



Council's Tuggerah Lakes Estuary Management Team had some helping hands recently from the International Student Volunteers group.

Students from the USA and Taiwan got a first hand look at the ecosystem of our lakes and what we are doing to maintain and restore it.

Business Paper

ORDINARY COUNCIL MEETING

13 June 2012



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MEETING NOTICE

The **ORDINARY COUNCIL MEETING**
of **Wyong Shire Council**
will be held in the **Council Chamber,**
Wyong Civic Centre, Hely Street, Wyong on
WEDNESDAY 13 JUNE 2012 at 5.00 pm,
for the transaction of the business listed below:

OPENING PRAYER

ACKNOWLEDGEMENT OF COUNTRY

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6 QUESTIONS ON NOTICE ASKED**7 CONFIDENTIAL ITEMS**

7.1	Council Iconic Sites – Site 23 Active River Foreshore
7.2	Lake Haven Centrelink Service Centre - Lease

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

Michael Whittaker
GENERAL MANAGER

1.1 Disclosures of Interest

TRIM REFERENCE: F2012/00026 - D03017049

MANAGER: Lesley Crawley; Manager Corporate Governance

AUTHOR: Monica Redmond; Councillor Services Officer

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

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

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

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

RECOMMENDATION

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

1.2 Proposed Inspections and Briefings

TRIM REFERENCE: F2012/00026 - D03017074

MANAGER: Lesley Crawley; Manager Corporate Governance

AUTHOR: Monica Redmond; Councillor Services Officer

SUMMARY

Inspections held on 6 June 2012 are listed as follows:

<i>Date & Time</i>	<i>Location</i>	<i>Requested By</i>
6 June 2012 12.10 -12.40 pm	DA 51/2012 - 65 McPherson Road, Mardi - Alterations and Additions	Director Environment and Planning Services
6 June 2012 1.10 – 1.40 pm	DA 101/2012 Change of Use to take away food shop at 638 Pacific Highway, Lake Munmorah	Director Environment and Planning Services

Briefings proposed for June 2012 and future meetings to be held in the Wilfred Barrett and Tim Farrell Committee Rooms:

Date	Briefing	Description	Time	Presented by
6 June 2012	Streambank Rehabilitation Works - 380 Bruce Crescent Wallarah	Council has been in receipt of ongoing representations from the resident of 380 Bruce Crescent, Wallarah requesting Council undertake stream bank stabilisation works on a section of their rural property. The works do not meet the criteria for funding under Councils Estuary Management Plan. The resident believes Council has a responsibility to undertake the works on the basis that an existing upstream road culvert is contributing to the erosion. The stream bank is located on private property. Section 67 of the Local Government Act 1993 (LGA) requires Council approval for works to be undertaken on private property.	2.30 – 3.00pm	Director Infrastructure Management and Manager Roads and Stormwater
6 June 2012	Lakes Sea Wall	Lakes Sea Wall - To provide an update on the feasibility study to address the dilapidated sections of The Entrance Sea Wall and seek approval for funding to proceed to design and investigation.	3.00 – 3.30pm	Manager Sport and Recreation
6 June 2012	WY82	Progress update on Wyong River Streambank Rehabilitation project	4.00 – 4.30pm	Director Infrastructure Management and Project Manager CPM Team 1

1.2 Proposed Inspections and Briefings (contd)

6 June 2012	Church St Iconic Site	Church St Iconic Site - Removal from Iconic Site EOI process. To provide advice to Council on a new strategy to take the development of this precinct forward. The proposed strategy with involve a consortium/partnership with all adjoining landholders. All the significant adjoining landholders apart from two have met with Council and all have expressed their willingness to work cooperatively with Council on the design and development of this site	4.30 – 5.00pm	Manager Property Development Econ
6 June 2012	Centrelink office Lakehaven	Proposed ground lease to The Stirloch Group for the development of new Centrelink office accommodation at Lakehaven.	5.00 - 5.30pm	Manager Property Development Econ
13 June 2012	Section 94 Model	Section 94 model including credits.	TBA	Director Corporate Services and Director of Environment and Planning Services
13 June 2012	Greening Wyong Strategy	Briefing on Greening Wyong Strategy.	TBA	Manager Sport Leisure and Recreation and Principal Landscape Architect
13 June 2012	Lake Coal - Chain Valley Colliery	Lake Coal on current & future operations of Chain Valley Colliery.	TBA	David McConnell - General Manager Lake Coal & Peter Ross - Director LDO
13 June 2012	Future Notices of Motion	Briefing indicating options and the supporting arguments to ensure legitimacy and correctness on all future Notices of Motions.	TBA	Manager Corporate Governance
13 June 2012	Bushfire Works Plan	Briefing on Bushfire Works Plan.	TBA	Manager Environment and Natural Resources

RECOMMENDATION

That Council receive the report on Proposed Inspections and Briefings.

Briefing Title	Director	STAFF PRESENTING
Section 94 model including credits	Corporate Services/Environment and Planning Services	David Jack
Greening Wyong Strategy	Community & Recreation Services	Tara Mills/Katherine Simmons
Lake Coal on current & future operations of Chain Valley Colliery briefing indicating options and the supporting arguments to ensure legitimacy and correctness on all future Notices of Motions.	David McConnell - General Manager Lake Coal & Peter Ross - Director LDO	
Bushfire Works Plan	Environment and Planning Services	Greg White
Service Standard Review Pt II-results of the Community Consultation	Community & Recreation Services	
Iconic Site No 5 – Lakeside Plaza	Environment and Planning Services	Paul Bowditch/Steve Ashton
Tuggerah Town Centre Masterplan	Environment and Planning Services	Paul Bowditch / Lynda Howson
Porters Creek Floodplain Risk Management Plan	Infrastructure Management	Robert Fulcher
GM performance review objective setting 2012/2013	Corporate Services	Marie Hanson-Kentwell
Grants	Community & Recreation Services	
Customer Service Charter	Community & Recreation Services	Sue Ledingham
Precinct 7A Masterplan - Feedback following exhibition	Environment and Planning Services	Scott Duncan / Chris Ferry
Transfer of vegetation control from Roads & Stormwater to Open Space	Community & Recreation Services	Brett Sherar
Chinese Cultural Village theme park Councillor	Corporate Services	Brett Phillips/Garry McLachlan
Norah Head Boat ramp Part 2	Community & Recreation Services	Tara Mills/ Tim Burch
Affordable Housing Study - Pre exhibition	Environment and Planning Services	Martin Johnson / Melati Lye
Plan of management central coast caravan parks	Community & Recreation Services	Tara Mills
Progress on the Community Strategic Plan (SSV)	Corporate Services	Kerryn Austen Grey
Precincts	Community & Recreation Services	Julie Vaughan
Urban Design Principles & Concepts	Environment and Planning Services	Paul Bowditch / Ana Lage
Full introduction CCWC for the new Council	Corporate Services/	Lesley Crawley
Tuggerah Lakes Floodplain Risk management Study and Plan	Infrastructure Management	Robert Fulcher
GM's quarterly expense report	GM unit	

Briefing Title	Director	STAFF PRESENTING
RZ/7/2009 Chittaway Point Rezoning	Environment and Planning Services	Martin Johnson/Kathryn Heintz
mid year performance review	Corporate Services	
Norah Head Boat ramp Part 3	Community & Recreation Services	Tara Mills/ Tim Burch
Iconic Development Site No 11 - Council Carpark, Coles, Senior Citizens & Toukley Town Centre	Environment and Planning Services	Paul Bowditch / Jonathan Luke
Iconic Development Site No 16 - 216-222 Main Road & Rowland Terrace, Toukley	Environment and Planning Services	Paul Bowditch / Jonathan Luke
Iconic Development Site No 13 - Former Shell Service Station, Council carpark & adjoining sites, Main Road, Yaralla Street and Beachcomber Parade, Toukley	Environment and Planning Services	Paul Bowditch / Jonathan Luke
Central Coast Taxis	Infrastructure Management	Bob Burch
Natural Resources Strategy	Environment and Planning Services	Greg White
Provide update of plans and financial viability of The Art House and Cultural Development	Community & Recreation Services	Julie Vaughan
Comprehensive LEP after exhibition	Environment and Planning Services	Martin Johnson
Draft Shire-Wide Contributions Plan	Environment and Planning Services	martin Johnson/David Kitson
Iconic development site No 14 - beach parade Canton Beach	Environment and Planning Services	Paul Bowditch / Jonathan Luke
Toukley Town Centre Masterplan	Environment and Planning Services	Paul Bowditch / Gary Hamer
Industrial Land and employment Lands study - Post exhibition	Environment and Planning Services	Martin Johnson / Jonathan Luke
Nth Wyong Industrial Precinct - Pre exhibition	Environment and Planning Services	Martin Johnson / Jonathan Luke
Frank Balance Park Design	Environment and Planning Services	Paul Bowditch / Ana Lage
Wyong Employment Zone - results of DCP and S94 Contributions Plan/Biocertification update, DCP amendment update	Environment and Planning Services	Martin Johnson
Sea Level Rise Notification & 149 Certificate	General Counsel/Environment and Planning Services	Brian Glendenning/Martin Johnson/Rod Mergan

1.3 Confirmation of Minutes of Previous Meeting

TRIM REFERENCE: F2012/00026 - D03017089

MANAGER: Lesley Crawley; Manager Corporate Governance

AUTHOR: Monica Redmond; Councillor Services Officer

SUMMARY

Confirmation of minutes of the previous Ordinary Meeting of Council held on 23 May 2012.

RECOMMENDATION

*That Council **confirm** the minutes of the previous Ordinary Meeting of Council held on 23 May 2012 and the Extraordinary meeting held on 31 May 2012.*

ATTACHMENTS

- | | | |
|---|--|-----------|
| 1 | MINUTES - Ordinary Council Meeting - 23 May 2012 | D03016518 |
| 2 | MINUTES - Confidential Session - 23 May 2012 (D03016556) | |
| 3 | MINUTES - Extraordinary Council Meeting - 31 May 2012 | D03024521 |
| 4 | MINUTES - Confidential Session - 31 May 2012 (D03024547) | |

WYONG SHIRE COUNCIL

**MINUTES OF THE
ORDINARY COUNCIL MEETING OF COUNCIL
HELD IN THE COUNCIL CHAMBER
WYONG CIVIC CENTRE, HELY STREET, WYONG
ON 23 MAY 2012
COMMENCING AT 5:00 PM**

PRESENT

Councillors R L Graham (Chairperson), G P Best, D J Eaton, L A Matthews, E M McBride (arrived at 5.24 pm), J J McNamara, W R Symington, D P Vincent, L D Webster and S A Wynn.

IN ATTENDANCE

General Manager, Acting Director Environment and Planning Services, Director Infrastructure Management, Director Corporate Services, Acting Director Community and Recreation Services, General Counsel, Manager Human Resources, Manager Integrated Planning, Manager Building Certification and Health and two administration staff.

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

The Mayor presented Miss Alexander Fitch with a Certificate of Recognition for her extraordinary achievements at the 2012 Youth Winter Olympic Games held in Austria, where she was awarded the Bronze Medal in Women's Snowboard Slope Style.

Mr John Hardwick delivered the opening prayer and Councillor Matthews read an acknowledgment of country statement.

APOLOGIES

There were no apologies.

Report nos 1.1, 2.1, 2.2, 2.3, 4.9, 5.2, 5.3, 5.7, 6.2, 7.1, 7.2, 7.3, 7.4, 3.1, 8.0, 8.1, 8.2, 8.3, 8.4, 4.2, 4.3, 4.4 and 4.5 were dealt with individually and the remaining items were dealt with by the exception method.

