

MINUTES

OF THE ORDINARY MEETING OF COUNCIL

File No. 100/2011



held on Wednesday, 26 October 2011

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, 26 October 2011

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on Wednesday, 26 October 2011

APOLOGIES

COMMENCING AT: 3.30 pm

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

IN ATTENDANCE:

General Manager	Mr Jason Gordon
Director Corporate Services	Mr Barry Paull
Director Environment & Planning	Mr Scott Lee
Director Infrastructure Services	Mr Michael Brearley
Manager Governance	Mr Peter Nelson
P/A to the Mayor	Ms Liz Johnson

OPENING OF MEETING AND ACKNOWLEDGEMENT OF COUNTRY

1826/4

The Mayor Clr K Halstead opened the meeting and welcomed members of the public and the press, and requested Clr J Mauger to undertake Acknowledgement of Country.

Clr J Mauger 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 Reverend Stephen Fifer of St Jude's Anglican Church.



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APOLOGIES

APOLOGY

There were no apologies at this Meeting.



MINUTES OF THE ORDINARY MEETING OF COUNCIL
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on Wednesday, 26 October 2011
CONFIRMATION OF MINUTES

CONFIRMATION OF MINUTES

MINUTES OF THE ORDINARY MEETING OF COUNCIL HELD ON WEDNESDAY,
12 OCTOBER 2011

100/1

MN 373/11

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

THAT the minutes of the Ordinary Meeting of Council held on Wednesday, 12 October 2011 MN 358/11 to MN 372/11 inclusive, copies of which were forwarded to Councillors, be adopted as a correct record of the proceedings of the meeting.

PASSED

BUSINESS ARISING

There was no business arising from the Minutes of the Meeting held on Wednesday, 12 October 2011.



MINUTES OF THE ORDINARY MEETING OF COUNCIL

held in the Council Chamber, Civic Centre, Elizabeth Street, Moss Vale
on Wednesday, 26 October 2011

DECLARATIONS OF INTEREST

DECLARATIONS OF INTEREST

101/3

Clr J Arkwright declared a less than significant non-pecuniary interest in Item o-EP7 – Frensham Voluntary Planning Agreement – as she is a Member of WWW Ltd and an Old Girl of Frensham. She stated that she would remain in the chamber when this matter was discussed, take part in the debate and vote on the matter.

Clr J Mauger declared a pecuniary interest in Item c-GM1 – Report in Relation to Investigations by the Former RD Squad – as he is the owner of the property on which the alleged illegal dumping has taken place. He stated that he would leave the chamber when this matter was discussed, take no part in the debate and refrain from voting thereon.

Clr L A C Whipper declared a less than significant non-pecuniary interest in Item o-EP3 - Section 96(2) Modification of Original Approval, being Additional 20 Strata Titled Villas at Lot 309 DP 1104965/SP 78022, Milton Park, Horderns Road, Bowral – as he is a Member of the Board of the Sydney Catchment Authority and the SCA has a concurrence role in the D/A but he has no part in the assessment process. He stated that he would remain in the chamber when this matter was discussed, take part in the debate and vote thereon.

Clr L A C Whipper declared a less than significant non-pecuniary interest in Item o-EP4 – Proposed Dressage Arena at Lot 1 DP 730257, RN 1 Meryla Road, Corner Yarrawa Road, Moss Vale – as the Sydney Catchment Authority – as he is a Member of the Board of the Sydney Catchment Authority and the SCA has a concurrence role in the D/A but he has no part in the assessment process. He stated that he would remain in the chamber when this matter was discussed, take part in the debate and vote thereon.

Clr D Stranger declared a less than significant non-pecuniary interest in Item o-EP7 – Frensham Voluntary Planning Agreement as he has a daughter in Year 10 at Frensham. He stated that he would remain in the chamber when this matter was discussed, take part in the debate and vote on the matter.



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MAYORAL MINUTE

MAYORAL MINUTE

c-MM1 Closure of Berrima Correctional Centre

Reference: 102/5, 1445

Responsible Officer: Mayor

To report on the outcome of a meeting with The Hon Greg Smith, SC, MP, Attorney General and Minister for Justice.

MN 374/11

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

THAT representations be made to The Hon Greg Pearce, MP, Minister for Finance and Services and Minister for the Illawarra, in relation to the future use of the Berrima Correctional Centre building by the community through a duly established Trust, as discussed with The Hon Greg Smith, MP, Attorney General and Minister for Justice, with a view to the building being handed to the community **AND THAT** Council advise The Hon Greg Pearce, MP, Minister for Finance and Services and Minister for the Illawarra that it is interested in becoming a major stakeholder and requesting that Council be kept informed of all progress in relation to the use of the property.

PASSED



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SUSPENSION OF STANDING ORDERS

SUSPENSION OF STANDING ORDERS

The Mayor Clr K Halstead requested that standing orders be suspended to allow Mr John McKillop to speak on the following matter in the Agenda:

- o-EP3 Section 96(2) Modification of Original Approval, being Additional 20 Strata Titled Villas at Lot 309 DP 1104965/SP 78022, Milton Park, Horderns Road, Bowral

MN 375/11

MOTION moved by *Clr T D Gair* and seconded by *Clr G McLaughlin*:

THAT standing orders be suspended to allow Mr John McKillop to speak for five (5) minutes on Item o-EP3 - Section 96(2) Modification of Original Approval, being Additional 20 Strata Titled Villas at Lot 309 DP 1104965/SP 78022, Milton Park, Horderns Road, Bowral.

PASSED



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PUBLIC FORUM

PUBLIC FORUM

LUA11/0869

Mr John Dobler requested and was granted approval to speak on the following matter in the Agenda:

- o-EP3 Section 96(2) Modification of Original Approval, being Additional 20 Strata Titled Villas at Lot 309 DP 1104965/SP 78022, Milton Park, Horderns Road, Bowral

The Mayor Clr K Halstead thanked Mr John Dobler for his comments and noted that the matter will be considered later in the meeting.

LUA11/0869

Mr John McKillop requested and was granted approval to speak on the following matter in the Agenda:

- o-EP3 Section 96(2) Modification of Original Approval, being Additional 20 Strata Titled Villas at Lot 309 DP 1104965/SP 78022, Milton Park, Horderns Road, Bowral

The Mayor Clr K Halstead thanked Mr John McKillop for his comments and noted that the matter will be considered later in the meeting.

7810/12

Dr Leah Day requested and was granted approval to speak on the following matter in the Agenda:

- o-CS9 Renwick Development Site and Proposal to Gazette Road Names

The Mayor Clr K Halstead thanked Dr Leah Day for her comments and noted that the matter will be considered later in the meeting.

