

MINUTES

OF THE ORDINARY MEETING OF COUNCIL

File No. 100/10



held on Wednesday, 27 April 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, 27 April 2011

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held in the Council Chamber, Civic Centre, Elizabeth Street, Moss Vale
on Wednesday, 27 April 2011

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
Mayor's Assistant	Ms Elizabeth Johnson
Communications Officer	Mr David Sommers

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 L A C Whipper to undertake Acknowledgement of Country.

Clr L A C Whipper 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 Ian Salmond from Fresh Hope Church of Christ.



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APOLOGY

There were no apologies at this meeting.



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CONFIRMATION OF MINUTES

100/1

MINUTES OF THE ORDINARY MEETING OF COUNCIL HELD ON WEDNESDAY,
13 APRIL 2011

MN 133/11

MOTION moved by Clr T D Gair and seconded by Clr P B Tuddenham:

THAT the minutes of the Ordinary Meeting of Council held on Wednesday, 13 April 2011 MN 101/11 to MN 132/11 inclusive, copies of which were forwarded to Councillors, be adopted as a correct record of the proceedings of the meeting.

PASSED



MINUTES OF THE ORDINARY MEETING OF COUNCIL

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BUSINESS ARISING

1. o-EP12 – PROPOSED DEVELOPMENT OF THE FORMER MITTAGONG BOWLING CLUB IN ALEXANDRA SQUARE AS A REGIONAL ART GALLERY 6606/3

Clr T D Gair advised that he had received a facsimile which he will table and hand to the General Manager for distribution to Councillors in relation to the figures that were presented and scrutinised, noting that there was a discrepancy in the figures that were quoted of 36 submissions taken.

The Mayor Clr K Halstead advised that this was relevant and thanked Clr Gair for bringing it to the attention of Council.

Clr J G Arkwright asked about the fax that had been received by Clr Gair and who had forwarded the fax which claimed a discrepancy in the figures.

Clr Gair advised that it was Leah Day who had sent the fax.

2. o-IS1 – ROBERTSON SEWERAGE SCHEME – STAGE 3 FUNDING OFFER 7650

Interest: Clr T D Gair declared a less than significant non-pecuniary interest in this matter as he has a son who lives at Robertson whose property may be traversed by the sewer main. He stated that he would remain in the chamber, take part in the debate and vote on the matter.

Clr T D Gair referred to the information session that he had just attended and comments which had been made in the press in relation to the access road. He advised that the contractor was at Council today, and he asked the General Manager if he would address Council in relation to the construction of the access road.

The General Manager advised that an update will be included in the Weekly Circular outlining the process for Councillors' information. He advised that it has been a long drawn out process over several years.

The Mayor Clr K Halstead advised that he does not tell Councillors what they can say to the press or on radio.

Clr T D Gair advised that it is his belief that it is not doing Council any good to be continually debating the issue after tenders have been let and construction commenced.



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3. ITEM 11 – LOT 1 DP 860747 ST CLOUD PARK, 106 HEADLAM ROAD, MOSS VALE – EQUESTRIAN BARN & DEMOLITION OF EXISTING BARN LUA10/1070

Clr P B Tuddenham referred to the question that he had asked at the meeting and enquired about the information on this matter via the Weekly Circular.

The Manager Environmental Assessment advised that a Weekly Circular item has been prepared but it missed the last issue because of the time constraints due to the Easter Break.



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DECLARATIONS OF INTEREST

101/3, 103/12

Clr T D Gair declared a less than significant non-pecuniary interest in Item o-IS3 – Robertson Sewerage Scheme – Correspondence from a Resident – as he has a son who lives at Robertson and whose property may be traversed by the sewer main. He stated that he would remain in the chamber when this matter was discussed, take part in the debate and vote thereon.

Clr J Clark declared a significant non-pecuniary interest in Item c-GM4 – Legal Matters Cunningham Park – as he is a friend of a person named in the report. 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 P B Tuddenham declared a pecuniary interest in Item o-EP5 – Section 96 Modification, Proposed Markets, Former Goods Shed, Mittagong Railway Station, Mittagong – as he owns a building and operates a business within the immediate vicinity. He stated that he would leave the chamber when this matter was discussed, take no part in the debate and refrain from voting thereon.

Mr Les Pawlak, Manager Environmental Assessment, declared a pecuniary interest in Item o-EP9 – Planning Proposal to Amend Various Sites – as he is the owner of property at Lackey Road, Moss Vale within the affected area. He stated that he would leave the chamber and take no part in discussions on the matter.

Clr J Mauger declared a less than significant non-pecuniary interest in Item o-IS3 – Robertson Sewerage Scheme – Correspondence From a Resident and c-QWN2 – 04/11 – Robertson Sewerage Scheme – as he and his family own land within the village of Robertson. He stated that he would remain in the chamber when these matters were discussed, take part in the debate and vote thereon.

Clr L A C Whipper declared a non-pecuniary interest in Item o-IS2 Emergency Management – Council & LEMC Disaster Preparedness – as the Sydney Catchment Authority (SCA) is referred to within the report and he is a Board Member of the SCA appointed by the Minister. He stated that he would remain in the chamber when this matter was discussed, take part in the debate and voted thereon.

Clr L A C Whipper declared a significant non-pecuniary interest in Item c-GM4 – Legal Matters Cunningham Park – as he has a friendship relating to a person named in the report. He stated that he would leave the chamber when this matter was discussed, take no part in the debate and refrain from voting thereon.



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Clr L A C Whipper declared a less than significant non-pecuniary interest in Items Item o-IS3 – Robertson Sewerage Scheme – Correspondence from a Resident, c-QWN2 – 04/11 – Robertson Sewerage Scheme and c-GM2 - Robertson Sewerage Scheme – Correspondence from a Resident – as he has a property in the village of Robertson. He stated that he would remain in the chamber when these matters were discussed, take part in the debate and vote thereon.

