

MINUTES

of the Ordinary Meeting of Council

held remotely using audio visual link and is open to members of the
community via webcast

on

Wednesday 10 February 2021

The meeting commenced at 3.30pm

File No. 100/2021

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2. ACKNOWLEDGEMENT OF COUNTRY	
3. PRAYER	
4. APOLOGIES	
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5. ADOPTION OF MINUTES OF PREVIOUS MEETING	
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MINUTES OF THE ORDINARY MEETING OF WINGECARRIBBEE SHIRE COUNCIL HELD REMOTELY USING AUDIO VISUAL LINK AND OPEN TO MEMBERS OF THE COMMUNITY VIA WEBCAST ON WEDNESDAY 10 FEBRUARY 2021 COMMENCING AT 3.30PM

Present:

Mayor Cllr T D Gair
Deputy Mayor Cllr G J Andrews*
Cllr K J Halstead OAM*
Cllr G McLaughlin*
Cllr P W Nelson*
Cllr I M Scandrett*
Cllr G M Turland*
Cllr L A C Whipper*

In Attendance:

Acting General Manager	Mr Barry W Paull
Deputy General Manager Corporate Strategy and Development Services	Mr Mark Pepping
Acting Deputy General Manager Operations, Finance and Risk	Mr Richard Mooney
Group Manager Corporate and Community	Ms Danielle Lidgard
Group Manager Planning, Development and Regulatory Services	Mr Nicholas Wilton (in part)
Group Manager Capital Projects	Mr Ned Tripkovic (in part)
Chief Information Officer	Mr John Crawford
Coordinator Media and Communications	Mr David Sommers
Administration Officer	Ms Michelle Richardson

NOTE: Due to current government requirements around social distancing due to the COVID-19 pandemic, some Councillors and some staff attended the meeting remotely via zoom audio visual link. This is indicated by *. The Mayor and remaining staff were present in the Council Chambers for this meeting.

1. OPENING OF THE MEETING

The Mayor Cllr T D Gair opened the meeting and welcomed members of the public and the press.

2. ACKNOWLEDGEMENT OF COUNTRY

Cllr L A C Whipper acknowledged country:

"I would like to acknowledge the Traditional Custodians of this land and pay my respect to Elders both past and present. I would also like to extend that respect to all Aboriginal and Torres Strait Islanders present here today."

3. PRAYER

The meeting was led in civic prayer by the Mayor Clr T D Gair.

4. APOLOGY

There were no apologies at this Meeting.

PERS

5. CONFIRMATION OF MINUTES

MINUTES OF THE ORDINARY MEETING OF COUNCIL HELD ON WEDNESDAY 9 DECEMBER 2020

MN 1/21

MOTION moved by Deputy Mayor Clr G J Andrews and seconded by Clr L A C Whipper

THAT the minutes of the Ordinary Meeting of Council held on Wednesday 09 December 2020 MN 492/20 to MN 523/20 inclusive, copies of which were forwarded to Councillors, be adopted as a correct record of the proceedings of the meeting.

PASSED

6. DECLARATIONS OF INTEREST

101/3, 101/3.1

That where necessary any Councillor now disclose any interest and the reason for declaring such interest in the matters under consideration by Council at this Meeting and to complete the appropriate form to be handed up at the Meeting.

There were no declarations of interest made at this meeting.

7. MAYORAL MINUTES

7.1 2021 Australia Day Awards

Reference: 102, 167/2.1
Report Author: Mayor T D Gair
Authoriser: Group Manager Corporate and Community
Link to Community
Strategic Plan:

PURPOSE

The purpose of this Mayoral Minute is to congratulate the 2021 recipients of the Wingecarribee Shire Citizen and Young Citizen of the Year – Mrs Catherine Constable and Miss Charlotte Gillespie and the recipients of Australia Day Honours for Order of Australia Medals.

MN 2/21

MOTION moved by Mayor Clr T D Gair and seconded by Clr I M Scandrett

1. **THAT the local recipients of the Australia Day honours list be acknowledged as follows:**
 - a) **Ms Julie Gillick OAM**
 - b) **Dr Judith Lynch OAM**
 - c) **Mr Jay Allen OAM**
2. **THAT a letter of acknowledgement be sent to the recipients of the Wingecarribee Shire Citizen of the Year awards as follows:**
 - a) **Wingecarribee Shire Citizen of the Year: Mrs Catherine Constable**
 - b) **Wingecarribee Shire Young Citizen of the Year: Miss Charlotte Gillespie**

PASSED

8. PUBLIC FORUM

Item 17.1 Question with Notice 1/2021 - DA19/1650 Proposed Eco Tourist Facility

Aunty Marie Barbaric addressed Council on this item.

Item 18.1 Notice of Motion 1/2021 - DA 19/1650 Proposed Eco-Tourist Facility

Mr David McKinley addressed Council against the development.

Mr Darren Hogan addressed Council in support of the development.

9. VISITOR MATTERS

OPERATIONS

Nil

CORPORATE AND STRATEGY

9.1 Proposed Change of Use of an Approved Boarding House Development (nearing completion) to Serviced Apartments

Reference:	DA21/0513
Report Author:	Consultant Planner
Authoriser:	Manager Development Assessment
Applicant:	TGO Pty Ltd
Owner:	Toot Can Superannuation Services Pty Ltd
Link to Community Strategic Plan:	Provide a mixture of housing types that allow residents to meet their housing needs at different stages of their lives and support affordable living

PURPOSE

The purpose of this report is to present Development Application 21/0513 for the Council's consideration and recommends determination by REFUSAL of the application for the reasons specified in Attachment 1.

Mr Theodore Onisforou addressed Council on this item.

The Group Manager Planning, Development and Regulatory Services addressed Council on this item.

The Deputy General Manager Corporate Strategy and Development Services addressed Council on this item.

VOTING ON THE MOTION

Councillors are required to record their votes on this matter.

MOTION moved by Cllr I M Scandrett

THAT development application 21/0513 for a proposed Change of Use of an approved Boarding House development (nearing completion) to Serviced Apartments at Lot 2, DP 1140855, No 19 Funston Street, Bowral be APPROVED AND THAT the Acting General Manager be delegated to impose standard conditions of consent with the inclusion of a condition that the deficient eight car parking spaces be provided by way of vertical stacked parking.

