

MINUTES

OF THE ORDINARY MEETING OF COUNCIL

File No. 100/10



held on Wednesday, 25 May 2011

The meeting commenced at 3:30pm.



MINUTES OF THE ORDINARY MEETING OF COUNCIL

held in the Council Chamber, Civic Centre, Elizabeth Street, Moss Vale
on Wednesday, 25 May 2011

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on Wednesday, 25 May 2011

COMMENCING AT: 3:30 pm

PRESENT: Clr L A C Whipper (Deputy Mayor) in the Chair
Clr J R Clark
Clr G McLaughlin
Clr J Mauger
Clr D Stranger

IN ATTENDANCE: General Manager Mr Jason Gordon
Director Environment & Planning Mr Scott Lee
Director Infrastructure Services Mr Michael Brearley
Manager Governance Mr Peter Nelson
PA to Director Corporate Services Bobbie-Jo Gordon

OPENING OF MEETING

The Deputy Mayor Clr L A C Whipper opened the meeting and welcomed members of the public and the press and called upon Clr J Mauger to undertake Acknowledgement of Country.

ACKNOWLEDGEMENT OF COUNTRY

1826/4

The Deputy Mayor Clr L A C Whipper 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 Deputy Mayor Clr L A C Whipper requested Reverend John Livingstone of St Stephens, Mittagong to conduct prayer.



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APOLOGY

PERS

M/N 173/11

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

THAT the apologies of the Mayor *Clr K Halstead*, *Clr J G Arkwright*, *Clr T D Gair* and *Clr P B Tuddenham* be accepted and leave of absence granted.

PASSED



MINUTES OF THE ORDINARY MEETING OF COUNCIL

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CONFIRMATION OF MINUTES

MINUTES OF THE ORDINARY MEETING OF COUNCIL HELD ON WEDNESDAY, 11 MAY 2011

100/1

MN 174/11

MOTION moved by Cllr J R Clark and seconded by Cllr J Mauger:

THAT the minutes of the Ordinary Meeting of Council held on Wednesday, 11 May 2011 MN 159/11 to MN 172/11 inclusive, copies of which were forwarded to Councillors, be adopted as a correct record of the proceedings of the meeting.

PASSED

BUSINESS ARISING

1. O-EP3 - PROPOSED RURAL FIRE SERVICE TRAINING AND EMERGENCY FACILITY, LOT 7307 DP 1146411 COLO STREET, WELBY LUA11/0294

Cllr D Stranger asked how this project was progressing.

The Director Environment & Planning advised that a meeting had been held earlier in the week between Council staff and staff of the Office of Environment & Heritage (previously called DEC) and are moving to finalise their investigation as soon as possible.



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DECLARATIONS OF INTEREST

101/3

The General Manager, Mr Jason Gordon declared a non-pecuniary interest in Item o-EP8 – Community Assistance Scheme - Amendment to Wingecarribee Family Centre Grant as his wife is involved in cleaning the Wingecarribee Family Centre toys.

Clr G McLaughlin declared a non-pecuniary interest in Item c-CR4 Minutes of the Traffic Committee Item TC54/11, Heavy Vehicle Movements on Medway Road, as he is employed by Boral. He stated that he would remain in the chamber when this matter was discussed, take part in the debate and vote thereon.



MINUTES OF THE ORDINARY MEETING OF COUNCIL

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on Wednesday, 25 May 2011

OPEN COUNCIL

MN 175/11

107/11

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

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

PASSED



VISITOR ITEM

v-EP1 Proposed Tennis Court, Lot 13 DP 581070, No 16 Duke Street, Mittagong

Reference: LUA2011/0237
Responsible Officer: Manager Environmental Assessment

A development application has been lodged for a replacement dwelling and tennis court at No 16 Duke Street, Mittagong.

Mr David Luckie addressed Council on behalf of the applicant.

The Manager Environmental Assessment addressed Council on this matter.

