed, and asked for further information in relation to this matter.

The General Manager advised that he has received the correspondence, and a reply will be provided for Councillors in the Weekly Circular.

3. BELMORE FALLS AND WALLABY HILL ROADS, ROBERTSON

RD3640, RD3651, 7810/3

Clr J G Arkwright advised that she was in receipt of a copy of a letter sent by Council to Mr and Mrs Poole dated 18 February 2010 in relation to Belmore Falls Road and Wallaby Hill Road, and asked if the contents of this letter could be investigated.

The General Manager advised that the matter will be investigated.



MINUTES OF THE ORDINARY MEETING OF COUNCIL

held in the Council Chamber, Civic Centre, Elizabeth Street, Moss Vale
on Wednesday, 24 February 2010

REPORT OF DIRECTOR CORPORATE SERVICES

4. NEIGHBOUR NOTIFICATION REGARDING SUTHERLAND PARK DEVELOPMENT IN ERIDGE PARK ROAD, BURRADOO PN507400

Clr J G Arkwright advised that she had been contacted by residents in Burradoo who have received neighbour notification from Council in relation to this proposed development, and also correspondence they have received from the applicant's representative, Crighton Properties, entitled "*Community Consultation for a unique new Planning concept in Burradoo*". She asked if Council would at a future time hold community consultation in relation to the development.

The General Manager advised that it may be appropriate for Council to issue a Press Release to clarify Council's position on the matter.

5. PROPOSED DISPOSAL OF POLICE STATIONS BY THE NEW SOUTH WALES STATE GOVERNMENT 1440/4, 1440/5

Clr P B Tuddenham referred to a recent article about disposal of Police Stations by the New South Wales State Government and asked if Council could investigate this issue, as he would not like to see any of the local Police Stations in this Shire sold.

The Mayor Clr T D Gair advised that representations should be made to the New South Wales State Government through the Member for Goulburn, Ms Pru Goward, MP, and also directly to the New South Wales Minister for Police, the Hon Michael Daley, MP.

6. TRAFFIC RANGERS FOR MOSS VALE AND MITTAGONG 5504

Clr P B Tuddenham referred to traffic patrols in Moss Vale and Mittagong, and requested that the Chambers of Commerce in both towns be notified that patrols are going to occur. Clr Tuddenham requested notification by Press Release that Council traffic rangers will be patrolling the streets and that a date for commencement should also be advised in the press release.

The Mayor Clr T D Gair thanked Clr Tuddenham for raising this issue and requested the General Manager to action the request by way of a Press Release.



MINUTES OF THE ORDINARY MEETING OF COUNCIL

held in the Council Chamber, Civic Centre, Elizabeth Street, Moss Vale
on Wednesday, 24 February 2010

REPORT OF DIRECTOR CORPORATE SERVICES

7. WALLABY HILL ROAD, ROBERTSON RD3640

Clr L A C Whipper advised that he had received a telephone call from a resident of Wallaby Hill Road, Robertson, indicating that the sealing of the road was going to commence this coming Friday, and asked if this was correct.

The Director Infrastructure Services advised it is correct and that following the recent resolution, Council had moved swiftly with the project.

Clr L A C Whipper asked if Wallaby Hill Horse Trails have paid their contribution to the sealing of the road and what timeframe had been placed on this.

The Director Infrastructure Services advised that he was not aware that the contribution had yet been received by Council but it will be investigated.

8. YOUTH HUB MEETING 1830/7

Clr L A C Whipper advised that he attended a Youth Hub meeting yesterday representing Council and Council's Youth Advisory Committee. He advised that this group is made up of representatives of, among others, Lions Clubs, Rotary Clubs and the Youth Advisory Council, and that there is to be a trial of a youth bus in the Shire, in conjunction with the Salvation Army, for a period of twelve (12) months. Clr Whipper advised that the launch of the bus was to take place at the Moss Vale Show and from there that bus would be in the Shire on a weekend for the availability of young people, concentrating on the towns of Moss Vale, Mittagong and Bowral to engage young people who are "out and about". Clr Whipper advised that the project is funded jointly by members of the committee and the Youth Advisory Committee is making a contribution. He asked if a report could come before Council for consideration on how Council could assist this very worthwhile project.

The General Manager advised that staff will investigate the matter.

9. EUCALYPT TREES IN FRONT OF THE COUNCIL CHAMBERS 7810/3, 7100

Clr J R Clark asked if the condition of the eucalypts in front of the Council Chambers could be assessed and a program considered for the replacement of these trees with a suitable local endemic species of eucalypt.

The General Manager advised that staff will investigate the matter.

10. MT GIBRALTAR RESERVE 6527/15

Clr G McLaughlin referred to an Extraordinary Meeting held on 16 April 2008 where Council resolved to consolidate all portions forming the Mt Gibraltar Reserve under one single title, which was unanimously supported by Council, and asked how this matter is progressing.

