
WYONG SHIRE COUNCIL
MINUTES OF THE
ORDINARY MEETING OF COUNCIL
HELD IN THE COUNCIL CHAMBER
WYONG CIVIC CENTRE, HELY STREET, WYONG
ON WEDNESDAY, 10 DECEMBER 2008,
COMMENCING AT 5.06 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

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

ACTING MANAGER CORPORATE AND ADMINISTRATION SERVICES, TWO STAFF FROM MARDI MANGROVE LINK PROJECT, TEAM COORDINATOR LAND USE PLANNING AND MANAGER CONTRACTS.

THE MAYOR INVITED COUNCILLORS TO REPORT ON EVENTS THEY HAD ATTENDED ON COUNCIL'S BEHALF AS FOLLOWS:

- * COUNCILLOR WYNN REPORTED THAT WYONG COUNCIL RECEIVED TWO AWARDS UNDER THE *EXCELLENCE IN THE ENVIRONMENT AWARDS 2007/08* PRESENTED BY THE LOCAL GOVERNMENT AND SHIRES ASSOCIATION IN RESPECT OF *SUSTAINABLE DESIGN PLANNING AND BUILDING*. COUNCILLOR WYNN EXTENDED HER CONGRATULATIONS TO DAVID LEMCKE, COUNCIL'S SENIOR PLANNER, FOR ALL HIS HARD WORK ON THIS PROJECT.
- * COUNCILLOR MATTHEWS REPORTED ON AWARDS RECEIVED UNDER THE *KEEP AUSTRALIA BEAUTIFUL CLEAN BEACH CHALLENGE - THE OVERALL CLEAN BEACH AWARD AND THE LITTER PREVENTION STATE AWARD*. COUNCILLOR MATTHEWS EXTENDED HER THANKS TO COUNCIL'S STAFF, LIFEGUARDS AND COMMUNITY GROUPS.
- * COUNCILLOR WEBSTER REPORTED THAT COUNCIL'S ENTRANT IN THE TUGGERAH LAKES MARDI GRAS FESTIVAL, KRISTEL BAIGENT WAS CROWNED QUEEN OF THE FESTIVAL ON SATURDAY. COUNCIL ALSO WON THE CHAMPION FLOAT AND THREE OTHER AWARDS. COUNCILLOR WEBSTER EXTENDED HER CONGRATULATIONS TO KRISTEL WHO WAS AN EXCELLENT REPRESENTATIVE OF COUNCIL.

THE MAYOR, COUNCILLOR GRAHAM, DECLARED THE MEETING OPEN AT 5.06 PM AND ADVISED IN ACCORDANCE WITH THE CODE OF MEETING PRACTICE THAT THE MEETING IS BEING RECORDED.

COUNCILLOR McNAMARA READ AN ACKNOWLEDGMENT OF COUNTRY STATEMENT.

PASTOR TERRY JENKINS DELIVERED THE OPENING PRAYER.

APOLOGIES

THERE WERE NO APOLOGIES.

AT THE COMMENCEMENT OF THE ORDINARY MEETING REPORT NOS 551,552, 553, 554, 556 AND 560 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.

543 Disclosures of Interest

F2008/01064 ED:SW

550 - PRECINCT 7A – HAMLYN TERRACE AND WARNERVALE

COUNCILLOR BEST DECLARED A NON PECUNIARY SIGNIFICANT CONFLICT OF INTEREST IN THE MATTER FOR THE REASON THAT HE IS CONSIDERING THE PURCHASE OF A HOME IN THE PRECINCT AREA, LEFT THE CHAMBER AT 7.40 PM, TOOK NO PART IN DISCUSSION, DID NOT VOTE AND RETURNED TO THE CHAMBER AT 7.41 PM.

550 - PRECINCT 7A – HAMLYN TERRACE AND WARNERVALE

COUNCILLOR EATON DECLARED A NON PECUNIARY INSIGNIFICANT CONFLICT OF INTEREST IN THE MATTER FOR THE REASON THAT HE WAS SOLICITOR FOR DEFENDANTS IN ACTION DAVID HANNAN TOOK AGAINST A NUMBER OF LANDOWNERS AND COUNCIL 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 THE MATTER WAS SETTLED SOME TWO YEARS AGO.”

551 - PROPOSED PLACE OF WORSHIP, WADALBA

COUNCILLOR VINCENT DECLARED A NON PECUNIARY INSIGNIFICANT CONFLICT OF INTEREST IN THE MATTER FOR THE REASON THAT THE APPLICANT HAS AN INDIRECT FAMILY RELATIONSHIP, PARTICIPATED IN CONSIDERATION OF THIS MATTER BUT LEFT THE CHAMBER AT 5.26 PM, DID NOT VOTE AND RETURNED TO THE CHAMBER AT 5.33 PM.

554 - PARTIAL CHANGE OF USE FROM TOURIST ACCOMMODATION TO PERMANENT RESIDENTIAL AT THE ENTRANCE

COUNCILLOR WEBSTER DECLARED A PECUNIARY CONFLICT OF INTEREST IN THE MATTER FOR THE REASON THAT SHE AND HER HUSBAND ARE THE OWNERS OF A UNIT IN THE WATERFRONT RESORT (OAKS), LEFT THE CHAMBER AT 6.07 PM, TOOK NO PART IN DISCUSSION, DID NOT VOTE AND RETURNED TO THE CHAMBER AT 6.55 PM.

