



MINUTES

of the Ordinary Meeting of Council

held in

Council Chambers
Civic Centre, Elizabeth Street, Moss Vale

on

Wednesday 22 May 2019

The meeting commenced at 3.30pm

File No. 100/2019



1. **OPENING OF THE MEETING**
2. **ACKNOWLEDGEMENT OF COUNTRY**
3. **PRAYER**
4. **APOLOGIES**
5. **ADOPTION OF MINUTES OF PREVIOUS MEETING**

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MINUTES OF THE ORDINARY MEETING OF WINGECARRIBEE SHIRE COUNCIL HELD IN COUNCIL CHAMBERS, CIVIC CENTRE, ELIZABETH STREET, MOSS VALE ON WEDNESDAY 22 MAY 2019 COMMENCING AT 3.30PM

Present: Clr T D Gair (Mayor)
Clr G J Andrews
Clr K J Halstead
Clr G Markwart
Clr P W Nelson
Clr I M Scandrett
Clr L A C Whipper

In Attendance:

General Manager	Ms Ann Prendergast
Deputy General Manager Operations, Finance and Risk	Mr Barry W Paull
Deputy General Manager Corporate Strategy and Development Services	Mr Mark Pepping
Group Manager Corporate and Community	Ms Danielle Lidgard
Group Manager Planning, Development and Regulatory Services	Mr Nicholas Wilton
Chief Information Officer	Mr John Crawford
Legal Counsel	Mr Ian Lacy (in part)
Coordinator Strategic Land Use Planning	Mr Michael Park
Senior Strategic Land Use Planner	Ms Susan Stannard
Coordinator Media and Communications	Mr David Sommers
Administration Officer	Ms Michelle Richardson

1. OPENING OF THE MEETING

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

2. ACKNOWLEDGEMENT OF COUNTRY

Clr P Nelson 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 prayer by Reverend Jeremy Tonks, Anglican Exeter/Bundanoon Church.

ACKNOWLEDGEMENT OF COMMUNITY MEMBER

100/1

The Mayor acknowledged Mr Bruce Mumford for his service to the community and presented him with a Certificate of Appreciation. The Mayor noted Mr Mumford's contributions to the Community Development Advisory Committee and as a member of the Access Community Reference Group for 21 years. Mr Mumford addressed the meeting and thanked the Mayor for the acknowledgement.

4. APOLOGIES

PERS

MN 228/19

MOTION moved by Cllr P W Nelson and seconded by Cllr K J Halstead

1. **THAT** the apology of Cllr G McLaughlin be noted.
2. **THAT** the apology of Cllr G McLaughlin be accepted and leave of absence granted.

PASSED

MN 229/19

MOTION moved by Cllr P W Nelson and seconded by Cllr K J Halstead

1. **THAT** the apology of Deputy Mayor Cllr G Turland be noted.
2. **THAT** the apology of Deputy Mayor Cllr G Turland be accepted and leave of absence granted.

PASSED

5. CONFIRMATION OF MINUTES

100/1

MINUTES OF THE ORDINARY MEETING OF COUNCIL HELD ON WEDNESDAY 8 MAY 2019

MN 230/19

MOTION moved by *Clr G J Andrews* and seconded by *Clr G Markwart*

THAT the minutes of the Ordinary Meeting of Council held on Wednesday 08 May 2019 M/N 203/19 to M/N 227/19 inclusive, copies of which were forwarded to Councillors, be adopted as a correct record of the proceedings of the meeting.

PASSED

Clr I M Scandrett requested that his dissenting vote be recorded in respect to the correctness of the minutes as he again reiterated that he wanted the minutes on page 5 to state that he had asked for a copy of the letter that was in the General Manager's possession.

6. BUSINESS ARISING

100 100/1

Clr I M Scandrett requested the General Manager provide a copy of the letter referred to in the Minutes of Ordinary Meeting of Council 24 April 2019, page 5 in Business Arising in which Clr Scandrett asked for a copy of the letter that was in Clr Turland's possession.

Response:

The General Manager confirmed she had a letter in her possession but was not at liberty to distribute same. The General Manager confirmed access to the letter could be accessed via Council GIPA process.

100/5 7810/28

Clr K J Halstead referred to the Notice of Motion 13/2019 – Berrima Road Project - in the Minutes of Ordinary Meeting of Council 8 May 2019. Clr K J Halstead requested the General Manager's comment on the issues raised in the Notice of Motion.

Response:

The General Manager replied that key issues were addressed in the report and further inquiries were underway.

101

Clr G Markwart referred to the verbal resignation from the Deputy Mayor position made by Clr G Turland at the Ordinary Meeting of Council on 8 May 2019. Clr Markwart enquired if Council had received written confirmation of same.

