

Ordinary Meeting Minutes

Held on Tuesday 7 July 2009

at the Council Chambers, Bega commencing at 2.01 pm

PRESENT	Councillor Allen (CHAIRPERSON) and Councillors Britten, Campbell, Hede, Hughes, Pincini, Sandrey, Seckold and Wykes
IN ATTENDANCE	Mr Peter Tegart – General Manager, Ms Leanne Barnes – Group Manager Community and Relationships, Mr Andrew Woodley – Group Manager Planning and Environment, Mr Wayne Sartori - Group Manager Infrastructure Waste and Water, Ms Janelle Curtis – Minute Secretary

1. Confirmation of Minutes

208/09 RESOLVED on the motion of Crs Britten and Campbell

That the Minutes of the Extraordinary Meeting of 30 June 2009, as circulated, be taken as read and confirmed.

IN FAVOUR: Crs Allen, Britten, Campbell, Hede, Hughes, Pincini, Sandrey, Seckold and Wykes

AGAINST: Nil

ABSENT: Nil

2. Apologies

There were no apologies.

3. Declarations

Cr Campbell declared a conflict of interest regarding Planning and Environment Committee Report No 3 - DA No. 2009.0728: Proposed viewing platform at Tura Beach on the basis that he is a member of the Lions Club. A signed declaration form was tabled by Cr Campbell for inclusion in the Register.

Cr Wykes declared a pecuniary interest regarding Planning and Environment Committee Report No 4 - DA No. 2007.0720: Bulky Goods Retail with associated filling of land and parking - Lots 1-13 DP 111017 and Lots 1 and 2 DP 931046, 53-65 Bega Street, Bega on the basis that a business in which he has an interest could be in

competition with the development. A signed declaration form was tabled by Cr Wykes for inclusion in the Register

Cr Britten declared a conflict of interest regarding Closed Session Report No 4 – Caravan Park Expressions of Interest on the basis that he has previously acted on behalf of the owner of a competing caravan park. A signed declaration form was tabled by Cr Britten for inclusion in the Register.

4. Deputations (by prior arrangement)

Mr Lee Chittick addressed the Council regarding Planning and Environment Committee Report No 4. DA No 2007.0720: Bulky Goods Retail with associated filling of land and parking – Lots 1-13 DP 111017 and Lots 1 & 2 DP 931046, 53-65 Bega Street, Bega and responded to questions from Councillors.

The Mayor thanked Mr Chittick for his address.

5. Petitions

The Mayor tabled three petitions regarding DA No 2007.0720, received from Lee Chittick on behalf of the residents of Bega Street, Bega with a total of 36 signatures.

Cr Seckold tabled a petition regarding DA No 2007.0720 with a total of 360 signatures.

6. Mayoral Minutes

There were no Mayoral Minutes.

7. Adjournment into Standing Committees

209/09 RESOLVED on the motion of Crs Campbell and Pincini that the Ordinary Meeting of the Council be adjourned for the purpose of dealing with staff reports to Standing Committees.

2.11 pm The Ordinary meeting adjourned and formed in the committee, reconvening at 4.07 pm.

8. Adoption of reports from Standing Committees

FINANCE & INFRASTRUCTURE COMMITTEE

1. Confirmation of Minutes

RECOMMENDATION

That Council note that the Minutes of the Finance and Infrastructure Committee meeting held on 16 June 2009, as circulated, were taken as read and confirmed.

210/09 RESOLVED on the motion of Crs Britten and Campbell that Item 1 of the Finance & Infrastructure Committee as reported be adopted.

IN FAVOUR: Crs Allen, Britten, Campbell, Hede, Hughes, Pincini, Sandrey, Seckold and Wykes

AGAINST: Nil

ABSENT: Nil

2. Apologies

There were no apologies.

3. Acquisition of land at Cobargo Showground

RECOMMENDATION

1. That the land being Lot 1 in DP 113917 together with the easements created therein and including those minerals not excluded pursuant to Section 171 of the Crown Lands Act be compulsorily acquired for the purpose of sewerage treatment plant and infrastructure pursuant to Section 168 of the Local Government Act 1993.

2. That the General Manager be delegated authority to apply to the Minister of Local Government and/or the Governor for acquisition of the land.