Mr Jason Gordon, General Manger, declared a non-pecuniary interest in Item c-GM5 – Legal Matters – Local Court Negligence Claim – as he personally knows Bill Armstrong the plumber mentioned in the report. He stated that he would leave the chamber and take no part in discussions on the matter.



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OPEN COUNCIL

MN 134/11

107/11

MOTION moved by Clr D Stranger and seconded by Clr G McLaughlin:

THAT Council moves into Open Council to discuss various matters listed in the Agenda with the Mayor Clr Ken Halstead in the Chair.

PASSED



VISITOR ITEM

v-EP1 Use of the Lifestyle Centre as a Recreation Facility (Indoor) Annesley Retirement Village, Lot 1 DP1097251, West wood Drive Bowral

Reference: LUA2010/0915
Responsible Manager: Manager Environmental Assessment

This report discusses the proposed use of recreational facilities at the Annesley Retirement Village by members of the public in addition to the residents of the village.

Ms Alison Hyland, Manager Annesley, addressed Council on this matter.

The Manager Environmental Assessment addressed Council on this matter.

OC 51/11

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

THAT the matter be deferred to a future Ordinary Meeting of Council pending a meeting between the Mayor, General Manager and Director Environment & Planning with the Applicant to discuss the parking issues and opportunities for resolving related issues.

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	



v-EP2 Proposed Mobile Phone Tower, Communications Dish and Shelter, Lot 187 DP704669, Charles Street, Hill Top

Reference: LUA 2011/0197
Responsible Manager: Manager Environmental Assessment

This report is about a development application which seeks consent for the erection of a mobile phone base station on Council's water reservoir site in Charles Street to the west of Hill Top.

Mr Jared Clancy, addressed Council on behalf of the Applicant.

OC 52/11

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

THAT development application LUA2011/0197 for the erection of a mobile base station comprising the erection of a 35 metre high monopole, 6 turret mounted panel antennas (at an elevation of 36.32 metres), 1 communications dish (at an elevation of 32 metres) and a 7.2m² square metre equipment shelter in the north east corner of the town water reservoir on Lot 187 DP 704669, Charles Street, Hill Top be approved subject to conditions as set out in Attachment 4.

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	



OPEN COUNCIL

ENVIRONMENT & PLANNING DIVISION

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

Reference: 5302
Responsible Manager: Manager Environmental Assessment

Submitting list of development consents executed under delegated authority of the Director of Environment and Planning between 2 April 2011 and 18 April 2011.

OC 53/11

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

THAT the information relating to Development Consent Determined Nos 1 to 5 under Delegated Authority and Development Consent Refused Nos 1 to 3 be received and noted.

PASSED



o-EP2 List of Land Use Applications Received By Council

Reference: 5302
Responsible Manager: Manager Environmental Assessment

Submitting list of development applications which have been received between 2 April 2011 and 18 April 4 2011, some of which will be dealt with under delegated authority of the Director of Environment and Planning.

OC 54/11

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

THAT the information regarding the List of Land Use Applications Nos 1 to 13 received by Council be received and noted, with the exception of Item 8 – Medical Centre with Pharmacy Hearing Clinic & Café, Allan Reekie Ford, Lot 2 DP 875526, 4-10 Funston Street, Bowral.

PASSED

1. ITEM 8 – MEDICAL CENTRE WITH PHARMACY HEARING CLINIC & CAFÉ, LOT 2 DP 875526, ALLAN REEKIE FORD, 4-10 FUNSTON STREET, BOWRAL
LUA11/0299

Clr D Stranger asked if this matter could be brought to Council for determination.

OC 55/11

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

THAT Item 8 – Medical Centre with Pharmacy Hearing Clinic & Café, Allan Reekie Ford, Lot 2 DP 875526, 4-10 Funston Street, Bowral, be referred to Council for consideration and determination.

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	



Matters Arising from Land Use Applications Received by Council

1. ITEM 2 – MOUNTAIN BIKE TRAIL, LOT 119 DP 249197 (BUNDANOON RESERVE),
JORDAN CREEK, ELLSMORE ROAD, BUNDANOON LUA11/0315

Clr J R Clark asked when this matter would be coming to Council for determination and if the matter could be included on the next Council inspection tour.

The Manager Environmental Assessment advised that the application is currently under the neighbour notification process and some external referrals, and it will be referred to Council as soon as possible, but it will be the end of May/early June at the earliest.

2. ITEM 3 – CHAPEL, LOT 9 DP 241054, PENROSE PARK – MONESTARY, 120
HANGING ROCK ROAD, SUTTON FOREST LUA11/0300

Clr P B Tuddenham asked for some further information in relation to this item.

The Manager Environmental Assessment advised that this is a very small building with a total floor area of about 8.5 m² – a small replica of a Bolivian Chapel.

3. ITEM 9 – 2 LOT SUBDIVISION, LOT 3 DP 882209, 16 CLIFF STREET, BOWRAL
LUA11/0304

Clr P B Tuddenham asked for an update on this subdivision.

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

4. ITEM 11 – OFFICE BUILDING, LOT 244A SEC 2 DP 1289, 2 ALBERT STREET,
MITTAGONG LUA11/0335

Clr J G Arkwright asked for further information in relation to this application and if this is a conversion or a new building.

