



The award winning photo from Council's Little Coast Kids Education Centre at Northlakes. This photo won the State and National Award for best photo illustrating the theme Our Focus - Our Children at the Australian Child Care Week 2012 Awards. The Centre also won the State and National award for the Best Overall Child Care Week program.

Wyong Shire Council

Business Paper

ORDINARY COUNCIL MEETING

28 November 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 28 November 2012 at 5.00 pm,
for the transaction of the business listed below:**

OPENING PRAYER

ACKNOWLEDGEMENT OF COUNTRY

RECEIPT OF APOLOGIES

1 PROCEDURAL ITEMS

1.1	Disclosure of Interest.....	5
1.2	Proposed Inspections and Briefings.....	6
1.3	Confirmation of Minutes of Previous Meeting.....	9
1.4	Address by Invited Speakers.....	32
1.5	Notice of Intention to Deal with Matters in Confidential Session.....	33

2 PLANNING REPORTS

2.1	DA 727/2012 - Detached Secondary Dwelling at Gorokan.....	34
2.2	Ex Officio appointment to Tuggerah Lakes Reserve Trust (Central Coast Wetlands - Pioneer Dairy)	50

3 PROPERTY REPORTS

3.1	RZ/9/2012 Rezoning to Permit Officeworks at Tuggerah.....	52
-----	---	----

4 CONTRACT REPORTS

4.1	Contract Variation - Microsoft Licencing.....	89
-----	---	----

5 GENERAL REPORTS

5.1	2012-16 Strategic Plan - September Quarter Review (Q1)	95
5.2	Proposed Replacement of Pedestrian Bridge over Tumby Creek, Peninsula Point, Berkeley Vale	97
5.3	Council Approval - Revised Motor Vehicle Policy and Procedure	112
5.4	NSW Local Infrastructure Renewal Scheme Approved Loan Interest Subsidy - options concerning the use of resulting savings.....	148
5.5	2011/12 Annual Report.....	178
5.6	Voluntary Planning Agreements - Capped Contributions.....	181
5.7	Councillor Weekend Workshop - February 2013	203
5.8	NSW Local Infrastructure Renewal Scheme (LIRS) Round 2. Proposal to submit projects to incur borrowings to be subsidised under the LIRS	206

6 INFORMATION REPORTS

6.1	Information Reports	209
6.2	Works in Progress - Water Supply and Sewerage	210
6.3	Upgrading of the Pacific Highway through the Wyong Township by the Roads and Maritime Services	214
6.4	Activities of the Development Assessment and Building Certification and Health Units.....	248
6.5	Investment Report for October 2012	254
6.6	Results of Water Quality Testing for Beaches and Lake Swimming Locations	261
6.7	Outstanding Questions on Notice and Notices of Motion.....	264

7 ANSWERS TO QUESTIONS ON NOTICE

7.1	Q31/12 - Carbon Tax Impact on Rate payers	284
7.2	Q33/12 - EPA Pile Burning Penalties	287
7.3	Q36/12 - Update on Charmhaven Walkway	288

8 NOTICES OF MOTION

8.1	Notice of Motion - Comprehensive Review of Tree DCP, Chapter 14	292
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9 CONFIDENTIAL ITEMS

9.1	Mayoral Minute - General Manager's Mid Year Performance Review 2012-2013	
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10 QUESTIONS ON NOTICE ASKED

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

TRIM REFERENCE: F2012/00026 - D03187204

MANAGER: Lesley Crawley, Manager Corporate Governance

AUTHOR: Jacquie Elvidge; Councillor Services Officer

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 - D03187212

MANAGER: Lesley Crawley, Manager Corporate Governance

AUTHOR: Jacquie Elvidge; Councillor Services Officer

SUMMARY

There were no inspections scheduled for December 2012 at the time of printing the business paper.

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

Time	Topic	Summary	Presented by
12.00 noon – 12.30 pm	Industrial Land and Employment Lands study	Brief Councillors on the outcomes and recommendations of the Employment Land Study	Acting Director Land Management and Acting Manager Sustainability
12.30 pm – 1.00 pm	Pioneer Dairy Regional Sporting Complex	To provide background and status update on the Pioneer Dairy Regional Sporting Complex	Manager Sports and Recreation and Manager Economic Property Development
1.00 pm – 1.15 pm	Annual Report	To provide council with an overview of the 2011/12 annual report being presented for adoption at the council meeting	Manager Integrated Planning
1.15 pm – 2.15 pm	Q1 Report - Strategic Plan and Financial Update - presented by GM	First Quarter Budget and Strategic Plan Review – Presentation of Strategic Plan & Budget Update for 2012/13 first quarter	General Manager
2.15 pm – 2.30 pm	Update – Mariners bid and Australian Chinese Theme Park	<ul style="list-style-type: none"> Mariners bid for Beckham Australian Chinese Theme Park 	General Manager
2.30 pm – 3.00 pm	Restructure CONFIDENTIAL	Confidential discussions on the Council restructure.	General Manager
3.00 pm – 3.30 pm	GM's mid year performance review	GM's mid year performance review	Manager Human Resources

Briefings proposed for future meetings of Council are attached.

RECOMMENDATION

That Council receive the report on Proposed Inspections and Briefings.

ATTACHMENTS

1 Proposed Briefing Schedule - 28 November 2012 D03196838

Briefings Proposed 28 Nov 2012

Industrial Land and Employment Lands study	Brief Councillors on the outcomes and recommendations of the Employment Land Study	Land Management Department, A/Director David Jack / Martin Johnson A/Manager Sustainability
Tumbi Creek Bridge	The existing shared pathway bridge over Tumbi Creek is nearing the end of its life and requires priority replacement. Preconstruction and procurement activities for the construction of a new bridge are well advanced. The final decision relating to route selection is outstanding and Council is requested to endorse a preferred option and budget allocation to enable the project to proceed to the construction stage	IM/Andrew Pearce/ Dave Witherdin
Annual Report	To provide council with an overview of the 2011/12 annual report being presented for adoption at the council meeting	GM's Unit/ Integrated Planning, Kathie Morris
Q1 Report - Strategic Plan and Financial Update - presented by GM	First Quarter Budget and Strategic Plan Review – Presentation of Strategic Plan & Budget Update for 2012/13 first quarter	GM's Unit/ GM Mike Whittaker
Restructure *CONFIDENTIAL		GM's Unit/ GM Mike Whittaker
GM's mid year performance review	GM's mid year performance review	GM's Unit/HR Manager, Marie Hanson Kentwell

Briefings Proposed 12 Dec 2012

Plan of management Central Coast caravan parks		Mills, Tara
Community Precinct Committees	To present revised guidelines for Precinct Committee for endorsement	Vaughan, Julie
Customer Service Charter		Ledingham, Sue
Affordable Housing Study - Pre Exhibition		Johnson, Martin; Lye, Melati
Retail Strategy Review		Johnson, Martin; Ferry, Chris
Porters Creek Floodplain Management Plan		Fulcher, Robert
Office of Environment and Heritage - Results from studies on Tuggerah Lakes		Dr Angus Ferguson & Dr Rebecca Swanssea - OEH.
RMS - The Entrance Road Long Jetty		Bowditch, Paul

***CONFIDENTIAL**

1.3 Confirmation of Minutes of Previous Meeting

TRIM REFERENCE: F2012/00026 - D03187213

MANAGER: Lesley Crawley, Manager Corporate Governance

AUTHOR: Jacquie Elvidge; Councillor Services Officer

SUMMARY

Confirmation of minutes of the previous Ordinary Meeting of Council held on Wednesday 14 November 2012.

RECOMMENDATION

That Council confirm the minutes of the previous Ordinary Meeting of Council held on Wednesday 14 November 2012.

ATTACHMENTS

- | | | |
|---|---|-----------|
| 1 | MINUTES - Ordinary Council Meeting - 14 November 2012 | D03189460 |
| 2 | MINUTES - Confidential Ordinary Council Meeting - 14 November 2012
(D03189520) | |

WYONG SHIRE COUNCIL

**MINUTES OF THE
ORDINARY COUNCIL MEETING OF COUNCIL
HELD IN THE COUNCIL CHAMBER
WYONG CIVIC CENTRE, HELY STREET, WYONG
ON 14 NOVEMBER 2012
COMMENCING AT 5:00 PM**

PRESENT

Councillors D J Eaton (Chairperson), G P Best, R L Graham, 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, Acting Director Development and Building, Director Infrastructure Management, Acting Director Land Management, Director Community and Recreation Services, General Counsel, Manager Development Assessment, Manager Land use and Planning, Manager Building Certification and Health, Executive Manager to the General Manager, Senior Contributions Officer, Communications and Marketing Coordinator and two administration staff.

The Mayor, Councillor Eaton, declared the meeting open at 5.03 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 numbers 1.1, 1.2, 1.3, 1.4, 3.1, 3.2, 2.3, 7.4, 5.1, 6.1, 6.5, 8.4, 6.7, 6.8, 8.1, 8.2, 8.3 and 8.5 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

3.5 Proposed Amendment to Clause 16 of the Wyong Local Environmental Plan, 1991.

Councillor Eaton declared a pecuniary interest in this matter for the reason that he and his wife are purchasing a property that may be affected by the proposal. Voting for this item was dealt with via the exception method and therefore Councillor Eaton has been excluded from voting due to his declared interest in the matter.

9.1 Strategy for Reducing Contribution Credits.

Councillor Eaton declared a pecuniary interest in this matter for the reason that a company owned by his family and has a S94 credit. Voting for this item was dealt with via the exception method and therefore Councillor Eaton has been excluded from voting due to his declared interest in the matter.

6.5 Membership of Statutory Committees, Advisory Groups and Working Parties

Councillor Vincent declared a non-pecuniary insignificant interest in the matter for the reason that he is an employee of Delta Electricity, Delta Electricity may or may not have representation on the committee and participated in consideration of this item.

Councillor Vincent 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."

6.8 Works on Private Land at Bruce Crescent, Wallarah

Councillor Taylor declared a non-pecuniary insignificant interest in the matter for the reason that he has an interest in an adjoining property and participated in consideration of this matter.

Councillor Taylor 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."

8.4 Notice of Motion - Mobility Scooter Recharge Initiative

Councillor Greenwald declared a non-pecuniary significant interest in the matter for the reason that his son, who lives with him, could directly benefit from this motion if successful, left the chamber at 7.32 pm, took no part in discussion, did not vote and returned to the chamber at 7.47 pm.

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

371/12 That Councillors now disclose any conflicts of interest in matters under consideration by Council at this meeting.

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

AGAINST: NIL

1.2 Proposed Inspections and Briefings

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

372/12 That Council receive the report on Proposed Inspections and Briefings.

373/12 That Council change the commencement time of the inspections scheduled for the 21 November 2012 to 2.00 pm to allow Councillors to return to Council for the Employment and Economic Development Committee commencing at 4.00 pm.

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

AGAINST: NIL

1.3 Confirmation of Minutes of Previous Meeting

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

374/12 That Council confirm the minutes of the previous Ordinary Meeting of Council held on Wednesday 24 October 2012.

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

AGAINST: NIL

Business Arising

2.4 Mayoral Minute - Ourimbah Soccer Club (24 October 2012)

Mayor Eaton advised that negotiations with Ourimbah Soccer Club resulted in its contributions being reduced to 35% of the original figure, which is to be paid on an installment basis of 4 installments.

1.4 Address by Invited Speakers

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

375/12 That Council receive the amended report on Invited Speakers.

376/12 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 Notice of Intention to Deal with Matters in Confidential Session

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

377/12 That Council consider the following matter in Confidential Session, pursuant to Sections 10A(2) (c) of the Local Government Act 1993:

9.1 – Strategy for Reducing Contribution Credits

378/12 That Council note its reason for considering Report No 9.1 – Strategy for Reducing Contribution Credits, as it contains information that would, if disclosed, confer a commercial advantage on a person with whom the Council is conducting, or proposes to conduct business with.

379/12 That Council request the General Manager to report on this matter in open session of Council.

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

AGAINST: NIL

2.1 Mayoral Minute - Extension of Trial Period for Relaxation of Contributions for Granny Flats

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

380/12 That Council extend the trial for a period of 6 months.

381/12 That Council levy secondary dwellings (Granny Flats) during the trial period on the basis that they are equivalent to 35% of a Development Unit for the purpose of Section 94 contributions in accordance with the applicable contributions plans.

382/12 That Council implement the trial by way of those affected development applications being reported to Council for determination.

383/12 That Council support the revision of the Section 94 Contribution Plans for Toukley, The Entrance, Wyong and Warnervale to include the provision that Section 94 contributions apply to Complying Development Certificates subject to the appropriate public exhibition process.

384/12 That Council receive a comprehensive report on the outcomes of the trial prior to the end of the trial period.

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

AGAINST: NIL

2.2 Mayoral Minute - Coastal Conference Bid

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

385/12 That Council receive and note the Mayoral Minute - Coastal Conference Bid.

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

AGAINST: NIL

2.3 Mayoral Minute - Flood Policy Amendment

RESOLVED on the motion of Councillor EATON:

386/12 That Council prepare an amendment to its adopted Flood Policy to include in the enabling clause, headed "Development in Existing Urban Zones", the following properties zoned 1C Non-Urban Constrained along McDonagh Road such that they are treated as if they are zoned 2(a) Residential for the purposes of assessment within the adopted policy.

- Lots 30-39 DP 4526
- Lot 1 DP 117876

387/12 That Council place the amendment to its Flood policy on public exhibition for a period of 28 days.

388/12 That Council receive a report outlining the results of the public exhibition process following the expiration of the exhibition period.

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

AGAINST: NIL

3.1 DA 1099/2011 - Proposed Temporary Use of an Existing Machinery Shed as a Dwelling at Tumbi Umbi

Mr John Hancock, from SJH Planning, addressed the meeting at 5.06 pm, answered questions and retired at 5.21 pm.

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

389/12 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, refuse the application subject to the reasons for refusal detailed in the schedule attached to the report.

390/12 That Council defer action in relation to the unauthorised building works/residential use for a period of 2 years pending the compliance with fire safety regulations and the Building Code of Australia.

