
WYONG SHIRE COUNCIL
MINUTES OF THE
ORDINARY MEETING OF COUNCIL
HELD IN THE COUNCIL CHAMBER
WYONG CIVIC CENTRE, HELY STREET, WYONG
ON 23 SEPTEMBER 2009
COMMENCING AT 05:05 PM

PRESENT

COUNCILLORS R L GRAHAM (CHAIRPERSON), G P BEST, D J EATON, E M McBRIDE, J J McNAMARA, L A MATTHEWS, W R SYMINGTON, D P VINCENT, L D WEBSTER AND S A WYNN.

IN ATTENDANCE

ACTING GENERAL MANAGER, DIRECTOR SHIRE SERVICES, DIRECTOR CORPORATE SERVICES, ACTING DIRECTOR SHIRE PLANNING, PROJECT DIRECTOR, MANAGER DEVELOPMENT ASSESSMENT, ACTING MANAGER FUTURE PLANNING AND TWO ADMINISTRATION STAFF.

EXECUTIVE MANAGER, MANAGER CONTRACTS AND SPECIAL PROJECTS, MANAGER BUSINESS IMPROVEMENT AND IT, SENIOR STRATEGIC PLANNER, CULTURAL PLANNER, TEAM COORDINATOR AND PROJECT OFFICER.

THE MAYOR, COUNCILLOR GRAHAM, DECLARED THE MEETING OPEN AT 05.05 PM AND ADVISED IN ACCORDANCE WITH THE CODE OF MEETING PRACTICE THAT THE MEETING IS BEING RECORDED.

THE MAYOR WELCOMED THE COUNCILLORS FROM GOSFORD CITY COUNCIL, COUNCILLOR HOLSTEIN (MAYOR), COUNCILLOR DOYLE (DEPUTY MAYOR) (ARRIVED AT 5.17 PM) AND COUNCILLOR SCOTT.

THE MAYOR REPORTED THAT:

- * THE PREMIER, MR NATHAN REES MP HAS BEEN APPOINTED TO THE POSITION OF MINISTER FOR CENTRAL COAST. MR REES HAS BEEN WORKING VERY CLOSELY WITH OUR LOCAL MEMBER FOR WYONG, MR DAVID HARRIS MP WHO HAS RECENTLY BEEN APPOINTED TO THE ROLE OF PARLIAMENTARY SECRETARY.

COUNCILLOR McBRIDE DELIVERED THE OPENING PRAYER.

COUNCILLOR MATTHEWS READ AN ACKNOWLEDGMENT OF COUNTRY STATEMENT.

APOLOGIES

THERE WERE NO APOLOGIES.

AT THE COMMENCEMENT OF THE ORDINARY MEETING REPORT NOS 1.1, 1.2, 1.3, 3.3 AND 3.4, WERE DEALT WITH FIRST THEN THE REMAINING REPORTS IN ORDER. HOWEVER FOR THE SAKE OF CLARITY THE REPORTS ARE RECORDED IN THEIR CORRECT AGENDA SEQUENCE.

1.1 Disclosure of Interest

3.1 ADOPTION OF THE WYONG ACTIVE RIVER FORESHORE AND BAKER PARK MASTERPLANS

COUNCILLOR EATON DECLARED A PECUNIARY INTEREST IN THE MATTER FOR THE REASON THAT HE AND HIS WIFE OWN PROPERTY WITHIN THE MASTERPLAN AREA, LEFT THE CHAMBER AT 7.14 PM, TOOK NO PART IN DISCUSSION, DID NOT VOTE AND RETURNED TO THE CHAMBER AT 7.22 PM.

3.1 ADOPTION OF THE WYONG ACTIVE RIVER FORESHORE AND BAKER PARK MASTERPLANS

THE MANAGER DEVELOPMENT ASSESSMENT DECLARED A PECUNIARY INTEREST IN THE MATTER, FOR THE REASON THAT HER HUSBAND'S FIRM, ANDREWS NEIL, PRODUCED THE ARCHITECTURAL PLANS THAT FORM PART OF THE APPLICATION FOR DA/527/2007, REMAINED IN THE CHAMBER BUT DID NOT PARTICIPATE IN CONSIDERATION OF THIS MATTER.

9.1 NOTICE OF MOTION – APPOINTMENTS TO THE JOINT REGIONAL PLANNING PANEL

COUNCILLOR EATON DECLARED A NON-PECUNIARY INSIGNIFICANT CONFLICT OF INTEREST IN THE MATTER FOR THE REASON THAT HE IS A COUNCIL APPOINTEE OF THE JRPP 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 A COUNCIL APPOINTEE NOT A STATE APPOINTEE."

