
WYONG SHIRE COUNCIL

REPORTS TO THE ORDINARY MEETING OF COUNCIL

TO BE HELD IN THE COUNCIL CHAMBER,
WYONG CIVIC CENTRE, HELY STREET, WYONG
ON WEDNESDAY, 10 DECEMBER 2008,
COMMENCING AT 5.00 PM

INDEX

	Opening Prayer	
	Receipt of Apologies	
543	Disclosures of Interest	3
544	Proposed Inspections	4
545	Proposed Briefings.....	5
546	Address by Invited Speakers.....	6
547	Notice of Intention to Deal With Matters in Confidential Session	7
548	Confirmation of Minutes of Previous Meeting.....	8
	 <u>Planning Reports</u>	
549	Proposed Railway Station at Warnervale	40
550	Precinct 7A – Hamlyn Terrace and Warnervale.....	62
551	Proposed Place of Worship, Wadalba	96
552	Proposed Two Lot Subdivision of 7(f) Zoned Land at Glenning Valley.....	120
553	Proposed Animal Establishment at Lot 5 DP 247470 No 5 Old Maitland Road, Kangy Angy.....	133
554	Partial Change of Use from Tourist Accommodation to Permanent Residential at The Entrance	161
555	Draft Amendment No. 177 – Mingara Drive, Tumbi Umbi.....	185
556	Draft LEP (Amendment No. 175) in respect of LEP Bundle 2	197
	 <u>Tender Reports</u>	
557	Contract CPA 116095 - Management of Toukley Aquatic Centre, Wyong Olympic Pool and The Entrance Ocean Baths	210
558	Contract CPA 142295 – Construction of the Mardi High Voltage Power Supply on to Site.....	213

ORDINARY MEETING OF COUNCIL

10 December 2008

INDEX (contd)

	<u>Property Report</u>	
559	Licence to Lions Club of Doyalson Wyee Budgewoi Inc for Use of Part of Lot 1 DP 385077, Scenic Drive, Budgewoi	221
	<u>General Reports</u>	
560	Reconsideration of the Recommended Pipeline Route Corridor for the Mardi-Mangrove Link Project	224
561	Annual \$10,000 Grant to Central Coast Academy of Sport.....	249
562	Commonwealth Government Local Government Infrastructure Grants Funding.....	251
	<u>Committee Report</u>	
563	Minutes of the Wyong Shire Code of Conduct Committee Meetings – 27 May and 11 September 2008	256
	<u>Information Reports</u>	257
564	Clearing of Wetland Areas at Wadalba	258
565	Activities of the Development Assessment Unit.....	267
566	Warnervale Town Centre and Wyong Employment Zone Projects	269
567	Summary of Actions on Council Resolutions and Department of Environment and Climate Change Directions Regarding Landfills.....	274
568	Outstanding Questions Without Notice and Notices of Motion.....	283
	Answers to Questions Without Notice.....	292
	<u>Notices of Motion/Rescission</u>	
569	Notice of Motion – Funding of Installation of Rainwater Tanks.....	298
570	Notice of Motion – Joint Council Meetings with Gosford Council	299
571	Notice of Motion – Woolworths Lake Munmorah Rezoning.....	300
572	Notice of Rescission – Lifeguard Uniform Colours	301

WYONG SHIRE COUNCIL

10 December 2008
To the Ordinary Meeting of Council

General Manager's Report

543 Disclosures of Interest

F2008/01064 ED:SW

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

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

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

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

RECOMMENDATION

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

10 December 2008
To the Ordinary Meeting of Council

General Manager's Report

544 Proposed Inspections

F2008/00003 ED:SW

SUMMARY

There were no Inspections scheduled for the 10 December 2008 Ordinary Meeting at the time of printing the business paper.

RECOMMENDATION

That Council receive the report on Inspections.

WYONG SHIRE COUNCIL

10 December 2008
To the Ordinary Meeting of Council

General Manager's Report

545 Proposed Briefings

F2008/00003 ED:SW

SUMMARY

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

Date	Briefing	Description	Time	Presented by
10 December 2008	Swimming Pools and Lake Haven, Leisure Centre Tender	Briefings on Swimming Pools and Lake Haven, Leisure Centre Tender	10.30 am – 12.30 pm	Manager Contracts
10 December 2008	Warnervale Urban Release Area	Briefing on Precinct 7a, Warnervale Urban Release Area	12.30 pm – 1.30 pm	Team Co-ordinator Future Planning
10 December 2008	Shire Strategic Vision	Briefing on the Shire Strategic Vision consultation and key issues	1.30 pm – 3.30 pm	Manager Community Strategic Vision

RECOMMENDATION

That Council receive the report on proposed briefings.

546 Address by Invited Speakers

F2008/00003 ED:SW

SUMMARY

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

RECOMMENDATION

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

WYONG SHIRE COUNCIL

10 December 2008
To the Ordinary Meeting of Council

General Manager's Report

547 Notice of Intention to Deal With Matters in Confidential Session

F2008/00003 ED:SW

SUMMARY

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

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

RECOMMENDATION

- 1 That Council consider in Confidential Session the following matters in accordance with Section 10A(2)(c) and 10A(2)(g) of the Local Government Act 1993:**

W025 – Contract CPA 127662 – Construction of Mardi Dam Transfer and High Lift Systems

W026 – Child Care Centre and Library Building at Bay Village Road, Bateau Bay

- 2 That Council consider Report No W025 confidentially for the reason that it is information that would, if disclosed, confer a commercial advantage on a person with whom the Council is conducting (or proposes to conduct) business.**
- 3 That Council consider Report No W026 confidentially for the reason that it contains advice concerning litigation or advice that would otherwise be privileged from production in legal proceedings on the ground of legal professional privilege.**
- 4 That Council request the General Manager in accordance with Section 253 of the Local Government Regulations 2005 report on this matter to the meeting in Open Session.**

WYONG SHIRE COUNCIL

10 December 2008
To the Ordinary Meeting of Council

General Manager's Report

548 Confirmation of Minutes of Previous Meeting

F2008/00003 ED:SW

SUMMARY

Confirmation of minutes of the previous Ordinary Meeting of Council held on 26 November 2008.

RECOMMENDATION

That Council confirm the minutes of the previous Ordinary Meeting of Council held on 26 November 2008.

WYONG SHIRE COUNCIL
MINUTES OF THE
ORDINARY MEETING OF COUNCIL
HELD IN THE COUNCIL CHAMBER
WYONG CIVIC CENTRE, HELY STREET, WYONG
ON WEDNESDAY, 26 NOVEMBER 2008,
COMMENCING AT 5.02 PM

PRESENT

COUNCILLORS R L GRAHAM (CHAIRPERSON), G P BEST, D J EATON, E M McBRIDE, J J McNAMARA, L A MATTHEWS, W R SYMINGTON, D P VINCENT, L D WEBSTER AND S A WYNN.

IN ATTENDANCE

GENERAL MANAGER, DIRECTOR SHIRE PLANNING, DIRECTOR CORPORATE SERVICES, DIRECTOR SHIRE SERVICES, MANAGER DEVELOPMENT ASSESSMENT AND TWO ADMINISTRATION STAFF.

ACTING MANAGER CORPORATE AND ADMINISTRATION SERVICES, MANAGER CONTRACTS, MANAGER NATURAL RESOURCES, MANAGER FINANCIAL SERVICES, MANAGER PLANNING LEGAL AND POLICY, MANAGER HEADWORKS, MANAGER COMMUNITY STRATEGIC VISION, PRINCIPAL CORPORATE PLANNER AND SENIOR DEVELOPMENT PLANNER, MAJOR APPLICATIONS.

THE MAYOR SPOKE TO THE MEETING:

- * HE WELCOMED MS MARGARET FISCHER A COUNCILLOR FROM ESSEX COUNTY AND COALCHESTER BOROUGH WHO WAS VISITING HER FAMILY HERE IN AUSTRALIA.
- * HE REPORTED ATTENDED THE AUSTRALIAN COUNCIL OF LOCAL GOVERNMENT HELD ON TUESDAY 18 NOVEMBER 2008 AT PARLIAMENT HOUSE CANBERRA. THE SUMMIT WAS BETWEEN THE PRIME MINISTER MR KEVIN RUDD MP AND THE LOCAL GOVERNMENT MAYORS AT WHICH IT WAS ANNOUNCED THAT WYONG SHIRE COUNCIL WOULD RECEIVE FEDERAL FUNDING OF \$1.5 MILLION AS PART OF THE NEW COMMUNITY INFRASTRUCTURE PROGRAM.
- * HE INFORMED COUNCIL THAT IT WAS WITH DEEP REGRET THAT HE HEARD YESTERDAY OF THE SUDDEN PASSING OF EMPLOYEE PETER ERKES ON FRIDAY 21 NOVEMBER 2008 AND SENT SINCERE CONDOLENCES TO PETER'S WIFE LEANNE AND HER FAMILY ON BEHALF OF COUNCIL.

COUNCIL OBSERVED A ONE MINUTE SILENCE IN REMEMBRANCE OF PETER ERKES.

THE MAYOR, COUNCILLOR GRAHAM, DECLARED THE MEETING OPEN AT 5.02 PM AND ADVISED IN ACCORDANCE WITH THE CODE OF MEETING PRACTICE THAT THE MEETING IS BEING RECORDED.

COUNCILLOR MATTHEWS READ AN ACKNOWLEDGMENT OF COUNTRY STATEMENT.

JOHN HARDWICK DELIVERED THE OPENING PRAYER.

APOLOGIES

THERE WERE NO APOLOGIES.

Minutes of the Ordinary Meeting of Council held on 26 November 2008 (contd)

CONFIDENTIAL REPORTS

THE GENERAL MANAGER ADVISED THAT HE HAD WITHDRAWN THE FOLLOWING REPORTS FROM THE BUSINESS PAPER:

ORDINARY REPORT NO 507 – NOTICE OF INTENTION TO DEAL WITH MATTERS IN CONFIDENTIAL SESSION.

CONFIDENTIAL REPORT NO WA024 – LAND AT TOUKLEY.

ORDER OF BUSINESS

AT THE COMMENCEMENT OF THE ORDINARY MEETING REPORT NOS 503, 504, 505, 506, 512, 510, 520 AND 528, WERE DEALT WITH FIRST THEN THE REMAINING REPORTS IN ORDER. HOWEVER FOR THE SAKE OF CLARITY THE REPORTS ARE RECORDED IN THEIR CORRECT AGENDA SEQUENCE.

503 Disclosures of Interest

F2008/01064 MW:SW

511 - DRAFT DEVELOPMENT CONTROL PLAN 2005: CHAPTER 36 – NORTH WYONG INDUSTRIAL AREA
COUNCILLOR EATON DECLARED A NON PECUNIARY SIGNIFICANT CONFLICT OF INTEREST IN THE MATTER FOR THE REASON THAT HE IS A DIRECTOR OF A COMPANY WITH LAND IN THE DEVELOPMENT CONTROL PLAN AREA, LEFT THE CHAMBER AT 7:59 PM, TOOK NO PART IN DISCUSSION, DID NOT VOTE AND RETURNED TO THE CHAMBER AT 8:03 PM.

523 - ANNUAL REPORT TO THE MINISTER FOR LOCAL GOVERNMENT

COUNCILLOR EATON DECLARED A NON PECUNIARY SIGNIFICANT CONFLICT OF INTEREST IN THE MATTER FOR THE REASON THAT HE IS A DIRECTOR OF A COMPANY MENTIONED IN THE REPORT, LEFT THE CHAMBER AT 8:39 PM, TOOK NO PART IN DISCUSSION, DID NOT VOTE AND RETURNED TO THE CHAMBER AT 8:40 PM.

539 - NOTICE OF MOTION – TUMBI ROAD POWERLINE POLLUTION

COUNCILLOR WEBSTER DECLARED A NON PECUNIARY INSIGNIFICANT CONFLICT OF INTEREST IN THE MATTER FOR THE REASON THAT SHE IS A RESIDENT IN THE AREA AND PARTICIPATED IN CONSIDERATION OF THIS MATTER.

COUNCILLOR WEBSTER 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 BEING A RESIDENT HAS NOT INFLUENCED MY JUDGEMENT."

539 - NOTICE OF MOTION – TUMBI ROAD POWERLINE POLLUTION

THE DIRECTOR SHIRE PLANNING DECLARED A NON-PECUNIARY SIGNIFICANT CONFLICT OF INTEREST IN THE MATTER, FOR THE REASON THAT SHE IS A RESIDENT OF THIS AREA AND HAS REPRESENTED HER STREET AS A MEMBER OF THE RESIDENT FOCUS GROUP ADVISING ENERGYAUSTRALIA, REMAINED IN THE CHAMBER BUT DID NOT PARTICIPATE IN CONSIDERATION OF THIS MATTER.

Minutes of the Ordinary Meeting of Council held on 26 November 2008 (contd)

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

That the report be received and advice of disclosures noted.

FOR: COUNCILLORS BEST, EATON, GRAHAM, McBRIDE, McNAMARA, MATTHEWS, SYMINGTON, VINCENT, WEBSTER AND WYNN.

AGAINST: NIL.

504 Proposed Inspections

F2008/00003 MW:SW

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

That Council receive the report on inspections and briefings conducted on Wednesday, 19 November 2008.

FOR: COUNCILLORS BEST, EATON, GRAHAM, McBRIDE, McNAMARA, MATTHEWS, SYMINGTON, VINCENT, WEBSTER AND WYNN.

AGAINST: NIL.

505 Proposed Briefings

F2008/00003 MW:SW

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

That Council receive the report on proposed briefings with the exclusion of the Hunter Valley Research Foundation briefing.

FOR: COUNCILLORS BEST, EATON, GRAHAM, McBRIDE, McNAMARA, MATTHEWS, SYMINGTON, VINCENT, WEBSTER AND WYNN.

AGAINST: NIL.

Minutes of the Ordinary Meeting of Council held on 26 November 2008 (contd)

506 Address by Invited Speakers

F2008/00003 MW:SW

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

- 1 That Council receive the amended report on Invited Speakers and the information noted.**
- 2 That Council agree standing orders be varied to allow Director's and General Manager reports to be dealt with following the speaker's address.**

FOR: COUNCILLORS BEST, EATON, GRAHAM, McBRIDE, McNAMARA, MATTHEWS, SYMINGTON, VINCENT, WEBSTER AND WYNN.

AGAINST: NIL.

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

That standing orders be varied to enable item 512 – Proposed Managed Resort and Residential Development, The Entrance Road West, The Entrance to be considered.

FOR: COUNCILLORS BEST, EATON, GRAHAM, McBRIDE, McNAMARA, MATTHEWS, SYMINGTON, VINCENT, WEBSTER AND WYNN.

AGAINST: NIL.

507 Notice of Intention to Deal With Matters in Confidential Session

F2008/00003 ED:MR

THE GENERAL MANAGER ADVISED THAT THIS ITEM HAS BEEN WITHDRAWN.

508 Confirmation of Minutes of Previous Meeting

F2008/00003 MW:SW

COUNCILLOR MATTHEWS LEFT THE CHAMBER AT 7.54 PM AND RETURNED TO THE CHAMBER AT 7.57 PM AND AS A RESULT TOOK NO PART IN VOTING.

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

That Council confirm the minutes of the previous Ordinary Meeting of Council held on 12 November 2008.

Minutes of the Ordinary Meeting of Council held on 26 November 2008 (contd)

FOR: COUNCILLORS BEST, EATON, GRAHAM, McBRIDE, McNAMARA, SYMINGTON, VINCENT, WEBSTER AND WYNN.

AGAINST: NIL.

BUSINESS ARISING FROM THE MINUTES

THERE WAS NO BUSINESS ARISING FROM THE MINUTES.

509 State of the Shire 2008-09 Report

F2004/06956 DM:DM

COUNCILLOR MATTHEWS LEFT THE CHAMBER AT 7.54 PM AND RETURNED TO THE CHAMBER AT 7.57 PM DURING CONSIDERATION OF THIS ITEM.

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

- 1 That Council adopt the State of the Shire 2008-09 report.***
- 2 That Council distribute the State of the Shire Report widely throughout the Shire, including but not limited to;***
 - Government and Non-government Agencies***
 - Schools and University***
 - Precinct Committees and Progress Associations***
 - Chambers of Commerce***
 - Community Organisations***
 - Members of Parliament.***
- 3 That Council approach the Premier's Department seeking a staff presentation of the State of the Shire Report to the Regional Coordination Management Group (ie heads of government agencies).***

FOR: COUNCILLORS BEST, EATON, GRAHAM, McBRIDE, McNAMARA, MATTHEWS, SYMINGTON, VINCENT, WEBSTER AND WYNN.

AGAINST: NIL.

Minutes of the Ordinary Meeting of Council held on 26 November 2008 (contd)

**510 Proposed Boundary Adjustment at Lots 101 and 103 DP 806178
Corona Lane, Glenning Valley**

DA/408/2008 MLG

COUNCILLOR BEST LEFT THE CHAMBER AT 5.36 PM AND RETURNED TO THE CHAMBER AT 5.37 PM DURING CONSIDERATION OF THIS ITEM.

COUNCILLOR WYNN LEFT THE CHAMBER AT 5.47 PM AND RETURNED TO THE CHAMBER AT 5.48 PM DURING CONSIDERATION OF THIS ITEM.

COUNCILLOR VINCENT LEFT THE CHAMBER AT 5.53 PM AND RETURNED TO THE CHAMBER AT 5.55 PM DURING CONSIDERATION OF THIS ITEM.

MRS HELEN MONKS, HIGHLIGHT CONSULTING, REPRESENTING THE OWNER, ADDRESSED THE MEETING AT 5.36 PM, ANSWERED QUESTIONS AND RETIRED AT 5.50 PM.

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

- 1 *That Council advise the applicant it favours the application.*
- 2 *That Council defer determination of the application and obtain legal advice on the necessity for seeking concurrence from the Department of Planning.*
- 3 *That Council consider a further report listing appropriate conditions to be attached to a development approval.*

The MOTION was put to the vote and declared LOST.

FOR: COUNCILLORS BEST, EATON, GRAHAM AND McNAMARA.

AGAINST: COUNCILLORS McBRIDE, MATTHEWS, SYMINGTON, VINCENT, WEBSTER AND WYNN.

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

- 1 ***That Council refer the application to the General Manager for determination having regard to the matters for consideration detailed in Section 79C of the Environmental Planning and Assessment Act and other relevant issues with an indication that based on the information available to it, Council favours refusal of the application subject to appropriate reasons for refusal.***
- 2 ***That Council not support the use of State Environmental Planning Policy No 1 in order to vary the subdivision standards of Wyong Local Environmental Plan 1991.***

FOR: COUNCILLORS GRAHAM, McBRIDE, McNAMARA, MATTHEWS, SYMINGTON, VINCENT, WEBSTER AND WYNN.

AGAINST: COUNCILLORS BEST AND EATON.

Minutes of the Ordinary Meeting of Council held on 26 November 2008 (contd)

511 Draft Development Control Plan 2005: Chapter 36 – North Wyong Industrial Area

F2008/01224 DAL:JD

COUNCILLOR EATON DECLARED A NON PECUNIARY SIGNIFICANT CONFLICT OF INTEREST IN THE MATTER FOR THE REASON THAT HE IS A DIRECTOR OF A COMPANY WITH LAND IN THE DEVELOPMENT CONTROL PLAN AREA, LEFT THE CHAMBER AT 7:59 PM, TOOK NO PART IN DISCUSSION, DID NOT VOTE AND RETURNED TO THE CHAMBER AT 8:03 PM.

COUNCILLOR McBRIDE LEFT THE CHAMBER AT 8.02 PM AND RETURNED TO THE CHAMBER AT 8.05 PM AND AS A RESULT TOOK NO PART IN VOTING.

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

- 1 That Council adopt draft Development Control Plan 2005: Chapter 36 – North Wyong Industrial Area and appropriate public notice be given within 28 days that the draft Chapter will come into effect as Chapter 36 within Development Control Plan 2005 on 1 December 2008.***
- 2 That Council publicise the major changes and that the provisions of the adopted Chapter will be operational, and applied to all relevant Development Applications received from 1 December 2008.***
- 3 That Council forward the Development Control Plan 2005 containing the amended Chapter 36 to the Director General of the NSW Department of Planning within 28 days.***
- 4 That Council annotate relevant s149 Certificates as to the adoption of Chapter 36.***
- 5 That Council advise all those who made submissions of its decision.***

FOR: COUNCILLORS BEST, GRAHAM, McNAMARA, MATTHEWS, SYMINGTON, VINCENT, WEBSTER AND WYNN.

AGAINST: NIL.

Minutes of the Ordinary Meeting of Council held on 26 November 2008 (contd)

512 Proposed Managed Resort and Residential Development, The Entrance Road West, The Entrance

DA/2660/2004 DD:JD

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

- 1 That Council defer the application for discussion between the applicant and Council with the indication that:**
 - a Council supports the development of the site as a managed resort facility in accordance with the long-term strategic planning for the area.**
 - b Council recognises the significance of the proposed private investment in the Shire and the resulting potential for increased tourism and job creation.**
- 2 That a comprehensive briefing of the Councillors by the applicant and by staff be arranged as soon as possible and the applicant be requested to address the items mentioned in the Executive Summary of the GMUrban Design and Architecture report dated September 2006.**
- 3 That this matter be reported back to Council no later than 31 March 2009.**

FOR: COUNCILLORS BEST, EATON, GRAHAM, McBRIDE, McNAMARA, MATTHEWS, VINCENT, WEBSTER AND WYNN.

AGAINST: COUNCILLOR SYMINGTON.

513 Contract CPA 135454 - Investigation and Design - Toe Drainage Structure - Cabbage Tree Harbour

CPA 135454 GHK

COUNCILLOR McBRIDE LEFT THE CHAMBER AT 8.02 PM AND RETURNED TO THE CHAMBER AT 8.05 PM AND AS A RESULT TOOK NO PART IN VOTING.

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

- 1 That Council approve the four urgent variations already directed with respect to Contract CPA 135454 in the amount of \$142,900.00 (excl GST).**
- 2 That Council approve the contract variation in the amount of \$59,161.70 (excl GST) to allow completion of the pre-construction works and assistance during construction as detailed in Attachment 1.**

Minutes of the Ordinary Meeting of Council held on 26 November 2008 (contd)

FOR: COUNCILLORS BEST, EATON, GRAHAM, McNAMARA, MATTHEWS, SYMINGTON, VINCENT, WEBSTER AND WYNN.

AGAINST: NIL.

514 Contract Variations

F2007/01410 GP

COUNCILLOR McBRIDE LEFT THE CHAMBER AT 8.02 PM AND RETURNED TO THE CHAMBER AT 8.05 PM DURING CONSIDERATION OF THIS ITEM.

COUNCILLOR SYMINGTON LEFT THE CHAMBER AT 8.14 PM AND RETURNED TO THE CHAMBER AT 8.15 PM DURING CONSIDERATION OF THIS ITEM.

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

That Council approve additional contingency amounts for the following contracts to provide for further potential variations (values are excl GST).

- ***Design and Documentation For Mardi Water Transfer System and Dam Raising*** CPA/112242 \$10,000.00
- ***Documentation Concept and Detailed Design and Mardi High Lift Pump Station*** CPA/108619 \$10,000.00
- ***Supply and Installation of Switch Control Assemblies and Associated Work for Lower Wyong River Water Pump Station No 1*** CPA/122601 \$10,000.00
- ***Lower Wyong River to Mardi Upgrade Pump Station No 1 – Construction of High Voltage Power Supply*** CPA/123594 \$10,000.00
- ***Design and Construction - Woongarra Sportsground*** CPA/94559 \$20,000.00
- ***Intersection Upgrade – Warnervale and Minnesota Roads*** CPA/137955 \$60,000.00
- ***Warnervale Water Supply And Sewerage Review of Environmental Factors*** CPA/122995 \$40,000.00

FOR: COUNCILLORS BEST, EATON, GRAHAM, McBRIDE, McNAMARA, MATTHEWS, SYMINGTON, VINCENT, WEBSTER AND WYNN.

AGAINST: NIL.

Minutes of the Ordinary Meeting of Council held on 26 November 2008 (contd)

515 Proposed Lease to the Scout Association of Australia of Lot 102 DP 635277 at 10 Levitt Street, Wyong

F2004/08838 JMT

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

- 1 That Council renew the lease to the Scout Association of Australia of Lot 102 DP 635277 at 10 Levitt Street, Wyong for a period of five years at nominal rent.**
- 2 That Council authorise the Common Seal of the Wyong Shire Council to be affixed to the Lease Agreement between Wyong Shire Council and the Scout Association of Australia.**
- 3 That Council authorise the Mayor and the General Manager to execute all documents relating to the Lease Agreement.**

FOR: COUNCILLORS BEST, EATON, GRAHAM, McBRIDE, McNAMARA, MATTHEWS, SYMINGTON, VINCENT, WEBSTER AND WYNN.

AGAINST: NIL.

516 Proposed Acquisition of Private Land at Yarramalong Road, Wyong Creek and Boyds Lane Wyong Creek for Road Widening

F2008/02123 F20008/02124 SB

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

- 1 That Council acquire part of Lot 122 DP 877259 Yarramalong Road, Wyong Creek and part of Lot 129 DP 755271 Boyds Lane, Wyong Creek as public road.**
- 2 That Council authorise the payment of compensation if necessary for the acquisitions of the land in Item 1 in accordance with the Land Acquisition (Just Terms Compensation) Act 1991 and based on assessment by a qualified valuer.**
- 3 That Council proceed to compulsorily acquire the land in Item 1 in the event that negotiations with the property owners cannot be satisfactorily resolved.**
- 4 That Council authorise the Common Seal of Wyong Shire Council to be affixed to formal documentation required to complete the transfer.**

Minutes of the Ordinary Meeting of Council held on 26 November 2008 (contd)

- 5** *That Council authorise the Mayor and the General Manager to execute all documents relating to the Transfer and/or Plan and all documents relating to the applications to the Department of Local Government.*

FOR: COUNCILLORS BEST, EATON, GRAHAM, McBRIDE, McNAMARA, MATTHEWS, SYMINGTON, VINCENT, WEBSTER AND WYNN.

AGAINST: NIL.

517 **Surrender of Lease and New Lease to Vodafone Network Pty Ltd of Part Lots 69, 70 and 71 DP 20749 at Long Jetty**

F2004/08734 JMT

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

- 1** *That Council accept the surrender of the current lease of part of Lots 69, 70 and 71 DP 20749 at the Reservoir, Gilbert Street, Long Jetty to Vodafone Network Pty Ltd.*
- 2** *That Council grant a new lease commencing on 1 January 2008, on similar terms to the existing lease, of part of Lots 69, 70 and 71 DP 20749 at the Reservoir, Gilbert Street, Long Jetty to Vodafone Network Pty Ltd until 31 December 2019.*
- 3** *That Council authorise the Common Seal of Wyong Shire Council to be affixed to formal documentation required to complete the transfer.*
- 4** *That Council authorise the Mayor and General Manager to execute all documents.*

FOR: COUNCILLORS BEST, EATON, GRAHAM, McBRIDE, McNAMARA, MATTHEWS, SYMINGTON, VINCENT, WEBSTER AND WYNN.

AGAINST: NIL.

518 **Acquisition of Easement for Water Supply over Land in Crown Plan 7064-3070 at Chain Valley Bay**

F2008/01213 JMT

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

- 1** *That Council acquire an easement for water supply 5.0m wide over land in Crown Plan 7064-3070 Chain Valley Bay Road, Chain Valley Bay.*

Minutes of the Ordinary Meeting of Council held on 26 November 2008 (contd)

- 2 That Council authorise the payment of compensation, if necessary, for the acquisition of the easement in Item 1 in accordance with the Land Acquisition (Just Terms Compensation) Act 1991 and based on assessment by a qualified valuer.**
- 3 That Council proceed to compulsorily acquire the easement in the event that negotiations with the property owner cannot be satisfactorily resolved or in the event that the property owner cannot be identified.**
- 4 That Council authorise the Common Seal of Wyong Shire Council to be affixed to formal documentation required to complete the transfer.**
- 5 That Council authorise the Mayor and the General Manager to execute all documents relating to the Transfer Granting Easement and/or Plan and all documents relating to the applications to the Department of Water and Energy.**

FOR: COUNCILLORS BEST, EATON, GRAHAM, McBRIDE, McNAMARA, MATTHEWS, SYMINGTON, VINCENT, WEBSTER AND WYNN.

AGAINST: NIL.

519 Tuggerah Lakes Estuary Coastal and Floodplain Management Committee - Trees of Cultural Significance at Budgewoi East

F2004/06954, F2004/07986 PJK:PJK

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

- 1 That Council endorse the listing of the large stand of old growth paperbark trees, located at East Budgewoi, as Trees of Cultural Significance.**
- 2 That Council amend its Legal and Policy Works Program to incorporate a revision to Development Control Plan 2005, Chapter 14 to list the relevant vegetation as Trees of Cultural Significance.**

FOR: COUNCILLORS BEST, EATON, GRAHAM, McBRIDE, McNAMARA, MATTHEWS, SYMINGTON, VINCENT, WEBSTER AND WYNN.

AGAINST: NIL.

Minutes of the Ordinary Meeting of Council held on 26 November 2008 (contd)

520 Presentation on 2007-08 Annual Financial Reports

F2008/00864 SG

MR DENNIS BANICEVIC, EXTERNAL AUDITOR, ADDRESSED THE MEETING AT 6.13 PM, ANSWERED QUESTIONS AND RETIRED AT 6.33 PM.

COUNCILLOR BEST LEFT THE CHAMBER AT 6.34 PM AND RETURNED TO THE CHAMBER AT 6.35 PM DURING CONSIDERATION OF THIS ITEM.

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

- 1 That Council present the Audited Financial Reports for 2007-08 in accordance with the Local Government Act 1993.**
- 2 That Council invite the External Auditor, Mr Dennis Banicevic (representing Price Waterhouse Coopers) to present the Auditor's report on Council's Annual Financial Reports for 2007-08.**

FOR: COUNCILLORS BEST, EATON, GRAHAM, McBRIDE, McNAMARA, MATTHEWS, SYMINGTON, VINCENT, WEBSTER AND WYNN.

AGAINST: NIL.

521 Proposed Grants Funding Changes

F2008/02110 F2004/06624 ED

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

- 1 That Council adopt the proposed Charter for the Wyong Shire Grants Committee.**
- 2 That Council elect Committee representatives, for the term of Council, in accordance with the Charter.**
- 3 That Council use its Code of Meeting Practice to conduct all business of the Wyong Shire Grants Committee.**
- 4 That Council adopt the amended Policy C5 Councillor's Community Improvement Grants.**
- 5 That Council appoint Councillors Eaton, Matthews and Vincent as delegates to the Wyong Shire Grants Committee.**

FOR: COUNCILLORS BEST, EATON, GRAHAM, McBRIDE, McNAMARA, MATTHEWS, SYMINGTON, VINCENT, WEBSTER AND WYNN.

AGAINST: NIL.

Minutes of the Ordinary Meeting of Council held on 26 November 2008 (contd)

522 Councillor Workshop

F2004/06466 KMA

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

That Council approve a strategic workshop for Councillors to be held at Nelson Bay on 6 February to 8 February 2009.

FOR: COUNCILLORS BEST, EATON, GRAHAM, McBRIDE, McNAMARA, MATTHEWS, SYMINGTON, VINCENT, WEBSTER AND WYNN.

AGAINST: NIL.

523 Annual Report to the Minister for Local Government

F2008/01498 SG

COUNCILLOR EATON DECLARED A NON PECUNIARY SIGNIFICANT CONFLICT OF INTEREST IN THE MATTER FOR THE REASON THAT HE IS A DIRECTOR OF A COMPANY MENTIONED IN THE REPORT, LEFT THE CHAMBER AT 8:39 PM, TOOK NO PART IN DISCUSSION, DID NOT VOTE AND RETURNED TO THE CHAMBER AT 8:40 PM.

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

- 1 That Council adopt the Annual Report for 2007-08.***
- 2 That Council give notice, in accordance with clause 38(c) of the "Code of Meeting Practice", of the intention to post a copy of the Annual Report on Council's website and provide a copy to the Department of Local Government before the statutory reporting date of 30 November 2008.***

FOR: COUNCILLORS BEST, GRAHAM, McBRIDE, McNAMARA, MATTHEWS, SYMINGTON, VINCENT, WEBSTER AND WYNN.

AGAINST: NIL.

Minutes of the Ordinary Meeting of Council held on 26 November 2008 (contd)

524 Review of Council's Project Management Processes

F2007/01410 GHK

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

- 1 That Council defer the engagement of a consultant until after such time as Blue Visions Management Pty Ltd have completed the implementation of the current contract and staff training has been conducted for a minimum of 6 months.**
- 2 That Council request a staff report on the Blue Visions Management Pty Ltd project including a copy of their brief.**

FOR: COUNCILLORS BEST, EATON, GRAHAM, McBRIDE, McNAMARA, MATTHEWS, SYMINGTON, VINCENT, WEBSTER AND WYNN.

AGAINST: NIL.

525 Adoption of Amendments to the 2008-09 Management Plan

F2004/07006 NS:BR

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

- 1 That the 2008-09 Management Plan be amended by incorporating additional expenditure of \$1,040,000 for the design, investigation and approval of a number of capital works projects including the upgrading of Darren Kennedy Oval, floodlighting, subsoil drainage, playground construction, and surf club refurbishments/rebuilding works.**
- 2 That Council acknowledge that if recommendation 1 is adopted, that Item 6 of the resolution of Council at its meeting held on 23 July 2008 will also need to be considered for funding during the development of the Management Plans in 2009-10-11 to complete the remaining \$6,090,000 in construction works.**
- 3 That Council note that staff have explored where matching or other grants could be sourced and that details of funding sources are contained within this report.**
- 4 That Council adopt the lists of works and timetables as contained in this report (including adopting staff recommendations for minor changes to the \$7.13 Million funding split between the lists of works) for consideration for implementation, subject to the timing and availability of revenue.**

Minutes of the Ordinary Meeting of Council held on 26 November 2008 (contd)

- 5** *That Council's Section 13 of the Fees and Charges in the 2008-09 Revenue Policy be amended to exempt school canteens operated by the P&C or P&F Committee from Fee 13.1 Food Shops Annual Administration Charge, Fee 13.2 Improvement Notice Served Under Food Act and Fee 13.3 Reinspection.*

FOR: COUNCILLORS BEST, EATON, GRAHAM, McBRIDE, McNAMARA, MATTHEWS, SYMINGTON, VINCENT, WEBSTER AND WYNN.

AGAINST: NIL.

526 **2008-09 Management Plan – September 2008 Quarter Review**

F2004/07006 BR

COUNCILLOR WYNN LEFT THE CHAMBER AT 8.47 PM AND RETURNED TO THE CHAMBER AT 8.49 PM DURING CONSIDERATION OF THIS ITEM.

COUNCILLOR WEBSTER LEFT THE CHAMBER AT 8.50 PM AND RETURNED TO THE CHAMBER AT 8.51 PM DURING CONSIDERATION OF THIS ITEM.

COUNCILLOR VINCENT LEFT THE CHAMBER AT 8.55 PM AND RETURNED TO THE CHAMBER AT 8.58 PM AND AS A RESULT TOOK NO PART IN VOTING.

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

- 1*** *That Council receive and note the report and endorse budget amendments proposed in this report.*
- 2*** *That Council note the advice from Council's Responsible Accounting Officer that in accordance with the Local Government (General) Regulation 2005 (Part 9 Division 3; Clause 203) that Council's financial position is satisfactory.*

FOR: COUNCILLORS BEST, EATON, GRAHAM, McBRIDE, McNAMARA, MATTHEWS, SYMINGTON, WEBSTER AND WYNN.

AGAINST: NIL.

Minutes of the Ordinary Meeting of Council held on 26 November 2008 (contd)

**527 Minutes of the Wyong Shire Governance Committee Meeting –
12 November 2008**

F2004/07245 MW:SW

COUNCILLOR VINCENT LEFT THE CHAMBER AT 8.55 PM AND RETURNED TO THE CHAMBER AT 8.58 PM DURING CONSIDERATION OF THIS ITEM.

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

That Council receive the minutes of the Wyong Shire Governance Committee meeting held on 12 November 2008 and the recommendations contained therein be adopted.

FOR: COUNCILLORS BEST, EATON, GRAHAM, McBRIDE, McNAMARA, MATTHEWS, SYMINGTON, VINCENT, WEBSTER AND WYNN.

AGAINST: NIL.

**528 Minutes of the Gosford/Wyong Councils' Water Authority
Board Meeting – 19 November 2008**

F2004/06390 ED

COUNCILLOR McNAMARA LEFT THE CHAMBER AT 6.35 PM AND RETURNED TO THE CHAMBER AT 6.36 PM DURING CONSIDERATION OF THIS ITEM.

COUNCILLOR BEST LEFT THE CHAMBER AT 6.34 PM AND RETURNED TO THE CHAMBER AT 6.35 PM DURING CONSIDERATION OF THIS ITEM.

COUNCILLOR VINCENT LEFT THE CHAMBER AT 7.19 PM AND RETURNED TO THE CHAMBER AT 7.20 PM DURING CONSIDERATION OF THIS ITEM.

COUNCILLOR MATTHEWS LEFT THE CHAMBER AT 7.54 PM AND RETURNED TO THE CHAMBER AT 7.57 PM AND AS A RESULT TOOK NO PART IN VOTING ON ITEM WA008.

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

That Council receive the minutes of the Gosford/Wyong Councils' Water Authority Board meeting held on 19 November 2008 and the recommendations contained therein be adopted with the exception of items WA004, WA006, WA007 and WA008.

FOR: COUNCILLORS BEST, EATON, GRAHAM, McBRIDE, McNAMARA, MATTHEWS, SYMINGTON, VINCENT, WEBSTER AND WYNN.

AGAINST: NIL.

Minutes of the Ordinary Meeting of Council held on 26 November 2008 (contd)

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

That Council resolve in respect to Item WA004:

- 1 *That, for Sector 3, the pipeline route corridor be amended to a minor extent, from the previously approved 'white' route, to the alternative 'blue' route, as depicted on Enclosure 1.*
- 2 *That, for Sector 6 the 'green' road route be adopted as the pipeline route corridor.*
- 3 *That, for both Sector 3 and Sector 6, work proceeds to acquire the necessary easements and to finalise the pre-construction activities necessary to allow for the calling of tenders for construction of the Mardi to Mangrove Link Project, including the pipeline from Mardi Dam to Mangrove Dam.*

An AMENDMENT was MOVED by Councillor SYMINGTON and SECONDED by Councillor McNAMARA:

That Council defer a decision pending an inspection by Councillors of specifically Sector 6, but also embracing the whole route and if possible more accurate costings be supplied for the 'green route'.

The AMENDMENT was put to the vote and declared CARRIED.

FOR: COUNCILLORS GRAHAM, McBRIDE, McNAMARA, MATTHEWS, SYMINGTON, VINCENT AND WEBSTER.

AGAINST: COUNCILLORS BEST, EATON AND WYNN.

The AMENDMENT became the MOTION.

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

That Council defer a decision pending an inspection by Councillors of specifically Sector 6, but also embracing the whole route and if possible more accurate costings be supplied for the 'green route'.

FOR: COUNCILLORS EATON, GRAHAM, McBRIDE, McNAMARA, MATTHEWS, SYMINGTON, VINCENT, WEBSTER AND WYNN.

AGAINST: COUNCILLOR BEST.

Minutes of the Ordinary Meeting of Council held on 26 November 2008 (contd)

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

That Council resolve in respect to Item WA006:

That Council defer the matter and Gosford/Wyong Councils' Water Authority Board be asked to reconsider this matter in light of the Federal rebate program and to consider ways to create further incentives for existing tank to be internally connected.

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

That Council resolve in respect to Item WA006:

- 1 To adopt the alternative rainwater tank rebate program as outlined in Table 7.*
- 2 That a further report be brought back to the Authority to outline what additional incentives could be given to encourage the installation of rainwater tanks connected internally by increasing rebates.*

The AMENDMENT was put to the vote and declared CARRIED.

FOR: COUNCILLORS GRAHAM, McBRIDE, McNAMARA, MATTHEWS, SYMINGTON, VINCENT, WEBSTER AND WYNN.

AGAINST: COUNCILLORS BEST AND EATON.

The AMENDMENT became the MOTION.

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

That Council resolve in respect to Item WA006:

- 1 To adopt the alternative rainwater tank rebate program as outlined in Table 7.***
- 2 That a further report be brought back to the Authority to outline what additional incentives could be given to encourage the installation of rainwater tanks connected internally by increasing rebates.***

Minutes of the Ordinary Meeting of Council held on 26 November 2008 (contd)

FOR: COUNCILLORS GRAHAM, McBRIDE, McNAMARA, MATTHEWS, SYMINGTON,
VINCENT, WEBSTER AND WYNN.

AGAINST: COUNCILLORS BEST AND EATON.

It was MOVED by Councillor EATON:

That Council resolve in respect to Item WA007:

To allow the existing development approvals for the beach temporary desalination sites to lapse on 24 January 2009.

The MOTION lapsed for want of a SECONDER.

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

That Council resolve in respect to Item WA007:

- 1 To withdraw the existing development application with Wyong Shire Council (no. 632/2007) for the construction and operation of an 8ML/d temporary desalination plant at Mannering Park.**
- 2 To allow the existing development approvals for the beach temporary desalination sites to lapse on 24 January 2009.**

FOR: COUNCILLORS BEST, GRAHAM, McBRIDE, McNAMARA, MATTHEWS, SYMINGTON,
VINCENT, WEBSTER AND WYNN.

AGAINST: COUNCILLOR EATON.

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

That Council, in respect to Item WA008 and subject to agreement by Gosford City Council;

- 1 Amend level 2b restrictions, as detailed in attachment 2, and implement from 1 March 2009 while still keeping voluntary residential targets at 150 litres per person per day.*
- 2 Replace the current water banking scheme by the water restriction exemption process.*
- 3 Conduct a media campaign to explain the situation and to increase awareness of the ongoing need to manage water usage.*

Minutes of the Ordinary Meeting of Council held on 26 November 2008 (contd)

An AMENDMENT was MOVED by Councillor BEST:

That Council advise the Water Authority that;

- 1 This Council favours the retention of the current water restriction levels.*
- 2 The trigger level process be revised to reflect a more conservative approach.*

The AMENDMENT lapsed for want of a SECONDER.

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

That Council, in respect to Item WA008 and subject to agreement by Gosford City Council:

- 1 Amend level 2b restrictions, as detailed in attachment 2, and implement from 1 March 2009 while still keeping voluntary residential targets at 150 litres per person per day.***
- 2 Replace the current water banking scheme by the water restriction exemption process.***
- 3 Conduct a media campaign to explain the situation and to increase awareness of the ongoing need to manage water usage.***

FOR: COUNCILLORS EATON, GRAHAM, McBRIDE, McNAMARA, VINCENT, WEBSTER AND WYNN.

AGAINST: COUNCILLORS BEST AND SYMINGTON.

Information Reports

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

That with the exception of report numbers 531 and 532 the information reports be received and the recommendations adopted.

FOR: COUNCILLORS BEST, EATON, GRAHAM, McBRIDE, McNAMARA, MATTHEWS, SYMINGTON, VINCENT, WEBSTER AND WYNN.

AGAINST: NIL.

Minutes of the Ordinary Meeting of Council held on 26 November 2008 (contd)

529 Activities of the Development Assessment Unit

F2004/07830 JD:JD

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

That Council receive the report on Activities of the Development Assessment Unit.

FOR: COUNCILLORS BEST, EATON, GRAHAM, McBRIDE, McNAMARA, MATTHEWS, SYMINGTON, VINCENT, WEBSTER AND WYNN.

AGAINST: NIL.

530 Results of Water Quality Testing for Bathing Beaches

F2004/06822 JS:JD

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

That Council received the report on Results of Water Quality Testing for Bathing Beaches.

FOR: COUNCILLORS BEST, EATON, GRAHAM, McBRIDE, McNAMARA, MATTHEWS, SYMINGTON, VINCENT, WEBSTER AND WYNN.

AGAINST: NIL.

531 Report on Investments – September and October 2008

F2004/06604 SJG

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

That Council receive the report on Investments for September and October 2008.

FOR: COUNCILLORS BEST, EATON, GRAHAM, McBRIDE, McNAMARA, MATTHEWS, SYMINGTON, VINCENT, WEBSTER AND WYNN.

AGAINST: NIL.

Minutes of the Ordinary Meeting of Council held on 26 November 2008 (contd)

532 Maintenance of Stormwater Treatment Devices

F2004/00165 KEG

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

That Council receive the report on the maintenance of stormwater treatment devices.

FOR: COUNCILLORS BEST, EATON, GRAHAM, McBRIDE, McNAMARA, MATTHEWS, SYMINGTON, VINCENT, WEBSTER AND WYNN.

AGAINST: NIL.

533 Water and Sewerage – Works in Progress

F2004/07830 IC:DP

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

That Council receive the report on Water and Sewerage – Works in Progress.

FOR: COUNCILLORS BEST, EATON, GRAHAM, McBRIDE, McNAMARA, MATTHEWS, SYMINGTON, VINCENT, WEBSTER AND WYNN.

AGAINST: NIL.

534 General Works in Progress Report

F2004/07830 JEM

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

That Council receive the general works in progress report.

FOR: COUNCILLORS BEST, EATON, GRAHAM, McBRIDE, McNAMARA, MATTHEWS, SYMINGTON, VINCENT, WEBSTER AND WYNN.

AGAINST: NIL.

Minutes of the Ordinary Meeting of Council held on 26 November 2008 (contd)

536 Outstanding Questions Without Notice and Notices of Motion

F2008/00003 SG

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

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

FOR: COUNCILLORS BEST, EATON, GRAHAM, McBRIDE, McNAMARA, MATTHEWS, SYMINGTON, VINCENT, WEBSTER AND WYNN.

AGAINST: NIL.

537 Notice of Motion – Affordable Housing

F2004/09609 SW

COUNCILLOR BEST LEFT THE CHAMBER AT 9.18 PM AND RETURNED TO THE CHAMBER AT 9.32 PM DURING CONSIDERATION OF THIS ITEM.

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

- 1 *That Council acknowledge that adequate, safe, secure and affordable housing is a human right:*
- 2 *That Council note, however, that the NSW State Government currently empowers only two councils, via SEPP 70, to levy affordable housing contributions as a condition of development approval.*
- 3 *That Council therefore urge the State Government to:*
 - a *categorise the provision of affordable housing as 'key community infrastructure' in planning legislation; and*
 - b *support the Environmental Planning and Assessment Amendment (Affordable Housing Development Contributions) Bill 2008, moved by Greens MLC Sylvia Hale, which is currently before the NSW Legislative Council.*
- 4 *That Council note that the Affordable Housing Bill would enable Council to levy developer contributions for affordable housing where:*
 - *Council has identified a need within the Local Government Area for more affordable housing to support objectives for community sustainability;*

Minutes of the Ordinary Meeting of Council held on 26 November 2008 (contd)

- Council's development contributions plan includes provision for affordable housing contributions (with reference to the Council's housing strategy, where such a strategy has been developed);
 - Council's Local Environment Plan includes affordable housing provisions and specifies in which locations levies are to be imposed;
 - Council has determined the quantum of levies to be imposed (which may vary from 0% to a maximum of 25%) in the context of levies imposed for other public and community purposes and Council's identified priorities;
 - the development to which the levy is applicable is a multi-unit development of 10 dwellings or more.
- 5 That Council write to the Premier, Hon. Nathan Rees MP, the Minister for Planning, Hon. Kristina Kenneally MP, the Minister for Housing, Hon. David Borger MP, the Leader of the Opposition, Barry O'Farrell MP, the Shadow Minister for Planning, Brad Hazzard MP, and local Member of Parliament informing them of Council's resolutions and seeking their support for the Bill.

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

- 1 That Council acknowledge that adequate, safe, secure and affordable housing is a human right.
- 2 That Council restate its commitment to its adopted policy on affordable housing, being "Promoting Choice: A Local Housing Strategy for Wyong Shire".
- 3 That Council acknowledge that the appropriate role for Local Government in encouraging affordable housing is as outlined in the objectives of the above policy; being the development of policies and a statutory framework that supports and enables private and public investment in housing choice and diversity for our community.
- 4 That Council endorse and support their Federal Member for Dobell, Mr Craig Thomson MP, and the State Member for Wyong, Mr David Harris MP, in their efforts to obtain affordable housing for residents of Wyong Shire.

The AMENDMENT was put to the vote and declared CARRIED.

FOR: COUNCILLORS EATON, GRAHAM, McBRIDE, McNAMARA, MATTHEWS, SYMINGTON, VINCENT AND WEBSTER.

AGAINST: COUNCILLORS BEST AND WYNN.

Minutes of the Ordinary Meeting of Council held on 26 November 2008 (contd)

The AMENDMENT became the MOTION.

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

- 1** *That Council acknowledge that adequate, safe, secure and affordable housing is a human right.*
- 2** *That Council restate its commitment to its adopted policy on affordable housing, being "Promoting Choice: A Local Housing Strategy for Wyong Shire".*
- 3** *That Council acknowledge that the appropriate role for Local Government in encouraging affordable housing is as outlined in the objectives of the above policy; being the development of policies and a statutory framework that supports and enables private and public investment in housing choice and diversity for our community.*
- 4** *That Council endorse and support their Federal Member for Dobell, Mr Craig Thomson MP, and the State Member for Wyong, Mr David Harris MP, in their efforts to obtain affordable housing for residents of Wyong Shire.*

FOR: COUNCILLORS EATON, GRAHAM, McBRIDE, McNAMARA, MATTHEWS, SYMINGTON, VINCENT AND WEBSTER.

AGAINST: COUNCILLORS BEST AND WYNN.

538 Notice of Motion – Building and Construction Industry Improvement Act 2005 (BCII) and Australian Building and Construction Commissioner (ABCC)

F2007/01819 SW

COUNCILLOR BEST LEFT THE CHAMBER AT 9.18 PM AND RETURNED TO THE CHAMBER AT 9.32 PM AND AS A RESULT TOOK NO PART IN VOTING.

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

That this local Council notes that:-

- i The Building and Construction Industry Improvement Act 2005 (BCII Act) renders virtually all forms of industrial action unlawful and subjects unions and individual workers to massive fines.*

Minutes of the Ordinary Meeting of Council held on 26 November 2008 (contd)

- ii *The BCII Act gives the Australian Building and Construction Commission (ABCC) unprecedented coercive powers to force people to answer questions under oath, provide information or documents about everyday industrial relations issues, and establishes gaol terms of up to 6 months for those who refuse to comply.*
- iii *A Victorian unionist, Noel Washington, has been charged with breaching these laws and now faces the prospect of six months imprisonment.*
- iv *The International Labour Organisation's Committee of Experts and Committee on Freedom of Association have condemned these laws as with International Conventions signed by Australia.*

That this local Council calls on the Federal Labor Government to immediately repeal the BCII Act and to disband the ABCC.

The MOTION was put to the vote and declared LOST.

FOR: COUNCILLORS SYMINGTON, VINCENT AND WYNN.

AGAINST: COUNCILLORS BEST, EATON, GRAHAM, McBRIDE, McNAMARA, MATTHEWS AND WEBSTER.

539 Notice of Motion – Tumby Road Powerline Pollution

F2006/00475 DE

COUNCILLOR WEBSTER DECLARED A NON PECUNIARY INSIGNIFICANT CONFLICT OF INTEREST IN THE MATTER FOR THE REASON THAT SHE IS A RESIDENT IN THE AREA AND PARTICIPATED IN CONSIDERATION OF THIS MATTER.

COUNCILLOR WEBSTER 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 BEING A RESIDENT HAS NOT INFLUENCED MY JUDGEMENT."

THE DIRECTOR SHIRE PLANNING DECLARED A NON-PECUNIARY SIGNIFICANT CONFLICT OF INTEREST IN THE MATTER, FOR THE REASON THAT SHE IS A RESIDENT OF THIS AREA AND HAS REPRESENTED HER STREET AS A MEMBER OF THE RESIDENT FOCUS GROUP ADVISING ENERGYAUSTRALIA, REMAINED IN THE CHAMBER BUT DID NOT PARTICIPATE IN CONSIDERATION OF THIS MATTER.

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

That Council express its disappointment at the visual pollution and increased motor vehicle accident potential caused by Energy Australia along Tumby Road.

FOR: COUNCILLORS BEST, EATON, GRAHAM, McBRIDE, McNAMARA, MATTHEWS, SYMINGTON, VINCENT AND WYNN.

AGAINST: COUNCILLOR WEBSTER.

Minutes of the Ordinary Meeting of Council held on 26 November 2008 (contd)

540 Notice of Motion – Super Clinic Sites

F2004/11290 DE:GB

COUNCILLOR BEST LEFT THE CHAMBER AT 9.40 PM AND RETURNED TO THE CHAMBER AT 9.41 PM DURING CONSIDERATION OF THIS ITEM.

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

That Council staff report on the availability of zoned land in the shire for large medical centres such as the proposed GP Super Clinics.

FOR: COUNCILLORS BEST, EATON, GRAHAM, McBRIDE, McNAMARA, MATTHEWS, SYMINGTON, VINCENT, WEBSTER AND WYNN.

AGAINST: NIL.

541 Notice of Motion – Extended Safety of Surf Patrol Beaches

F2004/06257 GB

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

- 1 That having regard to the increasing incidence of unseasonably warm weather associated with global warming and the resultant high beach usage outside current patrol hours Council take a proactive approach with a view to providing our residents and ratepayers with greater coverage of patrolled surf beaches.***
- 2 That Council receive a briefing on current coverage and resources required to patrol our Shire's beaches including any recommendation for Council to consider a more flexible approach to beach patrol timetables.***

FOR: COUNCILLORS BEST, EATON, GRAHAM, McBRIDE, McNAMARA, MATTHEWS, SYMINGTON, VINCENT, WEBSTER AND WYNN.

AGAINST: NIL.

Minutes of the Ordinary Meeting of Council held on 26 November 2008 (contd)

542 Notice of Motion – Continuing Erosion of Cabbage Tree Bay

F2004/07782 GB

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

That having regard to continuing erosion of Cabbage Tree Bay and that this situation will likely be exacerbated by the approaching Christmas King Tides staff report to Council on the progress to date regarding current initiatives proposed. Further the report should cover a brief indicative outline as to the possible merits of considering ocean sand dredging as a part solution to replenishment and re-establishment of Cabbage Tree Beach.

FOR: COUNCILLORS BEST, EATON, GRAHAM, McBRIDE, McNAMARA, MATTHEWS, SYMINGTON, VINCENT, WEBSTER AND WYNN.

AGAINST: NIL.

QUESTIONS WITHOUT NOTICE ASKED

**Q065 – Scheduling of Garbage Collection on Scenic Drive
Councillor Vincent**

F2007/02028

“Could staff report on the feasibility of undertaking garbage collections on Scenic Drive, Budgewoi earlier in the morning prior to traffic conditions increasing for the day?”

**Q066 – Discussions with Developers
Councillor Symington**

F2004/06496

“With reference to Report 512 Proposed Managed Resort and Residential Development, The Entrance Road West, The Entrance, could staff report on previous directions given to Councillors regarding discussions with developers who have development applications being currently assessed?”

**Q067 – Location of Bus Stops
Councillor Eaton**

CPA/101062

“Can Council advise on how many more new bus stops will be installed at ridiculous locations such as just before the Wyong River Bridge?”

Minutes of the Ordinary Meeting of Council held on 26 November 2008 (contd)

Q068 - Education Program into Toddler Drowning

Councillor Best

F2004/06027

"It would appear that my Notice of Motion 297 Education Program into Toddler Drowning unanimously endorsed by Council on 25 June 2008 has fallen off the radar and is currently not listed in report 536 Outstanding Questions without Notice and Notices of Motion on this business paper. It has been some six months since the motion attached was moved. Having regard to the recent backyard pool tragedies experienced in Gosford, when will staff report on this critical community issue?"

WYONG SHIRE COUNCIL

25 June 2008

To the Ordinary Meeting of Council

297 Notice of Motion – Education Program into Toddler Drowning

F2004/06027

Councillor G P Best has given notice that at the Ordinary Meeting of Council to be held on Wednesday, 25 June 2008 he will move the following Motion:

- "1 *That as drowning is the leading cause of accidental death of children below the age of five years and further to staff advice that Wyong Shire has approximately 10,000 backyard pools, Council review effectiveness of its current swimming pool audit program, which has only achieved 140 pool inspections with almost 50% failing to comply with pool safety requirements.*

- 2 *That to assist staff in delivering this important compliance / education program, staff report to Council on the likely benefits of redeployment of Council's professional lifeguards from their winter / off season duties in the Parks and Gardens Section with a view to utilising their extensive expertise in water safety education."*

ORDINARY MEETING HELD ON 25 JUNE 2008

MR JOHN ANDREWS, NATIONAL SECRETARY/TREASURER REPRESENTING THE AUSTRALIAN PROFESSIONAL OCEAN LIFEGUARD ASSOCIATION INC, ADDRESSED THE MEETING AT 8.14 PM, ANSWERED QUESTIONS AND RETIRED AT 8.26 PM.

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

- 1 ***That as drowning is the leading cause of accidental death of children below the age of five years and further to staff advice that Wyong Shire has approximately 10,000 backyard pools, Council review effectiveness of its current swimming pool audit program, which has only achieved 140 pool inspections with almost 50% failing to comply with pool safety requirements.***

- 2 ***That to assist staff in delivering this important compliance / education program, staff report to Council on the likely benefits of redeployment of Council's professional lifeguards from their winter / off season duties in the Parks and Gardens Section with a view to utilising their extensive expertise in water safety education.***

Minutes of the Ordinary Meeting of Council held on 26 November 2008 (contd)

Q069 – Alleged Illegal Council Tip Site

Councillor Best

F2004/12982

“Mr General Manager, further to staffs’ recent media alert calling an on-site press conference to expose illegal private dumping on Darkinjung land in Tooheys Road, when Mr General Manager, will senior staff decide to report to Council the existence of a further likely illegal Council tip site, known to staff for some time now, located in McLeay Drive, Halekulani?”

Q070 – Breaching of Dam

Councillor Wynn

DA/1081/2005

“Could Council Officers provide a report on the breaching of a dam on 21 November 2008 at Figtree Boulevard West, within the forested treeline of the Wadalba release area given the ecological value of this dam and the resulting disturbance of wildlife that used this dam?”

Q071 – Legal Requirements of Breaching of Dam

Councillor Wynn

DA/1081/2005

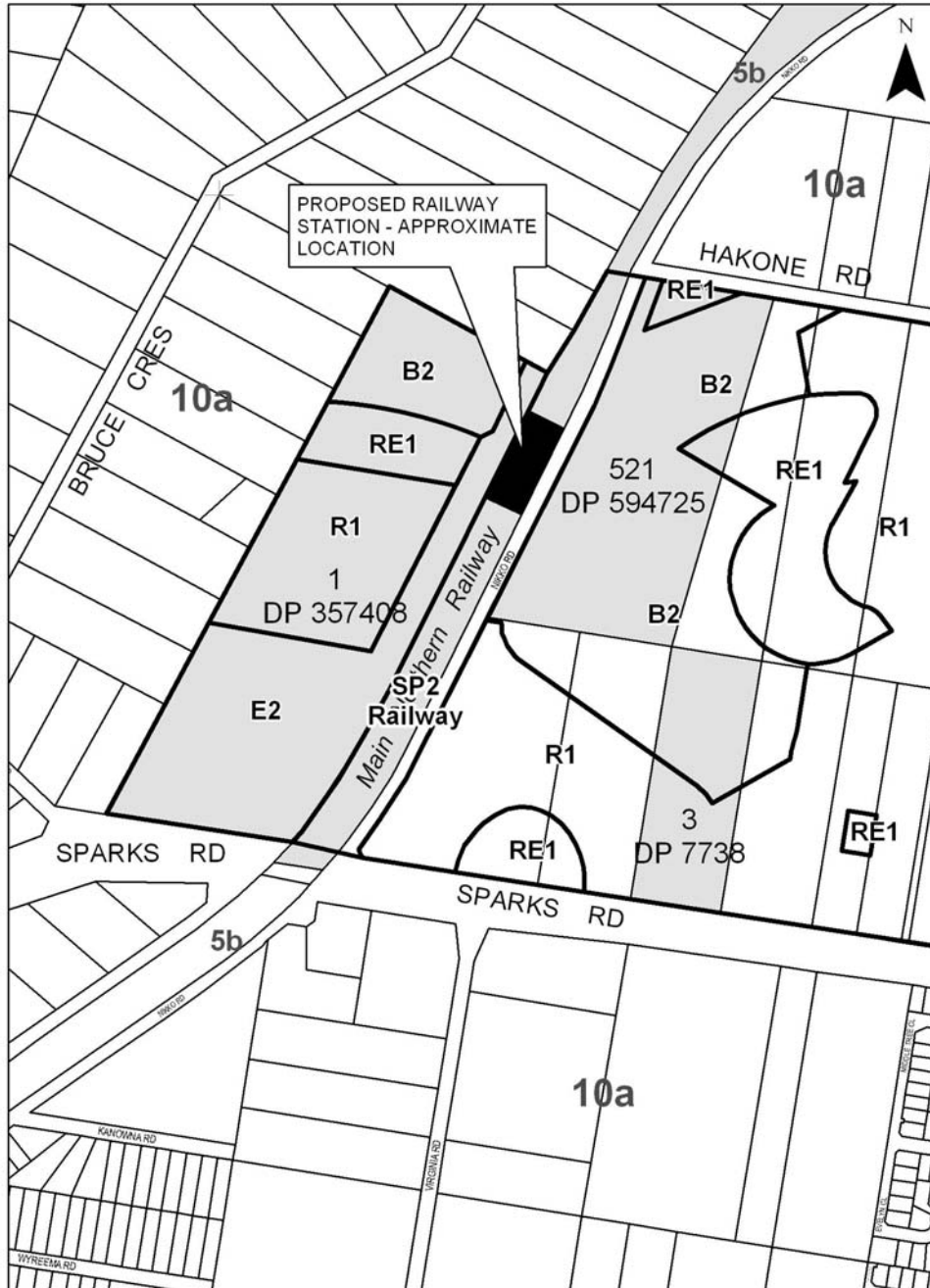
“Could Council check the legality of breaching the dam at Figtree Boulevard West given EPA and DECC requirements and the legal need to have a Council Officer on site to supervise correct environmental procedures are carrying out work of this nature?”