DECLARATIONS OF INTEREST

101/3

Clr T D Gair declared a less than significant non-pecuniary interest in Item o-CS9 - Renwick Development Site and Proposal to Gazette Road Names – as Dr Leah Day, who addressed Council on this issue, ran on his ticket at the 2008 Council elections. He stated that he would remain in the chamber when this matter was discussed, take part in the debate and vote on the matter.



MINUTES OF THE ORDINARY MEETING OF COUNCIL

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OPEN COUNCIL

OPEN COUNCIL

107/11

MN 376/11

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

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

PASSED



OPEN COUNCIL

ENVIRONMENT & PLANNING DIVISION

o-EP1 Development Consents Determined by way of Approval under Delegated Authority

Reference: 5302
Responsible Officer: Manager Environmental Assessment

Submitting list of development consents executed under delegated authority of the Director of Environment and Planning between 1 October 2011 and 17 October 2011.

OC 226/11

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

THAT the information relating to Development Consent Nos 1 – 5 Approval and Development Consent Number 1 Non-Approval under Delegated Authority be received and noted.

PASSED

o-EP2 List of Land Use Applications Received by Council

Reference: 5302
Responsible Officer: Manager Environmental Assessment

Submitting list of development applications which have been received between 1 October 2011 and 17 October 2011, some of which will be dealt with under delegated authority of the Director of Environment & Planning.

OC 227/11

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

THAT the information regarding the List of Land Use Applications Nos 1 - 11 received by Council be received and noted.

PASSED



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REPORT OF DIRECTOR ENVIRONMENT & PLANNING

o-EP3	Section 96(2) Modification of Original Approval, being Additional 20 Strata Titled Villas at Lot 309 DP 1104965/SP 78022, Milton Park, Horderns Road, Bowral
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Reference: LUA11/0869
Responsible Officer: Director Environment and Planning

This report is about an application to amend a development consent originally granted by Council in 1985.

Interest: Clr L A C Whipper declared a non-pecuniary interest in this matter as he is a Member of the Board of the Sydney Catchment Authority and the SCA has a concurrence role in this D/A, but he has no part in the assessment. He remained in the Chamber, took part in the debate and voted on the matter.

The Director Environment & Planning addressed Council on this matter.

OC 228/11

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

THAT the application LUA11/0869, made pursuant to s96(2) of the Environmental Planning and Assessment Act to modify development consent 32/27/3182/84, for 20 strata titled villas at Milton Park, Lot 309 DP 1104965/SP 78022 be approved in accordance with the plans attached to this report, conditions to be imposed by the Director Environment and Planning and the requirements of the Sydney Catchment Authority.

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



o-EP4 Proposed Dressage Arena at Lot 1 DP730257, RN 1 Meryla Road, Corner Yarrowa Road, Moss Vale

Reference: LUA11/0618
Responsible Officer: Manager Environmental Assessment

Council has received a Development Application for an open air dressage arena at the above property.

Interest: Clr L A C Whipper declared a non-pecuniary interest in this matter as he is a Member of the Board of the Sydney Catchment Authority and the SCA has a concurrence role in this D/A, but he has no part in the assessment. He remained in the Chamber, took part in the debate and voted on the matter.

The Manager Environmental Assessment addressed Council on this matter.

OC 229/11

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

THAT development application LUA11/0618 for an open air dressage arena at Lot 1 DP 730257, RN 1 Meryla Road, Moss Vale be approved subject to conditions of development consent as described in Attachment 2 of the report.

The Committee on an **AMENDMENT** moved by Clr K Halstead and seconded by Clr L A C Whipper:

THAT development application LUA11/0618 for an open air dressage arena at Lot 1 DP 730257, RN 1 Meryla Road, Moss Vale be approved subject to conditions of development consent as described in Attachment 2 of the report, with the addition of a condition requiring a Restriction as to User to be registered on the title of the property preventing the use of the dressage arena for commercial purposes.

LOST

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

MOTION PASSED



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REPORT OF DIRECTOR ENVIRONMENT & PLANNING

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



o-EP5 Proposed Alterations and Additions to Dwelling and New Garage, Lot 1 DP 1168410, No 9 Market Place Berrima

Reference LUA11/0422
Responsible Officer: Manager Environmental Assessment

This report is about a Development Application for proposed alterations and additions to the existing dwelling and a new garage.

The Manager Environment Assessment addressed Council on this matter.

OC 230/11

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

THAT development application LUA11/0422 for proposed alterations and additions to the dwelling and a new garage on Lot 1 DP 1168410, No 9 Market Place Berrima be approved subject to the following specific conditions:

(i) Building within Vicinity of Sewer Main

Where a building is constructed within the area of influence of the sewer main, the weight of the building shall be distributed away from the sewer main by pier and beam construction. The piers shall be designed by a Professional Engineer and shall be embedded on firm foundation at least 300mm below the invert of the pipe with a minimum horizontal clearance from the pipe of 600mm.

The area of influence of the sewer main is considered to be that area within the angle of repose of 45° for normal loam/clay/sand foundations, or 60° for rock foundations measured 600mm from the outside of the pipe from the trench bottom.

Notwithstanding the above, a building shall not be erected within 1.2m of the outside edge of a sewer manhole and unobstructed personal access of minimum width of 900mm shall be provided to any manhole located upon private property.

(ii) Detached Building

The detached studio shall be used in conjunction with the dwelling and shall not be separately let or occupied.

PASSED

.....Cont'd



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on Wednesday, 26 October 2011
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 J G Arkwright	x	
Clr J R Clark	x	
Clr T D Gair	x	
Clr K Halstead	x	
Clr G McLaughlin	x	
Clr J Mauger	x	
Clr D Stranger	x	
Clr P B Tuddenham	x	
Clr L A C Whipper	x	



o-EP6 Policy for Lodgement of a Land Use Application

Reference: 5302/12
Responsible Officer: Manager Environmental Assessment

This report builds relates to the adoption of a new policy titled “Policy for the lodgement of a Land Use Application”.

The Director Environment & Planning addressed Council on this matter.

OC 231/11

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

1. **THAT the Policy for the Lodgement of a Land Use Application be adopted.**
2. **THAT local development industry stakeholders be informed of the policy adoption and the requirements for compliance with the Policy.**

PASSED



o-EP7 Frensham Voluntary Planning Agreement (VPA)

Reference: LUA11/0951
Responsible Officer: Director Environment & Planning

This report seeks Council endorsement to place a Draft Voluntary Planning Agreement (VPA) on public exhibition in conjunction with a Development Application (DA) from Winifred West Schools (WWS), for a new indoor swimming facility at Frensham.

