
WYONG SHIRE COUNCIL
MINUTES OF THE
ORDINARY MEETING OF COUNCIL
HELD IN THE COUNCIL CHAMBER
WYONG CIVIC CENTRE, HELY STREET, WYONG
ON WEDNESDAY, 26 SEPTEMBER 2007,
COMMENCING AT 5.03 PM

PRESENT

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

IN ATTENDANCE

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

A CANDLE WAS LIT IN REMEMBRANCE OF THE LATE CLIFF RUSSELL AND A MINUTES SILENCE WAS OBSERVED.

THE MAYOR, COUNCILLOR W J WELHAM, DECLARED THE MEETING OPEN AT 5.03 PM, ADVISED THAT THE MEETING IS BEING RECORDED AND PASTOR JOHN BETTS DELIVERED THE OPENING PRAYER.

APOLOGIES

THERE WERE NO APOLOGIES.

AT THE COMMENCEMENT OF THE ORDINARY MEETING REPORT NOS 399, 400, 406, 405 AND 411 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.

Minutes of the Ordinary Meeting of Council held on 26 September 2007 (contd)

392 Disclosures of Interest

F2006/02282 MW:SW

399 NOTICE OF MOTION – POTENTIAL IMPACTS OF COAL MINING

COUNCILLOR BEST DECLARED A NON-PECUNIARY INSIGNIFICANT CONFLICT OF INTEREST IN THE MATTER FOR THE REASON THAT HE ASSISTED OTHER COMMUNITY ORGANISATIONS SUCH AS STOP KOREAN COAL MINING (SKCM) AND OTHER INDIVIDUALS IN RELATION TO THEIR SUBMISSIONS INTO THE INQUIRY AND PARTICIPATED IN CONSIDERATION OF THIS ITEM.

COUNCILLOR BEST 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 SUBMISSION WAS IN KEEPING WITH THE COUNCIL'S OPPOSITION TO COAL MINING IN THE VALLEYS."

399 NOTICE OF MOTION – POTENTIAL IMPACTS OF COAL MINING

COUNCILLOR PAVIER DECLARED A NON-PECUNIARY INSIGNIFICANT CONFLICT OF INTEREST IN THE MATTER FOR THE REASON THAT HE ASSISTED THE AUSTRALIAN COAL ALLIANCE WITH A TOWN PLANNING CONTRIBUTION IN THEIR INFORMATION TO THE STATE GOVERNMENT'S INQUIRY AND PARTICIPATED IN CONSIDERATION OF THIS MATTER.

COUNCILLOR PAVIER 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 SUBMISSION WAS IN KEEPING WITH THE COUNCIL'S OPPOSITION TO COAL MINING IN THE VALLEYS."

402 DRAFT DEVELOPMENT CONTROL PLAN 2005: CHAPTER 36 – NORTH WYONG INDUSTRIAL AREA AND DRAFT LOCAL ENVIRONMENTAL PLAN 174

COUNCILLOR EATON DECLARED A NON-PECUNIARY SIGNIFICANT CONFLICT OF INTEREST IN THE MATTER FOR THE REASON THAT HE IS A SOLICITOR FOR THE LANDOWNER IN THE DCP AREA LEFT THE CHAMBER AT 8.23 PM, TOOK NO PART IN DISCUSSION, DID NOT VOTE AND RETURNED TO THE CHAMBER AT 8.41 PM.

402 DRAFT DEVELOPMENT CONTROL PLAN 2005: CHAPTER 36 – NORTH WYONG INDUSTRIAL AREA AND DRAFT LOCAL ENVIRONMENTAL PLAN 174

COUNCILLOR VEUGEN DECLARED A NON-PECUNIARY INSIGNIFICANT CONFLICT OF INTEREST IN THE MATTER FOR THE REASON THAT HE BELIEVES THAT THE OWNER OF THE LAND HAS A RELATIONSHIP WITH HIS EMPLOYER AND PARTICIPATED IN CONSIDERATION OF THIS MATTER.

COUNCILLOR VEUGEN 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 26 September 2007 (contd)

405 EXPANSION OF EXISTING CARAVAN PARK AT CHAIN VALLEY BAY

COUNCILLOR ROSE DECLARED A NON-PECUNIARY SIGNIFICANT CONFLICT OF INTEREST IN THE MATTER FOR THE REASON THAT HE IS A DIRECTOR OF THE HUNTER CENTRAL RIVERS CATCHMENT MANAGEMENT AUTHORITY AND IS AWARE OF ISSUES AT THAT LEVEL THAT MAY INFLUENCE HIS DECISION LEFT THE CHAMBER AT 7.00 PM, TOOK NO PART IN DISCUSSION, DID NOT VOTE AND RETURNED TO THE CHAMBER AT 7.06 PM.