THERE BEING NO FURTHER BUSINESS, THE MEETING CLOSED AT 10.08 PM.

.....
CHAIRPERSON

**549 Proposed Railway Station at Warnervale
(Attachment 1)**

Locality Plan



WYONG SHIRE COUNCIL

10 December 2008
To the Ordinary Meeting of Council

Director's Report
Shire Planning Department

549 Proposed Railway Station at Warnervale

DA/261/2005: JLW:JD

SUMMARY

An application was lodged in February 2005 for the construction of a new railway station to service the future population of Warnervale. Due to the proposed development having a significant impact on the threatened species *Rutidosia heterogama* and unresolved issues with the finalisation of the planning controls for the new town centre, Council has no statutory power to approve the development at this time.

Applicant	Rail Corporation of NSW
Owner	Rail Corporation of NSW (Fabcot Pty Ltd, Environment and Planning Minister and Landcom for construction and access purposes only).
Application No	DA/261/2005
Description of Land	Main Northern Railway Line approximately 440 metres north of the Sparks road overbridge, (Lot 521 DP 594725, No 262-282 Hakone Road, Lot 1 DP 357408, No 5 Bruce Crescent and Lot 3 DP 7738, No 111 Sparks Road for construction and access purposes only).
Proposed Development	New Railway Station
Site Area	N/A
Zoning	SP1-Special Activities B2-Lcoal Centre under SEPP (Major Projects) 2005 (Amendment No 24) Warnervale Town Centre
Existing Use	Main Northern Railway Line
Employment Generation	-
Estimated Value	\$9,567,333

RECOMMENDATION

- 1** *That Council seek written approval of the Minister for Planning to refuse the development application.*
- 2** *That Council refuse the application, subject to approval from the Minister for Planning, for the following reasons:*
 - a** *The proposed development is considered to have a significant impact on the threatened species *Rutidosia heterogama* and concurrence from the Director-General for National Parks and Wildlife has not been provided (Section 79B(3) of the Environmental Planning and Assessment Act, 1979),*
 - b** *The application has failed to adequately address issues raised in public submissions, including the management of stormwater (Section 79C(d) of the Environmental Planning and Assessment Act, 1979),*

Proposed Railway Station at Warnervale (contd)

- c Approval of the proposed development would not be in the public interest due to the impact on threatened species and the uncertainty surrounding the provision of necessary suitable future access to the site (Section 79C(e) of the Environmental Planning and Assessment Act, 1979),***
- d The proposed development has not been designed in accordance with the provisions of the Warnervale Town Centre Development Control Plan 2008 and fails to demonstrate compliance with the adopted staging plan and masterplan (Section 79C(a)(iii) of the Environmental Planning and Assessment Act, 1979),***
- e The proposed development is inconsistent with the principles of ecologically sustainable development (Section 79C(e) of the Environmental Planning and Assessment Act, 1979),***
- f The proposed development fails to provide adequate details regarding the connection and integration of the railway station to the existing and future road and pedestrian networks (Section 79C(b) of the Environmental Planning and Assessment Act, 1979).***

3 That Council advise those who made written submissions.**PRÉCIS**

- A development application for a new railway station to service the proposed Warnervale Town Centre (WTC) was lodged with Council in February 2005.
- The application seeks approval for a new station building including twin side platforms with canopies and an overhead pedestrian concourse.
- Following an initial assessment of the application a number of issues were identified, including the likely impact on the threatened species *Rutidosia heterogama* and the lack of necessary supporting infrastructure given that the planning for the WTC was not at that stage complete.
- In January 2008, a Species Impact Statement (SIS) was lodged with Council to address the impact of the development on the threatened species *Rutidosia heterogama*.

Proposed Railway Station at Warnervale (contd)

- After review of the SIS, the Department of Environment and Climate Change (DECC) advised that it was unable to support the development until resolution of the biodiversity certification for the WTC was complete. DECC have since advised Council that all biocertification applications in NSW have been halted in response to a legal challenge of the Sydney Region Grants Centres Strategy. DECC is now in the process of reviewing its approach to biocertification.
- The applicant was requested to withdraw the development application and deal with the matter under the provisions of State Environmental Planning Policy (Infrastructure) 2007 (SEPP Infrastructure) and Part 5 of the Environmental Planning and Assessment Act, 1979.
- In response, the applicant advised that it is of the view that the development application should remain with Council for determination.
- As it currently stands, Council has no power to approve the application without the concurrence of DECC and Council at its meeting on 22 October 2008, resolved as follows:

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

“That this matter be deferred until further information and a further report be provided to Council on the reasons for refusal”.

FOR: COUNCILLORS BEST, EATON, GRAHAM, McBRIDE, McNAMARA, MATTHEWS, SYMINGTON, VINCENT, WEBSTER AND WYNN.

AGAINST: NIL”

- Given that the application has been made on behalf of a Crown authority, the approval of the Minister for Planning is required before Council can refuse the development application.

INTRODUCTION

The development of a new railway station and transport interchange is identified as a key project in the NSW government's 'Shaping the Central Coast' and 'Connecting the Central Coast' strategies as well as being an integral part of the now gazetted WTC. The overall development is proposed to include platforms, a station building and concourse as well as a bus interchange facility and commuter carpark adjacent to the station. The subject development application was lodged for stage 1 of the works including the platforms, concourse and station building.

Proposed Railway Station at Warnervale (contd)

The proposed transport interchange and carpark represent stage 2 of the development for which separate approval was to be sought following the resolution of the master planning for the town centre.

The station proposed is to be located within a cutting approximately 1.5 km north of the existing Warnervale station and approximately 440 m north of the existing Sparks Road overbridge. This location has been chosen to enable the future quadruplication of the rail tracks and it also allows for at grade pedestrian access between the concourse and the transport interchange. Being located within the railway corridor, the site is narrow and linear, encompassing a relatively deep cutting for the railway line. The cutting is up to 9 metres deep and the proposed station building is therefore elevated above the tracks with stairs and a lift to provide access the platforms.

When the development application was lodged in 2005, it was anticipated that the station would be constructed and fully operational by 2007. By 2021, the station was expected to accommodate up to 1600 patrons daily, served by up to 6 trains per hour. The services would cater for long distance commuter trips to Sydney and shorter distance regional trips to Newcastle, Wyong and Gosford.

However, due to the presence of the threatened species *Rutidosia heterogama*, commonly known as the Wyong Daisy or Heath Wrinklewort, and the uncertainty surrounding the Department of Planning's final design for the WTC, favourable resolution of the development application has not been able to be achieved.

As it currently stands, Council has determined that the cumulative impact on *Rutidosia heterogama* as a result of the development is likely to be significant (up to 51% removal) and therefore the concurrence of the Director-General of National Parks and Wildlife is required prior to the granting of development consent. Council has been advised by DECC that such concurrence will not be forthcoming until such time as the biodiversity certification for the WTC occurs. Consequently, Council is unable to determine the development application at this stage. In addition, Council is also unable to refuse the development application without the approval of the Minister for Planning as the application has been made on behalf of a Crown authority.

The applicant has been advised of this situation and has been formally requested by Council to withdraw the development application. By withdrawing the application, the proposal would be able to be dealt with by RailCorp under the provisions of State Environmental Planning Policy (Infrastructure) 2007, which permits the development of railway stations without the need to obtain development consent. However, the applicant has responded to Council advising that the application should remain with Council and that Council is best placed to assess the development application and to ensure integration of the proposed railway station with the WTC and the Interchange.

Proposed Railway Station at Warnervale (contd)

Without having a biocertification in place to support SEPP (Major Projects) 2005 (Amendment No 24) – Warnervale Town Centre, Council is not in a position to approve the development application.

DECC concurrence would be required to deal with the significant impacts on *Rutidosia heterogama*, under the Threatened Species Conservation Act, 1995.

HISTORY

Following the lodgement of the development in February 2005, there has been ongoing consultation and negotiation between Council and RailCorp as well as involvement by the NSW Premiers Office, the Department of Planning (DoP), the former Department of Infrastructure Planning and Natural Resource (DIPNR), the Department of Environment and Climate Change (DECC) and the former Department of Environment and Conservation (DEC). A detailed history of the assessment of the development application is provided as an attachment to this report.

PERMISSIBILITY

Wyong Local Environmental Plan 1991

On 7 November 2008, the Department of Planning gazetted SEPP (Major Projects) 2005 (Amendment No 24) – Warnervale Town Centre. This policy effectively overrides WLEP 1991 and introduces a number of new planning controls and zonings provisions on the standard instrument (Local Environmental Plans) Order 2005.

Development by the Crown

Section 116C of the Environmental Planning and Assessment Act, 1979 states that:

A consent authority, in respect of a development application made by or on behalf of the Crown, must not:

- (a) refuse its consent to the application, except with the written approval of the Minister, or*
- (b) impose a condition of its consent, except with the written approval of the Minister or the applicant.*

Accordingly, Council must seek the approval of the Minister for Planning prior to refusing the development application.

Proposed Railway Station at Warnervale (contd)

Consultation and Concurrence – Threatened Species

Under Section 5A of the EP&A Act 1979 the following factors must be taken into account in making a determination as to whether a significant impact on the threatened species is likely:

- Whether the action proposed is likely to have an adverse effect on the life cycle of the species such that a viable local population of the species is likely to be placed at risk of extinction;
- The extent to which habitat is likely to be removed or modified as a result of the action proposed;
- Whether an area of habitat is likely to become fragmented or isolated from other areas of habitat as a result of the proposed action;
- The importance of the habitat to be removed, modified, fragmented or isolated to the long term survival of the species population or ecological community in the locality;
- Whether the action proposed is likely to have an adverse effect on critical habitat (either directly or indirectly);
- Whether the action proposed is consistent with the objectives or actions of a recovery plan or threat abatement plan; and
- Whether the action proposed constitutes or is part of a key threatening process or is likely to result in the operation of, or increase the impact of, a key threatening process.

After consideration of these factors, the SIS concluded that it is considered likely that the station proposal alone will not significantly impact on the daisy. This is based on the assumption that other populations in the Wyong LGA continue to be viable at small sizes. However, impacts to this species from the station proposal when viewed in the context of the associated Warnervale Town Centre and Daisy Conservation Reserve are still uncertain. When the losses associated with the station proposal are put into the context of the cumulative impacts from both the station proposal and the proposed WTC, it is estimated that up to 51% of daisy individuals from this population will be lost. The impacts to this daisy population from these cumulative losses associated with the losses from the station proposal are considered to be significant.

In accordance with Section 79(B)(3) of the EP&A Act, 1979, development consent cannot be granted for:

Proposed Railway Station at Warnervale (contd)

- (a) *development on land that is, or is a part of, critical habitat, or*
- (b) *development that is likely to significantly affect a threatened species, population, or ecological community, or its habitat,*

without the concurrence of the Director-General of National Parks and Wildlife or, if a Minister is the consent authority, unless the Minister has consulted with the Minister administering the Threatened Species Conservation Act 1995.

As the proposed development is likely to have a significant impact on the threatened species *Rutidosia heterogama*, the application was referred to DECC for concurrence by the Director-General in response, DECC advised that:

*"DECC has reviewed the North Warnervale Train Station SIS and concurs with Council that it will significantly impact up *Rutidosia heterogama*, namely a reduction of 51% of the total known number of plants at this site. To offset this impact the proponent has proposed a number of mitigation measures, namely the provision of land set aside specifically for conservation in perpetuity of *Rutidosia heterogama* (i.e. Daisy Conservation Area) which is to be underpinned by a plan of management. Although DECC provides in-principle support to this proposal, it notes that the proposed 'Daisy Conservation Reserve' is on land administered by DoP and as such is subject to the biodiversity certification of the draft SEPP, including the proposed mitigation measures. Hence DECC is unable at this stage to provide concurrence until this matter is resolved"*

Consequently, Council is unable to grant consent to the development application.

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

Proposed Railway Station at Warnervale (contd)

- d improved valuation, pricing and incentive mechanisms, namely, that environmental factors should be included in the valuation of assets and services.

Until such time as the management options for the conservation of *Rutidosia heterogama* have been adopted and details regarding the servicing of the railway station have been determined, it is considered that there is too much uncertainty to be satisfied that the development is consistent with the principles of ecologically sustainable development, including the precautionary principle, inter-generation equity and conservation of biological diversity and ecological integrity.

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:

- State Environmental Planning Policy (Infrastructure) 2007;
- State Environmental Planning Policy (Major Projects) 2005 (Amendment No 24)- Warnervale Town Centre
- Draft State Environmental Planning Policy (Major Projects) 2005 (Amendment No 24)
- Wyong Local Environmental Plan 1991

ASSESSMENT

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

THE PROVISIONS OF RELEVANT INSTRUMENTS/PLANS/ POLICIES (s79C(1)(a)(i-iv):**Wyong Local Environmental Plan 1991**

Clause 29 of the LEP prevents Council from issuing development consent for any development unless "adequate water supply and facilities for the removal or disposal of sewage and drainage are available to that land or arrangements satisfactory to the Council have been made for the provision of that supply and those facilities". The applicant has advised that the construction of the station will take place in phase with the availability of town services including water, sewer and stormwater. While Council has awarded the tender for the design of both the water and sewer main, the timing of the provision of these facilities has not yet been finalised as the design phase has not yet been completed.

Proposed Railway Station at Warnervale (contd)

State Environmental Planning Policy (Infrastructure) 2007

SEPP (Infrastructure) commenced on 1 January 2008 and development for the purposes of railways is dealt with under Division 15 of the SEPP. Clause 79 permits development for the purpose of a railway or rail infrastructure facilities to be carried out by or on behalf of a public authority without consent on any land. Included in the definition of rail infrastructure facilities are:

- (a) *railway tracks, associated track structures, cuttings, drainage systems, fences, tunnels, ventilation shafts, emergency access ways, bridges, embankments, level crossings and roads, pedestrian and cycleway facilities, and*
- (b) *signalling, train control, communication and security systems, and*
- (c) *power supply (including overhead power supply) systems, and*
- (d) *railway stations, station platforms and areas in a station complex that commuters use to get access to the platforms, and*
- (e) *public amenities for commuters, and*
- (f) *car parks intended to be used by commuters, and bus interchanges, that are integrated or associated with railway stations, and*
- (g) *maintenance, repair and stabling facilities for rolling stock, and*
- (h) *refuelling depots, garages, maintenance facilities and storage facilities that are for the purposes of a railway, and*
- (i) *railway workers' facilities, and*
- (j) *rail freight terminals, sidings and freight intermodal facilities,*

but do not include buildings or works that are for residential, retail or business purposes and unrelated to railway purposes.

However, the savings provisions of the SEPP state that the Policy does not apply to or in respect of the determination of a development application made under Part 4 of the Act, but not finally determined before the commencement of this Policy. As such, the provisions of the SEPP cannot be applied to the current application.

Proposed Railway Station at Warnervale (contd)

State Environmental Planning Policy (Major Projects) 2005 (Amendment No 24)

The DoP rezoned the WTC site as a State significant site for inclusion in State Environmental Planning Policy (Major Projects) 2005 on 7 November 2008. The aims of the SEPP amendment are to:

- identify the land to which this Policy applies (being certain land at Warnervale) as a State Significant site;
- establish zoning and other development controls for that land;
- identify certain development as development to which Part 3A of the Environmental Planning and Assessment Act 1979 applies;
- facilitate the development of a town centre that integrates with the proposed Warnervale Train Station;
- encourage development on that land for community facilities, residential uses and open space to address the housing, employment and service needs of the region around Warnervale;
- ensure that development on that land satisfies the principles of ecologically sustainable development;
- set aside part of that land for environmental protection and conservation purposes
- ensure that development on that land minimises impacts on the environment through energy efficiency and water conservation;
- provide for land for integrated water cycle management purposes so as to address the effects of any future development on that land.

Council has previously provided extensive comments to the DoP on the provisions of the SEPP and supporting documents. However, in terms of the assessment of the current application for the railway station, the SEPP contains savings and transitional provisions, which exclude development applications lodged prior to the commencement of the SEPP (as amended). As the current development application was lodged in February 2005, the provisions of the SEPP, would not be applicable to the current application.

Proposed Railway Station at Warnervale (contd)

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

The access, transport and traffic management measures

The application has been referred to the Roads and Traffic Authority (RTA) as well as the Hunter Regional Development Committee (HRDC) for comment. Both the RTA and the HRDC have given conditional support for stage 1 of the development. As the final design and layout of the future road network has not been determined, stage 1 only relates to construction access. Their recommended conditions of approval include a requirement for left in/left out intersection onto Sparks Road to be constructed to Council's and RTA's standards as well as aligning the construction access with the ultimate location of the permanent access road.

Although not part of stage 1 of the development, it is still uncertain where the roads and pedestrian linkages to and from the station will be located. Under the draft DCP, which was exhibited in February and March 2008, a main street and bridge was proposed to cross the railway line immediately to the south of the station. When the DA for the station was lodged, this was anticipated to be a pedestrian link only, with a vehicular crossing located to the north of the station. In Council's submission to the DoP, it was suggested that the design of the Railway Station should consider relocating the entry point to the station or relocating the Main Street north of the Railway Station. Previous plans for the town centre showed the road north of the train station which reduced both the impact of the crossing on the good quality *Rutidosis heterogama* plants and the amount of traffic and congestion at this intersection point. Consequently, it is still uncertain as to how the roads and pedestrian facilities will integrate with the station and whether this will alter the design of the station.

The impact on the public domain (recreation, public open space, pedestrian links)

Although details are not known at this stage, the masterplan for the WTC requires vehicular, pedestrian and cycle linkages which will integrate with the railway station. While these linkages are not part of the proposed works, the station has been designed to facilitate pedestrian and cyclist movements by allowing the railway line to be crossed without having to negotiate stairs and by providing a lift to the platforms.

The impact on utilities supply.

Water and sewer services are not yet available to the subject site. Council is responsible in providing the trunk water and sewer infrastructure to service the WTC and it is the developers' responsibility for the local connection to Council's Trunk Infrastructure.

Proposed Railway Station at Warnervale (contd)

However, as mentioned previously in the report under consideration of Clause 29 of the LEP, the applicant has advised that the construction of the station will take place in phase with the availability of these services within the WTC and will not be constructed as part of this proposal.

Any impact on the conservation of water.

The drainage and stormwater information included with the application was insufficient to undertake a thorough assessment. It was requested that a stormwater management plan be submitted which could demonstrate that the proposed development could provide adequate 'stand alone' drainage facilities to dispose of and treat water entering/falling on the site. The details that were requested included:

- Concept design of a site drainage system with provision for water quality strategies and devices to treat runoff entering/falling on the site, including: the railway cutting, interchange and platform and station concourse roof areas
- Water reuse facilities capturing runoff from platform and station concourse roof areas for reuse on irrigation and toilet flushings
- Provision and locations of proposed drainage infrastructure such as pipelines, rainwater tanks and detention ponds
- Locations of points of discharge from the site and/or connection to existing/proposed Council drainage infrastructure
- Erosion control strategies

While it is proposed that the railway station will connect to the WTC integrated stormwater system, details for this have not been finalised and commencement of the station before this infrastructure is provided would result in uncontrolled impacts. It is also noted that one of the public submissions received in relation to the railway station raised stormwater management as a concern.

Any effect on the flora and fauna

Various studies and surveys have been undertaken to assess the impact of the proposed railway station on local flora and fauna. Within the rail corridor the vegetation is characterised by cleared open ground dominated by weeds such as crofton weed, fire weed, purple top and other exotic grasses. At the top of the cutting on the eastern side there is a narrow strip of remnant native trees containing *Angophora costata* and *Eucalyptus capitellata* as canopy trees and *Melaleuca nodosa* as sub-canopy.

Proposed Railway Station at Warnervale (contd)

On the western side of the railway cutting the natural vegetation is predominantly mapped as Dooralong Spotted Gum-Ironbark Forest, which covers the northern two-thirds of the land owned by DoP, with the southern section being mapped as Narrabeen Buttonderry Footslopes Forest and is to be contained within the proposed daisy conservation reserve.

Any servicing strategy for the railway station will need to connect to tank water and sewer mains. No details have been provided on how this will be done by the applicant and the recommended reasons for refusal reflect this.

As summarised in the table below, 12 threatened species have been identified as being likely to occur within the study area as shown in the enclosure, which extends to the east and west of the rail corridor. In June 2007, a SIS was prepared to assess the impact of the development on these species and it was concluded that *Rutidosia heterogama* was likely to be significantly affected by the proposal.

Threatened Species Identified within Study Area

Common Name	Scientific Name	TSC Status	EPBC Status	Use of study area	Likelihood to be affected
Glossy black-cockatoo	<i>Calypterhynchus lathamii</i>	V	-	Foraging	Unlikely
Powerful Owl	<i>Ninox strenua</i>	V	-	Limited foraging	Unlikely
Masked Owl	<i>Tyto novaehollandiae</i>	V	-	Limited foraging	Unlikely
Wallum froglet	<i>Crinia tinnula</i>	V	-	Limited movement	Unlikely
Eastern false pipistrelle	<i>Falsistrellus tasmaniensis</i>	V	-	Foraging	Unlikely
Little bentwing bat	<i>Miniopterus australis</i>	V	-	Foraging	Unlikely
Eastern bentwing bat	<i>Miniopterus schreibersii</i>	V	-	Foraging	Unlikely
Eastern freetail bat	<i>Mormopterus norfolkensis</i>	V	-	Foraging	Unlikely
Squirrel glider	<i>Petaurus norfolkensis</i>	V	-	Foraging	Unlikely
Grey-headed flying-fox	<i>Pteropus poliocephalus</i>	V	V	Foraging	Unlikely
Greater broadnosed bat	<i>Scoteanax rueppellii</i>	V	-	Foraging	Unlikely
Heath Wrinklewort – the daisy	<i>Rutidosia heterogama</i>	V	V	Population present	Likely

Proposed Railway Station at Warnervale (contd)

Rutidosia heterogama is a small perennial herb that generally grows in heath on sandy soils and in moist areas of open forest. However, it is also known to occur on a number of disturbed sites such as roadsides and in this case, the railway cutting. The plants within the station footprint and the adjoining sites are part of a population that is at the southernmost extent of its range and which are disjunct from other large populations.

The SIS identifies that the station, including the impacts from the construction access, will directly affect between 771 and 1031 plants (15% to 21% of the local population) and 0.32 to 0.38 hectares (13% to 16%) of the total known mapped occurrence of the entire population. Further impacts will also occur as a result of works associated with the station such as pedestrian access, sound barriers and possibly roads. Although the impacts of these additional works have not been able to be quantified exactly, the SIS estimates that they will affect between 250 and 1550 individual plants resulting in an additional loss of between 5% and 30% of the individuals of the local population. When the losses associated with the station proposal are put into context with the cumulative impacts from both the station and the associated works, it is expected that up to 51% of the individuals from this population would be lost, which was concluded within the SIS to be a significant impact. This conclusion of a significant impact was also endorsed by Council and DECC.

The DoP made a request to DECC for biodiversity certification of both the Warnervale Town Centre and Wyong Employment Zone. This was to occur in conjunction with the gazettal of SEPP (MajorProjects), 2005 (Amendment No 24) – Warnervale Town Centre. In response to a legal challenge to the biodiversity certification of the Sydney Regions Growth Centres, DECC is currently reviewing its approach to biodiversity certification and has advised Council that no further work will be done on Council's biodiversity certification applications as it will mean that there is the potential for significant delays and uncertainties in dealing with DECC on a site by site basis where many development applications will need to be supported by a Species Impact Statement. This might also mean that if the railway station is to be approved under the provisions of SEPP (Infrastructure) 2007, any REF will need to be supported by SIS.

Whether the development will cause noise and vibration

Vipac Engineers and Scientists Pty Ltd undertook an acoustic and vibration assessment for the proposed Town Centre in 2005. This report identifies a number of mitigation measures to reduce acoustic impacts and concluded that there would be no impacts in relation to vibration.

Under the draft DCP for the WTC, it is identified that it will be the responsibility of future developers to provide all practicable mitigation measures for development within 60 metres of the rail corridor. This will include compliance with the Rail Infrastructure Corporation and State Rail Authority Interim Guidelines for Councils: Consideration of Rail Noise and Vibration in the Planning Process, 2003.

Proposed Railway Station at Warnervale (contd)

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

The site is not subject to flooding or mine subsidence, although is within a bushfire prone area. A Bushfire Protection Strategy has been undertaken for the proposed WTC, which incorporates the necessary asset protection zones. For the train station, there are no asset protection zones or BCA requirements specifically required, although compliance with the aims and objectives of Planning for Bushfire Protection must be achieved.

Whether the development provides safety, security and crime prevention

RailCorp deals with safety and security in accordance with their strategic security plan, which includes the use of CCTV systems, patrols by Transit Officers and by collaborating with the Commuter Crime Unit of the NSW Police.

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

No further issues identified.

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

Any submission from the public

The application was advertised in accordance with DCP 2005 Chapter 70-Notification of Development Proposals with two submissions being received. The issues raised in the submissions have been addressed, where relevant, in the assessment of the application pursuant to the heads of consideration contained within Section 79C of the Environmental Planning and Assessment Act 1979. A summary of the submissions is detailed in the table below.

<i>Doc No</i>	<i>Summary of Issues</i>	<i>Response</i>
D00044575	<p>No water management strategy is in place and development approval for the Railway Station or the Town Centre should proceed without adequate drainage management plans or infrastructure in place.</p> <p>Any such plan should be available for public comment, particularly when the effects from increased stormwater runoff from the site/s are unknown.</p>	<p>The issue of stormwater disposal has been identified in the body of the report and it is considered that insufficient information has been provided to approve the development application.</p>

Proposed Railway Station at Warnervale (contd)

<i>Doc No</i>	<i>Summary of Issues</i>	<i>Response</i>
D00145119	Urban development should be planned and commenced so that it is equally placed around the town centre within the usual 800 to 1000 metre walkable catchment. This should be encouraged to prevent the railway station being on the "edge of the development" and possibly resulting in the problems experienced at the Metford Railway Station near Maitland.	Noted. This issue has been considered as part of the assessment of the wider WTC masterplan and planning controls.
	According to the traffic Study provided with the DA, Hakone Road is proposed as a sub-arterial road with a roundabout on the intersection adjacent to our land. It is understood that this roundabout is also shown in Council's Section 94 Plan. Currently the Hakone/Hiawatha Road intersection is very busy. Furthermore, new residential subdivisions currently under construction east of this intersection propose a new road onto Hakone Road which will further increase traffic.	As above, the final road hierarchy will be determined by the DoP within the DCP that is ultimately approved for the WTC.
	Upgrading of Hakone Road and the existing Hiawatha Road intersection with the railway construction works is vital. To facilitate the road upgrading as part of future development works, it would be appropriate to include the northern side of Hakone Road as an urgent priority in the draft LEP for the Town Centre.	As above.

Proposed Railway Station at Warnervale (contd)

	<p>Council's draft strategy for our land shows it as part open space adjacent to the intersection. Whilst we understand the need for this to apply to the creek area, open space next to major intersection is an inefficient and inappropriate landuse. It would be more appropriate to encourage "gateway style" developments similar to the urban design principles established at The Entrance and other highly visible intersections. This issue should be considered as part of the proposed town centre draft LEP.</p>	<p>This issue is applicable the overall development of the WTC as determined by DoP.</p>
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Any submission from public authorities

Details of the submissions from the RTA, HRDC and DECC have been detailed previously in the report.

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

While it is in the public interest to provide new infrastructure, including the railway station, Council has an obligation to ensure that development is approved in accordance with the relevant legislation and planning policies. It is also in the public interest to ensure that threatened species are adequately protected and that critical infrastructure is available to support any development that is approved and that development is undertaken in accordance with the masterplan and staging plan included within the Warnervale Town Centre DCP 2005.

Proposed Railway Station at Warnervale (contd)

CONCLUSION

On the basis that the proposed development will have a significant impact on a threatened species and that the concurrence of the Director-General for National Parks and Wildlife has not been provided, Council is unable to favourably determine the application. In addition to this, there are also matters relating to the provision of necessary infrastructure to support the railway station. The timing for the provision of the overall road network to provide future access to the station has not been determined, it is considered premature for the development application to be approved. It is therefore recommended that the Council seek approval from the Minister for Planning to refuse the application.

Attachment 1
Attachment 2

Locality Plan (1 page)
History of DA Assessment (3 pages)

Enclosure 1

(A) Station location looking north and
(B) Station location looking south

Enclosure 2

Aerial Photo of the site

Enclosure 3

Artist's Impression of the Warnervale Railway Station

Enclosure 4

Development Plans

Proposed Railway Station at Warnervale (Attachment 2)

History of DA Assessment

February 2005	Development application lodged by RailCorp.
March 2005	Council advised RailCorp the proposal is likely to have significant impact on <i>Rutidosia heterogama</i> and that SIS or bio-certification of the WTC would be required.
April 2005	RailCorp requested in-principle support from Council for an agreement between RailCorp, DIPNR and Landcom for the conservation of adjoining Lot 1 DP 357408 to facilitate outcome of 'non-significant' impact.
May 2005	Council advised that either SIS or sufficient documentation to demonstrate non-significant impact must be provided. Issues relating to stormwater management, traffic and access, water and sewer and landscaping/streetscape were also identified.
May 2005	Council further advised RailCorp over concern about how the proposed joint venture would work with DIPNR and Landcom.
June 2005	A meeting was held and it was determined that a draft strategy for the conservation of <i>Rutidosia heterogama</i> would be prepared.
August 2005	RailCorp advised Council that they would be commissioning the preparation of a SIS.
September 2005	Council requested that the application be withdrawn pending preparation of SIS.
October 2005	RailCorp advised that the application will not be withdrawn as the SIS process should only take 7 weeks.
December 2005	SIS not prepared and meeting held at which RailCorp asked Council to refer application to DEC for their comment.
February 2006	DEC support the idea of a conservation reserve on Lot 1 DP 357408 and strip of land 30 m wide south of station. Council advise that revised ecological assessment under Part 5A of Environmental Planning and Assessment Act, 1979 would need to be submitted.
April 2006	Council attended a meeting with RailCorp's ecological consultants who advise that RailCorp will be undertaking further works to the south of station which would require more plants to be removed.

Proposed Railway Station at Warnervale (Attachment 2) (contd)

April 2006	Council advised that additional works would need to be included in the assessment in order to assess cumulative impact.
May 2006	Statement of Management Intent for the Daisy lodged with Council.
May 2006	Council review still identifies a likely significant impact.
May 2006	Meeting held with NSW Premiers Office where Council confirm that SIS is required.
July 2006	Further meeting held where Council again confirms that SIS is required including land required for access to the station.
August 2006	RailCorp enquire as to the status of application.
September 2006	Council advise that the application is on hold pending submission of an SIS.
November 2007	Council requested an update on the progress of SIS.
December 2007	RailCorp advised Council that progression of the application was dependant on outcome of masterplan for the WTC.
January 2008	Council requested that RailCorp withdraw the application or will commence action to refuse.
January 2008	SEPP (Infrastructure) came into force, which enables the development of railway stations to be assessed under Part 5 of the Environmental Planning and Assessment Act, 1979 rather than through the lodgement of a development application under Part 4 of the Act. The SEPP also incorporates transitional provisions which requires a development application lodged prior to the commencement of the SEPP to be considered under previous planning legislation.
January 2008	RailCorp request that Council defer action to refuse the application.
January 2008	SIS submitted to Council for assessment.
February 2008	SIS reviewed by Council staff and determined that the development would result in a significant impact on <i>Rutidosia heterogama</i> .
March 2008	SIS referred to DECC for their concurrence.

Proposed Railway Station at Warnervale (Attachment 2) (contd)

March 2008	Council resolve that a report be prepared identifying the key issues surrounding the delay of the station.
May 2008	Council resolved to consider issuing deferred commencement consent and to write to Minister for DECC requesting that the issue with <i>Rutidosis heterogama</i> be dealt with under the biodiversity certification of the WTC.
June 2008	DECC advises that concurrence will not be provided until biodiversity for WTC is determined.
July 2008	Minister for DECC advises the land identified for the railway station is to be included in the biodiversity certification as per Council's request.
July 2008	Council resolved that subject to confirmation from planning staff, the application be returned to RailCorp for assessment under Part 5 of the Environmental Planning and Assessment Act, 1979.
August 2008	Council further resolved to write to the Minister for Transport and Rail and the Local Member for Wyong advising them to withdraw the application and assess the North Warnervale Railway Station under SEPP Infrastructure.
September 2008	RailCorp responded to Council's letter advising that they would not be withdrawing the application and that Council was in a better position to assess the application and to ensure integration with the rest of the WTC.
September 2008	DECC advises Council that it will be conducting a review of the biodiversity certification process in response to recent legal challenges. Until this is completed, no further progress will be able to be made on the biodiversity certification of either the WEZ or WTC.
October 2008	Council resolved that a report be prepared identifying reasons for refusal of the application.

550 Precinct 7A – Hamlyn Terrace and WarnervaleF2007/00274 JLO/SJD

SUMMARY

This report seeks Council's endorsement to prepare a draft Local Environmental Plan (dLEP) encompassing land defined as Precinct 7A – Hamlyn Terrace and Warnervale (and those additional identified properties as detailed in Attachment 1), consisting of an area of approximately 554 hectares.

RECOMMENDATION

- 1 That Council prepare a draft Local Environmental Plan in accordance with Section 64 of the Environmental Planning and Assessment Act to rezone Precinct 7A (and those additional properties as detailed in Enclosure 1) to appropriate residential, employment, commercial and environmental zones to reflect a preferred land use outcome for the study area.**
- 2 That Council prepare a Local Environmental Study in accordance with Section 57(1) of the Environmental Planning and Assessment Act considering any additional directions or specifications issued by the Department of Planning.**
- 3 That Council prepare or amend appropriate Chapters of Development Control Plan 2005 and Contribution Plans to guide future development within the area.**
- 4 That Council advise the Department of Planning of the decision.**
- 5 That Council write to all relevant government agencies advising of Council's resolution to proceed with the rezoning.**
- 6 That Council undertake Section 62 consultations with relevant public authorities and stakeholders**
- 7 That Council authorise the Mayor and General Manager to execute all documents and agreements relating to undertaking the rezoning, including any required Deeds of Agreement between Council and participating land owners.**
- 8 That Council undertake a review of zonings on Council owned land within the Warnervale Education Precinct and Country Music site in order to determine the suitability of other alternative uses.**
- 9 That Council note Section 149 Certificates for those affected properties.**

Precinct 7A – Hamlyn Terrace and Warnervale (contd)

INTRODUCTION

The area of land to which this report refers (which includes Precinct 7A) consists of approximately 554 hectares and is identified within Council's Residential Development Strategy (RDS) 2002, as a medium priority area for urban development. See Attachment 1 for details of the extent of the subject area. This precinct has the potential to have a substantial impact on local housing supply and demand in the region.

The area is also located within the North Wyong Shire Structure Plan (NWSSP) Area, as defined by the Central Coast Regional Strategy (CCRS). This plan is being developed by the Department of Planning (DoP), and will identify the extent and footprint of future greenfield residential and employment development within the Shire. However, DoP has agreed that the production of this Structure Plan can run concurrently with the LEP for Precinct 7A ie, there is no need to wait for the Structure Plan to be finalised.

The location and classification of the area for future urban development, in conjunction with current supply and demand patterns for land has resulted in the identification of this rezoning as a priority project. The 2008/09 Management Plan of Council identifies this proposed rezoning to commence in this financial year. As a result, this report seeks Council's endorsement to commence the formal rezoning process for the area.

BACKGROUND

Principle 1 of Council's Management Plan – 2008/09 seeks to create a better community. "Growth" is a key term that has characterised and continues to impact on Wyong Shire. An opportunity exists as part of this project to accommodate expected population growth in a manner which enhances the environment and the community.

A Deed of Agreement between Wyong Shire Council, Bitova and F Hannan Pty Ltd was endorsed by Council during a confidential session on 9 May 2007 and enacted on 9 August 2007. This agreement facilitated the amendment of Wyong Local Environmental Plan 1991 to change the zoning of various portions of land under the ownership of F Hannan Pty Ltd within the Precinct 7A study area. This rezoning is being undertaken in conjunction with the Precinct 7A rezoning.

Within the existing Deed of Agreement a draft timeframe for the rezoning of the Precinct was proposed, with gazettal of the amended LEP projected to occur in June 2010. Given recent planning reforms and further project scoping, this timeframe was identified as being unattainable. A revised timeframe, agreed to by Bitova Pty Ltd, has been developed and is included within the current Funding Agreement between Council and Bitova Pty Ltd. This projects gazettal of the LEP to occur in March 2012.

Precinct 7A – Hamlyn Terrace and Warnervale (contd)

The study area includes Precinct 7A and is located north of the Wadalba neighbourhood centre and North Wyong Industrial Area and is bounded by Warnervale Aerodrome to the west and Sparks Road to the north. To the north-east and south east respectively, the site is bounded by Warnervale and Minnesota Roads. The eastern boundary of the site lies between Minnesota and Louisiana Roads.

The study area does not include the North Wyong Industrial Area and the existing residential areas of Hamlyn Terrace. The existing Warnervale Village east and west of the railway line is included within the study area boundary, as is a portion of the Warnervale Education Precinct, west of Albert Warner Drive and the Sydney to Newcastle railway line. Ownership of the study area is highly fragmented, consisting of a number of land owners with a high percentage residing on site. The primary land owner (Hannan Pty Ltd) holds approximately 175 hectares.

The proposed land uses which will be investigated as part of developing a detailed masterplan within this precinct will include residential, employment generating, open space, recreation, conservation and commercial uses.

Whilst a formal land use strategy has not been prepared for the study area, Council has received a proposal for the development of the southern portion of the study area (as enclosed from Hannan Pty Ltd). Whilst this strategy is not endorsed by Council, some of its concepts will be explored as a masterplan is developed for the study area. This will need to be done in conjunction with constraints mapping once the results of studies are known. This will include the preparation of a Local Environmental Study (LES) to identify land within the study area which may have development potential and warrant further investigation. The cumulative impact of Part 3A projects which are being planned for the northern part of the Local Government Area (LGA), such as the Coal and Allied proposal at Gwandalan on residential supply and demand will also need to be considered.

It is difficult to predict the future lot yield of development in this precinct as some land that is potentially developable for residential purposes will need to be set aside for education, commercial, employment and open space. Of the total 554 hectares within the study area, preliminary investigations have identified that approximately 208 hectares will be suitable for development. This includes the Warnervale Education Precinct which is approximately 32.7 hectares.

Precinct 7A – Hamlyn Terrace and Warnervale (contd)

A basic constraints analysis has been conducted (see Enclosures). This was conducted to exclude land which was affected by known development constraints. The main constraints examined include; flooding, riparian corridors, wetlands and Endangered Ecological Communities. This was done to gain an initial impression of the potential developable area early in the planning process within Precinct 7A. However, these constraints and others (Aboriginal heritage, threatened species, contaminated land studies, etc.) will require further studies to be conducted to properly define the amount of developable land in the study area through the LES process.

Assuming that 75% of potentially developable land (approximately 156 hectares) will be devoted to residential, it would be expected that the study area may have capacity to provide for approximately 1,900 dwellings assuming a density of 12 dwellings per hectare. This equates to an additional population of approximately 3,300 persons. Should the existing Warnervale railway station remain open, the target density around the station (within 400-500m or walking distance) could increase further. These figures are an estimate only (based on the occupancy rate of 1.8 persons per dwelling as per the DoP's estimates). Additional studies and investigations will identify the most suitable land use strategy for the area, in addition to the most appropriate densities which may be applied.

Council owns a large portion of land to the west of Railway Road, Warnervale. This land forms part of the Warnervale Education Precinct/Country Music Site. The site has been zoned 5(a) (Special Uses – Education) for approximately 15 years. In more recent times the planning of the Wyong Employment Zone (WEZ) and Warnervale Town Centre (WTC) has resulted in Council considering other opportunities for this parcel of land. The land is located within close proximity to the WEZ and WTC. Opportunities for uses such as a business park or further industrial land will be investigated and considered. The current review of the 7A precinct is an ideal opportunity for carrying out this review.

It has not yet been determined whether the existing Warnervale railway station will remain open once the new Warnervale Town Centre railway station is commissioned which is only 1.5 kilometres to the north.

PROJECT FUNDING STUDY PROCESS

This project is identified on the Future Planning Unit's Work Program. The project was not able to commence until appropriate arrangements were in place with land owners in the study area to fund planning investigations. Council staff met with the land owners in the study area on a number of occasions during 2007 and 2008 in order to seek their assistance in funding this project. Council staff were unsuccessful in gaining funding assistance from other landowners to fund the project. Agreement has been reached with a single landholder to fund the costs of the project. As such, Council staff are now in a position to start work on the project.

Precinct 7A – Hamlyn Terrace and Warnervale (contd)

OVERVIEW OF STUDY PROCESS

The project has been broken into four phases. It is estimated that the project will take approximately four years to complete from start to finish. The work programme for the project is outlined in more detail in Attachment 3.

Phase 1 – Project Establishment (Nearing Completion)

- Establish project outline, scope project issues and obtain funding from landowners to start investigations.
- Satisfy requirements of the legal agreement between Hannan Pty Ltd and Council. Council has prepared a Strategy Plan as per the Deed between Hannan Pty Ltd and Council which outlines how the rezoning process will work. Hannan Pty Ltd endorsed the Strategy Plan on 22 July 2008.

Phase 2 – Rezoning Process

- Gain Council approval to start the rezoning process (Section 54 report – this report to Council).
- Consult with relevant government agencies (Section 62) and the LEP Review Panel.
- Conduct and manage relevant consultant projects in order to provide the necessary information to support the rezoning. It is anticipated that the following studies will be required initially although there may be others identified as the program proceeds:

- a Traffic, Transport and Movement Study*.
- b Flooding, Floodplain Management Study and Wetland Study*.
- c Land Survey.
- d Economic viability of land development proposal.
- e Integrated Water Cycle Management Study and Strategy*.
- f Flora and Fauna Study*.
- g Contaminated Land and Acid Sulphate Soil Assessment.
- h Aboriginal archaeological assessment.
- i Noise and Vibration Assessment Study.
- j Urban Design, Masterplan and Sustainability Assessment.
- k Bushfire hazard assessment*.
- l Conservation Management Plan – Floodplain and Conservation Lands.
- m Social Analysis and Human Services Strategy.
- n Open Space, Recreation, Visual Assessment and Landscaping*.
- o Engineering and Services Assessment.
- p Land valuation process of floodplain areas*.
- q Retail Demand Review.
- r Charrette Process Consultancy.

- * Experience from previous projects indicates that some studies might need to be revised to resolve site planning issues associated once a final Masterplan has been developed for Precinct 7A - Hamlyn Terrace and Warnervale. Studies which are likely to require revision have been identified with an *.

Precinct 7A – Hamlyn Terrace and Warnervale (contd)

Phase 3 – Establish Planning Controls and Prepare Policy Documentation

- A Local Environmental Study (LES) will be required to be completed and a detailed Masterplan developed which will outline the preferred mix of land uses. This document will contain a detailed masterplan which will outline how development in this precinct will be planned. This will need to be supported by the following planning documents:
 - a Local Environment Plan (LEP).
 - b Development Control Plan (DCP).
 - c Contribution Plan.
 - d Planning Agreements (if required).
 - e Biocertification Report.
 - f Plan of Management for Natural Areas/Floodplains.

Phase 4 – Community Consultation

- Conduct stakeholder briefings, including a developer's forum, public exhibition and report on results to Council. Eventual gazettal of LEP and endorsement of supporting planning documents (DCP, Contribution Plan, and Management Plans).

Major Planning Issues

There are a number of major issues which exist in Precinct 7A that will be examined and resolved as part of this project. The following outlines some of these major planning issues:

- a The future of the existing Warnervale Railway Station needs to be resolved with Railcorp. The retention of the railway station means that residential densities within approximately 400-500m walking distance of the existing station might be able to be increased if the station remains permanently open. Early resolution of this matter is required as it would create a need for higher residential densities in this part of the study area. This issue has the potential to have a large impact on the planning for Precinct 7A and will affect some of the studies which need to be conducted to support the rezoning.
- b Increased residential densities in and around Warnervale Village will create a need for a small neighbourhood retail function. Accommodating this function in a sympathetic way in keeping with the characteristics of the village will need to be explored.
- c Resolve threatened species, wildlife corridor and natural area management issues, obtain agreement from the Department of Environment and Climate Change (DECC) on environmental outcomes. Ensure that conservation offset measures are accepted and that appropriate strategic approaches are developed to address threatened species issues through the development assessment process (eg biocertification).
- d Investigate possible alternative land uses on Council owned land within the Warnervale Education Precinct and the Country Music Site (possibly employment lands) as Council has had little success to date in attracting major educational developments to this area. The costs associated with these investigations will be funded by Council.

Precinct 7A – Hamlyn Terrace and Warnervale (contd)

- e Housing affordability and implications arising from the Local Housing Strategy.
- f Open space and recreation requirements of current and future residents need to be carefully defined and planned. Opportunities for possible joint venture developments should also be considered.
- g Plan for human service requirements of the current and future residents.
- h Floodplain management and development restrictions on flood prone land.
- i Manage water quality and wetland hydrology by implementing appropriate Integrated Water Cycle Management controls. Key elements are documented in the Porters Creek Wetland Stormwater Harvesting Scheme. Both of these studies will have an influence on management strategies for the floodplain. Additional flood modelling scenarios will need to be tested to examine the consequences of floodplain rehabilitation strategies and filling to ensure that flood impacts are not made worse. Climate change implications will also need to be considered.
- j Visual, noise and vibration issues need to be examined along rail corridors, Sparks Road, Minnesota Road and the proposed Link Road.
- k Conduct relevant studies to examine other planning constraints eg bushfire, contaminated land, acid sulphate soils, flora and fauna and Aboriginal/European heritage etc.
- l Examine future railway corridor re-alignment impacts on future development arising from any future straightening of railway lines in the study area.
- m Resolve major intersection design and road planning issues (internal/external to study area).
- n Location and feasibility of vehicle and pedestrian overbridge crossing in Warnervale Village needs to be examined in order to replace the level crossing which exists in Warnervale Village.
- o Confirm that no extension of Virginia Road across the floodplain will be provided. Proceed with planning for upgrading the Minnesota Road causeway. Final location for the Minnesota Road deviation will need to be determined. Planned intersection upgrades will also need to be identified and costed.
- p Identify pedestrian and cycleway linkages throughout the study area and beyond (feed recommendations from the Traffic and Transport Study to develop Precinct 7A Masterplan for the study area). Appropriate bus transport routes will also need to be identified by liaising with Busways and the Ministry of Transport.
- q Water and sewer services and staging (implications and refinements of draft Development Servicing Plans) to accommodate proposed developments.
- r Discuss plans with utility providers to ensure that utilities are provided in a timely fashion, eg undergrounding power lines are installed in a timely manner.

STATUTORY REQUIREMENTS

Council may, pursuant to Section 54 of the Environmental Planning and Assessment Act (EP&A Act) 1979, decide to prepare a draft LEP (dLEP). This report therefore requests that Council formally resolve to prepare a dLEP in respect of the study area to enable rezoning of the site for residential, open space, recreation, conservation and commercial uses.

Precinct 7A – Hamlyn Terrace and Warnervale (contd)

It is not intended to request '*Written Authorisation to Exercise Delegation*' from the DoP under Section 65(1) of the EP&A Act 1979, relating to the public exhibition of the proposed draft LEP.

Council's Contributions Plan for the area identifies a significant portion of the study area as being required to be acquired by Council for open space, recreational and drainage purposes. In addition, existing funding agreements are in place with landowners for additional studies and investigative works to be undertaken to facilitate the rezoning.

Given the above interests Council has in the rezoning of the study area, it is not considered appropriate for delegates of Council to certify the plan for public exhibition. The DoP will therefore be requested to issue a Section 65 Certificate for the exhibition of the dLEP once the rezoning has progressed to this stage. The DoP will also be requested to prepare a Section 69 Report to the Minister following the exhibition to make the plan for the same reasoning.

Section 57(1) of the EP&A Act, 1979 requires Council to prepare a Local Environmental Study (LES) justifying the proposed dLEP in respect of the study area. Despite the identification of the area by the Residential Development Strategy (RDS) as a future urban precinct, full analysis of the site and determination of appropriate areas for development will need to occur. A formal land use strategy has not yet been developed; therefore an LES will be undertaken. This will assist in the preparation of an appropriate land use strategy for the area.

State Environmental Planning Policies

The proposal has been considered having regard for relevant State Environmental Planning Policies (SEPPs) and draft SEPPs. The following SEPPs have been identified as being applicable to the proposed rezoning, and the rezoning is generally considered to be consistent with the provisions of the SEPPs. Further justification of consistency with the relevant provisions is provided within the attachments to this report:

- SEPP 14 – Wetlands.
- SEPP 44 – Koala Habitat.
- SEPP 55 – Remediation of Land.
- SEPP (Infrastructure) 2007.

Sydney Regional Environmental Plans

The proposal has been considered in terms of all relevant Sydney Regional Environmental Plans (SREPs) and draft SREPs. Whilst SREP 9 – Extractive Industry is applicable to this proposal, it is considered that the proposal is consistent with the requirements of the SREP. Further justification of this consistency is provided within the attachments to this report.

Precinct 7A – Hamlyn Terrace and Warnervale (contd)**Section 117 Ministerial Directions**

Section 117 of the EP&A Act, 1979 requires Council to consider various directions issued by the Department of Planning. The rezoning proposal is considered to be generally consistent with Section 117 Directions, with those directions requiring more detailed discussions being outlined within Attachment 3.

The following table identifies the applicability and consistency of the proposed rezoning with the current Section 117 Directions:

Number	Direction	Applicable	Consistent
Employment and Resources			
1.1	Business and Industrial Zones	Yes	Yes
1.2	Rural Zones	Yes	Yes
1.3	Mining, Petroleum Production and Extractive Industries	Yes	Yes
1.4	Oyster Aquaculture	No	N/A
1.5	Rural Lands	No	N/A
Environment and Heritage			
2.1	Environmental Protection Zones	Yes	Yes
2.2	Coastal Protection	No	N/A
2.3	Heritage Conservation	Yes	Yes
2.4	Recreation Vehicle Areas	Yes	Yes
Housing, Infrastructure and Urban Development			
3.1	Residential Zones	Yes	Yes
3.2	Caravan Parks and Manufactured Home Estates	Yes	Yes
3.3	Home Occupations	Yes	Yes
3.4	Integrating Land Use and Transport	Yes	Yes
3.5	Development Near Licensed Aerodromes	Yes	Yes
Hazard and Risk			
4.1	Acid Sulphate Soils	Yes	Yes
4.2	Mine Subsidence and Unstable Land	Yes	Yes
4.3	Flood Prone Land	Yes	Yes
4.4	Planning for Bushfire Protection	Yes	Yes
Regional Planning			
5.1	Implementation of Regional Strategies	No	N/A
5.2	Sydney Drinking Water Catchments	No	N/A
5.3	Farmland of State and Regional Significance on the NSW Far North Coast	No	N/A
5.4	Commercial and Retail Development along the Pacific Highway, North Coast	No	N/A
5.5	Development in the Vicinity of Ellalong, Paxton and Millfield (Cessnock LGA)	No	N/A

Precinct 7A – Hamlyn Terrace and Warnervale (contd)

Number	Direction	Applicable	Consistent
5.6	Sydney to Canberra Corridor	No	N/A
5.7	Central Coast	Yes	Yes
5.8	Second Sydney Airport: Badgerys Creek	No	N/A
Local Plan Making			
6.1	Approval and Referral Requirements	Yes	Yes
6.2	Reserving Land for Public Purposes	Yes	Yes
6.3	Site Specific Provisions	No	N/A

RELEVANT LEGISLATION

Threatened Species Conservation Act 1995

The Threatened Species Conservation Act 1995 contains provisions for the protection and conservation of endangered and threatened species, populations and communities.

Preliminary mapping investigations of the study area have identified that the site contains a number of Endangered Ecological Communities listed under this Act including:

- Swamp Oak Floodplain;
- River-flat Eucalypt Forest or Swamp Sclerophyll Forest on Coastal Floodplains; and
- Freshwater wetlands (including those listed under SEPP 14 – Coastal Wetlands).

Further investigative studies of flora and fauna within the study area are proposed to be undertaken during the preparation of the LES. These studies will identify the extent and distribution of the above communities, in addition to investigations to determine the use of the study area for foraging, roosting and habitat for endangered and threatened fauna.

Once the final land use strategy is determined, it is likely that clearing of some vegetation will be required in certain locations and these impacts will need to be carefully examined and offset with appropriate conservation measures.

It is anticipated that biodiversity certification (biocertification) of the LEP will be sought for this rezoning. Biocertification may be granted to LEPs if an overall improvement or maintenance of biodiversity values can be achieved.

It is considered that Wyong Shire (and more specifically this area) is an appropriate area for biocertification, given the high level of development pressure that is currently being experienced. An additional benefit of biocertification of the LEP is that it can enable the removal of the need for the seven part threatened species assessment under the Environmental Planning and Assessment Act 1979. Therefore, future development which complies with the LEP within the area certified will not require a site by site threatened species assessment, thus streamlining the development assessment process.

Precinct 7A – Hamlyn Terrace and Warnervale (contd)

The intent to seek biocertification will need to be identified during the exhibition of the dLEP, in addition to compliance of the instrument with the working draft '*Guidelines for Biodiversity Certification of Environmental Planning Instruments*' as published by the Department of Environment and Climate Change (DECC) (April 2007). Seeking biocertification of the dLEP will also require extensive consultation to be undertaken with the DECC throughout the dLEP preparation process.

Environment Protection Biodiversity Conservation Act 2000

The Environment Protection and Biodiversity Conservation Act 2000 aims to provide protection for those aspects of the environment which are of national significance and promote ecologically sustainable use of resources and to promote biodiversity.

Additional flora and fauna investigations will be undertaken during the preparation of the LES. Previous studies undertaken for part of the site will also be used to determine the applicability of this legislation.

Local Government Act 1993

The Local Government Act 1993 requires that all community land is managed through a Plan of Management. Council is required to develop these plans for all Council owned community land in Wyong Shire. The study area contains parcels of community land which are governed by existing Plans of Management. These are further discussed under '*Council Policy and Strategic Implications*'.

Water Management Act 2000

The Water Management Act 2000 aims to provide for the sustainable and integrated management of water sources for present and future generations. This Act repealed the Rivers and Foreshores Improvement Act 1948 in February 2008.

This Act requires the development of Plans of Management for drainage and flood plain management. As the study area is significantly affected by flooding, such plans will be required to be developed. In addition, these Plans of Management are to include provisions for environmental protection to identify where development should be restricted to minimise harm to water sources within the area.

Further, the Act also requires licensing for water harvesting activities. The proposed land use strategy (as presented within the enclosures) proposes for the harvesting and resale of stormwater. This activity will require approval and a licence from the Department of Water and Energy (DWE).

Precinct 7A – Hamlyn Terrace and Warnervale (contd)

Roads Act 1993

The Roads Act 1993 specifies the requirements for opening public roads. This Act will be required to be utilised when the final land use strategy for the study area has been determined which identifies locations of road networks within the study area.

National Parks and Wildlife Act 1974

The National Parks and Wildlife Act 1974 will be called up in a number of circumstances during the preparation of the dLEP. The Act contains provisions for the protection of flora, fauna and items of Aboriginal Significance.

Preliminary mapping investigations of the study area have identified the existence of a number of endangered ecological communities. Whilst also covered under the Threatened Species Conservation Act 1995, any proposal to harm or remove such species will require a licence under the National Parks and Wildlife Act. Further studies undertaken in relation to these issues during the LES preparation will assist in the determination of whether such licences are required.

In relation to items of Aboriginal Significance, the Act prescribes the requirements for the management of items of Aboriginal Archaeology when located within an area designated for development. Such requirements relate to notification/consultation to be undertaken with the local Aboriginal Land Council, and obtaining permits for the disturbance or removal of such items.

Preliminary mapping investigations have not identified the location of any items of Aboriginal Archaeology or Aboriginal Items of Significance within the study area. One heritage item of European heritage significance is known to occur in the study area. Further studies relating to Non-Aboriginal heritage and Aboriginal Archaeology will be undertaken during the preparation of the LES to identify the existence of any such items within the study area. Any necessary permits will be obtained and appropriate notification and consultation undertaken if such items are discovered and require removal or disturbance in accordance with the provisions of this Act.

Native Vegetation Act 2003

The Native Vegetation Act 2003 aims to encourage and promote the management and conservation of native vegetation on a regional basis in the social, economic and environmental interests of the State, and to prevent broad scale clearing unless it improves or maintains environmental outcomes.

Whilst the final land use strategy for the study area has not yet been determined, it is anticipated that clearing of some areas will be required to facilitate the development of this residential precinct. Approval for any vegetation removal will only be required on land which is not zoned for an urban purpose after the rezoning is gazetted, however separate approval shall be required to be obtained from Council for this purposed in these areas.

Precinct 7A – Hamlyn Terrace and Warnervale (contd)

OTHER MATTERS FOR CONSIDERATION**Central Coast Regional Strategy**

The Central Coast Regional Strategy (CCRS), released in June 2008, provides the base planning framework for the growth of the Central Coast Region over the next 25 years (2006-2031). The major corridor (as represented in the enclosures) identifies the areas of concentration of residential and employment development.

For Wyong Shire, the Strategy identifies that an additional 39,500 dwellings will be required to accommodate an anticipated population growth of 71,100 persons. 16,000 of these new dwellings will be required to be accommodated within new release or 'Greenfield' areas.

The majority of this population will be located within the North Wyong Shire Structure Plan (NWSSP) area (see enclosures). The NWSSP will identify land which is and is not suitable for development, in addition to providing a staging and sequencing plan for the timing of development. As this plan is being prepared by DoP in conjunction with Wyong Shire Council, it is anticipated that the review of the timing of release areas within the RDS will be closely tied with that of the NWSSP. The timing of the release of this study area should therefore remain a priority release area. This will enable consistency between the CCRS, RDS and Precinct 7A Masterplan to be achieved.

Additionally, the CCRS identifies that Wyong Shire will be required to provide 27,000 jobs over the next 25 years, 10,500 of these are to be accommodated within the NWSSP area (including those within the WEZ).

The study area is located within the NWSSP area, in addition to being located within the corridor of concentrated residential and employment development. The proposal for Precinct 7A and the surrounding study area aims to incorporate some employment lands.

Planning for Bushfire Protection 2006

The dLEP affects land which contains Category 1 and 2 bush fire prone vegetation, in addition to the incorporation of some buffer areas. The dLEP and associated controls within the draft Chapter of DCP 2005 will need to be consistent with those provisions contained the Planning for Bushfire Protection 2006.

In addition, the NSW Rural Fire Service will be required to be consulted under Section 62 of the Act, given the classification of the vegetation within the study area.

Precinct 7A – Hamlyn Terrace and Warnervale (contd)

Standard Instrument – Principal Local Environmental Plans

The Standard Instrument (Local Environmental Plans) Order 2006 was gazetted in March 2006. This order required all Councils within New South Wales to convert existing Principal Local Environmental Plans (LEPs) to a format prescribed by the Department of Planning within certain timeframes. Wyong Shire Council has until 2011 to make this conversion. Council however has resolved that this conversion be completed by March 2010.

The standard instrument contains standard zones, permissible and prohibited land uses, development standards and definitions which must be utilised in the development of a new principal LEP.

Given the anticipated timeframe for the completion of the rezoning of the study area it is anticipated that the provisions within the standard instrument will be adopted for this dLEP.

Shire-wide Settlement Strategy

As discussed, Council is required to prepare a new LEP in accordance with the Standard Instrument (Local Environmental Plans Order) 2006. Given that most of the planning for the existing primary planning instrument (Wyong LEP 1991) was undertaken approximately 20 years ago, the context has changed for a range of issues and challenges that face the Shire. In order to achieve a contemporary LEP, Council has committed to developing a Settlement Strategy which will inform the preparation of the new Wyong LEP and establish new planning directions to guide future development in the Shire.

The Settlement Strategy will consider issues relating to Centres and Housing; Economy and Employment; Environment, Heritage, Recreation and Natural Resources; Natural Hazards; Water; Infrastructure and Transport. In addition, the review of Council's RDS has recommended that the existing objectives and provisions be considered and incorporated, where relevant, into the final Settlement Strategy. It is anticipated that the Settlement Strategy will be adopted prior to the commencement of Section 62 Consultations with relevant State Government Authorities for draft LEP 2011.