Interest: Clr J G Arkwright declared a less than significant non-pecuniary interest in this matter as she is a Member of WWS Ltd and an Old Girl of Frensham. She remained in the Chamber, took part in the debate and voted on the matter.

Interest: Clr D Stranger declared a less than significant non-pecuniary interest in this matter as he has a daughter in Year 10 at Frensham. He remained in the Chamber, took part in the debate and voted on the matter.

The Director Environment & Planning addressed Council on this matter.

OC 232/11

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

THAT Council endorse the draft Voluntary Planning Agreement with Winifred West Schools for the purpose of a concurrent public exhibition with the Development Application for an indoor swimming facility at Frensham AND THAT the matter be brought back to a meeting of Council in February 2012 for a final decision on the Voluntary Planning Agreement and the Development Application.

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 J G Arkwright	x	
Clr J R Clark	x	
Clr T D Gair	x	
Clr K Halstead	x	
Clr G McLaughlin	x	
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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CHAIRPERSON

CHAIRPERSON

At this juncture, the time being 5.34 pm, the Mayor Clr K Halstead resumed the Chair to conduct the remainder of Council Business.

QUESTIONS FROM THE PUBLIC

1. OXLEY COLLEGE TRAFFIC SITUATION

LUA11/0235

Mr Keith Jolly, on behalf of Yean Street Residents, referred to questions previously raised, and noted that no response has been received, and stated that he is asking the questions again.

The Director Environment & Planning advised that the report that went to Council set out the merits of the proposal, and that it was his recollection that there was substantial debate on the issue of traffic movement before a final determination was made. He advised that he is happy to investigate the matter and provide an answer in writing, but that he is not sure whether he can answer the essence of the questions, other than to refer to the report and the resolutions of Council.

The Mayor Clr K Halstead asked for this matter to be followed up and for the questions to be answered.

2. LEGAL ISSUES REPORT

107/22

Mr Terry Oakes-Ash asked how much are Council's legal fees currently costing per month and year to date for this financial year, and are they above or below last year for the same period.

The General Manager advised that this question will be taken on notice.

3. TRAFFIC/ROAD ACCESS TO OXLEY COLLEGE

LUA11/0235

Mr Chris Young representing Yean Street Residents, asked why Council did not approve Oxley College's preference regarding traffic access via a one-way through road with the entrance from Railway Parade and its exit onto Osborne Road.

The Director Environment & Planning referred to the report that was considered and the debate when the issues of traffic management were discussed, and advised that there is not anything more that he can add.

The General Manager advised that the concerns will be referred back to the Traffic Committee for further consideration.

4. COMBINATION JETTING AND VACUUM UNIT ("SUCKER" TRUCK)

7796, 6330/09.8

Mr Peter Smyth referred to the "sucker truck" report prepared by KPMG and stated that he is concerned about the validity of the report and asked:

- (i) Do Councillors realise that the report is flawed, not on the figures given but on the actual time the unit has been used, and that the report from KPMG gave 2 options for
-

comparison – the first option was 1500 hours and the second option was 1000 hours use when actually the truck clocked just 519 hours in 11 months and that would certainly put it in a loss situation by KPMG's own scale.

The Director Infrastructure Services advised that the target hours of use in an annual year is 1000 hours and that Council was optimistic in targeting 1500 hours. He advised that in the start up phase 517 hours have been used in 11 months and that there are a number of improvements to be made.

- (ii) What is the answer to Councillor Arkwright's question raised from the floor in dot point (iii) "prior to purchase what was the cost of hire when Council used to contract this service?"

The Director Infrastructure Services advised that the question would have been answered at the time it was originally asked. He advised that the report does contain a good comparison of what a contractor would cost to do the work versus the cost of day labour. He advised that this is a change in maintenance culture as Council has not proactively maintained sewer mains in the past, and that it is a condition of Council's licence with the Department of Environment & Heritage that Council does proactive maintenance.

- (iii) As stated by Council, the unit can maintain 1 km to 1.5 km of mains per day, and that there are 410 km of mains, and noted that Council has owned the valuable piece of sewer saving plant for some 17 months, and asked are the operators finding it quicker on the second time around?

The Director Infrastructure Services advised that the use of the truck it is not a "nice to do activity" but it is essential to undertake proactive maintenance that is required, and that there has been resistance to the new technology, as is pointed out in the report. The Director Infrastructure Services advised that he is happy to meet with Mr Smyth to discuss any further concerns that he has.

The General Manager advised that he does not believe that a lot of research was done into implementation of the unit into Council's operations, which is quite clear in the report, and confirmed that there has been a lot of resistance to the implementation of the unit. He advised that in relation to the KPMG report, that any Council getting 1500 hours on the clock on any unit is almost impossible with current water restrictions that are in place, but 1000 hours is possible and that is what KPMG based their report on. He advised that the more important issues are 3 and 4 as indicated in the report, and at the end of the 12 month period Council needs to look at how the unit is stacking up against external contractors.

5. COMBINATION JETTING AND VACUUM UNIT ("SUCKER TRUCK")

7796, 6330/09.8

Mr Ian Scandrett asked if there are any figures about how much has been expended on external contractors when the "sucker truck" was not staffed and also the cost of staff training?

The Director Infrastructure Services advised that he will investigate the question and provide any answer to Mr Scandrett.



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QUESTIONS FROM THE PUBLIC

6. TRAFFIC ANALYSIS

1301/3, 7460/11

Mr Ian Scandrett asked if, in view of the subdivisions approved in Burradoo since the Oxley College building was approved, will Council commission a traffic study for Burradoo to review the overall affect of the continuing subdivisions, which will ultimately generate more traffic?

The Director Environment & Planning advised that Council has a fairly sophisticated shire-wide traffic model – a Tracks model - which looks at the whole of the Shire traffic movements and it is capable of developing different scenarios, including the impact that developments have. He advised that there is a good level of information of where traffic issues are arising in the Shire and where improvements need to be made in the whole of the traffic network. In relation to the Oxley development, the Director Environment & Planning advised that it was supported by traffic studies and the issue of traffic was thoroughly looked at when the report was put to Council.

The General Manager advised that this matter will be further investigated.



OPEN COUNCIL (CONT)

ENVIRONMENT & PLANNING DIVISION (CONT)

**o-EP8 Environment Levy Special Rate Variation – Amendment to 2011-2013
Delivery Program and 2011/2012 Operational Plan**

Reference: 5465
Responsible Officer: Director Environment & Planning

To progress Environment Levy Special Rate Variation project by ensuring Council meets the IPART submission criteria and the relevant legislative requirements of amending Integrated Planning & Reporting documents within the project milestones.

