

MINUTES

OF THE ORDINARY MEETING OF COUNCIL

File No. 100/09



held on Wednesday, 22 April 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, 22 April 2009

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MINUTES OF THE ORDINARY MEETING OF COUNCIL

held in the Council Chamber, Civic Centre, Elizabeth Street, Moss Vale
on Wednesday, 22 April 2009

COMMENCING AT: 3:30 pm

PRESENT: Clr T D Gair (Mayor) in the Chair
Clr K Halstead (Deputy Mayor)
Clr J G Arkwright
Clr J R Clark
Clr J Mauger (3.42 pm)
Clr G McLaughlin
Clr D Stranger
Clr P B Tuddenham

IN ATTENDANCE: General Manager
Director Corporate Services
Director Environment & Planning
A/Director Technical Services – M Roebuck
Manager Administration Services
Administration Officer (AOE)

PRAYER

100/1

The meeting was opened in prayer led by Pastor Ian Salmond, Pastor of the Church of Christ Bowral.

APOLOGY

PERS

M/N 125/09

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

THAT the apology of Clr L A C Whipper be accepted and leave of absence granted.

PASSED



MINUTES OF THE ORDINARY MEETING OF COUNCIL

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on Wednesday, 22 April 2009

CONFIRMATION OF MINUTES

MINUTES OF THE ORDINARY MEETING OF COUNCIL HELD ON WEDNESDAY, 8 APRIL 2009

100/1

MN 126/09

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, 8 April 2009 MN 107/09 to MN 124/09 inclusive, copies of which were forwarded to Councillors, be adopted as a correct record of the proceedings of the meeting.

PASSED

BUSINESS ARISING

Nil



MINUTES OF THE ORDINARY MEETING OF COUNCIL

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DECLARATIONS OF INTEREST 101/3

Nil

OPEN COUNCIL

107/10

MN 127/09

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

THAT Council moves into Open Council to discuss various matters listed in the Agenda with *Clr J R Clark* in the Chair.

PASSED

Clr J R Clark 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 'A Day on the Green' Concert (Five (5) Year Approval) – Centennial Vineyard

REF: DCM, EDO

LUA08/1186

Reporting on a proposed five (5) year approval at Lot 1 DP 435373, Lots 1 & 5A DP 16192, Lot 1 DP 126196 'Centennial Vineyards', Centennial Road, Bowral.

Ms Jan McCauley addressed Council on behalf of the objectors.

At this juncture, the time being 3:42pm, Clr J Mauger joined the meeting.

Mr Michael Newton, the applicant addressed Council.

OC 46/09

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

1. **THAT** LUA2008/1186 for "A Day on the Green" Outdoor Entertainment Concerts on Lots 1 DP 435373, Lots 1 & 5A DP 16192, Lot 1 DP 126196, "Centennial Vineyards, Centennial Road, Bowral for a period of five (5) years be approved subject to appropriate conditions of consent to the satisfaction of a delegated working group consisting of the Mayor Clr T D Gair, Clr J G Arkwright, Clr P B Tuddenham and Clr G McLaughlin, the Applicant and the Director Environment and Planning.
2. **THAT** in relation to one (1) above, Council approve three (3) concerts per year with a time limit of 10:00 pm for conclusion of the concerts.
3. **THAT** Council's Economic Development Officer work with the applicant to find additional concert venues within the Shire.

PASSED

VOTING ON THE MOTION:

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

Voting Against the Motion: Clr K Halstead and Clr J Mauger



v-EP2 Restoration of Coach House & additions to the 'Old Rectory', Oldbury Street, Berrima

REF: DCM

LUA09/0055

Reporting on development application, involving a listed heritage item, for demolition of 1960's addition, replacement with new additions, the restoration of derelict coach house, landscaping works and utilities.

Mr Chris Adams, Architect, was in attendance and answered questions on this matter.

OC 47/08

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

1. **THAT LUA 09/0055 for restoration of the Coach House and additions to the 'Old Rectory' at lots 8-12 DP 80581 Oldbury Street, Berrima be approved subject to the submission of revised plans that address the issue of connecting the modern additions to the heritage item, to the satisfaction of the Director, Environment & Planning, including the conditions as generally set out below:**
2. **THAT conditions of consent would include:**
 - (i) **Adoption of the recommendations contained within the Conservation Management Plan prepared for the item**
 - (ii) **Obtaining an archaeological excavation permit from NSW Heritage Office in respect of any demolition works;**
 - (iii) **Relocation or re-use of stone from demolished structures.**

PASSED

VOTING ON THE MOTION:

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

Voting Against the Motion: Clr J R Clark



OPEN COUNCIL

ENVIRONMENT & PLANNING DIVISION

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

REF: DCM,

5302

Submitting list of development consents executed under delegated authority of the Director of Environment and Planning between 30/3/09 and 15/4/09.