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

AGAINST: COUNCILLORS GREENWALD AND VINCENT

3.2 DA/194/2012 - Proposed Two Storey Addition to an Existing Dwelling at Wyong

Councillor Vincent left the meeting at 5.26 pm and returned at 5.29 pm during consideration of this item.

Mr Clive Adams. DA Applicant, addressed the meeting at 5.26pm, answered questions and retired at 5.36pm.

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

391/12 That Council grant consent subject to the conditions detailed in the schedule attached to this recommendation, having regard to the matters for consideration detailed in Section 79C of the Environmental Planning and Assessment Act and other relevant issues.

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

AGAINST: NIL

3.3 RZ/5/2012 - 7 Mingara Drive, Tumby Umbi Rezoning Proposal

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

392/12 That Council initiate the Local Environmental Plan "Gateway" process, pursuant to Section 55 of the Environmental Planning and Assessment Act 1979 by preparation of a Planning Proposal to progress Option 2.

393/12 That Council forward the Planning Proposal to the Department of Planning and Infrastructure requesting a "Gateway" determination, pursuant to Section 56 (1) of the Environmental Planning and Assessment Act.

394/12 That Council undertake community consultation regarding the Planning Proposal, subject to the determination of the Gateway Process.

395/12 That Council direct the General Manager to submit a report to Council on results of the community consultation.

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

AGAINST: NIL

3.4 Classification of Land - Lot 232 DP 1162569 at Johns Road, Wadalba

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

- 396/12 That Council confirm its classification of Lot 232 DP 1162569 as Operational land.**
- 397/12 That Council advertise the proposal in accordance with Section 34 of the Local Government Act 1993.**
- 398/12 That Council adopt the classification.**

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

AGAINST: NIL

3.5 Proposed Amendment to Clause 16 of the Wyong Local Environmental Plan, 1991.

Councillor Eaton declared a pecuniary interest in this matter for the reason that he and his wife are purchasing a property that may be affected by the proposal. Voting for this item was dealt with via the exception method and therefore Councillor Eaton has been excluded from voting due to his declared interest in the matter.

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

- 399/12 That Council initiate the Local Environmental Plan “Gateway” process, pursuant to Section 55 of the Environmental Planning and Assessment Act 1979 by preparation of a Planning Proposal to amend Clause 16(1) of Wyong Local Environmental Plan 1991.**
- 400/12 That Council forward the Planning Proposal to the Department of Planning and Infrastructure requesting a “Gateway” determination, pursuant to Section 56 (1) of the Environmental Planning and Assessment Act.**
- 401/12 That Council undertake community consultation regarding the Planning Proposal, subject to such being required by the Gateway Determination.**
- 402/12 That Council receive a report on the outcomes of any community consultation undertaken.**

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

AGAINST: NIL

4.1 Classification of Land - Lot 1000 DP 1170365 Settlement Drive, Wadalba

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

- 403/12 That Council classify Lot 1000 DP 1170365 as Operational Land.
- 404/12 That Council advertise the proposal in accordance with Section 34 of the Local Government Act, 1993.
- 405/12 That Council adopt the classification if no adverse submissions are received.

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

AGAINST: NIL

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

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

- 406/12 That Council defer the decision on this tender.
- 407/12 That Council refer this item to the General Manager for investigation of low cost options including a high security fence surrounding this site to allow solar panels to be installed, there by reducing the necessity for constructing another tower.

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

AGAINST: NIL

5.2 Evaluation and Selection of Tenders for Contract CPA 210714 - Construction of Stormwater Culvert, Minnesota Road, Hamlyn Terrace

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

- 408/12 That Council accepts the tender from the company nominated as Tenderer '3' in the attached Tender Evaluation Report, for the estimated total amount of \$1,299,319.65 (excl GST) for Contract CPA/210714 – Construction of Stormwater Culvert, Minnesota Road, Hamlyn Terrace.
- 409/12 That Council determines the Tender Evaluation Report in Attachment A remains confidential in accordance with Section 10 A (2) (d) of the Local Government Act 1993 as the report contains commercial information of a confidential nature.
- 410/12 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

**5.3 Outcome of Negotiations on the Formation of a Contract for Contract
CPA/217073 - Relocation of 11kV and LV Mains in Minnesota Road, Hamlyn
Terrace and Associated Water Works**

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

**411/12 That Council accept the negotiated tender from the company nominated as
Tenderer "3" in the negotiated amount of \$396,546.00 (excl GST) for
Contract CPA/217073 – Relocation of 11kV and LV Mains, Minnesota Road
and Associated Water Supply Works.**

**412/12 That Council determines the Tender Evaluation Report in Attachment A,
remains confidential in accordance with Section 10 A (2) (d) of the Local
Government Act 1993 as the report contains commercial information of a
confidential nature.**

**413/12 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

6.1 Central Coast Research Foundation Sponsorship

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

**414/12 That Council defer this item to be considered at the next Central Coast
Regional Organisation of Councils meeting being held on the 29 November
2012.**

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

AGAINST: COUNCILLORS GREENWALD, MATTHEWS AND VINCENT

6.2 Review of Code of Meeting Practice

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

415/12 That Council amend the Code of Meeting Practice in accordance with the table attached to the report.

416/12 That the Council exhibit the amended Code for public comment in accordance with the provisions of the Local Government Act.

417/12 That Council adopt the amended Code of Meeting Practice subject to no significant objections being received as a result of the public exhibition.

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

AGAINST: NIL

6.3 Revised Internal Audit Plan To 30 June 2013

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

418/12 That Council adopt the revised audit plan, as recommended by the Governance Committee at their meeting on 19 September 2012.

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

AGAINST: NIL

6.4 Draft Minutes of the 19 September 2012 and 5 October 2012 Governance Committee meetings

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

419/12 That the Council adopt the minutes of Ordinary and Extraordinary Wyong Shire Governance Committee meetings held on 19 September 2012 and 5 October 2012.

420/12 That Council note the Committee recommendations from the 19 September 2012 and 5 October 2012 meetings.

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

AGAINST: NIL

6.5 Membership of Statutory Committees, Advisory Groups and Working Parties

Councillor Vincent declared a non-pecuniary insignificant interest in the matter for the reason that he is an employee of Delta Electricity, Delta Electricity may or may not have representation on the committee and participated in consideration of this item.

Councillor Vincent 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."

Councillor Vincent left the meeting at 7:27 pm and returned to the meeting at 7:29 pm during consideration of this item.

RESOLVED on the motion of Councillor TAYLOR and seconded by Councillor TROY:

421/12 That Council confirm the membership of Statutory Committees, Advisory Groups and Working Parties subject to the following amendments in regards to the Tuggerah Lakes Estuary, Coastal and Floodplain Management Committee:

- **The number of community representatives be set at 3 to be appointed via a public expression of interest process.**
- **That this public expressions of interest process be reported back to Council at a briefing to identify the most meritorious candidates.**
- **Once this process is complete a report to Council be made recommending the 3 community representatives.**
- **The Mayor formerly write to any community representatives on the 2008/12 committee thanking them for their contributions and inviting them to apply for positions on the 2012/16 committee.**
- **That a representative from the State Emergency Services be invited to attend where there is a relevant matter on the agenda.**
- **The relevant officers from the Office of Environment and Heritage remain on the committee.**
- **The number of staff representatives remain at 3.**
- **That a representative from the local Aboriginal community be invited to attend where there is a relevant matter on the agenda.**
- **That a representative from the commercial fishing industry be invited to attend where there is a relevant matter on the agenda.**
- **All other representatives be removed from the committee membership.**

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

AGAINST: COUNCILLORS GRAHAM, GREENWALD, MATTHEWS AND VINCENT

PROCEDURAL MOTION

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

422/12 That Council allow meeting practice be varied to consider item 8.4 - Notice of Motion - Mobility Scooter Recharge Initiative, before item 6.7 - Wrack Harvesting, as there is a speaker in attendance for this item..

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

AGAINST: COUNCILLORS MATTHEWS AND VINCENT

6.6 Employment and Economic Development Strategic Committee and Heritage Statutory Committee Terms of Reference

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

423/12 That Council adopt the Employment and Economic Development Strategic Committee Terms of Reference.

424/12 That Council adopt the Heritage Statutory Committee Terms of Reference.

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

AGAINST: NIL

6.7 Wrack Harvesting

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

425/12 That Council receive and note this report.

426/12 That Council implement options 1 and 2 initially with option 3 being implemented as and when practical.

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

AGAINST: NIL

6.8 Works on Private Land at Bruce Crescent, Wallarah

Councillor Taylor declared a non-pecuniary insignificant interest in the matter for the reason that he has an interest in an adjoining property and participated in consideration of this matter.

Councillor Taylor 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."

PROCEDURAL MOTION

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

427/12 That question time for this item be exhausted.

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

AGAINST: COUNCILLORS GRAHAM, GREENWALD, MATTHEWS AND VINCENT

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

428/12 That Council receive and report outlining a concept design and estimate for the construction of a rock protection and energy dissipation structure downstream of Councils road culvert located within Lots 19 & 20- DP 26912, 370 – 380 Bruce Crescent, Wallarah.

429/12 That Council determine in accordance with Section 67(2)(b) of the Local government Act, to undertake work on Lots 19 and 20 DP26912 to the upper limit of \$30,000.

430/12 That Council undertake the work subject to the land owner entering into a deed of agreement for the land owner to be unconditionally responsible for the completed works and all associated costs.

431/12 That Council require the deed to clearly state that at the end of the life of the works Council will not be obligated or liable to replace all or part of the works.

432/12 That Council include in the deed the requirement for the land owner to undertake appropriate insurance of the works.

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

AGAINST: COUNCILLORS MATTHEWS AND VINCENT

7.1 Information Reports

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

433/12 That Council receive the report on Information Reports.

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

AGAINST: NIL

7.2 Quarterly Update on Section 94 Contributions

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

434/12 That Council receive the report on Quarterly Update on Section 94 Contributions.

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

AGAINST: NIL

7.3 Operational Activities and Trends Associated with the Animal Care Facility

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

435/12 That Council receive the report on Operational Activities and Trends Associated with the Animal Care Facility

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

AGAINST: NIL

7.4 Chinese Theme Park Proposal - Status Update

Councillor Troy left the meeting at 6.12 pm and returned to the meeting at 6.13 pm during consideration of this item.

Ms Amanda Lee, representing the Chinese Theme Park, addressed the meeting at 5.50pm, answered questions and retired at 6.13 pm.

PROCEDURAL MOTION

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

436/12 That question time for this item be exhausted.

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

AGAINST: COUNCILLORS GRAHAM, GREENWALD, MATTHEWS AND VINCENT

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

437/12 That Council receive the report on Chinese Theme Park Proposal - Status Update.

438/12 That Council direct the Mayor and General Manager to urgently negotiate with Australia Theme Park Pty Limited with the objective of achieving an agreement for the sale of the proposed site where Council's risks and liabilities are minimised and a sales price that is satisfactory to Council is offered by the potential purchaser.

439/12 That Council request the Mayor and General Manager to report to the 28 November 2012 Ordinary meeting of Council on the outcomes of such negotiations.

440/12 That Council direct the General Manager to provide a Land Economics report to Council as part of his report back on the negotiations.

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

AGAINST: NIL

PROCEDURAL MOTION

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

441/12 That Council allow meeting practice to be varied.

442/12 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 GRAHAM and seconded by Councillor VINCENT:

443/12 That with the exception of report numbers 5.1, 6.1, 6.5, 6.7, 6.8, 8.1, 8.2, 8.3, 8.4 and 8.5 Council adopt the recommendations contained in the remaining reports.

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

AGAINST: NIL

7.5 Outstanding Questions on Notice and Notices of Motion

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

444/12 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

8.1 Notice of Motion - Northern Lakes Rugby League Sport and Recreation Club

Councillor Taylor left the meeting at 8.13 pm and returned to the meeting at 8.15 pm during consideration of this item.

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

445/12 That Council note the existing facilities established by the Northern Lakes Rugby League Sport and Recreation Club, at Gumbuyah oval on Tall Timbers Road Lake Munmorah, are utilised by the broader community, such as local schools, representative and community groups .

446/12 That Council note the Northern Lakes Rugby League Sport and Recreation Club has received grants in the order of \$80K from the State Government to build the slab and outer shell for a new Clubhouse.

447/12 That Council defer the outstanding contributions until an occupation certificate is issued.

448/12 That Council, post construction of the new Clubhouse, authorise the Mayor and General Manager to extend similar arrangements to the Northern Lakes Rugby League Sport and Recreation Club that was offered to the Ourimbah Soccer Club in regard to the water and sewerage developer charges currently levied on the new amenities building.

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

AGAINST: NIL

8.2 Notice of Motion - Lakes Federal Funding Expenditure Report

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

- 449/12 That Council note assurances given by staff at the 1 November 2012 Tuggerah Lakes Estuary, Coastal and Floodplain Management Committee that all projects currently being conducted through Caring For Our Country Federal (CFOC) funding are on track.
- 450/12 That Council request an urgent confirmation report formally detailing the progress of each project against budget and compliance with funding guidelines and criteria.
- 451/12 That Council recognises and appreciates the recent supportive comments by the Member for Dobell in Parliament endorsing Council's outstanding performance and an example of best practice in environmental project management with regards to the current lakes projects.
- 452/12 That Council note the \$20m CFOC funding program is now drawing to a close and environmental indicators are still showing decline (WSC SoE report, 2011).
- 453/12 That Council request the General Manager to report on what dialogues and initiatives are in train to secure further funding to continue these vital Lakes restoration works.

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

AGAINST: NIL

8.3 Notice of Motion - Council Advocate for End to So-called Scientific Whaling

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

- 454/12 That Council note the increasing local employment and economic benefits associated with the growing phenomena of whale watching.
- 455/12 That Council note that these animals are currently migrating down our local coastline only to be slaughtered in the Antarctic "whale sanctuary" aboard industrial factory ships.
- 456/12 That Council condemn in the strongest possible terms, as an advocate on behalf of our local community, the continuing abuse of international laws by those insistent on continuing so-called scientific whaling of endangered whales
- 457/12 That Council lend its voice, as a matter of urgency, to peak community and environmental groups in formally condemning this practice via correspondence to the Japanese embassy and our State and Federal Ministers for the Environment.
- 458/12 That Council congratulate the local Whale Dreamers Festival Group that conducts the highly successful community whale awareness campaign known as the "Whale Dreamers Festival."

