
WYONG SHIRE COUNCIL
MINUTES OF THE
ORDINARY MEETING OF COUNCIL
HELD IN THE COUNCIL CHAMBER
WYONG CIVIC CENTRE, HELY STREET, WYONG
ON WEDNESDAY, 8 JULY 2009,
COMMENCING AT 5.10 PM

PRESENT

COUNCILLORS R L GRAHAM (CHAIRPERSON), G P BEST (LEFT AT 7.29 PM) 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 SERVICES, DIRECTOR SHIRE PLANNING, DIRECTOR CORPORATE SERVICES, MANAGER DEVELOPMENT ASSESSMENT, ACTING MANAGER FUTURE PLANNING, MANAGER WATER AND WASTE.

TEAM CO-ORDINATOR AND SENIOR PLANNER - MAJOR APPLICATIONS, MANAGER AND TEAM CO-ORDINATOR - PLANNING LEGAL AND POLICY, MANAGER DEPOTS AND FLEET, MANAGER CONTRACTS AND TWO ADMINISTRATION STAFF.

THE MAYOR REPORTED THAT BOTH THE NATIONAL GENERAL ASSEMBLY OF THE AUSTRALIAN LOCAL GOVERNMENT ASSOCIATION FROM 21 – 24 JUNE AND THE AUSTRALIAN COUNCIL OF LOCAL GOVERNMENT CONFERENCE ON 25 JUNE WERE HELD IN CANBERRA LAST MONTH. COUNCILLOR EATON, COUNCILLOR WYNN AND HE ATTENDED ON BEHALF OF WYONG SHIRE COUNCIL AND HE GAVE A BRIEF OVERVIEW AS FOLLOWS:

- * AN AMOUNT OF \$1.529M IN FUNDING HAS BEEN MADE AVAILABLE TO WYONG SHIRE COUNCIL THIS BEING THE SIXTH LARGEST ALLOCATION MADE TO A COUNCIL IN NSW. FURTHER FUNDING OF \$648,000 WILL BECOME AVAILABLE PROVIDED THAT THE ALLOCATION OF \$1.529M HAS BEEN SPENT ON COMMUNITY WORKS COMPLETED BY SEPTEMBER 2009.
- * THREE NOTICES OF MOTION WERE SUBMITTED AT THE NATIONAL GENERAL ASSEMBLY BUT ONLY ONE OF THESE MOTIONS WAS RAISED. THE MOTION FOR EXTENSION OF PARENTAL LEAVE FOR COUNCIL STAFF, HOWEVER, IT WAS NOT SUPPORTED BY ATTENDEES.
- * THE FEDERAL MEMBER FOR DOBELL CRAIG THOMSON ADVISED OF A DECISION BY THE MINISTER OF EMPLOYMENT THAT THE CENTRAL COAST-HUNTER REGION HAS BEEN DESIGNATED AS A PRIORITY EMPLOYMENT AREA AND A LOCAL EMPLOYMENT COORDINATOR WILL BE APPOINTED TO DEAL WITH EMPLOYMENT ISSUES IN PARTICULAR YOUTH EMPLOYMENT WHICH CURRENTLY RUNS AT 40%.

THE MAYOR, COUNCILLOR GRAHAM, DECLARED THE MEETING OPEN AT 5.10 PM AND ADVISED IN ACCORDANCE WITH THE CODE OF MEETING PRACTICE THAT THE MEETING IS BEING RECORDED.

JOHN HARDWICK READ AN ACKNOWLEDGMENT OF COUNTRY STATEMENT AND DELIVERED THE OPENING PRAYER.

APOLOGIES

THERE WERE NO APOLOGIES.

1.1 Disclosure of Interests

3.1 THE ENTRANCE PENINSULA PLANNING STRATEGY

THE MANAGER DEVELOPMENT ASSESSMENT DECLARED A PECUNIARY INTEREST IN THAT PART OF THE MATTER RELATING TO THE NORTH ENTRANCE PRECINCT FOR THE REASON THAT HER HUSBAND IS THE MANAGING DIRECTOR OF ANDREWS NEIL WHO HAS PROVIDED DEVELOPMENT OPTIONS FOR DUNLEITH CARAVAN PARK REMAINED IN THE CHAMBER BUT DID NOT PARTICIPATE IN CONSIDERATION OF THIS MATTER.

