
WYONG SHIRE COUNCIL

MINUTES OF THE ORDINARY MEETING OF COUNCIL HELD IN THE COUNCIL CHAMBER WYONG CIVIC CENTRE, HELY STREET, WYONG ON 14 April 2010 COMMENCING AT 5:00:00 PM

PRESENT

Councillors R L Graham (Chairperson), G P Best (arrived at 6.48 pm), D J Eaton, E M McBride, J J McNamara, W R Symington, D P Vincent, L D Webster and S A Wynn.

IN ATTENDANCE

General Manager, Director Shire Planning, Director Shire Services, Director Corporate Services, Acting Manager Future Planning, Manager Development Assessment and Project Director Mardi to Mangrove Project.

Manager Contracts and Special Projects, Sustainability Manager, Manager Customer and Community Services, Senior Planner – Legal and Policy, Development Assessment Planner, Manager Governance and Administration, two Strategic Planners and two administration staff.

The Mayor commented as follows:

- * An item on Tuggerah Lakes Estuary Management was printed in the Express Advocate recently and Council received positive feedback as a result.
- * Council's annual Photographic Competition is currently on display in Council's function room and entries will be on display until Sunday 18 April 2010.
- * On a recent trip to Lake Macquarie he met Mayor Greg Piper, the Mayor viewed shared pathways/cycleways which are similar to those constructed in Wyong Shire.

The Mayor, Councillor Graham, declared the meeting open at 5.05 pm and advised in accordance with the Code of Meeting Practice that the meeting is being recorded.

Mr Bob Allen read an acknowledgment of country statement and delivered the opening prayer.

APOLOGIES

An apology for the inability to attend the meeting was received on behalf of Councillor Lisa Matthews as she is currently representing Council at a conference in Victoria. An apology for late arrival was received on behalf of Councillor Greg Best who is attending an appointment in Sydney.

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

That Council accept the apologies and grant leave of absence from the meeting.

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

AGAINST: NIL

At the commencement of the ordinary meeting report nos. 3.1, 3.2 and 3.3 were dealt with first then the remaining reports in order. However for the sake of clarity the reports are recorded in their correct agenda sequence.

1.0 Disclosure of Interest

3.4 Rezoning requests – RZ/18/2009 – 1 London Drive, North Wyong, RZ/12/2009 – 13-15 Hereford Street, Berkeley Vale and RZ/20/2009 – 1 Bryant Drive Tuggerah

Councillor Graham declared a pecuniary interest in the matter for the reason that he is a director on the board of the Central Coast Mariners Football Club which is involved with the property at 1 Bryant Drive, Tuggerah, left the chamber at 6.15 pm, took no part in discussion, did not vote and returned to the chamber at 6.16 pm.

3.4 Rezoning requests – RZ/18/2009 – 1 London Drive, North Wyong, RZ/12/2009 – 13-15 Hereford Street, Berkeley Vale and RZ/20/2009 – 1 Bryant Drive Tuggerah

Councillor Eaton declared a pecuniary interest in the matter for the reason that he is the applicant for RZ/18/2009, left the chamber at 6.15 pm, took no part in discussion, did not vote and returned to the chamber at 6.16 pm.

5.5 Proposed Councillors' Community Improvement Grants

Councillor Wynn declared a non-pecuniary insignificant conflict of interest in the matter for the reason that her husband occasionally teaches at Gorokan High school and the proponent is known to her and participated in consideration of this matter.

Councillor Wynn stated:

"I choose to remain in the chamber and participate in discussion and voting as the conflict has not influenced me in carrying out my public duty because I dealt with the request on its merits only."

8.4 Notice of Motion – public access to coast via Tuggerah Lakes Golf Course

The Director Corporate Services declared a non-pecuniary insignificant conflict of interest in the matter for the reason that he is a playing member of the golf club and participated in consideration of this matter.

The Director stated:

"I choose to remain in the chamber and participate in discussion as the conflict has not influenced me in carrying out my public duty because no personal benefit accrues to me in any way, in fact my knowledge as a golfer and a resident serves to enhance my ability to perform my public duties."

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

That Council receive the report on Disclosure of Interest and note advice of disclosures.

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

AGAINST: NIL

1.1 Proposed Inspections

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

That Council receive the report on Inspections.

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

AGAINST: NIL

1.2 Address By Invited Speakers

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

1 *That Council receive the report on Invited Speakers.*

2 *That Council agree meeting practice be varied to allow the report from Director of Shire Planning to be dealt with following an Invited Speaker's address.*

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

AGAINST: NIL

1.3 Confirmation of Minutes of Previous Meeting

RESOLVED unanimously on the motion of Councillor MCBRIDE and seconded by Councillor MCNAMARA:

That Council confirm the minutes of the previous Extraordinary Meeting of Council held on 18 March 2010 and the Ordinary Meeting of Council held on 24 March 2010.

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

AGAINST: NIL

Business Arising

There was no business arising.

1.4 Mayoral Minute - Appointment of General Manager

RESOLVED unanimously on the motion of Councillor GRAHAM:

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

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

AGAINST: NIL

1.5 Mayoral Minute - F3 Freeway Traffic Management

RESOLVED unanimously on the motion of Councillor GRAHAM:

- 1 That Council express its dismay at the poor management by the NSW State Government of the recent accident.**
- 2 That Council make urgent representation in the strongest possible terms to local State Members of Parliament and the Minister for the Central Coast for them to ensure that this poor management does not occur again.**

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

AGAINST: NIL

2.1 Cabbage Tree Harbour Update

Councillor McNamara left the chamber at 6.09 pm and returned to the chamber at 6.10 pm during consideration of this item.

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

- 1 That Council prepare final detailed designs, final cost estimates and obtain necessary approvals for the lower life-cycle cost option for a Toe-Drainage Structure at Cabbage Tree Harbour at an estimated total cost of \$1,954,000.**
- 2 That Council request the NSW Department of Environment, Climate Change and Water to provide additional grant funding of \$367,000, to cover the cost of the structure on a 50-50 basis.**
- 3 That subject to the final detailed design being costed at a maximum total of \$1,954,000 and upon receipt of approval of funding from NSW Department of Environment, Climate Change and Water, Council proceed to the construction phase.**
- 4 That Council, in considering its Management Plan for 2010/11, allocate additional funds of \$135,000 to the 2010-2011 financial year to match the Department of Environment, Climate Change and Water's grant augmentation.**
- 5 That due to the benefits of managing project risks, Council undertake construction of the Toe Drainage Structure by day labour with quality assurance provided by the designing engineers.**
- 6 That Council, in considering its Long Term Financial Strategy and financial model incorporate funds of \$500,000 for maintenance and removal of the structure over the design life of 15 years.**
- 7 That Council, taking into account the risk assessment undertaken by Shirley Consulting Engineers and State Wide Mutual in respect to the slope stability and site safety at Cabbage Tree Harbour, confirm that staff surveillance of the beach can now be discontinued.**

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

AGAINST: NIL

3.1 DA/1482/2009 - Two Storey Dwelling - 4 Manly Parade, The Entrance North

Mr Dean Miller, accompanied by his wife Kim, owners, addressed the meeting at 5.10 pm, answered questions and retired at 5.16 pm.