410 PROPOSED COUNCILLORS' COMMUNITY IMPROVEMENT GRANTS

COUNCILLOR WELHAM DECLARED A NON-PECUNIARY SIGNIFICANT CONFLICT OF INTEREST IN THE MATTER FOR THE REASON THAT HE IS PRESIDENT OF GOROKAN PUBLIC SCHOOL, SCHOOL COUNCIL LEFT THE CHAMBER AT 8.59 PM, TOOK NO PART IN DISCUSSION, DID NOT VOTE AND RETURNED TO THE CHAMBER AT 9.00 PM.

411 HOLIDAY PARKS BRIEFINGS

COUNCILLOR BEST DECLARED A NON-PECUNIARY INSIGNIFICANT CONFLICT OF INTEREST IN THE MATTER FOR THE REASON THAT HIS FAMILY USES COUNCIL PARKS FROM TIME TO TIME LEFT THE CHAMBER AT 7.06 PM, TOOK NO PART IN DISCUSSION, DID NOT VOTE AND RETURNED TO THE CHAMBER AT 7.13 PM.

COUNCILLOR BEST STATED:

"I CHOOSE NOT TO REMAIN IN THE CHAMBER AND PARTICIPATE IN DISCUSSION AND VOTING AS THE CONFLICT HAS INFLUENCED ME IN CARRYING OUT MY PUBLIC DUTY.

W015 PROPOSED HAMLIN TERRACE COMMUNITY FACILITY

MANAGER FUTURE PLANNING DECLARED A NON-PECUNIARY SIGNIFICANT CONFLICT OF INTEREST IN THE MATTER FOR THE REASON THAT HIS FAMILY HAS BEEN EXTENSIVELY INVOLVED IN THE WARNERVALE FAMILY COMMUNITY CENTRE LEFT THE CHAMBER AT 9.02 PM, TOOK NO PART IN DISCUSSION AND DID NOT RETURN TO THE CHAMBER.

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

That the report be received and advice of disclosures noted.

393 Proposed Inspections

F2006/02282 MW:SW

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

That the report on inspections conducted on Wednesday, 26 September 2007 be received and the information noted.

394 Proposed Briefings

F2006/02282 MW:SW

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

That the report be received and the information noted.

395 Address by Invited Speakers

F2006/02282 MW:SW

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

- 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.***

396 Notice of Intention to Deal With Matters in Confidential Session

F2006/02282 MW:SW

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

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

W014 – Proposed Hamlyn Terrace Sporting Facilities

W015 – Proposed Hamlyn Terrace Community Facility
- 2** ***That the reason for dealing with the Report No W014 – Proposed Hamlyn Terrace Sporting Facilities and Report No W015 – Proposed Hamlyn Terrace Community Facilities confidentially is that it is information that would, if disclosed, confer a commercial advantage on a person with whom the Council is conducting (or proposes to conduct) business.***
- 3** ***That, in accordance with the Council resolution, the General Manager will report on this matter to the meeting in Confidential Session.***

Minutes of the Ordinary Meeting of Council held on 26 September 2007 (contd)

397 Confirmation of Minutes of Previous Meeting

F2006/02282 MW:SW

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

That the minutes of the previous Ordinary Meeting of Council held on 12 September 2007 be received and confirmed.

BUSINESS ARISING FROM THE MINUTES

THERE WAS NO BUSINESS ARISING FROM THE MINUTES.

398 Notice of Motion – Resumption (or Buy Out) Policy

F2004/07782 BP

COUNCILLOR FORSTER LEFT THE CHAMBER AT 7.34 PM AND RETURNED TO THE CHAMBER AT 7.39 PM DURING CONSIDERATION OF THIS ITEM.

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

Presently Council has a Coastline Management Plan largely implemented through a control plan DCP77.

In the 2004 Hazard Assessment for Wyong's coast, the Department of Natural Resources required a sea level rise of 150 mm for the beach and bluff modelling for a planning horizon of 50 years. In 2007 IPCC (Intergovernmental Panel on Climate Change) and CSIRO indicated that these figures should be 300mm for the 50 year planning horizon. Due to such radical changes in the predicative figures mentioned above, that staff bring back a report to the next available meeting;

- 1 *A brief précis on DCP 77 where it applies and the controls that this plans limits with regards to the type and nature of development.***
- 2 *A scoping analysis of options that may be incorporated within the Coastline Management Plan to address the impacts of sea level rise and climate change. This would include issues such as voluntary resumption, planned retreat and structural options, with specific reference to the levels of contributions by the other spheres of government (ie State and Federal) and why.***

Minutes of the Ordinary Meeting of Council held on 26 September 2007 (contd)

- 3** *The number of properties presently affected now, with a guestimate of the how many properties will be affected when the current hazard lines move inland placing more properties in the 50 year high zone.*
- 4** *With an expected 100 year prediction of 880mm rise in the sea level and as part of this report, when do staff view it as wise to have a further revisit to the hazard management plan after this one is due sometime in late 2008 and why has this Coastal hazard Plan taken so long to come to light given that DCP was last gazetted in 1999?*
- 5** *That the above information be provided to council as soon as possible and that a copy of this report be sent to all State and Federal Local members.*

FOR: COUNCILLORS EATON, FORSTER, GRAHAM, PAVIER, STEVENS AND WELHAM.

