
WYONG SHIRE COUNCIL
MINUTES OF THE
ORDINARY MEETING OF COUNCIL
HELD IN THE COUNCIL CHAMBER
WYONG CIVIC CENTRE, HELY STREET, WYONG
ON WEDNESDAY, 25 JULY 2007,
COMMENCING AT 4.02 PM

PRESENT

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

IN ATTENDANCE

GENERAL MANAGER, ACTING DIRECTOR SHIRE SERVICES, DIRECTOR CORPORATE SERVICES, DIRECTOR SHIRE PLANNING, ACTING MANAGER DEVELOPMENT ASSESSMENT (ARRIVED 5.22 PM), ACTING MANAGER FUTURE PLANNING (ARRIVED 5.22 PM), MANAGER WASTE AND WATER SERVICES (ARRIVED 5.22 PM) AND AN ADMINISTRATION OFFICER.

THE MAYOR, COUNCILLOR R L GRAHAM, DECLARED THE MEETING OPEN AT 4.02 PM.

APOLOGIES

APOLOGIES FOR THE INABILITY TO ATTEND THE MEETING WERE RECEIVED ON BEHALF OF COUNCILLORS EATON FOR THE REASON THAT HE IS CURRENTLY OVERSEAS ON BUSINESS AND VEUGEN DUE TO ILLNESS.

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

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

294 Disclosures of Interest

F2006/02282 MW:SW

302 PROPOSED FOUR STOREY MIXED-USE BUILDING AT EAST TOUKLEY

COUNCILLOR WELHAM DECLARED A NON-PECUNIARY INSIGNIFICANT CONFLICT OF INTEREST IN THE MATTER FOR THE REASON THAT THE SPEAKER ADDRESSING COUNCIL IN FAVOUR OF THE APPLICATION IS HIS ACCOUNTANT 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 IT HAS NO IMPACT ON MY DECISION MAKING PROCESS IN REGARDS TO THIS APPLICATION."

302 PROPOSED FOUR STOREY MIXED-USE BUILDING AT EAST TOUKLEY

COUNCILLOR ROSE DECLARED A NON-PECUNIARY INSIGNIFICANT CONFLICT OF INTEREST IN THE MATTER FOR THE REASON THAT THE SPEAKER, MR STUART HAYWARD, PROVIDES ACCOUNTING SERVICES TO HIMSELF AND HIS FAMILY 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."

302 PROPOSED FOUR STOREY MIXED-USE BUILDING AT EAST TOUKLEY

COUNCILLOR STEVENS DECLARED A NON-PECUNIARY INSIGNIFICANT CONFLICT OF INTEREST IN THE MATTER FOR THE REASON THAT MR STUART HAYWARD IS HIS ACCOUNTANT AND PARTICIPATED IN CONSIDERATION OF THIS MATTER.

COUNCILLOR STEVENS 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."

303 REZONING OF DEFERRED AREA FROM WYONG LEP 1991 - LOT 8106 DP 1085360 AND PART OF LOT 312 DP 80852 JOHNS ROAD, WADALBA

COUNCILLOR GRAHAM DECLARED A NON-PECUNIARY INSIGNIFICANT CONFLICT OF INTEREST IN THE MATTER FOR THE REASON THAT ONE OF THE APPLICANT'S CONSULTANTS MADE A DONATION TO HIS ELECTION CAMPAIGN AND PARTICIPATED IN CONSIDERATION OF THIS MATTER.

COUNCILLOR GRAHAM 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 THIS DONATION WAS CORRECTLY RECORDED IN THE ELECTORAL RETURNS WHICH ARE HELD FOR PUBLIC SCRUTINY BY THIS COUNCIL."

Minutes of the Ordinary Meeting of Council held on 25 July 2007 (contd)

304 DRAFT LOCAL ENVIRONMENTAL PLAN – LOUISIANA ROAD, HAMLYN TERRACE

COUNCILLOR GRAHAM DECLARED A NON-PECUNIARY INSIGNIFICANT CONFLICT OF INTEREST IN THE MATTER FOR THE REASON THAT ONE OF THE APPLICANT'S CONSULTANTS MADE A DONATION TO HIS ELECTION CAMPAIGN AND PARTICIPATED IN CONSIDERATION OF THIS MATTER.

