
WYONG SHIRE COUNCIL

MINUTES OF THE ORDINARY MEETING OF COUNCIL HELD IN THE COUNCIL CHAMBER WYONG CIVIC CENTRE, HELY STREET, WYONG ON WEDNESDAY, 23 MAY 2007, COMMENCING AT 5.01 PM

PRESENT

COUNCILLORS R L GRAHAM (CHAIRPERSON), G P BEST, D J EATON, B J PAVIER, N T ROSE, R E STEWART, R C STEVENS, C W VEUGEN AND W J WELHAM.

IN ATTENDANCE

GENERAL MANAGER, DIRECTOR CORPORATE SERVICES, DIRECTOR SHIRE PLANNING, DIRECTOR SHIRE SERVICES, MANAGER DEVELOPMENT ASSESSMENT, ACTING MANAGER FUTURE PLANNING AND AN ADMINISTRATION OFFICER.

COUNCILLOR STEVENS THANKED THE GENERAL MANAGER AND THE MAYOR FOR THEIR SUPPORT IN THE LEAD UP TO THE NAMING OF THE WHALE NORAH. ON 13 MAY 2007 WYONG SHIRE'S NATIONAL DAY OF ACTION FOR WHALES WAS HELD. COUNCILLOR STEVENS WAS PRESENTED WITH A PHOTO OF NORAH ON BEHALF OF THE SHIRE AND A BANNER WAS UNFURLED. COUNCILLOR STEVENS ADVISED THAT THE BANNER IS BEING VIEWED THROUGHOUT THE SCHOOLS WITH TALKFEST.

COUNCILLOR BEST ACKNOWLEDGED THE EVENT WAS HOSTED BY THE NORAH HEAD LIGHTHOUSE TRUST AND THAT WHALE CALL AND O.C.C.I. WERE INSTRUMENTAL IN DELIVERING THE INITIATIVE.

THE MAYOR, COUNCILLOR R L GRAHAM, DECLARED THE MEETING OPEN AT 5.01 PM AND PASTOR VINCE O'KEEFE READ THE OPENING PRAYER.

APOLOGY

AN APOLOGY FOR THE INABILITY TO ATTEND THE MEETING WAS RECEIVED ON BEHALF OF COUNCILLOR FORSTER DUE TO FAMILY ILLNESS.

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

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

THE REPORTS WERE CONSIDERED IN THEIR CORRECT AGENDA SEQUENCE.

Minutes of the Ordinary Meeting of Council held on 23 May 2007 (contd)

190 Disclosure of Interests

F2006/02282 MW:SW

200 CONTRACT CPA 123594 – LOWER WYONG RIVER TO MARDI UPGRADE PUMP STATION NO 1 – CONSTRUCTION OF HIGH VOLTAGE POWER SUPPLY

COUNCILLOR EATON DECLARED A SIGNIFICANT NON-PECUNIARY CONFLICT OF INTEREST IN THE MATTER FOR THE REASON THAT HE IS THE SOLICITOR ACTING AGAINST THE PREFERRED TENDER IN A CONTRACTUAL DISPUTE, LEFT THE CHAMBER AT 5.45PM, TOOK NO PART IN DISCUSSION, DID NOT VOTE AND RETURNED TO THE CHAMBER AT 5.47PM.

205 GOSFORD AND WYONG COUNCILS' WATER AUTHORITY BOARD MEETING

COUNCILLOR EATON DECLARED AN INSIGNIFICANT NON-PECUNIARY CONFLICT OF INTEREST IN ITEM 5.5 – PROGRESS REPORT ON TEMPORARY DESALINATION CONTINGENCY SUPPLY PROJECT – ANNEXURE E OF THE MINUTES, FOR THE REASON THAT THE PROPOSED DESALINATION PLANT IS ON LAND ADJACENT TO HIS COMPANY'S LAND.

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 THE SITE IS VERY REMOTE FROM MY COMPANY'S LAND."

