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## WYONG SHIRE COUNCIL

### REPORTS TO THE ORDINARY MEETING OF COUNCIL

TO BE HELD IN THE COUNCIL CHAMBER,  
WYONG CIVIC CENTRE, HELY STREET, WYONG  
ON WEDNESDAY, 12 DECEMBER 2007,  
COMMENCING AT 5.00 PM

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## ORDINARY MEETING OF COUNCIL

12 DECEMBER 2007

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**WYONG SHIRE COUNCIL**

12 December 2007  
To the Ordinary Meeting of Council

General Manager's Report

**528 Disclosures of Interest**

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F2006/02282 ED:MR

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 interests and reasons for declaring such interest in the matters under consideration by Council at this meeting.***

**WYONG SHIRE COUNCIL**

12 December 2007  
To the Ordinary Meeting of Council

General Manager's Report

**529 Proposed Inspections**

F2006/02282 MW:SW

**SUMMARY**

Inspections proposed to be held on 23 January 2008 and prior to the second Ordinary Meeting are listed as follows:

<b>Date of Inspection</b>	<b>Location</b>	<b>Requested By</b>
23 January 2008	Westfield Shopping Centre – Stage 3 – DA/912/2007.	Director Shire Planning
23 January 2008	155 Johns Road, Wadalba – 20 Lot Subdivision – DA/59/2007	Director Shire Planning

**RECOMMENDATION**

***That the report on inspections to be conducted on Wednesday, 23 January 2008 be received and the information noted.***

## WYONG SHIRE COUNCIL

12 December 2007  
To the Ordinary Meeting of Council

General Manager's Report

### 530 Proposed Briefings

F2006/02282 ED:MR

#### SUMMARY

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

Date	Briefing	Description	Time	Presented by
12 December 2007	DCP – Chapter 66 Subdivision	DCP – Chapter 66 Subdivision	11.00 am – 12.00 noon	Senior Policy Development Planner and Manager Planning – Legal and Policy
12 December 2007	Energy Efficiency	Energy Efficiency	12.00 noon – 1.00 pm	Senior Terrestrial Ecology and Sustainability Officer with consultant
12 December 2007	Sustainability Workshop	Sustainability Workshop	1.00 pm – 3.00 pm	Senior Terrestrial Ecology and Sustainability Officer with consultant

#### RECOMMENDATION

*That the report be received and the information noted.*

## WYONG SHIRE COUNCIL

12 December 2007  
To the Ordinary Meeting of Council

General Manager's Report

**531 Address by Invited Speakers**

F2006/02282 ED:MR

**SUMMARY**

The following person has been invited to address the meeting of Council:

<b>SPEAKERS</b>	<b>REPORT</b>	<b>PAGE NO</b>	<b>DURATION</b>
Mr John Forsyth  (against the proposal)	535 - Proposed Animal Establishment at Kangy Angy		5 mins

**RECOMMENDATION**

- 1 That the report on Invited Speakers be received and the information noted.***
- 2 That standing orders be varied to allow each item to be dealt with following the speaker's address.***

**WYONG SHIRE COUNCIL**

12 December 2007  
To the Ordinary Meeting of Council

General Manager's Report

**532 Notice of Intention to Deal With Matters in Confidential Session**

F2006/02282 ED:MR

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**SUMMARY**

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

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

**RECOMMENDATION**

- 1 That pursuant to Section 10A(2)(a) (d) & (g) of the Local Government Act, 1993, the following reports be dealt with in Confidential Session:**
  - W018 – Contract CPA 99940 – Construction of Wadalba Sports Facility Application for Funding**
  - W019 – Wyong Community Recreation Association**
- 2 That the reason for dealing with Report No W018 - Contract CPA 99940 – Construction of Wadalba Sports Facility Application for Funding confidentially is that it contains advice concerning litigation, or advice that would otherwise be privileged from production in legal proceedings on the ground of legal professional privilege.**
- 3 That the reason for dealing with the Report No W019 - Wyong Community Recreation Association confidentially is that it is information that would, if disclosed, confer a commercial advantage on a person with whom the Council is conducting (or proposes to conduct) business.**
- 4 That, in accordance with the Council resolution, the General Manager will report on this matter to the meeting in Confidential Session.**

**WYONG SHIRE COUNCIL**

12 December 2007  
To the Ordinary Meeting of Council

General Manager's Report

**533 Confirmation of Minutes of Previous Meeting**

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F2006/02282 ED:MR

**SUMMARY**

Confirmation of minutes of the previous Ordinary Meeting of Council held on 28 November 2007.

**RECOMMENDATION**

*That the minutes of the previous Ordinary Meeting of Council held on 28 November 2007 be received and confirmed.*



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**WYONG SHIRE COUNCIL**  
**MINUTES OF THE**  
**ORDINARY MEETING OF COUNCIL**  
**HELD IN THE COUNCIL CHAMBER**  
**WYONG CIVIC CENTRE, HELY STREET, WYONG**  
**ON WEDNESDAY, 28 NOVEMBER 2007,**  
**COMMENCING AT 5.16 PM**

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**PRESENT**

COUNCILLORS W J WELHAM (CHAIRPERSON), G P BEST, D J EATON, R L GRAHAM, B J PAVIER, N T ROSE, R E STEWART, R C STEVENS AND C W VEUGEN.

**IN ATTENDANCE**

GENERAL MANAGER, DIRECTOR SHIRE SERVICES, DIRECTOR CORPORATE SERVICES, DIRECTOR SHIRE PLANNING, ACTING ASSISTANT DIRECTOR SHIRE SERVICES, ACTING MANAGER FUTURE PLANNING, ACTING MANAGER DEVELOPMENT ASSESSMENT AND AN ADMINISTRATION OFFICER.

THE MAYOR REPORTED THAT:

- \* A FRIDGE HAS BEEN INSTALLED IN THE CHAMBERS CONTAINING COLD DRINKS FOR COUNCILLORS AND STAFF CONVENIENCE. COUNCILLORS ARE ALSO ASKED TO NO LONGER ENTER THE KITCHEN DURING THE MEETING AS IT IS A STAFF WORK AREA OR USE THE COUNCILLORS LOUNGE AND DINING AREA DURING THE MEETING.
- \* AT THE LAST MEETING A RANGE OF ISSUES AROSE REGARDING THE CODE OF MEETING PRACTICE, COUNCILLORS HAVE BEEN ISSUED WITH A COPY OF THE CODE OF MEETING PRACTICE DATED 12 SEPTEMBER 2007 (GREEN COVER). REGARDING THE QUESTION ASKED AT THE LAST MEETING REGARDING SPEAKERS AND TIME ALLOCATIONS FOR SPEAKERS, THE MAYOR REFERED TO SECTIONS 26(8) AND 38(8) OF THE CODE OF MEETING PRACTICE.
- \* THE GENERAL MANAGER ISSUED AN EMAIL REGARDING QUESTIONS WITHOUT NOTICE AND IT WAS BROUGHT TO THE COUNCILLORS ATTENTION THAT UNDER THE LOCAL GOVERNMENT ACT REGULATIONS AND COUNCIL'S CODE OF MEETING PRACTICE THAT QUESTIONS WITHOUT NOTICE ARE NOT TO BE AVAILABLE FOR DEBATE. QUESTIONS WITHOUT NOTICE WILL BE REPLIED TO BY STAFF OR OTHER COUNCILLORS AS REPLIES AND NOT AS INFORMATION REPORTS. COUNCILLORS HAVE THE OPPORTUNITY TO HAVE ACTIONS (SUCH AS WORKS, MAKING REPRESENTATIONS ON BEHALF OF PEOPLE AND WRITING LETTERS) RAISED AS A NOTICE OF MOTION OR MATTERS OF URGENCY.
- \* LAST WEDNESDAY I MET THE US CONSUL GENERAL MRS JUDITH VERGIN AND DISCUSSED THE LOCAL AREA AND WHAT SHE COULD OFFER COUNCIL IN TERMS OF HER ROLE AS THE US CONSUL GENERAL AND OPPORTUNITIES FOR THE WYONG EMPLOYMENT ZONE.
- \* THERE IS A MEETING SCHEDULED FOR THURSDAY 6 DECEMBER 2007 WITH THE MAYOR AND GENERAL MANAGER OF GOSFORD CITY COUNCIL, GENERAL MANAGER OF WYONG SHIRE COUNCIL, THE HONOURABLE NATHAN REES - MINISTER FOR EMERGENCY SERVICE AND WATER UTILITIES AND MYSELF TO PROGRESS THE WATER AUTHORITY ISSUE.

**Minutes of the Ordinary Meeting of Council held on 28 November 2007 (contd)**

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THE MAYOR, COUNCILLOR W J WELHAM, DECLARED THE MEETING OPEN AT 5.16 PM, ADVISED THAT THE MEETING IS BEING RECORDED AND PASTOR JOHN BETTS DELIVERED THE OPENING PRAYER.

**APOLOGY**

AN APOLOGY FOR THE INABILITY TO ATTEND THE MEETING WAS RECEIVED ON BEHALF OF COUNCILLOR FORSTER DUE TO FAMILY REASONS.

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

***That the apology be accepted and leave of absence from the meeting be granted.***

AT THE COMMENCEMENT OF THE ORDINARY MEETING REPORT NOS 492, 493, 494, 495 AND 501 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.

**492 Disclosures of Interest**

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F2006/02282 ED:MR

**497 – NOTICE OF MOTION – AIR QUALITY**

COUNCILLOR EATON DECLARED A NON-PECUNIARY INSIGNIFICANT CONFLICT OF INTEREST IN THE MATTER FOR THE REASON THAT HE IS A COMMITTEE MEMBER OF STOP KOREAN COAL MINING (SKCM) AND PARTICIPATED IN CONSIDERATION OF THIS MATTER.

COUNCILLOR EATON STATED:

*"I CHOOSE TO REMAIN IN THE CHAMBER AND PARTICIPATE IN DISCUSSION AND VOTING AS THE CONFLICT HAS NOT INFLUENCED ME IN CARRYING OUT MY PUBLIC DUTY BECAUSE THERE IS NO CONFLICT BETWEEN COUNCIL AND SKCM INTERESTS."*

**498 – NOTICE OF MOTION – FRASER ISLAND SANDMINE CASE**

COUNCILLOR EATON DECLARED A NON-PECUNIARY INSIGNIFICANT CONFLICT OF INTEREST IN THE MATTER FOR THE REASON THAT HE IS A COMMITTEE MEMBER OF STOP KOREAN COAL MINING (SKCM) AND PARTICIPATED IN CONSIDERATION OF THIS MATTER.

COUNCILLOR EATON STATED:

*"I CHOOSE TO REMAIN IN THE CHAMBER AND PARTICIPATE IN DISCUSSION AND VOTING AS THE CONFLICT HAS NOT INFLUENCED ME IN CARRYING OUT MY PUBLIC DUTY BECAUSE THERE IS NO CONFLICT BETWEEN COUNCIL AND SKCM INTERESTS."*

## **Minutes of the Ordinary Meeting of Council held on 28 November 2007 (contd)**

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### **512 – PROPOSED COUNCILLORS' COMMUNITY IMPROVEMENT GRANTS**

COUNCILLOR BEST DECLARED A NON-PECUNIARY INSIGNIFICANT CONFLICT OF INTEREST IN THE MATTER FOR THE REASON THAT HE IS A MEMBER OF STOP KOREAN COAL MINING (SKCM) AND PATRON OF A NUMBER OF ORGANISATIONS AND PARTICIPATED IN CONSIDERATION OF THIS MATTER.

COUNCILLOR BEST STATED:

*"I CHOOSE TO REMAIN IN THE CHAMBER AND PARTICIPATE IN DISCUSSION AND VOTING AS THE CONFLICT HAS NOT INFLUENCED ME IN CARRYING OUT MY PUBLIC DUTY."*

### **512 – PROPOSED COUNCILLORS' COMMUNITY IMPROVEMENT GRANTS**

COUNCILLOR EATON DECLARED A NON-PECUNIARY INSIGNIFICANT CONFLICT OF INTEREST IN THE MATTER FOR THE REASON THAT HE IS A COMMITTEE MEMBER OF STOP KOREAN COAL MINING (SKCM) AND PARTICIPATED IN CONSIDERATION OF THIS MATTER.

COUNCILLOR EATON STATED:

*"I CHOOSE TO REMAIN IN THE CHAMBER AND PARTICIPATE IN DISCUSSION AND VOTING AS THE CONFLICT HAS NOT INFLUENCED ME IN CARRYING OUT MY PUBLIC DUTY BECAUSE THERE IS NO CONFLICT BETWEEN COUNCIL AND SKCM INTERESTS."*

### **518 – MINUTES OF COMMUNITY BENEFIT GRANTS PANEL – 31 OCTOBER 2007**

COUNCILLOR WELHAM DECLARED A NON-PECUNIARY SIGNIFICANT CONFLICT OF INTEREST IN THE MATTER FOR THE REASON THAT YOUTH CONNECTIONS IS AN APPLICANT THAT WORKED DIRECTLY WITH HIS STUDENTS AT NORTHLAKES HIGH SCHOOL, LEFT THE CHAMBER AT 7.03 PM, TOOK NO PART IN DISCUSSION, DID NOT VOTE AND RETURNED TO THE CHAMBER AT 7.05 PM.

***RESOLVED unanimously on the motion of Councillor ROSE and seconded by Councillor STEVENS:***

***That the report be received and advice of disclosures noted.***

## **493 Proposed Inspections**

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F2006/02282 ED:MR

***RESOLVED unanimously on the motion of Councillor STEWART and seconded by Councillor ROSE:***

***That the report on inspections conducted on Wednesday, 28 November 2007 be received and the information noted.***

## **494 Proposed Briefings**

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F2006/02282 ED:MR

***RESOLVED unanimously on the motion of Councillor STEWART and seconded by Councillor STEVENS:***

***That the report be received and the information noted.***

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**Minutes of the Ordinary Meeting of Council held on 28 November 2007 (contd)**

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**495 Address by Invited Speakers**

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F2006/02282 ED:MR

**RESOLVED unanimously on the motion of Councillor STEVENS and seconded by Councillor STEWART:**

- 1 That the amended report on Invited Speakers be received and the information noted.**
- 2 That standing orders be varied to allow each item to be dealt with following the speaker's address.**

**496 Confirmation of Minutes of Previous Meeting**

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F2006/02282 ED:MR

**RESOLVED unanimously on the motion of Councillor PAVIER and seconded by Councillor STEVENS:**

**That the minutes of the previous Ordinary Meeting of Council held on 14 November 2007 be received and confirmed.**

**BUSINESS ARISING FROM THE MINUTES**

THERE WAS NO BUSINESS ARISING FROM THE MINUTES.

**497 Notice of Motion - Air Quality**

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F2004/00152, F2004/06956 MR

COUNCILLOR EATON DECLARED A NON-PECUNIARY INSIGNIFICANT CONFLICT OF INTEREST IN THE MATTER FOR THE REASON THAT HE IS A COMMITTEE MEMBER OF STOP KOREAN COAL MINING (SKCM) AND PARTICIPATED IN CONSIDERATION OF THIS MATTER.

COUNCILLOR EATON STATED:

*"I CHOOSE TO REMAIN IN THE CHAMBER AND PARTICIPATE IN DISCUSSION AND VOTING AS THE CONFLICT HAS NOT INFLUENCED ME IN CARRYING OUT MY PUBLIC DUTY BECAUSE THERE IS NO CONFLICT BETWEEN COUNCIL AND SKCM INTERESTS."*

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

**That this matter be deferred pending a briefing.**

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**Minutes of the Ordinary Meeting of Council held on 28 November 2007 (contd)**

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**498 Notice of Motion - Fraser Island Sandmining Case**

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F2007/00729

COUNCILLOR EATON DECLARED A NON-PECUNIARY INSIGNIFICANT CONFLICT OF INTEREST IN THE MATTER FOR THE REASON THAT HE IS A COMMITTEE MEMBER OF STOP KOREAN COAL MINING (SKCM) AND PARTICIPATED IN CONSIDERATION OF THIS MATTER.

COUNCILLOR EATON STATED:

*"I CHOOSE TO REMAIN IN THE CHAMBER AND PARTICIPATE IN DISCUSSION AND VOTING AS THE CONFLICT HAS NOT INFLUENCED ME IN CARRYING OUT MY PUBLIC DUTY BECAUSE THERE IS NO CONFLICT BETWEEN COUNCIL AND SKCM INTERESTS."*

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

- 1 That Council obtain legal advice on the application of the Principles in the Fraser Island Sandmining case to the proposed Korean Coal Mine.***
- 2 That Council write to newly elected Federal Members seeking their endorsement of their public positions in opposition to the proposed coal mine and what their intentions are in relation to acting on this opposition.***

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**499 Notice of Motion - The Entrance Peninsula Strategy**

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CPA/105639

COUNCILLOR VEUGEN LEFT THE CHAMBER AT 6.07 PM AND RETURNED TO THE CHAMBER AT 6.08 PM DURING CONSIDERATION OF THIS ITEM.

***RESOLVED unanimously on the motion of Councillor PAVIER and seconded by Councillor STEVENS:***

***That during the period of the public exhibition and as part of the economic viability study, a review be undertaken of the viability of the 3(d) Tourist Business zoning within The Entrance Town Centre in relation to the zone objectives requiring predominantly tourism development and also what zoning would best improve the site development viability.***

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**Minutes of the Ordinary Meeting of Council held on 28 November 2007 (contd)**

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**500 Notice of Motion - Poll**

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F2007/01531 MR

*It was MOVED by Councillor BEST and seconded by Councillor VEUGEN:*

- 1 *That Council at the upcoming September 2008 Local Government elections conduct a Shire wide poll that will allow our residents and ratepayers to voice their views on key community issues such as, but not limited to, the current Korean coal mining proposal, various strategic planning issues, sustainability, population growth, water supply and election of Mayor.*
- 2 *That 1 above be subject to a thorough Council briefing and report by staff to Council on issues such as process, scheduling, suggested items for inclusion and costs.*

***The MOTION was put to the vote and declared LOST***

FOR: COUNCILLORS BEST, EATON, STEWART AND VEUGEN.

AGAINST: COUNCILLORS GRAHAM, PAVIER, ROSE, STEVENS AND WELHAM.

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**501 Proposed Utility Installation at Lake Munmorah**

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DA/1155/2007 ARO:JD

MS DIVINI TSOI, REPRESENTING CONNELL WAGNER PTY LTD WAS AVAILABLE FOR QUESTIONS.

***RESOLVED unanimously on the motion of Councillor ROSE and seconded by Councillor STEWART:***

- 1 ***That the application be referred to the General Manager for determination having regard to the matters for consideration detailed in Section 79C of the Environmental Planning and Assessment Act 1979 and other relevant issues with an indication that based on the information available to it, Council favours approval of the application subject to appropriate conditions.***
- 2 ***That those who made written submissions be advised of Council's decision.***

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**502 Proposed Subdivision of the Old Farm Site, Mardi**

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DA/781/2006 EB

THIS ITEM WAS WITHDRAWN BY DIRECTOR SHIRE PLANNING AS THE APPLICANTS HAD WITHDRAWN THEIR APPLICATION.

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**Minutes of the Ordinary Meeting of Council held on 28 November 2007 (contd)**

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**503 Shire Strategic Vision Project "Our Shire – Our Future"**

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F2004/11115 DSS

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

- 1 That Council commence a Shire Strategic Vision process generally in accordance with that outlined in this report.**
- 2 That the Shire Strategic Vision process be designated a "Key Focus Area" under Wyong Shire's 2007/2008 Management Plan.**
- 3 That an initial budget of \$50,000 be allocated to this project in 2007/2008, with subsequent allocations subject to normal budget processes.**

**RESOLVED unanimously on the motion of Councillor WELHAM and seconded by Councillor ROSE:**

**That report numbers 504, 505, 506, 507, 508, 509, 510 and 511 of the Ordinary Meeting of Council be dealt with by the exception method.**

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

**That report numbers 504, 505, 506, 507, 508, 509, 510 of the Ordinary Meeting of Council, with the exception of report number 511 be received and the recommendations adopted.**

**504 Contract CPA 128126 – Supply and Delivery of Road Sealing Aggregates**

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CPA/128126 JM

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

- 1 That Council accept Tender No 2 from Hanson Construction Materials Pty Ltd as the preferred supplier of road sealing aggregates for a period of 36 months commencing on 1 December 2007. The estimated annual expenditure against this contract is \$187,360 including GST (\$170,328, excluding GST) however, actual expenditure may vary with fluctuations in demand.**
- 2 That Council accept Tender No 3 from Metromix Pty Ltd as the second ranked supplier of road sealing aggregates for the period of 36 months commencing on 1 December 2007.**

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**Minutes of the Ordinary Meeting of Council held on 28 November 2007 (contd)**

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**505 Contract CPA 128127 – Manufacture, Supply and Delivery of Bituminous Coldmix**

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CPA/128127

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

*That Council accept Tender No 3 from Pioneer Road Services Pty Ltd as the preferred supplier of bituminous coldmix for a period of 36 months commencing on 1 December 2007. The estimated annual expenditure against this contract is \$52,888 including GST (\$48,080 excluding GST) however, actual expenditure may vary with fluctuations in demand.*

**506 Contract CPA 128143 – Supply and Delivery of Heavily Bound Pavement Material**

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CPA/128143 JM

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

*That Council accept all tenders at the tendered schedule of rates for the supply and delivery of heavily bound pavement materials for a period of 36 months commencing on 1 December 2007 and that the Director, Shire Services be authorised to use the most economical, compliant and suitable material as each situation demands. The estimated annual expenditure against all contracts is \$358,000 including GST (\$325,454 excluding GST) however, actual expenditure may vary with fluctuations in demand.*

**507 Contract CPA 128145 – Supply and Delivery of Type S Filter Sand**

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CPA/128145 JM

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

*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 2007. The estimated annual expenditure against this contract is \$263,981 including GST (\$239,982, excluding GST) however, actual expenditure may vary with fluctuations in demand.*



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**Minutes of the Ordinary Meeting of Council held on 28 November 2007 (contd)**

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**508 Contract CPA 128146 – Supply and Delivery of Unbound and Modified Bases and Sub Base Materials for Surfaced Road Pavements**

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CPA/128146 JM

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

- 1 That Council accept all tenders at the tendered schedule of rates for the supply and delivery of unbound and modified base and sub base materials for a period of 36 months commencing from 1 December 2007 and that the Director, Shire Services be authorised to use the most economical, compliant and suitable material as each situation demands. The estimated annual expenditure against all contracts is \$1,200,000 including GST (\$1,090,909 excluding GST) however, actual expenditure may vary with fluctuations in demand.**
- 2 That Council notes prices are subject to annual adjustments based on Consumer Price Index (CPI) movements.**

**509 Contract CPA 128158 – Manufacture, Supply and Delivery of Ready Mix Concrete**

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CPA/128158 JM

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

- 1 That Council accept tender No 1 from Boral Resources (Country) P/L as the preferred supplier of ready mix concrete for a period of 36 months commencing on 1 December 2007. The estimated annual expenditure against this contract is \$680,000 including GST (\$618,181 excluding GST) however, actual expenditure may vary with fluctuations in demand.**
- 2 That Council accept Tender No 2 from Hanson Construction Materials P/L as the second ranked supplier of ready mix concrete for the period of 36 months commencing on 1 December 2007**
- 3 That Council accept tender No 4 from Ritemix P/L trading as Coastwide Readymix Concrete P/L as the third ranked supplier of ready mix concrete for the period of 36 months commencing on 1 December 2007.**
- 4 That Council accept tender No 3 from Readymix Concrete P/L as the fourth ranked supplier of ready mix concrete for the period of 36 months commencing on 1 December 2007.**

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**Minutes of the Ordinary Meeting of Council held on 28 November 2007 (contd)**


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**510 Contract CPA 128566 – Hunter Councils Inc. Period Contract for the Manufacture, Supply and Delivery of Bulk Cationic Rapid Setting (CRS) Grade Bitumen Emulsion**


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CPA/128566 JM

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

- 1 That subject to all participating Councils of Hunter Councils Inc agreeing to participate, Council agree to the contract between Hunter Councils Inc. and Downer EDI Works for the manufacture, supply and delivery of Bulk Cationic Rapid Setting (CRS) Grade Bitumen Emulsion for the two year period commencing from the date of acceptance until 31 December 2009.**
- 2 That Council authorises the General Manager to agree to an option to extend the contract for a further 12 month period based on satisfactory performance and price.**
- 3 That Council notes the annual estimated expenditure against this contract is \$279,675 including GST (\$254,250 excluding GST).**

**511 Contract CPA 132383 – Provision of Local Area Newspaper Advertising**


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CPA/132383 LM

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

**That Council accepts Tender No 1 from the Nationwide News Pty Ltd (trading as the Central Coast Express Advocate) for an initial period of 36 months commencing on 2 January 2008. The estimated annual expenditure against this contract is \$177,085 including GST (\$160,986 excluding GST) however actual expenditure may vary significantly with fluctuations in demand.**

**512 Proposed Councillors' Community Improvement Grants**


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F2007/00729 SG

COUNCILLOR BEST DECLARED A NON-PECUNIARY INSIGNIFICANT CONFLICT OF INTEREST IN THE MATTER FOR THE REASON THAT HE IS A MEMBER OF STOP KOREAN COAL MINING (SKCM) AND PATRON OF A NUMBER OF ORGANISATIONS AND PARTICIPATED IN CONSIDERATION OF THIS MATTER.

COUNCILLOR BEST STATED:

*"I CHOOSE TO REMAIN IN THE CHAMBER AND PARTICIPATE IN DISCUSSION AND VOTING AS THE CONFLICT HAS NOT INFLUENCED ME IN CARRYING OUT MY PUBLIC DUTY."*

## **Minutes of the Ordinary Meeting of Council held on 28 November 2007 (contd)**

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COUNCILLOR EATON DECLARED A NON-PECUNIARY INSIGNIFICANT CONFLICT OF INTEREST IN THE MATTER FOR THE REASON THAT HE IS A COMMITTEE MEMBER OF STOP KOREAN COAL MINING (SKCM) AND PARTICIPATED IN CONSIDERATION OF THIS MATTER.

COUNCILLOR EATON STATED:

*"I CHOOSE TO REMAIN IN THE CHAMBER AND PARTICIPATE IN DISCUSSION AND VOTING AS THE CONFLICT HAS NOT INFLUENCED ME IN CARRYING OUT MY PUBLIC DUTY BECAUSE THERE IS NO CONFLICT BETWEEN COUNCIL AND SKCM INTERESTS."*

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

***That an amount of \$4,825 be allocated from the 2007/2008 Councillors' Community Improvement Grants as outlined in Attachment 1.***

### **513 Wyong Shire Senior Citizens Council**

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F2004/05291 AE

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

- 1 *That Council adopt the proposed terms of reference and model charter for the Wyong Shire Senior Citizens Council for commencement in February 2008, and that Council indicate that Wednesdays are the preferred meeting day.***
- 2 *That Councillor Stewart be appointed as an alternate delegate.***

### **514 WiFi Hot Spot in The Entrance Mall Area**

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F2004/07982 IC/SG

COUNCILLOR PAVIER LEFT THE CHAMBER AT 6.42 PM AND RETURNED TO THE CHAMBER AT 6.44 PM DURING CONSIDERATION OF THIS ITEM.

*It was MOVED on the motion of Councillor EATON and seconded by Councillor BEST:*

*That this matter be referred to the local Chambers of Commerce and The Entrance Town Centre Management for their consideration.*

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**Minutes of the Ordinary Meeting of Council held on 28 November 2007 (contd)**


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***The MOTION was put to the vote and declared LOST.***

FOR: COUNCILLORS BEST, EATON AND VEUGEN.

AGAINST: COUNCILLORS GRAHAM, PAVIER, ROSE, STEVENS, STEWART AND WELHAM.

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

***That Council take no further action on this matter.***

FOR: COUNCILLORS GRAHAM, PAVIER, ROSE, STEVENS, STEWART AND WELHAM.

AGAINST: COUNCILLORS BEST, EATON AND VEUGEN.

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**515 2007/2008 Management Plan – September 2007 Quarter Review**


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F2004/07006

COUNCILLOR BEST LEFT THE CHAMBER AT 6.47 PM AND RETURNED TO THE CHAMBER AT 6.49 PM DURING CONSIDERATION OF THIS ITEM.

COUNCILLOR STEWART LEFT THE CHAMBER AT 6.55 PM AND RETURNED TO THE CHAMBER AT 6.57 PM DURING CONSIDERATION OF THIS ITEM.

***RESOLVED unanimously on the motion of Councillor ROSE and seconded by Councillor STEWART:***

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

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**516 Minutes of Gosford/Wyong Councils' Water Authority Board Meeting – 21 November 2007**


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F2004/06808

***RESOLVED unanimously on the motion of Councillor STEWART and seconded by Councillor ROSE:***

***That the minutes of the Gosford/Wyong Councils Water Authority Board meeting held on 21 November 2007 be received and the recommendations contained therein, adopted.***

**Minutes of the Ordinary Meeting of Council held on 28 November 2007 (contd)**

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**517 Minutes of Wyong Shire Governance Committee Meeting –  
14 November 2007**

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F2004/07245 SW

***RESOLVED unanimously on the motion of Councillor ROSE and seconded by Councillor STEVENS:***

***That the minutes of the Wyong Shire Governance Committee meeting held on 14 November 2007 be received and the recommendations contained therein, adopted.***

**518 Minutes of Community Benefit Grants Panel - 31 October 2007**

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F2004/06570 JV

COUNCILLOR WELHAM DECLARED A NON-PECUNIARY SIGNIFICANT CONFLICT OF INTEREST IN THE MATTER FOR THE REASON THAT YOUTH CONNECTIONS IS AN APPLICANT THAT WORKED DIRECTLY WITH HIS STUDENTS AT NORTHLAKES HIGH SCHOOL, LEFT THE CHAMBER AT 7.03 PM, TOOK NO PART IN DISCUSSION, DID NOT VOTE AND RETURNED TO THE CHAMBER AT 7.05 PM.

COUNCILLOR WELHAM VACATED THE CHAIR AND COUNCILLOR STEVENS ASSUMED THE CHAIR FOR CONSIDERATION OF THIS ITEM.

***RESOLVED unanimously on the motion of Councillor STEWART and seconded by Councillor PAVIER:***

***That the reports and recommendations of the Community Benefit Grants Panel be received and the recommendations contained therein be adopted.***

COUNCILLOR WELHAM RESUMED THE CHAIR.

**519 Minutes of Central Coast Regional Organisation of Councils  
Meeting – 7 November 2007**

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F2004/06390 JV

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

***That the minutes of the Central Coast Regional Organisation of Councils meeting held on 7 November 2007 be received and the information noted.***

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**Minutes of the Ordinary Meeting of Council held on 28 November 2007 (contd)**

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**520 Australian Sister Cities Association Conference**

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F2004/06466 ED

***RESOLVED unanimously on the motion of Councillor STEWART and seconded by Councillor STEVENS:***

***That the report be received and the information noted.***

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**Information Reports**

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***The information reports were dealt with by the exception method. No reports were called for debate.***

**521 Activities of the Development Assessment Unit**

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F2004/07830 NL:NL

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

***That the report be received and the information noted.***

**522 Results of Water Quality Testing for Bathing Beaches**

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F2004/06822 DR:DR

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

***That the report be received and the information noted.***

**523 Finalisation of Contracts**

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GJP/ DBT:DBT

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

***That the report be received and the information noted.***

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**Minutes of the Ordinary Meeting of Council held on 28 November 2007 (contd)**

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**524 Wyong Shire Library Statistics**

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F2004/11651 JM

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

***That the report be received and the information noted.***

**525 Works in Progress Report – Water and Sewerage**

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F2004/07830 KRG:DP

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

***That the report be received and the information noted.***

**526 General Works in Progress Report**

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F2004/07830 JEM

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

***That the report be received and the information noted.***

**527 Outstanding Questions Without Notice and Notices of Motion**

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F2006/02282 ED:MR

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

***That the report be received and the information noted.***

**QUESTIONS WITHOUT NOTICE ASKED**

**Q118 – San Remo Extreme Events Park  
Councillor Eaton**

*“Can staff advise on the status, history, expenditure and future plans for the San Remo Extreme Events Park?”*

**Q119 – The North Entrance Carnival / Circus Ground  
Councillor Eaton**

*“Can Council advise on the status, expenditure and future plans for the North Entrance Carnival / Circus Ground?”*

**Q120 – McAlister Faulkner Scrap Metal Development Application  
Councillor Graham**

*“Could staff advise why the McAlister Faulkner Scrap Metal development application has taken more than two years to process given that it is an existing development on the estate where it is currently operating?”*

**Q121 – Eradication of European Carp  
Councillor Veugen**

*“Could staff please provide a reply on what is being done to eradicate the European Carp within our water catchment dams and rivers? Could the report please give a projected possible numbers/tonnage, and a brief description of the damage these pests do to our waterways and storage dams?”*

THERE BEING NO FURTHER BUSINESS, THE MEETING CLOSED AT 7.10 PM.

.....  
CHAIRPERSON



## WYONG SHIRE COUNCIL

12 December 2007  
To the Ordinary Meeting of Council

Director's Report  
Shire Planning Department

**534                      Adoption of the Revised Wyong Retail Centres Strategy (2007)  
and DCP 2005: Chapter 81 – Retail Centres**

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CPA/95742 LH

## **SUMMARY**

This report details the results of the public exhibition of the Retail Centres Strategy Review (RCSR) (2007) and draft Development Control Plan 2005: Chapter DCP 81 – Retail Centres, and recommends that the Strategy and Chapter 81 be adopted.

## **RECOMMENDATION**

- 1     *That the Retail Centres Strategy Review (2007) be adopted.***
- 2     *That in accordance with Clause 21 of the Environmental Planning and Assessment Regulation 2000, draft Development Control Plan 2005: Chapter 81 – Retail Centres be adopted.***
- 3     *That in accordance with Clause 21 of the Environmental Planning and Assessment Regulations 2000 appropriate public notice in relation to DCP 2005: Chapter 81 Retail Centres be given within 28 days.***
- 4     *That a copy of the Retail Centres Strategy Review (2007) and Development Control Plan 2005 containing the amended Chapter 81 be forwarded to the Director General of the NSW Department of Planning within 28 days.***
- 5     *That Council's Section 149 Certificates be noted.***
- 6     *That those who made submissions be advised of Council's decision.***
- 7     *That Council commence implementation of the Retail Centres Strategy Review (2007) through:***
  - a     *Further detailed planning of the San Remo and Northern Lakes Social Planning Districts, in conjunction with the preparation of the North Wyong Structure Plan by the Department of Planning, to determine the required scale and location of new Retail Centres;***
  - b     *Consideration of the current rezoning requests for retail premises across the Shire;***

**Adoption of the Revised Wyong Retail Centres Strategy (2007) and DCP 2005:  
Chapter 81 – Retail Centres (contd)**

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- c Consultation with the Department of Planning regarding the progression of rezoning requests in accordance with this Strategy in light of its proposed preparation of the North Wyong Structure Plan; and*
  - d Consultation with the communities in the northern districts of the Shire regarding the provision of retail premises in their neighbourhoods.*
- 8 That assessment of any rezoning request for new or expanded retail/commercial land be undertaken in accordance with the recommendations of the Retail Centres Strategy Review (2007).**
- 9 That a draft policy be prepared to address the provision of pad sites, including service stations, within the northern part of the Shire, particularly along the Pacific Highway. Such policy to include consideration of the criteria outlined in this report.**

**BACKGROUND**

The revision of the Wyong Retail Strategy (1996) was carried out for Council by Peter Leyshon of Leyshon Consulting.

The RCSR was undertaken having regard to projected population growth and forecast retail spending within Wyong Shire. It should be noted that the RCSR was based on the higher growth rate predicted for Council by id Consulting in 2005, not on the lower growth rate outlined by the Department of Planning (DoP) in the draft Central Coast Regional Strategy (CCRS) in 2006.

It is considered valid to base the RCSR on the higher growth rate, as that level will be reached at some time in the future. Should population growth occur at the lower growth rate however, the timing of the release of additional retail floorspace will be affected and the target of 2031 may be extended to 2041, for example.

## **Adoption of the Revised Wyong Retail Centres Strategy (2007) and DCP 2005: Chapter 81 – Retail Centres (contd)**

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The majority of the projected growth will occur in the northern section of the Shire, predominantly at Warnervale/Wadalba (39,500 people). Increases are also expected at The Entrance (14,400 people) and Wyong (10,000 people).

Annual retail spending by Shire residents is estimated at \$1.13 billion in 2006. This will grow to approximately \$2.14 billion by 2031 (in 2005 dollars). These figures indicate a theoretical demand for an additional 183,453m<sup>2</sup> of retail floorspace by 2031. In reality, this demand will be significantly lower (146,700m<sup>2</sup> to 156,000m<sup>2</sup>) due to "escape spending" of various forms.

The projected demographic change will directly affect retail floorspace demand and subsequent expansion of shopping centres. Based on projected figures, the Strategy recommends the following Retail Centres Hierarchy for Wyong Shire:

### **Existing**

- \* Regional Centre – Tuggerah.
- \* District Town Centres – Wyong, The Entrance, Toukley.
- \* District Shopping Centres – Lake Haven, Bateau Bay.
- \* Village Centres – Killarney Vale, Chittaway, Budgewoi.

### **Proposed**

- \* District Town Centre – Warnervale.
- \* Village Centres – San Remo, Ourimbah, Wadalba East, Long Jetty, Lake Munmorah.

### **PUBLIC EXHIBITION**

The RCSR (2007) and associated DCP 81 Retail Centres were publicly exhibited for a period of six weeks from 14 February 2007 to 30 March 2007. Eighteen submissions were received from businesses, residents and government agencies. Thirty nine copies of a form letter in relation to the existing San Remo shops were also received from local businesses and residents within the San Remo area.

**Adoption of the Revised Wyong Retail Centres Strategy (2007) and DCP 2005:  
Chapter 81 – Retail Centres (contd)**

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The majority of submissions outlined concerns regarding:

- \* Methodology/Assumptions – retail expenditure levels, spending growth, floorspace productivity levels;
- \* Alternate development options – Gwandalan/Catherine Hill Bay, Kanwal, The Entrance and San Remo; and
- \* Floor space caps within the revised draft DCP 81 – Retail Centres.

Further detail on the issues raised in the submissions is provided in Enclosure 1 (Summary Table of Submissions) and Enclosure 2 (Response to Submissions by Peter Leyshon).

The issues were presented to Councillors by Council's Retail Consultant Peter Leyshon and staff at a briefing on 8 August 2007. Discussion of the major issues, including comments by the consultant on whether any amendments to the draft documents are deemed necessary, is outlined below.

**METHODOLOGY/ASSUMPTIONS****Retail Expenditure Levels**

A number of submissions raised concern that the figures identified within the RCSR had significantly underestimated the available retail expenditure.

**Comment:** This is refuted for a number of reasons:

- 1 Population figures used in the RCSR to calculate estimated retail expenditure levels were based on population figures produced for Council by id Consulting in 2006. Such figures are much higher than those predicted within the draft CCRS and the 2006 Census Data (ie +1% per annum). Wyong Shire would need a growth rate of +3% per annum for growth to occur in accordance with the id Consulting figures. As such, if there were any underestimation of retail expenditure, this would be evened out by the use of the higher population figures.
- 2 Past calibrations performed between estimates of retail spending generated by Leyshon Consulting compared to real sales trade data published by the ABS have revealed differences between the Leyshon Consulting figures and the ABS of less than 6%. Such a variance is considered minor and would be evened out by the use of the higher population figures.
- 3 If the retail expenditure levels were significantly underestimated, this would be demonstrated by the Retail Centres within Wyong Shire recording very high returns. Current data indicates that Retail Centres within Wyong Shire are trading at reasonable returns rather than high or very high returns, with the exception of Lake Haven (which is currently over trading due to lack of competition).

## **Adoption of the Revised Wyong Retail Centres Strategy (2007) and DCP 2005: Chapter 81 – Retail Centres (contd)**

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### **Spending Growth**

Concern was expressed at the identification of a +1% increase in spending growth. It was argued in submissions that the higher Australian average spending growth of +2% should be used.

**Comment:** Recent figures indicate the average income of Wyong Shire residents is 25% less than the NSW average income. The average spending growth in Australia is +2%, however this is an average made up of some communities where growth in spending has been much higher than +2%, and some communities which are substantially below +1%. Given the lower incomes, higher levels of unemployment and the significant population ageing that will occur over the next 20 to 25 years, a +1% estimate in real spending growth is considered appropriate.

### **Floor Space Productivity Levels**

The RCSR determines bulky goods floor space demand based on an average retail sale rate of \$4,000 per m<sup>2</sup> per annum. It was argued that bulky goods floorspace now occupies approximately 18% of retail spending and could reasonably operate at a sales rate of \$3,500 per m<sup>2</sup> per annum.

**Comment:** This argument was considered to have merit, therefore the final version of the Strategy includes an additional 10,000m<sup>2</sup> (approx) of bulky goods distributed across the Shire. This is a result of increasing the allocation of bulky goods floorspace to capture some of the current escape expenditure, and reducing the average sales rate from \$4,000 per m<sup>2</sup> per annum to \$3,500 per m<sup>2</sup> per annum.

## **ALTERNATE DEVELOPMENT OPTIONS**

### **Gwandalan/Catherine Hill Bay**

A number of submissions identified that the RCSR did not take into account the population growth proposed within the development proposals at Gwandalan and Catherine Hill Bay, currently being considered by the State Government under the auspices of "State Significant Development".

**Comment:** The development concepts were not known at the time the RCSR was being prepared and as such, were not included in the retail floorspace demand estimates. Such development would have a minor demand for additional retail floorspace of no more than 1,500m<sup>2</sup> for each locality. The Retail Centres Strategy has been revised to include the additional retail floorspace required to accommodate the development proposals if approved. No site specific recommendations are included as to the location of this additional floor space.

**Adoption of the Revised Wyong Retail Centres Strategy (2007) and DCP 2005:  
Chapter 81 – Retail Centres (contd)**

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Rosecorp has included an 1,800m<sup>2</sup> Village Centre at Catherine Hill Bay which will include retail floorspace of approximately 1,050m<sup>2</sup>, with the remaining floorspace to cater for non-retail uses such as a medical centre, dentist, accountant, etc. This Retail Centre will cater for the villages in both Lake Macquarie City and Wyong Shire, but will be wholly located within the Lake Macquarie City following the recent realignment of the Shire boundary. No retail floorspace is proposed at Gwandalan by Rosecorp.

The recent Charette (Design Workshop) for the Coal and Allied site at Gwandalan identified some 500-600m<sup>2</sup> of retail floorspace and up to 900m<sup>2</sup> of aged service, support/commercial floorspace within their development site. These two proposals will be determined by the State Government as part of the 3A State Significant development applications currently being assessed at the State planning level.

**Kanwal**

A submission was received suggesting that an additional Retail Centre containing approximately 23,500m<sup>2</sup> of retail floor space could be developed at Kanwal, in the vicinity of the Oasis Caravan Park site.

**Comment:** This proposal was submitted to Leyshon Consulting for consideration prior to the exhibition of the RCSR. The response from Council's consultant is that "*this proposal is completely at odds with both the existing and recommended retail hierarchy for Northern Wyong*". A Retail Centre in this locality would be in direct competition with both the proposed Warnervale Town Centre and Lake Haven Shopping Centre. On this basis, it is intended to take no further action in relation to this site.

**Lake Munmorah**

The location of a new Retail Centre within the northern part of the Shire was subject to some debate. In particular, concern was raised at the potential impact such a development could have on existing shops at Lake Munmorah and Chain Valley Bay.

**Comment:** The RCSR and DCP 81 Retail Centres are not site specific and do not allocate a particular site within the northern part of the Shire for a new Retail Centre (other than to refer to it on a locality basis as "Lake Munmorah"). Such a site(s) will be subject to the further detailed planning of the San Remo and Northern Lakes Social Planning Districts (SPDs), in conjunction with the preparation of the North Wyong Structure Plan (as outlined in the draft CCRS). This next level of planning is a recommended action coming out of this report. Such planning should occur prior to the consideration of any rezoning proposal for additional retail/commercial land in this area.

## **Adoption of the Revised Wyong Retail Centres Strategy (2007) and DCP 2005: Chapter 81 – Retail Centres (contd)**

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A rezoning request from Woolworths (Fabcot Pty Ltd) was lodged in July 2004 for a new Retail Centre at the north-eastern corner of Tall Timbers Road and the Pacific Highway, Lake Munmorah with approximately 5,200m<sup>2</sup> of retail floor space and 3,680m<sup>2</sup> of bulky goods, medical centre, service station and 510 carparking spaces. Assessment of this rezoning request has been on hold pending the outcome of the RCSR. It is proposed that consideration of the rezoning request commence by way of consultation with the DoP regarding the progression of rezoning requests in accordance with this Strategy and the North Wyong Structure Plan being prepared by DoP. It is intended that this work take place concurrently with consultation with the communities in the northern districts of the Shire regarding the provision of retail premises in their neighbourhoods.

### **The Entrance**

It was suggested in submissions that the floorspace demand calculations for The Entrance should be further considered having regard to not only residential population growth and expenditure, but also tourism expenditure.

**Comment:** Whilst it is accepted that The Entrance would be impacted by tourism expenditure, the level of the impact is very difficult to study and determine. The RCSR and DCP 81 have been revised to incorporate some flexibility in relation to floorspace limits within The Entrance. Page 73 of the Strategy notes that *“up to 10,000m<sup>2</sup> of additional retail floorspace may be appropriate in this centre due to the demands generated by the spending of tourists and visitors”*.

### **San Remo**

A form letter was received from 39 local residents and shop owners within San Remo. The letter requests that Council not consider any change in land use for the existing San Remo shops in Liamena Avenue. Further, it requests Council improve the lighting along the shopping strip at Liamena Avenue, increase parking spaces, level the ground between the pavement and the paving lot, and beautify the shopping strip.