Response:

The Mayor confirmed there had been no receipt of a written resignation from Clr Turland; and technically Clr Turland was still Deputy Mayor.

Clr I M Scandrett referred to the Notice of Motion 13/2019 – Berrima Road Project in the Minutes of Ordinary Meeting of Council 8 May 2019 and to his General Business Question submitted at that meeting requesting the cost to date for the fencing of the project.

Response:

The Deputy General Manager Operations, Finance and Risk replied that he had answered the question at the Ordinary Meeting of Council on 8 May 2019. The Deputy General Manager Operations, Finance and Risk again reiterated there was no cost incurred.

7. 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.

101/3.1 PN 1700650, 5901/52

Clr G Markwart declared a less than significant non pecuniary interest in Item 10.1 - Planning Proposal to amend WLEP 2010 with regard to land at Odessa Street Berrima as supported in the Wingecarribee Local Planning Strategy 2015-2031 as he has known and worked on community issues with one of the key opponents of the proposal over many years. He will remain in the Chamber and vote on the matter.

101/3.1 PN 1808020, 5901/52

Clr G Markwart declared a less than significant non pecuniary interest in Item 10.2 Planning Proposal to amend WLEP 2010 with regard to land at Nathan Street Berrima as supported in the Wingecarribee Local Planning Strategy 2015-2031 as he has known and worked on community issues with one of the key opponents of the proposal over many years. He will remain in the Chamber and vote on the matter.

101/3.1 PN 1700650, 5901/52

Clr I M Scandrett declared a significant non pecuniary interest in Item 10.1 - Planning Proposal to amend WLEP 2010 with regard to land at Odessa Street Berrima as supported in the Wingecarribee Local Planning Strategy 2015-2031 as last term a complaint was lodged against him. Although the complaint had been fully dismissed he will leave the Chamber to avoid any doubt.

101/3.1 PN 1808020, 5901/52

Clr I M Scandrett declared a significant non pecuniary interest in Item 10.2 Planning Proposal to amend WLEP 2010 with regard to land at Nathan Street Berrima as supported in the Wingecarribee Local Planning Strategy 2015-2031 as last term a complaint was lodged against him. Although the complaint had been fully dismissed he will leave the Chamber to avoid any doubt.

8. MAYORAL MINUTES

8.1 Emergency Services Levy Increase

Reference: 6310
Report Author: Administration Officer (Meetings)
Authoriser: Group Manager Corporate and Community
Link to Community
Strategic Plan:

PURPOSE

Each year, the NSW Government collects payments from Councils and insurers to fund emergency services agencies in NSW, with Councils required to pay 11.7% of the budget required by NSW Emergency Services. These charges are embedded in Council rates and insurance premiums.

From 1 July 2019 the NSW Government plans to collect an additional \$160 million (in 2019/20) from NSW Councils, communities and those paying insurance premiums to provide better workers' compensation coverage for volunteer and career firefighters who are diagnosed with one of 12 specific work-related cancers.

Councils were sent accounts with a letter from Revenue NSW in May 2019, advising NSW Council contributions will increase by \$19 million in 2019/20. The letter also foreshadowed increases in the following year, but not the amount.

Wingecarribee Shire received an invoice from Revenue NSW for \$870,519 for its emergency services levy contribution. This is \$123,219 more than last year's levy of \$711,732 which is an increase of \$123,219 or 22%. The Draft Delivery and Operational Plan includes provision for the payment of \$747,300 based on an estimated increase of 5% over the 2018/2019 budget provision of \$711,732.

This will mean Council will need to find additional funds and adjust the Draft Delivery and Operational Plans when the Plans are reported to Council after the public consultation period.

Council supports career and volunteer firefighters in NSW – as it does all emergency services workers and volunteers. Indeed, many NSW Council staff and Councillors are volunteers. Council also support the Bill passed in November 2018 to address what was a workers' compensation shortfall.

However, the sector was at no point advised that it would be required to cover the cost via significant increases to the emergency services levy, or what this cost would be.

Local Government NSW is calling upon the NSW Government to fund the first 12 months of this extra cost and work with local government to ensure the implementation of the funding mechanism is fairer into the future.

MN 231/19

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

1. **THAT** Council make representations to the NSW Premier and NSW Interim Opposition Leader, NSW Minister for Customer Services, NSW Minister for Emergency Services, Minister for Local Government and Shadow Minister for Local Government, and local State members of Parliament requesting the NSW Government cover the initial additional \$19m increase to local government for the 2019/2020.
2. **THAT** the NSW Government consult with NSW local governments to redesign the funding mechanism for the scheme to ensure fairness into the future.

