
WYONG SHIRE COUNCIL
MINUTES OF THE
ORDINARY MEETING OF COUNCIL
HELD IN THE COUNCIL CHAMBER
WYONG CIVIC CENTRE, HELY STREET, WYONG
ON WEDNESDAY, 9 MAY 2007,
COMMENCING AT 5.03 PM

PRESENT

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

IN ATTENDANCE

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

THE MAYOR, COUNCILLOR R L GRAHAM, DECLARED THE MEETING OPEN AT 5.03 PM AND PASTOR CHRIS RUBY READ THE OPENING PRAYER.

APOLOGIES

THERE WERE NO APOLOGIES.

THE REPORTS WERE CONSIDERED IN THEIR CORRECT AGENDA SEQUENCE.

Minutes of the Ordinary Meeting of Council held on 9 May 2007 (contd)

165 Disclosure of Interests

F2006/02282 ED:MR

180 PROPOSED COUNCILLORS' COMMUNITY IMPROVEMENT GRANTS

COUNCILLOR PAVIER DECLARED A PECUNIARY CONFLICT OF INTEREST IN THE MATTER FOR THE REASON THAT HIS FAMILY HAS BEEN ASKED TO QUOTE FOR AMUSEMENTS FOR ONE OF THE APPLICANTS IN THE REPORT, LEFT THE CHAMBER AT 6.28 PM, TOOK NO PART IN DISCUSSION, DID NOT VOTE AND RETURNED TO THE CHAMBER AT 6.30 PM.

180 PROPOSED COUNCILLORS' COMMUNITY IMPROVEMENT GRANTS

COUNCILLOR BEST DECLARED AN INSIGNIFICANT NON-PECUNIARY CONFLICT OF INTEREST IN THE MATTER FOR THE REASON THAT HIS FATHER IS A MEMBER OF THE ASBESTOS DISEASE FOUNDATION 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 THIS IS A MINOR MATTER."

185 COMMUNITY BENEFIT GRANTS PANEL – 11 APRIL 2007

COUNCILLOR WELHAM DREW ATTENTION TO ITEM NO CBG04 OF THE MINUTES OF THE COMMUNITY BENEFITS GRANTS PANEL – 11 APRIL 2007 WHICH WERE ATTACHED TO REPORT NO 185 – COMMUNITY BENEFITS GRANTS PANEL. THESE MINUTES INCORRECTLY STATE THAT "HE DECLARED AN INSIGNIFICANT CONFLICT IN RELATION TO THE SAN REMO COMMUNITY ENVIRONMENT PROJECT INC" - WHEN HE ACTUALLY STATED THAT IT BE NOTED THAT HE WAS THE MAYOR'S REPRESENTATIVE OF THAT COMMITTEE AND THEREFORE DID NOT NEED TO MAKE AN INSIGNIFICANT CONFLICT OF INTEREST DECLARATION.

Note: The Minutes have been amended accordingly.

W003 DEED OF AGREEMENT WITH F HANNAN PTY LTD

COUNCILLOR EATON DECLARED A PECUNIARY CONFLICT OF INTEREST IN THE MATTER FOR THE REASON THAT HE IS THE SOLICITOR FOR TWO RESPONDENTS IN A COURT CASE WITH F HANNAN, LEFT THE CHAMBER AT 7.50 PM, TOOK NO PART IN DISCUSSION, DID NOT VOTE AND RETURNED TO THE CHAMBER AT 8.10 PM.

W003 DEED OF AGREEMENT WITH F HANNAN PTY LTD

COUNCILLOR ROSE DECLARED AN INSIGNIFICANT NON-PECUNIARY CONFLICT OF INTEREST IN THE MATTER FOR THE REASON THAT F HANNAN MADE A SMALL DONATION TO THE AUSTRALIAN LABOUR PARTY LOCAL GOVERNMENT CAMPAIGN 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 BECAUSE THE DONATION WAS MADE TO THE AUSTRALIAN LABOR PARTY AND I DID NOT BENEFIT DIRECTLY."

Minutes of the Ordinary Meeting of Council held on 9 May 2007 (contd)

W003 DEED OF AGREEMENT WITH F HANNAN PTY LTD

COUNCILLOR FORSTER DECLARED AN INSIGNIFICANT NON-PECUNIARY CONFLICT OF INTEREST IN THE MATTER FOR THE REASON THAT F HANNAN MADE A DONATION TO THE AUSTRALIAN LABOUR PARTY ELECTION CAMPAIGN (LOCAL GOVERNMENT 2004) AND PARTICIPATED IN CONSIDERATION OF THIS MATTER.

COUNCILLOR FORSTER 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 DONATION WAS OF A RELATIVELY SMALL AMOUNT, WITHOUT ANY DISCUSSION OR EXPECTATIONS ATTACHED."