**Comment:** The RCSR and DCP 81 do not propose to alter the status quo for the existing shops in Liamena Avenue at San Remo. The other matters raised are to be separately considered by Council.

**Adoption of the Revised Wyong Retail Centres Strategy (2007) and DCP 2005:  
Chapter 81 – Retail Centres (contd)**

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**DCP 2005: CHAPTER 81 – RETAIL CENTRES**

The main issue in relation to the provisions within DCP 81 – Retail Centres concerns the application of floorspace caps for all Retail Centres within Wyong Shire. Arguments were presented that caps are too restrictive and don't allow for long term growth and competitiveness between the Retail Centres.

**Comment:** In a “growth economy” such as Wyong removing floorspace caps can create a “free for all” between competing Retail Centres and lead to ad hoc decision making. It is common for economic consultants to be able to justify that an increase in retail floorspace in a specific location is appropriate and will not impact on any other centre, despite the fact that negative impacts can and do occur.

Providing controls for Retail Centres on size, type and timing of their development ensures a number of outcomes:

- 1 Centres maintain their respective role within the Retail Hierarchy;
- 2 Reasonably equitable access to retail facilities is provided for all residents; and
- 3 Appropriate guidance is provided to the industry as well as a level of certainty as to the location, size and timing of centres.

Council's Consultant has advised that if Council is of a mind to provide some flexibility for commercial decision making by retail developers, it would be preferable to retain floorspace caps and relax the time restrictions. This is because floorspace caps directly relate to population growth and anticipated retail spending, versus the commercial decision as to when it is appropriate to provide such floorspace.

After discussion with Councillors at the 8 August 2007 briefing, it was agreed that some flexibility should be introduced into DCP 81 that enables Council to consider a variation to the timing of retail floorspace within the major Retail Centres. DCP 81 has been amended to include criteria that enables consideration of additional retail floorspace at an earlier time than that outlined in the RCS.

**PAD SITES (FAST FOOD OUTLETS/SERVICE STATIONS)**

At the Councillor Briefing on 8 August 2007, Council's consultant was questioned whether Council should be planning for pad sites to allow for the provision of fast food outlets/service stations north of Wyong, especially along the Pacific Highway. There is an opinion within Council that there is a need to identify properties for pad sites, especially service stations, to alleviate what appears to be a shortage of stations along major transport routes. In addition, it was noted by Councillors that there is a shortfall of opportunities for fast food outlets north of Wyong, although the demand is obvious in areas around Lake Haven and Tuggerah.



## **Adoption of the revised Wyong Retail Centres Strategy (2007) and DCP 2005: Chapter 81 – Retail Centres (contd)**

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**Comment:** Advice from Council's consultant is that the provision of fast food outlets is not particularly significant as far as the operation of the Retail Hierarchy is concerned. However, Council could create a policy to enable more fast food outlets/service stations to occupy pad sites in the northern part of the Shire to overcome the perceived shortfall. Such a policy should:

- Avoid excessive clustering of such services around major intersections;
- Identify such sites in close proximity to planned Retail Centres such as San Remo and Warnervale;
- Locate sites at least one kilometre from each other; and
- Co-locate outlets with service stations to maximise amenity, traffic and transport considerations, thereby minimising single use pad sites.

It is a recommendation of this report that a draft policy on pad sites be prepared considering the above issues, including consultation with the Roads and Traffic Authority (RTA) as to appropriate requirements for access off the Pacific Highway. Such a policy would eventually feed into the DoP's North Wyong Structure Plan and Council's Settlement Strategy for the northern part of the Shire.

### **IMPLEMENTATION OF THE RETAIL CENTRES STRATEGY**

It is proposed to implement the Retail Centres Strategy through consideration of rezoning requests and development applications in accordance with the outcomes of the review. This is possible for all new and expanded Retail Centres within the Wyong Shire, with the exception of those proposed for the San Remo and Northern Lakes SPDs. At the recommendation of Council's consultant and the DoP, it is proposed to undertake further detailed planning within the Northern Wyong area. Such planning is to be done in conjunction with the preparation of the North Wyong Structure Plan, as outlined in the draft CCRS. This detailed planning is required to determine the appropriate scale and location of any new Retail Centres within the San Remo and Northern Lakes SPDs, having regard to strategic planning for the surrounding area and consideration of the future roles of the existing neighbourhood centres within the district.

### **CONCLUSION**

The RCSR and associated DCP 81 – Retail Centres have been exhibited, with submissions received and reviewed. Some amendments to the draft documents have been made to address issues as a result of the public exhibition process. The next stage is to adopt the Strategy and DCP 81 and commence detailed planning to determine the appropriate scale and location of new Retail Centre(s) within the San Remo and Northern Lakes SPDs. Any rezoning proposals for land outside of these two SPDs should be considered in accordance with the outcomes of the RCSR (2007).

**Adoption of the Revised Wyong Retail Centres Strategy (2007) and DCP 2005:  
Chapter 81 – Retail Centres (contd)**

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It is recommended that Council adopt both documents to give them statutory weight and enable their formal consideration in future development applications and rezoning proposals.

***Enclosures***

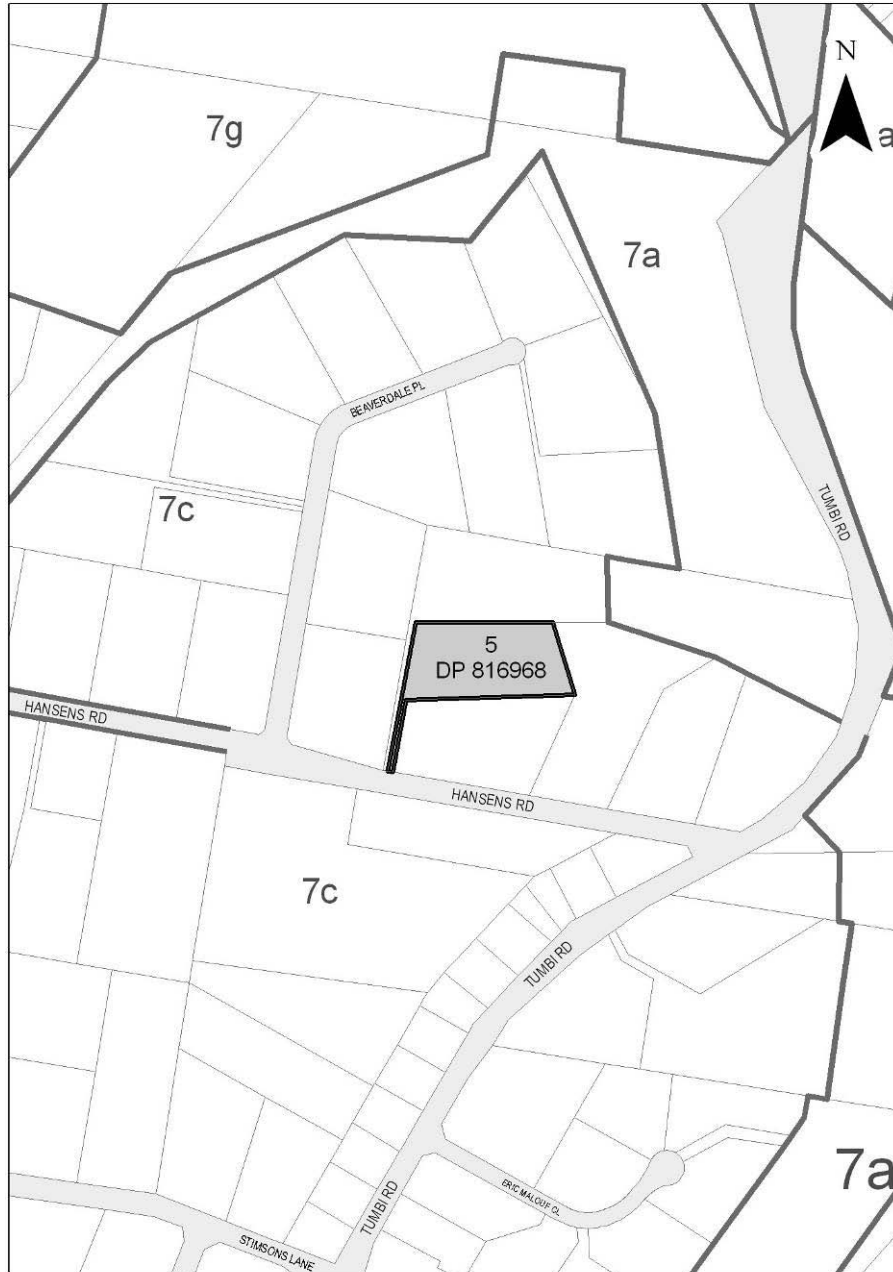
***Summary table of submissions  
Response to submissions by Peter Leyshon  
Wyong Retail Centres Strategy (2007)  
DCP 2005: Chapter 81 – Retail Centres***

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**535**                    **82A Review of Proposed Home Business at Tumbi Umbi**  
**(Attachment 1)**

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**Locality Plan**



## WYONG SHIRE COUNCIL

12 December 2007  
To the Ordinary Meeting of Council

Director's Report  
Shire Planning Department

### **535                      82A Review of Proposed Home Business at Tumbi Umbi**

DA/356/2007 JLC

#### **SUMMARY**

An application has been received under Section 82A of the Environmental Planning and Assessment Act 1979 (EP&A Act) for the review of Council's decision to refuse DA/356/2007 for a home business involving the sorting and distribution of magazines and newspapers. The application remains substantially the same as that originally proposed and adherence to the previous determination is recommended.

<b>Applicant</b>	Graham and Susan Fowler C/- Paradigm Planning and Development Consultants Pty Ltd
<b>Owner</b>	Graham and Susan Fowler
<b>Application No</b>	DA/356/2007
<b>Description of Land</b>	Lot 5 DP 816968, No 9 Hansens Road, Tumbi Umbi
<b>Proposed Development</b>	Home Business (distribution of magazines and newspapers)
<b>Site Area</b>	1.0 hectare
<b>Zoning</b>	7(c) Scenic protection: Small Holdings Zone
<b>Existing Use</b>	Dwelling house and ancillary buildings
<b>Employment Generation</b>	Not Applicable
<b>Estimated Value</b>	Stated as "Not Applicable"

#### **RECOMMENDATION**

- 1     *That the application be referred to the General Manager for determination having regard to the matters for consideration detailed in Section 79C of the Environmental Planning and Assessment Act under Section 82A and other relevant issues with an indication that based on the information available to it, Council adheres to its previous decision to refuse the application.***
  
- 2     *That those who made written submissions be advised of Council's decision.***

**82A Review of Proposed Home Business at Tumbi Umbi (contd)**

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**PRÉCIS**

- Application under Section 82A of the EP&A Act to review Council's previous decision to refuse a development for a home business.
- The proposal cannot be defined as a "home business" under the requirements of Wyong Local Environmental Plan 1991 (WLEP) due to the generation of noise pollution and the traffic generation and parking requirements for heavy vehicles on the site;
- The use is more suitably defined as a "warehouse" and "transport terminal", neither of which are permissible uses within the 7(c) Scenic Protection: Small Holdings Zone. Therefore, the use is prohibited under WLEP;
- Given the preceding, the proposal does not satisfy the criteria for a home business under Council's Development Control Plan 2005 (DCP) Chapter 63 - Home Based Employment;
- The proposal generates a range of amenity impacts on surrounding properties that cannot be mitigated to an acceptable level through development consent conditions;
- A total of 12 submissions have been received in opposition to the business, with one letter of support being received;
- It is recommended that the previous decision to refuse the application be adhered to.

**INTRODUCTION****The Site**

The site is an existing 1 hectare rural residential parcel containing a two storey brick dwelling house, swimming pool, tennis court and ancillary buildings. The property is accessed via a battle axe handle that contains a formal right of way and shared driveway servicing No 11 Hansens Road, directly adjoining the subject property to the north.

The site is zoned 7(c) Scenic Protection: Small Holdings Zone and the immediate area has been significantly developed in the last five years.

## **82A Review of Proposed Home Business at Tumbi Umbi (contd)**

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The illegal activity is currently taking place within a large brick triple garage building (adjacent to the house) and attached metal carport. The carport is 4.2m high and measures 7.0m x 14.0m. The carport is built over a concrete apron extending a further 12m x 16m. Photos of the existing operations are provided as an enclosure.

The original development application was submitted to Council in response to Compliance staff investigations of resident complaints.

### **The Development**

The subject application seeks approval for the use of the site for what is described as a home business. The business consists of receiving bulk pallets of magazines, newspapers, newspaper inserts etc from printers which are then split up and delivered to newsagents and supermarkets on the Central Coast. The business is described as utilising three medium rigid trucks and an LPG powered forklift.

**82A Review of Proposed Home Business at Tumbi Umbi (contd)**

Previous issues relating to the development, including the size and nature of the development not satisfying the LEP definition of a 'Home Business' and variations to Council's DCP 2005 Chapter 63 – Home Based Employment, including noise generation, hours of operation and the parking of multiple vehicles, have not been able to be overcome within the current application and therefore it is recommended that the application be refused.

**VARIATIONS TO POLICIES**

The application relies on varying the following Council development standard:

<b>LEP/DCP</b>	<b>DCP 2005 Chapter 63 – Home Based Employment</b>
Clause	4.2.1 – Residential Amenity
Standard	Noise not to exceed 5dB(A), hours of operation not to exceed 9am to 5 pm Monday to Saturday and only one commercial vehicle permitted to be kept on site.
Departure basis	Variations not supported

**HISTORY**

The relevant development history of the site is as follows:

- DA 136/1993 - rural dwelling approved;
- DA 31/1997 - triple garage and tennis court;
- BC 925/2000 - improvements to property;
- CDC 91/2005 - dwelling additions of carport and concrete apron; and
- DA 356/2007 - application for home business refused 18 September 2007.

The application submitted to Council states that the business has been operating from the subject site for approximately seven years, with complaints only occurring recently. While Council's knowledge of the operation prior to complaints being received is limited, a submission has been received stating that when the business first commenced, it was a small operation with the use of a utility vehicle rather than the trucks which are now required. The submission further states that it was in early 2005 that the business expanded, which also coincided with the subdivision and development of rural-residential land in Beavertdale Place.

There is a history of multiple complaints dating from July 2006 and Council has had a series of correspondence with the applicant relating to the resolution of the operation of an illegal business, culminating in the submission of the original application for a home business in March 2007.



## **82A Review of Proposed Home Business at Tumbi Umbi (contd)**

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That application was refused in September 2007 and Council issued a Notice of Intention to issue an Order to cease using the premises for a newspaper and magazine distribution and sorting storage centre. Representations were received on behalf of the applicant requesting that action cease pending the assessment of the 82A Review and that should the application be unsuccessful, that a period of 3 to 6 months be given to cease the operation, in order to enable alternative arrangements to be made. An Order was issued on 25 October 2007, giving the applicant 90 days to comply, rather than the standard 28 days which is generally issued by Council. A period of 90 days was seen by Council as a reasonable compromise, allowing the applicant sufficient time to seek alternative arrangements, while still attending to the interests of the neighbouring residents who continue to be impacted by the continuation of the illegal use.

### **Previous Reasons for Refusal**

The reasons for refusal included on the notice of determination issued by Council on 18 September 2007 are as follows:

- “1 Pursuant to the provisions of Section 79C(1) (a)(i) of the Environmental Planning and Assessment Act 1979, the proposed development is contrary to the Wyong Local Environmental Plan 1991 as it is inconsistent with the objectives of the 7 (c) Scenic Protection: Small Holdings Zone, and the proposed use is prohibited under the zoning table.
- 2 Pursuant to the provisions of Section 79C(1) (a)(iii) of the Environmental Planning and Assessment Act 1979, the proposed development is inconsistent with the objectives and standards of Wyong Development Control Plan 2005 – Chapter 63 – Home Based Employment, in that it fails to satisfy the requirements relating to noise generation, operating hours and parking of commercial vehicles.
- 3 Pursuant to the provisions of Section 79C(1) (b) of the Environmental Planning and Assessment Act 1979, the proposed development fails to adequately mitigate impacts arising from the development, in particular with regard to noise generation and visual amenity.
- 4 Pursuant to the provisions of Section 79C(1) (c) of the Environmental Planning and Assessment Act 1979, the proposed development is of a type and scale that is not considered to be suitable for the site.
- 5 Pursuant to the provisions of Section 79C(1) (e) of the Environmental Planning and Assessment Act 1979, the proposed development is not considered to be in the public interest as it would create an undesirable precedent in relation to the quality of development, in particular by failing to consider the suitability of the site within the local context.”

Each of the above reasons will be discussed further in the report.

**82A Review of Proposed Home Business at Tumbi Umbi (contd)**

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**Permissibility**

The subject site is zoned 7(c) Scenic Protection: Small Holdings Zone under WLEP. The application seeks approval for a 'Home Business', which is permissible in the zone with the consent of Council. However, as noted in the initial reasons for refusal above and as discussed further in the report, the proposed use does not satisfy the definition of a Home Business or the objectives of the 7(c) zone.

**RELEVANT STATE/COUNCIL POLICIES AND PLANS**

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

- WLEP
- DCP Chapter 63 – Guidelines to Home Based Employment

**ECOLOGICALLY SUSTAINABLE PRINCIPLES**

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

**ASSESSMENT**

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

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

The first reason for refusal of the initial development application was that the proposal did not fall within the definition of a 'Home Business' and was therefore prohibited in the 7(c) zone. It was also stated that due to the nature of the activities being undertaken, the proposal did not satisfy the objectives of the zone.

In accordance with WLEP, 'Home Business' has the following definition:

## **82A Review of Proposed Home Business at Tumbi Umbi (contd)**

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*“home business means a business, industry, occupation or profession carried on within a dwelling or the curtilage of a dwelling by the permanent residents of the dwelling, which does not involve -*

- (a) interference with the amenity of the locality in which the dwelling is situated by way of pollution or exposure to unsightly matter.*
- (b) the display or sale of goods other than those produced on the premises at which the home business is carried out.*
- (c) the provision of any essential service main of a greater capacity than that already available in the locality.*
- (d) more than one person other than the permanent residents of the dwelling being employed.*
- (e) the generation of traffic or a carparking demand, which would adversely affect the amenity of the locality; or*
- (f) the exhibition of any advertisement or sign other than one exhibited on the dwelling or within the curtilage of the dwelling to indicate the name and occupation of the resident and which would fit within a rectangular figure 0.8 metres in length and 0.4 metres in breadth.”*

The applicant has acknowledged that there are critical tests which need to be met within the definition of a Home Business and identifies that the home business must not:

- Interfere with local amenity through pollution or exposure of unsightly matter
- Employ more than one person other than the permanent residents of the dwelling
- Generate traffic or a carparking demand which would impact on local amenity

In summary, the applicant's submission argues that:

- There is no pollution and no unsightly matter to which others in the locality might be exposed.
- There is only one employee who is not a permanent resident of the dwelling.
- There is no parking demand for customers and the traffic generation is significantly less than may occur with other types of home businesses which do generate customer traffic.

**82A Review of Proposed Home Business at Tumbi Umbi (contd)**

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After assessing the details provided with the original application and those provided with the request for a review of the determination under section 82A, the proposal is not considered to satisfy (a) or (e) of the definition of a home business for the following reasons:

- It is considered that the proposal does interfere with the local amenity due to noise pollution resulting from the operation of the forklift and heavy vehicles (including reversing beepers) both within and outside normal business hours (7am to 6pm Sunday to Friday).
- There is a history of noise complaints associated with the current operation of the proposed development. This includes problems relating to noise generated by heavy vehicles (start-up, air brakes, reversing beeper, opening/closing doors etc), forklift (operation, reversing beeper), and staff interactions during manual handling and sorting of product. These problems are compounded by the irregular hours that the business proposes to operate including weekends and outside of normal business hours. Additionally, complaints have been received that operations have occurred in the early hours of the morning and late at night. It is therefore considered that there is a significant amenity impact on local area due to noise pollution.
- The temporary storage of the loaded and unloaded pallets, bundles of magazines/newspapers, operation of a forklift, manual sorting and transfer and parking of vehicles can be considered to be exposure to 'unsightly matter' given the context of the rural-residential area within a scenic protection zone. Examples are contained in photos included in the Enclosure.
- The amenity of the locality is negatively impacted through the impact of the use, parking and loading of three large commercial vehicles. The necessity of these vehicles to operate the business indicates that the business is of a scale that is consistent with the operation of a warehouse rather than a home business.

Although the application states that there is only one employee other than the permanent residents of the house, Council has received complaints that additional workers are employed. While this is something which could be controlled by development consent conditions, such conditions may necessitate a requirement for ongoing enforcement and despite this, the proposal would still not satisfy the definition of a home business due to the other reasons raised above.

## **82A Review of Proposed Home Business at Tumbi Umbi (contd)**

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In terms of the 7(c) Zone, the objectives are:

- “(a) to enable development for the purposes of small rural-residential holdings to be carried out on land which is suitable for those purposes and which is unlikely:
  - (i) to inhibit the potential for urban expansion, particularly at the urban fringe, or*
  - (ii) to create a demand for the uneconomic provision of services, or*
  - (iii) to detract from the scenic quality of rural lands, and**
- (b) to allow for non-residential uses where those are compatible with rural-residential development and are unlikely to create an unreasonable demand for public services or substantially reduce the adequacy of existing levels of those services.”*

As part of the previous refusal of the application, the proposed development was determined to be inconsistent with the objectives of the zone. In response to this, the applicant has provided the following:

*“The proposed use is a non-residential use and therefore the only applicable tests under the zone objectives are whether the use is compatible with rural-residential development and does not impact on the demand for or existing adequacy of public services. The proposed use has no impact on the latter and therefore the only test is whether the use is compatible with rural-residential development”.*

The submission suggests that the use has been occurring for approximately seven years and as there have only recently been complaints, the use can be compatible with rural-residential development. The submission also questions how the decision that the proposed use is not compatible with rural-residential development was made given that the LEP provides no further guidance on this issue.

During the initial determination, it was considered that the proposal was not consistent with the requirements of the zone, particularly as it was likely to detract from the scenic quality of rural land with relation to the parking of multiple commercial vehicles on the property and the operation of a commercial scale activity outside ancillary buildings immediately adjacent to the property boundary. Given that 12 complaints have been received in relation to the operation of the business, it is reasonable to conclude that the proposed use is not compatible with rural-residential development and falls within the LEP definition of a 'Warehouse', which is not permitted in the 7(c) zone.

## **82A Review of Proposed Home Business at Tumbi Umbi (contd)**

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### **DCP 2005 Chapter 63 – Home Based Employment**

The second reason for refusal listed in Council's previous determination referred to non-compliance with the objectives and standards of DCP 2005 Chapter 63 in regard to noise generation, operating hours and the parking of commercial vehicles.

Section 4.2 of the DCP provides criteria that must be satisfied for Home Businesses. Of relevance to the current application are:

#### 4.2.1 Residential Amenity

*"1 The activity does not generate an offensive noise (or a noise greater than 5 dB(A) above the normal background noise level)."*

Potential noise sources include the forklift and the three trucks. During the initial assessment of the application, it was considered that the noise generation of the business would have a negative impact on the amenity. This decision was based on:

- the history of noise complaints;
- the location of the development activity on the northern boundary and immediately adjacent to the western boundary (no mitigation through distance);
- the operation of the activity outside buildings (no shielding);
- the inability to mitigate impacts and some noise sources (OH&S requirements for reversing beepers, staff noise, heavy vehicle operation etc);
- hours of operation outside normal business hours;
- reasonable expectations of amenity within a rural residential area; and
- the overall type and scale of the activity.

The applicant has suggested that noise could be reduced through the use of an electric forklift rather than an LPG forklift and that noise from the trucks could be reduced by no use of compression braking and switching off reversing alarms once on private property. No details have been provided to support the use of an electric forklift as opposed to the current LPG forklift (ie the difference in noise volume between the two) and it is considered unreasonable for Council to require reversing beepers on trucks to be turned off due to OH&S concerns.

As a result, the application has failed to satisfactorily demonstrate that it will not generate offensive noise and therefore should not be supported on these grounds.

## **82A Review of Proposed Home Business at Tumbi Umbi (contd)**

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- "2 *The activity is carried on within normal business hours (9.00 am to 5.00 pm) Monday to Saturday. The Council may consider a variation to these operating hours where it can be clearly demonstrated that the activity will not adversely impact the amenity of the areas.*"

The application acknowledges that there is some activity outside normal working hours, including Sundays. The applicant considers that the "relatively short duration" of this activity means impacts are minimised, particularly if noise generation can be limited (eg gas fork lift and turning truck reversing beepers off whilst on the property).

The business is not typical in its pattern of operating hours as there are extended hours during the day when there is no activity at all. The applicant has acknowledged that work commences at 7am for the loading of the two trucks and ceases at approximately 6pm. Deliveries are made/received 6 days per week from Sunday to Friday. In support of the variation to the DCP, the applicant uses the basis that the hours of 7am to 6pm are applied in relation to other activities including construction and that the arbitrary use of a "business hours" restriction of 9 to 5 is not appropriate in the circumstances of this case. The argument that the proposed use seeks the same hours of operation as that of a construction site is not supported, as construction work is temporary and the extended hours allow the works to be completed without unnecessary delay, thereby reducing the long term impact on nearby properties. The proposed distribution business is ongoing and therefore the extended hours of operation are likely to have long term/indefinite impacts on the surrounding properties, which is not consistent with a rural-residential area or home business.

As discussed previously in the report, there is a history of complaints relating to operation of the business well outside normal business hours and outside those indicated in the application, including operation late into the evening and in the early hours of the morning. Noise generated during these hours is more likely to have a significant impact than noise generated during normal business hours and given that the business operates year round, it is considered unreasonable to expose adjoining residents to non-residential noise, 6 days a week for an indefinite period of time.

- "3 *The activity does not involve the parking of more than one commercial vehicle driven by the permanent residents of the dwelling house.*"

The activity on the site requires the use of three commercial vehicles and an on-site forklift. The applicants' submission states that these are housed on site within the existing carport. However, evidence from previous site inspections (only one truck located within the property boundary was visible during the site inspection for this application) has identified that the trucks are parked within the battle-axe driveway which is also a right of carriageway for the adjoining No 11 Hansens Road.

**82A Review of Proposed Home Business at Tumbi Umbi (contd)**

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The proposal therefore does not comply with this aspect of the DCP and a variation to this requirement is not justified due to public submissions being received in relation to the parking and reversing of these trucks within the right of carriageway and the scale of the business being inappropriate for a 'home business'.

**4.2.3 Carparking**

*"5 Home businesses which involve owner/operators, for example a truck and bobcat operator, must be owned and solely operated by the resident of the dwelling and shall be restricted to one truck and one piece of machinery, both of which shall be parked wholly within the property. Such activities are restricted to rural properties, due to the potential impact on adjoining residents."*

While not specifically applying to the current proposal, the above clause again clearly describes the intent for home businesses involving vehicles and machinery to be limited to one per dwelling in order to reduce the impact on adjoining residences. The proposal to utilise three trucks and one forklift is considered to be of a scale that is inconsistent with a rural-residential area and would be likely to impact on adjoining properties.

Overall, the application has failed to demonstrate that the use complies with the criteria listed within clause 4.2 of the DCP. For the reasons discussed above, the proposed variations to the level of noise generated from the use, the required operating hours and the number of commercial vehicles required to carry out the business are not supported. It is therefore recommended that the reason for refusal on the basis that the proposal does not comply with DCP 2005 Chapter 63 – Home Based Employment remain.

**The Likely Impacts Of The Development (s79c(1)(b) ):**

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

As discussed previously in the report, the type and scale of development is not considered to be characteristic of a home business, but rather a warehousing operation typical of an industrial area. The current zoning and setting as a rural-residential area does not support development of this scale.

*The access, transport and traffic management measures.*

It is considered that there are significant impacts related to the use of mobile plant and heavy vehicles in the operation of the development, including noise and the parking and reversing of trucks within the right of carriageway.



## **82A Review of Proposed Home Business at Tumbi Umbi (contd)**

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*Whether the development will cause noise and vibration.*

There is a history of noise complaints related to the operation of this activity and the application acknowledges that noise is generated from the forklift and trucks. As discussed previously, the applicants' proposal to utilise an electric forklift to reduce the noise has not been supported with details of the expected reduction in noise and regardless of the noise generated by the forklift, there are still concerns with noise generated by the three heavy vehicles.

### **The Suitability Of The Site For The Development (S79c(1)(c)):**

The proposed development is characterised as an industrial warehousing operation, which is not a permissible use within the zone.

### **Any Submission Made In Accordance With This Act Or Regulations (S79C(1)(D)):**

The initial application was notified in accordance with DCP 2005 Chapter 70 – Notification of Development Applications, with ten submissions objecting to the development and one letter of support being received. In accordance with Council's policy for the notification of Section 82A applications, the application was notified again, with a requirement that all previous submissions also be taken into consideration. A further two submissions were then received.

The issues raised in the submissions including noise, visual amenity, the nature of business (commercial/industrial), size of trucks and operating hours have been addressed above in the assessment of the application. A summary of the submissions is included in Attachment 2.

### **The Public Interest (s79c(1)(e)):**

As determined in the assessment of the initial application, it is not considered to be in the interest of the community to support the variation of standards required by Council's DCP Chapter 63 - Home Based Employment, or to unreasonably characterise the development as a home business in order to permit its operation within a 7(c) Scenic Protection: Small Holdings Zone.

**82A Review of Proposed Home Business at Tumbi Umbi (contd)**

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**CONCLUSION**

The proposal still fails to comply with the requirements of WLEP in terms of the definition of a 'Home Business' and does not satisfy the objectives of the 7(c) zone in terms of being compatible with rural-residential development. In addition to non-compliance with the LEP, the proposal also fails to comply with the criteria for 'Home Business' as included in DCP 2005 Chapter 63 – Home Based Employment and is likely to have a continuing detrimental impact on adjoining properties as a result of noise generation and hours of operation. As discussed within the report, due to the nature of the business and its operating requirements, the likely impacts cannot be suitably mitigated through conditions of consent and therefore the previous recommendation of refusal is supported.

**Attachment 1****Locality Plan (1 page)****Attachment 2****Summary of Submissions (3 pages)****Attachment 3****Site Photographs****Enclosures****Site Map**

## **82A Review of Proposed Home Business at Tumbi Umbi (Attachment 2)**

### **SUMMARY OF SUBMISSIONS**

<b>Doc No</b>	<b>Issue</b>	<b>Comment</b>
D0099922	If this DA was refused on 18 September 2007 why is business still operating?	Council has issued orders under the Environmental Planning and Assessment Act, 1979 for the use to cease, which will be followed up should the application be refused.
	Noise from the business (being the forklift) is unacceptable.	The issue of noise has been identified within the assessment of the application and is considered unsatisfactory for a rural-residential area.
	Business hours are very long commencing from 6.00am to sometimes 10.00pm late at night.	The extended operating hours proposed by the applicant are not supported.
	The applicants have understated the size of trucks they use.	Site inspections have been undertaken to observe the number and type of trucks on the premises. The number of heavy vehicles required to carry out the business is considered excessive in these circumstances.
D00886640	If this DA was refused on 18 September 2007 why is business still operating?	Council has issued orders under the Environmental Planning and Assessment Act, 1979 for the use to cease, which will be followed up should the application be refused.
	The applicants commenced work on a public holiday at 5.30am, hours totally unreasonable.	The extended operating hours proposed by the applicant are not supported.
	Forklift too noisy and being used for long periods of time.	The issue of noise has been identified within the assessment of the application and is considered unsatisfactory for a rural-residential area.
D00828818	Lots of vehicles visiting the property on a daily basis.	The number of heavy vehicles required to carry out the business is considered excessive in these circumstances.
	Very noisy machinery being used.	The issue of noise has been identified within the assessment of the application and is considered unsatisfactory for a rural-residential area.
	If they kept it between normal working hours, it would be acceptable but not the hours they are running it now.	The extended operating hours proposed by the applicant are not supported.
	What's to stop other people setting up their businesses in the area using trucks if they are allowed to?	The precedent of varying Council's policies to permit the development has been considered and it has been recognised that the approval of the proposed development would not be in the public interest as it would create an undesirable precedent in relation to the quality of development.

**82A Review of Proposed Home Business at Tumbi Umbi (Attachment 2)  
(contd)**

<b>Doc No</b>	<b>Issue</b>	<b>Comment</b>
D00835472	Any small business with 3 trucks (2 of which are quite large) should be run from a factory bay?	The scale of the development has been considered and it is agreed that the development is more accurately defined as a 'warehouse' business.
	Trucks coming up and down our roads most days of the week and weekends!	The traffic generation and the impact of the heavy vehicles have been taken into consideration and are not supported.
	How can this business be allowed to continue if it has not been to Council yet? Please explain.	Council has issued orders under the Environmental Planning and Assessment Act, 1979 for the use to cease, which will be followed up should the application be refused.
	Trucks leaving the premises 10.00pm and returning 2-3.15 am is totally unacceptable!	The extended operating hours proposed by the applicant are not supported.
D00835560	Hours of Operation Number of vehicle movements	The extended operating hours proposed by the applicant are not supported nor is the requirement for three heavy vehicles to be operating from the site.
	Number of workers – there are not enough amenities	The application states that there is only one employee who is not a permanent resident of the dwelling. If the application is approved this could be conditioned and enforced. Amenities are provided within the dwelling.
	Noise factor – machinery and trucks	The issue of noise has been identified within the assessment of the application and is considered unsatisfactory for a rural-residential area.
	Possible fire Hazard	Not considered relevant to this application.
	Obstruction of Access	The number of heavy vehicles on the site is not supported.
	Decrease in value of our property and security	The impact on the value of adjoining properties is not a direct consideration under the EP&A Act. However, the impacts of the development are considered excessive for a rural-residential area.
D00836139	Business is not being run between normal business hours!	The extended operating hours proposed by the applicant are not supported.
	Sound of forklift being used all hours of the night and early morning.	The issue of noise has been identified within the assessment of the application and is considered unsatisfactory for a rural-residential area.

**82A Review of Proposed Home Business at Tumbi Umbi (Attachment 2)  
(contd)**

Doc No	Issue	Comment
D00836156	Noise in relation to forklift and truck movements.	The issue of noise has been identified within the assessment of the application and is considered unsatisfactory for a rural-residential area.
D00836176	Business is not being run between normal business hours!	The extended operating hours proposed by the applicant are not supported.
	Number of vehicle movements and using the fork lift	Issues resulting from the noise of the forklift and heavy vehicles have been identified and the application is not supported for these reasons.
D00836187	This proposal does not meet the residential amenity criteria as it operates outside normal office hours and if the development is passed, the business may generate more noise if the business grows!	The application is not supported for these reasons.
D00836300	Sunday afternoon is a continual barrage of forklift and palettes being moved or banged around for hours.	The extended operating hours proposed by the applicant and the resulting noise impacts are not supported.
	Trucks being used are very large that carry about 20 tonnes	The number and size of trucks being used within the site are not considered acceptable for a rural-residential area.
D0083909	This business should be operating from an industrial estate not a home business	The discussion within the report identifies that the proposed business would be more accurately defined as a 'warehouse', which are permitted within industrial zones.
	The business generates offensive noise for adjoining properties	The issue of noise has been identified within the assessment of the application and is considered unsatisfactory for a rural-residential area.
	Why have the applicants waited so long to lodge an application for a home business.	Following complaints by the public use of the premises for a home business was identified by Council and subsequently a DA was lodged. Council has issued Orders requiring the use to cease should the application be refused.
D00839138	Noise. Hours of work. Misleading Review of Applicants Environmental Factors Submission. Vehicle movements Hours of operation	The issues of noise, hours of operation and the number of heavy vehicles on the site have been identified as issues which are not compatible with the 7(c) zone.
D00862507	No objection to the application, does not affect them.	Noted.

### 82A Review of Proposed Home Business at Tumbi Umbi (Attachment 3) (contd)

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**Figure 1: Composite photos showing concrete apron, carport and garage utilised for proposed business activities.**



**Figures 2 - 5: Photos of site inspection from initial DA (17 July 2007) – Interior of carport**



**82A Review of Proposed Home Business at Tumbi Umbi (Attachment 3)  
(contd)**

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**Figure 3: Interior of triple garage**



**Figure 4: Apron and northern property boundary**





### 82A Review of Proposed Home Business at Tumbi Umbi (Attachment 3) (contd)

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**Figure 5: Looking south from carport apron showing vehicles parked onsite and within shared ROW**



**Figure 6: Commercial vehicles parked within the shared access driveway**



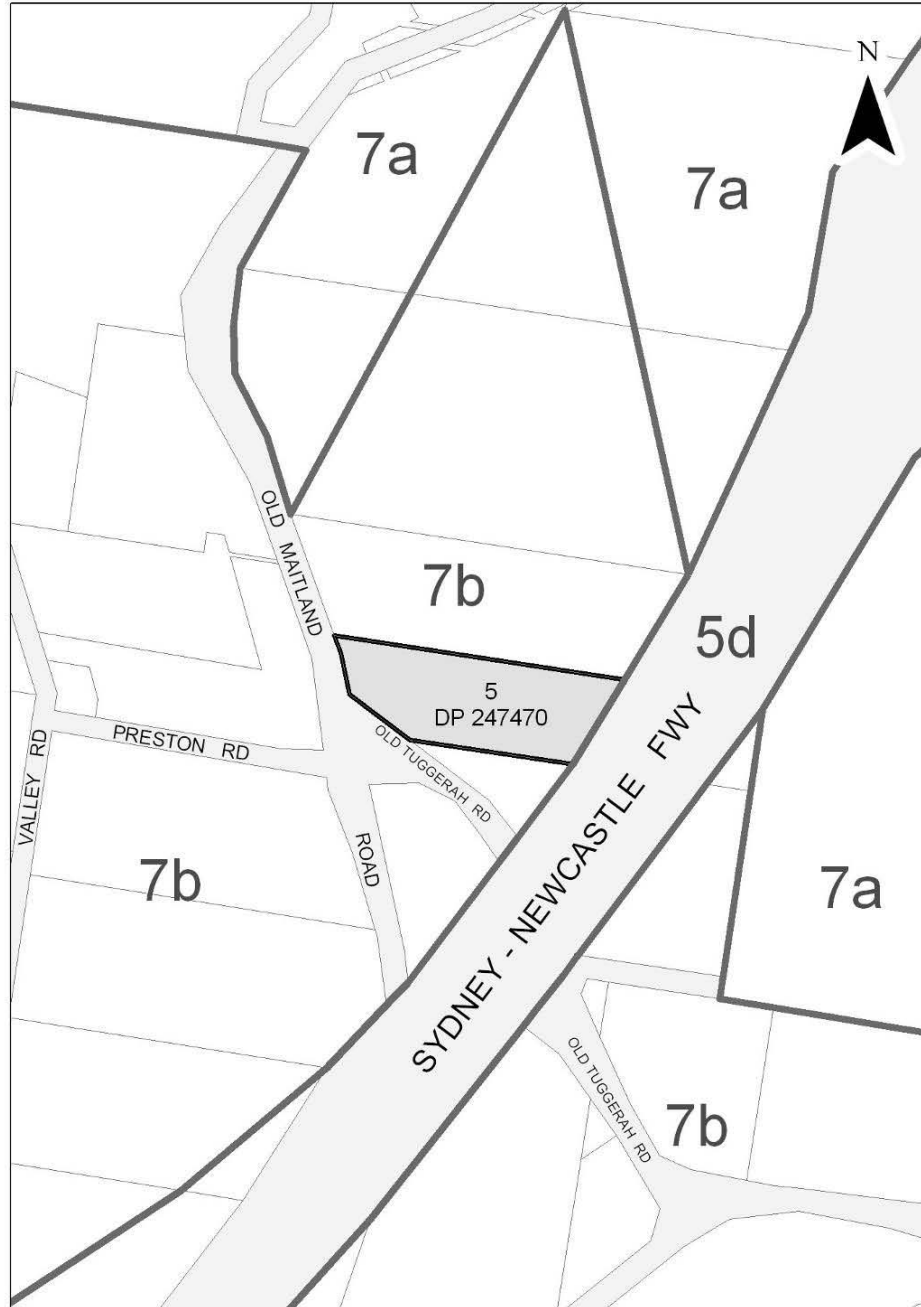


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**536 Proposed Animal Establishment at Kangy Angy  
(Attachment 1)**

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Locality Plan



## WYONG SHIRE COUNCIL

12 December 2007  
To The Ordinary Meeting of Council

Director's Report  
Shire Planning Department

### **536 Proposed Animal Establishment at Kangy Angy**

DA/2105/2006 BLF

#### **SUMMARY**

Consent is sought for an animal establishment for dog boarding kennels at 5 Old Maitland Road, Kangy Angy. It is proposed to utilise an existing shed on the northern side of the property to house a maximum of 30 dogs in 19 kennels. The issue of noise from barking dogs has been addressed by an acoustic report submitted by the applicant and further recommendations from an independent acoustic consultant engaged by Council. The application is recommended for approval.

<b>Applicant</b>	P & D Wilesmith C/- Longhill Planning Pty Ltd
<b>Owner</b>	P & D Wilesmith
<b>Application No</b>	DA/2105/2006
<b>Description of Land</b>	Lot 5 DP 247470 No 5 Old Maitland Road, Kangy Angy
<b>Proposed Development</b>	Animal Establishment
<b>Site Area</b>	21,090m <sup>2</sup>
<b>Zoning</b>	7(b) Scenic Protection
<b>Existing Use</b>	Residential
<b>Value</b>	\$50,000

#### **RECOMMENDATION**

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

#### **INTRODUCTION**

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

**Proposed Animal Establishment at Kangy Angy (contd)**

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

An acoustic report was submitted by the applicant addressing the issue of noise from barking dogs. Following the level of community concern regarding the potential for acoustic impacts from the development, Council also engaged an independent acoustic consultant to review the report by Renzo Tonin and Associates and provide recommendations for noise reduction. The issue of noise is addressed in the report and the recommendations would form part of the conditions of any consent issued for the development.



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

## **Proposed Animal Establishment at Kangy Angy (contd)**

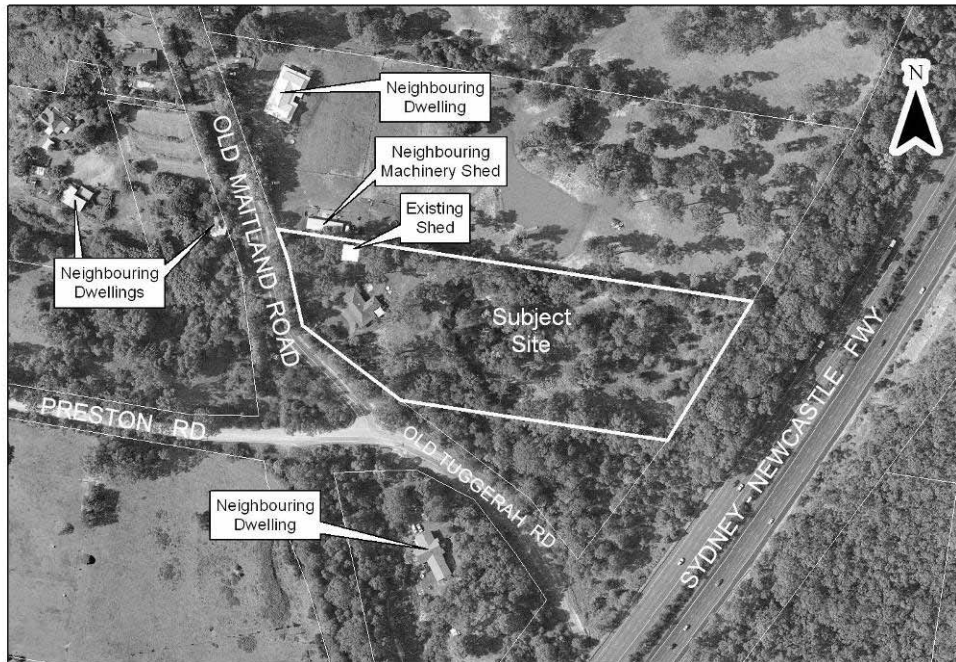


Figure 2: Aerial photo indicating location of adjacent dwellings

### **HISTORY**

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

LA/105/2005 for an aerated wastewater treatment system was approved by Council on 24 June 2005. This included a 480m<sup>2</sup> disposal area in the north-western corner of the site.

**Proposed Animal Establishment at Kangy Angy (contd)**

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**STATUTORY REQUIREMENTS****Wyong Local Environmental Plan 1991 (WLEP)**

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

The objectives of the 7(b) zone are:

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

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

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

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

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

## **Proposed Animal Establishment at Kangy Angy (contd)**

### **Chapter 50 – Advertising Signs**

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

### **Policy Manual – K1 Keeping of Animals**

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

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

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

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

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

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

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

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

## **Proposed Animal Establishment at Kangy Angy (contd)**

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### **OTHER POLICIES**

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

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

### **RELEVANT ISSUES**

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

#### **Context and Setting**

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

The proposed boarding kennels and yards will be fenced to reduce the impact of noise on adjoining properties. The construction of a 2.5m high fence has been recommended by the independent acoustic expert; which if viewed from the street, could reduce the aesthetic quality of the locality. However, the fence will be required to be screened from the adjoining property to the north and the street with landscaping.



## **Proposed Animal Establishment at Kangy Angy (contd)**

### **Access, Transport and Traffic**

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

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

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

### **Public Domain**

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

### **Utilities**

There is a water main at the front of the property that runs along Old Maitland Road. There is no sewer main in the locality. An on-site aerated wastewater treatment system has been approved on the site. The disposal area approved for this system will need to be increased from 480m<sup>2</sup> to 693m<sup>2</sup> to cope with the additional load from the kennels. A condition will be placed on the consent requiring an amended on-site sewage management application to be submitted to and approved by Council prior to the commencement of operation of the facility.