3.1 THE ENTRANCE PENINSULA PLANNING STRATEGY

COUNCILLOR WEBSTER DECLARED A NON-PECUNIARY INSIGNIFICANT CONFLICT OF INTEREST IN THE MATTER FOR THE REASON THAT SHE OWNS A UNIT IN THE PRECINCT 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"

3.1 THE ENTRANCE PENINSULA PLANNING STRATEGY

COUNCILLOR EATON DECLARED A NON-PECUNIARY INSIGNIFICANT CONFLICT OF INTEREST IN THE MATTER FOR THE REASON THAT THE CONSULTANT/SPEAKER REFERRED TO CENTRAL COAST GROUP TRAINING IN A LETTER ABOUT THE STRATEGY 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 IT'S A BROADSCALE PLANNING STRATEGY NOT RELATED TO OPERATIONS OF CENTRAL COAST GROUP TRAINING."

3.1 THE ENTRANCE PENINSULA PLANNING STRATEGY

COUNCILLOR BEST DECLARED A NON-PECUNIARY INSIGNIFICANT CONFLICT OF INTEREST IN THE MATTER FOR THE REASON THAT THE SPEAKER REFERRED TO CENTRAL COAST GROUP TRAINING IN A LETTER ABOUT THE STRATEGY 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 THE REFERENCE IS TO A BROAD APPROACH TO PLANNING NOT RELATED TO THE OPERATIONS OF CENTRAL COAST GROUP TRAINING."

4.1 PROPOSED LICENCE AGREEMENT OVER DELTA ELECTRICITY LAND - LOT 82 DP 806672 AND LOT 10 DP 13641 AT MANNERING PARK

COUNCILLOR VINCENT DECLARED A NON-PECUNIARY INSIGNIFICANT CONFLICT OF INTEREST IN THE MATTER FOR THE REASON THAT HE IS AN EMPLOYEE OF DELTA ELECTRICITY AND PARTICIPATED IN CONSIDERATION OF THIS MATTER.

COUNCILLOR VINCENT 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 HE IS AN EMPLOYEE AND NOT A BOARD MEMBER."

6.5 PROPOSED COUNCILLORS' COMMUNITY IMPROVEMENT GRANTS

COUNCILLOR EATON DECLARED A NON-PECUNIARY INSIGNIFICANT CONFLICT OF INTEREST IN THE MATTER FOR THE REASON THAT HE IS THE CHAIRMAN OF THE CENTRAL COAST GROUP TRAINING BOARD 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 THIS POSITION IS IN A VOLUNTARY CAPACITY ONLY AND NOT REMUNERATED HAVING NO CONFLICT WITH PUBLIC DUTY."

7.1 MINUTES - WYONG SHIRE GRANTS COMMITTEE EXTRAORDINARY MEETING - 17 JUNE 2009

COUNCILLOR VINCENT DECLARED A NON-PECUNIARY INSIGNIFICANT CONFLICT OF INTEREST IN THE MATTER, FOR THE REASON THAT POST THE GRANTS COMMITTEE MEETING A VOLUNTARY GROUP WAS FORMED TO ASSIST IN THE RUNNING OF THE 2009 GATHERING OF THE CLANS AND HE IS NOW A VOLUNTEER ASSISTING WITH THE RUNNING OF THE EVENT, AND PARTICIPATED IN CONSIDERATION OF THIS MATTER.

COUNCILLOR VINCENT STATED:

"I CHOOSE TO REMAIN IN THE CHAMBER AND PARTICIPATE IN DISCUSSION AND VOTING AS THE CONFLICT HAS NOT INFLUENCED ME IN CARRYING OUT MY PUBLIC DUTY BECAUSE I AM NOT AN OFFICIAL COMMITTEE MEMBER FOR THE EVENT BUT RATHER A VOLUNTEER."

11.1 PROPOSED ACQUISITION - DRAINAGE EASEMENT AT TUGGERAH

COUNCILLOR WEBSTER DECLARED A NON-PECUNIARY SIGNIFICANT CONFLICT OF INTEREST IN THE MATTER FOR THE REASON THAT FAMILY (LANDHOLDERS) ARE FRIENDS OF THE FAMILY. SHE LEFT THE CHAMBER AT 9.22 PM, TOOK NO PART IN DISCUSSION, DID NOT VOTE AND RETURNED TO THE CHAMBER AT 9.23 PM.

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

That the report on Disclosure of Interest be received and advice of disclosures noted.

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

AGAINST: NIL.

1.2 Inspections

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

That Council receive the report on Inspections.

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

AGAINST: NIL.

1.3 Address By Invited Speakers

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

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

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

AGAINST: NIL.