W003 DEED OF AGREEMENT WITH F HANNAN PTY LTD

COUNCILLOR WELHAM DECLARED AN INSIGNIFICANT NON-PECUNIARY CONFLICT OF INTEREST IN THE MATTER FOR THE REASON THAT F HANNAN MADE A SMALL DONATION TO THE AUSTRALIAN LABOUR PARTY ELECTION CAMPAIGN (LOCAL GOVERNMENT 2004) AND PARTICIPATED IN CONSIDERATION OF THIS MATTER.

COUNCILLOR WELHAM 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 CONTRIBUTION WAS RELATIVELY SMALL IN THE CONTEXT OF THE TOTAL CAMPAIGN BUDGET AND AT NO TIME WAS THERE ANY EXPECTATIONS ATTACHED TO THE DONATION."

W004 LAND AND ENVIRONMENT COURT PROCEEDINGS 10139 OF 2007: 708 PACIFIC HIGHWAY, HAMLIN TERRACE – DA/1482/2006

COUNCILLOR EATON DECLARED A SIGNIFICANT NON PECUNIARY CONFLICT OF INTEREST IN THE MATTER FOR THE REASON THAT THE APPLICANT AND FAMILY COMPANY HAVE CONTRACTUAL ISSUES, LEFT THE CHAMBER AT 7.50 PM, TOOK NO PART IN DISCUSSION, DID NOT VOTE AND RETURNED TO THE CHAMBER AT 8.10 PM.

178 POSITION OF GENERAL MANAGER

THE GENERAL MANAGER, MR KERRY YATES DECLARED A PECUNIARY INTEREST IN THE MATTER FOR THE REASON THAT IT IS HIS CONTRACT AND HE DID NOT PARTICIPATE IN CONSIDERATION OF THIS MATTER.

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

That the report be received and advice of disclosures noted.

Minutes of the Ordinary Meeting of Council held on 9 May 2007 (contd)

166 Proposed Inspections

F2006/02282 ED:MR

COUNCILLOR BEST LEFT THE CHAMBER AT 5.08 PM AND RETURNED TO THE CHAMBER AT 5.09 PM AND AS A RESULT TOOK NO PART IN VOTING.

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

That the report on inspections to be conducted on Wednesday, 23 May 2007 be received and the information noted.

167 Proposed Briefings

F2006/02282 ED:MR

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

That the report be received and the information noted.

168 Address by Invited Speakers

F2006/02282 ED:MR

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

- 1 That the report on Invited Speakers be received and the information noted.***
- 2 That, should speakers be present at the meeting, standing orders be varied to allow each item to be dealt with following the speaker's address.***

169 Notice of Intention to Deal With Matters in Confidential Session

F2006/02282 ED:MR

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

- 1 That pursuant to Sections 10A(2)(c), 10A(2)(d)(ii) and 10A(2)(g) of the Local Government Act, 1993, the following reports be dealt with in Confidential Session:**
 - W002 - Proposed Purchase of Land at 192 Virginia Road, Hamlyn Terrace for Drainage and Wildlife Corridor**
 - W003 - Deed of Agreement with F Hannan Pty Ltd**
 - W004 - Land and Environment Court Proceedings 10139 of 2007: 708 Pacific Highway, Hamlyn Terrace – DA/1482/2006**
 - W005 - Acquisition of Woongarra Sportsfields – Lots 85A and 86A DP 228337 Hakone Road, Woongarra.**
- 2 That the reason for dealing with the Report No W002 confidentially is that it is information that would, if disclosed, confer a commercial information of a confidential nature that would, if disclosed confer a commercial advantage on a competitor of the Council.**
- 3 That the reason for dealing with Report No W003 and W004 confidentially is 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 the reason for dealing with the Report No W005 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.**
- 5 That, in accordance with the Council resolution, the General Manager will report on these matters to the meeting in Confidential Session.**

CONFIDENTIAL SESSION

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

That Council move into Confidential Session with the press and public excluded, to consider the following reports:

Minutes of the Ordinary Meeting of Council held on 9 May 2007 (contd)

W002- Proposed Purchase of Land at 192 Virginia Road, Hamlyn Terrace for Drainage and Wildlife Corridor

W003- Deed of Agreement with F Hannan Pty Ltd

W004- Land and Environment Court Proceedings 10139 of 2007: 708 Pacific Highway, Hamlyn Terrace – DA/1482/2006

W005 - Acquisition of Woongarra Sportsfields – Lots 85A and 86A DP 228337 Hakone Road, Woongarra

for the reasons contained in Report No 169 - Notice of Intention to Deal with Matters in Confidential Session.

OPEN SESSION

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

That Council resume in Open Session.

