

MINUTES

OF THE ORDINARY MEETING OF COUNCIL

File No. 100/1



held on Wednesday, 8 June 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, 8 June 2011

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on Wednesday, 8 June 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 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 Liz 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 David Holt of Onelife Community Church, Moss Vale.



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APOLOGY

M/N 180/11

PERS

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

THAT the apology of Cllr T D Gair 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, 25 MAY 2011

100/1

MN 181/11

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

THAT the minutes of the Ordinary Meeting of Council held on Wednesday, 25 May 2011 MN 173/11 to MN 179/11 inclusive, copies of which were forwarded to Councillors, be adopted as a correct record of the proceedings of the meeting.

PASSED

BUSINESS ARISING

1. MINUTES OF THE TRAFFIC COMMITTEE OF FRIDAY 6 MAY 2011 - TC54/11, ADDITIONAL ITEM 1 – HEAVY VEHICLE MOVEMENTS ON MEDWAY ROAD
7400, 7301/1

Interest: Clr G McLaughlin declared a non-pecuniary interest in this matter as he is employed at the Boral Plant at New Berrima. He left the Chamber, took no part in the debate and refrained from voting thereon.

Clr L A C Whipper referred to the additional item of the Traffic Committee Minutes on Page 26 dealing with heavy vehicle movements on Medway Road. Clr Whipper advised that he has been approached by representatives of the Medway community requesting the following:

- (i) Whether Council would consider supporting them in their application to the Department of Planning for an extension of the exhibition period for the Boral application seeking an extension from 30 days to 90 days and, if so, could Council make representations to the Department of Planning supporting their application for the extension of the exhibition period.
- (ii) Whether Council is making a submission in relation to the Boral application.

The Director Environment & Planning advised that Council will be making a submission, which will be forwarded to Council for endorsement, and advised that Council has already requested an extension of time but he would put forward whatever Council sees as a reasonable timeframe. The Director Environment & Planning advised that Council has been successful in previous applications for extensions of time but he cannot guarantee a 90 day extension from the Department.

.....Cont'd



MINUTES OF THE ORDINARY MEETING OF COUNCIL

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.....Cont'd

Clr Whipper advised that he had attended a meeting on Tuesday, 7 June 2011 with Minister Chris Hartcher, Minister Pru Goward and a representation of the community, and this matter was discussed with the Minister. Clr Whipper advised that Boral will be stockpiling 250,000 tonnes of coal on site which leads to a number of implications for Council, and asked if Council could also make a submission in relation to the stockpiling issue.

The Mayor Clr K Halstead asked whether there was any mention in the application that is currently being exhibited about the stockpiling.

The Director Environment & Planning advised that there are two applications – one is the application for the extraction from the colliery and the stockpiling is to be dealt with as an amendment to a previous approval for the plant operation – that is the way it has been explained to Council. He advised that Boral submitted its application in terms of advice provided by the Department of Planning.

The Director Environment & Planning advised that the exhibition period for the colliery has just commenced but the amendment to the plant consent for the stockpiling has been lodged.

MN 182/11

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

1. **THAT** Council supports the request from the Medway Residents Association for an extension of the time for the exhibition period (up to 90 days) of the Boral Development Application for the proposed coal extraction from Berrima Colliery **AND THAT** Council make representations to the Minister for Planning & Infrastructure advising of its support for the extension of time.
2. **THAT** Council make a submission in relation to the proposed coal extraction from Berrima Colliery **AND THAT** the draft submission be presented to a future Council meeting for information.
3. **THAT** Council express its concerns to the Minister for Planning & Infrastructure in relation to the proposed stockpiling of coal for export within the cement plant site **AND THAT** Council requests that the Minister insists upon a separate application in respect of the proposed stockpiling.

PASSED

Clr G McLaughlin rejoined the Meeting.

.....Cont'd



MINUTES OF THE ORDINARY MEETING OF COUNCIL

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.....Cont'd

2. MINUTES OF THE TRAFFIC COMMITTEE OF FRIDAY 6 MAY 2011 – TC55/11,
ADDITIONAL ITEM 2 – TULIP TIME PARADE, FUN RUN, WHEELBARROW RACE
AND TWILIGHT STREET PARADE 1671/8, 7420/3

Clr G McLaughlin referred to the recommendation of the Traffic Committee on page 26 of the Minutes in relation to the closing of Bong Bong Street, Bowral, for the Tulip Time Parade which was deferred pending it being referred to the Tulip Time Committee for consideration and comment. Clr McLaughlin advised that the Roads & Traffic Authority is happy with the closure of Bong Bong Street and that notification of this decision is being forwarded to the members of the Traffic Committee.

The Mayor Clr K Halstead thanked Clr McLaughlin for this information.

DECLARATIONS OF INTEREST

101/3

There were no Declarations of Interest at this meeting.



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MAYORAL MINUTE

MAYORAL MINUTE

c-MM1 Australian Local Government Association – Request for Support for a Referendum to Change the Constitution

Leadership

Reference: 102/5, 203/1.1 and 203/1

Responsible Officer: Manager Governance

The Australian Local Government Association has written to Council requesting its support to call for a referendum to be held by 2013 to change the constitution to allow direct funding of local government bodies by the Commonwealth Government and also to include local government in any new Preamble to the constitution, if one is proposed.