1.4 Confirmation of Minutes of Previous Meeting

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

That Council confirm the minutes of the previous Ordinary Meeting of Council held on 10 June 2009.

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

AGAINST: NIL.

BUSINESS ARISING FROM THE MINUTES

COUNCILLOR BEST ADVISED THAT WHEN HE ASKED QUESTION WITHOUT NOTICE NO Q039 HE REFERRED TO THE LOCATION OF THE BEACH CARPARK SECURITY GATE AS BEING AT NORAH HEAD HOWEVER HE NOW ACKNOWLEDGED THAT HIS REFERENCE WAS INCORRECT AND STAFF HAD CHANGED IT TO THE CORRECT LOCATION AT SOLDIER'S BEACH.

2.1 Notice of Intention to Deal with Matters in Confidential Session

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

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

12.1 Proposed Acquisition - Drainage Easement at Tuggerah

12.2 Proposed Acquisition – Land at Ourimbah

- 2 That Council note its reasons for considering Report Nos 12.1 in Confidential Session in accordance with (Section 10A(2)(g)) that discussion is anticipated which concerns legal proceedings. That Council note its reasons for considering Report No 12.2 in Confidential Session in accordance with (Section 10A(2)(c)) that it may confer a commercial advantage on a competitor of the Council should the discussions be held in a non-confidential environment.**
- 3 That Council request the General Manager to report on this matter in open session of Council.**

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

AGAINST: NIL.

3.1 The Entrance Peninsula Planning Strategy

THE MANAGER DEVELOPMENT ASSESSMENT DECLARED A PECUNIARY INTEREST IN THAT PART OF THE MATTER RELATING TO THE NORTH ENTRANCE PRECINCT FOR THE REASON THAT HER HUSBAND IS THE MANAGING DIRECTOR OF ANDREWS NEIL WHO HAS PROVIDED DEVELOPMENT OPTIONS FOR DUNLEITH CARAVAN PARK REMAINED IN THE CHAMBER BUT DID NOT PARTICIPATE IN CONSIDERATION OF THIS MATTER.

COUNCILLOR WEBSTER DECLARED A NON-PECUNIARY INSIGNIFICANT CONFLICT OF INTEREST IN THE MATTER FOR THE REASON THAT SHE OWNS A UNIT IN THE PRECINCT 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"

COUNCILLOR EATON DECLARED A NON-PECUNIARY INSIGNIFICANT CONFLICT OF INTEREST IN THE MATTER FOR THE REASON THAT THE CONSULTANT/SPEAKER REFERRED TO CENTRAL COAST GROUP TRAINING IN A LETTER ABOUT THE STRATEGY 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 IT'S A

BROADSCALE PLANNING STRATEGY NOT RELATED TO OPERATIONS OF CENTRAL COAST GROUP TRAINING.”

COUNCILLOR BEST DECLARED A NON-PECUNIARY INSIGNIFICANT CONFLICT OF INTEREST IN THE MATTER FOR THE REASON THAT THE SPEAKER REFERRED TO CENTRAL COAST GROUP TRAINING IN A LETTER ABOUT THE STRATEGY 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 THE REFERENCE IS TO A BROAD APPROACH TO PLANNING NOT RELATED TO THE OPERATIONS OF CENTRAL COAST GROUP TRAINING.”

COUNCILLOR VINCENT LEFT THE CHAMBER AT 5.26 PM AND RETURNED TO THE CHAMBER AT 5.28 PM DURING CONSIDERATION OF THIS ITEM.

COUNCILLOR BEST LEFT THE CHAMBER AT 5.42 PM AND RETURNED TO THE CHAMBER AT 5.44 PM DURING CONSIDERATION OF THIS ITEM.

MR MICHAEL MILMAN FROM DUNNETT PROPERTIES, ADDRESSED THE MEETING AT 5.24 PM, ANSWERED QUESTIONS AND RETIRED AT 5.28 PM.

MR JOHN BAMBURY FROM THE ENTRANCE BOWLING CLUB WAS AVAILABLE FOR QUESTIONS.