459/12 That Council direct the General Manager to report on progress to date and Council's assistance with the 2013 Whale Dreamers Festival.

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

AGAINST: NIL

8.4 Notice of Motion - Mobility Scooter Recharge Initiative

Councillor Greenwald declared a non-pecuniary significant interest in the matter for the reason that his son, who lives with him, could directly benefit from this motion if successful, left the chamber at 7.32 pm, took no part in discussion, did not vote and returned to the chamber at 7.47 pm.

Councillor Best left the meeting at 7.31 pm and returned to the meeting at 7.46 pm during consideration of this item.

Councillor Matthews left the meeting at 7.32 pm and returned to the meeting at 7.38 pm during consideration of this item.

Councillor Nayna left the meeting at 7.33 pm and returned to the meeting at 7.35 pm during consideration of this item.

Councillor Webster left the meeting at 7.39 pm and returned to the meeting at 7.41 pm during consideration of this item.

Mr Craig Lang, representing Toukley Cycle and Scooter Shop, addressed the meeting at 7.31 pm, answered questions and retired at 7.37 pm.

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

460/12 That Council note the huge growth in mobility scooter usage that assists our ageing and disabled population.

461/12 That Council investigate the possible provision of conveniently located scooter power – up stations/points at key locations including public buildings in order to further assist these groups to access services and recreational pursuits.

462/12 That Council seek to identify strategic industry partners to assist and/or sponsor any such mobility assistance program, with a view to it becoming cost neutral.

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

AGAINST: NIL

8.5 Notice of Motion - Erosion of Yallara Island, The Entrance

RESOLVED on the motion of Councillor TAYLOR and seconded by Councillor TROY:

- 463/12 That Council note with concern the erosion of Yallara Island, adjacent to The Entrance Bridge, which is home to the iconic 80 year old date palm.
- 464/12 That Council urgently investigate the permissibility and feasibility of using Council's dredge and geo-bags to repair the erosion and provide support to the date palm.
- 465/12 That Council delegate and direct the General Manager to carry out such work subject to permissibility, feasibility and at a reasonable cost (i.e. less than \$50,000).
- 466/12 That Council use this initial trial as an opportunity to capture important hydrological data with a view to the future possible use of the technology in the stabilisation of the channel precinct.
- 467/12 That Council direct the General Manager to report to Council on the outcomes of this proposal.

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

AGAINST: COUNCILLORS GRAHAM, GREENWALD, MATTHEWS AND VINCENT

Confidential item 9.1 – Strategy for Reducing Contribution Credits, was resolved via the exception method during open session. The General Manager reported on this item as follows:

Councillor Eaton vacated the chair at 8.28 pm, left the meeting and did not return and Councillor Webster assumed the chair for the reporting of this item.

9.1 Strategy for Reducing Contribution Credits

Councillor Eaton declared a pecuniary interest in this matter for the reason that a company owned by his family and has a S94 credit. Voting for this item was dealt with via the exception method and therefore Councillor Eaton has been excluded from voting due to his declared interest in the matter.

- 468/12 That Council reduce its \$1.1m credit liability under the Southern Lakes plan over time with the payout of these credits with 100% of the contributions collected under that Plan.
- 469/12 That Council allow deed credits to be redeemed as offsets against contribution requirements in accordance with the terms of the deed.
- 470/12 That Council allow non-deed credits and market value land credits to be redeemed as offsets against contribution requirements under the same contributions plan.
- 471/12 That Council quarantine the redemption of “above market value” land credits pending further negotiations with the parties.

- 472/12** That Council not accept any further dedications of land under CP7A unless the dedication is based on market values.
- 473/12** That Council set a general principle that developers be required, in all future release areas, to dedicate drainage land and environmental land at no cost to Council or provide a management plan and suitable sureties/strategies for its maintenance.

QUESTIONS ON NOTICE

Q37/12 Eradication of Feral Pests
Councillor Robert Graham

F2004/06909

"My question is directed to the members of the Save Tuggerah Lakes Party. One of the promises that you made at the recent Local Government Elections was to "eradicate feral pests – Rabbits, Foxes, Indian Mynas etc." and when were you going to do this? You promised to do it now.

Wyong Shire is inundated with Rabbits in plague proportion, especially around the Chittaway and Shelly Beach areas. Foxes continue to roam the Shire, especially the North Entrance where they swim across to Terilbah Island and kill the Little Tern and their chicks; and as far as the Indian Myna birds are concerned, I counted ten of them in my own back yard this morning.

My question is when are you going to deliver on your promise considering that you said that you would do it NOW?"

Q38/12 Lakes Bugged in Green Tape
Councillor Greg Best

F2004/06951

"Mayor Eaton, I note with great frustration the plethora of government requirements and approvals necessary (1 to 12 listed below) to carry out the most basic lakes restoration works that has cost Council millions in ratepayer funds, while the approval times and costs are often longer and more expensive than the actual works to be carried out.

Mr Mayor could you please update Council on what initiatives and actions you have engaged in, in your first 50 days as Mayor, to address this green tape paralysis?

- (1) An approval under Part VII of the Fisheries Management Act (1994) to dredge.*
- (2) An approval under Part VII of the Fisheries Management Act (1994) to destroy vegetation (if seagrasses are involved).*
- (3) An approval under Part VII of the Fisheries Management Act (1994) to reclaim land if the spoil is placed on a nearby bank or within a waterway as fill.*
- (4) An approval from Department of Primary Industries Crown Lands to undertake works on Crown Land as well as other requirements relating to the placement of dredged material.*

- (5) *A licence under the National Parks and Wildlife Act (1974) to work with Endangered Ecological Communities such as salt marshes.*
- (6) *A licence to pollute (during construction) from the EPA under the Protection of Environment Operations Act 1997 (POEO).*
- (7) *Consideration of spoil removal and placement containing acid sulphate soils under the Contaminated Land Management Act 1997 with possible costs involved in moving spoil to the tip.*
- (8) *Consideration of the activity by officers from the Premier's Department Office of Environment and Heritage.*
- (9) *Notify Roads and Maritime for changes to navigable waters.*
- (10) *Produce a Review of Environmental Factors (REF) and a dredging design that considers all of the above. The dredging design would also incorporate a site survey, hydrodynamic considerations and a morphodynamic study to understand sand movements in the dredged channel or for areas of saltmarsh rehabilitation.*
- (11) *Use the REF and project design to obtain approvals under Part V of the EP&A Act. This approval would require appropriate community consultation. Other aspects for consideration would include the relevant LEP and DCP. any SEPP such as SEPP 71 Coastal Protection that is applicable, as well as relevant management plans such as Council's Estuary Management Plan.*
- (12) *The Federal Environmental Protection and Biodiversity Conservation Act (EPBC) 1999, may also come into consideration if significant threatened species are involved."*

Q39/12 Chromefest 2012
Councillor Greg Best
F2004/06179

"Mr Mayor, My family and I attended this years' Chromefest, held at The Entrance Memorial Park, and I would like to take this opportunity to recognise this outstanding calendar event.

It would be greatly appreciated if you could pass on our thanks to The Entrance Town Centre Management, the organising partners and Council's operational and management staff for their tremendous assistance and management of this event?

The event truly showcased Wyong Shire in the best possible way to thousands of visitors; again, I'd like to thank all involved."

Q40/12 Disorder at Reserve Opposite Wyong Public School
Councillor Ken Greenwald
F2004/07718

“Could the Manager of Safety and Compliance please advise what they are doing to monitor and enforce action against the persons causing public disorder in the reserve opposite Wyong Public School in Cutler Drive, Watanobbi?”

Q41/12 Life Long Learning Department Funding
Councillor Lisa Matthews
F2011/01280

“Can staff please advise what funding has been received from the State Government over the past 4 years with respect to the Lifelong Learning department?”

THE MEETING closed at 8.29 pm.

1.4 Address by Invited Speakers

TRIM REFERENCE: F2012/00026 - D03187216
MANAGER: Lesley Crawley, Manager Corporate Governance
AUTHOR: Jacquie Elvidge; Councillor Services Officer

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.*

1.5 Notice of Intention to Deal with Matters in Confidential Session

TRIM REFERENCE: F2012/00026 - D03195795

MANAGER: Lesley Crawley, Manager Corporate Governance

AUTHOR: Sonia Witt; TL Governance and Councillor Services

SUMMARY

It is necessary for the Council to adopt a resolution to formalise its intention to deal with certain matters in Confidential Session. The reports are incorporated in the "Confidential" business paper which has been circulated to Councillors.

The Local Government Act, 1993 requires the General Manager to identify those matters listed on the business paper which may be categorised as confidential in terms of Section 10A of the Local Government Act, 1993.

RECOMMENDATION

- 1 That Council consider the following matters in Confidential Session, pursuant to Sections 10A(2)(a) of the Local Government Act 1993:**
 - 9.1 Mayoral Minute – General Manager’s Mid Year Performance Review 2012-13**
- 2 That Council note its reason for considering Report No 9.1 – Mayoral Minute – General Manager’s Mid Year Performance Review 2012-13 is that discussion is anticipated which concerns the rights of individuals (Section 10A(2)(a)).**
- 3 That Council request the General Manager to report on this matter in open session of Council.**

Note: Explanation - Section 10A of the Local Government Act 1993 states:

“2(a) personnel matters concerning particular individuals (other than Councillors)”

2.1 DA 727/2012 - Detached Secondary Dwelling at Gorokan

TRIM REFERENCE: DA/727/2012 - D03184647

MANAGER: Jamie Loader, Manager Building Certification and Health

AUTHOR: Scott Rathgen; Team Coordinator

SUMMARY

An application has been received for a secondary dwelling at Gorokan. The application has been examined having regard to the matters for consideration detailed in section 79C of the Environmental Planning and Assessment Act (EP&A Act) 1979, the State Environmental Planning Policy (SEPP) (Affordable Rental Housing) 2009 and other statutory requirements with the issues requiring attention and consideration being addressed in the report.

As this application was lodged prior to 1 September 2012, the applicant has requested that Council waive the Section 94 contributions in accordance with the Council resolution of the 8th February 2012.

Applicant	Mr C Bell
Owner	Mr C Bell
Application No	DA/727/2012
Description of Land	Lot 260 DP 25851, No 32 Coraldeen Ave, Gorokan
Proposed Development	Detached secondary dwelling.
Site Area	607m ²
Zoning	2(A) Residential
Existing Use	Residential
Estimated Value	\$85,000

RECOMMENDATION

That Council, having regard to the matters for consideration detailed in Section 79C of the Environmental Planning and Assessment Act and other relevant issues, grant consent subject to the conditions detailed in the schedule attached to the report.

PRECIS

- The site is zoned 2(a) Residential under the provisions of the Wyong Local Environmental Plan 1991 (WLEP).
- The secondary dwelling complies with the schedule of development standards of Part 2- Division 2 and Schedule 1 – Development standards for secondary dwellings contained within the SEPP (Affordable Rental Housing) 2009

INTRODUCTION

The Site

The property currently contains a single storey brick veneer dwelling and the secondary dwelling is proposed to be sited in the vacant southern portion of the lot. The adjoining properties consist of single storey fibrous clad dwellings which is the predominant dwelling type in this area. The site is provided with kerb and guttering to the Dudley Ave frontage.



The application has been referred to Council for determination solely based upon the Council resolution of 8th of February 2012, (in particular Resolution 6) which states:

Council at its meeting held on 8th February 2012 Resolved unanimously on the motion of Councillor Best and seconded by Councillor Symington:

- “1 That Council reaffirm its commitment to the principles of affordable housing and its importance in assisting a broad cross section of our community and recognise that Section 94 contributions may be prohibitive to many affordable housing projects.*
- 2 That Council note the decision of Gosford City Council to assist in facilitating affordable housing through the trial waiver of Section 94 contributions for granny flats.*
- 3 That Council support this initiative thereby establishing a regional approach to affordable housing.*

2.1 DA 727/2012 - Detached Secondary Dwelling at Gorokan (contd)

- 4 *That Council also waive Section 94 contributions for granny flats on a trial basis till September 2012, concurrent with Gosford City Council and that the outcome of this be reported to Council.*
- 5 *That Council receive the report in a timeframe for inclusion in the 2012-13 Annual Plan.*
- 6 *That Council implement the trial by way of reporting those relevant development applications to Council for determination.”*

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

AGAINST: NIL

Due to the application being lodged prior to 1st September 2012, the applicant has requested that the Section 94 Contributions be waived as per item No. 4. of the abovementioned Motion.

The approval of the secondary dwelling would not create any adverse impact on adjoining properties. As such, it is recommended that the application be approved subject to conditions.

VARIATIONS TO POLICIES

Nil

HISTORY

A single storey brick and tile dwelling was approved and constructed in 1988 which currently exists on the site.

PERMISSIBILITY

The subject site is zoned 2(a) Residential zone under the WLEP 1991. The proposal is permissible with consent and complies with the objectives of the zone as follows:

- (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*
- (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*

2.1 DA 727/2012 - Detached Secondary Dwelling at Gorokan (contd)

(ii) have a material adverse impact on residents.

The secondary dwelling is permissible under the provisions of SEPP (Affordable Rental Housing) 2009.

RELEVANT STATE/COUNCIL POLICIES AND PLANS

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

- SEPP (Affordable Rental Housing) 2009
- WLEP 1991
- Wyong Council DCP Chapters 14 'Tree management'
- Wyong Council DCP Chapters 99 'Building Lines'
- Wyong Council DCP Chapters 100 'Quality Housing'

ECOLOGICALLY SUSTAINABLE PRINCIPLES

The proposal has been assessed having regard to ecologically sustainable development principles and is considered to be consistent with the principles.

The proposed development is considered to incorporate satisfactory stormwater, drainage and erosion control and the retention of vegetation where possible and is unlikely to have any significant adverse impacts on the environment and will not decrease environmental quality for future generations. The proposal does not result in the disturbance of any endangered flora or fauna habitats and is unlikely to significantly affect fluvial environments.

ASSESSMENT

Having regard for the matters for consideration detailed in Section 79C of the EP&A Act 1979 and the SEPP (Affordable Rental Housing) 2009, 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.

