

MINUTES

OF THE ORDINARY MEETING OF COUNCIL

File No. 100/10



held on Wednesday, 12 May 2010

The meeting commenced at 3.31 pm.



MINUTES OF THE ORDINARY MEETING OF COUNCIL

held in the Council Chamber, Civic Centre, Elizabeth Street, Moss Vale
on Wednesday, 12 May 2010

CONTENTS

CONFIRMATION OF MINUTES	3
MAYORAL MINUTE	6
c-MM1 Proposed Planning Proposal To Rezone ‘Sutherland Park’, Burradoo For Residential Development	6
VISITOR ITEM	8
v-EP1 Proposed Six Lot Subdivision, Cnr Gladstone Road and Queen Street, Bowral.....	8
OPEN COUNCIL	10
ENVIRONMENT & PLANNING DIVISION	10
o-EP1 Development Consents Determined by Way of Approval under Delegated Authority	10
o-EP2 List of Land Use Applications Received By Council	11
o-EP3 Land Use Applications Determined.....	12
o-EP4 Heritage Issues at “Girraween”, 53 Telopea Road, Hill Top	13
o-EP5 Interim Heritage Order for 38 Old Hume Highway, Mittagong	15
o-EP6 Proposed Change of Use From Residential to Retail, Lots 9 – 14 Section 5 DP1262, Nos 2 – 4 Raglan Street, Hilltop.....	16
o-EP7 Section 94A Contributions Plan – Post Exhibition	17
o-EP8 Draft Sutton Forest Inn Site Development Control Plan	19
COMMITTEE REPORTS ATTACHED	20
c-CR1 Integrated Planning & Reporting Committee	20
GENERAL BUSINESS	21
QUESTIONS FROM THE PUBLIC	24
CLOSED COUNCIL	26
GENERAL MANAGER	26
C-GM1 Closed Council	26
CLOSED COUNCIL	28
c-GM1 Enterprise Zone Road and Sewer Upgrade – Tender 10/6	28
c-GM2 General Manager’s Performance Agreement – Action Plan.....	29
c-GM3 Legal Issues Report	30



MINUTES OF THE ORDINARY MEETING OF COUNCIL

held in the Council Chamber, Civic Centre, Elizabeth Street, Moss Vale
on Wednesday, 12 May 2010

COMMENCING AT: 3.31 pm

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

IN ATTENDANCE:

General Manager	Mr Jason Gordon
Acting Director Corporate Services	Mr Doug Neville
Director Environment & Planning	Mr Scott Lee
Director Infrastructure Services	Mr Michael Brearley
Manager Administration & Library Services	Mr Peter Nelson
Administration Officer	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 by Pastor Donna Jensen of Southlands Christian Church.



MINUTES OF THE ORDINARY MEETING OF COUNCIL

held in the Council Chamber, Civic Centre, Elizabeth Street, Moss Vale
on Wednesday, 12 May 2010

APOLOGY

PERS

M/N 154/10

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

THAT the apology of Clr J G Arkwright be accepted from the meeting at 5.30 pm and leave of absence granted from that time.

PASSED



MINUTES OF THE ORDINARY MEETING OF COUNCIL

held in the Council Chamber, Civic Centre, Elizabeth Street, Moss Vale
on Wednesday, 12 May 2010

CONFIRMATION OF MINUTES

100/1

MINUTES OF THE ORDINARY MEETING OF COUNCIL HELD ON WEDNESDAY,
28 APRIL 2010

The Manager Administration & Library Services confirmed the correctness of Item o-NM1 –
Notice of Motion – Draft Robertson Village Development Control Plan.

MN 155/10

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

THAT the minutes of the Ordinary Meeting of Council held on Wednesday, 28 April 2010 MN 113/10 to MN 153/10 inclusive, copies of which were forwarded to Councillors, be adopted as a correct record of the proceedings of the meeting.

PASSED

BUSINESS ARISING

1. CHELSEA GARDENS/COOMUNGIE URBAN RELEASE AREA – DRAFT LEP 131
5800/18

The Mayor Clr T D Gair advised that in relation to this matter, Council has received a letter dated 11 May 2010 from Mr Brett Whitworth, Regional Director, Southern Region, NSW Department of Planning. The Mayor read the letter to the meeting, in part.

The General Manager advised that the letter from the Department of Planning is self-explanatory, and the comments in the last paragraph do not make Council's resolution illegal but his advice was that the letter should be followed as Council does not want to bring itself into conflict with the Department of Planning. However, he advised that it is Council's decision.