9.1 NOTICE OF MOTION – APPOINTMENTS TO THE JOINT REGIONAL PLANNING PANEL

COUNCILLOR SYMINGTON DECLARED A NON-PECUNIARY INSIGNIFICANT CONFLICT OF INTEREST IN THE MATTER FOR THE REASON THAT HE IS AN ALTERNATE COUNCIL APPOINTED REPRESENTATIVE OF JRPP AND PARTICIPATED IN CONSIDERATION OF THIS MATTER.

COUNCILLOR SYMINGTON 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."

9.1 NOTICE OF MOTION – APPOINTMENTS TO THE JOINT REGIONAL PLANNING PANEL

THE ACTING GENERAL MANAGER DECLARED A NON-PECUNIARY INSIGNIFICANT CONFLICT OF INTEREST IN THE MATTER FOR THE REASON THAT SHE IS ONE OF TWO COUNCIL APPOINTED REPRESENTATIVES ON THE HUNTER-CENTRAL COAST JRPP AND PARTICIPATED IN CONSIDERATION OF THIS MATTER.

THE ACTING GENERAL MANAGER STATED:

"I CHOOSE TO REMAIN IN THE CHAMBER AND PARTICIPATE IN DISCUSSION AS THE CONFLICT HAS NOT INFLUENCED ME IN CARRYING OUT MY PUBLIC DUTY BECAUSE THE ISSUE BEFORE COUNCIL RELATES TO THE APPOINTMENT OF THE STATE APPOINTED MEMBERS."

9.1 NOTICE OF MOTION – APPOINTMENTS TO THE JOINT REGIONAL PLANNING PANEL

THE ACTING DIRECTOR SHIRE PLANNING DECLARED A NON-PECUNIARY INSIGNIFICANT CONFLICT OF INTEREST IN THE MATTER FOR THE REASON THAT HE IS AN ALTERNATIVE APPOINTED REPRESENTATIVE ON THE HUNTER-CENTRAL COAST JRPP AND PARTICIPATED IN CONSIDERATION OF THIS MATTER.

THE ACTING DIRECTOR SHIRE PLANNING STATED:

"I CHOOSE TO REMAIN IN THE CHAMBER AND PARTICIPATE IN DISCUSSION AS THE CONFLICT HAS NOT INFLUENCED ME IN CARRYING OUT MY PUBLIC DUTY BECAUSE THE ISSUE BEFORE COUNCIL RELATES TO THE APPOINTMENT OF THE STATE APPOINTED MEMBERS."

RESOLVED unanimously on the motion of Councillor MATTHEWS and seconded by Councillor MCBRIDE:

That Council receive the report on Disclosure of Interest and note advice of disclosures.

FOR: COUNCILLORS BEST, EATON, GRAHAM, MATTHEWS, MCBRIDE, MCNAMARA, SYMINGTON, VINCENT, WEBSTER AND WYNN

AGAINST: NIL

AT THIS STAGE OF THE MEETING THE PROJECT DIRECTOR ADVISED THE MAYOR HAD GRANTED APPROVAL FOR THE FILM RECORDING OF ITEM 3.4 – ENVIRONMENTAL ASSESSMENT – MARDI TO MANGROVE LINK PROJECT. A DVD WILL BE CREATED TO COVER THE WHOLE PROJECT AND THIS RECORDING MAY BE INCLUDED.

1.2 Inspections

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

That Council receive the report on Inspections.

FOR: COUNCILLORS BEST, EATON, GRAHAM, MATTHEWS, MCBRIDE, MCNAMARA, SYMINGTON, VINCENT, WEBSTER AND WYNN

AGAINST: NIL

1.3 Address By Invited Speakers

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

1 *That Council receive the amended report on Invited Speakers.*

2 *That Council agree standing orders be varied to allow reports from Director's and/or the General Manager to be dealt with following an Invited Speaker's address.*

FOR: COUNCILLORS BEST, EATON, GRAHAM, MATTHEWS, MCBRIDE, MCNAMARA, SYMINGTON, VINCENT, WEBSTER AND WYNN

AGAINST: NIL

1.4 Confirmation of Minutes of Previous Meeting

COUNCILLOR BEST LEFT THE CHAMBER AT 7.01 PM AND RETURNED TO THE CHAMBER AT 7.02 PM AND AS A RESULT TOOK NO PART IN VOTING.

COUNCILLOR EATON LEFT THE CHAMBER AT 7.01 PM AND RETURNED TO THE CHAMBER AT 7.02 PM AND AS A RESULT TOOK NO PART IN VOTING.

RESOLVED unanimously on the motion of Councillor MATTHEWS and seconded by Councillor MCBRIDE:

That Council confirm the minutes of the previous Ordinary Meeting of Council held on 9 September 2009 and the Extraordinary Meeting of 16 September 2009.

FOR: COUNCILLORS GRAHAM, MATTHEWS, MCBRIDE, MCNAMARA, SYMINGTON, VINCENT, WEBSTER AND WYNN

AGAINST: NIL

BUSINESS ARISING FROM THE MINUTES

THERE WAS NO BUSINESS ARISING FROM THE MINUTES.