AGAINST: COUNCILLORS BEST, ROSE, STEWART AND VEUGEN.

399 Notice of Motion – Potential Impacts of Coal Mining

F2006/01080 NR:RS

COUNCILLOR BEST DECLARED A NON-PECUNIARY INSIGNIFICANT CONFLICT OF INTEREST IN THE MATTER FOR THE REASON THAT HE ASSISTED OTHER COMMUNITY ORGANISATIONS SUCH AS STOP KOREAN COAL MINING (SKCM) AND OTHER INDIVIDUALS IN RELATION TO THE WHERE WITH ALL WITH THEIR SUBMISSIONS INTO THE INQUIRY AND PARTICIPATED IN CONSIDERATION OF THIS ITEM.

COUNCILLOR BEST 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 SUBMISSION WAS IN KEEPING WITH THE COUNCIL'S OPPOSITION TO COAL MINING IN THE VALLEYS."

COUNCILLOR PAVIER DECLARED A NON-PECUNIARY INSIGNIFICANT CONFLICT OF INTEREST IN THE MATTER FOR THE REASON THAT HE ASSISTED THE AUSTRALIAN COAL ALLIANCE WITH A TOWN PLANNING CONTRIBUTION IN THEIR INFORMATION TO THE STATE GOVERNMENT'S INQUIRY AND PARTICIPATED IN CONSIDERATION OF THIS MATTER.

COUNCILLOR PAVIER 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 SUBMISSION WAS IN KEEPING WITH THE COUNCIL'S OPPOSITION TO COAL MINING IN THE VALLEYS."

MR MIKE CAMPBELL, RESIDENT, IN FAVOUR OF THE MOTION, ADDRESSED THE MEETING AT 5.18 PM, ANSWERED QUESTIONS AND RETIRED AT 5.25 PM.

Minutes of the Ordinary Meeting of Council held on 26 September 2007 (contd)

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

That having regard to the State Government Strategic Inquiry into the Potential Impacts of Coal Mining in Wyong Shire, that Council:

- 1 Extends appreciation to many Shire residents, both in the Valleys and in neighbouring communities, for their extensive involvement in the Inquiry process.**
- 2 Congratulates 'The Australian Coal Alliance' and 'Stop Korean Coal Mining Group' for its considerable effort in presenting a particularly outstanding and well researched submission as commented on by the Chairperson of the Inquiry.**
- 3 Extends appreciation to the Member for Wyong, Mr David Harris for his unwavering opposition against any additional/new coal mining within the boundaries of Wyong Shire and for his strong submission against the proposed Kores mine to the Strategic Inquiry, and**
- 4 Reiterates its concerns for the potential impacts of coal mining:**
 - a within our essential water supply catchments;**
 - b under the Tuggerah Lakes;**
 - c to existing residential communities; and**
 - d to proposed industrial, commercial or residential areas.**
- 5 Council formally write to the Member for Wyong, Mr David Harris thanking him for his strident opposition to this challenging issue.**
- 6 Council also recognise the significant contribution of this issue, made by former Mayor and patron, Councillor Bob Graham.**
- 7 Council write to both the Federal Government and Federal Opposition calling on them to formally state their positions in relation to the proposed Kores Coal Mine and what proposed actions they would take on coming to office in the new Government.**

400 Notice of Motion – Rezoning Warnervale Town Centre and Wyong Employment Zone

F2006/01080 KF

MR JOHN MCNAMARA, RESIDENT, IN FAVOUR OF THE MOTION, ADDRESSED THE MEETING AT 5.47 PM ANSWERED QUESTIONS AND RETIRED AT 5.57 PM

COUNCILLOR GRAHAM LEFT THE CHAMBER AT 5.48 PM AND RETURNED TO THE CHAMBER AT 5.49 PM DURING CONSIDERATION OF THIS ITEM.

COUNCILLOR VEUGEN LEFT THE CHAMBER AT 5.53 PM AND RETURNED TO THE CHAMBER AT 5.55 PM DURING CONSIDERATION OF THIS ITEM.

COUNCILLOR BEST LEFT THE CHAMBER AT 6.04 PM AND RETURNED TO THE CHAMBER AT 6.06 PM DURING CONSIDERATION OF THIS ITEM.

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

That having regard to the extra-ordinary time that the Minister for Planning has had to resolve the rezoning of both Warnervale Town Centre and the Wyong Employment Zone, that Council urgently make representations to the Premier of New South Wales, the Hon Morris Iemma, expressing Council's ongoing concern that the Minister for Planning has failed to deliver on promises of resolving both the Warnervale Town Centre and Wyong Employment Zone (WEZ) rezonings in a timely manner and:

- 1 Notes that the Minister for Planning has had the rezonings for some 13-15 months. This has led in turn particularly to:***
 - * Holding up the delivery of some 6,000 jobs;***
 - * Delays in the provision of a major commuter railway station;***
 - * Delays in innovative programs to enhance and maintain key ecological communities that are currently being impacted by inappropriate land uses;***
 - * Resolution of the location and design for a major new town centre; and***
 - * Delays in the provision of important community facilities for the growing population of Wyong Shire and Warnervale District.***
- 2 Raises ongoing concern that the Minister for Planning is proposing to apply a Regional Infrastructure Levy to an employment generating development area.***