OC 48/09

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

THAT the information relating to Development Consent Nos 1-7 under Delegated Authority be received and noted.

PASSED



o-EP2 List Of Land Use Applications Received By Council

REF: DCM

5302

Submitting list of development applications which have been received between 30/3/09 and 15/4/09, some of which will be dealt with under delegated authority of the Director of Environment & Planning.

OC 49/09

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

THAT the information regarding the List of Land Use Applications Nos 1-10 received by Council be received and noted with the exception of Item 8, LUA09/0250 Belle Cheval, Myra Vale Rd, Robertson, for Storage sheds and outbuilding additions.

PASSED

1. ITEM 8 LUA09/0250 BELLE CHEVAL, MYRA VALE RD, ROBERTSON
LUA09/0250

OC 50/09

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

THAT Item 8 LUA09/0250 Belle Cheval, Myra Vale Rd, Robertson, being Lot 6 DP 737470 and Lot 307 DP 751262 for Storage sheds and outbuilding addition, be referred to a future Ordinary meeting of Council for determination.

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-EP3	List of SEPP 1 matters requiring referral to the Department of Planning (reported quarterly)
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REF:	DCM
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5302

Submitting list of matters requiring referral to the Department of Planning, received for the quarter January to March 2009.

Clr K Halstead requested that the degree of variation be refined in future reports to Council.

OC 51/09

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

THAT the information regarding the list of matters requiring referral to the Department of Planning for SEPP 1 matters be received and noted.

PASSED



o-EP4	Land Use Applications Determined
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REF:	DCM
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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 March 2009.

OC 52/09

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

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

PASSED



o-EP5 Storage of Fireworks at Lot 5 Carribee Close, Berrima

REF: DCM

LUA09/0050

Reporting on development application for storage of fireworks at Lot 5 DP 816975 Carribee Close, Berrima. Applicant: Illawarra FireWorks.

OC 53/09

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

THAT the report for Storage of Fireworks at Lot 5 Carribee Close, Berrima, be deferred to the Ordinary Meeting of Council to be held 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 and Clr P B Tuddenham***

Voting Against the Motion: Nil



o-EP6 'The Intersection,' Bowral & Station Streets, Bowral

REF: DCM

LUA05/0732

Reporting further on combined retail / bulky goods development known as 'The Intersection' at Lot 2 DP 1031671 Station Street, Bowral.

OC 54/09

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

THAT LUA 05/0732 for a retail development at Lots 8, 9, 10 & 11 DP 21133, Lot 1 DP 359329 & Part Lot 1 DP 746864 Bowral Street, Bowral, be modified subject to appropriate conditions to the satisfaction of the Director Environment and Planning.

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 Mager,
Clr D Stranger and Clr P B Tuddenham

Voting Against the Motion: Nil



o-EP7 Aldi – Archaeological site at Mittagong

REF: DEP

LUA07/0613

At its meeting on Wednesday, 8 April 2009, Council resolved (MN 110/09):

'THAT as a matter of urgency Council contact Aldi by telephone and by letter by 16 April 2009 to seek a meeting with them to discuss the issues of the discovery of historical artefacts of the Fitzroy Iron Works and to resolve any issue in relation thereto AND THAT a report be brought back to the next meeting of Council on Wednesday 22 April 2009 for further consideration.'

The Director Environment & Planning addressed Council on the matter.

Interest: The Mayor Clr T D Gair declared a non-pecuniary interest in this Item as Mrs Leah Day had run on his ticket at the last Council elections. He left the chamber, took no part in the debate and refrained from voting thereon.

OC 55/09

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

THAT historian Mrs Leah Day, in an advisory capacity, be invited to attend the meeting with Aldi on Friday, 24 April 2009, together with the Mayor Clr T D Gair and the Director Environment & Planning.

PASSED

VOTING ON THE MOTION:

***Voting for the Motion: Clr K Halstead, Clr J G Arkwright, Clr J R Clark,
Clr G McLaughlin, Clr J Mauger, Clr D Stranger and
Clr P B Tuddenham***

Voting Against the Motion: Nil



o-EP8 Draft DCP for Moss Vale Township

REF: SPM

5700/64

The purpose of this report is to present to Council a Draft Development Control Plan for the Moss Vale Township and that it be placed on public exhibition for comment.

