



Mayor, Doug Eaton, and Gosford City Council's Mayor, Laurie Maher, take their first official tour of the Mardi to Mangrove Link project. They are visiting the new Australian-first fishway at Wyong Weir with Project Director Greg McDonald.

Business Paper

ORDINARY MEETING

10 November 2010



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MEETING NOTICE

**The ORDINARY MEETING
of Wyong Shire Council
will be held in the Council Chamber,
Wyong Civic Centre, Hely Street, Wyong on
WEDNESDAY 10 NOVEMBER 2010 at 5.00 pm,
for the transaction of the business listed below:**

OPENING PRAYER

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

Michael Whittaker
GENERAL MANAGER

1.1 Disclosure of Interest

TRIM REFERENCE: F2010/00009 - D02406223
MANAGER: Lesley Crawley, Manager Governance and Administration
AUTHOR: Jacquie Elvidge, Administration Assistant

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

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

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

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

RECOMMENDATION

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

1.2 Address By Invited Speakers

TRIM REFERENCE: F2010/00009 - D02406233
MANAGER: Lesley Crawley, Manager Governance and Administration
AUTHOR: Jacquie Elvidge, Administration Assistant

SUMMARY

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

RECOMMENDATION

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

1.3 Confirmation of Minutes of Previous Meeting

TRIM REFERENCE: F2010/00009 - D02406239
MANAGER: Lesley Crawley, Manager Governance and Administration
AUTHOR: Jacquie Elvidge, Administration Assistant

SUMMARY

Confirmation of minutes of the previous Ordinary Meeting of Council held on 27 October 2010.

RECOMMENDATION

That Council confirm the minutes of the previous Ordinary Meeting of Council held on 27 October 2010.

ATTACHMENTS

1 Minutes - Ordinary Meeting - 27 October 2010 D02412414

WYONG SHIRE COUNCIL**MINUTES OF THE
ORDINARY MEETING OF COUNCIL
HELD IN THE COUNCIL CHAMBER
WYONG CIVIC CENTRE, HELY STREET, WYONG
ON 27 October 2010
COMMENCING AT 5:00:00 PM**

PRESENT

Councillors D J Eaton (Chairperson), G P Best, R L Graham, L A Matthews, E M McBride, J J McNamara, W R Symington (arrived at 5.17 pm), D P Vincent, L D Webster (arrived at 6.21 pm) and S A Wynn (arrived at 6.21 pm).

IN ATTENDANCE

General Manager, Acting Director Environment and Planning, Acting Director Infrastructure Management, Director Corporate Services, Manager Place Management, Project Director Mardi to Mangrove Project and General Counsel.

Chief Financial Officer, Senior Planning Engineer Hydrology, Senior Traffic Engineer, Team Co-ordinator Landuse Planning and three administration staff.

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

John Hardwick delivered the opening prayer.

Councillor Matthews read an acknowledgment of country statement.

Councillor Best reported that he and the Mayor attended a community meeting on desalination which was well attended by the local community.

Councillor Best advised that tomorrow is the closing date for the rezoning of Woolworths at Lake Munmorah and tabled 167 letters he received from residents in support of the proposed Woolworths Shopping Centre at Lake Munmorah.

The Mayor announced that Wyong Council's Customer Service was ranked first out of thirty eight councils in an Australia-wide survey and congratulated all staff involved.

APOLOGIES FOR LATE ARRIVAL

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

That Council receive apologies for late arrival of Councillors Symington, Webster and Wynn due to travel delays in returning from the LGA Conference.

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

AGAINST: NIL

At the commencement of the ordinary meeting report numbers 5.1, 3.1 5.3 and 8.2, were dealt with first then the remaining reports in order. However for the sake of clarity the reports are recorded in their correct agenda sequence.

1.1 Disclosure of Interest

Councillor Symington arrived at the chamber at 5.17 pm and as a result was absent during consideration of this item and took no part in voting.

Councillors Webster and Wynn arrived at the chamber at 6.21 pm and as a result were absent during consideration of this item and took no part in voting.

8.1 Notice of Motion - Lake Audit on Power Station Effects

Councillor Vincent declared a non-pecuniary significant conflict of interest in the matter for the reason that he is an employee of Delta Electricity left the chamber at 9.35 pm, took no part in discussion, did not vote and returned to the chamber at 9.41 pm.

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

That Council receive the report on Disclosure of Interest and note advice of disclosures.

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

AGAINST: NIL

1.2 Address By Invited Speakers

Councillor Symington arrived at the chamber at 5.17 pm and as a result was absent during consideration of this item and took no part in voting.

Councillors Webster and Wynn arrived at the chamber at 6.21 pm and as a result were absent during consideration of this item and took no part in voting.

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

1 That Council receive the amended report on Invited Speakers.

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

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

AGAINST: NIL

1.3 Confirmation of Minutes of Previous Meeting

Councillor Symington arrived at the chamber at 5.17 pm and as a result was absent during consideration of this item and took no part in voting.

Councillors Webster and Wynn arrived at the chamber at 6.21 pm and as a result were absent during consideration of this item and took no part in voting.

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

That Council confirm the minutes of the previous Ordinary Meeting of Council held on 13 October 2010.

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

AGAINST: NIL

Business Arising

There was no business arising.

2.1 Mayoral Minute - Improving Community Engagement

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

- 1 That Council support, in principle, the establishment of a community panel to enhance consultation via electronic means.**
- 2 That Council receive a report based on a staff investigation into the establishment of statistically valid email data base to provide for community consultation via email on a regular basis.**

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

AGAINST: NIL

2.2 Mayoral Minute - Bus Servicing - Call for Free Travel and Youth Ticket

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

That Council urgently write to the Minister of Transport and the Parliamentary Secretary for the Minister of the Central Coast requesting that:

- a The State Government provide free bus travel on the Central Coast for the first two weeks of the new bus timetable, due to commence on 8 November 2010; and**
- b The State Government introduce, for the Central Coast, a "Youth Ticket" (under 21) with the same \$2.50 fare structure as the Seniors Concessions.**

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

AGAINST: NIL

2.3 Mayoral Minute - Estuary Management Plan Progress Update

RESOLVED unanimously on the motion of Councillor EATON:

1 That Council ratify the proposed Council delegation to meet with The Hon Tony Burke, Minister for Sustainability, Environment, Water, Population and Communities on 23 November 2010 urgently requesting that:

- a The Federal Government expedite the process for Council to access the \$2M savings made from the Caring for our Country Stage 1 contract; and**
- b The Federal Government enable a much more efficient and expeditious negotiation process for the \$11.4M Caring for our Country Stage 2 contract.**

2 That Council record its appreciation to the Member for Dobell for his assistance in progressing this matter.

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

AGAINST: NIL

PROCEDURAL MOTION**SUSPENSION OF ORDER OF BUSINESS**

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

That Council suspend the order of business to allow consideration of Item 8.2 – Notice of Motion - Acknowledgement of the Darkinjung People.

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

AGAINST: NIL.

THE MAYOR INVITED MS TRACEY HOWIE, MEMBER OF THE GURINGAI TRIBE, TO SPEAK IN RELATION TO ITEM 8.2 – NOTICE OF MOTION - ACKNOWLEDGEMENT OF THE DARKINJUNG PEOPLE.

FOR THE SAKE OF CLARITY, THE MINUTES INCLUDE CONSIDERATION OF ITEM 8.2 – NOTICE OF MOTION - ACKNOWLEDGEMENT OF THE DARKINJUNG PEOPLE IN THE CORRECT AGENDA SEQUENCE.

3.1 Draft Toukley Planning Strategy

Ms Shari Young, representing Toukley Greater Vision, addressed the meeting at 5.30 pm, answered questions and retired at 5.47 pm.

Councillors Wynn and Webster entered the chamber at 6.21 pm during consideration of this item.

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

- 1 That Council adopt the draft Toukley Planning Strategy.**
- 2 That Council advise the Department of Planning of its decision and forward a copy of the adopted Strategy for approval of the Director-General, pursuant to Section 117 Direction 3.1 – Residential Zones.**
- 3 That Council include the rezoning recommendations contained within the draft Toukley Planning Strategy into the draft Wyong Local Environmental Plan 2011 with the exception of those areas notated ‘coastal risk investigation areas’ unless resolved by the completion of relevant risk management plans.**
- 4 That Council endorse staff to liaise and negotiate with land owners of the ‘Trigger Sites’ concerning redevelopment options.**
- 5 That Council request staff to prepare a further report for Council’s consideration on the Waterfront Tourist Park and the Lakeside Tourist Park to establish appropriate uses, zones and controls to provide the incentives for these sites to be redeveloped.**

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

AGAINST: NIL

3.2 Lower Wyong River Floodplain Risk Management Plan

Councillor Vincent left the chamber at 8.50 pm and returned to the chamber at 8.51 pm during consideration of this item.

Councillor McBride left the chamber at 8.54 pm and returned to the chamber at 8.56 pm and as a result took no part in voting.

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

- 1 That Council adopt the Lower Wyong Floodplain Risk Management Plan.**
- 2 That Council staff commence implementation of the recommendations contained within the Plan.**

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

AGAINST: NIL

PROCEDURAL MOTION

SUSPENSION OF ORDER OF BUSINESS

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

That Council use the exception method to deal with the balance of the Agenda.

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

AGAINST: NIL

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

That with the exception of report numbers 4.1, 4.2, 5.2, 6.2, 6.3 and 6.12 Council adopt the recommendations contained in the remaining reports.

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

AGAINST: NIL

4.1 Renewal of Lease of Part of the Charmhaven Depot Site - Lot 22 DP 221456

Councillor Best left the chamber at 8.58 pm and returned to the chamber at 8.59 pm during consideration of this item.

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

- 1 That Council authorise the renewal of the lease of part of Lot 22 DP 221456 to the Rotary Club Northlakes of Toukley Inc for a further term of five years from January 1, 2011 for nominal rent and on the same terms and conditions as the current lease.**
- 2 That Council authorise for the Common Seal of the Wyong Shire Council to be affixed to the Deed of Lease between the Wyong Shire Council and the Rotary Club of Northlakes Toukley Inc.**
- 3 That Council authorise the Mayor and the General Manager to execute all documents relating to the Deed of Lease between the Wyong Shire Council and the Rotary Club of Northlakes Toukley Inc.**

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

AGAINST: NIL

4.2 Proposed Lease to Scout Association of Australia of Part of Lots 15 and 16 DP 27722 at Koowong Road, Gwandalan

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

- 1 That Council approve a lease of Part of Lots 15 and 16 DP 27722 at Koowong Road, Gwandalan to Scout Association of Australia for a period of twenty years at nominal rent subject to development consent being granted for construction of a scout hall.**
- 2 That Council authorise the Common Seal of Wyong Shire Council to be affixed to the Lease between Wyong Shire Council and Scout Association of Australia.**
- 3 That Council authorise the Mayor and the General Manager to execute all documents relating to the Lease.**

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

AGAINST: NIL

5.1 Presentation on 2009-10 Annual Financial Reports

Mr Dennis Banicevic, representing Price Waterhouse Coopers, addressed the meeting at 5.06 pm, answered questions and retired at 5.28 pm.

Councillor Matthews left the chamber at 5.13 pm and returned to the chamber at 5.14 pm during consideration of this item.

Councillor Symington entered the chamber at 5.17 pm during consideration of this item.

Councillor Matthews left the chamber at 5.25 pm and returned to the chamber at 5.27 pm during consideration of this item.

Councillors Webster and Wynn arrived at the chamber at 6.21 pm and as a result were absent during consideration of this item and took no part in voting.

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

- 1 ***That Council present the Audited Financial Reports for 2009-10 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 2009-10.***

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

AGAINST: NIL

5.2 Request for Support by Gosford City Council against the Proposal by State Government to Introduce Hidden Mobile Speed Cameras Throughout New South Wales

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

- 1 ***That Council receive the report on Request for Support by Gosford City Council against the Proposal by State Government to Introduce Hidden Mobile Speed Cameras Throughout New South Wales.***
- 2 ***That Council not support Gosford City Council in their endeavour to lobby against the State Government in regard to this proposal.***

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

AGAINST: COUNCILLORS BEST, MCNAMARA AND WEBSTER

5.3 Request to Close Walkway between Tristram Close and Renee Close Lake Haven

Mr Fred Wratten, resident, addressed the meeting at 6.45 pm, answered questions and retired at 7.11 pm.

Councillor Vincent left the chamber at 6.45 pm and returned to the chamber at 6.46 pm during consideration of this item.

Councillor Best left the chamber at 7.16 pm and returned to the chamber at 7.17 pm during consideration of this item.

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

- 1 ***That Council trial the closure of the pedestrian walkway between Tristram Close and Renee Close Lake Haven for the period of six months, as described in this report.***
- 2 ***That Council review the success of the trial closure (including a summary of residents) after three months of the closure and consider a report on that review before making a final decision.***
- 3 ***That Council notify the residents consulted on the outcomes of the investigation process.***
- 4 ***That Council endorse the criteria and consultative methodology undertaken as part of this report when considering future requests for the closure of pedestrian walkways.***

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

AGAINST: COUNCILLORS MATTHEWS, MCBRIDE AND SYMINGTON

6.1 Information Reports

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

That Council receive the information reports.

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

AGAINST: NIL

6.2 Outstanding Mine Subsidence Claims - Chain Valley Bay South

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

- 1 That Council receive the report on Outstanding Mine Subsidence Claims - Chain Valley Bay South.**
- 2 That Council write to the relevant Minister and the relevant Shadow Minister and request them to meet with Council with a view to resolving this issue prior to the next State election.**

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

AGAINST: NIL

6.3 Wallarah 2 Coal Project

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

- 1 That Council receive the report on Wallarah 2 Coal Project.**
- 2 That Council express its disappointment that it has not received a response from the Minister for Planning, Mr Kelly.**
- 3 That Council also express its disappointment to the Local Member, Mr Harris, for him not supporting the motion raised on the floor of the lower house of Parliament requesting that the Wallarah 2 KORES Coal Project not be given consent in support of the local community.**

FOR: COUNCILLORS BEST, EATON, GRAHAM, MCNAMARA, WEBSTER AND WYNN

AGAINST: COUNCILLORS MATTHEWS, MCBRIDE, SYMINGTON AND VINCENT

6.4 Activities of the Development Assessment Unit

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

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

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

AGAINST: NIL

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

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

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

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

AGAINST: NIL

6.6 Consent to Subcontract Processing of Recyclables - Thiess Services

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

That Council receive the report on the granting of consent to Thiess Services Pty Ltd to subcontract the processing and disposal of recyclables to PAR Recycling Services Pty Ltd.

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

AGAINST: NIL

6.7 General Works in Progress

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

That Council receive the report on General Works in Progress.

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

AGAINST: NIL

6.8 Works in Progress - Water Supply and Sewerage

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

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

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

AGAINST: NIL

6.9 Mardi to Mangrove Link Project Status

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

That Council receive the report on Mardi to Mangrove Link Project Status.

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

AGAINST: NIL

6.10 Investments for September 2010

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

That Council receive the report on Investments for September 2010.

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

AGAINST: NIL

6.11 Conference Attendance - The Australian Local Government Womens Association - National Conference - Women Going Places

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

- 1 That Council authorise interested Councillors to attend the Australian Local Government Womens Association National Conference - Women Going Places Conference.**
- 2 That Council meet reasonable expenses incurred in Councillors attending the Conference in accordance with Council's Facilities and Expenses Policy for Councillors.**

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

AGAINST: NIL

6.12 Outstanding Questions without Notice and Notice of Motions

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

That Council receive the report on Outstanding Questions without Notice and Notice of Motions.

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

AGAINST: NIL

8.1 Notice of Motion - Lake Audit on Power Station Effects

Councillor Vincent declared a non-pecuniary significant conflict of interest in the matter for the reason that he is an employee of Delta Electricity left the chamber at 9.35 pm, took no part in discussion, did not vote and returned to the chamber at 9.41 pm.

Councillor Graham left the chamber at 9.37 pm and returned to the chamber at 9.38 pm during consideration of this item.

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

- 1 That Council request the NSW State Government conduct a comprehensive audit of the power industry's environmental impact on Lake Macquarie, Lake Munmorah and Lake Budgewoi.**
- 2 That Council request the State Government ensure the audit identified any consequent health risks to the residents in the surrounding locale.**
- 3 That Council recommend the audit be funded from the dividend extracted from the industry by the NSW Government.**

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

AGAINST: NIL

8.2 Notice of Motion – Acknowledgement of the Darkinjung People

Tracey Howie, Member of the Guringai Tribe, addressed the meeting at 8.00 pm, answered questions and retired at 8.15 pm.

Councillor Matthews left the chamber at 8.01 pm and returned to the chamber at 8.02 pm during consideration of this item.

Councillor Vincent left the chamber at 8.01 pm and returned to the chamber at 8.05 pm during consideration of this item.

It was MOVED by Councillor MCBRIDE and SECONDED by Councillor MATTHEWS:

- 1 *That Council, on behalf of the people of Wyong Shire, acknowledge and honour local aboriginal people as the Shire's first people.*
- 2 *That Council recognise the aboriginal people as the traditional custodians and occupants of the land in Wyong Shire and their spiritual, social, cultural and economic relationship with their traditional lands and waters which make a unique and lasting contribution to the identity of the Shire.*

An AMENDMENT was MOVED by Councillor WYNN and SECONDED by Councillor BEST:

- 1 *That Council, on behalf of the people of Wyong Shire, acknowledge and honour local Guringai people as the Shire's first people.*
- 2 *That Council recognise the aboriginal people as the traditional custodians and occupants of the land in Wyong Shire and their spiritual, social, cultural and economic relationship with their traditional lands and waters which make a unique and lasting contribution to the identity of the Shire.*

Councillor Wynn WITHDREW her AMENDMENT

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

That Council defer this item to allow time to further consider this matter and receive further information.

The AMENDMENT was put to the vote and declared CARRIED on the casting vote of the Mayor.

FOR: COUNCILLORS BEST, EATON, GRAHAM, MCNAMARA, AND WYNN

AGAINST: COUNCILLORS MATTHEWS, MCBRIDE, SYMINGTON, VINCENT AND WEBSTER

The AMENDMENT then became the MOTION.

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

That Council defer this item to allow time to further consider this matter and receive further information.

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

AGAINST: NIL

LEAVE TO INTRODUCE A MOTION OF URGENCY

Councillor Best sought leave to introduce a motion of urgency that Council make a bid to host the 2011 Coastal Conference

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

That Council consider a motion of Urgency regarding hosting the 2011 Coastal Conference

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

AGAINST: NIL

THE MAYOR RULED THAT THE MATTER WAS OF GREAT URGENCY AND COULD BE INTRODUCED AS A MOTION OF URGENCY.

A MATTER OF URGENCY was *MOVED* by Councillor BEST AND *SECONDED* BY COUNCILLOR WEBSTER:

That Council authorise the General Manager to investigate the possibility of hosting a future Coastal Council Conference.

Councillor Best WITHDREW his MOTION

THE MEETING closed at 10.02 pm.

10 November 2010

To the Ordinary Meeting

2.1 Mayoral Minute - Local Job Creation - the Shire of the Third Age

TRIM REFERENCE: F2010/00232 - D02417758

Wyong Shire has a high level of disadvantage across a range of socio-economic indicators details of which are as follows:

- For the index of relative social disadvantage Wyong has a score of 967 and is ranked 17th lowest for the index of education and occupation out of all 152 Councils in NSW.
- In 2006, the weekly individual income was \$381 in comparison to \$481 for NSW and the median weekly household income was \$770 in comparison to \$1036 for NSW. The Shire has a significantly lower income profile than NSW and the lowest median weekly household income level of all LGAs in the Sydney Statistical Division.
- 34% of the population hold post school qualifications and 51.5% have no post-school qualifications compared with 40.6% and 45.6% for NSW.
- A lower proportion of the population has a bachelor or higher degree, 6.6% compared to 16.4% for NSW.
- In December 2008 the Shire had an unemployment rate of 7.0% compared with 4.8% for NSW and 4.0% for Australia. Unemployment rates have historically been 2-5% higher than State and National rates.
- The youth unemployment rate is significantly higher than both State and National rates.
- The Shire has a higher ratio of part-time to full-time employment which could disguise significant levels of underemployment.
- The majority of the workforce (56.4%) are tradespersons, labourers and related workers, clerical and sales workers.
- 32.7% of employed residents commute out of the Region for work.

The average number of industrial Development Applications lodged per month is two. Recent Central Coast Research Foundation Economic Indicators show that industrial/goods producing industries now provide less than 10% of the total employment on the Central Coast. The conclusion is that we need to provide more opportunities for service based employment if we are to provide additional local employment.

The provision of aged housing and associated medical facilities are an example of a growing serviced based employment sector as they provide a wide range of employment opportunities varying from low skilled to high skilled/professional jobs varying from maintenance workers, landscapers etc through to nurses and doctors.

In addition people moving into aged housing almost by definition do not require local employment as they are retired in contrast to families moving into the area who must find jobs locally or commute.

Our current aged demographic is skewed heavily to the 60 plus age group and over the last ten years or more our once above average demographic in young people has disappeared and we are now trending below the state average.

Our geographic location being close to Sydney and readily accessible by cheap non peak

hour public transport to Sydney (\$2.50 for Seniors) coupled with our more relaxed lifestyle and attractive natural environment makes us an obvious and attractive retirement destination. We already have a number of aged housing precinct principally at Bateau Bay and in development at Kanwal and some excellent senior's facilities. Examples of senior's infrastructure are Toukley and Long Jetty Senior Citizens centres. Toukley being the largest in Australia.

It is my view that we should use our strengths in this sector to grow our local economy and provide local jobs and to this end I propose the following:

I formally move:

That Council adopt a strategic target of creating 5,000 local jobs over 10 years by creating Wyong Shire as a nationally recognised district of excellence in aged housing. The following strategies would be involved in reaching this target:

- a Establish a register of sites appropriate for development of aged housing and facilities based on appropriate parameters including size and location.***
- b Increasing flexibility in the new Local Environmental Plan to encourage aged housing for example consider allowing aged housing and associated medical facilities in the Wyong Employment Zone.***
- c Amend dual occupancy DCP to encourage the redevelopment of single cottages more than 30 years old in existing urban areas by, for example reducing lot sizes, reducing contributions and relaxing development controls and investigating "Fonzie Flats". Recognising that dual occupancy development is generally suitable for aged housing and replacing old housing with new housing increases energy and resource and Environmental efficiency.***
- d In conjunction with the private sector identify and market the advantages of Wyong Shire for aged housing.***
- e Reviewing Council owned sites for possible aged housing including the Warnervale Country Music site.***
- f Work with local registered clubs to encourage their participation in this sector and identify and ameliorate barriers to entry.***
- g Call for expressions of interest to form an expert panel to advise Council on this initiative.***

3.1 Draft LEP (Amendment No. 179) Lot 2 DP 520220 Lake Munmorah, Draft DCP 2005: Chapter 114 - Lake Munmorah Village Centre and Draft VPA

TRIM REFERENCE: RZ/7/2004 - D02392146
MANAGER: Paul Bowditch, Manager Future Planning
AUTHOR: Lynda Howson, Senior Strategic Planner, Land Use Planning

SUMMARY

Reporting on the status of the rezoning of the land at Lake Munmorah and recommending that the proposal be forwarded to the Minister for Planning for gazettal.

RECOMMENDATION

- 1 That Council refer the draft Local Environmental Plan 179 to the Department of Planning requesting that the Minister for Planning make the plan.**
- 2 That Council adopt draft Development Control Plan 2005: Chapter 114 – Lake Munmorah Village Centre and provide appropriate public notice within 28 days of this resolution, and that it becomes effective upon the gazettal of Local Environmental Plan Amendment No. 179.**
- 3 That Council endorse the Voluntary Planning Agreement (VPA) and authorise the General Manager to execute the VPA.**
- 4 That Council forward a copy of the executed Voluntary Planning Agreement to the Minister for Planning in accordance with the provisions of Clause 93G of the Environmental Planning and Assessment Act 1979.**

BACKGROUND

In 2004, Council received a rezoning proposal to rezone part of Lot 2 DP 520220 from 10(a) (Investigation Precinct) to 3(a) (Business Centre). Assessment of the rezoning proposal commenced in 2008 following extensive modification to the proposal by the proponent and adoption of Council's Retail Centres Strategy (RCS).

The purpose of the rezoning is to facilitate the development of a shopping centre on part of the site. The shopping centre is proposed to be constructed in two stages with Stage 1 including a supermarket and retail shops with up to 5,000m² of gross retail floor space, and a petrol station and medical centre. Stage 2 will be subject to demand and may include up to an additional 5,000m² of gross retail floor space. The maximum gross retail floor space for the site, consistent with the RCS, is 10,000m².

Council Resolution

At its meeting of 28 January 2009, Council resolved unanimously on the motion of Councillor Best and seconded by Councillor Graham:

- “1 That Council reiterate the significance of this proposal on the basis of its value in providing necessary social and economic infrastructure for the northern part of the Shire.
- 2 That Council prepare a draft Local Environmental Plan in accordance with Section 54 of the Environmental Planning and Assessment Act to rezone Lot 2 DP 520220 Pacific Highway, Lake Munmorah to facilitate the development of a shopping centre on the site.
- 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 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 request the Department of Planning to issue a certificate pursuant to Section 65 of the Environmental Planning and Assessment Act to permit exhibition of the draft Local Environmental Plan; or that Council, subject to direction from the Department of Planning, use its delegation to issue a certificate pursuant to Section 65 of the Environmental Planning and Assessment Act.
- 8 That Council upon receipt of issue of the Section 65 certificate, advertise the draft Local Environmental Plan, draft DCP 2005 and any Contribution Plans affecting the land for a minimum of 28 days in accordance with the Environmental Planning and Assessment Act Regulations.
- 9 That Council authorise the Mayor and General Manager to execute all documents and agreements relating to the undertaking the rezoning, including any required Deeds of Agreement between Council and the land owner to recover (staff and consultant) costs associated with the rezoning and to cover infrastructure and service provision costs arising from the proposal .
- 10 That Council note Section 149 Certificates for those affected properties.
- 11 That the rezoning application be progressed as a priority matter.”

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

AGAINST: NIL

Deed of Agreement/Voluntary Planning Agreement

In accordance with resolution No. 9 above, a Voluntary Planning Agreement (VPA) was proposed. This VPA requires the applicant to pay a monetary contribution to fund the provision of a shared pathway linking the subject site to surrounding residents and schools.

The proposed shopping centre will generate additional traffic and pedestrian movements and therefore there is a clear nexus between the proposed development and the impacts being generated. Given this nexus, it is considered that the cost of connecting this proposed development to existing residential areas by way of a shared pathway is not a cost which should be borne by the community. It is considered that the majority of the cost should be borne by the applicant due to the isolated nature of the Lake Munmorah site.

At Council's meeting of 25 November 2009, the following was resolved unanimously on the motion of Councillor Best and seconded by Councillor Graham:

- “1 That Council receive and note the report on the progress of the Lake Munmorah rezoning request
- 2 That Council thank the applicant for the current offer to contribute to the provision of a shared pathway network to provide safe pedestrian and cycle connections to the site from the existing residential areas of Lake Munmorah and Chain Valley Bay, and advise the applicant that Council considers that a more reasonable contribution would be a minimum amount of \$1,250,000 for this essential link.
- 3 That the applicant be requested to consider the provision of a medical centre as part of Stage 1 of the proposal
- 4 That Council pursue other funding sources to fund the construction of the remainder of the shared pathway scheme in the area.
- 5 That Council consider including the cost of the remaining unfunded section of the shared pathway in a future contributions plan if the North Wyong Shire Structure Plan identifies further residential opportunities in the area to be serviced by the shared pathway.”

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

AGAINST: NIL

The applicant proposed that the construction of the cycleway, and its funding, be staged in accordance with the staging of development. At Council's meeting of 12 May 2010, the following was resolved unanimously on the motion of Councillor Best and seconded by Councillor Wynn:

- “1 That Council endorse the provision of the shared pathway by way of a stage construction as follows:
 - Pathway 1 and Pathway 2 on the attached plan (Figure 1) in conjunction with the construction of Stage 1 of the development.

3.1 Draft LEP (Amendment No. 179) Lot 2 DP 520220 Lake Munmorah, Draft DCP 2005: Chapter 114 - Lake Munmorah Village Centre and Draft VPA (contd)

- *Pathway 5 on the attached plan (Figure 1) in conjunction with the construction of Stage 2 of the development.*
- 2 *That Council advise the applicant that it does not support rezoning of the entire site, however, incorporation of an additional two hectare area of 3(a) (Business Centre Zone) land to the north of the existing zone boundary and in the south eastern corner of the site (as illustrated in figure 3 contained in this report) is supported to facilitate adequate carparking and servicing to the proposed development.*
 - 3 *That Council advise the applicant that the rezoning will not be progressed further unless outstanding fees relating to Phase 2 of Council's spot rezoning procedure are received in full.*
 - 4 *That Council advise the applicant that all Asset Protection Zone (APZ) and Urban Interface Area (UIA) requirements shall be located within the land proposed to be zoned 3(a) (Business Centre Zone).*
 - 5 *That on the basis that the applicant has agreed to provide the shared pathways indentified in point 1 of the recommendation and any subsequent requirement for the applicant to provide upgraded road and drainage works associated with a future development application for the site, any future commercial development of the site be excluded from any Section 94 Development Contributions Plan."*

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

AGAINST: NIL

Details of the Voluntary Planning Agreement

Parties:	Wyong Shire Council and Fabcot Pty Ltd
Operative Requirements:	The VPA will only operate if and when the instrument change occurs; and planning approval for development of the land for any use permissible within the 3(a) Business Centre zone is granted.
Provisions:	Payment of a monetary contribution towards the provision of a shared pathway connecting the development site to surrounding residents and schools.
Pathway:	<u>Stage 1</u> Pathway 1 - Pacific Highway South (Saliena Ave to Tall Timbers Road) - \$194,545 Pathway 2 – Pacific Highway South (Tall Timbers Rd to Colongra Bay Road) - \$290,290 <u>Stage 2</u> Pathway 5 – Pacific Highway North (Tall Timbers Rd to Carters Road) - \$764,790
Indexation:	CPI

Contribution Rates Comparison

The following table provides a comparison between what development contributions would have been levied under Section 94 Contribution Plan No. 10 – Northern Districts and No. 11 – Shire-wide Contributions Plan, and the contributions the proponent is willing to make through the VPA.

Difference Between draft Contributions Plan and VPA			
Category	S94 Contribution	VPA	Difference
Northern Districts Sub Plan			
Roads & Traffic Management	\$0	\$0	\$0
Open Space & Recreation Facilities	\$0	\$0	\$0
Community Facilities	\$0	\$0	\$0
Administration	\$0	\$0	\$0
Shire-wide Contributions Plan			
Library Stock	\$0	\$0	\$0
Performing Arts Centre	\$0	\$0	\$0
Public Art Communities	\$0	\$0	\$0
Regional Open Space	\$0	\$0	\$0
Shire Cycleway Network	\$0	\$1,249,625	\$1,249,625
Administration	\$0	\$0	\$0
Total	\$0	\$1,249,625	\$1,249,625

As highlighted above, the proposed development of a shopping centre on the site would not be subject to any Section 94 contributions under Council’s current Section 94 Contribution Plans. Should this area be identified for further growth under the Department of Planning’s (DoP) North Wyong Shire Structure Plan (NWSSP), it is likely that a new Section 94 Contribution Plan will be developed to levy contributions towards the new infrastructure and facilities required to service the future growth. However, in accordance with Council’s resolution of 12 May 2010, Council has agreed that the proposed development would be excluded from any future Section 94 Contribution Plan, in lieu of the agreed contribution of approximately \$1.25 million towards the shared pathway.

DCP 2005 - Draft Chapter 114

An additional chapter of DCP 2005 was prepared to guide future development on Lot 2 DP 520220 once rezoned to 3(a) (Business Centre Zone).

Key aspects of this draft Chapter 114: Lake Munmorah Village Centre include:

- Restriction of the maximum gross retail floor space for the site to 10,000m² in accordance with Council’s Retail Centres Strategy;
- A Vegetation Management Plan (VMP) is required to be submitted to guide the retention of significant vegetation on the site, in particular along the northern and eastern property boundaries. The VMP shall detail the rehabilitation program to maintain/supplement the residual 2 hectares in the northern portion of the site;

- The minimum building setbacks are 15m to the Pacific Highway, 10m to Tall Timbers Road and 15m to the eastern property boundary. Within these building setback areas a minimum landscaped area is to be maintained for 10m to the Pacific Highway, 5m to Tall Timbers Road and 10m to the eastern property boundary.
- A Transport Plan (TP) is to be submitted that provides for:
 - A shuttle/mini bus service to Summerland Point, Gwandalan, Chain Valley Bay and Lake Munmorah;
 - Provision of pedestrian facilities for pedestrians to cross the Highway;
 - Provision of designated bus bays incorporating bus shelter, seating and lighting; and
 - Provision of bicycle parking, showers, change rooms and lockers.

Central Coast Regional Strategy (CCRS)

The proposal is consistent with the CCRS, being located within the NWSSP area, which contains the majority of future greenfield residential development and new employment lands and is the key priority for release area planning for the Central Coast region. The CCRS states:

“Significant retail growth, based on population growth, will create a need for more specialty shops, bulky goods outlets and department stores....ensure new retail and commercial development is located in centres.”

The CCRS identifies Lake Munmorah as one of a number of Village Centres, which are defined as small to medium sized concentrations of retail, health and other services. This proposal is for a new retail centre containing a medical/health centre and various other specialty shops and services. This will help achieve the “Village Centre” vision outlined for Lake Munmorah in the CCRS.

Retail Centres Strategy and DCP2005: Chapter 81 Retail Centres

Council’s Retail Centres Strategy and DCP2005: Chapter 81 Retail Centres came into effect in January 2008. The documents highlight the need for a new Village Centre to service the existing and forecast population growth and subsequent retail spending within the Northern Lakes/Budgewoi area.

Demand currently exists for another supermarket in the Northern Lakes Social Planning District (which covers the Lake Munmorah to Gwandalan area). Even with the addition of two full line supermarkets at Warnervale Town Centre (yet to be constructed) by 2016 there will still be an undersupply of supermarkets in the Northern Lakes area. The Strategy concludes that a new retail centre with 5,000m² of retail floor space is required in the Northern Lakes area by 2011. Further, that this centre could expand with an additional 5,000m² of retail floor space after 2021.

The development of the proposed Shopping Centre at Lake Munmorah complies with the Retail Centres Strategy and Chapter 81 Retail Centres. The proposed development will improve retail facilities available to residents in the Northern Lakes area, thus retaining a significant portion of escape spending from the area, reducing travel distances to access retail services and creating additional jobs (240 retail jobs upon completion, approximately 80 jobs during construction and a number of flow on jobs from multiplier effects can also be expected).

The current site is considered central to the surrounding residential population at Mannering Park, Chain Valley Bay, Summerland Point, Gwandalan and Lake Munmorah. The alternative option to expand these existing lower order centres is not considered feasible from a planning or economic perspective due to the relative inaccessibility of these centres (i.e. at the edge of a peninsula or "dead-end" in terms of the road network), lack of passing trade, lack of available adjoining land to permit expansion and location in the centre of residential areas. In addition, it is considered unlikely that any expansion of the existing lower order centres would attract or maintain the establishment of a full line supermarket. As such, the proposed establishment of a Village Centre at Lake Munmorah containing a full line supermarket in a central location is considered the most appropriate method of satisfying the retail demand for the Northern Lakes Social Planning District (SPD).

Amendments to the Environmental Planning and Assessment Act, (EP&A Act) 1979

Changes to the EP&A Act, 1979 introduced the Gateway Process, a new system for the determination and progression of LEP Amendments. These changes became effective on 1 July 2009.

The *Environmental Planning and Assessment Amendment (Transitional Arrangements) Regulation* commenced on 12 February 2010. The amending Regulation ensures that planning authorities do not have to repeat any steps in the plan making process that occurred after 30 June 2009 and before 12 February 2010 for draft LEPs notified under the former Section 54 of the EP&A Act. This ensures that the steps taken in the preparation of LEP Amendment No.179 are taken to have validly occurred to enable the plan making process to be completed.

Savings and transitional provisions in the EP&A Act apply to LEP Amendment No.179 and require that the LEP must be finalised by 1 January 2011. Should Council resolve to proceed with the rezoning, the amending LEP will be expedited to the DoP requesting that the Minister for Planning make the plan prior to the 1 January 2011 deadline. Should there be any delays with forwarding the amending LEP to the DoP, the rezoning will be required to be resubmitted as a new planning proposal under the Gateway system or included within Council's comprehensive LEP. This would significantly delay the rezoning and ultimate development of the subject site.

The staff at the DoP are fully aware of this time constraint and have also been kept up to date with the progress of this rezoning.

THE PROPOSAL

As outlined above, the proposed rezoning of part of Lot 2 DP 520220 from 10(a) (Investigation Precinct Zone) to 3(a) (Business Centre Zone) is consistent with DoP's CCRS and Council's RCS.

A number of consultant reports have been submitted addressing all environmental, social and economic planning issues (i.e. flora/fauna, traffic, economic impact assessment, etc.) associated with the proposed development. The draft LEP aims to rezone six hectares of the eight hectare site to provide for development of a Shopping Centre. The residual two hectares of land was initially proposed to remain 10(a) (Investigation Precinct Zone). However, it is now proposed to zone this portion of the site to 7(a) (Conservation Zone), to comply with a request from the Department of Environment, Climate Change and Water (DECCW). This is discussed further below.

OPTIONS

Option 1 – Proceed with the Rezoning (Recommended)

The finalisation of the rezoning process will enable the gazettal of the plan and assist in the development of the site. This development will stimulate economic benefits for the locality through the creation of construction and operational employment opportunities associated with large scale retail development. The development will improve retail facilities available to residents in the Northern Lakes area, thus retaining a significant portion of escape spending from the area and reducing travel time and distances to access retail services.

It is considered that proceeding with the rezoning is the preferable action at this time.

Option 2 – Do Not Proceed with the Rezoning

Whilst opportunities remain to rezone the site through the comprehensive LEP review, potential early economic benefits associated with the future use of the site would be delayed if the rezoning does not proceed at this time.

Not proceeding with the rezoning will adversely impact the local community who currently have to travel up to 20km to access basic food and grocery items.

STRATEGIC LINKS

This proposal is linked to the Annual Plan.

Annual Plan

Principal Activity	Strategy or Program	Financial Line Item No and Description
A More Sustainable Community	3.1 Provide and maintain local and regional community facilities for recreation, culture, health and education.	Not Applicable

Principal Activity	Strategy or Program	Financial Line Item No and Description
A More Sustainable Economy	5.1 Provide a coordinated approach to business generation, employment and development the region. 5.8 Ensure adequate and appropriate employment land in the Shire.	Not Applicable
Infrastructure	Funds collected through the VPA will be utilised to construct a shared pathway to link the proposed shopping centre to surrounding residents and schools.	Not Applicable

Contribution of Proposal to the Principal Activity

This proposal will enable the development of retail and community facilities, including a medical centre, within the proposed shopping centre. Funds collected through the VPA will provide safe and efficient pedestrian access to the shopping centre. This will enable a greater level of service to be provided to the community in that locality.

Link to Shire Strategic Vision

Priority Objective	How the proposal contributes or links to the Priority Objectives in Shire Strategic Vision and Annual Plan
Communities - Communities will be vibrant, caring and connected with a sense of belonging and pride in their local neighbourhood.	This proposal will enable the development of retail and community facilities within the proposed shopping centre, including a much needed medical centre. This will enable a greater level of service to be provided to the community in that locality.
Travel - There will be ease of travel within the Shire, and to other regional centres and cities. Travel will be available at all hours and will be safe, clean and affordable.	Contribution through the VPA towards the construction of a shared pathway from the site to surrounding residents and schools will promote and encourage safe pedestrian and cyclist access to the site. The proposal will reduce travel time and distance for Northern Lakes residents who currently have to travel up to 20kms to access retail goods and services.
Facilities and Services - Communities will have access to a diverse range of affordable and coordinated facilities, programs and services.	This proposal will enable the development of retail and community facilities within the proposed shopping centre, including a much needed medical centre. This will enable a greater level of service to be provided to the community in that locality.

Priority Objective	How the proposal contributes or links to the Priority Objectives in Shire Strategic Vision and Annual Plan
Education - The community will be well educated, innovative and creative. People will attain full knowledge potential at all stages of life.	Nil.
Employment - There will be a strong and sustainable business sector and increased local employment built on the Central Coast's business strengths.	This proposal will enable the development of a shopping centre on the site for large scale retail/commercial uses. This development will assist in the provision of employment opportunities both during construction and operation of the development (estimated 240 retail jobs upon completion, approximately 80 jobs during construction). In addition, the associated retail activity will provide benefits for the local economy.

Financial Implications

The payment of monetary contributions outlined in the VPA will enable Council to provide the shared pathway to connect the shopping centre to surrounding residents and schools.

The proponent has agreed to pay Council's costs in relation to the rezoning process and the negotiation, preparation, exhibition, execution and registration of the VPA.

Principles of Sustainability

The proposal has been assessed having regard to ecologically sustainable development principles and is considered to be consistent with the principles. It is anticipated that the development of the shopping centre, including design, construction and operational stages will also incorporate the Principles of Sustainability.

CONSULTATION

Government Agency Consultation

During Section 62 consultation with the relevant government agencies, two objections to the amending LEP were received from the Department of Primary Industries (DPI) and Department of Environment, Climate Change and Water (DECCW). The DPI removed their objection following consultation with the Mine Subsidence Board (MSB). The DECCW removed their objection subject to the retention of vegetation within the residual two hectares of the site and inclusion of a 15m boundary setback, with a 10m vegetation buffer, along the eastern property boundary. These requirements have been included with draft DCP 2005: Chapter 114 Lake Munmorah Village Centre.

Other requirements from the government agencies have been included within Chapter 114 where appropriate, or will be required as conditions of consent on any development application to develop the site for a shopping centre.

3.1 Draft LEP (Amendment No. 179) Lot 2 DP 520220 Lake Munmorah, Draft DCP 2005: Chapter 114 - Lake Munmorah Village Centre and Draft VPA (contd)

During the public exhibition period additional responses were received from the Mine Subsidence Board (MSB), Rural Fire Service (RFS), Department of Planning (DoP) and Industry and Investment NSW (I&I NSW). These submissions raised no new issues or concerns with the rezoning.

An additional submission was also received from DECCW. This submission stated that DECCW removed its objection to the rezoning conditional on the basis that the remaining two hectares of land be managed as conservation land (in perpetuity). As such DECCW requests that this residual two hectares of land be zoned for conservation purposes prior to gazettal of the LEP. The draft plan has been amended accordingly to show the remaining portion of the subject site as zoned 7(a) (Conservation Zone).

Public Consultation

All documents were publicly exhibited from 29 September 2010 to 28 October 2010 in accordance with the former plan making provisions of the EP&A Act and Clause 18 of the Environmental Planning and Assessment Regulations, 2002.

23 Submissions (including two petitions with 101 and 53 signatures respectively, and 134 form letters, supporting the proposal) were received. A summary of those submissions and staff responses are below:

Doc No. Submission	Comments	Response
D02392078	<ul style="list-style-type: none"> ▪ Gwandalan and Chain Valley Bay are more in need of a supermarket – have to drive 22km to nearest supermarket. ▪ Prefer supermarket at Gwandalan or further north on the highway where all suburbs including Lake Munmorah could have better access. 	<ul style="list-style-type: none"> ▪ The location of the supermarket at Lake Munmorah is supported by Council's adopted Retail Centres Strategy. It is anticipated that the NWSSP may explore options for additional retail facilities at Gwandalan. ▪ The applicant has submitted an Economic Impact Assessment (EIA) that predicts the greatest impact of the proposal will be to the Foodworks Store at Summerland Point. This impact could be predicted to be much higher if the proposed shopping centre was located closer to Summerland Point/Gwandalan
D02395022	<ul style="list-style-type: none"> ▪ Consider a Village Centre half way between Gwandalan/Summerland Point and Lake Munmorah. ▪ Takes over 20 minutes to get to a supermarket from Gwandalan. 	See above
D02404385	<ul style="list-style-type: none"> ▪ Support for the shopping centre. ▪ More jobs, better transport services, need doctors surgery. ▪ Like safety aspects – proposed cycleway, shopping centre bus. 	Noted

Doc No. Submission	Comments	Response
D02407295	<ul style="list-style-type: none"> ▪ Support the shopping centre. ▪ Long needed facility. ▪ Need it sooner rather than later. 	Noted
D02412060	<ul style="list-style-type: none"> ▪ Support shopping & medical centre. ▪ Important for all the over 50s who live in the nearby resort. ▪ Support jobs for the youth. ▪ Improve the site's presentation. 	Noted
D02407836	<ul style="list-style-type: none"> ▪ Support for the much needed shopping centre and the jobs it brings. ▪ Hope proposal goes ahead shortly. 	Noted
D02407683	<ul style="list-style-type: none"> ▪ Desperate need for shopping centre for growing population. ▪ Currently travel (through traffic congestion) to Lake Haven to shop. ▪ Need ASAP – save residents time and petrol money. ▪ Medical centre desperately needed – 2 weeks to get and appointment with a doctor. ▪ Support job creation. 	Noted
D02408132	<ul style="list-style-type: none"> ▪ Shopping Centre should be located at Gwandalan or half way between Gwandalan/Summerland Point and Lake Munmorah. ▪ Gwandalan residents have much further to travel to visit a supermarket. ▪ A shopping centre at Gwandalan would have less impact on the shops at Lake Munmorah and Chain Valley Bay. 	<ul style="list-style-type: none"> ▪ See comments above ▪ Locating a shopping centre closer to Gwandalan/Summerland Point would lessen the impact on the Chain Valley Bay and Lake Munmorah shops but increase the impact on the Gwandalan and Summerland Point shops
D02410166	<ul style="list-style-type: none"> ▪ Petition in support of the proposed shopping centre with 101 signatures 	Noted
D02410402	<ul style="list-style-type: none"> ▪ Support for shopping centre. ▪ A lot of aged persons in the area so important to have access by walkway, bus, car or motorised scooter. 	Noted
D02407434	<ul style="list-style-type: none"> ▪ Not against the development. ▪ Concerned about impact on local shops and traffic. ▪ Development should be further up the road towards Gwandalan/Summerland Point. 	<ul style="list-style-type: none"> ▪ See comments above. ▪ An EIA submitted with the proposal outlines an impact of approximately 5.9% on the trade of retailers within the trade area. ▪ The EIA concluded that most impacts would be in the first year of trading and are considered within the bounds of normal competition. ▪ Council's RCS identified that demand already existed (in 2006) for another supermarket in the Northern Lakes SPD and recommended a new centre of 5000m² be provided at Lake Munmorah by 2011.

Doc No. Submission	Comments	Response
D02413067	<ul style="list-style-type: none"> ▪ Support proposal. ▪ Better for the environment – less traffic travelling to Lake Haven. ▪ Much needed employment. ▪ More option for retirees to shop who don't have access to a motor car and rely on public transport. ▪ Smaller shops in the area are only convenience shops and will still be used – minimal impact.. 	Noted
D02410546	<ul style="list-style-type: none"> ▪ Fully support plans ▪ Support requirements in DCP Section 2.4 External Presentation and Visual Appearance. 	Noted
D02412426	<ul style="list-style-type: none"> ▪ Petition supporting the proposed shopping centre with 53 signatures. 	Noted
D02411946	Support for the proposed shopping centre.	Noted
D02412282	<ul style="list-style-type: none"> ▪ Support for the proposed shopping centre and its accessibility for over 50's within the nearby Lake Munmorah residential resort. ▪ Needed as employment for the youth. 	Noted
D02412044	<ul style="list-style-type: none"> ▪ Concerned the shopping centre might be further delayed. ▪ Much needed facility for the increasing population of elderly and youth. 	Noted
D02413066	<ul style="list-style-type: none"> ▪ Support close location to nearby retirement villages who don't drive. ▪ Most of these retirement villages are on the opposite side of the road – question the safety in crossing the road if no overhead bridge is provided. ▪ Does the size of Lake Munmorah warrant having another major complex when Lake Haven and Swansea already have a Woolworths? ▪ Does Woolworths know of new housing estates or additional population planned for this area before the community? 	<ul style="list-style-type: none"> ▪ The proposed cycleway will link with the existing traffic lights at the corner of Tall Timbers Road, which currently have a signalised pedestrian crossing. ▪ Council's RCS identified that demand already existed (in 2006) for another supermarket in the Northern Lakes SPD and recommended a new centre of 5000m² be provided at Lake Munmorah by 2011. ▪ It is anticipated that additional residential land will be indentified within the northern part of the Shire as part of the NWSSP. This would be consistent with Council's existing Residential Development Strategy which identified this area for future population growth.

Doc No. Submission	Comments	Response
D02413199	<ul style="list-style-type: none"> ▪ Concern over DCP requirements – as outlined below. ▪ What is the future use of remaining 2 hectares in the north and future use of Kemira Rd? ▪ Lack detail regarding fencing and screening for adjoining properties in Chisholm Ave. ▪ Section 2.4 should apply to Chisholm Ave as well as the Pacific Highway and Tall Timbers Rd. ▪ Has mine subsidence been addressed? ▪ Pathway required under 2.14ii is not shown on the map (Tall Timbers Rd to Deakin Ave and connecting Kemira Rd to the development). ▪ Pathways are listed as 1,2 and 5 under 2.3u but not on the map in Appendix C. ▪ Shared pathway should be provided down Tall Timbers Rd to Scaysbrook Ave and along Scaysbrook Ave. ▪ Developer should finance kerb and guttering to Deakin, Kemira and Chisholm Avenues and Tall Timbers Road . 	<ul style="list-style-type: none"> ▪ The DCP requires a Vegetation Management Plan (VMP) to be submitted detailing the retention /maintenance of the 2ha. It is proposed to zone this portion of the land 7(a) (Conservation Land). ▪ As this land will be zoned accordingly and shall remain in its current vegetated state and be supplemented with additional planting, this will provide an adequate buffer between the development and adjoining properties in Chisholm Ave. ▪ The MSB have no objection. ▪ Section 2.14 requires preparation of a Transport Plan (TP) outlining the provision of pathways to Deakin Avenue and Kemira Road – details of the pathways will be provided in the TMP which is to be submitted at DA stage. ▪ Section 2.3u has been changed to comply with the map. ▪ Council resolved on the 25/11/2009 to investigate alternate funding for a pathway connecting Scaysbrook Ave to the Pacific Hwy, with potential to include it in a future S94 Plan if the NWSSP identifies further residential development in this area. ▪ The Pacific Hwy pathways are prioritised as the potential conflicts between pedestrians and motorist are greater here where vehicles are travelling at up to 80km/h. ▪ There is no nexus between the proposed shopping centre and the need for guttering to nearby streets.
D02413598	<ul style="list-style-type: none"> ▪ Support proposal. ▪ VPA for cycleway is integral to the development. ▪ Vehicular access to the site from Tall Timbers Road and the Pacific Highway should be separated from pedestrian/cyclist access. 	<ul style="list-style-type: none"> ▪ Noted. ▪ The DCP site plan shows that pedestrian access from the Pacific Highway is separate to the vehicular access. At DA stage appropriate arrangements will also need to be made for pedestrian access to be separate from vehicular access off Tall Timbers Road.

Doc No. Submission	Comments	Response
D02414261	134 form letters signed by residents supporting the proposal.	Noted
D02415390	<ul style="list-style-type: none"> ▪ Proposal is premature and should await the NWSSP. ▪ Council would be disadvantaged if this plan is approved and the NWSSP shows another location for this facility. 	<ul style="list-style-type: none"> ▪ The NWSSP is imminent and ongoing communication with DoP and DECCW during progression of this rezoning have aimed to ensure that this proposal complies with the NWSSP. ▪ This proposal is consistent with the recommendations of the CCRS and Council's RCS for a new Village Centre at Lake Munmorah. As such, it is expected that the NWSSP, being the next step of investigation from the CCRS, will also recommend a new Village Centre at Lake Munmorah.

Doc No. Submission	Comments	Response
D02415472	<ul style="list-style-type: none"> ▪ Concern about impact on local shops of Lake Munmorah. ▪ Many examples on the Central Coast where major players wipe out small business – has Council studied the effects on small shops 6 months after a major development? ▪ Voting form placed in local shop with options of no, maybe or yes in response to the proposal – 84% of responses were No (286 responses – No 241, Maybe 36, Yes 9) – appears to be a great deal of concern about the development. ▪ Big business is determining what is right for the area. ▪ Wait until the NWSSP is completed. 	<ul style="list-style-type: none"> ▪ Whilst it is acknowledged the proposed development will have some impact on the local shops at Lake Munmorah, Council's RCS identified that demand already exists (based on population growth and retail spend) for additional retail floor space within the northern part of the Shire – the RCS actually highlighted that the northern part of the Shire is significantly undersupplied in retail floor space. ▪ Whilst there is evidence of some community concern with the proposal, the submissions received during public exhibition have highlighted that there is also strong community support for the proposal. ▪ The local shops at Lake Munmorah are considered to be convenience shops (for top up shopping) and it is expected they will still be utilised as such should this development proceed. It is the full line supermarkets within the area which are considered to receive the greatest impact. ▪ The EIA submitted with the proposal has predicted that the impact on trade levels for the local shops will be around 5.9%, which is considered minimal and within the relms of normal competition (up to 10%) and should not affect the viability of any existing shops. ▪ As stated above, this proposal is anticipated to comply with recommendations of the imminent NWSSP.

Applicants submission

The applicant lodged a submission during the exhibition period, requesting revision and/or deletion of a number of controls within draft DCP 2005: Chapter 114 Lake Munmorah Village Centre. The requested changes are outlined below, along with staff recommendations.