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

Wyong Local Environmental Plan 1991

The property is zoned 2(A) Residential zone. The secondary dwelling is proposed under the provisions of SEPP (Affordable Rental Housing) 2009 which overrides any provisions contained with the WLEP.

State Environmental Planning Policy (Affordable Rental Housing) 2009

SEPP (Affordable Rental Housing) 2009 permits secondary dwellings up to a maximum floor area of 60m². The proposed secondary dwelling has a floor area of 59.9m². The subject allotment also exceeds the minimum area of 450m².

The provisions of division 2 Clause 20 and 22 of the SEPP are fully complied with. Whilst compliance with the standards set out in Schedule 1 of the SEPP for Complying Development is not a requirement with this application as it is a development application, it is fully compliant with these standards.

2.1 DA 727/2012 - Detached Secondary Dwelling at Gorokan (contd)

Under these circumstances the proposed secondary dwelling is considered justified.

Development Control Plan 2005 Chapter 99 – Building Lines

Clause 3.1 of Chapter 99 – Building Lines requires a side and rear setback of 900mm to a boundary and the proposal is fully compliant. The proposed secondary dwelling is also fully compliant with the front building line setback to Coraldeen Ave.

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

The relationship to the regional and local context and setting

The proposed carport and the secondary dwelling are consistent with the scale and character of the local area of Gorokan. The scale, bulk, height, massing and choice of materials and finishes for the proposed secondary dwelling is considered appropriate to the local context and will enhance the streetscape.

The access, transport and traffic management measures

Access to the site is provided from Dudley St, Gorokan.

The SEPP (Affordable Rental Housing) 2009 does not require additional parking or access to be provided for the secondary dwelling.

Any effect on privacy, view loss and overshadowing

An assessment of potential over viewing, privacy and view sharing has been undertaken. It is concluded that the construction of the dwelling would not be detrimental to the adjoining properties or those within the nexus of the development.

The impact on utilities supply.

Existing services for the site are adequate for the proposed development.

Any impact on the conservation of water.

A BASIX certificate has been submitted with the application and the proposal involves the use of water saving fixtures and a water tank of a minimum 2400 litre capacity. Connection of the tank to the toilet and external tap will contribute to the conservation of water.

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

The proposal does not involve any effect on the conservation of soils or acid sulphate soils.

Any effect on the flora and fauna.

The one tree that is proposed to be removed is not significant and its removal is unlikely to significantly affect threatened species populations, ecological communities or their habitats

2.1 DA 727/2012 - Detached Secondary Dwelling at Gorokan (contd)

The provision of waste facilities.

A waste management plan has been submitted with the development application and provides details of how waste will be managed during construction. The occupants of the secondary dwelling will utilise the waste collection services associated with the primary dwelling.

Whether the development will be energy efficient.

A BASIX certificate has been issued as part of the development application.

Whether the development will cause noise and vibration.

A minimal amount of noise and vibration will be created during the construction phase. A condition will be placed on the consent restricting the hours that construction work can take place.

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

The site is mine subsidence affected, the proposal has consequently been referred to the Mine Subsidence Board and has been stamped and approved.

Any impacts of construction activities (construction site management, protection measures).

During the construction of the works sediment fencing will be installed and construction noise will be minimised via conditions of consent.

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

Whether the proposal fits in the locality.

The proposal meets the objectives of the zone and complies with the criteria contained within the SEPP (Affordable Rental Housing) 2009.

The development is within a residential area that contains a number of single and multiple dwelling developments. The secondary dwelling would not have any significant impact on the surrounding area and promotes an orderly and economic use of the land.

It is considered the effect on the environment would be minimal and the proposed dwelling would complement the existing streetscape of the locality.

Whether the site attributes are conducive to development.

The site is considered appropriate for the proposed development.

2.1 DA 727/2012 - Detached Secondary Dwelling at Gorokan (contd)

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.

There are no submissions from public authorities.

OTHER MATTERS FOR CONSIDERATION

The property is within Gorokan S94 contribution plan created under the provisions of Section 94 of The EP&A Act 1979. Section 94 contributions are applicable to secondary dwellings under this plan as defined under the Affordable Housing SEPP.

Under the contribution plan the secondary dwelling will generate Section 94 contributions totalling \$5,981.30.

CONCLUSION

The development application for a proposed secondary dwelling meets the standards of the relevant chapters of Council's DCP 2005 and the SEPP (Affordable Rental Housing) 2009. The application is recommended for approval subject to the attached conditions.

ATTACHMENTS

- | | | |
|----------|------------------------------|-----------|
| 1 | Draft Conditions of Approval | D03185568 |
| 2 | Development Plans (A3 B&W) | D03189854 |

DRAFT PROPOSED CONDITIONS

- 1 The development taking place in accordance with the approved development plans reference number Proposed Development: Secondary Dwelling Sheets 1 to 3 prepared by J P dated 16/8/12 except as modified by any conditions of this consent, and any amendments in red.

Certificates – Application and Approval

- 2 A Construction Certificate is to be issued by the Principal Certifying Authority prior to commencement of any construction works. The application for this Certificate is to satisfy all of the requirements of the Environmental Planning and Assessment Regulation 2000.
- 3 Where conditions of this consent require approval from Council under the Roads Act 1993, Local Government Act 1993 or Water Management Act 2000, a completed Subdivision Construction Certificate application form must be lodged with Council and be accompanied by detailed design drawings and supporting information. Upon submission to Council, fees and charges will be calculated in accordance with Council's Management Plan. The fees and charges must be paid prior to Council commencing the design assessment.

Prior to Release of Construction Certificate:

The following conditions must be satisfied prior to the release of the Construction Certificate. Conditions may require the submission of additional information with the Construction Certificate Application. Applicants should also familiarise themselves with conditions in subsequent sections and provide plans in accordance with any design requirements contained therein.

Contribution Payment Requirements

- 4 Prior to the issue of a Construction Certificate, the payment to Council of contributions (as contained in the attached Schedule) under Section 94 of the Environmental Planning and Assessment Act 1979 and Council's Section 94 and Section 94A Contribution Plan. Council's contributions are adjusted on the first day of February, May, August and November. The amount of the contributions will be adjusted to the amount applicable at the date of payment.

Structural Design Requirements

- 5 Prior to the issue of a Construction Certificate, satisfactory structural plans prepared by a suitably qualified Registered Structural Engineer are to be submitted for the approval of the Accredited Certifier, for the following building elements:
 - Concrete slab/footings.

Water and Sewer Services - Design Requirements

- 6 The developer must submit an application to Council under Section 305 of the Water Management Act 2000 for any requirements for the obtaining of a Section 307 Certificate of Compliance. The application must be made prior to the issue of the Construction Certificate. **Note:** The Section 305 Notice may contain requirements associated with the development that must be completed prior to the issue of the Construction Certificate.

Prior to Commencement of Works:

The following conditions must be satisfied prior to the commencement of site works, including any works relating to demolition, excavation or vegetation removal.

Erosion and Sediment Control Requirements

- 7 Prior to works associated with the development commencing, soil erosion and sediment controls measures are to be provided on the development 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.
- 8 Prior to works associated with the development commencing, a single all-weather hardstand access, extending from the kerb and gutter/edge of bitumen to the building under construction, is to be installed in order to provide appropriate access to the site during periods of inclement weather.
- 9 Prior to works associated with the development commencing, suitable sediment control kerb inlet trap devices are to be provided downstream of the development site adjoining locations such as kerb inlet drainage pits, in order to prevent any silt that may have left the site from entering the drainage system. The build up of silt and debris behind the required kerb inlet trap devices is to be removed from the site on a daily basis.
- 10 Prior to works associated with the development commencing, an appropriate sign to promote the awareness and importance of the maintenance of on-site sediment control techniques is to be provided on the most prominent sediment fence or erosion control device within the development site, for the duration of the project.

Home Building Act Requirements

- 11 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.

Roads - Preconstruction Requirements

- 12 Prior to works associated with development commencing, a dilapidation report must be prepared and submitted to Council as the Roads Authority. The required dilapidation 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. **Note:** The report will be used by Council to determine the extent of damage arising from site and construction works.

Site Requirements

- 13 Prior to works associated with the development commencing, the Principal Contractor (or Owner/Builder) is to erect a suitable sign in a prominent position on the development 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 required sign is to be maintained for the duration of works associated with the development. Appropriate signs can be collected from Council's Customer Service Centre, where Council is the nominated Principal Certifying Authority with respect to the development.
- 14 Prior to works associated with the development commencing, suitable toilet facilities must be available or be provided upon the development site, with the required toilet facility(s) maintained until development works are completed at a ratio of one (1) toilet plus one (1) additional toilet for every twenty (20) persons employed at the site. Each toilet must:
 - be a standard flushing toilet connected to a public sewer system; or
 - have an on-site effluent disposal system approved under the Local Government Act 1993, or be a temporary chemical closet approved under the Local Government Act 1993, supplied by a suitably licensed contractor.

- 15 Prior to works associated with the development commencing, a suitable metal waste skip (with self-closing lid or secure covering) or lined mesh steel cage(s) is to be provided upon the development site for the duration of the construction phase of the development in accordance with the requirements of Development Control Plan 2005, Chapter 100 – Quality Housing. The required waste receptacle is to be suitably emptied at appropriate times during the construction phase of the development.
- 16 Prior to works associated with the development commencing, a suitable hoarding or safety fence between the work site and the public place is to be provided in accordance with Work Cover Authority requirements. The required hoarding/fencing is to remain in place during the construction phase of the development. Should the hoarding/fencing be required to be provided within the road reserve area, approval from Council under the Roads Act as the Roads Authority is required to be obtained prior to its erection.
- 17 Prior to works associated with the development commencing, it is the builder's responsibility to confirm the location and depth of the sewer main and connection point in relation to the floor level, to ensure that appropriate connection to the sewer can be achieved.
- 18 Prior to works associated with the development commencing, where any excavation is proposed in proximity to existing gas and/or electricity networks, the developer is advised to notify 'Dial Before You Dig' of the time and place of work no more than thirty (30) days before the work commences. The developer must satisfy any requirements as set by the network operators in carrying out excavation works.

During Construction Works:

The following conditions must be satisfied during construction works.

Approved Plans

- 19 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.

Earthworks and Haulage - Construction Requirements

- 20 All earthworks are to be limited to the area as indicated within the approved development plans. Any additional earthworks and the construction of associated retaining structures outside of the nominated areas, requires separate approval.

Erosion and Sediment Control - Construction Requirements

- 21 Sand and other materials associated with the construction of the development that could potentially be washed off the site during rain periods, are to be stored behind a suitable sediment control barrier.

- 22 All sediment and erosion control devices provided with respect to the development are to be periodically cleaned and maintained in an effective state for the duration of works. On the spot fines for non-compliance with this requirement may be issued under the provisions of the *Protection of Environment Operations Act, 2000*.

Plumbing and Drainage - Construction Requirements

- 23 Council as the Water Supply Authority, under the provisions of the Water Management Act, or in unsewered areas where an onsite sewage management facility is to be installed, is to be notified to undertake inspections of the internal drainage lines, (prior to the pouring of the concrete slab), and external drainage lines inclusive of sewer junction connection, prior to the backfilling of the trenches. These inspections can be arranged by telephoning Council's Customer Contact Centre on (02) 4350 5555 a minimum of twenty-four (24) hours prior to the required time for the inspection. Please note that all drainage inspection fees are to be paid to Council prior to plumbing and drainage works associated with the development commencing.

Site Requirements

- 24 Construction or demolition works involved with the development may only be carried out between the hours of 7.00 am and 5.00 pm Monday to Saturday with no construction or demolition works associated with the development permitted to be carried out at any time on a Sunday or a public holiday.
- 25 During the construction phase of the development, all building materials, plant and equipment must be placed on the site of the development in order to ensure that pedestrian and vehicular access within adjoining public roads, footpaths and reserve areas, is not restricted and to prevent damage to public infrastructure.
- 26 During the construction phase of the development, downpipes and the associated stormwater disposal system is to suitably connected to the site stormwater connection point immediately after the roof materials are positioned in order to prevent erosion of the site from roof water run off. The Principal Certifying Authority for the development will not issue a compliance certificate for framing unless connection of the site stormwater (or temporary system) has occurred.

Prior to Release of Occupation Certificate:

The following conditions must be satisfied prior to the release of an Occupation / Subdivision Certificate.

BASIX Requirements

- 27 Prior to the issue of an Occupation Certificate, pursuant to Clause 97A(3) of the Environmental Planning and Assessment Regulation 2000, it is mandatory that all the commitments listed in the BASIX Certificate applicable to the development are fulfilled.

Building Code of Australia – Compliance Requirements

- 28 Prior to the issue of the Occupation Certificate, the building shall be completed in accordance with the relevant provisions and requirements of the Building Code of Australia.

Dilapidation Rectification Requirements

- 29 Prior to the issue of an Occupation Certificate, any damage not shown in the Dilapidation Report submitted to and approved by the Principal Certifying Authority prior to site works commencing, will be assumed to have been caused as a result of the site works undertaken with respect to the development and must be rectified at the applicant's expense.

Landscaping Requirements

- 30 Prior to the issue of an Occupation Certificate, the front setback area of the allotment disturbed during construction of the development, is to be suitably turfed in accordance with the provisions of Council's Development Control Plan 2005, Chapter 100 - *Quality Housing*. Sediment Control fencing erected on the site in order to control sediment leaving the development site must remain in place until such time as the required turf is established.

Plumbing and Drainage - Compliance Requirements

- 31 Prior to the issue of an Occupation Certificate, the hot water installation is to be suitably tempered in order that hot water not exceeding 50 degrees Celsius is provided at the outlet of the sanitary fixtures used primarily for personal hygiene purposes. Compliance with this temperature limit is optional for kitchen sinks and laundry tubs under the provisions of AS/NZS 3500, Part 4.2 C1.1.6.2.
- 32 Prior to the issue of an Occupation Certificate, the required rainwater tank is to be provided in the location as detailed within the approved development plans with suitable plumbing connections provided to collect rainwater from the roof area as detailed within the BASIX Certificate applicable to the development. The required rainwater tank is to be installed in accordance with the requirements of the National Plumbing and Drainage Code AS/NZS 3500 and shall be provided with first flow diversion devices fixed to all inflows and a functioning pressure pump plumbed to service all fixtures as detailed within the BASIX Certificate applicable to the development. The required tank must be controlled in order that supplemental flow from domestic mains does not take place until the capacity of the tank has been reduced to 20%.
- 33 Prior to the issue of an Occupation Certificate, the surcharge gully provided with respect to the development, must be located a minimum of 150mm below floor level and 75mm above the surrounding finished ground level.

