

## Minutes 1 March 2007



Minutes of Ordinary meeting of the Port Stephens Council held in the Council Chambers, Raymond Terrace on 1 March 2006, commencing at 5.30pm.

PRESENT:

Councillors R. Swan (Mayor); S. Dover (Deputy Mayor); C. Baumann; H. Brown; G. Dingle; G. Francis; J. Hodges; K. Jordan; J. Nell; G. Robinson; S. Tucker, R. Westbury; General Manager; Executive Manager – Corporate Management; Facilities and Services Group Manager; Sustainable Planning Group Manager; Business and Support Group Manager.

# INDEX

SUBJECT PAGE NO

**MOTION TO CLOSE ..... 5**

- 1. MOTION TO CLOSE MEETING TO THE PUBLIC .....6
- 2. MOTION TO CLOSE MEETING TO THE PUBLIC .....7

**CONFIDENTIAL ITEMS..... 8**

- 1. MELALEUCA ESTATES V PORT STEPHENS COUNCIL – COSTS SETTLEMENT .....9
- 2. TENDER: T26-2006 NEWCASTLE AIRPORT CLEANING SERVICES TENDER.....12

**MINUTES FOR ORDINARY MEETING -1 MARCH 2007**

**MOTION TO CONSIDER BUSINESS FOR WHICH NOTICE HAS NOT BEEN GIVEN**

**EXTRA-ORDINARY MEETING OF COUNCIL – 1 March 2007**

| <b>MOTION:</b> |   |   |
|----------------|---|---|
| <b>034</b>     | <b>Councillor Nell<br/>Councillor Baumann</b> | <b>That Council consider a matter without notice related to the General Manager's performance that is of urgency.</b> |

The Chairperson ruled that the business was a matter of urgency. In making this decision the Chairperson considered the Motion tabled at the Meeting held on 27<sup>th</sup> February 2007. That Motion related to a vote of no confidence in the General Manager. The Chairperson expressed concern that the Motion of 27 February 2007, could damage Council's reputation and standing in the community.

The Motion on being put was carried.

Councillor Hodges entered the meeting at 5.34pm during the above motion.

**EXTRA-ORDINARY MEETING OF COUNCIL – 1 March 2007**

| <b>MOTION :</b> |   |  |
|-----------------|---|--|
| <b>035</b>      | <b>Councillor Nell<br/>Councillor Baumann</b> | <b>That this Council express its confidence in the performance of the General Manager and his leadership of the organisation. Port Stephens Council is a complex organisation with many business activities.</b><br><br><b>The General Manager has had eight years of at least satisfactory performance reviews from the Council.</b><br><br><b>The Department of Local Government's Promoting Better Practice final report of August 2005 records that "Council is a well managed authority. The report goes on to state that overall Port Stephens Council has a strong community service focus. The Council understands its community and has comprehensive community services and activities to meet community needs".</b><br><br><b>While the report confirms areas for improvement, this result has not occurred without leadership from the General Manager and his team.</b> |

Councillor Tucker entered the meeting at 5.40pm.

**MINUTES FOR ORDINARY MEETING -1 MARCH 2007**

Councillor Robinson left the Chamber at 5.45pm during the above motion and returned at 5.48pm.

Councillors Baumann and Brown called for a Division.

Those for the Motion were Councillors Brown, Francis, Jordan, Hodges, Tucker, Baumann, Nell, Westbury, Robinson and Swan.

Those against the Motion were Councillors Dingle and Dover.

**EXTRA-ORDINARY MEETING OF COUNCIL – 1 March 2007**

**MATTER ARISING:**

|            |  |  |
|------------|--|--|
| <b>036</b> | <b>Councillor Francis<br/>Councillor Baumann</b> | <b>That the Minister for Local Government Mr. Kerry Hickey be informed of the outcome of tonight's meeting. In so doing we inform Mr. Hickey that we did not have a tabled Motion prior to the Quorum lapsing and that the Councillors have still not seen the Motion as read out. Furthermore, the General Manager seeks legal advice re: "Special Meeting"</b> |
|------------|--|--|