The General Manager advised that staff will investigate the matter.



MINUTES OF THE ORDINARY MEETING OF COUNCIL

held in the Council Chamber, Civic Centre, Elizabeth Street, Moss Vale
on Wednesday, 24 February 2010

REPORT OF DIRECTOR CORPORATE SERVICES

11. BONG BONG COMMON

6530/1

Clr G McLaughlin referred to an Ordinary Meeting of Council held on 23 July 2008, where Council resolved to consolidate the titles of the Portions of land known as the Bong Bong Common, which was unanimously supported by Council, and asked how this matter is progressing.

The General Manager advised that staff will investigate the matter.

12. COMMUNITY TRANSPORT

7320/2, 7320

Clr G McLaughlin advised that he is on the Committee of Community Transport and that there have been some issues in the community with regard to Lungnet. He advised that the Community Transport Committee is attempting to facilitate residents in the Shire who have to travel with oxygen and that there is a problem with travelling with cylinders and that the Committee is investigating the use of oxygen concentrators. He noted that many of the drivers involved with Community Transport are volunteers and that there may be risks and safety issues involved for the drivers. Clr McLaughlin advised that provision of the oxygen concentrators is a big expense at about \$5,000 each.

The Mayor Clr T D Gair thanked Clr McLaughlin for the information.

13. OLSH DEVELOPMENT

LUA08/0616, 5700/62

Clr G McLaughlin advised that Bowral Matters has written to Councillors with regard to a request they put forward in relation to the OLSH development, and he asked if a reply to the letter from Bowral Matters could be provided with details of Council's submission in relation to the development, and if this could be done as soon as possible.

The Director Environment & Planning advised that it may be a good idea for Council to be pre-emptive and he suggested that relevant Council staff, himself, and interested Councillors should meet with representatives of Bowral Matters to discuss the full range of issues they have raised as it is a complex matter.



CORPORATE SERVICES DIVISION

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

At this juncture, the time being 6.10 pm, pursuant to section 10A(4), the Mayor offered the opportunity to members of the public to make representations to Council as to whether any items of the Closed Council should not be considered in Closed Council.

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

No objections were received from the members of the public.

.....*Cont'd*



.....Cont'd

MN 57/10

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

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

**c-GM1 PROPOSED ACQUISITION OF LAND FOR ROAD WIDENING
PURPOSES RANGE ROAD RECONSTRUCTION AT WEBB STREET
INTERSECTION, MITTAGONG PN1260300**

Relevant Legal Provision

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

Brief Description

Providing an update in relation to the progress of the proposed acquisition of part Lot 20 Section 5 Deposited Plan 2133 Range Road Mittagong.

Public Interest

It is not in the public interest to consider this information in Open Council because it contains information which could confer a commercial advantage.

c-GM2 TENDER FOR PLANT AND EQUIPMENT HIRE (15/10) 6330/10.8

Relevant Legal Provision

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

Brief Description

Reporting on the tenders for Plant and Equipment Hire (15/10).

Public Interest

It would on balance be contrary to the public interest to consider this information in Open Council because it contains commercial information of a confidential nature.

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

PASSED



MINUTES OF THE ORDINARY MEETING OF COUNCIL

held in the Council Chamber, Civic Centre, Elizabeth Street, Moss Vale
on Wednesday, 24 February 2010

REPORT OF DIRECTOR CORPORATE SERVICES

CLOSED COUNCIL

c-GM1 Proposed Acquisition of Land for Road Widening Purposes - Range Road Reconstruction at Webb Street Intersection, Mittagong

REF: PO

PN1260300

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

1. **THAT MMH and J Thompson be paid the sum of \$4,500.00 as compensation for the acquisition by Council of approximately 318 square metres of land being part Lot 20 Section 5 Deposited Plan 2133 Range Road, Mittagong.**
2. **THAT in addition to the compensation payable referred to in 1 above, the following ancillary works to the value of \$6,400 be undertaken by Council at its own cost and expense:**
 - (a) **construction of driveway from Range Road;**
 - (b) **re-positioning of gate and post;**
 - (c) **supply and erection of new fence similar to existing; and**
 - (d) **responsibility for relocation and/adjustment of utility services including Telstra and water meter.**
3. **THAT the General Manager and Mayor be authorised to execute the Deed of Agreement, Transfer and Plan of Acquisition under the Common Seal of the Council.**
4. **THAT should the registered proprietor of the land referred to in 1 above withdraw their acceptance of Council's counter-offer for compensation within 28 days of the date of the making of this resolution AND THAT the subject land be acquired by the Compulsory Acquisition Process with compensation as determined by the Valuer General.**

PASSED



MINUTES OF THE ORDINARY MEETING OF COUNCIL

held in the Council Chamber, Civic Centre, Elizabeth Street, Moss Vale
on Wednesday, 24 February 2010

REPORT OF DIRECTOR CORPORATE SERVICES

c-GM2 Tender for Plant and Equipment Hire (15/10)

REF: RTM, MM

6330/10.8

The Director Infrastructure Services addressed Council on this matter.