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

A That Council, having regard to the matters for consideration detailed in Section 79C of the Environmental Planning and Assessment Act, 1979, and other relevant issues, approve Development Application DA/1482/2009 subject to the following conditions:

- 1 The development taking place in accordance with the approved development plans reference number 4101 Sheets 1 to 9 prepared by Westminster Homes dated 9 April 2010 except as modified by any conditions of this consent, and any amendments in red.**

Certificates/Engineering Details

- 2 A Construction Certificate is to be issued by the Principal Certifying Authority prior to commencement of any works. The application for this Certificate is to satisfy all of the requirements of the Environmental Planning and Assessment Regulation 2000.**

Prior to Release of Construction Certificate:

Certificates/Engineering Details

- 3 The submission of details to Council confirming the location and depth of the sewer main and connection point in relation to the floor level prior to issue of a Construction Certificate, to demonstrate that appropriate connection and fall to the sewer can be achieved.**

Erosion and Sediment Control – Building Sites

- 4 Prior to the issue of a Construction Certificate, the submission to the Principal Certifying Authority of design plans for the control of soil erosion on the site and the prevention of silt discharge into drainage systems and waterways in accordance with Council's Policy E1 - Erosion and Sediment Control from Building Sites or "Soils and Construction – Managing Urban Stormwater" (Blue Book) The design plans must be approved by the Principal Certifying Authority or an appropriately Accredited Certifier prior to issue of the Construction Certificate.**

Flooding

- 5 The design of the development must comply with Council's Flood Prone Land Development Policy No. F5 and in particular:**
 - The provision to Council of a satisfactory Structural Certificate from a qualified Engineer as to all proposed structures and building stability in relation to all loadings associated with flooding up to and including 1% AEP flood level of 2.2 metres AHD**
 - The minimum habitable floor level is 2.7 metres AHD.**

- 6 *All electrical outlets and fixtures will require protection of a “residual current device” (safety switch) to protect against flood waters. Storage of hazardous or toxic materials is to be 0.5 metres above the identified flood level of 2.2 metres AHD.*

Rainwater Tanks

- 7 *The rainwater tanks are to be relocated at least 450mm from the side boundary. An amended plan is to be submitted and approved by Council prior to issue of the Construction Certificate.*

Prior to Commencement of Works:

Approved Plans

- 8 *A copy of the stamped approved plans must be kept on site for the duration of site works and be made available upon request to either the Principal Certifying Authority or an officer of the Council. (103)*

Acoustic

- 9 *Construction work may only be undertaken in accordance with the provisions of the Environmental Protection Authority's 'Environmental Noise Control Manual-Guidelines for Construction Noise' as identified below:*

Monday to Saturday 7.00 am to 5.00 pm.

Work is not to be carried out on Sundays or Public Holidays.

Dilapidation

- 10 *A dilapidation report must be submitted to Council as the Roads Authority prior to the commencement of any works. The report must document and provide photographs that clearly depict any existing damage to the road, kerb, gutter, footpath, driveways, water supply, sewer works, street trees, street signs or any other Council assets in the vicinity of the development.*

Erosion and Sediment Control

- 11 *The provision of soil erosion and silt controls on the site in accordance with Council's Policy E1 - Erosion and Sediment Control from Building Sites and Development Control Plan 2005, Chapter 67 – Engineering Requirements for Development and the approved development plans prior to any works commencing on the site. Note: On-the-spot fines may be imposed by Council for non-compliance with this condition.*
- 12 *Sand and other materials that could potentially be washed off the site during rain periods are to be stored behind the silt control barrier. Note: On-the-spot fines may be imposed by Council for non-compliance with this condition.*
- 13 *The provision of a metal groyne/s or kerb inlet trap/s to the downstream drainage pit/s of the street drainage system to prevent any silt that may have left the site from entering the drainage system. The build up of silt and debris must be removed from the site on a daily basis. Note: On-the-*

spot fines may be imposed by Council for non-compliance with this condition.

- 14 *The display of an appropriate sign to promote the awareness of the importance of the maintenance of sediment control techniques on the most prominent sediment fence or erosion control device, for the duration of the project. Note: On-the-spot fines may be imposed by Council for non-compliance with this condition.*

Flooding

- 15 *Building materials used or located below 2.2 metres AHD are to be flood compatible.*
- 16 *No filling greater than 100mm is permitted without Council approval.*

Home Building Act

- 17 *In the case of residential building work for which the Home Building Act 1989 requires there to be a contract of insurance in force in accordance with Part 6 of that Act, there shall be such a contract in force in accordance with the requirements of the Home Building Act 1989.*
- 18 *Residential building work within the meaning of the Home Building Act 1989 must not be carried out unless the Principal Certifying Authority for the development to which the work relates (not being the Council) has given the Council written notice of the following information:*

In the case of work to be done by the holder of a contractor licence under that Act:

- *the name and licence number of the contractor; and*
- *the name of the insurer by whom the work is insured under Part 6 of that Act.*

In the case of work to be done by the holder of an owner-builder permit under that Act:

- *the name and permit number of the owner-builder.*

If arrangements for doing the residential building work are changed while the work is in progress so that the information notified above becomes out of date, further work must not be carried out unless the Principal Certifying Authority for the development to which the work relates (not being the council) has given the council written notice of the updated information.

Plumbing and Drainage

- 19 *Council as the water supply authority, or in unsewered areas where an onsite sewage management facility is to be installed, Council is to be notified to undertake inspections of the internal drainage, (prior to the pouring of the concrete slab), and external drainage prior to the backfilling of the trenches. These inspections can be arranged by telephoning Council's customer services section on 4350 5555 a minimum of 24 hours*

prior to the required time for the inspection. Note: All drainage inspection fees are to be paid to Council prior to these inspections being undertaken.

Site Requirements

- 20** *The provision of a temporary closet on site from the time of commencement of building work to ensure that adequate sanitary provisions are provided and maintained on the building site for use by persons engaged in the building activity. The temporary closet is to be a water closet connected to the sewerage system or approved septic tank or a chemical closet supplied by a licensed contractor.*
- 21** *The provision of a metal waste skip (with self-closing lid or secure covering) or lined mesh steel cage(s) in accordance with the requirements of DCP 2005, Chapter 100 – Quality Housing, on site for the duration of the construction to ensure that all wastes are contained on the site. The receptacle is to be emptied periodically to reduce the potential for rubbish to leave the site. Note: On the spot fines may be imposed by Council for pollution incidents.*
- 22** *Waffle pods used in the construction of the building are not to be delivered to the site unless wrapped or securely tied. The waffle pods are to remain secured on site until they are used to prevent damage by wind and to prevent broken portions of the pods being blown from the site. Immediately upon positioning the pods in the construction of the building, off cuts and unused pods must be wrapped in plastic or a similar material. The remaining pods and off cuts are to be removed from the site within 24 hours.*
- 23** *All building materials, plant and equipment must be placed on the site of the development so as to ensure that pedestrian and vehicular access in public places is not restricted and to prevent damage to the road reserve. The storage of building materials on Council's recreation reserves and/or road reserves is prohibited. Note: On the spot fines may be imposed by Council for non-compliance with this condition.*
- 24** *The provision of a hoarding or safety fence between the work site and the public place in accordance with Work Cover Authority requirements, for the duration of the project. Details to be submitted to the Principal Certifying Authority/appropriately Accredited Certifier unless the hoarding is required within the footpath area where approval from Council under the Roads Act as the Roads Authority is required.*
- 25** *The Principal Contractor (or Owner/Builder) is to erect a sign in a prominent position on the site (not attached to any tree) identifying the name, address and telephone number of the Principal Certifying Authority (PCA) for the work; the name, address and telephone number (including a number for outside of business hours) of the Principal Contractor for the work (or Owner/Builder); and stating that unauthorised entry to the site is prohibited. The sign must be maintained while the work is being carried out and is to be removed when the work is completed. Appropriate signs can be collected from Council's Customer Service Centre, where Council is the nominated PCA.*
- 26** *No works, vehicles or materials are permitted within the footpath, reserve or adjacent allotment areas highlighted on the approved site plan.*

Water and Sewer Services/Infrastructure

- 27 *The sewer manhole is to be located and then protected for the duration of construction, to ensure that access is available at all times. The approval of Council is required should the level of the manhole need to be raised or lowered.*
- 28 *The interallotment drainage pit and other services and utilities located on the site are to be protected during construction.*

Prior to Release of Occupation Certificate:

