



New turf and fencing installed at Bateau Bay Community Hall to finish off the new playground installed in 2015.

Wyong Shire Council

# Business Paper

## ORDINARY COUNCIL MEETING

**13 April 2016**

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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 13 APRIL 2016 at 5.00 pm,  
for the transaction of the business listed below:**

## **OPENING PRAYER**

## **ACKNOWLEDGEMENT OF COUNTRY**

## **RECEIPT OF APOLOGIES**

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**7 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.

Rob Noble  
**ACTING CHIEF EXECUTIVE OFFICER**



## 1.1 Disclosure of Interest

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TRIM REFERENCE: F2016/00012 - D12282404

MANAGER: Lesley Crawley, Manager Corporate Governance

AUTHOR: Jacquie Elvidge; Councillor Services Officer

The provisions of Chapter 14 of the *Local Government Act, 1993* ("LG Act") 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 functions.

Section 451 of the LG Act States:

- "(1) A councillor or a member of a council committee who has a pecuniary interest in any matter with which the council is concerned and who is present at a meeting of the council or committee at which the matter is being considered must disclose the nature of the interest to the meeting as soon as practicable.*
- (2) The councillor or member must not be present at, or in sight of, the meeting of the council or committee:*
  - (a) at any time during which the matter is being considered or discussed by the council or committee, or*
  - (b) at any time during which the council or committee is voting on any question in relation to the matter.*
- (3) For the removal of doubt, a councillor or a member of a council committee is not prevented by this section from being present at and taking part in a meeting at which a matter is being considered, or from voting on the matter, merely because the councillor or member has an interest in the matter of a kind referred to in section 448.*
- (4) Subsections (1) and (2) do not apply to a councillor who has a pecuniary interest in a matter that is being considered at a meeting, if:*
  - (a) the matter is a proposal relating to:*
    - (i) the making of a principal environmental planning instrument applying to the whole or a significant part of the council's area, or*
    - (ii) the amendment, alteration or repeal of an environmental planning instrument where the amendment, alteration or repeal applies to the whole or a significant part of the council's area, and*
  - (a1) the pecuniary interest arises only because of an interest of the councillor in the councillor's principal place of residence or an interest of another person (whose interests are relevant under section 443) in that person's principal place of residence, and*
  - (b) the councillor made a special disclosure under this section in relation to the interest before the commencement of the meeting.*

- (5) *The special disclosure of the pecuniary interest must, as soon as practicable after the disclosure is made, be laid on the table at a meeting of the council and must:*
- (a) *be in the form prescribed by the regulations, and*
  - (b) *contain the information required by the regulations.”*

Further, Council's adopted Code of Conduct provides that if Councillors 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; and required that significant non-pecuniary pecuniary interest.

## RECOMMENDATION

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

## ATTACHMENTS

Nil

## 1.2 Proposed Briefings and Inspections

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TRIM REFERENCE: F2016/00012 - D12282407

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
13 April 2016	Aurecon - Fixed Wireless Network	CEO Unit
13 April 2016	Tree Management	Community and Recreation Services
13 April 2016	ACEO's Merger and Joint Meeting Update	CEO Unit
13 April 2016	Preliminary -- Draft Plan presentation	CEO Unit

### RECOMMENDATION

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

### ATTACHMENTS

- 1 Councillor Proposed Briefings - 13 April 2016 D12291749



## Proposed Briefings List to Date



Briefing Title:	Directorate:	Proposed Month:	Proposed Date:
Aurecon - Fixed Wireless Network	CEO Unit		13/04/2016
Tree Management	Community and Recreation Services	April	13/04/2016
ACEO's Merger and Joint Meeting Update	CEO Unit		13/04/2016
Preliminary -- Draft Plan presentation	CEO Unit		13/04/2016
Development Infrastructure - Porters Creek Stormwater Diversion Project	Development and Building		27/04/2016
Final Draft Plan changes	CEO Unit		27/04/2016
RZ/2/2016 - 165 Louisiana Road Wadalba	Development and Building		27/04/2016
Planning Proposal - Oakland Ave and Ashton Ave The Entrance - RZ/1/2016	Development and Building		27/04/2016
RZ/5/2015 Proposed Rezoning - Howarth St & Warner Ave Wyong	Development and Building		27/04/2016
Waste Contract	Property and Economic Development		11/05/2016
Water, Sewerage and Drainage prices - 1 hour	CEO Unit		25/05/2016
Q3 Report	CEO Unit		25/05/2016
INSPECTION - Proposed residential rezoning with wildlife corridor - 145 Johns Rd, Wadalba - RZ/1/2013	Development and Building		01/06/2016
Discuss and Consider Strat Plan Submissions (1 hours)	CEO Unit		08/06/2016
DA/1322/2015 - 7 Stratford Avenue, Charmhaven - Residential flat development and Subdivision	Development and Building	May	

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

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TRIM REFERENCE: F2016/00012 - D12282411

MANAGER: Lesley Crawley, Manager Corporate Governance

AUTHOR: Jacquie Elvidge; Councillor Services Officer

#### **SUMMARY**

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

#### **RECOMMENDATION**

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

#### **ATTACHMENTS**

Nil



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

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TRIM REFERENCE: F2016/00012 - D12282767

MANAGER: Lesley Crawley, Manager Corporate Governance

AUTHOR: Jacquie Elvidge; Councillor Services Officer

### **SUMMARY**

Confirmation of minutes of the previous Ordinary Meeting of Council held on Wednesday 23 March 2016.

### **RECOMMENDATION**

***That Council confirm the minutes of the previous Ordinary Meeting of Council held on Wednesday 23 March 2016.***

### **ATTACHMENTS**

- |   |   |           |
|---|---|-----------|
| 1 | MINUTES - Ordinary Council Meeting - 23 March 2016                | D12279498 |
| 2 | CONFIDENTIAL MINUTES - Ordinary Council Meeting - 23 March 2016 - | D12279533 |

**WYONG SHIRE COUNCIL**

**MINUTES OF THE  
ORDINARY COUNCIL MEETING OF COUNCIL  
HELD IN THE COUNCIL CHAMBER  
WYONG CIVIC CENTRE, HELY STREET, WYONG  
ON 23 MARCH 2016  
COMMENCING AT 5.00 PM**

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**PRESENT**

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

**IN ATTENDANCE**

Acting Chief Executive Officer, Director Development and Building, Director Infrastructure and Operations, Director Property and Economic Development, Director Community and Recreation Services, General Counsel, Communications Coordinator, IT Infrastructure Administrator and two administration staff.

The Mayor, Councillor Eaton OAM, declared the meeting open at 5.01 pm and advised in accordance with the Code of Meeting Practice that the meeting is being recorded.

The Mayor, Councillor Eaton OAM, delivered the opening prayer and Councillor Matthews read an acknowledgment of country statement.

**APOLOGIES**

There were no apologies.

At the commencement of the ordinary meeting report numbers 1.1, 4.4, 1.5, 2.1, 2.2, 3.1, 4.1, 4.2, 4.3, 4.4, 4.7, 5.6, 7.1 and 7.2 were dealt with first then the remaining reports were resolved via the exception method. However for the sake of clarity the reports are recorded in their correct agenda sequence.

**1.1 Disclosure of Interest**

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**4.3 Central Coast Business Enterprise Centre**

Councillor Eaton declared a non-pecuniary insignificant interest in the matter for the reason that Business Enterprise Centre (BEC) is a tenant of Central Coast Group Training (CCGT) Ltd and I am the Council delegate to GGGT 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 no actual conflict as I am only delegate of Council and interests coincide."*

Councillor Best declared a non-pecuniary significant conflict of interest in the matter for the reason that as the BEC is a partner of CCGT, that I am the General Manager of. Councillor Best left the chamber at 5.31pm, took no part in discussion, did not vote and returned to the chamber at 5.32pm.

Councillor Matthews declared a non-pecuniary insignificant interest in the matter for the reason that her husband is employed by Transport NSW and participated in consideration of this matter.

Councillor Matthews 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 he is employed under the division of track maintenance."*

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

**289/16 That Council receive the report on Disclosure of Interest and note advice of disclosures.**

#### PROCEDURAL MOTION

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

**290/16 That Council allow meeting practice to be varied.**

**291/16 That Council use the exception method to deal with the balance of the Agenda.**

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

**292/16 That, with the exception of report numbers 1.5, 2.1, 2.2, 3.1, 4.1, 4.2, 4.3, 4.4, 4.7, 5.6 and 7.1, Council adopt the recommendations contained in the remaining reports.**

#### **1.2 Proposed Briefings and Inspections**

---

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

**293/16 That Council receive the report on Proposed Briefings and Inspections.**

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

---

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

**294/16 That Council receive the amended report on Invited Speakers.**

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**1.4 Confirmation of Minutes of Previous Meeting**

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

**295/16 That Council confirm the minutes of the previous Ordinary Meeting of Council held on Thursday 10 March 2016.**

**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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Councillor Webster left the meeting at 6.01 pm and returned to the meeting at 6.02 pm during consideration of this item.

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

**296/16 That Council consider the following matters in Confidential Session, pursuant to Section 10A (2) (c) of the Local Government Act 1993:**

**7.2 – Mayoral Minute – 140 Sparks Road, Warnervale**

**297/16 That Council note its reason for considering Report No and 7.2 - Mayoral Minute – 140 Sparks Road, Warnervale, 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.**

**298/16 That Council request the Acting Chief Executive Officer to report on these matters in open session of Council.**

**PROCEDURAL MOTION**

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

**299/16 That Council re-commit item 7.2, Mayoral Minute – 140 Sparks Road, Warnervale, to be considered during confidential session.**

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**2.1 Planning Proposal - Additional Permitted Use - 8 Warrigal St The Entrance**

---

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

**300/16 That Council prepare a planning proposal to amend Wyong Local Environmental Plan 2013, pursuant to Section 55 of the Environmental Planning and Assessment (EP&A) Act 1979 to permit the land use residential flat building on Lot 6 DP 22914, 8 Warrigal Street The Entrance.**

- 301/16 That Council forward the planning proposal to the Department of Planning and Environment accompanied by a request for a gateway determination, pursuant to Section 56 of the EP&A Act 1979.
- 302/16 That Council request the Acting Chief Executive Officer to apply to accept plan making delegations for the planning proposal.
- 303/16 That Council undertake community and government agency consultation in accordance with the requirements of the gateway determination.
- 304/16 That Council consider a further report on results of the community consultation.

FOR: CRS GB BEST, DE EATON, B G GRAHAM, KG GREENWALD, LM MATTHEWS, LT TAYLOR, AT TROY, DV VINCENT AND LW WEBSTER

AGAINST: NIL

## **2.2 DCP 2013 - Review of Site Specific Residential Controls**

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

- 305/16 That Council request that a draft amendment to Wyong Development Control Plan (DCP) 2013 as shown in Attachment 1 and 2 be publically exhibited for a period of 28 days.
- 306/16 That Council request that the process for the repeal of the Gwandalan DCP be commenced.
- 307/16 That Council note that a further report outlining submissions received during the exhibition period will be provided.

FOR: CRS GB BEST, DE EATON, B G GRAHAM, KG GREENWALD, LM MATTHEWS, LT TAYLOR, AT TROY, DV VINCENT AND LW WEBSTER

AGAINST: NIL

## **3.1 Classification of Land, Lot C DP 360458 at 7 Anzac Avenue, Wyong**

---

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

- 308/16 That Council receive and note the public submission received in response to the proposal to classify Lot C DP 360458 at 7 Anzac Avenue, Wyong as Operational Land.
- 309/16 That Council adopt the classification of Lot C DP 360458 at 7 Anzac Avenue, Wyong as Operational Land.
- 310/16 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.*

---

**4.1 Council Submission to Draft Central Coast Regional Plan 2015**

---

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

- 311/16 That Council adopt the draft submission prepared in response to the 'Draft Central Coast Regional Plan'**
- 312/16 That Council authorise the inclusion of the following items into the final submission:**
- A. That tourism be recognised as a major industry on the Central Coast**
  - B. That the Buttonderry Waste Management Facility be recognised as a major regional resource for the Central Coast**
  - C. That Council have greater representation on the Coordinating and Monitoring committee and play a significant role in the development of the Implementation Plan**
  - D. That Council in its submission recognise Woy Woy and Erina as major mixed use Centres.**
  - E. That Council request the release of the final CCRP by September 2016 to enable the new Central Coast Council to use as a foundation document**
- 313/16 That Council authorise the Acting CEO to forward the amended submission including any necessary refinements to the NSW Department of Planning and Environment (DP&E).**
- 314/16 That Council note the Mayor's intention to make a separate submission to investigate future residential uses in the north Somersby district, generally between the M1 and Wisemans Ferry Road.**

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

AGAINST: CRS KG GREENWALD, LM MATTHEWS AND DV VINCENT

#### 4.2 Contract Variations and Finalisation Report for the period covering September to December 2015

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

**315/16 That Council receive the Contract Variations report, apart from the labour hire contract variations, for the period covering September to December 2015.**

**316/16 That Council note the additional expenditure above resolved estimates for the following contracts that have been approved under relevant delegated authorities of staff:**

<b>Contract Title</b>	<b>Contract No</b>	<b>Adjusted Contract Value (Excl GST)</b>	<b>Additional Budget Approval (Excl GST)</b>
<b>Manufacture of Sewer Pump Station Aluminium Hatch Covers</b>	<b>CPA/252268</b>	<b>\$442,000.00</b>	<b>\$91,000.00</b>
<b>Construction of Gross Pollutant Traps Canton Beach and Berkeley Vale</b>	<b>CPA/257092</b>	<b>\$378,025.92</b>	<b>\$62,589.92</b>

**317/16 That Council approve the additional expenditures requested and increase the resolved contract values accordingly.**

**318/16 That the Acting CEO urgently report to Council on these labour hire contracts and any other labour hire contracts Council currently has on foot.**

#### 4.3 Central Coast Business Enterprise Centre

Councillor Eaton declared a non-pecuniary insignificant interest in the matter for the reason that Business Enterprise Centre (BEC) is a tenant of Central Coast Group Training (CCGT) Ltd and I am the Council delegate to GGGT 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 no actual conflict as I am only delegate of Council and interests coincide."*

Councillor Best declared a non-pecuniary significant conflict of interest in the matter for the reason that as the BEC is a partner of CCGT, that I am the General Manager of. Councillor Best left the chamber at 5.31pm, took no part in discussion, did not vote and returned to the chamber at 5.32pm.

Councillor Matthews declared a non-pecuniary insignificant interest in the matter for the reason that her husband is employed by Transport NSW and participated in consideration of this matter.

Councillor Matthews 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 he is employed under the division of track maintenance."*

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

**319/16 That Council note that Gosford City Council does not wish to issue a joint competitive tender for these services at this time, and wishes to continue under the current arrangements**

**320/16 That Council agree to renew the funding for Central Coast Business Enterprise Centre for \$30,000 per annum for an additional 12 months to 30 June 2017 with agreed deliverables in a signed funding agreement and with Wyong Shire Council funding to be contingent on continued funding from Gosford City Council and the NSW State Government**

#### **4.4 Proposed Transfer of Land at Kangy Angy to Transport for NSW**

---

Mr Tony Caldersmith, Chairman of the Kangy Railway Action Group, addressed the meeting at 5.07 pm, answered questions and retired at 5.24 pm.

Mr Dean Innes, local resident, addressed the meeting at 5.24 pm, answered questions and retired at 5.31 pm.

Mr Tony Caldersmith, Chairman of the Kangy Railway Action Group, was called to address the meeting again at 5.32 pm, answered further questions and retired at 5.34 pm.

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

**321/16 That Council defer this matter until the 25 May 2016 Ordinary Council meeting for consideration.**

#### **4.5 Councillor Attendance - Central Coast Economic Breakfast**

---

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

**322/16 That Council authorise the attendance of interested Councillors at the New South Wales Business Chamber (NSWBC) Central Coast Economic Breakfast in accordance with the Council's Facilities and Expenses Policy for Councillors.**

**323/16 That Council authorise the reimbursement of expenses for Councillors in accordance with the Council's Facilities and Expenses Policy for Councillors.**

---

**4.6 Draft Minutes of the Tuggerah Lakes Estuary, Coastal and Floodplain Management Committee - 3 March 2016**

---

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

**324/16 That Council receive the Minutes of the Tuggerah Lakes Estuary, Coastal and Floodplain Management Committee meeting held on 3 March 2016.**

**325/16 That Council to consider funding for the retarding basin, upstream of the freeway and below Mardi Dam, in the 2016/17 capital works budget.**

---

**4.7 Proposed Retarding Basin below Mardi Dam**

---

Councillor Best left the meeting at 6.43 pm and returned to the meeting at 6.45pm during consideration of this item.

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

**326/16 That Council note that an allocation of \$100,000 for flood mitigation works be funded from the Tuggerah Lakes Stormwater Levy, to construct a retarding basin on the western side of the M1 Motorway, located below Mardi Dam will be included within the 2016/17 draft capital works budget.**

---

**5.1 Wyong Water - Works in Progress**

---

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

**327/16 That Council receive the report on Wyong Water - Works in Progress.**

---

**5.2 Investment Report for February 2016**

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

**328/16 That Council receive the Investment Report for February 2016.**

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**5.3 Results of Water Quality Testing for Beaches and Lake Swimming Locations**

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

**329/16 That Council receive the report on Results of Water Quality Testing for Beaches and Lake Swimming Locations.**

**5.4 Activities of the Development and Rezoning and Building Certification Compliance and Health Units - February 2016**

---

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

**330/16 That Council receive the report on Activities of the Development and Rezoning and Building Certification, Compliance and Health Units for the month of February 2016.**

**5.5 Draft Minutes of the Employment and Economic Development Committee Meeting - 2 March 2016**

---

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

**331/16 That Council receive the report on Draft Minutes of the Employment and Economic Development Committee Meeting - 2 March 2016.**

**5.6 Councillor Strategic Planning Workshop (5-6 February 2016) - Minutes and Action Register**

---

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

**332/16 That Council receive and note the minutes and action register of the 2016 Councillor Strategic Planning Workshop (held from 5-6 February 2016).**

**5.7 Outstanding Questions on Notice and Notices of Motion**

---

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

**333/16 That Council receive the report on Outstanding Questions on Notice and Notices of Motion.**

**7.1 Council's Animal Care Facility**

---

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

**334/16 That Council receive and note the report on Council's Animal Care Facility.**



**CONFIDENTIAL SESSION**

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

**335/16 That Council move into Confidential Session.**

At this stage of the meeting being 7.08pm 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**

Council resumed in open session at 7.13pm and the Acting Chief Executive Officer reported on proceedings of the confidential session of the ordinary meeting of council as follows:

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**7.2 Mayoral Minute - 140 Sparks Road, Warnervale**

---

Councillor Vincent left the meeting at 7.10 pm and returned to the meeting at 7.11 pm during consideration of this item.

**336/16 That Council note this report and endorse the purchase as set out in the report.**

**QUESTIONS ON NOTICE**

**Q5/16 The Entrance Markets**  
**Councillor Doug Vincent**  
F2004/07414

*"Could staff please advise:*

- Why the tender for The Entrance Markets was only disclosed to stall holders on the Friday before the tender was released?*
- Are The Entrance Markets being moved from The Entrance, if so why?*
- Was the decision to move The Entrance Markets to Wyong a Council decision?*
- Was the decision to move The Entrance Markets an Entrance Town Centre Management decision?"*

**THE MEETING** closed at 7.14pm.

## **2.1 DA/1058/2014 - Proposed Alterations and additions to an existing poultry farm at Kulnura - Supplementary report**

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TRIM REFERENCE: DA/1058/2014 - D11988802

MANAGER: Scott Cox, Director

AUTHOR: Tanya O'Brien; Manager

### **SUPPLEMENTARY REPORT**

At its meeting held on 24 June 2015 Council resolved to defer determination of the development application pending a site inspection and briefing.

This supplementary report details further information on issues raised at the previous Council meeting and the site inspections of the subject property. The DA has been further assessed in light of further detailed information and against the relevant policies

The development application has been assessed against all the relevant matters under Section 79C of the *Environmental Planning and Assessment Act* 1979 and is recommended for approval.

<b>Applicant</b>	M & MJ Schembri
<b>Owner</b>	M & MJ Schembri
<b>Application No</b>	DA/1058/2014
<b>Description of Land</b>	Lot 2 DP 1196216, No. 127 Springs Road, Kulnura
<b>Proposed Development</b>	Additions to existing poultry farm-one additional tunnel ventilated poultry shed.
<b>Zoning</b>	RU1 Primary Production
<b>Site area</b>	9.72 hectares
<b>Existing Use</b>	Poultry farm and dwelling house
<b>Value of works</b>	\$800,000

### **RECOMMENDATION**

- 1 That Council grant consent to DA/1058/2015 subject to the conditions detailed in the schedule attached to the report and having regard to the matters for consideration detailed in Section 79C of the *Environmental Planning and Assessment Act*.**
- 2 That Council advise those who made written submissions of its decision.**
- 3 That Council advise the relevant State Government Agencies of its decision.**

## BACKGROUND

The application was previously considered by Council at its meeting of 24<sup>th</sup> June 2015 where it resolved unanimously as follows:

*“655/15 That Council defer this matter pending an inspection by Council and for a subsequent briefing before reporting back to Council.”*

In accordance with this resolution a site inspection was undertaken on Wednesday 1 July 2015, and a Councillor briefing was undertaken on 27 January 2016. A further site inspection was requested and held on 2 March 2016. The matters raised are discussed in detail later in this report.

This report details the matters for consideration relative to the application.

## PRECIS:

<b>Proposed Development</b>	Additions to existing poultry farm – Addition of one tunnel ventilated poultry shed.
<b>Zoning</b>	RU1 – Primary Production Wyong Local Environmental Plan (WLEP 2013)
<b>Relevant Legislation</b>	<i>Environmental Planning and Assessment Act 1979</i> (EP&A 1979) <i>Environmental Planning and Assessment Regulation</i> (EP&A Regulation) 2000 Sydney Regional Environmental Plan 8 –Plateau Areas Wyong Local Environmental Plan 2013
<b>Current Use</b>	Poultry farm and dwelling house
<b>Submissions to this application</b>	3 during the initial exhibition period 14 subsequent to the public exhibition period
<b>Variations to Policy</b>	Nil

## The Site

The site is known as Lot 2 DP1196216, No 127 Springs Road, Kulnura and is located within the Kulnura rural plateau, an area used extensively for farming since the early 1900's. The plateau is a highly productive agricultural resource and is covered by Sydney Regional Environmental Plan 8 which aims to protect the viability of agricultural uses on the Central Coast Rural Plateaus.

The adjoining parcel, Lot 1 DP1196216 contains the poultry farmer's dwelling (see figure 1). This is the closest dwelling to the proposed development.

The subject site comprises an area of approximately 9.72 hectares and is an irregular shaped parcel of land. There is an existing dwelling house and poultry farm on the site containing four tunnel ventilated sheds. Access to the site is via an existing driveway off Springs Road. Surrounding development comprises dwelling houses and other livestock industries.

The site has been used as a chicken/poultry farm for many years. Poultry farming, which is a form of intensive livestock agriculture as defined under WLEP 2013, is permissible with consent in the RU1 Primary production zone. The site comprises the following:

- Dwelling,
- Outbuilding,
- Four tunnel ventilated poultry sheds approved under DA/1588/2004,
- Two stormwater retention basins,
- One farm dam,
- Crushed gravel vehicle access and internal roadways, and
- Landscaping.

The existing four poultry sheds are modern farm buildings using 'state of the art' ventilation technology, which can house a total of 168,000 birds, 42,000 birds per shed. The buildings are orientated on an east-west axis and have been constructed over a number of years.



**Figure 1: Site aerial – note: the two northern most sheds (central to the property) have been demolished since aerial image taken**



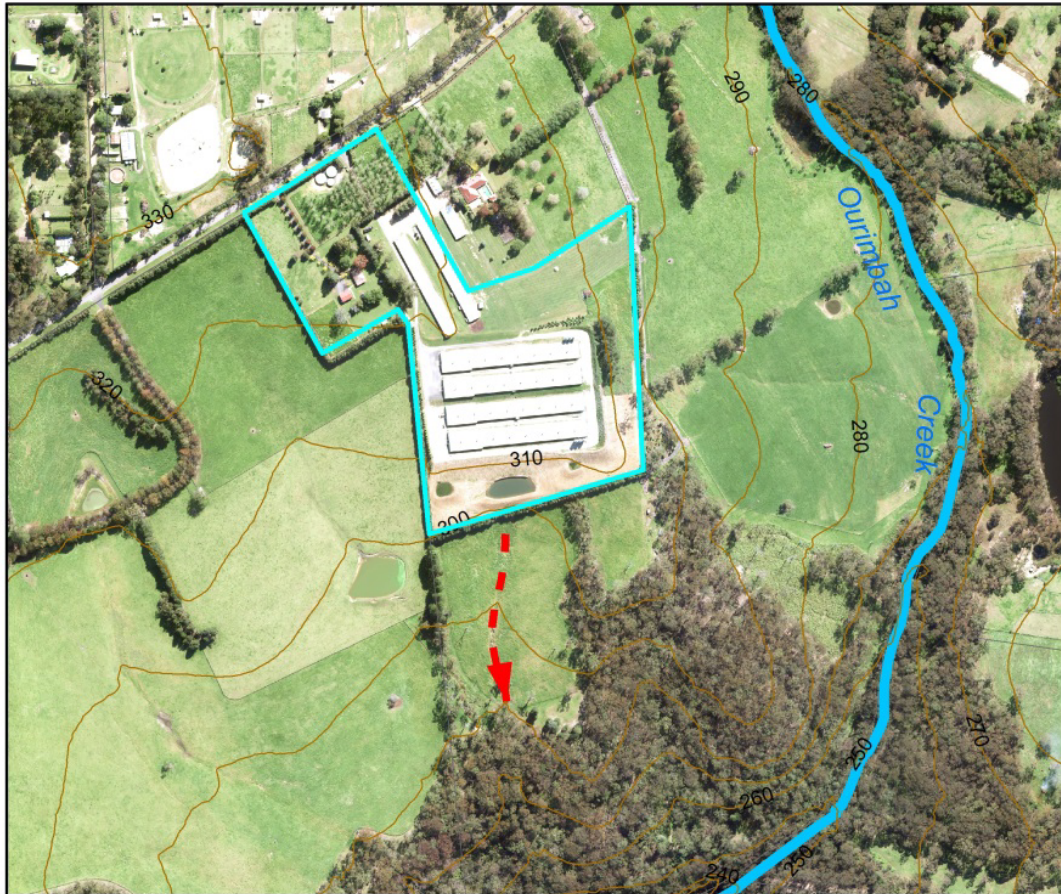


*Figure 2: Front (left image) and rear (right image) of existing tunnel ventilated poultry sheds*

### Topography

The highest part of the site is where it adjoins Springs Road (the front boundary). The site then falls away to the rear, and is approximately 20m lower at the rear boundary compared to the Springs Road frontage. The site and locality fall, through a series of drainage depressions toward Ourimbah Creek which is located to the east and south of the site. The natural low point across the neighbouring site is shown highlighted with a dotted arrow in figure 3.





**Figure 3: Topography of the area (natural low point across neighbouring site shown highlighted with red dotted arrow)**

### **SITE INSPECTION – 1 JULY 2015**

Following the Council resolution of 24 June 2015, a site inspection was undertaken on Wednesday 1 July 2015 attended by Councillors, senior management and staff. Those in attendance included:

- Councillor Eaton
- Councillor Webster
- Councillor Taylor
- Director Development and Building
- General Counsel
- Manager Development and Rezoning
- Assessment staff

The site inspection was undertaken on the subject allotment and that of the adjoining objector, to the south of the subject site. The applicant and adjoining land owners attended their respective site inspections. The inspection included a tour of the poultry farm (see figure 4). It is noted that this inspection was carried out during winter and with a full flock of week old chickens were on-site. The inspection also included a visit to the approved (though yet to be constructed) dwelling site on the neighbouring property at 149 Springs Road, Kulnura.

The inspection provided opportunity to discuss the various operations on the site and the concerns of neighbouring property owners. Those matters raised on site were those that had been raised in the public submissions received during the exhibition period. These matters are addressed in the 'public submissions' section of the report.



*Figure 4: View of existing four sheds – fifth shed to be located at left in image*

#### **BRIEFING TO COUNCILLORS – 27 JANUARY 2016**

In accordance with the Council resolution of 24 June 2015, a Councillor briefing was undertaken on 27 January 2016 attended by Councillors, senior management and staff. Those in attendance included:

- Councillor Eaton
- Councillor Webster
- Councillor Taylor
- Councillor Troy

The briefing included discussion of the proposal, public submissions, stormwater, visual impacts, traffic, noise, odour, and the matters raised in the Proposed Environmental Management Plan. Councillors requested at this briefing, to hold another site inspection of the site.

## **SITE INSPECTION – 2 MARCH 2016**

In accordance with the request at the Councillor briefing, a second site inspection was held on Wednesday 2 March 2016. The inspection was attended by Councillors, senior management and staff. Those in attendance included:

- Councillor Eaton
- Councillor Webster
- Councillor Greenwald
- Councillor Troy
- Director Development and Building
- Manager Development and Rezoning
- Assessment staff

The site inspection was undertaken on the subject allotment and that of the adjoining objector, to the south of the subject site. The applicant attended the site inspection and included a tour of the poultry farm, and viewing of dams at rear. It is noted that this inspection was carried out during summer and with a full flock of 3 week old chickens on-site. The inspection also included a visit to the approved (though yet to be constructed) dwelling site and farm track on the neighbouring property at 149 Springs Road, Kulnura. The matters raised are discussed further later in this report.

## **THE PROPOSED DEVELOPMENT**

The proposed development is for one additional tunnel ventilated poultry shed to house an additional 42,000 birds, similar to the current four tunnel ventilated sheds operating on the site. The four sheds, granted deferred commencement approval by the Land and Environment Court under DA/1588/2004, are now operating at capacity. The current development application seeks to extend the farm operations by the addition of a fifth tunnel ventilated shed.

The combined total batch production would be 210,000 birds which would equate to a total annual production (based on an average of 5 batches per annum) of 1,050,000 birds (without accounting for average bird mortality of between 4-5%).

The farm operates approximately 5 (5.2) batches per year on a 10 week rotational cycle. With each cycle generally described as follows:

- Prepare the shed by placing a thick layer of clean fresh litter such as sawdust, wood shavings etc across the floor as bedding for the birds, pre-heat the shed and check water and feed systems.
- Day old chickens delivered to site (42,000 birds) placed into each shed and confined to an area of approximately  $\frac{1}{2}$  to  $\frac{1}{3}$  of the shed floor area, after a growth period the confinement is removed and the flock is able to roam further.
- First harvest of 40% - 45% of the chickens is taken at approximately 5 weeks of age.
- Second harvest of remaining chickens is taken at approximately 7 weeks of age.
- Full shed clean out including removal of all manure and litter, and disinfection by contract cleaners. Veterinarians or servicepersons may test sheds to ensure that the sheds have been adequately cleaned.

The farm enterprise is a 24 hour a day and 7 day a week operation. The existing collection of birds occurs at night as it is cooler, and the birds are more settled. The birds are picked up by hand, by specialist pick-up crews in low lighting conditions so they remain calm and easy to handle. They are then placed into plastic crates or aluminum modules designed for good ventilation and safety during transport. The crates or modules are handled by forklift equipment and loaded onto trucks for transport to the processing plant.

Other associated works which form part of the proposal are cut and fill, an additional driveway and circulation space, extension of the earth berm and landscaping.

The fifth shed is proposed to be located on the northern side of the existing four sheds and has the same dimensions (150m long, 3.5m high) as the existing four sheds and proposes the same metal construction. The floor of the shed is proposed to be a compacted road base with a cover of specialised poultry litter (see figures 5 and 6).

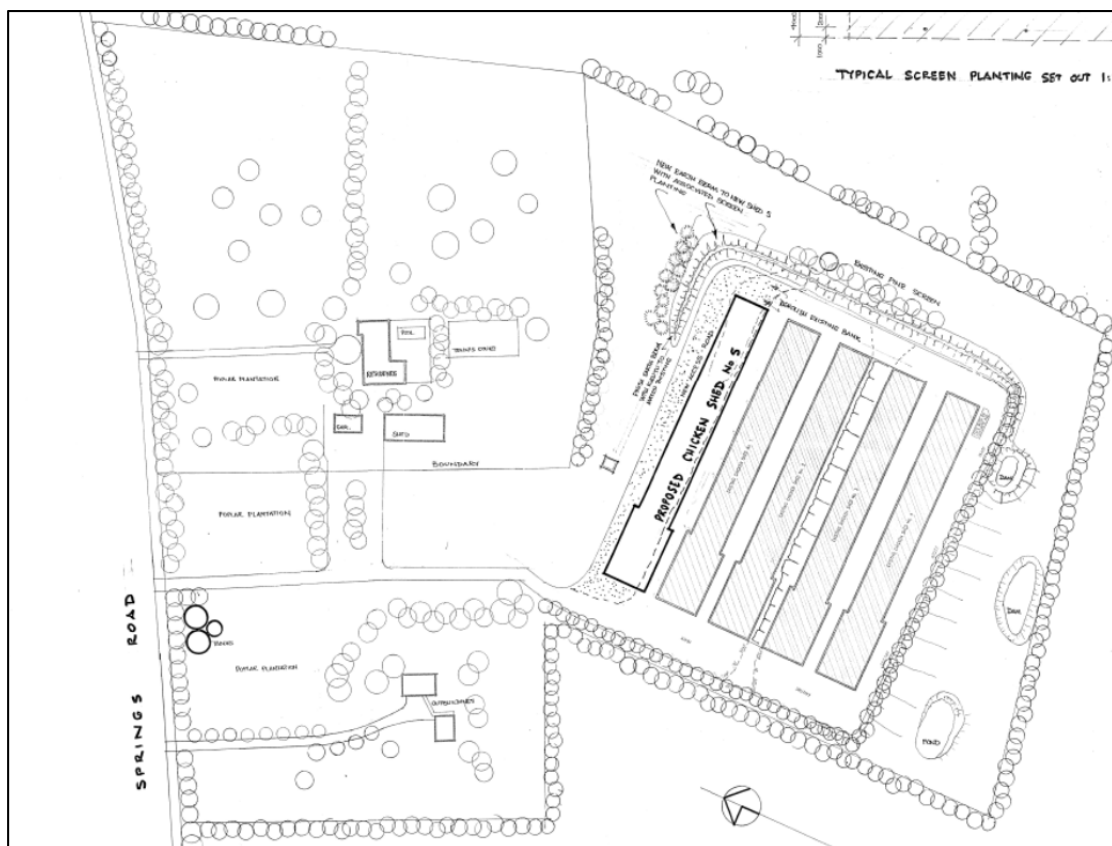


Figure 5: Plan showing the proposed location of the new shed (shown heavy black)





**Figure 6: Aerial image 2014 with proposed fifth shed approximately located in pink – note: the two twin sheds at the top of the image have been demolished since the aerial photograph was taken (source Dekho)**

The new shed is proposed to be constructed approximately 5 metres north of the northernmost existing shed, and in the same orientation. The area where the fifth shed is proposed, is currently gravel circulation space and a grassed slope (see figure 7).

Through the use of cut and fill on site, the new shed is proposed to be constructed at the same floor level as the northern most two existing sheds. The spoil from cut works is to be utilised in filling the site (particularly at the eastern end where the land slopes away) and in the extension of the earthen berm. It is proposed to extend the existing earthen berm northward and then westward to “wrap around” the proposed shed.

The foot of the earthen berm is to be located approximately 30 metres from the property boundary and is to be planted with screen plantings. This will provide a landscaped barrier between the sheds and the property boundary.

The poultry farm will continue to be operated by the resident family and will employ additional casual and part time workers.



*Figure 7: Photo looking east showing area where the new shed is proposed to be developed following cut and fill works*

### Designated Development

The application is categorised as Designated Development in accordance with the provisions of Part 1 of Schedule 3 of the *Environmental Planning and Assessment Regulation 2000* which sets out the criteria for livestock industries (outlined below).

#### **21 Livestock intensive industries**

- (4) *Poultry farms for the commercial production of birds (such as domestic fowls, turkeys, ducks, geese, game birds and emus), whether as meat birds, layers or breeders and whether as free range or shedded birds:*
  - (a) *that accommodate more than 250,000 birds, or*
  - (b) *that are located:*
    - (ii) ***within a drinking water catchment, or***
    - (iv) ***within 500 metres of a residential zone or 150 metres of a dwelling not associated with the development*** and, in the opinion of the consent authority, having regard to topography and local meteorological conditions, are likely to significantly affect the amenity of the neighbourhood by reason of noise, odour, dust, lights, traffic or waste.

The proposed farm shed addition is within a drinking water catchment and thus triggers designated development provisions (4)(b)(ii).

The development is proposed within 137m of a dwelling on another lot. It is noted that this dwelling is owned by the landowner of the subject property, and could therefore be considered to be a dwelling associated with the development under (4)(b)(iv).

Part 2 of Schedule 3 refers to alterations and additions to designated development and requires consideration of the environmental impact associated with the proposed alteration or addition in order to determine whether it would be categorised for the purposes of designated development.

**35 Is there a significant increase in the environmental impacts of the total development?**

*Development involving alterations or additions to development (whether existing or approved) is not designated development if, in the opinion of the consent authority, the alterations or additions do not significantly increase the environmental impacts of the total development (that is the development together with the additions or alterations) compared with the existing or approved development.*

It is considered that the increase in bird capacity by 20% is not of minimal environmental impact therefore the designated development provisions apply to the proposed additional poultry shed.

Having regard for the above, the applicant sought and received the Secretary's Environmental Assessment Requirements (SEARs) from the Department of Planning and Environment (DP&E) in order to prepare an Environmental Impact Statement (EIS).

The SEARs outlined the key issues for the EIS to address and the relevant state authorities and land owners with which to consult. The SEARs requirements are provided below:

**a) Key Issues:**

- Strategic context
- Air quality
- Noise
- Soil and water
- Animal welfare
- Traffic
- Cumulative impacts
- Heritage
- Bush fire

**b) Consultation:**

- *Environment Protection Authority*  
The EPA responded indicating that the proposal did not require an environment protection licence or referral to the EPA.
- *Office of Environment and Heritage (OEH)*  
OEH made no comment.

- *Department of Primary Industry (DPI)*  
DPI identified issues to be addressed with the DA including odour, noise and biosecurity.
- *NSW Rural Fire Service (RFS)*  
RFS advised that the proposal satisfied planning for bush fire risks.
- *Surrounding land owners*  
Letters were sent to adjoining land owners. The responses received were attached to the EIS.
- *Ausgrid*  
Power to be connected as per Ausgrid requirements.

The application was accompanied by the following documentation:

- Environmental Impact Statement,
- Survey and design plans,
- Environmental management plan,
- Truck noise management plan,
- Traffic assessment report,
- Noise impact assessment,
- Odour assessment report, and
- Hydrological assessment report.

## **HISTORY OF DEVELOPMENT APPLICATIONS ON THE LAND**

On 9 February 2005, approval was granted under development application 1588/2004 for the demolition of an existing poultry farm and the erection of six new tunnel ventilated poultry sheds and an associated boundary adjustment. An appeal was lodged in accordance with Section 98(1) of the EP&A Act 1979 and was considered by the Land and Environment Court on 26-27 September and 24 October 2005. Findings on the merits of the proposal were delivered on 22 December 2005.

On 6 February 2006, leave was granted to amend the application to provide for four sheds and a maximum of 168,000 birds per batch. On 24 February 2006, the appeal was dismissed and the court granted deferred commencement consent for the erection of four tunnel ventilated poultry sheds and the boundary adjustment.

On 26 September 2007, the original consent was modified under Section 96AA of the EP&A Act 1979 to allow for an amendment to condition 1 to alter the construction sequence of the tunnel ventilated sheds, the timing for decommissioning of the existing sheds, and deletion of condition 7 to remove the requirement for a 4 metre high acoustic barrier on proposed lot 1 (the lot that would not contain the poultry farm).

On 7 December 2011, development consent was granted under Development Application DA/1115/2011 for the construction of an earth mound in the south eastern corner of the property which involved the importation and placement of fill, landscaping of the fill mound and associated stormwater drainage works.



On 24 October 2013, Development Application DA/1588/2004 was further modified to allow for retention of a second existing poultry shed for use as a storage shed and retention of a part of the third existing poultry shed for purpose of machinery shed.

In January 2014 a pre-lodgement application (PL/71/2014) was undertaken with Council to discuss the provision of a fifth tunnel ventilated shed.

On 18 November 2014 the subject, application DA/1058/2014 was lodged with Council seeking consent for one additional tunnel ventilated poultry shed on the property.

On 17 July 2015, a final Occupation Certificate was issued for development application 1588/2004.

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

The development application was placed on public exhibition for a period of 35 days in accordance with Section 79 of the EP&A Act 1979 and in accordance with clause 78 *What information must a written notice of designated development contain?* of the EP&A Regulation 2000. Notices were placed in the Central Coast Advocate on 5 and 19 December 2014.

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

Three submissions were received during the notification period with one submission received on 23 June 2015 (the day before the Council meeting).

Following deferral of consideration of the application, another submission was received on 27 October 2015, and a further 12 submissions were received since then.

In addition to the 17 submissions received during and subsequent to the public exhibition period, a number of issues were raised at the site inspections conducted by Councillors on 1 July 2015 and 2 March 2016. For completeness, this section will also address those matters raised during the site inspections.

### **PUBLIC SUBMISSIONS**

***Submission:     The requirements of the current EMP have not been complied with which in part are as follows:***

- ***Submit an Environmental Management Report to Wyong Shire Council initially twelve months after the commencement of the poultry farm operations and subject to continuing satisfactory performance two yearly thereafter for the duration of the development***

Comment:

The Interim Occupation Certificate relating to the fourth and final shed was issued on 4 September 2013 and the EMP report was therefore due on 4 September 2014. An Environmental Management Plan (EMP), dated 25 October 2014, was submitted to Council on 19 November 2014, which was 2 months after the due date. The delay of two months is considered negligible. This requirement is considered to be satisfied.

The next EMP is required to be submitted in September 2016 which would fulfil the two yearly requirement.

Note: "Commencement of operations" is taken as being the commencement of the operation of all four sheds and the issue of the first Occupation Certificate for the fourth and final shed.

**Submission:** *The requirements of the current EMP have not been complied with which in part are as follows:*

- *Pay the full cost for the commissioning of an independent environmental audit one year after the commencement of the operation and every four years thereafter*

Comment:

An independent environmental audit, dated 30 December 2014, was prepared by Benbow Consultants and submitted to Council on 11 May 2015. This audit was undertaken 15 months after the issue of the Interim Occupation Certificate for the fourth and final shed which is when commencement of the operations is considered to have occurred. The delay of three months is considered negligible. This requirement is considered to be satisfied.

The next independent environmental audit is required to be submitted on or before December 2018 which would fulfil the four year requirement.

**Submission:** *The requirements of the current EMP have not been complied with which in part are as follows:*

- *Employ a suitably qualified and experienced Environmental Officer(s) throughout the life of the development to take on the responsibility of the continued implementation of the EMP.*

Comment:

An Environmental Officer has been engaged by the farm operator to take on the responsibility of the continued implementation of the EMP. This person is required to ensure that the various actions identified in the EMP (including the 2 yearly audits etc) to achieve appropriate ongoing environmental performance are undertaken. The appointed person has qualifications in Applied Science – Environmental Assessment and Management and council officers have accepted this appointment. This requirement is considered to be satisfied.

**Submission:** *The requirements of the current EMP have not been complied with which in part are as follows:*

- ***Undertake post development odour sampling and compare with the modelling by the consultants***

Comment:

Odour sampling and testing was carried out by 'The Odour Unit' on 26 April 2013 and 25 November 2013, in accordance with license requirements. This is after completion of the fourth shed. The sampling was conducted during normal operation of the ventilation system on two occasions on each day of sampling. The odour emission results were relied upon by Pacific Environment in the development of the Odour Assessment. Odour is discussed in detail later in this report.

The requirement to undertake post development odour sampling was satisfied. If consent is granted for the additional shed, a condition of consent would be imposed to require odour sampling 6 months after occupation of the shed and every 2 years thereafter for the life of the development.

**Submission:** *The requirements of the current EMP have not been complied with which in part are as follows:*

- ***Inform neighbours of unusual events or problems that may affect their amenity***

Comment:

The property owner has advised they have not encountered any unusual events or problems affecting amenity that needed to be notified.

It is proposed that the proposed conditions of consent require the Environmental Management Plan to be updated to require the operator to notify Council's Environmental Health Officer in the case of any unusual events which may impact amenity. This condition will allow Council's compliance team an appropriate mechanism to investigate and address amenity concerns and ensure neighbours are adequately notified.

**Submission:** *The requirements of the current EMP have not been complied with which in part are as follows:*

- ***Keep a log book on farm operations***

Comment:

The primary producer keeps a log book on each batch of chickens produced. It is noted that this is also required to satisfy the RSPCA and Ingham's requirements. These log books have been sighted by Council's Environmental Compliance Officer. A condition of consent is proposed to be imposed which requires the log books to be made available to Council upon request.

**Submission:** *Council's consideration of the current DA should give weight to the poor practices of the past in the operation of the farm and question whether the proprietors should be given leniency in being able to further intensify operations.*

Comment:

Council's consideration of the application is based on the information provided in the EIS and supporting documentation which has been prepared by the relevant experts, and consideration of the relevant matters outlined under the planning framework and not based on leniency.

During the assessment of the application, there have been a number of inspections of the site carried out, and no evidence has been found to substantiate the assertion that poor practices have occurred on the site with respect to farming operations.

A compliance review of the poultry farm was undertaken by Council's Senior Environment Protection Officer. It was concluded that the proposed additional Poultry Shed will not cause any unreasonable amenity impacts given the context of the site and zoning and is supported subject to conditions being included within any consent granted.

A review of complaints registered on the property shows that 14 complaints have been received over the past 10 years. The issues raised in the complaints include:

- Construction Activities / illegal works/fill and sediment control during the construction phase (7 complaints).
- Stormwater runoff – Investigation revealed that impact occurred in September 2011 during the construction of sheds 3 and 4, prior to the roof water guttering being connected to stormwater system (2 complaints).
- Odour – Inspection revealed one of the events was the result of a mechanical failure of ventilation system (4 complaints).
- Illegal stocking of old sheds in 2013 prior to removal of the sheds – inspection revealed no evidence of chickens stocked in the old sheds (2 complaints).
- Noise– Staff undertook noise readings and confirmed noise levels are within approved limits (3 complaints).

Of the 14 complaints received 3 were received during 2015/2016.

In each case consideration of the matters raised has been undertaken either in conjunction with the DA or Section 96 application being considered at the time or as a stand-alone inspection. In summary the inspections undertaken have confirmed the reasonable operations of the site and that amenity of the surrounding rural area was not unreasonably impacted.

It should also be noted that the authors of some of these complaints have also lodged similar complaints about other poultry farms proposed in the area.

**Submission:** *A careful reading of the Court decisions would indicate that the four (4) sheds approved was at a maximum "threshold point" deemed appropriate for the parcel of land having an area of only 9.72 ha.*

Comment:

This is not Council staff's interpretation of the Court decisions nor was a threshold point expressly mentioned within the decision.

An extract of the orders of the court are provided below:

*43 The Orders of the Court are:*

- 1. The appeal is dismissed.*
- 2. The demolition of five existing naturally ventilated poultry sheds and the replacement with four tunnel ventilated poultry sheds and the subdivision of the existing two lots to create two different lots on the property known as "Longridge Estate", RMB 2210 Springs Rd, Kulnura is approved subject to the conditions in Annexure A.*

The following was expressed in Judgement No 2 (24 February 2006) regarding the joint report of the relevant professionals; Mr Ormerod and Dr Holmes to the court:

*We agree that the Schembri farm, if developed and managed according to conditions described below and in the Environmental Management Plan, should result in acceptable odour to both existing and proposed residences nearby.*

*We agree that the development of four sheds, each with a maximum capacity of 42,000 birds, equating to a total capacity of 168,000 birds is acceptable subject to suitable conditions*

This statement reflects that the experts jointly agreed that on the basis of the information available at that time, that a total farm capacity of 168,000 birds was acceptable subject to conditions.