### **Heritage**

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

## **Proposed Animal Establishment at Kangy Angy (contd)**

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### **Water**

There is a creek that runs through the middle of the subject site which passes through the dam on the property. The kennel building is located approximately 75m from the creek and the yard is approximately 45m from the creek. This creek only runs intermittently and the proposed kennels are unlikely to have a detrimental impact on this waterway, provided that they are operated appropriately and solid wastes are collected twice daily, kennels are cleaned daily and wastewater is diverted to the on-site sewage management system.

### **Air and Microclimate**

The SEE submitted with the application states that a whirly bird ventilator will be used for ventilation of the shed; however this conflicts with the report prepared by Renzo and Tonin which requires no natural ventilation. This is not considered appropriate and some form of fresh air ventilation will need to be provided to maintain animal health. The independent acoustic expert (Hunter Acoustics) has recommended the following:

*"A series of small centrifugal fans with absorptive intake / exhaust ducts can be placed in the upper section of the western and eastern walls but below the height of the noise barrier. These may be used in conjunction with low level (not more than 300mm off the ground) small openings (not more than 100 by 200 mm) with down turned intakes to admit fresh air without compromising the acoustic integrity of the kennel. The air intakes can also double as drainage points if a suitable allowance is made in the external gutter and waste containment configuration. Additional cooling of the kennel by air conditioning may not be required if this system is adequately implemented but additional cooling may still be provided if necessary. This is a low cost option that can be readily implemented without special requirements provided it is considered as part of the slab and wall design and construction".*

The above would be added as a condition to any consent for the development to be included in design plans and submitted for approval prior to the issue of a Construction Certificate.

### **Flora and Fauna**

There are a large number of mature trees on site. If the 2.5m high acoustic fence is erected in the position currently proposed, the trees along the northern side boundary are likely to be impacted upon. The applicant was requested to submit a plan showing trees along this boundary and the fence relocated in front of the trees to enable their retention. An amended plan was submitted on 5 November 2007 that showed the location of trees in the yard area. However, this plan did not relocate the Hebel fence as required. Amendments have been made in red on the plans relocating the fence further to the south to allow retention of the trees. This will allow construction of the fence without impacting the trees and will also help to provide a landscape screen between the fence and the adjoining property.

## **Proposed Animal Establishment at Kangy Angy (contd)**

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### **Waste**

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

The existing dwelling is connected to a septic system on site. As part of the current proposal, it is proposed to increase the size of the effluent disposal area located at the front of the property from 480m<sup>2</sup> to 550m<sup>2</sup> to cater for the additional wastes generated by the dogs. Council's Environmental Health Officers have reviewed the application and the On Site Sewage Management Report prepared by Robert Bowen dated 6 December 2006 and concluded that a minimum irrigation area of 693m<sup>2</sup> is required. A site inspection has revealed that there is adequate site area to the north and south of the driveway to cater for the additional irrigation area.

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

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

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

### **Energy**

A 20,000 litre rainwater tank will be required to catch water from the roof of the kennels for re-use on site as the cleaning of kennels etc will require a large amount of water. In addition, a condition will be placed on the consent for natural ventilation of the kennels in a manner that will allow airflow into the building while still maintaining the noise levels considered appropriate under the Industrial Noise Policy.

### **Noise**

An acoustic assessment report has been prepared by Renzo Tonin and Associates to assess the impact of the proposed development. The report summarises the results of noise monitoring undertaken over 7 days at the site to determine existing background and ambient noise levels representative of nearby residential properties.

**Proposed Animal Establishment at Kangy Angy (contd)**

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

The noise report was based on the accommodation of up to 30 dogs, operating 24 hours a day, 7 days a week.

The results of the report show that the noise from the operation of the animal establishment will comply with both the intrusive and amenity criteria at both Receivers R1 (RMB 3655 Old Maitland Road) and R2 (RMB 3620 Old Maitland Road). This predication is based on a 'worst case' scenario where 10 dogs are located outside in the dog runs and 20 dogs located inside the kennel building, with all dogs barking at the same time.

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

- a The internal walls and ceiling of the dog kennel building should be sprayed with Enviro spray 300 (or equivalent product) to achieve reverberant sound attenuation within the building. The Enviro spray 300 (or equivalent product) should be applied a minimum 1.5m above the ground level and to the entire ceiling.
- b Windows of the dog kennel building should incorporate a minimum of 6.38mm thick laminated glazing. The windows should be of fixed construction.
- c All external doors of the dog kennel building should incorporate acoustic seals and be kept closed at all times except for ingress and egress.
- d No natural ventilation should be provided in order to reduce the likelihood of noise escaping through wall and roof penetrations.
- e Sound insulation in the wall cavity and ceiling void should be a minimum of 50mm thick and have a density of approximately 18kg/m<sup>3</sup>.
- f The construction of the solid 1.8m high Hebel (or equivalent product) wall perimeter fence should be a minimum of 200mm thick. The internal face of the wall should be sprayed with Enviro spray 300 (or equivalent product) a minimum of 1.5m above ground level to achieve reverberant sound attenuation.

### **Proposed Animal Establishment at Kangy Angy (contd)**

- g The number of dogs in the external and internal areas of the facility should not exceed 10 dogs in the outdoor runs and 20 dogs inside the shed at any one time as outlined in the scenarios considered as 'worse case' indicated in Section 6.4 of the Renzo and Tonin Report dated May 2007.

An independent acoustic expert (Hunter Acoustics) was engaged by Council to review the Acoustic report prepared by Renzo and Tonin. In reviewing the submitted acoustic report, the following recommendations were made by Hunter Acoustics:

- "1 It is important that the recommendations in the Renzo Tonin report regarding the location's screening fence are implemented correctly. You will note that there is a barrier fence to the north and west of the yards and an open chain wire fence to the south and east of the yards. If the different fencing types are not located correctly the solid fence may become a source of reflected sound, thereby, causing excessive impact at the neighbours. Equally if the fencing components are not located correctly the barrier effect of the solid fence may be not be present where it is needed also allowing excessive noise impacts at the neighbouring properties. I would suggest that a specific consent condition to certification of this aspect of the report be considered.*
- 2 Windows that are to be 6.5mm laminated glass should not have dimensions in excess of 600mm by 300 mm. Larger windows should be made from glass bricks.*
- 3 In order that some additional protection be afforded to the neighbours and to better account for the adverse characteristics of barking dogs I would recommend an increase in the height of the yard perimeter barrier to 2.5 meters and that the entire barrier be made from masonry, timber or AAC (Hebel) rather than steel sheet.*
- 4 I recommend that a consent condition be applied that requires compliance measurement, when there is a number of dogs within the kennel, and within a three to six month period after completion. In the event that compliance is not achieved such a condition would also require remedial measures to be implements in the form of a higher barrier to be constructed and absorptive panelling to be applied to the barrier if required.*
- 5 There potentially remains a problem with provision of adequate ventilation and a conflict between Section 3 of the SEE which suggests a whirly bird ventilator and the Renzo Tonin report that requires no natural ventilation. Some form of fresh air or natural ventilation will be required to maintain animal health. This is a common problem in these situations but one that can be resolved. I recommend that the kennel building be provided with appropriately designed acoustically treated ventilation as follows:*

**Proposed Animal Establishment at Kangy Angy (contd)**

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*A series of small centrifugal fans with absorptive intake / exhaust ducts can be placed in the upper section of the western and eastern walls but below the height of the noise barrier. These may be used in conjunction with low level (not more than 300mm off the ground) small openings (not more than 100 by 200 mm) with down turned intakes to admit fresh air without compromising the acoustic integrity of the kennel. The air intakes can also double as drainage points if a suitable allowance is made in the external gutter and waste containment configuration. Additional cooling of the kennel by air conditioning may not be required if this system is adequately implemented but additional cooling may still be provided if necessary. This is a low cost option that can be readily implemented without special requirements provided it is considered as part of the slab and wall design and construction."*

Should approval be granted, a condition will also be placed on the consent in accordance with point 5 above for natural ventilation.

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

As a result of the above recommendations, a condition will be placed on the consent to comply with the recommendations of the Renzo Tonin and Associates report prepared May 2007, with the exception of points two, four and six which will be worded as follows to comply with the recommendations of Council's Acoustic consultant:

- “\*\* Windows of the dog kennel building should incorporate a minimum of 6.5mm thick laminated glazing. The windows should be of fixed construction and should not have dimensions in excess of 600mm by 300mm. Larger windows should be made from glass bricks.*
- \* The building is to be provided with appropriately designed acoustically treated natural ventilation.*
- \* The construction of the solid 2.5m high Hebel wall perimeter fence should be a minimum of 200mm thick. The internal face of the wall should be sprayed with Enviro spray 300 a minimum of 1.5m above ground level to achieve reverberant sound attenuation.”*

## **Proposed Animal Establishment at Kangy Angy (contd)**

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The acoustic report by Renzo Tonin and Associates proposes the air conditioner to be operated 24 hours per day 7 days per week. However, Hunter Acoustics states that this is not necessary if natural ventilation is incorporated into the design as outlined above. An air conditioner can be used for additional cooling if necessary. Therefore, a condition will be placed on the consent requiring natural ventilation using the system outlined in the Hunter Acoustics Noise Report and air conditioners only to be operated between the following hours:

- 8:00am and 10:00pm on Saturdays, Sundays or public holidays.
- 7:00am and 10:00pm any other day.

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

### **Natural Hazards**

Information available to Council indicates that part of this land could be subject to the risk of flooding by a flood of a one in one hundred year recurrence frequency or less. The nearest measured flood levels to the subject site are at the intersection of Old Tuggerah Road and Old Maitland Road Kangy Angy at a level of 12.03m AHD. The area is very flat; however, it appears that the shed is located on land approximately 14m AHD or above, based on the topographic information on Council's GIS system. However, based on the topography and natural drainage line through the site and adjacent to the site, the parcel could potentially be fully flood affected, but this would need to be substantiated by a flood study. At this stage the site will be considered as partly flood affected by creek flooding.

As the site is considered as a local overland flow path and the depth of flooding in a 1% AEP flood event is unknown a precautionary measure of applying a finished floor level of 300mm above the natural surface level should be applied. This is consistent with the Wyong Shire Council Flood Prone Land Policy F5.

There is a waterway that runs through the middle of the property; however, it is located approximately 75m from the proposed dog kennels. It is not considered that the proposed boarding kennels are likely to impact on the waterway.

The subject site is classified as bushfire prone land. The area where the dog kennels are located is shown as Buffer. No new buildings are proposed to be erected as a result of the current proposal and the shed is not habitable by humans.

As the proposal does not involve the construction of any new buildings, a formal bushfire or flood assessment is not required.

## **Proposed Animal Establishment at Kangy Angy (contd)**

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### **Safety, Security and Crime Prevention**

The proposed dog kennel is located to the north of the existing residential dwelling on site. There is a clear line of sight from the dwelling to the kennels and outdoor dog runs. In addition, the owner has advised that there will be an intercom between the kennels and the house and there will be a responsible person on site 24 hours per day.

### **Economic Impact in the Locality**

The proposed boarding kennels are likely to employ four to six part-time workers (equivalent to two full-time positions).

In regard to the impact on property values, no evidence has been provided to indicate that the proposed kennels will have a negative impact on property values in the area. The kennels will not be visible from the street and additional landscape screening will be required along the boundary to the north and also along the street boundary.

### **Site Design and Internal Design**

An existing machinery shed on the site was selected to house the boarding kennels and the surrounding yard to be used for dog runs.

The proposed shed housing the kennels and yards is located on the northern side of the subject site and is set back 1.5m from the northern side boundary. The proposed yards to the west of the existing shed will be screened from the residence on the adjoining property to the north by an existing shed on the adjoining property. While the yard to the east of the shed may be visible from the residence, it will be screened by a 2.5m high acoustic fence, which will itself be screened by dense landscaping. The kennels and yards are visible from the dwelling on site and will be under 24 hour video surveillance.

The rear of the site was not selected, as access to this area was difficult and heavily vegetated. In addition, the owner was concerned about the number of snakes in the rear of the property which could threaten the safety of staff and dogs.

### **Construction**

It is proposed to carry out alterations and additions to the existing steel shed on the northern side of the property. The proposed alterations will help to sound proof the kennels and reduce the potential noise impact on surrounding properties



## **Proposed Animal Establishment at Kangy Angy (contd)**

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### **Suitability of the Site for the Development**

The subject site is located in the 7(b) Scenic Protection Zone. Animal Establishments are permissible in this zone with development consent. The subject site is also located in close proximity to the F3 Freeway, which provides a service in close proximity to travelling clients. In addition, the site experiences a relatively constant background noise from traffic travelling along the Freeway. The Renzo Tonin report shows that the ambient noise levels for noise emitted by surrounding sources (Table 3.1 Renzo Tonin) are above the acceptable noise level for rural settings (Table 2.1 Industrial Noise Policy), most likely caused by traffic on the nearby freeway. However, the predicted noise from dogs barking (Table 6.2 Renzo Tonin) is more than 6 decibels below the acceptable noise levels. This indicates that the noise of the Freeway would have a greater impact on residents than the noise of dogs at the kennels.

### **Public Submissions**

The development application was advertised in accordance with DCP Chapter 70 – Notification of Development Applications. During the first exhibition period, nine submissions were received. Following the receipt of the acoustic report and confirmation of the maximum number of dogs to be accommodated on the site, the application was readvertised and an additional two letters and one petition were received. The petition included 17 signatures.

During the assessment period, two of the original objectors lodged letters withdrawing their objection to the proposal. The issues raised in their submissions (D00769957, D00771989 & D00784975) have not been addressed in the table below. The issues raised in the remaining submissions have been addressed in the assessment of the application pursuant to the heads of consideration contained within Section 79C of the Environmental Planning and Assessment Act 1979. A summary of the submissions is detailed in Table 1 below.

A submission from the RTA as an adjoining landowner (the F3 Freeway) raised no objection to the proposal.

**Proposed Animal Establishment at Kangy Angy (contd)****Table 1: Summary of Submissions**

<b>Doc. No.</b>	<b>Concerns</b>	<b>Comment</b>
D00758523 D00759314	Resident is in ill health and the noise of barking dogs could deteriorate health further	The impact of noise has been considered is to be adequately ameliorated through additional works and consent conditions.
D00758549 D00765884 D00774156	Shed containing kennels is only 3m from this resident's property and the barking of dogs will stress the horses. Children ride horses on this property and the stress could cause the horse to throw a child off.	A 2.5m high acoustic fence and landscaping will be placed around the dog runs and the shed will be acoustically treated to reduce the impact of noise. Visual stimulation that makes dogs bark will also be reduced due to the high fences and landscaping.
D00758549 D00765884 D00774156	Noise of dogs in outdoor exercise areas	The 2.5m high acoustic fence will help to reduce the impact of noise on surrounding properties when the dogs are outside.
D00758549 D00765884 D00774156	Smell of kennels only four metres from the resident's gym.	The kennels will be cleaned out daily.
D00758549 D00765884 D00774156 D00759236 D00773018 D00759314 D00770411	Decreased property value	There is no evidence that indicates the properties in the area will be devalued as a result of the boarding kennel.
D00758549 D00765884 D00774156 D00769396	Impact of effluent from dogs on creek	All faecal matter will be picked up twice daily and disposed of by a waste contractor off site.
D00758549 D00765884 D00774156 D00759236 D00773018 D00759314 D00767543 D00768122 D00769396 D00783029	Increased traffic volume and location of access near the street corner and opposite a bus stop will cause danger to pedestrians	It is proposed to stagger drop-off and pick-up times which will reduce traffic congestion. This will be conditioned.
D00758549 D00765884 D00774156	Property is on town water and therefore what effect will it have on water usage with drinking and cleaning kennels	A condition will be imposed to install a 20,000 litre rainwater tank.

## **Proposed Animal Establishment at Kangy Angy (contd)**

**Table 1: Summary of Submissions (contd)**

<b>Doc. No.</b>	<b>Concerns</b>	<b>Comment</b>
D00758549 D00765884 D00774156	What is capacity of current envirocycle? Is there a danger of overflow?	A new OSSM application will need to be lodged prior to CC. This will have to show that the current envirocycle can cope with the additional load. If not, it will have to be upgraded to comply.
D00758549 D00765884 D00774156	What will be the noise of air conditioners and where will they be located?	The air conditioner, if installed, will be located on the shed and is not able to exceed 5dbA above the ambient background noise.
D00758549 D00765884 D00774156	Given increase in traffic what steps have been taken to have the 2 lane tunnel lit up?	Lighting of the tunnel is not considered necessary as it is only relatively short and based on past experiences the lighting of tunnels has led to vandalism and issues with maintaining power supply. Clients are likely to visit the site in daylight hours only.
D00758549 D00765884 D00774156 D00759236 D00773018 D00767543 D00769396 D00783029	On what basis is the shire in need of another boarding kennel? Already 2 other boarding Kennels in the area – 1 on other side of Freeway in Dalgety Road and one in Palmdale Valley.	There are currently 5,388 registered and microchipped or just microchipped dogs over the age of 6 months in the Wyong Shire that Council is aware of. This business is based on a perceived or actual demand within the area.
D00759236 D00773018 D00768122 D00767543 D00769396 D00770411	Noise from barking dogs impact on people and animals (horses)  Stress to horses from noise	An acoustic report has been submitted with the application and advice from an independent acoustic consultant has been received which indicate that the noise from the dogs will comply with the requirements of the INP. A 2.5m high acoustic fence will also help to reduce the impact from the dogs barking.
D00759236 D00773018 D00759314	Storage of animal food in bulk and disposal of waste will attract vermin and snakes	A condition will be placed on the consent for all food to be stored in a cool, dry place that is inaccessible by vermin. The kennels will be cleaned daily and the wastes in the yard will be picked up twice daily.
D00759314	1.8m high metal fencing along Old Maitland Road will be an eyesore.	A 2.5m high Hebel panel fence will be erected around the shed and yards. This will be screened by landscaping and is unlikely to be visible from Old Maitland Road once landscaping is established and matures.

**Proposed Animal Establishment at Kangy Angy (contd)****Table 1: Summary of Submissions (contd)**

<b>Doc. No.</b>	<b>Concerns</b>	<b>Comment</b>
D00767543	Development contrary to the area's current use and environment	The proposed use is permissible in the 7(b) zone. Mitigating measures have been proposed to reduce the impact of the proposal on the surrounding properties.
D00767543	Smell from dogs would be offensive	The kennels will be cleaned out daily and all wastes in the yard will be picked up twice daily to help reduce odour.
D00767543	Old Maitland road not suitable or safe for parking of vehicles	Visitor parking spaces will be provided on site and there will be no need to park on Old Maitland Road.
D00769396	The properties in the area of the development are rated as residential and the proposed use is not acceptable in a residential area.	The land in the area is zoned 7(b) Scenic Protection and Animal Establishments are permissible in this zone.
D00770411	Dogs will be stressed due to unfamiliar environment and small area which will increase barking.	The owner has designed the particular establishment for inside dogs and has endeavoured to make the facilities as comfortable for the animals as possible.
D00770411	If commercial traffic is allowed on road the road will need significant upgrade works	There will be insufficient traffic generated by the proposal to warrant road upgrade works.
D00770411	The subject site is at the main intersection to the valley, which means all pedestrians and vehicles will pass the site which may disturb the dogs and cause greater barking and noise.	The dog run is approximately 20m from the road and the kennels approximately 30m from the road and will be screened by a 2.5m high Hebel fence and landscaping. Therefore the dogs are unlikely to see or be disturbed by vehicles and pedestrians on the road.
D00783029	Concerned that the lack of lighting in the tunnel and additional traffic driving through would cause safety issues for children walking through in winter after 5pm	The tunnel (underpass) of the freeway is the responsibility of the RTA and therefore any request for lighting would need to be directed to the RTA.
D00779942	RTA raise no objection	Correct.

### **Proposed Animal Establishment at Kangy Angy (contd)**

Following submission of the acoustic report and the provision of information on the number of dogs to be catered for, the application was readvertised. Three submissions were received following this notification period, one of which was a petition. The issues raised are as follows:

<b>Doc. No.</b>	<b>Concerns</b>	<b>Comment</b>
D00881119	<p>The family spends most of their time at the stables and nearby shed which is 6m from the proposed kennels. No noise readings were taken from this point.</p> <p>Stables and shed are used as training centre for the family to practice judo, for training show horses in the afternoon and weekends, for children to ride horses, and also for a sick bay where injured and sick horses are rested. These uses would be impacted upon by the noise of the dogs.</p>	<p>Noise readings were not taken from the sheds and stable area as they do not qualify as sensitive receivers under the Industrial Noise Policy.</p> <p>These issues were taken into consideration however, it is believed that with the recommended acoustic screening and limited number of dogs outside at any one time the noise will be reduced.</p>
D00883148	<p>Believes additional information should be provided on:</p> <p>The method by which the noise assessment was carried out and method by which the noise reduction would be effected</p> <p>Environmental impact study into quartering such a high density boarding establishment close to open water ways in regards to waste management</p> <p>Waste management plan for the ecological safe disposal of animal wastes</p> <p>Recovery management plan and insurance details in the event of a security breakdown where the animals boarded manage an escape and cause physical damage to property and persons. Security monitoring procedures and notification plan to alert local residents in the event of a break out.</p> <p>Traffic management and parking detail such that children are not exposed to additional hazards at the bus stop</p> <p>Adequate assessment of the devaluation of surrounding properties due to such an establishment</p>	<p>The Acoustic report was available for the public to view which outlined the methods of noise assessment.</p> <p>Liquid wastes will be absorbed into the ground into the run area similar to that of cows and horses or will go into the on-site sewage management system and solid wastes will be disposed of via a waste contractor.</p> <p>Details of disposal methods submitted to Council and considered acceptable.</p> <p>There is staff on site 24 hours a day and there is video surveillance proposed as well as fencing around the yards and kennels and additional fencing surrounding the property. Therefore it is unlikely that dogs would escape without the staff's knowledge. This is considered acceptable.</p> <p>Carparking is available on site. Drop-off and pick-up will be scheduled for 15 minute intervals.</p> <p>The proposed use is permissible in the zone and will be screened from the street and surrounding residences. There is no evidence to indicate that properties in the locality will be devalued as a result of the proposed use.</p>

**Proposed Animal Establishment at Kangy Angy (contd)**

<b>Doc. No.</b>	<b>Concerns</b>	<b>Comment</b>
D00883746 (Petition with 17 signatures)	<p>Unsatisfied with outcomes in regards to noise levels in the acoustic report.</p> <p>Believe report is inaccurate</p> <p>Believe assumption is ridiculous that 10 dogs maximum in runs would not affect surrounding residents</p> <p>How can the number of dogs be policed?</p> <p>10 stressed out dogs will cause discomfort to horses in the street, which causes great risk to riders.</p>	<p>Hunter Acoustics have recommended additional measures to improve the noise mitigation.</p> <p>An independent acoustic consultant was engaged by Council to review the Acoustic report prepared by Renzo Tonin &amp; Associates. This review indicated that the Renzo Tonin report was generally acceptable subject to additional measures.</p> <p>Based on the acoustic report and independent acoustic consultants advice a maximum of ten dogs outside with the recommended acoustic treatments, would not have a major impact on surrounding residences.</p> <p>Council would be responsible for enforcing the conditions through either random site inspections or when complaints are received for non compliance.</p> <p>The dog kennels and yards will be screened off from adjoining properties and the owners have endeavoured to make the facility as comfortable as possible for the animals.</p>

The submissions against the proposal have come from eleven objectors and one petition with seventeen signatures. A submission was also lodged from the RTA; however, there was no objection to the proposal raised.

**Public Interest**

There was strong public objection to the boarding kennels mainly in relation to the potential noise impacts of the proposal. There is no relevant legislation that prescribes a set distance that kennels must be from residences or adjoining properties. For this reason, the INP was used as a guide for assessing the noise impact. An acoustic report was submitted supporting the application, which outlines that the kennels can comply with the requirements of the INP provided that the recommendations outlined in the report are implemented. Further advice was sought from an independent acoustic consultant with regard to noise impacts. The consultant provided additional recommendations and advised that provided the kennels comply with all recommendations, the dogs will not be audible at nearby residences at night and they will only be occasionally audible during the day. However, this does not imply a failure to comply with the INP.

### **Proposed Animal Establishment at Kangy Angy (contd)**

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It is considered that compliance with the recommended conditions and recommendations in the acoustic report will limit the impact of noise on surrounding residences to an acceptable level. To ensure that the kennels do not have a detrimental impact on the surrounding properties in regard to noise, a condition will be placed on the consent, requiring ongoing acoustic monitoring, with additional measures required if non-compliances are discovered.

It is considered that provided the boarding kennels comply with the conditions and recommendations, they are unlikely to impact on the health and safety of the public

### **CONCLUSION**

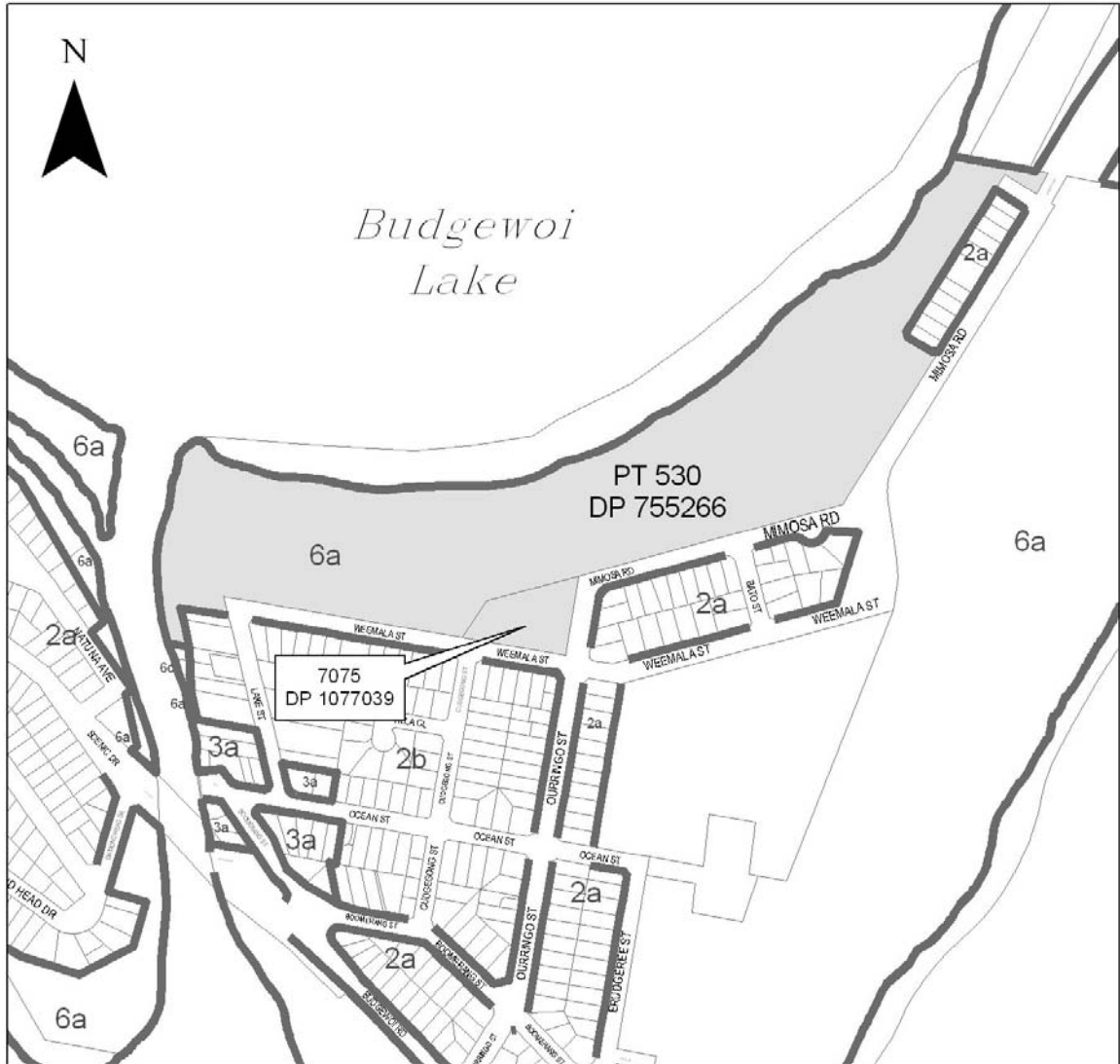
The application has been examined having regard to the matters for consideration detailed in Section 79C of the Environmental Planning and Assessment Act and other statutory requirements. It is considered that the acoustic assessment that was undertaken by Renzo Tonin & Associates and the additional recommendations from Hunter Acoustics address the concerns in regard to the impact of noise from barking dogs. Provided the kennels comply with the conditions of consent and recommendations of the Acoustic Reports, they will be able to operate in an unobtrusive manner, with minimal impact on surrounding residences. It is therefore recommended that the application be approved.

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

***Enclosure***                        ***Development Plans***

**537 Proposed Alterations and Additions To Budgewoi Holiday Park  
(Attachment 1)**

**Locality Plan**





## WYONG SHIRE COUNCIL

12 December 2007  
To the Ordinary Meeting of Council

Director's Report  
Shire Planning Department

### **537 Proposed Alterations and Additions to Budgewoi Holiday Park**

DA/1339/2007 RM

#### **SUMMARY**

An application has been received for alterations and additions to Budgewoi Holiday Park. Following planning assessment, the application is recommended for approval. 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.

<b>Applicant</b>	Wyong Shire Council
<b>Owner</b>	Crown Land - Wyong Shire Council Controlled
<b>Application No</b>	DA/1339/2007
<b>Description of Land</b>	Lot 530 DP 755266 Lot 7075 DP 1077039 Weemala Street Budgewoi
<b>Proposed Development</b>	Alterations and additions to a caravan park (Budgewoi Holiday Park)
<b>Zoning</b>	6(a) (Open Space and Recreation Zone)
<b>Existing Use</b>	Caravan Park
<b>Employment Generation</b>	Nil
<b>Estimated Value</b>	\$657, 500

#### **RECOMMENDATION**

- 1** *That consent be granted subject to the conditions contained in Attachment 4.*
- 2** *That the General Manager be authorised to determine any application for minor modifications to the approved development plans and/or consent conditions.*
- 3** *That those who made written submissions be advised of Council's decision.*

#### **PRÉCIS**

- The proposed development application seeks approval for works that require development consent as part of Council's Five Year Business Strategy for its four Holiday Parks.
- The development application only pertains to some of the works proposed under the Business Strategy. There are other works proposed under the Business Strategy that do not require development consent under the EP&A Act. These works include the proposed holiday cabins and other relocatable structures, creation of drive through van sites and powered unoccupied van sites.

**Proposed Alterations and Additions to Budgewoi Holiday Park (contd)**

- The park design referred to in this application reflects the outcome of a public consultation process that has been undertaken since alterations to Council's Holiday Parks were originally proposed in April 2007.
- The proposed development is permissible with development consent and is considered to be consistent with the objectives of the 6(a) (Open Space and Recreation Zone).
- All site occupants directly affected by this development application can be suitably relocated elsewhere within the caravan park.
- The proposal will have acceptable environmental and social impacts and is recommended for approval.

**INTRODUCTION**

The subject site accommodates an existing caravan park which fronts Lake Munmorah and is located directly to the east of the Lake Munmorah Lake Budgewoi channel. The site is level with remnant native vegetation, generally consisting of melaleuca paperbark trees spread throughout. There is detached residential development directly to the south of the site. Existing development on the site consists of caravans, cabins and support amenities of varying levels of presentation and repair.

Development consent is sought for:

- Alterations and additions to the existing reception and office.
- A covered camp cooking facility of 154.02m<sup>2</sup> and a 10,000 litre rainwater tank.
- A covered barbeque shelter with a roof area of 23.40m<sup>2</sup>.
- A jumping pillow with associated shade structure over covering an area of 329.6m<sup>2</sup>.

The intent of the application is for the proponent to gain approval for those works within Council's Five Year Business Strategy for its Holiday Parks that require development consent and for those works to occur over that period. The applicant has indicated that Council's four Holiday Parks require significant upgrading to remain competitive and cost-effective.

### **Proposed Alterations and Additions to Budgewoi Holiday Park (contd)**

The proposed addition of the facilities will require the removal of nine short-term storage sites, one long-term site, one powered tourist site and one unpowered tourist site. Currently across all four parks there are 50 vacant sites that are able to accommodate displaced van owners. It is expected that additional sites will become vacant through natural attrition over the period of the Business Strategy. The proposed works have been timed to best coincide with the availability of suitable sites and notification procedures for affected owners.

There are other works proposed within the park in the Business Strategy that do not require development consent under the EP&A Act. These works include the proposed holiday cabins and other relocatable structures that are regulated under the Local Government Act (LGA).

#### **VARIATIONS TO POLICIES**

Nil

#### **HISTORY**

The subject site has been used as a tourist destination for over half a century with the earliest recorded approval for development of the site being from 1958.

Budgewoi Holiday Park is situated on Crown Land managed by Wyong Shire Council. As such, while the responsibility of managing the land rests with Council, land ownership remains with the NSW Department of Lands (DoL), Council has been directed by the Department to upgrade the existing facilities to provide for appropriate use and financial return from the holiday parks. Council has prepared a Five Year Business Strategy for the upgrade of its four holiday parks. The consultative process for this process is summarised below:

In April 2007, Council posted correspondence to all permanent and storage van owners of its four holiday parks. The Concept Plans for each of the respective parks, together with the lots affected by the Concept Plans were placed on Council's Website at this time.

**Proposed Alterations and Additions to Budgewoi Holiday Park (contd)**

All submissions received by Council's Business Unit were responded to by either a standard acknowledgment letter or an individual response, depending on the issue raised.

At its Meeting held on 13 June 2007, Council resolved:

- "1 That the General Manager organise monthly briefings, which are to be reviewed in three months time, on the Caravan Park issue with an invitation to all Councillors to attend.*
- 2 That the General Manager facilitate representation from the van owners of the affected parks at those briefings.*
- 3 That representatives from Government Departments with an interest in this matter and the local State Members, or their representatives, also be invited to participate in these briefings as appropriate.*
- 4 That the results of these briefings be reported to Council."*

In accordance with the resolution of 13 June 2007, Council conducted three briefing sessions with members of the elected Consultative Committees (one from each park), representatives of the DoL, Council's Holiday Parks Consultant, Council Officers and State and Local Members.

The intent of the briefing sessions was to create a better understanding with the stakeholders on the rationale for the Five Year Business Strategy, and to allow issues and suggestions raised by permanent/storage van owners to be tabled via their consultative committee member. Further briefings were held on 11 July 2007, 1 August 2007 and 5 September 2007. Subsequent to the briefing sessions, a report was submitted to Council on 26 September 2007 outlining the outcome of the briefing sessions with recommendations for future direction.

At that Meeting Council resolved:

- "1 That the report be received and the information noted.*
- 2 That no further Councillor briefings be scheduled regarding this matter.*
- 3 That the policy of allowing on-site van sales at Budgewoi, Norah Head and Toowoona Bay Holiday Parks be endorsed."*

Subsequently the development applications for the upgrade of each of the four parks have been lodged.

## **Proposed Alterations and Additions to Budgewoi Holiday Park (contd)**

### **PERMISSIBILITY**

The subject site is zoned 6(a) (Open Space and Recreation Zone) under the Wyong Local Environmental Plan 1991 (Wyong LEP 1991). The proposed development does not involve any change to the current land use and is permissible with consent.

The objectives of the 6(a) (Open Space and Recreation Zone) as stated in the Wyong LEP 1991 are:

- (a) *to provide for the open space and recreation needs of the local community and visitors, and*
- (b) *to allow for other leisure and recreation-orientated development, or any other use that is authorised by a plan of management adopted under section 40 of the Local Government Act 1993 , which:*
  - (i) *promotes worthwhile community benefits, and*
  - (ii) *would not reduce the amount and distribution of public open space areas below acceptable levels and standards which meet the needs of the community, and*
  - (iii) *would not have an unacceptable impact on the amenity of adjacent areas, and*
  - (iv) *would not have an adverse effect on water catchments, water quality, land surface conditions and important ecosystems such as Tuggerah Lakes, Lake Macquarie, streams, estuaries and wetlands.*

It is considered that the proposed upgrade of the holiday park is consistent with the objectives of the zone.

### **RELEVANT STATE/COUNCIL POLICIES AND PLANS**

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

- State Environmental Planning Policy No.71 – Coastal Protection (SEPP 71)
- State Environmental Planning Policy No. 21 – Caravan Parks (SEPP 21)
- Wyong Local Environmental Plan 1991 (Wyong LEP 1991)
- Development Control Plan 2005 – Chapter 23 – Caravan Parks
- Development Control Plan 2005 – Chapter 14 - Tree Management
- Local Government (Manufactured Home Estates, Caravan Parks, Camping Grounds and Moveable Dwellings) Regulation 2005

**Proposed Alterations and Additions to Budgewoi Holiday Park (contd)**

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**ECOLOGICALLY SUSTAINABLE PRINCIPLES**

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

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

**ASSESSMENT**

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

**THE PROVISIONS OF RELEVANT INSTRUMENTS/PLANS/ POLICIES (S79C(1)(a)(i-iv)):****Coastal Protection**

The site is located within the SEPP 71 Coastal Protection Zone. Clause 8 of SEPP 71 states matters for consideration that are to be taken into account by a consent authority when it determines a development application to carry out development on land to which this Policy applies. The proposed development is considered to be consistent with the requirements of SEPP 71. A table exhibiting the compliance of the proposal to SEPP 71 is attached to this report (Attachment 3).

## **Proposed Alterations and Additions to Budgewoi Holiday Park (contd)**

### **SEPP 21 – Caravan Parks - Matters to be considered by Councils**

A Council may grant a development consent required by this Policy only after it has considered the following:

- “(a) whether, because of its location or character, the land concerned is particularly suitable for use as a caravan park for tourists or for long-term residence,*
- (b) whether there is adequate provision for tourist accommodation in the locality of that land, and whether existing or potential tourist accommodation will be displaced by the use of sites for long-term residence,*
- (c) whether there is adequate low-cost housing, or land available for low-cost housing, in that locality,*
- (d) whether necessary community facilities and services are available within the caravan park to which the development application relates or in the locality (or both), and whether those facilities and services are reasonably accessible to the occupants of the caravan park,*
- (e) any relevant guidelines issued by the Director, and*
- (f) the provisions of the Local Government (Caravan Parks and Camping Grounds) Transitional Regulation 1993.”*

This development application involves the removal of nine short-term storage sites, one long-term site, one powered tourist site and one unpowered tourist site. The applicant has indicated that the storage and long-term sites can be relocated within the caravan park under the five year business strategy for the site. Park management have indicated that the long-term occupant has already been relocated to an alternative site and that there are ample sites available to accommodate the short-term tenants. The proposal provides additional community facilities for users of the park. The proposal is considered to be consistent with the requirements of SEPP 21.

### **Local Government (Caravan Parks and Camping Grounds) Transitional Regulation 1993**

This Regulation is made under the LGA. The purpose of this Regulation is to ensure the health, safety and amenity of moveable dwellings by providing prescriptive standards for issues such as setbacks, road widths and open space areas within caravan parks. The plans lodged indicate that the proposal can suitably comply with the requirements of this Regulation.

**Proposed Alterations and Additions to Budgewoi Holiday Park (contd)****THE LIKELY IMPACTS OF THE DEVELOPMENT (S79C(1)(B) ):****The relationship to the regional and local context and setting**

The character of the caravan park will not be negatively affected by the approval of works as proposed under this development application. The scale of development is consistent with the existing and surrounding development.

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

The proposed works will eliminate an internal road made redundant by the changes. The applicant expects that there will be some increase in vehicle movements as a result of the alterations. Any increase in traffic is well within the capacity of the surrounding road network. The site access is to be upgraded as part of the Business Plan reducing congestion at the park entrance.

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

The proposed development will enhance recreational opportunities for park users.

**Any impact on the conservation of water**

A 10,000 litre water tank is proposed to re-use roof water from the camp cooking facility. The water tank will provide a supplementary supply of non-potable water for various uses within the park.

**Any effect on the flora and fauna**

The construction of the jumping pillow will require the removal of two melaleuca quinquenervia (paperbark) trees. While these trees are native to the area they are not considered to be threatened or endangered. A condition of consent requires that for each tree removed replanting of the same species occur at a ratio of 3:1 in suitable locations within the park is to occur and that these trees be nurtured to maturity.

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

The site is noted as being flood liable. With the exception of additions to the existing office, there are no new habitable structures requiring development consent. The north-eastern portion of the site is considered to be bushfire prone. The proposed works are well clear of the bushfire prone land.



## **Proposed Alterations and Additions to Budgewoi Holiday Park (contd)**

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

The additional facilities are to be located where they can be observed from surrounding sites, achieving good passive surveillance.

### **Any social impact in the locality**

There will be no increase or decrease in accommodation for the permanent residents of the caravan park. Residents who occupy short-term storage sites can be accommodated on other sites in the park through relocation and attrition. This issue has been dealt with in Council's Business Strategy.

Whilst there will be another 40 sites affected as part of the Business Plan these changes do not form part of this consent. The alteration to these sites including construction of relocatable cabins will be dealt with under Council's Local Approval Policy and the *Local Government (Caravan Parks and Camping Grounds) Transitional Regulation 1993*.

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

Appropriate conditions of consent with regard to site management and environmental control will ensure construction activities are conducted within legislative requirements.

## **THE SUITABILITY OF THE SITE FOR THE DEVELOPMENT (S79C(1)(C)):**

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

The proposed development is generally over land where there is existing development. The site is considered to be appropriate for redevelopment.

**Proposed Alterations and Additions to Budgewoi Holiday Park (contd)****ANY SUBMISSION MADE IN ACCORDANCE WITH THIS ACT OR REGULATIONS (S79C(1)(D)):****Any submission from the public**

The application was advertised in accordance with DCP 2005 Chapter 70-Notification of Development Proposals with three submissions being received. Notification to affected landowners and on-site occupants was undertaken. The issues raised in the submissions have been addressed in the assessment of the application pursuant to the heads of consideration contained within Section 79C of the EP&A Act 1979. A summary of the submissions is detailed in Attachment 2.

**Any submission from public authorities**

As required under Section 91 of the EP&A Act, the proposal was referred to the Mines Subsidence Board, which raised no objection to the proposed development.

**CONCLUSION**

The proposed development will have acceptable environmental impact on the caravan park and surrounding locality. The proposal provides a significant upgrade of facilities for users of the park. There are several objections to the proposal, however, many of these relate to proposed works within the park that do not require development consent. The works that require development consent will have a relatively minor impact on the park. The proposal is consistent with relevant Plans and Policies and is recommended for approval.

**Attachment 1****Locality Plan (1 page)****Attachment 2****Summary of Submissions (1 page)****Attachment 3****SEPP 71 Compliance Table (2 pages)****Attachment 4****Proposed Conditions (5 pages)****Enclosure****Development Plans**

**Proposed Alterations and Additions to Budgewoi Holiday Park  
(Attachment 2)**

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**SUMMARY OF SUBMISSIONS**

<b>Doc. No</b>	<b>Summary of Issues</b>	<b>Response</b>
D01009065	Van site is affected by proposed upgrading of park. Paid \$25,000 for van in 2004. Were assured by park manager and a Council member that van would always be safe. Problems have been caused by Council disregarding State Government requirements concerning percentage of long-term sites. Council should therefore pay for relocation costs of van.	The subject site mentioned in this submission is not affected by this development application but by other works that do not require development consent. This issue can only be addressed through discussion between the effected storage van owner and the applicant (Council's Business Management Unit).
D01006143	Have purchased van and invested in site with an understanding that there would not be any relocation requirements. If relocation is to happen Council should bear the cost.	The subject site mentioned in this submission is not affected by this development application but by other works that do not require development consent. All short-term storage site tenants were or should have been aware of their leasing arrangements which indicated relocation may occur with short notice.
D01012422	Have invested in site. Expect reimbursement for relocation if relocation is required.	All short-term storage site tenants were or should have been aware of their leasing arrangements which indicated relocation may occur with short notice.

**Proposed Alterations and Additions to Budgewoi Holiday Park  
(Attachment 3)****SEPP 71 COMPLIANCE TABLE**

<b>CI 8</b>	<b>Matters for Consideration</b>	<b>Proposed</b>
a	The aims of the Policy	The proposal is compliant with the objectives of the Policy in terms of protection of the coastal zone and environment; and the maintenance of pedestrian access to foreshore areas.
b	Existing public access to and along the coastal foreshore for pedestrians or persons with a disability should be retained and, where possible, public access to and along the coastal foreshore for pedestrians or persons with a disability should be improved.	The proposal does not negatively affect public access to foreshore areas.
c	Opportunities to provide new public access to and along the coastal foreshore for pedestrians or persons with a disability.	The proposed additions that are the subject to this development application do not affect foreshore access
d	The suitability of development given its type, location and design and its relationship with the surrounding area.	The proposed development is within an existing caravan park.
e	Any detrimental impact that development may have on the amenity of the coastal foreshore, including any significant overshadowing of the coastal foreshore and any significant loss of views from a public place to the coastal foreshore.	The proposed additions that are the subject to this development application do not affect the foreshore or inhibit views from a public place.
f	The scenic qualities of the New South Wales coast, and means to protect and improve these qualities.	The proposal will have no adverse impact on the scenic qualities of the coastline.
g	Measures to conserve animals (within the meaning of the <a href="#">Threatened Species Conservation Act 1995</a> ) and plants (within the meaning of that Act), and their habitats.	The subject site does not contain any threatened species or habitat.
h	Measures to conserve fish (within the meaning of Part 7A of the <a href="#">Fisheries Management Act 1994</a> ) and marine vegetation (within the meaning of that Part), and their habitats.	The proposal has no impact on the conservation of fish and marine vegetation.
i	Existing wildlife corridors and the impact of development on these corridors.	The proposal will not affect any identified wildlife corridor.
j	The likely impact of coastal processes and coastal hazards on development and any likely impacts of development on coastal processes and coastal hazards.	The proposed additions that are the subject to this development application are not directly adjacent to the coastline. Conditions of consent will require environmental controls to limit impact on the adjacent waterway.