BASIX

- 29 *Pursuant to Clause 97A(3) of the Environmental Planning and Assessment Regulation 2000, it is a condition of this Development Consent that all the commitments listed in the BASIX Certificate for the development are fulfilled. All work is to be satisfactorily completed prior to the issue of the Occupation Certificate.*
- 30 *The provision of the rainwater tank in the approved location including plumbing to collect rainwater from the roof area as detailed in the BASIX Certificate. The tank is to be installed in accordance with the requirements of the National Plumbing and Drainage Code AS/NZS 3500, shall include first flow diversion devices fixed to all inflows, be provided with a functioning pressure pump, and be plumbed to service all fixtures as detailed in the BASIX Certificate. The tank must be controlled such that supplement flows from domestic mains do not take place until the tank is at least 80% empty. Overflow from the rainwater reuse tank is to be directed to Council's road drainage system.*

Building Code of Australia

- 31 *Compliance with the relevant provisions and requirements of the Building Code of Australia.*

Dilapidation

- 32 *Any damage not shown in the Dilapidation Report submitted to Council before site works had commenced, will be assumed to have been caused as a result of the site works undertaken and must be rectified at the applicant's expense, prior to release of the Occupation/Subdivision Certificate.*

Erosion and Sediment Control

- 33 *The downpipes and stormwater drainage being installed and connected to the approved stormwater disposal system immediately after the roof materials are positioned to prevent erosion of the site from roof water. Note: A Compliance Certificate for the frame cannot be issued until the stormwater drainage system is installed.*

Flooding

- 34 *All rainwater storage tank(s) must be installed with the stormwater inlet and outlets, air gap for mains water top up at a minimum level of 500mm above the 1% AEP flood. Where the stormwater outlet cannot be located 500mm above the flood level it must be fitted with a non return valve to prevent*

back flow in accordance with Council's rainwater tank installation guidelines.

- 35 *The prevention of any obstruction of surface drainage which could result in the disruption of the amenity, or drainage or deterioration to any other property.*
- 36 *A flood evacuation plan is to be provided that incorporates the requirements of the Wyong Shire Local Flood Plan and the State Emergency Service. Reference to the flood evacuation plan is to be included on the title for the property.*

Plumbing and Drainage

- 37 *The hot water installation must deliver hot water not exceeding 50 degrees Celsius at the outlet of the sanitary fixtures used primarily for personal hygiene purposes. Note: Compliance with this temperature limit is optional for kitchen sinks and laundry tubs. AS/NZS 3500 Part 4.2 C1.1.6.2.*
- 38 *All toilet cisterns, showerheads and taps on bathroom and kitchen hand basins must achieve compliance with the Water Efficiency and Labelling and Standards Scheme (WELS).*
- 39 *The sewer surcharge gully is to be relocated clear of the proposed building to facilitate access.*

Stormwater

- 40 *Roof water from the building and the overflow from the water tank is to be disposed of into Council's street gutter drainage system and the existing outlet that has been provided through the kerb is to be utilised.*

Vehicle Access and Parking

- 41 *The design and construction of a non-slip finish driveway with a decorative finish in the location shown on the approved plans. All works are to be completed prior to release of the Occupation Certificate.*

Water and Sewer Services/Infrastructure

- 42 *The surcharge gully for the development must be a minimum of 150mm below floor level and 75mm above the finished ground level.*
- 43 *All water and sewer works for the development must be approved by Council prior to the issue of an Occupation Certificate.*

Ongoing Operation:

Time Limited Consent

- 44 *In accordance with Section 80A(1) (d) and 80A(1) (e) of the Environmental Planning and Assessment Act, 1979, this consent will expire 40 years from the date of issue of the consent, ie on 19 April 2050.*

At the expiry of this period the dwelling the subject of this consent shall be

removed from the land and the land shall be regraded to approximately the levels existing as at the issue of this consent and turfed to prevent soil erosion.

Council may consider a modification to this condition of the consent, within a period not greater than 12 months prior to the expiry date, subject to the applicant lodging information to verify that the development complies with the then current Council and State Flood Policies.

- B** *That Council note that the life of the consent means that the 500mm freeboard over and above the current 1% AEP level is sufficient to meet State Government Climate Change Sea Level Rise Policy.*

FOR: COUNCILLORS EATON, GRAHAM, MCBRIDE, MCNAMARA, VINCENT AND WEBSTER

AGAINST: COUNCILLORS SYMINGTON AND WYNN

3.2 DA/1201/2009 - Proposed Single Storey Dwelling 34 Jane Ellen Crescent, Chittaway Bay

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

- A** *That Council, having regard to the matters for consideration detailed in Section 79C of the Environmental Planning and Assessment Act, 1979, and other relevant issues, approve Development Application DA/1201/2009 subject to the following conditions:*

- 1 The development taking place in accordance with the approved development plans reference number 201183 Sheets 1 to 9 prepared by McDonald Jones dated 27 October 2009 except as modified by any conditions of this consent, and any amendments in red.*

Certificates/Engineering Details

- 2 A Construction Certificate is to be issued by the Principal Certifying Authority prior to commencement of any works. The application for this Certificate is to satisfy all of the requirements of the Environmental Planning and Assessment Regulation 2000.*

Prior to Release of Construction Certificate:

Certificates/Engineering Details

- 3 The submission of details to Council confirming the location and depth of the sewer main and connection point in relation to the floor level prior to issue of a Construction Certificate, to demonstrate that appropriate connection and fall to the sewer can be achieved.*

Erosion and Sediment Control – Building Sites

- 4 **Prior to the issue of a Construction Certificate, the submission to the Principal Certifying Authority of design plans for the control of soil erosion on the site and the prevention of silt discharge into drainage systems and waterways in accordance with Council's Policy E1 - Erosion and Sediment Control from Building Sites or "Soils and Construction – Managing Urban Stormwater" (Blue Book) The design plans must be approved by the Principal Certifying Authority or an appropriately Accredited Certifier prior to issue of the Construction Certificate.**

Flooding

- 5 **The design of the development must comply with Council's Flood Prone Land Development Policy No. F5 and in particular:**
- **The provision to Council of a satisfactory Structural Certificate from a qualified Engineer as to all proposed structures and building stability in relation to all loadings associated with flooding up to and including 1% AEP flood level of 2.2 metres AHD.**
 - **The minimum habitable floor level is 2.7 metres AHD.**
- 6 **All electrical outlets and fixtures will require protection of a "residual current device" (safety switch) to protect against flood waters. Storage of hazardous or toxic materials is to be 0.5 metres above the identified flood level of 2.2 metres AHD.**

Prior to Commencement of Works:

Approved Plans

- 7 **A copy of the stamped approved plans must be kept on site for the duration of site works and be made available upon request to either the Principal Certifying Authority or an officer of the Council.**

Acoustic

- 8 **Construction work may only be undertaken in accordance with the provisions of the Environmental Protection Authority's 'Environmental Noise Control Manual-Guidelines for Construction Noise' as identified below:**

Monday to Saturday 7.00 am to 5.00 pm.

Work is not to be carried out on Sundays or Public Holidays.