2.1 Notice of Intention to Deal with Matters in Confidential Session

COUNCILLOR BEST LEFT THE CHAMBER AT 7.01 PM AND RETURNED TO THE CHAMBER AT 7.02 PM DURING CONSIDERATION OF THIS ITEM.

COUNCILLOR EATON LEFT THE CHAMBER AT 7.01 PM AND RETURNED TO THE CHAMBER AT 7.02 PM DURING CONSIDERATION OF THIS ITEM.

It was MOVED by Councillor MATTHEWS and SECONDED by Councillor MCNAMARA:

1 *That Council consider the following matter in Confidential Session, pursuant to Sections 10A(2)(a) and 10A(2)(g) of the Local Government Act 1993:*

10.1 – Appointment of Additional Independent Member to the Governance Committee.

10.2 Proposed Acquisition of Land at The Entrance

2 *That Council note its reason for considering Report No 10.1 is that discussion is anticipated which concerns the rights of individuals (Section 10A(2)(a)) and Report No 10.2 is that discussion is anticipated which concerns litigation, or advice that would otherwise be privileged from production in legal proceedings on the ground of legal professional privilege (Section 10A(2)(g)).*

3 *That Council request the General Manager to report on this matter in open session of Council.*

An AMENDMENT was *MOVED* by Councillor EATON and *SECONDED* by Councillor BEST:

- 1 That Council consider the following matter in Confidential Session, pursuant to Section 10A(2)(g) of the Local Government Act 1993:

10.2 Proposed Acquisition of Land at The Entrance
- 2 That Council note its reason for considering Report No 10.2 is that discussion is anticipated which concerns litigation, or advice that would otherwise be privileged from production in legal proceedings on the ground of legal professional privilege (Section 10A(2)(g)).
- 3 That Council request the General Manager to report on this matter in open session of Council.
- 4 That Council consider item 10.1 – Appointment of Additional Independent Member to the Governance Committee in open session.

The AMENDMENT was put to the VOTE and declared LOST.

FOR: COUNCILLORS BEST, EATON AND MCNAMARA

AGAINST: COUNCILLORS GRAHAM, MATTHEWS, MCBRIDE, SYMINGTON, VINCENT, WEBSTER AND WYNN

RESOLVED on the motion of Councillor MATTHEWS and seconded by Councillor MCNAMARA:

- 1 That Council consider the following matter in Confidential Session, pursuant to Sections 10A(2)(a) and 10A(2)(g) of the Local Government Act 1993:

10.1 – Appointment of Additional Independent Member to the Governance Committee.

10.2 Proposed Acquisition of Land at The Entrance
- 2 That Council note its reason for considering Report No 10.1 is that discussion is anticipated which concerns the rights of individuals (Section 10A(2)(a)) and Report No 10.2 is that discussion is anticipated which concerns litigation, or advice that would otherwise be privileged from production in legal proceedings on the ground of legal professional privilege (Section 10A(2)(g)).
- 3 That Council request the General Manager to report on this matter in open session of Council.

FOR: COUNCILLORS GRAHAM, MATTHEWS, MCBRIDE, MCNAMARA, SYMINGTON, VINCENT, WEBSTER AND WYNN

AGAINST: COUNCILLORS BEST AND EATON

3.1 Adoption of the Wyong Active River Foreshore and Baker Park Masterplans

COUNCILLOR EATON DECLARED A PECUNIARY INTEREST IN THE MATTER FOR THE REASON THAT HE AND HIS WIFE OWN PROPERTY WITHIN THE MASTERPLAN AREA, LEFT THE CHAMBER AT 7.14 PM, TOOK NO PART IN DISCUSSION, DID NOT VOTE AND RETURNED TO THE CHAMBER AT 7.22 PM.

THE MANAGER DEVELOPMENT ASSESSMENT DECLARED A PECUNIARY INTEREST IN THE MATTER, FOR THE REASON THAT HER HUSBAND'S FIRM, ANDREWS NEIL, PRODUCED THE ARCHITECTURAL PLANS THAT FORM PART OF THE APPLICATION FOR DA/527/2007, REMAINED IN THE CHAMBER BUT DID NOT PARTICIPATE IN CONSIDERATION OF THIS MATTER.