OC 74/11

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

THAT LUA2011/0237 ***be approved subject to development consent conditions aimed at minimising the impact of the tennis court on the streetscape (such as extensive screen planting to the front and both side boundaries of the property, and no illumination for night time use).***

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 | A | |
| Clr J R Clark | | x |
| Clr T D Gair | A | |
| Clr K Halstead | A | |
| Clr G McLaughlin | x | |
| Clr J Mauger | x | |
| Clr D Stranger | x | |
| Clr P B Tuddenham | A | |
| 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 Officer: Manager Environmental Assessment

OC 75/11

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

THAT the information relating to Development Consent Determined Nos 1-6 under Delegated Authority and Development Consent Non-Approvals Nos 1-4 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 3 May and 16 May 2011, some of which will be dealt with under delegated authority of the Director of Environment and Planning.

OC 76/11

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

THAT the information regarding the List of Land Use Applications Nos 1 to 10 received by Council, be received and noted with the exception of Item 4 - LUA 11/0380 Erection of Stables and Establish Equestrian Facility; Item 7 LUA 11/0430 – Demolish Dilapidated Hall (Anglican Church); and Item 9 – LUA 11/0422 Alternations and Additions New Garage and Removal of 3 Trees.

PASSED

1. ITEM 4 - ERECTION OF STABLES AND ESTABLISH EQUESTRIAN FACILITY LOT 19, DP 554041, 309 EXETER ROAD SUTTONS FOREST LUA11/0380

Clr L A C Whipper made enquiries in relation to commercial activities of this application. The Manager Environmental Assessment advised that information will be provided in the Weekly Circular in relation to this matter.

OC 77/11

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

THAT the information regarding Item 4 of Land Use Applications be noted.

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

2. ITEM 7 – DEMOLISH DILAPIDATED HALL (ANGLICAN CHURCH) Lot 1 DP 323846, 14 WAITE STREET MOSS VALE LUA11/0430

Discussion was held in relation to Heritage issues with this application.

OC 78/11

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

THAT LUA 11/0430 for Demolish Dilapidated Hall (Anglican Church) Lot 1 DP 323846, 14 Waite Street Moss Vale be referred to an Ordinary meeting of 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 | A | |
| Clr J R Clark | x | |
| Clr T D Gair | A | |
| Clr K Halstead | A | |
| Clr G McLaughlin | x | |
| Clr J Mauger | x | |
| Clr D Stranger | x | |
| Clr P B Tuddenham | A | |
| Clr L A C Whipper | x | |

3. ITEM 9 – ALTERATIONS & ADDITIONS NEW GARAGE AND REMOVAL OF 3 TREES LOT 52 DP 1021473, 9 MARKET PLACE, BERRIMA LUA11/0422

Discussion was held in relation to additional information being provided to Councillors.

OC 79/11

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

THAT LUA 11/0422 0 for Alterations and Additions New Garage and Removal of 3 Trees Lot 52 DP 1021473, 9 Market Place, Berrima be referred to an Ordinary meeting of 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 | A | |
| Clr J R Clark | x | |
| Clr T D Gair | A | |
| Clr K Halstead | A | |
| Clr G McLaughlin | x | |
| Clr J Mauger | x | |
| Clr D Stranger | x | |
| Clr P B Tuddenham | A | |
| Clr L A C Whipper | x | |



o-EP3 Proposed Five (5) Lot Residential Subdivision, Lots 11 & 12, Section 7 DP 792, No 29 Willow Street, Willow Vale

Reference: LUA 2010/0711
Responsible Officer: Director Environment and Planning

Reporting on a meeting held with the applicant, his legal representative, the General Manager and Director Environment and Planning on Thursday, 12 May 2011. Issues discussed included the time taken to process the application and potential solutions to flooding issues, including the possibility of the purchase of the applicant's land by Council and the earlier incidence of unauthorised fill being placed on the Highlands Golf Course to the rear of the applicant's property.

The Manager Environmental Assessment addressed Council on this matter.

The General Manager addressed Council on this matter.