PASSED

9. PUBLIC FORUM

Nil

COMMITTEE OF THE WHOLE

107/10

MN 232/19

MOTION moved by Clr G Markwart and seconded by Clr L A C Whipper

THAT in accordance with Section 373 of the Local Government Act, 1993, Council moves into Committee of the Whole to consider various matters detailed in the Agenda with Clr P Nelson to take the Chair.

PASSED

10. VISITOR MATTERS

OPERATIONS

Nil

CORPORATE AND STRATEGY

10.1 Planning Proposal to amend WLEP 2010 with regard to land at Odessa Street Berrima as supported in the Wingecarribee Local Planning Strategy 2015-2031

Reference:	PN 1700650, 5901/52
Report Author:	Senior Strategic Land Use Planner
Authoriser:	Coordinator Strategic Land Use Planning
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 consider the public exhibition of a Planning Proposal to progress amendments to WLEP 2010, including the subject land, as supported by Council in the relevant Precinct Plan of the Wingecarribee Local Planning Strategy 2015-2031.

Mr Clive West addressed Council in relation to this item
Mr Clive West was granted an extension of two minutes.

Clr I M Scandrett declared a significant non pecuniary interest in Item 10.1 - Planning Proposal to amend WLEP 2010 with regard to land at Odessa Street Berrima as supported in the Wingecarribee Local Planning Strategy 2015-2031 as last term a complaint was lodged against him. Clr I M Scandrett left the chambers, the time being 04:11pm.

Mr Scott Lee, addressed Council in relation to this item.

The Senior Strategic Land Use Planner addressed Council in relation to this item.

VOTING ON THE MOTION

Councillors are required to record their votes on this matter.

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

1. **THAT** in accordance with s3.36 of the Environmental Planning & Assessment Act 1979 the proposed amendment to Wingecarribee Local Environmental Plan to include Lots 194-195, 198-200, 202-211, Part 213-214 and Lot 212 DP 751252, being 4-6 Odessa Street Berrima, in Schedule 1 (Additional Permitted Uses) for the purposes of amalgamation and resubdivision into a maximum of four (4) lots with one (1) dwelling house on each lot, be finalised.

2. **THAT** the provisions of the Berrima Landscape Conservation Area in the Rural Lands Development Control Plan (DCP) be amended to:
 - (i) *Include the proposed building envelope map which forms Attachment 1 to this report as the basis on which any future Development Application for subdivision be considered.*

 - (ii) *Require a Vegetation Management Plan to be prepared and submitted with any future Development Application for subdivision.*

 - (iii) *Require a Heritage Impact Statement to be prepared for any proposed development of a lot resulting from this proposal.*

3. **THAT** the proponent and submission makers be informed of Council's decisions 1 and 2 above.

VOTING ON THE MOTION

For the motion: Clr G J Andrews, Mayor Clr T D Gair and Clr P W Nelson

Against the motion: Clr K J Halstead, Clr G Markwart and Clr L A C Whipper

ON BEING PUT TO THE MEETING IN COMMITTEE OF THE WHOLE VOTING ON THE MOTION WAS TIED AT THREE VOTES ALL AND THEREFORE THE MATTER WAS DEFERRED TO THE FULL COUNCIL MEETING WITH THE MAYOR IN THE CHAIR.

10.2 Planning Proposal to amend WLEP 2010 with regard to land at Nathan Street Berrima as supported in the Wingecarribee Local Planning Strategy 2015-2031

Reference:	PN 1808020, 5901/52
Report Author:	Senior Strategic Land Use Planner
Authoriser:	Coordinator Strategic Land Use Planning
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 consider the public exhibition of a Planning Proposal to progress amendments to WLEP 2010, including the subject land, as supported by Council in the relevant Precinct Plan of the Wingecarribee Local Planning Strategy 2015-2031.

Clr I M Scandrett returned to the meeting, the time being 04:45pm.

Clr I M Scandrett declared a significant non pecuniary interest in Item 10.2 Planning Proposal to amend WLEP 2010 with regard to land at Nathan Street Berrima as supported in the Wingecarribee Local Planning Strategy 2015-2031 as last term a complaint was lodged against him. Clr I M Scandrett left the chambers, the time being 04:46pm.

Mr Clive West addressed Council in relation to this item

Clr P Nelson requested the Mayor resume the Chair in Open Council

COUNCIL MATTERS

MN 233/19

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

THAT Council move from Committee of the Whole back into Council, the time being 4:50pm with the Mayor Clr T D Gair resuming the Chair to conduct the remainder of Council Business.

PASSED

MINUTES OF THE ORDINARY MEETING OF COUNCIL

Wednesday 22 May 2019



Mr Scott Lee addressed Council in relation to this item.
Mr Lee was granted an extension of two minutes.