COUNCIL POLICY AND STRATEGIC IMPLICATIONS

Wyong Local Environmental Plan 1991

Wyong Local Environmental Plan (WLEP) 1991 is the primary land use instrument for Wyong Shire and prescribes the zones and land uses throughout the LGA. In addition, it contains additional provisions for site specific development.

The study area comprises a number of zones and is heavily impacted by floodplains and wetlands which occupy the southern portion of site. This part of the Study area is currently zoned 1(c) (Non-Urban Constrained Lands) and 7(g) (Wetlands Management).

Precinct 7A – Hamlyn Terrace and Warnervale (contd)

Whilst the final land use strategy has not been developed, it is anticipated that constrained land (including wetlands) within the study area will not be identified for future development. It is anticipated that similar land use zones with similar permissible uses and controls will be applied to these areas.

Clause 41A of WLEP 1991 provides specific requirements for the development of land within areas zoned 7(g) (Wetlands Management). It is anticipated that much of the land within the study area zoned in this manner will be retained in its current zone (or equivalent zone under the standard instrument LEP), therefore will not be subject to the requirements of this clause. The preparation of the LES will further define the boundaries of land with wetland characteristics to ensure that the ecological processes and values of these areas are retained where possible.

The northern portion of the study area consists of land predominantly zoned 10(a) (Investigation Precinct), however, some 6(a) (Open Space and Recreation) and 5(a) (Special Uses) zones, in addition to the Warnervale Village, zoned 2(a) (Residential) are also present.

Excluding the 5(a) and 6(a) zone, the remaining zones within the precinct enable low scale residential development, consisting primarily of one dwelling per lot. Some agricultural uses are also currently permitted within the 1(c) and 10(a) zones.

Additional requirements under Clause 47 also apply to development in the vicinity of aerodromes in relation to sound insulation of buildings. This will be taken into consideration when the final land use strategy is determined, and appropriate controls will be incorporated into the draft Chapter of DCP 2005 developed for this area, if required. They are unlikely to form an impediment to development.

Development Control Plan 2005 (DCP 2005) and Other Council Policies

The proposal has been considered having regard to DCP 2005 and other Council Policies. This report recommends the development or amendment of an appropriate chapter within DCP 2005 to guide future development within the study area.

The study area is directly affected by Chapter 13: Interim Conservation Areas for Wyong Shire, Chapter 30: Wyong Shire Wetland Areas and Chapter 49: Warnervale East and Wadalba North West Urban Development Area. Draft Chapter 97 – Water Sensitive Urban Design will also be applicable to the dLEP when adopted.

Chapter 13 aims to protect and conserve remaining natural areas and wildlife corridor opportunities until ecological studies have been fully completed within potential conservation investigation areas. This chapter requires the submission of a conservation analysis of the subject area.

Flora and fauna studies and investigations are to be undertaken during the preparation of the LES. These studies will identify the extent and distribution of listed species, populations and communities within the study area, in addition to investigations to determine the use of the study area for foraging, roosting and habitat for endangered and threatened fauna.

Precinct 7A – Hamlyn Terrace and Warnervale (contd)

These studies will also assess the significance of any impacts arising from the proposed land use strategy on identified listed species, populations and communities. As a result of these studies, the proposed land uses will be determined and applied in a manner which does not detrimentally affect significant habitat, corridors, species, populations or communities, and will identify where linkages between habitats and corridors can be maintained where possible.

Chapter 30 applies to land which is zoned 7(g) (Wetlands Management) within Wyong Shire. A significant area of the study area is zoned in this manner. In addition, a portion of this zoning is identified as a wetland of state significance which is further discussed within the attachments in relation to SEPP 14.

Chapter 30 aims to protect the natural wetland areas within the Shire and maintain the ecological sustainability of wetland functions and the conservation values of these environments.

As identified, flora and fauna studies and investigations are to be undertaken during the preparation of the LES. These studies will identify the extent and distribution of the wetland areas within study area.

Chapter 49 aims to facilitate development for residential purposes within the Warnervale/Wadalba Urban Release Area that will:

- Provide a high quality and varied residential environment with accessible open space, retail and community facilities;
- Provide attractive streetscapes which reinforce the function of a street and enhance the amenity of dwellings;
- Provide opportunity for a variety of housing types;
- Provide a safe and efficient system of roads and pathways for vehicular, pedestrian and cycle movements.
- Provide for the protection and enhancement of the environment.

Precinct 7A adjoins that area covered by Chapter 49. It is likely that this chapter will be amended to apply the area covered by the Precinct 7A study area.

Draft Chapter 97 identifies the requirements for the management of stormwater, including provisions for the utilisation of Water Sensitive Urban Design (WSUD) features. In addition, draft Chapter 97 also details an Integrated Water Cycle Management (IWCM) system for the Porters Creek Wetland catchment of which the study area forms a part. During the development of the land use strategy for the study area, consideration will need to be given to the operation of this plan and stormwater flows within the area.

Any draft Chapter prepared for the study area will require consistency with those associated Chapters of DCP 2005 regarding residential, environmental and employment generating development.

Precinct 7A – Hamlyn Terrace and Warnervale (contd)

Developer Contribution Plans

Developer Contribution Plan No. 7A – Drainage, Water Quality, Open Space, Community Facilities and Roads – Warnervale District applies to the Precinct 7A study area. This plan identifies a significant portion of the study area as being required to be acquired by Council for open space, recreational and drainage purposes. It is also likely that this plan will be amended once a final land use strategy is identified to adequately identify contribution costs for development within the Precinct.

Plans of Management

The Local Government Act 1993 requires that Council owned community land is managed through a Plan of Management. These plans specify the management requirements and future uses for these areas.

There are two generic Shire-wide Plans of Management which apply to the study area and include No. 5 - Sportsgrounds, Parks and General Community Uses and No. 10 - Natural Areas.

No. 5 - Sportsgrounds, Parks and General Community Uses applies to land which is for general community use, parks or sportsgrounds and identifies the requirements for the provision and management of recreation activities, buildings and amenities, infrastructure, access and occupation, development activities, pollution control, trees and vegetation and landscape, beaches and foreshores, information, monitoring and research, sportsgrounds and parks and playgrounds to land to which the plan applies.

No. 10 - Natural Areas applies to the open space land in the study area which are identified as natural areas (bushland, wetlands etc.). Provisions also apply to these areas in respect of recreation activities, buildings and amenities, infrastructure, access and occupation, development activities, pollution control, trees and vegetation and landscape, beaches and foreshores, information, monitoring and research.

Any new Council owned open space areas created as a result of the dLEP will require new or amended Plans of Management to be developed to ensure compliance with the provisions of the Local Government Act 1993. This will most likely be reflected through amendment of existing applicable Plans of Management.

Precinct 7A – Hamlyn Terrace and Warnervale (contd)

Residential Development Strategy (RDS)

The RDS, adopted by Council in 2002, was developed as a response to State Government requirements for local governments to develop local planning policies which would contribute to metropolitan planning objectives. This strategy was produced to increase the 'quality, diversity and quantity of residential development' in Wyong Shire and aims to:

- Provide a comprehensive strategy to guide residential development which will increase the quality and diversity of development in Wyong Shire;
- Plan for residential development which is environmentally, economically and socially sustainable in both a local and regional context;
- Provide a local approach which justifies exemption from SEPP 53 - Metropolitan Residential Development;
- Identify amendments to the Wyong Local Environmental Plan 1991 which seek to satisfy residential development objectives of the Greater Metropolitan Region, while retaining local sustainability; and
- Identify short and medium term actions which Council can facilitate to realise metropolitan planning objectives for residential development, while maintaining local sustainability.

Whilst the study area is not identified as a Metropolitan Development Program (MDP) area, it is recognised (Precinct 7A) within Council's RDS as a medium priority area for urban development. The area has the potential to have a substantial impact on local housing supply and demand in the region.

The RDS is currently undergoing review to reflect changing land use patterns and identify new areas within the Shire for urban development. This will result in new priority areas for development being set for the Shire and form part of the proposed Settlement Strategy.

Utilities and Services

The provision of water supply and sewerage services have been identified in the Development Servicing Plan for the Gorokan District (DSP 7). Water is available from the existing reticulation system in the area. The Department of Commerce is managing the design and construction of Sewer Pump Station 7A and the associated gravity and rising mains which will service development in part of the study area. At this stage, it is anticipated the construction work will be completed by late 2009. The design and construction of Sewer Pump Station 7A and its associated gravity and rising mains for the remainder of Precinct 7A will be provided by the developers. The current Warnervale village is being serviced for sewer by the existing Sewer Pump Station C20 and this sewer pump station will ultimately be diverted to Sewer Pump Station 7A.

Precinct 7A – Hamlyn Terrace and Warnervale (contd)

Consultation will be required to be undertaken with relevant internal staff and government agencies to determine the level of augmentation required to service the development for other utilities such as electricity, gas and telecommunications services.

Mine Subsidence and Mineral Resources

Preliminary investigations of the study area have identified that part of the area is subject to mine subsidence. The Mine Subsidence Board (MSB) will be consulted under s62 of the Environmental Planning and Assessment Act. Any concerns raised by the MSB, will be considered prior to submission of the rezoning to the Department under s65 of this Act, for the purposes of public exhibition.

ECOLOGICALLY SUSTAINABLE PRINCIPLES

The Local Government Amendment (Ecologically Sustainable Development) Act 1997 amended the Local Government Act 1993 to require Council to give consideration to the principles of Ecologically Sustainable Development, namely the adoption of the precautionary principle, intergenerational equity, the conservation of biological diversity and ecological integrity, and improved valuation, pricing and incentive mechanisms. The rezoning proposal has been assessed having regard for principles and is considered to be generally consistent with the principles.

CONCLUSION

This report seeks Council's endorsement to prepare a draft Local Environmental Plan encompassing that land defined in Attachment 1 and including Precinct 7A – Hamlyn Terrace and Warnervale, consisting of an area of approximately 554 hectares. In addition to supporting the dLEP for this area, Council is also requested to support additional recommendations to facilitate the rezoning process. It is critical that the release of this area is progressed as it will assist with the achievement of residential and employment targets identified within the Central Coast Regional Strategy to be achieved within a relatively short time frame.

Attachment 1 ***Assessment against applicable SEPPs, SREPs and s117 Directions (15 pages)***

Enclosures ***Aerial Study Area Location
Zone Map
Central Coast Regional Strategy
Draft Proposal-Southern Area
Work Program for Precinct 7A – Hamlyn Terrace and Warnervale
All Lots Excluding Major Constraints***

Precinct 7A – Hamlyn Terrace and Warnervale (Attachment 1)

SREPs, SEPPs and Section 117 Direction Assessment

Sydney Regional Environmental Plans

SREP	Comment
9 - Extractive Industry	
<ul style="list-style-type: none"> ▪ SREP 9 – Extractive Industry aims to facilitate the development of extractive resources in proximity to the population of the Sydney Metropolitan Area by identifying land which contains extractive material of regional significance, and to permit, with the consent of the Council, development for the purpose of extractive industries on land described in Schedule 1 or 2, and to ensure consideration is given to the impact of encroaching development on the ability of extractive industries to realise their full potential, and to promote the carrying out of development for the purpose of extractive industries in an environmentally acceptable manner. 	<ul style="list-style-type: none"> ▪ Applicable. ▪ The dLEP does not affect land within or in the vicinity of land described in Schedule 1 or 2, Division 1, 4, 6, 7, 8 or 9. Notification to the owners of the land described in this schedule or to the Director-General of the Department of Mineral Resources (Department of Primary Industries) or the Director-General of the Environment Protection Authority (Department of Environment and Climate Change) is not required under this SREP. ▪ The dLEP is therefore not considered inconsistent with this SREP.

State Environmental Planning Policies

SEPP	Comment
14 – Coastal Wetlands	
<ul style="list-style-type: none"> ▪ SEPP No. 14 Coastal Wetlands aims to ensure that the coastal wetlands are preserved and protected in the environmental and economic interests of the State. A wetland classified under this SEPP cannot be cleared, drained, filled or a levee constructed without the concurrence of the Director-General of the Department of Planning 	<ul style="list-style-type: none"> ▪ Applicable ▪ The dLEP study area is subject to a wetland classified under this SEPP. ▪ Whilst a formal land use strategy has not been prepared for the study area, it is unlikely that the wetland subject to this SEPP will be affected by the land use strategy as it is wholly located within a flood prone area. ▪ However, if any alterations to the wetland are required, concurrence will be sought from the Director General of the Department of Planning.

Precinct 7A – Hamlyn Terrace and Warnervale (Attachment 1) (contd)

44 – Koala Habitat Protection	
<ul style="list-style-type: none"> ▪ SEPP No. 44 Koala Habitat Protection aims to encourage the proper conservation and management of areas of natural vegetation that provide habitat for koalas to ensure a permanent free-living population over their present range and reverse the current trend of koala population decline. The SEPP requires the preparation of plans of management before development consent can be granted in relation to areas of core koala habitat, and encouragement of the identification of areas of core koala habitat, and the inclusion of areas of core koala habitat in environment protection zones. 	<ul style="list-style-type: none"> ▪ Applicability not determined at this stage. ▪ Further investigative works undertaken during the preparation of the LES will identify whether the study area contains areas of koala habitat. ▪ Should koala habitat be identified, measures shall be developed, including preparation of plans of management and appropriate land use zoning to ensure consistency with the provisions of the SEPP.
55 – Remediation of Land	
<ul style="list-style-type: none"> ▪ SEPP No. 55 Remediation of Land aims to promote the remediation of land for the purpose of reducing the risk of harm to human health or any other aspect of the environment. SEPP 55 states that when 'preparing an environmental planning instrument, a planning authority is not to include in a particular zone', land identified as being contaminated, 'if the inclusion of land in that zone would permit a change of use of the land.' 	<ul style="list-style-type: none"> ▪ Applicable. ▪ Preliminary mapping investigations have identified that there is the potential for contaminated sites in and directly adjacent to the study area. It is anticipated that these sites will involve a change of use. ▪ During the preparation of the LES, further contamination investigations are to be undertaken to determine: <ul style="list-style-type: none"> a the contaminants on site; b the level of contamination; and c any remedial works (including the preparation of a Remedial Action Plans (RAPs) required prior to the rezoning of the land. ▪ Remediation of any contaminated land on site will enable future development to occur in these areas with no risk to future occupants or occurrence of pollution downstream.

Precinct 7A – Hamlyn Terrace and Warnervale (Attachment 1) (contd)

SEPP (Infrastructure) 2007	
<ul style="list-style-type: none"> ▪ SEPP (Infrastructure) 2007 aims to enable greater flexibility for the location and provision of infrastructure through the State. The SEPP enables a range of infrastructure types to be provided with or without consent in prescribed zones. 	<ul style="list-style-type: none"> ▪ Applicable. ▪ The proposed zoning for the site must be suitable to accommodate any required current or future infrastructure for the locality. ▪ This will be further determined during the preparation of the final land use strategy and determination of zones.

S117 Directions

Direction	Comment
Employment and Resources	
1.1 Business and Industrial Zones	
<ul style="list-style-type: none"> ▪ Aims to encourage employment growth in suitable locations, protect employment land in business and industrial zones and to support the viability of identified strategic corridors. ▪ Applies when a dLEP affects land within an existing or proposed business or industrial zone. 	<ul style="list-style-type: none"> ▪ Applicable. ▪ The rezoning of the study area may include the provision of some commercially zoned land to support the residential development proposed in this area. ▪ A demand analysis for commercial and retail activity will be undertaken as part of the preparation of the Local Environmental Study (LES). ▪ The provision of any commercially zoned land will only be provided if it is in accordance with the classifications provided by the Central Coast Regional Strategy (CCRS) and Wyong Shire Council's Retail Strategy and Development Control Plan 2005 (DCP 2005) Chapter 81 – Retail Centres. ▪ The dLEP also has the potential to provide some employment generating/ industrial land. ▪ It is therefore considered that the draft Local Environmental Plan (LEP) will be consistent with this Direction.

Precinct 7A – Hamlyn Terrace and Warnervale (Attachment 1) (contd)

1.2 Rural Zones	
<ul style="list-style-type: none"> ▪ Aims to protect the agricultural production value of rural land. ▪ Applies when a dLEP affects land within an existing or proposed rural zone. 	<ul style="list-style-type: none"> ▪ Applicable. ▪ The rezoning of the study area will affect land which is currently zoned 1(c) (Non-Urban Constrained Land). The dLEP will seek to rezone the land to a predominantly residential zone. ▪ Whilst the 1(c) zone permits agricultural uses, its primary objective is to limit the development of this land given its affectation by flooding, erosion and other physical constraints, therefore it is not considered as rural land. It is considered that the rezoning of this land will not result in an inconsistency with this Direction. ▪ An LES for this rezoning will be undertaken, giving consideration to the objectives of this Direction. The LES will identify the appropriateness of this land for rezoning. ▪ The rezoning of the study area is identified as a priority project within Council's Residential Development Strategy (RDS). In addition, the Precinct is identified within the North Wyong Shire Structure Plan (NWSSP) Area (as per the CCRS) designated for future development.
1.3 Mining, Petroleum Production and Extractive Industries	
<ul style="list-style-type: none"> ▪ Aims to ensure that the future extraction of State or regionally significant reserves of coal, other minerals, petroleum and extractive materials are not compromised by inappropriate development. ▪ Applies when a dLEP would have the effect of prohibiting the mining of coal or other minerals, production of petroleum, or winning or obtaining of extractive materials, or restricting the potential of development resources of coal, other mineral, petroleum or extractive materials which are of State or regional significance by permitting a land use that is likely to be incompatible with such development. 	<ul style="list-style-type: none"> ▪ Not applicable. ▪ The dLEP does not seek to prohibit mining of coal, other minerals, petroleum and extractive materials or restrict potential development of coal, other minerals, petroleum and extractive materials, therefore is not considered to be inconsistent with this Direction. ▪ Department of Primary Industries and Mine Subsidence Board will be consulted during the rezoning process.

Precinct 7A – Hamlyn Terrace and Warnervale (Attachment 1) (contd)

1.4 Oyster Aquaculture	
<ul style="list-style-type: none"> ▪ Aims to ensure that Priority Oyster Aquaculture Areas and oyster aquaculture outside such an area are adequately considered, and to protect Priority Oyster Aquaculture Areas and oyster aquaculture outside such an area from land uses that may result in adverse impacts on water quality and the health of oysters and consumers. ▪ Applies when a dLEP could result in adverse impacts on a Priority Oyster Aquaculture Areas or current oyster aquaculture lease in the national parks estate or results in incompatible use of land between oyster aquaculture in a Priority Oyster Aquaculture Area or current oyster aquaculture lease in the national parks estate and other land uses. 	<ul style="list-style-type: none"> ▪ Not applicable. ▪ The dLEP does not propose a land use which will have adverse effects or be incompatible with Priority Oyster Aquaculture Areas or current oyster aquaculture lease in the national parks estate. It is therefore considered that the dLEP is consistent with this Direction.
1.5 Rural Lands	
<ul style="list-style-type: none"> ▪ Aims to protect the agricultural production value of rural land; and facilitate the orderly and economic development of rural lands for rural and related purposes. ▪ Applies to Councils to which State Environmental Planning Policy (Rural Lands) 2008 applies and prepares a dLEP that affects land within an existing or proposed rural or environment protection zone. 	<ul style="list-style-type: none"> ▪ Not applicable. ▪ Wyong Shire Council local government area is not subject to SEPP (Rural Lands) 2008.

Precinct 7A – Hamlyn Terrace and Warnervale (Attachment 1) (contd)

Environment and Heritage	
2.1 Environmental Protection Zones	
<ul style="list-style-type: none"> ▪ Aims to protect and conserve environmentally sensitive areas. ▪ Applies when Council prepares a dLEP. 	<ul style="list-style-type: none"> ▪ Applicable. ▪ The study area comprises some land which is zoned for Environmental Protection including 7(g) (Wetlands Management), 10(a) (Investigation Precinct) and 1(c) (Non-Urban Constrained Lands). ▪ A formal land use strategy has not yet been developed for the study area, however when developed, it will be informed by the findings of the LES. ▪ The LES will be developed based on studies of the area assessing flooding and floodplain management, flora and fauna, integrated water cycle management, urban design and master planning, bushfire hazard assessment, conservation and open space, recreation, visual assessment and landscaping. ▪ The dLEP will include provisions to facilitate the protection and conservation of environmentally sensitive areas as identified by the LES. It is therefore considered that the dLEP is not inconsistent with this Direction.
2.2 Coastal Protection	
<ul style="list-style-type: none"> ▪ Aims to implement the principles in the NSW Coastal Policy. ▪ Applies when a dLEP applies to land in the coastal zone as defined in the Coastal Protection Act 1979. 	<ul style="list-style-type: none"> ▪ Not applicable. ▪ The dLEP does not affect land which falls within the coastal zone as defined in the Coastal Protection Act 1979.

Precinct 7A – Hamlyn Terrace and Warnervale (Attachment 1) (contd)

2.3 Heritage Conservation	
<ul style="list-style-type: none"> ▪ Aims to conserve items, areas, objects and places of environmental heritage significance and indigenous heritage significance. ▪ Applies when Council prepares a dLEP. 	<ul style="list-style-type: none"> ▪ Applicable. ▪ Preliminary investigative works have identified that an item of heritage significance is located within the study area. ▪ Further investigation of heritage items and items of Aboriginal archaeology will be undertaken during the preparation of the LES. ▪ The dLEP will provide for the conservation of existing heritage items of significance, in addition to any items identified during the preparation of the LES. ▪ It is considered that adoption of the above measures will ensure that the dLEP will be consistent with this Direction.
2.4 Recreational Vehicle Areas	
<ul style="list-style-type: none"> ▪ Aims to protect sensitive land or land with significant conservation values from adverse impacts from recreational vehicles. ▪ Applies when Council prepares a dLEP. 	<ul style="list-style-type: none"> ▪ Applicable. ▪ The dLEP will not enable land to be developed for the purpose of a recreational vehicle area. ▪ It is therefore considered that the dLEP is consistent with this Direction.
Housing, Infrastructure and Urban Development	
3.1 Residential Zones	
<ul style="list-style-type: none"> ▪ Aims to encourage a variety and choice of housing types to provide for existing and future housing needs, to make efficient use of existing infrastructure and services and ensure that new housing has appropriate access to infrastructure and services, and to minimise the impact of residential development on the environmental and resource lands. ▪ Applies when a dLEP affects land within an existing or proposed residential zone, and any other zone in which significant residential development is permitted or proposed to be permitted. 	<ul style="list-style-type: none"> ▪ Applicable. ▪ The dLEP will seek to rezone land within the study area as identified by the LES as being suitable for residential development. ▪ The dLEP will be supported by a complimentary chapter of Council's DCP 2005. This chapter will provide guidance as to appropriate development of the area, including residential development, based on good design principles. ▪ The dLEP will not to reduce the permissible density of the land in relation to residential development. ▪ It is therefore considered that the dLEP is consistent with this Direction.

Precinct 7A – Hamlyn Terrace and Warnervale (Attachment 1) (contd)

3.2 Caravan Parks and Manufactured Home Estates	
<ul style="list-style-type: none"> ▪ Aims to provide for a variety of housing types and provide opportunities for caravan parks and manufactured home estates. ▪ Applies when Council prepares a dLEP. 	<ul style="list-style-type: none"> ▪ Applicable. ▪ The dLEP does not seek to rezone land to provide for caravan parks or manufactured home estates, further there are no existing caravan parks within the study area. ▪ It is therefore considered that the dLEP is consistent with this Direction.
3.3 Home Occupations	
<ul style="list-style-type: none"> ▪ Aims to encourage the carrying out of low impact small business in dwelling houses. ▪ Applies when Council prepares a dLEP. 	<ul style="list-style-type: none"> ▪ Applicable. ▪ The dLEP shall incorporate zones for the purposes of residential development. All residential zones under WLEP 1991 and the Standard Instrument enable home occupations to be undertaken without consent. ▪ It is considered therefore that the dLEP is consistent with this Direction.
3.4 Integrating Land Use and Transport	
<ul style="list-style-type: none"> ▪ Aims to ensure that urban structures, building forms, land use locations, development designs, subdivision and street layouts achieve: improving access to housing, jobs and services by walking, cycling and public transport; increasing choice of available transport and reducing transport on cars; reducing travel demand; supporting efficient and viable public transport services; and provide for efficient movement of freight. ▪ Applies when a dLEP creates, alters or moves a zone or provision relating to urban land, including land zoned for residential, business, industrial, village or tourist purposes. 	<ul style="list-style-type: none"> ▪ Applicable. ▪ The dLEP will seek to rezone suitable areas (as identified by the LES) of the study area for residential and business/commercial purposes. ▪ A formal land use strategy has not yet been determined for the study area. Consideration will be given to the principles contained within <i>Improving Transport Choice – Guidelines for Planning and Development (DUAP 2001)</i> and <i>The Right Place for Business Services (DUAP 2001)</i> during the preparation of the LES and final zoning for the study area. ▪ It is considered that adoption of the above measures will ensure that the dLEP will be consistent with this Direction.

Precinct 7A – Hamlyn Terrace and Warnervale (Attachment 1) (contd)

3.5 Development Near Licensed Aerodromes	
<ul style="list-style-type: none"> ▪ Aims to ensure the effective and safe operation of aerodromes and that the operation is not compromised by development which constitutes an obstruction, hazard or potential hazard to aircraft flying in the vicinity. Development for residential purposes or human occupation (within the Annual Noise Exceedence Frequency (ANEF) contours between 20 and 25) must incorporate appropriate mitigation measures so that the development is not adversely affected by aircraft noise. ▪ Applies when a dLEP creates, alters or removes a zone or provision relating to land in the vicinity of a licensed aerodrome. 	<ul style="list-style-type: none"> ▪ Applicable. ▪ The dLEP affects land immediately adjacent to Warnervale Aerodrome. ▪ During the preparation of the LES and dLEP, consideration will be given to land affected by the operation of the airport, including ANEF and Obstacle Limitation Surface to ensure zoning and provisions are consistent with these requirements, in addition to AS2021 – Acoustics – Aircraft Noise Intrusion – Building Siting and Construction. ▪ Further, the dLEP will be supported by a complimentary chapter of Council's DCP 2005 which will define building requirements (including height, scale, building materials, etc.) for development affected by the aerodrome operation. ▪ As part of the development and progression of the dLEP, consultation will be undertaken with the lessee of the aerodrome and relevant Commonwealth and State Government agencies. ▪ It is considered that adoption of the above measures will ensure that the dLEP will be consistent with this Direction.

Precinct 7A – Hamlyn Terrace and Warnervale (Attachment 1) (contd)

Hazard and Risk	
4.1 Acid Sulphate Soils	
<ul style="list-style-type: none"> ▪ Aims to avoid significant adverse environmental impacts from the use of land that has a probability of containing acid sulfate soils. ▪ Applies when a dLEP applies to land having a probability of containing acid sulfate soils on the Acid Sulphate Soils Planning Maps. 	<ul style="list-style-type: none"> ▪ Applicable. ▪ The dLEP applies to land which is identified as having a low probability of containing acid sulfate soils. ▪ The extent and probability of acid sulphate soils within the study area will be further investigated during the preparation of the LES. ▪ The outcomes of further investigations will be considered in determining the proposed land uses for these areas, and will be consistent with the provisions within the Acid Sulphate Soils Planning Guidelines. Should an intensification of the current land use be proposed by the dLEP, a copy of the investigative study will be forwarded to the Director General of the DoP under Section 64 of the Act. ▪ It is considered that adoption of the above measures will ensure that the dLEP will be consistent with this Direction.
4.2 Mine Subsidence and Unstable Land	
<ul style="list-style-type: none"> ▪ Aims to prevent damage to life, property and the environment on land identified as unstable or potentially subject to mine subsidence. ▪ Applies when a dLEP permits development on land which is within a mine subsidence district, or identified as unstable in a study or assessment undertaken by or on behalf of Council or other public authority and provided to Council. 	<ul style="list-style-type: none"> ▪ Applicable. ▪ Part of the area which is affected by the dLEP is affected by mine subsidence. The Mine Subsidence Board will be consulted during the rezoning process for any development requirements.

Precinct 7A – Hamlyn Terrace and Warnervale (Attachment 1) (contd)

4.3 Flood Prone Land	
<ul style="list-style-type: none"> ▪ Aims to ensure development on flood prone land is consistent with NSW Government's Flood Prone Land Policy and principles of the <i>Floodplain Development Manual 2005</i>; and provisions of an LEP on flood prone land is commensurate with flood hazard and includes consideration of the potential flood impacts both on an off the subject land. ▪ Applies when a dLEP creates, removes or alters a zone or provision that affects flood prone land. 	<ul style="list-style-type: none"> ▪ Applicable. ▪ The dLEP applies to land which is affected by the 1 in 100 year flood event (1% AEP). ▪ Further investigative studies for flooding and floodplain management will be undertaken during the preparation of the LES. The outcomes of further investigations will be considered in determining the proposed land uses for these areas, and will be consistent with the provisions within the NSW Flood Prone Land Policy and the provisions of the <i>Floodplain Development Manual 2005</i>. Any inconsistency or variation from the guidelines contained in this manual will be supported by justification and agreed to by the Director-General of the DoP. ▪ It is considered that adoption of the above measures will ensure that the dLEP will be consistent with this Direction.

Precinct 7A – Hamlyn Terrace and Warnervale (Attachment 1) (contd)

4.4 Planning for Bushfire Protection	
<ul style="list-style-type: none"> ▪ Aims to protect life, property and the environment from bushfire hazards, and encourage sound management of bushfire prone areas. ▪ Applies when a dLEP affects or is in proximity to land mapped as bushfire prone land. 	<ul style="list-style-type: none"> ▪ Applicable. ▪ The dLEP applies to land which is identified as containing bushfire prone vegetation. ▪ Consultation with the NSW Rural Fire Service will be undertaken during the s62 consultation process. ▪ A bushfire hazard assessment is also proposed to be undertaken during the development of the LES. The outcomes of this study, in conjunction with consideration of the <i>Planning for Bushfire Protection 2006</i> will ensure that the dLEP will provide appropriate zoning to avoid inappropriate development in hazardous areas. ▪ In addition, the dLEP will be supported by a complimentary chapter of Council's DCP 2005 which further defines building requirements (Asset Protection Zones, building materials etc) to be consistent with relevant state government requirements. ▪ It is considered that adoption of the above measures will ensure that the dLEP will be consistent with this Direction.
Regional Planning	
5.1 Implementation of Regional Strategies	
<ul style="list-style-type: none"> ▪ Aims to give legal effect to the vision, land use strategy, policies, outcomes and actions contained within regional strategies. ▪ Applies when Council prepares a dLEP that is located on land addressed within the Far North Regional Strategy, Lower Hunter Regional Strategy, Illawarra Regional Strategy and South Coast Regional Strategy. 	<ul style="list-style-type: none"> ▪ Not applicable. ▪ The dLEP is not affected by the Far North Regional Strategy, Lower Hunter Regional Strategy, Illawarra Regional Strategy and South Coast Regional Strategy.

Precinct 7A – Hamlyn Terrace and Warnervale (Attachment 1) (contd)

5.2 Sydney Drinking Water Catchments	
<ul style="list-style-type: none"> ▪ Aims to protect water quality in the hydrological catchment. ▪ Applies when Council prepares a dLEP that applies to Sydney's hydrological catchment. 	<ul style="list-style-type: none"> ▪ Not applicable. ▪ The dLEP does not apply to land within Sydney's hydrological catchment.
5.3 Farmland of State and Regional Significance on the NSW Far North Coast	
<ul style="list-style-type: none"> ▪ Aims to ensure that the best agricultural land will be available for current and future generations to grow food and fibre; provide more certainty on the status of the best agricultural land, assisting councils with strategic settlement planning; and reduce land use conflict arising between agricultural use and non-agricultural use of farmland caused by urban encroachment into farming areas. ▪ Applies to Ballina, Byron, Kyogle, and Tweed Shire Councils, Lismore City Council and Richmond Valley Council. 	<ul style="list-style-type: none"> ▪ Not applicable. ▪ The dLEP does not apply to land within the NSW Far North Coast.
5.4 Commercial and Retail Development along the Pacific Highway, North Coast	
<ul style="list-style-type: none"> ▪ Aims to manage commercial and retail development along the Pacific Highway, North Coast. ▪ Applies to all Councils between and inclusive of Port Stephens and Tweed Shire Councils. 	<ul style="list-style-type: none"> ▪ Not applicable. ▪ The dLEP is not located in an area between or inclusive of Port Stephens and Tweed Shire Councils.
5.5 Development in the Vicinity of Ellalong, Paxton and Millfield (Cessnock LGA)	
<ul style="list-style-type: none"> ▪ Aims to ensure that development in the vicinity of the villages of Ellalong, Paxton and Millfield is consistent with the Cessnock City Wide Settlement Strategy and Lower Hunter Regional Strategy. ▪ Applies to land in the vicinity of the villages of Ellalong, Paxton and Millfield in the Cessnock LGA. 	<ul style="list-style-type: none"> ▪ Not applicable. ▪ The dLEP is not located within Cessnock LGA.

Precinct 7A – Hamlyn Terrace and Warnervale (Attachment 1) (contd)

5.6 Sydney to Canberra Corridor	
<ul style="list-style-type: none"> ▪ Aims to ensure that dLEPs are prepared in accordance with the Sydney to Canberra Corridor. ▪ Applies to land within the local government areas described as the 'Sydney to Canberra Corridor'. 	<ul style="list-style-type: none"> ▪ Not applicable. ▪ The dLEP is not located on land identified as being part of the 'Sydney to Canberra Corridor'.
5.7 Central Coast	
<ul style="list-style-type: none"> ▪ Aims to ensure that land is zoned in accordance with the appropriate regional strategy for the Central Coast. ▪ Applies to Wyong Shire Council and Gosford City Council when Council prepares a dLEP. 	<ul style="list-style-type: none"> ▪ Applicable. ▪ The dLEP is considered to be consistent with the principles of the Central Coast Regional Strategy. ▪ Undertaking the LES and associated studies will enable the development of a land use strategy which provides: <ul style="list-style-type: none"> - Efficient and effective transportation systems; - Efficient and convenient distribution of land uses; - Appropriate public facilities; - A compatible range of uses; and - A reasonable choice of residential accommodation. ▪ Further, the dLEP produced from the LES will: <ul style="list-style-type: none"> - Prohibit development within flood liable land; - Ensure that urban design and location of built structures does not give rise to pollution of existing waterways and waterbodies; and - Assist in achieving economic and social self containment for Wyong Shire. ▪ It is considered that the dLEP is also consistent with the CCRS as it will provide for additional employment and residential dwellings in an area identified for future greenfield release.

Precinct 7A – Hamlyn Terrace and Warnervale (Attachment 1 (contd))

5.8 Second Sydney Airport: Badgerys Creek	
<ul style="list-style-type: none"> ▪ Aims to avoid incompatible development in the vicinity of any future second Sydney Airport at Badgerys Creek. ▪ Applies to land located within the Fairfield, Liverpool and Penrith City Council and Wollondilly Shire Council Local Government Areas. 	<ul style="list-style-type: none"> ▪ Not applicable. ▪ The dLEP is not located within the Fairfield, Liverpool and Penrith City Council and Wollondilly Shire Council Local Government Areas.
Local Plan Making	
6.1 Approval and Referral Requirements	
<ul style="list-style-type: none"> ▪ Aims to ensure that LEP provisions encourage the efficient and appropriate assessment of development. ▪ Applies when Council prepares a dLEP. 	<ul style="list-style-type: none"> ▪ Applicable. ▪ The dLEP does not propose amendments which require concurrence, consultation or referral of development applications to the Minister or public authority. ▪ The dLEP does not identify any development as designated development. ▪ It is considered that the dLEP is consistent with this Direction.
6.2 Reserving Land for Public Purposes	
<ul style="list-style-type: none"> ▪ Aims to facilitate the provision of public services and facilities by reserving land for public purposes, and facilitate the removal of reservations of land for public purposes where land is no longer required for acquisition. ▪ Applies when Council prepares a dLEP. 	<ul style="list-style-type: none"> ▪ Applicable. ▪ Whilst a formal land use strategy for the dLEP study area has not been determined, it is likely that some existing public open space zonings will be altered and future public open space created. Such determinations will be made during the preparation of the LES which will guide the land use strategy for the area. ▪ Should the dLEP seek to alter or create existing or additional public open space areas, approval shall be sought from the Director-General of the DoP. ▪ It is considered that adoption of the above measures will ensure that the dLEP will be consistent with this Direction.
6.3 Site Specific Provisions	
<ul style="list-style-type: none"> ▪ Aims to discourage unnecessarily restrictive site specific planning controls. ▪ Applies when Council prepares a dLEP to allow particular development to be carried out. 	<ul style="list-style-type: none"> ▪ Not applicable. ▪ The dLEP does not propose to allow a particular development to be carried out within the subject area.

**551 Proposed Place of Worship, Wadalba
(Attachment 1)**

Locality Plan



WYONG SHIRE COUNCIL

10 December 2008
To the Ordinary Meeting of Council

Director's Report
Shire Planning Department

551 Proposed Place of Worship, Wadalba

DA/807/2008 KP

SUMMARY

An application has been received for a place of worship at Wadalba. The application has been examined having regard to the matters for consideration detailed in section 79C of the Environmental Planning and Assessment Act (EP&A Act) and other statutory requirements with the issues requiring attention and consideration being addressed in the report. Following planning assessment the application is recommended for refusal.

In accordance with Council's Delegation Manual this application is required to be reported to Council due to the number of submissions received from the public. It has also been separately called to Council by a Councillor.

Applicant	Bowden Family Funerals C/- ACM Landmark P/L
Owner	Bowden Family Funerals
Application No	807/2008
Description of Land	Lot 20 DP 1052634 (457) Pacific Highway, Wadalba
Proposed Development	Place of Worship
Site Area	4044m ²
Zoning	2(e) Urban Release Area
Existing Use	Nursery
Estimated Value	\$370,000

RECOMMENDATION

- 1** *That Council refer the application to the General Manager for determination having regard to the matters for consideration detailed in Section 79C of the Environmental Planning and Assessment Act and other relevant issues with an indication that based on the information available to it, Council favours refusal of the application subject to appropriate reasons for refusal.*
- 2** *That Council advise those who made written submissions of Council's decision.*

PRECIS

- * The application is for a place of worship at Wadalba.
- * The site currently contains an existing dwelling and a number of outbuildings.
- * The site is zoned 2(e) Urban Release Area.
- * The proposal involves the construction of a new chapel and carparking and the demolition of a number of structures on the site.

Proposed Place of Worship, Wadalba (contd)

- * A number of issues have been identified with the development in relation to;
 - Access;
 - traffic generation;
 - carparking;
 - Stormwater;
 - Constraints to future development potential; and
 - Consistency with the zoning objectives of the Wyong Local Environmental Plan 1991 (WLEP).
- * The proposal was placed on public notification for a period of 14 days in accordance with Development Control Plan 2005 (DCP 2005) Chapter 70 – Notification of Development. 67 submissions were received during the exhibition period, 66 against the proposal and one in favour.
- * It is recommended that the application be refused.

INTRODUCTION**The Site**

The site is located on the Pacific Highway, Wadalba and is surrounded by residential land to the north, east and south whilst an industrial estate is located on the western side of the Pacific Highway. The proposed development is to take place wholly within Lot 20 DP 1052634, which has an area of 4,044m².

The site has an east-west orientation and has a gentle slope from the south east of the site to the north west. The site currently contains an existing dwelling, metal garages and associated outbuildings.

The site currently fronts the Pacific Highway for which access is denied and the property is landlocked on all other boundaries. Future access may soon be available from the adjoining land to the north of the site through the extension of Settlement Drive across the adjoining property as a result of the release of an adjoining residential subdivision. The site is also currently not connected to reticulated water and sewer.

The Proposed Development

Consent is sought for a place of worship (chapel) at 457 Pacific Highway, Wadalba. The proposed development will include the construction of a hexagonal chapel which will have a floor area of approximately 125m². The development will also include an associated foyer and toilet facilities creating a combined floor area of approximately 200m².

Proposed Place of Worship, Wadalba (contd)

The chapel is proposed to be located within the centre portion of the property and will adjoin an existing shed on the site. The shed and chapel will then be linked to the existing dwelling by a pergola and elevated walkway. The existing dwelling on the site is proposed to be retained and utilised as a manager's residence and home office for the chapel.

The chapel is proposed to operate as a place of worship as a non denominational facility. It is expected that funerals will occur on the site at an average of twice per day. The chapel is expected to operate from 10.00am to 4.00pm Monday to Friday or on an at need basis within this time span. A carpark will be created on the site and will cater for 29 vehicles, which includes three spaces within the existing shed. The funeral home proprietor running the chapel will continue the rest of the operations at a separate location. Bodies will only be kept on the subject site for the duration of the funeral and will be removed from the site at the end of the service for burial.

Summary

A number of issues have been identified with the application. The main issues relate to access to the site, traffic generation and impacts on the local road network, carparking, future development potential and consistency with the Wyong Local Environmental Plan 1991 (WLEP 1991). These issues have been communicated to the applicant who have been given adequate time to address Council's concerns. These issues have not been satisfactorily resolved and are discussed in further detail in the report.

HISTORY

The site previously contained a retail nursery which was operating from the site without development consent. An order under the EP&A Act was issued on the property in 2005 to cease operation as the use, being a nursery, was not permissible within the zone and access was prohibited from the Pacific Highway under WLEP.

Council was also concerned that the continued operation of the development from the site also had the potential to result in traffic safety issues. The nursery continued to operate from the site whilst it was determined whether the site had existing use rights under the EP&A Act. It was eventually determined that the property had no existing use rights as the original nursery operating from the site did not have consent.

The nursery eventually ceased operation from the site at the beginning of 2007 after which time the property was sold to the current owner.

Proposed Place of Worship, Wadalba (contd)

A development application was lodged in July 2007 as a change of use to allow a funeral home. However, the applicant was advised that funeral homes were not a permissible form of development within the 2(e) Urban Release Area Zone and was requested to withdraw the application. The applicant then advised that they wished to continue with the application as a home business as defined under WLEP. The application was subsequently refused in October 2007. The funeral home is currently operating from a site within the North Wyong Industrial Estate and will continue its operations from this site.

Following the refusal, a meeting was held with the property owner in March 2008 to discuss options for the site. The owner advised that they wished to erect a non-denominational chapel on the site and keep the operations of the funeral home at a separate location. The owner was advised that although 'places of worship' are permissible within the 2(e) Urban Release Zone, any new application would need to ensure that it is consistent with requirements of the WLEP 1991. The issue of access to and from the site and traffic movements within the local street network was also raised as issues that would need to be addressed for any future application.

PERMISSIBILITY

The proposed development has been considered under the following definition in the WLEP 1991.

"place of worship" means a building or place used for the purposes of religious worship, whether or not the building or place is also used for counselling, social events or religious training by a congregation or religious group.

The subject site is zoned 2(e) Urban Release Area under the WLEP 1991. The proposed development, being a place of worship, is permissible with consent however the proposed development is not considered to comply with the objectives of the zone as follows:

The objectives are:

- (a) *to cater for a range of housing types appropriate to a greenfield urban release area and not exceeding a height of 2 storeys, and*
- (b) *to provide for other uses which:*
 - (i) *are compatible with the residential environment and afford services to residents at a local level, and*
 - (ii) *are unlikely to adversely affect residential amenity or place demands on services beyond the level reasonably required for residential uses, and*

Proposed Place of Worship, Wadalba (contd)

- (c) *to provide home-based employment where such will not:*
- (i) *involve exposure to view from any public place of any unsightly matter, or any raw material, equipment, machinery, product or stored finished goods, or*
 - (ii) *have a material adverse impact on residents, and*
- (d) *to ensure development includes appropriate water sensitive urban design.*

The proposed place of worship is not considered to be consistent with above objectives with respect to the potential of the development to have an adverse impact on residents in regards to traffic and compatibility with surrounding development. The proposed development is also not considered to be consistent with the new release residential area which contains predominately detached residential dwellings.

The site is also currently subject to Clause 37 of the WLEP which denies access to and from the property from the Pacific Highway. The existing dwelling on the site currently obtains access from the Pacific Highway as no alternative access is presently available. The Roads and Traffic Authority (RTA) has advised that it will not provide concurrence for any new use to access the Highway and that all vehicular and pedestrian access to the site is denied for the current proposed development.

Until an alternative access to the site becomes available, all current access to the Pacific Highway is to only be for the existing dwelling. The proposed development can therefore only be undertaken should an alternative access to the site become available.

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:

- Wyong Local Environmental Plan 1991;
- Development Control Plan 2005, Chapter 49 – Warnervale East / Wadalba;
- Development Control Plan 2005, Chapter 61 – Carparking; and
- Development Control Plan 2005, Chapter 63 – Home Based Employment.

Proposed Place of Worship, Wadalba (contd)

ECOLOGICALLY SUSTAINABLE PRINCIPLES

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

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

ASSESSMENT

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

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

Access to the site is currently provided via the Pacific Highway on the western boundary. The property is currently landlocked on all other boundaries however it is proposed to utilise a new portion of Settlement Drive currently being constructed over the adjoining property to the north of the site. This road is currently not finalised and has not yet been dedicated as public road. The applicant therefore currently has no legal access to this new portion of the road. The RTA have advised that all vehicular and pedestrian access to the Pacific Highway is denied for the development. The proposed development may therefore only take place when the Settlement Drive extension is dedicated as public road.

If access becomes available from Settlement Drive this will then be the new access point for the development site. The local road network will then be utilised by vehicles to gain access between Johns Road and the development site. The intersection between Settlement Drive and Johns Road is currently the only entry and exit point to the residential estate. The intersection of Settlement Drive and Johns Road is also only a temporary arrangement until a new intersection at Johns Road and Figtree Boulevard is constructed.

Proposed Place of Worship, Wadalba (contd)

The local road network consists of a number of local roads which are only 6 metres wide and are predominantly designed to cater for the local residential traffic. The width of the local roads currently impacts upon the movement of vehicles through the local network. The parking of residents' cars on the street reduces the road to one lane available for traffic in both directions. This is appropriate in a low volume residential street.

The proposed chapel will however impact on traffic movements within the local streets in both volume and in terms of practical manoeuvrability. The movement of a funeral cortège through the local streets may result in traffic congestion if there are vehicles parked on the street and only one side of the road is available for vehicles. This would then impact on the movement of residents within the local road network.

The local road network within the residential estate consists of a mixture of access and local streets. Many of the streets that will be utilised by the chapel will be those identified as access streets that are designed to cater for up to 500 vehicles movements per day. The chapel has the potential to generate over 200 vehicle movements per day. Added with the vehicle movements generated by the local residents, from the 300 plus residences within the estate, the number of movements within the local streets is likely to be greater than that of the capacity of the local road network.

Considering the road width, road layout, functional classification / road hierarchy, residential amenity of the road and the overall adverse impact on the road / traffic safety, access to the proposed development site via the local streets is not acceptable and not recommended.

Traffic Generation

Based on the information submitted with the application the average traffic generation by the proposed development will be up to 200 vehicle trips per day. The calculation of traffic generation for the development is based on an average of two funerals per day and the chapel having a maximum capacity of 100 people (It is noted however that the chapel capacity has the potential to be greater than 100). Assuming a rate of 2.5 persons per vehicle a single funeral service will generate 80 trips ($2 \times 100 / 2.5$) and the two funeral services per day will generate a minimum of 160 vehicular trips per day. If more than two services are held, the trip generation will be higher.

Proposed Place of Worship, Wadalba (contd)

In addition to this, the consideration of the occasional overflow of people, additional traffic due to the existing dwelling and other staff from the chapel and funeral home the expected traffic generation would be at least 100 trips per service (200 trips per day). There is the potential that 90% of traffic will be generated within a 15 to 30 minute period before and after the funeral services. Considering the potential impacts of the development on the current and future intersections with Johns Road a traffic intersection analysis would need to be prepared to determine the full impacts of the development on the local intersections.

Carparking

DCP 2005, Chapter 61 – Carparking currently requires carparking for places of worship to be provided at the rate of 1 space per 10 seats or 1 space per 10m² of Gross Floor Area whichever is the greater. The proposed chapel will provide bench seating for approximately 142 people based on Table D1.13 of the Building Code of Australia (BCA) which provides for a minimum of 450mm of bench space per person. The chapel and associated buildings will have a floor area of approximately 201m².

The development would therefore be required to provide 15 carspaces based on seating and 21 carspaces based on gross floor area. On the basis of the requirements of the above plan the proposed development would therefore be required to provide a minimum of 21 carspaces on the site. The development proposed to provide 29 carspaces on the site which includes three disabled spaces and as such is compliant with Council's requirements. Although compliant with Council's carparking requirements the information within the statement of environmental effects submitted with the application would suggest that insufficient parking will be provided on the site.

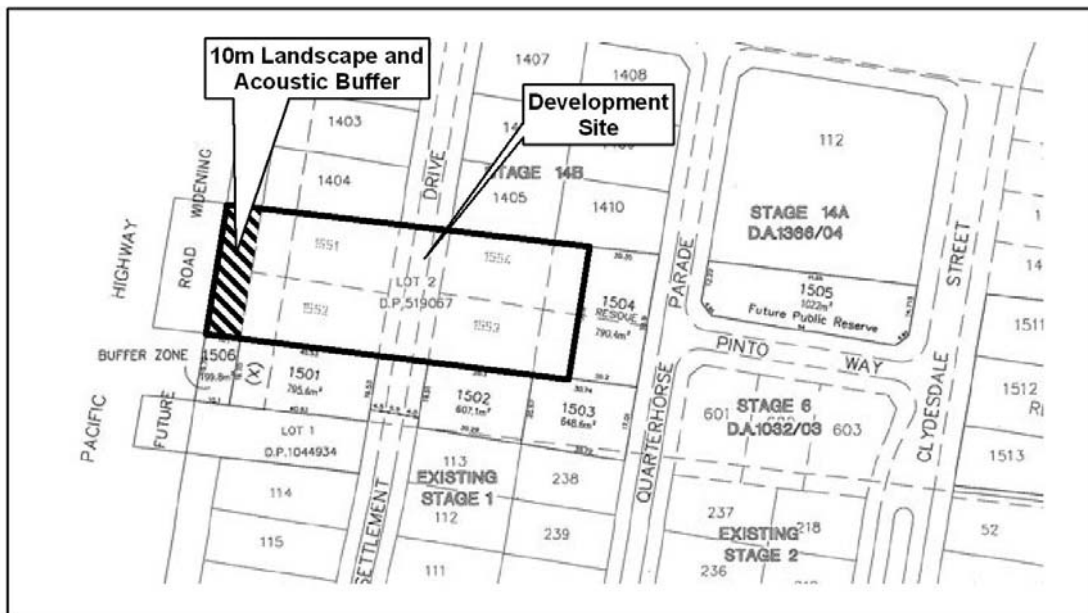
The statement of environmental effects submitted with the application states that there is a capacity of 100 people and those attending the service are likely to have on average three people per vehicle. Based on the numbers provided with the application the development should provide a minimum of 34 carparking spaces. The capacity of the chapel is however likely to be greater than 100 as there is sufficient seating for at least 142 people, not including standing room. The development should therefore provide at a minimum 48 carspaces on the site based on the information submitted with the application.

Proposed Place of Worship, Wadalba (contd)

Parking currently proposed for the development is considered to be insufficient and there is potential for adverse impacts for on street parking in the area when the carpark of the proposed development is full and overflows into the surrounding road network system. As a consequence of the lack of onsite parking people may be forced to park their vehicles on the adjoining narrow residential streets and potentially too close to intersections restricting visibility at intersections and partially or fully blocking driveways of the residential properties.

Future Development Potential

The site is surrounded by residential development apart from the frontage to the Pacific Highway. An indicative subdivision layout, which includes the subject site, is found within DCP 2005, Chapter 49 which shows the site as being subdivided for residential purposes and is to include the extension of Settlement Drive as shown in the figure below.



The location of the proposed chapel and carpark location directly conflicts with the predetermined road layout of DCP 2005, Chapter 49. The applicant has advised that the structures to be erected on the site are of light weight construction and it is proposed that the buildings can be relocated to an alternative site when it is time for the development site to be subdivided in accordance with Chapter 49.

Proposed Place of Worship, Wadalba (contd)

The justification for the placement of the structures within the proposed location is reasonable, however the union of Settlement Drive through this subject site is important for the amenity of Wadalba Northwest Urban Release Area and the expectations of the service authorities. Local residents have been advised that the road will be extended through the development site and the approval of the current application will mean that the expectations of those residents that have bought into the area may not be met.

Without the extension to Settlement Drive the development is contrary to the objectives of the EP & A Act 1979 which promotes and co-ordinates the orderly and economic use and development of land. By not allowing the extension of Settlement Drive, the site is not allowing the orderly and economic use of the land which has been determined as residential development.

The delayed completion of the Settlement Drive extension has the potential to impact on the placement of services within the area such as water, sewer, electricity, phone lines. The postponement in the extension will affect the placement of services within Settlement Drive as it will not allow the continuation of existing services which is undesirable for service providers.

The non completion of the predetermined road network also raises concerns regarding overland stormwater flows through the property. The flow of stormwater from the upstream development and road network is likely to be in excess of the piped capacity of the site. No details have been provided that demonstrate that the flows from the upstream catchment can safely traverse the site to the downstream formed section of Settlement Drive.

If the proposed development were to go ahead the development is also contrary to the requirements of the site for the Pacific Highway frontage. Developments to the north and south of the property have been required to provide a 10 metre landscape buffer and acoustic fencing to the Pacific Highway frontage. The current development proposal will not allow the extension of the existing fencing and landscaping works which could impact on the amenity of surrounding residents as there would be a break in the acoustic barrier within this area.

THE LIKELY IMPACTS OF THE DEVELOPMENT (s79C(1)(b)):**The relationship to the regional and local context and setting.**

The site is located within an existing residential estate that consists of a number of new urban release subdivisions and newly constructed detached residential dwellings. The proposed development is not considered to be in keeping with the surrounding residential land use of the local area.

Proposed Place of Worship, Wadalba (contd)

The access, transport and traffic management measures.

Issues relating to access, transport and traffic management have been addressed previously in the report.

The impact on the public domain (recreation, public open space, pedestrian links).

The proposed development has the potential to impact upon the public domain of the area in that the development will not allow the extension of Settlement Drive to be undertaken which would create a new link through the estate for residents.

The impact on utilities supply.

The site is currently not connected to reticulated water or sewer and as such prior to any development taking place the site would be required to be connected to the reticulated water and sewer services.

Any effect on the flora and fauna.

There is little existing vegetation on the site and those trees that exist on the site will be retained. One tree to be retained on the site is a *Grevillea robusta* which will be incorporated into the design of the development.

The provision of waste facilities.

A waste management plan has been submitted with the application detailing the disposal of waste generated during the construction and operation phases of the development.

Whether the development will be energy efficient.

Insufficient information has been provided with the application to determine if the application is consistent with the requirements of Part J of the BCA.

Whether the development will cause noise and vibration.

Any proposed increase in noise from the use of the proposed buildings should be minimal to surrounding properties due to the nature of the proposed use been for predominately funeral services. The increased traffic generated by the development however does have the potential to create an increase in traffic noise within the locality. The extent of the increased noise and the potential impacts on the surrounding residents can not however be fully determined at the present time.

Proposed Place of Worship, Wadalba (contd)

If the proposed development were to go ahead the development is also contrary to the requirements of the site for the Pacific Highway frontage. Developments to the north and south of the property have been required to provide a 10 metre landscape buffer and acoustic fencing to the Pacific Highway frontage. The current development proposal will not allow the extension of the existing fencing and landscaping works which could result in a noise impact and result in a loss of amenity to surrounding residents as there would be a break in the acoustic barrier within this area.

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

The site is currently located within a Mine Subsidence District. The Mine Subsidence Board (MSB) has issued conditional approval which is valid for two years. The site is not subject to any other natural hazards.

Whether the development provides safety, security and crime prevention.

The proposed development is situated within a residential area which could potentially provide a natural surveillance of the property throughout the day and night by surrounding residents. The use of the existing dwelling on the site as a manager's residence will also ensure that there is someone on the site even when the chapel is not in operation.

Any social impact in the locality.

The proposed development has the potential to provide a community facility to local residents but the proposed operation of the facility is more geared towards providing a place for funerals to be undertaken than as a place of worship for local residents. The proposed hours of operation of the chapel also do not make the chapel available those times when many members of the local community are more likely to use the resource, such as nights and weekends.

Any impact of site design and internal design.

The proposed positioning of the buildings on the site is not consistent with the future extension of Settlement Drive across the property. The proposed development also does not take into consideration the setbacks that are required to the Pacific Highway frontage of the development site.

In regards to the requirements of the BCA the development does not include the provision of a laundry for the manager's residence which is required for all residences under the BCA. The proposed chapel building also does not meet the BCA in regards to the minimum required ceiling height and the number of exits provided. The proposed development would be required to provide a minimum ceiling height of 2.7 metres and a minimum of two exits.

Proposed Place of Worship, Wadalba (contd)

Any cumulative impacts

The placement of the chapel within the heart of the residential area has the potential to result in the development of other non compatible uses within the residential area. The existing road network is not considered suitable to cater for developments that create volumes of traffic greater than that of the residential blocks of which the roads within the estate were designed to carry.

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

Whether the proposal fits in the locality.

The site is located within an area that consists of a new residential estate. The proposed development is considered more suitable to an area that does not require access through residential streets that are not designed to cater for large volumes of traffic.

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

Any submission from the public.

The application was advertised in accordance with DCP 2005 Chapter 70 - Notification of Development Proposals with 67 submissions being received. Of these submissions 66 were objections and one was a letter of support. A further 39 letters of support were received a month after the advertising period was complete. The issues raised in the submissions have been addressed in the assessment of the application pursuant to the heads of consideration contained within Section 79C of the EP&A Act 1979. A summary of the submissions is detailed in the table found within Attachment 2.

Proposed Place of Worship, Wadalba (contd)

Any submission from public authorities?**Roads and Traffic Authority**

Given the location of the development in proximity to the Pacific Highway the application was required to be referred to the RTA for its comment. The RTA advised that it has no objection to the development however:

- Vehicular and pedestrian access to the Pacific Highway is denied and a 1.8 metre boundary fence is to be constructed along the northern, western and southern boundaries of the property.
- No reliance is to be given to on-street parking on the Pacific Highway.
- The proposed development has the potential to generate high traffic volumes and parking demand which may have a direct impact on local amenity for adjoining residents. The development does not appear to be consistent with adjacent land uses.
- The existing building is within the minimum setback from the boundary of Lot 21 which is to be declared public road. The RTA requires a minimum setback of 15 metres and this area shall be extensively landscaped.
- The RTA is concerned that, given the size of the property, a precedent may be created for further expansion of the business to include additional traffic generating services.

OTHER MATTERS FOR CONSIDERATION

The development is subject to the Wyong / Rural West and Warnervale S94 plans. The proposed development would require the payment of contributions for water and sewer however this has yet to be calculated.

CONCLUSION

The proposed development, although a permissible use for the site, is not considered to be a suitable use of the site. The development is also not consistent with the surrounding residential development within the locality, whilst the local road network is also not designed to cater for the volumes of traffic that are likely to be generated by the development. There is the potential to impact on the amenity of the surrounding residents and result in traffic safety issues for users of the local roads. The application is therefore recommended for refusal.

Attachment 1
Attachment 2

Locality Plan
Summary of Submissions

Enclosure

Development Plans

Proposed Place of Worship, Wadalba (Attachment 2)

Doc No	Issue	Comment
D01223933	<i>The proposed development will result in increased traffic volumes and other traffic issues for local residents</i>	The development is likely to result in an increase in traffic in the local area and could potentially result in traffic safety issues for local road users.
D01225751		
D01226974		
D01228791		
D01229088		
D01229671		
D01230500		
D01230563		
D01230624		
D01230993		
D01231411		
D01231546		
D01231563		
D01231729		
D01231739		
D01231754		
D01231786		
D01231806		
D01232120		
D01232155		
D01232752		
D01232771		
D01232782		
D01232802		
D01232809		
D01233082		
D01233112		
D01233205		
D01233266		
D01233273		
D01233282		
D01235528		
D01235533		
D01235905		
D01238519		
D01240598		
D01241444		
D01242313		
D01240154		
D01242550		
D01245559		
D01243405		
D01243464		
D01247277		

Proposed Place of Worship, Wadalba (Attachment 2) (contd)

Doc No	Issue	Comment
D01223933	The local road network is unable to sustain such a business and is already too narrow to cope with local residential traffic.	The existing road design and layout is not considered suitable for the proposed development given the narrow roads that exist within the estate.
D01227921		
D01228764		
D01228791		
D01229083		
D01229084		
D01229087		
D01229088		
D01229089		
D01229090		
D01229095		
D01229671		
D01229979		
D01230665		
D01230993		
D01231117		
D01231142		
D01231411		
D01231546		
D01231735		
D01231739		
D01231745		
D01231754		
D01231758		
D01231786		
D01232155		
D01232167		
D01232752		
D01232771		
D01232782		
D01232802		
D01232809		
D01233082		
D01233112		
D01233262		
D01233266		
D01233273		
D01233282		
D01235528		
D01235533		
D01235905		

Proposed Place of Worship, Wadalba (Attachment 2) (contd)

Doc No	Issue	Comment
D01238519 D01240598 D01241444 D01242313 D01240154 D01242544 D01242550 D01245559 D01243405 D01247277		
D01223933 D01226974 D01228791 D01229083 D01229671 D01230563 D01230665 D01231546 D01231739 D01231786 D01232120 D01232782 D01232809 D01233082 D01242544 D01243464	Issue: An increase in traffic movements around the nearby local park will create safety issues for children using the park.	As previously stated a potential increase in traffic movements within the local streets has the potential to create traffic safety issues, including the area around the local park.