556 - DRAFT LEP (AMENDMENT NO 175) IN RESPECT OF LEP BUNDLE 2

COUNCILLOR EATON DECLARED A PECUNIARY CONFLICT OF INTEREST IN THE MATTER FOR THE REASON THAT HE IS A DIRECTOR OF A COMPANY WHICH IS A LANDOWNER AFFECTED BY THE POTENTIAL REZONING, LEFT THE CHAMBER AT 6.54 PM, TOOK NO PART IN DISCUSSION, DID NOT VOTE AND RETURNED TO THE CHAMBER AT 7.03 PM.

572 - NOTICE OF RESCISSION – LIFEGUARD UNIFORM COLOURS

COUNCILLOR BEST DECLARED A NON PECUNIARY INSIGNIFICANT CONFLICT OF INTEREST IN THE MATTER FOR THE REASON THAT THE COMPANY HE WORKS FOR HAS ENTERED INTO A MEMORANDUM OF UNDERSTANDING WITH SURF LIFE SAVING CENTRAL COAST AND PARTICIPATED IN CONSIDERATION OF THIS MATTER.

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 IT IS A UNION MATTER.”

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572 - NOTICE OF RESCISSION – LIFEGUARD UNIFORM COLOURS

COUNCILLOR WEBSTER DECLARED A NON PECUNIARY INSIGNIFICANT CONFLICT OF INTEREST IN THE MATTER FOR THE REASON THAT SHE IS AN ASSOCIATE MEMBER OF THE ENTRANCE SURF LIFE SAVING CLUB AND PARTICIPATED IN CONSIDERATION OF THIS MATTER.

COUNCILLOR WEBSTER 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 DO NOT TAKE PART IN THE CLUB IN ANY WAY."

572 - NOTICE OF RESCISSION – LIFEGUARD UNIFORM COLOURS

COUNCILLOR WYNN DECLARED A NON PECUNIARY INSIGNIFICANT CONFLICT OF INTEREST IN THE MATTER FOR THE REASON THAT JOHN ANDREWS WAS SECOND ON THE GREENS TICKET FOR THE 2008 LOCAL GOVERNMENT ELECTIONS AND JOHN IS CURRENTLY THE SECRETARY OF THE ASSOCIATION OF PROFESSIONAL LIFEGUARDS AND PARTICIPATED IN CONSIDERATION OF THIS MATTER.

COUNCILLOR WYNN 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 MATTER DID NOT FORM PART OF OUR CAMPAIGN."

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

That the report be received and advice of disclosures noted.

FOR: COUNCILLORS BEST, EATON, GRAHAM, McBRIDE, McNAMARA, MATTHEWS, SYMINGTON, VINCENT, WEBSTER AND WYNN.

AGAINST: NIL.

544 Proposed Inspections

F2008/00003 ED:SW

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

That Council receive the report on Inspections.

FOR: COUNCILLORS BEST, EATON, GRAHAM, McBRIDE, McNAMARA, MATTHEWS, SYMINGTON, VINCENT, WEBSTER AND WYNN.

AGAINST: NIL.

545 Proposed Briefings

F2008/00003 ED:SW

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

That Council receive the report on proposed briefings noting that the time allotted for the first Item on the Briefings Schedule was reduced to 1 hour and an additional briefing on Sector 6 Pipeline Project was included.

FOR: COUNCILLORS BEST, EATON, GRAHAM, McBRIDE, McNAMARA, MATTHEWS, SYMINGTON, VINCENT, WEBSTER AND WYNN.

AGAINST: NIL.

546 Address by Invited Speakers

F2008/00003 ED:SW

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

- 1 That Council receive the amended report on invited speakers.***
- 2 That Council agree standing orders be varied to allow reports from Directors and/or the General Manager to be dealt with following an Invited Speaker's address***

FOR: COUNCILLORS BEST, EATON, GRAHAM, McBRIDE, McNAMARA, MATTHEWS, SYMINGTON, VINCENT, WEBSTER AND WYNN.

AGAINST: NIL.

547 Notice of Intention to Deal With Matters in Confidential Session

F2008/00003 ED:SW

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

1 That Council consider in Confidential Session the following matters in accordance with Section 10A(2)(c) and 10A(2)(g) of the Local Government Act 1993:

W025 – Contract CPA 127662 – Construction of Mardi Dam Transfer and High Lift Systems

W026 – Child Care Centre and Library Building at Bay Village Road, Bateau Bay

2 That Council consider Report No W025 confidentially for the reason 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 Council consider Report No W026 confidentially for the reason 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.

4 That Council request the General Manager in accordance with Section 253 of the Local Government Regulations 2005 report on this matter to the meeting in Open Session.

FOR: COUNCILLORS BEST, EATON, GRAHAM, McBRIDE, McNAMARA, MATTHEWS, SYMINGTON, VINCENT, WEBSTER AND WYNN.

AGAINST: NIL.

548 Confirmation of Minutes of Previous Meeting

F2008/00003 ED:SW

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

That Council confirm the minutes of the previous Ordinary Meeting of Council held on 26 November 2008.

FOR: COUNCILLORS BEST, EATON, GRAHAM, McBRIDE, McNAMARA, MATTHEWS, SYMINGTON, VINCENT, WEBSTER AND WYNN.

AGAINST: NIL.