THE GENERAL MANAGER REPORTED ON PROCEEDINGS OF THE CONFIDENTIAL SESSION OF THE ORDINARY MEETING OF COUNCIL AS FOLLOWS:

W002 Proposed Purchase of Land at 192 Virginia Road, Hamlyn Terrace for Drainage and Wildlife Corridor

F2007/00210 JMT

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

- 1 That Council authorise the purchase of Lot 1 DP 130423 at 192 Virginia Road, Hamlyn Terrace and that the General Manager be authorised to bid at auction taking account of Council's valuation.***
- 2 That Council authorise the Common Seal of the Wyong Shire Council to be affixed to the Contract and Transfer between the Wyong Shire Council (as purchaser) and the Wyong Shire Council (as vendor).***
- 3 That Council authorise the Mayor and the General Manager to execute all documents relating to the Contract and Transfer between the Wyong Shire Council (as purchaser) and the Wyong Shire Council (as vendor).***
- 4 That Council propose classification of Lot 1 DP 130423 as Operational Land.***

Minutes of the Ordinary Meeting of Council held on 9 May 2007 (contd)

- 5 ***That the proposed classification be advertised in accordance with Section 34 of the Local Government Act 1993.***
- 6 ***That, if no adverse submissions are received, the classification be confirmed.***

W003 Deed of Agreement with F Hannan Pty Ltd

F2004/08355 DSS:RE

COUNCILLOR EATON DECLARED A PECUNIARY CONFLICT OF INTEREST IN THE MATTER FOR THE REASON THAT HE IS THE SOLICITOR FOR TWO RESIDENTS IN COURT CASE WITH F HANNAN, LEFT THE CHAMBER AT 7.50 PM, TOOK NO PART IN DISCUSSION, DID NOT VOTE AND RETURNED TO THE CHAMBER AT 8.10 PM.

COUNCILLOR ROSE DECLARED AN INSIGNIFICANT NON-PECUNIARY CONFLICT OF INTEREST IN THE MATTER FOR THE REASON THAT F HANNAN MADE A SMALL DONATION TO THE AUSTRALIAN LABOUR PARTY LOCAL GOVERNMENT CAMPAIGN AND PARTICIPATED IN CONSIDERATION OF THIS MATTER.

COUNCILLOR ROSE STATED:

"I CHOOSE TO REMAIN IN CHAMBER AND PARTICIPATE IN DISCUSSION AND VOTING AS THE CONFLICT HAS NOT INFLUENCED ME IN CARRYING OUT MY PUBLIC DUTY BECAUSE THE DONATION WAS MADE TO THE AUSTRALIAN LABOR PARTY AND I DID NOT BENEFIT DIRECTLY"

COUNCILLOR FORSTER DECLARED AN INSIGNIFICANT NON-PECUNIARY CONFLICT OF INTEREST IN THE MATTER FOR THE REASON THAT F HANNAN MADE A DONATION TO THE AUSTRALIAN LABOUR PARTY ELECTION CAMPAIGN (LOCAL GOVERNMENT 2004) AND PARTICIPATED IN CONSIDERATION OF THIS MATTER.

COUNCILLOR FORSTER STATED:

"I CHOOSE TO REMAIN IN CHAMBER AND PARTICIPATE IN DISCUSSION AND VOTING AS THE CONFLICT HAS NOT INFLUENCED ME IN CARRYING OUT MY PUBLIC DUTY BECAUSE THE DONATION WAS OF A RELATIVELY SMALL AMOUNT, WITHOUT ANY DISCUSSION OR EXPECTATIONS ATTACHED"

COUNCILLOR WELHAM DECLARED AN INSIGNIFICANT NON-PECUNIARY CONFLICT OF INTEREST IN THE MATTER FOR THE REASON THAT F HANNAN MADE A SMALL DONATION TO THE AUSTRALIAN LABOUR PARTY ELECTION CAMPAIGN (LOCAL GOVERNMENT 2004) AND PARTICIPATED IN CONSIDERATION OF THIS MATTER

COUNCILLOR WELHAM STATED:

"I CHOOSE TO REMAIN IN CHAMBER AND PARTICIPATE IN DISCUSSION AND VOTING AS THE CONFLICT HAS NOT INFLUENCED ME IN CARRYING OUT MY PUBLIC DUTY BECAUSE THE CONTRIBUTION RELATIVELY SMALL IN THE CONTEXT OF THE TOTAL CAMPAIGN BUDGET AND AT NO TIME WAS THERE ANY EXPECTATIONS ATTACHED TO THE DONATION."

Minutes of the Ordinary Meeting of Council held on 9 May 2007 (contd)

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

- 1 That Council authorise the Common Seal of Wyong Shire Council to be affixed to the final Deed of Agreement between Wyong Shire Council and F Hannan Pty Ltd.**
- 2 That Council authorise the Mayor and the General Manager to execute all documents relating to the final Deed of Agreement between Wyong Shire Council and F Hannan Pty Ltd.**

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

AGAINST: COUNCILLORS BEST AND VEUGEN.