MN 183/11

MOTION moved by Cllr K Halstead and seconded by Cllr J R Clark:

1. **THAT Council support the position of the Australian Local Government Association for financial recognition of Local Government in the Australian Constitution so that the Federal Government has the power to fund Local Government directly.**
2. **THAT Council support the position of the Australian Local Government Association for the inclusion of local government in any new Preamble to the constitution, if one is proposed.**
3. **THAT representation be made to all Political parties seeking inclusion of local government in any new Preamble to the constitution, if one is proposed.**
4. **THAT the Australian Local Government Association be advised of Council's support in recommendations 1 to 3 above.**

PASSED



ACKNOWLEDGEMENT – MS ALISON BALDING

The Mayor Clr K Halstead noted that it was the last meeting that would be attended by Ms Alison Balding, a reporter for the Southern Highland News. The Mayor, on behalf of the Council and Councillors, acknowledged Alison's term as a reporter and congratulated her on the extraordinary job she had undertaken in her reporting on matters.

(Acknowledged by acclamation)

OPEN COUNCIL

MN 184/11

107/11

MOTION moved by *Clr K Halstead* and seconded by *Clr L A C Whipper*:

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

PASSED



VISITOR ITEM

v-CS1 Request for Funding from Wingecarribee State Emergency Service

Reference: 7116
Responsible Officer: Manager Governance

Reporting on a request from the Local Controller for Wingecarribee State Emergency Service for \$24,500 contribution towards the cost of a single cab Iveco with an enclosed back.

Mr Anthony Kasoulis, the Local Area Controller of the Wingecarribee SES, addressed Council on this matter.

OC 103/11

The Committee on a **MOTION** moved by Cllr G McLaughlin and seconded by Cllr J Mauger
RECOMMENDED:

1. **THAT an amount of \$24,500 be donated to the Wingecarribee State Emergency Service for the purchase of a single cab Iveco vehicle with an enclosed back AND THAT the funding be allocated from Council's Contingency Vote.**
2. **THAT subject to recommendation 1 above, an official cheque presentation ceremony be organised for the Mayor to present the donation of \$24,500 on behalf of Council.**
3. **THAT a suitable press release and media coverage be organised for this presentation of the cheque by the Mayor.**

PASSED



OPEN COUNCIL

ENVIRONMENT & PLANNING DIVISION

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

Reference: 5302
Responsible Officer: Manager Environmental Assessment

Submitting list of development consents executed under delegated authority of the Director of Environment and Planning between 17 May 2011 and 31 May 2011.

OC 104/11

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

THAT the information relating to Development Consent Determined Nos 1-11 under Delegated Authority and Development Consents Withdrawn/Refused Nos 1-6 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 17 May 2011 to 31 May 2011, all of which will be dealt with under delegated authority of the Director of Environment and Planning.

OC 105/11

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

THAT the information regarding the List of Land Use Applications Nos 1-8 received by Council, be received and noted.

PASSED



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REPORT OF DIRECTOR ENVIRONMENT & PLANNING

o-EP3 Land Use Applications Determined

Reference: 5302
Responsible Officer: Manager Environmental Assessment

Submitting list of Land Use applications determined by way of approval under delegated authority of the Director of Environment and Planning for the month of May 2011.

OC 106/11

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

THAT the information regarding the List of Land Use Applications Determined by Council for the month of May 2011 be received and noted.

PASSED



o-EP4 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 at Lot 11 DP 751262, RN 540 Myra Vale Road, Wildes Meadow.

Interest: Clr L A C Whipper declared a less than significant non-pecuniary interest in this matter as he is a member of the Board of the Sydney Catchment Authority. He remained in the Chamber, took part in the debate and voted on the matter.

The Manager Environmental Assessment addressed Council on this matter.

OC 107/11

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

THAT LUA 2011/0203 for two (2) Farm Buildings (incorporating an animal shelter and exercise building for horses) at Lot 11 DP 751262, RN 540 Myra Vale Road, Wildes Meadow, be approved subject to the conditions as described in Attachment 2 of the report to Council of 25 May 2011, and subject to the concurrence of the Sydney Catchment Authority.

PASSED

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

Councillor	For	Against
Clr J G Arkwright	x	
Clr J R Clark	x	
Clr T D Gair	A	
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 Four (4) Lot Subdivision, Lots 1 and 2 DP 587573, Bendooley and Edward Streets, Bowral – St Jukes Anglican Church

Reference: LUA2011/0238
Responsible Officer: Manager Environmental Assessment

This report considers an application for a four (4) lot subdivision, with three (3) lots being residential and the fourth lot accommodating the church and associated activities. Each lot has an area in excess of 2000m², which complies with the development standard in WLEP2010.

The Manager Environmental Assessment addressed Council on this matter.

OC 108/11

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

THAT development application LUA2011/0238 for a four (4) Lot subdivision of Lots 1 and 2 DP 587573, St Jude's Church, Bendooley and Edward Streets, Bowral, be approved subject to the conditions of consent as set out in Attachment 4 of this report AND THAT prior to issuing a consent the applicant be requested to discuss the provision of a public accessway across the property for the use of pedestrians AND FURTHER THAT a formal response be received from them prior to the issue of any consent.