The data available during the court proceedings was theoretical modelling which has been shown to be conservative (ie impacts were not as extensive as was originally thought), whereas the subject application provides additional information that relies on real data including noise loggers and air sampling collected on site. The application has shown that an additional shed could be operated on the site, while maintain reasonable amenity in line with that expected in rural localities.

***Submission: The continued breach of conditions of consent has resulted in the current operation being conducted in an unsatisfactory manner having adverse impacts on the amenity of the surrounding locality.***

Comment:

Whilst there have been a number of requirements within the EMP prepared in 2006 for the purposes of the court proceedings, which were technically not complied with within the nominated time period, the requirements have been complied with, albeit at a later date (as outlined above). The concern appears to relate to the submission of an environmental management report, odour monitoring, independent environmental report and employment of a suitably qualified and experienced Environmental Officer which have each since been received by Council and considered satisfactory.

It is unclear as to what other conditions of development consent 1588/2004 the writer is referring to in relation to the 'continued breach' however, it is acknowledged that the operator has received Interim Occupation Certificates and a final Occupation Certificate for completion of the development and has also received correspondence from Council advising that the current operation of the poultry farm is considered to be consistent with the conditions of development consent 1588/2004.

During the site inspections undertaken there was no evidence to support the claim that the current operation is being conducted in an unsatisfactory manner. No alternate odour or noise reports have been submitted to the contrary.

**Submission:**     ***Inconsistency with the provisions of the LEP***

***“To encourage sustainable primary industry production by maintaining and enhancing the natural resource base”***

***The proposed DA involving an intensification of the existing poultry farm will, in our opinion, result in an activity at an intensity beyond the environmental capabilities of the site.***

Comment:

The supporting information prepared by the applicant's consultants as provided within the EIS, consider the additional shed to be satisfactory. The objective of the RU1 Primary Production zone is to encourage sustainable primary production. The application seeks to expand the existing poultry farm, by the addition of a fifth shed. The proposal will facilitate an increase of the agricultural output from the site, using with the best available technology i.e. tunnel ventilated sheds.

The assertion that the additional shed will result in “an activity at intensity beyond the environmental capabilities of the site” has not been supported with information to substantiate this claim. The EIS and supporting documentation outline that the site has the capacity to handle the proposed additional output of poultry without any significant consequences or impacts. It is considered that through application of appropriate conditions of consent the operation of the additional shed can be managed appropriately.

**Submission:**

- ***It is not sustainable to allow a further intensification of the farm on such a constrained parcel of land.***

Comment:

It is unclear how the addition of a fifth tunnel ventilated shed will result in operations that are unsustainable, particularly as the proposal seeks to utilise the latest technology.

It is considered that the application will result in a development which is consistent with the rural setting and the constraints of the site. The development is proposed to be located at the same level as as the northern most two existing sheds. The eastern and north-eastern end of the shed will be located within an extended and landscaped earthen berm. The base of the berm is to be 30m from the eastern boundary. Access to the site is to be off the existing approved circulation driveway.

**Submission:**     ***Inconsistency with the provisions of the LEP***

***“To encourage diversity in primary industry enterprises and systems appropriate for the area”***

***Whilst the operation of a poultry farm on the site might be seen as providing for a diversity of primary industry in the locality, the site having an area of approximately 9ha has limited capability in the level of intensity of activity it is capable of sustaining. A larger site with greater spatial separation from adjoining land uses would in our opinion be more appropriate for the area.***

Comment:

The proposed development is for an expansion of the existing facility and is a use considered appropriate for the RU1 Primary Production zone. The poultry farm has been operating since the early 1970's and is located in an area that is relevantly zoned and used for primary production.

It is noted that the court approved the subdivision which resulted in the current site area of 9.72 hectares. The proposed fifth shed is located to the north of the approved and constructed four tunnel ventilated sheds with satisfactory setbacks to the common property boundaries. The eastern and north-eastern end of the shed will be located within an extended and landscaped earthen berm. The base of the berm is to be 30m from the eastern boundary. This provides for landscaped screening of the proposed shed from the east. The existing landscaping along the southern and western boundaries also provides for visual screening of the proposed development. The development is unable to be viewed from Springs Road due to vegetation, slope and other improvements on the site. The proposed development is considered to be of a scale which is consistent with the site size and geography.

**Submission:**     ***Inconsistency with the provisions of the LEP***

***“To minimise the fragmentation and alienation of resource lands; to minimise conflict between land uses within this zone and land uses within adjoining zones”***

***We are of the opinion that the current operations of the poultry farm contribute to land use conflict between surrounding activities and a further intensification proposed under the DA will further exacerbate the current land use conflicts occurring as a result of the poor practices on the existing operation.***

***Our client has a development consent to construct a dwelling house on his site and the rights that land has to have amenity preserved is unlikely to be maintained if Council was to approve the DA.***

**Comment:**

It is considered that the addition of a fifth shed will not result in further fragmentation or alienation of resource lands nor will it further contribute to a conflict between land uses within the zone. It is unclear as to what conflicts are being referred to by the writer as the poultry farm is not the only poultry farm in the locality. Other primary production activities and rural residential development also occur and are permissible uses in the locality. As highlighted previously, there been no evidence of poor practices on site during site inspections undertaken as part of this assessment. Further the various inspections undertaken in response to complaints in the past have confirmed that reasonable operations are occurring on site and that amenity of the surrounding rural area was not unreasonably impacted.

Under the principal planning controls for the subject site, that is, SREP 8 and Wyong Local Environmental Plan 2013, the primary purpose for land within the RU1 Primary Production zone is that of supporting primary production. It is acknowledged that there is an approval for a dwelling house on the adjoining land approximately 200m to the south of the proposed shed.

The assessment report which recommended approval for the dwelling house at 149 Springs Road considered the proposed location of the dwelling house in relation to adjoining agricultural production i.e. the meat poultry farm, and acknowledged the potential for the amenity of future occupants of the dwelling house to be affected which could increase land use conflict if complaints were made. This report relied upon the findings of the LEC which considered potential impacts resulting from the proposed expansion of the existing poultry farm and found them to be acceptable, subject to the implementation of the EMP and other conditions of consent.

The odour assessment that was used as part of the Court proceedings was based on hypothetical theoretical data. The odour monitoring which has been carried out for the newly constructed four tunnel ventilated sheds and the odour assessment/modelling carried out for the current development application (inclusive of the fifth shed) has been based on real data which has been informed by physical samples.

The results of the most recent odour assessment indicate that the predicted odour levels at the nearest receptors are below the NSW EPA assessment criterion of 6OU and the predicted PM<sub>10</sub> concentrations are below the EPA assessment criteria at all points outside the site boundary.

The amenity of the approved dwelling at 149 Springs Road is expected to be consistent with those envisaged during the Land and Environment Court assessment and determination even with the addition of a 5<sup>th</sup> shed. This expectation is based on consideration of the EIS including the odour reporting, noise reporting, consideration of visual impacts and proposed environmental management plan and conditions.



**Submission:**

***Inadequacy of the revised Environmental Management Plan***

***We ask why the current EMP applying to the site should not be maintained for any future use of the site. The Court deemed the current adopted EMP as critical to the satisfactory operation of the poultry farm. The proponents now seek to intensify the operation of the poultry farm with less stringent environmental management practices than deemed appropriate by the Court.***

**Comment:**

The operation of the poultry farm is considered to be capable of being managed in line with required standards inclusive of the proposed fifth shed. It is considered that there are certain requirements of the original EMP which warrant inclusion in the ongoing EMP. A condition of consent is proposed to be imposed which requires the EMP to be updated to fully address necessary considerations including traffic, noise, stocking density, procedure for mass mortality, and environmental performance.

**Submission:**

***Conflicts and inconsistencies with DA/1588/2004***

***We are of the opinion that the current terms and conditions of DA/1588/2004/B are in conflict and that the proponent should seek to have the contradictions contained within the consent rectified by the submission of a further section 96AA application.***

**Comment:**

This issue is not a matter for consideration or action under this development application.

**Submission:**

***The plan accompanying the DA identifies the proposed fifth shed being constructed, in part, in a location requiring the demolition of two of the sheds permitted to be retained and used as machinery sheds under development consent DA/1588/2004/B....***

***We understand that recently the proponents demolished the two poultry sheds that are to be retained under the terms of development consent DA/1588/2004/B as modified. The LEP requires development consent for demolition of the sheds and we understand that no consent has been obtained for the demolition works.***

**Comment:**

The applicant has advised that the sheds had sustained storm damage and were removed for safety and cost reasons in approximately late 2013. The demolition of the two poultry sheds is not the subject of this development application.

**Submission:**

- ***We are of the opinion that the DA needs to be amended to avoid the current conflict between the current DA and the development consent approved by the court for the four sheds. Should the DA be amended, we ask Council to re-notify the DA to enable our client to reconsider his position in relation to any amended DA.***

**Comment:**

It is considered that the development proposed under the current development application is clear therefore there is no requirement for amendment or re-notification of the current development application. In addition, staff have accepted and considered late submissions in the assessment of this development application.

**Submission:     *Water Quality and ground water impacts.***

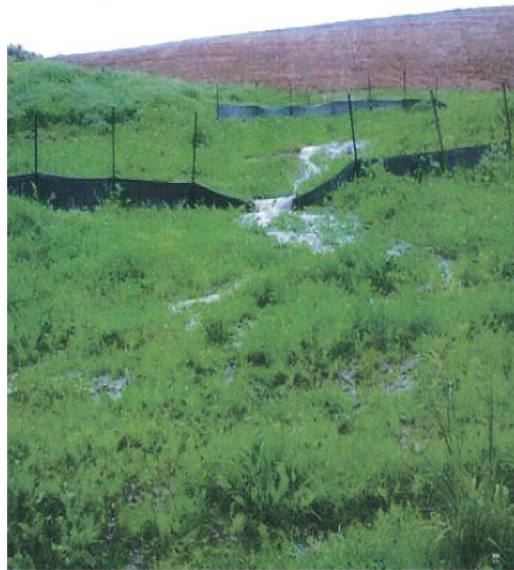
***Our client's property has experienced significant problems from stormwater runoff from the site over a number of years since the four sheds have been constructed. Issues relating to hydrological runoff and/or siltation control in relation to the existing sheds have continually undermined the road infrastructure and indeed, the viability of our client's agricultural holdings to the south and east of the site.***

**Comment:**

Stormwater runoff and sediment control has been raised and considered for this site. The submission relates to a series of photographs of 127 (the subject site) and the impact of runoff from the subject property and onto the objectors property at 149 Springs Road (the land to the south of this proposed development site) taken during a rain event in September 2011 (see figure 8 (a)-(d) for some of the photos).

It is noted that the photographs show:

- the subject site during the construction phase,
- stormwater water running from the subject site across a grassed field,
- constructed fill pads with limited vegetation/grass cover and limited sediment control, and
- water entering onto 149 Springs Road and running across the farm track.



**Figure 8(a) and 8(b): Photographs of the subject site and adjoining site taken in September 2011 (source: Wilshire Webb Staunton Beattie Lawyers submission 5 February 2012)**



**Figure 8(c) and 8(d): Photographs of the subject site and adjoining site taken in September 2011 (source: Wilshire Webb Staunton Beattie Lawyers submission 5 February 2012)**

In considering this submission, it is noted that the development was not fully constructed at the time of the photographs. Consideration of aerial photographs of the site show that the site was still partially constructed in 2010 (see figure 9). Sheds 3 and 4 were completed at the end of 2012 with the roof waters from these sheds not piped into the central stormwater basin until the construction was completed (see figures 9 and 10).





**Figure 9: Aerial Photograph from 2010 showing sheds 3 and 4 are yet to be constructed, (source: Dekho)**



**Figure 10: Aerial Photograph from 2012 showing sheds 3 and 4 still under construction, (source: Dekho)**

It is further noted that the photographs dated September 2011 were taken well prior to the Occupation Certificate being granted for all four existing poultry sheds (September 2013).

During an inspection of the objector's land (1 July 2015) the matter was raised and understood that the damage to the access track was not part of the access to the approved dwelling site. The damaged section was further to the west on the down slope of the grassed unformed track.

Additionally, the review document states that "water runoff in a rain event is still consistently undermining the road infrastructure to the south of the poultry farm". It is unclear in what location the road infrastructure is consistently being damaged/undermined as no evidence has been identified from 3 separate site visits.

Three separate site inspections have been undertaken during the assessment of this application during July 2015, October 2015 and March 2016. It is noted that Wyong experienced substantial storm events (including high winds and rain) during April and September 2015 which resulted in flooding and tree loss across the shire. A check of Council's complaints for these periods show that no complaints were received related to water runoff. Further during each of these inspections it was noted that the landscaping, mulching and track were intact and there was no visual evidence noted of the effects of water runoff from the farm onto the property at 149 Springs Road.

The site inspection carried out on 2 March 2016 showed no visual indication of damage to the informal grassed unformed track from water runoff (see figure 11).



**Figure 11: Farm track on adjoining site 149 Springs Road (the subject site is to the right of the image beyond the row of trees) (source: site inspection photo taken 2 March 2016)**

#### *Design of stormwater management system*

The site falls towards the southern boundary. The site and locality fall, through a series of drainage depressions toward Ourimbah Creek to the east and south of the site. The natural low point runs across the neighbouring site (149 Springs Road) see figure 3.



Three existing water storage facilities were constructed as part of the previous development consent for four sheds and function as sediment ponds and a dam (see figure 12).



**Figure 12: Existing nutrient control facilities/sediment ponds and dam on southern boundary**

The Planning Consultant “Key Urban Planning” submitted a peer review document titled “Civil Report”. It should be noted that the name and qualifications of the author were not provided.

This report details a critique of the approved and constructed stormwater management basins on the site, claims a lack of sediment and erosion control on the site and requests that:

- works on the site be stopped until the extent of unauthorised works is known,
- Peak stormwater flows should be brought back to that prior to redevelopment
- Earthworks are to be certified by a geotechnical engineer
- A work as executed plan for the earthworks undertaken
- Nutrient and sediment control systems are to be introduced.

The report is based upon Land and Environment Court documents, Construction Certificate documents and visual site inspection whilst construction was in progress.

In response the following is provided addressing each point.

## **1     Unauthorised works**

The Interim Occupation Certificate relating to the fourth and final shed was issued on 4 September 2013. On 17 July 2015 a final Occupation Certificate for completion of the development was issued. Council officers have also confirmed in writing that the current operation of the poultry farm is considered to be consistent with the conditions of development consent 1588/2004.

During the site inspections undertaken there was no evidence that the site is being undertaken in an unsatisfactory manner.

## **2 Stormwater flows**

The design of the stormwater system for the site is based upon the 1 in 10 year storm event. This approach is a common sense approach which is utilised throughout rural areas. The original system was oversized and thus has adequate capacity to cater for the additional stormwater runoff.

In reference to the middle dam only, the current stormwater system has been designed (10 year 1 hour duration storm event), approved, constructed and certified to dispose of shed roof runoff. This middle dam has been certified as having a storage capacity of more than 1000m<sup>3</sup>. The development application that was the subject of the previous Land and Environment Court proceedings sought consent for 6 similarly sized sheds, and required a total dam storage of 753m<sup>3</sup>. The roof water for the additional fifth shed will also be directed to the central dam structure. The total post development storage volume required to cater for the four existing sheds and the additional shed proposed by this development application is 510m<sup>3</sup> which is still well below the constructed dam capacity of more than 1000m<sup>3</sup>.

The addendum hydrological report, dated 11 November 2014 and prepared by H.J. (Toby) Fiander & Associates, was received which discusses the size of the detention basins as constructed. Please note the western most basin (sediment) is Basin A, the eastern most basin (sediment) is Basin B, the central basin (stormwater) is Basin C).

The report confirms that a total water storage capacity of approximately 1800m<sup>3</sup> (1.8million litres) is available within these systems and has been designed to cater for the runoff of six roof areas totalling approximately 12,800m<sup>2</sup>, therefore exceeding the minimum required design for five sheds.

An extract of the report is provided below:

**Storage Volume Comparison**

Location of Pond	Design Catchment Area (m <sup>2</sup> )	Existing Catchment Area (m <sup>2</sup> )	Surface Area (m <sup>2</sup> )	Estimated Maximum Depth (m)	Estimated Volume (m <sup>3</sup> )	Design Requirement (m <sup>3</sup> )
A	5258	4900	400	2.0	500 OK	100
B	3791	3700	300	1.5	300 OK	100
C	25530	21300	1000	>2.0	>1000 OK	400

**Notes**

- Depth estimated from construction notes and site inspection
- Design requirement outlined in Toby Fiander & Associates Report No. TFA2808/13444, Proposed Enlargement of Existing Chicken Meat Enterprise, 30 June 2005, stamped by Land & Environment Court, 1 July, 2005.

The on-site water storage design requirement for the basins under the approved development was as follows:

- Pond A was to achieve a design requirement volume of 100m<sup>3</sup>,
- Pond B was to achieve a design requirement volume of 100m<sup>3</sup>, and
- Pond C was to achieve a design requirement volume of 400m<sup>3</sup>,
- Totalling 600m<sup>3</sup> of required storage capacity on-site.

The report certifies that the existing stormwater system on site has been constructed with much greater capacity than the design requirement for the basins which is as follows:

- Pond A has an estimated volume of 500m<sup>3</sup>,
- Pond B has an estimated volume of 300m<sup>3</sup>, and
- Pond C has an estimated volume of 1000m<sup>3</sup>,
- Totalling 1800m<sup>3</sup> of storage capacity currently constructed on-site. The site currently provides 3 x the water storage capacity that is required to service the site.

The existing basins have adequate capacity to cater for the subject proposal, particularly as it was originally designed and constructed for six sheds.

There is a trickle pipe which moderates water levels within the central dam. The trickle pipe is located approximately 1m below the crest of dam wall (see figure 13).

During rain events the water level within the dam fills to the level of the trickle pipe. Water then flows out of the trickle pipe at a restricted flow rate and is dispersed via into the grassed area mimicking natural flows. Should the rain event continue the level of the water within the dam goes higher than the trickle pipe and is detained within the dam. As such the central dam, as constructed, provides for over detention with in the dam structure.



**Figure 13: Dam to the south of the existing poultry sheds on the subject site (trickle pipe visible on the bank of the dam above water level)**

It is noted that the “Key Urban Planning” peer review did not have the benefit of the certified post-development dam capacities provided by the consulting engineer.



It is considered that there may have been a number of environmental issues such as siltation control, stormwater management, geotechnical and compaction issues during the construction of the existing four sheds and related dams and detention ponds. However, upon completion of the development, and issuing of the Occupation Certificates, the consulting engineers have certified the construction of the ponds to be in accordance with the approved design.

Council considers that the environmental issues experienced in September 2011 were a result of construction related works which have occurred prior to finalisation of the development rather than as a direct result of the operation of the poultry farm.

In addition, Council received no reports of stormwater issues following the major storms of April, September and December 2015.

Council's Senior Development Engineer has confirmed his opinion that existing system is able to cater for the increased stormwater runoff from the development in the design storm event.

### **3 Certification of earthworks**

The consulting engineers have certified that the construction of the ponds is in accordance with the approved design. Correspondence was also received by Aargus on 25 August 2011 which confirms fill materials used on site to be Virgin Excavated Natural Material (VENM). In consideration of these certifications, Occupation Certificates have been issued for the site and no further certification of the earthworks is required.

### **4 Work as executed plan**

The consulting engineers have certified that the construction of the ponds is in accordance with the approved design. In consideration of these certifications, Occupation Certificates have been issued for the site. A Work as Executed plan is not required.

### **5 Nutrient and sediment controls**

In regard to water quality, it is anticipated that stormwater pollution will be minimal as all surface and roof water are physically isolated from potential contaminants within the shed. The roof water from the proposed fifth shed will be directed to the central dam in a manner similar to that of the other sheds.

The surface water from the additional road constructed around the proposed shed will be directed to the two sediment/water quality ponds located on either side of the central dam structure. The total storage volume required to receive surface water from the additional road area is required to be 350m<sup>3</sup>.

The two sediment/water quality ponds have been certified as having a total volume of 800m<sup>3</sup>. There is adequate capacity in those existing sediment/water quality ponds to cater for the additional surface runoff from the additional road. The existing drainage structures on site have been constructed with adequate design capacity to cater for stormwater runoff from the roof of the proposed additional shed and the proposed additional road.

**Submission:**

***It is further noted that asbestos tailings have been located and measured upon our client's land from the fill used on the poultry farm and it is reasonable to assume that this asbestos leeching will continue.***

**Comment:**

Correspondence was received by Aargus on 25 August 2011 as part of the Construction Certificate documentation. Aargus Pty Ltd were appointed by Earthworx Aust Pty Ltd to conduct a visual assessment of natural soil to be excavated as Virgin Excavated Natural Material (VENM) from a property in St Ives for transportation and use for the noise barrier at the subject site. The natural underlying soil was classified as VENM having regard for the NSW OEH guidelines.

A complaint related to asbestos was received in September 2011 which was inspected by Council officers at the time. There was no evidence of asbestos noted on the site.

**Submission: Visual impact**

***We believe another flaw with the DA is the absence of a proper visual analysis accompanying the application.***

**Comment:**

It is considered that a Visual Impact Study for the fifth shed was not required given its location to the north of the recently constructed four tunnel ventilated sheds, the setback proposed from Springs Road and the incorporation of an additional berm and screen planting.

The eastern and north-eastern end of the shed will be located within an extended and landscaped 3.00m high earthen berm. The base of the berm is to be 30m from the eastern boundary. This provides for landscaped screening of the proposed shed from the east. The existing landscaping along the southern and western boundaries also provides for visual screening of the proposed development. The development is unable to be viewed from Springs Road due to vegetation, slope and other improvements on the site. The proposed development is considered to be of a scale which is consistent with the site size and geography.

**Submission: Odour**

***direction from the NSW Land and Environment Court provides for the maximum allowable number of sheds and the maximum allowable number of birds per batch. The DA seeks to increase both the number of sheds and the number of birds per batch beyond the permissible levels stipulated in the judgement by the NSW Land and Environment Court.***

***We contend that in exceeding the previously established maximum allowable number of total sheds and total birds per batch, the proposed development cannot be considered to result in "acceptable odour" according to the standards established by the NSW LEC in the aforementioned judgement.***

Comment:

The decision of the Land and Environment Court did not specifically state that this was the absolute maximum number of sheds and birds for the subject site but was the number of birds considered reasonable in the context of the proceedings and at the time the decision was handed down (based on the information available and evidence given during the proceedings).

It is noted that in Land and Environment Court proceedings (10145 of 2005) the odour experts Mr Holmes and Mr Benbow agreed that the proposed development should be tested against the 5OU goal at all residential locations (existing and hypothetical) this is a more stringent criteria than the NSW EPA assessment criterion of 6OU. For completeness this report refers to both standards.

The odour modelling used for the original approval was based on emissions estimates informed by measured data from other sites. As such it was a theoretical model of odour likely to be associated with the use. A condition of the EMP was that the operator must undertake actual odour measurements post development and compare them to the theoretical levels assumed in the modelling relied upon in the joint expert report.

Since the commencement of the operation of all four tunnel-ventilated sheds, real data has been collected (physical samples taken) to be used for odour modelling and noise assessments undertaken for the purpose of considering a fifth shed.

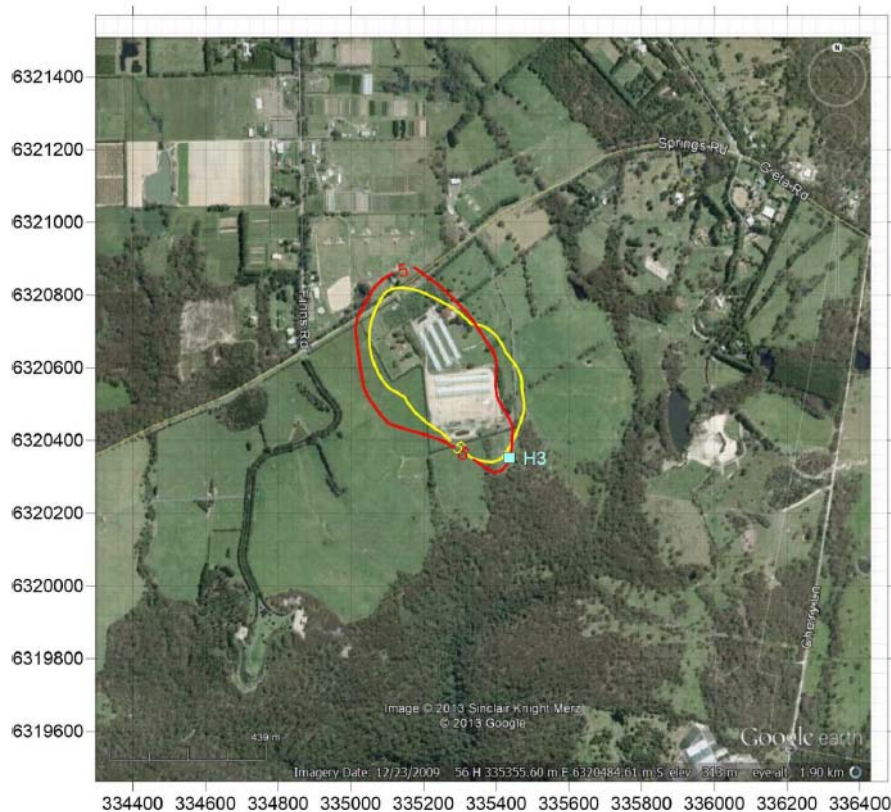
Odour sampling and testing was carried out by 'The Odour Unit' on 26 April 2013 and 25 November 2013, in accordance with license requirements. This is after completion of the fourth shed. The sampling was conducted during normal operation of the ventilation system on two occasions on each day of sampling. The odour emission results were relied upon by Pacific Environment in the development of the Odour Assessment.

The odour assessment, prepared by 'Pacific Environment Limited' and dated 5 November 2014, acknowledges the joint expert report prepared for Land and Environment Court proceedings No. 10145 of 2005 (carried out for DA/1588/2004). The odour assessment, which formed part of the EIS, has also taken into consideration the requirements of Section 4.8 of the EMP.

The Pacific Environment Limited odour assessment report concludes that:

- The predicted odour levels at the nearest receptors are below the NSW EPA assessment criterion of 6 Odour Units (OU).
- The predicted PM<sub>10</sub> concentrations are below the NSW EPA assessment criteria at all points outside the site boundary (PM<sub>10</sub> refers to particles less than 10 micrometres and are called 'inhalable particles' (Department of Environment)).
- The results are consistent with the odour compliance monitoring at the site, conducted by The Odour Unit in 2013, which has revealed that the farm's emissions are significantly lower than industry benchmarks.

Diagrams within the Pacific Environment Limited odour assessment show that the actual odour emissions from the sheds are less extensive than those assumed in the original theoretical modelling (see figure 14).



**Figure 14: Red line denotes 5OU contour modelled for the court case and yellow contour denotes 2014 (post real data sampling) 5OU contour level**

In the context of the previous Court approval the number of birds and sheds were capped but can now be revisited via a new development application which relies upon the submission of the relevant information to support the additional fifth shed.

**Submission:**

***We contend that the recurring contradictions in ... “expert” opinions (within the numerous odour reports over the years) highlight a lack of credibility in regards to effectively measuring the impact of odour on the poultry farming development and the surrounding receptors.***

**Comment:**

The odour assessment that was lodged with the development application has been prepared by Pacific Environment Operations Pty Ltd who is an experienced company who provide environmental consulting; monitoring, predictive management and the like. As noted previously in the preceding comment, the odour assessment is based on real data samples which has been collected from the operation of all four tunnel ventilated sheds. It is noted that real data was not available at the time of preparation of the odour assessment for the court case and for the purposes of objection to the dwelling house development application on the adjoining property.

Given the odour modelling is now based on real data, rather than hypothetical data, this would provide an explanation of why the odour units may have changed.

No alternative odour assessment has been submitted to Council by the objectors to respond to the information provided within the odour assessment prepared for this development application.

**Submission:**

***We suggest that given the existing poultry farming development was considered by the Court in 2006 to result in “acceptable” odour levels for the receptors (including the location of future receptors), an increase to the poultry farming operation and the resultant odour emissions is likely to produce levels that are less than “acceptable”.***

**Comment:**

It is noted that in Land and Environment Court proceedings (10145 of 2005) the odour experts Mr Holmes and Mr Benbow agreed that the proposed development should be tested against the 5OU goal at all residential locations (existing and hypothetical) this is a more stringent criteria than the NSW EPA assessment criterion of 6OU. For completeness this report refers to both standards.

Since the commencement of the operation of all four tunnel-ventilated sheds, real data has been able to be collected (physical samples taken) to be used for odour modelling and noise assessments undertaken for the purposes of considering a fifth shed. The results of the real data (samples and readings taken) show that the actual levels of both noise and odour are less expansive than was anticipated through the theoretical models relied upon for assessment of the original application.

Diagrams within the Pacific Environment Limited odour assessment show that the actual odour emissions from the sheds are less extensive than those assumed in the original theoretical modelling (see figure 14).

**Submission:**

***Additionally, we question the measurements expressed as part of the conclusion. We find it highly questionable whether or not the listed 6OU for the poultry farm is either an acceptable level of odour given the surrounding receptors (the previous acceptable levels established by LEC judgement was 5OU) and whether it is achievable at the boundary/surrounding receptors.***

**Comment:**

As previously stated, the odour assessment submitted with the development application has utilised real data (air sampling) from the operation of the existing four ventilated sheds. The “Odour Unit” dispersion modelling provided in the *Odour Assessment by Pacific Air Limited* has demonstrated that the operation of five poultry sheds will remain compliant with the *“Assessment and Management of Odours from stationary sources in NSW (EPA 2006)”*.

The *Technical Framework - Assessment and Management of Odour from Stationary Sources* has been established by the NSW EPA which provides a policy framework for assessing and managing activities that emit odour and offers guidance on dealing with odour issues to industry, consent authorities, planners, environmental regulators and odour specialists. It outlines:

- *“the legislation that applies to odour assessment and management in NSW*
- *a fair and transparent process for assessing odour impacts from new developments*
- *a system to help protect the environment and community from odour impacts while promoting fair and equitable outcomes for odour-emitting activities*
- *a technical reference document for proponents/developers, planners and regulators.”*

The framework promotes ongoing environmental improvement and best management practices to prevent or minimise odour impacts. While recognising the changing needs of industry and society, it also promotes sustainable land use planning and management to avoid odours and associated conflicts.

The Technical Framework provides as follows:

*Odour is measured in Odour Units (OUs). An odour criterion of less than 1 OU would theoretically result in no odour impact being experienced.*

The table below provides a summary of odour assessment criteria:

<b>Population of affected community</b>	<b>Odour assessment criteria (OU)</b>
<i>Rural single residence (≤ 2)</i>	<i>7.0</i>
<i>~ 10</i>	<i>6.0</i>
<i>~ 30</i>	<i>5.0</i>
<i>~ 125</i>	<i>4.0</i>
<i>~ 500</i>	<i>3.0</i>
<i>Urban area (≥ 2000) and/or schools and hospitals</i>	<i>2.0</i>

This means that a single rural residence (with less than or equal to 2 persons) could be located within the 7OU contour. Further from the odour source and as the level of odour decreases, the amount of persons that can be located in within that odour contour increases under the policy. Thus:

- 2 persons could be located within the 7OU contour (equivalent to 0.66 of a home within the 7OU contour)\*
- 10 persons could be located within the 6OU contour (equivalent to 3.3 homes within the 6OU contour)\*
- 30 persons could be located within the 5OU contour (equivalent to 10 homes within the 5OU contour)\*

In the case of this development, the following table summarises the technical standard and the number of persons exposed:

<b>Odour Contour:</b>	<b>Technical Framework standard:</b>	<b>Subject development will result in:</b>
Within the OU7 contour (closest to the odour source).	2 persons could be located within the 7OU contour (equivalent to 0.66 home) *	0 persons located within the 7OU contour
Within the OU6 contour	10 persons could be located within the 6OU contour (equivalent to 3.3 homes)*	1 dwelling (3 persons) located within the 6OU contour (comprising the farmers dwelling)
Within the OU5 contour	30 persons could be located within the 5OU contour (equivalent to 10 homes)*	1 existing and 1 approved dwelling (6 persons) located within the 5OU contour (comprising the farmers dwelling and the approved dwelling on 149 Springs Road)

\* Note the above is based on an average occupancy rate of 3 persons per dwelling (the dwelling occupancy rate established by Wyong Contributions Plan).

#### *Odour assessment hierarchy*

The Technical Framework incorporates a 3-tiered assessment hierarchy for meat chicken (broiler) farm developments. The option of using setback distances calculated using the Level 1 assessment method was introduced in 2001 as an alternative to more complex and expensive Level 2 or Level 3 assessment involving odour dispersion modelling.

The odour assessment submitted for the subject development application involved plume dispersion modelling which was used to inform the Land and Environment Court proceedings and has been used to support the work in the current odour assessment for consistency.

The population within the vicinity of this site is estimated to be less than or equal to 10 (inclusive of the potential habitants of the approved dwelling on the neighbouring land. Accordingly the criterion used for the assessment is 6OU.

The Pacific Environment assessment modelled odour contours around the farm based upon the likely impact of five sheds and concluded that the operation of five sheds on the site will remain compliant with the abovementioned EPA assessment criteria, that is, 6OU.

The assessment utilised “real data” odour unit measurements collected at the site in April and November 2013 when all four tunnel ventilated sheds were fully operational. The Pacific Environment Limited report identified that the extent of the 6OU contour for the operation of five sheds is mostly less than that predicted through the theoretical odour model used to assess the original application based on four sheds.

#### **6OU contour**

Figure 15 below shows the extent of the OU6 contour, comparing the extent shown in the theoretical model (red) compared to the extent achieved using real data and air sampling (yellow).





**Figure 15: 6OU contours - comparison**

**Red contour shows the extent of the 6OU – from the 2006 theoretical model for four sheds**

**Yellow contour shows the extent of the 6OU – from the 2014 report based on real data (air sampling) and including the fifth shed**

**Nearest receptor noted as H3 which is the approved dwelling site to the south**

The red line shows the original theoretical model of odour impact that was determined in 2006 through the Land and Environment Court proceedings. This assessment was based on assumed emission rates. The yellow line shows the extent of the OU6 contour shown in the 2014 report which was based on real data (air sampling) and considers all 5 sheds.

The extent of the 6OU contour has been reduced based upon the use of real data collected following the operation of all four tunnel ventilated sheds and the change in the way in which the odour is dispersed from the sheds. At the time of the court case, the odour modelling was based on the odour being dispersed fully from the ends of the sheds whereas the four sheds now disperse some odour through the roof which results:

- in lower emission rates,
- a smaller contour footprint and
- a differently shaped contour.

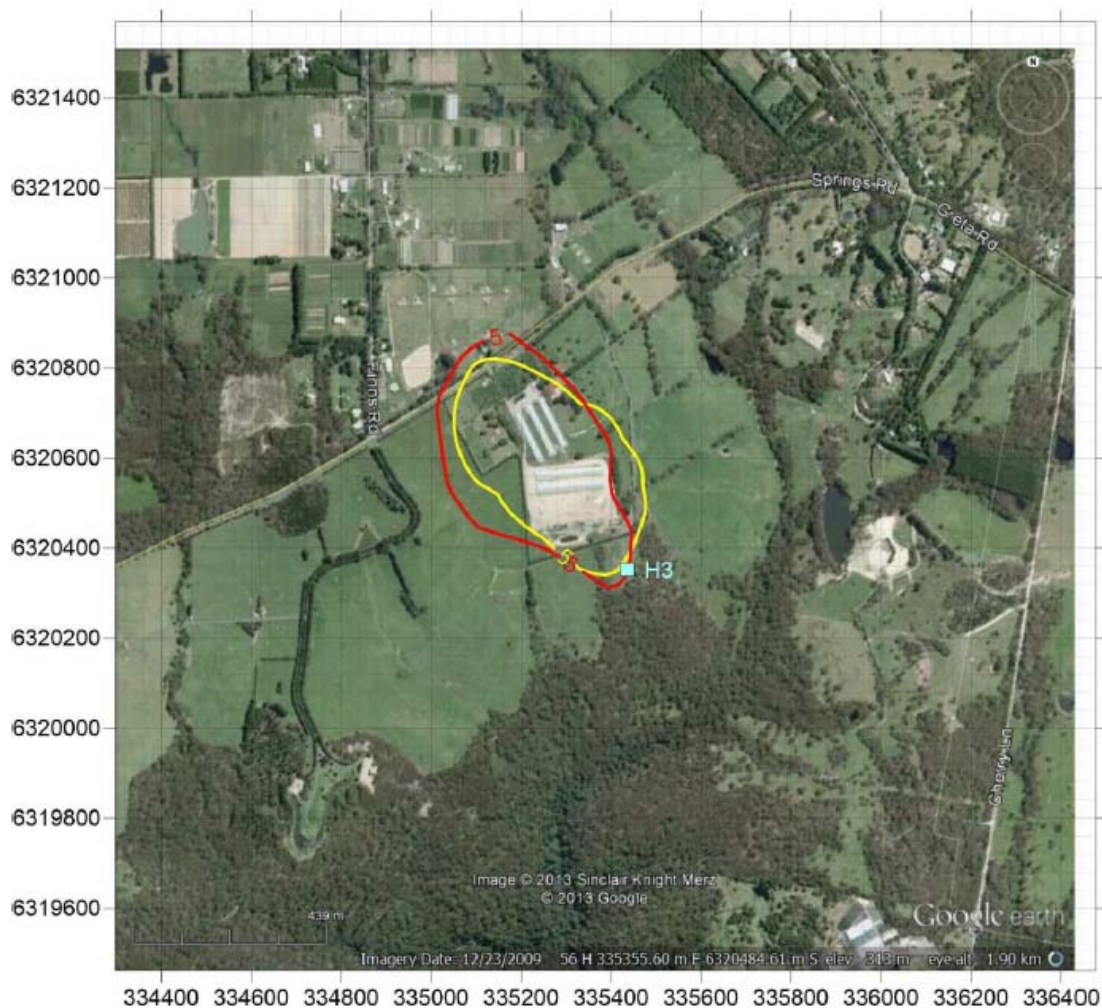
### 50U contour

The agreed odour goal of 50U, which was established during the Land and Environment Court proceedings, was based on what would be an acceptable level of odour impact for the nearest residential receptor, on the basis of the existence of the hypothetical rural residences that were presented to the Court. On 24 November 2010, Council granted consent to a dwelling house on the neighbouring property, Lot 501 DP 791632, which is shown with a blue cross/square and labelled H3 (refer figures 15,16 and 17).



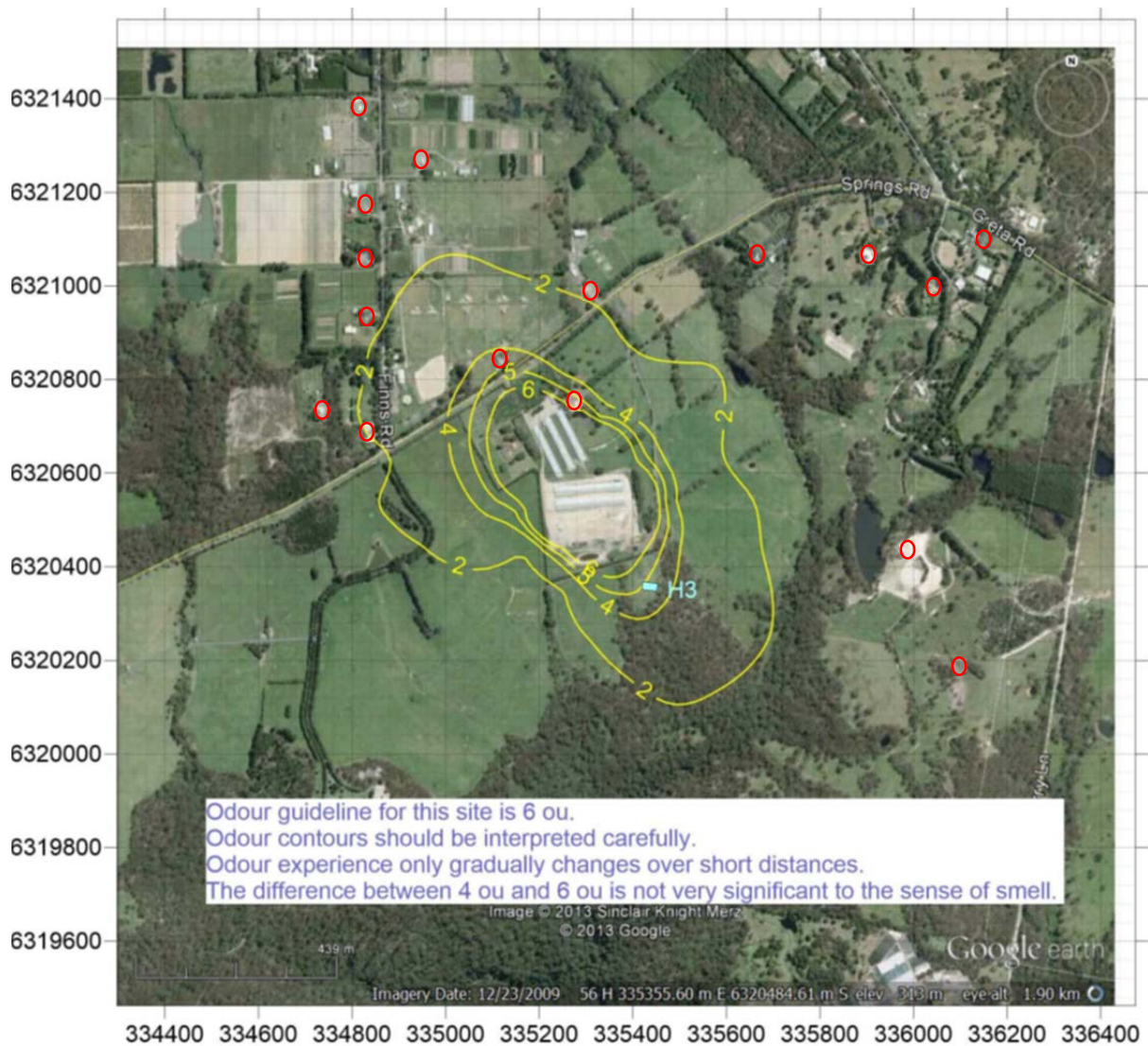
Figure 16 shows the predicted 5OU odour contours. Red is the 5OU contour from the original theoretical assessment (Court case) whilst yellow shows the 5OU contour from the 2014 assessment (five sheds, based on site-specific odour emissions data and shed configurations).

The predicted odour value at H3 under the 2014 assessment (yellow) (five sheds) is marginally less than 5OU, yet rounded to 5OU. The original court assessment value was between 5 and 6 OU. As such, it is considered that there will be an acceptable level of odour impact at the nearest residential receptor.



**Figure 16: Red line denotes 5OU contour modelled for the court case and yellow contour is the 5OU contour based on 5 sheds, and air sampling (Pacific Environment) 2014**

The 2014 Pacific Environment modelling shows for the five sheds shows that the 6OU contour is generally contained to the site (with a few minor encroachments into the neighbouring block). Odour disperses and reduces with increased distance to the source and the 5OU contour and 4OU contour are generally contained in the area within 100m of the property (see figure 17).



**Figure 17: Extent of OU6, 5, 4, 2 contours – based on 5 sheds, and air sampling (2014 Pacific Environment) dwellings in the locality shown as red circles and H3 marked as the approved yet not constructed dwelling.**

The site of the approved but yet to be developed dwelling on the neighbouring property is shown as H3. Other dwellings within the area have been marked onto Figure 17 as a red circle showing the location relative to the proposed odour levels (5 sheds).

### Odour and seasonality

The issue of odour and seasonality was also raised in a submission and during the on-site discussions. There are a number of factors that will influence the perception of odour by people in the area. The two main factors that will affect the perception of odour are the wind conditions and the amount of odour being emitted from the sheds.

The odour emissions of the sheds, being temperature controlled environments don't change considerably with the seasons, other than according to the stage of the batch. This effect was modelled by Pacific Environment which identified that there would be more odour created as the bird mass in the sheds increases. The variations in bird mass are not seasonal but are tied to the poultry batch cycle of 7-8 weeks.

During the year, there are strong seasonal changes in the wind patterns at this site. These plots point to the direction the wind is coming from. For example, in winter, the most common winds are from the North West (NW) and West (W). In summer there are few winds from the NW and they are mostly from the eastern sector. This seasonal change in wind pattern is very likely to influence perceptions of odour. Also, in warmer weather people tend to be outdoors more often and have their doors and windows open, hence are more likely to detect any odours in compared to during cooler months.

Aside from the birds themselves (which vary in density throughout the year, subject to the batch cycle) and the shed temperature regime, which is also controlled regardless of season, there are two main things driving odour emissions in the sheds: ventilation and humidity (which affect litter moisture, the main direct driver of odour).

With regard to different perceptions on odour, the operator of the poultry farm may have a perspective mainly driven by his own activities on the farm - he frequently enters the sheds where he would notice the conditions, including the odour. In winter, there is less ventilation required and as a result of that there can be higher odour levels in winter inside the sheds than in summer when they tend to be under stronger ventilation to assist in reducing heat inside the sheds. The lower ventilation in winter can also slow down the rate of drying of the litter, which may result in an increase in odour generation.

What is smelt inside the shed is not necessarily what gets outside: a stronger odour inside the shed when there is very little ventilation can result in less odour emission than a weaker odour that is being more strongly ventilated. The emission rate = concentration x ventilation rate.

As such, the conflicting opinions about the perception of summer or winter odour may be due to a combination of the above factors, which lead to different perceptions of odour depending on your location and relationship to the farm activities.

***Submission:******Traffic Management***

Comment:

A traffic assessment report has been provided for the proposed expansion of the poultry farm.

Over the 10 week farming cycle the additional shed is proposed to require the following additional traffic movements:

- 1 additional Poultry delivery van,
- 1 additional floor bedding semi-trailer,
- 6 additional poultry pick up semi-trailers,
- 3 additional litter removal trucks.

SIDRA traffic simulations have been carried out which indicate the following impacts of the proposed additional shed on 2024 traffic volumes:

- Delay on Springs Road – negligible impact,
- Springs Road and George Downs Drive intersection – negligible impact.

Apart from short term construction activity, it is anticipated that impacts on traffic will be negligible.

**Submission: Noise**

**Comment:**

Concern was raised in relation to the noise emitted by current operations and future operations with the addition of a fifth shed. The acoustic assessment outlined in the Noise Impact Assessment prepared by Benbow Environmental, dated November 2014, concluded that the noise levels associated with the proposed development have been predicted to comply with the project specific noise levels at all the considered receptors for all the considered operational scenarios.

Noise emission levels were predicted at the nearest potentially affected sensitive receptors to determine the noise impact, this was considered against the project specific noise levels and other relevant noise criteria in accordance with the NSW EPA Industrial Noise Policy. The major noise source likely to occur during the day time period would be the periodic delivery of feed to the site. The primary noise sources are the movement of the delivery truck around the site and feed silo auger.

The primary noise impact generated by the poultry farm throughout the night time period would occur during the loading of birds onto trucks. There are two distinct noise generating phases during the loading period. The first is the truck driving onto the property, whilst the second phase involves the use of a forklift to load the birds.

It is anticipated that with the extension of the 3m high earth acoustic berm with additional landscaping, and compliance with the truck management plan, the operation of the poultry farm will be in accordance with the NSW EPA Industrial Noise Policy.

A compliance review carried out for DA/1588/2004 established that the operator/owner of the poultry farm has complied with their conditional requirements of the development consent and the actions specified within the current EMP.

