

# MINUTES

## OF THE ORDINARY MEETING OF COUNCIL

*File No. 100/09*



held on Wednesday, 13 May 2009

The meeting commenced at 3.33 pm



## MINUTES OF THE ORDINARY MEETING OF COUNCIL

held in the Council Chamber, Civic Centre, Elizabeth Street, Moss Vale  
on Wednesday, 13 May 2009

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## MINUTES OF THE ORDINARY MEETING OF COUNCIL

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on Wednesday, 13 May 2009

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**COMMENCING AT:** 3.33 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 (3.36pm)  
Cllr G McLaughlin  
Cllr D Stranger  
Cllr L A C Whipper

**IN ATTENDANCE:** General Manager – Mr Mike Hyde  
Acting Director Corporate Services – Mr Doug Neville  
Director Environment & Planning – Mr Scott Lee  
Director Technical Services – Mr Michael Brearley  
Manager Administration Services – Mr Peter Nelson  
Administration Officer – Ms Liz Johnson

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### PRAYER

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100/1

The meeting was opened in prayer led by Reverend Stephen Fifer of the St Jude's Anglican Church, Bowral.

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### APOLOGY

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PERS

Clr J G Arkwright advised that she had previously sought leave of absence from the Council meetings on Wednesday, 13 May 2009 and Wednesday, 27 May 2009. However, she would now not be absent from those meetings.

**M/N 151/09**

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

**THAT** *the apology of Clr P B Tuddenham be accepted and leave of absence granted.*

**PASSED**

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## MINUTES OF THE ORDINARY MEETING OF COUNCIL

held in the Council Chamber, Civic Centre, Elizabeth Street, Moss Vale  
on Wednesday, 13 May 2009

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### CONFIRMATION OF MINUTES

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

100/1

At this juncture, the time being 3.36pm, Clr J Mauger joined the meeting.

**MN 152/09**

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

**THAT** the minutes of the Ordinary Meeting of Council held on Wednesday, 22 April 2009 MN 125/09 to MN 145/09 inclusive, copies of which were forwarded to Councillors, be adopted as a correct record of the proceedings of the meeting.

**PASSED**

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### BUSINESS ARISING

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Nil

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### CONFIRMATION OF MINUTES

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MINUTES OF THE EXTRAORDINARY MEETING OF COUNCIL HELD ON WEDNESDAY,  
29 APRIL 2009

100/1

**MN 153/09**

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

**THAT** the minutes of the Extraordinary Meeting of Council held on Wednesday, 29 April 2009 MN 146/09 to MN 150/09 inclusive, copies of which were forwarded to Councillors, be adopted as a correct record of the proceedings of the meeting.

**PASSED**

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### BUSINESS ARISING

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Nil



## MINUTES OF THE ORDINARY MEETING OF COUNCIL

held in the Council Chamber, Civic Centre, Elizabeth Street, Moss Vale  
on Wednesday, 13 May 2009

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### DECLARATIONS OF INTEREST

101/3

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Clr G McLaughlin declared a non-pecuniary interest in Item o-EP5 Amalgamation of 34 Lots and Creation of 11 Lot Subdivision Inclusive of Road Closures; Oldbury and Countess Streets, Berrima, as the owner of the land at Berrima ran on his ticket at the last Council election. He stated that he would leave the chamber when this matter was discussed, take no part in the debate and refrain from voting thereon.

Clr L A C Whipper declared a significant non-pecuniary interest in Item o-TS1 Mittagong Recreation Centre, as he works with the mother of one of the proprietors of the Spltz Academy who are requesting a lease of the facility. He stated that he would remain in the chamber when this matter was discussed, take part in the debate and vote thereon.

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### OPEN COUNCIL

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**MN 154/09**

107/10

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

**THAT** Council moves into Open Council to discuss various matters listed in the Agenda with the Mayor, Clr T D Gair remaining in the Chair.

**PASSED**

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### **ADDITIONAL MATTER – VOLUNTEERING WEEK**

1800/12

The Mayor, Clr T D Gair acknowledged Volunteering Week and the work undertaken by volunteers in the Shire.

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### **ADDITIONAL MATTER – COUNCILLOR DUTIES**

101

The Mayor, Clr T D Gair acknowledged the time that Councillors devote to their Council duties. He particularly acknowledged the new Councillors who have settled into their responsibilities on the various committees with which they are involved.

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**VISITOR ITEM**

**ENVIRONMENT & PLANNING DIVISION**

**v-EP1 Leisure Centre**

REF: DCM

LUA08/0042

Reporting on LUA 08/0042 which seeks approval for the construction of a Leisure Centre at Eridge Park, Wirreanda St / Eridge Park Road Burradoo.

Mr Steven Layman from Steven Layman Consulting Pty Ltd (Certified Practising Planner & Chartered Architect) was in the Chamber to present his report on this matter.

The Mayor, Clr T D Gair acknowledged the work undertaken by Council's S94 Engineer, Mr Bob Lewis in relation to the Leisure Centre matter.

The Mayor, Clr T D Gair noted that no additional moneys had been expended in finalising the consultant's assessment report.

**OC 57/09**

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

1. ***THAT Development application LUA08/0042 for a Leisure Centre at Eridge Park, Wirreanda Street/Eridge Park Road, Burradoo be withdrawn in accordance with the provisions of Clause 52 of the Environmental Planning and Assessment Regulation 2000.***
2. ***THAT Council acknowledge receipt of the independent assessment report from Steven Layman Consulting Pty Ltd.***

**PASSED**

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

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



## AGENDA FOR THE ORDINARY MEETING OF COUNCIL

held in the Council Chamber, Civic Centre, Elizabeth Street, Moss Vale  
on Wednesday, 13 May 2009

### REPORT OF DIRECTOR ENVIRONMENT & PLANNING

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<b>v-EP2</b>	<b>Section 96 Modification 68 Station Street, Bowral</b>
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REF:	DCM
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LUA07/1173
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The Director Environment & Planning advised that this matter was incorrectly included on the Agenda as a Visitor Item and should have been listed in Open Council and should be dealt with later in the meeting (*see page 19*).

The Mayor, Clr T D Gair agreed to deal with this matter later in the meeting.

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TECHNICAL SERVICES DIVISION

**v-TS1 Bowral Floodplain Risk Management Study**

REF: DPM

100/4

Report on the Bowral Floodplain Risk Management Study and Plan.

Council's S94 Engineer Mr Bob Lewis addressed Council on this matter.