BUSINESS ARISING FROM THE MINUTES

COUNCILLOR EATON REFERRED TO POINT 2 OF THE RECOMMENDATION FOR ITEM 524 – REVIEW OF COUNCIL'S PROJECT MANAGEMENT PROCESSES AND CONFIRMED THAT THE BRIEF GIVEN TO BLUE VISIONS MANAGEMENT HAD BEEN PROVIDED TO COUNCILLORS HOWEVER HE ADVISED THAT HE WOULD APPRECIATE A COPY OF THE REPORT SUBMITTED BY BLUE VISIONS AS PART OF THAT CONTRACT AND REQUESTED THAT IT BE PROVIDED TO ALL COUNCILLORS.

549 Proposed Railway Station at Warnervale

DA/261/2005: JLW:JD

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

- 1 That Council seek written approval of the Minister for Planning to refuse the development application.***
- 2 That Council refuse the application, subject to approval from the Minister for Planning, for the following reasons:***
 - a The proposed development is considered to have a significant impact on the threatened species *Rutidosis heterogama* and concurrence from the Director-General for National Parks and Wildlife has not been provided (Section 79B(3) of the Environmental Planning and Assessment Act, 1979),***
 - b The application has failed to adequately address issues raised in public submissions, including the management of stormwater (Section 79C(d) of the Environmental Planning and Assessment Act, 1979),***

- c** *Approval of the proposed development would not be in the public interest due to the impact on threatened species and the uncertainty surrounding the provision of necessary suitable future access to the site (Section 79C(e) of the Environmental Planning and Assessment Act, 1979),*
- d** *The proposed development has not been designed in accordance with the provisions of the Warnervale Town Centre Development Control Plan 2008 and fails to demonstrate compliance with the adopted staging plan and masterplan (Section 79C(a)(iii) of the Environmental Planning and Assessment Act, 1979),*
- e** *The proposed development is inconsistent with the principles of ecologically sustainable development (Section 79C(e) of the Environmental Planning and Assessment Act, 1979),*
- f** *The proposed development fails to provide adequate details regarding the connection and integration of the railway station to the existing and future road and pedestrian networks (Section 79C(b) of the Environmental Planning and Assessment Act, 1979).*

3 That Council advise those who made written submissions.

FOR: COUNCILLORS BEST, EATON, GRAHAM, McBRIDE, McNAMARA, MATTHEWS, SYMINGTON, VINCENT, WEBSTER AND WYNN.

AGAINST: NIL.

550 Precinct 7A – Hamlyn Terrace and Warnervale

F2007/00274 JLO/SJD

COUNCILLOR BEST DECLARED A NON PECUNIARY SIGNIFICANT CONFLICT OF INTEREST IN THE MATTER FOR THE REASON THAT HE IS CONSIDERING THE PURCHASE OF A HOME IN THE PRECINCT AREA, LEFT THE CHAMBER AT 7.40 PM, TOOK NO PART IN DISCUSSION, DID NOT VOTE AND RETURNED TO THE CHAMBER AT 7.41 PM.

COUNCILLOR EATON DECLARED A NON PECUNIARY INSIGNIFICANT CONFLICT OF INTEREST IN THE MATTER FOR THE REASON THAT HE WAS SOLICITOR FOR DEFENDANTS IN ACTION DAVID HANNAN TOOK AGAINST A NUMBER OF LANDOWNERS AND COUNCIL 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 THE MATTER WAS SETTLED SOME TWO YEARS AGO."

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

- 1 That Council prepare a draft Local Environmental Plan in accordance with Section 64 of the Environmental Planning and Assessment Act to rezone Precinct 7A (and those additional properties as detailed in Enclosure 1) to appropriate residential, employment, commercial and environmental zones to reflect a preferred land use outcome for the study area.**
- 2 That Council prepare a Local Environmental Study in accordance with Section 57(1) of the Environmental Planning and Assessment Act considering any additional directions or specifications issued by the Department of Planning.**
- 3 That Council prepare or amend appropriate Chapters of Development Control Plan 2005 and Contribution Plans to guide future development within the area.**
- 4 That Council advise the Department of Planning of the decision.**
- 5 That Council write to all relevant government agencies advising of Council's resolution to proceed with the rezoning.**
- 6 That Council undertake Section 62 consultations with relevant public authorities and stakeholders**
- 7 That Council authorise the Mayor and General Manager to execute all documents and agreements relating to undertaking the rezoning, including any required Deeds of Agreement between Council and participating land owners.**
- 8 That Council undertake a review of zonings on Council owned land within the Warnervale Education Precinct and Country Music site in order to determine the suitability of other alternative uses.**
- 9 That Council note Section 149 Certificates for those affected properties.**

FOR: COUNCILLORS EATON, GRAHAM, McBRIDE, McNAMARA, MATTHEWS, SYMINGTON, VINCENT, WEBSTER AND WYNN.

AGAINST: NIL.

551

Proposed Place of Worship, Wadalba

DA/807/2008 KP

COUNCILLOR VINCENT DECLARED A NON PECUNIARY INSIGNIFICANT CONFLICT OF INTEREST IN THE MATTER FOR THE REASON THAT THE APPLICANT HAS AN INDIRECT FAMILY RELATIONSHIP, PARTICIPATED IN CONSIDERATION OF THIS MATTER BUT LEFT THE CHAMBER AT 5.26 PM, DID NOT VOTE AND RETURNED TO THE CHAMBER AT 5.33 PM.

MR KENT LEVANDER, RESIDENT, ADDRESSED THE MEETING AT 5.15 PM, ANSWERED QUESTIONS AND RETIRED AT 5.20 PM.

MR MARK LEEK, REPRESENTING THE APPLICANTS, ADDRESSED THE MEETING AT 5.20 PM, ANSWERED QUESTIONS AND RETIRED AT 5.26 PM.