1.1 Disclosures of Interest

Councillor McBride arrived at 5.24 pm and as a result took no part in voting on this item.

2.1 Mayoral Minute – Proposed Transfer of Delta Electricity Land to Council for continued operation of the Extreme Sports Park, Koala Park and Camp Breakaway at San Remo

Councillor Vincent declared a non-pecuniary significant interest in the matter for the reason that he is an employee of Delta Electricity, left the chamber at 5.17 pm, took no part in discussion and returned to the chamber at 5.32 pm.

7.4 Notice of Motion – Mardi Old Farm Rezoning

The General Counsel, Brian Glendenning declared a non-pecuniary insignificant interest in the matter for the reason that prior to commencement of his employment by Council, had previously given advice to a (now deceased and therefore former) Director of the owner of the site on the zoning of this site and did not participate in consideration of this matter and remained in the chamber.

8.0 Mayoral Minute – General Manager’s Performance Appraisal

The General Manager, Michael Whittaker declared a pecuniary interest in the matter for the reason that the item is about his employment contract, left the chamber at 7.45 pm, took no part in discussion and returned to the chamber at 7.47 pm.

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

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

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

AGAINST: NIL

PROCEDURAL MOTION

SUSPENSION OF MEETING PRACTICE

Councillor McBride arrived at 5.24 pm and as a result took no part in voting on this item.

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

1 That Council allow meeting practice to be varied.

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

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

AGAINST: NIL

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

That with the exception of report numbers 2.1, 2.2, 2.3, 3.1, 4.2, 4.3, 4.4, 4.5, 4.9, 5.2, 5.3, 5.7, 6.2, 7.1, 7.2, 7.3, 7.4, 8.0, 8.1, 8.2, 8.3 and 8.4 Council adopt the recommendations contained in the remaining reports.

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

AGAINST: NIL

1.2 Proposed Inspections and Briefings

Councillor McBride arrived at 5.24 pm and as a result took no part in voting on this item.

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

That Council receive the report on Proposed Inspections and Briefings.

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

AGAINST: NIL

1.3 Confirmation of Minutes of Previous Meeting

Councillor McBride arrived at 5.24 pm and as a result took no part in voting on this item.

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

That Council confirm the minutes of the previous Ordinary Meeting of Council held on 9 May 2012.

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

AGAINST: NIL

Business Arising

There was no business arising.

1.4 Address by Invited Speakers

Councillor McBride arrived at 5.24 pm and as a result took no part in voting on this item.

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

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

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

AGAINST: NIL

1.5 Notice of Intention to Deal with Matters in Confidential Session

Councillor McBride arrived at 5.24 pm and as a result took no part in voting on this item.

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

- 1 That Council consider the following matter in Confidential Session, pursuant to Sections 10A(2)(a), (c) and (d)(ii) of the Local Government Act 1993:**

8.1 – Contract CPA/158914 – Management of Toukley Aquatic Centre, Wyong Olympic Pool, The Entrance Ocean Baths and Lake Haven Recreational Centre

8.2 – Proposed Acquisition of Crown Land Lots 7316 and 7317 DP 1155188, Lot 1 DP 206598 and Part of Lot 31 DP 1096069 South Tacoma Rd Tuggerah

8.3 – External Legal Advice on the Legality of the Proposed \$25 Stormwater Management Charge

8.4 – Neuman's Contract matter

Q13/12 – 8 Bush Road Norah Head

- 2 That Council note the reason for considering items in confidential session:**

- 8.1 and 8.2 – is that if disclosed it would confer a commercial advantage on a person with whom the Council is conducting, or proposes to conduct, business**
- 8.2 - is that commercial information of a confidential nature that would, if disclosed, confer a commercial advantage on a competitor of the Council**

- 3 That Council request the General Manager to report on this matter in open session of Council.**

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

2.1 Mayoral Minute - Proposed Transfer of Delta Electricity Land to Council for continued operation of the Extreme Sports Park, Koala Park and Camp Breakaway at San Remo

Councillor Vincent declared a non-pecuniary significant interest in the matter for the reason that he is an employee of Delta Electricity, left the chamber at 5.17 pm, took no part in discussion and returned to the chamber at 5.32 pm.

Councillor McBride entered the meeting at 5.24 pm during consideration of this item.

RESOLVED unanimously on the motion of Councillor GRAHAM:

That Council formally seek the support of the State Government for the transfer of lands owned by Delta Electricity, a State Government owned power generating company, to Council at no cost to allow the continuing operation of the Extreme Sports Park, Koala Park, the triangle of land bounded by Scenic Drive, Highview Street and the Outlet San Remo and the recreation lands and open park lands at Vales Point Power Station for the public use benefit.

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

2.2 Mayoral Minute - Council Resource Utilisation Leading Up to the Local Government Election - September 2012

RESOLVED on the motion of Councillor GRAHAM:

- 1 *That the report be received and noted and that all Councillors conform to the intent of this Mayoral Minute.***
- 2 *That the General Manager provide a briefing and report to the next Council meeting 13 June 2012 indicating options and the supporting arguments to ensure legitimacy and correctness on all future Notices of Motions.***

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

MOTION BE PUT

RESOLVED on the motion of Councillor EATON:

That the motion be put.

The MOTION was put to the vote and declared CARRIED.

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

MOTION OF DISSENT

It was *MOVED* by Councillor *BEST*:

I move dissent from the Chairperson's ruling in respect of the decision to allow voting to put item 2.2, Mayoral Minute - Council Resource Utilisation Leading Up to the Local Government Election - September 2012, as I believe there were not two speakers for and against this item.

The MOTION was put to the vote and declared LOST.

FOR: COUNCILLORS BEST, MATTHEWS, MCBRIDE AND VINCENT

AGAINST: COUNCILLORS EATON, GRAHAM, MCNAMARA, SYMINGTON, WEBSTER AND WYNN

2.3 Mayoral Minute - Visit to Canberra 2012

RESOLVED unanimously on the motion of Councillor GRAHAM:

That Council receive and note the Mayoral Minute – Visit to Canberra 2012.

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

AGAINST: NIL

PROCEDURAL MOTION

Councillor Vincent left the meeting at 5.15 pm and returned to the meeting at 5.17 pm and as a result took not part in voting on this item.

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

1 That Council allow meeting practice to be varied.

2 That Council defer item 3.1, DA/159/1993/A - Section 96 Application Variation to Existing consent Rural Dwelling at Little Jilliby, until in confidential session in order to receive legal advice.

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

AGAINST: NIL

3.1 DA/159/1993/A - Section 96 Application Variation to Existing consent Rural Dwelling at Little Jilliby

Councillor Vincent left the meeting at 5.15 pm and returned to the meeting at 5.17 pm during consideration of this item.

Mrs Mary Mann, local resident, speaking against the recommendation, addressed the meeting at 5.14 pm, answered questions and retired at 5.15 pm.

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

- 1 That Council request the applicant to withdraw this application.
- 2 That Council take no further action in respect to this matter for a period of two years.

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

AGAINST: NIL

4.1 Contract Variations and Finalisation - March 2012

Councillor McBride arrived at 5.24 pm and as a result took no part in voting on this item.

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

- 1 That Council receive the Contract Variations and Finalisation for March 2012.
- 2 That Council approve additional expenditure above resolved estimates for the following contracts:

Contract Title	Contract No	Adjusted Contract Value (excl GST)	Additional Budget Approval
Provision of Accounting Management Services	CPA/201865	\$209,516.00	\$59,516.00
Stormwater Treatment Works - Colongra Bay Road, Lake Munmorah	CPA/144547	\$333,355.56	\$35,316.06

- 3 That Council note the additional expenditures requested are within approved program budgets.

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

AGAINST: NIL

PROCEDURAL MOTION

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

- 1 That Council allow meeting practice to be varied.**
- 2 That Council defer items 4.2 - Submissions to The Wyong Shire Strategic Plan 2012 - 2016 (consideration), 4.3 - Adoption of the Wyong Shire Council Strategic Plan 2012-2016 (incorporating the Annual Plan and 4 Year Delivery Plan), 4.4 - Making and Fixing of Rates and Charges for 2012-13, and 4.5 - Determination of Water and Sewer Fees and Charges 2012 – 2013, to be considered in open session after item 8.1 – External Legal Advice Stormwater Management Charge, has been dealt with in confidential session.**

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

AGAINST: NIL

4.2 Submissions to The Wyong Shire Strategic Plan 2012 - 2016 (consideration)

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

- 1 That Council receive the submissions listed herein concerning the Draft WSC Strategic Plan 2012-16.**
- 2 That Council determine the outcome of each submission in terms of possible changes to the draft Plan before the final Plan is adopted.**
- 3 That Council amend the WSC Strategic Plan 2012-16 to reflect its consideration of submission number 9v.**

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

AGAINST: NIL

4.3 Adoption of the Wyong Shire Council Strategic Plan 2012-2016 (incorporating the Annual Plan and 4 Year Delivery Plan)

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

- 1 That Council adopt the WSC Strategic Plan (2012-2016) complete with the changes proposed in this report.**
- 2 That Council approve the estimates of income and expenditure as detailed in this report and the Plan.**
- 3 That Council authorises the General Manager to make final minor changes to the plan to ensure correctness and clarity.**
- 4 That Council set the rate and charge rebates to pensioners for the year 2011-2012 in accordance with the relevant legislation and Council's current policy.**

- 5 ***That Council is of the opinion that the following rateable land will derive benefit from the business related costs of The Entrance Town Centre Management that are funded in part or whole by The Entrance Town Centre Special Rate:***
- a ***All land used for business purposes and categorised as such in accordance with section 518 of the Local Government Act 1993 in the suburb know as The Entrance.***
 - b ***All land used as Major Facilities servicing tourists including Service Stations, Camp or Caravan Sites, Registered Clubs, Tourist. Accommodation and Hotels/Motels as defined in Council's current Local Environmental Plan (LEP) and District Shopping Centres as defined in Council's current Retail Strategy in the suburbs known as The Entrance North, The Entrance, Blue Bay, Long Jetty, Toowoan Bay, Shelly Beach, Bateau Bay and Magenta.***
 - c ***All land used as rental accommodation and which is categorised as Residential under Section 516 of the Local Government Act, 1993 which is rented or leased for periods of three months or less in the suburbs known as The Entrance North, The Entrance, Blue Bay and Toowoan Bay.***
- 6 ***That Council is of the opinion that the following rateable land will derive benefit from the business related costs of the Greater Toukley Vision that are funded in part or whole by the Non Residential Properties Toukley Area Special Rate :***
- a ***All land used for business purposes and categorised as such in accordance with Section 518 of the Local Government Act 1993 in the suburbs known as Toukley, Canton Beach, Noraville and Norah Head.***
- 7 ***That Council is of the opinion that the following rateable land will derive benefit from the business related costs of the Wyong-Tuggerah Chamber of Commerce that are funded in part or whole by the Non Residential Properties Wyong Area Special Rate :***
- a ***All land used for business purposes and categorised as such in accordance with Section 518 of the Local Government Act 1993 in the suburb known as Watanobbi.***
 - b ***All land used for business purposes and categorised as such in accordance with section 518 of the Local Government Act 1993 in the suburb known as Wyong, bounded by the following:***
 - ***North of the Wyong River from Tacoma in the east to the F3 Freeway in the west;***
 - ***East of the F3 Freeway from the Wyong River to the suburb boundary between Wyong and Warnervale but to exclude Lot 32 DP 814964;***
 - ***South of the northern Wyong boundary to its intersection with the Pacific Highway and then south of the Pacific Highway to the***
 - ***Intersection of Pollock Avenue, but to include Lot 400 DP 1114793 (being to the north of the Pacific Highway);***
 - ***The eastern boundary of the suburb of Wyong from Johns Road to Wyong River.***