**Proposed Alterations and Additions to Budgewoi Holiday Park  
(Attachment 3) (contd)**

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<b>CI 8</b>	<b>Matters for Consideration</b>	<b>Proposed</b>
k	Measures to reduce the potential for conflict between land-based and water-based coastal activities.	The proposal will have no impact on water-based coastal activities.
l	Measures to protect the cultural places, values, customs, beliefs and traditional knowledge of Aboriginals.	The subject site does not contain any aboriginal sites or relics, and there are no known sites within the immediate locality.
m	Likely impacts of development on the water quality of coastal water bodies.	The proposed additions that are the subject to this development application are not directly adjacent to the coastline. Conditions of consent will require environmental controls to limit impact on the adjacent waterway.
n	The conservation and preservation of items of heritage, archaeological or historic significance.	The proposal has no impact on items of heritage, archaeological or historic value.
o	Only in cases in which a council prepares a draft local environmental plan that applies to land to which this Policy applies, the means to encourage compact towns and cities.	Not applicable.
p(i)	The cumulative impacts of the proposed development on the environment.	The proposal is not considered to have any adverse cumulative impacts on the environment.
p(ii)	Measures to ensure that water and energy usage by the proposed development is efficient	Water storage tank proposed.

**Proposed Alterations and Additions to Budgewoi Holiday Park  
(Attachment 4)**

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**PROPOSED CONDITIONS**

- 1 The development taking place in accordance with the approved development plans reference number 01-05 dated 26/09/2004, the Statement of Environmental Effects prepared by BHI dated 22 October 2007 and the intent of the Five Year Business Strategy adopted by Council, 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.***

**Certificates / Engineering Details**

- 2 The applicant must apply under Section 305 of the Water Management Act 2000 to Council as the Water Supply Authority for any works and contributions required for the obtaining of a Section 307 Certificate of Compliance.
- 3 A Construction Certificate is to be issued by the Certifying Authority prior to commencement of any works. The application for this Certificate is to satisfy all of the requirements of the Environmental Planning and Assessment Regulation 2000.

**Roads**

- 4 Separate approval from Council as the Roads Authority must be obtained under Section 138 of the Roads Act 1993 prior to the issue of any Construction Certificate which includes any works within a Council road reserve. For any such works, design plans must be submitted to and approved by Council prior to issue of the Construction Certificate.
- 5 The provision of additional civil works necessary to ensure satisfactory transitions to existing work as a result of work conditioned for the development, at no cost to Council. Design plans are to be approved by Council prior to issue of the Construction Certificate.

## **Proposed Alterations and Additions to Budgewoi Holiday Park (Attachment 4) (contd)**

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### **Stormwater**

- 6 The submission to and approval by Council of stormwater drainage details in accordance with Council's Development Control Plan 2005 Chapter No 67 - Engineering Requirements for Development prior to issue of the Construction Certificate.

### **Trees**

- 7 Trees and vegetation within the vicinity of the proposed works are to be protected by the erection of temporary tree protection fencing as detailed in DCP 2005 Chapter 67 and maintained in good working order for the duration of works.

### **Trade Waste**

- 8 The submission of a trade waste application and subsequent approval by Council to discharge trade waste into the sewerage system prior to issue of the Construction Certificate.
- 9 Confirmation of the location and depth of the sewer main and connection point in relation to the floor level prior to issue of the Construction Certificate, to ensure that appropriate connection to the sewer can be achieved.

### ***Prior to Commencement and During Works:***

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

### **Approved Plans**

- 10 A copy of the stamped approved plans must be kept on site for the duration of site works and be made available upon request to either the Principal Certifying Authority or an officer of the Council.

### **Building Code of Australia**

- 11 Compliance with the relevant provisions and requirements of the Building Code of Australia.

**Proposed Alterations and Additions to Budgewoi Holiday Park  
(Attachment 4) (contd)**

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**Demolition**

- 12 Building demolition work is to be carried out in accordance with the requirements/provisions of the AS 2601 - 2001 - The Demolition of Structures.

**Erosion and Sediment Control**

- 13 Sand and other materials that could potentially be washed off the site during rain periods are to be stored behind the silt control barrier. Note: On-the-spot fines may be imposed by Council for non-compliance with this condition.
- 14 The downpipes and stormwater drainage being installed and connected to the approved stormwater disposal system immediately the roof materials are positioned to prevent erosion of the site from roofwater.

**Flooding**

- 15 The design of the development must comply with Council's Flood Prone Land Development Policy No F4, and in particular:
- The location of all electrical fixtures, gas outlets, all toxic, pollutant or other hazardous substances stored on the property are to be at a minimum height of 500mm above the designated flood level.
- 16 The surcharge gully for the development must be at a minimum level of 1.72 metres Australian Height Datum and all plumbing and waste fixtures to be at a minimum level of 1.87 metres Australian Height Datum.

**Site Requirements**

- 17 The provision of a hoarding or safety fence between the work site and the public place in accordance with Work Cover Authority requirements, for the duration of the project.
- 18 The Principal Contractor (or Owner/Builder) is to erect a sign in a prominent position on the site (not attached to any tree) identifying the name, address and telephone number of the Principal Certifying Authority (PCA) for the work; the name, address and telephone number (including a number for outside of business hours) of the Principal Contractor for the work (or Owner/Builder); and stating that unauthorized entry to the site is prohibited. The sign must be maintained while the work is being carried out and is to be removed when the work is completed. Appropriate signs can be collected from Council's Customer Service Centre, where Council is the nominated PCA.



## **Proposed Alterations and Additions to Budgewoi Holiday Park (Attachment 4) (contd)**

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- 19 Construction work is only to be undertaken in accordance with the provisions of the Environmental Protection Authority's 'Environmental Noise Control Manual-Guidelines for Construction Noise' as identified below:

Monday to Friday 7.00 am to 6.00 pm

Saturday 8.00 am to 1.00 pm.

Work is not to be carried out on Sundays or Public Holidays.

### **Trees**

- 20 The protection of trees retained on site in the immediate vicinity of works by fencing or other accepted protection method in accordance with Council's Development Control Plan 2005 Chapter No 67 - Engineering Requirements for Development. Such protection measures must be installed prior to commencement of any works and maintained in good order for the duration of the works. No cement wastings, materials or vehicles are to be stored within the protective fence area.
- 21 Any approved excavation or filling within a retained tree's canopy perimeter must be in accordance with Development Control Plan 2005 Chapter No 67 - Engineering Requirements for Development, as excavation or filling can lead to tree instability or death.
- 22 The surcharge gully for the development must be a minimum of 150mm below floor level and 150mm above the finished ground level.

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

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

### **Certificates / Engineering Details**

- 23 Application for an Occupation Certificate must be submitted to and approved by the Principal Certifying Authority prior to occupation of the building.

### **Stormwater**

- 24 All stormwater drainage works discharging from the site into a public system or public land must be approved by Council prior to issue of the Occupation Certificate.

### **Flooding**

- 25 Prior to the occupation of the new facilities, an emergency evacuation plan is to be developed and approved by Council's Development Assessment Unit.

**Proposed Alterations and Additions to Budgewoi Holiday Park  
(Attachment 4) (contd)**

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**Trees**

- 26 Replacement tree(s) for all trees removed at a ratio of 3:1 at a minimum size of 25 litre container are to be planted. Replacement native trees are to be identical to the species removed. Replacement trees are to be maintained to maturity through use of mulch and watering and allowed to achieve their natural height. Where the replacement tree dies or is substantially damaged within 5 years of planting, it must be replaced and maintained to maturity.
- 27 A Section 307 Certificate of Compliance under the Water Management Act 2000 for water and sewer requirements for the development must be obtained from Wyong Shire Council as the Water Supply Authority prior to issue of the Subdivision Certificate. All works for the development must be approved by Council prior to the issue of a Certificate of Compliance.
- 28 The jumping pillow is to be secured so it remains in-situ during times of flood.

***Ongoing Operation:***

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

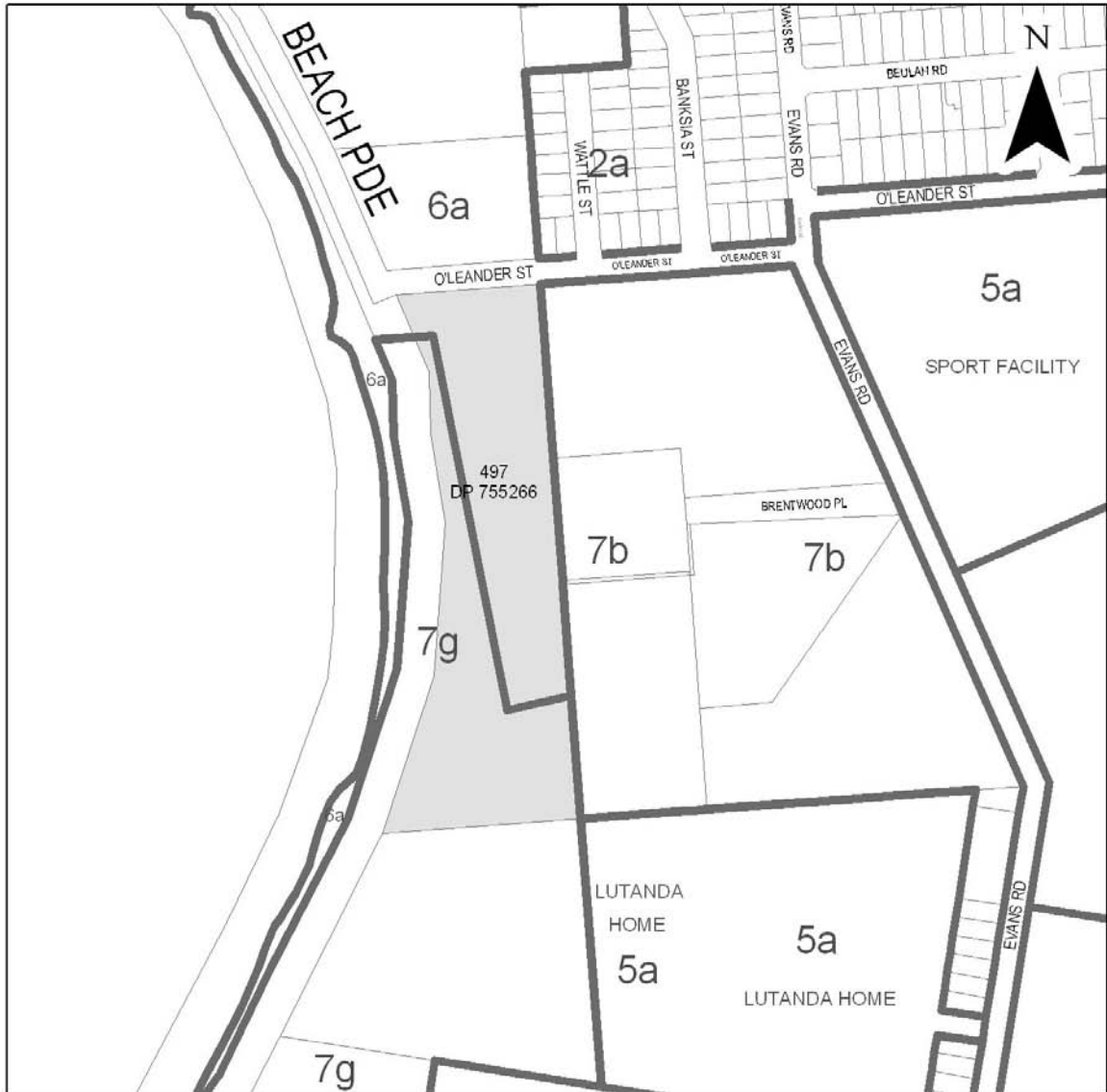
**Other Requirements**

- 29 This consent relates only to the upgrade of reception and office, the installation of the barbeque area, jumping pillow recreation facility and camp kitchen. No other works and alterations shown on the plans form part of this consent.

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**538 Proposed Alterations and Additions to Canton Beach Holiday Park  
(Attachment 1)**

**Locality Plan**



## WYONG SHIRE COUNCIL

12 December 2007  
To the Ordinary Meeting of Council

Director's Report  
Shire Planning Department

### **538                      Proposed Alterations and Additions to Canton Beach Holiday Park**

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DA/1341/2007 RM

#### **SUMMARY**

An application has been received for alterations and additions to Canton Beach Holiday Park. Following planning assessment, the application is recommended for approval. The application has been examined having regard to the matters for consideration detailed in section 79C of the Environmental Planning and Assessment Act and other statutory requirements with the issues requiring attention and consideration being addressed in the report.

<b>Applicant</b>	Wyong Shire Council
<b>Owner</b>	Crown Land - Wyong Shire Council Controlled
<b>Application No</b>	DA/1341/2007
<b>Description of Land</b>	Lot 497 DP 755266 1 Oleander Street Canton Beach
<b>Proposed Development Zoning</b>	Alterations and Additions to a Canton Beach Holiday Park 6(a)( Open Space and Recreation Zone) 7(g) (Wetlands Management Zone)
<b>Existing Use</b>	Caravan Park
<b>Employment Generation</b>	Nil
<b>Estimated Value</b>	\$317,500

#### **RECOMMENDATION**

- 1     *That consent be granted subject to the conditions contained in Attachment 3.***
- 2     *That the General Manager be authorised to determine any application for minor modifications to the approved development plans and/or consent conditions.***
- 3     *That those who made written submissions be advised of Council's decision.***

#### **PRÉCIS**

- The proposed development application seeks approval for works that require development consent as part of Council's Five Year Business Strategy for its four Holiday Parks.

**Proposed Alterations And Additions to Canton Beach Holiday Park (contd)**

- The development application involves some of the works proposed under the Business Strategy. There are other works proposed under the Business Strategy that do not require development consent under the Environmental Planning and Assessment (EP&A) Act. These works include the proposed holiday cabins and other relocatable structures, creation of drive through van sites and powered unoccupied van sites.
- The park design detailed to in this application reflects the outcome of a public consultation process that has been undertaken since alterations to Council's Holiday Parks were originally proposed in April 2007.
- The proposed development is permissible with development consent and is considered to be consistent with the objectives of the 6(a) (Open Space and Recreation Zone).
- All site occupants directly affected by this development application can be suitably relocated elsewhere within the caravan park.
- The proposal will have acceptable environmental and social impacts and is recommended for approval.

**INTRODUCTION**

The subject site fronts Tuggerah Lake approximately one kilometre to the south of the Toukley town centre. The site is generally level with only sparse levels of vegetation present. There is detached residential development to the north and east of the site. Existing development on the site consists of caravans, cabins and support amenities in varying degrees of presentation and repair.

Development consent is sought for:

- Alterations and additions to the existing reception and office.
- A covered camp cooking facility of 154.02m<sup>2</sup> and a 10,000 litre rainwater tank.
- Two covered barbeque shelter with a roof area of 23.40m<sup>2</sup>.
- A shade structure over a proposed jumping pillow covering an area of 329.6m<sup>2</sup>.

## **Proposed Alterations And Additions to Canton Beach Holiday Park (contd)**

The intent of the application is for the applicant to gain approval for those works within Council's Five Year Business Strategy for its Holiday Parks that require development consent and for those works to occur over that period of time. The applicant has indicated that Council's four Holiday Parks require significant upgrading to remain competitive and cost-effective.

The proposed upgrading of the abovementioned facilities require the removal of seven short-term storage sites and one long-term site. Currently across all four parks there are 50 vacant sites that are able to accommodate displaced van owners. It is expected that additional sites will become vacant through natural attrition over the period of the Business Strategy. The timing of the proposed works have been programmed to best coincide with the availability of suitable sites and notification procedures for affected owners.

There are other works proposed within the park in the Business Strategy that do not require development consent under the EP&A Act. These works include the proposed holiday cabins that are regulated under the Local Government Act (LGA).

### **VARIATIONS TO POLICIES**

Nil

### **HISTORY**

The subject site has been used as a tourist destination for a considerable time with approval for development dating back to the 1960's.

Canton Beach Holiday Park is situated on Crown Land managed by Wyong Shire Council. As such, while the responsibility of managing the land rests with Council, land ownership remains with the NSW Department of Lands (DoL). Council has been directed by the Department to upgrade the existing facilities to provide for appropriate use and financial return from the holiday parks. Council has prepared a Five Year Business Strategy for the upgrade of its four holiday parks. The consultative process for this process is summarised below:

In April 2007, Council posted correspondence to all permanent and storage van owners of its four holiday parks. The Concept Plans for each of the respective parks, together with the lots affected by the Concept Plans were placed on Council's Website.

**Proposed Alterations And Additions to Canton Beach Holiday Park (contd)**

All submissions received by Council's Business Unit were responded to by either a standard acknowledgment letter or an individual response, depending on the issue raised.

Council at its Meeting of 13 June 2007 resolved:

- "1 That the General Manager organise monthly briefings, which are to be reviewed in three months time, on the Caravan Park issue with an invitation to all Councillors to attend.*
- 2 That the General Manager facilitate representation from the van owners of the affected parks at those briefings.*
- 3 That representatives from Government Departments with an interest in this matter and the local State Members, or their representatives, also be invited to participate in these briefings as appropriate.*
- 4 That the results of these briefings be reported to Council."*

In accordance with the resolution of 13 June 2007, Council conducted three briefing sessions with members of the elected Consultative Committees (one from each park), representatives of the DoL, Council's Holiday Parks Consultant, Council Officers and State and Local Members.

The intent of the briefing sessions was to create a better understanding with the stakeholders on the rationale for the Five Year Business Strategy, and to allow issues and suggestions raised by permanent/storage van owners to be tabled via their consultative committee member. Further briefings were held on 11 July 2007, 1 August 2007 and 5 September 2007. Subsequent to the briefing sessions a report was submitted to Council on 26 September 2007 outlining the outcome of the briefing sessions with recommendations for future direction.

At that Meeting Council resolved:

- "1 That the report be received and the information noted.*
- 2 That no further Councillor briefings be scheduled regarding this matter.*
- 3 That the policy of allowing on-site van sales at Budgewoi, Norah Head and Toowoona Bay Holiday Parks be endorsed."*

Subsequently, the development applications for the upgrade of each of the four parks have been lodged.



## **Proposed Alterations And Additions to Canton Beach Holiday Park (contd)**

### **PERMISSIBILITY**

The subject site is zoned 6(a) (Open Space and Recreation Zone) and 7(g) (Wetlands Management Zone) under the Wyong Local Environmental Plan 1991 (Wyong LEP 1991). No works being considered under this application are proposed in the 7(g) (Wetlands Management Zone). The proposed development does not involve any change to the current land use and is permissible with consent.

The objectives of the 6(a) (Open Space and Recreation Zone) as stated in the Wyong LEP 1991 are:

*“(a) to provide for the open space and recreation needs of the local community and visitors, and  
(b) to allow for other leisure and recreation-orientated development, or any other use that is authorised by a plan of management adopted under section 40 of the Local Government Act 1993, which:  
(i) promotes worthwhile community benefits, and  
(ii) would not reduce the amount and distribution of public open space areas below acceptable levels and standards which meet the needs of the community, and  
(iii) would not have an unacceptable impact on the amenity of adjacent areas, and  
(iv) would not have an adverse effect on water catchments, water quality, land surface conditions and important ecosystems such as Tuggerah Lakes, Lake Macquarie, streams, estuaries and wetlands.”*

It is considered that the proposed upgrade is consistent with the objectives of the zone.

### **RELEVANT STATE/COUNCIL POLICIES AND PLANS**

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

- State Environmental Planning Policy No.71 – Coastal Protection (SEPP 71)
- State Environmental Planning Policy No. 21 – Caravan Parks (SEPP 21)
- Wyong Local Environmental Plan 1991 (Wyong LEP 1991)
- Development Control Plan 2005 – Chapter 23 – Caravan Parks
- Development Control Plan 2005 – Chapter 14 - Tree Management
- Local Government (Manufactured Home Estates, Caravan Parks, Camping Grounds and Moveable Dwellings) Regulation 2005

**Proposed Alterations And Additions to Canton Beach Holiday Park (contd)****ECOLOGICALLY SUSTAINABLE PRINCIPLES**

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

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

**Assessment**

Having regard for the matters for consideration detailed in Section 79C of the EP&A Act 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)):****Coastal Protection**

The site is located within the SEPP 71 Coastal Protection Zone. Clause 8 of SEPP 71 states matters for consideration that are to be taken into account by a consent authority when it determines a development application to carry out development on land to which this Policy applies. The proposed development is considered to be consistent with the requirements of SEPP71. A table exhibiting the compliance of the proposal to the SEPP is attached to this report.

**SEPP 21 – Caravan Parks - Matters to be considered by Councils**

A Council may grant a development consent required by this Policy only after it has considered the following:

- “(a) whether, because of its location or character, the land concerned is particularly suitable for use as a caravan park for tourists or for long-term residence,*
- (b) whether there is adequate provision for tourist accommodation in the locality of that land, and whether existing or potential tourist accommodation will be displaced by the use of sites for long-term residence,*
- (c) whether there is adequate low-cost housing, or land available for low-cost housing, in that locality,*

### **Proposed Alterations And Additions to Canton Beach Holiday Park (contd)**

- (d) whether necessary community facilities and services are available within the caravan park to which the development application relates or in the locality (or both), and whether those facilities and services are reasonably accessible to the occupants of the caravan park,*
- (e) any relevant guidelines issued by the Director, and*
- (f) the provisions of the Local Government (Caravan Parks and Camping Grounds) Transitional Regulation 1993."*

This development application involves the removal of seven short-term storage sites and one long-term site. The applicant has indicated that the storage vans can be relocated within the caravan park under the Five Year Business Strategy. Park management have indicated that the site denoted as long-term on the Business Strategy Plan is no longer used for long term use and that there are ample sites available to accommodate the short-term tenants affected by this development application. The proposal provides additional community facilities for users of the park. The proposal is considered to be consistent with the requirements of SEPP 21.

#### **Local Government (Caravan Parks and Camping Grounds) Transitional Regulation 1993**

This Regulation is made under the LGA. The purpose of this Regulation is to ensure the health, safety and amenity of moveable dwellings by providing prescriptive standards for issues such as setbacks, road widths and open space areas within caravan parks. The plans lodged indicate that the proposal can suitably comply with the requirements of this Regulation.

#### **THE LIKELY IMPACTS OF THE DEVELOPMENT (S79C(1)(B) ):**

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

The character of the caravan park will not be negatively affected by the approval of works as proposed under this development application. The scale of development is consistent with the existing and surrounding development.

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

The proposed works will eliminate internal roads made redundant by the changes. The applicant expects that there will be some increase in vehicle movements as a result of the alterations. Any increase in traffic is well within the capacity of the surrounding road network. The site access is to be upgraded as part of the Business Plan reducing congestion at the park entrance.

**Proposed Alterations And Additions to Canton Beach Holiday Park (contd)****The impact on the public domain (recreation, public open space, pedestrian links)**

The proposed development will enhance recreational opportunities for park users.

**Any impact on the conservation of water**

A 10,000 litre water tank is proposed to provide for re-use of roofwater from the camp cooking facility. The water tank will provide a supplementary supply of non-potable water for various uses within the park.

**Any effect on the flora and fauna**

No significant vegetation requires removal for the proposed works.

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

The southern portion of the site is considered bushfire prone. The proposed camp kitchen and additions to the reception area are located within the bushfire buffer zone. There are no dwellings or tourist accommodation proposed under this application on the bushfire prone portion of the site. The proposed development will not increase the threat of bushfire for residents or users of the park.

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

The additional facilities are to be located where they can be observed from surrounding sites, achieving good passive surveillance.

**Any social impact in the locality**

There will be no increase or decrease in accommodation for the permanent residents of the caravan park. Residents who occupy short-term storage sites can be accommodated on other sites in the park through relocation and attrition. This issue has been dealt with in Council's Business Strategy.

No long-term tenants are affected by the changes to Canton Beach Holiday Park.

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

Appropriate conditions of consent with regard to site management and environmental control will ensure construction activities are conducted within legislative requirements.

## **Proposed Alterations And Additions to Canton Beach Holiday Park (contd)**

### **THE SUITABILITY OF THE SITE FOR THE DEVELOPMENT (S79C(1)(C)):**

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

The proposed development is generally over land where there is existing development. The site is considered to be appropriate for redevelopment.

### **ANY SUBMISSION MADE IN ACCORDANCE WITH THIS ACT OR REGULATIONS (S79C(1)(D)):**

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

The application was advertised in accordance with DCP 2005 Chapter 70-Notification of Development Proposals with one submission being received. Notification to affected landowners and all site occupants was undertaken. 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. A summary of the submission is detailed in the table below:

<b>Doc. No</b>	<b>Summary of Issues</b>	<b>Response</b>
-	Site is impacted. Hope that van can be relocated and would appreciate some financial assistance for relocation.	The applicant has indicated that all impacted van owners can be relocated and works will be staged to accommodate this.

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

As required under Section 91 – Integrated Development of the EP&A Act the proposal was referred to the Mines Subsidence Board, which raised no objection to the proposed development.

### **CONCLUSION**

The proposed development will have acceptable environmental and social impact on the caravan park and surrounding locality. The proposal is consistent with relevant Plans and Policies and is recommended for approval.

The proposal provides a significant upgrade of facilities for users of the park. The works that require development consent will have a relatively minor impact on the park and is recommended for approval.

**Attachment 1**  
**Attachment 2**  
**Attachment 3**

**Locality Plan 1 page (1 page)**  
**SEPP 71 Compliance Table (2 pages)**  
**Proposed Conditions (4 pages)**

**Enclosure**

**Development Plans**

**Proposed Alterations And Additions to Canton Beach Holiday Park  
(Attachment 2)****SEPP 71 COMPLIANCE TABLE**

<b>CI 8</b>	<b>Matters for Consideration</b>	<b>Proposed</b>
a	The aims of the Policy	The proposal is compliant with the objectives of the Policy in terms of protection of the coastal zone and environment; and the maintenance of pedestrian access to foreshore areas.
b	Existing public access to and along the coastal foreshore for pedestrians or persons with a disability should be retained and, where possible, public access to and along the coastal foreshore for pedestrians or persons with a disability should be improved.	The proposal does not negatively affect public access to foreshore areas.
c	Opportunities to provide new public access to and along the coastal foreshore for pedestrians or persons with a disability.	The proposed additions that are the subject to this development application do not affect foreshore access
d	The suitability of development given its type, location and design and its relationship with the surrounding area.	The proposed development is within an existing caravan park.
e	Any detrimental impact that development may have on the amenity of the coastal foreshore, including any significant overshadowing of the coastal foreshore and any significant loss of views from a public place to the coastal foreshore.	The proposed additions that are the subject to this development application do not affect the foreshore or inhibit views from a public place.
f	The scenic qualities of the New South Wales coast, and means to protect and improve these qualities.	The proposal will have no adverse impact on the scenic qualities of the coastline.
g	Measures to conserve animals (within the meaning of the <a href="#">Threatened Species Conservation Act 1995</a> ) and plants (within the meaning of that Act), and their habitats.	The subject site does not contain any threatened species or habitat.
h	Measures to conserve fish (within the meaning of Part 7A of the <a href="#">Fisheries Management Act 1994</a> ) and marine vegetation (within the meaning of that Part), and their habitats.	The proposal has no impact on the conservation of fish and marine vegetation.
i	Existing wildlife corridors and the impact of development on these corridors.	The proposal will not affect any identified wildlife corridor.
j	The likely impact of coastal processes and coastal hazards on development and any likely impacts of development on coastal processes and coastal hazards.	The proposed additions that are the subject to this development application are not directly adjacent to the coastline. Conditions of consent will require environmental controls to limit impact on the adjacent waterway.

12 December 2007  
To the Ordinary Meeting of Council

Director's Report  
Shire Planning Department

**Proposed Alterations And Additions to Canton Beach Holiday Park  
(Attachment 2) (contd)**

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<b>CI 8</b>	<b>Matters for Consideration</b>	<b>Proposed</b>
k	Measures to reduce the potential for conflict between land-based and water-based coastal activities.	The proposal will have no impact on water-based coastal activities.
l	Measures to protect the cultural places, values, customs, beliefs and traditional knowledge of Aboriginals.	The subject site does not contain any aboriginal sites or relics, and there are no known sites within the immediate locality.
m	Likely impacts of development on the water quality of coastal water bodies.	The proposed additions that are the subject to this development application are not directly adjacent to the coastline.
n	The conservation and preservation of items of heritage, archaeological or historic significance.	The proposal has no impact on items of heritage, archaeological or historic value.
o	Only in cases in which a council prepares a draft local environmental plan that applies to land to which this Policy applies, the means to encourage compact towns and cities.	Not applicable.
p(i)	The cumulative impacts of the proposed development on the environment.	The proposal is not considered to have any adverse cumulative impacts on the environment.
p(ii)	Measures to ensure that water and energy usage by the proposed development is efficient	Water storage tank proposed.

**Proposed Alterations And Additions to Canton Beach Holiday Park  
(Attachment 3)**

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**PROPOSED CONDITIONS**

- 1 The development taking place in accordance with the approved development plans reference number 01 – 04 dated 26/9/07, the Statement of Environmental Effects prepared by BHI dated 22 October 2007 and the intent of the Five Year Business Strategy adopted by Council, 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.***

- 2 The applicant must apply under Section 305 of the Water Management Act 2000 to Council as the Water Supply Authority for any works and contributions required for the obtaining of a Section 307 Certificate of Compliance.

**Certificates / Engineering Details**

- 3 A Construction Certificate is to be issued by the Certifying Authority prior to commencement of any works. The application for this Certificate is to satisfy all of the requirements of the Environmental Planning and Assessment Regulation 2000.

**Roads**

- 4 Separate approval from Council as the Roads Authority must be obtained under Section 138 of the Roads Act 1993 prior to the issue of any Construction Certificate which includes any works within a Council road reserve. For any such works, design plans must be submitted to and approved by Council prior to issue of the Construction Certificate.
- 5 The provision of additional civil works necessary to ensure satisfactory transitions to existing work as a result of work conditioned for the development, at no cost to Council. Design plans are to be approved by Council prior to issue of the Construction Certificate.



## **Proposed Alterations And Additions to Canton Beach Holiday Park (Attachment 3) (contd)**

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### **Stormwater**

- 6 The submission to and approval by Council of stormwater drainage details in accordance with Council's Development Control Plan 2005 Chapter No 67 - Engineering Requirements for Development prior to issue of the Construction Certificate.

### **Trade Waste**

- 7 The submission of a trade waste application and subsequent approval by Council to discharge trade waste into the sewerage system prior to issue of the Construction Certificate.
- 8 Confirmation of the location and depth of the sewer main and connection point in relation to the floor level prior to issue of the Construction Certificate, to ensure that appropriate connection to the sewer can be achieved.

### ***Prior to Commencement and During Works:***

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

### **Approved Plans**

- 9 A copy of the stamped approved plans must be kept on site for the duration of site works and be made available upon request to either the Principal Certifying Authority or an officer of the Council.

### **Building Code of Australia**

- 10 Compliance with the relevant provisions and requirements of the Building Code of Australia.

### **Demolition**

- 11 Building demolition work is to be carried out in accordance with the requirements/provisions of the AS 2601 - 2001 - The Demolition of Structures.

### **Erosion and Sediment Control**

- 12 Sand and other materials that could potentially be washed off the site during rain periods are to be stored behind the silt control barrier. Note: On-the-spot fines may be imposed by Council for non-compliance with this condition.

**Proposed Alterations And Additions to Canton Beach Holiday Park  
(Attachment 3) (contd)**

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- 13 The downpipes and stormwater drainage being installed and connected to the approved stormwater disposal system immediately the roof materials are positioned to prevent erosion of the site from roofwater.

**Other Authorities**

- 14 Other public authorities may have separate requirements and should be consulted in the following respects:
- Australia Post for the positioning and dimensions of mail boxes in new commercial and residential developments;
  - AGL Sydney Limited for any change or alteration to gas line infrastructure;
  - Energy Australia for any change or alteration to electricity infrastructure or encroachment within transmission line easements;
  - Telstra, Optus or other telecommunication carriers for access to their telecommunications infrastructure.

**Site Requirements**

- 15 The provision of a hoarding or safety fence between the work site and the public place in accordance with Work Cover Authority requirements, for the duration of the project.
- 16 The Principal Contractor (or Owner/Builder) is to erect a sign in a prominent position on the site (not attached to any tree) identifying the name, address and telephone number of the Principal Certifying Authority (PCA) for the work; the name, address and telephone number (including a number for outside of business hours) of the Principal Contractor for the work (or Owner/Builder); and stating that unauthorized entry to the site is prohibited. The sign must be maintained while the work is being carried out and is to be removed when the work is completed. Appropriate signs can be collected from Council's Customer Service Centre, where Council is the nominated PCA.
- 17 Construction work is only to be undertaken in accordance with the provisions of the Environmental Protection Authority's 'Environmental Noise Control Manual-Guidelines for Construction Noise' as identified below:
- Monday to Friday 7.00 am to 6.00 pm  
Saturday 8.00 am to 1.00 pm.  
Work is not to be carried out on Sundays or Public Holidays.
- 18 The surcharge gully for the development must be a minimum of 150mm below floor level and 150mm above the finished ground level.

## **Proposed Alterations And Additions to Canton Beach Holiday Park (Attachment 3) (contd)**

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

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

### **Certificates / Engineering Details**

- 19 Application for an Occupation Certificate must be submitted to and approved by the Principal Certifying Authority prior to occupation of the building.

### **Stormwater**

- 20 All stormwater drainage works discharging from the site into a public system or public land must be approved by Council prior to issue of the Occupation Certificate.

### **Trees**

- 21 Replacement tree(s) for all trees removed at a minimum size of 25 litre container are to be planted. Replacement native trees are to be selected from Council's Eco-Info Fact Sheet 8 - Tree Planting in Urban Areas. Replacement trees are to be maintained to maturity through use of mulch and watering and allowed to achieve their natural height. Where the replacement tree dies or is substantially damaged within 5 years of planting, it must be replaced and maintained to maturity.

### ***Ongoing Operation:***

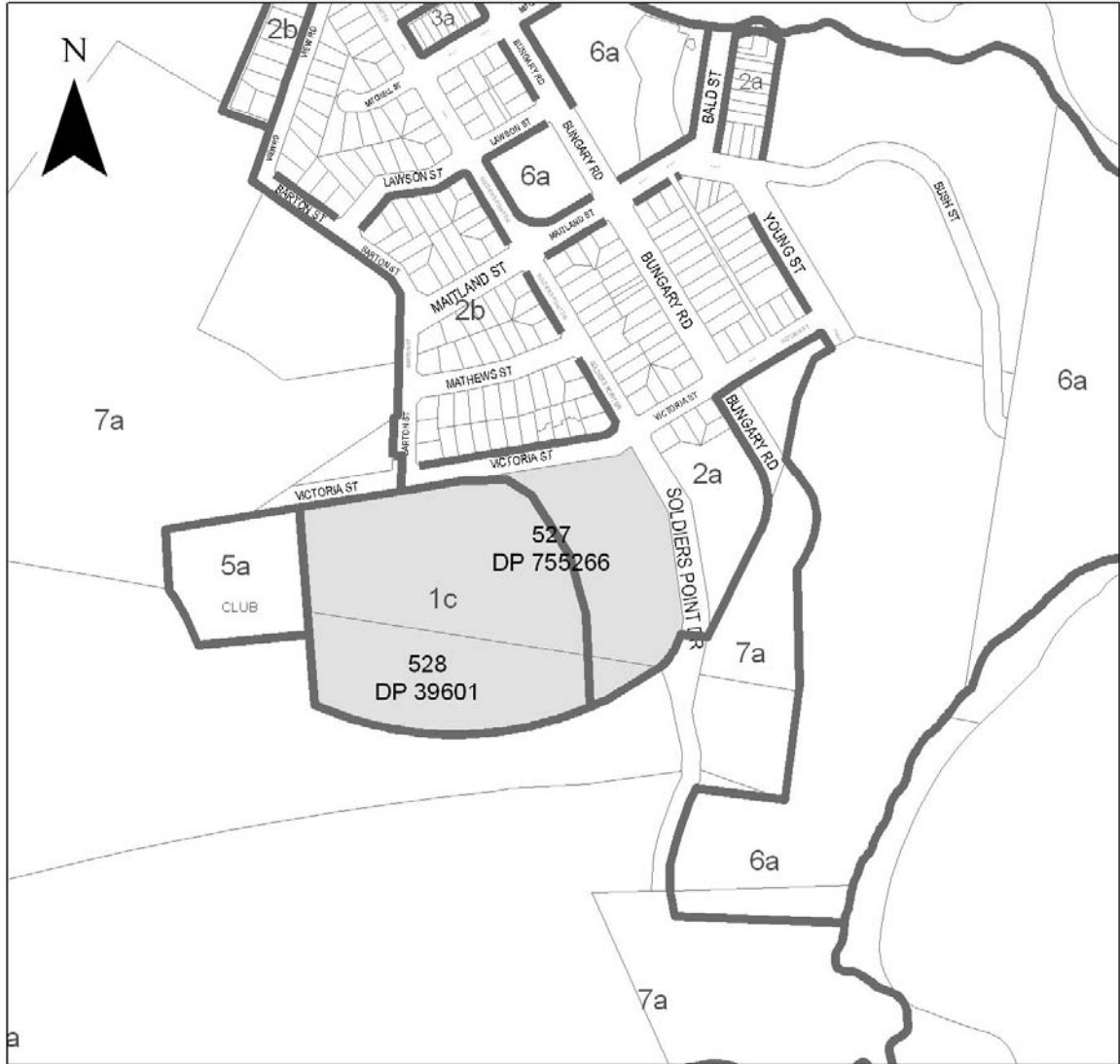
***The following conditions must be satisfied during use / occupation of the development.***

### **Other Requirements**

- 22 This consent relates only to the upgrade of office, installation of camp kitchen, jumping pillow recreation facility and barbeque areas. No other works or alterations indicated on the approved plans form part of this consent.

**539 Proposed Alterations and Additions to Norah Head Holiday Park  
(Attachment 1)**

**Locality Plan**



## WYONG SHIRE COUNCIL

12 December 2007  
To the Ordinary Meeting of Council

Director's Report  
Shire Planning Department

### **539                      Proposed Alterations and Additions to Norah Head Holiday Park**

DA/1342/2007 RM:RM

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#### **SUMMARY**

An application has been received for alterations and additions to Budgewoi Holiday Park. Following planning assessment, the application is recommended for approval. 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.

<b>Applicant</b>	Wyong Shire Council
<b>Owner</b>	Crown Land - Wyong Shire Council Controlled
<b>Application No</b>	DA/1342/2007
<b>Description of Land</b>	Lot 527 DP 755266 Lot 538 DP 39601 (Reserve 89431) 22 Victoria Street Norah Head
<b>Proposed Development</b>	Alterations and additions to a caravan park (Norah Head Holiday Park)
<b>Zoning</b>	1(c) (Non Urban Constrained Lands)
<b>Existing Use</b>	Caravan Park
<b>Employment Generation</b>	Nil
<b>Estimated Value</b>	\$1,250,500

#### **RECOMMENDATION**

- 1     *That consent be granted subject to the conditions contained in Attachment 4.***
- 2     *That the General Manager be authorised to determine any application for minor modifications to the approved development plans and/or consent conditions.***
- 3     *That those who made written submissions be advised of Council's decision.***

#### **PRÉCIS**

- The proposed development application seeks approval for works that require development consent as part of Council's Five Year Business Strategy for its four Holiday Parks.

**Proposed Alterations and Additions to Norah Head Holiday Park (contd)**

- The development application involves some of the works proposed under the Business Strategy. There are other works proposed under the Business Strategy that do not require development consent under the EP&A Act. These works include the proposed holiday cabins and other relocatable structures, creation of drive through van sites and powered unoccupied van sites.
- The park design detailed in this application reflects the outcome of a public consultation process that has been undertaken since alterations to Council's Holiday Parks were originally proposed in April 2007.
- The proposed development is permissible with development consent and is considered to be consistent with the objectives of the 1(c) (Non Urban Constrained Lands) zone.
- All site occupants directly affected by this development application can be suitably relocated elsewhere within the caravan park.
- The proposal will have acceptable environmental and social impacts and is recommended for approval.

**INTRODUCTION**

The subject site is located between the residential area of Norah Head and Soldiers Beach. The site is generally level with only sparse levels of vegetation present. There is detached residential development to the north and a sports club located to the west of the site. The site borders bushland to the east and south. Existing development on the site consists of caravans, cabins and support amenities of varying levels of presentation and repair.

Development consent is sought for:

- Alterations and additions to the existing reception and office.
- A covered camp cooking facility of 154.02m<sup>2</sup> and a 10,000 litre rainwater tank.
- A covered barbeque shelter with a roof area of 23.40m<sup>2</sup>.
- A shade structure over a proposed jumping pillow (recreation facility) covering an area of 329.6m<sup>2</sup>.
- Two ensuite blocks containing four ensuites each.

## **Proposed Alterations and Additions to Norah Head Holiday Park (contd)**

- Swimming pool, shade structure and fencing.

The intent of the application is for the applicant to gain approval for those works within Council's Five Year Business Strategy for its Holiday Parks that require development consent and for those works to occur over that period. The applicant has indicated that Council's four Holiday Parks require significant upgrading to remain competitive and cost-effective.

The proposed upgrading of the abovementioned facilities requires the removal of 24 short-term storage sites. Currently across all four parks there are 50 vacant sites that are able to accommodate displaced van owners. It is expected that additional sites will become vacant through natural attrition over the period of the Business Strategy. The timing of the proposed works has been programmed to best coincide with the availability of suitable sites and notification procedures for affected owners.

There are other works proposed within the park in the Business Strategy that do not require development consent under the EP&A Act. These works include the proposed holiday cabins, drive-through sites and bunkhouse cabins that are regulated under the Local Government Act (LGA).

### **VARIATIONS TO POLICIES**

Nil

### **HISTORY**

The first recorded approval for development consent at Norah Head Caravan Park dates back to 1976.

Norah Head Holiday Park is situated on Crown Land managed by Wyong Shire Council. As such, while the responsibility of managing the land rests with Council, land ownership remains with the NSW Department of Lands (DoL). Council has been directed by the Department to upgrade the existing facilities to provide for appropriate use and financial return from the holiday parks. Council has prepared a Five Year Business Strategy for the upgrade of its four holiday parks. The consultative process for the four holiday parks is summarised below:

In April 2007, Council posted correspondence to all permanent and storage van owners of its four holiday parks. The Concept Plans for each of the respective parks, together with the lots affected by the Concept Plans were placed on Council's Website at this time.

All submissions received by Council's Business Unit were responded to by either a standard acknowledgment letter or an individual response, depending on the issue raised.

**Proposed Alterations and Additions to Norah Head Holiday Park (contd)**

At its Meeting held on 13 June 2007, Council resolved:

- “1 *That the General Manager organise monthly briefings, which are to be reviewed in three months time, on the Caravan Park issue with an invitation to all Councillors to attend.*
- 2 *That the General Manager facilitate representation from the van owners of the affected parks at those briefings.*
- 3 *That representatives from Government Departments with an interest in this matter and the local State Members, or their representatives, also be invited to participate in these briefings as appropriate.*
- 4 *That the results of these briefings be reported to Council.”*

In accordance with the resolution of 13 June 2007, Council conducted three briefing sessions with members of the elected Consultative Committees (one from each park), representatives of the DoL, Council's Holiday Parks consultant, Council Officers and State and Local Members.

The intent of the briefing sessions was to create a better understanding with the stakeholders on the rationale for the Five Year Business Strategy, and to allow issues and suggestions raised by permanent/storage van owners to be tabled via their consultative committee member. Further briefings were held on 11 July 2007, 1 August 2007 and 5 September 2007. Subsequent to the briefing sessions a report was submitted to Council on 26 September 2007 outlining the outcome of the briefing sessions with recommendations for future direction.

At that Meeting Council resolved:

- 1 *That the report be received and the information noted.*
- 2 *That no further Councillor briefings be scheduled regarding this matter.*
- 3 *That the policy of allowing on-site van sales at Budgewoi, Norah Head. and Toowoan Bay Holiday Parks be endorsed.*

Subsequently the development applications for the upgrade of each of the four parks have been lodged.

**PERMISSIBILITY**

The subject site is zoned 1(c) (Non Urban Constrained Lands) Zone under the Wyong Local Environmental Plan 1991 (Wyong LEP 1991). The proposed development does not involve any change to the approved land use and is permissible with consent.



## **Proposed Alterations and Additions to Norah Head Holiday Park (contd)**

The objectives of the 1(c) (Non Urban Constrained Lands) Zone as stated in the Wyong LEP 1991 are:

- “(a) to limit the development of land that may be affected by flooding, coastal erosion, slope, and other physical constraints (including lack of adequate water supply and sewerage), and*
- (b) to prohibit development that is likely to prejudice the present and future environmental quality of the land, and*
- (c) to ensure that development is carried out in a manner that minimises risks from natural hazards and does not detract from the scenic quality.”*

It is considered that the proposed upgrade is consistent with the objectives of the zone.

### **RELEVANT STATE/COUNCIL POLICIES AND PLANS**

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

- State Environmental Planning Policy No 71 – Coastal Protection (SEPP 71)
- State Environmental Planning Policy No. 21 – Caravan Parks (SEPP 21)
- Wyong Local Environmental Plan 1991 (Wyong LEP 1991)
- Development Control Plan 2005 – Chapter 23 – Caravan Parks
- Development Control Plan 2005 – Chapter 14 - Tree Management
- Local Government (Manufactured Home Estates, Caravan Parks, Camping Grounds and Moveable Dwellings) Regulation 2005

### **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.

**Proposed Alterations and Additions to Norah Head Holiday Park (contd)****ASSESSMENT**

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

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

The site is located within the SEPP 71 Coastal Protection Zone. Clause 8 of SEPP 71 states matters for consideration that are to be taken into account by a consent authority when it determines a development application to carry out development on land to which this Policy applies. The proposed development is considered to be consistent with the requirements of SEPP 71. A table exhibiting the compliance of the proposal to the SEPP is attached to this report.

