



Alison Homestead re-opened on 2 September following the devastating fire by an arson attack.

Wyong Shire Council

# Business Paper

## ORDINARY COUNCIL MEETING

09 September 2015

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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 9 September 2015 at 5.00 pm,  
for the transaction of the business listed below:

## OPENING PRAYER

## ACKNOWLEDGEMENT OF COUNTRY

## RECEIPT OF APOLOGIES

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**8 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 Disclosures of Interest

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TRIM REFERENCE: F2015/00040-02 - D12059483

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

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TRIM REFERENCE: F2015/00040-02 - D12059487

MANAGER: Lesley Crawley, Manager Corporate Governance

AUTHOR: Jacquie Elvidge; Councillor Services Officer

### SUMMARY

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

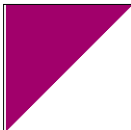
Date	Briefing	Directorate
09/09/2015	Wyong Regional Skate Park	Community and Recreation Services
09/09/2015	RZ/6/2013 - Central Coast Wetlands Pioneer Dairy	Development and Building
09/09/2015	CONFIDENTIAL - Proposed Property Lease	Property and Economic Development
09/09/2015	Preliminary EOFY Financials	GM Unit

### RECOMMENDATION

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

### ATTACHMENTS

- 1 Councillor proposed inspections and briefings - 9 September 2015 D12070836



## Proposed Briefings List to Date



Briefing Title:	Directorate:	Proposed Month:	Proposed Date:
Wyong Regional Skate Park	Community and Recreation Services		09/09/2015
RZ/6/2013 - Central Coast Wetlands Pioneer Dairy	Development and Building		09/09/2015
CONFIDENTIAL - Proposed Property Lease	Property and Economic Development		09/09/2015
Preliminary EOFY Financials	GM Unit		09/09/2015
Development of the Acting CEO's Performance Plan	GM Unit		23/09/2015
Rustrum Site, Toukley	Development and Building		14/10/2015
Tourism Update	Community and Recreation Services		25/11/2015
Central Coast Regional Plan	Development and Building		25/11/2015
Development Infrastructure - Porters Creek Stormwater Diversion Project	Development and Building	October	
Lakeside Plaza, The Entrance	Development and Building	October	

### **1.3 Address By Invited Speakers**

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TRIM REFERENCE: F2015/00040-02 - D12059557  
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**

*That Council receive the report on Invited Speakers.*

#### **ATTACHMENTS**

Nil

## **1.4 Confirmation of Minutes of Previous Meeting**

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TRIM REFERENCE: F2015/00040-02 - D12059590

MANAGER: Lesley Crawley, Manager Corporate Governance

AUTHOR: Jacque Elvidge; Councillor Services Officer

### **SUMMARY**

Confirmation of minutes of the previous Ordinary Meeting of Council held on Wednesday 26 August 2015.

### **RECOMMENDATION**

***That Council confirm the minutes of the previous Ordinary Meeting of Council held on Wednesday 26 August 2015.***

### **ATTACHMENTS**

- |   |  |           |
|---|--|-----------|
| 1 | MINUTES - Ordinary Meeting Meeting - 26 August 2015              | D12062104 |
| 2 | MINUTES - Confidential Ordinary Meeting Meeting - 26 August 2015 | D12063207 |

**WYONG SHIRE COUNCIL**

**MINUTES OF THE  
ORDINARY COUNCIL MEETING OF COUNCIL**

HELD IN THE COUNCIL CHAMBER  
WYONG CIVIC CENTRE, HELY STREET, WYONG  
ON 26 AUGUST 2015  
COMMENCING AT 5.00PM

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**PRESENT**

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

**IN ATTENDANCE**

General Manager, Director Development and Building, Director Infrastructure and Operations, Director Property and Economic Development, Acting Director Community and Recreation Services, General Counsel, Communications Coordinator, Manager Property Development and two administration staff.

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

Councillor Eaton OAM delivered the opening prayer and Councillor Vincent read an acknowledgment of country statement.

**APOLOGY**

Council, at its meeting held 12 August 2015;

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

*771/15 That Council accept the apologies and grant Councillors Vincent and Nayna leave of absence from the meeting.*

*772/15 That Council accept the apology and grant Councillor Nayna leave of absence from the 26 August 2015 Ordinary meeting.”*

An apology for the inability to attend the meeting was received on behalf of Councillor Graham.

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

***823/15 That Council accept the apology and grant leave of absence from the meeting.***



At the commencement of the ordinary meeting report nos 1.1, 3.3, 6.2 and 3.1 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 Disclosures of Interest**

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### **Item 3.1 - 2015-16 Sponsorship Allocations from Contestable Funding**

Councillor Vincent declared a non-pecuniary insignificant interest in the matter for the reason that he is a member of the Budgewoi Scouts and participated in consideration of this matter.

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."*

### **Item 3.2 - Central Coast Business Enterprise Centre**

Councillor Eaton declared a non-pecuniary insignificant interest in the matter for the reason that he is the Council delegate to CCGT, which has BEC as a business partner and participated in consideration of this matter.

Councillor Eaton stated:

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

Councillor Best declared a non-pecuniary significant conflict of interest in the matter for the reason that the BEC and CCGT, that he is General Manager of, have a close working relationship. This item was resolved by the exception method.

### **Item 3.3 - Graffiti Management Strategy 2015**

Councillor Greenwald declared a non-pecuniary insignificant interest in the matter for the reason that the motion has been designed with the involvement of the NSW Police and participated in consideration of this matter.

Councillor Greenwald stated:

*"I choose to remain in the chamber and participate in discussion and voting as the conflict has not influenced me in carrying out my public duty because although I work for NSW Police, it is another area and unrelated location."*

### **Item 7.2 - Halekulani Oval / Colongra Land Swap and Sports Complex**

Councillor Vincent declared a non-pecuniary insignificant interest in the matter for the reason that he is an employee of Delta Electricity. Delta Electricity own the Colongra Land and now lease the land to Wyong Shire Council for a peppercorn rate and participated in consideration of this matter.

Councillor Vincent stated:

*"As this is a planning matter with a commercial element, I choose to leave the chamber and take no part in the voting."*

Councillor Vincent left at 6.43pm, returned at 6.54pm, and as a result took no part in voting on this matter.

**Item 7.3 - Request to Vary Contract No. CPA/222145 - Upgrade to Mannering Park RFS Station Upgrade**

Councillor Troy declared a non-pecuniary insignificant interest in the matter for the reason that he is a current RFS member and participated in consideration of this matter.

Councillor Troy 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 Best left the meeting at 5.03pm and returned to the meeting at 5.04pm during consideration of this item.

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

**824/15 That Councillors now disclose any conflicts of interest in matters under consideration by Council at this meeting.**

**PROCEDURAL MOTION**

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

**825/15 That Council allow meeting practice to be varied.**

**826/15 That Council use the exception method to deal with the balance of the Agenda.**

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

**827/15 That with the exception of report numbers 1.6, 3.1, 3.3, 3.6, 6.1, 6.2, 7.2, 7.3 and 7.4 Council adopt the recommendations contained in the remaining reports.**

**1.2 Proposed Inspections and Briefings**

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

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

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**1.3 Address By Invited Speakers**

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

**828/15 That Council receive the amended report on Invited Speakers.**

**829/15 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.**

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**1.4 Confirmation of Minutes of Previous Meeting**

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

**830/15 That Council confirm the minutes of the previous Ordinary Meeting of Council held on Wednesday 12 August 2015.**

**Business Arising**

There was no business arising.

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**1.5 Notice of Intention to Deal with Matters in Confidential Session**

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

**831/15 That Council consider the following matters in Confidential Session, pursuant to Sections 10A (2)(g), 10A (2)(c), 10A (2)(d)(i) and 10A (2)(a) of the Local Government Act 1993:**

**7.1 Warnervale Airstrip Maintenance Progress Report**

**7.2 Halekulani Oval / Colongra Land Swap and Sports Complex**

**7.3 Request to Vary Contract No. CPA/222145 - Upgrade to Mannering Park RFS Station Upgrade**

**7.4 Mayoral Minute – Appointment of an Acting General Manager (Chief Executive Officer) and Related Matters**

**832/15 That Council note its reason for considering Report No 7.1 – Warnervale Aerodrome Runway Maintenance Progress Report, as it contains advice concerning litigation, or advice that would otherwise be privileged from production in legal proceedings on the ground of legal professional privilege.**

**833/15 That Council note its reason for considering Report No 7.2 – Halekulani Oval / Colongra Land Swap and Sports Complex, 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.**

**834/15 That Council note its reason for considering Report No 7.3 – Request to Vary Contract No. CPA/222145 - Upgrade to Mannering Park RFS Station Upgrade, as it contains commercial information of a confidential nature that would, if disclosed prejudice the commercial position of the person who supplied it.**

- 835/15 That Council note its reason for considering Report No 7.4 – Appointment of an Acting General Manager (Chief Executive Officer) and Related Matters, as it contains personnel matters concerning particular individuals (other than Councillors).
- 836/15 That Council request the General Manager to report on these matters in open session of Council.

## 1.6 Mayoral Minute - Vandalism Reward Doubling

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Councillor Vincent left the meeting at 6.04pm and returned to the meeting at 6.07pm during consideration of this item.

Councillor Taylor left the meeting at 6.05pm and returned to the meeting at 6.06pm during consideration of this item.

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

- 837/15 That Council double its current reward under its Policy for Reporting Vandalism in respect of the EDSAAC Bateau Bay amenities/clubhouse building destroyed by fire last weekend.
- 838/15 That Council publicise this increased reward extensively through Council's media and communication channels.
- 839/15 That Council publicise the names of those convicted, subject to any prosecution.

## 2.1 CPA/256304 – Construction of Landscaping including Granite Paving, The Waterfront Plaza, The Entrance

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

- 840/15 That Council accept the tender from Quality Management and Constructions Pty Ltd, for the lump sum amount of \$2,726,600 (excl GST) for Contract CPA/256304 – Construction of Landscaping including Granite Paving, The Waterfront Plaza, The Entrance.
- 841/15 That Council determine the Tender Evaluation Report in Attachment A, remains confidential in accordance with Section 10A (2) (d) of the Local Government Act 1993 as the report contains commercial information of a confidential nature, except for the name of the successful tenderer, which may be disclosed after Council has resolved to accept that tender.
- 842/15 That Council approve the contingency sum as detailed in the Tender Evaluation Report in Attachment A.

### 3.1 2015-16 Sponsorship Allocations from Contestable Funding

Councillor Vincent declared a non-pecuniary insignificant interest in the matter for the reason that he is a member of the Budgewoi Scouts and participated in consideration of this matter.

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."*

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

**843/15** That Council rescind the offer of sponsorship made after the 2014-15 Sponsorship EOI to Triathlon NSW to run The Entrance Triathlon in 2015-16 and 2016-17 and that these funds be returned to the contestable sponsorship funding pool for these years.

**844/15** That Council allocate the below combined cash and in-kind funds from the Sponsorship Program as follows:

- 2015-16: \$45,000.00
- 2016-17: \$32,000.00

<b>Initiative</b>	<b>Background of Applicant</b>	<b>Aim of Initiative</b>	<b>Recommended Funding</b>
<b>CULTURAL INITIATIVES</b>			
<b>Long Jetty Street Festival</b>	<i>The applicant has previously worked on successful local events such as Cast Off Food and Wine Festival in Woy Woy which had 4,000 attendees in 2014. The Long Jetty event will be held in conjunction with local businesses in Long Jetty.</i>	<i>To hold an inaugural festival on November 22<sup>nd</sup> in the same year as the Long Jetty's 100th anniversary. The event is a street fair to be curated by the passionate and driven local business owners of the area.</i>	2015-16: \$5,000 2016-17: NA TOTAL: \$5,000
<b>Mingara Orchid Festival</b>	<i>An established event attracting upwards of 500 registered orchids on display for judging and 4,000 visitors over a two day event at Mingara Recreation Club.</i>	<i>To attract more visitors and grow the event to become a key event for Orchid enthusiasts in Wyong Shire. To encourage attendees to stay longer and enjoy other attractions in Wyong Shire thus supporting spend dispersal to local businesses.</i>	2015-16: \$2,500 2016-17: NA TOTAL: \$2,500
<b>Sculptures on the Green</b>	<i>An established sculptural exhibition event held for the last six years at</i>	<i>To increase the profile and reputation of the event and align with</i>	2015-16: \$2,500 2016-17: \$2,500

	<i>Kooindah Waters Golf Club. 4,000 people are expected to attend the 2016 event.</i>	<i>other Sculpture events outside of the local region to ensure the event is a landmark event for Wyong Shire. The event also supports education programs in primary and secondary schools as well as post-secondary mentorships for emerging artists.</i>	<b>TOTAL: \$5,500</b>
<b>Sundays at the Old School</b>	<i>The Yarramalong Old School has previously held small yet successful events on the grounds of the Heritage Listed property that are focused on the rich artistic history of the area. This event expects to turn these one-off occasions into regular bespoke events with 500 people and 40 stall holders expected to attend each event.</i>	<i>To create an annual, free entry, two-day art, sculptural and musical event held in the grounds and heritage buildings at the Yarramalong Old School. To feature local artists and encourage emerging artists to work alongside and learn from leaders in the local artistic community to ensure the longevity of the artistic community in the Wyong Shire.</i>	<b>2015-16: \$2,500 2016-17: \$2,500 TOTAL: \$5,000</b>
<b>SPORTING INITIATIVES</b>			
<b>Take a Stroke for Stroke</b>	<i>The applicant is holding the inaugural Take a Stroke for Stroke: Million Dollar Hole in One golf challenge event with 100,000 people expected to take part at their local clubs nationally. The national finals are to be staged in Wyong Shire with 50 finalists and a guest expected to attend. The applicant is currently working with other Sponsors and an array of stakeholders including the Stroke Foundation which has endorsed this activity as a national fundraiser on their behalf.</i>	<i>To grow the size of the event and number of participants over the next two years with the long term goal of being self-sufficient. The national final would remain in Wyong Shire for the life of the event. To promote Wyong Shire as a key golfing destination for the more than 1million golfers in Australia.</i>	<b>2015-16: \$7,500 2016-17: \$5,000 TOTAL: \$12,500</b>
<b>SHIMANO</b>	<i>An established Mountain</i>	<i>To grow the established</i>	<b>2015-16: \$5,000</b>



<b>Mountain Bike Grand Prix</b>	<b><i>Bike racing series consisting of three events made up of a mix of four to seven hour races held at Ourimbah in June each year. Approx. 350 participants to take part in the race in 2016 plus 200 spectators and accompanying family. Plus advertising to a database of 6,000 and combined social media following of 5,000.</i></b>	<b><i>race to be a flagship event for Wyong and establishing Wyong as a key destination within the Mountain Biking community.</i></b>	<b><i>2016-17: \$5,000 TOTAL: \$10,000</i></b>
<b>Wyong Triathlon Festival</b>	<b><i>Elite Energy holds a series of ten Triathlons across NSW called the triSeries. On average at past events in other areas attendees stay 2 nights per event and spend \$164 per person per overnight stay and \$90 per person per day competitor. 1,500 competitors are expected at the first event.</i></b>	<b><i>To hold an annual triathlon event in Wyong Shire, specifically at Budgewoi that offers 5 distance events to cater for all ages and abilities. This triathlon will fall under the banner of the Wyong Shire Council Lakes Festival in 2015.</i></b>	<b><i>2015-16: \$15,000 2016-17: \$12,000 TOTAL: \$27,000</i></b>
<b>VISITOR MARKETING INITIATIVES</b>			
<b>Coastal Chic</b>	<b><i>Coastal Chic is a digital platform including a Blog and Instagram account with nearly 40,000 followers used to boost the visitor economy by promoting local activities and businesses in a fresh context for a modern audience.</i></b>	<b><i>To expand the marketing of Coastal Chic digital tools to attract more followers and to add to the suite with an upgraded website and new Coastal Chic app which can be downloaded for regular use by residents and visitors to the area.</i></b>	<b><i>2015-16: \$5,000 2016-17: \$5,000 TOTAL: \$10,000</i></b>

**845/15** That Council decline applications for the reasons indicated in the table below, the applicants be advised and where relevant are directed to alternate funding programs:

<b>Initiative</b>	<b>Requested</b>	<b>Applied for Tier level</b>	<b>Assessment</b>
<b><i>Parkrun Budgewoi</i></b>	<b><i>\$12,858</i></b>	<b><i>Tier 2 Multi year</i></b>	<b><i>Initiative does not meet the visitation requirements, potential for growth or ROI through economic development benchmarks that are required</i></b>
<b><i>Inaugural Australian Archery Tag Challenge</i></b>	<b><i>\$3,000</i></b>	<b><i>Tier 3 Single year</i></b>	<b><i>Initiative does not meet the visitation requirements, potential for growth or ROI through economic development benchmarks that are required</i></b>

<b>2015 Central Coast Eisteddfod</b>	<b>\$5,000</b>	<b>Tier 3 Single year</b>	<b>Initiative does not meet the visitation requirements, potential for growth or ROI through economic development benchmarks that are required</b>
<b>Aboriginal Gambling: Our Stories</b>	<b>\$5,000</b>	<b>Tier 3 Single year</b>	<b>Fails to meet the eligibility criteria as more than 50% of the cost of the initiative has been requested. Initiative also does not meet the visitation requirements, potential for growth or ROI through economic development benchmarks that are required</b>
<b>Camp Breakaway</b>	<b>\$3,610</b>	<b>Tier 3 Single year</b>	<b>Initiative does not meet the visitation requirements, potential for growth or ROI through economic development benchmarks that are required</b>
<b>Children's Music and Play Development</b>	<b>\$5,000</b>	<b>Tier 3 Single year</b>	<b>Fails to meet the eligibility criteria by requesting more than 50% of the funds required to run the initiative and using the funds to purchase equipment (private property). Initiative does not meet the visitation requirements, potential for growth or ROI through economic development benchmarks that are required</b>
<b>Documentary and Arts in the Community</b>	<b>\$30,000</b>	<b>Tier 1 Single year</b>	<b>Ineligible by failing to provide answers to the majority of criteria</b>
<b>Embrace Life Festivals</b>	<b>\$3,000</b>	<b>Tier 3 Single year</b>	<b>Initiative does not meet the ROI through economic development benchmark that is required. Will recommend this initiative applies for sponsorship again for the following year as it has been outlined that the initiative should show significant growth by this time</b>
<b>Girls on Guard</b>	<b>\$30,000</b>	<b>Tier 1 Multi year</b>	<b>Initiative does not meet the visitation requirements, potential for self-sustainability and growth or ROI through economic development, benchmarks that are required</b>
<b>Lakes Fest Paddle</b>	<b>\$6,000</b>	<b>Tier 2 Single year</b>	<b>Fails to meet the eligibility criteria by requesting over 50% of the funds required to hold the event</b>
<b>Lymphedema Exercise Classes</b>	<b>\$16,000</b>	<b>Tier 1 Single year</b>	<b>Fails to meet many of the eligibility criteria. More than 50% of the cost of the initiative has been requested and the funds requested would be used to purchase equipment (private property). Initiative does not meet the visitation requirements, potential for growth or ROI through economic development benchmarks that are required.</b>
<b>Mardi Gras</b>	<b>\$105,930</b>	<b>Tier 1 Multi year</b>	<b>The amount of funding requested exceeds the potential the initiative has to produce ROI for the community.</b>

<b>Mingara Relay for Life</b>	<b>\$12,000</b>	<b>Tier 2 Multi year</b>	<b>Initiative does not meet the visitation requirements, potential for growth or ROI through economic development benchmarks that are required</b>
<b>Our Lady of the Rosary Public School Fete</b>	<b>\$3,500</b>	<b>Tier 3 Single year</b>	<b>Initiative does not meet the visitation requirements, potential for growth or ROI through economic development benchmarks that are required</b>
<b>Scouts Open Day</b>	<b>\$350</b>	<b>Tier 3 Single year</b>	<b>Initiative does not meet the visitation requirements, potential for growth or ROI through economic development benchmarks that are required</b>
<b>UDIA NSW Partnership Program</b>	<b>\$14,900</b>	<b>Tier 2 Single year</b>	<b>Not deemed good value for money and therefore unlikely to return the ROI required. No ability to tailor Wyong Shire Council sponsorship deliverables as the funds requested are for a readymade set of deliverables offered to all potential sponsors.</b>

**846/15** That Council grant, in principle, the application from The Entrance Mardi Gras for \$5,000 subject to the appropriate documentation being provided to Council.

### **3.2 Central Coast Business Enterprise Centre**

Councillor Eaton declared a non-pecuniary insignificant interest in the matter for the reason that he is the Council delegate to CCGT, which has BEC as a business partner and participated in consideration of this matter.

Councillor Eaton stated:

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

Councillor Best declared a non-pecuniary significant conflict of interest in the matter for the reason that the BEC and CCGT, that he is General Manager of, have a close working relationship. This item was resolved by the exception method.

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

**847/15** That Council receive the report on activities of the Central Coast Business Enterprise Centre in 2014-15.

**848/15** That Council agree to renew the funding for Central Coast Business Enterprise Centre for \$30,000 per annum for a period of 12 months to 30 June 2016, with payments made quarterly, and with agreed deliverables detailed in a signed funding agreement.

**849/15** That Council delegate to the General Manager to investigate with Gosford City Council a joint competitive tender for small business mentoring and coaching services on the Central Coast for the 2016-17 financial year and future years, with a report back to Council by March 2016.

**3.3 Graffiti Management Strategy 2015**

Councillor Greenwald declared a non-pecuniary insignificant interest in the matter for the reason that the motion has been designed with the involvement of the NSW Police and participated in consideration of this matter.

Councillor Greenwald stated:

*"I choose to remain in the chamber and participate in discussion and voting as the conflict has not influenced me in carrying out my public duty because although I work for NSW Police, it is another area and unrelated location."*

Councillor Matthews arrived at 5.21pm during consideration of this item.

Ms Janet Holmesby, Manager of Greater Toukley Vision addressed Council at 5.09pm, answered questions and retired at 5.18pm.

*It was MOVED on the motion of Councillor VINCENT and seconded by Councillor GREENWALD:*

*That Council adopt the 2015 Graffiti Management Strategy for Wyong Shire.*

*An AMENDMENT was MOVED by Councillor BEST and seconded by Councillor TROY:*

- 1 That Council thank staff and all those involved in developing the 2015 Graffiti Management Strategy.*
- 2 That Council urgently seek, further to the address by the Greater Toukley Vision, assistance from the Local Area Command on dealing with the issue of rampant graffiti attacks.*
- 3 That Council request the General Manager report on what exactly happened to the rate payer funded graffiti removal trailer.*
- 4 That Council adopt the 2015 Graffiti Management Strategy for Wyong Shire.*

***The AMENDMENT was put to the VOTE and declared CARRIED.***

FOR: CRS GB BEST, DE EATON, LT TAYLOR, AT TROY AND LW WEBSTER

AGAINST: CRS KG GREENWALD, LM MATTHEWS AND DV VINCENT

***The AMENDMENT became the MOTION.***

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

***850/15 That Council thank staff and all those involved in developing the 2015 Graffiti Management Strategy.***

***851/15 That Council urgently seek, further to the address by the Greater Toukley Vision, assistance from the Local Area Command on dealing with the issue of rampant graffiti attacks.***

***852/15 That Council request the General Manager report on what exactly happened to the rate payer funded graffiti removal trailer.***

***853/15 That Council adopt the 2015 Graffiti Management Strategy for Wyong Shire.***

**3.4 Payment of Public Liability Professional Indemnity Insurance Policy**

---

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

**854/15 That Council approve the renewal of Council's Public Liability/Professional Indemnity insurance policy with Statewide Mutual for the period 30 June 2015 to 30 June 2016.**

**855/15 That Council approve the premium payment of \$534,644.35 ex GST.**

**856/15 That Council determine in accordance with s. 55(3)(i) of the Local Government Act 1993, that a satisfactory result would not be achieved by inviting tenders for these insurances, for the reason that the Australian insurance market does not offer the level of cover required by Council.**

**3.5 Payment of Industrial Special Risk Insurance Policy**

---

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

**857/15 That Council approve the renewal of Wyong Shire Council's Property insurance policy with Statewide Mutual for the period 30 June 2015 to 30 June 2016.**

**858/15 That Council approve the premium payment of \$507,793.84 ex GST.**

**859/15 That Council determine, in accordance with s. 55(3)(i) of the Local Government Act 1993, that a satisfactory result would not be achieved by inviting tenders for these insurances, for the reason that the Australian insurance market does not offer the level of cover required by Council.**

**3.6 Initiatives to Improve Roadside Vegetation Amenity Including Roads and Maritime Services Roads**

---

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

**860/15 That Council approve the following options provided in this report:**

- a. Option 1 – Continue to lobby the Roads and Maritime Services for an appropriate level of funding to maintain State roads.**
- b. Option 2 – Provide \$100,000 through quarter one review for contractor support at peak times.**

**861/15 That Council reconsider this issue in planning for 2016/17 financial year.**

**862/15 That Council request the General Manager to make representation to the Minister to increase funding to the RMS roads of the Shire.**

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4.1 Investment Report for July 2015

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

863/15 That Council receive the Investment Report for July 2015.

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4.2 Draft Minutes of the Tuggerah Lakes Estuary, Coastal and Floodplain Management Committee - 6 August 2015

---

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

864/15 That Council receive the Minutes of the Tuggerah Lakes Estuary, Coastal and Floodplain Management Committee meeting held on 6 August 2015.

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4.3 Wyong Water - Works in Progress

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

865/15 That Council receive the report on Wyong Water - Works in Progress.

---

4.4 Results of Water Quality Testing for Beaches and Lake Swimming Locations

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

866/15 That Council receive the report on Results of Water Quality Testing for Beaches and Lake Swimming Locations.

---

4.5 Activities of the Development and Rezoning and Building Certification Compliance and Health Units

---

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

867/15 That Council receive the report on Activities of the Development and Rezoning and Building Certification Compliance and Health Units for the month of July 2015 and related job creation.

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4.6 Outstanding Questions on Notice and Notices of Motion

---

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

868/15 That Council receive the report on Outstanding Questions on Notice and Notices of Motion.



**6.1 Notice of Motion - Free Wi-Fi The Entrance Memorial Park Precinct**

---

Councillor Best left the meeting at 6.33pm and returned to the meeting at 6.35pm during consideration of this item.

Councillor Matthews left the meeting at 6.34pm and returned to the meeting at 6.35pm during consideration of this item.

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

**869/15 That Council, in principle, seek to install free Wi-Fi in the Entrance Memorial Park Precinct as part of the multimillion dollar refurbishment starting next month.**

**870/15 That Council request the General Manager to report on the cost of such an installation, ongoing operating costs, benefits to the local retailers and the wider community and any other relevant issues.**

**6.2 Notice of Motion - \$3.4million Litter Land**

---

Mr Ralph Peters, Chairperson of Norah Head Ratepayers addressed Council at 5.40pm, answered question and retired at 5.55pm.

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

**871/15 That Council note with concern, despite the excellent efforts of Staff, the escalation of roadside litter on our main corridors and particularly on our beach road accesses.**

**872/15 That Council recognise the unacceptable cost to our ratepayers of this deliberate litter that is now exceeds more than \$3,400,000 in this term of Council alone.**

**873/15 That Council consider far more strident enforcement options including publishing those offenders prosecuted to combat the emerging tag of 'Litter Land'.**

**874/15 That Council request the General Manager, in the lead up to the summer litter season, to provide a litter reduction report exploring education and enforcement options, with a view to limiting the outrageous cost of deliberate litter to our ratepayers.**

**875/15 That Council request the General Manager to make representations to Mr Harris, Ms Catley, Mr Mehan the Local State Members and call on them to gain support for this initiative.**

**CONFIDENTIAL SESSION**

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

***876/15 That Council move into Confidential Session.***

At this stage of the meeting being 6.42pm council moved into Confidential Session with the members of the press and public excluded from the meeting of the closed session and access to the correspondence and reports relating to the items considered during the course of the closed session being withheld. This action is taken in accordance with Section 10a of The Local Government Act, 1993.

**OPEN SESSION**

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

***894/15 That Council move back into Open Session.***

Council resumed in open session at 7.30pm and the General Manager reported on proceedings of the confidential session of the ordinary meeting of council as follows:

**7.1 Warnervale Airstrip Maintenance Progress Report**

---

***877/15 That Council receive and note the report and endorse the actions taken to date.***

**7.2 Halekulani Oval / Colongra Land Swap and Sports Complex**

---

Councillor Vincent declared a non-pecuniary insignificant interest in the matter for the reason that he is an employee of Delta Electricity. Delta Electricity own the Colongra Land and now lease the land to Wyong Shire Council for a peppercorn rate and participated in consideration of this matter.

Councillor Vincent stated:

*“As this is a planning matter with a commercial element, I choose to leave the chamber and take no part in the voting.”*

Councillor Vincent left at 6.43pm, returned at 6.54pm, and as a result took no part in voting on this matter.

- 878/15 That Council **support** the land swap project including the construction of a sports complex at Colongra, upgrade of Halekulani Hall, Town Park and associated works.
- 879/15 That Council **endorse** the funding request of \$6,000,000 for Stage 1 Colongra works across 2015/2016 and 2016/2017.
- 880/15 That Council **endorse** the funding request of \$3,575,000 to be allocated in the Q1 review for 2015/16 (\$2,475,000 + \$1,100,000 for the Access Road to be found within the 2015/16 Capital Works Budget).
- 881/15 That Council **request** the General Manager, subject to the endorsement of the recommendations above, to issue a press release and associated plans in relation to this proposal.
- 882/15 That Council **direct** the General Manager to investigate what options are available to Council for the balance of Halekulani Oval which is currently proposed to be rezoned General Residential R1/seniors living and report to Council.

**7.3 Request to Vary Contract No. CPA/222145 - Upgrade to Mannering Park RFS Station Upgrade**

---

Councillor Troy declared a non-pecuniary insignificant interest in the matter for the reason that he is a current RFS member and participated in consideration of this matter.

Councillor Troy 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."*

- 883/15 That Council **approve** to vary Contract No. CPA/222145 – Upgrade to Mannering Park RFS Station for the total amount of \$105,000 (excl GST) which includes a contingency of 10% for the additional works.
- 884/15 That Council **approve** a total contract value of \$445,000 (excl GST).

At this stage of the meeting, the Mayor requested all staff to vacate the Chamber with the exception of the General Manager.

#### **7.4 Confidential Mayoral Minute – Appointment of Acting General Manager (Chief Executive Officer) and Related Matters**

---

Councillor Best left the meeting at 7.28pm, returned to the meeting at 7.30pm and as a result took no part in voting.

- 885/15** *That the Council endorse the creation of the position of “Assistant General Manager” in the organisational structure of Council, noting that position is to be within the General Manager’s Unit and report directly to the General Manager.*
- 886/15** *That the Council declare that the position of “Assistant General Manager” is the position of a designated person for the purposes of s. 441 of the Local Government Act 1993.*
- 887/15** *That the Council note and endorse the position description and contract of employment for the position of “Assistant General Manager”.*
- 888/15** *That the Council note and endorse the appointment of Mr Rob Noble to the position of Assistant General Manager by the current General Manager, such appointment to take effect on 11 September 2015.*
- 889/15** *That the Council appoint Mr Rob Noble as the Acting General Manager from 14 September 2015 until 14 March 2016, subject to satisfactory reference checks, and that the position be titled “Chief Executive Officer”.*
- 890/15** *That the total remuneration package (including superannuation and all motor vehicle costs associated with the chosen Council lease back vehicle) be set at \$7000 per week.*
- 891/15** *That an accommodation allowance be given to Mr Noble of \$500 per week*
- 892/15** *That the Council delegate to Mr Rob Noble, pursuant to s. 377 of the Local Government Act 1993, the functions and powers set out in the attached Instrument of Delegation for such period as Mr Noble is appointed to the position of Acting General Manager.*
- 893/15** *That the Council determine that this Mayoral Minute and the following attachments only are to remain confidential after the closing of this meeting, for the reasons that those documents include personnel matters concerning individuals (s. 10A(2)(a) of the Local Government Act 1993) and/or include commercial information of a confidential nature that would prejudice the commercial position of the person who supplied it (s. 10A(2)(d) of the Local Government Act 1993):*
- a Validation report provided to Council by Davidson Executive;*
  - b Proposed Contract of employment between Council and Mr Rob Noble for the position of Assistant General Manager.*

At this stage of the meeting, staff were invited to return to the Chamber.

**QUESTIONS ON NOTICE**

**Q32/15 Disabled Fishing Platform  
Councillor Doug Vincent**

*“Are Council staff aware of the community project to install a disabled fishing platform and hoist proposed for the Josh Porter reserve at Chain Valley Bay South.*

*Are staff supportive of this project applying for state government funding?”*

**Q33/15 Rates for Parks  
Councillor Doug Vincent**

*“Could staff please advise what rates residential parks pay?”*

**Q34/15 Community Litter Statistics and Education  
Councillor Ken Greenwald**

*“Does Council have any demographic statistics on what age groups maybe causing litter in Wyong Shire and what options may be used to target and educate the community on littering. Can the General Manager please advise how such statistics can be used?”*

**Q35/15 Osbourne Park  
Councillor Greg Best**

*“Mr Mayor,*

*As the local Independent Councillor for Toukley, I’ve been approached by the Leonard Avenue community, who were quite frustrated with anti-social behaviour in and around their park. Clearly this is a police matter, however, as often is the case it falls back to Council to try and assist.*

*In this particular case, as you can see by the memo below, the community is very satisfied with Council and indeed staff’s efforts in assisting them, in particularly the efforts of our Manager for Open Space, Mr Brett Sherar.*

*Would you please pass on to all those involved our appreciation in assisting the Toukley community?*

*“For and on behalf of the Residents of Leonard Ave.*

*Congratulations to Wyong Council.*

*For years we have had a problem with hoons and antisocial behaviour in Osbourne Park. We arranged a meeting with Councillor Greg Best and Mr Brett Sherar to find a solution to this problem. Within days we had answers. A big thank you to Wyong Council who operated in a professional and courteous manner.”*

**Q36/15 Video Conferencing Facilities  
Councillor Lloyd Taylor**

*“Mr General Manager,*

*Council is at the forefront of upgrading IT processes and has been working actively to bring the IT up to 2015 standards. Part of this process has been a full review and upgrade of software and hardware systems.*

*Council have just completed a rigorous process of recruiting an Acting General Manager for Wyong Shire Council. Part of the recruitment process has been to interview the prospective General Managers by Skype video conference interview.*

*Could the General Manager please advise if Council has the ability to currently utilise this technology in house and if not what is the cost for Council to setup this technology at Council?”*

**THE MEETING** closed at 7.38pm.



## **1.5 Notice of Intention to Deal with Matters in Confidential Session**

---

TRIM REFERENCE: F2015/00040-02 - D12059656  
MANAGER: Lesley Crawley, Manager Corporate Governance  
AUTHOR: Jacquie Elvidge; Councillor Services Officer

### **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 matter in Confidential Session, pursuant to Sections 10 A (2)(c) of the Local Government Act 1993:**
  - 7.1 - Extension of Contract for Lake Haven Recreation Centre and Wyong Pool**
  - 7.2 - The Entrance Town Centre - Proposed Fees and Charges Amendments**
  - 7.3 - Warnervale Airport – Amphibian Aircraft International (AAI)**
- 2 That Council note its reason for considering Report No 7.1 – Extension of Contract for Lake Haven Recreation Centre and Wyong Pool, Report No 7.2 - The Entrance Town Centre - Proposed Fees and Charges Amendments and Report No 7.3 - Warnervale Airport – Amphibian Aircraft International (AAI), 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.**
- 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(b) the personal hardship of any resident or ratepayer,*

*2(c) information that would, if disclosed, confer a commercial advantage on a person with whom the Council is conducting (or proposes to conduct) business,*

*2(d) commercial information of a confidential nature that would, if disclosed:*

*(i) prejudice the commercial position of the person who supplied it, or*

*(ii) confer a commercial advantage on a competitor of the Council, or*

## **1.5 Notice of Intention to Deal with Matters in Confidential Session (contd)**

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*(iii) reveal a trade secret,*

*2(e) information that would, if disclosed, prejudice the maintenance of law,*

*2(f) matters affecting the security of the Council, Councillors, Council staff or Council property,*

*2(g) advice concerning litigation, or advice that would otherwise be privileged from production in legal proceedings on the ground of legal professional privilege,*

*2(h) information concerning the nature and location of a place or an item of Aboriginal significance on community land.*

*2(i) alleged contraventions of any code of conduct requirements applicable under section 440.”*

### **ATTACHMENTS**

Nil

## 2.1 Planning Proposal to Rezone Land at Lake Road Tuggerah - Pioneer Dairy - Results of Public Exhibition

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TRIM REFERENCE: RZ/6/2013 - D12021008

MANAGER: Tanya O'Brien, Manager

AUTHOR: Peter Kavanagh; Senior Planner

### SUMMARY

A planning proposal has been prepared which affects land at Lake Road, Tuggerah, known as Pioneer Dairy, currently zoned partly E2 Environmental Conservation, E3 Environmental Management and IN1 General Industrial. The proposal is to rezone parts of the site to RE1 Public Recreation to enable development of a regional sporting facility, as well as facilitating a variety of community uses and fundraising activities.

This report details the results of community consultation in relation to the Public Exhibition of the Planning Proposal, as well as the procedures required to finalise the Local Environmental Plan (LEP) amendment. Two submissions were received, and this report recommends proceeding to finalise the LEP.

Applicant	Tuggerah Lakes Reserve Trust and Wyong Shire Council
Owners	Tuggerah Lakes Reserve Trust and Wyong Shire Council
Proposal No	RZ/6/2013
Description of Land	Lot 1, DP 1186260, Lot 1, DP 585323; Lot 7316, DP 1155188; Lot 2, DP 1186260; and Lot 3, DP 1186260, Lake Road, Tuggerah, known as Pioneer Dairy.
Total Land Area	170.54Ha
Current Zoning	Part E2 Environmental Conservation; Part E3 Environmental Management; and Part IN1 General Industrial.
Proposal	To rezone 49.36Ha (total) of the site to enable development of a regional sporting facility, and fundraising activities to facilitate educational, environmental and community uses on the site. To retain the E2 Environmental Conservation and E3 Environmental Management zones on the remaining 121.18Ha.
Existing Use	Largely vacant, with heritage farming structures and dwellings.

### RECOMMENDATION

- 1 That in accordance with Council's resolution 743/14 of 23 July 2014, Council request the General Manager to exercise the Written Authorisation to Exercise Delegation for RZ/6/2013, and proceed with the steps for drafting and making of the amendment to Wyong Local Environmental Plan 2013 (Amendment No.20).***
- 2 That Council advise all those who made submissions of Council's decision.***

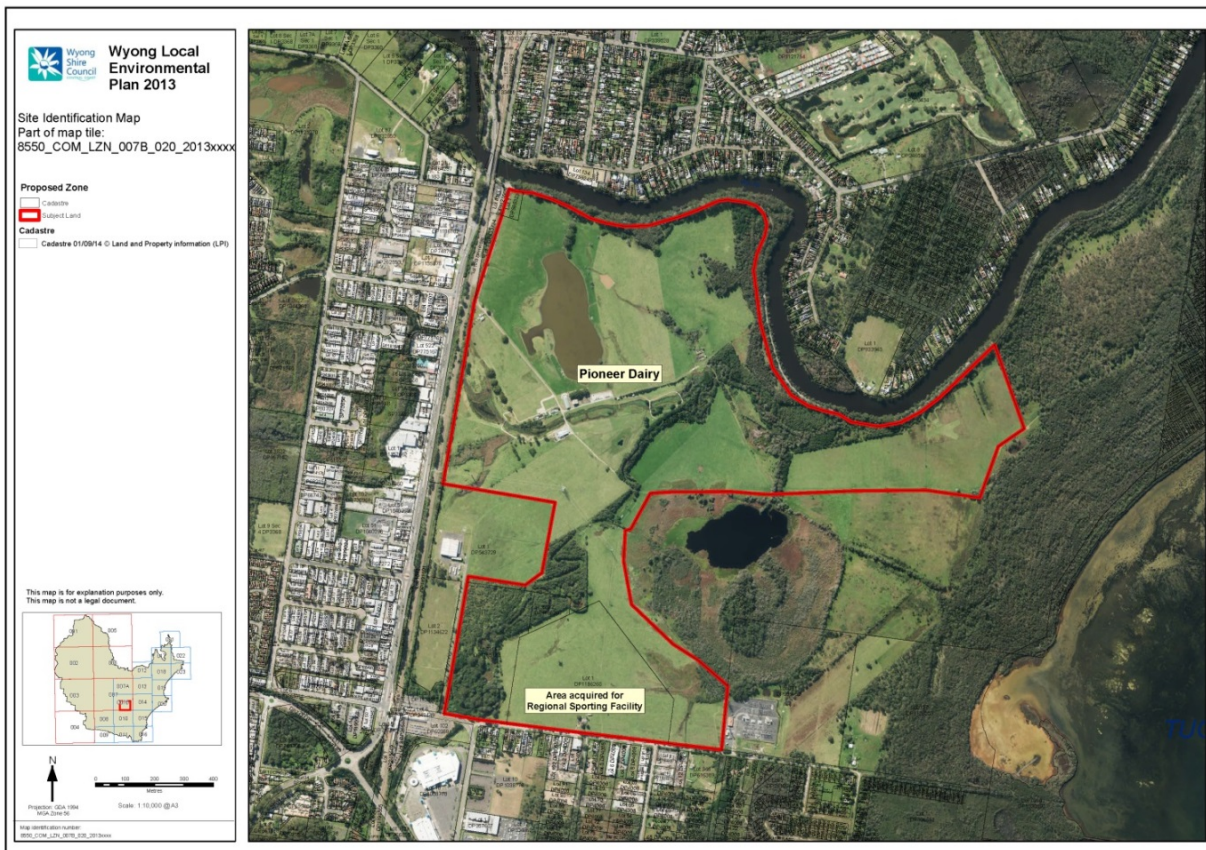
## 2.1 Planning Proposal to Rezone Land at Lake Road Tuggerah - Pioneer Dairy - Results of Public Exhibition (contd)

### BACKGROUND

On 23 July 2014, Council resolved to prepare a Planning Proposal to amend the Wyong Local Environmental Plan (WLEP 2013) to rezone the land comprising the former Tuggerah Pioneer Dairy to zone RE1 – Public Recreation. This was proposed to enable development of part of the land fronting Lake Road for a regional sporting facility, as well as facilitating a variety of community uses and activities on the remainder of the site.

The RE1 zone increases the range of uses on the site while complimenting opportunities for environmental conservation, environmental education and tourism on the site. Subsequently development of this nature could generate funding opportunities for the ongoing maintenance of the site and its facilities. It is noted that the RE1 zone had been applied to similar high value recreational and sensitive sites, e.g., Centennial Park in Sydney.

The site is owned by the Crown and managed by the Tuggerah Lake Reserve Trust (“the Trust”). It is located on the eastern side of the Great Northern Rail Line, south of Wyong River and accessed from South Tacoma Road. Lands to the east fronting the Wyong River and the Tuggerah Lake foreshore are managed by the NPWS (refer Figure 1).



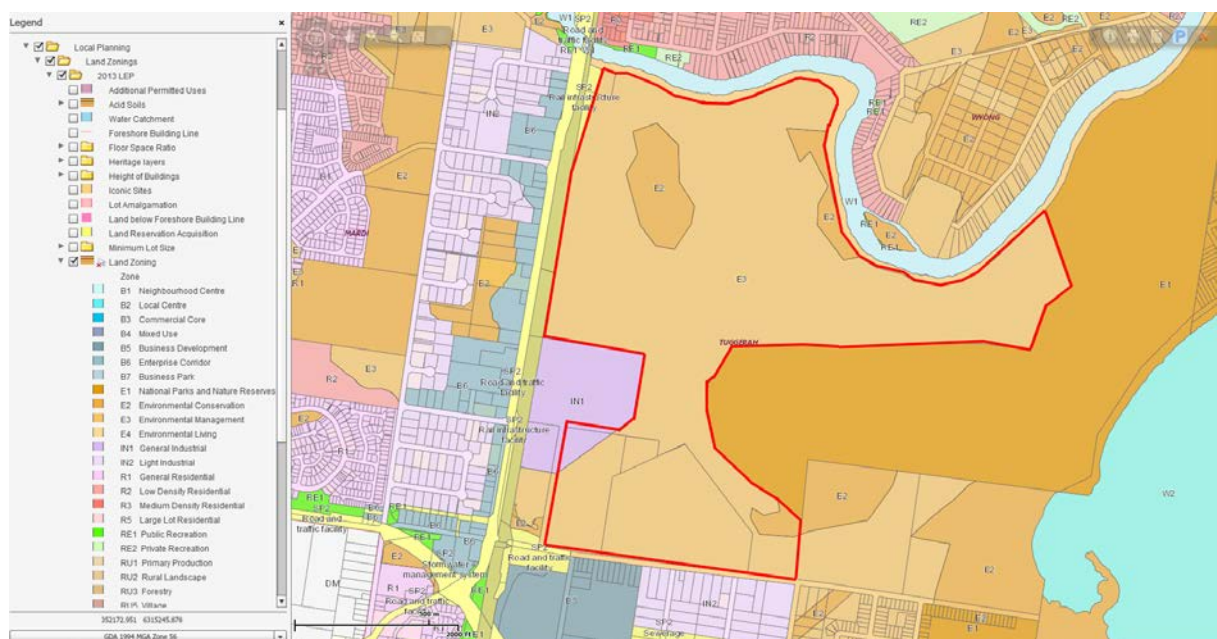
**Figure 1:** Pioneer Dairy Site Boundaries and Locality Plan - The area referred to as the “Pioneer Dairy Site” is within the red boundary. The area which has been acquired by Council for the Regional Sporting Facility is identified at the southern end of the site, being the cleared area within the fine black boundary and accessed from Lake Road.

## 2.1 Planning Proposal to Rezone Land at Lake Road Tuggerah - Pioneer Dairy - Results of Public Exhibition (contd)

The site is well suited to environmental education activities, being adjacent to State Significant wetlands and containing intermittent wetland areas and riverine EEC vegetation, as well as leased open grazing paddocks which reflect the historic usage of the land. The identified (European) Heritage Precinct at the northern end of the site, which contains the original dwelling house and sleepout, an additional managers' residence, grain silos and remnants of the milking bays, are being carefully restored by The Trust. The site provides a community connection to dairying practices which were widespread in the Wyong district from the 1830s.

The Trust intends to continue to use the site for environmental education and to generate funding sources for the upkeep and development of the land through activities which may include community meetings and functions, historic talks and tours, tea rooms, organic produce and craft markets, artist/sculptor exhibits and musical performances, community gardens, wetland education and sustainability centre, picnicking, bird-watching, and so on.

Council has recently acquired from the Crown, 18.28 hectares of land, now called Lot 1 DP 1186260, at the southern end of the site fronting Lake Road (refer Figure 1). Council intends to facilitate the development of this area of land for a regional sporting facility, in two stages. Stage 1 will provide playing fields and an amenities block, which is achievable under the current zoning (refer Figure 2).



**Figure 2:** Current E2, E3 and IN1 Zonings - Pioneer Dairy Site

Stage 2 of the regional sporting facility requires the RE1 zoning over this area of land as it will provide for nine international standard sporting and practice fields, grandstand, clubhouse, childrens' playground, 1.8 km cycling track, fitness track and stations, amenities, coach and car parking.

In consideration of the overall proposals for the land, Council originally sought to rezone relevant areas of the site to RE1 (excluding the E2 lands), to facilitate these future uses (refer Figure 3).





**Figure 3:** Original Rezoning Proposal

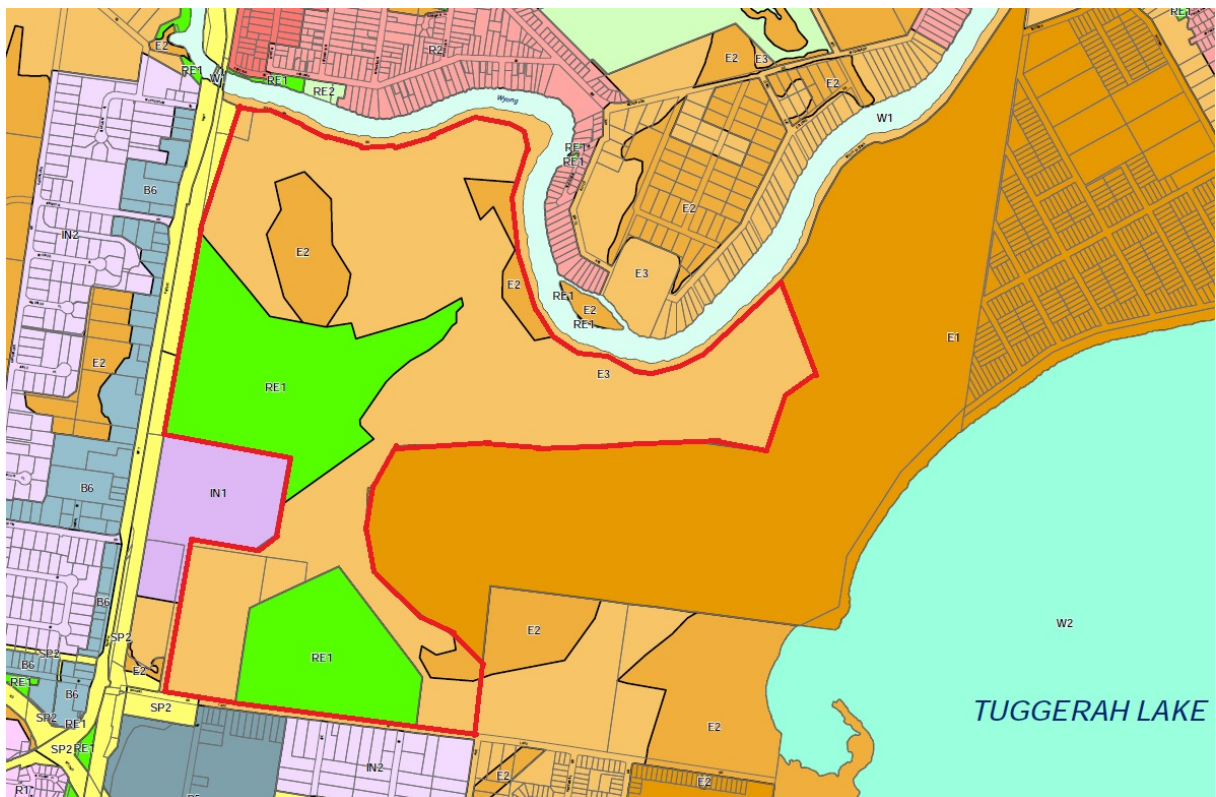
Following environmental investigation of the proposal, and having received input from stakeholders including NSW Government Agencies and the Tuggerah Lakes Reserve Trust, the proposal was modified to reduce the area proposed to be rezoned to RE1 Public Recreation to 2 separate smaller focal areas (refer Figure 4). These proposed RE1 areas comprise 31.02Ha surrounding and including the Historic Dairy buildings, and 18.34Ha adjacent to Lake Road to be used for the Regional Sporting Facility (total 49.36Ha).

The revised proposal enables large areas of the site (116.21Ha) to retain the E3 Environmental Management Zone (with the 40Ha minimum subdivision requirement maintained) and for the existing E2 Environmental Conservation Zoned areas (12.57Ha) to be retained unchanged. Further, a triangular area of land administered by the Trust and located adjacent to land owned by Wyong Coal Ltd., is to be rezoned and added to the E3 Environmental Management zone. This area (1.92Ha) is currently zoned IN1 General Industrial, is affected by the 1% AEP Flood and has limited development potential. The proposed E3 Environmental Management zone is to enable environmental protection of this riparian area and the buffer it provides to the adjacent EECs (Endangered Ecological Community), being the River Flat or Swamp Sclerophyll Forest EEC and the Sydney Freshwater Wetlands EEC.

## 2.1 Planning Proposal to Rezone Land at Lake Road Tuggerah - Pioneer Dairy - Results of Public Exhibition (contd)

The IN1 zoning currently over this area of the land reflects the previous 4(a) General Industrial Zone under the WLEP 1991. This element of the Planning Proposal (rezoning to E3 Environmental Management) is in recognition that the subject area of land on the western side of the EEC was always part of the Dairy estate, is affected by the 1% AEP Flood and has limited development potential, and that significant government funding and labour by volunteers in recent years has seen the intensive planting and rehabilitation of this riparian buffer area (refer Figure 1).

The Wyong Employment Lands and Industrial Land Audit (Feb, 2013) indicates that with a pro-rata demand figure of 7.7Ha per year, the Shire has a vacant zoned industrial land supply of 391Ha - exceeding 50 years demand (Best Practice is considered to be 8-10 years). Council has consulted with NSW Trade and Investment – Resources and Energy, as well as NSW Department of Primary Industries – Agriculture, who have each advised that they have no issues to raise in relation to the proposed rezoning of the IN1 zoned land, or any other aspect of the Planning Proposal.



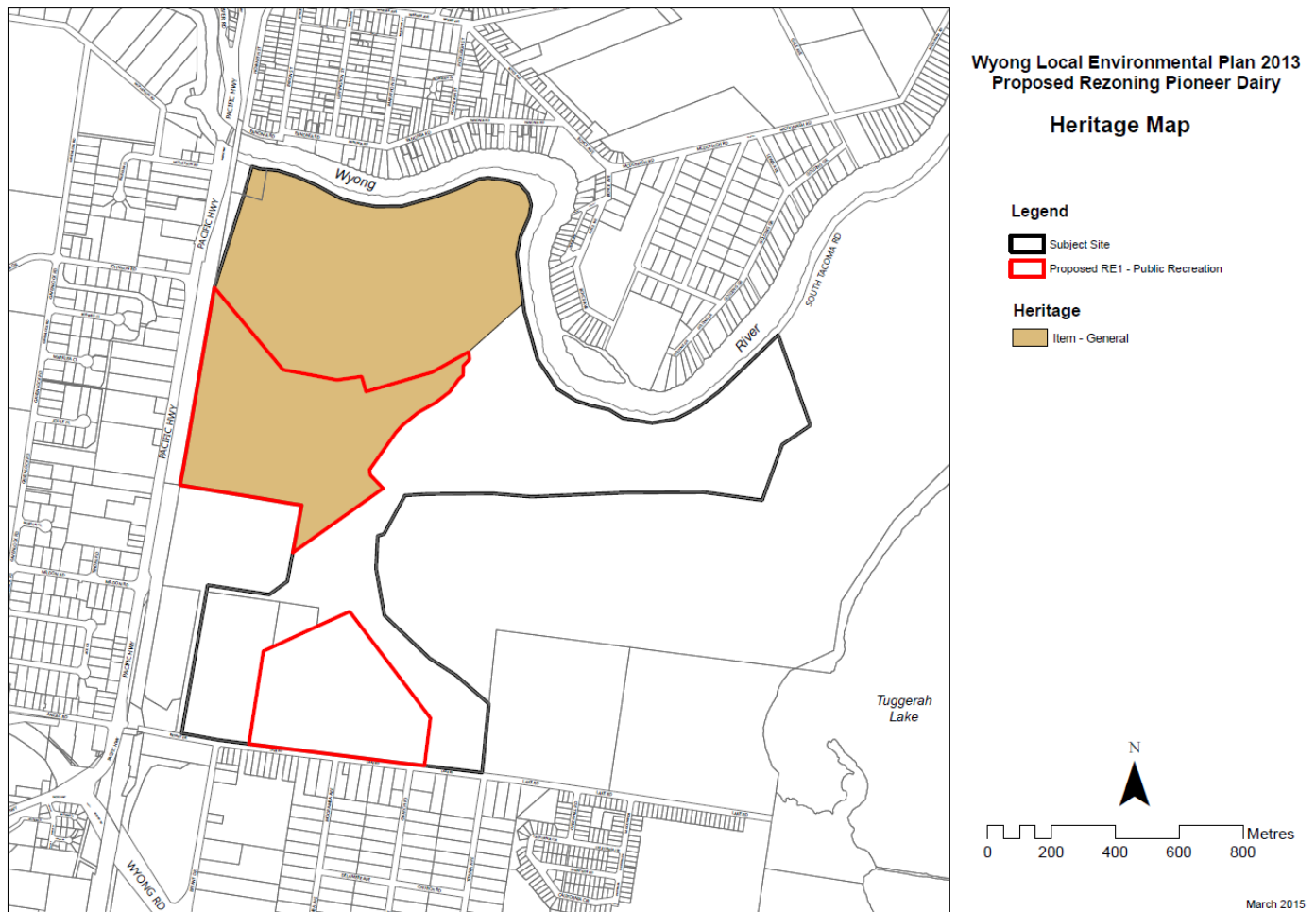
**Figure 4:** Pioneer Dairy Site, indicating areas of the site to be rezoned to RE1 – Public Recreation

### Heritage

The entire Pioneer Dairy site is currently identified on the WLEP Heritage Map Sheet (HER\_007B), and by Schedule 5 of the WLEP (Clause 5.10), as Item I103 of (European) Local Heritage significance. In order to consider and determine whether the rezoning proposal and subsequent development proposals for the land would be likely to impact the heritage values of the site, Council contracted CoAssociates Pty Ltd to conduct a Heritage Curtilage Assessment of the land.