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

AGAINST: NIL

4.4 Making and Fixing of Rates and Charges for 2012-13

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

- 1 That Council make the following ordinary rates for 2012-13 consisting of a base amount to which an ad valorem amount is added, pursuant to Sections 492-494, 497-500, 535-537 of the Local Government Act 1993:

Ordinary Rate Category Under Section 493	Ordinary Rate Sub Category Under Section 529	Base Amount	% revenue sourced from base amount for each category	Ad Valorem Amount (cents in the \$)
Farmland		\$168.00	7.82%	0.2312
Residential		\$168.00	19.32%	0.3789
Mining		\$168.00	0.10%	7.6548
Business		\$168.00	6.21%	0.7064
Business	Major Retail	\$168.00	0.32%	1.0596

- 2 That Council make the following special rates and amounts for 2012-13 consisting of a base amount to which an ad valorem amount is added, pursuant to Sections 492, 495, 497-500, 535-538 of the Local Government Act 1993:

Special Rate	Base Amount	% revenue sourced from base amount for each Special Rate	Ad Valorem Amount (cents in the \$)
The Entrance Town Centre	\$76.00	13.05%	0.2885
Non Residential Properties Toukley Area	\$76.00	10.06%	0.2372
Non Residential Properties Wyong Area	\$76.00	17.67%	0.1053

- 3 That Council adopt the following descriptions of rateable land to which each special rate will apply for 2012-13, pursuant to Section 538 of the Local Government Act 1993:

a The Entrance Town Centre Special Rate will apply to the following rateable land:

- i All land used for business purposes and categorised as such in accordance with Section 518 of the Local Government Act 1993 in the suburb known as The Entrance.
- ii All land used as Major Facilities servicing tourists including Service Stations, Camp or Caravan Sites, Registered Clubs, Tourist Accommodation and Hotels/Motels as defined in Council's current Local Environmental Plan (LEP) and District Shopping Centres as defined in Council's current Retail Strategy in the suburbs known as The Entrance North, The Entrance, Blue Bay, Long Jetty, Toowoan Bay, Shelly Beach, Bateau Bay and Magenta.
- iii All land used as rental accommodation and which is categorised as Residential under Section 516 of the Local Government Act, 1993 which is rented or leased for periods of three months or less in the suburbs known as The Entrance North, The Entrance, Blue Bay and Toowoan Bay.

b The Non Residential Properties Toukley Area Special Rate will apply to all rateable land used for business purposes and categorised as such in accordance with Section 518 of the Local Government Act 1993 in suburbs known as Toukley, Canton Beach, Noraville and Norah Head.

c *The Non Residential Properties Wyong Area Special Rate will apply to all rateable land used for business purposes and categorised as such in accordance with Section 518 of the Local Government 1993 in the following areas:*

i *The suburb known as Watanobbi.*

ii *The suburb known as Wyong, bounded by the following:*

- *North of the Wyong River from Boyce Avenue in the east to the F3 Freeway in the west.*
- *East of the F3 Freeway from the Wyong River to the suburb boundary between Wyong and Warnervale but to exclude Lot 32 DP 814964.*
- *South of the northern Wyong boundary to its intersection with the Pacific Highway and then south of the Pacific Highway to the intersection of Pollock Avenue, but to include Lot 400 DP 1114793, (being to the north of the Pacific Highway).*
- *The eastern boundary of the suburb of Wyong from Johns Road to Wyong River.*

4 *That Council make the following schedule of annual charges for stormwater management services for 2012-13, pursuant to Sections 496(A) and 510(A) of the Local Government Act 1993:*

<i>Stormwater Management Charge</i>	<i>Unit of Charge</i>	<i>Charge</i>
<i>Residential</i>	<i>Per property</i>	<i>\$25.00</i>
<i>Residential Strata</i>	<i>Per lot</i>	<i>\$12.50</i>
<i>Residential Company Title</i>	<i>Per Company Title complex apportioned according to the number of shares in the company owned by each shareholder</i>	<i>\$25.00</i>
<i>Business</i>	<i>Per 850 square metres or part thereof of the land area of the property to a maximum of \$5,000 per property</i>	<i>\$25.00</i>
<i>Business Strata</i>	<i>Per 850 square metres or part thereof of the land area of the strata complex to a maximum of \$5,000 per strata complex, apportioned equally to each lot within the strata complex</i>	<i>\$25.00</i>
<i>Business Company Title</i>	<i>Per 850 square metres or part thereof of the land area of of the Company Title complex to a maximum of \$5,000 per Company Title complex, apportioned according to the number of shares in the company owned by each shareholder</i>	<i>\$25.00</i>

5 *That Council apply the Stormwater Management Charge to all properties in the Shire eligible under Section 496(a) of the Local Government Act 1993 and located east of the F3 Freeway.*

6 *That Council make the following annual Domestic Waste Management Charges for 2012-13, pursuant to Section 496 of the Local Government Act 1993:*

<i>Description</i>	<i>Charge each</i>
<i>Domestic Waste Management Availability Charge</i>	<i>\$58.00</i>
<i>Domestic Waste Management Charge</i>	<i>\$460.00</i>
<i>Domestic Waste Management Charge West of F3 Freeway</i>	<i>\$390.00</i>
<i>Domestic Waste Management Charge – 240 litre Waste Upgrade</i>	<i>\$144.00</i>
<i>Domestic Waste Management Charge – Additional 240 litre Waste Bin Service</i>	<i>\$435.00</i>

Domestic Waste Management Charge – Additional 140 litre Waste Bin Service	\$299.00
Domestic Waste Management Charge – Additional 240 litre Recycling Bin Service	\$ 70.00
Domestic Waste Management Charge – Additional 240 litre Vegetation Bin Service	\$ 70.00
Domestic Waste Management Charge – Additional Short Term Extra Service – 140 litre Waste Bin - price per service	\$ 15.50
Domestic Waste Management Charge – Additional Short Term Extra Service – 240 litre Waste Bin - price per service	\$ 16.50
Domestic Waste Management Charge – Additional Short Term Extra Service – 240 litre Recycling Bin - price per service	\$ 15.50
Domestic Waste Management Charge – Additional Short Term Extra Service – 240 litre Vegetation Bin - price per service	\$ 15.50

- 7 That Council continue the current policy of not providing a Domestic Waste Management service to parcels of land which have no Council approval for a residential building.
- 8 That Council make the following Waste Management Charges for 2012-13, pursuant to Section 501 of the Local Government Act 1993:

Description	Charge each
Waste Management Charge – 140 litre Waste Bin Service	\$ 299.00
Waste Management Charge – 240 litre Recycling Bin Service	\$ 70.00
Waste Management Charge – 240 litre Vegetation Bin Service	\$ 70.00
Waste Management Charge - 240 litre Waste Bin Service	\$ 429.00
Waste Management Charge - 660 litre Waste Bin Service	\$1,732.00
Waste Management Charge - 1.1 cubic metre Waste Bin Service	\$2,445.00
Waste Management Charge - 1.5 cubic metre Waste Bin Service	\$3,294.00

- 9 That Council apply a proportional charge adjustment, calculated on a weekly basis, where Domestic Waste Management or Waste Management services commence or cease during the year.
- 10 That Council charge the maximum interest rate as specified by the Minister for Local Government and published in the Government Gazette in respect of overdue rates and charges levied under the Local Government Act 1993 and this interest be calculated on a daily basis using the simple interest method in accordance with Section 566 of the Local Government Act 1993, for the period of 1 July 2012 to 30 June 2013.
- 11 **Incentive Scheme**
- a That Council offer an incentive scheme for those eligible ratepayers who elect to pay, their 2012-13 Rates and Charges in full by 31 August 2012 and for those ratepayers who elect to pay by direct debit.
- b That Council implement the incentive scheme in accordance with the rules detailed in Attachment 1.
- c That Council consider a report detailing the success or otherwise of the scheme following the scheme period.

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

AGAINST: NIL

4.5 Determination of Water and Sewer Fees and Charges 2012 - 2013

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

- 1 That Council approve the water, sewerage and drainage Service Charges set out in Attachment 1**
- 2 That Council note the amount of revenue to be raised by way of the Service Charges is estimated at \$73,371,000.**
- 3 That Council classify all land for the purpose of levying Services Charges according to the following factors:**
 - a whether the land is residential or non residential;**
 - b where the land is residential, by the intensity of the use of the land; and**
 - c the nature and extent of the water or sewerage services connected to each individual allotment.**
- 4 That Council determine the Service Charges shall be levied in accordance with the Water Management Act 2000.**

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

AGAINST: NIL

4.6 Council Representation at the Annual General Meeting of the Central Coast Water Corporation

Councillor McBride arrived at 5.24 pm and as a result took no part in voting on this item.

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

That Council resolve that its Voting Shareholder rights, obligations and functions be exercised at the Annual General Meeting of the Central Coast Water Corporation by the Mayor and General Manager acting jointly.

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

AGAINST: NIL

4.7 Confirmed Minutes of 30 November 2011 Governance Committee Meeting and Draft minutes of 21 March 2012 Governance Committee Meeting

Councillor McBride arrived at 5.24 pm and as a result took no part in voting on this item.

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

- 1 That the Council adopt the confirmed minutes of Ordinary and Confidential Session of the Wyong Shire Governance Committee Meeting held 30 November 2011 which were confirmed by the Committee on 21 March 2012 as amended to update some departure and return times to read as "am".**
- 3 That Council receive the draft minutes of the Wyong Shire Governance Committee Meeting held on 21 March 2012.**
- 4 That Council request the General Manager to have the Senior Executive Team review the Outstanding Internal Audit Agreed Action List and provide comments back to the next meeting of the Governance Committee to be held on 21 June 2012.**
- 5 That Council request the General Manager to have the Report on Statement of Business Ethics updated by the Manager Contract and Project Management to reflect current practice and re-submitted to the Committee for consideration to the next Governance Committee meeting to be held on 21 June 2012.**

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

AGAINST: NIL

4.8 2011-15 Strategic Plan - March Quarter Review

Councillor McBride arrived at 5.24 pm and as a result took no part in voting on this item.

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

- 1 That Council receive the third Quarterly Review Report on progress against the WSC 2011-15 Strategic Plan.**
- 2 That Council note that Council's Responsible Accounting Officer has declared the financial position of Wyong Shire Council to be satisfactory.**
- 3 That Council approve budget variations as contained in the detailed report enclosure.**

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

AGAINST: NIL

4.9 One Association - Wyong Shire Council Voting Delegates

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

That Council nominate Councillors Matthews, Vincent, Wynn, Webster, Best, Eaton and Graham as Council's voting delegates to take part in the forthcoming secret postal ballot to deal with the matter of One Association, and that their names and personal postal addresses be forwarded to the Associations to form the Roll of Voters.

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

- 1 That Council write to Fair Work Australia and submit that when ballot papers are distributed they should include a NO case as well as a YES case.*
- 2 That Council nominate Councillors Matthews, Vincent, Wynn, Webster, Best, Eaton and Graham as Council's voting delegates to take part in the forthcoming secret postal ballot to deal with the matter of One Association, and that their names and personal postal addresses be forwarded to the Associations to form the Roll of Voters.*
- 3 That Council debate the Yes and No cases at a full Council meeting before those individual Councillors cast their votes.*

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

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

AGAINST: COUNCILLORS BEST, EATON, GRAHAM, MCNAMARA AND WEBSTER

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

That Council nominate Councillors Matthews, Vincent, Wynn, Webster, Best, Eaton and Graham as Council's voting delegates to take part in the forthcoming secret postal ballot to deal with the matter of One Association, and that their names and personal postal addresses be forwarded to the Associations to form the Roll of Voters

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

AGAINST: COUNCILLOR MCBRIDE

4.10 Policy for Public Interest Disclosures

Councillor McBride arrived at 5.24 pm and as a result took no part in voting on this item.