**SEPP 21 – Caravan Parks - Matters to be considered by Councils**

A Council may grant a development consent required by this Policy only after it has considered the following:

- (a) whether, because of its location or character, the land concerned is particularly suitable for use as a caravan park for tourists or for long-term residence,*
- (b) whether there is adequate provision for tourist accommodation in the locality of that land, and whether existing or potential tourist accommodation will be displaced by the use of sites for long-term residence,*
- (c) whether there is adequate low-cost housing, or land available for low-cost housing, in that locality,*
- (d) whether necessary community facilities and services are available within the caravan park to which the development application relates or in the locality (or both), and whether those facilities and services are reasonably accessible to the occupants of the caravan park,*
- (e) any relevant guidelines issued by the Director, and*
- (f) the provisions of the Local Government (Caravan Parks and Camping Grounds) Transitional Regulation 1993."*

## **Proposed Alterations and Additions to Norah Head Holiday Park (contd)**

This development application involves the removal of 24 short-term storage sites. The applicant has indicated that the storage vans can be relocated within the caravan park under the Five Year Business Strategy. There will be no impact on the tenancy of the current long-term occupants of the caravan park from the works proposed. The proposal provides additional community facilities for users of the park. The proposal is considered to be consistent with the requirements of SEPP 21.

### **Local Government (Caravan Parks and Camping Grounds) Transitional Regulation 1993**

This Regulation is made under the LGA. The purpose of this Regulation is to ensure the health, safety and amenity of moveable dwellings by providing prescriptive standards for issues such as setbacks, road widths and open space areas within caravan parks. The plans lodged indicate that the proposal can suitably comply with the requirements of this Regulation.

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

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

The character of the caravan park will not be negatively affected by the approval of works as proposed under this development application. The scale of development is consistent with the existing and surrounding development.

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

The proposed works will eliminate internal roads made redundant by the changes. The applicant expects that there will be some increase in vehicle movements as a result of the alterations. Any increase in traffic is well within the capacity of the surrounding road network. The site access is to be upgraded as part of the Business Plan reducing congestion at the park entrance.

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

The proposed development will enhance recreational opportunities for park users.

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

A 10,000 litre water tank is proposed to re-use roofwater from the camp cooking facility. The water tank will provide a supplementary supply of non-potable water for various uses within the park. A condition of consent requires that the topping up of the proposed pool be provided from this water tank.

**Proposed Alterations and Additions to Norah Head Holiday Park (contd)****Any effect on the flora and fauna**

The construction of the ensuites and swimming pool shade structure require the removal of two trees which have been planted over time as part of the landscaping for the park. A condition of consent requires that for each tree removed replanting of suitable native species occur at a ratio of 3:1 in suitable locations within the park and that these trees be nurtured to maturity.

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

The site is recognised as being partially bushfire prone however no structures associated with this application are proposed in the vicinity of the bushfire prone land.

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

The additional facilities are to be located where they can be observed from surrounding sites, achieving good passive surveillance.

**Any social impact in the locality**

There will be no increase or decrease in accommodation for the permanent residents of the caravan park. Residents who occupy short-term storage sites can be accommodated on other sites in the park through relocation and attrition. This issue has been dealt with in Council's Business Strategy.

No long-term tenants are affected by the changes caused by the approval of works proposed under this development application.

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

Appropriate conditions of consent with regard to site management and environmental control will ensure construction activities are conducted within legislative requirements.

## **Proposed Alterations and Additions to Norah Head Holiday Park (contd)**

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

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

The proposed development is generally over land where there is existing development. The site is considered to be appropriate for redevelopment.

### **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 25 submissions being received. Notification to affected landowners and all site occupants was undertaken. The issues raised in the submissions have been addressed in the assessment of the application pursuant to the heads of consideration contained within Section 79C of the EP&A Act. A summary of the submissions is detailed in Attachment 2.

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

As required under Section 91 – Integrated Development of the EP&A Act, the proposal was referred to the Mines Subsidence Board which raised no objection to the proposed development.

### **CONCLUSION**

The proposed development will have acceptable environmental impact on the caravan park and surrounding locality. The proposal provides a significant upgrade of facilities for users of the park. There are several objections to the proposal, however many of these relate to proposed works within the park that do not require development consent. The works that require development consent will have a relatively minor impact on the park. The proposal is consistent with relevant Plans and Policies and is recommended for approval.

<b><i>Attachment 1</i></b>	<b><i>Locality Plan (1 page)</i></b>
<b><i>Attachment 2</i></b>	<b><i>Summary of Submissions (7 pages)</i></b>
<b><i>Attachment 3</i></b>	<b><i>SEPP 71 Compliance Table (2 pages)</i></b>
<b><i>Attachment 4</i></b>	<b><i>Proposed Conditions of Consent (5 pages)</i></b>
<b><i>Enclosure</i></b>	<b><i>Development Plans</i></b>

**Proposed Alterations and Additions to Norah Head Holiday Park  
(Attachment 2)**

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**SUMMARY OF SUBMISSIONS**

<b>Doc. No</b>	<b>Summary of Issues</b>	<b>Response</b>
D01006177	<p>Object to the way Council has decided to evict people from their holiday sites after paying fees over a long period and then being given no choice in relocation or compensation.</p> <p>Pool and other facilities will be under-utilised.</p>	<p>The leasing arrangements between the applicant (Wyang Shire Council's Business Unit) and occupants of short-term storage sites do not relate to this development application. There will be no permanent residents displaced by the proposed alterations. The Business Plan put forward by the applicant and endorsed by the Council indicates that current short-term residents can be relocated minimising the social impact.</p> <p>Council is attempting to upgrade the parks and research has indicated facilities such as those proposed are required for the parks to be competitive with other tourist parks and tourism districts.</p>
D01009281	<p>The proposed camp kitchen and pool are close to our dwelling affecting amenity.</p>	<p>The hours for usage of these facilities will be regulated by the park operator. These facilities have been located near the park entry where surveillance levels are comparatively high.</p>

**Proposed Alterations and Additions to Norah Head Holiday Park  
(Attachment 2) (contd)**

Doc. No	Summary of Issues	Response
D01010128	<p>Council has mismanaged the parks by allowing van owners to spend money on their vans while being aware that the parks did not comply with State Government Policy.</p> <p>The proposed alterations will not be financially viable.</p> <p>The development application should not be dealt with until such time as all sites required are relocated or made available through natural attrition</p> <p>It is now not possible to sell vans and sites. Relocation should not be at van owners cost.</p>	<p>The leasing arrangements between the applicant (Wyong Shire Council's Business Unit) and occupants of short-term storage sites do not relate to this development application. There will be no permanent residents displaced by the proposed alterations. The Business Plan put forward by the applicant and endorsed by the Council indicates that current residents can be relocated within the park, minimising the social impact.</p> <p>Council has devised, reviewed and endorsed a business plan which demonstrates the viability of the proposal.</p> <p>Works will be staged to commence as the appropriate land becomes available.</p> <p>All tenants were or should have been aware of their leasing arrangements which indicate that relocation can occur at short notice.</p>
D01010151 D01009252 D01010126 D01011101 D01011093 D01011114 D01011110 D01013206 D01009279 D01009146 D01009275	<p>Council has mismanaged the parks by allowing van owners to spend money on their vans while being aware that the parks did not comply with State Government Policy</p> <p>The development application should not be dealt with until such time as all sites required are relocated or made available through natural attrition</p> <p>The proposed alterations will not be financially viable.</p>	<p>The leasing arrangements between the applicant (Wyong Shire Council's Business Unit) and occupants of short-term storage sites do not relate to this development application. There will be no permanent residents displaced by the proposed alterations. The Business Plan put forward by the applicant and endorsed by the Council indicates that current residents can be relocated minimising the social impact.</p> <p>Works will be staged to commence as the appropriate land becomes available.</p> <p>Council has devised, reviewed and endorsed a business plan which demonstrates the viability of the proposal.</p>

**Proposed Alterations and Additions to Norah Head Holiday Park  
(Attachment 2) (contd)**

<b>Doc. No</b>	<b>Summary of Issues</b>	<b>Response</b>
D01010161	Object to required relocation.  Having to move will cause financial hardship.	All tenants were or should have been aware of their leasing arrangements which indicates that relocation can occur at short notice.
D01010280	The development application should not be dealt with until such time as all sites required are relocated or made available through natural attrition  Council has mismanaged the parks by allowing van owners to spend money on their vans while being aware that the parks did not comply with State Government Policy and changes were imminent.	Works will be staged to commence as the appropriate land becomes available where possible.  The leasing arrangements between the applicant (Wyong Shire Council's Business Unit) and occupants of short-term storage sites do not relate to this development application. There will be no permanent residents displaced by the proposed alterations. The Business Plan put forward by the applicant and endorsed by the Council indicates that current residents can be relocated minimising the social impact.
D01011104	The proposed alterations will not be financially viable.  Council has not reasonably considered alternative locations within the park.	Council has devised a business plan which demonstrates the viability of the proposal.  Council's business plan has been devised after a significant consultation process where alternatives were discussed.
D01010155	Council has mismanaged the parks by allowing van owners to spend money on their vans while being aware that the parks would be upgraded.  The proposed alterations will not be financially viable.	The leasing arrangements between the applicant (Wyong Shire Council's Business Unit) and occupants of short-term storage sites do not relate to this development application. There will be no permanent residents displaced by the proposed alterations. The Business Plan put forward by the applicant and endorsed by the Council indicates that current residents can be relocated minimising the social impact.  Council has devised, reviewed and endorsed a business plan which demonstrates the viability of the proposal.



**Proposed Alterations and Additions to Norah Head Holiday Park  
(Attachment 2) (contd)**

Doc. No	Summary of Issues	Response
D1011099	<p><b>Relocation will cause dislocation from family and friends who own vans nearby.</b></p> <p><b>Relocation will cause expense and inconvenience.</b></p>	<p>Through natural attrition, usual site turnover and the cooperation of park management it is likely that relocation can occur in a reasonably close location to existing.</p> <p>All tenants were or should have been aware of their leasing arrangements which indicates that relocation can occur at short notice</p>
D01011265	<p>Council has mismanaged the parks by allowing van owners to spend money on their vans while being aware that the parks did not comply with State Government Policy</p> <p>The development application should not be dealt with until such time as all sites required are relocated or made available through natural attrition</p> <p>The proposed alterations will not be financially viable.</p> <p>Cannot see need for a swimming pool in this locality due to nearness to beach and ongoing maintenance issues</p> <p>Camp kitchens will cause ongoing maintenance issues</p>	<p>The leasing arrangements between the applicant (Wyang Shire Council's Business Unit) and occupants of short-term storage sites do not relate to this development application. There will be no permanent residents displaced by the proposed alterations. The Business Plan put forward by the applicant and endorsed by the Council indicates that current residents can be relocated minimising the social impact.</p> <p>Works will be staged to commence as the appropriate land becomes available.</p> <p>Council has devised, reviewed and endorsed a business plan which demonstrates the viability of the proposal.</p> <p>It is understood that for the park to remain viable upgrade works as proposed are required.</p> <p>It is understood that for the park to remain viable upgrade works as proposed are required.</p>

**Proposed Alterations and Additions to Norah Head Holiday Park  
(Attachment 2) (contd)**

Doc. No	Summary of Issues	Response
D1009285	<p>Council has mismanaged the parks by allowing van owners to spend money on their vans while being aware that the parks did not comply with State Government Policy.</p> <p>The development application should not be dealt with until such time as all sites required are relocated or made available through natural attrition.</p> <p>The proposed alterations will not be financially viable.</p> <p>Relocation will cause dislocation from family and friends who own vans nearby.</p>	<p>The leasing arrangements between the applicant (Wyong Shire Council's Business Unit) and occupants of short-term storage sites do not relate to this development application. There will be no permanent residents displaced by the proposed alterations. The Business Plan put forward by the applicant and endorsed by the Council indicates that current residents can be relocated minimising the social impact.</p> <p>Works will be staged to commence as the appropriate land becomes available.</p> <p>Council has devised, reviewed and endorsed a business plan which demonstrates the viability of the proposal.</p> <p>The Business Plan put forward by the applicant and endorsed by the Council indicates that current residents can be relocated minimising the social impact. All works will not commence straight after the determination of this application. It is acknowledged that there will be some disruption that can be dealt with by appropriate timing of works to allow for appropriate relocation to take place.</p>
D01011374	<p>Corner sites (297 and 317) inappropriate for powered site due to location on four-way intersection</p> <p>Spent \$20,000 replacing annex destroyed in storm two years ago. Would expect compensation considering plan would have already been in place</p> <p>Cannot see need for further recreational facilities such as a swimming pool which would require further supervision and therefore ratepayer expense.</p>	<p>The design has been selected after a consultation process which provides the best design for the future of the park.</p> <p>All tenants were or should have been aware of their leasing arrangements which indicate that relocation can occur at short notice</p> <p>Council has devised, reviewed and endorsed a business plan which demonstrates the viability of the proposal.</p>

**Proposed Alterations and Additions to Norah Head Holiday Park  
(Attachment 2) (contd)**

Doc. No	Summary of Issues	Response
D01012430	<p>The proposal unfairly targets certain streets instead of considering how long people have tenanted the park</p> <p>The proposed alterations will not be financially viable.</p>	<p>The design has been selected after a consultation process which provides the best design for the future of the park.</p> <p>Council has devised, reviewed and endorsed a business plan which demonstrates the viability of the proposal.</p>
D01011119	<p>Council has mismanaged the parks by allowing van owners to spend money on their vans while being aware that the parks did not comply with State Government Policy</p> <p>The development application should not be dealt with until such time as all sites required are relocated or made available through natural attrition</p> <p>The proposed alterations will not be financially viable.</p> <p>Question location of proposed facilities and need for pool</p>	<p>The leasing arrangements between the applicant (Wyong Shire Council's Business Unit) and occupants of short-term storage sites do not relate to this development application. There will be no permanent residents displaced by the proposed alterations. The Business Plan put forward by the applicant and endorsed by the Council indicates that current residents can be relocated minimising the social impact.</p> <p>As far as possible works will be staged to commence as the appropriate land becomes available.</p> <p>Council has devised, reviewed and endorsed a business plan which demonstrates the viability of the proposal.</p> <p>The design has been selected after a consultation process which provides the best design for the future of the park.</p>
D01011052 D01011081	Dislocation of family (grandparents van site to be relocated)	Through natural attrition, usual site turnover and the cooperation of park management it is likely that relocation can occur in a reasonably close location to existing

**Proposed Alterations and Additions to Norah Head Holiday Park  
(Attachment 2) (contd)**

Doc. No	Summary of Issues	Response
D01009553	<p>Council has mismanaged the parks by allowing van owners to spend money on their vans while being aware that the parks did not comply with State Government Policy</p> <p>The development application should not be dealt with until such time as all sites required are relocated or made available through natural attrition</p> <p>The proposed alterations will not be financially viable.</p> <p>Relocation will cause dislocation from family and friends who own vans nearby.</p> <p>Oppose location of bunkhouse and camp kitchen. Pool safety and maintenance</p>	<p>The leasing arrangements between the applicant (Wyong Shire Council's Business Unit) and occupants of short-term storage sites do not relate to this development application. There will be no permanent residents displaced by the proposed alterations. The Business Plan put forward by the applicant and endorsed by the Council indicates that current residents can be relocated minimising the social impact.</p> <p>As far as possible, works will be staged to commence as the appropriate land becomes available.</p> <p>Council has devised, reviewed and endorsed a business plan which demonstrates the viability of the proposal.</p> <p>The Business Plan put forward by the applicant and endorsed by the Council indicates that current residents can be relocated minimising the social impact. All works will not commence straight after the determination of this application. It is acknowledged that there will be some disruption that can be dealt with by appropriate timing of works to allow for appropriate relocation to take place.</p> <p>It is understood that for the park to remain viable upgrade works as proposed are required.</p>

**Proposed Alterations and Additions to Norah Head Holiday Park  
(Attachment 3)**

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**SEPP 71 COMPLIANCE TABLE**

<b>CI 8</b>	<b>Matters for Consideration</b>	<b>Proposed</b>
a	The aims of the Policy	The proposal is compliant with the objectives of the Policy in terms of protection of the coastal zone and environment; and the maintenance of pedestrian access to foreshore areas.
b	Existing public access to and along the coastal foreshore for pedestrians or persons with a disability should be retained and, where possible, public access to and along the coastal foreshore for pedestrians or persons with a disability should be improved.	The proposal does not negatively affect public access to foreshore areas.
c	Opportunities to provide new public access to and along the coastal foreshore for pedestrians or persons with a disability.	The proposed additions that are the subject to this development application do not affect foreshore access
d	The suitability of development given its type, location and design and its relationship with the surrounding area.	The proposed development is within an existing caravan park.
e	Any detrimental impact that development may have on the amenity of the coastal foreshore, including any significant overshadowing of the coastal foreshore and any significant loss of views from a public place to the coastal foreshore.	The proposed additions that are the subject to this development application do not affect the foreshore or inhibit views from a public place.
f	The scenic qualities of the New South Wales coast, and means to protect and improve these qualities.	The proposal will have no adverse impact on the scenic qualities of the coastline.
g	Measures to conserve animals (within the meaning of the <a href="#">Threatened Species Conservation Act 1995</a> ) and plants (within the meaning of that Act), and their habitats.	The subject site does not contain any threatened species or habitat.
h	Measures to conserve fish (within the meaning of Part 7A of the <a href="#">Fisheries Management Act 1994</a> ) and marine vegetation (within the meaning of that Part), and their habitats.	The proposal has no impact on the conservation of fish and marine vegetation.
i	Existing wildlife corridors and the impact of development on these corridors.	The proposal will not affect any identified wildlife corridor.

**Proposed Alterations and Additions to Norah Head Holiday Park  
(Attachment 3) (contd)**

<b>CI 8</b>	<b>Matters for Consideration</b>	<b>Proposed</b>
j	The likely impact of coastal processes and coastal hazards on development and any likely impacts of development on coastal processes and coastal hazards.	The proposed additions that are the subject to this development application are not directly adjacent to the coastline. Conditions of consent will require environmental controls to limit impact on the adjacent waterway.
k	Measures to reduce the potential for conflict between land-based and water-based coastal activities.	The proposal will have no impact on water-based coastal activities.
l	Measures to protect the cultural places, values, customs, beliefs and traditional knowledge of Aboriginals.	The subject site does not contain any aboriginal sites or relics, and there are no known sites within the immediate locality.
m	Likely impacts of development on the water quality of coastal water bodies.	The proposed additions that are the subject to this development application are not directly adjacent to the coastline.
n	The conservation and preservation of items of heritage, archaeological or historic significance.	The proposal has no impact on items of heritage, archaeological or historic value.
o	Only in cases in which a council prepares a draft local environmental plan that applies to land to which this Policy applies, the means to encourage compact towns and cities.	Not applicable.
p(i)	The cumulative impacts of the proposed development on the environment.	The proposal is not considered to have any adverse cumulative impacts on the environment.
p(ii)	Measures to ensure that water and energy usage by the proposed development is efficient	Water storage tank proposed.

## **Proposed Alterations and Additions to Norah Head Holiday Park (Attachment 4)**

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### **PROPOSED CONDITIONS OF CONSENT**

- 1 The development taking place in accordance with the approved development plans reference number Sheets 01-06 dated 26/09/2007, the Statement of Environmental Effects prepared by BHI dated 22 October 2007 and the intent of the Five Year Business Strategy adopted by Council, 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.***

#### **Certificates / Engineering Details**

- 2 The applicant must apply under Section 305 of the Water Management Act 2000 to Council as the Water Supply Authority for any works and contributions required for the obtaining of a Section 307 Certificate of Compliance.
- 3 A Construction Certificate is to be issued by the Certifying Authority prior to commencement of any works. The application for this Certificate is to satisfy all of the requirements of the Environmental Planning and Assessment Regulation 2000.

#### **Roads**

- 4 Separate approval from Council as the Roads Authority must be obtained under Section 138 of the Roads Act 1993 prior to the issue of any Construction Certificate which includes any works within a Council road reserve. For any such works, design plans must be submitted to and approved by Council prior to issue of the Construction Certificate.
- 5 The provision of additional civil works necessary to ensure satisfactory transitions to existing work as a result of work conditioned for the development, at no cost to Council. Design plans are to be approved by Council prior to issue of the Construction Certificate.

#### **Stormwater**

- 6 The submission to and approval by Council of stormwater drainage details in accordance with Council's Development Control Plan 2005 Chapter No 67 - Engineering Requirements for Development prior to issue of the Construction Certificate.

**Proposed Alterations and Additions to Norah Head Holiday Park  
(Attachment 4) (contd)**

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**Trade Waste**

- 7 The submission of a trade waste application and subsequent approval by Council to discharge trade waste into the sewerage system prior to issue of the Construction Certificate.
- 8 Confirmation of the location and depth of the sewer main and connection point in relation to the floor level prior to issue of the Construction Certificate, to ensure that appropriate connection to the sewer can be achieved.

***Prior to Commencement and During Works:***

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

**Approved Plans**

- 9 A copy of the stamped approved plans must be kept on site for the duration of site works and be made available upon request to either the Principal Certifying Authority or an officer of the Council.

**Building Code of Australia**

- 10 Compliance with the relevant provisions and requirements of the Building Code of Australia.

**Demolition**

- 11 Building demolition work is to be carried out in accordance with the requirements/provisions of the AS 2601 - 2001 - The Demolition of Structures.

**Erosion and Sediment Control**

- 12 Sand and other materials that could potentially be washed off the site during rain periods are to be stored behind the silt control barrier. Note: On-the-spot fines may be imposed by Council for non-compliance with this condition.
- 13 The downpipes and stormwater drainage being installed and connected to the approved stormwater disposal system immediately the roof materials are positioned to prevent erosion of the site from roofwater.



## **Proposed Alterations and Additions to Norah Head Holiday Park (Attachment 4) (contd)**

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### **Other Authorities**

- 14 Other public authorities may have separate requirements and should be consulted in the following respects:
- Australia Post for the positioning and dimensions of mail boxes in new commercial and residential developments;
  - AGL Sydney Limited for any change or alteration to gas line infrastructure;
  - Energy Australia for any change or alteration to electricity infrastructure or encroachment within transmission line easements;
  - Telstra, Optus or other telecommunication carriers for access to their telecommunications infrastructure.

### **Site Requirements**

- 15 The provision of a hoarding or safety fence between the work site and the public place in accordance with Work Cover Authority requirements, for the duration of the project.
- 16 Construction work is only to be undertaken in accordance with the provisions of the Environmental Protection Authority's 'Environmental Noise Control Manual-Guidelines for Construction Noise' as identified below:
- Monday to Friday 7.00 am to 6.00 pm  
Saturday 8.00 am to 1.00 pm.  
Work is not to be carried out on Sundays or Public Holidays.
- 17 The Principal Contractor (or Owner/Builder) is to erect a sign in a prominent position on the site (not attached to any tree) identifying the name, address and telephone number of the Principal Certifying Authority (PCA) for the work; the name, address and telephone number (including a number for outside of business hours) of the Principal Contractor for the work (or Owner/Builder); and stating that unauthorized entry to the site is prohibited. The sign must be maintained while the work is being carried out and is to be removed when the work is completed. Appropriate signs can be collected from Council's Customer Service Centre, where Council is the nominated PCA.
- 18 The surcharge gully for the development must be a minimum of 150mm below floor level and 150mm above the finished ground level.

**Proposed Alterations and Additions to Norah Head Holiday Park  
(Attachment 4) (contd)**

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***Prior to Release of Occupation Certificate:***

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

**Certificates / Engineering Details**

- 19 Application for an Occupation Certificate must be submitted to and approved by the Principal Certifying Authority prior to occupation of the building.

**Stormwater**

- 20 All stormwater drainage works discharging from the site into a public system or public land must be approved by Council prior to issue of the Occupation Certificate.

**Swimming Pools**

- 21 Prior to the pool being filled with water, the swimming pool, safety fences and gates being installed in accordance with the approved plans and specifications and the Swimming Pools Act 1992 and Regulations and AS 1926 - 1986 including the display of an approved sign regarding pool safety and resuscitation techniques.
- 22 The disposal of filter backwash to the sewer in a manner that will not cause a nuisance or where sewer is not available, the disposal of filter backwash into a rubble absorption trench as identified on the approved development plan.
- 23 The proposed 10,000 litre water tank located adjacent to the camp kitchen is to be used for the topping up of the swimming pool.

**Trees**

- 24 Replacement tree(s) for all trees removed at a minimum size of 25 litre container are to be planted. Replacement native trees are to be selected from Council's Eco-Info Fact Sheet 8 - Tree Planting in Urban Areas. Replacement trees are to be maintained to maturity through use of mulch and watering and allowed to achieve their natural height. Where the replacement tree dies or is substantially damaged within 5 years of planting, it must be replaced and maintained to maturity.
- 25 A Section 307 Certificate of Compliance under the Water Management Act 2000 for water and sewer requirements for the development must be obtained from Wyong Shire Council as the Water Supply Authority prior to issue of the Subdivision Certificate. All works for the development must be approved by Council prior to the issue of a Certificate of Compliance.

**Proposed Alterations and Additions to Norah Head Holiday Park  
(Attachment 4) (contd)**

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***Ongoing Operation:***

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

**Other Requirements**

- 26 This consent relates only to the upgrade of office, installation of camp kitchen, recreation area, swimming pool works, ensuites and barbeque areas. No other works or alterations indicated on the approved plans form part of this consent.

**540 Proposed Alterations and Additions to Toowoon Bay Holiday Park  
(Attachment 1)**

**Locality Plan**



## WYONG SHIRE COUNCIL

12 December 2007  
To the Ordinary Meeting of Council

Director's Report  
Shire Planning Department

### **540 Proposed Alterations and Additions to Toowoong Bay Holiday Park**

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DA/1340/2007 RM

#### **SUMMARY**

An application has been received for alterations and additions to Toowoong Bay Holiday Park. Following planning assessment, the application is recommended for approval. The application has been examined having regard to the matters for consideration detailed in section 79C of the Environmental Planning and Assessment Act and other statutory requirements with the issues requiring attention and consideration being addressed in the report.

<b>Applicant</b>	Wyong Shire Council
<b>Owner</b>	Crown Land - Wyong Shire Council Controlled
<b>Application No</b>	DA/1340/2007
<b>Description of Land</b>	Lot 7014 DP 1030787, Lots 293, 277, 288 and 316 DP 755263, Lot 7014 DP 1054245 1 Koongara Street Toowoong Bay
<b>Proposed Development</b>	Additions and alterations to a caravan park (Toowoong Bay Holiday Park)
<b>Zoning</b>	6(a) (Open Space and Recreation Zone)
<b>Existing Use</b>	Caravan Park
<b>Employment Generation</b>	Nil
<b>Estimated Value</b>	\$1,174,000

#### **RECOMMENDATION**

- 1** *That consent be granted subject to the conditions contained in Attachment 4.*
- 2** *That the General Manager be authorised to determine any application for minor modifications to the approved development plans and/or consent conditions.*
- 3** *That those who made written submissions be advised of Council's decision.*

**Proposed Alterations and Additions to Toowoona Bay Holiday Park (contd)****PRÉCIS**

- The proposed development application seeks approval for works that require development consent as part of Council's Five Year Business Strategy for its four Holiday Parks.
- The development application involves some of the works proposed under the Business Strategy. There are other works proposed under the Business Strategy that do not require development consent under the Environmental Planning and Assessment Act (EP&A Act). These works include the proposed holiday cabins and other relocatable structures, creation of drive through van sites and powered unoccupied van sites.
- The park design detailed in this application reflects the outcome of a public consultation process that has been undertaken since alterations to Council's Holiday Parks were originally proposed in April 2007.
- The proposed development is permissible with development consent and is considered to be consistent with the objectives of the 6(a) (Open Space and Recreation Zone).
- All site occupants directly affected by this development application can be suitably relocated elsewhere within the caravan park.

**INTRODUCTION**

The subject site is located along the coastline between Toowoona Bay and North Shelly Beach. The site is generally level with only sparse levels of vegetation present. There is residential development to the north and west of the site. Existing development on the site consists of caravans, cabins and support amenities of varying levels of presentation and repair.

Development consent is sought for:

- Alterations and additions to the existing reception and office.
- A covered camp cooking facility of 154.02m<sup>2</sup> and a 10,000 litre rainwater tank.
- Two covered barbeque shelter with a roof area of 23.40m<sup>2</sup>.
- A shade structure over a proposed jumping pillow covering an area of 329.6m<sup>2</sup>.
- Swimming Pool, shade structure and fencing.
- Two ensuite blocks containing four ensuites each for use on adjacent powered tourist sites.

## **Proposed Alterations and Additions to Toowoong Bay Holiday Park (contd)**

The intent of the application is for the applicant to gain approval for those works within Council's Five Year Business Strategy for its Holiday Parks that require development consent and for those works to occur over that period of time. The applicant has indicated that Council's four Holiday Parks require significant upgrading to remain competitive and cost-effective.

The proposed upgrading of the abovementioned facilities require the removal of 23 short-term storage sites. Currently across all four parks there are 50 vacant sites that are able to accommodate displaced van owners. It is expected that additional sites will become vacant through natural attrition over the period of the Business Strategy. The timing of the proposed works have been programmed to coincide with the availability of suitable sites and notification procedures for affected owners.

There are other works proposed within the park in the Business Strategy that do not require development consent under the EP&A Act. These works include the proposed holiday cabins and other relocatable structures that are regulated under the Local Government Act (LGA).

### **VARIATIONS TO POLICIES**

Nil

### **HISTORY**

The subject site has been used as a tourist destination for over half a century with the earliest recorded approval for development of the site dating back to the 1950's.

Toowoong Bay Holiday Park is situated on Crown Land managed by Wyong Shire Council. As such while the responsibility of managing the land rests with Council, land ownership remains with the NSW Department of Lands (DoL). Council has been directed by the Department to upgrade the existing facilities to provide for appropriate use and financial return from the holiday parks. Council has prepared a Five Year Business Strategy for the upgrade of its four holiday parks. The consultative process for this process is summarised below:

In April 2007, Council posted correspondence to all permanent and storage van owners of its four holiday parks. The Concept Plans for each of the respective parks, together with the lots affected by the Concept Plans were placed on Council's Website at this time.

All submissions received by Council's Business Unit were responded to by either a standard acknowledgment letter or an individual response, depending on the issue raised.

**Proposed Alterations and Additions to Toowoan Bay Holiday Park (contd)**

Council at its Meeting of 13 June 2007 resolved:

- "1 That the General Manager organise monthly briefings, which are to be reviewed in three months time, on the Caravan Park issue with an invitation to all Councillors to attend.*
- 2 That the General Manager facilitate representation from the van owners of the affected parks at those briefings.*
- 3 That representatives from Government Departments with an interest in this matter and the local State Members, or their representatives, also be invited to participate in these briefings as appropriate.*
- 4 That the results of these briefings be reported to Council."*

In accordance with the resolution of 13 June 2007, Council conducted three briefing sessions with members of the elected Consultative Committees (one from each park), representatives of the DoL, Council's Holiday Parks Consultant, Council Officers and State and Local Members.

The intent of the briefing sessions was to create a better understanding with the stakeholders on the rationale for the Five Year Business Strategy, and to allow issues and suggestions raised by permanent/storage van owners to be tabled via their consultative committee member. Further briefings were held on 11 July 2007, 1 August 2007 and 5 September 2007. Subsequent to the briefing sessions a report was submitted to Council on 26 September 2007 outlining the outcome of the briefing sessions with recommendations for future direction.

At that Meeting Council resolved:

- "1 That the report be received and the information noted.*
- 2 That no further Councillor briefings be scheduled regarding this matter.*
- 3 That the policy of allowing on-site van sales at Budgewoi, Norah Head and Toowoan Bay Holiday Parks be endorsed."*

Subsequently the development applications for the upgrade of each of the four parks have been lodged.

**PERMISSIBILITY**

The subject site is zoned 6(a) (Open Space and Recreation Zone) under the Wyong Local Environmental Plan 1991 (Wyong LEP 1991). The proposed development does not involve any change to the current land use and is permissible with consent.



## **Proposed Alterations and Additions to Toowoong Bay Holiday Park (contd)**

The objectives of the 6(a) (Open Space and Recreation Zone) as stated in the Wyong LEP 1991 are:

- “(a) to provide for the open space and recreation needs of the local community and visitors, and*
- (b) to allow for other leisure and recreation-orientated development, or any other use that is authorised by a plan of management adopted under section 40 of the Local Government Act 1993 , which:*
  - (i) promotes worthwhile community benefits, and*
  - (ii) would not reduce the amount and distribution of public open space areas below acceptable levels and standards which meet the needs of the community, and*
  - (iii) would not have an unacceptable impact on the amenity of adjacent areas, and*
  - (iv) would not have an adverse effect on water catchments, water quality, land surface conditions and important ecosystems such as Tuggerah Lakes, Lake Macquarie, streams, estuaries and wetlands.”*

It is considered that the proposed upgrade of the caravan park is consistent with the objectives of the zone.

### **RELEVANT STATE/COUNCIL POLICIES AND PLANS**

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

- State Environmental Planning Policy No.71 – Coastal Protection (SEPP 71)
- State Environmental Planning Policy No. 21 – Caravan Parks (SEPP 21)
- Wyong Local Environmental Plan 1991 (Wyong LEP 1991)
- Development Control Plan 2005 – Chapter 23 – Caravan Parks
- Development Control Plan 2005 – Chapter 14 - Tree Management
- Local Government (Manufactured Home Estates, Caravan Parks, Camping Grounds and Moveable Dwellings) Regulation 2005

### **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.

**Proposed Alterations and Additions to Toowoomb Bay Holiday Park (contd)****ASSESSMENT**

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

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

The site is located within the SEPP 71 Coastal Protection Zone. Clause 8 of SEPP 71 states matters for consideration that are to be taken into account by a consent authority when it determines a development application to carry out development on land to which this Policy applies. The proposed development is considered to be consistent with the requirements of SEPP 71. A table exhibiting the compliance of the proposal to the SEPP is attached to this report.

**SEPP 21 – Caravan Parks - Matters to be considered by Councils**

A Council may grant a development consent required by this Policy only after it has considered the following:

- “(a) whether, because of its location or character, the land concerned is particularly suitable for use as a caravan park for tourists or for long-term residence,*
- (b) whether there is adequate provision for tourist accommodation in the locality of that land, and whether existing or potential tourist accommodation will be displaced by the use of sites for long-term residence,*
- (c) whether there is adequate low-cost housing, or land available for low-cost housing, in that locality,*
- (d) whether necessary community facilities and services are available within the caravan park to which the development application relates or in the locality (or both), and whether those facilities and services are reasonably accessible to the occupants of the caravan park,*
- (e) any relevant guidelines issued by the Director, and*

## **Proposed Alterations and Additions to Toowoong Bay Holiday Park (contd)**

*(f) the provisions of the Local Government (Caravan Parks and Camping Grounds) Transitional Regulation 1993."*

This development application involves the removal of 23 short-term storage sites. The applicant has indicated that the storage vans can be relocated within the caravan park under the Five Year Business Strategy. No long-term occupants are impacted by this application or any of the alterations proposed under the 5 Year Business Plan at Toowoong Bay Holiday Park. The proposal provides additional community facilities for users of the park. The proposal is considered to be consistent with the requirements of SEPP 21.

### **Local Government (Caravan Parks and Camping Grounds) Transitional Regulation 1993**

This Regulation is made under the LGA. The purpose of this Regulation is to ensure the health, safety and amenity of moveable dwellings by providing prescriptive standards for issues such as setbacks, road widths and open space areas within caravan parks. The plans lodged indicate that the proposal can suitably comply with the requirements of this Regulation.

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

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

The character of the caravan park will not be negatively affected by the approval of works as proposed under this development application. The scale of development is consistent with the existing and surrounding development.

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

The proposed works will eliminate internal roads made redundant by the changes. The applicant expects that there will be some increase in vehicle movements as a result of the alterations. Any increase in traffic is well within the capacity of the surrounding road network. The site access is to be upgraded as part of the Business Plan reducing congestion at the park entrance.

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

The proposed development will enhance recreational opportunities for park users.

**Proposed Alterations and Additions to Toowoorn Bay Holiday Park (contd)****Any impact on the conservation of water**

A 10,000 litre water tank is proposed to re-use roofwater from the camp cooking facility. The water tank will provide a supplementary supply of non-potable water for various uses within the park. A condition of consent requires that the topping up of the proposed pool be provided from this water tank.

**Any effect on the flora and fauna**

The construction of the ensuites and swimming pool shade structure require the removal of two trees which have been planted over time as part of the landscaping for the park. A condition of consent requires that for each tree removed replanting of suitable endemic species to occur at a ratio of 3:1 in suitable locations within the park and that these trees be nurtured to maturity.

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

The additional facilities are to be located where they can be observed from surrounding sites achieving good passive surveillance.

**Any social impact in the locality**

There will be no increase or decrease in accommodation for the long-term residents of the caravan park. Residents who occupy short-term storage sites can be accommodated on other sites in the park through relocation and attrition. This issue has been dealt with in Council's Business Strategy.

No long-term tenants are affected by the changes to Toowoorn Bay Holiday Park.

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

Appropriate conditions of consent with regard to site management and environmental control will ensure construction activities are conducted within the legislative requirements.

**THE SUITABILITY OF THE SITE FOR THE DEVELOPMENT (s79C(1)(c)):****Whether the site attributes are conducive to development**

The proposed development is generally over land where there is existing development. The site is considered to be appropriate for redevelopment.

## **Proposed Alterations and Additions to Toowoon Bay Holiday Park (contd)**

### **ANY SUBMISSION MADE IN ACCORDANCE WITH THIS ACT OR REGULATIONS (S79C(1)(D)):**

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

The application was advertised in accordance with DCP 2005 Chapter 70-Notification of Development Proposals with six submissions being received. Notification to affected landowners and all site occupants was undertaken. The issues raised in the submissions have been addressed in the assessment of the application pursuant to the heads of consideration contained within Section 79C of the EP&A Act. A summary of the submissions is detailed in Attachment 2.

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

Nil

### **CONCLUSION**

The proposed development will have acceptable environmental impact on the caravan park and surrounding locality. The proposal provides a significant upgrade of facilities for users of the park. There are several objections to the proposal, however, many of these relate to proposed works within the park that do not require development consent. The works that require development consent will have a relatively minor impact on the park. The proposal is consistent with relevant Plans and Policies and is recommended for approval.

<b><i>Attachment 1</i></b>	<b><i>Locality Plan ( 1 page)</i></b>
<b><i>Attachment 2</i></b>	<b><i>Summary of Submissions (2 pages)</i></b>
<b><i>Attachment 3</i></b>	<b><i>SEPP 71 Compliance Table (2 pages)</i></b>
<b><i>Attachment 4</i></b>	<b><i>Proposed Conditions of Consent (5 pages)</i></b>
<b><i>Enclosure</i></b>	<b><i>Development Plans</i></b>

**Proposed Alterations and Additions to Toowoon Bay Holiday Park  
(Attachment 2)**

Doc. No	Summary of Issues	Response
D01009488	<p>Site eliminated to make way for new BBQ facilities. Do not consider BBQ facilities needed in this area due to proximity in area where most surrounding owners have own facilities.</p> <p>Create a congregation point, potentially causing conflict and theft.</p> <p>The location of the proposed drive through sites too far from the park entry</p>	<p>The Business Strategy involves introducing ensuite sites, powered tourist sites and eventually cabins to this area. These sites will benefit from these facilities.</p> <p>The park is provided with around the clock management and facilities provided in locations with good passive surveillance</p> <p>Not part of this application.</p>
D01007842	<p>Propose that the landscaping surrounding the park be upgraded. Illegal structures erected by permanent residents should be removed.</p> <p>Access point through the park should be reinstated</p>	<p>This application only involves the structures that require development approval within the park.</p> <p>The closing of the access allows staff to recognise those who are not residents of the park.</p>
D01012101	<p>Site impacted by proposed works. Will need to relocate. Have been encouraged by the landowner to improve van. We would accept relocation in the park at Council's expense or full refurbishment of money spent in purchase and renovation.</p> <p>Council has been negligent in not advising of Lands Department Policy that requires 50%/50% storage and tourist sites and the ramifications to prospective and current van owners.</p>	<p>All tenants were or should have been aware of their leasing arrangements which indicate that relocation can occur at short notice.</p> <p>The leasing arrangements between the applicant (Wyong Shire Council's Business Unit) and occupants of short-term storage sites do not relate to this development application. There will be no permanent residents displaced by the proposed alterations. The Business Plan put forward by the applicant and endorsed by the Council indicates that current residents can be relocated minimising the social impact.</p>

**Proposed Alterations and Additions to Toowoon Bay Holiday Park  
(Attachment 2) (contd)**

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Doc. No	Summary of Issues	Response
D01012049	<p>Site to be used for a premium cabin in the future</p> <p>Cannot see justification for pool given the location near the ocean and the current water crisis</p>	<p>The proposed cabins do not require development consent and therefore do not form part of this development application.</p> <p>Council is attempting to upgrade the parks and research has indicated facilities such as those proposed are required for the parks to be competitive with other tourist parks and tourism districts. Swimming pools are currently permissible with the consent of Council. While it is acknowledged that water is an issue, in accordance with Council Policy, the required water can be purchased from an appropriate source</p>
D01010172	<p>Were asked to relocate to make way for new cabins approximately 4 years ago. Have invested \$55,000 to \$60,000 on new site and were granted approval for a new awning in November 2006.</p>	<p>All tenants were or should have been aware of their leasing arrangements which indicate that relocation can occur at short notice and potential implications.</p>
D01002523	<p>Additional facilities will attract undesirable intruders from outside the park</p> <p>The cost of works to create suitable sites for ensuite vans cannot be justified</p>	<p>Many holiday parks have similar facilities and operate successfully.</p> <p>The replacement of the storage vans with cabins does not form part of this application. Council has devised a business plan which demonstrates the viability of the proposal.</p>

**Proposed Alterations and Additions to Toowoon Bay Holiday Park  
(Attachment 3)****SEPP 71 COMPLIANCE TABLE**

<b>CI 8</b>	<b>Matters for Consideration</b>	<b>Proposed</b>
a	The aims of the Policy	The proposal is compliant with the objectives of the Policy in terms of protection of the coastal zone and environment; and the maintenance of pedestrian access to foreshore areas.
B	Existing public access to and along the coastal foreshore for pedestrians or persons with a disability should be retained and, where possible, public access to and along the coastal foreshore for pedestrians or persons with a disability should be improved.	The proposal does not negatively affect public access to foreshore areas.
C	Opportunities to provide new public access to and along the coastal foreshore for pedestrians or persons with a disability.	The proposed additions that are the subject to this development application do not affect foreshore access
d	The suitability of development given its type, location and design and its relationship with the surrounding area.	The proposed development is within an existing caravan park.
E	Any detrimental impact that development may have on the amenity of the coastal foreshore, including any significant overshadowing of the coastal foreshore and any significant loss of views from a public place to the coastal foreshore.	The proposed additions that are the subject to this development application do not affect the foreshore or inhibit views from a public place.
F	The scenic qualities of the New South Wales coast, and means to protect and improve these qualities.	The proposal will have no adverse impact on the scenic qualities of the coastline.
G	Measures to conserve animals (within the meaning of the <a href="#">Threatened Species Conservation Act 1995</a> ) and plants (within the meaning of that Act), and their habitats.	The subject site does not contain any threatened species or habitat.
H	Measures to conserve fish (within the meaning of Part 7A of the <a href="#">Fisheries Management Act 1994</a> ) and marine vegetation (within the meaning of that Part), and their habitats.	The proposal has no impact on the conservation of fish and marine vegetation.
I	Existing wildlife corridors and the impact of development on these corridors.	The proposal will not affect any identified wildlife corridor.



**Proposed Alterations and Additions to Toowoon Bay Holiday Park  
(Attachment 3) (contd)**

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<b>CI 8</b>	<b>Matters for Consideration</b>	<b>Proposed</b>
j	The likely impact of coastal processes and coastal hazards on development and any likely impacts of development on coastal processes and coastal hazards.	The proposed additions that are the subject to this development application are not directly adjacent to the coastline. Conditions of consent will require environmental controls to limit impact on the adjacent waterway.
k	Measures to reduce the potential for conflict between land-based and water-based coastal activities.	The proposal will have no impact on water-based coastal activities.
l	Measures to protect the cultural places, values, customs, beliefs and traditional knowledge of Aboriginals.	The subject site does not contain any aboriginal sites or relics, and there are no known sites within the immediate locality.
m	Likely impacts of development on the water quality of coastal water bodies.	The proposed additions that are the subject to this development application are not directly adjacent to the coastline.
n	The conservation and preservation of items of heritage, archaeological or historic significance.	The proposal has no impact on items of heritage, archaeological or historic value.
o	Only in cases in which a council prepares a draft local environmental plan that applies to land to which this Policy applies, the means to encourage compact towns and cities.	Not applicable.
p(i)	The cumulative impacts of the proposed development on the environment.	The proposal is not considered to have any adverse cumulative impacts on the environment.
p(ii)	Measures to ensure that water and energy usage by the proposed development is efficient	Water storage tank proposed.

**Proposed Alterations and Additions to Toowoon Bay Holiday Park  
(Attachment 4)**

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**PROPOSED CONDITIONS**

- 1 The development taking place in accordance with the approved development plans reference number 01-05 dated 3/10/07, the Statement of Environmental Effects prepared by BHI dated 22 October 2007 and the intent of the Five Year Business Strategy adopted by Council, 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.***

**Certificates / Engineering Details**

- 2 The applicant must apply under Section 305 of the Water Management Act 2000 to Council as the Water Supply Authority for any works and contributions required for the obtaining of a Section 307 Certificate of Compliance.
- 3 A Construction Certificate is to be issued by the Certifying Authority prior to commencement of any works. The application for this Certificate is to satisfy all of the requirements of the Environmental Planning and Assessment Regulation 2000.

