
WYONG SHIRE COUNCIL
MINUTES OF THE
ORDINARY MEETING OF COUNCIL
HELD IN THE COUNCIL CHAMBER
WYONG CIVIC CENTRE, HELY STREET, WYONG
ON WEDNESDAY, 11 JULY 2007,
COMMENCING AT 4.03 PM

PRESENT

COUNCILLORS R L GRAHAM (CHAIRPERSON), G P BEST, D J EATON, K M FORSTER, N T ROSE, R C STEVENS, C W VEUGEN AND W J WELHAM.

IN ATTENDANCE

GENERAL MANAGER, DIRECTOR SHIRE SERVICES (ARRIVED 5.05 PM), DIRECTOR CORPORATE SERVICES, DIRECTOR SHIRE PLANNING, ACTING MANAGER DEVELOPMENT ASSESSMENT (ARRIVED 6.50 PM), ACTING MANAGER FUTURE PLANNING (ARRIVED 6.50 PM) AND AN ADMINISTRATION OFFICER.

THE MAYOR, COUNCILLOR R L GRAHAM, DECLARED THE MEETING OPEN AT 4.03 PM AND PASTOR JOHN BETTS DELIVERED THE OPENING PRAYER AT 6.50PM.

APOLOGIES

APOLOGIES FOR THE INABILITY TO ATTEND THE MEETING WERE RECEIVED ON BEHALF OF COUNCILLORS PAVIER AND STEWART DUE TO ILLNESS.

RESOLVED unanimously on the motion of Councillor EATON and seconded by Councillor FORSTER:

That the apologies be accepted and leave of absence from the meeting be granted.

RESOLVED unanimously on the motion of Councillor GRAHAM and seconded by Councillor FORSTER:

That standing orders be varied to enable confidential items to be considered.

AT THE COMMENCEMENT OF THE ORDINARY MEETING REPORT NO 279, WAS DEALT WITH FIRST THEN THE REMAINING REPORTS IN ORDER. HOWEVER FOR THE SAKE OF CLARITY THE REPORTS ARE RECORDED IN THEIR CORRECT AGENDA SEQUENCE.

Minutes of the Ordinary Meeting of Council held on 11 July 2007 (contd)

274 Disclosures of Interest

F2006/02282 ED:MR

277 PROPOSED BRIEFINGS

COUNCILLOR BEST DECLARED A NON-PECUNIARY INSIGNIFICANT CONFLICT OF INTEREST IN THE MATTER FOR THE REASON THAT HIS FAMILY HOLIDAYS IN COUNCIL OWNED PARKS MENTIONED IN REPORT 277 LEFT THE CHAMBER AT 6.56 PM, TOOK NO PART IN DISCUSSION, DID NOT VOTE AND RETURNED TO THE CHAMBER AT 6.59 PM.

COUNCILLOR BEST STATED:

"I CHOOSE NOT TO REMAIN IN THE CHAMBER AND NOT PARTICIPATE IN DISCUSSION AND NOT VOTE AS THE CONFLICT MAY INFLUENCE ME IN CARRYING OUT MY PUBLIC DUTY."

285 TOUKLEY GOLF CLUB – CONTRIBUTIONS TO CAPITAL COST

COUNCILLOR EATON DECLARED A NON-PECUNIARY INSIGNIFICANT CONFLICT OF INTEREST IN THE MATTER FOR THE REASON THAT HE IS A MEMBER OF TOUKLEY GOLF CLUB AND PARTICIPATED IN CONSIDERATION OF THIS MATTER.

COUNCILLOR EATON STATED:

"I CHOOSE TO REMAIN IN THE CHAMBER AND PARTICIPATE IN DISCUSSION AND VOTING AS THE CONFLICT HAS NOT INFLUENCED ME IN CARRYING OUT MY PUBLIC DUTY BECAUSE I AM NOT IN ANY DECISION MAKING POSITION IN THE CLUB."

285 TOUKLEY GOLF CLUB – CONTRIBUTIONS TO CAPITAL COST

COUNCILLOR ROSE DECLARED A NON-PECUNIARY INSIGNIFICANT CONFLICT OF INTEREST IN THE MATTER FOR THE REASON THAT HE IS A MEMBER OF TOUKLEY GOLF CLUB AND PARTICIPATED IN CONSIDERATION OF THIS MATTER.