The Senior Strategic Land Use Planner addressed Council in relation to this item..

VOTING ON THE MOTION

Councillors are required to record their votes on this matter.

MN 234/19

MOTION moved by Clr P W Nelson and seconded by Clr G J Andrews

1. **THAT** in accordance with s.3.36 of the Environmental Planning & Assessment Act 1979 the proposed amendment to Wingecarribee Local Environmental Plan to include Lots 55-58 DP 751252 in Schedule 1 (Additional Permitted Uses) for the purposes of one (1) dwelling house on the resulting amalgamated lot, and to include Lots 59, 60 and 64 DP 751252 in Schedule 1 (Additional Permitted Uses) for the purposes of one (1) dwelling house on each lot, be finalised.
2. **THAT** the provisions of the Berrima Landscape Conservation Area in the Rural Lands Development Control Plan (DCP) be amended to:
 - (i) *Include the proposed lot amalgamation and building envelope map which forms Attachment 1 to this report as the basis on which any future Development Application for subdivision be considered.*
 - (ii) *Require a Vegetation Management Plan to be prepared and submitted with any future Development Application for subdivision of the subject land and that it specifically address Lot 64 DP 751252.*
 - (iii) *Require a Heritage Impact Statement to be prepared for any proposed development of a lot resulting from this proposal.*
3. **THAT** the proponents and submission makers be informed of Council's decisions 1 and 2 above.

VOTING ON THE MOTION

For the motion: Clr G J Andrews, Mayor Clr T D Gair and Clr P W Nelson

Against the motion: Clr K J Halstead, Clr G Markwart and Clr L A C Whipper

ON BEING PUT TO THE MEETING THE MAYOR USED HIS CASTING VOTE TO AFFIRM THE MOTION.

THE MOTION WAS PASSED

10.1 Planning Proposal to amend WLEP 2010 with regard to land at Odessa Street Berrima as supported in the Wingecarribee Local Planning Strategy 2015-2031

Reference: PN 1700650, 5901/52
Report Author: Senior Strategic Land Use Planner
Authoriser: Coordinator Strategic Land Use Planning
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

This matter was reconsidered for further consideration by Council.

PURPOSE

The purpose of this report is to consider the public exhibition of a Planning Proposal to progress amendments to WLEP 2010, including the subject land, as supported by Council in the relevant Precinct Plan of the Wingecarribee Local Planning Strategy 2015-2031.

MN 235/19

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

1. **THAT** in accordance with s3.36 of the Environmental Planning & Assessment Act 1979 the proposed amendment to Wingecarribee Local Environmental Plan to include Lots 194-195, 198-200, 202-211, Part 213-214 and Lot 212 DP 751252, being 4-6 Odessa Street Berrima, in Schedule 1 (Additional Permitted Uses) for the purposes of amalgamation and resubdivision into a maximum of four (4) lots with one (1) dwelling house on each lot, be finalised.

2. **THAT** the provisions of the Berrima Landscape Conservation Area in the Rural Lands Development Control Plan (DCP) be amended to:
 - (i) *Include the proposed building envelope map which forms Attachment 1 to this report as the basis on which any future Development Application for subdivision be considered.*

 - (ii) *Require a Vegetation Management Plan to be prepared and submitted with any future Development Application for subdivision.*

 - (iii) *Require a Heritage Impact Statement to be prepared for any proposed development of a lot resulting from this proposal.*

3. **THAT** the proponent and submission makers be informed of Council's decisions 1 and 2 above.

ON BEING PUT TO THE MEETING IN COMMITTEE OF THE WHOLE VOTING ON THE MOTION WAS TIED AT THREE VOTES ALL AND THEREFORE THE MATTER WAS DEFERRED TO THE FULL COUNCIL MEETING WITH THE MAYOR IN THE CHAIR.

VOTING ON THE MOTION

For the motion: Clr G J Andrews, Mayor Clr T D Gair and Clr P W Nelson

Against the motion: Clr K J Halstead, Clr G Markwart and Clr L A C Whipper

ON THE MOTION BEING PUT TO THE MEETING IN OPEN COUNCIL VOTING WAS TIED AT THREE VOTES ALL AND THE MAYOR USED HIS CASTING VOTE TO AFFIRM THE MOTION.

VOTING ON THE MOTION

For the motion: Clr G J Andrews, Mayor Clr T D Gair and Clr P W Nelson

Against the motion: Clr K J Halstead, Clr G Markwart and Clr L A C Whipper

THE MOTION WAS PASSED

10.3 **Mittagong Development Control Plan - Site Specific Provisions for Affordable Housing Proposal**

Reference: 5700/69 5320/70
Report Author: Coordinator Strategic Land Use Planning
Authoriser: Group Manager Planning, Development and Regulatory Services

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 enable Council to consider a request to incorporate site specific provisions into the Mittagong Development Control Plan to facilitate a residential development including a mix of affordable housing, seniors living and standard residential apartments.