RESOLVED unanimously on the motion of Councillor MATTHEWS and seconded by Councillor MCBRIDE:

- 1 That Council adopt the draft Wyong Active River and Baker Park Masterplan incorporating the minor amendments relating to the Wyong Race Club site as identified in the report.**
- 2 That Council note relevant Section 149 Certificates.**
- 3 That Council advise those who made submissions of the decision.**

FOR: COUNCILLORS BEST, GRAHAM, MATTHEWS, MCBRIDE, MCNAMARA, SYMINGTON, VINCENT, WEBSTER AND WYNN

AGAINST: NIL

3.2 Draft DCP 2005: Chapter 112 - Public Art

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

- 1 That Council adopt draft Development Control Plan 2005 Chapter 112 – Public Art in accordance with Clause 21 of the Environmental Planning and Assessment Regulations with a further amendment to broaden the type of development that would be subject to the Chapter to also include government public buildings and retail developments.**
- 2 That Council give appropriate public notice within 28 days and that the revised Development Control Plan become effective from the date of the notice of adoption and apply to Development Applications lodged from this date.**
- 3 That Council note its Section 149 Certificates regarding the adoption of Development Control Plan 2005 Chapter 112 – Public Art.**
- 4 That Council forward a copy of the adopted DCP to the Director-General of the NSW Department of Planning within 28 days of its adoption.**
- 5 That Council advise all those who made submissions of Council's decision.**

FOR: COUNCILLORS BEST, EATON, GRAHAM, MATTHEWS, MCBRIDE, MCNAMARA, SYMINGTON, VINCENT, WEBSTER AND WYNN

AGAINST: NIL

3.3 DA 1300/2008 Proposed Dwelling and Demolition of Existing Structures at Hutton Road, The Entrance North

MR PATRICK FABRICATO, OWNER, ADDRESSED THE MEETING AT 5.14 PM, ANSWERED QUESTIONS AND RETIRED AT 5.21 PM.

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

- 1 That consideration of DA/1300/2008 be deferred on the basis that the applicants are willing to amend their plans in order to address the impacts of climate change.**
- 2 That the amended plans address the following issues;**
 - **Relocation of the dwelling to within the footprint of the existing dwelling and outside the coastal erosion hazard lines defined in the SMEC report attached to the staff report;**
 - **Retention of the existing pine tree; and**
 - **The issues raised in the staff report regarding privacy impacts to the adjoining property.**
- 3 That the amended plans be placed on public exhibition and notified to the adjoining neighbours.**
- 4 That determination of the amended plans be dealt with under delegated authority unless the staff recommendation is for refusal.**

FOR: COUNCILLORS BEST, EATON, GRAHAM, MATTHEWS, MCBRIDE, MCNAMARA, SYMINGTON, VINCENT, WEBSTER AND WYNN

AGAINST: NIL

3.4 Environmental Assessment - Mardi to Mangrove Link Project

THE DIRECTOR SHIRE SERVICES AND PROJECT DIRECTOR ADVISED THAT AS COUNCIL IS THE APPLICANT THEY WILL BE VACATING THEIR COUNCIL ROLES AT 05.35 PM AND WILL BE AVAILABLE TO ANSWER QUESTIONS IN THE CAPACITY OF THE APPLICANT.

COUNCILLOR BEST LEFT THE MEETING AT 05:47 PM AND RETURNED TO THE MEETING AT 05:49 PM DURING CONSIDERATION OF THIS ITEM.

MR WARWICK O'ROURKE, RESIDENT, ADDRESSED THE MEETING AT 05.35 PM, ANSWERED QUESTIONS AND RETIRED AT 05.51 PM.

MR CHRIS MASTERS, HEAD CONSULTANT REPRESENTING AURECON AUSTRALIA PTY, ADDRESSED THE MEETING AT 05.52 PM, ANSWERED QUESTIONS AND RETIRED AT 06.11 PM.

MR PAUL WISE, APPLICANT, ADDRESSED THE MEETING AT 06.12 PM, ANSWERED QUESTIONS AND RETIRED AT 06.57 PM.

MR LACHLAN SWEENEY, SENIOR ENVIRONMENTAL SPECIALIST REPRESENTING AURECON AUSTRALIA PTY WAS AVAILABLE FOR QUESTIONS.

MR NEVILLE HUTTON, PROJECT MANAGER REPRESENTING GHD WAS AVAILABLE FOR QUESTIONS.

MR BRAD SNEDDON, ENVIRONMENTAL MANAGER REPRESENTING GHD WAS AVAILABLE FOR QUESTIONS.

MR TOM GRANT, PLATYPUS SPECIALIST WAS AVAILABLE FOR QUESTIONS.

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

That Council approve the proposal in accordance with:

- 1 The REF Review of Environmental Factors for the Mardi to Mangrove Link Project, dated June 2009, prepared for Wyong Shire Council by GHD.**
- 2 All identified procedures, safeguards and mitigation measures identified in the REF being undertaken except where amended in this Determination Report.**
- 3 The recommendations presented contained within the Determination Report.**
- 4 That in developing the traffic management plan the applicant be required to meet the objective that traffic delays be minimised to a maximum of 15 minutes, no more than twice an hour.**

FOR: COUNCILLORS BEST, EATON, GRAHAM, MATTHEWS, MCBRIDE, MCNAMARA, SYMINGTON AND WEBSTER

AGAINST: COUNCILLORS VINCENT AND WYNN

THE MEETING WAS ADJOURNED AT 06.57 PM AND RESUMED AT 07.01 PM.