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

That Council adopt the Public Interest Disclosures policy attached to this report based on the model policy and guidelines provided by the NSW Ombudsman.

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

AGAINST: NIL

5.1 Works in Progress - Water Supply and Sewerage

Councillor McBride arrived at 5.24 pm and as a result took no part in voting on this item.

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

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

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

AGAINST: NIL

5.2 Proposed Major Transport Infrastructure Projects

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

- 1 That Council receive the report on the study carried out for the Proposed Major Transport Infrastructure Projects.**
- 2 That Council now engage the local community with regard to the proposed major transport infrastructure projects on the Central Coast.**

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

AGAINST: COUNCILLOR BEST

5.3 Operational Activities and Trends Associated with the Animal Care Facility

Councillor Vincent left the meeting at 6.22 pm and returned to the meeting at 6.24 pm during consideration of this item.

Councillor McNamara left the meeting at 6.23 pm and returned to the meeting at 6.25 pm during consideration of this item.

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

- 1 That Council receive the report on Operational Activities and Trends Associated with the Animal Care Facility for the financial year 2011/2012.**
- 2 That Council congratulate the staff for their ongoing efforts and success at the animal care facility.**

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

AGAINST: NIL

5.4 Activities of the Development Assessment and Building Certification and Health Units

Councillor McBride arrived at 5.24 pm and as a result took no part in voting on this item.

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

That Council receive the report on Activities of the Development Assessment and Building Certification and Health Units

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

AGAINST: NIL

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

Councillor McBride arrived at 5.24 pm and as a result took no part in voting on this item.

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

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

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

AGAINST: NIL

5.6 Investment Report for April 2012

Councillor McBride arrived at 5.24 pm and as a result took no part in voting on this item.

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

That Council receive the Investment Report for April 2012.

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

AGAINST: NIL

5.7 2 Main Road, Toukley - compliance with order

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

- 1 That Council receive the report on 2 Main Road, Toukley - compliance with order.
- 2 That Council plant suitably mature native vegetation along the southern end of the eastern boundaries of the site in question with the concurrence of the RMS.
- 3 That Council write to the owners of the property requesting the right to remove graffiti on the site.

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

AGAINST: NIL

5.8 Outstanding Questions on Notice and Notices of Motion

Councillor McBride arrived at 5.24 pm and as a result took no part in voting on this item.

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

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

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

AGAINST: NIL

7.1 Notice of Motion - Reduce Single Use Plastic Bag Use in Wyong Shire

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

- 1 That Council acknowledge the efforts taken by some local businesses, residents and environmental groups to reduce the number of single-use plastic shopping bags used throughout the Shire.
- 2 That Council acknowledge that single-use plastic bags in the waste stream cause pollution, lasting many hundreds of years as they photo degrade rather than biodegrade into ever smaller pieces. The bags are a major litter problem in our parks, bush land and waterways and can result in the injury and death of many animal species both inside and outside of Wyong Shire such as turtles, cetaceans and birds.
- 3 That Council write to State and Federal Government Ministers urging them to introduce legislation that would ban or impose a levy on free single use plastic shopping bags as a timely measure that:
 - shows solidarity with the stated position of the LGSA in supporting extender producer responsibility by retailers and waste reduction at the source,

- *notes the lack of legislation to impose a levy on free single-use plastic bags*
 - *reinforces a levy or ban as an important NSW state and national measure to decrease packaging litter, already successfully modeled by national retailers, Target, Aldi and Bunnings; by legislation passed in the states of South Australia, Northern Territory and ACT; by towns such as Coles Bay (Tasmania) and Mogo (southern NSW) in 2003, and planned by the City of Freemantle Council in 2012.*
- 4 *That Council contact major retailers to encourage them to collaborate with Council voluntarily in a staged approach to reduce and ultimately eliminate non-biodegradable plastic shopping bags from Wyong Shire.*
- 5 *That Council engage with the Wyong Shire community in a process of creating awareness and education with regard to the degradation caused by plastic pollution including behavioural change away from our throwaway, disposable, single use attitude and awareness around the excessive plastic packaging of many products.*

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

AGAINST: COUNCILLORS BEST, EATON AND MCNAMARA

7.2 Notice of Motion - Lakes Bogged in Green Tape

The item was withdrawn by Councillor Best.

7.3 Notice of Motion - Enhancing Planning Flexibility and Business Viability

Councillor Wynn left the meeting at 6.57 pm and returned to the meeting at 6.59 pm during consideration of this item.

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

- 1 *That Council proceed, as soon as practicable, to place on public exhibition its draft Settlement Strategy, subject to Department of Planning and Infrastructure concurrence.*
- 2 *That Council proceed, as soon as practicable to place on public exhibition those parts of the draft DCP, that can be adopted prior to the DLEP, which would increase planning flexibility and/or development viability, including but not limited to the car parking and engineering chapters.*
- 3 *That Council authorise the General Manager to determine which parts of the DCP to proceed to exhibition.*
- 4 *That Council nominate an exhibition period of two months.*
- 5 *That Council receive a further report on the results of the exhibition including consideration of adoption of these policies.*

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

AGAINST: COUNCILLORS MATTHEWS, MCBRIDE, VINCENT AND WYNN

7.4 Notice of Motion - Mardi Old Farm Rezoning

The General Counsel, Brian Glendenning declared a non-pecuniary insignificant interest in the matter for the reason that prior to commencement of his employment by Council, had previously given advice to a (now deceased and therefore former) Director of the owner of the site on the zoning of this site and did not participate in consideration of this matter and remained in the chamber.

Councillor Matthews left the meeting at 7.04 pm and returned to the meeting at 7.06 pm during consideration of this item.

Mr Laurie Denton, local resident, speaking in favour of the recommendation, addressed the meeting at 7.02 pm, answered questions and retired at 7.10 pm.

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

- 1 That Council reiterate its support for the Mardi Old Farm rezoning project.**
- 2 That Council note that the Mardi Old Farm Rezoning has been supported by Council for at least 15 years, is located close to Westfield Tuggerah, is not in the water catchment and can be sewerred.**
- 3 That Council direct the General Manager to provide priority treatment to the project and allocate staff accordingly.**

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

AGAINST: COUNCILLORS MATTHEWS, MCBRIDE, VINCENT AND WYNN

CONFIDENTIAL SESSION

At this stage of the meeting being 7.32 pm Council moved into Confidential Session with the members of the press and public excluded from the meeting of the closed session and access to the correspondence and reports relating to the items considered during the course of the closed session being withheld. This action is taken in accordance with Section 10a of The Local Government Act, 1993.

OPEN SESSION

Council resumed in open session at 8.11 pm and the Director of Corporate Services and the General Manager reported on proceedings of the Confidential Session of the Ordinary Meeting of Council as follows:

8.0 Mayoral Minute - General Manager's Performance Appraisal

- 1 That Council approve the General Manager's performance appraisal content for 2011/12 as attached.
- 2 That Council approve the agreed 1.0% remuneration increase as per Clause 8.3 resulting in an overall increase of 3.5% when incorporating the SOORT increase and variation to schedule A of the General Managers contract as attached.
- 3 That Council determine the General Manager's objectives for 2012/13 at the next available Councillor briefing.

8.1 External Legal Advice Stormwater Management Charge

That Council note the legal advice provided to Council by Mr Patrick Larkin SC.

8.2 Contract CPA/158914 - Management of Toukley Aquatic Centre, Wyong Olympic Pool, The Entrance Ocean Baths and Lake Haven Recreational Centre

- 1 That Council exercise its option to extend Contract CPA 158914 with YMCA of Sydney for a further two year period in the extended schedule of rates in the amount of \$451,109.44 per year (excludes GST and CPI increases).
- 2 That Council approve an annual contract budget of \$500,000.00 (excludes GST and CPI increases) that provides for an annual contingency amount of \$48,890.56 (excludes 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.

8.3 Proposed Acquisition of Crown Land Lots 7316 and 7317 DP 1155188, Lot 1 DP 206598 and Part of Lot 31 DP 1096069 South Tacoma Rd Tuggerah

- 1 That Council acquire by agreement from the Crown and for a nominal consideration, purchase or compulsorily acquire Lots 7316 and 7317 DP 1155188, Lot 1 DP 206598 and Part of Lot 31 DP 1096069 South Tacoma Road Tuggerah.
- 2 That Council authorise the application to proceed with compulsory acquisition by agreement for the approval of the Minister and the Governor NSW, pursuant to Section 30 of the Land Acquisition Just Terms Compensation Act 2012.
- 3 That Council authorise the General Manager to sign and seal all documentation associated with the acquisition and or transfer of the land referred to in Item 1 to Council.
- 4 That Council classify Council land Lot 430 DP 1145240 as Operational Land
- 5 That Council advertise the proposal to classify in accordance with Section 34 of the Local Government Act 1993 subject to the exchange being approved by the Minister and Governor.
- 6 That Council adopt the classification if no material adverse submissions being received.
- 7 That Council request a briefing on this matter be undertaken in July.

8.4 Contract CPA/115479 - Rehabilitation and Redevelopment of the Closed Bateau Bay Landfill - Status of Court Proceedings and Negotiations

- 1 That Council note the Further Report on Contract CPA/115479 - Rehabilitation and Redevelopment of the Closed Bateau Bay Landfill and negotiations that have been undertaken following Council's resolution in the Confidential Session of the Ordinary Meeting of Council on 13 July 2011.**
- 2 That Council authorise the use of the Council Seal on the proposed Deed of Settlement and Release that is attachment A to that Further Report and authorise the Mayor and the General Manager to do all acts necessary to cause the seal to be affixed to that Deed.**

QUESTIONS ON NOTICE

Q19/12 Buy Local Festival
Councillor Emma McBride
DA/1137/2011

"Could staff please provide a report on Council's support and presence at the recently held Buy Local Festival?"

Q20/12 Theiss Rubbish Removal
Councillor Greg Best
F2004/07718

"Mr General Manager, I have received complaints from ratepayers over the exorbitant amount of time they have to waste on the phone to get a kerbside collection, also the automated phone ordering system is not working well. Could staff report on how we can get Theiss to comply with our requirements and deliver timely service to our ratepayers?"

Q21/12 Warnervale Hall White Ant Infestation
Councillor Greg Best
F2004/07718

"Mr General Manager, I note on the front page of this Business Paper 23 May 2012 we are highlighting the good work done by staff in the major renovations to the Warnervale Hall. Could staff please advise how this hall became white ant infested as I believe we have a rigorous infrastructure maintenance and management plan in place for all assets?"

THE MEETING closed at 8.26 pm.

WYONG SHIRE COUNCIL

**MINUTES OF THE
EXTRAORDINARY COUNCIL MEETING OF COUNCIL
HELD IN THE COUNCIL CHAMBER
WYONG CIVIC CENTRE, HELY STREET, WYONG
ON 31 May 2012
COMMENCING AT 7.00 PM**

PRESENT

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

IN ATTENDANCE

General Manager, Director Environment and Planning Services, Director Corporate Services, Director Community and Recreation Services and General Counsel.

Two administration staff.

The Mayor, Councillor Graham, declared the meeting open at 7.00 pm and advised in accordance with the Code of Meeting Practice that the meeting is being recorded.

Councillor Matthews read an acknowledgment of country statement and John Hardwick delivered the opening prayer.

APOLOGIES

There were no apologies.