COUNCILLOR ROSE STATED:

"I CHOOSE TO REMAIN IN THE CHAMBER AND PARTICIPATE IN DISCUSSION AND VOTING AS THE CONFLICT HAS NOT INFLUENCED ME IN CARRYING OUT MY PUBLIC DUTY BECAUSE I AM A MEMBER OF TOUKLEY GOLF CLUB BUT DO NOT HOLD ANY MANAGEMENT POSITIONS."

286 ADDITIONAL FEES AND CHARGES

COUNCILLOR FORSTER DECLARED A NON-PECUNIARY SIGNIFICANT CONFLICT OF INTEREST IN THE MATTER FOR THE REASON THAT A FAMILY MEMBER HOLDS AN EXECUTIVE POSITION WITH THE KILLARNEY VALE AFL CLUB LEFT THE CHAMBER AT 7.22 PM, TOOK NO PART IN DISCUSSION, DID NOT VOTE AND RETURNED TO THE CHAMBER AT 7.23 PM.

Minutes of the Ordinary Meeting of Council held on 11 July 2007 (contd)

288 PROPOSED COUNCILLORS' COMMUNITY IMPROVEMENT GRANTS

COUNCILLOR WELHAM DECLARED A NON-PECUNIARY INSIGNIFICANT CONFLICT OF INTEREST IN THE MATTER FOR THE REASON THAT HE IS A PATRON OF TOUKLEY SWIMMING CLUB AND PARTICIPATED IN CONSIDERATION OF THIS MATTER.

COUNCILLOR WELHAM STATED:

"I CHOOSE TO REMAIN IN THE CHAMBER AND PARTICIPATE IN DISCUSSION AND VOTING AS THE CONFLICT HAS NOT INFLUENCED ME IN CARRYING OUT MY PUBLIC DUTY BECAUSE I AM NOT AN EXECUTIVE MEMBER OF THE CLUB AND HAVE NO INVOLVEMENT IN THE RUNNING OF THE CLUB."

RESOLVED unanimously on the motion of Councillor FORSTER and seconded by Councillor STEVENS:

That the report be received and advice of disclosures noted.

276 Proposed Inspections

F2006/02282 ED:MR

RESOLVED unanimously on the motion of Councillor WELHAM and seconded by Councillor STEVENS:

That the report on inspections to be conducted on Wednesday, 25 July 2007 be received and the information noted.

277 Proposed Briefings

F2006/02282 ED:MR

COUNCILLOR BEST DECLARED A NON-PECUNIARY INSIGNIFICANT CONFLICT OF INTEREST IN THE MATTER FOR THE REASON THAT HIS FAMILY HOLIDAYS IN COUNCIL OWNED PARKS MENTIONED IN REPORT 277 LEFT THE CHAMBER AT 6.56 PM, TOOK NO PART IN DISCUSSION, DID NOT VOTE AND RETURNED TO THE CHAMBER AT 6.59 PM.

COUNCILLOR BEST STATED:

"I CHOOSE NOT TO REMAIN IN THE CHAMBER AND NOT PARTICIPATE IN DISCUSSION AND NOT VOTE AS THE CONFLICT MAY INFLUENCE ME IN CARRYING OUT MY PUBLIC DUTY."

Minutes of the Ordinary Meeting of Council held on 11 July 2007 (contd)

It was MOVED by Councillor EATON and SECONDED by Councillor VEUGEN:

- 1 *That the report be received and the information noted.*
- 2 *That staff seek an independent financial report on upgrading of the Holiday Parks.*

IN ACCORDANCE WITH CLAUSE 20 OF COUNCIL'S CODE OF MEETING PRACTICE, THE MAYOR RULED THE MOTION OUT OF ORDER.

RESOLVED on the motion of Councillor WELHAM and seconded by Councillor FORSTER:

That the report be received and the information noted.

FOR: COUNCILLORS FORSTER, GRAHAM, ROSE, STEVENS, VEUGEN AND WELHAM

AGAINST: COUNCILLOR EATON

278 Address by Invited Speakers

F2006/02282 ED:MR

RESOLVED unanimously on the motion of Councillor STEVENS and seconded by Councillor BEST:

That the report on Invited Speakers be received and the information noted.