DCP requirement	Requested Amendment	DCP to be amended?
<p>2.2 Design principle</p> <p>The site layout of future development is to be in accordance with DCP Map 2 – Indicative Site Layout</p>	<p>The site layout is indicative and should not be applied prescriptively. Slight change proposed:</p> <p>The site layout of future development is to be <i>generally</i> in accordance with DCP Map 2 – Indicative Site Layout.</p>	<ul style="list-style-type: none"> ▪ Yes – proposed change has been incorporated into the DCP.
<p>2.3 Site Access & Car Parking (a)</p> <p>Site access is to be in a manner that does not lower performance of the existing road network, within a 10 year period from the date of the shopping centre opening, below a Level of Service D.</p>	<p>Delete this provision – it is unclear or feasible to monitor the performance of the intersection over 10 years to determine the extent to which changes in performance are solely attributed to the proposed shopping centre.</p>	<p>This is a RTA requirement. The following amendment has been included in the DCP:</p> <p>Site access is to be in a manner that does not lower the analysed performance of the existing road network, within a 10 year period from the date of the shopping centre opening, below a Level of Service D. The analysis is to be carried out at the time of the Development Application.</p>
<p>2.3 Site Access & Car Parking (j)</p> <p>All loading and servicing areas should be clearly identified for each proposed use and are to be separate from general parking and circulation areas and away from village centre customer pedestrian desire lines where serviced by Medium Ridge Vehicles (MRV) or larger.</p>	<p>Amend by adding the words where practical as this may not be practical in all instances, for example for small tenancies that sleeve larger ones.</p>	<p>No change proposed.</p> <p>This is a standard requirement and is not considered unreasonable. It will assist to ensure pedestrian safety within the site.</p>
<p>2.3 Site Access & Car Parking (m)</p> <p>Provision shall be made for safe and direct pedestrian pathways and crossing facilities within the car park, leading to the shopping centre entry, and along the property frontage facing the</p>	<p>Delete this provision – given that a VPA has been prepared for an external cycleway to the site, and that the bus stop on the Pacific Highway will remain, it is not considered necessary to provide any additional pedestrian pathways beyond the site. The applicant will ensure pedestrians are able to move safely within the site.</p>	<p>No change proposed.</p> <p>It is a standard requirement to provide kerb and guttering and concrete footpaths for the extent of the development.</p>

DCP requirement	Requested Amendment	DCP to be amended?
Pacific Highway and Tall Timbers Road, to minimise pedestrian and vehicular conflicts.		
<p>2.3 Site Access & Car Parking (s)</p> <p>A permanent bus shelter is to be provided at the front of the site, in the location of the existing bus stop.</p>	Delete this provision – the cost of providing a new shelter should be met by the bus operator.	<p>No change proposed.</p> <p>It is this development that is generating the need for the bus shelter and as such, it is the applicant's responsibility to provide the shelter for their customers.</p>
<p>2.3 Site Access & Car Parking (t)</p> <p>The developer of the site is required to enter into a Transport Infrastructure Deed with the RTA and a Voluntary Planning agreement (VPA) with Council for any external roadworks and shared pathways.</p>	<p>Delete this provision - The extent of the proposed pathway is clearly defined in the draft VPA. The extent of external roadwork required will be discussed with the RTA at DA stage.</p> <p>This provision is therefore unnecessary.</p>	<p>No change proposed.</p> <p>This is an RTA requirement.</p>
<p>2.7 Acoustic & Lighting Controls (f)</p> <p>Development to be designed such that any road traffic noise, existing or future, is managed in accordance with EPA and RTA criteria. Noise control strategies may be required to meet this criteria.</p>	Delete this provision – Noise impacts on residential properties is address elsewhere in Section 2.7, whilst mitigating the impact of traffic noise from the Pacific Hwy on the shopping centre is not a relevant issue.	<p>No change proposed.</p> <p>This is a RTA requirement.</p>
<p>2.13 Building Height, Setback & FSR (a)</p> <p>The required minimum building setbacks are:- 15 metres eastern site boundary</p>	Delete this provision – prefer a 10m landscaped area on the eastern site boundary to provide greater flexibility within the zone in terms of a building footprint.	<p>No change proposed.</p> <p>This boundary setback was requested by DECCW and agreed to by the applicant at a meeting between both parties, Council staff and DoP. DECCW removed their objection to the rezoning conditional on this requirement being included in the DCP.</p>

DCP requirement	Requested Amendment	DCP to be amended?
<p>2.13 Building Height, Setback & FSR (c)</p> <p>No car parking, signage, storage areas or other structures will be permitted within the building setback. Other uses such as car parking, access lanes and outdoor seating areas may be considered within the building setback area (but outside the minimum landscaped area), as long as these are appropriately treated at design stage, and appropriately screened from the street frontage.</p>	<p>These controls create a 'dead zone' between the landscaped area and building setback which is unusable.</p> <p>Change in wording to:</p> <p>No structures will be permitted within the building setbacks (excluding signage which should comply with Section 2.12 above). Other uses such as car parking, access lanes and outdoor staff seating areas may be considered within the setback area (but outside the minimum landscaped area), as long as these are appropriately treated at design stage, and appropriately screened from the street frontage.</p>	<p>Agreed. DCP amended in line with applicant's request.</p>
<p>2.14 Transport Requirements a-e for a Transport Plan</p>	<p>The applicant will provide a traffic report that addresses all of the items, with the exception of a shuttle/mini bus service. The applicant will not agree to fund a mini bus service.</p> <p>Delete this provision and replace with:</p> <p>Traffic and transport effects of future development of the site are to be addressed in accordance with RTA Guidelines. A Traffic Assessment should include opportunities to provide access to the site by means other than private car.</p> <p>The assessment is to include consideration of the following:</p> <ul style="list-style-type: none"> * Provision for minibus parking; * End of journey facilities should be provided in accordance with DoP Guidelines – Planning Guidelines for Walking and Cycling; * Preparation of a workplace travel plan. 	<p>No change proposed.</p> <p>This section requires the provision of a shuttle/mini bus service, pedestrian paths outside those proposed under the VPA, pedestrian facilities to cross the highway, bus bays incorporating bus shelters, seating and lighting, bicycle racks, showers, change rooms and lockers.</p> <p>The provision of such facilities was recommended by the Ministry for Transport during Section 62 consultations, and strongly supported in a number of public submissions.</p> <p>This is a standard requirement.</p>

DCP requirement	Requested Amendment	DCP to be amended?
<p>2.15 Urban Interface Requirements</p> <p>Management of the northern and eastern property boundary interface of the 10(a) Investigation Precinct zone and the proposed 3(a) Business Centre zone perimeter of the shopping centre development shall comply with the design requirements outlined in Clause 3.9.3 of WSC DCP 2005: Chapter 66 Subdivision. Given the uncertainty over the possible future uses on this site and adjoining land, an Urban Interface Area (UIA) is required in order to retain significant vegetation and manage buffer areas along the perimeter of the shopping centre.</p>	<p>Delete this provision – the 2 hectare residual portion provides a more than adequate buffer of approximately 65m between the proposed shopping centre and residential lands to the north</p> <p>The applicant strongly objects to any additional provisions that would reduce the developable area within the 3a Business Centre zone.</p>	<p>No change proposed</p> <p>When Council resolved to permit an increase in the size of the land being rezoned from 4 to 6 hectares on the 12 May 2010, it was conditional on all Asset Protection Zones and UIAs being contained within the portion of land to be rezoned to 3(a) (Business Centre Zone). See Council resolution no.4 on page 4 of this report.</p> <p>This provision was agreed to by the applicant at the time of the Council report.</p>

GOVERNANCE

The LEP amendment process is governed by the provisions of the EP&A Act, 1979. The provisions of this Act have been complied with throughout the processing of this rezoning.

The LEP amendment has been prepared in accordance with Council's Spot Rezoning Procedure which reflects the legislative requirements of the EP&A Act.

CORPORATE RISKS

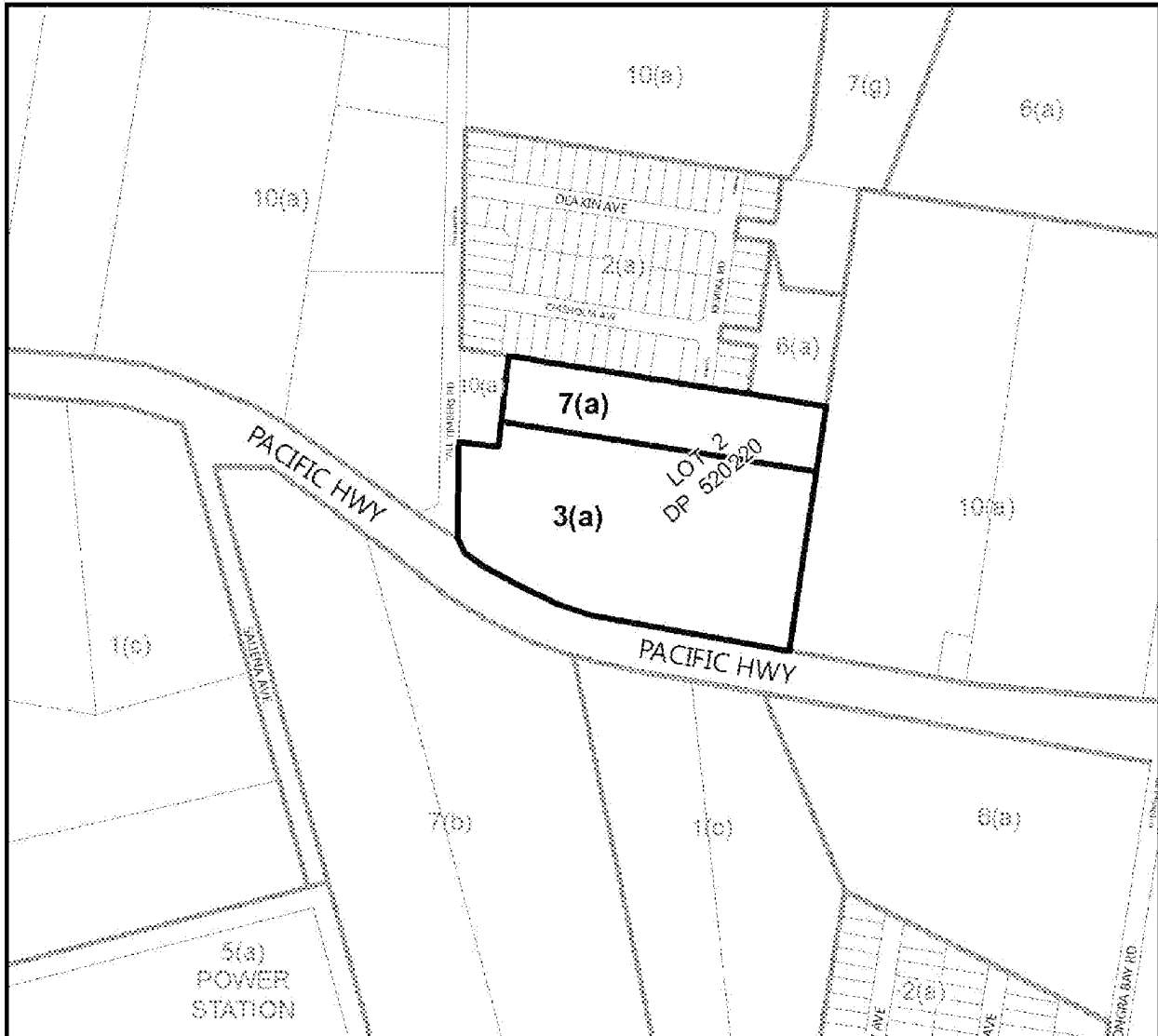
Nil Impact

CONCLUSION

The proposal has strategic linkages with Principal Activities within the Annual Plan by assisting in creating a more sustainable community and economy. The proposal also has strong links with the Shire Strategic Vision's objectives relating to Communities, Travel, Facilities and Services, and Employment. The proposal will enable the development of a shopping centre on the site for large scale retail/commercial uses. This development will assist in the provision of employment opportunities both during construction and operation of the development. The local economy will also benefit from the associated retail activity and reduced travel time and distance to access retail facilities. It is therefore recommended that Council now forward the draft LEP to the DoP to make the Plan subject to the payment of any outstanding rezoning fees.

ATTACHMENTS

- | | | | |
|---|---------------------------------------------------------|-----------|-----------|
| 1 | Draft LEP179 - Written Instrument | Enclosure | D02418732 |
| 2 | Draft LEP179 Map | | D02418734 |
| 3 | Draft DCP 2005: Chapter 114 Lake Munmorah Village | Enclosure | D02418735 |
| 4 | Draft LEP179 - Draft Voluntary Planning Agreement (VPA) | Enclosure | D02403814 |



SCALE 1 : 6 000

LOCALITY: LAKE MUNMORAH

3(a) 3(a) Business Centre Zone

7(a) 7(a) Conservation Zone

ENVIRONMENTAL PLANNING AND ASSESSMENT ACT

WYONG

DRAFT LOCAL ENVIRONMENTAL PLAN 1991

(Amendment No. 179)

DRAWN BY :	J WILLIAMSON	DATE :	1-11-2010
SUPERVISING DRAFTSPERSON :		DATE :	
PLANNING OFFICER :	L HOWSON		
CERTIFICATE PLAN NUMBER :			
COUNCIL FILE No. :		RZ/7/2004	
DEPT. FILE No. :		10/02249	
CERTIFICATE ISSUED UNDER SEC. 65 E.P.A. ACT		DATE :	28/6/2010

STATEMENT OF RELATIONSHIP WITH OTHER PLANS
AMENDS WYONG LOCAL ENVIRONMENTAL PLAN 1991

CERTIFIED IN ACCORDANCE WITH THE ENVIRONMENTAL PLANNING & ASSESSMENT ACT 1979, AND REGULATIONS. GENERAL MANAGER DATE

3.2 DA/600/2010 - Proposed Torrens Title Subdivision located at 4 Beach Parade and 2 Crossingham Street, Canton Beach

TRIM REFERENCE: DA/600/2010 - D02365841
MANAGER: Scott Duncan, Team Coordinator
AUTHOR: Peter Meloy, Development planner, Major Applications

SUMMARY

An application has been received for a Torrens title subdivision of two existing dual occupancy buildings at 4 Beach Parade and 2 Crossingham Street, Canton Beach. 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. The application is recommended for approval.

The reason this application is reported to Council is a result of a directive, by the Department of Planning (DOP) to all NSW Councils, that any applications that rely on a numerical variation under State Environmental Planning Policy (SEPP) No 1 greater than 10% be reported to full Council for determination.

Applicant	Rolls and Associates Surveyors
Owner	PJ Barnes, AJ Barnes & CM Barnes
Application No	DA/600/2010
Description of Land	Lot 2 DP 534189, 4 Beach Parade, Canton Beach & Lot 35 DP 20482, 2 Crossingham Street, Canton Beach
Proposed Development	4-lot subdivision of two approved dual occupancy buildings
Site Area	Lot 2: 600.7m ² ; Lot 35: 663.9m ²
Zoning	2(a) Residential
Existing Use	Lot 2: dual occupancy; Lot 35: dual occupancy

RECOMMENDATION

- 1 That Council, having regard to the matters for consideration detailed in Section 79C of the Environmental Planning and Assessment Act and other relevant issues, grant consent subject to the conditions detailed in the schedule attached to the report.**
- 2 That Council vary Clause 42D of Wyong Local Environmental Plan 1991 to permit the development.**
- 3 That Council assume the concurrence of the Director General of the Department of Planning for the use of State Environmental Planning Policy No 1 to vary the development standard of Clause 42D of Wyong Local Environmental Plan 1991 to permit the proposed development.**

PRECIS

- The application is for the Torrens title subdivision of two existing dual occupancy buildings.
- The site is zoned 2(a) Residential under the provisions of Wyong Local Environmental Plan 1991 (WLEP1991).
- Should the development applications for the existing dual occupancy buildings included the subdivision of the buildings Clause 42D(b) of WLEP1991 would have permitted the subdivision without reference to a variation of the minimum lot size.
- However, as the application for subdivision is separate to the applications for the dual occupancy development, the proposal requires assessment using the provisions of SEPP1 to vary Clause 42D of WLEP1991.
- As a result of a directive by the DoP to all NSW Councils, any applications that rely on a SEPP1 variation greater than 10% are required to be reported to full Council for determination.

INTRODUCTION

The Site

The two dual occupancy buildings are located side-by-side at 4 Beach Parade and 2 Crossingham Street, Canton Beach on the north-eastern corner of the intersection of those two roads. The buildings are located within an established residential area consisting mainly of single detached dwelling-houses but with some dual occupancy developments in those parts of the local area that are zoned Residential 2(a).



Figure 1: Looking north-east towards the two adjoining dual occupancy buildings from the intersection of Beach Parade and Crossingham Street, Canton Beach.

Locality Plan



The two existing lots, each now supporting one of the two dual occupancy buildings, are level and contain no significant vegetation apart from the new landscaping in and along the frontage to both sites. This landscaping was required as a condition of each dual occupancy building's development consent. The buildings themselves are modern brick-and-tile two-storey buildings that face south-west taking advantage of extensive views across Canton Beach Reserve and Tuggerah Lake.

Each of the four dwellings has a separate private courtyard on the south side of the buildings and each has a separate garage at the rear of the buildings. Two of the dwellings have a two-car garage while the remaining two dwellings have single-car garages. Vehicular access to all garages is gained via a common sealed access at the rear of the buildings, leading from Victoria Street on the eastern side of the site.

The Proposed Development

The applicant proposes the Torrens title subdivision of the two existing lots to create four separate lots. Each proposed lot will contain one of the four dual occupancy dwellings. The applicant will achieve this by running a property boundary down each party wall of the main buildings and garages. Vehicular access to the garages will be formalised by the creation of a right-of-carriageway with reciprocal rights for each of the four lots.

The area of each lot is proposed to be:

- Lot 1: 359.0m²
- Lot 2: 272.7m²
- Lot 3: 284.3m²
- Lot 4: 355.5m²

The two existing lots are currently zoned 2(a) Residential and the proposed subdivision requires a SEPP 1 objection to be supported by Council to vary the development standard in Clause 42D of WLEP1991. This development standard requires a minimum lot size of 450m² in the 2(a) Residential zone. The applicant has submitted a formal SEPP1 objection as part of the development application.

Summary

Variation To Minimum Lot Size

Should the two dual occupancy development applications included the subdivision of the existing lot upon which each building was to be erected, Clause 42D of WLEP1991 would have allowed Council to consent to the subdivision, now proposed in this separate application, without the need to consider a variation to the minimum lot size.

However, because the application for subdivision is separate from each of the applications for the dual occupancy developments, the provisions of WLEP1991 are such that Council must now assess the proposed subdivision under the provisions of SEPP1 as the proposed lots are required to comply with the minimum lot size requirement.

The applicant has submitted reasons in support of the variations including that the subdivision is consistent with the two prior consents for the dual occupancy developments, no environmental impact will result from approving the variations, no additional housing entitlement would be created and the numerical variations are irrelevant given that the dual occupancy developments have been approved and constructed.

In considering the circumstances of the case it is considered that the SEPP 1 objection is well founded and that strict compliance with the 450m² minimum lot size development standard would be unnecessary and unreasonable in this instance.

Requirement To Prepare A Master Plan

The site falls within the operation of SEPP No 71 – Coastal Protection (SEPP71). Clause 17 of SEPP71, in part, requires the preparation of a master plan for subdivision of any land that is wholly or partly within a “sensitive coastal location”. The master plan must be approved by the Minister prior to consent being granted for that subdivision. However, SEPP71 does allow the Minister to waive the need for a master plan in certain circumstances.

The subject site is partly located within a sensitive coastal location as defined by the SEPP. As a consequence, the applicant was required to request the Minister to waive the need for the preparation of a master plan given the circumstances of this particular subdivision. The applicant has now provided a letter issued by the DoP confirming that the need to prepare a master plan has been waived.

Reciprocal Rights-Of-Carriageway

The existing development consents for the two dual occupancy buildings each require the creation of reciprocal rights-of-carriageway. These reciprocal rights-of-carriageway will provide legal vehicular access and manoeuvring areas for each of the four dwellings. These reciprocal rights-of-carriageway are proposed by the applicant to be created in this subdivision for all four new lots. This will reduce development costs by reducing the legal costs involved in amending the 88B instrument first, with the completion of the buildings, and then a second time when the subdivision is registered. The deferment of the creation of the reciprocal rights-of-carriageway until the registration of the subdivision will facilitate the completion of the development while still achieving the development outcome (legal vehicular access to each of the four dwellings) required by Council.

VARIATIONS TO POLICIES

Clause	42D
Standard	450m ² minimum lot size
LEP/DCP	WLEP 1991
Variation	Lot 1 = 20.22%
	Lot 2 = 39.40%
	Lot 3 = 36.82%
	Lot 4 = 21.00%

HISTORY

07.11.2005: Development consent (DA/1072/2005) granted on Lot 2 DP 534189, 4 Beach Parade, for erection of a dual occupancy building.

07.11.2005: Development consent (DA/1071/2005) granted on Lot 35 DP 20482, 2 Crossingham Street, for erection of a dual occupancy building.

PERMISSIBILITY

The subject site is zoned 2(a) Residential. Clause 13 of WLEP1991 permits subdivision with development consent. Under the provisions of Clause 42D of WLEP1991 subdivision within the 2(a) zoning must not create lots that have an area less than 450m² unless the subdivision consent:

- “(a) is for the subdivision of land on which a dual occupancy building or detached dual occupancy was erected with consent pursuant to a development application lodged with the Council prior to 5 November 1997, or*
- (b) in the case of land within Zone No 2 (a), is granted concurrently with a development consent for a dual occupancy building or a detached dual occupancy on the same land and the subdivision will be carried out in conjunction with the dual occupancy development.”*

The proposed subdivision will create lots with areas less than 450m² in each of the two dual occupancy developments. The dual occupancy developments were consented to in 2005. The subdivision of each of the two dual occupancy developments was not proposed to be undertaken concurrently with the dual occupancy development and a SEPP 1 objection is now required to enable the subdivision to be assessed and determined.

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 (WLEP1991)
- State Environmental Planning Policy No 1 – Development Standards (SEPP1)
- State Environmental Planning Policy No 71 – Coastal Protection Zone (SEPP71)
- Contributions Plan No.6 – Toukley District

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 dual occupancy subdivisions do not result in the disturbance of any endangered flora or fauna habitats and are unlikely to significantly affect fluvial environments.

ASSESSMENT

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

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

The subject land is zoned 2(a) Residential under the provisions of WLEP1991. The relevant objective of the 2(a) zone is:

“(a) to provide land primarily for detached housing generally not exceeding a height of 2 storeys and with private gardens in an environment free from commercial and other incompatible activities and buildings,”

The primary objective of the zone is to provide land for residential housing, mainly in the form of detached dwellings but also allowing for other dwelling types that are permissible in the zone such as dual occupancy buildings.

The dual occupancy buildings in question satisfy the objective in that they are 2 storeys in height and provide private gardens for each dwelling in a location free from commercial and other incompatible activities and buildings. It is considered that the subsequent Torrens title subdivision of the dual occupancy buildings is also consistent with the objective in that the subdivision facilitates the completion of the physical development of the land for a purpose that is consistent with the zone's objective.

State Planning Policy No 1 – Development Standards

The aims and objectives of SEPP 1 are to provide 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 Act.

Clause 6 of SEPP 1 requires the applicant to provide a written objection to the development standard indicating why compliance with the standard is unreasonable or unnecessary in the circumstances of the case and to specify the grounds of the objection.

The applicant has submitted a formal SEPP 1 objection requesting Council's support to exercise the powers available to the Council under the provision of SEPP 1 to vary the 450m² minimum lot size development standard. This would enable consent to be granted to the proposed subdivision of the dual occupancy buildings in the 2(a) Residential zone. The SEPP 1 objection provides the following grounds for the objection:

- The proposed subdivision will not prejudice the residential environment.
- The proposed subdivision will not result in any additional traffic generation.

- The percentage variation is small and is irrelevant as construction of the dwellings has satisfied all of Council's relevant controls for this type of development.
- No additional housing entitlement would be created by the subdivision.
- No additional development rights would be created by the subdivision.
- The proposed subdivision layout is based on Council's approved development for dual occupancies contained in development applications DA/1071/2005 and DA/1072/2005.
- No environmental impact will result from the carrying out of the subdivision because it is purely a "paper" entity created to define the boundaries for the buildings which have been approved and erected on the land.
- Dual occupancy development is permissible within the 2(a) zone and this subsequent paper subdivision only formalises what has already been approved and constructed.

For these reasons the applicant believes that strict compliance with the 450m² minimum lot size development standard is unreasonable.

In addition to the above, his Honour, Justice Lloyd, outlined five questions in *Winten Property Group Ltd v North Sydney Council* [2001] NSW LEC 24 that should be considered when preparing and considering a SEPP 1 objection. Council, in exercising its function as a consent authority, must be satisfied of all five matters before it upholds a SEPP 1 objection. Satisfaction of all five questions identified in the *Winten* case ensures that a SEPP 1 objection is well founded and that strict compliance with a development standard is unreasonable or unnecessary.

The five questions and the requisite responses are as follows:

1. Is the planning control in question a development standard?

Clause 42D of the WLEP 1991 is a provision within an environmental planning instrument which regulates the subdivision of land by imposing a minimum area lot size. It is therefore a development standard pursuant to Section 4 of the EP&A Act 1979.

2. What is the underlying object or purpose of the standard?

The purpose of Clause 42D is to provide residential housing and maintain the residential character of the 2(a) Residential zone by limiting the minimum size of new lots created through subdivision of existing parcels.

Single detached dwellings and dual occupancy developments are then permissible on lots created in compliance with the 450m² minimum lot size. Clause 45D further provides that dual occupancy subdivision applications lodged prior to 5th November 1997 for existing dual occupancy buildings or subdivisions applied for concurrently with the dual occupancy development are also eligible for approval within the 2(a) irrespective of the 450m² minimum lot size.

3. Is compliance with the development standard consistent with the aims of the Policy, and in particular, does compliance with the development standard tend to hinder the attainment of the objects specified in Section 5 (a) (i) and (ii) of the Act?

Clause 3 of SEPP 1 states that non-compliance with a development standard must not hinder the attainment of the objects specified in Section 5 (a)(i) and (ii) of the Act. Section 5 of the EP&A Act 1979 (EP&AA1979) states:

“The objectives of this Act are;

(a) to encourage

- i. the proper management, development and conservation of natural and artificial resources, including agricultural land, natural areas, forests, minerals, water, cities, town and villages for the purposes of promoting the social and economic welfare of the community and a better environment;*
- ii. the promotion and co-ordination of the orderly and economic use and development of the land.”*

The proposed non-compliance with Clause 42D will not hinder the attainment of the objectives of the Act. To enforce strict compliance with Clause 42D in this instance would prevent the orderly and economic management and use of the land and the buildings. The proposed non-compliance will strengthen the locality's social and economic welfare by facilitating modern residential development within the locality and by increasing housing supply and housing diversity.

The non-compliance with the numerical requirement of a minimum lot size of 450m² will not result in development that is inconsistent with the aims and objectives of the WLEP1991. The subdivision of the land will complement the orderly development of the land and complement the surrounding residential area. There are currently a significant number of dual occupancy developments approved for subdivision within the Wyong Shire with several located in proximity to the subject properties.

4. Is compliance with the development standard unreasonable or unnecessary in the circumstances of the case?

The SEPP 1 objection has demonstrated that the non-compliance in this instance does not jeopardise the amenity, streetscape character or orderly development within the local area. Each site already has a dual occupancy building approved and erected on the site. Strict compliance with Clause 42D is not considered appropriate in this instance because the proposed subdivision:

- Will not prejudice the current residential environment;
- Will not generate any additional housing entitlement;
- Will not generate additional traffic having regard to the existing dual occupancy consents;
- Will not have any impact on amenity or place additional demands on services;
- Is the result of existing approved and constructed dual occupancy developments; and
- Will facilitate the orderly and economic use of the land.

To not allow the subdivision of the two dual occupancy buildings merely because the proposed lots did not satisfy a numerical requirement would be unreasonable given that the two dual occupancy developments already exist on site. It would also be unreasonable given that if the applicant had sought approval for subdivision of each dual occupancy building at the time consent was sought for the dual occupancy buildings, consent could have been granted without reference to the 450m² minimum lot size.

5. Is the objection well founded?

The objection is well founded because the proposed subdivision will enable the orderly and economic approved use of the land. In contrast, the strict application of the minimum lot size development standard in this instance would be unachievable and would have the opposite impact, that is, work against the orderly and economic use of the land and the existing buildings.

Reason for proposed variation:

It is considered that the objectives of the WLEP1991 are being met by the proposed subdivision. The creation of the lots will maintain the residential amenity of the local area by sustaining two modern dual occupancy developments that satisfy Council's development criteria. Although smaller than the 450m² lot size required by Clause 42D, the proposed lots are large enough to provide adequate landscaping, private open space, on-site vehicle garaging and manoeuvring. In addition, the dwellings do not exceed the maximum floor space ratio and site coverage area.

There are a growing number of residents who wish to have smaller properties to reduce maintenance and economic obligations. The Torrens title subdivision of the dual occupancy developments will facilitate the provision of a wider range of housing options for the community.

Non-compliance with Clause 42D of WLEP1991 does not raise any matters of significance. The SEPP1 objection is considered to be well founded and, in this instance, strict compliance with the 450m² minimum lot size development standard contained in Clause 42D of WLEP1991 is unnecessary and unreasonable.

State Environmental Planning Policy No 71 – Coastal Protection

The site is within the coastal protection area covered by SEPP 71 and as such, requires Council to consider the proposal against the several matters listed in clause 8 of the SEPP. Given the nature of this application it is considered that when assessed against these matters the proposed development is consistent with the relevant objectives of the SEPP. In particular, the development will not reduce public access to the foreshore and the visual impact of the existing dual occupancy buildings will be unchanged by the proposed subdivision.

In addition, clause 15, "Effluent Disposal" and clause 16, "Stormwater" in SEPP 71 prevent Council from consenting to any development that will dispose of untreated effluent or stormwater into Tuggerah Lakes. The proposed development is essentially a paper subdivision of the existing approved physical development of the land and no untreated effluent or stormwater is proposed to be discharged into the lake as part of this subdivision application.

In addition to the above, Clause 17 of SEPP71, in part, requires the preparation of a master plan for subdivision of any land that is wholly or partly within a "sensitive coastal location". The SEPP defines a sensitive coastal location as, in part, including land within 100 metres above mean high water mark. The master plan must be approved by the Minister for Planning prior to consent being granted to the subdivision. However, SEPP71 does allow the Minister to waive the need for a master plan in certain circumstances.

The subject site is partly located within a sensitive coastal location as defined by the SEPP. As a consequence, and regardless that the proposal is only to subdivide two existing dual occupancy buildings, the applicant was required to request the Minister to waive the need for the preparation of a master plan given the circumstances of this particular application. The applicant has now provided a letter issued by the DoP on the 16th September 2010 confirming that the need to prepare a master plan has been waived.

Contributions Plan No 6 – Toukley District

The two sites fall within the operation of Council's adopted Contributions Plan No 6 – Toukley District. When Council granted development consent in 2005 for each of the dual occupancy buildings it imposed Section 94 contributions for each of the additional dwellings in accordance with this contributions plan. Council's records show that the appropriate contribution has been paid for each of the two additional dwellings. The current subdivision proposal does not create any additional housing entitlement and does not create any increased demand on services and, as a consequence, no additional contributions are applicable to the proposed subdivision.

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

The relationship to the regional and local context and setting

The relationship will be unchanged by this proposed subdivision of the two existing dual occupancy buildings.

The access, transport and traffic management measures

The existing development consents for the two dual occupancy buildings each require the creation of reciprocal rights-of-carriageway. These reciprocal rights-of-carriageway will provide legal vehicular access and manoeuvring areas for each of the four dwellings. These reciprocal rights-of-carriageway are proposed by the applicant to be created in this subdivision for each of the four new lots. This will reduce development costs by reducing the legal costs involved in amending the 88B instrument first, with the completion of the buildings, and then amending the 88B instrument a second time when the subdivision is registered.

The deferment of the creation of the reciprocal rights-of-carriageway until the registration of the subdivision will facilitate the completion of the development and reduce development costs while still achieving the orderly development outcome (legal vehicular access to each of the four dwellings) required by Council. Once created as part of the subdivision, the reciprocal rights-of-carriageway will then also satisfy the conditions of the two dual occupancy consents.

In addition, a further condition in each of the two dual occupancy consents requires a minor boundary adjustment along the common boundary of the two existing lots. The adjustment will reflect the party wall location of the two dwellings adjoining each other along the common boundary. This minor boundary adjustment is also proposed to be effected in this proposed subdivision. In the meantime, Council has been able to issue interim occupation certificates for each of the two buildings pending the creation of the reciprocal rights-of-carriageway and the boundary realignment through this proposed subdivision.

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

There will be no additional impact on the public domain caused by this proposed subdivision of the two existing dual occupancy buildings.

The impact on utilities supply.

There will be no increased demand on utilities supply caused by this proposed subdivision of the two existing dual occupancy buildings.

The effect on heritage significance.

The site of the two existing dual occupancy buildings is not identified as an item of environmental heritage.

Any effect on other land resources.

The proposed dual occupancy subdivision will have no effect on other land resources.

Any impact on the conservation of water.

The proposed dual occupancy subdivision will have no impact on the conservation of water.

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

The proposed dual occupancy subdivision will have no impact on the conservation of soils or acid sulphate soils.

Any effect on quality of air and microclimate conditions.

The proposed dual occupancy subdivision will have no impact on air quality and microclimate conditions.

Any effect on the flora and fauna.

The proposed dual occupancy subdivision will have no impact on flora and fauna.

The provision of waste facilities.

The waste collection arrangements approved in the original dual occupancy development consents will be unchanged by the proposed subdivision of the two dual occupancy buildings.

Whether the development will be energy efficient.

The energy efficiency of each dwelling will be unaffected by the proposed subdivision of the two dual occupancy buildings.

Whether the development will cause noise and vibration.

The proposed dual occupancy subdivision will not be a source of noise or vibration.

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

The site is not identified as being subject to any natural hazard. However, the area is within a mine subsidence area and the proposed subdivision has been reviewed by the Mine Subsidence Board (MSB) which has approved the proposed subdivision.

Any risks from technological hazards.

No risk from any technological hazard has been identified in the assessment of the proposed dual occupancy subdivision.

Whether the development provides safety, security and crime prevention.

Safety, security and crime prevention will be unaffected by the proposed dual occupancy subdivision.

Any social impact in the locality.

The proposed dual occupancy subdivision will facilitate the orderly and economic management of the land and the existing dual occupancy buildings. This is likely to have a positive social impact in the locality by assisting in providing a range of modern housing types to the area.

Any economic impact in the locality.

The proposed dual occupancy subdivision will have a positive economic impact in the locality by being the last stage in the development of the land for modern residential housing.

Any impact of site design and internal design.

The proposed dual occupancy subdivision will have no impact on the site design or internal design apart from formalising the vehicular access and manoeuvring areas on the site.

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

The proposed dual occupancy subdivision will involve no construction activities.

Any cumulative impacts.

The proposed dual occupancy subdivision will have no cumulative impacts.

THE SUITABILITY OF THE SITE FOR THE DEVELOPMENT (s79C(1)(c)):***Whether the proposal fits in the locality.***

The application is for the “paper” Torrens title subdivision of two existing dual occupancy developments which have previously been assessed as fitting within the locality. The proposed subdivision will have no impact on that original assessment.

Whether the site attributes are conducive to development.

The application is for the “paper” Torrens title subdivision of two existing dual occupancy developments. The issue of whether the site attributes were conducive to the original dual occupancy proposals was assessed at the time when the original consents were granted for the two developments. The proposed subdivision will have no impact on that original assessment.

ANY SUBMISSION MADE IN ACCORDANCE WITH THIS ACT OR REGULATIONS (s79C(1)(d)):***Any submission from the public.***

In accordance with the provisions of Clause 2.4 of Wyong DCP Chapter 70 – Notification of Development, the application was not notified as it is a subdivision arising from approved development.

Any submission from public authorities.

The site of the two dual occupancy buildings falls within a declared mine subsidence district and therefore requires the approval of the MSB as “integrated development” as defined in the EP & A Act 1979. In recognition of this the applicant sought and obtained approval from the MSB. The MSB’s approval is subject to two requirements, these being:

- (a) the number, size and boundaries of lots being substantially the same as shown on the approved plan; and
- (b) notification being made to the Board of any changes to lot numbering and of the registered DP number.

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

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

The proposal for the subdivision of the two existing dual occupancy developments is considered to be of a positive community interest by facilitating the completion of modern housing that will add to the range of housing options for the local community.

OTHER MATTERS FOR CONSIDERATION

There are no further matters for consideration.

Deeds of agreement etc.

There are no deeds of agreement relevant to this proposed dual occupancy subdivision.

CONCLUSION

The proposed development is for the Torrens title subdivision of two recently constructed dual occupancy buildings. The development requires a SEPP1 objection to the minimum lot size development standard contained in Clause 42D of WLEP1991. The objection is supported given that compliance with the development standard is considered unreasonable and unnecessary in this instance. The application is therefore recommended for consent subject to suitable conditions of consent.

ATTACHMENTS

- | | | |
|---|------------------------------------------|-----------|
| 1 | Draft Conditions of Consent | D02393643 |
| 2 | Objection to Development Standard SEPP 1 | D02393624 |
| 3 | Plan of Proposed Subdivision | D02393622 |

Date: 8 October 2010
Responsible Officer: Peter Meloy
Location: 4 Beach Parade, CANTON BEACH NSW 2263
Lot 2 DP 534189
Owner: Mr P J Barnes and Mr A J Barnes and Mr C M Barnes
Applicant: Rolls & Assoc Surveyors
Date Of Application: 20 May 2010
Application No: DA/600/2010
Proposed Development: Four lot subdivision
Land Area: 600.70

PROPOSED CONDITIONS

Approved Plans

- 1 The development is to be undertaken in accordance with the approved plan of subdivision, reference number 9411E prepared by Rolls and Associates Surveyors except as modified by any conditions of consent.

Prior to Release of Construction Certificate:

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

No conditions

Prior to Commencement of Works:

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

No conditions

Prior to Release of Subdivision Certificate:

The following conditions must be satisfied prior to the release of a Subdivision Certificate.

- 2 An application for a Subdivision Certificate must be submitted to and approved by the Council/Principal Certifying Authority prior to endorsement of the plan of subdivision.

- 3 The obtaining of a Section 307 Certificate of Compliance under the Water Management Act 2000 for water and sewer requirements for the development from Wyong Shire Council as the Water Supply Authority in accordance with Section 109J(1)(e) of the Environmental Planning and Assessment Act 1979 prior to issue of the Subdivision Certificate.
- 4 The certification by a Registered Surveyor, prior to issue of a Subdivision Certificate that all occupancies, domestic services, drainage lines and accesses are wholly contained within the respective lots and easements.
- 5 The plan of subdivision and Section 88B instrument shall establish the following easements and reciprocal right-of-carriageways as shown on the approved plan of subdivision prior to the issue of the Subdivision Certificate:
 - Reciprocal easements for maintenance and support over those parts of the buildings common to any two or more occupancies including walls, eaves, roof and guttering.
 - Reciprocal rights-of-carriageway of variable width in favour of all lots.
 - Easements for overhang.
 - Easements for drainage of variable width.

Ongoing Operation:

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

No conditions

Rolls & Associates Surveyors

**Re Property : 4 Beach Parade & 2 Crossingham Street
Lot 2 DP 534189 & Lot 35 DP 20482
Canton Beach
DA 1072/2005 & DA 1071/2005**

- ❖ It is assumed for the purpose of the objection that the standard in question is appropriate and proper to be applied in general in a Council's area.
- ❖ What is required of the authorities whether it be Council or the court in its consideration is whether compliance with a Development Standard is unreasonable or unnecessary in the circumstances of the case. SEPP 1 does not mention "minor" or "major" variations.

1.6 OBJECTION TO DEVELOPMENT STANDARDS UNDER THE PROVISIONS OF SEPP NO.1 OF WSC LEP 1991 (AS AMENDED)

(1) NAME AND ADDRESS OF OBJECTORS

Peter John Barnes, Adam John Barnes and Caine Michael Barnes
4 Geraldton Close
NORAH HEAD NSW 2263

(2) PROPERTY DESCRIPTION

Lot 2 DP 534189 & Lot 35 DP 20482 Known as
Beach Parade & 2 Crossingham Street, CANTON BEACH

(3) PROPOSED DEVELOPMENT AND/OR USE

Two dual occupancy subdivisions. Resulting in a four Lot Subdivision from 2 existing lots.

(4) DEVELOPMENT STANDARD TO WHICH THE OBJECTION RELATES

The Development Standard to which the objection relates is.

The restriction on a minimum allotment size of 450m² created from the subdivision of land in the 2(a) Residential Zone.

(5) ENVIRONMENTAL PLANNING INSTRUMENT WHICH SPECIFIES THE DEVELOPMENT STANDARD

The Clause that sets out the standard to which this objection seeks a variation is:

Clause 42 (D) (b) of Wyong Shire Council LEP 1991 (as amended).

Which defines the minimum subdivision requirement of the 2(a) Residential Zone to be 450m².

Rolls & Associates Surveyors

**Re Property : 4 Beach Parade & 2 Crossingham Street
Lot 2 DP 534189 & Lot 35 DP 20482
Canton Beach
DA 1072/2005 & DA 1071/2005**

(6) PROPOSED VARIATION TO DEVELOPMENT STANDARDS

The Development Standard for which variation is sought relates to the 450m² minimum subdivision allotment area within the 2(a) Zone.

The proposed subdivision relates to the creation of allotments containing 359 m², 272.7 m², 284.3 m² and 355.5 m² from two existing parcels containing a total area of 1271.5 m². These are a variation to the standard of Clause 42 (D) (b) which stipulates a 450m² minimum area.

(7) GROUNDS OF OBJECTION TO DEVELOPMENT STANDARD

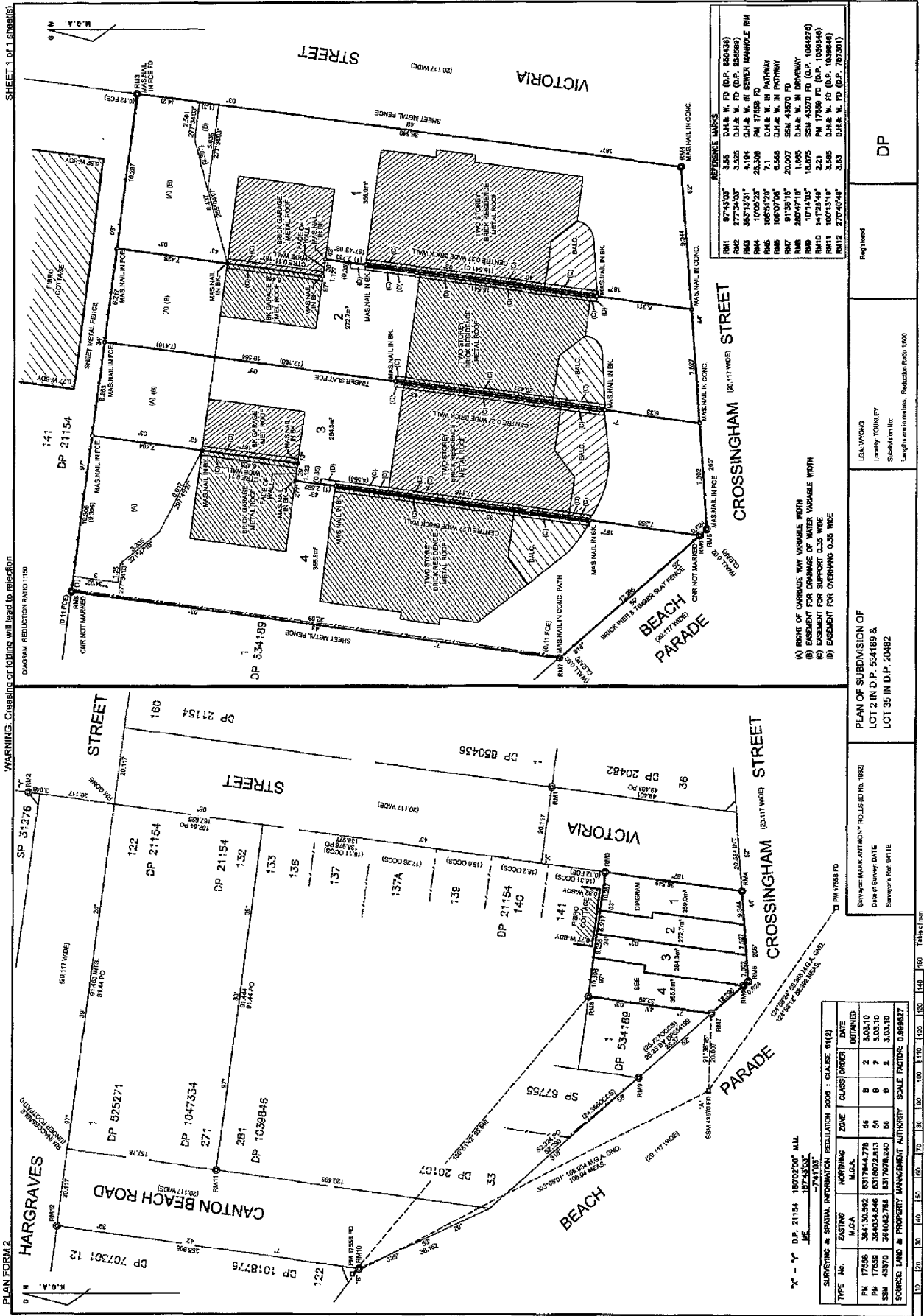
- ❖ The underlying intention of the standard is reflected in the objectives for the zone, which is mainly to provide residential housing. Strict compliance with Clause 42 (D) is not considered appropriate in this instance because the subdivision proposal:-
 - * will not prejudice the residential environment;
 - * will not generate additional traffic having regard to existing dwelling entitlements approved with the Dual Occupancy Developments;
 - * is a result of two existing approved and constructed housing developments for Dual Occupancy;
 - * The percentage variation to the 450m² minimum development standard is small and in fact not relevant, as the construction of the two dwellings has satisfied all of Council's Development Standards for Dual Occupancy Development.
- ❖ The proposal compliments existing property development and simply formalises future Title ownership.
 - * No additional development rights are being created by the Subdivision.
 - * No additional housing entitlements are created by the Subdivision.

2 CONCLUSION

It is our professional opinion that the proposal to undertake two, two lot Subdivisions of the existing parcels as illustrated in my Application and described within this report, is consistent with the underlying objectives of the Wyong Shire LEP for the 2(a) Residential Zone. Particularly, having regard to the approved buildings that exist on the current parcels.

The proposal will not compromise the objectives of the zone or have a significant impact on the environment of the locality, particularly when one considers.

- ❖ the location and size of the existing parcels;



REFERENCE MARKS

RH1	87°43'03"	3.55	D.H.A. W. PD (D.P. 804336)
RH2	277°54'30"	3.525	D.H.A. W. PD (D.P. 804336)
RH3	353°13'31"	4.194	D.H.A. W. PD (D.P. 804336)
RH4	100°52'31"	25.308	PM 17808 PD
RH5	353°13'31"	4.194	D.H.A. W. PD (D.P. 804336)
RH6	100°52'31"	25.308	PM 17808 PD
RH7	51°35'15"	20.007	SSM 43570 PD
RH8	289°47'18"	1.005	D.H.A. W. PD (D.P. 804336)
RH9	107°14'03"	18.875	SSM 43570 PD (D.P. 1044479)
RH10	141°25'48"	2.21	PM 17556 PD (D.P. 1038844)
RH11	100°13'11"	3.585	D.H.A. W. PD (D.P. 1038844)
RH12	270°40'48"	3.83	D.H.A. W. PD (D.P. 707501)

PLAN OF SUBDIVISION OF LOT 2 IN D.P. 534189 & LOT 36 IN D.P. 20482

(A) RIGHT OF CARRIAGE WAY VARIABLE WIDTH
 (B) EASEMENT FOR DRAINAGE OF WATER VARIABLE WIDTH
 (C) EASEMENT FOR SUPPORT 0.25 WIDE
 (D) EASEMENT FOR OVERHANG 0.35 WIDE

PLAN OF SUBDIVISION OF LOT 2 IN D.P. 534189 & LOT 36 IN D.P. 20482

Owner: MARK ANTHONY ROLLS (S/N. 1882)
 Date of Survey: DATE
 Surveyor's Ref: 84116

SURVEYING & SPATIAL INFORMATION REGULATION 2006 : CLASSIFICATION

TYPE No.	EXISTING	NORTHING	ZONE	CLASS	ORIGIN	DATE OBTAINED
PH 17556	384130.592	631784.778	56	B	2	3.03.10
PH 17808	364034.846	631807.813	59	B	2	3.03.10
SSM 43570	364082.756	631792.840	56	B	2	3.03.10

SOURCE: LAND & PROPERTY MANAGEMENT AUTHORITY SCALE FACTOR: 0.999827

PLAN FORM 2

WARNING: Cheating or forging will lead to reflection
 DIAGRAM REDUCTION RATIO 1:100

SHEET 1 OF 1 (SUBMIT)

PLAN OF SUBDIVISION OF LOT 2 IN D.P. 534189 & LOT 36 IN D.P. 20482

Registered

DP

3.3 DA/754/2010 Subdivision (Boundary Adjustment creating no additional allotments) at Bumbles Creek Road, Ourimbah

TRIM REFERENCE: DA/754/2010 - D02392232
MANAGER: Scott Duncan, Team Coordinator
AUTHOR: Stephanie Van Dissel, Development Planner, Regional Team

An application has been received for the adjustment of the common boundary between two parcels of land at Ourimbah. 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.

The application is reported to Council as a result of a directive by the Department of Planning (DoP) to all NSW Councils, that any development applications that rely on a numerical variation to State Environmental Planning Policy No 1 (SEPP1) greater than 10% be reported to full Council for determination.

Applicant	Optima Developments Pty Ltd
Owner	Ms E J & Mr M F Cotter
Application No	DA/754/2010
Description of Land	Lot 1 & 2 DP 871789 (No. 32 & 40), Bumbles Creek Road, OURIMBAH
Proposed Development	Subdivision (Boundary Adjustment creating no additional allotments)
Site Area	Lot 1 = 4.284 hectares & Lot 2 = 19.902 hectares
Zoning	1(a) – Rural & 7(a) - Conservation
Existing Use	Rural residences

RECOMMENDATION

- 1** *That Council, having regard to the matters for consideration detailed in Section 79C of the Environmental Planning and Assessment Act and other relevant issues, grant consent subject to the conditions detailed in the schedule attached to the report.*
- 2** *That Council vary Clause 14 of Wyong Local Environmental Plan 1991 to permit the development.*
- 3** *That Council assume the concurrence of the Director General of the Department of Planning for the use of State Environmental Planning Policy No 1 to vary the development standard of Clause 14 of Wyong Local Environmental Plan 1991 to permit the proposed development.*

PRECIS

- The application is for the re-subdivision of land involving an adjustment of the common boundary between two properties at Ourimbah. The subdivision standards contained within Clause 14 of Wyong Local Environmental Plan 1991 (WLEP) apply to the proposal.
- The subject allotments are both split zoned 1(a) – Rural & 7(a) – Conservation.
- The applicant proposes the use of State Environmental Planning Policy No 1 (SEPP 1) to vary the subdivision standards of WLEP. The lot/area variation is 79% to the minimum 40 hectare allotment requirement.
- Council delegation extends to assuming concurrence of the DoP for the use of SEPP 1 in this instance. The delegation issued under Circular B1 notes that Council can assume concurrence for two lot boundary adjustments where both lots are presently below the minimum subdivision standards subject to no additional allotments being created, the agricultural use of the land not being jeopardised and that no additional housing entitlements are created.

INTRODUCTION**The Site**

The site is located at 32 and 40 Bumbles Creek Road, Ourimbah (Lot 1 & 2 DP 871789) within the Ourimbah Creek Valley. Bumbles Creek Road runs through both allotments in an unformed state (Refer Figure 1).



Figure 1: Aerial view of site with proposed boundary in red

Both existing lots are traversed by Bumbles Creek which runs through the northern portion as well as a smaller watercourse which has its source in the southern vegetated section of the land within proposed Lot 10 (Refer Figure 4).

Both existing lots contain dwellings and associated outbuildings located within predominantly cleared areas within the northern half. The remainder of the area is heavily vegetated by Coastal Range Moist Layered Forest and Narrabeen Warm Temperate Subtropical Rainforest – the later being an ecologically endangered community (EEC) (Refer Figure 2). The proposed realignment will not affect the EEC with it being located entirely within existing Lot 1 and remaining in the subsequent proposed allotment (proposed Lot 10).

The area is affected by bushfire and flooding.

The site falls approximately 100 metres from south to north.

There is currently no viable or sustainable rural agricultural activity conducted from the existing parcels with the land use representing a large rural residential occupation of the land. This will remain unchanged through the proposal.

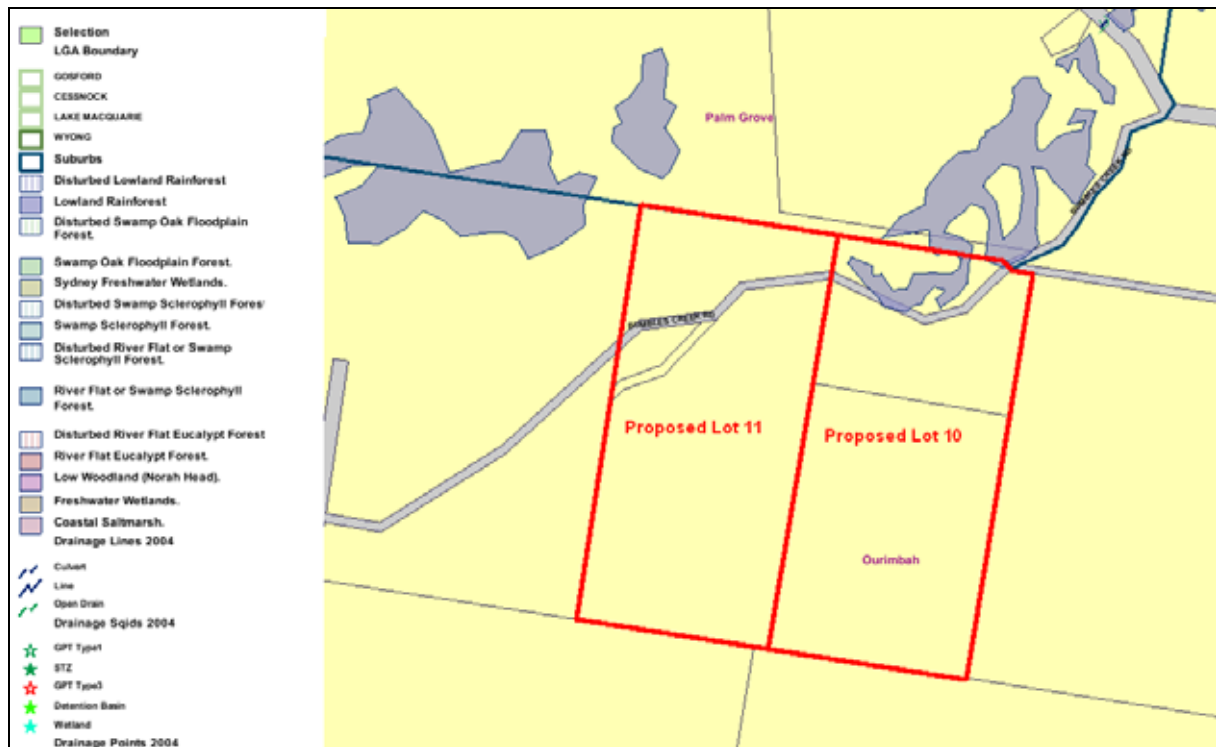


Figure 2: Proposed allotment configuration showing EEC vegetation

The following easements, restrictions on the use of land and positive covenants are applicable to the site (Refer Figure 3):

- A – Right of Carriageway (purple)
 - 4 metres and variable width
 - Both lots burdened
 - Authority benefited: Energy Australia
- B – Easement for Telephone Purposes (light blue)
 - 4 metres wide
 - Both lots burdened
 - Lots benefited: Lot 2 DP 600573
- C – Easement for Electricity Purposes (green)
 - 4 metres wide & variable width
 - Both lots burdened
 - Authority benefited: Energy Australia
- D – Right of Carriageway (red)
 - 4 metres wide & variable width
 - Both lots burdened
 - Lots & Authority benefited: Energy Australia, Lot 2 (subject) and Lot 2 DP 600573
- E – Easement for Electricity Purposes (dark blue)
 - 4 metres wide
 - Both lots burdened
 - Authority benefited: Energy Australia

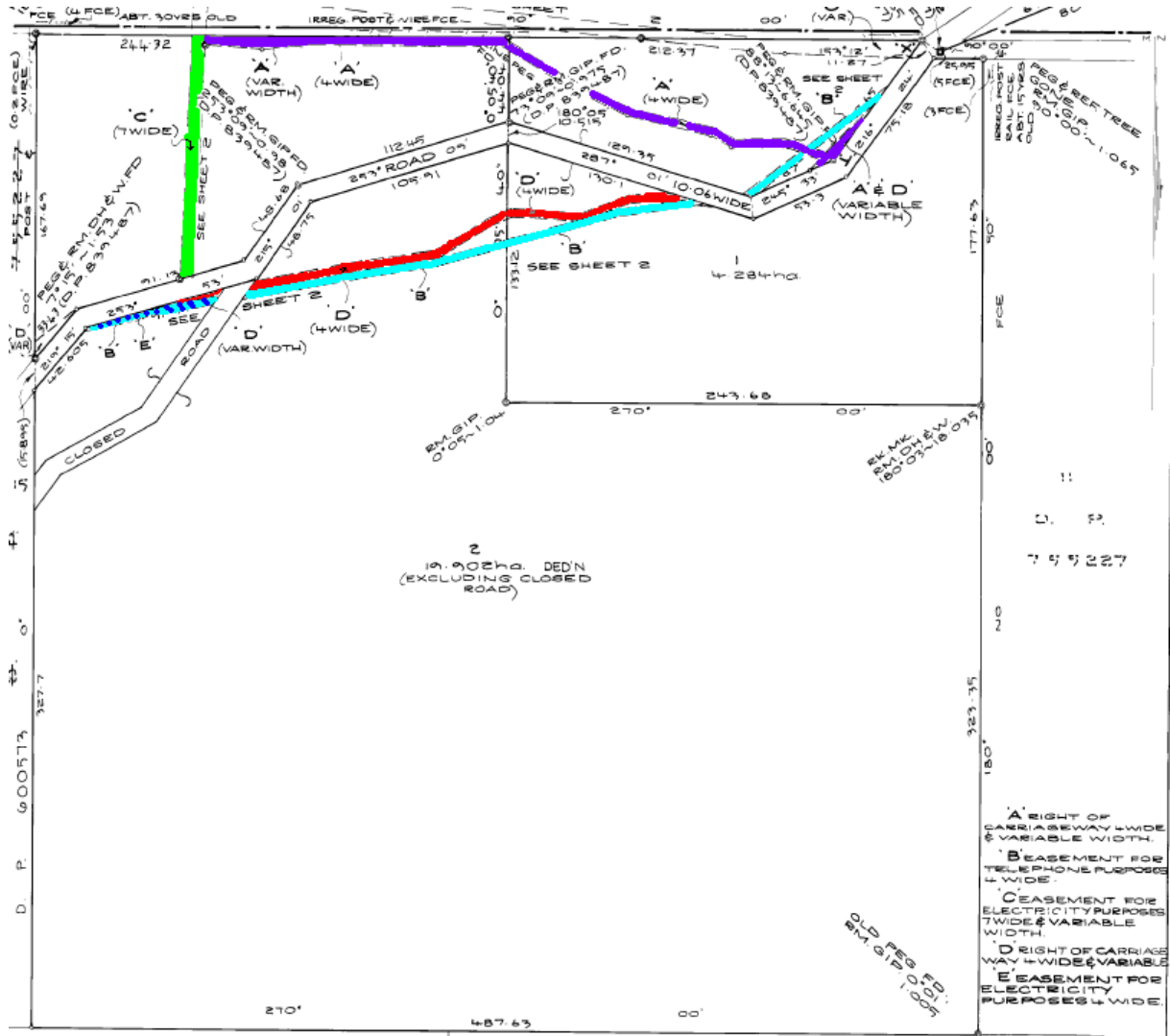


Figure 3: Current Deposit Plan configuration showing colour coded easements, restrictions on the use of land and positive covenants.