## 2.1 Planning Proposal to Rezone Land at Lake Road Tuggerah - Pioneer Dairy - Results of Public Exhibition (contd)

The assessment analysed the significance of the Pioneer Dairy to the history of Wyong and the Region, the condition and heritage significance of the structures on site, and their relationship to the surrounding land. The analysis determined that the area of “Significant Heritage Curtilage” (coloured brown on Figure 5 below) is actually restricted to the visual catchment within the northern part of the site. This area contains the grazing paddocks surrounding the original dwelling house and sleepout, an additional managers’ residence, grain silos and remnants of the original milking bays, and can be defined as now represented on the draft WLEP 2013 Heritage Map Sheet HER\_007B. This “Significant Heritage Curtilage” boundary has also assisted in defining the southern boundary of the proposed RE1 Public Recreation zone (refer Figure 5).



**Figure 5:** Proposed Heritage Curtilage and overlay of RE1 zone

### THE PROPOSAL

The Planning Proposal is principally to amend the Land Zoning Map to rezone two areas of the site to RE1 – Public Recreation (shown green and lettered RE1 in Figure 4 above), and to amend an area currently zoned IN1 General Industrial to E3 Environmental Management. The remainder of the site will retain the current zonings.

In addition there are proposed changes to the Heritage Map, Lot Size Map, and Lot Amalgamation Map. No amendments to the text of the WLEP 2013 are required. The following table identifies the proposed map amendments to the WLEP required to facilitate the desired outcome:



Existing Provision	Proposed Amendment	Rationale
<p><b>Heritage Map</b> (8550_COM_HER_007B_020_20131125)</p>	<p>Amend map to exclude the area within the site which is outside the identified "Significant Heritage Curtilage".</p>	<p>To reflect the amended curtilage recommended by CoAssociates Pty. Ltd in their Heritage Curtilage Assessment of the site.</p>
<p><b>Land Zoning Map</b> (8550_COM_LZN_007B_020_20140512)</p>	<p>Amend land currently zoned E3 Environmental Management Zone, to zone RE1 – Public Recreation Zone in two separate areas.</p> <p>Amend a triangular portion of land zoned IN1 – General Industrial, to zone E3 Environmental Management Zone.</p> <p>Retain the predominant zoning for the site as E3 Environmental Management.</p> <p>The areas of the land zoned E2 Environmental Conservation Zone remain unchanged.</p>	<p>Facilitate potential uses proposed for the land such as organic produce and products markets, kiosk, entertainment facility, or short-term camping experiences, as well as the regional sporting facility.</p> <p>This area of land has been environmentally restored over many years with grants and volunteer labour. The proposed E3 zoning is to protect the ecological works and secure the land for environmental management.</p> <p>The E3 zone is appropriate for management of open lands, treed and riparian vegetated areas on the site.</p> <p>The E2 zone is appropriate for this area and allows management of sensitive areas of the land, including EECs.</p>
<p><b>Lot Amalgamation Map</b> (8550_COM_LAM_007B_020_20131125)</p>	<p>Amendment to exclude the subject land</p>	<p>The removal of the Lot Amalgamation affectation, which previously covered the southern portion of the site (including Lot 1 DP 1186260) is essentially a "housekeeping" matter, as this provision is not applied to RE zones, or to lands in public ownership. Council has now refined its original sporting facility design concept such that the area required for the sporting facilities is contained within the area it has now acquired (Lot 1), and does not require the other lands originally identified for possible inclusion.</p> <p>The remaining land is owned by the Crown and managed by a Trust for the purposes of Public Recreation and Coastal Environmental Protection, and as such amalgamation is not required.</p>
<p><b>Lot Size Map</b> (8550_COM_LSZ_007B_20140512)</p>	<p>Amendment to exclude the areas to be rezoned to RE1 Public Recreation from the minimum lot size provision.</p> <p>Retain the minimum lot size controls for the portions of the site zoned E2 Environmental Conservation and E3 Environmental Management.</p>	<p>This retains the environmental protection standards currently applying to the E2 and E3 zoned areas of the site, by preventing further fragmentation of the land.</p>

**Table 1:** Explanation of Proposed Mapping Changes under the Planning Proposal

## **CURRENT STATUS**

In accordance with the DP&E Gateway Determination dated 10 October, 2014, consultation with the following Public Authorities was conducted:

- Local Land Services – Greater Sydney Region;
- Transport for NSW;
- Transport for NSW – Roads and Maritime Services;
- NSW Rural Fire Service (S117 Direction 4.4 Planning for Bushfire Protection);
- Department of Primary Industries – Agriculture (S117 Direction 1.2 Rural Zones);
- Office of Environment and Heritage (S117 Direction 2.1 Environment Protection Zones & Direction 2.3 Heritage Conservation);
- Mine Subsidence Board (S117 Direction 4.2 Mine Subsidence and Unstable Land);
- NSW National Parks and Wildlife Services;
- NSW Trade and Investment – Resources and Energy (S117 Direction 1.3 Mining, Petroleum Production and Extractive Industries);
- NSW Trade and Investment Crown Lands (S117 Direction 6.2 Reserving Land for Public Purposes);
- Darkinjung Local Aboriginal Land Council (S117 Direction 2.3 Heritage Conservation);
- Guringai Tribal Link Aboriginal Consultative Group (S117 Direction 2.3 Heritage Conservation); and
- The Tuggerah Lake Reserve Trust.

The responses of the above Authorities were taken into account and resulted in variation from the original concept to the current Planning Proposal. On the basis of these views and further consideration by the Secretary of the DP&E, a revised gateway determination was issued on 26 May 2015.

Having received this endorsement, the proposal was placed on Public Exhibition in accordance with the gateway determination.

## **CONSULTATION**

The Planning Proposal was placed on public exhibition and adjoining owners were notified in writing seeking their comments between Wednesday 17 June and Wednesday 17 July 2015. This exhibition was conducted via Council's website, Tuggerah Library and at the Pioneer Dairy site. The results of the exhibition are detailed below.

Council received 2 submissions in support of the proposal and no objections.

## 2.1 Planning Proposal to Rezone Land at Lake Road Tuggerah - Pioneer Dairy - Results of Public Exhibition (contd)

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- A submission was received from the Tuggerah Lakes Reserve Trust, who endorsed the proposals for the site.
- A submission was received from the Darkinjung Local Aboriginal Land Council (DLALC), whilst not objecting to the rezoning proposal, made the following points for Council to note:
  - Each of the parcels of land within the site are the subject of Land Claims lodged with NSW Crown Lands under the Aboriginal Land Rights Act, the earliest lodged in 2004. As these Claims are current, Crown Lands (or any other body, i.e., Council) must engage DLALC prior to granting any consent for improvements. Further:
    - When the DLALC Claims are successful, Council should rezone the land to RE2 Private Recreation, or return it to E3 Environmental Management, at no cost to DLALC;
    - The proposed internal access roads should be made “public roads”; and
    - A registered Aboriginal Place is located on adjoining Lot 32 DP1096069. Tacoma and South Tacoma have been important Aboriginal campsites and meeting places prior to and for the whole of European occupation. There may be Aboriginal sites located within the Dairy’s boundaries. DLALC requests that a survey be carried out by an archaeologist and Aboriginal stakeholders.

**Comment:** The Tuggerah Pioneer Dairy land is a dedicated reserve, administered by a Trust. Council has acquired Lot 1, DP 1186260, and proposes to develop a Regional Sporting Facility on the land. This land is classified “operational land”, held in freehold title and is not public reserve. While Council notes the advice of DLALC, these Claims have not yet been resolved. The existing use of the sites is in line with community needs and provides cultural, recreational and social benefits.

Due Diligence Assessment of Aboriginal Heritage for the Dairy site and the locality, including AHIMs search (with buffers of 50m and 200m), as well as search of Council’s database, determined no Aboriginal sites or places within 200m of any part of the existing Pioneer Dairy lands. Notwithstanding, Council’s database does identify Aboriginal Heritage Sites on adjacent lands owned by Railcorp (to the west), Transgrid (to the east), and National Parks and Wildlife Service (NPWS) (to the east). Further, a significant Aboriginal Place (Reburial Ground) does exist adjacent to the Tuggerah Lake foreshore on the adjoining NPWS estate, approximately 800m east of the area proposed for the Regional Sporting facility (RE1 zone). The rezoning proposal has no impact on any of these sites or the Aboriginal Place, managed by the NPWS.

Further investigation would be conducted with future development application assessment requirements (e.g., for the playing fields), and should any new sites or objects be identified during assessment and development phases, work would be stopped and further detailed investigations undertaken to determine appropriate future courses of action at that time.

There is clear potential for additional Aboriginal sites to occur in the locality, and in preparing the application for the development of the Sporting Facility, an archaeological survey of the entire former dairy site should be conducted, involving local Aboriginal stakeholders to inform the Development Application. This advice has been discussed and forwarded to Council’s Open Space and Recreation Unit for action as part of developing a future application.

## **PROCEDURE FOR FINALISATION**

On 26 May 2015 the NSW DP&E issued an altered gateway determination enabling the public exhibition of the planning proposal and extending the required date for completion of the process. The determination also delegated the making of the plan to Council.

In order to progress finalisation of the plan Council will seek Parliamentary Counsel opinion so that the Plan can legally be made. Subsequently, the General Manager will be provided with a request to make the Plan under Delegation from the Minister for Planning and Environment. The amendment is known as WLEP 2013 – Amendment No.20.

Following Notification that the Plan has been made on the NSW Legislation website, Council may receive and determine development applications for permissible uses on the land.

## **CONCLUSION**

Council has prepared and exhibited a Planning Proposal to amend the WLEP 2013 to rezone parts of the land comprising the former Tuggerah Pioneer Dairy, to the RE1 – Public Recreation Zone and the E3 Environmental Management Zone. The requirements of the gateway determination have been fulfilled and NSW Agency matters have been resolved. No objections were received to the proposal and it is recommended that Council proceed to finalise Amendment No. 20 to the WLEP 2013.

## **ATTACHMENTS**

*Nil.*

### **3.1 CPA/254965 Environmental Monitoring Program - Buttonderry Waste Management Facility & Inactive Landfill Sites**

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TRIM REFERENCE: CPA/254965 - D12021636

MANAGER: Andrew Pearce, Manager

AUTHOR: Kristy Ducksbury; Project Manager, CPM Team 2

#### **SUMMARY**

Evaluation and selection of tenders for Contract CPA/254965 – Environmental Monitoring Program – Buttonderry Waste Management Facility & Inactive Landfill Sites

*“Councillors are reminded that the name of the successful tenderer will be released after resolution of this item. This means that the contents of Attachment A cannot be disclosed during discussion in the open session of the Council meeting.”*

#### **RECOMMENDATION**

- 1 That Council accept the tender from the company nominated as Tenderer No 13 in the attached Tender Evaluation Report for the amount of \$440,889.95 (excl GST) for this Contract which is inclusive of the lump sum contract value and estimated value of additional works as per the schedule of rates.**
- 2 That Council approve a contingency sum as detailed in the Tender Evaluation Report in Attachment A**
- 3 That Council determine 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, except for the name of the successful tenderer, which may be disclosed after Council has resolved to accept that tender tenders.**

#### **BACKGROUND**

Council is seeking to engage a suitably qualified and experienced consultant to undertake and report on the results of a routine environmental monitoring program for each of the six former landfill sites and Buttonderry Waste Management Facility for a period of three years in accordance with the requirements of the brief.

The contract was broken down into a lump sum amount for non-voluntary environmental monitoring works that are completed in accordance with EPA requirements and a schedule of rates for environmental monitoring works that are currently conducted on a voluntary basis at Buttonderry Waste Management Facility. These works include quarterly sub surface and surface gas monitoring, leachate pond monitoring, sediment pond monitoring and preparing environmental incident notification reports for the EPA as required. These works are variable and subject to change over the contract period which is why they have been included as a schedule of rates item.

## **CONTRACT PLAN**

The Contract Plan for this tender process was approved by the Director Property and Economic Development before the Request for Tender was issued. The approved Contract Plan is in TRIM D11809614.

## **INVITATION TO TENDER**

The tender was advertised in the Sydney Morning Herald, Advertiser and eTender on 14/04/2015 and closed on 7/05/2015 at 2:00:00 PM.

The invitation documents called for lump sum tenders, based on a detailed specification, the brief also asked for additional rates to be supplied for works currently undertaken at Buttonderry Waste Management Facility on a voluntary basis.

Tenders closed at Council's Chambers at 2.00pm on 7/05/2015. As the award of this contract has been delayed, the preferred tenderer has been approached and have agreed to extend the tender validity period until the end of 2015.

## **TENDER SUBMISSIONS**

The following tenders were received and are listed in alphabetical order:

- Amec Foster Wheeler Australia Pty Ltd
- DLA Environmental
- Douglas Partners Pty Ltd
- Environmental Earth Sciences NSW
- Environmental Resources Management Australia Pty Ltd
- Geo-logix
- GHD Pty Ltd
- Golder Associates
- Greencap - NAA Pty Ltd
- Hazmat Services Pty Ltd
- Kleinfelder Australia Pty Ltd
- KMH Environmental Pty Ltd
- Mike Ritchie and Associates
- Parsons Brinckerhoff
- Robert Carr & Associates
- SEMF Pty Ltd
- Simtars
- Simmonds & Bristow Pty Ltd
- Sydney Environmental & Soil Laboratory
- Thiess Services Pty Ltd
- WAPCON Pty Ltd

No late submissions were received.

## TENDER EVALUATION

All members of the Tender Evaluation Panel have signed Pecuniary Interest Declarations. No pecuniary interests were noted.

The relative ranking of tenders as determined from the total weighted score is provided in the Confidential Tender Evaluation Report – Attachment A.

All submissions were assessed in accordance with the approved evaluation criteria being:

- a. Compliance with Tender requirements, including lodgement by Closing Time.
- b. Tenderer has a quality assurance system independently certified by a JAS-ANZ accredited assessment body
- c. Local Content
- d. The tendered price and structure; as well as any other potential costs to Council that may be identified
- e. Recent experience and performance of company and individual project team members in the environmental monitoring field

## FINANCIAL IMPLICATIONS

There are sufficient funds allocated for this contract within the current year's closed landfill waste remediation funds and Buttonderry Waste Management Facility operating budget. A budget of \$600,000 has been allocated across the following project numbers;

Gwandalan – P/N 13099  
Mardi – P/N 10610  
Tumbi – P/N 13100  
Shelly Beach – P/N 13235  
Toukley – P/N 14054  
Warnervale – P/N 15681  
BWMF – P/N 15872 & 14864

## RELEVANT LEGISLATION

The tender has been conducted in accordance with the *Local Government Act 1993*, the *Local Government (General) Regulation 2005* and Council's Procurement Policy.

Information provided by tenderers which is commercial-in-confidence has been protected and will not be disclosed in accordance with section 10A(2)(d) of the *Local Government Act 1993*. A consistent standard for all tenderers has been used in assessing any request for confidentiality by a tenderer.

## CRITICAL DATES / TIME FRAMES

Monitoring will commence in September 2015 and is expected to be completed in September 2018.

**RISK**

This contract has been assessed as a medium risk contract. The key risks and mitigations measures have been addressed in the Contract Plan which is on the TRIM file D11809614.

**PROCESS REVIEW**

The Tender evaluation and this Report and recommendations have been endorsed in TRIM by the Commercial Manager, Contracts and Project Management.

**OPTIONS / ALTERNATIVES**

Council has the option of not proceeding with this contract by resolving not to accept an offer from any of the Tendering parties. This option is not recommended.

**PUBLIC CONSULTATION**

No public consultation specific to this contract was necessary and none has occurred.

**ATTACHMENTS**

- |   |  |           |
|---|--|-----------|
| 1 | Confidential Attachment - T144 - CPA/254965 - Tender Evaluation Report - Environmental Monitoring Program BWMF & Inactive Landfill Sites - | D12043508 |
|---|--|-----------|



### **3.2 CPA/260313 - Collection of Bulk Mixed Waste and Recyclable Materials for Central Coast Holiday Parks**

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TRIM REFERENCE: CPA/260313 - D12033616

MANAGER: Andrew Pearce, Manager

AUTHOR: Reg Norris; Engineer

#### **SUMMARY**

Evaluation and selection of tenders for Contract CPA/260313 - *Collection of Bulk Mixed Waste and Recyclable Materials for Central Coast Holiday Parks*.

*"Councillors are reminded that the name of the successful tenderer will be released after resolution of this item. This means that the contents of Attachment A cannot be disclosed during discussion in the open session of the Council meeting."*

#### **RECOMMENDATION**

- 1 That Council accepts the tender from the company nominated as Tenderer '4' in the attached Tender Evaluation Report, for the estimated total amount of \$408,678 (excl GST) over the 28 Month period, however actual expenditure will vary with fluctuations in demand and CPI (All groups-Sydney) .**
- 2 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, except for the name of the successful tenderer(s), which may be disclosed after Council has resolved to accept that tender/those tenders.**
- 3 That Council approve the contingency sum as detailed in the Tender Evaluation Report in Attachment A.**

#### **BACKGROUND**

The Contract will encompass the provision of Bulk Mixed Waste collections services, Bulk Recyclable Material collection services and provision of cleaning and maintenance to bulk bins and containers for Council's four (4) Holiday Parks.

The location of Councils four holiday parks are:

1. Toowoon Bay Holiday Park – Koongara St, Toowoon Bay NSW
2. Norah Head Holiday Park – Victoria St, Norah Head NSW
3. Canton Beach Holiday Park – Oleander St, Canton Beach NSW
4. Budgewoi Holiday Park – Weemala St, Budgewoi NSW

The current contract for the provision of Bulk Mixed Waste collection services is set to conclude on the 30 September 2015.

### **CONTRACT PLAN**

The Contract Plan for this tender process was approved by the Director, Property and Economic Development before the Request for Tender was issued. The approved Contract Plan is in TRIM D11940703.

### **INVITATION TO TENDER**

The tender was advertised in the Sydney Morning Herald, and published via eTender on 23 June 2015 and the Central Coast Advocate on 24 June 2015 and closed on 16 July 2015.

The invitation documents called for a schedule of rates tender submission, based on a detailed specification.

Tenders closed at Council's Chambers at 2.00 pm on 16 July 2015

### **TENDER SUBMISSIONS**

The following tenders were received and are listed in alphabetical order:

- J R Richards and Son
- Remondis Australia Pty Ltd
- Transpacific Cleanaway Pty Ltd
- Veolia Environmental Services

No late submissions were received.

### **TENDER EVALUATION**

All members of the Tender Evaluation Panel have signed Pecuniary Interest Declarations. No pecuniary interests were noted.

The relative ranking of tenders as determined from the total weighted score is provided in the Confidential Tender Evaluation Report – Attachment A.

All submissions were assessed in accordance with the approved evaluation criteria being:

- a) Price;
- b) Experience in the Specific Field;
- c) Past performance –evidence of satisfactory implementation of corporate systems to manage environmental ,safety and quality;
- d) Proven performance in the specific field-from referee checks

### **FINANCIAL IMPLICATIONS**

There are sufficient funds allocated for this contract within the Long Term Financial Plan-2015-2019 .The source of funding is provided under CPA/260313.

**RELEVANT LEGISLATION**

The tender has been conducted in accordance with the *Local Government Act 1993*, the *Local Government (General) Regulation 2005* and Council's Procurement Policy.

Information provided by tenderers which is commercial-in-confidence has been protected and will not be disclosed in accordance with section 10A(2)(d) of the *Local Government Act 1993*. A consistent standard for all tenderers has been used in assessing any request for confidentiality by a tenderer.

**CRITICAL DATES / TIME FRAMES**

The existing contract for the Collection of Bulk Mixed Waste and Recyclable Materials from the Central Coast Holiday Parks completes on 30 September 2015.

The Letter of Acceptance for this contract needs to be sent to the successful tenderer in September 2015; with tender commencement date being on 1 October 2015.

The period of the contract is from 1 October 2015 to 31 January 2018 (28 Months). This latter date coincides with the completion of the residential and commercial contract currently with Council.

At that point in time Council could look at the possible cost benefits of calling a combined contract in 2018 for residential, commercial as well as the Council's holiday parks.

**RISK**

This contract has been assessed as generally a low risk contract. The key risks and mitigations measures have been addressed in the Contract Plan.

**REGULATORY APPROVALS**

The following regulatory approvals have been obtained for this Contract:

- Nil

**PROCESS REVIEW**

The Tender evaluation and this Report and recommendations have been endorsed in TRIM by the Commercial Manager, Contracts and Project Management.

**OPTIONS / ALTERNATIVES**

Council has the option of not proceeding with this contract by resolving not to accept an offer from any of the Tendering parties. This option is not recommended.

**3.2 CPA/260313 - Collection of Bulk Mixed Waste and Recyclable Materials  
for Central Coast Holiday Parks (contd)**

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**PUBLIC CONSULTATION**

No public consultation specific to this contract was necessary and none has occurred.

**ATTACHMENTS**

- |   |  |           |
|---|--|-----------|
| 1 | Confidential Attachment A - Collection of Bulk Waste and Recyclable<br>Materials for Central Coast Holiday Parks- Tender Evaluation Report - | D12042450 |
|---|--|-----------|

### **3.3 CPA/257587 - Hire of Minor Plant and Miscellaneous Equipment 2015-2017**

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TRIM REFERENCE: CPA/257587 - D11993877

MANAGER: Andrew Pearce, Manager

AUTHOR: Sue McKinnon; Administration and Financial Supervisor

#### **SUMMARY**

Evaluation and selection of tenders for Contract CPA/257587 - Hire of Minor Plant and miscellaneous Equipment 2015-2017

*"Councillors are reminded that the name of successful tenderers will be released after resolution of this item. This means that the contents of Attachment A or Attachment B cannot be disclosed during discussion in the open session of the Council meeting."*

#### **RECOMMENDATION**

- 1 That Council accept all conforming tenderers received in the attached Tender Evaluation Report, for a period of up to 2 years for Contract CPA/257587 – Hire of Minor Plant and miscellaneous Equipment 2015-2017. The estimated annual expenditure against this contract is estimated at \$653,500.00 (excl GST), however actual expenditure may vary significantly with fluctuations in demand.**
- 2 That Council determine the Tender Evaluation Report in Attachment A and ranking list in Attachment B 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, except for the name of the successful tenderers, which may be disclosed after Council has resolved to accept those tenders.**
- 3 That Council approve the contingency sum as detailed in the Tender Evaluation Report in Attachment A.**

Due to a combination of the fluctuating nature and diversity of its operations, Council frequently finds it necessary to externally hire minor plant and equipment. The demand for externally hired minor plant and equipment is a function of the composition of the works program at any given time. To ensure that these items are readily available at the most competitive rates, tenders are invited every two to three years.

Initially, when an item is required, the item is provided from Council's own Plant Pool or Small Plant Hire Shop if available. When Council owned minor plant or equipment is not available (due to previous allocations or when it is not cost effective for Council to stock specialist or low utilised equipment), the Plant Pool Coordinators or the Small Plant Hire Shop source the required minor plant and equipment from a ranked listing of contracted external providers compiled through a tender assessment process. Offers of hire start with the contractor with the highest ranking for the relevant piece of plant or equipment and if that contractor is not available at the time required, offers proceed down the ranking list until the required numbers of plant or machinery are sourced.

It is critical that equipment is available, fit for purpose and complies with legislative requirements in order to ensure Council's strategic and operational objectives are accomplished.

The contract is aligned to the long term resourcing and financial strategy in terms of the delivery of cost effective plant and vehicle solutions to meet the long term and annual operational plan works as outlined in the Council Strategic Plan.

### **CONTRACT PLAN**

The Contract Plan for this tender process was approved by the Director Property Economic Development, before the Request for Tender was issued. The approved Contract Plan is in Wyong Shire Council electronic document system (TRIM D11895642).

### **INVITATION TO TENDER**

The tender was advertised in the Sydney Morning Herald, Newcastle Herald, Central Coast Express and eTender between 12-16 May 2015.

Tenders closed at Council's Chambers at 2.00pm on 4 June 2015

### **TENDER SUBMISSIONS**

The following tenders were received and are listed in alphabetical order:

- A Class Hire, Kennys Loos Pty Ltd
- Allcott Hire
- Coates Hire Operations Pty Ltd
- Conplant Pty Ltd
- Ezy Access Hire Australia Pty Ltd
- Kennards Hire
- Koppman Earthmoving Pty Ltd
- PremiAir Hire
- Resource Equipment Limited
- Serendip Holdings Pty Ltd

The following tenders were received and considered to be non-conforming; the tenderers are listed in alphabetical order:

- Onsite Rental Group Operations Pty Ltd

### 3.3 CPA/257587 - Hire of Minor Plant and Miscellaneous Equipment 2015-2017 (contd)

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- Sharpe Bros. Australia
- ELC Pty Ltd

One late submission was received and is not to be considered for this contract

- Boom logistics Ltd

#### **TENDER EVALUATION**

All members of the Tender Evaluation Panel have signed Pecuniary Interest Declarations. No pecuniary interests were noted.

The relative ranking of tenders as determined from the total weighted score is provided in the Confidential Tender Evaluation Report – Attachment A.

All submissions were assessed in accordance with the approved evaluation criteria being:

- 1 Local content
- 2 Price
- 3 Panel ranking
- 4 Experience
- 5 Proven performance

#### **FINANCIAL IMPLICATIONS**

Cost for the provision of this service will be allocated from each business unit's operational and capital budgets. Cost for the hire of plant and equipment will be managed by each business unit or project manager.

#### **RELEVANT LEGISLATION**

The tender has been conducted in accordance with the *Local Government Act 1993*, the *Local Government (General) Regulation 2005* and Council's Procurement Policy.

Information provided by tenderers which is commercial-in-confidence has been protected and will not be disclosed in accordance with section 10A(2)(d) of the *Local Government Act 1993*. A consistent standard for all tenderers has been used in assessing any request for confidentiality by a tenderer.

#### **CRITICAL DATES / TIME FRAMES**

It is anticipated that the contract will be awarded on 14 August 2015 and that the minor plant and miscellaneous equipment will be available for hire from this date.

## **RISK**

This contract has been assessed as a Medium\low risk contract. The key risks and mitigations measures have been addressed in the Contract Plan and detailed Risk Assessment which is on the TRIM file D11995276.

## **REGULATORY APPROVALS**

The following regulatory approvals have been obtained for this Contract:

Nil

## **PROCESS REVIEW**

The Tender evaluation and this Report and recommendations have been endorsed in Wyong Shire Council electronic document system (TRIM) by the Commercial Manager, Contracts and Project Management.

## **OPTIONS/ALTERNATIVES**

Council has the option of not proceeding with this contract by resolving not to accept an offer from any of the Tendering parties. This option is not recommended as it will significantly reduce Council's ability to deliver services to the community.

## **PUBLIC CONSULTATION**

No public consultation specific to this contract was necessary and none has occurred.

## **ATTACHMENTS**

- |   |   |           |
|---|---|-----------|
| 1 | Attachment A - Confidential - T144 - Tender Evaluation Report<br>CPA257587 - Hire of Minor Plant and Miscellaneous Equipment 2015 - | D12047024 |
| 2 | Attachment B-14 - Confidential - CPA/257587 Ranking - Minor Plant<br>summary -  | D12033364 |



#### **4.1 Approval of 2014/15 Capital Projects to be Continued in 2015/16**

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TRIM REFERENCE: F2013/01660 - D11967262

MANAGER: Stephen Naven, Chief Financial Officer

AUTHOR: Mellissa McKee; Corporate Planning Executive

##### **SUMMARY**

This report provides details of the capital projects proposed to be continued in 2015/16 from 2014/2015.

The project continuation requests represent those capital projects that, for a number of reasons were not completed in 2014/2015. It is a normal part of Council's operations that some projects are not completed by 30 June in any given year and this report seeks to incorporate those projects not completed in 2014/15 into the 2015/16 capital program by adjusting budget allocations for some current year projects where delays and /or variations have already been identified and further budget adjustments be identified in subsequent 2015/16 quarterly budget reviews to get back to the original opening capital budget of \$104.9 million in 2015/16.

##### **RECOMMENDATION**

- 1 That Council approve the proposed capital projects to be continued in 2015/16 as detailed in this report.**
- 2 That Council approve a \$3.9 million increase to the 2015/16 Capital budget to accommodate projects continuing from 2014/15 as detailed in this report.**
- 3 That reductions totalling \$3.9m be identified in quarterly budget reviews during 2015/16 to ensure that Council's Capital budget is brought back to the original budget of \$104.9 million for 2015/16.**

##### **BACKGROUND**

At the end of any financial year, there are quite often incomplete capital projects that require resources in the following year to complete. These capital works are budgeted for within a financial year and there is an expectation that these works will be completed within the scheduled timeframe. Various circumstances at times provide challenges in completing all scheduled works, and there is often a requirement for these works to be completed in the following financial year.

Funding approval for budgeted projects not completed at the end of any budget year is forfeited unless further budget allocation is granted by Council. In accordance with the Local Government Act and Regulations any recommended change to a Council's budget must be considered and adopted by Council.

## **4.1 Approval of 2014/15 Capital Projects to be Continued in 2015/16 (contd)**

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Capital projects that were not completed at 30 June 2015 and proposed to be finalised in 2015-16 are listed in **Attachment 1** for Council approval. The value of the proposed continuation projects is \$15.6 million.

The largest projects are construction of the Art House (\$4.4 million) and Warnervale Town Centre Entry Road (\$1.8 million) which were both adversely affected by weather delays late in 2014/15.

Funding for the continuing capital projects has been partially identified from deferrals and savings already identified within the 2015/16 capital program (also shown in Attachment 1) to the extent of \$11.7 million. The remaining \$3.9 million in savings is proposed to be identified during subsequent quarterly budget reviews in 2015/16.

### **CURRENT STATUS**

#### **Capital Expenditure 2014/15**

2014/15 capital expenditure totalled \$86.3 million and represents 88.9% of the annual capital budget of \$97.1 million.

This is an increase of \$9.8 million on capital expenditure achieved in 2013/14.

It should be noted that these are draft financials subject to external audit and therefore may change prior to final adoption of the Financial Statements.

#### **Special Rate Variation (SRV) projects**

In June 2013, Council was successful in gaining approval from IPART for a Special Rate Variation (SRV), providing an increase to General Rates of 6.9% per year for 4 years, commencing 2013-14. In accordance with the IPART approval, the additional rate income must be used to reduce Council's infrastructure backlog.

Council allocated the funding to projects in accordance with its Asset Management Strategy and will review these allocations annually as part of Strategic Plan development.

SRV expenditure in 2014/5 totalled \$10.4 million and represents 104% of Councils commitment of \$10 million per annum.

The proposed increase to SRV projects due to continuing projects is \$0.3 million and will be managed during the year to ensure that Council continues to meet its commitment to spend \$10 million per annum on SRV projects.

#### **Continuation Projects**

Budgeting for the continuation of capital projects that were committed and / or underway but not completed as at 30 June 2015 requires Council approval. The value of proposed continuation projects is \$15.6 million and is proposed to be funded by savings and deferrals within Council's 2015/16 capital program, identified now and throughout 2015/16.

Projects proposed to be deferred will either be re-instated (if required) in the 2015/16 capital program (via quarterly review) if other savings are identified or included in the 2016/17 capital program.

#### 4.1 Approval of 2014/15 Capital Projects to be Continued in 2015/16 (contd)

Below is a summary of the proposed changes by Department and Unit and full detail of the projects can be found in Attachment 1.

Department	Unit	Continuation Projects \$'000	Offsets Identified in 2015/16 program \$'000	Net Increase / (Reduction) \$'000
General Manager's	Information Management	-	(133)	(133)
Development and Building	Building Certification, Compliance and Health	-	(25)	(25)
Community and Recreation Services	Open Space and Recreation	173	(447)	(274)
Community and Recreation Services	Community Partnerships and Planning	5,827	-	5,827
Community and Recreation Services	Customer and Community Relations	6	6	-
Property and Economic Development	Property Development	2,046	(4,000)	(1,954)
Property and Economic Development	Property Management	7	(6)	1
Infrastructure and Operations	Water and Sewer	4,092	(4,092)	-
Infrastructure and Operations	Waterways and Asset Management	735	(720)	15
Infrastructure and Operations	Roads and Drainage	2,368	(2,368)	-
Infrastructure and Operations	Contract and Project Management	29	-	29
<b>Total</b>		<b>15,550</b>	<b>(11,670)</b>	<b>3,880</b>

#### THE PROPOSAL

To adjust Councils 2015/16 capital budget to accommodate continuing projects from 2014/15.

#### OPTIONS

**Option 1** – That Council approve the changes to the 2015/16 capital program to accommodate projects continuing from 2014/15 as detailed (recommended).

**Option 2** – that Council not approve the continuation of capital projects which could lead to contractual disputes and incomplete service delivery to the community.

## STRATEGIC LINKS

### Wyong Shire Council Strategic / Annual Plan

Each of the proposed capital continuation projects were approved by Council for inclusion in the 2014/15 annual budget.

### Budget Impact

The proposed temporary increase to the 2015/16 capital program totals \$3.9 million which will result in a revised interim annual capital budget of \$108.8 million, to be reduced back to \$104.9 million as part of quarterly budget reviews to be undertaken during 2015/16.

## CONSULTATION

All departments were consulted and involved in the preparation of this report.

## CONCLUSION

This report seeks to gain Council approval for the continuation of capital projects in 2015/16 that were not completed by 30 June 2015. **Attachment 1** lists the individual projects and adjustments proposed to be made to the 2015/16 capital budget and note that the revised annual capital budget is proposed to increase temporarily to \$108.8 million, and will be scaled back to the original 2015/16 budget position of \$104.9 million as part of 2015/16 quarterly budget reviews.

## ATTACHMENTS

- |   |  |           |
|---|--|-----------|
| 1 | Proposed Changes to 2015/16 Capital Program as a result of projects continuing from 2014/15. | D12053898 |
|---|--|-----------|

Proposed 2014/15 Capex Continuation Projects & Offsetting Reductions to 2015/16 Capex Program

Proposed Change to Capex Program 3,880

328 15,565 (11,685) 3,880

Project No.	Unit	Product	Project Description	Proposed Variation + = increase - = decrease \$'000	1 = Continued Project 2 = Offset	If Continuing Project (1)  % of 2014/15 annual budget spent in	Comments	SRV	Continuation Projects	Offsets	Net
<b>01 - General Managers Department</b>				<b>Sub Total</b>	<b>(133)</b>						
16528, 16529, 17206	Information Management	Information Technology Standard Operating Environment	Purchase of Uninterrupted Power Supply (UPS)	(133)	2	n/a	The purchase of UPS was bought forward into June 2015, and reductions identified in 2015/16 program to offset.	(133)	-	(133)	(133)
<b>02 - Development and Building Department</b>				<b>Sub Total</b>	<b>(25)</b>						
17354	Building Certification, Compliance and Health	Companion Animals Compliance	Electronic Infringement Devices - replacement of handheld devices	(25)	2	n/a	Budget reduction, devices can be purchased for less than original estimate.		-	(25)	(25)
<b>03 - Community and Recreation Services Department</b>				<b>Sub Total</b>	<b>5,552</b>						
14626	Open Space and Recreation	Beach Maintenance	Shelly Beach Carpark & Foreshore	14	1	93.1%	2014/15 underspend required to complete project in 2015/16. Funded by Holiday Park Restricted Funds.		14	-	14
14947	Open Space and Recreation	Surf Club Partnerships	Construction of Lifeguard Tower at North Entrance Beach	3	1	-	Grant funds received in 2014/15 for project to be undertaken in 2015/16.		3	-	3
16462	Open Space and Recreation	Recreational Infrastructure	Tennis Court Resurfacing	3	1	95.2%	Completion of works at Wyong Tennis Courts (grant funded).		3	-	3
16636	Open Space and Recreation	Aquatic Infrastructure	Aquatic Infrastructure Improvements - implement priority actions from Aquatic Infrastructure Strategy.	4	1	48.9%	Funds required to finalise 2014/15 program in 2015/16.		4	-	4
16637	Open Space and Recreation	Recreational Infrastructure	Buff Point - Edgewater Park Playground	78	1	48.3%	Due to impact of April 2015 storm event this project was unable to be completed in 2014/15. Funds required to complete in 2015/16.		78	-	78
16766	Open Space and Recreation	Recreational Infrastructure	Mannering Park Tennis	3	1	63.8%	Completion of works at Mannering Park Tennis Courts (grant funded).		3	-	3
17085	Open Space and Recreation	Recreational Infrastructure	Construction of Regional Skatepark including Investigation & Design	67	1	73.0%	Continuation of two year project. Funds not spent in 2014/15 required to complete project in 2015/16.		67	-	67
15626	Open Space and Recreation	Recreational Infrastructure	Upgrade and Replace Playgrounds - Playground Management Program	(42)	2	n/a	Budget reduction as playground equipment was pre-purchased in June 2015. (SRV)	(42)	-	(42)	(42)
17337	Open Space and Recreation	Aquatic Infrastructure	Aquatic Infrastructure Improvements - Tacoma South Infrastructure Improvements	(225)	2	n/a	Grant application unsuccessful, defer project.		-	(225)	(225)
17339	Open Space and Recreation	Parks & Reserves	Broad Acre Mower - purchase a second mower in place of existing tractor	(150)	2	n/a	Transfer budget to Plant & Fleet to purchase the mower.		-	(150)	(150)
17342	Open Space and Recreation	Recreational Infrastructure	Ourimbah and Lake Munmorah Floodlight Renewal Program	(30)	2	n/a	Budget reduction as lighting equipment was pre-purchased in June 2015.		-	(30)	(30)
13651	Community Partnerships and Planning	Community Infrastructure	Design & Consultants for Art House	491	1	52.4%	Funds required to finalise project in 2015/16.		491	-	491
16195	Community Partnerships and Planning	Community Infrastructure	Alison Road Historic Museum Building Rebuild	248	1	97.3%	Funds required to finalise project in 2015/16.		248	-	248
16575	Community Partnerships and Planning	Community Infrastructure	Art House - Building Construction	4,440	1	66.8%	Funds required to finalise project in 2015/16.		4,440	-	4,440
16961	Community Partnerships and Planning	Community Infrastructure	Safer Streets Program	122	1	41.7%	Grant funded initiative, funds not fully spent in 2014/15 continued in 2015/16.		122	-	122
17238	Community Partnerships and Planning	Community Infrastructure	Art House - AV Audio Equipment	60	1	-	Grant funds received in 2014/15 to be spent in 2015/16.		60	-	60
17407	Community Partnerships and Planning	Community Infrastructure	Art House Power Fly System	465	1	-	Grant funds received in 2014/15 to be spent in 2015/16.		465	-	465
17087	Customer and Community Relations	Library Services	CCTV and Security Upgrade Library Services	6	1	79.0%	Funds required to finalise project in 2015/16.		6	-	6
17348	Customer and Community Relations	Library Services	Library - On Line PC Reservation System	(6)	2	n/a	Budget reduction to offset continuation of prior year project.		-	(6)	(6)

Project No.	Unit	Product	Project Description	Proposed Variation + = increase - = decrease \$'000	1 = Continued Project 2 = Offset	If Continuing Project (1)  % of 2014/15 annual budget spent in	Comments	SRV	Continuation Projects	Offsets	Net
<b>04 - Property and Economic Development Department</b>				<b>Sub Total</b>	<b>(1,559)</b>						
16197	Property Development	Development Management Projects and Initiatives	Warnervale Town Centre Entry Road	1,800	1	41.4%	Funds required to finalise project in 2015/16, delayed in 2014/15 due to adverse weather conditions. (\$500k grant funded).		1,800	-	1,800
16345	Property Development	Town Centre Masterplans	Toukley Carpark Links To Main Rd	146	1	21.8%	Funds required to finalise project in 2015/16. (SRV)	146	146	-	146
16692	Property Development	Strategies Masterplans and Implementation	Budgewoi Town Centre Entry Signage	100	1		- Funds required to finalise SRV project in 2015/16. Project was deferred in 2014/15 awaiting corporate design to be finalised.	100	100	-	100
16879 & 16880	Property Development	Development Management Projects and Initiatives	Strategic Land Purchases	(4,000)	2	N/A	Reduction of 2015/16 budget as 3rd instalment was paid in June 2015.			(4,000)	(4,000)
16200	Property Management	Town Centre Management	The Entrance Re-tiling Project	7	1	66.2%	Funds required to finalise project in 2015/16, project delivered well under budget.		7	-	7
16039	Property Management	Community Environmental Management	Burlington Drive Jilliby Natural Area Upgrade	(1)	2	N/A	Reduction to offset overspend in 2014/15.			(1)	(1)
16726, 16727, 16728 & 17500	Property Management	Public Toilets	Public Toilet Upgrades	(5)	2	N/A	Reduction to offset overspend in 2014/15.			(5)	(5)
15725	Commercial Enterprises	Active Landfill Sites	Administration building fit-out Buttonderry Waste Management Facility	36	1	90.6%	Funds required to finalise project in 2015/16.		36	-	36
16661	Commercial Enterprises	Active Landfill Sites	Alternative Night Cover Buttonderry Waste Management Facility	130	1		- Funds required to complete project in 2015/16 (delay in tender process). Funding was deferred as part of Q3 budget review in 2014/15.		130	-	130
17091	Commercial Enterprises	Active Landfill Sites	Electrical Upgrade Works Buttonderry Waste Management Facility	101	1	62.5%	Funds required to finalise project in 2015/16		101	-	101
12837	Commercial Enterprises	Small Plant Equipment and Workshop	Broad Acre Mower - purchase a second mower in place of existing tractor	127	2	N/A	Transfer from Open Space to purchase mower.			127	127
<b>05 - Infrastructure and Operations Department</b>				<b>Sub Total</b>	<b>44</b>						
14603	Water & Sewer	Water Reticulation Mains	Prepaid Miscellaneous Water Services	50	1	120.3%	Funds required to finalise project in 2015/16, externally funded works.		50	-	50
15080	Water & Sewer	Dams and Weirs - Catchments	Mardi Dam Contingency Works	12	1	89.4%	Funds required to meet costs in 2015/16.		12	-	12
16396	Water & Sewer	Water Pump Stations	Replace Kiosk at WPS 05	200	1	57.3%	Funds required to continue project in 2015/16.		200	-	200
16610	Water & Sewer	Water Reticulation Reservoirs	SCADA Network Upgrade	20	1	121.6%	Funds required to finalise project in 2015/16.		20	-	20
16716	Water & Sewer	Water Reticulation Reservoirs	Treeland Reservoir Roof	50	1	52.3%	Funds required to finalise project in 2015/16, contract awarded.		50	-	50
16718	Water & Sewer	Water Reticulation Reservoirs	Tuggerah 1 Kanwal Wyrabalong Reservoir	20	1	111.7%	Funds required to finalise project in 2015/16.		20	-	20
17098	Water & Sewer	Water Reticulation Reservoirs	Upgrade of Vermin Proofing at Kanwal Reservoir	70	1	1257.0%	Funds required to finalise project in 2015/16. Spent beyond budget allocation in 2014/15 as urgent works were required after the April Storm Event.		70	-	70
17230	Water & Sewer	Water Reticulation Mains	Install Water Trunk Main Signage	45	1	1.6%	Funds required to finalise project in 2015/16.		45	-	45
17271	Water & Sewer	Water Supply Management	Establish Wyong Water Dispatch Office	140	1	7.1%	Funds required to finalise project in 2015/16.		140	-	140
15794	Water & Sewer	Water Reticulation Mains	Mardi Warnervale Trunk Main Preconstruction	(130)	2	N/A	Reduction to offset continuing projects.			(130)	(130)
16231	Water & Sewer	Water Pump Stations	WPS02 & WPS11 Improvement Works JWS	(120)	2	N/A	Reduction to offset continuing projects.			(120)	(120)

Project No.	Unit	Product	Project Description	Proposed Variation + = increase - = decrease \$'000	1 = Continued Project 2 = Offset	If Continuing Project (1)  % of 2014/15 annual budget spent in	Comments	SRV	Continuation Projects	Offsets	Net
16239	Water & Sewer	Water Reticulation Reservoirs	Water Telemetry & Communications	(50)	2	n/a	Reduction to offset continuing projects.			(50)	(50)
16332	Water & Sewer	Dams and Weirs - Catchments	MTP Sludge Lagoon - Embankment Clearing	(89)	2	n/a	Reduction to offset continuing projects.			(89)	(89)
16897	Water & Sewer	Water Reticulation Mains	Tanker Fill Point Expansion	(3)	2	n/a	Reduction to offset continuing projects.			(3)	(3)
17316	Water & Sewer	Water Reticulation Mains	Water Network Water Quality Improvement Works	(75)	2	n/a	Reduction to offset continuing projects.			(75)	(75)
17321	Water & Sewer	Water Treatment Plants	JWS Mardi WTP Coarse Fish Screen Replacement	(140)	2	n/a	Reduction to offset continuing projects, deferred to future upgrade.			(140)	(140)
14208	Water & Sewer	Sewer Mains	Sewer Relining Works	268	1	90.9%	Additional funds required to continue with works in 2015/16.		268	-	268
14367	Water & Sewer	Sewer Mains	Renewal of Sewer Manholes various locations	60	1	78.8%	Funds required to finalise project in 2015/16. This will complete all manhole assessment and vent shaft reports.		60	-	60
15170	Water & Sewer	Sewer Treatment Plants	Install Gas Bell In The Existing Digestors At TSTP	15	1	80.3%	Funds required to finalise project in 2015/16.		15	-	15
15803	Water & Sewer	Sewer Pump Stations	Construct augmented Sewer Pump Station BB05 at Blue Bay	255	1	101.7%	Funds required to finalise project in 2015/16.		255	-	255
15805	Water & Sewer	Sewer Pump Stations	Replace Vacuum Stations WS29 & WS30	825	1	41.6%	Funds required to finalise project in 2015/16.		825	-	825
15991	Water & Sewer	Sewer Treatment Plants	Land Clearing and Construct Chemical Closet Toukley STP	280	1	129.2%	Funds required to finalise project in 2015/16.		280	-	280
15992	Water & Sewer	Sewer Treatment Plants	Land Clearing and Construct Chemical Closet Charmhaven STP	210	1	72.1%	Funds required to finalise project in 2015/16.		210	-	210
16245	Water & Sewer	Sewer Mains	Inspection of critical sewer mains & replacement of high risk mains	20	1	96.2%	Funds required to finalise project in 2015/16. This will complete the remaining condition assessment of Council's critical mains.		20	-	20
16276	Water & Sewer	Sewer Pump Stations	SPS TO09 - Refurbishment	30	1	80.2%	Funds required to finalise project in 2015/16. This will complete contract.		30	-	30
16277	Water & Sewer	Sewer Pump Stations	SPS TO19 - Electrical and Mechanical upgrade	30	1	69.8%	Funds required to finalise project in 2015/16. This will complete contract.		30	-	30
16384	Water & Sewer	Sewer Pump Stations	SPS TO01 refurbishment	30	1	95.2%	Funds required to finalise project in 2015/16. This will complete contract.		30	-	30
16385	Water & Sewer	Sewer Pump Stations	Replace Kiosk at SPS TO27	40	1	30.6%	Funds required to finalise project in 2015/16.		40	-	40
16422	Water & Sewer	Sewer Pump Stations	Sewer Pump Station BB08 (Bateau Bay) Diesel Pump	140	1	52.6%	Funds required to finalise project in 2015/16.		140	-	140
16503	Water & Sewer	Sewer Treatment Plants	WS08 Pump and Valve Refurbishment	50	1	84.5%	Funds required to finalise project in 2015/16.		50	-	50
16504	Water & Sewer	Sewer Treatment Plants	CHTW Decant Skirts Replacement	30	1	7.4%	Funds required to finalise project in 2015/16.		30	-	30
16695	Water & Sewer	Sewer Pump Stations	Toukley 06 Pump Station	30	1	125.8%	Funds required to finalise project in 2015/16. This will complete contract.		30	-	30
16696	Water & Sewer	Sewer Pump Stations	Toukley 17 Pump Station	30	1	61.6%	Funds required to finalise project in 2015/16. This will complete contract.		30	-	30

Project No.	Unit	Product	Project Description	Proposed Variation + = increase - = decrease \$'000	1 = Continued Project 2 = Offset	If Continuing Project (1)  % of 2014/15 annual budget spent in	Comments	SRV	Continuation Projects	Offsets	Net	
16697	Water & Sewer	Sewer Pump Stations	Toukley 22 Rising Creek Crossing	35	1	34.9%	Funds required to finalise project in 2015/16. This will complete contract.			35	-	35
16698	Water & Sewer	Sewer Pump Stations	Wyong South 11 Upstream SPS Scada Pack and Switchboard	120	1	97.9%	Funds required to finalise project in 2015/16.			120	-	120
16700	Water & Sewer	Sewer Treatment Plants	Charmhaven STP Wet Weather Pond Spillway	5	1	5.9%	Funds required to finalise project in 2015/16.			5	-	5
16710	Water & Sewer	Sewer Pump Stations	SPS B7 Electrical and Mechanical	87	1	104.2%	Funds required to finalise project in 2015/16. This will complete contract.			87	-	87
16713	Water & Sewer	Sewer Mains	Odour Strategy	80	1	100.4%	Funds required to finalise project in 2015/16.			80	-	80
16720	Water & Sewer	Sewer Pump Stations	Bateau Bay 11 SPS and Rising Main	10	1	84.8%	Funds required to finalise project in 2015/16. This will complete contract.			10	-	10
16721	Water & Sewer	Sewer Pump Stations	SPS B10 SPS and Rising Main	10	1	63.6%	Funds required to finalise project in 2015/16. This will complete contract.			10	-	10
16840	Water & Sewer	Sewer Treatment Plants	Wyong South STP Augmentation Stage 4	650	1	81.2%	Funds required to finalise project in 2015/16.			650	-	650
16917	Water & Sewer	Sewer Treatment Plants	Improved Automation at Sewage Treatment Plants	40	1	48.3%	Funds required to complete existing projects in 2015/16.			40	-	40
17050	Water & Sewer	Sewer Treatment Plants	Sewage Treatment Plant Power Optimisation	10	1	100.5%	Funds required to finalise project in 2015/16.			10	-	10
17165	Water & Sewer	Sewer Pump Stations	Sewage Pumping Station SCADA Pack Upgrade	20	1	91.8%	Funds required to complete scoping and business case in 2015/16.			20	-	20
17228	Water & Sewer	Sewer Treatment Plants	Replace Existing STP SCADA Servers and Install Server Redundancy	90	1	9.6%	Funds required to finalise project in 2015/16.			90	-	90
13276	Water & Sewer	Sewer Pump Stations	Pump Station T8 rebuild	(1,000)	2	n/a	Reduction to offset continuing projects as project ahead of schedule in 2014/15 and budget able to be reduced in 2015/16. This will complete the current contract.			(1,000)	-	(1,000)
15804	Water & Sewer	Sewer Pump Stations	Construct augmented Sewer Pump Station BB06 at Toowoomb Bay	(75)	2	n/a	Reduction to offset continuing projects.			(75)	-	(75)
15806	Water & Sewer	Sewer Pump Stations	Construct augmented Sewer Pump Station WS11 at Wyong	(1,110)	2	n/a	Reduction to offset continuing projects due to reduced cost estimate and delay to project commencement.			(1,110)	-	(1,110)
15809	Water & Sewer	Sewer Pump Stations	South Tacoma Low Pressure System	(150)	2	n/a	Reduction to offset continuing projects.			(150)	-	(150)
15813	Water & Sewer	Sewer Mains	Prepaid Sewer Works	(15)	2	n/a	Reduction to offset continuing projects.			(15)	-	(15)
16254	Water & Sewer	Sewer Treatment Plants	Rectify leaking sludge lagoon at Toukley STP	(250)	2	n/a	Reduction to offset continuing projects.			(250)	-	(250)
16273	Water & Sewer	Sewer Pump Stations	SPS All Weather Access Upgrade	(50)	2	n/a	Reduction to offset continuing projects.			(50)	-	(50)
16279	Water & Sewer	Sewer Pump Stations	WS09 - replacement SPS at Tuggerah and Rising Main	(400)	2	n/a	Reduction to offset continuing projects.			(400)	-	(400)
16391	Water & Sewer	Sewer Treatment Plants	Replace Effluent Pumps, Valves and Actuators at MPSTP	(80)	2	n/a	Reduction to offset continuing projects.			(80)	-	(80)
16613	Water & Sewer	Sewer Mains	Investigation and Renewal of PVC Rising Main	(55)	2	n/a	Reduction to offset continuing projects.			(55)	-	(55)



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17307	Water & Sewer	Sewer Mains	Carbon Canister Program	(50)	2	n/a	Reduction to offset continuing projects.			(50)	(50)
17310	Water & Sewer	Sewer Pump Stations	Sewerage Telemetry and Communications Upgrades	(50)	2	n/a	Reduction to offset continuing projects.			(50)	(50)
17312	Water & Sewer	Sewer Pump Stations	Sewer Pump Station CH12 and CH13 Concept and Detailed Design	(100)	2	n/a	Reduction to offset continuing projects.			(100)	(100)
17314	Water & Sewer	Sewer Treatment Plants	Manning Park Sewer Treatment Plan Wet Weather Pond Outlet	(115)	2	n/a	Reduction to offset continuing projects.			(115)	(115)
15275	Waterways & Asset Management	Emergency Services	Rural Fire Services ADSL Project	5	1	84.6%	Funds required to finalise project in 2015/16 (grant funded).		5	-	5
16354	Waterways & Asset Management	Estuary Management Program	Woongarra Drainage Channel Works	11	1	107.6%	Final year of 3 year works agreement.		11	-	11
16829	Waterways & Asset Management	Estuary Management Program	Erin Ave Berkeley Vale GPT	145	1	29.6%	Funds required to finalise project in 2015/16 (grant and levy funded).		145	-	145
16830	Waterways & Asset Management	Estuary Management Program	Canton Beach Road GPT	370	1	7.6%	Funds required to finalise project in 2015/16 (levy funded).		370	-	370
16900	Waterways & Asset Management	Estuary Management Program	Venice Street Long Jetty Constructed Wetland	180	1	22.8%	Funds required to finalise project in 2015/16 (grant funded).		180	-	180
17094	Waterways & Asset Management	Estuary Management Program	Nicholson Cres Toukley GPT	25	1	17.4%	Funds required to finalise project in 2015/16 (levy funded).		25	-	25
16828	Waterways & Asset Management	Estuary Management Program	Myrtle Brush Park GPT Berkeley Vale	(50)	2	n/a	Project budget reduced to offset GPT continuation projects.			(50)	(50)
17239	Waterways & Asset Management	Estuary Management Program	Walker Avenue Gross Pollutant Trap Kanwal	(40)	2	n/a	Project budget reduced (design only) to offset GPT continuation projects.			(40)	(40)
17241	Waterways & Asset Management	Estuary Management Program	Beach Parade Gross Pollutant Trap Canton Beach	(185)	2	n/a	Project budget reduced (design only) to offset GPT continuation projects.			(185)	(185)
17242	Waterways & Asset Management	Estuary Management Program	Government Road Gross Pollutant Trap Summerland Point	(135)	2	n/a	Project budget reduced (design only) to offset GPT continuation projects.			(135)	(135)
17243	Waterways & Asset Management	Estuary Management Program	Cheryl Street Gross Pollutant Trap Manning Park	(185)	2	n/a	Project budget reduced (design only) to offset GPT continuation projects.			(185)	(185)
17265	Waterways & Asset Management	Estuary Management Program	Buff Point Avenue Gross Pollutant Trap	(50)	2	n/a	Project budget reduced to offset GPT continuation projects.			(50)	(50)
17365	Waterways & Asset Management	Estuary Management Program	GPT Lakedge Ave Berkeley Vale	(20)	2	n/a	Project budget reduced to offset GPT continuation projects.			(20)	(20)
17366	Waterways & Asset Management	Estuary Management Program	GPT Natuna Ave Budgewoi - Steelwork and Blockwork	(55)	2	n/a	Project deferred to offset continuation projects as upgrade is not required at this time.			(55)	(55)
15065	Roads & Drainage	Local Roads	Long Jetty - Saltwater Creek Pedestrian Bridge Renewal	50	1	98.9%	Funds required to finalise project in 2015/16. (SRV)	50	50	-	50
15150	Roads & Drainage	Construction	Killarney Vale - Hume Blvd Road Pavement Renewal	710	1	44.5%	Funds required to finalise project in 2015/16. (SRV)	710	710	-	710
16005	Roads & Drainage	Construction	San Remo - Brava Ave Pedestrian Refuge and Linemarking	5	1	78.1%	Funds required to finalise project in 2015/16.		5	-	5
16159	Roads & Drainage	Construction	Charmhaven - Panorama Ave Hobson Road Upgrade	2	1	83.5%	Funds required to finalise project in 2015/16. (SRV)	2	2	-	2

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16331	Roads & Drainage	Construction	Doyalson - Ruttleys Road North Traffic Facilities Grant	80	1	104.0%	Funds required to finalise project in 2015/16.		80	-	80
16515	Roads & Drainage	Footpaths and Shared Pathways Works	Colongra - Tall Timbers to Colongra Bay Shared Path	100	1		- Funds required to finalise project in 2015/16. Contribution funded project agreed to in 2014/15.		100	-	100
16630	Roads & Drainage	Local Roads	Buff Point - Regent Street - Retaining wall renewal	140	1	23.3%	Funds required to finalise project in 2015/16. (SRV)	140	140	-	140
16762	Roads & Drainage	Footpaths and Shared Pathways	Lake Munmorah - Anita Avenue Footpath program	50	1	7055.8%	Additional funds required to finalise project in 2015/16 as onsite issues resulted in redesign of original scope of works. (SRV)	50	50	-	50
16772	Roads & Drainage	Construction	Bateau Bay - Rotherham Street Road safety facilities	90	1	13.2%	Funds required to finalise project in 2015/16. (SRV)	90	90	-	90
16803	Roads & Drainage	Drainage Construction	Killarney Vale - Hume Boulevard, stormwater drainage and road upgrade	362	1	23.9%	Funds required to finalise project in 2015/16.		362	-	362
16810	Roads & Drainage	Construction	Tuggerah - Johnson Road. Road pavement renewal	35	1	167.3%	Funds required to finalise project in 2015/16. Grant funded Roads to Recovery Program.		35	-	35
16823	Roads & Drainage	Local Roads	Palmdale #3 - timber bridge replacement program	20	1	60.7%	Funds required to finalise project in 2015/16.	20	20	-	20
16825	Roads & Drainage	Construction	Gwandalan - Quinalup Street (Imga Street), road upgrade	40	1	112.4%	Funds required to finalise project in 2015/16.	40	40	-	40
16878	Roads & Drainage	Construction	Manning Park - Vales Road Safety Facilities	5	1	38.0%	Funds required to finalise project in 2015/16.		5	-	5
16883	Roads & Drainage	Construction	Crangan Bay - Kanangra Drive Safer Roads	505	1	295.5%	Funds required to finalise project in 2015/16. Additional grant funding secured (black spot).		505	-	505
16886	Roads & Drainage	Drainage Construction	Wyong - CBD Drainage Stage 5 - Frank Ballance Park	20	1	116.1%	Funds required to finalise project in 2015/16.		20	-	20
16944	Roads & Drainage	Construction	Durren Durren - Smiths Road Gravel road upgrade	20	1	0.0%	Funds required for project in 2015/16. Commitments made to residents in 2014/15 due to traffic issues.		20	-	20
16945	Roads & Drainage	Footpaths and Shared Pathways	Toukley - Holmes Avenue footpath renewal	40	1	0.0%	Funds required for project in 2015/16.		40	-	40
17083	Roads & Drainage	Construction	Halekulani - No.33 Sunrise Ave Halekulani	20	1	0.0%	Funds required for project in 2015/16. Commitments made to residents in 2014/15.		20	-	20
17269	Roads & Drainage	Construction	Buff Point - Road Expansion Vincent Close Road	75	1		- Funds required to finalise project in 2015/16. Developer Contribution funded works.		75	-	75
14624	Roads & Drainage	Construction	Non Programmed Works	(251)	2	N/A	Project budget reduced to offset Road continuation projects.		-	(251)	(251)
17175	Roads & Drainage	Construction	Charmhaven - Roads to Recovery on Chelmsford Road	(600)	2	N/A	Project deferred to offset Road continuation projects.		-	(600)	(600)
17197	Roads & Drainage	Construction	Berkeley Vale - Blenheim Avenue road upgrade	(770)	2	N/A	Project deferred to offset Road continuation projects.	(770)	-	(770)	(770)
17201	Roads & Drainage	Construction	Budgewoi - road upgrade / stormwater drainage renewal on Villa Close	(100)	2	N/A	Project budget reduced due to re-design of required works.		-	(100)	(100)
17217	Roads & Drainage	Drainage Construction	Budgewoi - Villa Close Drainage upgrade	(382)	2	N/A	Project budget reduced due to re-design of required works.		-	(382)	(382)
17517	Roads & Drainage	Construction	Ourimbah - road seal upgrade on Bridget Street	(75)	2	N/A	Road sealed in 2014/15 budget not required in 2015/16.	(75)	-	(75)	(75)

Project No.	Unit	Product	Project Description	Proposed Variation + = increase - = decrease \$'000	1 = Continued Project 2 = Offset	If Continuing Project (1)  % of 2014/15 annual budget spent in	Comments	SRV	Continuation Projects	Offsets	Net
17565	Roads & Drainage	Footpaths and Shared Pathways Works	Killarney Vale - timber footbridge replacement programme on Lucinda Avenue	(100)	2	n/a	Project removed as unable to realign footbridge due to location of GPT.			(100)	(100)
17578	Roads & Drainage	Construction	Chitlaway Point - pavement renewal programme on Geoffrey Road	(90)	2	n/a	Project removed as it is included in the annual reseal program.			(90)	(90)
16569	Contract and Project Management	Contract and Project Management	Project Management Special Capital Projects	29	1	97.8%	Project Management Costs, Art House, required to finalise project in 2015/16		29	-	29

## **4.2 The Art House, Wyong Shire Performing Arts and Conference Centre**

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TRIM REFERENCE: F2011/01775 - D12047587

MANAGER: Maxine Kenyon, Director

AUTHOR: Julie Vaughan; Manager

### **SUMMARY**

In February 2014 Council resolved to approve The Art House, Wyong Shire Performing Arts and Conference Centre revised development application with an approved build cost of \$12.7M. Council also resolved to establish a not for profit organisation to operate The Art House.