1.1 Disclosures of Interest

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

That Council receive the report on Disclosure of Interest and the fact that no disclosure was made be noted.

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

AGAINST: NIL

1.2 Notice of Intention to Deal with Matters in Confidential Session

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

1 That Council consider the following matters in Confidential Session, pursuant to Sections 10A 2(d) (i) and (ii) of the Local Government Act 1993:

3.1 Implementation of the Central Coast Water Corporation

2 That Council note its reason for considering Report No 3.1 in confidential session is the report requires commercial discussion and agreement with another party (Gosford City Council) before it can be presented for Wyong Shire Council's endorsement.

3 That Council request the General Manager to report on this matter in open session of Council.

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

AGAINST: NIL

2.1 Implementation of the Central Coast Water Corporation under the Preferred Model

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

- 1 That Council convene a meeting of the Central Coast Regional Organisation of Councils to be held on 28 June 2012.**
- 2 That Council note that the CCROC meeting of 28 June 2012 will consider the following:**
 - a An implementation workplan to be referred to the Corporation and the Minister for Water in accordance with the Memorandum of Understanding (MoU).**
 - b Any necessary changes / amendments / definitions/ inclusions to the CCWC Act be presented to the Minister for Water. Other consequential changes to the Constitution, Shareholders Agreement and Funding and Services Agreement be implemented to support the recommended operating model.**
 - c A proposal by Wyong Shire Council to seek an amendment to the CCWC Act to allow Gosford City Council and Wyong Shire Council to nominate 2 Directors each for appointment to the Corporation's Board thereby establishing a Board of 7 Directors made up of 4 Council nominated Directors and 3 independent Directors be enclosed.**

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

AGAINST: NIL

2.2 Project Governance - Central Coast Water Corporation

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

- 1 That Council adopt the project governance framework outlined in the attached report.**
- 2 That the Council note the following key characteristics of the new project governance arrangements;**
 - (a) The current arrangements comprising a Project Control Group - Councils and Project Control Group – Corporation to be replaced by a single Project Control Group responsible for overseeing the implementation of the Councils' adopted operating model for the Central Coast Water Corporation and the Joint Services Business.**
 - (b) The Project Control Group to include 3 representatives from Gosford City Council including the General Manager and 3 representatives from Wyong Shire Council including the General Manager, 1 representative from the Central Coast Water Corporation and 2 union representatives making a total membership of 9 representatives.**
 - (c) The Central Coast Water Corporation Project Establishment office to be replaced by a Program Management Office supporting the new governance arrangements.**
 - (d) That delegation be given to the respective General Managers to nominate the 3 Council representatives.**

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

AGAINST: NIL

CONFIDENTIAL ITEMS**3.1 Implementation of the Central Coast Water Corporation**

At this stage of the meeting being 7.06 pm council moved into Confidential Session with the members of the press and public excluded from the meeting of the closed session and access to the correspondence and reports relating to the items considered during the course of the closed session being withheld. This action is taken in accordance with Section 10a of The Local Government Act, 1993 as the items listed come within the following provisions:-

OPEN SESSION

Council resumed in open session at 7.45 pm and the General Manager reported on proceedings of the confidential session of the ordinary meeting of council as follows:

Councillor Best left the chamber at 7.43pm and returned to the chamber at 7.44pm and as a result took no part in voting.

3.1 Implementation of the Central Coast Water Corporation

- 1 ***That Council receive and note the PwC CBA report.***
- 2 ***That Council adopt Option N - Integrated CCWC (Long term lease) + Joint Services Business as the operating model for the implementation of the Corporation.***
- 3 ***That Council adopt the following:***
 - (a) ***An Implementation Plan be developed in consultation with the Corporation for Option N and presented to the Councils at a meeting of the CCROC in 28 June 2012.***
 - (b) ***That the Asset Management and Regulatory Services functions and associated staff from each Council transfer to the Corporation from 1 July 2014.***
 - (c) ***The General Managers be delegated the power to transfer functions, people and assets to the Corporation as required to test and trial management systems and processes prior to 1 July 2014 and up to 30 June 2017.***
 - (d) ***That all remaining water and sewer staff be transferred to the Corporation as soon as practically possible, but no later than 1 July 2017.***
 - (e) ***That a Joint Services Business(JSB), providing support services to the Councils and Corporation, be established and functional by 1 July 2017.***
 - (f) ***That both Councils continue to work together to provide support services to the Corporation until the JSB is established.***
- 4 ***The Council note that the preferred operating model ensures:***
 - (i) ***Job security for staff.***
 - (ii) ***Maintains ownership of the assets with the Central Coast Community.***
 - (iii) ***Provides a net benefit to the three entities (WSC, GCC & CCWC).***
 - (iv) ***Delivers a coordinated regional approach for the Central Coast Community for the essential services of water and wastewater.***
 - (v) ***Consideration of the CCWC and JSB project will be on the basis of a guarantee of job security for permanent award staff for three years after the transfer of any staff to the JSB, CCWC or those who remain at either Council. (From date of individual transfer). That this request be made of the CCWC/JSB.***
 - (vi) ***Any major restructure would be through extensive consultation and participation with the unions and major stakeholders.***
 - (vii) ***No employee would be financially worse off through permanent worksite/Depot/administration building changes.***
5. ***A review of the operating model, which is the Integrated CCWC (Long Term Lease) + JSB, be undertaken in 2017 prior to the next IPART determination.***

6. ***That the two Councils, being shareholders of the Central Coast Water Corporation, endorse the nomination of;***
- A ***Mr Michael Whittaker the General Manager of Wyong Shire Council, for an extension to 30 September 2014 as Director of the Central Coast Water Corporation, subject to him remaining General Manager Wyong Shire Council.***
 - B ***Mr Stephen Glen, Acting General Manager, and following his or her appointment, the General Manager of Gosford City Council to 30 September 2014 as Director of the Central Coast Water Corporation.***
 - C ***That Wyong Shire Council delegates the decision of the Gosford City Council Delegate to the CCWC to be a decision of Gosford City Council.***
- 7 ***That Council endorse the submission of the PwC CBA report to the Minister of Water in accordance with the requirements of the Memorandum of Understanding (MoU).***

THE MEETING closed at 7.55 pm.

1.4 Address by Invited Speakers

TRIM REFERENCE: F2012/00026 - D03017056

MANAGER: Lesley Crawley; Manager Corporate Governance

AUTHOR: Monica Redmond; Councillor Services Officer

SUMMARY

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

RECOMMENDATION

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

1.5 Notice of Intention to Deal with Matters in Confidential Session

TRIM REFERENCE: F2011/01798 - D03023889

MANAGER: Sonia Witt; TL Governance and Councillor Services

AUTHOR: Jacquie Elvidge; Councillor Services Officer

SUMMARY

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

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

RECOMMENDATION

1 That Council consider the following matter in Confidential Session, pursuant to Sections 10A(2)(c), (d) (i) and (f) of the Local Government Act 1993:

7.1 – Council Iconic Sites – Site 23 Active River Foreshore

7.2 – Lake Haven Centrelink Service Centre – Lease

2 That Council note the reason for considering items in confidential session:

- **7.1 – The report contains information of a confidential nature that would, if disclosed, prejudice the commercial position of the person who supplied it and the matter also affects the security of the Council, Councillors, Council staff or Council property.**
- **7.2 – The report contains information that would, if disclosed, confer a commercial advantage on a person with whom the Council is conducting (or proposed to conduct) business with and the matter also affects the security of the Council, Councillors, Council staff or Council property.**

3 That Council request the General Manager to report on this matter in open session of Council.

Note: Explanation - Section 10A of the Local Government Act 1993 states:

“2(a) personnel matters concerning particular individuals (other than Councillors),

2(b) the personal hardship of any resident or ratepayer,

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

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

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

- (i) *prejudice the commercial position of the person who supplied it, or*
- (ii) *confer a commercial advantage on a competitor of the Council, or*
- (iii) *reveal a trade secret,*

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

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

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

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

2.1 DA/1178/2011 - Proposed Dwelling and Attached Secondary Dwelling at Woongarra

TRIM REFERENCE: DA/1178/2011 - D03004602

MANAGER: Jamie Loader; Manager Building Certification and Health

AUTHOR: Scott Rathgen; Team Coordinator

SUMMARY

An application has been received for a dwelling and attached secondary dwelling. 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) 1979, the State Environmental Planning Policy (SEPP) (Affordable Rental Housing) 2009 and other statutory requirements with the issues requiring attention and consideration being addressed in the report.

Applicant	Mr A Zeaiter
Owner	Mr A Zeaiter
Application No	DA/1178/2011
Description of Land	Lot 201 DP 1108149 16 Wallum Cres Woongarra
Proposed Development	Dwelling and attached secondary dwelling.
Site Area	533 m2
Zoning	2E Urban Release Area
Existing Use	Vacant Land
Estimated Value	\$290,000

RECOMMENDATIONS

- 1 ***That Council, grant consent having regard to the matters for consideration detailed in Section 79C of the Environmental Planning and Assessment Act and other relevant issues, subject to the conditions detailed in the schedule attached to the report.***
- 2 ***That Council advise those who made written submissions of its decision.***

PRECIS

- An application has been received for a dwelling and attached secondary dwelling.
- The site is zoned 2E Urban Release Area under the provisions of the Wyong Local Environmental Plan 1991 (WLEP).

2.1 DA/1178/2011 - Proposed Dwelling and Attached Secondary Dwelling at Woongarra (contd)

- The secondary dwelling complies with the schedule of development standards of Part 2- Division 2 and Schedule 1 – Development standards for secondary dwellings contained within the SEPP (Affordable Rental Housing) 2009

INTRODUCTION

The secondary dwelling is permissible under the provisions of SEPP (Affordable Rental Housing) 2009.

The application has been referred to Council for determination solely based upon the Council resolution of 8th of February 2012, (in particular Resolution 6) which states:

Council at its meeting held on 8th February 2012 Resolved unanimously on the motion of Councillor Best and seconded by Councillor Symington:

- “1 That Council reaffirm its commitment to the principles of affordable housing and its importance in assisting a broad cross section of our community and recognise that Section 94 contributions may be prohibitive to many affordable housing projects.*
- 2 That Council note the decision of Gosford City Council to assist in facilitating affordable housing through the trial waiver of Section 94 contributions for granny flats.*
- 3 That Council support this initiative thereby establishing a regional approach to affordable housing.*
- 4 That Council also waive Section 94 contributions for granny flats on a trial basis till September 2012, concurrent with Gosford City Council and that the outcome of this be reported to Council.*
- 5 That Council receive the report in a timeframe for inclusion in the 2012-13 Annual Plan.*
- 6 That Council implement the trial by way of reporting those relevant development applications to Council for determination.*