**OC 58/09**

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

1. **THAT Council adopts the Bowral Floodplain Risk Management Study and Plan.**
2. **THAT Council apply for funding for the items identified as high priority in the plan and include matching funding for consideration in forthcoming budgets.**
3. **THAT Council consider the items that are listed as High, Medium and Low priority measures in the long term financial plan.**
4. **THAT the Environment & Planning division make necessary arrangements to include flood liable land provisions in Wingecarribee LEP 2009, new Development Control Plans and Section 149(2) and (5) certificates as per recommendations contained in the report.**
5. **THAT following adoption of the Bowral Floodplain Study, Section 149(2) Certificates issued by Council carry a notation in respect of high and medium hazard and low fringe flood risk precincts, applying to all certificates issued from 18 May 2009.**
6. **THAT the Environment & Sustainability Committee be requested to provide funding and expertise toward a Riparian Corridor Management Plan for the Mittagong Creek.**
7. **THAT the study information be available for inspection by the public at the Civic Centre, Moss Vale and on Council's website, including educational information explaining the contained information.**
8. **THAT a floodsafe brochure be prepared by the State Emergency Services (SES) and brought to Council for approval prior to being distributed to property owners within the Mittagong Creek floodplain.**
9. **THAT the charge for purchase of the study and the associated electronic files is included in Council's adopted fees and charges (currently \$1,650 including GST).**

**PASSED**

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**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 15/04/09 to 04/05/09.

**OC 59/09**

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

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

**PASSED**

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## 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 15/4/09 and 04/5/09, some of which will be dealt with under delegated authority of the Director of Environment & Planning.

#### **OC 60/09**

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

**THAT the information regarding the List of Land Use Applications Nos 1-7 received by Council be received and noted.**

#### **PASSED**

#### **Matters Arising from the List of Land Use Applications Received By Council**

1. 9 LOT SUBDIVISION, LOTS 176-177/185/187 DP751298 & Lots 71/73-74  
DP1073970 & SPRING VALLEY WILDLIFE REGUGE NO 54 RP's 06/97 & 08/37 &  
08/123, PADDYS RIVER, MURRIMBA ROAD, WINGELLO LUA09/0298

Clr J R Clark asked for information on Item No 7 to be placed in the Weekly Circular.

2. WATER EXTRACTION, LOT 25 DP 751302, SHERWOOD, HODDLE STREET,  
BURRAWANG LUA09/0301

Clr L A C Whipper noted that this matter is to be forwarded to Council for determination and requested additional information in relation to the proposal to be placed in the Weekly Circular.



**MINUTES OF THE ORDINARY MEETING OF COUNCIL**  
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**REPORT OF DIRECTOR ENVIRONMENT & PLANNING**

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<b>o-EP3 Land Use Applications Determined</b>
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REF: DCM	5302
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Submitting list of Land Use applications determined by way of approval under delegated authority of the Director of Environment & Planning for the month of April 2009.

**OC 61/09**

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

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

**PASSED**

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**o-EP4 Storage of fireworks at Carribee Close, Berrima**

REF: DCM

LUA09/0050

Reporting on development application for storage of fireworks at Lot 5 DP 816975 Carribee Close, Berrima. At its meeting of 8 April 2009, Council resolved:

**OC 62/09**

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

**THAT determination of LUA09/0050 Storage of fireworks at Carribee Close, Berrima, be deferred pending a site inspection.**

**PASSED**

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

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



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### REPORT OF DIRECTOR ENVIRONMENT & PLANNING

#### **o-EP5 Amalgamation of 34 lots & creation of 11 lot subdivision inclusive of road closures; Oldbury and Countess Streets, Berrima**

REF: DCM

LUA08/0598

Reporting on a S82A Review of Council's Refusal of a proposed 12 lot subdivision at Lots 1-14 Section 28 DP 758098 Countess Street and lots 1-18 Section 27 DP 758098 Oldbury Street, Berrima.

**Interest:** Clr G McLaughlin declared a non-pecuniary interest in this matter as the Applicant ran on his ticket at the last Council elections. He left the chamber, took no part in the debate and refrained from voting thereon.

#### **OC 63/09**

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

1. **THAT Council uphold the existing Refusal of LUA08/0598 for the following reasons:**
  - i) ***The proposed subdivision does not comply with the minimum standard of one (1) hectare in accordance with Clause 50 (2) of the WLEP89.***
  - ii) ***The proposed subdivision does not comply with the draft LEP2009 proposed RU4 Smallholdings zone minimum lot size of one (1) hectare.***
  - iii) ***The proposed development represents an unacceptable visual impact upon both the natural and built environment within the locality of the historic Berrima township.***
  - iv) ***The SEPP 1 Objection accompanying the application is considered inadequate to justify the substantial departure proposed to the one (1) hectare standard as stipulated under Clause 50 (2) of the WLEP89.***
  
2. **THAT Council meet with the Applicant to facilitate an acceptable outcome in relation to permissible development of the site.**

#### **PASSED**

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

<b>Councillor</b>	<b>For</b>	<b>Against</b>
Clr T D Gair	X	
Clr K Halstead	X	
Clr J G Arkwright	X	
Clr J R Clark	X	
Clr G McLaughlin	A	
Clr J Mauger	X	
Clr D Stranger	X	
Clr P B Tuddenham	A	
Clr L A C Whipper	X	



**o-EP6 Commercial units & light industrial warehouse at Anzac Pde, Bundanoon**

REF: DCM

LUA08/1280

Reporting on the proposed construction of Commercial units and a light Industrial Warehouse at Lot 10-15 DP 12552 Anzac Parade Bundanoon.

Clr McLaughlin returned to the Chamber at this juncture.

**OC 64/09**

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

**THAT LUA08/1280 for proposed construction of commercial units and a light industrial warehouse at Lot 10-15 DP 12552 Anzac Parade Bundanoon be deferred for consideration to the ordinary Meeting of Council on Wednesday, 27 May 2009 and be included on Council's LEP Steering Committee bus tour on Friday, 22 May 2009.**

**PASSED**

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

<b>Councillor</b>	<b>For</b>	<b>Against</b>
Clr T D Gair	X	
Clr K Halstead	X	
Clr J G Arkwright	X	
Clr J R Clark	X	
Clr G McLaughlin	X	
Clr J Mauger	X	
Clr D Stranger	X	
Clr P B Tuddenham	A	
Clr L A C Whipper	X	



**o-EP7 Proposed new dwelling and SEPP 1 Objection: 'Wallaby Rocks' off Nathan Road, Medway**

REF: DCM

LUA09/0140

Reporting on a new dwelling and shed accompanied by a SEPP 1 Objection lodged for lot 5 DP 703589 off Nathan Road (via the Hume Highway underpass), Medway.

**OC 65/09**

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

1. **THAT Council support the application made under State Environmental Planning Policy No. 1 to vary the requirements of Clause 13 (3) (a) of Wingecarribee Local Environmental Plan 1989 in respect of LUA09/0140.**
2. **THAT LUA 09/0140 for a new dwelling and shed on Lot 5 DP 703589 off Nathan Road, Medway, be approved subject to appropriate conditions of consent as required by the Rural Fire Service and the Sydney Catchment Authority to the satisfaction of the Director Environment & Planning.**

**PASSED**

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

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



**o-EP8 Joint Regional Planning Panels**

REF: DEP

5300

Reporting on Joint Regional Planning Panels.