Clr I M Scandrett returned to the meeting, the time being 05:17pm.

The General Manager left the chamber, the time being 5:19pm.

Mr Matthew Blissett addressed Council in relation to this item.

The Coordinator Strategic Land Use Planning addressed Council in relation to this item.

VOTING ON THE MOTION

Councillors are required to record their votes on this matter.

MN 236/19

MOTION moved by Clr I M Scandrett and seconded by Clr L A C Whipper

1. **THAT** Council give in-principle support for the inclusion of site specific provisions into the Mittagong Town Plan Development Control Plan to facilitate an affordable housing development proposal in the location bound by Rainbow Road, Brewster Street, Old Hume Highway and Mineral Springs Reserve, subject to more detailed design controls being prepared.
2. **THAT** Council support bonus floor space provisions for affordable housing to be incorporated into the 'precinct' controls on a sliding scale; with bonus floor space to be proportionate to the percentage of affordable housing to be provided.
3. **THAT** following the preparation of more detailed design controls, a draft Amendment to the Mittagong Development Control Plan be reported to Council to be endorsed for public exhibition.

PASSED

VOTING ON THE MOTION

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

Against the motion: Nil

11. EN BLOC MOTION

There was no En Bloc Motion at this Meeting.

12. OPERATIONS FINANCE AND RISK

12.1 Investment Report - April 2019

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 April 2019.

MN 237/19

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

THAT the information on Council's Investments as at 30 April 2019 be received and noted.

PASSED

12.2 Proposed Licence Agreement to Highlands Community Centre - Youth Hub, Loseby Park 2A Park Road, Bowral & Stafford Cottage, 22 Bendooley Street, Bowral

Reference: PN 1707738 LIC15/007 PN 1782100 LIC15/005
Report Author: Property and Project Officer
Authoriser: 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 seek Council approval to place on public exhibition a proposed Licence Agreement to Highlands Community Centre Inc. for the continued occupation of Stafford Cottage at 22 Bendooley Street, Bowral and the Youth Hub located at Loseby Park, 2A Park Road, Bowral.

MN 238/19

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

1. **THAT** Council place on public exhibition for a minimum twenty eight (28) days the proposed five (5) year Licence Agreements to Highlands Community Centre for occupation of Stafford Cottage, 22 Bendooley Street, Bowral and the Youth Hub at 2A Loseby Park, Bowral AND THAT rental be \$1.00 per annum, if demanded.
2. **THAT**, if any objections are received during the period of public exhibition, a further report be presented to a future Ordinary Meeting of Council.
3. **THAT**, if no objections are received during the period of public exhibition, Council offer a Licence Agreement for the occupation of Stafford Cottage, 22 Bendooley Street, Bowral and Youth Hub at Loseby Park, Bowral to Highlands Community Centre Inc. AND THAT the General Manager and Mayor be delegated authority to execute the Licence Agreement under the Common Seal of Council, if required.

PASSED

12.3 Berrima Marketplace All Abilities Playground Upgrade and Draft Masterplan

Reference:	6526
Report Author:	Asset Planner - Parks and Buildings
Authoriser:	Asset Coordinator Parks and Buildings
Link to Community Strategic Plan:	Plan and deliver appropriate and accessible local services for the community

PURPOSE

The purpose of the report is to advise Council of a proposed project to upgrade the Berrima Marketplace Playground and to seek approval for the Berrima Marketplace Draft Masterplan to be placed on public exhibition with the community invited to provide feedback and comments.

MN 239/19

MOTION moved by Cllr K J Halstead and seconded by Cllr L A C Whipper

1. **THAT** the Berrima Marketplace Draft Masterplan be placed on public exhibition for a period of twenty eight (28) days.
2. **THAT** the final Berrima Marketplace Masterplan incorporating community submissions be submitted to Council for adoption following the public exhibition.

PASSED

12.4 Bong Bong Common Masterplan

Reference:	6530/1
Report Author:	Asset Planner - Parks and Buildings
Authoriser:	Asset Coordinator Parks and Buildings
Link to Community	
Strategic Plan:	Increase promotion of healthy lifestyle choices

PURPOSE

The purpose of this report is to seek Council approval to adopt the Draft Bong Bong Common Masterplan.

MN 240/19

MOTION moved by Clr P W Nelson and seconded by Clr G J Andrews

THAT the draft Bong Bong Common Masterplan included at Attachment 1 be adopted by Council.