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

- 1 That Council refer the application 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 refusal of the application subject to appropriate reasons for refusal.***
- 2 That Council advise those who made written submissions of Council's decision.***

FOR: COUNCILLORS BEST, EATON, GRAHAM, McBRIDE, McNAMARA, MATTHEWS, SYMINGTON, WEBSTER AND WYNN.

AGAINST: NIL.

**552 Proposed Two Lot Subdivision of 7(f) Zoned Land at
Glenn Valley**

DA/426/2008 MLG:MLG

MR CHRIS OLIVER, DIRECTOR, REPRESENTING OPTIMA DEVELOPMENTS, ADDRESSED THE MEETING AT 5.33 PM, ANSWERED QUESTIONS AND RETIRED AT 5.42 PM.

COUNCILLOR BEST LEFT THE CHAMBER AT 5.33 PM AND RETURNED TO THE CHAMBER AT 5.34 PM.

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

That Council defer determination of this application to enable an inspection by Councillors.

FOR: COUNCILLORS BEST, EATON, GRAHAM, McNAMARA AND WEBSTER.

AGAINST: COUNCILLORS McBRIDE, MATTHEWS, SYMINGTON, VINCENT AND WYNN.

The MOTION was put to the VOTE and declared CARRIED on the CASTING VOTE OF the MAYOR.

**553 Proposed Animal Establishment at Lot 5 DP 247470
No 5 Old Maitland Road, Kangy Angy**

DA/680/2008 BLF

MRS CAROL GRIFFITHS, RESIDENT, ADDRESSED THE MEETING AT 5.46 PM, ANSWERED QUESTIONS AND RETIRED AT 5.52 PM.

MR JOHN HANCOCK, REPRESENTING THE APPLICANTS, ADDRESSED THE MEETING AT 5.52 PM, ANSWERED QUESTIONS AND RETIRED AT 5.55 PM.

COUNCILLOR MATTHEWS LEFT THE CHAMBER AT 5.54 PM AND RETURNED TO THE CHAMBER AT 5.55 PM DURING CONSIDERATION OF THIS ITEM.

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

1 That Council refer the application 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 Council advise those who made written submissions of the decision.

FOR: COUNCILLORS BEST, EATON, GRAHAM, McBRIDE, McNAMARA, MATTHEWS, SYMINGTON, VINCENT, WEBSTER AND WYNN.

AGAINST: NIL.

554 Partial Change of Use from Tourist Accommodation to Permanent Residential at The Entrance

DA/850/2008: JLW

COUNCILLOR WEBSTER DECLARED A PECUNIARY CONFLICT OF INTEREST IN THE MATTER FOR THE REASON THAT SHE AND HER HUSBAND ARE THE OWNERS OF A UNIT IN THE WATERFRONT RESORT (OAKS), LEFT THE CHAMBER AT 6.07 PM, TOOK NO PART IN DISCUSSION, DID NOT VOTE AND RETURNED TO THE CHAMBER AT 6.55 PM.

COUNCILLOR BEST LEFT THE CHAMBER AT 6.07 PM AND RETURNED TO THE CHAMBER AT 6.08 PM DURING CONSIDERATION OF THIS ITEM.

COUNCILLOR VINCENT LEFT THE CHAMBER AT 6.12 PM AND RETURNED TO THE CHAMBER AT 6.14 PM DURING CONSIDERATION OF THIS ITEM.

COUNCILLOR BEST LEFT THE CHAMBER AT 6.48 PM AND RETURNED TO THE CHAMBER AT 6.50 PM DURING CONSIDERATION OF THIS ITEM.

MR ADRIAN ENNIS, REPRESENTING THE OAKS GROUP, ADDRESSED THE MEETING AT 6.07 PM, ANSWERED QUESTIONS AND RETIRED AT 6.17 PM.

MS JAN HARTMAN, APPLICANT, ADDRESSED THE MEETING AT 6.17 PM, ANSWERED QUESTIONS AND RETIRED AT 6.37 PM.

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

That Council defer determination of this application to enable discussions with the applicant concerning Section 94 contributions to be levied due to the change of use.

FOR: COUNCILLORS BEST, EATON, GRAHAM, McBRIDE, McNAMARA, MATTHEWS, VINCENT AND WYNN.

AGAINST: COUNCILLOR SYMINGTON.

555 Draft Amendment No 177 – Mingara Drive, Tumbi Umbi

RZ/5/2005 JLO/JLO

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

- 1 That Council extinguish dLEP Amendment No. 177 and that it be removed from the Future Planning Section's work program.***
- 2 That Council amend Section 149 Certificates by removing notations in respect of Amendment No. 177.***
- 3 That Council advise the Department of Planning of this decision.***

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- 4 That Council advise the Applicant of this decision and the fact that Council will not accept any "spot rezoning" under WLEP 1991 for the subject sites.**
- 5 That Council prepare a Section 73A LEP amendment to rectify the lot identification anomaly for Lot 100.**
- 6 That Council staff continue to liaise with the applicant to determine the appropriate zoning for the land under Council's Comprehensive LEP process.**

FOR: COUNCILLORS BEST, EATON, GRAHAM, McBRIDE, McNAMARA, MATTHEWS, SYMINGTON, VINCENT, WEBSTER AND WYNN.

AGAINST: NIL.