MN 377/11

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

- THAT Council notes the contents of this report and will consider an amended 2011-2013 Delivery Program, 2011/12 Operational Plan and 2011-2013 Resourcing Strategy at its Ordinary Meeting of Council to be held on Wednesday, 9 November 2011.***
- THAT the project milestones outlined in the report be adopted to enable a submission to be made to IPART within the required deadline.***

PASSED



o-EP9 Draft Amendments to Wingecarribee Development Control Plans

Reference: 5700
Responsible Officer: Manager Strategic and Community Development

The purpose of this report is to seek endorsement for the public exhibition of the second set of amendments to the Development Control Plans (DCPs) which support WLEP 2010.

MN 378/11

MOTION moved by Clr T D Gair and seconded by Clr G McLaughlin:

THAT Council resolve to exhibit the proposed Development Control Plan amendments described in this report for twenty eight (28) days and that the outcome of the public exhibition be reported back to Council at the end of the exhibition period AND THAT Part 4 Preservation of Trees and Other Vegetation Axx.4 Exemptions (g) be clarified relating to “environmental weeds” in heritage areas prior to exhibition.

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



o-EP10 Draft Deed of Variation to Douglas Road Planning Agreement – Lot 24

Reference: 5701/27
Responsible Officer: Manager Strategic and Community Development

The purpose of this report is to discuss the proposed Deed of Variation to the Douglas Road Planning Agreement with Maloney Nominees Pty Ltd and Wilma Adele Maloney.

MN 379/11

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

1. **THAT** the Draft Deed of Variation be placed on public exhibition for twenty eight (28) days pursuant to Section 93G of the Environmental Planning and Assessment Act 1979 and Clause 25D of the Environmental Planning and Assessment Regulation 2000.
2. **THAT** a further report be forwarded to Council on the Deed of Variation following the exhibition period.

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



o-EP11 Donation to the Moss Vale Men's Shed Program

Reference: 1870/2011, 1612/9
Responsible Officer: Manager Strategic and Community Development

The purpose of this report is to seek Council approval to make a one off donation to Moss Vale Men's Shed Program which will be run as a Program of Anglicare Moss Vale and operate from the Moss Vale Showground.

MN 380/11

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

1. **THAT Council donate \$5,000.00 to the Moss Vale Men's Shed Program under the auspice of Anglicare Moss Vale AND THAT funding be allocated from excess funds of the 2011/2012 Community Grants Assistance Scheme.**
2. **THAT the Moss Vale Men's Shed and Anglicare Moss Vale be advised of Council's decision.**

PASSED



MINUTES OF THE ORDINARY MEETING OF COUNCIL

held in the Council Chamber, Civic Centre, Elizabeth Street, Moss Vale
on Wednesday, 26 October 2011

REPORT OF DIRECTOR ENVIRONMENT & PLANNING

o-EP12 Proposed Subdivision of the Mineral Springs Reserve Mittagong

Reference: 1826/14, PN700000
Responsible Officer: Manager Strategic and Community Development

The purpose of this report is to submit to Council a proposal to proceed with the subdivision of the Mineral Springs Reserve site into two allotments with one allotment being retained as the Mineral Springs Reserve and housing the Aboriginal Community and Cultural Centre and the second allotment to be either disposed of by sale or made available through a long term lease.

The Director Environment & Planning addressed Council on this matter.

MN 381/11

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

1. **THAT** the proposed two lot subdivision of Lot 33 DP 9299 Rainbow Road and Old Hume Highway Mittagong commonly known as Mineral Springs Reserve proceed as outlined in this report.
2. **THAT** the General Manager be authorised to make the Development Application for subdivision **AND THAT** on completion of the assessment and consultation process the application be reported to Council for determination.
3. **THAT** during the assessment process of the Development Application, Council negotiate with the Mittagong RSL a twenty five (25) year lease over proposed Lot 2 **AND THAT** the General Manager be authorised to negotiate the terms of the lease.

PASSED



MINUTES OF THE ORDINARY MEETING OF COUNCIL

held in the Council Chamber, Civic Centre, Elizabeth Street, Moss Vale
on Wednesday, 26 October 2011

REPORT OF DIRECTOR ENVIRONMENT & PLANNING

o-EP13 Additional Nominations for Representatives on the Aboriginal Community and Cultural Centre Establishment Working Group

Reference: 1826/14
Responsible Officer: Manager Strategic and Community Development

To advise Council of three additional nominations received for inclusion on the Working Group to oversee the establishment of the Aboriginal Community and Cultural Centre.

MN 382/11

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

1. **THAT** the following additional nominees be appointed to the Permanent Aboriginal Community and Cultural Centre Establishment Working Group.

- | | |
|-------------------------|--------------------------------------|
| (i) Aunty Sandra Brooks | Mirri Mirri Bunderra |
| (ii) Kim Leever | Wingecarribee Reconciliation Group |
| (iii) Michael Roberts | Wingecarribee Family Support Service |

2. **THAT** the successful/unsuccessful nominees be advised in writing of Council's determination and be thanked for their nomination and interest to participate on the Working Group.

PASSED



o-EP14 Legal Issues

Reference: 107/22
Responsible Officer: Director Environment & Planning

Reporting on the management of legal and compliance issues in the past month.

MN 383/11

MOTION moved by Clr T D Gair and seconded by Clr J G Arkwright:

THAT the Legal Issues Report – Item cc-GM3 – be considered in Closed Committee (refer also CC 36/11 on page 48).

PASSED



CORPORATE SERVICES DIVISION

o-CS1 Investments as at 30 September 2011

Reference: 2104
Responsible Officer: Manager Financial Services

Submitting details of Council's Investments as at 30 September 2011.

The Director Corporate Services addressed Council on this matter.

MN 384/11

MOTION moved by Clr J G Arkwright and seconded by Clr T D Gair:

THAT the information on Council's Investments as at 30 September 2011 be received and noted.

PASSED



**o-CS2 Council Meeting Dates for November 2011, December 2011, January 2012
and July 2012**

Reference: 100/1, 107
Responsible Officer: Manager Governance

Reporting on proposed changes to Council Meeting dates for November 2011, December 2011, January 2012 and July 2012.