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

.....Cont'd



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REPORT OF DIRECTOR ENVIRONMENT & PLANNING

.....Cont'd

5. ITEM 13 – PERIMETER FENCE, HELIPAD & 2 STORAGE CONTAINERS (RFS TRAINING FACILITY), LOT 7307 DP 1146411 CROWN RESERVE 530067 & 91032, PUBLIC RESERVE, COLO STREET, WELBY LUA11/0294

Clr L A C Whipper asked when this application would come before Council for determination. He asked if this is the site with the issues of vegetation removal, and if the report will include reference to that vegetation.

The Manager Environmental Assessment advised that this application is still going through the neighbour notification process and Council has requested more information.

The Director Environment & Planning advised that there are some zoning related issues still to be determined before a final assessment report can be prepared and there will be an interim report which sets out some of the history and the current planning position. He advised that the report will include an update of what has happened so far.

Clr Whipper asked whether there was an update from DECCW or the Office of Environment and Heritage.

The Director Environment & Planning advised that there is not an answer at the moment but would hope to have something for the report.



o-EP3 Proposed Road Names for the “Renwick” Subdivision, Bong Bong Road, Mittagong

Reference: LUA2007/0946; 7810/2
Responsible Manager: Manager Environmental Assessment

This report is about proposed road names for the “Renwick” subdivision, and Council’s support for these is recommended.

As a result of consultation with the Wingecarribee Aboriginal Liaison Committee, it is also recommended that Aboriginal names be given to the open space areas and parkland areas within “Renwick”.

OC 56/11

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

1. ***THAT Council support the proposed road name “Guthawah Way” and laneway names “Sturt”, “Fury” and “Little Renwick”.***
2. ***THAT Landcom be requested to rename Rotherwood Street taking into consideration the name Rotherwood Lane which is already in use within in the Wingecarribee Shire.***
3. ***THAT Aboriginal names be given to the open space areas and parkland areas within “Renwick”.***

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 Eight (8) Music Concerts at Southern Highland Wines, Part Lot 1 DP10658, No 42 Oldbury Road, Sutton Forest

Reference: LUA2010/0900
Responsible Manager: Manager Environmental Assessment

This report is about a development application which seeks consent to conduct eight (8) Music Concerts annually at the Southern Highland Wines (SHW) winery, Pt Lot 1 DP 10658 Oldbury Road, Sutton Forest.

The Manager Environmental Assessment addressed Council on this matter.

OC 57/11

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

1. ***THAT, in respect of development application LUA2011/0900, development consent be granted for one (1) music concert to be conducted as a trial event within a twelve (12) month period and limited to a maximum of 8000 patrons at the Southern Highland Wines Winery, Part Lot 1 DP10658, No 42 Oldbury Road, Sutton Forest to enable the potential noise and traffic impacts to be assessed.***
2. ***THAT conditions of development consent be consistent with those imposed upon "A Day On The Green" as described in Attachment 5 – Conditions of consent - which was circulated to Councillors under separate cover.***
3. ***THAT when this concert has been completed, the applicant will be required to submit a fresh development application which includes the following information, prepared by an appropriately qualified consultant and revised as necessary in the light of that concert:***
 - (i) ***A Noise Assessment Report;***
 - (ii) ***A Traffic Impact Statement;***
 - (iii) ***A Traffic Management Plan; and***
 - (iv) ***A Parking Plan which incorporates off-street parking on an adjoining property or appropriate property that may not be adjoining.***

PASSED

.....Cont'd



.....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-EP5 Section 96 Modification Proposed Markets, Former Goods Shed, Mittagong Railway Station, Mittagong

Reference: LUA2010/0672.01, LUA2010/0672
Responsible Manager: Manager Environmental Assessment

This report considers a Section 96 modification to a development consent issued for temporary markets to be held in the grounds around the former Mittagong Goods Shed, Mittagong Railway Station, Mittagong.

The report also considers the necessity for a Council policy on the regularity of markets.

Interest: Cllr P B Tuddenham declared a pecuniary interest in this matter as he owns a building and operates a business within the immediate vicinity. He left the Chamber, took no part in the debate and refrained from voting thereon.

OC 58/11

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

THAT upon the request of the Applicant, LUA 10/062.01 for weekly markets at the former Goods Shed site, Mittagong Railway Station, Regent Street, Mittagong be deferred to a future Ordinary Meeting of the Council to be held on Wednesday 11 April 2011 pending the receipt of further information in relation to the development which is to be provided by the Applicant.

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	A	
Clr L A C Whipper	x	

Clr P B Tuddenham rejoined the meeting.



o-EP6 Council's Response to the Department of Planning's Discussion Paper Regarding the inclusion of Signage in the NSW General Exempt Development Code

Reference: 7415/1
Responsible Manager: Manager Strategic & Community Development

The purpose of this report is to endorse Council's response to the Department of Planning's Discussion Paper on the inclusion of certain forms of Signage in the NSW General Exempt Development Code.

The Director Environment & Planning addressed Council on this matter.

OC 59/11

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

1. **THAT Council make representations to the Minister for Planning requesting that the Department of Planning allow Councils to have their own autonomy in developing its own Signage Code.**
2. **THAT Council's signage Code and the reasonings (table) as detailed in the report form part of the submission in 1 above.**
3. **THAT the NSW Local Government Association and NSW Shires Association be informed of Council's position in relation to Signage Code.**

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-EP7 Public Exhibition of Planning Proposal to Adjust the Property Boundary Between Lot 100 DP1089935 (Bong Bong Farm) and Lot 1 DP860747 (St Cloud Park) Headland Road, Moss Vale

Reference: 5901/6, PN1750230, PN17057639
Responsible Manager: Acting Manager Strategic & Community Development

The purpose of this report is to inform Council of the outcome of the public exhibition of a Planning Proposal to adjust to the boundary between Lot 100 DP 1089935 (Bong Bong Farm) and Lot 1 DP 860747 (St Cloud Park), Moss Vale.