4.1 Proposed Acquisition by Transport Infrastructure Development Corporation of Part of Brownlee Street, Ourimbah for Ourimbah Commuter Carpark

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

- 1 That Council authorise the compulsory acquisition by Transport Infrastructure Development Corporation of part of the public road being Brownlee Street, Ourimbah for the Ourimbah Railway Commuter Carpark and accept compensation for the acquisition determined in accordance with the Land Acquisition (Just Terms Compensation) Act 1991.**
- 2 That Council authorise the Common Seal of Wyong Shire Council to be affixed to the formal documents relevant to the acquisition by Transport Infrastructure Corporation.**
- 3 That Council authorise the Mayor and the General Manager to execute all documents.**

FOR: COUNCILLORS BEST, EATON, GRAHAM, MATTHEWS, MCBRIDE, MCNAMARA, SYMINGTON, VINCENT, WEBSTER AND WYNN

AGAINST: NIL

4.2 Lease of F3 pylon signs over part Lot 100 DP 718558 Freeway Collies Lane, Mardi and part Lot 5 DP 738176 Freeway Pacific Highway, Palmdale

COUNCILLOR MCNAMARA LEFT THE MEETING AT 07:24 PM AND RETURNED TO THE MEETING AT 07:25 PM DURING CONSIDERATION OF THIS ITEM.

COUNCILLOR MATTHEWS LEFT THE MEETING AT 07:27 PM AND RETURNED TO THE MEETING AT 07:29 PM DURING CONSIDERATION OF THIS ITEM.

COUNCILLOR VINCENT LEFT THE MEETING AT 07:57 PM AND RETURNED TO THE MEETING AT 08:00 PM AS A RESULT TOOK NO PART IN VOTING.

RESOLVED unanimously on the motion of Councillor MATTHEWS and seconded by Councillor WEBSTER:

- 1 That Council defer this matter for further information on the financial resources of Sports & Outdoor Media and legal advice as to Councils remedies.***
- 2 That Council refer this matter to the Governance Committee for investigation and recommendation.***

FOR: COUNCILLORS BEST, EATON, GRAHAM, MATTHEWS, MCBRIDE, MCNAMARA, SYMINGTON, WEBSTER AND WYNN

AGAINST: NIL

5.1 Contract Variations and Finalisation - August 2009

COUNCILLOR VINCENT LEFT THE MEETING AT 07:57 PM AND RETURNED TO THE MEETING AT 08:00 PM AS A RESULT TOOK NO PART IN VOTING.

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

That Council receive the Contract Variations Report.

FOR: COUNCILLORS BEST, EATON, GRAHAM, MATTHEWS, MCBRIDE, MCNAMARA, SYMINGTON, WEBSTER AND WYNN

AGAINST: NIL

5.2 CPA 94060 - Provision of Communication Services

COUNCILLOR VINCENT LEFT THE MEETING AT 07:57 PM AND RETURNED TO THE MEETING AT 08:00 PM DURING CONSIDERATION OF THIS ITEM.

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

- 1 That Council decline to take up the optional extension periods available under Contract No. CPA94060 – Provision of Communication Services with Optus Pty Limited (mobile services) and Macquarie Telecom Pty Limited (Fixed Phone services).***

- 2 That Council authorise the General Manager to purchase all mobile and fixed line telephony services under option J4 as defined in the Government Telecommunications Agreement (RFT 0500024 from NSW Department of Commerce) with Telstra Pty Limited for the next three years, at an estimated annual cost of \$466,500 excluding GST.**

FOR: COUNCILLORS BEST, EATON, GRAHAM, MATTHEWS, MCBRIDE, MCNAMARA, SYMINGTON, VINCENT, WEBSTER AND WYNN

AGAINST: NIL

5.3 CPA 163676 - Supply and Application of Pavement Markings and Associated Work

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

- 1 That Council accept Tender No 1 from Workforce Road Services Pty Ltd for a period of two years commencing on 1 October 2009. The estimated annual expenditure against this contract is \$272,090.00 (excl GST) however actual expenditure may vary significantly with fluctuations in demand.**
- 2 That Council approve an annual contract budget of \$299,299.00 (excl GST) that provides for an annual contingency amount of \$27,209.00 (excl GST), representing approximately 10% of the contract value, to provide for any additional works over the estimated quantities that may become necessary during the course of the works.**

FOR: COUNCILLORS BEST, EATON, GRAHAM, MATTHEWS, MCBRIDE, MCNAMARA, SYMINGTON, VINCENT, WEBSTER AND WYNN

AGAINST: NIL

6.1 Proposed Councillors' Community Improvement Grants

RESOLVED unanimously on the motion of Councillor MATTHEWS and seconded by Councillor MCNAMARA:

That Council allocate an amount of \$4,400 from the 2009-10 Councillors' Community Improvement Grants as outlined in the report.