.....Cont'd



MINUTES OF THE ORDINARY MEETING OF COUNCIL

held in the Council Chamber, Civic Centre, Elizabeth Street, Moss Vale
on Wednesday, 12 May 2010

.....Cont'd

MATTER OF URGENCY

CHELSEA GARDENS/COOMUNGIE URBAN RELEASE AREA – DRAFT LEP 131
5800/18

Clr L A C Whipper requested the letter dated 11 May 2010 received from Mr Brett Whitworth, Regional Director, Southern Region, NSW Department of Planning, be treated as a matter of urgency.

MN 156/10

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

THAT the correspondence received from Mr Brett Whitworth, Regional Director, Southern Region, NSW Department of Planning dated 11 May 2010 in relation to the Chelsea Gardens/Coomungie Urban Release Area – Draft LEP 131 - be considered as a matter of urgency.

PASSED

The Mayor ruled that this is a matter of urgency.

MN 157/19

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

1. **THAT as a matter of urgency Council seek the immediate support of the Local Government and Shires Association to represent and protect the planning powers of all Local Government areas within New South Wales.**
2. **THAT the Mayor make representations to other Local Government areas within New South Wales advising them in relation to the correspondence received from Mr Brett Whitworth, Regional Director, Southern Region, NSW Department of Planning dated 11 May 2010, and seeking their support in relation to recommendation 1 above.**

PASSED UNANIMOUSLY



MINUTES OF THE ORDINARY MEETING OF COUNCIL

held in the Council Chamber, Civic Centre, Elizabeth Street, Moss Vale
on Wednesday, 12 May 2010

2. o-EP 2 LIST OF LAND USE APPLICATIONS RECEIVED BY COUNCIL
ITEM NO 4 – SIGNAGE – MOTOR VEHICLE SHOWROOM (ILLUMINATED AND
FREESTANDING SIGNS) ARGYLE STREET, MOSS VALE LUA10/0316

Clr L A C Whipper referred to Item No 2 in o-EP2 List of Land use Applications Received by Council, and advised that information had been received in relation to this item. Clr Whipper asked for this application to be brought back to Council for determination.

DECLARATIONS OF INTEREST

101/3

The General Manager, Mr Jason Gordon, declared a pecuniary interest in the Mayoral Minute cMM1 – Proposed Planning Proposal To Rezone ‘Sutherland Park’, Burradoo For Residential Development, as he owns a house adjacent to ‘Sutherland Park’. He stated that he would leave the Chamber and take no part in the discussion on the matter.



MINUTES OF THE ORDINARY MEETING OF COUNCIL

held in the Council Chamber, Civic Centre, Elizabeth Street, Moss Vale
on Wednesday, 12 May 2010

MAYORAL MINUTE

MAYORAL MINUTE

c-MM1 Proposed Planning Proposal To Rezone 'Sutherland Park', Burradoo For Residential Development

REF: SPM

5602/13, PN507400

Interest: The General Manager declared a pecuniary interest in this matter as he owns a house adjacent to 'Sutherland Park'. He left the chamber and took no part in the discussion on this matter.

The Mayor Clr T D Gair advised that the following sentence should be added to paragraph 4 of the Mayoral Minute "This process will be carried out prior to the official exhibition period."

MN 158/10

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

THAT Council staff organise a Community Information and Feedback Session in relation to the proposed Sutherland Park Residential Release Proposal prior to any decision of Council to proceed, or not, to a formal Planning Proposal.

PASSED

The General Manager rejoined the Meeting.



MINUTES OF THE ORDINARY MEETING OF COUNCIL

held in the Council Chamber, Civic Centre, Elizabeth Street, Moss Vale
on Wednesday, 12 May 2010

OPEN COUNCIL

OPEN COUNCIL

MN 159/10

107/10

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

THAT Council moves into Open Council to discuss various matters listed in the Agenda with Clr Larry Whipper in the Chair.

PASSED



VISITOR ITEM

**v-EP1 Proposed Six Lot Subdivision, Cnr Gladstone Road and Queen Street,
Bowral**

REF: DBSM

LUA09/0969

Reporting on a six (6) lot subdivision of Lot 1 DP603071, which is bounded by Oxley Drive, Queen Street and Gladstone Road, Bowral.

Mrs Jennifer Hine, an objector, addressed Council on this matter.

Mr Jim Allman from Allman Johnston, Architects, addressed Council on behalf of the applicant.

It was noted that the Director Infrastructure Services is to provide a report on the water pressure in the area bounded by Oxley Drive, Queen Street and Gladstone Road, Bowral but would provide details by way of the Weekly Circular in the first instance.