**Submissions received since January 2016**

On 9 December 2015, DA/1364/2015 for the expansion of a naturally ventilated poultry operation at 315 Greta Road Kulnura was lodged for assessment. Public submissions received for DA/1364/2015 have also mentioned this application and have raised issues regarding the proposed additional shed:

- **Noise levels**

Addressed earlier in this report.



- **Odour levels**

Addressed earlier in this report.

- **Road safety**

Springs Road has a sealed pavement width of approximately 6m in the vicinity of the site, the traffic report details that all the local road networks have sufficient capacity to accommodate additional traffic movements resulting from the additional poultry shed. It is noted that the traffic report comments that the site distances for the driveway onto Springs Road has site distances which are greater than the desirable standard, and that truck turning signs already exist on each approach to the existing site access.

- **Proposal is inconsistent with the maximum development which was set by the Land and Environment court**

The Court decision is not considered to be a maximum for the site, but instead reflects what the experts jointly agreed that on the basis of the information available at that time.

The following was expressed in Judgement No 2 (24 February 2006) regarding the joint report of the relevant professionals; Mr Ormerod and Dr Holmes to the court:

*We agree that the Schembri farm, if developed and managed according to conditions described below and in the Environmental Management Plan, should result in acceptable odour to both existing and proposed residences nearby.*

*We agree that the development of four sheds, each with a maximum capacity of 42,000 birds, equating to a total capacity of 168,000 birds is acceptable subject to suitable conditions*

The subject application provides additional information and relies upon real data including noise loggers and air sampling collected on site. The data available during the court proceedings was theoretical modelling which has been shown to be conservative (ie impacts were not as extensive as was originally thought). The application has shown that an additional shed could be operated on the site, while maintain reasonable amenity in line with that expected in rural localities.

- **Proposal provides no technological or other reason to support it.**

It is noted that additional information has been provided which specifically addresses the proposed additional shed. The EIS includes information relating to the potential environmental impacts and proposed environmental safeguards of the development. The information has been gathered using on site data recording, and sampling (eg noise and odour). These technical reports support the application and verify that the impacts can be managed in a reasonable manner and that amenity impacts are reasonable given the rural context.

- **Compliance with existing conditions**

A compliance review carried out for DA/1588/2004 established that the farm is now compliant with the conditional requirements of the development consent and the actions specified within the current EMP. As noted earlier in this report there was a delay in providing certain reporting but this has now been provided to Council's satisfaction.

- **Submissions included threatened legal action and proceedings against Council**

Noted by Council's legal counsel.

***Any submission from public authorities***

The application was referred to the Department of Planning and Environment, Department of Primary Industry and the NSW Rural Fire Service for comment. Their comments are discussed below:

**NSW Rural Fire Service**

NSW Rural Fire Service (RFS) reviewed the plans and documents received for the proposal and raised no concerns or issues in relation to bush fire.

**NSW Department of Primary Industry (DPI)**

Agriculture NSW has reviewed the development proposal and provided the following advice:

*"Constraints – the development application provides a reasonable analysis of the constraints for the site and physically the placement of an additional shed is achievable without impacting other farming activities or the drinking water catchment. The configuration of the property boundary has made the expansion difficult and provides more interfaces where land use conflicts could occur.*

*Zone considerations – the agriculture development is within the RU1 "Primary Production" zone and within the Sydney Regional Environmental Plan No.8 Central Coast Plateau areas with aims to support sustainable agricultural production.*

*Biosecurity – the proposed additional poultry are within 1.3 to 1.5km of existing poultry farms therefore the biosecurity risk of farm to farm disease spread is increased marginally. To minimise the potential for the spread of disease and other biological contaminants a biosecurity buffer of 2km is recommended. In the case of Kulnura with existing poultry farms being less than 2km apart these farms would be considered as one in any disease outbreak. The proposed trucking of dead birds in the case of mass mortality is not recommended, euthanized and composting the birds within the sheds is preferred.*

*Water supply – there is adequate water extraction / capture licences for the additional bird numbers, testing of the bore capacity could confirm the extraction potential.*

*Traffic – agree with the analysis that the Springs Road is able to support the additional farm traffic. The truck management plan provides some discussion on managing truck noise generated by trucks entering the farm from Springs Road."*

*“Noise – the proposed mitigation using 3m high earth berm within the property may assist in reducing intrusive noise to receptors, best practice is to have an area for onsite manoeuvring of vehicles to enable them to enter and exit the property in a forward direction. For night time pick-up the use of fork-lifts without fitted reversing beepers would also assist to reduce noise impacts. Trucks entering and leaving the property particularly at night may still be audible due to the low background noise level in the rural setting. Noise on a public road is more difficult to control and mitigate.*

*Sound mounds on affected properties may assist otherwise residents would need to sound insulate their homes, particularly their windows, if they are sensitive to traffic noise.*

*Odour – the odour modelling and nearby residents observations confirm that (poultry farm) odour does occur. Increasing the vegetation and earthen berms should assist in dispersing odour. Dunlop (2011)<sup>1</sup>, notes that controlling the moisture content of the poultry litter is essential for controlling both odour and dust emissions. As the farm uses a tunnel ventilated system the potential for wet litter is decreased and the ability to redirect or capture dust laden odour is possible if further modifications are needed to address odour.*

*Conclusion – the addition of a tunnel ventilated poultry shed would bring the farm to a carrying capacity that will require good farm management and implementation of consultant recommendations to limit the potential to generate land use conflict. The proponents should also implement landscaping to further screen the poultry development as suggested by a nearby resident.”*

Comment:

Having regard for the above comments from DPI, conditions of consent have been recommended requiring additional landscaping on the earth berm and inclusion of the truck management plan within the EMP to ensure noise is appropriately managed.

### **NSW Department of Planning and Environment (DP&E)**

DP&E responded indicating they had held pre-lodgment discussions with the applicant and provided SEARs for inclusion in the EIS. Other than Council forwarding notice of the DA, DP&E advised they had no further comments to add to the DA assessment.

## **INTERNAL CONSULTATION**

### **Development Engineer**

The application has been reviewed by Council's Development Engineer who has provided the following comments:

- **Traffic Management**

The applicant submitted a Traffic Assessment Report by “BJ Bradley & Associates” dated October 2014. The consultant has addressed the different phases of operation, including construction traffic, shavings delivery, initial stocking, gas trucks, feed trucks and bird pick up. The report details that the proposal will have negligible impact upon the surrounding road network.

As part of a previous development application, raised reflective markers, advanced intersection warning signs and truck turning signs were installed. These were to formalise the heavy vehicle route to and from George Downs Drive and the frontage of Springs Road. These measures remain adequate.

- **Hydrology and Water Quality**

The capacity of the dams totals a volume of 1,800m<sup>3</sup> which equates to 1,800,000 litres. The addendum Hydrological Report, submitted as part of the current development application, certifies that the existing stormwater system will have adequate capacity to cater for the subject proposal, particularly as it was designed and constructed with adequate capacity to attenuate runoff from six sheds.

Certification by a qualified engineer was provided on 11 November 2014 advising that the management of stormwater runoff is satisfactory and that the pipe network operates at better than the one in ten year event.

### **Senior Transportation Engineer**

No objection to the proposal.

### **Environmental Health Officer**

Council's Environmental Health Officer considers that the proposed additional shed will be satisfactory having regard for the impact on the surrounding environment subject to compliance with the EMP and any conditions of consent.

The compliance review of the poultry farm undertaken by Council's Senior Environment Protection Officer found no evidence of unreasonable impacts resulting from farm operations on the amenity of the surrounding locality.

## **ASSESSMENT**

Having regard for the matters for consideration detailed in Section 79C of the Environmental Planning and Assessment Act 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 STATE/COUNCIL POLICIES AND PLANS

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

### a) Environmental Planning and Assessment Act 1979

Under Section 77A of the EP&A Act 1979, designated development is development that is declared to be development by an environmental planning instrument or the regulation. The proposed development involves alteration and additions to an existing poultry farm which falls within the criteria outlined under Schedule 3, Part 1 Clause 21(4)(b)(ii) and (iv) of the EP&A Regulation 2000.

There are no SEPP's that apply specifically to the development proposal.

### b) Regional Environmental Plans (REP)

#### Sydney REP No 8 – Central Coast Plateau Areas

The site of the proposed development is affected by the provisions of Sydney Regional Environmental Plan (SREP) No 8 – *Central Coast Plateau Areas*. This SREP affects all RU1 Primary Production zoned land within the plateau areas of Wyong Shire, along with similarly zoned land in the plateau areas of Gosford City (ie Mangrove Mountain, Somersby etc). The relevant objectives of this plan are as follows:

- (b) *to encourage the use of land having a high agricultural land capability for that purpose and, as much as possible, to direct development for non-agricultural purposes to land of lesser agricultural capability; and*
- (f) *to provide for the protection and use of catchment areas for water to be supplied to rural and urban users.*

It is considered that the proposed development is consistent with the relevant objectives of SREP 8 in that it proposes ongoing agricultural productivity of the site in a manner consistent with the Primary Production objectives of the area.

Under the SREP, any application to erect a building on prime agricultural land (i.e., land zoned RU1) is required to be referred to the Department of Primary Industries. Council must not determine the application until it has received and considered a representation from the Department in respect of the application. As such, the application was referred to the Department of Primary Industries in regard to this requirement and also as a relevant department under the designated development provisions.

In general, the Department indicated that the proposal was acceptable and in summary noted: *"The addition of a tunnel ventilated poultry shed would bring the farm to a carrying capacity that will require good farm management and implementation of consultant recommendations to limit the potential to generate land use conflict. The proponents should also implement landscaping to further screen the poultry development as suggested by a nearby resident."*

### c) Wyong Local Environmental Plan 2013

The subject site is zoned RU1 Primary Production under the Wyong LEP 2013. The proposal is defined as 'Intensive Livestock Agriculture' and is permissible under the WLEP 2013.

*"intensive livestock agriculture means the keeping or breeding, for commercial purposes, of cattle, poultry, pigs, goats, horses or other livestock that are fed wholly or substantially on externally-sourced feed, and includes any of the following:*

*(a) dairies (restricted),*

*(b) feedlots,*

*(c) piggeries,*

*(d) poultry farms,*

*but does not include extensive agriculture, aquaculture or the operation of facilities for drought or similar emergency relief."*

The objectives of the RU1 zone are:

- *"To encourage sustainable primary industry production by maintaining and enhancing the natural resource base.*
- *To encourage diversity in primary industry enterprises and systems appropriate for the area.*
- *To minimise the fragmentation and alienation of resource lands.*
- *To minimise conflict between land uses within this zone and land uses within adjoining zones.*
- *To provide for non-agricultural land uses, including tourism, which support the primary production purposes of the zone.*
- *To allow other appropriate land uses that are not suited to urban zones while maintaining the rural character of the land."*
- 

The proposal is required to be assessed against the zone objectives outlined above.

The proposal is considered to satisfy the objectives of the zone in that it is seeking to expand an existing agricultural use, and involves a significant capital expenditure aimed at ensuring the long term viability of the operation.

The applicant has undertaken various studies which demonstrate that the proposed development will not have unacceptable detrimental impacts on adjoining sites. This is largely because of the separation distances and the improved technology associated with the tunnel ventilated sheds and landscaped berm to be installed.

While the traffic associated with the expanded proposal will be slightly greater in volume than that which currently exists, given the infrequent nature of this traffic, it is considered that the proposal is still consistent with this objective.

As stated above, the proposal is aimed at strengthening the agricultural viability of the land, and in doing so, is not only consistent with the zone objectives, but is also consistent with SREP 8 – *Central Coast Plateau Areas*.

The operation contributes to local employment and food production.

The proposal is considered to represent a scale of activity commensurate with the RU1 Primary Production zone objectives by encouraging sustainable primary industry while maintaining the natural resource base of the rural land. The proposal is not out of character with the local area being recognised as a major rural agricultural region in Wyong Shire and the state.

The impacts have been considered and are within required standards even with amplification to five sheds.

#### Clause 5.10 – Heritage Conservation

Council's mapping does not indicate the presence of any known items of Aboriginal or European heritage on the subject site.

#### Clause 7.4 – Drinking Water Catchments

The objective of the provision is to reduce the potential threats to the quality of the Central Coast water supply by restricting land use in the Ourimbah Creek water supply catchment. It is considered that the proposed additional shed will not adversely affect the region's water supply via the off-site migration of contaminated stormwater run-off due to the adequate capacity of the current stormwater system on the subject site.

Additionally, NSW DPI has reviewed the application and considers the placement of an additional shed will not impact on the drinking water catchment.

#### Clause 7.9 - Services

Clause 7.9 states that Council shall not grant its consent to the carrying out of any development on any land unless adequate water supply and facilities for the removal or disposal of sewage and drainage are available to that land.

The site has on-site management in place for waste water from the site the capacity of the drainage system results is pre-development flows complement the existing flows.

### **d) Wyong Development Control Plan 2013**

#### Chapter 3.1 –Site Waste Management

Contemporary poultry meat production is considered a dry process. The floor of the poultry shed will be constructed of impermeable and compacted road base and covered in wood shavings in order that all liquid waste is absorbed. Upon removal of the birds from the sheds, litter is collected and trucked off site for further processing and typical use within the horticultural industry. As very little water is used in the removal of the spent poultry litter, the potential for solid and liquid waste to enter the catchment is therefore minimised.

The EMP addresses the operational waste management of spent litter and dead bird management. Spent litter is a combination of floor material (saw dust/shavings) combined with manure from the birds. Litter within the sheds is typically only used for one batch or growing cycle (10 weeks). As discussed above, once the birds have been removed, spent litter is immediately loaded directly onto trucks parked immediately at the entrance of each of the poultry sheds and is taken off site by a contractor. This material is typically on-sold to nurseries who on-sell the product as soil improver and fertilizer in the agricultural and horticultural industries. There is no stock piling of spent litter on-site at any one time.

Dead birds are collected each day and disposed of into the biobin located on site. The biobin is leak proof and vermin proof. The biobin is a composting bin which is emptied on an as needs basis (generally at the end of each batch cycle) by a specialist contractor for processing offsite into fertilizers. In the case of mass mortality, the EMP provides that the birds are to be euthanized and composted within the sheds.

#### e) Wyong Shire Economic Development Strategy

The value of the Kulnura Plateau is also identified within the Wyong Shire Economic Development Strategy which states:

- a) *"The Ourimbah, Yarramalong and Dooralong Valleys, as well as the Kulnura Plateau, are major agricultural resources for Wyong Shire. Agricultural uses include turf and poultry farms, livestock, market gardens, hydroponics and nurseries. It is important to preserve and protect agricultural land from inappropriate adjoining land use activities and fragmentation by small-lot rural subdivisions, for both economic and scenic value, as well as the inherent value of producing fresh, locally grown produce.*
- b) *Agriculture can also provide an economic buffer during downturns in other sectors of the economy, such as construction and retail."*

This development is considered to be consistent with the provisions of the strategy.

#### ECOLOGICALLY SUSTAINABLE PRINCIPLES

As detailed under the Act, Ecologically Sustainable Development can be addressed through the implementation of the following principles:

- (a) *the precautionary principle, namely, that if there are threats of serious or irreversible environmental damage, lack of full scientific certainty should not be used as a reason for postponing measures to prevent environmental degradation.*

The current operation is undertaken with regard to the strict standards required by the poultry industry and provided compliance with said standards there will be no threat to the environment. The EMP is considered to be the appropriate mechanism in which to ensure the expanded poultry farm operates in an environmentally safe manner.

- (b) *inter-generational equity, namely, that the present generation should ensure that the health, diversity and productivity of the environment are maintained or enhanced for the benefit of future generations;*

Compliance with the environment management plan will ensure that the operations are appropriately managed in terms of air quality, noise levels, water quality and quantity controls, and general amenity. This will ensure that the value of the environment will be maintained for future generations.

- (c) *conservation of biological diversity and ecological integrity, namely, that conservation of biological diversity and ecological integrity should be a fundamental consideration;*

The proposal does not pose any unacceptable threat to local biological or ecological diversity.

**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 environmental sustainability and climatic impacts.

**ASSESSMENT**

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

**THE LIKELY IMPACTS OF THE DEVELOPMENT****Context and setting**

The Kulnura plateau has historically been recognised as a highly productive agricultural area. These agricultural values are recognised and protected through SREP 8 'Central Coast Plateau Areas' which encourages the use of these lands for agricultural purposes.

The additional shed is the same dimensions as the existing buildings. The placement is considered to be unobtrusive and unlikely to create any visual impact concerns upon the rural setting. Due to the topography of the site (falling away from Springs Road toward the south) and the development on the site, and existing and proposed cut and fill works undertaken on the site, the chicken shedding and related works are unable to be viewed from Springs Road.

The scale of the development is generally consistent with the agricultural character of the Kulnura plateau established with various agricultural activities including grazing, citrus and poultry farming. In the immediate catchment there are several other poultry farms (shown with red dots on the aerial below – figure 18). The nearest existing chicken farm is 1.4km east of the subject site.

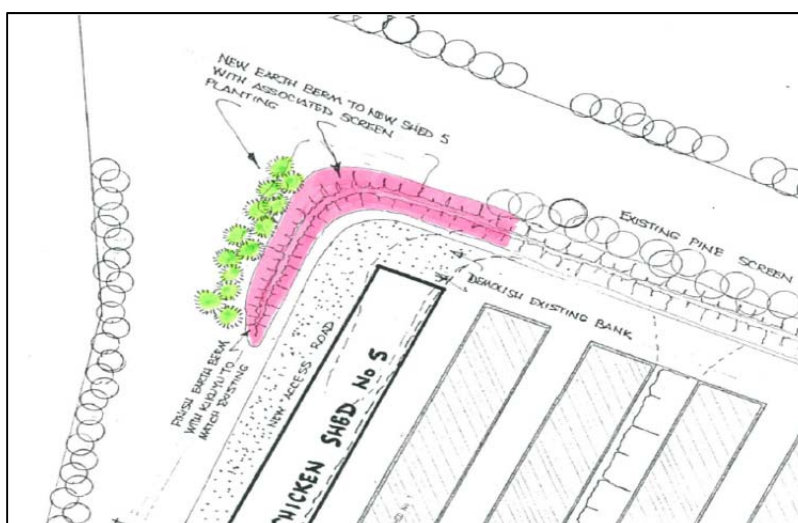


**Figure 18: Nearest poultry farms (red dots) to subject site**

The subject premises are modern using “state of the art” tunnel ventilated and evaporative cooling technology to minimise odour impacts to the environment.

Tunnel ventilation is an exhaust system that places a intake fan at one end of the shed and exhaust fan at the other end and in effect air is drawn through the shed. At the exhaust end a 3.0m high landscaped mound is proposed which will deflect warm air skyward. Air entering the shed can be evaporative cooled by way of controlled mist sprays and selective window settings.

The proposal includes extension to the existing landscape mound on the east side of the existing four sheds – see figure 19 below. Once established the mound and trees will visually screen the fifth shed from the east.



**Figure 19: Proposed extension of landscaping and berm near corner of new shed – new mound in pink, new trees in green**



## Air and Microclimate

The emission of odour has been discussed extensively in the preceding sections of this report.

## Noise

The proposed additional tunnel ventilated shed will result in the generation of additional noise through; ventilation equipment, machinery and other operational equipment, trucks and waste collection. The report prepared by Benbow Environmental undertook the relevant noise assessments having regard for the nearest residential receptors (refer figure 20).



**Figure 20: Nearest residential noise receptors – (source Benbow report 2014)**

The current application has the benefit of utilising real data from tunnel fans with predicted noise levels at receptor 'R5' of 27db(A), lower than the applicable noise level of 35db(A) at night.

At the 'R6' receptor 600m across the valley, the predicted noise levels are less than 20db(A), substantially lower than the applicable noise level of 35db(A) at night. The predicted noise levels at other receptors (example 'R2' of 28db(A), 'R4' of 20db(A)) are lower than the applicable noise level of 35db(A) at night.

“Benbow’s” report concludes that the generation of noise emissions will be minimal provided that the specified recommendations of the Noise Impact Assessment are implemented including the extension of the earth mound, reduction of vehicle engine activity and by minimising vehicle braking actions. It is anticipated that with the extension of the 3m high earth acoustic berm with additional landscaping, and compliance with the truck management plan, the operation of the poultry farm will be in accordance with the NSW EPA Industrial Noise Policy. These matters can be covered through conditions of consent.

A thorough assessment in terms of statutory and DCP compliance, submissions received, and relevant impacts of the proposed development on the built environment has been undertaken. As a result of the assessment, the proposed development is considered to be satisfactory in terms of impacts on the built environment.

#### Environmental Management Plan (EMP)

Noise, odour and traffic have are proposed to be managed through a site EMP prepared by “Pacific Environment Ltd” dated October 2014. The EMP has been prepared to address the management of all five sheds including the four built under DA/1588/2004 and the one the subject of this application.

The EMP outlines how the poultry farm is to be managed into the future inclusive of operational management and monitoring arrangements. It provides a framework as to how environmental performance of the farm can be measured and monitored into the future.

The EMP reflects the day to day management of the farm recognising the needs of the industry and the community with operational and management standards. Additional requirements which will be required to be included as part of the EMP or as accompanying documentation include the following:

- The traffic management plan shall be attached as an addendum to the EMP.
- The on-site practices to reduce noise emissions, as contained on page 42 of the Noise Assessment prepared by Benbow Environmental, dated November 2014, shall be included within the EMP.
- In the event of mass mortality, the birds are to be euthanized and composted within the sheds.
- Maximum stocking density
- The provision of an Environmental Management Report every two years for the duration of the development. The operator shall submit the report to Wyong Shire Council. The report shall:
  - Review the environmental performance of the development to determine whether it is complying with this development consent and the statutory requirements;
  - Identify all the occasions during the previous two years when there has been a non-compliance; where non-compliance is occurring, describe what actions are (or will be) taken to ensure compliance, who will be responsible for carrying out these actions, and when these actions will be implemented;
  - Include a summary of any complaints made about the development, and indicate what actions were taken (or are being taken) to address these complaints;

- Provide the results of odour measurements and compare them to those contained within the Odour Assessment, prepared by Pacific Environment Limited, dated 5 November 2014. If emission rates are significantly greater than those outlined within the odour assessment then steps must be taken to reduce emissions. Once reduction measures have been undertaken, repeat testing of emissions during one subsequent batch must be performed and reported in a manner that indicates whether compliance with the above-stated requirements is met.

Odour measurements are to be carried out by an accredited laboratory.

- The landowners immediately adjoining the subject site shall be informed when the environmental management report has been submitted to Council.

The EMP has been reviewed by Council's Senior Environmental Health Officer who is satisfied that the EMP (with amendments discussed above) provides appropriate coverage of issues and an acceptable future management framework for the five sheds.

The review of the EMP has been undertaken having regard for consideration of the planning principles adopted from case law relating to management plans. Management plans are considered to be an effective mechanism in managing the operation of a development. The planning principles dealing with management plans were adopted in *Renaldo Plus Pty Limited v Hurstville City Council* [2005].

Planning principles establish that in considering whether a management plan is appropriate for a particular use and situation, the following questions should be considered:

- Do the requirements in the Management Plan relate to the proposed use and complement any conditions of approval?
- Do the requirements in the Management Plan require people to act in a manner that would be unlikely or unreasonable in the circumstances of the case?
- Can the source of any breaches of the Management Plan be readily identified to allow for any enforcement action?
- Do the requirements in the Management Plan require absolute compliance to achieve an acceptable outcome?
- Can the people the subject of the Management Plan be reasonably expected to know of its requirements?
- Is the Management Plan to be enforced as a condition of consent?
- Does the Management Plan contain complaint management procedures?
- Is there a procedure for updating and changing the Management Plan, including the advertising of any changes?

Each of the Planning Principle's questions has been addressed below:

***Do the requirements in the Management Plan relate to the proposed use and complement any conditions of approval?***

There is nothing in the EMP that is inconsistent with, or does not compliment the proposed use or the proposed conditions. The terms of the EMP seek to provide operating guidelines for the poultry farm in accordance with best practice guidelines and appropriately guide the operation of the site.

***Do the requirements in the Management Plan require people to act in a manner that would be unlikely or unreasonable in the circumstances of the case?***

The EMP does not place any unreasonable actions on farm management and staff or on employees of subsidiary businesses beyond the scope of their job. It established a suitable range of matters to monitor the impacts of the development such as climate control, a feed regime and waste management.

***Can the source of any breaches of the Management Plan be readily identified to allow for any enforcement action?***

The EMP prescribes practices for community liaison and complaint management in addition to the keeping of log books among other matters. It is noted a strict regime is in place for access to the land ensuring that transmission of disease does not occur.

Importantly, responsibility for compliance with the requirements of the EMP rests with the operator of the farm. Additionally, and if any action needs to be instigated for breaches of the EMP, it is likely that the person responsible for the breach can be identified either through visual observations or through records associated with the farm.

***Do the requirements in the Management Plan require absolute compliance to achieve an acceptable outcome?***

For the EMP to be effective, a single breach or small number of breaches should not create a situation where there is unacceptable impact. In the case of the proposed development, the potential adverse impacts relate largely to potential noise or odour. Council's health officer has undertaken an evaluation of the current site operations and has concluded that the poultry farm is appropriately managed. The chicken sheds include automated air quality and temperature gauges. The sheds incorporate tunnel ventilation which is optimal for minimising odour impacts. Other matters such as delivery times and traffic have less an impact with reasonable tolerance that maintain the rural amenity.

***Can the people the subject of the Management Plan be reasonably expected to know of its requirements?***

The people the subject of the EMP are farm staff, property owner, and the truck drivers of associated businesses and the Environmental Officer. The EMP provides for these people to be advised of the specific requirements of the plan. Importantly, people have a link to the farm either as employees, or through contractual arrangements with the farm such as delivery drivers. In this case, these links provide incentives to comply with the requirements of the EMP otherwise enforcement action could occur or they may lose their contract.

The Environmental Officer is appointed by the operator and is an appropriately qualified person able to inform the operator on environmental matters and compliance with conditions of consent.

***Is the Management Plan to be enforced as a condition of consent?***

It is proposed to include the document as a condition of consent. It must be acknowledged that both DA/1588/2004 (four sheds) and DA/1058/2014 (one shed) will also be controlled by their respective consent conditions.

***Does the Management Plan contain complaint management procedures?***

Yes – part 5.13 'Community Liaison and Complaint Management' provides instruction to the farm operator on procedures for community engagement and complaint management.

***Is there a procedure for updating and changing the Management Plan, including the advertising of any changes?***

It is proposed to include the document as a condition of consent. It must be acknowledged that both DA/1588/2004 (four sheds) and DA/1058/2014 (one shed) will also be controlled by their respective consent conditions.

The conditions of consent will also require the farm operator to submit to Council an updated EMP every two years to ensure that farm operations are reviewed to reflect best practice. The updated EMP will be kept in Council and can be available upon request for public viewing.

**Animal Welfare**

The shed design, construction and stocking density for birds is regulated under the prescriptive provisions in *Model Code of Practice for the Welfare of Animals – Domestic Poultry (CSIRO 2006)*.

The EMP identifies practices to be adopted for the welfare of the birds and includes:

- Limiting densities in the shed – in this case for 42,000 birds
- Prepare shed with appropriate bedding.
- Maintaining climatic controls in the shed – computer based control for humidity and temperature.
- Feed in accordance with specifications by Inghams Pty Ltd.
- Shed to be kept free of predators – cats, rodents, foxes.
- Control of chemical levels.
- Control of illumination.
- Daily inspections.
- Removal of bird waste and spent litter (and if necessary dead birds) daily.

The New South Wales Food Authority and Inghams also undertake regular monitoring of the operation to ensure that appropriate conditions are provided for the chickens inside the sheds.

**Biosecurity**

In addition to odour and noise, the DPI identified that due to the poultry farm being 1.3 to 1.5km of existing poultry farms, the biosecurity risk of farm to farm disease spread is increased marginally. To minimise the potential for the spread of disease and other biological contaminants a biosecurity buffer of 2km is normally recommended. However, in the case of Kulnura with existing poultry farms being less than 2km apart, all of these farms would be considered as one in any disease outbreak. As such, the proposed trucking of dead birds in the case of mass mortality is not recommended, with the preference being for euthanasia and composting of the birds to be carried out within the sheds. This requirement has been requested to form part of the EMP in accordance with the NSW DPI advice.

**Natural Environment**

The immediate surrounding areas comprise managed grass fields with scattered vegetation and regrowth. A thorough assessment of the aspects of the proposed development upon the natural environment has been undertaken with no likely significant impact on the natural environment. The locality has been actively used for agriculture for a substantial numbers of years and there is no record of Endangered Ecological Communities (EEC) in proximity of the site.

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 site constraints such as flooding, acid sulphate soils, EEC or the like. The site is therefore suitable for development.

The likely impacts of the development have been discussed throughout this report. In general, it is considered that the property is suitable for the development subject to conditions of consent.

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

The public interest is best served by the orderly and economic use of land for the purpose for which it is zoned. The proposed development is permissible with consent and complies with the provisions of the relevant Wyong policies and controls. Further it is consistent with the specific state SREP 8 which applies to and encourages agricultural development in the locality.

Protection of agricultural viability of the Kulnura plateau is specifically referenced within the Wyong Shire Economic Development Strategy as it adds to the economic and scenic value, as well as the inherent social value of producing fresh, locally grown produce.

The proposal is considered to be in the public interest by providing facilities for the enhanced use of rural primary production land in a manner which can minimise environmental impacts.

**CONCLUSION**

The proposed addition of a fifth poultry shed to an existing poultry farm is considered satisfactory. As demonstrated in the report, the applicant has designed the proposal to increase the productive capacity of the land, while managing onsite and off-site impacts. The proposal incorporates measures such as sediment ponds, stormwater management and the erection of landscaped earthen berms to reduce noise impacts, stormwater impacts, odour and visual impacts. The proposed shed, being tunnel ventilated, is the same built form as the existing four sheds. The increased agricultural productivity of the site resulting from the proposal satisfies the objectives of SREP 8, being to ensure the continued use of the land for viable agricultural pursuits.



The Environmental Impact Statement (EIS) has adequately addressed the requirements of the Secretary of the Department of Planning and Environment. The EMP along with conditions of consent will ensure operations of the poultry farm are best practice and will not have unreasonable impacts on the surrounding environment.

On balance, the proposed development subject to the implementation of the measures described in the EIS and the specific site EMP, as well as conditions of consent, is considered reasonable and is recommended that Council support the proposal.

#### **ATTACHMENTS**

- |          |                             |           |
|----------|-----------------------------|-----------|
| <b>1</b> | Draft Conditions of Consent | D12290848 |
| <b>2</b> | Development Plans           | D11973756 |

**Date:** 6 April 2016  
**Responsible Officer:** Tanya O'Brien  
**Location:** 127 Springs Road, KULNURA NSW 2250  
 Lot 2 DP 1196216  
**Owner:** Mr M Schembri and Mrs M J Schembri  
**Applicant:** Aconsult  
**Date Of Application:** 18 November 2014  
**Application No:** DA/1058/2014  
**Proposed Development:** Additions to existing poultry farm - one additional tunnel ventilated poultry shed to create 5 poultry sheds  
**Land Area:** 97200.00

## 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:

Title	Drawing No.	Rev	Date	Drawn By
Detailed Survey Plan	16453 – SB01 16453 – SB02	B B	14 August 2014	Trehy Ingold Neate
New Shed General Arrangement	339205	A2	11 April 2003	Chris Bratby
Site Landscape Outline	2564-1	A	17 September 2014	Precinct Landscapes

### 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 issued by the Principal Certifying Authority.

### Environmental Management

- 4 The operation of the whole poultry farm shall comply with the Environmental Management Plan titled Longridge Estate Environmental Management Plan dated 25 October 2014, as amended by condition 14, and following two yearly review, as approved by Council under condition 5.
- 5 The Environmental Management Plan is to be reviewed every two years with necessary amendments or variations to the EMP approved by Council's Environmental Health Officer.

- 6 Where there is any inconsistency between the provisions of DA/1588/2004/B and this consent, the provisions of this consent shall prevail to the extent of the inconsistency.
- 7 The maximum stocking density of the additional poultry shed is 42,000 birds at any one time.

## **Prior to Release of Construction Certificate:**

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

### **Contribution Payment Requirements**

- 8 Prior to the issue of any Construction Certificate, the payment to Council of developer contributions as calculated in the formula below:

$$\text{Developer contribution} = \$8,119.30 \times \text{Current CPI} \div \text{Base CPI}$$

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.

### **Stormwater Drainage - Design Requirements**

- 9 The submission to the Accredited Certifier of a detailed stormwater management plan showing stormwater disposal to the existing detention system. The plans must be prepared in accordance with AS/NZS3500.3:2004 and approved by the Accredited Certifier prior to issue of the Construction Certificate.

### **Certification of Existing Dams**

- 10 Prior to issue of the Construction Certificate, the applicant must submit, for approval by the Principal Certifying Authority, certification from a suitably qualified and experienced civil/hydraulic engineer that:
  - a any existing pipes within the drainage system to be utilised are in satisfactory condition.
  - b the existing dams to be utilised have the hydraulic capacity to carry controlled post developed flows from the subject property to the approved point of discharge.

- c overflow from the existing drainage systems will generally mimic sheet flows from an undeveloped site.

### **Vehicle Access and Parking - Design Requirements**

- 11 The submission to the Accredited Certifier details for the required circulation road. The design drawings shall be prepared in accordance with the requirements of AS/NZS 2890 – Part 2, and be approved by the Accredited Certifier prior to the issue of a Construction Certificate.

### **Earthworks**

- 12 The submission of a design plan incorporating engineering details for:
  - Excavation and filling for the shed and landscaping berm.

### **Landscaping**

- 13 Prior to the issue of a Construction Certificate, a landscape plan, prepared by a suitably qualified consultant, must be provided for the approval of the Accredited Certifier. The landscape plan shall identify extensive planting along the full extent of the proposed earth berm. The planting shall provide a continual vegetation screen from the existing plantings to a point at least 75m from the eastern end of the shed. The landscape plan is also to identify additional low level planting (lemandra or similar) along the site's low point (rear boundary) to minimise scour and reduce the speed of water exiting the site.

### **Environmental Management Plan**

- 14 Prior to the issue of a Construction Certificate, the Environmental Management Plan shall be updated to include the following:
  - i. The traffic management plan shall be attached as an addendum to the EMP, and referenced under Part 5 Operation Design and Management.
  - ii. The on-site practices to reduce noise emissions, as contained on page 42 of the Noise Assessment prepared by Benbow Environmental, dated November 2014, shall be included within the EMP.
  - iii. Section 5.6(h) of the EMP is to be amended to reflect that in the event of mass mortality, the birds are to be euthanized and composted within the sheds.
  - iv. The EMP is to require the operator to notify Council's Environmental Health Officer in the case of any unusual events which may affect the amenity of the surrounding dwellings within 24 hours of the event occurring.
  - v. The EMP is to reference that the maximum stocking density of each shed is 42,000 birds at any time.
  - vi. The EMP will require the provision of an Environmental Management Report within 6 months of Occupation Certificate being issued for the 5<sup>th</sup> shed and following that, every two years for the duration of the development. The operator shall submit the report to Wyong Shire Council. The report shall:

- Review the environmental performance of the whole development to determine whether it is complying with this development consent and the statutory requirements;
- Identify all the occasions during the previous two years when there has been a non-compliance; where non-compliance is occurring, describe what actions are (or will be) taken to ensure compliance, who will be responsible for carrying out these actions, and when these actions will be implemented;
- Include a summary of any complaints made about the development, and indicate what actions were taken (or are being taken) to address these complaints;
- Provide the results of odour measurements and compare them to those contained within the Odour Assessment, prepared by Pacific Environment Limited, dated 5 November 2014. If emission rates are significantly greater than those outlined within the odour assessment or odour unit levels are over those modelled in the odour assessment when measured at surrounding dwellings, then steps must be taken to reduce emissions. Once reduction measures have been undertaken, repeat testing of emissions during one subsequent batch must be performed and reported in a manner that indicates whether compliance with the above-stated requirements is met. Where non-compliant results are found, then further reduction measures and reporting must be performed one batch at a time until compliance is achieved.

Odour measurements are to be carried out by an accredited laboratory.

- (i) The EMP to be updated to replace 5.7 Noise Management (c) with a requirement for all non-bird pick-up truck movements to occur between 7am and 6pm.
- (i) The landowners immediately adjoining the subject site shall be informed when the environmental management report has been submitted to Council.

## Prior to Commencement of Works:

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

### Erosion and Sediment Control Requirements

- 15 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.

## During Construction Works:

*The following conditions must be satisfied during construction works.*

### Site Requirements

- 16 Construction 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.
- 17 The site is to be managed in accordance with the Soil and Water Management Plan prepared pursuant to Condition No 5.

## Prior to Release of Occupation Certificate:

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

### Building Code of Australia – Compliance Requirements

- 18 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.



**Stormwater Drainage**

- 19 Prior to the release of an Occupation Certificate the detailed stormwater Management Plan is to be implemented.

**Landscaping**

- 20 Prior to the release of an Occupation Certificate, the landscaping of the site shall be completed in accordance with the Site Landscape Outline Plan prepared by Precinct Landscapes, dated 17 September 2014, and certified by a landscape design consultant.
- 21 Prior to the release of an Occupation Certificate, additional screen planting must be undertaken along the extension of the recommended acoustic mound and low level planting (Lomandra or similar) is to be provided along the rear (south - east) boundary of the site.

Along the acoustic mound, native trees are to be equally spaced so as to cover the extension of the constructed acoustic mound and are to be maintained to maturity (defined as 3 metres or more in height or trunk diameter of 75 mm or more measured at 1.4 metres above ground level) through use of mulch and watering and allowed to achieve their natural height.

Rear boundary plantings are also to be maintained to maturity using mulch and regular watering.

**Ongoing Operation:**

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

**Acoustic Management**

- 22 The LAeq noise level emanating from the premises as measured over any 15 minute period shall not exceed:
- a) 35 dB(A) between 6pm and 7am; and
  - a) 38 dB(A) between 7am and 6pm
- on any day at any affected residence.

**Site Management**

- 23 All deliveries to and from the site, apart from bird pick-ups, are to be carried out between 7.00am and 6.00pm.
- 24 The operation shall strictly comply with the Environmental Management Plan referred to in Condition 4.
- 25 All lighting shall be designed so as to ensure that glare does not impact upon all adjoining properties.

**Log Book(s)**

- 26 Any log books relating to the operation of the poultry farm are to be made available to Council upon request.

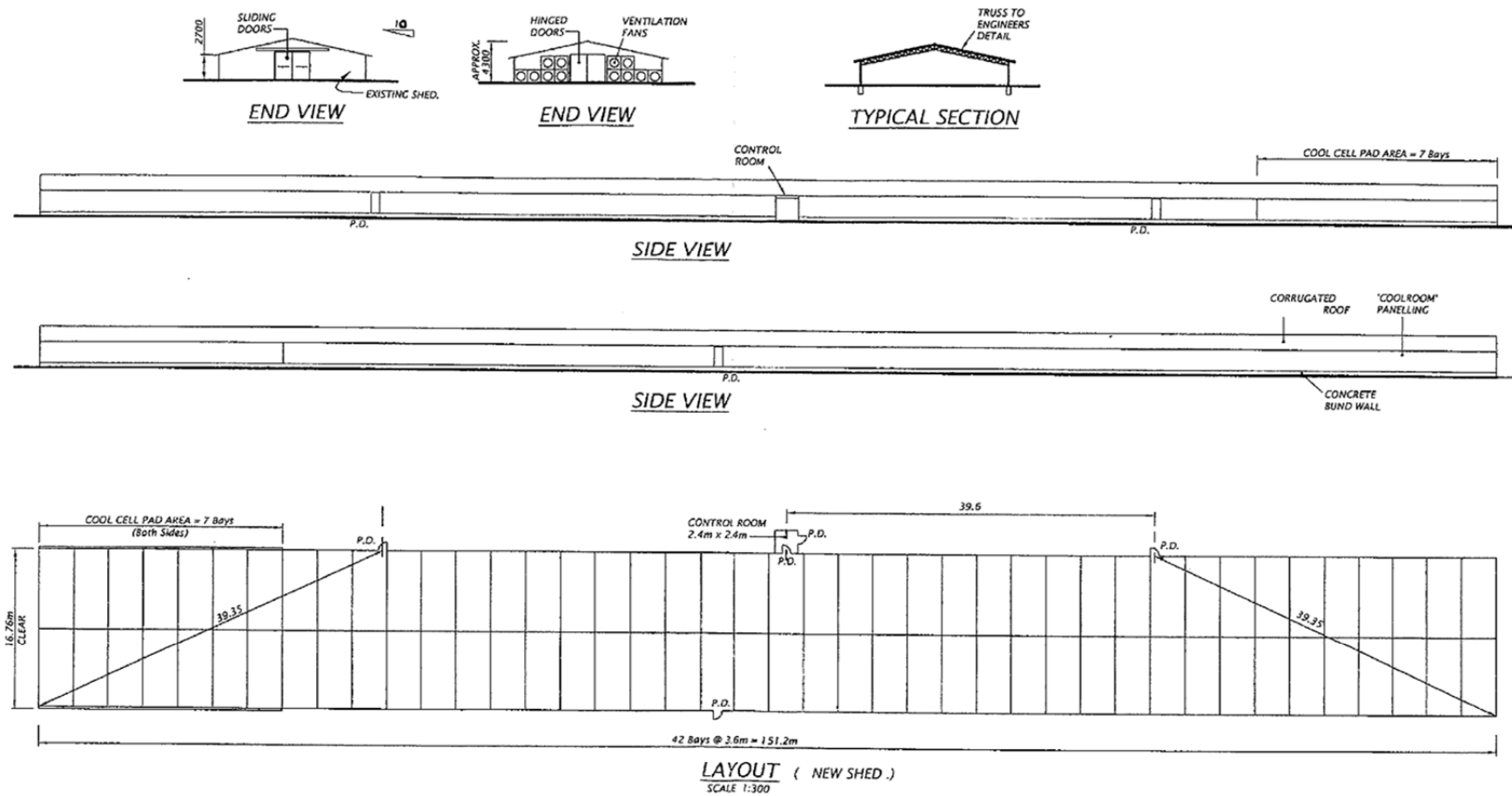
**On-site Water Management**

- 27 The dams on the site are to be maintained to ensure the minimum approved capacity is provided. Dams, pipes and irrigation equipment are to be maintained to allow for irrigation of other parts of the farm following heavy rain periods and thereby maintaining storage capacity.

## Schedule of Contributions

Section 94A Levy	\$8,119.30
Appeal Rights	





SEE SHEET 2 FOR DETAILS.

**CHRIS BRATBY** B.E., M.J.E. (AUST), C.P.ENG.  
 CONSULTING STRUCTURAL ENGINEER  
 PH: (02) 43281112 P.O. BOX 2300  
 MOB: 0414436288 GOSFORD 2250

REFER TO SHEET 2 FOR  
STRUCTURAL DETAILS**NEW SHED**

**GENERAL ARRANGEMENT**  
 PROPOSED POULTRY SHEDS at  
 'LONGRIDGE' RMB 2210 SPRINGS RD., KULNURA for  
 MR. M. SCHEMBRI.

CHECKED:

C.W. BRATBY C.P.ENG.

SCALE: 1:300

DRAWN: PJ

SHEET

DATE: 11-04-03

JOB: 023392

DWG. (A2) No. 339205

1/2



## **2.2 Enforcement Policy**

---

TRIM REFERENCE: F2010/00500 - D12260661

MANAGER: Jamie Loader, Manager

AUTHOR: Brian Jones; Section Manager, Compliance Health

### **SUMMARY**

This report recommends Council adopt the draft Compliance & Enforcement Policy (the Policy). The Policy has been prepared using the Model Compliance & Enforcement Model Policy prepared by the NSW Ombudsman.

The policy will apply to investigation and enforcement of unlawful activities, incomplete works and dilapidated buildings.

### **RECOMMENDATION**

- 1 That Council endorse the draft Compliance & Enforcement Policy.**
- 2 That Council place the draft Compliance & Enforcement Policy on public exhibition for a period of 28 days.**
- 3 That Council adopt the Compliance & Enforcement Policy, subject to there being no objections as a result of public exhibition and give appropriate public notice.**

### **BACKGROUND**

Council adopted a Policy for Enforcement on 9 April 2014.

In December 2015 the NSW Ombudsman released new Enforcement guidelines for Councils (the Guidelines) that included an updated Compliance & Enforcement Model Policy. The Ombudsman indicated the expanded guidelines are provided to assist Council to develop better processes that include with the principles of good administrative practice and decision making.

The Guideline suggests Council should:

- Be responsive and consider what is appropriate for the particular offender and the particular issue, and
- Act in a proportionate nature to the offence and the harm caused.

The Guidelines provide Council the opportunity to review the existing policy and establishes a procedure for appropriate updates. A draft Compliance & Enforcement Policy (the draft Policy) has been prepared to ensure Council's regulatory activities are consistent with the Ombudsman's guidelines.



### KEY VARIATIONS

The key fundamentals of procedural fairness and transparency are similar in both policies. The key differences are that the Ombudsman's guidelines go in to further detail in a number of areas including:

- The draft Policy addresses the maintenance of records. Council's 2014 Policy does not.
- The draft Policy requires anonymous complaints to be recorded and assessed. The 2014 Policy indicates anonymous complaints will "*generally*" not be investigated.
- The draft Policy outlines shared responsibilities eg; where a Private Certifier is involved. Council's 2014 Policy does not address the issue.
- The draft Policy addresses issues that arise as a result of neighbourhood disputes, Council's 2014 Policy does not.
- The draft Policy establishes an importance between the level of risk/response associated with enforcement options. Council's 2014 Policy references risk, however, not to the same level of detail.

Adoption of the draft Policy will benefit Council by ensuring compliance and enforcement procedures are consistent with the expectations of the NSW Ombudsman's Office.

### BUDGET IMPACT

There will minimal budgetary impact by adoption of the draft Compliance & Enforcement Policy.

### OPTIONS

#### **Do nothing**

To retain the current policy would be contrary to advice by the NSW Ombudsman and Council's internal Ombudsman.

#### **Revise the draft Compliance and Enforcement Policy**

Council may propose amendments. Any amendments should be consistent with the model policy.

#### **Adopt the draft Compliance & Enforcement Policy**

Adopting the draft Compliance and Enforcement Policy will ensure that Council's policy will be consistent with the advice from the Ombudsman NSW and Council's internal Ombudsman.

## GOVERNANCE

### Consideration of s.23A guidelines

The Chief Executive of the NSW Office for Local Government has issued guidelines titled “*Council Decision Making during Merger Proposal Periods*” pursuant to s.23A(1) of the *Local Government Act 1993* (“LG Act”). The Council must consider those guidelines when making decisions during the “merger proposal period”, which commenced on 6 January 2016 and will conclude on the date on which a proclamation is made to amalgamate the Wyong and Gosford local government areas or the Minister for Local Government determines that he will not proceed with the proposal for that amalgamation: s.23A(3) of the LG Act. Councillors have been provided with a copy of those guidelines and have been given advice concerning those guidelines. The decisions that are proposed as part of this report comply with those guidelines.

## CONSULTATION

Community consultation is required before adoption of the draft Compliance and Enforcement Policy. Consultation will be achieved by advertisement for 28 days via local media and Council’s website

The adoption of this draft policy has been recommended by Council’s Internal Ombudsman and General Counsel.

## CONCLUSION

The draft Compliance and Enforcement policy is recommended for public exhibition.