Minutes of the Ordinary Meeting of Council held on 26 September 2007 (contd)

3 *Raises ongoing concern that the Minister for Planning has been unable to resolve:*

- * *The Regional Infrastructure Levy that is to be applied to the Warnervale District;*
- * *State Government sign off of the innovative Conservation solutions proposed to retain and enhance natural values and provide biocertification for future development;*
- * *The issues raised by the presence of Threatened Species; and*
- * *How community services will be appropriately funded and fully integrated with the development proposal.*

Despite more than 12 months of negotiations and discussions with various State Government departments.

4 *Raises significant concerns that despite ongoing co-operation from Council staff and landowners there has been little attempt at regular communication, updates or involvement, as appropriate, with the planning process which would improve the final outcomes.*

401 Notice of Motion – Unsustainable Housing Solution

F2006/01013 MW

COUNCILLOR GRAHAM LEFT THE CHAMBER AT 7.48 PM AND RETURNED TO THE CHAMBER AT 7.52 PM AND AS A RESULT TOOK NO PART IN VOTING.

COUNCILLOR VEUGEN LEFT THE CHAMBER AT 7.57 PM AND RETURNED TO THE CHAMBER AT 7.58 PM DURING CONSIDERATION OF THIS ITEM.

It was MOVED on the motion of Councillor BEST and seconded by Councillor FORSTER:

That further to the Federal Government's recent solution to solve the affordable housing crises by demanding the State Government release large tracks of residential land in urban release areas such as Wyong Shire. Council urgently request a report from our Local Federal Members on how they propose the coast will cope with a further escalation of population growth over and above the currently unsustainable targets.

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

That Council writes to the Federal Local Government Minister and to the opposition spokesman calling on the Federal Government to take on responsibility for funding major new infrastructure in new residential areas.

Minutes of the Ordinary Meeting of Council held on 26 September 2007 (contd)

The MOTION was WITHDRAWN.

The AMENDMENT then became the MOTION was put to the vote and declared CARRIED.

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

That Council writes to the Federal Local Government Minister and to the opposition spokesman calling on the Federal Government to take on responsibility for funding major new infrastructure in new residential areas.

LEAVE TO INTRODUCE A MOTION OF URGENCY

COUNCILLOR BEST SOUGHT TO INTRODUCE A MOTION OF URGENCY CONCERNING VANDALISM AT NORAH HEAD.

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

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

That Council consider a motion of Urgency regarding Vandalism across our Shire.

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

AGAINST: COUNCILLORS FORSTER, PAVIER AND ROSE.

401A Motion of Urgency – Vandalism Across our Shire

F2004/07937

It was MOVED on the motion of Councillor BEST and seconded by Councillor WELHAM:

- 1 *That Council on behalf of the residents and ratepayers increase our efforts to combat the ongoing escalation of vandalism across our Shire by doubling the reward to \$20,000, leading to a conviction, in an effort to identify those responsible for the mindless and methodic attacks on the evening of Saturday, 22 September 2007, on every public building in and around the Norah Head area.*
- 2 *That Council note that these attacks are costing our residents and ratepayers approximately \$250,000 to restorate.*
- 3 *That Council request the General Manager to formally commend administration and field staff for their efficiency in remediating the affected areas.*

Minutes of the Ordinary Meeting of Council held on 26 September 2007 (contd)

- 4 *That Council investigate the cost of employing a graffiti hit squad of two, one north and one south, and come back with a report on the costings and also if they could investigate the costs of providing this service via a range of means.*

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

That Council investigate the cost of employing a graffiti hit squad of two, one north and one south, and come back with a report on the costings and also if they could investigate the costs of providing this service via a range of means.

RESOLVED on the motion of Councillor EATON that the MOTION be put.

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

AGAINST: COUNCILLORS BEST, VEUGEN AND WELHAM.

Voting on the AMENDMENT was as follows:

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

AGAINST: COUNCILLORS BEST, EATON, GRAHAM, VEUGEN AND WELHAM.

THE AMENDMENT WAS LOST ON THE CASTING VOTE OF THE MAYOR.

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

- 1 ***That Council on behalf of the residents and ratepayers increase our efforts to combat the ongoing escalation of vandalism across our Shire by doubling the reward to \$20,000, leading to a conviction, in an effort to identify those responsible for the mindless and methodic attacks on the evening of Saturday, 22 September 2007, on every public building in and around the Norah Head area.***
- 2 ***That Council note that these attacks are costing our residents and ratepayers approximately \$250,000 to restore.***
- 3 ***That Council request the General Manager to formally commend administration and field staff for their efficiency in remediating the affected areas.***
- 4 ***That Council investigate the cost of employing a graffiti hit squad of two, one north and one south, and come back with a report on the costings and also if they could investigate the costs of providing this service via a range of means.***

Minutes of the Ordinary Meeting of Council held on 26 September 2007 (contd)

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

AGAINST: COUNCILLORS FORSTER AND STEVENS.