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	A	
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	



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REPORT OF DIRECTOR ENVIRONMENT & PLANNING

o-EP6 Update on the Establishment of a Permanent Aboriginal Community and Cultural Centre at Mineral Springs Reserve, Mittagong

Reference: 1826/4; 1826/14

Responsible Officer: Manager Strategic and Community Development

The purpose of this report is to update Councillors with progress of discussions with the current lessees of the existing Council owned facility on the Mineral Springs Reserve and recommend that they be given until 31 May 2012 to vacate the premises in order for the permanent Aboriginal Community and Cultural Centre to be established in that location.

The Director Environment & Planning addressed Council on this matter.

Clr D Stranger left the chamber at 4.16 pm.

OC 109/11

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

1. **THAT Council confirm in writing with the Southern Highlands Foursquare Church that it has until 31 May 2012 to vacate the Mineral Springs Hall at Mineral Springs Reserve Mittagong AND THAT Council officers continue to provide assistance to the Southern Highlands Foursquare Church to find alternative premises within the required timeframe.**
2. **THAT Council write to the local Aboriginal Associations and Corporations advising them of Council's decision.**
3. **THAT Council convene a meeting with the local Aboriginal Community seeking input into the establishment of the Cultural Centre and to consider management models for the Cultural Centre.**
4. **THAT a Plan of Management for the site be developed as a priority to coincide with the change of tenants.**
5. **THAT Council thank the Foursquare Church for its tenancy of the property over the past eighteen (18) years.**

PASSED



CORPORATE SERVICES DIVISION

o-CS1 Investments as at 30 April 2011

Reference: 2104
Responsible Officer: Manager Financial Services

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

The Director Corporate Services addressed Council on this matter.

OC 110/11

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

THAT the information on Council's Investments as at 30 April 2011 be noted.

PASSED

o-CS2 Policy Review

Reference: 104/5
Responsible Officer: Manager Governance

The purpose of this report is to rescind a number of outdated policies as part of a major review of Council's policies.

The Director Corporate Services addressed Council on this matter.

OC 111/11

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

THAT Council policies detailed in Attachment 1 of the report (Nos 1 to 70), be rescinded.

PASSED



o-CS3 Wingecarribee Shire Council Events Policy

Reference: 104/5
Responsible Officer: Manager Governance

The purpose of this report is to seek adoption by Council of the Draft Council Events Policy.

Clr L A C Whipper requested an amendment to the Policy under the Heading "Policy Statement" in the third dot point which should be amended to read "Ensuring that environmental impacts are neutral or beneficial".

OC 112/11

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

THAT the Council Events Policy as detailed in Attachment 1 of the report be adopted, with the exception of the third dot point under the heading "Policy Statement" which should be amended to read "Ensuring that environmental impacts are neutral or beneficial".

PASSED



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REPORT OF DIRECTOR CORPORATE SERVICES

o-CS4 Lease of Part Hill Top Water Reservoir, Lot 187 DP704669 off 40 Charles Street, Hill Top to Optus Mobile Pty Limited

Reference: PN1296400; 7702/6; 6327
Responsible Officer: Manager Governance

Report recommending execution of negotiated Lease agreements with respect to part of the land known as Hill Top Water Reservoir, Lot 187 DP704669 off 40 Charles Street Hill Top to Optus Mobile Pty Limited.

OC 113/11

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

THAT the four (4) consecutive Real Property Leases to Optus Mobile Pty Limited to lease part of the land known as part Lot 187 DP704669 off 40 Charles Street Hill Top be executed under the Common Seal of the Council.

PASSED



MINUTES OF THE ORDINARY MEETING OF COUNCIL

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REPORT OF DIRECTOR CORPORATE SERVICES

o-CS5	Acquisition of Land for Road Purposes, Part Lot 12 DP 11722 Mount Broughton Road, Werai (known as 62 Bibby's Lane, Werai) and Part Lot 1 DP 630402 being 183 Mount Broughton Road, Werai
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Reference: PN1726960; PN1005700; RD3385

Responsible Officer: Manager Governance

Reporting on requirement to acquire land for road widening due to the realignment of part of Mount Broughton Road Werai, affecting Part Lot 12 DP11722 Mount Broughton Road, Werai (known as 62 Bibby's Lane, Werai) and Part Lot 1 DP 630402 being 183 Mount Broughton Road, Werai.

The Director Infrastructure Services addressed Council on this matter.

The General Manager advised that information in relation to the notification to owners would be included in the Weekly Circular.