# MOTION TO CLOSE

**ITEM NO. 1**

**FILE NO: A2004-0573**

**MOTION TO CLOSE MEETING TO THE PUBLIC**

**REPORT OF: JUNE SHINE – EXECUTIVE MANAGER CORPORATE MANAGEMENT**

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**RECOMMENDATION:**

- 1) That pursuant to section 10A(2)(g) of the Local Government Act, 1993, the Committee and Council resolve to close to the public that part of its meetings to discuss Confidential Item 1 (General Manager's Report) on the Ordinary agenda namely ***Melaleuca Estates Pty Ltd v Port Stephens Council – Costs Settlement.***
- 2) That the reasons for closing the meeting to the public to consider this item is that the discussion will include information concerning the commercial arbitration and legal costs incurred and advice that would otherwise be privileged from production in legal proceedings on the ground of legal professional privilege
- 3) That disclosure of the information would, on balance, be contrary to the public interest, as it would prejudice Council's legal position and Council has an obligation to protect its interests and the interests of ratepayers.
- 4) That the report and the minutes of the closed part of the meeting remain confidential until the matter is settled.

**EXTRA-ORDINARY MEETING OF COUNCIL – 1 March 2007**

**RESOLUTION:**

|            |   |  |
|------------|---|--|
| <b>037</b> | <b>Councillor Baumann<br/>Councillor Nell</b> | <b>That the Recommendation be adopted.</b> |
|------------|---|--|

**ITEM NO. 2**

**FILE NO: 1779-003**

**MOTION TO CLOSE MEETING TO THE PUBLIC**

**REPORT OF: JUNE SHINE – EXECUTIVE MANAGER CORPORATE MANAGEMENT**

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**RECOMMENDATION:**

- 1) That pursuant to section 10A(2)(d) of the Local Government Act, 1993, the Committee and Council resolve to close to the public that part of its meetings to discuss Confidential Item 2 on the Ordinary agenda namely **Tender T26-2006 Newcastle Airport Cleaning Services Tender**.
- 2) That the reasons for closing the meeting to the public to consider this item be that:
  - i) The report and discussion will include details of commercial information of a confidential nature that would, if disclosed, prejudice the commercial position of the tenderers; and
  - ii) In particular, the report includes confidential pricing information in respect of the **Newcastle Airport Cleaning Services Tender**.
- 3) That on balance, it is considered that receipt and discussion of the matter in open Council would be contrary to the public interest, as disclosure of the confidential commercial information could compromise the commercial position of the tenderers and adversely affect Council's ability to attract competitive tenders for other contracts.
- 4) That the report and minutes of the closed part of the meeting are to remain confidential and that Council makes public its decision including the name and amount of the successful tenderer in accordance with Clause 179) of the Local Government (General) Regulation 2005.

**EXTRA-ORDINARY MEETING OF COUNCIL – 1 MARCH 2007**

|                 |   |  |
|-----------------|---|--|
| <b>MOTION :</b> |   |  |
| <b>038</b>      | <b>Councillor Baumann<br/>Councillor Nell</b> | <b>That the Recommendation be adopted.</b> |

# CONFIDENTIAL ITEMS



*In accordance with Section 10A, of the Local Government Act 1993, Council can close part of a meeting to the public to consider matters involving personnel, personal ratepayer hardship, commercial information, nature and location of a place or item of Aboriginal significance on community land, matters affecting the security of council, councillors, staff or council property and matters that could be prejudice to the maintenance of law.*

*Further information on any item that is listed for consideration as a confidential item can be sought by contacting Council.*

## **EXTRA-ORDINARY MEETING OF COUNCIL – 1 March 2007**

### **RESOLUTION:**

|            |  |   |
|------------|--|---|
| <b>039</b> | <b>Councillor Baumann<br/>Councillor Francis</b> | <b>It was resolved that Council move into Confidential Session.</b> |
|------------|--|---|

There being no further business the meeting closed at 6.27pm.

*I certify that pages 1-8 of the Ordinary Minutes of Council dated 1 March 2007 were confirmed by Council at its meeting held on 27 March 2007.*

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**CR RON SWAN  
MAYOR**