The Locality

The subject land is located approximately 400 metres west of the Australian Rainforest Sanctuary, 1.5 kilometres north west of the F3 – freeway, 1.6 kilometres north of the Strickland State Forest, 500 metres south west of the Jilliby State Conservation Area and 1.8 kilometres south east of the Ourimbah State Forest. The general area is heavily vegetated and located predominantly within a Bushfire Category 1 area.

The Proposed Development

The applicant seeks to adjust the property boundary to establish allotments of generally equal area at 12.18 hectares (proposed Lot 10) and 12.01 hectares (proposed Lot 11).

The following table outlines the existing and proposed zoning characteristics:

EXISTING		
Property Description	Lot Area	Zoning
Lot 1 DP 871789	4.28 ha	1(a) - 3.754ha & 7(a) - 5,303m ²
Lot 2 DP 871789	19.902 ha	1(a) - 3.665ha & 7(a) - 16.237ha

PROPOSED		
Property Description	Lot Area	Zoning
Proposed Lot 10	12.18ha	1(a) - 3.754ha & 7(a) - 8.426ha
Proposed Lot 11	12.01ha	1(a) - 3.665ha & 7(a) - 8.345ha

The boundary reconfiguration involves the following aspects:

- Each allotment continues to contain one dwelling being the maximum entitlement;
- Each allotment continues to have limited agricultural possibilities; and
- No physical works are required to accommodate the proposal other than retrofitting the existing dwellings to comply with the recommendations contained within the Bushfire Assessment Report;

It should be noted that the re-subdivision/boundary adjustment does not alter the current residential use of either parcel with existing dwellings to be retained on their respective allotments.

The applicant seeks to use SEPP 1 to enable Council to vary the development standards of WLEP for the purpose of the boundary adjustment.

SEPP 1 is a planning policy established by the NSW State Government to make the application of development standards more flexible. It allows Councils to approve a development proposal that does not comply with a development standard where it can be shown to be unreasonable or unnecessary in the circumstances of the case. The body of the report provides in-depth detail as to the merits of the application.

VARIATIONS TO POLICIES

Clause	14(2)
Standard	Zone 7(a) – Min 40 hectares Zone 1(a) – Min 20 hectares
LEP	WLEP 1991
Extent of variation/departure	Lot 10 = 78.9% variance Lot 11 = 79.1% variance
Departure basis	See report for detail

HISTORY

Lot 121 & 122 DP 839487

Parent Lot 121 & 122 DP 839487 was subdivided into Lots 1 & 2 DP 871789 on 18 July 1997.

BACKGROUND

February 2010 – Council provided the following advice on the proposed boundary realignment:

- A Flora and Fauna Assessment is required;
- A Bushfire Assessment is required; and
- Any proposal exceeding a 10% variance will be determined by Council.

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:

- Environmental Planning and Assessment Act 1979
- New South Wales Rural Fires Act 1997
- New South Wales Threatened Species Conservation Amendment Act 2005
- State Environmental Planning Policy 1 (Development Standards)
- Wyong Local Environmental Plan 1991
- Wyong Development Control Plan 2005, Chapter 66 (Subdivision)
- Wyong Development Control Plan 2005, Chapter 67 (Engineering Requirements)
- Flood Prone Land Development Policy F5

ECOLOGICALLY SUSTAINABLE PRINCIPLES

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

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

ASSESSMENT

Having regard for the matters for consideration detailed in Section 79C of the EP&A Act 1979 and other statutory requirements, 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):
Environmental Planning and Assessment Act 1979**

The application is subject to the heads of consideration under Section 79C of the EP&A Act 1979.

The application is defined as “Integrated Development” under the provisions of Section 91 of the EP&A Act and was referred to the NSW Rural Fire Service (RFS).

New South Wales Rural Fires Act 1997

NSW RFS responded on 19 August 2010 by granting a “Bush Fire Safety Authority” under Section 100B of the Rural Fires Act.

State Environmental Planning Policies (SEPP)

The application is not subject to any specific SEPP. However, the applicant has elected to use SEPP No 1 – *Development Standards*, in order to address the provisions of the WLEP.

The merits of the SEPP 1 objection are addressed further in the report. The DoP has advised Council under Circular No PS 08-014, that where variations in excess of 10% to an LEP provision occurs, the application must be determined by the elected Council.

Regional Environmental Planning Policies (SREP)

The land is not affected by Sydney Regional Environmental Plan No 8 – *Central Coast Plateau Areas*.

Wyong Local Environmental Plan 1991**PERMISSIBILITY**

The subject site is split zoned 1(a) Rural and 7(a) Conservation (Refer Figure 4).

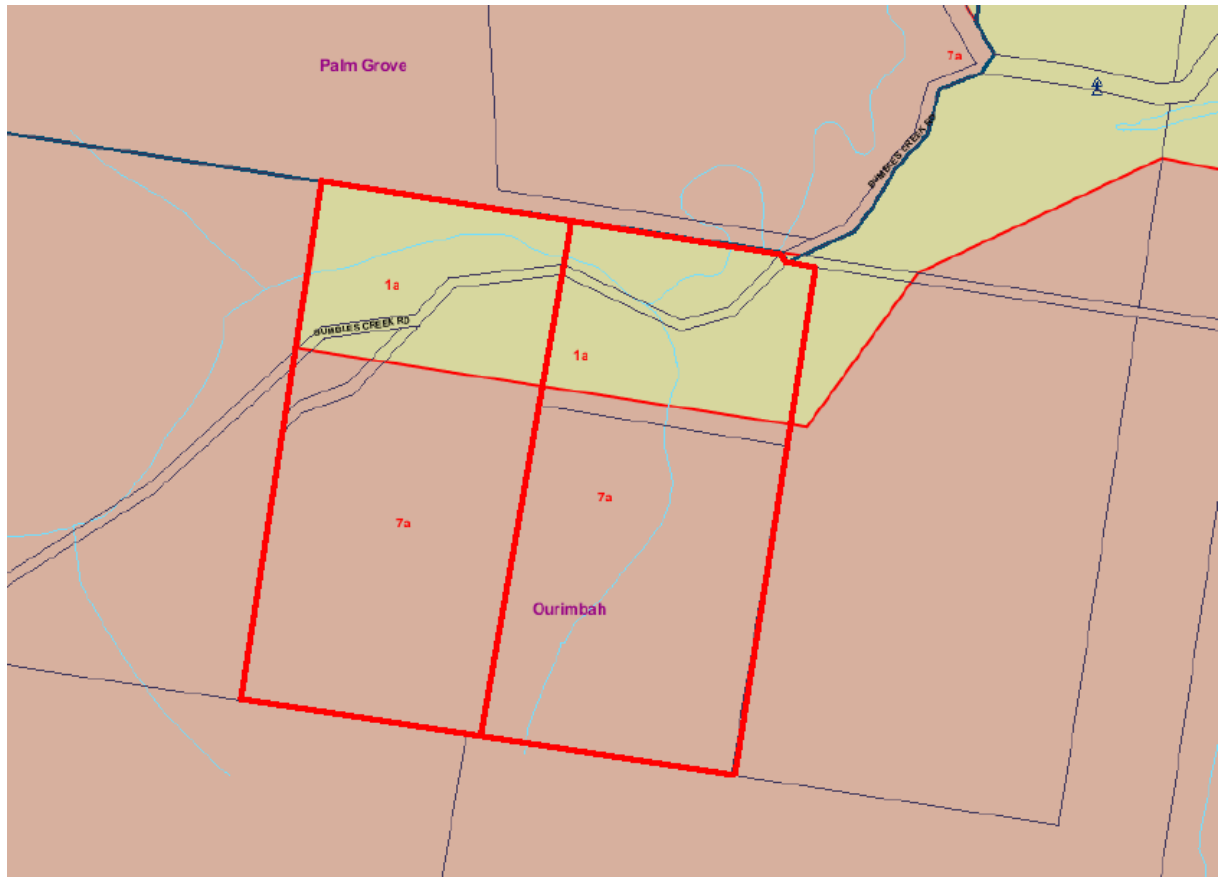


Figure 4: Proposed allotment configuration showing split zoning and associated watercourses.

Lots 1 and 2 are zoned part 7(a) 'Conservation' and part 1 (a) 'Rural Agriculture'.

Subdivision (including boundary adjustment) is defined under Section 4B – *Subdivision of land* under the Environment Planning and Assessment Act 1979 (EP&A Act).

Although not specifically defined within Clause 7 – *Definitions* under the Wyong Local Environment Plan 1991 (WLEP), the development is referred to as “Subdivision” within Clause 13 – *Subdivision of Land* and is permitted with consent.

OBJECTIVES OF THE ZONE

Clause 2(3) of the WLEP 1991 stipulates that the consent authority must have regard to the objectives for a development in a zone when determining a development application in respect of land within the zone. The following objectives of the 1(a) – Rural and 7(a) – Conservation Zone are relevant to the subject proposal:

1(a) – Rural Zone

- (a) to protect, enhance and conserve agricultural land in a manner which sustains its efficient, sustainable and effective agricultural production potential, and
- (b) to facilitate development requiring a rural or isolated location or associated with agricultural pursuits, and rural industry, provided that it is unlikely to:

- (i) prejudice the present environmental quality of the land within this zone, or*
- (ii) 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*
- (iii) prejudice the intent of the objective specified in paragraph (a), or*
- (iv) have an adverse impact on the region's water resources.*

7(a) - Conservation Zone

"(a) to restrict the type and scale of development which will be carried out on land possessing special aesthetic, ecological or conservation values to that compatible with such environments, and

(b) to allow such development where:

- (i) it can be demonstrated that it can be carried out in a manner that minimises risks from natural hazards, functions efficiently, does not prejudice other economic development and does not detract from the scenic quality of the land referred to in the objective specified in paragraph (a), and*
- (ii) it is unlikely to have a significant detrimental effect on the growth of native plant communities, the survival of native wildlife populations or the provision and quality of habitats for both indigenous and migratory species, and*
- (iii) it is unlikely to have an adverse impact on the region's water resources."*

The proposed allotment reconfiguration includes only retrofitting of existing dwellings for bushfire purposes. No other building work is proposed and the proposed allotments will not provide for any additional dwelling entitlements. No agricultural processes are undertaken on the existing allotments, with this situation to remain due to limited viability of the land for agricultural purposes. With this in mind the proposal is considered to be consistent with the above objectives.

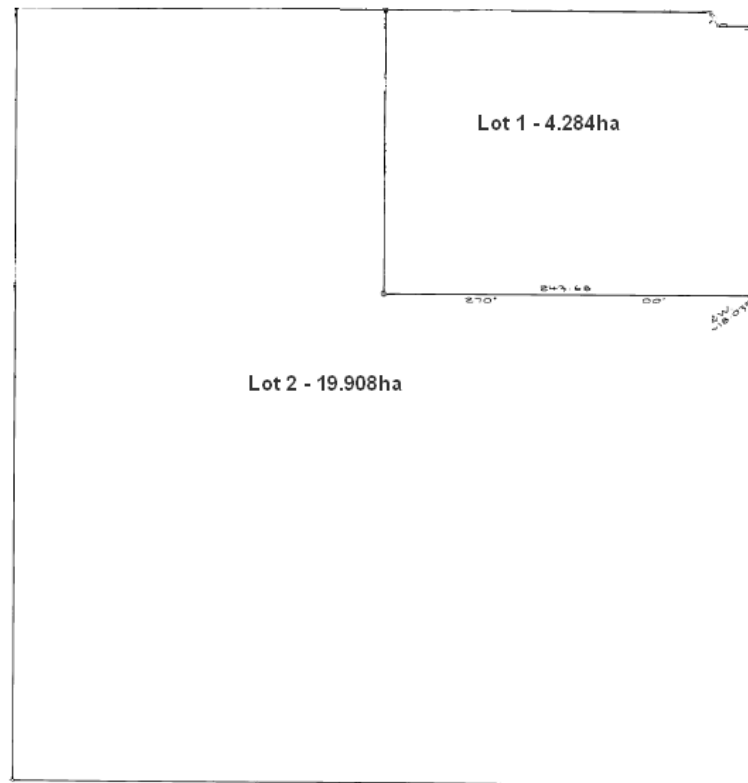
The application is subject to several special provisions in the WLEP 1991. The specific clauses in the LEP include Clause 13(3) and 14(2).

The following is the status of the current allotment arrangement and proposed arrangement.

The current lot arrangement:

Lot 1 = 4.28 hectares - 1(a) and 7(a) zoned

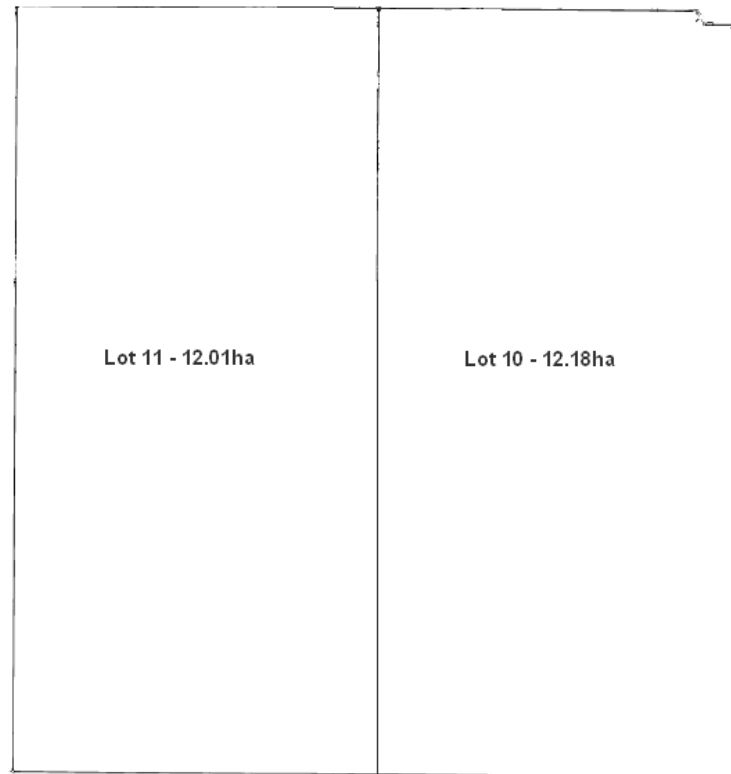
Lot 2 = 19.902 hectares 1(a) zoned and 7(a) zoned



The proposed lot arrangement:

Proposed Lot 10 will result in an increase in land area of 7.9 ha or 185% to existing lot 1.

Proposed Lot 11 will result in a decrease of land area of 7.9 ha or 40% to existing lot 2.



Clause 13 (3) of WLEP states:

(3) Notwithstanding any other provisions of this plan, including the provisions of clause 14, the Council may consent to a subdivision of land for the purposes of a minor adjustment of the boundary between two lots provided that:

- (a) the configuration of the allotments remains substantially the same, and*
- (b) the area of each allotment proposed is varied by no more than 10 per cent, and*
- (c) the Council is satisfied that the boundary adjustment is necessary in the circumstances of the case.*

The following comments are provided with regard to the provisions of clause 13(3):

(a) *Configuration*

The configuration is considerably different in both size and shape.

(b) *Dimensional Compliance*

Both allotments represent a variation greater than 10% of their existing area, with 40% variation in proposed Lot 11 and 185% variation on proposed Lot 10.

(c) *Circumstances of the case*

Despite the re-subdivision being proposed to enable better environmental management of the watercourses on site, it is not considered minor.

The shape, area and configuration (including length of boundaries) of the allotments have been altered to the extent that they bear no relevance to the existing arrangement (See *Jansen v. Shoalhaven City Council* No. 10420 of 1996 [1997] NSWLEC 2) and is therefore unable to be assessed using Clause 13(3).

Clause 14 (2) provides:

- (2) *Except as provided by subclauses (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,*
 - (b) in the case of land within Zone No 1 (a) or 7 (b)—20 hectares,*

The amount of 1(a) zoned land will remain the same through the proposed subdivision (3.75ha & 3.665ha).

The amount of 7(a) zoned land will change through the proposal, with both the existing arrangement and proposed arrangement being unable to meet the 40ha requirement.

The current non-compliance for the existing arrangement is as follows:

- Lot 1 = 5,303m² of 7(a) zoned land = 98.7% variance;
- Lot 2 = 16.237ha of 7(a) zoned land = 59.4% variance.

The proposed non-compliance for the subject subdivision is as follows:

- Lot 10 = 8.426ha of 7(a) zoned land = 78.9% variance;
- Lot 11 = 8.345ha of 7(a) zoned land = 79.1% variance.

The overall percentage of non-compliance for both the existing and proposed configuration is 79%.

The current allotment configuration causes the smaller watercourse on site to run through two allotments. The area to the rear of Lot 1 contained within Lot 2 is generally inaccessible other than through Lot 1. The proposed configuration removes this physical anomaly by placing the smaller watercourse entirely within proposed Lot 10.

The result of the proposed subdivision is substantially the same in principle given that the number of allotments created with a split zoning will remain, as will the development entitlement, however as mentioned above there will be a significant environmental benefit.

However, the subdivision does not comply with the minimum allotment area requirement under Clause 14(2). The applicant has sought a variation to the minimum allotment requirement through the submission of a written objection pursuant to the provisions of SEPP 1. As previously stated, the extent of departure to the standard is 78.9% for proposed Lot 10 and 79.1% for proposed Lot 11.

Wyong Development Control Plan 2005, Chapter 66 – Subdivision

The proposal is deemed consistent with the relevant provisions of Chapter 66 (Refer Attachment 4).

Objection under State Environmental Planning Policy No 1 (SEPP No 1)

SEPP No 1 provides flexibility in the application of planning controls 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 objectives specified in Section 5(a)(i) and (ii) of the Act, which are to encourage proper and appropriate land management within the natural environment.

Clause 6 of SEPP No. 1 allows for a written objection to be submitted to accompany a Development Application. The written objection is required to state that compliance with a specific development standard is unreasonable or unnecessary in the circumstances of the case, and specifying the grounds of that objection.

Clause 7 of SEPP No. 1 allows the Consent Authority to grant consent to a Development Application notwithstanding the non-compliance with the development standard referred to in Clause 6 of SEPP No. 1. It is incumbent upon the consent authority to seek the concurrence of the Director General of DoP, however, in most cases concurrence is delegated to consent authorities to determine the SEPP No. 1 Objection.

Clause 8 of SEPP No. 1 identifies the following matters which are required to be taken into consideration in deciding whether concurrence should be granted or not:-

- "8. (a) *Whether non-compliance with the Development standard raises any matter of significance for State or Regional Environmental Planning, and*
- (b) *The public benefit of maintaining the Planning controls adopted by the Environmental Planning Instrument".*

Matters to be considered in the use of SEPP No. 1 are also detailed in the DoP Circular No. B1 which states: -

"If the development is not only consistent with the underlying purpose of the Standard, but also with the broader Planning Objectives of the locality, strict compliance with the Standard would be unnecessary and unreasonable".

In *Winten Property v North Sydney* (2001) NSWLEC 46 Justice Lloyd sets out a five part test for considering SEPP No. 1 Objections.

The test in *Winten Property v North Sydney* sets the following criteria:-

- "1. *Is the planning control in question a development standard?*
2. *What is the underlying object or purpose of the standard?*
3. *Is compliance with the development standard consistent with the aims of the policy and in particular does compliance with the Development standard tend to hinder the attainment of the objects specified in Section 5(a) (i) and (ii) of the EP&A Act?*

4. *Is compliance with the development standard unreasonable or unnecessary in the circumstances of the case?*
5. *Is the objection well founded?"*

The consent authority needs to consider whether a development which complies with the development standard is unreasonable or unnecessary in the circumstances.

The assessment of SEPP No. 1 Objections was given significant consideration by Chief Judge Preston in *Wehbe v Pittwater Council* (2007) NSWLEC 827 wherein the Chief Judge provided clarification of the criteria to be used when assessing a SEPP No. 1 Objection. The criteria set by Preston CJ are as follows:-

- "1. *The Court must be satisfied that "the objection is well founded" (Clause 7 of SEPP No. 1). The objection is required to be in writing and be an objection that "compliance with that development standard is unreasonable or unnecessary in the circumstances of the case", and specify "the grounds of that objection" (Clause 6 of SEPP No. 1).*
2. *The Court must be of the opinion that "granting of consent to that Development Application is consistent with the Aims of this policy as set out in Clause 3" (Clause 7 of SEPP No. 1). Further clarification is provided by the statement that the Aims and Objects of SEPP No. 1 set out in Clause 3 are to provide "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 Act".*
3. *The Court must be satisfied that a consideration of the matters in Clause 8 (a) and (b) of SEPP No. 1 justifies the upholding of the SEPP No. 1 Objection. The matters in Clause 8 (a) and (b) are:-*
 8. (a) *Whether non-compliance with the development standard raises any matter of significance for State or Regional Environmental Planning, and*
 - (b) *The public benefit of maintaining the planning controls adopted by the environmental planning instrument".*

Preston CJ set the following five criteria to establish the way in which an objection under SEPP No. 1 may be well founded and be consistent with the Aims set out in Clause 3 of the Policy.

These criteria are as follows:-

- "1. *Establish that compliance with the development standard is unreasonable or unnecessary because the objectives of the Development standard are achieved notwithstanding non-compliance with the standard.*
2. *Establish that the underlying objective or purpose is not relevant to the development with the consequence that compliance is unnecessary.*

3.3 DA/754/2010 Subdivision (Boundary Adjustment creating no additional allotments) at Bumbles Creek Road, Ourimbah (contd)

3. *Establish that the underlying objective or purpose would be defeated or thwarted if compliance was required with the consequence that compliance is unreasonable.*
4. *Establish that the development standard has been virtually abandoned or destroyed by the Council's own actions in granting consents departing from the standard and hence compliance with the Standard is unnecessary and unreasonable.*
5. *Establish that the zoning of the particular land was unreasonable or inappropriate so that the development standard appropriate for that zoning was also unreasonable or unnecessary as it applied to that land and that compliance with the standard in that case would also be unreasonable or unnecessary”.*

The SEPP 1 objection submitted by the Applicant is considered to be well founded and satisfies the test in Winten Property by addressing the underlying purpose of the standard contained within Clause 14 of WLEP as follows:

- a) that no additional allotments are created;
- b) that no additional housing entitlement is created; and
- c) the Council is satisfied that any potential agricultural use of the land will not be compromised.

In this regard, no additional allotments or dwelling entitlements are created and the existing configuration does not lend itself to productive agriculture with the status quo remaining within the proposal.

Both existing allotments do not currently comply with the minimum allotment size requirement for either the 1(a) Rural Zone (20ha) or the 7(a) Conservation Zone (40ha) and the sum total of both lots still fails to achieve the 40 hectare requirement.

Strict adherence with the development standard would be unreasonable or unnecessary in the circumstances of the case especially considering that the proposed arrangement creates a better ecological outcome in regards to the previously discussed watercourse.

The applicant's SEPP 1 objection is considered to be well founded with grounds for Council to approve the application (Refer Attachment 3).

In summary Council is able to support the Applicants' reasoning for the SEPP 1 objection and find appropriate argument to vary the standards of Clause 13(3) of the WLEP.

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

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

The proposed development is considered acceptable given the unique site attributes and current existing lack of viable agricultural potential in either the existing or proposed allotments. The proposed boundary realignment will enable to better management of important conservation land in particular the north south watercourse.

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

Access to both existing and proposed allotments is via a common access way contained partly within the existing public road network and exiting right of carriageway. The proposed boundary reconfiguration will not affect this situation.

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

No issues to report.

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

The present waste disposal systems remain intact and are wholly contained with the respective allotments. In addition, the above mentioned easements and rights of carriageway will remain unchanged and unaffected.

*The effect on **heritage** significance.*

The properties do not contain any known sites of Aboriginal or European heritage significance.

*Any effect on other **land** resources.*

No issues to report.

*Any impact on the conservation of **water**.*

There is one dam currently located on Lot 1 and this will remain within proposed Lot 10. In addition, there are a number of watercourses – the main being Bumbles Creek running east west along the frontage of both sites and another smaller running north south roughly through the middle of Lot 1 and the rear south east portion of Lot 2. Through the proposed boundary realignment, Bumbles Creek will be unaffected, however, the smaller watercourse will be located entirely on proposed Lot 10, a beneficial situation with regards to waterway management.

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

No issues to report.

*Any effect on quality of **air and microclimate** conditions.*

No issues to report.

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

Bell's vegetation mapping predicts Lowland Rainforest along the riparian corridor on the northern end of the properties and Coastal Range Moist Layered Forest along the southern elevated slopes and ridges of the properties. The Bushfire Report notes that the edge of native vegetation are infested with Lantana.

The proposed boundary adjustment will not increase the intensity of ecological impacts of the existing lots, in that the dwellings, access roads and septic systems are established. The Bushfire Assessment Report states that the required APZs can be accommodated within existing cleared/managed areas on the site and the application repeatedly states that no removal of any native vegetation required to enable the development.

Due to the lack of intensification or new ecological impacts as a result of the proposed development, no formal ecological surveys have been undertaken or threatened species assessments of significance conducted.

The RFS provided general terms of approval which require the land surrounding the existing dwellings, to a distance of 25 metres, to be maintained as an inner protection area (IPA) - this is beyond that required within the recommendations of the Bushfire Report.

Vegetation along the eastern boundary of No. 32 is overgrown with ornamental and weed species. A majority of the understorey vegetation to south of the dwelling is maintained as lawn or has been cleared, there is still some dense lantana in the south-eastern corner that probably would require removal. No nests or dreys were found in the lantana. The overstorey contains Gosford Wattle, Radiata Pine, Turpentine, Red Ash and Blue Gums. No trees contain hollows or nests within 25 metres of the house. The clearing of lantana at this location to achieve the 25 metre IPA is unlikely to impact on any threatened species habitat.

*The provision of **waste** facilities.*

Existing on-site effluent disposal areas have been identified and are located an appropriate distance from the proposed boundary.

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

No issues to report.

*Whether the development will cause **noise and vibration**.*

No issues to report.

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

Bush Fire

The subject site is almost entirely affected by the risk of bush fire.

The application was referred to NSW RFS who on 19 August 2010 provided general terms of approval (GTA) which have been included within the recommended conditions of consent.

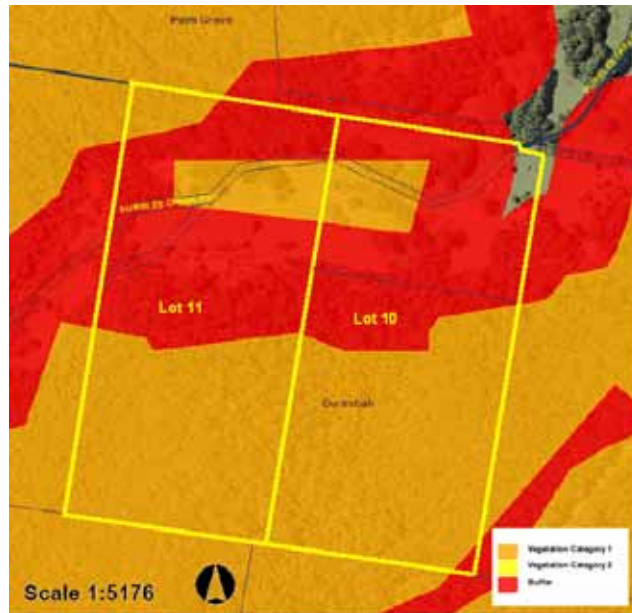


Figure 5: "Eview" image with bushfire overlay.

Flooding

The site is also located within the Ourimbah Creek catchment which drains into the Tuggerah Lakes system at Chittaway Point. Both the existing and proposed allotments are subject to flooding, however the access and dwellings are well above flood level and as no additional allotments are being created there should be no additional flooding impact.

Mine Subsidence

The site is not subject to mine subsidence

*Any risks from **technological** hazards.*

No issues to report.

*Whether the development provides **safety, security and crime prevention.***

No issues to report.

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

No issues to report.

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

No issues to report.

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

No issues to report.

3.3 DA/754/2010 Subdivision (Boundary Adjustment creating no additional allotments) at Bumbles Creek Road, Ourimbah (contd)

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

The existing dwellings are required to be upgraded to improve ember protection.

*Any **cumulative impacts**.*

No issues to report.

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

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

Allotments within a 500 metre radius of the subject site range from 1745m² to 37ha therefore presenting no "standard" lot size. With this in mind, the proposal is seen to fit within this range and is therefore suitable within the locality.

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

As mentioned above, the site attributes, particularly the presence of the north south watercourse and significant vegetation are conducive to the proposed boundary realignment.

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

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

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

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

NSW Rural Fire Service

The subject site is located within a Bushfire Category 1 Zone and Bushfire Buffer Zone. Accordingly the application was referred to the Rural Fire Service (RFS) as Integrated Development. In correspondence dated 19 August 2010 the RFS issued a Bushfire Safety Authority under Section 100B of the Rural Fires Act, subject to conditions.

The comments of the RFS are noted and have been included as suitable conditions of consent (Refer conditions 3, 4 7 6).

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

No issues to report.

OTHER MATTERS FOR CONSIDERATION

No issues to report.

CONCLUSION

The proposal has been assessed having regard to Section 79C of the EP&A Act 1979, New South Wales Rural Fires Act 1997, New South Wales Threatened Species Conservation Amendment Act 2005, SEPP 1 (Development Standards), WLEP 1991, DCP 2005: Chapter 66 (Subdivision) and Chapter 67 (Engineering Requirements) and Flood Prone Land Development Policy F5 and is considered satisfactory.

The application is therefore recommended for approval subject to suitable conditions of consent.

ATTACHMENTS

1	Draft Conditions of Consent	Enclosure	D02392564
2	Applicants objection under SEPP 1	Enclosure	D02323527
3	DCP 66 Compliance Table		D02361838
4	Boundary Adjustment Plan	Enclosure	D02361808

Attachment 4: DCP 66 Compliance Table

DCP 100	Required	Proposed	Compliance
Development Standard			
5.2 Lot Size and Design			
a. Lot Size (Clause 14)	1A – 20ha 7B – 40ha	Lot 10 = 12.18ha Lot 11 = 12.01ha	No <small>discussed above</small> No <small>discussed above</small>
b. Site accommodation	Provision for water supply, waste disposal, bushfire and topography	Both lots provide adequate space.	Yes Yes
c. Corner lots	N/A	N/A	N/A
d.&.e. Battleaxe lots	N/A	N/A	N/A
f. Access driveways	Adequate site distance	Meets	Yes
5.3 Street Layout and Orientation	Re-subdivision only, access arrangements to remain the same and no additional allotments created.		
5.4 Scenic Quality and Physical Restraints			
a. Reflect natural features/constraints: Watercourses, drainage features and flood prone areas Threatened species and their habitats Significant ridgelines and rock outcrops Slopes On-site effluent disposal areas Aboriginal sites/relics Vegetation	Improves configuration to contain drainage feature on one allotment. No impact No impact No impact No impact N/A No impact		
b. Where disturbance of native vegetation, wetlands, waterways or other sensitive environments is proposed, an ecological assessment and management plan is to be prepared in accordance with the Wyong Shire Council Flora and Fauna Guidelines for Development.	Council's Ecologist has raised no concern in this regard		
c. Indicate an appropriate building envelope designed around natural features and physical constraints.	Both allotments contain existing dwellings.		
d. Subdivision to recognise that dwellings are not to located on dominant ridgelines or prominent locations.	N/A		
f. All trees to be removed to be identified on VMP and Site Plan, with justification for their removal. An Arborists Report is required in accordance with DCP 14.	No tree removal proposed.		
g. Comply with the document PBP 2006.	The RFS has provided GTA		
h Onsite effluent disposal needs to be for. An increase in the area of an allotment, in addition to the buffer distance to watercourses, dams and vegetation will need to be considered. Identify areas on each allotment for effluent disposal, and include a preliminary geotechnical assessment identifying the suitability of the site for a future on site effluent disposal system.	No additional allotments of building proposed. On-site effluent has been identified on the plans and is located a suitable distance from proposed boundaries.		

3.4 DA/1061/2009 Proposed Rural Boundary Adjustment at Little Jilliby

TRIM REFERENCE: DA/1061/2009 - D02393161
MANAGER: Scott Rathgen, Team Coordinator
AUTHOR: Mark Greer, Senior Development Planner, Regional Team

SUMMARY

An application has been received for a two lot boundary adjustment at Little Jilliby. 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.

The application is reported to Council as a result of a directive by the Department of Planning (DoP) to all NSW Council's that where variations in excess of 10% to a LEP provision occurs, the application must be determined at a Council meeting rather than at staff delegation level.

Applicant	Everitt & Everitt
Owner	D, W and K Smith
Application No	1061/2009
Description of Land	Lot 2 DP 929372 & Lot 32 DP 755271 Little Jilliby Road, Jilliby
Proposed Development	Boundary Adjustment
Site Area	Lot 2 = 16.83 hectares Lot 32 = 20.85 hectares
Zoning	both lots 1(a) Rural
Existing Use	Lot 2 = vacant, grazing Lot 32 = dwelling, grazing

RECOMMENDATION

- 1 That Council, having regard to the matters for consideration detailed in Section 79C of the Environmental Planning and Assessment Act 1979 and other relevant issues, grant consent subject to the conditions detailed in the schedule attached to the report.***
- 2 That Council seek the concurrence of the Director General of the Department of Planning for the use of State Environmental Planning Policy No 1 to vary the development standard of Clause 14(2) of Wyong Local Environmental Plan 1991 to permit the proposed development.***

PRECIS

- The development application involves the adjustment of the common boundary between two properties at Little Jilliby. This form of application is considered as subdivision and the standards in Council's Planning Instrument apply.

3.4 DA/1061/2009 Proposed Rural Boundary Adjustment at Little Jilliby (contd)

- The subject allotments comprise rural agricultural zonings.
- The applicant proposes the use of State Environmental Planning Policy No 1 (SEPP 1) to vary the subdivision standards of Wyong Local Environmental Plan 1991 (WLEP). The variation extends to 41% of the subdivision standard.
- Council delegation does not extend to assuming concurrence of the Department of Planning (DoP) for the use of SEPP 1 in this instance. The delegation issued under Circular B1 notes that Council can only assume concurrence for two lot boundary adjustments where both lots are presently below the minimum subdivision standards. In this instance one of the existing allotments is greater than the LEP standard of 20 hectares.

INTRODUCTION

The Site

The subject site comprises two parcels of land (lot 2 and Lot 32) on Little Jilliby Road and is approximately 500 metres west of the Jilliby Public School. The land is used for grazing and other typical rural purposes.

Lot 32 contains an old cottage and shed while lot 2 is vacant. Both allotments are held in the same ownership. Legal and practical vehicular access to lot 32 is gained direct from Little Jilliby Road. An existing driveway provides vehicular access to the existing nearby cottage. Lot 2 has legal access in the form of an unmade "paper" road reserve extending from Dooralong Road through neighbouring lot 33 and the subject lot 32. While an informal track follows the route of the unmade road reserve, it does not provide practical access all the way to lot 2. In effect, lot 2 has no practical vehicular access to acceptable standards. This has never been an issue as both allotments are held in the same ownership.

The Dooralong and Jilliby valleys are dominated by cattle grazing and horse agistment land uses.



Existing layout – lot 2 and lot 32

The Proposal

Development consent is sought to adjust the common boundary between lots 2 and 32 to establish a more balanced approach to land management based on personal circumstances, establish preferred building opportunities and practical access arrangements to each parcel.

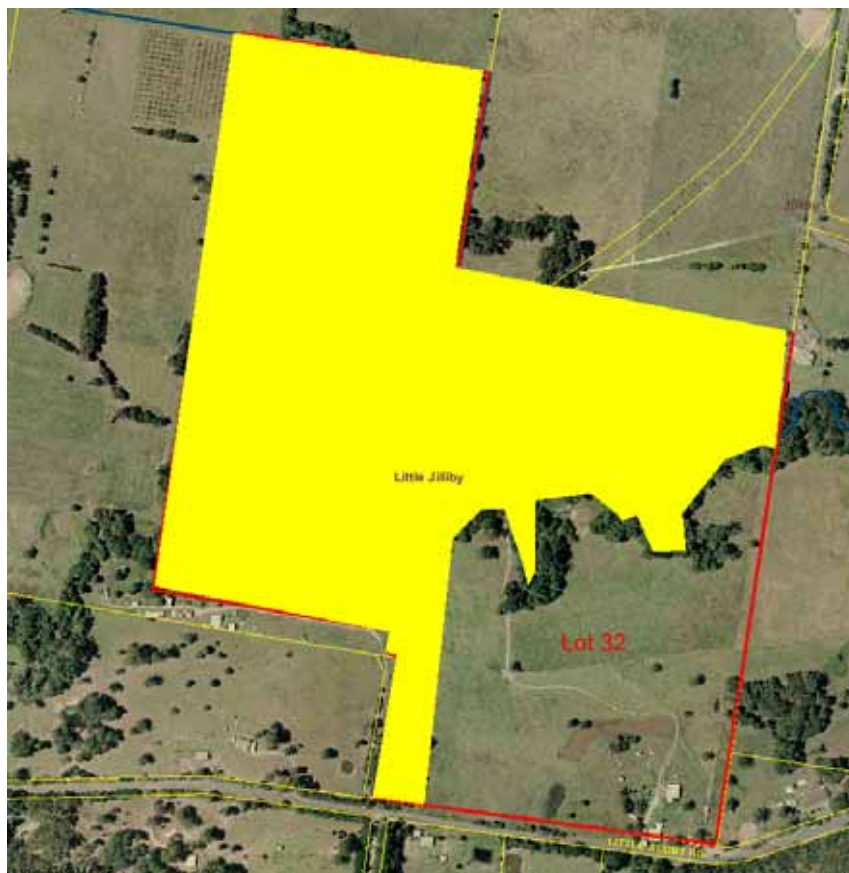
The two allotments (presently held in the same ownership) in effect “work” as a single entity, the purpose of the adjustment is to provide both proposed allotments with practical access, a dwelling site and sufficient capability to “stand alone” as a rural land use.

The major issues in assessing the development application include the extent of impact (if any) by the change in the boundary on the agricultural viability of the land and the potential for the vacant parcel to sustain a dwelling. In circumstances where subdivisions or boundary adjustments involve vacant land, it is regarded as good planning to demonstrate that the vacant parcel can sustain a form of residential development, the minimum scale of which is provided by the WLEP. In this regard a dwelling would be considered an appropriate form of residential development permissible with consent for proposed lot 2.

It is noted that the proposal would establish one lot (proposed lot 1) with an area less than the minimum LEP standard of 20 hectares. Proposed lot 1 at 11.8 hectares represents a variation of 41% to the provisions of the WLEP. Proposed lot 2 would comply with the minimum lot requirement.

In order to create an allotment below the 20 ha minimum standard for land zoned 1(a) Rural, the Applicant has lodged an objection under SEPP No 1 outlining the unreasonableness of the development standard of Clause 14 of WLEP. Clause 14 provides criteria for subdivision of land within the 1(a) zone. Boundary adjustments are generally referred to as subdivision and while the LEP provides a specific clause (Clause 13(3)) for boundary adjustment, assessment of the current application would suggest that the circumstances of the case are not consistent with the parameters of the provision as the configuration of the allotments do not remain substantially the same.

It should be recognised that the proposed subdivision will result in one of the proposed lots comply with the minimum lot requirement while the other lot to be created would be non-compliant. This is no different to the existing circumstances.



Proposed lot 2 (in yellow shading) showing expanded land area to creek alignment

VARIATIONS TO POLICIES

Clause	14(2)
Standard	20 hectares
LEP	Wyong Local Environmental Plan 1991
Extent of variation/departure	Proposed lot 1 at 11.80 hectares represents a 41.00% variation to the 20 hectare LEP standard. However, in real terms the variation for proposed lot 1 is substantially less, at 25% when consideration is given to the fact that already one of the existing parcels at 16.83 hectares is less than 20 hectare LEP standard.

3.4 DA/1061/2009 Proposed Rural Boundary Adjustment at Little Jilliby (contd)

	Proposed lot 2 at 25.88 hectares complies with the 20 hectare LEP standard.
Departure basis	Supported on the basis of: No impact to future use of land for agricultural purposes. Establishes legal and practical access for both allotments. Further detail in the body of the report

HISTORY

(i) Land Titles

Lot 2 was registered circa 1906. No apparent restrictions

Lot 32 was registered circa 1907. No apparent restrictions

(ii) Recent Development and Building Applications

Lot 2 Vacant

Lot 32 Occupied by old cottage and sheds

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 EP& A Act and other statutory requirements with the issues requiring attention and consideration being addressed in the report.

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 Section 100B of the Rural Fires Act.

State Environmental Planning Policies

The application is not subject to any specific State Policy. However the applicant has elected to use SEPP No 1 – *Development Standards*, in order to address the provisions of the WLEP.

The merit of the applicant’s SEPP 1 objection is addressed in the body of the report. However it is to be noted that the DoP has instructed Council in Circular No PS 08-014 that where variations in excess of 10% to a LEP provision occurs, the application must be determined at a Council meeting rather than at staff delegation level.

Regional Planning Policies

Although the land is 1(a) zoned it is not part of Sydney Regional Environmental Plan No 8 – *Central Coast Plateau Areas*. This policy applies to most of the shires 1(a) zoned land in the Kulnura and surrounding areas but does not extend to the lower Wyong Creek and Jilliby Creek valley regions.

The Central Coast Regional Strategy was adopted by the NSW Government providing a strategy direction for population and employment growth for the Central Coast for the period from year 2006 – 2031. In the general sense, the strategy promotes the same ideals as the 1(a) zone objectives in promoting opportunities in the rural areas.

Wyong Valley Study – Planning and Strategy Reports

The Wyong Valley Study was prepared in 1998 as an overview of past and current land uses and future strategies for the valley regions. Included in the study was the Jilliby Creek region. Although the strategy for zone changes was never adopted, the ideals of the review are considered pertinent when assessing applications particularly where changes in boundaries occurs.

The study concentrated on the history and future intent of the valley areas, emphasising the opportunities to establish hobby farming and encourage other rural uses. Minimum lot size was of paramount importance in order to maintain zone objectives. However the strategy acknowledged that boundary adjustments were an integral component of creating better land management.

The proposal, with no additional entitlements retains the intent of the study by enhancing the rural opportunities of the land.

Wyong Local Environmental Plan 1991

(i) LEP - Definition

Subdivision (including boundary adjustment) is defined under Section 4B – *Subdivision of land*, in the Environmental Planning and Assessment Act 1979. Although not specifically defined in Clause 7 – *Definitions*, of WLEP 1991, the development is referred to as “Subdivision” and “Boundary Adjustment” in Clause 13 – *Subdivision of Land*, in the LEP and is permitted with consent.

(ii) LEP – Aims, Objectives and Zoning

The overall aims and objectives of the LEP are contained in Clause 2 which states (relevant extracts only):

- “ 2 (2) *The objectives of this plan are -*
- (g) *in relation to rural and environmental areas -*
- (i) *to protect environmentally sensitive areas from development and minimise adverse impacts of urban development on the natural environment;*
- (ii) *to restrict development within flood prone areas in order to minimise flood damage and obstruction to flood waters; and*

- (iii) *to encourage use of land having a high agricultural potential for that purpose and as much as possible direct non-agricultural purposes to land of lesser agricultural potential; “*

The proposed development is considered to represent an appropriate scale of development consistent with the objectives of Clause 2.

The subject land is zoned by - 1(a) Rural. The objectives of the zone are:

- “(a) *to protect, enhance and conserve agricultural land in a manner which sustains its efficient, sustainable and effective agricultural production potential, and*
- (b) *to facilitate development requiring a rural or isolated location or associated with agricultural pursuits, and rural industry, provided that it is unlikely to-*
- (i) *prejudice the present environmental quality of the land within this zone, or*
- (ii) *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*
- (iii) *prejudice the intent of the objective specified in paragraph (a), or*
- (iv) *have an adverse impact on the region's water resources.”*

The proposal is considered to be consistent with the zone objectives as it will not prejudice the environmental quality of land within the zone and will protect, enhance and conserve existing agricultural land.

(iii) LEP - Subdivision and other provisions

The application is subject to several special provisions in the WLEP.

Clause 13 – *Subdivision in General.* This clause provides a basis for requiring consent for subdivision of land. While boundary adjustments are permitted under Clause 13, the extent of departure to the criteria of the clause (10% maximum variation to current lot sizes and configuration) was considered too extreme to use this provision. Clause 13 also requires that the configuration of the allotments remain substantially the same which is not the case.

Clause 14 – *Subdivision of 1(a)...* This clause provides the minimum lot size criteria for subdivision of certain zones – generally rural and conservation zones.

Policy W1 – Water Catchment Areas

This policy controls development in the drinking water catchments. Subdivisions are not listed as prohibited development.

Policy F5 – Flood Prone Land

This policy controls development on land affected by flooding. The subject development is not prohibited under this policy however the issue of flooding requires a more detailed examination with further comment provided in the body of this report.

ECOLOGICALLY SUSTAINABLE PRINCIPLES

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

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

ASSESSMENT

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

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

(i) Preamble

It is proposed to consolidate the northern part of lot 32 into lot 2 to form a larger parcel. In effect the boundary adjustment offers a better use of the land and establishes practical access arrangements.

(ii) Property Dimensional Summary

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

Existing Lots:

Lot 2 DP 929372	-	16.83 hectares	(zoned 1(a) Rural)
Lot 32 DP 755271	-	20.85 hectares	zoned 1(a) Rural

Proposed Lots:

Proposed Lot 1,	-	11.80 hectares
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3.4 DA/1061/2009 Proposed Rural Boundary Adjustment at Little Jilliby (contd)

The proposed area of lot 1 is a decrease in area of existing lot 32 by 9.05 hectares and represents a variation of 41% to the LEP minimum standard of 20 hectares. It should be noted that when the two lots are considered as a total land package, given that existing lot 2 is already below the minimum 20 hectare standard, the actual reduction in area for corresponding proposed lot 1 is a variation in real terms of 25% to the existing circumstances.

Proposed Lot 2 - 25.88 hectares, 1(a) zoned

The proposed area of lot 2 is an increase in the area of existing Lot 2 by 9.05 hectares and represents compliance with the LEP minimum standard of 20 hectares.

It should be noted that the proposed layout does not promote any potential for further subdivision under the LEP.



Proposed new boundary alignment

(iii) Subdivision Strategy – Clause 14(2) of WLEP

The applicant has lodged the application with reference to Clause 14 and therefore it is necessary for Council's assessment to extend beyond the boundary adjustment provisions of Clause 13(3) to the subdivision criteria of Clause 14. As noted in the *Introduction* to this report, Clause 13(3) is not considered as an appropriate provision given the extent of departure to the boundary criteria for reasons stated previously.

Clause 14 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 subclauses (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;*
 - (b) *in the case of land within Zone No. 1(a) or 7(b) - 20 hectares;*
 - (c) *in the case of land within Zone No. 7(c) - 2 hectares.”*

The subdivision does not comply with the minimum allotment size requirements of Clause 14(2) of the WLEP. The applicant has prepared a SEPP 1 objection in support of the variation. The extent of departure to the standards is 41% for proposed lot 1.

(iv) 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) are amenable under SEPP Policy No 1.

SEPP No 1 provides flexibility in the application of planning controls 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 which are to encourage proper and appropriate land management within the natural environment.

The Land and Environment Court in *Winten Property Group Ltd V North Sydney Council* (2001) NSW LEC 24 outlined matters to be considered when preparing and considering a SEPP 1 objection. The five questions and req

□ is the planning control in question a development standard?

The 20 ha minimum lot requirement under Clause 14(2) of WLEP is a development standard.

The extent of departure to the minimum standard of Clause 14(2) is 41% for proposed lot 1.

It should be noted that Council's delegation does not extend to assuming concurrence of the DoP for the use of SEPP 1 in this instance. The delegation issued under State Circular B1 notes that Council can assume concurrence for two lot boundary adjustments where:

- (a) only one allotment does not comply with the minimum area;
- and,
- (b) that allotment has an area equal to or greater than 90% of the minimum area specified in the development standard.

Accordingly, Council does not have the delegation to determine the application in the absence of the concurrence from the Director General.

□ what is the underlying object or purpose of the standard and, does compliance with the development standard tend to hinder the attainment of the objects specified in S.5 of the EP&A Act?

The purpose of the WLEP standard in this instance is to protect, enhance and conserve land with agricultural values. The question is whether the boundary adjustment adversely impacts upon appropriate land management anticipated in the zone.

The subject land exhibits a topography that features a broad expanse of rural land that was historically a valuable commodity that supported the Jilliby and Wyong communities. Whilst the nature and scale of rural land use has changed over the years, land in the immediate area continues to offer some form of agricultural benefit. Turf farming has become a major rural industry and dominates the lower Wyong Creek valley region while equine industry dominates the Jilliby region. However, there remain viable opportunities for other more traditional rural land uses such as cattle grazing which is undertaken on the subject site.

The applicant prepared an agricultural assessment to support the use of SEPP 1, which was subsequently reviewed by the Department of Industry and Investment. Although the land is zoned 1(a) Rural, it is not part of Sydney Regional Environmental Plan No 8 – *Central Coast Plateau Areas*, a policy that provides criteria for development of agricultural land. This policy applies to most of the shires 1(a) zoned land in the Kulnura and surrounding areas but does not extend to the lower Wyong Creek or Dooralong valley regions. Notwithstanding, the department has the expertise to provide Council with commentary to assist in the assessment process.

The agricultural assessment contends that the lots as they currently exist are not regarded as major viable agricultural propositions. At present the land package (both lots together) is under utilised because of personal and geographic circumstances. The land currently holds a limited number of cattle. Geographically, the land is difficult to manage due in part to the position of the creek which dissects the land separating the bulk of the pasture from the cottage and outbuildings.

As the land presently exists the agricultural assessment suggests that better management could produce higher economical returns if sole consideration was given to beef/cattle grazing. The growing of fodder crops would improve the number of head of cattle that the land could sustain.

Alternate rural pursuits such as intensive agriculture (horse agistment, vegetables, fruits etc,) are considered to be more valuable with significantly higher returns than cattle grazing. The agricultural assessment concludes that the proposed lot arrangement would not have any detrimental impact to the rural opportunities of either allotment subject to appropriate management for intended land uses.

It is considered that the proposal promotes acceptable land management in terms of conserving the rural environment.

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

The existing lots were created some considerable time prior to the adoption of the WLEP. At the time of creation, subdivision standards, as known today, were virtually non-existent. Property and lot layouts particularly in the rural and valley areas generally came into existence through family tradition and based on personal circumstances rather than good planning strategy.

Notwithstanding, the present layout is regarded as conventional in the sense that each lot is rectangular. This is usually considered as the best configuration in Torrens titles however may not represent geographic satisfaction. The proposed boundary adjustment promotes an irregular shape and requires Council to approve an allotment 41% less than the 20 hectare standard.

□ is the objection well founded?

The applicant's objection is considered as well founded providing good reasons why Council should confidently approve the application. The objection identifies that the standard in the circumstances will hinder the potential of the land in that better practical options could occur by way of the change in the boundaries.

In summary Council is able to concur with the applicants' reasoning for the SEPP 1 objection and finds suitable argument to vary the standards of Clause 14(2) of the LEP.

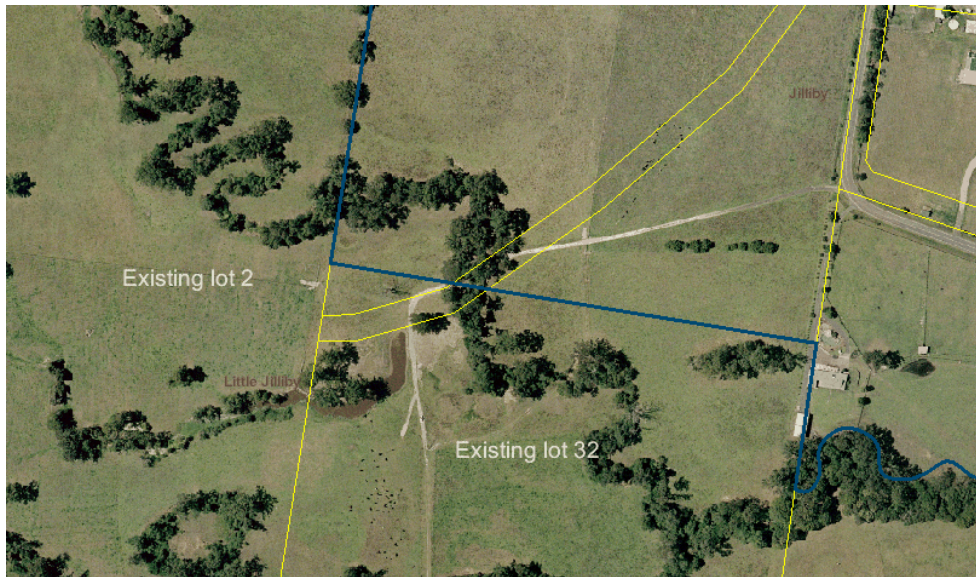
The proposed subdivision is considered to be consistent with the objectives of the 1(a) Rural zone under WLEP for reasons stated previously in this report, it is considered that strict compliance with the development standard is unreasonable and unnecessary in the circumstances.

The access, transport and traffic management measures.

One of the key features of the proposed boundary adjustment is establishing a practical vehicular access route for existing lot 2.