FOR: COUNCILLORS BEST, EATON, GRAHAM, MATTHEWS, MCBRIDE, MCNAMARA, SYMINGTON, VINCENT, WEBSTER AND WYNN

AGAINST: NIL

**6.2 Agreement - Wyong Shire Council Outdoor Social Club Incorporated
Purchase of Bus**

RESOLVED unanimously on the motion of Councillor MATTHEWS and seconded by Councillor VINCENT:

- 1 That Council guarantee the loan between the Wyong Shire Council Outdoor Social Club Incorporated and Wyong Council Credit Union.**
- 2 The Council authorise the General Manager to execute all documents relating to the guarantee agreement between the Council and the Wyong Shire Council Outdoor Social Club Incorporated.**

FOR: COUNCILLORS BEST, EATON, GRAHAM, MATTHEWS, MCBRIDE, MCNAMARA,
SYMINGTON, VINCENT, WEBSTER AND WYNN

AGAINST: NIL

7.1 Information Reports

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

That with the exception of report number 7.2, 7.3, 7.4 and 7.5 Council receive the information reports and adopt the recommendations.

FOR: COUNCILLORS BEST, EATON, GRAHAM, MATTHEWS, MCBRIDE, MCNAMARA,
SYMINGTON, VINCENT, WEBSTER AND WYNN

AGAINST: NIL

7.2 Activities of the Development Assessment Unit

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

That Council receive the report on Activities of the Development Assessment Unit.

FOR: COUNCILLORS BEST, EATON, GRAHAM, MATTHEWS, MCBRIDE, MCNAMARA,
SYMINGTON, VINCENT, WEBSTER AND WYNN

AGAINST: NIL

7.3 Results of Water Quality Testing for Beaches and Lake Locations

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

- 1 That Council receive the report on Results of Water Quality Testing for Beaches and Lake Locations.**
- 2 That Council request the Tuggerah Lakes Estuary, Coastal and Floodplain Management Committee to provide an information report reviewing the possible issues of high level of turbidity as a result of the recent unprecedented dust storm event.**

FOR: COUNCILLORS BEST, EATON, GRAHAM, MATTHEWS, MCBRIDE, MCNAMARA, SYMINGTON, VINCENT, WEBSTER AND WYNN

AGAINST: NIL

7.4 Mardi to Mangrove Link Project Status

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

- 1 That Council receive the report on Mardi to Mangrove Link Project Status.**
- 2 That Council notes with concern the number of outstanding easements still to be acquired.**
- 3 That Council receive a briefing within two months on the Tillegra Dam proposal and that an invitation be extended to Hunter Water to attend.**

FOR: COUNCILLORS BEST, EATON, GRAHAM, MATTHEWS, MCBRIDE, MCNAMARA, SYMINGTON, VINCENT, WEBSTER AND WYNN

AGAINST: NIL

7.5 General Works in Progress

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

That Council receive the report on General Works in Progress.

FOR: COUNCILLORS BEST, EATON, GRAHAM, MATTHEWS, MCBRIDE, MCNAMARA, SYMINGTON, VINCENT, WEBSTER AND WYNN

AGAINST: NIL

7.6 Water and Sewerage - Works in Progress

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

That Council receive the report on Water and Sewerage - Works in Progress.

FOR: COUNCILLORS BEST, EATON, GRAHAM, MATTHEWS, MCBRIDE, MCNAMARA, SYMINGTON, VINCENT, WEBSTER AND WYNN

AGAINST: NIL

7.7 Annual Water Supply and Sewerage Performance Reporting

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

That Council receive the report on Annual Water Supply and Sewerage Performance Reporting.

FOR: COUNCILLORS BEST, EATON, GRAHAM, MATTHEWS, MCBRIDE, MCNAMARA, SYMINGTON, VINCENT, WEBSTER AND WYNN

AGAINST: NIL

7.8 Outstanding Questions Without Notice and Notices of Motion

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

That Council receive the report on Outstanding Questions Without Notice and Notices of Motion.

FOR: COUNCILLORS BEST, EATON, GRAHAM, MATTHEWS, MCBRIDE, MCNAMARA, SYMINGTON, VINCENT, WEBSTER AND WYNN

AGAINST: NIL

9.1 Notice of Motion - Appointments to the Joint Regional Planning Panel

COUNCILLOR EATON DECLARED A NON-PECUNIARY INSIGNIFICANT CONFLICT OF INTEREST IN THE MATTER FOR THE REASON THAT HE IS A COUNCIL APPOINTEE OF THE JRPP 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 A COUNCIL APPOINTEE NOT A STATE APPOINTEE."

