
WYONG SHIRE COUNCIL
MINUTES OF THE
ORDINARY MEETING OF COUNCIL
HELD IN THE COUNCIL CHAMBER
WYONG CIVIC CENTRE, HELY STREET, WYONG
ON WEDNESDAY, 9 APRIL 2008,
COMMENCING AT 5.02 PM

PRESENT

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

IN ATTENDANCE

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

THE MAYOR REPORTED THAT:

- * THIS MORNING HE HAD THE HONOUR OF MEETING WITH THE GOVERNOR OF NEW SOUTH WALES, PROFESSOR MARIE BASHIR AND HER HUSBAND SIR NICHOLAS SHEHADIE WHO ATTENDED THE TOUKLEY SENIOR CITIZENS CENTRE FOR A LUNCHEON TO CELEBRATE THE TOUKLEY SENIOR CITIZENS ASSOCIATION'S 30TH ANNIVERSARY.
- * IT WAS WITH REGRET THAT HE LEARNED OF THE PASSING OF, MR FRANK BORSOVA, AN ENVIRONMENTAL EDUCATOR AND ADVOCATE FROM TOUKLEY. FRANK WORKED TIRELESSLY FOR THE ENVIRONMENT AND WAS INVOLVED IN WORK FOR LAND CARE AT CANTON BEACH AND WAS ESPECIALLY CONCERNED ABOUT THE DISAPPEARING FROG POPULATION AND THE THREATS TO ENDANGERED FROG COLONIES.

COUNCIL HAS EXTENDED CONDOLENCES TO MRS BORSOVA AND FAMILY AND ALSO THROUGH TO THE BUDGEWOI PROGRESS ASSOCIATION.

COUNCIL OBSERVED A ONE MINUTE SILENCE IN REMEMBRANCE OF MR FRANK BORSOVA.

COUNCILLOR GRAHAM NOTED THAT COUNCIL'S MANAGER ESTUARY MANAGEMENT, SIAN FAWCETT, GAVE BIRTH TO A BABY GIRL YESTERDAY, AND THE MAYOR EXTENDED COUNCIL'S CONGRATULATIONS TO SIAN.

THE MAYOR, COUNCILLOR W J WELHAM, DECLARED THE MEETING OPEN AT 5.02 PM, ADVISED THAT THE MEETING IS BEING RECORDED AND PASTOR JOHN BETTS DELIVERED THE OPENING PRAYER.

APOLOGIES

APOLOGIES FOR THE INABILITY TO ATTEND THE MEETING WERE RECEIVED ON BEHALF OF COUNCILLOR BEST WHO IS ON A FAMILY HOLIDAY AND COUNCILLOR PAVIER WHO IS UNABLE TO ATTEND DUE TO WORK COMMITMENTS.

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

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

Minutes of the Ordinary Meeting of Council held on 9 April 2008 (contd)

143 Disclosures of Interest

F2008/00003 ED:MR

150 EXHIBITION OF DRAFT 2008/09 MANAGEMENT PLAN

COUNCILLOR ROSE DECLARED A NON-PECUNIARY INSIGNIFICANT CONFLICT OF INTEREST IN THE MATTER FOR THE REASON THAT HE IS CURRENTLY EMPLOYED ON A PART TIME BASIS BY THE OFFICE OF DOBELL AND PARTICIPATED IN CONSIDERATION OF THIS MATTER.

COUNCILLOR ROSE STATED:

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

150A MOTION OF URGENCY – PROPOSAL BY ENERGYAUSTRALIA TO INSTALL HIGH VOLTAGE OVERHEAD POWER LINES

COUNCILLOR EATON DECLARED A NON-PECUNIARY INSIGNIFICANT CONFLICT OF INTEREST IN THE MATTER FOR THE REASON THAT HE PROVIDED PRO BONO LEGAL SERVICES TO THE RESIDENTS GROUP 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 MY PUBLIC DUTY AND PRIVATE DUTY ARE IN HARMONY NOT IN CONFLICT."