Dilapidation

- 9 ***A dilapidation report must be submitted to Council as the Roads Authority prior to the commencement of any works. The report must document and provide photographs that clearly depict any existing damage to the road, kerb, gutter, footpath, driveways, water supply, sewer works, street trees, street signs or any other Council assets in the vicinity of the development.***

Erosion and Sediment Control

- 10 ***The provision of soil erosion and silt controls on the site in accordance with Council's Policy E1 - Erosion and Sediment Control from Building Sites and Development Control Plan 2005, Chapter 67 – Engineering Requirements for Development and the approved development plans prior to any works commencing on the site. Note: On-the-spot fines may be imposed by Council for non-compliance with this condition.***
- 11 ***Sand and other materials that could potentially be washed off the site during rain periods are to be stored behind the silt control barrier. Note: On-the-spot fines may be imposed by Council for non-compliance with this condition.***
- 12 ***The provision of a metal groyne/s or kerb inlet trap/s to the downstream drainage pit/s of the street drainage system to prevent any silt that may have left the site from entering the drainage system. The build up of silt and debris must be removed from the site on a daily basis. Note: On-the-spot fines may be imposed by Council for non-compliance with this condition.***
- 13 ***The display of an appropriate sign to promote the awareness of the importance of the maintenance of sediment control techniques on the most prominent sediment fence or erosion control device, for the duration of the project. Note: On-the-spot fines may be imposed by Council for non-compliance with this condition.***

Flooding

- 14 ***Building materials used or located below 2.2 metres AHD are to be flood compatible.***
- 15 ***No filling greater than 100mm is permitted without Council approval.***

Home Building Act

- 16 ***In the case of residential building work for which the Home Building Act 1989 requires there to be a contract of insurance in force in accordance with Part 6 of that Act, there shall be such a contract in force in accordance with the requirements of the Home Building Act 1989.***
- 17 ***Residential building work within the meaning of the Home Building Act 1989 must not be carried out unless the Principal Certifying Authority for the development to which the work relates (not being the Council) has given the Council written notice of the following information:***

In the case of work to be done by the holder of a contractor licence under that Act:

- *the name and licence number of the contractor; and*
- *the name of the insurer by whom the work is insured under Part 6 of that Act.*

In the case of work to be done by the holder of an owner-builder permit under that Act:

- *the name and permit number of the owner-builder.*

If arrangements for doing the residential building work are changed while the work is in progress so that the information notified above becomes out of date, further work must not be carried out unless the Principal Certifying Authority for the development to which the work relates (not being the council) has given the council written notice of the updated information.

Plumbing and Drainage

- 18 *Council as the water supply authority, or in unsewered areas where an onsite sewage management facility is to be installed, Council is to be notified to undertake inspections of the internal drainage, (prior to the pouring of the concrete slab), and external drainage prior to the backfilling of the trenches. These inspections can be arranged by telephoning Council's customer services section on 4350 5555 a minimum of 24 hours prior to the required time for the inspection. Note: All drainage inspection fees are to be paid to Council prior to these inspections being undertaken.*

Site Requirements

- 19 *The provision of a temporary closet on site from the time of commencement of building work to ensure that adequate sanitary provisions are provided and maintained on the building site for use by persons engaged in the building activity. The temporary closet is to be a water closet connected to the sewerage system or approved septic tank or a chemical closet supplied by a licensed contractor.*
- 20 *The provision of a metal waste skip (with self-closing lid or secure covering) or lined mesh steel cage(s) in accordance with the requirements of DCP 2005, Chapter 100 – Quality Housing, on site for the duration of the construction to ensure that all wastes are contained on the site. The receptacle is to be emptied periodically to reduce the potential for rubbish to leave the site. Note: On the spot fines may be imposed by Council for pollution incidents.*
- 21 *Waffle pods used in the construction of the building are not to be delivered to the site unless wrapped or securely tied. The waffle pods are to remain secured on site until they are used to prevent damage by wind and to prevent broken portions of the pods being blown from the site. Immediately upon positioning the pods in the construction of the building, off cuts and unused pods must be wrapped in plastic or a similar material. The remaining pods and off cuts are to be removed from the site within 24 hours.*

- 22 *All building materials, plant and equipment must be placed on the site of the development so as to ensure that pedestrian and vehicular access in public places is not restricted and to prevent damage to the road reserve. The storage of building materials on Council's recreation reserves and/or road reserves is prohibited. Note: On the spot fines may be imposed by Council for non-compliance with this condition.*
- 23 *The provision of a hoarding or safety fence between the work site and the public place in accordance with Work Cover Authority requirements, for the duration of the project. Details to be submitted to the Principal Certifying Authority/appropriately Accredited Certifier unless the hoarding is required within the footpath area where approval from Council under the Roads Act as the Roads Authority is required.*
- 24 *The Principal Contractor (or Owner/Builder) is to erect a sign in a prominent position on the site (not attached to any tree) identifying the name, address and telephone number of the Principal Certifying Authority (PCA) for the work; the name, address and telephone number (including a number for outside of business hours) of the Principal Contractor for the work (or Owner/Builder); and stating that unauthorised entry to the site is prohibited. The sign must be maintained while the work is being carried out and is to be removed when the work is completed. Appropriate signs can be collected from Council's Customer Service Centre, where Council is the nominated PCA.*
- 25 *No works, vehicles or materials are permitted within the footpath, reserve or adjacent allotment areas highlighted on the approved site plan.*

Water and Sewer Services/Infrastructure

- 26 *The sewer manhole is to be located and then protected for the duration of construction, to ensure that access is available at all times. The approval of Council is required should the level of the manhole need to be raised or lowered.*
- 27 *The interallotment drainage pit and other services and utilities located on the site are to be protected during construction.*

Prior to Release of Occupation Certificate:

BASIX

- 28 *Pursuant to Clause 97A(3) of the Environmental Planning and Assessment Regulation 2000, it is a condition of this Development Consent that all the commitments listed in the BASIX Certificate for the development are fulfilled. All work is to be satisfactorily completed prior to the issue of the Occupation Certificate.*
- 29 *The provision of the rainwater tank in the approved location including plumbing to collect rainwater from the roof area as detailed in the BASIX*

Certificate. The tank is to be installed in accordance with the requirements of the National Plumbing and Drainage Code AS/NZS 3500, shall include first flow diversion devices fixed to all inflows, be provided with a functioning pressure pump, and be plumbed to service all fixtures as detailed in the BASIX Certificate. The tank must be controlled such that supplement flows from domestic mains do not take place until the tank is at least 80% empty. Overflow from the rainwater reuse tank is to be directed to Council's road drainage system.

Building Code of Australia

- 30 Compliance with the relevant provisions and requirements of the Building Code of Australia.**

Dilapidation

- 31 Any damage not shown in the Dilapidation Report submitted to Council before site works had commenced, will be assumed to have been caused as a result of the site works undertaken and must be rectified at the applicant's expense, prior to release of the Occupation/Subdivision Certificate.)**

Erosion and Sediment Control

- 32 The downpipes and stormwater drainage being installed and connected to the approved stormwater disposal system immediately after the roof materials are positioned to prevent erosion of the site from roof water. Note: A Compliance Certificate for the frame cannot be issued until the stormwater drainage system is installed.**

Flooding

- 33 All rainwater storage tank(s) must be installed with the stormwater inlet and outlets, air gap for mains water top up at a minimum level of 500mm above the 1% AEP flood. Where the stormwater outlet cannot be located 500mm above the flood level it must be fitted with a non return valve to prevent back flow in accordance with Council's rainwater tank installation guidelines.**
- 34 The prevention of any obstruction of surface drainage which could result in the disruption of the amenity, or drainage or deterioration to any other property.**
- 35 A flood evacuation plan is to be provided that incorporates the requirements of the Wyong Shire Local Flood Plan and the State Emergency Service. Reference to the flood evacuation plan is to be included on the title for the property.**

Plumbing and Drainage

- 36 The hot water installation must deliver hot water not exceeding 50 degrees Celsius at the outlet of the sanitary fixtures used primarily for personal hygiene purposes. Note: Compliance with this temperature limit is optional for kitchen sinks and laundry tubs. AS/NZS 3500 Part 4.2 C1.1.6.2.**

- 37 *All toilet cisterns, showerheads and taps on bathroom and kitchen hand basins must achieve compliance with the Water Efficiency and Labelling and Standards Scheme (WELS).*
- 38 *The sewer surcharge gully is to be relocated clear of the proposed building to facilitate access.*

Stormwater

- 39 *Roof water from the building and the overflow from the water tank is to be disposed of into Council's street gutter drainage system and the existing outlet that has been provided through the kerb is to be utilised.*

Vehicle Access and Parking

- 40 *The design and construction of a non-slip finish driveway with a decorative finish in the location shown on the approved plans. All works are to be completed prior to release of the Occupation Certificate.*

Water and Sewer Services/Infrastructure

- 41 *The surcharge gully for the development must be a minimum of 150mm below floor level and 75mm above the finished ground level.*
- 42 *All water and sewer works for the development must be approved by Council prior to the issue of an Occupation Certificate.*

Ongoing Operation:

Time Limited Consent

- 43 *In accordance with Section 80A(1) (d) and 80A(1) (e) of the Environmental Planning and Assessment Act, 1979, this consent will expire 40 years from the date of issue of the consent, ie on 19 April 2050.*

At the expiry of this period the dwelling the subject of this consent shall be removed from the land and the land shall be regraded to approximately the levels existing as at the issue of this consent and turfed to prevent soil erosion.