OC 114/11

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

1. **THAT the agreement for acquisition of part Lot 1 DP630402 known as 183 Mount Broughton Road, Werai, be executed under the Common Seal of the Council.**
2. **THAT in relation to 1 above it be noted as follows:**
 - (a) **The amount of compensation to be paid to the owner for the acquisition of land is \$6,750;**
 - (b) **In addition to the payment of compensation, Council will re-fence the land to a standard similar to the existing fence;**
 - (c) **Council pay all reasonable legal, surveyor, valuation and registration fees of the owner; and**
 - (d) **Council pay the owner the amount of \$1,000 in lieu of tree planting.**
3. **THAT the Real Property Transfer in connection with the acquisition of Lot 1 DP630402 be executed under the Common Seal of the Council to enable the acquisition of the subject land to be completed.**
4. **THAT Council do all things necessary to expedite agreement between Council and the owner of part Lot 12 DP11722 Mount Broughton Road, Werai (known as 62 Bibby's Lane, Werai).**
5. **THAT if agreement cannot be reached expeditiously in relation to the acquisition of Lot 12 DP11722 above THAT Council:**

.....Cont'd



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REPORT OF DIRECTOR CORPORATE SERVICES

.....Cont'd

- (a) *Proceed with Compulsory Acquisition of Part of land described as Part Lot 12 DP11722 in accordance with the requirements of the Land Acquisition (Just Terms Compensation) Act 1991;*
 - (b) *That Council make an application to the Minister for Local Government and the Governor for approval to acquire part Lot 12 DP11722 by compulsory process pursuant to the Roads Act 1993;*
 - (c) *That Council request the Minister for Local Government approve a reduction in the notification period to the owner from 90 days to 30 days.*
6. **THAT** *any agreement or Real Property dealing in association with the acquisition of part Lot 12 DP11722 be executed under the Common Seal of the Council.*

PASSED



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REPORT OF DIRECTOR CORPORATE SERVICES

**o-CS6 Request for execution of Transfer Granting Easement, affecting Lot 1
Deposited Plan 779586 being 54 Shepherd Street Bowral**

Reference: PN1330700
Responsible Officer: Manager Governance

Reporting on a request from Glasson, Jemmell & McGill, Solicitors, on behalf of the registered proprietors of 54 Shepherd Street Bowral to execute a Transfer Granting Easement over their client's property.

OC 115/11

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

1. **THAT the Real Property Transfer Granting Easement dealing affecting 54 Shepherd Street, Bowral, be executed under the Common Seal of the Council AND THAT it be noted that the easement is to drain sewage over the existing line of pipes within the subject property.**
2. **THAT the applicants pay all costs associated with the registration of the Transfer Granting Easement over 54 Shepherd Street Bowral.**

PASSED



o-CS7 Acquisition of Land and Easements by Compulsory Process by State Property Authority (now Land & Property Management Authority) – Mittagong Water Supply

Reference: PN1760080; PN1737070; PN1765580
Responsible Officer: Manager Governance

To endorse the acquisition of land and easements by compulsory process for the purposes of Mittagong Water Supply – Crown Acquisition.

OC 116/11

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

1. **THAT the parcels of land described as Lot 1 in Deposited Plan 1158322 and Lot 2 in Deposited Plan 1158322 associated with Land and easements for Willow Vale Reservoir site be acquired by compulsory process under the Land Acquisition (Just Terms Compensation) Act 1991 by authority contained in the Local Government Act 1993 for the purposes of Mittagong Water Supply – Crown Acquisition;**
2. **THAT the following proposed easements be acquired by compulsory process under the Land Acquisition (Just Terms Compensation) Act 1991 by authority contained in the Local Government Act 1993 for the purposes of Mittagong Water Supply – Crown Acquisition:**
 - (a) **An easement for Services over the site shown as '(A) PROPOSED EASEMENT FOR SERVICES (18 WIDE)' shown in Deposited Plan 1158322**
 - (b) **An easement for Access over the site shown as '(B) PROPOSED EASEMENT FOR ACCESS (5 WIDE)' shown in Deposited Plan 1158322**
3. **THAT the minerals are to be excluded from this acquisition.**
4. **THAT these acquisitions are not for the purposes of resale.**
5. **THAT the necessary applications be made to the Minister for Local Government and the Governor.**
6. **THAT Lot 1 in Deposited Plan 1158322 and Lot 2 in Deposited Plan 1158322 when acquired be classified as 'Operational Land' under the Local Government Act 1993.**
7. **THAT the Common Seal of the Council be affixed to all necessary documents associated with the acquisition where required.**

PASSED



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REPORT OF DIRECTOR CORPORATE SERVICES

o-CS8 Proposed Lease to Wingecarribee Community Services Centre Incorporated, Part Lot 1 Deposited Plan 613114, (no street number) Queen Street, Moss Vale

Reference: PN1214200; PN1214100; PN59600; PN59500; 1855/29
Responsible Officer: Manager Governance

Report requesting execution of the Lease to Wingecarribee Community Services Centre Incorporated of part Lot 1 Deposited Plan 613114, (no street number) Queen Street, Moss Vale.