THE MOTION LAPSED FOR WANT OF A SECONDER.

MOTION moved by Cllr G M Turland and seconded by Cllr I M Scandrett

- 1. THAT development application 21/0513 for a proposed Change of Use of an approved Boarding House development (nearing completion) to Serviced Apartments at Lot 2, DP 1140855, No 19 Funston Street, Bowral be APPROVED for two years AND THAT the Acting General Manager be delegated to impose standard conditions of consent*
- 2. THAT in the second year a further survey and consideration of conditions be*

conducted by the Local Traffic Committee to investigate any adverse parking that occurs in the street AND THAT Council staff report back to Council for consideration in the second year

3. THAT if there is adverse congestion in the street Council will instruct that the development be returned back to a boarding house as the past approval.

AMENDMENT moved by Cllr P W Nelson and seconded by Cllr G McLaughlin

THAT development application 21/0513 for a proposed Change of Use of an approved Boarding House development (nearing completion) to Serviced Apartments at Lot 2, DP 1140855, No 19 Funston Street, Bowral be DEFERRED AND THAT off-site car parking be evaluated on the impact the development may have on adjoining streets.

VOTING ON THE AMENDMENT

For the amendment: Deputy Mayor Cllr G J Andrews, Mayor Cllr T D Gair, Cllr K J Halstead OAM, Cllr G McLaughlin and Cllr P W Nelson

Against the amendment: Cllr I M Scandrett, Cllr G M Turland and Cllr L A C Whipper

THE AMENDMENT WAS PASSED AND BECAME THE MOTION

MN 3/21

MOTION moved by Cllr P W Nelson and seconded by Cllr G McLaughlin

THAT development application 21/0513 for a proposed Change of Use of an approved Boarding House development (nearing completion) to Serviced Apartments at Lot 2, DP 1140855, No 19 Funston Street, Bowral be DEFERRED AND THAT off-site car parking be evaluated on the impact the development may have on adjoining streets.

VOTING ON THE MOTION

For the motion: Deputy Mayor Cllr G J Andrews, Mayor Cllr T D Gair, Cllr K J Halstead OAM, Cllr G McLaughlin, Cllr P W Nelson and Cllr L A C Whipper

Against the motion: Cllr I M Scandrett and Cllr G M Turland

PASSED

9.2 Development Application 21/0212 - Subdivision of Land and Carrying out of Works to Create Two Lots, Lot 140 DP1231974, 1 Sir James Fairfax Circuit, Bowral

Reference:	21/0212
Report Author:	Senior Development Assessment Planner
Authoriser:	Manager Development Assessment
Applicant:	Lee Environmental Planning
Owner:	SJ Harris
Link to Community Strategic Plan:	Conserve the key natural resources of the Shire and minimise the impact from development

PURPOSE

The purpose of this report is to present development application DA21/0212 for the Council's consideration and recommends determination by way of APPROVAL subject to the conditions specified in **Attachment 1**.

The Group Manager Planning, Development and Regulatory Services addressed Council on this item.

VOTING ON THE MOTION

Councillors are required to record their votes on this matter.

MOTION moved by Cllr G M Turland and seconded by Deputy Mayor Cllr G J Andrews

THAT development application 21/0212 for a proposed subdivision of land and carrying out of works to create two lots at Lot 140 DP 1231974, No 1 Sir James Fairfax Circuit, Bowral be APPROVED subject to conditions as described in Attachment 1 to the report.

AMENDMENT moved by Cllr G McLaughlin and seconded by Cllr L A C Whipper

THAT development application 21/0212 for a proposed subdivision of land and carrying out of works to create two lots at Lot 140 DP 1231974, No 1 Sir James Fairfax Circuit, Bowral be APPROVED subject to conditions as described in Attachment 1 to the report AND THAT a further condition be included that a section 88E Instrument be prepared and submitted to Council for approval and registered over Lots 1 and 2 with the Lands Registry Authority prior to the issue of a subdivision certificate restricting any further subdivision of proposed Lots 1 or 2 to prevent further subdivision of the corner block.

VOTING ON THE AMENDMENT

For the amendment: Mayor Cllr T D Gair, Cllr K J Halstead OAM, Cllr G McLaughlin, Cllr P W Nelson, Cllr I M Scandrett and Cllr L A C Whipper

Against the amendment: Deputy Mayor Cllr G J Andrews and Cllr G M Turland

THE AMENDMENT WAS PASSED AND BECAME THE MOTION

MN 4/21

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

THAT development application 21/0212 for a proposed subdivision of land and carrying out of works to create two lots at Lot 140 DP 1231974, No 1 Sir James Fairfax Circuit, Bowral be APPROVED subject to conditions as described in Attachment 1 to the report AND THAT a further condition be included that a section 88E Instrument be prepared and submitted to Council for approval and registered over Lots 1 and 2 with the Lands Registry Authority prior to the issue of a subdivision certificate restricting any further subdivision of proposed Lots 1 or 2 to prevent further subdivision of the corner block.

VOTING ON THE MOTION

For the motion: Mayor Cllr T D Gair, Cllr K J Halstead OAM, Cllr G McLaughlin, Cllr P W Nelson, Cllr I M Scandrett and Cllr L A C Whipper

Against the motion: Deputy Mayor Cllr G J Andrews and Cllr G M Turland

PASSED

10. EN BLOC MOTION

There was no En Bloc Motion at this time in the Meeting.

11. OPERATIONS FINANCE AND RISK

11.1 Tender for the Seymour Park Playground Upgrade

Reference:	6330/20.23
Report Author:	Project Manager
Authoriser:	Group Manager Capital Projects
Link to Community	
Strategic Plan:	Create welcoming and accessible community facilities that support opportunities for people to meet and connect with one another

PURPOSE

The purpose of this report is to present the evaluation of the Request for Tender for the Seymour Park Playground Upgrade, Moss Vale.