Council may consider a modification to this condition of the consent, within a period not greater than 12 months prior to the expiry date, subject to the applicant lodging information to verify that the development complies with the then current Council and State Flood Policies.

- B.** *That Council note that the life of the consent means that the 500mm freeboard over and above the current 1% AEP level is sufficient to meet State Government Climate Change Sea Level Rise Policy.*

FOR: COUNCILLORS EATON, GRAHAM, MCBRIDE, MCNAMARA, VINCENT AND WEBSTER

AGAINST: COUNCILLORS SYMINGTON AND WYNN

3.3 DA/1153/2009/A - Modification to an approved Dwelling 2 Marina Street, Budgewoi

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

A That Council, having regard to the matters for consideration detailed under Section 96(1A) and Section 79C of the Environmental Planning and Assessment Act, 1979, modify Development Consent No. 1153/2009 issued on 26 November 2009 and issue an amended consent subject to the following conditions:

1 The development taking place in accordance with the approved development plans reference number NZ TC4AA Sheets 1 to 4 prepared by Beechwood Homes dated 24 June 2009 except as modified by any conditions of this consent, and any amendments in red.

Certificates/Engineering Details

2 A Construction Certificate is to be issued by the Principal Certifying Authority prior to commencement of any works. The application for this Certificate is to satisfy all of the requirements of the Environmental Planning and Assessment Regulation 2000.

Prior to Release of Construction Certificate:

Garage Setback

3 The submission to the Principal Certifying Authority of amended plans showing the garage setback 6.0 metres from the front property boundary.

Certificates/Engineering Details

4 The submission of details to Council confirming the location and depth of the sewer main and connection point in relation to the floor level prior to issue of a Construction Certificate, to demonstrate that appropriate connection and fall to the sewer can be achieved.

Erosion and Sediment Control – Building Sites

5 Prior to the issue of a Construction Certificate, the submission to the Principal Certifying Authority of design plans for the control of soil erosion on the site and the prevention of silt discharge into drainage systems and waterways in accordance with Council's Policy E1 - Erosion and Sediment Control from Building Sites or "Soils and Construction – Managing Urban Stormwater" (Blue Book) The design plans must be approved by the Principal Certifying Authority or an appropriately Accredited Certifier prior to issue of the Construction Certificate.

Flooding

- 6 ***The design of the development must comply with Council's Flood Prone Land Development Policy No. F5 and in particular:***
- ***The provision to Council of a satisfactory Structural Certificate from a qualified Engineer as to all proposed structures and building stability in relation to all loadings associated with flooding up to and including 1% AEP flood level of 2.2 metres AHD.***
 - ***The minimum habitable floor level is 2.7 metres AHD.***
- 7 ***All electrical outlets and fixtures will require protection of a "residual current device" (safety switch) to protect against flood waters. Storage of hazardous or toxic materials is to be 0.5 metres above the identified flood level of 2.2 metres AHD.***

Prior to Commencement of Works:

Approved Plans

- 8 ***A copy of the stamped approved plans must be kept on site for the duration of site works and be made available upon request to either the Principal Certifying Authority or an officer of the Council.***

Acoustic

- 9 ***Construction work may only be undertaken in accordance with the provisions of the Environmental Protection Authority's 'Environmental Noise Control Manual-Guidelines for Construction Noise' as identified below:***

Monday to Saturday 7.00 am to 5.00 pm.

Work is not to be carried out on Sundays or Public Holidays.

Dilapidation

- 10 ***A dilapidation report must be submitted to Council as the Roads Authority prior to the commencement of any works. The report must document and provide photographs that clearly depict any existing damage to the road, kerb, gutter, footpath, driveways, water supply, sewer works, street trees, street signs or any other Council assets in the vicinity of the development.***

Erosion and Sediment Control

- 11 ***The provision of soil erosion and silt controls on the site in accordance with Council's Policy E1 - Erosion and Sediment Control from Building Sites and Development Control Plan 2005, Chapter 67 – Engineering Requirements for Development and the approved development plans prior to any works commencing on the site. Note: On-the-spot fines may be imposed by Council for non-compliance with this condition.***
- 12 ***Sand and other materials that could potentially be washed off the site during rain periods are to be stored behind the silt control barrier. Note: On-the-spot fines may be imposed by Council for non-compliance with this condition.***

- 13 ***The provision of a metal groyne/s or kerb inlet trap/s to the downstream drainage pit/s of the street drainage system to prevent any silt that may have left the site from entering the drainage system. The build up of silt and debris must be removed from the site on a daily basis. Note: On-the-spot fines may be imposed by Council for non-compliance with this condition.***
- 14 ***The display of an appropriate sign to promote the awareness of the importance of the maintenance of sediment control techniques on the most prominent sediment fence or erosion control device, for the duration of the project. Note: On-the-spot fines may be imposed by Council for non-compliance with this condition.***

Flooding

- 15 ***Building materials used or located below 2.2 metres AHD are to be flood compatible***
- 16 ***No filling greater than 100mm is permitted without Council approval.***

Home Building Act

- 17 ***In the case of residential building work for which the Home Building Act 1989 requires there to be a contract of insurance in force in accordance with Part 6 of that Act, there shall be such a contract in force in accordance with the requirements of the Home Building Act 1989.)***
- 18 ***Residential building work within the meaning of the Home Building Act 1989 must not be carried out unless the Principal Certifying Authority for the development to which the work relates (not being the Council) has given the Council written notice of the following information:***

In the case of work to be done by the holder of a contractor licence under that Act:

- ***the name and licence number of the contractor; and***
- ***the name of the insurer by whom the work is insured under Part 6 of that Act.***

In the case of work to be done by the holder of an owner-builder permit under that Act:

- ***the name and permit number of the owner-builder.***

If arrangements for doing the residential building work are changed while the work is in progress so that the information notified above becomes out of date, further work must not be carried out unless the Principal Certifying Authority for the development to which the work relates (not being the council) has given the council written notice of the updated information.

Plumbing and Drainage

- 19 ***Council as the water supply authority, or in unsewered areas where an onsite sewage management facility is to be installed, Council is to be***

notified to undertake inspections of the internal drainage, (prior to the pouring of the concrete slab), and external drainage prior to the backfilling of the trenches. These inspections can be arranged by telephoning Council's customer services section on 4350 5555 a minimum of 24 hours prior to the required time for the inspection. Note: All drainage inspection fees are to be paid to Council prior to these inspections being undertaken.

