



Congratulations to Beth Jones on winning the 2012 Central Coast Women in Business award in the category of Women in Government or Public Service. Ms Jones won the award for her work as Council's Care and Education Coordinator, a role where she has worked tirelessly to provide a friendly, safe and reliable child care service for the community.

Wyong Shire Council

# Business Paper

## ORDINARY COUNCIL MEETING

24 October 2012

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# MEETING NOTICE

The **ORDINARY COUNCIL MEETING**  
of **Wyong Shire Council**  
will be held in the **Council Chamber,**  
**Wyong Civic Centre, Hely Street, Wyong** on  
**WEDNESDAY 24 OCTOBER 2012** at **5.00 pm,**  
for the transaction of the business listed below:

## OPENING PRAYER

## ACKNOWLEDGEMENT OF COUNTRY

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At the conclusion of the meeting and at the discretion of the Mayor, Council may meet with staff in an informal, non-decision making mode for a period of no more than 30 minutes.

Michael Whittaker  
**GENERAL MANAGER**

## 1.1 Disclosure of Interest

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TRIM REFERENCE: F2012/00026 - D03155519

MANAGER: Lesley Crawley, Manager Corporate Governance

AUTHOR: Sonia Witt; TL Governance and Councillor Services

The provisions of Chapter 14 of the *Local Government Act, 1993* regulate the way in which Councillors and nominated staff of Council conduct themselves to ensure that there is no conflict between their private interests and their public trust.

The Act prescribes that where a member of Council (or a Committee of Council) has a direct or indirect financial (pecuniary) interest in a matter to be considered at a meeting of the Council (or Committee), that interest must be disclosed as soon as practicable after the start of the meeting and the reasons for declaring such interest.

As members are aware, the provisions of the Local Government Act restrict any member who has declared a pecuniary interest in any matter from participating in the discussions, voting on that matter, and require that member to vacate the Chamber.

Council's Code of Conduct provides that if members have a non-pecuniary conflict of interest, the nature of the conflict must be disclosed. The Code also provides for a number of ways in which a member may manage non pecuniary conflicts of interest.

### RECOMMENDATION

***That Councillors now disclose any conflicts of interest in matters under consideration by Council at this meeting.***

## 1.2 Proposed Inspections and Briefings

TRIM REFERENCE: F2012/00026 - D03163328

MANAGER: Lesley Crawley, Manager Corporate Governance

AUTHOR: Jacque Elvidge; Councillor Services Officer

### SUMMARY

There were no inspections scheduled for the 5 October 2012.

Briefings proposed for this meeting and future meetings to be held in the Wilfred Barrett and Tim Farrell Committee Rooms:

Date	Time	Briefing Title	Description	Presented by
24 October 2012	12.00-12.30 pm	Service Standards Review Update	Consult with Councillors on proceeding to the next stage of community consultation on the Service Standards Review.	Director Community & Recreation Services and Manager Workplace Change
24 October 2012	12.30-1.00 pm	Section 94 Exemption for Secondary Dwellings	To provide an overview of Council's trial policy to exempt secondary dwellings from paying Section 94 Contributions	Director Environment & Planning Services, Manager Land Use Planning Policy Development and Senior Contributions Officer
24 October 2012	1.00-1.30 pm	Options for the Deferred Payment of Section 94 Contributions	To provide an overview of the risks of different options for permitting the deferral of Section 94 Contributions	Director Environment & Planning Services, Manager Land Use Planning Policy Development and Senior Contributions Officer
24 October 2012	1.30-3.00 pm	Structure of Council - <b>Confidential</b>	Discuss preliminary structure for endorsement	General Manager
31 October 2012	4.00-4.30 pm	RMS - Pacific Highway Upgrade	RMS to brief Councillors on the results of the independent evaluation carried out, on all options, for the Pacific Highway upgrading through Wyong.	Director Infrastructure Management and Principal Transport Engineer.  Briefing to be carried out by RMS Central Coast Manager (Glenn Weymer).
31 October 2012	4.30-5.00 pm	Former Mardi Landfill Remediation	There is a public meeting set down for 31/10/12 at the Woodbury Park Community Centre	Director Infrastructure Management, Manager Contract and Project Management and Project Manager

## 1.2 Proposed Inspections and Briefings (contd)

Date	Time	Briefing Title	Description	Presented by
31 October 2012	5.00- 5.30 pm	LIRS Loan	Update on progress of Local Infrastructure Renewal Scheme (LIRS) including presentation of key points from the Financial Assessment and Benchmarking Report prepared by NSW Treasury Corporation on WSC	Director Corporate Services Director and Chief Financial Officer
31 October 2012	5.30- 6.00 pm	Toukley Town Centre Masterplan & Proposed Town Centre Masterplans	To seek Councillor endorsement to place the Toukley Town Centre Masterplan on public exhibition and to discuss the 4 masterplans being prepared in 2012/13 – Toukley, Bay Village, Lake Haven, Budgewoi and Long Jetty	Director Environment & Planning Services and Manager Place Management

### RECOMMENDATION

*That Council receive the report on Proposed Inspections and Briefings.*

### ATTACHMENTS

- 1 Proposed Briefing Schedule - 24 October 2012      D03163617

PROPOSED DATE	If more than 30mins required state duration	Briefing Title	Director	STAFF PRESENTING
24-Oct-12		Service Standards Review Update	Community & Recreation Services	Maxine Kenyon / Darryl Rayner
24 Oct		S94 Exemption for Secondary Dwellings	Environment and Planning Services	Martin Johnson / David Kitson
24 Oct		Options for the Deferred Payment of S94 Contributions	Environment and Planning Services	Martin Johnson / David Kitson
24th Oct	Confidential	Structure of Council -Confidential	GM's Unit	General Manager Michael Whittaker
31st Oct		Toukley Town Centre Masterplan and Proposed Town Centre Masterplans	Environment and Planning Services	Paul Bowditch / Gary Hamer
31st Oct		LIRS loan	Corporate Services	Stephen Naven
31st Oct	Special Briefing	RMS - Pacific Highway Upgrade	Infrastructure Management	Bob Burch
31st Oct		Former Mardi Landfill Remediation	Infrastructure Management	David Witherdin / Norm Yeend
<b>7th Nov</b>	<b>full session 12-4pm (Inc in Clr induction)</b>	<b>Operational Services Review</b>	<b>corporate services</b>	
14-Nov-12		Porters Creek Floodplain Risk Management Plan	Infrastructure Management	Robert Fulcher
14-Nov-12		Dart Energy - Presentation to Council	Infrastructure Management	Greg McDonald
28 nov		Industrial Land and employment Lands study - Prior to exhibition	Environment and Planning Services	Martin Johnson / Scott Duncan
28 Nov		Retail Strategy Review	Environment and Planning Services	Martin Johnson / Chris Ferry
28-Nov-12		Q1 Report - Strategic Plan and Financial Update - presented by GM	Corporate Services	
28-Nov-12		Australia China Theme Park	Corporate Services	Brett Phillips
28-Nov-12		Tumbi Creek Bridge	(to be confirmed by DirectorIM)	Andrew Pearce/Dave Witherdin
Nov		Media and Communications Protocol	Community & Recreation Services	Janine Crawford/Sue Ledingham
Nov		GM's mid year performance review	Corporate Services	MHK
Oct/Nov		Tuggerah Lakes Floodplain Risk management Study and Plan	Infrastructure Management	Robert Fulcher
<b>5th Dec</b>	<b>full session 12-4pm</b>	<b>Capital Expenditure Proposals – 1st stage consideration-Business Strategies going forward</b>	<b>corporate services</b>	
12-Dec-12		Frank Ballance Park Design	Environment and Planning Services	Paul Bowditch / Ana Lage
12-Dec-12		Precincts	Community & Recreation Services	Julie Vaughan
12-Dec-12		Precinct 7A Masterplan - Feedback following exhibition	Environment and Planning Services	Scott Duncan / Chris Ferry
12-Dec-12		Wyong Employment Zone - results of DCP and S94 Contributions Plan/Biocertification update, DCP amendment update	Environment and Planning Services	Martin Johnson
12-Dec-12		plan of management central coast caravan parks	Community & Recreation Services	Tara Mills
12-Dec-12		Customer Service Charter	Community & Recreation Services	Sue Ledingham
		Sea Level Rise Notification & 149 Certificate	General Counsel/Environment and Planning Services	Brian Glendenning/Martin Johnson/Rod Mergan
		Azzurro Blu Lease	GM unit/Corp Services	Brian Glendenning/Brett Phillips



### **1.3 Confirmation of Minutes of Previous Meeting**

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TRIM REFERENCE: F2012/00026 - D03155559

MANAGER: Lesley Crawley, Manager Corporate Governance

AUTHOR: Sonia Witt; TL Governance and Councillor Services

#### **SUMMARY**

Confirmation of minutes of the previous Extraordinary Meeting of Council held on Wednesday 3 October 2012 and the Ordinary Meeting of Council held on Wednesday 10 October 2012.

#### **RECOMMENDATION**

*That Council confirm the minutes of the previous Extraordinary meeting held on Wednesday 3 October 2012 and the Ordinary Meeting of Council held on Wednesday 10 October 2012.*

#### **ATTACHMENTS**

- |   |  |           |
|---|--|-----------|
| 1 | MINUTES - Ordinary Meeting Meeting - 3 October 2012  | D03150025 |
| 2 | MINUTES - Ordinary Meeting Meeting - 10 October 2012 | D03158047 |

WYONG SHIRE COUNCIL

MINUTES OF THE  
**EXTRAORDINARY COUNCIL MEETING OF COUNCIL**  
HELD IN THE COUNCIL CHAMBER  
WYONG CIVIC CENTRE, HELY STREET, WYONG  
ON 3 OCTOBER 2012  
COMMENCING AT 5:00 PM

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**PRESENT**

Councillors R L Graham (Chairperson), G P Best, D J Eaton, K G Greenwald, L A Matthews, L R Nayna, L S Taylor, A Troy, D P Vincent and L D Webster.

**IN ATTENDANCE**

General Manager, Director Environment and Planning Services, Director Infrastructure Management, Director Corporate Services, Acting Director Community and Recreation Services and General Counsel.

Two administration staff.

The Mayor, Councillor Graham, declared the meeting open at 5.00 pm and advised in accordance with the Code of Meeting Practice that the meeting is being recorded.

Mr John Hardwick delivered the opening prayer and Councillor Matthews read an acknowledgment of country statement.

**APOLOGIES**

There were no apologies.

The reports were dealt with in the correct agenda sequence.