OC 80/11

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

- THAT development application LUA2010/0711 for a five (5) lot residential subdivision of Lots 11 and 12, Section 7, DP 792, No. 29 Willow Street, Willow Vale, be given "deferred commencement" consent subject to a condition that the consent is not to operate until Council has been satisfied as to the matters described in Attachment 3 of the report.**

PASSED

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

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

o-EP4 Conversion of Outbuilding (Dairy) and “Hatch Cottage” (“Mali Brae”) to Farm Stay Accommodation: Lot 220 DP 651063, Lot 277 DP 751303 and Lot 5 DP 114684, RN 562 Nowra Road, Fitzroy Falls

Reference: LUA2010/1174
Responsible Officer: Manager Environmental Assessment

This report details a proposal to convert an existing studio building (formerly a dairy) and “Hatch Cottage” (currently approved as overnight accommodation for non-paying guests) to Farm Stay Accommodation as defined within the WLEP2010 Dictionary – Refer to **Attachments 1A** and **1B** – Site Plans).

The Manager Environmental Assessment addressed Council on this matter.

OC 81/11

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

1. **THAT development application LUA2010/1174 for the proposed change of use of “Hatch Cottage” and the former dairy building to Farm Stay Accommodation totalling 3 bedrooms on Lot 220 DP 651063, Lot 277 DP 751303 and Lot 5 DP 114684, RN 562 Nowra Road, Fitzroy Falls, be approved subject to conditions as described in Attachment 6 of the report AND THAT the conditions as advised by the Heritage Advisor in Attachment 5 of the report also be incorporated into the approval.**
2. **THAT authority be delegated to the General Manager to review the need for the applicant to comply with the conditions, as recommended by the Heritage Advisor in Attachment 5 of the report, within a period of 12 months from the date when the farm stay accommodation use commences provided that the former dairy building is maintained from rental income in the meantime.**

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



o-EP5 Proposed Farm Buildings (Incorporating Stabling and Exercise Yard for Horses), Lot 11 DP 751262, RN 540 Myra Vale Road, Wildes Meadow

Reference: LUA2011/0203
Responsible Officer: Manager Environmental Assessment

Council has received a development application proposing the erection of two farm buildings incorporating horse stabling and an exercise yard.

This report provides an assessment of the proposal and recommends approval.

OC 82/11

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

THAT the Proposed Farm Buildings (Incorporating Stabling and Exercise Yard for Horses), Lot 11 DP 751262, RN 540 Myra Vale Road, Wildes Meadow be deferred to the Ordinary Meeting of Council to be held on Wednesday, 8 June 2011 subject to Councillors conducting a site inspection of the property.

PASSED

o-EP6 Programme for Review of the Development Control Plans Supporting Wingecarribee Local Environmental Plan 2010

Reference: 5700
Responsible Officer: Manager Strategic and Community Development

The purpose of this report is to present to Council a programme for the review and updating of the Development Control Plans (DCPs) which support Wingecarribee Local Environmental Plan 2010 (WLEP 2010).

The Director Environment & Planning addressed Council on this matter.

OC 83/11

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

THAT the draft program for review of the Wingecarribee Development Control Plans, as detailed in the report, be adopted.

PASSED



o-EP7 Draft Development Control Plan for the Village of Fitzroy Falls

Reference: 5700/77
Responsible Officer: Manager Strategic and Community Development

The purpose of this report is to present to Council a Draft Development Control Plan (DCP) for the Village of Fitzroy Falls for endorsement to be placed on public exhibition for comment.

OC 84/11

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

THAT the draft Wingecarribee Development Control Plan for Fitzroy Falls be endorsed for the purpose of public exhibition AND THAT the required public exhibition be undertaken in accordance with the Environmental Planning and Assessment Regulations.

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



o-EP8 Community Assistance Scheme - Amendment to Wingecarribee Family Centre Grant

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

The purpose of this report is to seek Council endorsement for an amendment to the Wingecarribee Family Centre's 2010-2011 application under the Community Assistance Scheme.

Interest: The General Manager, Jason Gordon, declared a non-pecuniary interest in this matter as his wife is involved in cleaning the Wingecarribee Family Centre toys.