279 Notice of Intention to Deal With Matters in Confidential Session

F2006/02282 ED:MR

COUNCILLOR BEST LEFT THE CHAMBER AT 4.17 PM AND RETURNED TO THE CHAMBER AT 4.18 PM DURING CONSIDERATION OF THIS ITEM.

It was MOVED by Councillor EATON and SECONDED by Councillor BEST:

- 1 *That pursuant to Section 10A(2)(g) of the Local Government Act, 1993, the following report be dealt with in Confidential Session:*

*W009 - Life Saving Facilities and Services at Magenta Beach, North Entrance
W010 - Cabbage Tree Harbour Landslip*

Minutes of the Ordinary Meeting of Council held on 11 July 2007 (contd)

- 2 *That the reason for dealing with Report No W009 – Life Saving Facilities and Services at Magenta Beach, North Entrance and Report No W010 - Cabbage Tree Harbour Landslip confidentially is that they contain advice concerning potential litigation, or advice that would otherwise be privileged from production in legal proceedings on the ground of legal professional privilege.*
- 3 *That, in accordance with the Council resolution, the General Manager will report on this matter to the meeting in Confidential Session.*
- 4 *That Council convene a without prejudice open forum with residents of Cabbage Tree Harbour.*

An AMENDMENT was MOVED by Councillor ROSE and SECONDED by Councillor FORSTER:

- 1 *That pursuant to Section 10A(2)(g) of the Local Government Act, 1993, the following report be dealt with in Confidential Session:*

W009 - Life Saving Facilities and Services at Magenta Beach, North Entrance
W010 - Cabbage Tree Harbour Landslip
- 2 *That the reason for dealing with Report No W009 – Life Saving Facilities and Services at Magenta Beach, North Entrance and Report No W010 - Cabbage Tree Harbour Landslip confidentially is that they contain advice concerning potential litigation, or advice that would otherwise be privileged from production in legal proceedings on the ground of legal professional privilege.*
- 3 *That, in accordance with the Council resolution, the General Manager will report on this matter to the meeting in Confidential Session.*

The AMENDMENT was put to the vote and declared CARRIED.

FOR: COUNCILLORS FORSTER, GRAHAM, ROSE, STEVENS AND WELHAM.

AGAINST: COUNCILLORS BEST, EATON AND VEUGEN.

The AMENDMENT became the MOTION.

Minutes of the Ordinary Meeting of Council held on 11 July 2007 (contd)

RESOLVED on the motion of Councillor ROSE and seconded by Councillor FORSTER:

1 That pursuant to Section 10A(2)(g) of the Local Government Act, 1993, the following report be dealt with in Confidential Session:

W009 – Life Saving Facilities and Services at Magenta Beach, North Entrance
W010 - Cabbage Tree Harbour Landslip

2 That the reason for dealing with Report No W009 – Life Saving Facilities and Services at Magenta Beach, North Entrance and Report No W010 - Cabbage Tree Harbour Landslip confidentially is that they contain advice concerning potential litigation, or advice that would otherwise be privileged from production in legal proceedings on the ground of legal professional privilege.

3 That, in accordance with the Council resolution, the General Manager will report on this matter to the meeting in Confidential Session.

FOR: COUNCILLORS FORSTER, GRAHAM, ROSE, STEVENS AND WELHAM.

AGAINST: COUNCILLORS BEST, EATON AND VEUGEN.

OPEN SESSION

RESOLVED unanimously on the motion of Councillor GRAHAM and seconded by Councillor FORSTER:

That Council resume in Open Session.

THE MEETING WAS AJOURNED AT 6.37 PM AND RESUMED AT 6.50 PM.

