

MINUTES

OF THE ORDINARY MEETING OF COUNCIL

File No. 100/09



held on Wednesday, 25 March 2009

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, 25 March 2009

CONTENTS

CONFIRMATION OF MINUTES	2
VISITOR ITEM	4
v-EP1 Proposed Subdivision (2 Lots) – Lot 41 DP1045309, Cnr Sally's Corner and Old Argyle Roads, Exeter	4
OPEN COUNCIL	6
ENVIRONMENT & PLANNING DIVISION	6
o-EP4 Sutton Forest Inn – Alterations and Additions.....	6
o-EP1 Development Consents Determined by way of Approval under Delegated Authority	10
o-EP2 List Of Land Use Applications Received By Council	11
o-EP3 Land Use Applications Determined.....	12
o-EP5 Liquor Law Reforms - Proposed Policy for dealing with applications for a Liquor Licence	13
o-EP6 Development Contributions for Harbison Care	14
o-EP7 Amendment to Moss Vale Enterprise Corridor - DCP 60	15
QUESTIONS FROM THE PUBLIC	16
ENVIRONMENT & PLANNING (CONT)	19
o-EP8 Mobile Food Vendors	19
CORPORATE SERVICES DIVISION	20
o-CS1 Council Statement of Business Ethics	20
o-CS2 Access to Information Policy	20
o-CS3 Investments as at 28 February 2009	21
o-CS4 ANZAC Day 2009.....	22
o-CS5 Water & Sewerage Access Charges.....	23
TECHNICAL SERVICES DIVISION	24
o-TS1 Directional Signage for Robertson Bowling Club	24
o-TS2 Proposed Shared Path, Erith Street Bundanoon & Revised Footpath Policy.....	25
COUNCIL MATTERS	26
GENERAL MANAGER'S REPORTS	26
c-GM1 Weekly Circulars	26
OTHER MATTERS	30
c-NRM1 02/2009 – Notice of Rescission of Resolution – Proposed 10 Cluster Houses, Wembley Road, Moss Vale.....	30
c-NM2 02/2009 – Notice of Motion – Proposed 10 Cluster Houses, Wembley Road, Moss Vale.....	31
COMMITTEE REPORTS ATTACHED	32
c-CR1 Minutes of the Moss Vale Livestock Selling Centre Strategic Advisory Board	32
c-CR2 Minutes of the Legal Committee	32
GENERAL BUSINESS	34
CORPORATE SERVICES DIVISION	36
c-CS1 WSC v Lehman Brothers Australia 2104, 107/9	36



MINUTES OF THE ORDINARY MEETING OF COUNCIL

held in the Council Chamber, Civic Centre, Elizabeth Street, Moss Vale
on Wednesday, 25 March 2009

COMMENCING AT: 3.30 pm

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

IN ATTENDANCE: General Manager
Director Corporate Services
Director Environment & Planning
Director Technical Services
Acting Manager Administration Services
Administration Officer (AOE)

PRAYER

100/1

The meeting was opened in prayer led by Pastor David Holt of the One Life Church Moss Vale.

APOLOGY

There were no apologies at this meeting.



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CONFIRMATION OF MINUTES

MINUTES OF THE ORDINARY MEETING OF COUNCIL HELD ON WEDNESDAY,
11 MARCH 2009

100/1

MN 79/09

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

THAT the minutes of the Ordinary Meeting of Council held on Wednesday, 11 March 2009 MN 68/09 to MN 78/09 inclusive, copies of which were forwarded to Councillors, be adopted as a correct record of the proceedings of the meeting.

PASSED

BUSINESS ARISING

Nil

DECLARATIONS OF INTEREST

101/3

Cllr D Stranger declared a significant non-pecuniary interest in Item v-EP1 Alterations & Additions to Sutton Forest Inn, as one of the directors of the Sutton Forest Inn, Mr Richard Field, is a client of his business. 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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OPEN COUNCIL

MN 80/09

107/10

MOTION moved by *Clr G McLaughlin* and seconded by *Clr P B Tuddenham*:

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

PASSED

Clr L A C Whipper acknowledged the traditional custodians of the land on which Council meets and paid his respects to the D'harawal and Gundungurra elders past, present and future.



VISITOR ITEM

v-EP1 Proposed Subdivision (2 Lots) – Lot 41 DP1045309, Cnr Sally’s Corner and Old Argyle Roads, Exeter

REF: DCM

LUA06/0603

Reporting on a development application for the subdivision of Lot 41 DP1045309, corner Sally’s Corner and Old Argyle Roads, Exeter. It is proposed to create 2 lots with areas of 51 hectares and 7.8 hectares. The land is in Zone 7(b) and a minimum lot size of 40 hectares applies. As the smaller lot does not satisfy this development standard, the development application is accompanied by an objection under SEPP1. The applicant has requested consideration under Council’s Severed Lots Policy. Refusal of the development application is recommended.

Council’s Development Control Manager, Mr Les Pawlak, addressed the Council on this matter.

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

THAT the matter be deferred to the meeting of Council on Wednesday, May 13 2009, subject to inspection by the applicant of further Council records and maps.



OC 26/09

AMENDMENT moved by *Clr K Halstead* and seconded by *Clr J R Clark*:

THAT Council refuse the development application for the following reasons:

- i) The proposed subdivision is contrary to the provisions in Wingecarribee LEP 1989 because it does not satisfy the development standard in clause 12 which provides for a minimum lot size of 40 hectares in Zone No. 7(b).*
- ii) Council's support of the SEPP 1 objection, for a departure of 80% from the development standard, would set a significant and unacceptable precedent which would most likely pave the way for similar departures in any circumstances where an "existing parcel" or property is bisected by a public road.*

This would create a precedent not only within the locality of the land, but throughout the whole of the Shire.