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

- 1 That Council adopt the draft The Entrance Peninsula Planning Strategy subject to amendment in Precincts 3 and 6 resulting from detailed masterplan adoption in these Precincts.***
- 2 That Council advise the Department of Planning of its decision and forward a copy of the adopted Strategy for information.***
- 3 That Council include the above rezonings in the draft Wyong Local Environmental Plan 2011.***
- 4 That Council write to the NSW Minister for Roads requesting immediate action on the preparation of concept design plans for the upgrading of the Central Coast Highway through Long Jetty and The Entrance.***
- 5 That Council write to the Members for Wyong and The Entrance seeking their support for a ferry link between Wyong township and The Entrance township and a variation of speed limit on Wyong River to facilitate ferry operation with an appropriately designed low wake vessel.***

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

AGAINST: NIL.

3.2 DA 2660/2004 - Proposed Managed Resort Facility and Residential Development, The Entrance

MR JOHN MURRAY ON BEHALF OF THE APPLICANT, ADDRESSED THE MEETING AT 5.47 PM, ANSWERED QUESTIONS AND RETIRED AT PM. 5.52 PM.

MR JIM PRICE ON BEHALF OF WATCH COMMITTEE ADDRESSED THE MEETING AT 5.54 PM, ANSWERED QUESTIONS AND RETIRED AT 5.58 PM.

MR CHRIS BAKER, REPRESENTING THRUM ARCHITECTS, WAS AVAILABLE TO ANSWER QUESTIONS.

DIRECTOR CORPORATE SERVICES LEFT THE CHAMBER AT 6.56 PM AND DID NOT RETURN.

COUNCILLOR McNAMARA LEFT THE CHAMBER AT 5.48 PM AND RETURNED TO THE CHAMBER AT 5.50 PM AND DURING CONSIDERATION OF THIS ITEM.

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

- 1 That Council indicate its approval in principle in the form of a deferred commencement consent, subject to the imposition of appropriate conditions.**
- 2 That a report on appropriate conditions be brought back to Council meeting.**
- 3 That in developing the conditions of consent, staff consider the following issues:**
 - **Management Plan for maintaining public access through the site**
 - **Agreement to appropriate staging of the development**
 - **Climate change, including in this instance, sea level rise, increased inundation, increased wave attack and storm surges.**
 - **Ability of the Development to comply with BASIX principles.**

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

AGAINST: COUNCILLORS SYMINGTON, VINCENT AND WYNN.

3.3 DA 1009/2008 - Proposed Seniors Housing and Residential Aged Care Facility at Kanwal

MR DAVID GOODRICH, REPRESENTING THE APPLICANT, WAS AVAILABLE TO ANSWER QUESTIONS.

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 the granting of a "deferred commencement" consent pursuant to Section 80(3) of the Environmental Planning & Assessment Act, 1979.**
- 2 That Council authorise the General Manager to determine any application for minor modifications to the approved development plans or consent conditions.**

3 That Council advise those who made written submissions of the decision.

4 That Council make representations to the Roads and Traffic Authority seeking formal recognition of the RTA's contribution to intersection works on the corner of the Pacific Highway and Louisiana Road.

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

AGAINST: NIL.

SUSPENSION OF STANDING ORDERS

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

That Council suspend standing orders to allow consideration of Item 10.4 – Notice of Motion - Improved Mardi-Mangrove Information Flow.

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

AGAINST: NIL.

FOR THE SAKE OF CLARITY THE MINUTES INCLUDE CONSIDERATION OF ITEM 10.4 – NOTICE OF MOTION - IMPROVED MARDI-MANGROVE INFORMATION FLOW IN THE CORRECT AGENDA SEQUENCE.

3.4 Draft Development Control Plan 2005: Chapter 69 - Controls for Site Waste Management

COUNCILLOR BEST LEFT THE CHAMBER AT 7.29 PM AND DID NOT RETURN TO THE CHAMBER.

It was MOVED by Councillor EATON and SECONDED by Councillor McNAMARA:

That Council defer decision pending a briefing and a further report be submitted to Council's meeting on 22 July 2009.

The MOTION was put to the vote and declared LOST.

FOR: COUNCILLORS GRAHAM, EATON, McNAMARA AND WEBSTER

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

It was *MOVED* by Councillor *VINCENT* and *SECONDED* by Councillor *MATTHEWS*:

- 1 *That Council adopt Draft Development Control Plan 2005: Chapter 69 - Controls for Site Waste Management in accordance with Section 74C of the Environmental Planning and Assessment Act, 1979 and publish an appropriate public notice within 28 days that the draft Chapter will come into effect as Chapter 69 within DCP 2005 on 17 July 2009;*
- 2 *That Council's notice include advice that the provisions of the adopted Chapter 69 and the associated Waste Control Guidelines will be applied to all Development Applications and to Complying Development Applications lodged under Council's LEP/DCP, received from 17 July 2009;*
- 3 *That Council adopt draft Policy C6 - Controls for Site Waste Management and publish an appropriate public notice within 28 days that the Policy and the associated Waste Control Guidelines will come into effect and apply to all applications for the approval of an activity, lodged in accordance with Part V of the Environmental Planning and Assessment Act 1979, from 17 July 2009;*
- 4 *That Council forward a copy of DCP 2005 containing the amended Chapter 69 to the Director General of the NSW Department of Planning within 28 days; and*
- 5 *That Council note Section 149 Certificates as to the adoption of Chapter 69.*

The MOTION was put to the vote and declared CARRIED.