MN 5/21

MOTION moved by Cllr I M Scandrett and seconded by Cllr G McLaughlin

1. **THAT** in relation to the report concerning Seymour Park Playground Upgrade - Council adopts the recommendations contained within the Closed Council report – Item 19.1.
2. **THAT** Council accepts the tender from Lamond Contracting Pty Ltd at a Lump Sum of \$491,006.29 (Inclusive of GST) to undertake the Seymour Park Playground Upgrade.

PASSED

11.2 Acquisition of Land - Mittagong

Reference:	PN1705368
Report Author:	Coordinator Property Services
Authoriser:	Acting Deputy General Manager Operations Finance and Risk
Link to Community Strategic Plan:	Effective financial and asset management ensure Council's long term sustainability

PURPOSE

The purpose of this report is to seek Council approval to acquire land for road purposes. The acquisition of land is required to facilitate the proposed deviation of Colo Street, Mittagong and construction of a new roundabout at the intersection of Railway Parade, Range Road and deviated Colo Street Mittagong.

MN 6/21

MOTION moved by Cllr G McLaughlin and seconded by Cllr K J Halstead OAM

THAT having read and considered the reports in the Agenda related to items:

- 11.2 Acquisition of Land – Mittagong;
- 11.3 Acquisition of Land – Robertson and
- 11.4 Acquisition of Easement – Mittagong

Council adopt en bloc the recommendations as printed in the Open Council Agenda for those items.

PASSED

THE MATTER WAS DEALT WITH EN BLOC UNDER MN 6/21 ABOVE

11.2 Acquisition of Land - Mittagong

THAT the report concerning the potential acquisition of land in Mittagong be considered in Closed Council – Item 19.2. This report is confidential in accordance with section 10A(2) of the Local Government Act 1993, under section 10A(2)(c) 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.

11.3 Acquisition of Land – Robertson

THAT the report concerning the potential acquisition of land in Robertson be considered in Closed Council – Item 19.3. This report is confidential in accordance with section 10A(2)(c) as it contains information that would, if disclosed, confer a commercial advantage on a person with who the Council is conducting (or proposed to conduct) business.

11.4 Acquisition of Easement – Mittagong

THAT the report concerning the potential acquisition of land in Mittagong be considered in Closed Council – Item 19.4. This report is confidential in accordance with section 10A(2) of the Local Government Act 1993, under section 10A(2)(c) as it

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contains information that would, if disclosed, confer a commercial advantage on a person with whom the Council is conducting (or proposes to conduct) business.

11.3 Acquisition of Land - Robertson

Reference:	PN 141100
Report Author:	Coordinator Property Services
Authoriser:	Acting Deputy General Manager Operations Finance and Risk
Link to Community Strategic Plan:	Effective financial and asset management ensure Council's long term sustainability

PURPOSE

The purpose of this report is to seek Council approval to acquire land for road purposes. The acquisition is required to resolve an encroachment of the formed road on privately owned property.

THE MATTER WAS DEALT WITH EN BLOC MN 6/21 ON PAGE 10

11.4 Acquisition of Easement - Mittagong

Reference:	PN 1202500
Report Author:	Coordinator Property Services
Authoriser:	Acting Deputy General Manager Operations Finance and Risk
Link to Community Strategic Plan:	Effective financial and asset management ensure Council's long term sustainability

PURPOSE

The purpose of this report is to seek Council approval to acquire an Easement for Drainage purposes in Mittagong.

THE MATTER WAS DEALT WITH EN BLOC MN 6/21 ON PAGE 10

11.5 Investment Report - November 2020

Reference:	2104
Report Author:	Accounting Officer (Banking and Investments)
Authoriser:	Acting Chief Financial Officer
Link to Community Strategic Plan:	Effective financial and asset management ensure Council's long term sustainability

PURPOSE

The purpose of this report is to present Council's Investment Portfolio held at 30 November 2020.

MN 7/21

MOTION moved by Cllr P W Nelson and seconded by Cllr G M Turland

THAT the information on Council's Investments as at 30 November 2020 be received and noted.

PASSED

11.6 Investment Report - December 2020

Reference:	2104
Report Author:	Accounting Officer (Banking and Investments)
Authoriser:	Acting Chief Financial Officer
Link to Community Strategic Plan:	Effective financial and asset management ensure Council's long term sustainability

PURPOSE

The purpose of this report is to present Council's Investment Portfolio held at 31 December 2020.

MN 8/21

MOTION moved by Cllr P W Nelson and seconded by Cllr G M Turland

THAT the information on Council's Investments as at 31 December 2020 be received and noted.

PASSED

12. CORPORATE STRATEGY AND DEVELOPMENT SERVICES

12.1 Development Applications Determined from 24 November 2020 to 22 January 2021

Reference:	5302
Report Author:	Team Leader Business Support
Authoriser:	Group Manager Planning, Development and Regulatory Services
Link to Community Strategic Plan:	Promote building practices and the types of developments that improve resource efficiency

PURPOSE

The purpose of this report is to update Councillors on Development Applications Determined for the period 24 November 2020 to 22 January 2021.

MN 9/21

MOTION moved by Cllr G McLaughlin and seconded by Cllr K J Halstead OAM

THAT the information relating to the lists of Development Applications Determined for the period 24 November 2020 to 22 January 2021 be received and noted.

PASSED

12.2 Development Applications Received from 24 November 2020 to 22 January 2021

Reference:	5302
Report Author:	Team Leader Business Support
Authoriser:	Deputy General Manager Corporate, Strategy and Development Services
Link to Community Strategic Plan:	Open and effective communication methods and technology are utilised to share information about Council plans, intentions, actions and progress

PURPOSE

The purpose of this report is to update Councillors on Development Applications Received for the period 24 November 2020 to 22 January 2021.

MN 10/21

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

1. **THAT** the information relating to Development Applications Received from 24 November 2020 to 22 January 2021 be received and noted.
2. **THAT** the following items be placed on Council's weekly circular:
 - Item 10 21/1072 12 Wilkinson Street Berrima;
 - Item 22 21/0978255-261 Bong Street Bowral; and
 - Item 147 123 Medway Road Medway.
3. **THAT** Item 128 21/1138 41 Hoddle Street Robertson be determined by full Council.