OC 56/09

The Mayor returned to the Chamber

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

THAT the amendments to the draft Wingecarribee Development Control Plan No. 66 be endorsed for the purpose of public exhibition AND THAT the required public exhibition be undertaken in accordance with the EPA Regulations.

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 and Clr P B Tuddenham***

Voting Against the Motion: Nil

CHAIRPERSON

At this juncture, the time being 5:07pm, the Mayor, Clr T D Gair, resumed the Chair to conduct the remainder of Council Business.



CORPORATE SERVICES DIVISION

o-CS1	Boronia Park, Hill Top – Request for Transfer into Council’s Care and Control
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REF:	PO, PPM	6541/1.1
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Reporting on the status of an application to the Department of Lands (Crown) requesting that Council be appointed as Trust Manager

MN 128/09

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

THAT Council make application to the Department of Lands (Crown) to be formally appointed as Trustee for Boronia Park, Hill Top.

PASSED

o-CS2	East Bowral Reservoir – Request for Execution of Section 88B Instrument
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REF:	PO	7731/2
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Reporting on request by Council’s Solicitors, B Bilinsky & Co, that Council execute a Section 88B Instrument with respect to the East Bowral Reservoir.

MN 129/09

MOTION moved by Clr K Halstead and seconded by Clr J Mauger:

THAT delegated authority be granted to the General Manager to execute the Section 88B Instrument which sets out the terms of easements and proposed right of access to be registered with respect to the East Bowral Reservoir.

PASSED



o-CS3	Health and Safety Policy
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REF:	OHS COORDINATOR, RMC
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710/3.2

Reporting on the Wingecarribee Shire Council Health and Safety Policy.

MN 130/09

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

THAT the revised Wingecarribee Shire Council Health and Safety Policy as per Attachment 1 to the report be adopted.

PASSED

o-CS4 Councillors' Payment of Expenses and Provision of Facilities to the Mayor and Councillors re Review of Computer Access

REF: MAS

101/5

Reporting on request from Councillors Mauger and Clark to consider issues associated with internet access for Councillors.

The Director Corporate Services addressed Council on this matter.

MN 131/09

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

1. **THAT item (a) of section 2.2.4 (Councillors' Payment of Expenses and Provision of Facilities to Mayor and Councillors) relating to Information Technology & Telecommunications Equipment and Expenses be amended as follows:**
 - (a) ***Council shall, upon request, install and maintain a facsimile machine and desktop computer, including internet access for Council business in Councillors' homes in order to facilitate the dissemination of information and aid in communication with and between Councillors, staff and community. Use is for Council duties only and will be in accordance with the adopted Council policy for use as applies to Council staff.***
2. **THAT items (b) to (e) of section 2.2.4 relating to Information Technology & Telecommunications Equipment and Expenses remain the same as detailed in the report.**
3. **THAT item (f) and (g) be included in section 2.2.4 relating to Information Technology & Telecommunications Equipment and Expenses as follows:**
 - (f) ***Councillors be provided with internet access for a council provided computer up to a cost of \$40.00 per month.***
 - (g) ***Where Councillors supply their own internet access they be reimbursed for the council use component of their monthly internet charges, with the allowance capped at a maximum of \$40.00 per month subject to furnishing documentation verifying internet usage.***
3. **THAT Council provides in the 2009/2010 budget an amount of \$4,500 to allow for costs associated with the provision of internet access to all Councillors.**
4. **THAT the proposed amendments to Councillors' Payment of Expenses and Provision of Facilities to the Mayor and Councillors be advertised for a period of twenty eight (28) days seeking community comment AND THAT following the advertising period a further report be submitted to Council for its consideration which details any submissions received.**

PASSED



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REPORT OF DIRECTOR CORPORATE SERVICES

At this juncture, the time being 5.14 pm, Clr K Halstead left the meeting.

o-CS5 Investments as at 31 March 2009
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REF: FSM

2104

Submitting details of Council's Investments as at 31 March 2009.

MN 132/09

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

THAT the information on Council's Investments as at 31 March 2009 be received and noted.

PASSED

At this juncture, the time being 5.17 pm, Clr K Halstead rejoined the meeting.



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REPORT OF THE GENERAL MANAGER

COUNCIL MATTERS

GENERAL MANAGER'S REPORTS

c-GM1 Weekly Circulars

REF: GM

100/8, 203/2009

Confirming receipt of weekly circulars from the Local Government Association and Council weekly circulars.

MN 133/09

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

THAT the information relating to Local Government Weekly Circulars Nos 13/09 and 14/09 and Council Weekly Circulars Nos 13/09 and 14/09 be noted.