**1.1 Disclosure of Interest**

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

***193/12 That Council receive the report on Disclosure of Interest and the fact that no disclosure was made be noted.***

FOR: COUNCILLORS BEST, EATON, GRAHAM, GREENWALD, MATTHEWS, NAYNA, TAYLOR, TROY, VINCENT AND WEBSTER

AGAINST: NIL

## 2.1 Mayoral Report for 2011-12

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The Mayor provided an addendum to the Mayoral Report for 2011-12;

*“Welcome back to returning Councillors, Eaton, Best, Webster, Matthews and Vincent, and a warm welcome to your first meeting to our newly elected Councillors, Nayna, Troy, Greenwald and Taylor, I hope that you enjoy your first term on Council.*

*The recent election had 11 teams standing for 10 seats, it is very hard for battling independents to raise the finances, get the profile and get the physical support needed to run a decent campaign, I fear that future Local Government elections will be restricted to major political parties or the wealthy, leaving the not so well off community minded independents out of contention.*

*The last election I feel was the dirtiest campaign that I have ever been involved in, with graffiti all over posters, stolen corflutes and untruthful allegations about opponents. Sadly some candidates made promises to gain votes that they will never be able to keep, personally the only promises that I made to voters was to continue to work on the unfinished business that I had already started, such as the continuation of the Estuary Management Plan, I am continuing to have discussions with the Federal Government to extend their financial support so as we can finish the project.*

*I would like to take the opportunity to thank my loyal team of supporters who worked tirelessly throughout the campaign, I had over 100 family and friends that helped to erect corflutes, work pre poll and of course polling day, none of my workers were paid or for that matter expected to be paid to help out, they did it because they believed in what I stood for, unlike some candidates I asked permission from people to erect my signs on their premises, I am grateful to each and every one of them.*

*I would also like to thank my independent team of Bob Barton, Ken Hey, Laurinda Pericleous and Mick Morley for putting their hands up to run with me on my ticket for the third campaign, I wonder how many other candidates have been blessed with having the same team for three consecutive elections.*

*The final election results that we achieved I believe were outstanding, we came second to the Liberal Party on the first count, we scored 8610 votes this was over 1.3 of a quota and just on 22% of the total vote, pretty good for the only team of truly unaligned independents in the campaign.*

*I was extremely pleased when I saw the results of the Referendum for popularly elected Mayor over 63% voted yes this was far more than I expected, obviously the voters in Wyong Shire want to see an end to the annual farce that has been going on for the past nearly 70 years where deals are made, promises are given (and most times aren't kept), destabilising draws out of the hat and many times friendships torn apart, sadly the people of Wyong Shire are going to have to wait until 2016 before they get to choose their Mayor in the meantime we must continue the farce tonight and annually for three more years.*

*I have been proud to be your Mayor for five out of the last seven years I have put my whole heart and soul into the job working tirelessly for the community seven days a week.*

*Sadly it seems that the person that has the numbers to topple me tonight was the last out of the ten Councillors to be elected after 28 counts of the votes, finally falling over the line by a mere 32 votes with just over half a quota and only 9.6% of the total vote, but as they say that is democracy, I can't wait for 2016 to come around.*

*Somebody asked me how I felt about the situation I said that it was like winning the Olympic Marathon only to have to wait for the last runner to come in and take the podium and receive the gold medal.*

*Finally, it would be remiss of me not to thank my long suffering Bride, Lorraine for not only putting up with me for 46 years but for always standing by me in all of my community endeavours over the years.*

*I now formally move my Mayoral Minute.”*

**RESOLVED unanimously on the motion of Councillor GRAHAM:**

**194/12 That Council note the Mayoral report for the past 12 month term, 2011 - 2012.**

FOR: COUNCILLORS BEST, EATON, GRAHAM, GREENWALD, MATTHEWS, NAYNA, TAYLOR, TROY, VINCENT AND WEBSTER

AGAINST: NIL

**3.1 Election of Mayor and Voting Procedure**

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

**195/12 That Council hold an election for the Office of Mayor by all councillors in accordance with the provisions of Section 290(a) of the Local Government Act 2003.**

**196/12 That Council proceed to elect the Office of Mayor by open voting.**

**197/12 That Council note the election of Mayor will be for the term October 2012 to September 2013.**

FOR: COUNCILLORS BEST, EATON, GRAHAM, GREENWALD, MATTHEWS, NAYNA, TAYLOR, TROY, VINCENT AND WEBSTER

AGAINST: NIL

The General Manager advised that nominations for the position of Mayor had been received for Councillors Eaton and Graham. Councillors Eaton and Graham accepted their respective nominations.

The General Manager requested those Councillors supporting the nomination of Councillor Eaton to raise their right hand. Councillors voting in support of Councillor Eaton were Councillors Best, Eaton, Nayna, Taylor, Troy and Webster.

The General Manager requested those Councillors supporting the nomination of Councillor Graham to raise their right hand. Councillors voting in support of Councillor Graham were Councillors Greenwald, Graham, Matthews and Vincent.

Councillor Eaton was declared duly elected to the office of Mayor for the term 2012/2013.

The Mayor, Councillor Eaton then assumed the chair.

### **3.2 Election of Deputy Mayor**

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

**198/12 That Council appoint the position of a Deputy Mayor.**

**199/12 That Council conduct the election of Deputy Mayor in the same manner as the election of Mayor for the term October 2012 to September 2013.**

FOR: COUNCILLORS BEST, EATON, GRAHAM, GREENWALD, MATTHEWS, NAYNA, TAYLOR, TROY, VINCENT AND WEBSTER

AGAINST: NIL

The General Manager advised that nominations for the position of Deputy Mayor had been received for Councillors Webster and Vincent. Councillors Webster and Vincent accepted their respective nominations.

The General Manager requested those Councillors supporting the nomination of Councillor Webster to raise their right hand. Councillors voting in support of Councillor Webster were Councillors Best, Eaton, Nayna, Taylor, Troy and Webster.

The General Manager requested those Councillors supporting the nomination of Councillor Vincent to raise their right hand. Councillors voting in support of Councillor Vincent were Councillors Graham, Greenwald, Matthews and Vincent.

Councillor Webster was declared duly elected to the office of Deputy Mayor for the term 2012/2013.

### **3.3 Times and Dates of Meetings, Councillor Induction Training and Site Visits**

**RESOLVED on the motion of Councillor NAYNA and seconded by Councillor WEBSTER:**

**200/12 That Council confirm Section 2 of the Code of Meeting Practice adopted 23 November 2011, in relation to the Convening, Notice and Frequency of Council and Committee Meetings which all Councillors are members.**

**201/12 That Council endorse the Schedule of Inductions, Briefings and Site Visits for the remainder of 2012.**

**202/12 That Council empower the Mayor, in consultation with the General Manager, to make any changes as become necessary.**

**203/12 That Council amend the Code of Meeting Practice to include the fourth Wednesday in January subject to following the statutory process of the Local Government Act.**

**204/12 That Council amend the Code of Meeting practice to remove the reference regarding the exception of those Wednesdays that are designated NSW Public School Holidays subject to following the statutory process of the Local Government Act.**

FOR: COUNCILLORS BEST, EATON, NAYNA, TAYLOR, TROY AND WEBSTER

AGAINST: COUNCILLORS GRAHAM, GREENWALD, MATTHEWS AND VINCENT

**3.4 Facilities and Expenses Policy for Councillors**

**RESOLVED on the motion of Councillor BEST and seconded by Councillor TAYLOR:**

**205/12 That Council exhibit the policy WSC003 - Facilities and Expenses Policy for Councillors for a period of 28 days for public comment.**

**206/12 That Council adopt the policy as amended WSC003 - Facilities and Expenses for Councillors subject to no significant objections being received.**

**207/12 That Council provide the Department of Local Government with a copy of the adopted policy and a summary of submissions received.**

FOR: COUNCILLORS BEST, EATON, GRAHAM, GREENWALD, MATTHEWS, NAYNA, TAYLOR, TROY AND WEBSTER

AGAINST: COUNCILLOR VINCENT

**QUESTIONS ON NOTICE**

Councillor Matthews left the meeting at 5.21 pm and returned to the meeting at 5.23 pm during consideration of this item.

**Q32/12 2012 National Awards for Economic Development Excellence**

**Councillor Greg Best**

F2012/00026

*"Mr Mayor, I understand the EDA, the peak body for economic development, celebrated its 2012 National Awards for Economic Excellence. The awards formed part of the International Economic Development Conference titled, "DRIVING ECONOMIC LEADERSHIP IN THE ASIAN CENTURY". Could staff please review and, by way of a Councillor Business Update, provide Councillors and Senior Staff with an overview of the 11 innovative award winners? Of particular interest is Ipswich Council's Initiative of Innovative Digital Productivity Award and Mornington Peninsula's Environmental Economic Innovation Award? It is my view that all awards are worthy of thorough consideration and implementation review by this Council."*

**THE MEETING** closed at 5.35pm.

**WYONG SHIRE COUNCIL**  
**MINUTES OF THE**  
**ORDINARY COUNCIL MEETING OF COUNCIL**  
**HELD IN THE COUNCIL CHAMBER**  
**WYONG CIVIC CENTRE, HELY STREET, WYONG**  
**ON 10 OCTOBER 2012**  
**COMMENCING AT 5:00 PM**

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**PRESENT**

Councillors D J Eaton (Chairperson), G P Best, R L Graham, K G Greenwald, L A Matthews, L R Y Nayna, L S Taylor, A Troy, D P Vincent and L D Webster.

**IN ATTENDANCE**

General Manager, Director Environment and Planning Services, Director Infrastructure Management, Director Corporate Services, Director Community and Recreation Services General Counsel, Manager Development Assessment, Manager Place Management, Manager Environment and Natural Resources, Manager Corporate Governance, Communications and Marketing Coordinator and two administration staff.

The Mayor, Councillor Eaton, declared the meeting open at 5.00 pm and advised in accordance with the Code of Meeting Practice that the meeting is being recorded.

John Hardwick delivered the opening prayer and Councillor Matthews read an acknowledgment of country statement.

**APOLOGIES**

There were no apologies.

At the commencement of the ordinary meeting report nos 1.1, 1.2, 1.3, 7.2, 1.5, 2.1 and 1.6, 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.

## 1.1 Disclosure of Interest

### 2.1 DA/406/2012 – Two (2) Lot Torrens Title Subdivision of Approved Dual Occupancy at Wyong

Councillor Eaton declared a pecuniary interest in the matter for the reason that his superfund trustee is the owner of the land, left the chamber at 6.14 pm, took no part in discussion, did not vote and returned to the chamber at 6.17 pm.

### 4.1 Committee Structure

Councillor Greenwald declared a non-pecuniary insignificant interest in the matter for the reason that he was previously the chairperson of a precinct committee and his wife is still on the committee and participated in consideration of this matter.

Councillor Greenwald stated:

*"I choose to remain in the chamber and participate in discussion and voting as the conflict has not influenced me in carrying out my public duty because the matter is only procedural."*

### 7.4 Notice of Motion – Wyong Skills Centre

Councillor Best declared a pecuniary interest in the matter for the reason that he is the General Manager of Central Coast Group Training, the partners in the application with Council, left the chamber at 7.14 pm, took no part in discussion, did not vote and returned to the chamber at 8.00 pm.

### 7.4 Notice of Motion – Wyong Skills Centre

Councillor Eaton declared a non-pecuniary significant conflict of interest in the matter for the reason that he was the former chair of Central Coast Group Training and participated in consideration of this matter.