In accordance with S358 of the Local Government Act, the Minister for Local Government has now granted approval to form a public company limited by guarantee for the purpose of managing and operating The Art House, Wyong Shire Performing Arts and Conference Centre. A formal funding and service level agreement has been developed to allow the company to operate The Art House, Wyong Shire Performing Arts and Conference Centre from 1/1/16 until 30/6/2021.

### **RECOMMENDATION**

- 1 That Council formally note approval from the Minister for Local Government to form a public company limited by guarantee to manage The Art House, Wyong Shire Performing Arts and Conference Centre, to be known as The Art House**
- 2 That Council endorse the Funding and Service Level Agreement between Wyong Shire Council and The Art House, Wyong Shire Performing Arts and Conference Centre.**
- 3 That Council request the General Manager call a general meeting of The Art House, Wyong Shire Performing Arts and Conference Centre, to formally appoint the Board from 1 January 2016**
- 4 That Council endorse the Constitution and appointment of the following people/position to the Board:**
  - a. Mayor of Wyong Shire or his delegate (1 year term)**
  - b. Managing Director, North Construction – Tim Cornish (2 year term)**
  - c. Manager Community Partnerships & Planning (3 year term)**
- 5 That Council authorise the General Manager or his delegate to enter into contracts on behalf of The Art House, Wyong Shire Performing Arts and Conference Centre, up to 31 December 2015.**
- 6 That Council formally note that Wyong Shire Council will fund all reasonable costs expended to establish the operation of The Art House, Wyong Shire Performing Arts and Conference Centre up to 31 December 2015.**

## **BACKGROUND**

At the February 26 2014 Ordinary Council Meeting;

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

- 151/14     *That Council receive and note the report.*
- 152/14     *That Council approve The Art House Revised Business Plan including a projected average annual operating net cost to Council of \$1.0M, budgeted for a ten year period.*
- 153/14     *That Council approve The Art House Revised Development Application Approved Build Cost estimate of \$12.7M.*
- 154/14     *That Council direct the General Manager to call for tenders for the construction of The Art House.*
- 155/14     *That Council direct the General Manager to establish an independent not-for-profit organisation specifically to operate The Art House in accordance with The Art House Business Plan 2014.”*

Following this resolution, Council staff completed an application to the Department of Local Government (DLG) for consent to form a company limited by guarantee. The Company will be granted a licence, in the form of a funding and service level agreement, to operate The Art House, Wyong Shire Performing Arts and Conference Centre from 1/1/16 until 30/6/2021.

The Funding and Service Level agreement will detail both council and company obligations in relation to funding and support, governance and audit, maintenance responsibilities and key performance measures. Renewal of the agreement will occur six months prior to expiration and will be subject to satisfactory performance.

## **CURRENT STATUS**

Construction has commenced and is on track for completion in December 2015. Further approval has been granted to form an independent company under section 358 of the Local Government Act to manage and operate The Art House, Wyong Shire Performing Arts and Conference Centre.

## **THE PROPOSAL**

A funding and service level agreement has been developed in line with the Constitution, detailing membership of the company, to formalise the legal relationship between Wyong Shire Council and The Art House, Wyong Shire Performing Arts and Conference Centre.

That the Board commence its operation in line with funding and service level agreement from January 1 2016 to ensure construction of facility and operation/management are not confused.

**STRATEGIC LINKS**

**Wyong Shire Council Strategic/ Annual Plan**

<i>Principal Activity</i>	<i>Service</i>	<i>Key Action and Objectives</i>	<i>Funding Source and Description</i>	<i>Impact on Key Performance Indicators/ Service Performance Indicators</i>
Community and Education	Community and Cultural Planning	1 Year Action continued development of The Art House including funding strategy, stakeholder engagement, marketing and business planning	S94/Council revenue	

**Contribution of Proposal to the Principal Activity**

The Art House is an upgrade of an existing community facility to enable community based cultural activity including creative learning and skills development. The facility, staff and subsequent programming will be focused on supporting existing and encouraging new, local arts, cultural and media activity that contributes to local identity, personal and community expression and education. Users of the facility will include schools, dance academies, amateur arts groups, tertiary arts students and graduates, businesses and government. The fee structure and management is structured to maximise opportunity and access for the private and public sector with fees and user terms and conditions structured to match each sector.

**Long Term Financial Strategy**

The recommendation to construct The Art House and commence operation whilst meeting the goals of the Business Plan (including projected recurrent cost to Council) is consistent with the following goals of the Long Term Financial Strategy:

D.8 Future life cycle costs will be reported and the ability to fund those costs will be considered in all decisions relating to new services and assets and upgrading of existing services and assets. Those lifecycle costs will include the eventual disposal/decommissioning costs.

D.12 Align its asset management plans with the Strategic Shire Vision.

The Art House has been identified as a project in the Long Term Financial Strategy and therefore will not adversely impact projections.

**Asset Management Strategy**

This asset will be incorporated into the Asset Management Strategy.

**Workforce Management Strategy**

Nil impact. This will be a separate organisation.

**Link to Community Strategic Plan (2030)**

Communities will have access to a diverse range of affordable and coordinated facilities, programs and services:

- a) Providing and maintaining local and regional community facilities for recreation, culture, health and education
- b) Providing and maintaining a range of community programs focused on community development, recreation, culture, environment, education and other issues
- c) Providing recurrent funding for community support and development services
- d) Promoting community facilities to help maximise their benefits and use

**Budget Impact**

The capital cost of The Art House will be met by the allocated capital funds of \$12.7M between 2013/14 and 2015/16 budgets.

The recurrent cost \$1.0M per annum for ten years from 2015/16 onwards will be met in Councils general fund. Staff will continue to source any grant opportunities to support the enhancement of the facilities and operations of The Art House.

**CONSULTATION**

Detailed stakeholder engagement was provided as part of the 26 February 2014 Council report.

**GOVERNANCE AND POLICY IMPLICATIONS**

Establishment of a not-for-profit Incorporated Association with charity status will require registration with the NSW Department of Fair Trading, the Australian Tax Office and the Australian Charities and Not-For-Profits Commission.

**MATERIAL RISKS AND ISSUES**

The building contractor has been appointed Principal Contractor and under the Work Health and Safety Act is responsible for managing all aspects of safety surrounding the construction process.

**CONCLUSION**

With the recent approval to establish the separate company, Council can now move forward with the operational elements to enable the Art House business plan to be implemented. Construction is on track for completion early 2016. Staff have liaised with potential hirers and touring producers to confirm an opening season. Recruitment for company staff can now commence

**ATTACHMENTS**

- |   |  |           |
|---|--|-----------|
| 1 | Confidential Funding and Service Level Agreement - | D12071294 |
| 2 | The Art House Constitution                         | D12069970 |





# CONSTITUTION

[THE ART HOUSE  
WYONG PERFORMING ARTS &  
CONFERENCE CENTRE]

(ACN?????????):

***[Note: The name of the company will be The Art House - Wyong Performing Arts & Conference Centre or such similar available name.]***

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<b>AUTHORITY</b>	<b>NAME &amp; TITLE</b>	<b>SIGNATURE</b>	<b>DATE</b>
<b>AUTHOR</b>			
<b>MANAGER</b>			
<b>DIRECTOR</b>			
<b>GENERAL MANAGER</b>			
<b>DATE ADOPTED BY WSC (IF APPLICABLE)</b>			

<b>Version</b>	<b>Date</b>	<b>TRIM Doc. #</b>
1	12 MAY 2014	Constitution.doc

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## Preliminary

### 1. Defined Terms

1.1. In this Constitution unless the contrary intention appears:

**Auditor** means the Company's auditor;

**Board** means the board of Directors of the Company;

**Business Day** means any day except Saturdays, Sundays and public holidays in New South Wales;

**Centre** means The Art House – Wyong Performing Arts and Conference Centre at Wyong in New South Wales, being a completed and fitted out building owned by Council and located on land owned by Council which Council intends to licence the Company to manage and use; **Chairperson** means the person appointed by the Board from time to time under clause 36.1; **Commissioner** means the Commissioner of Taxation, a second Commissioner of Taxation or a Deputy Commissioner of Taxation for the purposes of the Tax Act;

**Company** means [The Art House – Wyong Performing Arts and Conference Centre] (ACN?) **[Note: The name of the company will be The Art House - Wyong Performing Arts & Conference Centre or such similar available name.]**

**Constitution** means the constitution of the Company as amended from time to time; **Corporations Act** means the *Corporations Act 2001 (Cth)* and includes any regulations made under the Act;

**Council** means the Wyong Shire Council;

**Deputy Chairperson** means the person appointed by the Board from time to time under clause 36.3;

**Director** includes any person occupying the position of director of the Company; **Governing Body** has the meaning in section 222 of the Local Government Act (NSW) 1993; **Member** means the Council;

**Region** means the Central Coast of New South Wales;

**Register** means the register of Members of the Company;

**Representative** has the meaning given under clause 9.1a); **Seal** means the Company's common seal (if any);

**Secretary** means any person appointed by the Directors to perform any of the duties of a secretary of the Company;

**Tax Act** means the *Income Tax Assessment Act 1936 (Cth)* and the *Income Tax Assessment Act 1997 (Cth)*, jointly or as applicable, and

**Term** has the meaning in clause 25.1

1.2. In this Constitution, except where the context otherwise requires, an expression in a clause of this Constitution has the same meaning as in the Corporations Act. Where the expression has more than one meaning in the Corporations Act and a provision of the Corporations Act deals with the same matter as a clause of this Constitution, that expression has the same meaning as in that provision.

### 2. Interpretation

In this Constitution, except where the context otherwise requires;

- a) The singular includes the plural and vice versa, and a gender includes other genders;
- b) Another grammatical form of a defined word or expression has a corresponding meaning;
- c) A reference to a clause, paragraph, schedule or annexure is to a clause or paragraph of, or schedule or annexure to, this Constitution, and a reference to this Constitution includes any schedule or annexure;

- d) A reference to a document or instrument includes the document or instrument as novated, altered, supplemented or replaced from time to time;
- e) A reference to a statute, ordinance, code or other law includes regulations and other instruments under it and consolidations, amendments, re-enactments or replacements of any of them;
- f) A reference to A\$, \$A, dollar or \$ is to Australian currency;
- g) A reference to time is to the time in Wyong, NSW, and
- h) The meaning of general words is not limited by specific examples introduced by including, for example or similar expressions.

### 3. Replaceable rules

To the extent permitted by law, the replaceable rules in the Corporations Act do not apply to the Company.

### 4. Nature of the Company

The Company is a public company limited by guarantee and does not have a share capital.

### 5. Objects

5.1. The Company is a charitable institution established to manage and operate a performing arts centre located primarily at the Centre.

5.2. The objects for which the Company is established are:

- a) To produce, promote, present, encourage and facilitate the performing arts and other cultural and artistic activities in the Region;
- b) To care for, control, maintain, improve, manage, promote and operate the Centre, including the leasing, sub-leasing or licensing of any food or beverage operations within the Centre;
- c) To maximise audiences at and develop a tradition of performing arts and other cultural and artistic activities with the Region;
- d) To encourage and facilitate training in and services to stimulate amateur and professional community and performing arts and other cultural and artistic activities and products within the Region;
- e) To develop audience appreciation and expectations through presentation of a wide range of performing arts and other cultural and artistic activities and productions within the Region;
- f) To give or contribute towards prizes or scholarships designed to encourage the performing arts and other cultural artistic activities within the Region and make grants and give other assistance for those purposes;
- g) To assist in doing all things possible within the scope of these objects to provide improved well-being of the performing arts and other cultural and artistic activities;
- h) To recognise, cooperate with and support public and private bodies which are already or become engaged in the performing arts and other cultural or artistic activities;
- i) To make available on such terms as it thinks fit any part of or facility comprised in the Centre or any other building or facility under its control for any purpose of these objects for which such part or facility is suited, subject to any specific resolution of the Member so as to meet the Member's legal obligations;
- j) To publish and communicate by written or electronic media any material necessary or conducive to the promotion and carrying out of these objects,
- k) To do all acts, deeds, matters and things and to enter into such agreements as are incidental or conducive to the attainment of the above objects or any of them; and

- l) To manage the Centre in accordance with:
  - i. All relevant facility and asset management industry standards;
  - ii. All relevant laws, including obligations imposed by statutory consents, approvals and licences; and
  - iii. All adopted policies and procedures relevant to activities undertaken at the Centre.
- m) To provide reports and information to the Member in a timely manner concerning the management of the Centre.

## 5A Powers

5A.1 Solely for carrying out the Company's objects in clause 5 or doing things incidental or ancillary to carrying out the Company's objects in clause 5, the Company may:

- a) Exercise the powers in section 124 (1) of the Corporations Act,
- b) Raise funds or encourage contributions by way of gifts (by will or otherwise), grants, sponsorships or otherwise, by personal or public appeals or by any other manner,
- c) Provide funds or other material benefits by way of grant or otherwise,
- d) Accept and hold funds or property of any kind on or for any charitable objects or purposes specified or to be specified by any person or to be selected by the directors from a class of trusts, objects or purposes specified by any person,
- e) Accept and undertake trusteeship, administration and management of trusts and funds, whether as trustee or as agent for the trustee or otherwise, and charge and accept fees, commission or other remuneration for doing so,
- f) Purchase, take on lease or in exchange, hire or otherwise acquire real or personal property, and any rights or privileges,
- g) Control, manage, lease, exchange, mortgage, charge, sell, transfer, surrender, dispose of, develop, carry on business or otherwise deal with any real or personal property of any kind or any estate or interest in that property,
- h) Invest, deal with and lend money and otherwise provide financial accommodation to, and guarantee or otherwise secure loans to, charitable objects or purposes,
- i) Construct, improve, maintain, develop, work, manage and control real or personal property,
- j) Enter into contracts and deeds,
- k) Appoint an attorney or agent with the powers (including the power to sub-delegate) and on the terms the Company thinks fit, and procure registration or recognition of the Company in any other country or place,
- l) Enter into arrangements with any government or authority, and obtain from any government or authority any right, privilege or concession,
- m) Engage, dismiss or suspend any employee, agent, contractor or professional person,
- n) Borrow, raise or secure the payment of money and secure the repayment or performance of any debt, liability, contract, guarantee or other engagement in any way and, in particular, by mortgage, charge or overdraft or by the issue of debentures or debenture stock (perpetual or otherwise) charged on all or any of the Company's property (both present and future) and purchase, redeem or pay off those securities,
- o) Make, draw, accept, endorse, discount, execute and issue promissory notes, bills of exchange and other negotiable or transferable instruments,
- p) Print and publish newspapers, periodicals, books or leaflets or otherwise publish information in hard copy or by electronic means,
- q) Accept any gift of property, whether subject to any special trust or not,
- r) Appoint patrons of the Company,

- s) Make donations for charitable purposes,
- t) Decline or otherwise refuse to accept any gift (by will or otherwise), donation, settlement or other disposition of money or property,
- u) Co-ordinate and arrange conferences, meetings, standing committees and commissions and other forums, and
- v) Do all other things that are incidental or conducive to doing so.

## Income and property of the company

### 6. Non-profit clause

- 6.1. The income and property of the Company must only be applied towards the promotion of the objects of the Company set out in clause 5.
- 6.2. No income or property may be paid or transferred directly or indirectly to the Member except for payments to the Member:
  - a) In return for any services rendered or goods supplied to the Company or expenses incurred by the Company, in the ordinary and usual course of business of the Company, including in relation to maintenance for the Centre, or
  - b) Of interest at a rate not exceeding current bank overdraft rates of interest for moneys lent, or
  - c) In respect of Indemnification of, or payment of premiums on contracts of insurance for, any director to the extent permitted by law and this constitution.

### 7. Receipts

- 7.1. If the Company accepts a gift, contribution or donation of money or property, the Company must give the donor a receipt, and otherwise comply with all applicable laws in relation to any such gift, contribution or donation, including without limitation the provisions of section 30-228 of the Tax Act and the provisions of the *Charitable Fundraising Act 1991* (NSW) or corresponding legislation in any other State or Territory of Australia.
- 7.2. The Company may seek gifts, contributions or donations of money or property from the public.

## Membership

### 8. Membership

The Company shall have one Member, which shall be the Council

### 9. Representative

- 9.1. The Member may by written notice to the Secretary:
  - a) Appoint a natural person to act as its representative in all matters connected with the Company as permitted by the Corporations Act ('Representative'), and
  - b) Remove a Representative.

9.2. A Representative is entitled to:

- a) Exercise at a general meeting all the powers which the Member could exercise if it were a natural person;
- b) Stand for election as an office bearer or Director, and
- c) Be counted towards a quorum on the basis that the Member is to be considered personally present at a general meeting by its Representative.

9.3. A written resolution of the Governing Body of the Member or written document authorised by the General Manager of the Member under delegated authority is rebuttable evidence of the appointment or of the removal of the appointment (as appropriate) of the Representative.

9.4. The appointment of the Representative may set out restrictions on the Representative's powers.

## General Meetings

### 10. Calling general meeting

10.1.A A general meeting may only be called by:

- a) A resolution of at least 3 Directors.
- b) In accordance with a members requisition under section 249D of the Corporations Act; or
- c) As otherwise required under the Corporations Act.

### 11. Notice of general meeting:

11.1. Subject to the provisions of the Corporations Act allowing general meetings to be held with shorter notice, at least 21 days written notice (exclusive of the day on which the notice is serviced or deemed to be serviced and of the day for which notice is given) must be given to the member of any general meeting.

11.2. A notice calling a general meeting:

- a) Must specify the place, date and time of the meeting and if the meeting is to be held in two or more places, the technology that will be used to facilitate this; and
- b) Must state the general nature of the business to be transacted at the meeting; and
- c) May specify a place, facsimile number and electronic address for the purposes of proxy appointment.

11.3. A notice of an annual general meeting need not state that the business to be transacted at the meeting includes:

- a) The consideration of the annual financial report, Directors' report and the Auditor's report;
- b) The election of Directors; or
- c) The appointment and fixing of the remuneration of the Auditor.

11.4. The Directors may postpone or cancel any general meeting whenever they think fit (other than a meeting called as the result of a request under clause 10.2).

11.5. The Directors must give notice of the postponement or cancellation of a general meeting to all persons referred to in clause 46.1 entitled to receive notices from the Company.



## Proceedings at general meetings

### 12. Member

In clauses 14, 15 and 17, Member includes the Member present by proxy, attorney or Representative.

### 13. Resolution

13.1. Subject to the Corporations Act, the Company may pass any resolution without a meeting by the Member signing a record in writing of the resolution.

13.2. A notice of meeting must be issued with relevant accompanying documentation in respect of resolutions, even if intended to be passed under clause 13.1. The record signed under clause 13.1 must also record the Member's determination to pass the relevant resolutions without holding a meeting and, where relevant, its agreement to pass the resolution on shorter notice than that prescribed in the Corporations Act for such a meeting if it were held.

13.3. Passage of a resolution under clause 13.1, must be recorded in the Company's minute books.

13.4. A Representative of the Member may sign a record of a resolution under clause 13.1.

### 14. Quorum

14.1. No business may be transacted at a general meeting unless a quorum is present when the meeting proceeds to business.

14.2. A quorum is the Member

14.3. If a quorum is not present within 30 minutes after the time appointed for a general meeting:

- a) If the general meeting was called on the requisition of the Member, it is automatically dissolved; or
- b) In any other case:
  - i. It will stand adjourned to the same time and place seven days after the meeting, or to another day, time and place determined by the chairperson of the general meeting; and
  - ii. If at the adjourned general meeting a quorum is not present within 30 minutes after the time appointed for the general meeting, the general meeting is automatically dissolved.

### 15. Chairperson

15.1. The Chairperson, or in the Chairperson's absence, the Deputy Chairperson, of Directors' meetings, will be the Chairperson at every general meeting.

15.2. The Member may appoint a chairperson of a general meeting if:

- a) There is no Chairperson or Deputy Chairperson; or
- b) Neither the Chairperson nor Deputy Chairperson is present within 15 minutes after the time appointed for holding the general meeting; or
- c) The Chairperson and Deputy Chairperson are unwilling to act as Chairperson of the general meeting.

15.3. If no appointment is made under clause 15.2, then the meeting shall be adjourned for 7 days as if it had been adjourned by the Chairperson of the general meeting under clause 16.

15.4. If there is a dispute at a general meeting about a question of procedure, the chairperson of the general meeting may determine the question.

## 16. Adjournment

16.1. The Chairperson of a general meeting at which a quorum is present:

- a) In his or her discretion may adjourn the general meeting with the Member's consent; and
- b) Must adjourn the general meeting if the Member directs him or her to do so.

16.2. An adjourned general meeting may take place at a different venue to the initial general meeting.

16.3. The only business that can be transacted at an adjourned general meeting is the unfinished business of the initial general meeting.

16.4. Notice of an adjourned general meeting must only be given in accordance with clause 11.1 if a general meeting has been adjourned for more than 21 days.

## 17. Decision on questions

17.1. Subject to the Corporations Act in relation to special resolutions, a resolution is carried if the Member votes in favour of the resolution.

17.2. A resolution put to the vote of a general meeting is decided by the Member.

- 17.3. a) A declaration by the Chairperson that a resolution has been carried or lost; and
- b) An entry to that effect in the minutes of the general meeting, are conclusive evidence of the fact.

17.4. The Chairperson of a general meeting does not have any entitlement to vote at the general meeting other than as a proxy, attorney or Representative of the Member.

## Voting

### 18. Votes by proxy

18.1. If the Member appoints a proxy or an attorney, the proxy or attorney may vote on a resolution.

18.2. A proxy may vote or abstain as he or she chooses except where the appointment of the proxy directs the way the proxy is to vote on a particular resolution. If a proxy votes at all, the proxy will be deemed to have voted the directed proxy in the manner directed.

### 19. Document appointing proxy

19.1. An appointment of a proxy is valid if it is signed by the Member and contains the information required by subsection 250A(1) of the Corporations Act. The Directors may determine that an appointment of proxy is valid even if it only contains some of the information required by section 250A(1) of the Corporations Act.

19.2. For the purposes of clause 19.1, an appointment received at an electronic address will be taken to be signed by the Member if:

- a) A personal identification code allocated by the Company to the Member has been input into the appointment; or
- b) The appointment has been verified in another manner approved by the Directors.

19.3 A proxy's appointment is valid at an adjourned general meeting.

19.4 A proxy or attorney may be appointed for all general meetings or for any number of general meetings or for a particular purpose.

19.5 Unless otherwise provided for in the proxy's appointment or in any instrument appointing an attorney, the appointment of the proxy or the attorney will be taken to confer authority:

- a) To vote on:
  - i. Any amendment moved to the proposed resolution and on any motion that the proposed resolution not be put or any similar motion; and
  - ii. Any procedural motion, including any motion to elect the chairperson, to vacate the chair or to adjourn the general meeting, even though the appointment may specify the way the proxy or attorney is to vote on a particular resolution; and
- b) To vote on any motion before the general meeting whether or not the motion is referred to in the appointment.

## 20. Lodgement of proxy

20.1 The written appointment of a proxy or attorney must be received by the Company, at least 48 hours (unless otherwise specified in the notice of meeting to which the proxy relates) before:

- a) The time for holding the general meeting or adjourned general meeting at which the appointee proposes to vote; or
- b) The decision on the resolution on which the appointee proposes to vote.

20.2 The Company receives an appointment of a proxy and any power of attorney or other authority under which it was executed when they are received at:

- a) The Company's registered office;
- b) A facsimile number at the Company's registered office; or
- c) A place, facsimile number or electronic address specified for that purpose in the notice of meeting.

## Appointment and removal of directors

### 21. Transitional Arrangements and Initial Term

21.1 Up to the close of the general meeting at which this constitution is adopted the Board of Directors shall consist of not less than 3 and not more than 6 Directors, of which up to:

- a) 3 Directors will be appointed by Council, of which one of those appointments must be the Mayor of the Council and another must be the General Manager of the Council or his/her delegate; and
- b) 3 Directors will be appointed by the Board.

For the avoidance of doubt, up to the close of the general meeting at which this Constitution is adopted, clauses 22.1 to 26.2 will not apply and be of no effect.

21.2 At the general meeting at which this constitution is adopted by the Company and immediately after the adoption of this constitution:

- a) The Member must pass a resolution to remove all of the Board;
- b) The Member must pass a resolution to appoint 3 Directors to the Board, who will each hold office for a Term; and
- c) The Directors appointed under clause 21.2 (b) must resolve to appoint 3 Directors to the Board:
  - a. 1 of those Directors will hold office for an initial term of 1 year;
  - b. 1 of those Directors will hold office for an initial term of 2 years; and
  - c. 1 of those Directors will hold office for an initial term of 3 years.

21.3 The resolutions in clauses 21.2 (a) and (b) will take effect on and from the close of the general meeting at which this Constitution is adopted and the resolution in clause 21.2 (c) will take effect immediately on the passing of the resolution.

21.4 The appointment of Directors under this clause 21.2 will be subject to the requirements of clauses 22.1 and 22.2.

21.5 After serving their initial term, the Directors appointed under this clause 22.1 will be eligible for re-appointment for further Terms.

## 22. Number of Directors

22.1. The Company must have not more than 6 Directors, comprising:

- a) Not more than 3 Directors appointed by the Member under clause 23.1; and
- b) Not more than 3 Directors appointed by the Board under clause 24.1.

22.2. There must:

- a) Be at least 1 Director holding office on the Board who is an employee of the Member and who has been appointed by the Member under clause 23.1; and
- b) Not be more than 3 employees or members of the Governing Body of the Member holding office on the Board at any one time.

## 23. Member appointed Directors

23.1. Subject to clause 22.2(a) and (b) the Member may by giving written notice to the Company, appoint up to 3 Directors to the Board, such appointments to be:

23.1.1. The Mayor of the Council; or such other person delegated that function by the General Manager of the Council pursuant to s. 378 of the *Local Government Act 1993 (NSW)*;

23.1.2. The General Manager of the Council, or such other person delegated that function by the General Manager of the Council pursuant to s. 378 of the *Local Government Act 1993 (NSW)*;

23.1.3. A person selected by the Council, having regard to that person's specific skills in commerce, finance, governance, law, marketing, performing arts, cultural development or business generally or such other skills as determined by the Member.

## 24. Board appointed Directors

24.1. Subject to clause 22.2(a) and (b), the Board may appoint up to 3 Directors to the Board at a meeting of the Board from persons nominated in accordance with clauses 24.2 and 24.3.

24.2. The Board will nominate persons for appointment to the Board having regard to the nominee's specific skills in commerce, finance, governance, law, marketing, performing arts, cultural development, or business generally or such other skills as determined by the Board.

24.3. The Board will deliver to the Member at least 7 days prior to the Board meeting at which it is proposed that the nominee will be appointed, the names in writing of all persons nominated by the Board in accordance with clause 24.2. The Member may in its absolute discretion disapprove such nomination and that person will not be eligible for consideration for appointment by the Board. If the Member fails to disapprove such nomination in writing by before the Board meeting, then it will be deemed to have not disapproved the nomination.

## 25. Duration

25.1. Subject to clauses 21.2(c) and 28 and to a Director ceasing to hold office earlier for any reason (including by reason of the terms of the Director's appointment or removal from office), each Director shall hold office for three (3) years from the date of appointment ('Term') and will be eligible for re-appointment for subsequent Terms.

## 26. Removal

26.1. Any Director appointed by the Board under clause 24.1 or 21.2(c) may be removed by the Member before the end of their period of office following receipt of a notice given on behalf of the Board to the Member evidencing that such removal is sanctioned by the majority vote of the Board. The Board may appoint another Director to fill the casual vacancy in accordance with clause 28.1.

26.2. The Member may remove any Director before the end of the Director's period of office and the resulting vacancy will be treated as a casual vacancy and the Member may appoint another person to fill that vacancy provided the appointment is made within two (2) months of the date of removal of the Director, with that person holding office for the remainder of the original Director's Term, after which the Board or the Member (being whoever appointed the original Director) may appoint a Director for a new Term.

## 27. Conduct that is prejudicial to the interests of the Company

27.1. If the conduct or position of any Director is such that continuance in office appears to the majority of the Directors to be prejudicial to the interests of the Company, a majority of Directors at a meeting of the Directors specifically called for that purpose may suspend that Director. For the avoidance of doubt, the Director is not entitled to be present while the matter is being considered at the meeting or vote on the matter.

27.2. Within 14 days of the suspension, the Directors must call a general meeting, at which the Member may either confirm the suspension and remove the Director from office in accordance with clause 26.2 or annul the suspension and reinstate the Director.

## 28. Casual vacancies

28.1. Subject to clause 22.2 (b), the Board may appoint any person as a Director to fill a casual vacancy on the Board, however if that casual vacancy arose as a result of the removal of a Director by the Member under clause 26.2, they must not do so unless the Member has not filled the casual vacancy within the time specified in clause 26.2.

28.2. A Director appointed under clause 28.1 will hold office for the balance (if any) of the period for which the Director, whose membership of the Board became vacant, was appointed, unless removed earlier by the Member under this Constitution.

## 29. Vacation of Office

29.1. The office of a Director immediately becomes vacant if the Director:

- a) Is prohibited by the Corporations Act from holding office or continuing as a Director;
- b) Is liable to have a person appointed, under a law relating to the administration of estates of persons who through mental or physical incapacity are incapable of managing their affairs, to administer it, or becomes in the opinion of the Directors incapable of performing his or her duties;
- c) Resigns by notice in writing to the Company;
- d) Is removed under clause 26.1 or 26.2;
- e) Is absent from Directors' meetings for three consecutive meetings without leave of absence from the Directors; or
- f) Is directly or indirectly interested in any contract or proposed contract with the Company and fails to declare the nature of the interest as required by the Corporations Act.

## Powers and duties of directors

### 30. Powers and Duties of Directors

30.1. The business of the Company shall be managed by or under the direction of the Directors, who may exercise all powers of the Company except any powers that this Constitution or the Corporations Act requires the Company to exercise in general meeting.

30.2. Despite clause 30.2(e), any rule, regulation or by-law of the Company made by the Board may be disallowed or revoked by resolution of the Company.

## Proceedings of directors

### 31. Directors' Meetings

31.1. There shall be no less than 5 meetings of Directors in each calendar year at such places and at such times as the Directors may determine.

31.2. The Chairperson or not less than 3 Directors may at any time, and the Secretary must on the request of the Chairperson or those 3 Directors, call a Directors' meeting.

31.3. A Directors' meeting must be called on at least 48 hours written notice of a meeting to each Director.

31.4. It is not necessary to give notice of a meeting of the Directors to an Australian resident whom the Secretary, when giving notice to the other Directors, reasonably believes to be temporarily outside Australia.

31.5. Subject to the Corporations Act, a Directors' meeting may be held by the Directors communicating with each other by any technological means by which they are able simultaneously to hear each other and to participate in discussion.

31.6. The Directors need not all be physically present in the same place for a Directors' meeting to be held.

- 31.7. Subject to clause 34, a Director who participates in a meeting held in accordance with this Constitution is taken to be present and entitled to vote at the meeting.
- 31.8. Clauses 31.5 to 31.6 apply to meetings of Directors' committees as if all committee members were Directors.
- 31.9. The Directors may meet together, adjourn and regulate their meetings as they think fit.
- 31.10. A quorum is a majority of the number of Directors holding office at the time of the meeting.
- 31.11. Where a quorum cannot be established for the consideration of a particular matter at a meeting of Directors, the chairperson may call a general meeting to deal with the matter.
- 31.12. Notice of a meeting of Directors may be given in writing, or the meeting may be otherwise called using any technology consented to by all the Directors.

## 32. Decision on Questions

- 32.1. Subject to this Constitution, questions arising at a meeting of Directors are to be decided by a majority of votes of the Directors present voting and, subject to clause 34, each Director has one vote.
- 32.2. The chairperson of a meeting has a casting vote in addition to his or her deliberative vote.

## Payment to directors

### 33. Payments to Directors

- 33.1. No fees or other payment may be made to any Director of the Company other than payment:
- a) Of out of pocket expenses properly and reasonably incurred by the Director in the performance of any duty as Director of the Company where the payments do not exceed an amount previously approved by the Directors;
  - b) For any service rendered to the Company by the Director in a professional or technical capacity, other than in the capacity as Director, where the amount payable has prior approval of the Directors of the Company and is not more than an amount which commercially would be reasonable payment for the service;
  - c) Of any salary or wage due to the Director as an employee of the Company where the terms of employment have been approved by the Directors of the Company; and
  - d) Relating to an indemnity in favour of the Director previously approved by the Directors and permitted by section 199A of the Corporations Act or a contract of insurance permitted by section 199B of the Corporations Act.

### 34. Directors' Interests

- 34.1. No contract made by a Director with the Company and no contract or arrangement entered into by or on behalf of the Company in which any Director may be in any way interested is avoided or rendered voidable merely because of the Director holding office as a director or because of the fiduciary obligations arising out of that office.
- 34.2. No Director contracting with or being interested in any arrangement involving the Company is liable to account to the Company for any profit realised by or under any such contract or

arrangement merely because of the Director holding office as a director or because of the fiduciary obligations arising out of that office.

34.3. A Director is not disqualified merely because of being a Director from contracting with the Company in any respect.

34.4. Subject to clause 33, a Director or a Body or entity in which a Director has a direct or indirect interest may:

- a) Enter into any agreement or arrangement with the Company;
  - b) Hold any office or place of profit other than as auditor in the Company; and
  - c) Act in a professional capacity other than as auditor for the Company,
- and the Director or the body or entity can receive and keep beneficially any remuneration, profits or benefits under any agreement or arrangement with the Company or from holding an office or place of profit in or acting in a professional capacity with the Company.

34.5. A Director who has a material personal interest in a matter that is being considered at a Directors' meeting must not:

- a) Be present while the matter is being considered at the meeting; or
- b) Vote on the matter, unless permitted by the Corporations Act to do so, in which case the Director may:
- c) Be counted in determining whether or not a quorum is present at any meeting of Directors considering that contract or arrangement or proposed contract or arrangement;
- d) Sign or countersign any document relating to that contract or arrangement or proposed contract or arrangement; and
- e) Vote in respect of, or in respect of any matter arising out of, the contract or arrangement or proposed contract or arrangement.

## 35. Remaining Directors

35.1. The Directors may act even if there are vacancies on the Board.

35.2. If the number of Directors is not sufficient to constitute a quorum at a Directors' meeting, the Directors may act only to call a general meeting.

## 36. Chairperson

36.1. The Directors must appoint one of the Directors appointed by the Member as Chairperson of Directors' meetings and may determine the period for which the Chairperson will hold office.

36.2. If no Chairperson is appointed or if the Chairperson is not present at any Directors' meeting within 10 minutes after the time appointed for the meeting to begin and if no Deputy Chairperson has been elected in accordance with Clause 36.3 or if that Deputy Chairperson is also absent or unwilling to act, the Directors present must elect a Director to be the chairperson of the meeting.

36.3. The Directors may elect a Director as Deputy Chairperson to act as chairperson in the Chairperson's absence.

## 37. Delegation

37.1. The Directors may delegate any of their powers, other than those which by law must be dealt with by the Directors as a board, to a committee or committees.

37.2. The Directors may at any time revoke any delegation of power to a committee.



37.3. At least one member of each committee must be a Director.

37.4. A committee must exercise its powers in accordance with any directions of the Directors and a power exercised in that way is taken to have been exercised by the Directors.

37.5. A committee may be authorised by the Directors to sub-delegate all or any of the powers for the time being vested in it.

37.6. Meetings of any committee of Directors will be governed by the provisions of this Constitution which deal with Directors' meetings so far as they are applicable and are not inconsistent with any directions of the Directors. The provisions apply as if each member was a Director.

### 38. Written Resolutions

38.1. The Directors may pass a resolution without a Director's meeting being held if all the Directors entitled to a vote on the resolution sign a document containing a statement that they are in favour of the resolution set out in the document. The resolution is passed when the last Director signs.

38.2. For the purposes of clause 38.1, separate copies of a document may be used for signing by Directors if the wording of the resolution and statement is identical in each copy.

38.3. Any document referred to in this clause may be in the form of a facsimile or electronic transmission.

38.4. The minutes of Directors' meetings must record that a meeting was held in accordance with this clause.

38.5. This clause applies to meetings of Directors' committees as if all members of the committee were Directors.

### 39. Validity of Acts of Directors

If it is discovered that:

- a) There was a defect in the appointment of a person as a Director, or member of a Directors' committee; or
- b) A person appointed to one of those positions was disqualified,

All acts of the Director or Directors' committee before the discovery was made are as valid as if the person had been duly appointed and was not disqualified.

### 40. Minutes and Registers

40.1. The Director must cause minutes to be made of:

- a) The names of the Directors present at all Directors' meetings and meetings of Directors' committees;
- b) All proceedings and resolutions of general meetings, Directors' meetings and meetings of Directors' committees;
- c) All resolutions passed by Directors in accordance with clause 38;
- d) All appointments of officers;
- e) All orders made by the Directors and Directors' committees; and
- f) All disclosures of interests made under clause 34.

40.2. Minutes must be signed by the chairman of the meeting or by the chairman of the next meeting of the relevant body.

40.3. The Company must keep all registers required by this Constitution and the Corporations Act.

## 41. Appointment of Attorneys and Agents

41.1. The Directors may from time to time by resolution or power of attorney executed in accordance with section 127 of the Corporations Act appoint any person to be the attorney or agent of the Company:

- a) For the purposes;
- b) With the powers, authorities and discretions (not exceeding those exercisable by the Directors under this Constitution);
- c) For the period; and
- d) Subject to the conditions determined by the Directors.

41.2. An appointment by the Directors of an attorney or agent of the Company may be made in favour of:

- a) Any member of any committee established under this Constitution;
- b) Any company;
- c) The members, directors, nominees or managers of any company or firm; or
- d) Any fluctuating body of persons whether nominated directly or indirectly by the Directors.

41.3. A power of attorney may contain such provisions for the protection and convenience of persons dealing with an attorney as the Directors think fit.

41.4. The Directors may appoint attorneys or agents by facsimile transmission, telegraph or cable to act for and on behalf of the Company.

41.5. An attorney or agent appointed under this clause may be authorised by the Directors to subdelegate all or any of the powers authorities and discretions for the time being vested in it.

## Secretary

### 42. Secretary

42.1. If required by the Corporations Act, there must be at least one secretary of the Company appointed by the Directors for a term and at remuneration and on conditions determined by them.

42.2. The Secretary is entitled to attend and be heard on any matter at all Directors' meetings and general meetings.

42.3. The Directors may, subject to the terms of the Secretary's employment contract, suspend, remove or dismiss the Secretary.

## SEALS

### 43. Common Seal

If the Company has a Seal:

- a) The Board must provide for the safe custody of the Seal;
- b) The Seal must not be used without the authority of the Directors or a Directors' committee authorised to use the Seal;
- c) Every document to which the Seal is affixed must be signed by a Director and be countersigned by another Director, the Secretary or another person appointed by the Board to countersign the document.

## Inspection of records

### 44. Inspection of Records

- 44.1. On reasonable notice to the Secretary and at reasonable times, the Member is entitled to full access to the financial records and other documents of the Company for the purpose of auditing and valuing the Company, making copies and any other reasonable purpose.
- 44.2. The Company must at all times make its financial records available in writing for the inspection by any Director and any other person authorised or permitted by the Corporations Act to inspect such records.

## Notices

### 45. Service of Notices

- 45.1. Notice may be given by the Company to any person who is entitled to notice under this Constitution:

- a) By serving it on the person; or
- b) By sending it by post, facsimile transmission or electronic notification to the person at the person's address shown in the Register or the address supplied by the person to the Company for sending notices to the person.

45.2. A notice sent by post is taken to be served:

- a) By properly addressing, prepaying and posting a letter containing the notice; and
- b) On the day after the day on which it was posted

- 45.3. A notice sent by Facsimile transmission or electronic notification is taken to be served:

- a) By properly addressing the facsimile transmission or electronic notification and transmitting it; and
- b) If sent:
  - i. Before 4pm on a business day, on that business day;
  - ii. After 4pm on a business day, on the next business day;
  - iii. On a day that is not a business day, on the next business day,unless there is evidence that the facsimile transmission or electronic notification was unsuccessful.

- 45.4. A certificate in writing signed by a Director, Secretary or other officer of the Company that a document or its envelope or wrapper was addressed and stamped and was posted is conclusive evidence of posting.
- 45.5. Subject to the Corporations Act the signature to a written notice given by the Company may be written or printed.
- 45.6. All notices sent by post outside Australia must be sent by prepaid airmail post.

## 46. Persons Entitled to Notice

- 46.1. Notice of every general meeting must be given to:
- a) The Member;
  - b) Every Director;
  - c) The Auditor; and
  - d) Any other person required by the Corporations Act.
- 46.2. No other person is entitled to receive notice of a general meeting.

## Audit and accounts

### 47. Audit and accounts

- 47.1. The Board must cause the Company to keep written financial records in relation to the business of the Company in accordance with the requirements of the Corporations Act.
- 47.2. The Board must cause the financial records of the Company to be audited in accordance with the requirements of the Corporations Act.
- 47.3. The financial year of the Company will be 1 January to 31 December of each calendar year.

## Guarantee and winding up

### 48. Guarantee by Member

- 48.1. If the Company is wound up the Member undertakes to contribute an amount not exceeding \$10.00 to the property of the Company for the payment of debts and liabilities of the Company and payment of costs, charges and expenses of winding up.
- 48.2. The liability of the Member is limited to the amount of the guarantee given in clause 48.1.

### 49. Winding Up

- 49.1. On the winding up of the Company or the Company ceasing to be endorsed as a deductible gift recipient under Subdivision 30-BA of the Tax Act, any surplus remaining after the satisfaction of all the debts and liabilities of the Company will not be paid to the Member, but will be given or transferred to another entity which is endorsed as a deductible gift recipient under Division 30 of

the Tax Act, such entity to be determined by the Member and in default, by application to the Supreme Court of New South Wales for determination.

## Indemnity

### 50. Indemnity

50.1. To the extent permitted by law and subject to the restrictions in section 199A of the Corporations Act the Company indemnifies every person who is or has been an officer of the Company against:

- a) Any liability (other than for legal costs) incurred by that person as an officer of the Company (including liabilities incurred by the officer as an officer of a subsidiary of the Company where the Company requested the officer to accept that appointment); or
- b) Reasonable legal costs incurred in defending an action for a liability incurred by that person as an officer of the Company (including legal costs incurred by the officer as an officer of a subsidiary of the Company where the Company requested the officer to accept that appointment).

50.2. The amount of any indemnity payable under clauses 49.1(a) or 49.1(b) will include an additional amount (**GST Amount**) equal to any GST payable by the officer being indemnified (Indemnified Officer) in connection with the indemnity (less the amount of input tax credit claimable by the Indemnified Officer in connection with the indemnity). Payment of any indemnity which includes a GST Amount is conditional upon the Indemnified Officer providing the Company with a GST tax invoice for the GST Amount.

50.3. For the purposes of this clause, officer means:

- a) A Director; or
- b) A Secretary

50.4. The Company may, to the extent permitted by law, purchase and maintain insurance; or pay or agree to pay a premium for insurance, for any Officer against any liability incurred by the person as an officer of the Company where the directors consider it appropriate to do so.

50.5. Nothing in this rule 15:

- a) affects any other right or remedy that an Indemnified Officer may have in respect of any loss or liability referred to in this indemnity or insurance; or
- b) limits the capacity of the Company to indemnify or provide or pay for insurance for any person to whom this rule 15 does not apply.

## Amendments to constitution

### 51. Amendments to Constitution

51.1. This Constitution cannot be amended unless the Member gives prior written consent.

51.2. This Constitution must not be amended if to do so would cause the Company to no longer be eligible for endorsement as a deductible gift recipient under Division 30 of the Tax Act.

## Public fund rules

### 52. Public Fund Rules

The Company must establish and maintain a public fund as follows:

- a) The public fund must be listed on the Register of Cultural Organisations;
- b) All donations to that public fund must be deposited into that public fund;
- c) The public fund must be kept separate from other funds of the Company;
- d) Investment of the public fund must be in accordance with the guidelines for public funds as specified by the Australian Taxation Office from time to time;
- e) The public fund must be administered by the Board if a majority of them are responsible persons as defined in Taxation Ruling 95/27 (or any ruling or law which replaces it) or, by a committee appointed by the Board, the majority of whom are such persons;
- f) The public fund must be applied solely in promotion of the objects of the Company as set out in this Constitution;
- g) No part of the public fund may be paid or transferred directly or indirectly to any Member or Director except as reimbursement for out of pocket expenses incurred on behalf of the Company, or proper remuneration for administrative services rendered to the Company, in respect of the public fund;
- h) The Company must notify the government department responsible for the administration of the Register of Cultural Organisations (or anybody or authority which replaces it) of any proposed amendments to this clause to assess the effect of those amendments on the public fund's deductible gift recipient status.
- i) Receipts for a donation to the public fund must include:
  - i. The name of the public fund and acknowledgement that the receipt is for a gift made to the public fund;
  - ii. The Australia Business Number of the Company;
  - iii. That the receipt is for a gift; and
  - iv. Any other matter required to be included on the receipt by law; and
- j) If on winding up or dissolution of the public fund any asset remains after satisfaction of debts and liabilities, that asset:
  - i. Must not be paid to, or distributed to the Members;
  - ii. Must be given or transferred to or for one or more funds, authorities or institutions as determined by special resolution of the Member which:
    - A. Has objects similar to the purpose and objects of the Company;
    - B. Whose rules prohibit the distribution of its or their income amongst its or their members;
    - C. Which is or are eligible for tax deductibility of donations under Subdivision 30-B, section 30-100 of the Tax Act or any other law which replaces it; and
    - D. Which is or which are listed on the Register of Cultural Organisations maintained under the Tax Act or any law which replaces it.

### **4.3 Classification of Land at Doyalson Lot 31 DP 586913, Lot 32 DP 586913, Lot 762 DP 746526 and Lot 78 DP 755245**

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TRIM REFERENCE: F2015/00800 - D12051042

MANAGER: Peter Stokes, Manager, Property Management

AUTHOR: Paul Forster, Services Coordinator

#### **SUMMARY**

Council is requested to classify Lot 31 DP 586913, Lot 32 DP 586913, Lot 762 DP 746526 and Lot 78 DP 755245 at Thompson Vale Rd Doyalson as Operational Land.

#### **RECOMMENDATION**

- 1 That Council classify Lot 31 DP 586913, Lot 32 DP 586913, Lot 762 DP 746526 and Lot 78 DP 755245 at Thompson Vale Rd Doyalson as Operational Land.**
- 2 That Council note that:**
  - a Nothing in the above resolution authorises the sale of the subject land (section 377(1)(h) of the Local Government Act 1993 provides that any sale of land can only be by resolution of Council).**
  - b Section 31 (3) of the Local Government Act 1993 provides that Council must not resolve that land be classified as operational land if the resolution is inconsistent with the terms of any trust applying to the land.**

#### **BACKGROUND**

At the Ordinary Council Meeting held on 25 June 2014 Council resolved in part, in relation to the Report 3.4 "Terrace Towers":

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

- 693/14 That Council approve the purchase of the land described in the report subject to a thorough due diligence and valuation exercise.*
- 694/14 That Council note the purchase prices of - \$10,000,000 for the land owned by Warner Business Park Pty Ltd and \$7,000,000 for the land owned by Woodbury Park Pty Ltd."*

The land described in that report included:

- Lot 31 DP 586913 (1550 Thompson Vale Rd Doyalson)
- Lot 762 DP 746526 (200 Thompson Vale Rd Doyalson)
- Lot 32 DP 586913 and Lot 78 DP 755245 (740 Thompson Vale Rd Doyalson) ('Doyalson Land').

**4.3 Classification of Land at Doyalson Lot 31 DP 586913, Lot 32 DP 586913,  
Lot 762 DP 746526 and Lot 78 DP 755245 (contd)**

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A map of the Doyalson Land is attached below.

Contracts for the acquisition of the Doyalson Land from Woodbury Park Estates Pty Limited for the sum of \$7,000,000 were exchanged on 14 August 2014 and the acquisition was completed on 29 June 2015.

The acquisition of the Doyalson Land was not subject to any private or public trust applying to the land.