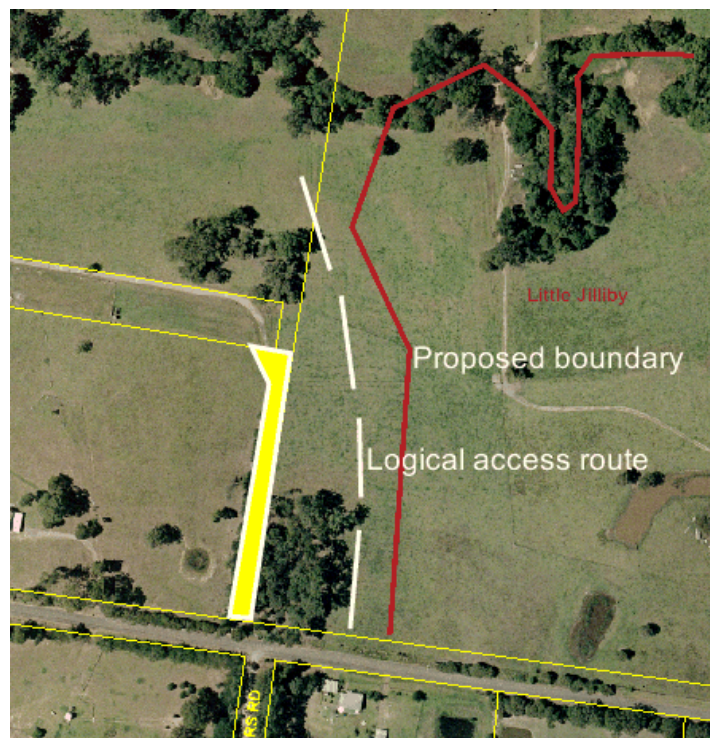
Legal and practical vehicular access to lot 32 is gained direct from Little Jilliby Road. An existing driveway is positioned nearby the old cottage. Lot 2 has legal access in the form of a unmade "paper" road reserve extending from Dooralong Road through neighbouring lot 33 and the subject lot 32. At some point in the past the unmade road extended through the subject site. However with road closures, the road reserve is unlikely to be ever constructed.

While an informal track follows the route it does not provide practical access to lot 2. In effect lot 2 has no practical vehicular access.



Unmade road and informal track from Dooralong Road to existing allotments 2 and 32

The proposed arrangement provides a battle axe style of frontage for proposed lot 2. This would provide acceptable scope for a new driveway that offers safe, legal and practical access.



Possible future access to proposed lot 2. Note that neighbouring property (a shaded battle axe handle) does not provide legal access to the subject properties in this DA.

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

Nil impact

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

Nil impact

*The effect on **heritage** significance.*

Nil impact

*Any effect on **other land resources**.*

Nil impact

*Any impact on the conservation of **water**.*

The new boundary along the creek alignment would not have impact on access to the water supply subject to ensuring that special provisions were adopted for legal and practical rights to the creek.

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

Nil impact

*Any effect on quality of **air and microclimate conditions**.*

Nil impact

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

The site has been subjected to clearing and farming for decades. The site is characterised by a narrow band of vegetation along Little Jilliby Creek, considered an Endangered Ecological Community (EEC) – River-Flat Eucalypt Forest on Coastal Floodplains of the NSW North Coast, Sydney Basin and South East Corner bioregions (Keystone Ecological Pty Ltd 2010). The proposed site is not part of any wildlife corridor, as per Council's draft Conservation Plan.



Aerial view of land showing EEC along both creeks

A 7-Part test and ecological assessment accompanied the application. It is considered that the proposal will not significantly impact on the EEC.

If the application is approved, a Construction Environmental Management Plan (CEMP) will need to be prepared and submitted to Council for review. The CEMP should be based on measures proposed below and should be reviewed on a regular basis to ensure that it is effective and that amelioration measures are being appropriately implemented.

Recommended measures to ensure ecological sustainability:

- All fenced tree protection areas and are to be clearly marked as "No Go Area" on the fencing itself. No clearing of vegetation or storage of vehicles, fill or materials or access is to occur within No Go Areas.
- The consultant arborist/ecologist may require other habitat and/or trees to be protected via fencing from time to time. This fencing is to be erected at the appropriate root zone protection limits (as determined by the consultant arborist / ecologist), prior to works being carried out around that particular habitat or tree.
- The riparian corridor (Little Jilliby Creek) which will form the common boundary between Lot 1 and proposed Lot 2 supports an Endangered Ecological Community (EEC). In order to protect this EEC, the common boundary will be fenced from stock on either side of Little Jilliby Creek. The fence shall be comprised of star pickets and/or split posts and three to four barbed wire strands and be situated at a minimum of 10m from the centreline of Little Jilliby Creek.

Provided that the above recommendations are included as conditions of approval, it is considered that there is not likely to be a significant impact on any threatened species, populations or ecological communities as a result of the proposed development.

*The provision of **waste** facilities.*

The site is not connected to sewer and therefore any future dwelling on proposed vacant allotment would require on-site waste disposal. The applicant prepared a waste management report that indicated that the area chosen as the most suitable location for a dwelling house could sustain appropriate waste disposal above the flood plain and removed from the EEC.

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

Nil impact

*Whether the development will cause **noise and vibration**.*

Nil impact

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

Flooding

Both existing allotments are subject to the risk of flooding. The extent of flooding is concentrated to land adjacent to Little Jilliby Creek and Myrtle Creek, while a section of flooding extends southward to Little Jilliby Road.

With respect to existing lot 32, the existing dwelling is not affected by flooding and while the boundary adjustment severs the rear half of the land, it does not significantly reduce the area of flood free land available to proposed lot 1.

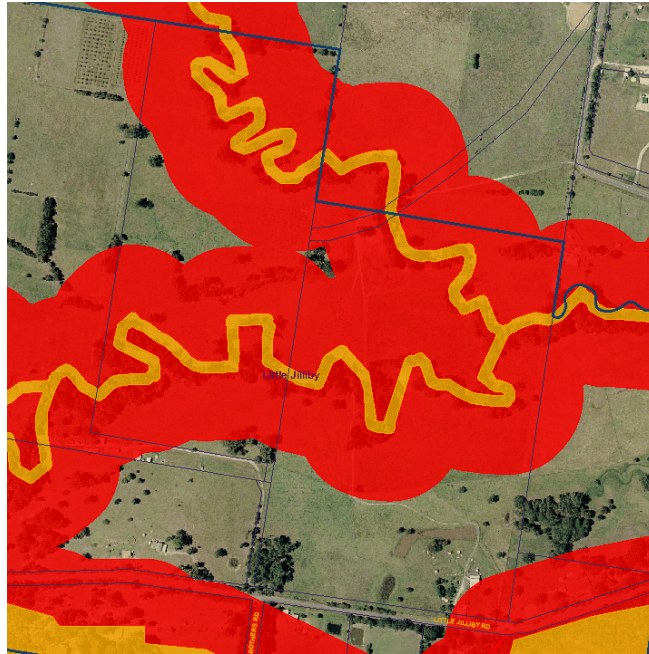
The boundary adjustment provides a new access to proposed lot 2 which is above the identified flood level. It is acknowledged that Little Jilliby Road is inundated at peak flood occasions for a short section nearby the subject site. This situation is unavoidable and is likely to be of short duration only.



Aerial view showing extent of flood – existing residence at bottom right of image with suitable area for dwelling on vacant lot in centre left of image

Bush Fire

The land is subject to risk of bush fire. NSW Rural Fire Service granted a Bush Fire Safety Authority outlining special protection requirements for the existing residence which is attached to proposed lot 1. The RFS did not stipulate any specific requirements for proposed lot 2, however, in discussion with the RFS, it was indicated that any application for a dwelling on proposed lot 2 would require an additional site specific assessment that could result in similar fire protection measures as the existing residence. The RFS did agree with the applicants bush fire assessment that there was suitable land available on proposed lot 2 for future residential development.



Aerial view showing extent of bush fire impact

Site Stability

The site is referred to as exhibiting “Yarramalong (Ya)” and “Woodbury’s Bridge (Wo)” soil classifications in accordance with the NSW Soil Landscape manual (CL Murphy 1993). The ‘Ya’ soil type represents the bulk of the land particularly the lower grazing grasslands adjacent to the creeks. The ‘Wo’ soil type represents the higher ground portion of the properties, particularly the location of the existing residence and the areas best suited for future building on proposed lot 2.

There does not appear to be any apparent ground stability problems that would impede or prevent future residential development in particular for lot 2.

*Any risks from **technological hazards**.*

Nil impact

*Whether the development provides **safety, security and crime prevention**.*

Nil impact

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

Nil impact

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

Nil impact

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

Nil impact

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

Nil impact

*Any **cumulative impacts**.*

Nil impact

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

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

Nil impact

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

Nil impact

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

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

The development application was advertised in accordance with DCP 2005 Chapter 70-Notification of Development Proposals with one submission being received. The issues raised in the submission 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 below.

Doc. No	Summary of Issues	Response
D0233058	Concern for impact to amenity from proximity of building envelope on proposed lot 2.	<p>The author of the submission was concerned that the location of the building envelope on proposed lot 2 is too close to their residence. The neighbouring residence on No 87 is located in an unusual position on the land, being nestled in the narrow battle axe handle that extends from Little Jilliby Road to the remainder of the allotment. The width of the land adjacent to the neighbours residence is merely 25 metres, thus in the present circumstances the neighbour has limited spatial opportunity. The author suggests that their amenity would be further eroded by the nearby building envelope on the proposed lot 2.</p> <p>The applicant provided the building envelope primarily for Council to be satisfied that an area was available that demonstrated acceptable scope for a residence. The actual site is not necessarily limited to the envelope shown on the plan. Other site options are available for the erection of a typical rural residence that are not affected by flooding or other environmental issues.</p> <p>It is recommended that while the applicant has adequately demonstrated the scope for future development, the envelope be excluded from the boundary adjustment approval. Future development applications should address the proposed location of future dwelling, at which time the neighbours have a further chance at commenting on such a proposal.</p>

Any submission from public authorities.

NSW Rural Fire Service (RFS)

The proposed boundary adjustment was referred to the NSW Rural Fire Service (RFS) for their concurrence under Section 91 of the EP&A Act 1979.

RFS issued their General Terms of Approval subject to conditions of consent relating to asset protection zones to the existing residences. No tree removal is necessary to comply with the RFS requirements.

Department of Investment and Industry (DII)

Although not a statutory requirement, the proposed boundary adjustment was referred to the Department of Investment and for comment.

CONCLUSION

The variation to the LEP standard in Clause 14(2) is noted in the report as a 41% departure to the minimum lot requirement for proposed Lot 1.

It is considered that the application has adequately examined the social and environmental issues associated with the existing circumstances and the proposed scenario. The use of SEPP 1 to vary the WLEP is regarded as appropriate in the circumstances.

It is recommended that reference to the building envelope on proposed lot 2 be deleted and any future dwelling house on proposed lot 2 be considered or part of a separate development application.

Accordingly the application is recommended for approval subject to concurrence from the Department of Planning.

ATTACHMENTS

- | | | | |
|---|------------------------------|-----------|-----------|
| 1 | Draft Conditions of Approval | | D02404325 |
| 2 | Objection under SEPP 1 | Enclosure | D02393579 |
| 3 | Development Plans | Enclosure | D02396317 |

Date: 19 October 2010
Responsible Officer: Mark Greer
Location: 57 Little Jilliby Road, LITTLE JILLIBY NSW 2259
Lot 32 DP 755271 and Lot 2 DP 929372
Owner: Mr D B Smith and Mr W W Smith and Mr K A Smith
Applicant: Everitt & Everitt Consulting Surveyors
Date Of Application: 28 September 2009
Application No: DA/1061/2009
Proposed Development: Boundary adjustment

PROPOSED CONDITIONS

- 1 The development taking place in accordance with the approved development plans reference number 17104, sheets 1 to 3, prepared by Everitt & Everitt, dated 17 July 2009 except as modified by any conditions of this consent, and any amendments in red.

Prior to Release of Construction Certificate:

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

No Conditions

Prior to Commencement of Works:

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

No Conditions

Prior to Release of Subdivision Certificate:

The following conditions must be satisfied prior to the release of a Subdivision Certificate.

Bush Fire

- 2 Prior to the issue of a Subdivision Certificate, the submission to the Council of certification for compliance with the general terms of approval of the NSW Rural Fire Service as outlined in their correspondence dated 2 November 2009 (copy attached).

Certificates/Engineering Details

- 3 An application for a Subdivision Certificate must be submitted to and approved by the Council/Principal Certifying Authority prior to endorsement of the plan of subdivision.
- 4 The building envelope shown for proposed Lot 2 on the Subdivision Plan is indicative only and does not form any part of the approved plan.

Ecology/Trees

- 5 The riparian corridor (Little Jilliby Creek) which will form the common boundary between Lot 1 and proposed Lot 2 supports an Endangered Ecological Community (EEC). In order to protect this EEC, the common boundary will be fenced from stock on either side of Little Jilliby Creek. A Construction Environmental Management Plan is to be submitted to Council for review outlining accurate plan of works. The fence shall comprise of star pickets and/or split posts with three to four wire strands and be situated at a minimum of 10 metres from the centreline of Little Jilliby Creek and extend the entire length of the proposed boundary corresponding with the creek.
- 6 All fenced tree protection areas are to be clearly marked as “No Go Area” on the fencing itself. No clearing or vegetation or storage of vehicles, fill or materials or access is to occur within “No Go Areas”.

Boundary Requirements

- 7 In the event that the proposed boundary is aligned to one side of the creek, a Section 88B restriction is to be registered on the title of the land that provides both proposed allotments with equal opportunity to access the creek for water supply. Such a restriction is not to imply that extraction of water from the creek can be undertaken in the absence of the issue of a permit(s) under appropriate government legislation.

Ongoing Operation:

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

No Conditions

4.1 Renewal of Lease to Killarney Vale Pre-School Kindergarten Inc - Lot 384 DP 755263 Adelaide Street Tumbi Umbi

TRIM REFERENCE: F2004/10830 - D02367611
MANAGER: Lesley Crawley, Manager Governance and Administration
AUTHOR: Susan Loder, Property Officer

SUMMARY

The Killarney Vale Pre-School Inc has requested a renewal of the lease for Lot 384 DP 755263 at Adelaide Street, Tumbi Umbi.

RECOMMENDATION

- 1 That Council renew the lease of Lot 384 DP 755263 Reserve 63621 Adelaide Street, Tumbi Umbi to The Killarney Vale Pre-School Inc for a period of twenty years as prescribed by the Land and Property Management Authority.**
- 2 That Council authorise the Common Seal of Wyong Shire Council to be affixed to the Lease between Wyong Shire Council and The Killarney Vale Pre-School Inc.**
- 3 That Council authorise the Mayor and the General Manager to execute all documents relating to the Lease.**

BACKGROUND

Council is the Trust Manager of Crown Land Reserve R89475 at Adelaide Street, Tumbi Umbi (the land). Council was appointed Manager of the land on 20 June 1975.

The land has an area of approximately 1858sqm.

Council leases at nominal rent, the premises to Killarney Vale Pre-School Kindergarten Inc (the lessee). The lessee is responsible for maintenance and repairs, and public liability and building insurance and outgoings. The current 20 year lease expires on 31 December 2010.

The subject land is exempt from all rates for the reason it is Crown land not being land held under a lease for private purposes.

The pre-school is located in close proximity to Tumbi Umbi Scout Hall and the Adelaide Street Tennis Courts, contributing a community "mini-hub" of facilities.

The pre-school is a community based, non profit pre-school. Founded in 1975 it is operated by a management committee made up of parents elected annually and receives funding from the State Government to enable fees to be kept at a reasonable rate.

Fee relief is available for low-income families with daily fees ranging from \$10 (full subsidy) to \$25.

4.1 Renewal of Lease to Killarney Vale Pre-School Kindergarten Inc - Lot 384 DP 755263 Adelaide Street Tumbi Umbi (contd)

It is licensed by the Department of Community Services for 39 children per day, aged 3-6 years providing care and education for approximately 100 children (90 families) across the week.

The pre-school is renowned for its inclusion practices, providing a quality program for children with special needs and employing specialist trained staff to cater for these children.

Funding for these programs is from the Dept Education & Training and Community Services via SCAN (administered through the Samaritans). Staff provide support to the families in co-ordinating appointments, implementing specialists therapy programs, working alongside other professionals and liaising with the transition to school process.

THE PROPOSAL

The lessee has requested that the lease be renewed, on the same terms and conditions as the current lease.

Council has no current or mid-term future plans for alternate use of the land.

It is proposed to impose the rent prescribed by the Land and Property Management Authority being approximately \$480 per annum.

OPTIONS

Council has the option to:

- 1 Approve the lease proposal for the continuation of the lease to Killarney Vale Pre-School Kindergarten Inc for 20 years until 31 December 2030.
- 2 Agree to a lesser or some other length of lease term.
- 3 Refuse a renewal of the lease at this time in which event the lease will expire on 31 December 2010 and the lessee will need to determine whether or not it is feasible to proceed with childcare for the local community.

STRATEGIC LINKS

The proposal supports the Shire Strategic Vision in contributing to the Principal Activities of the Management Plan by providing a more sustainable community by providing low cost child care and enhancing the quality of life of the Shire's residents.

Annual Plan

<i>Principal Activity</i>	<i>Strategy or Program</i>	<i>Financial Line Item No and Description</i>
A More Sustainable Community	A more sustainable community will be well educated, innovative and creative. People will attain full knowledge potential at all stages of life	Strategy 4.2

Shire Strategic Vision

<i>Priority Objective</i>	<i>How the proposal contributes or links to the Priority Objectives in Shire Strategic Vision and Annual Plan</i>
Education - The community will be well educated, innovative and creative. People will attain full knowledge potential at all stages of life.	Strategy 4.2 2010-2011 Programs & Projects 1. implement initiatives to support early language and literacy skills in Councils Care & Education Centres and other preschools

Financial Implications

There is no additional cost to Council from renewing the lease. The Lessee will continue to be responsible for the maintenance and insurance and outgoings in association with the lease of the premises.

If this "service provider" was not available WSC would need to consider the resourcing of child-care to the Killarney Vale community.

Principles of Sustainability

The proposal will have a positive effect on the development of a healthy, equitable, active and involved community. The proposal will assist with the sustainable provision of child care services to the Wyong Shire community.

CONSULTATION

The Crown has been consulted and raised no objection to the proposal.

GOVERNANCE

The Conveyancing Act 1919 applies in respect to leases and the Local Government Act 1993 enables Council to lease Council land, and the Crown Lands Act 1989 in relation to Crown Land.

CORPORATE RISKS

Nil

CONCLUSION

The activity on Crown Land is consistent with community needs, LPMA strategies and the Shire Strategic Vision.

Renewal of the current lease for a further 20 years will provide the lessee with continued security of tenure for Council and appropriate management of the premises.

4.1 Renewal of Lease to Killarney Vale Pre-School Kindergarten Inc - Lot 384 DP 755263 Adelaide Street Tumby Umbi (contd)

Renewing the lease will continue the State Departments' strategies and is consistent with Council obligations and Manager of the Trust.



ATTACHMENTS

Nil.

4.2 Proposed Lease to Toukley Rugby League Football Club of Part of Lot 550 DP 1130653 at Darren Kennedy Oval, Noraville

TRIM REFERENCE: F2010/01491 - D02401194

MANAGER: Lesley Crawley, Manager Governance and Administration

AUTHOR: Julie Tattersall, Property Officer

SUMMARY

Toukley Rugby League Football Club Inc has requested a lease of Part of Lot 550 DP 1130653 at Darren Kennedy Oval, Evans Road, Noraville and is also seeking Council's endorsement, as owner, of a development application for the construction of a gym and office.

RECOMMENDATION

- 1 That Council approve a lease of the existing clubhouse building at Crown Reserve 1011729, Lot 550 DP 1130653 at Evans Road, Noraville to Toukley Rugby League Football Club Inc for a period of five years at rent as prescribed by the Land and Property Management Authority and, subject to development consent being granted for construction of a gym and office, approve a lease of the proposed gym and office.**
- 2 That Council endorse, as the Reserve Trust Manager of the Darren Kennedy Oval Reserve Trust (R1011729), LOT 550 DP 1130653 at Evans Road, Noraville a development application by Toukley Rugby League Football Club Inc to construct a gym and office on the land.**
- 3 That Council authorise the Common Seal of Wyong Shire Council to be affixed to the Lease between Wyong Shire Council and Toukley Rugby League Football Club Inc.**
- 4 That Council authorise the Mayor and the General Manager to execute all documents relating to the Lease.**

BACKGROUND

Council was appointed as Manager of Darren Kennedy Oval (R1011729) Reserve Trust for Public Recreation on 30 June 2006. The Reserve Trust comprises Lot 550 DP 1130653 Evans Road, Noraville (the land). Prior to the creation of the Reserve Trust and appointment of Council as Manager the subject land was leased directly from the Crown to Toukley Rugby League Football Club Inc (the Club). The Club has been occupying the land since its reservation without any formal tenure with Council as Trust Manager.

Erected on the Land is clubhouse which consists of a brick building comprising a club room, bar, canteen and storage facilities. The Club built the clubhouse at Darren Kennedy Oval in 1985 after it moved from Harry Moore Oval and the club is the sole occupant and exclusive user of the clubhouse building. It is WSC's requirement in those circumstances to have the occupant lease the premises from Council which will authorise exclusive use and protect Council from any

4.2 Proposed Lease to Toukley Rugby League Football Club of Part of Lot 550 DP 1130653 at Darren Kennedy Oval, Noraville (contd)

liability arising from the use of the premises by the Club. Council leases also require the lessee to be responsible for maintenance and insurance of the premises.

The Club now has plans to extend the clubhouse building by the addition of gymnasium and office adjacent to the existing building and has requested that Council as the Reserve Trust Manager sign the development application.

On the basis that no current arrangement exists between the Club and Council for occupation of the Land, WSC sees the proposal by the Club to lodge a development application as an opportunity to formalise those arrangements through the grant of a lease.

The Club has now requested a lease of the existing clubhouse building and, if development consent is granted, for the area to be occupied by the gym and offices to be added to the leased area.

The public toilets and change rooms at Darren Kennedy Oval will not be included in the lease.

The estimated cost of the gym and office proposed to be constructed by the Club is \$150,000. The cost has been kept to a minimum as suitably qualified club members will be carrying out some of the work. Funds for the construction will be provided from fund raising activities and the Club is applying for a NSW Community Building Partnership Grant. The Club has advised that there are limited opportunities to access this type of facility in the Toukley area.

The land is zoned 5 (a) Special Uses – Sporting Facility and has a total area of 62,730 sq m. The clubhouse area is approximately 360 sq m and the proposed gym and office 500 sq m.

The lease will only be activated if development consent is granted. An application for development may only be made with the consent of the owner. WSC is the owner of the land in this case.

Council's endorsement of the DA as the owner should not be interpreted as the application being viewed favourably by Council. The development application will require a comprehensive assessment under Section 79C of the Environmental Planning & Assessment Act which will also include public notification. If the proposed uses are ancillary to existing activities it is anticipated that there will be no significant constraints in assessing the application.

THE PROPOSAL

The proposal is to lease the clubhouse area of the land to Toukley Rugby League Football Club Inc for use as a football club and activities associated therewith.

If the Development Application is approved for the construction of the gym and office, the Club will be required to enter into a lease with Council in the same terms as the clubhouse lease. If development consent is not granted the lease of the area for the gym and office will not proceed.

The proposed lease will provide that the lessee, the Club, will be responsible for maintenance and repairs, building and public liability insurance.

A lease for five years at nominal rent is recommended. The Club provides a service to the community by managing and conducting sport in the area and is making a substantial contribution to the construction of the facility. The lease requires membership of the Club to be open to reputable members of the public. The property is not subject to rates however, will be subject to water and sewer charges.

It is proposed to impose the rent prescribed by the Land and Property Management Authority being approximately \$480 per annum.

OPTIONS

Council may authorise a lease of the existing clubhouse building which will formalise the existing use of the building by the Club.

Council may authorise a lease of the area to be occupied by the gym and offices and endorsement of the associated Development Application to allow what may be an important community facility to proceed.

Council may refuse to grant a lease or sign the DA and the current unauthorised occupation and use by the Toukley Hawks will continue and the proposed extensions will not proceed.

STRATEGIC LINKS

Annual Plan

<i>Principal Activity</i>	<i>Strategy or Program</i>	<i>Financial Line Item No and Description</i>
A More Sustainable Community	To provide Facilities and Services for recreation, culture, health and education.	Nil Impact

Contribution of Proposal to the Principal Activity

On the basis that the facility is proposed to provide recreation and health education opportunities for youth and other residents of Wyong Shire, the proposal is likely to contribute to a more sustainable community.

Link to Shire Strategic Vision

<i>Priority Objective</i>	<i>How the proposal contributes or links to the Priority Objectives in Shire Strategic Vision and Annual Plan</i>
Facilities and Services - Communities will have access to a diverse range of affordable and coordinated facilities, programs and services.	The proposal will provide a local facility for the recreation, health and education of youth and other shire residents.

Financial Implications

WSC has recently expended approximately \$500,000 on capital upgrades to Darren Kennedy Oval including: floodlights, car park and public amenities. Approximately \$100,000 has been expended on the clubhouse area over the last four years.

The proposal is to be funded by the Club from fund raising activities and NSW Community Building Partnership Grant. The Club will be responsible for future maintenance and insurance in association with the lease of the land being the clubhouse and proposed gym and office.

Principles of Sustainability

The proposal will have a positive effect on the development of a healthy, equitable, active and involved community.

CONSULTATION

The Club has requested a lease for the clubhouse area and agreed to Council's terms. If its Development Application is approved, the Club has agreed to lease the area for the gym and office.

GOVERNANCE

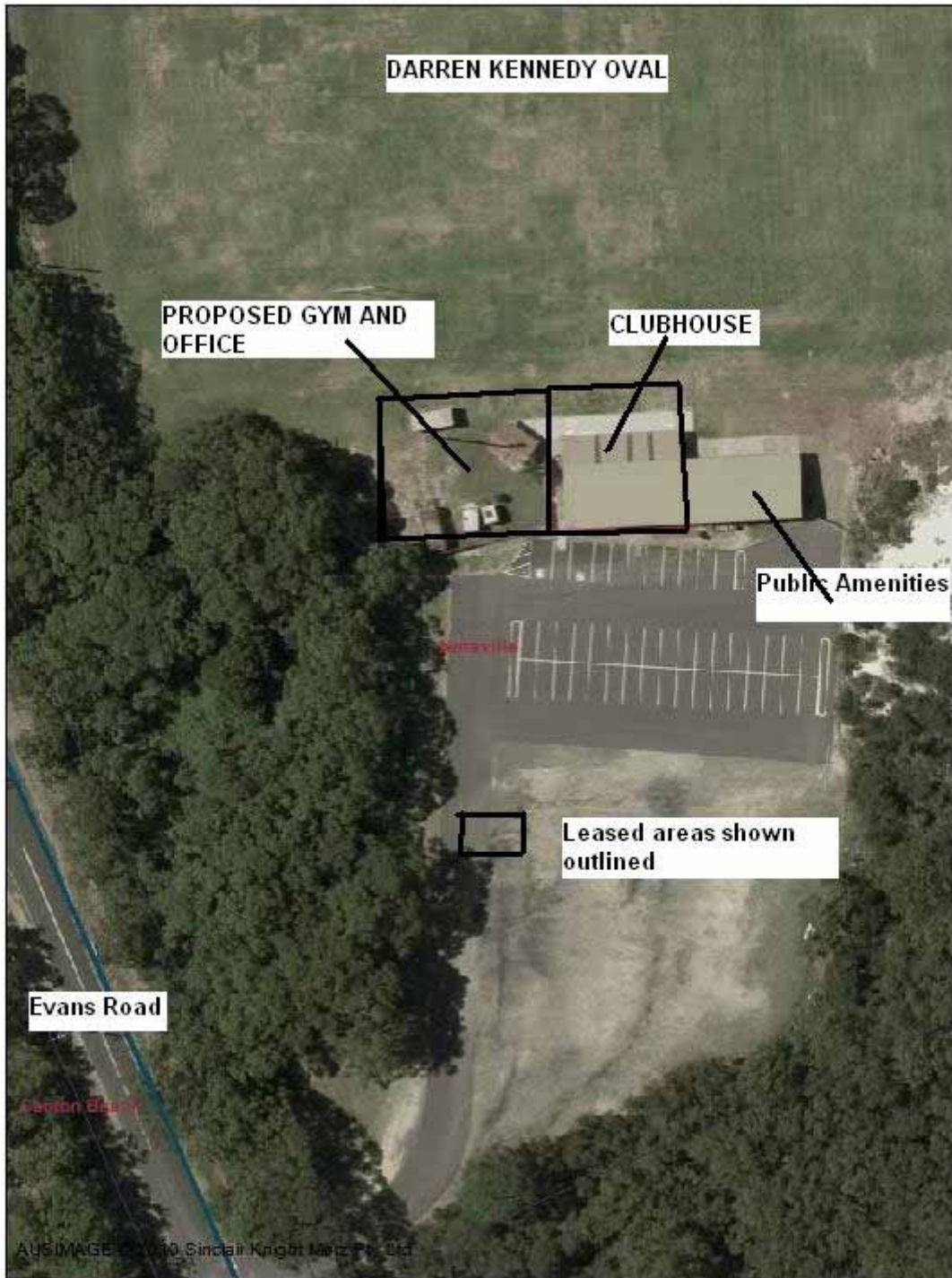
The Local Government Act 1993 authorises Council to lease land in accordance with its functions.

CORPORATE RISKS

Nil Impact.

CONCLUSION

Approval is sought for Council to authorise a lease of the existing clubhouse building at Crown Reserve at Noraville subject to development consent being granted for construction of a gym and office. Approval will formalise the existing use of the building by the Club and allow the community facility to proceed.



ATTACHMENTS

Nil.

4.3 Proposed Telstra Telecommunications Facility and Lease at Lot 35 DP 710255, Eastern Road, Bateau Bay

TRIM REFERENCE: F2010/00512 - D02404547

MANAGER: Lesley Crawley, Manager Governance and Administration

AUTHOR: Julie Tattersall, Property Officer

SUMMARY

Urbis, on behalf of Telstra Corporation Ltd, has requested that WSC, as the land owner endorse a development application to construct a mobile telecommunications tower and associated equipment shed.

To accommodate any approval that may be granted to erect the telecommunications facility, Telstra has requested a lease of Council land.

RECOMMENDATION

- 1 That Council approve a lease of Part of Lot 35 DP 710255 at Eastern Road, Bateau Bay to Telstra Corporation Ltd subject to development consent being granted for the construction of a telecommunication facility.**
- 2 That Council approve the terms of the lease as:**
 - a a period comprising four consecutive five year leases for a period up to 20 years**
 - b an annual rent commencing at \$27,500 with annual 5% increases over the period and market reviews every five years.**
- 3 That Council authorise the Common Seal of Wyong Shire Council to be affixed to the lease between Wyong Shire Council and Telstra Corporation Ltd.**
- 4 That Council authorise the Mayor and General Manager to execute all documents relating to the Lease.**
- 5 That Council endorse, as owner of Lot 35 DP 710255 at Eastern Road, Bateau Bay, a development application by Urbis, on behalf of Telstra Corporation Ltd to construct a telecommunication facility on the land.**
- 6 That Council note for the public record, that its endorsement of the Development Application (as the landowner) cannot be interpreted in any way whatsoever as support or otherwise for the determination of the Application by Council.**

BACKGROUND

Urbis, on behalf of Telstra Corporation Ltd (Telstra), has requested that Council, as the owner of Lot 35 DP 710255 at Eastern Road, Bateau Bay (the land), endorse a development application for the construction of a mobile telecommunications base station incorporating a

4.3 Proposed Telstra Telecommunications Facility and Lease at Lot 35 DP 710255, Eastern Road, Bateau Bay (contd)

30-35 metre high monopole, antennas and an equipment shelter adjacent to the pole to house electronic equipment.

The new facility is required to improve the depth of coverage in the Killarney Vale area as the current coverage in the area is very patchy with many locations currently experiencing poor or no signal reception due to the terrain.

Telstra, as a licensed telecommunications carrier, must operate under the provisions of the Telecommunications Act, 1997 and the Telecommunications Code of Practice, 1997. The 1997 Act requires Telstra to submit a development application in circumstances where the facility is deemed high impact. Telstra may, however, apply for a Facility Installation Permit from the Australian Communications Authority if it is not satisfied with the determination by Council.

Agreement has been reached with Telstra to accept the standardised lease previously agreed between Council and Telstra with a base rental of \$27,500 per annum, annual 5% increases and five yearly market reviews for a term up to 20 years comprising four consecutive five year leases.

The land is zoned 6 (a) Open Space and Recreation and is classified as Community Land, Plan of Management No 5 for Community Use.

THE PROPOSAL

Telstra will enter into a lease with WSC for use of the land as a mobile telecommunication base facility subject to development consent.

Under the lease, Telstra will be responsible for maintenance of the facility and public liability insurance in addition to paying rent commencing at \$27,500 per annum.

Telstra has agreed to enter into Council's standard lease agreement for telecommunication base facilities. The rent and term are consistent with agreements with other telecommunication carriers using other Council land.

The lease will only be activated if development consent is granted. An application for development may only be made with the consent of the owner. WSC is the owner of the land in this case.

Council's endorsement of the DA as the owner should in no way be interpreted as the application being viewed favourably by Council. The development application will require a comprehensive assessment under Section 79C of the Environmental Planning & Assessment Act which will also include public notification.

OPTIONS

Option 1 Authorise a lease for the use of the land and endorse the making of a development application as the owner of the land.

Authorisation of the lease will allow the construction of the mobile telecommunication base facility on terms favourable to Council.

4.3 Proposed Telstra Telecommunications Facility and Lease at Lot 35 DP 710255, Eastern Road, Bateau Bay (contd)

Option 2 Not authorise a lease and refuse to grant owners consent to the making of a development application.

As Telstra has the option to apply for a Facility Installation Permit from the Australian Communications Authority if it is not satisfied with the determination by WSC of the development application, refusal of a lease and or failure to grant owners consent to the making of development application would not prevent the construction of the facility and would mean use of the land would not be governed by a lease with terms favourable to WSC.

STRATEGIC LINKS

Annual Plan

<i>Principal Activity</i>	<i>Strategy or Program</i>	<i>Financial Line Item No and Description</i>
A More Sustainable Economy	Provision of mobile telecommunication base facilities is linked to Council's objective to provide communication technology to the Shire.	Nil impact

Contribution of Proposal to the Principal Activity

Link to Shire Strategic Vision

<i>Priority Objective</i>	<i>How the proposal contributes or links to the Priority Objectives in Shire Strategic Vision and Annual Plan</i>
Telecommunications - Information communication technology will be consistent with world's best practice and adaptive to technological advances across all sectors.	Council is committed to the development of a National Broadband Network. Mobile telecommunication base facilities are also necessary to be consistent in providing services throughout the Shire.

Financial Implications

The construction of the mobile telecommunications base station will be totally funded by Telstra. Telstra will be required to pay rent and will be responsible for maintenance and insurance of the facility.

Principles of Sustainability

Approval of a lease and the endorsement of owners consent for a development application will enable the development approval process to proceed ensuring an ecologically sustainable development.

CONSULTATION

4.3 Proposed Telstra Telecommunications Facility and Lease at Lot 35 DP 710255, Eastern Road, Bateau Bay (contd)

Telstra has requested a lease of the land if its development application is approved. The development application process will invite public consultation.

GOVERNANCE

Section 46 of the Local Government Act, 1993 provides that Council may lease Community Land authorised in a Plan of Management for a period not exceeding 21 years.

CORPORATE RISKS

Nil Impact.



CONCLUSION

Approval is sought for Council to authorise a lease of part of Lot 35 DP 710255 at Eastern Road, Bateau Bay subject to development consent being granted for construction of a mobile telecommunication base station.

ATTACHMENTS

Nil.

5.1 Contract CPA/182957 - Supply and Delivery of Bituminous Coldmix

TRIM REFERENCE: CPA/182957 - D02397201
MANAGER: Lesley Crawley, Manager Governance and Administration
AUTHOR: John McCarthy, Coordinator, Supply

SUMMARY

Evaluation and selection of tenders for Contract CPA/182962 – Supply & Delivery of Bituminous Coldmix.

RECOMMENDATION

- 1 That Council accept Tender No. 1 from Tropical Asphalts Pty Ltd as the preferred supplier of Bituminous Cold Mix for a period of 36 months commencing on 1 December 2010.**
- 2 That Council note the estimated annual expenditure against this contract is \$77,850 (ex GST) but that actual expenditure may vary with fluctuations in demand.**

BACKGROUND

Council consumes approximately 650 tonnes of bituminous coldmix on an annual basis. The material is used in the maintenance and repair of sealed road pavement surfaces. The material is stocked at both Long Jetty and Charmhaven depots and is issued to Roads and Drainage personnel for maintenance work on an as required basis.

The current incumbent contractor is Fulton Hogan Pty Ltd. The current contract expires at the end of November 2010 and has run for a three year duration.

Tenders were invited for the supply and delivery of bituminous coldmix for a period of up to a maximum of thirty-six (36) months. WSC's Conditions of Contract required fixed rates for the initial 3 month period of the contract allowing rates for each subsequent (3) month periods may be varied in accordance with the rise and fall formula stipulated in the Conditions of Contract.

A contract period of thirty-six (36) months provides a risk-balance for Council and the contractor by way of the contractors' ability to amortise operating costs over an extended period. The benefit of this term efficiency is passed on to WSC in the form of more competitive rates.

The extended period of contract operation also enables further efficiencies to be developed over the course of the contract in improved trading relationships, communication lines and provisioning requirements.

CURRENT STATUS

Tenders

Tenders were publicly invited across eastern NSW by way of public invitation in mid-August 2010 closing 9 September 2010. WSC required Schedule of Rates tenders, based on a detailed specification. Tenders received (see below) were evaluated by a panel of three staff members using standard threshold and weighted criteria.

Table #1 Tenders as Received

Tender No	Tender	Tendered Lump Sum (Ex. GST). Line item pricing multiplied by estimated usage over 3 years	Status
1	Tropical Asphalts Pty Ltd	\$233,550	Submitted on time
2	Fulton Hogan Pty Ltd	\$240,990	Submitted on time
3	Bitupave Pty Ltd T/As Boral Asphalt	\$264,711	Submitted on time

Assessment of Conformance

All tenderers were assessed against mandatory criteria and general conditions of tendering. All other offers were considered as conforming and were progressed to the weighted evaluation stage.

Weighted Evaluation

Evaluation scoring was conducted in two stages i.e.:

1. Determining the Most Competitive Offer **prior** to application of Council's Local Preference Policy, and;
2. Determining the Preferred Offer **after** application of the Local Preference Policy for the assessment of Local Content.

SCORING

Pre-Application of the Local Preference Policy

To establish the Most Competitive Offer, Tenders were firstly scored against the weighted evaluation criteria (other than Local Content), and are listed below in descending order of weighted evaluation.

Table #2 Pre application of Local Preference

Tender No.	Tender	Tendered Lump Sum (Ex. GST)	Weighted Evaluation Score
			Most Competitive Offer
1	Tropical Asphalts Pty Ltd	\$233,550	88
2	Fulton Hogan Pty Ltd	\$240,990	87.5
3	Bitupave Pty Ltd T/As Boral Asphalt	\$264,711	77.3

* Line item pricing multiplied by estimated usage over 3 years

Post Application of Local Preference Policy

Tenders were then assessed for Local Content in accordance with Council's Local Preference Policy to identify the **Preferred Offer**.

The application of the Local Preference Policy to this tender imposed the following criteria in relation to the financial impact in considering a Preferred Offer:

(Refer to clause E.7 of policy)

Table #3 Local Preference Financial Limits

Policy Criteria	Criteria Applied to Tender Assessment
Category of Contract	Goods
Method to Determine Financial Impact Limitations	1.25% or \$6,250 above the price component of the Most Competitive Offer, whichever is the lower.
Price Component of Most Competitive Offer	\$233,550 value of Most Competitive Offer
Financial Impact Limitation To Be Applied to Preferred Offer	\$2,919

The following summarises scoring for the assessed value of Local Content. Tenders are listed in descending order of **Preferred Offers** following assessment.

Table #4 Post-Application of Local Preference

Tender No	Tender	Estimated usage*	Value of Assessed Local Content (Ex. GST)	Weighted Evaluation Score Preferred Offer
2	Fulton Hogan Pty Ltd	\$240,990	\$240,990	97.5
1	Tropical Asphalts Pty Ltd	\$233,550	0	88
3	Bitupave Pty Ltd T/As Boral Asphalt	\$264,711	0	77.3

* Tendered Lump Sum. Contract estimated usage multiplied by price/ tonne tendered delivered into Wyong (ex. GST)

Following assessment of Local Content, there was a change to the order of ranking. The tender from Fulton Hogan Pty Ltd moved to the highest ranked tenderer.

The price difference between the cheapest tender (Tropical Asphalts Pty Ltd and Fulton Hogan Pty Ltd) is \$7,440. This amount is **higher** than the financial limit allowable under Council's Local Preference Policy for this category, which is \$2,919 and therefore the tender from Tropical Asphalts Pty Ltd becomes the preferred tenderer.

Financial limits were put in place under the Policy to ensure that a balance was achieved between the encouragement of local content and the cost impost to WSC.

PROPOSAL

The Conditions of Tender allowed Council to accept and rank a panel of preferred suppliers, however analysis of Council's previous usage of this product has indicated only one supplier is required to meet all of WSC requirements.

Given that Tender No. 1 from Tropical Asphalts Pty Ltd meets the requirements set by WSC, it is proposed that Council proceed to contract with Tropical Asphalts Pty Ltd for the supply of bituminous coldmix for a period of three years from when contract documents are executed.

Annual expenditure on the supply and delivery of bituminous coldmix is in the vicinity of \$78,000 ex GST however, these costs may vary depending on fluctuations in demand over the course of the contract.

Due Diligence

On the basis of the information provided by the tenderer and independent referees, it is considered that Tender No. 1 from Tropical Asphalts Pty Ltd possesses all of the technical, financial and managerial resources necessary to satisfactorily supply Council with bituminous coldmix.

Reference checks have been conducted with representatives from Maitland City Council and Port Stephens Councils. In both cases, referees considered service and product quality supplied by Tropical Asphalts Pty Ltd to be of a satisfactory standard.

The company has in place a fully documented Occupational Health Safety and Rehabilitation Management and Environmental Management systems.

Process Review

This evaluation process and recommendations have been endorsed by the Contract Systems Co-ordinator.

Contract Term

Existing contracts expire on the 30 November 2010. New contract must be in placed for the commencement of December 2010.

APPROVALS

No approvals are required.

STRATEGIC LINKS

Contribution of Proposal to the Principal Activity

The products included in this contract will be used to undertake day to day Council operations and Council capital works projects. As such this contract will contribute to the achievement of programs and projects in each of Council's five Principal Activities. It is not possible to specifically link this contract to a specific Principal activity or Strategic Program as the contract products will be used on multiple projects and programs across Council for the term of the contract.

Shire Strategic Vision

The link to the SSV is related to the underlying principles of sustainability in terms of environmental, economic and social outcomes and fiscal responsibility in terms of transparency, good governance and value for money.

Financial Implications

Funding has previously been approved as a component of the Annual Plan within Roads and Drainage various projects.

The contract is a standing-offer arrangement meaning purchases will be recorded against WSC responsibility centres as work demands and transactions are processed.

The estimated value of the arrangement is not a budget figure, but an indication of the scope of the purchase arrangement. Actual expenditure will depend on the quantities ordered as requirements arise over the life of the contract. The total amount ordered under this arrangement could therefore vary significantly if demand patterns alter for this product.

Principles of Sustainability

The material offered is the least cost option to Council and will be used to maintain shire roads. Both benefits address 2 of the 3 triple bottom line principals of sustainability (i.e. Economic - least cost option available to Council and Social benefits – a well maintained road network)

CONSULTATION

Consultation has occurred with Plant Pool, Open Space & Recreation and Soil Laboratory staff to ensure the commodity offered is fit for purpose and addresses all Council technical and logistical requirements.

GOVERNANCE

The tender is above \$150,000 value and requires a Council resolution to proceed – in accordance with s.55 of the Act.

CORPORATE RISK

Risk Assessment

Contracting work inherently contains generic risks found in most contracting situations. Specific risks related to individual contracts lead to variations in the work which may generate increased costs.

Generic Risks

These risks and mitigation measures for this contract include:

- Contractor experiences financial difficulties or goes into liquidation, leading to non supply of materials. Mitigated through referee checks. Should Tropical Asphalts Pty Ltd not be in a position to supply Council, other suppliers can be contracted.
- 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.

Specific Risks

Significant risks that Council may encounter in relation to this contract:

- The quality of the product is sub-standard resulting in additional costs. Mitigated by demonstrated conformance that materials meet RTA specifications for bituminous coldmix.
- The price of materials may increase significantly which will impact the Contractors price to Council for ongoing supply of Bituminous Coldmix. The contract allows for the rise and fall in the price of materials to be passed on to Council.
- Quantities for work items under the contract are greater/lesser than pre-award estimates leading to variation claims by the contractor. Mitigated through tender conditions that stipulate requirements are an approximate quantity only and are not a commitment to buy.

Risk Materiality

Low - the above risks are considered to be unlikely or immaterial given the value of the contract and the nature of the work.

CONCLUSION

Tender No. 1 from Tropical Asphalts Pty Ltd is the highest scoring tender and 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: the tender be accepted.

ATTACHMENTS

Nil.

5.2 Contract CPA/182960 - Supply and Delivery of Type S Filter Sand

TRIM REFERENCE: CPA/182960 - D02397158
MANAGER: Lesley Crawley, Manager Governance and Administration
AUTHOR: John McCarthy, Coordinator, Supply

SUMMARY

Evaluation and selection of tenders for Contract CPA/182960 – Supply & Delivery of Type S Filter Sand.

RECOMMENDATION

- 1 That Council accept Tender No. 3 from Norgrath Pty Ltd T/as Roy Lamb The Sand Man as the preferred supplier of Type S Filter Sand for a period of 36 months commencing on 1 December 2010.**
- 2 That Council note the estimated annual expenditure against this contract is \$179,084 (ex GST). Actual expenditure may vary with fluctuations in demand.**

BACKGROUND

Council consumes approximately 6,500 tonnes of Type S filter sand on an annual basis. The material is predominantly used as a sub grade material for road construction and maintenance activities as well as a bedding material for water and waste construction and maintenance activities.

The current incumbent contractor is Norgrath Pty Ltd T/as Roy Lamb The Sand Man. The current contract expires at the end of November 2010 after a three year term.

Tenders were invited for the supply and delivery of Type S Filter Sand for periods up to a maximum of thirty-six (36) months. WSC's Conditions of Contract required fixed rates for the initial 12 month period of the contract allowing rates for years 2 & 3 to be varied in accordance with a Consumer Price Index (CPI) variation clause.

A contract period of thirty-six (36) months provides a risk-balance for Council and the contractor by way of the contractor's ability to amortise operating costs over an extended period. The benefit of this term efficiency is passed on to WSC in the form of more competitive rates.

The extended period of contract operation also enables further efficiencies to be developed over the course of the contract in improved trading relationships, communications lines and provisioning requirements.

CURRENT STATUS

Tenders

Tenders were publicly invited across eastern NSW by way of public invitation in mid-August 2010 closing 9 September 2010. WSC required Schedule of Rates tenders, based on a detailed specification. Tenders received (see below) were evaluated by a panel of three staff members using standard threshold and weighted criteria

Table #1 Tenders as Received

Tender No	Tender	Tendered Lump Sum * (Ex. GST).	Status
1	John E Hogan Pty Ltd	\$537,093	Submitted on time
2	Leckey's Pty Ltd	\$1,028,889	Submitted on time
3	Norgrath Pty Ltd T/As Roy Lamb The Sand Man	\$537,255	Submitted on time
4	Riverbend Quarry Pty Ltd	\$621,216	Submitted on time

* Line item pricing multiplied by estimated usage over 3 years

Assessment of Conformance

All tenderers were assessed against mandatory criteria. A minor non conformance was identified with tenderer No. 1 from John E Hogan's Pty Ltd.

John E Hogan's Pty Ltd tender included a departure indicating that annual CPI price provisions could not be sustained as the only price adjustment mechanism allowable under the contract. John E Hogan's Pty Ltd agreed tendered rates would be fixed for 12 months but a mutually agreed price adjustment mechanism would be required in order for revised rates to be accepted for the following contract periods. In a bid to encourage competition in a limited market place, the tender evaluation panel determined the departure as minor, and progressed the offer to the weighted evaluation stage.

All other offers were considered to be conforming and were progressed to the weighted evaluation stage.

Weighted Evaluation

Evaluation scoring was conducted in two stages i.e.:

1. Determining the Most Competitive Offer **prior** to application of Council's Local Preference Policy, and;
2. Determining the Preferred Offer **after** application of the Local Preference Policy for the assessment of Local Content.

SCORING

Pre-Application of the Local Preference Policy

To establish the Most Competitive Offer, The tender is firstly scored against the weighted evaluation criteria (other than Local Content), and are listed below in descending order of weighted evaluation.

Table #2 Pre application of Local Preference

Tender No.	Tender	Tendered Lump Sum * (Ex. GST)	Weighted Evaluation Score Most Competitive Offer
3	Norgrath Pty Ltd T/As Roy Lamb The Sand Man	\$537,255	90
1	John E Hogan Pty Ltd	\$537,093	76
4	Riverbend Quarry Pty Ltd	\$621,216	55.3
2	Leckey's Pty Ltd	\$1,028,889	13.1

* Line item pricing multiplied by estimated usage over 3 years

Tenderer No. 3 from Norgrath Pty Ltd T/As Roy Lamb The Sand Man offered superior vehicle carrying capacity and had more company owned trucks. Previous experience with haulage companies has indicated the supplier with the biggest company owned fleet can assure continuity of supply for Council relative to suppliers who have less capacity.

Post Application of Local Preference Policy

Tenders were then assessed for Local Content in accordance with Council's Local Preference Policy to identify the **Preferred Offer**.

The application of the Local Preference Policy to this tender imposed the following criteria in relation to the financial impact in considering a Preferred Offer:

(Refer to clause E.7 of policy)

Table #3 Local Preference Financial Limits

Policy Criteria	Criteria Applied to Tender Assessment
Category of Contract	Goods
Method to Determine Financial Impact Limitations	1% or \$10,000 above the price component of the Most Competitive Offer, whichever is the lower.
Price Component of Most Competitive Offer	\$537,093 value of Most Competitive Offer
Financial Impact Limitation To Be Applied to Preferred Offer	\$5,370

The following summarises scoring for the assessed value of Local Content. Tenders are listed in descending order of **Preferred Offers** following assessment.

Table #4 Post-Application of Local Preference

Tender No	Tender	Tendered Lump Sum. (Ex. GST)	Value of Assessed Local Content (Ex. GST)	Weighted Evaluation Score Preferred Offer
3	Norgrath Pty Ltd T/As Roy Lamb The Sand Man	\$537,255	\$537,255	100
1	John E Hogan Pty Ltd	\$537,093	\$537,093	86
6	Riverbend Quarry Pty Ltd	\$621,216	0	55.3
2	Leckey's Pty Ltd	\$1,028,889	0	13.1

*Contract estimated usage multiplied by price per tonne delivered into Wyong

Following assessment of Local Content, there was no change to the order of ranking for tenderers. Both Norgrath Pty Ltd T/As Roy Lamb The Sand Man and John E Hogan Pty Ltd are based on the Central Coast and benefited equally as a result of Council's Local Preference policy.

PROPOSAL

The Conditions of Tender allowed Council to accept and rank a panel of preferred suppliers, however analysis of Council's previous usage of this product has indicated only one supplier is required to meet all of Council's requirements.

Tenderer No. 3 from Norgrath Pty Ltd T/As Roy Lamb The Sand Man is the highest scoring tenderer and meets the requirements set by WSC, it is proposed that Council proceed to contract with Norgrath Pty Ltd T/As Roy Lamb The Sand Man for the supply of Type S filter sand for a period of three years from when contract documents are executed.

Annual expenditure on the supply and delivery of Type S filter sand is in the vicinity of \$180,000 ex GST however, these costs may vary depending on fluctuations in demand over the course of the contract.

Due Diligence

On the basis of the information provided by the tenderer and independent referees, it is considered that Tender No. 3 from Norgrath Pty Ltd T/As Roy Lamb The Sand Man possesses all of the technical, financial and managerial resources necessary to satisfactorily supply Council with Type S filter sand.

Tender No. 3 from Norgrath Pty Ltd T/As Roy Lamb The Sand Man is a haulage company operating out of Woy Woy on the Central Coast and has been a long term supplier of Type S filter sand to Council. The Type S filter sand offered by Norgrath Pty Ltd T/As Roy Lamb The Sand Man sourced from Williamstown and has been tested by Council's Soil Laboratory as compliant to RTA standards. The company has in place a fully documented Occupational Health Safety and Rehabilitation Management and Environmental Management systems.

Process Review

This evaluation process and recommendations have been endorsed by the Contract Systems Co-ordinator.

Contract Term

Existing contracts expire on the 30 November 2010. New contract must be in place for the commencement of December 2010.

APPROVALS

No approvals are required.

STRATEGIC LINKS**Annual Plan****Contribution of Proposal to the Principal Activity**

The products included in this contract will be used to undertake day to day Council operations and Council capital works projects. As such this contract will contribute to the achievement of programs and projects in each of Council's five Principal Activities. It is not possible to specifically link this contract to a specific Principal activity or Strategic Program as the contract products will be used on multiple projects and programs across Council for the term of the contract.

Shire Strategic Vision

The link to the SSV is related to the underlying principles of sustainability in terms of environmental, economic and social outcomes and fiscal responsibility in terms of transparency, good governance and value for money.

Financial Implications

Funding has previously been approved as a component of the Annual Plan within Roads and Drainage and Water and Waste various projects.

The contract is a standing-offer arrangement meaning purchases will be recorded against WSC responsibility centres as work demands and transactions are processed.

The estimated value of the arrangement is not a budget figure, but an indication of the I scope of the purchase arrangement. Actual expenditure will depend on the quantities ordered as requirements arise over the life of the contract. The total amount ordered under this arrangement could therefore vary significantly if demand patterns alter for this product.

Principles of Sustainability

Although Type S Filter Sand comes from a non renewable source, alternative recycled materials such as Road Bottom Ash are being used by Council officers wherever possible. Road Bottom Ash can be used in certain instances as an alternative to Type S filter sand and has been submitted in parallel to this contract for Council's acceptance.

CONSULTATION

Consultation has occurred with Plant Pool, Roads and drainage, Water and Waste and Soil Laboratory staff to ensure the commodity offered is fit for purpose and addresses all Council's technical and logistical requirements.

GOVERNANCE

The tender is above \$150,000 value and requires a Council resolution to proceed – in accordance with s.55 of the Act.

CORPORATE RISKS**Risk Assessment**

Contracting work inherently contains generic risks found in most contracting situations. Specific risks related to individual contracts lead to variations in the work which may generate increased costs.

Generic Risks

Generic risks and mitigation measures for this contract include:

- Contractor experiences financial difficulties or goes into liquidation, leading to non supply of materials. Mitigated through referee checks. Should Norghath Pty Ltd T/As Roy Lamb The Sand Man not be in a position to supply Council, other suppliers can be contracted.
- 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.

Specific Risks

Significant risks that Council may encounter in relation to this contract:

- The quality of the product is sub-standard resulting in additional costs. Mitigated by demonstrated conformance that materials meet RTA specifications for Type S Filter Sand.
- The price of materials may increase significantly which will impact the Contractors price to Council for ongoing supply of Type S Filter Sand. The contract allows for the rise and fall in the price of materials to be passed on to Council.
- Quantities for work items under the contract are greater/lesser than pre-award estimates leading to variation claims by the contractor. Mitigated through tender conditions that stipulate requirements are an approximate quantity only and are not a commitment to buy.

Risk Materiality

Low - the above risks are considered to be unlikely or immaterial given the value of the contract and the nature of the work.

CONCLUSION

Tender No.3 from Norgrath Pty Ltd T/As Roy Lamb The Sand Man is the highest scoring tender and 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: the tender be accepted.

ATTACHMENTS

Nil.

5.3 Contract CPA/182961 - Supply and Delivery of Top Soil

TRIM REFERENCE: CPA/182961 - D02397536
MANAGER: Lesley Crawley, Manager Governance and Administration
AUTHOR: John McCarthy, Coordinator, Supply

SUMMARY

Evaluation and selection of tenders for Contract CPA/182961 – Supply & Delivery of Top Soil.

RECOMMENDATION

- 1 That Council accept Tender No. 3 from Norgrath Pty Ltd T/as Roy Lamb The Sand Man as the preferred supplier of Top Soil for a period of 36 months commencing on 1 December 2010.**
- 2 That Council note the estimated annual expenditure against this contract is \$55,177- ex GST but that actual expenditure may vary with fluctuations in demand.**

BACKGROUND

Council consumes approximately 2,100 tonnes of top soil on an annual basis. The material is predominantly used by WSC for parks and gardens, pathways and road construction and maintenance activities.