205 GOSFORD AND WYONG COUNCILS' WATER AUTHORITY BOARD MEETING

COUNCILLOR EATON DECLARED A SIGNIFICANT NON-PECUNIARY CONFLICT OF INTEREST IN ITEM 5.7 – VALES POINT AND MUNMORAH POWER STATIONS – ANNEXURE G OF THE MINUTES FOR THE REASON THAT THE PROPOSED RECYCLED WATER MAIN PASSES ALONG THE BOUNDARY OF HIS COMPANY PROPERTY AT MANNERING PARK, LEFT THE CHAMBER AT 5.54PM, TOOK NO PART IN DISCUSSION, DID NOT VOTE AND RETURNED TO THE CHAMBER AT 5.55 PM.

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

That the report be received and advice of disclosures noted.

191 Proposed Inspections

F2006/02282 MW:SW

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

That the report on inspections conducted on Wednesday, 23 May 2007 be received and the information noted, with the exclusion of Warrigal and Taylor Street, The Entrance and inclusion of the CARES facility.

192 Proposed Briefings

F2006/02282 MW:SW

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

That the report be received and the information noted.

193 Address by Invited Speakers

F2006/02282 MW:SW

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

That the report be received and the fact that no speakers were present be noted.

194 Notice of Intention to Deal with Matters in Confidential Session

F2006/02282 MW:SW

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

- 1 That pursuant to Section 10A(2)(e) and 10A(2)(b) of the Local Government Act, 1993, the following report be dealt with in Confidential Session:**
 - W006 – Deed of Settlement and Release Biseja Pty Ltd, NSI Group Pty Ltd and Vibro-Pile (Australia) Pty Ltd**
 - W007 – Irrecoverable Debt**
- 2 That the reason for dealing with the Report No W006 confidentially is that it contains advice concerning litigation, or advice that would otherwise be privileged from production in legal proceedings on the ground of legal professional privilege.**
- 3 That the reason for dealing with Report No W007 confidentially is that it contains personnel matters concerning the personal hardship of any resident or ratepayer.**
- 4 That, in accordance with the Council resolution, the General Manager will report on these matters to the meeting in Confidential Session.**

CONFIDENTIAL SESSION

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

That Council move into Confidential Session with the press and public excluded, to consider the following reports:

W006 – Deed of Settlement and Release Biseja Pty Ltd, NSI Group Pty Ltd and Vibro-Pile (Australia) Pty Ltd

W007 – Irrecoverable Debt

for the reasons contained in Report No 169 - Notice of Intention to Deal with Matters in Confidential Session.

OPEN SESSION

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

That Council resume in Open Session.

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

W006 Deed of Settlement and Release Biseja Pty Ltd, NSI Group Pty Ltd and Vibro-Pile (Australia) Pty Ltd

F2004/12601 CAL:KAD

COUNCILLOR BEST LEFT THE CHAMBER AT 6.38 PM, TOOK NO PART IN VOTING AND DID NOT RETURN.

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

- 1 That Council authorise for the Common Seal of Wyong Shire Council to be affixed to the confidential Deed of Settlement and Release between Wyong Shire Council and Biseja Pty Ltd, NSI Group Pty Ltd and Vibro-Pile (Aust) Pty Ltd.**
- 2 That Council authorise the Mayor and the General Manager to execute the Deed of Settlement and Release.**
- 3 That Council authorise the balance of the debt recorded in Council's accounting system, not covered by the settlement, to be written off.**

Minutes of the Ordinary Meeting of Council held on 23 May 2007 (contd)

W007 Irrecoverable Debt

COUNCILLOR BEST LEFT THE CHAMBER AT 6.38 PM, TOOK NO PART IN VOTING AND DID NOT RETURN.

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

That the amount of \$2,936.60 considered irrecoverable, be written off.

195 Confirmation of Minutes of Previous Meeting

F2006/02282 MW:SW

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

That the amended minutes of the previous Ordinary Meeting of Council held on 9 May 2007 be received and confirmed.

BUSINESS ARISING FROM THE MINUTES

THERE WAS NO BUSINESS ARISING FROM THE MINUTES.

196 Notice of Motion – Deletion of Gun Nozzle from Refit Kit

F2006/00830 DE

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

- 1 That Council recommends to the Gosford and Wyong Councils' Joint Water Authority the deletion of the hose trigger gun nozzle from the refit kit and its replacement with a sack of soil wetting agent.***
- 2 That staff investigate the prospect of the inclusion of further suitable water saving information, devices/sample items that may be considered for inclusion in Council's awareness give-away.***

FOR: COUNCILLORS BEST, EATON, STEWART, VEUGEN AND WELHAM.