Councillor Eaton stated:

*"I choose to remain in the chamber and participate in discussion and voting as the conflict has not influenced me in carrying out my public duty because I ceased being chair some 6 months ago so any conflict is remote and minor."*

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

**208/12 That Council receive the report on Disclosure of Interest and note advice of disclosures.**

FOR: COUNCILLORS BEST, EATON, GRAHAM, GREENWALD, MATTHEWS, NAYNA,  
TAYLOR, TROY, VINCENT AND WEBSTER

AGAINST: NIL



**1.2 Proposed Inspections and Briefings**

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**RESOLVED unanimously on the motion of Councillor NAYNA and seconded by Councillor TROY:**

**209/12 That Council receive the report on Proposed Inspections and Briefings.**

FOR: COUNCILLORS BEST, EATON, GRAHAM, GREENWALD, MATTHEWS, NAYNA, TAYLOR, TROY, VINCENT AND WEBSTER

AGAINST: NIL

**1.3 Confirmation of Minutes of Previous Meeting**

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**RESOLVED unanimously on the motion of Councillor NAYNA and seconded by Councillor TAYLOR:**

**210/12 That Council confirm the minutes of the previous Ordinary Meeting of Council held on 22 August 2012.**

**211/12 That Council defer confirmation of the minutes of the Extraordinary meeting held on the 3 October 2012 to allow for inclusion of the verbal Mayoral report provided by the Councillor Graham.**

FOR: COUNCILLORS BEST, EATON, GRAHAM, GREENWALD, MATTHEWS, NAYNA, TAYLOR, TROY, VINCENT AND WEBSTER

AGAINST: NIL

**BUSINESS ARISING**

There was no business arising.

**PROCEDURAL MOTION**

**SUSPENSION OF MEETING PRACTICE**

**RESOLVED unanimously on the motion of Councillor NAYNA and seconded by Councillor TAYLOR:**

**212/12 That Council allow meeting practice to be varied.**

**213/12 That Council use the exception method to deal with the balance of the Agenda.**

FOR: COUNCILLORS BEST, EATON, GRAHAM, GREENWALD, MATTHEWS, NAYNA, TAYLOR, TROY, VINCENT AND WEBSTER

AGAINST: NIL

**RESOLVED unanimously on the motion of Councillor WEBSTER seconded by Councillor NAYNA:**

**214/12 That Council adopt the recommendations contained in the remaining reports, with the exception of report numbers 2.1, 3.1, 3.2, 3.3, 4.2, 4.4, 4.5, 5.2, 5.3 and Notices of Motion.**

FOR: COUNCILLORS BEST, EATON, GRAHAM, GREENWALD, MATTHEWS, NAYNA,  
TAYLOR, TROY, VINCENT AND WEBSTER

AGAINST: NIL

### **PROCEDURAL MOTION**

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

**215/12 That Council vary meeting practice to allow consideration of item 7.2 as there is a speaker present for this item.**

FOR: COUNCILLORS BEST, EATON, GRAHAM, GREENWALD, MATTHEWS, NAYNA,  
TAYLOR, TROY, VINCENT AND WEBSTER

AGAINST: NIL

### **1.4 Address By Invited Speakers**

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**RESOLVED unanimously on the motion of Councillor WEBSTER and seconded by Councillor NAYNA:**

**216/12 That Council receive the amended report on Invited Speakers.**

**217/12 That Council agree meeting practice be varied to allow reports from Directors and/or the General Manager to be dealt with following an Invited Speaker's address.**

FOR: COUNCILLORS BEST, EATON, GRAHAM, GREENWALD, MATTHEWS, NAYNA,  
TAYLOR, TROY, VINCENT AND WEBSTER

AGAINST: NIL

**1.5 Mayoral Minute - Pink Ribbon Day**

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Councillor Vincent left the chamber at 6.13 pm and returned to the chamber at 6.14 pm and as a result took no part in voting.

**RESOLVED on the motion of Councillor EATON and seconded by Councillor WEBSTER:**

**218/12 That Council support the Cancer Council NSW Pink Ribbon Day by pledging \$1,000 to the Pink Ribbon Day.**

**219/12 That Pink Ribbons be supplied with these funds (or part thereof) to all Councillors, Directors and interested staff members to wear on Pink Ribbon Day 22 October 2012.**

FOR: COUNCILLORS BEST, EATON, GRAHAM, GREENWALD, MATTHEWS, NAYNA, TAYLOR, TROY AND WEBSTER

AGAINST: NIL

**1.6 Mayoral Minute - Amendment to Council's Code of Meeting Practice**

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Councillor Greenwald left the chamber at 6.22 pm and returned to the chamber at 6.26 pm and as a result took no part in voting.

**RESOLVED on the motion of Councillor EATON:**

**220/12 That Council amend the Code of Meeting Practice to allow voting on the voice on non planning matters and any consequential amendments to the Code of Meeting Practice be taken into account.**

**221/12 That Council forms the view that this amendment is not a material change to the Code of Meeting Practice.**

FOR: COUNCILLORS BEST, EATON, GRAHAM, NAYNA, TAYLOR, TROY AND WEBSTER

AGAINST: COUNCILLORS MATTHEWS AND VINCENT

**2.1 DA/406/2012 - Two (2) Lot Torrens Title Subdivision of Approved Dual Occupancy at Wyong**

---

Councillor Eaton declared a pecuniary interest in the matter for the reason that his superfund trustee is the owner of the land, left the chamber at 6.14 pm, took no part in discussion, did not vote and returned to the chamber at 6.17 pm.

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

**222/12 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, grant consent subject to the conditions detailed in the schedule attached to the report.**

FOR: COUNCILLORS BEST, GRAHAM, GREENWALD, MATTHEWS, NAYNA, TAYLOR, TROY, VINCENT AND WEBSTER

AGAINST: NIL

**3.1 CPA/186620 - Construction of a Solar Tower at Scaddens Ridge**

---

**RESOLVED unanimously on the motion of Councillor NAYNA and seconded by Councillor TAYLOR:**

**223/12 That Council defer consideration of this item until the Ordinary Meeting to be held on 24 October 2012.**

FOR: COUNCILLORS BEST, EATON, GRAHAM, GREENWALD, MATTHEWS, NAYNA, TAYLOR, TROY, VINCENT AND WEBSTER

AGAINST: NIL

**3.2 CPA/191877 - Construction of Warnervale Town Centre Sewer Trunk Main**

---

Councillor Greenwald left the chamber at 6.22 pm and returned to the chamber at 6.26 pm during consideration of this item.

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

**224/12 That Council accepts the tender from TCM Civil Pty Ltd in the attached Tender Evaluation Report for the estimated total value of \$2,063,582.00 (excl GST) for Contract CPA/191877 – Construction of Warnervale Town Centre Sewer Trunk Main.**

**225/12 That Council determines the Tender Evaluation Report in Attachment A remains confidential in accordance with Section 10A(2)(d) of the Local Government Act 1993 as the report contains information of a confidential nature.**

**226/12 That Council approve the contingency sum as detailed in the Tender Evaluation Report in Attachment A.**

FOR: COUNCILLORS BEST, EATON, GRAHAM, GREENWALD, MATTHEWS, NAYNA, TAYLOR, TROY, VINCENT AND WEBSTER

AGAINST: NIL

**3.3 CPA/217073 - Relocation of 11kV and LV Mains in Minnesota Road, Hamlyn Terrace and Associated Water Supply Works**

---

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

**227/12 That Council declines to accept any of the tenders received for Contract CPA/217073 – Relocation of 11kV and LV Mains, Minnesota Road and Associated Water Supply Works.**

**228/12 That Council determines the Tender Evaluation Report in Attachment A remains confidential in accordance with Section 10A(2)(d) of the Local Government Act 1993 as the report contains information of a confidential nature.**

**229/12 That Council declines to invite fresh tenders for the reasons detailed in the attached Tender Evaluation Report.**

**230/12** That Council authorise the General Manager to enter into negotiations with the companies nominated as Tenderer 3 and Tenderer 4, for the reasons detailed in the attached Tender Evaluation Report, with a view to entering into a contract in relation to the subject matter of the tender.

FOR: COUNCILLORS BEST, EATON, GRAHAM, GREENWALD, MATTHEWS, NAYNA,  
TAYLOR, TROY, VINCENT AND WEBSTER

AGAINST: NIL

#### **4.1 Committee Structure**

---

Councillor Greenwald declared a non-pecuniary insignificant interest in the matter for the reason that he was previously the chairperson of a precinct committee and his wife is still on the committee and participated in consideration of this matter.

Councillor Greenwald stated:

*"I choose to remain in the chamber and participate in discussion and voting as the conflict has not influenced me in carrying out my public duty because the matter is only procedural."*

**RESOLVED** unanimously on the motion of Councillor WEBSTER and seconded by Councillor NAYNA:

**231/12** That Council receive the report on Committee Structure.

**232/12** That Council endorse an increased governance focus and working effectiveness through a wider use of Council Committees.

**233/12** That Council adopt a consistent and transparent methodology for the purpose and establishment of committees.

**234/12** That Council standardise Committee charters/terms of reference particularly in respect of management and governance obligations.

**235/12** That Council confirm all Committees of Council are to operate in accordance with Council's Code of Meeting Practice and other Groups in accordance with the Code of Meeting Practice unless varied by the General Manager.

**236/12** That Council adopt the Committee Structure as outlined in the table titled "Proposed Committee Structure" and modified by item 4.2 – Appointment to Committees.

**237/12** That Council adopt the standardised Terms of Reference for Strategic Committees and Advisory Groups.

**238/12** That Council adopt the amended Terms of Reference Charter for the Audit and Risk Committee.

FOR: COUNCILLORS BEST, EATON, GRAHAM, GREENWALD, MATTHEWS, NAYNA,  
TAYLOR, TROY, VINCENT AND WEBSTER

AGAINST: NIL

This item was adopted by the exception method, however has been administratively amended to align with item 4.2 – Appointment to Committees.

**4.2 Appointment to Committees**

**RESOLVED on the motion of Councillor BEST and seconded by Councillor WEBSTER:**

**239/12 That Council deal with the following committees and advisory groups by the exception method;**

- **Sports Advisory Group**
- **Multicultural Advisory Group**
- **Status of Women Advisory Group**
- **Tuggerah Lakes Estuary, Coastal and Floodplain Management Committee**
- **Heritage Committee**
- **Consultative Committee**

**240/12 That Council adopt the remaining appointments to the Advisory Groups and Statutory Committees.**

FOR: COUNCILLORS BEST, EATON, GRAHAM, GREENWALD, MATTHEWS, NAYNA,  
TAYLOR, TROY AND WEBSTER

AGAINST: COUNCILLOR VINCENT

**RESOLVED on the motion of Councillor EATON and seconded by Councillor WEBSTER:**

**241/12 That Council appoint the following Strategic Committee: - Employment and Economic Development Committee (EEDC) – Chair, Councillor Best, and Councillors Nayna, Webster, Greenwald and Troy.**

**242/12 That Council appoint the Audit and Risk Committee and appoint the Mayor and Deputy Mayor as Councillor Representatives for the term of Council, in accordance with the attached amended Audit and Risk Committee Charter. The two existing independent members will be retained until 30 June 2013.**

**243/12 That Council appoint the following Advisory Groups with the following Council representatives for the term of Council and in accordance with the Advisory Group Terms of Reference:**

<b>a</b>	<b>Beach Advisory Group</b>	<b>Staff as nominated by the General Manager</b>
<b>b</b>	<b>Grants Advisory Group</b>	<b>Councillors Eaton, Webster and Nayna</b>
<b>c</b>	<b>Senior Citizens Advisory Group</b>	<b>Staff as nominated by the General Manager</b>

244/12 That Council appoint the previous community representatives as at September 2012, to the Advisory Groups in accordance with the Advisory Group Terms of Reference, for the term of Council and call for nominations for any new groups after the Committee Charters have been adopted.