PASSED

NOTICE OF MOTION

c-NM1 05/2009 – Notice of Motion – Bore Licences in the Southern Highlands

REF: MAS

100/4

Clr Paul Tuddenham has given notice that it is his intention to move the following Notice of Motion at the Ordinary Meeting of Council on Wednesday 22 April 2009:

- “1. THAT Council seek from the relevant State Government Department, whether it be the Sydney Catchment Authority (SCA) or other Government Department to provide details of the current water bore licences in the Southern Highlands, plus any proposed bores and where they are being drilled and which of these bores are used for commercial water extraction and the licence terms as to amount of extraction of water allowed.

2. THAT in relation to one (1) above Council investigate what guide lines are in place to monitor the water extraction.

3. THAT Council seek advice whether levy’s can be placed on these commercial operations of the water bore licences in the Southern Highlands.”

MN 134/09

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

1. **THAT Council seek from the Hon Philip Costa, MP, Minister for Water, Minister for Rural Affairs and Minister for Regional Development, and the relevant State Government Department, whether it be the Sydney Catchment Authority (SCA), Water Resources and other relevant bodies, to provide details of the current water bore licences in the Southern Highlands, plus any proposed bores and where they are being drilled and which of these bores are used for commercial water extraction and the licence terms as to the amount of extraction of water allowed.**

2. **THAT in relation to one (1) above Council investigate what guidelines are in place to monitor the water extraction.**

3. **THAT Council seek advice whether royalties/levies can be placed on these commercial operations of the water bore licences in the Southern Highlands.**

PASSED



MINUTES OF THE ORDINARY MEETING OF COUNCIL

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COMMITTEE REPORTS

COMMITTEE REPORTS TABLED

c-CR1	Management and Advisory Committee Reports
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REF:	DCS	107/1
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Submitting minutes of two (2) Committee meetings that will be tabled for information.

MN 135/09

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

THAT the information contained in the Committee Report be noted.

PASSED



MINUTES OF THE ORDINARY MEETING OF COUNCIL

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COMMITTEE REPORTS

COMMITTEE REPORTS ATTACHED

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, 8 April 2009.

Clr J R Clark referred to the recommendation in item 2 on page 62 of the Agenda and advised that he wished to amend that recommendation.

MN 136/09

MOTION moved by *Clr K Halstead* and seconded by *Clr P B Tuddenham*:

THAT the recommendations as detailed in the minutes of the Legal Committee held Wednesday, 8 April 2009 be adopted, with the exception of Item 2, being Lot 32 & 31 Eridge Park Road, Bowral – Feldkirchen Pty Ltd - on page 62 of the Agenda.

PASSED

1. ITEM 2 LOT 32 & 31 ERIDGE PARK ROAD BOWRAL – FELDKIRCHEN PTY LTD
PN1764200, PN1764210

MN 137/09

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

“THAT Council instruct the owner of the adjoining private property to remove the trees planted on Council’s road reserve and replace them with a more suitable species from the list in Council’s Roadside Management Plan.”

PASSED



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QUESTIONS FROM THE PUBLIC

QUESTIONS FROM THE PUBLIC

1. COUNCIL'S DRAFT LEP 5900/3

Mrs Mea Thompson, in relation to Council's draft LEP, asked the following questions:

1. Would Councillor Gair seek to become familiar with the "Green Between" concept where it can maintain urban separation, stop sprawl and help contain infrastructure costs?
2. Would the Mayor actively include in that process of familiarity other Councillors and appropriate Council staff?
3. As the current draft LEP is being pushed to finalisation and contains more staid planning methods and that it does not consider the benefits of "Green Between", will the Mayor take direction action to ensure the LEP process be put on hold, for the purpose of considering the "Green Between" and inclusion of possible amendments that might follow?

The Mayor, Clr T D Gair advised that he would take the first two questions on notice and provide Mrs Thompson with a written reply.

In relation to the third question, Clr Gair advised that he will not hold up the LEP and that he will encourage that it be adopted and gazetted by the New South Wales State Department.

2. SEPP 1 MATTERS REQUIRING REFERRAL TO THE DEPARTMENT OF PLANNING 5302, LUA08/0636

Mr Barry Antsee in relation to Item o-EP3 on page 27 of the Agenda, asked if the variation in relation to LUA08/0636 was in respect to Clause 13(3) twice or was it Clause 12 and Clause 13(3)?

The Director Environment & Planning advised it was Clause 12 & Clause 13 because it deals with the subdivision and then the requirement for a dwelling house.