PASSED

13. CORPORATE STRATEGY AND DEVELOPMENT SERVICES

13.1 Planning Proposal to Rezone and Reclassify Land at Innes Road, Moss Vale

Reference:	5901/46 RD 3359
Report Author:	Senior Strategic Land Use Planner
Authoriser:	Coordinator Strategic Land Use Planning
Link to Community Strategic Plan:	Effective financial and asset management ensure Council's long term sustainability

PURPOSE

The purpose of this report is to inform Council of the post exhibition outcome of this Planning Proposal to rezone the subject land.

MN 241/19

MOTION moved by Cllr I M Scandrett and seconded by Cllr L A C Whipper

1. **THAT** in accordance with s3.35 of the Environmental Planning & Assessment Act 1979 Council resolve to not proceed with the Planning Proposal to amend Wingecarribee Local Environmental Plan 2010 to rezone Part of Lot 2 DP 775152 Innes Road, Moss Vale from RE1 Public Recreation to B4 Mixed Use and apply a Minimum Lot Size of 700m², and to amend Schedule 4 to reclassify Part of Lot 2 DP 775152 Innes Road Moss Vale from Community to Operational due to the subject land being identified as a significant drainage easement.
2. **THAT** Council liaise with the owner of 173 Lackey Road Moss Vale to explore the option of a lease over the easement to provide rear access to Innes Road.

PASSED

VOTING ON THE MOTION

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

13.2 Planning Proposal to Amend WLEP 2010 for Certain Lands Supported in the Wingecarribee Local Planning Strategy 2015-2031

Reference:	5901/52
Report Author:	Senior Strategic Land Use Planner
Authoriser:	Coordinator Strategic Land Use Planning
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 consider the public exhibition of Planning Proposals supported by Council in the relevant Precinct Plans of the Wingecarribee Local Planning Strategy 2015-2031.

MN 242/19

MOTION moved by Clr G Markwart and seconded by Clr G J Andrews

1. **THAT** in accordance with s3.36 of the Environmental Planning & Assessment Act 1979 the proposed amendment to Wingecarribee Local Environmental Plan 2010 to include Lot 109 DP 664112, 2 Wilson Drive Hill Top, in Schedule 1 (Additional Permitted Uses) to permit development for the purposes of a dwelling house be finalised.
2. **THAT** in accordance with s3.36 of the Environmental Planning & Assessment Act 1979, the proposed amendment to Wingecarribee Local Environmental Plan 2010 to zone Part of Lot 10 DP 1216346 and Part of Lot 3907 DP 1215684, being that portion of land adjoining Mittagong railway station which is the subject of a lease between ARTC and the proponent, from SP2 Rail Infrastructure to B4 Mixed Use with a maximum height of 10m and a maximum floor space ratio of 0.5:1 be finalised.
3. **THAT** in accordance with s3.36 of the Environmental Planning & Assessment Act 1979 the proposed amendment to Wingecarribee Local Environmental Plan 2010 to include Lot 50 DP556644, 2A Cliff Street Bowral, in Schedule 1 (Additional Permitted Uses) to permit development for the purposes of a two lot residential subdivision be finalised.
4. **THAT** in accordance with s3.36 of the Environmental Planning & Assessment Act 1979 the proposed amendment to Wingecarribee Local Environmental Plan 2010 to rezone land at Wyeera (Bong Bong Racecourse), 460 Kangaloon Road Bowral, from E3 Environmental Management to RE2 Private Recreation be finalised.

PASSED

VOTING ON THE MOTION

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

Against the motion: Nil

13.3 Waive Developer Charges Robertson Men's Shed Incorporated

Reference: 19/0955
Report Author: Development Assessment Planner
Authoriser: Group Manager Planning, Development and Regulatory Services

Link to Community Strategic Plan: Work collaboratively to address social disadvantage

PURPOSE

The purpose of this report is to consider a request by the Robertson Men's Shed Incorporated to waive the water, sewerage and stormwater headworks charges levied under Section 64 of the *Local Government Act* and Section 306 of the *Water Management Act 2000*.

The Robertson Men's Shed Incorporated is a not for profit organisation committed to the objectives of the Australian Men's Shed Association to provide for the health and well-being of the men of Robertson, particularly in providing them the ability to recognise and deal with mental health and get them to feel needed and inclusive within the local community.

The General Manager returned to the Chambers, the time being 5:35pm

MN 243/19

MOTION moved by Cllr L A C Whipper and seconded by Cllr I M Scandrett

THAT Council makes a donation of \$3,315.59 to the Robertson Men's Shed for the purposes of paying the water, sewerage and stormwater headworks funds being the full value of the respective charges AND THAT the donation be funded from the Contingency Fund.