PASSED

12.3 Post Public Exhibition report - Planning Proposal to Amend WLEP 2010 to Add a Heritage Item at 32 Kangaloon Road, Bowral

Reference: 5901/80
Report Author: Senior Strategic Land Use Planner
Authoriser: Coordinator Strategic Land Use Planning
Link to Community
Strategic Plan: Identify, protect and promote places of significant cultural heritage

PURPOSE

The purpose of this report is to inform Council of the outcomes of the public exhibition of the Planning Proposal known as 'Yarrabin, Bowral', which seeks to add a new heritage item at 32 Kangaloon Road, Bowral and include the property within the Bowral Conservation Area.

VOTING ON THE MOTION

Councillors are required to record their votes on this matter.

MN 11/21

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

1. **THAT** Council endorse the Planning Proposal to amend WLEP 2010 to add a new heritage item called "Yarrabin' house and garden, including horse chestnut tree (*Aesculus hippocastanum*)" at 32 Kangaloon Road, Bowral, into Schedule 5 (Environmental heritage) Part 1 (Heritage items) and include the site within the boundaries of the Bowral Conservation Area on the WLEP 2010 Heritage Map
2. **THAT** the Planning Proposal be finalised in accordance with section 3.36(2) of the Environmental Planning and Assessment Act 1979
3. **THAT** Interim Heritage Order No. 11 is extended until 21 August 2021 to allow for the finalisation of the Planning Proposal.

VOTING ON THE MOTION

For the motion: Deputy Mayor Cllr G J Andrews, Mayor Cllr T D Gair, Cllr K J Halstead OAM, Cllr G McLaughlin, Cllr P W Nelson, Cllr I M Scandrett, Cllr G M Turland and Cllr L A C Whipper

Against the motion: Nil

PASSED

12.4 Communication Strategy

Reference:	5125/1
Report Author:	Media and Communications Coordinator
Authoriser:	Deputy General Manager Corporate, Strategy and Development Services
Link to Community Strategic Plan:	Open and effective communication methods and technology are utilised to share information about Council plans, intentions, actions and progress

PURPOSE

The purpose of this report is to seek Council endorsement to place the revised Communications Strategy on public exhibition.

The Coordinator Media and Communications addressed Council on this item.

MN 12/21

MOTION moved by Deputy Mayor Cllr G J Andrews and seconded by Cllr P W Nelson

THAT Council endorse the updated Communications Strategy for public exhibition and consultation over a period of twenty eight (28) days commencing 1 March 2021.

PASSED

12.5 Council Policy Review

Reference:	104/7
Report Author:	Coordinator Corporate Strategy and Governance
Authoriser:	Group Manager Corporate and Community
Link to Community Strategic Plan:	An enhanced culture of positive leadership, accountability and ethical governance that guides well informed decisions to advance agreed community priorities

PURPOSE

The purpose of this report is to inform Council of several Council policies that have been identified as redundant and to seek approval for these policies to be repealed.

The Group Manager Corporate and Community addressed Council on this item.

The Deputy General Manager Corporate Strategy and Development Services addressed Council on this item.

The Acting General Manager addressed Council on this item.

MN 13/21

MOTION moved by Cllr P W Nelson and seconded by Cllr I M Scandrett

THAT Council approves the repeal of the following policies:

1. *Arts and Culture Policy (adopted 26 June 2001)*
2. *Drought Management Policy and Guidelines (adopted 28 November 2012)*
3. *Equal Employment Opportunity Grievance Policy (adopted 26 November 1997)*
4. *Equal Employment Opportunity Policy (adopted 26 November 1997)*
5. *Liquor Licensed Premises Policy (adopted 9 September 2009)*
6. *Noxious Weeds Management Policy (adopted 4 May 2006)*
7. *Reward Scheme for Reporting Vandalism Policy (adopted 11 February 2009)*
8. *Risk Management Policy (adopted 12 October 2005)*
9. *Severed Lot Policy (adopted 28 May 2008)*
10. *Workplace Bullying and Harassment Prevention Policy (adopted 25 July 2014)*

PASSED

12.6 Draft Code of Meeting Practice

Reference:	100/3
Report Author:	Coordinator Corporate Strategy and Governance
Authoriser:	Group Manager Corporate and Community
Link to Community Strategic Plan:	An enhanced culture of positive leadership, accountability and ethical governance that guides well informed decisions to advance agreed community priorities

PURPOSE

The purpose of this report is to seek Council's endorsement to publicly exhibit a proposed amendment to Council's Code of Meeting Practice, in accordance with the *Local Government Act 1993*.

Clr G M Turland left the meeting, the time being 5:29pm

Clr G M Turland returned to the meeting, the time being 5:31pm

MOTION moved by Clr P W Nelson and seconded by Clr G McLaughlin

1. **THAT** Council endorse the Draft Wingecarribee Shire Council Code of Meeting Practice (Attachment 1) for public exhibition for a period of 42 days.
2. **THAT** a further report be brought back to Council following the public exhibition period.

AMENDMENT moved by Clr G M Turland and seconded by Clr I M Scandrett

THAT the matter be DEFERRED until the Acting General Manager report to Council on 24 February 2021 regarding the permissibility of the following:

1. Councillors be permitted to approve an extension of time in Visitor Items, Clause 5.5 of the Code of Meeting Practice, for speakers to present their issue to Councillors.
2. Councillors be permitted to approve an extension of time in Public Forum, Clause 4.11 of the Code of Meeting Practice, for speakers to present their issue to Councillors.

THE AMENDMENT WAS PASSED AND BECAME THE MOTION

MN 14/21

MOTION moved by Cllr G M Turland and seconded by Cllr I M Scandrett

THAT the matter be **DEFERRED** until the Acting General Manager report to Council on 24 February 2021 regarding the permissibility of the following:

1. ***Councillors be permitted to approve an extension of time in Visitor Items, Clause 5.5 of the Code of Meeting Practice, for speakers to present their issue to Councillors.***
2. ***Councillors be permitted to approve an extension of time in Public Forum, Clause 4.11 of the Code of Meeting Practice, for speakers to present their issue to Councillors.***

PASSED

It was noted that Cllr G M Turland did not take part in the vote on the motion as he had left the meeting at the time.