3. MATTERS REQUIRING REFERRAL TO THE DEPARTMENT OF PLANNING – JANUARY TO MARCH 2009 5302, LUA07/1229

Mr Barry Anstee referred to LUA07/1229 in Item o-EP3 on page 27 of the Agenda, and asked if there is an approval by the Department of Planning in relation to the subdivision under Clause 12, does it extend to any future dwelling or is that a separate application and therefore subject to a separate SEPP1?

The Director Environment & Planning advised that it is a separate application although one should lead on to the other but there are separate standards and separate clauses within the LEP.



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QUESTIONS FROM THE PUBLIC

4. COUNCIL'S DRAFT LEP

5900/3, 5302

Mr Barry Anstee asked if the draft LEP 2009 provides a dwelling entitlement for subdivisions approved under Clause 12 WLEP 89 where a SEPP1 objection is supported or is it lost because of clause 4.2A of the draft LEP 2009 which only relates to "erection of a dwelling permissible immediately before the commencement" of the LEP 2009?

The Director Environment & Planning advised that he will take this question on notice.

5. COUNCIL'S DRAFT LEP

5302

Mr Peter Cunningham referred to his second question at the last Council meeting on Wednesday, 8 April 2009 in relation to the LEP which was taken on notice and asked what the end effect of that was?

The Mayor Clr T D Gair advised that the question would be answered officially but in summary advised some Councillors have been part of the LEP process for a length of time and that every time he goes to an LEP meeting he is brought up to date on the LEP and that it is a learning curve for the new Councillors in dealing with the complicated and difficult issues of the LEP.

The Director Environment & Planning advised that a great deal of effort had been put in providing supporting information to the draft LEP and a series of papers were presented that covered a range of technical issues that were in the LEP, and copies of those papers could be made available to Mr Cunningham.

6. SYDNEY MORNING HERALD ARTICLE AND THE DRAFT LEP

5302

Mr Peter Cunningham referred to an article in the Sydney Morning Herald which stated that "Toxic assets leave black hole in highlands shire's coffers". In relation to the article, the LEP and the counter-efforts to stop urban sprawl, Mr Cunningham directed the following questions to the General Manager:

- (i) Are the quotes "pursuing all options to try and recoup all of that money or as much of it as we can" and attributed to the General Manager in the article is in context and correct?

The General Manager advised that was a correct attribution and correct statement.

- (ii) And the second quotation "Eventually all the losses will translate into dollars we don't have to spend in the local community"?

The General Manager advised that he had not used the word "all" but eventually losses translating to dollars that we do not have to spend on infrastructure and other assets in the community.



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QUESTIONS FROM THE PUBLIC

- (iii) Are you aware that when compared to smarter design and some urban consolidation, that urban sprawl imposes hugely disproportionate costs on any Council that must provide infrastructure?

The General Manager advised that one of the burdens that this Council has to deal with as opposed to, say, an inner city Council, is the disproportionately higher costs because of roads, infrastructure and so on.

- (iv) Mr Cunningham asked if Council was serious about keeping the green between the towns of the Shire, when on top of funding and maintaining infrastructure to developments, the losses will be of such magnitude that Wingecarribee risks financial obliteration.

The Mayor Clr T D Gair advised that Council does have a policy in relation to the green between towns which was determined with the keeping of the Bong Bong Common and spending \$100,000 plus in legal fees in stopping the development of "Capernwray", that is how keen Council is in maintaining the green corridor between Moss Vale and Bowral.

7. LOTS 32 & 31 ERIDGE PARK ROAD BOWRAL – FELDKIRCHEN PTY LTD
PN1764200, PN1764210

Mrs Jan Hainke noted that the above matter had been previously dealt with at this meeting, but asked if Council staff and Councillors present at the Legal Committee Meeting on Wednesday, 8 April 2009 were informed that the trees which were illegally planted are Cypress Leylandiis and has "Hedge Wise" failed to make Council aware of the problems with this species of tree?

The Mayor Clr T D Gair advised that Mrs Hainke had succeeded very well in making Councillors aware of the problem!

8. POISONING IN EXETER PARK 6500/5, 6536/1

Mrs Pam Cooper noted poison has been deliberately placed in Exeter Park and advised that the incident was reported to the ranger who placed a notice in the Exeter Store warning dog owners of the hazard. Mrs Cooper advised that the matter had been reported to the Police but asked if this potential dangerous vandalism can be brought to the attention of the public through either Council publications or news media?

The Mayor Clr T D Gair advised that Council has not yet formally introduced its \$2,500 reward scheme for reporting vandalism but at this time vigilance is probably the best option.