MN 385/11

MOTION moved by Cllr G McLaughlin and seconded by Cllr J Mauger:

1. **THAT the Ordinary Meeting of Council scheduled to be held on Wednesday 9 November 2011 be transferred to Tuesday 8 November 2011.**
2. **THAT the Information Sessions scheduled for Wednesday, 9 November 2011 be transferred to Tuesday 8 November 2011.**
3. **THAT the Ordinary Meeting of Council scheduled to be held on Wednesday 21 December 2011 be cancelled.**
4. **THAT the Information Sessions scheduled to be held on Wednesday 21 December 2011 be cancelled.**
5. **THAT the Ordinary Meetings of Council scheduled for Wednesday 11 and 25 January 2012 be cancelled.**
6. **THAT the Information Sessions scheduled to be held on Wednesday 11 and 25 January 2012 be cancelled (unless required).**
7. **THAT the first Ordinary Meeting of Council for 2012 be held on Wednesday 8 February 2012 unless any business dictates that a meeting be scheduled prior to that date, in which case the Mayor may call an Extraordinary Meeting of Council.**
8. **THAT the Ordinary Meeting of Council scheduled to be held on Wednesday 25 July 2012 be transferred to Tuesday 24 July 2012.**
9. **THAT the Information Sessions scheduled to be held on Wednesday 25 July 2012 be transferred to Tuesday 24 July 2012.**

PASSED



MINUTES OF THE ORDINARY MEETING OF COUNCIL

held in the Council Chamber, Civic Centre, Elizabeth Street, Moss Vale
on Wednesday, 26 October 2011

REPORT OF DIRECTOR CORPORATE SERVICES

o-CS4 Payment of Expenses and Provision of Facilities to the Mayor and Councillors Policy Annual Review

Reference: 101/5
Responsible Officer: Manager Governance

Submitting *Payment of Expenses and Provision of Facilities to the Mayor and Councillors* Policy for review in accordance with the *Local Government Act 1993* and the Division of Local Government Guidelines.

Clr T D Gair requested that Councillors' partners should be paid for when attending functions where the Councillor is representing Council, for example, if the Councillor is Chair of a Council Committee.

The Director Corporate Services addressed Council on this matter, and advised that an amendment can be made to the policy under the heading 1.1 General Provisions clause (d) by adding after the words "representing the Mayor" the words "or where the Chairperson of a Committee is representing Council ...".

MN 387/11

MOTION moved by Clr T D Gair and seconded by Clr G McLaughlin:

1. **THAT Council adopt its existing Policy regarding the Payment of Expenses and Provision of Facilities to Mayor and Councillors as detailed in Attachment 1 of the report.**
2. **THAT in accordance with the Local Government Act 1993 and the Department of Local Government Guidelines issued by the Department of Local Government dated September 2006, a copy of the adopted Policy be forwarded to the Department to Local Government by 30 November 2011.**
3. **THAT a minor amendment be made under the heading 1.1 General Provisions clause (d) so that that Clause would read as follows:**
 - (d) ***In respect of the position of Mayor (and Deputy Mayor or Councillor when representing the Mayor) or where the Chairperson of a Committee is representing Council, Council shall pay the cost of attending a community function in an official capacity, and the costs of a partner shall also be met.***

PASSED



o-CS5 Appointment of Councillors to the Development Assessment Continuous Improvement Working Group

Reference: 5302
Responsible Officer: Manager Governance

Reporting on the appointment of three (3) councillors and staff members to the Development Assessment Continuous Improvement Working Group.

At this juncture, the Mayor Clr K Halstead left the Meeting and Clr L A C Whipper moved into the Chair for this item.

MN 388/11

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

1. **THAT** Councillor(s)

- (i) Clr D Stranger
- (ii) Clr T D Gair
- (iii) Clr K Halstead

be appointed as delegates on the Development Assessment Continuous Improvement Working Group.

2. **THAT** staff members Director Environment & Planning (Chair), Manager Environmental Assessment, Team Leader Environmental Assessment and General Manger (ex officio) be appointed on the Development Assessment Continuous Improvement Working Group.

PASSED

At this juncture, the time being 6.37 pm, the Mayor Clr K Halstead resumed the chair.



MINUTES OF THE ORDINARY MEETING OF COUNCIL

held in the Council Chamber, Civic Centre, Elizabeth Street, Moss Vale
on Wednesday, 26 October 2011

REPORT OF DIRECTOR CORPORATE SERVICES

o-CS6 Ordinary Elections September 2012

Reference: 105
Responsible Officer: Manger Governance

Reporting on the arrangements for the conduct of the Local Government Elections to be held in September 2012.

The General Manager and Director Corporate Services addressed Council on this matter.

MN 389/11

MOTION moved by Clr J G Arkwright and seconded by Clr J Mauger:

1. **THAT** the Electoral Commission of NSW be advised that Wingecarribee Shire Council wishes to engage the Commission to conduct the Wingecarribee Shire Council Local Government Elections in 2012.
2. **THAT** Council not reduce the number of Councillors.
3. **THAT** consideration of budget costs for the Ordinary Election of Councillors in September 2012 be determined during Council's budget considerations for the 2012/2013 budget year.
4. **THAT** Council request its own Returning Officer from the Electoral Commission of NSW to conduct the Ordinary Election of Councillors in 2012 for Wingecarribee Shire Council.
5. **THAT** Council make representations to The Hon Don Page, MP, Minister for Local Government, expressing its support of his public statement of "profound disappointment with the Electoral Commission" which he expressed at the 2011 Local Government Conference at Nowra **AND THAT** Council urges him to pursue with the utmost vigour his attempts to have the Electoral Commission re-consider meaningful support to run Council elections **AND FURTHER THAT** Council respectfully requests that the State Government make a financial contribution of 50% of the cost of running the elections.
6. **THAT** Council make representation to the Governor of New South Wales Her Excellency Professor Marie Bashir to enter into more meaningful dialogue with the Electoral Commission of NSW in an endeavour to facilitate Councils running their own elections.

PASSED



**o-CS7 Encroachment onto Public Reserve being (No Street Number) Part Lot 11
DP 749485 Merrigang Street Bowral**

Reference: PN1707407, PN944202
Responsible Officer: Manager Governance

Report requesting endorsement of proposal to remedy encroachment on Council Reserve being part Lot 11 DP749485 Merrigang Street Bowral (the "Merrigang Street Land").

MN 390/11

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

THAT the report in relation to the encroachment onto Public Reserve being (no Street Number) Part Lot 11 DP 749485 Merrigang Street, Bowral (the "Merrigang Street Land") be deferred pending an inspection by Councillors of the property AND THAT the report be referred to a future Ordinary Meeting of Council following the inspection.

PASSED

**o-CS8 Proposal to Licence Use of Council land to State Emergency Service
(Wingecarribee Unit) (No street number) Lot 2 Deposited Plan 734539
Bessemer Street, Mittagong**

Reference: PN174300
Responsible Officer: Manager Governance

Report considering proposal to licence the use of Council land in Bessemer Street, Mittagong to the Wingecarribee Unit of the State Emergency Service ('Wingecarribee SES').

The General Manager addressed Council on this matter.