AGAINST: COUNCILLORS GRAHAM, PAVIER, ROSE AND STEVENS.

Minutes of the Ordinary Meeting of Council held on 23 May 2007 (contd)

LEAVE TO INTRODUCE MOTION OF URGENCY

COUNCILLOR EATON SOUGHT AND WAS GRANTED LEAVE TO INTRODUCE A MOTION OF URGENCY.

THE MAYOR RULED THAT THE MATTER WAS URGENT AND COULD BE INTRODUCED AS A MATTER OF URGENCY.

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

That Council consider a Motion of Urgency regarding the Extension of Holiday Parks Concept Plan Exhibition.

196A Motion of Urgency – Extension of Holiday Parks Concept Plan Exhibition

F2004/08318

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

That Council extend the exhibition period for the Holiday Parks Concept Plan until 15 June 2007.

197 Draft Amendment No 148 - Proposed Rezoning - Old Farm Site, Mardi

F2004/09096 DJM:RE

THIS ITEM WAS WITHDRAWN

198 Draft Development Control Plan No 2005: Chapter 100 – Quality Housing

F2004/00528 PJK:PJK

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

- 1 That draft Development Control Plan No 2005: Chapter 100 – Quality Housing be adopted and appropriate public notice be given within 28 days that the draft Chapter will come into effect as Chapter 100 within Development Control Plan No 2005 on 1 July 2007, and will apply to all applications received by Council on or after 1 July 2007.***

Minutes of the Ordinary Meeting of Council held on 23 May 2007 (contd)

- 2 *That applications received up to 1 July 2007, be determined under the provisions of the existing Chapter 100.*
- 3 *That a media release be issued detailing the changes and operational date of the revised chapter.*
- 4 *That those who were advised of the public exhibition of the revised chapter be notified in writing of its adoption and operational date.*
- 5 *That a copy of Development Control Plan No 2005 containing the amended Chapter 100 be forwarded to the Director General of the NSW Department of Planning within 28 days.*
- 6 *That Council's Section 149 Certificates be noted as to the adoption of Chapter 100.*
- 7 *That all those who made submissions be advised of Council's decision.*

199 Contract CPA 122601 - Supply and Installation of Switch Control Assemblies and Associated Work for Lower Wyong River Water Pump Station No 1

CPA/122601

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

- 1 *That Council accept the tender of Priestley Electrical Pty in the Lump Sum amount of \$228,075.10 including GST (\$207,341 excluding GST).*
- 2 *That Council approve a contingency amount of \$23,000 including GST (\$20,909.10 excluding GST), representing approximately 10% of the contract value, to provide for any additional works that may become necessary during the course of the project.*

200 Contract CPA 123594 - Lower Wyong River to Mardi Upgrade Pump Station No 1 – Construction of High Voltage Power Supply

CPA/123594 GC

COUNCILLOR EATON DECLARED A SIGNIFICANT NON-PECUNIARY CONFLICT OF INTEREST IN THE MATTER FOR THE REASON THAT HE IS THE SOLICITOR ACTING AGAINST THE PREFERRED TENDER IN A CONTRACTUAL DISPUTE, LEFT THE CHAMBER AT 5.45PM, TOOK NO PART IN DISCUSSION, DID NOT VOTE AND RETURNED TO THE CHAMBER AT 5.47PM.

Minutes of the Ordinary Meeting of Council held on 23 May 2007 (contd)

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

- 1 That Council, subject to the outstanding financial assessment, accept the tender of Power Serve Pty Ltd in the Lump Sum amount of \$175,033.10 including GST (\$159,121 excluding GST).**
- 2 That Council approve a contingency amount of \$18,000 including GST (\$16,000 excluding GST), representing approximately 10% of the contract value, to provide for any additional works that may become necessary during the course of the project.**

201 Suburb Boundary Adjustments

F2004/05436 SJA:GJA

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

- 1 That Council advertise the draft proposal to amend the suburb boundaries between Bateau Bay and Killarney Vale and Kangy Angy and Mardi.**
- 2 That subject to no significant objections being received the draft boundary adjustment proposal be submitted to the Geographical Names Board for formal approval.**