- iii) As a consequence of the above, it is likely that support of the SEPP 1 objection would significantly contribute to the undermining of both the 40 hectare development standard and the planning objectives for the rural, environmental protection and water catchment zones.*

PASSED

VOTING ON THE AMENDMENT:

Voting for the Amendment: *Clr T D Gair, Clr K Halstead, Clr J G Arkwright, Clr J R Clark, Clr J Mauger, Clr D Stranger and Clr L A C Whipper*

Voting Against the Amendment: *Clr G McLaughlin and Clr P B Tuddenham*

AMENDMENT BECAME THE MOTION

MOTION PASSED

VOTING ON THE MOTION:

Voting for the Motion: *Clr T D Gair, Clr K Halstead, Clr J G Arkwright, Clr J R Clark, Clr J Mauger, Clr D Stranger and Clr L A C Whipper*

Voting Against the Motion: *Clr G McLaughlin and Clr P B Tuddenham*



SUSPENSION OF STANDING ORDERS

Clr L A C Whipper requested that standing orders be suspended to allow Item o-EP4 – Sutton Forest Inn – Alterations and Additions to be heard at this juncture of the meeting as there were many members of the Sutton Forest community present in the gallery. Clr Whipper also asked for direction by Councillors to allow Mr Tim Court, representing the objectors, and the applicant's representative Mr Martin McGrane, to be afforded the opportunity of making a short five (5) minute presentation.

OC 27/09

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

THAT standing orders be suspended to allow Item o-EP4 – Sutton Forest Inn – Alterations and Additions - to be considered AND THAT Mr Tim Court, representing the objectors, and the applicant's representative, Mr Martin McGrane, be afforded the opportunity of making a short five (5) minute presentation to Council.

PASSED

OPEN COUNCIL

ENVIRONMENT & PLANNING DIVISION

o-EP4	Sutton Forest Inn – Alterations and Additions
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REF:	DCM
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LUA07/1118

At the Council Meeting of 11 March 2009, it was resolved:

'THAT the matter be deferred to the next meeting of Council on Wednesday, 25 March 2009, or the meeting on Wednesday, 8 April 2009, if the additional information from the applicant is not available by Wednesday, 25 March 2009.'

The applicant supplied the required material to Council on 18 March 2009, which was circulated to Councillors on 19 March 2009.

Interest: Clr D Stranger declared a significant non-pecuniary interest in this matter as one of the Directors, Mr Richard Field, is a client of his business. He left the chamber, took no part in the debate and refrained from voting thereon.

Mr Tim Court, for the objectors, addressed Council on this matter.

The applicant, Mr Martin McGrane, addressed Council on this matter.

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

THAT Council approves the application conditional on the following amendments:

1. The proposal is reduced in scale to reflect the character of the Sutton Forest Village and so as not to diminish the importance of the original heritage item, all as intended in the DCP57.
2. Amend the planning of the Motel Blocks from a "Barrack Style" layout to clusters of free-standing buildings in a rural context as per DCP57.
3. Amend the design to meet the intent of "rooms in the roof" concept as per DCP57 and in accordance with all aspects of Council's 2007 LEP definition of "Attic Space" so as to produce a reduced floor area to all second storey units.
4. The maximum height of buildings be calculated at 8.0 m to the ridge of each building from the "natural ground level" directly below the ridgeline so as to reduce the scale of each building.
5. The maximum height of the buildings' eaves be calculated at a maximum of 4.2 m above "natural ground level" below each eave so as to reduce the scale of each building.
6. The proportion of landscaped area to be increased to areas between the new buildings in order to reduce the visual impact of the extensive bitumen car park.
7. The additions to the existing hotel be redesigned to be more sympathetic and in scale with the Inter-War Georgian Revival style of the original hotel, so not to diminish the significance of this heritage item in accordance with the recommendations of the 2003 Conservation Management Plan.
8. All lighting to be low profile and full cut-out to prevent light spillage onto the Illawarra Highway and adjoining properties.
9. When all the above conditions are met, a final report come back to Council before final approval of the development is granted.
10. Any and all changes to this approval come back to full Council for determination.

The Mayor Cllr T D Gair foreshadowed an amendment.



MINUTES OF THE ORDINARY MEETING OF COUNCIL

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REPORT OF DIRECTOR ENVIRONMENT & PLANNING

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

1. **THAT** amended plans for LUA07/1117 for alterations and additions to the Sutton Forest Inn at Lot 1 DP 64663 Illawarra Highway, Sutton Forest, be approved subject to the number of units being reduced to eighty (80) and that the conditions of consent be to the satisfaction of the Director Environment and Planning, including conditions addressing enhanced landscaping within carpark areas, north eastern boundary plantings not to overhang boundary line so as to avoid power lines, lighting to be low profile to prevent light spillage onto the highway and adjoining properties and frequency and time limits for visitor stays to ensure the accommodation is used for its stated motel purpose and not for residential purposes.
2. **THAT** those persons who made submissions be advised of Council's decision.

Clr K J Halstead foreshadowed a further amendment.

VOTING ON THE AMENDMENT:

Voting for the Amendment: ***Clr T D Gair, Clr J G Arkwright and
Clr P B Tuddenham***

Voting Against the Amendment: ***Clr K Halstead, Clr J R Clark, Clr J Mauger,
Clr G McLaughlin and Clr L A C Whipper***

LOST

OC 28/09

FORESHADOWED AMENDMENT moved by Clr K Halstead and seconded by Clr G McLaughlin:

THAT the proposed development at the Sutton Forest Inn, namely additions/alterations to the existing Heritage listed hotel, construction of a recreation facility (pool) and erection of motel units be approved subject to:

- 1. Number of motel units be set at 70 (maximum).***
- 2. Number of buildings be set at 8 (maximum).***
- 3. Buildings 7 and 10 be deleted.***
- 4. Buildings 8 and 9 be 'single-storey' and contain 5 motel units in each only.***
- 5. That motel buildings size, height and location comply with the provisions of Development Control Plan No. 57 – Sutton Forest Inn.***
- 6. Preparation of a Plan of Management embracing the issues with regard to limitations of residential occupancy of the motel units and hours of operation be prepared to the satisfaction of Council.***
- 7. That a sub-committee comprised of Council and the Director of Environment and Planning meet to determine the conditions of approval. These conditions must accurately reflect the decision of Council and be formulated to comply with Section 79C of the Environmental Planning and Assessment Act 1979.***