245/12 That Council elect the following Councillor Representatives to the following Statutory Committees for the term of Council or in accordance with the individual Charters.

<b>b</b>	<b>Bushfire Management Committee</b>	<b>Councillor Troy and Councillor Taylor ( alternate)</b>
<b>c</b>	<b>Centennial Coal/Myuna Colliery Community Consultative Committee</b>	<b>Staff as nominated by the General Manager</b>
<b>d</b>	<b>Fire Control District Liaison Committee</b>	<b>Councillors Taylor and Troy</b>
<b>f</b>	<b>GM Performance Review Panel</b>	<b>All Councillors</b>
<b>g</b>	<b>Local Traffic Committee</b>	<b>Councillor Nayna and Councillor Webster (alternate)</b>
<b>h</b>	<b>Joint Regional Planning Panel</b>	<b>Councillors Eaton and Best and Councillors Nayna and Taylor (alternates).</b>

246/12 That Council request the General Manager to determine staff representatives on the following Statutory Committees:

<b>a</b>	<b>Mannering Colliery Community Consultative Committee</b>	<b>Staff Member</b>
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247/12 That Council elect the following Council representatives to External Bodies or Groups for the term of Council or in accordance with the individual Charters.

<b>a</b>	<b>Central Coast Group Training</b>	<b>Councillor Eaton</b>
<b>b</b>	<b>Central Coast Tourism</b>	<b>GM or delegate</b>
<b>c</b>	<b>Greater Toukley Vision Inc</b>	<b>Councillor Nayna</b>
<b>d</b>	<b>Public Libraries NSW – Metropolitan</b>	<b>Staff as nominated by the General Manager</b>
<b>e</b>	<b>Regional Development Australia - Central Coast</b>	<b>Councillor Webster</b>
<b>f</b>	<b>The Entrance Town Centre Management Corporation Board</b>	<b>Councillors Webster and Eaton</b>
<b>g</b>	<b>Wyong Council Community Environment Network and WyCare Liaison Group</b>	<b>Councillor Troy</b>
<b>h</b>	<b>Wyong Regional Chamber of Commerce</b>	<b>Councillor Eaton and Councillor Greenwald (alternate)</b>
<b>i</b>	<b>Central Coast Regional Organisation of Councils Executive Group</b>	<b>Mayor, Deputy Mayor, Councillor Nayna</b>

**248/12 That Council request the General Manager to determine staff representatives on the following to External Bodies or Groups:**

<b>a</b>	<b>Hunter Central Coast Regional Environmental Management Strategy Information Committee (REMS)</b>	<b>1 Staff Member</b>
<b>b</b>	<b>Central Coast Business Mentor Services Board (trading as Central coast Business Enterprise Centre)</b>	<b>1 Staff Member</b>

**249/12 That Council establish the following Working Party and elect Councillor Representatives for the term of Council or in accordance with the individual Charters/Terms of Reference as follows:**

<b>a</b>	<b>Art House Working Party</b>	<b>Councillors Eaton and Webster</b>
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FOR: COUNCILLORS BEST, EATON, GRAHAM, GREENWALD, MATTHEWS, NAYNA, TAYLOR, TROY AND WEBSTER

AGAINST: COUNCILLOR VINCENT

An AMENDMENT was MOVED by Councillor VINCENT and SECONDED by Councillor GREENWALD:

That Council appoint the following Council representatives for the term of Council and in accordance with the Advisory Group Terms of Reference:

*Sports Advisory Group*

*Councillors Vincent, Nayna,  
Troy and Taylor*

**The AMENDMENT was put to the vote and declared LOST.**

FOR: COUNCILLORS GREENWALD, MATTHEWS AND VINCENT

AGAINST: COUNCILLORS BEST, EATON, GRAHAM, NAYNA, TAYLOR, TROY AND WEBSTER

**RESOLVED on the motion of Councillor EATON and seconded by Councillor WEBSTER:**

**250/12 That Council appoint the following Council representatives for the term of Council and in accordance with the Advisory Group Terms of Reference:**

*Sports Advisory Group*

*Councillors Eaton, Nayna,  
Troy and Taylor*

**The MOTION was put to the vote and declared CARRIED.**

FOR: COUNCILLORS BEST, EATON, GRAHAM, NAYNA, TAYLOR, TROY AND WEBSTER

AGAINST: COUNCILLORS GREENWALD, MATTHEWS AND VINCENT





**252/12 That Council appoint the following Council representatives for the term of Council and in accordance with the Advisory Group Terms of Reference:**

**Multicultural Advisory Group**

**Councillors Eaton, Vincent and Webster.**

FOR: COUNCILLORS BEST, EATON, GRAHAM, GREENWALD, MATTHEWS, NAYNA, TAYLOR, TROY, VINCENT AND WEBSTER

AGAINST: NIL

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

That Council elect the following Council representatives to the following Statutory Committee for the term of Council or in accordance with the individual charter:

*Tuggerah Lakes Estuary, Coastal and Floodplain Management Committee*

*Councillors Graham, Taylor, Troy and Webster with Councillors Taylor and Troy as joint chairs.*

**The AMENDMENT was put to the vote and declared LOST.**

FOR: COUNCILLORS GRAHAM, MATTHEWS AND WEBSTER

AGAINST: COUNCILLORS BEST, EATON, GREENWALD, NAYNA, TAYLOR, TROY AND VINCENT

**RESOLVED on the motion of Councillor EATON and seconded by Councillor WEBSTER:**

**253/12 That Council elect the following Council representatives to the following Statutory Committee for the term of Council or in accordance with the individual charter:**

*Tuggerah Lakes Estuary, Coastal and Floodplain Management Committee*

*Councillors Taylor, Troy and Webster with Councillors Taylor and Troy as joint chairs.*

**The MOTION was put to the vote and declared CARRIED.**

FOR: COUNCILLORS BEST, EATON, NAYNA, TAYLOR, TROY AND WEBSTER

AGAINST: COUNCILLORS GRAHAM, GREENWALD, MATTHEWS AND VINCENT

**RESOLVED on the motion of Councillor EATON and seconded by Councillor WEBSTER:**

**254/12 That Council elect the following Council representatives to the following Statutory Committee for the term of Council or in accordance with the individual charter:**

**Consultative Committee**

**Staff as nominated by the  
General Manager**

FOR: COUNCILLORS BEST, EATON, GRAHAM, NAYNA, TAYLOR, TROY AND WEBSTER  
AGAINST: COUNCILLORS GREENWALD, MATTHEWS AND VINCENT

An AMENDMENT was MOVED by Councillor VINCENT and SECONDED by Councillor GREENWALD:

That Council elect the following Council representatives to the following Statutory Committee for the term of Council or in accordance with the individual charter:

*Heritage Committee*

*Councillor Vincent*

**The AMENDMENT was put to the vote and declared LOST.**

FOR: COUNCILLORS GRAHAM, GREENWALD, MATTHEWS AND VINCENT  
AGAINST: COUNCILLORS BEST, EATON, NAYNA, TAYLOR, TROY AND WEBSTER

**RESOLVED on the motion of Councillor EATON and seconded by Councillor WEBSTER:**

**255/12 That Council elect the following Council representatives to the following Statutory Committee for the term of Council or in accordance with the individual charter:**

***Heritage Committee***

***Staff as nominated by the  
General Manager***

**The MOTION was put to the vote and declared CARRIED.**

FOR: COUNCILLORS BEST, EATON, NAYNA, TAYLOR, TROY AND WEBSTER  
AGAINST: COUNCILLORS GRAHAM, GREENWALD, MATTHEWS AND VINCENT

**4.3 NSW Local Government Association Conference 2012 - Voting Delegates**

---

**RESOLVED on the motion of Councillor WEBSTER and seconded by Councillor NAYNA:**

- 256/12 That Council **authorise** those interested Councillors to attend the Local Government and Shires Association Annual Conference 2012.
- 257/12 That Council **pay** reasonable expenses incurred in Councillors attending the conference in accordance with Council's policy.
- 258/12 That Council **determine** the five delegates with voting entitlements should more than five Councillors indicate their intention to attend the conference.
- 259/12 That Council **note** that the opportunity to submit motions has closed, however late motions will only be accepted if the matter is both urgent and emergent.

FOR: COUNCILLORS BEST, EATON, GRAHAM, GREENWALD, MATTHEWS, NAYNA,  
TAYLOR, TROY, VINCENT AND WEBSTER

AGAINST: NIL

**4.4 Councillor Local Project Fund Policy**

---

Councillor Troy left the chamber at 6.42 pm and returned to the chamber at 6.43 pm during consideration of this item.

**RESOLVED unanimously on the motion of Councillor WEBSTER and seconded by Councillor NAYNA:**

260/12 That Council **adopt** the Councillor Local Project Fund Policy with the following amendments:

- **Two rounds of allocations.**
- **Requests for multiple projects are able to be submitted.**
- **Total of multiple projects not to exceed 15k per Councillor.**

261/12 That Council **note** the timeframes associated with the Policy as amended to include two rounds of allocations.

FOR: COUNCILLORS BEST, EATON, GRAHAM, GREENWALD, MATTHEWS, NAYNA,  
TAYLOR, TROY, VINCENT AND WEBSTER

AGAINST: NIL

**4.5 2011/12 Annual Financial Reports**

---

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

262/12 That Council **adopt** the draft Wyong Shire Council financial statements for 2011/12 as presented.

- 263/12** That Council refer the draft Wyong Shire Council financial statements for 2011/12 (as presented) to external audit.
- 264/12** That Council authorise the Mayor, Deputy Mayor, General Manager and Responsible Accounting Officer to execute all documents related to the draft 2011/12 financial reports as required by legislation.
- 265/12** That Council fix 24 October 2012 as the date for the presentation of the audited 2011/12 financial statements and external audit report in accordance with section 419(1) of the Local Government Act 1993.

FOR: COUNCILLORS BEST, EATON, GRAHAM, GREENWALD, MATTHEWS, NAYNA,  
TAYLOR, TROY, VINCENT AND WEBSTER

AGAINST: NIL

#### **4.6 Rate Payment Incentive Scheme 2012-13**

---

**RESOLVED** unanimously on the motion of Councillor WEBSTER and seconded by Councillor NAYNA:

- 266/12** That the Mayor draw and announce the winner of Council's Rate Payment Incentive Scheme for 2012-13.

FOR: COUNCILLORS BEST, EATON, GRAHAM, GREENWALD, MATTHEWS, NAYNA,  
TAYLOR, TROY, VINCENT AND WEBSTER

AGAINST: NIL

The winner of Council's ratepayer incentive scheme for 2012-13 is Mr B Morton from Wyong (subject to verification).