## ATTACHMENTS

- |   |   |           |
|---|---|-----------|
| 1 | Draft Policy for Compliance & Enforcement | D12266168 |
| 2 | Enforcement Policy                        | D11798845 |

**POLICY NO:**

# **POLICY FOR COMPLIANCE & ENFORCEMENT**

<b>AUTHORITY</b>	<b>NAME &amp; TITLE</b>
<b>AUTHOR</b>	Jamie Loader, Manager – Building Certification Compliance & Health
<b>MANAGER</b>	Jamie Loader, Manager – Building Certification Compliance & Health
<b>DIRECTOR</b>	Scott Cox, Director – Development & Building
<b>ACTING CHIEF EXECUTIVE OFFICER</b>	Rob Noble

**CERTIFIED A TRUE COPY OF POLICY ADOPTED BY COUNCIL**

<b>AUTHOR SIGNATURE</b>	
<b>COUNCIL RESOLUTION DATE</b>	

**History of Revisions:**

<b>Version</b>	<b>Date</b>	<b>TRIM Doc. #</b>
1	July 2013	D03679712
2	March 2016	

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**A. INTRODUCTION**

- A1 Council's regulatory responsibilities apply to *actual unlawful activity*, as well as a *failure to take action* (in order to be compliant with certain legal requirements). For simplicity, this policy refers to both an act and/or an omission by an alleged offender as 'unlawful activity'.
- A2 This policy distinguishes between a 'report alleging unlawful activity' and a 'complaint'.
- A3 For the purposes of this policy, a report alleging unlawful activity is where an individual expresses concern in relation to alleged unlawful activity, or they request service from Council about such matters. Council considers that a response or resolution to a report alleging unlawful activity is explicitly or implicitly expected by the individual, or may be legally required.
- A4 A complaint is where an individual expresses dissatisfaction about Council services, staff or the handling of a complaint. Therefore, a complaint may arise where an individual claims that Council staff have failed to take action in relation to a report alleging unlawful activity. A complaint will be recorded separately and responded to in accordance with Council's complaints management policy and procedures.

**B. PURPOSE AND SCOPE**

- B1 This policy provides information for all internal and external stakeholders and interested parties about Council's position on compliance and enforcement matters in the local government area.
- B2 The purpose of this policy is to provide structure for consistency and transparency in decision making, and to facilitate a proportional approach to compliance and enforcement. It is also intended to assist Council staff to act promptly, effectively and consistently in response to allegations of unlawful activity.
- B3 This policy outlines matters to be considered at the various stages of the enforcement process from the receipt and investigation of reports alleging unlawful activity, through to what enforcement option Council will choose and whether to commence criminal or civil proceedings.
- B4 In certain circumstances Council will have shared enforcement responsibilities with other regulatory authorities. This policy sets out a collaborative and cooperative approach to such matters. Advice and guidance is also provided on the role of Council in building and construction compliance matters where there is a private certifier, and the role of Councillors in enforcement.
- B5 Responsible Council staff are not limited by this policy in their use of discretion and exercise of official functions. The full circumstances and facts of each case need to be considered and a decision made on the merits.

**C. ADMINISTRATION**

- C1 Wyong Shire Council is the organisation responsible for the administration of Council affairs and operations and the implementation of Council policy and strategies.
- C2 This policy is based on the 'Model Policy' developed by the NSW Ombudsman dated December 2015 and shall be read in conjunction with all relevant Council policies. The Enforcement Policy has been created as an overall guiding document for all enforcement matters within the Development and Building Department. The policies and procedures will form a suite of documents for all enforcement matters. As legislation changes and issues arise, policies and procedures will be developed to assist Council in managing the roles and responsibilities within the Development and Building Department.

**D. POLICY STATEMENTS****Jurisdiction**

- D1 This Policy covers all elected members of Council, all personnel employed by Council, any person or organisation contracted to or acting on behalf of Council, any person or organisation employed to work on Council premises or facilities and all activities of the Council.
- D2 This policy does not confer any delegated authority upon any person. All delegations to staff are issued by the Chief Executive Officer.

**E. POLICY IMPLEMENTATION - PROCEDURES**

- E1 This policy should be read in conjunction with the Wyong Council Code of Conduct.
- E2 It is the personal responsibility of all Council employees and agents thereof to have knowledge of, and to ensure compliance with this policy.

**E3 Associated documents**

- Council Code of Conduct
- Council's Policy for Records Management
- Policy for Complaint and Feedback Management

**F. ORGANISATIONAL APPROACH**

- F1 Why compliance and enforcement is important. Council will consider how:
- to prevent or minimise harm to health, welfare, safety, property or the environment
    - to improve the safety and amenity of residents and visitors to the area
    - for the collective good, the welfare of the community or the public interest
    - to promote social policies (eg to preserve or protect the environment)
  - to manage risks
  - to uphold social order
  - to meet the expectations of the community
  - to encourage reports about possible unlawful activity from the community
  - to make the regulated community aware of their legal obligations and how to comply
    - details of any other relevant strategic planning

The objects section of an Act will often list the specific nature of the harm that is being addressed and explicitly state the regulatory purposes of the legislation. For example, under section 8 of the *Local Government Act 1993*, Councils are obliged to ensure that regulatory functions are exercised consistently and without bias.



**G. DEFINITIONS**

The following are the definitions of key terms in this Policy:

Term	Meaning
Complaint	A complaint is an expression of dissatisfaction made about Council services, staff or the handling of a complaint, where a response or resolution is explicitly or implicitly expected or legally required. For the purposes of this policy, a complaint does not include: <ul style="list-style-type: none"> <li>• a report alleging unlawful activity (see definition below)</li> <li>• a request for information about a Council policy or procedure</li> <li>• a request for an explanation of actions taken by Council</li> <li>• a request for internal review of a Council decision.</li> </ul>
Enforcement	Actions taken in response to serious or deliberate contraventions of laws.
Regulation	Using a variety of tools and strategies to influence and change behaviour to achieve the objectives of an Act, Regulation or other statutory instrument administered by Council.
Report alleging unlawful activity	An expression of concern or a request for service in relation to alleged unlawful activity, where a response or resolution is explicitly or implicitly expected or legally required.
Unlawful activity	Any activity or work that has been or is being carried out contrary to the below and/or failure to take required action in order to be compliant with: <ul style="list-style-type: none"> <li>• terms or conditions of a development consent, approval, permit or licence</li> <li>• an environmental planning instrument that regulates the activities or work that can be carried out on particular land</li> <li>• a legislative provision regulating a particular activity or work</li> <li>• a required development consent, approval, permission or licence.</li> </ul>

**H. POLICY OBJECTIVES**

The intent of this policy is to establish clear guidelines and protocols for Council in the management of Council's regulatory activities.

It provides workable guidelines on:

- responding to reports alleging unlawful activity
- assessing whether reports alleging unlawful activity require investigation
- deciding on whether enforcement action is warranted
- options for dealing with confirmed cases of unlawful activity
- taking legal action
- implementing shared enforcement responsibilities

The policy also provides advice and guidance on:

- the role of the Principal Certifying Authority and
- the role of Councillors in enforcement.

## I. APPLICATION

This policy applies to regulatory issues within council's area of responsibility including, but not limited to:

- development and building control
- pollution control
- environmental health
- public health and safety
- noxious weeds
- water and sewer
- septic systems
- control over animals
- food safety
- fire safety
- tree preservation

## J. COMPLIANCE AND ENFORCEMENT PRINCIPLES

The following are the principles that underpin Council actions relating to compliance and enforcement:

Principle	Action
Accountable and transparent	<ul style="list-style-type: none"> <li>• acting in the best interests of public health and safety and in the best interests of the environment</li> <li>• ensuring accountability for decisions to take or not take action</li> <li>• acting fairly and impartially and without bias or unlawful discrimination</li> <li>• providing information about compliance and enforcement priorities and reasons for decisions to improve understanding and certainty and promote trust by the regulated community</li> <li>• ensuring meaningful reasons for decisions are given to all relevant parties, particularly when there is a departure from this policy</li> <li>• acting on any complaints or concerns about the conduct of compliance officers in accordance with council's complaints management policy and procedures</li> <li>• advising people and organisations subject to enforcement action of any avenues available to seek an internal or external review of a decision.</li> </ul>
Consistent	<ul style="list-style-type: none"> <li>• ensuring all compliance and enforcement action is implemented consistently</li> <li>• encouraging reports about possible unlawful activity by acting reasonably in response to the circumstances and facts of each matter.</li> </ul>
Proportional	<ul style="list-style-type: none"> <li>• ensuring the level of enforcement action is proportionate to the level of risk and seriousness of the breach</li> <li>• making cost-effective decisions about enforcement action</li> <li>• taking action to address harm and deter future unlawful activity.</li> </ul>
Timely	<ul style="list-style-type: none"> <li>• ensuring responses to reports alleging unlawful activity and decision making in relation to those is timely.</li> </ul>

Council will determine risk of the alleged unauthorised activity and determine the significance in accordance with the risk assessment below.

**K. RESPONSIBILITY**

Council receives information about alleged unlawful activity from members of the public, contact from other government agencies and information gathered by its officers during proactive inspections.

Council is responsible to deal with reports alleging unlawful activity and is responsible for implementing this policy. Council will ensure any unlawful activity identified as a result of an inspection, proactive enforcement or other activity is brought to the attention of the appropriate business unit of council.

Council staff are required to:

- treat all relevant parties with courtesy and respect
- communicate with all relevant parties and provide feedback on the progress of an investigation and any reasons for delay without compromising the integrity of the investigation
- make full and proper records in relation to the assessment and investigation of reports alleging unlawful activity, including reasons for any decisions
- inform all relevant parties of reasons for decisions
- provide as much information as possible to all relevant parties about the outcomes of investigations to show that adequate and appropriate action was taken and/or is proposed to be taken in response to a report of alleged unlawful activity
- provide information to all relevant parties about any avenues to seek an internal or external review of a decision.

All reports alleging unlawful activity will be entered into Council's Records Management System and actioned in a timely manner by the appropriate business unit.

All reports alleging unlawful activity and customer service requests will be recorded in accordance with:

- Policy for Complaint and Feedback Management
- Council's Policy for Records Management

Only council staff with appropriate delegations from the Acting Chief Executive Officer can undertake investigations or compliance and enforcement action in relation to this policy.

**L. RESPONDING TO CONCERNS ABOUT UNLAWFUL ACTIVITY****How reports alleging unlawful activity will be dealt with by council**

Council will record and assess every report alleging unlawful activity.

Council will respond to every such report unless the person raising the matter has indicated they do not wish to receive a response about council's handling of the matter, or the report is anonymous.

Council's objectives when dealing with reports alleging unlawful activity are to:

- maintain the collective good and welfare of the community
- prevent or minimise harm to health, welfare, safety, property or the environment
- consider the broader public interest having regard to council's priorities and any resource limitations
- consider the report fairly and impartially.

Not all reports will need to be investigated. A preliminary assessment of all matters will be made to determine the priority for a response, and whether investigation or other action is required.

An investigation of alleged unlawful activity may take a significant amount of time to complete, particularly where the issues are complex. If council decides to investigate, staff will give the person who reported the alleged unlawful activity regular feedback on the progress of the investigation, and any reasons for delay. This does not mean that the individual can expect to be given details about every aspect of the investigation or information that would compromise the integrity of the investigation.

Decisions about what action should be taken by council are made at the council's discretion. This means the objective is that reports alleging unlawful activity will be resolved to the satisfaction of council, not necessarily the person raising the matter. Council will generally try to resolve matters as quickly and informally as possible so as to avoid the need to take formal action.

Council will endeavour to manage the expectations of people who report alleged unlawful activity, and in particular explain that in the absence of sufficient evidence of unlawful activity, council may be unable to take further action. Council will explain that council does not have unlimited resources and powers to deal with reports alleging unlawful activity. If council is unable to fully investigate or take action on a matter because it is restricted by any legal or resource limitations this will be explained to the individual.

While there are certain statutory requirements that must be met in relation to notices and orders council staff will ensure that all explanatory communications are made in plain English and explain any technical language the law requires to be used.

### **Confidentiality of people who report allegations of unlawful activity**

People who report allegations of unlawful activity should not expect that their identities will remain confidential from the subject of their report in all circumstances. Council may have to disclose information that identifies them in the following cases:

- the disclosure is necessary to investigate the matter
- their identity has already been disclosed to the subject of their report directly or in a publicly available document
- the individual was consulted following receipt of a *Government Information (Public Access) Act 2009* application and did not object to the disclosure
- the individual consents in writing to their identity being disclosed
- the disclosure is required to comply with principles of procedural fairness
- the matter proceeds to court.

Council will take seriously any concerns an individual may have about their physical safety being endangered as a result of making a report. However, this may limit council's ability to investigate the matter.

### **What council expects from people who report allegations of unlawful activity**

Council expects that people who report allegations of unlawful activity will cooperate and act in good faith in respect of any investigations conducted by council. Cooperation may include:

- providing a clear description of the problem (and the resolution sought, if relevant)
- giving all available and relevant information to council, including any new information about the alleged activity that may become known to the person following the making of their report
- not giving any information that is intentionally misleading or wrong
- cooperating with council's inquiries and giving timely responses to questions and requests for information
- treating council's staff with courtesy and respect
- allowing the investigation to be completed without prematurely taking the matter to other agencies unless referred to by council.

If these expectations of the individual are not met, council may set limits or conditions on the continuation of the investigation or may restrict any further communications with the individual.

Any unreasonable conduct will be dealt with in accordance with the principles of the NSW Ombudsman's *Managing Unreasonable Complainant Conduct Manual* 2012 and any applicable council policy.

### **What parties can expect from council staff**

People who report alleged unlawful activity, as well as individuals or businesses that are subject to investigation and any enforcement action, can expect council staff will:

- treat them with courtesy and respect
- advise them of the outcome of the allegation reported, including a full explanation of the reasons why that outcome was considered to be reasonable in the circumstances
- clearly explain decisions in plain English
- provide information about any relevant internal and external appeal processes that may be available
- carefully assess any new information provided by any party after a decision has been made and advise whether further action will be taken.

### **Complaints about council's enforcement actions**

Any complaints about council's handling of reports alleging unlawful activity will be recorded separately and handled in accordance with council's Policy for Complaints & Feedback Management.

Where a person or organisation subject to enforcement action merely disputes council's decision to take enforcement against them, they will be directed to make representations in accordance with any relevant internal and external appeal processes.

Council staff will act on any complaints about the conduct of compliance officers in accordance with council's complaints management policy and procedures and the code of conduct.

### **Anonymous reports**

Anonymous reports will be recorded and assessed in accordance with the above requirements. As it is not possible to seek clarification or additional information about a matter, it may be more difficult to evaluate the allegations and therefore are less likely to warrant investigation.

**Unlawful activity outside business hours**

Unlawful activity can occur outside business hours. In particular, council may receive reports about matters such as offensive noise and failure to comply with limitations on hours of operation during nights and weekends.

Due to resource and operational capability restraints on council, investigations into alleged unlawful activity outside business hours will be assessed on the basis of risk of *harm to health, welfare, safety, property or the environment* or it is otherwise in the public interest to take such action.

**Neighbour disputes**

Council will at times receive reports from parties involved in neighbour disputes seeking council's involvement. When a dispute between two neighbours is a civil matter, council will often have no authority to resolve the issue in dispute. Some reports will raise several matters, some of which will require council's involvement and some of which will be personal to the parties.

Council will assess reports to determine whether there is evidence of any possible unlawful activity requiring action by council. Care will be taken to explain which aspects of a report council can deal with and which cannot be dealt with and why. Where possible, individuals will be provided with information about how to resolve neighbour disputes including referral information resources such as LawAccess NSW and Community Justice Centres.

It is possible that one party will provide further information about a matter which changes council's decision about whether it will become involved. In such circumstances, council staff will consider the matter before taking action and document reasons for the new decision. Relevant parties will be advised about the reasons council has changed its position on a matter. Council will not change a decision about whether or not council should be involved purely as a response to the conduct of an individual such as persistent demands or threats.

**M. INVESTIGATING ALLEGED UNLAWFUL ACTIVITY**

Not all reports alleging unlawful activity will warrant investigation. A preliminary assessment of all matters will be made to determine whether investigation or other action is required. Council will prioritise matters on the basis of risk to public safety, human health and environment.

Council has adopted a category system for common unlawful activity incidents such as, critical, high, medium and low categories, to prioritise action. The risk categories are in the NSW Ombudsman's *Enforcement Guidelines for Councils 2015*.

Appendix 1 provides a guide to assist determination of whether to commence enforcement action.

If there is insufficient information in the report to undertake a preliminary assessment, further information may need to be sought from the person who made the report or an inspection undertaken. Staff will also consult council records and other internal resources to understand the relevant history and context of a matter.

**Circumstances where no action will be taken**

Council will take no further action if, following a preliminary assessment, it is identified that:

- council does not have jurisdiction to investigate or is not the appropriate authority to take action on the issues raised. Where there is another appropriate authority or course of action, council may bring the matter to the attention of the authority or provide information and contact details to the individual. For example SafeWork NSW for workplace safety matters, the NSW Environment Protection Authority for possible environmental offences and Community Justice Centres NSW for personal disputes
- the report relates substantially to a matter previously determined by council and no new or compelling information is presented which would cause council to change its earlier decision. In this case, staff will acknowledge the report and advise that no further action will be taken as no new information had been provided (other than where the person has previously been advised they would receive no further response)
- the allegations relate to a lawful activity (eg where there is an existing approval or the activity is permissible without council approval or consent being required)
- the report is not supported with evidence or appears to have no substance
- the relevant manager, director or the acting chief executive officer determines that investigation or other action would have an unreasonable impact on resources and/or is unlikely to achieve an outcome sufficient to justify the expenditure of resources.

**Relevant factors guiding decisions as to whether to take action**

When deciding whether to investigate, council will consider a range of factors including whether:

- the activity is having a significant detrimental effect on the environment or it constitutes a risk to public safety
- the report is premature as it relates to some unfinished aspect of work that is still in progress
- the activity or work is permissible with or without permission
- all conditions of consent are being complied with
- much time has elapsed since the events the subject of the report took place
- another body is a more appropriate agency to investigate and deal with the matter
- it appears there is a pattern of conduct or evidence of a possible wide spread problem
- the person or organisation reported has been the subject of previous reports
- the report raises matters of special significance in terms of the council's existing priorities
- there are significant resource implications in relation to an investigation and any subsequent enforcement action
- it is in the public interest to investigate the report.

The above are factors for council to consider and weigh in making a determination. Council staff are not limited in their use of discretion by these considerations and may decide to investigate based on these and other factors.

The objective of the processes council staff use when investigating incidents of alleged unlawful activity is to:

- determine the cause of the incident
- determine if there has been a contravention of law, policy or standards
- gather evidence to the required standard to support any required enforcement action
- determine any necessary action to mitigate the possibility of reoccurrence of similar incidents.

Any decision not to investigate an allegation of unlawful activity will be recorded and the reasons for that decision clearly stated.



Determinations of an investigation and the outcome will be recorded in accordance with Council's policies noted above.

## **N. INCOMPLETE WORKS AND DILAPIDATED BUILDINGS**

### **N1 Background**

- Incomplete works and dilapidated buildings can have a negative impact on the amenity of an area and potentially cause public safety issues
- Council is provided with powers to ensure that public safety is secured and that approved works are completed in a timely manner
- This document provides information on the powers available to Council to address incomplete works and dilapidated buildings, Council's expectations with regard to the completion of approved developments and maintenance of building sites and methods by which Council will work with the public, to ensure that the most satisfactory outcome for all parties concerned is reached.

### **N2 Objectives**

- To clarify the power and responsibility of both Council and landowners with regard to incomplete works and dilapidated buildings
- To ensure that as far as possible, public safety is not compromised by incomplete works and dilapidated buildings
- To ensure that as far as possible, neighbourhood amenity is not compromised by incomplete works and dilapidated buildings
- To assist in maintaining the satisfactory appearance of visually prominent areas within the Shire

### **N3 Definitions**

- 1** Incomplete Works – refers to sites where consent or an appropriate approval has been granted, work has been commenced, but is yet to be completed.
- 2** Dilapidated Buildings – refers to sites that have fallen into a state of disrepair or deterioration.
- 3** Visually Prominent Areas – for the purpose of this document refers to sites that are located within urban areas particularly along major thoroughfares and/or areas considered to be of scenic value.

### **N4 Legislative and Governance Matters**

#### **Related Legislation**

- 1** The following Legislation has been referred to in the preparation of this policy document:
  - a) Environmental Planning and Assessment Act 1979
  - b) Local Government Act 1993
  - c) Wyong Local Environmental Plan 2013

### **2 Council's Powers with regard to incomplete works and dilapidated buildings**

The Local Government Act 1993 and the Environmental Planning and Assessment Act 1979 provide Council with powers to meet the purposes and objectives of the respective Acts.

**Orders**

Council has the power to require:

- Demolition or removal of buildings
- To repair or make structural alterations to a building
- To erect or install on or around a building such structures or appliances as are necessary to protect persons or property on or in a public place
- To fence land
- To ensure that land is, or premises are, placed or kept in a safe or healthy condition

**Conditions of Development Consent**

In any approval for development Council may apply conditions to the consent to ensure that the site will be appropriately maintained during construction and at all times prior to completion of the development.

**N5 Policy Implementation**

- 1** Council will endeavor to advise developers on any issues that are preventing completion of the development.
- 2** When required, Council will encourage a conciliation or mediation with a landowner to provide a satisfactory outcome to all parties.
- 3** Council will apply all available regulatory measures to ensure that incomplete works are completed in an acceptable timeframe and dilapidated buildings are improved to an acceptable standard.
- 4** In issuing consent or approval for the undertaking of works for any major residential, commercial or industrial development or development located in visually prominent areas, Council will apply conditions of consent:
  - a. Requiring the completion of the development, once commenced, within a reasonable timeframe commensurate to the scale and complexity of the development.
  - b. Requiring the site to be maintained during construction and at all times prior to completion.
  - c. Requiring evidence of suitable security being available to appropriately ensure the safety and visual presentation of the development should the completion of the project be delayed.
- 5** For sites not recognized as major development or not located in visually prominent areas, where Council considers works should be completed or the site is considered unsightly, Council will apply the process listed under points M5-1, M5-2 and finally point M5-3 above as required.

**N6 Methods of Compliance**

Council acknowledges that circumstances may delay the completion of works or result in a site falling into disrepair. While it is desirable that all works be completed within a reasonable timeframe, the following provides some examples of suggested actions that, under appropriate circumstances, Council will require to be undertaken to reduce the impact of incomplete works:

- Hoardings where considered appropriate to protect and/or screen sites
- Maintenance and improved presentation of hoardings
- Provision of screen landscaping where appropriate
- Painting or other external maintenance
- Provide a plan of management for the maintenance of building sites.

## **O. TAKING ENFORCEMENT ACTION**

When deciding whether to take enforcement action in relation to a confirmed case of unlawful activity, council will consider the full circumstances and facts of the matter and the public interest. The following common considerations will assist council staff in determining the most appropriate response in the public interest:

### **Considerations about the alleged offence and impact:**

- the nature, extent and severity of the unlawful activity, including whether the activity is continuing
- the harm or potential harm to the environment or public health, safety or amenity caused by the unlawful activity
- the seriousness of the breach, including whether the breach is merely technical, inconsequential or minor in nature
- the time period that has lapsed since the date of the unlawful activity.

### **Considerations about the alleged offender:**

- any prior warnings, instructions, advice that was issued to the person or organisation reported or previous enforcement action taken against them
- whether the offence was committed with intent
- whether the person or organisation reported has been proactive in the resolution of the matter and assisted with any council requirements and instructions
- any mitigating or aggravating circumstances demonstrated by the alleged offender
- any particular circumstances of hardship affecting the person or organisation reported.

### **Considerations about the impact of any enforcement action:**

- the need to deter any future unlawful activity
- whether an educative approach would be more appropriate than a coercive approach in resolving the matter
- the prospect of success if the proposed enforcement action was challenged in court
- the costs and benefits of taking formal enforcement action as opposed to taking informal or no action
- what action would be proportionate and reasonable in response to the unlawful activity
- whether council is prevented from taking action based on earlier advice given, i.e, whether an estoppel situation has been created.

### **Considerations about the potential for remedy:**

- whether the breach can be easily remedied

- whether it is likely consent would have been given for the activity if it had been sought
- whether there is a draft planning instrument on exhibition that would make the unauthorised use legal.

A further explanation of the above considerations is provided in Appendix 1.

### **Legal or technical issues**

Where legal and/or technical issues are in question, council will consider whether legal advice or professional advice from duly qualified staff or other experts should be obtained and considered. Council may also require a person subject to possible enforcement action to obtain professional advice in relation to issues of concern to council for assessment as to whether further action is required.

### **Requirements of council staff considering enforcement action**

Prior to taking enforcement action, council will take into account the above considerations as well as the evidence gathered during their investigation. Council will act impartially, be mindful of obligations under council's Policy for Conduct During Business Hours and not act as a decision-maker in relation to any matter in which they have a personal interest. Enforcement action will not be taken purely as a response to the conduct of an individual such as persistent demands or threats.

Council will maintain records about critical thinking and decision-making processes in relation to reports alleging unlawful activity and any enforcement action, as well as records of interactions with relevant parties. Council will at all times adhere to council's internal approval processes prior to the commencement of any enforcement action.

Council will take steps to ensure that any enforcement action is taken against the correct person or organisation. Where there are multiple possible parties to an alleged unlawful activity, it will generally not be appropriate to take enforcement action against every person who may be liable for the alleged unlawful activity. In such circumstances, council staff will be guided by legal advice in determining the appropriate persons to pursue.

The guidelines: Enforcement Guidelines for Councils December 2015 produced by the Ombudsman New South Wales will be used as a resource to assist determination of enforcement action.

### ***P. OPTIONS FOR DEALING WITH CONFIRMED CASES OF UNLAWFUL ACTIVITY***

Council will try to use the quickest and most informal option to deal with unlawful activity wherever possible unless there is little likelihood of compliance with such options. Council will use discretion to determine the most appropriate response to confirmed cases of unlawful activity and may take more than one approach.

Any enforcement action taken by council will depend on the full circumstances and facts of each case, with any decision being made on the merits.

At all times, council's key concerns are:

- to prevent or minimise harm to health, welfare, safety, property or the environment
- to influence behaviour change for the common good and on behalf of the community.

The following enforcement options to be considered by council are ordered to reflect an escalation in response that is proportionate to the level of risk, the seriousness of the confirmed breach or the need for a deterrent:

Level of risk	Enforcement options
Very low	<ul style="list-style-type: none"> <li>take no action on the basis of a lack of evidence or some other appropriate reason</li> <li>provision of information/advice on how to be compliant</li> </ul>
Low	<ul style="list-style-type: none"> <li>negotiating with the person to obtain voluntary undertakings or an agreement to address the issues of concern</li> <li>issuing a warning or a formal caution</li> </ul>
Medium	<ul style="list-style-type: none"> <li>issuing a letter requiring work to be done or activity to cease in lieu of more formal action</li> <li>issuing a notice of intention to serve an order or notice under relevant legislation, and then serving an order or notice if appropriate</li> </ul>
High	<ul style="list-style-type: none"> <li>issuing a penalty notice</li> <li>carrying out the works specified in an order at the cost of the person served with the order</li> </ul>
Very high	<ul style="list-style-type: none"> <li>seeking an injunction through the courts to prevent future or continuing unlawful activity</li> <li>commence legal proceedings for an offence against the relevant Act or Regulation.</li> </ul>

### Following up enforcement action

All enforcement action will be reviewed and monitored to ensure compliance with any undertakings given by the subject of enforcement action or advice, directions or orders issued by council. Reports alleging continuing unlawful activity will be assessed and further action taken if necessary. If the unlawful activity has ceased or the work has been rectified, the matter will be resubmitted for follow up action to ensure compliance outcomes are met. Should initial enforcement action be found to have been ineffective, council may consider other enforcement options.

Other options may include:

- mediation
- cooperative agreements
- payments to rectify damage

### **Q. TAKING LEGAL ACTION**

The council and its delegated officers may be guided by legal advice in deciding whether to commence criminal or civil proceedings and will consider the following:

- whether there is sufficient evidence to establish a case to the required standard of proof
- whether there is a reasonable prospect of success before a court
- whether the public interest warrants legal action being pursued.

**Whether there is sufficient evidence to establish a case to the required standard of proof**

Council considers the decision to take legal action a serious matter, and as such will only initiate and continue proceedings once it has been established that there is admissible, substantial and reliable evidence to the required standard of proof.

The basic requirement of any **criminal** prosecution is that the available evidence establishes a *prima facie* case. The prosecutor is required to prove the elements of the offence beyond reasonable doubt. In **civil** enforcement proceedings, council will require sufficient evidence to satisfy the court that an actual or threatened breach has occurred on the balance of probabilities.

**Whether there is a reasonable prospect of success before a court**

Given the expense of legal action council will not take legal action unless there is a reasonable prospect of success before a court. In making this assessment, council will consider the availability, competence and credibility of witnesses, the admissibility of the evidence, all possible defences, and any other factors which could affect the likelihood of a successful outcome.

**Whether the public interest requires legal action be pursued**

The principal consideration in deciding whether to commence legal proceedings is whether to do so is in the public interest. In making this determination, the same factors to be considered when taking enforcement action apply. (See Section 11, Taking enforcement action).

The following considerations relate more specifically to the decision to commence legal proceedings and will assist council and its delegated staff in making this determination:

- the availability of any alternatives to legal action
- whether an urgent resolution is required (court proceedings may take some time)
- the possible length and expense of court proceedings
- any possible counter-productive outcomes of prosecution
- what the effective sentencing options are available to the court in the event of conviction
- whether the proceedings or the consequences of any resulting conviction would be unduly harsh or oppressive.

**Time within which to commence proceedings**

Council will consider of legislative time limits in which enforcement proceedings must be commenced. Sometimes legal action will be statute barred despite good evidence that unlawful activity has occurred.

**R. SHARED ENFORCEMENT RESPONSIBILITIES**

Some reports will raise matters involving shared regulatory responsibilities between council and other authorities including the Environment Protection Authority, the NSW Police Force, the Office of Liquor, Gaming and Racing, NSW Fair Trading, SafeWork NSW, NSW Food Authority and Crown Lands.

Council recognises that collaboration and cooperation between authorities to address issues of shared regulatory responsibility is the best approach. Where there are shared legislative responsibilities, council staff will liaise with relevant authorities to establish:

- which authority will take the leading role on any joint investigation
- which activities each authority will carry out
- responsibilities for updating an individual where relevant
- protocols for exchanging confidential information between the relevant authorities.

Council will reasonably endeavour to respond to requests for information or assistance on joint regulatory matters in a timely manner.

#### **S.     ROLE OF COUNCIL WHERE THERE IS A PRIVATE CERTIFIER**

Council retains its regulatory role and enforcement powers where a private certifier has been appointed the Principal Certifying Authority (PCA). If a private certifier is appointed the PCA, it is not council's responsibility to ensure building and construction compliance.

Private certifiers have limited enforcement powers as the PCA. The PCA is responsible to issue a notice of intention to issue an order to the owner or builder to comply with the conditions of consent or rectify any breaches. A copy of any notice of intention issued by a private certifier will be provided to council for assessment as to whether council will enforce the notice by issuing an order.

Council and private certifiers will work together to resolve any issues when they arise to achieve compliance with the development consent or complying development certificate. Council will take steps to ensure individuals are clear about which agency performs which role.

#### **T.     ROLE OF COUNCILLORS IN ENFORCEMENT**

Decision making relating to the investigation of reports alleging unlawful activity and taking enforcement action is the responsibility of appropriately authorised council or the council itself.

Individual Councillors do not have the right to direct council officers in their day-to-day activities. Councillors can help individuals who raise concerns by satisfying themselves that policies are being carried out correctly. They cannot ignore or alter a policy in order to satisfy the demands of special groups.

The acting chief executive officer may present certain decisions to be ratified by the elected council if this is necessary or desirable, and the Councillors may also have the right to call for a report about particular issues to a council meeting.

#### **U.     DELEGATIONS**

Council staff delegations for taking action under this policy are included in council's Delegation Register.

#### **V.     OTHER RESOURCES**

The NSW Ombudsman website has the following helpful resources at [www.ombo.nsw.gov.au](http://www.ombo.nsw.gov.au):

- Managing unreasonable complainant conduct – a model policy and procedure
- *Managing Unreasonable Complainant Conduct Manual 2012*
- *The Rights Stuff – Tips for making complaints and solving problems*
- *Effective complaint handling guidelines – 2<sup>nd</sup> edition*
- *Reporting of progress and results of investigations*



- *Good Conduct and Administrative Practice*
- *Options for Redress*
- *Investigation Complaints – A manual for investigators*
- *Enforcement guidelines for councils*
- *Better Service and Communication for Council*

<http://www.ombo.nsw.gov.au/news-and-publications/publications/guidelines/state-and-local-government/good-conduct-and-administrative-practice><http://www.ombo.nsw.gov.au/news-and-publications/publications/guidelines/state-and-local-government/investigating-complaints-a-manual-for-investigators>

<http://www.ombo.nsw.gov.au/news-and-publications/publications/guidelines/state-and-local-government/enforcement-guidelines-for-councils>

See also:

- Commonwealth Director of Public Prosecutions (2014), *Prosecution Policy of the Commonwealth: Guidelines for the making of decisions in the prosecution process*
- NSW Planning (2010), *Prosecution Guidelines*.

# Appendix 1

## Taking enforcement action Guide

When deciding whether to take enforcement action in relation to a confirmed case of unlawful activity, council will consider all the circumstances of the matter. The section below is intended to assist staff by providing a further explanation of matters to be taken into consideration when deciding whether to take enforcement action.

<b>Considerations about the alleged offence and impact</b>	
<ul style="list-style-type: none"> <li>the nature, extent and severity of the unlawful activity including whether the activity continued</li> <li>the harm or potential harm to the environment or public health, safety or amenity caused by the unlawful activity</li> <li>the seriousness of the breach, including whether the breach is merely technical, inconsequential or minor in nature</li> <li>the costs and benefits of taking formal enforcement action as opposed to taking informal or no action</li> <li>the time period that has lapsed since the date of the unlawful activity</li> </ul>	<p>Consideration should be given to the nature, extent and severity of any actual or potential impact of the unlawful activity. If there is actual or potential detriment to the natural or built environment, to the health or safety of residents or the amenity of an area, this would normally warrant a decision to take action to remedy or restrain the breach. It is also important to consider whether the unlawful activity is ongoing or has ceased.</p> <p>Consideration should be given to whether the likely costs and benefits of any enforcement action is justifiable where breaches result in no material impacts upon any other party or the health, safety and amenity of the environment and community. A breach of a technical, inconsequential or minor nature, in the absence of any other aggravating factor, will generally not warrant a decision to take action to remedy or restrain the breach.</p> <p>Legislation may provide time limits in which to commence proceedings and take enforcement action, and sometimes prosecution will be statute barred despite good evidence that unlawful activity has taken place.</p>
<b>Considerations about the alleged offender</b>	
<ul style="list-style-type: none"> <li>any prior warnings, instructions, advice that was issued to the person or organisation reported or previous enforcement action taken against them</li> <li>whether the offence was committed with intent</li> <li>whether the person or organisation reported has been proactive in the resolution of the matter and assisted with any council requirements and instructions</li> <li>any mitigating or aggravating circumstances demonstrated by the subject of the report</li> <li>any particular circumstances of</li> </ul>	<p>Consideration should be given to the previous history of the offender. If prior warnings, instructions or advice has been issued to the person or organisation reported which was not followed, a more formal and coercive enforcement approach would appear more appropriate.</p> <p>Consideration should be given to whether the offence was committed deliberately, recklessly or with gross negligence. It may be appropriate that cases of this nature are more likely to result in prosecution. Where an offence was committed as a result of an accident or genuine mistake, providing education and guidance or a formal warning may be more suitable in achieving desired outcomes.</p> <p>Where the offender has been proactive in the resolution of the matter and has assisted council in</p>

<p>hardship affecting the person or organisation reported.</p>	<p>the resolution of the matter, it may be that the public interest would not be best served by prosecuting the offender, especially if the offending conduct or work has been rectified. If the offender has demonstrated a lack of contrition and is uncooperative with the investigation or remediation, a prosecution or monetary penalty would appear more appropriate. Consideration should be given to any genuine mitigating circumstances of the offender such as age, physical or mental health, disability and any financial hardship of the offender resulting in an inability to pay.</p>
<p><b>Considerations about the impact of the enforcement action</b></p>	
<ul style="list-style-type: none"> <li>• the need to deter any future unlawful activity</li> <li>• whether an educative approach be more appropriate than a coercive approach in resolving the matter</li> <li>• the prospect of success if the proposed enforcement action was challenged in court</li> <li>• the costs and benefits of taking formal enforcement action as opposed to taking informal or no action</li> <li>• what action would be proportionate and reasonable in response to the unlawful activity</li> <li>• whether the council has created an estoppel situation.</li> </ul>	<p>Consideration should be given to the deterrent effect, both on the offender and others. Prosecutions, because of their great stigma if a conviction is secured, may be appropriate even for minor unlawful activity where they might contribute to a greater level of overall deterrence.</p> <p>When deciding whether to take an educative approach or enforcement approach, consideration should be given to the following matters:</p> <ul style="list-style-type: none"> <li>• the reasonable likelihood that the person may have known or should have known the relevant requirements or rules</li> <li>• the level of contrition shown by the responsible person</li> <li>• whether the parties have previously been advised of the regulatory requirements or provisions</li> <li>• whether or not any previous warnings or instructions have been provided</li> <li>• the apparent level of intent shown by the responsible person.</li> </ul> <p>It may not be appropriate to take enforcement action if the chances of success, in the event of an appeal or hearing, are unlikely. In such situations, you would need to identify the causes of that likelihood and address them in the particular case or as a general issue.</p> <p>Consideration should be given to what is reasonable in the particular circumstances that apply. This includes a reasonable proportionality between the ends to be achieved and the means used to achieve them.</p> <p>Consideration is to be given to what is reasonable in the circumstances and ensure the action is not disproportionate to the level of harm or damage arising from the breach.</p> <p>Legal proceedings are expensive. When doing a cost-benefit analysis, costs and benefits should be</p>

	<p>assessed broadly and indirect costs and benefits should also be considered.</p> <p>Estoppel is a legal rule which prevents a person from later denying something which may have previously been relied on, and acted upon by another person. Consideration should be given to whether the actions of council have created a reasonable expectation that no enforcement action would be taken.</p>
<b>Considerations about the potential for remedy</b>	
<ul style="list-style-type: none"> <li>• whether the breach can be easily remedied.</li> <li>• whether it is likely consent would have been given for the activity if it had been sought.</li> <li>• whether there is a draft planning instrument on exhibition that would make the unauthorised use legal.</li> </ul>	<p>If there is evidence of a significant issue of unlawful activity and that matter can be easily remedied by some action on the part of the person the subject of the report, there is a less compelling case for enforcement action, depending on the other circumstances of the case such as the conduct of the offender.</p> <p>If retrospective approval is possible, it may be reasonable to allow an opportunity to obtain this prior to taking other enforcement action. In some cases, compliance by informal means may be the most efficient way to resolve the matter and other enforcement action may not be necessary. This needs to be balanced with other considerations such as the public interest in enforcing the law.</p>

Policy - Enforcement



POLICY No: WSC118

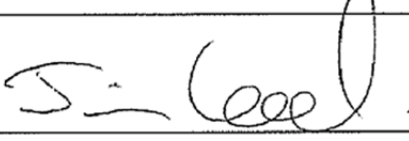
## **POLICY FOR ENFORCEMENT**

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<b>GENERAL MANAGER</b>	Michael Whittaker

<b>AUTHOR SIGNATURE</b>	
<b>COUNCIL RESOLUTION DATE</b>	<b>9 APRIL 2014</b>

## History of Revisions:

<b>Version</b>	<b>Date</b>	<b>TRIM Doc. #</b>
1	September 2013	D05825184
2	April 2014	D05933594

## Policy - Enforcement

**A. SUMMARY**

- A1 The aim of this policy is to establish fair, impartial and equitable guidelines for the exercise of discretion that Council must use in dealing with unlawful activities, taking into account all relevant information including the available evidence, cost to the community, the circumstances of the individual case, public policy and precedent considerations.

The policy provides a legal and administrative framework to assist Council in making decisions in its enforcement functions and ensures that the enforcement process is conducted in a timely and efficient manner.

The aim is to provide specific criteria which the Council will take into consideration when deciding options for dealing with unlawful activity, such as:

- a) if enforcement action is necessary
- b) the most appropriate type of action

Note: Section H3 outlines the options available when deciding whether to take enforcement action.

The policy also provides information to the public about the Council's role and policy on enforcement.

- A2 This policy applies to the investigation and enforcement of identified, unlawful activity or failure to comply with terms or conditions of approvals, licences and orders. The policy applies to development control, environmental protection, public health, regulation of parking and animal control.

**B. BACKGROUND**

- B1 The purpose is to provide an overarching policy for a suite of enforcement policies to assist Council staff to act promptly, consistently, effectively and in the public interest in response to enforcement matters. Council's staff respond to numerous complaints and allegations of unlawful activity associated with relevant legislative controls administered by Council. Council also undertakes proactive measures identifying illegal, unlawful and non-compliant activities through routine and programmed inspections.

Council has an obligation to investigate and properly record all complaints and the policy provides clear guidelines for an effective complaint handling system that allows staff to deal with complaints consistently and effectively, providing a clear and transparent decision making process.

Council is strongly opposed to unlawful activity at any time or under any circumstances. Council will initiate the appropriate enforcement action in accordance with this policy document. The types of enforcement activity may include; taking no formal action, issuing warnings, providing an educational role or instigating criminal or civil legal action.



**C. DEFINITIONS**

- C1 **Council** means the Wyong Shire Council, its councillors and staff
- C2 **The Act** means the *Local Government Act NSW 1993*.
- C3 **Authorised Officer** means a Wyong Shire Council staff member with delegated authority to exercise the functions of the relevant legislation in order for them to carry out their duties and take necessary action.

All Council officers that carry out inspections on private land for regulatory purposes will:

- Have delegation to enter premises and carry out investigations as specified in Council's Instrument of Delegations and any sub delegations;
  - Be authorised by Council, where this is required under specific legislation, to permit inspections on private property;
  - Carry photographic identification demonstrating authorisation to enter premises and private lands under each specific Act; and
  - Carry documentation or certificates of authority where required by the legislation being implemented.
- C4 **Civil Proceedings** include:
- Notices and orders issued by Council, pursuant to various legislation
  - Class 4 proceedings before the Land & Environment Court, seeking an order of the Court to remedy or strain a breach of the EPAA (Section 123), the LGA (Section 673), the POEO (Sections 252 & 253), or any other Act, if the breach is causing or is likely to cause an adverse impact on the environment or the community
  - Interlocutory relief for matters causing, or with the reasonable potential to cause, serious environmental harm. In such proceedings, it is likely the Council would be required to provide an undertaking as to damages.
- C5 **Court Attendance Notice (CAN)** means a court attendance notice issued and filed in accordance with the *Criminal Procedure Act 1986*. A CAN may be used to commence summary proceedings in the local court. A CAN specifies the offence and its essential particulars, as well as the address of the court where the matter is to be heard. If a person does not attend court on the day specified in a CAN, a warrant may be issued for the arrest of the person or the matter may be dealt with in the absence of the person.
- C6 **Criminal Proceedings** include:
- Issuing a PIN
  - Prosecuting the offence in the Local Court by issuing a CAN
  - Prosecuting the offence in the Land & Environment Court or the Supreme Court (whichever is appropriate)
- C7 **Defendant** means the accused person against whom criminal proceedings are brought.
- C8 **EPAA** means the *Environmental Planning and Assessment Act 1979*.
- C9 **GIPA** means *Government Information Public Access Act 2009*
- C10 **LGA** means the *Local Government Act 1993*.

## Policy - Enforcement

- C11 **Penalty Infringement Notice (PIN)** means Penalty Infringement Notice. Sometimes referred to as an 'on-the-spot' fine, PINs may only be issued for prescribed offences and the value of the fine is also prescribed by legislation.
- C12 **POEO** means the Protection of the Environment Operations Act, 1997.
- C13 **Respondent** means the party against whom civil proceedings are brought in Land & Environment Court proceedings.
- C14 **Unlawful activity** means any activity or work that has been or is being carried out:
- contrary to a legislative provision regulating a particular activity or work;
  - contrary to an environmental planning instrument that regulates the activities or work that can be carried out on particular land;
  - without a required development consent, approval, permission, direction, permit or licence; and/or
  - contrary to the terms or conditions of a development consent, approval, permit or licence

**D. POLICY STATEMENTS****Jurisdiction**

- D1 This Policy covers all elected members of Council, all personnel employed by Council, any person or organisation contracted to or acting on behalf of Council, any person or organisation employed to work on Council premises or facilities and all activities of the Council.
- D2 This policy does not confer any delegated authority upon any person. All delegations to staff are issued by the General Manager.

**E. POLICY IMPLEMENTATION - PROCEDURES**

- E1 This policy should be read in conjunction with Council's adopted Code of Conduct.
- E2 It is the personal responsibility of all of Council's councillors, employees, and agents thereof to have knowledge of, and to ensure compliance with this policy.
- E3 **Associated documents**
- Council's adopted Code of Conduct

**F. RELATIONSHIP TO LEGISLATION**

The following acts and regulations are the legislation for regulatory matters. They include, but are not limited to:

- Companion Animals Act 1998 & Regulations
- Environmental Planning and Assessment Act 1979 & Regulations
- Food Act 2003 & Regulations
- Impounding Act 1993 & Regulations

## Policy - Enforcement

- Local Government Act 1993 & Regulations
- Noxious Weeds Act 1993
- Protection Of the Environment Operations Act 1997 & Regulations
- Public Health Act 2010 & Regulations
- Recreational Vehicles Act 1983
- Roads Act 1993 & Regulations
- Roads Transport Act 2013, Regulations and Rules
- Rural Fires Act 1997
- Swimming Pool Act 1992 & Regulations
- Waste Avoidance and Resources Recovery Act 2001

**G. RELATED STRATEGIES, PLANS OR POLICIES**

- 1 Staff Delegations - Determinations regarding enforcement action will be made in accordance with this policy and relevant delegation criteria including all relevant acts and regulations as defined under delegation.
- 2 Standard Operating Procedures

**H. INVESTIGATION**

Council becomes aware of unlawful activities in a variety of ways. They include requests from members of the public, customers or dealing with matters as part of Council's general regulatory roles. These roles include:

- Certification of development and building works;
- Development compliance (where Council is not the nominated certifier);
- Environmental auditing;
- Public health regulation;
- Local Law Enforcement; and
- During regular enforcement programs (illegal dumping, parking control etc).

Council officers who are not involved directly in enforcement matters may also commonly identify potential unlawful activities and report them for investigation and action pursuant to this policy. Nevertheless, not all offences are readily discernible and early detection can only be achieved with support and direct advice from our community. As a result of identifying breaches, Council officers may initiate education, enforcement or legal action in accordance with this policy and their delegations.

**H1 Submitting complaints or Service Requests**

Complaints or service requests alleging unlawful activity can be submitted to Council in writing, verbally or electronically. In all cases, the allegation will be recorded in Council's electronic customer service request management system and will be allocated a unique reference number.

The request will be referred to the relevant Council officer to commence any necessary investigation.

The name, address and contact details of the person submitting the complaint will also be recorded. This information is critical, as Council may need to rely on evidence from the complainant to prove any alleged offence and commence enforcement action. Council will advise any complainants of the action taken, if any, or the reasons why no action was taken in the circumstances.

## Policy - Enforcement

Council will take all reasonable measures to protect the privacy of the person submitting the complaint and generally, information on this person will not be released. However, Council may be required to disclose this information in a variety of circumstances, including the following:

- Access to the information is permitted under legislation, including GIPA or the LGA
- Access to the information is permitted under another Council policy
- Legal proceedings are commenced and the information is disclosed in evidence served; and
- The nature of the allegation otherwise makes it a necessity.

Also, in some circumstances, it may be possible to ascertain the identity of the person submitting the complaint by the nature of the allegation.