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

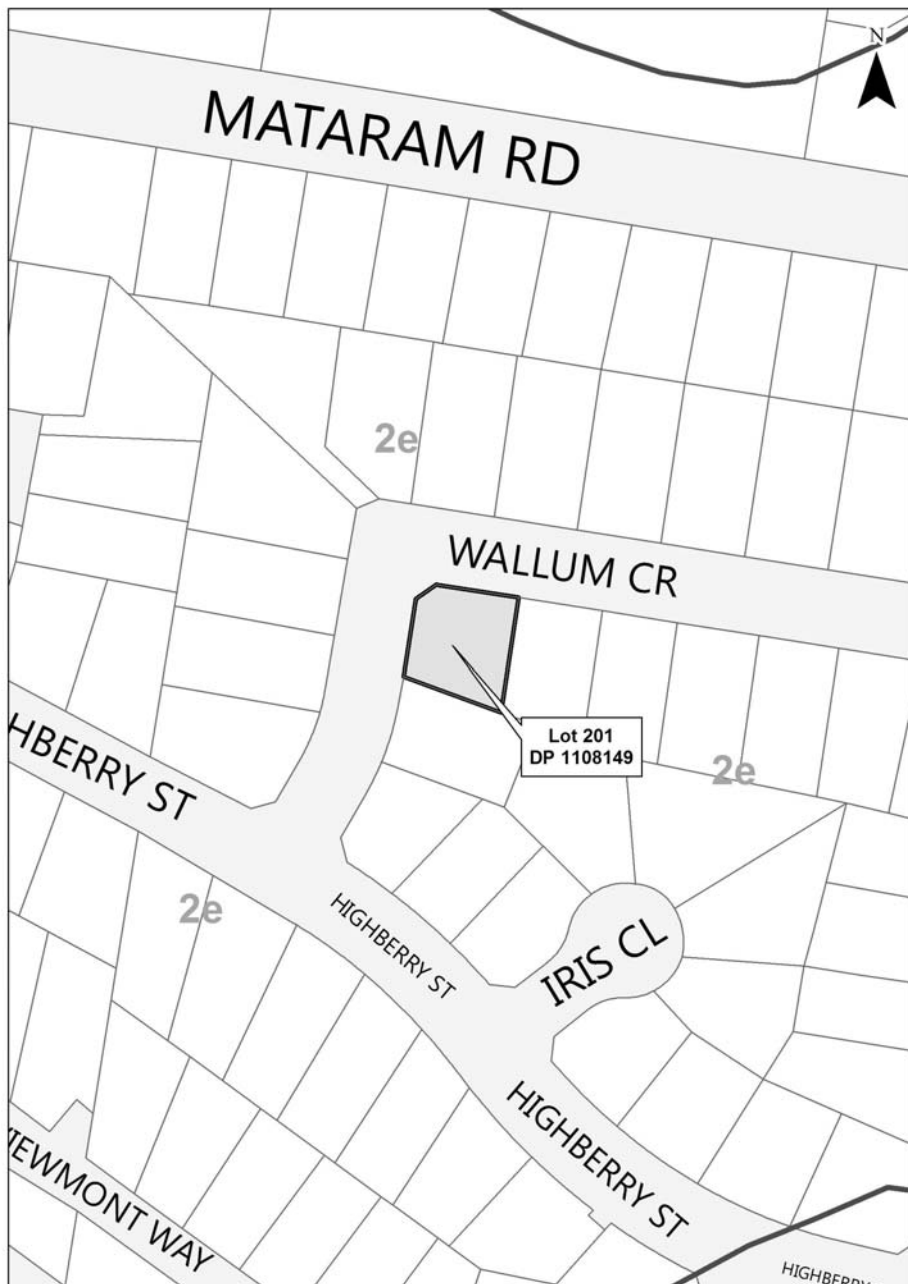
AGAINST: NIL”

The approval of the secondary dwelling will not create any adverse impact on adjoining properties. As such, it is recommended that the application be approved subject to conditions.

The Site

The site is located on the south eastern side of Wallum Crescent Woongarra. The site is vacant and improved only for construction. The site is depicted in the photos below.

2.1 DA/1178/2011 - Proposed Dwelling and Attached Secondary Dwelling at Woongarra (contd)



VARIATIONS TO POLICIES

There are no variations to Council's DCP 2005 Chapter 100 Quality Housing and Chapter 99 Building Lines or the development standards for secondary dwellings contained within the SEPP (Affordable Rental Housing) 2009.

HISTORY

On 22 December 2011 Council received an application for the erection of a two storey brick veneer dwelling comprising the primary dwelling on the first floor and the secondary dwelling on the ground floor.

- An initial assessment revealed that certain aspects of the proposal required clarification or amendment. With regard to the secondary dwelling it was noted that the floor area exceeded the controls outlined in Part 2- Division 2 and Schedule 1 – Development standards for secondary dwellings contained within the SEPP (Affordable Rental Housing) 2009, namely ;
 - a As the allotment is greater than 450m² but not greater than 900m² only 50% site coverage is allowed. 53.3% was notated.
 - b The maximum floor area of the upper floor deck exceeded 12m².
 - c At least 20% of the lot was required for landscaping.

The application was subsequently amended resulting in the following;

- a The site coverage was reduced to 49.98%
- b The deck was reduced in size to 11.95 sqm.
- c Landscaping was identified at the rear and front of the allotment totaling 40% of the allotment.

In addition and as the result of a submission from an adjoining neighbour the portion of the upper floor balcony facing south was removed due to privacy concerns.

PERMISSIBILITY

The subject site is zoned 2E Urban Release Area zone under the WLEP 1991. The secondary dwelling is permissible under the provisions of SEPP (Affordable Rental Housing) 2009.

RELEVANT STATE/COUNCIL POLICIES AND PLANS

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

- SEPP (Affordable Rental Housing) 2009
- WLEP 1991

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 the SEPP (Affordable Rental Housing) 2009, statutory requirements, Council's policies and Section 149 Certificate details, the assessment has identified the following key issues, which are elaborated upon for Council's information. Any tables relating to plans or policies are provided as an attachment.

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

Wyong Local Environmental Plan 1991

The property is zoned 2E Urban Release Area.

The secondary dwelling is proposed under the provisions of SEPP (Affordable Rental Housing) 2009 which overrides any provisions contained with the WLEP.

State Environmental Planning Policy (Affordable Rental Housing) 2009

SEPP (Affordable Rental Housing) 2009 permits secondary dwellings up to a maximum floor area of 60m². The proposed secondary dwelling has a floor area of 59.7 m². The subject allotment also exceeds the minimum area of 450m².

The provisions of Clause 23 of the SEPP require compliance with the development standards set out in Schedule 1 of the SEPP which are provided as an attachment.

Under these circumstances the proposed secondary dwelling is considered justified.

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

The relationship to the regional and local context and setting

The secondary dwelling is consistent with the scale and character of the local area of Woongarra. The scale, bulk, height, massing and choice of materials and finishes for the proposed dwellings are considered appropriate to the local context and will enhance the streetscape.

2.1 DA/1178/2011 - Proposed Dwelling and Attached Secondary Dwelling at Woongarra (contd)

The access, transport and traffic management measures

The SEPP (Affordable Rental Housing) 2009 does not require additional parking or access to be provided for the secondary dwelling.

Any effect on privacy, view loss and overshadowing

An assessment of potential over viewing, privacy and view sharing has been undertaken and it is concluded that the construction of the dwelling and secondary dwelling is not detrimental to the adjoining properties.

The impact on utilities supply.

Existing services have been provided to the site to cater for the proposed development.

Any impact on the conservation of water.

A BASIX certificate has been submitted with the application and the proposal involves the use of water saving fixtures and a water tank on site to contribute to the conservation of water.

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

Nothing to report.

Any effect on the flora and fauna.

The allotment has been cleared of all but ground cover. As such there is no affect.

The provision of waste facilities.

A waste management plan has been submitted with the development application and provides details of how waste will be managed during construction. The occupants of the secondary dwelling will utilise the waste collection services associated with the primary dwelling.

Whether the development will be energy efficient.

A BASIX certificate has been issued as part of the development application.

Whether the development will cause noise and vibration.

A minimal amount of noise and vibration will be created during the construction phase. A condition will be placed on the consent restricting the hours that construction work can take place.

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

There are no risks from natural hazards applicable to this proposal.

2.1 DA/1178/2011 - Proposed Dwelling and Attached Secondary Dwelling at Woongarra (contd)

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

During the construction of the works sediment fencing will be installed and construction noise will be minimised via conditions of consent.

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

Whether the proposal fits in the locality.

The proposal meets the objectives of the zone and complies with the criteria contained within the SEPP (Affordable Rental Housing) 2009.

The development is within a residential area that contains a number of single and multiple dwelling developments. The secondary dwelling will not have any significant impact on the surrounding area and promotes an orderly and economic use of the land.

It is considered the effect on the environment will be minimal and the proposed dwelling would compliment the existing streetscape and social amenity of the locality.

Whether the site attributes are conducive to development.

The site is considered appropriate for the proposed development.

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 was received. The issues raised in the submissions have been addressed in the assessment of the application pursuant to the heads of consideration contained within Section 79C of the Environmental Planning and Assessment Act 1979. A summary of the submissions is detailed in the table below.

Doc. No	Summary of Issues	Response
D02900192	<ul style="list-style-type: none">• The South facing verandah will impact severely on the privacy of the dwelling located on the land to the south.• Future development of the private open space on the privacy of the dwelling located on the land to the south will be compromised.	<ul style="list-style-type: none">• The applicant was requested to redesign bearing in mind the comments of the submission.• The applicant deleted the south facing portion of the balcony leaving only the west facing portion.• The end of this west facing portion of the balcony is proposed to be fitted with an obscure privacy screen.

2.1 DA/1178/2011 - Proposed Dwelling and Attached Secondary Dwelling at Woongarra (contd)

The applicant was advised of the concerns made by the objector and amended the plans as outlined in the response column above. Subsequently the proposal was readvertised. No submissions were received. Due to the content of the initial submission the objector was consulted to determine his acceptance of the amendments. In this regard he was satisfied that the changes ameliorated his concerns.

Any submission from public authorities.

There are no submissions from public authorities.

OTHER MATTERS FOR CONSIDERATION

The property is within The Warnervale District S94 contribution plan created under the provisions of Section 94 of The EP&A Act 1979. Section 94 contributions are applicable to secondary dwellings under this plan as defined under the Affordable Housing SEPP.

Under the contribution plan the secondary dwelling will generate Section 94 contributions totalling \$11,201.80

Section 94A contributions are not applicable to this allotment.

CONCLUSION

The development application for the secondary dwelling meets the standards of the relevant chapters of Council's DCP 2005 and the SEPP (Affordable Rental Housing) 2009. The application is recommended for approval subject to the attached conditions.

ATTACHMENTS

- | | | | |
|---|-----------------------------|-----------|-----------|
| 1 | Draft Conditions of Consent | | D03004630 |
| 2 | Development Plans | Enclosure | D03004677 |

Date: 15 May 2012
Responsible Officer: John Roseland
Location: 16 Wallum Cres, WOONGARRAH NSW 2259
Lot 201 DP 1108149
Owner: Mr A Zeaiter
Applicant: Mr A Zeaiter
Date Of Application: 22 December 2011
Application No: DA/1178/2011
Proposed Development: Dwelling including attached secondary dwelling
Land Area: 533.00
Existing Use: Vacant land

PROPOSED CONDITIONS

- 1 The development taking place in accordance with the approved development plans reference number 3222 prepared by Plan Concept Pty Ltd Sheets 1 to 5 dated February 2012 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 – Application and Approval

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

Contribution Payment Requirements

- 3 Prior to the issue of a Construction Certificate, the payment to Council of contributions (as contained in the attached Schedule) under Section 94 of the Environmental Planning and Assessment Act 1979 and Council's Section 94 and Section 94A Contribution Plan. Council's contributions are adjusted on the first day of February, May, August and November. The amount of the contributions will be adjusted to the amount applicable at the date of payment.

Prior to Commencement of Works:

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

Erosion and Sediment Control Requirements

- 4 Prior to works associated with the development commencing, soil erosion and sediment controls measures are to be provided on the development site in accordance with Council's Policy E1 - Erosion and Sediment Control from Building Sites and Development Control Plan 2005, Chapter 67 – *Engineering Requirements for Development* and the approved development plans.
- 5 Prior to works associated with the development commencing, a single all-weather hardstand access, extending from the kerb and gutter/edge of bitumen to the building under construction, is to be installed in order to provide appropriate access to the site during periods of inclement weather.
- 6 Prior to works associated with the development commencing, suitable sediment control kerb inlet trap devices are to be provided downstream of the development site adjoining locations such as kerb inlet drainage pits, in order to prevent any silt that may have left the site from entering the drainage system. The build up of silt and debris behind the required kerb inlet trap devices is to be removed from the site on a daily basis.
- 7 Prior to works associated with the development commencing, an appropriate sign to promote the awareness and importance of the maintenance of on-site sediment control techniques is to be provided on the most prominent sediment fence or erosion control device within the development site, for the duration of the project.