Site Requirements

- 20** *The provision of a temporary closet on site from the time of commencement of building work to ensure that adequate sanitary provisions are provided and maintained on the building site for use by persons engaged in the building activity. The temporary closet is to be a water closet connected to the sewerage system or approved septic tank or a chemical closet supplied by a licensed contractor.*
- 21** *The provision of a metal waste skip (with self-closing lid or secure covering) or lined mesh steel cage(s) in accordance with the requirements of DCP 2005, Chapter 100 – Quality Housing, on site for the duration of the construction to ensure that all wastes are contained on the site. The receptacle is to be emptied periodically to reduce the potential for rubbish to leave the site. Note: On the spot fines may be imposed by Council for pollution incidents.*
- 22** *Waffle pods used in the construction of the building are not to be delivered to the site unless wrapped or securely tied. The waffle pods are to remain secured on site until they are used to prevent damage by wind and to prevent broken portions of the pods being blown from the site. Immediately upon positioning the pods in the construction of the building, off cuts and unused pods must be wrapped in plastic or a similar material. The remaining pods and off cuts are to be removed from the site within 24 hours.*
- 23** *All building materials, plant and equipment must be placed on the site of the development so as to ensure that pedestrian and vehicular access in public places is not restricted and to prevent damage to the road reserve. The storage of building materials on Council's recreation reserves and/or road reserves is prohibited. Note: On the spot fines may be imposed by Council for non-compliance with this condition.*
- 24** *The provision of a hoarding or safety fence between the work site and the public place in accordance with Work Cover Authority requirements, for the duration of the project. Details to be submitted to the Principal Certifying Authority/appropriately Accredited Certifier unless the hoarding is required within the footpath area where approval from Council under the Roads Act as the Roads Authority is required.*
- 25** *The Principal Contractor (or Owner/Builder) is to erect a sign in a prominent position on the site (not attached to any tree) identifying the name, address and telephone number of the Principal Certifying Authority (PCA) for the work; the name, address and telephone number (including a number for outside of business hours) of the Principal Contractor for the work (or Owner/Builder); and stating that unauthorised entry to the site is prohibited. The sign must be maintained while the work is being carried out and is to be removed when the work is completed. Appropriate signs can be collected from Council's Customer Service Centre, where Council is the nominated PCA.*

- 26 *No works, vehicles or materials are permitted within the footpath, reserve or adjacent allotment areas highlighted on the approved site plan.*

Water and Sewer Services/Infrastructure

- 27 *The sewer manhole is to be located and then protected for the duration of construction, to ensure that access is available at all times. The approval of Council is required should the level of the manhole need to be raised or lowered.*
- 28 *The interallotment drainage pit and other services and utilities located on the site are to be protected during construction.*

Prior to Release of Occupation Certificate:

BASIX

- 29 *Pursuant to Clause 97A(3) of the Environmental Planning and Assessment Regulation 2000, it is a condition of this Development Consent that all the commitments listed in the BASIX Certificate for the development are fulfilled. All work is to be satisfactorily completed prior to the issue of the Occupation Certificate.*
- 30 *The provision of the rainwater tank in the approved location including plumbing to collect rainwater from the roof area as detailed in the BASIX Certificate. The tank is to be installed in accordance with the requirements of the National Plumbing and Drainage Code AS/NZS 3500, shall include first flow diversion devices fixed to all inflows, be provided with a functioning pressure pump, and be plumbed to service all fixtures as detailed in the BASIX Certificate. The tank must be controlled such that supplement flows from domestic mains do not take place until the tank is at least 80% empty. Overflow from the rainwater reuse tank is to be directed to Council's road drainage system.*

Building Code of Australia

- 31 *Compliance with the relevant provisions and requirements of the Building Code of Australia.*

Dilapidation

- 32 *Any damage not shown in the Dilapidation Report submitted to Council before site works had commenced, will be assumed to have been caused as a result of the site works undertaken and must be rectified at the applicant's expense, prior to release of the Occupation/Subdivision Certificate.*

Erosion and Sediment Control

- 33 *The downpipes and stormwater drainage being installed and connected to the approved stormwater disposal system immediately after the roof materials are positioned to prevent erosion of the site from roof water.*

Note: A Compliance Certificate for the frame cannot be issued until the stormwater drainage system is installed.

Flooding

- 34 All rainwater storage tank(s) must be installed with the stormwater inlet and outlets, air gap for mains water top up at a minimum level of 500mm above the 1% AEP flood. Where the stormwater outlet cannot be located 500mm above the flood level it must be fitted with a non return valve to prevent back flow in accordance with Council's rainwater tank installation guidelines.**
- 35 The prevention of any obstruction of surface drainage which could result in the disruption of the amenity, or drainage or deterioration to any other property.**
- 36 A flood evacuation plan is to be provided that incorporates the requirements of the Wyong Shire Local Flood Plan and the State Emergency Service. Reference to the flood evacuation plan is to be included on the title for the property.**

Plumbing and Drainage

- 37 The hot water installation must deliver hot water not exceeding 50 degrees Celsius at the outlet of the sanitary fixtures used primarily for personal hygiene purposes. Note: Compliance with this temperature limit is optional for kitchen sinks and laundry tubs. AS/NZS 3500 Part 4.2 C1.1.6.2. (313)**
- 38 All toilet cisterns, showerheads and taps on bathroom and kitchen hand basins must achieve compliance with the Water Efficiency and Labelling and Standards Scheme (WELS).**
- 39 The sewer surcharge gully is to be relocated clear of the proposed building to facilitate access.**

Stormwater

- 40 Roof water from the building and the overflow from the water tank is to be disposed of into Council's street gutter drainage system and the existing outlet that has been provided through the kerb is to be utilised.**

Vehicle Access and Parking (386)

- 41 The design and construction of a non-slip finish driveway with a decorative finish in the location shown on the approved plans. All works are to be completed prior to release of the Occupation Certificate.**

Water and Sewer Services/Infrastructure

- 42 The surcharge gully for the development must be a minimum of 150mm below floor level and 75mm above the finished ground level.**
- 43 All water and sewer works for the development must be approved by Council prior to the issue of an Occupation Certificate.**

Ongoing Operation:

Time Limited Consent

- 44** *In accordance with Section 80A(1) (d) and 80A(1) (e) of the Environmental Planning and Assessment Act, 1979, this consent will expire 40 years from the date of issue of the consent, ie on 19 April 2050.*

At the expiry of this period the dwelling the subject of this consent shall be removed from the land and the land shall be regraded to approximately the levels existing as at the issue of this consent and turfed to prevent soil erosion.

Council may consider a modification to this condition of the consent, within a period not greater than 12 months prior to the expiry date, subject to the applicant lodging information to verify that the development complies with the then current Council and State Flood Policies.

- B** *That Council note that the life of the consent means that the 500mm freeboard over and above the current 1% AEP level is sufficient to meet State Government Climate Change Sea Level Rise Policy.*

FOR: COUNCILLORS EATON, GRAHAM, MCBRIDE, MCNAMARA, VINCENT AND WEBSTER

AGAINST: COUNCILLORS SYMINGTON AND WYNN

ELECTION OF CHAIR

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

That in the absence of both the Mayor and Deputy Mayor, Councillor McNamara assume the chair during consideration of Item 3.4.

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

AGAINST: NIL

3.4 Rezoning Requests - RZ/18/2009 - 1 London Drive, North Wyong, RZ/19/2009 - 13-15 Hereford Street, Berkeley Vale and RZ/20/2009 - 1 Bryant Drive, Tuggerah

Councillor Graham declared a pecuniary interest in the matter for the reason that he is a director on the board of the Central Coast Mariners Football Club which is involved with the property at 1 Bryant Drive, Tuggerah, left the chamber at 6.15 pm, took no part in discussion, did not vote and returned to the chamber at 6.16 pm.

Councillor Eaton declared a pecuniary interest in the matter for the reason that he is the applicant for RZ/18/2009, left the chamber at 6.15 pm, took no part in discussion, did not vote and returned to the chamber at 6.16 pm.