COUNCILLOR GRAHAM 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 THIS DONATION WAS CORRECTLY RECORDED IN THE ELECTORAL RETURNS WHICH ARE HELD FOR PUBLIC SCRUTINY BY THIS COUNCIL."

310 PROPOSED COUNCILLORS' COMMUNITY IMPROVEMENT GRANTS

COUNCILLOR FORSTER DECLARED A NON-PECUNIARY INSIGNIFICANT CONFLICT OF INTEREST IN THE MATTER FOR THE REASON THAT ONE OF HER CHILDREN ATTENDS A SCHOOL THAT IS RECEIVING AN ALLOCATION FROM THIS ROUND OF COUNCILLORS' COMMUNITY IMPROVEMENT GRANTS AND PARTICIPATED IN CONSIDERATION OF THIS MATTER.

COUNCILLOR FORSTER 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."

310 PROPOSED COUNCILLORS' COMMUNITY IMPROVEMENT GRANTS

COUNCILLOR STEVENS DECLARED A NON-PECUNIARY INSIGNIFICANT CONFLICT OF INTEREST IN THE MATTER FOR THE REASON THAT HE IS A LIFE MEMBER OF THE LAKES SURF LIFESAVING CLUB AND PARTICIPATED IN CONSIDERATION OF THIS MATTER.

COUNCILLOR STEVENS 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 HAVE HAD NOTHING TO DO WITH THE LAKES SURF LIFESAVING CLUB MANAGEMENT SINCE 1979."

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

That the report be received and advice of disclosures noted.

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

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

COUNCIL DEALT WITH REPORT 298 AND THEN MOVED INTO CONFIDENTIAL SESSION.

FOLLOWING THE CONFIDENTIAL SESSION, REPORT NOS 295, 296, 297, 302 AND 303, WERE DEALT WITH NEXT 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 25 July 2007 (contd)

295 Proposed Inspections

F2006/02282 MW:SW

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

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

296 Proposed Briefings

F2006/02282 MW:SW

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

That the report be received and the information noted.

297 Address by Invited Speakers

F2006/02282 MW:SW

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

- 1 That the amended report on Invited Speakers be received and the information noted.***
- 2 That standing orders be varied to allow each item to be dealt with following the speaker's address.***

298 Notice of Intention to Deal With Matters in Confidential Session

F2006/02282 MW:SW

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

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

W011 – Cabbage Tree Harbour Landslip

Minutes of the Ordinary Meeting of Council held on 25 July 2007 (contd)

- 2** *That the reason for dealing with Report No W011 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, in accordance with the Council resolution, the General Manager will report on this matter to the meeting in Confidential Session.*

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

AGAINST: COUNCILLOR BEST.

THE MEETING MOVED BACK INTO OPEN SESSION AND WAS AJOURNED AT 5.11 PM AND RESUMED AT 5.21 PM.

THE ACTING DIRECTOR SHIRE SERVICES UPDATED COUNCILLORS ON THE TUMBI CREEK DREDGING PROJECT.

PASTOR JOHN BETTS DELIVERED THE OPENING PRAYER AT 5.22 PM.

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

W011 Cabbage Tree Harbour Landslip

F2004/07782 GW

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

- 1** *That Council reaffirm its position that it has absolutely no liability whatsoever for any damage which has occurred or may in the future occur either as a result of the safety measures, the landslip or works undertaken in good faith to remediate the problem.*
- 2** *That Council continue to maintain barriers, beach closures and surveillance at Cabbage Tree Harbour until appropriate works are carried out to reduce the risks to public safety in the short term.*
- 3** *That relevant residents in Mitchell Street and Bungary Road be requested to remove their backyard structures, regrade and stabilise the rear yards in accordance with Andrew Shirley's geotechnical advice.*

Minutes of the Ordinary Meeting of Council held on 25 July 2007 (contd)

- 4** *That Council commission, on a 50-50 basis with the State Government, the preparation of a detailed design by consultants for the toe drainage structure and the re-vegetation and stabilisation of Crown land with a detailed cost estimate.*
- 5** *That, once the detailed design and cost estimate is available, staff report back to Council.*
- 6** *That any further longer term actions in relation to the landslips at Cabbage Tree Harbour be considered as part of the Coastline Management Study and Plan.*
- 7** *That the Council, together with its advisors, meet with the relevant residents of Mitchell Street and Bungary Road.*

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

AGAINST: COUNCILLORS BEST AND PAVIER.