#### **4.7 Report on Debts Written off**

---

**RESOLVED** unanimously on the motion of Councillor WEBSTER and seconded by Councillor NAYNA:

- 267/12** That Council receive the report on debts written off for the year ended 30 June 2012.

FOR: COUNCILLORS BEST, EATON, GRAHAM, GREENWALD, MATTHEWS, NAYNA,  
TAYLOR, TROY, VINCENT AND WEBSTER

AGAINST: NIL

#### **5.1 Information Reports**

---

**RESOLVED** unanimously on the motion of Councillor WEBSTER and seconded by Councillor NAYNA:

- 268/12** That Council receive the report on Information Reports.

FOR: COUNCILLORS BEST, EATON, GRAHAM, GREENWALD, MATTHEWS, NAYNA,  
TAYLOR, TROY, VINCENT AND WEBSTER

AGAINST: NIL

## **5.2 Tuggerah Lakes Unsustainable Fishery**

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**RESOLVED on the motion of Councillor BEST and seconded by Councillor TAYLOR:**

**269/12 That Council receive the report on Tuggerah Lakes Unsustainable Fishery.**

**270/12 That Council follow up representations through the State Member Mr Darren Webber MP to the Primary Industry Minister The Hon. Katrina Hodgkinson, with regard to better managing professional fishing licences, including haul netting licences, in the Tuggerah Lakes system.**

**271/12 That Council invite the local fishing group to comment on fish stocks in Tuggerah Lakes.**

FOR: COUNCILLORS BEST, EATON, GREENWALD, MATTHEWS, NAYNA, TAYLOR, TROY, VINCENT AND WEBSTER

AGAINST: COUNCILLOR GRAHAM

## **5.3 Investment Report for August 2012**

---

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

**272/12 That Council receive the Investment Report for August 2012.**

FOR: COUNCILLORS BEST, EATON, GRAHAM, GREENWALD, MATTHEWS, NAYNA, TAYLOR, TROY, VINCENT AND WEBSTER

AGAINST: NIL

## **5.4 Outstanding Questions on Notice and Notices of Motion**

---

**RESOLVED unanimously on the motion of Councillor WEBSTER and seconded by Councillor NAYNA:**

**273/12 That Council receive the report on Outstanding Questions on Notice and Notices of Motion.**

FOR: COUNCILLORS BEST, EATON, GRAHAM, GREENWALD, MATTHEWS, NAYNA, TAYLOR, TROY, VINCENT AND WEBSTER

AGAINST: NIL

**7.1 Notice of Motion - Consistent Regulations for Residents Living Near the Water**

---

***The Mayor ruled that this item was subsumed by determination of item 7.2 – Notice of Motion – Sea Level Rise Removal.***

**MOTION OF DISSENT**

*It was MOVED by Councillor VINCENT and SECONDED by Councillor GREENWALD:*

*I move dissent from the Chairperson's ruling in respect of the decision that this item was subsumed within item 7.2 – Notice of Motion – Sea Level Rise Removal.*

***The MOTION was put to the vote and declared LOST.***

FOR: COUNCILLORS GRAHAM, GREENWALD, MATTHEWS AND VINCENT

AGAINST: COUNCILLORS BEST, EATON, NAYNA, TAYLOR, TROY AND WEBSTER

**7.2 Notice of Motion - Sea Level Rise Removal**

---

Mr John Hannaford, resident of Budgewoi speaking in favour of the Notice of Motion, addressed the meeting at 5.18 pm, answered questions and retired at 5.34 pm.

Councillor Graham left the chamber at 5.30 pm and returned to the chamber at 5.31 pm during consideration of this item.

Councillor Graham left the chamber at 5.31 pm and returned to the chamber at 5.32 pm during consideration of this item.

Councillor Troy left the chamber at 5.39 pm and returned to the chamber at 5.40 pm during consideration of this item.

Councillor Matthews left the chamber at 6.04 pm and returned to the chamber at 6.06 pm during consideration of this item.

*It was MOVED by Councillor VINCENT and SECONDED by Councillor MATTHEWS:*

*That Council move into confidential session to obtain legal advice regarding item 7.2 – Notice of Motion – Sea Level Rise Removal.*

***The MOTION was put to the vote and declared LOST.***

FOR: COUNCILLORS GREENWALD, MATTHEWS AND VINCENT

AGAINST: COUNCILLORS BEST, EATON, GRAHAM, NAYNA, TAYLOR, TROY AND WEBSTER

**RESOLVED unanimously on the motion of Councillor NAYNA and seconded by Councillor TAYLOR:**

- 1 That Council acknowledge that the 2009 NSW Sea Level Rise Policy Statement is no longer NSW Government Policy.
- 2 That Council acknowledge the recommendation of the NSW State Government to consider an interim policy arrangement prior to the formal adoption of sea level rise projections.
- 3 That Council resolve that its sea level rise interim policy consist of compliance with the 1% AEP flood level and 500mm freeboard allowance.
- 4 That Council request the State Government to refer back to Council the adopted Wyong Shire Coastal Zone Management Plan for Council's review.
- 5 That the General Manager provide an urgent briefing to Council on the implications of the State Government's recent coastal reforms.
- 6 That the General Manager report back to Council on a program, cost estimate and timeframe for the review of current adopted Council policies that incorporate provisions in respect of sea level rise, including the adopted Wyong Shire Coastal Zone Management Plan.
- 7 In circumstances where existing Government legislation or policy conflicts with Council's policy in No 3 above, the General Manager ensure that the matter is brought to Council for determination.
- 8 That Council write to all holders of existing DA's that have time limited consents due to sea level rise issues and advise of the change in Council policies and invite them to submit Section 96 applications to remove the time limit from their consents.
- 9 That Council waive all fees associated with any such Section 96 applications.

FOR: COUNCILLORS BEST, EATON, GRAHAM, GREENWALD, MATTHEWS, NAYNA, TAYLOR, TROY, VINCENT AND WEBSTER

AGAINST: NIL

### **7.3 Notice of Motion - Council Review the NSW Electoral Commission's Management of our 2012 Wyong Shire Elections**

---

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

- 1 That Council note the 2012 Wyong Local Government Election was managed, conducted and audited by the NSW Electoral Commission, costing our ratepayers a total of \$750,000 to our ratepayers.
- 2 That Council conduct a review of the conduct of the 2012 Wyong Shire Election by the NSW Electoral Commission (NSWEC).
- 3 That Council include in the review the following matters:
  - (a) Identification of legislative constraints and processes which are barriers to encouraging local residents to stand for representation on Wyong Council.



- (b) *The “contractual” arrangement between Council and the NSWEC which has constrained the ability for Council to make key decisions in regard to pre-poll venues (eg locations, quantity).*
- (c) *Issues around WHS obligations for booth workers, liabilities and responsibilities.*
- (d) *Improved provision of disabled and aged access at polling places, particularly pre-poll booths.*
- (e) *Feedback received from electors.*
- (f) *Feedback from a selection of those NSW councils which opted to manage their election or used a private contractor.*
- (g) *Any other matters identified by the General Manager in the course of the election process.*

**4 That Council request feedback from those Councils who used the NSW Electoral Commission.**

FOR: COUNCILLORS BEST, EATON, GRAHAM, GREENWALD, MATTHEWS, NAYNA, TAYLOR, TROY, VINCENT AND WEBSTER

AGAINST: NIL

#### **7.4 Notice of Motion - Wyong Skills Centre**

---

Councillor Best declared a pecuniary interest in the matter for the reason that he is the General Manager of Central Coast Group Training, the partners in the application with Council, left the chamber at 7.14 pm, took no part in discussion, did not vote and returned to the chamber at 8.00 pm.

Councillor Eaton declared a non-pecuniary significant conflict of interest in the matter for the reason that he was the former chair of Central Coast Group Training and participated in consideration of this matter.

Councillor Eaton stated:

*“I choose to remain in the chamber and participate in discussion and voting as the conflict has not influenced me in carrying out my public duty because I ceased being chair some 6 months ago so any conflict is remote and minor.”*

Councillor Graham left the meeting at 7:18 pm and returned to the meeting at 7:37 pm during consideration of this item.

**RESOLVED on the motion of Councillor NAYNA and seconded by Councillor TROY:**

- 1 That Council advise the Department of Education, Employment and Workplace Relations (DEEWR) that it now wishes to proceed with the Wyong Skills Centre in partnership with Central Coast Group Training at its site at Bounty Close at Tuggerah.**

- 2 That Council request the Department of Education, Employment and Workplace Relations (DEEWR) to confirm that grant funding of some \$2.8 million is still available for this purpose and for DEEWR to advise the process and/or criteria required to access these funds**
- 3 That Council develop and submit, in partnership with Central Coast Group Training in accordance with DEEWR, guidelines a joint application within one month.**
- 4 That Council authorise the General Manager to approve the joint application and submission to DEEWR, subject to Council ratification.**
- 5 That Council determine that this item be actioned immediately due to its urgent nature.**
- 6 That Council advise DEEWR of this resolution by close of business on Friday 12 October 2012.**
- 7 That Council develop to its satisfaction a suitable agreement with Central Coast Group Training with regards to this initiative.**
- 8 That Council authorise appropriate resourcing to undertake this task and the funding of these resources be considered at the September budget review.**

FOR: COUNCILLORS EATON, GRAHAM, NAYNA, TAYLOR, TROY AND WEBSTER

AGAINST: COUNCILLORS GREENWALD, MATTHEWS AND VINCENT

#### **QUESTIONS ON NOTICE**

There were no questions on notice submitted.

**THE MEETING** closed at 8.00 pm.

## **1.4 Address by Invited Speakers**

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TRIM REFERENCE: F2012/00026 - D03155554

MANAGER: Lesley Crawley, Manager Corporate Governance

AUTHOR: Sonia Witt; TL Governance and Councillor Services

### **SUMMARY**

There have been no requests to address the Ordinary Meeting at the time of printing the Business Paper.

### **RECOMMENDATION**

- 1** *That Council receive the report on Invited Speakers.*
- 2** *That Council agree meeting practice be varied to allow reports from Directors and/or the General Manager to be dealt with following an Invited Speaker's address.*

24 October 2012

To the Ordinary Council Meeting

Councillor

## **2.1 Mayoral Minute - Tuggerah Lakes Estuary, Coastal and Floodplain Management Committee Commencement Time**

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TRIM REFERENCE: F2004/07986 - D03162480

AUTHOR: Doug Eaton; Councillor

The Tuggerah Lakes Estuary, Coastal and Floodplain Management Committee (TLECFMC) previously held meetings on the first Thursday of each month (excluding January), commencing at 1.00pm.

However to encourage wider participation and engagement and accommodate Councillors working arrangements, I propose to amend the commencement time of the TLECFMC to 5.00pm.

*I formally move:*

***That Council amend the Tuggerah Lakes Estuary, Coastal and Floodplain Management Committee commencement time to 5.00pm.***

## **2.2 Mayoral Minute - Attendance at 50th Anniversary Gala Dinner - Fairhaven Services**

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TRIM REFERENCE: F2004/06466 - D03163962  
AUTHOR: Doug Eaton; Councillor

This year Fairhaven Services, a social enterprise dedicated to ensuring that disability is no boundary for Central Coast people is celebrating its 50<sup>th</sup> Anniversary. Fairhaven Services has been empowering people to lead fulfilling and rewarding lives, providing them with accommodation, employment and training opportunities since 1962.