THE GENERAL MANAGER REPORTED ON PROCEEDINGS OF THE CONFIDENTIAL SESSION OF THE ORDINARY MEETING OF COUNCIL AS FOLLOWS:

W009 Life Saving Facilities and Services at Magenta Beach, North Entrance

F2004/06257 GSM:CM

RESOLVED unanimously on the motion of Councillor GRAHAM and seconded by Councillor STEVENS:

Minutes of the Ordinary Meeting of Council held on 11 July 2007 (contd)

- 1 ***That Council continue negotiations with Mirvac to resolve the surf lifesaving equipment required to service Magenta Beach and arrange for the purchase and dedication of such equipment by Mirvac prior to the 2007/2008 surf lifesaving season and that a further report come back to Council following the negotiations.***
- 2 ***That Council seek agreement from Mirvac to provide lifeguards at Magenta Beach. That prior to any trial period for the 2007/2008 season, Council formalise an agreement with Mirvac on details of the trial and the trigger for Mirvac to commence a permanent lifeguard service and the draft agreement be reported back to Council.***
- 3 ***That Council staff prepare a development application for surf hazard signage to be erected within the road reserve of Magenta Drive and the application be referred to Council for determination.***
- 4 ***That the wording on the surf hazard signage be as outlined in paragraph 6.1 of the legal advice dated 26 June 2007.***
- 5 ***That Council staff issue a Notice of Intention under Section 121 of the Environmental Planning and Assessment Act, 1979 requiring the owner of the Principal Resort Building to comply with condition 67 of DA/3077/2004.***
- 6 ***That Council subject to any granting of development consent referred to in point three above, erect signage as a matter of urgency.***

W010 Cabbage Tree Harbour Landslip

F2004/07782 GW

RESOLVED on the motion of Councillor WELHAM and seconded by Councillor ROSE:

- 1 ***That staff prepare an urgent report and recommendation to the meeting of 25 July 2007 based on the legal advice received today and briefed to Councillors this evening and that part of this report include advice from State Wide Mutual Insurance on the recommendation proposed.***
- 2 ***That the report also provide advice on holding a forum with the residents of this area.***

FOR: COUNCILLORS FORSTER, GRAHAM, ROSE, STEVENS AND WELHAM.

AGAINST: COUNCILLORS BEST, EATON AND VEUGEN.

Minutes of the Ordinary Meeting of Council held on 11 July 2007 (contd)

280 Confirmation of Minutes of Previous Meeting

F2006/02282 ED:MR

RESOLVED unanimously on the motion of Councillor STEVENS and seconded by Councillor FORSTER:

That the minutes of the previous Ordinary Meeting of Council held on 27 June 2007 be received and confirmed.

BUSINESS ARISING FROM THE MINUTES

THERE WAS NO BUSINESS ARISING FROM THE MINUTES.

281 Mayoral Minute – Performing Arts Centre Trust

F2004/09608

RESOLVED unanimously on the motion of Councillor GRAHAM and seconded by Councillor EATON:

That a report be prepared by staff outlining the details of such a trust with identification of the appropriate resolutions by Council to proceed with the trust.

282 Notice of Motion – Cost of Installing a WIFI Hot Spot in The Entrance Mall Area

F2004/07982 DE:MR

RESOLVED unanimously on the motion of Councillor EATON and seconded by Councillor BEST:

That Council report on the cost, feasibility and advantages of installing a WIFI Hot Spot Zone in The Entrance Mall area, so tourists and locals can get their wireless internet connection.

Minutes of the Ordinary Meeting of Council held on 11 July 2007 (contd)

283 Notice of Motion – Stem Cell Research

F2004/06351 GB

This MOTION was WITHDRAWN by Councillor Best.

284 Draft Shire-Wide Contributions Plan

F2004/00558 PAB

It was MOVED by Councillor WELHAM and SECONDED by Councillor STEVENS:

- 1 That in accordance with the provisions of Clause 31(1) of the Environmental Planning and Assessment Regulation 2000, Council approve the draft Contributions Plan for Shire-Wide Infrastructure, Services and Facilities.*
- 2 That in accordance with the provisions of Clause 31(2) of the Environmental Planning and Assessment Regulation 2000, public notice be given of Council's decision to approve the Plan.*
- 3 That all development applications lodged after the date of the public notice in the local newspaper be subject to the approved Contributions Plan.*
- 4 That those parties who made submissions to the public exhibition of the draft Plan be informed of Council's decision.*

An AMENDMENT was MOVED by Councillor EATON and SECONDED by Councillor VEUGEN:

That this matter be deferred pending:

- a advice from the State Government as to the level of their proposed infrastructure levy; and*
- b report on revision existing section 94 district plans.*

The AMENDMENT was put to the VOTE and declared LOST.