299 Confirmation of Minutes of Previous Meeting

F2006/02282 MW:SW

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

That the minutes of the previous Ordinary Meeting of Council held on 11 July 2007 be received and confirmed.

BUSINESS ARISING FROM THE MINUTES

IN REGARD TO REPORT 274 – DISCLOSURES OF INTEREST, COUNCILLOR WELHAM ASKED WHETHER THE DISCLOSURE OF INTEREST MADE BY COUNCILLOR BEST HAD BEEN RECORDED CORRECTLY AS HE BELIEVED IT WAS CONTRADICTORY. COUNCILLOR BEST INFORMED HIS DISCLOSURE HAD BEEN RECORDED ACCURATELY, INFORMING HE CHANGED THE FORM TO ACCOMMODATE HIS DISCLOSURE.

Minutes of the Ordinary Meeting of Council held on 25 July 2007 (contd)

300 Notice of Motion – Ourimbah Creek Environmental Flows

F2006/01040 MR

It was MOVED by Councillor BEST and seconded by Councillor STEWART:

That staff report to Council in conjunction with our peak environmental groups on the impact to date on the near cessation of stream flows in Ourimbah Creek, below the weir, and prior to the recent storm events.

The MOTION was WITHDRAWN.

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

That Council request the Estuary Management Committee to report on the impacts of the approval to decrease bypass flows at the Ourimbah Creek Weir to 3MI/day.

LEAVE TO INTRODUCE A MOTION OF URGENCY

COUNCILLOR BEST SOUGHT TO INTRODUCE A MOTION OF URGENCY CONCERNING THE ENTRANCE CHANNEL.

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

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

That Council consider a motion of Urgency regarding The Entrance Channel.

FOR: COUNCILLORS BEST, FORSTER, GRAHAM, STEWART AND WELHAM.

AGAINST: COUNCILLORS PAVIER, ROSE AND STEVENS.

300A Motion of Urgency – The Entrance Channel

F2004/06027

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

That with respect to the recent major multiple storm events and the resultant blow out of The Entrance Channel to some now 400m in width, Council as a matter of urgency receive a report from staff regarding any actions or intervention that may be considered by Council to protect public safety in and around the channel while also seeking to limit Council's risk profile of this escalating danger.

FOR: COUNCILLORS BEST, FORSTER, STEVENS, STEWART AND WELHAM.

AGAINST: COUNCILLORS GRAHAM, PAVIER AND ROSE.

301 Notice of Rescission – Minutes of Gosford and Wyong Councils' Water Authority Board Meeting 20 June 2007

F2004/06808 ED

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

That the following resolution carried at the Ordinary Meeting of Council held on 27 June 2007 be rescinded:

That the minutes of the Gosford and Wyong Councils' Water Authority Board meeting held on 20 June 2007 be received and the recommendations contained therein, adopted.

“5.1 Drought Status Report:

- 1 Councils' move into Level 3 Water Restrictions from July 9th 2007**
- 2 The Board continue to review the Drought Status, including the timing of temporary desalination on a regular basis**
- 3 The existing controls on water tanks be maintained.”**

It was MOVED by Councillor GRAHAM and seconded by Councillor STEVENS:

That the decision to move from Level 4 water restrictions to Level 3 water restrictions be deferred pending further discussions with Gosford City Council.

Minutes of the Ordinary Meeting of Council held on 25 July 2007 (contd)

An AMENDMENT was MOVED by Councillor PAVIER and SECONDED by Councillor BEST:

That the decision to move from Level 4 water restrictions to Level 3 water restrictions be deferred pending further discussions with Gosford City Council and that in the event of failing to convince Gosford City Council that Wyong Shire Council remain at Level 4 water restrictions.

FOR: COUNCILLORS BEST AND PAVIER.

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

The AMENDMENT was put to the VOTE and declared LOST.

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

That the decision to move from Level 4 water restrictions to Level 3 water restrictions be deferred pending further discussions with Gosford City Council.

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

AGAINST: COUNCILLORS BEST AND PAVIER.