*I formally move:*

- 1 That Council authorise any interested Councillors and senior staff members, to attend, accompanied by their partners, the 50<sup>th</sup> Anniversary Gala Dinner of Fairhaven Services on 10 November 2012**
- 2 That Council endorse reasonable expenses incurred by Councillors and senior staff and partners attending the above event in accordance with Council's Facilities and Expenses Policy for Councillors.**

### 3.1 DA/260/2012 Proposed New Dwelling, Swimming Pool and Demolition of Existing Structures at The Entrance North

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TRIM REFERENCE: DA/260/2012 - D03032811

MANAGER: Jamie Loader, Manager Building Certification and Health

AUTHOR: Douglas Tytherleigh; Health and Building Surveyor

#### SUMMARY

An application has been received for the erection of a single storey dwelling with loft, swimming pool and demolition of existing structures at 14 Bondi Road The Entrance North. The application has been examined having regard to the matters for consideration detailed in section 79C of the Environmental Planning and Assessment (EP&A) Act and other statutory requirements with the issues requiring attention and consideration being addressed in the report. The application is reported to Council in accordance with Council's resolution of 10 October 2012 which stated in part:

- 3 *"That Council resolve that its sea level rise interim policy consist of compliance with the 1% AEP flood level and 500mm freeboard allowance.*
- 7 *In circumstances where existing government legislation or policy conflicts with Council's policy in No 3 above, the General Manager ensure that the matter is brought to Council for determination."*

<b>Applicant</b>	Keegan Builders Central Coast Pty Ltd
<b>Owner</b>	Stephen and Debra Keegan
<b>Application No</b>	DA/260/2012
<b>Description of Land</b>	Lot 195 DP 18958
<b>Proposed Development</b>	Proposed New Dwelling, Inground pool and demolition of existing structures
<b>Site Area</b>	657.60m <sup>2</sup>
<b>Zoning</b>	2B Multiple Dwelling Zone
<b>Existing Use</b>	Single storey dwelling
<b>Estimated Value</b>	\$200 000

#### RECOMMENDATIONS

***That Council, refuse the application, having regard to the matters for consideration detailed in Section 79C of the Environmental Planning and Assessment Act and other relevant issues, subject to appropriate reasons for refusal detailed in the schedule attached to the report.***

#### PRECIS

- The application seeks approval for the erection of a single storey dwelling-house with loft and swimming pool.

### **3.1 DA/260/2012 Proposed New Dwelling, Swimming Pool and Demolition of Existing Structures at The Entrance North (contd)**

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- The site is zoned 2(b) Multiple Dwelling Zone under the provisions of Wyong Local Environmental Plan 1991 (WLEP). A single dwelling-house is permissible with consent.
- The site is wholly flood affected.
- The 1% Annual Probability (AEP) flood level at the subject property is 2.2m AHD (average flood depth 700mm over the site). Application of State Government Chief Scientist sea level rise planning benchmarks raises the 1% AEP to 3.1m AHD (average flood depth increases to 1.6m over the site) and the addition of a 500mm freeboard results in a finished floor level (FFL) for habitable rooms set at 3.6m AHD. The proposed development does not meet this requirement.
- A FFL of 3.6 metres AHD would result in the habitable rooms being approximately 2.1m above natural ground level (RL 1.5m). This floor level could easily be achieved on the site by the erection of a two storey dwelling with garage and non habitable rooms on the ground floor.
- The proposed floor level of the ground floor habitable rooms is 2.7 metres AHD (including 500mm freeboard) which complies with Council's new adopted interim sea level rise policy. However, it does not comply with the levels recommended by the State Government Chief Scientist, nor does it comply with the State Government's Floodplain Development Manual. Guidelines accompanying this Manual clearly state that the required allowance for sea level rise must be added on top of (or in addition to) the freeboard allowance.
- The applicant has been given the opportunity to amend the proposal to comply with the sea level rise bench marks but has declined to amend the application and has requested the application be determined in its current form.

#### **OPTIONS**

Whilst the recommendation before Council is for refusal of the application in its current form, Council may consider an option to defer determination of the application pending the applicant being asked to redesign the proposal to enable it to comply with a FFL of 3.6m for the habitable rooms. This can be achieved by a redesign of the dwelling such that the habitable rooms become a first floor with garages and non habitable rooms positioned on the ground floor.

Council also has the option of approving the development in its current form, however, should Council not take into account the sea level rise benchmarks referenced by the State Government Chief Scientist and the need to consider natural hazards under Section 79C and the requirements of the State Government's Flood Plain Development Manual, Council faces the risk of voiding its protection from liability under S733 of the Local Government Act (LGA).

### 3.1 DA/260/2012 Proposed New Dwelling, Swimming Pool and Demolition of Existing Structures at The Entrance North (contd)

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#### INTRODUCTION

##### The Site

The site is located at 14 Bondi Road, The Entrance North (Lot 195 DP 18958), on the northern side of Bondi Street approximately 155 metres west of the coastline and 630 metres east of the North Entrance Foreshore Reserve.

The site consists of a regular shaped allotment with a total area of 657.60m<sup>2</sup>, is generally flat with an average ground level of 1.5 AHD, and contains an existing single storey cottage and other associated ancillary structures

##### The Locality

The subject site is bound on the west by an attached dual occupancy and single storey dwellings to the east and north.

Existing development in the general surrounding area comprises a mix of single and single storey with loft dwelling-houses, dual occupancies and multiple unit developments. The subject site and surrounding land at The Entrance North are low lying, with most of the area being flood affected.



*The proposed site and existing timber clad dwelling that is proposed to be demolished*



### **3.1 DA/260/2012 Proposed New Dwelling, Swimming Pool and Demolition of Existing Structures at The Entrance North (contd)**

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#### **The Proposed Development**

The proposal consists of a single storey dwelling-house with loft involving the following aspects:

- Demolition of existing one-storey dwelling-house, garage and other minor structures;
- Three (3) bedroom dwelling-house (361.14m<sup>2</sup>);
- Ground floor: two car garage (2.0m AHD), 3 bedrooms one with robes and ensuite, dining room, kitchen, laundry, WC and timber deck (2.7 AHD);
- First floor loft area for storage purposes only (5.425 AHD);
- Max ridge height 6.925m for the gable roof pitch ;

#### **VARIATIONS TO POLICIES**

The development does not comply with a number of policies both State Government and WSC in respect of flooding and sea level rise. This issue is discussed in more detail throughout the report.

#### **HISTORY**

DA/863/2011 was submitted to Council for proposed additions and an inground pool. There were issues with the application in regard to flooding and the application was subsequently withdrawn on 13<sup>th</sup> March 2012.

DA/260/2012 was submitted on 2<sup>nd</sup> April 2012 for a new dwelling.

#### **PERMISSIBILITY**

The subject site is zoned 2 (b) (Multiple Dwelling Residential Zone) under the WLEP. In accordance with Clause 10, a dwelling-house is permissible with consent.

#### **OBJECTIVES OF THE ZONE**

Clause 2(3) of the WLEP requires the consent authority to have regard to the objectives for a development in a zone when determining a development application in respect of land within the zone. The following objectives of the 2(b) Multiple Dwelling Residential Zone are relevant to the subject proposal:

- (a) *to provide land primarily for detached housing generally not exceeding a height of 2 storeys and with private gardens in an environment free from commercial and other incompatible activities and buildings, and*
- (b) *to provide for other uses, but only where they:*
  - (i) *are compatible with the residential environment and afford services to residents at a local level, and*
  - (ii) *are unlikely to adversely affect residential amenity or place demands on services beyond the level reasonably required for detached housing, and*

### 3.1 DA/260/2012 Proposed New Dwelling, Swimming Pool and Demolition of Existing Structures at The Entrance North (contd)

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(c) to provide for home-based employment where such will not:

(i) involve exposure to view from any public place of any unsightly matter, or any raw material, equipment, machinery, product or stored finished goods, or

(ii) have a material adverse impact on residents”.

The proposed detached dwelling consists of single storey with loft and generally complies with the above objectives.

#### RELEVANT STATE/COUNCIL POLICIES AND PLANS

The Council has assessed the proposal against the relevant provisions of the following environmental planning instruments, plans and policies:

- NSW Flood Plain Development Manual
- Office Environment and Health (DECCW) Floodplain Management Guidelines
- State Environmental Planning Policy 71 (Coastal Protection)
- Wyong Local Environmental Plan 1991
- Development Control Plan 2005, Chapter 100 (Quality Housing)
- Development Control Plan 2005, Chapter 67 (Engineering Requirements)
- Development Control Plan 2005, Chapter 69 (Waste Management)
- Flood Prone Land Development Policy F5
- Council's Interim Sea Level Rise Policy.

#### ECOLOGICALLY SUSTAINABLE PRINCIPLES

The proposal is considered to be inconsistent with the following ESD Principles:

- The precautionary principle – the proposal does not account for inundation as a consequence of sea level rise.
- Inter-generational equity – the proposal does not have regard for maintaining the quality of the environment for future generations. The proposal would be highly vulnerable to risk of flooding which would potentially result in damage to the built environment.

Taking the above into consideration the proposal is considered to be **inconsistent** with the Ecologically Sustainable Development (ESD) principles.

#### ASSESSMENT

Having regard for the matters for consideration detailed in Section 79C of the EP&A Act 1979 and other statutory requirements, Council's policies and Section 149 Certificate details, the assessment has identified the following key issues, which are elaborated upon for Council's information. Any tables relating to plans or policies are provided as an attachment.

### 3.1 DA/260/2012 Proposed New Dwelling, Swimming Pool and Demolition of Existing Structures at The Entrance North (contd)

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#### THE PROVISIONS OF RELEVANT INSTRUMENTS/PLANS/ POLICIES (s79C(1)(a)(i-iv):

##### NSW Flood Plain Development Manual

The subject site is located within an existing high hazard flood area and the NSW Flood Plain Development Manual ('The Manual') requires that a safe (i.e. low hazard flooding) escape route be available for the residents. Given the location of the site and surrounding topography, there is no opportunity to provide an escape route during a flood event. It is considered that a habitable floor level, in this case, the ground floor level with an RL of 3.60m AHD would provide a safe escape and sufficient opportunity for residents to remain in the dwelling during a flood event or alternatively to enable rescue. However, this safe harbourage may potentially be for longer periods than currently experienced and residents would be without power or sewerage servicing during this time.

The Manual further provides that a 0.5m freeboard is adopted for general residential development to provide a factor of safety ensuring that the risk exposure selected is accommodated. This freeboard includes a component related to climate change impacts on flood levels in both coastal and non-coastal areas and for a wide variation in sensitivity of estimated design flood levels as well as other unquantified factors such as wind-wave impacts. The freeboard provides only a relatively small allowance to accommodate some of the projected increases in rainfall intensity of flood-producing storm events associated with climate change, which has currently not been accurately quantified or included with the sea level rise projections. The manual's small allowance for climate change in the 0.5metres freeboard figure should be considered to only address some of the uncertainty associated with estimating climate change impacts and as such should not be used to allow for sea level rise impacts, which should be quantified and applied separately. The State Government Floodplain Management Guideline (2010) clarifies that sea level allowance must be included on top of freeboard.