Clr K Halstead left the Chamber during the debate on this matter as he was nominated for appointment to the Joint Regional Planning Panels. He took no part in further debate and refrained from voting on the matter.

**OC 66/09**

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

1. **THAT Council nominate for appointment Clr K Halstead and Mr David McGowan as suitably qualified individuals to serve as Council's temporarily appointed members on the Joint Regional Planning Panel to deal with matters within the Wingecarribee Shire Council area for a period of three (3) Months.**
2. **THAT Council approach another suitably qualified person to be appointed by the next meeting of Council after the interim period of three (3) months.**
3. **THAT Council immediately call for Expressions of Interest from suitably experienced and qualified individuals to serve as Council appointed members on the Joint Regional Planning Panel to deal with matters within the Wingecarribee Shire Council area.**
4. **THAT a selection committee consisting of the Mayor, Deputy Mayor, General Manager and Director Environment and Planning be established to consider the Expressions of Interest received and provide recommendations to Council on the preferred appointees no later than the Council meeting of 10 June 2009.**
5. **THAT the Information Session scheduled for Wednesday, 27 May 2009 on planning reforms discuss the option of nominating a Councillor as one of the local panel members.**
6. **THAT Council formulate suitable criteria for applicants to meet for selection.**
7. **THAT Council raise issue in relation to the costing impost of the Joint Regional Planning Panel on Council's budget.**

**PASSED**

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

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

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**SUPPLEMENTARY MOTION RE COUNCIL POLICY – SELECTION CRITERIA FOR COMMUNITY REPRESENTATIVES**

Councillor J G Arkwright indicated that she would move a supplementary motion in relation to Council adopting a policy for selection criteria for applicants being appointed as community representatives on Council's Committees.

**OC 67/09**

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

**THAT** as Policy Council require that a selection criteria be applied for all applicants being appointed as community representatives on Council's Committees.

**PASSED**

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**o-EP9 Operation of Mobile Food Vendors within the Shire**

REF: EHM

5406/9

Reporting on management options of mobile food vendors in the Shire. Further to Council's resolution of 25 March 2009, the Business Chambers have been consulted on this matter.

Clr K Halstead returned to the Chamber at this juncture.

**OC 68/09**

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

**THAT this matter be deferred until such time as Council has an Information Session to determine its position.**

**PASSED**

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

<b>Councillor</b>	<b>For</b>	<b>Against</b>
Clr T D Gair	X	
Clr K Halstead	X	
Clr J G Arkwright	X	
Clr J R Clark	X	
Clr G McLaughlin	X	
Clr J Mauger	X	
Clr D Stranger	X	
Clr P B Tuddenham	A	
Clr L A C Whipper		X

**o-EP10 Nominations for community representative for Access Committee**

REF: MSP

1828/3

Reporting on nominations for community representative for the Wingecarribee Access Committee.

**OC 69/09**

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

1. **THAT** the following community members be appointed to the Wingecarribee Access Committee:

**Community Representatives:**

- (i) **Jill Chauncy**
- (ii) **Rod Irwin**
- (iii) **Dympna Irwin**
- (iv) **Pamela Cormick**
- (v) **Bruce Mumford**
- (vi) **Robyn Sercombe**
- (vii) **Russell Leith**

2. **THAT** the following organisations/persons be appointed to the Wingecarribee Access Committee:

**Organisation Representatives:**

- (i) **Disability Services Australia (TBA)**
- (ii) **Essential Personnel representing people who have Intellectual Disability (Amanda Carkagis)**
- (iii) **Vision Australia (Paul Hartley)**
- (iv) **Challenge Southern Highlands (Tony McElhinney)**
- (v) **Macarthur Disability Services (Rob Moran)**
- (vi) **Spinal Cord Injuries Australia (Linda Sabato and Alex Trail)**
- (vii) **Tadpoles Stroke Support Group (Sonja Worthington)**
- (viii) **Tadpoles Stroke Support Group (Olwen Lammond)**

**PASSED**

**v-EP2 Section 96 Modification 68 Station Street, Bowral**

REF: DCM

LUA07/1173

Reporting on Section 96 modification at 68 Station Street, Bowral.

It was noted that this matter had been incorrectly listed as a Visitor Item on the Agenda (refer page No 6).

Clr J G Arkwright left the Chamber during the debate on this matter.

**OC 70/09**

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

**THAT the proposed modification to LUA 07/1173 for a retail development at Lot 2 DP 1031671, 68 Bowral Street, Bowral be approved and a modified consent issued, to the satisfaction of the Director Environment and Planning.**

**PASSED**

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

<b>Councillor</b>	<b>For</b>	<b>Against</b>
Clr T D Gair	X	
Clr K Halstead	X	
Clr J G Arkwright	A	
Clr J R Clark	X	
Clr G McLaughlin	X	
Clr J Mauger	X	
Clr D Stranger	X	
Clr P B Tuddenham	A	
Clr L A C Whipper	X	



**CORPORATE SERVICES DIVISION**

<b>o-CS1</b>	<b>GST Compliance Certificate</b>
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REF:	DCS	2140/9
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Submitting a request by the Department of Local Government for Council to provide a GST Compliance Certificate.

Clr J G Arkwright returned to the Chamber at this juncture

**OC 71/09**

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

**THAT the Mayor, Clr J G Arkwright (Chair of Finance Committee), General Manager and Responsible Accounting Officer sign the certificate as requested.**

**PASSED**

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**CHAIRPERSON**

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At this juncture, the time being 5.30 pm, the Mayor, Clr T D Gair, remained in the Chair to conduct the remainder of Council Business.

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**QUESTIONS FROM THE PUBLIC**

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1. LEISURE CENTRE

LUA08/0042

Mr Peter Cunningham advised that he had received a letter from Council advising him that a consultant would be addressing Council regarding the Leisure Centre and that one (1) day was available for interested persons to study a fifty (50) page document on Council premises only. He asked what steps would Council take in the future to ensure that it becomes standard procedure to provide relevant details and references in any printed matter.

The Mayor Clr T D Gair took this question on notice but advised that the final report from the consultant was only received by Council since the previous Council meeting. The Mayor advised that the media release attempted to allay the fears that Council was not moving ahead with the Leisure Centre.

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2. INSPECTION OF COUNCIL DOCUMENTS

LUA08/0042

Mr Peter Cunningham asked why Council had made available for inspection a fifty (50) page document for one (1) day only (Monday), and then it was only available to be viewed at Council's premises?

The Mayor Clr T D Gair advised that he would take this matter on notice and he considered that this type of document should be available for a longer period of time.

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3. REVIEW OF COUNCIL DOCUMENTATION OFF COUNCIL'S PREMISES

504/2

Mr Peter Cunningham asked what steps does Council have in place to provide relevant documents or plans and/or parts thereof, upon request, to people who seek to review documentation off Council's premises?