302 Proposed Four Storey Mixed-Use Building at East Toukley

DA/2474/2005 DMD/WKW

302 PROPOSED FOUR STOREY MIXED-USE BUILDING AT EAST TOUKLEY

COUNCILLOR WELHAM DECLARED A NON-PECUNIARY INSIGNIFICANT CONFLICT OF INTEREST IN THE MATTER FOR THE REASON THAT THE SPEAKER ADDRESSING COUNCIL IN FAVOUR OF THE APPLICATION IS HIS ACCOUNTANT 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 IT HAS NO IMPACT ON MY DECISION MAKING PROCESS IN REGARDS TO THIS APPLICATION."

302 PROPOSED FOUR STOREY MIXED-USE BUILDING AT EAST TOUKLEY

COUNCILLOR ROSE DECLARED A NON-PECUNIARY INSIGNIFICANT CONFLICT OF INTEREST IN THE MATTER FOR THE REASON THAT THE SPEAKER, MR STUART HAYWARD, PROVIDES ACCOUNTING SERVICES TO HIMSELF AND HIS FAMILY 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."

Minutes of the Ordinary Meeting of Council held on 25 July 2007 (contd)

302 PROPOSED FOUR STOREY MIXED-USE BUILDING AT EAST TOUKLEY

COUNCILLOR STEVENS DECLARED A NON-PECUNIARY INSIGNIFICANT CONFLICT OF INTEREST IN THE MATTER FOR THE REASON THAT MR STUART HAYWARD IS HIS ACCOUNTANT AND PARTICIPATED IN CONSIDERATION OF THIS MATTER.

COUNCILLOR STEVENS 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."

MR STUART HAYWARD, A LOCAL BUSINESS PERSON, ADDRESSED THE MEETING AT 5.34 PM, ANSWERED QUESTIONS AND RETIRED AT 5.47 PM.

It was MOVED by Councillor STEVENS and seconded by Councillor STEWART:

- 1 That the application be referred to the General Manager for determination having regard to the matters for consideration detailed in Section 79C of the Environmental Planning and Assessment Act and other relevant issues with an indication that based on the information available to it, Council favours approval of the application subject to appropriate conditions.*
- 2 That those who made submissions be advised of Council's decision.*

An AMENDMENT was MOVED by Councillor ROSE:

- 1 That the application be referred to the General Manager for determination having regard to the matters for consideration detailed in Section 79C of the Environmental Planning and Assessment Act and other relevant issues with an indication that based on the information available to it, Council favours approval of the application subject to appropriate conditions.*
- 2 That staff report back to Council on the options to facilitate alternative access to the site via the extension of Bucks Lane.*

The AMENDMENT lapsed for want of a SECONDER.

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

- 1 That the application be referred to the General Manager for determination having regard to the matters for consideration detailed in Section 79C of the Environmental Planning and Assessment Act and other relevant issues with an indication that based on the information available to it, Council favours approval of the application subject to appropriate conditions.***
- 2 That those who made submissions be advised of Council's decision.***

Minutes of the Ordinary Meeting of Council held on 25 July 2007 (contd)

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

AGAINST: COUNCILLOR BEST.

303 Rezoning of Deferred Area from Wyong LEP 1991 - Lot 8106 DP 1085360 and part of Lot 312 DP 80852 Johns Road, Wadalba

F2005/00562 SI/SD:NH

303 REZONING OF DEFERRED AREA FROM WYONG LEP 1991 - LOT 8106 DP 1085360 AND PART OF LOT 312 DP 80852 JOHNS ROAD, WADALBA

COUNCILLOR GRAHAM DECLARED A NON-PECUNIARY INSIGNIFICANT CONFLICT OF INTEREST IN THE MATTER FOR THE REASON THAT ONE OF THE APPLICANT'S CONSULTANTS MADE A DONATION TO HIS ELECTION CAMPAIGN AND PARTICIPATED IN CONSIDERATION OF THIS MATTER.

COUNCILLOR GRAHAM 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 THIS DONATION WAS CORRECTLY RECORDED IN THE ELECTORAL RETURNS WHICH ARE HELD FOR PUBLIC SCRUTINY BY THIS COUNCIL."

COUNCILLOR PAVIER LEFT THE CHAMBER AT 7.00 PM AND RETURNED TO THE CHAMBER AT 7.02 PM DURING CONSIDERATION OF THIS ITEM.