LEAVE TO INTRODUCE A MOTION OF URGENCY

COUNCILLOR BEST SOUGHT TO INTRODUCE A MOTION OF URGENCY CONCERNING COUNCIL REPRESENTATION ON THE TUGGERAH LAKES RESERVE TRUST.

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

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

That Council consider a motion of Urgency regarding a Council representative to go onto the Tuggerah Lakes Reserve Trust as Councillor Best will not be renominating.

401B Motion of Urgency – Council Representation on the Tuggerah Lakes Reserve Trust

F2004/08318

COUNCILLOR PAVIER LEFT THE CHAMBER AT 8.20 PM AND RETURNED TO THE CHAMBER AT 8.29 PM DURING CONSIDERATION OF THIS ITEM.

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

That Council nominate a representative to be considered for appointment as a member of the Tuggerah Lakes Reserve Trust.

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

AGAINST: COUNCILLOR PAVIER.

402 Draft Development Control Plan 2005: Chapter 36 – North Wyong Industrial Area and Draft Local Environmental Plan 174

F2004/08885 LH:LH

COUNCILLOR EATON DECLARED A NON-PECUNIARY SIGNIFICANT CONFLICT OF INTEREST IN THE MATTER FOR THE REASON THAT HE IS A SOLICITOR FOR THE LANDOWNER IN THE DCP AREA LEFT THE CHAMBER AT 8.23 PM, TOOK NO PART IN DISCUSSION, DID NOT VOTE AND RETURNED TO THE CHAMBER AT 8.41 PM.

Minutes of the Ordinary Meeting of Council held on 26 September 2007 (contd)

COUNCILLOR VEUGEN DECLARED A NON-PECUNIARY INSIGNIFICANT CONFLICT OF INTEREST IN THE MATTER FOR THE REASON THAT HE BELIEVES THAT THE OWNER OF THE LAND HAS A RELATIONSHIP WITH HIS EMPLOYER AND PARTICIPATED IN CONSIDERATION OF THIS MATTER.

COUNCILLOR VEUGEN 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.

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

- 1 That draft Local Environmental Plan 174 be referred to the Department of Planning under Section 69 of the Environmental Planning and Assessment Act requesting that the Minister for Planning make the plan.**
- 2 That draft Development Control Plan 2005: Chapter 36 – North Wyong Industrial Area, as amended, be adopted by Council and become effective as at the date of gazettal of draft Local Environmental Plan 174 and to apply to all development applications lodged after the date of public notification.**
- 3 That appropriate public notice be given within 28 days.**
- 4 That a copy of Development Control Plan 2005 containing the amended Chapter 36 be forwarded to the Director General of the NSW Department of Planning within 28 days.**
- 5 That Council's 149 Certificates be noted.**
- 6 That all those who made submissions be advised of Council's decision.**
- 7 That a comprehensive review of Development Control Plan 2005: Chapter 36 North Wyong Industrial Area be undertaken by Council's Planning Legal and Policy Section as a matter of priority.**

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

AGAINST: COUNCILLOR FORSTER.

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

That the remaining reports and recommendations of the Ordinary Meeting of Council, with the exception of Report Nos 403, 410, 413, W014 and W015 be received and adopted.

403 Draft Local Environmental Plan, Tumbi Umbi

RZ/5/2005 JLO:JLO

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

- 1 That a draft Local Environmental Plan be prepared to amend Clause 60B of the Wyong Local Environmental Plan, 1991, in the following manner:**
 - a Remove anomalous lot references within the clause;**
 - b Permit the use of Lot 100 for a “restaurant, drive-thru restaurant, a medical centre or commercial premises. Any development is restricted to a maximum of two (2) storeys in height”.**
 - c Permit the additional use of Lot 21 for “a medical centre and up to two commercial premises with no restriction on the number of tenancies. Any development is restricted to a maximum of two storeys in height.”**
- 2 That the Department of Planning be advised of the decision.**
- 3 That the Department of Planning be further advised that Council’s delegate proposes to exercise the delegations under Section 65 and if appropriate, under Section 69 of the Environmental Planning and Assessment Act 1979 and the Department be requested to issue a Written Authorisation to Exercise Delegation to permit the exhibition of the draft Local Environmental Plan.**
- 4 That the draft Local Environmental Plan be referred to appropriate authorities for comment.**
- 5 That upon receipt of the Written Authorisation to Exercise Delegation under section 65, the draft Local Environmental Plan be advertised for 28 days.**
- 6 That Council’s Section 149 Certificates be noted.**
- 7 That upon receipt of the Written Authorisation to Exercise Delegation under section 69, and subject to no significant objections be received as a result of the exhibition, the Minister for Planning be requested to create the Local Environmental Plan.**
- 8 A revised traffic study is to be submitted prior to any referral of this rezoning to the relevant Government Agencies under Section 62 of the Environmental Planning and Assessment Act 1979. Such revised study is to address how any deficit in the number of parking spaces is to be dealt with in relation to Lot 100.**

Minutes of the Ordinary Meeting of Council held on 26 September 2007 (contd)

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

AGAINST: COUNCILLORS FORSTER AND VEUGEN.