MN 391/11

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

1. **THAT authority be delegated to the General Manager to negotiate to enter into a Licence Agreement for the use of part of (No Street Number) Lot 2 Deposited Plan 734539 Bessemer Street, Mittagong to the State Emergency Service (Wingecarribee Unit) for a term of ten (10) years.**
2. **THAT the Licence Agreement referred to in 1 above be executed under the Common Seal of the Council.**

PASSED



MINUTES OF THE ORDINARY MEETING OF COUNCIL

held in the Council Chamber, Civic Centre, Elizabeth Street, Moss Vale
on Wednesday, 26 October 2011

REPORT OF DIRECTOR CORPORATE SERVICES

o-CS9 Renwick Development Site and Proposal to Gazette Road Names

Reference: 7810/12
Responsible Officer: Addressing Project Officer

The purpose of the report is present the details of the Renwick Development road name and request that Council support their submission to the Government Gazette.

Interest: Clr T D Gair declared a less than significant non-pecuniary interest in this matter as Dr Leah Day, who addressed Council on this issue, ran on his ticket at the 2008 Council elections. He remained in the Chamber, took part in the debate and voted thereon.

The Director Corporate Services addressed Council on this matter. He referred to the request of the speaker in Public Forum about the use of the name of George Cutter as one of the names for a road in the Renwick Development, and advised that Councillors need to consider this request.

MN 392/11

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

THAT Council support the proposal to submit the Renwick road names for notice in the Government Gazette by means of a Resolution, with the exception of Whitfield Avenue which is to be renamed "George Cutter Avenue" and Little Renwick Lane which is to be renamed "Whitfield Lane".

PASSED



MINUTES OF THE ORDINARY MEETING OF COUNCIL

held in the Council Chamber, Civic Centre, Elizabeth Street, Moss Vale
on Wednesday, 26 October 2011

REPORT OF DIRECTOR CORPORATE SERVICES

o-CS10 Conduct of Australia Day Activities and Appointment of Berrima Court House Trust to Assist in Conducting Activities in 2012

Reference: 1671/2
Responsible Officer: Manager Governance

Reporting on Australia Day activities for January 2012 and the appointment of Berrima Court House Trust to assist in conducting Australia Day activities.

MN 393/11

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

1. **THAT the Berrima District Court House Trust be appointed to undertake Australia Day Festivities for 2012 in conjunction with Council.**
2. **THAT Council allocate \$6,750 from within its existing budget allocation of \$20,000 to the Berrima Court House Trust to facilitate Australia Day activities in 2012.**
3. **THAT Council advertise for Expressions of Interest to conduct Australia Day activities for either a 3 or 5 year term AND THAT a further report be submitted to a future Ordinary meeting of Council detailing Expressions of Interest received.**
4. **THAT council explore any in-house opportunities to conduct future Australia Day activities.**

PASSED



MINUTES OF THE ORDINARY MEETING OF COUNCIL

held in the Council Chamber, Civic Centre, Elizabeth Street, Moss Vale
on Wednesday, 26 October 2011

REPORT OF DIRECTOR INFRASTRUCTURE SERVICES

INFRASTRUCTURE SERVICES DIVISION

o-IS1	Combination Jetting and Vacuum Unit
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Reference: 7796, 6330/09.8

Responsible Officer: Manager Assets

Presenting the report from an independent auditor, (KPMG), on the purchase of the Combination Jetting and Vacuum Unit.

The Director Infrastructure Services addressed Council on this matter. He advised that in relation to the questions asked by members of the public earlier in the meeting, he has had the opportunity of reviewing some background information and that in relation to the questions that Clr Arkwright asked, they were replied to in the Council report of Wednesday, 23 February 2011, on page 4 of the report.

The Director Infrastructure Services further advised that in terms of the number of operators on the trucks, that there are two (2) vehicles, the first being the combination jetting and vacuum suction unit of which there are two (2) crew members and a CCTV vehicle which also has two (2) crew members, and that there is a supervisor overseeing both of these crews.

MN 394/11

MOTION moved by Clr T D Gair and seconded by Clr J Mauger:

1. **THAT** KPMG's report titled "Report on consideration of accuracy of financial aspects of the report to Council regarding 'Purchase of Combo Unit'" be received.
2. **THAT** the productivity of the Combo Unit continues to be monitored **AND THAT** Council be briefed six (6) monthly on the results of the proactive sewer main cleaning program.

PASSED



COUNCIL MATTERS

GENERAL MANAGER'S REPORTS

c-GM1 Report in Relation to Investigations by the Former RID Squad

Reference: 5508, 7500/17
Responsible Officer: General Manager

To inform Council of an investigation for alleged dumping, and the contents of legal advice obtained by the General Manager in respect of Council's legal and planning options in the matter.

The General Manager addressed Council on this matter.

The Mayor Clr K Halstead noted a number of objections from the public and Councillors in relation to this matter.

PROCEDURAL MOTION

THAT the motion be put. (Moved Clr J Clark)

MN 395/11

MOTION moved by Clr G McLaughlin and seconded by Clr J G Arkwright:

1. **THAT the report concerning incidents of alleged dumping be considered in Closed Committee (refer also CC 37/11 on page 49).**
2. **THAT the General Manager be authorised to release a Press Statement in relation to this matter.**

PASSED



MINUTES OF THE ORDINARY MEETING OF COUNCIL

held in the Council Chamber, Civic Centre, Elizabeth Street, Moss Vale
on Wednesday, 26 October 2011

NOTICE OF MOTION

NOTICE OF MOTION

c-NM1 14/2011 – Notice of Motion – Community Building Partnership Program

Reference: 100/4
Responsible Officer: Manager Governance

Councillor Graham McLaughlin has given notice that it is his intention to move the following Notice of Motion at the Ordinary Meeting of Council on Wednesday 26 October 2011:

1. THAT Council note that:
 - a. In 2010, the former NSW Labor Government provided \$58 million in funding to the Community Building Partnership Program;
 - b. The Community Building Partnership Program provides local community groups and councils with infrastructure funding to build or upgrade local facilities like community halls, sporting grounds and water tanks;
 - c. In 2010 Wingecarribee Shire Council received the following grants:
 - i. \$60,000 for the upgrade of Mittagong Playhouse.
 - d. In this year's State Budget, the new Premier Barry O'Farrell has reduced the program's funding to just \$11 million – a cut of \$47 million; and
 - e. This means that Council and local community groups in our area have access to much less funding to build or upgrade essential local infrastructure.
2. THAT Council calls on the O'Farrell Government to reverse its decision and restore funding to the Community Building Partnership Program.

--

MOTION moved by *Clr G McLaughlin* and seconded by *Clr T D Gair*:

THAT Council calls on the O'Farrell Government to reverse its decision and restore funding to the Community Building Partnership Program to the level of the previous Labor Government.