211/09 RESOLVED on the motion of Crs Britten and Campbell that Item 3 of the Finance & Infrastructure Committee as reported be adopted.

IN FAVOUR: Crs Allen, Britten, Campbell, Hede, Hughes, Pincini, Sandrey, Seckold and Wykes

AGAINST: Nil

ABSENT: Nil

4. Renewal of Lease: Parker Street, Bega

RECOMMENDATION

That Council note that this item was deferred to enable a further report to be prepared.

212/09

RESOLVED on the motion of Crs Britten and Campbell that Item 4 of the Finance & Infrastructure Committee as reported be adopted.

IN FAVOUR: Crs Allen, Britten, Campbell, Hede, Hughes, Pincini, Sandrey, Seckold and Wykes

AGAINST: Nil

ABSENT: Nil

5. Pambula Pool Project

RECOMMENDATION

1. That Council endorse the PACi business proposal presented to Council in December 2008 and considered in the context of the independent review in March 2009.
2. That Council note the action to date by PACi to advance the Pambula pool project.
3. That Council refer the draft MoU, tabled at the meeting, to the Department of Lands and National Parks and Wildlife Service for their information.
4. That the term of the MoU be extended to 12 months with the notation that parties would use best endeavours to comply with the Federal Government Grant Contract requiring construction to commence within 6 months of execution of that contract.
5. That Council authorise the Mayor and General Manager to execute the MoU tabled at the meeting.

213/09

RESOLVED on the motion of Crs Britten and Campbell that Item 5 of the Finance & Infrastructure Committee as reported be adopted.

IN FAVOUR: Crs Allen, Britten, Campbell, Hede, Hughes, Pincini, Sandrey, Seckold and Wykes

AGAINST: Nil

ABSENT: Nil

6. Federal Government Regional and Local Community Infrastructure Program Funding

RECOMMENDATION

That Council note the status report on the Regional Local Community Infrastructure Program projects.

214/09 RESOLVED on the motion of Crs Britten and Campbell that that Item 6 of the Finance & Infrastructure Committee as reported be adopted.

IN FAVOUR: Crs Allen, Britten, Campbell, Hede, Hughes, Pincini, Sandrey, Seckold and Wykes

AGAINST: Nil

ABSENT: Nil

PLANNING AND ENVIRONMENT COMMITTEE

1. Confirmation of Minutes

RECOMMENDATION

That Council note that the Minutes of the Planning and Environment Committee meeting held on 16 June 2009, as circulated, were taken as read and confirmed.

215/09 RESOLVED on the motion of Crs Campbell and Pincini that Item 1 of the Planning & Environment Committee as reported be adopted.

IN FAVOUR: Crs Allen, Britten, Campbell, Hede, Hughes, Pincini, Sandrey, Seckold and Wykes

AGAINST: Nil

ABSENT: Nil

2. Apologies

There were no apologies.

3. DA No. 2008.0728 – Proposed viewing platform at Tura Beach

RECOMMENDATION

1. That Development Application 2008.0728 for a viewing platform on Crown road reserve adjacent to Reserve 60026, near Surf Circle Tura Beach be approved subject to appropriate standard conditions plus the special conditions outlined in Attachment D.
2. That those parties who made a submission be advised of Councils decision.

216/09

RESOLVED on the motion of Crs Campbell and Pincini that Item 3 of the Planning & Environment Committee as reported be adopted.

IN FAVOUR: Crs Allen, Britten, Campbell, Hede, Hughes, Pincini, Sandrey, Seckold and Wykes

AGAINST: Nil

ABSENT: Nil

4. DA No. 2007.0720: Bulky Goods Retail with associated filling of land and parking – Lots 1-13 DP 111017 and Lots 1 and 2 DP 931046, 53-65 Bega Street, Bega

Pecuniary Interest

Cr Wykes declared a pecuniary interest on the basis that a business in which he has an interest could be in competition with the development and departed the meeting room, taking no part in debate or voting on this item.