**W004 Land and Environment Court Proceedings 10139 of 2007: 708
Pacific Highway, Hamlyn Terrace – DA/1482/2006**

DA/1482/2006

COUNCILLOR EATON DECLARED A SIGNIFICANT NON PECUNIARY CONFLICT OF INTEREST IN THE MATTER FOR THE REASON THAT THE APPLICANT AND FAMILY COMPANY HAVE CONTRACTUAL ISSUES, LEFT THE CHAMBER AT 7.50 PM, TOOK NO PART IN DISCUSSION, DID NOT VOTE AND RETURNED TO THE CHAMBER AT 8.10 PM.

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

- 1 That the report and legal advice be received and information noted.**
- 2 That Council enter into Consent Orders for the Court to issue consent for the development.**
- 3 That the General Manager be authorised to action Council's decision; including the imposition of appropriate conditions.**

Minutes of the Ordinary Meeting of Council held on 9 May 2007 (contd)

**W005 Acquisition of Woongarra Sportsfields – Lots 85A and 86A,
DP 228337 Hakone Road, Woongarra**

F2004/08355 DJM:RE

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

- 1 That Council authorise the acquisition of Lots 85A and 86A DP 228337 Hakone Road, Woongarra (total area 5.82ha) for the amount and on the terms set out in this report.**
- 2 That Council propose classification of Lots 85A and 86A DP 228337 Hakone Road, Woongarra as Operational Land.**
- 3 That the proposal be advertised in accordance with Section 34 of the Local Government Act, 1993.**
- 4 That, if no adverse submissions are received, the classification be confirmed.**
- 5 That Council authorise for the Common Seal of the Wyong Shire Council to be affixed to the Transfer between the owner of Lots 85A and 86A DP 228337 Hakone Road, Woongarra and Wyong Shire Council.**
- 6 That Council authorise the Mayor and the General Manager to execute all documents relating to the Transfer between the Wyong Shire Council and the owner of Lots 85A and 86A DP 228337 Hakone Road, Woongarra.**
- 7 That Council's Section 149 Certificates be noted.**

170 Confirmation of Minutes of Previous Meeting

F2006/02282 ED:MR

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

That the minutes of the previous Ordinary Meeting of Council held on 11 April 2007 be received and confirmed.

BUSINESS ARISING FROM THE MINUTES

Councillor PAVIER asked with regard to Report 155 – Conferences 2007 that he be provided with information on Councillor voting recorded when Council last considered its policy on attendance at Conferences.

171 Proposed Development at Catherine Hill Bay

DA/734/2005 JLC:JLC

THIS ITEM WAS WITHDRAWN**172 Borg Manufacturing - Deed of Agreement**

DA/545/2006 WKW

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

- 1 That Council endorse the creation of a Deed of Agreement.**
- 2 That Council authorise the common seal of Wyong Shire Council to be affixed to the Deed of Agreement between Wyong Shire Council, Borg Group Pty Ltd and Darren and Dianna Borg.**
- 3 That Council authorise the Mayor and General Manager to execute the deed of agreement.**

173 Tenders for CPA 116777 Lower Wyong River to Mardi Dam Transfer Upgrade Construction

CPA/116777

COUNCILLOR WELHAM LEFT THE CHAMBER AT 5.15 PM AND RETURNED TO THE CHAMBER AT 5.17 PM AND AS A RESULT TOOK NO PART IN VOTING.

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

- 1 That Council accept the Tender Alternative 1 of Diona Pty Ltd in the estimated Schedule of Rates amount of \$3,698,203.09 including GST (\$3,362,002.81 excluding GST).**
- 2 That Council approve a contingency amount of \$370,000 including GST (\$336,363.64 excluding GST), representing approximately 10% of the contract value, to provide for any unforeseen variations or additional works that may become necessary during the course of the project.**

Minutes of the Ordinary Meeting of Council held on 9 May 2007 (contd)

174 Contract CPA/94060 – Provision of Communication Services

CPA/94060 GJA:CM

COUNCILLOR WELHAM LEFT THE CHAMBER AT 5.15 PM AND RETURNED TO THE CHAMBER AT 5.17 PM.

It was MOVED by Councillor STEVENS and seconded by Councillor GRAHAM:

- 1 *That Council accept the offer tendered by Optus Pty Ltd for mobile voice services with call rates set for a period of two years with the option available to Council of two yearly extensions for a maximum of up to six years commencing on 1 April 2007. The expenditure is estimated to be \$107,000 per annum including GST however actual expenditure may vary significantly with fluctuations in demand.*
- 2 *That Council accept the offer tendered by Macquarie Telecom Pty Ltd for fixed landline services with call rates set for a period of two years with the option available to Council of two yearly extensions for a maximum of up to six years commencing on 1 April 2007. The expenditure, including Service and Equipment charges, is estimated to be \$532,000 per annum including GST however actual expenditure may vary significantly with fluctuations in demand.*
- 3 *That Council reject all of the tendered offers for Internet services and continue to utilise these services from the current supplier as none of the tenders received were competitive. Continuing to use the current arrangement represents the most cost effective solution for Council.*
- 4 *That Council defer the decision for Wide Area Network.*
- 5 *That Council approve the acquisition of "Gateway" technology to take advantage of the new mobile services offered by Optus.*