The current incumbent contractor is Riverbend Quarry Pty Ltd. The current contract expires at the end of November 2010 and has run for a three year duration.

Tenders were invited for the supply and delivery of top soil for a period of up to a maximum of thirty-six (36) months. WSC's Conditions of Contract required fixed rates for the initial 12 month period of the contract allowing rates for years 2 & 3 to be varied in accordance with the Consumer Price Index (CPI) variation clause.

A contract period of thirty-six (36) months provides a risk-balance for Council and the contractor by way of the contractors' ability to amortise operating costs over an extended period. The benefit of this term efficiency is passed on to WSC in the form of more competitive rates.

The extended period of contract operation also enables further efficiencies to be developed over the course of the contract in improved trading relationships, communications lines and provisioning requirements.

CURRENT STATUS**Tenders**

Tenders were publicly invited across eastern NSW by way of public invitation in mid-August 2010 closing 9 Sept. 2010. WSC required Schedule of Rates tenders, based on a detailed specification. Tenders received (see below) were evaluated by a panel of three staff members using standard threshold and weighted criteria.

Table #1 Tenders as Received

Tender No	Tender	Tendered Lump Sum (Ex. GST). Line item pricing multiplied by estimated usage over 3 years	Status
1	John E Hogan Pty Ltd	\$214,200	Submitted on time
2	Leckey's Pty Ltd	\$283,500	Submitted on time
3	Norgrath Pty Ltd T/As Roy Lamb The Sand Man	\$165,531	Submitted on time
4	Oz Landscape Supplies Pty Ltd	\$339,948	Submitted on time
5	Specialised Sand And Soil Pty Ltd	\$198,450	Submitted on time
6	Riverbend Quarry Pty Ltd	\$179,550	Submitted on time

Assessment of Conformance

All tenderers were assessed against mandatory criteria. A minor non conformance was identified with tenderer No. 1 from John E Hogan's Pty Ltd.

John E Hogan's Pty Ltd tender included a departure indicating that annual CPI price provisions could not be sustained as the only price adjustment mechanism allowable under the contract. John E Hogan's Pty Ltd agreed tendered rates would be fixed for 12 months but a mutually agreed price adjustment mechanism would be required in order for revised rates to be accepted for the following contract periods. The tender evaluation panel determined the departure as minor, and progressed the offer to the weighted evaluation stage.

All other offers were considered as conforming and were progressed to the weighted evaluation stage.

Weighted Evaluation

Evaluation scoring was conducted in two stages i.e.:

1. Determining the Most Competitive Offer **prior** to application of Council's Local Preference Policy, and;
2. Determining the Preferred Offer **after** application of the Local Preference Policy for the assessment of Local Content.

SCORING**Pre-Application of the Local Preference Policy**

To establish the Most Competitive Offer, Tenders were firstly scored against the weighted evaluation criteria (other than Local Content), and are listed below in descending order of weighted evaluation.

Table #2 Pre application of Local Preference

Tender No.	Tender	Lump Sum. Tendered price multiplied by estimated usage over 3 years. (Ex. GST)	Weighted Evaluation Score Most Competitive Offer
3	Norgrath Pty Ltd T/As Roy Lamb The Sand Man	\$165,531	90
6	Riverbend Quarry Pty Ltd	\$179,550	76.1
1	John E Hogan Pty Ltd	\$214,200	72.1
5	Specialised Sand And Soil Pty Ltd	\$198,450	69.8
2	Leckey's Pty Ltd	\$283,500	47.3
4	Oz Landscape Supplies Pty Ltd	\$339,948	25

Post Application of Local Preference Policy

Tenders were then assessed for Local Content in accordance with Council's Local Preference Policy to identify the **Preferred Offer**.

The application of the Local Preference Policy to this tender imposed the following criteria in relation to the financial impact in considering a Preferred Offer:

(Refer to clause E.7 of policy)

Table #3 Local Preference Financial Limits

Policy Criteria	Criteria Applied to Tender Assessment
Category of Contract	Goods
Method to Determine Financial Impact Limitations	1.25% or \$6,250 above the price component of the Most Competitive Offer, whichever is the lower.
Price Component of Most Competitive Offer	\$165,531 value of Most Competitive Offer
Financial Impact Limitation To Be Applied to Preferred Offer	\$2,069

The following summarises scoring for the assessed value of Local Content. Tenders are listed in descending order of **Preferred Offers** following assessment.

Table #4 Post-Application of Local Preference

Tender No	Tender	Tendered Lump Sum*	Value of Assessed Local Content (Ex. GST)	Weighted Evaluation Score Preferred Offer
3	Norgrath Pty Ltd T/As Roy Lamb The Sand Man	\$165,531	\$165,531	100
1	John E Hogan Pty Ltd	\$214,200	\$214,200	82.1
6	Riverbend Quarry Pty Ltd	\$179,550	0	76.1
5	Specialised Sand And Soil Pty Ltd	\$198,450	0	69.8
2	Leckey's Pty Ltd	\$283,500	0	47.3
4	Oz Landscape Supplies Pty Ltd	\$339,948	0	25

*Contract estimated usage multiplied by price per tonne delivered into Wyong (Ex. GST)

Following assessment of Local Content, there was a minor change to the order of ranking for tenderers. Tender No. 1 from John E Hogan Pty Ltd moved from third to second.

Both tenders from Norgrath Pty Ltd T/As Roy Lamb The Sand Man and John E Hogan Pty Ltd are based on the Central Coast and benefited equally as a result of Council's Local Preference Policy.

There was no change to the first ranked tenderer as a result of the application of Council's Local Preference Policy.

PROPOSAL

The Conditions of Tender allowed Council to accept and rank a panel of preferred suppliers, however analysis of Council's previous usage of this product has indicated only one supplier is required to meet all of Council's requirements.

Given that Tenderer No. 3 from Norgrath Pty Ltd T/As Roy Lamb The Sand Man meets the requirements set by WSC, it is proposed that Council proceed to contract with Norgrath Pty Ltd T/As Roy Lamb The Sand Man for the supply of top soil for a period of three years from when contract documents are executed.

Annual expenditure on the supply and delivery of top soil is in the vicinity of \$55,177 ex GST however, these costs may vary depending on fluctuations in demand over the course of the contract.

Due Diligence

On the basis of the information provided by the tenderer and independent referees, it is considered that Tender No. 3 from Norgrath Pty Ltd T/As Roy Lamb The Sand Man Pty Ltd possesses all of the technical, financial and managerial resources necessary to satisfactorily supply Council with top soil.

Norgrath Pty Ltd T/As Roy Lamb The Sand Man Pty Ltd is a haulage company operating out of Woy Woy on the Central Coast and has been a long term supply of Type S Filter Sand to Council. The top soil offered by Norgrath Pty Ltd T/As Roy Lamb The Sand Man comes from East Maitland and has been tested by Council's Soil Laboratory as fit for purpose. The company has in place a fully documented Occupational Health Safety and Rehabilitation Management and Environmental Management systems.

Process Review

This evaluation process and recommendations have been endorsed by the Contract Systems Co-ordinator.

Contract Term

Existing contracts expire on the 30 November 2010. New contract must be in placed for the commencement of December 2010.

APPROVALS

No approvals are required.

STRATEGIC LINKS**Contribution of Proposal to the Principal Activity**

The products included in this contract will be used to undertake day to day Council operations and Council capital works projects. As such this contract will contribute to the achievement of programs and projects in each of Council's five Principal Activities. It is not possible to specifically link this contract to a specific Principal activity or Strategic Program as the contract products will be used on multiple projects and programs across Council for the term of the contract.

Shire Strategic Vision

The link to the SSV is related to the underlying principles of sustainability in terms of environmental, economic and social outcomes and fiscal responsibility in terms of transparency, good governance and value for money.

Financial Implications

Funding has previously been approved as a component of the Annual Plan within Roads and Drainage and Customer and Community various projects.

The contract is a standing-offer arrangement meaning purchases will be recorded against WSC responsibility centres as work demands and transactions are processed.

The estimated value of the arrangement is not a budget figure, but an indication of the scope of the purchase arrangement. Actual expenditure will depend on the quantities ordered as requirements arise over the life of the contract. The total amount ordered under this arrangement could therefore vary significantly if demand patterns alter for this product.

Principles of Sustainability

The material offered is the least cost option to Council and will be used to maintain shire roads. Both benefits address 2 of the 3 triple bottom line principals of sustainability (i.e. Economic - least cost option available to Council and Social benefits – a well maintained open space and recreational areas).

CONSULTATION

Consultation has occurred with the relevant staff to ensure the commodity offered is fit for purpose and addresses all Council technical and logistical requirements.

GOVERNANCE

The tender is above \$150,000 value and requires a Council resolution to proceed – in accordance with s.55 of the Act.

CORPORATE RISK**Risk Assessment**

Contracting work inherently contains generic risks found in most contracting situations. Specific risks related to individual contracts lead to variations in the work which may generate increased costs.

Generic Risks

These risks and mitigation measures for this contract include:

- Contractor experiences financial difficulties or goes into liquidation, leading to non supply of materials. Mitigated through referee checks. Should Norgrath Pty Ltd T/As Roy Lamb The Sand Man not be in a position to supply Council, other suppliers can be contracted.
- 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.

Specific Risks

Significant risks that Council may encounter in relation to this contract:

- The quality of the product is sub-standard resulting in additional costs. Mitigated by technical assessment by Council's Soil Laboratory.
- The price of materials may increase significantly which will impact the Contractors price to Council for ongoing supply of top soil. The contract allows for the rise and fall in the price of materials to be passed on to Council.
- Quantities for work items under the contract are greater/lesser than pre-award estimates leading to variation claims by the contractor. Mitigated through tender conditions that stipulate requirements are an approximate quantity only and are not a commitment to buy.

Risk Materiality

Low - the above risks are considered to be unlikely or immaterial given the value of the contract and the nature of the work.

CONCLUSION

Tender No.3 from Norgrath Pty Ltd T/As Roy Lamb The Sand Man is the highest scoring tender and 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: the tender be accepted.

ATTACHMENTS

Nil.

6.1 Access to Council Land for Mandalong South Exploration Drilling Program

TRIM REFERENCE: f2004/07086 - D02400439

AUTHOR: Bronwyn Rumbel, Manager, Economic and corporate Planning, General Managers Unit

SUMMARY

Report on request from Centennial Coal to access Council land for the Mandalong South Exploration Drilling Program.

RECOMMENDATION

That Council authorise the General Manager to negotiate and execute an agreement with Centennial Coal for access to Council land for the Mandalong South Exploration Drilling Program subject to suitable compensation being provided and risks being appropriately managed.

BACKGROUND

Centennial Mandalong Pty Limited (a subsidiary of Centennial Coal) owns and operates the Mandalong Mine and has recently commenced an exploration drilling program over its Exploration Licence (EL6317). The exploration area is located south-west of the township of Morisset and west of the township of Wyee and adjoins the southern boundary of the Mandalong Mine.

The proposed exploration program will involve the drilling of approximately fifty exploration drill holes across the Exploration Licence to build on existing geology and coal quality information. Up to five of the drill holes are proposed to be located on land owned by Wyong Shire Council.

Plans showing the impact of the exploration drilling on Wyong Shire and the location of proposed exploration drill sites on Council land are included as part of Attachment 1.

Centennial Mandalong Pty Limited has received approval from NSW Industry & Investment (refer Attachment 2) to undertake the proposed drilling activities following submission of the Mandalong South Exploration Project Review of Environmental Factors (2009).

A copy of the Review of Environmental Factors has been made available to Wyong Shire Council.

THE PROPOSAL

Centennial Mandalong Pty Limited is seeking approval from Wyong Shire Council to access Council land to undertake the planned exploration drilling activities.

6.1 Access to Council Land for Mandalong South Exploration Drilling Program (contd)

Included in Attachment 1 is a plan showing the two Council-owned sites that are impacted:

- Lot 5 DP 755271 Buttonderry Waste Management Facility
- Lot 9 DP 262720 Buangi Rd Durren Durren

Lot 5 DP 755271 Buttonderry Waste Management Facility

Two exploration drill sites are proposed within the Buttonderry Waste Management Facility (refer to page 4 of Attachment 1).

One of the proposed boreholes is located on the western boundary of the Buttonderry Waste Management Facility and will not cause any operational impacts.

The other proposed borehole is within a sediment pond however, representatives of Centennial Mandalong Pty Limited have indicated that there is some flexibility regarding the location; so as to ensure minimal disturbance/disruption to activities.

There should be no issues with the proposal provided that Centennial Mandalong Pty Limited comply with the site's occupational health and safety procedures, submit safe work method statements for the activity, are willing to be flexible regarding the location of the borehole, are able to undertake their activities within the normal operating hours of the facility, and make good any damage and clean up and remove all spoil and debris associated with the drilling.

Lot 9 DP 262720 Buangi Rd Durren Durren

Three exploration drill sites are proposed on Lot 9 DP 262720 Buangi Rd Durren Durren (refer to page 4 of Attachment 1).

This property was dedicated to Council as Public Reserve from the subdivision of Portion 65 Parish Wyong and is classified by Council as Community Land. The Plan of Management No.10 applies and while the Plan does not specifically preclude exploratory drilling; it does seek to minimise the impact on the area.

The property is also affected by a transmission line easement 60 metres wide.

Details of the Proposal

The exploration drilling program has a low level impact on the surface. The drilling process does involve some disturbance of the land with the digging of two sumps for water storage. Centennial Mandalong Pty Limited will discuss the exact locations of the drill sites with Council officers so that existing tracks can be used wherever possible. The aim is to minimise the environmental impact from the drilling operation.

For exploration drilling Centennial Mandalong Pty Limited has approval for the sites to be up to 25m x 25m in size. Wherever possible this is minimised and trees are left intact within the perimeter of the site whenever possible. Each site is rehabilitated following the completion of drilling of the hole.

Each hole takes around 3-4 weeks to drill. The borehole is nominally 100mm in diameter and the depth ranges from 300m to 500m and the actual time taken depends on the depth down to the seam and how much core is recovered from each hole. Centennial Mandalong Pty Limited aims to core approximately 150m above the coal seam in about 50% of its holes.

6.1 Access to Council Land for Mandalong South Exploration Drilling Program (contd)

This is needed to accurately identify strong geological strata in the overburden that can assist in minimising subsidence.

The amount of coring in one of the holes proposed for the Buttonderry Waste Management Facility could be reduced to around 30m above the seam to allow the hole to be completed more quickly (this typically saves 4 to 5 days of drilling).

The exploration drilling program aims to recover information about:

- the coal seam – thickness, coal quality (ash, sulphur and energy content), how it performs when washed (to remove ash), gas content and permeability. Not all of this information is collected from every single hole.
- overburden (rock above the seam) – the strengths and thicknesses of rock strata above the seam is important and allows assessments on subsidence, tunnel support, stress magnitude and direction.

The information gathered during the exploration program allows a viable mine plan to be developed.

OPTIONS

The nature of the proposal limits options to a “yes or no” response albeit a “yes” with some minor conditions.

Centennial Mandalong Pty Limited intends to keep Council informed of the project's progress and believes this is better for both parties if an agreement can be made. Centennial Mandalong Pty Limited is prepared to discuss the provision of the borehole data to Council, which may be of use in the future planning of the Buttonderry Waste Management Facility. The drilling program does not normally core the immediate rock from the surface, but this could be done and has the potential to save Council money in the longer term.

If Council says no, then this will delay the progress, but is unlikely to stop the exploration outright. Provisions are made under the *Mining Act 1992* for the exploration licence titleholder (Centennial Mandalong Pty Limited) to go through an arbitration process with the landholder (Council). Council needs to be aware that they would have to meet their own costs for proceeding down this path. Centennial would be liable for its costs as well as those of the arbitrator.

If the landowner (Council) is aggrieved by an arbitrator's final determination they may apply to the Land and Environment Court for a review of the determination.

Centennial Mandalong Pty Limited does have the option of not drilling the holes, however, there are no other methods available to the company that provides the vast array of information needed to make the coal quality and geotechnical assessments. Traditionally, drilling on a 500m spaced grid provides some level of ‘certainty’ that the coal can be efficiently and safely extracted. This spacing is also designed to comply with the Australasian Code for Reporting of Mineral Resources and Ore Reserves (JORC Code), which is an industry standard for reporting on mineral deposits.

STRATEGIC LINKS

Link to Shire Strategic Vision

Employment - Centennial Coal currently employs 85 Wyong Shire residents in its operations.

During the exploration phase two contracting firms (one from the Hunter Valley and one from the Central Coast) will be engaged to undertake the drilling in conjunction with a geologist from Mandalong Centennial Pty Limited; and a third contractor (from the local area) will be engaged to undertake the earthworks and rehabilitation.

If the results of the exploration drilling program are positive then, the continuation of the Mandalong underground longwall operation will secure 317 direct jobs beyond 2015 plus 1,400 indirect jobs.

Financial Implications

Centennial Mandalong Pty Limited is required by the *Mining Act 1992* to compensate the landholder for the loss of use of their land for the period of drilling.

Discussions with representatives of Centennial Mandalong Pty Limited indicated that the standard agreement provides compensation of \$550 per week per site (with a minimum of \$2,000 per site).

This additional income of, at least \$10,000, was not budgeted for in the 2010-11 Annual Plan.

Principles of Sustainability

The Review of Environmental Factors prepared by Centennial Mandalong Pty Limited details a process to locate all exploration drill sites in areas of minimal environmental impact. Each drill site is inspected by a qualified ecologist and archaeologist prior to any surface disturbance to identify any potential impacts on threatened species or items of Aboriginal or European heritage. If any threatened species or items of Aboriginal or European heritage are identified during the site inspections, the drill site is relocated to avoid impacts.

Each drill site requires a maximum disturbance area of 25 metres by 25 metres. Existing access tracks are used whenever possible however, some tracks may require minor upgrades to ensure suitable and safe access for exploration equipment and personnel to the drill site. Each drill site and any access tracks created are rehabilitated at the completion of drilling activities.

CONSULTATION

Centennial Mandalong Pty Limited was not required to undertake any stakeholder consultation prior to the preparation of the Review of Environmental Factors (REF).

The Review of Environmental Factors includes a Stakeholder Engagement Plan to consult with landowners.

GOVERNANCE

Centennial Mandalong Pty Limited is required to comply with the conditions of their exploration licence (EL6317) and the conditions in their approval from the Department of Industry and Investment. A breach of these conditions is an offence under the *Mining Act 1992*.

If Centennial Mandalong Pty Limited is unable to negotiate access with the landowner then Part 8 Division 2 of the *Mining Act 1992* provides for conciliation and arbitration. If the landowner is aggrieved by an arbitrator's final determination they may apply to the Land and Environment Court for a review of the determination.

CORPORATE RISKS

For the organisation there is the risk of damage to infrastructure (such as breaking a sediment pond) at the Buttonderry Waste Management Facility. This risk can be reduced by Centennial Mandalong Pty Limited exercising flexibility and moving the eastern borehole to the north of the sediment pond.

If the results of the exploration drilling program are positive then the main impact from future underground longwall mining is the subsidence of the surface. The main concern for Council would be at the Buttonderry Waste Management Facility. Centennial Mandalong Pty Limited would need to discuss with Council officers how the site is currently managed and then assessments would be made as to the likely impacts. The drilling information, in this case, becomes very important to allow those assessments to be undertaken.

Centennial Mandalong Pty Limited advised staff that they had engaged Aurecon to carry out an initial groundwater assessment in mid-2010. This report identified locations for groundwater monitoring and equipment is currently being installed to provide baseline data for future environmental assessments.

The initial assessment also identified a boundary of igneous rocks that would act as a water barrier between the Mandalong South and Wallarah 2 projects.

CONCLUSION

That Council authorise the General Manager to negotiate and execute an agreement with Centennial Coal for access to Council land for the Mandalong South Exploration Drilling Program subject to suitable compensation being provided and appropriate risk being managed.

ATTACHMENTS

- | | | |
|---|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------|
| 1 | Letter from Centennial Coal requesting access to Council land for Exploration Drilling and Survey for the Mandalong South Coal Mining Extension Project | D02411030 |
| 2 | Copy of Centennial Coal approval to conduct exploration drilling and associated works for Mandalong South Extension Project - EL6317 - Approval issued by the Department of Industry and Investment December 2009 | D02411095 |

**Centennial Coal**100 Miller Road
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22 October 2010

By EmailMs Bronwyn Rumbel
Manager Economic and Corporate Planning
Wyang Shire Council
PO Box 20
Wyang NSW 2259

Dear Ms Rumbel

Re: Mandalong Southern Extension Project - Exploration Drilling Programme and Surveys

Thank you for the opportunity to meet with yourself and Michael Whittaker on 12 October 2010 to outline the Mandalong Southern Extension Project exploration drilling programme. Further to this meeting and our correspondence dated 29 April 2010 and 13 August 2010, Centennial Mandalong Pty Limited (Centennial) requests access to land owned by the Wyong Shire Council to undertake exploration drilling of up to five (5) exploration drill holes.

The exploration drilling programme is currently being undertaken within exploration licence area EL6317 located south-west of the township of Morisset and west of the township of Wyee in the Lake Macquarie and Wyong Local Government Areas (see Attachment 1). A copy of EL6317 has been enclosed with this letter including a plan showing the proposed locations of the exploration drill sites on land owned by Wyong Shire Council (see Attachment 2).

Centennial received approval from Industry & Investment NSW on 18 December 2009 to undertake the proposed drilling activities following the submission of the Mandalong South Exploration Project Review of Environmental Factors (2009). A copy of the Review of Environmental Factors has previously been provided to the Wyong Shire Council. A copy of the Industry & Investment NSW approval letter is enclosed for your information.

The Review of Environmental Factors details a process to locate all exploration drill sites in areas of minimal environmental impact. Each proposed drill site is inspected by a qualified ecologist and archaeologist prior to any surface disturbance occurring to identify any potential impacts on threatened species or items of Aboriginal or European Heritage. If any threatened species or items of Aboriginal or European Heritage are identified during the site inspections, the drill site is relocated to avoid the impacts.

Each drill site is limited to a maximum disturbance area of 25 metres by 25 metres and existing access tracks are used wherever possible. However, some tracks may require minor upgrades to ensure suitable and safe access for exploration equipment and personnel to the drill site. Each drill site and any access tracks created are rehabilitated at the completion of drilling activities. Each drill site takes approximately four (4) weeks to complete, however, this is dependant on the depth of the drill hole, the geological conditions encountered and access constraints due to wet weather.

Prior to accessing any land for exploration drilling activities, Centennial is required to enter into an access agreement with the landholder. A copy of the Centennial standard Access Agreement for Exploration Activities has been enclosed for the consideration of the Wyong Shire Council. It is proposed that a site inspection with a representative of Wyong Shire Council be undertaken to identify the actual

locations of drill sites and access routes. A plan detailing the agreed locations will then form part of the Access Agreement.

In addition to the exploration drilling activities, Centennial has recently commenced detailed ecological and archaeological investigations within EL6317. The ecological and archaeological investigations are designed to provide baseline information on the existing environment to ensure all surface constraints are identified and considered during the mine planning process. The investigations will be used in the future Environmental Assessment for the project area. Centennial is also requesting access to land owned by Wyong Shire Council within EL6317 to undertake these ecological and archaeological investigations. Access for these investigations is subject to a separate Access Agreement between the Wyong Shire Council and Centennial. A copy of the Centennial standard agreement for access and monitoring along with a landholder information flyer has been enclosed for your consideration.

Finally, at our meeting you also requested the following information:

- (i) a plan showing all of the proposed drill holes that are located within the Wyong LGA (see Attachment 3) and;
- (ii) the details for our Industry & Investment NSW contact person. This is Mr Greg Summerhayes (Principal Environmental Officer). He can be contacted on (02) 4931 6705.

I trust that the information provided is as requested and look forward to hearing from you in the near future.

Yours sincerely
Centennial Mandalong Pty Ltd



Peter Cook
Project Manager

Attached:

- Attachment 1 – Plan of the Exploration Licence area EL6317.
- Attachment 2 - Plan of proposed exploration drill sites within areas of land owned by Wyong Shire Council (PC3262).
- Attachment 3 – Plan of proposed exploration drill sites within the Wyong LGA (PC3474).

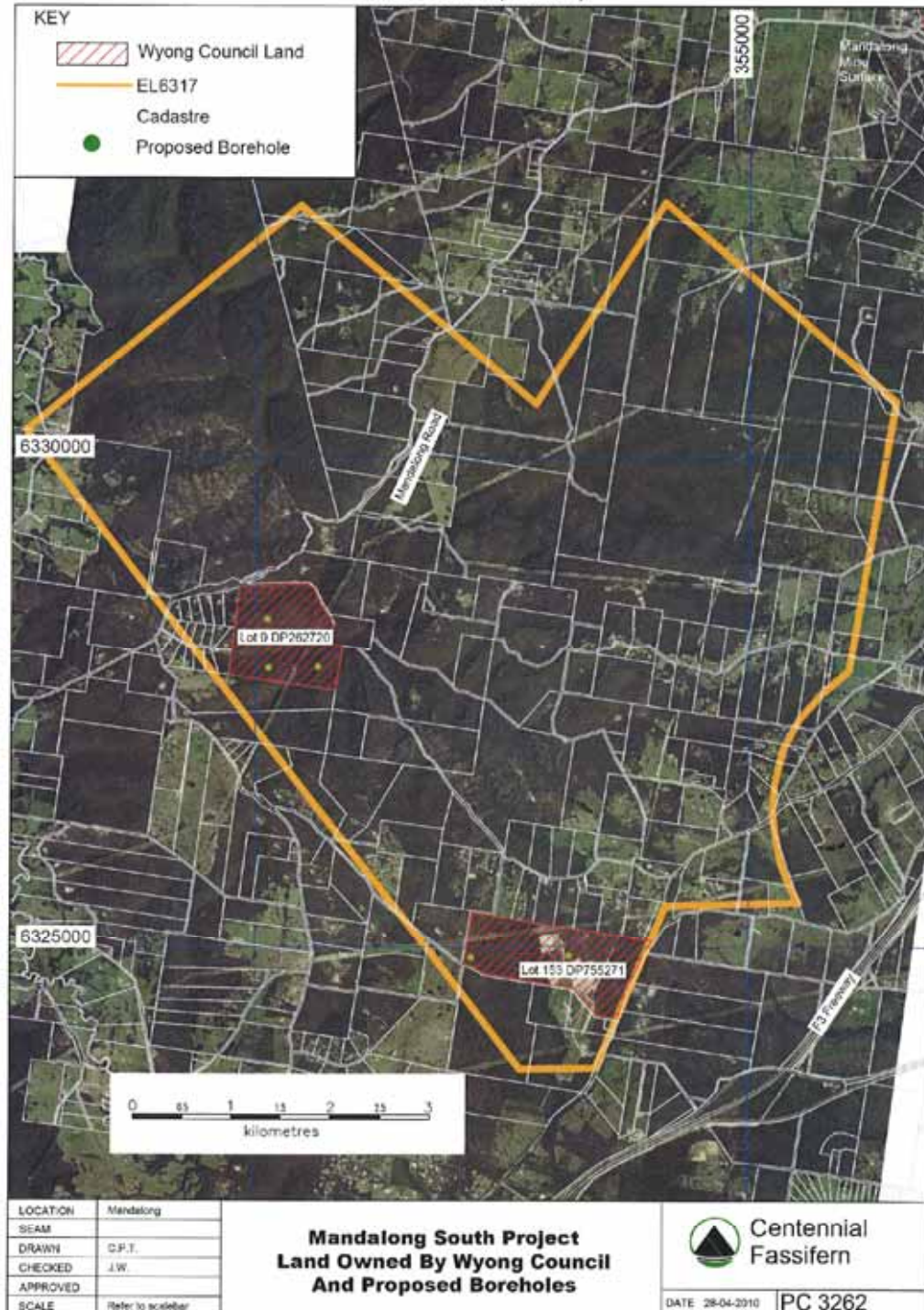
Enclosed:

- Exploration Licence EL6317.
- Industry & Investment NSW approval letter to undertake exploration drilling and associated works.
- Landholder information flyer for ecological and archaeological surveys within EL6317.
- Centennial standard Access Agreement for exploration activities.
- Centennial standard Access Agreement for environmental monitoring.

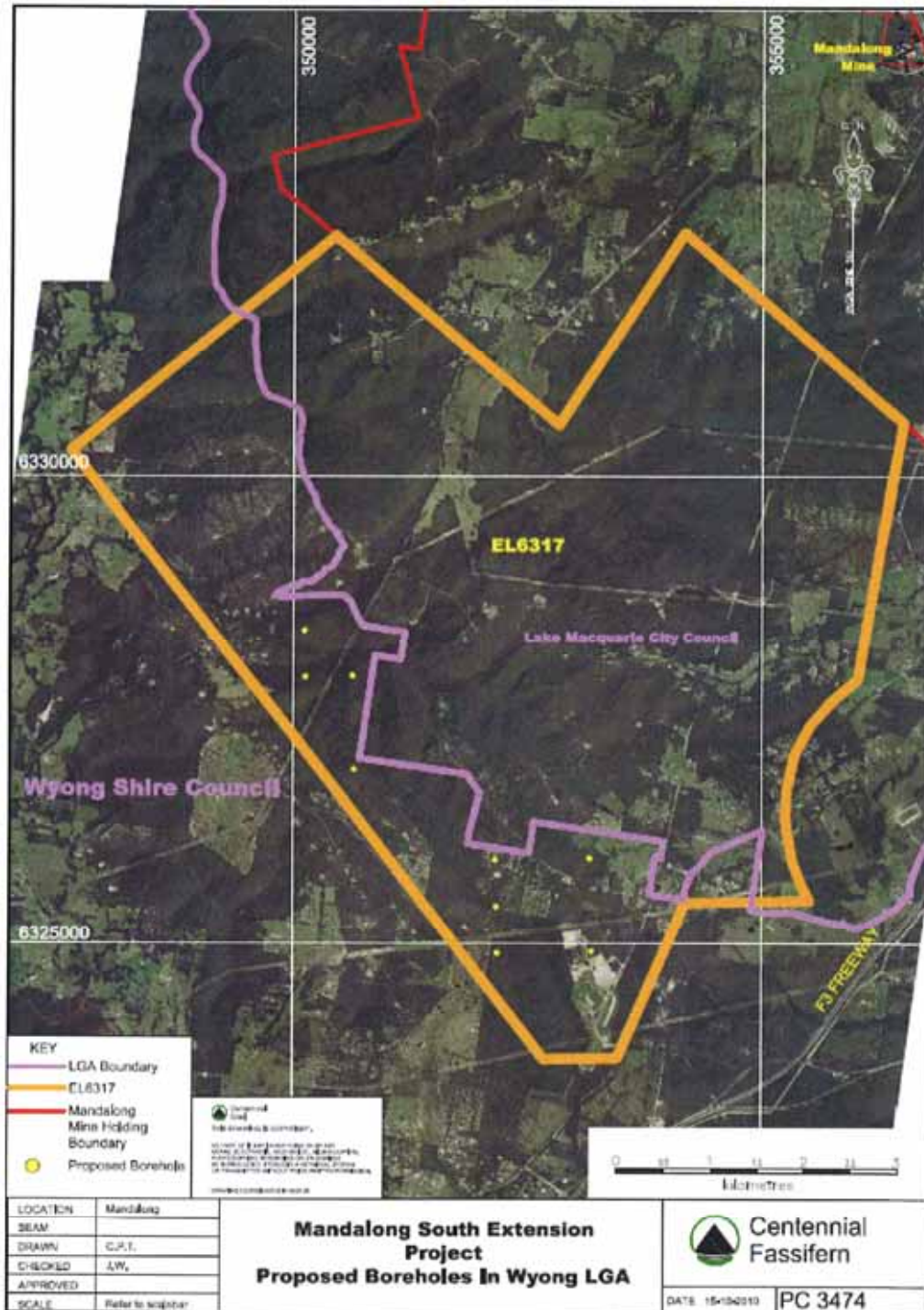
Attachment 1 - Plan of the Exploration Licence area EL6317



Attachment 2 - Plan of proposed exploration drill sites within areas of land owned by Wyong Shire Council (PC3262)



Attachment 3 - Plan of proposed exploration drill sites within the Wyong LGA





Industry &
Investment

Mr James Wearne
Environmental Coordinator - Projects
Centennial Mandalong Pty Limited
PO Box 1000
TORONTO NSW 2283

Dear Mr Wearne,

EL6317: Approval to undertake exploration drilling and associated works

In accordance with condition 2 of EL6317 granted under the *Mining Act 1992*, the titleholder is granted approval to conduct exploration drilling and associated works, subject to the conditions set out below. These conditions relate specifically to this approval and are in addition to those attached to EL6317. A breach of conditions is an offence under the *Mining Act 1992*.

CONDITIONS

General

1. The activity must be carried out generally in accordance with the:
 - a) Mandalong South Exploration Project – Review of Environmental Factors (including all appendices) dated October 2009; and
 - b) conditions of this approval.

If there is any inconsistency between the above documents, the most recent document prevails to the extent of the inconsistency.

Other (add as necessary)

2. Prior to the commencement of activities on each site, the title holder must make reasonable efforts to provide notice of disturbing activities, to immediate neighbours of the land on which the activities are to take place. The titleholder must accommodate reasonable requests by landholders for limited rescheduling of activities, and must have procedures for addressing landholder inquiries or complaints as per condition 34 of the respective EL title conditions.

An additional security is required to be lodged to cover the rehabilitation liabilities associated with the activities under this approval. You will be contacted by the Department's Titles Branch regarding this requirement.

Minerals & Energy Division
PO Box 344 Hunter Region Mail Centre NSW 2310
516 High Street Maitland NSW 2320
Tel: 02 4931 6666 Fax: 02 4931 6790
ABN 51 734 124 190
www.industry.nsw.gov.au

If you have any questions about this approval, please contact Michael Lloyd directly on (02) 6571 8788.

Yours sincerely



Michael McFadyen
Manager Environmental Operations

DATE: 18 DEC 09

6.2 Toukley Desalination Plant

TRIM REFERENCE: F2004/06808 - D02420504

AUTHOR: Gary Casement, Manager, Headworks, Gosford Wyong joint Water Authority

SUMMARY

Consideration of the Gosford Wyong Councils' Water Authority Board recommendation in relation to the activation of the Toukley Desalination Project approval.

RECOMMENDATION

That Council adopt the recommendation of the Gosford-Wyong Councils' Water Authority from the 18 August 2010 Board Meeting in relation to the Toukley Desalination Plant.

BACKGROUND

At its meeting of 25 August 2010 Council resolved the following:

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

That Council receive the minutes of the Gosford-Wyong Councils' Water Authority Board Meeting held on the 18 August 2010 and adopt the recommendations contained therein with the exception of item 2.1 Toukley Desalination Plant, noting that this item is to be deferred until such time as the Council has been fully briefed."

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

AGAINST: NIL

Following Council's meeting of 25 August 2010, Councillor briefings and a site inspection have been undertaken in relation to the Toukley Desalination Plant.

The 18 August 2010 resolution and recommendation of the Gosford Wyong Councils' Water Authority in relation to the Toukley Desalination Plant was:-

"Resolved unanimously on the motion of Mr Wilson and seconded by Cr Holstein:

That the Board note the information and recommend to the two Councils:

- 1 That a budget of \$530,000 be approved to undertake the pre construction consent conditions and physical commencement of the desalination project to preserve the Development Approval.*
- 2 That Wyong Shire Council expedite the investigation and design activities at the Toukley desalination site in accordance with the Contaminated Lands Management Act to enable site works to commence prior to June 2012.*

- 3 *That full briefings be given to both Councils prior to the Minutes of the Water Authority Board being brought back for consideration by both Councils.*
- 4 *That the two Councils note that the Water Plan 2050 identifies desalination as one of the potential future supplies, if climate change or other issues necessitates the development of additional supplies, in the future and would be initiated as a last resort.*
- 5 *That a joint media statement be prepared for consideration by both Councils.”*

FOR: Cr Holstein, Cr Maher, Mr Koizumi-Smith, Cr Symington, Mr Whittaker, Mr Wilson,
Mr Wise

AGAINST: NIL

ATTACHMENTS

- | | | | |
|---|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------|-----------|
| 1 | Minutes of the Gosford-Wyong Council Water Authority Board Meeting held on 18 August 2010 | Enclosure | D02330314 |
| 2 | Report 2.1 Toukley Desalination Plant Board Paper (18 August 2010) | Enclosure | D02307935 |
| 3 | Toukley Desalination Site Layout (Attachment to Report 2.1 (18 August 2010) | Enclosure | D02307918 |
| 4 | Notice of Determination - Copy of Ministers Conditions of Consent for Public Display - Gosford Wyong Water Supply Desalination Scheme - (Attachment to Report 2.1 - 18 August 2010) | Enclosure | D00920136 |

6.3 Lakes Contamination

TRIM REFERENCE: F2010/00500 - D02373986
AUTHOR: Rob Van Hese, Manager Regulation and Compliance

SUMMARY

This report is in response to a Council Resolution from the Ordinary Meeting of 11 August 2010 and details incidents over the past 12 months involving the discharge of raw sewage from Councils sewerage infrastructure into the environment.

RECOMMENDATION

- 1 That the report on Lakes Contamination be received and noted.**
- 2 That the report be forwarded to Tuggerah Lakes Estuary and Coastal Management Committee for information.**

BACKGROUND

Council at its meeting held on 11 August 2010, resolved on the motion of Councillor Best and seconded by Councillor Eaton:

- "1 That further to Staff's Report 6.5 dated 28 July 2010 and the subsequent confirmation that raw sewerage has entered the lakes system on a number of occasions over the last 12 months, staff urgently report to Council on the background.*
- 2 That the report should cover but not be limited to contamination sources, frequencies, reporting procedures/policies, reporting breaches, public health issues/warnings and remedial actions.*
- 3 That Council confirm on whether the current lake's testing program can distinguish between contamination sources, i.e. human/wildlife, staff report what options are available to streamline and improve the current testing regimes.*
- 4 That as more rigorous testing programs are unbudgeted staff investigate what funding programs/options that may be available through the assistance of State and Federal Government Agencies to assist with this important public health issue."*

FOR: COUNCILLORS BEST, EATON, GRAHAM, MCNAMARA, SYMINGTON AND WYNN

AGAINST: COUNCILLORS MATTHEWS, MCBRIDE AND VINCENT

Incidents July 2009 – August 2010

In the period 1 July 2009 to 11 August 2010 there were 14 significant incidents in which raw sewage discharged into the environment as a result of either damaged Council infrastructure or sewerage system operational malfunctions. Details are included in Attachment 1.

Subsequent investigation by Council officers of the 14 incidents confirmed that raw sewage had entered the Shires waterways to varying degrees, on five occasions at Wyongah, Berkeley Vale, Wallarah Creek at Blue Haven, Lake Macquarie at Gwandalan and Pacific Highway Wyong, leading to the adjacent wetlands. Despite the sewage contamination, microbiological water testing of the contaminated sites by Council officers soon after the event concluded the water quality compliant with National Health and Medical Research Guidelines (NHMRG), therefore not presenting a threat to public health.

Council officers determined that 12 out of the 14 incidents warranted reporting to the Department of Environment, Climate Change and Water (DECCW) under the Protection of the Environment Operations Act 1997 (POEO), and subsequently made those reports. There is no record of DECCW requiring Council to provide further information or facing any form of sanction as a result of these incidents.

Council Procedure

In the event of an environmental incident caused by Council's operations or assets, Council's standard operating procedure calls on staff to immediately report the incident to Council's Environmental Incident Reporting Hotline. On receipt of such a report, the matter is referred to the Manager Regulation and Compliance who will instigate an immediate investigation by Environmental Protection Officers within Regulation and Compliance and liaise with the respective manager responsible for the affected asset.

In the case of incidents involving the discharge of raw sewage, the first priority is to contain the pollution source, recover as much of the effluent from the surrounding environment as possible and where it is suspected or confirmed that effluent has entered adjacent waterways arrange for the immediate area to be fenced off, including the erection of signs warning of a potential pollution source. None of the incidents referred to in this report were considered significant and therefore were not the subject of a Councillor update or any form of public notice other than signage at the point source.

Water Sampling Program

The only regular Council water sampling regime testing for faecal contamination occurs under the Beachwatch program the results of which are reported to Council on a monthly basis. Lake sites that are not designated 'lake swimming locations' continue to be monitored to detect changes in water quality and the results of such testing are submitted to the Estuary Management Unit (EMU).

Beachwatch involves monitoring recreational waters and testing for the faecal indicator organism enterococci. Enterococci are now the sole faecal indicator recommended by the World Health Organisation (WHO) and the National Health and Medical Research Council (NHMRC). Enterococci, however, only provide an indication of the presence of faecal contamination and do not discriminate between the different faecal sources that could potentially be contributing to the pollution i.e. human, livestock, dog or birds. When sampling for enterococci a waiting period of 48 hours is required therefore providing a retrospective view of the water conditions at the time the sample was taken. It cannot provide a predictive or on the spot result of the water quality at that moment in time. The sampling and subsequent testing of 1400 samples annually for enterococci is undertaken at Council's laboratory by appropriately trained Council staff from the Regulation and Compliance Unit at an approximate cost of \$27.20 per sample which equates to an annual cost of \$38,188.

Faecal Sterol Assessment (FSA) is a method that can be used to distinguish between faecal sources by assessing the sterol concentrations in a water body. This is commonly called 'sterol signature'. FSA can distinguish between faecal sources of human and herbivores due to diet and the bacterial make-up of the stomach, which is different between animal types. FSA is very labour intensive requiring five (5) litres of water per sample to be filtered before the test can be undertaken by specially equipped and trained analysts. The University of Newcastle has the facilities to undertake the testing at approximately \$443 per sample, which equates to an annual cost of approximately \$622,000, not including the costs of taking the samples.

FSA has been used on two previous occasions by Council, the first in 1996 in conjunction with the CSIRO and the second in 2008 with the University of Newcastle. Both studies excluded human effluent as a source of contamination within the lakes.

Potential Funding Sources

In regard to investigating funding programs/options two avenues of funding were examined:

1. Federal Government's 'Caring for our Country' program which currently funds the Tuggerah Lakes Estuary Management Program (TLEMP).
2. The State Government's funding provisions through the Environment Trust. Neither of these provides funding for ongoing water testing programs.

CONCLUSION

Although nine of the incidents arose out of damaged infrastructure such as broken pipes, this level of failure is not unusual and is not considered to be indicative of a sewerage system in decline beyond the normal levels of asset deterioration.

While Council's performance in this area (expressed as breaks per 100km pipe) is at the NSW state average, pipe rehabilitation programmes are already in place, notwithstanding to progressively replace "at risk" pipelines such as vitreous clay pipes damaged by tree roots.

Of the remaining five incidents, three were the result of third party issues and could reasonably be considered to be largely outside the control of Council. These incidents happened on;

- * 4 August 2010 (due to power failure)
- * 20 May 2010 (due to contractor activities)
- * 3 December 2009 (due to contractor activities)

In the case of the 4 August 2010 incident, the provision of emergency power generation capacity on site at the Mannering Park Treatment Plant site is now being investigated.

Following the incident at Toukley Sewage Treatment Plant on 17 September 2009 which was caused by a valve failure changes to the control systems at the recycled water treatment facility, have been made to ensure feed pumps are shut down in the event of a valve failure.

The incident at Pump Station WS11 at Apex Park, Wyong on 23 October 2009 occurred as a result of a standby pump failing at the same time that Council maintenance staff were already on site repairing the main duty pump. This incident resulted in an overflow of very limited extent (about 10 minutes).

Results of water samples taken under the Beachwatch program between 1 July 2009 and 11 August 2010 clearly and consistently indicate that the lakes water quality does not present a threat to public health. Therefore, the use of a significantly more expensive water sample test such as FSA is considered unnecessary on a cost/benefit basis.

Notwithstanding the above issues with Council's sewerage infrastructure and the subsequent potential for point source contamination of the Shire waterways, Council's response procedure has been effective in mitigating the affects of raw sewage contamination. This includes remediation of the contaminated area wherever possible, cordoning off the contaminated area to prevent public access, installation of warning signs alerting the public of the potential health threat, maintaining this regime of controls until water samples confirm water quality meets the NH&MRC guidelines and reporting all notifiable incidents to DECCW.

ATTACHMENTS

- 1 Table of Incidents July 2009 - August 2010 D02406434

Incidents - July 2009 to August 2010

Date of Incident	Location	Nature of Incident	Investigation Findings	Infiltration Into The Waterways	Reported to DECCW
4 August 2010	Manning Park Sewerage Treatment Plant – 220 Tall Timbers Road, Manning Park	Blocked inlet screens due to power failure	Approximately 5,000 litres overflowed, however all was contained on site and cleaned up.	No	No
30 July 2010	50 Tuggerawong Road Wyongah	Broken rising main	The leakage was stopped by turning the pumps off at sewage pumping station T19 and installing sandbags on site to contain the effluent. No solids entered the stormwater system. 2 x tankers were onsite to remove sewage. A risk assessment was undertaken which concluded that there was no need to take water samples as the site was unlikely to be used for recreational purposes.	Yes	Yes 123285
19 July 2010	177 Buff Point Avenue, Buff Point	Tree roots under the manhole and in the access chamber.	No physical evidence of effluent entering drainage culvert. As a precaution water samples were taken at the point where SW channel enters Lake Budgewoi. All samples were tested for faecal indicator enterococci. Results compliant with NH&MRC Guidelines.	No	Yes 122716
20 May 2010	85 Oleander Street Noraville (Toukley Sewerage Treatment Plant)	Failure of By-Pass Line as a result of Contracted works.	No effluent left the Toukley Sewerage Treatment Plant site	No	No
6 April 2010	167 Tuggerawong Road, Tuggerawong	Failure of Ferric Chloride Injection Point	Approximately 1000 litres discharged but contained within pump station grounds removed by tanker.	No	Yes 120182
16 March 2010	365 Lakedge Avenue, Berkeley Vale – W533 Gravity Main	Root infestation in sewer manhole A/8 along W533 Sewer Gravity Main	Approximately 27,000 litres entered storm water pit which discharged into Tuggerah Lakes. Staff immediately cordoned off area and installed warning signs at the entrance to the lake channel. Thoroughly cleaned the contaminated area with disinfectant. Used 40,000 litres of lake water to flush S/W line. Maintained fencing and warning signs until sampling confirmed lake water quality met NH&MRC guidelines.	Yes	Yes 119758

Date of Incident	Location	Nature of Incident	Investigation Findings	Infiltration Into The Waterways	Reported to DECCW
29 January 2010	Rear Reynolds and Clark Roads, Noraville – T6 Sewer Rising Main	Broken rising main	Approximately 70,000L of escaped effluent was removed by tanker.	No	Yes 119282
15 December 2009	Kelsey Road, Noraville (TO06 sewer rising main)	Broken rising main	Tankers removed effluent from pumping station. Effluent discharged into surrounding area was contained and cleaned up.	No	Yes 117789
3 December 2009	Between Albert Warner Drive & St Albans Road, Warnervale – C15 Sewer rising main	Contractors constructing the Warnervale to Wyong link Rd broke the 225mm PVC sewer pipe.	Estimated leakage 2500 litres. Pump station isolated, sewage contained and immediate repairs undertaken	No	Yes 117536
30 November 2009	Rear 26A Budgewoi Road, Noraville – T22 Pump Station	Broken PVC bend on T22 barometric loop	Pump station T22 isolated. Discharge into surrounding area contained and cleaned up.	No	Yes 117526
29 October 2009	165 Birdwood Drive Blue Haven (C3 Pump Station)	Broken flange on C3/C6 Barometric loop	SPS C3 & 5 subsidiary pumping stations were isolated. Tankers removed effluent from pump station. Effluent entered Wallarah Creek. Temporary fencing and warning signs erected. Water samples taken – compliant with NHMRC Guidelines.	Yes	Yes 116875
23 October 2009	Apex Park (Intersection Pacific Hwy/North Road Wyong) WS11 Pump Station	Pump failure	Tankers onsite to remove effluent and clean up. Temporary fencing erected and signage placed around contaminated area. Water samples taken – compliant with NHMRC Guidelines.	Yes	Yes 116770

Date of Incident	Location	Nature of Incident	Investigation Findings	Infiltration Into The Waterways	Reported to DECCW
17 September 2009	Toukley Sewerage Treatment Plant Wilfred Barrett Drive, Norah Head	Valve failure	Overflow from the tertiary plant wash water (reclaimed chlorinated water) recovery tank discharged approx 600KL into S/W drain that exits Toukley Sewerage Treatment Plant and discharged to off-site sand dunes.	No	Yes 116245
1 September 2009	Koowong Road, Gwandalan	Broken 375mm Sewer Rising Main	Tankers onsite to remove effluent and clean up. Temporary fencing erected and signage placed around contaminated area. Water samples taken – compliant with NHMRC Guidelines.	Yes	Yes 115994

6.4 Whale Dreamers Festival 2010

TRIM REFERENCE: F2010/01767 - D02395058
MANAGER: Danielle Dickson, Manager Customer & Community Service
AUTHOR: Ashlee Abbott, Events Coordinator, Customer & Community Services

SUMMARY

Reporting on the key issues, costs and administrative activities for the 2010 Whale Dreamer's Festival associated with Council considering this event in Council's community calendar of events. This report also responds to a letter received from The Norah Head Rate Payers, Residents and Coastcare Association. The 5th Annual Whale Dreamer's Festival was held on Sunday 4 July at the Norah Head Lighthouse Reserve. The Event attracted approximately 3000 people including families, community groups, and the elderly.

RECOMMENDATION

- 1** *That Council receive the report on the Whale Dreamer's Festival and its inclusion in the Council's community calendar of events.*
- 2** *That Council decline to include the event in the Annual plan on a recurrent basis and encourage the committee to apply for support via Council's grant program.*
- 3** *That staff provide a report to Council on a structured framework for event sponsorship prior to the consideration of the 2011/2012 Annual Plan*

BACKGROUND

At the Ordinary Meeting held on 14 July 2010 Council resolved as follows:

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

- 1** *That Council reaffirm its strident opposition to the prospect of the reintroduction of commercial whaling, in particular the recent push to include humpbacks in the cull in the Antarctic Marine Sanctuary.*
- 2** *That Council thank the Federal Government and our Federal local members for their strong opposition to this outrageous activity and further commend the Federal Government's initiative of legal action in the international courts.*
- 3** *That Council also congratulate the organisers and supporters of this year's Community Whale Dreamer's Festival held at the Norah Head lighthouse on Sunday 4 July for their highly successful and outstanding community event.*

- 4 *That Council consider a report, compiled in conjunction with the organisers of the Whale Dreamer's Festival key stake holders including the Norah Head Lighthouse Reserve Trust, outlining key issues, costs and administrative activities associated with Council considering this event in Council's community calendar of events.*
- 5 *That Council formulate a suitable resolution supporting whale conservation for inclusion at the upcoming State and National Local Government Association Conferences.*

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

AGAINST: NIL

In accordance with the above resolution, Council has written to the event organisers and congratulated them on this year's event.

Current Funding for Events

Council assists events with funding either directly via the Annual Plan or through the consideration of recommendations from the Grants Committee. Council also sponsors events in line with its sponsorship policy and Annual Plan objectives. Some groups receive direct funding (eg Town Centre Management) toward their operations and also additional funding for specific events. Other forms of assistance such as administrative, public relations and operational tasks have been in-kind support by various sections within Council on an ad-hoc basis, utilising their operational funds.

Council has a structured framework policy to provide opportunities for funding to events that contribute to the achievement of its Annual Plan objectives, however has no formal guidelines to determine if existing involvement or new requests for the other forms of assistance are appropriate in achieving those same objectives. Often these other forms of assistance are a result of past long standing arrangements that have not been reviewed.

Whale Dreamer's Festival 2010

In 2010 The Whale Dreamer's Festival received a Councillor Improvement grant of \$1750.00, however the organisers did not apply for any other Council grants. Additional funding was received via in kind support and extended to staff hours and assistance with completing Council forms and applications, traffic management, bins and provision of toilets.

The key issue identified for the festival by the organisers, Council staff, Traffic Committee, SES and community members was traffic management. Other issues included difficulty completing administrative tasks such as Council forms. The main costs for the organisers were associated with entertainment and advertising. The event only just made even with a profit of \$57.53. The main costs to Council involved staff time and resources such as bins, traffic management, toilets and generators. The estimated value of Council's involvement is in excess of \$3500.00.

THE PROPOSAL

A letter from The Norah Head Rate Payers, Residents and Coastcare Association Inc has been received requesting that the annual Whales Dreamer's Event at Norah Head Light House be considered in the Annual Plan on a recurrent basis. The Association has not stated the level of funding they are requesting. A copy of the budget for the event is attached.

OPTIONS

Giving consideration to planning requirements, current standards, perceived needs, and reviews of alternative approaches, the following options are presented for consideration by Council:

Maintain the Status Quo

Continue to assist the Whale Dreamer's Festival under current conditions and continue Council's existing assistance towards the event. The current assistance has been identified by the event organisers as inadequate in meeting the needs of the event so this option is not a preferred solution.

Funding the event via Councils Grant Program

WSC Grants program exists to provide financial assistance to individuals, non-profit organisations and groups by providing small grants to projects that will contribute to meeting objectives and targets identified in WSC Annual Plan and will demonstrably improve the social, economic and/or environmental wellbeing of the Wyong Shire community.

Funding for the grants is identified in the WSC Annual Plan and applications are invited at various times throughout the year. Scheduled application periods are advertised on WSC web site. Submissions received in each application period are assessed by staff in accordance with the adopted guidelines and considered by the WSC Grants Committee. WSC Grants Committee recommendations are then forwarded to Council for determination.

It is recommended that the event organisers include in their future submission funding for a professional Traffic Management Plan to be completed by an external agency. The Funding submission should also include the request for in-kind support offered by Council in previous years for items such as bins and toilets.

This option has been identified as the preferred option.

Include the event in the Annual Plan

By not reviewing events on an annual basis there is not an opportunity to make an equitable framework for new events or developing events within the Wyong Shire. Wyong Council plays a large role in growing community events during their inception phase which encourages a diversity of community events.

Including events in the Annual Plan does not meet the principles of sustainability, as it diminishes the events' ability to capacity build and become self sustainable. As events by nature face different logistical challenges on a yearly basis they therefore should be assessed on merit each year. For these reasons, this approach is not considered appropriate.

Defer Decision until Report has been received on event funding

Council has a structured framework to provide opportunities for funding to events that contribute to the achievement of its Annual Plan objectives, however has no guidelines to determine if existing involvement or new requests for the other forms of assistance are appropriate in achieving those same objectives. Often these other forms of assistance are a result of past long standing arrangements that have not been reviewed.

By using a more structured policy, the integrity and equality of the decision making process is maintained. It is recommended that, given the importance of these types of events to the local community and the Shire, Council consider a future report on funding structures/policies for events.

Such a report would seek approval for the adoption of a policy document designed to enforce Council's requirements for funding for events. The report would also deal with the lack of guidelines to consider funding sources for events.

STRATEGIC LINKS

Annual Plan

<i>Principal Activity</i>	<i>Strategy or Program</i>	<i>Financial Line Item No and Description</i>
A More Sustainable Community	Expand and Support programs that increase participation among all ages	1.1.11 – Community Financial Support
A More Sustainable Economy	N/A	
A More Sustainable Environment	Establish and Maintain projects and programs to encourage more active participation in community based environmental activities	
Infrastructure	N/A	
Organisation	N/A	

Contribution of Proposal to the Principal Activity

A more sustainable community

The event is a community based event for families and all age groups to gather together in a common purpose.

A more sustainable environment

The event encourages the community to consider the environment and conservation issues and also provides access to information on what is impacting the local environment.