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

AGAINST: COUNCILLORS GRAHAM, EATON, McNAMARA AND WEBSTER.

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

- 1 ***That Council adopt Draft Development Control Plan 2005: Chapter 69 - Controls for Site Waste Management in accordance with Section 74C of the Environmental Planning and Assessment Act, 1979 and publish an appropriate public notice within 28 days that the draft Chapter will come into effect as Chapter 69 within DCP 2005 on 17 July 2009;***
- 2 ***That Council's notice include advice that the provisions of the adopted Chapter 69 and the associated Waste Control Guidelines will be applied to all Development Applications and to Complying Development Applications lodged under Council's LEP/DCP, received from 17 July 2009;***
- 3 ***That Council adopt draft Policy C6 - Controls for Site Waste Management and publish an appropriate public notice within 28 days that the Policy and the associated Waste Control Guidelines will come into effect and apply to all applications for the approval of an activity, lodged in accordance with Part V of the Environmental Planning and Assessment Act 1979, from 17 July 2009;***

4 That Council forward a copy of DCP 2005 containing the amended Chapter 69 to the Director General of the NSW Department of Planning within 28 days; and

5 That Council Section 149 Certificates be noted as to the adoption of Chapter 69.

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

AGAINST: COUNCILLORS GRAHAM, EATON, McNAMARA AND WEBSTER.

4.1 Proposed Licence Agreement over Delta Electricity land - Lot 82 DP 806672 and Lot 10 DP 13641 at Mannering Park

COUNCILLOR VINCENT DECLARED A NON-PECUNIARY INSIGNIFICANT CONFLICT OF INTEREST IN THE MATTER FOR THE REASON THAT HE IS AN EMPLOYEE OF DELTA ELECTRICITY AND PARTICIPATED IN CONSIDERATION OF THIS MATTER.

COUNCILLOR VINCENT 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 HE IS AN EMPLOYEE AND NOT A BOARD MEMBER."

COUNCILLOR MATTHEWS LEFT THE CHAMBER AT 8.06 PM AND RETURNED TO THE CHAMBER AT 8.08 PM DURING CONSIDERATION OF THIS ITEM.

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

1 That Council accept a Licence from Delta Electricity for a term of 25 years for a nominal fee for the purpose of constructing a walkway (shared pathway/cycleway) over Lot 82 DP 806672 and Lot 10 DP13641 owned by Delta Electricity.

2 That Council approve payment of costs associated in obtaining the licence.

3 That Council authorise the Common Seal of Wyong Shire Council to be affixed to the Licence Agreement between Wyong Shire Council and Delta Electricity.

4 That Council authorise the Mayor and the General Manager to execute all documents relating to the Licence Agreement between Wyong Shire Council and Delta Electricity.

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

AGAINST: NIL.

4.2 Proposed Lease over part Public Road Reserve Pheasant Avenue, Bateau Bay adjoining land Lot 526 DP 823144 known as Karagi Court, No 2 Pheasant Avenue, Bateau Bay

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

- 1 That Council grant a Lease to Australian Unity Property Ltd of part of public road reserve Pheasant Avenue, Bateau Bay adjoining Lot 526 DP 823144 Karagi Court, 2 Pheasant Avenue, Bateau Bay for a period of five years commencing as soon as possible for nominal rent of \$500.00 plus GST per annum.**
- 2 That Council agree to an option for renewal of the lease for a further five) years.**
- 3 That Council authorise the Common Seal of Wyong Shire Council to be affixed to the formal documents as required between Wyong Shire Council and Australian Unity Property Ltd.**
- 4 That Council authorise the Mayor and the General Manager to execute all documents relating to the Lease between Wyong Shire Council and Australian Unity Property Ltd.**

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

AGAINST: NIL.