OC 98/10

The Committee on a **MOTION** moved Cllr G McLaughlin and seconded by Cllr K Halstead **RECOMMENDED:**

1. **THAT** development application LUA2009/0969 for the subdivision of Lot 1 DP603071, which is bounded by Oxley Drive, Queen Street and Gladstone Road, Bowral, into six (6) lots be approved subject to conditions as set out in Attachment 3 to the report.
2. **THAT** the issue of noise levels be addressed in the development consent **AND THAT** Condition No 5 be amended as follows:

"5. Hours of Demolition and Construction Works

In order to minimise impacts upon the locality demolition and construction activities must be limited to between 7.00 am to 5.00 pm Monday to Friday and 8.00 am to 1.00 pm Saturdays with no work on Sundays and public holidays. Any variation to these hours will only occur with Council's consent."

PASSED

.....Cont'd



MINUTES OF THE ORDINARY MEETING OF COUNCIL
held in the Council Chamber, Civic Centre, Elizabeth Street, Moss Vale
on Wednesday, 12 May 2010

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	x	
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 21 April 2010 and 4 May 2010.

OC 99/10

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

THAT the information relating to Development Consent No 1 (Refused) under Delegated Authority 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 21 April 2010 and 4 May 2010, some of which will be dealt with under delegated authority of the Director of Environment & Planning.

OC 100/10

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

THAT the information regarding the List of Land Use Applications Nos 1 - 9 received by Council, be received and noted.

PASSED

Matters Arising from Land Use Applications Received by Council

1. ITEM NO 3 – 3 LOT SUBDIVISION, 33 MISSINGHAM PARADE, ROBERTSON
LUA10/0363

Clr J Mauger asked for some further information in relation to this subdivision.

The Director Environment & Planning advised that information would be provided in the Weekly Circular.

2. ITEM NO 5 –PROPOSED ADDITIONS TO RESIDENCE (BRADMAN FOUNDATION), 15 ST JUDE STREET, BOWRAL
LUA10/0397

Clr J R Clark noted the heritage significance of this house, and asked if this application can be determined by Council.

The Director Environment & Planning advised that the dwelling is opposite the Bradman Museum and has been used as the library and offices for the Bradman Museum. He advised that information will be provided in the Weekly Circular in the first instance and the application will be referred to Council for determination.



o-EP3 Land Use Applications Determined
--

REF: MDBS	5302
----------------	------

Submitting list of Land Use applications determined by way of approval under delegated authority of the Director of Environment & Planning for the month of April 2010. An additional table showing applications received, determined and pending is now also included.

OC 101/10

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

THAT the information regarding the List of Land Use Applications Received by Council for the month of April 2010 and application statistics, be received and noted.

PASSED



o-EP4 Heritage Issues at "Girraween", 53 Telopea Road, Hill Top

REF: DEP 5650, PN1729010, PN1440100, LUA09/0696

The purpose of this report is to advise Council of the recommendation of the Heritage Advisory Working Group after consideration of the heritage issues on the site known as "Girraween", 53 Telopea Road, Hill Top following the Notice of Motion on the issue passed at the Council meeting of Wednesday, 28 April 2010.

The Director Environment & Planning addressed Council on this matter.

OC 102/10

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

1. **THAT Council endorses the Director Environment and Planning to sign an Interim Heritage Order over the boiler and steam engine, house and gardens (including the well) and outbuildings on Lot 100 DP 751267, and the plantations on Lot 168 DP 751267.**
2. **THAT the signed Interim Heritage Order be sent to the NSW Government Gazette for publishing on the next available Friday.**
3. **THAT Council publish a notice in Council's page of the Southern Highland News giving notice of the making of the Interim Heritage Order.**
3. **THAT Council consider a further report on whether "Girraween", 53 Telopea Road, Hill Top, should be a listed heritage item with such report being supported by a heritage assessment of the site prepared by a suitably qualified heritage adviser.**
4. **THAT the owner of the property be notified of Council's decision.**
5. **THAT the Chairperson of the Heritage Council be notified of Council's decision.**
6. **THAT Council adopts a proposal to extend the Interim Heritage Order on the site to cover the Aboriginal site and refer this proposal to the Heritage Branch of the NSW Department of Planning in accordance with the conditions of the delegations of Interim Heritage Orders made by the Minister.**

PASSED

.....Cont'd



MINUTES OF THE ORDINARY MEETING OF COUNCIL
held in the Council Chamber, Civic Centre, Elizabeth Street, Moss Vale
on Wednesday, 12 May 2010
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	x	
Clr J Mauger	x	
Clr D Stranger	x	
Clr P B Tuddenham	x	
Clr L A C Whipper	x	



o-EP5 Interim Heritage Order for 38 Old Hume Highway, Mittagong

REF: DEP 5650, PN696100, LUA10/0298

The purpose of this report is to advise Council about the actions taken and future steps required in response to staff and resident concerns about the heritage significance of the dwelling house at 38 Old Hume Highway, Mittagong, which is the subject of a current development application for demolition.