The Mayor Clr T D Gair advised that most Council documentation is available for review on Council's website. However, restricted material such as maps or plans that cannot leave Council's premises can be viewed in-house. All material that is part of Council's workings cannot be removed but most material is available for viewing by the general public.

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4. EXTERNAL WORK CONTRACTS

6311

Mr Peter Smyth asked what Council's policy is, in the current economic climate, on granting external work/contracts when possible to local people, and is Council going to try and firm up the amount of work given to local businesses and trades as a matter of priority?

The General Manager responded that ICAC has advised Council that attempts to put a local content set of parameters into Council's process is fraught with danger, so this issue needs to be dealt with very carefully. The General Manager advised that the Director Corporate Services has been obtaining advice on how the matter should be dealt with, taking into consideration such things as cost factors, cost penalties and equity issues, which can swiftly lead to corrupt practises if the issue is not handled properly, and that is what ICAC is very concerned about.

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5. RESPONSE TO QUESTIONS RAISED BY THE PUBLIC

504/2

Mr Peter Smyth referred to his question raised at the Council meeting on 25 March 2009 in relation to the timeframe for replies in writing to questions asked in the gallery, and asked when he would receive a reply to his questions?

The Mayor Clr T D Gair advised that the timeframe for reply to correspondence is two (2) working weeks and that is the timeframe that is expected. However, he would take the question on notice.

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6. HENLEY BRAE RETIREMENT VILLAGE

LUA03/1353

Mr Ken Booth asked why Council is disadvantaging pensioners residing at 'Henley Brae' by not allowing rebates on water and sewerage availability charges at an approximate net cost to Council of \$3,780.00 after the State Government's 55% rebate? Mr Booth stated that he believed residents are entitled to the rebate under s577(2) of the Local Government Act.

The Mayor Clr T D Gair advised that the matter has already been dealt with and that Mr Booth would have received a response from Council last year. The Mayor advised that Council had written to the State Government advising of the concerns of the residents of 'Henley Brae' and that the State Government would not alter its position on the rebate to Council. However, the Mayor advised that the issue will be taken on notice and Councillors will be informed through the Weekly Circular and Mr Booth will receive a written reply to his question.

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## MINUTES OF THE ORDINARY MEETING OF COUNCIL

held in the Council Chamber, Civic Centre, Elizabeth Street, Moss Vale  
on Wednesday, 13 May 2009

### REPORT OF DIRECTOR CORPORATE SERVICES

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#### CORPORATE SERVICES DIVISION (CONT)

<b>o-CS2</b>	<b>Proposed Road Closure, Part Kareela Road Penrose</b>
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REF:	PO
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PN1058100; PN1757410
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Reporting on a request by the registered proprietor of the Penrose Timber Mill to close and purchase part of a road, off Kareela Road Penrose.

**MN 155/09**

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

1. **THAT** Council endorse the application of Penrose Pine Products Pty Limited to close and purchase that section of road within Deposited Plan 1088891, off Kareela Road Penrose.
2. **THAT** the applicant bears all costs of the road closure and purchase.
3. **THAT** a formal valuation be carried out at the cost of the applicant to determine the purchase price to be paid for the portion of road to be closed.
4. **THAT** the General Manager and Mayor be delegated authority to execute any Plan, Deed of Agreement or Transfer document under the Common Seal of the Council to give effect to resolution 1 above.

**PASSED**

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## MINUTES OF THE ORDINARY MEETING OF COUNCIL

held in the Council Chamber, Civic Centre, Elizabeth Street, Moss Vale  
on Wednesday, 13 May 2009

### REPORT OF DIRECTOR CORPORATE SERVICES

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<b>o-CS3</b>	<b>Review Of Licence Fee, Highlands Golf Club, Mittagong</b>
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REF:	PO
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PN676500; 6612/3.1
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Reporting on a review of Highlands Golf Club annual licence fee.

**MN 156/09**

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

1. **THAT** the Licence Fee payable by the Highlands Golf Club Limited continue to be calculated using the formula set out in the Licence Agreement made 4 August 1999.
2. **THAT** an appraisal of the financial status of the Highlands Golf Club be undertaken at the expiration of two (2) years from the date of this resolution **AND THAT** with the irrevocable consent of the Highlands Golf Club Limited, a further review of the Licence Fee be undertaken by Council following such appraisal.

**PASSED**

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<b>o-CS4 Easement for Electricity to Reservoir, Mittagong</b>
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REF: PO, WE
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PN1734980
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Reporting on the necessity for an easement for electricity to be granted over private land owned at Lot 5 Deposited Plan 634333 Mittagong, to meet the requirements of Council's Water & Sewer Division in operating the Mittagong Reservoir.

**MN 157/09**

**MOTION** moved by Cllr K Halstead and seconded by Cllr D Stranger:

1. **THAT Council endorse the creation of an easement for electricity transmission over Lot 5 Deposited Plan 634333 at Mittagong for the purpose of supplying power to the Mittagong Reservoir.**
2. **THAT all legal and ancillary costs associated with the creation of an easement for electricity transmission over Lot 5 Deposited Plan 634333 at Mittagong be paid by Council.**
3. **THAT the General Manager and Mayor be delegated authority to execute the requisite plan and Real Property Dealing necessary to create the easement for electricity transmission over Lot 5 Deposited Plan 634333.**

**PASSED**

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## MINUTES OF THE ORDINARY MEETING OF COUNCIL

held in the Council Chamber, Civic Centre, Elizabeth Street, Moss Vale  
on Wednesday, 13 May 2009

### REPORT OF DIRECTOR CORPORATE SERVICES

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<b>o-CS5</b>	<b>2009-2012 Management Plan and Budget</b>
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REF:	FSM2	2120/09
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Submitting the 2009-2012 Draft Management Plan/Budget and Revenue Policy for endorsement as a draft for public exhibition.

Council's Acting Director Corporate Services, Mr Doug Neville, addressed Council on this matter.

**MN 158/09**

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

1. **THAT the Draft 2009-2012 Management Plan/Budget, Revenue Policy and Fees and Charges be endorsed and placed on public exhibition from Monday, 18 May to Monday, 15 June 2009.**
2. **THAT the Draft 2009-2012 Management Plan/Budget and Revenue Policy be considered for adoption by Council at the Ordinary Council meeting on Wednesday, 24 June 2009.**
3. **THAT Council confirm its intention to source external loan funds of \$4,500,000 for inclusion in the 2009/10 Budget being \$4,000,000 for sewer fund and \$500,000 for enclosure of the transfer station at the Resource Recovery Centre.**
4. **THAT Council reserves its right to amend the Draft 2009-2012 Management Plan/Budget, Revenue Policy and Fees and Charges following the public exhibition period.**

**PASSED**

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<b>o-CS6      Access to Information Policy</b>
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REF:            RMC, MAS	1421/1, 201/2.1, 1420/16
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Submitting a report seeking Council's adoption of the Draft Access to Information Policy.

