
WYONG SHIRE COUNCIL
MINUTES OF THE
ORDINARY MEETING OF COUNCIL
HELD IN THE COUNCIL CHAMBER
WYONG CIVIC CENTRE, HELY STREET, WYONG
ON WEDNESDAY, 8 AUGUST 2007,
COMMENCING AT 5.00 PM

PRESENT

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

IN ATTENDANCE

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

THE MAYOR, COUNCILLOR R L GRAHAM, WELCOMED STUDENTS FROM COUNCIL'S SISTER CITY, TANABE, JAPAN WHO ARE CURRENTLY VISITING WYONG SHIRE AND COUNCILLOR W WELHAM MADE A PRESENTATION ON BEHALF OF COUNCIL.

THE MAYOR DECLARED THE MEETING OPEN AT 5.00 PM AND FR STEVE PULLEN DELIVERED THE OPENING PRAYER.

APOLOGY

AN APOLOGY FOR THE INABILITY TO ATTEND THE MEETING WAS RECEIVED ON BEHALF OF COUNCILLOR N ROSE AS HE HAD TO ATTEND A MEETING OF THE HUNTER AND CENTRAL RIVERS CATCHMENT MANAGEMENT AUTHORITY.

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

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

Minutes of the Ordinary Meeting of Council held on 8 August 2007 (contd)

320 Disclosures of Interest

F2006/02282 ED:MR

328 PROPOSED DRAFT LEP AMENDMENT IN RESPECT OF LEP BUNDLE 2

COUNCILLOR EATON DECLARED A PECUNIARY CONFLICT OF INTEREST IN THE MATTER FOR THE REASON THAT HE IS A SOLICITOR FOR A RUTLEYS ROAD LANDOWNER AND DIRECTOR OF THAT LANDOWNER COMPANY, LEFT THE CHAMBER AT 5.51 PM, TOOK NO PART IN DISCUSSION, DID NOT VOTE AND RETURNED TO THE CHAMBER AT 5.52 PM.

328 PROPOSED DRAFT LEP AMENDMENT IN RESPECT OF LEP BUNDLE 2

COUNCILLOR VEUGEN DECLARED A NON-PECUNIARY INSIGNIFICANT CONFLICT OF INTEREST IN THE MATTER FOR THE REASON THAT HIS EMPLOYER IS AN OWNER OF LAND IN RUTLEYS ROAD 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 BECAUSE IT DOESN'T IMPACT ON MY DECISION MAKING PROCESS."

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

That the report be received and advice of disclosures noted.

321 Proposed Inspections

F2006/02282 ED:MR

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

That the report on inspections to be conducted on Wednesday, 22 August 2007 be received and the information noted.

322 Proposed Briefings

F2006/02282 ED:MR

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

That the report be received and the information noted.

323 Address by Invited Speakers

F2006/02282 ED:MR

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

That the report on Invited Speakers be received and the information noted.

324 Notice of Intention to Deal With Matters in Confidential Session

F2006/02282 ED:MR

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

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

W012 – Contract CPA/116095 Management of Toukley Aquatic Centre, Wyong Olympic Pool and The Entrance Ocean Baths

2 That the reason for dealing with the Report No W012 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.

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

AGAINST: COUNCILLORS BEST, EATON, VEUGEN AND WELHAM.

Minutes of the Ordinary Meeting of Council held on 8 August 2007 (contd)

325 Confirmation of Minutes of Previous Meeting

F2006/02282 ED:MR

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

That the minutes of the previous Ordinary Meeting of Council held on 25 July 2007 be received and confirmed.

BUSINESS ARISING FROM THE MINUTES

THERE WAS NO BUSINESS ARISING FROM THE MINUTES.

326 Notice of Motion – National Natural Disaster Funding

F2007/00900 MR

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

- 1 That Council, via the Federal Local Members, request National Natural Disaster Funding include coastal erosion events and Council expenditure on preventative and remedial action.***
- 2 That the Local Government Association via its annual conference be invited to support this initiative***
- 3 That a further report be brought back to Council on information on predication on climate change impacts as a result of studies being undertaken by consultants in conjunction with the Coastal Hazard Study.***

Minutes of the Ordinary Meeting of Council held on 8 August 2007 (contd)

327 Notice of Motion – Chain Valley Bay Hall

F2006/02022 MR

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

- 1 *That Council fund the full cost of the security fencing around the Community Hall and the playground at a cost of \$12,000 as requested by the Hall Committee.*
- 2 *That a briefing of Council on the roles, responsibilities and operation of Section 355 Committees managing Council facilities be organised.*
- 3 *That this briefing be held in association with the briefing on leasing of Council facilities.*

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

- 1 *That consideration of this Notice of Motion be deferred to enable a briefing of Council on the roles, responsibilities and operation of Section 355 Committees managing Council facilities.*
- 2 *That this briefing be held in association with the briefing on leasing of Council facilities.*

FOR: COUNCILLORS FORSTER, GRAHAM, STEVENS AND WELHAM.