Proposed Place of Worship, Wadalba (Attachment 2) (contd)

Doc No	Issue	Comment
D01223933 D01229089 D01229090 D01229092 D01229094 D01231406 D01231411 D01231739 D01231806 D01232120 D01232771 D01232782 D01232802 D01233082 D01233262 D01233282 D01235528 D01235533 D01240598 D01241444 D01242550 D01245559 D01247277	The proposed development is not considered to be consistent with the definitions or 'places of worship' or 'home businesses'.	The proposed development has been found to be consistent with the definition of a place of worship. The manager's residence is considered to be an ancillary use to the place of worship and is therefore not required to be consistent with the definition or requirements for home businesses.
D01223933 D01225527 D01225751 D01227921 D01229083 D01229084 D01229088 D01229671 D01229979 D01230563 D01231563 D01231739 D01231745 D01231786 D01232120	The proposed development will cause property values to decrease.	Any potential impact the development may have on the value of the neighbouring properties is not able to be assessed by Council at the present time.

Proposed Place of Worship, Wadalba (Attachment 2) (contd)

Doc No	Issue	Comment
D01232155 D01233082 D01233282 D01235528 D01235533 D01238519 D01242313 D01242544 D01242550 D01245559 D01243405 D01243464		
D01225527 D01228791 D01229092 D01229094 D01229095 D01229979 D01230500 D01230624 D01230665 D01231546 D01231729 D01231735 D01231739 D01231745 D01231786 D01232155 D01232809 D01233205 D01233282 D01235528 D01235533 D01238519 D01241444 D01243313 D01242550 D01245559 D01243405 D01247277	The proposed development is not considered appropriate for the residential area	Given the surrounding land uses and the access arrangement for the property the proposed development is not considered to be a suitable use for the site.

Proposed Place of Worship, Wadalba (Attachment 2) (contd)

Doc No	Issue	Comment
D01225751 D01228791 D01229090 D01229671 D01229979 D01231142 D01231406 D01231411 D01231729 D01231735 D01231745 D01231754 D01232120 D01232155 D01232167 D01232752 D01232771 D01232782 D01232809 D01233082 D01233112 D01233205 D01233266 D01233273 D01233282 D01235528 D01235533 D01238519 D01240598 D01241444 D01242313 D01243464 D01247277	The development provides insufficient parking which will cause overflow parking into the surrounding residential streets and around the local park.	The proposed development meets Council's minimum requirements in regards to carparking. These requirements are however not considered adequate and there is the potential for overflow parking to spill onto the surrounding residential streets.

10 December 2008
To the Ordinary Meeting of Council

Director's Report
Shire Planning Department

Proposed Place of Worship, Wadalba (Attachment 2) (contd)

Doc No	Issue	Comment
D01225751 D01227921 D01228764 D01229083 D01229671 D01230500 D01230563 D01230624 D01231142 D01231406 D01231545 D01231758 D01231786 D01232120 D01232167 D01233082 D01233282 D01235528 D01235533 D01240598 D01242313 D01242544 D01242550 D01245559 D01243405 D01243464 D01247277	Children constantly seeing funeral corteges is not seen as appropriate.	Noted.

Proposed Place of Worship, Wadalba (Attachment 2) (contd)

Doc No	Issue	Comment
D01226974 D01231739 D01231758 D01231806 D01232120 D01233082 D01233205 D01233262 D01233282 D01235528 D01235533 D01235905 D01241444 D01242550 D01245559 D01247277	The proposed development will result in an increase in noise.	There is the potential for the development to create an increase in noise within the local area through the use of the site and the movement of traffic, however given the proposed hours of operation the noise generated by the development will be predominantly during the middle of the day
D01226974 D01229088 D01229092 D01229094 D01229095 D01231745 D01232167 D01232809 D01233082 D01233112 D01233262 D01233282 D01235528 D01235533 D01240598	There is only one entry / exit from the residential estate.	The access arrangements of the local road network are not considered suitable for the type of development proposed for the site.
D01229083 D01229979 D01231563 D01231786 D01231806 D01233082	The proposed development will result in Settlement Drive not being extended allowing to two sections to be joined.	The development will result in Settlement Drive not being able to be extended whilst the development is active on the site.

Proposed Place of Worship, Wadalba (Attachment 2) (contd)

Doc No	Issue	Comment
D01229087 D01229095 D01231563 D01233205 D01242550 D01245559	An increase in traffic generated by the development will affect the lifestyle and amenity of local residents.	Comment: The proposed development has the potential to impact on the amenity of local residents through increasing traffic movements within the local streets.
D01229088 D01231739 D01232120 D01232782 D01233282 D01235528 D01235533 D01241444 D01243464	The development will cause safety issues for local residents due to the increased traffic.	As previously stated a potential increase in traffic movements within the local streets has the potential to create traffic safety issues.
D01233082 D01238519	The development will require the placement of directional signage throughout the estate.	Given the complicated road layout of the local residential area there may be a requirement for directional signage to direct patrons to the chapel.
D01229979 D01231786	The hours of operation of the development are unclear.	The information submitted with the application states that the home office will operate 9.00am to 5.00pm Monday to Friday and 9.00am to 12.00pm Saturday whilst the chapel will operate 10.00am to 4.00pm Monday to Friday or on an at need basis. The extent of the 'at need basis' is not clear from the documentation provided with the application.
D01231563 D01240598	Traffic from the development will be competing with construction traffic currently using the estate's roads.	The development is likely to result in an increase in traffic using the local road network. There is therefore potential that the additional traffic within the area could conflict with construction vehicles currently using the estate's roads given the narrow nature of the local road network.
D01232120 D01232167 D01233282 D01235528 D01235533	Access to the site from the new Settlement Drive extension is not guaranteed.	The new extension of Settlement Drive to the north of the site is currently still under construction and has not yet been dedicated as public road. The development site therefore does not yet have legal access to the Settlement Drive extension.

552 Proposed Two Lot Subdivision of 7(f) Zoned Land at Glenning Valley (Attachment 1)

Locality Plan



WYONG SHIRE COUNCIL

10 December 2008
To the Ordinary Meeting of Council

Director's Report
Shire Planning Department

552 Proposed Two Lot Subdivision of 7(f) Zoned Land at Glenning Valley

DA/426/2008 MLG:MLG

SUMMARY

An application has been received for a subdivision in Glenning Valley. The application has been examined having regard to the matters for consideration detailed in section 79C of the Environmental Planning and Assessment Act and other statutory requirements with the issues requiring attention and consideration being addressed in the report. This application would have been determined under normal staff delegation however, the application was called up to Council by a Councillor.

Applicant	Optima Pty Ltd
Owner	R & B Sheen
Application No	426/2008
Description of Land	Lot 111 DP 777284 Berkeley Road, Glenning Valley
Proposed Development	2 lot subdivision
Site Area	8,591m ²
Zoning	7(f) Environmental Protection

RECOMMENDATION

- 1 *That Council refer the application to the General Manager for determination having regard to the matters for consideration detailed in Section 79C of the Environmental Planning and Assessment Act and other relevant issues with an indication that based on the information available to it, Council favours refusal of the application subject to appropriate conditions.***

- 2 *That Council not support the use of State Environmental Planning Policy No 1 in order to vary the subdivision standards of Wyong Local Environmental Plan 1991.***

- 3 *That Council advise those who made written submissions of the decision.***

Proposed Two Lot Subdivision of 7(f) Zoned Land at Glenning Valley (contd)**PRECIS**

- Land is zoned 7(f) "Environmental Protection" under Wyong Local Environmental Plan 1991 (WLEP 1991) comprising an approved and constructed dual occupancy residence.
- Proposal involves subdividing the land into two allotments, each lot containing a half of the dual occupancy.
- The subdivision proposal represents a 99% variation to the minimum standards of WLEP 1991 which identifies 40 hectares per lot.
- Applicant's use of State Environmental Planning Policy (SEPP) No 1 to the minimum LEP standards is not supported.
- Council does not have concurrence from the Department of Planning (DoP) for SEPP 1 for this extent of variation. If Council was to support this application the DoP would be requested to provide concurrence. It is considered extremely unlikely that such concurrence would be forthcoming.

INTRODUCTION**The Site**

The subject land is a parcel of 8,591m², with frontage to Berkeley Road at Glenning Valley. Two residences are located on site in the form of an approved dual occupancy. The remainder of the land has a scattering of native tree cover.

The site adjoins the residential zone of Berkeley Vale to the east and is approximately 950 metres (direct line) to the nearest industrial zone in Enterprise Drive. Apart from the eastern residential neighbours the site is mostly surrounded by the 7(f) "Environmental Protection" zone.

The Proposed Development

Consent is sought for a subdivision of the land into two allotments. A subdivision layout has been submitted proposing a new boundary between the dual occupancy buildings thereby establishing each proposed lot with a residence.

As a result each parcel would be substantially less than the minimum dimensional standards in WLEP 1991 which identifies a standard of 40 hectares per lot. It is noted that the existing lot is already substantially less than the subdivision criteria.

Proposed Two Lot Subdivision of 7(f) Zoned Land at Glenning Valley (contd)

In order to gain consent to subdivide the land, the application is accompanied by an objection under SEPP 1 to the WLEP 1991 standards, which if supported by Council, would need concurrence from the Department of Planning (DoP).

SEPP 1 is a planning policy established by the NSW State Government to enable a level of flexibility within development standards. It allows Councils to approve a development proposal that does not comply with a set standard where this can be shown to be unreasonable or unnecessary in the circumstances of the particular case. However, in this case, it is recommended the SEPP 1 objection not be supported. The body of the report provides detail as to the reasons for refusal.

VARIATIONS TO POLICIES

Clause	14(2)
Standard	40 hectares
LEP	Wyong Local Environmental Plan 1991
Extent of variation/departure	98% for proposed lot 1111 99.5% for proposed lot 1112
Departure basis	Not supported – see report for detail

HISTORY

Lot 111 registered on 17 August 1988 from subdivision of lots 11 and 12 DP 707339.

On 6 July 1993 approval was granted to DA 291/93 for a Dual Occupancy on lot 111. Works commenced soon after. There remains an issue of non compliance in that the two dwellings were never physically attached as per condition No 11.

On 28 August 2007, Council reviewed a preliminary application (PL/12/2007) for subdivision of the subject land. The advice provided is detailed elsewhere within the report.

STATUTORY PROVISIONS AND RELEVANT STATE/COUNCIL POLICIES AND PLANS

Environmental Planning and Assessment Act 1979

The application has been examined having regard to the matters for consideration detailed in Section 79C of the Environmental Planning and Assessment Act (EP&A Act) and other statutory requirements with the issues requiring attention and consideration being addressed in the report.

Proposed Two Lot Subdivision of 7(f) Zoned Land at Glenning Valley (contd)

The application is defined as "Integrated Development" under the provisions of Section 91 of the EP&A Act. Integrated Development is described as development that requires an approval (licence etc.) or concurrence from a state body. Accordingly the application was referred to the NSW Rural Fire Service (RFS).

NSW RFS responded by granting a "Bush Fire Safety Authority" under the Rural Fires Act.

State Environmental Planning Policies

The application is subject to SEPP 1 which is detailed further in this report.

Wyong Local Environmental Plan 1991

Subdivision is defined in Section 4B – *Subdivision of land*, under the EP&A Act 1979. Although not specifically defined in Clause 7 – *Definitions*, of WLEP 1991, the development is referred to as "Subdivision" in Clause 13 – *Subdivision of Land*, under the WLEP 1991 and is permitted with consent.

The land is zoned 7(f) "Environmental Buffer". The zoning was introduced in 1986 to coincide with the introduction of major industry in the Berkeley Vale district with the general intent to provide separation between the industrial zones and residential zones.

The 7(f) zone objective is:

"The objective of this zone is to restrict the type and scale of development which will be carried out on land adjoining major noise generators (or other development with similar detrimental impact) to that compatible with such environments".

The 7(f) zone limits the scale of development permitted to the following land uses:

"Advertisements; agriculture; bushfire hazard reduction; communication facilities; dams; drainage; dual occupancy buildings; dwelling-houses; education establishments; group homes; home businesses; home occupations; nutrient control facilities; places of worship; plant nurseries; recreation areas; recreation facilities; utility installations".

Clause 14 of the WLEP 1991 provides criteria for the subdivision of land within the above mentioned zoning. There are several sub parts to Clause 14 each addressing different types of subdivision. It is the applicant's contention that the proposal is assessed under Clause 14(2), a sub part of the clause that sets the minimum dimensional standard for land affected by the subject zone.

Proposed Two Lot Subdivision of 7(f) Zoned Land at Glenning Valley (contd)

Clause 14(2) states:

Subdivision of land within Zone No 1 (a), 1 (c), 7 (a), 7 (b), 7 (c), 7 (d), 7 (e) 7 (f) or 7 (g)

- 14 (1) *This clause applies to land within Zone No. 1(a), 1(c), 7(a), 7(b), 7(c), 7(d), 7(e), 7(f) or 7(g).*
- (2) *Except as provided by subclasses (3) and (4), a person shall not subdivide land to which this clause applies so as to create an allotment having an area of less than -*
- (a) *in the case of land within Zone No. 1(c), 7(a), 7(d), 7(e), 7(f) or 7(g) - 40 hectares;*

The subdivision is unable to comply with the WLEP 1991 provisions and accordingly a formal objection to the standards has accompanied the application. The objection is discussed in more detail in the body of this report.

Development Control Plans

The proposed development has been assessed with regard to the plans and policies identified in the Section 149 property certificate, with particular reference drawn to the following development guidelines:

Development Control Plan No 2005: Chapter No 14 – *Tree Management*
Chapter No 69 – *Waste Management*

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 relevant key issues, which are elaborated upon for Council's information. Other aspects for consideration area either not relevant to the application or deemed to satisfy Council's assessment.

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

Discussion and assessment of Subdivision Strategy

Preamble

In recent years, the owners of the subject land have engaged Council in discussions concerning subdivision or rezoning the land.

Proposed Two Lot Subdivision of 7(f) Zoned Land at Glenning Valley (contd)

In 2004, the applicant enquired into the possibility of subdividing (or rezoning) the land. Council responded in writing on 16 February 2004 by indicating that it would be unlikely to support either a rezoning or subdivision of the land. Council's response concentrated on the zone objectives, specifically the acoustic issues arising from the intent of the 7(f) zone.

In response to the 2007 preliminary application, Council provided the following advice (extract):

"The subject land is zoned 7(f) Environmental Protection with an area of 8,591m² and presently contains an approved dual occupancy. The application was assessed in accordance with relevant statutory and development standards and guidelines. Subdivision standards for 7(f) zones are contained in Clause 14 of Wyong Local Environmental Plan 1991. The minimum standard for this zone is 40 hectares per allotment.

A comprehensive report was prepared and presented to Council's Development Assessment Panel (DAP) for review. However the depth of a preliminary assessment can be restricted by the quality of information submitted with the application.

The decision of Council was that it would be unlikely to support any subdivision of the land under its present zoning. DAP considered that the 7(f) zone aims to restrict development on land affected by major hazards such as noise generated by the nearby industrial estates. It was the panel's considered opinion that the proposal to subdivide the land into two allotments would not gain support from the appropriate level of delegation in Council or gain concurrence from the Department of Planning based on previous experience on such matters. The panel further indicated that the only potential for subdivision of the land would be compliance under an appropriate zoning".

The key to the current application is the relevance of the 7(f) zone in addition to the physical attributes such as the presence of the two dwellings on site. On the latter point, the two existing dwellings were to be joined by a covered breezeway, being a common design at the time for rural dual occupancies. The dual occupancy development was finalised in December 1994 and it is apparent the breezeway has subsequently been removed. Therefore, for all intents and purposes, for a considerable period of time there has appeared to be two separate dwellings on site, although this is not legally consistent with the dual occupancy approval.

Proposed Two Lot Subdivision of 7(f) Zoned Land at Glenning Valley (contd)

Property and Zoning Summary

The following is the status of the current land circumstances and proposed arrangement.

The current lot status:	Lot 111 =	8,591m ²
The proposed lot arrangement:	Lot 1111 =	6,770m ²
	Lot 1112 =	1,821m ²

Subdivision Strategy – Clause 14(2) of WLEP

The subdivision does not comply with the minimum dimensional standards of Clause 14(2); therefore, the applicant prepared a SEPP 1 objection. The extent of departure to the standards is 98% for proposed lot 1111 and 99.5% for proposed lot 1112.

The applicant lodged a preliminary submission in 2007, drawing comparison with other nearby approvals. It was noted (and mentioned in Council's 2004 letter) at the time that several of the nearby approvals cited by the applicant were granted during the period of 1997 – 2001, a time when the LEP contained a clause that specifically applied to land affected by two or more zonings. Those circumstances have since been deleted from the LEP and the comparison to those situations/approvals is now irrelevant.

Objection under State Environmental Planning Policy No 1

It has been recognised by Council in previous instances of applying the criteria of the clause, that the numerical values of Clause 14(2) can be varied under SEPP1.

SEPP1 provides flexibility in the application of planning controls operating by virtue of development standards in circumstances where strict compliance with those standards would, in any particular case, be unreasonable or unnecessary or tend to hinder the attainment of the objects specified in Section 5 (a) (i) and (ii) of the EP&A Act.

A Land and Environment Court judgement outlined a procedure comprising a series of questions for considering SEPP1 objections. This application has been assessed in accordance with these procedures. See "Attachment" for a full copy of the applicant's SEPP 1 objection.

First, is the planning control in question a development standard?

Putting a numerical description onto the minimum subdivision lot size permissible within particular zones classifies this as a development standard.

Proposed Two Lot Subdivision of 7(f) Zoned Land at Glenning Valley (contd)

The extent of departure to the minimum standards of Clause 14(2) is 98% for proposed lot 1111 and 99.5% for proposed lot 1112.

It is noted that the use of SEPP 1 to vary the development standards to this extent would require concurrence from the Department of Planning to allow Council to approve the application.

Second, what is the underlying object or purpose of the standard?

With reference to the zone objectives and the 40 ha minimum lot size standard, the purpose of these standards is to limit the scale of development carried out on land possessing conservation or environmentally sensitive values. In this regard the standard is set to protect the land from major noise generating development of the Berkeley industrial estates.

The applicant places most significance on the intent of the zone and its relevance today. The zoning was introduced in 1986 primarily to protect the urban release areas (now established) and scenic protection zones from the impending development boom of the Corella Close, Enterprise Drive and Catamaran Drive industrial precincts.

The land was previously zoned 1(c), identified at that point of time as a "Holding" zone for future investigation purposes. Ultimately the 7(f) zone evolved with the introduction of the industrial estates nearby.

The 7(f) zone objectives are:

The objective of this zone is to restrict the type and scale of development which will be carried out on land adjoining major noise generators (or other development with similar detrimental impact) to that compatible with such environments.

The site is about 1.45 kilometres from the closest major noise sources, being the "Sanitarium" and "Mars Foods (Masterfoods)" industrial complexes. Both of these premises operate 24 hours a day. Other industrial land with small scale uses are as close as 950 metres. Also several industrial properties along Enterprise and Apprentice Drives are yet to be developed. The zone objective tries to restrict development that may not be compatible with noise generating industrial development.

Although acoustic assessments have been undertaken in recent years to support other cases for nearby development proposals, to date a comprehensive up-to-date noise investigation has not been prepared for the subject site.

Proposed Two Lot Subdivision of 7(f) Zoned Land at Glenning Valley (contd)

Thirdly, does compliance with the development standard tend to hinder the attainment of the objects specified in S.5 of the EPAA?

The objects of the "Act" are to promote acceptable land management through the orderly use of the land. Compliance with the subdivision standards in general does not hinder the maintaining of appropriate management of land consistent with the 7(f) zoning.

The question more appropriately put is whether there can be an expectation suggesting the subject land has not achieved its full subdivision potential. It is Council's opinion that applying the standard is fair and reasonable because the land has reached its potential in terms of subdivision. It is considered that the approved dual occupancy is a fair development outcome for the land as one whole parcel.

The applicant perceives the zoning to be irrelevant based on the changing nature of the acoustic environment over the past 20 years since the 7(f) zone was introduced. The fact is that Council has had no reason since the adoption of the 7(f) zone to re-examine the purpose of the zone and undertake a rezoning. Council may consider the appropriateness of the 7(f) zone as part of the Comprehensive LEP Review.

Fourth, is compliance with the development standard unreasonable or unnecessary in the circumstances of the case?

Firstly, it is fair to acknowledge that the land in any circumstance has insufficient dimensional area to comply with the provisions of Clause 14. The minimum standard is 40 hectares per lot; therefore for a subdivision to comply, the land would need an existing area of 80 hectares to create two lots. The land has a mere 8,591m². The real question is should the existing allotment, already substantially less than the minimum standards be reduced and thus further erode the LEP provision.

Reasonable circumstances of a case must be established in order to substantiate the necessity to vary the development standards. Council's assessment reveals that there are no circumstances considered appropriate to warrant relaxing the LEP subdivision standards any further than the present dimensional land opportunity.

Fifth, is the objection well founded?

The applicant's objection is not considered to be well founded with no grounds for Council to recommend approval of the application. The objection does not prove that the standards hinder the potential of the land. The objection merely suggests that based on the present residential circumstances, in which two dwellings exist, then both should be able to stand alone on separate titles. This report, while recognising the current residential entitlements also considers the zone objectives and the significance of compliance with Clause 14(2)

Proposed Two Lot Subdivision of 7(f) Zoned Land at Glenning Valley (contd)

In summary, Council does not concur with the applicants' reasoning for the SEPP 1 objection and finds no suitable argument to vary the standards of Clause 14(2) of the WLEP 1991.

Draft SEPP - "Application of Development Standards"

In respect to SEPP 1, the DoP exhibited a draft instrument, *SEPP - Application of Development Standards 2004*, which outlines proposed changes to the policy. The draft was exhibited in 2004, though to date gazettal of the draft is not imminent.

The draft policy is designed to provide a better environmental planning outcome with due regard to the public interest by establishing parameters for, in this instance subdivisions of certain zones. The main difference from the current SEPP 1 to the draft policy is that the draft specifically states numerical criteria to apply to a subdivision scenario.

In accordance with Section 79C(a)(ii) of the EP&A Act, a consent authority must consider any draft state policies. Therefore, a brief assessment of the proposal with regard to the draft policy is required.

The proposed development would not comply with the criteria of the draft SEPP in that it would comprise of two allotments unable to meet the dimensional area criteria of the minimum LEP standards as set by the draft policy. Therefore the use of the SEPP with respect to varying the provision of Clause 14(2) could not be considered if the draft policy was gazetted.

The access, transport and traffic management measures.

Berkeley Road has been recently upgraded including pavement resealing and erection of safety guardrail along the frontage of the site. The speed limit for this section of the road is 50km/h.

While there are no major traffic safety problems, should the application be approved the developer would be required to construct a concrete section of driveway for the approach to the road.

The impact on utilities supply.

The subject land is not connected to Council's sewer infrastructure with each residence of the existing dual occupancy served by separate on site waste management systems.

Proposed Two Lot Subdivision of 7(f) Zoned Land at Glenning Valley (contd)

The applicant has submitted documentation indicating that an agreement has been reached with an adjoining land owner allowing an extension of Council's sewer main from the current junction near Bettong Lane, through their property to the subject land. However connecting to the sewer is not a prerequisite of the application to subdivide in the 7(f) zone and therefore no further investigation in terms of design has been undertaken by either Council or the applicant.

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

Bush Fire

A bush fire assessment accompanying the application revealed the need for asset protection zones (APZ's) for both lots in order to protect the existing residences from the threat of fire. While the land does not achieve the protection measures currently, it is understood that the land can accommodate the APZ's should the application be approved.

Several other recommendations were also made including reference to building construction standards. On this issue, no details were provided with the application; therefore compliance with the recommendations is uncertain.

Any Strategic Implications from the proposal

The proposed subdivision represents the separation of the approved dual occupancy, effectively promoting one dwelling on each allotment. Further development of each proposed allotment is limited under the LEP; however it is possible that an additional occupancy could be established to each dwelling on each lot in the form of an attached dual occupancy, a permissible land use in the 7(f) zone. Council could not impose any form of title restriction such as a prohibitive covenant given that the 7(f) zone identifies dual occupancies as a permissible land use.

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

Any submission from the public.

The application was advertised in accordance with DCP 2005 Chapter 70-Notification of Development Proposals with three (3) submissions being received. The issues raised in the submissions have been addressed in the assessment of the application pursuant to the heads of consideration contained within Section 79C of the Environmental Planning and Assessment Act 1979.

Proposed Two Lot Subdivision of 7(f) Zoned Land at Glenning Valley (contd)

A summary of the submissions is detailed in the table below.

Doc. No	Summary of Issues	Response
D01149868 D01153708 D01156493	Inadequate drainage and waste facilities for the existing residences and sheds	Irrespective of the outcome of the subdivision application both of these matters require further investigation to ensure that the current inadequate circumstances are corrected.
	Inadequate common boundary fencing	This aspect is a private matter between both affected property owners and not an issue for this application to resolve.
	Concern over traffic safety issues in Berkeley Road	The proposal does not involve any change to the present access arrangements for the residences on the subject site to Berkeley Road.

CONCLUSION

In the physical sense the proposed subdivision would have a negligible impact on the character of the local district. The immediate neighbouring precinct to the east is a residential zoning while in other directions the general conservation (or similar) zones are maintained.

It is not, however, the physical nature of the proposal that represents the major issue in question. This report concentrates the assessment on the intent and the practicalities of the zone.

It is considered that the proposal fails to satisfy a fair and accurate assessment under Section 79C on a number of issues including the 7(f) zone character and the use of SEPP 1. It is considered that the applicant has not proven that the development standards of Clause 14 are either unnecessary nor unreasonable in the circumstances of the case to warrant Council varying the development standards of the LEP. It is also considered extremely unlikely that the DoP would give its concurrence to the subdivision should Council decide to support the application. Council has no ability to approve the development without departmental concurrence.

Attachment 1***Locality Plan (1 page)******Enclosures***

***Applicant's Sepp 1 Objection
Proposed Lots
Aerial Photo of Subject Land
Zone Boundaries
Plan of Subdivision***

AMENDED REPORT

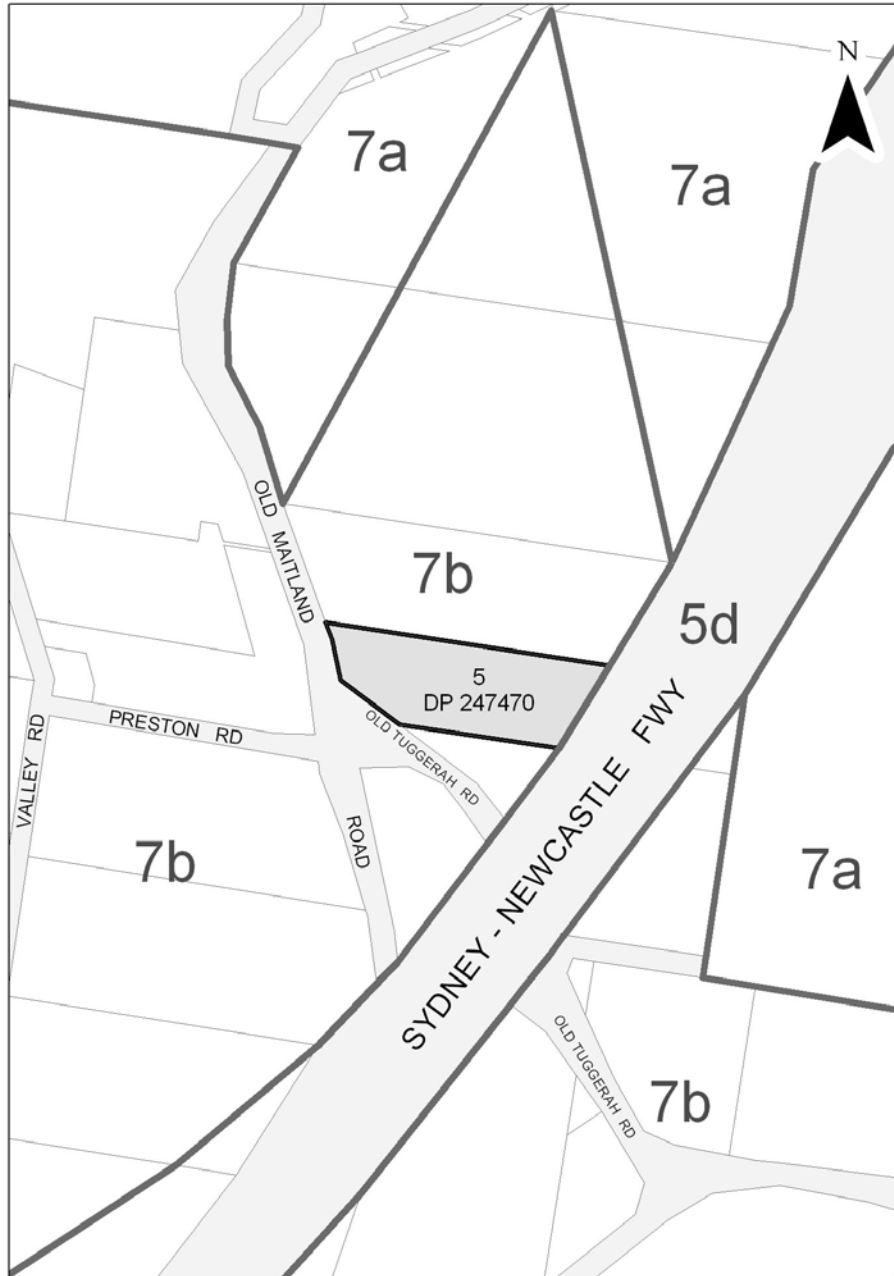
WYONG SHIRE COUNCIL

10 December 2008
To the Ordinary Meeting of Council

Director's Report
Shire Planning Department

553 **Proposed Animal Establishment at Lot 5 DP 247470 No 5 Old Maitland Road, Kangy Angy (Attachment 1)**

Locality Plan



WYONG SHIRE COUNCIL

10 December 2008
To The Ordinary Meeting of Council

Director's Report
Shire Planning Department

553 Proposed Animal Establishment at Lot 5 DP 247470 No 5 Old Maitland Road, Kangy Angy

DA/680/2008 BLF

SUMMARY

Consent is sought for an animal establishment for dog boarding kennels at 5 Old Maitland Road, Kangy Angy. It is proposed to utilise an existing shed on the northern side of the property to house a maximum of 30 dogs in 18 kennels. The issue of noise from barking dogs has been addressed by an acoustic report and amended letter submitted by the applicant. The application is recommended for approval.

Applicant	P & D Wilesmith C/- Longhill Planning Pty Ltd
Owner	P & D Wilesmith
Application No	DA/680/2008
Description of Land	Lot 5 DP 247470 No 5 Old Maitland Road, Kangy Angy
Proposed Development	Animal Establishment
Site Area	21,090m ²
Zoning	7(b) Scenic Protection
Existing Use	Residential
Value	\$50,000

RECOMMENDATION

- 1 *That Council refer the application to the General Manager for determination having regard to the matters for consideration detailed in Section 79C of the Environmental Planning and Assessment Act and other relevant issues with an indication that based on the information available to it, Council favours approval of the application subject to appropriate conditions.***

- 2 *That Council advise those who made written submissions of the decision.***

PRECIS

In December 2006 a development application (DA/2105/2006) was lodged with Council for an animal establishment (dog boarding kennels) at the subject site. This application was determined by way of approval at the Council meeting of 17 December 2007. Following this determination the objectors lodged an application with the Land and Environment Court (LEC) which challenged the validity of this development consent. The challenge was based on the opinion that Council had not adequately considered flooding issues relating to the proposed development. This action resulted in the consent being upheld by the Court.

Proposed Animal Establishment at Lot 5 DP 247470 No 5 Old Maitland Road Kangy Angy (contd)

The current application (DA/680/2008) is substantially the same as the previous application; however, the current application now proposes 18 kennels and a reduction in the size of the yard and length of the acoustic wall.

The application was deferred from the Council Meeting of 12 November 2008 for renotification to the public due to an inconsistency in the plans that formed part of the development application. The inconsistency related to the length of acoustic wall adjacent the dog runs which had been reduced, by the applicant, from 26m to 8m. The submissions received from the most recent notification are included in the summary of public submissions at the end of this report,

INTRODUCTION

The animal establishment is proposed to be operated as an up-market boarding kennel for small and medium sized house dogs. The site is located immediately to the west of the F3 Freeway and on the eastern side of Old Maitland Road, Kangy Angy. There is one dwelling located on the adjoining property to the north, which is approximately 105m from the shed. There is another dwelling on the opposite side of Old Maitland Road which is approximately 50m from the shed. There are also a number of other dwellings in Old Maitland Road within relatively close proximity to the site.

During assessment of the previous application, which was approved by Council, the applicants were approached by Council to consider an alternate location on the site. The rear of the site was considered; however, to access the cleared section of the site the staff and dogs would need to cross a creek and the construction of kennels and dog runs may have resulted in the removal of existing vegetation. In addition, the owner was concerned for the safety of staff and dogs as there are a number of snakes in the vegetation at the rear of the property. An existing shed on the southern side of the site was also considered; however the shed appears to be in disrepair and is much closer to the creek, dam and existing vegetation than the shed on the northern side of the site.

An acoustic report has been submitted by the applicant addressing the issue of noise from barking dogs and further comments have been provided by an independent acoustic consultant.

**Proposed Animal Establishment at Lot 5 DP 247470 No 5 Old Maitland Road
Kangy Angy (contd)**



Figure 1: Existing shed to be used for boarding kennels.

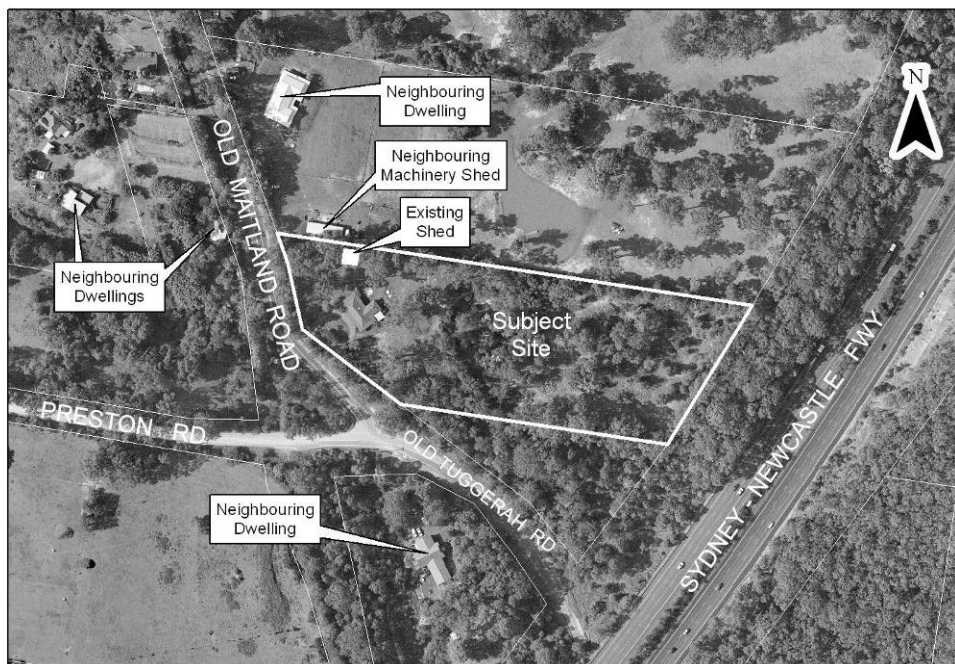


Figure 2: Aerial photo indicating location of adjacent dwellings

Proposed Animal Establishment at Lot 5 DP 247470 No 5 Old Maitland Road Kangy Angy (contd)

HISTORY

BA/3663/1984 for a machinery shed/garage was approved by Council on 21 December 1984. This shed is now proposed to be converted into a building for the boarding kennels.

LA/105/2005 for an aerated wastewater treatment system was approved by Council on 24 June 2005. This included a 480m² disposal area in the north-western corner of the site.

DA/2105/2006 for an animal establishment (dog boarding kennels) was approved by Council on 17 December 2007. This application was for the boarding of a maximum of 30 dogs in 19 kennels within the existing shed on the northern side of the property. This application was substantially the same as the current application. A Class 4 appeal was lodged with the Land and Environment Court with the consent being upheld by the Court.

STATUTORY REQUIREMENTS

Wyong Local Environmental Plan 1991 (WLEP)

The proposed use is defined under Clause 7 – Definitions of WLEP as an 'Animal Establishment' which means a building or place used for the breeding, boarding, training or keeping of, or for caring for, animals for commercial purposes. The subject site is zoned 7(b) Scenic Protection Zone and animal establishments are permissible in this zone with development consent.

The objectives of the 7(b) zone are:

“to restrict the type and scale of development which will be carried out on land possessing scenic values to that unlikely to:

- (a) prejudice the present scenic quality of the land within this zone, or*
- (b) generate significant additional traffic or create or increase a condition of ribbon development on any road relative to the capacity and safety of the road, or*
- (c) prejudice the viability of existing commercial centres, or*
- (d) have an adverse impact on the region's water resources”.*

The proposed development is considered to be consistent with the above objectives.

Proposed Animal Establishment at Lot 5 DP 247470 No 5 Old Maitland Road Kangy Angy (contd)

Clause 23 'Flood Prone Lands'

The issue of flooding has been assessed by Council's Senior Planning Engineer (Hydrology) who has stated that the flood study report submitted to Council as part of the Statement of Environmental Effects adequately demonstrates that the subject proposal is not affected by the 1% AEP calculated flood level of 12.1m AHD, and adequately demonstrates that the proposed elements of the development (dog kennel building, Hebel wall) do not impact on the conveyance of the 1% AEP flood. Therefore no additional flood related information is required.

COUNCIL POLICY AND STRATEGIC IMPLICATIONS**Development Control Plan 2005****Chapter 61 – Car Parking**

Chapter 61 does not provide specific carparking requirements for animal establishments. However, visitor carparking for four vehicles is proposed within the site. This is considered adequate given that it is proposed to have 15 minute interval drop-off and pick-up appointments. Therefore, it is unlikely that there would be any more than two visitor vehicles on site at any one time.

Chapter 50 – Advertising Signs

No advertising signage has been proposed under the current application. A condition will be placed on the consent requiring any signage to comply with the requirements of DCP 2005 Chapter 50 – Advertising Signs.

Policy Manual – K1 Keeping of Animals

This Policy relates primarily to the keeping of animals for domestic purposes, although the Policy also states that the principles are relevant to the keeping of animals for commercial purposes, as follows:

"This policy applies to animals kept for domestic purposes, as companion animals, pets or for hobby interests.

The principles contained in the prescriptive requirements will also apply to the keeping of animals for commercial purposes, including boarding, breeding, grooming, caring, treatment, training, racing, exhibiting, trading or selling.

Proposed Animal Establishment at Lot 5 DP 247470 No 5 Old Maitland Road Kangy Angy (contd)

However, where it is intended to keep animals for any commercial purposes, it is necessary that a development application be submitted to Council and planning consent obtained.

Consent to the operation of animal establishments may not be permitted where Council considers that the proposal would be detrimental to the amenity of the locality”.

The Policy also specifies that “animals should be kept in a manner which does not:

- *Create unclean or unhealthy conditions for people or for the animals;*
- *Attract or provide a harbourage for vermin;*
- *Create offensive noise or odours;*
- *Cause a drainage nuisance or dust nuisance;*
- *Create waste disposal problems or pollution problems;*
- *Create an unreasonable annoyance to neighbouring residents or fear for safety;*
- *Cause nuisance due to proliferation of flies, lice, fleas or other insects”.*

In terms of the subject development application, potential noise and annoyance to neighbouring residents are considered to be the main issues. These issues have been addressed in the application with the submission of an acoustic report which outlines mitigative measures to reduce the impact of noise. It also indicates that the noise levels at the adjoining residences will not exceed 5dB(A) over the background noise level.

OTHER POLICIES

The NSW Environmental Protection Authority (EPA) does not have specific guidelines for the assessment of dog boarding kennels. However, for the purposes of the acoustic report, the ‘Industrial Noise Policy’ and ‘Environmental Noise Control Manual’ have been utilised.

The Victorian, South Australian and the Western Australian EPAs all provide guidelines for the assessment of dog kennels. Included in these guidelines is a recommendation that kennels should be located at least 500m away from residential areas or sensitive receptors such as dwellings in order to alleviate the problems caused by the barking of dogs. Although these policies do not apply to NSW, they provide useful comparison when considering the current application and acknowledge the potential noise impact that can result from dog boarding kennels.

RELEVANT ISSUES

Having regard to Section 79C of the Environmental Planning and Assessment Act, (EP&A Act) it is considered that the following matters require further consideration and are addressed in the following sections:

Proposed Animal Establishment at Lot 5 DP 247470 No 5 Old Maitland Road Kangy Angy (contd)

Context and Setting

The subject site is zoned 7(b) Scenic Protection and the locality is typically characterised by rural residential properties. The F3 Freeway is located immediately to the east of the subject site. There is one dwelling located on the adjoining property to the north, which is approximately 105m from the shed. There is another dwelling on the opposite side of Old Maitland Road which is approximately 50m from the shed. There are also a number of other dwellings in Old Maitland Road within relatively close proximity to the site. Existing sources of noise include traffic on the Freeway.

The proposed boarding kennels and yards will be screened to reduce the impact of noise on adjoining properties. The construction of a 2.5m high Hebel fence is included in the proposal; which if viewed from the street, has the potential to reduce the aesthetic quality of the locality. In order to prevent this it is proposed to screen the fence from the adjoining property to the north and the street with 3m high landscaping.

Access, Transport and Traffic

The Roads and Traffic Authority (RTA), as an adjoining land owner (the F3 Freeway), raised no objection to the proposal.

The establishment of boarding kennels will result in increased traffic generation. However, the applicants have proposed to provide staggered times for pick-up and drop-off of dogs and therefore, traffic generation is unlikely to be an issue. In addition, the subject site is the first property on the eastern side as you enter Old Maitland Road and there is adequate manoeuvrability on site to allow for forward entry and exit. Therefore, vehicles would not need to drive past this property and would be unlikely to impact on properties further along Old Maitland Road.

It is proposed to have pre-booked drop-off and pick-up times at 15 minute intervals for clients. The drop-off and pick-up hours are 8.30am-10.00am and 3.00pm-5.00pm. A condition will be placed on the consent to ensure that pick-up and drop-off times are not outside these hours.

Public Domain

It is considered that the proposed establishment is unlikely to have a detrimental impact on the public domain. There are no public recreation places in the immediate vicinity.

Proposed Animal Establishment at Lot 5 DP 247470 No 5 Old Maitland Road Kangy Angy (contd)

Utilities

There is a water main at the front of the property that runs along Old Maitland Road. There is no sewer main in the locality. An on-site aerated wastewater treatment system has been approved on the site. The disposal area approved for this system will need to be increased to cope with the additional load from the kennels. The applicants have proposed to increase the area to 750m². A condition will be placed on the consent requiring an amended on-site sewage management application to be submitted to and approved by Council prior to the commencement of operation of the facility.

Heritage

There are no known items of heritage significance on the subject site. However, a section of Old Maitland Road, Kangy Angy Mountain is listed as Item Number 13 of Council's Heritage Inventory. The section of road that is listed as a heritage item begins approximately 370m north of the subject site and runs for approximately 1,050m to the intersection of Old Maitland Road and Lamont Close. The road is listed as being of regional scientific significance. The proposed animal establishment is considered unlikely to have a detrimental impact on the heritage item.

Water

There is a creek that runs through the middle of the subject site which passes through the dam on the property. The kennel building is located approximately 75m from the creek and the yard is approximately 67 m from the creek. This creek only runs intermittently and the proposed kennels are unlikely to have a detrimental impact on this waterway, provided that they are operated appropriately and solid wastes are collected twice daily, kennels are cleaned daily and wastewater is diverted to the on-site sewage management system.

Air and Microclimate

It is proposed to cool and heat the shed using an air conditioning system with ventilation fans installed internally to supply and exhaust air to and from within the building. The air conditioning unit will be located on the western side of the building and the ventilation fans will be connected to 100mm insulated PVC pipes which protrude through the internal walls and run down the external facades with the outlet pointing down towards the ground and approximately 200mm above the ground. A condition will be placed on the consent should the application be approved to ensure that the pipes are located behind the Hebel wall to reduce the impact of noise on neighbouring properties.

Proposed Animal Establishment at Lot 5 DP 247470 No 5 Old Maitland Road Kangy Angy (contd)

Odour

In order to mitigate the impacts of odour it is proposed to pick up wastes twice daily from the site and hose out the kennels once a day, with minor spills being mopped up throughout the day with disinfectant.

Flora and Fauna

There are a number of mature trees on site. An application to remove two trees located on the northern boundary and to the west of the shed was approved by Council on the 11 March 2008 (TA/107/2008). The trees located to the east of the shed are proposed to be retained.

Additional trees at a height of 3m are proposed to be planted along the northern and western boundaries as a landscape screen.

Waste

The daily management regime of the kennels includes the manual pickup of 'solids' twice daily for disposal to landfill and the daily washing out of all hardstand areas. All wastewater is proposed to be directed to the existing septic system and on-site absorption (which is proposed to be altered under a separate OSSM application), via connection of all hard surface areas to the existing waste disposal system.

The existing dwelling is connected to a septic system on site. As part of the current proposal, it is proposed to increase the size of the effluent disposal area located at the front of the property from 480m² to 750m² to cater for the additional wastes generated by the dogs. Council's Environmental Health Officer has reviewed the application and the On Site Sewage Management Report prepared by Robert Bowen dated 6 December 2006 and concluded that a minimum irrigation area of 750m² is acceptable. A site inspection has revealed that there is adequate site area to the north and south of the driveway to cater for the additional irrigation area.

As there is adequate site area to cater for the additional wastes generated by the dogs, a condition will be placed on the consent requiring the lodgement of an amended Local Approval application for on-site sewage management prior to release of the construction certificate.

In addition, the following condition will be incorporated into any consent issued for the development:

"The kennels are to be cleaned daily. All faecal matter, old bones and uneaten food must be collected from the kennels and yards at least twice a day and temporarily stored in lined and sealed containers prior to removal from the site by an appropriate waste disposal service."

Proposed Animal Establishment at Lot 5 DP 247470 No 5 Old Maitland Road Kangy Angy (contd)

Energy

A 20,000 litre rainwater tank is proposed to catch water from the roof of the kennels for re-use on site and for the cleaning of kennels.

Noise

An acoustic assessment report has been prepared by Renzo Tonin and Associates to assess the impact of the proposed development. The report summarises the results of noise monitoring undertaken over seven days at the site to determine existing background and ambient noise levels representative of nearby residential properties.

Noise emissions from the proposed dog kennel facility were calculated and assessed against the criteria set out in the NSW Department of Environment and Climate Change's (DECC) 'Industrial Noise Policy' (INP) and 'Environmental Noise Control Manual'. These guidelines were used as there are no other noise guidelines for this type of development in NSW. Although the animal establishment is not an industrial use, the INP may still be applicable to set acceptable criteria for the noise assessment.

The noise report was based on the accommodation of up to 30 dogs, operating 24 hours a day, seven days per week.

The results of the report show that the noise from the operation of the animal establishment will comply with the intrusive criteria at both Receivers R1 (RMB 3655 Old Maitland Road) and R2 (RMB 3620 Old Maitland Road) during all conditions. However the amenity criteria is exceeded in the evening and night at R1 and in the night for R2 by a maximum of 9dB(A). However, by moving the ventilation pipes behind the Hebel wall and complying with the recommendations in the report the acoustic consultants have advised that the levels will be compliant with the NSW DECC criteria.

These predictions are based on a 'worst case' scenario where 10 dogs are located outside in the dog runs and 20 dogs located inside the kennel building, with all dogs barking at the same time.

The report indicates that with the ventilation pipes in front of the hebel wall the sleep intrusiveness criteria will be exceeded by the instantaneous noise generated by all dogs barking in the dog kennel at once during the night time period at both receivers. This is based on a worst case scenario with all dogs barking inside the kennel at once. Following discussions with Michael Chung of Renzo Tonin and Associates it is clear that further modelling has indicated that by moving the ventilation pipes behind the wall the noise levels would be compliant with the NSW DECC sleep arousal criteria.

Proposed Animal Establishment at Lot 5 DP 247470 No 5 Old Maitland Road Kangy Angy (contd)

The report recommends noise control measures to reduce noise levels at nearby residential receivers. These include:

- The construction of the walls, ceilings and windows of the dog kennel building should be in accordance with the architectural drawings. The windows should be of fixed construction.
- All external doors of the dog kennel building should incorporate acoustic seals and be kept closed at all times except for ingress and egress.
- The number of dogs in the external and internal areas of the facility should not exceed the numbers described in the scenarios considered as 'worse case' as indicated in Section 6.2 of the Acoustic Report dated 26 June 2008.
- The ventilation fans on the western side of the dog kennel building used to supply air to the internal area should incorporate noise attenuators on the inlet side of the fan; i.e. between the fan and the pipe work. The noise attenuators to be used should be Fantech CC-020M type.
- The exhaust pipe work on the eastern side of the building which is in front of the noise screen should be redirected so that the outlet is located behind the noise screen and at the same height above the ground as the original outlet.

In addition to the recommendations by Renzo Tonin and Associates it is important that the screening fence is implemented correctly. It is proposed to erect a barrier fence to the north and west of the yards and an open chain wire fence to the south and east of the yards. If the different fencing types are not located correctly the solid fence may become a source of reflected sound, thereby, causing excessive impact at the neighbours. Equally if the fencing components are not located correctly the barrier effect of the solid fence may not be present where it is needed also allowing excessive noise impacts at the neighbouring properties. A condition will be placed on the consent if approval is granted to ensure certification of this aspect of the fence.

Furthermore windows in the dog kennel building should incorporate a minimum of 6.5mm thick laminated glazing. The windows should be of fixed construction and should not have dimensions in excess of 600mm by 300mm. Larger windows should be made from glass bricks.

Proposed Animal Establishment at Lot 5 DP 247470 No 5 Old Maitland Road Kangy Angy (contd)

If the project is constructed in accordance with the SEE, the Renzo Tonin report and the recommendations above, the proposal will meet the INP limits. Dogs should not be audible at nearby residences at night provided the management strategy of confining them between 6pm and 7am in a suitably constructed building is adhered to.

This acoustic report was provided by Council to an independent acoustic consultant for review. They concluded that:

'The building as specified and surrounded by the proposed 2.5m high AAC wall will provide adequate protection to nearby residents, although dog barking may still be audible from time to time'

A condition of consent should be applied that requires a compliance review and specific noise measurements, when there are a number of dogs within the kennel, and within a three to six month period after completion. In the event that compliance is not achieved such a condition would also require remedial measures to be implemented in the form of a higher barrier to be constructed and absorptive panelling to be applied to the barrier if required.

It is considered reasonable for Council and nearby neighbours to be concerned about potential noise generation from the boarding kennels and outdoor dog runs as they are located within close proximity to residences. However, the acoustic report prepared by Renzo Tonin and Associates indicates that by complying with what is proposed and implementing the recommendations in the report the predicted noise from dogs barking will comply with the acceptable noise levels outlined in the report. It is therefore considered that provided the kennels are operated in accordance with the acoustic report and Council's recommendations, there will be minimal noise impacts on the surrounding residences.

Natural Hazards

Information available to Council indicates that part of this land could be subject to the risk of flooding by a flood of a one in one hundred year recurrence frequency or less.

A 'Report on Flooding Issues' has been prepared by Cardno Stanwill and submitted to Council with this development application. The report dated 12 June 2008 states that the existing floor level of the house is 14.3m AHD and the shed is 14.32m AHD. Calculations prepared by Cardno showed that the greatest depth that water reached above the existing dam level on site was 0.9m at the southern boundary. In level terms this equates to an RL of 12.1m AHD, well below the RL of the house and the proposed dog kennel. The report concludes that the peak 100 year ARI event does not reach the level of the proposed dog kennel or acoustic wall and that the proposed dog kennel and acoustic wall do not impact on flooding and flooding does not impact on the proposed dog kennel building and acoustic wall.

Proposed Animal Establishment at Lot 5 DP 247470 No 5 Old Maitland Road Kangy Angy (contd)

The flood report referred to above has been reviewed by Council's Senior Planning Engineer (Hydrology) and she has concluded that it adequately demonstrates that the subject proposal is not affected by the 1% AEP calculated flood level of 12.1m AHD, and adequately demonstrates that the proposed elements of the development (dog kennel, Hebel wall) do not impact on the conveyance of the 1% AEP flood. Therefore no additional flood related information was required.

There is a waterway that runs through the middle of the property; however, it is located approximately 75m from the proposed dog kennel building. It is not considered that the proposed boarding kennels are likely to impact on the waterway.

The subject site is classified as bushfire prone land. The area where the dog kennels are located is shown as Buffer. The shed is an existing approved building and is not proposed to be habitable by humans. It is also considered that there are adequate buffer zones between the shed and the nearby thick vegetation.

Safety, Security and Crime Prevention

The proposed dog kennel is located to the north of the existing residential dwelling on site. There is a clear line of sight from the dwelling to the kennels and outdoor dog runs. In addition, the owner has advised that there will be an intercom between the kennels and the house and there will be a responsible person on site 24 hours per day.

Economic Impact in the Locality

The proposed boarding kennels are likely to employ four to six part-time workers (equivalent to two full-time positions) once established.

In regard to the impact on property values, no evidence has been provided to indicate that the proposed kennels will have a negative impact on property values in the area. The kennels will not be visible from the street and additional landscape screening is proposed along the boundary to the north and also along the street boundary.

Proposed Animal Establishment at Lot 5 DP 247470 No 5 Old Maitland Road Kangy Angy (contd)

Site Design and Internal Design

An existing machinery shed on the site was selected to house the boarding kennels and the surrounding yard to be used for dog runs.

The proposed shed housing the kennels and yards is located on the northern side of the subject site and is set back 1.5m from the northern side boundary. The proposed yards to the west of the existing shed will be screened from the residence on the adjoining property to the north by an existing shed on the adjoining property. The kennels and yards are visible from the dwelling on site and will be under 24 hour video surveillance.

The rear of the site was not selected, as access to this area was difficult and heavily vegetated. In addition, the owner was concerned about the number of snakes in the rear of the property which could threaten the safety of staff and dogs.

Construction

It is proposed to carry out alterations and additions to the existing steel shed on the northern side of the property. The proposed alterations will help to sound proof the kennels and reduce the potential noise impact on surrounding properties

Suitability of the Site for the Development

The subject site is located in the 7(b) Scenic Protection Zone. Animal Establishments are permissible in this zone with development consent. The subject site is also located in close proximity to the F3 Freeway, which provides a service in close proximity to travelling clients. In addition, the site experiences a relatively constant background noise from traffic travelling along the Freeway. The Renzo Tonin report shows that the ambient noise levels for noise emitted by surrounding sources are above the acceptable noise level for rural settings, most likely caused by traffic on the nearby freeway. However, the predicted noise from dogs barking is predicted to be below the acceptable noise levels if all recommendations are complied with. This indicates that the noise of the Freeway would have a greater impact on residents than the noise of dogs at the kennels.

Public Submissions

The development application was notified in accordance with DCP Chapter 70 – Notification of Development Applications between the 26 June and 25 July 2008. The application was then re-advertised from the 14 August to the 29 August at the request of the public. A further notification was undertaken between 18 November and 3 December 2008. During the exhibition periods, 16 submissions were received objecting to the proposal and nine submissions in support of the proposal were lodged. Of the nine submissions lodged in support of the application two of these were petitions that included 172 signatures in total. Included in the submissions objecting to the proposal was two petitions with 35 signatures in total.

**Proposed Animal Establishment at Lot 5 DP 247470 No 5 Old Maitland Road
Kangy Angy (contd)**

The issues raised in the submissions have been addressed in the assessment of the application pursuant to the heads of consideration contained within Section 79C of the EP&A Act 1979. A summary of the submissions is detailed in Table 1 and 2 below.

Submission from the most recent exhibition are indicated in bold.

Table 1: Summary of Submissions in Support of DA:

Doc. No.	Concerns
D01191575 D01192924 D01192921 D01197608 D01197762 D01201131 D01201135	The application is supported as there is a shortage of boarding facilities on the Central Coast. This type of facility is sought after by both residents and tourists to the Central Coast. The facility has been thought through and well planned.
D01199130 D01200380	Petitions with a total of 172 signatures in support of the kennels

Table 2: Summary of Submissions Objecting Against DA:

Doc. No.	Concerns	Comment
D01191996 D01199829 D01207729 D01197740 D01208325	The kennels will generate significant noise	While there is potential for the kennels to emit noise due to barking dogs, the mitigating measures proposed are considered appropriate to reduce the impact of noise on the surrounding area to acceptable levels.
D01200836 D01200841 D01195631 D01206403	The noise of dogs could result in deteriorating health of people in the area	The impact of noise has been considered to be adequately ameliorated though the use of acoustic devices and consent conditions.

**Proposed Animal Establishment at Lot 5 DP 247470 No 5 Old Maitland Road
Kangy Angy (cont)**

Table 2: Summary of Submissions Objecting Against DA (cont.)

Doc. No.	Concerns	Comment
D01195631 D01206403 D01208385 D01199823 D01195635 D01208402 D01198313 D01199542	There is no noise report submitted or The noise study conducted was from the original DA in 2007 or The noise report submitted is not adequate.	A noise report was submitted with the application and is dated 26 June 2008. This report is considered adequate to assess the noise impacts of the application. There were separate acoustic reports submitted for DA/2105/2006 and a separate independent review undertaken of that report which also considered the noise levels acceptable.
D01199823 D01396268	Unacceptable noise levels due to the change in location of the yards.	The location of the yards remains the same as in the previous application except that the yards are now smaller in size.
D01208385	Where will the proposed air conditioner units be placed? What noise reduction measures will be in place for their operation? What will their hours of operation be? Does this meet Council's guidelines for external noise?	The air conditioner will be located in front of the hebel wall to reduce the impact of noise. The air conditioner will be required to comply with Council's requirements.
D01195631 D01206403 D01195635 D01208402	The properties adjacent and to the north will be impacted by noise even with the Hebel wall as they are elevated.	The acoustic assessment has taken into consideration the location of the adjoining dwellings and modelling has indicated that noise levels at these locations will be compliant with DECC requirements.
D01195631 D01206403 D01195635 D01208402 D01200841 D01198313 D01199542 D01389313 D01395668	There is no Hebel wall proposed on the southern side of the yards to protect residents in Old Tuggerah Rd. Will this reflect sound towards these residents? What will prevent the noise from travelling across to 33 Preston Rd?	The hebel wall has been designed and located to reduce the impact of noise on neighbouring properties. It is considered that the noise at the properties in Old Tuggerah Rd and Preston Rd and other adjoining properties will be acceptable.

**Proposed Animal Establishment at Lot 5 DP 247470 No 5 Old Maitland Road
Kangy Angy (contd)**

Doc. No.	Concerns	Comment
D01208385	What are the heights of the hebel wall?	The hebel wall has a height of 2.5m as shown on the plans. The wire fence around the rest of the yard has a height of 1.8m.
D01197571	The prison style fence proposed to be erected (hebel fence) is abhorrent and would cause debris from storms to be caught and result in health hazards.	The fence is not unlike other fences in the shire that may catch debris during storms. It would be up to the residents to ensure that their property is kept clean and healthy.
D01195631 D01206403 D01195635 D01208402 D01389350	The Hebel wall will impact on the scenic value of the area.	There is a 3m high dense landscape screen proposed to be planted around the hebel wall to reduce the visual impact.
D01195635 D01208402	What does the scenic protection act say about 2.5m hebel walls being erected?	Council is not aware of legislation titled the 'Scenic Protection Act' in NSW.
D01195635 D01208402	The objectors have a gym on the property 4m from the kennel and the odour from dogs would cause stress and concern for their health while training.	The kennels will be cleaned out daily reducing the odour. The area has a number of farms and the smell from horses and cattle on the objector's own and surrounding properties is likely to be more significant as this is not picked up as often as the wastes from the kennels will be.
D01197571 D01197740 D01208325 D01195631 D01206403 D01198313 D01199542	The proposal is contrary to the zoning and areas current use and environment	The proposed use is permissible in the 7(b) zone. Mitigating measures have been proposed to reduce the impact of the proposal on surrounding properties.
D01200836	The 1.8m high metal fence along the road will be an eyesore.	A 2.5m high Hebel panel fence will be erected around the shed and yards. This will be screened by landscaping and is unlikely to be visible from Old Maitland Rd once landscaping is established and matures. There is no metal fence proposed on the boundary.