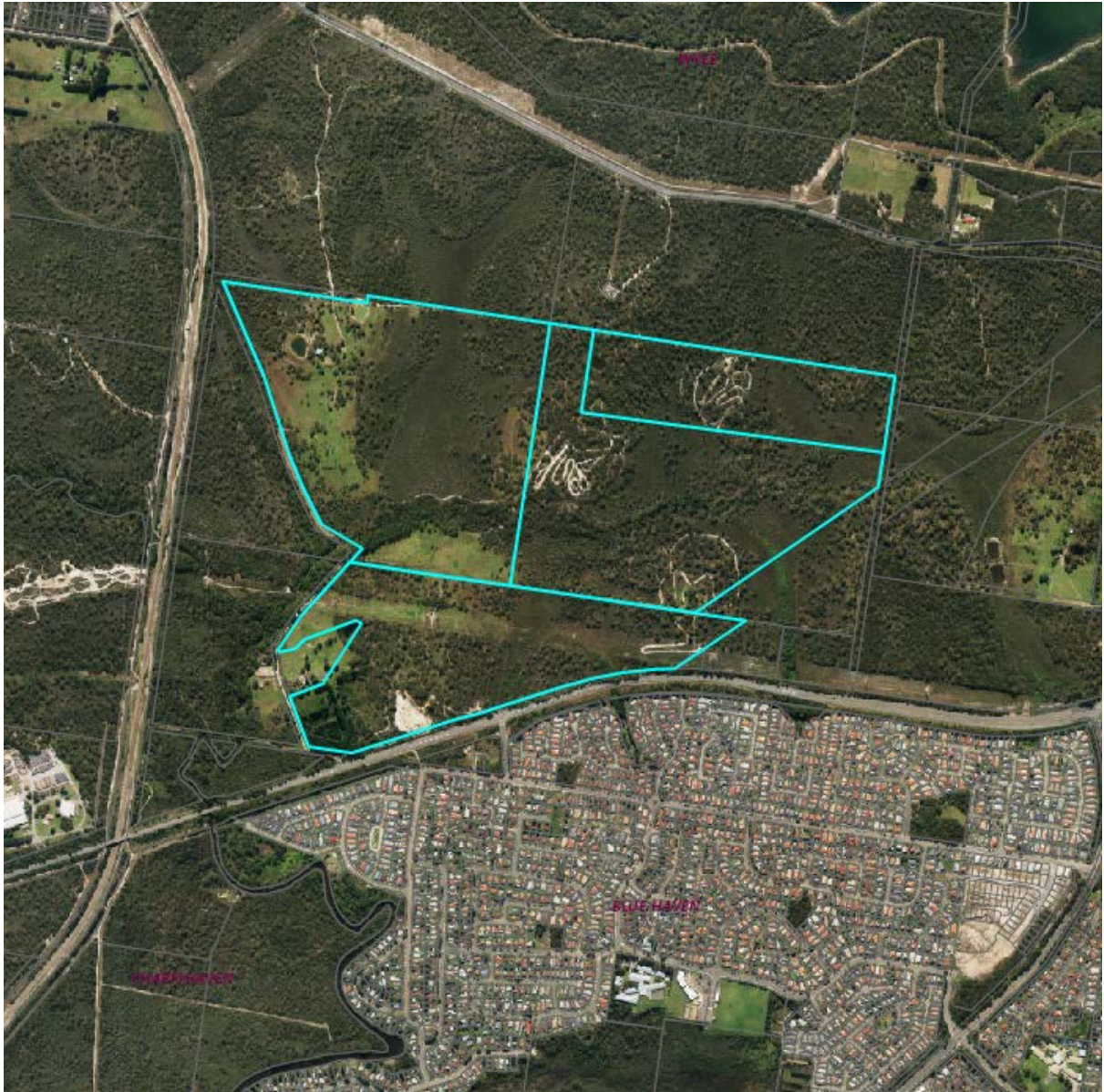
The Doyalson Land is zoned RU6 Transition and E2 Environmental Conservation and has an area of approximately 144 hectares.

Under section 31 of the Local Government Act 1993 Council may before it acquires land, or within 3 months after it acquires land, resolve that the land be classified as Community Land or Operational Land. Any land acquired by Council that is not classified within the 3 month period is taken to have been classified as Community Land.

Under Section 34 of the Local Government Act Council is required to give public notice of the proposal to classify land for a period of 28 days.

Public notice of the proposal to classify the Doyalson Land as Operational Land was given on 31 July 2015. No submissions have been received.





Map of the Doyalson Land

**THE PROPOSAL**

It is proposed to classify the Doyalson Land as Operational Land under section 31 of the Local Government Act 1993.

Council's Policy for Property Transactions – Sales and Acquisitions, adopted 14 May 2014, provides that all future land purchases by Council should generally be designated as operational land irrespective of the intended or existing use. This is to maximise flexibility in the management of and use of Council's property portfolio and improve community and service delivery outcomes.

The Doyalson Land should be classified as Operational Land in accordance with the Council's Policy for Property Transactions – Sales and Acquisitions.

**OPTIONS**

Council may resolve to classify the Doyalson Land as either Operational Land or Community Land. If Council does not resolve to classify the Doyalson Land within three months of its acquisition then the land will automatically be taken to have been classified as Community Land.

**Budget Impact**

There is no cost to Council to classify the land.

**GOVERNANCE AND POLICY IMPLICATIONS**

Under Section 31 of the Local Government Act 1993, land acquired by Council is taken to be classified as Community Land unless Council resolves that the particular land concerned be classified as Operational Land.

The proposal to classify the Doyalson Land as Operational Land is in accordance with the requirements of the Local Government Act 1993 and Council's Policy for Property Transactions – Sales and Acquisitions.

**ATTACHMENTS**

*Nil.*

#### **4.4 Councillor Attendance - Central Coast Police Charity Fundraising Night 2015**

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TRIM REFERENCE: F2004/06517 - D12059316

MANAGER: Lesley Crawley, Manager Corporate Governance

AUTHOR: Jacquie Elvidge; Councillor Services Officer

#### **SUMMARY**

Central Coast Police Charity Fundraising Night to be held Saturday 26 September 2015 at Mingara Recreation Club.

#### **RECOMMENDATION**

- 1 That Council authorise the attendance of interested Councillors at the Central Coast Police Charity Fundraising Night in accordance with the Council's Facilities and Expenses Policy for Councillors.**
- 2 That Council authorise the reimbursement of expenses for Councillors in accordance with the Council's Facilities and Expenses Policy for Councillors.**

#### **BACKGROUND**

The NSW Police Force and Star 104.5 FM will be holding a Central Coast Police Charity Fundraising Night on Saturday 26 September 2015 at Mingara Recreation Club.

#### **THE PROPOSAL**

Councillors have expressed an interest in attending this event.

Councillors may be reimbursed for expenses incurred in the attendance of non-Council events and functions in accordance with the provisions of the Facilities and Expenses Policy.

#### **STRATEGIC LINKS**

##### **Wyong Shire Council Strategic / Annual Plan**

Nil impact.

### Budget Impact

The table below indicates the approximate cost for attendance at the event and associated travel expenses per Councillor:

CC Police Charity Night	Councillor Fees
Single Ticket \$100	\$100 (1)
Table of 10 \$950	\$950 (10)
Approximate Travel (approx. 50km return)	\$ 39.00
<b>Total (estimate)</b>	<b>\$ 139.00</b> <i>(approx. per Cr)</i>

### CONSULTATION

This submission complies with Council's adopted Facilities and Expenses Policy for Councillors.

### GOVERNANCE AND POLICY IMPLICATIONS

In accordance with the provisions of Council's Facilities and Expenses Policy for Councillors, clause D14 and D17, reasonable expenses incurred in Councillors attending non-Council events and functions are met in accordance with that policy.

*"D14 Council will meet sustenance and attendance expenses for Councillors' attendance at non-Council functions related to Council business which provide briefings to Councillors from key members of the community, politicians and business. Approval for reimbursement will be by Council resolution. The maximum reimbursement of total attendance costs is \$200 per Councillor per event. Councillors may attend a maximum of 6 of these events in a year. The total maximum expenditure is \$1200.*

*D17 Council will pay the cost as further described in this section, for a spouse or partners or carer or one accompanying person per Councillor and children under 18 years in attending the following events as per the table below:*

<b>Event</b>	<b>Registration</b>	<b>Ticket</b>	<b>Accommodation</b>	<b>Sustenance</b>	<b>Partner Tours</b>	<b>Travel</b>	<b>Carer</b>
<i>Other Council approved conferences and events</i>	<i>No</i>	<i>No</i>	<i>Yes. If staying in same room as Councillor</i>	<i>Yes if for official conference events. (eg formal dinner, welcome drinks) No additional meals and beverages included</i>	<i>No</i>	<i>Yes. If travelling In company of Councillor in same vehicle No additional air or other travel fares included</i>	<i>Yes"</i>

**CONCLUSION**

Attendance at this event is in accordance with Council's Facilities and Expenses Policy for Councillors.

**ATTACHMENTS**

- 1 Official Invitation to Central Coast Police Charity Fundraising Night 2015 D12059309



**NSW Police Force**  
[www.police.nsw.gov.au](http://www.police.nsw.gov.au)

You are invited to attend

## **CENTRAL COAST POLICE CHARITY FUNDRAISING NIGHT 2015**

Held at Mingara Recreation Club  
On Saturday 26<sup>th</sup> September 2015  
At 6pm – 12am

Dress: Formal

Funds raised will be donated to S/CST Dave MANSFIELD, Blair's Wish and Solomon Island Health and Development Projects.

MC by Star 104.5FM Craig & Mandy

Live Entertainment provided by DJ Gary

Guest Speakers, Silent Auctions, Main Auctions and raffles on the night.

Tickets \$100ea or \$950 for a table of 10  
(Includes 2 course meal, beverages, canapés on arrival)

Guest Speakers, Silent Auctions, Main Auctions and raffles on the night.

For tickets please Contact:

S/CST Nicole COOMBS Tuggerah Lakes LAC – 0421044675 or [coombsn@hotmail.com](mailto:coombsn@hotmail.com)

RSVP: 26<sup>th</sup> August 2015





#### **4.5 Proposed Renaming of Fountaindale Ridge Reserve at Brush Road, Fountaindale to Mark Foster Reserve - Final Submission to Geographical Names Board**

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TRIM REFERENCE: F2004/06023 - D12059038

MANAGER: Lesley Crawley, Manager Corporate Governance

AUTHOR: Jacqui Elvidge; Councillor Services Officer

#### **SUMMARY**

Submitting proposal to Council for re-submission to Geographical Names Board, for final determination.

#### **RECOMMENDATION**

- 1** *That Council endorse the renaming of Fountaindale Ridge Reserve at Lots 5, 98 and 99 DP 755263 Brush Road, Fountaindale to Mark Foster Reserve.*
- 2** *That Council note this proposal has previously been advertised by Council, with no submissions received.*
- 3** *That Council note the proposal has been advertised by the Geographical Names Board, with 29 submissions received, which included 1 objection.*
- 4** *That Council submit the proposal to the Geographical Names Board for final determination.*

#### **BACKGROUND**

Correspondence has been received from Mr Garon Staines asking Council to support naming bushland in Council's care and control, in memory of the late Mark Foster who contributed to the regeneration of many hectares in Wyong Shire.

The Mark Foster Memorial Reserve renaming proposal was endorsed unanimously at a previous Ordinary meeting of Council and subsequently advertised in the Central Coast Express Advocate for 28 days, with no submissions received:

The proposal was then submitted to the GNB, which, as part of its renaming process, put the proposal on exhibition for 28 days; this exhibition concluded on the 8 July 2015.

A total of 29 submissions were received from the GNB exhibition, which included 1 objection.

The GNB has further advised that the name "Mark Foster Reserve" is preferable and more in line with the GNB naming guidelines than "Mark Foster Memorial Reserve" given that the act of naming the reserve is in itself in memoriam.

**4.5 Proposed Renaming of Fountaindale Ridge Reserve at Brush Road, Fountaindale to Mark Foster Reserve - Final Submission to Geographical Names Board (contd)**

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**CURRENT STATUS**

The land known as Fountaindale Ridge Reserve is currently owned by Wyong Shire Council.

**THE PROPOSAL**

In accordance with GNB practice the proposal together with the submissions received, has been referred to Council for its further consideration.

Given there is significant public support for the proposal it is recommended that the amended name be supported by Council and the GNB be advised.

**OPTIONS**

- 1 Support the submission to rename Fountaindale Ridge Reserve to Mark Foster Reserve at Lots 5, 98 and 99 Brush Road, Fountaindale.
- 2 Not support the renaming submission.

**STRATEGIC LINKS**

Nil Impact.

**Budget Impact**

If the renaming Fountaindale Ridge Reserve proceeds, signage would be required to be placed at the site at a cost of approximately \$2,700 for a 5.1 type reserve sign which would comprise three planks, Council blue and include Council and Central Coast logos.

**CONCLUSION**

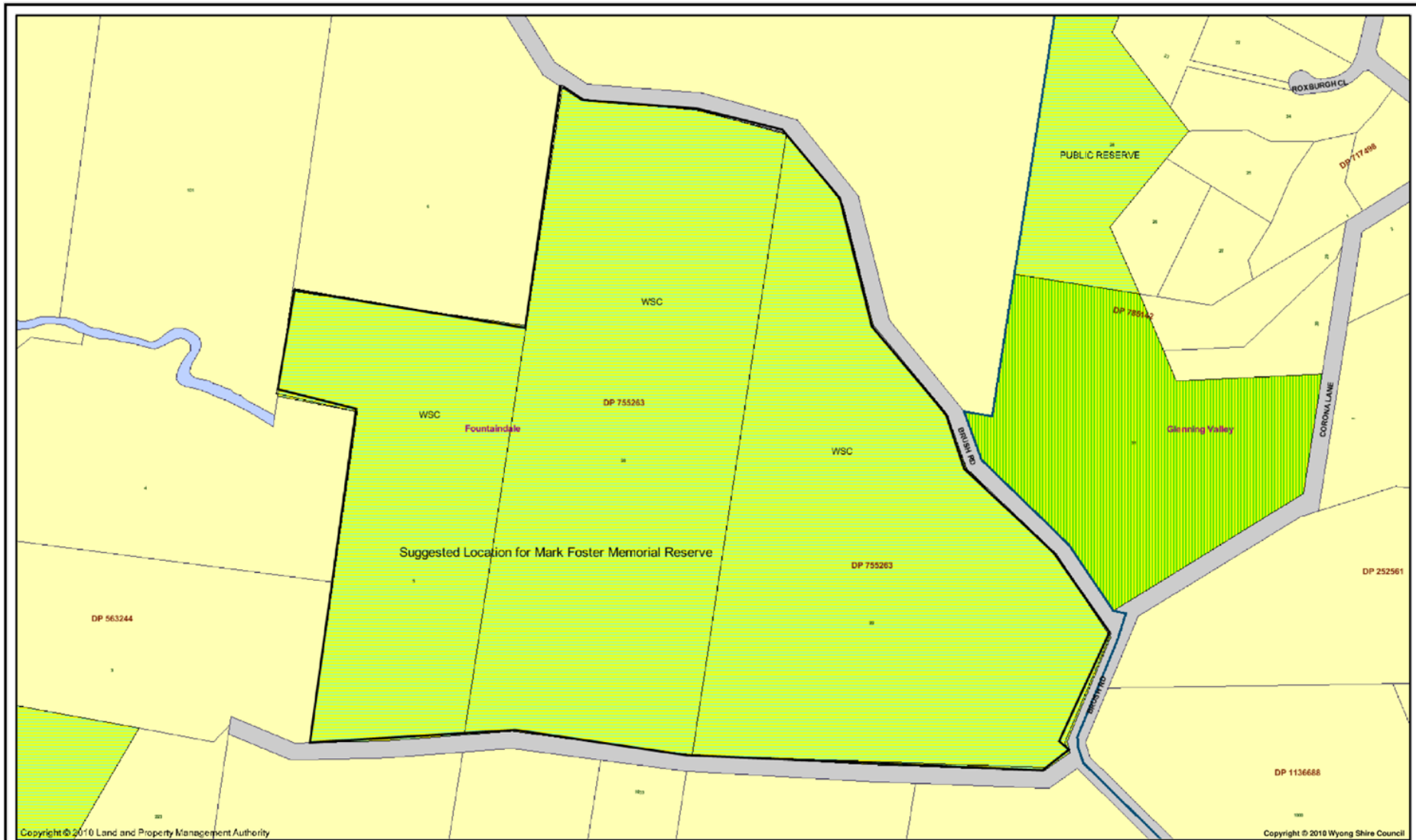
Council has been given an opportunity to consider further submissions in relation to a proposal submitted to the GNB by family and friends of the late Mark Foster.

It is recommended that the proposal, including the deletion of the word 'memorial' be supported and the GNB advised.

**ATTACHMENTS**

- |   |   |           |
|---|---|-----------|
| 1 | Suggested Location Mark Foster Reserve  | D02781350 |
| 2 | submissions - Naming proposal - Mark Foster Reserve - Geographical Names Board CONFIDENTIAL - | D12018722 |





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williamd

21/09/2011

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Web: [www.wyongsc.nsw.gov.au](http://www.wyongsc.nsw.gov.au)  
Email: [wsc@wyong.nsw.gov.au](mailto:wsc@wyong.nsw.gov.au)



### MAP EXTRACT Scale 1:4188



Base Cadastre is part of the Digital Cadastral Database supplied by Department of Lands, Bathurst. Any persons whose legal rights may be affected, or intends to act on any cadastral information shown on this plan should verify such information by consulting Department of Lands, Bathurst before so acting.

M. Whittaker  
General Manager

## **4.6 Amendment to proposed names of buildings at Wyong Grove Community and Cultural Hub**

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TRIM REFERENCE: F2014/00900 - D12054948

MANAGER: Maxine Kenyon, Director

AUTHOR: Justin Kelaher, Section Manager

### **SUMMARY**

In April 2015 Council approved a proposal to name five buildings at the Wyong Grove Community and Cultural Hub, in accordance with the Policy for Naming of Public Facilities. This report proposes to amend two of the proposed names of the individual buildings after consultation with those individuals originally nominated have since respectfully declined the nomination.

### **RECOMMENDATION**

***That Council endorse an amendment to the naming of two of the buildings at Wyong Grove Community and Cultural Hub as follows:***

- ***Building A – Fred Keep Building***
- ***Building D – Paul Levick Building***

### **BACKGROUND**

Council resolved in April 2015 to name four of the buildings at Wyong Grove Community and Cultural Hub after a former General Manager and three former Councillors in accordance with the Policy for Naming of Public Facilities.

Following that endorsement, two of the nominees respectfully declined the nomination for personal reasons. Since that time consultation has occurred with former Councillor Paul Levick and the family of former Councillor Fred Keep who were also originally shortlisted to be considered for nomination. Both of these nominees have accepted the nomination, pending Council endorsement.

The names of the remaining three buildings that were endorsed in April 2015 remain unaltered:

- ***Building B – Robyn Stewart Building***
- ***Building C – Cliff Russell Building***
- ***Building E – Wyong Grove Theatre***

A morning tea to commemorate the naming of the buildings has been planned for Wednesday 30<sup>th</sup> September, all nominees have been advised.

## **CURRENT STATUS**

Following the Council approval granted at the 22 April 2015 Ordinary Meeting the successful nominees, and their families in the case of Cliff Russell, were contacted to advise of the nomination and extend an invitation to an event to commemorate the naming.

At this time, two of the nominees respectfully declined the nomination for personal reasons, the remaining two nominees have accepted. As a result, two alternate nominees who were also originally shortlisted, are now recommended for consideration.

## **THE PROPOSAL**

In accordance with the Policy for Naming of Public Facilities it is proposed to amend the names of two of the individual buildings at Wyong Grove Community and Cultural Hub to acknowledge the service provided to the community by two long serving Councillors as follows:

Building A – Fred Keep Building  
Building D – Paul Levick Building

Naming the individual buildings and identifying them on site maps and signs will also make it easier for users and site visitors to locate the building they are there to use.

## **CONSULTATION**

Councillors were originally consulted and asked to provide appropriate names; one response was received that suggested acknowledging the contribution of the long serving individuals who have been chosen.

Consultation has already occurred with the newly nominated individual and the families of the deceased nominee. The nominations will be confirmed if the proposal is endorsed.

## **GOVERNANCE AND POLICY IMPLICATIONS**

Wyong Shire Council policy WSC112, Policy for Naming of Public Facilities, was used in the development of the proposed names and the alternate options. The policy allows for facilities to commemorate a living person in special circumstances where:

- A Councillor has provided at least 10 years' service
- A past General Manager with more than 10 years' service

In preparing this proposal it was determined that the individuals chosen provided the following years of service:

- Councillor Fred Keep (deceased) – 16 years
- Councillor Paul Levick – 12 years

**MATERIAL RISKS AND ISSUES**

Nil impact

**CONCLUSION**

Having regard to naming suggestions received and to show appreciation to the service provided to the community by the amended nominated former long serving Councillors it is recommended that the buildings at Wyong Grove be named to commemorate their service.

**ATTACHMENTS**

*Nil.*

## 5.1 DA/171/2015 - Bunnings - 80-90 Pacific Highway Charmhaven

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TRIM REFERENCE: DA/171/2015 - D11996845

MANAGER: Scott Cox, Director

AUTHOR: Tracy Sharp; Senior Development Planner

### SUMMARY

A development application has been received for a Hardware and Building Supplies Development (Bunnings) at 80-90 Pacific Highway (Corner Chelmsford Road) Charmhaven. The application has been assessed having regard to the matters for consideration detailed in Section 79C of the *Environmental Planning and Assessment Act 1979* and other statutory requirements.

<b>Applicant</b>	Bunnings Properties Pty Ltd
<b>Owner</b>	Mr CP Beresford and Mrs CL Beresford
<b>Application No</b>	DA/171/2015
<b>Description of Land</b>	Lot 2 DP 24696 and Lots 5 & 6 DP 738274 No. 80-90 Pacific Highway (Corner Chelmsford Road) Charmhaven
<b>Proposed Development</b>	Hardware and Building Supplies
<b>Site Area</b>	2.39 hectares
<b>Zoning</b>	IN2 Light Industrial and SP2 Road and Traffic Facility
<b>Existing Use</b>	
<b>Employment Generation</b>	160
<b>Value of Works</b>	\$24,150,000
<b>Determining Authority</b>	Joint Regional Planning Panel

### RECOMMENDATION

- 1 ***That Council receive the report on DA/171/2015 - Bunnings - 80-90 Pacific Highway Charmhaven.***
- 2 ***That Council determine whether it wishes to make a submission to the Joint Regional Planning Panel regarding the application.***

### BACKGROUND

#### Referral to Hunter Central Coast Joint Regional Planning Panel

The proposal is referred to the Hunter Central Coast Joint Regional Planning Panel (JRPP) for determination pursuant to Section 21(1)(a) of this State Environmental Planning Policy (State and Regional Development) (SEPP) 2011, as the propose development has a capital investment value (CIV) over \$20 million as indicated within Schedule 4A of the *Environmental Planning and Assessment Act 1979*.

Enclosed is the report being forwarded to the Hunter Central Coast JRPP's for determination on 12 August 2015.

**ATTACHMENTS**

- |   |                             |           |
|---|-----------------------------|-----------|
| 1 | Report to JRPP              | D12062611 |
| 2 | SEPP 64 Assessment          | D12062614 |
| 3 | Draft Conditions of Consent | D12062617 |
| 4 | Development Plans           | D12062870 |

## Assessment Report and Recommendation Cover Sheet

### JOINT REGIONAL PLANNING PANEL (Hunter Central Coast)

<b>JRPP No</b>	2015HCC006
<b>DA Number</b>	DA/171/2015
<b>Local Government Area</b>	Wyong Shire Council
<b>Proposed Development</b>	Hardware and building supplies development (Bunnings) ancillary food and drink premises including demolition, remediation and ancillary works as well as the consolidation of lots
<b>Street Address</b>	Lot 2 DP 24696 and Lots 5 & 6 DP 738274 80-90 Pacific Highway (Corner Chelmsford Road) Charmhaven
<b>Applicant/Owner</b>	Bunnings Properties Pty Ltd - Applicant Mr CP & Mrs CL Beresford - Owner
<b>Number of Submissions</b>	Four (4)
<b>Regional Development Criteria (Schedule 4A of the Act)</b>	Capital investment value of \$24,150,000
<b>List of All Relevant s79C(1)(a) Matters</b>	<ul style="list-style-type: none"> <li>• State Environmental Planning Policy (State and Regional Development) 2011</li> <li>• State Environmental Planning Policy (Infrastructure) 2007</li> <li>• State Environmental Planning Policy 55 – Remediation of Land</li> <li>• State Environmental Planning Policy No. 64 – Advertising and Signage</li> <li>• Wyong Local Environmental Plan 2013</li> <li>• Wyong Shire Development Control Plan 2013 <ul style="list-style-type: none"> <li>- Chapter 2.6 - Signage</li> <li>- Chapter 2.11 – Parking and Access</li> <li>- Chapter 2.12 Industrial Development</li> <li>- Chapter 2.15 – Public Art</li> <li>- Chapter 3.1 Site Waste Management</li> </ul> </li> </ul>
<b>List all documents submitted with this report for the panel's consideration</b>	Officer's Assessment Report Recommended conditions Plans
<b>Recommendation</b>	Approval
<b>Report by</b>	Tracy Sharp – Senior Development Planner

## Assessment Report and Recommendation

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### WYONG SHIRE COUNCIL

#### Hunter and Central Coast Joint Regional Planning Panel

**DA/171/2015 - Hardware and Building Supplies Development (Bunnings) including Demolition and Remediation**

#### Summary

An application has been received for a hardware and building supplies development (Bunnings) and food and drink premises. The application also includes demolition of the existing structures, remediation of the site and ancillary works. 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) 1979 and other statutory requirements with the issues requiring attention and consideration being addressed in the report.

<b>Applicant</b>	Bunnings Properties Pty Ltd
<b>Owner</b>	Mr CP Beresford and Mrs CL Beresford
<b>Application No</b>	DA/171/2015
<b>Description of Land</b>	Lot 2 DP 24696 and Lots 5 & 6 DP 738274 No. 80-90 Pacific Highway (Corner Chelmsford Road) Charmhaven
<b>Proposed Development</b>	Hardware and building supplies development (Bunnings), food and drink premises including demolition and remediation
<b>Site Area</b>	2.39 hectares
<b>Zoning</b>	IN2 Light Industrial and SP2 Road and Traffic Facility
<b>Existing Use</b>	Formerly a concrete pipe manufacturing facility
<b>Employment Generation</b>	240 construction jobs and 160 full-time and part-time jobs
<b>Value of Works</b>	\$24,150,000

#### RECOMMENDATION

- 1 ***That the Joint Regional Planning Panel grant consent to DA/171/2015 at Lot 2 DP 24696 and Lots 5 & 6 DP 738274 No. 80-90 Pacific Highway (Corner Chelmsford Road) Charmhaven for a hardware and building supplies development (Bunnings) including demolition and remediation of the site subject to the conditions provided in Attachment 1.***
  
- 2 ***That Council advise those who made written submissions of the Joint Regional Planning Panel decision.***



## PRECIS

<b>Proposed Development</b>	Construction of a hardware and building supplies development (Bunnings) and ancillary café, including demolition, remediation, parking and ancillary works
<b>Permissibility and Zoning</b>	The proposal is permissible as ' <i>hardware and building supplies</i> ' under Wyong Local Environmental Plan (WLEP) 2013
<b>Relevant Legislation</b>	<ul style="list-style-type: none"> <li>• Environmental Planning and Assessment Act 1979</li> <li>• State Environmental Planning Policy (State and Regional Development) 2011</li> <li>• State Environmental Planning Policy (Infrastructure) 2007</li> <li>• State Environmental Planning Policy 55 – Remediation of Land</li> <li>• State Environmental Planning Policy No. 64 – Advertising and Signage</li> <li>• Wyong Local Environmental Plan 2013</li> </ul>
<b>Current Use</b>	The site currently contains a hardstand area from the previous concrete pipe manufacturing facility.
<b>Submissions</b>	Four (4)

## VARIATIONS TO POLICIES

The development proposes the following variations: -

<b>DCP</b>	Chapter 2.12 Industrial Development
<b>Clause</b>	2.2 Site Coverage
<b>Standard</b>	50%
<b>Departure basis</b>	The development proposes a site coverage of 55%.

<b>DCP</b>	Chapter 2.12 Industrial Development
<b>Clause</b>	2.3 Setbacks
<b>Standard</b>	Front Setback - 10m to other roads
<b>Departure basis</b>	The DCP does not have specific requirements in relation to corner allotments with two (2) street frontages. The proposed building has a varied setback to Chelmsford Road with one (1) minor element, the pedestrian entryway portion, having a proposed setback of between 1m to 3.5m to Chelmsford Road. This is a variation of 6.5m to 9m for an 18m length or 9.3% of the overall building length (192m).

<b>DCP</b>	Chapter 2.12 Industrial Development
<b>Clause</b>	2.3 Setbacks
<b>Standard</b>	5m landscaping within front setback
<b>Departure basis</b>	The entryway of the proposed building is set within the required 5m landscaped area. This variation is for 18m in length or 7.5% of the overall site length of 240m on Chelmsford Road.

The proposed variations are discussed in further detail within the report.

## THE SITE AND SURROUNDING DEVELOPMENT

The subject site is commonly known as 80-90 Pacific Highway (Corner Chelmsford Road) Charmhaven and is legally described as Lot 2 DP 24696 and Lots 5 and 6 DP 738274.

The site subject to this application is located on the western side of Pacific Highway and southern side of Chelmsford Road. The site has a frontage of approximately 80m to Pacific Highway and approximately 240m to Chelmsford Road. The subject site has an overall site area of approximately 2.39 hectares. Vehicle access to the site is currently from Pacific Highway, however access for the proposed development will be from Chelmsford Road.

The site contains the existing structures mainly concrete slabs from the previous concrete pipe manufacturing facility. The site has a fall of approximately 3% from the south eastern corner to Chelmsford Road.

The site sits within an existing mix of industrial and highway related developments with the surrounding properties characterised by a variety of land uses including:

- the vacant Kellogg's buildings to the south; and
- the Millennium Health Club adjacent the western boundary.
- to the north of the site on the other side of Chelmsford Road exists a Before and After School Care, Petbarn, Bristol and Carroll's Timber and Hardware.
- low density residential development is located to the east across the Pacific Highway.
- in addition to these, the Lake Haven Home Mega Centre, which includes the existing Bunnings Warehouse and Lake Haven Shopping Centre, are located diagonally opposite the site to the north-east.

The subject site has been identified as being subject to road widening along its Pacific Highway frontage.

Lot 2 is burdened by an easement containing an electricity substation.



Figure 1 - Aerial photograph



Figure 2 – Zoning plan

## THE PROPOSED DEVELOPMENT

The applicant proposes the demolition of the existing structures (concrete slabs) on the site, remediation of the site and construction and use of a hardware and building supplies including ancillary food and drink premises development. It is proposed that the Bunnings warehouse will relocate from the existing facility located diagonally opposite the site within the Lake Haven Home Mega Centre.

The proposed development comprises the following elements: -

- Demolition of all structures on site;
- Bulk Earthworks involving approximately 2.0m of cut at the Pacific Highway boundary to 2.4m of fill across the length of the Chelmsford Road frontage;
- Construction of a Bunnings Warehouse with a total floor space of 16,313 m<sup>2</sup> including:
  - Main entry – 490m<sup>2</sup>;
  - Main warehouse – 9,456m<sup>2</sup>;
  - Timber trade sales area – 3,143m<sup>2</sup>;
  - Mezzanine office/administration area - 255 m<sup>2</sup>;
  - Bagged goods canopy - 1,736m<sup>2</sup>;
  - Outdoor nursery – 1,145m<sup>2</sup>;
  - Goods receiving canopy;
  - Café selling pre-packaged goods and beverages – 88m<sup>2</sup>;
- Lifts and travellers;
- Bunnings signage theme to extend across the building:
  - 2 x 12m high pylon signs, 1 on Pacific Highway and 1 on Chelmsford Road with areas of 34.5m<sup>2</sup>;
  - Building identification wall signage (painted on) with areas of 105m<sup>2</sup>, 116m<sup>2</sup>, 237m<sup>2</sup> and 257m<sup>2</sup>;
- Ancillary works including firefighting water supply, landscaping areas and provision of sewer, water and stormwater services;
- Access and car park:
  - Two (2) new access points onto Chelmsford Road requiring the construction of a single lane round-about incorporating Callaghan Drive for the main customer entry and a two-way delivery and timber trade sales access/ramp along the western boundary;
  - Undercroft parking providing 410 spaces including 10 disabled spaces;
- Employment of approximately 160 full time and part time staff;
- Opening hours:
  - Monday – Friday: 6am to 10pm;
  - Saturday, Sunday and Public Holidays: 6am to 7pm;
- Delivery hours: 6.00am to 9.00pm.
- Consolidation of lots

The majority of the building will have a height of approximately 13.4m (undercroft RL to parapet RL) with the maximum height of 15.4m at the top of the entry structure. Due to the topography of the site and proposed earthworks, the building would present as height of 9.5m to Pacific Highway after the site has been cut a maximum of 2m at the Pacific Highway boundary.



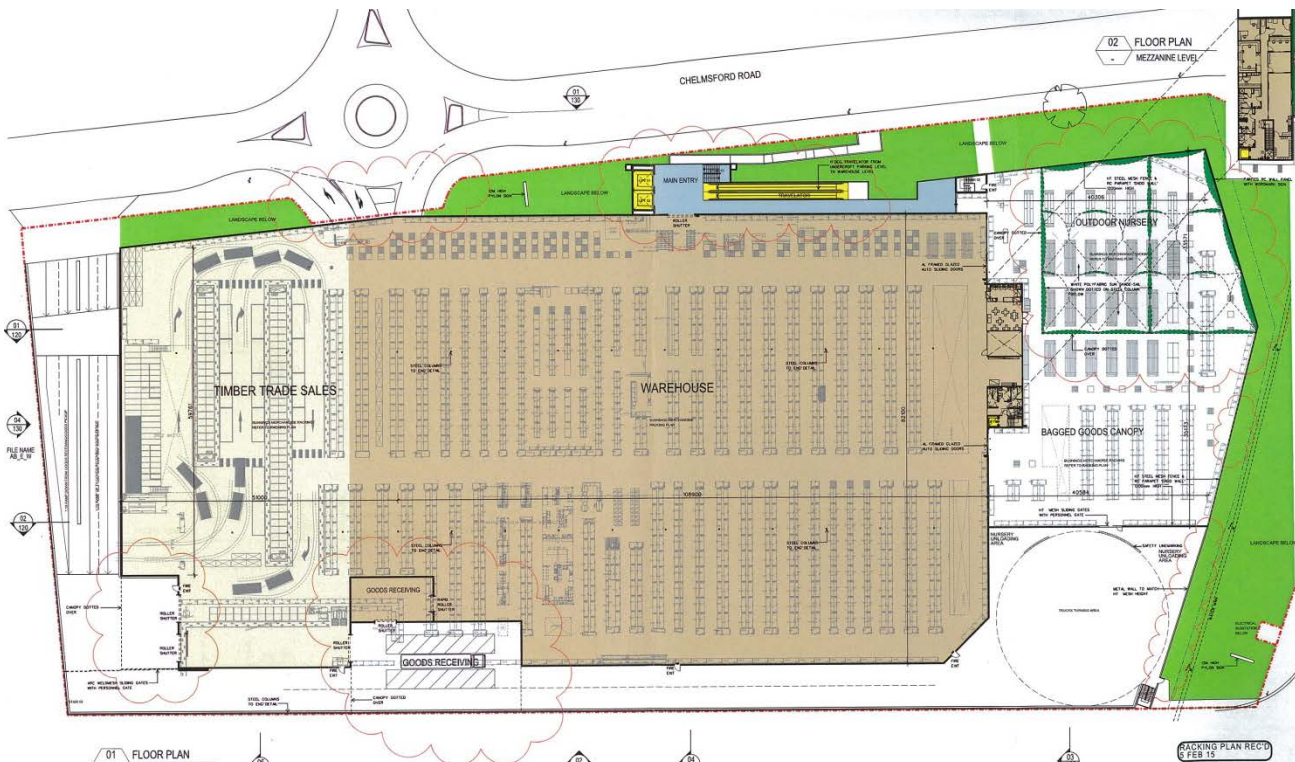
The existing Bunnings within the Lake Haven Homemakers Centre has a floor space of 8,318m<sup>2</sup>. The proposed Bunnings has an extra floor space of 7,250m<sup>2</sup> and will employ an additional 40 staff.



**Photomontage 1:** Proposed Bunnings, corner of Pacific Highway and Chelmsford Road – looking south



**Photomontage 2:** Proposed Bunnings (eastern facade) from Pacific Highway – looking north



**Figure 3 - Plan of proposed Bunnings sales area**



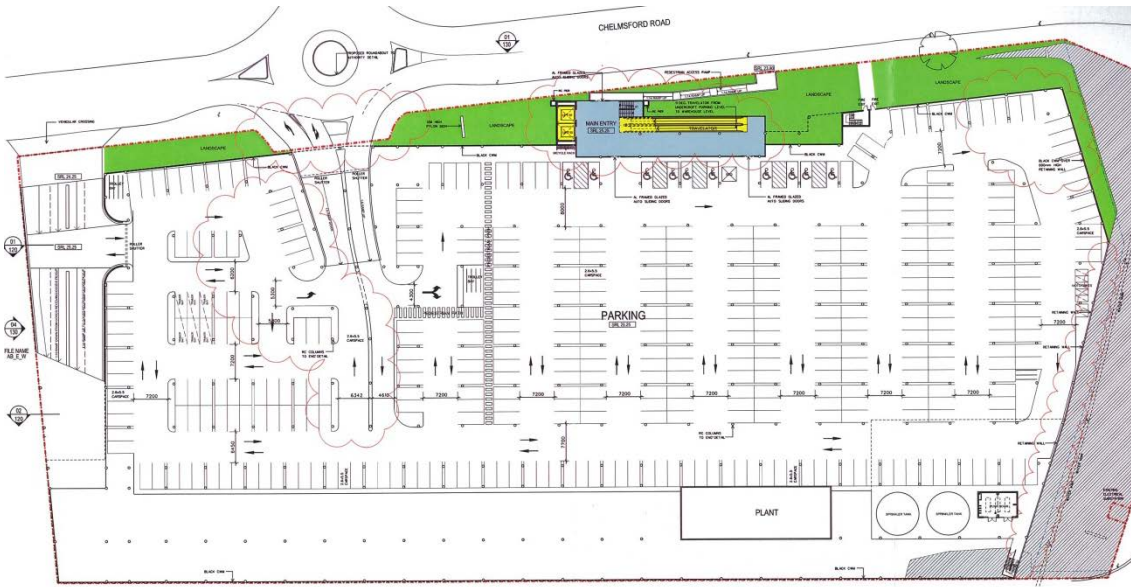


Figure 4 - Plan of undercroft car parking

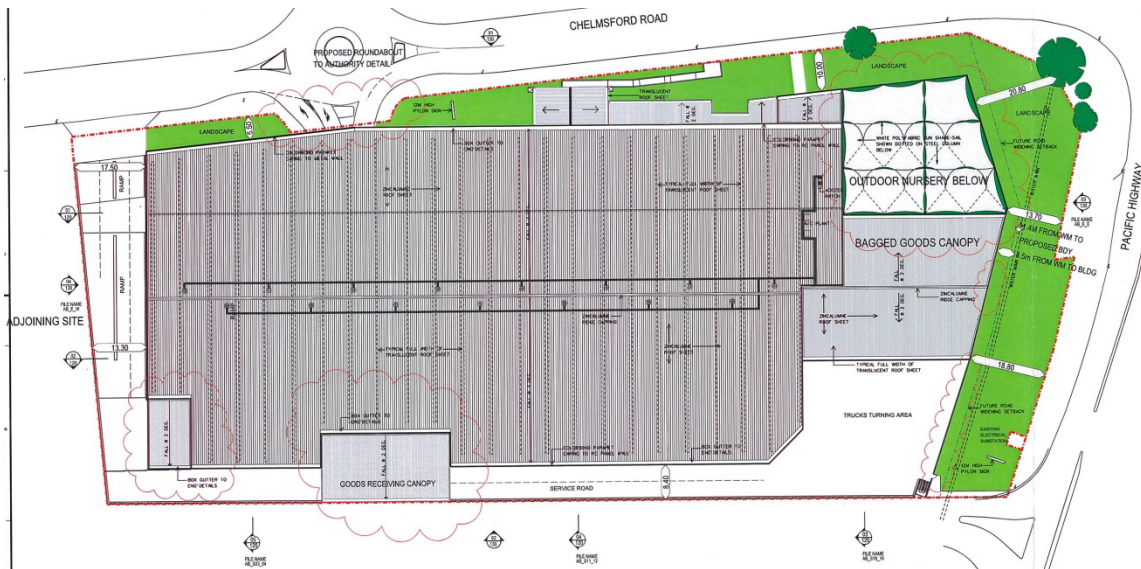


Figure 5 - Plan of roof, outdoor nursery and bagged goods canopies

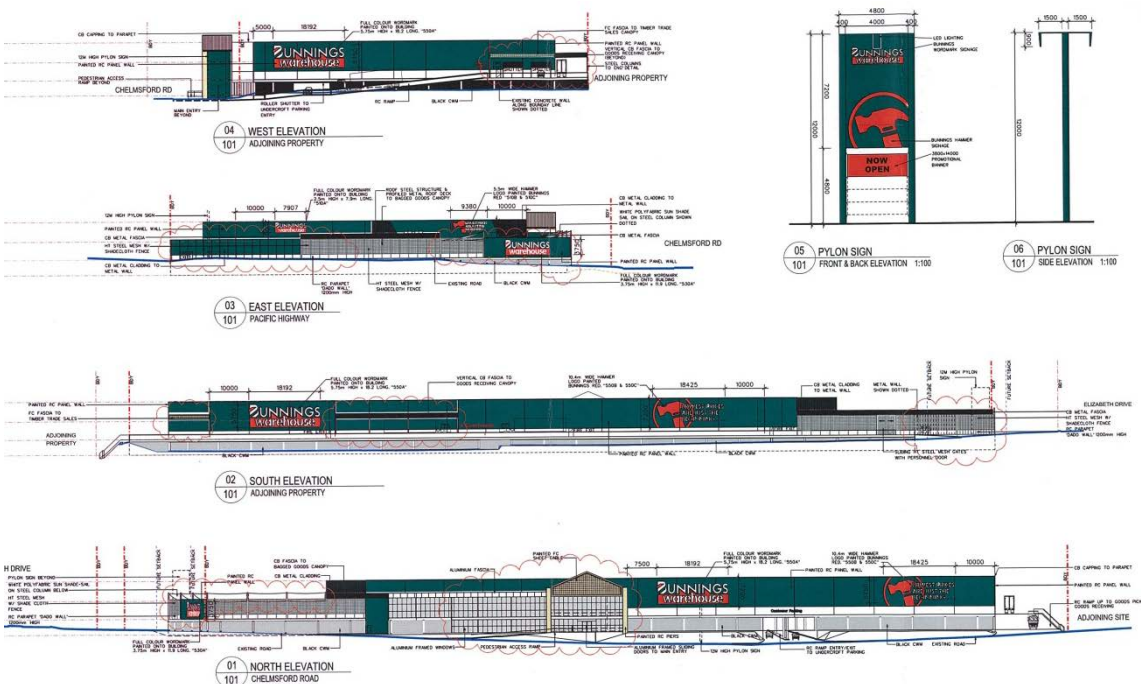


Figure 6 - Plan of proposed elevations

## HISTORY

### Applications

The following applications have been determined on the subject land: -

- DA/73/75 to erect a workshop (350ft x 90ft) for manufacture of plumbing and drainage material, with ancillary office and storage area” was issued on 4 May 1973.
- DA/75/68 to use bay 3 in an existing factory building as a bottle storage area was issued on 5 May 1975.
- DA/75/258 for a fencing contractor yard and display area was issued on 24 December 1975.
- DA/82/820 for alterations to existing development” was issued on 7 July 1982.
- DA/85/455 for the erection of cement silos and external storage of industrial material was issued on 18 August 1986.
- DA/376/88 for the demolition of existing amenities and construction of new facilities was issued on 22 June 1988.
- DA/1078/88 for factory bays and storage units was issued on 24 February 1989.

### Recent Demolition

Prior to the development application being lodged with Council for consideration and determination, various structures on the site were demolished and/or removed without consent of Council of which the matter was investigated by Council’s compliance staff and appropriate action taken.

## **ANY SUBMISSION MADE IN ACCORDANCE WITH THIS ACT OR REGULATIONS**

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

Under Wyong Development Control Plan 2013 (DCP) Chapter 1.2 Notification of Development Proposal, the proposed development was advertised and notified to adjoining property owners from 6 March 2015 to 25 March 2015 and was extended to 15 April 2015 following a request from a nearby resident. During this period four (4) submissions were received. The general issues raised in relation to the proposal are included below: -

- Distribution to other Bunnings will generate a lot more traffic.

#### Comment:

The proposed Bunnings Warehouse will not act as a warehouse or distribution centre as defined under the WLEP 2013. The reference to distribution included within the SEE describes how most Bunnings Warehouses operate, in that they receive their merchandise direct from the manufacturer or distribution centre in Sydney. The goods are then displayed for sale and are not distributed to other stores. The traffic assessment report written by Transport and Traffic Planning Associates indicates that the proposed development will not have any adverse traffic impacts on the road system serving the site. In addition, RMS have indicated that they have no objection to the proposed development and an upgrade of the Pacific Highway/Chelmsford Road intersection does not need to be upgraded.

- Noise from truck turning area, air-conditioning system/roof fans, undercover car park, motor bikes, PA system, forklifts/trucks outside hours of operation.

- (a)
- (b)

Comment:

(c) It is anticipated that there will be a certain amount of noise associated with the proposed use. It is noted however that the subject site is zoned IN2 Light Industrial, is within an existing established industrial area, and adjoins the Pacific Highway. A noise assessment by Wilkinson Murray was submitted with the application that included the assessment noise from fixed mechanical plant, patrons, traffic and activities associated with the delivery of goods. This assessment determined that compliance with established site specific noise criteria; compliance with the established sleep disturbance screening criteria and compliance with traffic noise was established at all existing residences within directly opposite the site on the Pacific Highway and Chelmsford Road East. The hours of operation and delivery hours will be conditions so as to minimise impact upon adjoining development.

(d)

- Deliveries should be Monday to Friday 8am to 5pm, forklifts should not be used before 8am and after 5pm.

(e)

Comment:

(f) The proposed hours of operation are Monday – Friday 6am to 10pm and Saturday, Sunday and Public Holidays 6am to 7pm. It is proposed that all delivery activities including loading and unloading shall be restricted to the hours between 7am to 7pm. The noise assessment by Wilkinson Murray has indicated that the development complies with the required noise criteria. However, the majority of Bunnings within the Hunter and Central Coast areas have hours less than those proposed by this development and therefore it is considered more appropriate to comply with those hours (Monday to Friday 7am to 9pm, Saturday 7am to 7pm and Sunday 7am to 6pm) especially as the development is located opposite existing residential development.

(g)

- Pylon sign is not in keeping with residential area and does not comply with Council's requirements.

(h)

Comment:

(i) The proposed signage complies with the requirements of SEPP 64 advertising and the RMS has indicated that they have no objection to the proposed sign which is located on industrial not residential zoned land. The proposed pylon sign is of a similar scale to other signs utilised for commercial and industrial development in the surrounding area.

(j)

- Congestion on roundabout, deliveries should use Mataram and Arizona Road.

(k)

Comment:

(l) A traffic report has been provided supporting the application. RMS has indicated that the proposed development does not warrant an upgrade of the roundabout (Pacific Highway/Chelmsford Road) and deliveries can utilise this intersection.

(m)

- During busy times, the public will park in front of my house and duck across the highway, pedestrian access across the Highway should not be permitted.

(n)

Comment:

(o) The application proposes to provide 410 car parking spaces which is in excess for the required minimum number of spaces required of 323. It is envisaged that people will utilise the proposed car park and not park on the Pacific Highway.

(p)

(q) The Pacific Highway is a very busy road with approximately 330 vehicle movements during peak periods at this intersection. Any members of the public wishing to cross the road will be encouraged to utilise the new pedestrian refuge near the Lake Haven Homemakers Centre. A condition requires a pedestrian refuge and footpaths in Chelmsford Road and this will assist in the distribution of pedestrians.

(r)

- Demolition of buildings was undertaken illegally.

(s)

(t)

Comment:

(u) Prior to the development application being lodged with Council and after lodgement, various existing structures on the site were demolished and/or removed without the prior consent of Council. These matters were investigated and appropriate action taken.

(v)

- Concern that removal of concrete slabs will expose toxic waste.

(w)

Comment:

(x) The removal of the concrete slabs and any structures under these slabs will need to be undertaken in accordance with the Remediation Action Plan which has been prepared as part of the application documentation and would be included as a condition of consent.

(y)

- Construction of the building will cause damage to my house (Pacific Highway) through vibration.

(z)

Comment:

(aa) The dwellings located along the Pacific Highway directly opposite the site are located approximately 50m from the subject site. Research indicates that ground vibrations from construction activities do not often reach the levels that can damage structures. It is considered that there is appropriate distance between the development site and the existing dwellings to minimise any damage during construction.

(bb)

- Hours of operation exceeds hours of Lake Haven Bunnings (7am-9pm week days, 7am-7pm Saturday and 7am-6pm Sunday) and will have a detrimental impact up on the existing residential development.

(cc)

Comment:

(dd) Consideration has been given to the zone objectives, the location relative to the highway and industrial/commercial nature of development on Chelmsford Road. The proposed hours of operation are Monday – Friday 6am to 10pm and Saturday, Sunday and Public Holidays 6am to 7pm. It is proposed that all delivery activities including loading and unloading shall be restricted to the hours between 7am to 7pm. The noise assessment by Wilkinson Murray has indicated that the development complies with the required noise criteria. However, the majority of Bunnings within the Hunter and Central Coast areas have hours less than those proposed by this development and therefore it is considered more appropriate to comply with those hours (Monday to Friday 7am to 9pm, Saturday 7am to 7pm and Sunday 7am to 6pm) especially as the development is located opposite existing residential development.

(ee)

- Sign should be relocated to roundabout away from residential development.

(ff)

Comment:

(gg) The proposed sign is located approximately 42m from the nearest residential property. The proposed sign on the Pacific Highway is considered to be located in an appropriate location a suitable distance away from the roundabout to promote sight distances, reduce distraction and promote traffic safety. The proposed Pacific Highway sign is illuminated with stationary lighting baffles to be installed to ensure there is minimal light spill to adjoining residential properties.

(hh)

- Impact of light spill from trucks on residential development.

(ii)

Comment:

(jj) The plans have been amended to incorporate a colour matched colorbond wall (2m high) in front of the truck tuning area along the Pacific Highway as well as landscaping to minimise light spill onto the residential properties opposite the subject site.

(kk)

- Dust from handling building materials eg cement.

(ll)

(mm)



(nn)

Comment:

(oo) There are no loose building materials stored on-site and all products are already bagged, therefore minimal dust creation from this area. In addition, this area is approximately 50m from the nearest residential property. The bagged goods area is also under a canopy and separated from residences by an 18m wide landscaping strip and the Pacific Highway (30m).

(pp)

- Overdevelopment of site.

(qq)

Comment:

(rr) The previous development had a significant development footprint as evidenced by the existing concrete slabs. The proposed development will remove these slabs and introduce greater setbacks and landscaping to both street frontages thereby substantially increasing pervious areas on the site. The development seeks a variation to the DCP control which requires 50% site coverage in that it proposes 55% site coverage.

(ss)

(tt) The proposed variation is considered acceptable for the following reasons: -

(uu)

- provides an additional 87 car parking spaces;

(vv)

- increased landscaping of approximately 4,500m<sup>2</sup> comparative to the existing site which is approximately 1500m<sup>2</sup>;

(ww)

- the variation to the front setback to Chelmsford Road is only for a small portion (18m) 9.3% of the overall building length (192m);

(xx)

- 222m or 92.5% of the Chelmsford Road frontage achieves a minimum landscape width of more than 5.5m with the exception of the entry feature which encroaches to 1m for 18m;

(yy)

- the development also provides on-site detention;

(zz)

- the development is suitably located within an industrial setting adjacent to the Highway; and

(aaa)

- if the LEP or DCP had an FSR requirement, the FSR for the proposed development would be 0.68:1, where 0.8:1 is a common FSR requirement for industrial development.

(bbb)

(ccc) Therefore, the proposed development is considered satisfactory and not an overdevelopment of the site.

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

The following government authorities were consulted in relation to the proposed development: -

- NSW Roads and Maritime Services

The application was referred to the NSW Roads and Maritime Services (RMS) for comment under the provisions of Clause 104 and Schedule 3 of *State Environmental Planning Policy (Infrastructure) 2007*, as the proposed development is located within 90m of a state classified road, (in this instance the Pacific Highway (HW10)) and is a traffic generating development. In addition, the application was referred to RMS in accordance with Clause 18 of *State Environmental Planning Policy No. 64 – Advertising and Signage* for the display of advertising signs higher than 8m above the ground or greater than 20m<sup>2</sup> and within 250m of and visible from a classified road.

The RMS have indicated that they have no objection to the proposed development including signage and have granted concurrence subject to several conditions being included on any consent.

- Mine Subsidence Board

The application was referred to the Mine Subsidence Board (MSB) as the subject site is located within a proclaimed mine subsidence district. MSB have assessed the application and have no objection to Council issuing an approval and have recommended several conditions be attached to any consent.

### **Internal Consultation**

The development was referred to the following internal officers and the following comments have been provided: -

- Arborist Officer

The applicant seeks to retain vegetation along the Pacific Highway road reserve.

The application has been assessed by Council's Arborist and the application is recommended for approval subject to several conditions being included on any consent.

- Development Engineer

The application has been assessed by Council's Development Engineer and the application is recommended for approval subject to several conditions being included on any consent. The following comments have been provided: -

### ***Stormwater Management and Drainage***

#### **Catchment & Site Investigation**

The inspection of the site identified that the adjoining upstream property Lot 1 DP787758 (former Kellogg's site) has a piped stormwater drainage system connecting part of the driveway access, car parking area and the roofed drainage of the original Kellogg's building along the northern boundary into a pit and 600 diameter pipeline that traverses the proposed Bunnings site. A title search indicates that there is no easement for drainage over the 600 diameter pipeline.

Further investigations revealed that the 600 diameter pipeline connects to the public stormwater drainage pit within Chelmsford Road adjacent the Callaghan Close intersection. The Chelmsford Road and Callaghan Close intersection is the sag point in this catchment area.

Surcharge stormwater flows from the entire upstream site Lot 1 DP787758 (former Kellogg's site) in excess of the Pacific Highway pipework's capacity would naturally flow into a low point and then over the subject site (Lot 2 DP 24696 and Lot 5 DP738274).

The results of these investigations have been incorporated into the engineering requirements for the proposed development as indicated below: -

#### **Stormwater Management**

In response to the identified upstream catchment stormwater discharges the applicant's consultant C & M Consulting Engineers prepared an additional drainage plan which details the construction a stormwater diversion pipeline to a 100 year ARI capacity to collect and discharge all stormwater flows generated within the upstream property (Lot 1 DP787758) catchment area for connection into the piped public stormwater drainage system within Chelmsford Road. The plan also includes the provision of a catch drain or wall with a controlled spillway across the southern boundary of the Bunnings site to accommodate any stormwater surcharges due to blockages. The spillway weir

will control the flows by the formation of an emergency overland flow path through the proposed car park connecting to the sag point within Chelmsford Road.

The Stormwater Management Plan included in the "Statement of Environmental Effects" prepared by C & M Consulting Engineers provided preliminary engineering plans detailing the construction of an on-site detention system comprising of a large tank (815m<sup>3</sup>) within the car park to maintain existing stormwater discharges within the sub-catchment area. The Stormwater Management Plan also includes the provision of a rainwater re-use tank for irrigation purposes associated with the proposed nursery and toilet flushing within the Bunnings store. A comprehensive water quality system consisting of a gross pollutant trap, hydrodynamic separator and storm filter is also proposed to ensure pollution controls comply with the pollutant targets set in Council's DCP 2013 Civil Works Design Guideline.

The proposed stormwater drainage management works including the additional diversion works have been included as conditions of consent.

## ***Traffic and Transport***

### *Vehicle Access*

The proposed roundabout on Chelmsford Road will become the vehicle access driveway servicing the Bunnings at grade car park at its intersection with Callaghan Close. The roundabout will be designed to accommodate the swept path of an articulated vehicle (19m), a prime mover and in accordance with the Austroads "Guide to Road Design Part 4B: Roundabouts". The roundabout will also necessitate the reconstruction of the existing stormwater drainage inlet and pipeline system, adjustment and relocation of the existing services including water and sewer mains/manholes to accommodate the proposed roundabout alignment.

The service vehicle access to the trades sale area, goods pickup and loading dock area is located along the western boundary of the site adjoining Chelmsford Road and separated from the proposed roundabout. This service access driveway connects to a ramp and truck turning area located at the upper warehouse level in the south eastern corner of the site. The construction of this wide commercial vehicle access crossing servicing the loading dock ramp will require the relocation of the existing bus stop within Chelmsford Road to a suitable location west of the proposed access crossing.