FOR: COUNCILLORS BEST, EATON AND VEUGEN.

AGAINST: COUNCILLORS FORSTER, GRAHAM, ROSE, STEVENS AND WELHAM.

Minutes of the Ordinary Meeting of Council held on 11 July 2007 (contd)

The MOTION was put to the vote and declared CARRIED.

RESOLVED on the motion of Councillor WELHAM and seconded by Councillor STEVENS:

- 1** *That in accordance with the provisions of Clause 31(1) of the Environmental Planning and Assessment Regulation 2000, Council approve the draft Contributions Plan for Shire-Wide Infrastructure, Services and Facilities.*
- 2** *That in accordance with the provisions of Clause 31(2) of the Environmental Planning and Assessment Regulation 2000, public notice be given of Council's decision to approve the Plan.*
- 3** *That all development applications lodged after the date of the public notice in the local newspaper be subject to the approved Contributions Plan.*
- 4** *That those parties who made submissions to the public exhibition of the draft Plan be informed of Council's decision.*

FOR: COUNCILLORS FORSTER, GRAHAM, ROSE, STEVENS AND WELHAM.

AGAINST: COUNCILLORS BEST, EATON AND VEUGEN.

285 Toukley Golf Club – Contributions to Capital Cost

F2004/10902 CT

COUNCILLOR EATON DECLARED A NON-PECUNIARY INSIGNIFICANT CONFLICT OF INTEREST IN THE MATTER FOR THE REASON THAT HE IS A MEMBER OF TOUKLEY GOLF CLUB AND PARTICIPATED IN CONSIDERATION OF THIS MATTER.

COUNCILLOR EATON STATED:

"I CHOOSE TO REMAIN IN THE CHAMBER AND PARTICIPATE IN DISCUSSION AND VOTING AS THE CONFLICT HAS NOT INFLUENCED ME IN CARRYING OUT MY PUBLIC DUTY BECAUSE I AM NOT IN ANY DECISION MAKING POSITION IN THE CLUB."

COUNCILLOR ROSE DECLARED A NON-PECUNIARY INSIGNIFICANT CONFLICT OF INTEREST IN THE MATTER FOR THE REASON THAT HE IS A MEMBER OF TOUKLEY GOLF CLUB AND PARTICIPATED IN CONSIDERATION OF THIS MATTER.

COUNCILLOR ROSE STATED:

"I CHOOSE TO REMAIN IN THE CHAMBER AND PARTICIPATE IN DISCUSSION AND VOTING AS THE CONFLICT HAS NOT INFLUENCED ME IN CARRYING OUT MY PUBLIC DUTY BECAUSE I AM A MEMBER OF TOUKLEY GOLF CLUB BUT DO NOT HOLD ANY MANAGEMENT POSITIONS."

Minutes of the Ordinary Meeting of Council held on 11 July 2007 (contd)

RESOLVED unanimously on the motion of Councillor EATON and seconded by Councillor ROSE:

- 1 That the capital works contributions and the current water charge due by the Toukley Golf Club to Council be deferred for a period of 12 months from 1 August 2007, with the interest charges during the deferral being added to the outstanding loan balance.**
- 2 That Council authorise the General Manager to agree to an amended repayment schedule with Toukley Golf Club consistent with the original agreement.**

286 Additional Fees and Charges

F2006/02294 JK/SG

COUNCILLOR FORSTER DECLARED A NON-PECUNIARY SIGNIFICANT CONFLICT OF INTEREST IN THE MATTER FOR THE REASON THAT A FAMILY MEMBER HOLDS AN EXECUTIVE POSITION WITH THE KILLARNEY VALE AFL CLUB LEFT THE CHAMBER AT 7.22 PM, TOOK NO PART IN DISCUSSION, DID NOT VOTE AND RETURNED TO THE CHAMBER AT 7.23 PM.

RESOLVED unanimously on the motion of Councillor EATON and seconded by Councillor STEVENS:

- 1 That Council adopt the proposed changes to the schedule of Fees and Charges for 2007/2008 as described in the amended report after an exhibition period.**
- 2 That Council advertise the charges for a period of 28 days as per Section 610F and 705 of the Local Government Act 1993.**
- 3 That, subject to no objections, Council apply the proposed fees following the public notification period.**

287 Request to Write Off Sundry Debtor Accounts

F2004/06161 JT/CT

RESOLVED unanimously on the motion of Councillor ROSE and seconded by Councillor STEVENS:

That the total amount of \$36,361.05 be written off as an irrecoverable debt.