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

The AMENDMENT was put to the VOTE and declared LOST.

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

- 1 ***That Council fund the full costs of the security fencing around the Community Hall and the playground at a cost of \$12,000 as requested by the Hall Committee.***
- 2 ***That a briefing of Council on the roles, responsibilities and operation of Section 355 Committees managing Council facilities be organised.***
- 3 ***That this briefing be held in association with the briefing on leasing of Council facilities.***

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

AGAINST: COUNCILLORS FORSTER, GRAHAM AND STEVENS.

Minutes of the Ordinary Meeting of Council held on 8 August 2007 (contd)

328 Proposed Draft LEP Amendment in Respect of LEP Bundle 2

F2007/00207, F2007/00208, RZ/1/2007, F2007/00599, F2007/00600, F2007/00677 PB:PB

COUNCILLOR EATON DECLARED A PECUNIARY CONFLICT OF INTEREST IN THE MATTER FOR THE REASON THAT HE IS A SOLICITOR FOR A RUTLEYS ROAD LANDOWNER AND DIRECTOR OF THAT LANDOWNER COMPANY, LEFT THE CHAMBER AT 5.51 PM, TOOK NO PART IN DISCUSSION, DID NOT VOTE AND RETURNED TO THE CHAMBER AT 5.52 PM.

COUNCILLOR VEUGEN DECLARED A NON-PECUNIARY INSIGNIFICANT CONFLICT OF INTEREST IN THE MATTER FOR THE REASON THAT HIS EMPLOYER IS AN OWNER OF LAND IN RUTLEYS ROAD 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 BECAUSE IT DOESN'T IMPACT ON MY DECISION MAKING PROCESS."

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

- 1 That in accordance with Section 54 of the Environmental Planning and Assessment Act 1979, Council prepare a draft Local Environmental Plan to:**
 - a Rezone Lot 4 DP 659489, Rankens Court, Wyong from 5(a) (Special Uses – Carparking Zone) to 3(a) (Business Centre Zone) to ensure consistent zonings across the proposed Performing Arts Centre site.**
 - b Rezone Lots 1-4 Section 7 DP 3136, Margaret Street, Wyong from 5(a) (Special Uses – Community Purposes Zone) to 3(a) (Business Centre Zone) to facilitate the appropriate disposal of the Memorial Hall on a commercial sale basis following transition to the proposed new Performing Arts Centre.**
 - c Amend Schedule 1 of Wyong Local Environmental Plan 1991 to:**
 - i List the Bulk Store Building located on Lot 11 DP 1091396, Ruttleys Road, Mannering Park as a Heritage Item of Local Significance.**
 - ii List The Entrance Ocean Baths located on Lot 366 DP 755263 as a Heritage Item of State Significance.**
 - iii Upgrade the classification of the Norah Head Lightstation Precinct and St Barnabas Church, Yarramalong from Heritage Items of Regional Significance to Heritage Items of State Significance.**
- 2 That Council confirm its support for the listing of the former Wyong Dairy Co-operative as a Heritage Item of Local Significance in accordance with Council's resolution of 8 November 2006.**

Minutes of the Ordinary Meeting of Council held on 8 August 2007 (contd)

- 3 That the Director-General of the Department of Planning be advised of the decision as soon as practicable.**
- 4 That the draft Local Environmental Plan be referred to the appropriate authorities for comment.**
- 5 That the Director-General of the Department of Planning be requested to issue a certificate pursuant to Section 65 of the Environmental Planning and Assessment Act, 1979 to permit the public exhibition of the draft local environmental plan.**
- 6 That prior to the draft Local Environmental Plan being placed on exhibition:**
 - a A Conservation Management Plan (CMP) be prepared at the applicant's cost by an appropriately qualified consultant and to Council's satisfaction in accordance with the Burra Charter in respect of the Bulk Store Building located on Lot 11 DP 1091396, Ruttleys Road, Mannering Park.**
 - b The Natural Heritage values of Lot 11 DP 1091396, Ruttleys Road, Mannering Park be surveyed and assessed by the applicant as part of the CMP in accordance with the manual Protecting Heritage Places (Australian Heritage Commission, 2000).**
 - c That the applicant be given the opportunity to make submissions to the persons preparing the CMP regarding adaptive re-use on the site at the applicant's cost.**
 - d A hazard and risk assessment be undertaken across the site to identify potential hazards and recommending measures to ensure ongoing safety of the occupiers and visitors to the site.**
- 7 That upon receipt of the Section 65 Certificate from the Department of Planning, the draft Local Environmental Plan be advertised.**
- 8 That should no significant objections be received as a result of the exhibition, the Minister for Planning be requested to create the Local Environmental Plan.**
- 9 That on commencement of the Shire-wide Heritage Review, all items currently listed as 'Heritage Items of Regional Significance' be reassessed to determine their appropriate classification, as Heritage Items of Local or State Significance.**
- 10 That Council's Section 149 Certificates be noted.**