5.1 CPA 150508 - Tender for Hire of Casual Labour

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

- 1 That Council accept all conforming recommended tenders received for Contract CPA/150508 Hire of Casual Labour for the period 9 July 2009 to 8 July 2010.**
- 2 That Council authorise the Director Shire Services to arrange engagement of Casual Labour as required from time to time in accordance with Contract CPA/150508 using the most economical and suitable supplier as each situation demands.**

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

AGAINST: NIL.

5.2 CPA 162813 - Construction of Six Additional Netball Courts at Baker Park, Wyong

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

- 1 That Council accept tender number 6 from Court Craft (Aust) Pty Ltd in the lump sum amount of \$598,761.64 (excl GST).**
- 2 That Council approve a contract budget of \$660,000.00 (excl GST) that provides for a contingency amount of \$60,000.00 (excl GST), representing approximately 10% of the contract value, to provide for any unforeseen additional works that may become necessary during the course of the project.**
- 3 That Council allocate any remaining funds to the maintenance and upkeep of existing courts.**

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

AGAINST: NIL.

6.1 Facility Agreement - Westpac Banking Corporation

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

- 1 That Council note the acceptance of loan borrowings for an amount of \$35,000,000 from Westpac Banking Corporation by the General Manager in accordance with the 2008-09 Management Plan and subsequent resolution that Council delegate to the General Manager the authority to accept loan offers in accordance with the proposed borrowings in the Draft Management Plan and borrow a total of \$50,923,000 from financial institutions with an Australian banking licence and \$1,000,000 from the Department of Lands.**
- 2 That Council authorise the Common Seal to be affixed to the Facility Agreement between the Wyong Shire Council and Westpac Banking Corporation.**
- 3 That Council authorise the Mayor and General Manager to execute all documents relating to the Facility Agreement between the Wyong Shire Council and Westpac Banking Corporation.**

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

AGAINST: NIL.

6.2 Payment of Public Liability Professional Indemnity Insurance Premium

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

That Council approve the renewal of Council's Public Liability/Professional Indemnity insurance policy with Statewide Mutual for the period 30 June 2009 to 30 June 2010 for the sum of \$476,900 (excl GST).

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

AGAINST: NIL.

6.3 Payment of Compulsory Third Party Insurance

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

That Council approve the payment of \$217,355.54 being made up of \$158,298.78 premium, \$15,829.87 GST and \$43,226.89 Government Levies for the renewal of Council's Compulsory Third Party insurance with QBE Insurance Ltd for the period 31 May 2009 to 31 May 2010.

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

AGAINST: NIL.

6.4 Payment of Industrial Special Risk Insurance Premium

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

That Council approve the payment of \$530,676.75 (ex GST) premium for the renewal of Council's Industrial Special Risk insurance policy with Statewide Property Mutual for the period 30 June 2009 – 30 June 2010.

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

AGAINST: NIL.

6.5 Proposed Councillors' Community Improvement Grants

COUNCILLOR EATON DECLARED A NON-PECUNIARY INSIGNIFICANT CONFLICT OF INTEREST IN THE MATTER FOR THE REASON THAT HE IS THE CHAIRMAN OF THE CCGT BOARD 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 THIS POSITION IS IN A VOLUNTARY CAPACITY ONLY, NOT REMUNERATED, AND HAS NO CONFLICT WITH MY PUBLIC DUTY."

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

- 1 That Council allocate an amount of \$19,155 from the 2008-09 Councillors' Community Improvement Grants as outlined in the report.***
- 2 That Council allocate an amount of \$5,440 from the 2009-10 Councillors' Community Improvement Grants as outlined in the report.***

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

AGAINST: NIL.

6.6 Charter - Wyong Shire Council Sports Committee

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

That Council adopt the amended Charter of the Sports Committee.

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

AGAINST: NIL.

7.1 Minutes - Wyong Shire Grants Committee Extraordinary Meeting - 17 June 2009

COUNCILLOR VINCENT DECLARED A NON-PECUNIARY INSIGNIFICANT CONFLICT OF INTEREST IN THE MATTER, FOR THE REASON THAT POST THE GRANTS COMMITTEE MEETING A VOLUNTARY GROUP WAS FORMED TO ASSIST IN THE RUNNING OF THE 2009 GATHERING OF THE CLANS AND HE IS NOW A VOLUNTEER ASSISTING WITH THE RUNNING OF THE EVENT, AND PARTICIPATED IN CONSIDERATION OF THIS MATTER.