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

- 1 *That Council decline to accept any tender for mobile phone services and staff report back on this issue in conjunction with other tender processes outlined in the staff report.*
- 2 *That Council accept the offer tendered by Macquarie Telecom Pty Ltd for fixed landline services with call rates set for a period of two years with the option available to Council of two yearly extensions for a maximum of up to six years commencing on 1 April 2007. The expenditure, including Service and Equipment charges, is estimated to be \$532,000 per annum including GST however actual expenditure may vary significantly with fluctuations in demand.*
- 3 *That Council reject all of the tendered offers for Internet services and continue to utilise these services from the current supplier as none of the tenders received were competitive. Continuing to use the current arrangement represents the most cost effective solution for Council.*

Minutes of the Ordinary Meeting of Council held on 9 May 2007 (contd)

- 4 *That Council defer the decision for Wide Area Network.*
- 5 *That Council approve the acquisition of "Gateway" technology to take advantage of the new mobile services offered by Optus.*

FOR: COUNCILLORS EATON and WELHAM

AGAINST: COUNCILLORS BEST, FORSTER, GRAHAM, PAVIER, ROSE, STEVENS, STEWART AND VEUGEN.

The AMENDMENT was put to the VOTE and declared LOST.

The MOTION was put to the vote and declared CARRIED.

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

- 1 ***That Council accept the offer tendered by Optus Pty Ltd for mobile voice services with call rates set for a period of two years with the option available to Council of two yearly extensions for a maximum of up to six years commencing on 1 April 2007. The expenditure is estimated to be \$107,000 per annum including GST however actual expenditure may vary significantly with fluctuations in demand.***
- 2 ***That Council accept the offer tendered by Macquarie Telecom Pty Ltd for fixed landline services with call rates set for a period of two years with the option available to Council of two yearly extensions for a maximum of up to six years commencing on 1 April 2007. The expenditure, including Service and Equipment charges, is estimated to be \$532,000 per annum including GST however actual expenditure may vary significantly with fluctuations in demand.***
- 3 ***That Council reject all of the tendered offers for Internet services and continue to utilise these services from the current supplier as none of the tenders received were competitive. Continuing to use the current arrangement represents the most cost effective solution for Council.***
- 4 ***That Council defer the decision for Wide Area Network.***
- 5 ***That Council approve the acquisition of "Gateway" technology to take advantage of the new mobile services offered by Optus.***

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

AGAINST: COUNCILLORS EATON AND WELHAM.

Minutes of the Ordinary Meeting of Council held on 9 May 2007 (contd)

175 Transfer of Land at Chain Valley Bay

F2006/02266 JMT

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

- 1 That Council authorise action to seek vesting of Lot 390 DP 31564, Lloyd Avenue, Chain Valley Bay in Council as Drainage Reserve pursuant to Section 50 of the Local Government Act 1993.**
- 2 That Council publish a notice in the Government Gazette notifying that Lot 390 DP 31564 is vested in Council pursuant to Section 50 of the Local Government Act 1993.**
- 3 That Council authorise the Common Seal of Wyong Shire Council to be affixed to the Application to Record New Registered Proprietor.**
- 4 That Council authorise the Mayor and the General Manager to execute all documents relating to the Application to Record New Registered Proprietor.**
- 5 That Council propose classification of Lot 390 DP 31564 as Operational Land.**
- 6 That the proposal be advertised in accordance with Section 34 of the Local Government Act 1993.**
- 7 That, if no adverse submissions are received, the classification be adopted.**

176 Prospects for the Community Hall in Chittaway Road, Chittaway

F2006/00917 PF

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

- 1 That Council take no further action to secure the fulltime letting of the Community Hall in Chittaway Road.**
- 2 That Council continue with the existing weekly hire arrangements of the hall to the Hellenic Community of the Central Coast Inc.**
- 3 That a report be brought back outlining the procedure involved in reclassifying and rezoning this parcel of land from Community to Operational and that the report include an estimated value for the land parcel.**

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

AGAINST: COUNCILLORS BEST AND EATON.

177 Acquisition of Easement for Drainage at Gorokan

F2006/01487, F2006/01486 JMT

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

- 1 That Council acquire an easement for drainage of variable width over Lot 59 DP 232569 and Lot 579 DP 28352.**
- 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 the event that negotiations with the property owner 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.**

178 Position of General Manager

F2006/01686 RS:SM

THE GENERAL MANAGER, MR KERRY YATES DECLARED A PECUNIARY INTEREST IN THE MATTER FOR THE REASON THAT IT IS HIS CONTRACT AND HE DID NOT PARTICIPATE IN CONSIDERATION OF THIS MATTER.