150A MOTION OF URGENCY – PROPOSAL BY ENERGYAUSTRALIA TO INSTALL HIGH VOLTAGE OVERHEAD POWER LINES

THE DIRECTOR SHIRE PLANNING DECLARED A NON-PECUNIARY SIGNIFICANT CONFLICT OF INTEREST IN THE MATTER, FOR THE REASON THAT SHE IS A RESIDENT OF THIS AREA AND HAS REPRESENTED HER STREET AS A MEMBER OF THE RESIDENT FOCUS GROUP ADVISING ENERGYAUSTRALIA, REMAINED IN THE CHAMBER BUT DID NOT PARTICIPATE IN CONSIDERATION OF THIS MATTER.

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

That the report be received and advice of disclosures noted.

144 Proposed Inspections

F2008/00003 ED:MR

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

That the report on inspections to be conducted on Wednesday, 23 April 2008 be received and the information noted.

Minutes of the Ordinary Meeting of Council held on 9 April 2008 (contd)

145 Proposed Briefings

F2008/00003 ED:MR

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

That the report be received and the information noted.

146 Address by Invited Speakers

F2008/00003 ED:MR

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

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

147 Confirmation of Minutes of Previous Meeting

F2008/00003 ED:MR

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

That the minutes of the previous Ordinary Meeting of Council held on 26 March 2008 be received and confirmed.

BUSINESS ARISING FROM THE MINUTES

THERE WAS NO BUSINESS ARISING FROM THE MINUTES.

Minutes of the Ordinary Meeting of Council held on 9 April 2008 (contd)

**148 82A Review of Proposed Service Station - Lot 1 DP 1104659
Pacific Highway, Palmdale**

DA/2120/2006 MLG:MLG

It was MOVED by Councillor STEVENS and SECONDED by Councillor ROSE:

- 1 That the application for reconsideration under Section 82A not be supported and Council adhere to the previous decision to refuse the application.*
- 2 That those who made written submissions be advised of the decision.*
- 3 That the subject site be given consideration for rezoning to enable its use as a service station as part of the comprehensive Local Environmental Plan 1991 review.*

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

That this matter be deferred for further legal advice on the existing use issue and how Council may be able to approve this application on that basis.

FOR: COUNCILLORS EATON, GRAHAM, STEWART AND VEUGEN.

AGAINST: COUNCILLORS FORSTER, ROSE, STEVENS AND WELHAM.

The AMENDMENT was put to the vote and declared LOST on the CASTING VOTE OF THE MAYOR.

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

- 1 That the application for reconsideration under Section 82A not be supported and Council adhere to the previous decision to refuse the application.***
- 2 That those who made written submissions be advised of the decision.***
- 3 That the subject site be given consideration for rezoning to enable its use as a service station as part of the comprehensive Local Environmental Plan 1991 review.***

FOR: COUNCILLORS FORSTER, ROSE, STEVENS AND WELHAM.

AGAINST: COUNCILLORS EATON, GRAHAM, STEWART AND VEUGEN.

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

Minutes of the Ordinary Meeting of Council held on 9 April 2008 (contd)

149 Proposed Acquisitions of Private Land Part Lot 0 SP 6571 and Part Lot A DP 364571 Corner Ocean Parade and Fairport Avenue, The Entrance for a Roundabout

F2008/00520 and F2008/00521 SB

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

- 1 That Council acquire part of Lot 0 SP 6571 and part of Lot A DP 364571 at the corner of Ocean Parade and Fairport Avenue, The Entrance as public road.***
- 2 That Council authorise the payment of compensation if necessary for the acquisition of the land 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 land 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 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.***
- 5 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 the applications to the Department of Local Government.***

150 Exhibition of Draft 2008/09 Management Plan

F2004/07006 BR

COUNCILLOR ROSE DECLARED A NON-PECUNIARY INSIGNIFICANT CONFLICT OF INTEREST IN THE MATTER FOR THE REASON THAT HE IS CURRENTLY EMPLOYED ON A PART TIME BASIS BY THE OFFICE OF DOBELL AND PARTICIPATED IN CONSIDERATION OF THIS MATTER.

COUNCILLOR ROSE STATED:

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

THE GENERAL MANAGER ADVISED THAT MINISTER FOR LOCAL GOVERNMENT HAS ANNOUNCED AN AMENDED RATE PEGGING LIMIT OF 3.2% WHILST THE MANAGEMENT PLAN WAS BASED ON 3.5%. THIS AMENDMENT WOULD RESULT IN A SHORTFALL OF \$160,000. THE GENERAL MANAGER RECOMMENDED THAT THE DRAFT 2008/09 MANAGEMENT PLAN BE EXHIBITED AND AMENDMENTS TO EXPENDITURE BE MADE PRIOR TO RESUBMISSION TO COUNCIL.