OC 85/11

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

1. **THAT** the Wingecarribee Family Centre's 2010-2011 application under the Community Assistance Scheme be amended to permit the purchase a non-permanent garden shed to store the Toy Library.
2. **THAT** Wingecarribee Family Centre be advised of Council's decision.

PASSED

o-EP9 Legal Issues

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

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

OC 86/11

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

THAT the Legal Issues Report of 25 May 2011 be considered in Closed Committee (refer Item cc-GM3, CC21/11).

PASSED



o-EP10 Report and Recommendations in Relation for Claim of Costs Made by Norlex Holdings Pty Ltd, Land and Environment Court Matter No 40244 of 2007

Reference: 502/54
Responsible Officer: Director Environment & Planning

To inform Council of the progress of the ongoing costs dispute between Norlex Holdings Pty Ltd ("Norlex") and Council.

OC 87/11

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

THAT the Report and Recommendations in Relation for Claims of Costs made by Norlex Holdings Pty Ltd be considered in Closed Committee (refer Item cc-GM2, CC20/11).

PASSED



CORPORATE SERVICES DIVISION

o-CS1 Goods and Services Tax Compliance Certificate

Reference: 2140/9
Responsible Officer: Manager Financial Services

Submitting a request by the Department of Local Government for Council to provide a Goods and Services Tax (GST) Compliance Certificate.

OC 88/11

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

THAT the Mayor, Deputy Mayor, General Manager and Responsible Accounting Officer be authorised to sign the certificate as requested.

PASSED

o-CS2 Legal Officer Position – Progress Report

Reference: 503/6
Responsible Officer: Director Corporate Services

The objective of this report is to inform Council of the nature of work being undertaken by Council's Legal Officer, and to quantify the nature and extent of savings in legal fees in relation to this work.

The General Manager addressed Council on this matter.

OC 89/11

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

THAT the report on the activities of Council's Legal Officer be received and noted.

PASSED



MINUTES OF THE ORDINARY MEETING OF COUNCIL

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on Wednesday, 25 May 2011

REPORT OF DIRECTOR CORPORATE SERVICES

| | |
|--------------|--|
| o-CS3 | Closure of Unformed Road, Previously known as part Bloomfield Road, bisecting Southern Highlands Botanical Gardens site, off Kangaloon Road, Bowral |
|--------------|--|

Reference: 6500/22; 7452/1
Responsible Officer: Manager Governance

Report requesting endorsement of application to the Minister for Lands, Land & Property Management Authority, for the closure of unformed road, being part Bloomfield Road, Bowral.

OC 90/11

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

1. **THAT Council apply to the Crown for the closure of the unformed road within the Southern Highlands Botanic Garden site.**
2. **THAT a further report be brought back to a future Ordinary Meeting of Council following the Minister for Lands determination of the matter.**

PASSED

| | |
|--------------|---|
| o-CS4 | Litigation Funding Agreement – IMF (Australia) Ltd |
|--------------|---|

Reference: 2104
Responsible Officer: Director Corporate Services

Informing Council of the details of changes proposed by IMF (Australia) Ltd to the *Litigation Funding Agreement* between Council and IMF for the legal action taken against Lehman Brothers Australia Pty Ltd, and seek Council's concurrence to the requested changes.

OC 91/11

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

THAT the Litigation Funding Agreement – IMF (Australia) Ltd Report be considered in Closed Committee (refer Item cc-GM1, CC19/11).

PASSED



MINUTES OF THE ORDINARY MEETING OF COUNCIL

held in the Council Chamber, Civic Centre, Elizabeth Street, Moss Vale
on Wednesday, 25 May 2011

REPORT OF THE GENERAL MANAGER

COUNCIL MATTERS

GENERAL MANAGER'S REPORTS

| | |
|--------------|--|
| c-GM1 | Request for Leave of Absence – The Mayor, Cllr Ken Halstead, Cllr Paul Tuddenham and Cllr Duncan Gair |
|--------------|--|

Reference: 101, Pers
Responsible Officer: Manager Governance

Reporting on requests from the Mayor, Cllr K Halstead, Councillor Paul Tuddenham and Cllr T D Gair for leave of absence.