Vehicle Access and Parking – Compliance Requirements

- 34 Prior to the issue of an Occupation Certificate, a suitable non-slip finish driveway access with a decorative finish, is to be constructed in the location as shown on the approved development plans.

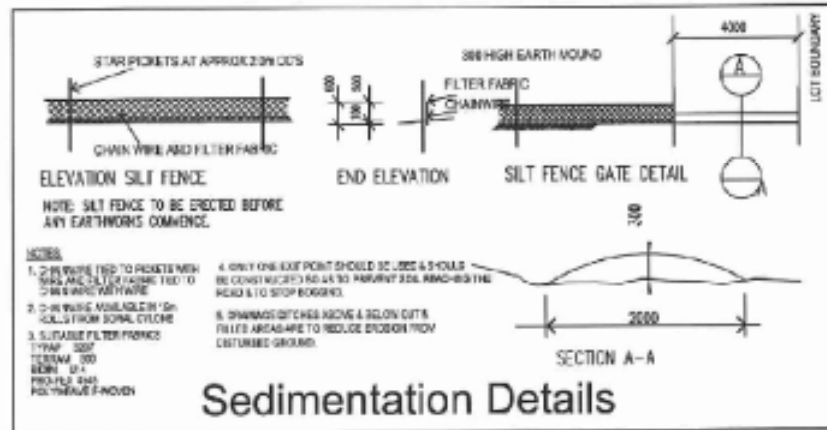
Water and Sewer Services/Infrastructure – Compliance Requirements

- 35 The obtaining of a Section 307 Certificate of Compliance under the Water Management Act 2000 for water and sewer requirements for the development from Wyong Shire Council as the Water Supply Authority prior to issue of the Subdivision/Occupation Certificate. All works for the development must be approved by Council prior to the issue of a Certificate of Compliance.

Ongoing Operation:

The following conditions must be satisfied during use / occupation of the development.

No Conditions



- EASEMENTS** : NIL
RIGHT OF WAYS : NIL
STORMWATER : TO BE PIPED TO DOMESTIC DRAINAGE SYSTEM AS PER ENGINEER'S DETAILING.
WATERWAYS : NIL
WATER COURSES : NIL
CUT & FILL : NOTE TO RL.
SEDIMENTATION CONTROL : APPROVED SILT FENCE TO BE ERCTED INSIDE DOWNSTREAM BOUNDARIES.
SAFETY FENCING : 1.8m HIGH WIRE FENCE TO BE ERCTED ALONG BOUNDARIES OPEN TO PUBLIC.
TERRACE PROTECTION : COMBINATION OF PHYSICAL & CHEMICAL BARRIERS TO BE INSTALLED.

NOTE: REFER TO ATTACHED LANDSCAPE PLAN FOR PLANT SPECIES.

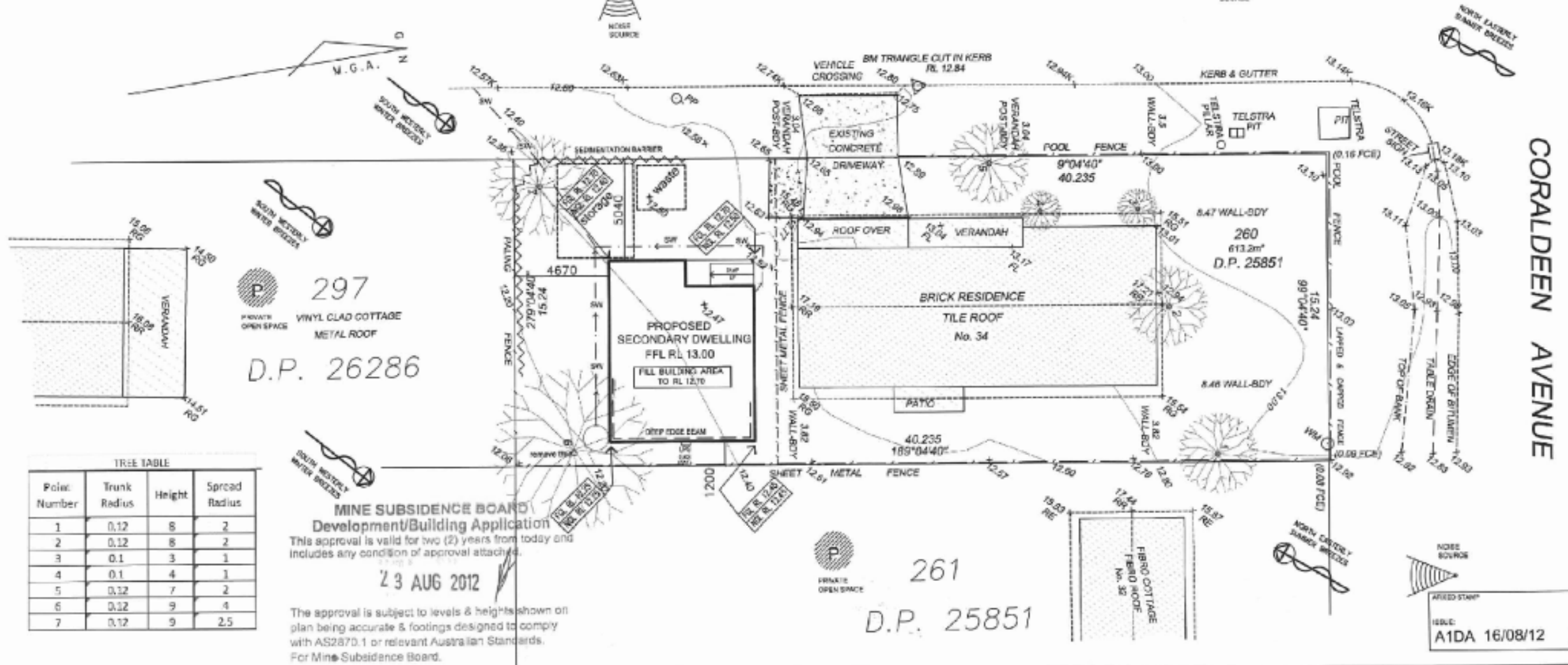
Site Details

- FENCE
- LOG RETAINING WALL AS SHOWN
- FEATURE RETAINING WALL AS SHOWN
- SW STORMWATER
- ELEVATION OF PLATFORM LEVEL
- DEEP EDGE BEAM
- SEDIMENTATION BARRIER
- EXCAVATED BANK

SITE ANALYSIS

SITE AREA	613.2m ²
LIVING & GARAGE AREA - EXISTING HOUSE	129.3m ²
VERANDAH AREA - EXISTING HOUSE	8.3m ²
LIVING AREA - SECONDARY DWELLING	60.0m ²
FLOOR SPACE RATIO:	189.3m ² = 0.31:1
SITE COVERAGE:	197.6m ² = 32.2% of the site

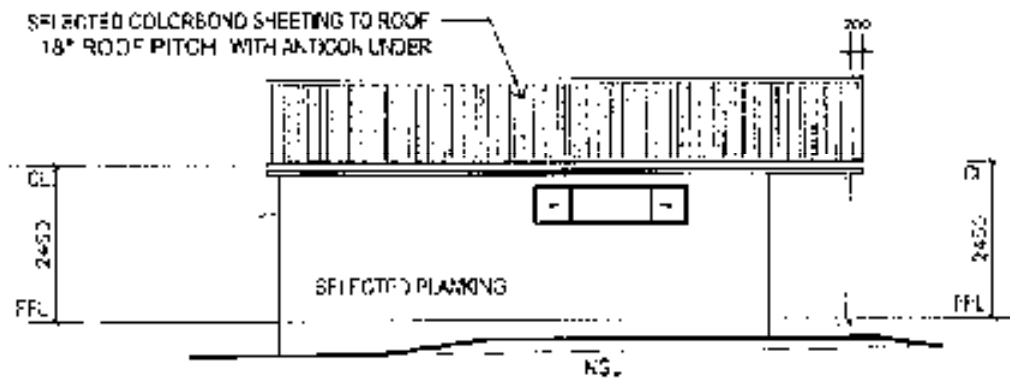
These Drawings are for the express use of the intended recipient only. These drawings are not to be used / copied or forwarded to any unauthorised parties in part or whole without the express permission of J. Parsons. Copyright and rights of use remain the property of J. Parsons.



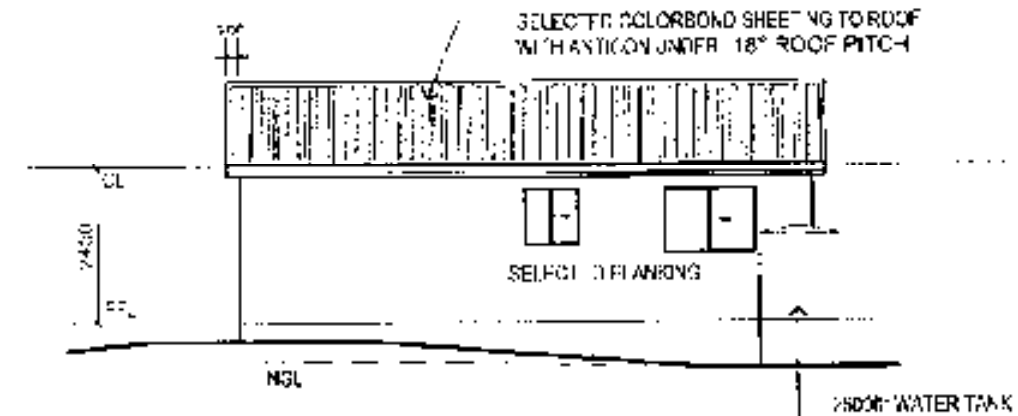
TREE TABLE

Point Number	Trunk Radius	Height	Spread Radius
1	0.12	8	2
2	0.12	8	2
3	0.1	3	1
4	0.1	4	1
5	0.12	7	2
6	0.12	9	4
7	0.12	9	2.5

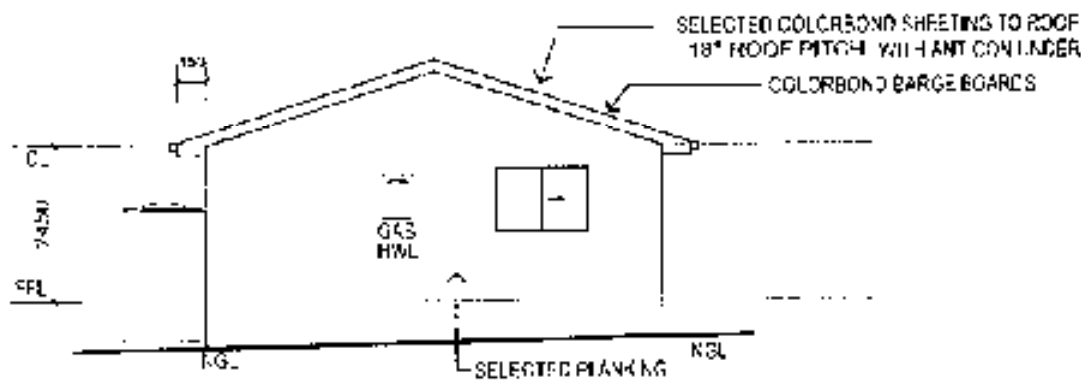
Specification: SEE-ATTACHED © Reproduction in part or full is prohibited by Copyright	PROPOSED DEVELOPMENT: SECONDARY DWELLING				Client: J. BELL Address: Lot 260 in DP 25851. 34 CORALDEEN AVENUE Suburb: GOROKAN. Council: WYONG		
	Drawn: JP	Designed: JP	Checked: CB	Scale: 1:200@A3			
A1DA	16.08.12	DA APPLICATION		Issue: A1DA	Date Drawn: 16/08/12	Job No: 0000	Sheet No: 1-OF-3
amendment:		date issued:		revisions:			



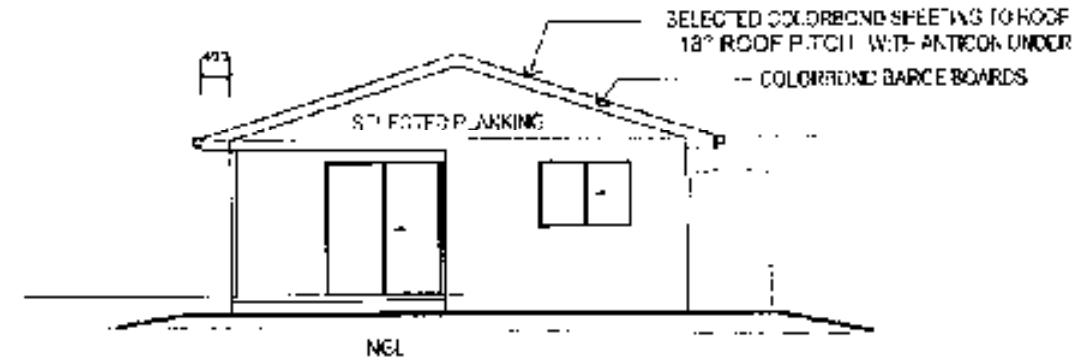
North Elevation



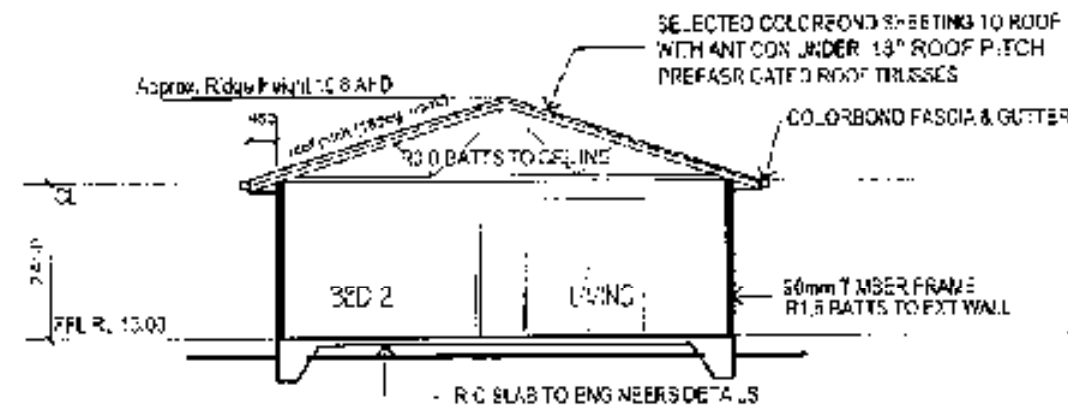
South Elevation



East Elevation



West Elevation



Section Notes

1. Gas hot water unit.
2. Elect cook top / elect LBO
3. Medium tones to external walls
4. Medium tones to roof

Section A - A

ALL DRAWINGS AND DOCUMENTS TO BE READ IN CONJUNCTION WITH CURRENT GASL 3/2012

I warrant that the design and construction of the development complies with the relevant provisions of the Building Code of Australia and the relevant provisions of the Building Code of Australia and the relevant provisions of the Building Code of Australia.