OC 117/11

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

1. **THAT the Lease to Wingecarribee Community Services Centre Incorporated in respect of the land known as "Proposed Lot 1" in Plan of Subdivision of the Queen Street Moss Vale Precinct, being part Lot 15 DP 596832, Part Lot 1 DP 613114, Lot 1 DP 730743 and Lot B DP 159169 be executed under the Common Seal of the Council.**
2. **THAT it be noted that the Lease referred to in 1 above is for a term of twenty one (21) years with an option for a further twenty one (21) year period at the expiration of the first term.**

PASSED



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REPORT OF DIRECTOR CORPORATE SERVICES

o-CS9 Mayoral Elections

Reference: 100/4 & 102/4
Responsible Officer: Manager Governance

Requesting Council to form a working group of interested Councillors to review the process for the election of Mayor and consider the advantages and disadvantages of moving to a popularly elected Mayor and that the process for seeking the view of the community on this matter also be considered.

OC 118/11

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

1. **THAT a working group of interested Councillors be nominated to review and consider the process for the election of the Mayor AND THAT the working group reviews the process for seeking the view of the community on a "Popularly" elected Mayor.**
2. **THAT having regard to one (1) above the following interested Councillors be appointed to the Working Group.**
 - (a) Clr J G Arkwright
 - (b) Clr P B Tuddenham
 - (c) Mayor Clr K Halstead or Deputy Mayor Clr L A C Whipper
 - (d) Clr J R Clark
3. **THAT the Working Group also include the General Manager or his nominated delegates.**

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

THAT the report in relation to the Mayoral Elections be noted.

LOST

MOTION PASSED



MINUTES OF THE ORDINARY MEETING OF COUNCIL
held in the Council Chamber, Civic Centre, Elizabeth Street, Moss Vale
on Wednesday, 8 June 2011
REPORT OF DIRECTOR CORPORATE SERVICES

o-CS10 Proposal to Amend Memorandum of Understanding with the Southern Highlands Hockey Association

Reference: 6552/3, 6614/3
Responsible Officer: Director of Corporate Services

The objective of this report is to secure Council approval to apply the seal to the Amended Memorandum of Understanding ("MoU") between Council and the Southern Highlands Hockey Association Incorporated ("SHHA") concerning the Welby Heights Hockey facility.

The Director Corporate Services requested that this matter be deferred to the next meeting so that further investigation can be undertaken.

OC 119/11

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

THAT the report in relation to the amended Memorandum of Understanding between Council and Southern Highlands Association Incorporated be deferred to the next Ordinary Meeting of Council to be held on Wednesday, 22 June 2011.

PASSED



o-CS11 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 120/11

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

THAT the *Litigation Funding Agreement – IMF (Australia) Ltd Report - Item cc-GM1 – be considered in Closed Committee (refer CC 22/11 on page 38).*

PASSED

CHAIRPERSON

At this juncture, the time being 4.56 pm, the Mayor Clr K Halstead 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, 8 June 2011

REPORT OF THE GENERAL MANAGER

COUNCIL MATTERS

GENERAL MANAGER'S REPORTS

c-GM1 Draft Private Works Policy

Reference: 104/5
Responsible Officer: General Manager

The purpose of this report is to seek endorsement by Council of the Draft Private Works Policy and place this policy on public exhibition for a period of 28 days. At the conclusion of the period of public exhibition a report will be resubmitted to Council outlining comments received and seeking adoption of the policy.

The General Manager addressed Council on this matter.

MN 185/11

MOTION moved by Clr K Halstead and seconded by Clr J R Clark:

1. **THAT** the Draft Private Works Policy be endorsed by Council.
2. **THAT** the Draft Private Works Policy be placed on public exhibition for a period of twenty eight (28) days.
3. **THAT** a further report be submitted to Council for consideration at the expiration of the public exhibition period.

PASSED



MINUTES OF THE ORDINARY MEETING OF COUNCIL

held in the Council Chamber, Civic Centre, Elizabeth Street, Moss Vale
on Wednesday, 8 June 2011

QUESTIONS FROM THE PUBLIC

QUESTIONS FROM THE PUBLIC

1. NEIGHBOUR NOTIFICATION OF DEVELOPMENTS 6433, 5457/1, 5200

Mr John Vanechop referred to neighbour notification of developments, and asked what is the current position regarding the illegal clearing at Gibbergunyah Creek.

The Director Environment & Planning advised that consideration of the development application was deferred by Council pending an investigation of the clearing of the land. He advised that the investigation is being carried out by the Office of Environment & Heritage and they have had discussions with Council staff. The Director advised that a report should be received shortly and the assessment of the development application can then proceed. He advised that the Rural Fire Service has been notified of the deficiencies in their application and that Council will work with them to ensure that all necessary information is provided.

2. NEIGHBOUR NOTIFICATION AND LANDSCAPING OF DEVELOPMENT AT THE CORNER OF OWEN STREET AND THE OLD HUME HIGHWAY LUA08/0550

Mr John Vanechop referred to the industrial development on Owen Street and the Old Hume Highway, noting that he did not receive neighbour notification in relation to this development. He advised that the road has been pegged out, moving it across onto his side of the street and that the street is no longer central and the line of the street no longer lines up with Lyell Street opposite. He advised that this is creating a dangerous intersection and the road has been diverted to suit the development. Mr Vanechop also asked about landscaping of this development.

The Director Environment & Planning advised that he will take the questions on notice and that he will arrange an appointment to meet with Mr Vanechop to discuss the issues he has in relation to the development. The Director Environment & Planning advised that he will provide further information to Councillors in the Weekly Circular.