MINUTES OF THE ORDINARY MEETING OF COUNCIL

held in the Council Chamber, Civic Centre, Elizabeth Street, Moss Vale
on Wednesday, 22 April 2009

COMMITTEE REPORTS

COMMITTEE REPORTS TABLED (CONT)

c-CR2	Minutes of the Finance Sub-Committee (Council's Investments)
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REF:	DCS	107/22
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The Director Corporate Services distributed a copy of the minutes of the Finance Sub-Committee (Council's Investments) meeting held on Wednesday, 22 April 2009 to Councillors and press.

MN 138/09

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

THAT the minutes of the Finance Sub-Committee meeting held on Wednesday, 22 April 2009 be noted and the agreed action endorsed.

PASSED

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

GENERAL BUSINESS

MATTER OF URGENCY

1. MT BROUGHTON ROAD, WERAI

RD3385, 7420/6, 7415/3, 7806/1, 7810/3, 7810/5

Clr P B Tuddenham requested that the resealing of the pavement on Mt Broughton Road, Werai, be treated as a matter of urgency.

MN 139/09

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

THAT the resealing of the pavement on Mt Broughton Road, Werai, be considered as a matter of urgency.

PASSED

The Mayor ruled that this is a matter of urgency.

MN 140/09

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

THAT the following recommendations from the Traffic Committee Meeting held on Monday, 20 April 2009 (TC 44/09) be adopted:

- (i) **THAT** chevron alignment markers be installed on the bends on Mt Broughton Road 640m south of Bibby's Lane.
- (ii) **THAT** the 65 km/h curve warning signs be enlarged and duplicated.
- (iii) **THAT** the pavement of Mt Broughton Road be resealed through the bends south of Bibby's Lane .
- (iv) **THAT** Council's Design and Project Branch investigate improvements to the bends on Mt Broughton Road 640m south of Bibby's Lane and report back to the Traffic Committee.
- (v) **THAT** an application be made for Black Spot funding once a course of action has been determined.

PASSED

2. SUBDIVISION AT 132A BOWRAL ROAD, BOWRAL

LUA07/1284

Clr J R Clark asked if Council is aware of the damage to neighbouring property trees at this development due to drainage lines excavated in close proximity to the adjoining property seemingly in contravention to the drainage line diagram provided on neighbour notification. He advised that a trench up to 2m deep will have caused significant damage to tree roots on the neighbouring property and may lead to the ultimate demise of many trees. Clr Clark asked what redress neighbours will have should their trees die in the future and asked if an explanation could be placed in the Weekly Circular as to the process to be followed and future safety of these trees.

The Director Environment & Planning advised the work is being done in accordance with the approved plans, and if anything the trench being dug has been moved away from the boundary. He stated the work has been closely supervised by Council staff who have been to the site on numerous occasions. Council's view at the moment is that everything is in accordance with the consent. He advised that there is some concern about one of the larger trees towards Bowral Road and the applicant has taken some advice from an arborist which included some hand digging around the tree to ensure that any impact to that particular tree was minimised.

The Director Environment & Planning further advised that the fact that Council has issued a consent does not abrogate the applicant from all responsibility if the situation eventuates that there is damage to the neighbouring trees and that is a matter between the owner of the trees and the people who carried out the work. If the people who carried out the work then want to involve Council because the work has been done in accordance with the consent, then that is a matter that will be dealt with at the appropriate time. However, he advised that the trench is rather large because there is a large pipe to be put in to cater for drainage associated with the subdivision but also existing drainage problems in that location.

The Mayor Clr T D Gair thanked the Director Environment & Planning for taking the time on his day off to inspect the site with a very distressed neighbour who had telephoned for assistance.

3. BLACKBERRY SPRAYING

6920/3

Clr G McLaughlin asked, with regard to a complaint he had received from a ratepayer (who does not live in the Shire), about contractor weed spraying and the price charged for the spraying of the blackberries on his property. Clr McLaughlin asked for some information as to the charging process.

The General Manager advised that a response would be provided in the Weekly Circular.



MINUTES OF THE ORDINARY MEETING OF COUNCIL

held in the Council Chamber, Civic Centre, Elizabeth Street, Moss Vale
on Wednesday, 22 April 2009

GENERAL BUSINESS

4. LEAVE OF ABSENCE

PERS

Clr J G Arkwright sought leave of absence for the Ordinary Council meetings on Wednesday, 13 May 2009 and Wednesday, 27 May 2009.

MN 141/09

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

THAT leave of absence be granted to Clr J G Arkwright for the Ordinary Council meetings to be held on Wednesday, 13 May 2009 and Wednesday, 27 May 2009.