404 Promoting Choice: A Local Housing Strategy for Wyong Shire

F2006/01013 RG:RG

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

- 1 That the draft Promoting Choice: A Local Housing Strategy for Wyong Shire be placed on public exhibition for a period of 28 days.***
- 2 That copies of the draft strategy be distributed to stakeholder groups for review and comment.***
- 3 That the results of the exhibition be reported to Council.***

405 Expansion of Existing Caravan Park at Chain Valley Bay

DA2338/2005:EA:EA

COUNCILLOR ROSE DECLARED A NON-PECUNIARY SIGNIFICANT CONFLICT OF INTEREST IN THE MATTER FOR THE REASON THAT HE IS A DIRECTOR OF THE HUNTER CENTRAL RIVERS CATCHMENT MANAGEMENT AUTHORITY AND IS AWARE OF ISSUES AT THAT LEVEL THAT MAY INFLUENCE HIS DECISION LEFT THE CHAMBER AT 7.00 PM, TOOK NO PART IN DISCUSSION, DID NOT VOTE AND RETURNED TO THE CHAMBER AT 7.06 PM.

MR GRAHAM HANSEN, RESIDENT, AGAINST THE DEVELOPMENT, ADDRESSED THE MEETING AT 7.00 PM, ANSWERED QUESTIONS AND RETIRED AT 7.05 PM.

COUNCILLOR PAVIER LEFT THE CHAMBER AT 7.00 PM AND RETURNED TO THE CHAMBER AT 7.07 PM AND AS A RESULT TOOK NO PART IN VOTING.

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

That the application be refused for the reasons listed;

- 1 Pursuant to the provisions of Section 79C (1)(a)(i) of the Environmental Planning and Assessment Act 1979, the proposal does not comply with Clause 10 of Wyong Local Environmental Plan 1991 with regard to the objectives of the 7(b) Scenic Protection zone.***

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- 2 ***Pursuant to the provisions of Section 79C(1)(a)(iii) of the Environmental Planning and Assessment Act 1979, the proposed development does not comply with Clause 5 of DCP 2005 Chapter 23 - Caravan Parks with regard to exceeding the maximum number of 250 sites for long term caravan parks.***
- 3 ***Pursuant to the provisions of Section 79C(1)(b) of the Environmental Planning and Assessment Act 1979, the proposed development will result in a significant increase in traffic not conducive to the 7(b) Scenic Protection zone.***
- 4 ***Pursuant to the provisions of Section 79C(1)(b) of the Environmental Planning and Assessment Act 1979, the proposed on-site sewer management system has the potential to negatively impact on the water quality of Karignan Creek.***
- 5 ***Pursuant to the provisions of Section 79C(1)(b) of the Environmental Planning and Assessment Act 1979, the proposal is likely to impact on flora and fauna as a result of the proposed clearing of the site.***
- 6 ***Pursuant to the provisions of Section 79C(1)(b) of the Environmental Planning and Assessment Act 1979, the proposal is significantly isolated from community services.***
- 7 ***Pursuant to the provisions of Section 79C(1)(d) of the Environmental Planning and Assessment Act 1979 and having regard to the significant number of public submissions received, the proposal is considered unsatisfactory.***
- 8 ***Pursuant to the provisions of Section 79C(1)(e) of the Environmental Planning and Assessment Act 1979, the proposed development is not in the public interest, particularly with regard to the expansion of long-term caravan parks and the proliferation of the like in the north of the Shire.***

FOR: COUNCILLORS BEST, EATON, FORSTER, GRAHAM, VEUGEN AND WELHAM.

AGAINST: COUNCILLORS STEVENS AND STEWART.

406 Proposed Mixed-Use Development at Watanobbi

DA/359/2007 ADJ:ADJ

MR TONY SINCLAIR, RESIDENT, AGAINST THE DEVELOPMENT, ADDRESSED THE MEETING AT 6.12 PM, ANSWERED QUESTIONS AND RETIRED AT 6.23 PM.

MR FRANK MERINO, REPRESENTING RICHARD JEFFREY BUILDING DESIGN, ADDRESSED THE MEETING AT 6.30 PM, ANSWERED QUESTIONS AND RETIRED AT 6.36 PM.

COUNCILLOR PAVIER LEFT THE CHAMBER AT 6.45 PM AND RETURNED TO THE CHAMBER AT 6.47 PM DURING CONSIDERATION OF THIS ITEM.

COUNCILLOR BEST LEFT THE CHAMBER AT 6.46 PM AND RETURNED TO THE CHAMBER AT 6.55 PM DURING CONSIDERATION OF THIS ITEM.