Link to Shire Strategic Vision

Priority Objective	How the proposal contributes or links to the Priority Objectives in Shire Strategic Vision and Annual Plan
Communities - Communities will be vibrant, caring and connected with a sense of belonging and pride in their local neighbourhood.	The event allows communities to connect and take pride in the natural environment
Facilities and Services - Communities will have access to a diverse range of affordable and coordinated facilities, programs and services.	The event is a free event accessible to all community members with organised activities and entertainment
Education - The community will be well educated, innovative and creative. People will attain full knowledge potential at all stages of life.	The event aims to educate the community on the plight of whales and the conservation of the environment
Employment - There will be a strong and sustainable business sector and increased local employment built on the Central Coast's business strengths.	The event increases visitor numbers to the local area and local businesses report an increase in business at the time of the event
Environmental Programs - There will be a sense of community ownership of the natural environment through direct public involvement with environmental programs.	This event allows the community to become involved with the natural environment through programs and activities

Financial Implications

This recommendation will require no additional funding as the organisers are encouraged to access existing grant funding programs.

Principles of Sustainability

These recommendations will allow WSC to follow good process and improve outcomes by being consistent and demonstrating sound reasons for decisions. The recommendation also shows support for protecting and caring for the environment via supporting an event that focuses on environmental education and promotion.

CONSULTATION

Consultation was carried out with the following key external stakeholders:

- Norah Head Light House Trust
- Norah Head Residents, Ratepayers and Coastcare Assoc. Inc

- Soldiers Beach Surf life Saving Club

The overall response from these consultations was very positive and all three stakeholders support the event and report that it is a great success and benefit to the area. Negative feedback was received in regards to the traffic management issues surrounding the access to the light house and parking problems. This issue will be addressed further with the organisers and Traffic Committee prior to the 2011 event.

The event organisers also commented:

'One note of concern that the organisers would like to mention was the difficulty with the legal/paperwork side to this event. We appreciate that as the event grows, the more responsibility to ensure the safety of the patrons is paramount, however each year "new" regulations are introduced to us which unfortunately took the coordinators' attention rather than focusing on creating the actual day and promoting it efficiently.' (Nikki Freeburn – Event coordinator).

The event organisers support Council's recommendation that additional funding is required for the event to support traffic management and administration.

Further consultation was also carried out with internal stakeholder for the event including;

- Traffic Committee Members
- Councils Landcare officer in regards to the general running of the event
- Manager of Community Development

GOVERNANCE

Nil Impact

CORPORATE RISKS

There are no significant corporate risks.

CONCLUSION

It is recommended that the organisers of the Whale Dreamer's Festival apply for funding via the Council grants program to assist with minimising the effects of the issues associated with this year's event including traffic management and administrative tasks. This recommendation is aligned with WSC Annual Plan objectives.

ATTACHMENTS

- | | | |
|---|--------------------------------------------------------------------------------------|-----------|
| 1 | Whale Dreamers Festival 2010 Report – Whales Dreamers Organising Committee | D02394917 |
| 2 | Whale dreamers Festival - 2010 - Balance Sheet | D02394926 |
| 3 | Letter from Norah Head Ratepayers, Residents & Coastcare Association Inc Re: Funding | D02394943 |

Whale Dreamers Festival 2010 - Report

The 5th annual Whale Dreamers Festival was held on Sunday 4th July at the Norah Head Lighthouse Reserve.

The event was a great success and attended by approximately 3,000 people including families, community groups and the elderly. Unfortunately inclement weather kept people away as it was grey and overcast all day with rain threatening, however for those that braved the cold, they had a wonderful day filled with music, information, whales and a sense of community.

The festival also drew interest from MP Craig Thomson, Wyong Shire Council's new General Manager Michael Whittaker and other key personalities from the Central coast. People travelled from Sydney and Newcastle to attend the event which shows the growth in the popularity and interest of the philosophy of the Whale Dreamers Festival.

The key component of the festival, apart from the relationship to our oceanic brothers and sisters, is the level of excellence of the performers on the day, and this year was no exception! With a wide variety of musical styles from Drumming to Country & Western to Celtic Harp to Rock, the line-up was enthusiastically received by the audience. Complimenting the musical talents were our wonderful guest speakers sharing their passions about the environment, our oceans and informing the audience of pro-active ways to assist in creating a more harmonious living ethos.

The festival also provides the opportunity for local environmental and awareness groups to display their information and inspire people to participate in caring for our earth.

We are deeply grateful for the financial contributions of Clr Greg Best, Delta Electricity, OCCI and Greater Toukley Vision as without this support the artists would not have been paid! Our budget is attached.

One note of concern that the organizers would like to mention was the difficulty with the legal/paperwork side to this event. We appreciate that as the event grows, the more responsibility to ensure the safety of the patrons is paramount, however each year "new" regulations are introduced to us which unfortunately took the coordinators' attention rather than focusing on creating the actual day and promoting it efficiently.

We are looking forward to working with Wyong Shire Council and it's new Event Coordinator Ashlee Abbott, in establishing a successful on-going event that will become a landmark in the area.

Yours sincerely
Nikki Freeburn
Event Coordinator
02 4365 4571 mobile ; 0415 207887

WHALE DREAMERS FESTIVAL 2010

BALANCE SHEET

Date	Expense/Income	Activity	Out	In	Balance
	Carried forward from 2009				404.00
30/1/10	From Project Aware Lake Mac			200.00	604.00
24/5/10	Delta Electricity			1000.00	1604.00
9/6/10	Colette – ad	Marketing	56.37		1547.63
21/6/10	Wyong Council (Greg Best) grant			1750.00	3297.63
2/7/10	Absoloo (toilets)	Site	600.00		2697.63
4/7/10	Donation bucket	Donations		77.40	2775.03
6/7/10	Greater Toukley Vision			500.00	3275.03
15/7/10	Nick Baron	Entertainment	100.00		3175.03
15/7/10	Tim Green	Entertainment	50.00		3125.03
15/7/10	John Roberts	Entertainment	50.00		3075.03
15/7/10	Craig McMullen	Entertainment	50.00		3025.03
15/7/10	Larry Daley	Entertainment	50.00		2975.03
15/7/10	Brackets & Jam Inc	Entertainment	300.00		2675.03
15/7/10	Kea Print	Marketing	506.00		2169.03
15/7/10	Graeme Balchin	Face painting	160.00		2009.03
30/7/10	In Rhythm	Entertainment	150.00		1859.03
30/7/10	Kim Cannen	Entertainment	100.00		1759.03
30/7/10	Steve Phillips	Entertainment	50.00		1709.03
30/7/10	Pu-Yu-Wu	Entertainment	50.00		1659.03
30/7/10	Christian Marsh	Entertainment	50.00		1609.03
30/7/10	Dr Goodvibe	Entertainment	150.00		1459.03
30/7/10	Julia Starr	Entertainment	100.00		1359.03
30/7/10	The Evolvrs	Entertainment	150.00		1209.03
30/7/10	Tim Silverwood	Entertainment	150.00		1059.03
30/7/10	Wyong SES		200.00		859.03
30/7/10	St Johns Ambulance		100.00		759.03
2/8/10	Stall Holders x 4 site fee			200.00	959.03
11/8/10	CEN for BBQ vouchers		87.50		871.53
11/8/10	Harmony Visions (whale talks)	Entertainment	160.00		711.53
12/8/10	Fantasea – site fee			50.00	761.53
12/8/10	Nikki Freeburn	Co-ordination	300.00		461.53

The General Manager
Wyong Shire Council
PO Box 20
WYONG NSW 2263

12th July 2010

Dear Sir

Re-Funding of Major Events in the Shire

Another highly successful Whale Dreamers Festival was held at the Norah Head Lighthouse recently. Many of the local community attended on that day either as an interested spectator or event volunteer. This year represents the third year of the event at Norah Head and the day's activities and attendances are growing.

The success of the day depends largely on sponsors who contribute funds towards the events operational budget. I understand that the Council contributed funds and 'in kind' support for the event. I further understand that this support was only given upon application from the Organizers and following a merit assessment by Council.

This event has now grown to the extent that it should be recognized as part of the 'Shire Annual Calendar of Events' and funded by Council on an annual recurrent basis.

At the Association's July meeting it was resolved that I write to you advising you of the Association's support for this event and request that Council commit to this event in a more formal manner as indicated above.

I can be contacted on 0417 688 107 should you require further information.

Yours faithfully

Mr. Ralph Peters
President

6.5 Waste and Sustainability Improvement Payment Program 2010/2011

TRIM REFERENCE: F2010/00292 - D02395390
MANAGER: Mike Long, Manager Contracts and Special Projects
AUTHOR: Charlotte Drury, Waste Coordinator

SUMMARY

This report seeks Council's endorsement and support for sixteen high priority projects proposed for funding under the Waste and Sustainability Improvement Payment (WaSIP) Program 2010/11 funded by the Department of Environment, Climate Change and Water (DECCW).

RECOMMENDATION

That Council endorse and support the following high priority projects to be submitted for consideration of funding through the 2010/11 WaSIP program:

- 1 Community Halls - sustainability improvement program (\$160,000.00 excl GST).*
- 2 Domestic waste audit (\$80,000.00 excl GST).*
- 3 Metal litter bin installation in targeted areas (\$19,425.00 excl GST).*
- 4 Wyong South Sewerage Treatment Plant (STP) computer model (\$16,000.00 excl GST).*
- 5 Wyong Civic Centre lighting proximity switches (\$10,000.00 excl GST).*
- 6 Charmhaven Depot energy consumption reduction (\$20,000.00 excl GST).*
- 7 Wyong Pool – Pool Cover (\$20,000.00 excl GST).*
- 8 Wyong Civic Centre energy sub metering (\$50,000.00 excl GST).*
- 9 Continued employment of temporary WaSIP Project Officer (\$100,000.00 excl GST).*
- 10 Illegal Dumping - integrated enforcement and education plan (\$50,000.00 excl GST).*
- 11 Recycled organics workshops (\$12,100.00 excl GST).*
- 12 Sustainable Events Management at events conducted by Council (\$20,000.00 excl GST).*
- 13 Sustainability Indicator Framework and policy development (\$30,000.00 excl GST).*

14 Shelly Beach staircase using recycled plastic (\$123,000.00 excl GST).

15 Sustainable Wyong workshop series (\$11,000.00 excl GST).

16 Mattress recycling (\$20,000.00 excl GST).

BACKGROUND

The Waste and Sustainability Improvement Payment (WaSIP) program forms part of the NSW Department of Environment, Climate Change and Water (DECCW) *City and Country Environment Restoration Program*. This program is intended to assist Councils to invest in additional actions and programs that improve waste and sustainability outcomes across their local government areas. The WaSIP program is a \$256 million, seven year program that will run from 2009/2010 to 2015/2016. Note – all monetary amounts stated in this report are exclusive of GST.

Council contributes directly to this fund through the Section 88 Waste and Environment Levy. The levy rate is currently \$65.30 per tonne of waste placed in landfills for outer-metropolitan areas including Wyong Shire. During 2009/10 Council's Section 88 levy payments to DECCW totalled \$9,061,483.00.

In 2009/10 Council received \$554,403.00 from DECCW as part of the WaSIP program. This amount provided funding for a range of waste and sustainability projects. The payment was based on meeting specified waste standards, and the additional development and approval of both a Strategic Waste Action Plan and a Sustainability Action Plan.

Key high priority projects approved as part of 2009/10 funding included:

- 1 Provision of high risk waste collection service for e-waste, batteries and fluorescent light bulb and tubes (\$110,000.00)
- 2 Replacement of air-conditioning units in buildings C and D of the Civic Centre (\$240,000.00)
- 3 Temporary engagement of a Waste and Sustainability Improvement Officer (\$100,000.00)
- 4 Increase purchase of Green Energy from a current level of 25% to 50% (\$100,000.00)

Of these four projects, the air-conditioning units have been replaced; the Waste and Sustainability Improvement Officer engaged; and the purchase of Green Energy at the higher level has commenced. The role of the Waste and Sustainability Improvement Officer is to implement the remaining 2009/10 WaSIP projects; coordinate the collation, assessment and prioritization of proposed 2010/11 WaSIP projects; and ensure the implementation of all approved projects. The officer will fulfil all mandatory DECCW project and budget reporting requirements and submit applications for future WaSIP funding that will total approximately \$5 million up until 2015/16.

In order to receive further funding under WaSIP, Council is required to meet standards set by DECCW for 10/11 as well as comply with standards set in previous years. The standards for 2010/11 are listed below. It is considered that the proposed new projects to be undertaken in 2010/11 (refer Appendix 1 - Proposed Priority Projects and Description) will adequately meet

6.5 Waste and Sustainability Improvement Payment Program 2010/2011 (contd)

or exceed these requirements in conjunction with other actions already undertaken by Council.

- 1 Bin audit**
Conduct waste audit and provide results before 30 November 2011
- 2 Litter and Illegal Dumping**
Develop Litter Management Plan by 30 June 2011
- 3 Garden Organics**
Implement Garden Organics Service by 30 June 2011
- 4 Sustainability Reporting**
Commence reporting in Council's Annual report by 30 June 2012
- 5 Energy Savings**
Undertake energy audit and implement energy saving initiatives at top 10 sites
- 6 Water Savings**
Undertake water audit and implement water initiatives at top 10 sites
- 7 Sustainable Fleet**
Implement program to reduce fleet emissions by 30 June 2011
- 8 Sustainable Procurement**
Adopt a sustainable procurement program by 30 June 2011
- 9 Sustainable Event Policy**
Adopt a sustainable event policy by 30 June 2011

THE PROPOSAL

This report proposes that Council endorses the funding of sixteen new high priority projects that will be submitted to DECCW following approval by Council (refer Appendix 1 - Proposed Priority Projects and Description). It is anticipated that the implementation of these projects will positively impact on Council's current level of service as they are additional sustainability improvements for which no funding currently exists within Council.

OPTIONS

A total of 30 sustainability projects were submitted by various Departments and Units within Council. Sixteen of these projects were selected as high priority projects for the 2010/11 WaSIP funding of which 12 directly address the mandatory standards. The high priority projects were subjected to a detailed assessment process conducted by an Assessment Panel and based on environmental, economic, social and governance criteria.

STRATEGIC LINKS

Annual Plan

<i>Principal Activity</i>	<i>Strategy or Program</i>	<i>Financial Line Item No and Description</i>
A More Sustainable Community	All priority projects will ultimately lead to a more sustainable community. Projects cover a range of approaches including infrastructure, policy, education and regulation.	Fully funded through 2010/11 WaSIP program.
A More Sustainable Economy	All projects that target energy and water savings within Council facilities lead directly to future cost savings for both Council and the community.	Fully funded through 2010/11 WaSIP program.
A More Sustainable Environment	All priority projects will ultimately lead to a more sustainable community. Projects cover a range of approaches including infrastructure, policy, education and regulation.	Fully funded through 2010/11 WaSIP program.
Infrastructure	All priority projects will ultimately lead to a more sustainable community. Projects cover a range of approaches including infrastructure, policy, education and regulation.	Fully funded through 2010/11 WaSIP program.
Organisation	All priority projects will ultimately lead to a more sustainable community. Projects cover a range of approaches to generate sustainable outcomes including infrastructure, policy, education and regulation.	Fully funded through 2010/11 WaSIP program.

Contribution of Proposal to the Principal Activity

Nil impact

Link to Shire Strategic Vision

<i>Priority Objective</i>	<i>How the proposal contributes or links to the Priority Objectives in Shire Strategic Vision and Annual Plan</i>
Communities - Communities will be vibrant, caring and connected with a sense of belonging and pride in their local neighbourhood.	Strategy 1.1 – Expand and support programs that increase participation among all ages. Two prioritised projects focus directly on participation in community sustainability education where participants develop specific knowledge and skills to lead more sustainable lifestyles. A broad range of participants from a variety of ages would be encouraged to attend the workshops.

<i>Priority Objective</i>	<i>How the proposal contributes or links to the Priority Objectives in Shire Strategic Vision and Annual Plan</i>
Travel - There will be ease of travel within the Shire, and to other regional centres and cities. Travel will be available at all hours and will be safe, clean and affordable.	No proposed WaSIP projects specifically target travel and transport issues.
Facilities and Services - Communities will have access to a diverse range of affordable and coordinated facilities, programs and services.	Strategy 3.1 – Provide and maintain local and regional community facilities for recreation, culture, health and education. Seven of the prioritised projects focus directly on developing more efficient and sustainable Council facilities and services. These include the Community Halls sustainability upgrades, the domestic waste audit, conserving energy in treating sewerage at Wyong South STP, proximity switches in the Civic Centre, energy reduction at Charmhaven depot, Wyong Pool – Pool Cover and an extended mattress recycling program at Buttonderry Waste Management Facility.
Education - The community will be well educated, innovative and creative. People will attain full knowledge potential at all stages of life.	Strategy 4.1 - Generate community awareness and behavioural change about the value of ongoing education and Strategy 4.2 Create programs that encourage lifelong learning for everyone. Two of the prioritised projects focus directly on participation in community sustainability education programs where participants develop their capacity, through enhanced knowledge, skills and confidence, to lead more sustainable lifestyles. It is anticipated that approximately 200 local residents will participate in Recycled Organics and Sustainable Wyong workshops.
Employment - There will be a strong and sustainable business sector and increased local employment built on the Central Coast's business strengths.	No proposed projects specifically target employment issues in the business sector, however, it is proposed that continued employment of a Waste and Sustainability Project Officer be funded through the 2010/11 WaSIP payment. This position will implement 2009/10 WaSIP projects and coordinate the collation, assessment and prioritization of proposed 2010/11 WaSIP projects. The position will fulfil all mandatory DECCW project and budget reporting requirements and submit applications for future WaSIP funding.
Telecommunications - Information communication technology will be consistent with world's best practice and adaptive to technological advances across all sectors.	No proposed projects specifically target telecommunications issues.

Priority Objective	How the proposal contributes or links to the Priority Objectives in Shire Strategic Vision and Annual Plan
<p>Natural Areas - Areas of natural value in public and private ownership will be enhanced and retained to a high level in the context of ongoing development.</p>	<p>Strategy 7.1 – Preserve threatened and endangered species as well as ecological communities and biodiversity. Three proposed projects were directly linked to protection and enhancement of the natural environment. The illegal dumping integrated plan, new metal litter bins at strategic locations, Sustainable Events and the Shelly beach staircase project all protect the natural environment through minimising dumping and littering as well as protecting biodiversity.</p> <p>Strategy 7.4 – Develop and implement strategies to reduce the Shire’s environmental footprint. The proposed Sustainability Indicator Framework project includes the development of a sustainability policy, the review of existing sustainability principles, and the development and adoption of sustainability KPI’s.</p> <p>Strategy 7.5 – Develop and implement a natural resources sustainability Strategy for Wyong Shire. As above.</p>
<p>Environmental Programs - There will be a sense of community ownership of the natural environment through direct public involvement with environmental programs.</p>	<p>Strategy 8.1 - Improve and promote public access to environmental areas. The proposed Shelly Beach staircase using recycled plastic decking combines biodiversity protection and education with improved access and the use of recycled building materials that minimise future maintenance.</p> <p>Strategy 8.2 - Establish and maintain projects and programs to encourage more active participation in community based environmental activities. Two of the prioritised projects focus directly on participation in community sustainability education programs. These workshops will be linked to complement each other. The proposed Recycled Organics workshops will cover composting, worm farming and use of chickens to recycle food and garden organics. The proposed Sustainable Wyong workshops will focus on organic gardening, eco footprints and food miles through linking to community gardens and seasonal produce.</p>

Financial Implications

All proposed priority projects are fully funded through the WaSIP program. The 2010/11 WaSIP funding totals \$741,997.94 with the sixteen proposed priority projects totalling \$741,525.00. Projects that assist Council to meet specific DECCW standards have been prioritised. Annual financial reports detailing actual expenditure must be submitted to DECCW by August 2011.

The Community Halls sustainability upgrade program priority projects will complement funding through The Regional Local Community Infrastructure Program (RLCIP), funded through the Department of Infrastructure, Transport, Regional Development and Local Government.

Principles of Sustainability

All proposed priority projects link to the principles of sustainability as they are specifically funded to *“assist councils in the regulated areas to invest in actions and on programs that will improve waste avoidance, resource recovery, the use of secondary resources and waste management outcomes, and that will deliver improvements in environmental sustainability across their local government area”* (DECCW WaSIP Guidelines 2010).

Links to the principles of sustainability are detailed below.

- **Lead by example and support action for sustainability** – All proposed priority projects show WSC leading by example in the areas of policy development, upgrades of community assets, energy and water conservation, waste avoidance and sustainable procurement through the use of recycled materials.
- **Integrate ecological, social and economic sustainability** - All proposed priority projects were assessed against a range of criteria which included environmental, social, economic and governance parameters. Priority projects target outcomes across these areas.
- **Focus locally in a global context** – All proposed priority projects focus on specific local responses to global environmental problems.
- **Build partnerships by engaging with and listening to the community** – Two proposed priority projects focus directly on community participation in sustainability education programs where participants develop specific knowledge and skills to lead more sustainable lifestyles. These programs also aim to develop community support networks.
- **Protect the environment to maintain healthy ecological systems** – Three proposed projects were directly linked to protection and enhancement of the natural environment. The Illegal Dumping Integrated Plan, new metal litter bins at strategic locations, the Sustainable Events Policy and the Shelley Beach REPLAS staircase all protect the natural environment through improving resource recovery, minimising illegal dumping and littering, as well as protecting biodiversity.
- **Apply good governance and improved processes and outcomes** – The staff consultation process undertaken this year to encourage staff to submit proposed projects for assessment, has been comprehensive and transparent. This process could be improved upon in 2011/12 by both allowing more time for submissions and developing improved project proposal forms which link more simply to assessment against nominated criteria.

CONSULTATION

A comprehensive internal consultation process was undertaken in developing a range of proposed projects. Staff from across Council were invited to nominate projects for funding under the WaSIP program and were supplied with detailed guidelines on the nature and scope of the program. This was followed up by regular emails and one major meeting to discuss the guidelines and the need to prioritise projects around meeting core DECCW standards.

Projects were assessed and prioritised by an Assessment Panel consisting of staff from the Waste Services and Sustainability Units against the DECCW standards, and then ranked against a range of criteria which included environmental, social, economic and governance parameters (refer Appendix 2).

Shortlisted proposed projects were then compared to total available budget based on the DECCW standards, the assessment criteria and available budget.

GOVERNANCE

Relevant legislation regarding the Waste and Sustainability Improvement Scheme is described in Part 5A of the *Protection of the Environment Operations (Waste) Regulation 2005* and the WaSIP guidelines produced by DECCW are closely followed.

Assessment of nominated project is undertaken by an Assessment Panel consisting of staff from the Waste and the Sustainability Units. The WaSIP program will be implemented collaboratively with key staff from across Council.

CORPORATE RISKS

Projects exceeding WaSIP funding allocation

All staff who nominated projects were advised that funding is limited to the nominated project amount and that no contingency funds would be available. Sound project management will mitigate the risk of over expenditure.

Failing to complete projects within the specified period

This risk can be mitigated by strong project management and record keeping that will allow early identification of projects at risk of being delayed. Permission can then be sought from DECCW to roll over unspent funds into the next financial year.

CONCLUSION

The purpose of this report is to seek Council's endorsement and support for 16 high priority projects as listed in Attachment 1. These projects have been selected through a detailed assessment process conducted by an Assessment Panel. These proposed projects will be submitted to DECCW for approval following endorsement by Council.

ATTACHMENTS

- | | | |
|----------|-------------------------------------------------------------------------|-----------|
| 1 | Copy of Attachment 1 - Proposed Priority WaSIP Projects and Description | D02401530 |
| 2 | WASIP ASSESSMENT CRITERIA 2010/11 | D02401531 |

Attachment 1 - Proposed Priority WaSIP Projects and Description

Rank	Main priority area the project addresses	Project title	Short description	Target / Outcome	Measure(s)	2010-2011 WaSIP \$
1	Energy/ Water	Community Halls Sustainability Improvement Program	<p>Installation of 10,000L water tanks for toilet facilities at four of the Shire's most heavily utilised community centres.</p> <p>Installation of 1.5kw solar panelling systems at eight of the Shire's most heavily utilised community centres.</p> <p>Upgrade works to improve energy efficiency:</p> <ul style="list-style-type: none"> • Heador St Hall -Construction of sky light at entrance to reduce lighting costs and energy consumption. • Tunkuwallin Hall- Replacement of walls and ceiling inclusive of insulation of roof, floor and external clad walls to reduce heating and cooling costs and energy consumption. • Kulnura Hall - Lining of stage walls/ceiling, lining of main hall ceiling to reduce heating and cooling costs and energy consumption. 	<p>1) Reduce heating and cooling costs and energy consumption by installing insulated ceilings and walls.</p> <p>2) Reduce electricity costs and consumption by installing solar panelling at various community centres.</p> <p>3) Reduce use of town water and associated costs by installing water tanks for toilet facilities at various community centres.</p>	<p>1) Installation/replacement of insulated walls and ceilings at various community centres.</p> <p>2) Installation of solar panelling at various community centres.</p> <p>3) Installation of water tanks for toilet facilities at various community centres.</p>	\$160,000
2	Waste	Domestic Waste Management Audit	Complete a household residual waste and recycling composition audit which is to be completed using the DECCW Kerbside	Waste Audit Completed to WaSIP requirements		\$80,000

Rank	Main priority area the project addresses	Project title	Short description	Target / Outcome	Measure(s)	2010-2011 WaSIP \$
			Audit Guidelines and WaSIP guidelines.			
3	Waste – Litter and Illegal Dumping	Provision of 35 metal litter bins	Provision of 35 metal litter bins in area where current plastic bins are regularly vandalised / stolen	<p>1. Reduce vandalism of litter bins</p> <p>2. Better result as bins will be on stands in problem locations. When the current plastic bins are vandalised / stolen there is at least two days after the bin is reported missing that the stand will have no bin attached. This leads to the potential for increased littering in reserves etc.</p> <p>A quote has been obtained to provide a computer model of the plant. This will enable the process of sewage treatment to be optimised and thereby lead to a better utilization of equipment and lower energy use. Data can also be obtained to determine the appropriate capital upgrades.</p>	1 Review the number of litter bins that need to be replaced in a monthly period. If these metal bins are installed in current problem locations there is the potential to significantly reduce the amount of time that stands will have no bins on them.	\$19,425
4	Energy	Wyong South STP Computer Model	The STP is operated on a semi-manual basis and there could be significant energy savings if the process is optimised.		Access to a computer model by system operators and analysts.	\$16,000
5	Energy	WCC proximity switches	Proximity switches can be installed at Wyong Civic Centre so that lights in passageways only operate as required.	Currently lights operate continuously from about 7am to 9pm and for some areas they are not required unless staff are in the area.	Reduction in use of lighting in passageways.	\$10,000
6	Depot and fleet services	Depot energy consumption reduction	To assist in the reduction of green energy purchased (2009/10 - \$600K) Purchasing green energy is an annual cost. Where reducing the amount of energy consumption is a one off	LED lighting – reduction of approx 15% lighting energy.	VRD- Measured energy reduction ranges between 25% and 31% lighting energy. A microprocessor controls and provides normal mains conditions for lamp starting then	\$20,000

Rank	Main priority area the project addresses	Project title	Short description	Target / Outcome	Measure(s)	2010-2011 WaSIP \$
			cost and adds value for the future. Utilising a Depot Energy consumption reduction plan through the use of energy efficient devices such as LED lighting for the workshops and voltage Reduction devices (VRD).		selectively reduces the voltage to the lighting circuits to reduce power consumption..	
7	Water	Wyong Pool – Water Saving	Provide a cover for the main 50m pool at Wyong pools.	<ol style="list-style-type: none"> 1. Provide a pool cover to reduce pool water evaporation loss by up to 97%. 2. Reduce the chemical usage because of the reduction of water evaporation. 	<ol style="list-style-type: none"> 1. Supply of a pool cover for the main 50m pool to reduce the amount of evaporation. 2. Reduce the amount of chemical usage due to the reduction of water evaporation. 3. Reduce mains water supply used to frequently top up the pool from evaporation. 	\$20,000
8	Energy	WCC sub metering	Installation of wireless sub-metering at Wyong Civic Centre to be able to obtain an accurate measurement of energy usage.	A system that is able to identify and report on the energy consumption throughout building, down to individual distribution boards. This will monitor the major pieces of equipment that use energy (e.g.: a/c units) and enable targeted improvements to be made. Wireless systems are cheaper to install and a computer is used to continuously monitor the readings.	Effective reporting on a 24hr/day 7 day/week basis.	\$50,000

Rank	Main priority area the project addresses	Project title	Short description	Target / Outcome	Measure(s)	2010-2011 WaSIP \$
9	Sustainability	Continue engagement of a temporary WaSIP Project Officer	The role of this officer is to implement of 2009/10 WaSIP projects and coordinate the collation, assessment and prioritization of proposed 2010/11 WaSIP projects.	<p>1. Increased awareness and understanding of sustainability principles across Council.</p> <p>2. The officer will fulfil all mandatory DECCW project and budget reporting requirements, and submit applications for future WaSIP funding which will total approximately \$5 million up until 2015/16.</p> <p>3. Coordinate the development and approval of 2010/11 WaSIP projects.</p> <p>3. Assist Council in developing future Waste and Sustainability projects in 2010/2011 and beyond as approved project funding allows.</p>	<p>1. Projects approved in 2009/10 implemented and completed.</p> <p>2. reporting completed for 2009/10 WaSIP</p> <p>3. 2010/11 projects coordinated and submitted to Council DECCW for approval</p> <p>4. Future Waste and Sustainability Projects developed for 2010/2011 and beyond.</p>	\$100,000
10	Waste	Illegal Dumping Campaign	<p>Develop an integrated plan and program addressing prevention, infrastructure, education and enforcement for littering and illegal dumping.</p> <p>Wyong Shire Council has spent over \$150 000 on time and resources responding too and cleaning up illegally dumped material. WSC aim is to develop a strategic approach which enables councils to respond and manage illegally dumped material.</p>	<p>1. To educate the community on how to dispose of waste.</p> <p>2. To reduce Council's expenditure, time and resources on resolving illegally dumped material.</p> <p>3. To identify hotspots.</p> <p>4. To prevent illegal dumping from occurring in targeted hotspots – physical barriers.</p> <p>5. To obtain specific base line data from aerial reconnaissance and ground truthing that will feed into Council's strategic direction in dealing with illegal dumping.</p> <p>6. To remove and remediate Council's assets of illegal dumped material</p>	<p>1. Expenditure spent on illegal dumping,</p> <p>2. Identified Hotspots are no longer being used,</p> <p>3. Community participation (Dob in a dumper).</p> <p>4. Legal action against offenders(court ,fines & notices)</p>	\$50,000

Rank	Main priority area the project addresses	Project title	Short description	Target / Outcome	Measure(s)	2010-2011 WaSIP \$
11	Waste	Recycled Organics Workshops	Organic waste comprises 60% of residual domestic waste and contributes to methane emissions as well as accounting for approximately 49% of the average household's eco-footprint. These workshops (composting, worm farming and chicken care) will develop the capacity of participants to develop strategies to avoid food waste and to set up closed loop, at source systems to turn organic wastes into resources.	<p>7. To promote WSC success in dealing with offenders, educating and remediating Council's land in response to illegally dumped material.</p> <p>1. Market and promote the workshops 2. Provide incentives to attend that provide the tool for behaviour change (compost bins or worm farms) 3. Deliver 5 x 3 hr workshops at a variety of community venues (100-150 participants) 4. Provision of ongoing support to participants 5. Evaluate the program and recommend improvements for 2011/12</p>	<p>1. Workshops promoted through Council avenues and local media (\$500) 2. Incentives provided to participants (6,600) 3. 5 x workshops delivered (\$5000 including venue and facilitators) 4. Document – number and type of enquiries, type and frequency of support 5. Evaluation complete and reported to management</p>	\$12,100

Rank	Main priority area the project addresses	Project title	Short description	Target / Outcome	Measure(s)	2010-2011 WaSIP \$
12	Sustainability	Sustainable Events Management Policy – Council run events	This project would assist council to promote and facilitate best practice waste management and sustainability practices at council run events within the LGA through waste avoidance, education and promotion.	<ol style="list-style-type: none"> Increased awareness and understanding of sustainability principles across Council run events. Reduce waste generated by events or recover waste as recyclable materials Educate the public on waste avoidance issues. Assist Council in developing future sustainable event management policies 	<ol style="list-style-type: none"> Recycling bin lids for events Recycling and educational signage for events Sustainable printing for events Educational sustainable giveaways for events Biodegradable packaging for events 	\$20,000
13	Sustainability KPI's	Sustainability Indicator Framework	<p>The project includes:</p> <ol style="list-style-type: none"> the development and introduction of a sustainability policy for Wyong Shire Council; the review of the existing sustainability principles; the development and adoption of sustainability KPI's to monitor and track progress of sustainability goals and targets. 	Development and introduction of a holistic sustainability framework for Wyong Shire Council	<ol style="list-style-type: none"> Sustainability Policy approved and introduced by the GM; Sustainability Principles reviewed by staff and re-launched; Adoption of KPI's to track progress in Wyong Shire Council principles 	\$30,000 for staff workshop facilitation and system development
14	Biodiversity Protection / Sustainable Procurement	Shelly Beach – Stair Case Recycled Plastic	<p>The project will involve the construction of a staircase for residents and visitors to access North Shelly Beach from the carpark off Oaks Ave. The staircase will be built using a timber frame and recycled plastic decking materials. Currently no formal beach access exists and visitors therefore access the beach along the shortest route causing significant damage to dune vegetation and subsequently erosion of the</p>	<p>The staircase will:</p> <ol style="list-style-type: none"> allow fragile dune vegetation to regenerate which is currently continuously being destroyed by visitors accessing the beach. Healthy vegetation will reduce dune erosion and create habitat promote use of recycled materials conserve finite resources including steel increase acceptance within Council of using recycled 	<ol style="list-style-type: none"> Approval obtained Construction contractor engaged Construction of stair case completed (length approximately 50 metre , timber structure, Replace decking) 	\$123,000

Rank	Main priority area the project addresses	Project title	Short description	Target / Outcome	Measure(s)	2010-2011 WaSIP \$
			dune. The project will also attempt to challenge and breakdown stereotypes within Council and the community regarding the use of recycled materials as they are perceived to be of lower quality than virgin materials.	materials in construction projects		
15	Food waste and eco-footprint	Sustainable Wyong Workshops	This will incorporate a series of grass roots education workshops. Designed to engage the community to learn about organic gardening, learning about eco footprints and food miles and how to cook basic meals sustainably using seasonal fruit and vegetables. Linking to the Love Food Hate Waste program and partnering with local restaurants / chefs. Programs can be linked to the local community gardens and local sources of seasonal fruit and vegetables.	<ol style="list-style-type: none"> 1. to raise awareness of waste issues 2. increase community connectedness and building capacity in the community to live sustainably 3. increase the concept of growing your own food 4. integrating waste management through composting and worm farming 5. reducing food waste going to landfill 6. raising the communities awareness of sustainable purchasing and cooking 	<ol style="list-style-type: none"> 1. Council to develop a program to cover waste and sustainability in relation to food 2. 6 x 3 hr workshops series run with approximately 20 participants per series (total approximately 60 people) 	\$11,000
16	Sustainable Consumption / Reuse & Recycling	Mattress Recycling	Council would like to introduce a mattress recycling program at the landfill in 2010/11. Each mattress contains approx 12.5kg of steel, 2kg of wood & 1.5kg of foam which is easily recycled. In the first instance quality mattresses will be sanitised for reuse by charities. Mattresses that cannot be reused will be recycled. A short term trial indicates that in the transfer area alone Council is	<ol style="list-style-type: none"> 1. To promote the acceptance of the life cycle management of consumer goods. 2. To promote reuse of goods and support local charities. 3. To promote recycling of materials including; metal springs, wood, rubber and materials. 4. Save landfill space and improve landfill operations as the springs in mattresses do 	<ol style="list-style-type: none"> 1. Mattress Recycling Contractor Engaged 2. Mattresses collected from the waste stream in the transfer station and set aside for recycling 3. Mattresses recycled through contractor 4. Records kept of numbers of mattresses and costs associated with the program 	\$20,000

Rank	Main priority area the project addresses	Project title	Short description	Target / Outcome	Measure(s)	2010-2011 WaSIP \$
			receiving approx. 100 mattresses per month. Promotion of the benefits will also give staff & customers the chance to accept the additional costs and times associated with mattress recycling.	not compact in the landfill and cause the compacting equipment difficulties.		
					TOTAL	\$741,525

ATTACHMENT 2 – WASIP ASSESSMENT CRITERIA 2010/11

WaSIP Assessment criteria 2010/11		
	These criteria were developed through a collaborative process which considered a range of existing tools and processes including Wyong Sire Council Project Assessment Tool, Ryde Project Sustainability Assessment Protocol and broader guidance in the Institute of Sustainable Futures (ISF) - Sustainability Tool Selector.	
QUALITATIVE QUESTIONS		
1	Is the project required to meet the WaSIP standards (Projects that are required to meet the standard are automatically prioritised)	
2	Does it assist to meet the WaSIP standards? (has the potential to be prioritised)	
3	Does the project clearly assist council to manage waste or create sustainability outcomes?	
4	Can it take place if there are no WaSIP funds available?	
5	Will it require more than 1 yr WaSIP funding?	
6	Is it capable of becoming self sustaining (financially) in the future?	
QUANTITATIVE SCORING AGAINST CRITERIA (out of 5)		
1	= significant negative impact	
2	= negative impact	
3	= neutral impact	
4	= positive impact	
5	= significant positive impact	
ENVIRONMENTAL		Score (5)
1	Does the project design integrate energy or resource efficiency (such as natural lighting, water harvesting and reuse, renewable energy, solar energy)	/ 5
2	Does the project aim to avoid damage to, or actively protect, the natural environment? (this could include maintaining biodiversity, limiting clearing and minimising littering or illegal dumping)	/ 5
3	Does the project consider the life cycle assessment and embodied resources of selected materials and processes? (these may be hard / impossible to measure accurately BUT have they been factored in)	/ 5
4	Does the project consider the hierarchies in waste, water and energy where avoiding outputs (consumption reduction), is followed by reuse, resource recovery, recycling / replacement or offsets etc? (i.e. targeting most efficient methods of creating initial change and savings)	/ 5
SOCIAL		
5	Does the project improve community well being, safety and access for all? (Providing facilities, infrastructure, improved amenity, improved access, reduced crime and enhanced connectedness)	/ 5
6	Does the project deliver improved internal or external community involvement processes or outcomes? (Through improved relationships, partnerships or community cohesiveness?)	/ 5
7	Does the project develop community capacity to live more sustainably? (Through encouraging increased participation, developing knowledge, skills and motivation or by generating behaviour change)	/ 5
ECONOMIC		
8	Does the project maximise the opportunity to reduce the financial implications of greenhouse emissions? (Does it assist with climate change mitigation or adaptation processes)	/ 5

9	Does the project consider both short and long-term financial implications to council and the community? (through using the Buy Local policy or Sustainable Choice recommendations)	/ 5
10	Does the project assist in asset management business decisions that facilitate long term asset management (from Operations - Finance Plan) (will it save on maintenance costs or management processes or enhance the asset over time)	/ 5
11	Does the project assist in implementing frameworks for budgeting and planning which include sustainability principles in the decision – on both a long term planning and operational level (from Operations - Finance Plan) (self explanatory)	/ 5
GOVERNANCE / ORGANISATIONAL / STRUCTURAL FUNCTION		
12	Can the project be modified if necessary under future climate change scenarios? (Is the project able to be adapted under varied circumstances)	/ 5
13	Does the project demonstrate 'best practice' or provide a good example that can be learnt from and replicated? (Can this project be replicated in other facilities or by other councils)	/ 5
14	Does the project demonstrate a collaborative approach with relevant internal stakeholders? (Does it encourage integration, cooperation and strategic alignment)	/ 5
15	Does this project assist in implementing balanced range of tools for sustainability.(i.e does it add to the balance of policy, infrastructure, education, regulation approaches)	/ 5
16	Does the project overall reflect Council's long-term vision? (by providing leadership, transparency, integration and greater community involvement etc)	/ 5
		80

6.6 Acid Etching of Tiles at The Entrance Town Centre

TRIM REFERENCE: M2010/07982 - D02416349
MANAGER: Mike Long, Manager Contracts and Special Projects
AUTHOR: Gary Kinney, Engineer, Contracts and Special Projects

SUMMARY

Report on acid etching of reconstituted granite tiles at The Entrance Town Centre.

RECOMMENDATION

That Council approve acid etching of the tiles at The Entrance Town Centre by the Glason Group in the lump sum amount of \$37,753.73 (excl GST) for the pedestrian area tiles along The Entrance Road between the Coral Street/ Marine Parade intersection south to Denning Street.

BACKGROUND

The tiling in the pedestrian areas at The Entrance Town Centre was constructed in 1996 as part of the project to redevelop the town centre. The tiles are constructed of reconstituted granite which provides a hard wearing, durable and relatively easy surface to clean.

Associated with such a hard and dense wearing surface on the tiles is the need to periodically acid etch the surface to improve the skid resistance under wet conditions. Without periodic etching the tile surface tends to "polish" under the wear of pedestrian use and the abrasive action of the various cleaning techniques and the tiles present a higher risk of slips in wet weather. The contribution of the tiles to the risk of slipping in dry conditions is very low.

The Entrance Town Centre Inc is charged with the responsibility of cleaning the tiled areas. The responsibility for undertaking and funding actions such as the etching of the tiles rests with Council. The Entrance Town Centre Board has resolved to approach Council with a request to fund etching of the tiles in the steeper pedestrian areas in the town centre following an increasing incidence of reported slips.

THE PROPOSAL

The proposal is to acid etch the tiles in the steeper pedestrian areas of the town centre, which are the areas south of the Marine Parade/ Coral Street intersection to the area around Denning Street. This is approximately half of the total 10,000 square metres of tiling in the town centre. The other half of the tiled area north of the Marine Parade/Coral Street intersection is on relatively flat grades and presents a lower risk of contributing to slips in wet weather.

In accordance with Council's procurement procedures, three quotations were sought to a detailed specification for the work. The lowest price received and preferred offer was from the Glason Group in a lump sum amount of \$37,753.73 (excl GST).

OPTIONS

Other options to improve skid resistance are abrasive blasting and grinding of the tile surface. While achieving significant increases in the skid resistance values, the treatment is destructive to the expansion jointing in the tiling system and the mortar grouting between the tiles. The cost of repair of both of these components of the tiling system makes the treatment impractical and uneconomical. The other significant disadvantage of these options is the resulting tile surface is so rough it traps dirt, oils and grease and is very hard to clean and to keep clean. This results in a significant increase in cleaning costs.

STRATEGIC LINKS

Annual Plan

<i>Principal Activity</i>	<i>Strategy or Program</i>	<i>Financial Line Item No and Description</i>
A More Sustainable Economy	Town Centre Refurbishments	2.1.9

Contribution of Proposal to the Principal Activity

The proposal will contribute to the Principal Activity by ensuring that visitors to The Entrance Town Centre are provided with a safer pedestrian surface to walk on. A safer environment will reinforce visitation to the centre and support the commercial viability of businesses and the local economy.

Link to Shire Strategic Vision

<i>Priority Objective</i>	<i>How the proposal contributes or links to the Priority Objectives in Shire Strategic Vision and Annual Plan</i>
Communities - Communities will be vibrant, caring and connected with a sense of belonging and pride in their local neighbourhood.	Nil Impact
Travel - There will be ease of travel within the Shire, and to other regional centres and cities. Travel will be available at all hours and will be safe, clean and affordable.	Nil Impact
Facilities and Services - Communities will have access to a diverse range of affordable and coordinated facilities, programs and services.	Nil Impact

Priority Objective	How the proposal contributes or links to the Priority Objectives in Shire Strategic Vision and Annual Plan
Education - The community will be well educated, innovative and creative. People will attain full knowledge potential at all stages of life.	Nil Impact
Employment - There will be a strong and sustainable business sector and increased local employment built on the Central Coast's business strengths.	The proposal will contribute to the Priority Objective by ensuring that visitors to The Entrance Town Centre are provided with a safer pedestrian surface to walk on. A safer environment will reinforce visitation to the centre and support the commercial viability of businesses and the local economy.
Telecommunications - Information communication technology will be consistent with world's best practice and adaptive to technological advances across all sectors.	Nil Impact
Natural Areas - Areas of natural value in public and private ownership will be enhanced and retained to a high level in the context of ongoing development.	Nil Impact
Environmental Programs - There will be a sense of community ownership of the natural environment through direct public involvement with environmental programs.	Nil Impact

Financial Implications

Funding is available from line 2.1.9 in the Annual Plan that has been created for infrastructure refurbishment and repair for The Entrance, Toukley and Wyong Town Centres.

Principles of Sustainability

The proposal will have a positive effect on the attractiveness of The Entrance Town Centre as a place to visit for recreational purposes. This will support the commercial viability of businesses and the local economy.

CONSULTATION

The Entrance Town Centre Board has passed a resolution to ask Council to fund the acid etching.

GOVERNANCE

Procurement of a service provider for the proposal is governed by Council's Procurement Policy and Procedures.

CORPORATE RISKS

The proposal will decrease Council's risk profile associated with claims for loss suffered as a result of injury from Council infrastructure.

CONCLUSION

The proposal to acid etch the tiles at The Entrance Town Centre will decrease the risk of Council facing claims for loss as a result of injury from slipping on the tiles. It will also make the centre a safer and more attractive place to visit with the associated benefit to commercial activity of the businesses and the local economy.

ATTACHMENTS

Nil.

6.7 Further Update Report on Future Directions for Body Hire Services for Wyong Shire Council

TRIM REFERENCE: F2006/01523 - D02419537

MANAGER: Mike Long, Manager Contracts and Special Projects

AUTHOR: Margaret Collins, PA Manager Contracts and Special Projects

SUMMARY

This report provides a further interim update on actions taken to implement the Resolutions in the report to Council on "Body Hire" services tabled at the Ordinary Meeting held 26 May 2010.

RECOMMENDATION

- 1 That Council receive the report on Further Update Report on Future Directions for Body Hire Services for Wyong Shire Council.**
- 2 That Council receive a further report at the Ordinary Meeting of 8 December 2010 on the phasing out of Mardi to Mangrove Link contractors and engagement of a management team.**

BACKGROUND

At the Ordinary Meeting held 22 September 2010 updated information was provided on the progress of various actions required for the phasing out of "Body Hire" arrangements within Council, and the greater engagement of staff under fixed term employment contracts or the Award. At that meeting it was resolved unanimously on the motion of Councillor WYNN and seconded by Councillor BEST:

“That Council receive the report on Further Update Report on Future Directions for Body Hire Services for Wyong Shire Council.”

This report provides a further interim update on progress towards implementing Council's resolutions, and follows the format of similar status reports to Council meetings on 28 July 2010, 25 August 2010 and 22 September 2010.

CURRENT STATUS

At the Ordinary Meeting of 26 May 2010 it was resolved unanimously on the motion of Councillor EATON and seconded by Councillor GRAHAM:

- “1 That Council endorse the proposed corrective actions to:
 - a Phase out the current "Body Hire" arrangements and only use a public tender process and/or the tendering exempt State Contract Control Board and Local Government Procurement contracts for any new temporary professional services.**

6.7 Further Update Report on Future Directions for Body Hire Services for Wyong Shire Council (contd)

- b As a matter of urgency, advertise to recruit specialist Project Managers as staff under fixed term employment contracts or the Award.*
- c As a matter of urgency, ensure project management services contracts for specific projects or groups of projects are on a fixed time and price basis by either open public tender or tender exempt Crown entities.*
- 2 That Council decline to accept any of the tender/s dated 3 September 2009 for contract CPA/166101 – Provision of Temporary Professional Services and cancel the proposal for the contract.*
- 3 That Council report to the Department of Local Government on its actions associated with the current “Body Hire” arrangements.*
- 4 That a further report be provided to Council on the implementation of the corrective actions in July 2010.*
- 5 That Council reaffirm its position of preferring standard wage based employment and avoiding so called “Body Hire” arrangements.*

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

AGAINST: NIL”

Further actions taken in response to meeting the Resolutions from the Ordinary Meeting of 26 May 2010 are detailed below.

Resolution 1a – PHASING OUT OF CONTRACTORS

Current engagements of “Body Hire” contractors within Council (with the exception of the Mardi to Mangrove Link projects) were all terminated by 31 October 2010.

Resolution 1b – ADVERTISING FOR STAFF

Letters of Offer for fixed term contracts of service (employment contracts) have been made to three applicants for Project Director positions and six applicants for Project Manager positions within the Contract and Project Management Unit. At the time of writing this report the status of acceptances is as below.

All six Project Manager positions and two Project Director positions have been filled. These staff had all commenced in their new positions by 1 November 2010. The third Project Director position is in the final stages of negotiation with the applicant.

Mardi to Mangrove Link Project

Council’s largest infrastructure project, the Mardi to Mangrove Link (MML) project, currently has a number of key management positions filled under “Body Hire” arrangements. To affect the resolution made by Council at its meeting of 25 August 2010 of phasing out all of the current contractors by 30 November 2010, public tenders were invited in September 2010 for the provision of a Project Management team to fill all positions currently occupied by "Body Hire" personnel on that contract.

Tenders closed on 14 October 2010 and have been closely reviewed. The detailed tender assessment and discussions with short-listed tenderers have required more time for detailed assessments than originally envisaged. A final report and recommendation on the project team will now be presented to Council at the Ordinary Meeting of 8 December 2010.

Review of Procurement Processes

Council has engaged an independent external consultant, Deloitte, sourced through the NSW Government Pre-Qualification Scheme: Performance and Management Services, to provide an independent review of Council's contracting and tendering arrangements. The consultant has undertaken a gap analysis of Council's current procurement systems and processes compared to an appropriate best practice benchmark.

Due to delays in the receipt of the final draft consultant's report, consideration of the key findings and recommendations has also been delayed. To allow proper assessment and review it is now proposed that a further report will be brought back to Council in January 2011.

Implications of the Transition Period

The final engagement of several new project management staff was unfortunately not achieved until 1 November 2010, after the termination of all "Body Hire" contractors. As a result there will be a period where projects are delayed as the new staff become familiar with Council's processes and procedures and progress these projects.

A future report to Council will be provided to consider any implications on current and future works programs.

ATTACHMENTS

Nil.

6.8 Contract Variations and Finalisation - September 2010

TRIM REFERENCE: D02403983

MANAGER: Lesley Crawley, Manager Governance and Administration

AUTHOR: John McCarthy, Co-ordinator, Supply

SUMMARY

This paper reports on variations, proposed variations or finalisations to contracts with a value greater than \$150,000 (excl GST).

The report covers contract variations and finalisations processed in September 2010.

RECOMMENDATION

- 1 That Council receive the Contract Variations and Finalisation September 2010 report (Attachment 1).**
- 2 That Council approve additional expenditure above resolved estimates for the following contract:**

Contract Title	Contract No	Additional Expenditure
Concept Design, Detail Design and Tender Documentation for Toukley STP Inlet Works Upgrade	136486	\$1,380.00

- 3 That Council note the additional expenditure requested will be funded from Water and Waste Budgets.**

BACKGROUND

Contracts entered into by Wyong Shire Council (WSC) are awarded either by Council resolution or under delegated authority. The Local Government Act 1993 (s.55) requires that contracts of an estimated value greater than \$150,000.00 (excl GST) must be publicly tendered and approved by Council resolution.

Contracts of an estimated value less than \$150,000.00 (excl GST) are awarded under delegations made by Council to the General Manager or his/her delegate.

Contracts routinely require variations during the course of the contract due to unforeseeable circumstances, changes in design or changes in service demand on the finished product.

All contracts commonly include a contingency sum to cover unforeseen changes. It is generally expressed as a percentage of the contract value, normally 10% of the contract value, but varies between 5% and 30%, or expressed as a specific dollar value.

The need to vary contracts (explained above) arises out of differences in estimating strategies where two extremes denote a range of risk that offers WSC a choice of budget/estimate methodology.

WSC estimates on the basis of known costs of assessment, design and construction - an approach which allows budgets to maximise the number of works in an annual program at the optimal risk level of programs being materially curtailed as unforeseen needs arise.

Budgets for projects are established within the Annual Plan. When tenders are called, specific approvals are sought from Council in accordance with s.55 of the Act. It is not uncommon for additional approvals to be sought within the approved project budget as unforeseen (from the tender approval) changes occur in the works.

THE PROPOSAL

The report for the September 2010 period includes a requirement to seek Council's formal approval for additional funding to ensure compliance with s.55 of the Local Government Act.

Due to the complexity of variations associated with contract CPA/166763 - Construction of Mardi Dam Transfer Station and High Lift System a separate Council report will be provided to detail the extent of variations associated with this contract.

Summary for September period.

Contracts reported for September 2010	4
Contracts requiring increase to the contract budget estimate	1
Contract where current funds are sufficient to complete	3
Contracts finalised in period	0

OPTIONS

The variations reported in Attachment 1 were required to ensure the reported contracts could be progressed in a timely and effective manner to deliver best value for Council and ensure compliance with the contract conditions.

Council's endorsement of, and approval to, these variations is the recommended option to ensure sufficient approved funds are available for contract payments to be made.

STRATEGIC LINKS

Strategic links for the various contracts were identified in the initial assessment and approval reports for each contract.

Financial Implications

Additional expenditure for the Concept Design, Detail Design and Tender Documentation for Toukley STP Inlet Works Upgrade contract can be funded from existing operational & capital budgets for Water & Waste.

Principles of Sustainability

This proposal applies good governance improving WSC processes by being consistent and demonstrating a sound basis for the variation of contract estimates to ensure better outcomes for the community via appropriate allocation of resources.

CONSULTATION

Nil Impact.

GOVERNANCE

These contract variations are reported to Council to ensure compliance with Section 55 of the Local Government Act.

CORPORATE RISKS

This report contributes to the mitigation the following risks identified in WSC Risk Register:

Identified Risk	Rating	Actions to Mitigate
Budget Control Inadequate budget control that creates significant funding shortfalls leading to an inability to provide priority services. (shorter-term consequence)	Moderate	Monthly reporting of variations.
Legislative Requirements WSC non-compliance with legislative requirements leading to penalties, civil claims and/or contractual disputes.	Low	- Monthly reporting of variations. - Local Government Act requirements in relation to Tenders.

CONCLUSION

Variations detailed in this report are driven by “normal” contract issues.

The contracts are generally within their planned expenditure in terms of coverage quantity and quality albeit some may exceed the time frames originally calculated for the schedule estimates.

ATTACHMENTS

- 1 Contract Variations September 2010 D02404013

Concept Design, Detail Design and Tender Documentation for Toukley STP Inlet Works Upgrade

Contract Number	Date of Council Approval	Contractor	(a) Approved Contract Value	(b) = (a) + contingency Total Approved Budget	(c) Value of Variations Previously Reported	(d) Value of Variations For Reporting Period	(e) = (c) + (d) Total Value of Variations	(f) = (a) + (e) Actual Contract Value	Source of Funds	Expenditure to Date
136486	20/03/2008	AECOM Pty Ltd	149,139.00	164,052.90	27,404.00	1,380.00 (see below)	28,784.00	177,923.00	Sewer Capital Works – Management Plan Line 4.4.9	177,923.00
Individual Variations For Reporting Period										
Description								Value	Description	
Variation 4 Scope change								\$		
Additional design advice required during construction from design consultant.								1,380.00		
Work under the contract is 100% complete.										
An increase to the contract budget of \$1,380.00 is sought to meet outstanding costs for additional design advice. With the information currently available no further variations are anticipated.										

Construction of Mannering Park STP Inlet Works

Contract Number	Date of Council Approval	Contractor	(a) Approved Contract Value	(b) = (a) + contingency Total Approved Budget	(c) Value of Variations Previously Reported	(d) Value of Variations For Reporting Period	(e) = (c) + (d) Total Value of Variations	(f) = (a) + (e) Actual Contract Value	Source of Funds	Expenditure to Date
159880	22/07/2009	Eire Contractors Pty Ltd	\$ 1,191,000.00	\$ 1,369,000.00	\$ 47,924.00	\$ 5,434.00	\$ 53,358.00	\$ 1,244,358.00	Sewer Capital Works – Management Plan Line 4.4.9	\$ 1,242,798.00
Individual Variations For Reporting Period										
		Description	Value \$	Description	Value \$					
Variation 8	Scope change	Connect additional 50mm inlet main to new inlet works. This rising main services the local coal mine and its location was not identified at design stage.	2,374.00	Variation 9	Scope change					
Variation 10	Scope change	Supply and install weather protection awnings over access doors to electrical room to minimise weather intrusion and extend life of exterior doors.	1,560.00		Supply and install five bollards as protection to odour extraction equipment from possible damage by site maintenance vehicles and large mowers.					
					1,500.00					

Work under the contract is estimated at 99% complete.