The Director Environment & Planning addressed Council on this matter.

OC 103/10

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

1. **THAT Council note the actions of the Director Environment and Planning in issuing an Interim Heritage Order over 38 Old Hume Highway, Mittagong.**
2. **THAT Council consider a further report on whether 38 Old Hume Highway, Mittagong should be a listed heritage item with such report being supported by a heritage assessment of the site prepared by a suitably qualified heritage adviser and presented to Council at its meeting on 23 June 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	x	
Clr J Mauger	x	
Clr D Stranger	x	
Clr P B Tuddenham	x	
Clr L A C Whipper	x	



**o-EP6 Proposed Change of Use From Residential to Retail, Lots 9 – 14 Section 5
DP1262, Nos 2 – 4 Raglan Street, Hilltop**

REF: MDBS

LUA10/0042

This report is about a proposed change of use from a dwelling house to retail premises on Lots 9-14, Section 5, DP 1262, Nos 2 - 4 Raglan Street Hill Top.

OC 104/10

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

THAT Development Application LUA2010/0042, for a change of use of the premises on Lots 9 - 14 Section 5 DP 1262, corner of Raglan Street and West Parade, Hill Top from residential to retail be approved subject to conditions as described in Attachment 2 to this report AND THAT authority be delegated to the General Manager to determine any s96 application to modify the consent in respect of signage on the southern gable of the building.

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	x	
Clr J Mauger	x	
Clr D Stranger	x	
Clr P B Tuddenham	x	
Clr L A C Whipper	x	



o-EP7 Section 94A Contributions Plan – Post Exhibition

REF: SPM

5702/6

This report discusses the introduction of a Draft Section 94A Contributions Plan for Council following closure of the public exhibition period.

The Director Environment & Planning addressed Council on this matter.

OC 105/10

The Committee on a **MOTION** moved Clr G McLaughlin and seconded by Clr T D Gair
RECOMMENDED:

1. **THAT the Draft Section 94A Developer Contributions Plan – be adopted by Council and Notification given in a public newspaper in accordance with Clause 31 of the Environmental Planning and Assessment Regulation 2000, stating that the Plan will commence operation on 1 July 2010.**
2. **THAT notification of the adoption of the Plan be advertised in a public newspaper within 28-days of the date of the Council meeting in accordance with Clause 31 the Environmental Planning and Assessment Regulation 2000.**
3. **THAT Council provides a copy of the Contributions Plan to the Director General within 28-days of its adoption in accordance with Section 25AB of the Environmental Planning and Assessment Regulation 2000.**
4. **THAT Council notify the applicants of LUAs currently being assessed by Council and applications received by Council up to 1 July 2010, located within the areas of the Shire covered by the Section 94A Plan, that the Section 94A Plan will apply to their Development Application if it is not determined before 1 July 2010.**
5. **THAT the Chambers of Commerce be notified of Council's resolution to adopt the Section 94A Plan and that it will commence operation from 1 July 2010.**

PASSED

.....Cont'd



MINUTES OF THE ORDINARY MEETING OF COUNCIL
held in the Council Chamber, Civic Centre, Elizabeth Street, Moss Vale
on Wednesday, 12 May 2010
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	x	
Clr J Mauger	x	
Clr D Stranger	x	
Clr P B Tuddenham	x	
Clr L A C Whipper	x	



o-EP8 Draft Sutton Forest Inn Site Development Control Plan

REF: SPM

5700/71

The purpose of this report is to present to Council a Draft Development Control Plan (DCP) for the Sutton Forest Inn site for endorsement to be placed on public exhibition for comment.

The Director Environment & Planning addressed Council on this matter.

Interest: Clr D Stranger declared a non-pecuniary interest in this matter and stated that he did not previously vote on the DCP as his business had previously worked for one of the Directors. He remained in the Chamber, but took no part in the debate and refrained from voting thereon.

OC 106/10

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

1. ***THAT the draft Wingecarribee Sutton Forest Inn Development Control Plan be endorsed for the purpose of public exhibition for a period of twenty eight (28) days.***
2. ***THAT both the draft Sutton Forest Village Development Control Plan and draft Sutton Forest Inn Development Control Plan be reported to Council for adoption at the same time.***

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	x	
Clr J Mauger	x	
Clr D Stranger	Did not vote	
Clr P B Tuddenham	x	
Clr L A C Whipper	x	



MINUTES OF THE ORDINARY MEETING OF COUNCIL

held in the Council Chamber, Civic Centre, Elizabeth Street, Moss Vale
on Wednesday, 12 May 2010

CLOSED COUNCIL

COMMITTEE REPORTS ATTACHED

c-CR1 Integrated Planning & Reporting Committee

REF: CP 500/2.4

Submitting minutes of the Integrated Planning & Reporting Committee Meeting held on Wednesday, 24 March 2010.