Home Building Act Requirements

- 8 Residential building work within the meaning of the Home Building Act 1989 must not be carried out unless the Principal Certifying Authority for the development to which the work relates (not being the Council) has given the Council written notice of the following information:

In the case of work to be done by the holder of a contractor licence under that Act:

- the name and licence number of the contractor; and
- the name of the insurer by whom the work is insured under Part 6 of that Act.

In the case of work to be done by the holder of an owner-builder permit under that Act:

- the name and permit number of the owner-builder.

If arrangements for doing the residential building work are changed while the work is in progress so that the information notified above becomes out of date, further work must not be carried out unless the Principal Certifying Authority for the development to which the work relates (not being the Council), has given the Council written notice of the updated information.

Roads - Preconstruction Requirements

- 9 Prior to works associated with development commencing, a dilapidation report must be prepared and submitted to Council as the Roads Authority. The required dilapidation report must document and provide photographs that clearly depict any existing damage to the road, kerb, gutter, footpath, driveways, water supply, sewer works, street trees, street signs or any other Council assets in the vicinity of the development. **Note:** The report will be used by Council to determine the extent of damage arising from site and construction works.

Site Requirements

- 10 Prior to works associated with the development commencing, the Principal Contractor (or Owner/Builder) is to erect a suitable sign in a prominent position on the development site (not attached to any tree) identifying the name, address and telephone number of the Principal Certifying Authority (PCA) for the work, the name, address and telephone number (including a number for outside of business hours) of the Principal Contractor for the work (or Owner/Builder) and stating that unauthorised entry to the site is prohibited. The required sign is to be maintained for the duration of works associated with the development. Appropriate signs can be collected from Council's Customer Service Centre, where Council is the nominated Principal Certifying Authority with respect to the development.
- 11 Prior to works associated with the development commencing, suitable toilet facilities must be available or be provided upon the development site, with the required toilet facility(s) maintained until development works are completed at a ratio of one (1) toilet plus one (1) additional toilet for every twenty (20) persons employed at the site. Each toilet must:
- be a standard flushing toilet connected to a public sewer system; or
 - have an on-site effluent disposal system approved under the Local Government Act 1993, or be a temporary chemical closet approved under the Local Government Act 1993, supplied by a suitably licensed contractor.
- 12 Prior to works associated with the development commencing, a suitable metal waste skip (with self-closing lid or secure covering) or lined mesh steel cage(s) is to be provided upon the development site for the duration of the construction phase of the development in accordance with the requirements of Development Control Plan 2005, Chapter 100 – Quality Housing. The required waste receptacle is to be suitably emptied at appropriate times during the construction phase of the development.
- 13 Prior to works associated with the development commencing, a suitable hoarding or safety fence between the work site and the public place is to be provided in accordance with Work Cover Authority requirements. The required hoarding/fencing is to remain in place during the construction phase of the development. Should the hoarding/fencing be required to be provided within the road reserve area, approval from Council under the Roads Act as the Roads Authority is required to be obtained prior to its erection.

- 14 Prior to works associated with the development commencing, it is the builder's responsibility to confirm the location and depth of the sewer main and connection point in relation to the floor level, to ensure that appropriate connection to the sewer can be achieved.
- 15 Prior to works associated with the development commencing, where any excavation is proposed in proximity to existing gas and/or electricity networks, the developer is advised to notify 'Dial Before You Dig' of the time and place of work no more than thirty (30) days before the work commences. The developer must satisfy any requirements as set by the network operators in carrying out excavation works.

During Construction Works:

The following conditions must be satisfied during construction works.

Approved Plans

- 16 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.

Earthworks and Haulage - Construction Requirements

- 17 All earthworks are to be limited to the area as indicated within the approved development plans. Any additional earthworks and the construction of associated retaining structures outside of the nominated areas, requires separate approval.

Erosion and Sediment Control - Construction Requirements

- 18 Sand and other materials associated with the construction of the development that could potentially be washed off the site during rain periods, are to be stored behind a suitable sediment control barrier.
- 19 All sediment and erosion control devices provided with respect to the development are to be periodically cleaned and maintained in an effective state for the duration of works. On the spot fines for non-compliance with this requirement may be issued under the provisions of the *Protection of Environment Operations Act, 2000*.

Plumbing and Drainage - Construction Requirements

- 20 Council as the Water Supply Authority, under the provisions of the Water Management Act, or in unsewered areas where an onsite sewage management facility is to be installed, is to be notified to undertake inspections of the internal drainage lines, (prior to the pouring of the concrete slab), and external drainage lines inclusive of sewer junction connection, prior to the backfilling of the trenches. These inspections can be arranged by telephoning Council's Customer Contact Centre on (02) 4350 5555 a minimum of twenty-four (24) hours prior to the required time for the inspection. Please note that all drainage inspection fees are to be paid to Council prior to plumbing and drainage works associated with the development commencing.

Site Requirements

- 21 Construction or demolition works involved with the development may only be carried out between the hours of 7.00 am and 5.00 pm Monday to Saturday with no construction or demolition works associated with the development permitted to be carried out at any time on a Sunday or a public holiday.
- 22 During the construction phase of the development, all building materials, plant and equipment must be placed on the site of the development in order to ensure that pedestrian and vehicular access within adjoining public roads, footpaths and reserve areas, is not restricted and to prevent damage to public infrastructure.
- 23 During the construction phase of the development, downpipes and the associated stormwater disposal system is to suitably connected to the site stormwater connection point immediately after the roof materials are positioned in order to prevent erosion of the site from roof water run off. The Principal Certifying Authority for the development will not issue a compliance certificate for framing unless connection of the site stormwater (or temporary system) has occurred.

Prior to Release of Occupation Certificate:

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

BASIX Requirements

- 24 Prior to the issue of an Occupation Certificate, pursuant to Clause 97A(3) of the Environmental Planning and Assessment Regulation 2000, it is mandatory that all the commitments listed in the BASIX Certificate applicable to the development are fulfilled.

Building Code of Australia – Compliance Requirements

- 25 Prior to the issue of the Occupation Certificate, the building shall be completed in accordance with the relevant provisions and requirements of the Building Code of Australia.

Dilapidation Rectification Requirements

- 26 Prior to the issue of an Occupation Certificate, any damage not shown in the Dilapidation Report submitted to and approved by the Principal Certifying Authority prior to site works commencing, will be assumed to have been caused as a result of the site works undertaken with respect to the development and must be rectified at the applicant's expense.

Landscaping Requirements

- 27 Prior to the issue of an Occupation Certificate, the front setback area of the allotment disturbed during construction of the development, is to be suitably turfed in accordance with the provisions of Council's Development Control Plan 2005, Chapter 100 - *Quality Housing*. Sediment Control fencing erected on the site in order to control sediment leaving the development site must remain in place until such time as the required turf is established.

Plumbing and Drainage - Compliance Requirements

- 28 Prior to the issue of an Occupation Certificate, the hot water installation is to be suitably tempered in order that hot water not exceeding 50 degrees Celsius is provided at the outlet of the sanitary fixtures used primarily for personal hygiene purposes. Compliance with this temperature limit is optional for kitchen sinks and laundry tubs under the provisions of AS/NZS 3500, Part 4.2 C1.1.6.2.
- 29 Prior to the issue of an Occupation Certificate, the required rainwater tank is to be provided in the location as detailed within the approved development plans with suitable plumbing connections provided to collect rainwater from the roof area as detailed within the BASIX Certificate applicable to the development. The required rainwater tank is to be installed in accordance with the requirements of the National Plumbing and Drainage Code AS/NZS 3500 and shall be provided with first flow diversion devices fixed to all inflows and a functioning pressure pump plumbed to service all fixtures as detailed within the BASIX Certificate applicable to the development. The required tank must be controlled in order that supplemental flow from domestic mains does not take place until the capacity of the tank has been reduced to 20%.
- 30 Prior to the issue of an Occupation Certificate, the surcharge gully provided with respect to the development, must be located a minimum of 150mm below floor level and 75mm above the surrounding finished ground level.

Vehicle Access and Parking – Compliance Requirements

- 31 Prior to the issue of an Occupation Certificate, a suitable non-slip finish driveway access with a decorative finish, is to be constructed in the location as shown on the approved development plans.

Water and Sewer Services/Infrastructure – Compliance Requirements

- 32 The obtaining of a Section 307 Certificate of Compliance under the Water Management Act 2000 for water and sewer requirements for the development from Wyong Shire Council as the Water Supply Authority prior to issue of the Subdivision/Occupation Certificate. All works for the development must be approved by Council prior to the issue of a Certificate of Compliance.

Ongoing Operation:

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

No Conditions

SCHEDULE OF CONTRIBUTIONS

Shire Wide Cycleway Network	\$177.75
Shire Wide Performing Arts Centre & Public Art	\$200.55
Shire Wide Administration	\$38.50
Warnervale/Wadalba Open Space Works	\$3,600.50
Shire Wide Regional Open Space	\$86.65
Warnervale/Wadalba Community Facilities Works	\$4,918.30
Warnervale/Wadalba Water NW DSP	\$1,424.10
Warnervale/Wadalba Area 1 Sewer DSP	\$755.45

2.2 DA 52/2012 - Detached Secondary Dwelling at 4 Campbell Avenue, The Entrance

TRIM REFERENCE: DA/52/2012 - D03002080

MANAGER: Jamie Loader; Manager Building Certification and Health

AUTHOR: Douglas Tytherleigh; Health and Building Surveyor

SUMMARY

An application has been received for a detached secondary dwelling. 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) 1979, the State Environmental Planning Policy (SEPP) (Affordable Rental Housing) 2009 and other statutory requirements with the issues requiring attention and consideration being addressed in the report.

Applicant	CKT Developments PTY LTD
Owner	Raymond Vella
Application No	DA/52/2012
Description of Land	Lot 74 DP 14230 No 4 Campbell Avenue The Entrance
Proposed Development	A detached secondary dwelling.
Site Area	696.80m ²
Zoning	2C Medium Density Residential
Existing Use	Dwelling
Estimated Value	\$25 000

RECOMMENDATION

That Council grant consent subject to the conditions detailed in the schedule attached to the report, having regard to the matters for consideration detailed in Section 79C of the Environmental Planning and Assessment Act and other relevant issues,

PRECIS

- An application has been received for a detached secondary dwelling.
- The site is zoned 2C Medium Density Residential under the provisions of the Wyong Local Environmental Plan 1991 (WLEP).
- The secondary dwelling generally complies with the schedule of development standards of Part 2- Division 2 and Schedule 1 – Development standards for secondary dwellings contained within the SEPP (Affordable Rental Housing) 2009.

2.2 DA 52/2012 - Detached Secondary Dwelling at 4 Campbell Avenue, The Entrance (contd)

- The original garage was illegally converted to a secondary dwelling therefore DA/52/2012 is for internal changes so that the structure complies with the BCA and SEPP (Affordable Rental Housing). A building certificate application has also been submitted for the completed works.

INTRODUCTION

The Site

The secondary dwelling is permissible under the provisions of SEPP (Affordable Rental Housing) 2009.