**Proposed Animal Establishment at Lot 5 DP 247470 No 5 Old Maitland Road
Kangy Angy (contd)**

Doc. No.	Concerns	Comment
D01199823 D01200836 D01195635 D01208402 D01198313 D01199542 D01389313 D01396268	The proposal will decrease property values	There is no evidence that indicates the properties in the area will be devalued as a result of the boarding kennel.
D01200836 D01195635 D01208402 D01198313 D01199542 D01199829 D01389313	Volume of traffic is a concern and children and horse riders will be put at risk by increased traffic.	It is proposed to stagger drop-off and pick-up times which will reduce traffic congestion. This will be conditioned.
D01199823 D01198313 D01199542	The site is in a Bushfire Prone Area. Adequate fire evaluation should be completed by the RFS and the Planning for Bushfire Protection Guidelines should be implemented for the DA. There is concern for staff working there and animals.	The application is not required to be referred to the RFS for comment. The threat of bushfire has been considered in the assessment.
D01195631 D01206403 D01195635 D01208402 D01199823 D01199829 D01200836 D01200841 D01197571 D01198313 D01199542 D01191996 D01208385 D01207729 D01389350 D01389313 D01396268	The site is affected by flooding. A full Flood Study and Evacuation Plan should be submitted for the site.	The flood study report submitted to Council as part of the SEE adequately demonstrates that the subject proposal is not affected by the 1% AEP calculated flood level of 12.1m AHD. Therefore no further study or plans are required.
D01195635 D01208402	Breanne referred to the lower section of the dog run as being flood prone in her phone call with Ray Griffiths on July 14.	This was not discussed in this conversation as it was not mentioned by Mr Griffiths. Furthermore staff have data that indicates that this area is not flood affected and therefore would not say this.
D01195635 D01208402	Should the dog runs be protected by bunding similar to services stations?	The site where the kennels and yards are located is not affected by the 1 in 100 year flood and therefore bunding is not considered necessary.

**Proposed Animal Establishment at Lot 5 DP 247470 No 5 Old Maitland Road
Kangy Angy (contd)****Table 2: Summary of Submissions Objecting Against DA (Cont)**

Doc. No.	Concerns	Comment
D01195635 D01208402 D01198313 D01199542 D01389313	The creek below the kennels is a platypus protected waterway. Does Council consider that independent monitoring of the water quality should be a condition of consent?	Council does not feel that the kennels are likely to impact on the quality of the creek or supposed platypus habitat.
D01199829	Was there any loss of life when the cattery on Old Pacific Hwy Kangy Angy flooded last year and had to be evacuated?	It is unknown if lives were lost at the cattery. The subject site however is not flood affected.
D01207729 D01191996 D01195631 D01206403 D01195635 D01208402 D01197571 D01198313 D01199542	Concerned with the environmental impact of wastes (e.g. washing into creeks during floods)	All faecal matter will be picked up twice daily and disposed of by a waste contractor off site.
D01198313 D01199542	The kennels will result in a possible impact on the lake system and associated industries reliant there on.	Liquid wastes will be absorbed into the ground in the run area similar to that of cows and horses or will go into the on-site sewage management system and solid wastes will be disposed of via a waste contractor. Therefore it is unlikely that this would impact on the lake system.
D01195631 D01206403	Concern that the existing waste system will not cope with animal wastes from hosing out the kennels.	A separate OSSM application is required to be lodged with Council which will be assessed by Council's EHO to ensure that the system will be able to cope with the wastes generated from the kennels.
D01195631 D01206403	Objectors neighbours have complained about the odour from the septic system that will be used by the kennels	This matter has been lodged as a separate complaint and is being dealt with separately to this application.

**Proposed Animal Establishment at Lot 5 DP 247470 No 5 Old Maitland Road
Kangy Angy (contd)**

Doc. No.	Concerns	Comment
D01195635 D01208402 D01198313 D01199542 D01208385 D01389350 D01396268	The waste management system proposed is illegal and must not be used for commercial development	The system currently at the site has been approved by Council. A new OSSM application will be lodged separately for any changes as a result of the kennels. Council contends that the use of any AWTS is acceptable regardless of its usage. An AWTS is able to deal with a host of organic material. Dog hair is the biggest problem in the AWTS's running in that it tends to bind up pumps and block manifolds. In Determining an application for the AWTS Council will comply with its obligations under the legislation.
D01195635 D01208402 D01195631 D01206403	There should be a stand alone waste treatment system	Once the OSSM application is lodged Council will assess what is proposed and ensure that the system can cope with the proposed wastes.
D01195635 D01208402 D01208385	Council must look at the location of the proposed disposal area as it is elevated and runoff will seep into the dog run area thus resulting in dangerous bacteria count and public health risk. There is insufficient area for a disposal area in the location suggested and it is too close to the road, boundary, play area and dwelling. The disposal area will be affected by wind drift, grade of the site, also the hebel wall and any absorption rate is relevant due to the proximity to the disposal area. The hedge trees (up to 3m) will impact on absorption rate of spray irrigation. Less sunlight will also impact.	Council will further determine the availability of land for irrigation given revised hydraulic loading. Council's assessment of the submitted report determines compliance with current site constraints such as buffers and exposure of sun.
D01208385	The daily solid waste estimate of 4-5kg for 30dogs is unrealistic. This is an average of 167grams of solid waste per dog per day.	The amount of solids produced is not pertinent to the operation of the AWTS as it will be collected and disposed of independently.

Proposed Animal Establishment at Lot 5 DP 247470 No 5 Old Maitland Road Kangy Angy (contd)**Table 2: Summary of Submissions Objecting Against DA (Cont)**

Doc. No.	Concerns	Comment
D01208385 D01395668	Will the solid waste be cleaned up immediately or as needed?	A condition will be placed on the consent requiring the pick up of solid wastes at least twice daily.
D01208385	145 litres/day per person on mains supply is an under estimation as no dual flush toilets water saving shower heads and tap aerators are in existence. Also 145lt/day is the voluntary target under level 4 water restrictions. A more realistic demand needs to be applied.	Council will condition that flow control devices be fitted to all fixtures prior to release of the Occupation Certificate.
D01208385	100lt/day for wash down is an understatement	The applicant has provided calculations to support how they came to this figure and to show that it is realistic.
D01208385	Have the calculations of nitrogen taken into account the higher nitrogen levels of dog urine?	The system proposed will, regardless of the input of nitrogen, denitrify to a level acceptable for surface irrigation.
D01208385	WSC policy was not to allow any further AWTs systems for commercial premises that applied surface spray irrigation. No alternative has been considered e.g. Underground drip irrigation or sand mounds which are preferred for commercial properties.	Staff are unaware of the written policy precluding commercial waste being spray irrigated.
D01198313 D01199542	There should be a waste management plan for the ecological safe disposal of animal wastes. This should include a method of procedure and a risk assessment analysis with emergency containment procedures.	Council considers the disposal methods submitted acceptable. A commercial grade storage bins and bags will be required.
D01198313 D01199542	There is a possible health issues through the storage on site of faecal waste.	Conditions will be placed on the consent to ensure the safe storage of wastes prior to removal by a contractor.
D01198313 D01199542	Council should consider the impact of the kennels on native flora and fauna	Council has taken into consideration the impact on flora and fauna. The yards and kennel are proposed to be well secured and there is unlikely to be a significant impact on any flora or fauna.

**Proposed Animal Establishment at Lot 5 DP 247470 No 5 Old Maitland Road
Kangy Angy (contd)**

Table 2: Summary of Submissions Objecting Against DA (Cont)

Doc. No.	Concerns	Comment
D01195635 D01208402	The trees proposed to be removed as part of the DA are endangered species. The trees are Melaleuca biconvex and are endangered and an Arborist should be engaged.	There are no trees proposed to be removed as part of this DA. A Tree application was previously approved (TA/107/2008) for the removal of 2 trees – an Angophora Floribunda and Eucalyptus Saligna.
D01195635 D01208402	Vegetation for clear driveway access should not be removed as it has scenic value and could possibly threaten species.	Minor pruning of vegetation may be required to ensure clear sight lines from the driveway and for vehicles travelling down Old Maitland Rd.
D01195635 D01208402 D01197571 D01395668	What conditions have been put on the DA to ensure vehicles do not back onto Old Maitland Rd? Concern over driveway location on 'a blind corner'	The proposed development has a drive-in drive-out driveway which allows vehicles to drive in a forward direction onto Old Maitland Rd. This can also be conditioned.
D01198313 D01199542	A security plan, recovery management plan and insurance details should be provided in the event of a security breakdown where the animals boarded manage an escape and cause physical damage to property and/or persons.	There is staff on site 24 hours a day and there is video surveillance proposed as well as fencing around the yards and kennels and additional fencing around the property. Therefore it is unlikely that dogs would escape without the staff's knowledge. This is considered acceptable.
D01208385	No areas are designated on the plans for play area and day runs	The yard area for the dogs is shown on the plans. It is an area of approximately 445m ² .
D01208385	The maps provided are not sufficiently dimensioned to enable adequate evaluation of the proposed DA	All plans submitted to Council are to scale. These plans may have been reduced for the purpose of notification. The public was able to come into Council to view the plans at full scale.
D01195635 D01208402	The horse stables are 4m from the fence. The constant barking of dogs could stress or spook the horses which raises safety concerns. Also the gate to leave the property to ride into the bush is 5m from the kennels.	A 2.5m high acoustic fence and landscaping will be placed around the yards and the shed will be acoustically treated to reduce the impact of noise. Visual stimulation that makes dogs bark will also be reduced due to the high fences and landscaping.

**Proposed Animal Establishment at Lot 5 DP 247470 No 5 Old Maitland Road
Kangy Angy (contd)****Table 2: Summary of Submissions Objecting Against DA (Cont)**

Doc. No.	Concerns	Comment
D01200836	Vermin and snakes will be attracted to the kennel property and surrounding properties.	A condition will be placed on the consent for all food to be stored in a cool, dry place that is inaccessible by vermin. The kennels will be cleaned daily and the wastes in the yard will be picked up twice daily.
D01208385	The application states maximum of 30 dogs in 19 kennels but there is only 18 kennels on plan. Where will extra 12 dogs sleep?	The plans were amended and there are now only 18 kennels proposed. It is proposed that if a person requests 2 small dogs from the one household to be boarded together then they can be kept in the one kennel. This is the reason for the additional number.
D01208385	The run sizes do not meet guidelines for housing companion animals.	Council is not aware of a minimum size requirement for boarding animals in NSW legislation. It is considered that the kennels and yard area is of an appropriate size to care for the animals in a healthy environment.
D01208385	Is this DA relative to an established market?	It appears that there is a demand for this type of animal establishment as there have been a number of submissions stating that it is required in the area and based on discussions with Council's pound and customer service centre.
D01199823 D01396268	Object to unsightly signage in the valley.	No signage is proposed under this application. A condition will be placed on the consent stating that all signs must comply with Chapter 50 – Advertising Signs.
D01208385	The colour of the shed and hebel wall should blend with the natural environment	A condition could be placed on the consent to ensure that it is coloured appropriately.
D01198313 D01199542	Concerned for the welfare of residents children and Live stock	There is no evidence to indicate that the welfare of residents, children and live stock will be affected.
D01195635 D01208402	The kennels are 2-3m from the boundary. NSW should adopt other states requirements to have kennels further than 50m from the nearest neighbour	Council is not required to adopt other states requirements however this has been taken into consideration during the assessment process.

**Proposed Animal Establishment at Lot 5 DP 247470 No 5 Old Maitland Road
Kangy Angy (contd)**

Table 2: Summary of Submissions Objecting Against DA (Cont)

Doc. No.	Concerns	Comment
D01208385	The paperwork makes generalisations	The wording the objector refers to provides advice on the proposal as part of the SEE. This is not Council's report and Council cannot change what is written in the SEE they can merely clarify issues as required.
D01208385	The wording in the paperwork is vague – "intend to have an appointment system". Will there be an appointment system or not?	Council can place conditions on the consent should the application be approved to ensure that this system is in place.
D01191996	Why has Council accepted a new DA for the kennels.	Council accepted the new DA as Council can not deny a DA based on the fact that the applicant has lodged a previous DA for a similar development.
D01208385	What ranger supplied the information on the number of dogs in Wyong Shire? Is there really 80,000 dogs in Wyong?	The management policy prepared by the applicant states about 40,000 dogs and probably this amount again unregistered. It appears that this is an estimate. Council Rangers have advised that there are approximately 17,145 dogs recorded in Wyong Shire at present. While the applicant's figure may be an overestimate it is still considered that this is large number of dogs and it is unknown how many dogs are unregistered in the area.
D01208385	What policies and action will be undertaken for unsettled animals at night. No written policy has been submitted	Council has not requested a written policy for unsettled animals as it is considered that the kennels are well insulated against noise and there is 24 hour surveillance proposed by the owners.
D01208385	The boarding of non desexed females is of concern what policies are in place to deal with this problem. Constant excessive noise will be the result for neighbours.	It is up to the owners of the facility to choose whether they will take non desexed dogs. There is no evidence to show this will impact on neighbours.
D01198313 D01199542	Objector hopes that the EPA will be notified before operation so that monitoring of the ecological impact will be maintained.	There is no requirement for Council to notify the EPA prior to operation.

Proposed Animal Establishment at Lot 5 DP 247470 No 5 Old Maitland Road Kangy Angy (contd)

Doc. No.	Concerns	Comment
D01389350	Not in the public's best interest – 95% of local community are opposed and 5% are ambivalent	There have been submissions and a petition from local residents supporting this application also. Therefore these statistics are not accurate.
D01389350	Noise pollution – does not take into consideration noise of existing dogs in the area barking as a result of the kennels.	The dogs in the local area can bark without the kennels. Acoustic measures have been put in place to reduce the noise of barking dogs in the kennels which will also reduce the impact on other dogs in the locality.
D01389350	Inadequate management policy – the policy submitted states dogs can walk in the bush area. As the dogs will be in the exercise area there won't be adequate exercise for the dogs. The policy says the shed will be air conditioned but council's condition on DA/2105/2008 limits the times it can be used, how will welfare of dogs be addressed on cold and hot nights? The policy offers a hydro bath but the DA does not propose a hydro bath. Does an OH&S policy have to be lodged with Council?	No dogs will be permitted to walk in the bush area at the rear of the property. The applicant has advised that this was an oversight and they are not proposing to walk dogs in this area. The dogs will be exercised in the approved yard area. This DA has altered the design of the ventilation and air conditioning and will be acoustically treated to minimise noise impacts. For this reason it will be permitted to operate through the night where necessary. The Hydro bath will be provided by a contractor in the exercise area with a portable bath. Council does not require an OH&S Policy.
D01389350	Lack of suitable guidelines for these establishments – It's unacceptable that NSW has no guidelines on boarding kennels and while its State Government, Council should have its own policies. Council should look carefully at where animal establishments are permitted. It is suggested industrial areas as vets operate successfully from industrial areas.	Animal establishments are only permitted in certain zones under Council's LEP 1991. Council also carefully considers any DA for an animal establishment.

**Proposed Animal Establishment at Lot 5 DP 247470 No 5 Old Maitland Road
Kangy Angy (contd)**

Doc. No.	Concerns	Comment
D01389350	<p>Who monitors operational suitability of these establishments and what are the guidelines for:</p> <p>Waste management systems Size of individual kennels as per dog size Size of dog exercise area as per dog size Number of dogs in exercise areas at one time or if dogs need individual runs Length of time a dog can be locked in kennel Cleaning of kennel areas Cleaning of dogs Infection control Handling of aggressive dogs Management of excessively noisy dogs.</p> <p>Council should develop a guideline.</p>	<p>If approval is granted conditions are imposed which the applicants must comply with.</p> <p>There is no minimum size of kennels or exercise areas as long as the animal can comfortably turn around, lay down and stand up. There is no minimum number of dogs that can be in an exercise area at once. A dog can be confined in a kennel for 23 hours per day under the Prevention of Cruelty to Animals Act 1979. The RSPCA advises that kennels should be cleaned twice daily. There is no requirements for the management of excessively noisy dogs. It should be noted that there are a number of codes of conduct and information sheets available. Council may also apply conditions to any consent to ensure that the establishment meets appropriate standards.</p>
D01389313	<p>Insufficient information in regards to noise, waste management near waterways, waste management plan, recovery management plan and insurance details if dogs escape, traffic management, study of impact on property values,</p>	<p>Council is satisfied that enough information has be lodged with Council to assess the impacts of the development proposed.</p>

**Proposed Animal Establishment at Lot 5 DP 247470 No 5 Old Maitland Road
Kangy Angy (contd)**

Public Interest

There was strong public objection to the boarding kennels mainly in relation to the potential noise impacts of the proposal. There is no relevant legislation that prescribes a set distance that kennels must be from residences or adjoining properties. For this reason, the INP was used as a guide for assessing the noise impact.

An acoustic report was submitted supporting the application, which outlines that the kennels can comply with the requirements of the INP provided that the recommendations outlined in the report are implemented. Advice provided by an independent acoustic consultant with regard to noise impacts for the original DA (DA/2105/2006) was also considered. The consultant provided additional recommendations and advised that provided the kennels comply with all recommendations, the dogs will not be audible at nearby residences at night and they will only be occasionally audible during the day. However, this does not imply a failure to comply with the INP. The design has since improved from that assessed under DA/2105/2006.

It is considered that compliance with the recommended conditions and recommendations in the acoustic report will limit the impact of noise on surrounding residences to an acceptable level. To ensure that the kennels do not have a detrimental impact on the surrounding properties in regard to noise, a condition will be placed on the consent, requiring ongoing acoustic monitoring, with additional measures required if non-compliances are discovered.

It is considered that provided the boarding kennels comply with the conditions and recommendations, they are unlikely to impact on the health and safety of the public.

CONCLUSION

The application has been examined having regard to the matters for consideration detailed in Section 79C of the EP&A Act and other statutory requirements. It is considered that the acoustic assessment that was undertaken by Renzo Tonin & Associates and the recommendations made by them address the concerns in regard to the impact of noise from barking dogs. Provided the kennels comply with the conditions of consent and recommendations of the Acoustic Report, they will be able to operate in an unobtrusive manner, with minimal impact on surrounding residences. It is therefore recommended that the application be approved.

Attachment 1**Locality Plan****Enclosures****A3 Plans – Detailed Site Plans, Elevations**

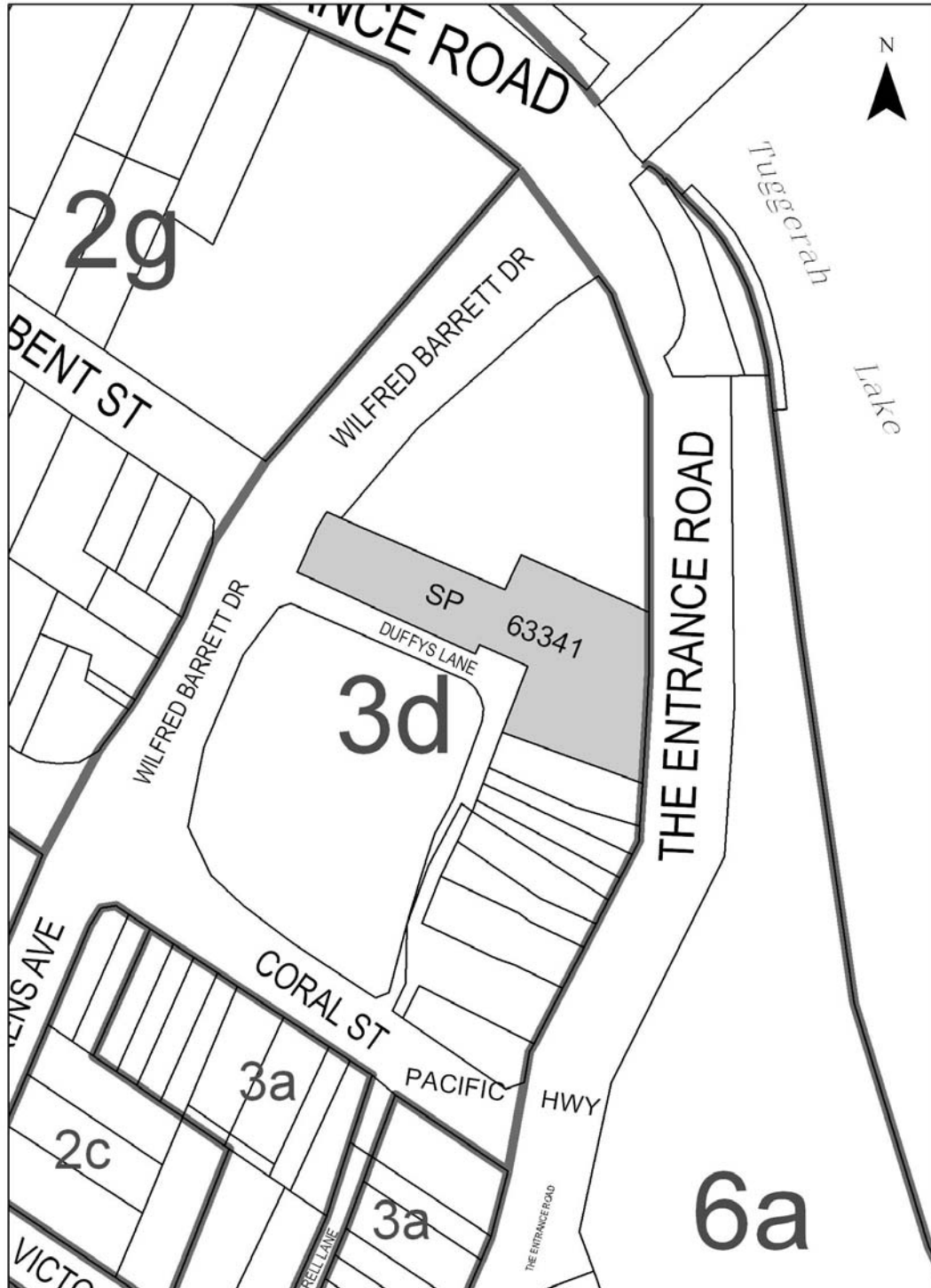
WYONG SHIRE COUNCIL

10 December 2008
To the Ordinary Meeting of Council

Director's Report
Shire Planning Department

554 Partial Change of Use from Tourist Accommodation to Permanent Residential at The Entrance (Attachment 1)

DA/850/2008: JLW



WYONG SHIRE COUNCIL

10 December 2008
To the Ordinary Meeting of Council

Director's Report
Shire Planning Department

554 Partial Change of Use from Tourist Accommodation to Permanent Residential at The Entrance

DA/850/2008: JLV

SUMMARY

A development application has been lodged to allow up to 76 of the existing serviced apartments within The Oaks Waterfront Resort Building, at No 89-95 The Entrance Road, The Entrance to be used for permanent residential use rather than for short term tourist accommodation.

Applicant	Jan Hartman
Owner	Strata Plan 63341
Application No	DA/850/2008
Description of Land	SP 63341 No 89-95 The Entrance Road, The Entrance
Proposed Development	Partial change of use from short term tourist accommodation to permanent residential use.
Site Area	3096 m ²
Zoning	3(d) Tourist Business Zone
Existing Use	The Oaks Waterfront Resort – Tourist accommodation, commercial premises and shops

RECOMMENDATION

- 1 *That Council refer the application to the General Manager for determination having regard to the matters for consideration detailed in Section 79C of the Environmental Planning and Assessment Act and other relevant issues with an indication that based on the information available to it, Council favours deferred commencement approval of the application subject to appropriate conditions.***
- 2 *That Council authorise the General Manager to determine any application for minor modifications to the approved development plans and/or consent conditions.***
- 3 *That Council advise those who made written submissions of Council's decision.***
- 4 *That Council vary Development Control Plan 2005 Chapter 64 in relation to private open space to permit the development.***

Partial Change of Use from Tourist Accommodation to Permanent Residential at The Entrance (contd)

PRECIS

- Development application to change the use of tourist accommodation to permanent residential accommodation at The Oaks Waterfront Resort.
- Wyong Local Environmental Plan permits up to 50% of the gross floor area of the building to be used for permanent residential accommodation.
- 76 out of the existing 145 serviced apartments are proposed to be used for permanent occupation. This represents less than 43% of the gross floor area of the building.
- 41 of the units proposed for permanent occupation are not considered suitable due to lack of on-site carparking or residential amenity. As a result only 35 units are recommended for permanent occupation.
- Deferred commencement consent recommended to enable s94 contributions to be paid upfront in accordance with the Contributions Plan.
- One submission received objecting to the development.

INTRODUCTION

A development application has been lodged to allow up to 76 of the existing apartments within The Oaks Waterfront Resort Building, at No 89-95 The Entrance Road, The Entrance to be used for permanent residential use rather than for short term tourist accommodation.

The construction of the building was approved by Council in May 1997 and has been modified a number of times both during and post construction. The building is seven stories high and contains 145 tourist accommodation units, four commercial premises/shops, a restaurant, conference facilities and office/reception areas for the operators of the building, recreational facilities and carparking.

When the development was approved, consent was granted for a "seven storey mixed tourist accommodation/commercial development". The use of the building solely for tourist accommodation was further reinforced through condition 29 of the consent, which currently states:

"That part of the building providing accommodation is to be used solely for the purposes of serviced apartments which are to be used to provide short term accommodation and which are serviced or cleaned by the owner or manager of the apartments or the owners or managers agents, and which are not subject to, a residential tenancy agreement under the Residential Tenancies Act 195.7"

Partial Change of Use from Tourist Accommodation to Permanent Residential at The Entrance (contd)

The subject application seeks to enable 76 of the apartments to be used for permanent residential purposes rather than solely for short term tourist accommodation. These range from studio apartments to 2 bedroom apartments and all contain laundry, kitchen and bathroom facilities.

As the building is existing and there are no structural changes proposed, the key areas of consideration relate to the suitability of the apartments to be used for permanent occupation and whether the partial change in use of the building would have an overall detrimental impact in the locality. Following assessment of the application, it is considered that a partial change in use of the building would be desirable in terms of providing greater housing choice within The Entrance as well as increasing the number of permanent residents in the area. However, a number of the apartments are not considered to provide appropriate facilities and amenity to justify use for permanent residential occupation. As a result, it is recommended that only 35 out of the 76 apartments proposed to be used for permanent residential purposes be approved.

VARIATIONS TO POLICIES

Clause	9.1
Standard	Minimum 10 m ² private open space
LEP/DCP	DCP 64
Departure basis	Existing balconies and sufficient open space and amenity provided. Variation of up 20% required.

HISTORY

- Development application No 166/1997 was approved by Council on 7 May 1997 for the development of a seven storey mixed tourist accommodation/commercial development. At the time the application was assessed, Council was the owner of the site and therefore the assessment was undertaken by an independent consultant.
- The planning assessment considered that the development represented a valuable addition to The Entrance Town Centre and would provide a mechanism for increased tourism and associated tourist spending. Further, the development was consistent with the long-standing efforts of the Council to provide for an enhance streetscape and to promote the area as a vibrant tourist precinct.

Partial Change of Use from Tourist Accommodation to Permanent Residential at The Entrance (contd)

- At the time the application was approved, it was intended that the serviced apartments would be subdivided (by strata) and sold individually. The apartments would be fully leased for ten years to the operator, who would be responsible for the operation and management of the apartments. The owners would be entitled to occupy the units for one week per year under the provisions of the lease.
- Following the approval of the development, it has been modified a number of times:
 - DA/166/1997/A for alterations to the original design – approved 11 November 1997;
 - DA/166/1997/B for alterations to the design and carparking – approved 15 October 1999;
 - DA/166/1997/C for alterations to the design – approved 9 February 2000;
 - DA/166/1997/D for an individual unit to be used for permanent occupation – withdrawn 27 May 2005;
 - DA/166/1997/E to restrict 24 hour pedestrian access through the building – refused 9 September 2008; and
 - DA/166/1997/F for closure of public toilets – approved 9 September 2008
- Following the lodgement of DA/166/1997/D, the applicant was advised that the change in use from tourist accommodation to permanent accommodation could not be dealt with under section 96 of the Environmental Planning and Assessment Act, 1979 (EP&A Act) and that a new development application would need to be lodged. It was requested that if a new development application was lodged, it would be desirable for the application to include a masterplan for the conversion of specified units (up to 50% of the gross floor area), which would need to be coordinated through the Strata Manager and strata owners. It was also advised that any future application which may be submitted to Council should include the following information:
 - a) A report from a suitably qualified consultant pertaining to the provisions of the Building Code of Australia (BCA), addressing the change of use from short term accommodation (Class 3) to permanent residential accommodation (Class 2).

Partial Change of Use from Tourist Accommodation to Permanent Residential at The Entrance (contd)

- b) A Statement of Environmental Effects outlining compliance/non compliance with the following relevant Council Policies:
- DCP No. 64 –Medium and High Density Residential Development, particularly private and communal open space, solar access, car parking, privacy and facilities and amenities such as laundry facilities, drying areas and waste disposal;
 - DCP 69 –Controls for Site Waste Management
 - DCP 61 –Car Parking
 - DCP 60 –The Entrance
 - Wyong LEP 1991, particularly Clause 42C.
- Following a number of similar enquiries by various owners of the units, the subject development application has been made. As previously requested, a coordinated approach to the lodgement of the development has been made through the Executive Committee of the Owners of Strata Plan 63341. Minutes of the meeting of 28 June 2008 have been provided, where it was resolved that “the owners corporation provide its consent for the interested group of owners to make all necessary inquiries and lodge a joint application to Council at the cost of the interested group for Residential Status”. It was also noted that one party expressed its objection to the intention behind this motion and voted against.

PERMISSIBILITY

The subject site is zoned 3(d) Tourist Business Zone under the Wyong Local Environmental Plan 1991 (the LEP). The existing uses are defined as tourist accommodation, commercial premises and shops, all of which are permissible in the zone. The proposed use for permanent residential occupancy is defined as ‘residential flat building’ under the LEP, which is a permissible form of development in the zone when attached to other permissible buildings.

The objectives of the 3(d) Tourist Business Zone are:

- (a) to encourage development providing accommodation, services, entertainment and attractions for tourists, and
- (b) to complement the functions of a nearby town centre, and
- (c) to ensure that development is of a type and scale that is appropriate to a tourist oriented character, and enables the maintenance of the area's attraction to tourists.

Partial Change of Use from Tourist Accommodation to Permanent Residential at The Entrance (contd)

The primary use of the building remains for the purpose of tourism by providing serviced apartments, restaurant and conference facilities as well as retail shops. The use of part of the building for permanent residential accommodation will also compliment the functions of The Entrance and will provide for a year round population within the town centre to support local business. The proposal is not considered likely to detract from the tourist character of the area and consequently satisfies the objectives of the 3(d) tourist Business Zone.

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:

- State Environmental Planning Policy 65 – Design Quality of Residential Flat Development;
- State Environmental Planning Policy No 71 – Coastal Protection;
- Draft The Entrance Peninsula Planning Strategy;
- Development Control Plan 2005 Chapter 60 – The Entrance;
- Development Control Plan 2005 Chapter 64 – Multiple Dwelling Residential Development;
- S94 Contribution Plan No 3 – The Entrance District; and
- S94 Contributions Plan No 11 - Shire Wide Infrastructure, Services and Facilities

ECOLOGICALLY SUSTAINABLE PRINCIPLES

The proposal has been assessed having regard to ecologically sustainable development principles and is considered to be consistent with the principles. The proposal involves the use of existing tourist accommodation for permanent residential accommodation it is unlikely to impact further on the environment.

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.

Partial Change of Use from Tourist Accommodation to Permanent Residential at The Entrance (contd)

THE PROVISIONS OF RELEVANT INSTRUMENTS/PLANS/ POLICIES (s79C(1)(a)(i-iv):**Wyong Local Environmental Plan 1991**

Clause 42C of the LEP specifically applies to the site. The objective of this clause is to control the impact of development within the commercial area of The Entrance and states that *"In the case of development on land within Zone No 3(d), any permanent residential accommodation to be provided within the buildings on that land is to occupy less than fifty percent of the gross floor area of all of the buildings on that land"*.

The LEP defines 'gross floor area' as:

"the sum of the areas of each floor of a building where the area of each floor is taken to be the area within the outer face of the external enclosing walls as measured at a height of 1,400 millimetres above each floor level, excluding -

- (a) columns, fin walls, sun control devices and any elements, projections or works outside the general lines of the outer face of the external wall;*
- (b) lift towers, cooling towers, machinery and plant rooms and ancillary storage space and vertical air-conditioning ducts;*
- (c) carparking needed to meet any requirements of the Council and any internal designated vehicular or pedestrian access to the carparking; and*
- (d) space for the loading and unloading of goods."*

The apartments within the building have a gross floor area of approximately 6,250 m² with the ground level shops, restaurant, conference facilities and offices having a floor area in excess of 1,380 m². The total gross floor area of the building therefore exceeds 7,630 m², which does not include common property, balconies, service ducts and ancillary storage areas. The apartments proposed for permanent occupation have a gross floor area of approximately 3,265 m², which represents less than 43% of the gross floor area of building. The proposal therefore complies with clause 42C of the LEP.

It is proposed to approve only 35 units for permanent occupation, the gross floor area will be approximately 1,720m² or approximately 22% of the building gross floor area.

Partial Change of Use from Tourist Accommodation to Permanent Residential at The Entrance (contd)

State Environmental Planning Policy No 65 – Design Quality of Residential Flat Development

State Environmental Planning Policy No 65 (SEPP 65) applies to development being:

- a) the erection of a new residential flat building, and
- b) the substantial redevelopment or the substantial refurbishment of an existing residential flat building, and
- c) the conversion of an existing building to a residential flat building.

The existing building containing serviced apartments is defined under SEPP 65 as a residential flat building. As the proposed development does not involve the erection of a new residential flat building or the redevelopment, refurbishment or conversion of an existing building to a residential flat building, the provisions of SEPP 65 do not apply. However, the Residential Flat Design Code (RFDC), which is adopted by the SEPP 65 provides an important resource to improve the design of residential flat development. It is based on the principle that good quality buildings help improve the quality of life. It deals with the location, size and scale, appearance and amenity of the buildings in which many people live. Although the provisions of SEPP 65 do not apply to this application, the RFDC provides guidance for ensuring that residential amenity is achieved in all residential flat buildings and is therefore referred to in the assessment of this application.

State Environmental Planning Policy No 71 – Coastal Protection (SEPP 71)

SEPP 71 provides matters for consideration when assessing a development application within the Coastal Zone. As the proposal does not involve any works or a substantial change in use of the building, the matters for consideration are not relevant to this application.

Draft The Entrance Peninsula Planning Strategy

The draft The Entrance Peninsula Planning Strategy has been prepared by Council although has not yet been adopted. The draft strategy identifies the subject site as being located within Precinct 3 – Picnic Point to Memorial Park Tourist Area and describes the desired future character of this precinct as follows:

“Precinct 3 is to be a waterfront holiday, tourist, visitor and recreational destination of relatively high density, supported by high quality medium to high density residential development. The precinct will have facilities, attractions and activities for families and people of all ages, being located beside, and having good twenty-four hour access, to the shores of Tuggerah Lake and The Entrance Channel. It will also have strong connections to other areas and attractions that provide for the enjoyment of visitors and residents, including open space, active and passive recreation facilities, and retail, commercial leisure and entertainment facilities”.

Partial Change of Use from Tourist Accommodation to Permanent Residential at The Entrance (contd)

Whilst the draft strategy is silent on providing mixed use permanent and tourist accommodation, there is a desire for tourist facilities to be supported by medium and high density residential development as well as facilitate an appropriate mix of activities within the precinct. The proposal does not contradict the desired outcomes for the locality as described within the draft strategy.

Development Control Plan Chapter 60 – The Entrance

The majority of provisions included in DCP 60 either relate to the design of new buildings, which are not applicable to the subject application, or are also covered by DCP 64, as discussed below. However, of relevance to this application is the intent of the DCP to provide for tourist related development.

The subject site is located within Precinct 1: Tourist Activities. The DCP identifies that this precinct, together with Precinct 2 - Town Centre Retail/Residential, will be the focus of tourist related activities within The Entrance. New development is encouraged to offer a high level of amenity with a range of tourist accommodation and leisure facilities. Retail development is to be focused on tourism and should complement and extend upon the established commercial centre of The Entrance.

Development in the precinct is to be primarily tourist related. As stated in the LEP, the DCP also identifies that any permanent accommodation component of a development is to occupy less than fifty percent of the gross floor area of the buildings on a site. As previously discussed under the LEP requirements, the total gross floor area of the units proposed for permanent occupation is 3,265 m² which represents less than 43% of the total gross floor area of the building. It is recommended that 35 units comprising 1,720m² or 22% of the gross floor area will be approved for permanent occupation. The primary use of the building remains for the purpose of tourism by providing serviced apartments, restaurant and conference facilities as well as retail shops. As mentioned previously in the report, the use of part of the building for permanent residential accommodation will also compliment the functions of The Entrance and will provide for a year round population within the town centre to support local business. The proposal is not considered likely to detract from the tourist character and is considered to comply with the aims and objectives of DCP 60.

Partial Change of Use from Tourist Accommodation to Permanent Residential at The Entrance (contd)



Figure 1: Precinct 1: Tourist Activities as identified within DCP 2005 Chapter 60 - The Entrance

Development Control Plan Chapter 64 – Multiple Dwelling Residential Development

The proposal has been assessed against the provisions of DCP 2005 Chapter 64. While the building is existing and no physical changes are proposed, there is a need to assess the individual units to ensure that they are suitable for permanent occupation. As a result of the assessment against the DCP, it is considered that the following issues require further discussion.

Partial Change of Use from Tourist Accommodation to Permanent Residential at The Entrance (contd)

Carparking

Under DCP Chapter 61 – Carparking, tourist accommodation requires one carparking space per unit, although for residential development, DCP 64 requires carparking for residential and visitor parking at a higher rate than for tourist accommodation. However, Section 5.4.1(c) of the DCP states that for “a single dwelling or multiple dwellings above commercial premises one car parking space is required per dwelling”. Based on this clause, it is therefore not necessary for the proposed permanent residential units to provide a greater number of carparking than the existing tourist accommodation building.

However, a total of 86 carparking spaces are provided on the site and payment toward 51 spaces within the Coral Street Carpark was made in accordance with the development consent for the original building. Of the 145 units providing accommodation, only 73 have an on-site carparking space. Of the 76 units proposed for permanent residential occupancy, 40 are benefited by an on-site parking space, through the Strata Plan.

Given the limited public transport available at The Entrance, it is considered that the provision of on-site carparking is a fundamental component in providing permanent residential accommodation. When the building was approved, the required number of parking spaces was based on a reduced rate given that there was likely to be shared usage between the hotel, conference facilities and restaurants. The development was therefore approved with a requirement for 80 spaces to be provided on site, with section 94 contributions being paid for the shortfall. Although contributions were paid at the time the development was approved, it is considered that on-site parking should be provided to all permanent residential units as opposed to tourist accommodation where off site parking is more acceptable. As such, it is recommended that approval for permanent residential accommodation only be granted for those units which have a designated parking space. The table in the enclosure provides a matrix of the facilities provided by each of the units

Waste Management

The building is currently serviced by a private waste collector with three bulk bins for waste and one bulk bin for paper (cardboard). Should the application be approved for permanent residential use, Council's domestic waste management fee will apply to those units. An inspection of the site has confirmed that there is adequate facilities for an additional bulk bin to be provided and serviced by Council's contractors.

Private Open Space

The DCP identifies a minimum area of 10 m², with a minimum dimension of 2 metres for private balconies. The balconies of the subject development application range from 8 m² to 23 m² in area. Six of the 76 apartments proposed for use as permanent residential occupation comply with the DCP requirements, with 69 apartments having balconies of 8 m² (20% variation) and one unit having 9 m² (10% variation).

Partial Change of Use from Tourist Accommodation to Permanent Residential at The Entrance (contd)

The application has requested that Council support these variations given the extent of public open space immediately surrounding the building and its proximity to the Memorial Park, The Entrance Mall, Fishermans Wharf and the foreshore reserve. The application also requests that these variations be supported as the RFDC as adopted under SEPP 65 identifies a minimum of 6 m² of external area for studio apartments and 8 m² for 1 bedroom apartments. Each of the balconies has a minimum width of 2 metres which is considered the minimum for providing table and two chairs.

While the variations to the minimum area may be supported, the amenity and functionality of each of the open space areas also need to be considered. In this regard, one of the aims of the DCP is to ensure private open space areas are functional and responsive to the environment, thereby promoting the enjoyment of outdoor living for residents. In considering the suitability of the existing balconies for permanent occupation, it is noted that a number of the north and north west facing units have balconies which face directly toward The Entrance Hotel on the adjoining property.

A development application (DA/1108/2004) was approved in June 2005 for the redevelopment of the adjoining property, which included a hotel and 63 apartments, of which 35 were to be permanently occupied. The development was approved to be built to the boundary shared with the subject site. The existing north and north west facing balconies are built approximately 2 metres from the property boundary. As a result, future development of the adjoining site would impact the amenity of these balconies. Even if the approved redevelopment of the hotel does not proceed, the current zoning still permits development up to 12 metres and 18 metres in height along the common boundary. Additionally, the RFDC recommends a minimum building separation of 12 metres to 18 metres between habitable areas and balconies of residential apartments of such height. Consequently, the approval of those units for permanent residential use would impose unreasonable setback requirements on the adjoining site and would effectively prevent redevelopment of the hotel.

Due to the impact of future development, it is not considered that an appropriate level of amenity could be provided to a number of the north and north west facing balconies and therefore permanent occupation of lots 13, 34, 37, 59, 60, 85, 86, 109, 113, 133, 135 and 136 is not recommended. It is also noted that in addition to concerns over open space amenity, the majority of these units do not benefit from on-site carparking either.

Communal Open Space

The DCP specifies that communal open space for high rise development should be provided in up to two locations at a minimum rate of 10 m² per dwelling and with a minimum width of 5 metres. The existing development provides external open space incorporating a swimming pool, spa and gym facilities. The communal open space provided on the site is considered adequate for use by residents and visitors, particularly when considering the extent of public open space in the vicinity of the building.

Partial Change of Use from Tourist Accommodation to Permanent Residential at The Entrance (contd)

Solar Access

The DCP aims to ensure that solar access is available to private open space areas and that adequate natural lighting is available to individual units to minimise the need for artificial lighting and to provide for a reasonable standard of residential amenity. The DCP requires at least 75% of each required private and communal open space area receive at least three hours unobstructed sunlight between the hours of 9 am and 3 pm on June 21 (winter solstice).

The applicant's submission states that when completed, the building met all requirements for solar access. However, as the building was to be used for short term accommodation only, the building was not assessed against the same criteria that is considered acceptable for permanent residential development. All but one of the apartments proposed for permanent occupation have north, east or west facing balconies. However, some of these units are likely to be impacted by the approval of adjoining buildings, such as the redevelopment of The Entrance Hotel on the adjoining site to the north as previously discussed in the report.

As part of the assessment of that application, the impact on the subject building was considered. However, as the use was approved for short term tourist accommodation only, the criteria for maintaining residential amenity was not applied. The assessment of DA/1108/2004 acknowledged that the shadow analysis did show that some of the north and north west facing balconies will experience a loss of solar access. However, it was concluded that as the affected building was approved as serviced apartments and not for permanent residential occupation, the level of consideration given to the impacts of overshadowing is lesser than it would be for a residential flat building. As a result, the units with north facing balconies and some of the north west facing balconies would receive limited solar access and would not comply with the DCP requirements.

The units recommended for approval will all achieve the minimum solar access requirements as detailed above.

Housing Choice

The DCP encourages a variety of dwelling types and specifies that 10% of units in a residential flat development shall be designed as suitable for adaptation for occupation by disabled / aged persons in as outlined in AS 4299: Adaptable Housing. While the units will not be able to comply with providing 10% adaptable housing, the proposal does include the use of one apartment which is suitable for disabled persons. Although it is not recommended that any of the studio apartments be approved for permanent occupation as previously discussed, it is recommended that a range of 1 and two bedroom apartments be approved. Of the units recommended for permanent residential use there are 28 one-bedroom apartments and seven 2-bedroom apartments.

Partial Change of Use from Tourist Accommodation to Permanent Residential at The Entrance (contd)

Facilities and Amenities

The DCP aims to ensure that all residential units have adequate facilities, such as laundries, drying areas, car washing facilities, mailboxes and storage. Each of the units contain laundry facilities, although no details of drying areas, car washing facilities, mail boxes or storage have been provided. If approved, conditions of consent should be included to ensure that provision is made for drying facilities in accordance with the Building Code of Australia (BCA) and that mail boxes appropriate for residential occupation are provided. Car washing facilities and storage would be difficult to retrofit and variations in regard to these facilities would be required.

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

The relationship to the regional and local context and setting.

As recognised within DCP 60, the subject site is located within an area identified as being the focus of tourist related activities within The Entrance. Existing development comprises high density residential and tourist accommodation as well as a range of retail businesses and cafes which complement and extend upon the established commercial centre of The Entrance. The subject site has frontage to the pedestrian mall and is located within a short walk of the lake, beaches and memorial park. The proposed change of use to enable permanent residents to occupy such a well located building is unlikely to have a detrimental impact on the locality.

The access, transport and traffic management measures.

No changes are proposed to the existing roads and access and carparking requirements have been discussed previously in the report.

The effect on heritage significance

The adjoining Hotel is listed in the LEP as a regionally significant heritage item. The proposed change of use from short term to permanent accommodation will have no impact on the adjoining heritage item.

Partial Change of Use from Tourist Accommodation to Permanent Residential at The Entrance (contd)

Any social impact in the locality.

The draft The Entrance Peninsula Planning Strategy (THPPS) prepared by Council in August 2007 identifies The Entrance Social Planning District as having a total population of 22,994. The 2001 Census data indicates that there is a high proportion of residents who are retired with 41% of the population aged 55 or over. The large retiree population accounts for the fact that the median weekly household income in The Entrance is lower than the average for the Shire as a whole. The alternative accommodation options provided by this application may assist in contributing to the range of accommodation available to the aging population and also in providing affordable housing options.

As the apartments within the subject building were built and design as serviced apartments, they are generally smaller than apartments designed primarily for permanent occupation. While Council does not have any controls relating to the minimum size of dwellings, the RFDC provides guidance for a range of apartment sizes as summarised below. It is not recommended that any apartments with an internal area less than 38.5 m² are approved for permanent occupation. Although the majority of the 1 bedroom apartments do not meet the size guidelines in the table, it is noted from the floor plans that these apartments are more likened to studio apartments and therefore are considered satisfactory for permanent occupation on that basis. The sizes of each of the apartments subject to this application are outlined in the enclosure. It is also noted that even if this application is approved a full range of apartment sizes will still be available for short term tourist accommodation.

Apartment Type	Area	m²
Studio	Internal Area	38.5 m ²
	External Area	6 m ²
One bedroom, single aspect	Internal Area	63.4 m ²
	External Area	10 m ²
Two Bedroom, corner	Internal Area	80 m ²
	External Area	11 m ²
Affordable Housing		
1 bedroom apartment	Internal Area	50 m ²
2 bedroom apartment	Internal Area	70 m ²

Partial Change of Use from Tourist Accommodation to Permanent Residential at The Entrance (contd)

Any economic impact in the locality.

The tourist destination nature of The Entrance results in a large seasonal population. The population peaks during summer especially around the Christmas/New Years holidays. As a result of this trend, a number of businesses within The Entrance Town Centre experience significant downturns outside the peak summer months. The addition of permanent residents within the Town Centre may assist in sustaining these businesses throughout the year.

The applicant has also expressed concern over the profitability of the existing development and has requested that the following matters be taken into consideration:

- Lack of profitability for hotel operations
- High turnover of operators due to profitability
- Inability to support continuous restaurant operations
- Continued low occupancy rates (average 40-50%)
- Increased competition from later developments
- Deterioration of facilities and building due to lack of profitability
- Inability of owners to sell their investments due to poor returns
- The lending criteria for the purchase of serviced apartments is far more stringent than residential properties.

Should the application be approved, it is anticipated by the applicant that the revenue that is currently distributed amongst all owners would increase if there is a complimentary mix of tourist and residential accommodation. While the financial situation of individuals is not sufficient justification to approve the development, the overall objectives of providing for high quality facilities within the town Centre, particularly for tourism, is a relevant consideration.

Any impact of site design and internal design.

When considering a mixed use development, the amenity and compatibility between temporary and permanent accommodation must be considered. In this regard, there is likely to be a difference in behaviour, living and activity patterns between short-term and long-term occupants, which has the potential to cause conflict when residential and serviced apartments share the same floor and access points. However, the applicant has noted that as part of the development of the Coral Street Carpark and the Waldorf Apartments, Council has previously approved mixed residential and tourist accommodation that share the same floor and access points. It is also noted that this development application proposes to change the use from tourist to residential accommodation and therefore the potential impacts are already known as opposed to changing a residential building to part tourist accommodation. Given the circumstances of this application, and that none of the other apartment owners objected to the proposal, the proposed mixed use is considered acceptable.

Partial Change of Use from Tourist Accommodation to Permanent Residential at The Entrance (contd)

THE SUITABILITY OF THE SITE FOR THE DEVELOPMENT (s79C(1)(c)):**Whether the proposal fits in the locality.**

The provision of mixed short term and permanent accommodation is encouraged within the immediate area by way of the zoning provisions. It is also noted that the development above the Coral Street Carpark provides both short term tourist accommodation as well as permanent accommodation as does the approved redevelopment of The Entrance Hotel. No concerns are raised in relation to the suitability of the site for the proposed development.

Whether the site attributes are conducive to development.

No further issues identified.

ANY SUBMISSION MADE IN ACCORDANCE WITH THIS ACT OR REGULATIONS (s79C(1)(d)):**Any submission from the public.**

The application was advertised in accordance with DCP 2005 Chapter 70-Notification of Development Proposals with one submission being received. A summary of the points made in the submission is detailed in the table below.

Doc. No	Summary of Issues	Response
D01239693 D01239464 D01238829 (submission registered three times)	Current development consent strictly requires that the units are used for short term stays only. More than half the apartments will be used for long term occupation which will change the nature of the building from predominantly tourist to predominantly permanent residential dwellings. This undermines the purpose for which the building was developed and goes against the 3(d) zone. The use of such a large signature building for permanent occupation would create disharmony in the area and undermine its viability as a dynamic tourism precinct.	The purpose of this development application is to allow an additional use to that originally approved. Less than 50% of the building is proposed to be used for permanent accommodation. The building will still remain focused toward tourist through the provision of serviced apartments, and the restaurant. The objectives of the 3(d) have been discussed previously in the report.

Partial Change of Use from Tourist Accommodation to Permanent Residential at The Entrance (contd)

Doc. No	Summary of Issues	Response
	<p>The high number of visitors and accompanying noise and disruption will be annoying to residents.</p> <p>The units are extremely small and are undesirable for long term dwellings. This could attract cheap rent and change the overall dynamics of the building and detrimentally impact the locality.</p> <p>The units do not contain a kitchen but rather a kitchenette.</p> <p>Units are clearly designed for short term stays and would not be adequate to support long term residential accommodation.</p>	<p>Potential for conflict is acknowledged although a mix of tourist and residential apartments exists in other development at The Entrance and no objections have been raised by the owners of the apartments.</p> <p>The apartments satisfy the criteria of the BCA and the majority are considered sufficient for permanent occupation. Some of the units are not supported due to amenity and carparking issues.</p> <p>All units comply with the requirements of the BCA in terms of providing cooking facilities.</p>

Any submission from public authorities.

No submissions.

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

No further issues identified.

OTHER MATTERS FOR CONSIDERATION

S94 Contributions

S94 Contributions Plan No 3 – The Entrance District applies to the subject site. When the development was approved in 1997 only s94 contributions for carparking were charged. Under the current contributions plan charges would be applicable under the Shire Wide Contributions Plan as well as under The Entrance District Plan for open space and community facilities. As no construction certificate is required, payment of contributions must be upfront and therefore a deferred commencement consent is recommended.

Partial Change of Use from Tourist Accommodation to Permanent Residential at The Entrance (contd)

Section 88 Restrictions

There are two restrictions on the property title under section 88 of the Conveyancing Act 1919. These relate to a right of way over part of the ground floor carpark and a right of footway over a public arcade leading from The Entrance Mall through the building to Duffys Lane. Approval of the subject application would not impact on either of these two restrictions.

Should the application be approved, it is recommended that a new restriction be placed on the title, which identifies those units which are permitted to be used for permanent occupation.

Strata Plan By-Laws

The By-laws for the building have been registered with the strata plan. It does not appear that the permanent occupation of certain units within the building would contravene the plan, although if approved, it is recommended that a condition of consent be included that the strata plan, including the By-laws be modified as necessary to reflect the use of certain units for permanent occupation.

CONCLUSION

Following assessment of the application, it has been determined that 36 of the proposed apartments do not benefit from an on-site carparking space and that a number of units are likely to be detrimentally impacted by development of the adjoining property to the north. In terms of providing a reasonable level of amenity to future residents, it is considered necessary for on-site parking to be available and for the apartments to receive good solar access to private open space areas. Although the development application was lodged for the use of 76 apartments to be used for permanent occupation, it is recommended that approval be given to only 35 of those units.

Attachment 1
Attachment 2

Locality Plan (1 page)
Summary of Assessment Criteria for Apartments (3 pages)

Enclosures

Plans of Apartments included in Development Application
Summary of Apartments included in Development Application
List of Approved and Refused Units

10 December 2008
To the Ordinary Meeting of Council

Director's Report
Shire Planning Department

Partial Change of Use from Tourist Accommodation to Permanent Residential at The Entrance (Attachment 2)

Summary of Assessment Criteria for Apartments

Lot Number	Carparking	Open Space Amenity	Internal Area	Recommended for Permanent Occupation
4	✓	✓	✓	Yes
5	✓	✓	✓	Yes
6	✓	✓	✓	Yes
7	✓	✓	✓	Yes
8	✓	✓	✓	Yes
13	✓	x	✓	No
14	✓	✓	✓	Yes
15	✓	✓	✓	Yes
19	x	✓	x	No
20	x	✓	x	No
22	✓	✓	✓	Yes
23	✓	✓	✓	Yes
24	✓	✓	✓	Yes
25	x	✓	x	No
26	x	✓	x	No
27	x	✓	x	No
28	x	✓	x	No
29	✓	✓	✓	Yes
30	✓	✓	✓	Yes
33	✓	✓	✓	Yes
34	x	x	x	No
37	✓	x	✓	No
39	x	✓	x	No
40	x	✓	x	No
41	✓	✓	✓	Yes
42	✓	✓	✓	Yes
44	x	✓	x	No
45	x	✓	x	No
54	✓	✓	✓	Yes
56	✓	✓	✓	Yes
57	✓	✓	✓	Yes
58	✓	✓	✓	Yes
59	x	x	x	No
60	x	x	✓	No

**Partial Change of Use from Tourist Accommodation to Permanent Residential
at The Entrance (Attachment 2) (contd)**

Lot Number	Carparking	Open Space Amenity	Internal Area	Recommended for Permanent Occupation
63	x	✓	x	No
65	x	✓	x	No
67	✓	✓	✓	Yes
74	✓	✓	✓	Yes
76	✓	✓	x	No
77	x	✓	x	No
78	x	✓	x	No
82	✓	✓	✓	Yes
83	✓	✓	✓	Yes
85	x	x	✓	No
86	x	x	✓	No
88	x	✓	x	No
90	x	✓	x	No
92	✓	✓	✓	Yes
94	x	✓	x	No
95	x	✓	x	No
98	✓	✓	✓	Yes
99	✓	✓	✓	Yes
100	x	✓	x	No
104	✓	✓	✓	Yes
105	✓	✓	✓	Yes
106	✓	✓	✓	Yes
107	✓	✓	✓	Yes
109	x	x	x	No
113	x	x	x	No
117	x	✓	x	No
118	x	✓	x	No
119	x	✓	x	No
121	✓	✓	✓	Yes
122	✓	✓	✓	Yes
123	✓	✓	✓	Yes
125	x	✓	x	No
127	x	✓	x	No
128	x	✓	✓	No
129	x	✓	✓	No

10 December 2008
To the Ordinary Meeting of Council

Director's Report
Shire Planning Department

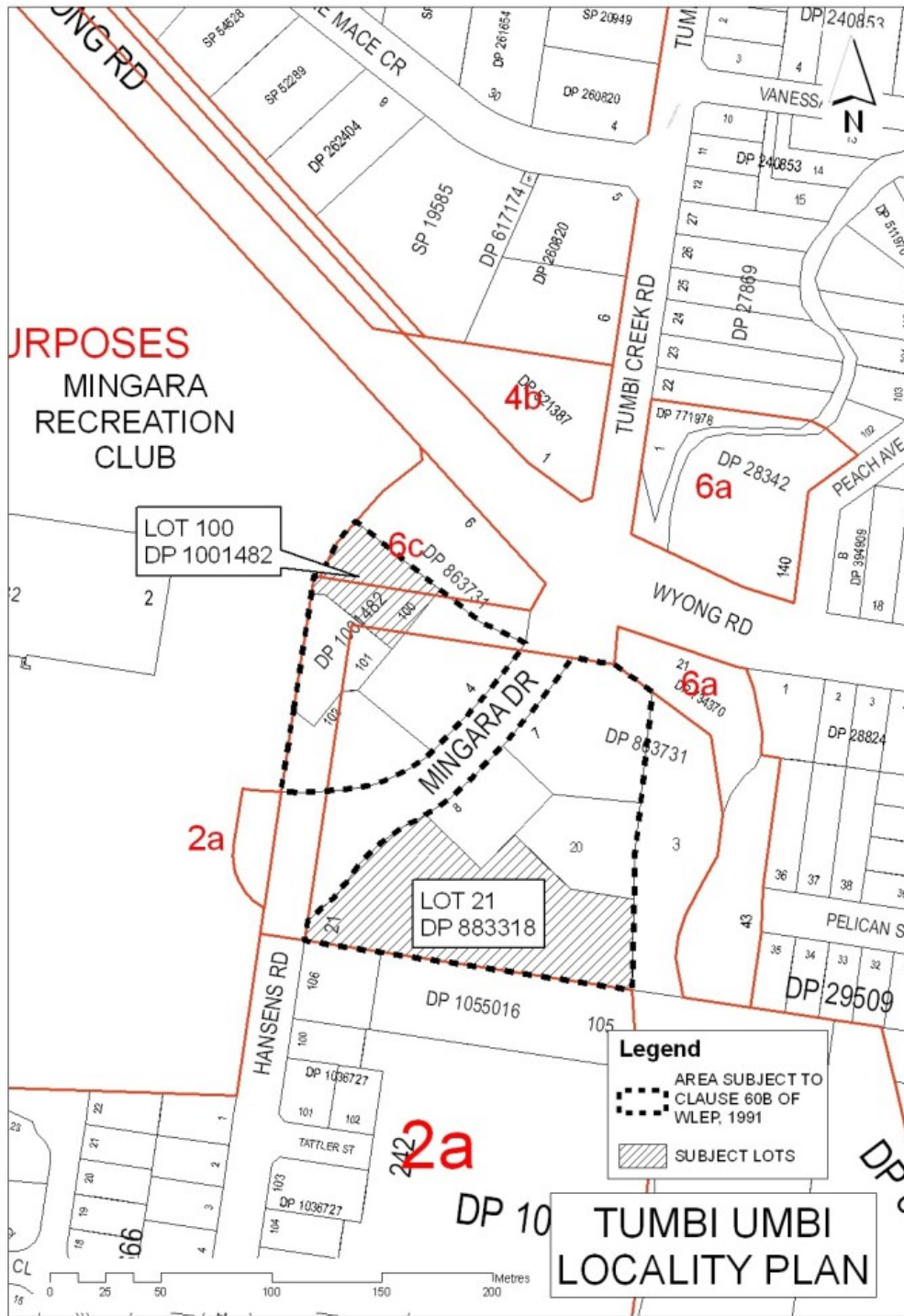
**Partial Change of Use from Tourist Accommodation to Permanent Residential
at The Entrance (Attachment 2) (contd)**

Lot Number	Carparking	Open Space Amenity	Internal Area	Recommended for Permanent Occupation
132	✓	✓	✓	Yes
133	x	x	x	No
135	✓	x	✓	No
136	✓	x	✓	No
138	✓	✓	✓	Yes
140	x	✓	✓	No
144	x	✓	x	No

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555

**Draft Amendment No. 177 – Mingara Drive, Tumbi Umbi
(Attachment 1)**



WYONG SHIRE COUNCIL

10 December 2008
To the Ordinary Meeting of Council

Director's Report
Shire Planning Department

555 Draft Amendment No 177 – Mingara Drive, Tumbi Umbi

RZ/5/2005 JLO/JLO

SUMMARY

Council resolved in September 2007 to prepare a draft Local Environmental Plan (LEP) to amend Clause 60B of Wyong LEP 1991 in respect of Lot 100 DP 1001482 and Lot 21 DP 883318, Mingara Drive, Tumbi Umbi.

The Department of Planning (DoP) LEP Review Panel has advised Council that it declines to issue the Section 65 Certificate which would enable this rezoning to proceed. Despite further information being sought from relevant consultants in recent months, the DoP has maintained this position.

Taking into account the DoP's position and the fact that no right of appeal exists, this report recommends that Council extinguish Amendment No. 177 and that the notations on the relevant Section 149 Certificates be removed.

RECOMMENDATION

- 1 That Council extinguish dLEP Amendment No. 177 and that it be removed from the Future Planning Section's work program.**
- 2 That Council amend Section 149 Certificates by removing notations in respect of Amendment No. 177.**
- 3 That Council advise the Department of Planning of this decision.**
- 4 That Council advise the Applicant of this decision and the fact that Council will not accept any "spot rezoning" under WLEP 1991 for the subject sites.**
- 5 That Council prepare a Section 73A LEP amendment to rectify the lot identification anomaly for Lot 100.**
- 6 That Council staff continue to liaise with the applicant to determine the appropriate zoning for the land under Council's Comprehensive LEP process.**

INTRODUCTION

In August 2005, Council received a rezoning request on behalf of the Stevens Group to amend Clause 60B of Wyong LEP 1991. This clause relates to Lots 4, 7 and 8 DP 863731, Lots 20 and 21 DP 883318 and Lots 100, 101 and 102 DP 1001482, Mingara Drive, Tumbi Umbi. These sites are located at the intersection of Wyong Road and Mingara Drive at Tumbi Umbi, at the entry to the Mingara Club and Recreation Complex (Attachment 1).