With the information currently available the contract budget as approved by Council is considered sufficient. No increase to the contract budget is therefore sought.

Excavation and Lining of Cell 4.2B - Buttoderry Waste Management Facility

Contract Number	Date of Council Approval	Contractor	(a) Approved Contract Value	(b) = (a) + contingency Total Approved Budget	(c) Value of Variations Previously Reported	(d) Value of Variations For Reporting Period	(e) = (c) + (d) Total Value of Variations	(f) = (a) + (e) Actual Contract Value	Source of Funds	Expenditure to Date
164633	22/07/2009	Robson Civil Projects Pty Ltd	\$ 3,988,986.00	\$ 5,000,000.00	\$ 107,533.00	\$ 30,995.00	\$ 53,358.00	\$ 138,528.00	Cell Area Site Works 4.5.13	\$ 4,127,515.00
Individual Variations For Reporting Period										
		Description	Value \$	Description	Value \$					
Variation 7	Scope change	Increase height of leachate riser, place select fill around it for stability during placement of waste into cell and connect to end wall of cell. Undertaking this work under the contract realised opportunity to minimise plant hire costs and complete the work at best price prior to placement of first waste lifts in the cell and expedited readiness of cell to receive waste.	28,280.00	Variation 8 Latent condition Repeated saturation of subgrade under leachate collection well during wet weather period required direction to contractor to place concrete under well to provide a solid base and allow work to proceed. This direction eliminated risk of contract delay claim and expedited completion of waste cell in extended wet weather conditions.	2,715.00					

Work under the contract is estimated at 98% complete.

With the information currently available the contract budget as approved by Council is considered sufficient. No increase to the contract budget is therefore sought.

Estuary Management Plan Stormwater Treatment Works Project Loxley Close, Berkeley Vale.

Contract Number	Date of Council Approval	Contractor	(a) Approved Contract Value	(b) = (a) + contingency Total Approved Budget	(c) Value of Variations Previously Reported	(d) Value of Variations For Reporting Period	(e) = (c) + (d) Total Value of Variations	(f) = (a) + (e) Actual Contract Value	Source of Funds	Expenditure to Date
171473	9/12/2009	Scape Constructions Pty Ltd	\$ 203,350.00	\$ 233,350.00	Nil	\$ 19,357.00	\$ 19,357.00	222,707.00	Implementation of Estuary management plan 3.2.8	\$ 203,171.00
Individual Variations For Reporting Period										
Description							Value \$	Description	Value \$	
Variation 1 Scope change										
Installation of additional 38 metres of rock armouring along drainage channel. Work was required to further enhance and complement erosion control measures implemented following further site evaluation.							19,357.00			
Contractor's price was competitive and represented good value to Council.										

Work under the contract is estimated at 100% complete.

With the information currently available, the contract budget as approved by Council is considered sufficient. No increase to the contract budget is therefore sought.

6.9 Staff Recognition Dinners

TRIM REFERENCE: F2004/00272 - D02387970
MANAGER: Marie Hanson-Kentwell, Manager, Human Resources
AUTHOR: Maree Wheelahan, Executive Assistant, Human Resources

SUMMARY

Staff recognition dinners are held annually to acknowledge employees with significant service and is reported for review and consideration.

RECOMMENDATION

That Council review and endorse the continuation of Staff Recognition Dinners for 10, 15, 20 and 25 years service.

BACKGROUND

Staff recognition dinners are held annually in the Tony Sheridan Multi Purpose Function Room and staffed by Council employees.

25 Year Club

Staff who have attained 25 years employment with Council are invited annually to the event and are referred to as the 25 Year Club.

As at 2009 there were seventy five (75) 25 Year Club members who were entitled to attend with their partners, together with 10 Councillors, the General Manager and Directors with their partners.

A three course meal and bar service (wine, beer, soft drinks) is provided and either Taxi's or Courtesy Bus return transport is offered to all attendees.

New staff members joining the Club are also presented with a gift to the value of \$250, a certificate and a small gift is presented to their partner. In 2009, 10 new staff members joined the club.

10, 15, 20 Year Dinner

All staff who have been employed by Council for 10, 15 or 20 years on their anniversary year are invited to an annual dinner.

Numbers vary each year, however, in 2009 there were 121 staff members who were entitled to attend the dinner with their partners, together with Councillors, the General Manager and Directors with their partners. From the 121 staff eligible to attend in 2009, 45 attended with their partners.

A three course meal and bar service (wine, beer, soft drinks) are provided and certificates of service are presented to each staff member.

THE PROPOSAL

That Council consider the continuation of annual staff recognition dinners.

OPTIONS

- 1 That the 25 year dinner becomes a one off celebration like the other milestones with a certificate of service rather than an annual event for club members.
- 2 That Council agree to the continuation of staff recognition dinners for 10, 15, 20 and 25 years service with no change.
- 3 That staff recognition dinners cease.
- 4 That Council recognise long standing staff by an alternative means.

STRATEGIC LINKS

In an environment where there are currently limited opportunities to reward staff members, this celebration is a valuable acknowledgement of long serving staff members. Also, in an environment where we have a high ageing workforce and where the candidate market for experienced talent is small, it is sensible to acknowledge staff commitment to then have the potential to utilise long serving staff in future employment arrangements that suit the needs of the organisation, for example, phased retirement, part-time, casual, contract projects, especially when the organisation will continue to experience growth.

Financial Implications

The cost of the two functions are dependent on the number of employees eligible to attend and the number of acceptances. It has been advised that \$4,500 per function (\$9,000 per year) may be considered an average amount. The costings for the 2009 dinners are below as an example:

Expenses for the 25 year service dinner held on 13 November 2009 for approximately 75 guests and partners:

25 Year Service Dinner Expenses	Cost
Taxi/Bus charges	\$990.00
Food and Refreshments – bar service (wine, beer, soft drinks)	\$4376.88
Table arrangements	\$375.00
Gift to new 25 year members partners	\$179.44
Gifts to new members \$250 by 10	\$2,500.00
Staff wages – working on night as bar staff and waiters	\$2,816.98
Invitation and certificates prepared by Copy Shop	In-house
TOTAL	\$11,238.30
Approximately \$75 per person	

Expenses for the 10, 15, 20 years service dinner held on 23 October 2009 for 45 guests and partners:

10, 15, 20 Year Service Dinner Expenses	Cost
Food and Refreshments – bar service (wine, beer, soft drinks)	\$4,389.83
Table arrangements	\$400.00
Staff wages – working on night as bar staff and waiters	\$3,344.72
Invitation and certificates prepared by Copy Shop	In-house
TOTAL	\$8,134.55
Approximately \$90 per person	

Principles of Sustainability

Nil impact

CONSULTATION

Internal consultation with Corporate Services, General Manager's Unit and key staff involved.

GOVERNANCE

Nil

CORPORATE RISKS

Nil

CONCLUSION

Staff recognition dinners are an important occasion to value long service and reward employees for their commitment to Council.

ATTACHMENTS

Nil.

6.10 Union Picnic Day

TRIM REFERENCE: f2004/00303 - D02420224
AUTHOR: Marie Hanson-Kentwell, Manager, Human Resources

SUMMARY

Reporting arrangements for Union Picnic Day.

RECOMMENDATION

- 1 That Council support the practice of granting Union Picnic Day to non union members for the 2010 Union Picnic Day as a paid leave day.**
- 2 That Council endorse the General Manager giving notice to staff that the practice will be reviewed for 2011 and future years.**
- 3 That Council agree the date for future Union Picnic Day recognise the community and business needs of Wyong Shire.**
- 4 That Council notify the community of this local government holiday.**

BACKGROUND

The Local Government (State) Award (the Award) grants Union Picnic Day as an additional holiday for union members. The Award states:

18 B. UNION PICNIC DAY

- “(i) Union Picnic Day shall for the purposes of this award be regarded as a holiday for employees who are financial members of the union(s). The Union Picnic Day shall be on such day as is agreed between the council and the union(s).”*
- “(ii) The union(s) shall advise the council of financial members as at the time of the Union Picnic Day. Such advice must be given at least two weeks prior to the Union Picnic Day.”*
- “(iii) Employees who are not financial members of the union(s) and who are required to work on Union Picnic Day shall be paid ordinary pay for their normal working day.”*
- “(iv) Employees who are not financial members of the union(s) and who are not required to work on Union Picnic Day, may apply to council to take annual leave, time off in lieu of overtime, leave without pay, such other leave as may be approved by council, or may be required by council to make up time.”*

In accordance with Clause 18B (i) above Picnic Day is held on a day agreed between the council and the union(s). Historically Wyong Shire Council (WSC) Picnic Day is scheduled on the first Friday in December. This day is held in conjunction with Gosford City Council.

6.10 Union Picnic Day (contd)

WSC past practice has been to also grant non-union members the additional holiday on the scheduled Picnic Day.

Past practice also ensures that minimum but sufficient staff work on Picnic Day so as not to impact the services to the community. In addition, the staff on-call service is available. Any staff member (union or non-union) that is required to work on the day is given an alternate day in lieu and paid and additional half day rate or paid at overtime rates.

The rationale for granting the same benefit to non union members in the past is not clear however when WSC was previously subject to Federal legislation, the Local Government Association advised that excluding non union members may be in conflict with the Freedom of Association provisions of the Federal Fair Work Act.

The local branch of the Indoor United Services Union has passed a motion at their October 2010 meeting and advised the WSC Consultative Committee that the members are opposed to the granting of the Union Picnic Day to non union members.

Due to the consistent Picnic Day practice over the years there has been no specific communication to the community about Picnic Day. No community feedback has been received in respect to levels of service available on the day and no specific incidences have been recorded which would affect the image of WSC and it is considered that the community are likely to be unaware that minimum staff are available on the day.

THE PROPOSAL

It is proposed to continue the past practice of granting the same Picnic Day provisions to both union and non-union staff for the 2010 Picnic Day and undertake to conduct a review of the practice for 2011 and future years.

Matters that would be considered under the review are:

- The levels of service available on the day
- Availability of key staff to work on the day
- Entitlements for those staff required to work on the day
- Appropriate date for the day
- Cost to WSC
- Non – union member entitlements
- The provisions granted by other councils

The review will also enable sufficient time for staff to be informed of the provisions of the award and any agreed WSC provisions. In addition over the last couple of months there has been a significant amount of work place change. The change has been managed in positive consultation with the unions and staff. Changing the premise and conditions around picnic day for 2010 is not considered appropriate given the current change environment.

OPTIONS

Council has the following options:

- 1 Continue with past practice and grant equal benefits to staff for Union Picnic Day for 2010 and give notice to staff that a review of the provisions will occur in 2011 with a view to the General Manager establishing a stance for future years.
- 2 Apply the provisions of the Award to Union Members only.

STRATEGIC LINKS

The proposed review will ensure that the Picnic Day holiday will provide appropriate levels of service to the community.

Financial Implications

A preliminary assessment of financial impact is provided below however a more comprehensive assessment would be provided as part of the review, which would also require the Union to submit membership numbers.

It is estimated that 20% of the FTE (1072.5) are non members and the estimated direct cost of paid leave would be:

$$1072.5 \times 20\% \times (\text{estimated average hourly rate}) \$50 \times (\text{average daily hours}) 7.3 \text{ hrs} \\ = \text{estimated } \$78,292.50$$

Savings on penalty rates could occur by ensuring where possible the use of non union members (provided they have the appropriate skills) to maintain the essential services required.

Principles of Sustainability

Nil Impact

CONSULTATION

Advice from Union representatives is received via the WSC Consultative Committee.

GOVERNANCE

The provisions relating to Picnic Day are prescribed in the Local Government (State) Award. The General Manager is responsible for the determination in respect of staff entitlements in accordance with the provisions of Section 335 of the Local Government Act.

CORPORATE RISKS

Nil impact.

CONCLUSION

Due the amount of current workplace change, the positive and productive relationship with the Union and that it has been practice to grant Picnic Day benefits to non union members for many years it is considered appropriate that past practice should be continued for 2010 to ensure informed options are made and reasonable notice, of a review of Picnic Day provisions for 2011 and beyond, be provided.

ATTACHMENTS

Nil.

6.11 Proposed Councillors' Community Improvement Grants

TRIM REFERENCE: C2010/01723 - D02406188
MANAGER: Lesley Crawley, Manager Governance and Administration
AUTHOR: Susanna Gardiner, Administration Assistant

SUMMARY

Councillors propose the following allocation of funds for expenditure from Councillors' Community Improvement Grants (CCIG).

RECOMMENDATION

That Council allocate an amount of \$2,500.00 from the 2010-11 Councillors' Community Improvement Grants as outlined in the report.

BACKGROUND

Provision has been made in Council's Annual Plan for each Councillor to recommend to Council the donation of funds to individuals, local service, charitable or community organisations that operate in the Shire or provide a benefit specifically to the residents of the Shire.

Donations may also be made to individuals or groups in pursuit of excellence, including sporting and cultural excellence, subject to CCIG Policy. Funds may also be allocated for emergency assistance in the event of natural disasters such as bushfires, flood or drought anywhere in Australia, subject to CCIG Policy. The funds are granted subject to approval of the Council as a whole.

THE PROPOSAL

Under Council's Policy, all proposed allocations are subject to the approval of the Council as a whole.

OPTIONS

- 1 Approval of applications as submitted will provide a community benefit residents of the Shire.
- 2 Non approval could result in assistance not being provided to the community.

STRATEGIC LINKS

Annual Plan

<i>Principal Activity</i>	<i>Strategy or Program</i>	<i>Financial Line Item No and Description</i>
A More Sustainable Community	Enhance the quality of life of the Shire's residents	1.1.11 – Community Financial Support

6.11 Proposed Councillors' Community Improvement Grants (contd)

Contribution of Proposal to the Principal Activity

The Councillors' Community Improvement Grants were developed to help charitable community groups and in doing so helping the broader community.

Link to Shire Strategic Vision

Priority Objective	How the proposal contributes or links to the Priority Objectives in Shire Strategic Vision and Annual Plan
Communities - Communities will be vibrant, caring and connected with a sense of belonging and pride in their local neighbourhood.	Funding is available to projects not specifically nominated in Council's Annual Plan that contribute to the priority objective.
Facilities and Services - Communities will have access to a diverse range of affordable and coordinated facilities, programs and services.	Funding is available to projects not specifically nominated in Council's Annual Plan that contribute to the priority objective.

Financial Implications

Expenditure is approved until the end of the 2010-11 financial year. Unspent approvals lapse 30 June 2011.

Principles of Sustainability

The CCIG program is aligned with the principles of sustainability in that it would:

- Improve and maintain safety, wellbeing and sense of community
- Use locally available resources to increase our self-reliance
- Support local and regional economic prosperity
- Build and strengthen partnerships and alliances

CONSULTATION

Applications that met the criteria were distributed to Councillors for their consideration.

GOVERNANCE

All expenditure recommended is permissible under Section 24 and 356(1) of the Local Government Act 1993.

CORPORATE RISKS

Nil impact.

CONCLUSION

The proposed allocations contained in this report are permissible under the Council's policy on Councillors' Community Improvement Grants. The process has been correct and Council may confirm the grants at its option.

6.11 Proposed Councillors' Community Improvement Grants (contd)

Councillors' Community Improvement Grants 2010-11

COUNCILLORS' COMMUNITY IMPROVEMENT GRANTS ALLOCATION	Best	Eaton	Graham	Matthews	McBride	McNamara	Symington	Vincent	Webster	Wynn	SUB TOTAL
Allocation 01/07/2010 - 30/06/2011	15,000	15,000	15,000	15,000	15,000	15,000	15,000	15,000	15,000	15,000	150,000
Expenditure up to and including Ordinary Council Meeting of 13/10/2010	2,850	3,150	5,050	6,749	2,750	750	500	3,100	2,250	2,250	29,399
Available allocation as at 13/10/2010	12,150	11,850	9,950	8,251	12,250	14,250	14,500	11,900	12,750	12,750	120,601
Proposed Allocations for 10 November 2010											
Berkeley Vale Soccer Club (\$6,000) (\$1,350 already resolved)				200							200
Central Coast Northern Womens Health Centre (\$1,000)	100										100
Chain Valley Bay Progress Assoc - Crafty Links (\$1,000)	100										100
Kanwal Public School (\$2,000)			200		500		500	250	200		1,650
Mingara Relay for Life - Annies Hope 2010 (\$5,000) (\$600 already resolved)				300							300
The Entrance Junior Cricket Club (\$2,500)	100										100
Toukley Adult Day Care (\$200)	50										50
Total Proposed Allocations for 10/11/2010	350	0	200	500	500	0	500	250	200	0	2,500
Rescinded Allocations from 22/09/10 & 13/10/10 meetings to The Entrance Community Precinct Committee	100	0	200	200	300	0	100	700	500	0	2,100
Total Accumulated Allocations as at 10/11/2010	3,100	3,150	5,050	7,049	2,950	750	900	2,650	1,950	2,250	29,799
Balance Uncommitted as at 10/11/2010	11,900	11,850	9,950	7,951	12,050	14,250	14,100	12,350	13,050	12,750	120,201

ATTACHMENTS

Nil

7.1 Results of Survey on Council's Investment of Resources

TRIM REFERENCE: f2004/12711 - D02400371

AUTHOR: Bronwyn Rumbel, Manager, Economic and Corporate Planning, General Managers Unit

SUMMARY

Report on the results of a survey on Council's investment of resources.

RECOMMENDATION

That Council receive the report on Results of Survey on Council's Investment of Resources.

BACKGROUND

As a major sponsor of the Central Coast Research Foundation, Wyong Shire Council is entitled to a free question in the Central Coast Omnibus Survey. The organisation recently utilised one of these questions to provide information to complement the Service Delivery Review and integrated planning process.

The Central Coast Omnibus Survey is a multi-client survey that is conducted biannually in March and September. This question formed part of the September quarter survey conducted between 30 August and 24 September 2010 inclusive, where a random sample of 307 residents throughout the Central Coast were interviewed (49.7% from Wyong Shire).

All respondents were asked:

Recognising that your Council can't do everything; which of the following do you think your Council should invest more resources in:

- *Better maintaining roads, bridges, footpaths and cycleways*
- *Better maintaining halls, libraries, youth centres and senior citizens centres*
- *Better maintaining sports facilities, swimming pools, playgrounds and parks*
- *Better maintaining bushland, lakes and other natural assets*
- *Slightly more maintenance across a range of asset categories*

Note that the options were presented in a random order.

Survey Results

The survey found that almost half (49.7%) felt Council should invest more resources in better maintaining roads, bridges, footpaths and cycleways.

Approximately one-third (34.1%) of respondents indicated that Council should invest more resources in slightly more maintenance across a range of categories.

Less than one in ten respondents thought that Council should invest more resources in any of the other services presented.

A copy of the Central Coast Omnibus Survey is attached.

Consistency with results of previous Surveys

The Central Coast Omnibus Survey result is consistent with previous surveys conducted by Council; in particular the Community Satisfaction Survey (2008) and the Communication & Reputation Survey (2009).

In 2008 the organisation engaged Micromex to undertake a Community Satisfaction Survey (similar to previous surveys carried out by ACNielsen in 1997, 1999 and 2002).

In the 2008 survey, while the community expressed a high level of overall satisfaction with the services and facilities provided by Wyong Shire Council; there was a low level of satisfaction (46% either dissatisfied or very dissatisfied) with “the condition of the local roads like the street you live in”.

In an open-ended question respondents were asked what areas they thought Wyong Shire Council could improve in. 62% of respondents thought that Wyong Shire Council could improve “roads”.

In late 2009 the organisation commissioned a Communication & Reputation Survey where a series of willingness to pay questions were asked to measure the general level of community support for levy-funded programs.

There was a general willingness to pay for an expanded public works program - with 69.7% of respondents willing to pay between 25c and \$2 per week. This included 27.1% willing to pay at the highest level (between \$1-\$2 per week) for an expanded public works program comprising improvements to community assets like local roads, footpaths, stormwater and drainage, public toilets, parks, gardens, jetties and public buildings.

ATTACHMENTS

- 1 Report from September 2010 Central Coast Omnibus Survey - Enclosure D02404420
Community Attitudes Regarding Council's investment of
Resources

7.2 Proposed Amendment to Schedule 3 of State Environmental Planning Policy (Major Development) 2005

TRIM REFERENCE: F2004/10306 - D02353857
MANAGER: Paul Bowditch, Manager Future Planning
AUTHOR: Jenny Mewing, Strategic planner, Land Use Planning

SUMMARY

This report provides a response to the matters raised by Council regarding the public exhibition of the proposed State Significant Site Listing at Gwandalan and Catherine Hill Bay.

RECOMMENDATION

That Council receive the report on the proposed Amendment to Schedule 3 of State Environmental Planning Policy (Major Development) 2005.

BACKGROUND

On 31 August 2009, the Land and Environment Court (LEC) declared the approval of the Project Application and Concept Plan for land at Gwandalan and Catherine Hill Bay to be invalid, based on previous agreements made in a Memorandum of Understanding (MOU) between the proponent and the then Minister for Planning.

Whilst the Project Applications and Concept Plan approval were declared invalid, this did not extend to Schedule 3, part 14 of the State Environmental Planning Policy (Major Development) 2005 (SEPP) which lists the sites as being of State Significance. Additionally, this SEPP rezoned the sites to R2 (General Residential) and E2 (Environmental Conservation) under the NSW Government Standard Instrument.

The new State Significant Site proposal seeks to repeal Schedule 3, Part 14 of the SEPP (Major Development) 2005 and will list land at Gwandalan and Catherine Hill Bay as State Significant Sites. In doing so, the proposal will reaffirming the zoning of the sites. This process is being undertaken by the Department of Planning (DoP) in order to remove any residual uncertainty about the validity of the zoning of the site which may otherwise be thought to arise from the decision of the LEC in August 2009.

At its ordinary meeting of 11 August 2010, Council considered the issue and resolved unanimously on the motion of Councillor Wynn and seconded by Councillor Symington:

- "1 That the Department of Planning be requested to extend the public exhibition for the proposed amendment to Schedule 3 of State Environment Planning Policy (Major Development) 2005 at Gwandalan and Catherine Hill Bay to 30 September 2010 to provide sufficient time for the community to have input into this significant proposal.*
- 2 That Council undertake a local media campaign to ensure that the community is made aware of the many significant issues associated with this proposal.*

7.2 Proposed Amendment to Schedule 3 of State Environmental Planning Policy (Major Development) 2005 (contd)

- 3 That Council write to the Department of Environment and Climate Change and Water (DECCW) and ask for its views on this proposal.
- 4 That Council raise its concerns about this proposal and make representations to the following:
- The Honourable Kristina Keneally, MP, Premier
 - The Honourable Tony Kelly, MLC, Minister for Planning, Minister for Infrastructure, Minister for Lands, Deputy Leader of the Government in the Legislative Council, Leader of the House in the Legislative Council
 - The Honourable Frank Sartor, MP - Minister for Climate Change and the Environment and Minister Assisting the Minister for Health (Cancer)
 - Mr Robert Coombs, MP - Member for Swansea.”

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

AGAINST: NIL

On 16 August 2010 Council submitted a formal request to the DoP to extend the public exhibition period for the proposed amendment to Schedule 3 of SEPP (Major Development) 2005 at Gwandalan and Catherine Hill Bay to 30 September 2010, in order to provide sufficient time for the community to have input into the proposal.

On 24 August 2010 the DoP advised Council that the formal exhibition period could not be extended, it would endeavour to consider any late submissions made to the DoP until a recommendation is made on the proposed SEPP to the Minister for Planning. No indication has been given of when this recommendation is likely to be made.

In an effort to provide additional information to the community regarding the issues associated with the proposal, media releases have been distributed by Council's Communications Unit. These have been posted on Council's website in addition to an article being published within the Central Coast Express Advocate on 3 September 2010.

In accordance with Resolution 3, a request dated 16 August 2010 was also issued to the Department for Environment, Climate Change and Water (DECCW) seeking its views on the proposal. In response, DECCW referred to previous correspondence issued to the DoP regarding the matter. Whilst these letters are reproduced in full within the attachments, the responses do not specifically identify any site specific issues relating to the Gwandalan site.

Council's concerns were also raised with the State Members and representatives in accordance with Resolution 4. The Hon. Frank Sartor has advised that Council's concerns will be given due consideration. Additionally, correspondence referred to Council from Robert Coombs MP has identified that he has made a further representation to the Minister for Planning, The Hon. Tony Kelly. This correspondence advises that a response from the Minister will be provided to Mr Coombs in the near future.

ATTACHMENTS

- | | | |
|---|-------------------------------------------------------------------------------------------------------------|-----------|
| 1 | Wyong Shire Council Submission - Proposed State Significant Site Listing - Gwandalan and Catherine Hill Bay | D02336961 |
| 2 | Department of Planning Response - Council Request to Extend Public | D02338370 |

7.2 Proposed Amendment to Schedule 3 of State Environmental Planning Policy (Major Development) 2005 (contd)

	Exhibition	
3	DECCW Response to DoP s34A Consultation Request	D02361321
4	DECCW Response to SEPP Public Exhibition	D02361336
5	Frank Sartor MP Minister Climate Change and Environment - Response to Council Representation	D02342137
6	Letter from Mr Robert Coombs, MP Member for Swansea	D02409013



Rianan Helles
F2004/10306

25 August 2010

Director, Strategic Assessment
Department of Planning
GPO Box 39
SYDNEY NSW 2001

Attention: Rebecca Thompson

Proposal to list certain land at Gwandalan and Catherine Hill Bay as a State Significant Site.

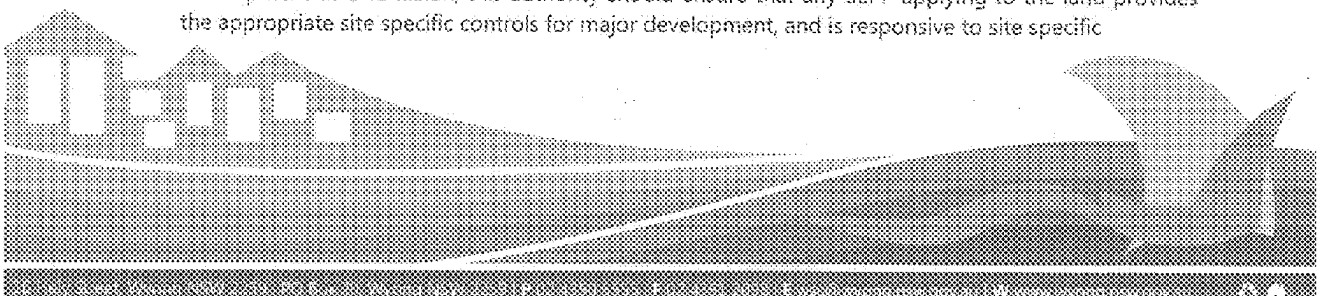
I refer to your correspondence requesting Wyong Shire Council to provide a submission with regard to the proposal to list certain land at Gwandalan and Catherine Hill Bay as a State Significant Site (SSS) under State Environmental Planning Policy (Major Development) Amendment (South Waiatarah Peninsula) 2010.

Council notes that on 31 August 2009, the Land and Environment Court declared invalid the concept plan approval, and the two associated project approvals for subdivision at Catherine Hill Bay and Gwandalan due to an existing Memorandum of Understanding between the Minister and various landowners. While this decision did not extend to Schedule 3, Part 14 of SEPP (Major Development) 2005, the Department of Planning has indicated that Schedule 3, Part 14 of the SEPP will be repealed in order to remove any residual uncertainty about the validity of the zoning of the site which may otherwise be thought to arise from the decision by the Land and Environment Court in August 2009.

In response to your correspondence, Council wishes to object to the proposal and reaffirms comments made in previous submissions that the proposal is likely to have significant environmental, economic, and social impacts which would detrimentally affect the Gwandalan area. Major concerns were also raised about the provision of public access to the foreshore, provision of open space, impact on conservation and bio-diversity values, infrastructure funding and public transport. While these issues are primarily addressed at concept plan stage, it is considered that the proposed SEPP does not provide sufficient controls to mitigate development impacts.

There has been significant concern raised in the community about the ramifications of declaring Gwandalan a State Significant Site. The validity of the Gwandalan site as being deemed a SSS is questionable given that the justification for identifying Gwandalan was its indiscernible association with the Lower Hunter Regional Strategy (LHRS). The Gwandalan site falls within the Wyong Local Government Area and should therefore sit within the Central Coast Regional Strategy. In addition to this, there is no obvious connection between the land at Catherine Hill Bay and the land at Gwandalan that would warrant the land at Gwandalan to be deemed a SSS. The consent authority for any development proposal at Gwandalan should therefore be Wyong Shire Council.

Considering however that the Department of Planning is currently the consent authority for development at Gwandalan, this authority should ensure that any SEPP applying to the land provides the appropriate site specific controls for major development, and is responsive to site specific



development issues that can arise at concept plan stage; the proposal to list the area as a SSS and subsequent gazettal of the SEPP should therefore be considered concurrently with a new concept plan for the site, not beforehand. In addition, any proposal to list Gwandalan as a SSS should be considered separately to the Catherine Hill Bay proposal, given that there is no logical planning connection between these sites. Until such time as a concept plan is submitted for the Gwandalan site, the area should revert to its previous zoning, as the zoning that currently applies to the site being R2 (Low Density Residential), E2 (Environmental Conservation) exists as an implicit consequence of the Memorandum of Understanding.

Notwithstanding the above, Council's principal objection to the proposed SEPP is that it will facilitate significant growth in Gwandalan within a short period of time. As a consequence, any proposed development of the site would result in a significant increase in Gwandalan's population. This would place an unjustifiable strain on the existing social and civil infrastructure.

The cumulative population increase in the Gwandalan area is significant, particularly if the proposed SSS development undertaken on behalf of Coal and Allied (1.6km south of the subject land) is to proceed under Part 3A of the Environmental Planning and Assessment Act, 1979 (the Act). The land zoning map accompanying the amended SEPP will facilitate residential development without giving consideration for the capacity of existing infrastructure to accommodate a significant increase in residential use in the Gwandalan area. Clause 23(5) of the SEPP, states that 'satisfactory arrangements' must be made for the provision of designated State public infrastructure (including social infrastructure), this provides little assurance that adequate social infrastructure will be provided in an area which is already stretched to capacity; education and health services being the two key areas of concern.

After reviewing State Environmental Planning Policy (Major Development) Amendment (South Wallarah Peninsula) 2010, it is evident that the most significant issue with the proposed SEPP is the fact that under Clause 6(2) – Application of Division, any development undertaken under Part 3A will be exempt from considering the applicable land use zones, requirements relating to coastal protection, preservation of trees, and heritage conservation requirements. This clause is unacceptable and sanctions a gross negligence of the standard planning considerations and development controls. At the very least, there should be a requirement to justify any deviation from the controls in Division 2 for any part 3A proposal.

The following additional issues have been identified in the review, and are of significant concern to Council:

- *Clause 11* Zone E2 Environmental Conservation – Removal of the requirement for consent for 'Environmental Protection Works' will result in there being no control measures to ensure the appropriate method and extent of environmental protection works to be undertaken for regeneration/rehabilitation of the site.
- *Clause 13* Prohibited Development – A significant number of clauses are excluded from applying to Part 3A development (see draft clause 6(2)), the protection afforded by this clause is low. This clause would be more effective if the land use zone clauses (clauses 8-11) were excluded from draft clause 6(2).
- *Clause 16* Height of Buildings – Visual and heritage settings are no longer a relevant consideration for the control of height of buildings. Heritage and visual setting considerations should be transferred from the current SEPP to the proposed SEPP.
- *Clause 17* Exceptions to Development Standards – Under the current SEPP the height of buildings is not exempt from the development standard; this has been removed from the draft

SEPP and enables an exemption from the height standard under clause 17. The height of buildings should not be exempt from the development standard under the proposed SEPP.

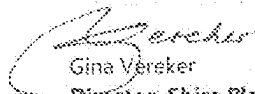
- *Clause 18 Development within the Coastal Zone* – This clause overrides the provisions of SEPP 71, but does not apply to Part 3A proposals. Part 3A proposals are therefore exempt from any requirement to consider impacts of development to the coastal zone. This is unacceptable, SEPP 71 should apply to the whole NSW Coast and Part 3A proposals should not be exempt from the standards set out in SEPP 71.
- *Clause 21 Preservation of Trees or Vegetation* – This clause will only provide protection if a development control plan identifying relevant tree species is prescribed. It is suggested that a State DCP be developed for the site and includes controls from Wyong DCP 2005 Ch 14 – Tree Management.
- *Clause 19 Heritage Conservation* – Heritage provisions are not required to be addressed for Part 3A applications. While there is no evidence of built heritage at the Gwandalan site, this clause may have implications for items at Catherine Hill Bay and any archaeological or Aboriginal heritage that may exist on these sites.
- *Clause 23 Arrangements for dedicated State Public Infrastructure* – the effect of this clause will be that the Director-General will only have to consider infrastructure for subdivisions as they occur, i.e. in stages. No consideration will need to be given to the cumulative requirements of the area.

While it is acknowledged that many of the planning issues mentioned above (e.g. tree preservation, coastal development, and visual amenity) will be addressed at the concept plan stage for all Part 3A applications, the proposed SEPP should set the standard for development and act as a necessary safeguard to ensure that appropriate development is achieved. In its current form, the proposed SEPP provides significant autonomy to developers who wish to make an application under Part 3A of the Act.

More generally, consideration should also be given to the implications of the North Wyong Shire Structure Plan and Central Coast Regional Conservation Plan (CCRCP) in relation to the proposed SEPP to ensure the SSS and proposed SEPP do not conflict with the strategic direction set within these documents. It is considered that the strategic direction of this area could potentially be compromised if the SEPP is to be gazetted prior to the release of the NWSSP and CCRCP.

Whilst this submission reiterates many potentially significant issues raised previously, Council will cooperate fully with the Department of Planning in the assessment of this proposal. Should you have any questions in relation to this submission, please contact myself on (02) 4350 5400 or Scott Duncan on (02) 4350 5547 during normal business hours.

Yours Faithfully,


Gina Vereker
Director, Shire Planning
WYONG SHIRE COUNCIL



Planning

qB152429
10/17348

Department Generated Correspondence (Y)

Mr Paul Bowditch
Acting Manager, Future Planning
Wyong Shire Council
Po Box 10
WYONG NSW 2259

Our ref: qB152429
Your ref: F2006/00251

Dear Mr Bowditch

REQUEST TO EXTEND PUBLIC EXHIBITION FOR THE PROPOSED AMENDMENT TO STATE ENVIRONMENTAL PLANNING POLICY (MAJOR DEVELOPMENT) 2005 (STATE SIGNIFICANT SITE – SOUTH WALLARAH PENINSULA)

I am writing in response to your letter dated 16 August 2010 requesting an extension to the public exhibition period for the proposed amendment to the *State Environmental Planning Policy (SEPP) (Major Development) 2005* that seeks to list certain land at Catherine Hill Bay and Gwandalan as a State Significant Site.

I am unable to extend the formal exhibition period, which closes on Wednesday 25 August 2010. However, the Department will endeavour to consider any late submissions made to the Department until a recommendation is made on the proposed SEPP to the Minister for Planning.

If you have any further enquiries relating to this matter please do not hesitate to contact Caitlin Bennett (Team Leader) on 9228 6197 or Caitlin.Bennett@planning.nsw.gov.au.

Yours sincerely

A handwritten signature in black ink, appearing to read 'G. Cirillo', with the date '29.08.2010' written below it.

Giovanni Cirillo
Executive Director
Urban Renewal and Major Sites



Environment,
Climate Change
& Water

Your reference : QB150629
Our reference : DOC10/04723
Contact : Richard Bath, 02 4908 6805

Tom Gellibrand
A/Director General
Department of Planning
GPO Box 39
SYDNEY NSW 2001

Attention: Caitlin Bennett

Dear Mr Gellibrand

RE: STATE SIGNIFICANT SITE LISTING SOUTH WALLARAH PENINSULA - SECTION 34A CONSULTATION

I refer to your letter dated 26 July 2010 requesting comments from the Department of Environment, Climate Change and Water (DECCW) in accordance with section 34A of the *Environmental Planning and Assessment Act 1979*, with regard to the proposal to list certain land at Catherine Hill Bay and Gwandalan as a State significant site in Schedule 3 of the *State Environmental Planning Policy (SEPP) (Major Projects) 2005*.

The Department has reviewed the proposal and identified that threatened species, populations or ecological communities, or their habitats, will be adversely affected by the proposed instrument. The area proposed to be zoned R2 Low Density Residential by the SEPP contains remnant native vegetation, and habitat for a number of threatened flora and fauna species and endangered ecological communities listed under the *Threatened Species Conservation Act 1995*.

Threatened flora likely to be impacted upon by the proposed instrument includes the Leafless Tongue Orchid (*Cryptostylis hunteriana*) and Black-eyed Susan (*Tetralochea juncea*). A number of threatened fauna are known from the locality and have potential to be impacted upon, including Wallum Froglet, Glossy Black-Cockatoo, Regent Honeyeater, Swift Parrot, Powerful Owl, Masked Owl, Eastern Pygmy Possum, Grey-headed Flying-fox, Little Bentwing-bat, Eastern Bentwing Bat, Eastern Freetail Bat, Yellow-bellied Shearwater-bat, Eastern False Pipistrelle, Large-footed Myotis and Greater Broad-nosed Bat.

A number of coastal floodplain endangered ecological communities are also known from the site, including Swamp Sclerophyll Forest, Swamp Oak Floodplain Forest, Coastal Saltmarsh, and Freshwater wetlands.

As part of the State significant site study the proponent should undertake targeted ecological surveys to determine whether the proposed conservation lands (lands to be zoned E1 and E2) contain adequate populations or habitat for the threatened species and vegetation communities being impacted upon by the SEPP. The Department's *Threatened Biodiversity Survey and Assessment: Guidelines for Developments and Activities (2004)* provide relevant field techniques and considerations to assist in the survey and assessment of individual species, populations and ecological communities.

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Federation House, Level 7, 24 Macross Street
Coffs Harbour NSW
Tel: (02) 6651 8946 Fax: (02) 6651 6197
ABN 30 844 367 271
www.environment.nsw.gov.au

As you would be aware, the overarching goal for conservation in NSW is that biodiversity and other environmental values of soil, water quality and salinity, must be 'improved or maintained'. This means that the gains for biodiversity must be greater than or equal to any losses resulting from clearing or other forms of degradation of biodiversity values. This goal is reflected within the NSW State Plan, the relevant provisions of the *Threatened Species Conservation Act 1995*, *Native Vegetation Act 2003*, and the Lower Hunter Regional Conservation Plan 2009.

To determine whether the proposal meets NSW Government policy for the "improvement or maintenance" of biodiversity values, any biodiversity offsets proposed for the project should be assessed against one of the following methodologies:

- DECCW "offsetting principles", as detailed in the Lower Hunter Regional Conservation Plan www.environment.nsw.gov.au/resources/protectedareas/09812LHRCP.pdf
- Assessment of the proposal using the BioBanking Assessment Methodology under the NSW Government's Biodiversity Banking and Offsets Scheme, as outlined in the *BioBanking Assessment Methodology and Credit Calculator Operational Manual* (DECC 2009). This would provide a quantitative assessment of the required ecosystem and species (threatened) credits that need to be retired to offset the impacts of the development. Further information is available at: www.environment.nsw.gov.au/biobanking/index.htm.


DECCW is of the opinion that a biodiversity assessment using BioBanking Assessment Methodology under Biodiversity Banking and Offsets Scheme, would provide a transparent framework and a quantitative alternative to the principles-based approach. DECCW acknowledges that this is a voluntary process and not a requirement under Part 3A, but believes it provides a valuable insight and quantitative appraisal into what would be an acceptable offset package to compensate the likely impacts of the development.

- Consideration of the "Guidelines for Biodiversity Certification of Environmental Planning Instruments" (DECC April 2007). Please refer to: www.environment.nsw.gov.au/biocertification/index.htm.

DECCW recognises that the South Wallarah Peninsula is a long standing conservation priority, and that the proposed SEPP will provide for the protection of threatened species and endangered ecological communities as well as protecting some of the foreshore of Lake Macquarie and the coastal shore. Protection of key areas on the Peninsula will also assist in creating a coastal corridor connection linking Wallarah National Park and Munmorah and Lake Macquarie State Conservation Areas and establish a green buffer between Newcastle and the Central Coast.

If you require any further information regarding this matter, please contact Richard Bath on 4908 6806 or via email to richard.bath@environment.nsw.gov.au

Yours sincerely

 11-8-10

MONICA COLLINS
A/Manager Planning and Aboriginal Heritage
Environment Protection and Regulation



Environment,
Climate Change
& Water

Our reference: DOC10/34723
Contact: Richard Bath, 4908 6805

Michael File
Director, Strategic Assessment
Department of Planning
GPO Box 39
SYDNEY NSW 2001

Attention: Caitlin Bennett

Dear Mr File

RE: PROPOSED STATE ENVIRONMENTAL PLANNING POLICY TO LIST SOUTH WALLARAH PENINSULA AS A STATE SIGNIFICANT SITE

I refer to your letter dated 27 July 2010 seeking advice from the Department of Environment, Climate Change and Water (DECCW) in relation to the proposed State environmental planning policy (SEPP) to list certain land at Catherine Hill Bay and Gwandalan as a State significant site in Schedule 3 of the Major Development SEPP.

The Department recognises that the South Wallarah Peninsula is a long standing conservation priority, and that the proposed SEPP will provide for the protection of threatened species and endangered ecological communities as well as protecting some of the foreshore of Lake Macquarie and the coastal shore. Protection of key areas on the Peninsula will also assist in creating a coastal corridor connection linking Wallarah National Park and Munmorah and Lake Macquarie State Conservation Areas and establish a green buffer between Newcastle and the Central Coast.

The proposed SEPP contains land that is currently under the ownership of the Minister administering the *National Parks & Wildlife Act 1974* (NPW Act), and is reserved under Part 11 of the NPW Act. There are several issues relating to the zoning and future ownership of this land which will need to be addressed prior to gazettal of the proposed instrument. These issues are detailed below :

1. The land currently reserved under Part 11 of the NPW Act is proposed to be zoned E1 National Parks and Nature Reserves and E2 Environmental Conservation. The Department is supportive of the boundaries for these proposed zones. The intent is that the lands zoned E2 will be subdivided from the current residual Lot 104 DP1129872 and transferred to the Land and Property Management Authority, post-gazettal of the instrument. This process is subject to further discussion between both agencies.
2. A small portion of land on the southern side of Montefiore Street, in the vicinity of its intersection with the Pacific Highway, is the preferred site for a water reservoir to service the current development proposals within the Wallarah peninsula.

To facilitate an outcome to this issue, the Department has held discussions with the Hunter Water Corporation (HWC) and the proponent, and as a consequence of these discussions an "in-principle" agreement has been reached to a land transfer between DECCW and HWC.

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The HWC land (including easement for access and services) known as Lot 1 DP 588793, south of Middle Camp, was offered in exchange for an area of approximately 3,500m² within Lot 104 DP1129872 on the southern side of Montefiore Street near the intersection with the Pacific Highway.

Under the provisions of the NPW Act a land transfer may be considered by DECCW. Such consideration would be based on, inter alia, a comparison of the ecological values of both parcels of land and suitability for inclusion in the National Park estate of the proposed HWC land. As a result an assessment would need to be undertaken by the proponent and provided to DECCW for its review. Preparation of the relevant assessment by the proponent does not fetter the Minister's discretion in the matter.

If a land transfer was to ensue the HWC land would need some level of rehabilitation, which will need to be the subject of further discussions. DECCW would not bear any costs associated with the land transfer including those associated with subdividing the land or undertaking the rehabilitation works.

While DECCW is willing to consider a request for a land transfer, it is the Department's understanding that the exact location of the water reservoir cannot be defined until such time as a servicing strategy is approved by HWC. As such, timing for the resolution of this matter cannot be provided at this point.

We note that if the land transfer is approved zoning for the proposed water reservoir site will need to be changed to either an E2 Environmental Conservation zone or an alternate infrastructure zoning. If the land is to be zoned E2, the list of uses permitted with development consent may need to be expanded to include "water reservoir".

- 3 The Department does not support the construction of any further infrastructure through the E1 zoned land to facilitate development of the Zone R2 Low Density Residential lands, including sewer easements.
- 4 There is a narrow linear strip of land along the southern edge of Montefiore Street which is currently in the ownership of the Minister, but under the SEPP is proposed to be zoned R2 Low Density Residential. A small boundary adjustment is likely to be required to address this issue and it is DECCW's preference that this land be transferred back to the proponent. Therefore, DECCW has no objection to the proposed R2 zoning in this location.
- 5 An unformed public road runs south from Montefiore Street to a sand quarry (D & J Quarries) adjacent to the Pacific Highway. DECCW understands that this road is under the control of Lake Macquarie City Council. However, the Department's preference is that the road be closed and dedicated to the Minister for inclusion into the surrounding E1 lands. As the road reserve is currently not in the ownership of the Minister, an E2 Environmental Conservation zone may be a more appropriate zone in the interim, until issues surrounding future ownership can be resolved.
- 6 Other unformed public roads run south from Nords Wharf through the proposed E1 lands (adjacent to the eastern foreshore of Crangan Bay) and south from the Catherine Hill Bay R2 zone toward Moonee Beach. As these road reserves are not currently in the ownership of the Minister, an E2 Environmental Conservation zone may be a more appropriate zone in the interim, until issues surrounding future ownership can be resolved.
- 7 The Department has been made aware of a proposed boundary adjustment to reduce the width of Montefiore Street from its current 30 metre width to 21 metres. We have been advised by the proponent that Lake Macquarie City Council are only prepared to accept a 21 metre wide road reserve. Therefore the E2 zone may need to be reduced to 21 metres wide, with the remaining 9 metres dedicated to the Minister for inclusion in the reserve and zoned E1.

As part of any proposed boundary changes, the Department would need to be certain that the width of the road corridor will be sufficient to accommodate any future infrastructure needs, such as power, water and sewer easements that will be required to service the development of the R2 zone.

- 8 The proposed E1 National Parks and Nature Reserves zone is appropriate for the remainder of lands under the current ownership of the Minister administering the NPW Act. The intent is to reserve lands east of the Pacific Highway as part of Munmorah State Conservation Area (SCA), and lands west of the Pacific Highway as part of the Lake Macquarie SCA.

The Department also takes this opportunity to highlight additional matters related to the SEPP and the environmental assessment of subsequent project applications:

- DECCW will undertake a full merit assessment of the environmental impacts associated with the proposal and the adequacy of the mitigation and offset strategies, including those lands dedicated to the Minister administering the NPW Act. This assessment will be undertaken during the subsequent project application stages of the proposal in accordance with the Director General's Environmental Assessment Requirements. This will include an assessment of whether the proposal meets an "improve or maintain" outcome for biodiversity matters.
- The Department is opposed to the provision of visitor car park access to Moonee Beach along the southern boundaries of the R2 zone, due to the public safety risks. The beaches and rocky shoreline of Munmorah SCA are not patrolled and are subject to a high incidence of fatal drownings. The provision of beach car parking and recreational amenities for beach users within the South Wallarah Peninsula, should be focussed at the main Catherine Hill Bay beach which has existing surf patrols provided by Lake Macquarie City Council and the Catherine Hill Bay Surf Life Saving Club.

If you require any further information regarding this matter, please contact Richard Bath on 4908 6805 or via email to richard.bath@environment.nsw.gov.au

Yours sincerely



BRETT NUDD
A/Director North East
Environment Protection and Regulation

Attachment A: Map of proposed zoning changes

25 AUG 2010

List of Outstanding DECCW Issues

1. The intent is that the lands zoned E2 will be subdivided from the current residual Lot 104 DP1129872 and transferred to the Land and Property Management Authority, post-gazetial of the instrument.
2. Approximate location for preferred site for water reservoir. Subject to further discussions between proponent and Hunter Water Corporation.
3. Land currently in the ownership of the Minister, but proposed to be zoned R2. A small boundary adjustment is likely to be required in this location, with the preferred option that the land be transferred back to the proponent.
4. Unformed public roads currently not in the ownership of the Minister. Lands should be zoned E2 until issues surrounding future ownership can be resolved.
5. Proposed boundary adjustment to reduce the width of Montefiore Street from its current 30 metre width to 21 metres.



Legend

Lands in ownership of the Minister NPW Act
 Cadastre

Draft SEPP Zoning

ZONE

- E1
- E2
- R2

South Wallarah draft SEPP Zoning Map
 DECCW Issues

Copyright Department of Environment, Climate Change & Water (NSW) August 2010
 This map is not guaranteed to be free from error or omission
 and is prepared for informational purposes only. The user assumes
 responsibility for the use and consequences of any acts or omissions

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Datum/Projection: GDA 1984 MGA Zone 56

0 0.1 0.2 0.3 0.4 km

Printed By:
 Lucas Grenadier
 24 August 2010

NSW
 DEPARTMENT OF
 Environment,
 Climate Change
 & Water

www.environment.nsw.gov.au

Office of the Hon Frank Sartor AO MP

Minister for Climate Change and the Environment
Minister Assisting the Minister for Health (Cancer)



Ms Gina Vereker
Wyong Shire Council
PO Box 20
WYONG NSW 2259

27 August 2010

Our Ref: EA1602899

Dear Ms Vereker

Thank you for writing to the Hon Frank Sartor, MP, Minister for Climate Change and the Environment and Minister Assisting the Minister for Health (Cancer).

Minister Sartor has asked that I acknowledge receipt of your correspondence in relation to concerns regarding proposed State Environment Planning Policy (Major Development) Amendment (State Significant Sites - South Wallarah Peninsula) 2010.

The Minister appreciates the time you have taken to put your concern in writing and advises that the issues raised will be given due consideration.

Yours sincerely

A handwritten signature in black ink, appearing to read "K. Charalambous".

Kathie Charalambous
Office Manager



Planning

8/10/10

Office of Director General

5 October 2010

Our ref: 10/20043

Mr Robert D. Coombs MP
Member for Swansea
Shop 1
204-206 Pacific Highway
SWANSEA NSW 2281

Dear Mr Coombs

I refer to your representations to the Hon Tony Kelly MLC, Minister for Planning on behalf of Ms Gina Vereker of PO Box 20, Wyong, 2259 concerning the proposed SEPP Amendment 2010 (State Significant Sites – South Wallarah Peninsula).

The Minister has asked me to acknowledge your representations and to indicate that a response will be provided to you shortly.

Yours sincerely

A handwritten signature in black ink, appearing to read "Sam Haddad".

Sam Haddad
Director General

7.3 Warnervale Town Centre Progress Report

TRIM REFERENCE: F2004/00535-07 - D02397934
MANAGER: Paul Bowditch, Manager Future Planning
AUTHOR: Kathryn Heintz, Strategic planning, Land Use Planning

SUMMARY

The Council has requested a monthly update on the progress of the Warnervale Town Centre project. The attached report shows the current status of the Warnervale Town Centre project for the month of October 2010.

RECOMMENDATION

That Council receive the report on Warnervale Town Centre Progress Report.

MAJOR MILESTONES ACHIEVED THIS MONTH *

Item 1(a) – Appointment of a Warnervale Town Centre Project Manager

A Senior Development Manager position was advertised between 27 August 2010 – 17 September 2010. It is expected that the position will be filled prior to the end of the year.

Item 1(b) – Biocertification Assessment for the Warnervale Town Centre

Council's consultant has completed the necessary fieldwork for the Biodiversity Certification Assessment of the Warnervale Town Centre.

Item 1(c) – Assessment of the Viability of Units within the Warnervale Town Centre

Council has made representations to the Department of Planning (DoP) recommending amendments to the Development Control Plan (DCP) and State Environmental Planning Policy (SEPP) which will impact on the results of this assessment. Therefore, this assessment has been delayed.

Item 1(d) – Amendments to Warnervale Town Centre Development Control Plan 2008 (DCP)

On 6 September 2010, Council (as the consent authority) provided a final scope of recommended amendments to the DoP. This was supplemented by a further submission to the Department on 12 October 2010 by Council as the land owner.

Item 1(e) – Preparation of Warnervale Town Centre Public Domain Plan

The Public Domain Plan has been drafted, however, further work on finalising a detailed Public Domain Plan has been deferred pending amendment of the DCP.

Item 1(f) – Water & Sewer Infrastructure (southern side of ridgeline)

Water infrastructure construction tenders expected to be called during November 2010.

Sewer infrastructure construction tenders expected to be called during December 2010.

Item 1(h) – Section 94 Development Contributions

A recent revised announcement by the DoP has resulted in Council being able to levy up to \$30,000 per lot/dwelling in the Warnervale Town Centre.

Item 2(a) – Main Access Road

The Environmental Assessment, including the Review of Environmental Factors (Part 5 Assessment under the Environmental Planning and Assessment Act, 1979) for Stage 1 of the access road was approved by Council on 13 October 2010.

Item 2(e) (ii) – Woolworths

Woolworths have submitted its Part 3A Major Project Application to the DoP for determination.

ATTACHMENTS

- 1 Warnervale Town Centre Progress Report - October 2010 D02398196

1 ITEMS FOR WHICH COUNCIL HAS RESPONSIBILITY:

#	ITEM DESCRIPTION	EST. COST	START DATE	WORK COMPLETE	EST. COMPLETION DATE	COMMENTS
a	Appointment of a Warnervale Town Centre Project Manager	TBD	Commenced	75%	December 2010	<ul style="list-style-type: none"> At the Ordinary Meeting of Council dated 28 July 2010, Council resolved unanimously on the motion of Councillor BEST and seconded by Councillor VINCENT: <ol style="list-style-type: none"> That Council progress the Warnervale Town Centre Project by appointing a Project Manager. That Council continue to lobby the various State and Federal Governments agencies to assist with infrastructure delivery and work with landowners to deliver this important project. Recruitment package prepared for the purpose of recruiting a Senior Development Manager for the Warnervale Town Centre project. Position advertised externally between 27 August 2010 – 17 September 2010. It is expected that the position will be filled by the end of the year.
b	Biodiversity Certification Assessment for the Warnervale Town Centre	\$30K	Commenced	75%	December 2010	<ul style="list-style-type: none"> Biodiversity certification (Biocertification) will provide for the protection of biodiversity, including threatened species, at the strategic planning stage. Certification can switch off the need for threatened species assessment under the Environmental Planning and Assessment Act 1979, providing more certainty for local government, development applicants and other stakeholders. A Consultant (Eco Logical Australia Pty Ltd) has prepared a Biodiversity Certification Assessment of the Warnervale Town Centre (and Wyong Employment Zone). Field investigations took place between 13-17 September 2010. Council had committed to making a Biocertification application to the Department of Environment, Climate Change & Water (DECCW) by November 2010. The timing of the application will depend on DECCW timeframes for the adoption of the Biocertification methodology - see Part 2(c).
c	Assessment of the Viability of Units within the Warnervale Town Centre	\$20K	Commenced	20%	February 2011	<ul style="list-style-type: none"> At the Ordinary Meeting of Council dated 12 May 2010, Council resolved unanimously on the motion of Councillor EATON and seconded by Councillor BEST: <p>That Council staff report on the viability of developing the 1,100 units proposed for Warnervale Town Centre and possible variation of proposed densities to ensure viable town centre development.</p>

#	ITEM DESCRIPTION	EST. COST	START DATE	WORK COMPLETE	EST. COMPLETION DATE	COMMENTS
d	Amendments to Warnervale Town Centre Development Control Plan 2008 (DCP)	Internal Staff Resources	Commenced	25%	TBD	<ul style="list-style-type: none"> • Council has made representations to the Department of Planning (DoP) recommending amendments to the Development Control Plan (DCP) and State Environmental Planning Policy (SEPP) which will impact on the results of this assessment. Therefore, this assessment has been delayed • A letter was sent to the Director-General of the Department of Planning (DoP) on 23 July 2010, formally requesting that Council be permitted to amend some items within the DCP. A number of amendments are sought, including changes in relation to: <ul style="list-style-type: none"> - Development Targets; - Modification of some intersection alignments and treatments; - Various Water Sensitive Urban Design (WSUD) measures; - Indicative Staging Plan; - Street lane widths; - Relocation of footpath alignments away from property boundaries; - Increasing width for services along roads; - Width of cycleways and bicycle routes; - Realignment of the Mataram Road extension; and - Setbacks for town centre civic precinct land. • On 16 August 2010, the Department of Planning advised that it agreed to Council's request to undertake a review of the DCP and requested that Council submit the final scope of recommended amendments to the Department of Planning for review. • On 6 September 2010, Council (as the consent authority) provided a final scope of recommended amendments to the Department of Planning. • On 12 October 2010, Council provided a supplementary submission to the Department (as the land owner) on further changes to the DCP and associated SEPP. • On 22 October 2010, the DOP advised that it has received requests from several land owners to amend the DCP. An assessment of these requests by DoP is currently occurring.
e	Preparation of Warnervale Town Centre Public Domain Plan	Internal Staff Resources	Commenced	25%	Draft Report – End 2010 Adopted -	<ul style="list-style-type: none"> • The Warnervale Town Centre DCP requires the consent authority to prepare a Public Domain Plan. The Public Domain Plan will address: <ul style="list-style-type: none"> - Open Space Structure

#	ITEM DESCRIPTION	EST. COST	START DATE	WORK COMPLETE	EST. COMPLETION DATE	COMMENTS
					February 2011	<ul style="list-style-type: none"> - Paving - Planting - Street Furniture - Lighting - Safety & Amenity - Movement, Pedestrian Amenity and Traffic Management - Signage - Water Sensitive Urban Design requirements - Indicative Costing, Staging and Procurement <ul style="list-style-type: none"> • Council has prepared a Project Management Plan to prepare the Public Domain Plan internally, with some external assistance with design drawings. • The Public Domain Plan is expected to be adopted by February 2011 (subject to consideration of changes to the DCP by DoP).
f	Water & Sewer Infrastructure (southern side of ridgeline)					
	i Design	Internal Staff Resources	Commenced	80%	Sewer - December 2010 Water - November 2010	<ul style="list-style-type: none"> • Council is proceeding with investigation and design of both the water and sewer component of this project. <ul style="list-style-type: none"> - Trunk water: Temporary Water pump station in Nikko Rd and the delivery main detail design in progress. - Trunk sewer: Option of gravitating the WTC sewage into SPS C13 in Minnesota Rd is being pursued. This will result in considerable savings in time and cost due to eliminating the need for the proposed SPS 7AB and reduced sewer main lengths.
	ii Construction	Water - \$800K Sewer - \$6 million	Early 2011	0%	Water - June 2011 Sewer - October 2011	<ul style="list-style-type: none"> • Construction tenders to be called: <ul style="list-style-type: none"> - Sewer infrastructure construction: December 2010. - Water infrastructure construction: November 2010.