***MN 159/09***

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

***THAT*** the Draft Access to Information Policy, being Attachment 1 to the report, be adopted.

***PASSED***

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<b>o-CS7      Committee Appointments &amp; Resignations</b>
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REF:      AOL
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6530/1.1, 6549/1.1
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Reporting on Management Committee Appointments and Resignations.

**MN 160/09**

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

1.      **THAT** the resignation of Sarah Gray from the Bong Bong Common Management Committee be accepted with regret **AND THAT** she be notified of Council's determination.
  
2.      **THAT** the resignations of Susan Lund and Henrik Lund from the Penrose Hall & Recreation Reserve Management Committee be accepted with regret **AND THAT** they be notified of Council's determination.
  
3.      **THAT** Jill Blackman be appointed to the Penrose Hall & Recreation Reserve Management Committee.
  
4.      **THAT** the Bong Bong Common Management Committee and Penrose Hall & Recreation Reserve Management Committee be notified of Council's determination.

**PASSED**

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## MINUTES OF THE ORDINARY MEETING OF COUNCIL

held in the Council Chamber, Civic Centre, Elizabeth Street, Moss Vale  
on Wednesday, 13 May 2009

### REPORT OF DIRECTOR CORPORATE SERVICES

<b>o-CS8</b>	<b>Request To Lease Council Land Part Lot 10 Deposited Plan 701530 Oxley Hill Road, Bowral</b>
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REF:	PO, SPM
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7120/2; 7922; PN11132600
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Reporting on a further request from Ace Internet Services Pty Limited that Council considers the lease of a small portion of Council land being part of Lot 10 Deposited Plan 701530 Oxley Hill Road Bowral.

#### **MN 161/09**

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

1. **THAT** Council offers a lease to Ace Internet Service Pty Limited for the lease of Part Lot 10 Deposited Plan 701530 Oxley Hill Road, Bowral, subject to:
  - (i) development consent being granted; and
  - (ii) adoption by Council of a Plan of Management which expressly authorises the lease to AIS Internet Services Pty Ltd for a period not exceeding five (5) years.
2. **THAT** subject to 1 above, the lease be for a period of five (5) years with rental commencing at \$10,500 per annum with an annual increase at CPI or 5% whichever is the greater.
3. **THAT** all Council's reasonable legal costs be paid by Ace Internet Service Pty Limited.
4. **THAT** the General Manager and Mayor be delegated authority to execute the Lease under the Common Seal of the Council.
5. **THAT** on the fourth (4th) anniversary of the Lease Council commence the process to call for Expressions of Interest in operating the telecommunications tower from the site.
6. **THAT** following the closure of Expressions of Interest in operating the telecommunications tower from Lot 10 Deposited Plan 701530 this matter be referred to Council for determination.
7. **THAT** the Development Application be assessed in consultation with Council's Natural Resource Manager to ensure that the tower, access to the tower or any future development will not impact upon the endangered ecological community of vegetation on the land.
8. **THAT** Lot 10 DP 701530 and Lot 1 DP 5839292 be considered in the Draft Local Environmental Plan to be rezoned to Environmental Conservation and designated as a Bushland reserve as per Council Environment & Sustainability Minutes of 8 April 2009.
9. **THAT** upon lease of the land and any further leases of the subject land, 25% of all rentals from the site be set aside annually to contribute towards the restoration and maintenance of this endangered community of vegetation and bushland reserve.
10. **THAT** the matter be expedited.

**PASSED**



## MINUTES OF THE ORDINARY MEETING OF COUNCIL

held in the Council Chamber, Civic Centre, Elizabeth Street, Moss Vale  
on Wednesday, 13 May 2009

### REPORT OF DIRECTOR TECHNICAL SERVICES

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#### TECHNICAL SERVICES DIVISION

<b>o-TS1</b>	<b>Mittagong Recreation Centre</b>
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REF:	PPM
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7184
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The purpose of this report is for Council to consider a proposal for the use of the Gymnastics section of the Mittagong Recreation Centre.

**Interest:** Clr L A C Whipper declared a non-pecuniary interest in this matter as he works with the mother of one of the proprietors of the Splitz Academy which is requesting a lease of the facility. He remained in the chamber, took part in the debate and voted thereon.

**MN 162/09**

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

1. **THAT the General Manager's approval of the proposal from Splitz Academy of a discounted rate of \$300 per week for approximately fourteen (14) hours per week (being a discount of 30% on Council's approved fee) be approved.**
2. **THAT Council re-negotiates the fees and charges for the hire of the gymnasium (including all equipment) in September 2009 with Splitz Academy.**

**PASSED**

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## MINUTES OF THE ORDINARY MEETING OF COUNCIL

held in the Council Chamber, Civic Centre, Elizabeth Street, Moss Vale  
on Wednesday, 13 May 2009

### REPORT OF THE GENERAL MANAGER

#### COUNCIL MATTERS

#### GENERAL MANAGER'S REPORTS

#### c-GM1 Organisational Structure Review

REF: GM, HRM

800/0.1

Reporting on an Organisational Structure Review.

The General Manager, Mr Mike Hyde, addressed Council on this matter.

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

THAT consideration of the Organisational Structure Review be deferred until the Ordinary Meeting of Council to be held on Wednesday, 8 July 2009.

Clr K Halstead indicated that he would withdraw this motion and vote in favour of the following motion.

**MN 163/09**

**MOTION** moved by Clr K Halstead and seconded by Clr D Stranger:

**THAT** consideration of the Organisational Structure Review be deferred until the Ordinary Meeting of Council to be held on Wednesday, 8 July 2009 with the exception of the following Recommendations which were adopted:

- (i) **THAT** Council approves the appointment of two (2) full time pool facility supervisors, one currently funded from existing pool budget and the second to be funded from Infrastructure Recovery Strategy (IRS) building maintenance.
- (ii) **THAT** Council approve the appointment of an administration officer to provide support for key staff delivering IRS projects in the Parks & Property branch and provide additional resources to allow the current administration officer to assist with Saleyard business support.
- (iii) **THAT** Council approves the appointment of two (2) additional plant operators in the Parks operational area funded from savings in overtime and IRS.
- (iv) **THAT** Council approves the appointment of a full time plumber to manage council's plumbing infrastructure and urgent works.

**PASSED**



**MINUTES OF THE ORDINARY MEETING OF COUNCIL**

held in the Council Chamber, Civic Centre, Elizabeth Street, Moss Vale  
on Wednesday, 13 May 2009

**REPORT OF THE GENERAL MANAGER**

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**c-GM2 Weekly Circulars**

REF: GM

100/8, 203/2009

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

***MN 164/09***

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

***THAT the information relating to Local Government Weekly Circulars Nos 15/09 and 16/09 and Council Weekly Circulars Nos 15/09 and 16/09 be noted.***

***PASSED***

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**COMMITTEE REPORTS TABLED**

<b>c-CR1</b>	<b>Management and Advisory Committee Reports</b>
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REF: DCS	107/1
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Submitting minutes of five (5) Committee meetings that will be tabled for information.