OC 107/10

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

THAT the agreed actions as detailed in the minutes of the Integrated Planning & Reporting Committee Meeting held on Wednesday, 24 March 2010 be adopted.

PASSED

CHAIRPERSON

At this juncture, the time being 5.12 pm, the Mayor, Clr T D Gair, resumed the Chair to conduct the remainder of Council Business.



MINUTES OF THE ORDINARY MEETING OF COUNCIL

held in the Council Chamber, Civic Centre, Elizabeth Street, Moss Vale
on Wednesday, 12 May 2010

GENERAL BUSINESS

GENERAL BUSINESS

1. GAS OUTAGE

6310, 6320

Clr J G Arkwright asked if the General Manager could comment on the very real concerns expressed in the community and by the local media as to the dissemination of information concerning the major gas outage of last week.

The General Manager advised that the incident was a gas outage and not a natural disaster and he provided background information. He further advised that the Emergency Operation Centre was under the State Emergency Rescue Management Act (SERMA) and that Council had a supportive role in that function. He advised that in normal cases when there is a disaster the media is managed by the Centre, but in this instance it was not a disaster as such and the instruction to the Emergency Operation Centre was that the media would be managed by Jemena, the responsible company for gas in this case, so there was no ability by the Emergency Operation Centre or Council directly or indirectly to issue media releases in relation to the incident. The General Manager advised that there will be a debrief on the incident and he assured Council that the way in which communication was carried out would be addressed. He advised that this in no way reflects on the way that the matter was managed by the Emergency Operation Centre or the involvement of the Police, Council staff or volunteers.

The Mayor Clr T D Gair advised that there was a cost involved with this incident and that Council would be seeking reimbursement from Jemena. He congratulated Council staff and others associated with the incident in how they conducted the emergency arrangements including the provision of meals for those involved in the Emergency Operation Centre.

2. WHITES CREEK MOSS VALE

5457/5, 6546/23

Clr D Stranger asked if the area surrounding Whites Creek at Moss Vale and the drain that runs under the street where there is a great deal of rubbish dumped, could be investigated. He stated also that in the cartilage surrounding the park there are bottles and cans dumped, which looks disgraceful.

The Mayor Clr T D Gair asked also if the grass and undergrowth could be cut back to a reasonable height in Whites Creek. The Mayor noted that the Parks & Property Manager was to commence landscaping underneath the railway bridge and upgrading the Rotary Park area opposite Whytes, which will be an improvement to that area.



MINUTES OF THE ORDINARY MEETING OF COUNCIL

held in the Council Chamber, Civic Centre, Elizabeth Street, Moss Vale
on Wednesday, 12 May 2010

GENERAL BUSINESS

3. WOMBELYAN CAVES ROAD

RD 0258-005

Clr D Stranger referred to a letter that he had received from a concerned resident in relation to Wombeyan Caves Road and asked for an update on the road.

The General Manager advised that there had been two (2) recent letters received by Council from residents. He advised that it is a regional road, and that he would be attending a site inspection with the Director Infrastructure Services on Friday, 21 May 2010, and would be meeting with one of the residents who had written to Council. The General Manager advised that maintenance work is scheduled for Wombeyan Caves Road, and that a report would be forwarded to Council.

The Director Infrastructure Services confirmed that Wombeyan Caves Road is a regional road, of which approximately 40 kms is unsealed and that Council receives \$200,000 per annum from the State Government for maintenance. He advised that it is always a challenge for Council to get the best returns for the funds but the situation will be reviewed. He confirmed that discussions will take place with the residents who have written to Council.

4. PROPOSED RENEWABLE ENERGY TOWER AT EXETER

LUA/0272

Clr K Halstead asked if any publicity has been given to the proposed renewable energy tower at Exeter.

The Director Environment & Planning advised that he was not aware that Council has done any publicity on the matter.

5. CHELSEA GARDENS/COOMUNGIE URBAN RELEASE AREA – DRAFT LEP 131

5800/18

Clr G McLaughlin asked in relation to this matter:

- (i) what fees have been paid to Council;
- (ii) will the LEP be finalised by 1 July 2010; and
- (iii) how do the proponents stand who have paid the DA fees.