The above described road works have been included as conditions of consent.

### *Pedestrian Access*

To provide a safe formal pedestrian link to the relocated bus stop along Chelmsford Road a concrete footpath linking the bus stop to the Bunnings building pedestrian entry is recommended by conditions. The footpath shall also extend east to cross the main vehicle entry/exit ramp a minimum of 12m from the roundabout holding line. The footpath works include the construction of pedestrian kerb ramps, a 2m wide dividing median (Splitter Island), adequate lighting and signage.

Continuing the pedestrian link access Chelmsford Road requires a pedestrian refuge adjacent to the Bunnings building pedestrian entry in accordance with the RMS Technical Direction TDT2011/01a is necessary. The refuge shall include all associated works including line marking, signage and pedestrian kerb ramps to both sides of Chelmsford Road which are conditioned.

The construction of a concrete footpath along the Chelmsford Road northern footway and the Pacific Highway linking the Chelmsford Road pedestrian refuge with the recently constructed pedestrian refuge across the Pacific Highway north of the Pacific Highway/Lake Haven Drive roundabout is required to ensure safe pedestrian movements.

The above described road works including footpath construction have been included as conditions of consent.

- Environmental Health Officer

The application has been assessed by Council's Environmental Health Officer in relation to the potential contamination impacts and the application is recommended for approval subject to several conditions being included on any consent and have provided the following comments: -

#### Contamination

The applicant lodged a "Preliminary Environmental Site Assessment for Proposed Commercial Development at 80-90 Pacific Highway, Lake Haven", for Andermatt Pty Ltd C/O John R Brogan & Associates Pty Ltd, report ref: E27560KGrpt by Environmental Investigation Services.

This assessment indicates that the site contains minor traces of arsenic, nickel and zinc detected in the groundwater samples as well as total petroleum hydrocarbon (TPH) in the standing water of the former diesel aboveground storage tank bund and oil/water arrestor pit. In addition some fill on the site contains asbestos.

The contamination report recommends that a remediation action plan shall be prepared for the proposed development. This plan includes remedial measures to be implemented to render the site suitable for the proposed land use. The impact upon the environment will be minimal. A validation assessment report shall be prepared to document the remediation action undertaken at the site.

#### Noise

The applicant lodged an acoustic assessment titled "Bunnings Warehouse, Lake Haven – Development Application Noise Assessment, Report No. 14428 version A dated February 2015 by Wilkinson Murray Pty Ltd. Background noise monitoring was used to establish the existing noise levels from which project specific noise criteria were derived. This noise assessment determined that compliance with established site specific noise criteria will be achieved at all residential receivers with the exception of a small exceedance at residences located on industrial zoned land to the north of the site. All residential receivers complied with the established sleep disturbance screening criterion and traffic noise criterion.

This assessment indicated that due to the delivery activities being located on the western end of the proposal this activity is shielded by the proposed building. It is anticipated that any noise impacts upon the environment will be minimal.

This assessment recommended that in order to minimise adverse impacts to surrounding residences, all deliveries will be restricted between 7am to 9pm. This has been included as a condition.

- Section 94 Contributions Officer

The application has been assessed by Council's Section 94 Contributions Officer and the application is recommended for approval subject a condition in relation to Section 94A contributions being paid prior to issue of the Construction Certificate being included on any consent. The following comments have been provided: -

The proposed development is subject to Section 94A contributions being 1% of the cost of development which equates to a Section 94A contribution of \$241,500. CPI is to be applied to this contribution.

- Trade Waste Officer

The application has been assessed by Council's Trade Waste Officer and the application is recommended for approval subject to several conditions being included on any consent. The following comments have been provided: -

In accordance with Table 1: Exemptions of Council's Policy for Discharge of Liquid Trade Waste to the Sewerage System, provided a mixed business installs a floor waste basket and sink strainer, and housekeeping practices are complied with, a Liquid Trade Waste Application is not required. These controls will be included within the conditions of consent to ensure compliance.

- Traffic Engineer

The application has been assessed by Council's Traffic Engineer and the application is recommended for approval subject to several conditions being included on any consent. The following comments have been provided: -

The proposed roundabout will assist in reducing traffic speed on Chelmsford Road and around the service vehicle entry.

The roundabout must be designed to accommodate the swept path of Council's low loader and a 19m articulated vehicle.

It appears that the roundabout will encroach into the Bunnings site. In this regard the proponent will be required to dedicate a portion of the site as road reserve to facilitate access for maintenance.

- Water and Sewer Officer

The application has been assessed by Council's Water and Sewer Officer and the application is recommended for approval subject to several conditions being included on any consent. The following comments have been provided: -

#### Loading

The development will generate a loading of 48.3 ETs (Equivalent Tenements) on water supply and sewerage systems based on the information available as of 16 March 2015. This is based on a bulky good development (0.003ET/m<sup>2</sup>) with an area of 16,104m<sup>2</sup>.

#### Water Supply

Water service is available for the proposed development from Chelmsford Rd (150mm AC) and Pacific Hwy (150mm AC). Council's existing system is adequate to provide water supply to the proposed development.

As stated in the Civil Engineering Plan, new entries will be constructed along Chelmsford Rd and this will require the replacement of the existing asbestos cement water main with a new PVC water main. This is required for the extent of the area to be disturbed as part of the construction of new kerb, pavement or earthworks to avoid causing damage to the asbestos cement main.

In addition, the major water trunk main feeding the north of Wyong Shire is laid on the Pacific Highway side of the site. The alignment of the main should be identified prior to any construction work with the main likely protected by an existing easement. No construction is permitted within the easement or within the water mains zone of influence as described in Council's "Build over Sewer Policy".

Any proposed adjustments to Council's water assets will require a detailed design to be prepared by the applicant for approval prior to the issue of the Construction Certificate. The design and construction of the water mains are to be in accordance with the WSAA Water

Supply Code of Australia WSA – 02 Sydney Water Edition, Wyong Shire Council Amendments.

### Sewer

The site is currently serviced for sewer laid on the Chelmsford Road side of the site. There is sufficient capacity within this existing sewerage network for the proposed development. Connection can be made to the sewer manhole located on the northern side of the proposed development site.

Council's "Build over Sewer Policy" applies to development within the vicinity of the existing mains.

Any proposed adjustments to Council's sewerage assets will require a detailed design to be prepared by the applicant for approval prior to the issue of the Construction Certificate. Any adjustment or protection of the sewer mains are to be fully funded by the developer. The design and construction of any sewer main adjustments are to be in accordance with the WSAA Sewerage Code of Australia WSA-02 Sydney Water Edition, Wyong Shire Council Amendments. Council will undertake final connections to its live sewer system at the developer's full cost.

### DSP Contributions

The proposed development falls within the latest Development Servicing Plan for Wyong Shire implemented on 1<sup>st</sup> July 2014. Water supply and sewerage contributions will be applicable and will need to be paid prior to issue of the Occupation Certificate.

An existing credit of 12 ET is allocated to the site based on the existing industrial land use which is credited at 5ET/Ha. Therefore, the water and sewer contributions payable for this development will be 36.3ET.

## **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 site remediation 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.

### **Climate Change**

The potential impacts of climate change on the proposed development have been considered by Council as part of its assessment of the application.

This assessment has included consideration of such matters as potential rise in sea level; potential for more intense and/or frequent extreme weather conditions including storm events, bushfires, drought, flood and coastal erosion; as well as how the proposed development may cope/combat/withstand these potential impacts.

## **ASSESSMENT**

Having regard for the matters for consideration detailed in Section 79C of the *Environmental Planning and Assessment Act 1979* and other statutory requirements, Council's policies and Clause 149 Certificate details, the assessment has identified the following key issues, which are discussed for Council's information.

## THE PROVISIONS OF RELEVANT INSTRUMENTS/PLANS/ POLICIES

### a) Wyong Local Environmental Plan 2013

#### *Permissibility*

The subject site is partly zoned IN2 Light Industrial and SP2 Road and Traffic Facility under the provisions of the *Wyong Local Environmental Plan 2013* (LEP). The proposal is defined as a *hardware building supplies*, and includes *business identification signs* and an ancillary café (*Food and drink premises*) as indicated as follows under the LEP

**Hardware and building supplies** means a building or place the principal purpose of which is the sale or hire of goods or materials, such as household fixtures, timber, tools, paint, wallpaper, plumbing supplies and the like, that are used in the construction and maintenance of buildings and adjacent outdoor areas.

**Business identification sign** means a sign:

- (a) that indicates:
- (i) the name of the person or business, and
  - (ii) the nature of the business carried on by the person at the premises or place at which the sign is displayed, and
- (b) that may include the address of the premises or place and a logo or other symbol that identifies the business,
- but that does not contain any advertising relating to a person who does not carry on business at the premises or place.

**Food and drink premises** means premises that are used for the preparation and retail sale of food or drink (or both) for immediate consumption on or off the premises, and includes any of the following:

- (a) a restaurant or cafe,
- (b) take away food and drink premises,
- (c) a pub,
- (d) a small bar.

**Restaurant or cafe** means a building or place the principal purpose of which is the preparation and serving, on a retail basis, of food and drink to people for consumption on the premises, whether or not liquor, take away meals and drinks or entertainment are also provided.

The whole of the building with internal café and one (1) pylon sign are located within this IN2 zone which are all permissible with consent in the IN2 Light Industrial zone. One (1) pylon sign is located within the SP2 Road and Traffic Facility zone and signs are prohibited within this zone, however it is considered under Clause 5.3 Development near zone boundaries and is permissible under the IN2 Light Industrial zone.

#### *Objectives*

The objectives of the IN2 Light Industrial zone are as follows:

- To provide a wide range of light industrial, warehouse and related land uses.
- To encourage employment opportunities and to support the viability of centres.
- To minimise any adverse effect of industry on other land uses.
- To enable other land uses that provide facilities or services to meet the day to day needs of workers in the area.
- To support and protect industrial land for industrial uses.

The objectives of the SP2 Road and Traffic Facility zone are as follows:

- *To provide for infrastructure and related uses.*
- *To prevent development that is not compatible with or that may detract from the provision of infrastructure.*
- *To recognise existing railway land and to enable future development for railway and associated purposes.*
- *To recognise major roads and to enable future development and expansion of major road networks and associated purposes.*
- *To recognise existing land and to enable future development for utility undertakings and associated purposes.*

The proposed development complies with the objectives of the IN2 Light Industrial zone as the development is a land use compatible with the zone, providing employment, with minimal impact upon adjoining land uses, is providing services to meet the day to day needs of workers in the area and is supporting industrial uses.

One of the proposed pylon signs is located within the SP2 Road and Traffic Facility zone which RMS have indicated they have no objection to subject to the sign being erected in this location so long as it is removed at the owners cost upon road acquisition being required for future infrastructure, therefore complying with the objectives of the zone. A condition will require the removal of the sign upon acquisition of the road widening area.

#### *Relevant Clauses*

- Clause 2.7 – Demolition requires development consent

Development consent is required for the demolition of the existing structures on the subject site.

- Clause 5.1 – Relevant acquisition authority

The objective of this clause is to identify the authority of the State that will acquire land reserved for certain public purposes if the land is required to be acquired under the *Land Acquisition (Just Terms Compensation) Act 1991*.

Council's Land Reservation Acquisition Map identifies that a portion of the subject site adjoining the Pacific Highway is required for road widening by the Roads and Maritime Services (RMS).

The application was referred to RMS who have indicated that the road widening is still required, however, there are no current plans to widen this portion of the road and acquisition is not required at this time.

The RMS have indicated that they have no objection to the proposed development and do not require dedication of the portion of land zoned SP2 at this time. With the exception of one pylon sign and landscaping there are no works provided within this space. As such the development will not substantially increase future acquisition costs for RMS.

- Clause 5.3 – Development near zone boundaries

The objective of this Clause is to provide flexibility where the investigation of a site and its surroundings reveals that a use allowed on the other side of a zone boundary would enable a more logical and appropriate development of the site and be compatible with the planning objectives and land uses for the adjoining zone. The relevant flexibility distance is 20m. This Clause applies to both IN2 Light Industrial and SP2 Road and Traffic Facility zones.



The proposed pylon sign is located on land zoned SP2 and is approximately 10.8m from the IN2 Light Industrial zone, where signage is a permissible form of development. Therefore, within the prescribed 20m to utilize the provisions of this Clause.

Before development consent may be granted the consent authority is to be satisfied that:

- (a) *the development is not inconsistent with the objectives for development in both zones, and*
- (b) *the carrying out of the development is desirable due to compatible land use planning, infrastructure capacity and other planning principles relating to the efficient and timely development of land.*

As indicated above, it is considered that the proposed development complies with the objectives of both zones. The proposed sign is considered compatible to the proposed development. A condition will require the removal of the sign at the owners cost upon acquisition of the land. The relevant acquisition authority, RMS have not objected to this.

- Clause 7.9 – Essential services

This Clause requires consideration of essential services. Services such as water, sewer, electricity, stormwater drainage and road access can be adequately provided.

#### **b) Relevant SEPPs**

The relevant State Environmental Planning Policies are as follows: -

- *State Environmental Planning Policy (State and Regional Development) 2011*

The proposed development has a capital investment value (CIV) over \$20 million as indicated within Schedule 4A of the *Environmental Planning and Assessment Act 1979*. In accordance with the provisions of Clause 21(1)(a) of this SEPP, the Joint Regional Planning Panel (JRPP) are the determining authority.

- *State Environmental Planning Policy (Infrastructure) 2007*

The subject site adjoins Pacific Highway which is a classified (State) road. Under Clause 101 of this SEPP, development with frontage to a classified road must be referred to the Roads and Maritime Service (RMS) for comment.

Under Clause 101(2) of this SEPP, *the consent authority must not grant consent to development on land that has a frontage to a classified road unless it is satisfied that:*

- (a) *where practicable, vehicular access to the land is provided by a road other than the classified road, and*
- (b) *the safety, efficiency and ongoing operation of the classified road will not be adversely affected by the development as a result of:*
  - (i) *the design of the vehicular access to the land, or*
  - (ii) *the emission of smoke or dust from the development, or*
  - (iii) *the nature, volume or frequency of vehicles using the classified road to gain access to the land, and*
- (c) *the development is of a type that is not sensitive to traffic noise or vehicle emissions, or is appropriately located and designed, or includes measures, to ameliorate potential traffic noise or vehicle emissions within the site of the development arising from the adjacent classified road.*

With regards to the above,

- access to the development is provided via Chelmsford Road and not the Pacific Highway;

- The development sites existing access direct to the Pacific Highway will be removed thereby improving conditions;
- the safety, efficiency and ongoing operation of the Pacific Highway is not adversely affected by the development as access to the development is via Chelmsford Road, the development does not generate smoke or dust and RMS have indicated that the proposed development does not generate significant traffic generation to warrant the upgrade of the Pacific Highway/Chelmsford Road intersection; and
- the proposed development is not sensitive to traffic noise or vehicle emissions arising from the Pacific Highway.

Under Clause 104 of this SEPP, the proposed development is classified as traffic generating development as the proposed commercial development exceeds 10,000m<sup>2</sup> in gross floor area and the proposed development is located within 90m of a state classified road. In accordance with Clause 104 the application was referred to RMS for comment.

The RMS has indicated that they have no objection to the proposed development or the location of the proposed pylon sign within the identified road widening area. RMS have recommended that upon the land being acquired this sign is to be removed at no cost to RMS or Council.

Under Clause 104(3) of this SEPP, *the consent authority must:*

- (a) *give written notice of the application to the RTA within 7 days after the application is made, and*
- (b) *take into consideration:*
  - (i) *any submission that the RTA provides in response to that notice within 21 days after the notice was given (unless, before the 21 days have passed, the RTA advises that it will not be making a submission), and*
  - (ii) *the accessibility of the site concerned, including:*
    - (A) *the efficiency of movement of people and freight to and from the site and the extent of multi-purpose trips, and*
    - (B) *the potential to minimise the need for travel by car and to maximise movement of freight in containers or bulk freight by rail, and*
  - (iii) *any potential traffic safety, road congestion or parking implications of the development.*

With regards to the above,

- Council provided written notice to RMS;
  - RMS provided a submission to Council which have been considered and included within the conditions;
  - The accessibility of the site has been considered to ensure efficiency of movement of people and freight of which the development is considered to be satisfactory; and
  - Council has considered the potential traffic safety, road congestion and parking implications of the development which has resulted in several conditions being included.
- *State Environmental Planning Policy No. 64 – Advertising and Signage*

This Policy applies to all signage which can be displayed with or without consent and is visible from a public place.

The LEP permits signage with consent. The provisions of this SEPP are applicable as the proposed signage is visible from a public place.

In accordance with Clause 18 of this SEPP, RMS must concur with any signage greater than 20m<sup>2</sup> and within 250m of and visible from a classified road. Pacific Highway is a classified (State) road. One (1) of the proposed pylon signs is located within the proposed road widening area adjacent to the Pacific Highway and the other pylon sign is located on Chelmsford Road, approximately 120m

from the Pacific Highway intersection. In addition the applicant proposes wall signs with areas of 105m<sup>2</sup>, 116m<sup>2</sup>, 237m<sup>2</sup> and 257m<sup>2</sup>.

Under Clause 19 of this SEPP, *the consent authority must not grant consent to the display of an advertisement with an advertising display area greater than 45 square metres unless:*

- (a) *a development control plan is in force that has been prepared on the basis of an advertising design analysis for the relevant area or precinct, or*
- (b) *in the case of the display of an advertisement on transport corridor land, the consent authority is satisfied that the advertisement is consistent with the Guidelines.*

With regards to the above,

- Chapter 2.6 Signage of the Wyong Development Control Plan 2013 (DCP), provides that advertisements that are not considered to be exempt development under the *State Environmental Planning Policy (Exempt and Complying Development Codes) 2008* (Codes SEPP) are considered under SEPP 64.

Under Clause 8 of this SEPP, Council must be satisfied that the proposed signage is consistent with the objectives of this SEPP set out in Clause 3(1)(a) and satisfies the assessment criteria of Schedule 1 of this SEPP.

The aims and objectives of this SEPP under Clause 3(1)(a) are as follows: -

- (i) *is compatible with the desired amenity and visual character of an area, and*
- (ii) *provides effective communication in suitable locations, and*
- (iii) *is of high quality design and finish.*

The proposed signage is compatible with the desired amenity and visual amenity of this area which is a mixture of industrial, commercial and residential development set along a major transport route. The proposed signage provide effective communication in suitable locations so as not to impact upon vehicular safety and are new signs with a high quality design and finish.

The proposed signs have been assessed against the provisions of Schedule 1 – Assessment Criteria of this SEPP and the proposed development has satisfactorily addressed the assessment criteria outlined in the table within Attachment 2.

In addition, the RMS may direct the screening, modification or removal of a structure if, in the opinion of RMS, the structure is considered a traffic hazard under Section 104 of the *Roads Act 1993*.

The RMS has indicated that they have no objection to the proposed signage including the pylon sign located within the identified road widening area as this area is not required to be acquired at this time. However, they have recommended a condition be included on any consent issued, that the sign be removed upon acquisition of the road widening area.

- *State Environmental Planning Policy No. 55 – Remediation of Land*

Clause 7(1) of this SEPP is relevant to the assessment of this Development Application.

Clause 7(1) requires that consent not be granted until Council has considered whether the land is contaminated. If the land is contaminated, the Council needs to be satisfied that the land is suitable in its contaminated state (or will be suitable, after remediation) for the purposes for which the development is proposed to be carried out.

The preliminary environmental site assessment submitted with the application by Environmental Investigation Services indicated that site is contaminated as result of the previous use and contains concentrations of arsenic, nickel and zinc within the ground water samples, concentrations of TPH in the standing water of the former diesel aboveground tank bund and oil/water arrester pit and the fill material contains asbestos.

Provided that a remediation action plan and validation assessment are undertaken for the site, the site will be suitable for the proposed development. This is addressed through relevant conditions.

### c) Relevant DCPs

#### Wyong Development Control Plan 2013 (DCP)

The following Chapters of the DCP are applicable to the proposed development: -

- Chapter 2.6 Signage

Under this Chapter, advertisements that are not considered to be exempt development under the Codes SEPP are considered under SEPP 64 subject to merit, which has been addressed previously in this report.

- Chapter 2.11 Parking and Access

Under Clause 3.2 of this Chapter, on-site car parking is required at the following rates: -

Hardware and Building Supplies

1 space per 50m<sup>2</sup> of GFA

Service requirements: 1 space up to 2,000m<sup>2</sup> GFA then 1 space per 1,000m<sup>2</sup> GFA

The proposed development has a gross floor area of 16,313m<sup>2</sup> therefore requiring 323 car parking spaces and 17 service car parking spaces.

In accordance with Clause 2.3 an Assessment of Traffic and Parking Implications by Transport and Traffic Planning Associates as included within the application documentation.

The development proposes 410 car parking spaces including 10 accessible car parking spaces, 8 motorbike parking spaces and therefore comply with the provisions of this Chapter.

- Chapter 2.12 Industrial Development

The Chapter applies to all industrial zoned land and all categories of development permissible on industrial zoned land.

#### Site Coverage

Under Clause 2.2 Site Coverage, the maximum site coverage is 50% or 11,985m<sup>2</sup>. The development proposes a site coverage of 55%. It is noted that while the LEP establishes FSR for some sites, it does not for this site.

Under the sites previous use, which was a concrete pipe manufacturing facility, the site contained a mixture of sheds, slabs, pipe storage areas up to the boundaries of the Pacific Highway and Chelmsford Road.

The development proposes a site coverage of 13,177m<sup>2</sup> or 55% which is made up of the timber trade sales area, warehouse and main entry. The nursery and bagged goods areas are not included in the site coverage calculation as it is not classified as a building or part of a building as it is covered by white canvas sail canopies.

The DCP defers to the LEP for definitions. Under the LEP, site coverage is defined as *the proportion of a site area covered by buildings*. However, the following are not included for the purpose of calculating site coverage: -

- (a) Any basement;

- (b) Any part of an awning that is outside the outer walls of a building and that adjoins the street frontage or other site boundary;
- (c) Any eaves,
- (d) Unenclosed balconies, decks, pergolas and the like.

Whilst the development does not comply with the required 50% site coverage, it is considered that the non-compliance of 5% is minor. The development proposes adequate landscaping and increased impervious area and suitable built form for this highly exposed industrial corner site compared to the previous concrete manufacturing facility.

(ddd) Front Setback – Chelmsford Road

(eee)

Under Clause 2.3 Setbacks, the minimum front setback for a non-State road is 10m. This DCP does not have specific requirements in relation to corner allotments with two (2) street frontages.

The site has a 240m frontage to Chelmsford Road with the development having an overall building length of 192m. Of this building length the development setback is compliant (10m) for approximately 56m or 30%. The setback to the remaining portion of the building varies from 1m to 10m due to the entry treatment (18m wide), vehicle accessways and the angle of the building relative to the irregular property boundary. This is a maximum variation of 9m for an 18m length or 9.3% of the overall building length (192m).

222m or 92.5% of the Chelmsford Road frontage achieves a minimum landscape width of more than 5.5m with the exception of the entry feature which encroaches to a minimum of 1m for 18m from Chelmsford Road.

The proposed encroachments for the proposed main entry are considered minor in relation to the scale of the entire site and development (3%) and as such are not considered to have a negative impact on the streetscape but a positive one by providing a varied setback and breaking up what would otherwise be a straight building line.

The proposed development incorporates extensive landscaping to both street frontages, which has been enhanced around the areas of encroachment.

The corner boundary facing the visually prominent Pacific Highway/Chelmsford round-about will be planted out with a feature hedge providing an informal entry statement into the industrial area.

It is considered that the proposed variation is minor in relation to the size of the site and development and warrants support.

(fff)

Side Setback – Pacific Highway

The subject site is located on the corner of the Pacific Highway and Chelmsford Road. This Chapter does not address corner allotments with dual frontages. Under Clause 2.3 Setbacks, side and rear setbacks can have a nil setback. Front setbacks are generally considered to be where access to the development is proposed, in this instance Chelmsford Road.

Despite this, the applicant does not propose a nil setback to the Pacific Highway. The applicant proposes that the setbacks from the Pacific Highway to the existing boundary prior to road widening is a minimum of 14m. After road widening the proposed setback is 3m to the roofed bagged goods area and outdoor nursery and approximately 55m to the building. Landscaping will be located within this 3m.

By locating the bagged goods area and outdoor nursery between the warehouse building and the Pacific Highway boundary and providing a separation area between the bagged goods area and outdoor nursery, the development is able to satisfy the provisions of Clause 2.4 (design and appearance of buildings) by retaining sufficient curtilage to cater for landscape works and provide visual relief of the Pacific Highway by having different construction elements.

In addition, the proposed development does not propose nil setbacks to the other boundaries, southern and western. The setbacks proposed to the building are 8m and 13m.

The photomontages below illustrate how the building will sit within the current setting: -



**Photomontage 1:** Proposed Bunnings, corner of Pacific Highway and Chelmsford Road – looking south



**Photomontage 2:** Proposed Bunnings (eastern facade) from Pacific Highway

(ggg)

(hhh) Landscaping

(iii)

Under Clause 2.3 Setbacks, a minimum 5m wide landscaped area must be proposed within the required front setback.

(jjj)

On Chelmsford Road a portion of the building entry does not comply with the required front setback (1m-5m for a length of 18m), this portion of the site does not comply with the required 5m landscaping requirement. However, Chelmsford Road has a length of 240m and this street frontage excluding the access has been landscaped and only a small portion of this landscaping does not have a width of 5m.

Despite the variation the landscaping proposed is considered adequate and provides a visually interesting interface between the Chelmsford Road and the development.

The landscaping proposed on the Pacific Highway exceeds the 5m landscaping width and complies with the provisions of this Chapter.



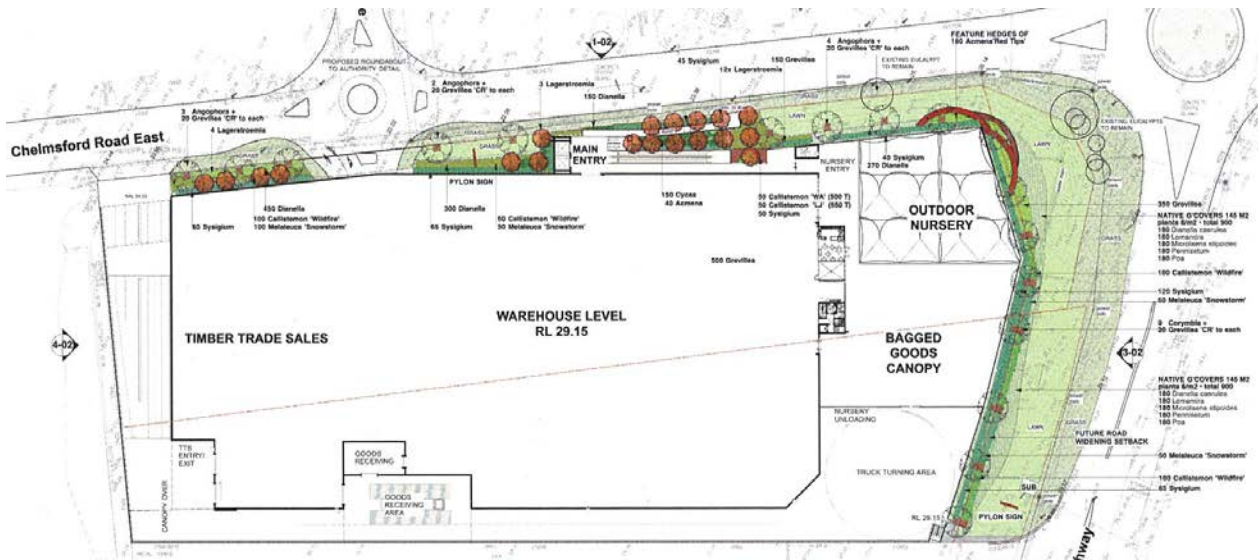


Figure 7 - Landscape plan

- Chapter 2.15 Public Art

The objective of this Chapter is that major development comprising commercial, public administration and retail (shops) with a value of \$5 million or more provide a financial allocation towards public art which comprises 1% of the total cost of development. In this instance the total cost of the proposed development is \$24,150,000 and on the basis of 1% of the total estimated cost of the development, public art to the value of \$241,500 (minimum) is applicable.

The applicant has objected to the provision of public art.

#### Applicants Submission

Chapter 2.15 of the DCP requires that major developments valued at \$5M or greater must implement public art as part of the development with a minimum of 1% of the total cost of the development to be designated to the public art budget. "Major development" refers to "commercial, public administration, and retail (shops) development valued at \$5 Million". Chapter 2.15 however goes no further in defining what constitutes "commercial development".

Chapter 2.15 is essentially a replica for the now superseded DCP No. 112 (part of DCP 2005), where the exact same definition of "major development" is adopted but where commercial development was defined as "any building or place used for commercial purposes as defined by the Wyong Local Environmental Plan 1991".

Under LEP 1991 commercial premises was defined as follows:

**commercial premises** means a building or place used as an office or for other business or commercial purposes, but does not include a building or place elsewhere specifically defined in this clause or a building or place used for a purpose elsewhere specifically defined in this clause.

Under LEP 1991 the subject development would have been defined as a "bulky goods sales room or showroom", not a commercial premises and therefore not subject to the provisions of DCP 112. This is further supported by the fact that the public art provisions were not applied to DA/285/2013 involving additions to the existing Bunnings in Tuggerah valued at over \$5M. With the above in mind, it is considered that Chapter 2.15 does not apply to developments such as Bunnings and it appears that Council may have adopted the Standard Template definition of "commercial premises" which is a "cover all" definition and not one intended to be the subject of this requirement. This is further supported by the fact that Chapter 2.15 specifically mentions "retail (shops)", despite this being included within the Standard Template commercial premises definition.

In addition to the above, Appendix A of Chapter 2.15 provides photographic examples of where public art provides a meaningful contribution to the built environment. The locations of the examples provided are as follows:

- Museum of Sydney: Centre of City;
- Marrickville City Council: Petersham café and restaurant strip;
- Brighton Le-Sands: Restaurant and café strip;
- Lake Haven: Forecourt area at Gravity Youth Centre with the Lake Haven Shopping Centre precinct;
- City of Canterbury: Mary McKillop Reserve – part of a heritage walk;
- Facade treatment located within retail area;
- Canterbury Station;
- City of Sydney: Chifley Tower;
- Wyong Shire Council: Woodbury Park, Mardi;
- Rouse Hill Town Centre.

The common theme amongst all of the above locations is the fact that they are within areas of high pedestrian activity i.e. cafes, shopping precincts, public spaces. None of the above locations are within an industrial precinct or included as part of an industrial/warehouse style development. Further to the above, to ascertain how the public art DCP has been applied in the past, a search of applicable development applications was undertaken which revealed the following:

<b>DA/285/2013</b>	Additions to Bunnings Warehouse	\$5.65 million	Centre Support	Council	Not applied
<b>DA/514/2013</b>	Alt & Ads to Westfields Tuggerah: 12,638m <sup>2</sup> of retail + Gmax cinema	\$49.6 million	Business Centre	JRPP	Not applied
<b>DA/1066/2013</b>	Performing Arts Centre	\$11.1 million	Business Centre	JRPP	Considered unnecessary as DA purpose for exhibiting art
<b>DA/231/2014</b>	Office Premises – Concept Approval	\$7 million	Business Park	Council	Conditioned for next stage
<b>DA/1079/2012</b>	Alts & Additions to Registered Club	\$7.7 million	Special Uses	Council	Not applied
<b>DA/14/2013</b>	Motel	\$6 million	Special Uses	Council	Not applied
<b>DA/212/2013</b>	Works Depot	\$16.8 million	Light Industrial	Council	Not applied
<b>DA/847/2013</b>	Alts and Additions to Supa Centa	\$8.5 million	Centre Support	Council	Waived as included in building design

From the above results, we can conclude that the public art provisions have been applied inconsistently and where they have been applied they relate to retail, office and public developments within commercial/business zones rather than industrial zones – as was intended under DCP 112.

Finally, it is apparent that the intent of Chapter 2.15 is to ensure that developers give back to the community. In this regard, Bunnings help raise and contribute millions of dollars to local, regional and national charities and community organisations. At a local level, community groups are given the opportunity to raise money through the local fundraising Sausage Sizzles that are actively supported at the front of Bunnings stores on weekends and public holidays. Recently Bunnings also donated two (2) buildings valued at approximately \$60,000 to “The Glen”, a non for profit drug



and alcohol rehabilitation centre, to help alleviate the pressures experienced since the closure of the Rothbury facility in September 2014 (see DA/304/2015).

In summary, it is considered that Chapter 2.15 is not intended to be applied to developments such as Bunnings, nor in industrial locations such as the subject site, and this is substantiated through definitions used within the superseded version of the policy. Should Council determine that the contrary is true, any public art applied to the site would be tokenism and would have no real connection or meaning to site or surrounds. Furthermore, the amount spent on this would then be removed from the meaningful and valued charity work which Bunnings currently do and would also reduce the viability of the project even further given that \$241,500 will be payable under Section 94A plus a further \$310,873 for water and sewer contributions.

### Assessment Officers Comments

It is considered that the intent of this Chapter is for public art to be located on land associated with development on business zoned land not industrial zoned land or development which has its own unique branding where public art would be lost in the background.

In addition, the development is located at a prominent intersection which will be subject to an upgrade in the future and the location of the public art at this intersection could impact upon the vehicles utilising it and become a distraction and cause an accident.

It is considered that in these circumstances that the required public art contributions are not applicable to the proposed development.

- Chapter 3.1 Site Waste Management

In accordance with this Chapter, the applicant has submitted a comprehensive Waste Management Plan for the development outlining the waste disposal, re-use and recycling (on and off site) for the construction and operational stages of the development. A condition has been included requiring the development to be carried out in accordance with the submitted management plan.

- Chapter 5.1 Retail Centres

The objectives of this Chapter are to identify a network of retail centres, identify future centres, define the objectives and function for each of the different levels of centres and provide guidance for retailing in industrial areas.

This Chapter identifies the Wyong retail network. These centres within the retail network are located within B1 Neighbourhood Centre, B2 Local Centre, B3 Commercial Core, B4 Mixed Use, B5 Business Development, B6 Enterprise Corridor and B7 Business Park zoned land where retailing is permissible. The subject site is not located within any of the identified retail centres within this Chapter, and is permissible through the *hardware and building supplies* definition which is permissible in industrial zones. This is discussed further in the report.

### **d) Relevant Regulations**

There are no matters prescribed by the Regulations that require elaboration upon.

## **THE LIKELY IMPACTS OF THE DEVELOPMENT**

### a) Built Environment

#### *Locality and Streetscape*

The proposed Bunnings is replacing the existing Bunnings within the Lake Haven Homemakers Centre located diagonally opposite the subject site. The proposed development is to be situated amongst other similar sized development within an industrial zone. The proposed development is located adjacent to the Pacific Highway. The impact of

the façade of the development to the Highway is minimised with the location of the outdoor nursery and bagged goods area adjoining the Pacific Highway and through the inclusion of landscaping in front and the main building stepped back behind these areas.

The development is also set within an area of 'cut' and the car parking is predominantly underground as such the height relative to the Pacific Highway is reduced and the visual impact of car parking on the surrounding locality is minimised.

#### *Traffic generation*

RMS has indicated that the proposed development is not generate significant traffic generation and does not warrant the upgrade of the Pacific Highway/Chelmsford Road intersection. The proposed development provides 410 car parking spaces 70 spaces above what is required.

#### *Air quality*

A condition is recommended in relation to dust control during demolition, earthworks and construction requiring adoption of appropriate measures to minimise emissions into the surrounding environment. There is minimal potential for any air pollution, odour, fumes or other air quality impacts associated with the ongoing operation. The development is compatible with the industrial zone provisions.

#### *Noise and vibration*

A noise assessment report by Wilkinson Murray Pty Ltd has been submitted in support of the application. There will be construction noise for a limited duration as a consequence of the development. A condition has been recommended imposing standard operating hours for the construction of the development. It is not anticipated that the development will cause ongoing excessive or unreasonable noise or vibration and conditions are recommended in relation to the operating hours for the development and deliveries. The development is considered compatible with the industrial zone.

#### *Safety, security and crime prevention.*

The proposed development will incorporate lighting in the car parking area for safety and along the facades adjoining public roads to discourage vandalism. After hours the car park, timber trades area and rear loading dock will not be able to accessed as a roller door will be in place. In addition, the applicant has indicated that a security company will be employed to undertake regular checks of the building and an alarm will be installed.

#### *Economic Impact*

Within the Wyong Local Government Area there are nine (9) hardware and building supplies businesses (cater for a variety of products, not just timber or plumbing supplies etc). However, several cater specifically for trade businesses. These hardware and building supplies businesses are located at Gwandalan, Charmhaven, Lake Haven, North Wyong, Wyong, Tumbi Umbi, Ourimbah and The Entrance.

The existing Bunnings within the Lake Haven Homemakers Centre has a floor space of 8,318m<sup>2</sup>. The proposed Bunnings has an extra floor space of 7,250m<sup>2</sup>. It is anticipated that the development of the new Bunnings will contribute significantly to employment during the construction (240 construction jobs) and operation (160 full-time and part-time jobs, an additional 40 staff) phases of the development.

It is considered that the new Bunnings will have minimal economic impact upon the existing hardware and building supplies businesses in the LGA as the new Bunnings is replacing the existing Bunnings and there is a separation distance between this development and the existing hardware and building supplies businesses located in the other suburbs.

A thorough assessment of the impact of the proposed development on the built environment has been undertaken in terms of statutory and DCP compliance, the submissions received and other relevant impacts. As a result, the proposed development is considered to be satisfactory in terms of the built environment.

b) Natural Environment

All relevant issues regarding the likely impacts on the natural environment have been considered and determined to be reasonable for the proposed development.

## **THE SUITABILITY OF THE SITE FOR THE DEVELOPMENT**

A review of Council's Land Information mapping has identified no significant site constraints.

The subject site has been identified as being affected by future road widening.

The likely impacts of the development have been discussed throughout this report. In general, it is considered that there are no significant site constraints or hazards that would render the location of the development unsuitable for a hardware and building supplies development subject to conditions.

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

The proposed development is located within an industrial site on the Pacific Highway and the main road leading into the industrial area. The Wyong LEP 2013 enables hardware and building supplies development to be located within industrial zoned land. The design of the building is considered to be consistent with industrial type building with appropriate form, layout, scale and landscaping.

There are no matters associated with the proposal that would be considered contrary to the local or community interest. The proposal will create additional employment and retail opportunities for the Central Coast Region.

## **OTHER MATTERS FOR CONSIDERATION**

- Retail Centres Strategy

This Strategy includes provisions relating to the retail network, the role and function of centres within that network and how best to encourage investment while maintaining the viability of existing centres. These centres are located within B zoned land. The subject site is not located within any of the identified retail centres within this Strategy and is land zoned industrial. Bunnings is currently a tenant of the Lake Haven Mega Centre diagonally opposite the subject site.

Since 1996 various retail reporting has identified a shortfall of bulky goods land within the North Wyong Catchment.

The 1996 Retail Centres Strategy recognised the potential for this site for the development of centre support adjacent to the Lake Haven Shopping Centre, which would serve the northern part of the Shire. This Strategy identified that there was a clear under supply in the provision of bulky goods (non-food) floor space in the Wyong Shire of 16,700m<sup>2</sup>. At the time it was estimated that there was 20,000m<sup>2</sup> of existing bulky goods floor space in the Shire and that it was projected there was a demand for 36,700m<sup>2</sup> of bulky goods floor space.

No economic statement was included as part of the documentation provided as part of this application. A small section was provided within the Statement of Environmental Effects indicating that the development is considered to represent an employment generating development by employing 160 staff and will also support the economic base for the industrial precinct by adding to the passing trade for other existing businesses in the area.

The Retail Centres Strategy Review dated September 2007 undertaken by Leyshon Consulting, set out recommendations regarding the expansion of existing centres and the development of new centres for the period 2006-2031. This Strategy identified a number of centres that were to be developed by 2011, however only the Village Centre at San Remo (Northlakes Shopping Centre) has been opened. The Strategy recommended an allowance for additional bulky goods floor space in Northern Wyong of up to 20,000m<sup>2</sup> by 2031, although a suggested location was not stated. This Review includes hardware and building supplies within the category of bulky goods. However, the LEP 2013 separately defines *bulky goods premises* and *hardware and building supplies*. The LEP 1991 did not separately define *hardware and building supplies* and the definition of *bulky goods sales room and showroom* gave latitude to include hardware premises within this definition.

The Retail Strategy 2011 provides no clear guidance as to where future bulky goods floor space will be located within the northern part of the Shire. However an allocation of an additional 20,000m<sup>2</sup> to be developed between 2016-2031. Demand for additional bulky goods floor space will increase as the population increases.

It is considered that the development of this proposed Bunnings is complimenting the Retail Strategy 2011 in providing additional bulky goods floor space.

- Section 94A Contribution Plan

The subject site is not subject to a Section 94 Contributions Plan area however, the proposed development is subject to Section 94A contributions. The Section 94A contributions are calculated on 1% of the total estimated cost of the development. The estimated cost quoted on the DA form is \$24,150,000 which equates to a Section 94A contribution of \$241,500.

#### *Water and Sewer Contributions*

Water and sewer contributions are payable for the proposal under the *Water Management Act 2000* and will be included under the Section 306 Notice of Requirements for the proposal.

## **CONCLUSION**

The application seeks approval for construction of a proposal for a hardware and building supplies development (Bunnings) with undercroft parking and ancillary cafe including demolition, remediation and ancillary works on Lot 2 DP 24696 and Lots 5 & 6 DP 738274 No. 80-90 Pacific Highway Charmhaven.

The proposed development includes variations to DCP controls in relation to site coverage, setbacks to Chelmsford Road and landscaping. These variations are considered minor in the context of the proposal.

Aside from these proposed variations, the development is considered to be consistent with the objectives of the controls of the site and generally consistent with Council's LEP and DCP requirements. The proposal will deliver significant public benefit to the community by providing employment during construction and operation of the development. It is generally considered that the proposed development is suitable for the site and will represent a positive opportunity to provide additional services and employment opportunities within the local area.

The proposal is recommended for approval subject to conditions.

## **ATTACHMENTS**

1. Attachment 1 – SEPP 64 Advertising and Signage Assessment
2. Attachment 2 – Draft conditions of consent

**ATTACHMENT 1 – SEPP 64 ADVERTISING AND SIGNAGE – SCHEDULE 1 ASSESSMENT****Schedule 1 Assessment criteria****1. Character of the area**

- Is the proposal compatible with the existing or desired future character of the area or locality in which it is proposed to be located?

Applicant's Comments

The proposed signage will adopt the same theme and colour scheme as the current signage on the Bunnings Warehouse located diagonally opposite the site, this being compatible with the industrial and highway character of the area.

Assessment Officer Comments

The proposed signage is considered to be compatible with existing signage in the area.

- Is the proposal consistent with a particular theme for outdoor advertising in the area or locality?

Applicant's Comments

Bunnings Warehouse is a national trader who has a branded corporate image. The proposed signage adopts this corporate theme and the size, type and location of the signage is similar to other newer Bunnings Warehouses in NSW, one example being the recently constructed West Gosford Bunnings.

Assessment Officer Comments

The proposed signage is consistent with the existing outdoor advertising in the area.

**2. Special areas**

- Does the proposal detract from the amenity or visual quality of any environmentally sensitive areas, heritage areas, natural or other conservation areas, open space areas, waterways, rural landscapes or residential areas?

Applicant's Comments

The signs follow the standard Bunnings format and are considered to be consistent with the proposed building form. The site and building are located within an industrial area where the proposed signage would not detract from any visually sensitive areas.

Assessment Officer Comments

The subject site does not adjoin any environmentally sensitive, heritage, natural or other conservation or open spaces areas, waterways or rural landscapes.

Located opposite the site on the other side of the Highway is residential zoned land. The signed proposed on the Pacific Highway side of the development is located approximately 40m from the nearest residential property. It is considered that due to the distance between the proposed sign and the residential zoned land will not to detract from the amenity of the residential area.

### 3. Views and vistas

- Does the proposal obscure or compromise important views?
- Does the proposal dominate the skyline and reduce the quality of vistas?
- Does the proposal respect the viewing rights of other advertisers?

#### Applicant's Comments

With the exception of the proposed pylon signs, all signage will be painted to the Bunnings Warehouse and will therefore not protrude above any built form to obstruct views, dominate the skyline or impact upon other businesses advertising. The backdrop to both pylon signs is industrial in nature and as such does not impact any important views or scenic areas.

#### Assessment Officer Comments

It is considered that the proposed sign does not obscure any important views or dominate the skyline.

### 4. Streetscape, setting or landscape

- Is the scale, proportion and form of the proposal appropriate for the streetscape, setting or landscape?

#### Applicant's Comments

All signage has been designed to be in proportion with the standard Bunnings Warehouse theme which is appropriate for the IN2 light industrial zoning and the highway setting.

#### Assessment Officer Comments

It is considered that the signage is appropriate for the existing industrial streetscape and setting.

- Does the proposal contribute to the visual interest of the streetscape, setting or landscape?

#### Applicant's Comments

The signage is considered to add visual interest to the currently vacant streetscape and nonexistent landscaping.

#### Assessment Officer Comments

It is considered that the proposal adds visual interest to this portion of the Highway and Chelmsford Road and proposes to appropriately 'break up' the facade.

- Does the proposal reduce clutter by rationalising and simplifying existing advertising?

#### Applicant's Comments

The signage will have no impact on clutter.

#### Assessment Officer Comments

Only one pylon sign is proposed on each street frontage. The building contains several trade mark logo signs. This advertising is not considered to clutter the streetscape.

- Does the proposal screen unsightliness?

Applicant's Comments

The signage will have no impact on unsightliness.

Assessment Officer Comments

The development is proposing a new building which will remove the existing unsightly concrete hardstand.

- Does the proposal protrude above buildings, structures or tree canopies in the area or locality?

Applicant's Comments

The pylon signs will protrude above the proposed buildings on the site but will still be in keeping with the overall scale of the development. In terms of the wider context of the site, the pylon signs will not protrude above the general built form of the industrial backdrop.

Assessment Officer Comments

It is considered that the signs though higher than the building, are in keeping with the area for example the nearby Lake Haven Homemakers signage.

- Does the proposal require ongoing vegetation management?

Applicant's Comments

The signage will not require ongoing vegetation management.

Assessment Officer Comments

Landscaping will be proposed, which will require maintenance.

## 5. Site and building

- Is the proposal compatible with the scale, proportion and other characteristics of the site or building, or both, on which the proposed signage is to be located?
- Does the proposal respect important features of the site or building, or both?
- Does the proposal show innovation and imagination in its relationship to the site or building, or both?

Applicant's Comments

As mentioned above, the signage will adopt the standard Bunnings Warehouse format in design which is considered appropriate for the size of the site and building.

Assessment Officer Comments

It is considered that the proposed development is compatible in terms of scale with adjoining and adjacent development.

## 6. Associated devices and logos with advertisements and advertising structures

- Have any safety devices, platforms, lighting devices or logos been designed as an integral part of the signage or structure on which it is to be displayed?

Applicant's Comments

Meets requirements.

Assessment Officer Comments

The proposed signage is considered to be corporate logos which have been designed to be an integral part of the development.

**7. Illumination**

- Would illumination result in unacceptable glare?
- Would illumination affect safety for pedestrians, vehicles or aircraft?
- Would illumination detract from the amenity of any residence or other form of accommodation?
- Can the intensity of the illumination be adjusted, if necessary?
- Is the illumination subject to a curfew?

Applicant's Comments

The signs are located within an industrial/highway setting and do not flash or create glare. Illumination will be in the form of LED lighting which will be in accordance with the relevant Australian Standard regarding the control of light spillage.

Assessment Officer Comments

Two (2) signs are to be illuminated and fitted with light baffles. It is considered that the proposed illumination will have minimal impact upon pedestrians and vehicles or amenity of the residential zoned land opposite the site.

**8. Safety**

- Would the proposal reduce the safety for any public road?
- Would the proposal reduce the safety for pedestrians or bicyclists?
- Would the proposal reduce the safety for pedestrians, particularly children, by obscuring sightlines from public areas?

Applicant's Comments

The signage will have no impact upon matters of safety.

Assessment Officer Comments

It is considered that the location of the proposed signage will have minimal impact upon the safety of those using the public roads. RMS have no objection to the location or style of signage.



**ATTACHMENT 2 – DRAFT CONDITIONS OF CONSENT****PROPOSED CONDITIONS****Approved Plans**

- 1 The development is to be undertaken in accordance with the approved development plans and specifications listed below except as modified by any conditions of consent and any amendments in red made to the approved plans:

<b>Title</b>	<b>Drawing No.</b>	<b>Revision</b>	<b>Date</b>	<b>Drawn By</b>
Site and Roof Plan	030	B	26.05.15	John R Brogan & Associates
Area Diagram	040	B	26.05.15	John R Brogan & Associates
Floor Plan - Undercroft Parking Level	100	B	26.05.15	John R Brogan & Associates
Floor Plan – Warehouse Level	101	B	26.05.15	John R Brogan & Associates
Sections	120	B	26.05.15	John R Brogan & Associates
Elevations	130	B	26.05.15	John R Brogan & Associates
Landscape Plan	2202 LP-01	H	02/06/2015	John Lock & Associates
Preliminary Environmental Site Assessment	E27560KGr pt	1	11 August 2014	Environmental Investigation Services

**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 Prior to the occupation or use of the building/structure, an application for an Occupation Certificate for the development must be submitted to and approved by the Principal Certifying Authority.
- 4 An application for a Subdivision Certificate must be submitted to and approved by the Council/Certifying Authority prior to endorsement of the plan of subdivision.
- 5

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 as applicable to the specific work required under each individual condition. 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

- 6 Prior to the issue of any Construction Certificate, the payment to Council of developer contributions as calculated in the formula below:

$$\text{Developer contribution} = \$241,500 \times \text{Current CPI} \div \text{Base CPI}$$

where "Current CPI" is the *Consumer Price Index (All Groups Index)* for Sydney as published by the Australian Statistician at the time of payment of developer contributions pursuant to this condition, and "Base CPI" is the *Consumer Price Index (All Groups Index)* for Sydney as published by the Australian Statistician at the date of this consent.

This condition is imposed pursuant to Section 94 of the *Environmental Planning and Assessment Act 1979*.

### Filling and Haulage Requirements

- 7 Prior to the issue of the Construction Certificate, an agreement is to be entered into with Council as the Roads Authority:
- to approve the haulage route attributable to the construction of the subject development; and
  - to approve the methodology of determining the reduced pavement life of the approved haulage route attributable to the construction of the subject development.

The agreement shall include an agreed method of rectification at the sole expense of the developer.

### Food Act Requirements

- 8 Prior to the issue of a Construction Certificate, detailed plans and specifications for the food handling areas are to be submitted to and approved by Council's Environmental Health Officer- Food.

### Potentially Contaminated Land Requirements

- 9 All recommended actions specified in the environmental assessment report titled "Preliminary Environmental Site Assessment for Proposed Commercial Development at 80-90 Pacific Highway, Lake Haven", for Andermatt Pty Ltd C/O John R Brogan & Associates Pty Ltd, report ref: E27560KGrpt by Environmental Investigation Services" are to be

implemented by a suitably qualified persons prior to the issue of any construction certificate issued.

### Roadworks - Design Requirements

- 10 Where conditions of this consent require approval from Council as the Roads Authority, a Subdivision Construction Certificate application 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.
- 11 The submission to Council of Civil Works design drawings and specifications detailing the construction of the roundabout to service the vehicle entry/exit to the development within the Chelmsford Road reserve to the following requirements:
  - The roundabout shall be designed to accommodate the swept path of a 19.0 metre Articulated Vehicle and a Prime Mover 20.0 metre x 2.5-3.2 metres wide.
  - The roundabout shall be designed in accordance with the Austroads "Guide to Road Design Part 4B: Roundabouts".
  - Pavement marking & signage.
  - Street lighting in accordance with AS/NZS 1158.
  - The adjustment and reconstruction of the carriageway including the kerb and gutter alignment and pavement within Chelmsford Road and Callaghan Close to ensure satisfactory transitions into the proposed roundabout.
  - The reconstruction of the existing stormwater drainage inlet and pipeline system to accommodate the proposed roundabout alignment.
  - Adjustment and relocation of the existing services i.e. water & sewer mains/manholes outside the travel paths of the roundabout in accordance with the Wyong Water's requirements.
  - Adjustment and relocation of the existing services i.e. Ausgrid, Telstra, gas supply and national broadband network.
  - Pavement design prepared by a Geotechnical Engineer. The pavement shall be a Heavily Bound Pavement with minimum 100mm asphalt wearing surface design loading  $7.3 \times 10^6$  ESA's or alternatively a Rigid Pavement Design with design loading  $2 \times 10^7$  CVAGs.
  - Detailed Design Road Safety Audit (RSA) prepared by a qualified Level 3 Road Safety Auditor shall be undertaken on the intersection design. The RSA is to be submitted to Council and all issues identified in the RSA shall be addressed to the satisfaction of Council as the Roads Authority prior to the release of the Roads Authority approval for works within roads and footpaths.
  - Required design drawings are to be prepared in accordance with Council's Development Control Plan 2013 – Civil Works Design Guideline. The design must be submitted to and endorsed by the "Local Traffic Committee" prior to approval by Council as the Roads Authority prior to the issue of the Roads Authority approval for works within roads and footpaths.

Required design drawings are to be prepared in accordance with Council's *Civil Works Design Guidelines* and must be approved by Council as the Roads Authority prior to the issue of a Construction Certificate.

- 12 The submission to Council of Civil Works design drawings and specifications detailing the following design requirements:
- Adjustment and reconstruction of the kerb and guttering within Chelmsford Road adjoining the roundabout and the commercial vehicle crossing servicing the loading dock ramp.
  - Construction of a 22.0 metre wide commercial vehicle access crossing servicing the loading dock ramp within Chelmsford Road. The access shall accommodate the 19-25.0 metre long articulated vehicle (AV) turning paths maintaining lane discipline within Chelmsford Road. The access shall be a maximum of 22.0 metres wide at the kerb alignment and 19.5 metres at the site boundary. Line marking and appropriate signage shall be provided to ensure safe entry movements. Note: The design and specifications of the concrete joints within the access crossing shall be provided with the engineering plans.
  - Relocation of the existing bus stop within Chelmsford Road to a suitable location west of the proposed vehicle access crossing.
  - The construction of a concrete footpath 1.5 metres wide within Chelmsford Road linking the relocated bus stop to the Bunning Building pedestrian entry. The footpath shall also extend east to cross the main vehicle entry/exit ramp a minimum of 12.0 metres from the roundabout holding line. Note: Pedestrian kerb ramps, a 2.0 metre wide dividing median (Splitter Island), adequate lighting and signage shall be provided. The roller shutter shall be relocated to provide continued pedestrian movements along the footpath and across the vehicular ramp.
  - The construction of a Pedestrian Refuge within Chelmsford Road adjacent the Bunning Building pedestrian entry in accordance with the RMS Technical Direction TDT2011/01a. The refuge shall include all associated works including line marking, signage, pedestrian kerb ramps to both sides of Chelmsford Road.
  - The construction of a concrete footpath 1.5 metres wide within the northern Chelmsford Road footway extending along the Pacific Highway linking the Chelmsford Road pedestrian refuge with the recently constructed pedestrian refuge across the Pacific Highway north of the Pacific Highway/Lakehaven Road roundabout. Note: All works located within the Pacific Highway will require a road occupancy licence issued from The RMS.
  - Street lighting in accordance with AS/NZS 1158.
  - Pavement marking & signage.
  - Any associated works to ensure satisfactory transitions to existing infrastructure
  - Detailed Design Road Safety Audit (RSA) prepared by a qualified Level 3 Road Safety Auditor shall be undertaken on the engineering design. The RSA is to be submitted to Council and all issues identified in the RSA shall be addressed to the satisfaction of Council as the Roads Authority prior to the release of the Roads Authority approval for works within roads and footpaths.
  - Required design drawings are to be prepared in accordance with Council's Development Control Plan 2013 – Civil Works Design Guideline. The design must be submitted to and endorsed by the “Local Traffic Committee” prior to approval by Council as the Roads Authority prior to the issue of the Roads Authority approval for works within roads and footpaths

- Closure of the existing access to the Pacific Highway and remediation of the road verge by removing all hardstand areas, reinstating the kerb and gutter and returfing.