**MN 165/09**

**MOTION** moved by Clr J Mauger and seconded by Clr J G Arkwright:

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

1. ***Bong Bong Common Management Committee held on Tuesday 24 February 2009.***
2. ***Mittagong Community Centre Management Committee held on Thursday 9 April 2009.***
3. ***Moss Vale Senior Citizens and Community Centre Management Committee held on Monday 20 April 2009.***
4. ***Penrose Hall and Recreation Reserve Committee held on Monday 16 February 2009.***
5. ***Robertson Community Centre Management Committee held on Wednesday 11 February 2009.***

**PASSED**

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**COMMITTEE REPORTS ATTACHED**

<b>c-CR3</b>	<b>Minutes of the Traffic Committee</b>
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REF:	TE	107/6
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Submitting minutes of the Traffic Committee meeting held on Monday, 20 April 2009.

**MN 166/09**

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

**THAT** the recommendations as detailed in the minutes of the Traffic Committee meeting held on Monday, 20 April 2009 be adopted with the exception of Item 5 – TC41/09 Traffic Safety on Range Road, Mittagong.

**PASSED**

- 
1. ITEM 5, TC41/09 TRAFFIC SAFETY ON RANGE ROAD, MITTAGONG  
7411, RD3189

Clr L A C Whipper referred to Item 5 – Traffic Safety on Range Road, Mittagong, particularly in relation to the widening and straightening of the road, and asked for some clarification on the impact this would have on the very significant eucalypts. Clr Whipper also asked if there would be consultation with the Mittagong community in relation to this issue.

The Director Technical Services advised that the proposals currently being looked at by Council do impact on the significant trees and there will be consultation in this regard.

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**MN 167/09**

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

1. **THAT** the pavement of Range Road, Mittagong be resealed through the curve west of Webb Street and including the Webb Street junction as an interim safety measure;
2. **THAT** the option to widen and straighten Range Road, Mittagong near Webb Street is preferred to the two roundabout options;
3. **THAT** a detailed plan and estimate be prepared and a report submitted to Council regarding the expected shortfall between the funding offered by the NSW Black Spot Consultative Panel and the final estimated cost;
4. **THAT** Messrs Boatwright and Woodhouse be advised of the outcome.

**PASSED**

## GENERAL BUSINESS

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1. SUBDIVISION AT 132A BOWRAL ROAD, BOWRAL LUA07/1284

Clr K Halstead asked about the outcome of this matter, which had been raised at the Council Meeting on Wednesday, 22 April 2009. Clr Halstead referred particularly to the roots of trees which had been carved off, noting that the trench has now been covered. He also asked about the differences in the first consent, the amended consent and the construction certificate in terms of what was going to happen at the property.

The Director Environment & Planning advised that, as far as he is aware, the work is proceeding in accordance with the consent. He advised that there had been modifications made to the original design in terms of the location of the trench or the drainage easement and the applicant had been requested to move the work away from the trees.

The Mayor Clr T D Gair advised that it was his understanding that the problem arose as the plans were read incorrectly on notification and that the original easement was taken to be drainage whereas the dotted line on the plan was not drainage but was an easement for power, gas, etc. When the second plan came before Council the easement came over closer on the other side of the driveway and that is where the problem arose.

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2. SHEEPWASH ROAD, GLENQUARRY RD1007

Clr K Halstead asked if an inspection could be undertaken of Sheepwash Road at Glenquarry, particularly on the approaches to either side of the bridge over the Glenquarry cut. Clr Halstead advised that there are deep depressions each side which require some rectification work, although he did note that this was an RTA road.

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3. CHALLENGE SOUTHERN HIGHLANDS INC 1855/28

Clr K Halstead asked if Council purchases any nursery/garden products from Challenge Southern Highlands Inc, as their charges are very competitive, or does Council purchase all its nursery items from outside the Shire?

The General Manager advised that Council has been approached on several occasions by Challenge Southern Highlands to make sure Council is aware of the products they stock and the services they supply.

The Director Technical Services advised that he will investigate this matter and reply via the Weekly Circular.

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4. PLAN OF MANAGEMENT BERRIMA RESERVE

7124, 6526/15.1

Clr D Stranger referred to Item No 4 in Weekly Circular 18/09 and asked if a Media Release could be issued with an up-date in relation to this matter.

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5. VANDALISM AND LAWLESSNESS IN MOSS VALE

1440/2

Clr D Stranger asked if Council could write a letter of encouragement to the local Police department and draw their attention to the lawlessness that is occurring in Moss Vale and requesting that the Police increase their patrols in an endeavour to stop the incidents from occurring.

The Mayor Clr T D Gair advised that he was in agreement with Clr Stranger on this matter. He advised that there had been a meeting on Monday, 11 May 2009 with the Police in relation to the issue of racial intimidation of local students in an endeavour to identify the people responsible. He indicated that gangs from outside the Shire were targeting the local towns and that it had become a very serious issue. The Mayor indicated that a letter of support to the Regional Commander of Police will be written.

The General Manager advised that the Police officers with whom Council had recently met had taken on board the complaints of the local businesses and the local student issue, and that the Police have modified their patrols to ensure that the targeted areas get some priority during the evening period. However, the General Manager noted that there was only one (1) patrol car with two (2) officers to handle a very large area, but they are focussing on this area because of the concerns raised.

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6. LEAVE OF ABSENCE

PERS

Clr D Stranger sought leave of absence for the Ordinary Council meeting on Wednesday, 10 June 2009.

***MN 168/09***

***MOTION moved Clr J G Arkwright and seconded by Clr J Mauger:***

***THAT leave of absence be granted to Clr D Stranger for the Ordinary Council meeting to be held on Wednesday, 10 June 2009.***

***PASSED***

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7. BUILDING SITES WHICH MAY BE EFFECTED BY SUBSIDENCE OR LANDSLIP 1492, 5453/2

Clr J Mauger asked what responsibility Council has to inform owners or prospective purchasers of the possibility that land is subject to either subsidence or landslip and is it included on 149 Certificates?

The Director Environment & Planning advised that he will provide a detailed response in the Weekly Circular.

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8. DAMAGE TO ENVIRONMENTALLY ENDANGERED TREES AND HABITAT LUA07/1284

Clr J Mauger asked, in relation to the damage to environmentally endangered trees and habitat, what investigations had been carried out in relation to the development at 132A Bowral Road, Bowral.

The Director Environment & Planning advised that he will provide a detailed response in the Weekly Circular.

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9. CONNECT HEARING 600/8

Clr J G Arkwright reported that she had represented the Mayor at the opening of the Connect Hearing service on Tuesday, 12 May 2009. She noted that this is the first time full-time hearing service available, and that it had been funded with the assistance of the Federal Government.

The Mayor Clr T D Gair thanked Clr Arkwright for attending the opening ceremony.