PASSED

13.4 Fees Payable to Mayor and Councillors 2019/20

Reference: 101/6
Report Author: Group Manager Corporate and Community
Authoriser: Deputy General Manager Corporate, Strategy and Development Services
Link to Delivery Program: Ensure systems and processes are in place to achieve mutual trust and collaboration

PURPOSE

To advise of the Local Government Tribunal's determination under Section 241 of the *Local Government Act 1993* in respect of the annual fees payable to Mayor and Councillors for the 2019/20 financial year.

MN 244/19

MOTION moved by Clr G Markwart and seconded by Clr L A C Whipper

THAT Council increase the fees paid to Councillors for the period 1 July 2019 to 30 June 2020 by 2.5% in line with the Local Government Remuneration Tribunal determination.

PASSED

Clr I M Scandrett requested his dissenting vote be recorded

AMENDMENT moved by Clr I M Scandrett

THAT Council increase the fees paid to Councillors for the period 1 July 2019 to 30 June 2020 by 0.00025% in line with the Local Government Remuneration Tribunal determination.

AMENDMENT LAPSED THROUGH WANT OF A SECONDER

13.5 Request for Refund of Payment Under Former Development Servicing Plans

Reference:	5701/7
Report Author:	Deputy General Manager Corporate, Strategy and Development Services
Authoriser:	Deputy General Manager Corporate, Strategy and Development Services
Link to Community Strategic Plan:	Manage and plan for future water, sewer and stormwater infrastructure needs

PURPOSE

The purpose of this report is to seek a direction from Council in relation to a request for a refund of Developer Charges levied on a subdivision approved in 2004 in which the NSW Ombudsman has become involved.

The Recommendation in Closed Council Report 22.1 was adopted by Council in Open Council as follows:

MN 245/19

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

THAT Council write to the NSW Ombudsman and advise that Council will not implement its request to provide a refund to the applicant for the following reasons:

- a) Council has acted in accordance with the appropriate legislation, NSW Guidelines and case law in levying developer charges under the DSP applicable at the time an application for a certificate of compliance is made.
- b) There is no formal resolution of Council that would allow pre-2007 development consents to be levied at the rate specified in the relevant condition of consent.

PASSED

QUESTIONS FROM THE PUBLIC

There were no questions from the public.

100/10

MATTER OF URGENCY

107/21

MN 246/19

MOTION moved by Clr P W Nelson and seconded by Clr G J Andrews

THAT consideration of the adoption of the Minutes of the Finance Committee Meeting held on Wednesday, 15 May 2019 be treated as a matter of urgency.

PASSED

MN 247/19

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

THAT recommendation Nos FC 15/19 to FC 19/19 – as detailed in the Minutes of the Finance Committee Meeting held on Wednesday, 15 May 2019 be adopted.

MOTION PASSED

14. GENERAL MANAGER

14.1 Legal Report

Reference:	107/22
Report Author:	General Counsel
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 update Council on the status of legal proceedings reported at the ordinary meeting of Council on Wednesday 24 April 2019.

The General Manager addressed Council in relation to this item.

MN 248/19

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

1. **THAT** the information relating to ongoing legal costs in Attachment 1 to the report be noted.
2. **THAT** the status of the legal proceedings involving Council be considered in Closed Council – Item 22.2.

PASSED

15. DELEGATE REPORTS

16. PETITIONS

16.1 Petition 3/2019 - DA 19/0837 - Orchid Street, Colo Vale Development

Reference:	100/8 19/0837
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 received from the residents of the northern villages of the Southern Highlands relating to DA19/0837.

The petition contains over 230 signatures.

MN 249/19

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

THAT Petition 3/2019 relating to Orchid Street, Colo Vale be received and noted by Council.

PASSED

17. CORRESPONDENCE FOR ATTENTION

Nil

18. COMMITTEE REPORTS

Nil

19. QUESTIONS WITH NOTICE

Nil

20. NOTICES OF MOTION

20.1 Notice of Motion 16/2019 - Civic Prayer

Reference:	100/4
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

Councillor Whipper has given notice that it is his intention to move the following motion at the Ordinary Meeting of Council on 22 May 2019:

1. THAT Council acknowledge the importance of the opening prayer at each Council meeting and extend sincere thanks to all those Ministers who have provided these blessings upon Council and community over the years.
2. THAT in recognising Australia is predominantly Christian in our belief system THAT we also recognise there are those in our nation and the Shire who acknowledge God through different pathways.
3. THAT in acknowledging this reality Council now consider broadening the representation of those who offer “prayer” at the opening of Council meetings to respect and reflect this fact.
4. THAT Council make formal invitations to local leaders of the Catholic, Buddhist, Hindu, Jewish, Muslim and Bahai faiths to be include in the roster to provide prayer on behalf of this Council and its community at the opening of Council (after Acknowledgement of Country) along with the Minister’s Fraternal.
5. THAT in making this invitation, Council acknowledge this is designed to encourage inclusiveness and NOT to denigrate our Christian belief system.