Required design drawings are to be prepared in accordance with Council's *Civil Works Design Guidelines* and must be approved by Council as the Roads Authority prior to the issue of a Construction Certificate.

- 13 The submission of a comprehensive road signage and pavement marking design drawings identifying parking restrictions, accesses and traffic management facilities to Council for approval by the Local Traffic Committee prior to issue of the Construction Certificate.

### Stormwater Drainage - Design Requirements

- 14 Stormwater drainage works external to the site and discharging into a public system or public land requires approval from Council under Section 68 of the *Local Government Act 1993*. Detailed design drawings prepared in accordance with Council's *Civil Works Design Guidelines* must be approved by Council prior to the issue of a Construction Certificate. All other stormwater management works must be approved by the Accredited Certifier.
- 15 The reconstruction of the existing stormwater drainage inlet and pipeline system within the Chelmsford Road and Callaghan Close carriageways to accommodate the proposed roundabout alignment. The re-aligned stormwater piped drainage system should include provision for the major system to be contained within the Chelmsford Road and Callaghan Close road reserves. Detailed design drawings prepared in accordance with Council's *Civil Works Design Guidelines* must be approved by Council prior to the issue of a Construction Certificate.
- 16 The submission to the Accredited Certifier/Council of a detailed stormwater management plan featuring:
  - Construction of a stormwater drainage pipeline (100 year ARI capacity) to collect and discharge all generated stormwater flows from the catchment area within the upstream property Lot 1 DP787758 Pacific Highway to connection into the piped stormwater drainage system within Chelmsford Road.
  - Construction of a secondary flow path within the car parking area to contain the surcharge flows generated from the upstream catchment area applying a 50% blockage factor to the diversion 900 diameter pipeline. The flow path shall connect to a spillway weir and concrete catch drain or wall constructed along the southern boundary.
  - The provision of an onsite stormwater detention system. The detention system must be designed to attenuate post developed flow rates to predevelopment flow rates for a full range of storm durations for the 5, 20 and 100 year average reoccurrence interval (ARI) design storms. Note: The OSD tank shall be designed and certified as being structurally adequate for all anticipated loadings by a practising Structural Engineer.
  - An emergency overland flow path from the OSD system catering for the 100 year ARI design flows.
  - The provision of stormwater quality control facilities to treat stormwater in accordance with the Engineers Australia publication *Australian Runoff Quality – A Guide to Water Sensitive Urban Design* prior to entering Council's stormwater drainage system.

The plans must be prepared in accordance with *AS/NZS3500.3:2004* and Council's *Civil Works Design Guidelines*, and be approved by the Accredited Certifier prior to issue of the Construction Certificate.

## Structural Design Requirements

- 17 Any excavation below the adjoining land level requires the retaining of that land and the preservation and protection of any improvements or buildings upon that land including public roads and utilities from damage. If necessary, the improvements or buildings are to be supported in a manner designed by a suitably qualified Registered Structural Engineer. Any design proposals prepared in order to comply with this condition are to include geotechnical investigations and are to be submitted for the approval of the Accredited Certifier and in the case where excavation impacts upon public infrastructure, Council, prior to issue of the Construction Certificate.
- 18 Prior to the issue of a Construction Certificate, suitable detailed design drawings for all retaining wall structures on the site are to be provided for the approval of the Accredited Certifier. Such design drawings are to be prepared by a suitably qualified Registered Structural Engineer in accordance with the requirements of AS 4678-2002 - *Earth Retaining Structures*. All retaining walls must be contained wholly within the property and designed so as to accommodate possible surcharge loading from vehicles or structural improvements within the adjoining property.

## Vehicle Access and Parking - Design Requirements

- 19 The submission to the Accredited Certifier of a detailed car parking design. The design shall include:
  - Pavement marking, appropriate signage and physical controls detailed for the carpark, access driveway and circulation roads.
  - Pavement design able to withstand anticipated vehicle loading.
  - Wheel stops provided for parking spaces where appropriate.
  - Provision of 10 car parking spaces for people with disabilities in accordance with AS 2890.6:2009.
  - The placement of clearance signage above the basement entry.
  - The roller shutter shall be relocated to provide continued pedestrian movements along the footpath and across the entry/exit vehicular ramp.
  - Detailed Design Road Safety Audit (RSA) prepared by a qualified Level 3 Road Safety Auditor shall be undertaken of the carpark design. The RSA is to be submitted to Council and all issues identified in the RSA shall be addressed to the satisfaction of Accredited Certifier prior to the release of the Construction Certificate.

The design drawings shall be prepared in accordance with the requirements of AS/NZS 2890 – Parts 1, 2 and 6, and be approved by the Accredited Certifier prior to the issue of a Construction Certificate.

- 20 The submission to the Accredited Certifier of lighting design drawings for the carpark and public places. The design shall be prepared in accordance with the requirements of AS/NZS 1158 and AS 4282-1997, including the provision of current best practice energy efficient lighting and be approved by the Accredited Certifier prior to issue of a Construction Certificate.

## Water and Sewer Services - Design Requirements

- 21 All water and sewer works or works impacting on water and sewer assets must be designed and constructed to the requirements of Council as the Water Supply Authority. The requirements are detailed in the Section 306 Notice of Requirements letter attached to this consent. Note: The Section 306 Notice contains requirements associated with the development that must be completed prior to the issue of the Construction Certificate.
- 22 The submission to Council as the Water Supply Authority of detailed structural design drawings and supporting information for structures within the zone of influence of the sewer main. The design shall indicate the proposed method of protecting the sewer main in accordance with Council's *Requirements for Building Over or Adjacent to Sewer Mains* policy. Design details must be approved by Council as the Water Supply Authority prior to the issue of a 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.***

### Demolition Requirements

- 23 Prior to the demolition of nominated structures on site, all existing site services are to be disconnected, sealed and made safe. With regard to any sewer and water, service is to be disconnected by a licensed plumber and drainer with a Start Work Docket submitted to Council's Plumbing and Drainage Inspector as the Water and Sewer Authority.
- Any demolition work carried out is to be carried out in accordance with the requirements of AS 2601-2001 – The Demolition of Structures.
- 24 Work involving bonded asbestos removal work (of an area of more than 10 square metres) or friable asbestos removal work, must be undertaken by a person who carries on a business of such removal work in accordance with a licence issued under the provisions of Clause 318 of the *Occupational Health and Safety Regulation 2001*.
- The person having the benefit of the consent must provide the Principal Certifying Authority with a copy of a signed contract before any development pursuant to the consent commences.
  - Any such contract must indicate whether any bonded asbestos material or friable asbestos material will be removed and if so, must specify the landfill site (that may lawfully receive asbestos) to which the material is to be delivered for disposal. Upon completion of these works, the Council is to be supplied with disposal receipts within seven (7) days to verify that this requirement has been complied with.

### Ecology/Trees Requirements

- 25 Prior to works associated with the development commencing and for the duration of construction works, the following protocols are to be implemented to ensure tree and vegetation protection upon the development site:
- Trees and vegetation noted for retention are to be protected by the erection of 1.8 metre-high chain wire interlocking fencing as per the engaged Arborist and/or Ecologist's direction, AS 4970-2009 - *Protection of Trees on Development Sites*
  - Erection of tree protection measures is to be confirmed in writing to Council's Development Arborist prior to commencement of works, or alternatively Council must be notified to undertake an inspection of the works.

- All fenced tree protection areas and are to be clearly marked as "No Go Area" on the fencing itself.
- No clearing of vegetation or storage of vehicles or machinery, waste, fill or materials or unauthorised access is to occur within the fenced tree protection areas.
- The management protocols and requirements within these conditions relating to tree and vegetation retention, protection and rehabilitation are to be included in all contract documentation, plans and specifications used by each civil contractor and sub-contractors.

### Erosion and Sediment Control Requirements

- 26 Prior to the commencement of construction a Soil and Water Management Plan (SWMP) prepared in accordance with the latest edition of the Landcom Publication 'Soils and Constructions- Volume 1' (The Blue Book) shall be provided to the Principal Certifying Authority (PCA). The SWMP is to be prepared, reviewed and updated by persons suitably qualified to interpret "The Blue Book" or trained in the use of "The Blue Book" for preparation of Soil and Water Management Plans.

This SWMP shall be modified and updated during construction to reflect any changes to the on-ground/site conditions. A copy of any modifications or updates to the SWMP shall be approved by a suitably qualified person and provided to the PCA and provided to Council upon request. Further information and requirements in relation to works that Council's "Civil Construction Specification" apply, may be found in the appendix of that document.

Erosion and sediment controls shall be monitored, maintained and adapted in accordance with the most recent SWMP until the site is fully stabilised and landscaped. Failure to comply with this condition may result in fines under the provision of the *Protection of the Environment Operations Act*.

### Filling and Haulage Requirements

- 27 Prior to works associated with the development commencing, details for the disposal of any spoil gained from the site and/or details of the source of fill materials to be imported to the site, are to be provided and approved by the Principal Certifying Authority.

### Protection of Adjoining Property Requirements

- 28 Prior to works associated with the development commencing, the owner of the adjoining property affected by the proposed excavation and/or structural protective works, must be given written notice of the intention to commence works. The required notice must be accompanied by details of the proposed work at least seven (7) days prior to the commencement of proposed excavation and/or structural protective works.
- 29 Prior to works associated with the development commencing, the applicant must supply the Principal Certifying Authority with a dilapidation report for the adjoining properties, which documents and photographs the condition of buildings and other improvements. The report must be submitted to and approved by the Principal Certifying Authority prior to the commencement of any works. **Note:** The report is to be made available by the Principal Certifying Authority in any private dispute between neighbours regarding damage arising from construction works upon the development site.

### Roads - Preconstruction Requirements



- 30 Prior to commencing any works upon public roads the developer and their contractor will be required to:
- Obtain a copy of the Council approved Civil Works plans and pavement design (if applicable).
  - Obtain a copy of Council's *Civil Works Design Guidelines*. This is Council's Specification for Civil Works and is available on Council's web site.
  - Arrange a meeting on-site with Council's Principal Development Construction Engineer on (02) 4350 5555.
- 31 Prior to works associated with the development commencing, a Plan of Management is to be submitted to and approved by Council as the Roads Authority for any works or deliveries that impact on any public roads or public land as a result of the construction of the development. The plan must include a Traffic Control Plan prepared by a person holding Roads and Traffic Authority (RTA) accreditation for selecting and modifying traffic control plans. Fees and charges are applicable to the review and approval of the required management plan in accordance with Council's Plan of Management.
- 32 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.

### Services/Utility Requirements

- 33 Other public authorities may have separate requirements and should be consulted prior to commencement of works in the following respects:
- Australia Post for the positioning and dimensions of mail boxes in new commercial and residential developments;
  - AGL Sydney Limited for any change or alteration to gas line infrastructure;
  - Ausgrid for any change or alteration to electricity infrastructure or encroachment within transmission line easements;
  - Telstra, Optus or other telecommunication carriers for access to their telecommunications infrastructure.

### Site Requirements

- 34 Prior to works associated with the development commencing, the Principal Contractor 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 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.

- 35 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.

- 36 A temporary hoarding or temporary construction site fence must be erected between the work site and adjoining lands before the works begin and must be kept in place until after the completion of the works if the works:
- could cause a danger, obstruction or inconvenience to pedestrian or vehicular traffic;
  - could cause damage to adjoining lands by falling objects; or
  - involve the enclosure of a public place or part of a public place.

These works are specified as exempt development pursuant to Clause 2.109 of the *State Environmental Planning Policy (Exempt & Complying Development Codes) 2008* where the development standards prescribed in Clause 2.110 of that instrument:

- enclose the work area;
- if it is a temporary construction site fence adjoining, or on, a public place—be covered in chain wire mesh that is designed, appropriately fixed and installed in accordance with AS 2423—2002, *Coated steel wire fencing products for terrestrial, aquatic and general use*; and
- be removed immediately after the work in relation to which it was erected has finished if no safety issue will arise from its removal.

**Note 1:** A structure on public land or on or over a public road requires the prior approval of the relevant authority under the *Local Government Act 1993* or the *Roads Act 1993*, respectively.

**Note 2:** The *Work Health and Safety Act 2011* and *Work Health and Safety Regulation 2011* contain provisions relating to scaffolds, hoardings and other temporary structures.

- 37 The submission of a Construction and Environment Management Plan (CEMP) to the Principal Certifying Authority for approval prior to the commencement of works. The plan must outline the sequence and construction methodology, and specify mitigating measures to ensure all works are carried out with minimal environmental impact in relation to project staging, waste management, traffic management and environmental management.

## During Construction Works:

*The following conditions must be satisfied during construction works.*

### Dust Control Requirements

- 38 Suitable dust suppression measures shall be implemented and maintained by the developer during demolition, excavation and construction works associated with the development. Such measures are required to minimise the emission of dust and other impurities into the surrounding environment.

### Earthworks and Haulage - Construction Requirements

- 39 All materials other than fill imported to the site for civil works, shall have a resource recovery exemption made under the Protection of the Environment Operations (Waste) Regulation 2005.
- 40 All site fill material shall be classified as Virgin Excavated Natural Material (VENM) or Excavated Natural Earth (ENM) in accordance with the Waste Classification Guidelines – Part 1: Classifying Waste published by the Department of Environment, Climate Change and Water NSW (now Office of Environment and Heritage). Site fill material shall be certified as VENM or ENM by a practising Geotechnical Engineer prior to haulage to site. Certification documentation shall be provided to the Principal Certifying Authority throughout the construction phase of the works.

### Potentially Contaminated Land Requirements

- 41 During the construction phase of the development, any new information which comes to light during remediation, demolition or construction works which has the potential to alter previous conclusions about site contamination and required remediation must be notified to Council immediately upon discovery.

### Services/Utility Requirements

- 42 The developer is solely responsible for any costs relating to alterations and extensions of existing roads, drainage, water and sewer infrastructure and other utilities for the proposed development.

### Site Access Requirements

- 43 All construction access and deliveries are to be via Chelmsford Road. No construction access or deliveries are to be permitted from The Pacific Highway.

### Site Requirements

- 44 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.
- 45 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.
- 46 During the construction phase of the development, any excavation below the level of footings of buildings upon adjoining allotments requires the preservation and protection of the adjoining buildings from damage resulting from subsidence. Should it be necessary, the excavation is to be supported and the adjoining buildings underpinned in a manner certified by a suitably qualified Structural Engineer.

### **Waste Management Requirements**

- 47 During the construction phase of the development, all building materials must be re-used, recycled or disposed of in accordance with the Waste Management Plan submitted with the subject application.

## **Prior to Release of Occupation / Subdivision Certificate:**

***The following conditions must be satisfied prior to the release of an Occupation / Subdivision Certificate as applicable to the specific work required under each individual condition.***

### **Building Code of Australia – Compliance Requirements**

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

### **Dilapidation Rectification Requirements**

- 49 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.

### **Disabled Access Requirements**

- 50 Prior to the issue of an Occupation Certificate, access to and throughout the buildings shall comply with AS 1428.1-2009 and the objectives of the *Disability Discrimination Act 1992* (Commonwealth).

### **Filling and Haulage- Completion Requirements**

- 51 Prior to the issue of an Occupation Certificate, the developer shall determine the reduced pavement life for the haulage route using the agreed methodology identified in the agreement with Council as the Roads Authority, and complete the agreed rectification actions.

### **Food Act Requirements**

- 52 No food handling, (as defined by the NSW Food Act 2003), is permitted in the food premises prior to the issue of the Occupation Certificate.
- 53 All liquid trade waste is required to pass through a basket arrestor with fixed screens, fitted to all floor wastes and sinks, before being discharged into the sewerage system.
- 54 Compliance with the requirements of the New South Wales Food Act 2003, the Food Regulation 2010, and AS4674–2004 – Design, Construction and Fitout of Food Premises, and AS1668, Part 11 – Mechanical Ventilation, for all food preparation and food storage areas, including liquor areas.
- 55 The installation of hand wash facilities with a minimum dimension of 500mm x 400mm providing warm running water through a common mixing spout with hands-free tap operation (consisting of elbow or wrist operated tap levers, foot or hip operated tap levers, or electronic sensor tap operation).

### Landscaping Requirements

- 56 Prior to the issue of an Occupation Certificate, to ensure landscaping works are properly completed, the landscape designer must provide certification to the Principal Certifying Authority certifying that landscaping has been implemented in accordance with the approved landscape plan as amended by any conditions of this consent.

### Lighting Requirements

- 57 Prior to the issue of an Occupation Certificate, suitable lighting to the car parking area, loading docks, truck turning area, access to rear of site shall be provided in accordance with the requirements of AS/NZS 1158 and AS/NZS 2890.1.

### Potentially Contaminated Land Requirements

- 58 A validation report by a suitably qualified professional confirming that the land is suitable for use is required to be submitted to Council's Environmental Protection Officer and Principal Certifying Authority prior to the issue of any Occupation Certificate.

### Public Health Premises

- 59 The premises must be inspected by Council's Environmental and Public Health Officer prior to any business activity being carried out.
- 60 The premises must be registered with Council's Health Services Section prior to commencing operations.
- 61 The premises must be provided with a separate hand basin solely for the purpose of washing hands. The hand basin must be provided with a continuous supply of hot and cold water delivered through a single mixing spout. A supply of antibacterial liquid soap and paper towels are to be provided in dispensers adjacent to this hand basin.
- 62 The premises must be provided with a separate equipment-washing sink for the purpose of washing equipment used with the business activities. This sink must be provided with a continuous supply of hot and cold water delivered through a single mixing spout.
- 63 Where a basin or a sink is situated against any wall that wall is to be constructed of, or covered with, material that is durable, smooth, impervious to moisture and capable of being cleaned. This surface is to be as follows:
- from floor level to a height of 450mm above the top of the basin or sink; and
  - from the centre of the basin and sink to a distance of 150mm beyond each side of this fitting.

### Roads – Compliance Requirements

- 64 All road signage and pavement marking works must be completed in accordance with the plans approved by the Local Traffic Committee and approved by Council as the Roads Authority prior to the issue of any Occupation Certificate.
- 65 The provision of any additional civil works required to ensure satisfactory transitions to existing work as a result of work conditioned for the development works are to be approved by Council as the Roads Authority prior to issue of the Occupation Certificate.
- 66 All works within the public road must be completed in accordance with the approved Civil Works design drawings and Council's *Civil Works Construction* Specification and be approved by Council as the Roads Authority prior to the issue of any Occupation Certificate.

- 67 The submission to the Council as the Roads Authority of a 'pre-opening stage' Road Safety Audit for all the roadwork's within Chelmsford Road prepared by a Level 3 Road Safety Auditor recognised on the NSW Register of Road Safety Auditors. Any deficiencies identified within the audit must be resolved in consultation with Council prior to the approval of the works.
- 68 Prior to the issue of the Occupation Certification, the existing access to the Pacific Highway shall be closed and all rectification works has been undertaken.

### **Statutory Certificate Requirements**

- 69 Prior to the Issue of an Occupation Certificate, a Final Fire Safety Certificate, as required by Clause 153 of the Environmental Planning and Assessment Regulation, 2000, certifying that all the Fire Safety Measures within the building have been designed and installed in accordance with the relevant standard of performance as nominated by the Fire Safety Schedule issued with the Construction Certificate, is to be supplied for the approval of the Principal Certifying Authority. Such Final Fire Safety Certificate is also to be displayed within a prominent location within the building such as the main entry.

### **Stormwater – Compliance Requirements**

- 70 The construction of the stormwater management system in accordance with the approved Stormwater Management Plan and AS/NZS 3500.3-2004. Certification of the construction by a suitably qualified consultant shall be provided to the Principal Certifying Authority prior to issue of the Occupation Certificate. Note: The OSD tank shall be certified by a practising Structural Engineer as being constructed in accordance with the approved design and to be structurally adequate for all anticipated loadings.
- 71 The construction of stormwater drainage works external to the site and discharging into a public system or public land in accordance with the approved Stormwater Management Plan and Council's *Civil Works Construction Specification*. All works must be approved by Council under Section 68 of the Local Government Act 1993 prior to issue of the Occupation Certificate. All other stormwater management works must be approved by the Principal Certifying Authority.

### **Subdivision– Compliance Requirements**

- 72 The consolidation of Lot 2 DP 24696 and Lots 5 & 6 DP 738274 into one lot by a registered subdivision prior to the issue of an Occupation Certificate. Documentary evidence of the Consolidation Plan registration with the Land and Property Management Authority must be submitted to the Accredited Certifier prior to the issue of the Occupation Certificate.
- 73 The dedication of land as road widening the roundabout leg extending to the building alignment of the entry/exit access road servicing the car parking area. The road widening must be shown on a plan of subdivision and approved by Council with the issue of the Subdivision Certificate.
- 74 The plan of subdivision and Section 88B instrument shall establish the following title encumbrances with Council being nominated as the sole authority to release, vary or modify each encumbrance unless specifically noted otherwise. Wherever possible the extent of the land affected shall be defined by bearings and distances shown on the plan of subdivision:
- 'Restriction on the Use of Land' containing an overland stormwater drainage flow path, prohibiting the erection of any structure or alteration to the flow path without the express written consent of Council.
  - 'Restriction on the Use of Land' prohibiting any alteration to the on-site stormwater detention system. The terms of the restriction are to be prepared to Council's standard

requirements.

- 'Positive Covenant' requiring the registered proprietor to ensure on-going maintenance is completed for the on-site stormwater detention system. The terms of the covenant are to be prepared to Council's standard requirements.
- The creation of a 'Rights of Access' over the footpath which crosses the main vehicle entry/exit ramp to benefit the public.
- The creation of an 'Easement to Drain Water' burdening the subject site and benefitting the upstream property Lot 1 DP787758 Pacific Highway.

The encumbrances must be shown on the final plan of subdivision and Section 88B instrument, and be approved by Council with the Subdivision Certificate.

- 75 The provision of Works as Executed information as identified in *Council's Civil Works Construction Specification* prior to issue of the Occupation Certificate. The information is to be submitted in hard copy and in electronic format in accordance with Council's 'CADCHECK' requirements. This information is to be approved by Council prior to issue of the Occupation Certificate.

### **Water and Sewer Services/Infrastructure – Compliance Requirements**

- 76 The obtaining of a satisfactory final plumbing & drainage inspection advice or 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 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.***

### **Advertising Sign Requirements**

- 77 The proposed advertising sign/s erected shall be in accordance with the approved plans and shall not be altered or modified without the prior separate consent of Council.
- 78 The approved advertising sign/s must be constructed and maintained in a presentable and satisfactory state of repair for the life of the development.
- 79 No additional advertising signs, including flags, banners, bunting, streamers, sandwich-boards, windvanes or other devices considered to be used as advertising media shall be erected on the site without the prior separate consent of Council.
- 80 The advertising signs shall meet the criteria contained in Section 3.2.5 of the Department of Transport Corridor Outdoor Advertising and Signage Guidelines (July 2007) – Illumination and reflectance. Any proposed advertising sign must not have/use: -
- Flashing lights or messages;
  - Electronically changeable messages, unless in accordance with the Department of Transport's Guidelines;
  - Animated display, moving parts or simulated movement;
  - No iridescent or fluorescent colours or materials;
  - Complex displays that hold a drivers' attention beyond "glance appreciation";
  - Displays resembling traffic signs or signals, or giving instruction to traffic by using words such as 'halt' or 'stop';
  - A method of illumination that distracts or dazzles; and
  - Shall not result in any adverse impact on the amenity of the surrounding area.

### Industrial/Commercial Operational Requirements

- 81 Loading and unloading of vehicles and delivery goods and merchandise and the like to and from the premises must be carried out within the loading area as it is shown on the endorsed plan and be conducted as to cause minimum interference with other vehicular traffic and to minimise dust and noise.
- 82 The loading bay area and truck turning area shall be kept unobstructed when not in use.
- 83 Maintenance of all buildings, surrounds and parking areas within the site shall be carried out in such a manner to render the site to be neat, tidy and clean at all times.
- 84 The hours of operation of the activity to which this development consent relates are: -  
Monday – Friday 7am to 9pm;  
Saturday 7am to 7pm  
Sunday and Public Holidays 7am to 6pm.
- 85 All delivery activities including loading and unloading shall be restricted to the hours between: -  
Monday to Friday - 7am to 7pm; and  
Saturday, Sunday and Public Holidays 8am to 5pm.

### Road Widening Acquisition

- 86 Upon the road widening along the Pacific Highway being acquired, the pylon sign is to be removed at no cost to the Roads and Maritime Services or Council.

### Site Appearance, Maintenance and Security Requirements

- 87 The owner/operator(s) of the site must maintain the external finishes of the building(s), structures, walls and fences for the life of the development and any graffiti must be removed in a timely manner. **Note:** amend “owner/operator(s)” and “building(s), structures, walls and fences” to suit the application to which you are applying the condition.
- 88 All site landscaping is to be maintained for the life of the development in accordance with the approved landscape plan, as amended by the conditions of this consent, and with the approved maintenance schedule.

### Vehicle Access and Parking – Ongoing Requirements

- 89 All on-site vehicle parking areas, markings, driveways and manoeuvring areas are to be maintained for the life of the development.

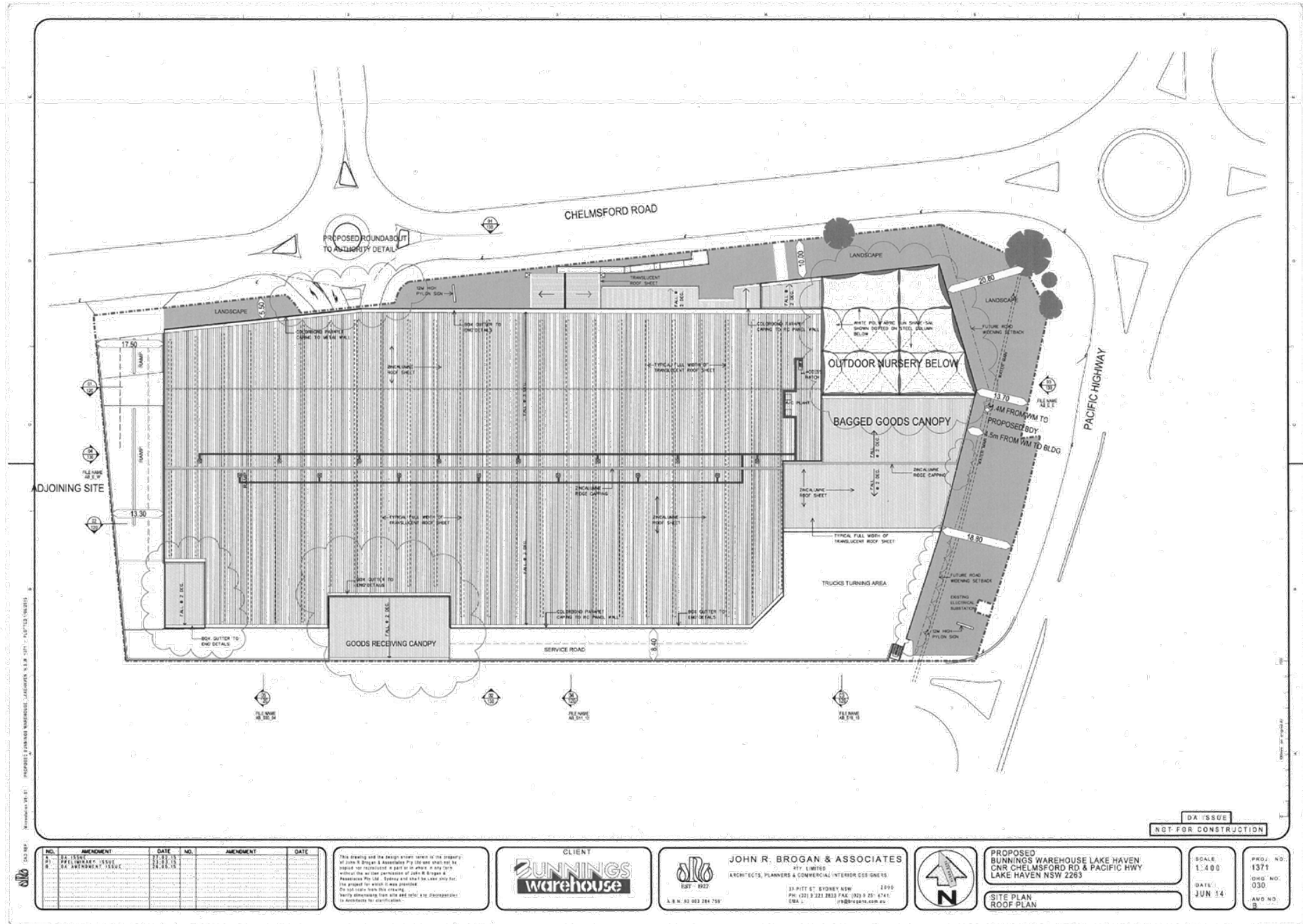
### Waste Management – Compliance Requirements

- 90 All waste generated on the premises shall be stored in a manner so that it does not pollute the environment.
- 91 All waste generated on the premises shall be transported to a facility which is licensed to receive that material in accordance with an approved waste management plan.



## **SCHEDULE OF CONTRIBUTIONS**

Section 94A Levy	\$241,500.00
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NO.	AMENDMENT	DATE	NO.	AMENDMENT	DATE
1	ISSUE FOR TENDERS	15/06/2023			
2	ISSUE FOR DA	22/06/2023			
3	ISSUE FOR DA	22/06/2023			
4	ISSUE FOR DA	22/06/2023			
5	ISSUE FOR DA	22/06/2023			
6	ISSUE FOR DA	22/06/2023			
7	ISSUE FOR DA	22/06/2023			
8	ISSUE FOR DA	22/06/2023			
9	ISSUE FOR DA	22/06/2023			
10	ISSUE FOR DA	22/06/2023			

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**CLIENT**  
**BUNNINGS warehouse**

**JOHN R. BROGAN & ASSOCIATES**  
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 PH: (02) 9 221 2833 FAX: (02) 9 231 6741  
 E: JRB@JRBROGAN.COM.AU



**PROPOSED BUNNINGS WAREHOUSE LAKE HAVEN**  
 CNR CHELMSFORD RD & PACIFIC HWY  
 LAKE HAVEN NSW 2263

**SITE PLAN**  
**ROOF PLAN**

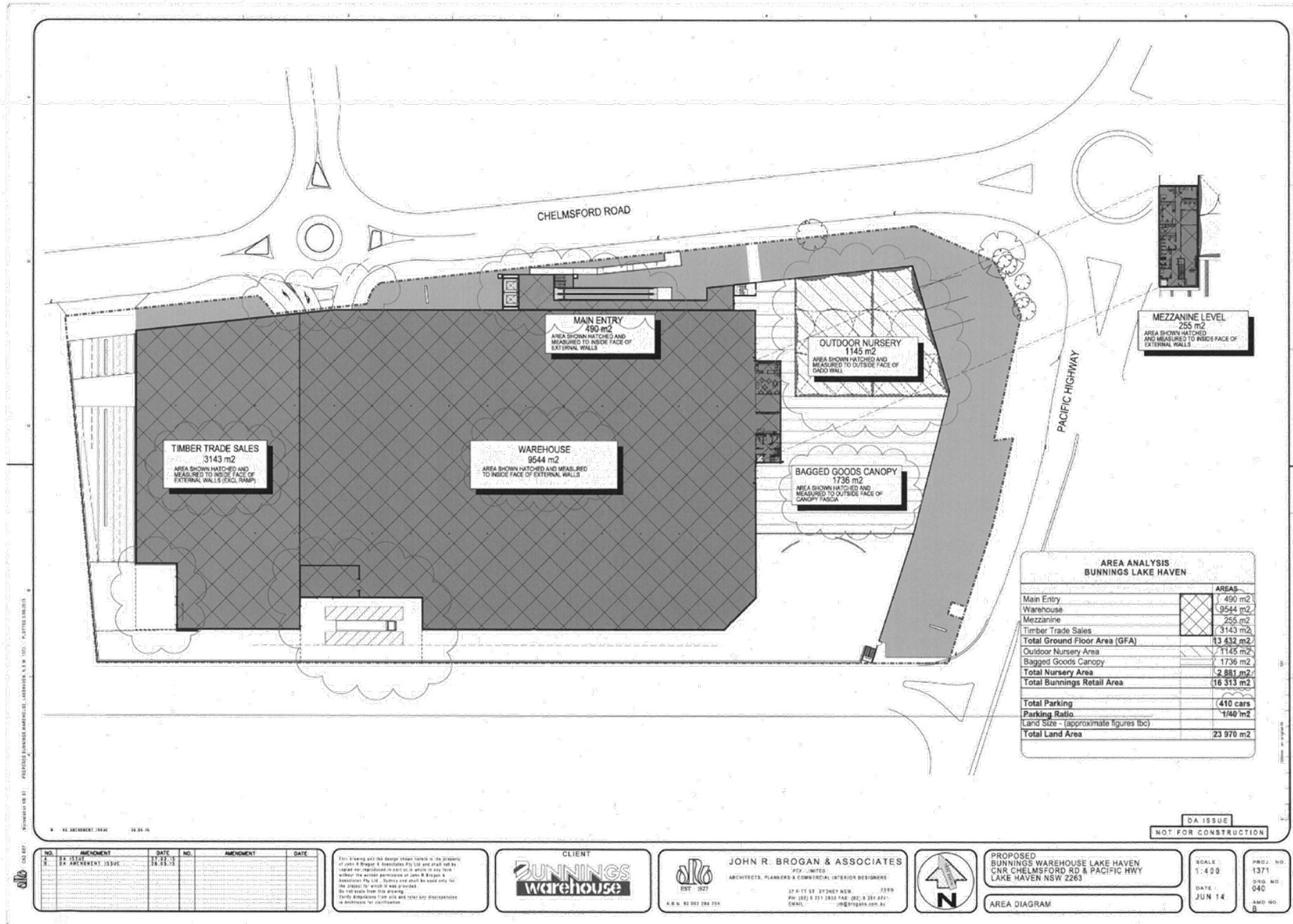
**SCALE**  
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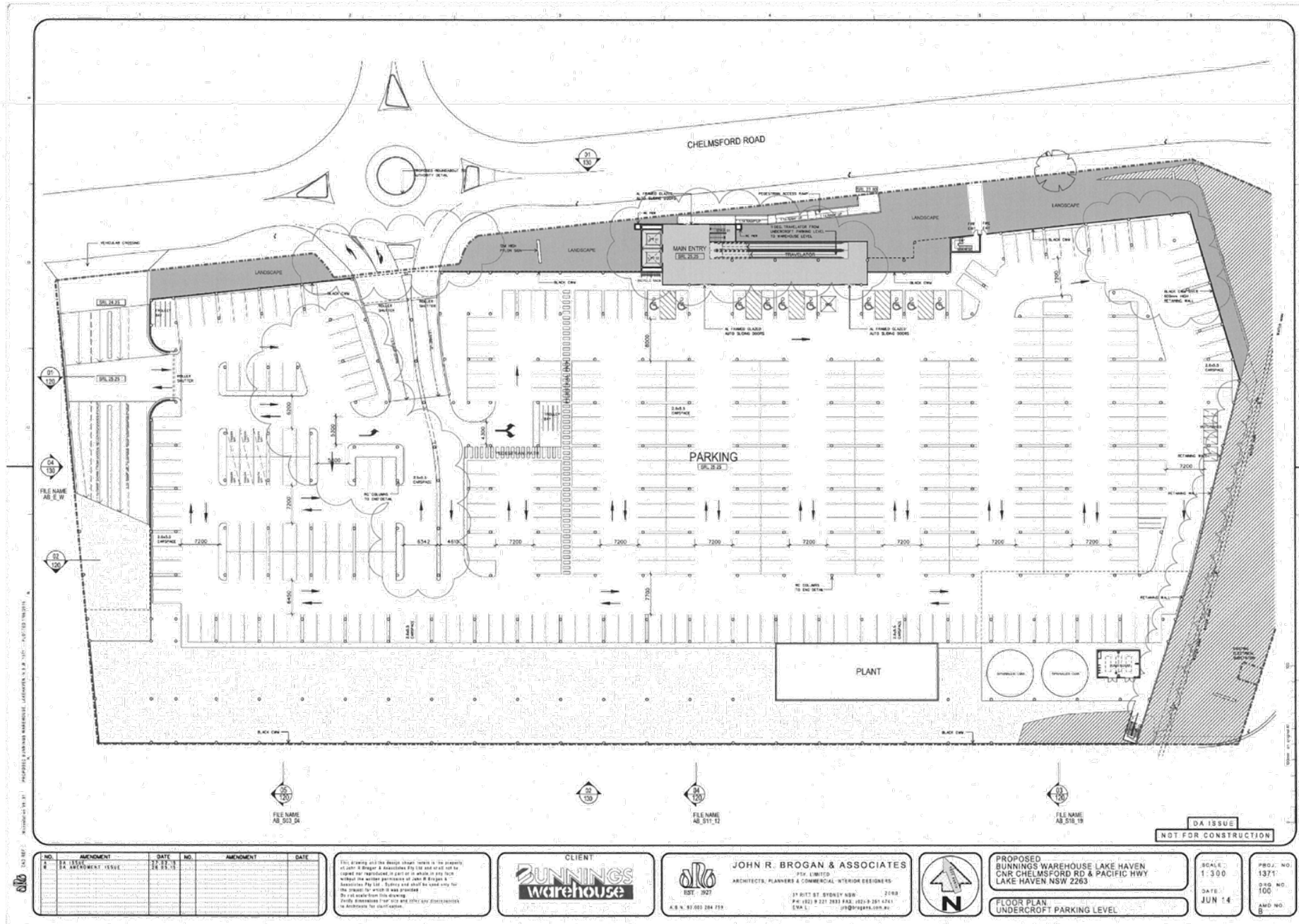
**DATE**  
 JUN 14

**PROJ. NO.**  
 1374

**DWG. NO.**  
 030

**AWD. NO.**  
 B





NO.	AMENDMENT	DATE	NO.	AMENDMENT	DATE
14	ISSUE	14.01.19			
13	AMENDMENT	14.01.19			
12	AMENDMENT	14.01.19			
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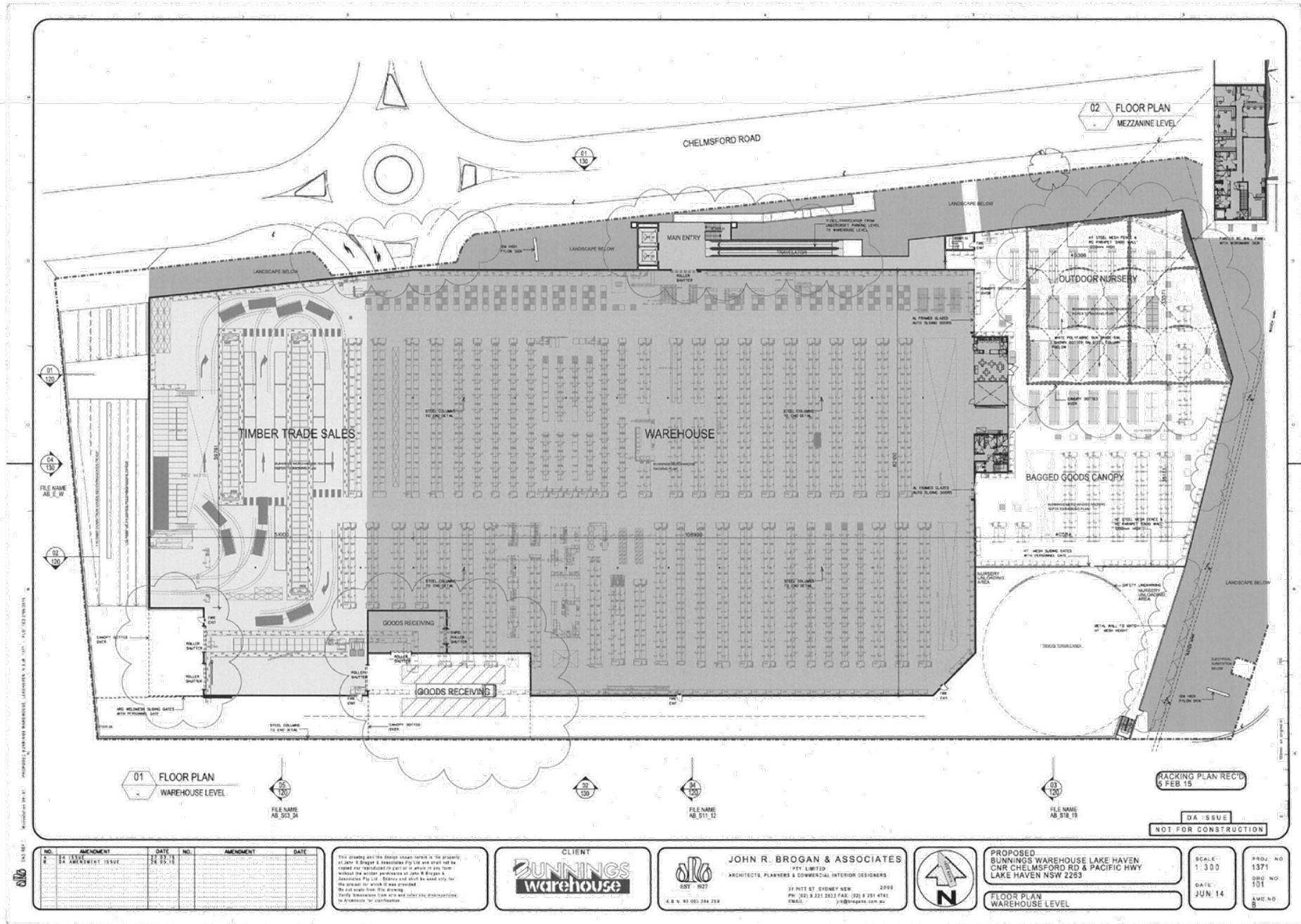
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PROPOSED  
 BUNNINGS WAREHOUSE LAKE HAVEN  
 CNR CHELMSFORD RD & PACIFIC HWY  
 LAKE HAVEN NSW 2263

FLOOR PLAN  
 UNDERCROFT PARKING LEVEL

SCALE: 1:300  
 DATE: JUN '14  
 PROJ. NO. 1375  
 Dwg NO. 100  
 ASD NO. B



01 FLOOR PLAN  
WAREHOUSE LEVEL

02 FLOOR PLAN  
MEZZANINE LEVEL

NO.	AMENDMENT	DATE	NO.	AMENDMENT	DATE
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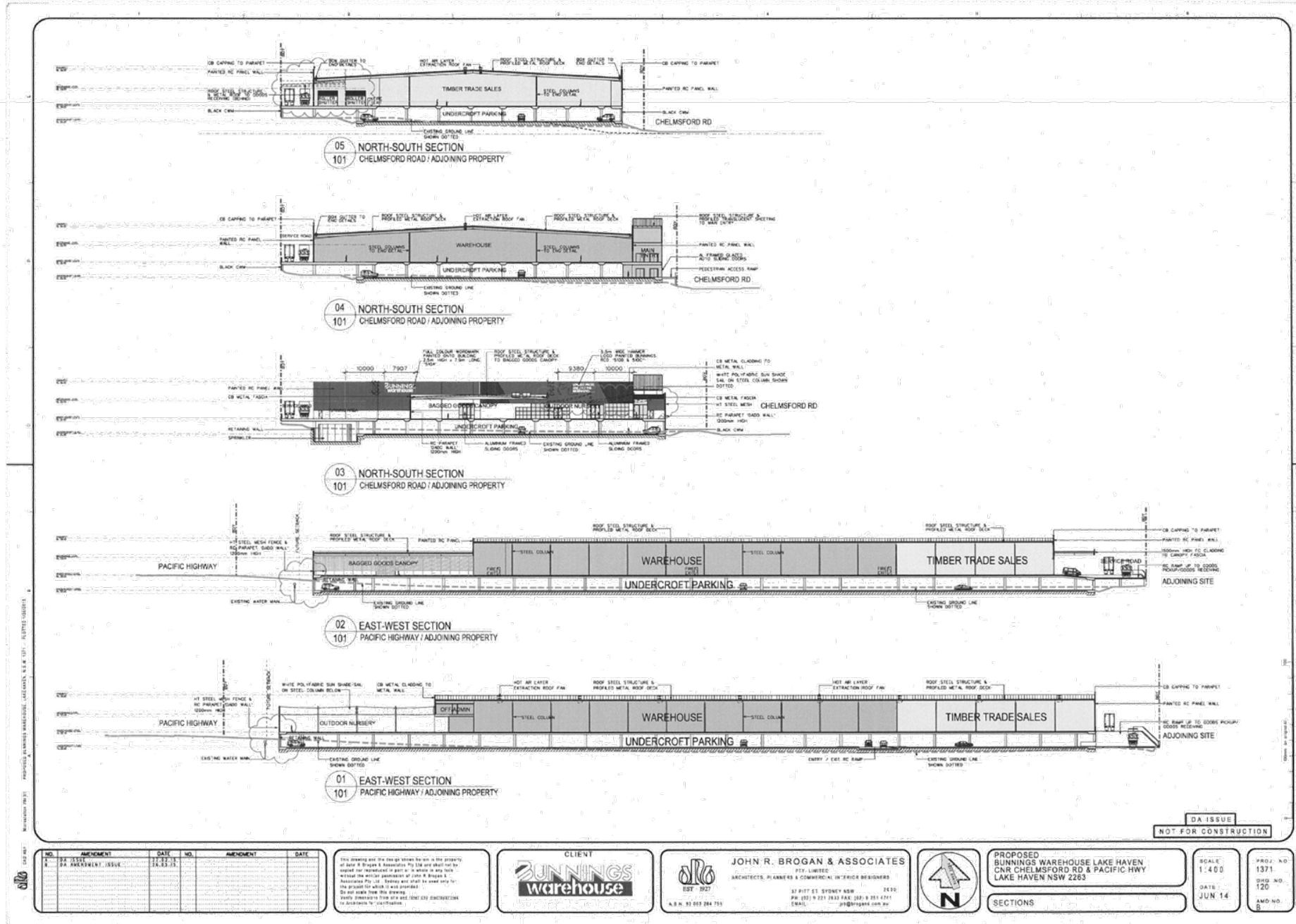


PROPOSED  
BUNNINGS WAREHOUSE LAKE HAVEN  
CNR CHELMSFORD RD & PACIFIC HWY  
LAKE HAVEN NSW 2253  
FLOOR PLAN  
WAREHOUSE LEVEL

SCALE: 1:300  
DATE: JUN 14  
PROJ. NO: 1371  
Dwg NO: 101  
AVG. NO: 5

RACKING PLAN REC'D  
5 FEB 15

DA ISSUE  
NOT FOR CONSTRUCTION



DA ISSUE  
NOT FOR CONSTRUCTION

NO.	AMENDMENT	DATE	NO.	AMENDMENT	DATE
1	PA AMENDMENT ISSUE	24.12.23			

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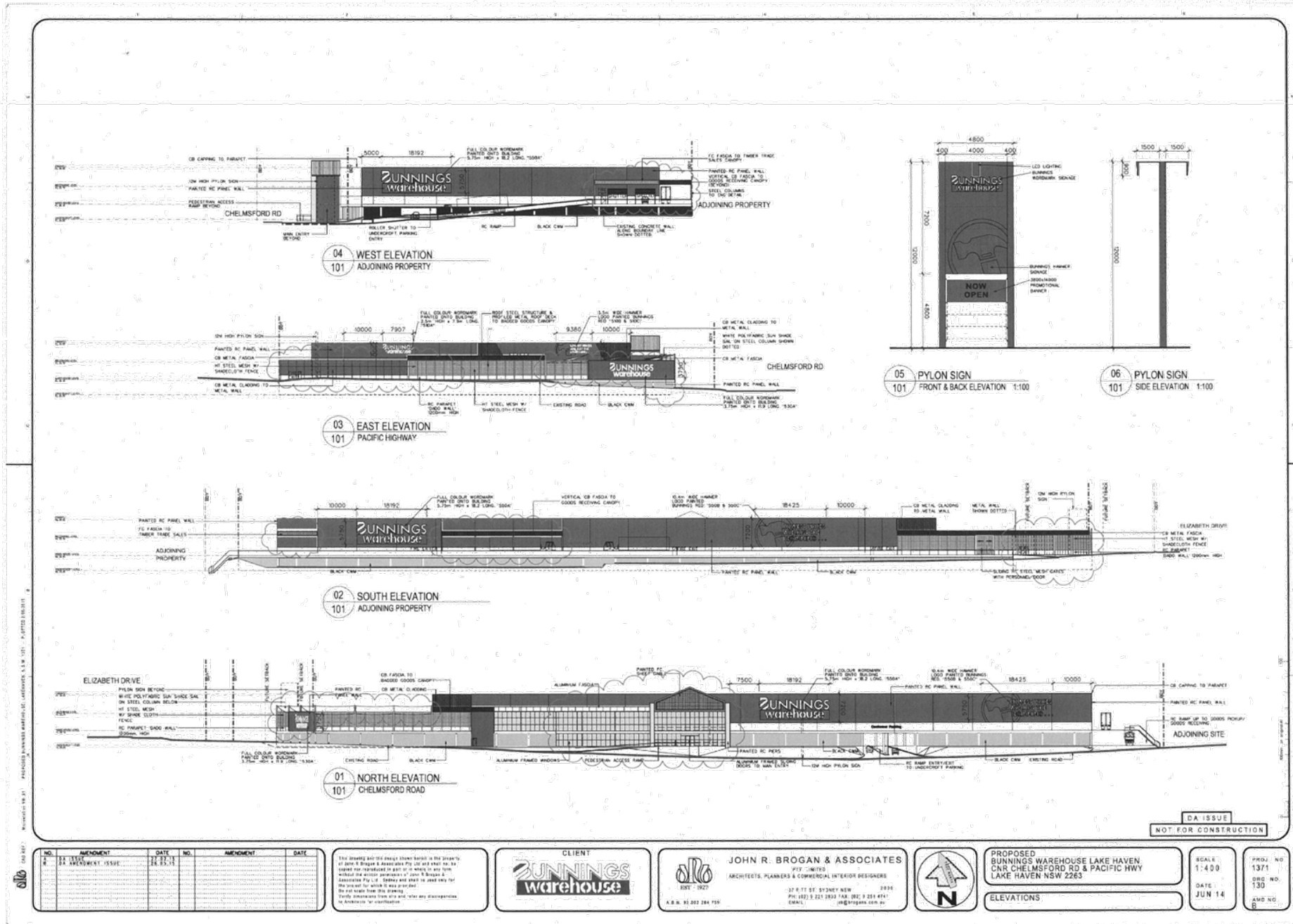


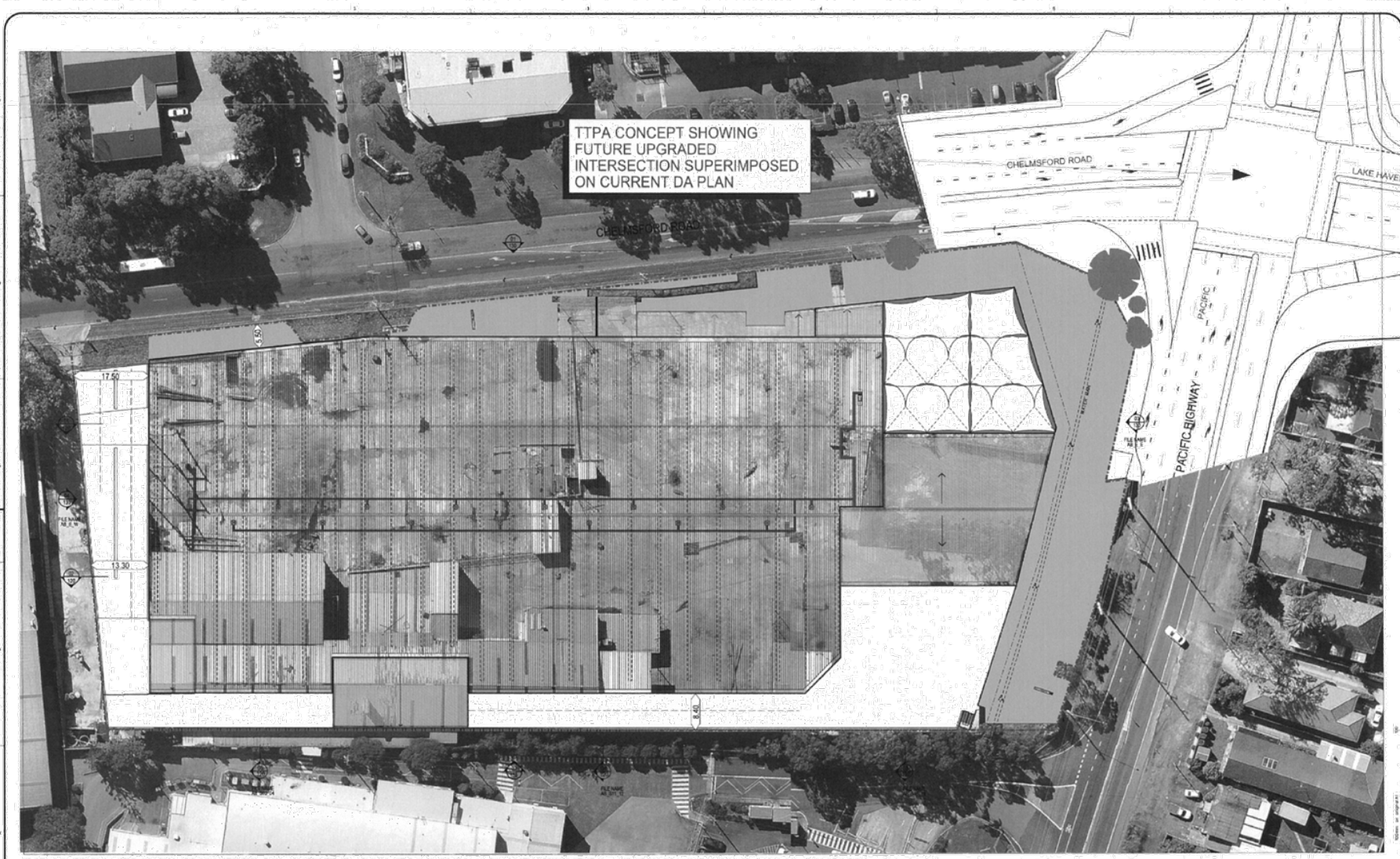
**PROPOSED BUNNINGS WAREHOUSE LAKE HAVEN**  
 CAR CHELMSFORD RD & PACIFIC HWY  
 LAKE HAVEN NSW 2263