3. NEIGHBOUR NOTIFICATION 5201/3, 5200

Mr Peter Smyth asked when Council is going to send neighbour notifications by registered post.

The General Manager advised that he has previously met with Mr Smyth in relation to, not only neighbour notification but also the placing of signs on all developments. He advised that the bigger issue for Council to determine is who should be notified about a development. He further advised that all these issues will be addressed in a report to Council, which should be done within the next couple of months.



MINUTES OF THE ORDINARY MEETING OF COUNCIL

held in the Council Chamber, Civic Centre, Elizabeth Street, Moss Vale
on Wednesday, 8 June 2011

QUESTIONS FROM THE PUBLIC

4. ROBERTSON SEWERAGE SCHEME TENDER

7650

Mr Peter Smyth asked if there is due diligence process on the fiscal position of a company tendering for Council's business. He asked which staff member did the due diligence process on the Lucas Company that was awarded the tender for the Robertson Sewerage Scheme and how long ago was that due diligence process done.

The Director Infrastructure Services advised there is a due diligence process done on a tenderer and in relation to AJ Lucas the due diligence process was undertaken for Council by the Department of Public Works & Services and a number of the State Government's due diligence institutions and that this would have been in late February 2011.

The Mayor Clr K Halstead advised that Council had had a meeting with Public Works in relation to this tenderer and it was very routinely carried out.

The General Manager advised that it was reflected in Council's resolution that was adopted about who did the due diligence for this tender.

5. CHANGE OF NUMBERS OF COUNCILLORS FROM 9 TO 12

101

Mr Peter Smyth asked if Councillors would agree that as this is a growing area, the Councillor numbers should possibly be lifted back from 9 to 12.

The Mayor Clr K Halstead advised that he will speak with Mr Smyth privately in relation to this matter.

6. MT BROUGHTON ROAD REPORT

PN1726960, PN1005700, RD3385

Mr Ian Scandrett asked the following questions:

- (i) If the Director Infrastructure Services wrote the Mt Broughton Road report that was in today's Agenda or did he just approve a report written by others, and if the Director Infrastructure Services was responsible for the report's accuracy?

The General Manager asked the intent of Mr Scandrett's question and what specifically was he asking.

Mr Scandrett advised that it is simple question on process and he wanted to know who had written the report.

The Director Infrastructure Services advised that it was a report of the Director of Corporate Services, and that in terms of process, all reports are reviewed by the Executive team (which includes the three Directors) as a draft one week prior to the Council Meeting.

The Director Corporate Services advised that the report was written by one of his staff but that he had signed off on it as the Director of Corporate Services and that the Executive Team reviews reports and signs off on them prior to presentation to Council.



MINUTES OF THE ORDINARY MEETING OF COUNCIL

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on Wednesday, 8 June 2011

QUESTIONS FROM THE PUBLIC

The Mayor Clr Halstead advised that the responsibility for reports rests with the Director and that the Director is the person responsible for the report no matter who wrote it.

- (ii) What is a reasonable time for a property owner to be notified of a resumption under the Roads Act – 6 months or 6 weeks?

The General Manager advised that the question will be taken on notice and a reply provided to Mr Scandrett in writing.

- (iii) Are Councillors aware that Sandy Moss was only notified – contrary to what the report says – 6 weeks ago and asked if that is reasonable?

The Mayor Clr Halstead advised that the question will be reported upon.



MINUTES OF THE ORDINARY MEETING OF COUNCIL

held in the Council Chamber, Civic Centre, Elizabeth Street, Moss Vale
on Wednesday, 8 June 2011

QUESTIONS WITH NOTICE

QUESTIONS WITH NOTICE

c-QWN1 04/11 – Legality of Industrial Activity in Historic Residential Area of Berrima

Reference: 101/2, 7170
Responsible Officer: Director Environment & Planning

Subject: Legality of Industrial Activity in Historic Residential Area of Berrima

Question:

1. I refer to the property known as 'Berrima Diesel', 3483 Old Hume Highway, Berrima. There appears to be a question relating to the lack of approval relating this to activity. The matter has also been raised with me by a neighbour about any approval for such a large venture in an inappropriate historic residential area, especially with so much industrial area in the immediate district. The resident who raised this matter with me states that he approached Council in April 2009 to clarify the obviously altered zoning restrictions. He is now claiming that after at least two (2) years of pursuing this matter he is receiving nothing but a positive reluctance from Council and no communication on this matter. Can this matter be clarified and can a method of resolution be suggested to bring it to a close?

Comment from Director Environment & Planning

This matter has been listed in the Compliance Register of the Legal Report of Council. The current position is that Council is finalising an examination of the development history of the property. This has taken some time to complete as some of the files relating to the property date back to the 1960's in the former Shire of Wingecarribee and it has been difficult to locate them. The examination of the files is almost complete and the results of the examination will be included in a detailed Weekly Circular item in the next two to three weeks.

The Director Environment & Planning advised that the review of the files has now been concluded but that there is limited information on those files, with some correspondence located which dates back to 1990. He advised that Council's Legal Officer is currently reviewing the files and a detailed report will be provided as part of the Legal Report to the next Council Meeting. He stated that there is some acknowledgment of the existence of a business at the locality dating back to the last correspondence in 1990.