Minutes of the Ordinary Meeting of Council held on 26 September 2007 (contd)

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

- 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 Chapter 64 – Multiple dwelling Residential Development of DCP 2005 be varied to allow:***
 - * ***Vehicles to reverse from the site into Nicole Close.***
 - * ***Private open space of Unit 3 to have a width below the minimum standard of 4.5m.***
- 3 ***That those who made written submissions be advised of the decision.***

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

AGAINST: COUNCILLORS BEST, EATON, GRAHAM, PAVIER AND VEUGEN.

THE MOTION WAS CARRIED ON THE CASTING VOTE OF THE MAYOR.

407 Contract CPA/116306 – Manufacture, Supply and Delivery of One Bitumen Patching Truck

CPA/116306 ABP:JEM

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

That Council accept Tender No 2 from Jetpatcher Roadtech Pty Ltd in the lump sum amount of \$247,167 including GST (\$211,205.45 excluding GST).

408 Establishment of an Alcohol Free Zone – Budgewoi

F2004/06070 MW

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

Minutes of the Ordinary Meeting of Council held on 26 September 2007 (contd)

That Council formally adopt the proposal to establish an Alcohol Free Zone in the following location for the period up to 30 June 2009:

Budgewoi: *The Alcohol Free Zone would be bound by Scenic Drive in the South, Natuna Avenue in the North, Kalani Street in the West, Alawai Avenue and Marina Street in the East. All streets within this boundary would be included within the Alcohol Free Zone.*

409 Establishment of an Alcohol Free Zone – Ourimbah

F2004/06076 MW

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

That Council formally adopt the proposal to establish an Alcohol Free Zone in the following location for the period up to 30 June 2009:

Ourimbah: *The Alcohol Free Zone would include Bristowe Close, Kauri Court and Red Cedar Close and the lengths of Shirley Street and Coachwood Drive.*

410 Proposed Councillors' Community Improvement Grants

F2007/00729 SG

COUNCILLOR WELHAM DECLARED A NON-PECUNIARY SIGNIFICANT CONFLICT OF INTEREST IN THE MATTER FOR THE REASON THAT HE IS PRESIDENT OF GOROKAN PUBLIC SCHOOL, SCHOOL COUNCIL LEFT THE CHAMBER AT 8.59 PM, TOOK NO PART IN DISCUSSION, DID NOT VOTE AND RETURNED TO THE CHAMBER AT 9.00 PM.

COUNCILLOR WELHAM VACATED THE CHAIR AND COUNCILLOR STEVENS ASSUMED THE CHAIR FOR CONSIDERATION OF THIS ITEM.

COUNCILLOR PAVIER LEFT THE CHAMBER AT 8.59 PM AND RETURNED TO THE CHAMBER AT 9.00 PM AND AS A RESULT TOOK NO PART IN VOTING.

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

That an amount of \$3,250 be allocated from the 2007/2008 Councillors' Community Improvement Grants as outlined in Attachment 1.

COUNCILLOR WELHAM RESUMED THE CHAIR.

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411 Holiday Parks Briefings

F2007/01304 DC

COUNCILLOR BEST DECLARED A NON-PECUNIARY INSIGNIFICANT CONFLICT OF INTEREST IN THE MATTER FOR THE REASON THAT HIS FAMILY USES COUNCIL PARKS FROM TIME TO TIME LEFT THE CHAMBER AT 7.06 PM, TOOK NO PART IN DISCUSSION, DID NOT VOTE AND RETURNED TO THE CHAMBER AT 7.13 PM.

COUNCILLOR BEST STATED:

"I CHOOSE NOT TO REMAIN IN THE CHAMBER AND PARTICIPATE IN DISCUSSION AND VOTING AS THE CONFLICT HAS INFLUENCED ME IN CARRYING OUT MY PUBLIC DUTY.

COUNCILLOR VEUGEN LEFT THE CHAMBER AT 7.11 PM AND RETURNED TO THE CHAMBER AT 7.12 PM DURING CONSIDERATION OF THIS ITEM.

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

- 1 That the report be received and the information noted.***
- 2 That no further Councillor briefings be scheduled regarding this matter.***
- 3 That the policy of allowing on-site van sales at Budgewoi, Norah Head and Toowoan Bay Holiday Parks be endorsed.***

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

AGAINST: COUNCILLOR EATON.

412 Disclosure of Interest Returns

F2004/06507 F2006/02298 ED

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

That the report be received and the information noted.

Minutes of the Ordinary Meeting of Council held on 26 September 2007 (contd)

413 Stormwater Levy – Possible Impacts

F2004/00118 KG:JEM

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

That the report be received and the information noted.

414 Works in Progress Report – General

F2004/07830 JEM

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

That the report be received and the information noted.

415 Works in Progress Report – Water and Sewerage

F2004/07830 KRG:DP

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

That the report be received and the information noted.

416 Wyong Shire Library Statistics

F2004/11651 JM

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

That the report be received and the information noted.

Minutes of the Ordinary Meeting of Council held on 26 September 2007 (contd)

417 Outstanding Questions Without Notice and Notices of Motion

F2006/02282 MW:SW

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

That the report be received and the information noted.