RESOLVED on the motion of Councillor MCNAMARA and seconded by Councillor WEBSTER:

- 1 **That Council prepare planning proposals to insert the following into Schedule 2 - Development for Certain Purposes of Wyong Local Environmental Plan 1991:**
 - a **Lot 1 DP1100416, 1 London Drive, North Wyong as shown edged heavy black on the map marked "Wyong Local Environmental Plan 1991 – 'Service Station'".**
 - b **Lots 9 and 10 DP 255990 – Hereford Street, Berkeley Vale as shown edged heavy black on the map marked "Wyong Local Environmental Plan 1991 – 'Plant Hire Establishment'".**
 - c **Use of up to 3,500m² for the purposes of commercial premises on Lot 21 DP 654119 and Lots 24–25 DP 25373 Bryant Drive, Tuggerah.**
- 2 **That Council, subject to the determination of the Gateway process and Director General's approval, undertake community consultation regarding the planning proposals.**
- 3 **That Council, subject to there being no objections received that cannot be resolved by minor amendments to the planning proposals, request the Department of Planning (DoP) to prepare the draft Local Environmental Plan Instruments and the Minister be requested to make the plans.**

FOR: COUNCILLORS MCBRIDE, MCNAMARA, SYMINGTON, VINCENT, WEBSTER AND WYNN

AGAINST: NIL

The meeting ADJOURNED at 5.52 pm and RESUMED at 5.57 pm.

4.1 Contract CPA/137900 - Provision of Security Services at Various Council Facilities

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

- 1 **That Council exercise its option to extend the contract for one year effective from 8 August 2010 at an estimated contract price of \$176,990.00 (excl. GST).**
- 2 **That Council approve an annual contract budget of \$194,689.00 (excl GST and including CPI adjustment) that provides for an annual contingency amount of \$17,698.00 (excl. GST), representing approximately 10% of the contract value, to provide for any unforeseen additional works that may become necessary during the course of the project. Actual expenditure may vary slightly if the number of facilities to be secured changes during the course of the contract.**

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

AGAINST: NIL

4.2 Contract CPA/172612 - Construction of Hamlyn Terrace Community Centre & Sporting Facility

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

- 1 That Council accept the tender from Scape Constructions Pty Ltd in the adjusted lump sum amount of \$6,360,811.82 (excl GST) for Contract CPA/172612 - Construction of Hamlyn Terrace Community Centre & Sporting Facility.**
- 2 That for Contract CPA/172612, Council approve a contract budget of \$7,310,811.82 (excl GST) that provides for a contingency amount of \$950,000.00 (excl GST), representing approximately 15% of the contract value, to provide for any unforeseen additional works that may become necessary during the course of the project.**

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

AGAINST: NIL

5.1 Deductible Gift Recipient status for Wyong Shire Library Service

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

- 1 That Council approve the establishment of a Trust, known as the Wyong Shire Library Service Trust, who will manage a gift fund for the purpose of seeking funding for Wyong Shire Library Service.**
- 2 That Council approve the establishment of a Trust, known as the Wyong Shire Cultural Trust, who will manage a gift fund for the purpose of seeking funding for Wyong Shire Cultural Services.**
- 3 That Council request the Trustee to seek Deductible Gift Recipient status for the funds.**
- 4 That Council approve the General Manager as the Appointer of the Trusts.**
- 5 That Council endorse the recommended management of the Trusts as detailed in the report.**

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

AGAINST: NIL

5.2 Extension of Alcohol Free Zone - Wyong

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

That Council formally adopt the proposal to extend an Alcohol Free Zone in Wyong until 30 June 2013 at the following location:

Wyong: Pacific Highway from Wyong River Bridge to Anzac Avenue, Alison Road to Margaret Street, Rankens Courts, Peters Lane, Bakers Lane, Plaza Lane, Robleys Lane and Hely Street from Alison Road to Anzac Avenue.

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

AGAINST: NIL

5.3 Conference attendance - 2010 National General Assembly of Local Government, Canberra.

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

- 1 That Council note that no motions have been received from Councillors for submission to the 2010 National General Assembly of Local Government.**
- 2 That Council authorise interested Councillors to attend the 2010 National General Assembly of Local Government between 14 and 17 June 2010.**
- 3 That Council pay expenses incurred by Councillors attending the Assembly in accordance with Council's Facilities and Expenses Policy for Councillors.**
- 4 That Council determine the voting delegate should the Mayor not attend.**

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

AGAINST: NIL

5.4 Exhibition of Draft 2010-11 Management Plan

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

That Council adopt the Draft 2010-11 Management Plan for the purpose of public exhibition in accordance with Section 405 of the Local Government Act 1993.

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

AGAINST: NIL

5.5 Proposed Councillors' Community Improvement Grants

Councillor Wynn declared a non-pecuniary insignificant conflict of interest in the matter for the reason that her husband occasionally teaches at Gorokan High school and the proponent is known to her and participated in consideration of this matter.

Councillor Wynn stated:

"I choose to remain in the chamber and participate in discussion and voting as the conflict has not influenced me in carrying out my public duty because I dealt with the request on its merits only."

RESOLVED unanimously on the motion of Councillor MCBRIDE and seconded by Councillor MCNAMARA:

That Council allocate an amount of \$11,200.00 from the 2009-10 Councillors' Community Improvement Grants as outlined in the report.

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

AGAINST: NIL

5.6 Establishment of an Environment Committee

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

- 1 *That Council amend the Charter of the Tuggerah Lakes Estuary Coastal and Floodplain Management Committee to form a strategic level Environment Committee .*
- 2 *That Council determine the membership of this Environment Committee.*
- 3 *That the Environment Committee continue to meet on the same basis as the current Tuggerah Lakes Estuary Coastal and Floodplain Management Committee.*
- 4 *That the purpose of the Environment Committee is to examine, develop, review and report to Council on broad shire wide strategic environmental issues and initiatives, whilst continuing to consider the existing matters currently contained within the charter of Tuggerah Lakes Estuary Coastal and Floodplain Management Committee.*

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

- 1 *That Council establish a strategic Environment Committee.*
- 2 *That Council determine the membership of this Environment Committee.*
- 3 *That Council consider a report on the charter of this Environment Committee.*
- 4 *That Council note that the purpose of the Environment Committee is to examine, develop, review and report to Council on broad shire wide strategic environmental issues and initiatives.*

The AMENDMENT was put to the vote and declared CARRIED

FOR: COUNCILLORS EATON, MCNAMARA, SYMINGTON, WEBSTER AND WYNN

AGAINST: COUNCILLORS GRAHAM, MCBRIDE AND VINCENT

The AMENDMENT became the MOTION

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

- 1 ***That Council establish a strategic Environment Committee.***
- 2 ***That Council determine the membership of this Environment Committee.***
- 3 ***That Council consider a report on the charter of this Environment Committee.***
- 4 ***That Council note that the purpose of the Environment Committee is to examine, develop, review and report to Council on broad shire wide strategic environmental issues and initiatives.***

FOR: COUNCILLORS EATON, MCNAMARA, SYMINGTON, WEBSTER AND WYNN

AGAINST: COUNCILLORS GRAHAM, MCBRIDE AND VINCENT

5.7 Minutes of the Senior Citizens' Council Meeting - 19 March 2010

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

That Council receive the minutes of the Wyong Shire Senior Citizens' Council Meeting held on 19 March 2010 and adopt the recommendations contained therein.

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

AGAINST: NIL

6.1 Information Reports

Councillor Best joined the meeting at 6.48 pm during consideration of this item.

Councillor Symington left the chamber at 6.49 pm and returned to the chamber at 6.50 pm and as a result took no part in voting.

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

That with the exception of report numbers 6.2, 6.3, 6.5, 6.6 and 6.7 Council receive the information reports and adopt the recommendations.

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

AGAINST: NIL

6.2 Investments for February 2010

Councillor Symington left the chamber at 6.49 pm and returned to the chamber at 6.50 pm during consideration of this item

RESOLVED unanimously on the motion of Councillor MCBRIDE and seconded by Councillor MCNAMARA:

That Council receive the report on Investments for February 2010.

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

AGAINST: NIL

6.3 Bus Servicing Review

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

- 1 That Council receive the report on Bus Servicing Review.**
- 2 That Council continue advocating strongly for the use of express services to provide fast and direct services to destinations and improve access and linkages for commuters.**
- 3 That Council support the investigation for “Park and Ride” opportunities and commuter carparks at strategic locations.**

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

AGAINST: NIL

6.4 Disclosures of Interest - 1 January to 31 March 2010

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

That Council receive the report on Disclosures of Interest - 1 January to 31 March 2010.