Council officers will not investigate complaints where determined by Management that:

- Council has no jurisdiction to investigate the complaint, i.e. dividing fences, private strata matters.
- The activity alleged to be unlawful is in fact determined to be lawful.
- The complaint is frivolous, vexatious or trivial in nature.
- Another agency is responsible for the investigation.

Anonymous complaints may be accepted however they will not generally be investigated in all cases. All complaints will be recorded in Council's Record System.

Management will determine if the complaint is to be investigated using the following criteria:

- There is sufficient relevant information received to investigate the complaint;
- The complaint relates to serious environmental harm, public safety or a life threatening matter;
- The potential risk to the complainant;
- Is the complaint frivolous or vexatious?
- Is it in the public interest?

If a decision is made not to investigate a complaint, this decision must be recorded along with the reasons for that decision.

Where possible, Council officers will notify the complainant of the outcome of Council's investigation.

## ***H2 Procedural fairness and natural justice***

There is an overriding duty on the Council to act fairly and ensure the principles of procedural fairness and natural justice are adhered to. In this regard, Council will:

- Provide information on the substance of the complaint to the alleged offender. This may not occur until an appropriate stage in the investigation.
- Provide an opportunity for the alleged offender to put their case. This will not be necessary if there is a serious and significant risk to personal or public safety, risk of serious environmental harm or for parking and road related matters;
- Consider any submission put forward by a potential defendant/alleged offender;
- Make reasonable inquiries or investigations before making a decision;

## Policy - Enforcement

- Ensure no person decides a case in which they have an interest;
- Otherwise act fairly and without bias
- Act within statutory time frames

**H3 Options for dealing with unlawful activity**

Council has discretion in deciding whether to take enforcement action on the basis of the available evidence and the circumstances of the individual case. At the conclusion of an investigation, Council will recommend the most appropriate course of action, which may include one or more of the following options:

- a) Take no action
- b) Counsel the alleged offender
- c) Issue a formal letter of warning
- d) Negotiate an undertaking to remedy the situation
- e) Issue a formal Notice and/or Order
- f) Commence civil proceedings to remedy or restrain unlawful activity
- g) Issue a PIN
- h) Commence criminal proceedings

Unless urgent action is required, a staged approach to obtain compliance will be applied to matters other than parking related offences. That is, in the first instance, offenders will be given the opportunity to discuss and remedy the breach before enforcement action is taken. The relevant complaint investigation procedures detail the method of negotiation/discussion to occur under this section.

Options (a) through to (d) may be all that is required for minor breaches where no serious impacts have occurred. However where they are ineffective, inappropriate and/or unsuccessful, alternate enforcement action may be warranted and include options (e) to (g).

Whilst these options recognise that Council officers may use discretion in the process, officers are obliged to act fairly and ensure the principles of procedural fairness and natural justice are adhered to.

**I. ACTION**

Council will decide whether to take enforcement action following an objective analysis of the relevant facts and law. In determining the enforcement action to be taken, consideration will be given to the following matters:

**I1 The nature and seriousness of the breach**

Council will have regard to the impact the unlawful activity is causing on amenity, harm to the natural and built environment or the health and safety of the community. If action is required, Council will consider what is reasonable in the circumstances and ensure the action is not disproportionate to the level of harm or damage arising from the breach and balances consideration of any benefits that arise from the breach.

**I2 Balancing of public interest and cost to Council**

Council must consider the public interest and cost when considering whether to take enforcement actions. In considering the 'public interest' Council will have regard to whether the unlawful activity:

## Policy - Enforcement

- will impact or has impacted on a significant number of people in a significant manner
- will impact or has impacted on disadvantaged or marginalised groups within the community
- is indicative of a systemic flaw
- is individual in nature but often occurs
- demonstrates a wilful disregard for the law, including any authority conferred on Council under such law

Council will also consider whether more effective means of rectifying an unlawful activity are available before formal legal proceedings are initiated. This may include one or a combination of the following:

- Reporting a breach to a professional association; and
- Use of statutory powers such as:
  - Granting consent to a relevant application;
  - Making an order under the EP&A Act, LGA or POEO; or
  - Issuing a building certificate under the EP&A Act.
  - Bonds
  - Time limited consents

### **13 Methods of enforcement**

If formal proceedings are considered to be the best option, the decision on when to commence proceedings will be determined by the following considerations:

- Likely cost of proceedings on both Council and the Respondent or Defendant;
- Prospects of recovery of those costs from the respondent or defendant;
- Other remedies available;
- Available methods of enforcement; and
- Circumstances of each case.
- Likelihood of success
- Length of time for proceedings to deliver a solution
- Will proceedings deliver a solution

### **14 The circumstances of each case**

The Council will, in all prosecution and enforcement matters, consider the following:

- Whether the unlawful activity has caused a breach which is technical in nature and does not cause any significant harm to the public or to the environment;
- Whether the unlawful activity is ongoing. If it has ceased, Council must consider the length of time that has expired;
- Whether the impact of the unlawful activity affects the natural or built environment, health, safety or amenity;
- Whether development consent or other approval would have been granted by Council if the appropriate application had been submitted prior to the unlawful activity being undertaken;
- Whether the person(s) who committed the breach has shown contrition and, where possible, has remedied the unlawful activity;
- Whether the person(s) who committed the breach has made submissions to the Council that provide reasonable grounds for the Council to conclude that the person was under a

## Policy - Enforcement

- genuine mistaken belief as to a relevant factual or legal matter;
- Whether the person(s) who committed the breach has shown deliberate or wilful conduct in their actions;
- Whether the person(s) who committed the breach should have been aware of their obligations because they have:
  - particular knowledge eg: a builder or company that regularly carries out work and is generally aware of the relevant Council or other requirements;
  - received a previous warning; or
  - been subject to previous legal action.
- Whether the unlawful activity was unavoidable;
- The financial resources of the respondent
- Would an educative approach be more appropriate than a coercive approach?
- What are the costs and benefits of taking enforcement action as opposed to taking informal or no action?
- What are the chances of success if the proposed enforcement action was challenged in court?
- Is there draft legislation or policy that would make the unauthorised activity legal?
- What action would be reasonable and proportionate in the case?
- What would be in the public interest?
- The effect of potential proceedings on the health of the respondent

**J. METHOD**

When deciding on the method of enforcement, it is necessary to consider the principles explained above in Section I and the outcome being sought.

There are two main types of enforcement action, Criminal and Civil.

**Criminal Proceedings;**

- Issuing a PIN
- Prosecuting the offence in the Local Court by issuing a CAN; and Prosecuting the offence in the Land & Environment Court or the Supreme Court (as the case may be)

**Civil Proceedings**

- Notices and orders issued by Council, pursuant to various legislation
- Class 4 proceedings before the Land & Environment Court, seeking an order of the Court to remedy or strain a breach of the EPAA (Section 123), the LGA (Section 673), the POEO (Sections 252 & 253), or any other Act, if the breach is causing or is likely to cause harm to the environment; and
- Interlocutory relief for matters causing, or with the reasonable potential to cause, serious environmental harm. In such proceedings, it is likely the Council would be required to provide an undertaking as to damages.

**J1 PINs**

PINs will be issued for offences of a minor nature, where it is considered a small monetary penalty may prevent a recurrence of the unlawful activity or stop the unlawful activity from continuing. The issuing of a PIN will only occur where a decision has been made not to commence other criminal proceedings and if the Council has obtained, or could obtain sufficient

## Policy - Enforcement

evidence in admissible form to prove the offence beyond reasonable doubt in any subsequent criminal proceedings. A PIN can only be issued where it appears to the issuer that the defendant has committed the relevant offence

PINs should be issued as soon as possible after the conclusion of an investigation and may be used in conjunction with other enforcement action, as permitted by the applicable legislation.

**J2 Consents, Notices, Orders and Building Certificates**

Council recognises that a person who may have carried out unlawful works may apply for a Building Certificate under S149B of the EP&A Act to formalise the unlawful work. However, such applications should not be encouraged to justify unlawful works.

Consideration will be given to whether a breach can be rectified by a consent or Building Certificate or whether enforcement can occur by way of an order under the EPAA, LGA, POEO or some similar means.

The Orders provisions of the EPAA, LGA and POEO are described as "self-help" provisions that provide Council with a formal cost effective mechanism to direct landowners and occupiers to do or refrain from doing something. They generally operate on the 'principles of natural justice' and where appropriate, should be used prior to the commencement of civil proceedings in the Land & Environment Court.

Irrespective of whether or not a Building Certificate is applied for, Council may take action against a person who carried out unlawful work. Such action may include the issue of a PIN or in conjunction with criminal proceedings, where it is considered appropriate and necessary for punitive action to also be taken, having regard to the restrictions provided under Section 127(7) of the EPAA.

**J3 Mediation / Settlement Procedures**

Council may instigate, at any stage, mediation and settlement discussions and endeavor to resolve proceedings in as cost effective manner as possible.

**J4 Land & Environment Court Proceedings**

In most cases, Council will give preference to civil proceedings in the Land & Environment Court over criminal prosecution in either the Local Court or the Land & Environment Court where Council requires the offender to do or refrain from doing something, such as comply with a development consent or demolish unauthorised works.

Generally, civil proceedings will be preceded by formal notices and/or orders, unless the circumstances warrant the immediate commencement of court proceedings.

The following matters will be considered in determining whether to commence civil or criminal proceedings in the Land and Environment Court:

- Is there a liable Respondent?
- Does Council have sufficient evidence to prove its case either on the "balance of probabilities" (civil) or "beyond reasonable doubt" (criminal)?
- Does Council require an Order from the Court restraining the respondent from doing something or ordering the respondent to remedy the breach?
- Is an injunction required because the unlawful activity is causing, or has the potential to cause, serious environmental harm.



## Policy - Enforcement

- Is the matter urgent?
- The severity of the offence
- Is the respondent a repeat offender?
- The cost of proceedings
- Does the development breach non-standard conditions of consent?

**J5 Local Court Proceedings**

The following matters will be considered in determining whether to commence criminal proceedings in the Local Court:

- Is there a liable defendant?
- Is a monetary penalty all that is required?
- Does Council have sufficient evidence to prove its case "beyond reasonable doubt"?
- Are works proceeding - (is a Court Attendance Notice needed)?
- The severity of the offence
- Is the defendant a repeat offender
- The cost of proceedings.

**K. COSTS****K1 Recovery of investigation cost**

Council will recover cost where available through legislated means, such as administrative charges under the POEO for Clean-up Notices and cost recovery notices under the EP&A Act for investigation of complaints.

The Council's policy for recovery of its costs in the Land and Environment Court is:

- That the Council will seek to recover its fair and reasonable costs in all matters where costs are recoverable, either by consent or by order of the court;
- The Council will seek to recover the penalty imposed by the court where such penalty is imposed.

The Council's policy for recovery of costs in the Local Court is:

- That the Council will seek to recover its fair and reasonable costs in all matters where costs are recoverable, either by consent or by order of the court; and
- The Council will seek to recover the penalty imposed by the court where such penalty is imposed.

**K2 Cost Minimisation**

Council will, in conducting proceedings, seek to minimise the costs it incurs by the use of in-house lawyers and limited use of barristers where possible without affecting Council's prospects of success.

## Policy - Enforcement

**L. ADMINISTRATION**

This policy is based on the 'Model Policy' developed by the NSW Ombudsman and shall be read in conjunction with all relevant Council policies. The Enforcement Policy has been created as an overall guiding document for all enforcement matters within the Development and Building Department. The policies and procedures will form a suite of documents for all enforcement matters. As legislation changes and issues arise, policies and procedures will be developed to assist Council in managing the roles and responsibilities within the Development and Building Department.

**ADDITIONAL CHAPTER****M. INCOMPLETE WORKS AND DILAPIDATED BUILDINGS****M1 BACKGROUND**

- Incomplete works and dilapidated buildings can have a negative impact on the amenity of an area and potentially cause public safety issues.
- Council is provided with powers to ensure that public safety is secured and that approved works are completed in a timely manner.
- This document provides information on the powers available to Council to address incomplete works and dilapidated buildings, Council's expectations with regard to the completion of approved developments and maintenance of building sites and methods by which Council will work with the public, to ensure that the most satisfactory outcome for all parties concerned is reached.

**M2 OBJECTIVES**

- To clarify the power and responsibility of both Council and landowners with regard to incomplete works and dilapidated buildings.
- To ensure that as far as possible public safety is not compromised by incomplete works and dilapidated buildings.
- To ensure that as far as possible neighbourhood amenity is not compromised by incomplete works and dilapidated buildings.
- To assist in maintaining the satisfactory appearance of visually prominent areas within the Shire.

**M3 DEFINITIONS**

- 1** Incomplete Works- Refers to sites where consent or an appropriate approval has been granted, work has been commenced, but is yet to be completed.
- 2** Dilapidated Buildings – Refers to sites that have fallen into a state of disrepair or deterioration.
- 3** Visually Prominent Areas – for the purpose of this document refers to sites that are located within urban areas particularly along major thoroughfares and/or areas considered to be of scenic value.

**M4 LEGISLATIVE AND GOVERNANCE MATTERS****Related Legislation**

- 1 The following Legislation has been referred to in the preparation of this policy document:
  - a. Environmental Planning and Assessment Act 1979
  - b. Local Government Act 1993
  - c. Wyong Local Environmental Plan 2013
- 2 **Council's Powers with regard to incomplete works and dilapidated buildings**

The Local Government Act 1993 and the Environmental Planning and Assessment Act 1979 provide Council with powers to meet the purposes and objectives of the respective Acts.

**Orders**

Council has the power to require:

- Demolition or removal of buildings.
- To repair or make structural alterations to a building.
- To erect or install on or around a building such structures or appliances as are necessary to protect persons or property on or in a public place.
- To complete development that is subject to a development consent.
- To fence land.
- To ensure that land is, or premises are, placed or kept in a safe or healthy condition.

**Conditions of Development Consent**

In any approval for development Council may apply conditions to the consent to ensure that the site will be appropriately maintained during construction and at all times prior to completion of the development.

**M5 POLICY IMPLEMENTATION**

- 1** Council will endeavour to advise developers on any issues that are preventing completion of the development.
- 2** When required, Council will encourage a conciliation or mediation with a landowner to provide a satisfactory outcome to all parties.
- 3** Council will apply all available regulatory measures to ensure that incomplete works are completed in an acceptable timeframe and dilapidated buildings are improved to an acceptable standard.
- 4** In issuing consent or approval for the undertaking of works for any major residential, commercial or industrial development or development located in visually prominent areas, Council will apply conditions of consent:
  - a requiring the completion of the development, once commenced, within a reasonable timeframe commensurate to the scale and complexity of the development.
  - b requiring the site to be maintained during construction and at all times prior to completion.
  - c requiring evidence of suitable security being available to appropriately ensure the safety and visual presentation of the development should the completion of the project be delayed.
- 5** For sites not recognised as major development or not located in visually prominent areas, where Council considers works should be completed or the site is considered unsightly, Council will apply the process listed under points M5-1, M5-2 and finally point M5-3 above as required.

**M6 METHODS OF COMPLIANCE**

Council acknowledges that circumstances may delay the completion of works or result in a site falling into disrepair. While it is desirable that all works be completed within a reasonable timeframe, the following provides some examples of suggested actions that, under appropriate circumstances, Council will require to be undertaken to reduce the impact of incomplete works:

- Hoardings where considered appropriate to protect and/or screen sites.
- Maintenance and improved presentation of hoardings.
- Provision of screen landscaping where appropriate.
- Painting or other external maintenance.
- Provide a plan of management for the maintenance of building sites.

### **3.1 CPA/268838 Mardi WTP Stage 3 Upgrade Concept Design**

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TRIM REFERENCE: CPA/268838 - D12276028

MANAGER: Greg Cashin, Manager, Wyong Water Commercial and Planning

AUTHOR: Luke Drury; Section Manager

#### **SUMMARY**

Evaluation and selection of tenders for Contract CPA/268838 – Mardi WTP Stage 3 Upgrade Concept Design

*“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 4 in the attached Tender Evaluation Report, for the lump sum amount of \$121,398 (excl GST) for Contract CPA/268838 – Mardi WTP Stage 3 Upgrade Concept Design.**
- 2 That Council approve the contingency sum as detailed in the Tender Evaluation Report in Attachment 1.**
- 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.**

#### **BACKGROUND**

This is a professional services contract for the Concept Design, Review of Environmental Factors and assistance in obtaining regulatory approval for the Stage 3 upgrade of Mardi Water Treatment Plant. This contract forms part of an overall water quality strategy for Mardi Water Treatment Plant and the distribution network. A previously completed *“Investigation and Options Analysis”* was undertaken for Mardi Water Treatment Plant which identified the required scope of work and associated staging for future upgrades at the Plant. The Concept Design is the next stage in developing the upgrade of the plant.

The scope of work for the Concept Design Contract was based on the earlier options analysis work. The scope of work will also include investigation into alternative manganese removal processes and the potential inclusion of a backwash pumping station. These additional investigations provide opportunities to improve water quality outcomes and reduce treatment costs. Should the investigation work identify a positive business case, concept design of these works would be added to the scope of the contract as a variation.

The purpose of this Report is to obtain approval for the proposed Contract sum as well as a suitable contingency which allows for the general project contingency as well as an allowance for the potential additional scope items.

## **CONTRACT PLAN**

The Contract Plan for this tender process was approved by the Director Infrastructure and Operations, before the Request for Tender was issued. The approved Contract Plan is in TRIM D12182310.

## **INVITATION TO TENDER**

The tender was advertised in the Sydney Morning Herald, Central Coast Advocate and eTender on 24th and 25th of November 2015 and closed on 17 December 2015

The invitation documents called for lump sum tenders, based on a detailed specification.

Tenders closed at Council's Chambers at 2.00pm on 17 December 2015.

## **TENDER SUBMISSIONS**

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

- City Water Technology
- Department Finance Services and Innovation
- GHD
- Hunter H2O
- Jacobs Group
- MWH
- Parsons Brinckerhoff
- Worley Parsons

## **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) Methodology;
- c) Experience and proven performance;
- d) Nominated Personnel; and
- e) Local Content

**FINANCIAL IMPLICATIONS**

There are sufficient funds allocated for this contract within the Wyong Water current and future year's capital works program under Project Number 17799.

**RELEVANT LEGISLATION**

The tender has been conducted in accordance with the *Local Government Act 199* and Council's Procurement Policy. The contract sum does not exceed the threshold (\$150,000) for a regulated tender.

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.

**RISK**

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

**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 Director Infrastructure and Operations. The contract sum does not trigger the requirement for formal review by the Commercial Manager Contract 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.

**GOVERNANCE****Consideration of s.23A guidelines**

The Chief Executive of the NSW Office for Local Government has issued guidelines titled *“Council Decision Making during Merger Proposal Periods”* pursuant to s.23A(1) of the *Local Government Act 1993* (“LG Act”). The Council must consider those guidelines when making decisions during the “merger proposal period”, which commenced on 6 January 2016 and will conclude on the date on which a proclamation is made to amalgamate the Wyong and Gosford local government areas or the Minister for Local Government determines that he will not proceed with the proposal for that amalgamation: s.23A(3) of the LG Act. Councillors have been provided with a copy of those guidelines and have been given advice concerning those guidelines. The decisions that are proposed as part of this report comply with those guidelines.

**ATTACHMENTS**

- |   |   |           |
|---|---|-----------|
| 1 | Attachment A - T144 - Tender Evaluation Report - Mardi WTP Stage 3 Upgrade Concept Design CPA268838 - | D12277973 |
|---|---|-----------|



### **3.2 CPA/270410 - Detail Investigation and Design of Mardi Dam to Warnervale Trunk Water Pipeline.**

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TRIM REFERENCE: CPA/270410 - D12279360

MANAGER: Stuart Hull, Manager

AUTHOR: Gary Kinney; Project Director

#### **SUMMARY**

Evaluation and selection of tenders for Contract CPA/270410 – Detail Investigation and Design of Mardi Dam to Warnervale Trunk Water Pipeline.

*“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. 4 in the attached Tender Evaluation Report, for the lump sum amount of \$587,174.00 (excl GST) for Contract CPA/270410 – Detail Investigation and Design of Mardi Dam to Warnervale Trunk Water Pipeline.**
- 2 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 the tender.**
- 3 That Council approve the contingency sum as detailed in the Tender Evaluation Report in Attachment A.**

#### **BACKGROUND**

The purpose of this contract is to investigate and design a trunk water pipeline between Mardi Water Treatment Plant and Warnervale, to provide a high pressure water main to Warnervale Town Centre to allow for potential decommissioning of the Nikko Road Booster Pump Station, to increase bulk water transfers between Wyong Shire and Hunter Water Corporation to meet obligations in accordance with the Hunter/Central Coast Pipeline Agreement and to provide capacity for future growth within the northern water distribution system of Wyong Shire.

Tenders were sought from professional services Consultants to consolidate previous concepts and studies, undertake site survey, geotechnical investigation, environmental investigation, detailed design of the pipeline, associated branches, valving and connections, pretender cost estimates, development of a Technical Specification and to provide ongoing technical support for the periods of tender evaluation of the pipeline construction contract, pipeline construction and commissioning of the pipeline.

### **PROBITY**

The tender process has been conducted in accordance with a Probity Plan that was initiated by the Commercial Manager - Contracts and Project Management. The Plan was approved by the Manager – Contracts and Project Management. There was a higher probity risk associated with this tender by reason of one of the Evaluation Panel members being identified as a referee by one of the tenderers. Probity arrangements included the Evaluation Panel member being removed from any scoring of the weighted criteria for this tenderer. Probity review was carried out by the Commercial Manager following the evaluation of tenders by the Evaluation Panel. The Commercial Manager was satisfied and has signed off that the tender process has been conducted appropriately to date and in accordance with the Probity Plan.

### **CONTRACT PLAN**

The Contract Plan for this tender process was approved by the Director Infrastructure Operations before the Request for Tender was issued. The approved Contract Plan is in TRIM D12182727.

### **INVITATION TO TENDER**

The tender was advertised in the Sydney Morning Herald and eTender on 12 January 2016 and the Central Coast Express Advocate on 13 January 2016.

The invitation documents called for lump sum tenders, based on a detailed Brief with rates for key personnel and underground service location.

A compulsory pre-tender meeting was held at 11:00am at the Civic Centre on 3 February 2016 to inform tenderers of matters specific to this tender and to allow questions.

Tenders closed at 2.00pm on 18 February 2016.

**TENDER SUBMISSIONS**

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

- Aurecon Australasia Pty Ltd
- BG&E Project Services
- Cardno (NSW/ACT) Pty Ltd
- GHD Pty Ltd
- Jacobs Group (Australia) Pty Ltd
- Kellogg Brown and Root Pty Ltd
- LP Consulting Australia Pty Ltd
- MWH Australia Pty Ltd
- Parsons Brinckerhoff Australia 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) Conformance with the Request for Tender Documentation including lodgement by Closing Time
- b) Evidence of third party certification (by a JAS-ANZ accredited assessment body) of corporate WHS Management system to AS/NZS 4801, corporate Environmental Management system to AS/NZS 14001 and corporate Quality Management system to AS/NZS/9001
- c) Evidence of compliance with Public Liability and Professional Indemnity insurance requirements
- d) The tendered price and structure; as well as any other potential costs to Council that may be identified
- e) Proposed methodology, program, delivery team and key personnel, including any proposed major sub-consultants, which demonstrates capacity to provide the Services as required under the Contract
- f) Demonstrated recent experience within the last 5 years of the proposed delivery team, key personnel and any proposed major sub-consultants in similar sized trunk water main investigation and detail design
- g) Demonstrated satisfactory recent performance within the last 5 years of the proposed delivery team, key personnel and any proposed major sub-consultants in similar sized trunk water main investigation and detail design
- h) Local Content.

**FINANCIAL IMPLICATIONS**

There are sufficient funds allocated for this contract within Wyong Water's capital works program under Project No. 15794.

**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 18 April 2016 after the rescission period following the 13 April 2016 Ordinary Meeting. The first stage of the contract is the detail investigation and design and is expected to be completed by late December 2016. The second stage of the contract involving technical support through the pipeline construction contract is expected to run from April 2017 to April 2018.

**RISK**

This contract has been assessed as a high risk contract. The key risks and mitigations measures have been addressed in the Contract Plan (TRIM D12182727) and detailed Risk Assessment (TRIM D12277396).

**REGULATORY APPROVALS**

No regulatory approvals are required for this contract.

**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**

Consultation has been undertaken with land owners whose properties have easements already acquired or yet to be acquired for the construction of the pipeline.

**GOVERNANCE****Consideration of s.23A guidelines**

The Chief Executive of the NSW Office for Local Government has issued guidelines titled "*Council Decision Making during Merger Proposal Periods*" pursuant to s.23A(1) of the *Local Government Act 1993* ("LG Act"). The Council must consider those guidelines when making decisions during the "merger proposal period", which commenced on 6 January 2016 and will conclude on the date on which a proclamation is made to amalgamate the Wyong and Gosford local government areas or the Minister for Local Government determines that he will not proceed with the proposal for that amalgamation: s.23A(3) of the LG Act. Councillors have been provided with a copy of those guidelines and have been given advice concerning those guidelines. The decisions that are proposed as part of this report comply with those guidelines, involving a procurement process that was commenced prior to 6 January 2016 and which is necessary for the delivery of an action previously approved under an adopted operational plan.

**ATTACHMENTS**

- 1 Confidential Attachment - T144 Tender Evaluation Report - Mardi Dam to Warnervale Trunk Water Pipeline - D12290551

## 4.1 Community Subsidy Program

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TRIM REFERENCE: F2008/02110 - D12249117  
MANAGER: Glenn Cannard, Section Manager  
AUTHOR: Kay Matthews; Grants Support Officer

### SUMMARY

This report provides consideration of applications and recommendations for the Community Subsidy Program received prior to 26 February 2016.

The Community Subsidy Program provides in-kind assistance to support community efforts to maintain the quality of life of the Wyong Shire Community.

### RECOMMENDATION

- 1 ***That Council allocate \$4,924.00 from the 2015-16 Community Subsidy Program as follows:***

<b><i>Applicant</i></b>	<b><i>Project</i></b>	<b><i>Staff Funding Recommended</i></b>
<b><i>CWA of NSW Tuggerah Lakes Branch (second application for 2015/16)</i></b>	<b><i>Rates Subsidy</i></b>	<b><i>\$924.00</i></b>
<b><i>Ourimbah Lisarow RSL Sub Branch</i></b>	<b><i>Road closure for Anzac Day March</i></b>	<b><i>\$2,000.00</i></b>
<b><i>The Entrance Long Jetty RSL</i></b>	<b><i>Installation of Anzac Centenary Flags on Tuggerah Straight</i></b>	<b><i>\$2,000.00</i></b>
<b><i>Total</i></b>		<b><i>\$4,924.00</i></b>

- 2 ***That Council approve the above second application within the 2015/16 financial year from CWA of NSW Tuggerah Lakes Branch as per Council Resolution 396/15 which allows for a second or subsequent application to be approved by Council or the Acting Chief Executive Officer due to the public benefit that arises.***

### BACKGROUND

Council currently provides \$30,000.00 annually for the Community Subsidy Program, which supports community efforts to maintain the quality of life of the Wyong Shire Community. Council does this through the provision of assistance to events, activities and programs that express community and cultural values, protect our natural environment, improve the urban environment and create jobs. The available balance for this program as at 26 February 2016 is \$25,670.82. Funds not expended by 30 June 2016 will be returned to general revenue.

Funding is provided every two months for this program.

This Council report provides details on the applications and recommendations for funding.

Furthermore, at the Council meeting held on 22 April 2015, Council resolved the following (in part):

*Attached Council report.*

*“396/15 That Council adopt the Councillors’ Community Improvement Grant Policy attached to this report with an additional amendment to Clause D15 to add the following words:*

*- “unless approved by Council or the GM due to the public benefit that arises.”*

This allows for a secondary application to be approved by Council or the ACEO if a public benefit arises. The secondary application from CWA of NSW Tuggerah Lakes Branch provides a public benefit as it provides a rates subsidy to support the CWA Branch in covering the costs of running their organisation which aims to improve conditions for women and children and make life better for families.

The CWA of NSW Tuggerah Lakes Branch raises funds that are dispersed to local projects such as Long Jetty Renal Unit, South Lakes Women's Refuge and Coast Shelter for the Homeless. The CWA Hall is utilised by other community groups such as Pensioner's Club of Long Jetty, Irish Dancers, Camera Club and Canary Club as well as private events for community members. The CWA Branch provides scholarships to nurses and education grants to young people. The hall is utilised for meetings and community days such as themed lunches to which members of our local community are invited.

The CWA of NSW Tuggerah Lakes Branch is part of the Country Women's Association of NSW to which they account for their funding annually. In November 2015, the group received \$1,650 from Wyong Shire Council via a Councillor Community Improvement Grant to repaint the hall. They have no overdue acquittals with Wyong Shire Council and have a proven capacity to deliver projects and services to the local community.

## GOVERNANCE

### Consideration of s.23A guidelines

The Chief Executive of the NSW Office for Local Government has issued guidelines titled *“Council Decision Making during Merger Proposal Periods”* pursuant to s.23A(1) of the *Local Government Act 1993* (“LG Act”). The Council must consider those guidelines when making decisions during the “merger proposal period”, which commenced on 6 January 2016 and will conclude on the date on which a proclamation is made to amalgamate the Wyong and Gosford local government areas or the Minister for Local Government determines that he will not proceed with the proposal for that amalgamation: s.23A(3) of the LG Act. Councillors have been provided with a copy of those guidelines and have been given advice concerning those guidelines. The decisions that are proposed as part of this report comply with those guidelines.

**ATTACHMENTS**

Nil



## 4.2 Proposed Councillors' Community Improvement Grants

TRIM REFERENCE: C2016/01723 - D12269314

MANAGER: Lesley Crawley, Manager Corporate Governance

AUTHOR: Lisa Martin; Administration Assistant

### SUMMARY

Councillors propose the following allocation of funds for expenditure from Councillors' Community Improvement Grants (CCIG).

### RECOMMENDATION

- 1 ***That Council allocate an amount of \$8,722 from the 2015-16 Councillors' Community Improvement Grants (CCIG) as follows:***

<b><i>1st Noraville Scout Group (\$2000) (\$1300 already allocated)</i></b>	<b><i>To supply Polo Shirts and Bucket Hats to all Scouts.</i></b>	<b><i>600</i></b>
<b><i>All Saints Anglican Church (\$4000) (\$1600 already allocated)</i></b>	<b><i>To build an access ramp.</i></b>	<b><i>250</i></b>
<b><i>Bravehearts Foundation Inc. (\$4000)</i></b>	<b><i>Karin Tappouras is participating in 777 Marathon Event to raise awareness of Child Sexual Assault which will be put towards services and education programs distributed into the Wyong Shire.</i></b>	<b><i>400</i></b>
<b><i>Central Coast Ugnay Kabayan Inc. (\$4000)</i></b>	<b><i>Socio-Cultural program costs of special event Filipino Australian Fiesta.</i></b>	<b><i>1000</i></b>
<b><i>Gorokan High School P&amp;C Inc. (\$4000)</i></b>	<b><i>Costs associated with attending the 'Global Youth Forum' in the USA and bringing the knowledge into the Wyong Shire.</i></b>	<b><i>400</i></b>
<b><i>House with No Steps (\$4,000) (\$800 already allocated)</i></b>	<b><i>For tools and a projector and screen for disability woodworking workshop</i></b>	<b><i>100</i></b>
<b><i>Lions Club of Gwandalan Inc. (\$2500) (\$2000 already allocated)</i></b>	<b><i>To assist with costs in hosting a Carols evening.</i></b>	<b><i>100</i></b>
<b><i>Lions Club of Toukley Inc. (\$4,000)</i></b>	<b><i>Replace existing 4.7 metre long awning at front of workshop.</i></b>	<b><i>650</i></b>
<b><i>National Servicemen's Association Tuggerah Lakes Inc. (\$1,900)</i></b>	<b><i>Purchase a small marquee</i></b>	<b><i>1,900</i></b>
<b><i>PFLag Central Coast (\$622.30) (\$600 already allocated)</i></b>	<b><i>Stall Hire Fee, New Banner, and Printing of Postcards for use at G.O.A.T.S Festival at San Remo in April.</i></b>	<b><i>22</i></b>

<b>San Remo Community Environment Project Inc. (\$4000) (\$1600 already allocated)</b>	<b><i>To build new raised garden beds at the Community garden in San Remo for members and non-members to grow their own fresh veges and flowers.</i></b>	<b>600</b>
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<b>Save Sight Institute (\$4000) (\$100 already allocated)</b>	<b><i>Costs associated with hosting a Family Fun Day.</i></b>	<b>100</b>
<b>The Entrance Junior Rugby League Football Club (\$2245) (\$1500 already allocated)</b>	<b><i>Assist in a custom built trailer to setup the oval in a safe way each weekend.</i></b>	<b>200</b>
<b>The Entrance Rugby Club Inc. (\$1,000)</b>	<b><i>Purchase sporting equipment.</i></b>	<b>1,000</b>
<b>Toukley Ladies Tennis Club Inc. (\$2,000)</b>	<b><i>Purchase new outdoor umbrellas.</i></b>	<b>1,100</b>
<b>Toukley Neighbourhood Centre (\$3840) (\$1650 already allocated)</b>	<b><i>To provide subsidies art classes after school for children aged 7-14 years.</i></b>	<b>600</b>
<b>Wycare Inc. (\$1650)</b>	<b><i>Purchase of a ride on mower</i></b>	<b>300</b>

## BACKGROUND

Provision has been made in Council's Annual Plan for each Councillor to recommend to Council the donation of funds to individuals, local service, charitable or community organisations that operate in the Shire or provide a benefit specifically to the residents of the Shire.

Funds may also be allocated for emergency assistance in the event of natural disasters such as bushfires, flood or drought anywhere in Australia, subject to CCIG Policy. The funds are granted subject to approval of the Council as a whole.

## THE PROPOSAL

Under Council's Policy, all proposed allocations are subject to the approval of the Council as a whole.

Each Councillor is allocated a one tenth share of a total amount identified annually in Council's Annual Plan.

In the financial year preceding a Local Government election, the allocation to the individual Councillors will be 75% of the allocation identified above and will be available to Councillors from 1 July to 31 May of the 2015-16 year.

The amount allocated in the 2015-16 Annual Plan is \$113,500. In addition Council resolved to 'carry over' the unallocated balance for the 2014-15 financial year, being the amount of \$42,943.

The total available allocated funding for the 2015-16 financial year is \$156,443.00.

## 4.2 Proposed Councillors' Community Improvement Grants (contd)

The proposed allocations are listed below:

COUNCILLORS' COMMUNITY IMPROVEMENT GRANTS ALLOCATION		Best	Eaton	Graham	Greenwald	Matthews	Nayna	Taylor	Troy	Vincent	Webs ter	SUB TOTAL
Allocation 01/07/2015 - 31/05/2016		15,536	14,833	16,806	16,459	12,436	18,808	20,466	14,115	11,710	14,274	155,443
Expenditure up to and including Ordinary Council Meeting of 10 March 2016		5,475	7,050	5,000	4,703	7,200	0	3,950	5,420	2,060	8,200	49,058
Available allocation as at 10 March 2016		10,061	7,783	11,806	11,756	5,236	18,808	16,516	8,695	9,650	6,074	106,385
13 April 2016												
1st Norville Scout Group (\$2000) (\$1300 already allocated)	To supply Polo Shirts and Bucket Hats to all Scouts.									600		600
All Saints Anglican Church (\$4000) (\$1600 already allocated)	To build an access ramp.					250						250
Bravehearts Foundation Inc. (\$4000)	Karin Tappouras is participating in 777 Marathon Event to raise awareness of Child Sexual Assault which will be put towards services and education programs distributed into the Wyong Shire.	200	200									400
Central Coast Ugnay Kabayan Inc. (\$4000)	Socio-Cultural program costs of special event Filipino Australian Fiesta.	200	800									1000
Gorokan High School P&C Inc. (\$4000)	Costs associated with attending the 'Global Youth Forum' in the USA and bringing the knowledge into the Wyong Shire.	200	200									400
House with No Steps (\$4,000) (\$800 already allocated)	For tools and a projector and screen for disability woodworking workshop					100						100
Lions Club of Gwandalan Inc. (\$2500) (\$2000 already allocated)	To assist with costs in hosting a Carols evening.					100						100
Lions Club of Toukley Inc.	Replace existing 4.7 metre long awning at front of workshop.	250	300					100				650
National Servicemen's Association Tuggerah Lakes Inc.	Purchase a small marquee	150	400	1,000		250		100				1,900
PFLAG Central Coast (\$622.30) (\$600 already allocated)	Stall Hire Fee, New Banner, and Printing of Postcards for use at G.O.A.T.S Festival at San Remo in April.					22						22
San Remo Community Environment Project Inc. (\$4000) (\$1600 already allocated)	To build new raised garden beds at the Community garden in San Remo for members and non-members to grow their own fresh vegies and flowers.									600		600
Save Sight Institute (\$4000) (\$100 already allocated)	Costs associated with hosting a Family Fun Day.					100						100
The Entrance Junior Rugby League Football Club (\$2245) (\$1500 already allocated)	Assist in a custom built trailer to setup the oval in a safe way each weekend.					200						200
The Entrance Rugby Club Inc.	Purchase sporting equipment.	100	250	550				100				1,000
Toukley Ladies Tennis Club Inc.	Purchase new outdoor umbrella's.	200	300			500		100				1,100
Toukley Neighbourhood Centre (\$3840) (\$1650 already allocated)	To provide subsidies art classes after school for children aged 7-14 years.									600		600
Wycare Inc. (\$1650)	Purchase of a ride on mower		300									300
Total Proposed Allocations for 13 April 2016		1,300	2,750	1,550	0	1,522	0	400	0	1,200	0	8,722
Total Accumulated Allocations as at 13 April 2016		6,775	9,800	6,550	4,703	8,722	0	4,350	5,420	3,260	8,200	57,780
Balance Uncommitted as at 13 April 2016		8,761	5,033	10,256	11,756	3,714	18,808	16,116	8,695	8,450	6,074	97,663

In April 2015 Council reviewed the Councillor Community Improvement Grant Policy in relation to the number of applications a group may be permitted to submit across all WSC grant programs in one financial year. The amended policy (Clause D15) requires that should a group submit two or more applications for any of Council's grant programs within the same financial year, then Council must consider the public benefit that would arise prior to approving the funding recommended for the second or subsequent application.

Staff have commenced applying this clause from 27 April 2015 and reviewed the list of applications not yet fully allocated.

The following is a list of applications that are for consideration in this report that are subsequent applications from the same group in the 2015-2016 year.

N/A

### OPTIONS

- 1 Approval of applications as submitted will provide a community benefit to residents of the Shire.
- 2 Non approval could result in assistance not being provided to the community.

## STRATEGIC LINKS

### Annual Plan

<i><b>Principal Activity</b></i>	<i><b>Strategy or Program</b></i>	<i><b>Financial Line Item No and Description</b></i>
A More Sustainable Community	Enhance the quality of life of the Shire's residents	1.1.11 – Community Financial Support

### Contribution of Proposal to the Principal Activity

The Councillors' Community Improvement Grants were developed to help charitable community groups and in doing so helping the broader community.

### Link to Shire Strategic Vision

<i><b>Priority Objective</b></i>	<i><b>How the proposal contributes or links to the Priority Objectives in Shire Strategic Vision and Annual Plan</b></i>
<b>Communities</b> - Communities will be vibrant, caring and connected with a sense of belonging and pride in their local neighbourhood.	Funding is available to projects not specifically nominated in Council's Annual Plan that contribute to the priority objective.
<b>Facilities and Services</b> - Communities will have access to a diverse range of affordable and coordinated facilities, programs and services.	Funding is available to projects not specifically nominated in Council's Annual Plan that contribute to the priority objective.

### Principles of Sustainability

The CCIG program is aligned with the principles of sustainability in that it would:

- Improve and maintain safety, wellbeing and sense of community
- Use locally available resources to increase our self-reliance
- Support local and regional economic prosperity
- Build and strengthen partnerships and alliances

## CONSULTATION

Applications that met the criteria were distributed to Councillors for their consideration.

## GOVERNANCE

All expenditure recommended is permissible under Section 24 and 356(1) of the Local Government Act 1993.

**Consideration of s.23A guidelines**

The Chief Executive of the NSW Office for Local Government has issued guidelines titled "*Council Decision Making during Merger Proposal Periods*" pursuant to s.23A(1) of the *Local Government Act 1993* ("LG Act"). The Council must consider those guidelines when making decisions during the "merger proposal period", which commenced on 6 January 2016 and will conclude on the date on which a proclamation is made to amalgamate the Wyong and Gosford local government areas or the Minister for Local Government determines that he will not proceed with the proposal for that amalgamation: s.23A(3) of the LG Act. Councillors have been provided with a copy of those guidelines and have been given advice concerning those guidelines. The decisions that are proposed as part of this report comply with those guidelines.

**CORPORATE RISKS**

Nil Impact.

**CONCLUSION**

The proposed allocations contained in this report are permissible under the Council's policy on Councillors' Community Improvement Grants. The process has been correct and Council may confirm the grants at its option.

**ATTACHMENTS**

Nil

### **4.3 Property Portfolio Review Project Update**

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TRIM REFERENCE: F2014/00328-02 - D12215036

MANAGER: Mike Dowling; Director

AUTHOR: Melati Lye; Senior Planner Client Management

#### **SUMMARY**

As part of the Property Portfolio Review Project (see background section of this report for progress to date) Council staff have commenced a preliminary review of those properties that either have development potential or are suitable for sale (or both), referred to as 'Stage 4 Review' properties. This review has resulted in a shortlist of properties which have development potential and are appropriate for sale. The shortlisted sites are those with potential for small scale developments, where potential returns are minimal yet risk remains relatively high. Consequently, this shortlist of properties is recommended for sale on the open market.

#### **RECOMMENDATION**

- 1 That Council receive the report on Property Portfolio Review Project Update.**
- 2 That Council endorse the list of properties which have been identified as being surplus to Council's needs**
- 3 That Council authorise the sale of the following properties for not less than market value:**
  - a. 2W Stornaway Crescent, Berkeley Vale (Lot 17 DP 262327)**
  - b. 9 Thompson Street, Long Jetty (Lot 21 DP 13225)**
  - c. 10 Lakeside Parade, The Entrance (Lot 61 DP 24151)**
  - d. 10a Cynthia Street, Bateau Bay (Lot 900 DP 786123)**
  - e. 165 Main Road, Toukley (Part Lot 3 DP 22986)**
- 4 That Council authorise the engagement of consultants, including valuer, surveyor and estate agents to facilitate the sale of these properties**
- 5 That Council authorise the Acting CEO and the Mayor to execute all necessary documentation relevant to the sale of these properties. Such documents may include plans of subdivision, easements and transfer documents.**
- 6 That Council authorise the Common Seal of Wyong Shire Council to be affixed to the formal documents as required to effect the sale of the land.**

## BACKGROUND

On 11 June 2014, 21 properties recommended for sale as part of Stage 1 of this review were approved for sale at the Ordinary Meeting of Council. The Stage 1 review was restricted to small parcels of land between 350m<sup>2</sup>-650m<sup>2</sup>, or any land to the west of the M1 Pacific Motorway.

On 22 October 2014, 36 properties recommended for sale as part of Stage 2 of this review were approved for sale at the ordinary meeting of Council. The Stage 2 review was generally restricted to parcels of land less than 1,000m<sup>2</sup> in size, with the exception of 2 properties.

On 26 November 2014, 4 properties recommended for sale as part of Stage 3 of this review were approved for sale at the ordinary meeting of Council. The Stage 3 review was generally restricted to sites over 1,000m<sup>2</sup>, and completed the review of all 1,335 operational properties.

A total of 61 properties have therefore been approved for sale as part of the initial review of Council's operational property portfolio.

At the completion of Stage 3 of the Property Portfolio Review, all 1,335 operational properties were reviewed and categorised into one of the following categories:

#	Category	Number of Sites		
		Stage 1	Stage 2	Stage 3
1)	Sale Recommended – Properties to be sold on the open market:	14	36	4
2)	Sale Recommended – Properties to be sold to adjoining landowners only:	7	n/a	n/a
3)	Sale Recommended – Separate process to Property Portfolio Review process	7		
4)	Sale/Development Potential – For further investigation (Appropriately zoned):	182*		
5)	Sale/Development Potential – For further investigation (Rezoning required):	167*		
6)	No sale or development recommended:	918		
	<b>TOTAL:</b>	<b>1,335</b>		

## THE PROPOSAL

This report provides detail on the outcomes of a preliminary Stage 4 Property Review. This involved a miscellaneous review of all sites to identify additional Council owned operational properties for disposal that only required creation of easements or subdivisions to resolve site specific issues. Generally, these were short term or minor processes that would allow the site to be disposed of within 6 months.

Senior staff / internal stakeholders from across the organisation have been requested to review each of the properties recommended for sale.

Letters were sent to 25 adjacent owners to advise them of the proposed sale of Council land. The responses received are summarised under the Heading 'Consultation'.

#### 4.3 Property Portfolio Review Project Update (contd)

The following properties were endorsed for disposal by the Employment and Economic Development Committee on 04 November 2015:

- a. 2W Stornaway Crescent, Berkeley Vale (Lot 17 DP 262327)
- b. 9 Thompson Street, Long Jetty (Lot 21 DP 13225)
- c. 10 Lakeside Parade, The Entrance (Lot 61 DP 24151)
- d. 10a Cynthia Street, Bateau Bay (Lot 900 DP 786123)
- e. 165 Main Road, Toukley (Part Lot 3 DP 22986)

More information with respect to these properties is contained in Attachment 1.

#### OPTIONS

The above sites recommended for immediate sale are all small to medium sized, zoned residential with limited development opportunities. As a consequence, those sites with more development options will be considered as a later stage of the Property Portfolio Review.

#### STRATEGIC LINKS

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

As part of the Strategic Plan and the Corporate/Commercial Strategy, Council has committed to put its extensive property portfolio to work by developing new sustainable revenue streams to reduce the rate burden on our community. This will involve reviewing property assets with a view to ensuring that each asset is being used efficiently and to its full potential. This will assist Council to fulfil its responsibilities to the Wyong Shire community.

The Property Portfolio Review is listed in Councils Strategic Plan 2013-2017 as a designated 'Major Project' – projects dealing with priority areas that are identified as being of critical importance to the community.

<b><i>Principal Activity</i></b>	<b><i>Service</i></b>	<b><i>Key Action and Objectives</i></b>	<b><i>Funding Source and Description</i></b>	<b><i>Impact on Key Performance Indicators/ Service Performance Indicators</i></b>
3	Economic and Property Development	Strengthening the economic base of the Shire by promoting economic development as well as the creation of employment opportunities, identifying and developing sustainable income strategies for Council, and providing property related services to the organisation.	n/a	This project will assist Council to achieve Key Performance Indicator PA03.01.01: 10% increase in rental and/or land sale revenue to Council.

##### Contribution of Proposal to the Principal Activity

This project will assist Council to achieve Key Performance Indicator PA03.01.01 which requires a 10% increase in rental and/or land sale revenue to Council.



**Long term Financial Strategy (LTFS)**

The LTFS is the framework guiding the preferred approach for ensuring Council's enduring financial sustainability. The review of Council's Property Portfolio is therefore aligned with this strategy.

**Asset Management Strategy**

The Asset Management Strategy guides the various Council Departments as to the best use of resources by ensuring that assets are planned, created, operated, maintained, renewed and disposed of in accordance with Council's service needs. As a result, the review of Council's Property Portfolio is wholly in accordance with Council's Asset Management Strategy.

**Workforce Management Strategy**

Not applicable.

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

The Property Portfolio Review project aims to identify:

- Surplus/underutilised/non-fit for purpose/vacant assets
- Operational and Non-Operational assets and sites
- Potential to co-locate future community facilities with other assets.

The outcomes of the Property Portfolio Review project will involve maximising our property assets, including sale of surplus sites. Therefore, profits from the sale of surplus Council land will indirectly assist Council in improving our delivery of some of the 8 priority areas that the Community identified as part of the Community Strategic Plan (2030).