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

- 1 That Council authorise the Common Seal of Wyong Shire Council to be affixed to the General Manager's contract of employment.**
- 2 That the Council authorise the Mayor and one Councillor to execute all documents relating to the General Manager's contract of employment.**

Minutes of the Ordinary Meeting of Council held on 9 May 2007 (contd)

179 Revised Code of Meeting Practice

F2004/06502 CTB

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

- 1 That Council adopt in principle the Revised Code of Meeting Practice and place it on public exhibition for 28 days in order to seek public comment, as required by section 361(2) and 361(3) of the Local Government Act, 1993.*
- 2 That Council receive public submissions on the Revised Code Of Meeting Practice for the mandatory 42 days, as required by section 361(4) of the Local Government Act, 1993.*
- 3 That a further report be brought back to Council following the exhibition.*
- 4 That the proposed minimum period of minutes set out in Council's Code of Meeting Practice prior to the consideration of a rescission motion on a resolution passed at the same Council Meeting, referred to in the second last paragraph of Page 87 of the report, be set at 30 minutes.*

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

- 1 That Council adopt in principle the Revised Code of Meeting Practice and place it on public exhibition for 28 days in order to seek public comment, as required by section 361(2) and 361(3) of the Local Government Act, 1993.*
- 2 That Council receive public submissions on the Revised Code Of Meeting Practice for the mandatory 42 days, as required by section 361(4) of the Local Government Act, 1993.*
- 3 That a further report be brought back to Council following the exhibition.*
- 4 That the proposed minimum period of minutes set out in Council's Code of Meeting Practice prior to the consideration of a rescission motion on a resolution passed at the same Council Meeting, referred to in the second last paragraph of Page 87 of the report, be changed to 30 minutes.*
- 5 That the suggestion, outlined on Page 88 of the report under proposed changes to Clause 33 of the Code of Meeting Practice, to have no speakers on Notices of Motion and Rescission Motions be adopted.*
- 6 That the time limit set, on Page 88 of the report, for speakers to talk and for any questions to the speakers be set at 30 minutes.*
- 7 That there be no change to Councillor Briefings.*

Minutes of the Ordinary Meeting of Council held on 9 May 2007 (contd)

The AMENDMENT was put to the VOTE and declared LOST.

FOR: COUNCILLORS STEVENS AND STEWART.

AGAINST: COUNCILLORS BEST, EATON, FORSTER, GRAHAM, PAVIER, ROSE, VEUGEN AND WELHAM.

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

- 1 *That Council adopt in principle the Revised Code of Meeting Practice and place it on public exhibition for 28 days in order to seek public comment, as required by section 361(2) and 361(3) of the Local Government Act, 1993.*
- 2 *That Council receive public submissions on the Revised Code of Meeting Practice for the mandatory 42 days, as required by section 361(4) of the Local Government Act, 1993.*
- 3 *That a further report be brought back to Council following the exhibition.*
- 4 *That paragraph 3 of Section 33 (2) on page 34 of the Draft Code of Meeting Practice be deleted.*
- 5 *That the proposal to allow rescission motions within the same meeting not proceed.*
- 6 *That there be no change to Councillor Briefings.*

The AMENDMENT was put to the VOTE and declared LOST.

FOR: COUNCILLORS PAVIER, STEVENS AND WELHAM.

AGAINST: COUNCILLORS BEST, EATON, FORSTER, GRAHAM, ROSE, STEWART AND VEUGEN.

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

- 1 *That Council adopt in principle the Revised Code of Meeting Practice and place it on public exhibition for 28 days in order to seek public comment, as required by section 361(2) and 361(3) of the Local Government Act, 1993.*
- 2 *That Council receive public submissions on the Revised Code Of Meeting Practice for the mandatory 42 days, as required by section 361(4) of the Local Government Act, 1993.*
- 3 *That a further report be brought back to Council following the exhibition.*

Minutes of the Ordinary Meeting of Council held on 9 May 2007 (contd)

- 4 *That Section 39 part 9 of the Code of Meeting Practice be deleted.*
- 5 *That the suggestion, outlined on Page 88 of the report under proposed changes to Clause 33 of the Code of Meeting Practice, to have no speakers on Notices of Motion and Rescission Motions be adopted.*
- 6 *That the time limit set, on Page 88 of the report, for speakers to talk and for any questions to the speakers be set at 30 minutes.*
- 7 *That there be no change to Councillor briefings.*
- 8 *That paragraph 3 of Section 33 (2) on page 34 of the Draft Code Of Meeting Practice be deleted.*

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

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

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

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

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

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

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

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

- 1 ***That Council adopt in principle the Revised Code of Meeting Practice and place it on public exhibition for 28 days in order to seek public comment, as required by section 361(2) and 361(3) of the Local Government Act, 1993.***
- 2 ***That Council receive public submissions on the Revised Code Of Meeting Practice for the mandatory 42 days, as required by section 361(4) of the Local Government Act, 1993.***
- 3 ***That a further report be brought back to Council following the exhibition.***
- 4 ***That Section 39 part 9 of the Code of Meeting Practice be deleted.***