Draft Amendment No 177 – Mingara Drive, Tumbi Umbi (contd)

The sites are predominantly zoned 7(a) Conservation. Lot 100 DP 1001482 also consists of land zoned 6(c) (Proposed Open Space and Recreation) and an unzoned portion of land running east to west across the lot. The sites are also affected by enabling Clause 60B of Wyong LEP 1991. This clause provides for restricted additional uses on the subject lands, if the development is, in the opinion of Council, appropriately integrated with the adjacent Mingara Club and Recreation Complex.

The locality is characterised by a service station, car related uses and take-away restaurants which have been developed for the convenience of Club patrons. These uses are integrated with the Club complex through coordinated access and car parking areas, restricted signage, and common urban design elements eg common building materials, themes, colours and roof forms.

HISTORY

Council at its meeting held on 26 September 2007, resolved on the motion of Councillor Graham and seconded by Councillor Eaton:

- “1 *That a draft Local Environmental Plan be prepared to amend Clause 60B of the Wyong Local Environmental Plan, 1991, in the following manner:*
 - a *Remove anomalous lot references within the clause;*
 - b *Permit the use of Lot 100 for a “restaurant, drive-thru restaurant, a medical centre; or commercial premises. Any development is restricted to a maximum of two (2) storeys in height”; and*
 - c *Permit the additional use of Lot 21 for “a medical centre and up to two commercial premises with no restriction on the number of tenancies. Any development is restricted to a maximum of two storeys in height”.*
- 2 *That the Department of Planning be advised of the decision.*
- 3 *That the Department of Planning be further advised that Council’s delegate proposes to exercise the delegations under Section 65 and if appropriate, under Section 69 of the Environmental Planning and Assessment Act 1979 and the Department be requested to issue a Written Authorisation to Exercise Delegation to permit the exhibition of the draft Local Environmental Plan.*
- 4 *That the draft Local Environmental Plan be referred to appropriate authorities for comment.*
- 5 *That upon receipt of the Written Authorisation to Exercise Delegation under section 65, the draft Local Environmental Plan be advertised for 28 days.*

Draft Amendment No 177 –Mingara Drive, Tumbi Umbi (contd)

- 6 *That Council's Section 149 Certificates be noted.*
- 7 *That upon receipt of the Written Authorisation to Exercise Delegation under section 69, and subject to no significant objections be received as a result of the exhibition, the Minister for Planning be requested to create the Local Environmental Plan.*
- 8 *A revised traffic study is to be submitted prior to any referral of this rezoning to the relevant Government Agencies under Section 62 of the Environmental Planning and Assessment Act 1979. Such revised study is to address how any deficit in the number of parking spaces is to be dealt with in relation to Lot 100."*

FOR: COUNCILLORS BEST, EATON, GRAHAM, PAVIER, ROSE, STEVENS, STEWART AND WELHAM.

AGAINST: COUNCILLORS FORSTER AND VEUGEN.

In accordance with Council's resolution (refer to enclosure), notification of dLEP Amendment No. 177 was forwarded to the DoP on 22 October 2007. This notification requested Council to be issued with Written Authorisation to Exercise Delegation under Section 65 and Section 69 of the Act to publicly exhibit the plan and in due course request the Minister to make the plan.

DECISION OF DEPARTMENT OF PLANNING LEP REVIEW PANEL

On 14 November 2007, the DoP advised Council that the request for Written Authorisation to Exercise Delegation under Section 65 for dLEP Amendment No. 177 to Clause 60B of WLEP 1991 was declined. This correspondence is contained within Attachment 2.

The reasons provided by the DoP for declining to support the proposal are as follows:

- 1 *It seeks to provide for out of centre office and retail development which is inconsistent with the draft Central Coast Regional Strategy;*
- 2 *The proposal is not supported by Council's recently reviewed Retail Centres Strategy;*
- 3 *The proposed development would potentially have an adverse economic impact on nearby centres;*
- 4 *There are unresolved flooding issues associated with the site;*
- 5 *The proposed uses would not appear to be compatible with the underlying 7(a) (Conservation Zone); and*
- 6 *The amendment would be inconsistent with a number of Section 117 directions.*

Given the above reasoning, the DOP are of the opinion that there is no strategic justification for the proposed amendment.

Draft Amendment No 177 –Mingara Drive, Tumbi Umbi (contd)

Regardless of the above, the DoP further advised that the anomalous lot references within Clause 60B may be suitable for amendment as a Section 73A amendment or within a 'house keeping' amendment. This report does not seek to remove the ability for the applicant to request a Section 73A or 'house-keeping' amendment to correct the anomalous lot references within the clause.

ACTIONS TO DATE

Planning reforms implemented by the New South Wales (NSW) DoP have required each Council in NSW to undertake a review of their existing planning instruments. This review entails the standardisation of LEPs in accordance with the Standard Instrument gazetted in March 2006. Wyong Shire Council is required to have gazetted and operational an LEP which is consistent with this instrument by March 2011.

At the request of the applicant, further consultations have been undertaken with the Central Coast Branch of the DoP in relation to potential zones for the site (both under WLEP 1991 and the Standard Instrument); in addition to a review of the proposal by Council's Retail Consultant, Leyshon Consulting.

Additional work undertaken by Council staff has included further assessment of the proposed additional land uses against the existing zones under Wyong LEP 1991 and those under the Standard Instrument.

During a number of meetings and phone calls with the DoP regarding this additional assessment, Council staff were advised that the matter was not likely to be resolved alone through consideration of the application of potential zones to the subject sites, under either WLEP 1991 or the Standard Instrument as there were other issues associated with the Department's refusal of the LEP amendment. The DoP advised that:

- The proposal was refused support due to the lack of strategic justification. Whilst the underlying zone of 7(a) (Conservation Zone) is problematic as it does not reflect the current land uses or environmental status of the land, a proposal requesting a change of zone is still not likely to be supported. It was made clear in the correspondence received from the LEP Review Panel pertaining to the refusal of this proposal that the decision was based on lack of strategic justification for providing out of centre office space;
- As the site is not considered within the Retail Centres Strategy, there is no justification for providing office and business premises within this area. The proposal is inconsistent with the *Central Coast Regional Strategy* by providing office space out of the centres hierarchy; and

Draft Amendment No 177 –Mingara Drive, Tumbi Umbi (contd)

- As the Retail Centres Strategy was developed and adopted whilst this proposal was being progressed, there is stronger justification that the site is not considered suitable to be classified as a centre. It would appear from this that the area has been purposely excluded and is not considered as a centre.

The proposal, as endorsed by Council on 26 September 2007, was also issued to Leyshon Consulting for an opinion regarding the proposed permissible uses and zoning. This advice is included within Attachment 3.

This advice identified that the proposed uses of “commercial premises and medical centre” on Lot 21, and “restaurant, drive-thru restaurant, a medical centre; or commercial premises” on Lot 100 would not pose a significant economic risk to the adjoining retail centres (this was one of Council’s major reasons for proposing these very uses). However, despite these somewhat innocuous uses, the consultant identified that the application of a Business Zone to the site should not be endorsed as it would enable other retail uses which have the potential to ‘detract from the performance of nearby existing local and neighbourhood centres’.

This advice was forwarded to the DoP for further consideration. The DoP response identified that any proposal for the site should be able to respond to the issues raised within the previous correspondence as issued to Council in November 2007. In addition, the DoP advised that Council was required to develop a clear direction for the site, consistent with State, regional and local planning policies and strategies.

Given these outcomes and responses, it is considered that continuing with the current rezoning proposal or rezoning the site to a business zone are not appropriate options at this point in time. It is recommended that further strategic consideration of the site and its current and future potential landuses be undertaken and determined under the Comprehensive LEP review process.

Work has already commenced on a review of Council’s current LEP to ensure that the timeframe for completion for the review and implementation the new instrument of 2011 is met. This work includes the preparation of a Shire-wide Settlement Strategy which will provide a strategic direction and assist in the development of the Shire over the next 25 years. As the strategy will involve an holistic strategic assessment of the Shire, it is considered that inclusion of this site within this process would result in the best determination of the future land use for this site.

Draft Amendment No 177 –Mingara Drive, Tumbi Umbi (contd)

CONCLUSION

The DoP has given clear direction that it will not support the rezoning application in its current form. No formal appeal rights exist to challenge the DoP decision. For the support of the DoP to be given to any proposals for the subject site, Council needs to give consideration to the site in terms of appropriate land uses and how the site should develop over time. This should be undertaken holistically, in conjunction with consideration of similar areas within the Shire, in addition to relevant planning strategies of State, regional and local levels. Such a review of the site would be able to be facilitated most appropriately in conjunction with the Comprehensive LEP review process, currently being undertaken.

Attachment 1

Locality Plan (1 page)

Attachment 2

Advice from Department of Planning (2 pages)

Attachment 3

Advice from Leyshon Consulting (3 pages)

Enclosure

Council Report No. 403 - 26 September 2007

Draft Amendment No 177 –Mingara Drive, Tumbi Umbi (Attachment 2)NSW GOVERNMENT
Department of Planning**Office of the Director General**Contact: Garry Hopkins
Phone: (02) 4348 5000
Fax: (02) 4323 6573
Email: Garry.Hopkins@planning.nsw.gov.au
Postal: PO Box 1148, Gosford 2250Mr Kerry Yates
General Manager
Wyong Shire Council
PO Box 20
WYONG NSW 2259Our ref: C07/00036
Your ref: RZ/5/2005

Dear Mr Yates

Re: Section 54(4) Notification – Draft Amendment 177 to Wyong LEP 1991 in respect of Clause 60B

I am writing in response to Council's letter dated 22 October 2007 advising, pursuant to section 54(4) of the *Environmental Planning and Assessment Act 1979* ('EP&A Act'), of the Council's decision to prepare a draft local environmental plan ('LEP') to:

- remove anomalous lot references within Clause 60B;
- permit the use of Lot 100 DP1001482 for a "restaurant, drive-thru restaurant, a medical centre or commercial premises. Any development is restricted to a maximum of two storeys in height"; and
- permit the additional use of Lot 21 DP883318 for "a medical centre and up to two commercial premises with no restriction on the number of tenancies. Any development is restricted to a maximum of two storeys in height".

The proposed draft amendment is not supported as:

- it seeks to provide for out of centre office and retail development which is inconsistent with the draft Central Coast Regional Strategy;
- the proposal is not supported by Council's recently reviewed Retail Centres Strategy;
- the proposed development would potentially have an adverse economic impact on nearby centres;
- there are unresolved flooding issues associated with the site;
- the proposed uses would not appear to be compatible with the underlying 7 (a) (Conservation) Zone; and
- the amendment would be inconsistent with a number of section 117 directions.

There is therefore no strategic justification apparent to support the proposed development proceeding in this location.

Furthermore the continued use of enabling clauses and modification of those clauses for this site to allow development inconsistent with the objectives of the zone is not supported. Council needs to determine the appropriate strategic outcome and zone the land appropriately.

On the other hand if there are incorrect lot references in the current provisions Council may wish to consider whether they are of a nature that can be addressed as a section 73A amendment. Otherwise they could be included in a housekeeping LEP.

10 December 2008
To the Ordinary Meeting of Council

Director's Report
Shire Planning Department

Draft Amendment No 177 –Mingara Drive, Tumbi Umbi (Attachment 2)

2

I have determined that an Authorisation will not be issued in this instance and therefore the Council will not be able to exercise any functions under the delegation in respect of the draft LEP referred to above.

Should the Council decide to proceed with the draft LEP in the terms proposed, you should be aware that I am unlikely to certify the draft plan pursuant to section 65(1) of the EP&A Act for the above reasons.

By way of general comment, flood issues have been a concern in a number of Council's draft LEP amendments and there is a lack of up to date and comprehensive flood studies to inform the planning process. As flood implications need to be resolved for the Wyong LGA, particularly to facilitate the delivery of Council's new Comprehensive LEP, it is recommended that Council commence those studies now.

Should you have any queries in regard to this matter please contact Ms Lois Gray, LEP Review Panel on (02) 9228 6204.

Yours sincerely



per Sam Haddad
Director General
14/11/07

Draft Amendment No 177 –Mingara Drive, Tumbi Umbi (Attachment 3)

**LEYSHON CONSULTING**

Suite 1106 Level 11 109 Pitt Street, Sydney NSW Australia 2000	Telephone 61 2 9224 6111 Facsimile 61 2 9224 6150 ABN 12 003 203 709
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Z:\Admin\1.WP_2008\AMSC08.11_Tumbi Umbi.apd
14 August, 2008The General Manager
Wyang Shire Council
PO Box 20
WYONG NSW 2259**Attention: Mr Duncan Scott
Senior Strategic Planner**

Dear Mr Scott

RE: 1 MINGARA DRIVE, TUMBI UMBI

We understand Wyong Shire Council (Council) is proposing to amend Wyong Local Environmental Plan (LEP), Clause 60B as it relates to two parcels of land at Mingara Drive, Tumbi Umbi.

Specifically the proposed amendment would affect uses on Lot 21 DP883381 and Lot 100 DP1001482 which are accessed from Mingara Drive at Tumbi Umbi. The subject sites are part of land closely associated with the Mingara Club at Tumbi Umbi.

We further understand it is proposed that in relation to Lot 21 the amendment would permit development of a medical centre and two commercial tenancies. In relation to Lot 100, the amendment would permit a drive-through restaurant, restaurant, medical centre or commercial premises. Lot 100 is currently used for video hire premises (Video Ezy). Adjacent sites are used for a service station, carwash and take-away food outlets.

It is our understanding it was intended the sites would be developed in a manner which integrated them with the Mingara Club complex and that they were intended primarily for the benefit for members rather than the general public. The use of the sites is specified in Clause 60B of the Wyong LEP.

The owner of the subject sites has argued each would benefit from having a Business Centre zoning. In effect, this would provide the owner with the flexibility to change uses on the sites in line with market conditions without the need to seek a specific LEP amendment when a change was required. Additionally, the applicant (Stewart Planning Group) on behalf of the owner Granis Pty Ltd has previously argued in relation to Lot 100 that the LEP amendment should contain the provision for a shop on that site.

**Draft Amendment No 177 –Mingara Drive, Tumbi Umbi (Attachment 3)
(contd)**

While retail and quasi-retail uses already exist on the two sites, Mingara is not recognised as a centre according to the Wyong Retail Hierarchy Strategy and the associated Development Control Plan (DCP) 2005 Chapter 81 – Retail Centres.

Given the proximity of the subject sites to existing centres at Killarney Vale, Bay Village, Long Jetty and Tumbi Umbi itself, we do not see a reason for creating a new centre zoning covering the subject sites. In our opinion, no significant residential area exists in the locality which could be considered as being inadequately serviced by existing local or neighbourhood retail facilities to warrant the creation of another centre of this type in this location.

In relation to the proposal that a shop should be a permitted use on Lot 100, there is a danger that if this request was acceded to, pressure could mount over time to permit retail activity on other nearby sites and in a defacto way create a local or neighbourhood shopping centre.

In relation to Lot 100 we understand the current Video Ezy outlet has a floor area of some 375 sq.m.. Presumably if a shop was permitted on this site the current building could be converted into a small convenience supermarket or be used for a wide range of other retail activities.

While it is true, as asserted by the applicant, that the existing Video Ezy outlet is a form of retail development, substantial differences in operational characteristics exist between video outlets—which conduct most of their business in the late afternoon and evening—and other more standard retail uses which trade steadily throughout the day.

The use of Lot 21 for a medical centre and commercial premises (including the offices of the Stevens Group), does not appear to constitute any significant threat to existing business centres in Wyong and is therefore supported by Leyshon Consulting.

While we understand the owner of the subject land has a need for some degree of flexibility to accommodate changes in consumer demands and to respond to the loss of existing tenants from time to time, we consider there must be limits to this flexibility having regard to the circumstances.

As noted above, we do not support a Business Centre zoning applying to the two sites (Lot 100 and Lot 21) and the adjacent lands fronting Mingara Drive. In our opinion there is no need for a business centre at this location and the establishment of another centre would detract from the performance of nearby existing local and neighbourhood shopping centres.

Council could (with the concurrence of the Department of Planning) give consideration to enabling such uses on the subject site through the use of Clause 2.5 in the Standard Instrument. The clause enables Council to prescribe additional permitted uses on designated sites which would otherwise be prohibited by the Land Use Table applying to the zoning of the land in question. This would, in theory, enable uses such as business premises, function centre, funeral chapel, funeral home, health consulting rooms, health

10 December 2008
To the Ordinary Meeting of Council

Director's Report
Shire Planning Department

**Draft Amendment No 177 –Mingara Drive, Tumbi Umbi (Attachment 3)
(contd)**

services facility, medical centre, office premises, recreation facility (indoor), restaurant, service station and take-away food and drink premises to operate on the site without requiring a Business zoning.

I trust the above is of assistance to Council. Please do not hesitate to contact me on 9224-6111 or pdl@leycon.com.au if any further information can be provided.

Yours sincerely
LEYSHON CONSULTING PTY LTD



PETER LEYSHON
DIRECTOR.

WYONG SHIRE COUNCIL

10 December 2008
To the Ordinary Meeting of Council

Director's Report
Shire Planning Department

556 Draft LEP (Amendment No. 175) in respect of LEP Bundle 2

RZ/5/2007, RZ/6/2007, RZ/4/2004, RZ/1/2007, RZ/8/2007, RZ/2/2006, RZ/7/2007, RZ/9/2007 PB:PB

SUMMARY

Draft Local Environmental Plan (LEP) (Amendment No. 175) in respect of LEP Bundle 2 aims to rezone certain properties, and list or reclassify heritage items of significance. The draft LEP was publicly exhibited between Friday, 19 September and Friday, 17 October 2008.

In addition to detailing the submissions received as a result of the public exhibition, this report supports the continuation of the rezoning of Lot 4 DP 659489 Rankens Court, Wyong and Lots 1-4 Sec 7 DP 3136 Margaret Avenue, Wyong in accordance with the Wyong/Tuggerah Planning Strategy and seeks to amend the objectives of draft LEP (Amendment No. 175) following the recommendation to relocate the proposed Performing Arts Centre (PAC) to an alternative site.

RECOMMENDATION

- 1 That Council continue in accordance with the Environmental Planning and Assessment Act, to support the rezoning of Lot 4 DP 659489 Rankens Court, Wyong and Lots 1-4 Sec 7 DP 3136 Margaret Avenue, Wyong from 5(a) (Special Uses Zone) to 3(a) (Business Centre Zone) to assist with the implementation of the Wyong/Tuggerah Planning Strategy.**
- 2 That Council amend the objectives of draft LEP (Amendment No. 175) in support of the continued rezoning.**
- 3 That Council request the Minister for Planning to make the plan in accordance with Section 69 of the Environmental Planning and Assessment Act, 1979.**
- 4 That Council request the Department of Planning's LEP Review Panel to issue separate Written Authorisations to Exercise Delegation if final Conservation Management Plans for the Bulk Store Building, Ruttleys Road, Mannering Park and the Former Wyong Dairy Cooperative, Alison Road, Wyong are not received by 4 February 2009.**

Draft LEP (Amendment No. 175) in respect of LEP Bundle 2 (contd)

- 5** *That should separate Written Authorisations to Exercise Delegation be required and issued in accordance with Resolution 4:*
- a** *Council forward a draft plan in respect of the Lot 4 DP 659489, Rankens Court, Wyong, Lots 1-4 Sec 7 DP 3136, Margaret Avenue, Wyong and Lot 1 DP 134363, Geoffrey Road, Chittaway Bay to the Minister for Planning in accordance with Section 69 of the Environmental Planning and Assessment Act, 1979.*
- b** *Upon receipt of the satisfactory Conservation Management Plans for the Bulk Store Building and Former Wyong Dairy Cooperative, Council forward a draft plan containing Amendments to Schedule 1 – Heritage Items to the Minister for Planning in accordance with Section 69 of the Environmental Planning and Assessment Act, 1979.*
- 6** *That Council notify the Department of Planning of Council's resolution.*
- 7** *That Council notify those persons who made submissions on the draft LEP.*

COMPONENTS OF DRAFT LEP

The Department of Planning on 15 June 2006 released a circular "PS06-015 Spot Rezoning", which aimed at reducing the overall number of amending Local Environmental Plans (LEP's) and also outlined criteria to be addressed (by Councils) when considering spot rezonings. Specifically, the circular encourages Council's to prepare only one or a limited number of LEP Amendments per year, incorporating minor rezoning proposals.

Following this, Council on 13 December 2006, adopted a "*Spot Rezoning*" Procedure which incorporates the intention to limiting the number of LEP's prepared each year and establishes a guideline for this process. The inclusion of a number of minor proposal (or rezoning requests) into one LEP Amendment is defined within the "*Spot Rezoning*" Procedure as a "Bundle" and are to be processed at the same time. In accordance with this procedure, the following items form LEP Bundle 2.

Site Specific Rezoning

- Proposed Performing Arts Centre site, Rankens Court, Wyong;
- Memorial Hall site, Margaret Avenue, Wyong; and
- Land off Geoffrey Road, Chittaway Bay.

Draft LEP (Amendment No. 175) in respect of LEP Bundle 2 (contd)

Amendments to Schedule 1 – Heritage Items

New Listings

- Bulk Store Building, Ruttleys Road, Mannering Park;
- The Entrance Ocean Baths, Ocean Parade, The Entrance; and
- Former Wyong Dairy Cooperative, Alison Road, Wyong.

Reclassifications

- Norah Head Lightstation Precinct; Bush Street, Norah Head; and
- St Barnabas Church, Yarramalong Road, Yarramalong.

BACKGROUND

Council at its meeting of 8 August 2007, resolved as follows:

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

- 1 *That in accordance with Section 54 of the Environmental Planning and Assessment Act, 1979, Council prepare a draft Local Environmental Plan to:*
 - a *Rezone Lot 4 DP 659489 Rankens Court, Wyong from 5(a) (Special Uses – Carparking Zone) to 3(a) (Business Centre Zone) to ensure consistent zonings across the proposed Performing Arts Centre site.*
 - b *Rezone Lots 1-4 Sec 7 DP 3136 Margaret Avenue, Wyong from 5(a) (Special Uses – Community Purposes Zone) to 3(a) (Business Centre Zone) to facilitate the appropriate disposal of the Memorial Hall on a commercial sale basis following transition to the proposed new Performing Arts Centre.*
 - c *Amend Schedule 1 of Wyong Local Environmental Plan 1991 to:*
 - i *List the Bulk Store Building located on Lot 11 DP 1091396 Ruttleys Road, Mannering Park as a Heritage Item of Local Significance.*
 - ii *List The Entrance Ocean Baths located on Lot 366 DP 755263 Ocean Parade, The Entrance, as a Heritage Item of State Significance.*
 - iii *Upgrade the classification of the Norah Head Lightstation Precinct and St Barnabas Anglican Church, Yarramalong from Heritage Items of Regional Significance to Heritage Items of State Significance.*

Draft LEP (Amendment No. 175) in respect of LEP Bundle 2 (contd)

- 2 *That Council re-affirm its support for the listing of the Former Wyong Dairy Cooperative as a Heritage Item of Local Significance in accordance with Council's resolution of 8 November 2006.*
- 3 *That the Director-General of the Department of Planning be advised of this decision as soon as practicable.*
- 4 *That the draft Local Environmental Plan be referred to the appropriate authorities for comment.*
- 5 *That the Director-General of the Department of Planning be requested to issue a certificate pursuant to Section 65 of the Environmental Planning and Assessment Act, 1979 to permit the public exhibition of the draft Local Environmental Plan.*
- 6 *That prior to the draft Local Environmental Plan being placed on exhibition:*
 - a *A Conservation Management Plan (CMP) be prepared at the applicant's cost by an appropriately qualified consultant and to Council's satisfaction in accordance with the Burra Charter in respect of the Bulk Store Building located on Lot 11 DP 1091396 Ruttleys Road, Mannering Park.*
 - b *That the Natural Heritage values of Lot 11 DP 1091396 Ruttleys Road, Mannering Park be surveyed and assessed by the applicant as part of the CMP in accordance with the manual Protecting Heritage Places (Australian Heritage Commission, 2000).*
 - c *That the applicant be given the opportunity to make submissions to the persons preparing the CMP regarding adaptive re-use on the site at the applicant's cost.*
 - d *A Hazard and Risk Assessment be undertaken across the site to identify potential hazards and recommending measures to ensure the ongoing safety of the occupiers and visitors to the site.*
- 7 *That upon receipt of the Section 65 Certificate from the Department of Planning, the draft LEP be advertised.*

Draft LEP (Amendment No. 175) in respect of LEP Bundle 2 (contd)

- 8 *That should no significant objections be received as a result of the exhibition, the Minister for Planning be requested to create the Local Environmental Plan.*
- 9 *That on commencement of the Shire-wide Heritage Review, all items currently listed as 'Heritage Items of Regional Significance' be reassessed to determine their appropriate classification, as Heritage Items of Local or State Significance.*
- 10 *That Council's Section 149 Certificates be noted.*

With regard to the site specific rezoning for Lot 1 DP 134363, Geoffrey Road, Chittaway Point, Council resolved to prepare a draft LEP amendment to rectify a zoning anomaly resulting from the gazettal of *Wyong LEP 1991* (Amendment No. 135), Council at its meeting of 13 June 2007 resolved as follows:

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

- 1 *That a draft Local Environmental Plan Amendment be prepared to correct the anomaly on the Wyong LEP 1991 map, in accordance with Section 73A of the Environmental Planning and Assessment Act, 1979.*
- 2 *That the Department of Planning be advised of Council's decision and provided with the required documentation.*
- 3 *That Council's Section 149 Certificates be noted.*
- 4 *That should the Department of Planning's LEP Panel advise that it does not support the amendment under Section 73A:*
 - a *A draft Local Environmental be prepared under Section 54 of the Environmental Planning and Assessment Act, 1979, to rezone part of Lot 1 DP 134363 from 1(c) (Non Urban Constrained Lands Zone) to 2(a) (Residential Zone), reflecting the original 2(a) (Residential Zone) boundary.*
 - b *The Department of Planning be advised of the decision.*
 - c *The Department be further advised that Council requests the issue of a 'Written Authorisation to Exercise Delegation' under Section 65, and if applicable, under Section 69 of the Environmental Planning and Assessment Act, 1979.*

Draft LEP (Amendment No. 175) in respect of LEP Bundle 2 (contd)

- d *Following receipt of the 'Written Authority to Exercise Delegation' the draft Local Environmental Plan be referred to the appropriate authorities for comment and be placed on public exhibition.*
- e *That should no significant objections be received as a result of the exhibition, the Minister for Planning be requested to create the Local Environmental Plan.*
- f *Council's Section 149 Certificates be noted."*

Council notified the Department of Planning (DoP) of its intention to prepare an amendment to *Wyong LEP 1991* under Section 73A of the *Environmental Planning and Assessment Act, 1979* (The Act) on 27 June 2007. In response to Council's notification, DoP advised that the rezoning of part Lot 1 DP 134363, Geoffrey Road, Chittaway Bay to 2(a) (Residential Zone) was to be considered within Council's next 'bundled' LEP amendment. In this regard, draft LEP (Amendment No. 175) was expanded to include this specific component.

SECTION 54 NOTIFICATION

The DoP was notified of Council's intention to prepare draft LEP (Amendment No. 175) in accordance with Section 54 of the Act on 31 August 2007. *'Written Authorisation to Exercise Delegation'* under Section 65, and if appropriate, Section 69, was issued by the Department of Planning's LEP Review Panel on 24 September 2007.

SECTION 62 CONSULTATION

Consultations with the relevant state government agencies commenced on 11 October 2007 in accordance with the provisions of Section 62 of the Act. No objections to draft LEP (Amendment No. 175) were received.

PUBLIC EXHIBITION

A Section 65 Certificate enabling the draft LEP to be publicly exhibited was issued on 17 September 2008. The public exhibition of the draft LEP was undertaken in accordance with Section 66 of the Act between 17 September 2008 and 19 October 2008.

Four submissions were received. The consideration of the submissions is outlined within Attachment 1.

RELOCATION OF THE PROPOSED PERFORMING ARTS CENTRE

Council is considering a report that recommends the relocation of the proposed Performing Arts Centre (PAC) from the 'River Road' site, namely Lots 1-4 DP 421613 Church Street and Lot 4 DP 659489 Rankens Court, Wyong.

Draft LEP (Amendment No. 175) in respect of LEP Bundle 2 (contd)

Given that an original intent of the draft LEP (Amendment No. 175) was to rezone Lot 4 DP 659489 Rankens Court Wyong to enable consistent zonings across the proposed PAC site and rezone Lots 1-4 Sec 7 DP 3136 Margaret Avenue Wyong to enable the commercial disposal of the Memorial Hall, the objectives of the draft LEP (Amendment No. 175) are required to be amended.

Notwithstanding the above, the rezoning of both sites from 5(a) (Special Uses Zone) to 3(a) (Business Centre Zone) is consistent with the objectives of the Wyong/Tuggerah Planning Strategy adopted by Council in October 2007. Aiming to encourage development that ensures community, recreation, public and private transport and infrastructure services are available, the Wyong/Tuggerah Planning Strategy identifies both sites for core business or mixed use development under a 3(a) (Business Centre Zone).

Under the provisions of *Wyong LEP 1991*, the 3(a) (Business Centre Zone) generally aims to provide 'the primary opportunity for development or retail or commercial activities that are appropriate to the character and needs of individual business centres. A zone table outlining permissible and prohibited uses is included within Attachment 2.

In this regard, it is recommended that Council continue to rezone Lot 4 DP 659489, Rankens Court, Wyong and Lots 1-4 Sec 7 DP 3136 to 3(a) (Business Centre Zone) to assist with the implementation of the Wyong/Tuggerah Planning Strategy.

CONSERVATION MANAGEMENT PLANS

Council's resolutions of 8 November 2006 and 8 August 2007 required Conservation Management Plans (CMPs) to be prepared and submitted in support of the listings of the Bulk Store Building and Former Wyong Dairy Co-operative as Heritage Items of Significance under Schedule 1 of *Wyong LEP 1991*. Council at its meeting held on 8 November 2006 resolved as follows:

"RESOLVED unanimously on the motion of Councillor STEWART and seconded by Councillor GRAHAM, as follows:

- 1 a *That in accordance with Section 54 of the Environmental Planning and Assessment Act, 1979, a draft Local Environmental Plan be prepared to list the Wyong Dairy complex of buildings and its curtilage(s) as an item/ group and precinct of local environmental heritage in the next revision of the Wyong LEP.*
- b *That the Department of Planning be advised of the decision.*
- c *That the decision be submitted to the Department of Planning LEP Panel requesting delegations under Section 65 and, if appropriate, under Section 69 of the Environmental Planning and Assessment Act 1979 be given to Council to proceed with the rezoning.*

Draft LEP (Amendment No. 175) in respect of LEP Bundle 2 (contd)

- d That upon issue of the Section 65 Certificate, the draft Local Environmental Plan be referred to appropriate authorities for comment and be advertised for public comment.*
 - e That Council's Section 149 Certificates be noted.*
 - f That should no objections be received as a result of the exhibition, the Minister for Planning be requested to create the Local Environmental Plan.*
- 2 *That prior to the draft Local Environmental Plan being placed on exhibition:*
- a Heritage consultants be commissioned at the applicant's cost to research and define the building group's curtilage and an extended curtilage with appropriate conservation management for both contexts including the weir and lagoon's natural heritage and cultural heritage values.*
 - b A Conservation Management Plan (CMP) be prepared to Council's satisfaction at the applicant's cost in accordance with the Burra Charter.*
 - c The Natural Heritage values of the site be surveyed and assessed by the applicant as part of the Conservation Management Plan in accordance with the manual Protecting Heritage Places (Australian Heritage Commission, 2000) //www.ahc.gov.au.*
 - d The CMP include heritage information readily uploadable to the Dairy's website so that users, visitors and managers can have easily accessible information on what is significant at the site and its appropriate management, care and interpretation.*
 - e That the applicant will be given the opportunity to make submissions to the Heritage Consultants and to the persons preparing the CMP regarding adaptive re-use on the site at the applicant's cost.*
 - f A hazards and risk assessment be undertaken across the entire site to identify possible risks and recommended measures to ensure ongoing safety of occupiers, visitors and tourists to the site."*

CMPs for both properties were received by Council and were publicly exhibited in conjunction with draft LEP (Amendment No. 175). The CMPs have been reviewed by Council staff and an independent heritage consultant. Amendments to, and the subsequent final versions of the CMPs, are required to be submitted to Council prior to the Minister being required to make the plan under Section 69 of the Act.

In order to expedite the timely gazettal of draft LEP (Amendment No. 175), and consequently prevent the commencement of legal action against Council which threatens to declare major-amending LEP (Amendment No. 135) invalid; the applicants have been requested to submit the final CMP to Council by 4 February 2009. Should the designated deadlines not be achieved, it is considered appropriate to split draft LEP (Amendment No. 175) into separate amendments which would allow for the rezoning and heritage components to be considered individually.

Draft LEP (Amendment No. 175) in respect of LEP Bundle 2 (contd)

Advice from DoP has been sought as to how Council should deal with splitting draft LEP (Amendment No. 175) into two separate amendments. As the Department delegated the Director-General's functions under Section 65 and Section 69 of the Act for the existing components of draft LEP (Amendment No. 175) on 31 August 2007, separate *Written Authorisations to Exercise Delegation* for each subsequent amendment would be required. Subject to the timely receipt of the final CMPs, it is recommended that Council resolve to allow for the continuation of the individual components of the draft LEP through the receipt of separate *Written Authorisations to Exercise Delegation*.

CONCLUSION

In light of the submissions received as a result of the public exhibition which relate to the rezoning of Lot 4 DP 659489, Rankens Court, Wyong and Lots 1-4 Sec 7 DP 3136, it is considered important to accurately report on Council's position on the proposed PAC and the implications of relocating the proposed site on the draft LEP. Given that the rezoning of both sites will assist with the implementation of the Wyong/Tuggerah Planning Strategy, it is recommended that Council continue to support draft LEP (Amendment No. 175).

To facilitate the gazettal of the plan, deadlines for the receipt of final CMPs for the Bulk Store Building and Former Wyong Dairy Cooperative have been established. Implementing the deadline allows ample time for the plans to be finalised and in addition ensures Council is being proactive in mitigating the threat of legal action by the landowner of Lot 1 DP 134363, Geoffrey Road, Chittaway Bay. Should the deadlines not be achieved, it is recommended that Council seek the issue of separate *Written Authorisations to Exercise Delegation* to progress the rezoning and heritage components as separate amendments.

Attachment 1 *List of Submissions (3 pages)*

Attachment 2 *3(b) (Business Centre Zone) Zone Table (1 page)*

Draft LEP (Amendment No. 175) in respect of LEP Bundle 2 (Attachment 1)**SUBMISSIONS**

Trim No	Submission	Response
D01263389	<p>Council has received a submission in relation to draft LEP (Amendment No. 175 and in particular, the rezoning of Lot 4 DP 659489 Rankens Court Wyong.</p> <p>It is suggested that the rezoning to permit the proposed PAC on Lots 1-4 DP 421613 Church Street and Lot 4 DP 659489 Rankens Court, Wyong will limit the development potential of Lot 2 DP 505379 and Lot 5 DP 653146 by reducing the number of car spaces and by restricting rear access to the site.</p> <p>It is proposed that if this rezoning component proceeds; any further development applications lodged on Lot 2 DP 505379 and Lot 5 DP 653146 would benefit from special car parking considerations or concessions due to the reduction in development potential on the site.</p>	<p>The draft LEP aims to rezone Lot 4 DP 659489 Rankens Court from 5(a) (Special Uses – Carparking Zone) to 3(a) (Business Centre zone). It is likely that any future development on the site will have vehicular access from Rankens Court, while access to Lot 2 DP 505379 and Lot 5 DP 654148 will be required from Church Street.</p> <p>The requested car parking considerations or concessions outlined within the submissions will not apply to future applications lodged on either Lot 2 DP 505379 or Lot 5 DP 653146. This request is inconsistent with Council policy and does not occur on other sites through the Shire which are adversely impacted by adjacent development.</p>
D01272408	<p>Council has received a submission in relation to draft LEP (Amendment No. 175) and in particular the rezoning of Lots 1-4 Sec 7 DP 3136 Margaret Avenue Wyong and the subsequent commercial disposal of Council's Memorial Hall.</p> <p>The submission states that the Memorial Hall is the last remaining public hall of this size in the Shire; Licensed Clubs are not an acceptable alternative, and there is still a need for a public hall even with the establishment of the proposed PAC.</p>	<p>The characteristics and usage levels of Council's Memorial Hall were detailed in reports prepared to support the proposed PAC. While many of the Hall's current users would utilise the proposed PAC, the report concluded that other users would relocate to local halls such as Watanobbi or Tuggerah Halls.</p> <p>It is considered that the issues raised in this submission have been assessed against the detailed background information provided at the time Council resolved to establish a PAC in Wyong.</p>

**Draft LEP (Amendment No. 175) in respect of LEP Bundle 2 (Attachment 1)
(contd)**

Date	Submission	Response
D01270792	<p>Council has received a submission in relation to draft LEP (Amendment No. 175) and in particular, the establishment of a proposed Performing Arts Centre on Lots 1-4 DP 421613 Church Street and Lot 4 DP 659489 Rankens Court, Wyong and the disposal of Council's Memorial Hall.</p> <p>The submission states that the Memorial Hall named in honour of our ex-service men and women and should be retained in their testament.</p> <p>In addition, the submission states that a parking station should be constructed on Lot 4 DP 659489 Rankens Court, Wyong to alleviate the current lack of parking within the Wyong Town Centre.</p>	<p>In a report dated 23 August 2006 which detailed the establishment of a proposed PAC, Council has considered the historical context of the Memorial Hall.</p> <p>While memorials are established to honour the service and sacrifice of ex-service men and women, the report states that 'as time passes and communities evolve it has sometime been deemed appropriate to decommission or relocate these memorials.'</p> <p>The relocation of the Wyong Honour Roll Obelisk and the replacement of an earlier Memorial Hall by the current hall on Margaret Avenue, have not resulted in a loss of function or status of a memorial.</p> <p>As stated within the report, the function and status of a memorial hall could be transferred to the proposed Performing Arts Centre. Alternatively, the memorial status of the Anzac Avenue/Margaret Avenue corner could be retained by incorporating a significant item of public art in the vicinity as a focus for commemorative ceremonies.</p> <p>The Wyong/Tuggerah Planning Strategy identifies car parking as an issue and states that a parking strategy that provides centralised parking to support the Town Centre will be prepared. In addition, any future development on Lot 4 DP 659489 Rankens Court, Wyong will be required to maintain and improve the current parking situation on the site.</p>

**Draft LEP (Amendment No. 175) in respect of LEP Bundle 2 (Attachment 1)
(contd)**

Date	Submission	Response
D01271762	Council has received a submission in relation to draft LEP (Amendment No. 175) which supports the listing of the Former Wyong Dairy Co-operative under Schedule 1 of <i>Wyong LEP 1991</i> .	Noted.

Draft LEP (Amendment No. 175) in respect of LEP Bundle 2 (Attachment 2)

Zone No 3 (a) (Business Centre Zone)

1 Objectives of zone

The objectives are:

- (a) To provide the primary opportunity for the development of retail and commercial activities that are appropriate to the character and needs of individual business centres within the retail hierarchy proposed by a development control plan prepared by the Council for the purpose, and
- (b) To provide for higher intensity retail and commercial uses, while allowing for low intensity retail and commercial uses in other business zones, and
- (c) To enable the Council to provide more detailed guidelines about preferred retail distribution and development issues in a development control plan.

2 Without development consent

Nil.

3 Only with development consent

Any purpose other than a purpose included in item 4 of the matter relating to this zone.

4 Prohibited

Abattoirs; aerodromes; agriculture; animal establishments; aquaculture; boarding houses; brothels; building products sales rooms or showrooms; caravan parks; depots; detached dual occupancies; dual occupancy buildings; dwellings (other than those attached to other permitted buildings); exhibition homes; extractive industries; generating works; hazardous industries; hazardous storage establishments; industries; intensive agriculture; light industries; materials recycling depots; mining; offensive industries; motor showrooms; offensive storage establishments; plant hire establishments; residential flat buildings (other than those attached to other permitted buildings); road transport terminals; roadside stalls; rural industries; sawmills; self storage establishments; stock and sale yards; tourist accommodation that is not attached to other permitted buildings or used in conjunction with other permitted uses; toxic waste incinerators; transport depots; vehicle body repair workshops; vehicle repair stations; warehouses.

WYONG SHIRE COUNCIL

10 December 2008
To the Ordinary Meeting of Council

Director's Report
Shire Services Department

**557 Contract CPA 116095 - Management of Toukley Aquatic
Centre, Wyong Olympic Pool and The Entrance Ocean Baths**

CPA/116095 RJB

SUMMARY

Report on extension of the current contract for the management of Toukley Aquatic Centre, Wyong Olympic Pool and The Entrance Ocean Baths for an additional two months to 30 June 2009.

RECOMMENDATION

That Council extend current contract CPA 116095 with the Young Men's Christian Association (YMCA) for a further period of two months to 30 June 2009.

BACKGROUND

On 1 October 2007 Council entered into contract CPA 116095 with the Young Men's Christian Association (YMCA) for a period of up to 19 months for the management of Toukley Aquatic Centre, Wyong Olympic Pool and The Entrance Ocean Baths. It was envisaged that this time would permit the collection of detailed financial information by the YMCA on behalf of Council to cover a full 12 months of operation of the pools. This would allow the pools management contract to be re-tendered with more accurate data, in time for a new contract to commence after the conclusion of the 2008/09 swimming season (April 2009).

Since their engagement the YMCA has been actively managing all three pools and providing Council with comprehensive monthly reports showing operational expenses and income and detailed attendance figures. The current contract with the YMCA has also allowed Council, in conjunction with the YMCA, to upgrade many small but vital assets within the pool facilities using funds saved from the 2007/08 pools operational budget. Examples of these works include a new carbon dioxide injection unit at Wyong Pool, and a new pool blanket and renovations to the kiosk at Toukley Aquatic Centre. The value of these improvements was approximately \$30,000, and was part of a strategy to better prepare Council's facilities for the next tendering stage by making minor but necessary improvements separate to the significant capital improvements undertaken by Council.

A slight decline in attendance numbers was observed through the new contract handover period. This was believed to be due to the effects of the mild summer season in 2007/2008, and the inertia experienced by the new management in attracting additional clients. Initial business loss due to change of management was targeted through heavy marketing and innovative promotional programmes by the YMCA. Pool attendance figures are now showing a steady increase.

Contract CPA 116095 - Management of Toukley Aquatic Centre, Wyong Olympic Pool and The Entrance Ocean Baths

Pool Attendance for 2007/08

Toukley	– 95,000, October 07 to October 08	(8% down)
Wyong	– 31,000, October 07 to March 08	(10% down)
The Entrance	– 51,000, October 07 to March 08	(15% down) from lifeguard estimates

Given pool attendance figures were slightly down for 2007/2008 compared to the previous 10 year average, the YMCA still successfully managed to finish the 2007/2008 financial year under their agreed budget by 3%.

Current 2008/09 figures also suggest some further small savings in operational expenses may be possible this financial year.

Council has been undertaking other essential major projects at the pools using funds specifically provided for capital works. These have included the installation of new security fencing and a new air handling unit at the Toukley Aquatic Centre.

SYNERGIES WITH OTHER CONTRACTS

While not specifically related to the pools contract, Council will also be inviting tenders for the management of the Lake Haven Recreation Centre early in 2009 with a view to appointing a new contractor to manage this facility from 1 July 2009. There are potential synergies in concurrently inviting tenders for both the pool management contract and the Recreation Centre management contract, as they are both recreation-based and both in a similar industry.

It would potentially be advantageous to Council to consider alternative tenders that may encompass the management of both facilities by a single contractor. There would be potential savings in areas such as administration, staffing and advertising as well as improved management for Council working with a single contractor. The proposed tender documents would still permit individual tenders to be lodged for the pools or the Recreation Centre, but would also allow alternative tenders covering all four facilities from larger organisations with specific skills in the management of aquatic and recreation centres.

To maximise these opportunities it will be necessary to extend the YMCA pools contract from the current date of 30 April 2009, to end on 30 June 2009 and to call tenders for management of the pools and recreation centre early in 2009.

Contract CPA 116095 - Management of Toukley Aquatic Centre, Wyong Olympic Pool and The Entrance Ocean Baths

CONCLUSION

Preliminary discussions with the YMCA have indicated they are well placed and agreeable to extending the current contract for a further two months until 30 June 2009.

The YMCA has advised that they are able to continue management of the pools under the current contractual arrangements with no additional management fees for the additional two month extension to their contract.

A budget for the operation of the pools to July 2009 has been supplied by the YMCA and is within Council's budget for the operation of pools in 2008/09.

It is recommended that Council extend the YMCA contract CPA 116095 to 30 June 2009.

WYONG SHIRE COUNCIL

10 December 2008
To the Ordinary Meeting of Council

Director's Report
Shire Services Department

558 Contract CPA 142295 – Construction of the Mardi High Voltage Power Supply on to Site

CPA/142295 GL

SUMMARY

Evaluation of tenders for Contract No CPA 142295 – Construction of the Mardi High Voltage Power Supply on to Site. These works are part of the Joint Water Authority works being funded equally by Gosford and Wyong Councils.

RECOMMENDATIONS

- 1 *That Council accept alternative Tender No. 2 from Poles and Underground Pty Ltd in the lump sum amount of \$3,659,139.09 (excl GST) subject to the execution of a Deed of Guarantee and Indemnity by Clive Palmer Electrical Pty Ltd.***

- 2 *That Council approve a contract budget of \$4,025,053.00 (excl GST) that provides for a contingency amount of \$365,913.91 (excl GST) representing 10% of the contract value, to provide for any unforeseen additional works that may become necessary during the course of the project.***

BACKGROUND

As part of the strategy to augment and secure the region's water supply system, Gosford and Wyong Councils have determined, amongst other initiatives, to undertake significant amplification works to the headwork's at Mardi Dam. The augmentation works include:

- Upgrading of the Lower Wyong River to Mardi Dam Transfer System.
- Modifying the Mardi Dam to Mardi Water Treatment Plant (WTP) Transfer System.
- New Mardi High Lift Pumping Station.
- New Mardi Dam to Mangrove Dam Transfer System.
- High Voltage (HV) Power upgrade works (subject of this report).

The proposed augmentation works are part of the medium term works that are intended to enhance system yield and provide for future increases in demand. The works will also enhance the system's flexibility by improving the current rate at which water can be transferred between Wyong and Gosford.

Although these works form part of the Mardi Suite of Works, they are considered separately in this report because they will be constructed under a separate contract requiring its individual approval.

Contract CPA 142295 – Construction of the Mardi High Voltage Power Supply on to Site (contd)

Scope of Work and Cost Estimate

The High Voltage Power upgrade works that are the subject of this report includes two independent power lines that ensure a back up secure power supply to the Mardi area (see separate Enclosure). The items of work are:

- Upgrading of the existing overhead feeder from the Energy Australia Wyong North zone substation to a terminal point at Mardi Water Treatment Plant (Northern Section - Separable Portion 1).
- Supply and installation of a new 11kV underground supply from the Berkeley Vale zone substation to a terminal point at Mardi Water Treatment Plant (Southern Section – Separable Portion 2).
- Installation of two High Voltage (HV) switching cubicles and two Smart Remote Control Recloses at Mardi Water Treatment Plant (Mardi WTP Section – Separable Portion 3).

Tender Process

Tenders were invited by way of public invitation. Advertisements were placed on Council's e-tendering website, in the Sydney Morning Herald on 13 May 2008 and in the Central Coast Express Advocate on 7 and 9 May 2008. The advertised closing date was 5 June 2008.

The invitation documents called for Lump Sum tenders based on a detailed specification.

The following Addenda were issued:

Addendum 1 issued 23 May 2008: Minutes of tender meeting; alternative tenders; clarification of Energy Australia Funding; response to tender queries; amended tender schedules.

Addendum 2 issued on 29 May 2008: Response to tender queries; minor clarifications.

Tenders closed at Council Chambers and on the e-tenders site at 2:00pm on 5 June 2008.

EVALUATION OF TENDERS

Tenders were evaluated by a panel of three staff members (one of whom was from a unit other than the one managing the procurement process) using the following threshold and weighted criteria:

Contract CPA 142295 – Construction of the Mardi High Voltage Power Supply on to Site (contd)

Threshold Criteria:

- Financial capacity
- Possession of a Management System covering quality, safety and the environment
- Level 1 Accredited Service Provider (ASP/1).

Weighted Criteria:

- Price
- Project implementation of Management Systems
- Past experience – Tenderer
- Past performance – Tenderer
- Conformance with the specification and requirements of the tender documents.

The evaluation criteria and their weightings were documented in the Contract Development Plan and approved by the Director Shire Services prior to tenders being invited. The Contract Development Plan is available on file.

To assess tenders against the evaluation criteria, the panel used information obtained from the tender documents and referees.

The evaluation was conducted according to the following process.

- * 1 Assessment of receipt of tenders.
- 2 Assessment of conformance of tenders.
- 3 Short listing of tenders.
- 4 Detailed weighted evaluation of shortlisted tenders.
- 5 Due diligence checks on preferred tenderers.
- 6 Independent review of the tender selection process.

The following alternative tenders were sought:

- Alternative 1: Shorter contract duration
- Alternative 2: Use of conduits in lieu of "Direct Bury"

Contract CPA 142295 – Construction of the Mardi High Voltage Power Supply on to Site (contd)**Assessment of Receipt**

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

Tender Number	Tender	Compliant Tender Lump Sum (excl GST)	Alternative 1 (excl GST)	Alternative 2 (excl GST)	Status
1	O'Donnell Griffin	Not submitted	\$4,028,063.64	\$4,028,063.64	Submitted on time
2	Planelec	\$3,412,516.36	Not submitted	\$3,412,516.36	Submitted on time
3	Poles and Underground	\$3,722,775.46	\$3,722,775.46	\$3,659,139.09	Submitted on time
4	Power Serve	\$3,997,952.73	Not submitted	Not submitted	Submitted late

Assessment of Conformance

Tender No. 1 from O'Donnell Griffin Pty Ltd was qualified and non-conforming. Significant non-conformances include a conforming price not provided and unacceptable conditions on indemnities.

Tender No. 2 from Planelec Pty Ltd was qualified and non-conforming. Significant non-conformances include unacceptable conditions on site access, no allowance for removal of trees, limitation on liquidated damages and conditions on contract completion time. These conditions are such that the tender is considered outside of the scope of the works specified.

Tender No. 3 from Poles and Underground Pty Ltd conformed to all requirements and was progressed to the next stage of evaluation.

Tender No. 4 from Power Serve Pty Ltd was submitted late and not considered further in accordance with the tender regulations.

The initial assessment of tender conformance concluded that Poles and Underground Pty Ltd was the only tender that was substantially conforming. The remaining tenders were not progressed further.

Weighted Evaluation

As only one tender was progressed to the next stage a detailed weighted evaluation of the tender price and non-price criteria was not undertaken. Further review of Tender No. 3 has been undertaken in the following section.

Contract CPA 142295 – Construction of the Mardi High Voltage Power Supply on to Site (contd)

DUE DILIGENCE

Tender No. 3 (Poles and Underground Pty Ltd) was subjected to a financial assessment, an in-house safety/environment system assessment and referee checks.

A compliance assessment was conducted to ensure the company's management systems met Councils standards. All systems including Quality Assurance, OH&S and Environmental were satisfactory.

Tender No. 3 (Poles and Underground Pty Ltd) was subjected to a financial assessment that was initially not acceptable based upon the criteria used for Council's assessments. An alternative arrangement was proposed and examined by Council to address any financial concerns.

Clive Palmer Electrical Pty Ltd is a company with substantially common shareholders to that of Poles and Underground Pty Ltd. This company has agreed to act as guarantor should the contract be awarded to Poles and Underground Pty Ltd. To confirm Clive Palmer Electrical Pty Ltd financial acceptability to perform this role, a financial assessment was also carried out on this company. The result was acceptable. Council's legal consultant has drafted a Deed of Guarantee and Indemnity for this purpose.

A post-tender meeting was held with representatives from Poles and Underground Pty Ltd and its guarantor of performance Clive Palmer Electrical Pty Ltd that clarified the tenderer's understanding of the scope of work and its ability to complete the work satisfactorily. The site between the F3 Freeway and the Mardi Water Treatment Plant was visited with representatives of Poles and Underground Pty Ltd to ensure that suitable allowance was made in the tender for the site conditions.

In addition to the above, past performance and nominated referees checks were also conducted with no significant concerns raised or identified.

Poles and Underground Pty Ltd is a pre-registered Construction Level 1 Accredited Service Provider approved for undertaking Energy Australia works. They have undertaken similar work (size and type) in the past. They possess the technical, financial, managerial skills and resources necessary to satisfactorily complete the works.

The amount tendered and the above evaluation demonstrates that Tender No. 3 (Poles and Underground Pty Ltd) possesses all the technical and financial resources necessary to complete the works. Overall this tender is considered to represent the best value to Council for the tendered works and their engagement is recommended.

Contract CPA 142295 – Construction of the Mardi High Voltage Power Supply on to Site (contd)

RISK ASSESSMENT**General**

When letting a contract various risks exist that may result in the final contract cost exceeding the initial contract sum. These risks vary depending upon the type of work being undertaken; for example, design work versus construction work; and the type of contract, for example Lump Sum versus Schedule of Rates.

Generally, the contract is structured to have the party best placed to manage the risk responsible for that risk outcome. Some risks are passed on to the contractor, with the cost of those risks reflected in the tendered price. Other risks are best managed by Council rather than the contractor, as they would inflate the tender price whether the risk eventuated or not. For this reason Council retains and is required to manage some risks. These are minimised by Council's contract administration processes. However, to manage these risks it is necessary to provide a contingency sum in addition to the tender price to allow for unforeseen additional works that may become necessary during the course of the project.

Contract Risks

Contract risks include Generic Risks (generally found in most contracting situations) and Specific Risks leading to contract variations that have particular application to an individual contract. These major risks are summarised below for this contract.

Generic Risks

These are risks that Council manages through its contract administration procedures and processes. Major generic risks and mitigation measures for this contract include:

- Contractor experiences financial difficulties or goes into liquidation, leading to additional project delays and costs. Mitigated through financial and referee checks before contract award and timely progress payments.
- Completion time exceeds target leading to delays and damage to Council's reputation. Mitigated through close supervision and prompt directions where required.
- Liability for injury and/or damage to people, property and the environment. Mitigated through on-going validation of contractor's insurances, safety and environmental management systems, together with close supervision including site audits.
- Contract dispute over rights and obligations of the parties. Mitigated through use of Australian Standards General Conditions of Contract, which include dispute resolution mechanisms.

Contract CPA 142295 – Construction of the Mardi High Voltage Power Supply on to Site (contd)

Specific Risks Leading to Contract Variations

The following are the major risks that Council bears in relation to this contract:

- The quality of the design is sub-standard resulting in additional costs during the construction phase. Mitigated by appropriate technical reviews by others (including "design certification" by Energy Australia) to ensure design meets requirements.
- Possibility of latent conditions occurring due to the distance over which the work is being carried out and the proximity of significant roads, drainage and commercial/industrial development. Mitigated by contract requirement to obtain available services information (eg Dial before you Dig).
- The price of materials may increase significantly which will impact the Contractors price to Council for the finished work. The contract is fixed price and normal price increases are included in the tender price. Mitigated by close consultation with the Contractor.
- Council or Energy Australia requires additional works to be included. Mitigated by detailed investigation and minimising changes in scope.

Risk Contingency

The above risks are considered to be low for this contract given the value of the contract and the nature of the work. Accordingly, it is recommended that a contingency sum of \$363,636.36 (excl GST) representing approximately 10% of the contract sum be approved.

Independent Process Review

This evaluation process and recommendations has been endorsed by the Contract Systems Co-ordinator.

BUDGET

This project is being jointly funded by both Wyong and Gosford Councils on an equal shared basis as part of the Joint Water Authority works. Approval to additional funding to allow this contract to proceed was the subject of a separate report in the Business Papers to the 26 November 2008 Ordinary Meeting.

The pre-tender estimate for this contract was \$4,425,000.00 (excl GST). Poles and Underground Pty Ltd alternative tender option No. 2 is 17% less than the pre-tender estimate and is considered to be a competitive price for the works.

Contract CPA 142295 – Construction of the Mardi High Voltage Power Supply on to Site (contd)

TIME-FRAME

The contract is for a period of 50 weeks with completion date expected by January 2010.

LOCAL CONTENT

The field components of the work will involve the use of local labour resources.

CONCLUSION

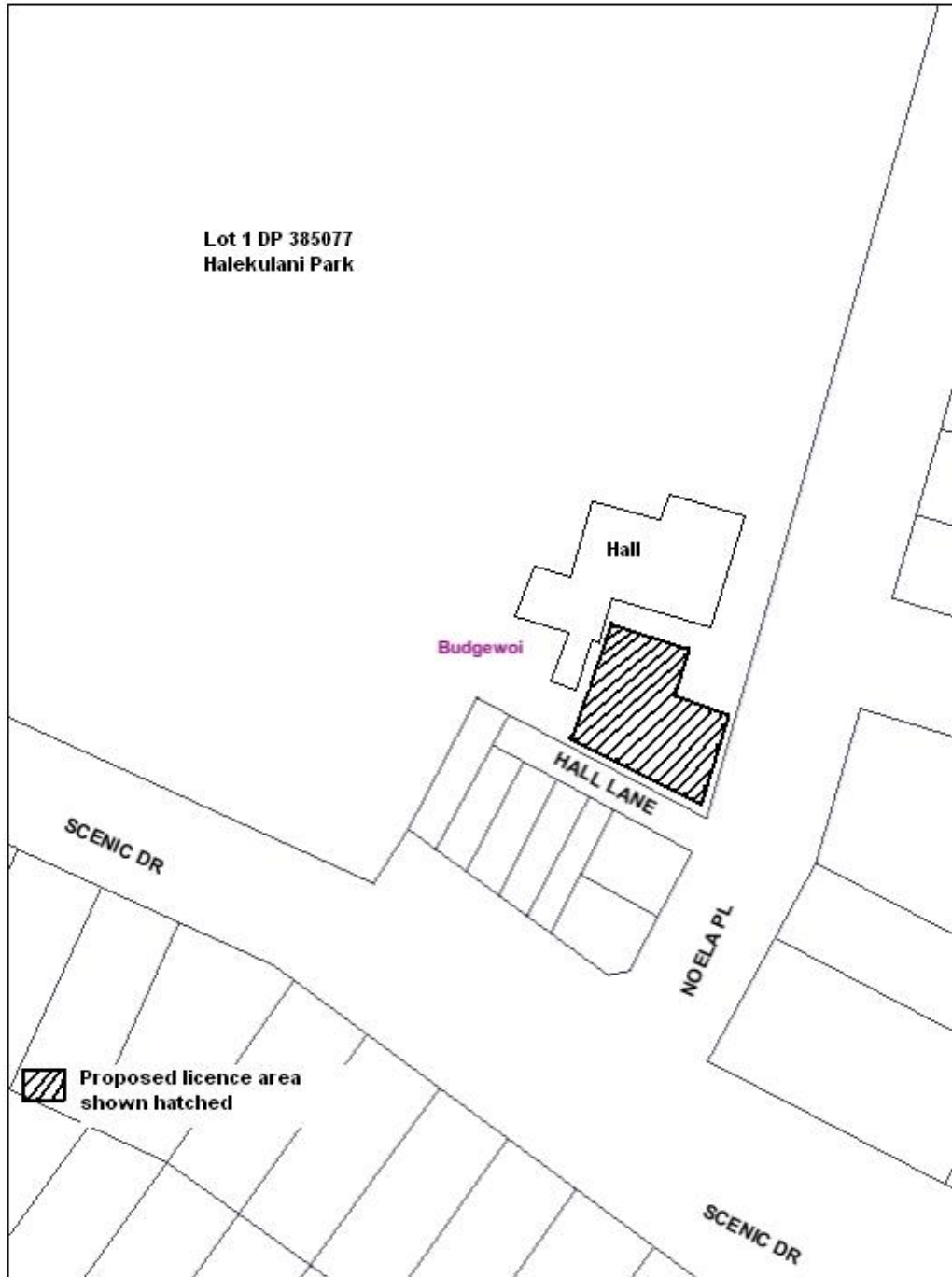
Tender No.3 from Poles and Underground Pty Ltd meets all of Council's requirements for this contract. On balance, this tender represents the best value-for-money for Council. It is recommended that Council accept this Lump Sum based tender.