**Budget Impact**

Council will incur costs associated with the proposed sale of land including valuation, survey, agent commissions and legal fees. However, if the properties are sold Council will also receive proceeds of the sale. Overall the proposal will yield a positive budget return to Council. It is proposed that the proceeds of any sale be reinvested through Council's Property Reserve.

**CONSULTATION**

An internal stakeholder meeting was held on 15 April 2015 with representatives Water, Roads, Open Space and Property Services business units.

This robust process revised 15 properties in total ultimately resulting in the above five (5) properties being considered suitable for disposal.

At its meeting of 4 November 2015, the Employment and Economic Development Committee of Council considered a report which identified the above five (5) properties as being surplus to Council's requirements.

On 22 January 2016, twenty five (25) adjacent property owners were advised (by mail) of the proposed sale of these properties. There were nine (9) responses to date, including two (2) by mail. There has been interest expressed by 6 property owners in purchasing these properties. They have asked to be kept informed of the sale process.

A summary of the responses follow:

#### ***2W Stornaway Crescent, Berkeley Vale***

- Two adjacent property owners were interested in buying part of the lot adjoining their property, if possible (subject to pricing) and wanted to be kept informed of sale process.
- There is an informal pedestrian connection through this property from Stornaway Crescent.

**Response:** There are existing grassed Council owned utility easements that form a connection between Wyong Road and Greenwood Avenue, then to Sunny Hills Terrace and through the subject property to Stornaway Crescent. However, it is noted that the property is steep and is only a short distance from Haig Street which provides an alternative road connection (refer Map attachment).

- Will Council retain part of the property with the trees / easement? Keep them informed of Council's decision.

**Response:** Not recommended as it is very difficult to maintain and too small & steep for a park. Additionally there are potential security concerns.

- They are not in favour of the sale as they overlook the property and fear it will affect their current outlook. Will Council retain a public walkway over the easement? Keep them informed of sale.

**Response:** There is a high colorbond fence and screen planting within the boundary of the adjoining lot, which will assist in maintaining privacy. It is noted the adjoining owner has installed a gate to access the subject property.

#### ***9 Thompson Street, Long Jetty***

No comments or enquiries from adjoining owners.

#### ***10 Lakeside Parade, The Entrance***

- They do not favour the property being developed for public housing. Development for residential units or medium density is not an issue. Keep them informed as they are interested in purchasing depending on price.
- Keep them informed of sale process as they are interested in purchase, depending on price.

**Response:** There is an existing Ausgrid substation lease, sewer pump station and drainage infrastructure on the northern end of the property. It is proposed to subdivide the northern portion of the lot and retain it in Council ownership.

**10A Cynthia Street, Bateau Bay**

- NSW Land and Housing Corporation are an adjoining owner and are undertaking a review of their properties.

**165 Main Road, Toukley**

- Adjoining owner wants to be kept informed of sale as they are interested in purchasing the property.
- NSW Land and Housing Corporation are also an adjoining owner and are undertaking a review of their properties.

**GOVERNANCE AND POLICY IMPLICATIONS**

The proposal is consistent with Council's Property Strategy and the draft Policy for Property Transactions – Sale and Acquisition of Land.

**Consideration of s.23A guidelines**

The Chief Executive of the NSW Office for Local Government has issued guidelines titled "*Council Decision Making during Merger Proposal Periods*" pursuant to s.23A(1) of the *Local Government Act 1993* ("LG Act"). The Council must consider those guidelines when making decisions during the "merger proposal period", which commenced on 6 January 2016 and will conclude on the date on which a proclamation is made to amalgamate the Wyong and Gosford local government areas or the Minister for Local Government determines that he will not proceed with the proposal for that amalgamation: s.23A(3) of the LG Act. Councillors have been provided with a copy of those guidelines and have been given advice concerning those guidelines. The decisions that are proposed as part of this report comply with those guidelines.

**MATERIAL RISKS AND ISSUES**

There are no material risks as the properties will not be sold for less than market value.

**CONCLUSION**

The initial review of Council's operational property portfolio is now complete. All Council owned operational properties have been reviewed and categorised. Stage 4 is underway, and the first part of this review is to identify those sites with potential for small scale developments, where potential returns are minimal yet risk remains relatively high and to recommend sale of these properties. An initial shortlist of properties has been identified and is recommended for sale on the open market.

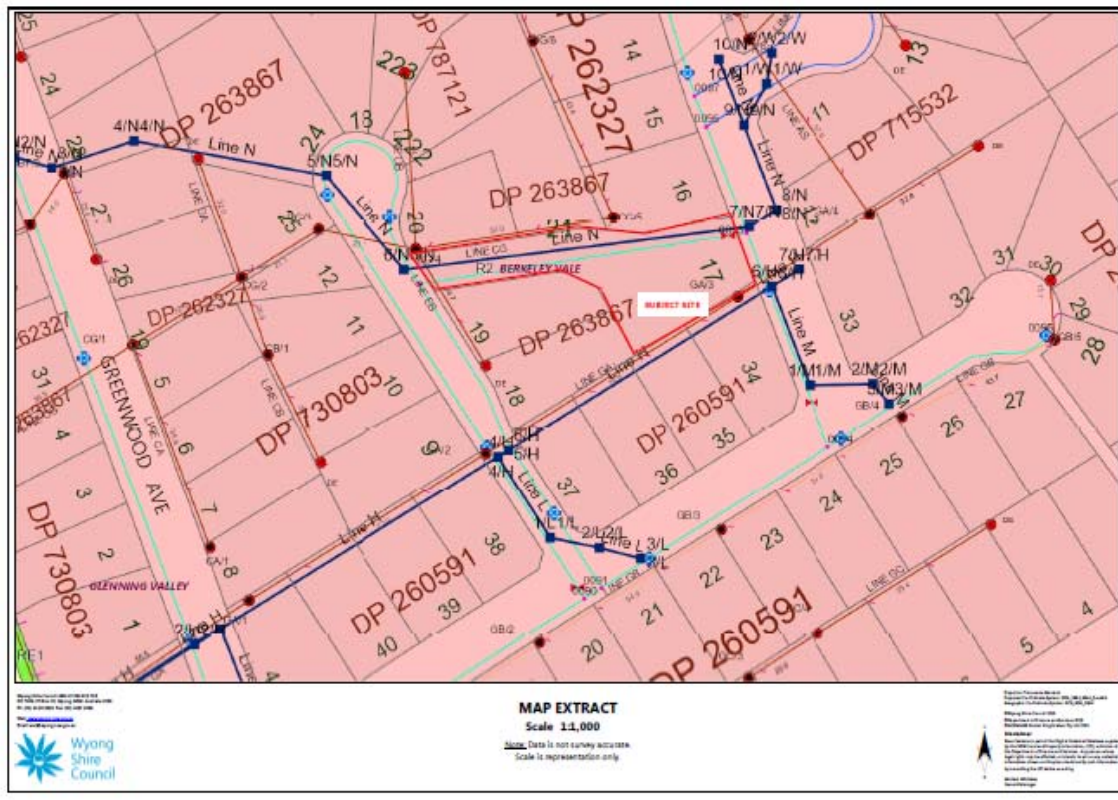
Due to the scale of this Stage of the project, a staging plan will need to be introduced to effectively prioritise the review of remaining sites.

Further information on the progress of both Stages 4 and 5 will be provided to the EEDC and Council as it becomes available.

**ATTACHMENTS**

- 1 Property Portfolio Review Project Update - Map attachment D12239440

Parcel Information for Stand Alone Property 1	
Address	2W STORNAWAY CR BERKELEY VALE
Known As	
Parcel Description	Lot 17 DP 262327



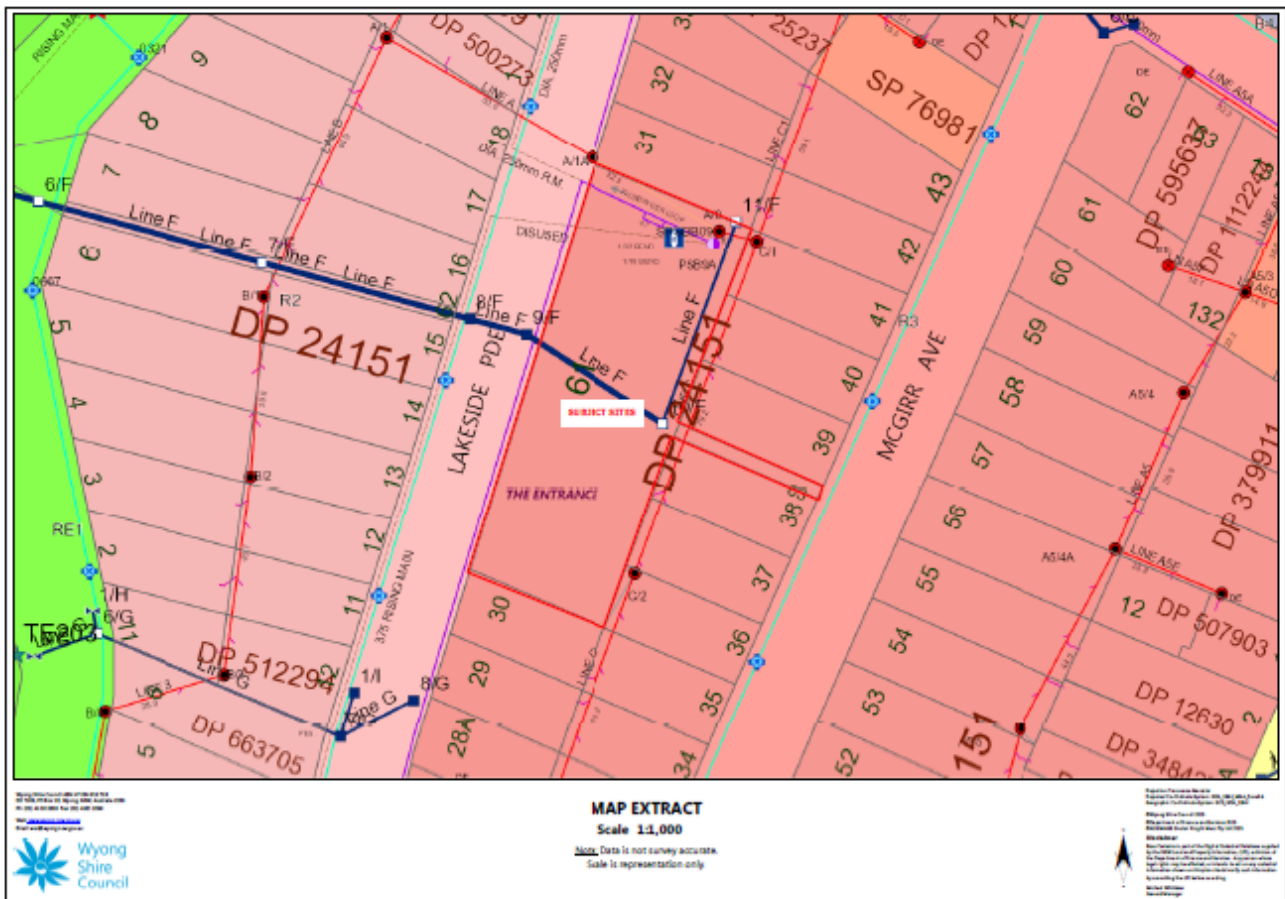
Parcel Information for Stand Alone Property 1	
Address	9 THOMPSON ST LONG JETTY
Known As	
Parcel Description	Lot 21 DP 13225





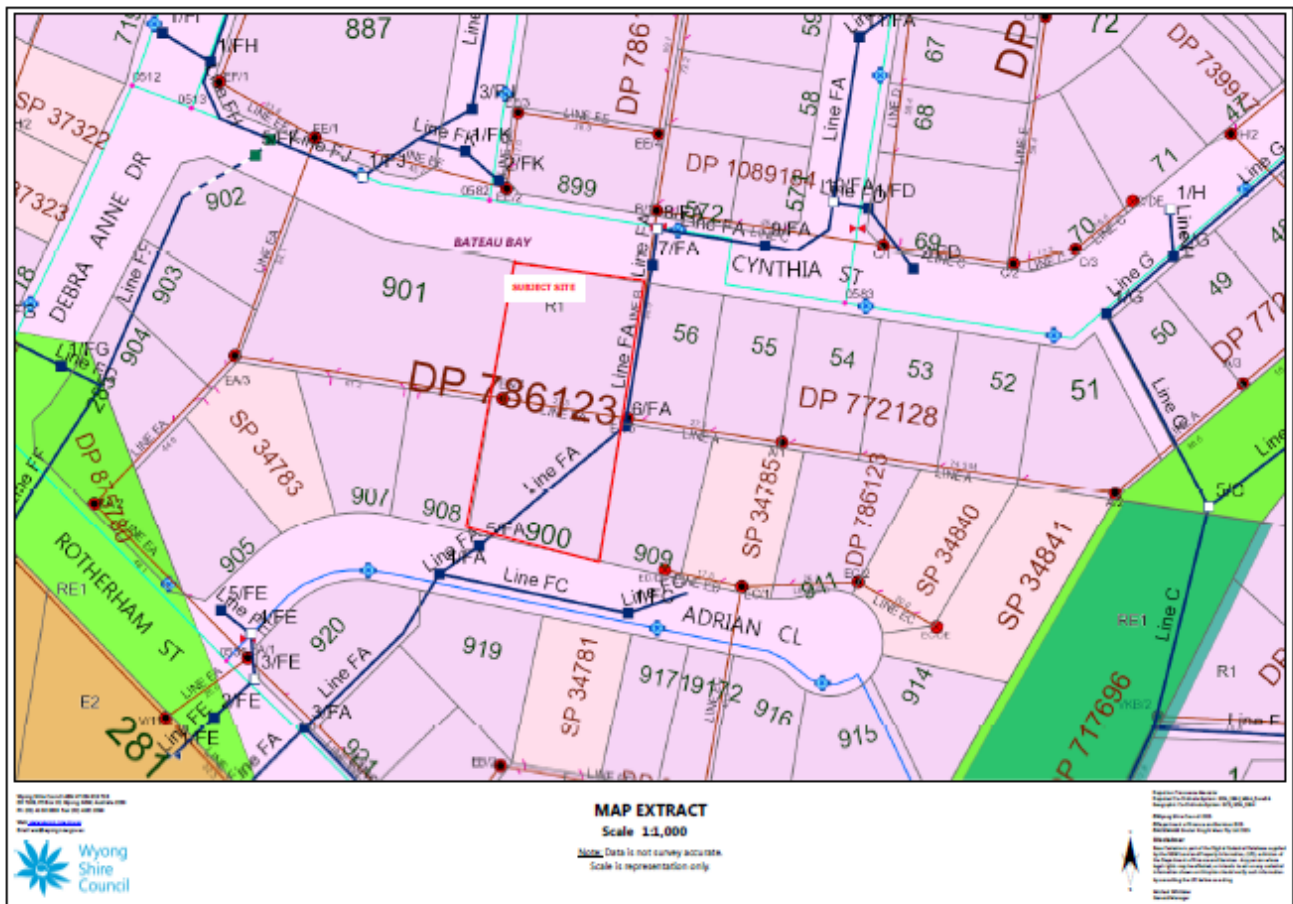


maryParcel Information for Stand Alone Property 1	
Address	10 LAKESIDE PDE THE ENTRANCE
Known As	
Parcel Description	Lot 61 & 63 DP 24151



Parcel Information for Stand Alone Property 1	
Address	10A CYNTHIA ST BATEAU BAY
Known As	
Parcel Description	Lot 900 DP 786123





Parcel Information for Stand Alone Property 1	
Address	165 MAIN ROAD TOUKLEY
Known As	
Parcel Description	Part Lot 3 DP 22986





#### **4.4 Councillor Attendance - 2016 National General Assembly of Local Government and Regional Capitals Australia Networking Breakfast**

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TRIM REFERENCE: F2004/06517 - D12282384

MANAGER: Lesley Crawley, Manager Corporate Governance

AUTHOR: Jade Maskiewicz; Councillor Services Officer

##### **SUMMARY**

The 2016 National General Assembly of Local Government will be held at the National Convention Centre in Canberra between 19 and 22 June 2016. The Regional Capitals Australia Networking Breakfast is to be held at the same location on 22 June 2016.

##### **RECOMMENDATION**

- 1 That Council note that motions are to be resolved by Council and submitted to the National General Assembly of Local Government prior to Friday 22 April 2016.**
- 2 That Council authorise interested Councillors and the Chief Executive Officer or his delegate to attend the 2016 National General Assembly of Local Government between 19 and 22 June 2016.**
- 3 That Council authorise interested Councillors and the Chief Executive Officer or his delegate to attend the Regional Capitals Australia Networking Breakfast on 22 June 2016.**
- 4 That Council reimburse expenses incurred by Councillors and accompanying persons attending the Assembly in accordance with Council's Facilities and Expenses Policy for Councillors.**
- 5 That Council determine the voting delegate should the Mayor be unable to attend.**

##### **BACKGROUND**

The 2016 National General Assembly of Local Government (2016 NGA) is a significant event on the Local Government calendar. It is convened by the Australian Local Government Association (ALGA) for local councils across Australia, to provide a forum to address, develop and express a united voice on the core issues that affect local government in Australia and their communities.

The NGA provides an important platform to showcase local government to influential decision-makers of the Federal Government, at both the political and departmental levels.

Discussions and debate at the NGA will focus around the theme "Partners in an Innovative and Prosperous Australia", please see the following extract from the ALGA President's Welcome Message on the ALGA website (<http://alga.asn.au/>):

*“Under the theme Partners in an Innovative and Prosperous Australia, delegates at this year’s National General Assembly of Local Government (NGA) will look at the many ways local government is being innovative both here and overseas. As a responsive, pragmatic and dynamic level of government, councils innovate with technology, with their resources and in practical ways within their organisations and communities. Through the NGA, delegates will be able to learn from the ideas and experiences of other councils and gain valuable ideas for their own councils.*

*Our theme also underlines the contribution local government makes to economic prosperity and productivity, a contribution which often goes unacknowledged. We have a significant role to play in fostering and enhancing the prosperity of our communities. Nationally, local government:*

- employs 189,000 Australians (around 10 per cent of the total public sector);*
- owns and manages non-financial assets with a replacement value of \$437 million;*
- raises around 3.4 per cent of Australia’s total taxation revenue per annum; and*
- has annual operational expenditure of around \$33 billion, or just under 6 percent of total public sector spending.*

*Local government plays a significant role in the national economy and councils play critical roles in their local economies. I encourage you to attend the NGA, and to work with myself and the ALGA Board, as we explore opportunities to strengthen the contribution that local government makes.*

*With a Federal election due this year, the NGA offers an opportunity to elevate local government issues to the Federal level. In the lead up to this election, ALGA, in conjunction with State and Territory Associations, will undertake a significant advocacy program to ensure that the promises made by the major political parties address the needs of our councils and our communities. The influence of local government is reflected in the ongoing high level political engagement the NGA receives, and this year will be no different. I have invited the Prime Minister, Leader of the Opposition, Leader of the Australian Greens, Minister for Local Government and Shadow Minister for Local Government to address the NGA and to give you the opportunity to hear directly from them in the lead up to the election.*

*The NGA program this year features a number of preeminent speakers who will share their views and encourage our thinking on the two key areas of our theme: innovation and prosperity. We have panel sessions that allow for interaction with these presenters and other thought leaders, as well as breakout sessions to give you the maximum opportunity to engage with presenters and gain insights which you can take back to your council.”*

### **Call for Motions**

The 2016 NGA is an opportunity for local government to identify and discuss issues, in particular those relevant to the Federal Government. Every council has the opportunity to raise relevant issues for debate at the Assembly and is invited to participate in the 2016 NGA by submitting a motion for consideration.



#### 4.4 Councillor Attendance - 2016 National General Assembly of Local Government and Regional Capitals Australia Networking Breakfast (contd)

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The ALGA Board is calling for motions for the 2016 NGA under the theme Partners in an Innovative and Prosperous Australia. To assist Councils in preparing motions a Discussion Paper has been prepared and has been provided as attachment 2 for this report.

All motions will need to be submitted electronically through the designated form, which can be found at <http://alga.h3consulting.net/motions/>.

The closing date for motion submissions will be Friday 22 April 2016.

### CURRENT STATUS

The Council may choose to submit or not submit motions to the NGA.

The Council may or may not agree to reimbursement of expenses incurred.

### STRATEGIC LINKS

The Assembly is an opportunity for Councillors to bring forward issues affecting the Shire that are of National relevance.

### Financial Implications

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

<b>National General Assembly 2016</b>	<b>(\$)</b>
Registration	
National General Assembly ( <i>Standard registration</i> )	\$1,029.00
Regional Cooperation & Development Forum ( <i>Optional</i> )	\$225.00
Buffet Dinner ( <i>Optional</i> )	\$100.00
General Assembly Dinner – Parliament House ( <i>Optional</i> )	\$130.00
Accompanying Partners Registration ( <i>Optional</i> )	\$260.00
Travel	
Councillor's own car	\$570.00
Flight ex Sydney	\$400.00
Flight ex Newcastle	\$660.00
Accommodation (5 nights)	\$1,725.00
Sustenance	\$750.00
Regional Capitals Australia Networking Breakfast	\$110.00
<b>Total (Including all registration options)</b>	
<b>Car</b>	<b>\$4,899.00</b>
<b>Flight ex Sydney</b>	<b>\$4,729.00</b>
<b>Flight ex Newcaste</b>	<b>\$4,989.00</b>

## CONSULTATION

Nil Impact

## GOVERNANCE

In accordance with the provisions of Council's Facilities and Expenses Policy for Councillors, clause D11 and D17, reasonable expenses incurred in Councillors attending non-Council events and functions are met in accordance with that policy.

*"D11 Council will reimburse expenses for attendance at conferences, workshops and seminars as follows:*

- *Each event must be authorised by Council resolution*
- *Each event must relate to the business of the Council*
- *A combined total of six attendances, per Councillor, per year*
- *The limit of six will only include those events occurring over one or more consecutive days unless otherwise approved by Council*
- *Total reimbursement of attendance cost per conference, per Councillor is limited to \$5,000 (except where authorised by the Chief Executive Officer) with a maximum total cost for conferences per year of \$12,000, subject to a total expenditure limit for all Councillors of \$100,000 per year*
- *The maximum number of Councillors authorised to attend an event is 3 with the exception of the Local Government NSW annual conference and National General Assembly of Local Government or as resolved by Council. These conferences are not included in the cost threshold*
- *Where Council has incurred costs and a replacement is not nominated by the Mayor/Deputy Mayor and the elected member's non-attendance is not a family or employment or medical emergency, all costs incurred by Council will be charged to the elected member*
- *Before requesting attendance Councillors must satisfy themselves:*
  1. *that the program is likely of benefit to Council, the Community and/or to his/her professional development as an elected member*
  2. *that he/she is able to commit the time necessary to attend the conference sessions in the terms of this policy"*

### **Spouses, Partners, Carer and Accompanying Persons**

*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:*

## 4.4

**Councillor Attendance - 2016 National General Assembly of Local Government and Regional Capitals Australia Networking Breakfast (contd)**

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<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>The Local Government NSW Annual Conference or the National General Assembly of Local Government.</i>	Yes	Yes	Yes. <i>If staying in same room as Councillor</i>	Yes if for official conference events. (eg formal dinner, welcome drinks) No additional meals and beverages included	No	Yes. <i>If travelling In company of Councillor in same vehicle No additional air or other travel fares included)</i>	Yes
<i>Other Council approved conferences and events including any Councillor Workshop.</i>	No	No	Yes. <i>If staying in same room as Councillor and no additional tariff charges are incurred as a result of the additional persons in the room (eg room upgrade bedding, linen,)</i>	Yes if for official conference events. (eg formal dinner, welcome drinks) No additional meals and beverages included	No	Yes. <i>If travelling In company of Councillor in same vehicle No additional air or other travel fares included)</i>	Yes

**Consideration of s.23A guidelines**

The Chief Executive of the NSW Office for Local Government has issued guidelines titled "*Council Decision Making during Merger Proposal Periods*" pursuant to s.23A(1) of the *Local Government Act 1993* ("LG Act"). The Council must consider those guidelines when making decisions during the "merger proposal period", which commenced on 6 January 2016 and will conclude on the date on which a proclamation is made to amalgamate the Wyong and Gosford local government areas or the Minister for Local Government determines that he will not proceed with the proposal for that amalgamation: s.23A(3) of the LG Act. Councillors have been provided with a copy of those guidelines and have been given advice concerning those guidelines. The decisions that are proposed as part of this report comply with those guidelines.

**CORPORATE RISKS**

Nil impact.

**CONCLUSION**

The NGA is an opportunity for Council to ensure issues of concern are debated widely and for Councillors to network with other elected representatives from throughout Australia.

Submissions made by Councillors on behalf of Council will ideally require presentation at the NGA. Attendance by the appropriate Councillor(s) would be necessary if submissions are made.

Motions submitted to the NGA must be by resolution of Council.

**ATTACHMENTS**

- |          |  |           |
|----------|--|-----------|
| <b>1</b> | 2016 National General Assembly Registration Brochure   | D12282390 |
| <b>2</b> | 2016 National General Assembly of Local Government - Call For Motions<br>Discussion Paper - 'Partners in an Innovative and Prosperous Australia' | D12282159 |

PARTNERS IN  
AN INNOVATIVE  
AND PROSPEROUS  
AUSTRALIA

# NGA16 PROGRAM & REGISTRATION

NATIONAL GENERAL ASSEMBLY  
CANBERRA 19-22 JUNE 2016

REGISTER ONLINE  
[WWW.ALGA.ASN.AU](http://WWW.ALGA.ASN.AU)



AUSTRALIAN LOCAL  
GOVERNMENT ASSOCIATION



## PRESIDENT'S WELCOME

Key drivers of success for the councils of the future will include the ability to innovate and adapt to change. Today's councillors must be open to new ideas, innovative ways of engaging citizens and making interactions with councils simpler, faster and easier.

Under the theme **Partners in an Innovative and Prosperous Australia**, delegates at this year's National General Assembly of Local Government (NGA) will look at the many ways local government is being innovative both here and overseas. As a responsive, pragmatic and dynamic level of government, councils innovate with technology, with their resources and in practical ways within their organisations and communities. Through the NGA, delegates will be able to learn from the ideas and experiences of other councils and gain valuable ideas for their own councils.

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and enhancing the prosperity of our communities. Nationally, local government:

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With a Federal election due this year, the NGA offers an opportunity to elevate local government issues to the Federal level. In the lead up to this election, ALGA, in conjunction with State and Territory Associations, will undertake a significant

advocacy program to ensure that the promises made by the major political parties address the needs of our councils and our communities. The influence of local government is reflected in the ongoing high level political engagement the NGA receives, and this year will be no different. I have invited the Prime Minister, Leader of the Opposition, Leader of the Australian Greens, Minister for Local Government and Shadow Minister for Local Government to address the NGA and to give you the opportunity to hear directly from them in the lead up to the election.

The NGA program this year features a number of preeminent speakers who will share their views and encourage our thinking on the two key areas of our theme: innovation and prosperity. We have panel sessions that allow for interaction with these presenters and other thought leaders, as well as breakout sessions to give you the maximum opportunity to gain insights which you can take back to your council.

I invite you to join me and your colleagues at this year's NGA held from 19-22 June in Canberra.



**Mayor Troy Pickard**  
PRESIDENT

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# NGA16

NATIONAL GENERAL ASSEMBLY  
CANBERRA 19-22 JUNE 2016

## PROVISIONAL PROGRAM

### PARTNERS IN AN INNOVATIVE AND PROSPEROUS AUSTRALIA

SUNDAY 19 JUNE		TUESDAY 21 JUNE		WEDNESDAY 22 JUNE	
5.00-7.00pm	Welcome Reception	9.00 am	Minister for Major Projects, Territories and Local Government, <b>the Hon Paul Fletcher MP</b> (invited)	9.00 am	Shadow Minister for Regional Development and Local Government, <b>the Hon Julie Collins MP</b> (invited)
MONDAY 20 JUNE		9.30 am	KEYNOTE SPEAKER <b>Pip Marlow</b> , Managing Director, Microsoft	9.30 am	Debate on Motions
9.00 am	Opening Ceremony	10.00 am	Speaker Q&A	10.30 am	<b>MORNING TEA</b>
9.20 am	Prime Minister, <b>the Hon Malcolm Turnbull MP</b> (invited)	10.30 am	<b>MORNING TEA</b>	11.00 am	PANEL SESSION Local Government's role in facilitating prosperity
10.00 am	KEYNOTE SPEAKER <b>George Megalogenis</b>	11.00 am	PANEL SESSION Digital transformation at the Local Government level	12.30 pm	KEYNOTE SPEAKER <b>Robert de Castella AO MBE</b>
10.30 am	<b>MORNING TEA</b>	12.30 pm	<b>LUNCH</b>	1.00 pm	<b>LUNCH/CLOSE</b>
11.00 am	PANEL SESSION The future of Local Government	1.30 pm	CONCURRENT SESSIONS • New approaches to improve your business • The infrastructure challenge • Innovative approaches to the environment • Northern Australia		
12.30 pm	<b>LUNCH</b>	3.00 pm	<b>AFTERNOON TEA</b>		
1.30 pm	PANEL SESSION Surfing the wave of disruption	3.30 pm	Leader of the Opposition, <b>the Hon Bill Shorten MP</b> (invited)		
2.30 pm	Leader of the Australian Greens, <b>Senator Dr Richard Di Natale</b>	4.00 pm	Debate on Motions		
3.00 pm	<b>AFTERNOON TEA</b>	5.00 pm	<b>CLOSE</b>		
3.30 pm	Debate on Motions				
5.00 pm	<b>CLOSE</b>				

## SPONSORS





## PANEL SESSIONS

MONDAY 11.00-12.30PM

### The future of Local Government

As the role of local government continues to change, anticipating the challenges of the next 20 years and determining how councils are best placed to respond is critical. As the level of government closest to Australians, local government must continue to provide high quality services and respond to the myriad of challenges faced by local communities. External factors such as rate capping, amalgamation processes, reductions in grant funding and changing expectations of local government's role are placing increasing pressure on councils' ability to perform. However, it is often under these conditions that innovation thrives as councils look to deliver more with less. How are councils responding to these challenges?

MONDAY 1.30-2.30PM

### Surfing the wave of Disruption

Traditional service delivery and business models are changing – recently we've seen the rapid growth of AirBnB and Uber which are challenging how the hotel and the taxi industries operate. The capacity for organisations to accommodate change is increasingly becoming an important determinant of their success. As the pace of change increases and the length of time strategic planning activities can cover reduces, councils are being forced re-examine their planning processes, regulatory frameworks and their basic assumptions as well as their ability to respond to changes within the community.

TUESDAY 11.00-12.30PM

### Digital transformation at the Local Government level

Local government has a long history of being an early-adopter of new technologies and of using its own resources to drive innovation based on local knowledge and expertise. Technology can improve collaboration between the public, private and the not-for profit sectors to drive innovation, solve complex problems, and enhance community engagement. How can technology be used to transform council businesses and enable innovation in your community?

WEDNESDAY 11.00-12.30PM

### Local Government's role in facilitating prosperity

Strong leadership and the ability to access social and economic capital are crucial preconditions for prosperity. Local government strives, wherever possible, to assist communities to enhance their capacity to respond to challenges and identify opportunities to build resilience and increase overall prosperity. Being able to grow social capital, support entrepreneurs and attract investment are fundamental to the growth in local and regional productivity. What strategies can councils employ to foster prosperity in their community and region?

TUESDAY 1.30-3.00PM

## CONCURRENT SESSIONS

### New approaches to improve your business

Smart councils are required to use information and communication technologies to enhance quality services and infrastructure. The application of new information, data and knowledge generated through the application of new technologies will improve performance, interactivity with community and reduce costs. As our cities become smarter, councils need more careful consideration of three main areas: technologies; infrastructure and planning; and regulation and markets. In this session delegates will have the opportunity to explore the content covered in the Digital Transformation at the Local Government Level panel session and interact further with our highly experienced international colleagues from Boston.

### The infrastructure challenge

Local government community infrastructure underpins and binds many communities. For many Australians, council managed facilities are where their club meets, their kids play and their families learn to swim. In addition to this it is well recognised that every journey starts and ends on a local road. In February Infrastructure Australia published the Australian Infrastructure Plan which sets out a blueprint for infrastructure development and priorities for the next 15 years. This session will provide the opportunity for delegates to explore the role of community infrastructure in supporting productivity, community development and in enhancing social cohesion. It will also examine the challenge we face in maintaining infrastructure at the local and national level.





## SPEAKER PROFILES



### George Megalogenis

George Megalogenis is an author and journalist with three decades' experience in the media. His books include *The Australian Moment*, which won the 2013 Prime Minister's Literary Award for Non-fiction and the 2012 Walkley Award for Non-fiction, and formed the basis for the ABC documentary series *Making Australia Great*.

Annabel Crabb said "George Megalogenis is Australia's best explainer", David Marr posits "this man is perhaps the sanest journalist in Australia. He believes in facts and figures. He has a unique grasp of politics in all its messy detail. The result is this splendid account of the great reforms of the last 40 years that have made Australia".

George is also the author of *Faultlines*, *The Longest Decade* and *Quarterly Essay 40: Trivial Pursuit – Leadership and the End of the Reform Era*. His most recent book *Australia's Second Chance* was launched by Prime Minister Malcolm Turnbull.

This year George will publish *Quarterly Essay 61: Balancing Act: Australia Between Recession and Renewal*.

### Pip Marlow

Managing Director, Microsoft Australia

As Managing Director, Pip Marlow is responsible for Microsoft's overall business in Australia. She ensures the company meets the needs of its customers and more than 11,000 partners and independent software vendors that sell or build on the Microsoft platform.

Pip began her 18-year career with Microsoft in 1995, working in the Australian Partner team on anti-piracy efforts, and the system builder channel and distribution strategy. She then moved

to Microsoft's head office in Seattle, US, where she held a succession of senior roles, including General Manager for US channel sales.

After eight years in the US, Pip returned to Microsoft Australia. She worked in various positions across the business, including as Director of Small and Medium Business Solutions, and Partners. Before being appointed Managing Director in January 2011, Pip held the joint role of Enterprise and Partner Group Director and Public Sector Director.

### Robert de Castella AO MBE

Robert de Castella is recognised as one of Australia's greatest athletes after dominating the world in the gruelling event of the marathon. He was the first person to win the Commonwealth Games marathon twice and set the course record at the Boston Marathon.

Robert started running aged eleven at Xavier College in Melbourne, where one of his teachers was 1962 Commonwealth Games athlete Pat Clohessy. Pat continued as his coach throughout his career. Robert won the Canberra Pan Pacific Conference Games in 1977 over 10,000m and the 1978 Australian Cross-Country title. He finished 10th at the Moscow Olympics in 1980, then won Gold at the 1982 Commonwealth Games in a tight battle with Juma Ikangaa from Tanzania. He soon won the Rotterdam marathon and the IAAF World Championships in Holland but finished in fifth place in the 1984 Olympics. In the 1988 Olympics he finished fourth, then at the 1992 Olympics finished in 26th place.

Robert became Director of the Australian Institute of Sport from 1990 to 1995, and has since continued his advocacy and support for athletics and marathon running in particular. He was awarded the Australian Sports Medal in 2000.

### The Hon Malcolm Turnbull MP Prime Minister

Malcolm Turnbull was sworn in as the 29th Prime Minister of Australia on 15 September 2015.

Malcolm was a Cabinet Minister in the Howard and Abbott Governments. He served as Minister for the Environment and Water Resources in the Howard Government and Minister for Communications in the Abbott Government.

Malcolm also served as Leader of the Opposition from 2008 to 2009.

Malcolm was educated at Vaucluse Public School and Sydney Grammar School. Malcolm's high school education at Sydney Grammar was assisted by a scholarship. In later life Malcolm arranged for an additional means-tested scholarship to be established at Sydney Grammar in memory of his late father. Malcolm graduated from Sydney University with a BA LLB. He won a Rhodes Scholarship and completed a further law degree at Oxford.

After a successful career in journalism Malcolm began practicing law in 1980. He quickly established a reputation as an effective advocate, most notably when he successfully defended former MI5 agent Peter Wright against the British Government in the "Spycatcher" trial.

Malcolm left law for business in 1987 where he has since been responsible for the establishment and success of many Australian businesses. In particular he has been a determined supporter of Australian technology. He co-founded OzEmail in 1994. His software companies have won many awards for exporting Australian technology.

# NGA16

## NATIONAL GENERAL ASSEMBLY CANBERRA 19-22 JUNE 2016



### **The Hon Bill Shorten MP**

#### **Leader of the Opposition**

Bill Shorten is the Federal Member for Maribyrnong and was elected leader of the Australian Labor Party and Leader of the Opposition on 13 October 2013.

Mr Shorten completed a Bachelors degree in Arts and Law from Monash University, as well as an MBA from the Melbourne Business School.

Bill has since worked as a union organiser, union secretary, as a member of the ACTU executive, as a Member of Parliament and as a Minister in a Labor Government.

As a senior member of the Rudd/Gillard Labor Governments, Bill played a key role in securing a number of historic reforms including establishing the National Disability Insurance Scheme and increasing universal superannuation to 12 per cent.

As Minister for Workplace Relations, Bill continued the Labor Government's ongoing commitment to a fair and productive workplace relations system and during his time as Minister for Education helped secure the Better Schools reforms.

Prior to entering Parliament, Bill worked at the Australian Workers Union, holding key leadership positions including State Secretary of the AWU Victoria Branch from 1998 to 2006 and the National Secretary from 2001 to 2007.

### **Senator Dr Richard Di Natale**

#### **Leader of the Australian Greens**

Dr Richard Di Natale is the leader of the Australian Greens. He was elected to the Federal Parliament in 2010 and is the Greens' first Victorian senator. His portfolios include health, multiculturalism, youth, gambling and sport.

Prior to entering parliament, Richard was a general practitioner and public health specialist. He worked in Aboriginal health in the Northern Territory, on HIV prevention in India and in the drug and alcohol sector. His key health priorities include preventative health, public dental care and responding to the health impacts of climate change.

Richard's achievements in parliament so far include securing almost \$5 billion towards Medicare-funded dentistry, winning a campaign to divest \$250 million worth of tobacco stocks from the Future Fund, and spearheading senate inquiries into many issues of public significance such as dying with dignity, superbugs, hospital funding, budget cuts, medicinal cannabis, air pollution, pharmaceutical transparency, sports science and gambling reform.

### **The Hon Paul Fletcher MP**

#### **Minister for Major Projects, Territories and Local Government**

Paul Fletcher is the Minister for Territories, Local Government and Major Projects.

He entered parliament in December 2009 as the Member for Bradfield, was appointed Parliamentary Secretary to the Minister for Communications in September 2013, and was appointed to his present role in September 2015.

Before entering parliament, Paul was Director, Corporate and Regulatory Affairs at Optus for eight years; established a consulting firm serving the communications sector; and in 2009 his book about broadband, *Wired Brown Land* was published by UNSW Press.

Earlier in his career Paul was Chief of Staff to the Minister for Communications in the Howard Government, Senator Richard Alston.

He has dual first class honours degrees in law and economics from The University of Sydney and an MBA from Columbia University in New York where he was a Fulbright Scholar.

### **The Hon Julie Collins MP**

#### **Shadow Minister for Regional Development and Local Government**

Julie Collins was born in Hobart. She was State Secretary of the Tasmanian Labor Party between 2006 and 2007.

Ms Collins was first elected the Member for Franklin in 2007. She successfully held her seat in the 2010 federal election and was sworn in as Parliamentary Secretary for Community Services on 14 September 2010 in the first Gillard Ministry. In 2011, Ms Collins became Minister for Community Services, Minister for Indigenous Employment and Economic Development, and Minister for the Status of Women in the second Gillard Ministry. In 2013, she gained additional responsibilities as the Minister for Housing and Homelessness and promoted to the Cabinet in the second Rudd Ministry.

Ms Collins now serves as Shadow Minister for Regional Development and Local Government and Shadow Minister for Employment Services.





## REGIONAL COOPERATION & DEVELOPMENT FORUM 2016

### Supporting a prosperous visitor economy

The 2016 Regional Forum is a vital opportunity for mayors, councillors and other decision-makers from regional councils to share their ideas, knowledge and experience and to work to further develop the capacity of regional Australia to adapt to the pressures of a rapidly changing global economy.

This year's State of the Regions Report investigates two critical yet interrelated issues relevant to all local governments around the country. One is the importance of ongoing financial commitment to local government through the Commonwealth Financial Assistance Grants and how the diverse investments by local government support the growing and increasingly important visitor economy.

The Forum will see the launch of the 2016-17 State of the Regions Report. The State of the Regions Report is commissioned by ALGA, prepared by National Economics and published with the support of Jardine Lloyd Thompson.

# RCDF16

### RCDF Program • SUNDAY 19 JUNE 2016

- |          |  |
|----------|--|
| 9:30 AM  | Welcome and Introduction: ALGA President, <b>Mayor Troy Pickard</b>  |
| 9:45 AM  | Keynote Address  |
| 10:15 AM | Launch of the State of the Regions Report  |
| 10:45 AM | <b>MORNING TEA</b>   |
| 11:15 AM | Department of Infrastructure and Regional Australia - Policy and Programme Update                                |
| 11:45 AM | <b>The Hon Julie Collins MP</b> Shadow Minister for Regional Development and Local Government (invited)          |
| 12:15 PM | Capacity Building Insights Project - Regional Australia Institute  |
| 12:45 PM | <b>LUNCH</b>   |
| 1:30 PM  | Importance of Local Government - Australian Regional Tourism Network   |
| 2:00 PM  | Workshop Discussion: Leveraging the Visitor Economy - Challenges and Opportunities                               |
| 2:45 PM  | <b>AFTERNOON TEA</b>   |
| 3:15 PM  | Panel Session: Tourism in my region  |
| 4:00 PM  | <b>The Hon Barnaby Joyce MP</b> Deputy Prime Minister and Minister for Agriculture and Water Resources (invited) |
| 4:30 PM  | <b>CLOSE</b>   |

# NGA16

## NATIONAL GENERAL ASSEMBLY CANBERRA 19-22 JUNE 2016

### KEY DATES

- Submission of Motions for Debate 22 April 2016
- Early bird registration on or before 6 May 2016
- Standard registration on or before 3 June 2016
- Late registration after 3 June 2016

### MOTIONS FOR DEBATE

The NGA is your opportunity to contribute to the development of national local government policy.

The ALGA Board is calling for motions for the 2016 NGA under the theme Partners in an Innovative and Prosperous Australia. To assist Councils in preparing motions a Discussion Paper has been prepared and is available via [www.alga.asn.au](http://www.alga.asn.au).

To be eligible for inclusion in the NGA Business Papers motions must follow the principles:

1. be relevant to the work of local government nationally;
2. be consistent with the themes of the Assembly;
3. complement or build on the policy objectives of your state and territory local government association;
4. propose a clear action and outcome; and
5. not be advanced on behalf of external third parties which may seek to use the NGA to apply pressure to Board members, to gain national political exposure for positions that are not directly relevant to the work of, or in the national interests of, local government.

Motions should be submitted electronically through the online form via [www.alga.asn.au](http://www.alga.asn.au) and should be received by ALGA no later than 11:59pm AEST, Friday 22 April 2016.

Motions submitted will be reviewed by a committee of the ALGA Board as well as by State and Territory Local Government Associations, to determine their eligibility for inclusion in the NGA Business Papers. When reviewing motions, the Committee considers the importance and relevance of the issue to local government.

Please note that motions should not be prescriptive in directing how the matter should be pursued. Any motion deemed to be primarily concerned with local or state issues will be referred to the relevant state/territory local government association, and will not be included in the Business Papers.

Motions that are agreed to at the National General Assembly become Resolutions. These Resolutions are then considered by the ALGA Board when setting national local government policy and when the Board is making representations to the Federal Government at Ministerial Councils, during meetings and in ALGA publications. The ALGA Board is not bound by any resolutions passed at the NGA.

### VOTING PROCEDURES

Each council is entitled to one voting delegate in the debating session. Councils will need to determine who their voting delegate will be. Voting cards can be collected at the Assembly. Councils do not need to advise ALGA of the name of the voting delegate prior to collecting voting cards.



## REGISTRATION DETAILS

### General Assembly registration fees

#### EARLY BIRD REGISTRATION

➤ **\$929**

*Payment received by Friday 6 May 2016*

#### STANDARD REGISTRATION

➤ **\$1,029**

*Payment received on or before Friday 3 June 2016*

#### LATE REGISTRATION

➤ **\$1,250**

*Payment received on or after Friday 3 June 2016*

General Assembly registration includes:

- Attendance at all General Assembly sessions
- Morning tea, lunch and afternoon tea as per the General Assembly program
- One ticket to the Welcome Drinks, Sunday
- General Assembly satchel and materials.

### Day registration fees

MONDAY 20 JUNE 2016

➤ **\$489**

TUESDAY 21 JUNE 2016

➤ **\$489**

WEDNESDAY 22 JUNE 2016

➤ **\$280**

Day registration includes:

- Attendance at all General Assembly sessions on the day of registration
- Morning tea, lunch and afternoon tea as per the General Assembly program on that day
- General Assembly satchel and materials.

### Regional Development Forum

SUNDAY 19 JUNE 2016

FORUM ONLY

➤ **\$425**

NGA DELEGATE

➤ **\$225**

### Accompanying partners registration fees

ACCOMPANYING PARTNERS  
REGISTRATION FEE

➤ **\$260**

Accompanying partners registration includes:

- 1 ticket to the Welcome Reception, Sunday 19 June
- Day tour Monday 20 June
- Day tour Tuesday 21 June
- Lunch with General Assembly delegates on Wednesday 22 June.

### Payment procedures

Payment can be made by:

- Credit card – MasterCard, Visa
- Cheque made payable to ALGA
- Electronic funds transfer:  
Bank: Commonwealth  
Branch: Curtin BSB No: 062905  
Account No: 10097760.

NOTE: If paying via EFT you must quote your transaction reference number on the registration form.

### Cancellation policy

All alterations or cancellations to your registration must be made in writing and will be acknowledged by post, facsimile or email.

Notification should be sent to:

Conference Co-ordinators  
PO Box 4994, Chisholm ACT 2905  
Fax (02) 6292 9002  
Email [conference@confco.com.au](mailto:conference@confco.com.au)

An administration charge of \$110 will be made to any participant cancelling before Friday 6 May 2016.

Cancellations received after Friday 6 May 2016 will be required to pay full registration fees. However, if you are unable to attend, substitutes are welcome at no additional cost.

By submitting your registration you agree to the terms of the cancellation policy.

### Privacy disclosure

ALGA collects your personal contact information in its role as a peak body for local government. ALGA may disclose your personal contact information to the sponsors of the event for the purposes of commercial business opportunities. If you consent to ALGA using and disclosing your personal contact information in this way, please tick the appropriate box on the registration form. Importantly, your name may also be included in the General Assembly List of Participants. You must tick the appropriate box on the registration form if you wish your name to appear in this list.



# NGA16

## NATIONAL GENERAL ASSEMBLY CANBERRA 19-22 JUNE 2016

## SOCIAL FUNCTIONS

### Photographs

During the National General Assembly there will be a contracted photographer, the photographer will take images during the sessions and social functions. If you have your picture taken it is assumed that you are giving consent for ALGA to use the image.

Images may be used for print and electronic publications.

### Welcome reception and exhibition opening

**SUNDAY 19 JUNE 2016**

*National Convention Centre*

**5:00–7:00 pm**

\$50 per person for day delegates and guests.

No charge for full registered delegates.

No charge for registered accompanying partners.

DRESS CODE Smart casual.

### Buffet dinner

**MONDAY 20 JUNE 2016**

*The Ballroom, National Convention Centre*

**7:00–11:00 pm**

\$100 per person.

DRESS CODE Smart casual.