PASSED

VOTING ON THE FORESHADOWED AMENDMENT:

Voting for the Foreshadowed Amendment: Clr T D Gair, Clr K Halstead, Clr J G Arkwright, Clr G McLaughlin and Clr P B Tuddenham

Voting Against the Foreshadowed Amendment: Clr J R Clark, Clr J Mauger and Clr L A C Whipper

FORESHADOWED AMENDMENT BECAME THE MOTION

MOTION PASSED

VOTING ON THE MOTION:

Voting for the Motion: Clr T D Gair, Clr K Halstead, Clr J G Arkwright, Clr G McLaughlin and Clr P B Tuddenham

Voting Against the Motion: Clr J R Clark, Clr J Mauger and Clr L A C Whipper



CHAIRPERSON

At this juncture, the time being 5.14 pm, the Mayor Clr T D Gair resumed the Chair to conduct the remainder of Council Business.

Clr D Stranger returned to the Chamber at this juncture.

o-EP1	Development Consents Determined by way of Approval under Delegated Authority
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REF:	DCM
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5302

Submitting list of development consents executed under delegated authority of the Director of Environment and Planning between 2/3/09 and 16/3/09.

MN 81/09

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

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

PASSED

Matters arising from Development Consents Determined under Delegated Authority

1. LOT 11 DP 232184, 50 KANGALOO ROAD, BOWRAL LUA08/0876

Clr J R Clark asked if this was a seniors living development and did it involve the demolition of an adjoining residence or one that was already in existence, and was it part of the original property?

Council's Development Control Manager advised that the application was for three (3) additional units at Kenilworth near the Kangaloon Road frontage. There was an existing residence on the property which had been demolished and three (3) additional units were approved.



MINUTES OF THE ORDINARY MEETING OF COUNCIL

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REPORT OF DIRECTOR ENVIRONMENT & PLANNING

o-EP2 List Of Land Use Applications Received By Council

REF: DCM

5302

Submitting list of development applications which have been received between 2/3/09 and 16/3/09, some of which will be dealt with under delegated authority of the Director of Environment & Planning.

MN 82/09

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

THAT the information regarding the List of Land Use Applications Nos 1-10 received by Council be received and noted.

PASSED

Matters arising from Land Use Applications Received by Council

1. LOT 13 DP 857632 DARLINGTON DRIVE HILL TOP (NEAR CORNER BANKSIA STREET) LUA09/0189

Clr P B Tuddenham asked for some further information in relation to Item 6 to be placed in the Weekly Circular.

2. LOT 2 DP 815752 'SHIBUMI' FERNDAL ROAD, BUNDANOON LUA09/0195

Clr J R Clark referred to Item 8 and asked if this was an application to formalise what has happened already and are the other improvements made to the property part of the development application?

Council's Development Control Manager advised that the application was to legitimise something that was done without Council approval and a full explanation would be included in the Weekly Circular.

3. LOTS 2-4, 7-8 DP 228664 AND LOT 2 DP 775688 – BUNDANOON CREEK DAM, ELLSMORE FIRE TRAIL, MERYLA LUA09/0155

Clr K Halstead asked if Item 7 was the Bundanoon Creek Dam and therefore a Council shed or was it private, and if a Council shed does it require a development application?

Council's Development Control Manager advised that it is on the Bundanoon Creek Dam and is a Council matter. As it was outside the parameters of the Infrastructure SEPP, which excludes certain types of works, and the shed was excluded, it was therefore decided that it required a development application.



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REPORT OF DIRECTOR ENVIRONMENT & PLANNING

4. LOT 2 DP 545410, 70 ILLAWARRA HIGHWAY, ROBERTSON LUA09/0162

Clr L A C Whipper referred to Item 5 and noted that the front of the property is very overgrown and that the area is traversed by many school children to get to after school care. He asked that if the operation of the business was at the front of the building and if the operators will maintain the street frontage and keep the area mown? Clr Whipper asked if the matter could be clarified in the Weekly Circular.

The Director Environment & Planning advised that he would pass the matter on to Parks & Property.

o-EP3 Land Use Applications Determined

REF: DCM

5302

Submitting list of Land Use applications determined by way of approval under delegated authority of the Director of Environment & Planning for the month of February 2009.

MN 83/09

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

THAT the information regarding the List of Land Use Applications Received by Council for the month of February 2009, be received and noted.

PASSED



**o-EP5 Liquor Law Reforms - Proposed Policy for dealing with applications for a
Liquor Licence**

REF: PO / DCM

5406/2, 5402

Reporting on changes to the liquor licence application process and submitting a draft Policy for the manner in which Council would deal with such applications.

MN 84/09

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

1. **THAT** the draft **Liquor Licensed Premises Policy** as set out in Attachment 1 be exhibited for a period of four (4) weeks **AND THAT** consultation be undertaken as described in the report.
2. **THAT** a further report be presented to Council following exhibition/consultation **AND THAT** this include recommendations on fees and charges and proposed amendments to DCP No. 50 - Outdoor Eating Areas and Other Uses of Community Land.

PASSED

VOTING ON THE MOTION:

Voting for the Motion:

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

Voting Against the Motion:

Nil



o-EP6 Development Contributions for Harbison Care

REF: SPM

LUA06/1415

This report discusses development contributions applicable to LUA06/1415 for Alterations and Additions to Harbison Care at Yarrowa Road, Moss Vale, an existing Aged Care Facility approved under the State Environmental Planning Policy (Seniors Living) 2004.

MN 85/09

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

1. **THAT** Council transfer \$35,893 from Section 94 funds to Section 64 funds and Harbison Care be refunded \$6,887, as per Scenario 2 as detailed in the report.
2. **THAT** Council advise APP Corporation Pty Limited and Harbison Care of its decision.