Taking the above into consideration, the proposal is inconsistent with the requirements of the NSW Flood Plain Development Manual.

##### State Environmental Planning Policy 71 (Coastal Protection)

The provisions of State Environmental Planning Policy (SEPP) No 71 - Coastal Protection requires Council to consider the Aims and Objectives of the SEPP together with the matters for consideration listed in Clause 8 of the SEPP when determining an application within the Coastal Zone. The Coastal Zone is an area defined on maps issued by the Department of Planning NSW with the subject property falling within this zone. The aims of the policy are:

- (a) *to protect and manage the natural, cultural, recreational and economic attributes of the New South Wales coast, and*
- (b) *to protect and improve existing public access to and along coastal foreshores to the extent that this is compatible with the natural attributes of the coastal foreshore, and*
- (c) *to ensure that new opportunities for public access to and along coastal foreshores are identified and realised to the extent that this is compatible with the natural attributes of the coastal foreshore, and*
- (d) *to protect and preserve Aboriginal cultural heritage, and Aboriginal places, values, customs, beliefs and traditional knowledge, and*
- (e) *to ensure that the visual amenity of the coast is protected, and*

### 3.1 DA/260/2012 Proposed New Dwelling, Swimming Pool and Demolition of Existing Structures at The Entrance North (contd)

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- (f) to protect and preserve beach environments and beach amenity, and
- (g) to protect and preserve native coastal vegetation, and
- (h) to protect and preserve the marine environment of New South Wales, and
- (i) to protect and preserve rock platforms, and
- (j) to manage the coastal zone in accordance with the principles of ecologically sustainable development (within the meaning of section 6 (2) of the [Protection of the Environment Administration Act 1991](#)), and
- (k) to ensure that the type, bulk, scale and size of development is appropriate for the location and protects and improves the natural scenic quality of the surrounding area, and
- (l) to encourage a strategic approach to coastal management.

The development is not considered to be consistent with objective (j) due to the proposal not being ecologically sustainable. Furthermore, the matters listed under Clause 8 have been considered with the proposal being generally compliant, with the exception of Clauses 8 (a) due to its inconsistency with the abovementioned objectives.

Taking the above into consideration, the proposal is **inconsistent** with the requirements of State Environmental Planning Policy 71 (Coastal Protection).

#### **Flood Prone Land Development Policy F5**

As discussed earlier in the report, the FPL for the site under Council's Flood Prone Land Development Policy is set at 2.7 metres AHD. The development proposes ground floor habitable floor levels of 2.7 metres AHD and therefore meets this requirement.

Incorporating the sea level rise benchmark of 0.9m for the proposed development, raises the FPL of 2.7m plus 0.9m Sea Level Rise to a minimum floor level of 3.6m AHD.

#### **THE LIKELY IMPACTS OF THE DEVELOPMENT (s79C(1)(b) ):**

##### ***The relationship to the regional and local context and setting***

The proposed development is considered acceptable in its appearance and in relation to the scale and massing of existing built structures in the immediate area. The development is domestic in scale and the proposed external materials and finishes are acceptable.

The proposal does not meet the required FPL of 2.7m plus 0.9m Sea Level Rise (3.6m AHD). If floor levels were raised to comply with this level, the development would sit approximately 2.1 metres above natural ground level potentially creating privacy, amenity and design concerns. It is considered that appropriate design mitigation methods could be employed to eliminate these concerns should a further application be lodged incorporating a finished floor level of 3.6m AHD.

##### ***The access, transport and traffic management measures***

The current gutter crossing access will be utilised.

##### ***The impact on utilities supply.***

No issues to report under existing conditions.

### **3.1 DA/260/2012 Proposed New Dwelling, Swimming Pool and Demolition of Existing Structures at The Entrance North (contd)**

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#### ***Any effect on the conservation of soils or acid sulphate soils.***

The site is identified as having Class 2 soils according to the Acid Sulphate Soils Planning Map. In accordance with Wyong LEP Clause 15, a preliminary site investigation is justified where works are proposed which are likely to lower the water table. This is not applicable to the proposed development.

#### ***Any effect on the flora and fauna.***

There will be no trees or fauna removed from the site as part of this application.

#### ***Whether the development will be energy efficient.***

A BASIX certificate has been submitted as part of this application.

#### ***Any risks from natural hazards (flooding, tidal inundation, bushfire, subsidence, slip etc).***

##### **Flooding**

Council's records indicate that the proposed property at No. 14 Bondi Road, The Entrance North is fully flood affected by the 1% AEP event. The Entrance North is subject to flooding from both Tuggerah Lakes when the levee formed by Wilfred Barrett Drive is breached and/or localised catchment flooding.

A long standing and consistent planning practice of Council is to apply the 'precautionary principle' and adopt peak flood levels from Tuggerah Lakes within The Entrance North sub catchment. This approach was adopted primarily due to lack of available levee freeboard above design 1% AEP Tuggerah Lakes flood level, and the potentially catastrophic consequences if the levee operation was compromised without planning for this possibility.

### 3.1 DA/260/2012 Proposed New Dwelling, Swimming Pool and Demolition of Existing Structures at The Entrance North (contd)

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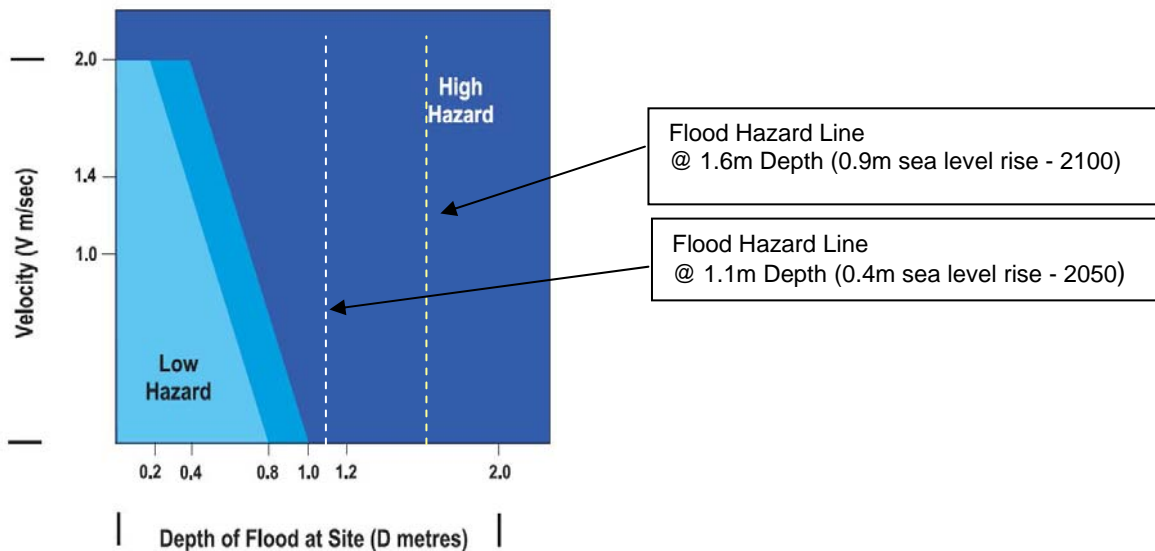
**Figure 1:** Aerial photo of The North Entrance inundated during the June 2007 flood event (estimated to be about a 10% AEP event).

It is considered appropriate to apply the 2100 sea level rise benchmark addition of 0.9 metres for new building development in terms of future flood risk to the building as outlined in *Flood Risk Management Guide - Incorporating Sea Level Rise Benchmarks in Flood Risk Assessments* that was published by the NSW Government (August 2010).

The guide states that “Where the site is below 4 metres AHD, an appropriate conservative assumption to estimate the 1% AEP flood level considering sea level rise is to add the sea level rise planning benchmarks to the 1% AEP flood level relevant to the site”.

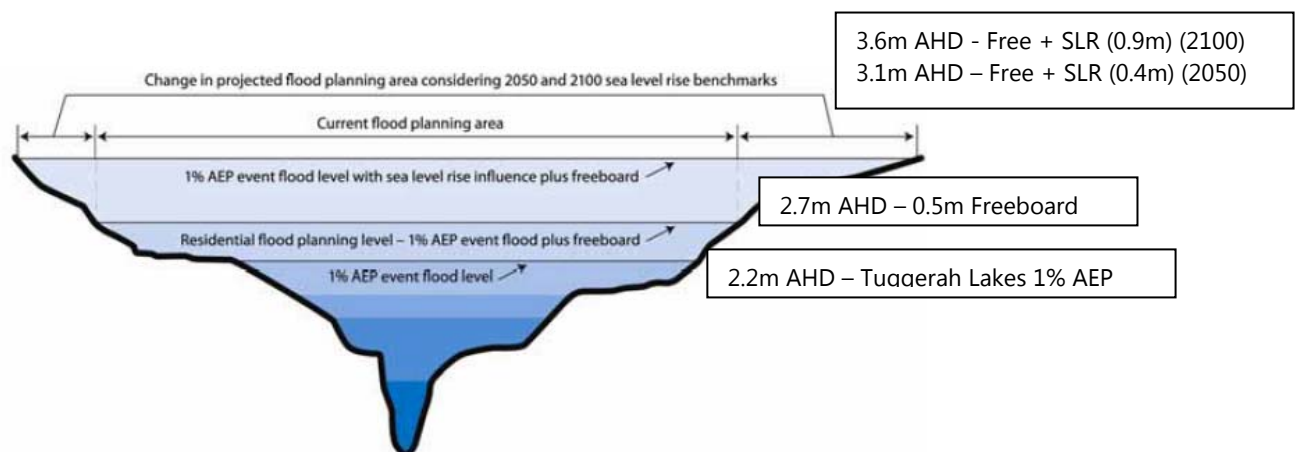
The 1% AEP flood level for the property is 3.1m AHD (includes Tuggerah Lakes designated flood level of 2.2m AHD plus allowance of 0.9m for sea level rise -2100). The site is considered flood affected to a depth of approximately 1.6m. The depth of flooding, which would also include negligible velocity, indicates the property is affected by **high hazard flooding** regardless of velocity due to the flooded depth alone. This is demonstrated in Figure 2, an extract taken from the *NSW Floodplain Development Manual*.

### 3.1 DA/260/2012 Proposed New Dwelling, Swimming Pool and Demolition of Existing Structures at The Entrance North (contd)



**Figure 2:** Hydraulic Hazard Categories - Extract from NSW Floodplain Development Manual (NSW Government April 2005).

The *flood planning level* or *minimum habitable floor level* including allowances for sea level rise and freeboard for the development is **3.6m AHD**. The applicant proposes a habitable floor level of 2.7m AHD, which is below the minimum required and doesn't comply with NSW State Government Legislation introduced to account for sea level rise allowances.