17/09/12
A1DA 16/08/12 0000

Specification: SEE-ATTACHED © Reproduction in part or full is prohibited by Copyright	PROPOSED DEVELOPMENT: SECONDARY DWELLING		Client: J. BELL
	Drawn: JP Issue: A1DA		Address: Lot 260 in DP 25851, 34 CORALDFFN AVENUE
A1DA 16.08.12 DA APPLICATION		Designed: JP Date Drawn: 15/08/12	Suburb: GOROKAN.
date issued / revision		Checked: CR Job No: 0000	Council: WYONG
		Scale: 1:100 (GAS) Sheet No: 2 OF 3	

2.2 Ex Officio appointment to Tuggerah Lakes Reserve Trust (Central Coast Wetlands - Pioneer Dairy)

TRIM REFERENCE: F2004/08318-02 - D03195055

MANAGER: Gina Vereker, Director

AUTHOR: Greg White; Manager Environment and Natural Resources

SUMMARY

Appointment of Council's Ex Officio member to the Tuggerah Lakes Reserve Trust (Central Coast Wetlands – Pioneer Dairy)

RECOMMENDATION

That Council nominate the Manager Sustainability or their delegate to the Department of Primary Industries Catchments and Lands as Council's ex officio member for a 5 year term to the board of Tuggerah Lakes Reserve Trust (Central Coast Wetlands – Pioneer Dairy).

BACKGROUND

The Department of Primary Industries (DPI) Catchments and Lands (formally Crown Lands) administer the Tuggerah Lakes Reserve Trust under the Crown Lands Act. The Reserve Trust Board is a legal body which cares for the crown reserve on behalf of the people of NSW. DPI Catchments and Lands have indicated that the term of appointment for the current Trust Board membership will cease on the 24th January 2013.

NSW has more than 30,000 Crown reserves, of which more than 700 are managed by volunteers and councils through reserve trusts. Reserve trusts enable the NSW Government, local councils and members of the community to manage and care for these significant parts of the state for the benefit of everyone.

Tuggerah lakes Reserve Trust is managed for a multitude of purposes, including public recreation, tourism, environmental protection, agriculture and heritage conservation, and scenic amenity.

Membership of the Trust Board comprises both community representatives and ex officio members from Council, DPI Catchments and Lands and other relevant agencies and NGOs. Membership of the Trust Board is by Ministerial appointment and for a term of 5 years.

CURRENT STATUS

DPI Catchments and Lands have indicated that the current Trust Board membership will cease on the 24th January 2013. Council's ex officio representative on the Trust Board is Greg White, Manager Environment and Natural Resources. Mr White will be leaving Council's employment on the 12 December 2012, consequently his appointment to the Trust as ex officio representative will effectively cease at this earlier date.

2.2 Ex Officio appointment to Tuggerah Lakes Reserve Trust (Central Coast Wetlands - Pioneer Dairy) (contd)

DPI Catchments and Lands are currently considering applications from members of the community for appointment or re-appointment to the Trust for a further 5 years starting on the 25th January 2013. However, to nominate a replacement ex officio member of the Trust, Council is simply required to provide a letter to DPI Catchments and Lands indicating the nominated officer/person. The letter should be signed by either the General Manager or the Mayor.

Mr White will be attending the November Board meeting but this should be his last as Council's ex officio member. The next Board meeting will be held on 19 December 2012. Attendance by the new ex officio member at this meeting of the Board is advisable as the Board is currently organising a grand opening of the Reserve to the public on 2nd February 2013.

THE PROPOSAL

To maintain an active role in the management of the Trust Reserve, Council will need to nominate a new ex officio member to the Trust.

The nominated person should have a good understanding of land management issues incorporating bushland, wetland, heritage and development issues. The nominee should also have an understanding of tourism and possess business acumen as the Trust is focussed on being a regionally significant financially sustainable tourist attraction in the long term. The nominee should also be well connected across Council as the Trust and Council often work in partnership as purchaser and provider to deliver community outcomes. These skills are generally inherent in Council's Sustainability Unit within the Land Management Department. Consequently, the Manager Sustainability or their delegate is proposed as Council's nominated ex officio member to the Trust.

OPTIONS

Council can nominate anyone it chooses as ex officio member to the Trust but the preferred option is to maintain the strong connection established through the Land Management Department which has proven to be very effective in supporting Council's partnership with the Trust.

Budget Impact

Attendance by Council's ex officio member at Trust meetings is required on a monthly basis for approximately three hours. This attendance and any subsequent action can be funded from existing salaries within the Sustainability Unit.

GOVERNANCE AND POLICY IMPLICATIONS

Council's nomination will need to be forwarded to DPI Catchments and Lands for Ministerial approval.

ATTACHMENTS

Nil.

3.1 RZ/9/2012 Rezoning to Permit Officeworks at Tuggerah

TRIM REFERENCE: RZ/9/2012 - D03163111

MANAGER: Martin Johnson, Manager Land Use Planning and Policy Development

AUTHOR: Scott Duncan, Senior Strategic Planner

SUMMARY

Council is in receipt of a Planning Proposal (rezoning application) which seeks to rezone the residue of the subject site 3(b) Centre Support, by amending to Wyong Local Environmental Plan (WLEP 1991).

The land is contiguous with other land similarly zoned 3(b) along Tuggerah Straight and the rezoning proposal is consistent with actions outlined in the Wyong/Tuggerah Planning Strategy. The rezoning will facilitate development of an "Officeworks" business worth \$3 million, proposed to generate 50 jobs.

A review of the Planning Proposal has established that it has merit and that Council should initiate the rezoning process by preparing a Planning Proposal and referring it to the Department of Planning and Infrastructure (DoPI) for a "Gateway" determination.

Applicant:	Bill Hunter Motors Pty Ltd (Agent – Trehy Ingold Neate)
Owner:	Bill Hunter Motors Pty Ltd
Description of Land:	Lot 1 DP1135878 (No.186) Pacific Highway and Lot 32 DP1095027 (No.24) Johnson Road, Tuggerah
Site Area:	Approximately 1.76 ha
Existing Use:	Shed, gravel hard stand and partially constructed drive through restaurant complex.

RECOMMENDATION

- 1 That Council prepare a Planning Proposal to amend Wyong Local Environmental Plan, 1991, pursuant to Section 55 of the Environmental Planning and Assessment Act, 1979 based on the Applicant's Planning Proposal Submission.**
- 2 That Council, upon compilation, forward the Planning Proposal to the Department of Infrastructure and Planning accompanied by a request for a "Gateway Determination", pursuant to Section 56 of the Environmental Planning and Assessment Act, 1979.**
- 3 That Council undertake community consultation and consultation with relevant Government Agencies, in accordance with details attached to the "Gateway Determination".**
- 4 That Council request the Department of Planning and Infrastructure to prepare a relevant Local Environmental Plan amendment and that the minister be requested to make the Plan, subject to there being no significant objections, that cannot be resolved by making minor amendments to the Planning Proposal.**

BACKGROUND/CURRENT STATUS

The subject site comprises generally disturbed land with a large shed and gravel hard stand areas. A partially constructed drive through take away restaurant and five attached restaurant premises are under construction on that component of the site generally focussed on the corner of Johnson Road and the Pacific Highway. (See Attachment 1)

The Wyong Tuggerah Planning Strategy (TWTPS) identifies the subject land (along with other properties) on Tuggerah Straight as being suitable for rezoning to 3(b) Centre Support Zone under WLEP 1991. These changes are proposed to be implemented through the draft Wyong LEP 2012. Council has accepted this spot rezoning in advance of WLEP 2012 in order to secure this prominent Australian business (Officeworks) for Wyong Shire. It is noted that the applicant has informally "raised" the subject rezoning with Council over several years and is reluctant to wait for the Shirewide DLEP.

THE PROPOSAL

The applicant, in the light of the preceding situation, has submitted the subject "freestanding" proposed amendment to the WLEP 1991, which proposes to rezone that part of the subject land currently zoned 4(b) Light Industrial to 3(b) Centre Support.

The proposed amendment and supporting documentation forms Enclosure 1 to this report.

Existing Zoning

The existing zoning, as it pertains to the subject land and surrounding land, is shown in Attachment 1. In brief, the subject land, as previously described, is zoned 4(b) Light Industrial, with the surrounding land zoned 3(b) Centre Support.

Strategic Context

The proposed rezoning is of a minor nature but is considered consistent with higher order local and regional strategic planning outcomes.

Central Coast Regional Strategy

The proposal is considered to be consistent with the overall intent of the Strategy and does not undermine the achievement of its vision, landuse strategy, policies, outcomes or actions.

Tuggerah – Wyong is identified as a major centre with a focus on employment generation and the largest commercial/retail centre in Wyong Shire.

It also supports the vision of creating 45,000 jobs in the region of the established 25 year time horizon, with 5,500 in the Tuggerah – Wyong area.

Community Strategic Plan (2030)

The proposal is consistent with relevant parts of the Community Strategic Plan and in particular the relevant objectives in respect of:

- Local travel
- A sustainable business sector
- Accessible community facilities and services

Wyong/Tuggerah Planning Strategy

The proposal is also consistent with Council's Wyong/Tuggerah Planning Strategy, which advocates a zoning such as that proposed.

Statutory Planning Context**Wyong Local Environmental Plan, 1991**

The 4(b) Light Industrial zone prohibits "bulky goods sales room or showrooms" which best defines the proposed development. The 3(b) Centre Support Zone permits this use. This has led to submission of the subject Planning Proposal.

Wyong Development Control Plan 2005 (Chapter 80)

This DCP Chapter provides specific guidelines for the development of the broader Tuggerah Precinct. The subject land falls within Precinct A2 and is contiguous with Precinct A1(a), the latter of which has frontage to the Pacific Highway.

The DCP precludes access from Precinct A2 (the subject land) to the Pacific Highway. It should be noted, however, that the development currently taking place on the corner of Johnson Road and the Pacific Highway is in Precinct A1 and has approved access to the Pacific Highway via a "left in left out", together with ingress and egress to Johnson Road. Such an access scenario facilitates integrated access to the land which is the subject of the rezoning proposal.

The other prevailing controls do not impede development of the nature considered in the rezoning proposal.

State Environmental Planning Policies**State Environmental Planning Policy No.71 – Coastal Protection**

The Coastal Protection SEPP, namely SEPP 71 applies by virtue of its application to the Wyong Shire in its entirety. The subject land is not, however, in a sensitive coastal location.

State Environmental Planning Policy No.55 Remediation of Land

The Remediation of lands SEPP; namely SEPP No.55 establishes procedures for the remediation of land to a standard suitable for the end land use, if contaminated. The unknown extended history of the subject land may necessitate at least a Phase 1 Contaminated Lands Investigation.

Ministerial Directions (Section 117 EP& A Act)

These directions issued by the Minister for Planning and Infrastructure must be addressed, where relevant, in Planning Proposals. The proposal is generally consistent with all current Section 117 Directions. (See Attachment 2 for further information).

OPTIONS**Option 1**

Progression of the Planning Proposal, as proposed, is considered to present a sound, risk adverse strategy, for minimising the potential loss of a high profile retailer.

It is importantly consistent with the prevailing planning framework.

Option 2

Progression of the rezoning proposal as part of the Draft Wyong Comprehensive LEP 2012, potentially exposes the loss of the high profile retailer, if gazettal is delayed.

STRATEGIC LINKS**Long term Financial Strategy**

There are no impacts on the broader Long Term Financial Strategy.

Asset Management Strategy

There are no impacts on the broader Asset Management Strategy.

Workforce Management Strategy

There are no impacts on the Workforce Management Strategy, given the small scale nature of the proposal and the ability to fund supplementary resources.

Link to Community Strategic Plan (2030)

Refer to Strategic context heading.

Budget Impact

There are no immediate budget impacts, as progress of the Planning Proposal is being funded by the requisite accompanying Phase 1 fee. Further assessment work conducted by Council will be funded by the proponent.

Principles of Sustainability

The Planning Proposal, at a potentially very modest scale, offers the prospects of minimising current soil and erosion and sedimentation prospects; whilst complementary development focussed landscaping will enhance, at a modest scale, local biodiversity.

The proposed OfficeWorks facility will likely reduce escape expenditure and potentially reduce/minimise vehicle kilometres travelled, thereby contributing positively, at a very modest scale, to minimising adverse air quality impacts.

SOCIO- ECONOMIC IMPACTS

The proposal in addition to reducing escape expenditure will see a capital investment in the order of \$3 million (+). Furthermore, permanent employment of approximately 50 persons is envisaged in respect of the proposed office works retail outlet and petrol facility.

GENERAL DEVELOPMENT ISSUES**(a) Flooding**

Final fill levels of the land will need to be consistent with adjoining land, and as such the prevailing precinct flood planning level of the 2% AEP flood level.

Development in such context will need to comply with the relevant principles of the NSW Government's Flood Plain Development Manual.

(b) Access

Controlled access to the property was briefly discussed under Wyong Development Control Plan, 2005 (Chapter 80). As the Planning Proposal is progressed consultation with the Roads and Maritime Services (RMS) will likely be required as an outcome of a Gateway Determination.