PASSED

VOTING ON THE MOTION:

Voting for the Motion: *Clr T D Gair, Clr K Halstead, Clr J G Arkwright, Clr J R Clark, Clr G McLaughlin, Clr J Mauger, Clr D Stranger, Clr P B Tuddenham and Clr L A C Whipper*

Voting Against the Motion: *Nil*



o-EP7 Amendment to Moss Vale Enterprise Corridor - DCP 60

REF: SPM

5700/60, 5602/11

The purpose of this report is to advise the outcome of the exhibition of an Amendment to the Moss Vale Enterprise Corridor (MVEC) Development Control Plan (DCP) No. 60.

MN 86/09

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

1. **THAT** Council adopt the amended Figure 3 (attachment 1) in the Moss Vale Enterprise Corridor DCP 60 as exhibited by altering the area of Biodiversity Conservation over the subject properties.
2. **THAT** Council implement the amendment in accordance with the provisions of the Environmental Planning & Assessment Regulations, 2000.
3. **THAT** Council advise the owners of the land that the proposed amendment to the Moss Vale Enterprise Corridor DCP 60 as exhibited has been adopted.

PASSED

VOTING ON THE MOTION:

Voting for the Motion:

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

Voting Against the Motion:

Nil

QUESTIONS FROM THE PUBLIC

1. BRINGING COUNCIL MEETING TIME FORWARD TO 3.00 PM AT THE END OF DAYLIGHT SAVING 100/1

Mrs Pam Cooper asked that as daylight saving finishes this weekend, will Council consider bringing the time for Council meetings forward to 3.00 pm during winter?

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

2. ENVIRONMENT & SUSTAINABILITY - "MANAGING BUSH FIRE RISK" 6437

Mrs Jan Hainke noted that this topic was addressed by Professor Ross Bradstock at the Royal Society last week and asked if Council was represented at this lecture?

The Mayor Clr T D Gair advised that Council had not been represented.

3. EARTH HOUR 5455

Mrs Jan Hainke advised that 28 March 2009 is Earth Hour which will be recognised by nearly three (3) thousand towns and eighty two (82) countries worldwide and asked if Council is planning to participate?

Clr T D Gair advised that there is no plan for Council to participate in Earth Hour this year.

4. ACCOMMODATION STUDY 1930/3

Mr Peter Smyth asked if Council's tourism staff had ever done an accommodation study and data for occupancy both average and peak and, if so, had the study been distributed to Councillors?

Clr T D Gair advised that this matter will be taken on notice.

5. ACCOMMODATION WITHIN THE SHIRE 1930/3

Mr Peter Smyth directed a question to Clr J G Arkwright and asked, as there was a vast difference of opinion in relation to accommodation and standards of accommodation, should a study be done as a matter of urgency to avoid Councillor confusion?

The Mayor Clr T D Gair advised that Clr Arkwright could respond to the question through the Chair.

Clr J G Arkwright advised that she will take the matter on notice.

6. RESPONSE TO QUESTIONS RAISED BY THE PUBLIC

504/2

Mr Peter Smyth asked if it is fair to receive a reply in writing within an acceptable timeframe to questions asked in the gallery to ensure the Council is showing leadership and transparency and if there is an official policy on this matter?

The Director Corporate Services responded that Council does have a procedure in place for acknowledgment of correspondence and referral to Council's officers and that the matter should be dealt with within fourteen (14) days. If the Council officer is unable to deal with the matter within fourteen (14) days the process is that they contact the person who has written to Council and indicate what action has been taken.

The Mayor Clr T D Gair advised that he would take the matter on notice and ensure that the procedures are adhered to.

7. TOURISM/ECONOMIC DEVELOPMENT WORKING GROUP

107/24

Mr Barry Anstee asked:

- (i) If a report was brought forward from the Tourism/Economic Development Working Group within three (3) months as to whether this Working Group needed to split into two committees, ie:
 - (a) Economic Development Committee
 - (b) Tourism Committee
- (ii) Has this occurred?
- (iii) Does Council support the formation of a Tourism Committee to promote a co-ordinated proactive approach to tourism development in the Shire which sets goals to create the Shire as a significant short stay tourism destination within Australia?

The General Manager advised that the report is forthcoming and Council will then make a decision in regard to any new committees that may occur as a result of that report, or the existing terms of reference may remain if Council decides to leave the current system in place.

Clr P B Tuddenham advised that a report addressing this matter will be dealt with at the end of April and that the matter had been delayed as he had been absent from Council due to ill health.



MINUTES OF THE ORDINARY MEETING OF COUNCIL

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QUESTIONS FROM THE PUBLIC

8. MT BROUGHTON ROAD

RD3385

Mr Ian Scandrett noted that there had been another accident on Mt Broughton Road in which injury had been sustained and asked if main roads such as Mt Broughton Road could have extra resources put in, and if the matter could be dealt with as a matter of urgency before an accident causing severe injury or loss of life occurred?

The Mayor Clr T D Gair advised that the site is being looked at for a new road resurfacing and that the matter will be taken on notice.



ENVIRONMENT & PLANNING (CONT)

o-EP8	Mobile Food Vendors
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REF:	EHM	5406/9
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Reporting on management options of Mobile Food Vendors in the Shire.

The Director Environment & Planning addressed Council on this matter.

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

1. **THAT** Council does not approve of "Food Stalls" operating on public roads, footpaths, Council carparks, and other vacant land. "Food Stalls" may operate at a Council park in association with an approved sporting activity.
2. **THAT** Council require all "Food Stalls" that operate regularly on private land to obtain consent to operate in these locations. Determination of applications will be based on the merits of the proposed operation, and provide controls on the use such as restriction on the length of time and days that they operate, amenity provisions, signage, type of vehicle, type of goods and approval review provisions.

Clr L A C Whipper indicated that he would withdraw this motion and vote in favour of the following motion.

MN 87/09

MOTION moved by *Clr P B Tuddenham* and seconded by *Clr J Mauger*:

THAT the matter be deferred subject to input being received from the five (5) Chambers of Commerce **AND THAT** following input being received from the Chambers of Commerce, a further report be brought back to the full meeting of Council on Wednesday, 13 May 2009.