COUNCILLOR ROSE LEFT THE CHAMBER AT 7.13 PM AND RETURNED TO THE CHAMBER AT 7.15 PM DURING CONSIDERATION OF THIS ITEM.

COUNCILLOR PAVIER LEFT THE CHAMBER AT 7.13 PM AND RETURNED TO THE CHAMBER AT 7.16 PM DURING CONSIDERATION OF THIS ITEM.

COUNCILLOR BEST LEFT THE CHAMBER AT 7.32 PM AND RETURNED TO THE CHAMBER AT 7.33 PM DURING CONSIDERATION OF THIS ITEM.

MR RAY RAUSCHER, REPRESENTING THE WADALBA ASSOCIATION, ADDRESSED THE MEETING AT 6.34 PM, ANSWERED QUESTIONS AND RETIRED AT 6.52 PM.

MR PATRICK PERELLI, ABORIGINAL HERITAGE ADVISOR, ADDRESSED THE MEETING AT 6.53 PM, ANSWERED QUESTIONS AND RETIRED AT 7.10 PM.

MR PETER JOHNSON, REPRESENTING JOHNSONS PARTNERS, ADDRESSED THE MEETING AT 7.22 PM, ANSWERED QUESTIONS AND RETIRED AT 7.27 PM.

MR TOM CUMMINS, REPRESENTING WESTMINISTER, WAS AVAILABLE TO ANSWER QUESTIONS.

Minutes of the Ordinary Meeting of Council held on 25 July 2007 (contd)

It was MOVED by Councillor FORSTER and seconded by Councillor STEWART:

- 1 *That, in accordance with Section 68(6) of the Environmental Planning and Assessment Act, 1979, Council resolve to proceed with the "deferred matter" from Wyong Local Environmental Plan Amendment No 131 to rezone part of Lot 8106 DP 1085360 and part of Lot 312 DP 808521 to 2(e) Urban Release Area Zone as indicated on the draft Local Environmental Plan map.*
- 2 *That the Department of Planning be advised of the decision and further that Council requests the issue of "Written Authorisation to Exercise Delegation" at Section 69 and seeks an Opinion from Parliamentary Counsel that the draft Local Environmental Plan can be made.*
- 3 *That subject to two above, the Minister be requested to create the Local Environmental Plan in accordance with Section 70 of the Environmental Planning and Assessment Act, 1979.*
- 4 *That Council's Section 149 Certificates be noted.*

An AMENDMENT was MOVED by Councillor WELHAM and SECONDED by Councillor BEST:

That this report be deferred for a period of a fortnight.

FOR: COUNCILLORS BEST, PAVIER AND WELHAM.

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

The AMENDMENT was put to the VOTE and declared LOST.

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

- 1 ***That, in accordance with Section 68(6) of the Environmental Planning and Assessment Act, 1979, Council resolve to proceed with the "deferred matter" from Wyong Local Environmental Plan Amendment No 131 to rezone part of Lot 8106 DP 1085360 and part of Lot 312 DP 808521 to 2(e) Urban Release Area Zone as indicated on the draft Local Environmental Plan map.***
- 2 ***That the Department of Planning be advised of the decision and further that Council requests the issue of "Written Authorisation to Exercise Delegation" at Section 69 and seeks an Opinion from Parliamentary Counsel that the draft Local Environmental Plan can be made.***

Minutes of the Ordinary Meeting of Council held on 25 July 2007 (contd)

- 3** *That subject to two above, the Minister be requested to create the Local Environmental Plan in accordance with Section 70 of the Environmental Planning and Assessment Act, 1979.*
- 4** *That Council's Section 149 Certificates be noted.*

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

AGAINST: COUNCILLORS BEST, PAVIER AND WELHAM.

THE MEETING WAS AJOURNED AT 7.50 PM AND RESUMED AT 7.54 PM.

304 Draft Local Environmental Plan – Louisiana Road, Hamlyn Terrace

F2004/07783 JEL:JP

304 DRAFT LOCAL ENVIRONMENTAL PLAN – LOUISIANA ROAD, HAMLYN TERRACE

COUNCILLOR GRAHAM DECLARED A NON-PECUNIARY INSIGNIFICANT CONFLICT OF INTEREST IN THE MATTER FOR THE REASON THAT ONE OF THE APPLICANT'S CONSULTANTS MADE A DONATION TO HIS ELECTION CAMPAIGN AND PARTICIPATED IN CONSIDERATION OF THIS MATTER.