202 Determination of Water and Sewer Charges for 2007/2008

F2004/06782 JPB

RESOLVED on the motion of Councillor EATON and seconded by Councillor STEWART:

That Council as the Water Supply Authority in accordance with Sections 315 and 316 of the Water Management Act 2000 No 92 adopt the service charges set out in Enclosure for the period 1 July 2007 to 30 June 2008 based on the determinations of the Authority set out in A, B and C below:

- a That the amount of money estimated by the Authority that is proposed to be raised by way of service charges levied uniformly on all land that is reasonably available for connection to the Authority's water supply pipes and sewerage service discharge pipe is \$51,084,000 for the period 1 July 2007 to 30 June 2008.**

Minutes of the Ordinary Meeting of Council held on 23 May 2007 (contd)

- b** *That all land that is reasonably available for connection to the Authority's water supply pipes and sewerage service discharge pipes is classified for the purposes of levying service charges on the basis of the following factors:*
- i* **whether the land is residential or non residential; and**
 - ii* **the nature and extent of the water or sewerage services connected to each individual allotment.**
- c** *That service charges shall be uniformly levied on the following basis:*
- i* **the nominal size of the water service supply pipe supplying water to the land or to which, in the opinion of the Authority, it is reasonably available for water to be supplied to the land, expressed as a charge determined by the nominal pipe size attaching to the Authority's service supply meter;**
 - ii* **by charge following an assessment of the cost of supplying water and sewerage services by the Authority; and**
 - iii* **where water pressure requires larger sizes of pipes and meters a charge as assessed by the Authority.**

FOR: COUNCILLORS EATON, GRAHAM, PAVIER, ROSE, STEVENS, STEWART AND WELHAM.

AGAINST: COUNCILLORS BEST AND VEUGEN.

203 Proposed Councillors' Community Improvement Grants

F2006/00788 SG

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

That an amount of \$11,385 be allocated from the 2006/2007 Councillors' Community Improvement Grants as outlined in Attachment 1.

Minutes of the Ordinary Meeting of Council held on 23 May 2007 (contd)

204 Non-Government Centres Support Grant for The Spastic Centre of NSW at The Berkeley Community Centre, Berkeley Vale

F2006/01998 RIA

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

- 1 That Council authorise the Common Seal of the Wyong Shire Council to be affixed to the Deed of Agreement between Wyong Shire Council and the Commonwealth of Australia.***
- 2 That Council authorise the Mayor and the General Manager to execute all documents relating to the Deed of Agreement between the Wyong Shire Council and the Commonwealth of Australia.***
- 3 That following the execution under seal of the Deed of Agreement, it be returned to the Spastic Centre of NSW as a matter of urgency.***

205 Gosford and Wyong Councils' Water Authority Board Meeting

F2004/06808

COUNCILLOR VEUGEN LEFT THE CHAMBER AT 5.56 PM AND RETURNED TO THE CHAMBER AT 5.58 PM DURING CONSIDERATION OF THIS ITEM.

COUNCILLOR EATON DECLARED A SIGNIFICANT NON-PECUNIARY CONFLICT OF INTEREST IN ITEM 5.7 – VALES POINT AND MUNMORAH POWER STATIONS – ANNEXURE G OF THE MINUTES FOR THE REASON THAT THE PROPOSED RECYCLED WATER MAIN PASSES ALONG THE BOUNDARY OF HIS COMPANY PROPERTY AT MANNERING PARK, LEFT THE CHAMBER AT 5.54PM, TOOK NO PART IN DISCUSSION, DID NOT VOTE AND RETURNED TO THE CHAMBER AT 5.55 PM.

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

That item 5.7 – Vales Point and Munmorah Power Stations – Annexure G be received and the recommendations contained therein, adopted.

COUNCILLOR EATON DECLARED AN INSIGNIFICANT NON-PECUNIARY CONFLICT OF INTEREST IN ITEM 5.5 – PROGRESS REPORT ON TEMPORARY DESALINATION CONTINGENCY SUPPLY PROJECT – ANNEXURE E OF THE MINUTES, FOR THE REASON THAT THE PROPOSED DESALINATION PLANT IS ON LAND ADJACENT TO HIS COMPANY'S LAND.