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10. HEALTH ACTION SOUTHERN HIGHLANDS 1812, 1805

Clr J G Arkwright asked if Councillors are aware of the community group called Health Action Southern Highlands or HASH which is researching anything to do with medicos in the Southern Highlands. Clr Arkwright noted the downgrading of the Bowral Hospital which she considered was of great concern. She advised that both she and Clr G McLaughlin had attended meetings, together with the Member for Southern Highlands, Ms Pru Goward in relation to the matter.

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11. MT GIBRALTAR RESERVE 6527/15

Clr G McLaughlin referred to a Special Meeting of Council on Wednesday, 16 April 2008, at which Council determined to consolidate all the portions of land making up the Mt Gibraltar Reserve under one title in order to preserve the integrity of the Reserve in perpetuity, and asked what progress has been made to date in consolidation of the portions under one title. Clr McLaughlin requested a reply through in the Weekly Circular.

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**MATTER OF URGENCY**

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12. UNDERCOVER PARKING AT THE MARKETPLACE, MITTAGONG PN1750570

Clr G McLaughlin referred to the concerns with regard to the structural integrity of the carpark at the Marketplace in Mittagong. Clr McLaughlin asked if Council can request Woolworths to cordon off part of the carpark, as the safety of the public is of utmost importance.

Clr K Halstead stated that if Woolworths does not take appropriate action to rectify the structural problems with the carpark at the Marketplace, Mittagong, Council endorse the proposed action of the Director Environment & Planning to serve an "Intention to Issue an Order" under the Local Government Act/Regulations.

**MN 169/09**

**MOTION** moved by Clr K Halstead and seconded by Clr G McLaughlin:

**THAT the matter of the undercover parking at the Marketplace, Mittagong, be treated as a matter of urgency.**

**PASSED**

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The Mayor ruled that this is a matter of urgency.

**MN 170/09**

**MOTION** moved by Clr K Halstead and seconded by Clr G McLaughlin:

1. **THAT as a matter of urgency Council's legal adviser write to Woolworths expressing Council's concern in relation to the structural safety of the carpark at the Marketplace, Mittagong.**
2. **THAT Council endorse the proposed action of the Director of Environment & Planning to notify Woolworths that it is Council's intention to serve an "Intention to Issue an Order" under the Local Government Act/Regulations.**

**PASSED**

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13. SOUTHERN HIGHLANDS REGIONAL SHOOTING COMPLEX GALLERY

5606, 1460/10, 100/4

Clr J R Clark advised that the Hill Top Residents Action Group have asked about some recent roadworks on Wattle Ridge Road, Hill Top and wanted to know whether it is routine road maintenance or whether it is roadworks required by the Department of Planning for the shooting complex. Clr Clark also asked if Council could supply to the Hill Top Residents Action Group copies of letters sent by Council to the Department of Planning arising from his Notice of Motion at the Council Meeting on Wednesday, 8 April 2009.

The Director Technical Services advised that it was his understanding that it was routine road maintenance but he would investigate this matter further and reply via the Weekly Circular.

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14. TREE REMOVAL, BLUE GUMS ROAD SUBDIVISION, BUNDANOON

7813, RD1809

Clr J R Clark asked if Council can clarify with the developer who undertook tree removal in Blue Gums Road in contravention of an agreement reached by Council as to width and treatment of the road and associated drainage. Clr Clark referred to an adjoining development and asked if Council can secure an agreement with the developer to modify the roadworks that they intend to do.

The Director Environment & Planning advised that Council will certainly attempt to negotiate with the developer but if they have a consent they still have the right to debate that consent.

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15. UNRULY BEHAVIOUR IN MOSS VALE

1440/2

Clr L A C Whipper advised that he had recently been speaking with the Youth Liaison Officer from Goulburn and that she advised him that the youth problem in the Southern Highlands is greater than in Goulburn and that if that is correct, then it is a very disturbing issue. Clr Whipper asked that, as well as writing to the Regional Commander of Police, if a meeting can be arranged with the Police to discuss Council's concerns in relation to this issue.

The Mayor Clr T D Gair advised that Council will write to the Regional Commander of Police and arrange a meeting at the earliest available opportunity.

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16. DAMAGE TO ENVIRONMENTALLY ENDANGERED TREES AND HABITAT

LUA07/1284

Clr L A C Whipper referred to the damage to the endangered ecological community previously discussed and asked whether there was compliance or not as the issue appears to be that as an endangered community there should have been certain conditions that automatically follow. Clr Whipper noted that although the tree roots were destroyed and are now covered, in twelve (12) to eighteen (18) months time the trees may become a danger or die, and asked for an update to be included in the Weekly Circular.

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**MATTER OF URGENCY**

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17. SCOTTISH ARMS TAVERN, BOWRAL

LUA09/0126

Clr Whipper requested that the matter of the Scottish Arms Tavern, Bowral, be treated as a matter of urgency as it was discussed at today's Legal Committee.

At this juncture Clr K Halstead left the meeting.

**Interest:** The Mayor indicated that Clr K Halstead has a non-pecuniary interest in this matter as Clr Halstead had previously undertaken the Environmental Impact Statement on behalf of the owner. He left the chamber, took no part in the debate and refrained from voting thereon.

**MN 171/09**

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

**THAT** as there is a Court hearing pending in relation to the Scottish Arms Tavern this matter be considered as a matter of urgency.

**PASSED**

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The Mayor ruled that this is a matter of urgency.

**MN 172/09**

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

**THAT** as a matter of urgency Council authorise its legal representative to make representations to the Land & Environment Court seeking a Social Impact Statement and, subject to a positive outcome from that Statement, an initial trial period of twelve (12) months be recommended for the Scottish Arms to trade as a hotel.

**PASSED**

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

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

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

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#### **EXTENSION OF TIME**

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***MN 173/09***

***MOTION moved by Clr T D Gair 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 7.50 pm.***

***PASSED***

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## MINUTES OF THE ORDINARY MEETING OF COUNCIL

held in the Council Chamber, Civic Centre, Elizabeth Street, Moss Vale  
on Wednesday, 13 May 2009

### CLOSED COUNCIL

## CORPORATE SERVICES DIVISION

### CS1 Closed Council

REF. DCS

107/9

To consider moving into Closed Council.

At this juncture, the time being 7.34 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.

The Mayor Clr T D Gair noted the Supplementary Agenda Item for Closed Council c-GM1 Group Purchase Tender for Supply of Electricity was placed in Closed Council as it deals with the expiry of Council's contract for electricity supplies and contains information that would, if disclosed, confer a commercial advantage on a person with whom the Council is conducting or proposes to conduct business under clause 10A(2)(c) of the Local Government Act, 1993.

Mr Mac Cott objected to the Item c-CS2 Sale of Land for Overdue Rates being heard in Closed Council as it was his opinion that any sale of land by the Council should be clearly spelt out for the public benefit.

The General Manager advised that there had been total transparency with the sales for overdue rates, however, Council is negotiating with one or two prospective purchasers of properties that had not sold at the recent auction.