MN 187/11

MOTION moved by Clr L A C Whipper and seconded by Clr K Halstead:

THAT a report in relation to the Legality of Industrial Activity in Historic Residential Area of Berrima be presented to Council for consideration at a future Ordinary Meeting of the Council.

PASSED



MINUTES OF THE ORDINARY MEETING OF COUNCIL

held in the Council Chamber, Civic Centre, Elizabeth Street, Moss Vale
on Wednesday, 8 June 2011

REPORT OF GENERAL MANAGER

COMMITTEE REPORTS ATTACHED

c-CR1 Minutes of the Finance Committee

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

At the Ordinary Meeting of Council on Wednesday 25 May 11 it was resolved:

***“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.*”**

MN 188/11

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

1. ***THAT Council confirm its high priority capital expenditure projects as the ‘Covered Moss Vale Pool’ project; the ‘Civic Centre and Depot Asset Management Strategy’ project; the ‘Swimming Pool Assets Management Strategy’ and the ‘Welby Tip Rehabilitation’ project.***
2. ***THAT land be identified for the ‘Companion Animals Facility’ as a matter of priority.***
3. ***THAT seed funding be identified in Council’s Ten Year Financial Plan for the ‘Botanical Gardens’ project up to \$150,000; and the ‘Performance Space Bowral (Bowral Memorial Hall)’ project up to \$40,000.***
4. ***THAT pending the completion of the cultural planning consultation and the Plan of Management the ‘Regional Art Gallery Mittagong’ project be considered in future Budget deliberations AND FURTHER THAT funds allocated in the 2010/2011 Council Budget for demolition or other uses for the building be revoted to the 2011/2012 Council Budget.***
5. ***THAT Council authorise the preparation of Preliminary Business Plans for the high priority projects, AND THAT appropriate community consultation be undertaken on these projects.***
6. ***THAT Capital Expenditure Reviews be completed for the identified priority projects in conjunction with the community consultation, in accordance with the Capital Expenditure Guidelines.***
7. ***THAT Council advise the Division of Local Government of Council’s priority capital works projects.***
8. ***THAT Council confirm the proposed capital works projects to be included in Council’s Ten Year Financial Plan, Delivery Program and Operating Plan.***

.....Cont’d



MINUTES OF THE ORDINARY MEETING OF COUNCIL

held in the Council Chamber, Civic Centre, Elizabeth Street, Moss Vale
on Wednesday, 8 June 2011

REPORT OF GENERAL MANAGER

c-CR3 Minutes of the Access Committee

Reference: 1823/3
Responsible Officer: Ageing & Disability Worker

Submitting minutes of the Access Committee held on Monday, 18 April 2011.

MN 190/11

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

THAT the recommendations and actions as detailed in the minutes of the Access Committee held on Monday, 18 April 2011 be adopted.

PASSED

c-CR4 Minutes of the Environment & Sustainability Committee

Reference: 5465/29.01
Responsible Officer: Natural Resource Project Coordinator

Submitting minutes of the Environment & Sustainability Committee held on Wednesday, 18 May 2011.

MN 191/11

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

THAT the recommendations as detailed in the minutes of the Environment & Sustainability Committee held on Wednesday, 18 May 2011 be adopted.

PASSED



MINUTES OF THE ORDINARY MEETING OF COUNCIL

held in the Council Chamber, Civic Centre, Elizabeth Street, Moss Vale
on Wednesday, 8 June 2011

REPORT OF GENERAL MANAGER

GENERAL BUSINESS

1. FISHING PLATFORM 6651, 5457/6

Clr G McLaughlin advised that Council has been fortunate in receiving a \$10,000 grant for a fishing platform and asked if Council could investigate the opportunity of obtaining fish traps that will apparently separate native fish from carp and which can catch up to 85% of carp.

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

2. GREEN VALLEY QUARRY PROJECT – EXHIBITION OF ENVIRONMENTAL ASSESSMENT 5305/5

Clr J R Clark referred to this item in the current Issue of the Weekly Circular – Issue 21 on page 25, noting there is a proposal for a new sand quarry at Paddy's River and asked if Council was going to put in a submission to the Department of Planning & Infrastructure on this proposal, as there is no indication of whether Council has any role in this development.

The Director Environment & Planning advised that Council's role is to make a submission as the development is being dealt with by the State Government, and it is Council's intention to review the documentation and make comments as appropriate. He advised that there is limited time with these applications but Council will request an extension of the time and put forward its draft submission in the Weekly Circular before sending it to the Department.

Clr Clark asked if this matter can also be referred to the Environment & Sustainability Committee.

The Director Environment & Planning advised that it will be put on the Agenda for the next meeting of the Environment & Sustainability Committee.

3. EFFLUENT DUMP POINTS IN THE SHIRE 7690/5, 7141, 7645, 1910/1

Clr L A C Whipper referred to this item in the Weekly Circular Issue 21 on page 8, and advised that he had previously requested an update on the dump sites noting that the Weekly Circular item does not give any commitment to the matter coming back to Council for consideration. He advised that it was his recollection, from previous discussions with Council officers, that the Visitor Information Centre was the preferred site, although the Weekly Circular item appears to have a leaning towards the Caravan Park at Moss Vale. He asked if a report would be coming before Council for consideration.