OC 60/11

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

THAT Council proceed with the Planning Proposal, as exhibited, to amend the boundary between Lot 100 DP 1089935 (Bong Bong Farm) and Lot 1 DP 860747 (St Cloud Park), located on Headlam Road, Moss Vale, and prepare a report for the NSW Department of Planning and Infrastructure requesting that WLEP 2010 be amended accordingly under section 59 of the Environmental Planning and Assessment Act, 1979.

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	

CHAIRPERSON

At this juncture, the time being 5.00 pm, the Mayor Clr K Halstead resumed the Chair to conduct the remainder of Council Business.



o-EP8 Draft DCP controls for Sutton Forest Inn site

Reference: 5700/71
Responsible Manager: Acting Manager Strategic & Community Development

To report on the public exhibition of revised draft controls for the Sutton Forest Inn site which will form part of the Sutton Forest Development Village Control Plan (DCP).

The Director Environment & Planning addressed Council on this matter.

MN 135/11

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

1. **THAT** Council adopt the draft controls pertaining to the Sutton Forest Inn site and incorporate them into the Sutton Forest Village Development Control Plan as PER Attachment 1.
2. **THAT** Council implement the Sutton Forest Village Development Control Plan in accordance with the provisions of the Environmental Planning & Assessment Regulation 2000.
3. **THAT** Council inform those persons who made submissions of its decision.

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-EP9 Planning Proposal to Amend Various Sites Across the Shire

Reference: 5901/4
Responsible Manager: Acting Manager Strategic & Community Development

To report on the public exhibition of a Planning Proposal to amend various sites across the Shire.

Interest: Mr Les Pawlak declared a pecuniary interest in this matter as he is the owner of property at Lackey Road, Moss Vale within the affected area. He left the Chamber, took no part in discussions on the matter and retired from the meeting at this juncture.

The Director Environment & Planning addressed Council on this matter.

MN 136/11

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

1. **THAT** Council proceed with the Planning Proposal, as exhibited, to amend various sites across the Shire (Sites 1 to 10) and prepare a report for the NSW Department of Planning requesting that Wingecarribee Local Environmental Plan 2010 be amended accordingly under section 59 of the Environmental Planning and Assessment Act, 1979, with the exception of Site 1 which is amended to read as follows:

Site #	Site Description & Proposed amendment	Gateway Determination (direction from Department of Planning)
Site 1	Lots 9 and 10 DP 975386, 15 Parkes Road, Moss Vale (Basketball centre surplus land) - To rezone from RE2 Private Recreation to R2 Low Density Residential with a minimum lot size of 700 m2.	This aspect of the planning proposal is justified and should proceed as per the planning proposal. Exhibited as per Council resolution.

2. **THAT** those people who made submissions be informed of Council's decision.

PASSED

.....Cont'd



.....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-EP10 Wingecarribee Community Assistance Scheme 2011

Reference: 1870/2011
Responsible Manager: Acting Manager Strategic & Community Development

The purpose of this report is to seek Council endorsement that three (3) stage lights bought from a Community Assistance Grant offered to Magic Box Productions in 2009 be donated to Mittagong Playhouse, due to the liquidation of Magic Box Productions.

MN 137/11

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

1. **THAT Council endorse that Magic Box Productions be permitted to donate the stage lights bought through their Community Assistance Grant in 2010 to Mittagong Playhouse to be used by other local theatre groups.**
2. **THAT Magic Box Productions be advised of Council's decision.**
3. **THAT a letter be forwarded to Magic Box Productions thanking them for their contribution to the youth over the years.**

PASSED



o-EP11 Legal Issues

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

A detailed report is included in the Closed Council section of this meeting's agenda.

MN 138/11

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

THAT the recommendation addressed in Council's closed report 27 April 2011 Item c-GM5 be considered in Closed Committee.

PASSED

RECOMMITTED REPORT – LEGAL ISSUES

It was noted that the incorrect Item No c-GM5 was included in the recommendation and should have read Item c-GM6.

MN 139/11

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

THAT Item o-EP11 Legal issues be recommitted due to the error of the item number in the resolution.

PASSED

o-EP11 Legal Issues

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

A detailed report is included in the Closed Council section of this meeting's agenda.

It was noted that reference to Item c-GM5 in the recommendation was incorrect and should have read Item c-GM6.

MN 140/11

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

THAT the report in relation to Legal Matters be considered in Closed Committee (refer Item c-GM6).

PASSED



CORPORATE SERVICES DIVISION

o-CS1 Investments as at 31 March 2011

Reference: 2104
Responsible Manager: Financial Services Manager

Submitting details of Council's investments as at 31 March 2011.

The Director Corporate Services addressed Council on this matter.

MN 141/11

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

THAT the information on Council's Investments as at 31 March 2011 be received and noted.

PASSED

o-CS2 Transfer of Unformed Road Being Lot 7 DP825717, Walkers Lane Avoca - Estate of the Late Stanley James Thomas

Reference: PN1701520
Responsible Manager: Manager Governance

Request that Council execute Real Property dealing for Transfer of Title of Lot 7 DP825717 from the Estate of the late Stanley James Thomas, being part of unformed road, Walker Lane Avoca.

The Director Corporate Services addressed Council on this matter.

MN 142/11

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

THAT in relation to Lot 7 DP825717 Walkers Lane, Avoca authority be delegated to execute the Real Property Dealing Transfer form under the Common Seal of the Council.

PASSED



o-CS3 Closure of Unmade Public Council Road Adjacent Lot 6 DP 774604, Old Hume Highway, Braemar

Reference: PN1706211; PN1751390; 1493/1; 5901/6
Responsible Manager: Manager Governance

The purpose of this report is to advise Council in relation to the closure of the unformed public road adjacent to Lot 6 DP 774604, Old Hume Highway, Braemar.