COUNCILLOR GRAHAM 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 THIS DONATION WAS CORRECTLY RECORDED IN THE ELECTORAL RETURNS WHICH ARE HELD FOR PUBLIC SCRUTINY BY THIS COUNCIL."

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

- 1** *That draft LEP (Amendment 163) be referred to the Minister for Planning in accordance with Section 70 of the Environmental Planning and Assessment Act, 1979 with a request that it be created.*
- 2** *That in accordance with Clause 21 of the Environmental Planning and Assessment Regulations 2000, the amendment to draft DCP 2005: Chapter 49 Warnervale East and Wadalba North West Urban Release Area be adopted and become effective as of the date that LEP (Amendment 163) is gazetted.*
- 3** *That the Department of Planning be requested to revise the wording of draft Clause 42G contained in draft LEP (Amendment 163) to provide more detail concerning the monetary contribution amount and intended uses targeted by the Regional Transport Infrastructure and Services Levy.*
- 4** *That those who made submissions be advised of Council's decision.*

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

AGAINST: COUNCILLORS BEST AND PAVIER.

Minutes of the Ordinary Meeting of Council held on 25 July 2007 (contd)

305 Renewal of Lease to Girl Guides Association (NSW) for Kooloora Road, Noraville

F2004/10840 JMT

It was MOVED by Councillor WELHAM and seconded by Councillor GRAHAM:

That the matter be deferred for a briefing to understand Councils' policy and to explore other areas related to community group use of Council facilities.

An AMENDMENT was MOVED by Councillor BEST and SECONDED by Councillor STEWART:

- 1 That Council lease Lot 1 DP 746917, 33 Kooloora Road, Noraville to the Girl Guides Association (NSW) for a term of 21 years commencing 3 October 2007 for nominal rent.*
- 2 That the proposed lease be advertised in accordance with Section 47 of the Local Government Act 1993.*
- 3 That, if no adverse submissions are received, the lease in item 1 be completed.*
- 4 That Council authorise the Common Seal of the Wyong Shire Council to be affixed to the Lease between the Wyong Shire Council and the Girl Guides Association (NSW).*
- 5 That Council authorise the Mayor and the General Manager to execute all documents relating to the Lease between the Wyong Shire Council and the Girl Guides Association (NSW).*

FOR: COUNCILLORS BEST, FORSTER, ROSE, STEVENS AND STEWART.

AGAINST: COUNCILLORS GRAHAM, PAVIER, AND WELHAM.

The AMENDMENT became the MOTION.

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

- 1 That Council lease Lot 1 DP 746917, 33 Kooloora Road, Noraville to the Girl Guides Association (NSW) for a term of 21 years commencing 3 October 2007 for nominal rent.***
- 2 That the proposed lease be advertised in accordance with Section 47 of the Local Government Act 1993.***
- 3 That, if no adverse submissions are received, the lease in item 1 be completed.***

Minutes of the Ordinary Meeting of Council held on 25 July 2007 (contd)

- 4 That Council authorise the Common Seal of the Wyong Shire Council to be affixed to the Lease between the Wyong Shire Council and the Girl Guides Association (NSW).**
- 5 That Council authorise the Mayor and the General Manager to execute all documents relating to the Lease between the Wyong Shire Council and the Girl Guides Association (NSW).**

FOR: COUNCILLORS BEST, FORSTER, GRAHAM, ROSE, STEVENS AND STEWART.

AGAINST: COUNCILLORS PAVIER, AND WELHAM.

306 Classification of Land at 63-73 and 75-85 Mataram Road, Woongarra

DA/678/2005 SB

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

- 1 That Council propose classification of Lot 2 DP 1104475 and Lot 3 DP 1104475 as Operational Land.**
- 2 That the proposal be advertised in accordance with Section 34 of the Local Government Act 1993.**
- 3 That, if no adverse submissions are received, the classification be adopted.**

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

AGAINST: COUNCILLORS BEST AND PAVIER.