Finalisation of the design concept, as the relevant Development Application is complied, will need to ensure appropriate servicing and turning facilities and conflict minimisation with parked and manoeuvring cars and pedestrian movements, together with acceptable que lengths.

CONSULTATION

The subject proposal has been the subject of past informal communication with Council staff. If supported at the "Gateway" it will likely be a requirement that relevant government agency and community consultation occur in progressing the Planning Proposal.

GOVERNANCE AND POLICY IMPLICATIONS

There are no unique governance and policy implications beyond those addressed elsewhere in this report.

MATERIAL RISKS AND ISSUES

Corporate exposure to Council would potentially occur if Council were deemed not to appropriately discharge its responsibility in respect of decision making on flood affected lands. This is, however, not considered to be the case in the application of the NSW Flood Development Manual and the principles contained therein.

CONCLUSION

The Planning Proposal to rezone part of Lot 1 DP 1135878 (No. 186) Pacific Highway and part of Lot 32 DP 1095027 (No. 24) Johnson Road, Tuggerah is consistent with the Tuggerah/Wyong Planning Strategy. Further, it is not inconsistent with “higher order” regional and sub regional planning strategies. It is also consistent with the incremental development occurring on adjoining and adjacent lands.

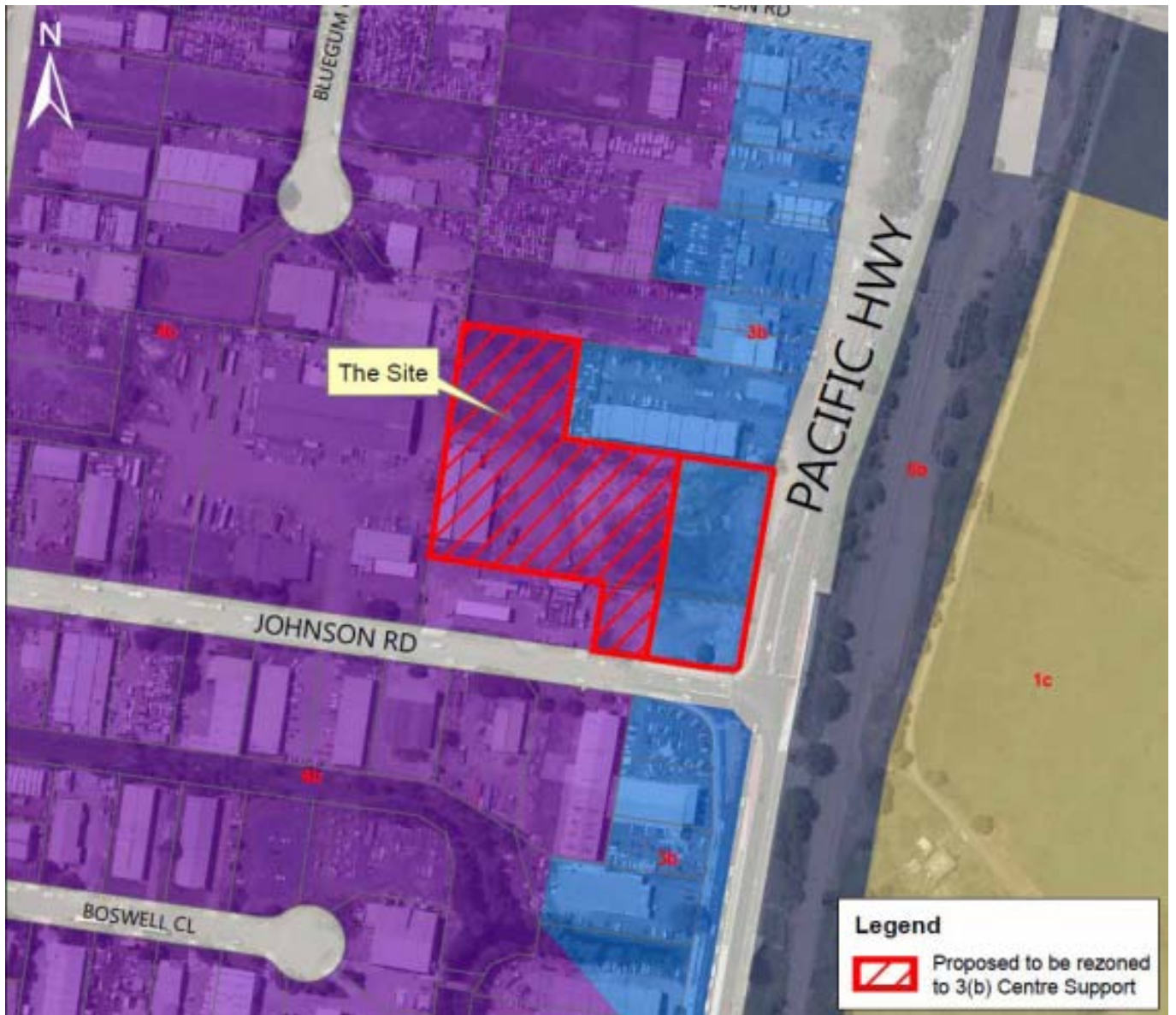
The level of flood risk and adopted management strategy is importantly consistent with Council’s adopted flood risk management strategy for the Tuggerah Straight area.

To avoid the potential loss of a high profile tenant it is recommended that the proposal to amend WLEP, 1991 be progressed to a “Gateway Determination”.

ATTACHMENTS

1	Aerial Photo of the Site (A4 Colour)	D03190063
2	Aerial Photo of the site showing surrounding zones (A4 Colour)	D03190069
3	Ministerial Directions Compliance - Section 117 EP&A Act	D03182272
4	Applicant's Rezoning (Planning Proposal) Submission	D03182397





Number	Direction	Applicable	Consistent
Employment and Resources			
1.1	Business and Industrial Zones	Yes	Yes
1.2	Rural Zones	No	N/A
1.3	Mining, Petroleum production and Extractive Industries	No	N/A
1.4	Oyster Aquaculture	No	N/A
1.5	Rural Lands	No	N/A
Environment and Heritage			
2.1	Environment Protection Zones	No	N/A
2.2	Coastal Protection	Yes	Yes
2.3	Heritage Conservation	No	N/A
2.4	Recreation Vehicle Areas	No	N/A
Housing, Infrastructure and Urban Development			
3.1	Residential Zones	No	N/A
3.2	Caravan Parks and Manufactured Home Estates	No	N/A
3.3	Home Occupations	No	N/A
3.4	Integrating Land Use and Transport	Yes	Yes
3.5	Development Near Licensed Aerodromes	No	N/A
Hazard and Risk			
4.1	Acid Sulphate Soils	Yes	Yes
4.2	Mine Subsidence and Unstable Land	No	N/A
4.3	Flood Prone Land	Yes	Yes
4.4	Planning for Bushfire Protection	No	N/A
Regional Planning			
5.1	Implementation of Regional Strategies	Yes	Yes
5.2	Sydney Drinking water Catchments	No	N/A
5.3	Farmland of State and Regional Significance on the NSW Far North coast	No	N/A
5.4	Commercial and Retail Development along the Pacific Highway, North Coast	No	N/A
5.5	Development in the vicinity of Ellalong, Paxton and Millfield (Cessnock LGA) (Revoked)	No	N/A
5.6	Sydney to Canberra Corridor (Revoked)	No	N/A
5.7	Central Coast (Revoked)	No	N/A
5.8	Second Sydney Airport: Badgerys Creek	No	N/A
Local Plan Making			
6.1	Approval and Referral Requirements	Yes	Yes
6.2	Reserving Land for Public Purposes	No	N/A
6.3	Site Specific Provisions	No	N/A
Metropolitan Planning			
7.1	Implementation of the Metropolitan Plan, 2036	No	N/A



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**PLANNING PROPOSAL
LOT 1 DP 1135878 AND LOT 32 DP 1095027
186 PACIFIC HIGHWAY AND 2A JOHNSON ROAD
TUGGERAH**

August 2012

SURVEYING CIVIL DESIGN STRATA CERTIFICATION PLANNING

Tuggerah Business Park Unit 3, 8 Reliance Drive Tuggerah NSW 2259, PO Box 3205 Tuggerah NSW 2259

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TREHY INGOLD NEATE PTY LTD ABN 21 890 693 885





TABLE OF CONTENTS

	PAGE
PART ONE: SUMMARY	3
PART TWO: OBJECTIVES OR INTENDED OUTCOMES	6
PART THREE: EXPLANATION OF PROVISIONS	6
PART FOUR: JUSTIFICATION	6
4.1 Need for the planning proposal	6
4.2 Relationship to Strategic Planning Framework	7
4.3 Environmental, Social and Economic Impact	10
4.4 State and Commonwealth Interests	12
4.5 Community Consultation	12
APPENDICES.....	14



PART ONE: SUMMARY

This planning proposal seeks to rezone an area of land totalling approximately 1.7 hectares for Centre Support purposes. We believe the proposal has merit and warrants progression to the Department of Planning and Infrastructure for a “Gateway Determination”.

In summary, the pertinent issues are as follows:

Agent:	Trehy Ingold Neate
Applicant/Owner:	Bill Hunter Motors Pty Ltd
Description of Land:	Lot 1 DP 1135878 and Lot 32 DP 1095027
Current Zoning:	Part 4(b) and part 3(b)
Existing Use:	Large shed and gravel hardstand areas
Employment Generation:	Extension of infrastructure, centre support construction and on-going maintenance
Estimated Value:	

The Agent has been authorised by the Applicant to make this application on their behalf. A letter of Authority from the Landowners is attached as *Appendix A*.

Background

The properties subject to this application are known as Lot 1 in DP 1135878 and Lot 32 DP 1095027, No. 186 Pacific Highway and 2A Johnson Road, Tuggerah.

The site currently accommodates a large shed and gravel hardstand areas and a partially constructed drive through restaurant development.

Lot 1 has an approximate area of 1.48 hectares and is an L-shape allotment. Lot 32 is rectangular with an area of approximately 2697 m².

The site is typically flat, with a slight easterly slope and is generally void of vegetation.

The site is zoned 3(b) – *Centre Support Zone* and 4(b) *Light Industrial Zone* under the provisions of Wyong Local Environmental Plan (WLEP) 1991. A copy of Council’s zoning extract with the subject allotments highlighted is shown below (Figure 2 of this submission).



Council's reticulated water mains supply and sewage system is available to the site as are all essential utility services.

The site is not bushfire affected, is not within a Mine Subsidence District and is flood affected. The Council's Acid Sulphate Soils Planning Maps, identifies the site as Class 3 – works beyond 1m below ground surface. This issue would generally be addressed at DA stage, however, given the site would require filling due to the topography and flooding issues, no excavation of the site would be anticipated

The site falls within Area A of the Tuggerah Precinct, with part of the site identified as Area A1(a) and A2. The 2% AEP flood is the adopted flood standard along Tuggerah Straight.

The site has been identified in the Wyong/Tuggerah Planning Strategy (WTP Strategy) as having potential for rezoning from *4(b) Light Industrial Zone* to *3(b) Centre Support Zone*.

The site is located within an established industrial and commercial area and is adjoined and surrounded by local road networks, existing industrial and business land uses with associated ancillary structures.

Council has recently approved Development Application No DA/51/2010 proposing a Drive-through takeaway restaurant and five (5) attached restaurants and related parking and signage and Development Application No DA 302/2011 proposing a service station. A Development Application for a proposed two lot subdivision of the site was lodged in 2011 and subsequently withdrawn due to unresolved access issues. The access issues have now been resolved and a new DA for subdivision will be lodged with Council in the near future.

The planning proposal is to amend the WLEP 1991 by zoning all of the land to *3(b) Centre Support Zone*. Although the WTP Strategy identifies the land as having potential for rezoning to the *3(b) Centre Support Zone* zone, the landowner is unwilling to wait for Council to rezone the site on a Shire wide basis and requires the expedition of the matter. A prominent Australian business, Officeworks, is committed to establishing a superstore on the site but requires the *3(b) Centre Support Zone* zone to do so and the landowners are unwilling to risk losing this opportunity. Officeworks is a chain of Australian office supplies stores which was established in the early 1990s by Coles Myer and has fast become a popular office and stationery supply store.



Figure 1 – The Site – on the corner of the Pacific Highway and Johnson Road, Tuggerah



Figure 2 – The Site – the current zones

Planning Proposal
Lot 1 DP 1135878 and Lot 32 DP 1095027
186 Pacific Highway and 2A Johnson Road, Tuggerah
Our Ref: 20010



PART TWO: OBJECTIVES OR INTENDED OUTCOMES
--

The objectives or an intended outcome of the planning proposal is to enable use of the whole site for uses that are permissible within a centre support zone.

PART THREE: EXPLANATION OF PROVISIONS
--

The objectives or intended outcomes are to be achieved by means of new controls on development imposed via a Local Environmental Plan.

The explanations of provisions, in this instance are:

Amendment of the Wyong Local Environmental Plan 1991 Land Zoning Map in accordance with the proposed zoning map shown at *Appendix F*.

The proposal involves the rezoning of the entire site to *3(b) Centre Support Zone*.

PART FOUR: JUSTIFICATION

The Planning Proposal is minor in nature and is in accordance with the WTP Strategy. The planning proposal is a means to expedite the change of the zone as the Landowner's are unwilling to wait for Council's Shire wide LEP gazettal process. The landowner is anxious to have the zone changed as a prominent company wishes to establish a store in the Tuggerah area, which will result in the embellishment of the site and generation of employment opportunities.

The following questions are deemed relevant to the proposed planning proposal:

4.1 Need for the Planning Proposal

1. Is the planning proposal a result of a strategic study or report?

Yes. The planning proposal is consistent with the Wyong Shire Council Wyong/Tuggerah Planning Strategy (WTPS) for rezoning the site from *4(b) Light Industrial zone* to *3(b) Centre Support zone*. Refer to *Appendix D* for an extract from the WTPS, being Figure 14 of the Strategy showing the proposed zoning change.

2. Is the planning proposal the best means of achieving the objectives or intended outcomes, or is there a better way?



Yes. The planning proposal is the only means of achieving the intended outcome in a timely fashion.