The Director Environment & Planning advised that there are two (2) parties involved with Chelsea Gardens / Coomungie and one (1) party has paid its part of the rezoning fees whilst the other landowner has not yet paid its proportion, and this is being actively pursued by Council. He advised that he does not believe that the LEP will be finalised by 1 July, and that the rezoning fees are an administrative fee and if the Council determines ultimately not to support a rezoning, then the fees are not refunded.

Clr J G Arkwright retired from the meeting at 5.30 pm.



MINUTES OF THE ORDINARY MEETING OF COUNCIL

held in the Council Chamber, Civic Centre, Elizabeth Street, Moss Vale
on Wednesday, 12 May 2010

GENERAL BUSINESS

6. HERITAGE ISSUES AT "GIRRAWEE", 53 TELOPEA ROAD, HILL TOP
5650, PN1729010, PN1440100, LUA09/0696

Clr J R Clark advised that residents have reported vegetation clearing being undertaken on this property and, given the proposed Heritage Order on the site, asked if Council could investigate the location and extent of works being undertaken and action taken on any works affecting the proposed heritage items, if necessary.

The General Manager advised that an inspection would be carried out on Thursday, 13 May 2010.

7. REMOVAL OF VEGETATION SCREENING ON CHERRY TREE CLOSE, MOSS VALE
PN1614400

Clr L A C Whipper asked about removal of vegetation in Cherry Tree Close, Moss Vale, and if Councillors could be updated on the present position and the residents kept informed in writing until the matter is resolved.

The General Manager advised that staff will follow up on the matter, with an update for Councillors in the Weekly Circular.

8. TREE REMOVAL IN DARCH PLACE, MITTAGONG 7813/1, RD3136

Clr L A C Whipper asked for an update on proposed tree removal/trimming in Darch Place, Mittagong, particularly the consultation process with residents.

The Mayor Clr T D Gair advised that an update will be provided in the Weekly Circular.

9. GENERAL BUSINESS QUESTIONS 100/1

Clr P B Tuddenham referred to questions raised by Councillors in General Business and asked if it was possible for Councillors to have a detailed list of those questions, or could a system be put in place to review this matter.

The General Manager advised that the matter is being addressed, with a review to come out as a Weekly Circular item for Councillors' information. He advised that he had recently attended a meeting in Sydney hosted by the Division of Local Government and at that meeting the Minister for Local Government advised that the Division of Local Government is about to release a guidance note on Code of Meeting Practice. He advised that the Minister had indicated that Questions Without Notice are no longer possible at Council meetings and that all Questions Without Notice will be Questions With Notice and will be part of the business paper and that there will be an allowance for a month's turnaround to give a reply to the Questions With Notice. The General Manager advised that once the circular is received he will circulate it to Councillors, and the Code of Meeting Practice will be reviewed and that he expects there will be major changes to the Code of Meeting Practice.

A number of Councillors expressed their concern about this proposed change.



MINUTES OF THE ORDINARY MEETING OF COUNCIL

held in the Council Chamber, Civic Centre, Elizabeth Street, Moss Vale
on Wednesday, 12 May 2010

QUESTIONS FROM THE PUBLIC

QUESTIONS FROM THE PUBLIC

1. AFFORDABLE HOUSING 5320/67

Mrs Jan Hainke asked for a definition of “affordable housing”.

The Mayor Clr T D Gair advised that this question will be taken on notice.

2. CHELSEA GARDENS/COOMUNGIE URBAN RELEASE AREA – DRAFT LEP 131
5800/18

Mrs Wendy Gorman referred to the Chelsea Gardens/Coomungie proposed development and asked if Councillors and Council planners could give a written answer of “Yes” or “No” relating to the proposed development. Mrs Gorman stated that food security is a vital issue in the 21st Century with the benefits of eating locally grown food which is fresher and tastes better.

The Mayor Clr T D Gair advised that this matter will be taken on notice and that it is be up to Councillors and planners whether they provide a written reply to her.

3. MOSS VALE SESQUICENTENARY CELEBRATIONS 1671/4.1, 1671/4.2

Mrs Robyn Dove asked about the Sesquicentenary Celebrations in 2013 and what Council has put in place and how the community is going to be involved in the celebrations.

The Mayor Clr T D Gair advised that the inaugural meetings of the Moss Vale and Bowral Sesquicentenary Committees will be held on Wednesday, 19 May 2010.

4. PRESERVATION OF GREEN RURAL LANDSCAPES 107/18, 5700/55

Mrs Wendy Hunt asked the following questions in relation to the preservation of the green in rural landscapes between and around the Shires towns and villages:

- (i) Has Council identified those rural landscapes as part of their vision for the Shire?
- (ii) What steps have been taken to preserve prime agricultural land within the Shire for food production?