307 Classification of Land at 283-303 Warnervale Road, Hamlyn Terrace

DA/902/1997 SB

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

- 1 That Council propose classification of Lot 196 DP 1089251 and Lot 198 DP 1089251 as Operational Land.**
- 2 That the proposal be advertised in accordance with Section 34 of the Local Government Act 1993.**
- 3 That, if no adverse submissions are received, the classification be adopted.**

308 Easements for Power Supply over Council's Land at Wyong Creek

F2007/00800 PF

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

- 1 That Council grant easements for electricity purposes to Energy Australia over Lot B DP363291 Woodbury Park and Lot 1 DP 420408 being the site of the water supply pump station.**
- 2 That Council as the owner of Lot B DP363291 and Lot 1 DP 420408 endorse the Deed of Agreement with Energy Australia that undertakes to grant the easements in Item 1.**
- 3 That Council endorse the Deed of Agreement between Energy Australia and the owner of Lot 4 DP 587932 Old Maitland Road Mardi on the basis that Council owns a Right of Way affecting that land.**
- 4 That Council authorise for the Common Seal of the Wyong Shire Council to be affixed to the Transfer Granting Easement document and the Deeds of Agreement between the Wyong Shire Council and Energy Australia.**
- 5 That Council authorise the Mayor and the General Manager to execute all documents relating to the Transfer Granting Easement document and the Deeds of Agreement between the Wyong Shire Council and Energy Australia.**

309 Revised Code of Meeting Practice

F2004/06502 ED

COUNCILLOR WELHAM LEFT THE CHAMBER AT 9.06 PM AND RETURNED TO THE CHAMBER AT 9.07 PM DURING CONSIDERATION OF THIS ITEM.

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

That the Code of Meeting Practice be adopted with the following conditions;

- 1 *Item 28 How Subsequent Amendments May Be Moved, the last paragraph should read "Amendments should be debated in the order in which they were put to the meeting".***
- 2 *Item 9 Election of Mayor – Calling of Extraordinary Meeting, Section 5 Returning Officer and Ballot Paper, the second paragraph to be checked for clarity.***

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

AGAINST: COUNCILLORS BEST AND PAVIER.

Minutes of the Ordinary Meeting of Council held on 25 July 2007 (contd)

310 Proposed Councillors' Community Improvement Grants

F2006/00788, F2007/00729 SG

310 PROPOSED COUNCILLORS' COMMUNITY IMPROVEMENT GRANTS

COUNCILLOR FORSTER DECLARED A NON-PECUNIARY INSIGNIFICANT CONFLICT OF INTEREST IN THE MATTER FOR THE REASON THAT ONE OF HER CHILDREN ATTENDS A SCHOOL THAT IS RECEIVING AN ALLOCATION FROM THIS ROUND OF COUNCILLORS' COMMUNITY IMPROVEMENT GRANTS AND PARTICIPATED IN CONSIDERATION OF THIS MATTER.

COUNCILLOR FORSTER 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."

310 PROPOSED COUNCILLORS' COMMUNITY IMPROVEMENT GRANTS

COUNCILLOR STEVENS DECLARED A NON-PECUNIARY INSIGNIFICANT CONFLICT OF INTEREST IN THE MATTER FOR THE REASON THAT HE IS A LIFE MEMBER OF THE LAKES SURF LIFESAVING CLUB AND PARTICIPATED IN CONSIDERATION OF THIS MATTER.

COUNCILLOR STEVENS 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 HAVE HAD NOTHING TO DO WITH THE LAKES SURF LIFESAVING CLUB MANAGEMENT SINCE 1979."

COUNCILLOR FORSTER LEFT THE CHAMBER AT 9.25 PM AND RETURNED TO THE CHAMBER AT 9.29 PM AND AS A RESULT TOOK NO PART IN VOTING.

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

- 1 That an amount of \$1,525 be allocated from the 2006/2007 Councillors' Community Improvement Grants as outlined in Attachment 1.***
- 2 That an amount of \$1,550 be allocated from the 2007/2008 Councillors' Community Improvement Grants as outlined in Attachment 2.***

311 Closure of Walkways at Finch Place, Bateau Bay

F2006/00505 TC:SMF

COUNCILLOR FORSTER LEFT THE CHAMBER AT 9.25 PM AND RETURNED TO THE CHAMBER AT 9.29 PM AND AS A RESULT TOOK NO PART IN VOTING.