The Director Corporate Services addressed Council on this matter.

MN 143/11

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

1. **THAT** the applicant be advised that the land known as Lot 1 Deposited Plan 1090393 off Old Hume Highway Braemar, being closed road to the south of Gascoigne Street, will not be considered for sale by Council at this time.
2. **THAT** the unformed section of Gascoigne Street (between the railway line and the Old Hume Highway) be retained by Council and not be considered for closure and/or sale.
3. **THAT** it be noted that Council's position in relation to both unformed roads referred to in 1 and 2 above may be reconsidered upon completion of feasibility and flood studies to be undertaken with regarding to long term, alternative access over the railway line at Willow Vale/Braemar.
4. **THAT** Council undertake the relevant bridge investigation and flood study in order to identify future infrastructure requirements for the precinct as funds and resources become available **AND THAT** this matter be considered in the 2011-2012 budget.

PASSED



o-CS4 Legal Matters – Cunningham Park

Reference: 502
Responsible Manager: Director Corporate Services

A detailed report is included in the Closed Council section of this meeting's agenda.

It was noted that the incorrect Item No c-GM1 was included in the recommendation and should have read Item c-GM4.

MN 144/11

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

THAT the report in relation to Legal Matters – Cunningham Park be considered in Closed Committee (refer Item c-GM4).

PASSED

o-CS5 Legal Matters – Local Court Negligence Claim

Reference: 502/83
Responsible Manager: Director Corporate Services

A detailed report is included in the Closed Council section of this meeting's agenda.

It was noted that the incorrect Item No c-GM2 was included in the recommendation and should have read Item c-GM5.

MN 145/11

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

THAT the report in relation to the Legal Matters – Local Court Negligence Claim be considered in Closed Committee (refer Item c-GM5).

PASSED



o-CS6 Humane Euthanasia of Stock at Southern Regional Livestock Exchange

Reference: 7170, 7170/2
Responsible Manager: Manager Business Units

A detailed report is included in the Closed Council section of this meeting's agenda.

MN 146/11

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

1. **THAT Council obtains a corporate Fire Arms License in accordance with the Licensing Requirements for Fire Arms in NSW.**
2. **THAT Council's Saleyard Coordinator, Saleyard Supervisor and Manager Business Services have authority to euthanize animals at the Southern Rural Livestock Exchange in accordance with procedures and the Fire Arms Regulations.**
3. **THAT Council maintains a discharge log similar to the procedures used by the NSW Police Force.**
4. **THAT Council purchases a fire arm of the appropriate calibre for the euthanasia of stock at the Southern Rural Livestock Exchange in accordance with the Fire Arms Act 1996.**

PASSED

Dissenting vote: Clr L A C Whipper requested that his dissenting vote be recorded in respect of this motion.



INFRASTRUCTURE SERVICES DIVISION

o-IS1	Supply and Delivery of Premixed Concrete
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Reference 6330/11.02
Responsible Manager: Manager Operations

Reporting on the matter of tenders for the supply and delivery of premixed concrete (to be read in conjunction with c-GM1).

MN 147/11

MOTION moved by Cllr G McLaughlin and seconded by Cllr L A C Whipper:

1. ***THAT the Schedule of Rates Tender of Boral Resources Country Pty Ltd and Concrete Pty Ltd be accepted for the Supply and Delivery of Premixed Concrete Contract;***
2. ***THAT the Mayor and General Manager be authorised to execute the Standing Offer Contracts under the Common Seal of the Council.***

PASSED

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



QUESTIONS FROM THE PUBLIC

1. COUNCIL'S BUSINESS PAPER 100/1

Mr Ian Scandrett noted that the Business Paper was not on the Website and asked if the attachments could also be included on the Website.

The General Manager advised that it had recently come to his attention that this has not been happened in the past but he has requested that attachments be included with the Agenda on the Council Website.

2. MT BROUGHTON ROAD RD3385

Mr Ian Scandrett asked about the road widening of Mt Broughton Road and noted the following concerns:

- (i) tree removal;
- (ii) concrete electricity poles;
- (iii) moving road closer to hard structures.

Mr Scandrett asked if a report could be given on this matter.

The Director Infrastructure Services advised that there has been ongoing consultation with Mr Scandrett and the best approach is for Mr Scandrett to attend a meeting with Council staff where the issues can be addressed. He advised that the Roads & Traffic Authority have provided Black Spot funding for the project to proceed on the condition that the funds are spent by 30 June 2011, so there is a time factor associated with the works in accordance with the RTA's directions to improve safety at the intersection.

The Mayor Clr K Halstead asked if the RTA is happy with concrete poles being 2 m from the edge of the road.

The Director Infrastructure Services advised that the issue of the clear zone associated with roads, particularly a 90 kph road, if enforced strictly, would require poles to be some 5 to 6 m off a road, so clearly that is not achievable in every instance where there is a road upgrade. He advised that there has been extensive consultation with the RTA to get the best solution to this matter.

3. TENDERING PROCESS 6330

Mr Ian Scandrett asked why Council cannot have tenders sealed in a box, opened and once they are opened they are no longer confidential.

The Mayor Clr K Halstead advised the processes of tendering, both putting a tender in and a procedure for opening are very clearly covered in the Local Government General Regulation and the Council must comply with these regulations and there are certain things that cannot be made public immediately.



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REPORT OF DIRECTOR INFRASTRUCTURE SERVICES

4. PROPOSED MOBILE PHONE TOWER, COMMUNICATIONS DISH AND SHELTER,
LOT 187 DP 704669, CHARLES STREET, HILL TOP LUA2011/0197

Mr Ian Scandrett asked what is the level of rent forgone by Council in regards to the Optus Tower.