The Committee on a **MOTION** moved by Cllr D Stranger and seconded by Cllr L A C Whipper
RECOMMENDED:

1. **THAT** Council engage a unit rate Panel of fifty five (55) companies as listed (in alphabetical order):

A&A Projects Pty Ltd, A&K Earthmoving, AB Crowe Heavy Haulage Pty Ltd, Action Hire, Affective Services (Aust) Pty Ltd, Alan Richards, All Plant and Earthworks Pty Ltd, Aqua-Assets Pty Ltd, Argyle Excavations Pty Ltd T/A Argyle Excavation, Arnold Communication & Power, Australian Grader Hire Pty Ltd, Barry Bros Specialised Services Pty Ltd, Boylan Traffic Solutions, Carmine Industries Pty Ltd, Coates Hire Operations Pty Ltd, Conplant Pty Ltd, Coopers Earthmoving & Haulage Pty Ltd, DA Worner Pty Ltd, DJ & GS Earthmoving, Dormers Pty Ltd T/A Mittagong Transport & Equipment, Duvall's Bulk Haulage, Earth Civil Pty Ltd, Fidoto Pty Ltd T/A Shoalhaven Recycling, Genner Constructions Pty Ltd, GS & NE Turner T/A Turners Backhoe Hire, Highlands Cranes Pty Ltd, IC Pipes, JB & DJ Johnson, John Ronan Earthmoving Pty Ltd, Kennards Hire Pty Ltd, Kiama Municipal Council, Kingston plant Hire, L&L Hirings Pty Limited T/A Go Hire Site Rental, Ledacon Pty Ltd, Leroy Excavations Pty Ltd, Liloach Pty Ltd, M&M Earthworks, MICA Earthworks Pty Ltd, Mulreadys, Premair Compressor Services Pty Ltd T/A Premair Hire, Rental Fence, Rick Oslear Excavations Pty Ltd, Roadworx, Rollers Australia Pty Ltd, SG & SA White Plant Hire, Sharpe Bros (Aust) Pty Ltd, Stanton Sales & Hire Pty Ltd, Stephenson's Cranes Pty Ltd, Sydneyside Pipecleaning, The Cross Roads Group Pty Ltd, Total Vegetation Management Pty Ltd, Transpacific Industrial Solutions Pty Ltd, TRR Hire (Road & Traffic Technology Pty Ltd), Universal Mobile Tower Hire, Water Carts Direct,

to provide Plant and Equipment Hire for a period of one (1) year commencing February 2010.

2. **THAT** Council write to the eight (8) non-compliant companies advising that they cannot be engaged for Plant and Equipment hire purposes until Council has received a copy of the relevant insurances **AND THAT** if information is received which enables these companies to become compliant, these companies be included in the list of compliant tenders referred to in resolution one, at the prices submitted in their respective tender submissions.
3. **THAT** the Mayor and General Manager be authorised to execute the Standing Offer Contracts under the Common Seal of the Council.
4. **THAT** Council maintain a database showing Council's priority for engagement of Plant and Equipment hire contractors **AND THAT** the relevant information (excluding commercial in confidence information) be available to the public.
5. **THAT** an appropriate Press Release in relation to this matter be prepared.

PASSED



MINUTES OF THE ORDINARY MEETING OF COUNCIL

held in the Council Chamber, Civic Centre, Elizabeth Street, Moss Vale
on Wednesday, 24 February 2010

OPEN COUNCIL

107/10

MN 58/10

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

THAT Council moves back from Closed Council into Open Council.

PASSED

No members of the public were present in the Chamber.

ADOPTION OF CLOSED COUNCIL

107/9

MN 59/10

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

THAT the recommendations of the Closed Council held on Wednesday, 24 February 2010 (Items c-GM1 and c-GM2) be adopted.

PASSED

ADOPTION OF OPEN COUNCIL

107/10

MN 60/10

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

THAT the recommendations of the Open Council held on Wednesday, 24 February 2010 being OC 21/10 to OC 34/10, be adopted.

PASSED



MINUTES OF THE ORDINARY MEETING OF COUNCIL

held in the Council Chamber, Civic Centre, Elizabeth Street, Moss Vale
on Wednesday, 24 February 2010

THERE BEING NO FURTHER BUSINESS, THE MEETING CLOSED AT 6.23 PM

In accordance with the provisions of Section 375(2) of the Local Government Act, these Minutes of the Ordinary Council Meeting held Wednesday, 24 February 2010 numbered M/N 46/10 to M/N 60/10, were signed by me hereunder at the Council Meeting held on Wednesday, 10 March 2010.

CHAIRMAN

READ AND CONFIRMED ON WEDNESDAY, 10 MARCH 2010

CHAIRMAN

PUBLIC OFFICER