PASSED

VOTING ON THE MOTION:

Voting for the Motion: *Clr T D Gair, Clr K Halstead, Clr J G Arkwright, Clr J R Clark, Clr G McLaughlin, Clr J Mauger, Clr D Stranger, Clr P B Tuddenham and Clr L A C Whipper*

Voting Against the Motion: *Nil*



CORPORATE SERVICES DIVISION

o-CS1	Council Statement of Business Ethics
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REF: MAS	1420/5
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Reporting on Council Statement of Business Ethics for adoption by Council.

MN 88/09

The Director Corporate Services Mr Barry Paull addressed Council on this matter.

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

1. **THAT** the Draft Statement of Business Ethics as detailed in Attachment 1 of the report be adopted.
2. **THAT** the Statement of Business Ethics be reviewed by Council bi-annually (ie March 2011).

PASSED

o-CS2	Access to Information Policy
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REF: MAS/RMC	1421/1, 201/2.1, 1420/16
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Submitting a report seeking Council's endorsement of the Draft Access to Information Policy and approval for it to be placed on public exhibition for a period of twenty eight (28) days.

The Director Corporate Services addressed Council on this matter.

MN 89/09

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

1. **THAT** the Draft Access to Information Policy be endorsed by Council.
2. **THAT** the Draft Access to Information 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

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REPORT OF DIRECTOR CORPORATE SERVICES

o-CS3 Investments as at 28 February 2009

REF: FSM

2104

Submitting details of Council's Investments as at 28 February 2009.

MN 90/09

MOTION moved by Clr J G Arkwright and seconded by Clr D Stranger:

THAT the information on Council's Investments as at 28 February 2009 be received and noted.

PASSED



o-CS4 ANZAC Day 2009

REF: MAS

1671/1

Seeking determination of Council representatives to attend various ANZAC Day services on ANZAC Day 2009.

MN 91/09

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

1. **THAT** Council be represented by Councillors at the following services:

Berrima

Dawn Service

Clr D Stranger

Main Service

Clr D Stranger

Bowral

Dawn Service

Clr T D Gair

Main Service

Clr G McLaughlin

Bundanoon

Clr K Halstead

Hill Top

Clr G McLaughlin

Mittagong

Dawn Service

Clr P B Tuddenham

Main Service

Clr P B Tuddenham

Moss Vale

Clr T D Gair

Exeter

Clr J R Clark

Burrawang

Clr J G Arkwright and Clr J Mauger

Robertson/

Kangaloon

Clr J Mauger

Sutton Forest

Clr K Halstead

2. **THAT** the respective Sub-Branched be advised of Council representation as detailed in 1 above.

3. **THAT** Council purchases appropriate books for the Bowral, Bundanoon, Moss Vale and Berrima Memorial Services **AND THAT** nine (9) wreaths be purchased for the remaining locations.

PASSED



MINUTES OF THE ORDINARY MEETING OF COUNCIL

held in the Council Chamber, Civic Centre, Elizabeth Street, Moss Vale
on Wednesday, 25 March 2009

REPORT OF DIRECTOR CORPORATE SERVICES

o-CS5 Water & Sewerage Access Charges
--

REF: FSM

2104, PN1745270, PN1761980

Reporting on a written request from Mitsicon Pty Ltd to have Water and Sewerage access charges waived on Part Lot 1 DP 1074978 Bourne Close, Mittagong.

The Director Corporate Services addressed Council on this matter.

MN 92/09

MOTION moved by Clr D Stranger and seconded by Clr J G Arkwright:

THAT Council varies its policy in regards to one part Lot 1 DP 1074978 for the 2008/2009 Water & Sewerage billing year and write off any related charges and interest incurred in relation to the 1st, 2nd and 3rd billing periods for the 2008/09 year, subject to the following conditions being met:

- (i) That the whole of Lot 1 DP 1074978 be transferred into identical ownership by 30 June 2009.**
- (ii) That this waiver only apply to the current owner for the 2008/09 Water and Sewerage billing year and not be extended beyond this term or to subsequent owners.**

PASSED



MINUTES OF THE ORDINARY MEETING OF COUNCIL

held in the Council Chamber, Civic Centre, Elizabeth Street, Moss Vale
on Wednesday, 25 March 2009

REPORT OF DIRECTOR TECHNICAL SERVICES

TECHNICAL SERVICES DIVISION

o-TS1 Directional Signage for Robertson Bowling Club

REF: TE

5700/33, 7415/4

Requesting more prominent directional signage to Robertson Bowling Club.

The Director Technical Services addressed Council on this matter.

MN 93/09

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

1. **THAT Council note that:**
 - (a) ***The erection of signage on private property to the Robertson Bowling Club is prevented by Council's Development Control Plan.***
 - (b) ***The erection of more prominent signage within the road reserve of the Illawarra Highway is prevented by the Roads and Traffic Authority's policy on direction signage.***
2. **THAT Council meet with the Robertson Bowling Club with a view to determining the signage issue.**
3. **THAT the Member for Kiama Mr Matt Brown, MP, be invited to attend the meeting with the Robertson Bowling Club.**

PASSED



MINUTES OF THE ORDINARY MEETING OF COUNCIL

held in the Council Chamber, Civic Centre, Elizabeth Street, Moss Vale
on Wednesday, 25 March 2009

REPORT OF DIRECTOR TECHNICAL SERVICES

o-TS2 Proposed Shared Path, Erith Street Bundanoon & Revised Footpath Policy

REF: DPM

RD1819, 6690/14, 7810/5, 751

Reporting on the proposed shared pathway in Erith Street Bundanoon from Bundanoon Oval to the existing footpath east of Ellsmore Road and a revision of the Footpath Policy.

-

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

1. **THAT** Council rescind the existing Policy - Paving of Footpaths MN27/98.
2. **THAT** Council adopt the revised Policy - Paving of Footpaths and amend the Fees and Charges.
3. **THAT** the width of the shared path be confirmed by Council.
4. **THAT** affected property owners be informed of Council's resolution.
5. **THAT** Council negotiate any hardship arrangements as necessary with residents on an individual basis.