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Minutes of the Ordinary Meeting of Council held on 23 May 2007 (contd)

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

That the remainder of the minutes of the Gosford and Wyong Councils' Water Authority Board meeting held on 16 May 2007, be received and the recommendations contained therein, adopted.

FOR: COUNCILLORS GRAHAM, PAVIER, ROSE, STEVENS, STEWART, VEUGEN AND WELHAM.

AGAINST: COUNCILLORS BEST AND EATON.

206 Minutes of the Wyong Shire Governance Committee – 9 May 2007

F2004/07245 MW

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

That the minutes of the Wyong Shire Governance Committee meeting held on 9 May 2007 be received and the recommendations contained therein, adopted.

207 Information Reports

F2006/02282 MW:SW

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

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

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

That the Information Reports and recommendations of the Ordinary Meeting of Council, with the exception of report number 209, be received and the information noted.

Minutes of the Ordinary Meeting of Council held on 23 May 2007 (contd)

208 Activities of the Development Assessment Unit

F2004/07830 NL:NL

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

That the report be received and the information noted.

209 Results of Water Quality Testing for Bathing Beaches

F2004/06822 RHM

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

That the report be received and the information noted.

210 Indirect Water Recycling

F2004/00133 MR:DP

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

That the report be received and the information noted.

**211 IPaRT Determination - Pricing Arrangements for Recycled Water
and Sewer Mining**

F2004/06782 KRG:IT

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

That the report be received and the information noted.

Minutes of the Ordinary Meeting of Council held on 23 May 2007 (contd)

212 General Works in Progress Report

F2004/07830 JEM

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

That the report be received and the information noted.

213 Works in Progress Report – Water and Sewerage

F2004/07830 KRG:DP

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

That the report be received and the information noted.

214 Finalisation of Contracts

F2005/03113 DBT:DBT

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

That the report be received and the information noted.

215 Outstanding Questions Without Notice and Notices of Motion

F2006/02282 MW:SW

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

That the report be received and the information noted.

QUESTIONS WITHOUT NOTICE ASKED**Q048 – Investigation of “Pix-O-Gram” Trial Conducted by Brisbane City Council
Councillor Welham**

“Could staff investigate the “Pix-o-Gram” trial conducted by Brisbane City Council as outlined in the attached article from “Local Government Focus” newspaper dated 5 May 2007 aimed at fixing and reducing vandalism and provide a report to Council on any possibilities of adopting a similar initiative in Wyong Shire?”

**Q049 – Roundabout Sign at Tuggerah Indicates Traffic Flow in Wrong Direction
Councillor Welham**

“Could staff approach the Roads and Traffic Authority as to why the recently installed ‘round-a-bout’ give way signs installed on Tuggerah Straight temporary ‘round-a-bout’ indicate that traffic should travel in an anti-clockwise direction?”

**Q050 – Community Notification Process Involved with “Big W” art project at
Watanobbi
Councillor Eaton**

“Can Council report on the community notification processes involved with the ‘Big W’ art project at Watanobbi and why no Development Application was submitted?”

**Q051 – Local Government Association Conference Motion to “meet or beat” Kyoto
Targets
Councillor Veugen**

“As per last year’s Local Government Association Conference unanimously passed Motion, when will the Mayor be signing the agreement to commit to “meeting or beating” Kyoto targets?”

Minutes of the Ordinary Meeting of Council held on 23 May 2007 (contd)

**Q052 – Repair of Carpark at Rear of Ebbtide Mall, The Entrance
Councillor Stewart**

“The carpark at The Entrance behind the Ebbtide Mall, which is in the hands of three individual owners is urgently in need of repair. I am asking if Council could please take some positive action to have these owners repair the carpark before a serious accident takes place?”

**Q053 –Sale of No 20 Manning Road, The Entrance
Councillor Stewart**

“Could Council please make enquiries regarding the sale of No 20 Manning Road, The Entrance which is in the proposed carpark?”

THERE BEING NO FURTHER BUSINESS, THE MEETING CLOSED AT 7.05 PM.

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CHAIRPERSON