SCALE: 1:400  
 DATE: JUN 14  
 PROJ. NO: 1371  
 Dwg. NO: 120  
 AMD. NO: 6

SECTIONS







TTPA CONCEPT SHOWING  
FUTURE UPGRADED  
INTERSECTION SUPERIMPOSED  
ON CURRENT DA PLAN

DA ISSUE  
NOT FOR CONSTRUCTION

NO.	AMENDMENT	DATE	NO.	AMENDMENT	DATE
1	INITIAL ISSUE	25.05.14			
2	REVISION	25.05.14			
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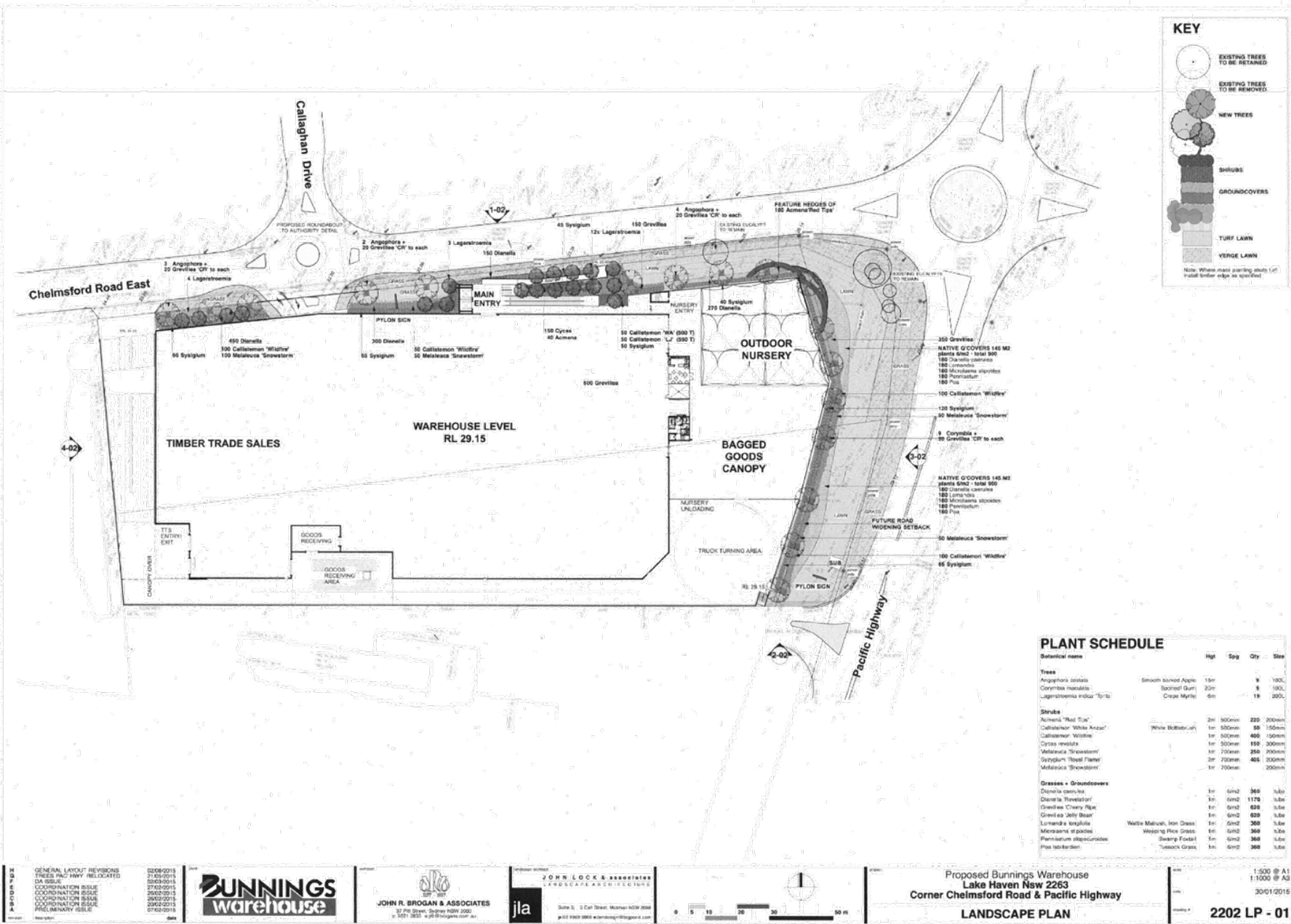


PROPOSED  
**BUNNINGS WAREHOUSE LAKE HAVEN**  
 CNR CHELMSFORD RD & PACIFIC HWY  
 LAKE HAVEN NSW 2263

AERIAL OVERLAY  
 CONCEPT INTERSECTION

SCALE: 1:400  
 DATE: JUN 14  
 PROJ. NO: 1371  
 Dwg. NO: 020  
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**KEY**

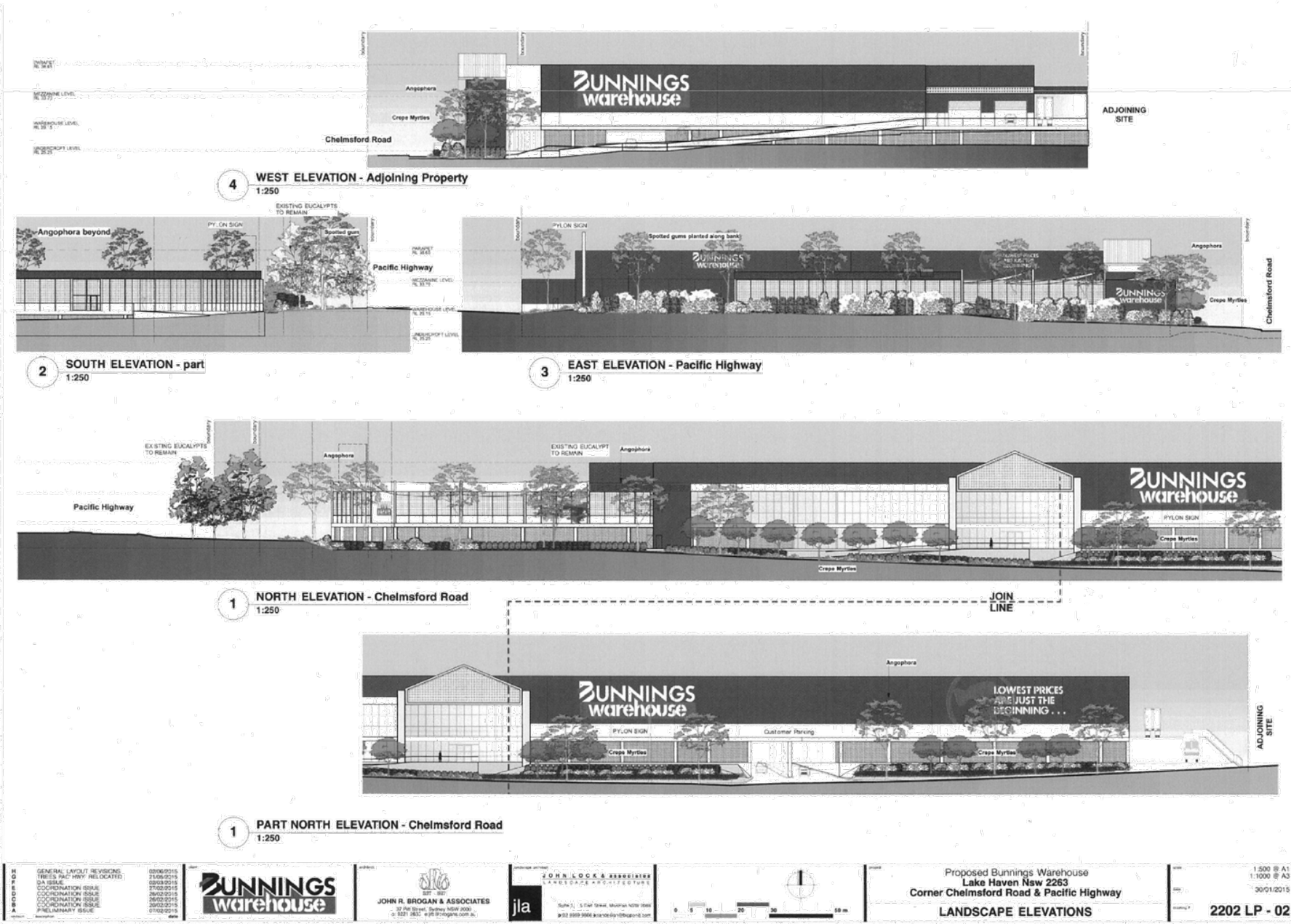
- EXISTING TREES TO BE RETAINED
- EXISTING TREES TO BE REMOVED
- NEW TREES
- SHRUBS
- GROUNDCOVERS
- TURF LAWN
- VERGE LAWN

Note: Where mass planting sheets list install timber edge as specified

**PLANT SCHEDULE**

Botanical name	Hgt	Sp	Qty	Size
<b>Trees</b>				
Angophora costata	Smooth barked Apple	15m	9	100L
Corymbia hastata	Spotted Gum	20m	8	100L
Lagotis indica 'S/Tx'	Crope Myrtle	6m	19	200L
<b>Shrubs</b>				
Acmena 'Red Top'		2m	500mm	220 x 200mm
Callistemon 'White Anzac'	White Bottlebrush	1m	500mm	50 x 150mm
Callistemon 'Wittier'		1m	500mm	400 x 150mm
Cyrtus media		1m	500mm	150 x 200mm
Melaleuca 'Snowstorm'		1m	700mm	250 x 200mm
Syzygium 'Royal Flame'		2m	700mm	400 x 200mm
Melaleuca 'Snowstorm'		1m	700mm	200mm
<b>Grasses + Groundcovers</b>				
Dianella caerulea		1m	6m <sup>2</sup>	360 x 360
Dianella 'Inverloch'		1m	6m <sup>2</sup>	1170 x 360
Dianella 'Cherry Ripa'		1m	6m <sup>2</sup>	620 x 360
Dianella 'Jelly Bean'		1m	6m <sup>2</sup>	620 x 360
Lomandra longifolia	White Mahoeah, Iron Grass	1m	6m <sup>2</sup>	360 x 360
Miscanthus sinensis	Weeping Rice Grass	1m	6m <sup>2</sup>	360 x 360
Pennisetum stipitocoides	Swamp Forked Beard Grass	1m	6m <sup>2</sup>	360 x 360
Poa stipitocoides	Swamp Forked Beard Grass	1m	6m <sup>2</sup>	360 x 360

<p>DATE</p> <p>DESCRIPTION</p> <p>02/08/2015 GENERAL LAYOUT REVISIONS</p> <p>21/05/2015 TREES PAC HWY RELOCATED</p> <p>09/03/2015 DA ISSUE</p> <p>27/02/2015 COORDINATION ISSUE</p> <p>26/02/2015 COORDINATION ISSUE</p> <p>26/02/2015 COORDINATION ISSUE</p> <p>23/02/2015 COORDINATION ISSUE</p> <p>07/02/2015 PRELIMINARY ISSUE</p>		<p>JOHN R. BROGAN &amp; ASSOCIATES 37 Pitt Street, Sydney NSW 2000 t: 1221 3533 e: jr@brogan.com.au</p>	<p>JOHN LOCK &amp; ASSOCIATES LANDSCAPE ARCHITECTS</p> <p>Suite 3, 5 East Street, Mosman NSW 1585 p: 02 9469 9900 e: john@jla.com.au</p>	<p>0 5 10 20 30 40 50 m</p>	<p>Proposed Bunnings Warehouse Lake Haven NSW 2263 Corner Chelmsford Road &amp; Pacific Highway</p> <p><b>LANDSCAPE PLAN</b></p>	<p>1:500 @ A1</p> <p>1:1000 @ A3</p> <p>30/01/2015</p> <p>2202 LP - 01</p>
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H	GENERAL LAYOUT REVISIONS	09/06/2015
D	TREES FACTORY RELOCATED	21/06/2015
F	DA ISSUE	05/08/2015
D	COORDINATION ISSUE	27/02/2015
B	COORDINATION ISSUE	26/02/2015
D	COORDINATION ISSUE	26/02/2015
D	COORDINATION ISSUE	26/02/2015
A	PRELIMINARY ISSUE	07/02/2015



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 Suite 11, 5 Cliff Street, Mosman NSW 1588  
 02 9559 9666. john@jla.com.au



Proposed Bunnings Warehouse  
 Lake Haven NSW 2263  
 Corner Chelmsford Road & Pacific Highway  
**LANDSCAPE ELEVATIONS**

1:500 @ A1  
 1:1000 @ A3  
 30/01/2015  
**2202 LP - 02**



VIEW FROM HIGHWAY LOOKING NORTH TOWARDS CHELMSFORD RD ROUNDABOUT



VIEW LOOKING SOUTH AT HIGHWAY & CHELMSFORD RD ROUNDABOUT

## **5.2 Information Concerning Rates and Charges Written Off 2014-15**

---

TRIM REFERENCE: F2004/06141 - D12044832  
MANAGER: Stephen Naven, Chief Financial Officer  
AUTHOR: Darryl Telfer; Revenue Accountant

### **SUMMARY**

Rates and Charges written off under the General Manager's delegation during the 2014-15 financial year.

### **RECOMMENDATION**

***That Council receive the report on Information Concerning Rates and Charges Written Off 2014-15.***

### **BACKGROUND**

Clause 131 (6) of the Local Government (General) Regulation 2005 requires the General Manager to advise Council of rates and charges written off under the General Manager's delegation.

Below are details of rates and charges written off during 2014-15:

#### **Small Balances**

Rates and charges written off under the General Manager's delegation during 2014-15 in relation to small balances to maximum \$0.50 per assessment was \$2,361.40.

These amounts were deemed uneconomical to recover in view of the administrative costs associated with printing and posting of notices, handling enquiries and processing payments that would be incurred if collection was to have been pursued.

#### **Other Rates and Charges Written off**

Rates and charges written off under the General Manager's delegation during 2014-15 in relation to rates levied on two properties consisting of "Coal Rights" was \$600.00. These properties are held in the name of a deceased person, for whom the estate has been finalised. As such recovery of the rates written off is not considered economically viable to pursue.

Coal Rights consist of the entitlement to minerals below the land surface that the owner had previously opted to retain some years ago when the NSW government had proposed to rescind those rights.

However these coal rights are often excluded or overlooked when the sale or transfer of the surface land occurs. When this occurs the Valuer General of NSW considers that, legally, the coal rights are a separate a parcel of land under the Valuation of Land Act 1916. Consequently they are assessed with a separate rateable land value, usually no more than \$100 in the Wyong Shire area although coal rights in other areas may attract significant values. However, under the Local Government Act 1993, Council is legally obliged to levy ordinary rates on these properties, notwithstanding that likelihood of recovery of these amounts may be highly doubtful.

**ATTACHMENTS**

Nil

### 5.3 Road Capital Works Program

---

TRIM REFERENCE: F2011/00879 - D12046607

MANAGER: Peter Murray, Manager

AUTHOR: Stuart Baverstock; Construction Manager

#### SUMMARY

Council's 2015/16 Strategic Plan commits Council to a road pavement renewal, upgrade and resealing rolling works program with the objective of improving the overall pavement network condition and corresponding levels of service. The following report summarises the timing of projects planned for the following 12 month period.

#### RECOMMENDATION

***That Council receive the report on the status of the Council's Road Capital Rolling Works Program.***

#### BACKGROUND

Council's 2015/16 Strategic Plan has committed \$26.06M for the renewal, upgrading and expansion of its road and drainage assets. The majority of these funds (\$16.6M) is committed to road pavement upgrade/renewals and road stormwater drainage works (\$7.6M). The remaining \$1.86M is allocated to shared pathways, footpath, kerb & gutter, bridges and road safety improvement projects.

#### The target volume outputs for 2015/16 are:

- |                                  |  |
|----------------------------------|--|
| • Pavement resealing = 45 km     | 0 km achieved to date (program commences October 2015) |
| • Road upgrade / renewal = 14 km | 1.9 km achieved to date                                |
| • Footpath = 3.2 km              | 1.4 km achieved to date                                |

Council continues to operate an advanced Pavement Management System which is used to measure and model network condition and to develop optimised works programs. The allocation of funding is consistent with this strategic approach that continues to see an overall improvement in network condition towards the 2015/16 target Pavement Condition Index (PCI) of 7.2.

The attached table provides a schedule of all road upgrades, renewals & resal projects proposed for all Council controlled Local Roads for 2015/16.

In August 2015 the following major achievements in the Road Capital Works program were achieved:

- Drainage works at Hume Boulevard Killarney Vale have now been completed, with crews now engaged in the pavement upgrade,

### **5.3 Road Capital Works Program (contd)**

---

- The construction of environmental swale drains into Tuggerah Lakes at Tuggerah Parade Long Jetty is approaching completion,
- The majority of the Stage 3 drainage works at Goorama Avenue San Remo has been completed with road pavement upgrade now commenced,
- The widening and stabilising of road shoulders at Kanangra Drive, Crangan Bay has been completed, with the remaining stages of the project including final asphalt layer and safety barriers to be completed in the coming months
- Road pavement asphalt works were completed on Rotherham St Bateau Bay – heavy patching and traffic calming devices.

### **ATTACHMENTS**

- 1 CAPEX and Resealing Programme and Report for 9 September 2015 Council meeting D12047229



ROAD UPGRADE /RENEWAL / RESEAL PROJECTS - 2015 / 2016 FINANCIAL YEAR																
Capital Responsibility Centre (RC) No.	(Multiple Items)	SRV Projects	Project Phasing					✓ Project Status Project Completed	✗ Project Status Project deferred or removed from 2015/16 programme due to constructability related issues							
Suburb	Capital RC Name	Project Description	Jul-2015	Aug-2015	Sept-2015	Oct-2015	Nov-2015	Dec-2015	Jan-2016	Feb-2016	Mar-2016	Apr-2016	May-2016	June-2016	Project Status	
Bateau Bay	Local Roads Rehab Works/Road Pavement Renewals	Norah Head Close - Block 1 : Pavement Renewal Programme														
		Hillcrest Avenue - Block 1 : Pavement Renewal Programme														
		Debra Anne Drive - Block 1, 2 and 3 : Pavement Renewal Programme														
	Reseals Local Roads-General	Bateau Bay Road - Block 6 Reseal Programme														
		Bateau Bay Road - Block 7 Reseal Programme														
		Reserve Drive - Block 1 Reseal Programme														
		Reserve Drive - Block 2 Reseal Programme														
		Reserve Drive - Block 3 Reseal Programme														
		Reserve Drive - Block 4 Reseal Programme														
		Reserve Drive - Block 5 Reseal Programme														
		Kipling Drive - Block 1 Reseal Programme														
		Kipling Drive - Block 2 Reseal Programme														
		Peta Close - Block 1 Reseal Programme														
		Anglers Drive - Block 1 Reseal Programme														
		Elgata Street - Block 1 Reseal Programme														
Katungal Street - Block 1 Reseal Programme																
Masefield Avenue - Block 1 Reseal Programme																
Adrian Close - Block 1 Reseal Programme																
Augustus Place - Block 1 Reseal Programme																
Berkeley Vale	Capital Local Roads Rehab - General/Roads Upgrade	Audie Parade, Berkeley Vale : Road Upgrade/Renewal With Stormwater Drainage														
		Q3 - Berkeley Vale - Road Upgrade With Stormwater Drainage Upgrade (Blenheim, Buckingham, St James, Windsor)														
	Reseals Local Roads-General	Footpath Construction	Q1 - Lorraine Avenue, Berkeley Vale : Footpath Programme (New)													
		Lakedge Avenue Shops C/P at Bluebell Avenue Reseal Programme														
		Keren Avenue - Block 1 Reseal Programme														
		Keren Avenue - Block 2 Reseal Programme														
		Clare Crescent - Block 1 Reseal Programme														
Colleen Street - Block 1 Reseal Programme																
Jean Avenue - Block 2 Reseal Programme																
Blue Bay	Capital Local Roads Rehab - General/Roads Upgrade	Bay Road, Blue Bay : Road Upgrade Including Stormwater Drainage														
		The Crescent - Block 1 Reseal Programme														
	Reseals Local Roads-General	The Crescent - Block 2 Reseal Programme														
		The Crescent - Block 3 Reseal Programme														
		The Crescent - Block 4 Reseal Programme														
Boondilla Road - Block 3 Reseal Programme																
Budgewoi	Capital Local Roads Rehab - General/Roads Upgrade	Continuation - 33 SUNRISE AVENUE														
		Villa Close, Budgewoi : Road Upgrade With Stormwater Drainage														
	Footpath Construction	Q1 - Scenic Drive, Budgewoi : Footpath (New)														
		Between Kalani St and Woolana Ave														
Local Roads Rehab Works/Road Pavement Renewals	Edward Street - Block 1 : Road Pavement Renewal															
	Natuna Avenue - Block 2 Reseal Programme															
Buff Point	Capital Local Roads Rehab - General/Roads Upgrade	Elouera Road, Buff Point : Road Upgrade With Stormwater Drainage														

ROAD UPGRADE /RENEWAL / RESEAL PROJECTS - 2015 / 2016 FINANCIAL YEAR																
Capital Responsibility Centre (RC) No.	(Multiple Items)	SRV Projects	Project Phasing												Project Status Project Completed	Project Status Project deferred or removed from 2015/16 programme due to constructability related issues
Suburb	Capital RC Name	Project Description	Jul-2015	Aug-2015	Sept-2015	Oct-2015	Nov-2015	Dec-2015	Jan-2016	Feb-2016	Mar-2016	Apr-2016	May-2016	June-2016	Project Status	
Bushells Ridge	Reseals Local Roads-General	Bushells Ridge Road - Block 1 Reseal Programme														
		Bushells Ridge Road - Block 2 Reseal Programme														
		Bushells Ridge Road - Block 3 Reseal Programme														
Cedar Brush Creek	Reseals Local Roads-General	Brush Creek Road - Block 1 Reseal Programme														
		Brush Creek Road - Block 3 Reseal Programme														
		Brush Creek Road - Block 4 Reseal Programme														
		Brush Creek Road - Block 5 Reseal Programme														
		Brush Creek Road - Block 6 Reseal Programme														
		Brush Creek Road - Block 7 Reseal Programme														
		Brush Creek Road - Block 9 Reseal Programme														
Chain Valley Bay	Shared Pathways	Q1 - Tall Timbers Road, Scaysbrook Avenue : Shared Pathway														
Chain Valley Bay	Reseals Local Roads-General	Tall Timbers Road - Block 2 Reseal Programme														
		Tall Timbers Road - Block 3 Reseal Programme														
		Tall Timbers Road - Block 4 Reseal Programme														
		Tall Timbers Road - Block 5 Reseal Programme														
		Tall Timbers Road - Block 6 Reseal Programme														
		Tall Timbers Road - Block 7 Reseal Programme														
		Scaysbrook Avenue - Block 1 Reseal Programme														
Charmhaven	Reseals Local Roads-General	Pacific Highway Charmhaven : Footpath Programme (New)														
		Dixie Lane - Block 1 Reseal Programme														
		Removed In Continuation - Chelmsford Road (West), Charmhaven : Roads To Recovery														
Chittaway Bay	Reseals Local Roads-General	Pacific Highway Charmhaven Stage 1 : Shared Pathway Programme (New)														
Chittaway Bay	Reseals Local Roads-General	Moloki Avenue - Block 1 Reseal Programme														
		Moloki Avenue - Block 2 Reseal Programme														
		Mouri Avenue - Block 1 Reseal Programme														
		Kauai Avenue - Block 1 Reseal Programme														
		Kauai Avenue - Block 2 Reseal Programme														
Chittaway Point	Reseals Local Roads-General	Removed in Continuation - Geoffery Road - Block 9 : Pavement Renewal Programme														
		Geoffrey Road - Block 10 Reseal Programme														
		Geoffrey Road - Block 11 Reseal Programme														
		Geoffrey Road - Block 12 Reseal Programme														
		Geoffrey Road - Block 13 Reseal Programme														
Durren Durren	Roads Rehab Minor Rolling Works	Vesta Close - Block 1 Reseal Programme														
		Continuation - SMITHS ROAD @ DURREN DURREN ROAD. Road upgrade (seal)														
Fountaindale	Reseals Local Roads-General	Old Chittaway Road - Side Road) Reseal Programme														

ROAD UPGRADE /RENEWAL / RESEAL PROJECTS - 2015 / 2016 FINANCIAL YEAR																
Capital Responsibility Centre (RC) No.	(Multiple Items)	SRV Projects	Project Phasing						Project Status Project Completed	Project Status Project deferred or removed from 2015/16 programme due to constructability related issues						
Suburb	Capital RC Name	Project Description	Jul-2015	Aug-2015	Sept-2015	Oct-2015	Nov-2015	Dec-2015	Jan-2016	Feb-2016	Mar-2016	Apr-2016	May-2016	June-2016	Project Status	
Glenning Valley	Reseals Local Roads-General	Glenning Road - Block 1 Reseal Programme														
		Glenning Road - Block 2 Reseal Programme														
		Glenning Road - Block 3 Reseal Programme														
		Glenning Road - Block 4 Reseal Programme														
		Palm Springs Avenue - Block 1 Reseal Programme														
		Palm Springs Avenue - Block 2 Reseal Programme														
		Toona Way - Block 1 Reseal Programme														
Gorokan	Capital Local Roads Rehab - General/Roads Upgrade	Coorabin Street, Gorokan : Road Upgrade/Renewal With Stormwater Drainage														
		Reseals Local Roads-General														
			Ocean View Road - Block 1 Reseal Programme													
			Ocean View Road - Block 2 Reseal Programme													
			Jacqueline Avenue - Block 1 Reseal Programme													
			Jacqueline Avenue - Block 2 Reseal Programme													
			Odette Avenue - Block 2 Reseal Programme													
			Sadie Avenue - Block 2 Reseal Programme													
			Suncrest Parade - Block 1 Reseal Programme													
			Sylvia Avenue - Block 1 Reseal Programme													
		Beryl St - Block 1 Reseal Programme														
	Roads To Recovery Program	Spring Valley Avenue - Block 1 : Roads To Recovery														
Gwandalan	Capital Local Roads Rehab - General/Roads Upgrade	Continuation - QUINALUP ROAD (Imga Street) Gwandalan : Road Upgrade														
	Footpath Construction	Gamban Road, Gwandalan : Footpath Programme (New)														
	Reseals Local Roads-General	Orana Road - Block 2 Reseal Programme														
Halekulani	Reseals Local Roads-General	Huene Avenue - Block 1 Reseal Programme														
		Huene Avenue - Block 2 Reseal Programme														
Kangy Angy	Capital Local Roads Rehab - General/Roads Upgrade	Q1 - Turpentine Road Kangy Angy : Road Upgrade														
	Reseals Local Roads-General	Orchard Road - Block 1 Reseal Programme														
Kanwal	Footpath Construction	Wallarah Road, Kanwal : Footpath Programme (New)														
Killarney Vale	Capital Local Roads Rehab - General/Roads Upgrade	Continuation - HUME BOULEVARD, Road Upgrade														
		Norton Ave, Killarney Vale : Road Upgrade With Possible Stormwater Drainage														
	Reseals Local Roads-General	East St - Block 1 Reseal Programme														
		East St - Block 2 Reseal Programme														
		Robert Bourke Street - Block1 Reseal Programme														
	Robert Bourke Street - Block2 Reseal Programme															
	Oxley Road - Block 1 Reseal Programme															
Kulnura	Roads Rehab Minor Rolling Works	Cherry Road, Kulnura : Road Upgrade (Seal)														
		Finns Road, Kulnura : Road Upgrade (Seal)														
		Forest Road, Kulnura : Road Upgrade (Seal)														
		Hunts Road, Kulnura : Road Upgrade (Seal)														
Lake Haven	Footpath Construction	Lake Haven - Footpath Programme (New)														

ROAD UPGRADE /RENEWAL / RESEAL PROJECTS - 2015 / 2016 FINANCIAL YEAR																
Capital Responsibility Centre (RC) No.	(Multiple Items)	SRV Projects	Project Phasing						Project Status Project Completed	Project Status Project deferred or removed from 2015/16 programme due to constructability related issues						
Suburb	Capital RC Name	Project Description	Jul-2015	Aug-2015	Sept-2015	Oct-2015	Nov-2015	Dec-2015	Jan-2016	Feb-2016	Mar-2016	Apr-2016	May-2016	June-2016	Project Status	
Lake Munmorah	Footpath Construction	Continuation - ANITA AVENUE. Footpath Programme														
	Reseals Local Roads-General	Rosemount Avenue - Block 1 Reseal Programme														
		Rosemount Avenue - Block 2 Reseal Programme														
		Elizabeth Bay Drive - Block 7 Reseal Programme														
Shared Pathways	Continuation - PACIFIC HIGHWAY - Shared Pathway (New Construction)														✓	
	Q1 - Lake Munmorah Cycleway															
Long Jetty	Footpath Construction	Implement Long Jetty Master plan - Main St footpath upgrades (Pacfic St to Toowoon Bay Rd)														
	Local Roads Rehab Works/Road Pavement Renewals	Mayfair Street - Block 1 : Road Pavement Renewal														
		Q1 - Tuggerah Parade - Block 2,3,4 and 6 : Pavement Renewal Programme														
	Reseals Local Roads-General	Nirvana Street - Block 1 Reseal Programme														
		Nirvana Street - Block 2 Reseal Programme														
		Nirvana Street - Block 3 Reseal Programme														
		Bonnieview Street - Block 6 Reseal Programme														
		Thompson Street - Block 3 Reseal Programme														
		Surf Street - Block 2 Reseal Programme														
		Surf Street - Block 3 Reseal Programme														
		Toowoon Bay Road - Block 4 Reseal Programme														
		Archbold Road - Block 1 Reseal Programme														
		Archbold Road - Block 2 Reseal Programme														
		Archbold Road - Block 3 Reseal Programme														
		Rhodin Drive - Block 1 Reseal Programme														
Rhodin Drive - Block 2 Reseal Programme																
Shared Pathways	Remove in Q1 - McLachlan Avenue - Block 4 Reseal Programme														✗	
	Remove in Q1 - McLachlan Avenue - Block 5 Reseal Programme														✗	
		Q1 - Shelly Beach Road to Yakala Road: Shared Footpath														
Manning Park	Roads To Recovery Program	Dunvegan Street - Block 1 : Roads To Recovery														
	Shared Pathways	Griffith Street, Manning Park : Shared Pathway Programme (New)														
Norah Head	Capital Local Roads Rehab - General/Roads Upgrade	Bald Street, Norah Head : Road Upgrade With Stormwater Drainage														
		Maitland Street (Bush Street Stage3) Norah Head : Road Upgrade Including Stormwater Drainage														
	Reseals Local Roads-General	Bungary Road - Block 1 Reseal Programme														
		Bungary Road - Block 2 Reseal Programme														
		Bungary Road - Block 4 Reseal Programme														
		Bungary Road - Block 5 Reseal Programme														
		Victoria Street - Block 1 Reseal Programme														
		Victoria Street - Block 2 Reseal Programme														
Victoria Street - Block 3 Reseal Programme																
Park Street - Block 1 Reseal Programme																
Noraville	Footpath Construction	Pandora Parade, Noraville : Footpath Programme (New)														

ROAD UPGRADE /RENEWAL / RESEAL PROJECTS - 2015 / 2016 FINANCIAL YEAR																
Capital Responsibility Centre (RC) No.	(Multiple Items)	SRV Projects	Project Phasing						Project Status Project Completed	Project Status Project deferred or removed from 2015/16 programme due to constructability related issues						
Suburb	Capital RC Name	Project Description	Jul-2015	Aug-2015	Sept-2015	Oct-2015	Nov-2015	Dec-2015	Jan-2016	Feb-2016	Mar-2016	Apr-2016	May-2016	June-2016	Project Status	
Ourimbah	Capital Local Roads Rehab - General/Roads Upgrade	Glen Road, Ourimbah : Road Renewal With Stormwater Drainage And Guard Rail														
	Footpath Construction	Coachwood Drive, Ourimbah : Footpath Programme (New)														
	Local Roads Rehab Works/Road Pavement Renewals	Ourimbah Creek Road - Block 5 : Pavement Renewal Programme														
	Reseals Local Roads-General	Alex Close - Block 1 Reseal Programme														
			Ourimbah Road - Block 1 Reseal Programme													
	Roads Rehab Minor Rolling Works	Removed in Continuation - Bridge Street, Ourimbah : Road Upgrade (Seal)													X	
Palmdale	Roads Rehab Minor Rolling Works	Fern Tree Lane, Palmdale : Road Upgrade (Seal)														
		Palmdale Road, Palmdale : Road Upgrade (Seal)														
San Remo	Capital Local Roads Rehab - General/Roads Upgrade	Goorama Avenue, San Remo : Road Upgrade/Renewal Including Stormwater Drainage														
	Reseals Local Roads-General	Barker Avenue - Block 1 Reseal Programme														
		Wills Road - Block 1 Reseal Programme														
Shire Wide	Roads To Recovery Program	Q1 - R2R Additional Grant														
Summerland Point	Reseals Local Roads-General	Government Road - Block 2 Reseal Programme														
		Yeramba Road - Block 3 Reseal Programme														
		Yeramba Road - Block 4 Reseal Programme														
		Yeramba Road - Block 5 Reseal Programme														
		Bambara Avenue - Block 1 Reseal Programme														
		Murrumbong Road - Block 1 Reseal Programme														
The Entrance	Capital Local Roads Rehab - General/Roads Upgrade	Lakeside Parade, The Entrance : Road Upgrade With Stormwater Drainage														
	Reseals Local Roads-General	Norfolk Street - Block 1 Reseal Programme														
		Norfolk Street - Block 2 Reseal Programme														
		Boomerang Road - Block 1 Reseal Programme														
	Roads To Recovery Program	Boomerang Road - Block 2 Reseal Programme														
		Gosford Avenue - Block 1 : Roads To Recovery														
Toukley	Footpath Construction	Continuation - HOLMES AVENUE, Footpath Programme - renewal														
		Dunleigh Street, Toukley ; Footpath Programme (New)														
	Reseals Local Roads-General	Evans Road - Block 2 Reseal Programme														
		Evans Road - Block 3 Reseal Programme														
		Evans Road - Block 4 Reseal Programme														
		James Road - Block 1 Reseal Programme														
Tuggerah	Footpath Construction	Q1 - Johnson Road, Tuggerah : Footpath Programme (New)														
	Roads To Recovery Program	Continuation - JOHNSON ROAD, Road Pavement Renewal (Roads to Recovery)														
Tuggerawong	Capital Local Roads Rehab - General/Roads Upgrade	Warner Avenue, Tuggerawong : Road Upgrade With Stormwater Drainage														
	Reseals Local Roads-General	Tuggerawong Road - Block 8 Reseal Programme														
		Tuggerawong Road - Block 10 Reseal Programme														
		Tuggerawong Road - Block 11 Reseal Programme														

ROAD UPGRADE /RENEWAL / RESEAL PROJECTS - 2015 / 2016 FINANCIAL YEAR																
Capital Responsibility Centre (RC) No.	(Multiple Items)	SRV Projects	Project Phasing							Project Status Project Completed	Project Status Project deferred or removed from 2015/16 programme due to constructability related issues					
Suburb	Capital RC Name	Project Description	Jul-2015	Aug-2015	Sept-2015	Oct-2015	Nov-2015	Dec-2015	Jan-2016	Feb-2016	Mar-2016	Apr-2016	May-2016	June-2016	Project Status	
Tumbi Umbi	Reseals Local Roads-General	Hansens Road - Block 1 Reseal Programme														
		Lees Lane - Block 1 Reseal Programme														
		Marilyn Crescent - Block 1 Reseal Programme														
		Alimah Close - Block 1 Reseal Programme														
		Roads To Recovery Program	Q1 - Scott Bruce Close - Road Renewal													
Warnervale	Local Roads Rehab Works/Road Pavement Renewals	Q1 - Railway Road - Pavement Renewal Programme														
Watanobbi	Reseals Local Roads-General	Watanobbi Road - Block 1 Reseal Programme														
		Watanobbi Road - Block 2 Reseal Programme														
		Watanobbi Road - Block 3 Reseal Programme														
Woongarah	Reseals Local Roads-General	Hakone Road - Block 8 Reseal Programme														
		Hakone Road - Block 9 Reseal Programme														
		Hakone Road - Block 10 Reseal Programme														
		Hakone Road - Block 11 Reseal Programme														
		Hakone Road - Block 12 Reseal Programme														
Wyong	Footpath Construction	Q1 - Alison Road, Wyong : Footpath Programme upgrade (Margaret Street to Hope Street)														
	Local Roads Rehab Works/Road Pavement Renewals	Robleys Lane - Block 1 : Pavement Renewal Programme														
	Reseals Local Roads-General	Pollock Avenue - Block 1 Reseal Programme														
Pollock Avenue - Block 2 Reseal Programme																
Roads To Recovery Program	Byron Street - Block 1 Reseal Programme															
	Q1 - River Road - Road Renewal															
Wyong Creek	Roads Rehab Minor Rolling Works	Q1 - Ambler Lane, Wyong Creek : Road Upgrade (Seal)														
Wyongah	Capital Local Roads Rehab - General/Roads Upgrade	Kilpa Road, Wyongah : Road Upgrade With Stormwater Upgrade														
	Local Roads Rehab Works/Road Pavement Renewals	Murrawal Road, Wyongah : Traffic Calming and Road Upgrade														

## **5.4 Link Road, Watanobbi to Warnervale, Present Status with Roads & Maritime Services**

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TRIM REFERENCE: F2004/07789 - D12054605

MANAGER: Stuart Hull, Manager

AUTHOR: Gary Kinney; Project Director

### **SUMMARY**

This report summarises the present status and intentions of Roads and Maritime Services (RMS) in respect to the Link Road between Watanobbi and Warnervale.

### **RECOMMENDATION**

***That Council receive the report on the present status and intentions of Roads and Maritime Services in respect to the Link Road between Watanobbi and Warnervale.***

### **BACKGROUND**

The Link Road, when constructed over its full length, will provide a 3.2 km connection from the existing roundabout intersection of the Pacific Highway and Britannia Drive at Watanobbi through to Sparks Road at Warnervale. The ultimate project will provide an alternative route to the Pacific Highway and reduce travel distance from the Watanobbi roundabout to the Link Road intersection with Sparks Road Warnervale by 5.2 km compared to the existing Pacific Highway / Minnesota Road / Sparks Road route and by 8.1 km compared to the Pacific Highway / Sparks Road route.

The main objective of the Link Road is to provide critical enabling road transport connections between Wyong Town Centre, Warnervale Town Centre and the M1 Motorway. It is an important component of the future development of the Wyong Employment Zone and the Wyong Education and Business Precinct land, (the subject of the recent calling of Expressions of Interest to develop), as well as the planned new Warnervale Town Centre. It will enable these developments to proceed and create business opportunities and resulting employment growth along with reduced travel times, reduced traffic on the Pacific Highway, increased road network capacity and efficient public transport.

Stage 1 of the Link Road was built in 2010 and extended 0.8 km from Sparks Road south to the roundabout at Lakes Grammar Senior School.

## **5.4 Link Road, Watanobbi to Warnervale, Present Status with Roads & Maritime Services (contd)**

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Stage 2A of the Link Road project covers the planned construction of the next 0.9 km of the road south from the existing roundabout at Lakes Grammar Senior School. Stage 2A will provide a 2 lane road and associated intersection(s) along the full frontage of the planned Wyong Education and Business Precinct. The work will provide access to the Precinct and unlock the potential of the zone. Council has been proactive in seeking funding and submitted a grant application for this section of the road to the current (second) round of the Australian Government's National Stronger Regions Fund (NSRF). The maximum grant amount of \$10m available under the NSRF has been applied for and has to be matched by an equivalent contribution from Council if successful. Announcement of successful applications are expected in December 2015.

Stage 2B of the project is the planned construction of the final additional 1.4 km of the road south to the Watanobbi roundabout and will include a bridge over Porters Creek Wetland.

Construction of the remaining Stage 2A and Stage 2B of the Link Road has also been the subject of funding representations to the NSW State Government, particularly in the lead up to the last State election held on 28 March 2015. To encourage interest from the State Government, Council has proactively expended approximately \$600K in 2014/15 on further investigation, design and planning and by the time of the State election had developed a Review of Environmental Factors and determined a Part 5 planning approval for a single carriageway design and had progressed designs and draft documentation to be able to call tenders for a "Design Development and Construct" contract.

### **CURRENT STATUS**

Council staff met with representatives from Roads and Maritime Services (RMS) on 18 August 2015 in response to an invitation from RMS to advise Council of RMS's present position and intentions with respect to the Link Road.

RMS advised that Council's representations had been successful and has resulted in the State Government allocating \$500K in 2015/16 for further planning of the work and an amount of \$25M in the period 2015-2019 for further planning and commencement of construction of possibly Stage 2B.

RMS will be establishing a Project Management Office and intends to take carriage of the forward planning and construction of the road.

Council staff will issue a letter to RMS requesting confirmation in writing of matters discussed at the meeting, particularly in respect of RMS role and planned funding profile for the project.

### **ATTACHMENTS**

*Nil.*



## **5.5 Voting Information - Local Government NSW Annual Conference**

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TRIM REFERENCE: F2004/06351 - D12059527  
MANAGER: Brian Glendenning, General Counsel  
AUTHOR: Lesley Crawley; Manager Corporate Governance

### **SUMMARY**

Reporting additional information received from Local Government NSW (LGNSW) in relation to allocation of voting delegates for the LGNSW Annual Conference to be held in October 2015.

### **RECOMMENDATION**

***That Council receive the report on Voting Information - Local Government NSW Annual Conference.***

### **BACKGROUND**

LGNSW is an organisation created from the amalgamation of the Local Government Association of NSW and the Shires Association NSW in 2013. Wyong Shire Council pays an annual subscription for membership of the LGNSW.

As part of the amalgamation process members determined a voting allocation process which is now set out in the LGNSW rules.

### **Allocation of Voting Delegates by LGNSW**

The 2015 LGNSW conference will involve two types of voting and a separate roll of voters is required for each:

- 1 Voting for motions submitted to the Conference
- 2 Voting for Office Bearers and the Board of LGNSW

In accordance with the formula set down in the rules of LGNSW Wyong Shire Council is allocated 7 voters for each activity.

### **Nomination of Voting Delegates for Motions**

In order for the voting rolls to be prepared Council must nominate its delegates for voting on Motions to LGNSW by **Friday 18 September 2015**.

As of the date of preparing this report two Councillors have indicated their intention to attend the Conference. A nomination form will be submitted for those Councillors prior to the deadline.

**Nomination of Voting Delegates for Election of Office Bearers and the LGNSW Board**

An election for Board members and Office Bearers will occur at the Conference. Council must nominate its delegates for voting on Motions to LGNSW by **Friday 18 September 2015**. Proxy voting is permitted.

A nomination form will be submitted for those two Councillors that have indicated their attendance, prior to the deadline.

**Motions**

Members are strongly encouraged to submit motions by 24 August 2015 to assist with timeframes for printing of the business paper for the conference however LGNSW will accept late motions up until 14 September 2015. Council has not submitted any motions to the Conference at the time of writing this report.

A copy of the information provided by LGNSW is attached.

**ATTACHMENTS**

- |   |   |           |
|---|---|-----------|
| 1 | Update Additional Information - Annual Conference 2015 - Local Government NSW | D12056220 |
|---|---|-----------|



Our ref: R13/0025 Out 23909  
(Adam Dansie)

18 August 2015

Mr Michael Whittaker  
General Manager  
Wyong Shire Council  
PO Box 20  
WYONG NSW 2259

Dear Mr Whittaker

**Local Government NSW Annual Conference 2015**

The purpose of this letter is to provide members with important information about the Local Government NSW Annual Conference 2015 (Conference) in addition to the information provided by the Association on 4 May 2015.

***Allocation of voting delegates***

As advised previously, this year the Conference will involve two types of voting and we were required to develop two rolls of voters, one for voting in the elections for Office Bearers and the Board, and a separate roll of voters for voting on motions. The formula for calculating the number of both types of voters is in the Association's Rules.

The number of voters that each member is entitled to for each type of voting is set out in the table at Annexure A. Column A indicates the number of voters for voting on motions and where applicable, column B indicates the number of voters for voting in the elections for Office Bearers and the Board.

Separate from Conference registration, members need to nominate the names of their voting delegates.

Ordinary members need to nominate the names of their delegate(s) for both types of voting (i.e. voting for the Board and voting on motions). Associate members need to nominate the names of their delegate(s) for voting on motions. Forms for nominating the names of each member's delegate(s) are available on the Association's website on the 2015 Conference page.

Each member must nominate its delegate(s) to the Conference by 18 September 2015.

Nominations received after the closing date will not be accepted, however a member may substitute the name(s) of its delegate(s) at any time, in the manner set out in Rule 34 of the Association's Rules.

**LOCAL GOVERNMENT NSW**  
GPO BOX 7003 SYDNEY NSW 2001  
L8, 28 MARGARET ST SYDNEY NSW 2000  
T 02 9242 4000 F 02 9242 4111  
**LGNSW.ORG.AU** LGNSW@LGNSW.ORG.AU  
ABN 49 853 913 882

***Voting for Office Bearers and the Board***

The Australian Electoral Commission (AEC) is conducting the elections for the Office Bearers and Board of the Association.

The roll of voters for voting in the elections for Office Bearers and the Board of the Association closed on 17 August 2015. Only ordinary members of the Association who were financial on this date can vote in the Board elections.

Delegates who are eligible to vote in the election, but cannot be present at the Annual Conference to vote in the election, may appoint another delegate from the same member to exercise their vote. An "Appointment of Proxy" form is available from the AEC website ([www.aec.gov.au](http://www.aec.gov.au)), and must be received by the Returning Officer prior to the commencement of the Conference.

***Voting on motions***

Ordinary members and Associate members of the Association who are financial can vote on policy motions that require consideration by the Conference.

***Motions***

Councils are able to submit motions for consideration of Conference online using the "LGNSW Conference Business Sessions Submission Form" on the 2015 Conference page of the Association's website: <http://www.lgnsw.org.au/events-training/local-government-nsw-annual-conference/motions>.

The Board has resolved that motions will be included in the Business Paper for the Conference where they:

1. are consistent with the objects of the Association (see Rule 4 of the Association's rules);
2. relate to Local Government in NSW and/or across Australia;
3. concern or are likely to concern Local Government as a sector;
4. seek to advance the Local Government policy agenda of the Association and/or improve governance of the Association;
5. have a lawful purpose (a motion does not have a lawful purpose if its implementation would require or encourage non-compliance with prevailing laws);
6. are clearly worded and unambiguous in nature; and
7. do not express preference for one or several members over one or several other members.

Further, for a motion to be included in the Business Paper for the Conference the submitting member needs to provide accompanying evidence of its support for the motion to be included. Such evidence may include an extract of the minutes of the meeting at which the member resolved to submit the motion for consideration by the Conference.

To allow printing and distribution of the business paper, members are strongly encouraged to submit their motions by **24 August 2015**. The absolute closing date for submitting motions for inclusion in the Business Paper for the Conference is 14 September 2015.

#### ***Business Papers***

It is our aim that a full Conference Business Paper be made available on the Association's website and forwarded to members approximately two weeks prior to the Conference.

#### ***Accommodation***

We encourage attendees to pre-book accommodation listed on the website prior to registering online as you need to indicate where you are staying in order to book transfers in the registration process. These transfers will be priced at \$9.90 each way. There is plenty of parking at the Conference main venue for those wishing to drive instead.

#### ***Registration***

Delegates, partners and attendees will be able to collect their voting cards and other Conference material at Rosehill Gardens Racecourse from the Conference registration desk on Sunday 11 October between 3.00pm – 7.00pm. The registration desk will be open during the President's Opening Reception which runs from 5.00pm to 7.00pm and on Monday 12 October from 7:30am.

#### ***Privacy Statement***

The Association, which is regulated by the *Privacy Act 1988 (Cth)*, collects private information about registered attendees to the Conference such as names, addresses, telephone numbers, credit card information and email addresses. We use the private information you give us to process your registration and to send you information in relation to the Conference.

If you choose not to provide some or all of the private information that we have sought, LGNSW may be unable to process your registration or it may result in you being unable to vote at the Conference. Further information about how LGNSW collects, holds and uses private information is contained in LGNSW's Privacy Policy which is available on the website at the following web address:  
<http://www.lgnsw.org.au/privacy>

I very much look forward to seeing you at the Conference in October.

Yours sincerely



Cr Keith Rhoades AFSM  
**President**



## Annexure A

Members' voting entitlement at the 2015 Local Government NSW Annual Conference

Member	Column A – Number of voters for voting on motions	Column B – Number of voters for voting in Board elections
Aboriginal Land Council	9	9
Albury City Council	4	4
Armidale Dumaresq Council	3	3
The Council of the Municipality of Ashfield	4	4
Auburn City Council	5	5
Ballina Shire Council	3	3
Balranald Shire Council	1	1
Bankstown City Council	10	10
Bathurst Regional Council	3	3
Bega Valley Shire Council	3	3
Bellingen Shire Council	2	2
Berrigan Shire Council	1	1
Blacktown City Council	12	12
Bland Shire Council	1	1
Blayney Shire Council	1	1
Blue Mountains City Council	4	4
Bogan Shire Council	1	1
Bombala Council	1	1
Boorowa Council	1	1
The Council of the City of Botany Bay	4	4
Bourke Shire Council	1	1
Brewarrina Shire Council	1	1
Broken Hill City Council	2	2
Burwood Council	4	4
Byron Shire Council	3	3
Cabonne Shire Council	2	2
Camden Council	5	5
Campbelltown City Council	10	9
City of Canada Bay Council	5	5
Canterbury City Council	9	9
Carrathool Shire Council	1	1

Castlereagh-Macquarie County Council	1	-
Central Darling Shire Council	1	-
Central Murray County Council	1	-
Central Tablelands County Council	1	-
Cessnock City Council	4	4
Clarence Valley Council	4	4
Cobar Shire Council	1	1
Coffs Harbour City Council	4	4
Conargo Shire Council	1	1
Coolamon Shire Council	1	1
Cooma-Monaro Shire Council	2	2
Coonamble Shire Council	1	1
Cootamundra Shire Council	1	1
Corowa Shire Council	2	2
Cowra Shire Council	2	2
Deniliquin Council	1	1
Dubbo City Council	3	3
Dungog Shire Council	1	1
Eurobodalla Shire Council	3	3
Far North Coast County Council	1	-
Fairfield City Council	10	10
Forbes Shire Council	1	1
Gilgandra Shire Council	1	1
Glen Innes Severn Council	1	1
Gloucester Shire Council	1	1
Goldenfields Water County Council	1	-
Gosford City Council	7	7
Goulburn Mulwaree Council	3	3
Great Lakes Council	3	3
Greater Hume Shire Council	2	2
Greater Taree City Council	3	3
Griffith City Council	3	3
Gundagai Shire Council	1	1
Gunnedah Shire Council	2	2
Guyra Shire Council	1	1
Gwydir Shire Council	1	1
Harden Shire Council	1	1
Hawkesbury City Council	5	5

Hawkesbury River County Council	2	-
Hay Shire Council	1	1
Holroyd City Council	7	7
The Council of the Shire of Hornsby	10	9
The Council of the Municipality of Hunters Hill	2	2
Hurstville City Council	5	5
Inverell Shire Council	2	2
Jerilderie Shire Council	1	1
Junee Shire Council	1	1
Kempsey Shire Council	3	3
The Council of the Municipality of Kiama	3	3
Kogarah City Council	5	5
Ku-ring-gai Council	7	7
Kyogle Council	1	1
Lachlan Shire Council	1	1
Lake Macquarie City Council	7	7
Lane Cove Municipal Council	4	3
Leeton Shire Council	2	2
Leichhardt Municipal Council	5	5
Lismore City Council	3	3
City of Lithgow Council	3	3
Liverpool City Council	10	10
Liverpool Plains Shire Council	1	1
Lockhart Shire Council	1	1
Maitland City Council	4	4
Manly Council	4	4
Marrickville Council	5	5
Mid-Western Regional Council	3	3
MidCoast County Council	1	-
Moree Plains Shire Council	2	2
Mosman Municipal Council	3	3
Murray Shire Council	1	1
Murrumbidgee Shire Council	1	1
Muswellbrook Shire Council	2	2
Nambucca Shire Council	2	2
Narrabri Shire Council	2	2
Narrandera Shire Council	1	1
Narromine Shire Council	1	1



New England Tablelands County Council	1	-
Newcastle City Council	7	7
North Sydney Council	5	5
Oberon Council	1	1
Orange City Council	3	3
Palerang Council	2	2
Parkes Shire Council	2	2
Parramatta City Council	10	10
Penrith City Council	10	10
Pittwater Council	5	5
Port Macquarie-Hastings Council	4	4
Port Stephens Council	4	4
Queanbeyan City Council	3	3
Randwick City Council	7	7
Richmond River County Council	1	-
Richmond Valley Council	3	3
Riverina Water County Council	1	-
Rockdale City Council	7	7
Rous County Council	1	-
Ryde City Council	7	7
Shellharbour City Council	4	4
Shoalhaven City Council	4	4
Singleton Council	3	3
Snowy River Shire Council	1	1
Strathfield Municipal Council	4	4
Sutherland Shire Council	11	10
Council of the City of Sydney	10	10
Tamworth Regional Council	4	4
Temora Shire Council	1	1
Tenterfield Shire Council	1	1
The Hills Shire Council	10	10
Tumbarumba Shire Council	1	1
Tumut Shire Council	2	2
Tweed Shire Council	4	4
Upper Hunter Shire Council	2	2
Upper Lachlan Shire Council	1	1
Upper Macquarie County Council	1	-
Uralla Shire Council	1	1

New England Tablelands County Council	1	-
Newcastle City Council	7	7
North Sydney Council	5	5
Oberon Council	1	1
Orange City Council	3	3
Palerang Council	2	2
Parkes Shire Council	2	2
Parramatta City Council	10	10
Penrith City Council	10	10
Pittwater Council	5	5
Port Macquarie-Hastings Council	4	4
Port Stephens Council	4	4
Queanbeyan City Council	3	3
Randwick City Council	7	7
Richmond River County Council	1	-
Richmond Valley Council	3	3
Riverina Water County Council	1	-
Rockdale City Council	7	7
Rous County Council	1	-
Ryde City Council	7	7
Shellharbour City Council	4	4
Shoalhaven City Council	4	4
Singleton Council	3	3
Snowy River Shire Council	1	1
Strathfield Municipal Council	4	4
Sutherland Shire Council	11	10
Council of the City of Sydney	10	10
Tamworth Regional Council	4	4
Temora Shire Council	1	1
Tenterfield Shire Council	1	1
The Hills Shire Council	10	10
Tumbarumba Shire Council	1	1
Tumut Shire Council	2	2
Tweed Shire Council	4	4
Upper Hunter Shire Council	2	2
Upper Lachlan Shire Council	1	1
Upper Macquarie County Council	1	-
Uralla Shire Council	1	1

Urana Shire Council	1	1
Wagga Wagga City Council	4	4
The Council of the Shire of Wakool	1	1
Walcha Council	1	1
Walgett Shire Council	1	1
Warren Shire Council	1	1
Warringah Council	10	9
Warrumbungle Shire Council	1	1
Waverley Council	5	5
Weddin Shire Council	1	1
Wellington Council	1	1
Wentworth Shire Council	1	1
Willoughby City Council	5	5
Wingecarribee Shire Council	3	3
Wollondilly Shire Council	3	3
Wollongong City Council	7	7
Woollahra Municipal Council	5	5
Wyong Shire Council	7	7
Yass Valley Council	2	2
Young Shire Council	2	2

Urana Shire Council	1	1
Wagga Wagga City Council	4	4
The Council of the Shire of Wakool	1	1
Walcha Council	1	1
Walgett Shire Council	1	1
Warren Shire Council	1	1
Warringah Council	10	9
Warrumbungle Shire Council	1	1
Waverley Council	5	5
Weddin Shire Council	1	1
Wellington Council	1	1
Wentworth Shire Council	1	1
Willoughby City Council	5	5
Wingecarribee Shire Council	3	3
Wollondilly Shire Council	3	3
Wollongong City Council	7	7
Woollahra Municipal Council	5	5
Wyong Shire Council	7	7
Yass Valley Council	2	2
Young Shire Council	2	2

## **5.6 Kerbside Collection Improvement Initiatives**

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TRIM REFERENCE: C2012/05556 - D12038116

MANAGER: Andrew Pearce, Manager

AUTHOR: Charlotte Drury; Waste Operations Manager

### **SUMMARY**

At the Councillor Strategic Planning workshop held in February 2015, Councillors raised concerns in relation to household rubbish and greenwaste being deposited on kerbsides for extended periods and its impacts on Shire amenity. To address these concerns staff have investigated and implemented a number of positive initiatives as part of an overall waste strategy to reduce illegal dumping on the kerb and improve participation and use of Councils kerbside collection service. This report will provide an update on these initiatives and the resources required to undertake further activities into the future.

### **RECOMMENDATION**

***That Council receive the report on Kerbside Collection Improvement Initiatives.***

### **BACKGROUND**

Wyong Shire Council (WSC) provides residents with a comprehensive waste and recycling service. Every household is provided with a household garbage bin (140L red lid) and a recycling bin (240L yellow lid). Residents east of the M1 freeway are also provided with a garden vegetation bin (240L green lid). For bulky items that cannot be placed in the household garbage bins residents are provided with 6 x 2 cubic metre bulk kerbside collections per annum which can consist of general or organic waste.

During 2014 Remondis completed 88,893 bulky kerbside waste collections on behalf of Council. Of this number of collections, Council received 219 service requests relating to kerbside waste. This equates to a complaint ratio of 0.25% for the amount of collections undertaken annually.