13. GENERAL MANAGER

Nil

14. DELEGATE REPORTS

Nil

15. PETITIONS

15.1 Petition 1/2021 Complaints Concerning 115 Railway Avenue, Bundanoon

Reference:	100/8 PN 1740710
Report Author:	Administration Officer (Meetings)
Authoriser:	Group Manager Corporate and Community
Link to Community Strategic Plan:	An enhanced culture of positive leadership, accountability and ethical governance that guides well informed decisions to advance agreed community priorities

PURPOSE

The purpose of this report is to present Council with a petition relating to 115 Railway Avenue, Bundanoon.

The petition contains over 50 signatures.

A copy of the Petition will be tabled at the Ordinary Meeting of Council.

The Deputy General Manager Corporate Strategy and Development Services addressed Council on this item.

The General Manager addressed Council on this item.

MN 15/21

MOTION moved by Cllr I M Scandrett and seconded by Cllr G McLaughlin

1. **THAT** Petition 1/2021 relating to Complaints Concerning 115 Railway Avenue, Bundanoon be received and noted by Council.
2. **THAT** the petition be forwarded to the Commissioner of Fair Trading for information.

PASSED

16. COMMITTEE REPORTS

16.1 Minutes of the Sport and Recreation Advisory Committee Meeting held on 29 October 2020

Reference: 107/30
Report Author: Asset Coordinator Parks and Buildings
Authoriser: Manager Assets
Link to Community
Strategic Plan: Increase promotion of healthy lifestyle choices

PURPOSE

This report provides the Minutes of the Sport and Recreation Advisory Committee Meeting held on Thursday 29 October 2020.

MN 16/21

MOTION moved by Deputy Mayor Cllr G J Andrews and seconded by Cllr G McLaughlin

1. **THAT** recommendation Nos SR 14/20 to SR 17/20 as detailed in the Minutes of the Sport and Recreation Advisory Committee Meeting held on Thursday 29 October 2020 be adopted, save for any items which have budgetary implications, **AND THAT** any item with budgetary implications and which is unfunded, be referred to the Finance Committee for consideration.
2. **THAT** the Minutes of the Sport and Recreation Advisory Committee Meeting held on 29 October 2020 be endorsed subject to noting that Cllr McLaughlin was present at the meeting.

PASSED

16.2 Minutes of the Arts and Culture Advisory Committee Meeting held on Tuesday, 1 December 2020

Reference:	1660
Report Author:	Administration Officer (Meetings)
Authoriser:	Group Manager Corporate and Community
Link to Community	
Strategic Plan:	Sustainably manage natural resources for broader community benefit

PURPOSE

This report provides the Minutes of the Arts and Culture Advisory Committee meeting held on Tuesday 1 December 2020.

MN 17/21

MOTION moved by Cllr L A C Whipper and seconded by Cllr P W Nelson

THAT recommendation Nos ACC 15/20 to ACC 22/20 – as detailed in the Minutes of the Arts and Culture Advisory Committee meeting held on 8 September 2020 be adopted, save for any items which have budgetary implications AND THAT any item with budgetary implications and which is unfunded, be referred to the Finance Committee for consideration.

PASSED

16.3 Minutes of the Heritage Advisory Committee Meeting held on Friday 11 December 2020

Reference: 107/16
Report Author: Strategic Land Use Planner (Heritage)

PURPOSE

This report provides the Minutes of the Heritage Advisory Committee Meeting held on Friday 11 December 2020.

MN 18/21

MOTION moved by Cllr G McLaughlin and seconded by Cllr P W Nelson

THAT the Minutes of the Heritage Advisory Committee Meeting held on Friday 11 December 2020 numbered HAC 19/20 to HAC 24/20, inclusive, copies of which were forwarded to members of the Committee, be adopted as a correct record of the proceedings of the meeting.

PASSED

17. QUESTIONS WITH NOTICE

17.1 Question with Notice 1/2021 - DA19/1650 Proposed Eco Tourist Facility

Reference: 101/2 19/1650
Report Author: Administration Officer (Meetings)
Authoriser: Group Manager Corporate and Community
Link to Community Strategic Plan: An enhanced culture of positive leadership, accountability and ethical governance that guides well informed decisions to advance agreed community priorities

To: Acting General Manager

From: Cllr G Turland

Received: 29 January 2021

Subject: DA19/1650 Proposed eco Tourist Facility

The Deputy General Manager Corporate Strategy and Development Services addressed Council on this item.

Question:

THAT Council staff advise Councillors on the report regarding the condition No.2 plans and documentation.

MN 19/21

MOTION moved by Cllr G M Turland and seconded by Cllr I M Scandrett

THAT the information in relation to Question with Notice 1/2021 - DA19/1650 Proposed Eco Tourist Facility - be noted.

PASSED

17.2 Question with Notice 2/2021 - Station Street Project

Reference:	101/2
Report Author:	Administration Officer (Meetings)
Authoriser:	Group Manager Corporate and Community
Link to Community Strategic Plan:	An enhanced culture of positive leadership, accountability and ethical governance that guides well informed decisions to advance agreed community priorities

To: Acting General Manager

From: Cllr G Turland

Received: 29 January 2021

Subject: Station Street Project

The Acting General Manager addressed Council on this item.

Question:

1. When will Council provide an update to the community of the cost benefit analysis on Station Street project?
2. Is there any other concepts that Council could investigate on the Station Street project?

MOTION moved by Cllr G M Turland

1. THAT Council provides an update to the community of the cost benefit analysis on the Station Street project
2. THAT Council provides an updated budget on changes to Station Street to advertise to the public in accordance with the Community Engagement Policy.

MAYOR CLR T D GAIR RULED THAT THE MOTION WAS NOT PERMITTED AS PROPER NOTICE WAS NOT GIVEN AND A NOTICE OF MOTION WAS REQUIRED.

MOTION OF DISSENT moved by Cllr I M Scandrett and seconded by Cllr G M Turland

THAT the ruling made by the Mayor that the Motion not be permitted be dissented from and the Motion be heard now.