MN 396/11

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

THAT Council calls on the O'Farrell Government to clarify its position on the funding to the Community Building Partnership Program and to reinforce its long term position in relation to that Program.

AMENDMENT BECAME THE MOTION

PASSED



MINUTES OF THE ORDINARY MEETING OF COUNCIL

held in the Council Chamber, Civic Centre, Elizabeth Street, Moss Vale
on Wednesday, 26 October 2011

NOTICE OF MOTION

c-NM2 15/2011 – Notice of Motion – Mobile Phone Towers

Reference: 100/4
Responsible Officer: Manager Governance

Councillor Larry Whipper has given notice that it is his intention to move the following Notice of Motion at the Ordinary Meeting of Council on Wednesday 26 October 2011:

1. THAT Council develop a policy relating to locating of mobile phone towers.
2. THAT this policy also consider acceptable distances from residential areas etc.

It was noted that Clr Jim Clark had signed Clr Whipper's Notice of Motion.

The Director Environment & Planning addressed Council on this matter and advised that he would provide information in the Weekly Circular.

MN 397/11

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

1. **THAT** Council develop a policy and/or guidelines relating to locating of mobile phone towers.
2. **THAT** this policy and/or guidelines also consider acceptable distances from residential areas etc.
3. **THAT** Council request details from telecommunication providers of all existing mobile phone and internet towers, proposed upgrades, proposed additional locations and any other relevant information relating to the development of Council's policy and/or guidelines detailed in 1 above.
4. **THAT** telecommunication providers co-locating on facilities form part of policy and/or guidelines development.

PASSED



COMMITTEE REPORTS Tabled

c-CR1 Management and Advisory Committee Reports

Reference: 107/1
Responsible Officer: Manager Strategic Planning & Community Development

Submitting minutes of three (3) Committee meetings that will be tabled for information.

MN 398/11

MOTION moved by Clr T D Gair and seconded by Clr K Halstead:

THAT the information contained in the following Committee Reports be noted:

- 1. Loseby Park Youth Centre 355 Committee Annual General Meeting held Friday 16 September 2011.***
- 2. Loseby Park Youth Centre 355 Committee held Friday 9 September 2011.***
- 3. East Bowral Community Centre Management Committee held Tuesday 26 July 2011.***

PASSED



MINUTES OF THE ORDINARY MEETING OF COUNCIL
held in the Council Chamber, Civic Centre, Elizabeth Street, Moss Vale
on Wednesday, 26 October 2011
COMMITTEE REPORTS

COMMITTEE REPORTS ATTACHED

c-CR2 Minutes of the Finance Committee

Reference: 107/21
Responsible Officer: Director Corporate Services

Submitting minutes of the Finance Committee held on Wednesday, 12 October 2011.

MN 399/11

MOTION moved by Clr J G Arkwright and seconded by Clr K Halstead:

THAT the recommendations Nos FC 10/11 to FC 16/11, as detailed in the minutes of the Finance Committee held on Wednesday, 12 October 2011 be adopted.

PASSED

c-CR3 Minutes of the Environment & Sustainability Committee

Reference: 5465/29.01
Responsible Officer: Manager Environment & Sustainability

Submitting minutes of the Environment & Sustainability Committee held on Wednesday, 21 September 2011.

MN 400/11

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

THAT the recommendations as detailed in the minutes of the Environment & Sustainability Committee held on Wednesday, 21 September 2011 be adopted.

PASSED



MINUTES OF THE ORDINARY MEETING OF COUNCIL

held in the Council Chamber, Civic Centre, Elizabeth Street, Moss Vale
on Wednesday, 26 October 2011

COMMITTEE REPORTS

GENERAL BUSINESS

The Mayor, Clr K Halstead suspended General Business at this Meeting due to time constraints and advised that should Councillors have any questions, they be handed up for staff action.



MINUTES OF THE ORDINARY MEETING OF COUNCIL

held in the Council Chamber, Civic Centre, Elizabeth Street, Moss Vale
on Wednesday, 26 October 2011

REPORT OF GENERAL MANAGER

CLOSED COUNCIL

GENERAL MANAGER

c-GM - 1 Closed Council

Reference: 107/9
Responsible Officer: General Manager

To consider moving into Closed Council.

At this juncture, the time being 7.49 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 401/11

MOTION moved by Clr T D Gair and seconded by :

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:

cc-GM1 **REPORT IN RELATION TO INVESTIGATIONS BY THE FORMER RID SQUAD** 5508

Relevant Legal Provisions

This report is referred to Closed Committee under Clause 10A (2)(a) and Clause 10A 2(g) of the Local Government Act, 1993, as it contains personnel matters concerning particular individuals and advice concerning litigation, or advice that would otherwise be privileged from production in legal proceedings on the grounds of legal professional privilege.

Brief Description

To inform Council of an investigation for alleged dumping, and of the contents of legal advice obtained by the General Manager in respect of Council's legal and planning options in the matter.

Public Interest

It would on balance be contrary to the public interest to consider this information in Open Council because it contains personnel matters concerning particular individuals and advice concerning litigation, or advice that would otherwise be

privileged from production in legal proceedings on the grounds of legal professional privilege.

cc-GM2 NOTICE OF APPEAL IN THE LAND AND ENVIRONMENT COURT, 5 LOT SUBDIVISION, LOTS 11 AND 12, SECTION 7 DP 792, NO 29 WILLOW STREET, WILLOW VALE LEGAL ISSUES LUA10/0711

Relevant Legal Provisions

This report is referred to Closed Committee under Clause 10A (2)(a) and Clause 10A 2(g) of the Local Government Act, 1993, as it contains personnel matters concerning particular individuals and advice concerning litigation, or advice that would otherwise be privileged from production in legal proceedings on the grounds of legal professional privilege.

Brief Description

This report is about a further appeal which has been lodged in the Land and Environment Court.

Public Interest

It would on balance be contrary to the public interest to consider this information in Open Council because it contains personnel matters concerning particular individuals and advice concerning litigation, or advice that would otherwise be privileged from production in legal proceedings on the grounds of legal professional privilege.

cc-GM3 LEGAL ISSUES

107/22

Relevant Legal Provisions

This report is referred to Closed Committee under Clause 10A (2)(a) and Clause 10A 2(g) of the Local Government Act, 1993, as it contains personnel matters concerning particular individuals and advice concerning litigation, or advice that would otherwise be privileged from production in legal proceedings on the grounds of legal professional privilege.

Brief Description

Reporting on the ongoing management of legal and compliance issues since last reported to Council.

Public Interest

It would on balance be contrary to the public interest to consider this information in Open Council because it contains personnel matters concerning particular individuals and advice concerning litigation, or advice that would otherwise be privileged from production in legal proceedings on the grounds of legal professional privilege.