OC 92/11

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

1. **THAT the Mayor Councillor Ken Halstead be granted leave of absence from Council from the Ordinary Meeting of Council to be held on Wednesday, 25 May 2011.**
2. **THAT Councillor Paul Tuddenham be granted leave of absence from Council from Monday, 16 May 2011 to Monday, 30 May 2011 inclusive.**
3. **THAT Councillor Duncan Gair be granted leave of absence from Council from Saturday, 22 May 2011 to Monday, 12 June 2011 inclusive.**

PASSED



MINUTES OF THE ORDINARY MEETING OF COUNCIL

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REPORT OF THE GENERAL MANAGER

c-GM2 General Manager's Quarterly Report

Reference: 506/1
Responsible Officer: General Manager

Submitting the General Manager's Quarterly Report to 31 March 2011.

The General Manager addressed Council on this matter.

OC 93/11

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

THAT the information in respect of the General Manager's Quarterly Report to 31 March 2011 be received and noted.

PASSED



COMMITTEE REPORTS TABLED

| |
|---|
| c-CR1 Management and Advisory Committee Reports |
|---|

Reference: 107/1
Responsible Officer: Manager Strategic and Community Development

Submitting minutes of six (6) Committee meetings that will be tabled for information.

OC 94/11

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

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

1. ***Welby Community Hall Management Committee held Monday 7 February 2011.***
2. ***Loseby Park Youth Centre Management Committee held Thursday 10 February 2011.***
3. ***Penrose Hall and Recreation Reserve Committee held Tuesday 15 February 2011.***
4. ***Yerrinbool Hall Committee held Monday 21 February 2011.***
5. ***Mittagong Community Centre and Management Committee held Thursday 10 March 2011.***
6. ***Mittagong Community Centre and Management Committee held Thursday 14 April 2011.***

PASSED



COMMITTEE REPORTS ATTACHED

| | |
|--------------|---|
| c-CR2 | Minutes of the Finance Committee |
|--------------|---|

Reference: 107/1
Responsible Officer: Director Corporate Services:

Submitting minutes of the Finance Committee held on Wednesday, 18 May 2011.

OC 95/11

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

THAT recommendations Nos FC04/11 and FC06/11 as detailed in the minutes of the Finance Committee held on Wednesday, 18 May 2011 be adopted with the exception of FC05/11- Capital Works projects for inclusion in the Ten Year Financial Plan.

PASSED

1. FC05/11 – CAPITAL WORKS PROJECTS FOR INCLUSION IN THE TEN YEAR FINANCIAL PLAN. 107/1

It was requested that the Capital Works projects for inclusion in the Ten Year Financial Plan be deferred to the next Ordinary Meeting of Council.

OC 96/11

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

THAT Item FC05/11 relating to Capital Works projects be deferred to the next Ordinary Meeting of Council to be held on Wednesday, 8 June 2011 for consideration and determination.

PASSED



| |
|---|
| c-CR3 Minutes of the Environment and Sustainability Committee |
|---|

Reference: 5465/29.01
Responsible Officer: Natural Resource Project Co-ordinator

Submitting minutes of the Environment and Sustainability Committee held Wednesday, 20 April 2011.

OC 97/11

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

***THAT** the recommendations as detailed in the minutes of the Environment and Sustainability Committee held Wednesday, 20 April 2011 be adopted.*

PASSED



| | |
|--------------|---|
| c-CR4 | Minutes of the Traffic Committee |
|--------------|---|

Reference: 107/6
Responsible Officer: Traffic Engineer

Submitting minutes of the Traffic Committee Meeting held on Friday, 6 May 2011.

Interest: Clr G McLaughlin declared a non-pecuniary interest in Item c-CR4 Minutes of the Traffic Committee TC54/11, Heavy Vehicle Movements on Medway Road as he is employed by Boral. He remained in the Chamber, took part in the debate and voted on the matter.