At the Councillor Strategic Workshop held earlier in 2015, Councillors raised concerns with the amount of bulk waste deposited on kerbsides for extended periods across Wyong Shire. This is generally a seasonally trending issue with the highest number of kerbside collections occurring from November to March with numbers dropping off as winter approaches. The main contributing factors relate to residents not following the kerbside collection rules, such as:

- Not booking a kerbside collection prior to placing the waste at the kerb
- Under-booking for the amount of collections actually presented
- Placing material on the kerb well before the nominated collection date
- Placement of material not meeting guidelines

The April 2015 storm event resulted in a temporary increase in waste stored on the kerbsides for extended periods as residents undertook cleanup of their properties. Whilst the number of actual kerbside bookings increased significantly in the weeks after the event, there was also a corresponding increase in non-compliant kerbside waste by virtue of such factors as not being booked in, being illegally dumped or from commercial sources, and exceeding the guidelines by volume, size and composition.

The increase in kerbside waste had the impact of creating a temporary backlog of collections for a number of weeks as a result of Council's contractor being unable to meet this temporary demand. This backlog was removed through a combination of Council and contract resources, with normal domestic kerbside services progressively reinstated throughout the Shire from mid-June until the first week of July.

Illegal dumping on the kerbside is not a problem faced solely by Wyong Shire Council. This was well illustrated at the 2014 NSW Annual Waste Conference held at Coffs Harbour where a presentation entitled "*Bulky Waste Collections – A Challenge for Councils*" was delivered. This presentation revealed the following:

- 94 out of 152 NSW Councils provide bulk waste service of some type
- Representatives from each Council present agreed every system has its issues and there is no 'perfect solution'
- Most Council's provide 2 collections per year
- Most common collection system is 2 on call per year with 2m<sup>3</sup> per collection
- Council's with the most success have a strong education and enforcement presence

The following sections outline initiatives currently undertaken and proposed to reduce the occurrence of kerbside waste for extended periods.

### **Education Bulk Kerbside Waste - Current programs**

As part of the domestic waste contract, Council's waste collection contractor Remondis Pty Ltd provide Wyong Shire and Gosford City Councils with a joint Waste Education Officer. The main focus of the role is the development of a regional education strategy and programs which focus on promoting and educating the community on the three bin system and the kerbside collection program.

Under this 'Regional Waste Education Strategy' the following bulk kerbside education activities take place:

- Bulk kerbside educational fridge magnets are provided at community events
- Bulk kerbside information is on the back of all Week A & B Recycle/ Green waste calendars for residents and in Waste & Recycling flip books given out at events
- Department of Housing provide information on WSC Waste & Recycling systems to new residents
- Bulk kerbsides/recycling information is provided at presentations to the community

This education forms part of a broader suite of annual education measures delivered under the *'Have You Recycled Today Central Coast?'* campaign. This also includes for example; radio, cinema and newspaper advertising, school and community group landfill tours, shopping centre and community event displays and a social media campaign. Beyond this campaign the Waste section also coordinates a number of EPA Litter Prevention and Illegal Dumping Education grants and further waste education and diversion initiatives under the *'Waste Less Recycle More Program'*.

During 2015 both Central Coast Councils and Remondis have worked together with a more targeted focus on bulk kerbside collection education. This has included increased advertising of the service and the development and distribution of flyers. For example, a full page advertisement has appeared in the Central Coast Express Advocate each month from April to July 2015 (See Attachments One and Two for Kerbside Collection Advertisements). The education materials have the following key messages:

- Great service – easy to use / book on-line or by phone
- 6 free collections per annum
- Bulk kerbsides must be booked
- Residents need to book the right number of clean-ups
- Place material out the day before the collection

#### **Education Bulk Kerbside Waste - Future Initiatives and Programs**

Whilst the current joint regional waste education program between Wyong Shire Council, Gosford City Council and Remondis Pty Ltd is successful, it does however have some limitations. The yearly funding of \$75,000 per Council can only be used on joint programs agreed by all three parties. These are the programs planned for in the annual *'Regional Waste Education Strategy'*. Wyong Shire Council cannot, for example use these funds for a Wyong Shire specific mail-out.

Therefore as a result of on-going Councilor concerns and the limitations with the existing joint regional program, it is proposed to establish a dedicated *'Wyong Shire Council Waste Education Program'* funded through the Domestic Waste Management Charge (DWMC).

This funding would allow for the development and delivery of targeted projects such as;

- **Shire-wide Mail Out;** Annual mail-out of waste education resources (3 bin system / kerbside collection). *Cost approximately \$60,000 including printing & postage.*
- **Community Change Project;** Strong education campaign to change behaviors involving a range of stakeholders (across Council collaboration e.g. Waste, Rangers, Education) and community consultation (body corporates / strata / real estate agents), designing methods of communication (surveys, workshops, door knocks), events (street events, workshops, advertising). *Cost Approximately \$30,000.*
- **Department of Housing Focus Project;** Project to focus on the issues e.g. non-strata unit blocks (many units only paying for one domestic waste management charge and therefore only receiving 6 kerbsides per annum) – new ideas to sell bulk kerbside sets / further education, on-going communication to know what properties have recently been vacated etc. Resources established for the Department of Housing to encourage participation. *Cost Approximately \$30,000*

### **Enforcement Initiatives**

Council's Waste fund makes an annual internal contribution to the Rangers Services section for waste enforcement initiatives, most notably illegal dumping. A Service Level Agreement (SLA) currently exists between the Waste Unit and Ranger Services section with this currently being reviewed and strengthened towards an outcomes based approach with a more assertive model of enforcement across non-compliant kerbside waste. Proposals include:

- A warning letter delivered to the resident each time the waste is booked in and removed on their behalf or if no kerbside collection entitlements remain enforcement action commences
- Ranger gives where possible verbal notice of 48hrs to remove kerbside waste
- If not removed a Clean-Up Notice is issued (approx. \$500 administration fee)
- If Clean-Up Notice is disobeyed fines of up to \$5000 can be issued

It also worth recognising that a Regional Illegal Dumping Squad (RIDS) Officer has also recently been employed by WSC however the focus of this role is to pursue larger illegal dumping cases and they will not be tied up with smaller illegal dumping on the kerbsides.

### **Incentive Program for staff to report unbooked kerbsides**

This program was identified as an option following the Strategic Planning workshop. The concept of the program being that staff have coverage across the Shire as part of their daily duties and should be encouraged to report non-compliant kerbsides. This has been investigated and determined that it would best be managed through regular communications to staff encouraging reporting and using the existing staff HIPE Reward and Recognition Program. It is proposed that regular reminders will continue to be issued to staff to be vigilant and report illegal waste dumping and problematic kerbsides waste which is detracting from Shire amenity.

Whilst staff or other members of the community making 'third party bookings' may have some short term benefits, over the longer term it may create a culture within the community where the emphasis of responsibility is removed away from the resident. It is for these reasons that the promotion of the correct booking system to the community needs to continue and that these education activities are strongly backed by enforcement activities.

### **Real Estate Agent assistance for rental properties**

It has been observed that a disproportionate number of the kerb side collection compliance issues relate to rental and holiday properties both during occupancy and following their vacation. Wyong Shire comprises of approximately 60,000 households of which an estimated 28% of these are rental properties. This means that around 16,800 households are rented, the majority of which would be through a real estate agent.

Real estate agents can accordingly provide a pivotal service to Council and the community by providing educational information to tenants on Council's Kerbside Waste and Recycling services. Furthermore, they may be able to assist in some circumstances with compliance issues when undertaking property inspections and observing material which has not been booked or compliant with kerbside collection requirements.



An opportunity to work with real estate agents is proposed with the establishment of a dedicated 'Wyong Shire Council Waste Education Program' funded through the existing Domestic Waste Management Charge.

Staff have compiled a list of all real estates in the Wyong Shire and propose to request their assistance in educating tenants as to the availability and requirements in relation to the service. Initially they can be provided with an ample supply of the Waste and Recycling Services flyers which explain all of Council's kerbside services including bulky waste collections and a fridge magnet specifically designed for booking of these collections. These two resources already exist so the cost involved would be in the printing and delivery of these resources to the estate agents. It is estimated this cost of the resources would be initially around \$50,000 in order for the estate agents to have enough stock on hand to supply to tenants. There would then an on-going annual cost of approximately \$30,000 per year would need to be budgeted for in order to supply the estate agents with continuing supplies of these resources.

A further opportunity exists to develop a specific waste and recycling accord with real estate agents. The proposal involves Wyong Shire Council entering into an written agreement with real estate agents whereby agents agree to promote Councils waste and recycling services to tenants and commit to notifying Council when tenants vacate premises and leave waste on the kerbside. In return Council could promote the signatories to this accord. Consultation will be required with the real estate industry to further refine the program and gain their acceptance prior to any successful rollout.

### **Domestic Waste Contract**

The current kerbside collection arrangements form part of the jointly tendered with Gosford City Council domestic waste contract. The current 10 year contract expires in January 2018. Work has already commenced in collaboration with Gosford City Council on a specification for a new domestic waste collection service.

As part of this process, different options for the provision of a bulk kerb side waste collection service are being investigated. These include changes to the number of entitlements, different volume and material specifications, use of vouchers, and different combinations of on demand bookings and scheduled times. It is proposed that staff will refine and cost these options before presentation to Councilor's and the community as part of the consultation phase of the contract specification development.

### **CONCLUSION**

Wyong Shire Council provides a high level domestic waste collection service which entitles each resident to 6 bulk kerbside collections each year. Some residents however either choose not to comply with the system or otherwise they may be unaware leading to the placement of inappropriate waste or waste storage on the kerbside for extended periods. Research has shown that these challenges are consistent with other local government areas offering both similar and different types of kerbside services to those offered in Gosford City and Wyong Shire. Staff will continue to implement a range of new initiatives to strengthen education and enforcement around the use of the bulk waste kerb side collection service to minimise the impact of this service on streetscape amenity.

**ATTACHMENTS**

- |   |   |           |
|---|---|-----------|
| 1 | Attachment One Bulk Kerbside Collection Booking Advertisement | D12040303 |
| 2 | Attachment Two Bulk Kerbside Collection Rules Advertisement   | D12040307 |

# Need a bulk kerbside collection?

**6 FREE**  
collections  
per year!

**1**

**Book it now!**

[www.1coast.com.au](http://www.1coast.com.au)  
or call 1300 126 278

**2**

**Book the right number of collections**



**3**

**Place at kerbside the day before collection**



## Kerbside collection tips

- ▶ Collections are for bulky household or garden vegetation items
- ▶ If you have more than 2 cubic metres (about a box trailer load) help us by booking the right number of collections - this helps us collect your waste on time
- ▶ Book 2 working days before your bin day
- ▶ Present your items neatly - box or bag small items
- ▶ Consider if your items can be recycled or reused before booking your collection
- ▶ Noticed a collection out in your street for more than a week, call 1300 126 278 to arrange collection
- ▶ To find out what is accepted visit [www.1coast.com.au](http://www.1coast.com.au)





# SIZE MATTERS **2m<sup>3</sup>**

## BULK KERBSIDE COLLECTION

### GENERAL WASTE

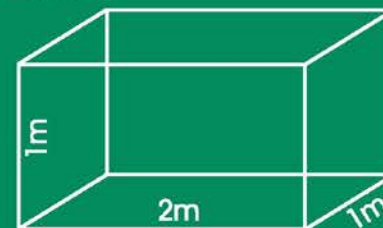


### GARDEN WASTE



### What is 2m<sup>3</sup>?

2 cubic metres is roughly the carrying capacity of a standard box trailer.



If you have more than 2 cubic metres of waste to place out for collection you must book for the additional waste you will be presenting.

### What you need to know:

- ▶ Most residential properties receive 6 bulk kerbside collections each year
- ▶ Collections can be for bulky household items or bulky garden vegetation
- ▶ Collections take place on your bin day and items should be placed out no earlier than the day before the collection
- ▶ Collections must be presented tidily with any loose items contained
- ▶ Leaves and twigs can be boxed, bagged or twined
- ▶ Clothes and bric-a-brac should be bagged or boxed

 To find out what is accepted visit [www.1coast.com.au](http://www.1coast.com.au)

### Bookings are essential:

▶ [www.1coast.com.au](http://www.1coast.com.au)

or

▶ **1300 1coast** (1300 126 278)

**2m<sup>3</sup>**  
IS THE  
SIZE OF  
ONE BULK  
KERBSIDE  
COLLECTION.



view full  
guidelines  
here



## 5.7 Garage Sale Trail

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TRIM REFERENCE: F2015/01112 - D12049759

MANAGER: Mike Dowling, Director

AUTHOR: Andrew Pearce, Manager

### SUMMARY

The following report provides a status update of councils participation in the 2015 Garage Sale Trail.

### RECOMMENDATION

***That Council receive the report on Garage Sale Trail.***

### BACKGROUND

At the Ordinary Meeting of Council on 22 April 2015, the following Mayoral Minute Garage Sale Trail 2.1 was noted:

“367/15 That Council participate in the 2015 Garage Sale Trail program at a cost of \$6,250.  
368/15 That Council note the cost will be funded by existing funds allocated to its Waste Unit.”

The Garage Sale Trail is an annual event that partners with local Councils to assist members of the community promote reuse, reduce waste to landfill, meet others in their community , make money (often for charitable purposes), be creative and have fun.

It has grown from a single event 3 years ago in a Sydney suburb to a national campaign with more than 160 councils involved. In 2014 over 350,000 people participated in Garage Sale Trail, with 2.9 million pre-loved items up for sale from over 8,000 garage sales.

The Garage Sale Trail has won the following awards:

NSW Green Globe Award 2012

International Green Award 2012

Banksia Award 2015 – Community Leadership and Citizenship

The 2015 Garage Sale Trail will be held on Saturday 24 October.

Individuals and Community Groups in the Wyong LGA can register their garage sale from 14 August by visiting the Garage Sale Trail website, registration is free. Once registered, sellers are provided with a registration pack with downloadable posters, flyers and social media tools to assist them promote their event.

Shoppers are able to search by postcode, suburb, item or category to find garage sales that interest them. They can use their smart phone to guide them or print out a personalised Garage Sale Trail.

## **5.7 Garage Sale Trail (contd)**

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Wyong Shire Council staff have completed the registration process for council's participation in this event.

A staff member has also attended a meeting at Penrith Council which shared information about this event and gave suggestions on how to ensure its success.

Promotion and advertising of this event is currently under way.

### **ATTACHMENTS**

- 1 Garage Sale - How to Guide D12066007





# WHAT IS GARAGE SALE TRAIL?

THE AVERAGE HOUSEHOLD MAKES  \$273

### HOW DO HOUSEHOLDS GET INVOLVED?

You can register your household sale online for free from 10 August - 24 October at [www.garagesaletrail.com.au](http://www.garagesaletrail.com.au). Simply click on the Register a Sale button and follow the prompts to give your sale a fun name, upload 5 photos of your best items and attract those shoppers. Once registered you get a personalised sale page, pinned to a national map for everyone to see and a full suite of ready-to-print materials to promote your sale. If you want to host a sale with other households simply follow the prompts to register a GROUP SALE.

## IT'S GARAGE SALES ON ONE BIG DAY RIGHT ACROSS THE COUNTRY!

Garage Sale Trail is about re-using great stuff, helping people think differently about waste, meeting your neighbours, stimulating local economies, and providing an awesome platform for fundraising. All made possible by your local council.



## WHAT'S IN IT FOR HOUSEHOLDS?

Host a garage sale to de-clutter, make some pocket money, meet your neighbours and have fun in the process. Raise money for yourself or for a cause that is important to you.



DE-CLUTTER



MAKE MONEY



MEET NEIGHBOURS AND HAVE FUN



JOIN A NATIONAL MOVEMENT

Whatever your reason, this is a ready made opportunity to raise some dough – sell old stuff, sell new stuff, sell anything... and it's **FREE TO PARTICIPATE!**

**REGISTRATION OPENS 10 AUGUST 2015 AT GARAGESALETRAIL.COM.AU**

# WHAT YOUR COUNCIL MAKES HAPPEN



## ONLINE DASHBOARD

Thanks to your Council when you register you get;

- A personalised sale page on the national website where you can showcase what you will have for sale on the day and upload information about yourself, who you are selling with and what cause you might be selling for.
- Pinned to a searchable and interactive national map.
- A suite of posters and flyers on your dashboard for you to download to promote your sale locally.



## SELLER KITS

The first 2500 sellers registered before **25 September** will receive ;

- A printed seller kit containing posters, flyers and information to help you promote your sale locally.
- But don't worry, if you miss out on the printed kit you can still download all of the same materials from your dashboard.

# WHAT YOU DO

### REGISTER YOUR SALE

- 1 jump onto [www.garagesaletrail.com.au](http://www.garagesaletrail.com.au) from 10 August and register your sale
- 2 Give your sale a ripping name
- 3 Entice shoppers by uploading 5 pictures of the best items you have to sell
- 4 Let people know what else is happening at your garage sale, maybe some music, a theme, you're the boss so do what works for you and tell people a little bit about yourself. It's a community event after all so don't be shy.

### PROMOTE YOUR SALE

We run a campaign to promote the program nationally, but the really successful sellers get their hands dirty too. We provide the tools and materials on your dashboard so you can:

- 1 Tell friends, family and anyone in your area about your sale, get your neighbours involved too;
- 2 Put up posters around the neighbourhood; or make your own;
- 3 Post and update information about your sale (including lots of images) on your seller page;
- 4 Use social media and newsletters to tell everyone the details of your sale;

### ON THE DAY - 24 OCTOBER

Make your sale impossible to walk past with a few easy tips.

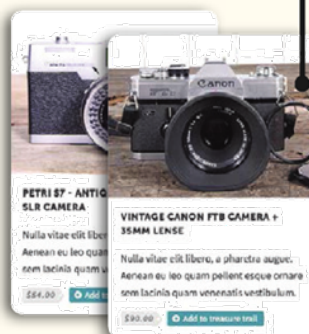
- 1 Display all your great stuff together.
- 2 Think about bargain bins and create irresistible deals.
- 3 Think what else you can do to attract attention. Dress up? Facepainting? The only limit is your imagination.
- 4 Most importantly have fun!

## THE MOST SUCCESSFUL SALES HAVE:

- An awesome, creative sale name.
- Attractive pictures of items on the website and an eye-catching cover image.
- Cool wares and quirky stuff.
- Good promotion via word of mouth, social media and local advertising.



Attractive pictures of sale items



Creative sale name

Eye-catching cover image





# WHAT HOUSEHOLDS HAVE DONE PREVIOUSLY



STAR WARS GLORY - QLD

## \$8000 SMACKERS MADE!

After being made redundant, Star Wars super fan puts his extensive 3000 item collection up for sale on Garage Sale Trail. He wanted to make some money from his collectibles and his wife wanted to declutter the house! His story generated media attention and he even made an appearance on Network 10 News. On the day he made over \$8000, with tons of shoppers making the trip to his garage to view his remarkable collection. To make the sale that little bit more 'spesh he screened Star Wars movies on the wall of the garage.

COMPLETE CLEAR OUT - A STAR WARS FAN'S DREAM



## SOCIAL MEDIA WHIZ

Sasha Deloe was the Garage Sale Trail's Winner of the People's Choice Award for Favourite Garage Sale in NSW with the most number of likes on Facebook! This Sale was featured on SBS Online. She sold a range of items from books, toys, furniture and general bric-a-brac. All proceeds went to support her sister and nephew as her sister battled ovarian cancer.



FUNDRAISING MONEY FOR FIGHT AGAINST CANCER



Sasha Deloe knows what she's doing when it comes to social media.

GLORIOUS GARBAGE FOR A CAUSE - NSW



SPRAY STREET GARAGE SALE - VIC

## CHOCKA-BLOCK OF SALES

This street got together and sold 200+ items including household goods, kids toys, hand made gift cards, cookies, books, glass vases, doll clothes, earrings, and lots more! Neighbours got to know each other, and had a great day while raising money for their families.

"We organised our street to come together for the Garage Sale Trail. With 12 sales, it was a busy day. Everyone had a great time and we also made \$350! We can't wait for this year's sale"

150 LOCALS ENGAGED IN THE COMMUNITY



## NEXT STEPS



Sale registration opens 10 August 2015. To get the most up to date information, check out: [garagesaletrail.com.au](http://garagesaletrail.com.au) and sign up to our Trail Mail.

## CONTACT

- ✉ EMAIL: [CONTACTUS@GARAGESALETRAIL.COM.AU](mailto:CONTACTUS@GARAGESALETRAIL.COM.AU)
- 🌐 WEBSITE: [WWW.GARAGESALETRAIL.COM.AU](http://WWW.GARAGESALETRAIL.COM.AU)
- 📘 FACEBOOK: [FACEBOOK.COM/GARAGESALETRAIL](https://FACEBOOK.COM/GARAGESALETRAIL)
- 🐦 TWITTER: [TWITTER.COM/GARAGESALETRAIL](https://TWITTER.COM/GARAGESALETRAIL)
- 📷 INSTAGRAM: [INSTAGRAM.COM/GARAGESALETRAIL](https://INSTAGRAM.COM/GARAGESALETRAIL)



**OVER 10.000  
HOUSEHOLDS  
INVOLVED ON  
THE DAY LIKE  
THIS!**



MAKE A FAMILY DAY OF IT



JOIN UP WITH OTHER HOUSEHOLDS

**BEST SALE NAMES:**

- THE HAPPY HOARDER
- VICTORIA'S NOT SO SECRET SALE
- 50 SHADES OF GREEN
- IT'S A DIVORCE!
- HONEY I SOLD THE KIDS STUFF
- RECYCLE AND RELOVED



COME TOGETHER WITH YOUR FRIENDS

# WHAT YOU GET



A PERSONALISED SALE PAGE FOR THE WORLD TO SEE.



PINNED TO A NATIONAL MAP FOR PEOPLE TO SEARCH AND EXPLORE.



FREE POSTERS AND FLYERS TO PROMOTE YOUR SALE FAR AND WIDE.

## **5.8 Response to Notice of Motion - Wyong Grove Public School "The Grove" Continued Community Use**

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TRIM REFERENCE: F2014/00600 - D12062109

MANAGER: Peter Stokes, Manager, Property Management

AUTHOR: Fiona Kurtz; Personal Assistant to Property Management

### **SUMMARY**

At the Ordinary Meeting 24 June 2015 a Notice of Motion proposed by Councillor Greenwald and seconded by Councillor Matthews requesting the General Manager write and make representation to the Minister for Education The Hon. Adrian Piccoli MP about Wyong Grove Public School "The Grove" and its continued Community Use.

### **RECOMMENDATION**

***That Council receive the report on Response to Notice of Motion - Wyong Grove Public School "The Grove" Continued Community Use.***

### **BACKGROUND**

At the Ordinary Council Meeting held on 24 June 2015;

*"RESOLVED on the motion of Councillor GREENWALD and seconded by Councillor MATTHEWS:*

*683/15 That Council request the General Manager to write and make representation to the Minister for Education, Adrian Piccoli MP to:*

- Acknowledge the current lease arrangement with the State Government at the closed Wyong Grove Public School which is allowing an integrated community campus to flourish, being used for community and arts programs.*
- Request the Minister to ensure the continuity of this very important community campus.*
- Request the Minister, as Wyong Grove Public School has been declared surplus, to vest the site by gift or community trust in the care of the Wyong Shire Council for continued community use, programs and community partnerships."*

Correspondence has now been sent to the Minister for Education The Hon. Adrian Piccloi

### **ATTACHMENTS**

1 Letter to the HON.Adrian Piccoli MP D12064216





Folder Number: F2014/00600

12 August 2015

The Hon. Adrian Piccoli MP  
Minister for Education  
GPO Box 5341  
SYDNEY NSW 2001

Dear Minister,

Re: Former Wyong Grove Public School site

Wyong Shire Council entered into a lease with The Department of Education and Communities for the former Wyong Grove Public School. The lease commenced on 11 May 2014 and terminates on 10 May 2016. Council staff contacted the NSW Education & Communities Property Asset Manager (Ms Kit Wong) on 23 April 2015 to ask if any further consideration had been given regarding Council's request for an extension of the lease for a further 20 years, or first right of refusal to purchase the property. Ms Wong advised that the Board would not consent to an extension of the lease and would not agree to a right of first refusal, as the Department is required to follow NSW Government Treasury guidelines for disposal of properties.

Council currently co-locates a diverse range of arts and community activity at Wyong Grove. It is managed as a site for the development and rehearsal of many amateur and professional groups who will be able to showcase their final works at *The Art House* located one block away. Wyong Grove has also become the new home for Wyong Drama Group and Wyong Musical Theatre Company, since being relocated from the demolished Wyong Memorial Hall. In the 12 months since the Wyong Grove's establishment it has succeeded in significantly increasing the number of arts projects and productions held in Wyong town. To date it has hosted nine locally produced productions with the majority of available building spaces utilised on a weekly basis.

Due to the considerable amount of money and time spent by Council on the maintenance and improvement of the Wyong Grove property (to date WSC has invested over \$100k of Community funds on upgrades/refurbishments), and the substantial community benefit, your consideration is sought to grant Council a lease for 20 years, or to vest the site by gift or community trust in the care of Wyong Shire Council. Transferred ownership of the property to Council is preferred, so to enable Council to fully develop its plans for the community use of the site. My Council and I would like to invite you to visit the site so you can see the essential nature that the facility plays in our community. My Executive Assistant, Debbie Marks will be in contact with your office to discuss a time that may suit your busy schedule.

Yours Sincerely

A handwritten signature in black ink, appearing to read "Michael Whittaker".

Michael Whittaker  
General Manager

cc Mayor, Councillor Doug Eaton OAM  
cc All Councillors of Wyong Shire Council



## 5.9 Q4 Financial Summary

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TRIM REFERENCE: F2014/00992 - D12062410

MANAGER: Stephen Naven, Chief Financial Officer

AUTHOR: Kim Futcher, Financial Controller

### SUMMARY

This report provides preliminary financial results for the 2014-15 year, subject to finalisation and audit.

### RECOMMENDATION

*That Council receive the report on Q4 Financial Summary.*

### BACKGROUND

In accordance with the Local Government (General) Regulation 2005, Part 9, Reg 203, the Responsible Accounting Officer of a Council must prepare and submit to the Council a budget review statement no later than two months after the end of the quarter – except for the June quarter.

Historically, a Q4 Business Report has been presented to Council comprising performance progress as measured against the organisation's Strategic Plan for the year, including the budget review statement containing the preliminary full year financial results.

This report provides preliminary financial results for the 2014-15 year, subject to finalisation and audit.

### CURRENT STATUS

As at 28 August 2015, the preliminary financial result for 2014-15 (excluding capital grants and contributions) **is a surplus of \$10.6 million**. This result is favourable by \$6.2 million compared to the adopted Q3 full year budget and is an improvement of \$5.1 million on the previous year result.

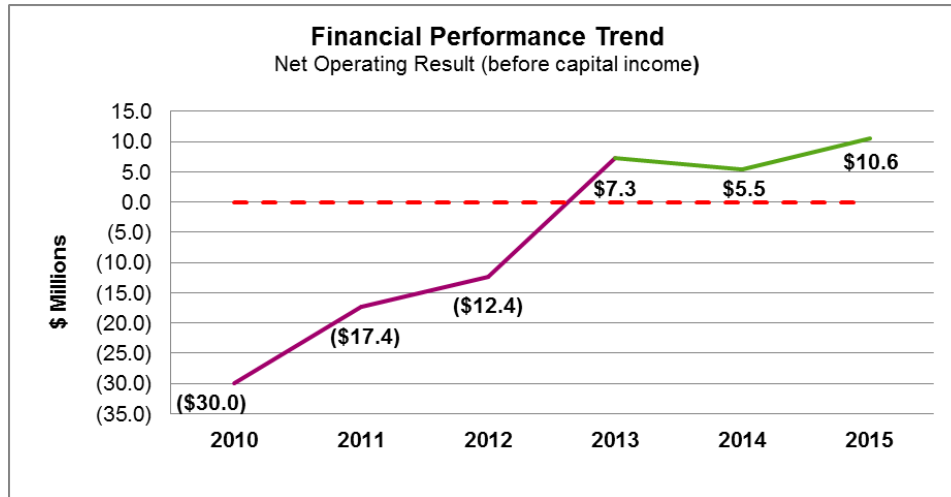
The preliminary financial result for 2014-15 including capital grants and contributions is a surplus of \$36.8 million.

Having commenced the year with an original budget surplus of \$0.6 million (before capital income), the 2014-15 result demonstrates Council's continued path of sound fiscal management and commitment to achieving financial sustainability.

### Consolidated Financial Performance Trend

The below table and graph show the consolidated operating result trend since Council committed to its financial sustainability correction path following the \$30.0 million deficit in 2009-10.

Five Year Financial Summary		2010	2011	2012	2013	2014	2015
For the year ended 30 June		\$M	\$M	\$M	\$M	\$M	\$M
Total income from continuing operations		231.8	251.2	238.0	247.6	243.2	271.7
Total expenses from continuing operations		232.3	225.2	235.8	225.2	222.0	234.9
<b>Net operating result (including capital grants and contributions)</b>		<b>(0.6)</b>	<b>26.0</b>	<b>2.2</b>	<b>22.4</b>	<b>21.2</b>	<b>36.8</b>
<b>Net operating result (excluding capital grants and contributions)</b>		<b>(30.0)</b>	<b>(17.4)</b>	<b>(12.4)</b>	<b>7.3</b>	<b>5.5</b>	<b>10.6</b>



### Operating Result Compared to Prior Year and Original Budget

The below table compares the financial performance for 2014-15 against prior year as well as original budget.

Income Statement	Actual 2014-15 \$M	Actual 2013-14 \$m	Movement Fav/(unfav) \$M	Original Budget 2014-15 \$M	Variance to Original Budget Fav/(unfav) \$M
Income from operations	245.5	227.5	18.1	242.7	2.7
Expenditure from operations	234.9	222.0	(13.0)	242.2	7.3
<b>Net operating result (exclusive of capital grants and contributions)</b>	<b>10.6</b>	<b>5.5</b>	<b>5.1</b>	<b>0.6</b>	<b>10.0</b>
Income from capital grants and contributions	26.2	15.8	10.4	14.7	11.4
<b>Net operating result (inclusive of capital grants and contributions)</b>	<b>36.8</b>	<b>21.2</b>	<b>15.5</b>	<b>15.2</b>	<b>21.6</b>

Income was \$2.7 million higher than original budget due to:

- Tipping fees were \$4.3 million favourable due to higher waste volumes from large waste operators
- Water and sewer relocations and connections were favourable by \$471k
- Restoration works for roads and drainage related to National Broadband Network were favourable by \$435k
- Rent and recovery of outgoings on leased properties was favourable by \$292k
- Royalty payments for gas extraction from favourable spot rates \$267k
- The above positive variances were offset by Residential Water Usage charges which were \$3.1 million unfavourable due to lower than budgeted water usage.



Expenses were \$7.3 million lower than budget due mainly to:

- Employee benefits and on-costs \$6.5 million favourable due to vacancies throughout the year.
- Materials and Contracts \$7.5 million favourable due to savings and lower than anticipated spend on some projects (for example, Fit for the Future, the Art House and the Central Coast Regional Airport)
- The above positive variances were offset by Depreciation which was \$4.4 million over budget. This is due to increased spend on road and drainage assets, assets contributed from developers and higher asset values arising out of the revaluation of roads and drainage, bridges and footpaths.

The below table represents the net operating result by Fund compared to prior year. Wyong Water, previously known as the Water Supply Authority, includes the Water and Sewer Funds related to delivery of water, sewerage and drainage services.

Net Operating Result By Fund	Actual 2014-15 \$M	Actual 2013-14 \$m	Movement Fav/(unfav) \$M
General Fund	20.1	15.5	4.7
Wyong Water	(9.5)	(10.0)	0.5
<b>Total consolidated net operating result</b>	<b>10.6</b>	<b>5.5</b>	<b>5.1</b>

### Consolidated Financial Position (Balance Sheet)

The below table shows Council's statement of financial position, also known as the balance sheet, which lists the value of what Council owns ("assets") and what Council owes ("liabilities"). Within these headings, current means that an amount is due or likely to be paid within the next 12 months. Non-current indicates an asset or liability that is longer term in nature.

Statement of Financial Position	Actual 2014-15 \$M	Actual 2013-14 \$M	Movement Fav/(unfav) \$M	Movement Fav/(unfav) %
<b>Assets</b>				
Current assets	165.2	156.2	9.0	5.8%
Non-current assets	3,071.3	2,602.1	469.2	18.0%
<b>Total assets</b>	<b>3,236.5</b>	<b>2,758.3</b>	<b>478.2</b>	<b>17.3%</b>
<b>Liabilities</b>				
Current liabilities	73.6	68.9	(4.7)	(6.8%)
Non-current liabilities	233.5	239.5	6.0	2.5%
<b>Total liabilities</b>	<b>307.1</b>	<b>308.4</b>	<b>1.3</b>	<b>0.4%</b>
<b>Net assets</b>	<b>2,929.4</b>	<b>2,449.9</b>	<b>479.5</b>	<b>19.6%</b>
Retained earnings	1,584.6	1,364.7	219.9	16.1%
Revaluation reserve	1,344.8	1,085.2	259.6	23.9%
<b>Net equity</b>	<b>2,929.4</b>	<b>2,449.9</b>	<b>479.5</b>	<b>19.6%</b>

The movement in non-current assets during the year relates specifically to the revaluation of roads, drainage, bridges and footpaths performed this year in accordance with the Office of Local Government's five year rolling revaluation program.

External debt decreased overall by \$5.9 million and included principal repayments of \$11.8 million offset by \$5.9 million in new subsidised low interest loans under the Local Infrastructure Renewal Scheme related to sewer works.

### **Capital Expenditure**

Investment in essential infrastructure was significant with \$86.3 million being spent on Council's capital works program for 2014-15 representing 86% of the original budget of \$100.1 million. This includes delivery of \$10.4 million of projects related to improved asset conditions addressing the infrastructure backlog (meeting the target of \$10 million).

### **Next Steps**

The figures contained within this report are unaudited. The annual financial statements will be audited during September by Council's external auditor PricewaterhouseCoopers and at the same time Wyong Water will be audited by the NSW Auditor General. The draft 2014-15 Financial Statements will be presented to Council on 14 October and following receipt of audit reports will be presented to Council and the community for final adoption on 28 October 2015.

### **CONCLUSION**

The preliminary financial result for 2014-15 is a surplus of \$10.6 million (before capital grants and contributions).

The 2014-15 Financial Statements are in the process of being prepared for audit and figures contained within this report are subject to change.

### **ATTACHMENTS**

*Nil.*



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

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TRIM REFERENCE: F2015/00040-02 - D12059676

MANAGER: Lesley Crawley, Manager Corporate Governance

AUTHOR: Jacquie Elvidge; Councillor Services Officer

### **SUMMARY**

Report on Outstanding Questions on Notice and Notices of Motion.

### **RECOMMENDATION**

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

### **ATTACHMENTS**

- |   |   |           |
|---|---|-----------|
| 1 | Table of Outstanding Questions and Notice of Motions - 9 September 2015 | D12059690 |
|---|---|-----------|

No	Department	Responsible Officer	Question Asked / Resolution	Meeting Asked/ Councillor	Status
115	General Manager's Unit	Stephen Naven	7.2 Notice of Motion - Government Rating Outrage  50/15 That Council <u>note</u> with great concern the likely significant escalation of the 2015 rate burden on the local lower to mid-market property sector. 51/15 That Council <u>note</u> the significant escalation is as a consequence of the recent property market increases and unfair rerating formulas dictated to Council by the State Government Valuer General and Office of Local Government. 52/15 That Council <u>call</u> on the State Government to conduct a thorough review into the Valuer General's and Office of Local Government's outdated and discriminatory rating methods that will place undue hardship on many in our community. 53/15 That Council <u>investigate</u> a shire wide, online petition in partnership with the community, to give ratepayers a voice to call upon the State Government to reject this outrageous and out of touch taxing. 54/15 That Council <u>include</u> in its 2015 Strategic Planning Process a review of all options to assist in reducing the impact of the Government's looming rerating charges.	28 January 2015  Cr Best	Response to be provided October 2015.
133	Property and Economic Development	John Willey	7.2 - Notice of Motion - Tuggerah Station Parking and Safety Shambles  236/15 That Council <u>reiterate</u> the total inadequacy of parking at and around the Tuggerah Rail Station, and that the provision of such parking is the sole responsibility of Transport NSW and State Government. 237/15 That Council <u>explore</u> all land options in the Tuggerah Rail Station precinct, in partnership with Transport NSW and State Government, to address this issue. 238/15 That Council <u>note</u> the urgent need to immediately deal with this matter and therefore the prospect of interim/temporary parking should also be considered.	11 March 2015  Cr Best  Cr Matthews	Response to be provided at a future meeting.
148	Community and Recreation Services	Maxine Kenyon	7.1 Notice of Motion - Regional Rollout of Council's Skate Park Facilities  493/15 That Council <u>note</u> the recent welcomed response to Council's announcement to significantly expand its regional skate park facilities rollout. 494/15 That Council <u>recognise</u> the need to balance the	Cr Best  13 May 2015	Response to be provided October 2015.

No	Department	Responsible Officer	Question Asked / Resolution	Meeting Asked/ Councillor	Status
			<p>rollout of such facilities as equitably as possible across the shire.</p> <p>495/15 That Council <u>note</u> that the asset life of the current Lake Munmorah skate facility has now reached its end and that this location is no longer Council's preferred option.</p> <p>496/15 That Council <u>request</u> the General Manager to investigate and consult with the local community and key stakeholders to identify the most suitable location for this facility.</p> <p>497/15 That arising from the Council's recent adoption of the skate strategy 2014, Council further <u>request</u> the General Manager to report on proposals and options that will provide improved resource equity to the shire's northern skate facilities. The report should also address the possibility of installing CCTV cameras to provide improved safety to users and reduce the incidents of antisocial behaviour in and around such facilities.</p>		
150	Development and Building	Jamie Loader	<p>6.1 Notice of Motion - Council's Animal Care Facility</p> <p>539/15 That Council recognise the outstanding work over the past few years by staff and more recently by the current animal care contractor and that this management team has delivered an outcome of near zero euthanising of stray and abandoned pets.</p> <p>540/15 That Council recognise that the current Charmhaven Animal Care Facility is approaching end of its asset life.</p> <p>541/15 That Council take a more strategic and regional approach through opening dialogue with Gosford City Council and the current animal care contractors both at Charmhaven and Erina, with the view to establishing a regional, Central Coast animal care facility that will service the future needs of the Coast as a whole.</p> <p>542/15 That Council consider any such centrally located regional facility in tandem with innovative satellite offices in the region's north and far south to assist residents in outer areas to access these important services.</p> <p>543/15 That Council request the General Manager to provide a report back to Council.</p>	Cr Best 27 May 2015	Investigations are underway, with a response to be provided October 2015.

No	Department	Responsible Officer	Question Asked / Resolution	Meeting Asked/ Councillor	Status
152	Infrastructure and Operations	Peter Murray	<p>6.1 Notice of Motion – End Gridlock Pacific Highway, Wyong</p> <p>627/15 <i>That Council <u>recognises</u> the urgent need to work with the RMS to deliver the Wyong Town leg of the Pacific Hwy, an economically vital transport corridor, relied upon by thousands of local residents as they daily commute.</i></p> <p>628/15 <i>That further Council <u>recognises</u>, the inordinate delays plaguing this multimillion dollar Highway project as it seeks to accommodate the demand of a small number of property owners must now end.</i></p> <p>629/15 <i>That Council <u>applauds</u> the timely turnaround of the RMS's final and progressive draft plans currently on exhibition.</i></p> <p>630/15 <i>That Council <u>encourages</u> all interested parties to make responsible submissions and Council recognises through community representations and submissions there may very well be some adjustments and amendments to the draft plan.</i></p> <p>631/15 <i>That Council again <u>reiterates</u> that irrespective of any further representation to call for this highway project to bypass through residential back streets will not be entertained by Council.</i></p> <p>632/15 <i>That, due to the urgent need to construct this important transport corridor, Council, on behalf of our local residents, <u>make funding representations</u> to the State Government seeking to tap into the 6 billion dollar state government regional funding pool.</i></p> <p>633/15 <i>That the General Manager <u>liaise</u> with the Minister for Roads and RMS in regards to designing a more direct and easier disabled access to Wyong Railway Station, other than that proposed off Howarth Street.</i></p>	Cr Best & Troy 10 June 2015	<p>Resolutions were presented to the Regional Manager of Roads and Maritime Services (RMS) at Council/RMS meeting held 22 July 2015. The Regional Manager advised that \$3M has been allocated in 2015/16 to continue with the preconstruction activities, including environmental approval for this important project.</p> <p>The heavily revised concept appears to have addressed concerns regarding disability access with direct access the station from Wyong CBD via a level overhead walkway and lifts.</p> <p>The environmental approval process requires further community consultation with stakeholders afforded a further opportunity to comment later in 2015.</p> <p>Once the environmental approval process is completed, the detailed design and further land acquisition still needs to be completed prior to construction being able to commence.</p>
153	Infrastructure and Operations	Peter Murray	<p>Q22/15 Link Road Intersection at Blue Haven</p> <p><i>"Mr Mayor,</i></p> <p><i>As the local Councillor for the Blue Haven area it has been drawn to my attention by many residents of Blue Haven that the intersection of Blue Haven Way and the Motorway link is a high risk intersection.</i></p>	Cr Best	Response to be provided at Ordinary Meeting to be held 14 October 2015.

No	Department	Responsible Officer	Question Asked / Resolution	Meeting Asked/ Councillor	Status
			<i>I appreciate the Motor Way Link is not a Council road, however can you appeal to advocate on behalf of our local Community to the RMS, to provide an improved intersection works on this arterial road with a closing speed at the intersection of some 200km/hr, of particular concern is the almost non-existent acceleration lane heading to the M1. With the huge residential influx in the area this issue can no longer be ignored any response to our representation from the RMS would be appreciated in your reply to this question and indeed the good folk of Blue Haven?"</i>		
161	Community and Recreations Services	Brett Sherar	<p>7.1 Notice of Motion - Establishment of New Extreme Bike and Skate Facility in our Shire's North</p> <p>753/15 <i>That Council welcome the community's recent drive to establishment a steering committee to activate a Northern area competition BMX Track based at San Remo.</i></p> <p>754/15 <i>That Council request the General Manager to provide a report on the Committee's initiative to activate a new competition standard version of the Extreme Bike and Skate Facility at San Remo and that committee representatives be invited to brief Council on their vision.</i></p> <p>755/15 <i>That further to Council's recent announcement to construct a major regional Skate Facility in the Shires South, Council recognise the need to equitability distribute resources across the Shire, to this end Council welcomes this community driven initiative.</i></p>	Cr Best 22 July 2015	Initial meetings with the community have been held. A report will be provided to the Ordinary Meeting of Council in October 2015.
162	Property and Economic Development	Mike Dowling	<p>7.2 Notice of Motion - Shire Wide Events and Promotions Board</p> <p>758/15 <i>That Council reaffirm its' principal direction from the February workshop to investigate options for management and promotion of tourism, employment and investment within the shire including forming a shire wide events and promotions body.</i></p> <p>759/15 <i>That Council negotiate changes to the existing agreements to give effect to Council's new direction with:</i></p> <p>a) <i>The Entrance Centre Management</i>  b) <i>Greater Toukley Vision</i>  c) <i>Central Coast Tourism</i></p>	Cr Taylor 22 July 2015	Response to be provided at a future meeting.

No	Department	Responsible Officer	Question Asked / Resolution	Meeting Asked/ Councillor	Status
			d) Wyong Regional Chamber of Commerce 760/15 That Council request the General Manager to provide a report back to Council.		
164	Development and Building	Jamie Loader	Q28/15 Gateway To Toukley  "Mr Mayor, On numerous occasions I have raised, on behalf of the residents of Toukley, the issue of the disgraceful, uncompleted building at the Toukley bridge, locally known as the "Taj Mahal". I understand through my representations, this site has been the focus of legal action by Council, however, the site still, in my view, is a total disgrace. Could you please update the Council on any progress to date. Also Mr Mayor, the highly controversial site of the old Toukley caravan park is simply another shambles in this gateway. What options has Council to force the owners to be more respectful of the image and street scape Toukley seeks to project?"	Cr Best 22 July 2015	Report to be tabled at Ordinary Meeting 23 September 2015
165	Community and Recreations Services	Maxine Kenyon	7.2 - Notice of Motion - Formation of Council's Disability Supports Committee (DSC) 812/15 That Council <u>request</u> the General Manager provide a report, in partnership with key stakeholder groups, around the formation of a broad based disability needs support committee that would seek to assist, guide and provide our ageing population, the temporally injured and the profoundly disabled with the necessary levels of community care.  813/15 That Council <u>recognise</u> the importance of such a committee in assisting Council in crafting it's Disability Inclusion Plan (DIP) & to assist in ushering in the National Disability Insurance Scheme (NDIS), however the committee's role should be seen more holistically & beyond the DIP & the NDIS.  814/15 That, while Council notes the important of providing suitable traditional disability access, Council also <u>recognise</u> the complexity and far reaching nature of modern disabilities beyond physical access issues.	Cr Best 12 August 2015	Meeting to be held with stakeholders during September 2015 and a report to be tabled at an Ordinary Meeting in November 2015.
166	Community and Recreations Services	Maxine Kenyon	7.3 - Notice of Motion - Nude Tourism Trend  815/15 That Council <u>note</u> Wyong Shire's Beautiful Birdie Beach is reportedly one of only three 'official' Nude Beaches on the north coast of NSW and the only one on the Central Coast. Despite this facility being in easy	Cr Best 12 August 2015	Report will be tabled at the Employment and Economic Development Committee meeting 4 November 2015.

No	Department	Responsible Officer	Question Asked / Resolution	Meeting Asked/ Councillor	Status
			<p>day access to a population catchment in the millions, Birdie Beach free bathing is not mentioned in any Central Coast Tourism promotions / Web material.</p> <p>816/15 That Council <u>recognise</u> Tourism is one of our major employers &amp; the increasing popularity of Nude Bathing / Nude Tourism such as the recent phenomena of P&amp;O's, Pacific and Orient's, Nude Cruises. It is with this understanding that Council in partnership with Central Coast Tourism and National Parks explore opportunities to better promote our region to this most lucrative tourism market.</p> <p>817/15 That further Council <u>request</u> an options report to the Employment and Economic Development Committee (EEDC) from Central Coast Tourism (CCT) including the prospect of holding a unique community event to showcase and market our beautiful beaches including free bathing at Birdie Beach.</p>		
167	Community and Recreations Services	Maxine Kenyon	<p>Q29/15 Toukley Graffiti Epidemic</p> <p>"Mr Mayor,</p> <p><i>My question is on behalf of the business community, the local GTV and indeed the broader local Toukley community on the issue of the outrageous graffiti/vandalism attacks that are now running at epidemic proportions in the Toukley business district. The utter frustration of the business community is in the knowledge that the perpetrators in question are known and taunt shop keepers by day only to graffiti their businesses at night. This information has been provided to the police yet the attacks continue. I fully appreciate the good work our local police do and how busy they are, however Mr Mayor, this must stop. Could you please formally raise this with Superintendent/ Local Area Commander, David Swilks at your next meeting and advise council of what actions will now be taken. Thank you?"</i></p>	Cr Best 12 August 2015	Letter was sent from the Mayor's office to Superintendent Swilks 27 August 2015. A response to be provided to Council at a future meeting.
168	Infrastructure and Operations	Peter Murray	<p>Q30/15 Flooding Tuggerah Business District</p> <p>"Mr Mayor,</p> <p><i>I have repeatedly raised the issue of the Tuggerah creek/storm water drain as almost each time a major rain event occurs, the business district floods. I have been advised by local business owners that again substantial debris is blocking the drain. Could</i></p>	Cr Best 12 August 2015	Response to be provided at Ordinary Meeting to be held 28 October 2015.

No	Department	Responsible Officer	Question Asked / Resolution	Meeting Asked/ Councillor	Status
			<i>you please have staff look into this as a matter of urgency, thank you?"</i>		
169	Community and Recreations Services	Maxine Kenyon	Q31/15 Council's Cycleway Rollout  "Mr Mayor,  <i>My question is on behalf of the local Tuggerawong community. The feedback I have received on our cycle way rollout is extremely positive with Council delivering 7.8 kilometres over the past 4 years at a cost of \$1.9million. The plan seeks to circumnavigate the lakes at some future stage. What I seek is guidance around the rollout of such works through the Tuggerawong area and the timing around that, thank you?"</i>	Cr Troy 12 August 2015	Response to be provided at Ordinary Meeting to be held 23 September 2015.
170	Community and Recreations Services	Maxine Kenyon	1.6 Mayoral Minute - Vandalism Reward Doubling  837/15 <i>That Council <u>double</u> its current reward under its Policy for Reporting Vandalism in respect of the EDSAAC Bateau Bay amenities/clubhouse building destroyed by fire last weekend.</i>  838/15 <i>That Council <u>publicise</u> this increased reward extensively through Council's media and communication channels.</i>  839/15 <i>That Council <u>publicise</u> the names of those convicted, subject to any prosecution.</i>	Cr Eaton 26 August 2015	Response to be provided at a future meeting.
171	Property and Economic Development	Mike Dowling	6.1 Notice of Motion - Free Wi-Fi The Entrance Memorial Park Precinct  869/15 <i>That Council, in principle, seek to install free Wi-Fi in the Entrance Memorial Park Precinct as part of the multimillion dollar refurbishment starting next month.</i>  870/15 <i>That Council request the General Manager to report on the cost of such an installation, ongoing operating costs, benefits to the local retailers and the wider community and any other relevant issues.</i>	Cr Webster 26 August 2015	Response to be provided at a future meeting.
172	Property and Economic Development	Mike Dowling	6.2 Notice of Motion - \$3.4million Litter Land  871/15 <i>That Council note with concern, despite the excellent efforts of Staff, the escalation of roadside litter on our main corridors and particularly on our beach road accesses.</i>  872/15 <i>That Council recognise the unacceptable cost to our ratepayers of this deliberate litter that is now exceeds</i>	Cr Best 26 August 2015	Response to be provided at a future meeting.



No	Department	Responsible Officer	Question Asked / Resolution	Meeting Asked/ Councillor	Status
			<p><i>more than \$3,400,000 in this term of Council alone.</i></p> <p>873/15 <i>That Council consider far more strident enforcement options including publishing those offenders prosecuted to combat the emerging tag of 'Litter Land'.</i></p> <p>874/15 <i>That Council request the General Manager, in the lead up to the summer litter season, to provide a litter reduction report exploring education and enforcement options, with a view to limiting the outrageous cost of deliberate litter to our ratepayers.</i></p> <p>875/15 <i>That Council request the General Manager to make representations to Mr Harris, Ms Catley, Mr Mehan the Local State Members and call on them to gain support for this initiative.</i></p>		
173	Community and Recreation Services	Maxine Kenyon	<p>Q32/15 Disabled Fishing Platform</p> <p><i>"Are Council staff aware of the community project to install a disabled fishing platform and hoist proposed for the Josh Porter reserve at Chain Valley Bay South.</i></p> <p><i>Are staff supportive of this project applying for state government funding?"</i></p>	Cr Vincent 26 August 2015	Response to be provided at a future meeting.
174	General Manager's Unit	Steve Naven	<p>Q33/15 Rates for Parks</p> <p><i>"Could staff please advise what rates residential parks pay?"</i></p>	Cr Vincent 26 August 2015	Response to be provided at a future meeting.
175	Property and Economic Development	Mike Dowling	<p>Q34/15 Community Litter Statistics and Education</p> <p><i>"Does Council have any demographic statistics on what age groups maybe causing litter in Wyong Shire and what options may be used to target and educate the community on littering. Can the General Manager please advise how such statistics can be used?"</i></p>	Cr Greenwald 26 August 2015	Response to be provided at a future meeting.
176	Community and Recreation Services	Maxine Kenyon	<p>Q35/15 Osbourne Park</p> <p><i>"Mr Mayor,</i></p> <p><i>As the local Independent Councillor for Toukley, I've been approached by the Leonard Avenue community, who were quite frustrated with anti-social behaviour in and around their park. Clearly this is a police matter, however, as often is the case it falls back to Council to try and assist.</i></p> <p><i>In this particular case, as you can see by the memo below, the</i></p>	Cr Best 26 August 2015	Response to be provided at a future meeting.

No	Department	Responsible Officer	Question Asked / Resolution	Meeting Asked/ Councillor	Status
			<p><i>community is very satisfied with Council and indeed staff's efforts in assisting them, in particularly the efforts of our Manager for Open Space, Mr Brett Sherar.</i></p> <p><i>Would you please pass on to all those involved our appreciation in assisting the Toukley community?</i></p> <p><i>"For and on behalf of the Residents of Leonard Ave.</i></p> <p><i>Congratulations to Wyong Council.</i></p> <p><i>For years we have had a problem with hoons and antisocial behaviour in Osbourne Park. We arranged a meeting with Councillor Greg Best and Mr Brett Sherar to find a solution to this problem. Within days we had answers. A big thank you to Wyong Council who operated in a professional and courteous manner."</i></p>		
177	General Manager's Unit	Bob Platt	<p>Q36/15 Video Conferencing Facilities</p> <p><i>"Mr General Manager,</i></p> <p><i>Council is at the forefront of upgrading IT processes and has been working actively to bring the IT up to 2015 standards. Part of this process has been a full review and upgrade of software and hardware systems.</i></p> <p><i>Council have just completed a rigorous process of recruiting an Acting General Manager for Wyong Shire Council. Part of the recruitment process has been to interview the prospective General Managers by Skype video conference interview.</i></p> <p><i>Could the General Manager please advise if Council has the ability to currently utilise this technology in house and if not what is the cost for Council to setup this technology at Council?"</i></p>	Cr Taylor 26 August 2015	Response to be provided at a future meeting.

**QUESTIONS ON NOTICE AND NOTICES OF MOTION REMOVED SINCE  
26 AUGUST 2015**

<b>No#</b>	<b>Department</b>	<b>Question on Notice / Notice of Motion</b>	<b>Date Asked/ Councillor</b>	<b>Status</b>
128	Community and Recreation Services	5.2 Notice of Motion - Wyong Road Landscaping Shambles	25 February 2015 Cr Best	Report tabled at Ordinary Meeting 26 August 2015
154	Property and Economic Development	6.1 Notice of Motion – Wyong Grove Public School “The Grove” Continued Community Use	Cr Greenwald 24 June 2015	Report tabled at Ordinary Meeting 9 September 2015
160	Infrastructure and Operations	Q26/15 Heritage Lighting Wyong	Cr Matthews 8 July 2015	Report tabled at Ordinary Meeting 26 August 2015
163	Infrastructure and Operations	Q27/15 Toukley By Pass Shambles	Cr Best 22 July 2015	Report tabled at Ordinary Meeting 9 September 2015

## **6.1 Answers to Question on Notice**

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TRIM REFERENCE: F2013/02047 - D12043915  
AUTHOR: Josette Matthews; Personal Assistant to Manager  
MANAGER: Peter Ham, Manager Waterways Asset Mgt

### **6.1 Q27/15 - Toukley By Pass Shambles**

The following question was asked by Councillor Greg Best at the Ordinary Meeting on 22 July 2015:

*"Mr Mayor,*

*Further to the RMS's outrageous decision to force speedbumps into Main Rd Toukley, this unsurprisingly has forced motorists on to the back streets of Toukley. My question is on the behalf of the good people of Moss Avenue, Crossingham Street, Evans Road and Oleander Street that now have become a back road raceway in residential streets. These roads, in my view, are under prepared for such a significant increase of traffic and the safety issues that arise from the RMS's decision. Also these back streets, now main roads, require maintenance and repairs by the rate payers, not the RMS. What plans are in place to assist the residents in these affected back streets to manage, improve safety and slow traffic?"*

The matter of the recent installation of traffic calming in Main Road, Toukley was raised by the Mayor with the Regional Manager of Roads & Maritimes Services (RMS), Ms Anna Zycki. RMS have advised that they are aware of the concerns raised and are not proposing any changes except to monitor the impact on traffic flow on Main Road.

Council has also been made aware of reports of changed traffic flow in the adjoining streets of Toukley and staff will complete traffic surveys to establish if there has been a sustained increase in traffic volumes and speeds as the result of the traffic calming works on Main Road Toukley. If this data shows a measurable deterioration of safety and residential amenity on these alternative routes, further discussions will be held with RMS to identify mitigating actions that need to be implemented in association with the completed Main Road works, assuming these works remain long term.

## **ATTACHMENTS**

*Nil.*