**Roads**

- 4 Separate approval from Council as the Roads Authority must be obtained under Section 138 of the Roads Act 1993 prior to the issue of any Construction Certificate which includes any works within a Council road reserve. For any such works, design plans must be submitted to and approved by Council prior to issue of the Construction Certificate.
- 5 The provision of additional civil works necessary to ensure satisfactory transitions to existing work as a result of work conditioned for the development, at no cost to Council. Design plans are to be approved by Council prior to issue of the Construction Certificate.

**Stormwater**

- 6 The submission to and approval by Council of stormwater drainage details in accordance with Council's Development Control Plan 2005 Chapter No 67 - Engineering Requirements for Development prior to issue of the Construction Certificate.

## **Proposed Alterations and Additions to Toowoomb Bay Holiday Park (Attachment 4) (contd)**

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### **Trade Waste**

- 7 The submission of a trade waste application and subsequent approval by Council to discharge trade waste into the sewerage system prior to issue of the Construction Certificate.
- 8 Confirmation of the location and depth of the sewer main and connection point in relation to the floor level prior to issue of the Construction Certificate, to ensure that appropriate connection to the sewer can be achieved.

### ***Prior to Commencement and During Works:***

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

### **Approved Plans**

- 9 A copy of the stamped approved plans must be kept on site for the duration of site works and be made available upon request to either the Principal Certifying Authority or an officer of the Council.

### **Building Code of Australia**

- 10 Compliance with the relevant provisions and requirements of the Building Code of Australia.

### **Demolition**

- 11 Building demolition work is to be carried out in accordance with the requirements/provisions of the AS 2601 - 2001 - The Demolition of Structures.

### **Erosion and Sediment Control**

- 12 Sand and other materials that could potentially be washed off the site during rain periods are to be stored behind the silt control barrier. Note: On-the-spot fines may be imposed by Council for non-compliance with this condition.
- 13 The downpipes and stormwater drainage being installed and connected to the approved stormwater disposal system immediately the roof materials are positioned to prevent erosion of the site from roofwater.

**Proposed Alterations and Additions to Toowoorn Bay Holiday Park  
(Attachment 4) (contd)**

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**Other Authorities**

- 14 Other public authorities may have separate requirements and should be consulted in the following respects:
- Australia Post for the positioning and dimensions of mail boxes in new commercial and residential developments;
  - AGL Sydney Limited for any change or alteration to gas line infrastructure;
  - Energy Australia for any change or alteration to electricity infrastructure or encroachment within transmission line easements;
  - Telstra, Optus or other telecommunication carriers for access to their telecommunications infrastructure.

**Site Requirements**

- 15 The provision of a hoarding or safety fence between the work site and the public place in accordance with Work Cover Authority requirements, for the duration of the project.
- 16 The Principal Contractor (or Owner/Builder) is to erect a sign in a prominent position on the site (not attached to any tree) identifying the name, address and telephone number of the Principal Certifying Authority (PCA) for the work; the name, address and telephone number (including a number for outside of business hours) of the Principal Contractor for the work (or Owner/Builder); and stating that unauthorized entry to the site is prohibited. The sign must be maintained while the work is being carried out and is to be removed when the work is completed. Appropriate signs can be collected from Council's Customer Service Centre, where Council is the nominated PCA.
- 17 Construction work is only to be undertaken in accordance with the provisions of the Environmental Protection Authority's 'Environmental Noise Control Manual-Guidelines for Construction Noise' as identified below:
- Monday to Friday 7.00 am to 6.00 pm
  - Saturday 8.00 am to 1.00 pm.
  - Work is not to be carried out on Sundays or Public Holidays.
- 18 The surcharge gully for the development must be a minimum of 150mm below floor level and 150mm above the finished ground level.

## **Proposed Alterations and Additions to Toowoong Bay Holiday Park (Attachment 4) (contd)**

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

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

### **Certificates / Engineering Details**

- 19 Application for an Occupation Certificate must be submitted to and approved by the Principal Certifying Authority prior to occupation of the building.

### **Stormwater**

- 20 All stormwater drainage works discharging from the site into a public system or public land must be approved by Council prior to issue of the Occupation Certificate.

### **Swimming Pools**

- 21 Prior to the pool being filled with water, the swimming pool, safety fences and gates being installed in accordance with the approved plans and specifications and the Swimming Pools Act 1992 and Regulations and AS 1926 - 1986 including the display of an approved sign regarding pool safety and resuscitation techniques.
- 22 The disposal of filter backwash to the sewer in a manner that will not cause a nuisance or where sewer is not available, the disposal of filter backwash into a rubble absorption trench as identified on the approved development plan.
- 23 Topping up of the swimming pool is to be from the approved rainwater tank located in the camp kitchen area.

### **Trees**

- 24 Replacement tree(s) for all trees removed at a minimum size of 25 litre container are to be planted. Replacement native trees are to be selected from Council's Eco-Info Fact Sheet 8 - Tree Planting in Urban Areas. Replacement trees are to be maintained to maturity through use of mulch and watering and allowed to achieve their natural height. Where the replacement tree dies or is substantially damaged within 5 years of planting, it must be replaced and maintained to maturity.
- 25 A Section 307 Certificate of Compliance under the Water Management Act 2000 for water and sewer requirements for the development must be obtained from Wyong Shire Council as the Water Supply Authority prior to issue of the Subdivision Certificate. All works for the development must be approved by Council prior to the issue of a Certificate of Compliance.

**Proposed Alterations and Additions to Toowoong Bay Holiday Park  
(Attachment 4) (contd)**

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***Ongoing Operation:***

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

**Other Requirements**

- 26 This consent relates only to the upgrade of office, camp kitchen, ensuite, recreation facility, pool works and barbeque areas. No other works or alterations indicated on the approved plans form part of this consent.

**WYONG SHIRE COUNCIL**

12 December 2007  
To the Ordinary Meeting of Council

Director's Report  
Shire Services Department

**541 Contract CPA 130590 – Concept Design, Detail Design and Tender Documentation for Sewerage Trunk Mains at Warnervale Town Centre and Wyong Employment Zone**

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CPA/130590 GHK

**SUMMARY**

Evaluation and selection of tenders for Contract No. CPA/130590 – Concept Design, Detail Design and Tender Documentation for sewerage trunk mains at Warnervale Town Centre and Wyong Employment Zone.

**RECOMMENDATION**

- 1 That Council accept tender no 1 from Bonacci Group Pty Ltd in the lump sum amount of \$476,850.00 including GST (\$433,500.00 excluding GST).**
- 2 That Council approve a contingency amount of \$50,000.00 including GST (\$45,455.00 excluding GST) representing approximately 10% of the contract value to provide for any unforeseen additional works that may become necessary during the course of the project.**

**BACKGROUND**

Council is proposing to construct trunk sewerage components in the Warnervale Town Centre (WTC) and Wyong Employment Zone (WEZ) areas to supplement existing sewerage infrastructure and facilitate the development of the district for residential and commercial purposes, servicing the significant population growth expected to occur.

This engagement involves the preparation of Concept Design, Detailed Design and Tender Documentation for trunk sewerage components within WTC and WEZ. Following completion of this engagement, tenders for construction of the infrastructure will be called and will be the subject of a separate report to Council.

The works required to be completed as part of this contract are broken down into two stages that reflect the proposed construction staging for the sewerage works. Stage 1 of this engagement involves trunk sewerage at WEZ Precincts 11 and 13 and WTC Precinct 7A. Stage 2 involves trunk sewerage at WTC Precincts 6A and 6C. A locality map is shown at Enclosure 1.

Sections of work will involve the design and documentation of pipelines where the final pipe sizes have not yet been determined. Generally, however, the location and purpose of the pipes are known. These unsized pipelines are indicated below, but this lack of detail does not affect the tendered prices submitted for the work.

**Contract CPA 130590 – Concept Design, Detail Design and Tender Documentation for Sewerage Trunk Mains at Warnervale Town Centre and Wyong Employment Zone (contd)**

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Stage I work at the WTC involves:

- i 1365m of 525mm diameter gravity trunk main;
- ii 1445m of gravity trunk main (diameter yet to be determined);
- iii 315m of 300mm diameter rising main; and
- iv One new pump station (SPS 7AB).

Stage I work at WEZ involves three sections of gravity trunk main (diameter yet to be determined):

- i Line A – 1690 m in length;
- ii Line MK – 1720 m in length; and
- iii Line MM – 1720 m in length.

Stage 2 work at WTC involves:

- i 2320m of gravity trunk main (diameter yet to be determined);
- ii 1025m of rising main (diameter yet to be determined); and
- iii One new pump station (SPS 6A).

**Tender Process**

Tenders were invited by way of public invitation. Advertisements were placed in the Sydney Morning Herald on 7 August 2007, the Central Coast Advocate on 8 August 2007 and the Newcastle Herald on 9 August 2007. The advertised closing date was 30 August 2007.

The invitation documents called for lump sum tenders based on a detailed specification. The following addenda were issued to all prospective tenderers during the invitation period.

- 1 Addendum 1 (issued 22 August 2007) – Explanation of system components, clarification of indicative program.
- 2 Addendum 2 (issued 28 August 2007) – Adjustment of the deliverables required in concept and detailed design, clarify the requirement of survey work, location of services, geo-technical investigations and acid sulphate soil investigations and amend the fee schedule. Addendum 2 also extended the closing date of tenders until 6 September 2007.
- 3 Addendum 3 (issued 30 August 2007) – Provide tenderers with a copy of WSC document 'ES-01 – Standard Specifications for New Electrical Assts' and amend the fee schedule.

Tenders closed at Council Chambers at 2:00pm on 6 September 2007.



**Contract CPA 130590 – Concept Design, Detail Design and Tender Documentation for Sewerage Trunk Mains at Warnervale Town Centre and Wyong Employment Zone (contd)**

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**EVALUATION OF TENDERS**

Tenders were evaluated by a panel of three members, comprising two representatives from the Department of Commerce and one representative from Wyong Shire Council using the following threshold and weighted criteria:

**Threshold Criteria:**

- 1 Conformance with the brief and requirements of the tender documents.
- 2 Manage quality, safety and environmental risks.
- 

**Weighted Criteria:**

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- 1 Price
- 2 Methodology and understanding of the work
- 3 Demonstrated capacity to complete the works within the time specified
- 4 Demonstrated performance of project team supported by referee reports on similar projects.
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The evaluation criteria and their weightings were documented in the Contract Development Plan and approved by the Director Shire Services prior to tenders being invited. The Contract Development Plan is available on file.

To assess tenders against the evaluation criteria, the panel used information obtained from the tender documents and related correspondence and referees.

The evaluation was conducted according to the following process.

- 1 Assessment of receipt of tenders.
- 2 Assessment of conformance of tenders.
- 3 Short listing.
- 4 Detailed weighted evaluation of tenders.
- 5 Due diligence checks on preferred tenderer.
- 6 Independent review of the tender selection process.

**Contract CPA 130590 – Concept Design, Detail Design and Tender Documentation for Sewerage Trunk Mains at Warnervale Town Centre and Wyong Employment Zone (contd)**

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**Assessment of Receipt**

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

Tender	Tendered Lump Sum (ex. GST)	Status
1 Bonacci Group Pty Ltd	\$433,500.00	Submitted on time
2 Cardno NSW Pty Ltd	\$436,830.00	Submitted late* (eliminated)
3 Connell Wagner	\$574,545.00	Submitted on time
4 GHD	\$783,350.48	Submitted on time
5 Bonacci Group Pty Ltd (alternate 1)	\$394,680.00	Submitted on time
6 Bonacci Group Pty Ltd (alternate 2)	\$403,790.00	Submitted on time
7 Cardno NSW Pty Ltd (alternate 1)	\$402,284.55	Submitted late* (eliminated)
8 Cardno NSW Pty Ltd (alternate 2)	\$409,557.27	Submitted late* (eliminated)
9 Cardno NSW Pty Ltd (alternate 3)	\$414,102.73	Submitted late* (eliminated)
10 GHD (alternate 1)	\$522,536.67	Submitted on time

\* See Assessment of Late Tenders below.

Assessment of Late Tenders

Tender numbers 2, 7, 8 and 9 (from Cardno NSW Pty Ltd) were lodged on the e-tendering website 24 minutes after the closing time. The earliest attempt to lodge the tender was 10 minutes prior to the closing time. The tenderer advised that the tender was submitted late as the 'document wouldn't upload, due to problems with filename.' The size of the file appears to have delayed the completion of lodgement until after the closing time.

Tender numbers 2, 7, 8 and 9 were emailed by the tenderer to the Department of Commerce, Wyong Project Office, 11 minutes after the closing time. This practice is not provided for in Council's tender documentation or procedures but was the position adopted by the tenderer when it was realised that lodgement of the e-tender was experiencing problems and may not have successfully uploaded at all.

Late tenders must be assessed in accordance with Clause 117 of the Local Government Regulation (General) 2005. Legal advice was sought from Home Wilkinson Lowry with respect to the above circumstances and the advice was that tender numbers 2, 7, 8 and 9 are considered late and should be eliminated from further consideration.

All other tenders were progressed to an assessment of conformance.

**Contract CPA 130590 – Concept Design, Detail Design and Tender Documentation for Sewerage Trunk Mains at Warnervale Town Centre and Wyong Employment Zone (contd)**

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**Assessment of Conformance**

Tenders were assessed for conformance with the general tender requirements, including the specification and the threshold criteria outlined in the Contract Development Plan.

Tender No. 1 (from Bonacci Group Pty Ltd) did not include any qualifications and was deemed to comply with the Threshold Criteria outlined in the Contract Development Plan. Tender No. 1 was progressed to the next stage of evaluation.

Tender No. 3 (from Connell Wagner) did not comply with the program requirements of the Contract for completion within 21 weeks (the tenderer proposed 25 weeks), nor was the cost of vegetation clearing included. The tenderer also indicated that, should it be preferred, it would require incorporating a suitable limitation on liability into the contract. The qualifications were significant and all were unacceptable. Tender No. 3 was deemed to be non-conforming and was not progressed to the next stage of evaluation.

Tender Nos. 4 and 10 (from GHD) included a number of qualifications relating to Council's standard terms of engagement related to timing of provision of services, timing of payment, ownership of intellectual property, limitation of indemnity and insurances. The qualifications were significant and placed unacceptable risk on Council. The tenders were deemed to be non-conforming and were not progressed to the next stage of evaluation.

Tender No. 5 (Alternate Tender No. 1 from Bonacci Group Pty Ltd) did not comply with the geo-technical requirements of the Contract. An increase in the minimum distance between investigation bores and a reduction in the depth of the boreholes was proposed. This tender was deemed to place unacceptable risk on the project and did not comply with the Threshold Criteria outlined in the Contract Development Plan. Tender No. 5 was deemed to be non-conforming and was not progressed to the next stage of evaluation.

Tender No. 6 (Alternate Tender No. 2 from Bonacci Group Pty Ltd) did not comply with the geo-technical requirements of the Contract. An increase in the minimum distance between investigation bores was proposed. This tender was deemed to place unacceptable risk on the project and did not comply with the Threshold Criteria outlined in the Contract Development Plan. Tender No. 6 was deemed to be non-conforming and was not progressed to the next stage of evaluation.

Assessment of conformance resulted in all remaining tenders being eliminated except Tender No. 1 from Bonacci Group Pty Ltd.

## **Contract CPA 130590 – Concept Design, Detail Design and Tender Documentation for Sewerage Trunk Mains at Warnervale Town Centre and Wyong Employment Zone (contd)**

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### **Weighted Evaluation**

Tender No.1 from Bonacci Group Pty Ltd was the sole remaining tender. None of the tenders eliminated under the assessment of conformance held the potential to represent superior value to Council because of the uncompetitive prices compared to that of Tender No.1.

Tender No.1 is the lowest price and subject to a satisfactory score under the weighted evaluation criteria would represent the best value to Council.

The tender was scored against each of the weighted evaluation criteria (including price and non-price elements) using the process outlined in the Contract Development Plan. The resulting score is tabulated below:

<b>Tender</b>	<b>Lump Sum (ex. GST)</b>	<b>Weighted Evaluation Score</b>
1 Bonacci Group Pty Ltd	\$433,500.00	<b>74</b>
3 Connell Wagner	\$574,545.00	Non-conforming due to unacceptable qualification in regard to limitation of liability and exclusion of clearing vegetation, not scored.
4 GHD	\$783,350.00	Non-conforming due to unacceptable qualifications in regard to timing of services and payment, intellectual property ownership, limitation of liability and insurances, not scored.
5 Bonacci Group Pty Ltd (alternate 1)	\$394,680.00	Non-conforming with respect to the geotechnical requirements of the contract, not scored.
6 Bonacci Group Pty Ltd (alternate 2)	\$403,790.00	Non-conforming with respect to the geotechnical requirements of the contract, not scored.
10 GHD (alternate 1)	\$522,536.67	Non-conforming due to same reasons as Tender No.4 above, not scored.

Tender No.1 (from Bonacci Group Pty Ltd) scored satisfactorily, is the preferred tender and was progressed to the due diligence stage of the evaluation.

**Contract CPA 130590 – Concept Design, Detail Design and Tender Documentation for Sewerage Trunk Mains at Warnervale Town Centre and Wyong Employment Zone (contd)**

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**Due Diligence**

The amount tendered by Bonacci Group Pty Ltd is within 10% of Council's pre-tender estimate of \$400,000. It is considered to represent a reasonable price for the contract works.

Bonacci has indicated experience in design and documentation of sewerage infrastructure including pumping stations, rising and gravity mains. Previous clients include a Victorian government agency (Barwon Water) and private developers. Project values for these clients have ranged up to \$2.0 million. Preliminary project estimates of the infrastructure the subject of this design engagement are \$2.8 million for WTC and \$2.6 million for WEZ. Bonacci has recently been engaged by Council on a smaller project (\$1.2 million estimate) for the design of the Warnervale Road/Minnesota Road intersection upgrade associated with the new Hamlyn Terrace Primary School.

Referee checks have been undertaken on Bonacci Group Pty Ltd's listed referees. Barwon Water provided satisfactory feedback and a private developer (Elderlies) provided positive feedback regarding the company's performance on previous projects.

Bonacci Group Pty Ltd received a 'Superior' Financial Assessment rating by Council's independent financial assessor, Kingsway Financial Assessments.

Notwithstanding that Bonacci Group Pty Ltd has not undertaken work on larger projects for Wyong Council before, based upon the assessments undertaken, it is considered that the company possesses all of the financial, technical and managerial resources necessary to complete the works. It has a history of successfully completed contracts similar in nature and scope to the current works. The company has in place a documented and accredited Quality Management System compliant with the requirements of AS/NZS ISO 9001:2000.

**Process Review**

This evaluation process and recommendations have been endorsed by the Manager – Contract Systems.

**BUDGET**

Funding for the project is available through Section 94 Developer Contributions.

**Contract CPA 130590 – Concept Design, Detail Design and Tender Documentation for Sewerage Trunk Mains at Warnervale Town Centre and Wyong Employment Zone (contd)**

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**TIME-FRAME**

The program submitted by Bonacci Group Pty Ltd complies with the requirements of the contract. Subject to no impediments with land owners in negotiating the required easements to accommodate the works, this will enable calling of tenders for construction of Stage 1 by approximately June 2008 and delivery of the sewerage infrastructure by approximately February 2009. Stage 2 works can go to tender for construction as required by the timing of development in the associated sewage catchment area.

**LOCAL CONTENT**

Bonacci Group Pty Ltd is Melbourne based with an operating office in Sydney.

The tenderer has indicated that the geotechnical component of the contract works are to be sub-contracted to local firm Douglas Partners which will provide local labour utilisation.

**CONCLUSION**

Tender No.1 from Bonacci Group Pty Ltd is the preferred tender. It 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 Tender No.1 be accepted in the lump sum of \$433,500.00 (excluding GST).

**Enclosure 1****Locality Map**

**WYONG SHIRE COUNCIL**

12 December 2007  
To the Ordinary Meeting of Council

Director's Report  
Shire Services Department

**542                      Contract CPA 133690 - Collection and Purchase of Scrap Metal  
                                 from Charmhaven Depot, Long Jetty Depot and Buttonderry  
                                 Waste Management Facility**

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CPA/133690 MDL:EBL

**SUMMARY**

Report on the assessment of tenders received for Tender CPA 133690 – Collection and Purchase of Scrap Metal from Charmhaven Depot, Long Jetty Depot and Buttonderry Waste Management Facility.

**RECOMMENDATION**

***That Council accept Tender No 3 from Sell & Parker Pty Ltd for the Collection and Purchase of Scrap Metal from Charmhaven Depot, Long Jetty Depot and Buttonderry Waste Management Facility for a period of six months commencing on 1 February 2008 at an estimated income to Council of \$228,674 (GST inclusive) or \$207,886 (GST exclusive).***

**BACKGROUND**

As part of its efforts to reduce the quantity of waste disposed of to landfill, Council has for some years encouraged the source separation of recyclable metals and car batteries from the waste stream received at the Buttonderry Waste Management Facility. Metals, including white goods, car bodies, corrugated iron sheets, water heaters etc can be taken to the facility free of charge to maximise the diversion of waste materials from landfill.

In addition, facilities exist at Charmhaven and Long Jetty Works Depots for the separate collection of scrap metal, copper and brass resulting from Council's activities.

Tenders are invited twice annually for the exclusive rights to purchase all scrap metals collected at the Charmhaven and Long Jetty Depots and Buttonderry Waste Management Facility. Industry representatives have indicated that a contract with a contract term greater than six months would introduce uncertainty and risks due to the unpredictable behaviour and volatility of world metal prices that may result in prices that are less advantageous to Council.

The current contract with Smorgon Steel Recycling expires on 31 January 2008. Fresh tenders have been invited for the purchase of scrap steel, copper and brass collected from the Depots and mixed scrap metals and car batteries from Buttonderry Waste Management Facility for the next six months commencing on 1 February 2008. This report reviews the tenders received and recommends award of the collection contract for a further period of six months.

**Contract CPA 133690 - Collection and Purchase of Scrap Metal from Charmhaven Depot, Long Jetty Depot and Buttonderry Waste Management Facility (contd)**

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**Tender Process**

Tenders were invited by way of public invitation. Advertisements were placed in the Sydney Morning Herald on 2 October 2007 and the Central Coast Express Advocate on 3 October 2007. Tenders closed at Council Chambers at 2:00pm on 25 October 2007.

**EVALUATION OF TENDERS**

Tenders were evaluated by a panel of three staff members using the following threshold and weighted criteria:

- \* Conformance with the requirements of the tender documents.
- \* Ability to manage safety risks.
- \* Price.
- \* Previous Contractor performance.

The evaluation criteria and their weightings were documented in the Contract Development Plan and approved by the Assistant Director Shire Services prior to tenders being invited. The Contract Development Plan is available on file.

To assess tenders against the evaluation criteria, the panel used information obtained from the tender documents and related correspondence, referees, external advisors and presentations made by the shortlisted tenderers.

The evaluation was conducted according to the following process.

- 1 Assessment of receipt of tenders.
- 2 Assessment of conformance of tenders.
- 3 Detailed weighted evaluation of shortlisted tenders.
- 4 Due diligence checks on preferred tenderers.
- 5 Independent review of the tender selection process.



**Contract CPA 133690 - Collection and Purchase of Scrap Metal from Charmhaven Depot, Long Jetty Depot and Buttonderry Waste Management Facility (contd)****Assessment of Receipt**

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

<b>Tender</b>	<b>Estimated revenue for 6 months (excl GST)</b>	<b>Estimated revenue for 6 months (incl GST)</b>	<b>Status</b>
1. Balcomb Metal Recyclers	\$98,418	\$108,260	Submitted late (eliminated)
2. C.M.A Metal Corporation	\$165,965	\$182,562	Submitted on time
3. Sell & Parker Pty Ltd	\$207,886	\$228,674	Submitted on time
4. Smorgon Steel Recycling	\$225,492	\$248,041	Submitted late (eliminated)

The following table is for comparison purposes only indicating the estimated revenue using the current contractor with current rates and new estimated tonnage.

<b>Current Tender using New Estimated Weights</b>	<b>Estimated revenue for 6 months (excl GST)</b>	<b>Estimated revenue for 6 months (incl GST)</b>	<b>Status</b>
Smorgon Steel Recycling	\$238,033	\$261,836	Detailed for comparison only

Tender number 4 from Smorgon Steel Recycling was hand delivered to Council and arrived three minutes after the closing time. Tender number 1 from Balcomb was e-mailed at 5.59 pm on 25 October 2007, almost 4 hours after the closing time.

Recent legal advice on the acceptance or otherwise of late tenders confirmed that Council could only accept late tenders that were delivered into the tender box if "the tender documents and all other requisite essential information were posted or lodged at a Post Office or other recognised delivery agency in sufficient time to enable the documents to have been received by the council in the ordinary course of business before that deadline"(Clause 177 (5)) of Local Government (General) Regulations 2005.

In accordance with these Regulations the late tenders from Balcomb Metal Recyclers and Smorgon Steel Recycling cannot be considered and were therefore excluded from the assessment process.

## **Contract CPA 133690 - Collection and Purchase of Scrap Metal from Charmhaven Depot, Long Jetty Depot and Buttonderry Waste Management Facility (contd)**

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### **Assessment of Conformance**

All tenders submitted on time were assessed for conformance with the general tender requirements, including the specification. These tenders were fully conforming and were progressed to the next stage of evaluation.

### **Weighted Evaluation**

Tenders were scored against each of the weighted evaluation criteria (including price and non-price elements), with the following results. They are listed in descending order of weighted evaluation scores.

<b>Tender No</b>	<b>Tender</b>	<b>Estimated revenue for 6 months (ex GST)</b>	<b>Weighted Evaluation Score</b>
3	Sell & Parker Pty Ltd	\$207,886	98
2	C.M.A Metal Corporation	\$166,965	82

Tender No. 3 from Sell & Parker Pty Ltd, being the highest scoring tender, was progressed to the due diligence stage of the evaluation.

The quantities of scrap metals generated are subject to fluctuations. The following table shows the amount of materials collected from November 2006 to April 2007 as well as the six month average based on tonnages collected over the past four years from July 2003 to June 2007.

	<b>Material collected (May 2007 to October 2007)</b>	<b>6 months average (July 2003 – June 2007)</b>
Mixed Scrap Metal	833 tonnes	987 tonnes

The graph below provides a history of tender prices for scrap steel since July 2003. It includes a projection of tender prices for the period up to July 2008.

**Contract CPA 133690 - Collection and Purchase of Scrap Metal from Charmhaven Depot, Long Jetty Depot and Buttonderry Waste Management Facility (contd)**

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The income generated from the collection of scrap metals, inclusive of GST, was \$261,858 for the period May 2007 to October 2007. The same quantities of scrap metal at the rates tendered by Sell & Parker Pty Ltd would generate a GST inclusive income of approximately \$228,674 for the next six months.

### **Due Diligence**

Sell & Parker Pty Ltd provided scrap metal collection services for Wyong Shire Council on two occasions during 2004. Sell & Parker had an excellent track record and response time in removing scrap metal and invoices were paid without delay. However, Sell & Parker removed bulk bins for the storage of scrap metal at Council's depot one month prior to the expiry of their last contract upon being advised that the next contract had been awarded to another provider. This caused considerable disruption at the depots and measures will be put in place to prevent a similar occurrence under this contract. Sell & Parker is a Sydney based company with all scrap metal to be transported to Blacktown.

### **Process Review**

This evaluation process and recommendations have been endorsed by the Manager – Contract Systems.

**Contract CPA 133690 - Collection and Purchase of Scrap Metal from Charmhaven Depot, Long Jetty Depot and Buttonderry Waste Management Facility (contd)**

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**TIME-FRAME**

The contract will commence on 1 February 2008 for a period of six months.

**CONCLUSION**

Tender No. 3 from Sell & Parker 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.

**WYONG SHIRE COUNCIL**

12 December 2007  
To the Ordinary Meeting of Council

Director's Report  
Shire Services Department

**543 Contract CPA 130386 - Professional Engineering Consulting Services – Mardi to Mangrove Creek Link**

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CPA/130386A KB

**SUMMARY**

Evaluation and selection of tenders for Contract CPA130386 – Professional Engineering Consultancy Services for Design through to Management of the Construction of Wyong River to Mardi Dam and Mardi Dam to Mangrove Creek Dam Links.

**RECOMMENDATION**

- 1 That Council accept the tender from GHD in the:**
  - a lump sum amount of \$3,874,350.00 including GST (\$3,522,136.36, excluding GST); and**
  - b schedule of rates (inclusive of provisional sums) estimated total amount of \$2,664,574.00 including GST (\$2,422,340.00, excluding GST).**
  
- 2 That Council approve a contingency amount of \$652,000 including GST (\$592,727.27 , excluding GST), representing approximately 10% of the contract value, to provide for any unforeseen additional works that may become necessary during the course of the project.**

**BACKGROUND**

The Central Coast water supply has been severely affected by the current drought with the net storage on the Coast declining to 23.6% (19th November 2007). With the commissioning of the Hunter link and other contingency works and recent rainfall, the decline in storage levels has been arrested. There is, however, an urgent need to further secure the water supply for the Central Coast and refill the major storage (Mangrove Creek Dam) to provide drought security for the future. The refilling of Mangrove Creek Dam can only be guaranteed by constructing a pipeline from Mardi Dam to Mangrove Creek Dam and augmenting the transfer system from lower Wyong River to Mardi Dam (Wyong River is the largest surface water source on the Central Coast).

Wyong & Gosford Councils have already resolved, through the adoption of the WaterPlan 2050 to construct a system of water supply pipes, pumping stations, water intakes and reservoir modifications to transfer raw water from the lower Wyong River to the Mangrove Creek Dam.

The purpose of this project is to improve harvesting of water flows in the Wyong River and store excess water in the Mangrove Creek Dam for return to the Wyong water treatment plant for subsequent consumption.

**Contract CPA 130386 - Professional Engineering Consulting Services – Mardi to Mangrove Creek Link (contd)**

Professional Services for Design through to Management of the Construction were sought from Design and Approvals consultants to progress existing preliminary design and approval work into a complete set of designs, approvals and construction documents for the various project components. Consequent tendering, contract award and construction supervision/administration and commissioning services will also be required for relevant project components by the professional services consultant (refer to attached aerial photograph with plan of project elements).

**Professional Services**

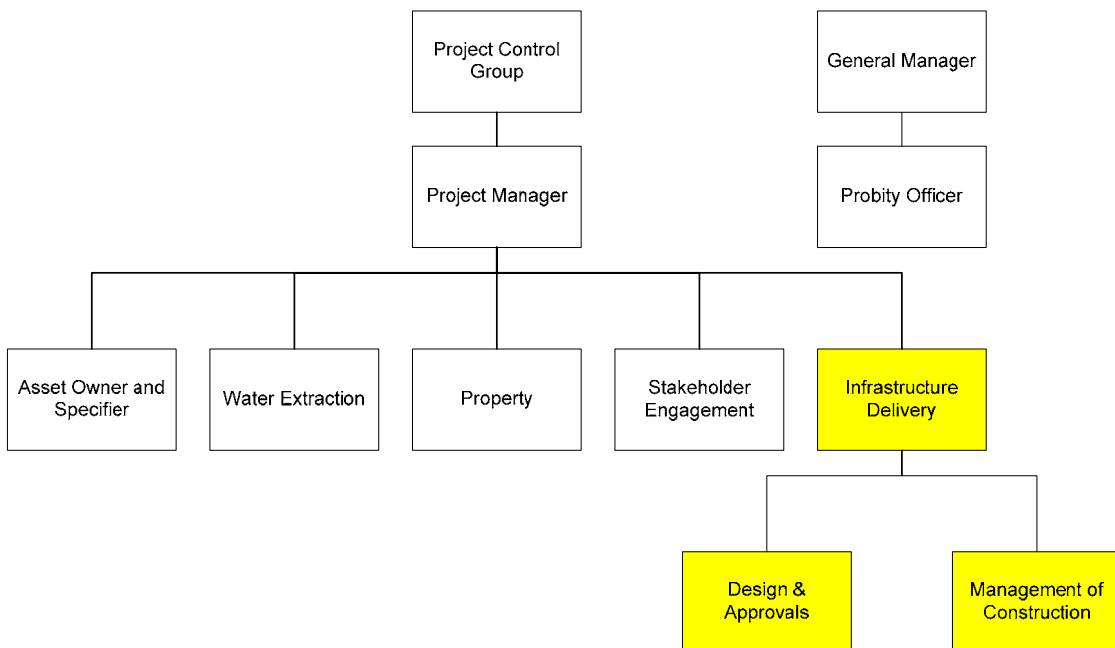
The Professional Services (PS) will consist of the design and approval aspects of the relevant Transfer System Components. The PS Consultant will also be required to undertake construction contract documentation and the tendering, supervision and administration of physical works contracts for construction/installation of contract packages for the Project.

Professional services works include:

- project planning and programming
- Design and Approvals
- project investigation and design
- approvals
- procurement and contract management
- reporting and meetings

**Key Project Components**

In delivering this project the following project components have been established to manage the key project delivery areas as detailed below.



### **Contract CPA 130386 - Professional Engineering Consulting Services – Mardi to Mangrove Creek Link (contd)**

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A description of each of the project components is detailed below. This tender covers the component highlighted in bold text.

- **Project Manager and related Support Services:** Compliance with Federal Funding requirements to secure funding for the project is a key requirement. The project is required to manage standard project risks around quality control, managing tasks to timelines (Program), financial control, effective governance and transparency.
- **Asset Owner Specifier:** Clarity of briefs provided to service providers is required to ensure appropriate assets are delivered within the required timeframes. This is a significant risk on all infrastructure projects, particularly in an environment with tight delivery timeframes. Significant variation to Client specifications can lead to significant cost and time overruns, and can also lead to project outcomes being compromised. By including the Asset Manager within the project team, this risk is minimised. The Asset Manager includes membership from both Gosford and Wyong Councils.
- **Water Extraction:** The ability to extract the quantity of water required to deliver the outcomes of WaterPlan 2050 is critical to the success of this project. Council has been working with the relevant Government Agencies to ensure this objective is achieved since late 2006 through the establishment of an Environmental Flow Study group, discussions with the relevant Agencies regarding the requirements of the proposed Water Sharing Plan, and in the coming 6 to 9-months the submission of licence applications to construct an off take structure and draw water from the Wyong River. A dedicated team has been established to manage this aspect.
- **Property:** Whilst the pipeline route has not yet been finalised there will be a need to utilise private property for the pipeline location. Consideration of impacts needs to cover environmental impacts, archaeological impacts (European and Indigenous Heritage), constructability, maintenance and operations effectiveness and the impacts on individual property owners, both during construction and during the subsequent operations and maintenance period. The property team includes in-house Council representatives and external resources such as the team leader, surveyors, valuers and negotiators.
- **Stakeholder Engagement:** Developing and maintaining support for the project from approval authorities, property owners and the wider community is a key success factor of the project. A dedicated team has been established to manage this important area of the project. Council staff from both Wyong and Gosford communications teams are within this group to ensure all communications are consistent with respective Council requirements.

**Contract CPA 130386 - Professional Engineering Consulting Services – Mardi to Mangrove Creek Link (contd)**

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- **Infrastructure Delivery: Design, Approvals (Professional Engineering Consultancy Services for Design through to Management of the Construction of Wyong River to Mardi Dam and Mardi Dam to Mangrove Creek Dam Links this tender CPA130386), and supervision of construction is a key part of the Infrastructure Delivery Team. Integration of design and approvals processes is necessary to ensure construction is started at the earliest possible date. While construction of the project elements is a relatively simple process, their integration within the overall operating environment, and adequate consideration of all necessary Local, State and Commonwealth Approvals is critical to achieving the project deliverables within the required time. Unfavourable approval conditions can alter design and construction constraints significantly, creating additional works and consequential cost and time impacts. This team will be resourced by the Professional Services Consultant and will become the prime delivery group within the project operating structure. Alongside property approvals, this is one of the highest risk areas of the project in relation to achieving the required timeframes.**

Design, approvals, supply and construction are key project delivery elements for which Council does not have the in-house expertise or resources available to deliver. Accordingly, it was resolved by the Project Control Group to outsource these elements of work, and to resource other elements of work in-house as much as possible.

This Tender Evaluation Report presents the evaluation of submissions to provide for the Design through to Management of the Construction of Wyong River to Mardi Dam and Mardi Dam to Mangrove Creek Dam Links of all Federally Funded project elements, plus additional project elements that may be required by Council during the course of this project.

**Tender Process**

Tenders were invited by way of public invitation. Advertisements were placed on e-Tender on August 28 2007, in the Sydney Morning Herald on August 28 2007 and the Central Coast Express Advocate on August 29 2007. The advertised closing date was October 4 2007. The closing date was extended to October 11 2007 during the tender period. This closing date extension was to allow additional time for tenderers to consider reports that became available from ongoing investigations, and updates to project specifications as a consequence of this additional information.

In calling for prices, the request for tender document was in two parts. One part called for lump-sum tenders, based on a detailed specification. Tenderers were also asked to consider and propose a schedule of quantities and rates for various elements, to allow Council to manage the risk of a number of elements that were unable to be adequately defined at the time of tender.



## **Contract CPA 130386 - Professional Engineering Consulting Services – Mardi to Mangrove Creek Link (contd)**

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### ***Lump Sum Components***

Lump sums were requested for professional services relating to the Wyong Off-take pumping station, the Wyong to Mardi Rising Main pipeline, the Mangrove Transfer pumping station and the Mangrove Transfer Rising Main pipeline as detailed below. These are well defined components therefore fixed sums were sought at relatively low risk for Council.

#### River off-take Pumping Station:

- Investigation and Preliminary Design
- Concept Design including preliminary cost estimates and concept reporting
- Utility liaison
- Detailed design including detailed cost estimates
- Preparation of Request for Tender (RFT) Documentation

#### Wyong to Mardi Rising Main pipeline:

- Investigation and Preliminary Design
- Concept Design including preliminary cost estimates and concept reporting
- Utility liaison
- Detailed design including detailed cost estimates
- Preparation of Request for Tender (RFT) Documentation

#### Mangrove Transfer pumping station:

- Investigation and Preliminary Design
- Concept Design including preliminary cost estimates and concept reporting
- Utility liaison
- Detailed design including detailed cost estimates
- Preparation of Request for Tender (RFT) Documentation

#### Mangrove Transfer Rising Main pipeline including connection to Bunning Creek Tunnel:

- Investigation and Preliminary Design
- Concept Design including preliminary cost estimates and concept reporting
- Utility liaison
- Detailed design including detailed cost estimates
- Preparation of Request for Tender (RFT) Documentation

**Contract CPA 130386 - Professional Engineering Consulting Services – Mardi to Mangrove Creek Link (contd)**

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***Schedule of Rates***

Tenderers were required to submit a schedule of hours and rates for the remainder of the works not accounted for within lump sums. Schedule rates were proposed for project components that were unable to be adequately defined at the time of tender to enable pricing by tenderers without Council paying an unacceptably high risk premium. For example, a concept for hydro-electricity generation will not be resolved until after the tender has been awarded to the professional services provider, therefore a tenderer would be unable to offer a lump sum to undertake the detailed design of this component.

Schedule rates were requested across the relevant project components (such as power upgrades, Bunning Creek Tunnel investigations, hydro-electricity generation concept design, Wyong River off-take structure, Mangrove Creek Dam outlet upgrade / replacement) for professional services relating to:

- Investigation and Preliminary Design
- Concept Design, including preliminary cost estimates and concept reporting
- Obtaining Development and Statutory Approvals
- Utility liaison
- Detailed design including detailed cost estimates, etc
- Preparation of Request for Tender (RFT) Documentation
- Procurement services for tender administration up to and including contract award.
- Contract supervision/ administration
- Design & other services arising from variations to the works
- Design review of elements designed by contractor
- Utility connections and interactions
- As-built drawings
- Commissioning and Testing

A schedule of estimated hours against various resource types was developed prior to tender close.

Tenderers were asked to provide schedules that identified resource types proposed, an estimate of hours required to complete the relevant project tasks, and hourly rates for the various resource types. A risk assessment by members of the project team determined that this approach would generate the most competitive price for non-lump sum (schedule rate) items for these project elements.

## **Contract CPA 130386 - Professional Engineering Consulting Services – Mardi to Mangrove Creek Link (contd)**

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### ***Provisional Sums***

In addition to lump sums and schedule rates, provisional sums have been identified for specialist areas that are likely to be required to deliver this project, however could not be quantified at the time of tender. For example, while a number of river crossings will be required, the quantity and size of river crossings will be determined by the route that is finally chosen. The final route definition report is due early in December 2007.

Provisional sums have been kept to a minimum as it is preferred to encompass the works (if possible) within either lump sums or an appropriate schedule of quantities. Provisional sums are an amount that is an estimate of the required cost. The amount however that will be charged during the course of the project is the actual costs incurred and not necessarily the full provisional sum. The purpose of the provisional sum is to make sure there is sufficient funding provision within the contract for an item of work that will be required but cannot be specified at this point. When commitments are made to spend these funds preference will be given to establish an agreed lump sum to undertake the work.

The list of provisional sum items total to value of \$330,000 (excluding GST) included within the professional services is:

#### Geotechnical investigation for pipelines

- Wyong to Mardi Transfer Rising Main
- Mangrove Transfer Rising Main
- River Off-take Pump Station
- Mangrove Transfer Pump Station

#### Connection of Mangrove Transfer Rising Main to Bunning Creek Tunnel:

- Detailed design including detailed cost estimates
- Preparation of Request for Tender (RFT) Documentation

#### Major river crossing, Mangrove Transfer Rising Main:

- Investigation and Preliminary Design,
- Concept Design, including preliminary cost estimates and concept reporting
- Utility liaison
- Detailed design including detailed cost estimates,
- Preparation of Request for Tender (RFT) Documentation

**Contract CPA 130386 - Professional Engineering Consulting Services – Mardi to Mangrove Creek Link (contd)**

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Minor river crossing, Mangrove Transfer Rising Main:

- Investigation and Preliminary Design,
- Concept Design, including preliminary cost estimates and concept reporting
- Utility liaison
- Detailed design including detailed cost estimates,
- Preparation of Request for Tender (RFT) Documentation

***Communication with Tenderers***

A mandatory pre-tender meeting was held at Council offices on September 10 2007 to allow tenderers to become familiar with the project and ask questions about both the project and the tender process. The pre-tender meeting was also attended by a representative of the independent probity officer.

Addenda were issued to all prospective tenderers during the invitation period and covered:

- Date of pre-tender briefing, agenda, a copy of the presentation given at the briefing and responses to questions from briefing
- Issuing of new background information such as geotechnical reports, Cultural Heritage and Environmental Constraints reports, and aerial photographs with cadastral data
- More detailed descriptions of the scope of services
- Guidelines should tenderers wish to visit the site
- Extension of closing time to October 11 2007

Tenders closed at Council Chambers at 2:00pm on Thursday October 11, 2007.

**EVALUATION OF TENDERS**

The Tender Evaluation Panel (TEP) comprised one Gosford City Council employee, one Wyong Shire Council employee, and a consultant from the project team. In addition, an independent probity officer was engaged to oversee probity on this tender process. The probity officer attended all key decision making meetings, and reviewed all document outputs.

***Assessment Process***

To assess tenders against the evaluation criterion the panel used information obtained from the tender documents and related correspondence, referees and external expert advisers.

## **Contract CPA 130386 - Professional Engineering Consulting Services – Mardi to Mangrove Creek Link (contd)**

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Tenders were submitted in two envelopes; a non-price submission in envelope 1 and the price submission in envelope 2. Envelope 1 was opened first, and an evaluation was completed of all non-price elements. Envelope 2 was then opened and evaluated.

The evaluation was conducted according to the following process:

- 1 Assessment of receipt of tenders and opening of Envelope 1 "Non-Price submission"
- 2 Assessment of conformance of tenders on non-price criteria for the purpose of progressing evaluation
- 3 Due Diligence checks on tenders: financial, referee checks, insurances review, clarification of compliance and departures
- 4 Shortlisting of tender/s on non-price criteria
- 5 Finalising the aggregate quantities for the schedule of rates
- 6 Detailed weighted evaluation (non-price criteria only)
- 7 Opening of Envelope 2 "Price Submission", calculation of prices scores and combining price and non-price scores to determine the preferred tenderer.
- 8 Independent review of the tender selection process

### ***Evaluation Criteria***

Tenders were evaluated by the panel using the following threshold and weighted criteria:

- Conformance with the requirements of the tender documents.
- Risk and Opportunity Management: The Tenderers ability to identify and manage risks and opportunities arising from issues such as safety, quality assurance, environmental and cultural/social impacts.
- Methodology: Tenderer's methodology for undertaking the Contract and understanding of the Brief.
- Capacity, Expertise and Experience: The capacity of the Tenderer to deliver the Project, including the financial and management capacity of the Tenderer and the technical expertise and experience of the staff to be engaged on the Contract (including sub-contracted staff from other providers). Resumes of key staff to be engaged on the project were reviewed as part of the evaluation of this criterion. An independent financial check was also undertaken to confirm the tenderers financial capacity to undertake the work. Tenderer's were also to provide details of other similar recent (past 5-years) and relevant projects to enable evaluators to assess this criterion.
- Track Record: The track record of the Tenderer's organisation on similar projects. The tenderer provided details of referees for contact by the TEP to assist with evaluation of this criterion.
- Price

The evaluation criterion and their weightings were documented in the Contract development Plan and approved by the Acting Director Shire Services prior to tenders being invited. The Contract Development Plan is available on file.

**Contract CPA 130386 - Professional Engineering Consulting Services – Mardi to Mangrove Creek Link (contd)*****Probity***

In addition, a Tender Evaluation Plan and a Contract Specific Probity Plan were developed and signed off by the General Manager prior to tenders being evaluated. These documents were also reviewed and signed off by an independent probity officer, also prior to tenders being evaluated. The Tender Evaluation Plan and Probity Plan are available on file.