This matter was resubmitted to Council to clarify the width of the shared path in number 3 of the resolution and the confirmed motion is as follows:

MN 94/09

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

1. **THAT** Council rescind the existing Policy - Paving of Footpaths MN27/98.
2. **THAT** Council adopt the revised Policy - Paving of Footpaths and amend the Fees and Charges.
3. **THAT** the width of the shared path be 2 metres.
4. **THAT** affected property owners be informed of Council's resolution.
5. **THAT** Council negotiate any hardship arrangements as necessary with residents on an individual basis.

PASSED



MINUTES OF THE ORDINARY MEETING OF COUNCIL

held in the Council Chamber, Civic Centre, Elizabeth Street, Moss Vale
on Wednesday, 25 March 2009

REPORT OF THE GENERAL MANAGER

COUNCIL MATTERS

GENERAL MANAGER'S REPORTS

c-GM1 Weekly Circulars

REF.	GM	100/8, 203/2009
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Confirming receipt of weekly circulars from the Local Government Association and Council weekly circulars.

MN 95/09

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

THAT the information relating to Local Government Weekly Circulars Nos 09/09 and 10/09 and Council Weekly Circulars Nos 09/09 and 10/09 be noted.

PASSED

Matters Arising from Weekly Circulars

1. PLAN OF MANAGEMENT BERRIMA RESERVE
7124 PoM, 6526/15.1, 1BR, 6545/11 WWP

Cllr D Stranger referred to his question last week on reserves at Berrima and the comprehensive up-date in Item 5 of Weekly Circular 11/09 in relation to the Plan of Management Berrima Reserve.

The Mayor Cllr T D Gair advised that the Department of Lands, due to staffing issues, would not be dealing with the Plan of Management until April.

MN 96/09

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

THAT Council prepare a press release detailing the present position in relation to the Berrima Reserve Plan of Management.

PASSED

2. BERRIMA SPORTS OVAL 6526

Cllr D Stranger noted that he had previously raised a question regarding the sports oval on the other side of the river and that he had not seen anything on this matter and asked if information could be provided in a future Weekly Circular.



MINUTES OF THE ORDINARY MEETING OF COUNCIL

held in the Council Chamber, Civic Centre, Elizabeth Street, Moss Vale
on Wednesday, 25 March 2009

REPORT OF THE GENERAL MANAGER

3. REMEMBRANCE DRIVE, BERRIMA

7810/3, 6831

Clr D Stranger noted that details had been provided in Item 8 of Weekly Circular 11/09 in regard to the ownership and operation of Remembrance Drive. As the authority which maintains the reserve is located outside the Shire and given that this is a main gateway coming into the Shire, he asked if Council could write to the Trust advising that Remembrance Drive is in need of maintenance and requesting that the work be done as soon as possible.

4. UNDERCOVER PARKING AT THE MARKETPLACE, MITTAGONG

PN1750570

Clr J G Arkwright noted that she had raised the issue of the roof of the carpark at the Mittagong Marketplace at the Council meeting on Wednesday, 11 March 2009, and that she had asked for information to be provided to Councillors in the Weekly Circular but that information was not included in Weekly Circular 11/09 as she had requested. Clr Arkwright asked that as this is a very serious matter, if future information could be provided to Councillors via the Weekly Circular.

The Director Environment & Planning advised that some information had been received in relation to the engineering review that had been conducted by the Centre Managers on the concrete spalling to the carpark and the Centre Managers have kept Council informed of the progress of the work. The engineering report outlines the cause of the problem as "poorly constructed expansion joints" and there has been some "concrete on concrete" movement which has been the cause of some of the concrete pieces falling from the roof. There have been recommendations made that include galvanised sheeting being placed on some of the slip joints and that work has been undertaken.

He advised that correspondence had been sent to head office of Woolworths and Centre Management requesting their further comment that they are doing everything that is required to ensure a safe environment for visitors to the site, and if that includes restriction to any parts of the carpark, that is what should be done. Council is waiting on a response from Woolworths.

The General Manager advised that one of Council's building inspectors had recently carried out an inspection of the premises and conducted a personal inspection of the work that had been carried out, and that after the galvanised sheeting had been applied, the problem should be solved.

Clr K Halstead asked if Council has received an engineering report or just a statement from the owners? He advised that he had recently looked at the carpark and is very concerned, as are all Councillors, about things falling from the roof and that galvanised sheeting should stop the pieces of concrete from falling.

The Director Environment & Planning advised that Centre Management had forwarded Council a copy of a report they had commissioned from Costin Roe Consulting.



MINUTES OF THE ORDINARY MEETING OF COUNCIL

held in the Council Chamber, Civic Centre, Elizabeth Street, Moss Vale
on Wednesday, 25 March 2009

REPORT OF THE GENERAL MANAGER

MATTER OF URGENCY

5. UNDERCOVER PARKING AT THE MARKETPLACE, MITTAGONG

PN1750570

Clr K Halstead requested that the structural issues concerning the undercover parking at the Marketplace at Mittagong, be treated as a matter of urgency.

MN 97/09

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

THAT *the structural issues concerning the undercover parking at the Marketplace at Mittagong be considered as a matter of urgency.*

PASSED

The Mayor ruled that this is a matter of urgency.

MN 98/09

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

1. ***THAT*** *as a matter of urgency Council engage an independent structural engineer to inspect and report on the ceiling of the carpark at the Mittagong Marketplace.*
2. ***THAT*** *the cost of the independent structural engineer's inspection come from the Contingency Fund.*
3. ***THAT*** *a report be brought back to the Council as soon as possible.*

PASSED

6. "THE STUDIO" DWELLING WITH EQUESTRIAN TOURIST FACILITY, HUME
HIGHWAY, ALPINE

LUA08/1268

Clr K Halstead referred to Item 4 in Weekly Circular 11/09 and expressed concern in relation to this proposal for an equestrian facility and asked if the matter could be dealt with very carefully particularly having regard to the last equestrian facility which went to Land & Environment Court, and also a second dwelling becoming a "studio" which then becomes a habitable building, as happened recently in Bowral.