556 Draft LEP (Amendment No. 175) in respect of LEP Bundle 2

RZ/5/2007, RZ/6/2007, RZ/4/2004, RZ/1/2007, RZ/8/2007, RZ/2/2006, RZ/7/2007, RZ/9/2007 PB:PB

COUNCILLOR EATON DECLARED A PECUNIARY CONFLICT OF INTEREST IN THE MATTER FOR THE REASON THAT HE IS A DIRECTOR OF A COMPANY WHICH IS A LANDOWNER AFFECTED BY THE POTENTIAL REZONING, LEFT THE CHAMBER AT 6.54 PM, TOOK NO PART IN DISCUSSION, DID NOT VOTE AND RETURNED TO THE CHAMBER AT 7.03 PM.

COUNCILLOR WEBSTER RETURNED TO THE CHAMBER AT 6.55 PM DURING CONSIDERATION OF THIS ITEM.

MR JIM PRICE, SECRETARY OF THE WYONG ACTION TO CURB HIGHRISE (WATCH) COMMITTEE FOR ENVIRO CARE, ADDRESSED THE MEETING AT 6:54 PM, ANSWERED QUESTIONS AND RETIRED AT 6.58 PM.

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

- 1 That Council continue in accordance with the Environmental Planning and Assessment Act, to support the rezoning of Lot 4 DP 659489 Rankens Court, Wyong and Lots 1-4 Sec 7 DP 3136 Margaret Avenue, Wyong from 5(a) (Special Uses Zone) to 3(a) (Business Centre Zone) to assist with the implementation of the Wyong/Tuggerah Planning Strategy.**
- 2 That Council amend the objectives of draft LEP (Amendment No. 175) in support of the continued rezoning.**
- 3 That Council request the Minister for Planning to make the plan in accordance with Section 69 of the Environmental Planning and Assessment Act, 1979.**
- 4 That Council request the Department of Planning's LEP Review Panel to issue separate Written Authorisations to Exercise Delegation if final Conservation Management Plans for the Bulk Store Building, Ruttleys Road, Mannering Park and the Former Wyong Dairy Cooperative, Alison Road, Wyong are not received by 4 February 2009.**

- 5 That should separate Written Authorisations to Exercise Delegation be required and issued in accordance with Resolution 4:**
- a Council forward a draft plan in respect of the Lot 4 DP 659489, Rankens Court, Wyong, Lots 1-4 Sec 7 DP 3136, Margaret Avenue, Wyong and Lot 1 DP 134363, Geoffrey Road, Chittaway Bay to the Minister for Planning in accordance with Section 69 of the Environmental Planning and Assessment Act, 1979.**
 - b Upon receipt of the satisfactory Conservation Management Plans for the Bulk Store Building and Former Wyong Dairy Cooperative, Council forward a draft plan containing Amendments to Schedule 1 – Heritage Items to the Minister for Planning in accordance with Section 69 of the Environmental Planning and Assessment Act, 1979.**
- 6 That Council notify the Department of Planning of Council's resolution.**
- 7 That Council notify those persons who made submissions on the draft LEP.**

FOR: COUNCILLORS BEST, GRAHAM, McBRIDE, McNAMARA, MATTHEWS, SYMINGTON, VINCENT, WEBSTER AND WYNN.

AGAINST: NIL.

557 Contract CPA 116095 - Management of Toukley Aquatic Centre, Wyong Olympic Pool and The Entrance Ocean Baths

CPA/116095 RJB

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

That Council extend current contract CPA 116095 with the Young Men's Christian Association (YMCA) for a further period of two months to 30 June 2009.

FOR: COUNCILLORS BEST, EATON, GRAHAM, McBRIDE, McNAMARA, MATTHEWS, SYMINGTON, VINCENT, WEBSTER AND WYNN.

AGAINST: NIL.

558 Contract CPA 142295 – Construction of the Mardi High Voltage Power Supply on to Site

CPA/142295 GL

COUNCILLOR MATTHEWS LEFT THE CHAMBER AT 7.43 PM AND RETURNED TO THE CHAMBER AT 7.44 PM DURING CONSIDERATION OF THIS ITEM.

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

- 1 That Council accept alternative Tender No. 2 from Poles and Underground Pty Ltd in the lump sum amount of \$3,659,139.09 (excl GST) subject to the execution of a Deed of Guarantee and Indemnity by Clive Palmer Electrical Pty Ltd.***
- 2 That Council approve a contract budget of \$4,025,053.00 (excl GST) that provides for a contingency amount of \$365,913.91 (excl GST) representing 10% of the contract value, to provide for any unforeseen additional works that may become necessary during the course of the project.***

FOR: COUNCILLORS BEST, EATON, GRAHAM, McBRIDE, McNAMARA, MATTHEWS, SYMINGTON, VINCENT, WEBSTER AND WYNN.

AGAINST: NIL.

559 Licence to Lions Club of Doyalson Wyee Budgewoi Inc for Use of Part of Lot 1 DP 385077, Scenic Drive, Budgewoi

F2008/02358 JMT

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

- 1 That Council grant a licence to the Lions Club of Doyalson Wyee Budgewoi Inc to occupy part of Lot 1 DP 385077, Halekulani Park, Scenic Drive, Budgewoi from 1 December 2008 at nominal rent for the purpose of conducting Monthly Markets.***
- 2 That Council authorise the Common Seal of Wyong Shire Council to be affixed to the formal documents as required between Wyong Shire Council and the Lions Club of Doyalson Wyee Budgewoi Inc.***
- 3 That Council authorise the Mayor and the General Manager to execute all documents.***

FOR: COUNCILLORS BEST, EATON, GRAHAM, McBRIDE, McNAMARA, MATTHEWS, SYMINGTON, VINCENT, WEBSTER AND WYNN.