**Assessment of Receipt**

The following tenders were received:

<b>Tenderer</b>	<b>Tendered Sum (excl GST)</b>	<b>Correction for arithmetic or other departures</b>	<b>Status</b>
A – Tenix Projects a trading division of Tenix Alliance Pty Ltd (Tenix)	\$4,936,826.69	\$5,026,376.69	Submitted on time
B – SMEC Australia Pty Ltd (SMEC)	\$4,690,670.00	\$4,690,670.00	Submitted on time
C – MWH Australia Pty Ltd (MWH)	\$4,112,421.82	\$4,299,601.82	Submitted on time
D – Maunsell Australia Pty Ltd (Maunsell)	\$5,040,637.00	\$5,109,137.00	Submitted on time
E – GHD	\$5,923,376.36	\$5,944,476.36	Submitted on time
F – NSW Department of Commerce	\$4,888,705.00	\$4,888,705.00	Submitted on time

The above prices include:

- Lump sums
- Schedule rate items
- Provisional sums

## **Contract CPA 130386 - Professional Engineering Consulting Services – Mardi to Mangrove Creek Link (contd)**

Professional Services costs for design, approvals and construction supervision were estimated at \$6.3 Million (excluding GST) for the tendered works including provisional sums and excluding contingency allowances. None of the tenderers exceeded this estimate.

### **Due Diligence**

The following due diligence checks were then undertaken:

- Independent financial checks (on all tenderers apart from the NSW Department of Commerce)
- Independent review of insurance levels and policies provided (all tenders)
- Referee checks of at least two referees for each tender to support evaluation of track record (all tenders)

### **Assessment of Conformance**

Prior to the TEP considering price submissions, tenders were assessed for conformance with the general tender requirements, including the specification. A summary of key tender conformance issues following clarifications with tenderers is shown in the table below:

Tenderer	Total Conformance (Yes / No)				
	Insurances	Financial	Completed inputs schedules and prices as per requirements	Conformance with specific requirements	Conformance with Tender submission requirements
A – Tenix	No	No	Yes	Yes	Yes
B – SMEC	Yes	Yes	No	Yes	No
C – MWH	No	Yes	Yes	No	Yes
D – Maunsell	No	Yes	No	Yes	Yes
E – GHD	Yes	Yes	Yes	Yes	Yes
F – NSW Department of Commerce	No	Yes	No	Yes	Yes

The major areas of non-conformance are described in more detail below.

Tenix:

- was the only tenderer to receive an unsatisfactory financial rating from Council's financial advisers Kingsway.
- they have assumed a limitation in liability from the insurance requirements that are defined in the specification. This departure was viewed as not acceptable.

**Contract CPA 130386 - Professional Engineering Consulting Services – Mardi to Mangrove Creek Link (contd)**

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## SMEC:

- In general, the majority of the submission did not focus on the key criteria as set out by the request for tender document. Tenderers were required to address each of the non-price criteria which were: risk and opportunity management, methodology, capacity and experience, and track record. SMEC did not systematically do this as requested in the tender document.
- SMEC did not complete the input schedule as required, in particular with respect to the scheme concept report.

## MWH:

- was excluded from further scoring when an assessment of their returnable schedule *6.1.2 Compliance & Departures* was undertaken by the Tender Evaluation Panel. The TEP assessment was that the submission did not reach the required threshold and was therefore not shortlisted. A risk assessment was carried out against each of the departures. Departure areas noted as high risks were:
  - \* A design assumption that pipeline will be mild steel which would restrict Councils pipe supply options.
  - \* assumption that design was more advanced at commencement of contract than indicated in pre-tender briefing and in tender documentation.
  - \* it was assumed that design reviews would be received by the Consultant from the Client as a single consolidated set of review comments for each package. Subsequent comments would be addressed as time and expense items. The TEP considered it more appropriate to allow for multiple review points, and to allow more flexibility for the Client in the design review process within the lump sums.
  - \* narrow assumptions on construction methods such as assuming method of river crossings while number, location and type of river crossings has not yet been determined. Another example was the incorrect assumption that Wyong River pump station would be open-topped and that a superstructure is not required.
  - \* omission of key cost estimating requirements. For example, detailed design cost estimates were listed as an exclusion for the Wyong River Pump Station.
  - \* an insurance departure that was considered unacceptable and shifting a significant risk to the Council.

## Maunsell:

- failed to submit all input schedules with their original tender. Input schedules were not submitted for River off-take pump station, River off-take rising main, Mardi Dam Inlet upgrade, and the Overall Scheme Concept Report



### **Contract CPA 130386 - Professional Engineering Consulting Services – Mardi to Mangrove Creek Link (contd)**

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- while schedules received were sufficient to evaluate their tender using the evaluation criteria for price and non-price, there were inconsistencies in most of the schedules provided. For example, input hours indicated for Mardi Water Quality Works had significantly less hours than any other tenderers.
- they assumed a limitation in liability from the insurance requirements that are defined in the specification. This departure was viewed as not acceptable.

GHD had minor non-conformances that were not viewed as significant by the TEP.

NSW Department of Commerce:

- submitted input schedules that were not compliant with the request for tender. Clarifications enabled this tender to be evaluated. For example, they allocated time for the scheme assessment report across a number of individual concept reports rather than as a separate schedule as required. This showed a poor understanding of the importance of the overall scheme concept report asked for in the request for tender
- the public liability insurance policy submitted had exclusions that were viewed as not acceptable. The insurance does not cover design work (is a Contract Works Policy intended for construction), an out of date (2003) policy was provided, and a current certificate was not provided

#### **Shortlisting**

Tenders were shortlisted against conformance with the requirements for the request for tender document and specification.

Tender labelled C (MWH) was not evaluated by the team due to significant non-conformance with the request for tender requirements.

5 tenders were subsequently evaluated by the Tender Evaluation Panel.

#### **Weighted Evaluation**

Tenders were scored against each of the weighted evaluation criteria (including price and non-price elements), and are listed in descending order of weighted evaluation scores. Note that tender sums include lump sum amounts, schedule rate amounts, and provisional sums of \$330,000 (excluding GST).

**Contract CPA 130386 - Professional Engineering Consulting Services – Mardi to Mangrove Creek Link (contd)**

<b>Tender</b>	<b>Non-price score</b>	<b>Combined price and non-price score</b>	<b>Ranking</b>
E – GHD	79	63	1
D – Maunsell	66	60	2
B – SMEC	60	57	3
A – Tenix	56	55	4
F – Department of Commerce	52	52	5
C – MWH	Not Scored	Not Scored	-

GHD was identified as the preferred tender by the TEP with a non-price score 13% higher than Maunsell, the next highest ranked tenderer. The difference on non-price of 13% was reduced to 3% when price scoring was factored in. When combining both scores GHD remained as the preferred tenderer. The evaluation incorporated an overall risk assessment on the relative merits of tenders submitted, and a summary of the key differences in the top two ranked submissions is highlighted below.

***Benefits of Selecting GHD as the Preferred Tenderer***

The summary of the TEP findings in evaluating the GHD submission were:

**Risk and Opportunity Management:**

- Very good risk analysis
- A good outline of risk management system
- A comprehensive risk assessment
- Continuity with methodology was good
- Handled integration of design and approvals, construction well
- This tender provided significantly greater understanding of scheme concept and associated risks.
- This tender showed a greater appreciation of project delivery risks and mitigation strategies.
- Having environmental accreditation to ISO 14001 provided the TEP with greater assurance the environmental compliance would be achieved .

**Methodology**

- Locating key leadership team predominantly at Wyong project team office
- Approach promotes integration with the broader project team
- The nominated team has successfully delivered a similar project using demonstrated methodologies upon which this project can rely in the immediate past
- Demonstrated understanding of issues in integration of requirements of components in overall scheme
- Covered all required / key areas well.

## **Contract CPA 130386 - Professional Engineering Consulting Services – Mardi to Mangrove Creek Link (contd)**

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### Capacity

- Good availability of back up resources with pipeline expertise in Sydney and pump stations expertise in Newcastle
- The tenderer is about to open a new office in Wyong, and they will utilise key people from other landmark eastern seaboard projects (such as Sydney Water's Desalination Plant, and the Western Corridor) to support this project through that office.
- Schedule rates of staff are significantly lower than other tenderers
- Good level of technical expertise and experience
- This was the only substantially conforming tender.

### Track Record

- Projects offered were very relevant
- Referee reports were very good.

The TEP assessment is that the tender submitted by GHD, was rated the highest in non-price evaluation criteria. The tender from GHD presented the most comprehensive response to the tender requirements in nearly all areas, and demonstrated in their submission a good understanding of the specific project demands and requirements.

### ***Issues Identified With Next Highest Ranked Tenderer - Maunsell***

Some areas highlighted by the TEP in their evaluation were:

- A key risk and opportunity management requirement was for tenderers to focus on opportunities as well as risk. Maunsell did not focus their approach towards identifying and managing opportunities. The TEP was of the view that there are significant opportunities for the professional services consultant to add value to the project and this is potentially a critical project success factor. The focus of consultants should be both risk and opportunity oriented to maximise their value to Council.
- Adequate provision of back up resources was not demonstrated in the submission. Given the pressure on resources in the market, this is potentially a high risk to the project. Where tendered resources move away from the project there needs to be sufficient back up resources to fill gaps in expertise and experience to ensure the project achieves time critical milestones.
- The TEP was not satisfied that this tenderer understood that the Professional Services provider is to be driving the approvals process. This is a high risk area for the project and would require significant additional resourcing by Council if not managed by the Consultant.

**Contract CPA 130386 - Professional Engineering Consulting Services – Mardi to Mangrove Creek Link (contd)**

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**BUDGET**

Funding of \$80.3 Million has been approved by the Federal Government for this project. A Funding Deed has been signed between Wyong Shire Council (representing the Gosford / Wyong Councils Water Authority) and the Commonwealth of Australia (represented by and acting through the National Water Commission). Professional Services costs for design,

approvals and construction supervision were estimated at \$6.3 Million (excluding GST) for the tendered works including provisional sums and excluding contingency allowances. None of the tenders exceeded this professional services estimate. Note that an updated total project estimate for the scheme is to be presented to the GWCWA Board Meeting in February 2008.

**TIME-FRAME**

Key project milestones relating to the professional services contract are:

<b>Key milestone</b>	<b>Date</b>
Handover report to professional services consultant	December 2007
Finalise concept designs	February 2008
Complete detailed design of project elements	June 2008
Earliest likely construction commencement date (some key elements such as Mangrove Creek Dam outlet works targeted for early commencement)	August 2008
Key approvals granted (Agencies, Council)	November 2008
Commencement of main construction components	December 2008
Handover and Commissioning	July 2010

**LOCAL CONTENT**

The preferred tenderer has indicated they are about to establish an office in Wyong to help service the Central Coast. This brings potential economic benefits locally, and aligns with their current employment of a number of Newcastle office based personnel who reside within the Wyong local government area. They will, however, also be using remote resources in Sydney, Newcastle and beyond where specialist expertise is required for particular aspects of the project and there is not a need for these staff to be based in Wyong.

### **Contract CPA 130386 - Professional Engineering Consulting Services – Mardi to Mangrove Creek Link (contd)**

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It is expected that the number of people based in the Council's project office will vary through the project dependant on the project activities (that is, design resource commitment is different from construction supervision). At start up a key management team of around four staff will be based in the project offices for a large amount of their time, coordinating design and approvals activities in their Sydney and Newcastle offices. During construction this number is likely to be significantly higher. In addition, GHD has indicated a flexible approach to locate the people where they can best add value, therefore if they need to be based in Wyong to deliver the best project outcome, they will be.

The preferred tenderer is the only tenderer who indicated that they were establishing a local office in Wyong while they also committed to locating their key leadership team predominantly in the Wyong Project Office.

#### **CONCLUSION**

GHD is a Sydney and Newcastle based consultancy with a history of successfully completed contracts similar in nature and scope to the current works. The company has in place fully documented Occupational Health Safety and Rehabilitation Management and Environmental Management systems.

The amount tendered by GHD is 6% below Council's pre-tender estimate and is considered to represent a reasonable price for the contract works.

The tender from GHD is the highest scoring tender and meets all of Council's requirements for this contract and on balance represents the best value-for-money for Council.

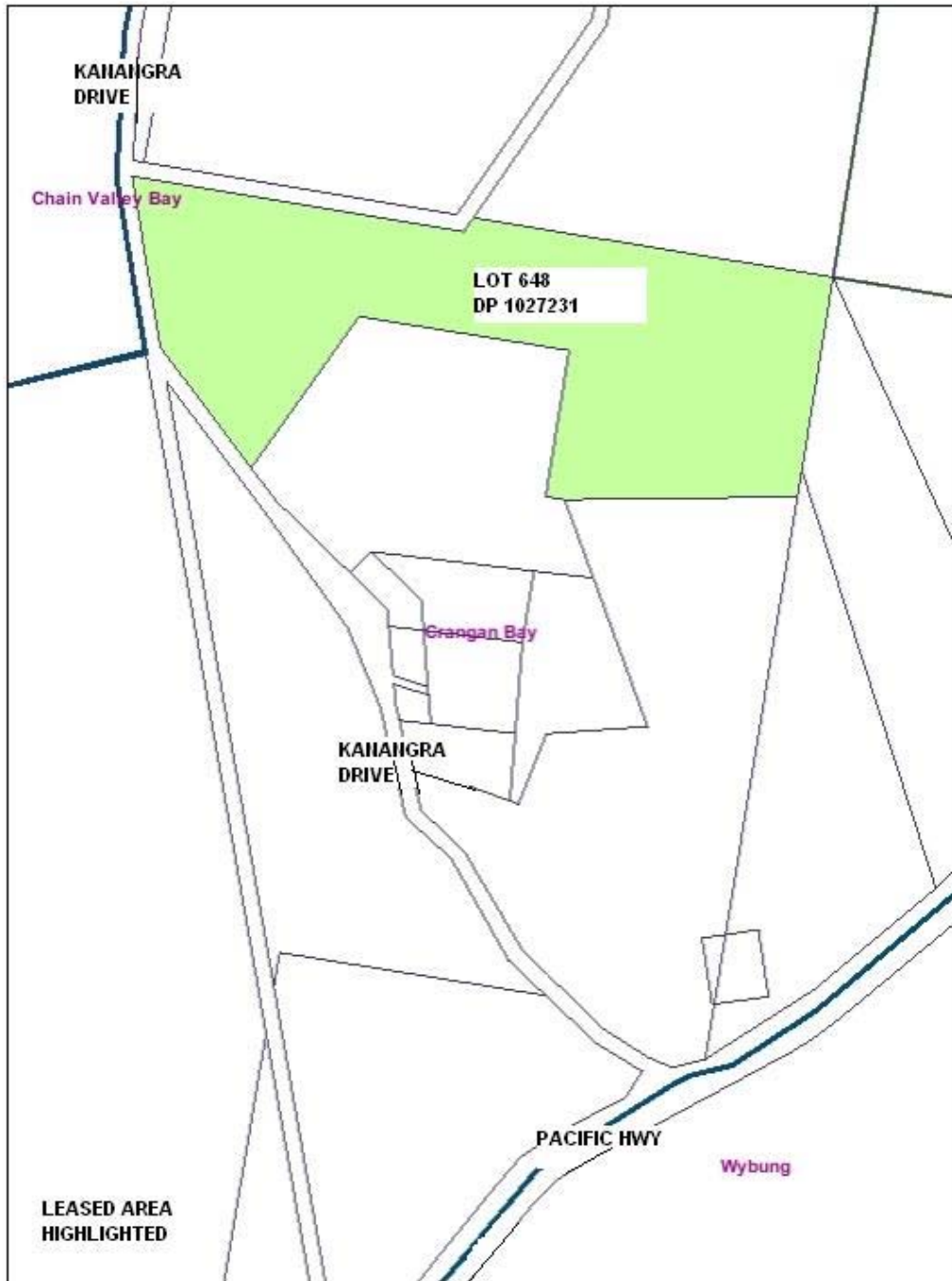
***Enclosure***

***Map of overall scheme***

**544                    Renewal of Lease to Wyong District Pistol Club of Crown Land  
Lot 648 DP 1027231, Kanangra Drive, Crangan Bay  
(Attachment 1)**

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**Locality Plan**



## WYONG SHIRE COUNCIL

12 December 2007  
To the Ordinary Meeting of Council

Director's Report  
Corporate Services Department

**544                      Renewal of Lease to Wyong District Pistol Club of Crown Land  
Lot 648    DP 1027231, Kanangra Drive, Crangan Bay**

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F2005/00487 JMT

## SUMMARY

Approval is sought to renew the lease of part of Crown Reserve 96201 being Lot 648 DP 1027231 Kanangra Drive, Crangan Bay to Wyong District Pistol Club.

## RECOMMENDATION

- 1     *That Council authorise a lease to Wyong District Pistol Club of Lot 648 DP 1027231, Kanangra Drive, Crangan Bay for a term of five years at a commencing rent of \$380 per annum exclusive of GST subject to annual CPI increases and generally on the same terms and conditions that currently apply.***
- 2     *That Council authorise for the Common Seal of the Wyong Shire Council to be affixed to the Lease between the Gwandalan Recreation (R96201) Reserve Trust and Wyong District Pistol Club.***
- 3     *That Council authorise the Mayor and the General Manager to execute all documents relating to the Lease between the Gwandalan Recreation (R96201) Reserve Trust and Wyong District Pistol Club.***

## BACKGROUND

Council, as manager of Gwandalan Recreation (R96201) Reserve Trust, leases to the Wyong District Pistol Club (the Club), Lot 648 DP 1027231, Kanangra Drive, Crangan Bay for use as a firearm target shooting range and activities associated therewith. The current lease is for a term of five years and expires on 31 December 2007. The current rent is \$70 per annum.

The Club has requested that, upon expiry of the current lease, a new lease be granted by Council generally on the same terms.

Lot 648 DP 1027231, Kanangra Drive, Crangan Bay forms part of Crown Reserve R96201 for Public Recreation (the Land). Council was appointed Manager of Gwandalan Recreation (R96201) Reserve Trust on 13 August 1982. The Land has an area of approximately 21.29 hectares and is zoned 7 (b) Scenic Protection.

The Reserve Trust has power to lease under the provisions of Section 102 of the Crown Lands Act 1989 subject to the consent of the Minister administering the said Act first being obtained and subject to such conditions, restrictions, reservations and covenants, as the Minister thinks desirable.

**Renewal of Lease to Wyong District Pistol Club of Crown Land Lot 648 DP 1027231, Kanangra Drive, Crangan Bay (contd)**

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The Minister for Lands has given approval in principle to the renewal of the lease subject to an annual rent of \$380 being applied and subject to annual CPI reviews.

Council's Shire Services and Shire Planning Departments have no objections to the renewal of the lease.

The Club has leased the Land since 1983 and operates two target pistol ranges. The Club is a not for profit sporting group with 32 members. Membership fee concessions are given to pensioners, junior members and life members of the Club. Membership fees and visitors' fees are the Club's sole income and the Club has expenses such as insurance and affiliation to the governing body (NSW Amateur Pistol Association), targets, target frames, club guns for the use of new members and plant and equipment for the maintenance of the range.

***Attachment 1***

***Locality Plan (1 page)***



**WYONG SHIRE COUNCIL**

12 December 2007  
To the Ordinary Meeting of Council

Director's Report  
Corporate Services Department

**545 Association of Mining Related Councils Inc**

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F2006/00259 ED

**SUMMARY**

Reporting on membership of the Association of Mining Related Councils Inc.

**RECOMMENDATION**

- 1** *That Council consider whether or not to continue as a member of the Association of Mining Related Councils Inc.*
- 2** *That if membership is continued, Council host a meeting of the Association of Mining Related Councils Inc in 2008.*

**BACKGROUND**

At its meeting held on 22 November 2006 Council resolved as follows:

- “1 That Wyong Shire Council rejoin the Association of Mining Related Councils Inc.*
- 2 That the Mayor or nominee, plus one staff member be nominated as delegates.*
- 3 That this membership be reviewed in 12 months time.*
- 4 That the minutes of the Association of Mining Related Councils Inc meetings be reported back to Council.”*

The membership cost of \$6,550.00 was paid and four meetings of the Association of Mining Related Councils Inc were held during 2007. The former Mayor Cr Graham attended the first meeting at Gloucester Shire Council on 9 February 2007 with Council's Contracts Engineer, and minutes from that meeting were submitted to Council on 11 April 2007.

Apologies were submitted for the meeting held in Narrabri on 11 May 2007 and meeting minutes were submitted to Council on 11 July 2007. Apologies were also submitted for the meeting held in Mudgee on 31 August 2007 and minutes are provided as Enclosure 1. These minutes refer to the Association's submission to the Wyong Strategic Inquiry Panel and that submission is provided as Enclosure 2. The Acting Manager, Contracts and Special Projects attended the meeting held at Quirindi on 9 November 2007 and minutes are provided as Enclosure 3.

**Association of Mining Related Councils Inc (contd)**

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He believes that membership of the Association would be of advantage to Council for a further 12 months given that it now appears the Wallarah 2 coal mine proposal for Wyong Shire is most likely to be submitted to the State Government in the first half of 2008. The Association has member Councils from across NSW and could provide advice, support and contacts for Council in relation to the proposed coal mine application.

In the event that Council did agree to continue its membership in 2008, on behalf of the Mayor an offer was made to host one of the Association's quarterly meetings in February 2008. The tentative dates for next year's meetings are as shown. These are all subject to acceptance by the various Councils.

Friday 15 February 2008	Wyong
Friday 16 May 2008	Broken Hill
Friday 15 August 2008	Parkes
Friday 14 November 2008	Lithgow

If membership is continued and that occurred, Council would be expected to host lunch on the day of the meeting and that could be done in house resulting in a cost of around \$400 depending on how many people attended.

**Enclosures**

***Minutes of NSW Association of Mining Related Councils Inc  
Executive Committee Meeting 31 August 2007***

***Submission from the Association of Mining Related Councils  
Inc to the Wyong Strategic Inquiry Panel***

***Minutes of NSW Association of Mining Related Councils Inc  
Executive Committee Meeting 9 November 2007***

## WYONG SHIRE COUNCIL

12 December 2007  
To the Ordinary Meeting of Council

Director's Report  
Corporate Services Department

### **546                      Schedule of Ordinary Meetings 2008**

F2006/02282 ED

#### **SUMMARY**

Reporting the scheduling of Ordinary Meetings for 2008.

#### **RECOMMENDATION**

*That the schedule of meeting dates proposed for 2008 be adopted.*

#### **BACKGROUND**

In accordance with Clause 6(2) of Council's Code of Meeting Practice, Ordinary Meetings of Council are held on the second and fourth Wednesday of each calendar month, with the exception of the last scheduled meeting in December and the first scheduled meeting in January, commencing at 5.00 pm.

The Local Government Election is scheduled for Saturday 27 September 2008 and in accordance with Clause 290 of the Local Government Act, the meeting to elect the Mayor must be held within three weeks of that date. At that meeting, the newly elected Council will decide on a meeting schedule for the remainder of the year. It is proposed to tentatively schedule the Mayoral election for 15 October 2008 but that date will depend on when the Poll is declared by the Electoral Commission.

Meetings for 2008 will therefore be held as follows:

Wednesday 23 January 2008	Wednesday 11 June 2008
Wednesday 13 February 2008	Wednesday 25 June 2008
Wednesday 27 February 2008	Wednesday 9 July 2008
Wednesday 12 March 2008	Wednesday 23 July 2008
Wednesday 26 March 2008	Wednesday 13 August 2008
Wednesday 9 April 2008	Wednesday 27 August 2008
Wednesday 23 April 2008	Wednesday 10 September 2008
Wednesday 14 May 2008	Wednesday 24 September 2008
Wednesday 28 May 2008	Wednesday 15 October 2008

## WYONG SHIRE COUNCIL

12 December 2007  
To the Ordinary Meeting of Council

Director's Report  
Corporate Services Department

**547 Proposed Councillors' Community Improvement Grants**

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F2007/00729 SG

**SUMMARY**

Councillors proposed the following allocation of funds for expenditure from Councillors' Community Improvement Grants.

**RECOMMENDATION**

*That an amount of \$11,623 be allocated from the 2007/2008 Councillors' Community Improvement Grants as outlined in Attachment 1.*

**BACKGROUND**

Funds are available and expenditure is permissible under Section 24 and 356(1) of the Local Government Act, 1993.

**Attachment 1**

***Councillors' Community Improvement Grants 2007/2008  
(2 pages)***

12 December 2007  
To the Ordinary Meeting of Council

Director's Report  
Corporate Services Department

## Proposed Councillors' Community Improvement Grants (Attachment 1)

### Proposed Councillors' Community Improvement Grants 2007/2008

COUNCILLORS' COMMUNITY IMPROVEMENT GRANTS ALLOCATION		Best	Eaton	Forster	Graham	Pavier	Rose	Stevens	Stewart	Veugen	Welham	SUB TOTAL
Allocation 01/07/2007 - 30/06/2008		7,500	7,500	7,500	7,500	7,500	7,500	7,500	7,500	7,500	7,500	75,000
Expenditure up to and including Ordinary Council Meeting of 28/11/2007		5,105	2,100	5,600	3,200	3,715	6,695	2,195	6,600	5,700	6,150	47,060
Available allocation as at 28/11/2007		2,395	5,400	1,900	4,300	3,785	805	5,305	900	1,800	1,350	27,940
Proposed Allocations for 12 December 2007												
Berkeley Vale Old School Community Committee	Assist with security lighting of carpark at community hall					400						400
Berkeley Vale Soccer Club	Assist to purchase a laptop computer and software to enable run the club more efficiently				500					300		800
Central Coast Hunter Region Cymbidium Society Inc	Assist to purchase a laptop computer and software to aid secretarial and digital presentations	150										150
Central Coast Volunteer Rescue Squad Inc	Assist to purchase equipment for members to perform their rescue duties	100				207				350		657
Gwandalan Out of School Hours Care	Assist with minor maintenance requirements to the Centre	100	200		200			250		300	200	1,250
Jesse's Voice Ltd	Assist with a Christmas Program called "Santa Scooter"					200						200
Manning Park Branch of the Country Women's Association of NSW	Assist to purchase a 5,000 litre water tank, pump and associated plumbing						250					250
Northern Lakes Power Junior Australian Football Club	Assist to provide new sporting equipment for kids and officials in the club	150										150
Shelly Beach Surf Life Saving Club Inc	Assist to purchase safety helmets for inflatable rescue boat crews with built in radio receivers	100			500	256				350		1,206
The Entrance Amateur Swimming Club	Assist to provide a secure and hygienic storage cupboard				500							500
The Entrance Junior Cricket Club	Assist with cricket equipment								350	200		550

**Proposed Councillors' Community Improvement Grants (Attachment 1)  
(contd)**

<b>COUNCILLORS' COMMUNITY IMPROVEMENT GRANTS ALLOCATION</b>		<b>Best</b>	<b>Eaton</b>	<b>Forster</b>	<b>Graham</b>	<b>Pavier</b>	<b>Rose</b>	<b>Stevens</b>	<b>Stewart</b>	<b>Veugen</b>	<b>Welham</b>	<b>SUB TOTAL</b>
The Entrance Rugby Club Inc	Assist with construct a field BBQ facility to augment canteen fund raising and facilities				500							500
Toowoan Bay Surf Life Saving Club	Assist with BBQ cost for working bee on Swadling Park and Toowoan Bay Surf Club								100			100
Toukley Torch Bearers for Legacy	Assist with raising funds for Brisbane Water Legacy and local war widows and children							250				250
Tuggerah Lakes Memorial Pistol Club	Assist in the purchase and erection of acoustic tiles to Ranges 1 and 2	100			500	240						840
Tuggerah Tufts Winter Swim Club Inc	Assist with construction of retaining wall below swimming club rooms at The Entrance Pool			500	500	400						1,400
Tuggerah United Soccer Club	Assist with lighting of football fields				500							500
Tyler Thompson	Assist to purchase a walking frame for a child with a muscular problem	100		300		220	300	400	450			1,770
Wadalba Community School	Assist with annual presentation day with purchase of student awards	50			100							150
<b>Total Proposed Allocations for 12/12/2007</b>		<b>850</b>	<b>200</b>	<b>800</b>	<b>3,800</b>	<b>1,923</b>	<b>550</b>	<b>900</b>	<b>900</b>	<b>1,500</b>	<b>200</b>	<b>11,623</b>
<b>Total Accumulated Allocations as at 12/12/2007</b>		<b>5,955</b>	<b>2,300</b>	<b>6,400</b>	<b>7,000</b>	<b>5,638</b>	<b>7,245</b>	<b>3,095</b>	<b>7,500</b>	<b>7,200</b>	<b>6,350</b>	<b>58,683</b>
<b>Deferred Allocation Friends of Toukley pending further information 31/10/07</b>		<b>500</b>	<b>500</b>									<b>1,000</b>
<b>Deferred Allocation Stop Korean Coal Mining subject legal advice 14/11/07</b>		<b>500</b>	<b>500</b>							<b>300</b>		<b>1,300</b>
<b>Pending Allocations to next meeting or requiring further information</b>					<b>500</b>							<b>500</b>
<b>Total of Pending and Deferred Allocations</b>		<b>1,000</b>	<b>1,000</b>		<b>500</b>					<b>300</b>		<b>2,800</b>
<b>Balance of Accumulated and Pending Allocations</b>		<b>6,955</b>	<b>3,300</b>	<b>6,400</b>	<b>7,500</b>	<b>5,638</b>	<b>7,245</b>	<b>3,095</b>	<b>7,500</b>	<b>7,500</b>	<b>6,350</b>	<b>61,483</b>
<b>Balance Uncommitted as at 12/12/2007</b>		<b>545</b>	<b>4,200</b>	<b>1,100</b>	<b>0</b>	<b>1,862</b>	<b>255</b>	<b>4,405</b>	<b>0</b>	<b>0</b>	<b>1,150</b>	<b>13,517</b>

**WYONG SHIRE COUNCIL**

12 December 2007  
To the Ordinary Meeting of Council

General Manager's Report

**548 Central Coast Mariners Partnership**

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F2004/07942 RAB:LS

**SUMMARY**

Reporting on a proposal to continue joint partnership funding of the Central Coast Mariners to promote the Central Coast for a further 12 months.

**RECOMMENDATION**

***That, subject to agreement by Business Central Coast, Gosford City Council and the Department of State and Regional Development Council provide \$105,000 from the 2007/08 Economic Development project funds for continued funding of the Central Coast Mariners.***

**Introduction**

In 2006, Council agreed to provide partnership funding together with Business Central Coast, Gosford City Council and the Department of State and Regional Development. The funding allowed the branding of the elite sports team representing the Central Coast to be known as the Central Coast Mariners.

During the past 12 months the Central Coast Mariners have played in the national A-League and internationally in the Asian Football Confederation. The Central Coast Mariners have generated significant employment across the Central Coast with their home games bringing large volumes of people to the coast on a regular basis.

To date the Central Coast Mariners have enjoyed a 4.8% increase on average attendance over the previous year. It is expected that attendances will remain at this level or improve slightly and this has allowed the community to get behind the Central Coast Mariners and has built community pride at a national level and supports the concept of the Central Coast as a separate region and builds the Central Coast identity.

The Central Coast Mariners have several key objectives relating to business growth, investment and relocation. Their aim is to assist local businesses to maximise their returns from leveraging off and partnering with the Mariners by the value of contacts gained by local exporters through networking at the games events with overseas delegations and external businesses. The Mariners also campaign in other states at away games which are used as a focal point for initial meetings and sharing of information about the Central Coast. This information sharing is also extended at international games, which brings recognition of the Central Coast.

With the home games comes teams from all of the other states and this allows networking with their team members, associates and supporters to build contacts and leads for possible relocations, start-ups, expansion and investment by both the private and corporate sector.

**Central Coast Mariners Partnership (contd)**

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Over the past season, the number of qualified relocations and prospective contacts has increased and has allowed networking which has led to actual outcomes of firms relocating to the Central Coast and thus creating new jobs on the Coast.

There has also been a strong drive to promote business to business growth on the Central Coast coupled with the showcasing, associated advertising, co-branding of market materials and webpage/newspaper articles on the Central Coast Mariners.

With the Mariners' international commitments have come opportunities to expand the identity of the Central Coast as a tourist destination in the Asian and China market with a recent visit from several highly influential Chinese and Korean travel agents.

The Central Coast Mariners have built a program that allows community membership and support similar to that of other codes and there is strong television coverage of every A-League Football game on Fox Sports and this is repeated a number of times. Coverage is also building on commercial television channels, radio and print media and this has supported the branding of the Central Coast.

Recently, Business Central Coast received a comprehensive report from the General Manager, Mr Kerry Ruffels on the activities of the Central Coast Mariners A-League for the previous 12 months. A copy of Mr Ruffels' report is annexed as an enclosure.

**Funding**

The proposal is for the funding partners to provide an amount of \$315,000 made up as follows:

- 1 Each Council to provide \$105,000 from project funds.
- 2 Matching funds of \$105,000 from the state government through the Department of State and Regional Development.

Provision has been made in the draft 2007/08 Management Plan for economic development project funding which would be available to cover the above proposal.

**CONCLUSION**

There is no doubt that sponsorship of the Central Coast Mariners has raised the profile of the Central Coast both nationally and internationally. Considerable promotion work has been undertaken with the Mariners and both the A-League and the Mariners have become well recognised and there is a continued opportunity to promote the region, growth and regional investment.



12 December 2007  
To the Ordinary Meeting of Council

General Manager's Report

### **Central Coast Mariners Partnership (contd)**

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It should be noted that there has been widespread support from many businesses on the Central Coast who have come on board with sponsorship for the Central Coast Mariners, this has been used to tremendous advantage by these companies particularly during home games where they are able to host prospective clients and investors from inter and intra state in the corporate facilities to grow their businesses and increase the identify and branding of the Central Coast as a separate region.

There are approximately 30 companies that have taken advantage of this support for the Mariners, including national brands such as Masterfoods, Belkin, Keystone, Halley & Mellowes, Magenta Shores and Blue Tongue.

**Enclosure**

***Summary Report to Business Central Coast 2007 (prepared by Kerry Ruffles)***

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## WYONG SHIRE COUNCIL

12 December 2007  
To the Ordinary Meeting of Council

Committee Report

**549**                      **Minutes of the Wyong Shire Governance Committee Meeting –  
28 November 2007**

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F2004/07245 MR

**SUMMARY**

Minutes of the Governance Committee Meeting held on 28 November 2007.

**RECOMMENDATION**

***That the minutes of the Wyong Shire Governance Committee meeting held on 28 November 2007 be received and the recommendations contained therein, adopted.***

A meeting of Council's Wyong Shire Governance Committee was held on 28 November 2007 at 10.00 am. The Governance Committee considered a confidential report on Wyong Community Recreation Association. Accordingly the minutes of that meeting are to be provided under separate cover.

**Enclosure**

***Minutes of the Wyong Shire Governance Committee (to be provided under separate cover)***

**WYONG SHIRE COUNCIL**

12 December 2007  
To the Ordinary Meeting of Council

Director's Report  
Corporate Services Department

**550                      Minutes of the Sports Equipment Grant Panel Meeting -  
20 November 2007**

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F2007/01294 ED

**SUMMARY**

Council's Sports Equipment Grant Panel met on 20 November 2007 to consider applications for funding under the grants program. A copy of the minutes is attached.

**RECOMMENDATION**

***That the minutes of the Sports Equipment Grant Panel meeting held on 28 November 2007 be received and the recommendations contained therein, adopted.***

A meeting of the Sports Equipment Grant Panel was held on 20 November 2007 and a copy of the minutes of that meeting are attached.

***Attachment 1                      Sports Equipment Grant Panel meeting – 20 November 2007  
(6 Pages)***

12 December 2007  
To the Ordinary Meeting of Council

Director's Report  
Corporate Services Department

**Minutes of the Sports Equipment Grant Panel Meeting held on 20 November  
2007 (Attachment 1)**

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**WYONG SHIRE COUNCIL**

MINUTES OF THE  
**SPORTS EQUIPMENT GRANT PANEL**  
HELD ON LEVEL 4 IN THE CONFERENCE ROOM  
WYONG CIVIC CENTRE, HELY STREET, WYONG  
ON TUESDAY, 20 NOVEMBER 2007  
COMMENCING AT 9.38 AM

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***INDEX***

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**PRESENT**

COUNCILLOR R E STEWART (CHAIRPERSON), COMMUNITY DEVELOPMENT MANAGER, SPORTS  
LIAISON OFFICER AND MARDI LOVE (DEPARTMENT OF SPORT & RECREATION)

**IN ATTENDANCE**

AN ADMINISTRATION OFFICER.

**APOLOGY**

THERE WERE NO APOLOGIES.

**Minutes of the Sports Equipment Grant Panel Meeting held on 20 November 2007 (Attachment 1) (contd)**

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**SEG03 Disclosure of Pecuniary Interest**

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F2004/06507 SM

**SEG05 Applications for 2007/2008**

COUNCILLOR STEWART DECLARED A PECUNIARY INTEREST IN ITEM 14 FOR THE REASON THAT HER GRANDSON IS A MEMBER OF THE BERKELEY VALE SOCCER CLUB, REMAINED IN ROOM, TOOK NO PART IN DISCUSSION FOR THIS APPLICATION, DID NOT VOTE.

**SEG05 Applications for 2007/2008**

THE SPORTS LIAISON OFFICER DECLARED A PECUNIARY INTEREST IN ITEM 25 FOR THE REASON SHE IS A PERSONAL FRIEND OF A MEMBER OF BLUE THUNDER SOFTBALL CLUB, LEFT THE ROOM AT 10.42 AM, TOOK NO PART IN DISCUSSION FOR THIS APPLICATION, DID NOT VOTE AND RETURNED TO THE ROOM AT 10.45AM.

**SEG05 Applications for 2007/2008**

COUNCILLOR STEWART DECLARED A PECUNIARY INTEREST IN ITEM 43 FOR THE REASON THAT HER DAUGHTER TEACHES AT GWANDALAN PUBLIC SCHOOL, LEFT THE ROOM AT 11.05AM, TOOK NO PART IN DISCUSSION FOR THIS APPLICATION, DID NOT VOTE AND RETURNED TO THE ROOM AT 11.08AM.

**PANEL RECOMMENDATION**

*That the report be received and advice of disclosures noted.*

**SEG04 Minutes of Meeting Held on 30 May 2007**

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F2007/00635 ED

**PANEL RECOMMENDATION**

*That the report be received and the information noted.*

## **Minutes of the Sports Equipment Grant Panel Meeting held on 20 November 2007 (Attachment 1) (contd)**

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### **SEG05 Applications for 2007/2008**

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F2007/01294 ED

#### **SEG05 Applications for 2007/2008**

COUNCILLOR STEWART DECLARED A PECUNIARY INTEREST IN ITEM 14 FOR THE REASON THAT HER GRANDSON IS A MEMBER OF THE BERKELEY VALE SOCCER CLUB, LEFT THE ROOM AT 10.16AM, TOOK NO PART IN DISCUSSION FOR THIS APPLICATION, DID NOT VOTE AND RETURNED TO THE ROOM AT 10.18AM.

#### **SEG05 Applications for 2007/2008**

THE SPORTS LIAISON OFFICER DECLARED A PECUNIARY INTEREST IN ITEM 25 FOR THE REASON SHE IS A PERSONAL FRIEND OF A MEMBER OF BLUE THUNDER SOFTBALL CLUB, LEFT THE ROOM AND 10.42 AM, TOOK NO PART IN DISCUSSION FOR THIS APPLICATION, DID NOT VOTE AND RETURNED TO THE ROOM AT 10.45AM.

#### **SEG05 Applications for 2007/2008**

COUNCILLOR STEWART DECLARED A PECUNIARY INTEREST IN ITEM 43 FOR THE REASON THAT HER DAUGHTER TEACHES AT GWANDALAN PUBLIC SCHOOL, LEFT THE ROOM AT 11.05AM, TOOK NO PART IN DISCUSSION FOR THIS APPLICATION, DID NOT VOTE AND RETURNED TO THE ROOM AT 11.08AM.

### **PANEL RECOMMENDATION**

***That a report be referred to Council's Ordinary Meeting of 12 December 2007 recommending the following:***

- 1 *That \$28,564.46 be allocated from the Sports Equipment Grant 2007-2008 to the following Sport Applicants:***

<b>Recipient</b>	<b>Recommended Funding (\$)</b>
Doyalson Wyee Soccer Club Inc	\$990.00
Ourimbah University Football Club	\$1,503.05
Central Coast Junior Hockey Assoc	\$709.98
Killarney Vale Football Club Inc	\$1,524.19
Budgewoi Netball Club Inc	\$1,522.97
The Entrance Amateur Swimming Club Inc	\$484.92
Norah Head Hockey Club	\$1,406.00
Wyong District Pistol Club	\$414.67

**Minutes of the Sports Equipment Grant Panel Meeting held on 20 November 2007 (Attachment 1) (contd)****SEG05 Applications for 2007/2008 (contd)**

Mingara Killarney District Netball Club	\$1289.93
Bateau Bay Netball Club	\$1852.35
Berkeley Vale Soccer Club	\$1,969
Coastal Lakes Indoor Bowls Association	\$800.00
Mingara Men's Bowling Club	\$600.05
Mingara Woman's Bowling Club	\$642.02
Lakes Wyong Netball Club	\$1,419.55
Ourimbah Rugby Union Club	\$1,400.98
Northlakes United Rugby Union Club Inc	\$1,319.01
Budgewoi Sailing Club	\$492.14
Wyong Lakes Australian Football Club	\$933.70
The Entrance Water Polo Club Inc	\$969.99
Blue Thunder Softball Club	\$853.41
Comets Softball Club Incorporated	\$769.75
The Entrance Junior Rugby League Football Club	\$1949.20
Dragon's Abreast Central Coast Inc	\$398.00
Shelly Beach Surf Life Saving Club Inc	\$649.00
Toowoan Bay Lifesaving Club	\$1700.60

- 2** *That \$5,134.75 be allocated from the Sports Equipment Grant 2007-2008 to the following Community Applicants:*

<b>Recipient</b>	<b>Recommended Funding (\$)</b>
Toukley Haven Scouts	\$268.97
Warnervale Family and Community Centre	\$198.00
Central Coast Post School Options	\$550.00



**Minutes of the Sports Equipment Grant Panel Meeting held on 20 November 2007 (Attachment 1) (contd)**

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**SEG05 Applications for 2007/2008 (contd)**

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Bateau Bay Police and Community Youth Club	\$1,063.60
Youth Connections Inc	\$696.06
Scout Association of Australia – NSW Branch 1 <sup>st</sup> Mannering Park Sea Scouts	\$900.00
Colongra Koala Kids Playgroup (Playgroup Associate NSW No. 3301)	\$164.89
Girl Guides Association NSW – Tumby Vale District Management Team	\$402.90
The Entrance Pre-school Kindergarten	\$890.34

**3 That \$13,064.55 be allocated from the Sports Equipment Grant 2007-2008 to the following School Applicants:**

<b>Recipient</b>	<b>Recommended Funding (\$)</b>
Dooralong Public School	\$198.00
Gwandalan Public School	\$1,714.59
Wyong Christian Community School	\$1,792.80
Tacoma Public School	\$332.74
Central Coast Rudolf Steiner School	\$907.90
Tuggerah Public School	\$2,449.12
Gorokan Public School	\$1,166.33
Jilliby Public School P&C Association	\$739.06
Brooke Ave Public School P&C Association	\$1,486.86
Ourimbah Public School	\$1,817.97
St Cecilia's Primary School Wyong	\$459.20

**Minutes of the Sports Equipment Grant Panel Meeting held on 20 November 2007(Attachment 1) (contd)**

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**SEG05 Applications for 2007/2008 (contd)**

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**4 That the following applications be determined as indicated in the table below:**

<b>Applicant</b>	<b>Amount (\$)</b>	<b>Panel Recommendation</b>
Tae Zen Do Ryu Karate	\$1,437.18	Reject – operates as a business
Wyong District Hockey Club	\$1,325.00	Reject – items too expensive
Wolvettes Softball Club Inc	\$1,999.45	Reject – not located within the Shire
The Entrance Bateau Bay AFC Inc	\$1903.50	Reject – no report or receipt received from 2006/2007
Wyong Neighbourhood Centre Inc	\$500.00	Reject – application incomplete
Toukley Girl Guides	\$1,295	Reject – item too expensive

**5 That the application form be updated as follows:**

- a That there only be one column requesting the current participation figures in total.**
- b That the wording in the Guidelines be changed from “increase participation and reduce barriers” to “increase participation and/or reduce barriers”.**

THERE BEING NO FURTHER BUSINESS, THE PANEL MEETING CLOSED AT 1.46 PM.

## **Information Reports**

The following information reports are to be dealt with by the exception method.

## WYONG SHIRE COUNCIL

12 December 2007  
To the Ordinary Meeting of Council

Director's Report  
Corporate Services Department

### **551 Schedule of Bank Balances and Investments – October 2007**

F2004/06604 HS

#### **SUMMARY**

The attached Schedule of Bank Balances and Investments as at 31 October 2007 are submitted for information.

#### **RECOMMENDATION**

***That the report be received and the information noted.***

Council's investments are made in accordance with the Local Government Act (1993), the Local Government (General) Regulation (2005) and Council's Investment Policy which was adopted by Council on 22 November 2006 (Minute No. 519).

The Schedule of Bank Balances and Investment Accounts shows that Council has total cash and investment funds of \$96,933,142 as at 31 October 2007. This compares to an opening balance of \$108,877,984 as at 1 July 2007. These funds are invested with Fund Managers in accordance with Council's decision to adopt an investment policy that involves the use of external Fund Managers.

During the month of October interest earned (net of fees) on Council's investments was \$482,050 and financial year to date earnings were \$1,539,097.