OC 98/11

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

THAT recommendations Nos TC33/11 to TC 57/11 as detailed in the minutes of the Traffic Committee Meeting held on Friday, 6 May 2011 be adopted with the exception of TC38/11, Item 6 - Junction of Tulloona Avenue and Mittagong Road, Bowral; TC54/11, Additional Item 1 – Heavy Vehicle Movements on Medway Road; and TC55/11, Additional Item 2 - Tulip Time Parade, Fun Run, Wheelbarrow Race and Twilight Street Parade.

PASSED

1. TC38/11, ITEM 6 – JUNCTION OF TULLOONA AVENUE AND MITTAGONG ROAD, BOWRAL

RD 1619, RD 8260 1665, RD 1546

OC 99/11

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

THAT Item 6 - Junction of Tulloona Avenue and Mittagong Road, Bowral be deferred pending consultation with residents and referred back to the Traffic Committee AND THAT representatives from the residents be permitted to make a presentation at the Traffic Committee meeting.

PASSED

2. TC54/11, ADDITIONAL ITEM 1 – HEAVY VEHICLE MOVEMENTS ON MEDWAY ROAD
7400;7301/1

OC 100/11

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

1. **THAT** in relation to Additional Item 1 – Heavy Vehicle Movements on Medway Road the following recommendations be adopted:
 - (a) **THAT** School Bus warning signs with “7.30-9.00AM and 3.00-4.30PM SCHOOL DAYS NEXT 5 KM’ be erected at each end of Medway Road.
 - (b) **THAT** edgelines and centrelines be marked on Medway Road from the Hume Highway to Medway.
 - (c) **THAT** sight distance for vehicles exiting Liebmans Road at Medway Road be improved by reducing vegetation on the north-eastern corner.
 - (d) **THAT** a short length of Liebmans Road be sealed at the junction of Medway Road as competing priorities allow.
 - (e) **THAT** street name signs and advance street name signs for Liebmans Road be installed on Medway Road.
 - (f) **THAT** junction warning signs be erected on Medway Road on each approach to Liebmans Road;
 - (g) **THAT** no approval be given for gazetting of B-Doubles until a meeting is held with residents of Medway, Boral and Councillors **AND THAT** it be bought back to an Ordinary Meeting of Council for determination.

PASSED

3. TC55/11, ADDITIONAL ITEM 2 – TULIP TIME PARADE, FUN RUN, WHEELBARROW RACE AND TWILIGHT STREET PARADE

1671/8;7420/3

OC 101/11

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

THAT Additional Item 2 - Tulip Time Parade, Fun Run, Wheelbarrow Race And Twilight Street Parade be referred to the Tulip Time Committee for consideration and comment and be referred to an Ordinary Meeting of Council for consideration and determination.

PASSED



GENERAL BUSINESS

POWER GENERATION SAVINGS

FILE NO: 5480/2

Clr J R Clark advised that he had received correspondence regarding power generation savings to Council and requested if he could forward that to the General Manager for information.

The General Manager advised that he would receive the information.

LOSEBY PARK YOUTH CENTRE

FILE NO:1782

Clr L A C Whipper advised that Councillors and Council staff approved the extension for Loseby Park Youth Centre some time ago and \$9,000 was earmarked towards the project and he would like an update to be provided as soon as possible.

STRATEGIC LANDUSE CAPABILITIES STRATEGY & FORMULATION **FILE NO: 5602/10**

Clr L A C Whipper advised that a recommendation was moved to write to the new government to ask how Wingecarribee Shire Council can be included in the new Strategic Landuse Capabilities Strategy and formulation of a strategy for the Southern Highlands as Council was high on the priority list and requested feedback on the progress of this recommendation.

DUMP POINTS

FILE NO: 6500/19

Clr L A C Whipper advised that he had previously requested a report on dump points for recreational vehicles to be bought to Council and would like to know when this will happen.

SUSPENSION OF STANDING ORDERS

Clr L A C Whipper requested that standing orders be suspended to allow Questions from the Public.