Clr K Halstead also objected to Item c-CS2 Sale of Land for Overdue Rates being heard in Closed Council as he could not see from the report in front of him why there would be any reason for concern if the matter was dealt with in public unless there was some other issue to be dealt with that would be detrimental to Council does.

The General Manager advised that it was a "commercial in confidence" issue aspect and that any offers received by Council would be in the public domain which could affect any future sale should the first offer received not be accepted. At the end of the day, it is Council's aim to try and get the best return that it can for the properties. However, it would be for Council's decision.

The Mayor Clr T D Gair advised that the reason the matter was to be dealt with in Closed Council was that there could be a breach of confidence in relation to the amounts of money that could be forthcoming to finalise a deal.

**MN 174/09**

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

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

**c-CS1 BRIEFING ON CURRENT STATUS OF LEGAL MATTER WSC V LEHMAN BROTHERS AUSTRALIA 107/9, 2104**

**Relevant Legal Provisions**

***This report is placed in Closed Committee under Clause 10A2(g) of the Local Government Act, as it contains information that references advice that may be subject of legal professional privilege.***

**Brief Description**

***Considering an update on the current status of legal matters. WSC V Lehman Brothers Australia.***

**Public Interest**

***It would on balance be contrary to the public interest to consider this information in Open Council because it contains information that may be subject of legal professional privilege.***

**c-CS2 SALE OF LAND FOR OVERDUE RATES – SECTION 713 LOCAL GOVERNMENT ACT, 1993 2220/2009**

**Relevant Legal Provisions**

***This report is placed in Closed Committee under Clause 10A2(g) of the Local Government Act, as it contains information that references advice that may be subject of legal professional privilege.***

**Brief Description**

***Report to appraise Council of the current situation in relation to the sale of land for overdue rates (Section 713).***

**Public Interest**

***It would on balance be contrary to the public interest to consider this information that would, if disclosed, confer a commercial advantage on a person with whom the Council is conducting (or proposes to conduct) business.***

**c-GM1 SUPPLEMENTARY REPORT - GROUP PURCHASE TENDER FOR SUPPLY OF ELECTRICITY 7799/17.1**

**Relevant Legal Provision**

***This report is placed in Closed Committee as it contains information that would, if disclosed, confer a commercial advantage on a person with whom the council is conducting (or proposes to conduct) business under Clause 10A(2)(c) of the Local Government Act.***

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## MINUTES OF THE ORDINARY MEETING OF COUNCIL

held in the Council Chamber, Civic Centre, Elizabeth Street, Moss Vale  
on Wednesday, 13 May 2009

### CLOSED COUNCIL

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#### **Brief Description**

***Reporting on the expiry of Council's contract for Electricity supplies.***

#### **Public Interest**

***It would be contrary to the public interest to consider this information in Open Council because it contains information which could confer a commercial advantage.***

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

**PASSED**

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## MINUTES OF THE ORDINARY MEETING OF COUNCIL

held in the Council Chamber, Civic Centre, Elizabeth Street, Moss Vale  
on Wednesday, 13 May 2009

### CLOSED COUNCIL

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### CLOSED COUNCIL

<b>c-CS1</b>	<b>Update on Lehman Brothers Australia</b>
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REF:	DCS
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107/9, 2104
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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.

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## MINUTES OF THE ORDINARY MEETING OF COUNCIL

held in the Council Chamber, Civic Centre, Elizabeth Street, Moss Vale  
on Wednesday, 13 May 2009

**CLOSED COUNCIL**

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### **c-GM1 Supplementary Report - Group Purchase Tender for Supply Of Electricity**

REF: WSM

7799/17.1

Reporting on the expiry of Council's contract for Electricity supplies.

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

1. **THAT Council endorse the actions of the General Manager to issue a Letter of Intent to Trans Tasman Energy Group regarding the Supply of Electricity for Buildings and Facilities.**
  2. **THAT subject to confirmation of relevant contractual provisions, Council enter into a unit rates contract with TRUenergy for the provision of electricity to buildings and facilities, and with COzero for the provision of renewable greenpower electricity to buildings and facilities, for an eighteen (18) month period commencing 1 July 2009.**
  3. **THAT the contracts be executed under the Common Seal of Council.**
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## MINUTES OF THE ORDINARY MEETING OF COUNCIL

held in the Council Chamber, Civic Centre, Elizabeth Street, Moss Vale  
on Wednesday, 13 May 2009

### CLOSED COUNCIL

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<b>c-CS2</b>	<b>Sale of Land for Overdue Rates – Section 713 Local Government Act, 1993</b>
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REF.	FSM	2220/2009
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This report is to seek Council approval for the sale of a property by private treaty for unpaid rates.

Council's Financial Services Manager, Doug Neville, addressed Council on this matter.

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

1. **THAT** the General Manager and Mayor be authorised to negotiate further private sales of land passed in at the land sale auction held by Council on 17 April 2009.
2. **THAT** in actioning recommendation 1 above, the Mayor and General Manager attempt to secure a fair and reasonable price for the sale of land wherever possible.
3. **THAT** Council request its Solicitor to advise one of the purchasers for overdue rates that a possessory title claim has been made in relation to the particular property as advised by the Acting Director Corporate Services.
4. **THAT** the General Manager and Mayor be delegated authority to execute Sale of Land Contracts under the Common Seal of the Council.

**PASSED**

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**MINUTES OF THE ORDINARY MEETING OF COUNCIL**

held in the Council Chamber, Civic Centre, Elizabeth Street, Moss Vale  
on Wednesday, 13 May 2009

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**OPEN COUNCIL**

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**MN 175/09**

107/10

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

**THAT** Council moves back into Open Council.

**PASSED**

No members of the public were present in the Chamber.

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**ADOPTION OF CLOSED COUNCIL**

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**MN 176/09**

107/9

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

**THAT** the recommendations of the Closed Council held on Wednesday, 13 May 2009 (Supplemental Report Item c-GM1 and Item c-CS2) be adopted.

**PASSED**

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**ADOPTION OF OPEN COUNCIL**

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**MN 177/09**

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, 13 May 2009 being OC 57/09 to OC 71/09, be adopted.

**PASSED**

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## MINUTES OF THE ORDINARY MEETING OF COUNCIL

held in the Council Chamber, Civic Centre, Elizabeth Street, Moss Vale  
on Wednesday, 13 May 2009

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THERE BEING NO FURTHER BUSINESS, THE MEETING CLOSED AT 7.56PM

In accordance with the provisions of Section 375(2) of the Local Government Act, these Minutes of the Ordinary Council Meeting held Wednesday, 13 May 2009 numbered M/N 151/09 to M/N 177/09, were signed by me hereunder at the Council Meeting held on Wednesday, 27 May 2009.

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CHAIRMAN

READ AND CONFIRMED THIS WEDNESDAY, 27 MAY 2009

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CHAIRMAN

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PUBLIC OFFICER