The Mayor Clr T D Gair advised that Council had made the resolution that village boundaries would be maintained and that the area which has been identified as the green space between Moss Vale and Bowral will be maintained. He advised that for preserving the agricultural land there is no more concessional five (5) acre lots to be split off and that the minimum subdivision is 40 hectares.



MINUTES OF THE ORDINARY MEETING OF COUNCIL

held in the Council Chamber, Civic Centre, Elizabeth Street, Moss Vale
on Wednesday, 12 May 2010

QUESTIONS FROM THE PUBLIC

5. 2007 FUTURE RESIDENTIAL GROWTH SURVEY 5900/1, 5900

Mr Alan Hunt asked the following questions:

- (i) who were the members of the LEP Steering Committee at 16 May 2007;
- (ii) which members were in attendance at the meeting that day;
- (iii) what recommendations did the Committee make in response to the report, and
- (iv) what Councillor voting was recorded.

The Mayor Clr T D Gair advised that the question will be taken on notice, but that the membership of the LEP Steering Committee at the time consisted of the full Council and was chaired by Clr N Campbell-Jones and if he was not available, the Strategic Planning Manager, Mr Mark Pepping. The Mayor advised that he was not aware whether he personally was present at the meeting of 16 May 2007.

6. CHELSEA GARDENS/COOMUNGIE URBAN RELEASE AREA – DRAFT LEP 131
5800/18

Mr Alan Hunt stated that from his calculations over 7,000 of the required 8,700 houses to be provided under the Sydney Canberra Corridor Strategy will need to suit an age demographic of over 65 years and that provision of houses in the Shire is not just a numbers game, but homes need to be provided to suit the future age demographic. He asked if an analysis has been undertaken as to the suitability of the Chelsea Gardens/Coomungie development for the actual age demographic of the future population which will see the 75 age group rise by 181% in the period to 2031?

The Director Environment & Planning advised that a specific evaluation has not been done of Chelsea Gardens/Coomungie but Council's overall strategy is being formulated with an understanding of the changing demographics of the Shire with the predominant feature being an aging population. The Director Environment & Planning advised that this is an opportunity of providing all types of housing.

7. CHELSEA GARDENS/COOMUNGIE URBAN RELEASE AREA – DRAFT LEP 131
5800/18

Mr Alan Hunt asked why the rezoning process has proceeded without all fees being paid and does this mean that any other rezoning applicant will be treated with the same leniency by Council.

The Mayor Clr T D Gair advised that this question will be taken on notice.



MINUTES OF THE ORDINARY MEETING OF COUNCIL

held in the Council Chamber, Civic Centre, Elizabeth Street, Moss Vale
on Wednesday, 12 May 2010

QUESTIONS FROM THE PUBLIC

CLOSED COUNCIL

GENERAL MANAGER

C-GM1 Closed Council

To consider moving into Closed Council.

At this juncture, the time being 5.55 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.

MN 160/10

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

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 ENTERPRISE ZONE ROAD AND SEWER UPGRADE – TENDER 10/6
6330/10.9**

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 tender evaluation to design and construct a portion of Douglas Road as part of the enterprise zone upgrade as well as the installation of a pumping station and rising sewer main to service part of the land that is currently under development.

Public Interest

It would be contrary to the public interest to consider this information in Open Council because it contains information which could confer a commercial advantage – change to suit.

.....Cont'd



MINUTES OF THE ORDINARY MEETING OF COUNCIL

held in the Council Chamber, Civic Centre, Elizabeth Street, Moss Vale
on Wednesday, 12 May 2010

CLOSED COUNCIL

CLOSED COUNCIL

c-GM1	Enterprise Zone Road and Sewer Upgrade – Tender 10/6
--------------	---

REF:	RTM
------	-----

6330/10.9

The Director Infrastructure Services addressed Council on this matter advising that all tenders substantially exceeded Council's available budget and that it was impractical to call fresh tenders at this time and that it would be beneficial for Council to enter into further negotiations with tenderers.