Minutes of the Ordinary Meeting of Council held on 8 August 2007 (contd)

329 Contract CPA/120026 – Glenning Valley Bush Regeneration Contract

CPA/120026 DW

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

That Council accept tenders from the following companies for the listed work sites:

- 1 Engedi Environment Management**
At the tendered hourly rates for sites: 2, 6, 7, 8, 9 & 10
Extended Schedule of Rates Amount = \$207,592.00 (incl. GST)
- 2 Bushland and Rainforest Regeneration Cooperative (BARRC)**
At the tendered hourly rates for sites: 1, 3, 4, & 5
Extended Schedule of Rates Amount = \$133,056 (incl. GST)

330 Contract CPA/125834 – Provision of Effluent and Sludge Removal and Disposal Services

CPA/125834 ML: EBL

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

That Council accept tender No. 1 from Thiess Services Pty Ltd for a period of five years commencing on 7 September 2007. The estimated annual expenditure against this contract is \$194,719.00 including GST (\$177,017.00, excluding GST) however actual expenditure may vary significantly with fluctuations in demand.

331 Lease of Cottage – 21 Margaret Street, Lot 4 Section 7 DP 3136, Wyong to the Child Abuse Prevention Service

F2004/09428 SB

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

- 1 *That Council lease Lot 4 Section 7 DP 3136, 21 Margaret Street, Wyong, to the Child Abuse Prevention Service Central Coast Inc for a term of three years from 1 September 2007 at nominal rental of \$10 per annum.***
- 2 *That Council authorise for the Common Seal of the Wyong Shire Council to be affixed to the Lease between the Wyong Shire Council and the Child Abuse Prevention Service Central Coast Inc.***

Minutes of the Ordinary Meeting of Council held on 8 August 2007 (contd)

- 3** *That Council authorise the Mayor and the General Manager to execute all documents relating to the Lease between the Wyong Shire Council and the Child Abuse Prevention Service Central Coast Inc.*

332 **Proposed Acquisition of Private Land - Part of Lot 2 DP 227442 at Corner of Rutleys Road and Vales Road, Mannering Park for Road Widening Purposes**

F2006/02268 SB

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

- 1** *That Council acquire part of Lot 2 DP 227442 at the corner of Rutleys Road and Vales Road, Mannering Park as public road.*
- 2** *That in the event the existing agreement with Delta Electricity for the acquisition not proceed, Council proceed to compulsorily acquire the land in 1 above and authorise the payment of compensation for the acquisition in accordance with the Land Acquisition (Just Terms Compensation) Act 1991 and based on assessment by a qualified valuer.*
- 3** *That Council authorise the Common Seal of Wyong Shire Council to be affixed to the Transfer and/or Plan and to any necessary applications to the Department of Local Government for the approval of the Minister and the Governor in order to proceed with the compulsory acquisition if required.*
- 4** *That Council authorise the Mayor and the General Manager to execute all documents relating to the Transfer and/or Plan and all documents relating to any applications to the Department of Local Government.*

333 **Proposed Councillors' Community Improvement Grants**

F2007/00729 MW

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

That an amount of \$3,490 be allocated from the 2007/2008 Councillors' Community Improvement Grants as outlined in Attachment 1.

Minutes of the Ordinary Meeting of Council held on 8 August 2007 (contd)

Information Reports

The information reports were dealt with by the exception method. No reports were called for debate.

335 Schedule of Bank Balances and Investments – June 2007

F2004/06604 HS

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

That the report be received and the information noted.

336 Activities of the Development Assessment Unit

F2004/07830 NL:NL

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

That the report be received and the information noted.

337 Reconvening of Developer Forum

F2004/12148 GSM

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

That the report be received and the information noted.