RECOMMENDATION

1. That Development Application 2007.0720 for the development of Lots 1-13 DP111017 and Lots 1 & 2 DP931046, 53-65 Bega Street, Bega, for Bulky Goods Retail with associated filling of land and parking be approved, subject to the conditions outlined in the attached Draft Deferred Commencement Development Consent and an additional condition (inserted as in Condition 2, with remaining conditions renumbered) that must be satisfied before the consent can operate:

A Traffic Management Plan shall be prepared to control access to and egress from the site for construction and delivery vehicles associated with the development. This plan shall be prepared and submitted for approval to Council.

2. That the design of the building shall incorporate best practice water and energy efficiency and in this regard consultation shall be had with representatives of the Business Trading Lightly Program.

3. That it be recommended that the developer consult with BRAWL in regard to preparation of the stormwater, soil and water management plans and the landscape plan.
4. That all parties who made a submission be advised of the determination.

217/09 RESOLVED on the motion of Crs Britten and Campbell that Item 4 of the Planning & Environment Committee as reported be adopted.

IN FAVOUR: Crs Allen, Britten, Campbell, Hede, Pincini and Sandrey

AGAINST: Crs Hughes and Seckold

ABSENT: Cr Wykes

Cr Wykes returned to the meeting room.

5. DA No 2009.0265 – 73 Upper Street (HACC Shack)

RECOMMENDATION

That Council note that it was agreed to consider the report on DA 2009.0265 as a late report.

218/09 RESOLVED on the motion of Crs Britten and Pincini that Item 5 of the Planning & Environment Committee as reported be adopted.

IN FAVOUR: Crs Allen, Britten, Hede, Pincini, Sandrey and Wykes

AGAINST: Crs Hughes, Seckold and Campbell

ABSENT: Nil

6. DA No. 2009.0265 – Demolition of existing buildings and construction of Motor Showroom. Bega Valley Motors. Lot 6 DP519417 - 73 Upper Street, Bega

RECOMMENDATION

That Development Application No. 2009.0265 for the removal of existing weatherboard cottage and adjoining building and erection of motor showroom and creation of easements on Lot 6 DP519471, Lot 24 DP850444 – 73 Upper Street, Bega, be approved as a deferred commencement consent subject to appropriate standard conditions plus the special conditions outlined in Annexure 2.

219/09 RESOLVED on the motion of Crs Britten and Pincini that Item 6 of the Planning & Environment Committee as reported be adopted.

IN FAVOUR: Crs Allen, Britten, Hede, Pincini, Sandrey and Wykes

AGAINST: Crs Hughes, Seckold and Campbell

ABSENT: Nil

CORPORATE MANAGEMENT COMMITTEE

1. Confirmation of Minutes

RECOMMENDATION

That Council note that the Minutes of the Corporate Management Committee meeting held on 16 June 2009, as circulated, were taken as read and confirmed

220/09 RESOLVED on the motion of Crs Hughes and Seckold that Item 1 of the Corporate Management Committee as reported be adopted.

IN FAVOUR: Crs Allen, Britten, Campbell, Hede, Hughes, Pincini, Sandrey, Seckold and Wykes

AGAINST: Nil

ABSENT: Nil

2. Apologies

There were no apologies.

3. Berrambool Sporting Complex

RECOMMENDATION

That James Morrison be appointed to the Management Committee of the Berrambool Sporting Complex.

221/09 RESOLVED on the motion of Crs Hughes and Seckold that Item 3 of the Corporate Management Committee as reported be adopted.

IN FAVOUR: Crs Allen, Britten, Campbell, Hede, Hughes, Pincini, Sandrey, Seckold and Wykes

AGAINST: Nil

ABSENT: Nil

4. Candelo Town Hall Committee

RECOMMENDATION

That Sharon Martin, Linley Cormack and Simon Grealy be appointed to the Candelo Town Hall Management Committee.

222/09 RESOLVED on the motion of Crs Hughes and Seckold that Item 4 of the Corporate Management Committee as reported be adopted.

IN FAVOUR: Crs Allen, Britten, Campbell, Hede, Hughes, Pincini, Sandrey, Seckold and Wykes

AGAINST: Nil

ABSENT: Nil

5. Bermagui Surf Life Saving Club Inc.

RECOMMENDATION

That Council note:

1. That the matter was deferred to allow the formulation of a policy on requests of this nature.
2. That the Bermagui Surf Life Saving Club Inc. be advised of the Council's decision.