OC 102/11

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

THAT standing orders be suspended to allow Questions from the Public be conducted.

PASSED

QUESTIONS FROM THE PUBLIC

1. MINUTES OF THE TRAFFIC COMMITTEE MEETING HELD FRIDAY 6 MAY 2011 –
ADDITIONAL ITEMS (1) HEAVY VEHICLE MOVEMENTS ON MEDWAY ROAD

Mr Glenn Corney asked in relation to this matter:

Why is recommendation (7) of TC 54/11 'again' being put to a full Council meeting when there has been no consultation with the residents of Medway Road and surrounding properties as per Council Resolution 23 March 2011 "Item 8 of the Traffic Committee Minutes referring to heavy vehicle movements on Medway Road be deferred pending an inspection by Councillors and appropriate Council staff AND THAT following the inspection further consultation be undertaken with the community and Boral."

We again ask that Item (7) of TC 5411 be deferred until consultation is undertaken with the residents of Medway Road and surrounding properties.

The General Manager advised that Council had resolved at this meeting that Council will consult with the community in relation to this matter.

The Director Infrastructure Services advised that the Traffic Committee is a regulatory Committee and consulting with residents is out of the scope of the Traffic Committee, and for that reason it has been referred to the full Council meeting. He advised that he will arrange consultation with Medway residents and Councillors within the next three (3) weeks by way of a letter to residents of Medway and surrounding landowners.

2. MINUTES OF THE TRAFFIC COMMITTEE MEETING HELD FRIDAY 6 MAY 2011 –
ADDITIONAL ITEMS (1) HEAVY VEHICLE MOVEMENTS ON MEDWAY ROAD

Ms Annie Hird asked in relation to this matter:

Is Council going to acknowledge that Medway Road does not meet the legal requirements and guidelines as required by Ausroad for B-Double haulage and if Council is not going to acknowledge the requirements and standards set by Ausroad is Council going to accept the risks associated with B-Double haulage and heavy vehicles?

The General Manager advised that this will be discussed at the consultation meeting with Medway residents.

3. INDOOR AQUATIC CENTRE MOSS VALE PRESS RELEASE WEDNESDAY 25
MAY 2011

Matt Cott asked in relation to this matter:

What is basis for the statement in the press release that *“Our residents have told us a covered pool within the Shire is a priority, and consequently we want to deliver on this expectation as soon as possible?”*

Clr L A C Whipper responded that he believes there is a clear desire for a covered swimming facility. The concept plans being developed are for more than a covered pool and when it goes on public exhibition it will be close to the mark for the significant portion of the community that want a covered swimming facility.

CHAIRPERSON

At this juncture, the time being 5:13pm, the Deputy Mayor, Clr L A C Whipper, resumed the Chair to conduct the remainder of Council Business.



MINUTES OF THE ORDINARY MEETING OF COUNCIL

held in the Council Chamber, Civic Centre, Elizabeth Street, Moss Vale
on Wednesday, 25 May 2011

REPORT OF GENERAL MANAGER

CLOSED COUNCIL

GENERAL MANAGER

cc-GM1 Closed Council

Reference: 107/9
Responsible Officer: General Manager

At this juncture, the time being 5.13pm, pursuant to section 10A(4), the Deputy 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 176/11

MOTION moved by Clr G McLaughlin 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:

cc-GM1 LITIGATION FUNDING AGREEMENT IMF (AUSTRALIA) LTD 2104

Relevant Legal Provisions

This report is referred to Closed Committee under Clause 10A(2)(d) as it contains commercial information of a confidential nature that would if disclosed prejudice the commercial position of the person who supplied it.

Brief Description

Informing Council of the details of changes proposed by IMF (Australia) Ltd to the Litigation Funding Agreement between Council and IMF for the legal action taken against Lehman Brothers Australia Pty Ltd, and seek Council's concurrence to the requested changes.

Public Interest

It would be contrary to the public interest to consider this information in Open Council because it contains commercial information of a confidential nature that would if disclosed prejudice the commercial position of the person who supplied it.