LOST

MINUTES OF THE ORDINARY MEETING OF COUNCIL

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MN 20/21

MOTION moved by Cllr G M Turland and seconded by Cllr I M Scandrett

THAT the information in relation to Question with Notice 2/2021 - Station Street Project - be noted.

PASSED

17.3 Question with Notice 3/2021 Mittagong Pool

Reference:	101/2 6703
Report Author:	Administration Officer (Meetings)
Authoriser:	Group Manager Corporate and Community
Link to Community Strategic Plan:	An enhanced culture of positive leadership, accountability and ethical governance that guides well informed decisions to advance agreed community priorities

To: Acting General Manager

From: Cllr G Turland

Received: 1 February 2021

Subject: Mittagong Pool

The Acting General Manager addressed Council on this item.

Question:

1. What is the total cost of the work undertaken to the Mittagong swimming pool?
2. How many times has it been closed to the public in the last ten years?

MN 21/21

MOTION moved by Cllr G M Turland and seconded by Cllr I M Scandrett

THAT the information in relation to Question with Notice 3/2021 Mittagong Pool - be noted.

PASSED

18. NOTICES OF MOTION

18.1 Notice of Motion 1/2021 - DA 19/1650 Proposed Eco-Tourist Facility

Reference:	100/4 19/1650
Report Author:	Administration Officer (Meetings)
Authoriser:	Group Manager Corporate and Community
Link to Community Strategic Plan:	An enhanced culture of positive leadership, accountability and ethical governance that guides well informed decisions to advance agreed community priorities

PURPOSE

Councillors Andrews, Turland and Scandrett have given notice that it is their intention to move the following motion at the Ordinary Meeting of Council on 10 February 2021:

Councillors are required to record their votes on this matter.

Clr K J Halstead OAM left the meeting, the time being 06:44pm.

Clr K J Halstead OAM returned to the meeting, the time being 06:45pm.

The Deputy General Manager Corporate Strategy and Development Services addressed Council on this item

MOTION moved by Clr G M Turland and seconded by Clr I M Scandrett

THAT Development Application 19/1650 which seeks development consent for an eco-tourist facility at Lot 999 DP818282 being 198 Foxgrove Road, Canyonleigh be approved; by way of a deferred commencement consent, subject to conditions as described in Attachment 1 to Report 9.2 in the Council Meeting Agenda of 9 December 2020.

VOTING ON THE MOTION

For the motion: Clr I M Scandrett, Clr G M Turland and Deputy Mayor Clr G J Andrews

Against the motion: Mayor Clr T D Gair, Clr K J Halstead OAM, Clr G McLaughlin, Clr P W Nelson and Clr L A C Whipper

LOST

AMENDMENT moved by Mayor Clr T D Gair and seconded by Deputy Mayor Clr G J Andrews

1. *THAT Development Application 19/1650 which seeks development consent for an eco-tourist facility at Lot 999 DP818282 being 198 Foxgrove Road, Canyonleigh be approved; by way of a deferred commencement consent, subject to conditions as described in Attachment 1 to Report 9.2 in the Council Meeting Agenda of 9 December 2020.*

2. *THAT a condition of consent be included that requires the applicant seal the sections of Foxgrove Road in front of dwellings on adjoining properties of lengths of minimum 200 meters between Canyonleigh Road and 198 Foxgrove Road, Canyonleigh AND THAT the sealing be completed in accordance with Council Engineering Standards prior to commencement of operations.*

VOTING ON THE AMENDMENT

For the amendment: Deputy Mayor Cllr G J Andrews, Mayor Cllr T D Gair and Cllr G M Turland

Against the amendment: Cllr K J Halstead OAM, Cllr G McLaughlin, Cllr P W Nelson and Cllr L A C Whipper

Cllr Scandrett abstained from voting on the amendment.

LOST

FORESHADOWED MOTION proposed by Cllr L A C Whipper

THAT Development Application 19/1650 which seeks development consent for an Eco-Tourist facility at Lot 999 DP 818282 being 198 Foxgrove Road, Canyonleigh be **REFUSED** for the following reasons:

- *Inadequate details in the flora/fauna report and lack of measures to minimise impacts on natural environment;*
- *Resident's concerns about compliances with Bushfire Management Plan;*
- *Lack of detail and justification for meeting the recognised standards of an Eco Tourism Facility;*
- *Resident's concerns about the traffic impacts generated by this proposal, including safety, lack of passing areas due to road width, dust; and*
- *Access and egress restrictions to road users during natural disasters (e.g. bushfires) and for emergency vehicles*
- *No comprehensive evacuation plan as required under the Development Application has been submitted.*

AS THE ORIGINAL MOTION WAS LOST, THE FORESHADOWED MOTION BECAME THE MOTION

MN 22/21

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

THAT Development Application 19/1650 which seeks development consent for an Eco-Tourist facility at Lot 999 DP 818282 being 198 Foxgrove Road, Canyonleigh be **REFUSED** for the following reasons:

- *Inadequate details in the flora/fauna report and lack of measures to minimise impacts on natural environment;*
- *Resident's concerns about compliances with Bushfire Management Plan;*
- *Lack of detail and justification for meeting the recognised standards of an Eco Tourism Facility;*
- *Resident's concerns about the traffic impacts generated by this proposal, including safety, lack of passing areas due to road width, dust; and*
- *Access and egress restrictions to road users during natural disasters (e.g. bushfires) and for emergency vehicles*
- *No comprehensive evacuation plan as required under the Development Application has been submitted.*

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VOTING ON THE MOTION

For the motion:

Mayor Cllr T D Gair, Cllr K J Halstead OAM, Cllr G McLaughlin, Cllr P W Nelson and Cllr L A C Whipper

Against the motion:

Deputy Mayor Cllr G J Andrews, Cllr I M Scandrett and Cllr G M Turland

PASSED

19. Closed Council

MOVING INTO CLOSED SESSION

107/9

At this juncture, the time being 7.04 pm, Council moved into Closed Council.