Minutes of the Ordinary Meeting of Council held on 9 April 2008 (contd)

It was MOVED by Councillor WELHAM and SECONDED by Councillor STEWART:

That the Draft 2008/09 Management Plan be adopted for the purpose of public exhibition in accordance with Section 405 of the Local Government Act 1993.

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

1 That the Draft 2008/2009 Management Plan be amended to include contingent funding for the Performing Arts Centre of \$2 million from land sales contingent upon the current review of the project by staff.

2 That the Draft 2008/09 Management Plan as amended be adopted for public exhibition.

FOR: COUNCILLORS EATON, GRAHAM AND VEUGEN.

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

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

That the Draft 2008/09 Management Plan be adopted for the purpose of public exhibition in accordance with Section 405 of the Local Government Act 1993.

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

AGAINST: COUNCILLORS EATON, GRAHAM AND VEUGEN.

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

That standing orders be suspended to introduce a Motion of Urgency.

LEAVE TO INTRODUCE A MOTION OF URGENCY

COUNCILLOR EATON SOUGHT TO INTRODUCE A MOTION OF URGENCY CONCERNING A PROPOSAL BY ENERGYAUSTRALIA TO INSTALL HIGH VOLTAGE OVERHEAD POWER LINES ALONG TUMBI ROAD.

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

That Council consider a MOTION OF URGENCY regarding a proposal by EnergyAustralia to install high voltage overhead power lines in the Tumby Road area.

THE MAYOR RULED THAT THE MATTER WAS OF GREAT URGENCY.

Minutes of the Ordinary Meeting of Council held on 9 April 2008 (contd)

150A Motion of Urgency – Proposal by EnergyAustralia to install high voltage overhead power lines

F2006/00475

COUNCILLOR EATON DECLARED A NON-PECUNIARY INSIGNIFICANT CONFLICT OF INTEREST IN THE MATTER FOR THE REASON THAT HE PROVIDED PRO BONO LEGAL SERVICES TO THE RESIDENTS GROUP 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 MY PUBLIC DUTY AND PRIVATE DUTY ARE IN HARMONY NOT IN CONFLICT."

THE DIRECTOR SHIRE PLANNING DECLARED A NON-PECUNIARY SIGNIFICANT CONFLICT OF INTEREST IN THE MATTER, FOR THE REASON THAT SHE IS A RESIDENT OF THIS AREA AND HAS REPRESENTED HER STREET AS A MEMBER OF THE RESIDENT FOCUS GROUP ADVISING ENERGYAUSTRALIA, REMAINED IN THE CHAMBER BUT DID NOT PARTICIPATE IN CONSIDERATION OF THIS MATTER.

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

- 1 That Council inform EnergyAustralia that it does not consent as landowner and / or occupier to the installation of aerial cabling and poles for high voltage transmission lines along Tumbi Road and that EnergyAustralia is trespassing by any use of the road verges for its electricity works.***
- 2 That Council inform EnergyAustralia that it should acquire the land or an interest in land in accordance with Clause 44 of the Electricity Supply Act and it requires EnergyAustralia to cease trespass on its land pending acquisition of such an interest.***
- 3 That all Central Coast Members of Parliament be advised of this action.***
- 4 That Gosford City Council be urgently advised of part 1 to 3 of this motion.***

THE MEETING WAS ADJOURNED AT 6.36 PM AND RESUMED AT 6.41 PM

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

That the balance of the paper be dealt with by the exception method.

Minutes of the Ordinary Meeting of Council held on 9 April 2008 (contd)

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

That the balance of the paper, with the exception of report numbers 151, 153, 157 and 158, be received and the recommendations adopted.

**151 Development Servicing Plan No. 15 - Water Supply and Sewerage
for Lot 401 in DP 1058215 within the Gorokan District**

F2007/01228: IN:IN

COUNCILLOR VEUGEN LEFT THE CHAMBER AT 6.43 PM AND RETURNED TO THE CHAMBER AT 6.52 PM AND AS A RESULT TOOK NO PART IN VOTING.