Enclosure

Aerial Photographs Showing Route of HV Power Lines

**559 Licence to Lions Club of Doyalson Wye Budgewoi Inc for Use
of Part of Lot 1 DP 385077, Scenic Drive, Budgewoi
(Attachment 1)**

Locality Plan



WYONG SHIRE COUNCIL

10 December 2008
To the Ordinary Meeting of Council

Director's Report
Corporate Services Department

**559 Licence to Lions Club of Doyalson Wyee Budgewoi Inc for Use
of Part of Lot 1 DP 385077, Scenic Drive, Budgewoi**

F2008/02358 JMT

SUMMARY

Approval is sought to grant a licence to the Lions Club of Doyalson Wyee Budgewoi Inc to occupy part of Lot 1 DP 385077, Halekulani Park, Scenic Drive, Budgewoi for its Monthly Markets.

RECOMMENDATION

- 1 *That Council grant a licence to the Lions Club of Doyalson Wyee Budgewoi Inc to occupy part of Lot 1 DP 385077, Halekulani Park, Scenic Drive, Budgewoi from 1 December 2008 at nominal rent for the purpose of conducting Monthly Markets.***
- 2 *That Council authorise the Common Seal of Wyong Shire Council to be affixed to the formal documents as required between Wyong Shire Council and the Lions Club of Doyalson Wyee Budgewoi Inc.***
- 3 *That Council authorise the Mayor and the General Manager to execute all documents.***

BACKGROUND

The Lions Club of Doyalson Wyee Budgewoi Inc (Lions Club) has applied for a licence to operate a market between the hours of 7.00 am and 2.00 pm on the first Saturday of each month at nominal rent.

The Future Planning Section has advised that it has no objections to the licence.

The licence will require the Lions Club to:

- Indemnify Council and carry public liability insurance
- Leave the licence area in a clean and tidy condition
- Conduct the Saturday Markets for charitable purposes only
- Submit an Event Application and pay the associated fees

10 December 2008
To the Ordinary Meeting of Council

Director's Report
Corporate Services Department

**Licence to Lions Club of Doyalson Wyee Budgewoi Inc for Use of Part of
Lot 1 DP 385077, Scenic Drive, Budgewoi (contd)**

A Development Application has been approved conditional upon the Lions Club entering into a licence with Council for the use of Halekulani Park.

Lot 1 DP 385077 is zoned 6(a) Open Space and Recreation and classified Community Land. Plan of Management No. 5 Sportsgrounds Parks and General Community Use applies and authorises the proposed lease.

Attachment 1

Locality Plan (1 page)

WYONG SHIRE COUNCIL

10 December 2008
To the Ordinary Meeting of Council

Director's Report
Shire Services Department

**560 Reconsideration of the Recommended Pipeline Route Corridor
for the Mardi-Mangrove Link Project**

CPA/112242 BP

SUMMARY

At its Ordinary Meeting held on 26 November 2008 Council considered a recommendation from the Gosford/Wyong Councils' Water Authority Board meeting in relation to the Mardi-Mangrove Link Pipeline Project.

The Board recommendation of 19 November 2008 related to the alignment of the pipeline route corridor through Sector 3 and also a recommended route through Sector 6.

Council at its meeting held on 26 November 2008 Council resolved as follows:

"RESOLVED ON THE MOTION OF Councillor SYMINGTON and seconded by Councillor McNAMARA:

That Council defer a decision pending an inspection by Councillors of specifically Sector 6, but also embracing the whole route and if possible more accurate costings be supplied for the 'green route'."

FOR: COUNCILLORS EATON, GRAHAM, McBRIDE, McNAMARA, MATTHEWS,
 SYMINGTON, VINCENT, WEBSTER AND WYNN.

AGAINST: COUNCILLOR BEST.

Councillors have now formally inspected Sector 6 of the pipeline route options. This occurred on Wednesday 3 December 2008 and included on-site discussions with a number of affected landholders along Option 2 (the Red Route through pasture) and Option 3 (the Green Route in the road reserve).

RECOMMENDATION

That Council adopt all the recommendations of the Gosford/Wyong Councils' Water Authority Board meeting of 19 November 2008 in relation to the Mardi-Mangrove Link Project Recommended Route – item WA004.

BACKGROUND

The Mardi-Mangrove Link Project is a key element of *WaterPlan 2050* which is the long-term strategy for securing the Central Coast's water supply into the future. It is an initiative of Wyong Shire and Gosford City Councils with Australian Government funding of \$80.3 million from the Water Smart Australia Program.

Reconsideration of the Recommended Pipeline Route Corridor for the Mardi-Mangrove Link Project (contd)

In May 2008 Councillors recommended a route corridor for eight of the nine sectors of the underground pipeline route. They also requested that the Mardi-Mangrove Link Project Team conduct further detailed investigations and studies on all identified possible route options, (in both private property) and along Yarramalong Road.

Further delays to the decision making process of Sector 6 and Sector 3 will create continued landholder uncertainty and potentially risk the \$80.3 million Federal funding agreement. It will also result in significant costs impacts and project delays.

Extensive expert investigations and analysis has been conducted through Sector 6 over the past 12 months. In making its recommendation for a proposed route through Sector 6 (as with all route Sectors) the Mardi-Mangrove Link Project Team has sought to balance five key criteria of landholder, community and environmental impacts, as well as constructability issues and cost comparisons.

It is therefore recommended that a decision be made on the amended route alignment in Sector 3 and the recommended route corridor in Sector 6 in accordance with the Gosford / Wyong Councils' Water Authority Board recommendation of 19 November 2008.

<i>Attachment 1</i>	<i>Gosford/Wyong Councils' Water Authority Board report to 19 November 2008 meeting – Item WA004 (11 pages)</i>
<i>Attachment 2</i>	<i>Multi-Criteria Analysis of Short-listed Pipeline Route Options (12 pages)</i>
<i>Enclosure 1</i>	<i>Section 3 – Recommended Route</i>
<i>Enclosure 2</i>	<i>Section 6 – Route Options</i>

Reconsideration of the Recommended Pipeline Route Corridor for the Mardi-Mangrove Link Project (Attachment 1)

WYONG SHIRE COUNCIL

19 November 2008
To the Gosford/Wyong Councils' Water Authority Board
Meeting

Technical Advisory Group Report

WA004 Mardi to Mangrove Link Project - Recommended Pipeline Route

SUMMARY

This Report:

- provides an update on the route alignment within Sector 3 of the Mardi Dam to Mangrove Creek Dam pipeline, where detailed investigations have resulted in a recommendation for a minor change to the alignment previously approved by both Councils; and
- presents the recommended route for Sector 6 of the Mardi Dam to Mangrove Creek Dam pipeline route, together with a summary of the assessment process used to develop the recommendation.

RECOMMENDATION

That the Board notes the information regarding the pipeline route proposed for Sectors 3 and 6 and recommends to the two Councils the following:

- 1 That, for Sector 3, the pipeline route corridor be amended to a minor extent, from the previously approved 'white' route, to the alternative 'blue' route, as depicted on Enclosure 1.***
- 2 That, for Sector 6, Route Option 2 – the 'Red' Route' (southern pasture route) be adopted as the pipeline route corridor, as depicted in Enclosure 2.***
- 3 That, for both Sector 3 and Sector 6, work proceeds to acquire the necessary easements and to finalise the pre-construction activities necessary to allow for the calling of tenders for construction of the Mardi to Mangrove Link Project, including the pipeline from Mardi Dam to Mangrove Dam.***

BACKGROUND

The Mardi to Mangrove Link Project comprises a number of elements including two pipelines (a 2.6 km pipeline linking Wyong River to Mardi-Dam and a 19 km pipeline linking Mardi Dam and Mangrove Creek Dam), and two new pump stations. This report discusses matters that only relate to the 19 km pipeline linking Mardi Dam to Mangrove Creek Dam.

10 December 2008
To the Ordinary Meeting of Council

Director's Report
Shire Services Department

Reconsideration of the Recommended Pipeline Route Corridor for the Mardi-Mangrove Link Project (Attachment 1) (contd)

19 November 2008
To the Gosford/Wyong Councils' Water Authority Board
Meeting

Technical Advisory Group Report

Mardi to Mangrove Link Project - Recommended Pipeline Route (contd)

The 'Sector' Approach

The Board will recall that, to facilitate route selection, the (approximately) 19 km route of the Mardi Dam to Mangrove Creek Dam pipeline has been divided into nine 'sectors', with Sector 1 being the sector at the eastern end of the route (near Mardi Dam) and Sector 9 being at the western end of the route (joining Bunning Creek Tunnel).

The boundaries between sectors were chosen to be at points where all of the route options for the Mardi Dam to Mangrove Creek Dam pipeline converged (at topographical 'node points') so that the choice of a route option in one sector would have no material bearing on the choice of a route option in adjacent sectors.

Previous Board Consideration of the Mardi-Mangrove Link Pipeline Route

At its meeting on 21 May 2008, the Board was provided with a report on the Mardi-Mangrove Link pipeline route, together with recommendations for how these matters should be resolved. The Board endorsed these recommendations and these were subsequently approved by separate meetings of the two councils: Wyong Shire Council at its meeting on 28 May 2008, and Gosford City Council at its meeting on 3 June 2008.

Relevant to this Report were the following recommendations:

"RESOLVED unanimously on the motion of Councillor Rose and seconded by Mr Wilson:

That the Board note the information regarding the two pipelines proposed for the Mardi to Mangrove Link Project, and recommend to the two Councils the following:

- 1 *That, for both the Wyong River to Mardi Dam pipeline, and for Sectors 1 to 5 and 7 to 9 of the Mardi Dam to Mangrove Creek Dam pipeline, the recommended pipeline routes (as shown in Enclosure 2) be investigated and studied in detail, by carrying out detailed topographic surveys, geotechnical investigations, ecological and cultural surveys and other engineering investigations.*
- 2 *That, for the routes nominated in recommendation 1, and subject to the studies in recommendation 1 not revealing conditions that would alter the recommended routes; work proceeds on easement acquisitions and the finalisation of pipeline pre-construction activities to allow the calling of tenders for construction of the two pipelines along those routes.*
- 3 *That, for Sector 6 of the Mardi Dam to Mangrove Creek Dam pipeline, detailed investigations and studies be undertaken on all identified possible route options, (in both private property and along Yarramalong Rd,) and following these investigations a further report be presented to the August Board Meeting, recommending a route in Sector 6 for easement acquisitions and finalisation of pipeline pre-construction activities.*

Reconsideration of the Recommended Pipeline Route Corridor for the Mardi-Mangrove Link Project (Attachment 1) (contd)

19 November 2008
To the Gosford/Wyong Councils' Water Authority Board
Meeting

Technical Advisory Group Report

Mardi to Mangrove Link Project - Recommended Pipeline Route (contd)

- 4 *That the costs of making good any accelerated deterioration of Yarramalong Road, attributable to the construction of the pipelines, be allowed for in the project funding and shared between the two Councils on the same basis as other project costs.*

NOTE: Should the recommended pipeline route be approved, a separate report scheduling the properties through which land easement acquisitions are proposed, would be submitted subsequently to Wyong Shire Council for its specific approval. "

Following approval by the two Councils of the above recommendations, the Mardi-Mangrove Link Project Team has carried out the required investigations and this Report summarises the results.

Pipeline Route - Sectors 1-5 and 7-9:

Having determined the route corridor for sectors 1-5 and 7-9 (white route), it was necessary to refine the route to take account of the likely community, environmental, landholder, construction and cost impacts.

This resulted in some minor modifications to the route corridor in some areas, which follows direct liaison with affected landholders and more detailed on-ground survey, geotechnical, environmental and other investigations along the route corridor.

These modifications are generally within 50 metres of the approved route corridor – except within Sector 3, as noted below, where the proposed modifications are slightly more significant.

Further minor modifications to the proposed pipeline route alignment are expected to take place as a result of detailed design work and ongoing dialogue with the affected landholders. 'Fine-tuning' of the final route alignment may take place during the construction of the pipeline, depending on the actual ground conditions encountered during excavation work.

Pipeline Route - Sector 3:

Sector 3 is approximately 2.5 km long. Its eastern boundary lies about 100m west of the junction of Kidman's Lane and Yarramalong Road, and its western boundary runs across Yarramalong Road in the vicinity of the Wyong Creek Hall.

10 December 2008
To the Ordinary Meeting of Council

Director's Report
Shire Services Department

Reconsideration of the Recommended Pipeline Route Corridor for the Mardi-Mangrove Link Project (Attachment 1) (contd)

19 November 2008
To the Gosford/Wyong Councils' Water Authority Board
Meeting

Technical Advisory Group Report

Mardi to Mangrove Link Project - Recommended Pipeline Route (contd)

The 'white' route originally approved by both Gosford City Council and Wyong Shire Council earlier this year, together with the proposed alternative 'blue' route, is shown in Enclosure 1. As may be seen, it is proposed that the western part of the route through Sector 3 be moved about 150 metres south of the previously approved route, as shown by the 'blue' route.

The changed route results from design engineers visiting affected properties for liaison with landholders and to 'ground-truth' information which had been obtained previously from aerial photographs, reports and limited site inspection only. The alternative route has potentially been defined in conjunction with four of the five affected landholders. The fifth landholder has recently deceased and discussions are underway with the lawyers representing the deceased estate. The proposed alternative route ('blue' route) better accommodates landholder and constructability concerns, will be easier to construct, and will have less environmental impact than the original 'white' route.

As a result, the construction of the Mardi-Mangrove Link alternative 'blue' route corridor through Sector 3 will also have reduced landholder impact and be a lower cost option than the previously approved 'white' route.

There are no known material disadvantages to the alternative 'blue' route corridor.

Community Consultation:

Extensive community consultation has been a feature of the Mardi-Mangrove Link Project, and this has continued over recent months. Key elements include:

- face-to-face meetings with most affected landholders;
- face-to-face meetings, liaison and correspondence with all potentially affected Sector 6 landholders;
- development and maintenance of individual Landholder Packs designed to provide factual information about the Mardi-Mangrove Link Project, including survey and investigation activities, the compensation process, the easement acquisition process, land entry protocols and special entry requirements.
- updates to the GWCWA website;
- Project information in the Wyong Shire Council *Community Annual Report 2008*;
- 'Open House' information morning at the Wyong Creek Hall (27 September 2008);
- information displays at regional shopping centres;
- information displays at regional community events;
- regular briefings and information to Councillors and Councils' management;
- briefings to local State and Federal MPs;
- briefing to Community Environment Network;
- briefing to the Federal Department of Environment, Water, Heritage and the Arts, the government agency responsible for managing the Federal Funding Deed for the project.

Reconsideration of the Recommended Pipeline Route Corridor for the Mardi-Mangrove Link Project (Attachment 1) (contd)19 November 2008
To the Gosford/Wyong Councils' Water Authority Board
Meeting

Technical Advisory Group Report

Mardi to Mangrove Link Project - Recommended Pipeline Route (contd)**Pipeline Route - Sector 6:**

The eastern boundary of Sector 6 lies about 600m west of Boyd's Lane. Sector 6 then stretches west for about a further 1.8 kilometres from this point.

The previous assessment and evaluation process was unable to identify an optimum route through Sector 6 because each previously identified route had its own strengths and weaknesses. The report made to the Board for consideration at its meeting on 21 May 2008 noted:

The technical issues associated with the options available for this sector are complex. They have potential significant cost implications. The multi-criteria assessment scores for the identified route options are very close and it is much less clear which would be the preferred pipeline route option.

Further detailed studies are considered to be warranted in this sector prior to evaluating and selecting a preferred option. These studies will enable more certain definition of the impacts of each of the route options, and provide greater certainty in the multi-criteria assessment.

The investigations will include survey, geotechnical investigations, environmental and heritage assessments as well as preliminary engineering design to assist with assessment of constructability and refinement of the comparative cost estimates.

The studies and investigations referred to have now been undertaken and a further recommendation can be made for the proposed pipeline route for Sector 6. The Mardi-Mangrove Link Project Team has carried out a four-stage process to identify a preferred route through the sector. This work included:

- 1 A review of original route options;
- 2 The identification and review of further route options;
- 3 The shortlisting of preferred route options based on investigation work;
- 4 A multi-criteria analysis of the shortlisted options.

1 – Review of Original Pipeline Route Options:-

Earlier work on pipeline routes through Sector 6 had focussed on four original route options. These were:

Route Option	General Description
A	A route through private property, generally to the north of Yarramalong Road
B	A route within the Yarramalong Road Reserve
C	A mixed route through private property, generally to the south of Yarramalong Road, or within the road reserve
D	A mixed route through both private property and the Yarramalong Road reserve, and including two 500 metre long micro tunnels

10 December 2008
To the Ordinary Meeting of Council

Director's Report
Shire Services Department

Reconsideration of the Recommended Pipeline Route Corridor for the Mardi-Mangrove Link Project (Attachment 1) (contd)

19 November 2008
To the Gosford/Wyong Councils' Water Authority Board Meeting

Technical Advisory Group Report

Mardi to Mangrove Link Project - Recommended Pipeline Route (contd)

The Mardi-Mangrove Link Project Team reviewed each of these previous pipeline route options using 'ground truthing' through site visits and using information from further site investigations. This review achieved two outcomes:

- it concluded that each of the four original route options had significant on-going disadvantages that prevented their adoption without further changes in alignment;
- it helped to identify other viable route options (some variations on Route Options A, B C and D, as well as new options) that had sufficient merit to be examined more closely.

2 – Identification and Review of Further Pipeline Route Options:

Following the endorsement by Councils of the way forward for Sector 6, the Mardi-Mangrove Link Project Team has negotiated access to properties within Sector 6 to assess the local conditions and to engage with the affected landholders.

The assessment process included the following main activities:

- a walk-over of most of the area in Sector 6 by pipeline designers, in conjunction with potentially affected landholders, in order to view the topography and identify theoretically feasible pipeline route options;
- environmental impact assessments associated with the pipeline route options identified by the pipeline designers' walk-over;
- ecological investigations in the areas that might be impacted by the potential route options under consideration;
- geotechnical investigations comprising several boreholes across Sector 6;
- geomorphological investigations at key points along the identified route options;
- engineering review of proposed microtunnelling sites to assess the feasibility of tunnelling at those locations;
- discussions with affected landholders.
- assessment of Aboriginal and heritage impact;
- a review of the constructability of the potential route options; and
- comparative cost estimates for each route option under consideration.

In total, 11 theoretically feasible pipeline route options were identified and assessed by the Mardi-Mangrove Link Project Team. Of these, seven were determined to have material disadvantages that outweighed any possible advantages and which therefore did not merit the further expenditure of funds on investigation work to obtain additional information needed for a multi-criteria analysis process. Four potential route options remained.

Reconsideration of the Recommended Pipeline Route Corridor for the Mardi-Mangrove Link Project (Attachment 1) (contd)19 November 2008
To the Gosford/Wyong Councils' Water Authority Board Meeting

Technical Advisory Group Report

Mardi to Mangrove Link Project - Recommended Pipeline Route (contd)**3 – Short-listed Pipeline Route Options:**

The four short-listed route options are depicted in Enclosure 2, and are described below:

Route Option	Title	General Description
1	'Yellow' Route. (northern pasture route)	Predominantly through paddocks, and some bushland, to the north of Yarramalong Road. Two river crossings. Principally open trench construction but with one section of trenchless construction under properties. Would affect six landholders' properties.
2	'Red' Route. (southern pasture route)	Predominantly through open pasture to the north of Yarramalong Road. Four river crossings. All open trench construction (except for river crossings). Would affect nine landholders' properties.
3	'Green' Route. (road reserve route)	Predominantly within the road reserve of Yarramalong Road, but including some construction through paddocks either side of the road and with two sections of trenchless construction under properties. Two river crossings which would be underbored. Would affect six landholders' properties.
4	'Pink' Route. (pasture adjacent to road route)	Predominantly through paddocks to the north of, but adjacent to, Yarramalong Road using open trench construction but with two sections of trenchless construction under properties. Two river crossings which would be underbored. Would affect 12 landholders' properties.

Note that, as for all route information, the depiction of routes in Enclosure 2 represents a general route corridor rather than the precise alignment of the pipeline. The precise definition of the final alignment of the pipeline is an ongoing process necessary to accommodate landholder route preferences where possible, ease of construction, ground conditions, and related issues.

River Crossings:

All route options involve river crossings. There are three principal engineering techniques that could be used to achieve each of these crossings:

- surface trenching - through the river bed;
- underboring – boring under the river bed;
- pipe bridging – the pipe spans the river waterway from bank to bank.

10 December 2008
To the Ordinary Meeting of Council

Director's Report
Shire Services Department

Reconsideration of the Recommended Pipeline Route Corridor for the Mardi-Mangrove Link Project (Attachment 1) (contd)

19 November 2008
To the Gosford/Wyong Councils' Water Authority Board Meeting

Technical Advisory Group Report

Mardi to Mangrove Link Project - Recommended Pipeline Route (contd)

Each technique has different impacts that need to be assessed separately. Accordingly, to enable a more robust multi-criteria analysis process to be undertaken, Route Options 1 and 2 were both divided into three sub-options in order that these impacts could be more closely assessed and evaluated. For ease of reference, these sub-options were suffixed 't', 'u' or 'p' (for trenching, underboring and pipe bridging, respectively).

Route Options 3 and 4 were only assumed to underbore the river crossings.

Note: Pipe bridging does not mean that a formal access bridge will be constructed, only that the pipe itself will 'bridge' between the two banks of the river.

4 - Multi-Criteria Analysis of Short-listed Options:

The multi-criteria analysis process is an objective review of the impacts of each option under a series of pre-determined criteria. The impact criteria used were the same as those adopted previously to determine the route of the proposed Mardi-Mangrove Link pipeline through other sectors. The assessment and evaluation criteria against which each potential route option was analysed are summarised below:

- Landholder impacts;
- Community impacts;
- Environmental impacts;
- Constructability issues;
- Cost comparisons between options.

Full details of these five criteria are detailed in Appendix C, as are issues considered in the analysis and evaluation process.

The multi-criteria analysis for Sector 6 was undertaken during two half-day workshops held on 22 and 28 October 2008 respectively. The process involved sub-groups of people with specific criteria experience who scored the relevant impact of each of the five criteria on each potential pipeline route option. Each set of results was then reviewed collectively by all sub-groups, scrutinised and tested, and then the final scores consolidated.

Initially, each impact criterion was given the same weighting in the scoring; for example, the significant environmental impact was assessed to be equally important as the significant landholder impact. However, to ensure no unexpected bias had been inadvertently introduced into the results, a sensitivity analysis was also carried out. The sensitivity process involved each impact criterion in turn being afforded a weighting of two compared with the other four impact criteria.

Reconsideration of the Recommended Pipeline Route Corridor for the Mardi-Mangrove Link Project (Attachment 1) (contd)19 November 2008
To the Gosford/Wyong Councils' Water Authority Board Meeting

Technical Advisory Group Report

Mardi to Mangrove Link Project - Recommended Pipeline Route (contd)

Scores from the multi-criteria analysis process for Sector 6 Pipeline Route Options are shown below; the lower the score, the lower the assessed impact, and therefore the higher the preference for the proposed route option.

Sub-options	Route Option 1 (‘Yellow’ route) Northern Pasture			Route Option 2 (‘Red’ route) Southern Pasture			Option 3 (‘Green’ Route) Road Reserve	Option 4 (‘Pink’ Route) Adjacent to Road
	1t	1p	1u	2t	2p	2u	3	4
	Trench-ed	Pipe Bridge	Under-bore	Trench-ed	Pipe Bridge	Under-bore		
Landholder	4.3	4.3	4.3	3.7	3.7	3.7	2.0	3.0
Community	2.2	2.2	2.2	2.4	2.4	2.4	4.8	4.0
Environmental	4.0	3.0	2.0	5.0	3.5	3.0	1.0	1.5
Constructability	2.6	2.6	2.6	2.4	2.4	2.4	4.0	3.2
Cost	3.9	3.8	4.0	3.0	2.9	3.4	5.0	3.9
TOTAL	17.0	15.9	15.1	16.5	14.9	14.9	16.8	15.6
Ranking	8	5	3	6	1=	1=	7	4

Overall, two sub-options within Option 2 (‘Red’ Route - the ‘Southern Pasture’ route), emerged as having the least overall impact – sub-option ‘2p’ and sub-option ‘2u’, both ranked equal first.

The preferred river crossing method, in this instance, will be determined at a later date, once final site investigations and detailed design work have been completed.

It should also be noted that Sub-option ‘2p’ and Sub-option ‘2u’ both scored lower than any of the four route options considered in April and May 2008. The scores for the four original route options are noted below:

Option A – the private property route – scored 15.7

Option B – the road route – scored 17.5

Option C – the mixed route through the road reserve and private property – scored 16.8

Option D – the mixed route with micro-tunnelling – scored 15.4

Sensitivity Analysis:

Further analysis was then undertaken to test the sensitivity of each of the new route options. This process doubled the weighting for each impact criteria, one criterion at a time, to establish what effect that might have on the overall scores. It also assessed the sensitivity of the preferred route to differences of opinion on the relative importance of the impact criteria.

10 December 2008
To the Ordinary Meeting of Council

Director's Report
Shire Services Department

Reconsideration of the Recommended Pipeline Route Corridor for the Mardi-Mangrove Link Project (Attachment 1) (contd)

19 November 2008
To the Gosford/Wyong Councils' Water Authority Board Meeting

Technical Advisory Group Report

Mardi to Mangrove Link Project - Recommended Pipeline Route (contd)

The following table shows the ranking of each pipeline route option after doubling the weighting for each impact criterion in turn.

Sub-options	Route Option 1 (‘Yellow’ route) Northern Pasture			Route Option 2 (‘Red’ route) Southern Pasture			Option 3 (‘Green’ Route) Road Reserve	Option 4 (‘Pink’ Route) Adjacent to Road
	1t	1p	1u	2t	2p	2u	3	4
	Trench- ed	Pipe Bridge	Under- bore	Trench-ed	Pipe Bridge	Under- bore		
Equal weighting	8	5	3	6	1=	1=	7	4
Weighting doubled for each criterion in turn:								
Landholder	8	6=	5	6=	1=	1=	4	1=
Community	6	4	1=	5	1=	1=	8	7
Environmental	7	6	1=	8	5	4	3	1=
Constructability	7	4	3	6	1=	1=	8	5
Cost	7	6	3	5	1	2	8	4

The sensitivity analysis showed that, with the exception of Environmental impact, both Sub-options ‘2p’ and Sub-option ‘2u’ were robust under the doubling of weighting of any of the individual impact criteria; that is, the selection of the preferred pipeline route remained unchanged. This indicates that Option 2 (‘Red’ route) remains the preferred pipeline route option under the majority of circumstances which reinforces the conclusion drawn from the equally-weighted scores that Option 2, the ‘Red’ route, be selected.

Conclusion:

For Sector 6, it is recommended that Option 2 – the ‘Red’ Route - be approved as the proposed pipeline route through Sector 6 (as depicted in Enclosure 2);

Enclosures:

Enclosure 1 – illustrates the ‘white’ route for Sector 3 previously agreed by the two Councils, together the recommended alternative ‘blue’ route.

Enclosure 2 - illustrates the four route options shortlisted for evaluation under the multi-criteria analysis process:

Option 1 – ‘Yellow’ Route (northern pasture route) - predominantly through paddocks and bushland to the north of the Yarramalong Road;

Option 2 – ‘Red’ Route (southern pasture route) - predominantly through open pasture to the north of the Yarramalong Road;

Option 3 – ‘Green’ Route (road reserve route) - predominantly within the road reserve of the Yarramalong Road;

Option 4 – ‘Pink’ Route (pasture adjacent to road route) - predominantly through paddocks to the north of, but adjacent to, the Yarramalong Road.

10 December 2008
To the Ordinary Meeting of Council

Director's Report
Shire Services Department

Reconsideration of the Recommended Pipeline Route Corridor for the Mardi-Mangrove Link Project (Attachment 1) (contd)

19 November 2008
To the Gosford/Wyong Councils' Water Authority Board
Meeting

Technical Advisory Group Report

Mardi to Mangrove Link Project - Recommended Pipeline Route (contd)

Attachment 1 – details the five criteria against which the pipeline route options were assessed and the issues considered in the analysis and evaluation process.

Attachment 1 **Multi-Criteria Analysis of Short-listed Pipeline Route Options
(12 pages)**

Enclosure 1 **Sector 3 – Recommended Route**
Enclosure 2 **Sector 6 – Route Options**

Reconsideration of the Recommended Pipeline Route Corridor for the Mardi – Mangrove Link Project (Attachment 2)

Multi-Criteria Analysis of Short-listed Pipeline Route Options

The multi-criteria analysis process is an objective review of the impacts of each Route Option under a series of pre-determined criteria. The impact criteria used were the same as used previously to determine other Sectors of the Mardi-Mangrove Link pipeline route. They are outlined below:

Impact Criteria	Issues Considered
Landholder	Livestock; capital improvements; trees and native vegetation; land stability and erosion risk; dams and high groundwater levels; access restrictions; business disruption; existence of utility services; perceived saleability; and rock excavation / noise / quality of life impacts
Community	Traffic (road access and delays), road safety (pedestrian, horse-riding, bus stops), business disruption (shops, tourism, commuters), community services (utilities, schools, emergency services), and broad community impacts (including cost, timeframes, environmental concerns)
Environmental	Ecology (terrestrial fauna and flora and riparian and aquatic); geology and soil; indigenous and non-indigenous heritage; together with potential traffic, access, dust, erosion, sedimentation and noise impacts.
Constructability	Site accessibility, storage of excavation and construction materials, available construction corridor (desirably 30m width), ground conditions, river crossings, and traffic management impacts.
Cost	Based on comparative direct construction cost estimates (Note: these estimates were not developed from a developed design and therefore are indicative of overall relativity of costs only rather than indicative of budgetary requirements).

Reconsideration of the Recommended Pipeline Route Corridor for the Mardi – Mangrove Link Project (Attachment 2) (contd)

Considerations during the multi-criteria analysis process are outlined for each route in the following table:

Option 1 – ‘Yellow’ Route (northern pasture route)	
Impact criterion	Qualitative Assessment
Landholder (Option 1) ‘Yellow’ Route	<p>Overall, from a landholder perspective, Route Option 1 (‘Yellow’ Route) is considered to have the highest impact.</p> <p><u>Number of landholders affected</u> - Six landholders’ titles affected, with five experiencing relatively high impact.</p> <p><u>Property saleability</u> – Route would be relatively close to five dwellings and traverses across the most valued paddocks of three landholders - higher perceived impact on future saleability. Also, the route would run through properties rather than along property boundaries (except where the route runs within Council road reserve) – again, higher perceived impact on saleability.</p> <p><u>Route proximity to dwellings</u> – Route would be relatively close to five dwellings</p> <p><u>Quality of life during construction</u> - Four landholders affected by two river crossings - greater impact due to longer construction times (depending on river crossing method). Three landholders affected by major tunnel portals. The southern tunnel portal will be very close to the shed / dwelling of two of these landholders. Construction impact will be greater due to the length of time needed to construct the tunnel. Three landholders will be impacted by the pipeline route running through the centre of the laneway access to their properties. An avenue of trees may be disturbed.</p>
Community (Option 1) ‘Yellow’ Route	<p>Route Option 1 (‘Yellow’ Route) has the least community impact.</p> <p>Traffic – relatively low impact as the route predominantly runs through private property</p> <p>Road safety – manageable impact, although it will need careful coordination within traffic management plan to ensure that safety is maintained at access points</p> <p>Business Disruption – relatively low impact because only short stretches of public road would be disrupted at any one time</p> <p>Community services – relatively low impact as only short stretches of public road would be disrupted at any one time</p> <p>Broader community – relatively low impact as only short stretches of public road would be disrupted at any one time</p>

Reconsideration of the Recommended Pipeline Route Corridor for the Mardi – Mangrove Link Project (Attachment 2) (contd)

Option 1 – ‘Yellow’ Route (northern pasture route)	
Impact criterion	Qualitative Assessment
Environmental (Option 1) ‘Yellow’ Route	<p>Route Option 1 (‘Yellow’ Route) includes two river crossings and a micro tunnel section. Apart from the impacts associated with these, the overall environmental and heritage impact of Option 1 is assessed as being low. Each route sub-option (river crossing methodology) is discussed in more detail below:</p> <p><u>Trenching (Option 1t)</u>. Option 1t is assessed to have the second greatest environmental impact of all options considered, and the highest impact of river crossing methodologies for Option 1.</p> <ul style="list-style-type: none"> • <u>Ecological</u>. The riparian vegetation presents potential habitat for Magenta Lilly Pilly at both river crossings, as well as high quality riparian vegetation including Lowland Rainforest Endangered Ecological Community (EEC). Platypus burrows are located at the eastern crossing site, with female platypus captured approximately 100m from crossing point. There are also platypus burrows at the western crossing site. Trenching could lead to disruption to platypus foraging movements along river, as well as the direct loss of EEC vegetation and Magenta Lilly. The trenching option is likely to require the greatest amount of vegetation clearance of the three river crossing methodologies, but route Option 1 would have less impact than Route Option 2 (which has twice as many crossings). There is potential for significant downstream sediment pollution impacts during storm or flood event, and partial or total blockage of fish passage. • <u>Heritage</u>. The proximity to watercourses increases the potential for Aboriginal heritage relics to be encountered, particularly as the trenching method would require continuous surface disturbance.
Environmental (Option 1) ‘Yellow’ Route	<p><u>Underboring (Option 1u)</u>. Option 1u would have the lowest impact of all river crossing methodologies for Option 1, and would have relatively low environmental impact compared with all other options.</p> <ul style="list-style-type: none"> • <u>Ecological</u>. Underboring provides the opportunity to avoid the potential ecological and water quality impacts associated with trenching. There is potential for sediment to be displaced from the construction area. However, as the access and egress points can be a distance from the river, the potential for such erosion and sediment loss is reduced compared with the trenching option. • <u>Heritage</u>. The proximity to watercourses increases the potential for Aboriginal heritage relics to be encountered, however as it is limited to the underboring access and egress points, it has a lower area of disturbance, and therefore lower potential for disturbance of relics compared to the trenching method.

Reconsideration of the Recommended Pipeline Route Corridor for the Mardi – Mangrove Link Project (Attachment 2) (contd)

Option 1 – ‘Yellow’ Route (northern pasture route)	
Environmental (Option 1) ‘Yellow’ Route	<p><u>Pipe Bridging (Option 1p)</u>. Option 1p would have less environmental impact than Option 1t, but greater than Option 1u. Assessed against all options, Option 1p would have an average level of impact.</p> <ul style="list-style-type: none"> • <u>Ecological</u>. The pipe bridging option is likely to require much less vegetation clearance than the trenching option, but is likely to require more than the underboring option. There is potential habitat for Magenta Lilly Pilly at both river crossings, as well as high quality riparian vegetation including Lowland Rainforest EEC. Pipe bridging, however, avoids works in the river and disturbance of the riverbank, thereby avoiding the impacts on the platypus population as described for the trenching option. • <u>Heritage</u>. The proximity to watercourses increases the potential for Aboriginal heritage relics to be encountered. The area of disturbance where potential for Aboriginal heritage relics is present is only slightly reduced compared with the trenching option.
Constructability (Option 1) ‘Yellow’ Route	<p>Overall, Route Option 1 (‘Yellow’ Route) is the second easiest to construct</p> <p><u>Site accessibility</u> - Access throughout is relatively good.</p> <p><u>Storage of material</u> – the construction working area is wide enough for the temporary storage and handling of excavation and construction materials</p> <p><u>Available construction corridor</u> – Good: generally 30 metres available for majority of route</p> <p><u>Ground conditions</u> – Should be relatively good going, with no rock expected in the areas of open trenching work. However, ground and surface water management will be required.</p> <p><u>Traffic management</u> – For the majority of its length, this option will require only two entry/exit points onto the Yarramalong Road thus simplifying traffic management. However, the significant length of trenchless construction will generate additional flows of heavy vehicles exacerbating traffic management problem.</p>
Comparative Cost (Option 1) ‘Yellow’ Route	<p>Route Option 1 (‘Yellow’ Route) has the second highest comparative cost estimate and would be about 25% more costly than Route Option 2.</p> <p>The overall length of the Route 1 option is approximately 10% longer than Route Option 2. This route option involves a particularly long section of trenchless construction through a hill approximately half way along the route. Construction of this section would carry some risks due to uncertain geological conditions and would be at greater cost than the equivalent length of pipeline constructed in trench.</p> <p>This route option has two crossings of Wyong River. The comparative costs of construction of these crossings by trenching, bridging and underboring were estimated and included in the multi-criteria analysis.</p>

Reconsideration of the Recommended Pipeline Route Corridor for the Mardi – Mangrove Link Project (Attachment 2) (contd)

Option 2 – 'Red' Route (southern pasture route)	
Impact criterion	Qualitative Assessment
Landholder (Option 2) 'Red' Route	<p>Overall, from a landholder perspective, Route Option 2 ('Red' Route) is assessed to have the second highest impact.</p> <p><u>Number of landholders affected</u> - Nine landholders' properties affected including a relatively high impact on two landholders.</p> <p><u>Property saleability</u> – The route would run across properties rather than along property boundaries (higher perceived impact on saleability).</p> <p><u>Route proximity to dwellings</u> – The route is very close to two dwellings. For one of these properties, the pipeline route also traverses the middle of the property (although there may be scope to modify the alignment to a minor extent in conjunction with the landholder to reduce this impact).</p> <p><u>Quality of life during construction</u> - Eight landholders would be affected by construction of four river crossings - may have greater impact due to longer construction times (depending on river crossing method).</p>
Community (Option 2) 'Red' Route	<p>Route Option 2 ('Red' Route) is assessed as having the second lowest impact on the broader community.</p> <p><u>Traffic</u> – relatively low impact because only short stretches of the road would be disrupted at any one time</p> <p><u>Road safety</u> – manageable, although will need careful coordination within traffic management plan to ensure that safety is maintained at access points</p> <p><u>Business Disruption</u> – relatively low impact because only short stretches of road would be disrupted at any one time</p> <p><u>Community services</u> – relatively low impact because only short stretches of the road would be disrupted at any one time</p> <p><u>Broader community</u> – the extra river crossings involved with this Option may result in greater community concern about costs and environmental issues</p>

Reconsideration of the Recommended Pipeline Route Corridor for the Mardi – Mangrove Link Project (Attachment 2) (contd)

Option 2 – 'Red' Route (southern pasture route)	
Environmental (Option 2) 'Red' Route	<p>Route Option 2 ('Red' Route) includes four river crossings. Apart from the impacts associated with these, the overall environmental and heritage impact of Option 2 is assessed as being low. Each route sub-option (river crossing methodology) is discussed in more detail below:</p> <p><u>Trenching (Option 2t)</u>. Option 2t is assessed to have the greatest environmental impact of all options.</p> <ul style="list-style-type: none"> • <u>Ecological</u>. The riparian vegetation presents potential habitat for Magenta Lilly Pilly at both river crossings, as well as high quality riparian vegetation including Lowland Rainforest Endangered Ecological Community (EEC). Platypus burrows are located at the eastern crossing site, with female platypus captured approximately 100m from crossing point. Platypus burrows are also located at second crossing site (from the east), with one platypus seen and two male platypuses captured at or within 100m of crossing point. Platypus burrows are also located at the western crossing site. Trenching could lead to disruption to platypus foraging movements along river, as well as the direct loss of EEC vegetation and Magenta Lilly. There is potential for significant downstream sediment pollution impacts during storm or flood event, and partial or total blockage of fish passage. Of the all route options, Option 1t is likely to require the greatest amount of vegetation clearance and pose the greatest risk to the platypus population. • <u>Heritage</u>. The proximity to watercourses increases the potential for Aboriginal heritage relics to be encountered, particularly with the trenching method requiring continuous surface disturbance. <p><u>Underboring (Option 2u)</u>. Option 2u would have the least environmental impact of all the river crossing methodologies, with an average impact when considered against all route options.</p> <ul style="list-style-type: none"> • <u>Ecological</u>. Underboring provides the opportunity to avoid the potential ecological and water quality impacts associated with trenching. There is potential for sediment to be displaced from the construction area. However, as the access and egress points can be a distance from the river, the potential for such erosion and sediment loss is reduced compared with the trenching option. However, because there would be eight such points compared to four for Option 1u, the potential for erosion and sediment loss would be greater. • <u>Heritage</u>. The proximity to watercourses increases the potential for Aboriginal heritage relics to be encountered, however as it is limited to the underboring access and egress points, it has a lower area of disturbance, and therefore lower potential for disturbance of relics.

Reconsideration of the Recommended Pipeline Route Corridor for the Mardi – Mangrove Link Project (Attachment 2) (contd)

Option 2 – 'Red' Route (southern pasture route)	
Environmental (Option 2) 'Red' Route	<p><u>Pipe Bridging (Option 2p)</u>. Option 2p is assessed to have marginally more impact than Option 1u, with an average impact when compared with all route options.</p> <ul style="list-style-type: none"> <u>Ecological</u>. Option 2p is likely to require less vegetation clearance than Option 2t, but more than Option 2u. Option 2p is likely to have the second most vegetation clearance of all route options. There is potential habitat for Magenta Lilly Pilly at all river crossings, as well as high quality riparian vegetation including Lowland Rainforest EEC. Option 2p does, however, avoid works in the river, including disturbance of the riverbank, thereby avoiding the impacts on the platypus population resulting from the trenching option. There is potential for erosion / sediment pollution impacts from the construction activities. The construction areas are outside the river, therefore avoiding the potentially significant issues associated with trenching. However, works are still required fairly close to the river, and could pose an erosion and sediment loss risk in times of high flows and flooding. <p><u>Heritage</u>. The proximity to watercourses increases the potential for Aboriginal heritage relics to be encountered. The area of disturbance where potential for Aboriginal heritage relics is present is only slightly reduced compared to the trenching option.</p>
Constructability (Option 2) 'Red' Route	<p>Overall, Route Option 2 ('Red' Route) should be the easiest to construct.</p> <p><u>Site accessibility</u> - Access throughout is relatively good.</p> <p><u>Storage of material</u> – the construction working area is wide enough for the temporary storage and handling of excavation and construction materials</p> <p><u>Available construction corridor</u> – Good: generally 30m available for majority of route</p> <p><u>Ground conditions</u> – Should be relatively good with no rock expected. However, ground and surface water management will be required.</p> <p><u>Traffic management</u> – For about half its length, this option will have multiple entry / exit points onto the Yarramalong Road which will require careful (and complex) traffic management.</p>
Comparative Cost (Option 2) 'Red' Route	<p>Route Option 2 ('Red' Route) has the lowest comparative cost estimate for construction of the proposed pipeline compared with the other three route options.</p> <p>This route option does not involve significant lengths of trenchless construction and avoids significant traffic management requirements.</p> <p>This route option has four crossings of Wyong River. The comparative costs of construction of these crossings by trenching, bridging and underboring were estimated and included in the multi-criteria analysis.</p>

Reconsideration of the Recommended Pipeline Route Corridor for the Mardi – Mangrove Link Project (Attachment 2) (contd)

Option 3 – 'Green' Route (road reserve route)	
Impact criterion	Qualitative Assessment
Landholder (Option 3) 'Green' Route	<p>Overall, from a landholder perspective, Route Option 3 ('Green' Route) has the least impact.</p> <p><u>Number of landholders affected</u> - Six landholders' titles affected (2 will have strata easements only for the tunnels), subject to further surveying of road - more private properties may be affected if the road is located in private land rather than the road reserve. (Note this is a significant issue - may require additional easements or land to be acquired).</p> <p><u>Property saleability</u> – not applicable for this option</p> <p><u>Route proximity to dwellings</u> – The route runs close to seven dwellings and will cross a number of driveways to dwellings.</p> <p><u>Quality of life during construction</u> - Relatively low direct impact on individual landholders from a property use and title perspective. Four landholders would be affected by tunnelling works - more lengthy construction impact. One landholder may be affected by deep tunnelling works close to a dwelling</p>
Community (Option 3) 'Green' Route	<p>Route Option 3 ('Green' Route) would have the highest impact on the community due to extensive construction activity along Yarramalong Rd.</p> <p><u>Traffic</u> – significant impact during to lengthy traffic delays</p> <p><u>Road safety</u> – although manageable, extensive disruption to Yarramalong Road would inevitably result in higher safety concerns due to pedestrian, vehicle and animal proximity to construction plant, vehicles and open trenching.</p> <p><u>Business Disruption</u> – significant adverse impact on local businesses activities due to traffic delays</p> <p><u>Community services</u> - significant adverse impact due to traffic delays</p> <p><u>Broader community</u> - significant adverse impact, especially due to concern about cost factors and business disruptions.</p>
Environmental (Option 3) 'Green' Route	<p>Route Option 3 ('Green' Route) is assessed to have the least environmental impact.</p> <p><u>Ecological</u> - Option 3 includes a microtunnel under the Wyong River and therefore avoids direct impacts on the aquatic environment, including platypus habitat. A second section of microtunnel (at the eastern end of the route option) is assessed to have only marginal impact on the local environment. There is a small number of <i>Melaleuca biconvexa</i> located along the road verge, however impacts on the species expected to be minimal. Large hollow-bearing trees along road route are unlikely to require removal, although roots may be impacted.</p> <p><u>Heritage</u> - Due to the route being within the road corridor, it is heavily disturbed and therefore has a reduced potential for Aboriginal heritage relics to be present.</p>

Reconsideration of the Recommended Pipeline Route Corridor for the Mardi – Mangrove Link Project (Attachment 2) (contd)

Option 3 – 'Green' Route (road reserve route)	
Constructability (Option 3) 'Green' Route	<p>Overall, Route Option 3 ('Green' Route) would be the most difficult route to construct.</p> <p><u>Site accessibility</u> - Good. Easily accessible along all the route.</p> <p><u>Storage of material</u> - Storage within the road reserve will be severely constrained, and only limited off-road storage available. Therefore, double-handling of material is likely.</p> <p><u>Available construction corridor</u> – Poor: generally 10 metres wide</p> <p><u>Ground conditions</u> – Challenging. Road reserve is already occupied by power lines (HV and LV) along entire length of route, and Telstra underground infrastructure is along some 80% of the route. Significant road pavement reinstatement will be necessary</p> <p><u>Traffic management</u> – Reduced road access will be required for entire length of route significantly restricting traffic flows. The two sections of trenchless construction will generate additional flows of heavy vehicles and the need for careful traffic management.</p>
Comparative Cost (Option 3) 'Green' Route	<p>Route Option 3 ('Green' Route) has the highest comparative cost estimate and would be about 45% more costly than Route Option 2.</p> <p>The overall length of Option 3 is approximately the same as Option 2.</p> <p>This route option involves two long sections of trenchless construction which would involve greater cost than the equivalent length of pipeline constructed in trench.</p> <p>The increased costs of construction in the road reserve are particularly evident in the comparative cost estimates for this option. The challenges of constructing in a very narrow working corridor, whilst maintaining traffic flow and dealing with existing utilities (power and telecommunications) are all reflected in the cost of construction.</p>

Option 4 – 'Pink' Route (pasture adjacent to road route)	
Impact criterion	Qualitative Assessment
Landholder (Option 4) 'Pink' Route	<p>Overall, from a landholder perspective, Route Option 4 ('Pink' Route) is considered to offer the second best option</p> <p><u>Number of landholders affected</u> - 12 landholders' titles affected, subject to further surveying of road (fewer private properties may eventually be affected).</p> <p><u>Property saleability</u> – The route will run along the front boundary for most of the affected properties (lower perceived impact on property), although some of these landholders prefer the route through the back of their properties (where the land is low-lying and less valuable) rather than along their front boundaries.</p> <p><u>Route proximity to dwellings</u> – The route would run close to seven dwellings and will cross a number of driveways to dwellings.</p> <p><u>Quality of life during construction</u> - Four landholders affected by tunnelling works - more lengthy construction impact. One landholder may be affected by deep tunnelling works close to a dwelling.</p>

**Reconsideration of the Recommended Pipeline Route Corridor for the Mardi
– Mangrove Link Project (Attachment 2) (contd)**

Option 4 – 'Pink' Route (pasture adjacent to road route)	
Community (Option 4) 'Pink' Route	<p>Route Option 4 ('Pink' Route) has the second highest impact on the broader community, with similar issues to those associated with Option 3</p> <p><u>Traffic</u> – significant impact due to lengthy traffic delays as construction is close to the road reserve</p> <p><u>Road safety</u> – although manageable, extensive disruption to Yarramalong Road would inevitably result in higher safety concerns due to proximity of pedestrians, vehicles and animals to construction plant, vehicles and open trenching.</p> <p><u>Business Disruption</u> – significant adverse impact on local businesses due to traffic delays along Yarramalong Road</p> <p>Community services - significant adverse impact due to traffic disruption along Yarramalong Road</p> <p><u>Broader community</u> - adverse impact, especially due community concerns about cost factors and business disruptions</p>
Environmental (Option 4) 'Pink' Route	<p>Route Option 4 ('Pink' Route) is assessed to have the second least environmental impact (only marginally greater than Option 3)</p> <p><u>Ecological</u> – Option 4 includes a microtunnel under the Wyong River and therefore avoids direct impacts on the aquatic environment, including platypus habitat. A second section of microtunnel (at the eastern end of the route option) is assessed to have only marginal impact on the local environment. There is a small number of <i>Melaleuca biconvexa</i> located along the road verge, however impacts on the species expected to be minimal, or in many places avoided (where it travels through private property rather than the road corridor). Large hollow-bearing trees along road route would be avoided by passing through private property, although roots may be impacted. Option 4 is likely to require the least vegetation clearance of all route options.</p> <p><u>Heritage</u> - Due to the route being close to the road corridor, and in areas subject to various activities, there is a reduced potential for Aboriginal heritage relics to be present, but Option 4 does impact a greater area of undisturbed land compared to the Option 3, posing a greater potential for Aboriginal heritage relics to be discovered.</p>

Reconsideration of the Recommended Pipeline Route Corridor for the Mardi – Mangrove Link Project (Attachment 2) (contd)

Option 4 – 'Pink' Route (pasture adjacent to road route)	
Constructability (Option 4) 'Pink' Route	<p>Overall, Route Option 4 ('Pink' Route) is the second most difficult route to construct.</p> <p><u>Site accessibility</u> – Reasonable access throughout due to this route option being adjacent to Yarramalong Road. Access from road would be achieved mainly through short formed access roads constructed through properties.</p> <p><u>Storage of material</u> – Constrained due to vegetation, buildings and other infrastructure. Double-handling of materials is likely.</p> <p><u>Available construction corridor</u> – Although 30m available for some of the route, large sections will afford only 10-15m width.</p> <p><u>Ground conditions</u> – Some rock expected that will slow progress. Option requires Yarramalong Road to be crossed four times with resulting need to be careful to avoid existing infrastructure in road reserve (power lines and telecommunications infrastructure).</p> <p><u>Traffic management</u> – For the majority of its length, construction will occur within 20m of Yarramalong Road and traffic management will be complex as a result. The two sections of trenchless construction will generate additional flows of heavy vehicles exacerbating traffic management problem.</p>
Comparative Cost (Option 4) 'Pink' Route	<p>Route Option 4 has the second lowest comparative cost estimate which would be approximately 15% more costly than Route Option 2.</p> <p>The overall length of Route Option 4 is approximately 5% greater than Route Option 2.</p> <p>This route option involves two long sections of trenchless construction which would involve greater cost that the equivalent length of pipeline constructed in trench.</p> <p>The estimated cost to construct along this route is lower than Option 3 because the reinstatement costs are much lower than for construction in road and the traffic management issues will not be as significant.</p>

Reconsideration of the Recommended Pipeline Route Corridor for the Mardi – Mangrove Link Project (Attachment 2) (contd)**Multi-Criteria Analysis**

Scores from the multi-criteria analysis process for Sector 6 Pipeline Route Options are shown below; the lower the score, the lower the assessed impact, and therefore the higher the preference for the proposed route option.

Sub-options	Route Option 1 ('Yellow' route) Northern Pasture			Route Option 2 ('Red' route) Southern Pasture			Option 3 ('Green' Route) Road Reserve	Option 4 ('Pink' Route) Adjacent to Road
	1t	1p	1u	2t	2p	2u	3	4
	Trench-ed	Pipe Bridge	Under -bore	Trench-ed	Pipe Bridge	Under -bore		
Landholder	4.3	4.3	4.3	3.7	3.7	3.7	2.0	3.0
Community	2.2	2.2	2.2	2.4	2.4	2.4	4.8	4.0
Environmental	4.0	3.0	2.0	5.0	3.5	3.0	1.0	1.5
Constructability	2.6	2.6	2.6	2.4	2.4	2.4	4.0	3.2
Cost	3.9	3.8	4.0	3.0	2.9	3.4	5.0	3.9
TOTAL	17.0	15.9	15.1	16.5	14.9	14.9	16.8	15.6
Ranking	8	5	3	6	1=	1=	7	4

Sensitivity Analysis

Rankings for the sensitivity analysis are summarised in the table below.

This depicts the ranking when equal weightings are first applied to each criteria, and then when weightings are doubled for each individual criteria in turn.

Sub-options	Route Option 1 ('Yellow' route) Northern Pasture			Route Option 2 ('Red' route) Southern Pasture			Option 3 ('Green' Route) Road Reserve	Option 4 ('Pink' Route) Adjacent to Road
	1t	1p	1u	2t	2p	2u	3	4
	Trench-ed	Pipe Bridge	Under -bore	Trench-ed	Pipe Bridge	Under -bore		
Equal weighting	8	5	3	6	1=	1=	7	4
Weighting doubled for each criterion in turn:								
Landholder	8	6=	5	6=	1=	1=	4	1=
Community	6	4	1=	5	1=	1=	8	7
Environmental	7	6	1=	8	5	4	3	1=
Constructability	7	4	3	6	1=	1=	8	5
Cost	7	6	3	5	1	2	8	4

WYONG SHIRE COUNCIL

10 December 2008
To the Ordinary Meeting of Council

Director's Report
Shire Services Department

561 Annual \$10,000 Grant to Central Coast Academy of Sport

F2004/06642 MA/IS

SUMMARY

Report on the annual grant to the Central Coast Academy of Sport.

RECOMMENDATION

That Council contribute an amount of \$10,000 to the Central Coast Academy of Sport for the 2008-09 financial year.

BACKGROUND

The Central Coast Academy of Sport is a local initiative aimed at providing opportunities for athletes, coaches and administrators from all sports on the Central Coast of New South Wales. The Academy is a not for profit organisation aimed at supporting and improving the prowess of those involved in sport. It has been positioned to ensure the sports industry of the region has an opportunity to fully develop its skills and expertise.

At the 2005 November meeting of the Central Coast Regional Organisation of Councils (CCROC) held in Wyong, it was recommended that both Gosford City and Wyong Shire Councils each contribute an amount of \$10,000 to the Central Coast Academy of Sport. In 2004 Gosford City and Wyong Shire Councils made a joint contribution of \$10,000.

Since that time, each Council has contributed an amount of \$10,000 per annum to the academy.

Grants Funding Process

The Central Coast Regional Organisation of Councils (CCROC) receives requests from local organisations for funding. The Central Coast Academy of Sport is one such organisation that seeks funding.

Ordinarily, CCROC would meet to assess grant applications and vote on and approve funds to be distributed from the pool of funds for CCROC (line 1.7.11 in the Management Plan). Following approval of the assessment recommendations by CCROC, the grants are administered and distributed.

Annual \$10,000 Grant to Central Coast Academy of Sport (contd)

However, due to Council elections, CCROC has not met recently and is not due to meet until the first quarter of the calendar year 2009. In order to avoid delaying payment of this grant to the Academy until the next meeting, it is recommended that Council consider authorising the grant payment forthwith.

AMENDED REPORT

WYONG SHIRE COUNCIL

10 December 2008
To the Ordinary Meeting of Council

Director's Report
Shire Services Department

562 Commonwealth Government Local Government Infrastructure Grants Funding

F2008/02556 SB

SUMMARY

This report provides details of projects proposed for selection by Council for implementation under the Commonwealth Government Local Government Infrastructure Grants Funding Program announced on the 18 November 2008.

RECOMMENDATION

- 1** *That Council adopts projects one to six from the list enclosed to the total value of \$1,529,000 for submission to the Commonwealth Government.*
- 2** *That Council endorses the two sections of the 'Linking the Community' Project as described in this report, with an estimated value of \$4,000,000, as its preferred project under the strategic project component of the Grant.*

BACKGROUND

The Prime Minister, the Hon Kevin Rudd MP, announced at the Australian Council of Local Government inaugural meeting on 18 November 2008 that the Australian Government will contribute \$300 million to local councils and shires and their communities in 2008-09 to encourage the approval and implementation of infrastructure projects, stimulate the local economy, support jobs and provide worthwhile projects that improve the quality of life in local communities.

The funding will be available for new construction and major renovations or refurbishment of assets, ranging from access facilities such as walkways and boat ramps, through to social and cultural spaces, facilities for recreation, tourism, children, youth and seniors and environmental initiatives. It is not available for operational costs and maintenance, transport infrastructure such as roads or related infrastructure covered by the Roads to Recovery or Black Spots Programs.

The Regional and Local Community Infrastructure Program (RLCIP) will have two components; a \$250 million allocation and a \$50 million allocation.

**Commonwealth Government Local Government Infrastructure Grants
Funding (contd)**

The process for release of funding is as follows:

\$250 Million Allocation

- Councils have until 30 January 2009 to return documentation. In their responses, councils will have to stipulate that the identified projects are ready to proceed and are additional to currently budgeted projects.
- Funding will start to be released shortly afterwards.
- The allocation for Wyong Shire is \$1,529,000.

These funds will be available for additional and ready-to-proceed community infrastructure projects, and for additional stages of projects that are currently underway.

The agreement between the Council and the Commonwealth must be finalised by 30 January 2009 to receive the payment. Funding must be expended by 30 September 2009.

The attached enclosure provides details of the projects proposed for selection for inclusion in this component of the grant.

\$50 Million Strategic Projects

Strategic Projects funding will be available for large strategic projects seeking a minimum Commonwealth contribution of \$2 million.

Larger projects and projects which include partnership funding will be given preference.

Projects will be allocated funding on a nationally competitive basis and will be assessed by the Department of Infrastructure, Transport, Regional Development and Local Government. Applications for this part of the Grant Funding are due by the 23rd December 2008.

The Government expects to announce successful projects by February 2009 and to finalise agreements within four weeks of the letter of offer. Construction must commence within six months of signing the agreement.

**Commonwealth Government Local Government Infrastructure Grants
Funding (contd)**

Examples of Community Infrastructure

Social and Cultural Infrastructure	
<ul style="list-style-type: none"> • Town halls • Theatre/music/art spaces • Community centres • Historic buildings • Libraries • Parks and gardens 	<ul style="list-style-type: none"> • Local heritage sites • Internet kiosk infrastructure • Museums • Kitchens for organisations • Cultural centres • Community market areas • Enhancement of main streets and public squares
Recreation Facilities	
<ul style="list-style-type: none"> • Sports grounds and facilities • Swimming pools • Sports stadiums • Walking tracks and bicycle paths • Community recreation spaces • Skate Parks 	<ul style="list-style-type: none"> • Playgrounds • BMX/Mountain Bike parks/trails • Rail trails • Surf lifesaving clubs
Tourism Infrastructure	
<ul style="list-style-type: none"> • Convention or trade centres • Community public attractions • Memorial halls/walkways • Buildings for exhibits 	<ul style="list-style-type: none"> • Tourism information centres • Local infrastructure to support or provide access to tourist facilities
Children, Youth and Seniors Facilities	
<ul style="list-style-type: none"> • Playgroup centres • Scout/guide halls 	<ul style="list-style-type: none"> • Youth centres • Senior citizens' centres

Commonwealth Government Local Government Infrastructure Grants Funding (contd)

Access Facilities

- Disabled access infrastructure
- Jetties/wharves/piers/pontoons
- Footbridges
- Bus/rail terminal upgrade
- Foreshore development
- Boat ramps

Environmental Initiatives

- Water source and treatment
- Wastewater infrastructure
- Drain and sewerage upgrades
- Water recycling plants
- Water conservation infrastructure
- Water catchments
- Waste management and processing infrastructure

It is proposed to submit an application for the "Linking the Community" project under the strategic projects component of the grant.

'Linking the Community' is part of a Council initiative to develop an extensive network of shared pathways to connect communities and provide additional opportunities for residents and visitors alike. The project will achieve a network of shared pathways across the Shire that will provide;

- Vital links from isolated communities to key community infrastructure;
- Improved social equity, through a low cost and accessible transport option for young people, older persons, those without a vehicle and /or access to public transport and other disadvantaged groups;
- An alternative non-polluting transport option, reducing transport noise, air and stormwater pollution, greenhouse gas emissions and fuel use;
- A sustainable transport system and a more liveable community;
- Recreational facilities that will assist in improving physical and mental health of the community, and lead to reduction in health care costs
- Improved tourism opportunities for visitors through linkages to key destinations and experiences.

Since 1990, Council has constructed more than 38 kilometres of these pathways, which are used for all types of recreation and fitness activities including walking, jogging and cycling.

10 December 2008
To the Ordinary Meeting of Council

Director's Report
Shire Services Department

**Commonwealth Government Local Government Infrastructure Grants
Funding (contd)**

Two shared pathway networks having a total preliminary cost estimate of \$4M, (subject to detailed survey and design), have been identified:

- 1 One in the North Entrance, from Terilbah Place North to Magenta Shores and beach accesses.
- 2 One to connect Mannering Park, Doyalson North and Chain Valley areas.

Enclosure

***Summary of Proposed Works to be Completed by September
2009 (\$1.529 M)***

WYONG SHIRE COUNCIL

10 December 2008
To the Ordinary Meeting of Council

General Manager's Report

**563 Minutes of the Wyong Shire Code of Conduct Committee
 Meetings – 27 May and 11 September 2008**

SUMMARY

Minutes of the Code of Conduct Committee Meetings held on 27 May 200 and 11 September 2008.