338 Outstanding Questions Without Notice and Notices of Motion

F2006/02282 MW:SW

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

That the report be received and the information noted.

Minutes of the Ordinary Meeting of Council held on 8 August 2007 (contd)

QUESTIONS WITHOUT NOTICE ASKED**Q073 – Condition of Yates Road, Ourimbah****Councillor Eaton**

F2004/00618

“Could Council report on the road condition of Yates Road, Ourimbah and any planned roadworks?”

Q074 – Mobile Phone Service on trains between Newcastle and Sydney**Councillor Eaton**

F2004/00108

“Could Council request State Rail/City Rail to advise of its plans (if any) to ensure adequate mobile phone service on the train trip between Newcastle and Sydney?”

Q075 – The Entrance Community Centre**Councillor Stewart**

F2006/02126

“Could Council staff please report back to Council with a list of users at The Entrance Community Centre along with an update on the operations of the Centre?”

Q076 – Thank you to the General Manager for Outstanding Efforts During Recent Storm Event**Councillor Best**

F2004/05339

“Mr Mayor, in the aftermath of the June long weekend storms, Council conducted a number of fitting staff thank you functions in appreciation of their outstanding efforts. I have attended a number of these events where the General Manager has recognised and thanked those responsible. Mr Mayor, on behalf of Council I feel it only appropriate that the elected arm of this Council formally thank its General Manager, Mr Yates, for his and his Department’s leadership during this most significant event. Any such formal recognition should become an attachment to the General Manager’s performance file.”

Minutes of the Ordinary Meeting of Council held on 8 August 2007 (contd)

Q077 – Position of Welcome Sign at Doyalson**Councillor Best**

DA/261/2007

“Mr General Manager, much debate in this Chamber has revolved around equity issues regarding the resources apportioned to the north and south of our Shire. As a longstanding Councillor of the forgotten north, could I appeal to staff and Council to not exacerbate this perception by placing our “welcome” signs some 5kms inside the Shire at Doyalson after the northern suburbs of Summerland Point / Gwandalan / Lakes Munmorah / Chain Valley Bay and Kingfisher Shores have been passed by.”

Q078 – Reintroduction of Information Report dealing with Staffing Vacancies**Councillor Welham**

F2004/00345

“Could the General Manager reintroduce the Information Report on a bi-monthly basis dealing with staffing vacancies?”

CONFIDENTIAL SESSION

AT THIS STAGE OF THE MEETING BEING 6.03PM COUNCIL MOVED INTO CONFIDENTIAL SESSION WITH THE PRESS AND THE PUBLIC EXCLUDED.

OPEN SESSION

COUNCIL RESUMED IN OPEN SESSION AT 6.05PM AND THE GENERAL MANAGER REPORTED ON PROCEEDINGS OF THE CONFIDENTIAL SESSION OF THE ORDINARY MEETING OF COUNCIL AS FOLLOWS:

**W012 Contract CPA/116095 – Management of Toukley Aquatic Centre,
Wyong Olympic Pool and The Entrance Ocean Baths**

CPA/116095 ML

- 1 That in accordance with Clause 178(1) of the Local Government (General) Regulation 2005, Council neither accept any tender for Contract CPA/116095 nor immediately invite fresh tenders for the following reasons:***

Minutes of the Ordinary Meeting of Council held on 8 August 2007 (contd)

- a The two conforming tenders received considerably exceed the available budget for managing pools and the third tender from the YMCA was strictly non-conforming;*
 - b One of the conforming tenders did not have a satisfactory financial assessment;*
 - c Inviting fresh tenders will add significantly to the time required to appoint a pool management contractor, and without more comprehensive financial information provided to tenderers is unlikely to result in tenders being received that offer greater advantages than that offered by the non-conforming tender of the YMCA;*
 - d Only a small level of interest was expressed as shown by the number of tenders received based on the information provided in the tender documents.*
- 2** *That in accordance with Clause 178(3) of the Local Government (General) Regulation 2005, Council enter into negotiations with the YMCA with a view to entering into a contract in relation to the management of pools for the following reasons:*
- a The proposal of the YMCA to run Council's pools for 18 months for a fixed management fee with Council covering net costs, will allow Council to invite fresh tenders with comprehensive financial information and represents a unique opportunity to ascertain the real costs of running Council's pools;*
 - b The benefit to Council of this approach is that it is expected that additional and more realistic tenders will be obtained from inviting fresh tenders with more comprehensive financial information.*

THERE BEING NO FURTHER BUSINESS, THE MEETING CLOSED AT 6.06 PM.

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CHAIRPERSON