The General Manager advised that the matter will be considered by Council.



MINUTES OF THE ORDINARY MEETING OF COUNCIL

held in the Council Chamber, Civic Centre, Elizabeth Street, Moss Vale
on Wednesday, 8 June 2011

REPORT OF GENERAL MANAGER

4. EFFLUENT DUMP POINTS IN THE SHIRE 7690/5, 7141, 7645, 1910/1

Clr P B Tuddenham also referred to this matter in the Weekly Circular, noting that he was not supporting the Visitor Information Centre as the preferred site but that he would support the information bay opposite the sports ground because it is a big area, and that he is looking forward to the report coming back to Council.

Clr L A C Whipper advised that one of the issues in reviewing the information bay suggested by Clr Tuddenham is that somebody actually has to have a key to allow access to the dump point, so that the site is not vandalised or that unauthorised chemicals are dumped.

The General Manager advised that all the issues will be considered at an Ordinary Meeting of Council.

5. RATES PAYMENTS 2215

Clr P B Tuddenham advised that he had received representations from a resident, who is suffering financial hardship, asking if payment of rates and water and sewer rates could be split with payments made on alternate months? He also asked about public awareness of the hardship committee and can this be further advertised by Council.

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

6. LETTER FROM A RATEPAYER IN HOLLY ROAD, BURRADOO PN634600

Clr D Stranger asked if Councillors were all circulated with a letter from a ratepayer in Burradoo and where this matter is up to.

The Director Corporate Services advised that some of the information needs to be investigated from some of Council's old record systems and as soon as that information is available, a report will be brought back to Council.

Clr Stranger asked if the resident had been notified of the current position.



MINUTES OF THE ORDINARY MEETING OF COUNCIL

held in the Council Chamber, Civic Centre, Elizabeth Street, Moss Vale
on Wednesday, 8 June 2011

REPORT OF GENERAL MANAGER

CLOSED COUNCIL

GENERAL MANAGER

c-GM - 1 Closed Council

Reference: 107/9
Responsible Officer: General Manager

At this juncture, the time being 6.05 pm, pursuant to section 10A(4), the Mayor offered the opportunity to members of the public to make representations to Council as to whether any items of the Closed Council should not be considered in Closed Council.

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

No objections were received from the members of the public.

MN 192/11

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:**

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.

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

PASSED



MINUTES OF THE ORDINARY MEETING OF COUNCIL

held in the Council Chamber, Civic Centre, Elizabeth Street, Moss Vale
on Wednesday, 8 June 2011

REPORT OF GENERAL MANAGER

Clr K Halstead left the meeting at 6.06 pm and rejoined at 6.11 pm.

Clr J Mauger left the meeting at 6.06 pm and rejoined at 6.11 pm.

CHAIRPERSON

At this juncture, the time being 6.09 pm, the Deputy Mayor Clr L A C Whipper took 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, 8 June 2011

CLOSED COUNCIL

cc-GM1 Litigation Funding Agreement – IMF (Australia) Ltd

Reference: 2104
Responsible Officer: Director Corporate Services

The Director Corporate Services addressed Council on this matter.

CC 22/11

The Committee on a **MOTION** moved by Cllr P B Tuddenham and seconded by Cllr J G Arkwright **RECOMMENDED:**

THAT the General Manager be authorised to finalise the amendments to the Litigation Funding Agreement with IMF (Australia) Ltd and to sign the 'Letter of Variation'.

PASSED



MINUTES OF THE ORDINARY MEETING OF COUNCIL

held in the Council Chamber, Civic Centre, Elizabeth Street, Moss Vale
on Wednesday, 8 June 2011

COUNCIL

MN 193/11

107/10

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

THAT Council moves back into Council.

PASSED

No members of the public were present in the Chamber.

ADOPTION OF CLOSED COUNCIL

MN 194/11

107/9

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

THAT the recommendations of the Closed Council held on Wednesday, 8 June 2011 being CC 22/11 be adopted.

PASSED

ADOPTION OF OPEN COUNCIL

MN 195/11

107/10

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

THAT the recommendations of the Open Council held on Wednesday, 8 June 2011 being OC 103/11 to OC 120/11, be adopted.

PASSED



MINUTES OF THE ORDINARY MEETING OF COUNCIL

held in the Council Chamber, Civic Centre, Elizabeth Street, Moss Vale
on Wednesday, 8 June 2011

THERE BEING NO FURTHER BUSINESS, THE MEETING CLOSED AT 6.35 PM

In accordance with the provisions of Section 375(2) of the Local Government Act, these Minutes of the Ordinary Council Meeting held Wednesday, 8 June 2011 numbered M/N 180/11 to M/N 195/11, were signed by me hereunder at the Council Meeting held on Wednesday, 22 June 2011.

CHAIRMAN

READ AND CONFIRMED ON WEDNESDAY, 22 JUNE 2011

CHAIRMAN

PUBLIC OFFICER