PASSED

5. EXETER VILLAGE HALL

7209, 1603/8

Clr J G Arkwright referred to a copy of a letter she had received from the Exeter Village Association with a request that Council agree to lease the Exeter Hall directly to the Exeter Village Association as distinct from the Exeter Park Management Committee which currently manages the Hall on behalf of Council, and asked if an information session could be organised for Councillors on the matter with a representative of the Exeter Village Association present to state their case?

The General Manager replied that as Councillors would probably be aware there is a degree of tension between the user groups in Exeter and that a briefing session will be held to bring Councillors up-to-date and that it will then be up to Councillors to decide how the issue should be dealt with.

6. MITTAGONG CENTRAL

LUA05/0832

Clr J G Arkwright advised that she had received a request for the above site to be secured and made safe as no work had occurred on the site for over twelve (12) months, it is an eyesore and dangerous with broken windows, materials lying around and the car park is full of water. Clr Arkwright asked if Council can obtain a bond or insurance policy to rectify the site if the developer is unable to continue.

The Director Environment & Planning advised that he will take the matter on notice and put more information in the Weekly Circular.

7. COUNCIL PICNIC DAY

810/2

Clr K Halstead asked about the union picnic day on Tuesday, 14 April 2009 and if staff who are not financial members of the union and who were not required to work on the picnic day applied for annual leave, time in lieu, time without pay or other leave approved by Council, or did Council allow all staff to have the day off on pay?

The General Manager advised that all the staff were given the same benefit of the day off.



MINUTES OF THE ORDINARY MEETING OF COUNCIL

held in the Council Chamber, Civic Centre, Elizabeth Street, Moss Vale
on Wednesday, 22 April 2009

GENERAL BUSINESS

8. PRESS RELEASE OF ICAC INVESTIGATION

1420/5

Clr K Halstead asked if the Mayor could confirm that he had showed Clr Halstead a copy of a fax that Clr Mauger had sent to the Mayor indicating that he did not want his name mentioned in the last press release?

The Mayor Clr T D Gair advised that it was shown to him at a meeting at the Combined Southern Group of Councils and once it was shown to him he did remember. However, the confusion was that he had spoken to Councillor Mauger and his understanding from Councillor Mauger was that there was no objection to his name being mentioned.

9. PROMOTION OF THE TOURISM DVD'S

1900, 1940/4

Clr J Mauger asked about the promotion in relation to the DVD's released at the launch held at the Bradman Museum on Wednesday, 22 April 2009 and were all the publications in the Shire given the opportunity to take part in the District Tourism and Economic promotions and will all publications be given a share of any advertising moneys made available?

The Mayor Clr T D Gair advised that the matter would be taken on notice.

10. USE OF CONSULTANTS

601

Clr J Mauger asked if he could be provided with a complete list of consultants that have been employed to provide advice since his taking office with the Council and could Councillors be provided with the individual cost of the consultants and the reason they were engaged. He asked what the benefit of hiring the consultants was and is there any consultants currently engaged by Council and for what purpose?

The General Manager advised that the matter would be taken on notice.

11. DEVELOPMENT AT GIBRALTAR PARK

LUA03/0786, LUA06/1310

Clr G McLaughlin asked about the Gibraltar Park development and noted that no work had been undertaken for some time.

12. SOMERSET ROAD AND MANNING LOOKING ROAD, FITZROY FALLS

RD2405, RD2410

The Mayor Clr T D Gair asked if the grading of Somerset Road, Fitzroy Falls could be given a timeframe and also requested if vegetation on Manning Lookout Road, Fitzroy Falls, could be burnt off when appropriate.

The Acting Director Technical Services advised that these matters would be taken on notice.



MINUTES OF THE ORDINARY MEETING OF COUNCIL

held in the Council Chamber, Civic Centre, Elizabeth Street, Moss Vale
on Wednesday, 22 April 2009

CLOSED COUNCIL

CORPORATE SERVICES DIVISION

CS1	Closed Council
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REF.	DCS	107/9
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To consider moving into Closed Council.

At this juncture, the time being 6.39 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.

Mrs Pam Cooper asked for clarification about Item c-GM1 - S94 Contributions relating to dedication of land, Exeter Quarry and why this matter was in Closed Council and could it have been considered in open Council.

Ms Deb Richards from "Your Times" requested that the matters in Closed Council be considered in open Council, as they are matters of public interest.

The Director Corporate Services advised that Item c-GM1 - S94 Contributions relating to dedication of land, Exeter Quarry - was referred to Closed Council as it contains information (ie, valuations) that could, if it was released to the public, confer a commercial advantage with the developer that Council is conducting business with. However, at the end of the day it would be Council's decision.