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

1. **THAT Council resolve not to accept any of the tenders for Contract 10/6 as the tendered lump sums are in excess of the available budget.**
2. **THAT Council resolve, in accordance with Cl.178(3)(e) of the Local Government (General) Regulation 2005, to enter into further negotiations with the tenderers identified in the tender assessment process as offering "Best Value" for each Separable Portion of the contract, with a view to entering into a contract for the works.**
3. **THAT for the purposes of Cl.178(4) of the Local Government (General) Regulation 2005, Council resolve not to invite fresh tenders for the work due to the delay associated with re-tendering given the tight timeframes for project completion and the likelihood that tender sums will not be lower and instead negotiate with the tenderers identified in the tender assessment process as offering "Best Value" for Council.**
4. **THAT Council enter into further negotiations with Genner Constructions and Roadworx & Select Civil Alliance with a view to entering into a fixed price contract for Separable Portion 1 (Sewer Works) for a sum not more than the available budget, including contingency.**
5. **THAT Council enter into further negotiations with Roadworx & Select Civil Alliance with a view to entering into a fixed price contract for Separable Portion 2 (Road Works) for a sum not more than the available budget, including contingency.**
6. **THAT the Mayor and General Manager be granted authority to execute the contract documents under the Common Seal of Council.**

PASSED

.....Cont'd



MINUTES OF THE ORDINARY MEETING OF COUNCIL

held in the Council Chamber, Civic Centre, Elizabeth Street, Moss Vale
on Wednesday, 12 May 2010

CLOSED COUNCIL

.....Cont'd

In accordance with Section 3.17 of the Tendering Guidelines for NSW Local Government dated October 2009, voting is recorded as follows:

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

c-GM2 General Manager's Performance Agreement – Action Plan

REF: GM	503/60
---------	--------

Council has previously adopted the General Managers Key Performance Indicators (KPI's).

This Report is presented to Council to adopt the General Managers Action Plan resulting from the KPI's.

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

THAT in relation to the General Manager's Performance Agreement – Action Plan, the information be noted.

PASSED



MINUTES OF THE ORDINARY MEETING OF COUNCIL

held in the Council Chamber, Civic Centre, Elizabeth Street, Moss Vale
on Wednesday, 12 May 2010

CLOSED COUNCIL

c-GM3 Legal Issues Report

REF: DEP

107/22

The Director Environment & Planning addressed Council on this matter.

Interest: Clr D Stranger declared a non-pecuniary interest in Item No 2 – Other Matters (a) Real Estate Signage - as he has a real estate business that uses signage. He remained in the chamber, but took no part in the debate and refrained from voting thereon.

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

1. **THAT** the letter sent to the real estate agents advising of removal of illegal signage be noted.
2. **THAT** as from 17 May 2010, Council Rangers will actively patrol and impound any illegal real estate signs.
3. **THAT** as from 31 May 2010, Council Rangers will impound any illegal real estate signs and issue fines associated with the erection of illegal real estate signs.
4. **THAT** the register information be received and noted.
5. **THAT** the Chambers of Commerce and interested Councillors be invited to attend a meeting, as soon as possible, to discuss signage issues noting the recommendations set out herein.
6. **THAT** in relation to Attachment 2 - Item No 2 under the heading "Ongoing Items" – regarding the development of "The Intersection" at Station Street, Bowral, the landowner be offered an additional twenty one (21) days in which to agree with Council's previous monetary offer to construct the roundabout **AND** **THAT** failing the landowner accepting Council's offer, Council instruct its Solicitor to request compliance with the outstanding conditions of development consent.

PASSED



MINUTES OF THE ORDINARY MEETING OF COUNCIL

held in the Council Chamber, Civic Centre, Elizabeth Street, Moss Vale
on Wednesday, 12 May 2010

OPEN COUNCIL

107/10

MN 161/10

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

THAT Council moves back into Open Council.

PASSED

No members of the public were present in the Chamber.

ADOPTION OF CLOSED COUNCIL

107/9

MN 162/10

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

THAT the recommendations of the Closed Council held on Wednesday, 12 May 2010 (Items c-GM1 to – c-GM3) be adopted.

PASSED

ADOPTION OF OPEN COUNCIL

107/10

MN 163/10

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

THAT the recommendations of the Open Council held on Wednesday, 12 May 2010 being OC 98/10 to OC 107/10, be adopted.

PASSED



MINUTES OF THE ORDINARY MEETING OF COUNCIL

held in the Council Chamber, Civic Centre, Elizabeth Street, Moss Vale
on Wednesday, 12 May 2010

THERE BEING NO FURTHER BUSINESS, THE MEETING CLOSED AT 6.25 PM

In accordance with the provisions of Section 375(2) of the Local Government Act, these Minutes of the Ordinary Council Meeting held Wednesday, 12 May 2010 numbered M/N 154/10 to M/N 163/10, were signed by me hereunder at the Council Meeting held on Wednesday, 26 May 2010.

CHAIRMAN

READ AND CONFIRMED ON WEDNESDAY, 26 MAY 2010

CHAIRMAN

ACTING PUBLIC OFFICER