#	ITEM DESCRIPTION	EST. COST	START DATE	WORK COMPLETE	EST. COMPLETION DATE	COMMENTS
g	Water & Sewer Infrastructure (northern side of ridgeline)	TBD	TBD	0%	TBD	<ul style="list-style-type: none"> Northern side of the ridge will not have sewer infrastructure until at least 2020, but interim options using a developer-funded temporary pump station could be pursued if necessary.
h	Section 94 Development Contributions	Internal Staff Resources	Commenced	90%		<ul style="list-style-type: none"> Council had completed the Draft S.94 Contributions Plan revision, with proposed contributions rates well below the \$34,682/lot cap that was previously imposed elsewhere in the Warnervale area. On 4 June 2010, the Minister for Planning issued a S.94E Direction capping contributions at \$20,000 per lot/dwelling from 7 June 2010. On 9 June 2010, a briefing of the Councillors was held which outlined the problems that the latest direction will present including a significant funding shortfall that will either need to be borne by ratepayers or result in a significant reduction in the level of community infrastructure proposed. On 31 August 2010, the Department of Planning announced revised reforms to local development contributions. These reforms now mean that should Council is able to levy up to \$30,000 per lot/dwelling in the town centre. It is now proposed to finalise the draft Section 94 Plan and brief Councillors on its content and seek approval to exhibit in November/December 2010. Council must then seek approval from the Department of Planning to exhibit the draft plan. It is expected that the Section 94 Plan could come into force by June 2011.
i	Community Facilities					<ul style="list-style-type: none"> Consideration is being given to rationalising the number of the proposed community facilities in the Warnervale Town Centre. Final layouts and designs of the community facilities will be dependant upon the review of the DCP.
	i Aquatic Centre	\$26 million	TBD	0%	TBD	<ul style="list-style-type: none"> As above.
	ii Knowledge Centre	\$10 million	TBD	0%	TBD	<ul style="list-style-type: none"> As above.
	iii Integrated Child and Family Centre	\$3 million	TBD	0%	TBD	<ul style="list-style-type: none"> As above.

#	ITEM DESCRIPTION	EST. COST	START DATE	WORK COMPLETE	EST. COMPLETION DATE	COMMENTS
	iv Youth Precinct	\$700K	TBD	0%	TBD	<ul style="list-style-type: none"> As above.
	v Arts & Cultural Centre	\$1.25 million	TBD	0%	TBD	<ul style="list-style-type: none"> As above.
j	Integrated Water Cycle Management (IWCM)					
	i Design	Internal Staff Resources	Commenced	60%	Concept design & preliminary sizing of components completed February 2010	<ul style="list-style-type: none"> In order to manage downstream wetland hydrology, storm water harvesting infrastructure is required. To this end, Council has prepared the Porters Creek Stormwater Harvesting Scheme for the catchment area. The Scheme will cover Warnervale Town Centre, Wyong Employment Zone and Precinct 7A and it is intended this will supersede the IWCM reports prepared by Ecological Engineering for WEZ and WTC. Warnervale Town Centre cost apportionment is \$7.1M. To fund the project, Council requires Section 94 Contributions funding for the new development areas of Warnervale Town Centre, Wyong Employment Zone and Precinct 7A. Easements need to be acquired over private land and development approvals sought to build and operate the Scheme. The Warnervale Town Centre DCP needs to be amended to reference the Porters Creek Stormwater Harvesting Scheme. In March 2009 the Federal Government released its "Water for the Future" initiative, which provides grant funding for up to 50% of eligible costs for works including stormwater harvesting and reuse projects. Council submitted an application on 9 February 2010 for \$4.3M (approximately 50% of the Stage 1 \$8.9M works program). DEWHA advised on the 9 September 2010 that Council was unsuccessful with the funding submission. A review of the implications to the project funding, scope of works and program are currently being undertaken.
	ii Construction	\$47.1 million	TBD	0%	TBD	<ul style="list-style-type: none"> No construction work has commenced to date.

2 ITEMS FOR WHICH COUNCIL HAS PARTIAL RESPONSIBILITY AND/OR A FACILITATION ROLE:

#	ITEM DESCRIPTION	RESPONSIBLE AUTHORITY	EST. COST	START DATE	WORK COMPLETE	EST. COMPLETION DATE	COMMENTS
a	Main Access Road						
	i Design	Landcom / Woolworths / Council	\$600K	Commenced	Awaiting Council Review	Completed - November 2010	<ul style="list-style-type: none"> Amended design of the Main Access Road submitted October 2010. Completion expected in November 2010. Awaiting revised pavement design.
	ii Construction	Landcom / Woolworths / Council	\$5.77 million	Late 2011	0%	August 2012	<ul style="list-style-type: none"> Construction cost estimates have been prepared and agreement has been reached between the 3 relevant landowners as to an equitable cost sharing agreement for construction of the Main Access Road. Council has successfully sought a \$2 million State Government "Local Infrastructure Support Fund" grant to reduce the cost of these works. A Review of Environmental Factors (REF) for Stage 1 of the Main Access Road was approved by Council on 13 October 2010.
b	Intersection of Sparks Road / Main Access Road						
	i Preliminary Design	RTA / Landcom / Woolworths / Council	\$600K	Commenced	75%	October 2010	<ul style="list-style-type: none"> The RTA has designed a concept plan for this intersection, and GHD has prepared a design for the intersection as part of the Main Access Road design consultancy. Council has provided comments to RTA on this design. NOTE: \$600K included in Main Access Road design budget.
	ii Construction	RTA / Landcom / Woolworths / Council	\$7-10 million	Late 2011	0%	February 2012	<ul style="list-style-type: none"> Agreement is yet to be reached on cost sharing arrangements for the Intersection, although Council has written to the Federal Government seeking funding assistance for this intersection.

c	Biodiversity Certification – Amendment to Legislation and Adoption of Methodology	DECCW	N/A*	Commenced	75%	TBD	<ul style="list-style-type: none"> The current biodiversity certification provisions under the Threatened Species Conservation Act 1995 do not define the term "improve or maintain biodiversity values". The legislation needed to be amended before it could be applied to WTC. The Threatened Species Conservation Amendment (Biodiversity Certification) Bill 2010 was introduced to Parliament on 20 May 2010, and passed through the Upper House without amendment on 8 June 2010. Biocertification methodology was expected to be adopted by the Minister for Environment & Climate Change in September 2010. The adoption of the methodology is the final step prior to Council making a formal Biocertification Application. Unfortunately, no timeframe has been given for the adoption of the methodology.
d	Biodiversity Certification – Obtain funding for the purchase of offset lands.	DECCW / NSW Treasury	\$4 million	Late 2010	0%	Early 2011	<ul style="list-style-type: none"> The State Infrastructure Contribution (SIC) Plan – Warnervale Town Centre Special Contributions Area allows \$4 million for purchase of Biodiversity offsets by DECCW as part of the Biodiversity Certification of the Warnervale Town Centre. DECCW to prepare a submission to NSW Treasury to obtain funds committed for these offsets.
e	Private Sector Development						
i	Landcom	Landcom	N/A*	Commenced	25%	Early 2012	<ul style="list-style-type: none"> Landcom is preparing a Development Application for approximately a 150-lot residential subdivision. This subdivision is likely to be staged. DA to be determined by Council, however if the development has a capital investment value (CIV) over \$10 million, this DA will be determined by the Joint Regional Planning Panel (JRPP).
ii	Woolworths	Woolworths	N/A*	Commenced	25%	Late 2013	<ul style="list-style-type: none"> Woolworths is preparing a Part 3A Major Project Application for a retail/commercial development of between 20,000-25,000m², as part of Stage 1 of the Woolworths development. Later stages to follow.

									<ul style="list-style-type: none"> A Part 3A Major Project Application has been lodged to the DoP.
	iii Yeramba	Yeramba Estates	N/A*	Commenced	10%	TBD			<ul style="list-style-type: none"> Yeramba Estates is preparing a Development Application for approximately a 98-lot residential subdivision. DA to be determined by Council.
f	North Warnervale Railway Station								
	i Development Application (DA/261/2005)	Council / RailCorp	Internal Staff Resources- N/A*	Commenced	90%	Late 2010			<ul style="list-style-type: none"> A Development Application (DA/261/2005) for the North Warnervale Railway Station is currently being assessed by Council. Due to the potential impacts on the Wyong Daisy population, Council cannot approve the DA without DECCW concurrence. A Plan of Management (PoM) specifically regarding the Wyong Daisy Reserve is needed prior to concurrence being considered by DECCW. RailCorp is finalising the PoM, and updating the Statement of Environmental Effects and DA plans to reflect the current DCP and to integrate with the proposed Woolworths development and the Main Access Road. On 30 July 2010, Council advised RailCorp that a review of the costings provided in the draft Plan of Management had been undertaken and that Council accepts the cost estimate of \$514,000 with the addition of a further \$50,000 for Council project management costs.
	ii Construction	RailCorp / NSW Treasury	c. \$40 million*	TBD	0%	TBD			<ul style="list-style-type: none"> No funding has been set aside for this item by the State Government; therefore no dates can be provided for construction and/or completion. RailCorp has advised that once funding is provided, construction of the North Warnervale Railway Station will take 3-4 years.
g	Electricity Connection / Substation								

i	Design of Substation	Energy Australia	N/A*	Commenced	50%	TBD	<ul style="list-style-type: none"> Energy Australia (EA) to construct electricity substation to service additional loads – this may take 2-3 years to construct. However, interim arrangements can be made in the meantime, by drawing additional loads from existing Charmhaven and/or Wyong substations. Meetings have been held with EA to determine issues to be addressed. Woolworths, Landcom, Yeramba Estates are to discuss the electricity loads required and delivery timeframes.
ii	Construction of Substation	Energy Australia	c. \$20 million*	TBD	0%	TBD	<ul style="list-style-type: none"> Interim arrangements may involve drawing additional loads from existing Charmhaven and/or Wyong substations.

* State Government Agencies / Private Sector costs unknown.

7.4 Outstanding Mine Subsidence Claims - Chain Valley Bay South

TRIM REFERENCE: F2006/00246 - D02406940
MANAGER: Gina Vereker, Director, Shire Planning
AUTHOR: Jayne Doyle, Senior Administration Support Officer

SUMMARY

Reporting on a response from Mr Robert Coombs, MP, Member for Swansea dated 16 September 2010 in relation to outstanding mine subsidence claims in the Chain Valley Bay South area.

RECOMMENDATION

That Council receive the report on Outstanding Mine Subsidence Claims - Chain Valley Bay South.

Council at its meeting held on 11 August 2010 resolved unanimously on the motion of Councillor Wynn and seconded by Councillor Symington:

- "1 That Council receive the report on Outstanding Mine Subsidence Claims Chain Valley Bay South.*
- 2 That Council express its disappointment to the State Government and write to the respective Minister, the Member for Swansea, Mr Robert Coombs, MP and the Minister for the Central Coast, the Honourable John Robertson, MLC to provide compensation to the affected land owners".*

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

AGAINST: NIL

Correspondence has now been received from Mr Robert Coombs, MP, Member for Swansea dated 16 September 2010 which is attached.

ATTACHMENTS

- | | | |
|----------|-----------------------------------------------------------------------------|-----------|
| 1 | Letter to Mr Robert Coombs, MP from Director Shire Planning | D02406938 |
| 2 | Letter from Mr Robert Coombs, MP Member for Swansea dated 16 September 2010 | D02366542 |

PB:JD/Mr Paul Bowditch
F2006/00246

6 September 2010

Mr Robert Coombs, MP
Member for Swansea
PO Box 306
SWANSEA NSW 2000

Dear Mr Coombs

Re: Outstanding Mine Subsidence Claims – Chain Valley Bay South

At its meeting held on 11 August 2010, Council considered a letter received from the then Minister for Mineral and Forest Resources, Mr Ian MacDonald concerning outstanding Mine Subsidence Claims from residents of Chain Valley Bay South. At that meeting, Council resolved as follows:-

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

- 1 *That Council receive the report on Outstanding Mine Subsidence Claims Chain Valley Bay South.*
- 2 *That Council express its disappointment to the State Government and write to the respective Minister, the Member for Swansea, Mr Robert Coombs, MP and the Minister for the Central Coast, the Honourable John Robertson, MLC to provide compensation to the affected land owners.*

Despite Mr MacDonald's letter, Council remains concerned that this issue has not been satisfactorily resolved and that residents have not been appropriately compensated. Council therefore wishes to express its disappointment and requests that the issue be reconsidered.

Yours faithfully

Gina Vereker
Director
SHIRE PLANNING



Robert Coombs MP
MEMBER FOR SWANSEA



Shop 1, 204-206 Pacific Highway Swansea NSW 2281 • PO Box 306 Swansea NSW 2281
Phone: 02 4972 1133 • Fax: 02 4972 1494 • Local Call Cost: 1300 781 338
Email: swansea@parliament.nsw.gov.au

16 September 2010

Ms Gina Vereker
Director
Shire Planning
Wyong Shire Council
PO Box 20
WYONG NSW 2259

Dear Ms Vereker

Thank you for your letter received 10 September 2010 concerning outstanding mine subsidence claims at Chain Balley Bay South.

I wish to acknowledge that this issue is a priority and that further consideration of this matter is being pursued. Your concerns have also been forwarded to the Hon Tony Kelly MLC, Minister for Planning.

In the meantime should you wish to discuss this matter further or any other State Government matters of concern please do not hesitate to contact the electorate office.

Yours faithfully



Robert Coombs MP
Member for Swansea
Vm: wsc.mine subsidence.16sep10

Have you thought about joining a volunteer community service organisation?
There are many within the Swansea Electorate. For more information contact this office.

7.5 Mardi to Mangrove Link Project Status

TRIM REFERENCE: F2007/01120 - D02405567

AUTHOR: Claire Cam, Engineer Water & Waste

SUMMARY

Report on status of Mardi to Mangrove Link Project.

RECOMMENDATION

That Council receive the report on Mardi to Mangrove Link Project Status.

PROJECT SCOPE

- Wyong River off-take structure and pumping station
- Wyong River to Mardi-Dam 2.1 kilometre pipeline
- Inlet works at Mardi Dam
- Mardi-Mangrove transfer pumping station
- Mardi Dam to Mangrove Creek Dam 19 kilometre pipeline
- Lower Wyong River Weir, Fishway and Gauging

CURRENT STATUS

Expenditure to date	\$66.3m
Project Estimate	\$120.6m

Construction Status

	Scheduled Start	Scheduled Completion	% Work Complete
Milestone 1:		27 January 2011	
Pre-construction – Management Plans & Approvals	4 January 2010		100%
Work Package 1 – Wyong River Off-take	7 April 2010		50%
Work Package 2 – Wyong River Pump Station	19 February 2010		75%
Work Package 3 – Wyong Mardi Rising Main 3	16 February 2010		75%
Work Package 4 – Wyong Mardi Inlet	6 May 2010		90%
Work Package 7 – Mardi Mangrove Transfer Main	1 March 2010		40%
Work Package 18 – Wyong Weir, Fishway & Gauging	5 August 2010		60%

7.5 Mardi to Mangrove Link Project Status (contd)

Milestone 2:		31 January 2011	
Work Package 6 – Mardi Mangrove Transfer Pump Station	21 June 2010		60%
Milestone 3:		6 May 2011	
Commissioning	1 February 2011		

Key Dates

	Scheduled Completion	Actual Completion	Complete
Review of Environmental Factors (REF) submitted	30 June 2009	30 June 2009	<input checked="" type="checkbox"/>
Call for Expressions of Interest (EOI)	9 July 2009	9 July 2009	<input checked="" type="checkbox"/>
EOI closes	30 July 2009	30 July 2009	<input checked="" type="checkbox"/>
Determination Approval	14 October 2009	23 September 2009	<input checked="" type="checkbox"/>
Issue Request for Tenders (RFT)	16 October 2009	16 October 2009	<input checked="" type="checkbox"/>
Tenders close	12 November 2009	12 November 2009	<input checked="" type="checkbox"/>
Council consider Award of Construction Contract	9 December 2009	9 December 2009	<input checked="" type="checkbox"/>
Expiry of PAN 90 day notification period	31 December 2009	31 December 2009	<input checked="" type="checkbox"/>
Minister/Governor determination of compulsory acquisition applications	27 January 2010	27 January 2010	<input checked="" type="checkbox"/>
Pipeline Construction	27 January 2011		<input type="checkbox"/>
Transfer Pump Station Construction	31 January 2011		<input type="checkbox"/>
Commissioning	6 May 2011		<input type="checkbox"/>
Project Completion	June 2011		<input type="checkbox"/>

Land Matters

- Restoration has been practically completed and signed off by landholders on 14 properties.
- Key property and landholder issues at present are tree protection, mitigating impacts of pipe bridges and valves, design and progress of construction access bridges, maintaining continuity of irrigation, power and phone lines in areas where pipe is being laid, stock management, minor route changes, spoil management and restoration of fencing.
- Negotiations for final landholder releases have commenced. One landholder has signed a final release.
- Negotiations for additional compensation for pipe bridges and section valves have commenced with the seven affected landholders.

Stakeholder Liaison

- A letter went out to all Yarramalong Valley residents giving them an update on progress on the Project as well as letting them know work would be starting soon in Sector 6 (Yarramalong Road between Stinsons Lane and Boyds Lane). This section will have the most impact on residents in terms of road works. Every effort is being made to keep residents informed about traffic impacts and the Contractor is, where possible, scheduling works to ensure only one pipe laying crew is working in this section at a time. The letter also included a reminder to residents to ensure children and pets were not allowed into the construction corridor for safety reasons.
- Several stories were provided to the Central Coast Express including details of a platypus sighting and a heritage find in Kidmans Lane.
- A story was provided to the Rural and Village Grapevines focusing on recent road rehabilitation and traffic management.
- The regular traffic updates have been provided to residents, emergency services, local schools, bus companies and relevant staff. A special edition of the update included a summary of all relevant rules regarding traffic management for the project to ensure residents are well informed of what to expect.
- The Project Team continues to respond to stakeholder letters on a range of issues including traffic management and damage to vehicles. Council has implemented an increased inspection and maintenance regime for Yarramalong Road.

Incidents

- There have been no OH&S incidents during the last reporting period.
 - There was an unconfirmed platypus sighting in Schofields Creek on 13 October 2010. Dr Tom Grant, was contacted for expert comment on the unconfirmed sighting and it was agreed to adopt the precautionary principle and proceed with trenching through the creek by adopting the Platypus Protocol as indicated in the Review of Environmental Factors documentation.
 - A corduroy road was discovered in the construction area of Kidmans Lane on 20 October 2010. A corduroy road is a road made of logs laid across muddy or soft areas to allow wagons or other vehicles to pass without bogging. Once identified, all works were stopped and a full detailed inspection and investigation is now being undertaken by an archaeologist.
-

Major Achievements / Issues

- Approximately 7.2 km of pipeline for the Mardi-Mangrove Transfer Main (Work Package 7) has been laid.
- Approximately 2 km of pipeline for the Wyong-Mardi Rising Main (Work Package 3) has been laid.
- The coffer dam for Work Package 1 is now being dewatered and installation of the twin inlet mains is well advanced.
- The construction of the electrical switchboard building for Work Package 2 is nearing completion. The second lift has been poured for the pump station wet well.
- Construction of the rising main from the Wyong River Pump Station to Mardi Dam has been completed excluding final connections.
- The low flow fish ladder has been installed at Wyong Weir. Work is now progressing on the high flow weir.



Discovery of corduroy road at Kidmans Lane.

ATTACHMENTS

Nil.

7.6 Porters Creek Stormwater Harvesting Scheme - Notification of Unsuccessful Grant Application

TRIM REFERENCE: F2007/00039 - D02411133
MANAGER: Mike Long, Manager, Contracts and Special Projects
AUTHOR: Gary Kinney, Engineer, Contracts and Special Projects

SUMMARY

This report seeks to advise Council that the application for \$4.3M in Federal Funding under the National Urban Water and Desalination Plan for construction of the initial stage of the Porters Creek Stormwater Harvesting Scheme was unsuccessful.

RECOMMENDATION

That Council receive the report on Porters Creek Stormwater Harvesting Scheme - Notification of Unsuccessful Grant Application.

Background

An Integrated Water Cycle Management (IWCM) Strategy was formulated in 2006 to mitigate impacts on the Porters Creek Wetland associated with development of the Wyong Employment Zone and Warnervale Town Centre. The aim of the IWCM Strategy was to capture and treat urban runoff and to divert excess stormwater around the Porters Creek Wetland and into Wyong River.

The aims of the original 2006 IWCM Scheme were amended by Council in 2009 to improve the cost effectiveness of the scheme and allow for staging of the works. Council adopted the revised scheme in February 2010 and sought to seek Federal Funding to assist with constructing the initial stage of the scheme.

Council at its meeting held on the 10 February 2010 Council resolved as following:

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

- 1 That Council approve the revised concept for the Porters Creek Stormwater Harvesting scheme.*
- 2 That Council relinquish the Watersmart Australia Project grant of \$2.716M obtained for the initial stage of construction of the original Porters Creek Stormwater Harvesting scheme.*
- 3 That Council pursue Federal Government Funding of \$4.3M, under the Water for the Future Initiative, to assist in funding the first stage of construction of the proposed new scheme.*

7.6 Porters Creek Stormwater Harvesting Scheme - Notification of Unsuccessful Grant Application (contd)

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

Council was advised on the 9 September 2010 that it was unsuccessful with its application for \$4.3M in funding under the Federal Governments National Urban Water and Desalination Plan (see letter attached).

Capital Cost of Total Scheme

The revised concept as approved by Council is estimated to cost a total of \$47.1M. The cost to service individual areas is as follows;

- Wyong Employment Zone (WEZ) – \$25.5M
- Warnervale Town Centre (WTC) – \$7.1M
- Precinct 7A and the Education Precinct - \$14.5M

Whilst it is aimed that these costs be funded within the draft s94 contributions plans for each of the above areas, there may be restrictions on the amount of contributions able to be levied to support the construction of the scheme e.g. through the imposition of a cap of \$30,000.00 per lot for greenfield areas. It should also be noted that the existing Warnervale Business Park forms part of the WEZ and as this area is largely developed, Council will need to cover the cost of the contribution attributable to this area. The Business Park represents 16% of the WEZ which equates to a contribution by Council of approximately \$4 million.

Therefore it was identified that there may be opportunities to seek grant funds to reduce the impact of the cost on development and Council. The application for \$4.3M federal funding was to have \$2.3M apportioned to the developer contribution schemes, with the remaining \$2.0M to be apportioned to the works benefiting the existing Watanobbi area that is already developed and not able to be levied to support the scheme.

Cost of Initial Stage of Scheme

An initial stage of the scheme was highlighted for construction as part of the application for Federal Funding. The cost of the initial stage of works is \$8.95M and was broken down as follows:

- Cost to connect Precinct 14 and associated works - \$4.15M
- Cost to connect Watanobbi and associated works - \$4.45M
- Land costs - \$0.35M

It was proposed that the \$8.95M be funded as follows:

- Grant Funding \$4.3M
- Council Funding \$4.65M (The grant conditions exclude land costs.)

Council's funding would be sourced from:

- \$1.8M from the stormwater levy

7.6 Porters Creek Stormwater Harvesting Scheme - Notification of Unsuccessful Grant Application (contd)

- \$2.85M from developer contributions

Current Status

With the advice that Council was unsuccessful with the application for Federal Funding of \$4.3M, Council staff are currently reviewing the impact on the funding and timing of construction of the scheme based on the following:

- A review of the cost estimates for construction of the scheme,
- A review of the draft s94 contributions plans to assess the level of contribution ultimately able to be provided by development,
- An assessment of when the stormwater diversion works are required to be in place based on the likely timing of development in the WEZ, WTC, Precinct 7a and Education Precinct,
- An assessment of the likely timing of s94 contribution payments to assess the income cashflow versus the construction cashflow to determine the required level and timing of other funding streams such as grants or loan funds.

In addition Council staff will also be seeking State and Federal grant funding opportunities to support the construction of the scheme. One opportunity already identified is the Federal Governments Building Better Regional Cities Program.

It is intended to provide Council with regular updates on the status of the project and any grant funding opportunities.

ATTACHMENTS

- | | | |
|---|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------|
| 1 | Grant Application Unsuccessful - Porters Creek Stormwater Harvesting Scheme - National Urban Water and Desalination Plan - Department Environment Water Heritage and Arts | D02357541 |
|---|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------|



Australian Government

Department of the Environment, Water, Heritage and the Arts

Mr Ken Grantham
Contractor
Wyong Shire Council
PO Box 20
WYONG NSW 2259

Dear Mr Grantham

**National Urban Water and Desalination Plan: second round of funding for
stormwater harvesting and reuse projects**

Thank you for your application for the 'Porters Creek Stormwater Harvesting Scheme' under the second grant round for stormwater harvesting and reuse projects. The purpose of this letter is to advise you that your application was unsuccessful.

Applications were competitively assessed against the eligibility and merit criteria outlined in the *National Urban Water and Desalination Plan: special call for stormwater harvesting and reuse projects – Implementation & Funding Guidelines*. The assessment process involved technical experts and was overseen by an independent probity adviser to ensure that assessment was fair and equitable. Regrettably not all proposals can receive funding under the *National Urban Water and Desalination Plan*, and your application was assessed as being less competitive based on the assessment criteria compared to other proposals.

Should you wish to receive feedback on your application, this can be arranged by contacting Jenny Barnes, Assistant Director, National Urban Water and Desalination Section on 02 6274 1507 or via email on jenny.barnes@environment.gov.au.

Thank you for your interest in the second round of the special call for stormwater harvesting and reuse projects.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Tanya Stacpoole'.

Tanya Stacpoole
Director
National Urban Water and Desalination Section
Urban Water Security Branch
9 September 2010

7.7 Outstanding Questions without Notice and Notice of Motions

TRIM REFERENCE: F2010/00009 - D02409619
MANAGER: Lesley Crawley, Manager Governance and Administration
AUTHOR: Jacquie Elvidge, Administration Assistant

SUMMARY

Report on outstanding Questions Without Notice and Notices of Motion.

RECOMMENDATION

That Council receive the report on Outstanding Questions without Notice and Notice of Motions.

ATTACHMENTS

- | | | |
|---|--------------------------------------------------------------------------------------|-----------|
| 1 | Table of Outstanding Questions without notice & Notices of Motion - 10 November 2010 | D02409697 |
|---|--------------------------------------------------------------------------------------|-----------|

No	Department	Question Asked / Councillor	Meeting Asked	Status
1	Shire Planning	<p>326 - National Natural Disaster Funding</p> <ol style="list-style-type: none"> 1 That Council, via the Federal Local Members, request National Natural Disaster Funding include coastal erosion events and Council expenditure on preventative and remedial action. 2 That the Local Government Association via its annual conference be invited to support this initiative 3 That a further report be brought back to Council on information on predication on climate change impacts as a result of studies being undertaken by consultants in conjunction with the Coastal Hazard Study. 	8 August 2007 Cr Eaton / Cr Best	<p>Letter sent to Local Government Association (LGA) applying for funding. Reply received advising Council was unsuccessful. Letter sent to the LGA requesting coastal erosion and risk management issues to be included in future funding. No response received.</p> <p>A report will be submitted to Council once the coastline hazard study has been completed and the Coastline Management Plan has been prepared.</p>
2	Shire Planning	<p>298 The Long Jetty Commercial Options Initiative</p> <ol style="list-style-type: none"> 1 That Council receive a briefing as part of the Long Jetty master planning that will occur following the potential adoption The Entrance Long Jetty Strategy on the permissibility and benefits / disbenefits of considering sub leasing (subject to Departmental approval) an area of the Long Jetty to cater for a commercial operation such as a cafe with possible education aspects. 2 That any economical benefit derived from this activity be allocated to the maintenance and upkeep of the Long Jetty. 	25 June 2008 Cr Best / Cr Eaton	<p>Currently preparing the project Management documentation to initiate the commencement of the project for master planning the Long Jetty Village Centre. This project will consider the matters raised in Council's resolution. The Master plan project is expected to commence in 2011/2012.</p>
3	Shire Planning	<p>8.2 - Notice of Motion – Possibility for the Establishment of an environmental Committee</p> <p>That the Shire Planning Department provide a report that outlines the possibilities for establishment of an Environment Committee. The report should include, but not be limited to:</p> <ul style="list-style-type: none"> • The Terms of Reference (charter, roles, responsibilities and function); • Possible membership • Whether it should be a committee or Council; <p>and</p> <p>Report on environment committees that have been established in other Council areas, their roles, functions and achievements</p>	9 September 2009 Cr Wynn / Cr Best	<p>This item has been superseded by the service delivery review with its recommendation to establish a strategic sustainability committee which will be discussed with Councillors at a briefing on the Committee Review on 10 December 2010.</p>

No	Department	Question Asked / Councillor	Meeting Asked	Status
4	Shire Planning	<p>8.4 - Notice of Motion – Proposed Additional Development Policy</p> <ol style="list-style-type: none"> 1 That taking into account the unsightly appearance of a number of unfinished and empty buildings throughout the Shire, that staff develop a policy that can be integrated into the relevant chapters of Development Control Plan 2005. 2 That the draft policy be written to apply to major residential, commercial and industrial development. 3 That the provisions of the policy include: <ol style="list-style-type: none"> a objectives relating to ensuring visual amenity is maintained should buildings remain unfinished or empty; b requirements for ensuring visual amenity by way of hoardings, landscape buffers, painting and / or other means of screening; and c a focus on buildings located within town centres and on major roads within the Shire. 4 That the draft policy be reported back to Council for consideration 	11 November 2009 Cr Best / Cr Webster	The drafting of this policy has been placed on Legal and Policy Works program for 2010/2011. Commencement of drafting this policy will occur when current projects are completed.
5	Shire Planning	<p>5.1 - Notice of Motion – Planning Disputes Mediation Process Trial</p> <ol style="list-style-type: none"> 1 That Council recognise in principle that the establishment of a Mediation process may reduce litigation and expedite dispute resolution in appropriate cases. 2 That Council receive a report on the establishment of a Mediation process. The report should include the following: <ol style="list-style-type: none"> a A review of "best practice" mediation committees / mediation processes operating elsewhere. b A review of practices / procedures / committees operating in adjoining Councils. c The means of ensuring compliance of such a committee with Department of Local Government guidelines, ICAC guidelines, applicable legislation and Code of Conduct. 	10 February 2010 Cr Eaton / Cr Graham	This item has been included in the Legal and Policy Works Program to commence mid 2010.

No	Department	Question Asked / Councillor	Meeting Asked	Status
6	Legal and Risk	<p>5.2 - Notice of Motion – Elected Council Independent Legal Advisor</p> <p>1 That Council <u>invite</u> tenders from separate independent firms of solicitors to advise the Mayor and Councillors in those circumstances where the interests of the staff and the elected Council may not be identical or in cases where Council wishes to seek further legal opinion.</p> <p>2 That Council receive quarterly reports on expenditure and information on general details of the matters on which legal advice has been sought</p>	10 February 2010 Cr Eaton / Cr Graham	Internal legal Counsel has been appointed. Quarterly Reporting will commence from 8 December 2010 Council Meeting.
7	Shire Planning	<p>9.2 - Notice of Motion – Economically and Environmentally sustainable Living – Demonstration House</p> <p><i>That staff provide an integrated report on the extent of possibilities and overall feasibility of developing a Sustainable Living Demonstration House located in one of the developing areas of the Shire. The Demonstration house would include smart, sustainable technologies and be as close to self sustaining as possible. The House Living and to promote the use of innovative and cost effective sustainable features to the local development industry. Further Council recognises any such initiative must also be in clear partnership with the broader community and its peak community organisations while leveraging off existing highly successful sustainability programs such as Council's Sustainability Street.</i></p>	24 February 2010 Cr Best / Cr McNamara	Report to be considered at 24 November 2010 meeting.
8	Shire Planning	<p>9.5 - Notice of Motion – Sea Level Rise Notification</p> <p>1 That Council <u>write</u> to all property owners affected by the State Governments sea level rise policies (ie 40 cm by 2050 and 90 cm by 2100).</p> <p>2 That the text of the letter be <u>endorsed</u> by Council</p>	24 February 2010 Cr Eaton / Cr Graham	Legal advice received. Letter drafted. Work proceeding to identify affected properties.

No	Department	Question Asked / Councillor	Meeting Asked	Status
9	Shire Planning	<p>10.1 - Notice of Motion – LDO Coal Chain Valley Bay Colliery</p> <p>That Council:</p> <ol style="list-style-type: none"> 1 <u>Take</u> all steps possible to make LDO Coal Chain Valley Colliery exclude any mine operations under residential and/or commercial areas. 2 <u>Request</u> that LDO Coal Chain Valley Colliery undertake and provide a work as executed survey to establish the extent of past mining as mining in the past has exceeded the boundaries of the mining leases. 3 <u>Seek</u> an independent surveyor provide the monitoring data for regular review, to establish that once mining has commenced it is within its bounds and specified extraction amounts in accordance with lease conditions. Results to be reported to the Council and the community. Cost to be borne by LDO Coal. 4 <u>Inform</u> the State Government Department of Planning of the LDO Coal Chain Valley Coal Project to take it into account in their proposed North Wyong Structure Plan. 5 <u>Conduct</u> an audit and survey of Wyong Shire Council's roads and infrastructure in the affected area in order to be able to assess the impact of LDO Coal Chain Valley Coal Project on them for adequate repair, if required. The conditions of approval should include the appropriate dilapidation reporting and monitoring with this validation cost to be borne by LDO Coal. 6 Have LDO Coal <u>seek</u> alternative transport for their coal to the Newcastle port due to the safety issues and concerns for damage to Rutleys Road due to the increased volume of coal truck movements on the suburban road. 7 <u>Nominate</u> a Councillor delegate as Council's representative on the Chain Valley Coal Project Stakeholder Reference Group. 	10 March 2010 Cr Wynn / Cr Vincent	Point 7 has now been addressed by the appointment of a staff delegate to the Chain Valley Coal Project Stakeholder Reference Group.

No	Department	Question Asked / Councillor	Meeting Asked	Status
10	Corporate Services	<p>8.4 - Notice of Motion – Public Access to Coast via Tuggerah Lakes Golf Course</p> <ol style="list-style-type: none"> 1 That Council <u>note</u> the closure of the long-established public access to the coast through the golf course at the northern end of the course resulting from the locking, by the Club, of the gate at this location. 2 That Council <u>request</u> the General Manager to provide a detailed report on the arrangement between the Tuggerah Lakes Golf Club and the Shelly Beach Recreation and Flora (R73287) Reserve Trust. 3 That Council <u>seek</u> legal advice, through a report from staff, on the issues affecting the public's right of access to the Tuggerah Lakes Golf Course including, but not exclusively so:- <ol style="list-style-type: none"> a What rights, are accorded to the general public. b Council's ability, or otherwise, to enforce the public's right of access. c Establishing what is a reasonable and lawful interpretation of "proper purpose". d Council's liabilities in terms of the safety issues and in terms of protecting the assets. e Council's obligations to ensure the Club protects the public appropriately from the risks of access. f What rights, if any, are accorded to the adjacent neighbours g The relevance and quality of the existing lease as an appropriate commercial arrangement. 4 That Council <u>formally</u> advise the Tuggerah Lakes Golf Club that it does not support the recent closure of the gate at the northern end of the course and <u>request</u> the Club to reopen the gate. 	14 April 2010 Cr Eaton / Cr Best	A report will be prepared for Council's consideration once legal advice has been received.

No	Department	Question Asked / Councillor	Meeting Asked	Status
11	Shire Services	<p>7.2 - Notice of Motion – Shared Pathway (matching funds for Pathways and Various Council Facilities)</p> <p>1 That Wyong Shire Council <u>build</u> partnerships with community in building and extending the network of shared pathways throughout the Shire identified in the Draft On-Road Bicycle and Shared Pathway Strategy policy document and community assets consistent with the objectives of the Shire Strategic Vision, including but not limited to halls, community gardens, sporting facilities etc through community fund raising. Funds raised by the community to be matched by Council on a ratio of 1:2. Community must raise a threshold amount of \$10,000 before work on a section would be placed into the forward rolling works program. These projects would be over and above the existing planned works. There would be a limit of \$300,000 per annum dedicated to the scheme by Council.</p> <p>2 That Council consider the inclusion of this scheme in the 2011 – 2012 Management Plan or during the Quarterly Review if the opportunity arises.</p> <p>3 That Council advertise the Scheme widely multiple times throughout the year.</p> <p>4 That Council staff develop a set of guidelines for consideration of these projects and <u>submit</u> to Council for adoption.</p>	12 May 2010 Cr Wynn / Cr Vincent	As a result of the Councillor briefing on 28 July 2010 staff must consult with community groups on the matching fund guidelines prior to reporting to Council. Aim to report guidelines to Council by year end.
12	Shire Planning	<p>7.6 - Notice of Motion – Warnervale Town Centre Viability</p> <p>That Council staff <u>report</u> on the viability of developing the 1,100 units proposed for Warnervale Town Centre and possible variation of proposed densities to ensure viable town centre development.</p>	12 May 2010 Cr Eaton / Cr Best	Council has made representations to the Department of Planning (DoP) recommending amendments to the Development Control Plan (DCP) and State Environmental Planning Policy (SEPP) which will impact on the results of this assessment. Therefore, this assessment has been delayed.

No	Department	Question Asked / Councillor	Meeting Asked	Status
13	General Manager's Unit	<p>9.3 - Notice of Motion – Central Coast Tourism Annual Funding</p> <ol style="list-style-type: none"> 1 That Council <u>congratulate</u> Central Coast Tourism Inc (CCTI) on the restructuring, rebranding and improved servicing of the important local tourism industry. 2 That Council in recognition of such improvement <u>review</u> CCTI core operational funding. 3 That Council <u>receive a briefing</u> on 23 June 2010 with CCTI to discuss operational issues with a report to 23 June 2010 meeting documenting service improvements identifying how operational funding from Council should be improved to around \$150,000 (excl GST) per annum. 	26 May 2010 Cr Webster / Cr Graham	<p>The Finance Section has been advised to include additional \$55,000 expenditure in the budget during the September Budget Review (as this resolution was after the adoption of the 2010-11 Annual Plan).</p> <p>A Memorandum of Understanding for 2010-11 has been drafted addressing funding, reporting and implementation of the Destination Management Plan. Central Coast Tourism advised on 18 August 2010 that they are reviewing the draft document.</p>
14	Shire Planning	<p>8.1 - Notice of Motion – Clause 14 Fund Improving Conservation Outcomes</p> <p>That staff <u>investigate</u> and report back to Council on the best use of the Clause 14 (3) (b), funds for improving conservation outcomes.</p>	14 July 2010 Cr Wynn / Eaton	Report will be presented to Council subject to confirmation of a briefing date.
15	Shire Planning	<p>6.4 – Bicycle Racks on Buses</p> <ol style="list-style-type: none"> 1 That Council <u>report</u> on a proposal for a pilot plan that identifies some suitable routes and a timetable to trial bicycle racks on buses and forward this to the NSW State Transport and our local bus companies advocating for the trial. 2 That Council <u>seek grant funding</u> for this initiative. 	28 July Cr Wynn / Best	A report will be prepared for 24 November 2010.

No	Department	Question Asked / Councillor	Meeting Asked	Status
16	Shire Planning	<p>U21/10 - Motion of Urgency - Proposed State Environmental Planning Policy (SEPP)</p> <ol style="list-style-type: none"> 1 That the Department of Planning be requested to extend the public exhibition for the proposed amendment to Schedule 3 of State Environment Planning Policy (Major Development) 2005 at Gwandatan and Catherine Hill Bay to 30 September 2010 to provide sufficient time for the community to have input into this significant proposal. 2 That Council undertake a local media campaign to ensure that the community is made aware of the many significant issues associated with this proposal. 3 That Council write to the Department of Environment and Climate Change and Water (DECCW) and ask for its views on this proposal. 4 That Council raise its concerns about this proposal and make representations to the following: <ul style="list-style-type: none"> • The Honourable Kristina Keneally, MP, Premier • The Honourable Tony Kelly, MLC, Minister for Planning, Minister for Infrastructure, Minister for Lands, Deputy Leader of the Government in the Legislative Council, Leader of the House in the Legislative Council • The Honourable Frank Sartor, MP - Minister for Climate Change and the Environment and Minister Assisting the Minister for Health (Cancer) • Mr Robert Coombs, MP - Member for Swansea 	<p>11 August 2010 Cr Wynn / Symington</p>	<p>Letters issued as requested. Council received a response stating that the requested extension was not approved.</p> <p>Communications prepared a media release for Council's website.</p> <p>Council has received a copy of DECCWS submission to the proposal. This was circulated to councillors via a business update on 13 September 2010. A copy of this will also be included in information report to council once responses have been received from the representations made in resolution number 4.</p>
17	Shire Planning	<p>10.1 – Notice of Motion – University Parking Solutions</p> <p>That Council staff in conjunction with Ourimbah University report on the current parking situation at the University and solutions to ensure adequate parking now and in the future to cope with student and staff growth</p>	<p>25 August 2010 Cr Eaton / McNamara</p>	<p>A report will be prepared for 24 November 2010.</p>

No	Department	Question Asked / Councillor	Meeting Asked	Status
18	Shire Services	<p>10.2 – Notice of Motion – San Remo Disability Friendly Xtreme Sports Park</p> <p>1 That Council <u>consult</u> with the community and potential stakeholders to develop a sustainable management mode of operation for the San Remo Disability Friendly Xtreme Sport Park to determine the model for ongoing activation of this valuable community asset.</p> <p>2 That Council, following initial community consultation, conduct an on-site meeting to understand the potential for the site.</p> <p>3 That Council consider a report on the outcome of the above, including the financial and recourse implications to Council.</p>	25 August 2010 Cr McBride / Wynn	Community consultation program scheduled over the coming 4 months. Report back to Council in February 2011.
19	Shire Services	<p>8.1 Notice of Motion - Fluorescent Light Globes and Batteries Recycling</p> <p>1 That Wyong Shire Council introduce a fluorescent light globe and battery recycling program for a 1 year trial after which time a report is to come back to Council outlining the success or otherwise of the program and its cost.</p> <p>2 That Wyong Shire Council enable this recycling to occur by providing suitable collection sites</p>	8 September 2010 Cr Wynn/ Vincent	A report will be submitted to Council once the feasibility of this program has been investigated.

No	Department	Question Asked / Councillor	Meeting Asked	Status
20	General Managers Unit	U22/10 Motion of Urgency - Central Coast Region Accessing the Regional Infrastructure Fund 1 <i>That Council liaise with the Federal Minister for Regional Development with a view to the Federal Government recognising the Central Coast as a region and accessing the new \$9.9 billion Regional Infrastructure Fund.</i> 2 <i>That Council approach all Local Federal Members to support this approach.</i> 3 <i>That Gosford City Council be copied in on this motion and requested to pass a complementary resolution with the view to making a joint regional submission.</i>	8 September 2010 Cr Eaton/Best	22 Sep 2010 - Letters sent to Hon Simon Crean MP, Minister for Regional Australia, Ms Jill Hall MP, Federal Member for Shortland, Mr Craig Thomson MP, Federal Member for Dobell, Mr Chris Holstein, Mayor Gosford City Council and Mr Anthony Dow, Executive Officer Regional Development Australia, Central Coast NSW. The letter drew their attention to Council resolution of 8 September 2010 and asked for further information and support of Council in gaining access to the \$9.9 billion Regional Infrastructure fund. Further report to follow when additional information is received. 5 Oct 2010 - Letters sent to local MPs, Minister for Regional Australia and RDA Central Coast seeking further information about applying for funding under this program, to date no further correspondence has been received.

No	Department	Question Asked / Councillor	Meeting Asked	Status
21	Shire Services	<p>10.1 Notice of Motion - Efficiencies and Power Pricing Options</p> <p>1 That Council <u>note</u> with great concerns the alarming escalation of electricity pricing and the financial impact it is placing on our residents and ratepayers.</p> <p>2 Further that Council, as a matter of urgency, <u>seek</u> a formal briefing from the local peak energy provider Energy Australia regarding the recent alarming price hikes and as to what effective energy efficiency options are available to reduce usage and price.</p> <p>3 That Council, as an advocate on behalf of our residents and rate payers, seek to <u>establish</u> an independent investigation into the conduct of the energy industry and agencies that has resulted in the recent massive price hikes.</p> <p>4 That staff <u>report</u> to Council on options, initiatives and recommendations arising from the above to assist our residents and rate payers in dealing with this challenging situation.</p> <p>5 That staff <u>report</u> to Council on the affect on energy bills of installation of smart meters.</p>	13 October 2010 Cr Best/ Wynn	A formal briefing with Energy Australia to be arranged. Reports to follow after briefing.
22	Corporate Services	<p>Q107/10 - Water Leakage on Ratepayers property</p> <p>"Could staff please advise whether the policy applicable to accidental water leakage on a ratepayers property is a local policy or a state policy and how can Council assist with excessive bills?"</p>	13 October 2010 Cr Webster	A response will be submitted to Council on 24 November 2010 Ordinary Meeting.
23	Shire Services	<p>Q108/10 - Swimming areas at Gwandalan and Mannering Park</p> <p>"In relation to the swimming areas at Gwandalan and Mannering Park, could staff report on the current condition and future requirement and/or replacement of the nets?"</p>	13 October 2010 Cr Symington	A response will be submitted to Council on 24 November 2010 Ordinary Meeting.

No	Department	Question Asked / Councillor	Meeting Asked	Status
24	Corporate Services	Q109/10 - Regional Hospital Cutbacks <i>"It has been reported in the media that the Federal Government has redirected hospital funding into the regions, reportedly resulting in substantial cutbacks to our regional hospital at Gosford. As the Central Coast is a region and that the Federal Government funding adjustment was indicated to favour the regions how is it that this region appears to have suffered a health funding cutback?"</i>	13 October 2010 Cr Best	A response will be submitted a future meeting of Council.
25	Shire Planning	Q110/10 - Bus Services in our Shire's North <i>"A recent significant transport announcement was made by the State Government with regard to improving bus services and scheduling. This timely announcement is welcomed by the broader community, however could you please have staff confirm as to exactly what increased services residents and ratepayers will now enjoy north of the Wyong Township?"</i>	13 October 2010 Cr Best	A response will be submitted to Council on 8 December 2010 Ordinary Meeting.

Questions Without Notice and Notices of Motion Removed from the Above Lists since the Previous Meeting

Question without Notice / Notice of Motion	Date Asked/ Councillor	Outcome
8.3 - Notice of Motion – Council's Opposition to Commercial Whaling	14 July 2010 Cr Best / Wynn	Report on Whale Dreamers Festival 2010 included in this Business Paper.
7.2 - Notice of Motion - Lakes Contamination	11 August 2010 Cr Best / Eaton	Response included in this Business Paper.
Q104/10 - Update on Role of Wyong Shire Council Life Guards in Regards to Water Safety Education	22 September 2010 Cr McBride	Response included in this Business Paper.
Q106/10 - Question to RTA Regarding Strata Compensation due to Road Works	22 September 2010 Cr Wynn	Response included in this Business Paper

8.1 Answers to Question Without Notice

TRIM REFERENCE: F2009/02390 - D02375266

AUTHOR: Brett Sherar, Manager Open Space and Recreation

8.1 Q104/10 - Update on Role of Wyong Shire Council Life Guards in Regards to Water Safety Education

The following question was asked by Councillor McBride at the Ordinary Meeting on 22 September 2010:

“Given the report released today by the Royal Life Saving Society of Australia, could a councillor update be provided on the role of Wyong Shire Council Life Guards in water safety education”.

Councillor business update was completed and sent to Councillors on Monday 18 October 2010.

ATTACHMENTS

Nil.

8.2 Answers to Question Without Notice

TRIM REFERENCE: F2010/00500 - D02409829

MANAGER: Lesley Crawley, Manager Governance and Administration

AUTHOR: Paul Forster, Property Services Coordinator

8.2 Q106/10 - Question to RTA Regarding Strata Compensation Due to Road Works

The following question was asked by Councillor Wynn at the Ordinary Meeting on 22 September 2010:

“Wyong Shire Council please clarify with the RTA that properties that have a strata title are not entitled to just compensation when affected by any road works that impinge on their properties?”

In New South Wales, the Land Acquisition (Just Terms) Compensation Act 1991 provides for owners of all land or interests in land affected by acquisition proposals by acquiring authorities to be compensated on just terms for the land or interest in land acquired by the acquiring authority.

The Roads and Traffic Authority has advised that in accordance with the aforementioned Act, it would and does pay compensation to owners of land or interests in land in a strata title acquired for road purposes in the same way it pays compensation to owners of land that is not in a strata scheme and that is acquired for road purposes.

ATTACHMENTS

Nil.

10 November 2010

To the Ordinary Meeting

9.1 Notice of Motion - Women's Committee

TRIM REFERENCE: F2004/06496 - D02412850

Councillors Matthews and McBride have given notice that at the Ordinary Meeting to be held on 10 November 2010 they will move the following Motion:

“That Council establish a women’s committee that participation / membership includes staff, Councillors, community representatives to support women’s issues within the Local Government area.”

10 November 2010

To the Ordinary Meeting

9.2 Notice of Motion - Lot 1 DP 450166 Main Road Toukley

TRIM REFERENCE: DA/627/2004 - D02412852

Councillors Best and McNamara have given notice that at the Ordinary Meeting to be held on 10 November 2010 they will move the following Motion:

- "1 That further to Council's consideration of this matter on 11 June 2008 and staff reply (reports attached), Council reiterate on behalf of its residents and ratepayers its serious concern regarding the unsightly and potentially unsafe condition of the partially built structure locally know as the Toukley Taj Mahan on Lot 1 DP 450166, Main Road, Toukley at the bridge.*
- 2 That acknowledging the substantial period of time that has lapsed since any work has taken place on the property and noting that a Notice of Intent has been issued requiring the completion of the development:*
 - a Council proceed to issue a formal Order for completion.*
 - b Council's legal counsel investigate any other avenues to achieve completion.*
 - c Should the owners not comply with the terms of the Order upon its expiry, Council commence legal action in the Land and Environment Court."*

Nil

10 November 2010

To the Ordinary Meeting

9.3 Notice of Motion - Call to Close Dirty Coal Generator

TRIM REFERENCE: F2004/07706 - D02412885

Councillors Best and Wynn have given notice that at the Ordinary Meeting to be held on 10 November 2010 they will move the following Motion:

- “1 That Council investigate reports that the State Government through Delta Electricity is seeking to divest itself of the aging Munmorah Station with a view to retaining the soon to be upgraded Colongra portion. As this station was constructed in the mid 60s and upgraded in the early 1980s it is the most polluting power station and clearly the general site is significantly environmentally degraded.
- 2 That further residents and ratepayers of the Shire’s north have endured dust, noise and health challenges associated with dirty coal generation it is with this understanding that Council seek to confirm the State’s intention subject to confirmation, Council on behalf of our residents and ratepayers call on the State Government to demolish the aging Station and utilise the land for more conventional and environmentally friendly employment generating opportunities.
- 3 That Council request staff investigate appropriate notations to be attached to the Section 149 Certificate for the land associated with the Power Station to deal with the degraded and likely contamination issues associated with the site.”

COUNCILLORS’ NOTE

Newcastle Herald article dated 13 October 2010 attached.

- 1 Resurrecting Munmorah - The Herald 13 October 2010 D02421001

Resurrecting Munmorah

13 Oct, 2010 01:00 AM

THE NSW government's approval of a \$500 million upgrade of Munmorah power station will keep the old plant running for another 20 years.

The 1960s-vintage power station has been limping along sporadically on reduced capacity for some time. Restoring its generators to a total 700 megawatt capacity will make Munmorah a useful contributor to the power grid once again.

But while the approval makes strategic and economic sense for the state, it raises a number of questions of which those relating to health and the environment are by no means the least.

It is worth noting that the NSW Department of Health recommended that the refurbished power station be run chiefly on gas. The populations of Wyong and Lake Macquarie have grown greatly since the 1960s and 1980s when Vales Point, Munmorah and Eraring power stations were built. Much has been learnt in that time about links between power station emissions and respiratory ill-health.

Gas is a cleaner fuel and gas-powered generators can be started and stopped more quickly than those that use coal. It makes sense to favour gas for a power station in a populated area.

It might seem as if the government is mainly interested in squaring away unfinished business in its generating companies in order to prepare them for sale. It would be a pity if consideration of long-term issues was being rushed for this reason, especially by a government that appears itself to have a short life-span.

In the bigger picture, the government is reportedly moving back into coalmining in order to guarantee cheap fuel for the power stations in the lead-up to their sale - having sold the publicly owned mines in 2003 for what now seems a dismal price.

The NSW opposition is warning that the proposed power sell-off is shaping up as fiasco that won't deliver a good result for taxpayers. Indeed, the Australian Competition and Consumer Commission is examining the potential implications of Labor's sale plans for ownership concentration in the power industry. With only a relative handful of likely bidders, a mismanaged sale could result in NSW power consumers being delivered into the hands of a few private operators.

All things considered, there's a strong argument in favour of demanding the government put the sale process on hold until the election next March.

Vale, La Stupenda

LUCIANO Pavarotti once described Dame Joan Sutherland's agile coloratura soprano as "the voice of the century".

The Sydney-born singer's exceptional gift was recognised in the 1950s. She travelled overseas to mature her art, astonishing European opera buffs in the early 1960s and earning her lifelong nickname La Stupenda - "the stunning one".

Dame Joan's passing this week will sadden her many fans. Some may find some consolation, however, in the fact that many highlights of the great singer's career have been preserved in high quality recordings. It may be some time before another singer of her calibre is seen, but her remarkable voice will long continue to be heard.



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