RECOMMENDATION

That Council receive the minutes of the Wyong Shire Code of Conduct Committee meetings held on 27 May and 11 September 2008 and the recommendations contained therein be adopted.

BACKGROUND

Meetings of the Wyong Shire Code of Conduct Committee meeting were held on 27 May and 11 September 2008. The minutes of those meetings are enclosed.

Enclosure

Minutes of the Wyong Shire Code of Conduct Committee meetings held on 27 May and 11 September 2008

Information Reports

The following information reports are to be dealt with by the exception method.

564 Clearing of Wetland Areas at WadalbaF2005/00562 SD&TG

SUMMARY

The report provides an update on the history of the deemed concurrence issued by the Department of Environment and Climate Change (DECC) in respect of the Wadalba urban release area and actions being conducted as part of the Wadalba Wildlife Corridor (WWC) Management Plan.

RECOMMENDATION

That Council receive the report on the clearing of Wetland Areas at Wadalba.

ORDINARY MEETING HELD ON 13 AUGUST 2008

Council at its meeting held on 13 August 2008, resolved as follows:

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

- 1 That given recent clearing of wetland vegetation in the Wadalba area which has raised significant concern of the local community, staff provide:*
 - a A brief history of the agreement between developers and Council with the deemed concurrence of Department of Environment and Conservation - DEC (now Department of Environment and Climate Change) aimed at 'streamlining' the Species Impact Statement/environmental approvals process.*
 - b History of and reasons for Council apparently extending a number of Development Applications beyond their usual period.*
- 2 That in respect of the Wadalba Wildlife Corridor Management Plan (Conacher Travers, September 2006), could staff outline further the history of inspections carried out, reports and follow-up action taken by Council officers in an endeavour to:*
 - a Fulfil its responsibilities for a periodic review of the management plan.*
 - b Ensure all other parties have properly fulfilled their responsibilities.*
- 3 That this report be brought back to Council as soon as is practicable."*

Clearing of Wetland Areas at Wadalba (contd)

BACKGROUND

The majority of the Wadalba residential urban release area was originally rezoned between 10-15 years ago. In planning the Wadalba area, provision was made for a wildlife corridor. However the original design of the corridor was found to be deficient in terms of protecting a number of threatened species and in not providing effective linkages to adjoining areas of bushland. As a result Council staff had expressed concerns about a number of residential subdivision proposals which were under consideration by Council between 2000-2003. Council staff had initially indicated that some of these development applications could potentially have "significant" impacts on certain threatened species and it was decided to undertake a strategic review of all of the threatened species/biodiversity issues and anticipated development impacts which were known to exist at the time, as opposed to resolving these issues on a site by site basis.

This approach was supported by the DECC and resulted in a deemed concurrence being issued for certain parts of Wadalba and the wildlife corridor being expanded in size (see Enclosure 2 which shows additions to the wildlife corridor). The deemed concurrence provides development certainty over areas where DECC agreed to give its approval (or concurrence) where residential subdivisions were planned to occur. Notwithstanding, over the past few years some members of the community have raised concerns about clearing residential zoned land within the Wadalba urban release area.

History Of The Deemed Concurrence Issued By DECC For Wadalba Wildlife Corridor

On 24 December 2004, DECC issued a deemed concurrence to permit development in certain parts of Wadalba, subject to specific conditions being met. These conditions include:

- All of the corridor areas being transferred into Council ownership;
- Preparation of a Management Plan to the satisfaction of DECC and Council; and
- All corridor areas being rezoned to an appropriate conservation zoning and managed as community land. DECC indicated that there was not an immediate need to rezone additional corridor areas to 7 (a) (Conservation) as this can be undertaken when land use zonings are reviewed (currently being undertaken by Council's Future Planning Unit).

The deemed concurrence was the result of protracted negotiations over many years and is aimed at streamlining the Species Impact Statement (SIS) environmental approvals process. This arose in response to the incremental impact of various residential subdivision proposals, which were considered to have the potential for significant impacts on a range of threatened species occurring in the Wadalba urban release area. It was also acknowledged that there were a number of pre-existing problems with the original design of the Wadalba Wildlife Corridor (WWC). These problems were rectified by adding extra land to the corridor which had previously been proposed for development. The main species of concern were the Squirrel Glider, Masked Owl, Powerful Owl and a number of threatened bat species.

Clearing of Wetland Areas at Wadalba (contd)

The Management Plan for the Wadalba Wildlife Corridor was completed in September 2006. Deeds of agreement with a number of property developers were also established to transfer additional land into the wildlife corridor.

The revised corridor design provides for:

- Planned future extensions of the wildlife corridor to link areas to the north of the Pacific Highway and to the south across Johns Road, Wadalba. This has the potential to be linked to the Tacoma Wetlands;
- Reduction in the number of road crossings through the main corridor section;
- New linkage planned through the Wadalba sporting fields site to provide additional linkage through to planned residential estates on the northern side of the Pacific Highway (Louisiana Road Infill Precinct rezoning); and
- Protection of Masked Owl trees and buffer zones within corridor additions.

As shown by comparing Enclosures 1 and 2, the deemed concurrence expands the wildlife corridor to protect threatened species habitat through the addition of 22 hectares of land to the corridor. The deemed concurrence by DECC is only valid for development applications within the Wadalba area.

Following the issue of a deemed concurrence from DECC (in June 2008), a new orchid species was listed on the *Threatened Species Conservation Act*. This species is known as *Thelymitra adorata* and is known to occur in the Wadalba area. Council staff have been requiring all applicants to conduct seasonal surveys to ensure that proper threatened species assessments are conducted for this species. However, it should be noted that a number of development applications were approved prior to this species being listed within the Wadalba area. Some residents have raised concerns when some *Thelymitra adorata* were found outside of the designated corridor areas earlier this year. This occurred within an area where development had been approved many years before the species was listed on the *Threatened Species Conservation Act, 1995* on the basis that the applicants have valid development consents and there is nothing Council can do from a legal perspective to protect the orchid should it be found on that land.

Reasons For Extending A Number Of Development Applications Beyond Their Usual Period

Several development applications for residential subdivision have had time extensions granted under the provisions of the *Environmental Planning and Assessment Act, 197* (EP&A Act) at Wadalba. The reasons cited for these extensions have generally been due to market forces ie; reduced demand therefore slower residential development in Wyong Shire. It is not unusual for development consents to be extended, especially for large DA's that have long lease times.

Clearing of Wetland Areas at Wadalba (contd)

The following DAs have had time extensions:

Property	DA No	Description	Date of Original Consent	Date of 12 Month Extension	Final Cessation Date	Reason	Works Commenced
Lot 2602 DP 1043825 Van Stappen Road, Wadalba	1042/2005	3 Lot Subdivision	13/09/2005	10/10/2007	13/09/2008	Allow for the finalisation of engineering construction certificates prior to works.	Yes
Lot 102 DP 1019019, 501 Pacific Highway, Wadalba	3140/2004	65 Lot Subdivision	24/02/2006	28/12/2007	24/02/2009	Final survey plans being finalised, with the added pressure of market factors.	No
Lot 1 DP 376236, Lot 2602 DP 1043825 and Proposed Lot 2604 531 Pacific Highway, and Lot 2602 Van Stappen Road, Wadalba	1081/2005	48 Residential and 4 Residue Lots	08/05/2006	22/11/2007	08/05/2009	Finalisation of engineering and delays in employing a suitably qualified civil contractor	No

Clearing of Wetland Areas at Wadalba (contd)

Property	DA No	Description	Date of Original Consent	Date of 12 Month Extension	Final Cessation Date	Reason	Works Commenced
Lot 102 DP 1019019. 501 Pacific Highway, Wadalba	444/2006	14 Lot Subdivision and Boundary Adjustment	14/06/2006	08/05/2008	14/06/2009	To allow for the finalisation of access arrangements, and to enable the subsequent preparation of the engineering design	No
Lot 196 DP 1006789	1492/2004	29 Unit Residential Flat Building	13/09/2004	13/04/2008	13/09/2007	Market factors	No

The location of the above applications are shown in Attachment 1.

Clearing of Wetland Areas at Wadalba (contd)

History of inspections carried out, reports and follow-up actions taken by Council Officers in an endeavour to:

A Fulfil its Responsibilities for a Periodic Review of the Management Plan

It is acknowledged in the Wadalba Wildlife Corridor (WWC) Management Plan that the Plan will need to be reviewed periodically. A significant proportion of works are to be undertaken by private developers as part of residential development. However the current plan was only completed in September 2006 and a significant proportion of approved development has still not occurred. The Management Plan is not sufficiently out of date at this stage to warrant a review. Ultimately it is expected that the majority of the plan will be incorporated in a Plan of Management under the *Local Government Act, 1993*. However, before this happens, more land will need to be transferred into Council's ownership within the corridor.

Due to the slow residential land market, only a small amount of land has been transferred to Council at this stage (see Enclosure 2). It is understood that this has caused some frustration to residents who seek to use the corridor for passive recreational activities. Notwithstanding these matters, a comprehensive review of the Management Plan is expected to occur every 5 years. This is to ensure that the objectives of the Plan are fulfilled within a suitable time frame.

B Ensure All Other Parties have Properly Fulfilled their Responsibilities

Many of the actions which are outlined in the WWC Management Plan are at various stages of completion. A brief overview of these activities is provided below.

The *Conacher Environmental Group* has been engaged by a number of developers to undertake environmental monitoring programs for the corridor as per the requirements of the WWC Management Plan. This includes monitoring of threatened species, as outlined in Section B15 of the WWC Management Plan (Conacher Travers 2006). Monitoring results have been submitted to Council.

Council has commenced implementing a number of actions under the WWC Management Plan at sites within the WWC using Section 94 Contribution funds collected from development within the area. These works are as follows:

- Weed removal programme and bush regeneration;
- The installation of WWC identification signs, information signs, wildlife crossing signs and prohibitive use signs;
- Habitat tree re-location maintenance – all trees retained and protected within the WWC currently under Council's care and control;

Clearing of Wetland Areas at Wadalba (contd)

- The preparation of a Vegetation and Bushfire Management Plan. Council has engaged *Conacher Environmental Group* to complete these two plans. A draft version of the Vegetation Management Plan has been completed, however some revisions might need to be incorporated once the Bushfire Management Plan is completed which is due at the end of 2008;
- Preparation of a resident's brochure and placement of the WWC Management Plan on Council's website; and
- Acceptance of the land into Council ownership marked in Enclosure 2 which forms part of the corridor.

Further works are required to be implemented under the WWC Plan which include:

- Implementation of weed removal programmes and bush regeneration as new lands are transferred over to Council;
- Continue rehabilitating disturbed areas. During construction, fencing will be undertaken by project ecologists employed by each developer and monitored by Council's Subdivision Site Supervisor and Council's Natural Areas Coordinator. It has been noted during several surveys of the WWC that a significant number (~30) habitat boxes have either fallen from trees or been vandalised and are now sitting on the ground. Replacement of the nest boxes and re-erection will be required;
- Continue installing WWC identification signs, information signs, wildlife crossing signs and prohibitive use signs as new lands are transferred to Council;
- Continue distributing educational pamphlets to residents. This will occur as new residential areas become occupied adjacent to bushland under the care and control of Council;
- Council will be surveying the existing track system within the corridor to fully determine the most appropriate locations to provide formalised walking trails in the corridor. This will be done in consultation with the various stakeholders and include the identification of primary paths, secondary trails and degraded and dormant tracks that will require rehabilitation;

It should be noted that inspections are carried out regularly as part of development application subdivision construction monitoring to ensure compliance with Council certificates of approval.

Clearing of Wetland Areas at Wadalba (contd)

- Council staff will continue to assess development applications for residential subdivision and ensure that relevant conditions of DECCs deemed concurrence and the WWC Management Plan are implemented; and
- Council has applied for a Section 132c Scientific Licence under the National Parks and Wildlife Act 1974 to undertake bush regeneration and restoration works in areas affected by the *Threatened Species Conservation Act, 1995* within the WWC. This is required before Council can undertake these works in the WWC.

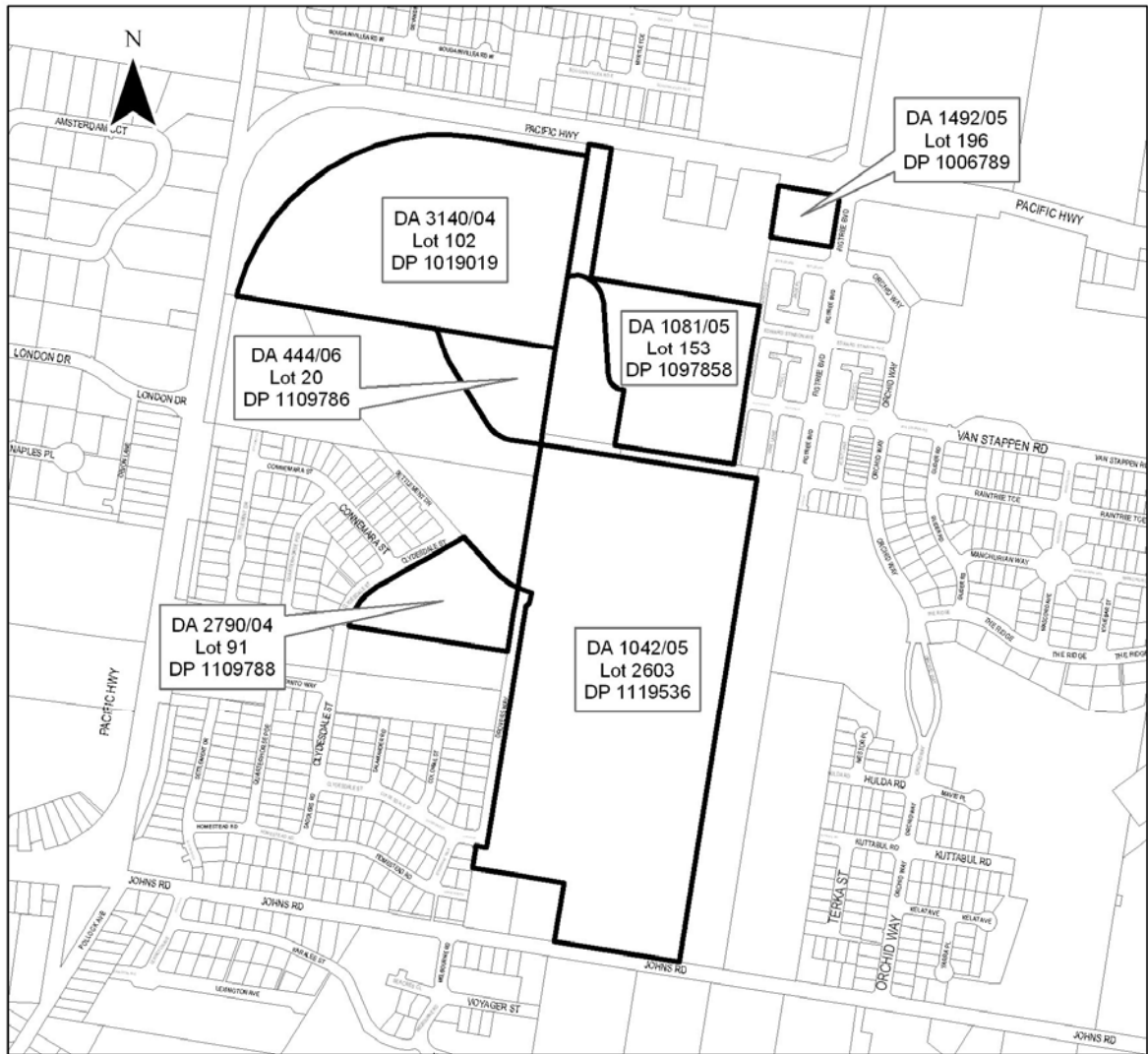
Attachment 1

Development applications subject to an extension

Enclosures

***Original Plan for Wadalba Wildlife Corridor – (Development Concept – March 2002)
Wadalba Corridor Additional Lands***

Clearing of Wetland Areas at Wadalba (Attachment 1)



WYONG SHIRE COUNCIL

10 December 2008
To the Ordinary Meeting of Council

Director's Report
Shire Planning Department

565 Activities of the Development Assessment Unit

F2004/07830 JD

SUMMARY

The report includes information and statistics regarding the operations of the Development Assessment Unit and covers the submission and determination of development, construction and subdivision applications for the month of October.

RECOMMENDATION

That Council receive the report on Activities of the Development Assessment Unit.

Development Applications Received and Determined

Type:	Number Received:	Estimated Value \$:	Number Determined:	Estimated Value \$:
Commercial	26	17,318,135	14	1,596,381
Industrial	5	694,000	8	260,500
Residential	95	9,934,740	92	7,308,715
Other	21	497,765	17	22,000
Total	147	28,444,640	131	9,187,596

Subdivision Applications Received and Determined

Type:	Number Received:	Number of Lots:	Number Determined:	Number of Lots:
Commercial	1	43	-	-
Industrial	-	-	-	-
Residential	1	1	4	13
Rural	-	-	-	-
Other	-	-	3	68
Total	2	44	7	81

Activities of the Development Assessment Unit (contd)

Net Median Turn-around Time

There were no priority applications determined during the month.

The net median turn-around time in working days for development applications determined during the month was 17 days.

Other Approvals and Certificates

Type:	Number Determined:
Trees	56
Section 149 D Certificates	17
Construction Certificates	63
Complying Development Certificates	15

Enclosure

Graphs – Development Applications Lodged, Development Applications and Construction Certificates Determined

Warnervale Town Centre and Wyong Employment Zone Projects

Correspondence has been received from the office of the Department of Premier and Cabinet which advises the structure of the existence and roles of the various government committees that are operational in the Greater Warnervale Area. A copy of the letter is attached for your information

Attachment 1

Letter from Department of Premier and Cabinet dated 12 November 2008

10 December 2008
To the Ordinary Meeting of Council

Director's Report
Shire Planning Department

Warnervale Town Centre and Wyong Employment Zone Projects (Attachment 1)



New South Wales Government

Department of Premier and Cabinet
Strategic Projects Division

12 November 2008

Mr Paul Bowditch
Acting Manager,
Future Planning,
Wyong Shire Council
PO Box 20
WYONG NSW 2259

Ref: PAB/ F2004/00535

Dear Mr Bowditch

Re: Warnervale Town Centre and WEZ Projects

Thank you for your letter dated 4 November 2008 seeking information on the coordination function of the Department of Premier and Cabinet in regard to the Warnervale Town Centre and WEZ Projects.

Within the structure of the NSW Department of Premier and Cabinet (DPC), the Central Coast office delivers the Regional Coordination Program, which, as a part of its delivery strategy, brings together senior managers from all NSW Government agencies operating in the region as members of the Central Coast Regional Coordination Management Group (CCRCMG). There are 9 similar regional coordination groups spread throughout the state. The CCRCMG operates two specialist sub-groups within its structure – a Human Services & Justice Senior Officers Group, and an Economic Development, Infrastructure and Environment Senior Officers Group.

The role of the CCRCMG is to actively seek opportunities to effectively coordinate state government resources in the delivery of NSW government initiatives and services, for the betterment of the region. Generally, its work is aligned to the NSW State Plan, via a series of agreed work plans submitted by member agencies and agreed by the RCMG as a whole. It works with a wide range of regional stakeholders, including both Wyong Shire Council and Gosford City Council in order to achieve its objectives. The General Managers of both Wyong and Gosford Councils are recently invited members of an Executive group that oversees CCRCMG strategy and meeting agendas. The CCRCMG meets three times per year, having met most recently on 31 October 2008.

Tel (02) 4337 2311
Fax (02) 4324 2698
PO Box 1327
Gosford NSW 2250



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131 Donnison Street
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www.nsw.gov.au

**Warnervale Town Centre and Wyong Employment Zone Projects
(Attachment 1) (contd)**

In specific regard to Warnervale Town Centre and the WEZ, DPC has facilitated numerous coordination processes since the beginning of both projects, generally by initiating taskforces or working groups to examine coordination opportunities in the provision of soft and hard infrastructures. These have included exercises to plan for human services delivery, aged care services, physical infrastructure, transport initiatives, together with oversight of several statutory planning processes. Throughout its involvement in these projects, DPC has also adopted an issues based approach where it has mediated the resolution of process blockages on an as needs basis. DPC remains actively involved in this role and continues to work on both existing and emergent issues.

While a number of these previously convened specialist inter-agency groups have not been called upon to meet for some time, they can be reconvened if needed. Currently remaining in operation is the Warnervale/ Wadalba Human Services Planning Team, which meets monthly, and includes the following entities:

- NSW Department of Community Services
- Wyong Shire Council
- North Sydney Central Coast Area Health Services
- NSW Department of Ageing Disability and Home Care
- NSW Department of Education and Training
- NSW Department of Planning
- NSW Department of State and Regional Development
- NSW Department of Housing
- NSW Police Force
- NSW Ministry of Transport
- NSW Department of Premier and Cabinet

In addition to DPC led groups, a number of other NSW Government agencies are undertaking work that either feeds in to or incorporates the WTC & WEZ precincts. Most recently, and perhaps most relevant, the Department of Planning has formed a Project Control Group (PMG) to lead the preparation of the North Wyong Structure Plan (NWSSP), which is a key component of the Central Coast Regional Strategy. The NWSSP will identify land available for development, preferred uses and provide a staging and sequencing plan that will allow for an efficient roll-out of infrastructure for the area. A meeting schedule is being developed, but monthly meetings are anticipated.

The following entities are represented on the NWSSP group:

- NSW Department of Planning
- Wyong Shire Council

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Gosford NSW 2250



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10 December 2008
To the Ordinary Meeting of Council

Director's Report
Shire Planning Department

Warnervale Town Centre and Wyong Employment Zone Projects (Attachment 1) (contd)

- NSW Department of Environment and Climate Change
- NSW Department of Premier and Cabinet
- NSW Growth Centres Commission

From a wider state based perspective, DPC is represented on the Infrastructure Liaison and Implementation Committee, which is responsible for matters dealing with state development contribution plans across NSW, including input into matters affecting the WEZ and Warnervale Town Centre. Other agencies represented on this committee include Road and Traffic Authority, Landcom, and the NSW Growth Centres Commission.

It should be noted that the committees and work groups detailed above operate on an inter-government basis, and as such elected members of Council are not included in any of the committee structures.

If you would like to discuss this issue further, please do not hesitate to contact me on ph: 4337 2311, or via email peter.brown@dpc.nsw.gov.au.

Yours faithfully



Peter Brown
A/Regional Coordinator
Strategic Projects Division
Central Coast
25 November 2008

Tel (02) 4337 2311
Fax (02) 4324 2698
PO Box 1327
Gosford NSW 2250



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131 Donnison Street
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WYONG SHIRE COUNCIL

10 December 2008
To the Ordinary Meeting of Council

Director's Report
Shire Services Department

**567 Summary of Actions on Council Resolutions and Department
of Environment and Climate Change Directions Regarding
Landfills**

F2008/01849 GHK

SUMMARY

Report on actions taken on Council resolutions for various reports dealing with landfills and related issues from May to August 2008 and Department of Environment and Climate Change (DECC) directions relating to closed landfills.

RECOMMENDATION

That Council receive the report on actions taken on Council resolutions for various reports dealing with landfills and related issues from May to August 2008 and DECC directions relating to closed landfills.

BACKGROUND

This report provides a summary of resolutions from recent reports to Council and reports from the independent Auditor (Neil Adams) that staff have been actioning in relation to a range of matters relating to closed landfills and Notices received from the DECC.

The information in Attachment 1 to this report covers reports for the period May to August 2008, and shows the status of actions taken up to November 2008. Mr Adams second report of August 2008 was completed too late for consideration by the previous Council. The previous Mayor, Councillor Wellham, agreed that the report would be presented to the new Council along with an update on previous actions. A copy of this report is enclosed. In the meanwhile, all actions recommended by Mr Adams have been actioned.

A third report from the independent auditor, Neil Adams, to the General Manager dealing with staff conduct issues has been actioned by the General Manager and is not covered in detail in this report.

INFORMATION IN ATTACHMENT

The major reports and recommendations included in Attachment 1 are as follows:

Ordinary Meeting of Council 28 May 2008

- 213 Minutes of the Wyong Shire Governance Committee Meeting – 14 May 2008

Summary of Actions on Council Resolutions and Department of Environment and Climate Change Directions Regarding Landfills (contd)

Recommendations from Neil Adams Report:

Investigation of Illegal Dumping July 2008

Recommendations from Neil Adams Report:

Investigation of Illegal Dumping August 2008

DECC ISSUES

Council has received a number of directions from DECC under the provisions of the Protection of the Environment Operations (POEO) Act. The directions and Council's actions to comply with those directions are summarised below:

- Notice of Direction to Take Clean-Up Action in relation to the former Gwandalan Landfill, dated 7 July 2008. All deadlines for various actions in the Notice were complied with by Council. The clean-up was completed on 21 August 2008. The quantity of material removed from Gwandalan and disposed at Buttonderry Landfill was 10,220 tonne. The estimated final cost of the clean-up is \$2.0 M (excl GST). Included in this amount are tipping fees of \$1.165 M of which S88 levy is \$408,000.
- Notice of Direction to Take Clean-Up Action in relation to Toukley Sewage Treatment Plant, dated 29 July 2008. All deadlines for various actions in the Notice were complied with by Council. The clean-up was completed on 20 October 2008. The quantity of material removed from Toukley and disposed at Buttonderry landfill was 23,722 tonne. The final estimated cost of the clean-up is \$3.4 M (excl GST). Included in this amount are tipping fees of \$2.704 M of which S88 levy is \$949,000.
- S191 Notice for the provision of information and records in relation to the former Gwandalan landfill site. The deadline for compliance with the direction was complied with by Council. The required information and records were delivered to DECC on 17 September 2008.
- S191 Notice for the provision of information and records in relation to Toukley Sewage Treatment Plant. The deadline for compliance with the direction was complied with by Council. The required information and records were delivered to DECC on 22 September 2008.
- Further S191 Notice for the provision of information and records in relation to both Gwandalan and Toukley and all construction or demolition projects that generated waste over the last five years. The deadline for compliance with this direction is 28 November 2008 and at the time of writing this report that deadline is achievable.

Summary of Actions on Council Resolutions and Department of Environment and Climate Change Directions Regarding Landfills (contd)

CONCLUSION

Council received a number of reports during 2008 and passed various Resolutions for action arising from these reports. Attachment 1 has been provided showing the Resolutions raised and actions taken to address each of these resolutions.

The majority of Resolutions have now been completed, or processes put in place for the remainder to be addressed on an ongoing basis.

Council also received a number of directions from DECC under the POEO Act and the report summarises those directions and actions to comply.

Attachment 1***Summary of Actions on Council Resolutions and DECC Directions Regarding Landfills (5 Pages)******Enclosure******Report from Neil Adams dated August 2008***

Summary of Actions on Council Resolutions and Department of Environment and Climate Change Directions Regarding Landfills (Attachment 1)

Report and Resolutions	Action
<p>213 Minutes of the Wyong Shire Governance Committee Meeting – 14 May 2008</p> <p><i>RESOLVED unanimously on the motion of Councillor WELHAM and seconded by Councillor BEST:</i></p> <p>1 <i>That a Shire Wide Audit of closed landfill sites or similar lands occur with a report to Council by the Ordinary Meeting to be held 9 July 2008, detailing how similar issues/incidents do not occur at these operational and construction sites operated by Council.</i></p> <p>2 <i>That a site inspection of the closed Gwandalan Landfill site be conducted by Councillors at the next round of inspections or at a time that is suitable with a Department of Environment and Climate Change inspection.</i></p> <p>3 <i>That the Gwandalan landfill site be immediately secured and the site made safe.</i></p> <p>4 <i>That Council stop immediately use of the closed Gwandalan Landfill site.</i></p> <p>5 <i>That appropriate signage be placed immediately at the site indicating that it is a closed landfill site highlighting the risks of illegal entry.</i></p> <p>6 <i>That the whole matter relating to unauthorised dumping, potential avoidance of levies and charges be referred to ICAC for advice relating to corruption in the matter.</i></p> <p>7 <i>That Council request the Department of Environment and Climate Change to brief Councillors on their current investigations and behaviour of Council staff in this matter.</i></p> <p>8 <i>That all short term environmental controls necessary be put immediately in place at the closed Gwandalan Landfill site.</i></p> <p>9 <i>That Council in consultation with the Mayor engage an external body to undertake a full investigation and inquiry of the Gwandalan Landfill site and activities there over the last 20 years.</i></p> <p>10 <i>That a voluntary remediation plan detailing all corrective actions and time frames be developed in consultation and agreement with Department of Environment and Climate Change.</i></p>	<p>Report to Council provided 23/7/08.</p> <p>Completed 25/6/2008.</p> <p>Completed.</p> <p>Completed.</p> <p>Completed.</p> <p>Completed. Letter from GM sent to ICAC dated 4 June 2008.</p> <p>Request sent. DECC met with Council at Gwandalan Landfill on 25 June 2008.</p> <p>Completed.</p> <p>Completed. (Neil Adams engaged, report dated July 2008 submitted to Council).</p> <p>Site investigations commenced at Gwandalan. Development of voluntary remediation plan in collaboration with DECC will take in excess of 12 months.</p>

Summary of Actions on Council Resolutions and Department of Environment and Climate Change Directions Regarding Landfills (Attachment 1) (contd)

Report and Resolutions	Action
<p>213 Minutes of the Wyong Shire Governance Committee Meeting – 14 May 2008 (contd)</p>	
<p>11 <i>That Council identify and comply with all relevant legislative requirements regarding the closed Gwandalan Landfill site.</i></p>	<p>Clean Up Notice from DECC issued 7/7/08 for Gwandalan site. Clean Up completed 22/8/08.</p>
<p>12 <i>That a comprehensive site investigation be undertaken by a suitably qualified consultant under the supervision of an independent accredited site Auditor and in close consultation with the Department of Environment and Climate Change.</i></p>	<p>Consultants (Environmental Earth Sciences) engaged for Stage 1 report. Estimated completed date February 2009.</p>
<p>13 <i>That Council investigate the legality of all transfer stockpile sites.</i></p>	<p>Currently reviewing which sites needed for future use. Approval status of Long Jetty Depot being confirmed. All transfer stockpile sites decommissioned. No further use unless specific DA submitted. Only approved permanent stockpile site is at Buttonderry Landfill. Investigation continues for Halekulani as a future rehabilitation site.</p>
<p>14 <i>That Council delegate to the Mayor the authority to vary the implementation of the above and to report any such variation to Council subsequently for endorsement.</i></p>	<p>No further action.</p>
<p>Recommendations from Neil Adams Report: Investigation of Illegal Dumping July 2008</p>	
<p>1 Concerted action be taken to address aspects of culture in parts of Council which indicate an apparent shortfall in respect of transparency and accountability, particularly in respect of environment related issues. Council engage external resources to establish needed methodologies and to assist the desired change.</p>	<p>Consultant appointed and working in association with existing HR strategy team.</p>

Summary of Actions on Council Resolutions and Department of Environment and Climate Change Directions Regarding Landfills (Attachment 1) (contd)

Report and Resolutions	Action
<p>Recommendations from Neil Adams Report: Investigation of Illegal Dumping July 2008 (contd)</p> <p>2 Council act to address the culture or awareness of Council staff who are in a position to notice inappropriate activities, to encourage them to report breaches of the law to senior officers.</p> <p>3 Council undertake a review of responsibilities in order to clarify and confirm responsibilities for management and control of properties.</p> <p>Strategies to meet management responsibilities in respect of properties be established, and the adequacy of these strategies should be assessed to ensure adequate accountabilities.</p>	<p>Consultant appointed and working in association with existing HR strategy team. Training/toolbox talks for field staff on waste management responsibilities completed. Environmental incident reporting training for field staff commenced.</p> <p>Direction given in writing to all staff reinforcing the need to understand the role and responsibility of all asset owners. Completed October 2008.</p> <p>The asset management review process has previously identified all known assets and allocated an owner. The operational plans will continue to detail ongoing responsibility. The ownership responsibility of all closed landfill sites and other key property holdings has been reinforced to clarify and confirm responsibilities for management and control.</p>

Summary of Actions on Council Resolutions and Department of Environment and Climate Change Directions Regarding Landfills (Attachment 1) (contd)

Report and Resolutions	Action
<p>Recommendations from Neil Adams Report: Investigation of Illegal Dumping July 2008 (contd)</p> <p>4 Consideration of suggested process changes to reflect an expanded and more proactive role for Shire Planning Department to help ensure that Council complies with environmental obligations and meets related expectations, particularly where Council is not the applicable regulatory authority.</p> <p>5 Priorities be reviewed and that all outstanding investigations be undertaken as a priority matter.</p> <p>6 ICAC be advised that there was no corrupt behaviour by Council in the matter of Gwandalan landfill.</p> <p>7 The level of support and encouragement for potential whistle blowers within Council be examined by Council's Governance Committee.</p>	<p>Natural Resources has seconded an Environmental Assurance Officer to audit Council's systems of environmental management for due diligence. Will audit operations, procedures, legal requirements, record keeping, and staff training. Depot auditing to begin in December 2008. Audits of Roads and Drainage, Water and Sewer, Open Space and Recreation, Contracts and Special Projects operations to follow.</p> <p>Report on program for rehabilitation of closed landfills to Council meeting 10/12/08.</p> <p>Completed. Letter sent to ICAC dated 30 July 2008.</p> <p>Consultant appointed and working in association with existing HR strategy team. Issue was a key message from Director of Shire Services in September newsletter.</p>

Summary of Actions on Council Resolutions and Department of Environment and Climate Change Directions Regarding Landfills (Attachment 1) (contd)

Report and Resolutions	Action
<p>Recommendations from Neil Adams Report: Investigation of Illegal Dumping August 2008</p> <p>1 All instances where reporting to DECC is reasonably in contemplation by members of the Shire Services Department (or others) should be recorded on a centralised record, including details of the action taken and the details of the report made (if any).</p> <p>2 The most effective ways to achieve the desired level of understanding of environmental matters on the part of Shire Service members:</p> <ul style="list-style-type: none"> • For senior officers and Councillors to enunciate for staff and contractors the importance of achieving best practice in regards to environmental compliance and conduct; and • To undertake specific training in respect of the legislated and ethical obligations in this area. <p>3 That in order for Council and, in particular the Shire Services Department, to gain an assurance that Council is performing in accordance with sound practice, that a programme of audits by Shire Planning Department specialists be recommenced in a comprehensive and effective fashion.</p>	<p>System and procedures (using Sharepoint, CRM and TRIM) have been developed and implemented in November 2008. Training has commenced.</p> <p>Ongoing process - When reported to Council there will be a recommendation that Council endorses and encourages all staff to make environmental compliance the highest priority at all times.</p> <p>Ongoing basic training has taken place in Shire Services. Further ongoing training is being developed and implemented on an as-needed basis.</p> <p>Process has commenced in relation to depot auditing, environmental training and reporting.</p>

Summary of Actions on Council Resolutions and Department of Environment and Climate Change Directions Regarding Landfills (Attachment 1) (contd)

Report and Resolutions	Action
<p>Recommendations from Neil Adams Report: Investigation of Illegal Dumping August 2008 (contd)</p> <p>4 A recommendation from July Report was to establish reporting arrangements which:</p> <ul style="list-style-type: none"> • require feedback from Shire Services Department on matters referred to it by the specialist officers of the Shire Planning Department. • require reporting up the line, including the General Manager where appropriate, on the status of actions taken. <p>Now recommends that this feedback and reporting process also be implemented in respect of matters raised proactively by members of the Shire Planning Department and where arising through the proposed audit process.</p> <p>5 In relation to dealings between Council and DECC that, whenever a matter is identified as being of significance, there should be a communication to the Shire Planning Department for their information and consideration.</p> <p>6 In order to ensure that close management of environmental investigations and to give assurance as to the timeliness of response and quality of performance meet desirable standards, that the service request process be expanded and regularised.</p> <p>7 Council procedures governing the conduct of environmental investigations, along with requirements for recording matters for investigation and for reporting outcomes be documented as soon as possible.</p>	<p>System has been developed as part of the audit process, including TRIM for action where applicable.</p> <p>Completed and ongoing.</p> <p>Completed. System developed and implemented using Sharepoint, CRM and TRIM.</p> <p>Completed and ongoing. System developed and implemented and training has commenced.</p>

WYONG SHIRE COUNCIL

10 December 2008
To the Ordinary Meeting of Council

Director's Report
Corporate Services Department

568 Outstanding Questions Without Notice and Notices of Motion

F2008/00003 SG

SUMMARY

Report on outstanding Questions Without Notice and Notices of Motion.

RECOMMENDATION

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

Question Asked / Councillor	Department	Meeting Asked	Status
Q123 – Darcy Smith Court Case Councillor Pavier	Shire Planning	12 December 2007	A response will be reported to Council when the case has been finalised in the Land and Environment Court.
Q061 – Removal of Playground Equipment at Tumbi Umbi Councillor Eaton	Shire Services	12 November 2008	A response to this question will be submitted to the 28 January 2009 Council meeting.
Q063 – Effects of the State Government's Mini-Budget on Council and the Community Councillor Best	General Manager's Unit	12 November 2008	A response to this question will be submitted to the 28 January 2009 Council meeting.
Q065 – Scheduling of Garbage Collection on Scenic Drive Councillor Vincent	Shire Services	26 November 2008	A response to this question will be submitted to the 28 January 2009 Council meeting.
Q066 – Discussions with Developers Councillor Symington	Shire Planning	26 November 2008	A response to this question will be submitted to the 28 January 2009 Council meeting.
Q067 – Location of Bus Stops Councillor Eaton	Shire Services	26 November 2008	A response to this question will be submitted to the 28 January 2009 Council meeting.

Outstanding Questions Without Notice and Notices of Motion (contd)

Question Asked / Councillor	Department	Meeting Asked	Status
Q068 - Education Program into Toddler Drowning Councillor Best	Shire Planning	26 November 2008	A response to this question will be submitted to the 28 January 2009 Council meeting.
Q069 – Alleged Illegal Council Tip Site Councillor Best	Shire Services	26 November 2008	A response to this question will be submitted to the 28 January 2009 Council meeting.
Q070 – Breaching of Dam Councillor Wynn	Shire Planning	26 November 2008	A response to this question will be submitted to the 25 February 2009 Council meeting.
Q071 – Legal Requirements of Breaching of Dam Councillor Wynn	Shire Planning	26 November 2008	A response to this question will be submitted to the 25 February 2009 Council meeting.

Notice of Motion	Department	Meeting Resolved	Status
326 - National Natural Disaster Funding <i>Report required on climate change impacts.</i>	Shire Planning	8 August 2007 Eaton / Best	A report will be submitted to Council when response from Department of Environment and Climate Change (DECC) is received. Finalisation of Coastline Management Plan is not anticipated until January/February 2009.
470 – Ferry Service between Wyong and The Entrance <i>Report to be provided on investigation of a wharf and passenger ferry service between Wyong and The Entrance.</i>	Shire Planning	14 November 2007 Eaton / Best	Report to be submitted in conjunction with The Entrance Strategy report to the 28 January 2009 Council meeting.
231 – Poll on Popularly Elected Mayor and Electricity Privatisation <i>A further report be reported to Council at a briefing session outlining the ramifications of a popularly elected Mayor detailing exactly how the numbers equate in three wards concerned.</i>	Corporate Services	28 May 2008 Stewart / Graham	A report will be subject to future briefing session for Council. The report will provide an outline of possible ward boundaries.

Outstanding Questions Without Notice and Notices of Motion (contd)

Notice of Motion	Department	Meeting Resolved	Status
<p>293 – The Entrance Long Jetty Strategy Meeting</p> <p><i>That Council facilitate a meeting with Key Stake holders – The Entrance Bowling Club, Lakeside Plaza and Wyong Shire Council.</i></p> <p><i>That the Mayor chair the meeting, report back on the progress or otherwise.</i></p>	Shire Planning	25 June 2008 Pavier / Graham	Meeting was held on 30 July 2008. Council update issued regarding outcomes. Formal report back to Council as part of adoption of The Entrance / Long Jetty strategy to be submitted to the 28 January 2009 Council meeting.
<p>295 – Wyong Pool Maintenance Policy</p> <p><i>That Council defer any further decisions regarding Wyong Pool pending discussions with the Wyong Tennis Club Administrator.</i></p> <p><i>That the Mayor and General Manager report to Council on discussions.</i></p>	General Manager's Unit	25 June 2008 Pavier / Graham	A meeting was held with the Administrators for Wyong Tennis Club. Awaiting further information once received a report will be submitted to Council.
<p>298 – Long Jetty Café</p> <p><i>That Council receive a briefing as part of the Long Jetty master planning on the permissibility and benefits / disbenefits of considering sub leasing an area of the Long Jetty to cater for a commercial operation.</i></p>	Shire Planning	25 June 2008 Best / Eaton	To be given further consideration following the adoption of the Draft Entrance Peninsula Planning Strategy. (The TEPPS encourages this type of potential development).
<p>383 – Central Coast Regional Strategy – Toukley</p> <p><i>That as a result of the recent release of the Central Coast Regional Strategy by the Department of Planning, staff report on the implications of the strategy on existing Council projects. In particular, the report should address the impacts on the Future Planning Unit's work program and staff should also report on the now likely timelines and processes required to deliver the Toukley Strategy.</i></p>	Shire Planning	13 August 2008 Best / Stevens	A report will be submitted to Council following the workshop to be held early 2009.

Outstanding Questions Without Notice and Notices of Motion (contd)

Notice of Motion	Department	Meeting Resolved	Status
<p>384 – Central Coast Regional Strategy</p> <p><i>That Council, in conjunction with Shire Planning staff, workshop the Central Coast Regional Strategy with a view to determining a position statement for the Department of Planning.</i></p>	Shire Planning	13 August 2008 Pavier / Eaton	Workshop to be held early 2009.
<p>416 – Tip Rehabilitation Budgetary Provisions</p> <p><i>That Council report on the Tip Rehabilitation Program including number, location and material contained in yet to be rehabilitated old tip sites, costs and estimated costs of rehabilitation funding of such work and impact on the residential garbage charge.</i></p>	Shire Services	27 August 2008 Eaton / Best	A report will be submitted to the 28 January 2009 Ordinary Meeting.
<p>496 - Adoption of policy of active resistance to offshore mining and extractive industry activities off the coast of Wyong Shire</p> <p><i>That Council call on both the State and Federal governments to fully assess the environmental impact of both the exploration activity and the potential mining activity associated with this application before any exploration licence application is considered.</i></p> <p><i>That Council make a formal submission to both the NSW government and Federal government who are jointly handling the exploration licence application, to reject the application if it is found to be environmentally damaging.</i></p> <p><i>That Council call on the NSW and Federal Governments to rule out any further coal exploration off the NSW coast from the Illawarra to Port Stephens.</i></p> <p><i>That Council embark on a campaign to inform the public on the process and possible negative impacts of such an offshore mining proposal.</i></p>	Shire Planning	12 November 2008	Correspondence being prepared.

Outstanding Questions Without Notice and Notices of Motion (contd)

Notice of Motion	Department	Meeting Resolved	Status
<p>498 - Central Coast Tourism Inc (CCTI) Funding <i>That Council report on funding for Central Coast Tourism Inc (CCTI).</i></p>	Corporate Services	12 November 2008 Eaton / Graham	A report will be submitted to the 28 January 2009 Ordinary Meeting.
<p>499 - Wyong Parking Initiatives <i>That Council congratulate the Member for Wyong, Mr David Harris MP, on his support for a joint venture between Council and the State Government to construct additional car parking around the Civic/Justice/Police precinct of Wyong Town Centre.</i> <i>That Council request staff to contact appropriate State Government agencies to address this matter.</i></p>	Shire Planning	12 November 2008 Eaton / Best	A report will be submitted to Council upon response from State Government Agencies.
<p>500 - The Entrance Beach Renourishment <i>That staff investigate and report on a geotextile bag type training wall generally along the existing stormwater line to renourish the sand on The Entrance beach.</i></p>	Shire Planning	12 November 2008 Eaton / Graham	A report will be forthcoming upon receipt of a concept plan and costing from the manufacturer.
<p>502 - Dredging Boat Harbour Summerland Point <i>That Council request staff to report on the following when cost estimates are available:</i></p> <p><i>a the results of the preliminary investigation into the reported shallowing of the channel leading into the Boat Harbour at Summerland Point.</i></p> <p><i>b the necessary approvals required and funding options available to undertake dredging in order to provide safe navigable access for the recreational boating community in the north of Wyong Shire.</i></p> <p><i>That Council refer this matter/report to the local State Member for Swansea, Mr Robert Coombs, requesting his assistance in gaining the necessary departmental approvals to allow the timely restoration of the Channel and Harbour and funding options available.</i></p>	Shire Services	12 November 2008 Best / Eaton	A report will be submitted to 28 January 2009 Council meeting.

Outstanding Questions Without Notice and Notices of Motion (contd)

Notice of Motion	Department	Meeting Resolved	Status
<p>537 – Affordable Housing</p> <p><i>That Council acknowledge that adequate, safe, secure and affordable housing is a human right.</i></p> <p><i>That Council restate its commitment to its adopted policy on affordable housing, being “Promoting Choice: A Local Housing Strategy for Wyong Shire”.</i></p> <p><i>That Council acknowledge that the appropriate role for Local Government in encouraging affordable housing is as outlined in the objectives of the above policy; being the development of policies and a statutory framework that supports and enables private and public investment in housing choice and diversity for our community.</i></p> <p><i>That Council endorse and support their Federal Member for Dobell, Mr Craig Thomson MP, and the State Member for Wyong, Mr David Harris MP, in their efforts to obtain affordable housing for residents of Wyong Shire.</i></p>	Shire Planning	26 November 2008 Matthews / Eaton	Correspondence being prepared for Federal and State Member.
<p>539 – Tumbi Road Powerline Pollution</p> <p><i>That Council express its disappointment at the visual pollution and increased motor vehicle accident potential caused by Energy Australia along Tumbi Road.</i></p>	Shire Planning	26 November 2008 Eaton / Graham	Correspondence being prepared for EnergyAustralia.
<p>540 – Super Clinic Sites</p> <p><i>That Council staff report on the availability of zoned land in the shire for large medical centres such as the proposed GP Super Clinics.</i></p>	Shire Planning	26 November 2008 Eaton / Best	A report will be submitted to 11 February 2009 Council meeting.

Outstanding Questions Without Notice and Notices of Motion (contd)

Notice of Motion	Department	Meeting Resolved	Status
<p>541 – Extended Safety of Surf Patrol Beaches</p> <p><i>That having regard to the increasing incidence of unseasonably warm weather associated with global warming and the resultant high beach usage outside current patrol hours Council take a proactive approach with a view to providing our residents and ratepayers with greater coverage of patrolled surf beaches.</i></p> <p><i>That Council receive a briefing on current coverage and resources required to patrol our Shire's beaches including any recommendation for Council to consider a more flexible approach to beach patrol timetables.</i></p>	Shire Services	26 November 2008 Best / Eaton	A future briefing will be held once the date is confirmed on current coverage and resources required to patrol beaches.
<p>542 – Continuing Erosion of Cabbage Tree Bay</p> <p><i>That having regard to continuing erosion of Cabbage Tree Bay and that this situation will likely be exacerbated by the approaching Christmas King Tides staff report to Council on the progress to date regarding current initiatives proposed. Further the report should cover a brief indicative outline as to the possible merits of considering ocean sand dredging as a part solution to replenishment and re-establishment of Cabbage Tree Beach.</i></p>	Shire Planning	26 November 2008 Best / Eaton	A report will be submitted to 28 January 2009 Council meeting.

Questions Without Notice and Notices of Motion Removed from the Above Lists since the Previous Meeting

Question without Notice / Notice of Motion	Outcome
Q062 – Reports on the Gwandalan Illegal Tip Councillor Eaton	Response contained within Report No 567 - Summary of Actions on Council Resolutions and Department of Environment and Climate Change Directions Regarding Landfills
Q058 – Use of Public Land at Mannering Park Councillor Eaton	Answer contained within this business paper under Answers to Questions Without Notice

Outstanding Questions Without Notice and Notices of Motion (contd)

Question without Notice / Notice of Motion	Outcome
Q059 - Drainage Issues 4 Ventura Avenue, Bateau Bay Councillor Eaton	Answer contained within this business paper under Answers to Questions Without Notice
Q060 – Bulk Kerbside Collection and Tip Charges Councillor Best	Answer contained within this business paper under Answers to Questions Without Notice
Q064 – Wyong Animal Care Facility (WACF – pound) Councillor Best	Action taken
319 - Proposal to name Lot 1 DP 942380 and Lot 1 DP 663618 corner of Church and Margaret Streets Wyong as Arthur Mollett Reserve	Action taken.
468 - Warnervale Town Centre and WEZ Projects	A report on this is contained within Report No 566 – Warnervale Town Centre and Wyong Employment Zone Projects
497 - Councillor Attendance at Precinct Committee Meetings	Action taken.

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10 December 2008
To the Ordinary Meeting of Council

Shire Services Department

Answers to Questions Without Notice

Q058 – Use of Public Land at Mannering Park

Asked by Councillor Eaton at the Ordinary Meeting held on 22 October 2008
C2008/05415

“Could staff report on the apparent alienation of public land by the owners of Lot 2 (No 2) Peveril Street, Mannering Park next to the toilet block?”

No. 2 Peveril Street is located on the eastern side of Vales Point Park and a toilet block located in the park, is situated within 15 metres of the boundary between the two properties.

In February this year, Council staff received notification that unauthorised plantings had taken place in Vales Point Park. Council staff inspected the site and determined that whilst this was the case, the number of plants was nominal and the plants were of a desirable species.

In March and April 2008, Council received two additional notifications from a Griffith Street resident advising of unauthorised plantings and logs blocking access to the reserve from Peveril Street. Investigations again revealed that the resident of No. 2 Peveril Street had used acceptable plants and promoted natural bushland. Council staff cleared a broken tree branch and some cut logs from the site and in July this year, and due to the reported further incidents of unauthorised planting, a letter was written to the resident of No. 2 Peveril Street requiring planting on the reserve to cease. A further telephone call was received by staff from the Griffith Street resident. In response to the most recent comments objecting to the unauthorised plantings, Council staff assessed the situation again and a letter was written in October 2008 to the owner of No. 2 Peveril Street. This subsequent Council letter requested that any plantings undertaken by the resident were to be removed by them from the reserve.

Upon receipt of the letter, the owner of No. 2 Peveril Street met with Council staff at the site to discuss the issue. Some valid concerns were raised, in that the plants were a deterrent for vandals who had previously entered her property, gained access to the balcony and thrown the outdoor furniture over the balcony and into the water. The vandals had also caused other damage to the property. The resident advised that planting the extra vegetation was to maintain her privacy as well as creating a screen between her property and the toilet block as without the added vegetation, she has the unpleasant view of the toilet. It was also noted that the resident of No. 2 Peveril Street, Mannering Park, has taken on the responsibility of maintaining the area in question to ensure that no vermin harbouring in the reserve are likely to access her property.

Whilst valid issues were raised at the meeting, it was established that the unauthorised plantings had created some alienation of public land and the plants have subsequently been removed.

With regard to the issue of the log barrier preventing access from Peveril Street to the site, an opening in the existing log barrier, has been created to allow for reasonable pedestrian access to the area in question.

Answers to Questions Without Notice (contd)

Q059 – Drainage Issues No 4 Ventura Avenue, Bateau Bay

Asked by Councillor Eaton at the Ordinary Meeting held on 22 October 2008
C2008/05415

“Could staff report on drainage issues apparently emanating from road drainage affecting a property at 4 Ventura Avenue, Bateau Bay?”

The owner of No 4 Ventura Avenue Bateau Bay has contacted Council several times in the past concerning stormwater drainage issues in the proximity of her property.

Various Council staff have met with the owner on a number of occasions with the most recent meeting being held onsite on 2 October 2008.

The owner of the property claimed that drainage water from the road drainage system on The Central Coast Highway was travelling underground and affecting her property and causing failure of the pavement in Ventura Avenue.

The owner of the property was advised that in order to determine if such a situation existed it would be necessary for Council to undertake an inspection of the road drainage system and carry out geotechnical tests on the road pavement in Ventura Avenue.

The investigations were carried out and completed on 28 October 2008. The inspection of the piped drainage system on The Central Coast Highway did not reveal any blockages or breaks in the pipe nor any indication that water from this drainage system was escaping towards Ventura Avenue.

The piped drainage system in Ventura Avenue is located approximately 100 metres further downhill from No 4 Ventura Avenue and would have no impact on this land.

The geotechnical investigation of the road pavement in the vicinity of No 4 Ventura Avenue identified a localised deteriorated road pavement with high moisture content. In response to that minor localised failure at this location resulting from this moisture, a heavy patch was applied at this location in February 2008.

The high moisture content of the ground is typical for this area of Bateau Bay where from experience of various Council projects there appears to be a high watertable in the vicinity, with a relatively large quantity of ground water flowing in the form of underground springs and streams.

It is considered that the presence of these natural ground water flows is the cause of the problem that is being experienced and it is not related to any road drainage system.

Answers to Questions Without Notice (contd)

Q060 – Bulk Kerbside Collection and Tip Charges

Asked by Councillor Best at the Ordinary Meeting held on 22 October 2008
F2004/06768

“Could staff report on the prospect of providing our residents and ratepayers with the choice to have rubbish picked up or taken by the resident to the tip free of charge under the current 6 free pick up system?”

Kerbside Collection Service

Council introduced bulk kerbside collection services in response to the closure of three local landfills in the late 1980s with the aim of providing a convenient disposal service for bulk waste and reducing the number of small vehicles travelling to the Buttonderry Waste Management Facility (BWMF).

Under the existing waste contract, domestic premises in the Shire are entitled to six at-call kerbside collections per annum of bulky household waste or vegetation that is too big or too heavy to be placed in the waste bins. This service is provided by Council’s waste collection contractor, Thiess Services, on the standard garbage day. Residents are able to request this service for their next garbage day providing 24 hours notice is given.

While the volume of material collected per pick-up is limited to two cubic metres (about one trailer load), residents are able to make multiple bookings up to the limit of six collections per year. To ensure impacts on the streetscape and amenity of residential areas are minimised, residents are asked to place waste materials on the footpath no earlier than the evening before the scheduled service day.

Residents have the option of contacting the collection contractor by telephone or making a booking on-line. Under the Waste Collection and Recycling Contract, Thiess Services is required to accept record and administer bookings for kerbside collections. To this end, the company utilises a specialised database (RAMS) that permits the storage of property details and the number and types of waste services provided to each property. Table 1 provides information on the number of kerbside services provided and quantities collected between 2005 and 2007 by the previous waste contractor SMS (up to February 2008) and Thiess Services (from February to June 2008)

Table 1 – Kerbside Collection Data for Last Three Years

	Number of bulk kerbside collection services provided	Tonnage collected (tonnes)
2005/06	51,921	6,284
2006/07	53,076	5,838
2007/08	55,603	6,051

Answers to Questions Without Notice (contd)

Q060 – Bulk Kerbside Collection and Tip Charges (contd)

It will be seen that the number of services provided and tonnage collected has been very consistent over the past three years.

A customer satisfaction survey undertaken in 2005 for Council's waste collection and recycling services established that 94% of residents were satisfied with the bulk kerbside collection service and 95% of surveyed residents had used the service in the past.

Advantages of Kerbside Collection Service

The following advantages have been identified for the provision of Kerbside Collection Services under the current contractual arrangements:

- Convenience - Many residents do not have access to trailers or similar vehicles to transport bulk waste directly to the BWMF, and such arrangements would be unsuitable for many elderly residents.
- Congestion - The provision of kerbside collection services significantly decreases the number of small vehicles utilising the BWMF and travelling on local roads.
- Commercial vehicles have reduced processing time due to the minimisation of small vehicles trying to access the BWMF.
- Safety at the BWMF is improved as fewer vehicles are on the site at any one time.
- The current arrangements are more sustainable from an environmental and economic viewpoint through the efficient bulk handling of waste materials.

There is a high utilisation and resident acceptance of the current kerbside collection arrangements.

Provision of Free Tipping Passes in Lieu of Bulk Kerbside Collections

Providing a choice to residents for using either bulk kerbside collections or free tip passes would offer maximum flexibility. However, administering and integrating the two systems would be extremely difficult as they would need to be operated by different providers.

Thiess Services is currently providing and managing the collection of bulk kerbside collections and is maintaining a tally of the number of collections used by each eligible domestic premises every year to ensure that the allocated amount is not exceeded. The Thiess contract will run until 2023.

Answers to Questions Without Notice (contd)

Q060 – Bulk Kerbside Collection and Tip Charges (contd)

A free tip pass system would need to be administered by Council utilising the weighbridge computer system at the BWMF. The weighbridge system is currently not networked with Council's corporate system. The specialised transaction database used at the BWMF to process and record waste transactions is not suited to recording property details that would be necessary to administer the free tip pass system. While it may be possible to provide network connection to the weighbridge, Council's property database Pathways does not have the functionality under its current configuration to record information on the number of free tip passes issued and redeemed. A major system upgrade would be required to create an appropriate register that would allow the storage of this information.

Preliminary investigations into the free tip pass system used by some Councils has identified issues with misuse such as rate notices containing vouchers being stolen or passes being illegally traded.

Summary

Providing free tip passes for residents or the option of bulk kerbside collections would involve the operation of two software systems that are not integrated. Information collected at the BWMF as part of the free tip pass system, and the information collected by Thiess Services for kerbside collections, cannot be easily combined. It would be costly and complex to administer a combination of kerbside collections and free tipping passes.

Conclusion

A number of Councils in Australia offer free tip passes to their residents while others offer bulk kerbside collections. It appears that where such services are provided, Councils in urban areas generally offer bulk kerbside collections and Councils in regional areas or areas that have lower population densities offer free tip passes. No Council could be identified that offers both systems simultaneously so that ratepayers can be provided with a choice of using bulk kerbside collections or free tip passes.

The bulk kerbside collections currently provided in Wyong Shire are well utilised by residents and enjoy high customer satisfaction. Free tip passes have been found to be open to abuse by fraud and other inappropriate uses. It would be complex and costly to provide free tip passes as well as bulk kerbside collections as the two software systems required to administer the services are currently not integrated.

On balance it is considered that Council should continue with the existing bulk kerbside collection service as the most sustainable, cost effective and convenient service for Shire residents

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WYONG SHIRE COUNCIL

10 December 2008
To the Ordinary Meeting of Council

569 Notice of Motion – Funding of Installation of Rainwater Tanks

F2004/06949 SW/LW

Councillors S A Wynn and L D Webster have given notice that at the Ordinary Meeting of Council to be held on Wednesday, 10 December 2008 they will move the following Motion:

“That Council request staff to provide a report on the options for Council to fund installation of internally connected rainwater tanks on existing properties owned by pensioners with the cost to be paid back to Council when the property ceases to be in the ownership of the pensioner.”

WYONG SHIRE COUNCIL

10 December 2008
To the Ordinary Meeting of Council

570 **Notice of Motion – Joint Council Meetings with Gosford Council**

F2004/13176 DJE/GBP

Councillors D J Eaton and G P Best have given notice that at the Ordinary Meeting of Council to be held on Wednesday, 10 December 2008 they will move the following Motion:

"That Council give consideration to joint quarterly meetings with Gosford Council to determine major water policy and initiatives. Such meetings to also be convened as formal Council meetings to enable consistent decision making.."

WYONG SHIRE COUNCIL

10 December 2008
To the Ordinary Meeting of Council

571 Notice of Motion – Woolworths Lake Munmorah Rezoning

RZ/7/2004 GPB

Councillor G P Best has given notice that at the Ordinary Meeting of Council to be held on Wednesday, 10 December 2008 he will move the following Motion:

- "1 That Council recognise that this proposal is economically and socially vital infrastructure and as a consequence identify this application as a priority matter.*
- 2 That Council request staff to provide an update to Council's January 2009 meeting detailing progress and timing of the processing of this proposal."*

WYONG SHIRE COUNCIL

10 December 2008
To the Ordinary Meeting of Council

572 Notice of Rescission – Lifeguard Uniform Colours

F2004/06257 LM

Council, at the Ordinary Meeting held on 23 August 2006 gave consideration to report 345 regarding Lifeguard Uniform Colours.

At that meeting, Council resolved in part as follows:

“1 That Council change the blue and white uniform worn by its day labour Lifeguards to red and yellow with a design that has prominent logos and lettering that appropriately distinguishes it from that worn by volunteer lifesavers.”

A Rescission Motion has been received from Councillor L A Matthews to be moved at the Ordinary Meeting of Council to be held on 10 December 2008, as follows:

“MOVE that the following resolution carried at the Ordinary Meeting of Council held on 23 August 2006 be rescinded in part:

“1 That Council change the blue and white uniform worn by its day labour Lifeguards to red and yellow with a design that has prominent logos and lettering that appropriately distinguishes it from that worn by volunteer lifesavers.”

Should the above Rescission Motion be carried, further notice is given that Councillor L M Matthews will move the following motion:

“MOVE

“1 That where existing budgets allow, Council staff immediately procure and implement new lifeguard uniforms comprising of long sleeved white shirts with blue collars and cuffs and the word “LIFEGUARD” in red block letters (as specified by the NSW Government SafeWaters initiative) to provide more effective lifeguard operations and to facilitate safer beaches .”