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

PASSED



MINUTES OF THE ORDINARY MEETING OF COUNCIL
held in the Council Chamber, Civic Centre, Elizabeth Street, Moss Vale
on Wednesday, 26 October 2011

CLOSED COUNCIL

CLOSED COUNCIL

cc-GM1 Report in Relation to Investigations by the Former RID Squad

Reference: 5508
Responsible Officer: General Manager

(This matter was considered later in the Meeting – refer CC 36/11 on page 47).



MINUTES OF THE ORDINARY MEETING OF COUNCIL

held in the Council Chamber, Civic Centre, Elizabeth Street, Moss Vale
on Wednesday, 26 October 2011

CLOSED COUNCIL

**cc-GM2 Notice of Appeal in the Land and Environment Court 5 Lot Subdivision,
Lots 11 and 12, Section 7, DP 792, No 29 Willow Street, Willow Vale**

Reference: LUA10/0711
Responsible Officer: Manager Environmental Assessment

This report is about a further appeal which has been lodged in the Land and Environment Court.

The Director Environment & Planning and the Manager Environmental Assessment addressed Council on this matter.

PROCEDURAL MOTION

THAT the motion be put. (Moved Clr D Gair)

CC 34/11

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

1. ***THAT Council defend the appeal in the Land and Environment Court against the deletion of conditions 10, 11, 12(b), 17(a)(i), 17(a)(ii)(b), (d) and (e) inclusive and 22 of development consent LUA2010/0711 for a 5 lot subdivision of Lots 11 and 12, Section 7, DP 792, No 29 Willow Street, Willow Vale.***
2. ***THAT Council's defence in relation to each of the above conditions be as described in the commentary in Attachment 1.***
3. ***THAT delegated authority be granted to the General Manager to deal with matters that may arise as a result of the Land and Environment Court proceedings.***

PASSED

EXTENSION OF TIME

CC 35/11

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

THAT in accordance with Council's Code of Meeting Practice, Council approves an extension of time to 8.30 pm.

PASSED



MINUTES OF THE ORDINARY MEETING OF COUNCIL

held in the Council Chamber, Civic Centre, Elizabeth Street, Moss Vale
on Wednesday, 26 October 2011

CLOSED COUNCIL

cc-GM3 Legal Issues

Reference: 107/22
Responsible Officer: Environmental Assessment Unit Leader

Interest: Clr P B Tuddenham declared a pecuniary interest in Item 3 Other Matters (b) Mittagong Central Pt Lot 23 Section 2 DP 1289 and Lot B DP 394677 Station Street, Mittagong – Orders Process - as he owns a property in Station Street, Mittagong and runs a business from that property. He left the Chamber, took no part in the debate and refrained from voting thereon.

CC 36/11

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

1. **THAT information relating to ongoing legal cases is noted.**
2. **THAT in relation to the Revegetation Order at Lot H DP 24193 Illawarra Highway Burrawang, Council lift the Order after writing to the property owner confirming the need to facilitate mound drainage and to maintain ongoing pest and noxious weed control activities.**
3. **THAT in relation to the Mittagong Central development situated at Pt Lot 23 Section 2 DP 1289 and Lot B DP 394677 Station Street Mittagong, Council proceed with Orders 2 and 4 giving an appropriate period of time for compliance to be achieved AND THAT at this stage proposed Order 16 be with held for a period of six months to await the outcome of efforts to sell the property.**
4. **THAT the Environmental Assessment compliance register, Ranger Court register and legal cost information is noted.**

PASSED

At this juncture Clr P B Tuddenham rejoined the Meeting.



MINUTES OF THE ORDINARY MEETING OF COUNCIL

held in the Council Chamber, Civic Centre, Elizabeth Street, Moss Vale
on Wednesday, 26 October 2011

CLOSED COUNCIL

cc-GM1 Report in Relation to Investigations by the Former RID Squad

Reference: 5508
Responsible Officer: General Manager

Interest: Clr J Mauger declared a pecuniary interest in this matter as he is the owner of the property on which the alleged illegal dumping has taken place. He left the Chamber, took no part in the debate and refrained from voting thereon.

At this juncture Clr J Mauger retired from the Meeting.

The General Manager advised that there is a correction to this report on page 3 in the last line of the second paragraph in that the bridge was replaced by a concrete culvert in November 2008.

CC 37/11

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

1. **THAT** Council accept the argument of Clr James Mauger that the material deposited on "Karingal", allegedly by or at his direction, between 2006-2010 is to be used partly for the purpose of "erosion control", and partly for the purpose of building, rebuilding or repairing "water storage facilities" as defined under the Wingecarribee Local Environment Plan 2010.
2. **THAT** the General Manager be delegated authority to pursue appropriate Land Use Application(s) from Clr Mauger for the use of the material in question for "water storage facilities" and, in the event no such applications are forthcoming, that the matter be referred back to Council for consideration of further prosecutorial action.

PASSED



MINUTES OF THE ORDINARY MEETING OF COUNCIL

held in the Council Chamber, Civic Centre, Elizabeth Street, Moss Vale
on Wednesday, 26 October 2011

COUNCIL

107/10

MN 402/11

MOTION moved by Clr T D Gair and seconded by Clr K Halstead :

THAT Council moves from Closed Council into Council.

PASSED

No members of the public were present in the Chamber.

ADOPTION OF CLOSED COUNCIL

107/9

MN 403/11

MOTION moved by Clr T D Gair and seconded by Clr K Halstead:

THAT the recommendations of the Closed Council held on Wednesday, 26 October 2011 being CC 34/11 to CC 37/11 be adopted.

PASSED

ADOPTION OF OPEN COUNCIL

107/10

MN 404/11

MOTION moved by Clr T D Gair and seconded by Clr K Halstead:

THAT the recommendations of the Open Council held on Wednesday, 26 October 2011 being OC 226/11 to OC 232/11, be adopted.

PASSED



MINUTES OF THE ORDINARY MEETING OF COUNCIL

held in the Council Chamber, Civic Centre, Elizabeth Street, Moss Vale
on Wednesday, 26 October 2011

THERE BEING NO FURTHER BUSINESS, THE MEETING CLOSED AT 8.37 PM

In accordance with the provisions of Section 375(2) of the Local Government Act, these Minutes of the Ordinary Council Meeting held Wednesday, 26 October 2011 numbered M/N 373/11 to M/N 404/11, were signed by me hereunder at the Council Meeting held on Tuesday, 8 November 2011.

CHAIRMAN

READ AND CONFIRMED ON TUESDAY, 8 NOVEMBER 2011

CHAIRMAN

PUBLIC OFFICER