MINUTES OF THE ORDINARY MEETING OF COUNCIL

held in the Council Chamber, Civic Centre, Elizabeth Street, Moss Vale
on Wednesday, 25 March 2009

REPORT OF THE GENERAL MANAGER

7. 68 STATION STREET, BOWRAL LUA07/1173

Clr K Halstead referred to Item 4 in Weekly Circular 11/09 for a Section 96 Modification and asked what this matter was in relation to and could he be given a response at a later time.

8. 52 VILLA SENIORS LIVING AT KARRARA, BURRADOO LUA06/1428

Clr P B Tuddenham referred to Item 3 in Weekly Circular 11/09 and noted the modification for the reduction in size of the amenities building, and asked for this matter to be brought back to Council before it is approved under delegated authority.

9. 77 MAIN STREET, MITTAGONG (OLD MITTAGONG NEWSAGENCY) LUA09/0053

Clr P B Tuddenham referred to Item 4 in Weekly Circular 11/09 and asked if a report on this matter is definitely coming before Council on 8 April 2009?

The Director Environment & Planning advised that the report is coming to the next Council Meeting on Wednesday, 8 April 2009 and it is one of the sites to be inspected on the Council Inspection that day.

10. WEED SPRAYING ON PAVED AREAS IN TOWN CENTRES 7810/5.3

Clr P B Tuddenham referred to Item 9 in Weekly Circular 11/09 and thanked the Director Technical Services for the weed spraying particularly with Anzac Day coming up.

11. CARAVANS ON COUNCIL PARKS & RESERVES 6500

Clr G McLaughlin referred to Item 12 in Weekly Circular 11/09 and asked if Council is to encourage tourists to the Shire, could consideration be given to the provision of some "black waste" areas as he had previously requested.

The General Manager advised that Council's Water & Sewer Manager is presently investigating this matter. However, Council does not want to place it in any of its facilities as experience from other areas is that the site has to be supervised to avoid oil and kitchen waste being dumped. He advised that service stations will be approached, with Council subsidising the provision of the equipment needed, which is not very expensive.

Clr L A C Whipper advised that considerable concerns have been raised by Council's Water & Sewer Manager as it appears none of the service stations or private enterprise want the dump point. As there is a development mooted next to the Tourist Information Centre, consideration would be given to a joint proposal at the appropriate time, and that further information will come back to Council, through the Environment & Sustainability Committee.



AGENDA FOR THE ORDINARY MEETING OF COUNCIL

held in the Council Chamber, Civic Centre, Elizabeth Street, Moss Vale
on Wednesday, 25 March 2009

NOTICE OF RESCISSION OF RESOLUTION

OTHER MATTERS

c-NRM1 02/2009 – Notice of Rescission of Resolution – Proposed 10 Cluster Houses, Wembley Road, Moss Vale

REF: MAS

LUA08/0144

“We hereby give notice of our intention to move at the next meeting of Council that the motion passed at the Ordinary Meeting of Council held on Wednesday, 11 February 2009 be **rescinded**. (Reference OC 05/09)

1. THAT Council require the applicant to reduce the number of dwellings to Nine (9) single storey dwellings.
2. THAT the applicant also be required to re-configure the plans to comply fully with the Residential DCP and including an Eight (8) metre setback.
3. THAT when points 1 and 2 are satisfied, the Director of Environment & Planning be delegated to grant approval of LUA08/0144 at Lot 7 DP 800183 Wembley Road, Moss Vale, with appropriate conditions of consent.

Dated 18 March 2009
Signed Clr P Tuddenham
Clr J Arkwright
Clr D Stranger”

MN 99/09

MOTION moved by Clr P B Tuddenham and seconded by Clr J G Arkwright:

THAT the Notice of Rescission of Resolution in relation to the Proposed 10 Cluster Houses, Wembley Road, Moss Vale, be noted.

PASSED

VOTING ON THE MOTION:

Voting for the Motion:

***Clr T D Gair, Clr K Halstead, Clr J G Arkwright,
Clr G McLaughlin, Clr D Stranger and
Clr P B Tuddenham***

Voting Against the Motion:

Clr J R Clark, Clr J Mauger and Clr L A C Whipper



MINUTES OF THE ORDINARY MEETING OF COUNCIL

held in the Council Chamber, Civic Centre, Elizabeth Street, Moss Vale
on Wednesday, 25 March 2009

NOTICES OF MOTION

c-NM2 02/2009 – Notice of Motion – Proposed 10 Cluster Houses, Wembley Road, Moss Vale

REF: DCM

LUA08/0144

Clrs Tuddenham, Arkwright and Stranger have given notice that should the above Notice of Rescission of Resolution be passed, it is their intention to move the following Notice of Motion at the Ordinary Meeting of Council on Wednesday 25 March 2009:

“THAT LUA08/0144 for 10 cluster houses at Lot 7 DP 800183 Wembley Road, Moss Vale, be approved subject to appropriate conditions of consent to the satisfaction of the Director Environment and Planning.”

MN 100/09

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

THAT LUA08/0144 for 10 cluster houses at Lot 7 DP 800183 Wembley Road, Moss Vale, be approved subject to appropriate conditions of consent to the satisfaction of the Director Environment and Planning as presented on Wednesday 11 February 2009.

PASSED

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

THAT this matter be deferred and all accompanying information in relation to the matter be brought back to the next full meeting of the Council on Wednesday 8 April 2009.

VOTING ON THE AMENDMENT:

Voting for the Amendment: Clr J R Clark, Clr J Mauger and Clr L A C Whipper

Voting Against the Amendment: Clr T D Gair, Clr K Halstead, Clr J G Arkwright, Clr G McLaughlin, Clr D Stranger and Clr P B Tuddenham

AMENDMENT LOST

VOTING ON THE MOTION:

Voting for the Motion: Clr T D Gair, Clr K Halstead, Clr J G Arkwright, Clr G McLaughlin, Clr D Stranger and Clr P B Tuddenham

Voting Against the Motion: Clr J R Clark, Clr J Mauger and Clr L A C Whipper



MINUTES OF THE ORDINARY MEETING OF COUNCIL

held in the Council Chamber, Civic Centre, Elizabeth Street, Moss Vale
on Wednesday, 25 March 2009

COMMITTEE REPORTS

COMMITTEE REPORTS ATTACHED

c-CR1	Minutes of the Moss Vale Livestock Selling Centre Strategic Advisory Board
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REF:	PPM	7170/01
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Submitting minutes of the Moss Vale Livestock Selling Centre Strategic Advisory Board held Friday 13 February 2009.