MINUTES OF THE ORDINARY MEETING OF COUNCIL 23 SEPTEMBER 2009 contd

COUNCILLOR SYMINGTON DECLARED A NON-PECUNIARY INSIGNIFICANT CONFLICT OF INTEREST IN THE MATTER FOR THE REASON THAT HE IS AN ALTERNATE COUNCIL APPOINTED REPRESENTATIVE OF JRPP AND PARTICIPATED IN CONSIDERATION OF THIS MATTER.

COUNCILLOR SYMINGTON 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."

THE ACTING GENERAL MANAGER DECLARED A NON-PECUNIARY INSIGNIFICANT CONFLICT OF INTEREST IN THE MATTER FOR THE REASON THAT SHE IS ONE OF TWO COUNCIL APPOINTED REPRESENTATIVES ON THE HUNTER-CENTRAL COAST JRPP AND PARTICIPATED IN CONSIDERATION OF THIS MATTER.

THE ACTING GENERAL MANAGER STATED:

"I CHOOSE TO REMAIN IN THE CHAMBER AND PARTICIPATE IN DISCUSSION AS THE CONFLICT HAS NOT INFLUENCED ME IN CARRYING OUT MY PUBLIC DUTY BECAUSE THE ISSUE BEFORE COUNCIL RELATES TO THE APPOINTMENT OF THE STATE APPOINTED MEMBERS."

THE ACTING DIRECTOR SHIRE PLANNING DECLARED A NON-PECUNIARY INSIGNIFICANT CONFLICT OF INTEREST IN THE MATTER FOR THE REASON THAT HE IS AN ALTERNATIVE APPOINTED REPRESENTATIVE ON THE HUNTER-CENTRAL COAST JRPP AND PARTICIPATED IN CONSIDERATION OF THIS MATTER.

THE ACTING DIRECTOR SHIRE PLANNING STATED:

"I CHOOSE TO REMAIN IN THE CHAMBER AND PARTICIPATE IN DISCUSSION AS THE CONFLICT HAS NOT INFLUENCED ME IN CARRYING OUT MY PUBLIC DUTY BECAUSE THE ISSUE BEFORE COUNCIL RELATES TO THE APPOINTMENT OF THE STATE APPOINTED MEMBERS."

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

That Council urge the State Government to reconsider the appointments to the Joint Regional Planning Panel for the Hunter and Central Coast and ensure that there are Central Coast representatives appointed by the Government actually reside on the Central Coast.

FOR: COUNCILLORS BEST, EATON, GRAHAM, MATTHEWS, MCBRIDE, MCNAMARA, SYMINGTON, VINCENT, WEBSTER AND WYNN

AGAINST: NIL

LEAVE TO INTRODUCE A MOTION OF URGENCY

COUNCILLOR SYMINGTON SOUGHT LEAVE TO INTRODUCE A MOTION OF URGENCY CONCERNING THE INCLUSION OF THE ROLE OF LOCAL COUNCILS IN THE PLANNING PROCESS AS A LATE ITEM TO THE LGA CONFERENCE.

RESOLVED unanimously on the motion of Councillor SYMINGTON and seconded by Councillor WYNN:

That Council consider a motion of Urgency regarding the inclusion of the role of local councils in the planning process as a late item to the LGA conference due to the deadline for submissions.

FOR: COUNCILLORS BEST, EATON, GRAHAM, MCBRIDE, MCNAMARA, MATTHEWS, SYMINGTON, VINCENT, WEBSTER AND WYNN.

AGAINST: NIL.

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

U16/09 Local Councils Role in the Planning Process

RESOLVED unanimously on the motion of Councillor SYMINGTON and seconded by Councillor WYNN:

- 1 That Council resolve to support other Councils' in calling on the NSW Premier to instruct his Government to cede planning powers back to Local Government to preserve the role of local Councils' in the planning process.**
- 2 That Council submit this resolution to the LGA Conference as a late submission for inclusion on the agenda.**

FOR: COUNCILLORS BEST, EATON, GRAHAM, MATTHEWS, MCBRIDE, MCNAMARA, SYMINGTON, VINCENT, WEBSTER AND WYNN

AGAINST: NIL

LEAVE TO INTRODUCE A MOTION OF URGENCY

COUNCILLOR VINCENT SOUGHT LEAVE TO INTRODUCE A MOTION OF URGENCY CONCERNING THE PROGRESSION OF THE CONSTRUCTION OF THE ROAD INTO WARNERVALE TOWN CENTRE DUE TO THE NEW APPOINTMENT OF THE MINISTER OF CENTRAL COAST.

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

That Council consider a motion of Urgency regarding the progression of construction of the road into Warnervale Town Centre.

FOR: COUNCILLORS BEST, GRAHAM, MCBRIDE, MCNAMARA, MATTHEWS, SYMINGTON, VINCENT, WEBSTER AND WYNN.

AGAINST: COUNCILLOR EATON.