Minutes of the Ordinary Meeting of Council held on 9 May 2007 (contd)

- 5 *That the suggestion, outlined on Page 88 of the report under proposed changes to Clause 33 of the Code of Meeting Practice, to have no speakers on Notices of Motion and Rescission Motions be adopted.*
- 6 *That the time limit set, on Page 88 of the report, for speakers to talk and for any questions to the speakers be set at 30 minutes.*
- 7 *That there be no change to Councillor briefings.*
- 8 *That paragraph 3 of Section 33 (2) on page 34 of the Draft Code Of Meeting Practice be deleted.*

180 Proposed Councillors' Community Improvement Grants

F2006/00788 SG

COUNCILLOR PAVIER DECLARED A PECUNIARY CONFLICT OF INTEREST IN THE MATTER FOR THE REASON THAT HIS FAMILY HAS BEEN ASKED TO QUOTE FOR AMUSEMENTS FOR ONE OF THE APPLICANTS IN THE REPORT, LEFT THE CHAMBER AT 6.28 PM, TOOK NO PART IN DISCUSSION, DID NOT VOTE AND RETURNED TO THE CHAMBER AT 6.30 PM.

COUNCILLOR BEST DECLARED AN INSIGNIFICANT NON-PECUNIARY CONFLICT OF INTEREST IN THE MATTER FOR THE REASON THAT HIS FATHER IS A MEMBER OF THE ASBESTOS DISEASE FOUNDATION 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 THIS IS A MINOR MATTER.

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

- 1 *That an amount of \$12,600 be allocated from the 2006/2007 Councillors' Community Improvement Grants as outlined in Attachment 1.*
- 2 *That the amount of \$350 allocated to Toukley Fun N Fitness Group at the 28 March 2007 Ordinary Meeting of Council for public liability insurance, be reallocated towards new equipment for the group.*

Minutes of the Ordinary Meeting of Council held on 9 May 2007 (contd)

181 Anti Social Behaviour in the Vicinity of Blue Bell Park, Berkeley Vale

F2004/00694 IR:LM

COUNCILLOR VEUGEN LEFT THE CHAMBER AT 6.45 PM AND RETURNED TO THE CHAMBER AT 6.47PM.

It was MOVED by Councillor GRAHAM and SECONDED by Councillor PAVIER:

That Council install lighting in Blue Bell Park in the 2007/08 financial year and that funding for this work be sourced from the Sportsfield Floodlight Upgrading account.

An AMENDMENT was MOVED by Councillor WELHAM and SECONDED by Councillor ROSE

That the matter be deferred for an inspection and a briefing on funding options and to flesh out further opportunities for engaging youth after dark in this area.

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

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

That the matter be deferred for an inspection and a briefing on funding options and to flesh out further opportunities for engaging youth after dark in this area.

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

AGAINST: COUNCILLORS EATON AND VEUGEN.

182 WaterPlan 2050 – Water and Sewerage

F2006/02278 GC:GC

COUNCILLOR WELHAM LEFT THE CHAMBER AT 7.05 PM AND RETURNED TO THE CHAMBER AT 7.07 PM.

COUNCILLOR PAVIER LEFT THE CHAMBER AT 7.06 PM AND RETURNED TO THE CHAMBER AT 7.12 PM.

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

That the recommended WaterPlan 2050 strategy be adopted for the purpose of exhibition and placed on public exhibition for a period of six weeks.

Minutes of the Ordinary Meeting of Council held on 9 May 2007 (contd)

An *AMENDMENT* was *MOVED* by Councillor *EATON* and *SECONDED* by Councillor *VEUGEN*:

That the recommended WaterPlan 2050 strategy be adopted for the purpose of exhibition and placed on public exhibition for a period of six weeks with the following amendments to the water source options:

Option 1 – Permanent Desalination Plant

Option 2 – Lower Wyong River to Mangrove Creek dam transfer system.

The AMENDMENT was put to the VOTE and declared LOST.

FOR: COUNCILLOR *EATON*.

AGAINST: COUNCILLORS *BEST, FORSTER, GRAHAM, PAVIER, ROSE, STEVENS, STEWART, VEUGEN AND WELHAM*.

The MOTION was put to the vote and declared CARRIED.

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

That the recommended WaterPlan 2050 strategy be adopted for the purpose of exhibition and placed on public exhibition for a period of six weeks.

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

AGAINST: COUNCILLORS *BEST, EATON AND PAVIER*.