Minutes of the Ordinary Meeting of Council held on 11 July 2007 (contd)

288 Proposed Councillors' Community Improvement Grants

F2006/00788, F2007/00729 SG

COUNCILLOR WELHAM DECLARED A NON-PECUNIARY INSIGNIFICANT CONFLICT OF INTEREST IN THE MATTER FOR THE REASON THAT HE IS A PATRON OF TOUKLEY SWIMMING CLUB AND PARTICIPATED IN CONSIDERATION OF THIS MATTER.

COUNCILLOR WELHAM STATED:

"I CHOOSE TO REMAIN IN THE CHAMBER AND PARTICIPATE IN DISCUSSION AND VOTING AS THE CONFLICT HAS NOT INFLUENCED ME IN CARRYING OUT MY PUBLIC DUTY BECAUSE I AM NOT AN EXECUTIVE MEMBER OF THE CLUB AND HAVE NO INVOLVEMENT IN THE RUNNING OF THE CLUB."

RESOLVED unanimously on the motion of Councillor STEVENS and seconded by Councillor GRAHAM:

- 1 That an amount of \$5,800 be allocated from the 2006/2007 Councillors' Community Improvement Grants as outlined in Attachment 1 of the amended report.***
- 2 That an amount of \$9,500 be allocated from the 2007/2008 Councillors' Community Improvement Grants as outlined in Attachment 2 of the amended report.***

289 Minutes of the Conduct Committee Meeting

F2004/06498 KY:LS

RESOLVED unanimously on the motion of Councillor FORSTER and seconded by Councillor WELHAM:

That the minutes of the Conduct Committee Meeting held on 6 June 2007 be received and the recommendations contained therein, adopted.

290 Information Reports

F2006/02282 ED:MR

RESOLVED unanimously on the motion of Councillor ROSE and seconded by Councillor STEVENS:

That the Information Reports of the Ordinary Meeting of Council be dealt with by the exception method.

Minutes of the Ordinary Meeting of Council held on 11 July 2007 (contd)

RESOLVED unanimously on the motion of Councillor GRAHAM and seconded by Councillor EATON:

That the Information Reports and recommendations of the Ordinary Meeting of Council, be received and the information noted.

291 Schedule of Bank Balances and Investments – May 2007

F2004/06604 KF

RESOLVED unanimously on the motion of Councillor GRAHAM and seconded by Councillor EATON:

That the report be received and the information noted.

**292 Minutes of the NSW Association of Mining Related Councils Inc
Mid Year General Meeting – 11 May 2007**

F2004/07245 MW

RESOLVED unanimously on the motion of Councillor GRAHAM and seconded by Councillor EATON:

That the report be received and the information noted.

293 Outstanding Questions Without Notice and Notices of Motion

F2006/02282 MW:SW

RESOLVED unanimously on the motion of Councillor GRAHAM and seconded by Councillor EATON:

That the report be received and the information noted.

QUESTIONS WITHOUT NOTICE ASKED

Q064 – Flood Damage to Chandlers Lane, Wyong Creek

Councillor Eaton

F2004/05305, F2007/00900

“Could staff report on flood damage to Chandlers Lane, Wyong Creek and any avenues available to fund repairs?”

Q065 – Recent Developments in relation to the Upgrading of the Pacific Highway through Wyong Township

Councillor Eaton

F2004/13054

“Can staff report on any recent developments in relation to the upgrading of the Pacific Highway through Wyong township?”

Q066 – Development Subdivisions in the Vicinity of Wadalba Hill South

Councillor Best

DA/501/2004/G, DA/796/2007, DA/864/2007

“Could a report be prepared on the timing and extent of development subdivisions in the vicinity of the Wadalba Hill South, Johns Road, Wadalba as I understand there are currently two development applications and one rezoning that Council officers are preparing as reports to Council?”

THERE BEING NO FURTHER BUSINESS, THE MEETING CLOSED AT 7.31 PM.

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CHAIRPERSON