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

U17/09 Motion of Urgency - Progression of Construction of the Road into Warnervale Town Centre

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

That the Mayor and Deputy Mayor consult with the Minister for the Central Coast via the Parliamentary Secretary, Mr David Harris MP, Member for Wyong with the view to progressing the construction of the road into the Warnervale Town Centre.

COUNCILLOR'S NOTE

Refer to Answers to Question Without Notice Q048 – Warnervale Town Centre.

An **AMENDMENT** was **MOVED** by Councillor **EATON** and **SECONDED** by Councillor **MCNAMARA**:

- 1 That the Mayor and Deputy Mayor consult with the Minister for the Central Coast via the Parliamentary Secretary, Mr David Harris MP, Member for Wyong with the view to progressing the construction of the road into the Warnervale Town Centre.
- 2 That Council provide a copy of the answers to question Q048 to the Parliamentary Secretary for the provision to the Minister for the Central Coast and their attention be drawn to the intransigence of Landcom as the major land owner of the proposed road corridor in contributing to towards the cost of the road.

The AMENDMENT was put to the VOTE and declared LOST.

FOR: COUNCILLORS BEST, EATON AND MCNAMARA

AGAINST: COUNCILLORS GRAHAM, MATTHEWS, MCBRIDE, SYMINGTON, VINCENT, WEBSTER AND WYNN

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

That the Mayor and Deputy Mayor consult with the Minister for the Central Coast via the Parliamentary Secretary Mr David Harris MP, Member for Wyong with the view to progressing the construction of the road into the Warnervale Town Centre.

COUNCILLOR'S NOTE

Refer to Answers to Question Without Notice Q048 – Warnervale Town Centre.

FOR: COUNCILLORS BEST, EATON, GRAHAM, MATTHEWS, MCBRIDE, MCNAMARA, SYMINGTON, VINCENT, WEBSTER AND WYNN

AGAINST: NIL

QUESTIONS WITHOUT NOTICE

Q54/09 Cabbage Tree Harbour Toe Drainage Project

Councillor John McNamara

F2004/07782

“Could staff provide a detailed Councillor update regarding Cabbage Tree Harbour toe drainage project and legal matters on the cliff top?”

CONFIDENTIAL SESSION

AT THIS STAGE OF THE MEETING BEING 9.24 PM COUNCIL MOVED INTO CONFIDENTIAL SESSION WITH THE MEMBERS OF THE PRESS AND PUBLIC EXCLUDED FROM THE MEETING OF THE CLOSED SESSION AND ACCESS TO THE CORRESPONDENCE AND REPORTS RELATING TO THE ITEMS CONSIDERED DURING THE COURSE OF THE CLOSED SESSION BEING WITHHELD. THIS ACTION IS TAKEN IN ACCORDANCE WITH SECTION 10A OF THE LOCAL GOVERNMENT ACT, 1993 AS THE ITEMS LISTED COME WITHIN THE FOLLOWING PROVISIONS:-

“2(a) personnel matters concerning particular individuals (other than Councillors).

2(g) advice concerning litigation, or advice that would otherwise be privileged from production in legal proceedings on the ground of legal professional privilege.”

OPEN SESSION

COUNCIL RESUMED IN OPEN SESSION AT 9.40 PM AND THE ACTING GENERAL MANAGER REPORTED ON PROCEEDINGS OF THE CONFIDENTIAL SESSION OF THE ORDINARY MEETING OF COUNCIL AS FOLLOWS:

10.1 Appointment of Additional Independent Member to the Governance Committee

That Council appoint Mr Jason Masters as an independent member of the Governance Committee of Wyong Shire Council with effect from 1 October 2009 until the end of the term of this Council.

10.2 Proposed Acquisition of Land at The Entrance

- 1 That Council seek the dedication of approximately 200m² of land to be bought into Council's public ownership.*
- 2 That Council authorise the proposed draft condition of consent to facilitate Item 1.*
- 3 That Council authorise the payment of reasonable compensation for the acquisition of land as outlined in Item 1. This should be guided by the principles of the Land Acquisition (Just Terms Compensation) Act 1991 and be based on assessment by a qualified valuer.*
- 4 That Council authorise the Mayor and General Manager to negotiate and execute all documents relating to the Transfer.*
- 5 That Council provide a further report on this land, if the current development application is refused by the Court and in any event on the other lands potentially necessary for the waterfront promenade. Such report to include description of existing development and development potentials, options re costings and physical works necessary as well as comments from affected owners.*
- 6 That Council exempt this motion from the provisions of the Code of Meeting Practice to allow the motion to be actioned from 9.00am on Thursday 24 September 2009 for the reason that the matter will form part of Land and Environment Court proceedings to be held on 24 September 2009.*

THERE BEING NO FURTHER BUSINESS, THE MEETING CLOSED AT 9.42 PM.

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CHAIRPERSON