223/09 RESOLVED on the motion of Crs Hughes and Seckold that Item 5 of the Corporate Management Committee as reported be adopted.

IN FAVOUR: Crs Allen, Britten, Campbell, Hede, Hughes, Pincini, Sandrey, Seckold and Wykes

AGAINST: Nil

ABSENT: Nil

6. Business Plans for Eden Tourist Park and Zane Grey Tourist Park

RECOMMENDATION

1. That Council note the business plans for both parks.
2. That Council seek the advice of the Department of Land in relation to their position on commercial leasing of parks and terms of lease ie 20 or 40 years.

3. That Council commission advice to prepare a prospectus to enable calling of expressions of interest for commercial lease.
4. That Council seek expressions of interest to lease out both of the parks in current form with the proposed lessees to have the option to develop in accordance with the improvement plan annexed to the business plan or other options.
5. That a further report to council be received detailing the documentation seeking expressions of interest.

224/09 RESOLVED on the motion of Crs Pincini and Britten that Item 6 of the Corporate Management Committee as reported be adopted.

IN FAVOUR: Crs Allen, Britten, Campbell, Pincini, Sandrey and Wykes

AGAINST: Crs Hede, Seckold and Hughes

ABSENT: Nil

Adjournment

4.11 pm The Chairperson called for an adjournment, reconvening at 4.35 pm

9. Rescission/alteration motions

There were no rescission/alteration motions.

10. Notices of Motion

There were no notices of motion.

11. Urgent business (not elsewhere included)

Advice has been received from the Minister for Local Government in regard to the special rate variation and this will require re-making of the General Rates for 2009/10.

225/09 RESOLVED on the motion of Crs Pincini and Campbell that this matter be dealt with as an item of urgent business after the adjournment from closed session.

IN FAVOUR: Crs Allen, Britten, Campbell, Hede, Hughes, Pincini, Sandrey, Seckold and Wykes

AGAINST: Nil

ABSENT: Nil

12. Questions on notice

Cr Pincini asked whether an exhausted quarry site located next to the Cobargo-Bermagui Road, near Mill Road, was owned by the Bega Valley Shire Council?

The question was answered by memorandum from the Manager Civil Assets & Urban Projects which stated that the land in question is Lot 271// DP 752130 - Shire Property 339 and is classified as Operational Land, 2.9ha in size.

Cr Wykes asked whether approval had been granted for DA 2007.0047 - Guideline South Coast Pty Ltd to carry out road works on Mount Darragh Road?

The question was answered by memorandum from the Group Manager Planning and Environment which advised in summary:

1. The roadworks referred to are at Lot 31 DP 749613 (No. 83) Mt Darragh Road and were approved as part of Development Consent No. 2008.0098 issued under staff delegation on 16 May 2008 for use of an existing farm shed as a home business for the storage of children's toys pending website sales.
2. DA No. 2007.0047 being for a proposed extractive industry at Lot 312 DP 749613 (No. 83) Mt Darragh Road is currently under assessment by staff and will be reported to a future Council meeting for determination.

Cr Wykes asked about the substantial increase in headworks charges over the past 12 months and in particular the 2000% increase to connect to existing services for a property in Eden since the introduction of the new Council Policy relating to headworks charges?

The question was answered by memorandum from the Manager Civil Assets & Urban Projects which advised in summary:

That since adoption in 2006, Section 64 charges have been indexed annually and are currently (09/10 year) \$11,340 for water supply and \$8,620 for sewerage. On 14 April 2009 the policy supporting the DSP documents (Procedure 2.3.1(l)) was amended to allow past water and sewer access charges for properties to be deducted from the payable Section 64 charges. The amendment provided a measure of equity for those property owners who had contributed for many years.

There has been some speculation that Section 64 charges have risen steeply since their adoption in 2006. In fact the charges have only risen according to Sydney CPI. What has changed is the rigour with which the charges are applied. In the past, many

developments escaped having to pay the charges because of inconsistent application and understanding of policy. Over the past 18 months there has been more consistent application of the charges in accordance with Council policy and section 306 of the *Water Management Act 2000*.