Coaches will depart Assembly hotels (except Crowne Plaza) at approximately 6:45 pm with return shuttles commencing from 10:15 pm.

### General Assembly dinner

**TUESDAY 21 JUNE 2016**

*The Great Hall, Parliament House*

**7:00–11:00 pm**

\$130 per person.

DRESS CODE Lounge suit/collar and tie for men and cocktail style for women.

Tickets to the prestigious General Assembly Annual Dinner at Parliament House are always highly sought after. Due to the size of the Great Hall, places are limited and therefore booking early is highly recommended to ensure your place. Coaches will depart all Assembly hotels at approximately 6:45pm with return shuttles commencing from 10:15 pm.

Note: Bookings are accepted in order of receipt.

### Canberra weather in June

Winter days in Canberra are characterised by clear sunny skies but the days are cool at around 12–15°C and temperatures do drop to 1°C on average in the evenings, so be sure to bring a warm jacket. Mornings can be foggy so keep this in mind when booking flights.

It is best to avoid early arrivals or departures in case of delays due to fog.

### Venue and dress code

#### EXHIBITION OPENING AND WELCOME RECEPTION

VENUE National Convention Centre, Constitution Ave, Canberra City.

DRESS CODE Smart casual.

#### GENERAL ASSEMBLY BUSINESS SESSIONS

VENUE National Convention Centre, Constitution Ave, Canberra City.

All plenary sessions will be held in the Royal Theatre at the National Convention Centre.

DRESS CODE Smart casual.

#### EXHIBITION

VENUE National Convention Centre, Constitution Ave, Canberra City.

The exhibition is being held in the Exhibition Hall of the National Convention Centre.

DRESS CODE Smart casual.

#### BUFFET DINNER

VENUE The dinner is being held in the Ballroom at the National Convention Centre.

DRESS CODE Smart casual.

#### GENERAL ASSEMBLY DINNER

VENUE Parliament House.

The General Assembly Dinner is being held in the Great Hall.

DRESS CODE Lounge suit/collar and tie for men and cocktail style for women.



## PARTNER TOURS

### MONDAY 20 JUNE

#### Canberra Celebrates 2016

To commemorate the 50th anniversary of decimal currency in Australia we will visit the Royal Australian Mint. A guided tour will be offered and the opportunity to make your own \$1 coin.

A visit and lunch will be at Old Parliament House in anticipation of the upcoming Federal Election prior to visiting the National Portrait Gallery. At the Gallery guests will be able to see the 2016 National Photographic Portrait Prize Exhibition which features a large range of talented Australian photography.

### TUESDAY 21 JUNE

#### Canberra Truffle Farm

Canberra is celebrating its annual eight-week truffle festival. Today you will travel to The Canberra Truffle Farm and enjoy a truffle cleaning demonstration, a short walk through some of the farm areas (weather permitting) and a truffle tasting. Produce from the farm will be available for purchase prior to departing.

The group will then venture to Bungendore for lunch with time to visit the well known Bungendore Wood Works.

## ACCOMMODATION

To book your accommodation at the rates listed below complete the appropriate section of the registration form. Bookings are subject to availability and should be made prior to Friday 6 May 2016. All cancellations or amendments must be made in writing to Conference Co-ordinators and will be acknowledged by email. Please note your credit card details are required to guarantee your room. Neither Conference Co-ordinators nor the hotel will make any charges against your credit card unless you fail to give 21 days notice in writing of your cancellation. Full payment of your account will be required at the time of your departure.

Note: All Canberra hotels have a complete non-smoking policy.

#### CROWNE PLAZA

1 Binara Street, Canberra

The Crowne Plaza is adjacent to the Convention Centre and only a short walk from restaurants, bars and the main shopping district. Featuring a contemporary design, the Crowne Plaza provides guests with an outdoor pool, sauna, health/fitness centre, 24-hour reception, concierge, undercover parking and onsite dining at the RedSalt Restaurant. All rooms are non-smoking and include iron/ironing board, tea/coffee making facilities, hairdryer and room service is available.

Superior Room: **\$295** per night  
single/twin/double

Deluxe Room: **\$345** per night  
single/twin/double

#### AVENUE HOTEL

80 Northbourne Avenue, Canberra

A brand new property which recently opened in November 2014, the Avenue Hotel is Canberra's newest and only 5-star hotel in the CBD. The hotel has an onsite restaurant and bar, 24-hour reception and room service, gymnasium, undercover parking (charges apply per night) and guest lounge with free wifi. Offering hotel rooms, 1 and 2 bedroom apartments, all rooms have king size beds, rainfall showers, balconies and mini bar. The apartments also have full kitchen facilities, the Avenue is a 15-20 minute walk from the Convention Centre.

Hotel Room: **\$230** per night  
single/twin/double

1 Bedroom Apartment: **\$280** per night  
single/double

#### MANTRA

84 Northbourne Avenue, Canberra

Mantra on Northbourne is centrally located and approximately a 15-20 minute walk from the National Convention Centre. The hotel features a heated indoor pool, sauna, fully-equipped gymnasium and the Zipp restaurant bar onsite. All rooms offer voice mail, individually controlled air-conditioning, pay per view movies, mini bar, tea/coffee making facilities, hairdryer and complimentary toiletries. One and two bedroom apartments also offer a separate lounge and dining area, fully-equipped kitchen and a laundry with washing machine, dryer, iron and ironing board.

Hotel Room: **\$219** per night  
single/twin/double

1 Bedroom Apartment: **\$259** per night  
single/twin/double



# NGA16

NATIONAL GENERAL ASSEMBLY  
CANBERRA 19-22 JUNE 2016

## MEDINA APARTMENT HOTEL JAMES COURT

*74 Northbourne Avenue, Canberra*

The Medina Apartments Hotel James Court is approximately a 15-20 minute walk from the National Convention Centre and is close to cafes, restaurants, gyms and shopping. The hotel offers reception, undercover parking, outdoor heated swimming pool, sauna, gymnasium and a restaurant delivery service. All rooms feature private balconies, climate controlled air conditioning, separate lounge/dining areas, broadband access (for a fee), spa bath, mini bar, fully equipped kitchen facilities and an in-room safe.

Note: Reception operates between the hours of 6.30am and 11.30pm.

1 Bedroom Apartment: **\$210** per night  
single/twin/double

2 Bedroom Apartment: **\$260** per night  
single/twin/double

## NOVOTEL

*65 Northbourne Avenue, Canberra*

Located on Northbourne Avenue, one of Canberra's main thoroughfares, the Novotel is a 15 minute walk from the National Convention Centre. The hotel offers 24-hour reception and room service, an onsite restaurant and bar, gymnasium and undercover parking (charges apply per night). In-room facilities include mini bar, tea/coffee making facilities, broadband (for a fee), Fox Sports and News, pay per view movies, climate control airconditioning, hairdryer, iron and ironing board. Executive rooms have a king size bed.

Standard Room: **\$265** per night  
single/twin/double

Executive Room: **\$295** per night  
single/twin/double

## PEPPERS GALLERY HOTEL

*15 Edinburgh Place, Canberra*

Peppers Gallery Hotel (formally Diamant Hotel, re-branded in 2014) is a boutique 80 room hotel located at the intersection of Marcus Clarke St and Edinburgh Ave, 15 minutes walk from the Convention Centre. Peppers Gallery Hotel features 24-hour reception, a restaurant and a bar. The rooms have a mini-bar, tea/coffee making facilities, plasma TVs, CD and DVD players, broadband (for a fee), and in-room safe.

Standard Room: **\$264** per night  
single/twin/double

## QT HOTEL

*1 London Circuit, Canberra*

Qt Hotel Canberra (formally Rydges Lakeside) has recently been renovated throughout the foyer and restaurants. The rooms have been updated and offer balconies and high speed internet (for a fee), pay per view movies, mini bar, hairdryer, iron and ironing board. The hotel is a 15 minute walk to the National Convention Centre and has 24-hour reception, room service, onsite restaurant and bar.

Standard Room: **\$249** per night  
single/twin/double

## WALDORF

*2 Akuna Street, Canberra*

Located in the heart of Canberra's CBD, the Waldorf is only a couple minutes walk from the National Convention Centre. This hotel has 24-hour reception and provides guests with a gymnasium, indoor heated lap pool and onsite dining at the Waldorf London Restaurant.

All rooms have kitchen and laundry facilities, in room safe, dining table and chairs, complimentary cable TV, pay per view movies, high speed internet service (for a fee) and room service is available. One bedroom apartments also offer a separate lounge/dining area.

Studio Room: **\$200** per night  
single/twin/double

1 Bedroom Apartment: **\$220** per night  
single twin/double



## COACH TRANSFERS

### Welcome Reception and Exhibition Opening

**SUNDAY 19 JUNE 2016**

Coaches will collect delegates from all General Assembly hotels (except Crowne Plaza Canberra) at approximately 4:45 pm. The return coaches will depart at 7:00 pm.

### Daily Shuttles to and from the National Convention Centre

A shuttle service between all General Assembly hotels (except Crowne Plaza Canberra) and the National Convention Centre will operate between 8:00 am and 8:30 am. Return shuttles will depart the National Convention Centre at 5:00 pm.

### Buffet Dinner National Convention Centre

**MONDAY 20 JUNE 2016**

Coaches will collect delegates from all General Assembly hotels (except Crowne Plaza Canberra) at approximately 6:45 pm. A return shuttle service will commence at 10:15 pm.

### General Assembly Annual Dinner Parliament House

**TUESDAY 21 JUNE 2016**

Coaches will collect delegates from all General Assembly hotels (including Crowne Plaza Canberra) at approximately 6:45 pm. A return shuttle service will operate between 10:15 pm and 11:15 pm.

## CAR PARKING

Parking for delegates is available underneath the National Convention Centre for a cost of approximately \$18.00 per day. Alternative parking is available to the rear of Civic Pool at a cost of approximately \$14.90 per day. It is a seven minute walk from this location.

REGISTRATION  
FORMREGISTER ONLINE  
WWW.ALGA.ASN.AUMultiple delegates > photocopy form  
Register online, download PDF or return  
this form to:Conference Co-ordinators  
PO Box 4994 Chisholm ACT 2905  
Phone (02) 6292 9000 Fax (02) 6292 9002  
Email nga@confco.com.auBy submitting your registration you agree to the  
terms and conditions of the cancellation policy**NGA16** NATIONAL GENERAL ASSEMBLY OF LOCAL GOVERNMENT 19-22 JUNE 2016  
Australian Local Government Association ABN 31 008 613 876

## PERSONAL DETAILS

TITLE <small>(Cr/Ald/Mayor/Other)</small>	NAME	SURNAME
POSITION		
COUNCIL/ORGANISATION		
ADDRESS		
SUBURB	STATE	POSTCODE
PHONE	MOBILE	FAX
EMAIL		
NAME FOR BADGE		

How did you find out about the General Assembly? ☐ ALGA ☐ State/Territory Association ☐ Council Other: \_\_\_\_\_

**PRIVACY DISCLOSURE** ☐ I DO consent to my name appearing in the 2016 General Assembly List of Participants booklet (name, organisation and state only disclosed) as outlined in the privacy disclosure on page 10.

☐ I DO consent to ALGA disclosing my personal contact information as outlined in the privacy disclosure on page 10.

## REGISTRATION FEES

## GENERAL ASSEMBLY REGISTRATION FEES

Please note registration does NOT include attendance at the Regional Cooperation and Development Forum

EARLY BIRD REGISTRATION FEES (payment received on or before 6 May 2016) . . . . . ☐ \$929.00

STANDARD REGISTRATION FEES (payment received on or before 3 June 2016) . . . . . ☐ \$1,029.00

LATE REGISTRATION FEES (payment received after 3 June 2016) . . . . . ☐ \$1,250.00

DAY REGISTRATION FEES ☐ Monday 20 June \$489.00 ☐ Tuesday 21 June \$489.00 ☐ Wednesday 22 June \$280.00

## REGIONAL CO-OPERATION AND DEVELOPMENT FORUM REGISTRATION FEES

REGIONAL DEVELOPMENT FORUM ONLY Registration fee . . . . . ☐ \$425.00

GENERAL ASSEMBLY DELEGATE Registration fee . . . . . ☐ \$225.00

STATE OF THE REGIONS REPORT 2016-17 (Single licence) . . . . . ☐ \$240.00

STATE OF THE REGIONS REPORT 2016-17 (Organisational licence) . . . . . ☐ \$700.00

## ACCOMPANYING PARTNERS REGISTRATION FEES

REGISTERED ACCOMPANYING PARTNER Name for lapel badge: \_\_\_\_\_ . . ☐ \$260.00

## SOCIAL FUNCTIONS INCLUDED IN FEES

One ticket to each of the following functions is included in the full General Assembly registration and/or accompanying partners registration fee. Please confirm if you will be attending by placing a tick in the appropriate boxes. To purchase additional tickets to any of the following functions please indicate the number required and complete the total amount payable.

## REGISTERED DELEGATES AND PARTNERS

## WELCOME RECEPTION AND EXHIBITION OPENING (SUNDAY 19 JUNE 2016)

I/we will attend: ☐ Delegate ☐ Partner Number of additional tickets  @ \$50.00 each . . . Total \$ 

## REGISTERED PARTNERS

Day 1 - Canberra Celebrates 2016 (Monday 20 June 2016)

☐ I will attend: ☐ Partner Number of additional tickets  @ \$110.00 each . . . Total \$ 

Day 2 - Canberra Truffle Farm (Tuesday 21 June 2016)

☐ I will attend: ☐ Partner Number of additional tickets  @ \$110.00 each . . . Total \$ 

Registration form continues over the page 15





*Tickets to these functions are not included in the General Assembly registration fee or accompanying partners registration fee. To purchase tickets to any of the following functions please indicate the number required and the total amount payable.*

### SPECIAL REQUIREMENTS

(E.G. DIETARY)

- 184 -



AUSTRALIAN LOCAL  
GOVERNMENT ASSOCIATION

# **National General Assembly of Local Government**

**19 - 22 June 2016**

## **Call for Motions Discussion Paper**

**'Partners in an Innovative and  
Prosperous Future'**

*Motions should be lodged electronically at [www.alga.asn.au](http://www.alga.asn.au) no later than*

*11:59pm on Friday 22 April 2016.*

### *Submitting Motions*

The National General Assembly of Local Government is an important opportunity for you and your council to influence the national policy agenda.

To assist you and your council to identify motions that address the theme of the NGA, the ALGA Secretariat has prepared this short discussion paper. You are encouraged to read all of the sections of the Paper, but are not expected to respond to every question in each section. Your motion/s can address one or all of the issues identified in the discussion paper.

To be eligible for inclusion in the NGA Business Papers, and then debate on the floor of the NGA, motions must be consistent with the following principles:

1. be relevant to the work of local government nationally
2. be consistent with the themes of the Assembly
3. complement or build on the policy objectives of your state and territory local government association
4. propose a clear action and outcome, and
5. not be advanced on behalf of external third parties that may seek to use the NGA to apply pressure to Board members or to gain national political exposure for positions that are not directly relevant to the work of, or in the national interests of, local government.

Motions should generally be in a form that seeks the NGA's support for a particular action or policy change at the Federal level which will assist local governments to meet local community needs. For example: *That this National General Assembly call on the Federal Government to restore indexation to local government financial assistance grants.*

Motions should be lodged electronically using the online form available on the NGA Website at: [www.alga.asn.au](http://www.alga.asn.au). All motions require, among other things, a contact officer, a clear national objective, a summary of the key arguments in support of the motion, and endorsement of your council. Motions should be received by ALGA no later than 11:59pm on Friday 22 April 2016, electronically in the prescribed format.

Please note that for every motion it is important to complete the background section on the form. Submitters of motions should not assume knowledge. The background section helps all delegates, including those with no previous knowledge of the issue, in their consideration of the motion.

All motions submitted will be reviewed by the ALGA Board's NGA Sub-Committee as well as by state and territory local government associations to determine their eligibility for inclusion in the NGA Business Papers. When reviewing motions, the sub-committee considers the importance and relevance of the issue to local government. Please note that motions should not be prescriptive in directing how the matter should be pursued. Motions may be edited before inclusion in the Business Papers to ensure consistency. If there are any questions about the substance or intent of a motion, ALGA will raise these with the nominated contact officer. Any motion deemed to be primarily concerned with local or state issues will be referred to the relevant state or territory local government association, and will not be included in the Business Papers.

For more information, please contact Clare Hogan at ALGA on (02) 6122 9400.



*Preamble*

The 2016 National General Assembly (NGA) is most likely to be held in the lead up to the next Federal election. During this time, all national political parties focus on leadership, key messages, marginal seats and political campaigning. National policy initiatives enter the public domain and all Australians are asked to engage in the political process and choose between competing ideas, election promises and the numerous candidates across the nation.

Last year's NGA theme was '*Closest to the People - Local government in the Federation*'. The theme reinforced the vital role of local government in Australia's system of government. It built on the Government's Federation White Paper process, which sought to clarify roles and responsibilities of the levels of government and potentially better align funding with respective responsibilities. It also acknowledged the development of a Green Paper on Taxation. The NGA greatly assisted ALGA in its advocacy and participation in the reform process.

Since then there has been much debate on taxation reform, which will culminate at the 2016 Federal election.

In December 2015 the Council of Australian Governments (COAG) reset the national political dialogue. COAG committed to:

'... close collaboration in areas of shared responsibility, including competition, tax, innovation, infrastructure, cities and regulation, as well as in health and education.'

COAG leaders agreed the principles for a new national economic reform agenda should be:

'...to deliver for all Australians no matter where they live:

- a stronger, more productive and more innovative Australian economy, with more jobs, more opportunities and higher living standards
- fairness and equity, with protection for disadvantaged and lower income Australians, and
- more efficient and high quality services.'

The theme of the 2016 NGA – '*Partners in an Innovative and Prosperous Future*' – invites councils from across Australia to consider the role of local government in this agenda, and how councils can play their role in the delivery of these objectives.

Many of the services and infrastructure provided by councils are not only critical to the social, cultural and environmental well-being of their communities, but also to the economic prosperity of their regions and the nation more broadly.

The NGA debate on motions and associated discussions will seek to highlight how local government can be more agile in delivering those services to communities, as well as send a strong and unified message to the Commonwealth.

### **Introduction**

The 2016 NGA theme is '*Partners in an Innovative and Prosperous Future*'.

This year, the NGA debate on motions and associated discussions will seek to highlight how local government can be more efficient and effective. The discussions will look at how local government, working in partnership with other levels of government, the private sector and the not-for-profit sector, can innovate and create a prosperous future for the community it serves.

This year's theme builds on the work of the 2015 NGA which focused on local government's role in the Federation. The Commonwealth Federation Discussion Paper 2015 sets a context in which motions for this year's NGA should be developed.

The theme '*Partners in an Innovative and Prosperous Future*' seeks to focus attention on the role that local government can play in creating a prosperous Australia. The Federation Discussion Paper notes that Australia today is very different from the country it was at the time of Federation and poses the fundamental question: '... does [the Federation] provide the system of national governance that Australians need right now, and will it help or hinder efforts to adapt and thrive in the vastly different economic, political and social realities of the 21<sup>st</sup> century?'

To put this question in a local government context:

Are the government systems (including our own), processes and priorities, in many cases set up decades ago, still appropriate today?

Are they delivering accessible and fair systems and are they a help or hindrance? Do they facilitate business activity and contribute to higher living standards, or are they a drag on the local economy? Are they necessary or do they duplicate effort?

Technological change has created opportunities, making many traditional models of business and government obsolete. Have these opportunities been taken up?

Participatory democracy is being enhanced through empowering individuals and local communities with new knowledge and new ways of engaging with each other and with governments. Are these opportunities been captured?

Australian productivity and living standards are comparatively high by world standards. However, the current national productivity and reform debate recognises that without reform, Australia risks being left behind on the world stage—meaning fewer jobs, lower economic growth, and reduced living standards.

COAG has responded positively to this challenge. All governments have committed to collaborate particularly in areas of shared responsibility, including competition, tax, innovation, infrastructure, cities and regulation, as well as health and education.

The 2016 NGA seeks motions that suggest reform, innovation in government operations and opportunities to partner with local government that will support Australia's prosperity.

*Local government role in national productivity*

Over several decades, the NGA has called on the Australian Government to recognise the importance of greater levels of investment in local and regional infrastructure. This advocacy has been, in part, built on equity considerations as well as productivity considerations.

The NGA has called on the Australian Government to increase Financial Assistance Grants and Roads to Recovery (R2R) funding. These calls have been predominantly based on the need for the Commonwealth to help achieve horizontal equity (i.e. an equitable level of municipal services across the country) and the need to assist local councils to rebuild and maintain local infrastructure, particularly roads.

The rationale for permanent R2R funding and additional freight investment is that essentially the purpose of R2R is to restore the capacity of local roads to a standard able to sustain social and economic services, whereas additional funding through freight investment would be required to improve the standard of roads to meet the higher service levels required to handle higher productivity vehicles and significantly higher volumes of freight traffic.

The NGA's calls to the Australian Government have also sought recognition that local infrastructure provides important economic services. Local roads, for example, are an essential component of the national road network and therefore add to local and regional productivity and, in aggregate, make a significant contribution to state and national productivity.

Community infrastructure also plays an important role in local and regional economic development by enhancing the quality of life for residents as well as helping to attract and retain population, skilled workers and a local and regional workforce. The State of the Regions Report in 2015, commissioned by ALGA and written by National Economics, showed that there is a strong economic rationale for ensuring that all regions in Australia prosper. The report confirmed OECD findings that regional inequality reduces national productivity.

Local government's objectives in local economic development are diverse. They recognise local circumstances, availability of resources and the impact of external factors such as privatisation, technological change, globalisation and structural industry changes. For some councils, particularly in rural and regional areas, the focus is on stemming the decline in population, loss of businesses and local employment. For others, it is a focus on working with local businesses and the local community to optimise economic development and opportunities for the area.

Local government can facilitate and support economic development but it is frequently criticised for impeding economic development by imposing additional costs on business including through regulation, creating red-tape, providing unsuitable infrastructure etc.

Australian councils contribute significantly to the productivity and economy of their regions by focusing their efforts in three key strategic areas:

- creating and maintaining the investment environment – ensuring the availability of appropriate physical and social infrastructure, striving to deliver a quality public domain, and ensuring sufficient housing diversity and lobbying on behalf of local and regional communities for sufficient community services such as education and training, health and well-being, community safety and emergency services
- facilitating new local investment – actively promoting business development through facilitating local economic development, strategic planning, working with business

associations/main street organisations, and active involvement with tourism or other business activities, and

- attracting external investment through the creation of new business and capital – working with regional bodies such as RDA, Austrade and developers to attract and create new businesses and investment.

Local government has a key role to play in the provision of support services and infrastructure that underpins local and regional economic development, and therefore local government plays an essential part in achieving higher productivity. In broad terms, actions geared to creating and maintaining the investment environment in local and regional communities are considered to be of prime importance to a majority of local councils and it is this area that ALGA has focused its greatest attention.

Local government is a natural leader in local economic development because councils know their local business communities, workforce and comparative advantages better than anyone else. Local people and businesses are the key to economic growth and development and councils are perfectly positioned to work with local stakeholders to drive a bottom-up, place-based approach to achieve prosperity. Every council's economic development activity will be different according to the unique structures and needs of their local economies, as well as the capacity of the council and community.

### **Questions**

Given the importance of local and regional infrastructure are there any national initiatives that could further assist local government to support local and regional productivity?

Are there areas of reform that local government can explore to enhance economic development and productivity?

**Partnering**

The term *partner* as a noun is defined as '... a person who takes part in an undertaking with another or others, especially in a business or firm with shared risks and profits.' In the context of the 2016 NGA, it can be interpreted as '... how councils can take part in an undertaking with others, including sharing the risk, for the benefit of the community'.

Local government provides a vast array of services and local infrastructure, often in partnership with others including other governments, the private sector, the community and not-for-profit sector.

Example of partnerships include:

- the provision of a local swimming pool in partnership with the private sector, or a not-for-profit organisation, that provides the management service of that facility
- the provision of Meals on Wheels in partnership with the community not-for-profit sector delivering meals to residents at their homes, and
- the provision of Home and Community Care (HACC) to targeted groups of clients in the municipality, in partnership with the federal and state governments which provide funding.

Other examples include:

- councils partnering with a university to provide locally-relevant research to inform decisions on issues such as development applications in areas that could be effected by sea level change
- partnering with other councils to share resources and skills, and
- partnering with the private sector to develop new and innovative ways of delivering services, such as electronic planning or apps to report pot holes.

A key feature of each of these examples is that each party brings different expertise, skills, resources and experiences to the specific undertaking. The combination of these skills, expertise and resources frequently results in innovation and the provision of a service in a way that would not be possible by either party separately.

An alliance between local government and other partners creates new opportunities for business as well as innovative services, increased efficiency, cost savings and more accessible service to the benefit of the community.

**Questions**

Please note, where local government is mentioned in the following questions it refers to local government as a whole, not specific proposals for partnerships at a single council level. Questions are designed to draw out new ideas that could transform the delivery of services and infrastructure at a systemic level.

Are there new opportunities for the Australian Government to partner with local government to deliver Commonwealth services at the local level? What would be the role of the Commonwealth in such a partnership? How would this benefit the community?

Are there partnerships that could be developed to maximise the opportunities to innovate and provide simpler, smarter and more reliable services and infrastructure at the local level? If so, what are these opportunities and what would be the role of the Commonwealth in supporting these partnerships?

Are there opportunities for the private sector to partner with local government to speed up and improve a local government service or function? What role could the Commonwealth play in facilitating these opportunities?

### ***Innovation***

The Australian Government has declared its strong support for innovation. The Government's National Innovation and Science Agenda says innovation is:

'... at the heart of a strong economy—from IT to healthcare, defence and transport—it keeps us competitive, at the cutting edge, creates jobs and maintains our high standard of living. It's not just about new ideas, products and business models; innovation is also about creating a culture where we embrace risk, move quickly to back good ideas and learn from mistakes.'

The statement has a focus on a range of objectives including:

- entrepreneurship and leveraging our public research
- increasing collaboration between industry and researchers to find solutions to real world problems and to create jobs and growth
- developing and attracting world-class talent for the jobs of the future, and
- government leading by example by embracing innovation and agility in the way we do business.

### **Questions**

What is the role of local government in this innovation agenda?

Are these objectives relevant to local government itself? For example, is its role in increasing collaboration between industry and researchers to find solutions to real-world problems and to create jobs and growth? If so, how can these solutions be shared to the benefit of all councils and their communities. How could the Australian Government help this to occur?

What can local government bring to the table as a partner? For example, does local government hold data that, having regard to privacy issues, could be shared with the private sector which could put it to innovative uses? How could the Australian Government support this?

Are there digital innovations that could be introduced to local government that would increase the efficiency of businesses working with local government and vice-versa. How could the Australian Government support this?

Is there a role for local government to help innovative start-ups to rapidly transform their ideas into globally competitive businesses by giving them mentorship, funding, resources, knowledge and access to business networks? If so, how could the Australian Government support this?

### **Resourcing**

In the 2014-15 Federal Budget, the Government committed to provide \$2.2867 billion in Local Government Financial Assistance Grants (FAGs). However, the Government also announced it would pause the indexation of FAGs for the three years following that budget.

FAGs are a Commonwealth Specific Purpose Payment to local government paid through the State and Territory Governments. Payments are made to councils by jurisdictional Treasurers on the advice of state and territory Local Government Grants Commissions under the provisions of *the Local Government (Financial Assistance) Act 1995*.

The objects of the *Local Government (Financial Assistance) Act 1995* enable the Commonwealth Parliament to provide assistance to the states for the purposes of improving:

- (a) the financial capacity of local governing bodies
- (b) the capacity of local governing bodies to provide their residents with an equitable level of services
- (c) the certainty of funding for local governing bodies
- (d) the efficiency and effectiveness of local governing bodies, and
- (e) the provision by local governing bodies of services to Aboriginal and Torres Strait Islander communities.

Freezing the indexation of FAG's will reduce Commonwealth expenditures (and grants to councils) by more than \$925 million over the forward estimates. The freeze also means that the aggregate level of FAGs will be permanently reduced by almost 13 per cent, unless there is a future government decision to restore this base with a catch-up payment.

Councils are invited to submit motions to address this issue.



## **4.5 Councillor Attendance - Central Coast Tourism Autumn Networking Evening**

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TRIM REFERENCE: F2004/06517 - D12283007

MANAGER: Lesley Crawley, Manager Corporate Governance

AUTHOR: Jade Maskiewicz; Councillor Services Officer

### **SUMMARY**

The Central Coast Tourism Autumn Networking Evening held 4 April 2016 at Mingara Recreation Club.

### **RECOMMENDATION**

- 1** *That Council note the approval granted by the Acting Chief Executive Officer for Councillors to attend the Central Coast Tourism Autumn Networking Evening 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**

Central Coast Tourism host numerous networking events across the calendar year with details available <http://www.visitcentralcoast.com.au/membership>.

### **THE PROPOSAL**

The Central Coast Tourism Autumn Networking Evening was held at Mingara Recreation Club, Mingara Drive, Tumby Umbi on Monday 4 April 2016.

Councillors expressed interest in attending this event.

### **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:

<b>The Central Coast Tourism Autumn Networking Event</b>	<b>Councillor Fees</b>
Registration	\$ 25.00
Travel	\$ 20.00
<b>Total (estimate)</b>	<b>\$ 45.00</b>

### **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. Reimbursement for expenses associated with attendances at meetings of any of the local Chambers of Commerce do not require prior approval by way of resolution of the Council , but reimbursement for expenses for attendances at all other non-Council Events and Functions must be approved by way of resolution of the Council.. The total maximum expenditure is \$1200. Note the Mayor's attendance and expenditure is covered by Clause D57.*

*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 including any Councillor Workshop.</i>	No	No	Yes.	<i>Other Council approved conferences and events including any Councillor Workshop.</i>	No	No	Yes.

**Consideration of s.23A guidelines**

The Chief Executive of the NSW Office for Local Government has issued guidelines titled *“Council Decision Making during Merger Proposal Periods”* pursuant to s.23A(1) of the *Local Government Act 1993* (“LG Act”). The Council must consider those guidelines when making decisions during the “merger proposal period”, which commenced on 6 January 2016 and will conclude on the date on which a proclamation is made to amalgamate the Wyong and Gosford local government areas or the Minister for Local Government determines that he will not proceed with the proposal for that amalgamation: s.23A(3) of the LG Act. Councillors have been provided with a copy of those guidelines and have been given advice concerning those guidelines. The decisions that are proposed as part of this report comply with those guidelines.

**CONCLUSION**

Attendance at this event was pre-approved by the Acting Chief Executive Officer in accordance with the Facilities and Expenses Policy for Councillors. The approval is subject to a subsequent reporting to Council for information.

**ATTACHMENTS**

Nil.

13 April 2016  
To the Ordinary Council Meeting

Director's Report  
Chief Executive Officer's Unit

#### 4.6 Amended Minutes - Ordinary Meeting 10 March 2016

TRIM REFERENCE: F2016/00012 - D12283192

MANAGER: Lesley Crawley, Manager Corporate Governance

AUTHOR: Jade Maskiewicz; Councillor Services Officer

#### SUMMARY

To correct the minutes of the Ordinary Meeting 10 March 2016 for Item 5.1 – Sponsorship Program 2016/17 adopted by Council on 23 March 2016.

#### RECOMMENDATION

*That Council amend the minutes of the Ordinary Meeting 10 March 2016 for Item 5.1 – Sponsorship Program 2016/17 as follows;*

**254/16** *That Council support additional initiatives for 2015-16 and allocate \$23,500 \$20,500 combined cash and in-kind funds from the Sponsorship Program for 2015-16 as follows:*

<b>Applicant</b>	<b>Initiative</b>	<b>Tier level</b>	<b>Recommended Funding</b>
<b>SPORTING INITIATIVES: Recommended for sponsorship</b>			
<b>Central Coast Mariners</b>	<b>Central Coast Mariners - National Youth League 2016-17 activities</b>	<b>Tier 2</b>	<b>2015-16: Cash \$10,000 Nb. Recommended based on Councilor Resolution from 26/01/2016 and on the condition that the negotiation of the sponsorship deliverables meets the requirements of the WSC Policy for Sponsorship Management.</b>
<b>Wyang Fire Brigade Championships</b>	<b>2016 NSW State Fire Fighter Championships</b>	<b>Tier 2</b>	<b>2015-16: Cash \$5,000</b>
<b>ECONOMIC DEVELOPMENT INITIATIVES: Recommended for partnership</b>			
<b>Central Coast NSW Business Chamber</b>	<b>Central Coast Economic Breakfast</b>	<b>Tier 2</b>	<b>2015-16: Cash \$4,000</b>
<b>Business and Professional Women Central Coast</b>	<b>Business and Professional Women Central Coast: Woman of the Year</b>	<b>Tier 3</b>	<b>2015-16: Cash \$1,500</b>

**BACKGROUND**

The minutes of the 10 March 2016 Ordinary Meeting for Item 5.1 – Sponsorship Program 2016/17 incorrectly listed the total amount of additional allocated combined cash and in-kind funds from the 2015-16 Sponsorship Program as \$23,500 instead of \$20,500.

The minutes as adopted at Ordinary Meeting 23 March 2016 are attached to this report.

**GOVERNANCE****Consideration of s.23A guidelines**

The Chief Executive of the NSW Office for Local Government has issued guidelines titled *“Council Decision Making during Merger Proposal Periods”* pursuant to s.23A(1) of the *Local Government Act 1993* (“LG Act”). The Council must consider those guidelines when making decisions during the “merger proposal period”, which commenced on 6 January 2016 and will conclude on the date on which a proclamation is made to amalgamate the Wyong and Gosford local government areas or the Minister for Local Government determines that he will not proceed with the proposal for that amalgamation: s.23A(3) of the LG Act. Councillors have been provided with a copy of those guidelines and have been given advice concerning those guidelines. The decisions that are proposed as part of this report comply with those guidelines.

**ATTACHMENTS**

- |   |   |           |
|---|---|-----------|
| 1 | Resolution as resolved at Ordinary Meeting 10 March 2016 and Adopted<br>at Ordinary Meeting 23 March 2016 | D12283173 |
|---|---|-----------|

## Resolution as Resolved at Ordinary Meeting 10 March 2016 and Adopted at Ordinary Meeting 23 March 2016

### 5.1 Sponsorship Program 2016/17

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

- 1 That Council allocate the \$55,300 combined cash and in-kind funds from the Sponsorship Program for 2016-17 as follows:

Applicant	Initiative	Tier level	Recommended Funding
<b>CULTURAL INITIATIVES: Recommended for sponsorship</b>			
Long Jetty Locals	Long Jetty Street Festival	Tier 2	2016-17: Cash \$12,500 & In-Kind \$2,500
BBR Agency	PicNic Outdoor Cinema	Tier 2	2016-17: Cash \$10,000
<b>SPORTING INITIATIVES: Recommended for sponsorship</b>			
Wyong Fire Brigade Championships	2016 NSW State Fire Fighter Championships	Tier 2	2016-17: Cash \$9,000 & In-Kind \$1,000
Elite Energy P/L	Colour Me Rad	Tier 2	2016-17: Cash \$10,000
<b>ECONOMIC DEVELOPMENT INITIATIVES: Recommended for partnership</b>			
Central Coast NSW Business Chamber	Central Coast Economic Breakfast	Tier 2	2016-17: Cash \$8,800
Business and Professional Women Central Coast	Business and Professional Women Central Coast: Woman of the Year	Tier 3	2016-17: Cash \$1,500

- 2 That Council acknowledge the below initiatives have also applied for multi-year funding for 2017-18 and 2018-19 and are supported however that the applicants be advised that as a result of the likely amalgamation these will need to be reviewed by early 2017, noting that these applications are carried forward.

- Long Jetty Street Festival
- PicNic Outdoor Cinema
- Colour Me Rad
- Central Coast Economic Breakfast
- Business and Professional Women Central Coast

- 3 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:

<i>Initiative</i>	<i>Total Requested</i>	<i>Applied for Tier level</i>	<i>Assessment</i>
<i>Ks for Kids Walkathon</i>	<i>\$5,000</i>	<i>Tier 3 Single year</i>	<i>Initiative does not meet the visitation requirements, potential for growth or ROI through economic development benchmarks that are required. The focus of this event is fundraising.</i>
<i>Mingara Orchid Festival</i>	<i>\$7,500</i>	<i>Tier 3 Multi Year</i>	<i>Initiative does not meet the potential for growth or ROI through economic development benchmarks that are required. Initiative has received sponsorship for many years and has not demonstrated growth or expansion as promised in 2015-16.</i>
<i>Central Coast Food Revolution Day</i>	<i>\$66,000</i>	<i>Tier 1 Multi Year</i>	<i>Initiative has not been recommended due to the competitive process of the sponsorship program. The initiative was eligible to receive funding however potential for ROI through visitor numbers and dispersal of economic benefit was limited. The initiative is recommended to pursue possible grant funding from WSC as an alternative to sponsorship funding.</i>
<i>Central Coast Embrace Life Festival</i>	<i>\$24,000</i>	<i>Tier 2 Multi Year</i>	<i>Initiative has not been recommended due to the competitive process of the sponsorship program. The initiative was eligible to receive funding however potential for ROI through visitor numbers and dispersal of economic benefit was limited.</i>
<i>Veer Left</i>	<i>\$5,000</i>	<i>Tier 3 Single year</i>	<i>Initiative has not been recommended due to the competitive process of the sponsorship program. The initiative was eligible to receive funding however potential for ROI through community benefits was limited.</i>

- 4 That Council reallocate \$1,329 from existing marketing and promotions budget to the Sponsorship Program in 2015-16 through Quarter Review due to the Central Coast Mariners sponsorship payment required to be made in 2015-16 for activities to take place in 2016-17.



- 5 That Council support additional initiatives for 2015-16 and allocate \$23,500 combined cash and in-kind funds from the Sponsorship Program for 2015-16 as follows:

<i>Applicant</i>	<i>Initiative</i>	<i>Tier level</i>	<i>Recommended Funding</i>
<b>SPORTING INITIATIVES: Recommended for sponsorship</b>			
Central Coast Mariners	Central Coast Mariners - National Youth League 2016-17 activities	Tier 2	2015-16: Cash \$10,000 Nb. Recommended based on Councillor Resolution from 26/01/2016 and on the condition that the negotiation of the sponsorship deliverables meets the requirements of the WSC Policy for Sponsorship Management.
Wyong Fire Brigade Championships	2016 NSW State Fire Fighter Championships	Tier 2	2015-16: Cash \$8,000
<b>ECONOMIC DEVELOPMENT INITIATIVES: Recommended for partnership</b>			
Central Coast NSW Business Chamber	Central Coast Economic Breakfast	Tier 2	2015-16: Cash \$4,000
Business and Professional Women Central Coast	Business and Professional Women Central Coast: Woman of the Year	Tier 3	2015-16: Cash \$1,500

- 6 That Council provide an additional \$5,000 in funding to the 2016 and 2017 Going Off at the Swamp Festival (GOATS), which is currently under funded. This is the premiere event in the Shire to launch Youth Week.

An AMENDMENT was moved by Councillor EATON and Seconded by Councillor TROY:

- 1 That Council allocate the \$25,300 combined cash and in-kind funds from the Sponsorship Program for 2016-17 as follows:

Applicant	Initiative	Tier level	Recommended Funding
<b>CULTURAL INITIATIVES: Recommended for sponsorship</b>			
Long Jetty Locals	Long Jetty Street Festival	Tier 2	2016-17: Cash \$5,000
<b>SPORTING INITIATIVES: Recommended for sponsorship</b>			
Wyong Fire Brigade Championships	2016 NSW State Fire Fighter Championships	Tier 2	2016-17: Cash \$5,000
Elite Energy P/L	Colour Me Rad	Tier 2	2016-17: Cash \$5,000
<b>ECONOMIC DEVELOPMENT INITIATIVES: Recommended for partnership</b>			
Central Coast NSW Business Chamber	Central Coast Economic Breakfast	Tier 2	2016-17: Cash \$8,800
Business and Professional Women Central Coast	Business and Professional Women Central Coast: Woman of the Year	Tier 3	2016-17: Cash \$1,500

- 2 That Council acknowledge the below initiatives have also applied for multi-year funding for 2017-18 and 2018-19 and are supported however that the applicants be advised that as a result of the likely amalgamation these will need to be reviewed by early 2017, noting that these applications are carried forward.

- Long Jetty Street Festival
- Colour Me Rad
- Central Coast Economic Breakfast
- Business and Professional Women Central Coast

- 3 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:

Initiative	Total Requested	Applied for Tier level	Assessment
Ks for Kids Walkathon	\$5,000	Tier 3 Single year	Initiative does not meet the visitation requirements, potential for growth or ROI through economic development benchmarks that are required. The focus of this event is fundraising.

Mingara Orchid Festival	\$7,500	Tier 3 Multi Year	Initiative does not meet the potential for growth or ROI through economic development benchmarks that are required. Initiative has received sponsorship for many years and has not demonstrated growth or expansion as promised in 2015-16.
Central Coast Food Revolution Day	\$66,000	Tier 1 Multi Year	Initiative has not been recommended due to the competitive process of the sponsorship program. The initiative was eligible to receive funding however potential for ROI through visitor numbers and dispersal of economic benefit was limited. The initiative is recommended to pursue possible grant funding from WSC as an alternative to sponsorship funding.
Central Coast Embrace Life Festival	\$24,000	Tier 2 Multi Year	Initiative has not been recommended due to the competitive process of the sponsorship program. The initiative was eligible to receive funding however potential for ROI through visitor numbers and dispersal of economic benefit was limited.
Veer Left	\$5,000	Tier 3 Single year	Initiative has not been recommended due to the competitive process of the sponsorship program. The initiative was eligible to receive funding however potential for ROI through community benefits was limited.
BBR Agency	PicNic Outdoor Cinema	Tier 2	2016-17: Cash \$10,000

- 4 That Council reallocate \$1,329 from existing marketing and promotions budget to the Sponsorship Program in 2015-16 through Quarter Review due to the Central Coast Mariners sponsorship payment required to be made in 2015-16 for activities to take place in 2016-17.
- 5 That Council support additional initiatives for 2015-16 and allocate \$23,500 combined cash and in-kind funds from the Sponsorship Program for 2015-16 as follows:

Applicant	Initiative	Tier level	Recommended Funding
SPORTING INITIATIVES: Recommended for sponsorship			
Central Coast Mariners	Central Coast Mariners - National Youth League 2016-17 activities	Tier 2	2015-16: Cash \$10,000 Nb. Recommended based on Councillor Resolution from 26/01/2016 and on the condition that the negotiation of the sponsorship deliverables meets the requirements of the WSC Policy for Sponsorship Management.

Wyong Fire Brigade Championships	2016 NSW State Fire Fighter Championships	Tier 2	2015-16: Cash \$5,000
<b>ECONOMIC DEVELOPMENT INITIATIVES: Recommended for partnership</b>			
Central Coast NSW Business Chamber	Central Coast Economic Breakfast	Tier 2	2015-16: Cash \$4,000
Business and Professional Women Central Coast	Business and Professional Women Central Coast: Woman of the Year	Tier 3	2015-16: Cash \$1,500

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

FOR: CRS GB BEST, DE EATON, B G GRAHAM AND AT TROY  
AGAINST: CRS KG GREENWALD AND DV VINCENT

**The AMENDMENT became the MOTION.**

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

**250/16 That Council allocate the \$25,300 combined cash and in-kind funds from the Sponsorship Program for 2016-17 as follows:**

<b>Applicant</b>	<b>Initiative</b>	<b>Tier level</b>	<b>Recommended Funding</b>
<b>CULTURAL INITIATIVES: Recommended for sponsorship</b>			
Long Jetty Locals	Long Jetty Street Festival	Tier 2	2016-17: Cash \$5,000
<b>SPORTING INITIATIVES: Recommended for sponsorship</b>			
Wyong Fire Brigade Championships	2016 NSW State Fire Fighter Championships	Tier 2	2016-17: Cash \$5,000
Elite Energy P/L	Colour Me Rad	Tier 2	2016-17: Cash \$5,000
<b>ECONOMIC DEVELOPMENT INITIATIVES: Recommended for partnership</b>			
Central Coast NSW Business Chamber	Central Coast Economic Breakfast	Tier 2	2016-17: Cash \$8,800
Business and Professional Women Central Coast	Business and Professional Women Central Coast: Woman of the Year	Tier 3	2016-17: Cash \$1,500

251/16 That Council acknowledge the below initiatives have also applied for multi-year funding for 2017-18 and 2018-19 and are supported however that the applicants be advised that as a result of the likely amalgamation these will need to be reviewed by early 2017, noting that these applications are carried forward.

- Long Jetty Street Festival
- Colour Me Rad
- Central Coast Economic Breakfast
- Business and Professional Women Central Coast

252/16 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>Total Requested</b>	<b>Applied for Tier level</b>	<b>Assessment</b>
<b>Ks for Kids Walkathon</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. The focus of this event is fundraising.</b>
<b>Mingara Orchid Festival</b>	<b>\$7,500</b>	<b>Tier 3 Multi Year</b>	<b>Initiative does not meet the potential for growth or ROI through economic development benchmarks that are required. Initiative has received sponsorship for many years and has not demonstrated growth or expansion as promised in 2015-16.</b>
<b>Central Coast Food Revolution Day</b>	<b>\$66,000</b>	<b>Tier 1 Multi Year</b>	<b>Initiative has not been recommended due to the competitive process of the sponsorship program. The initiative was eligible to receive funding however potential for ROI through visitor numbers and dispersal of economic benefit was limited. The initiative is recommended to pursue possible grant funding from WSC as an alternative to sponsorship funding.</b>
<b>Central Coast Embrace Life Festival</b>	<b>\$24,000</b>	<b>Tier 2 Multi Year</b>	<b>Initiative has not been recommended due to the competitive process of the sponsorship program. The initiative was eligible to receive funding however potential for ROI through visitor numbers and dispersal of economic benefit was limited.</b>
<b>Veer Left</b>	<b>\$5,000</b>	<b>Tier 3 Single year</b>	<b>Initiative has not been recommended due to the competitive process of the sponsorship program. The initiative was eligible to receive funding however potential for ROI through community benefits was limited.</b>

<b>BBR Agency</b>	<b>PicNic Outdoor Cinema</b>	<b>Tier 2</b>	<b>2016-17: Cash \$10,000</b>
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**253/16** That Council reallocate \$1,329 from existing marketing and promotions budget to the Sponsorship Program in 2015-16 through Quarter Review due to the Central Coast Mariners sponsorship payment required to be made in 2015-16 for activities to take place in 2016-17.

**254/16** That Council support additional initiatives for 2015-16 and allocate \$23,500 combined cash and in-kind funds from the Sponsorship Program for 2015-16 as follows:

<b>Applicant</b>	<b>Initiative</b>	<b>Tier level</b>	<b>Recommended Funding</b>
<b>SPORTING INITIATIVES: Recommended for sponsorship</b>			
<b>Central Coast Mariners</b>	<b>Central Coast Mariners - National Youth League 2016-17 activities</b>	<b>Tier 2</b>	<b>2015-16: Cash \$10,000 Nb. Recommended based on Councilor Resolution from 26/01/2016 and on the condition that the negotiation of the sponsorship deliverables meets the requirements of the WSC Policy for Sponsorship Management.</b>
<b>Wyong Fire Brigade Championships</b>	<b>2016 NSW State Fire Fighter Championships</b>	<b>Tier 2</b>	<b>2015-16: Cash \$5,000</b>
<b>ECONOMIC DEVELOPMENT INITIATIVES: Recommended for partnership</b>			
<b>Central Coast NSW Business Chamber</b>	<b>Central Coast Economic Breakfast</b>	<b>Tier 2</b>	<b>2015-16: Cash \$4,000</b>
<b>Business and Professional Women Central Coast</b>	<b>Business and Professional Women Central Coast: Woman of the Year</b>	<b>Tier 3</b>	<b>2015-16: Cash \$1,500</b>

FOR: CRS GB BEST, DE EATON, B G GRAHAM AND AT TROY  
AGAINST: CRS KG GREENWALD AND DV VINCENT

## **5.1 Disclosure of Interest Returns - 1 January to 31 March 2016**

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TRIM REFERENCE: F2015/00788 - D12255974

AUTHOR: Sonia Witt; TL Governance and Councillor Services

MANAGER: Lesley Crawley, Manager Corporate Governance

### **SUMMARY**

The Local Government Act, 1993 requires Disclosure of Interest (DOI) Returns for Councillors and Designated Persons to be lodged with the General Manager who, in turn is required to keep a register of the Disclosure of Interest Returns.