QUESTIONS WITHOUT NOTICE ASKED**Q092 – Update on Progress of the Klumper Entrance Development
Councillor Eaton**

DA/2660/2004

“Could Council report, confidentially if necessary and/or in briefing, on progress of the Klumper Entrance Development?”

**Q093 – Minutes of Confidential Meeting held on 29 August 2007 between Councillors
and the General Manager****Councillor Eaton**

F2007/00044

“Given that it is now four weeks since the Confidential meeting of Councillors and the General Manager, could the minutes be distributed as a matter of urgency?”

**Q094 - Sister Cities Committee Trips for Residents to Visit Japan and New Zealand
Councillor Graham**

F2004/00026

“I see where our Sister Cities Committee is calling for applications for two residents 18 years or older, to win a trip each, one to Japan, the other to New Zealand. My question is, how much do these junkets cost, and what if anything, do the ratepayers of Wyong Shire get for their investment?”

**Q095 – Staffing Levels at Wyong Council
Councillor Graham**

F2007/00109

“I am reliably informed that a number of our senior staff are actively seeking alternate employment, how does the General Manager intend to deal with this potentially catastrophic situation?”

Minutes of the Ordinary Meeting of Council held on 26 September 2007 (contd)

Q096 – Legal Costs Incurred by Wyong Council opposing Mr Darcy Smith in the Land and Environment Court**Councillor Pavier**

F2007/01468 F2004/07626 F2004/09242 F2004/08775

“Darcy Smith has recently won in the Land and Environment Court, bringing his win tally to 3 – Council 0. How much has this cost Council and is Council now prepared to negotiate with Mr Smith or not?”

Q097 – Daley – Waugh Neighbour Dispute**Councillor Pavier**

DA/1338/2006

“Could we have a brief report on staff’s efforts with regards to the Daley – Waugh neighbourhood dispute?”

Q098 - Completion of Safety Fencing Around Playground at Memorial Park, The Entrance**Councillor Stewart**

CPA/119190

“Would Council please look at the cost of completing the safety fencing (with the view to completing an enclosed playground) at the Memorial Park, The Entrance, as it is seen by young mothers as being vital to the safety of that area?”

Q099 - Official Opening of Jubilee Oval**Councillor Stewart**

F2004/08150

“When will Council be officially opening Jubilee Oval?”

Q100 - Management Plan for Threatened Orchid Species**Councillor Best**

F2004/06946

“Has Council a management plan adopted in regards to threatened orchid species such as Caladenia porphyrea, Genoplesium insignis, Diuris praecox, Cryptostylis hunteriana, Caladenia tessellata, Diuris bracteata and Microtis angusii?”

Minutes of the Ordinary Meeting of Council held on 26 September 2007 (contd)

Q101 - Annual Fishing Competition at Mangrove Creek Dam**Councillor Veugen**

F2004/06840

“Could staff report on the possibility of stocking Mangrove Creek Dam with native sport fish with the aim that when these fish have grown to a mature size that an annual fishing competition be held with a catch and release policy. The report to include a response from Central Coast Tourism on this proposal?”

CONFIDENTIAL SESSION

AT THIS STAGE OF THE MEETING BEING 9.10 PM COUNCIL MOVED INTO CONFIDENTIAL SESSION WITH THE PRESS AND THE PUBLIC EXCLUDED.

OPEN SESSION

COUNCIL RESUMED IN OPEN SESSION AT 9.24 PM AND THE GENERAL MANAGER REPORTED ON PROCEEDINGS OF THE CONFIDENTIAL SESSION OF THE ORDINARY MEETING OF COUNCIL AS FOLLOWS:

W014 Proposed Hamlyn Terrace Sporting Facilities

F2004/00516 F2004/08344 CPA/104862 BMc

That Council proceed with acquisition of the land identified in the confidential report.

- 1 [Confidential Resolution – see note below].**
- 2 [Confidential Resolution – see note below].**
- 3 [Confidential Resolution – see note below].**
- 4 [Confidential Resolution – see note below].**

NOTE: THE PRECISE DETAIL CONTAINED IN THIS RESOLUTION IS WITHHELD IN ACCORDANCE WITH THE PROVISIONS OF THE LOCAL GOVERNMENT ACT AND THE FREEDOM OF INFORMATION ACT AND IS NOT AVAILABLE FOR RELEASE AT THIS TIME.

Minutes of the Ordinary Meeting of Council held on 26 September 2007 (contd)

W015 Proposed Hamlyn Terrace Community Facility

F2004/00516 BEM

That Council proceed with acquisition of the land identified in the confidential report.

1 [Confidential Resolution – see note below].

2 [Confidential Resolution – see note below].

NOTE: THE PRECISE DETAIL CONTAINED IN THIS RESOLUTION IS WITHHELD IN ACCORDANCE WITH THE PROVISIONS OF THE LOCAL GOVERNMENT ACT AND THE FREEDOM OF INFORMATION ACT AND IS NOT AVAILABLE FOR RELEASE AT THIS TIME.

THERE BEING NO FURTHER BUSINESS, THE MEETING CLOSED AT 9.25 PM.

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CHAIRPERSON