Cr Campbell asked a question regarding the \$100 fee for the inspection of septic systems which was in the current Fees and Charges Schedule and the fact that owners of Envirocycle systems were being charged twice for these inspections, as it is a condition of their approval that they are inspected by a contractor on a regular basis. Is there some exemption in these circumstances?

The question was answered by memorandum from the Group Manager Planning and Environment who advised in summary:

That there is no exemption currently available to the requirement for an inspection by Council of onsite sewage management systems that are required to be inspected under our policy. Staff have, however raised the matter of third party accreditation with contractors who undertake the servicing of aerated treatment systems, such as 'Envirocycle'. These contractors have, to date, been unwilling to accept the responsibility for inspection of the entire system, including the land application areas (the area on the property where effluent is discharged). There is concern that in critical risk and high risk sites there is potential environmental health concerns where land application areas are not being maintained. Staff are currently looking at the opportunity for systems that are located in low risk areas not requiring inspection by Council officers. It is envisaged that the homeowner in these situations will be able to self certify their treatment system with a requirement to provide a service report from their contractor. It is considered that these systems do not have the same environmental issues as those in higher risk areas. It is anticipated that completion of the review and implementing the program will occur later this calendar year.

Councillor Britten asked for clarification of the methodology and justification for Section 64 contributions related to development of Pambula swimming pool complex.

The question was answered by memorandum from the Acting Group Manager Infrastructure Waste and Water who advised in summary:

- Under Section 64 of the Local Government Act 1993, Council is able to charge developers for connection of their development to water supply and sewerage systems. The charges are calculated based on the increased load that developments place on such systems.
- According to information supplied by the proponent in the DA documentation, Pambula Swimming Pool development will result in additional system load.

- With all developments, the assessment of Section 64 charges is calculated using Council's adopted "Fees and Charges".
- All developments are assessed in an identical manner utilising Equivalent Tenement (ET) figures as a basis for the calculation of the system load. The calculations take into account existing approved development and an appropriate credit.
- With this particular development, a credit was given for all of the existing approved development and the additional load was calculated for the proposed development. A load calculation spreadsheet was provided to Councillors to show how the existing and proposed loadings have been considered.
- It should be noted that filling and operation of the proposed swimming pools was treated as a "like for like" and hence no contribution for the new swimming pools was included.

13. Questions without notice

Cr Seckold asked if it was correct that the Bega Valley Shire was declared a nuclear free zone in 1980 by a previous council and supported by the community? She asked if the status was still current and if so, could signage be reinstated at the entrances to the Shire?

The Question was answered by the Group Manager Community and Relationships who advised that following a review of Council's policies by the former Council, this policy statement had been rescinded.

Cr Hughes asked for confirmation that legal action being taken against Sister Lloyd-Jones was not being paid for from Council funds.

The question was answered by the General Manager who advised that Council's policy on legal action does not enable a Councillor to claim costs if they are initiating a defamation action.

Cr Britten asked if asbestos removal from the former Pambula Beach Surf Life Saving Clubhouse is to be completed and the area tidied up?

The question was taken on notice by the Group Manager Infrastructure Waste and Water.

Cr Pincini asked what was the process if a councillor wished to step down as delegate on a Council Committee and what was the process for nomination of a new delegate?

The question was answered by the General Manager who advised that a formal letter of resignation should be sent to the General Manager, who would then cause a report to council to accept the resignation and call for nominations to appoint a new delegate.

14. Confidential Business: Adjournment into Closed Session

226/09 RESOLVED on the motion of Crs Britten and Pincini

1. That Council resolve to adjourn into Closed Session to discuss Item 4.1 and 4.2 of the Closed Session Agenda on the basis that the report concerns:
 - information that would, if disclosed, confer a commercial advantage on a person with whom the council is conducting (or proposes to conduct) business,
 - commercial information of a confidential nature that would, if disclosed:
 - (i) prejudice the commercial position of the person who supplied it, or
 - (ii) confer a commercial advantage on a competitor of the council, or
 - (iii) reveal a trade secret.
2. Pursuant to Section 10A of the Local Government 1993, the press and public be excluded from the proceedings on the basis that the business to be considered is classified confidential under the provisions of Section 10A(2) of the Act as outlined above.
3. The correspondence and reports relevant to the subject business be withheld from access to the press and public as required by the Local Government Act 1993, Section 11(2).