The General Manager advised that what Council approved today was a development application to put the tower up and that is a separate issue to the rental fee. He advised that it would not be appropriate and good governance to consider the rental matter in conjunction with consideration of the development application.



COUNCIL MATTERS

GENERAL MANAGER'S REPORTS

c-GM1 Investigation of Abandoned Vehicles

Reference: 100/4, 5509/2
Responsible Manager: General Manager

The purpose of this report is to provide the results of an investigation into the allegations regarding Abandoned Vehicles as raised by Councillor Jim Mauger. No action is required.

The General Manager addressed Council on this matter.

MN 150/11

MOTION moved by Clr T D Gair and seconded by Clr J R Clark:

THAT the investigation of Abandoned Vehicles be deferred to the Ordinary Meeting of Council to be held on Wednesday, 11 May 2011 subject to Councillors reading the Confidential report from KPMG dated 22 March 2011.

PASSED

c-GM2 Request for Leave of Absence – Clr Juliet Arkwright

Reference: 101, PERS
Responsible Manager: Manager Governance

Reporting on a request from Councillor Juliet Arkwright for leave of absence.

MN 151/11

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

THAT Councillor Juliet Arkwright be granted leave of absence from Council from Monday, 9 May 2011 to Sunday, 5 June 2011 inclusive.

PASSED



QUESTIONS WITH NOTICE

c-QWN1 03/11 – BU2 Catchment Study

Reference: 101/2
Responsible Manager: Director Infrastructure Services

To: General Manager, Mr Jason Gordon
From: Cllr Jim Mauger
Received: 18 April 2011

Subject: BU2 Catchment Study

Question:

- 1. Can staff supply details as to why the Boydens & Partners report regarding BU2 Catchment study was deemed unacceptable to Council?**

Comment from Director Infrastructure Services

This matter was raised by Councillor Mauger at the Floodplain Risk Management Committee on 6 April 2011 and an answer was given at that meeting. Further information is provided below.

The Boyden study was commissioned in November 2004 to investigate the feasibility of a range of stormwater management strategies in the catchment upstream of Moss Vale Road including a formal detention basin on the northern arm of the catchment. Because the study was focussed on the detention basin proposal upstream of Moss Vale Road, it did not analyse the catchment downstream of Moss Vale Road and the extent of flooding downstream was not investigated.

The report was not unacceptable to Council. The level of detail contained in the study did not allow Council to make an informed decision on the potential benefits of the basin to residents downstream and therefore further work was recommended.

The Boyden Study was not intended to be a comprehensive flood study in accordance with the NSW Government Floodplain Development Manual; that is, detailed investigations of potential flood damages and associated costs were not undertaken as part of the study.

Council officers consulted the experts in Department of Environment, Climate Change and Water (DECCW), who offered two-thirds funding for further work if Council prepared a comprehensive flood study in accordance with the requirements of the NSW Government Floodplain Development Manual. Quotations were sought and the contract for this additional work was awarded to Cardno Lawson Treloar, with the approval of DECCW.

.....Cont'd



MINUTES OF THE ORDINARY MEETING OF COUNCIL

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QUESTIONS WITH NOTICE

.....Cont'd

2. The question being why a document which was good enough to be used as a 'working document' and as a basis for future studies was not adopted by Council?

Comment from Director Infrastructure Services

The recent Cardno Lawson Treloar flood study was undertaken in line with the requirements of the NSW Government Floodplain Development Manual. A detailed investigation was undertaken to identify how many houses were potentially flooded during the various design flood events.

The previous Boyden study was an investigation into the feasibility of developing a detention basin on the northern arm of the catchment upstream of Moss Vale Road. Development of the computer modelling for the catchment was sound and the study was reviewed by Cardno, as it was earlier work relating to the catchment.

It is common practice that a number of "working documents" are produced during the development of a Floodplain Risk Management Study and Plan and there is no requirement to report these to Council or to adopt them.

MN 152/11

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

THAT the information in relation to BU2 Catchment Study be noted.

PASSED



c-QWN2 04/11 – Robertson Sewerage Scheme

Reference: 101/2
Responsible Manager: General Manager

To: General Manager, Mr Jason Gordon
From: Cllr Juliet Arkwright
Received: 20 April 2011

Subject: Robertson Sewerage Scheme

Question:

1. **With regard to the Robertson Sewerage Scheme, would the Director Infrastructure Services please inform Council if he or his officers have received any comment from the contractors (Lucas) as to the suitability or otherwise of Council's access road which is currently under construction at May Street, Robertson?**

Comment from Director Infrastructure Services

AJ Lucas Group has verbally confirmed that they do not envisage any significant problems during construction of the Sewer Treatment Plant due to the slope of the driveway that is currently under construction. Written confirmation of this advice will be available at the Council meeting.

They have also advised that comments claimed to have been made to a resident in connection with this issue were not made by AJ Lucas staff. Inquiries are taking place to determine if these comments may have been made by a potential subcontractor interested in submitting a price for some works at the treatment plant.

Interest: Cllr J Mauger declared a less than significant non-pecuniary interest in this matter as he and his family own land within the village of Robertson. He remained in the chamber, took part in the debate and voted thereon.

Interest: Cllr L A C Whipper declared a less than significant non-pecuniary interest in this matter as he has a property in the village of Robertson. He remained in the chamber, took part in the debate and voted thereon.

MN 153/11

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

THAT the information in relation to the Robertson Sewerage Scheme be noted.

PASSED



COMMITTEE REPORTS TABLED

c-CR1	Access Committee
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Reference: 107/1
Responsible Manager: Manager Strategic Planning

Submitting minutes of the Access Committee held Monday, 21 February 2011.