MN 250/19

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

THAT the matter be deferred to a future Council Meeting at which all Councillors are present for the debate.

PASSED

AMENDMENT moved by Clr I M Scandrett

THAT Notice of Motion 16/2019 – Civic Prayer - be approved.

AMENDMENT LAPSED THROUGH WANT OF A SECONDER

21. GENERAL BUSINESS

Nil.

22. CLOSED COUNCIL

MOVING INTO CLOSED SESSION

107/9

At this juncture, the time being 6:06pm, Council moved into Closed Council.

Clr L A C Whipper left the chambers, the time being 06:12pm.

Clr L A C Whipper returned to the meeting, the time being 06:14pm.

MN 251/19

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

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:**

22.1 Request for Refund of Payment under Former Development Servicing Plans

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)(g) as it contains advice concerning litigation, or advice as comprises a discussion of this matter, that would otherwise be privileged from production in legal proceedings on the ground of legal professional privilege 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 direction from Council in relation to a request for a refund of Developer Charges levied on a subdivision approved in 2004 in which the NSW Ombudsman has become involved.

22.2 Legal Report - Closed Council

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)(a) as it contains personnel matters concerning particular individuals (other than councillors), under clause 10A(2)(e) as it contains information that would, if disclosed, prejudice the maintenance of law and under clause 10A(2)(g) as it contains advice concerning litigation, or advice as comprises a discussion of this matter, that would otherwise be privileged from production in legal proceedings on the ground of legal professional privilege 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 update Council on the status of legal proceedings reported to Council at the meeting of 24 April 2019.

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

PASSED

22.1 Request for Refund of Payment under Former Development Servicing Plans

Reference:	5701/7
Report Author:	Coordinator Strategic Land Use Planning
Authoriser:	Group Manager Planning, Development and Regulatory Services
Link to Community Strategic Plan:	Manage and plan for future water, sewer and stormwater infrastructure needs

CONFIDENTIAL ITEM

This report is confidential in accordance with s10A(2) of the Local Government Act, 1993, under clause 10A(2)(g) as it contains advice concerning litigation, or advice as comprises a discussion of this matter, that would otherwise be privileged from production in legal proceedings on the ground of legal professional privilege.

PURPOSE

The purpose of this report is to seek direction from Council in relation to a request for a refund of Developer Charges levied on a subdivision approved in 2004 in which the NSW Ombudsman has become involved.

This item was dealt with earlier in the meeting on page 23. Minute Number 245/19

22.2 Legal Report - Closed Council

Reference:	107/22
Report Author:	General Counsel
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

CONFIDENTIAL ITEM

This report is confidential in accordance with s10A(2) of the Local Government Act, 1993, under clause 10A(2)(a) as it contains personnel matters concerning particular individuals (other than councillors), under clause 10A(2)(e) as it contains information that would, if disclosed, prejudice the maintenance of law and under clause 10A(2)(g) as it contains advice concerning litigation, or advice as comprises a discussion of this matter, that would otherwise be privileged from production in legal proceedings on the ground of legal professional privilege.

PURPOSE

The purpose of this report is to update Council on the status of legal proceedings reported to Council at the meeting of 24 April 2019.

General Counsel addressed Council in relation to this item.

MN 252/19

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

THAT the information in the Legal Report be noted.

PASSED

23. RESUMPTION OF OPEN AGENDA

107/10

MN 253/19

MOTION moved by Clr K J Halstead and seconded by Clr G Markwart

THAT Council moves from Closed Council into Open Council.

PASSED

No members of the public were present in the Chamber.

ADOPTION OF CLOSED COUNCIL

107/9

MN 254/19

MOTION moved by Clr G Markwart and seconded by Clr L A C Whipper

THAT the recommendation of the Closed Council held on Wednesday, 22 May 2019 being MN 252/19 be adopted.

PASSED

24. ADOPTION OF COMMITTEE OF THE WHOLE

107/10

Nil

25. MEETING CLOSURE

THERE BEING NO FURTHER BUSINESS, THE MEETING CLOSED AT 6:21 PM

In accordance with the provisions of Section 375(2) of the Local Government Act, these Minutes of the Ordinary Council Meeting held Wednesday 22 May 2019 numbered M/N 228/19 to M/N 255/19 were signed by me hereunder at the Council Meeting held on Wednesday 12 June 2019.

CHAIRMAN

READ AND CONFIRMED ON WEDNESDAY 12 JUNE 2019

CHAIRMAN

PUBLIC OFFICER