MN 101/09

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

THAT the recommendations as detailed in the minutes of the Moss Vale Livestock Selling Centre Strategic Advisory Board held Friday 13 February 2009 be adopted.

PASSED

c-CR2	Minutes of the Legal Committee
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REF:	DEP	107/22
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Submitting minutes of the Legal Committee held Wednesday 11 March 2009.

MN 102/09

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

THAT the recommendations as detailed in the minutes of the Legal Committee held Wednesday 11 March 2009 be adopted.

PASSED



MINUTES OF THE ORDINARY MEETING OF COUNCIL

held in the Council Chamber, Civic Centre, Elizabeth Street, Moss Vale
on Wednesday, 25 March 2009

EXTENSION OF TIME

EXTENSION OF TIME

MN 103/09

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

THAT *in accordance with Council's Code of Meeting Practice, Council approves an extension of time to 7.45 pm.*

PASSED

GENERAL BUSINESS

1. BONG BONG COMMON 100/4, 6530/1.3

Clr J Mauger referred to the Item in relation to Bong Bong Common at the Council meeting held on Wednesday, 23 July 2008 (MN 296/08) noting that there were nine (9) recommendations made unanimously, and asked if an update to this matter could be included in the next Weekly Circular.

2. DONATIONS FOR CANCER RESEARCH 1850/5

Clr P B Tuddenham thanked Council and staff for their kind thoughts and donations for Francine.

3. MT BROUGHTON ROAD, WERAI AND RANGE ROAD, MITTAGONG
RD3385, RD3189

Clr P B Tuddenham asked if an update detailing the action planned and timeframe for works in relation to Mt Broughton Road and Range Road could be included in the next Weekly Circular.

4. NEW TRAFFIC ISLAND ON MOSS VALE ROAD AT THE CORNER OF MAWSON TERRACE
RD3377, RD8260, 1520

Clr J R Clark asked when the line marking would be completed at the new traffic island on Moss Vale Road at the corner of Mawson Terrace.

The Director Technical Services advised that the line marking had been done today.

5. REVIEW OF COUNCIL'S COMMITTEE STRUCTURE 107, 800/1.1

Clr J R Clark asked that prior to the review of the Committee Structure, which is proposed for April, can an Information Session be held to allow Councillors to make adjustments to current Committees and Working Groups.

The Mayor Clr T D Gair advised that the matter will be listed for an Information Session.

Clr L A C Whipper noted that he will be absent during the month of April, and given that this matter is of interest to all Councillors, perhaps the Information Session could be held in May.



MINUTES OF THE ORDINARY MEETING OF COUNCIL

held in the Council Chamber, Civic Centre, Elizabeth Street, Moss Vale
on Wednesday, 25 March 2009

GENERAL BUSINESS

6. DAY ON THE GREEN CONCERT ON SATURDAY 21 MARCH 2009

LUA08/1186

Clr K Halstead asked if Council had received any noise complaints following the Jimmy Barnes concert held on Saturday night, and expressed concern that as he was able to hear the words of the songs at Burradoo, was the level of noise was exceeding standards? He asked that when the development application is received, that the noise levels be looked at very carefully.

The Director Environment & Planning advised that for the last two (2) concerts held noise testing had been conducted and Council now has some relevant information and this will be included in a report which should be brought to Council at the meeting on Wednesday, 22 April 2009.



MINUTES OF THE ORDINARY MEETING OF COUNCIL

held in the Council Chamber, Civic Centre, Elizabeth Street, Moss Vale
on Wednesday, 25 March 2009

CORPORATE SERVICES DIVISION

MN 104/09

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

THAT Council consider Item c-CS1 – Closed Council being the Briefing on Current Status of Legal Matter WSC v Lehman Brothers Australia in Open Council rather than in Closed Council as stated in the Agenda.

PASSED

c-CS1	WSC v Lehman Brothers Australia	2104, 107/9
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The General Manager Mr Mike Hyde addressed Council on this matter.

MN 105/09

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

1. **THAT** Council confirm the appointment of Mr Christopher Martin (Solicitor – Piper Alderman) as Council’s “General Proxy” to vote at the meeting of Creditors for Lehman Brothers Australia Ltd, to be held on Monday 30 March 2009.
2. **THAT** Council confirm its position to vote on the special instructions 1a, 1b, 1c, 2, 3, 4a and 4b in accordance with the recommendations provided to Council by our legal advisors, Piper Alderman.

PASSED

Dissenting vote

Clr J Mauger requested that his dissenting vote be recorded in respect of this motion.



MINUTES OF THE ORDINARY MEETING OF COUNCIL

held in the Council Chamber, Civic Centre, Elizabeth Street, Moss Vale
on Wednesday, 25 March 2009

ADOPTION OF OPEN COUNCIL

MN 106/09

107/10

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

THAT the recommendations of the Open Council held on Wednesday, 25 March 2009 being OC 26/09 to OC 28/09, be adopted.

PASSED



MINUTES OF THE ORDINARY MEETING OF COUNCIL

held in the Council Chamber, Civic Centre, Elizabeth Street, Moss Vale
on Wednesday, 25 March 2009

THERE BEING NO FURTHER BUSINESS, THE MEETING CLOSED AT 7.43 PM

In accordance with the provisions of Section 375(2) of the Local Government Act, these Minutes of the Ordinary Council Meeting held Wednesday, 25 March 2009 numbered M/N 79/09 to M/N 106/09, were signed by me hereunder at the Council Meeting held on Wednesday, 8 April 2009.

CHAIRMAN

READ AND CONFIRMED THIS 8th DAY OF APRIL, 2009

CHAIRMAN

PUBLIC OFFICER