The Act further requires the DOI Returns lodged with the General Manager to be tabled at a meeting of Council.

### **RECOMMENDATION**

***That Council receive the report on Disclosure of Interest Returns 1 January to 31 March 2016.***

### **BACKGROUND**

In accordance with the Local Government Act 1993, Councillors, the General Manager and designated staff are required to lodge a return by 30 September each year. Newly appointed staff and Councillors are also required to lodge a return within three months of being appointed to a designated position.

Section 450A also specifies that the General Manager must table the returns lodged under these Sections and, in accordance with this Section of the Act, the returns for the period 1 October to 31 December 2015 are tabled, together with those new staff who commenced in designated positions between 1 January to 31 March 2016.

### **NB**

Sections 449(1) and (5) of the Local Government Act, 1993 - Disclosure of Interest Returns for Councillors and Designated Persons to be lodged with GM

Section 450A(1) – register required of the Disclosure of Interest Returns lodged.

Section 450A(2) - Returns lodged with the General Manager under section 449(1) to be tabled at a meeting of Council.



**Consideration of s.23A guidelines**

The Chief Executive of the NSW Office for Local Government has issued guidelines titled "*Council Decision Making during Merger Proposal Periods*" pursuant to s.23A(1) of the *Local Government Act 1993* ("LG Act"). The Council must consider those guidelines when making decisions during the "merger proposal period", which commenced on 6 January 2016 and will conclude on the date on which a proclamation is made to amalgamate the Wyong and Gosford local government areas or the Minister for Local Government determines that he will not proceed with the proposal for that amalgamation: s.23A(3) of the LG Act. Councillors have been provided with a copy of those guidelines and have been given advice concerning those guidelines. The decisions that are proposed as part of this report comply with those guidelines.

**ATTACHMENTS**

- 1 List of Disclosures of Interest Returns 1 January to 31 March 2016 D12255980

**List of Disclosures of Interest Returns  
1 January to 31 March 2016**

**Staff**

Butler, S  
Edwards, R

**Councillors**

Best G

## 5.2 Road Capital Works Program

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TRIM REFERENCE: F2011/00879 - D12273276

MANAGER: Greg McDonald, Director

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) are 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       | 33.2 km achieved to date |
| • Road upgrade / renewal = 13.5 km | 11.3 km achieved to date |
| • Footpath = 4.5 km                | 4.86 km achieved to date |
| • Kerb & Gutter = 3.1km            | 2.25 km achieved to date |

Note all figures are current up to 24 March 2016.

Council continues to operate an advanced Pavement Management System which is used to measure and model network condition and to develop optimized 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 & reseal projects proposed for all Council controlled Local Roads for 2015/16.

In March 2016 the following major achievements in the Road Capital Works program were achieved:

- Reconstruction works of the Jilliby Road culvert emergency works were completed with the placement of asphalt and installation of guardrail over the culverts. A site visit by Jilliby Public School was conducted to show students (and teachers) what works are carried out by Council, and why they were delayed in getting to school over the previous weeks.
- Construction commenced on Roads and Drainage's final stage of construction for the Wyong CBD drainage works including paving slabs around the Art House and RSL Club, roadworks in Pauline Lane and the carpark finalisation in Hely St.
- Works continued on two other major road and drainage projects at Goorاما Avenue San Remo and Lakeside Parade, The Entrance.
- Numerous roads around the Shire were completed with reseal and rejuvenation works, including patching and other preparation works.
- Footpaths/shared paths were completed at;
  - Lorraine Avenue Berkeley Vale,
  - Scenic Drive Budgewoi
  - Hely Street Wyong
  - Margaret Street Wyong
  - Goorاما Avenue San Remo
- Road renewal projects were completed at;
  - Spring Valley Avenue, Gorokan
  - Dunvegan Street, Mannering Park
  - Edward Street, Budgewoi
- Road pavement asphalt works were completed on;
  - Bateau Bay Road, Bateau Bay,
  - Jilliby Road, Jilliby,
  - Pollock Avenue, Wyong,
  - Dickson Road, Jilliby,
  - Augustus Place, Bateau Bay,
  - Masfield Avenue, Bateau Bay,

### ATTACHMENTS

- 1 Roads and Drainage Capital Works Report - April 2016      D12277922

ROAD UPGRADE /RENEWAL / RESEAL PROJECTS - 2015 / 2016 FINANCIAL YEAR																
(Data below is current from last day of previous month)																
Capital Responsibility Centre (RC) No.	(Multiple Items)	SRV Projects	Legend													
			Project Phasing						Project Status Project Completed		Project Status Project deferred or removed from Roads 2015/16 programme due to constructability related issues					
Suburb Location	Capital RC Name	Project Description DO NOT CHANGE	July-15	Aug-15	Sept-15	Oct-15	Nov-15	Dec-15	Jan-16	Feb-16	Mar-16	Apr-16	May-16	June-16	Project Status	
Bateau Bay	Local Roads Rehab Works/Road Pavement Renewals	Hillcrest Avenue - Block 1 : Pavement Renewal Programme														
		Norah Head Close - Block 1 : Pavement Renewal Programme														
	Reseals Local Roads-General	Adrian Close - Block 1 Reseal Programme														
		Anglers Drive - Block 1 Reseal Programme														
		Augustus Place - Block 1 Reseal Programme														
		Bateau Bay Road - Block 6 Reseal Programme														
		Bateau Bay Road - Block 7 Reseal Programme														
		Elgata Street - Block 1 Reseal Programme														
		Katungal Street - Block 1 Reseal Programme														
		Kipling Drive - Block 1 Reseal Programme														
		Kipling Drive - Block 2 Reseal Programme														
		Masefield Avenue - Block 1 Reseal Programme														
		Peta Close - Block 1 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														
	Roads To Recovery Program	Debra Anne Drive - Block 1, 2 and 3 : Pavement Renewal Programme														
	Shared Pathways	EDSACC Shared Path replacement														

ROAD UPGRADE /RENEWAL / RESEAL PROJECTS - 2015 / 2016 FINANCIAL YEAR

(Data below is current from last day of previous month)

				Legend												
Capital Responsibility Centre (RC) No.	(Multiple Items)	SRV Projects		Project Phasing			✓	Project Status Project Completed	✗	Project Status Project deferred or removed from Roads 2015/16 programme due to constructability related issues						
Suburb Location	Capital RC Name	Project Description DO NOT CHANGE	July-15	Aug-15	Sept-15	Oct-15	Nov-15	Dec-15	Jan-16	Feb-16	Mar-16	Apr-16	May-16	June-16	Project Status	
Berkeley Vale	Capital Local Roads Rehab - General/Roads Upgrade	Audie Parade, Berkeley Vale : Road Upgrade/Renewal With Stormwater Drainage													✗	
		Berkeley Vale - Road Upgrade With Stormwater Drainage Upgrade (Blenheim, Buckingham, St James, Windsor)													✗	
	Footpath Construction	Lorraine Avenue, Berkeley Vale : Footpath Programme (New)														
	Reseals Local Roads-General	Clare Crescent - Block 1 Reseal Programme														
		Colleen Street - Block 1 Reseal Programme														
		Jean Avenue - Block 2 Reseal Programme														
		Keren Avenue - Block 1 Reseal Programme														
		Keren Avenue - Block 2 Reseal Programme														
		Lakedge Avenue Shops C/P at Bluebell Avenue Reseal Programme														
Blue Bay	Capital Local Roads Rehab - General/Roads Upgrade	Bay Road, Blue Bay : Road Upgrade Including Stormwater Drainage														
	Reseals Local Roads-General	Boondilla Road - Block 3 Reseal Programme														
		The Crescent - Block 1 Reseal Programme														
		The Crescent - Block 2 Reseal Programme														
		The Crescent - Block 3 Reseal Programme														
		The Crescent - Block 4 Reseal Programme														

ROAD UPGRADE /RENEWAL / RESEAL PROJECTS - 2015 / 2016 FINANCIAL YEAR

(Data below is current from last day of previous month)

Legend																
Capital Responsibility Centre (RC) No.	(Multiple Items)	SRV Projects	Project Phasing			✔	Project Status Project Completed		✘	Project Status Project deferred or removed from Roads 2015/16 programme due to constructability related issues						
Suburb Location	Capital RC Name	Project Description DO NOT CHANGE	July-15	Aug-15	Sept-15	Oct-15	Nov-15	Dec-15	Jan-16	Feb-16	Mar-16	Apr-16	May-16	June-16	Project Status	
Budgewoi	Capital Local Roads Rehab - General/Roads Upgrade	Villa Close, Budgewoi : Road Upgrade With Stormwater Drainage														
		33 Sunrise Avenue													✔	
	Footpath Construction	Scenic Drive, Budgewoi : Footpath (New) Between Kalani St and Woolana Ave														
	Works/Road Pavement Renewals	Edward Street - Block 1 : Road Pavement Renewal														
	Reseals Local Roads-General	Natuna Avenue - Block 2 Reseal Programme														
	Shared Pathways	Lakes Beach Cycleway														
Buff Point	Capital Local Roads Rehab - General/Roads Upgrade	Elouera Road, Buff Point : Road Upgrade With Stormwater Drainage													✘	
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	Capital Local Roads Rehab - General/Roads Upgrade	Brush Creek Road														
	Reseals Local Roads-General	Brush Creek Road - Block 1 Reseal Programme													✔	
		Brush Creek Road - Block 11 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	Tall Timbers Road, Scaysbrook Avenue : Shared Pathway														



ROAD UPGRADE /RENEWAL / RESEAL PROJECTS - 2015 / 2016 FINANCIAL YEAR																
(Data below is current from last day of previous month)																
Capital Responsibility Centre (RC) No.	(Multiple Items)	SRV Projects	Legend													
			Project Phasing						Project Status Project Completed		Project Status Project deferred or removed from Roads 2015/16 programme due to constructability related issues					
Suburb Location	Capital RC Name	Project Description DO NOT CHANGE	July-15	Aug-15	Sept-15	Oct-15	Nov-15	Dec-15	Jan-16	Feb-16	Mar-16	Apr-16	May-16	June-16	Project Status	
Chain Valley Bay	Reseals Local Roads-General	Scaysbrook Avenue - Block 1 Reseal Programme														✓
		Scaysbrook Avenue - Block 2 Reseal Programme														✓
		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														
Charmhaven	Footpath Construction	Pacific Highway Charmhaven : Footpath Programme (New)														✗
	Reseals Local Roads-General	Dixie Lane - Block 1 Reseal Programme														✓
	Roads To Recovery Program	Chelmsford Road (West), Charmhaven : Roads To Recovery														✗
	Shared Pathways	Pacific Highway Charmhaven Stage 1: Shared Pathway Programme (New)														✓
Chittaway Bay	Reseals Local Roads-General	Kauai Avenue - Block 1 Reseal Programme														✗
		Kauai Avenue - Block 2 Reseal Programme														✗
		Moloki Avenue - Block 1 Reseal Programme														✗
		Moloki Avenue - Block 2 Reseal Programme														✗
		Moul Avenue - Block 1 Reseal Programme														✗
Chittaway Point	Local Roads Rehab Works/Road Pavement Renewals	Geoffery Road - Block 9 : Pavement Renewal Programme														✗
	Reseals Local Roads-General	Geoffrey Road - Block 10 Reseal Programme														
		Geoffrey Road - Block 11 Reseal Programme														
		Geoffrey Road - Block 12 Reseal Programme														
		Geoffrey Road - Block 13 Reseal Programme														
		Vesta Close - Block 1 Reseal Programme														
Crangan Bay	Roads To Recovery Program	Kanangra Drive - Safer Roads and R2R														

ROAD UPGRADE /RENEWAL / RESEAL PROJECTS - 2015 / 2016 FINANCIAL YEAR																
(Data below is current from last day of previous month)																
Capital Responsibility Centre (RC) No.	(Multiple Items)	SRV Projects	Legend													
			Project Phasing				Project Status Project Completed		Project Status Project deferred or removed from Roads 2015/16 programme due to constructability related issues						Project Status	
Suburb Location	Capital RC Name	Project Description	July-15	Aug-15	Sept-15	Oct-15	Nov-15	Dec-15	Jan-16	Feb-16	Mar-16	Apr-16	May-16	June-16	Project Status	
Fountaindale	Reseals Local Roads-General	Old Chittaway Road - Side Road) Reseal Programme														✓
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	Beryl St - Block 1 Reseal Programme														✗
		Jacqueline Avenue - Block 1 Reseal Programme														✓
		Jacqueline Avenue - Block 2 Reseal Programme														✓
		Ocean View Road - Block 1 Reseal Programme														✓
		Ocean View Road - 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														✓
Gwandalan	Roads To Recovery Program	Spring Valley Avenue - Block 1 : Roads To Recovery														✓
	Capital Local Roads Rehab - General/Roads Upgrade	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														✓
Haiekulani	Reseals Local Roads-General	Huene Avenue - Block 1 Reseal Programme														✓
		Huene Avenue - Block 2 Reseal Programme														✓

ROAD UPGRADE /RENEWAL / RESEAL PROJECTS - 2015 / 2016 FINANCIAL YEAR																
(Data below is current from last day of previous month)																
Capital Responsibility Centre (RC) No.	(Multiple Items)	SRV Projects	Legend													
			Project Phasing					Project Status		Project Status						
Suburb Location	Capital RC Name	Project Description	July-15	Aug-15	Sept-15	Oct-15	Nov-15	Dec-15	Jan-16	Feb-16	Mar-16	Apr-16	May-16	June-16	Project Status	
Jilliby	Reseals Local Roads-General	Dickson Road - Block 1 Reseal Programme														
		Dickson Road - Block 2 Reseal Programme														
		Dickson Road - Block 3 Reseal Programme														
		Dickson Road - Block 4 Reseal Programme														
		Dickson Road - Block 5 Reseal Programme														
		Durrien Road - Road Upgrade (Seal)														
	Roads Rehab Minor Rolling	Smiths Road - Road Upgrade (Seal)														✓
Kangy Angy	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	Norton Ave, Killarney Vale : Road Upgrade With Possible Stormwater Drainage														
		Hume Blvd, Killarney Vale : Road Upgrade With Stormwater Drainage														
		HUME BOULEVARD. Road Upgrade														✓
	Reseals Local Roads-General	East St - Block 1 Reseal Programme														
		East St - Block 2 Reseal Programme														
		Oxley Road - Block 1 Reseal Programme														
		Robert Bourke Street - Block1 Reseal Programme														
Kulnura	Reseals Local Roads-General	Forest Road - Block 1 Reseal Programme														✓
		Forest Road - Block 2 Reseal Programme														✓
		Forest Road - Block 3 Reseal Programme														✓
		Forest Road - Block 4 Reseal Programme														✓
		Forest Road - Block 5 Reseal Programme														✓
	Roads Rehab Minor Rolling Works	Hunts Road, Kulnura : Road Upgrade (Seal)														✓

ROAD UPGRADE /RENEWAL / RESEAL PROJECTS - 2015 / 2016 FINANCIAL YEAR																
(Data below is current from last day of previous month)																
				Legend												
Capital Responsibility Centre (RC) No.	(Multiple Items)	SRV Projects	Project Phasing		Project Status		Project Status									
Suburb	Capital RC Name	Project Description	July-15	Aug-15	Sept-15	Oct-15	Nov-15	Dec-15	Jan-16	Feb-16	Mar-16	Apr-16	May-16	June-16	Project Status	
Lake Haven	Footpath Construction	Lake Haven - Footpath Programme (New)														
Lake Munmorah	Footpath Construction	Carters Road, Lake Munmorah														✓
		Anita Avenue - Footpath Programme														✓
	Reseals Local Roads-General	Elizabeth Bay Drive - Block 7 Reseal Programme														✓
		Rosemount Avenue - Block 1 Reseal Programme														✗
		Rosemount Avenue - Block 2 Reseal Programme														✗
	Shared Pathways	Lake Munmorah Cycleway														
		Pacific Highway - Shared Pathway (New Construction)														✓
Long Jetty	Footpath Construction	Implement Long Jetty Master plan - Main St footpath upgrades (Pacific St to Toowoona Bay Rd)														✗
	Local Roads Rehab Works/Road Pavement Renewals	Mayfair Street - Block 1 : Road Pavement Renewal														✗
		Tuggerah Parade - Block 2,3,4 and 6 : Pavement Renewal Programme														
	Reseals Local Roads-General	Archbold Road - Block 1 Reseal Programme														
		Archbold Road - Block 2 Reseal Programme														
		Archbold Road - Block 3 Reseal Programme														
		Bonnieview Street - Block 6 Reseal Programme														
		Nirvana Street - Block 1 Reseal Programme														
		Nirvana Street - Block 2 Reseal Programme														
		Nirvana Street - Block 3 Reseal Programme														
		Rhodin Drive - Block 1 Reseal Programme														
		Rhodin Drive - Block 2 Reseal Programme														
		Surf Street - Block 2 Reseal Programme														
		Surf Street - Block 3 Reseal Programme														
		Thompson Street - Block 3 Reseal Programme														
		Toowoona Bay Road - Block 4 Reseal Programme														
		McLachlan Avenue - Block 4 Reseal Programme														✗
		McLachlan Avenue - Block 5 Reseal Programme														✗
	Shared Pathways	Shelly Beach Road to Yakala Road: Shared Footpath														



ROAD UPGRADE /RENEWAL / RESEAL PROJECTS - 2015 / 2016 FINANCIAL YEAR																
(Data below is current from last day of previous month)																
Capital Responsibility Centre (RC) No.	(Multiple Items)	SRV Projects	Legend													
			Project Phasing						Project Status Project Completed		Project Status Project deferred or removed from Roads 2015/16 programme due to constructability related issues					
Suburb Location	Capital RC Name	Project Description	July-15	Aug-15	Sept-15	Oct-15	Nov-15	Dec-15	Jan-16	Feb-16	Mar-16	Apr-16	May-16	June-16	Project Status	
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	General/Roads Upgrade	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														✗
		Park Street - Block 1 Reseal Programme														✓
		Victoria Street - Block 1 Reseal Programme														✓
		Victoria Street - Block 2 Reseal Programme														✓
Noraville	Footpath Construction	Pandora Parade, Noraville : Footpath Programme (New)														✗
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)														
	Reseals Local Roads-General	Alex Close - Block 1 Reseal Programme														
		Ourimbah Road - Block 1 Reseal Programme														✗
		Pryor Road - Full Length														
	Roads To Recovery Program	Ourimbah Creek Road - Block 5 : Pavement Renewal Programme														✓

ROAD UPGRADE /RENEWAL / RESEAL PROJECTS - 2015 / 2016 FINANCIAL YEAR

(Data below is current from last day of previous month)

Legend																
Capital Responsibility Centre (RC) No.	(Multiple Items)	SRV Projects	Project Phasing				✓	Project Status Project Completed	✗	Project Status Project deferred or removed from Roads 2015/16 programme due to constructability related issues						
Suburb Location	Capital RC Name	Project Description DO NOT CHANGE	July-15	Aug-15	Sept-15	Oct-15	Nov-15	Dec-15	Jan-16	Feb-16	Mar-16	Apr-16	May-16	June-16	Project Status	
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													✓	
		McCrea Boulevards - Block 1 Reseal Programme													✓	
		McCrea Boulevards - Block 2 Reseal Programme													✓	
Summerland Point	Reseals Local Roads-General	Bambara Avenue - Block 1 Reseal Programme													✓	
		Government Road - Block 2 Reseal Programme													✓	
		Murrumbong Road - Block 1 Reseal Programme													✓	
		Yeramba Road - Block 3 Reseal Programme													✓	
		Yeramba Road - Block 4 Reseal Programme													✓	
The Entrance	Reseals Local Roads-General	Boomerang Road - Block 1 Reseal Programme														
		Boomerang Road - Block 2 Reseal Programme														
		Norfolk Street - Block 1 Reseal Programme														
		Norfolk Street - Block 2 Reseal Programme														
	Roads To Recovery Program	Gosford Avenue - Block 1 : Roads To Recovery														
		Lakeside Parade, The Entrance : Road Upgrade With Stormwater Drainage														
Toukley	Footpath Construction	Dunleigh Street, Toukley : Footpath Programme (New)													✓	
		Holmes Avenue. Footpath Programme – renewal													✓	
	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	Roads To Recovery Program	Johnson Road, Road Pavement Renewal (Roads to Recovery)													✓	
	Shared Pathways	Johnson Road, Tuggerah : Shared Programme (New)														

ROAD UPGRADE /RENEWAL / RESEAL PROJECTS - 2015 / 2016 FINANCIAL YEAR

(Data below is current from last day of previous month)

			Legend													
Capital Responsibility Centre (RC) No.	(Multiple Items)	SRV Projects	Project Phasing				✓	Project Status Project Completed	✗	Project Status Project deferred or removed from Roads 2015/16 programme due to constructability related issues						
Suburb Location	Capital RC Name	Project Description DO NOT CHANGE	July-15	Aug-15	Sept-15	Oct-15	Nov-15	Dec-15	Jan-16	Feb-16	Mar-16	Apr-16	May-16	June-16	Project Status	
Tuggerawong	Capital Local Roads Rehab - General/Roads Upgrade	Warner Avenue, Tuggerawong : Road Upgrade With Stormwater Drainage													✗	
	Reseals Local Roads-General	Tuggerawong Road - Block 10 Reseal Programme														
		Tuggerawong Road - Block 11 Reseal Programme														
		Tuggerawong Road - Block 8 Reseal Programme														
Tumby Umbi	Local Roads Rehab Works/Road Pavement Renewals	Scott Bruce Close - Road Renewal														
	Reseals Local Roads-General	Alimah Close - Block 1 Reseal Programme														
		Hansens Road - Block 1 Reseal Programme														
		Lees Lane - Block 1 Reseal Programme														
		Marilyn Crescent - Block 1 Reseal Programme														
Warnervale	Roads Rehab Minor Rolling Works	Jack Grant Avenue														
Watanobbi	Reseals Local Roads-General	Watanobbi Road - Block 1 Reseal Programme														
		Watanobbi Road - Block 2 Reseal Programme														
		Watanobbi Road - Block 3 Reseal Programme														
Woongarra	Reseals Local Roads-General	Hakone Road - Block 10 Reseal Programme													✓	
		Hakone Road - Block 11 Reseal Programme													✓	
		Hakone Road - Block 12 Reseal Programme													✓	
		Hakone Road - Block 8 Reseal Programme													✓	
		Hakone Road - Block 9 Reseal Programme													✓	



ROAD UPGRADE /RENEWAL / RESEAL PROJECTS - 2015 / 2016 FINANCIAL YEAR																
(Data below is current from last day of previous month)																
Capital Responsibility Centre (RC) No.	(Multiple Items)	SRV Projects	Legend													
			Project Phasing					Project Status		Project Status						
Suburb	Capital RC Name	Project Description	July-15	Aug-15	Sept-15	Oct-15	Nov-15	Dec-15	Jan-16	Feb-16	Mar-16	Apr-16	May-16	June-16	Project Status	
Wyong	Footpath Construction	Alison Road, Wyong : Footpath Programme upgrade (Margaret Street to Hope Street)														✓
		Margaret Street														
	Local Roads Rehab Works/Road Pavement Renewals	Robleys Lane - Block 1 : Pavement Renewal Programme														
		River Road - Road Renewal														✓
	Reseals Local Roads-General	Byron Street - Block 1 Reseal Programme														✓
		Pollock Avenue - Block 1 Reseal Programme														
		Pollock Avenue - Block 2 Reseal Programme														
		Pollock Avenue - Block 7 Reseal Programme														✓
		Pollock Avenue - Block 8 Reseal Programme														✓
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														✗

### **5.3 Councillor Strategic Planning Workshop (5-6 February 2016) - Minutes and Action Register**

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TRIM REFERENCE: F2015/01383 - D12282755

MANAGER: Vivienne Louie, Acting Chief Financial Officer

AUTHOR: Kathleen Morris; Manager

#### **SUMMARY**

This report provides the minutes and action register of the Council Strategic Planning Workshop held from 5-6 February 2016.

#### **RECOMMENDATION**

***That Council receive and note the minutes and action register of the 2016 Councillor Strategic Planning Workshop (held from 5-6 February 2016).***

#### **BACKGROUND**

Each year Council reviews its four year delivery plan and sets its operational plan for the next financial year. The review is conducted under the Integrated Planning and Reporting Framework, as legislated in the Local Government Act, with the process ensuring the delivery of Council services is aligned to the objectives set by the community in the Community Strategic Plan.

The review period includes a series of workshops where Councillors and senior management consider strategies, plans and resources, and identify opportunities for the Shire's future.

#### **CURRENT STATUS**

The workshop series culminated in a weekend workshop held from 5-6 February 2016. The outcomes of the workshop will assist staff to develop a draft strategic plan to deliver the services Council provides to the community. The draft plan will be released to the public for feedback during late April / May 2016.

In consideration of setting strategic direction, workshop discussions included:

- amalgamation topics (Section 23A guidelines, support for staff and consideration of contents for Council's submission to the Minister for Local Government)
- the 2016-17 Operational Plan and related financial considerations.
- water pricing
- customer service
- regulatory processes
- waste management
- strategic land use
- community facilities
- improving amenity

## THE PROPOSAL

Minutes of the workshop, along with a list of action items are provided for Council endorsement. The outcomes report assists in the tracking of progress against items determined by Council to appear in this or future strategic plans.

## STRATEGIC LINKS

The proposal supports Council's strategic planning activities and the preparation of the 2016-17 operational plan.

## Budget Impact

Adoption of the minutes and action register does not provide a budget impact. Forecast budgets for the 2016-17 year are in line with the long term financial plan.

### Consideration of s.23A guidelines

The Chief Executive of the NSW Office for Local Government has issued guidelines titled "*Council Decision Making during Merger Proposal Periods*" pursuant to s.23A(1) of the *Local Government Act 1993* ("LG Act"). The Council must consider those guidelines when making decisions during the "merger proposal period", which commenced on 6 January 2016 and will conclude on the date on which a proclamation is made to amalgamate the Wyong and Gosford local government areas or the Minister for Local Government determines that he will not proceed with the proposal for that amalgamation: s.23A(3) of the LG Act. Councillors have been provided with a copy of those guidelines and have been given advice concerning those guidelines. The decisions that are proposed as part of this report comply with those guidelines.

## CONCLUSION

Minutes of the 2016 Council Strategic Planning workshop, along with an action register, are provided for Council endorsement.

## ATTACHMENTS

- |   |   |           |
|---|---|-----------|
| 1 | CONFIDENTIAL - Minutes of the Strategic Planning Workshop 5-6 February 2016 - | D12283110 |
| 2 | CONFIDENTIAL - 2016-17 Action Register -                                      | D12283081 |

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

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TRIM REFERENCE: F2016/00012 - D12282421

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.***

#### **Consideration of s.23A guidelines**

The Chief Executive of the NSW Office for Local Government has issued guidelines titled "*Council Decision Making during Merger Proposal Periods*" pursuant to s.23A(1) of the *Local Government Act 1993* ("LG Act"). The Council must consider those guidelines when making decisions during the "merger proposal period", which commenced on 6 January 2016 and will conclude on the date on which a proclamation is made to amalgamate the Wyong and Gosford local government areas or the Minister for Local Government determines that he will not proceed with the proposal for that amalgamation: s.23A(3) of the LG Act. Councillors have been provided with a copy of those guidelines and have been given advice concerning those guidelines. The decisions that are proposed as part of this report comply with those guidelines.

### **ATTACHMENTS**

- 1 Table of Outstanding Questions and Notice of Motions - 13 April 2016      D12282757

No	Department	Responsible Officer	Question Asked / Resolution	Meeting Asked/ Councillor	Status
115	Chief Executive Officer's Unit	Stephen Naven	<p>7.2 Notice of Motion - Government Rating Outrage</p> <p>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.</p> <p>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.</p> <p>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.</p> <p>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.</p> <p>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.</p>	28 January 2015 Cr Best	Response to be provided at a future meeting.
180	Property and Economic Development	Mike Dowling	<p>1.6 Mayoral Minute - The Entrance Surf Club Lease</p> <p>984/15 That Council <u>request</u> The Entrance Surf club enter into suitable arrangements with Council for the clearance of the outstanding rates and charges.</p> <p>985/15 That Council <u>request</u> for additional purpose to be added to the Reserve under Section 121A of the Crown Lands Act 1989.</p> <p>986/15 That Council <u>amend</u> the lease to include a sub-lease permitting a café/restaurant to be included in the footprint of The Entrance Surf Club.</p> <p>987/15 That Council <u>share</u> the rental derived from the commercial operation with The Entrance Surf Club.</p> <p>988/15 That Council <u>require</u> The Entrance Surf Club to</p>	Cr Eaton 23 September 2015	Response to be provided at a future meeting.

No	Department	Responsible Officer	Question Asked / Resolution	Meeting Asked/ Councillor	Status
			<i>spend their share of the rental on Surf Life Saving activities and/or equipment, and provide annual financial statements to show how these funds have been distributed.</i>		
181	Community and Recreation Services	Brett Sherar	<p>8.1 Notice of Motion - Shark Summit</p> <p>1037/15 That Council <u>note</u> the increased number of shark attacks in and around our coastal waters due to the rise in shark numbers.</p> <p>1038/15 That Council <u>take</u> proactive and pre-emptive steps to mitigate further local attacks.</p> <p>1039/15 That Council <u>recognise</u> that not only do the current shark attacks highlight the need for better public safety they have the potential to affect summer time tourism and its associated employment.</p> <p>1040/15 That, having regard to the far reaching potential of these events, Council <u>convene</u> in partnership with Surf Life Saving and Professional Life Guards a Shark Summit that includes all key stakeholder groups, rescue organisations, applicable agencies, tourism representatives and specialist marine experts.</p> <p>1041/15 That Council <u>request</u> the Acting Chief Executive Officer to report on the feasibility of auditing our ocean coast line with a view to identifying suitable sites to create shark proof ocean bathing areas/enclosures, however this does not include traditional netting.</p> <p>1042/15 That staff <u>investigate</u> the effectiveness and practicality of making available to bathers, technology such as the shark shield devices on a short term hire basis.</p>	Cr Best 23 September 2015	Response to be provided at an Ordinary meeting in August 2016.
195	Infrastructure and Operations	Greg McDonald	<p>7.1 Notice of Motion - Norah Head / Cabbage Tree Bay "Missing Link"</p> <p>1169/15 That Council notes the excellent work carried out</p>	Cr Best 28 October 2015	This is subject to confidential legal proceedings. Refer to General Counsel.

No	Department	Responsible Officer	Question Asked / Resolution	Meeting Asked/ Councillor	Status
			<p>by staff in delivering the complex engineering of the Cabbage Tree Bay (CTB) seawall and more recently the CTB ocean ramps, further it is noted both these facilities were severely tested in the April 2015 storms with no reported damage.</p> <p>1170/15 That Council notes these much needed multimillion dollar Bay works have now highlighted the extremely poor condition of Mazlin Reserve Cliff Face and in particular the Norah Head Search and Rescue site, this has now become known as the "Missing Link".</p> <p>1171/15 That Council recognises that both these sites are the ownership of the State Government and are their full responsibility.</p> <p>1172/15 That Council seeks to work with the State Government through convening an initial meeting of all key stakeholder groups with a view to making a whole of community representation seeking upgrade funding in the 2016/17 State Budget.</p> <p>1173/15 That Council notes the outstanding support Karen McNamara our Federal Member for Dobell and State Agencies provided in assisting Council and the community in delivering the much needed Cabbage Tree Bay Ocean Ramp and the bay retaining wall.</p>		
196	Infrastructure and Operations	Daryl Mann	<p>7.2 Notice of Motion - Toukley Speed Bump Shambles</p> <p>1164/15 That Council, on behalf of the community, again call on the RMS to rip up the failed and controversial Toukley speed bumps.</p> <p>1165/15 That Council notes the reports that these 'safety devices' have actually caused accidents involving both pedestrians and motorists, further there is emerging anecdotal evidence that shop trade is also beginning to be affected.</p>	Cr Best 28 October 2015	Letter sent to RMS. Matter will also be discussed at Quarterly joint meeting between RMS and Council 11 April 2016.



No	Department	Responsible Officer	Question Asked / Resolution	Meeting Asked/ Councillor	Status
			<p>1166/15 That Council call on the RMS to release its 'Black Spot' funding submission, including the statistics it relied upon to convince the Federal Government to fund these controversial speed bumps."</p> <p>1167/15 That Council further notes that some 50 accidents have been reported in the last 6 years on this road, with only 4 actually occurring in the Toukley CBD. Further, Council notes that there are two other 40km/h speed zones in Main Road Toukley that do not rely on speed bumps for their effective management.</p>		
202	Property and Economic Development	Andrew Pearce	<p>7.1 Notice of Motion - Waste Management Contract</p> <p>1279/15 That Council thank the Transport Workers Union for presenting at the Wyong Council Resident's Forum held on Wednesday 11 November 2015.</p> <p>1280/15 That Council acknowledge the clause provided by the Transport Workers Union to protect workers' wages and conditions and public safety;</p> <ul style="list-style-type: none"> <li>Campbelltown Council's recent waste contract renewal process included the following clause:            "The Contractor must, as a minimum requirement, preserve employee pay rates and pay-related conditions(for all employees of the Contractor) as those provided in either the Remondis Enterprise Agreement 2018 or,            Any enterprise agreement approved by Fair Work Australia which applies to employees previously subject to the Remondis Australia Enterprise Agreement 2018 and comes into operation prior to the commencement of the Contract"</li> <li>The current Sydney Metropolitan Bus Service Contract included the clause:            "33.8 Successor Operator to Make Offers            (a) TfNSW must procure that any Successor Operator makes offers of employment on</li> </ul>	Cr Eaton 25 November 2015	Response to be provided at a future meeting.

No	Department	Responsible Officer	Question Asked / Resolution	Meeting Asked/ Councillor	Status
			<p><i>equivalent terms and conditions (including all accrued entitlements) to Contract Bus Services Employees (other than the persons named in Schedule 11). Offers made by a Successor Operator must take effect from the expiry or termination of this Contract."</i></p> <p>1281/15 <i>That Council staff advise at what part of the tendering process it would be appropriate for Council to consider the inclusion of the proposed clause in the new Waste Management Contract?</i></p>		
203	Community and Recreation Services	Brett Sherar	<p>7.2 Notice of Motion - Shark Summit Update / Community Forum</p> <p>1282/15 <i>That Council, in partnership with Surf Life Saving and our Professional Life Guards, <u>conduct</u> a Community Forum to update key stakeholder groups and interested parties on the findings and initiatives recommended by the expert scientific panel at Council's recent Shark Summit.</i></p> <p>1283/15 <i>That Council, with the assistance of our community and marine experts, <u>identify</u> suitable trial projects that could be submitted for consideration in the recently announced State Government Shark Management Project.</i></p> <p>1284/15 <i>That Council <u>note</u>, as the Central Coast was the first region to conduct a local Shark Summit since the State Government's announcement of the \$16million Shark Fund, the Coast is now ideally positioned to contribute and access these resources subject to developing our submission expeditiously.</i></p>	Cr Best 25 November 2015	Response to be provided at an Ordinary meeting in August 2016.
206	Property and Economic Development	Mike Dowling	<p>7.1 Notice of Motion - Busker Encouragement</p> <p>1 <i>That Council <u>adopt</u> a new policy on a trial basis, to encourage busking in the Shire.</i></p> <p>2 <i>That Council <u>request</u> the Acting Chief Executive Officer to prepare the policy on the basis that the process for</i></p>	Cr's Webster & Eaton 27 January 2016	Response to be provided at a future meeting.

No	Department	Responsible Officer	Question Asked / Resolution	Meeting Asked/ Councillor	Status
			<p>3 approval is simple, cheap and easy for the applicant. That Council <u>request</u> the Acting Chief Executive Officer include the following elements in the trial policy:</p> <p>(a) A 6 month permit on a single page application for a \$10 fee.</p> <p>(b) The busker must produce photo identification, mobile number and address details.</p> <p>(c) Conditions of permit should include no impediment to pedestrians or shopkeepers, use of battery powered amplifiers (ie. no power leads), no risk of harm to the public etc.</p> <p>(d) Council may revoke the permit at any time without notice.</p> <p>(e) There be no requirement for any insurances by Council.</p> <p>4 That Council <u>request</u> the Acting Chief Executive Officer to prepare the new policy to Council with a view to swift implementation of the trial.</p> <p>5 That Council <u>request</u> the Acting Chief Executive Officer to report on the results of this trial in August 2016.</p>		
208	Community and Recreation Services	Maxine Kenyon	<p>7.1 Notice of Motion - Protecting Neighbourhood Properties</p> <p>133/16 That Council <u>fund</u> an increase to the public tree risk management budget of \$250,000 to reduce the backlog of requests to remove dead, dying or dangerous trees.</p> <p>134/16 That Council <u>request</u> a report on public tree risk management tree procedures in response to the recent significant storms in April and October 2015 and more recently 15 January 2016, as many trees on public land have fallen or been reported as being dangerous.</p> <p>135/16 That Council <u>seek</u> the assistance of the State Government, through the local members, to support Council's initiative to improve public safety through matching Council's initiative dollar for dollar.</p>	Cr's Taylor & Troy 10 February 2016	<p>Letters sent to Yasmin Catley MP, David Harris MP and David Mehan MP on 15 March 2016, awaiting responses.</p> <p>Response to be provided at 11 May 2016 Ordinary Meeting.</p>
209	Property and Economic Development	Mike Dowling	<p>7.2 Notice of Motion - Chinese Theme Park Confidential</p> <p>136/16 That the Council <u>note</u> recent media reports that the Minister for Local Government, the Hon Paul Toole, has requested an urgent report on</p>	Cr Best 10 February 2016	Response to be provided at a future meeting.

No	Department	Responsible Officer	Question Asked / Resolution	Meeting Asked/ Councillor	Status
			<p>137/16 proposed \$500 million Chappypie China Theme Park development at Warnervale. That the Council <u>further note</u> that the Minister and the NSW Office of Local Government (OLG) have investigative powers under the Local Government Act that may be exercised, and that it is prudent that the Council take no action that might complicate or frustrate any review the Minister or OLG may take.</p> <p>138/16 That Council also <u>confirms</u> that no Ratepayer Funds have been invested in the development of this proposal &amp; that it is not Council's intention to invest any funds into the construction of the proposal.</p> <p>139/16 That Council <u>notes</u> that Council's main roles in respect to the proposed development are:</p> <p>a. As the "relevant planning authority" under Part 3 Division 4 of the Environmental Planning and Assessment Act, which is a statutory function that the Council is required to undertake in respect to the pending Planning Proposal to be determined by the Minister for Planning and the Environment; and</p> <p>b. To assist the Hunter and Central Coast Joint Regional Planning Panel in the determination of pending and future development applications in respect to the development site, that Panel being an independent statutory body to consider and determine such development applications.</p>		
210	Property and Economic Development	Mike Dowling	<p>Q1/16 Purchase of 7 Anzac Avenue, Wyong</p> <p>Can the Acting Chief Executive Officer please provide a report on the purchase of 7 Anzac Avenue, Wyong including cost of purchase and any plans for the dwelling?</p>	Cr Matthews 10 February 2016	Response to be provided at a future meeting.
211	Property and Economic Development	Mike Dowling	<p>Q2/16 Toilets at Frank Balance Park</p> <p>Can staff please provide information as to when toilet/s including an accessible toilet be provided/built on the Frank Balance Park site?</p>	Cr Matthews 10 February 2016	Response to be provided at a future meeting.

No	Department	Responsible Officer	Question Asked / Resolution	Meeting Asked/ Councillor	Status
213	Community and Recreation Services	Maxine Kenyon	<p>7.1 Notice of Motion - Remote Piloted Vehicles (RPVs) / Drone Ports</p> <p>1 <i>That, due to the escalating popularity of Remote Piloted Vehicles (RPVs), Council <u>recognise</u> the need to better manage, educate and police their usage.</i></p> <p>2 <i>That Council <u>seek</u> to engage local user groups, key stake holders and regulators to best identify how Council can assist in managing this emerging and innovative industry sector.</i></p> <p>3 <i>That Council <u>review</u> options around possible suitable usage locations/ drone ports, with a view to developing a policy to assist safe recreational and professional usage of these devices.</i></p>	24 February 2016	A report will be provided to Council at the Ordinary Meeting on 27 April 2016.
215	Community and Recreation Services	Maxine Kenyon	<p>7.1 - Notice of Motion - Closure of Wyong Shire RMS Offices</p> <p>1 <i>That Council <u>note</u> with disappointment the decision to reduce motor registry/RMS services on the Central Coast.</i></p> <p>2 <i>That Council <u>advise</u> the State Government that it welcomes the opportunity to partner with the Government to assist in delivering such services across the Central Coast through innovative co-location within Council facilities including The Entrance, Lake Munmorah and Wyong.</i></p> <p>3 <i>That Council <u>encourage</u> Gosford City Council to join in this partnering initiative across the Central Coast region.</i></p>	Cr Best 10 March 2016	Response to be provided at a future meeting.
219	Property and Economic Development	Mike Dowling	<p>9.2 - Confidential Mayoral Minute – The Entrance Town Centre Management Corporation Inc.</p> <p>1 <i>That the Council <u>note</u> resolution 4.2 of the meeting of the Board of The Entrance Town Centre Management Corporation Inc. of 23 February 2016.</i></p> <p>2 <i>That the Council <u>resolve</u> that Council terminate, by agreement or otherwise, the following agreements between Council and The Entrance Town Centre Management Corporation Inc.:</i></p> <p>2.1 <i>Funding Agreement (Events) dated 20 September 2013; and</i></p>	Cr Eaton 10 March 2016	Response to be provided at a future meeting.

No	Department	Responsible Officer	Question Asked / Resolution	Meeting Asked/ Councillor	Status
			<p>2.2 Funding Agreement (Marketing, Promotion and Maintenance) dated 20 September 2013.</p> <p>3 That the Council <u>resolve</u> that no further payments are to be made to The Entrance Town Centre Management Corporation Inc. pursuant to those Funding Agreements, pending a careful and detailed audit of TETCM's compliance with the Funding Agreements to determine whether the public funds provided to TETCM by the Council have been properly accounted for and applied by TETCM.</p> <p>4 That the Council <u>resolve</u> that monies to be paid to The Entrance Town Centre Management Corporation Inc. from the date of this resolution be applied by Council directly to providing the same services and functions that were to have been undertaken for Council by The Entrance Town Centre Management Corporation Inc. pursuant to those Funding Agreements, to ensure continuity of service to the community.</p> <p>5 That the Council <u>note</u> the information set out in this Mayoral Minute.</p> <p>6 That the Council <u>authorise</u> the Acting Chief Executive Officer to enter in to any necessary negotiations with The Entrance Town Centre Management Corporation Inc. to give effect to these resolutions.</p> <p>7 That Council <u>determine</u> that this Mayoral Minute remain confidential in accordance with sub-sections 10A(2)(c), 10A(2)(g), 10B(2) and 11(3) of the Local Government Act 1993, because:</p> <p>7.1 This Mayoral Minute contains information that might, if disclosed, confer a commercial advantage on a person that Council is currently conducting business with; and</p> <p>7.2 This Mayoral Minute includes legal advice to the Council from General Counsel concerning substantive issues which would be privileged from production in legal proceedings on the ground of legal professional privilege.</p>		
220	Property and Economic Development	Mike Dowling	<p>9.3 - Mayoral Minute - 140 Sparks Road, Warnervale</p> <p>That Resolution number 88/16 from the Confidential Session of the Ordinary Council Meeting of 27 January 2016 is <u>amended</u> by <u>deleting</u> the words "conditional upon WSC achieving bio-</p>	Cr Eaton 10 March 2016	Response to be provided at a future meeting.

No	Department	Responsible Officer	Question Asked / Resolution	Meeting Asked/ Councillor	Status
			<i>diversity certification approval by the NSW Minister for the Environment" from that resolution.</i>		
221	Property and Economic Development	Mike Dowling	<p>Q5/16 The Entrance Markets</p> <p><i>"Could staff please advise:</i></p> <ul style="list-style-type: none"> <li><i>• Why the tender for The Entrance Markets was only disclosed to stall holders on the Friday before the tender was released?</i></li> <li><i>• Are The Entrance Markets being moved from The Entrance, if so why?</i></li> <li><i>• Was the decision to move The Entrance Markets to Wyong a Council decision?</i></li> <li><i>• Was the decision to move The Entrance Markets an Entrance Town Centre Management decision?"</i></li> </ul>	Cr Vincent 23 March 2016	Response to be provided at a future meeting.



**QUESTIONS ON NOTICE AND NOTICES OF MOTION REMOVED SINCE  
23 MARCH 2016**

No#	Department	Question on Notice / Notice of Motion	Date Asked/ Councillor	Status
170	Infrastructure and Operations	1.6 Mayoral Minute - Vandalism Reward Doubling	Cr Eaton 26 August 2015	Completed.
186	Infrastructure and Operations	Q42/15 Kanwal Traffic Calming Devices	Cr Best 23 September 2015	Response included on agenda for 13 April 2016 Ordinary Meeting.
216	Development and Building	7.2 Notice of Motion - Five Year Development Consent Period	Cr Best 10 March 2016	Completed. Documentation has been amended to reflect lapsing period of 5 years on all consents.
217	Development and Building	1.6 Mayoral Minute - Light Rail and the Central Coast Regional Plan	Cr Eaton 10 March 2016	The concept of a future light rail public transport link was included in the draft submission to the Draft Central Coast Regional Plan. This submission was included on the agenda for 23 March 2016 Ordinary Meeting.
218	Community and Recreation Services	1.7 Mayoral Minute - Central Coast Tourism Incorporated Funding	Cr Eaton 10 March 2016	Completed.  <i>232/16 - Advise provided to Central Coast Tourism Incorporate Funding on 16 March 2016. Agreement will be extended with negotiated deliverables to 30 June 2017 following Gosford City Council resolution dated 22 March 2016.</i>

## **6.1           Answers to Question on Notice**

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TRIM REFERENCE: F2013/02047 - D12246906   AUTHOR:

### **6.1           Q42/15 - Kanwal Traffic Calming Devices**

The following question was asked by Councillor Greg Best at the Ordinary Meeting on 23 September 2015:

*"Mr Mayor,*

*As the local area Councillor, my question is on behalf of the good folk of Walker Avenue / Braithwaite, Kanwal. I am hearing of outrageous driving behaviour that is endangering public safety, I appreciate it's a policing matter, however could you have staff look into the possibility of installing some traffic calming devices in this area, particularly leading from the high pedestrian area, Kanwal shops?"*

Traffic counts have been compiled along Walker Avenue between Wallarah Road and Craigie Avenue for the period January 12, 2016 to February 1, 2016. The 85<sup>th</sup> percentile speed recorded was 60 km/hour being above the posted limit of 50km/hour. In this regard speeding is a factor to be considered in addition to that of antisocial behaviour. As such Council will undertake planning to prepare a Local Area Traffic Management (LATM) scheme for the Walker Road area with the long term focus being on anti-social behaviour and speeding. The scheme will be a holistic approach to the neighbourhood traffic-related problems and their proposed solutions in the context of the local area, rather than only at isolated locations. The aim of the LATM scheme will be to create safer streets in the local area. As the preparation of an LATM scheme is an intensive process involving community consultation at each step of the way, it may be some time before any physical works can be completed.

## **ATTACHMENTS**

*Nil.*