COUNCILLOR VINCENT STATED:

"I CHOOSE TO REMAIN IN THE CHAMBER AND PARTICIPATE IN DISCUSSION AND VOTING AS THE CONFLICT HAS NOT INFLUENCED ME IN CARRYING OUT MY PUBLIC DUTY BECAUSE I AM NOT AN OFFICIAL COMMITTEE MEMBER FOR THE EVENT BUT RATHER A VOLUNTEER."

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

That Council receive the minutes of the Wyong Shire Grants Committee Extraordinary Meeting held on 17 June 2009 and adopt the recommendations contained therein.

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

AGAINST: NIL.

8.1 Information Reports

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

That with the exception of report number 8.3 the information reports be received and the recommendations adopted.

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

AGAINST: NIL.

8.2 Disclosure of Interest Returns

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

That Council receive the report on Disclosure of Interest Returns.

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

AGAINST: NIL.

8.3 Very Fast Train Program

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

- 1 That Council receive the report on the Very Fast Train Program.**
- 2 That Council write to the Federal Member for Dobell and Infrastructure Australia pointing out the benefits that a Very Fast Train connecting Williamtown to Sydney would include the possibility of Williamtown becoming Sydney's second airport and provide adequate commuter transport within the greater Sydney area.**

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

AGAINST: NIL.

8.4 Investments for May 2009

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

That Council receive the report on Investments for May 2009.

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

AGAINST: NIL.

8.5 New Rural Fire Station, Lots 6 and 19, DP 22433, Ourimbah Creek Road, Ourimbah

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

That Council receive the report on New Rural Fire Station, Lots 6 and 19, DP 22433, Ourimbah Creek Road, Ourimbah.

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

AGAINST: NIL.

8.6 Park Beach, The Entrance

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

That Council receive the report on Park Beach, The Entrance.

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

AGAINST: NIL.

8.7 Outstanding Questions Without Notice and Notices of Motion

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

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

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

AGAINST: NIL.

10.1 Notice of Motion - E-Waste

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

- 1 That Council provide a report on the estimated annual cost per ratepayer for a bi-annual kerbside collection of e-waste, transport and disposal at a recycling processing plant.***
- 2 That Council report on the current amount Council pays for e-waste in the waste levy to the NSW State Government and the effects of e-waste on the environment.***
- 3 That Council conduct a six month trial for e-waste drop off once the upgrade works at Buttonderry are completed and at the end of the trial, an information report on the quantity collected and cost of collection be submitted to Council.***

- 4 That Council identify and link in with existing e waste programs currently operating for example Cartridges for Planet Ark, Council's Chemical Cleanup and Mobile Muster.**

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

AGAINST: NIL.

10.2 Notice of Motion - Container Deposit Scheme

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

- 1 That Council acknowledge the significant environmental, economic and social benefits to ratepayers of adopting a Container Deposit Scheme (CDS) in NSW.**
- 2 That Council support the "Community Attitudes Survey" to be conducted by the Environment Protection and Heritage Council and further investigations of CDS at a State Government level in terms of the logistical and financial implications on local government. This should be achieved through conducting on-ground trials and providing more detailed analysis which is directly relevant to NSW Councils.**
- 3 That Council write to the NSW Premier, the Hon Nathan Rees, and the NSW Minister for Climate Change and the Environment, the Hon Carmel Tebbutt, to urge the NSW Government to initiate or support legislation, after further investigation, to establish such a scheme in NSW in line with points 1 and 2.**

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

AGAINST: NIL.

10.3 Notice of Motion - Joint Regional Planning Panels

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

- 1 That Council raise its grave concerns about the recent statement to Parliament by the Minister for Planning flagging the likely extension of powers of the Joint Regional Planning Panels to prepare and determine Local Environmental Plans, Development Control Plans and Section 94 Developer Contribution Plans on the basis of the serious implications on our local community due to this further loss of local decision making.**
- 2 That Council forward details of its concerns to all local members, the Local Government and Shires Associations and the Minister for Planning.**
- 3 That Council undertake a media campaign to raise awareness within the community of the potential implications of this further reduction in local decision making and the further reduction in the community's ability to influence its own future.**

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

AGAINST: NIL.

10.4 Notice of Motion - Improved Mardi-Mangrove Information Flow

COUNCILLOR VINCENT LEFT THE CHAMBER AT 7.23 PM AND RETURNED TO THE CHAMBER AT 7.25 PM DURING CONSIDERATION OF THIS ITEM.