MINUTES OF THE ORDINARY MEETING OF COUNCIL

held in the Council Chamber, Civic Centre, Elizabeth Street, Moss Vale
on Wednesday, 25 May 2011

CLOSED COUNCIL

CLOSED COUNCIL

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| cc-GM1 Litigation Funding Agreement – IMF (Australia) Ltd |
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Reference: 2104
Responsible Officer: Director Corporate Services

CC 19/11

The Committee on a **MOTION** moved by Clr J R Clark and seconded by Clr G McLaughlin
RECOMMENDED (refer also OC 91/11):

THAT the Litigation Funding Agreement – IMF (Australia) Ltd be deferred for further consideration at the Ordinary Meeting of Council to be held on Wednesday, 8 June 2011.

PASSED

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| cc-GM2 Report and Recommendations in Relation for Claim of Costs Made by Norlex Holdings Pty Ltd, Land and Environment Court Matter No. 40244 of 2007 |
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Reference: 502/54
Responsible Officer: Director Environment and Planning

CC 20/11

The Committee on a **MOTION** moved by Clr J R Clark and seconded by Clr G McLaughlin
RECOMMENDED (refer also OC 87/11)

THAT Council authorise the Mayor, Clr K Halstead and General Manager, Mr Jason Gordon, up to the figure proposed by staff, to settle this matter in accordance with the advice of Pattison Hardman Pty Ltd or in the event that settlement is not possible, to defend any application by Norlex Holdings Pty Ltd or related entities to have the costs assessed by the courts.

PASSED



MINUTES OF THE ORDINARY MEETING OF COUNCIL

held in the Council Chamber, Civic Centre, Elizabeth Street, Moss Vale
on Wednesday, 25 May 2011

CLOSED COUNCIL

cc-GM3 Legal Issues

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

CC 21/11

The Committee on a **MOTION** moved by Clr D Stranger and seconded by Clr J R Clark
RECOMMENDED (refer also OC 86/11):

1. **THAT information relating to ongoing legal cases be noted.**
2. **THAT the Environmental Assessment Compliance register, Ranger Court register and legal cost information be noted.**
3. **THAT Council Serve a Notice of Intention to serve an Order under Section 121B of the Environmental Planning and Assessment Act 1979 on the property owners for Mittagong Central and Gibraltar Park to obtain their responses in regard to completing the relevant developments at those properties AND THAT further actions in this matter be updated in future legal reports.**

PASSED



MINUTES OF THE ORDINARY MEETING OF COUNCIL

held in the Council Chamber, Civic Centre, Elizabeth Street, Moss Vale
on Wednesday 25 May, 2011

COUNCIL

MN 177/11

107/10

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

THAT Council moves back into Council.

PASSED

No members of the public were present in the Chamber.

ADOPTION OF CLOSED COUNCIL

MN 178/11

107/9

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

THAT the recommendations of the Closed Council held on Wednesday, 25 May 2011 being CC 19/11 to CC 21/11 be adopted.

PASSED

ADOPTION OF OPEN COUNCIL

MN 179/11

107/10

MOTION moved by Clr G McLaughlin seconded by Clr J Mauger:

THAT the recommendations of the Open Council held on Wednesday, 25 May 2011 being OC 74/11 to OC 102/11, be adopted.

PASSED



MINUTES OF THE ORDINARY MEETING OF COUNCIL

held in the Council Chamber, Civic Centre, Elizabeth Street, Moss Vale
on Wednesday 25 May, 2011

THERE BEING NO FURTHER BUSINESS, THE MEETING CLOSED AT 5:30PM

In accordance with the provisions of Section 375(2) of the Local Government Act, these Minutes of the Ordinary Council Meeting held Wednesday, 25 May 2011 numbered M/N 173/11 to M/N179/11, were signed by me hereunder at the Council Meeting held on Wednesday, 8 June 2011.

CHAIRMAN

READ AND CONFIRMED ON WEDNESDAY, 8 JUNE 2011

CHAIRMAN

PUBLIC OFFICER