The following table provides a summary by fund of the above information:

	<b>Investment Balances</b>		<b>Interest</b>	
	<b>Opening Balance</b>	<b>Closing Balance</b>	<b>Interest Net Of Fees</b>	<b>Annual Budget</b>
	<b>July 1 2007</b>	<b>October 31 2007</b>	<b>YTD</b>	
General	71,992,818	66,750,321	991,837	2,248,100
Water	15,185,232	8,548,366	209,732	1,644,000
Sewer	21,699,934	21,634,455	337,528	803,000
<b>Total</b>	<b>108,877,984</b>	<b>96,933,142</b>	<b>1,539,097</b>	<b>4,695,100</b>

## **Schedule Of Bank Balances And Investments – October 2007 (contd)**

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Council's bank balances and investments as at 31 October 2007 are listed as Attachment 1 to this report. Also submitted is a Certificate in accordance with the provisions of the Local Government (General) Regulation 2005 that the Investments held at 31 October 2007 have been made in accordance with the Act, the Regulations and Council's Investment Policies.

### **Performance Monitoring**

Council's investment portfolio is monitored and assessed based on the following criteria:

*i Management of Bank Balance*

The aim is to keep the bank balance as low as possible and hence maximise the amount invested on a daily basis.

*ii Portfolio and Monthly performance against the UBSWA Bank Bill Index*

The weighted average return for each of Council's investments is compared to the UBSWA (Union Bank of Switzerland Warburg Australia) Bank Bill Index which is the market benchmark rate.

### **Performance for Month of October 2007**

The weighted average return for the total portfolio of Council's managed funds (net of fees) during October was 6.36% which was slightly unfavourable to the benchmark of the UBSWA Bank Bill Index of 6.96%, whilst Council's rolling three year average returns were 6.04% compared to the rolling three year average UBSWA Bank Bill Index of 6.01% as illustrated in the Rolling Three Year graph below.

It should be noted that the October performance demonstrated improvements over September which was still experiencing some levels of market volatility due to the flow-on effects of the July US sub-prime mortgage issues.

The current volatility in the market began in the USA and quickly spread worldwide. A steep rise in the rate of subprime mortgage foreclosures caused more than 100 subprime mortgage lenders to fail or file for bankruptcy including the USA's second biggest subprime lender. Other institutions which had on-bought into the market suddenly found their investments near-valueless. This led to market paranoia, with banks reducing their lending to each other and business.

While Council's investments did not have any direct exposure, there was a significant reduction in performance across Australian markets as a result of the 'flow on effect'. This is due to the severe restrictions in liquidity and the poor market sentiment.

**Schedule of Bank Balances and Investments – October 2007 (contd)**

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The volatility is expected to persist over the near term. Council's investment advisors Grove Research and Advisory have advised that the performance in October 2007 has shown a marked improvement on the previous few months and while credit markets remain nervous and liquidity low, there are strong signs for recovery.

BlackRock Diversified Credit Fund achieved the highest annualised monthly return of 9.88% in October, a marked improvement over the fund's September annualised monthly return of 2.10%, but this fund is still underperforming on a financial year basis returning 1.08% against a benchmark of 6.73%. Council's financial advisors have advised holding this position in the short term as the fund focuses on selecting quality spread investment.

The remaining funds returned between 4.17% and 7.04% for the month reflecting ongoing market volatility.

**Interest Income**

Despite the underperformance of the market for the first portion of the year, Council's overall Interest Income YTD is only slightly unfavourable to budget, and with the expected improvement in the market returns over the remainder of the year, it is anticipated Council will achieve full year Interest Income budget in total and continue to be reviewed monthly.

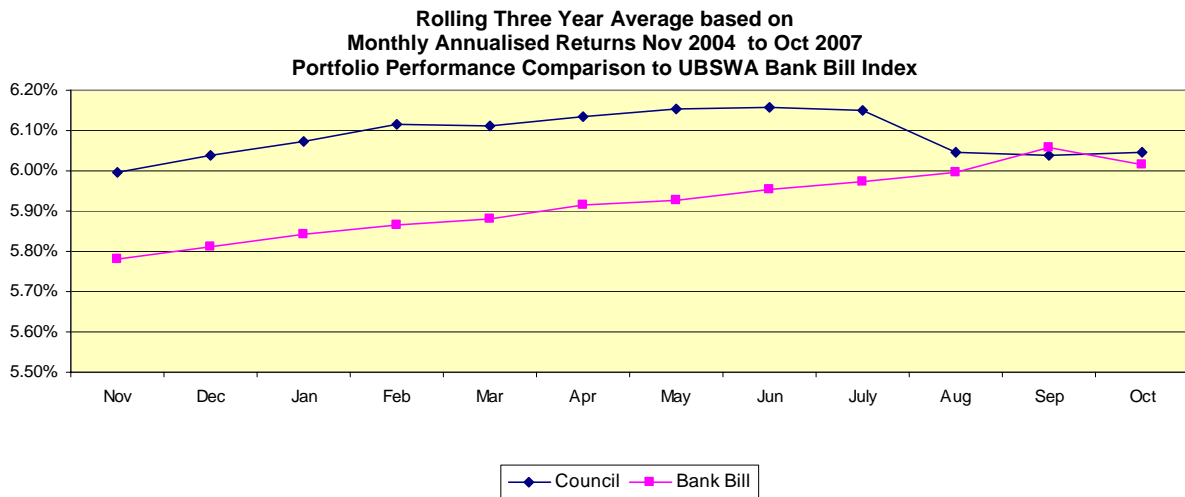
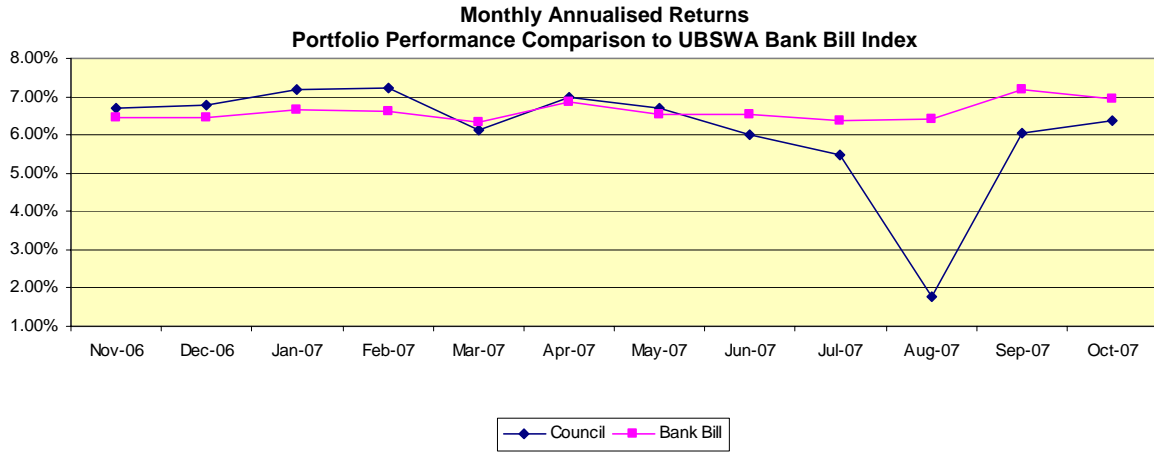
There is some disparity between funds, with Water Fund not expected to achieve budget. This is due to the low unrestricted fund balances in Water Fund resulting from additional capital expenditures and lower revenues from water sales and are expected to continue for the remainder of the year.

The 2007/08 Interest Income budget was compiled based on assumptions of historic trends and estimated investment balances. Some of these assumptions have now changed. A detailed cash flow projection by month and by fund is currently being prepared, from which a more accurate monthly interest budget will be derived with budget variations currently being prepared for the December Quarterly Review report to Council.

The Schedule of Investment below details for each Fund Manager annualised returns for the:

- current month;
- financial year-to-date;
- moving annual total.

**Schedule of Bank Balances and Investments – October 2007 (contd)**



**Schedule Of Bank Balances And Investments – October 2007 (contd)**

SCHEDULE OF INVESTMENTS AS AT October 31 2007							
FUND MANAGER	TYPE	PORTFOLIO BALANCE	INCOME FOR MONTH	FEES	ANNUALISED RETURNS		
					MONTH	FYTD*	MAT**
Local Gov't Financial Serv	Cash Plus	1,194,260.46	5,515.39	-	5.60%	5.70%	<b>6.29%</b>
BT Institutional Managed Cash (AAA)	Cash	918,676.62	36,237.27	363.29	7.04%	6.72%	<b>6.48%</b>
Aberdeen Cash Plus Fund (A)	Cash Plus	20,820,488.04	87,575.65	1,262.29	4.98%	4.52%	<b>5.84%</b>
ING Enhanced (A)	Cash Plus	16,107,171.76	56,795.19	977.04	4.17%	4.46%	<b>5.94%</b>
Perennial Cash Enhanced Fund (AA)	Cash Plus	6,880,957.43	25,196.10	407.44	4.34%	4.70%	<b>6.05%</b>
Macquarie Income Cash Plus (A)	Cash Plus	22,298,300.71	88,622.85	1,351.24	4.73%	4.48%	<b>5.93%</b>
T-Corp (WorkCover NSW)	Cash Plus	7,403,000.00	42,566.10	-	6.77%	6.57%	<b>6.36%</b>
BlackRock Diversified Credit Fund (A)	Cash Plus	15,198,727.23	122,042.92	922.49	9.88%	1.08%	<b>5.21%</b>
QIC Cash Enhanced (AA)	Cash Plus	6,111,559.07	27,732.21	366.47	5.43%	5.23%	<b>6.16%</b>
Grove Advisory Fees				4,582.60			
<b>TOTAL</b>		<b>96,933,141.32</b>	<b>492,283.68</b>	<b>10,232.86</b>	<b>6.36%</b>	<b>4.05%</b>	<b>5.84%</b>
<b>UBSWA INDEX</b>					<b>6.96%</b>	<b>6.73%</b>	<b>6.61%</b>

\*- FYTD= Financial Year to Date

\*\*- MAT = Moving Annual Total

Note: The above returns are net of fees charged

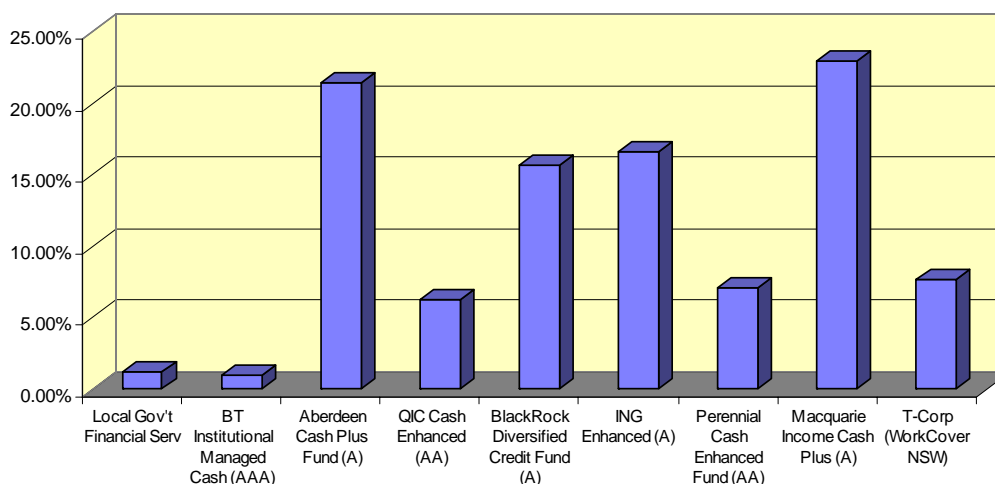


### **Schedule Of Bank Balances And Investments – October 2007 (contd)**

#### **Allocation of Investment Funds**

This represents the mix or allocation of investment funds with each of Council's Fund Managers.

Council's funds during October were allocated as follows:



#### **INVESTMENT STATEMENT**

In accordance with the Local Government (General) Regulation 2005, Part 9, Division 5, Clause 212, I certify that the investments held at 31 October 2007 have been made in accordance with the Act, the Regulations and Council's Investment Policies.

.....  
Director Corporate Services

**Schedule Of Bank Balances And Investments – October 2007 (Attachment 1)**

**SUMMARY**

**October 31 2007**

<b><u>General</u></b>	<b>\$</b>
Unrestricted	-683,186.38
Restricted - Internally	24,723,354.00
Restricted - Externally	42,710,153.00
<b>Total General</b>	<b>66,750,320.62</b>
<b><u>Water</u></b>	
Unrestricted	-13,318,733.88
Restricted - Internally	333,200.00
Restricted - Externally	21,533,900.00
<b>Total Water</b>	<b>8,548,366.12</b>
<b><u>Sewer</u></b>	
Unrestricted	2,228,354.58
Restricted - Internally	554,700.00
Restricted - Externally	18,851,400.00
<b>Total Sewer</b>	<b>21,634,454.58</b>
<b>TOTAL INVESTMENTS</b>	<b>96,933,141.32</b>
<b>BANK BALANCE PER BANK STATEMENT</b>	<b>249,842.22</b>
<b>TRUST ACCOUNT PER BANK STATEMENT</b>	<b>24,048.79</b>

**WYONG SHIRE COUNCIL**

12 December 2007  
To the Ordinary Meeting of Council

Director's Report  
Shire Services Department

**552 Annual Water Supply and Sewerage Performance Reporting**

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F2004/06842 IJ:DP

**SUMMARY**

Report by the Department of Water and Energy (previously Department of Energy Utilities and Sustainability) on the performance of Council's Water Supply and Sewerage operations in 2005/2006.

**RECOMMENDATION**

*That the report be received and the information noted.*

**BACKGROUND**

The NSW Department of Water and Energy (DWE) compiles and publishes annual reports on the performance of the water supply and sewerage operations of 107 Councils / Utilities in New South Wales. Council provides a range of information generally in October of each year, covering operations and financial data for the previous financial year from which this report is prepared. DWE typically takes a further 12 months to compile the data, prepare and distribute the report.

The DWE Annual Report is distributed to each Council and comprises two components:

- 1 A comprehensive report "NSW Water Supply and Sewerage Performance Comparisons" covering all Councils / Utilities. This report is issued to all Councils and gives a broad overview of statewide performance. This particular report is available on Council's files.
- 2 DWE issues to each Council an individual Summary Report (Triple Bottom Line) detailing the performance of that particular Council. The report provides specific performance and performance ranking information which enables each Council to compare its performance against the Statewide Median for a range of performance indicators. The report also gives information to each Council in relation to its performance against performance bands.

Enclosed is the DWE Summary Report for Wyong Council for 2005/2006 (refer Enclosure).

**Annual Water Supply and Sewerage Performance Reporting (contd)**

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The following comments are made in relation to this report.

- 1 The State Government views performance monitoring as a means to achieve improvement in the quality and efficiency of services provided by water utilities. Performance monitoring is required under National Competition Policy and the National Water Initiative as it is considered important for public accountability to the community.
- 2 In relation to the DWE annual report Council was previously identified as a "Top 10 Performer in NSW" in 2003/2004 and 2004/2005 for both Water Supply and Sewerage and was awarded the Director – Generals Excellence Awards (Green Globe Award).

DWE has now advised that the "Top 10 Performer" classification has been discontinued effective from the 2005/2006 reporting year.

As to where Council might rank on a statewide basis on performance, DWE has advised that no ranking review or study has been carried out and as such even an unofficial ranking is not available.

- 3 Examples of Council's high level of performance is demonstrated in the following areas:
  - Typical Residential Bill (Water Supply Item 13)
  - Physical, Chemical and Microbiological Water Quality Compliance (Water Supply Items 16 - 18)
  - Number of Main Breaks (Water Supply Item 28)
  - Average Annual Residential Water Consumption (Water Supply Item 31)
  - Water Losses including leakage (Water Supply Item 32)
  - Operating Cost per property (Water Supply Item 47)
  - Occurrence of Public Health Incidents (Sewerage Item 14-16)
  - Biosolids Reuse (Sewerage Item 26)
  - Compliance with Effluent Discharge Licence (Sewerage Item 31)
  - Occurrence of Environmental Incidents (Sewerage Item 34 - 36)
  - Operating Cost per property (Sewerage Item 47)

Council achieved full compliance with Best Practice Management Guidelines Criteria for both Water Supply and Sewerage. (See Compliance Schedule at top of comparative tables)

- 4 The following comments (where Ranking = 5) are made to provide clarification in relation to particular items;

## **Annual Water Supply and Sewerage Performance Reporting (contd)**

a Typical Developer Charge (Water Supply Item 14)

The DWE assessment regards higher charges as being better. Council must calculate its developer charges in accordance with the IPART Methodology where Council's calculated charge is discounted by 15%.

IPART has required this discount to apply since developer charges, using the IPART methodology, were first introduced in 1996. Council has unsuccessfully challenged this requirement at every subsequent IPART determination.

This issue will again be raised in the 2008 IPART "Review of Developer Charges".

b Water Quality Complaints (Water Supply Item 23)

Water Quality Complaints, which are typically dirty water complaints, are in excess of the State median as a result of the continuance of the drought not allowing regular flushing of mains resulting in build up of sediments that when disturbed by work on the main or change in water velocity cause dirty water.

c Average Duration of Interruption (Water Supply Item 26)

The current performance level is equivalent to the State median. This level of service is considered reasonable. Quarterly surveys carried out to assess customer response to Council's Water and Sewerage operations have indicated a continuing high level of satisfaction with no concerns raised over the current level of interruption times.

d Operating Cost (Water Supply Items 46 and 47)

Although operating cost per 100km of main (Item 46) was above the State median, it is considered that the more reflective measure of Council's performance is operating cost per property (Item 47) where Council's performance was better than the State median.

Item 47 is considered to be the more reliable indicator for comparison purposes as the number of properties is more readily auditable, and inherently accurate, than one based on the length of mains which, for other Councils without good asset records, would be based on estimates of main length.

**Annual Water Supply and Sewerage Performance Reporting (contd)**

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e Typical Developer Charge (Sewerage Item 12)

The DWE assessment regards higher charges as being better. Council must calculate its developer charges in accordance with the IPART Methodology where Council's calculated charge is discounted by 15%.

f Non Residential Sewer Usage Charge (Sewerage Item 12(a))

The DWE assessment regards higher charges as better. IPART regulates the maximum level of charges that Council can apply.

g Odour Complaints (Sewerage Item 18)

The level of odour complaints per 1000 properties has improved as a result of odour reduction works from 1.1 (in 2004/05) to 1.0 (in 2005/06) with this being marginally in excess of the State median (0.8). Continuing improvement has occurred with a level of 0.5 being reported to DWE for 2006/07.

This improvement has been achieved by the following activities:

- enclosing the Primary Sedimentation tanks at Bateau Bay STW at a cost of \$1,600,000
- ongoing program to install sealed aluminium lids at sewage pump stations at a cost of \$80,000 p.a.
- high level of monitoring of "at risk" sites costing \$10,000 p.a.
- fitting of caps to vent pipes costing approximately \$10,000 p.a.

In addition to the on-going works, future planned capital works include:

- enclosing the Head of Works at Toukley STW (\$2,000,000); and
- constructing a new enclosed Head of Works at Mannering Park STW (\$1,700,000)

h Sewer Main Chokes and Collapses (Sewerage Item 32)

Although currently performing at the State median level Council's pipe infrastructure, as it ages, is becoming increasingly susceptible to tree root infestation.

Programs have been put in place to progressively rehabilitate mains damaged by tree roots. This program targets maintaining performance at the State Median or better.

## **Annual Water Supply and Sewerage Performance Reporting (contd)**

Council is currently spending approximately \$300,000 per year in rehabilitating root damaged sewers.

i **Economic Return in Assets** (Sewerage Items 41 and 42)

Investigations have indicated that the nominated rates of return have been calculated by DWE from draft Financial Statements prepared before audit.

As a result of the audit some financial information changed which affected Items 41 and 42 (but not Financial Items 39, 40, 43(a), 44 and 45). A Council assessment of the final audited Statements indicates an economic rate of return of 0.7% and a return on assets of 0.3% is applicable. While these figures are still below the State Median they are beyond Council's control as they are dictated by IPART's pricing determinations.

DWE will undertake appropriate amendments to Items 41 and 42 to reflect the audited statements.

**Enclosures**

***TBL Water Supply Performance***  
***TBL Sewerage performance***

**553 Successful Envirofund Projects - Wyong Volunteer Groups**

F2004/06937 RY

**SUMMARY**

This report outlines successful applications in Round 9 and 10 of the Australian Government Envirofund grant in the Wyong Local Government Area.

**RECOMMENDATION**

*That the report be received and information noted.*

**BACKGROUND**

Envirofund is the local action component of the Australian Government's \$5 billion Natural Heritage Trust. It helps communities undertake small projects aimed at conserving biodiversity and promoting sustainable resource use. Community groups and individuals can apply for grants of up to \$50,000 (GST inclusive) to carry out on-ground and other actions to target local problems.

Five volunteer projects in the Wyong Shire were successful in the last two Rounds of Envirofund, announced in October, 2007. Three of the five successful groups are EnviroCare volunteer groups operating on Council land. Wyong Council staff assisted these groups with scoping and the application process. A commitment has been made to the three EnviroCare groups to provide financial contributions to these projects through the Landcare program in addition to providing ongoing support to the groups during project implementation.

A total of \$83,506 will be provided by the National Heritage Trust to implement these five projects. The total value of these projects including Trust funding, Council contribution and volunteer labour is in excess of \$161,000. Council contributions listed below are cash contributions and are all within the current Management Plan. Council in kind contributions are not included, but is estimated at 10 hours each project application on Council land (including scoping, site inspections, budgeting and assistance with application writing) a total of 30 hours. Additional in-kind contributions will be made during project implementation.

**ROUND 9**

The Round 9 Envirofund grants attracted 2,159 applications Australia wide, seeking over \$47 million dollars. The available funding for Round 9 was \$20 million. 33 projects in the Hunter Central Rivers Catchment Management Authority Area were successful, which included three from the Wyong Shire area to the value of \$62,249. Details of each of the successful applications are provided below.



### **Successful Envirofund Projects - Wyong Volunteer Groups (contd)**

**Applicant:** Tumbi Wetlands Bushcare (Wyong Shire Council Enviro Care group)

**Project: Community Education and Rehabilitation of Section of Tumbi Wetlands NSW**

**Summary:** This project will control a weed problem resulting from a fire in December 2005 and increase awareness of the biodiversity in the reserve at Tumbi Umbi. Activities to be undertaken are the creation of a website to document project activities and act as a community resource, the targeted removal of weeds and the transplanting of local provenance seedlings. Community awareness will be created by organising two work days for the community: a 'Crofton Weed Buster Day' to introduce the project and a 'Trade in a Broom Day' to encourage recycling of leaf litter.

**Envirofund Funding:** \$3,731

**Council financial contribution:** \$2,559

**Total value of the above project including community in-kind contribution:** \$14,319

**Applicant** Craigie Park Landcare (Wyong Shire Council Enviro Care group)

**Project: Regeneration and Education at Craigie Park Spotted Gum Forest Reserve**

**Summary:** This project will restore Spotted Gum forest and foreshore vegetation at Craigie Park. Activities include removal of weeds such as Lantana, Bridal Creeper and Bitou Bush, installation of ecologs and hay bales for erosion control and revegetation with 500 native plants. The outcome will be enhancement of natural habitat in the project area.

**Envirofund Funding:** \$23,973

**Council financial contribution:** \$4,462

**Total value of the above project including community in-kind contribution:** \$56,294

**Applicant:** Community Environment Network Inc (Regional environmental group)

**Project:** Community Monitoring of Seagrass Habitats

**Summary:** This project will monitor sea grass depletion and establish a long term rehabilitation program to guide and support volunteer groups. Project activities include training volunteers, providing monitoring kits, holding workshops and coordination of data to monitor changes.

**Envirofund Funding:** \$34,545

**Council financial contribution:** Nil

**Successful Envirofund Projects - Wyong Volunteer Groups (contd)**

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**ROUND 10**

Round 10, a 'Coastal and marine' round attracted 564 applications Australia wide, seeking over \$14.3 million dollars. The available funding for Round 10 was \$4 million. Eight projects in the Hunter Central Rivers Catchment Management Authority were successful, two of these in the Wyong Shire area to the value of \$21,257. Details of the projects are provided below.

**Applicant:** South Wyrabalong Bushcare (Department of Environment, Conservation and Climate Change; Parks Division volunteer group)

**Project: Rehabilitation of Bateau Bay Dune and Coastal Forest**

**Summary:** The project will implement a threat abatement plan for weed invasion into native plant communities in the Bateau Bay dune and forest systems on Department of Environment and Climate Change land. Activities will include removal of noxious weeds, primarily Bitou Bush and Lantana. Monitoring will be undertaken by the bushcare group in the form of photopoints and weed density monitoring. Outcomes will include enhanced natural habitat in the project area.

**Envirofund Funding:** \$12,250

**Council financial contribution:** Nil

**Applicant: Hargraves Beach Dunecare (Wyong Shire Council Enviro Care group)**

**Project: Sustainable Beach Access and Dune Protection at Hargraves Beach**

**Summary:** This project aims to prevent further loss of sand and subsequent loss of vegetation at Hargraves Beach. Activities to be undertaken include relocating sand to contour the dune, construct a beach access way, revegetation with native plants and dune fencing on the foredune. Outcomes will be decreased abundance of weeds on the site, increased native dune vegetation and decreased sand movement over the dune.

**Envirofund Funding:** \$9,007

**Council financial contribution:** \$4,222

**Total value of the above project including community in-kind contribution:** \$44,412

This funding provides additional resources to EnviroCare groups to carry out large scale project activities. It also provides an opportunity to engage and educate local community members through media exposure, field days, workshops and recruitment of new members.

The applications have a high success rate due to the environmental benefits of the projects proposed, financial input by Wyong Council and the hours contributed by volunteers and Council staff in project delivery.

## WYONG SHIRE COUNCIL

12 December 2007  
To the Ordinary Meeting of Council

Director's Report  
Corporate Services Department

### **554 Outstanding Questions Without Notice and Notices of Motion**

F2006/02282 ED:MR

#### **SUMMARY**

Report on outstanding Questions Without Notice and Notices of Motion.

#### **RECOMMENDATION**

*That the report be received and the information noted.*

<b>Question Asked</b>	<b>Asked By</b>	<b>Meeting Asked</b>	<b>Department</b>
Q074 – Mobile Phone Service on Trains Between Newcastle and Sydney  (A response will be reported when reply received from State Rail)	Councillor Eaton	8 August 2007	Corporate Services
Q096 – Legal Costs Incurred by Wyong Council opposing Mr Darcy Smith in the Land and Environment Court  (A response will be reported to Council once a breakdown of costs is received from Council's Solicitors)	Councillor Pavier	26 September 2007	Shire Planning
Q110 – Purchase of a 3D Fly Through Planning System  (A response will be reported to the Ordinary Meeting on 23 January 2008)	Councillor Stewart	31 October 2007	Shire Planning
Q113 – Exemption from liability  (A response will be reported when legal advice received)	Councillor Rose	14 November 2007	Shire Planning
Q114 – Float trikes  (A response will be reported when response received from Local Member)	Councillor Welham	14 November 2007	Shire Planning

**Outstanding Questions Without Notice and Notices of Motion (contd)**

<b>Question Asked</b>	<b>Asked By</b>	<b>Meeting Asked</b>	<b>Department</b>
Q116 - Upgrade of Minnesota Road  (A response will be reported to the Ordinary Meeting on 13 February 2008)	Councillor Best	14 November 2007	Shire Services
Q117 – Additional Parking in Wyong  (A response will be reported to the Ordinary Meeting on 13 February 2008)	Councillor Best	14 November 2007	Shire Planning
Q118 – San Remo Extreme Events Park  (A response will be reported to the Ordinary Meeting on 27 February 2008)	Councillor Eaton	28 November 2007	Shire Services
Q119 – The North Entrance Carnival / Circus Ground  (A response will be reported to the Ordinary Meeting on 27 February 2008)	Councillor Eaton	28 November 2007	Shire Services
Q120 – McAlister Faulkner Scrap Metal Development Application  (A response will be reported to the Ordinary Meeting on 27 February 2008)	Councillor Graham	28 November 2007	Councillor Eaton
Q121 – Eradication of European Carp  (A response will be reported to the Ordinary Meeting on 27 February 2008)	Councillor Veugen	28 November 2007	Shire Services

### **Outstanding Questions Without Notice and Notices of Motion (contd)**

<b>Notice of Motion</b>	<b>Department</b>	<b>Meeting Resolved</b>	<b>Status</b>
<p>314 – Regional Sporting Facilities</p> <p><i>That staff report on Investigations into the possibility of constructing an integrated regional sporting/educational facility at Warnervale.</i></p> <p><i>That staff report on negotiations / opportunity to provide district sporting facility to service the Tuggerah / Mardi area.</i></p>	Shire Planning	9 August 2006	A report will be submitted to Council's Ordinary Meeting on 23 January 2008.
<p>224 - Energy Efficiency Initiative</p> <p>That Councillors be briefed on new and evolving technology to reduce energy consumption.</p>	Shire Planning	13 June 2007	Briefing scheduled for 12 December 2007.
<p>326 - National Natural Disaster Funding</p> <p>Report required on climate change impacts.</p>	Shire Planning	8 August 2007	A report will be submitted to Council when response from Department of Environment and Climate Change (DECC) is received.
<p>398 – Resumption (or Buy Out) Policy</p> <p><i>That staff report with a précis on DCP 77 where applies and the controls that this plan limits with regards to the type of nature and development. Numerous issues relating to Coastline Management Plan and Council's buy out policy.</i></p>	Shire Planning	26 September 2007	A report will be submitted to Council's Ordinary Meeting on 23 January 2008.
<p>440 – Drainage on Tuggerah Straight</p>	Shire Services	31 October 2007	A report will be provided when responses received.
<p>442 Warnervale Town Centre</p>	Shire Planning	31 October 2007	Briefing to occur in January/February 2008.
<p>443 – Ratepayers and Residents Satisfaction Survey</p>	General Manager's Unit	31 October 2007	A briefing has been scheduled for February 2008.

**Outstanding Questions Without Notice and Notices of Motion (contd)**

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<b>Notice of Motion</b>	<b>Department</b>	<b>Meeting Resolved</b>	<b>Status</b>
470 – Ferry Service between Wyong and The Entrance	Shire Planning	14 November 2007	Report to be submitted following exhibition
471 – Strategic Direction of Fire Services	Shire Services	14 November 2007	Briefing/address yet to be scheduled
497 - Air Quality	Shire Planning	28 November 2007	Briefing yet to be scheduled.

<b>Rescission Motion</b>	<b>Department</b>	<b>Meeting Resolved</b>	<b>Status</b>
401A – Rescission Motion – Vandalism Across our Shire	Shire Services	26 September 2007	A report will be submitted to Council's Ordinary Meeting on 23 January 2008.

## WYONG SHIRE COUNCIL

12 December 2007  
To the Ordinary Meeting of Council

Shire Services Department

### **Answers to Questions Without Notice**

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#### **Q106 - Dog Frisbee Club at Watanobbi**

Asked by Councillor Eaton at the Ordinary Meeting held on 31 October 2007  
F2004/11446

*“Can Council advise why the Dog Frisbee Club at Watanobbi cannot be accommodated on Council’s sportsfields and what can be done to help them?”*

At its meeting of 27 September 2000 and following a subsequent amendment at Council’s meeting of 24 April 2002, Council resolved to nominate the following reserves as dog off leash areas as part of the Companion Animals Management Plan:

- |       |  |
|-------|--|
| North | Reserve off Moola Road, Buff Point (excluding the sports oval)<br>Charmhaven Reserve, Lowana Avenue, Charmhaven<br>Helen Reserve, Gascoigne Road, Gorokan<br>Craigie Reserve, Donald Avenue, Kanwal<br>Reserve adjacent to Colongra Bay Hall, Colongra Bay Road, Lake Munmorah<br>Reserve, Peppercorn Avenue and Ivory Crescent, Woongarra<br>Mataram Ridge Park (southern section), Woongarra |
| South | Bateau Bay Reserve bounded by Avignon Avenue, Sabrina Avenue and Fishermans Bend<br>Drainage easement, James Watt Drive, Chittaway Bay<br>Lees Reserve, Wyong Road, Chittaway Bay<br>Reserve, Tallowood Crescent, Ourimbah   |

These locations have been extensively researched to determine sites that allow for parking, easy access, adequate size and the omission of other recreational activities, which may create a conflict within the particular area. The above locations have also been chosen to create equity throughout the Shire for off the leash dog exercise areas. The selection of these sites was adopted as part of the Companion Animals Management Plan following public consultation with the aim of protecting the community and natural environment of Wyong Shire.

Watanobbi Oval is not considered a preferred option for a dog leash free area as it is formally used for sports such as baseball and rugby league along with other informal recreational activities. Declaration of this oval as a dog leash free area, would increase the opportunity for exposure to dog faeces and potential pathogens contained in dog faeces to human users of the site. There is a potential conflict with children playing organised sports and their safety with regards to dogs occupying the area off leash.

**Answers to Questions Without Notice (contd)**

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Following enquiries to Council, the "Central Coast Surf Stormers Flyball Dogs" Club has been offered what is considered to be a suitable alternative at Helen Reserve, Gascoigne Road, Gorokan. This reserve appears to be in a convenient location for the Club, is listed as an approved dog leash free area, and following inspection is considered by Council acceptable for the activities of the Club and is the subject of ongoing negotiation with the Club.

It is further noted that input into the future development of the Council Reserve at Peppercorn Avenue and Ivory Crescent, Woongarra has been offered to the Central Coast Surf Stormers Flyball Dogs. The completion of this reserve is scheduled for June 2008.



## **Answers to Questions Without Notice (contd)**

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### **Q107 – Strathavon, Wyong**

Asked by Councillor Eaton at the Ordinary Meeting held on 31 October 2007  
F2004/00577

*“What is the current status of Strathavon and what can be done to stop its decay?”*

The site (and heritage item) is in private ownership and Council does not have the ability to ensure its ongoing maintenance and long term preservation, other than through the development assessment process.

There have been two previous development applications for aged and disabled housing lodged over the land containing the heritage item ‘Strathavon’. Both were refused by Council.

There are no current applications for development of the Strathavon site. The owner recently met with Council staff to discuss potential redevelopment of the site, and more specifically what type and scale of development Council would be likely to support. Site constraints such as flooding were also discussed.

The owner was given no firm indication as to the type and/or scale of development Council would be likely to support on the site. However, several means of pursuing redevelopment of the site to enable conservation and maintenance of the heritage item were discussed, including an owner instigated rezoning to permit more intense land uses (not favoured by Council) and utilising Clause 36 Conservation incentives of the Wyong LEP 1991, which states:

#### ***“Conservation incentives***

- 36 (1) *The Council may grant consent to the use, for any purpose, of a building that is a heritage item or of the land on which the building is erected, even though the use would otherwise be prohibited by this plan, if it is satisfied that;*
- (a) the proposed use would not adversely affect the heritage significance of the item and would have little or no adverse effect on the amenity of the area; and*
  - (b) the conservation of the building depends on the granting of the consent.*

**Answers to Questions Without Notice (contd)**

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(2) *When considering an application for consent to erect a building on land on which a heritage item that is a building is located, the Council may, for the purpose of determining:*

- (a) the floor space ratio; and*
- (b) the number of parking spaces to be provided on the site,*

*exclude the floor space of the heritage item from its calculation of the floor space of the buildings erected on the land, but only if the Council is satisfied that the conservation of the heritage item depends on it making the exclusion.*

It is the owner's responsibility to continue to maintain the heritage item buildings and to investigate appropriate options for redevelopment of the site which considers site constraints (primarily flooding and context) and balances new development against longer term preservation of the heritage item.

## **Answers to Questions Without Notice (contd)**

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### **Q108 - Headland Carpark at Soldiers Beach, Norah Head**

Asked by Councillor Best at the Ordinary Meeting held on 31 October 2007  
F2005/02402

*"Mr General Manager, my question is on behalf of residents and ratepayers who frequent our most popular northern beach, Soldiers, and the community of Norah Head.*

*On repeated occasions, Council staff have been requested to address a range of issues on the grounds of safety and aesthetics in and around the headland carpark, such as:*

- \* *illegal unsecured cliff top parking*
- \* *no handrails on the new 2 metre high timber stair case*
- \* *rusting and unsightly wire fence and dangerous uncapped star poles*
- \* *half completed stainless steel cliff top safety fencing*
- \* *completely rusted out handrails on the old steep concrete steps*
- \* *asbestos material in dunes*
- \* *non existent carpark vegetation*
- \* *frequency of rest room cleaning.*

*Could staff address these issues on behalf of the local residents and provide an information report to Council?"*

Council's records management system notes that there were four requests received from members of the public in the 2007 calendar year relating to issues identified at the Council meeting of 31 October 2007. The nature of the request and the respective resolution summary of these requests are as follows:

30/1/2007 – Star pickets identified as needing removal - repaired 23/2/2007.

5/2/2007 – Repair rusted handrail on stairs near carpark - repaired 23/2/2007.

8/3/2007 – Complaint illegal parking on lookout - rangers conducted numerous patrols between 8/3/2007 and 20/3/2007

6/9/2007 – Repeat of request regarding parking on lookout – programmed installation of barriers to prevent illegal parking on 15/9/2007.

Further identified programmed works for the area in 2008/2009 include landscaping of the area adjacent the Soldiers Beach Surf Club which was another request which has been received during 2007. These works will be conducted under the Coastal Area Improvements program.

The following summarises programmed works for the Headland Carpark at Soldiers Beach, Norah Head pertaining to issues raised at the meeting of 31 October 2007:

**Answers to Questions Without Notice (contd)**

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**Illegal Unsecured Cliff Top Parking**

Large boulders have been sourced and positioned approximately two metres from the kerb along the northern end of the headland carpark. The boulders are spaced at sufficient intervals to prevent vehicular access, but continue to allow pedestrian, cycle and disabled access whilst also offering a form of robust informal seating.

**No Handrails on the New Two Metre High Timber Stair Case**

When the staircase was initially constructed handrails, although desirable, were not deemed a necessity as the potential fall height on to the sand below was approximately 0.5 metre maximum. Following dune erosion from the June 2007 storm, this fall height has increased with the peak fall height reaching approximately three metres.

Handrails have been affixed in accordance with Australian Standard 2156 "Walking Tracks". The stair case has been assessed as a Class 3 Walking Track under AS2156.1 which requires a barrier height of 900 mm with an appropriately positioned intermediate rail given the potential fall height and fall surface.

The surface of the stair case is also programmed to be grooved to enhance traction.

**Rusting and Unsightly Wire Fence and Dangerous Uncapped Star Poles**

The star pickets and wire fence in the areas near the top of the timber stairs have been removed.

The only area of chainwire fencing and star pickets that will be retained in the short term is the area immediately adjacent to the café. This fencing will be removed following the further establishment of the garden. The star pickets in this location are capped.

**Half Completed Stainless Steel Cliff Top Safety Fencing**

Following completion of the safety handrail on the timber stairs the stainless steel fencing will be extended approximately 24 metres east from the existing steep concrete stair case. Removal of the steep concrete stair case is programmed to be undertaken concurrently.

**Completely Rusted out Handrails on the Old Steep Concrete Steps**

The rusted posts that have caused one of the handrails to become loose have been repaired during November 2007 to ensure the handrail is in a safe state until removal of the stairs is undertaken.

## **Answers to Questions Without Notice (contd)**

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### **Asbestos Material in Dunes**

Site inspections failed to reveal the presence of the asbestos material in dunes. Discussions with lifeguards from Soldiers Beach identified some trace amounts of broken fibre cement sheeting (not containing asbestos) on the ground adjacent the surf club. Despite the fibre cement not presenting any hazard to the public it was removed from the site.

### **Non-Existent Car Park Vegetation**

Due to the high pedestrian traffic in this area, potential vandalism and the exposed marine environment, establishment of landscaped garden beds was considered undesirable when the landscaping plan was prepared and turf was laid as a more effective medium. The existing low spots in the garden beds have been topped with soil to encourage further growth of the existing turfed areas and eliminate bare and uneven spots.

### **Frequency of Rest Room Cleaning**

Amenities at Soldiers Beach are currently cleaned seven days per week and recent audits have confirmed that the cleaning meets the minimum cleaning standards.

**Answers to Questions Without Notice (contd)**

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**Q111 – Sites in Council Holiday Parks**

Asked by Councillor Eaton at the Ordinary Meeting held on 14 November 2007  
F2007/01304

*“Can Council issue a progress report on the transfer of affected sites within Council’s caravan parks?”*

There are 71 vacant sites across all four holiday parks.

**TABLE 1 - VACANT SITES BY PARK**

	<b>Budgewoi</b>	<b>Canton Beach</b>	<b>Norah Head</b>	<b>Toowoan Bay</b>	<b>Totals</b>
<b>Vacant Sites</b>	30	9	22	10	<b>71</b>
<b>Not Available for reallocation</b>	8	1	4	3	<b>16</b>
<b>Total Available For Relocation</b>	22	8	18	7	<b>55</b>

At the 26 September 2007 ordinary meeting of Council, it was resolved in part to implement a ballot process to accommodate those storage van owners affected by the upgrade works detailed in the adopted business strategy. This ballot system is now developed so that, subject to the concept plan development application being approved by Council on 12 December 2007 and expiry of the rescission period, notification to affected van owners can be posted on 18 December 2007. This will include details of how and when the ballot will be undertaken. It is currently proposed to undertake this ballot in the second week of January 2008 when most if not all van owners are within the parks allowing sufficient time for all relocations 2007/08 to be completed by 25 March 2008.

As the upgrade works will commence immediately following the 2008 Easter period (25 March) affected sites will need to be vacated prior to this and accordingly affected storage van owners will be requested to nominate their preferences by 1 February 2008 to ensure that they have sufficient time to relocate to their balloted site or to vacate if they choose this option.

The proposed ballot system has been discussed with all four parks consultative committees and unanimous support obtained with general consensus that the proposal was fair and reasonable.

### **Answers to Questions Without Notice (contd)**

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Details of the ballot process are:

All available vacant sites will be categorised as 'standard' or 'large'.

All affected vans will similarly be categorised as 'standard' or 'large' size.

Each year of the proposed upgrade works affected storage van owners will, by way of a random ballot, be allocated a priority ranking. Each ballot will be witnessed by one of the parks consultative committee storage van owner representatives.

Affected storage van owners will be required to indicate an order of preference for the available vacant sites in their size category and in their park.

Sites will be offered to the affected storage van owners on the basis of their priority ranking and their indicated order of preference.

Should an offer be rejected (or not accepted within 14 days) the vacant site will be offered to other affected owners on a priority ranking basis.

Should there be insufficient vacant sites to accommodate all affected storage van owners in any given park those owners will be offered surplus vacant sites in other parks.

The following table indicates the number of permanent/holiday storage van sites affected each year by the planned improvements as identified within the revised Business Plan of October 2007 and the revised concept plans submitted with the development applications.

It is possible that by March 2008 there will be sufficient sites vacated to accommodate all the transfers from the affected sites at all parks for the 2007/08 works.

**TABLE 2 - AFFECTED SITES NUMBERS BY PARK**

<b>Holiday Park</b>	<b>No of Available Sites as at 21/11/07</b>	<b>2007/2008</b>	<b>2008/2009</b>	<b>2009/2010</b>	<b>2010/2011</b>	<b>Total</b>
<b>Budgewoi</b>	22	4	6	8	21	<b>39</b>
<b>Canton Beach</b>	8	0	0	3	4	<b>7</b>
<b>Norah Head</b>	18	19	17	7	0	<b>43</b>
<b>Toowoan Bay</b>	7	9	7	17	7	<b>40</b>
<b>Totals</b>	<b>55</b>	<b>32</b>	<b>30</b>	<b>35</b>	<b>32</b>	<b>129</b>

**Answers to Questions Without Notice (contd)**

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**Q112 – Shire boundary alteration**

Asked by Councillor Eaton at the Ordinary Meeting held on 14 November 2007  
F2004/06544

*“When will Councillors and the public be notified of the giveaway of land at the northern boundary of the Shire to Lake Macquarie Council and the associated boundary change?”*

Councillors would be aware that Rosecorp has proposed extensive development in and around the village of Catherine Hill Bay which straddles the boundary of Wyong Shire and Lake Macquarie City local government areas. As a result, both Councils agreed to amend the boundary to ensure the development was wholly within the Lake Macquarie City Council area and at its meeting held on 25 October 2006, Council resolved to proceed with the proposal to alter the boundary between Wyong Shire and Lake Macquarie.

On 15 October 2007, the Department of Local Government advised that the amendment to the boundary was published in Government Gazette No 132 on 28 September 2007. Unfortunately, a typographical error was detected in the gazettal and it has been necessary to have an erratum prepared.

The minor error in the proclamation of the area to be excluded from Wyong Shire and added to Lake Macquarie City has no affect on the validity of the proclamation. The Department of Local Government has advised that the erratum notice will appear in the Government Gazette shortly.

**Enclosure**

***Plan indicating new boundary***



12 December 2007  
To the Ordinary Meeting of Council

Shire Services Department

### **Answers to Questions Without Notice (contd)**

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#### **Q115 – Roadworks at Pacific Highway and Amy Close, North Wyong**

Asked by Councillor Welham at the Ordinary Meeting held on 14 November 2007  
DA/1325/2005

*“Could Council staff make urgent representations to the Roads and Traffic Authority regarding the confusing and misleading linemarking along the Pacific Highway at the corner of Amy Close where roadworks are being undertaken in conjunction with the Service station and KFC development at North Wyong? In particular that staff urge the Roads and Traffic Authority to require the contractor to remedy this dangerous traffic situation without further delay as the current unsafe situation has been ongoing for at least six weeks without rectification.”*

This matter was raised with the Roads and Traffic Authority and the works were carried out and completed on Friday 16 November 2007.