MN 142/09

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

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, with the exception of c-CS1 – Update on Lehman Brothers Australia – as it was agreed not to consider this matter, the reason being that there was no further information at this time and the matter was subsequently withdrawn:**

c- GM1 **S94 CONTRIBUTIONS RELATING TO DEDICATION OF LAND, EXETER QUARRY** **LUA04/0716**

Relevant Legal Provisions

This report is referred to Closed Committee under Clause 10A(2)(c) of the Local Government Act 1993 as it contains financial information.

Brief Description

Reporting on dedication of Land in lieu of Section 94 Contributions for Local and Shire-wide Open Space.

Public Interest

It would on balance be contrary to the public interest to consider this information in Open Council because it contains information that would, if disclosed, confer a commercial advantage on a person with whom the council is conducting (or proposed to conduct) business.

c-GM1 **STAFF MATTER**

PERS

Relevant Legal Provisions

This matter has been placed in Closed Council as it deals with personnel matters concerning particular individuals, under Section 10A(2)(a) of the Local Government Act.

Brief Description

This report deals with the General Manager's Contract.

Public Interest

It would on balance be contrary to the public interest to consider this information in Open Council because of personnel matters concerning particular individuals (other than Councillors).

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
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CLOSED COUNCIL

CLOSED COUNCIL

c-CS1 Update on Lehman Brothers Australia

REF: DCS

107/9, 2104

It was noted that Council agreed not to consider the Closed Council item c-CS1, the reason being that there was no further information at this time and that the matter was subsequently withdrawn.

c-GM1 S94 Contributions relating to dedication of land, Exeter Quarry

REF: SPM

LUA04/0716

At its meeting of 10 December 2008 Council adopted a resolution approving LUA04/0716 for a 26-lot subdivision over the Exeter Quarry site. As discussed in that report the development will comprise of 25 Rural Residential Lots and 1 Residue Lot which is to be dedicated to Council as public reserve containing a riparian corridor for Indigo Creek. The Residue Lot will be accompanied by a Plan of Management and 88B Restrictions for the purposes of Environmental Protection.

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

THAT in relation to S94 Contributions relating to dedication of land at Exeter Quarry:

- (i) Council accept the dedication of land free of cost to Council in lieu of the applicant paying Section 94 Contributions for Local (Exeter) and Shire-wide Open Space.**
- (ii) a condition be placed on the consent requiring the dedication of the subject land free of cost to Council pursuant to Section 94(1) of the Environmental Planning and Assessment Act 1979.**
- (iii) the applicant be informed of Council's 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 D Stranger and
Clr P B Tuddenham

Voting Against the Motion: Clr J Mauger



MINUTES OF THE ORDINARY MEETING OF COUNCIL

held in the Council Chamber, Civic Centre, Elizabeth Street, Moss Vale
on Wednesday, 22 April 2009

CLOSED COUNCIL

c-GM2	Staff Matter
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REF:	MAYOR
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PERS, 800

Reporting on a staffing matter concerning the General Manager.

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

THAT the matter be deferred to a date to be determined.

PASSED



MINUTES OF THE ORDINARY MEETING OF COUNCIL

held in the Council Chamber, Civic Centre, Elizabeth Street, Moss Vale
on Wednesday, 22 April 2009

OPEN COUNCIL

MN 143/09

107/10

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

THAT Council moves back into Open Council.

PASSED

No members of the public were present in the Chamber.

ADOPTION OF CLOSED COUNCIL

MN 144/09

107/9

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

THAT the recommendations of the Closed Council held on Wednesday, 22 April 2009 (Items c-GM1 and c-GM2) be adopted.

PASSED

ADOPTION OF OPEN COUNCIL

MN 145/09

107/10

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

THAT the recommendations of the Open Council held on Wednesday, 22 April 2009 being OC 46/09 to OC 56/09, be adopted.

PASSED



MINUTES OF THE ORDINARY MEETING OF COUNCIL

held in the Council Chamber, Civic Centre, Elizabeth Street, Moss Vale
on Wednesday, 22 April 2009

THERE BEING NO FURTHER BUSINESS, THE MEETING CLOSED AT 6.50 PM

In accordance with the provisions of Section 375(2) of the Local Government Act, these Minutes of the Ordinary Council Meeting held Wednesday, 22 April 2009 numbered M/N 125/09 to M/N 145/09, were signed by me hereunder at the Council Meeting held on Wednesday, 13 May 2009.

CHAIRMAN

READ AND CONFIRMED THIS 13TH DAY OF MAY 2009

CHAIRMAN

PUBLIC OFFICER