MN 154/11

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

THAT the recommendations as detailed in the minutes of the Access Committee held Monday, 21 February 2011 be adopted.

PASSED



MINUTES OF THE ORDINARY MEETING OF COUNCIL

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GENERAL BUSINESS

GENERAL BUSINESS

1. ANZAC DAY 1671/1

Clr P B Tuddenham referred to the ANZAC Day and the excellent presentation of the Cenotaph at Mittagong, and asked if staff can be thanked for their assistance with this.

2. HERITAGE PARK, BOWRAL 7415

Clr P B Tuddenham referred to the very large "For Sale" sign at Heritage Park, and asked if something can be done about this sign as it is in the line of sight of south bound motorists.

The Mayor Clr K Halstead suggested that Council review the possibility of taking appropriate steps to prosecute the offenders.

3. DISABLED PARKING IN MITTAGONG 5504/5, 7460/25

Clr P B Tuddenham referred to disabled parking in main car park at Mittagong and asked if this matter can be referred to the Access Committee in the first instance and then to the Traffic Committee for consideration.

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

4. ABANDONED VEHICLES REPORT 5509/2

Clr J Mauger asked why the report in relation to the report on Abandoned Vehicles issued when it did not indicate that it was a Confidential document.

The General Manager advised that his report stated that the KPMG report was not to be released to the public and that the covering letter from KPMG covered the fact that it was not a public document and was not to become a public document.

5. TREES ON THE ILLAWARRA HIGHWAY AT ROBERTSON RD8025, 0010

Clr J G Arkwright referred to the trees on the Illawarra Highway at Robertson near the Anglicare bins noting that the branches come over the road and hang very low. She asked if the low branches can be removed.

The General Manager advised that staff will investigate this matter.



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GENERAL BUSINESS

6. ANZAC DAY

1671/1

Clr J G Arkwright noted that the ANZAC Day Service at Bowral was very well attended. However, she noted that two people presenting wreaths nearly fell over as the brickwork surrounding the memorial was very slippery. Clr Arkwright asked if this can be addressed to ensure that members of the public do not fall.

The General Manager advised that staff will investigate this matter.

7. ACCESS DOOR TO THE DISABLED TOILETS AT COLES CARPARK IN BOWRAL

7145

Clr T D Gair asked if a new design for a disabled access door to the toilets at the Coles Carpark in Bowral can be implemented, as soon as possible due to the difficulty of operating the door.

The General Manager advised that staff will investigate this matter.

8. MISTAKES

100/1

The Mayor Clr K Halstead asked if the General Manager can ensure that the mistakes in the Business Agenda that have taken place do not occur again.

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



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CLOSED COUNCIL

CLOSED COUNCIL

GENERAL MANAGER

cc-GM1 Closed Council

Reference: 107/9
Responsible Manager: General Manager

To consider moving into Closed Council.

At this juncture, the time being 6.25 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.

It was noted that the Item numbers were incorrectly listed and should have read as follows:

c-GM1	SUPPLY AND DELIVERY OF PREMIXED CONCRETE	6330/1.02
c-GM2	ROBERTSON SEWERAGE SCHEME – CORRESPONDENCE FROM A RESIDENT	7650
c-GM3	HUMANE EUTHANASIA OF STOCK AT SOUTHERN REGIONAL LIVESTOCK EXCHANGE	7170
c-GM4	LEGAL MATTER CUNNINGHAM PARK	502
c-GM5	LEGAL MATTER - LOCAL COURT NEGLIGENCE CLAIM	502/83
c-GM6	LEGAL ISSUES	107/22

MN 155/11

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

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

c-GM1 SUPPLY AND DELIVERY OF PREMIXED CONCRETE 6330/1.02

.....Cont'd



MINUTES OF THE ORDINARY MEETING OF COUNCIL

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CLOSED COUNCIL

.....Cont'd

Relevant Legal Provisions

This report is referred to Closed Committee under Clause 10A (2)(c) of the Local Government Act, 1993, 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.

Brief Description

Reporting on the evaluation of the request for Tender RFT-6330/11.02 Supply and Delivery of Premixed Concrete and subsequent recommendations.

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.

**c-GM2 ROBERTSON SEWERAGE SCHEME – CORRESPONDENCE FROM A
RESIDENT 7650**

Relevant Legal Provisions

This report is referred to Closed Committee under Clause 10A2(a) of the Local Government Act, 1993, as it concerns matters relating to particular individuals.

Brief Description

Reporting on correspondence received from a resident of May Street, Robertson.

Public Interest

It would be contrary to the public interest to consider this information in Open Council because it concerns matters relating to particular individuals.

**c-GM3 HUMANE EUTHANASIA OF STOCK AT SOUTHERN REGIONAL
LIVESTOCK EXCHANGE 7170**

Relevant Legal Provisions

This report is referred to Closed Committee under Clause 10A (2)(f) of the Local Government Act, 1993, as it contains matters affecting the security of Council, Councillors, Council Staff or Council property.

Brief Description

Report to Council to consider options and the risks involved in the euthanasia of stock at the Southern Regional Livestock Exchange (SRLX). The SRLX is required by Legislation to humanly and safely euthanasia animals should the need arise.

.....Cont'd



MINUTES OF THE ORDINARY MEETING OF COUNCIL

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CLOSED COUNCIL

.....Cont'd

Public Interest

It would on balance be contrary to the public interest to consider this information in Open Council because it contains matters affecting the security of Council, Councillors, Council Staff or Council property.

c-GM4 LEGAL MATTER CUNNINGHAM PARK

502

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 current status of Cunningham Park legal matters and possible next steps.