AGAINST: NIL.

560 Reconsideration of the Recommended Pipeline Route Corridor for the Mardi-Mangrove Link Project

CPA/112242 BP

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

- 1 That Council adopt all the recommendations of the Gosford/Wyong Councils' Water Authority Board meeting of 19 November 2008 in relation to the Mardi-Mangrove Link Project Recommended Route – item WA004.***
- 2 That Council require all river crossings in Sector 6 of the Mardi-Mangrove Link pipeline route be underbored.***
- 3 That Council make available to Councillors and the community a comprehensive "Platypus Report" as part of the Review of Environmental Factors (REF) document prior to the start of construction, and that this report relate to platypus habitats and platypus management around all eight river crossings along the Mardi-Mangrove Link pipeline route.***
- 4 That Council engage Dr Tom Grant as a consultant. This should be continued or a suitably qualified Platypus Expert engaged to monitor the construction of the Mardi-Mangrove pipeline where it crosses Wyong River and provide ongoing Platypus Management advice as required.***
- 5 That Council ensure the river crossing construction work does not occur during the platypus breeding season if surveys in those areas by the aforementioned Platypus Expert identify the presence of breeding platypus that could be adversely affected by the work.***
- 6 That Council, subject to detailed investigation and design, install trench breakers around the pipeline, where required to prevent groundwater from flowing down the line of the trench excavation and allow the groundwater to follow its natural course.***

FOR: COUNCILLORS GRAHAM, McBRIDE, McNAMARA, MATTHEWS, SYMINGTON, VINCENT, WEBSTER AND WYNN.

AGAINST: COUNCILLORS BEST AND EATON

561 Annual \$10,000 Grant to Central Coast Academy of Sport

F2004/06642 MA/IS

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

That Council contribute an amount of \$10,000 to the Central Coast Academy of Sport for the 2008-09 financial year.

FOR: COUNCILLORS BEST, EATON, GRAHAM, McBRIDE, McNAMARA, MATTHEWS, SYMINGTON, VINCENT, WEBSTER AND WYNN.

AGAINST: NIL.

562 Commonwealth Government Local Government Infrastructure Grants Funding

F2008/02556 SB

COUNCILLOR VINCENT LEFT THE CHAMBER AT 8.01 PM AND RETURNED TO THE CHAMBER AT 8.04 PM DURING CONSIDERATION OF THIS ITEM.

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

- 1 *That Council adopt projects 1 to 3 from the list enclosed, plus the Shared Path extension - Buff Point and Commencement of the Mannering Park Shared Cycleway, up to the value of \$259,000, from Waverly Road to Griffith Steet along the waterfront reserve to the total value of \$1,529,000 for submission to the Commonwealth Government.***
- 2 *That Council select the Performing Arts Centre Project as its preferred project under the strategic project component of the Grant. If the Mayor and the General Manager form the view that the Performing Arts Centre does not meet the criteria then Council delegate to them the authority to substitute the two sections of the 'Linking the Community' Project as described in this report, with an estimated value of \$4,000,000, as its preferred project under the strategic project component of the Grant.***
- 3 *That Council forward this resolution to both local Federal Members Jill Hall MP and Craig Thomson MP thanking them for their contribution in securing this important community funding package.***

- 4** *That should Mannering Park not proceed, Council seek funding for Local Community Infrastructure Projects and Community Halls in the northern Shire area upgrade to the value of \$89,000.*

FOR: COUNCILLORS BEST, EATON, GRAHAM, McBRIDE, McNAMARA, MATTHEWS, VINCENT, WEBSTER AND WYNN.

AGAINST: COUNCILLOR SYMINGTON.

563 **Minutes of the Wyong Shire Code of Conduct Committee Meetings – 27 May and 11 September 2008**

F2004/06498

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

That Council receive the minutes of the Wyong Shire Code of Conduct Committee meetings held on 27 May and 11 September 2008 and the information contained therein be noted.

FOR: COUNCILLORS BEST, EATON, GRAHAM, McBRIDE, McNAMARA, MATTHEWS, SYMINGTON, VINCENT, WEBSTER AND WYNN.

AGAINST: NIL.

Information Reports

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

That the information reports be received and the recommendations adopted.

FOR: COUNCILLORS BEST, EATON, GRAHAM, McBRIDE, McNAMARA, MATTHEWS, SYMINGTON, VINCENT, WEBSTER AND WYNN.

AGAINST: NIL.

564 Clearing of Wetland Areas at Wadalba

F2005/00562 SD&TG

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

That Council receive the report on the clearing of Wetland Areas at Wadalba.

FOR: COUNCILLORS BEST, EATON, GRAHAM, McBRIDE, McNAMARA, MATTHEWS, SYMINGTON, VINCENT, WEBSTER AND WYNN.

AGAINST: NIL.

565 Activities of the Development Assessment Unit

F2004/07830 JD

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

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

FOR: COUNCILLORS BEST, EATON, GRAHAM, McBRIDE, McNAMARA, MATTHEWS, SYMINGTON, VINCENT, WEBSTER AND WYNN.

AGAINST: NIL.

566 Warnervale Town Centre and Wyong Employment Zone Projects

F2004/00535 PAB:RE

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

That Council receive the report on the Warnervale Town Centre and Wyong Employment Zone Projects.

FOR: COUNCILLORS BEST, EATON, GRAHAM, McBRIDE, McNAMARA, MATTHEWS, SYMINGTON, VINCENT, WEBSTER AND WYNN.