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

- 1 That Council seek to improve the transparent and timely dissemination of emerging information through receiving, as a standing agenda item on all future business papers, a project status report outlining key engineering, financial, contractual and compliance issues.**
- 2 That Council provide opportunity to the Project Director Mr Greg McDonald to address Council in chambers on the updated reports to further assist this critical information flow.**

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

AGAINST: NIL.

10.5 Notice of Motion - Code of Meeting Practice

RESOLVED on the motion of Councillor SYMINGTON and seconded by Councillor McBRIDE:

- 1 That Council incorporate into the proposed review of its Code of Meeting Practice an amendment to enable a Councillor to request a development application under Part 4 or an assessment under Part 5 be reported to a meeting of Council for determination.**
- 2 That Council determine the above provisions following a review of the relevant provisions currently in place at adjoining Councils.**
- 3 That this proposal require the application be made by a minimum of two Councillors.**
- 4 That the review consider the number of submissions required to automatically trigger a report to Council.**

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

AGAINST: COUNCILLOR WYNN.

QUESTIONS WITHOUT NOTICE ASKED**Q042 - Infrastructure contributions on subdivisions
Councillor Eaton**

“Could Council confirm that Hunter Water and Sydney Water no longer charge infrastructure contributions on land subdivision with a consequential reduction in Land subdivision and housing costs?”

**Q043 - Impact of proposed Federal carbon tax
Councillor Eaton**

“Could Council advise whether Buttonderry Tip is affected by the Federal Government’s proposed carbon tax and if so the financial impact of this impost?”

CONFIDENTIAL SESSION

AT THIS STAGE OF THE MEETING BEING 9.21 PM COUNCIL MOVED INTO CONFIDENTIAL SESSION WITH THE PRESS AND THE PUBLIC EXCLUDED.

OPEN SESSION

COUNCIL RESUMED IN OPEN SESSION AT 9.39 PM AND THE GENERAL MANAGER REPORTED ON PROCEEDINGS OF THE CONFIDENTIAL SESSION OF THE ORDINARY MEETING OF COUNCIL AS FOLLOWS:

11.1 Proposed Acquisition - Drainage Easement at Tuggerah

COUNCILLOR WEBSTER DECLARED A NON-PECUNIARY SIGNIFICANT CONFLICT OF INTEREST IN THE MATTER FOR THE REASON THAT FAMILY (LANDHOLDERS) ARE FRIENDS OF THE FAMILY. SHE LEFT THE CHAMBER AT 9.22 PM, TOOK NO PART IN DISCUSSION, DID NOT VOTE AND RETURNED TO THE CHAMBER AT 9.23 PM.

- 1 That Council acquire a drainage easement over an existing constructed drainage line over part Lots 8 and 9 DP 1014170, Lot 3 DP 841170 and Lots 3 and 4 DP 877668.**
- 2 That Council authorise the payment of compensation if necessary for the acquisition of the easement in Item 1 in accordance with the Land Acquisition (Just Terms Compensation) Act 1991 and based on assessment by a qualified valuer.**
- 3 That Council proceed to compulsorily acquire the easement in Item 1 in the event that negotiations with the property owners cannot be satisfactorily resolved.**
- 4 That Council authorise the Common Seal of Wyong Shire Council to be affixed to all documents as required to implement the compulsory acquisition.**
- 5 That Council authorise the Mayor and General Manager to execute all documents relating to the Transfer and/or Plan and all documents relating to the applications to the Department of Local Government.**

11.2 Proposed Acquisition - Land at Ourimbah

- 1 That Council authorise the purchase of Lots 13 and 15 DP 4097 Pryor Road Ourimbah for a purchase price up to an amount assessed by a qualified valuer.**
- 2 That Council authorise the General Manager to bid at auction taking account of Council's valuation.**
- 3 That Council authorise the affixing of the Common Seal of the Wyong Shire Council to all documents relating to the acquisition of the land by Council.**
- 4 That Council authorise the Mayor and the General Manager to execute all documents relating to the acquisition of the land by Council.**

- 5 That Council classify Lots 13 and 15 DP 4097 as Community Land and categorise the land as Natural Area – Bushland in the Plan of Management for community land.**
- 6 That Council exempt this motion from the provisions of the Code of Meeting Practice to allow the motion to be actioned from 9.00am on 9 July 2009 for the reason that the mortgagee in possession proposes an auction sale of the land to be held at 7:00pm on 9 July 2009.**

THERE BEING NO FURTHER BUSINESS, THE MEETING CLOSED AT 9.40 PM.

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CHAIRPERSON