MN 23/21

MOTION moved by Deputy Mayor Cllr G J Andrews and seconded by Cllr L A C Whipper

1. **THAT Council moves into Closed Council in accordance with the requirements of Section 10A(2) of the Local Government Act 1993 as addressed below to consider the following reports that are confidential for the reasons specified below:**

19.1 Tender for the Seymour Park Playground Upgrade

Relevant Legal Provisions

This report is referred to Closed Committee in accordance with s10A(2) of the Local Government Act, 1993, under clause 10A(2)d(i) as it contains commercial information of a confidential nature that would, if disclosed prejudice the commercial position of the person who supplied it and the Council considers that it would be on balance contrary to the public interest to consider this information in Open Council.

Brief description

The purpose of this report is to present the evaluation of the Request for Tender for the Seymour Park Playground Upgrade, Moss Vale.

19.2 Acquisition of Land - Mittagong

Relevant Legal Provisions

This report is referred to Closed Committee in accordance with s10A(2) of the Local Government Act, 1993, under clause 10A(2)(c) 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 and the Council considers that it would be on balance contrary to the public interest to consider this information in Open Council.

Brief description

The purpose of this report is to seek Council approval to acquire land for road purposes. The acquisition of land is required to facilitate the proposed deviation of Colo Street, Mittagong and construction of a new roundabout at the intersection of Railway Parade, Range Road and deviated Colo Street, Mittagong.

The subject property is part of land owned by Winifred West Schools Ltd. The legal description of the property is Lot 1 Deposited Plan 1133695 being part of Frensham School at 51 Range Road Mittagong and is referred to in this report as 'the Land'.

19.3 Acquisition of Land - Robertson

Relevant Legal Provisions

This report is referred to Closed Committee in accordance with s10A(2) of the Local Government Act, 1993, under clause 10A(2)(c) 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 and the Council considers that it would be on balance contrary to the public interest to consider this information in Open Council.

Brief description

The purpose of this report is to seek Council approval to acquire land for road purposes. The acquisition is required to resolve an encroachment of the formed road on privately owned property.

The legal description of the property is Lot 194 in Deposited Plan 751302 being part of 25 Shierlaw Road, Robertson and is referred to in this report as "the Land".

19.4 Acquisition of Easement - Mittagong

Relevant Legal Provisions

This report is referred to Closed Committee in accordance with s10A(2) of the Local Government Act, 1993, under clause 10A(2)(c) 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 and the Council considers that it would be on balance contrary to the public interest to consider this information in Open Council.

Brief description

The purpose of this report is to seek Council approval to acquire an easement for drainage purposes. The acquisition of the easement is required to enable improvements to drainage in the Prince Street Mittagong area.

The subject property is part Lot 5 in Deposited Plan 261291 being part 11 Prince Street, Mittagong and is referred to in this report as 'the Land'.

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

PASSED

19.1 Tender for the Seymour Park Playground Upgrade

Reference:	6330/20.23
Report Author:	Project Manager
Authoriser:	Group Manager Capital Projects
Link to Community Strategic Plan:	Create welcoming and accessible community facilities that support opportunities for people to meet and connect with one another

CONFIDENTIAL ITEM

This report is confidential in accordance with s10A(2) of the Local Government Act, 1993, under clause 10A(2)d(i) as it contains commercial information of a confidential nature that would, if disclosed prejudice the commercial position of the person who supplied it.

PURPOSE

The purpose of this report is to present the evaluation of the Request for Tender for the Seymour Park Playground Upgrade, Moss Vale.

This item was addressed earlier in the meeting on page 9 MN 5/21

19.2 Acquisition of Land - Mittagong

Reference:	PN1705368
Report Author:	Coordinator Property Services
Authoriser:	Acting Deputy General Manager Operations Finance and Risk
Link to Community Strategic Plan:	Effective financial and asset management ensure Council's long term sustainability

CONFIDENTIAL ITEM

This report is confidential in accordance with s10A(2) of the Local Government Act, 1993, under clause 10A(2)(c) 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.

PURPOSE

The purpose of this report is to seek Council approval to acquire land for road purposes. The acquisition of land is required to facilitate the proposed deviation of Colo Street, Mittagong and construction of a new roundabout at the intersection of Railway Parade, Range Road and deviated Colo Street, Mittagong.

The subject property is part of land owned by Winifred West Schools Ltd. The legal description of the property is Lot 1 Deposited Plan 1133695 being part of Frensham School at 51 Range Road Mittagong and is referred to in this report as 'the Land'.

The Acting Deputy General Manager Operations Finance and Risk addressed Council on this item.

The Acting General Manager addressed Council on this item.

MN 24/21

MOTION moved by Cllr K J Halstead OAM and seconded by Cllr I M Scandrett

1. **THAT** the Acting General Manager be delegated authority to negotiate with the owner of Lot 1 in Deposited Plan 1133695 being 51 Range Road Mittagong for the acquisition of part of the land known as Lot 1 in Deposited Plan 1133695 (being part 51 Range Road, Mittagong) for the purpose of road **AND THAT** compensation be negotiated within 10% range of the formal valuation by Council in respect of the proposed acquisition.
2. **THAT** if the acquisition referred to in Resolution 1 cannot be negotiated by agreement Council resolves to:
 - (a) acquire the Land by compulsory acquisition under sections 186 and 187 of the Local Government Act 1993 and in accordance with the requirements of the Land Acquisition (Just Terms Compensation) Act 1991 (NSW).
 - (b) approve the making of an application to the Minister of Local Government for the issue of a proposed Acquisition Notice under the Land Acquisition (Just Terms Compensation) Act 1991 (NSW) with respect to the Land **AND THAT** Council request the Minister for Local Government approve a reduction in the notification period from ninety (90) days to sixty (60) days;
 - (c) approve the making of an application to the Governor for the publication of an Acquisition Notice in the NSW Government Gazette under the Land Acquisition (Just Terms Compensation) Act 1991 (NSW) with respect of the Land.
3. **THAT** Council affix the Common Seal of Council to any documents required to be sealed for the Land referred to in Resolution 1 above **AND THAT** authority be delegated to the Mayor and Acting General Manager to execute those documents.
4. **THAT** authority be delegated to the Mayor and Acting General Manager to execute on behalf of Council any documents associated with the compulsory acquisition of the Land referred to in Resolution 1 above that do not require the Common Seal of Council.
5. **THAT** upon acquisition the Land be classified as Operational land.