AGAINST: NIL.

**567 Summary of Actions on Council Resolutions and Department
of Environment and Climate Change Directions Regarding
Landfills**

F2008/01849 GHK

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

***That Council receive the report on actions taken on Council resolutions for various
reports dealing with landfills and related issues from May to August 2008 and DECC
directions relating to closed landfills.***

FOR: COUNCILLORS BEST, EATON, GRAHAM, McBRIDE, McNAMARA, MATTHEWS,
SYMINGTON, VINCENT, WEBSTER AND WYNN.

AGAINST: NIL.

568 Outstanding Questions Without Notice and Notices of Motion

F2008/00003 SG

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

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

FOR: COUNCILLORS BEST, EATON, GRAHAM, McBRIDE, McNAMARA, MATTHEWS,
SYMINGTON, VINCENT, WEBSTER AND WYNN.

AGAINST: NIL.

569 Notice of Motion – Funding of Installation of Rainwater Tanks

F2004/06949 SW/LW

COUNCILLOR McBRIDE LEFT THE CHAMBER AT 8.24 PM AND RETURNED TO THE CHAMBER AT 8.26 PM DURING CONSIDERATION OF THIS ITEM.

COUNCILLOR SYMINGTON LEFT THE CHAMBER AT 8.29 PM AND RETURNED TO THE CHAMBER AT 8.31 PM DURING CONSIDERATION OF THIS ITEM.

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

That Council request staff to provide a report on the options for Council to fund installation of internally connected rainwater tanks on existing properties owned by pensioners with the cost to be paid back to Council when the property ceases to be in the ownership of the pensioner.

FOR: COUNCILLORS BEST, EATON, GRAHAM, McBRIDE, McNAMARA, MATTHEWS, SYMINGTON, VINCENT, WEBSTER AND WYNN.

AGAINST: NIL.

570 Notice of Motion – Joint Council Meetings with Gosford Council

F2004/13176 DJE/GBP

COUNCILLOR BEST LEFT THE CHAMBER AT 8.50 PM AND RETURNED TO THE CHAMBER AT 8.51 PM DURING CONSIDERATION OF THIS ITEM.

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

- 1 That Council support regular joint meetings with Gosford Council to determine major water policy and other common issues.***
- 2 That any such meetings to be convened as formal council meetings of both Councils to enable prompt efficient and consistent decision making.***
- 3 That a copy of this resolution be forwarded to Gosford City Council for its consideration and support.***

FOR: COUNCILLORS BEST, EATON, GRAHAM, McBRIDE, McNAMARA, MATTHEWS, SYMINGTON, VINCENT, WEBSTER AND WYNN.

AGAINST: NIL.

571 Notice of Motion – Woolworths Lake Munmorah Rezoning

RZ/7/2004 GPB

MR STEVE GARMSTON, WOOLWORTHS DEVELOPMENT MANAGER ADDRESSED THE MEETING AT 9.06 PM, ANSWERED QUESTIONS AND RETIRED AT 9.22 PM.

COUNCILLOR WEBSTER LEFT THE CHAMBER AT 9.06 PM AND RETURNED TO THE CHAMBER AT 9.08 PM DURING CONSIDERATION OF THIS ITEM.

COUNCILLOR VINCENT LEFT THE CHAMBER AT 9.22 PM AND RETURNED TO THE CHAMBER AT 9.25 PM DURING CONSIDERATION OF THIS ITEM.

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

- 1 That Council recognise that this proposal is economically and socially vital infrastructure and as a consequence identify this application as a priority matter.***
- 2 That Council request staff to provide an update to Council's January 2009 meeting detailing progress and timing of the processing of this proposal.***

FOR: COUNCILLORS BEST, EATON, GRAHAM, McBRIDE, McNAMARA, MATTHEWS, SYMINGTON, VINCENT, WEBSTER AND WYNN.

AGAINST: NIL.

572 Notice of Rescission – Lifeguard Uniform Colours

F2004/06257 LM

COUNCILLOR BEST DECLARED A NON PECUNIARY INSIGNIFICANT CONFLICT OF INTEREST IN THE MATTER FOR THE REASON THAT THE COMPANY HE WORKS FOR HAS ENTERED INTO A MEMORANDUM OF UNDERSTANDING WITH SURF LIFE SAVING CENTRAL COAST AND PARTICIPATED IN CONSIDERATION OF THIS MATTER.

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 IT IS A UNION MATTER."

COUNCILLOR WEBSTER DECLARED A NON PECUNIARY INSIGNIFICANT CONFLICT OF INTEREST IN THE MATTER FOR THE REASON THAT SHE IS AN ASSOCIATE MEMBER OF THE ENTRANCE SURF LIFE SAVING CLUB AND PARTICIPATED IN CONSIDERATION OF THIS MATTER.

COUNCILLOR WEBSTER 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 DO NOT TAKE PART IN THE CLUB IN ANY WAY."

Minutes of the Ordinary Meeting of Council held on 10 December 2008 (contd)

COUNCILLOR WYNN DECLARED A NON PECUNIARY INSIGNIFICANT CONFLICT OF INTEREST IN THE MATTER FOR THE REASON THAT JOHN ANDREWS WAS SECOND ON THE GREENS TICKET FOR THE 2008 LOCAL GOVERNMENT ELECTIONS AND JOHN IS CURRENTLY THE SECRETARY OF THE ASSOCIATION OF PROFESSIONAL LIFEGUARDS AND PARTICIPATED IN CONSIDERATION OF THIS MATTER.