IN FAVOUR: Crs Allen, Britten, Campbell, Hede, Hughes, Pincini, Sandrey, Seckold and Wykes

AGAINST: Nil

ABSENT: Nil

4.41 pm The Ordinary meeting adjourned and formed into closed session, reconvening at 5.17 pm

15. Adoption of reports from Closed Session

4.1 Caravan Park Expressions of Interest

RECOMMENDATION

That in relation to the Garden of Eden Caravan Park, Council not prepare a feasibility study nor seek expressions of interest.

227/09 RESOLVED on the motion of Crs Pincini and Campbell that Item 4.1(a) of the Closed Session meeting as reported be adopted.

IN FAVOUR: Crs Allen, Britten, Campbell, Hede, Pincini, Sandrey and Wykes

AGAINST: Crs Seckold and Hughes

ABSENT: Nil

Conflict of Interest

Cr Britten declared a conflict of interest regarding Closed Session Report No 4.1 on the basis that he has previously acted on behalf of the owner of a competing caravan park and departed the meeting room, taking no part in debate or voting on this item.

RECOMMENDATION

That in relation to the Tathra Motor Village Caravan Park, Council not prepare a feasibility study nor seek expressions of interest.

228/09 RESOLVED on the motion of Crs Pincini and Campbell that Item 4.1(b) of the Closed Session meeting as reported be adopted.

IN FAVOUR: Crs Allen, Campbell, Hede, Pincini, Sandrey and Wykes

AGAINST: Crs Seckold and Hughes

ABSENT: Cr Britten

Cr Britten returned to the meeting room.

4.2 Wallaga Lake CDEP Land - Princes Highway, Bega

RECOMMENDATION

That Council delegate authority to the General Manager to address the matters relating to the Wallaga Lake CDEP land as resolved in Closed Session.

229/09 RESOLVED on the motion of Crs Pincini and Seckold that Item 4.2 of the Closed Session meeting as reported be adopted.

IN FAVOUR: Crs Allen, Britten, Campbell, Hede, Hughes, Pincini, Sandrey, Seckold and Wykes

AGAINST: Nil

ABSENT: Nil

16. Resolutions to declassify reports considered in closed session

There were no resolutions to declassify reports considered in previous closed sessions.

11. Urgent business (not elsewhere included)

General Rates 2009/2010

230/09 RESOLVED on the motion of Crs Britten and Sandrey

1. That Council make a General Ordinary rate of zero point three zero six five (0.3065) cents in the dollar on the rateable value of all rateable land in the area categorised as "residential" in accordance with Section 516 of the Local Government Act 1993 and;
2. That Council make a General Ordinary rate of zero point three zero six five (0.3065) cents in the dollar on the rateable value of all rateable land in the area categorised as "farmland" pursuant to the provision of Section 515 of the Local Government Act 1993 and;
3. That Council make a General Ordinary rate of zero point four six nine three (0.4693) cents in the dollar on the rateable value of all rateable land in the area which is categorised as "business" pursuant to the provisions of Section 518 of the Local Government Act, 1993 and;
4. That Council make General Ordinary base rates of the amounts specified in the first schedule hereto for the period 1 July 2009 to 30 June 2010.

First Schedule

- a) That for each separate parcel of the residential category that a base rate be made of three hundred and sixty nine dollars and forty two cents (\$369.42) per assessment;
 - b) That for each separate parcel of the farmland category that a base rate be made of three hundred and sixty nine dollars and forty two cents (\$369.42) per assessment;
 - c) That for each separate parcel of the business category that a base rate be made of three hundred and sixty nine dollars and forty two cents (\$369.42) per assessment.
5. That further reports be presented to Council to consider options available in regard to Tourism and Economic Development.
 6. That the Management Plan be amended to reflect the decision by the Minister for Local Government.

IN FAVOUR: Crs Allen, Britten, Campbell, Hede, Hughes, Pincini, Sandrey, Seckold and Wykes

AGAINST: Nil

ABSENT: Nil

Closure

There being no further business, the Chairperson closed the meeting at 5.31 pm.

CONFIRMED

CHAIRPERSON

Chairperson of the meeting of the Bega Valley Shire Council held on
at which meeting the signature hereon was subscribed.