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

AGAINST: NIL

6.5 Mardi to Mangrove Link Project Status

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

That Council receive the report on Mardi to Mangrove Link Project Status.

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

AGAINST: NIL

6.6 Emergency Access from Freeway to Hue Hue Road

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

- 1 That Council note the report on the feasibility of converting the new emergency access from Hue Hue Road, Alison to the Freeway to permanent left in left out access.**
- 2 That Council's engineers submit a further report on possible construction methods and costs involved in converting this access to permanent left-in/left-out.**

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

AGAINST: NIL

6.7 Outstanding Questions Without Notice and Notices of Motion

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

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

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

AGAINST: NIL

8.1 Notice of Motion - Bike Racks on buses

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

That Council investigate and report on the possibility of local bus services providing passengers with transport racks for push bikes as is common in Europe and the USA.

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

AGAINST: NIL

8.2 Notice of Motion - Access to Council Information - Anywhere, Anyhow, Anytime

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

- 1 That Council actively continue its rollout of community access to Council information and related services.**
- 2 That Council promote these new services to the community and highlight the availability of information from mobiles, PDA's, Internet and phone.**
- 3 That staff report on how new technologies can improve internal efficiency and productivity.**

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

AGAINST: NIL

8.3 Notice of Motion - Deferment of Determination of Development Applications affected by Sea Level Rise

Councillor Vincent left the chamber at 7.37 pm and returned to the chamber at 7.38 pm during consideration of this item.

It was MOVED by Councillor SYMINGTON and SECONDED by Councillor WYNN:

In accordance with resolution on Item 5.2 – Notice of Motion – Elected Council Independent Legal Advisor adopted on 10 February 2010 to seek legal advice from a separate independent firm of solicitors in relation to the determination by Councillors of development applications affected by Sea level Rise

That Council defer determination of any development applications so affected, until such time as this advice has been received and considered.

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

That Council urgently seek further independent legal advice on this issue.

The AMENDMENT was put to the vote and declared CARRIED.

FOR: COUNCILLORS BEST, EATON, GRAHAM, MCBRIDE, MCNAMARA, VINCENT AND WEBSTER

AGAINST: COUNCILLORS SYMINGTON AND WYNN

The AMENDMENT became the MOTION

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

That Council urgently seek further independent legal advice on this issue.

FOR: COUNCILLORS BEST, EATON, GRAHAM, MCBRIDE, MCNAMARA, VINCENT AND WEBSTER

AGAINST: COUNCILLORS SYMINGTON AND WYNN

8.4 Notice of Motion - Public Access to Coast via Tuggerah Lakes Golf Course

The Director Corporate Services declared a non-pecuniary insignificant conflict of interest in the matter for the reason that he is a playing member of the golf club and participated in consideration of this matter.

The Director stated:

"I choose to remain in the chamber and participate in discussion as the conflict has not influenced me in carrying out my public duty because no personal benefit accrues to me in any way, in fact my knowledge as a golfer and a resident serves to enhance my ability to perform my public duties."

Councillor Webster left the chamber at 8.01 pm and returned to the chamber at 8.02 pm during consideration of this item.

Councillor Best left the chamber at 8.26 pm and returned to the chamber at 8.32 pm during consideration of this item.

Mr Allan Arkins, Vice President of Tuggerah Lakes Golf Club, addressed the meeting at 8.01 pm, answered questions and retired at 8.12 pm.

Ms Meegan Harrison, resident, addressed the meeting at 8.12 pm, answered questions and retired at 8.20 pm.

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

- 1 That Council note the closure of the long-established public access to the coast through the golf course at the northern end of the course resulting from the locking, by the Club, of the gate at this location.**
- 2 That Council request the General Manager to provide a detailed report on the arrangement between the Tuggerah Lakes Golf Club and the Shelly Beach Recreation and Flora (R73287) Reserve Trust**

- 3 That Council seek legal advice, through a report from staff, on the issues affecting the public's right of access to the Tuggerah Lakes Golf Course including, but not exclusively so:-
- a What rights, are accorded to the general public.
 - b Council's ability, or otherwise, to enforce the public's right of access.
 - c Establishing what is a reasonable and lawful interpretation of "proper purpose".
 - d Council's liabilities in terms of the safety issues and in terms of protecting the assets.
 - e Council's obligations to ensure the Club protects the public appropriately from the risks of access.
 - f What rights, if any, are accorded to the adjacent neighbours
 - g The relevance and quality of the existing lease as an appropriate commercial arrangement.
- 4 That Council formally advise the Tuggerah Lakes Golf Club that it does not support the recent closure of the gate at the northern end of the course and request the Club to reopen the gate.

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

AGAINST: NIL

9.1 Rescission Motion - Sale of Land - Moala Parade, Charmhaven

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

That Council rescind the following resolutions carried at the Ordinary Meetings of Council held on 22 July 2009 and 24 March 2010:

22 July 2009

- "1 That Council authorise the sale of Lot 83 DP 27286 Charmhaven Avenue, Charmhaven and Lot 94 Section 1 DP 11824 Moala Parade, Charmhaven for an amount not less than market value for each parcel as determined by an independent registered valuer.**
- 2 That Council authorise the Common Seal of the Wyong Shire Council to be affixed to the formal the documents for the Sale and Transfer of the land."**

24 March 2010

- "1 That Council receive the report and note the information.**
- 2 That Council authorise the sale of Lot 83 DP 27286 Charmhaven Avenue, Charmhaven and Lot 94 Section 1 DP 11824 Moala Parade, Charmhaven for an amount not less than market value for each parcel as determined by an independent registered valuer.**

- 3 That Council authorise the Common Seal of the Wyong Shire Council to be affixed to the formal the documents for the Sale and Transfer of the land.
- 4 That Council authorise the Mayor and the General Manager to execute all documents.”

FOR: COUNCILLORS BEST, MCBRIDE, SYMINGTON, VINCENT AND WYNN

AGAINST: COUNCILLORS EATON, GRAHAM, MCNAMARA AND WEBSTER

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

- 1 That Council receive the report and note the information.
- 2 That Council recognise the need to provide a community accessway over Lot 94 Moala Parade and Lot 83 Charmhaven Avenue through forming a standard accessway/public space over the above lots.
- 3 That Council appropriately dispose of the residual land for an amount not less than market value for each parcel as determined by an independent registered valuer and the funds returned to Council’s General Revenue.
- 4 That Council as with other shared pathways seek joint funding.
- 5 That Council in partnership with the local community and precinct committee gauge the level of support for the establishment of a community native gardens on various Council owned lands within close proximity to the proposed walkway.
- 6 That Council authorise the Common Seal of the Wyong Shire Council to be affixed to the formal the documents for the Sale and Transfer of the land.
- 7 That Council authorise the Mayor and the General Manager to execute all documents.

FOR: COUNCILLORS BEST, MCBRIDE, SYMINGTON, VINCENT AND WYNN

AGAINST: COUNCILLORS EATON, GRAHAM, MCNAMARA AND WEBSTER

QUESTIONS WITHOUT NOTICE

**Q75/10 Request to Change Zoning for Proposed GP Super Clinic at Warnervale
Councillor Doug Eaton
DA/1396/2009**

“Could Council confirm or deny that Council staff requested the Department of Planning or other State Government Authorities to change zoning instruments to make the proposed GP Super Clinic a permissible use?”

**Q76/10 Timeframes for North Wyong Structure Plan and Central Coast
Conservation Plan**

Councillor Doug Eaton

F2006/00777

*“Could staff advise on progress/timeframe for the North Wyong Structure Plan and
Central Coast Conservation Plan?”*

THE MEETING closed at 9.06 pm.