3. *Is there a net community benefit?*

Yes. The planning proposal provides community benefit by employment opportunities generated from the development of the site and the future employment of local people by a future tenant of part of the site. Officeworks envisage employing between 30 and 40 new team members. In addition, establishing a prominent, Australian owned company in a prominent Tuggerah Straight site is likely to promote a sense of confidence for local businesses while also improving the character of the area by way of site embellishment. A letter from Officeworks expressing their commitment to the site is attached as *Appendix E*. A store development site plan is also attached for council's information only.

4.2 Relationship to Strategic Planning Framework

4. *Is the planning proposal consistent with the objectives and actions contained within the applicable regional and sub-regional strategy (including the Sydney Metropolitan Strategy and exhibited draft strategies)?*

Planning proposals must be consistent with the regional strategy, in this instance the Central Coast Regional Strategy (CCRS). This Strategy applies to the local government areas of Gosford and Wyong.

In this instance, the planning proposal achieves the overall intent of the CCRS and does not undermine the achievement of its vision, land use strategy, policies, outcomes or actions.

The CCRS identifies Tuggerah-Wyong as one major centre with a focus on employment generation and the key priorities for centre planning. This planning proposal is consistent with this objective. It also supports the vision of creating the capacity for over 45,000 jobs in the region over the next 25 years, 5,500 in the Tuggerah-Wyong area.

5. *Is the planning proposal consistent with the local Council's Community Strategic Plan, or other local strategic plan?*

Yes – the proposal is consistent with the Community Strategic Plan (2030). This Plan looks ahead over two decades. It lays out four principles that must apply in the future and identifies eight priority objectives to create the best possible quality of life.

The planning proposal is assessed as follows:



- i. Communities will be vibrant, caring and connected – the planning proposal will enable the embellishment and development of the site and will provide the community with additional services and consumer choice.
 - ii. There will be ease of travel – Bus services operate along the Pacific Highway at Tuggerah and services the site. The proposed planning proposal and eventual development of the site will create an increase in traffic movements; however the existing road network will cater for the increased flow.
 - iii. Communities will have a range of facilities and services – the proposed planning proposal supports the provision of facilities and services to the community. The planning proposal supports the zone change as identified in the WTPS.
 - iv. Areas of natural vale will be enhanced and maintained – not relevant to this proposal.
 - v. There will be a sense of community ownership of the natural environment – not relevant to this proposal.
 - vi. There will be a strong sustainable business sector – the planning proposal involves changing the zone of the site to a center support zone that will permit the establishment of a superstore and the introduction of a successful business within the Tuggerah Straight area.
 - vii. Information and Communication technology will be world’s best – not relevant to this proposal
 - viii. The community will be educated, innovative and creative – not relevant to this proposal.
6. *Is the planning proposal consistent with applicable state environmental planning policies (SEPP)?*

Yes, the planning proposal is consistent with SEPPs that are relevant to the site.

SEPP71 Coastal Protection applies to the Wyong Shire Council Local Government Area and the site. The objective of this policy is to manage the coast of NSW in an ecologically sustainable way, in particular, sensitive coastal locations as defined under Part 1, Section 3 of this SEPP. The proposed development is not located within a sensitive coastal location

Although the site is located within the Coastal Protection Zone, the minor nature of the planning proposal and the anticipated negligible impacts suggest that the Director-General should waive the need for an environmental study, in this instance.



7. Is the planning proposal consistent with applicable Ministerial Directions (s.117 directions)?

Section 117 of the EPA Act 1979 provides for the Minister for Planning and Infrastructure to issue directions to Council specifying principles, aims, objectives and policies that must be considered when preparing a local environmental plan. The current 117 directions that apply to the preparation of an LEP associated with this planning proposal are addressed in the following table:

Number	Direction	Applicable	Consistent
Employment and Resources			
1.1	Business and Industrial Zones	Yes	Yes
1.2	Rural Zones	No	N/A
1.3	Mining, Petroleum production and Extractive Industries	No	N/A
1.4	Oyster Aquaculture	No	N/A
1.5	Rural Lands	No	N/A
Environment and Heritage			
2.1	Environment and protection Zones	No	N/A
2.2	Coastal Protection	Yes	Yes
2.3	Heritage Conservation	No	N/A
2.4	Recreation Vehicle Areas	No	N/A
Housing, Infrastructure and Urban Development			
3.1	Residential Zones	No	N/A
3.2	Caravan Parks and Manufactured Homes Estates	No	N/A
3.3	Home Occupations	No	N/A
3.4	Integrating Land Use and Transport	No	N/A
3.5	Development Near Licensed Aerodromes	No	N/A
3.6	Shooting Ranges	No	N/A
Hazard and Risks			
4.1	Acid Sulphate Soils	Yes	Yes
4.2	Mine Subsidence and Unstable Land	No	N/A
4.3	Flood Prone Land	Yes	Yes
4.4	Planning for Bushfire Protection	No	N/A
Regional Planning			
5.1	Implementation of Regional	Yes	Yes



Number	Direction	Applicable	Consistent
	Strategies		
5.2	Sydney Drinking Water Catchments	No	N/A
5.3	Farmland of State and Regional Significance on the NSW Far North Coast	No	N/A
5.4	Commercial and Retail development along the Pacific Highway, North Coast	No	N/A
5.5, 5.6, 5.7	Revokes		
5.8	Second Sydney Airport: Badgerys Creek	No	N/A
Local Plan Making			
6.1	Approval and Referral Requirements	Yes	Yes
6.2	Reserving Land for Public Purposes	No	N/A
6.3	Site Specific Provisions	No	N/A
Metropolitan Planning			
7.1	Implementation of the metropolitan Plan for Sydney 2036	No	N/A

The planning proposal is consistent with encouraging employment growth in suitable locations (as identified by Council in the WTPS) and it supports the viability of identified strategic centres.

The subject area is near the Wyong River and associated floodplain catchments. Figure 6 of the Wyong/Tuggerah Study Area shows areas subject to flooding, which includes our site (Refer to *Appendix C*).

While the site may be flood affected, all developments approved on site are mindful of this. The minimum floor levels for industrial and commercial buildings are usually set at the Designated Flood Level, with no requirement for freeboard. The Designated Flood is the flood standard selected for planning purposes. The Designated Flood within Wyong Shire is the 1% AEP flood, except for the Tuggerah Straight Industrial Area (Wyong River) where the Designated Flood is the 2% AEP flood.

4.3 Environmental, Social and Economic Impact

8. *Is there any likelihood that critical habitat or threatened species, populations or ecological communities, or their habitats, will be adversely affected as a result of the proposal?*



No, due to the clear nature of the site, it is unlikely that any critical habitat or threatened species, populations or ecological communities or their habitats will be adversely affected as a result of the planning proposal.

9. *Are there any other environmental effects as a result of the planning proposal and how they are proposed to be managed?*

No, the site is not bushfire prone land. The site is not within a Mine Subsidence district.

We are unaware of any landslip issues affecting the site.

As discussed previously, the site is located near the Wyong River and has been identified in the Wyong/Tuggerah Study area as a site affected by flooding. The Tuggerah Straight Industrial Area is susceptible to flooding from the Wyong River to the north or from Mardi Creek to the south, or from both sources. The estimated design flood level probability distributions for various sites within the industrial area are presented in the following table.

Design Flood Levels (m AHD), Tuggerah Straight Industrial Area

AEP (1%)	Wyong River Upstream Pacific Highway	Mardi Creek Upstream Pacific Highway	Joule Place	
			Wyong River	Mardi Creek
20	3.8	4.7	3.25	4.5
5	4.6	4.9	4.5	4.7
2	5.0	5.0	4.8	4.8
1	5.35	5.1	5.0	4.9
PMP	7.6	6.7	6.7	6.7

The data presented in the above table indicates that Mardi Creek poses a greater flooding risk to the Tuggerah Straight Industrial Area than does the Wyong River for floods smaller than the 2% AEP event (source: Wyong Shire Council Lower Wyong River Floodplain Risk Management Study Final Report – July 2010). The Designated Flood for the site is the 2% AEP flood level and any future development of the site will adhere to this level.



10. *How has the planning proposal adequately addressed any social and economic effects?*

To our knowledge the site is unaffected by items of European or Aboriginal cultural heritage.

The proposed planning proposal will facilitate Council's Wyong/Tuggerah Planning Strategy, which has identified the site for rezoning from 4(b) *Light Industrial Zone* to 3(b) *Centre Support Zone*.

The economic and social benefits to the community will result from part of the site being developed as an Officeworks Superstore, not only providing the community with a great place to shop but also generate up to 40 new jobs for local people.

Following rezoning of the site, the development and construction phase of the proposal will also generate employment opportunity for the local building industry.

The planning proposal will facilitate site and character improvement of the area which will be both aesthetically pleasing and is likely to promote a sense of confidence for the community and local businesses.

4.4 State and Commonwealth Interests

11. *Is there adequate public infrastructure for the planning proposal?*

Yes, there is adequate public infrastructure for the planning proposal. The proposal is consistent with the Wyong/Tuggerah Planning Strategy and will be serviced by existing infrastructure.

12. *What are the views of State and Commonwealth public authorities consulted in accordance with the gateway determination?*

Due to the minor nature of the proposal, this Clause is not relevant, however, we understand that once the planning proposal progresses to Phase Three of the process, a Gateway Determination will be made under Section 56(2) of the EP&A Act and that consultation with relevant State/Commonwealth Public Authorities will be made.

4.5 Community Consultation

We understand that the document "A guide to preparing local environmental plans" outlines the consultation required for different types of planning proposal and will await comments from council in this regard. We believe, the planning proposal would be deemed "low impact".



In summary the planning proposal is consistent with Council's Wyong/Tuggerah Planning Strategy (WTPS) and is lodged with Council to expedite changing of the zone from the current 4(b) Light Industrial Zone to the suggested 3(b) Centre Support Zone.

The landowners have been discussing the proposed rezoning of the site with Council since 2008 and are reluctant to keep waiting for inclusion of the site with the Shire wide LEP amendment. The landowners have negotiated a leasing arrangement for part of the site with a large Australian owned company and are unwilling to risk losing this opportunity.

The planning proposal will accelerate the process and result in facilitating a zone change consistent with the objectives of Council's WTPS. The planning proposal will result in the embellishment of the site, the establishment of a well known superstore along the Tuggerah Straight and generate employment opportunities within the Wyong Shire.

Yours faithfully

TREHY INGOLD NEATE

KELLIE HASSAB

Director



APPENDICES

- A. Letter of Authority
- B. Copy of DP 1135878 and DP 1095027
- C. Extract from Wyong/Tuggerah Planning Strategy October 2007, Figure 6
- D. Extract from Wyong/Tuggerah Planning Strategy October 2007, Figure 14
- E. Correspondence and indicative site plan from Officeworks
- F. Plan showing the proposed zoning change, prepared by Trehy Ingold Neate, August 2012

Appendix A

Bill Hunter Motors Pty Limited
P O Box 786
Terrigal NSW 2260

14 August 2012

The General Manager
Wyong Shire Council
P O Box 20
Wyong NSW 2259

Dear Sir

**PROPOSED DEVELOPMENT OF LOT 1 DP 1135878 AND LOT 32 DP 1095027
186 PACIFIC HIGHWAY AND 2A JOHNSON ROAD, TUGGERAH**

I/We, as the registered owners of the above properties, authorise Trehy Ingold Neate to make applications with reference to the abovementioned development on our behalf, including lodgement of a Planning Proposal and any subsequent Section 96, Construction and Subdivision Certificate Applications.

I/We, as the Applicant, give authorisation to Trehy Ingold Neate to act as our Agent and sign all necessary applications and supporting information for and on our behalf.

Political Donations Declaration:

I/We, as the persons with a financial interest in the proposed application have read the Department of Planning's *Development proposals and donations or gifts: Know the Rules* brochure and declare that we have not /have made a political donation or gift as outlined in the Local Government & Planning Legislation Amendment (Political Donations) Act 2008.

I/We have read the relevant information and **have not** made declarable donations
 I/We have read the relevant information and **have** made declarable donations

For additional Information: <http://www.planning.nsw.gov.au/donations>

Yours faithfully

Bill Hunter Motors Pty Limited

ABN No: 51 002 508 974

Signature: 

Signature:

Name: William Hunter

Name:

Position Held: Sole Director / Secretary Position Held:

Appendix B

DP1135878 Sheet 1 of 1 Streets

WARNING: CREASING OR FOLDING WILL LEAD TO REJECTION

PLAN FORM 2 (A2)

(N) 988V5 - ROAD WIDENING ORDER UNDER SECTIONS 25 & 26 OF ROADS ACT, 1993.
607,032 No 155 OF 20-4-1976 P.O. 3528 ID.P. 2514-020

LOTS 1 & 2
 LOT 1(D), D.P. 748768
 C.T.V. 148768
 LOT 1, D.P. 251402
 C.T.V. 251402
 LOT 5, D.P. 251402
 C.T.V. 251402
 LOT 11, D.P. 251402
 C.T.V. 251402
 LOT 2, D.P. 251402



SURVEYING REGULATION AREA - CLASSES 39, 31, 31A & 31Z1			
MARK	M.G.A. CO-ORDINATES	ZONE	CL. ORD. METHOD ORIGIN
	EASTING	NORTHING	
P.M. 3314	353 204 283	6315 112 314	2 SC IHS SC IHS
P.M. 37760	353 039 614	6314 935 136	4 SC IHS SC IHS
P.M. 73632	353 152 007	6314 619 619	2 SC IHS SC IHS
COMBINED MEAN LEVEL AND SCALE FACTOR: 0.9999687			
M.G.A. COORDINATES ADOPTED FROM SCIP 85 AT 23-1-2008			

Surveyor: DAVID E BURKE
 Date of Survey: 11-12-2008
 Surveyor's Ref: SP2918
 (10855, NY652) CHE 20.15T

PLANS OF LAND TO BE ACQUIRED FOR THE PURPOSES OF THE ROADS ACT, 1992.

L.G.A.: WYONG SHIRE
 Locality: TUGGERAH
 Suburb: Tuggerah
 (Registers in the correct Tuggerah Basin 000)

Registered: 10.3.2008

DP1135878

R.T.A. FILE 1107595J559 R.T.A. PLAN 0510 585 55 N397

File: DP1135878 / Doc: 1135878 P / Rev: 11-MAR-2009 / Rev: 15-03-2009 14:18 / Signal / sheet 1 of 3

Appendix C