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

- 1 That Council approve the permanent closure of the two walkways in Finch Place, Bateau Bay.***

Minutes of the Ordinary Meeting of Council held on 25 July 2007 (contd)

2 That Council approve:

- * ***An application to the Minister for Lands for the Closure of the Public Road status for the walkways.***
- * ***The lands from the closed walkways be classified as Operational Land.***
- * ***The proposed Operational Classification be advertised in accordance with Section 34 of the Local Government Act 1993. That, if no adverse submissions are received, the classification be confirmed.***

3 That subject to recommendations 1 and 2 above, Council authorise:

- * ***Disposal of the land to adjoining owners in each case at a market price based on assessment by a qualified valuer.***
- * ***The sale of the lands be subject to a reservation in favour of Council of easement rights.***
- * ***In the event agreement with the adjoining property owners cannot be achieved in the terms set by Council, a further report be submitted to Council on the prospects for retention or other distribution of the land.***

4 That Council authorise the Common Seal of Wyong Shire Council to be affixed to the Transfers.**5 That Council authorise the Mayor and the General Manager to execute the transfers.**

312 Gosford and Wyong Councils' Water Authority Board Meeting

F2004/06808

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

That the amended minutes of the Gosford and Wyong Councils' Water Authority Board meeting held on 18 July 2007 be received and the recommendations contained therein, adopted.

Minutes of the Ordinary Meeting of Council held on 25 July 2007 (contd)

313 Information Reports

F2006/02282 MW:SW

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

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

THERE WERE NO INFORMATION REPORTS IDENTIFIED FOR INDIVIDUAL CONSIDERATION.

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

That the exception method be adopted as the standard recommendation for Information Reports.

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

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

314 State and Federal Government Budgets for 2007/2008

F2004/06377 NS:NS

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

That the report be received and the information noted.

315 Wyong Shire Library Statistics

F2004/11651 JM/JM

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 25 July 2007 (contd)

316 Crown Land at Lake Road, Tuggerah

F2004/08318 NAL:NAL

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

That the report be received and the information noted.

317 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.

318 Works in Progress Report - General

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.

319 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**Q067 – Entry and Exit to Bunnings and Harvey Norman at Lake Haven****Councillor Welham**

DA/2793/2003/M

“Can staff review the operation of the entry/exits and car park of the newly opened Bunnings/Harvey Norman site at Lake Haven, especially the entry/exit opposite Twin Lakes Drive where I have witnessed a number of near misses where drivers are exiting through an entry lane?”

Q068 – State Cabinet Meeting held in Wyong 23 July 2007**Councillor Welham**

F2004/05434

“Could the General Manager provide a report on the recent NSW Cabinet Meeting held in Wyong including a list of meetings held between staff and Ministers and matters raised?”

Q069 – Lease of The Entrance Visitor’s Centre to Central Coast Tourism Incorporated**Councillor Forster**

F2004/12356

“Can staff provide a report detailing the progress of negotiations between Council and Central Coast Tourism Incorporated regarding CCTI’s leasing of the Visitor’s Centre at Memorial Park, The Entrance?”

Q070 – State of Repair of the Jetty at Long Jetty**Councillor Stewart**

F2004/00536

“Further to my previous question on the state of repair of the Long Jetty, could I please have the details on the repair/works programme of the Jetty?”

Q071 – Demolition of House on the Corner of Warrigal and Taylor Streets, The Entrance**Councillor Stewart**

P2005/07069

“Further to my previous question on the demolition of the house on the corner of Warrigal and Taylor Streets, could I please have an urgent report on where the Council is regarding this matter?”

Minutes of the Ordinary Meeting of Council held on 25 July 2007 (contd)

Q072 – Thank you to Council's Rangers**Councillor Best**

F2004/05339

“Our Rangers deal with many difficult and volatile issues on a daily basis. From a local resident who recently witnessed our Rangers handling a most challenging situation with intoxicated youth, the advice I received was the matter was handled with extreme professionalism and the explosive situation was diffused. On behalf of Council would you please pass on to our Head Ranger, Mr Hinds, a vote of confidence on a job well done? Thank you.”

THERE BEING NO FURTHER BUSINESS, THE MEETING CLOSED AT 9.35 PM.

.....
CHAIRPERSON