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

- 1 *That the draft Development Servicing Plan No. 15 related to Lot 401 in DP 1058215 be placed on public exhibition for thirty (30) working days.***
- 2 *That should no significant objections be received as a result of the public exhibition, the draft Development Servicing Plan No, 15 related to Lot 401 in DP 1058215 be adopted and appropriate public notice be given.***
- 3 *That the new water supply and sewerage contributions related to Lot 401 in DP 1058215 to be effective as of 1 July 2008.***

152 Amended Schedule of Ordinary Meetings 2008

F2006/02282 SG

COUNCILLOR VEUGEN LEFT THE CHAMBER AT 6.43 PM AND RETURNED TO THE CHAMBER AT 6.52 PM AND AS A RESULT TOOK NO PART IN VOTING.

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

That the amended meeting dates proposed for 2008 be adopted.

Minutes of the Ordinary Meeting of Council held on 9 April 2008 (contd)

153 Supportership/Sponsorship of Graffiti Hurts - Australia

F2004/07937 SG

COUNCILLOR VEUGEN LEFT THE CHAMBER AT 6.43 PM AND RETURNED TO THE CHAMBER AT 6.52 PM AND AS A RESULT TOOK NO PART IN VOTING.

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

- 1 That an annual supportership/sponsorship of \$2,500 be provided to the Graffiti Hurts - Australia Official Campaign Launch on 10 April 2008.**
- 2 That the funds be made available from the Community Benefits Grants Program for 2007/2008.**

154 Schedules of Bank Balances and Investments – January & February 2008

F2004/06604 HS

COUNCILLOR VEUGEN LEFT THE CHAMBER AT 6.43 PM AND RETURNED TO THE CHAMBER AT 6.52 PM AND AS A RESULT TOOK NO PART IN VOTING.

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

That the report be received and the information noted.

155 Outstanding Questions Without Notice and Notices of Motion

F2008/00003 MW:SW

COUNCILLOR VEUGEN LEFT THE CHAMBER AT 6.43 PM AND RETURNED TO THE CHAMBER AT 6.52 PM AND AS A RESULT TOOK NO PART IN VOTING.

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

That the report be received and the information noted.

Minutes of the Ordinary Meeting of Council held on 9 April 2008 (contd)

156 Notice of Motion - Upgrade of Pacific Highway Roundabout at Wyong Road, Tuggerah

F2004/13054 DJE

COUNCILLOR VEUGEN LEFT THE CHAMBER AT 6.43 PM AND RETURNED TO THE CHAMBER AT 6.52 PM AND AS A RESULT TOOK NO PART IN VOTING.

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

- 1 *That Council resolve that the next major road improvement required on state roads within the Shire be the Pacific Highway Roundabout at Wyong Road, Tuggerah.*
- 2 *That this resolution be conveyed to the Roads and Traffic Authority and Local State Members.*

157 Notice of Motion - Corridor for Future Rail Track Upgrades

F2004/06709 DJE

COUNCILLOR VEUGEN LEFT THE CHAMBER AT 6.43 PM AND RETURNED TO THE CHAMBER AT 6.52 PM AND AS A RESULT TOOK NO PART IN VOTING.

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

That Council request Cityrail (or appropriate State Government Rail Authority) to confirm it no longer requires a wider corridor through places like Ourimbah and what this decision means for future track upgrades and improved services such as the fast train.

158 Notice of Motion – Chikarovski Mining Inquiry Report

F2004/07086 DJE

COUNCILLOR VEUGEN RETURNED TO THE CHAMBER AT 6.52 PM DURING CONSIDERATION OF THIS ITEM.

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

- 1 *That Council reiterate its call for the immediate release of the Chikarovski Report.*
- 2 *That Council publish a newspaper advertisement to this effect.*
- 3 *That Council request all State Government Local Members to pressure the Minister for Planning to have this Report released.*

Minutes of the Ordinary Meeting of Council held on 9 April 2008 (contd)

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

That Council reiterate its call for the immediate release of the Chikarovski Report.

The AMENDMENT was put to the vote and declared CARRIED.

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

AGAINST: COUNCILLORS EATON AND VEUGEN.

The AMENDMENT then became the MOTION.

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

That Council reiterate its call for the immediate release of the Chikarovski Report.

THERE BEING NO FURTHER BUSINESS, THE MEETING CLOSED AT 6.59 PM.

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CHAIRPERSON