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.

c-GM5 LEGAL MATTER LOCAL COURT NEGLIGENCE CLAIM

502/83

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 current status of dispute and next steps.

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.

.....Cont'd



MINUTES OF THE ORDINARY MEETING OF COUNCIL

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CLOSED COUNCIL

.....Cont'd

c-GM6 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 legal issues arising in the months of February and March 2011.

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

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CLOSED COUNCIL

CLOSED COUNCIL

c-GM1 Supply and Delivery of Premixed Concrete

This matter was dealt with earlier in the meeting (refer MN 145/11).

c-GM2 Robertson Sewerage Scheme – Correspondence From a Resident

Reference : 7650
Responsible Manager: Director Infrastructure Services

Interest: Clr L A C Whipper declared a less than significant non-pecuniary interest in this matter as he has a property in the village of Robertson. He remained in the chamber, took part in the debate and voted thereon.

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

CC 13/11

The Committee on a **MOTION** moved by Clr K Halstead and seconded by Clr D Stranger
RECOMMENDED:

THAT *the correspondence from the Resident as referred to in the report in relation to the Robertson Sewerage Scheme be noted.*

PASSED



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CLOSED COUNCIL

c-GM3 Humane Euthanasia of Stock at Southern Regional Livestock Exchange

Reference: 7170
Responsible Manager: Manager Business Services

This matter was dealt with earlier in the meeting (refer MN 144/11).

c-GM4 Legal Matters Cunningham Park

Reference: 502
Responsible Manager: Director Corporate Services

This matter was dealt with later in the meeting (refer CC 16/11).



MINUTES OF THE ORDINARY MEETING OF COUNCIL

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CLOSED COUNCIL

c-GM5 Legal Matters – Local Court Negligence Claim

Reference: 502/83
Responsible Manager: Director Corporate Services

Interest: Mr Jason Gordon declared a non-pecuniary interest in this matter as he personally knows Bill Armstrong, the plumber mentioned in the report. He left the Chamber, took no part in the debate and refrained from voting thereon

Interest: Clr Paul Tuddenham declared a non-pecuniary interest in this matter as Bill Armstrong is a friend and also ran on his ticket at the last Council elections. He left the Chamber, took no part in the debate and refrained from voting thereon

The Director Corporate Services and addressed Council on this matter.

CC 14/11

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

1. **THAT Council authorise the Director of Corporate Services to pursue legal action against Bill Armstrong (trading as B&J Armstrong Plumbing), Steven Ackerley, Steven Ackerley Plumbing Pty Ltd, and any related persons or entities discovered to be liable for the ruptures to Council's water mains in the vicinity of the Gibraltar Country Club on 19 December and 25 December 2009.**
2. **THAT Council authorise the Director of Corporate Services to prosecute and/or settle the resulting legal action on terms favourable to Council.**
3. **THAT the matter be included as a part of Council's legal affairs reporting until it is resolved.**

PASSED

Mr Jason Gordon and 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, 27 April 2011

CLOSED COUNCIL

c-GM6 Legal Issues

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

CC 15/11

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

1. **THAT information relating to ongoing legal cases be received and noted.**
2. **THAT the Development and Building Services Compliance register, Environment and Health Ranger Court register and legal cost information be received and noted.**

PASSED



MINUTES OF THE ORDINARY MEETING OF COUNCIL

held in the Council Chamber, Civic Centre, Elizabeth Street, Moss Vale
on Wednesday, 27 April 2011

CLOSED COUNCIL

c-GM4 Legal Matters Cunningham Park

Reference: 502
Responsible Manager: Director Corporate Services

Interest: Clr L A C Whipper declared a significant non-pecuniary interest in this matter due to a friendship relating to a person named in the report. He left the Chamber, took no part in the debate and refrained from voting thereon and retired from the meeting.

Interest: Clr J R Clark declared a significant non-pecuniary interest in this matter as he is a friend of a person named in the report. He left the Chamber, took no part in the debate and refrained from voting thereon and retired from the meeting.

The General Manager addressed Council on this matter.

CC 16/11

The Committee on a **MOTION** moved by Clr D Stranger and seconded by Clr K Halstead
RECOMMENDED:

1. **THAT the report of Council's Legal Officer be noted.**
2. **THAT Council continue to cooperate with the investigations of the NSW Police in relation to the events surrounding the destruction of trees in Cunningham Park, Sutton Forrest on or around January 2011.**
3. **THAT consideration of any further court action by Council against the accused be deferred, pending the outcome of the Police investigation into the matter.**
4. **THAT the Mayor make written representations to Senior Police regarding this matter AND THAT the letter be hand delivered.**

PASSED



FULL COUNCIL

107/10

MN 156/11

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

THAT Council moves back into Full Council.

PASSED

No members of the public were present in the Chamber.

ADOPTION OF CLOSED COUNCIL

107/9

MN 157/11

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, 27 April 2011 being CC 13/11 to CC 16/11 be adopted.

PASSED

ADOPTION OF OPEN COUNCIL

107/10

MN 158/11

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

THAT the recommendations of the Open Council held on Wednesday, 27 April 2011 being OC 51/11 to OC 60/11, be adopted.

PASSED



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on Wednesday, 27 April 2011

THERE BEING NO FURTHER BUSINESS, THE MEETING CLOSED AT 7.05 PM

In accordance with the provisions of Section 375(2) of the Local Government Act, these Minutes of the Ordinary Council Meeting held Wednesday, 27 April 2011 numbered M/N 133/11 to M/N 158/11, were signed by me hereunder at the Council Meeting held on Wednesday, 11 May 2011.

CHAIRMAN

READ AND CONFIRMED ON WEDNESDAY, 11 MAY 2011

CHAIRMAN

PUBLIC OFFICER