183 Appointment of Independent Members of the Governance Committee

F2004/06646 JS:JS

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

- 1 That Messrs David Holmes and Bruce Turner be appointed as independent members of the Governance Committee of Wyong Shire Council at a remuneration of \$5,000 per annum with effect from 1 July 2007 until the end of the term of this Council.***
- 2 That Councillor ROSE, Councillor STEWART and Councillor STEVENS retain their positions on the Governance Committee of Wyong Shire Council.***

Minutes of the Ordinary Meeting of Council held on 9 May 2007 (contd)

184 Gosford and Wyong Councils' Water Authority Board Meeting

F2004/06808

COUNCILLOR FORSTER LEFT THE CHAMBER AT 7.22 PM AND RETURNED TO THE CHAMBER AT 7.27 PM AND AS A RESULT TOOK NO PART IN VOTING.

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

That the minutes of the Gosford and Wyong Councils' Water Authority Board meeting held on 18 April 2007 be received and the recommendations contained therein, adopted.

185 Community Benefit Grants Panel – 11 April 2007

F2005/01881 MW

COUNCILLOR WELHAM DREW ATTENTION TO ITEM NO CBG04 OF THE MINUTES OF THE COMMUNITY BENEFITS GRANTS PANEL – 11 APRIL 2007 WHICH WERE ATTACHED TO REPORT NO 185 – COMMUNITY BENEFITS GRANTS PANEL. THESE MINUTES INCORRECTLY STATE THAT "HE DECLARED AN INSIGNIFICANT CONFLICT IN RELATION TO THE SAN REMO COMMUNITY ENVIRONMENT PROJECT INC" - WHEN HE ACTUALLY STATED THAT IT BE NOTED THAT HE WAS THE MAYOR'S REPRESENTATIVE OF THAT COMMITTEE AND THEREFORE DID NOT NEED TO MAKE AN INSIGNIFICANT CONFLICT OF INTEREST DECLARATION.

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

- 1 That the reports and recommendations of the Community Benefit Grants Panel be received and the recommendations contained therein be adopted.***
- 2 That further rounds of Community Benefits Grants be promoted extensively by the Communications Staff.***

Minutes of the Ordinary Meeting of Council held on 9 May 2007 (contd)

186 Information Reports

F2006/02282 ED:MR

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

That the Information Reports of the Ordinary Meeting of Council be dealt with by the exception method.

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

That the Information Reports and recommendations of the Ordinary Meeting of Council be received and the information noted.

187 Population, Infrastructure and Services Summit

F2006/01713 DSS:RE

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

That the report be received and the information noted.

188 Schedule of Bank Balances and Investments – March 2007

F2004/06604 KF

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

That the report be received and the information noted.

189 Outstanding Questions Without Notice and Notices of Motion

F2006/02282 MW:SW

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

That the report be received and the information noted.

QUESTIONS WITHOUT NOTICE ASKED**Q042 - Availability of Webmail on Council's System****Councillor Eaton**

F2004/00210

"Could Council investigate and report on making Webmail available on Council's system for remote processing of E-mails?"

Q043 – Extensive Tree Clearing Along Pacific Highway at Lake Munmorah**Councillor Eaton**

F2004/00607

"Could staff report on extensive tree clearing along the Pacific Highway at Lake Munmorah in the last few days?"

Q044 –Directional Signs on Pacific Highway/Johns Road Roundabout**Councillor Welham**

F2004/05503

"Could staff approach the RTA to have directional signage installed on the approach to the Pacific Highway/Johns Road Roundabout to assist drivers in understanding turning movements and visitors to the area being able to locate items along Pollock Avenue such as the Regional Sporting Complex, Kooindah Waters Resort, Hopetown School and Wycare?"

Q045 –Traffic Signals at Intersection of Main Road and Victoria Avenue, Toukley**Councillor Welham**

F2007/00728

"Could staff approach the RTA to review the traffic signals at the intersection of Main Road and Victoria Avenue, Toukley to improve visibility of the lights for drivers?"

Q046 - DA Approvals for Upgrades/Renovations at Council Owned Caravan Parks**Councillor Veugen**

F2004/05316

"Could staff provide a report into the number of approved Development Applications for upgrades/renovations to sites within Council owned caravan parks in the past 12 months including if there was any acknowledgement on the approvals of any future planned upgrades to these parks or on particular sites approved. Can this report be provided to the next round of Council?"

Minutes of the Ordinary Meeting of Council held on 9 May 2007 (contd)

Q047 - Informal Briefing**Councillor Best**

F2004/06395

“Mr General Manager, further to Councillor Veugen’s Q034 dated 28 March 2007. In recent discussions with our new State Local Members Mr David Harris, Wyong and Mr Greg Piper, Lake Macquarie, it was agreed that they would be delighted to attend an informal briefing to be held on a Council off Wednesday, covering key and strategically significant issues while affording the Members, Councillors and staff the opportunity to informally meet in a productive and networking environment. Such a briefing should also include Mr Robert Coombs, the new State Member for Swansea.

Could the General Manager advise on likely timeframes and possible agenda items for Council’s consideration?”

THERE BEING NO FURTHER BUSINESS, THE MEETING CLOSED AT 8.13 PM.

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CHAIRPERSON