PASSED

19.3 Acquisition of Land - Robertson

Reference:	PN14100
Report Author:	Coordinator Property Services
Authoriser:	Acting Deputy General Manager Operations Finance and Risk
Link to Community Strategic Plan:	Effective financial and asset management ensure Council's long term sustainability

CONFIDENTIAL ITEM

This report is confidential in accordance with s10A(2) of the Local Government Act, 1993, under clause 10A(2)(c) 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.

PURPOSE

The purpose of this report is to seek Council approval to acquire land for road purposes. The acquisition is required to resolve an encroachment of the formed road on privately owned property.

The legal description of the property is Lot 194 in Deposited Plan 751302 being part of 25 Shierlaw Road, Robertson and is referred to in this report as "the Land".

MN 25/21

MOTION moved by Cllr L A C Whipper and seconded by Cllr P W Nelson

1. **THAT** the Acting General Manager be delegated authority to negotiate with the owner of Lot 194 in Deposited Plan 751302 at 25 Shierlaw Road, Robertson for the acquisition of part of the land known as Lot 194 in Deposited Plan 751302 (being part 25 Shierlaw Road, Robertson) for the purpose of road.
2. **THAT** if the acquisition referred to in Resolution 1 cannot be negotiated by agreement Council resolves to:
 - (a) acquire the Land by compulsory acquisition under sections 186 and 187 of the Local Government Act 1993 and in accordance with the requirements of the Land Acquisition (Just Terms Compensation) Act 1991 (NSW).
 - (b) approve the making of an application to the Minister of Local Government for the issue of a proposed Acquisition Notice under the Land Acquisition (Just Terms Compensation) Act 1991 (NSW) with respect to the Land **AND THAT** Council request the Minister for Local Government approve a reduction in the notification period from ninety (90) days to sixty (60) days;
 - (c) approve the making of an application to the Governor for the publication of an Acquisition Notice in the NSW Government Gazette under the Land Acquisition (Just Terms Compensation) Act 1991 (NSW) with respect of the Land.
3. **THAT** Council affix the Common Seal of Council to any documents required to be sealed for the Land referred to in Resolution 1 above **AND THAT** authority be delegated to the Mayor and Acting General Manager to execute those documents.
4. **THAT** authority be delegated to the Mayor and Acting General Manager to execute on behalf of Council any documents associated with the compulsory acquisition of the Land referred to in Resolution 1 above that do not require the Common Seal of Council.
5. **THAT** upon acquisition, the Land is classified as Operational land.

PASSED

19.4 Acquisition of Easement - Mittagong

Reference:	PN1202500
Report Author:	Coordinator Property Services
Authoriser:	Acting Deputy General Manager Operations Finance and Risk
Link to Community Strategic Plan:	Effective financial and asset management ensure Council's long term sustainability

CONFIDENTIAL ITEM

This report is confidential in accordance with s10A(2) of the Local Government Act, 1993, under clause 10A(2)(c) 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.

PURPOSE

The purpose of this report is to seek Council approval to acquire an easement for drainage purposes. The acquisition of the easement is required to enable improvements to drainage in the Prince Street Mittagong area.

The subject property is part Lot 5 in Deposited Plan 261291 being part 11 Prince Street, Mittagong and is referred to in this report as 'the Land'.

MN 26/21

MOTION moved by Cllr P W Nelson and seconded by Deputy Mayor Cllr G J Andrews

1. **THAT** the Acting General Manager be delegated authority to negotiate with the owners of Lot 5 in Deposited Plan 261291 (11 Prince Street, Mittagong) for the acquisition of part of the Land being Lot 5 in Deposited Plan 261291 (11 Prince Street, Mittagong) for the purpose of an easement for drainage AND THAT compensation be negotiated within 10% range of the formal valuation obtained by Council in respect of the proposed acquisition.
2. **THAT** if the acquisition referred to in Resolution 1 cannot be negotiated by agreement Council resolves to:
 - a) acquire the Land by compulsory acquisition under sections 186 and 187 of the Local Government Act 1993 (NSW) and in accordance with the requirements of the Land Acquisition (Just Terms Compensation) Act 1991 (NSW);
 - b) approve the making of an application to the Minister of Local Government for the issue of a proposed Acquisition Notice under the Land Acquisition (Just Terms Compensation) Act 1991 (NSW) with respect to the Land AND THAT Council request that the Minister for Local Government approve a reduction in the notification period from ninety (90) days to sixty (60) days;
 - c) approve the making of an application to the Governor for the publication of an Acquisition Notice in the NSW Government Gazette under Land Acquisition (Just Terms Compensation) Act 1991 (NSW) with respect to the Land.
3. **THAT** Council affix the Common Seal of Council to any documents required to be sealed for acquisition of the easement over the land referred to in Resolution 1 above AND THAT authority be delegated to the Mayor and Acting General Manager to execute those documents.
4. **THAT** authority be delegated to the Mayor and Acting General Manager to execute on behalf of Council any documents associated with the acquisition of the easement over the land referred to in Resolution 1 above that does not require the Common Seal of Council.

PASSED

20. RESUMPTION OF OPEN AGENDA

107/10

MN 27/21

MOTION moved by Cllr P W Nelson and seconded by Cllr L A C Whipper

THAT Council moves from Closed Council into Open Council.

PASSED

No members of the public were present in the Chamber.

The recording and live streaming of the meeting recommenced and all present were reminded that the meeting was being recorded and live streamed via the internet for public viewing.

ADOPTION OF CLOSED COUNCIL

107/9

The Acting General Manager read out the adopted Motions from Closed Council.

21. MEETING CLOSURE

THERE BEING NO FURTHER BUSINESS, THE MEETING CLOSED AT 7.21 PM

In accordance with the provisions of Section 375(2) of the Local Government Act, these Minutes of the Ordinary Council Meeting held Wednesday 10 February 2021 numbered MN 1/21 to MN 27/21 were signed by me hereunder at the Council Meeting held on Wednesday 24 February 2021.

CHAIRMAN

READ AND CONFIRMED ON WEDNESDAY 24 FEBRUARY 2021

CHAIRMAN

PUBLIC OFFICER