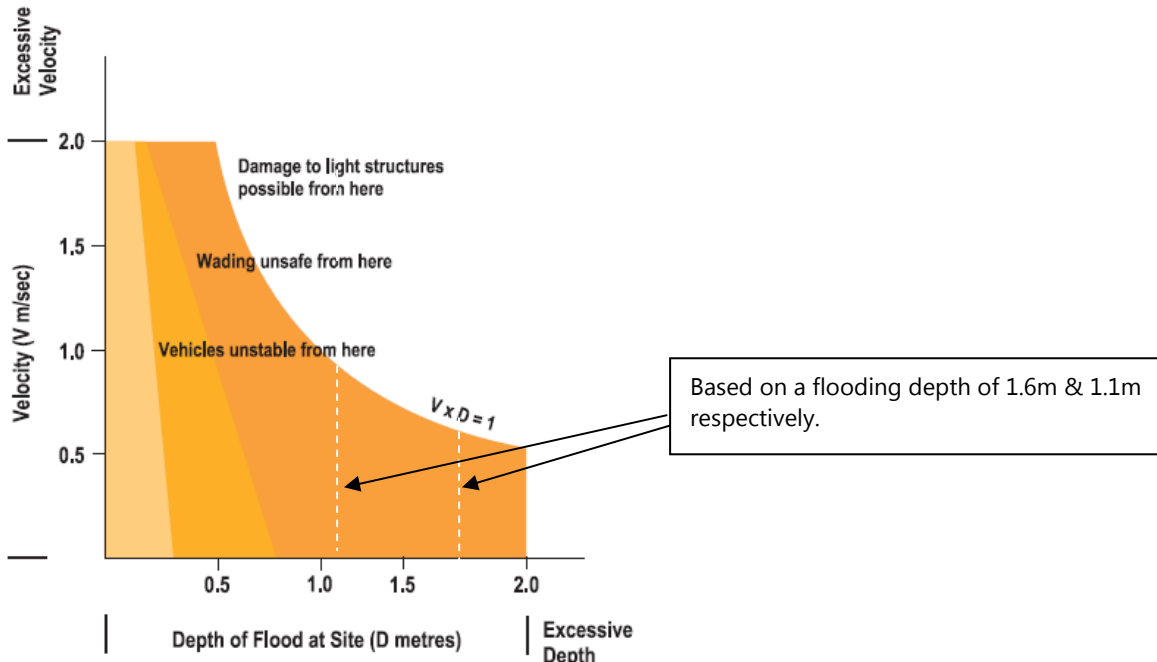


**Figure 3:** Indicative cross-section of Tuggerah Lakes and Flood Planning Level (extract from NSW government document – Flood Risk Management Guide).

### 3.1 DA/260/2012 Proposed New Dwelling, Swimming Pool and Demolition of Existing Structures at The Entrance North (contd)

#### Flood Evacuation

The velocity depth relationship depicted in Figure 4 indicates that flood waters to a depth of 1.6m and 1.1m respectively would be both unstable for vehicles (*i.e. buoyancy effects will begin to float cars*) and unsafe for humans to wade through.



**Figure 4:** Velocity & Depth Relationship - Extract from NSW Floodplain Development Manual (NSW Government April 2005).

Evacuation by wading/walking is generally not encouraged by emergency services personnel due to potential problems with uneven ground, submersed hazards, animal bites, mobility of the aged and children and the distance to safe ground. *Walking as a means of evacuation is only acceptable if walking through flood water can be avoided and it involves only short distances (200m) to higher ground.* There is also a potential health issue with wading through flood waters as the NSW Department of Health has previously issued Public Health Warnings to treat all flood waters as contaminated. There is potential for flood water to contain untreated sewage, chemical contaminants or dead animal carcasses. The depth of flood waters and duration of inundation further exacerbates this issue. The time of day and weather conditions can also adversely affect evacuation.

The local sub catchment is bound by Wilfred Barrett Drive which is generally higher than the residential area of The Entrance North, and is the only satisfactory means of flood access. A safe (*i.e. low hazard flooding*) evacuation route from the property is unavailable until a distance of approximately 400 metres in the vicinity of the intersection of Mini Street and Wilfred Barrett Drive, with more severe flooding condition encountered between the development and Wilfred Barrett Drive to the South West.



### **3.1 DA/260/2012 Proposed New Dwelling, Swimming Pool and Demolition of Existing Structures at The Entrance North (contd)**

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As identified above, the level of Wilfred Barrett Drive is approximately equal to the 2100 20% AEP flood level. The *NSW Floodplain Development Manual* identifies that vehicles may be hydraulically unstable with flood depth of approximately 400mm. This effectively means that Wilfred Barrett Drive will be unavailable for use by evacuees and emergency service personnel from the 2100 5% AEP and rarer flood events. This is further exacerbated by the lack of delineation of the road carriage and potential for vehicles to run off the pavement into even deeper flood waters.

Pedestrian evacuation to the sand dunes is not to be identified as an evacuation option. Apart from 'self motivated evacuation' generally undertaken while roads are trafficable, the decision to issue evacuation orders rests with the Wyong SES Local Controller. Evacuations are to be undertaken in accordance with the current SES Local Flood Plan, which identifies that evacuations will proceed along main roads and major local roads. The sand dunes may be considered as a temporary place of refuge, but not as a means of evacuation. Predicted coastal erosion processes and significant distance to evacuation centres further reduce the suitability of this evacuation option.

#### **Tuggerah Lakes Floodplain Risk Management Study & Plan**

The Tuggerah Lakes Floodplain Risk Management Study and Plan is under preparation. The Study was publicly exhibited in early 2011, which evaluates management options for the floodplain in respect to both existing and proposed development. The Plan is yet to be exhibited and has not been adopted by Council.

#### **Council Flood Policy –F5 Flood Prone Land Development**

Council's Flood Policy-*F5 Flood Prone Land Development* considers development in high hazard flood storage in existing urban zones that do not intensify the current land use as *usually permitted*, provided that it complies with current development codes and policies.

The proposed floor level of the ground floor habitable rooms is 2.7 metres AHD which complies with the 2.7 metre AHD Flood Planning Level (FPL) for the site under Council's existing Flood Prone Land Development Policy (including 500mm freeboard). This policy fails to incorporate allowances for sea level rise affects.

#### **Earthworks/Filling**

The applicant has provided a hand drawing nominating a ground level of 1.8 m AHD, which is inconsistent with Council's information. According to information available to council the natural ground level of the property is approximately 1.32 - 1.5 metres AHD. At this level the applicant has nominated to fill the natural ground by 0.3 – 0.48 metres over the block.

Council's Section 94 development contributions plan for the Entrance district identifies drainage improvements for The Entrance North as a result of filling of flood affected land.

The contribution for filling will apply to land below R.L 1.4 metres AHD and the applicant would only be able to fill a maximum of 80mm depending on a proper survey of the site.

### **3.1 DA/260/2012 Proposed New Dwelling, Swimming Pool and Demolition of Existing Structures at The Entrance North (contd)**

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#### **Acid Sulphate Soils**

Clause 15 of Council's Local Environment Plan 1991 outlines requirements for development on land containing acid sulphate soils. Examination of Council's Sulphate Planning maps indicates that the property is located in an area classified as Class 2. Class 2 does not allow works (i.e. *any disturbance of more than one tonne of soil for the construction of artificial water bodies or foundations*) below the natural ground surface or works by which the watertable is likely to be lowered. The proposed pool is a semi in-ground/aboveground pool and its construction will remove in excess of one tonne of soil.

The applicant will be required to undertake a preliminary assessment in accordance with the *NSW Acid Sulphate Soils Assessment Guidelines* to satisfy council that the proposed works will not require the preparation of an Acid Sulphate Soil Management Plan. If an Acid Sulphate Soil Management Plan is required, Council is required to grant consent prior to works commencing.

#### ***Any social impact in the locality.***

The proposed development is likely to expose both people and property to harm from flooding events. See discussion above regarding the lack of a safe evacuation route.

#### ***Any economic impact in the locality.***

The proposed development is considered likely to have negative economic impacts if it were to be approved by Council, as a result of reliance on emergency services personnel to assist occupants in the event of a flood, in rectifying flood damaged property, and placing greater demands on surrounding services and infrastructure in this locality in order to sustain the development in its vulnerable location.

#### ***Any impact of site design and internal design.***

The site design is not considered appropriate in terms of the finished floor levels for habitable rooms as they fail to take into account any sea level rise planning bench mark.

#### ***Any cumulative impacts.***

Allowing the proposed development contrary to the State Government Chief Scientists recommended flood planning benchmarks would contravene Council's obligation to consider certain matters as specified in Section 79C of the Act, including the likely impacts of the development and the public interest.

#### **THE SUITABILITY OF THE SITE FOR THE DEVELOPMENT (s79C(1)(c)):**

#### ***Whether the proposal fits in the locality.***

As outlined earlier in this report, the proposed development is not considered suitable for the site given that the floor level does not adequately address sea level rise.

Whilst the recommendation before Council is for refusal of the application in its current form, Council may consider an option to defer determination of the application pending the applicant being asked to redesign the proposal to enable it to comply with a FFL of 3.6m for the habitable rooms.

### **3.1 DA/260/2012 Proposed New Dwelling, Swimming Pool and Demolition of Existing Structures at The Entrance North (contd)**

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This can be achieved by a redesign of the dwelling such that the habitable rooms become a first floor with garages and non habitable rooms positioned on the ground floor.

#### ***Whether the site attributes are conducive to development.***

As mentioned above, the low lying nature of the site creates the potential for frequent future flooding and therefore it is imperative that the proposed development be designed to ensure that the existing and future natural hazards are appropriately addressed. This could be achieved by the redesign of the development to provide for a two storey dwelling with non habitable rooms on the ground floor.

#### **ANY SUBMISSION MADE IN ACCORDANCE WITH THIS ACT OR REGULATIONS (s79C(1)(d)):**

##### ***Any submission from the public.***

The application was advertised in accordance with DCP 2005 Chapter 70-Notification of Development Proposals with no submissions being received.

##### ***Any submission from public authorities.***

N/A

#### **THE PUBLIC INTEREST (s79C(1)(e)):**

##### ***Any Federal, State and Local Government interests and community interests.***

The information currently available to Council indicates that the site will likely be inundated if a designated flood event (1%AEP) occurs during the life of the proposed development. The information relied upon to make this prediction includes Council's flood studies and the State Government Chief Scientists recommended sea level rise planning benchmarks. Having assessed the proposal in accordance with Council's Flood Prone Land Development Policy, the NSW Floodplain Development Manual and the projected flood level increase of 900mm by 2100; the development is not considered suitable for the site. To permit the development on the basis of a lack of full scientific certainty with respect to sea level rise may result in lives and property being placed under threat.

#### **CONCLUSION**

The development in its current form is not supported on the basis that it does not comply with the levels recommended by the State Government Chief Scientist, nor does it comply with the State Government's Floodplain Development Manual. The application is therefore recommended for refusal subject to the reasons attached to the report.

3.1 DA/260/2012 Proposed New Dwelling, Swimming Pool and Demolition of Existing Structures at The Entrance North (contd)

Locality Plan