COUNCILLOR WYNN 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 MATTER DID NOT FORM PART OF OUR CAMPAIGN."

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

That the following resolution carried at the Ordinary Meeting of Council held on 23 August 2006 be rescinded in part:

- 1 That Council change the blue and white uniform worn by its day labour Lifeguards to red and yellow with a design that has prominent logos and lettering that appropriately distinguishes it from that worn by volunteer lifesavers.***

FOR: COUNCILLORS BEST, McBRIDE, MATTHEWS, SYMINGTON, VINCENT AND WYNN.

AGAINST: COUNCILLORS EATON, GRAHAM, McNAMARA AND WEBSTER.

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

- 1 That where existing budgets allow, Council staff immediately procure and implement new lifeguard uniforms comprising of long sleeved white shirts with blue collars and cuffs and the word "LIFEGUARD" in red block letters (as specified by the NSW Government SafeWaters initiative) to provide more effective lifeguard operations and to facilitate safer beaches .*

An AMENDMENT was MOVED by Councillor GRAHAM and SECONDED by Councillor EATON.

- 1 That where existing budgets allow and subject to agreement by Gosford City Council putting forward a similar motion, Council staff immediately procure and implement new lifeguard uniforms comprising of long sleeved white shirts with blue collars and cuffs and the word "LIFEGUARD" in red block letters (as specified by the NSW Government SafeWaters initiative) to provide more effective lifeguard operations and to facilitate safer beaches*

The AMENDMENT was put to the vote and declared LOST.

FOR: COUNCILLORS EATON, GRAHAM, McNAMARA AND WEBSTER.

AGAINST: COUNCILLORS BEST, McBRIDE, MATTHEWS, SYMINGTON, VINCENT AND WYNN.

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

That where existing budgets allow, Council staff immediately procure and implement new lifeguard uniforms comprising of long sleeved white shirts with blue collars and cuffs and the word "LIFEGUARD" in red block letters (as specified by the NSW Government SafeWaters initiative) to provide more effective lifeguard operations and to facilitate safer beaches .

FOR: COUNCILLORS BEST, McBRIDE, McNAMARA, MATTHEWS, SYMINGTON, VINCENT, WEBSTER AND WYNN.

AGAINST: COUNCILLORS EATON AND GRAHAM.

QUESTIONS WITHOUT NOTICE ASKED

Q072 – Life Guard services

Councillor Graham

F2004/06257

"What would be the advantages of tenders for lifeguard services?"

Q073 –Sale of Land for unpaid rates

Councillor Eaton

F2007/00222

"Did Council authorise or have knowledge of the attached agent's brochure at Council's sale of land for unpaid rates that described undevelopable land in Lake Road, Tuggerah as allowing home construction subject to Council approval?"

Q074 – Fisherman's Wharf Access

Councillor Matthews

F2008/02280

"When will the access way (foreshore) around Fisherman's Wharf be opened for the general public?"

Q075 - Demolition of New Entry Signs

Councillor Best

F2004/00067

"Mr General Manager, I understand that the brand new Shire Entry Sign recently erected by Council at Tuggerah, will now have to be demolished and relocated at the direction of the RTA. Could staff please report on how this has occurred, who will pay and who is responsible for this fiasco resulting in a waste of tax and ratepayer funds?"

Q076 – Quality of Workmanship

Councillor Best

F2004/12148

“Mr General Manager, I have been approach by a number of local residents living in relatively new apartment blocks at The Entrance, who have highlighted their concerns regarding the quality of workmanship and materials used in the various complexes. I have personally inspected a number of these buildings and I am staggered at the deterioration and apparent corner cutting that has occurred. Could staff provide some background as to what protections and State Departments are available to assist in avoiding a continuation of this quality issue and support of those currently in poor quality buildings?”

CONFIDENTIAL SESSION

AT THIS STAGE OF THE MEETING BEING 10.00 PM COUNCIL MOVED INTO CONFIDENTIAL SESSION WITH THE PRESS AND THE PUBLIC EXCLUDED.

OPEN SESSION

COUNCIL RESUMED IN OPEN SESSION AT 10.02 PM AND THE GENERAL MANAGER REPORTED ON PROCEEDINGS OF THE CONFIDENTIAL SESSION OF THE ORDINARY MEETING OF COUNCIL AS FOLLOWS:

**W025 Contract CPA 127662 – Construction of Mardi Dam
Transfer and High Lift Systems**

CPA/127662 GL

- 1 That Council decline to accept any tenders in accordance with Local Government (General) Regulations 2005 Clause 178 (1) (b) due to all tenders being qualified and non-conforming.**

- 2 That Council not invite fresh tenders in accordance with the initiatives outlined in Clause 178 (3) (b)-(d) of the Local Government (General) Regulation 2005 for the following reasons:**
 - a that the tender process has received a number of responses from appropriate persons with generally favourable amounts and terms and no further commercial or practical advantage to Council would be expected by re-tendering;**

 - b re-tendering would also involve a significant delay and allocation of further resources without any material benefit being envisaged.**

- 3 That Council enter into negotiations with all three tenderers with a view to entering into a contract with one of the tenderers.**

**W026 Child Care Centre and Library Building at Bay Village
Road Bateau Bay**

F2005/02352 PF

That Council exercise its option to purchase Lot 1 DP 714019 Bay Village Road, Bateau Bay being the site of the library and former child care centre for \$1.00.

THERE BEING NO FURTHER BUSINESS, THE MEETING CLOSED AT 10:02 PM.

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CHAIRPERSON