The application has been referred to Council for determination solely based upon the Council resolution of 8th of February 2012, (in particular Resolution 6) which states:

Council at its meeting held on 8th February 2012 Resolved unanimously on the motion of Councillor Best and seconded by Councillor Symington:

- "1 That Council reaffirm its commitment to the principles of affordable housing and its importance in assisting a broad cross section of our community and recognise that Section 94 contributions may be prohibitive to many affordable housing projects.*
- 2 That Council note the decision of Gosford City Council to assist in facilitating affordable housing through the trial waiver of Section 94 contributions for granny flats.*
- 3 That Council support this initiative thereby establishing a regional approach to affordable housing.*
- 4 That Council also waive Section 94 contributions for granny flats on a trial basis till September 2012, concurrent with Gosford City Council and that the outcome of this be reported to Council.*
- 5 That Council receive the report in a timeframe for inclusion in the 2012-13 Annual Plan.*
- 6 That Council implement the trial by way of reporting those relevant development applications to Council for determination.*

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

AGAINST: NIL"

The approval of the secondary dwelling will not create any adverse impact on adjoining properties. As such, it is recommended that the application be approved subject to conditions.

VARIATIONS TO POLICIES

There are no variations to Council's DCP 2005 or the development standards for secondary dwellings contained within the SEPP (Affordable Rental Housing) 2009.

HISTORY

Council received representations on the 10th November 2011 in regards to a woman's refuge being run on the property. An investigation revealed that the rear garage had been converted into a secondary dwelling and was currently being occupied.

Council issued Notice of Intentions under the EP&A Act 1993 on the 17th November 2011 which required the occupation to cease and for the structure to be converted back to a garage as per the original approval.

Council received representation on 8th December 2011 on behalf of the property owner. It was advised that it was the owner's intentions to submit the required documentation and applications so that the garage could be legally converted and approved as a secondary dwelling.

A development application and building certificate was subsequently submitted to Council on the 25th January 2012.

PERMISSIBILITY

The subject site is zoned 2C Medium Density Residential under the WLEP 1991. The secondary dwelling is permissible under the provisions of SEPP (Affordable Rental Housing) 2009.

RELEVANT STATE/COUNCIL POLICIES AND PLANS

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

- SEPP (Affordable Rental Housing) 2009
- WLEP 1991
- DCP 2005 Chapter 100 & 99

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 the SEPP (Affordable Rental Housing) 2009, statutory requirements, Council's policies and Section 149 Certificate details, the assessment has identified the following key issues, which are elaborated upon for Council's information. Any tables relating to plans or policies are provided as an attachment.

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

Wyong Local Environmental Plan 1991

The property is zoned 2C Medium Density Residential

The secondary dwelling is proposed under the provisions of SEPP (Affordable Rental Housing) 2009 which overrides any provisions contained with the WLEP.

State Environmental Planning Policy (Affordable Rental Housing) 2009

SEPP (Affordable Rental Housing) 2009 permits secondary dwellings up to a maximum floor area of 60m². The proposed secondary dwelling has a floor area of 52.53m². The subject allotment also exceeds the minimum area of 450m².

The provisions of Clause 23 of the SEPP require compliance with the development standards set out in Schedule 1 of the SEPP which are provided as an attachment.

Under these circumstances the proposed secondary dwelling is considered justified.

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

The relationship to the regional and local context and setting

The secondary dwelling is consistent with the scale and character of the local area of The Entrance. The scale, bulk, height, massing and choice of materials and finishes for the proposed secondary dwellings are considered appropriate to the local context and will enhance the streetscape.

The access, transport and traffic management measures

The SEPP (Affordable Rental Housing) 2009 does not require additional parking or access to be provided for the secondary dwelling.

Any effect on privacy, view loss and overshadowing

An assessment of potential overlooking, privacy and view sharing has been undertaken and it is concluded that the construction of the secondary dwelling is not detrimental to the adjoining properties.

The impact on utilities supply.

Existing services have been provided to the site to cater for the proposed development.

Any impact on the conservation of water.

A BASIX certificate has been submitted with the application and the proposal involves the use of water saving fixtures and a water tank on site to contribute to the conservation of water.

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

The property is identified as being in an Acid sulphate soil area however there will be no excavation work done on the property as the structure exists.

Any effect on the flora and fauna.

There is no removal of trees or vegetation.

The provision of waste facilities.

A waste management plan has been submitted with the development application and provides details of how waste will be managed during construction. The occupants of the secondary dwelling will utilise the waste collection services associated with the primary dwelling.

Whether the development will be energy efficient.

A BASIX certificate has been issued as part of the development application.

Whether the development will cause noise and vibration.

A minimal amount of noise and vibration will be created during the construction phase. A condition will be placed on the consent restricting the hours that construction work can take place.

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

There are no risks from natural hazards applicable to this proposal.

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

During the construction of the works sediment fencing will be installed and construction noise will be minimised via conditions of consent.

2.2 DA 52/2012 - Detached Secondary Dwelling at 4 Campbell Avenue, The Entrance (contd)

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

Whether the proposal fits in the locality.

The proposal meets the objectives of the zone and generally complies with the criteria contained within the SEPP (Affordable Rental Housing) 2009.

The development is within a residential area that contains a number of single and multiple dwelling developments. The secondary dwelling will not have any significant impact on the surrounding area and promotes an orderly and economic use of the land.

It is considered the effect on the environment will be minimal and the proposed dwelling would compliment the existing streetscape and social amenity of the locality.

Whether the site attributes are conducive to development.

The site is considered appropriate for the proposed development.

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

Any submission from the public.

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

Any submission from public authorities.

There are no submissions from public authorities.

OTHER MATTERS FOR CONSIDERATION

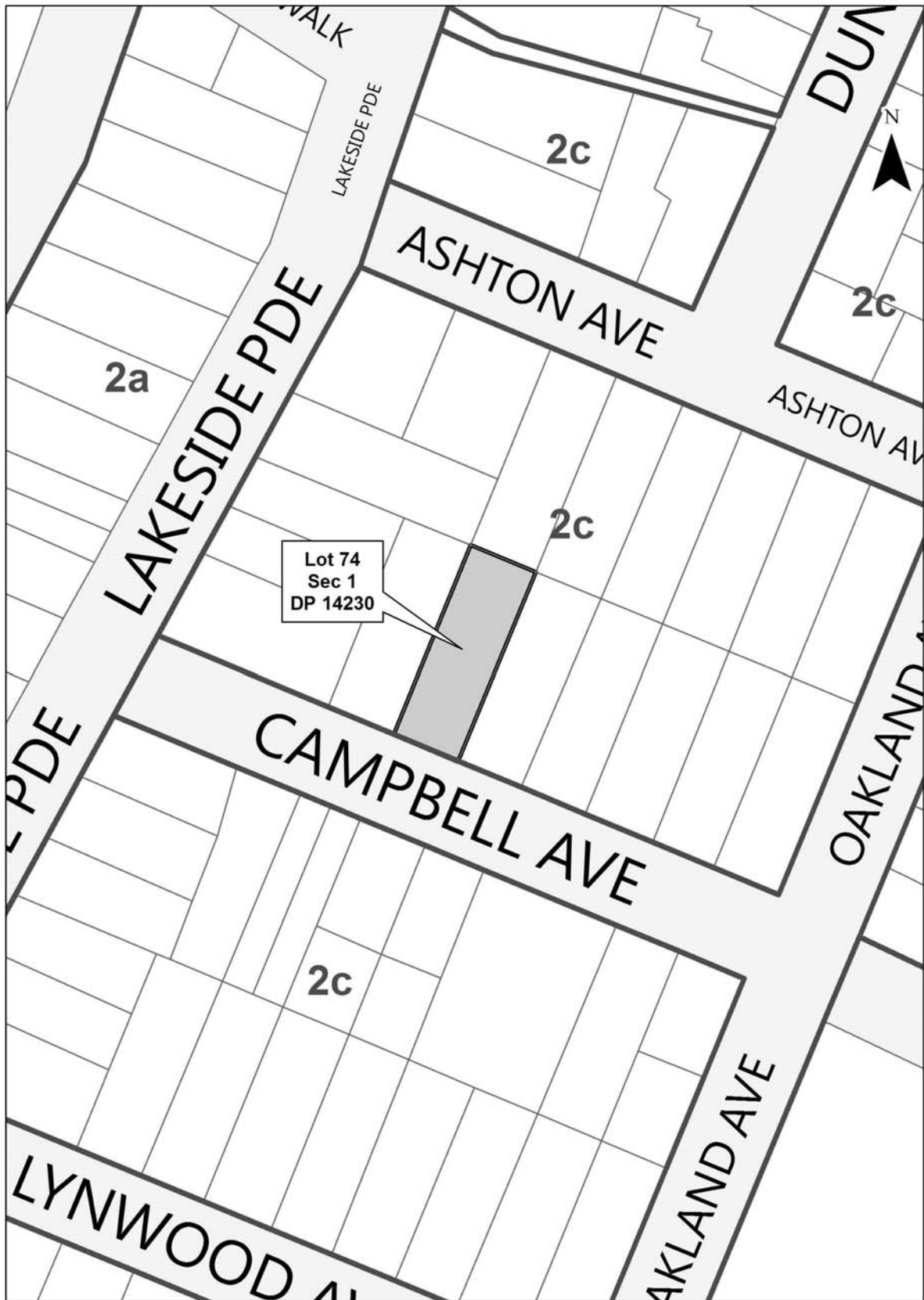
The property is within The Entrance-North, Entrance-Long Jetty S94 Contribution Plan created under the provisions of Section 94 of The EP&A Act 1979. Section 94 contributions are applicable to secondary dwellings under this plan as defined under the Affordable Housing SEPP.

Under the contribution plan the secondary dwelling will generate Section 94 Contributions totalling \$7,156.90

CONCLUSION

The development application for the secondary dwelling meets the standards of the relevant chapters of Council's DCP 2005 and the SEPP (Affordable Rental Housing) 2009. The application is recommended for approval subject to the attached conditions.

Locality Plan



ATTACHMENTS

- | | | |
|---|---|---------------------|
| 1 | Draft Conditions of Consent | D03004751 |
| 2 | SEPP (AFFORDABLE RENTAL HOUSING) 2009 -
SCHEDULE 1 | D03002076 |
| 3 | Development Plans (A3 size) | Enclosure D03004777 |

Date: 15 May 2012
Responsible Officer: Doug Tytherleigh
Location: 4 Campbell Avenue, THE ENTRANCE NSW 2261
 Lot 74 Sec 1 DP 14230
Owner: Mr R Vella
Applicant: CKT Developments Pty Ltd
Date Of Application: 25 January 2012
Application No: DA/52/2012
Proposed Development: Detached secondary dwelling
Land Area: 696.80
Existing Use: Dwelling

PROPOSED CONDITIONS

- 1 The development is to be undertaken in accordance with the approved development plans and specifications listed below except as modified by any conditions of consent and any amendments in red made to the approved plans:

Title	Drawing No.	Revision	Date	Drawn By
Secondary Dwelling	2012/02 sheets 1-7	-	30 April 2012	CKT Developments

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

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.

- 3 Prior to the issue of a Construction Certificate, the payment to Council of contributions (as contained in the attached Schedule) under Section 94 of the Environmental Planning and Assessment Act 1979 and Council's Section 94 and Section 94A Contribution Plan. Council's contributions are adjusted on the first day of February, May, August and November. The amount of the contributions will be adjusted to the amount applicable at the date of payment.

Prior to Commencement of Works:

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

- 4 Residential building work within the meaning of the Home Building Act 1989 must not be carried out unless the Principal Certifying Authority for the development to which the work relates (not being the Council) has given the Council written notice of the following information:

In the case of work to be done by the holder of a contractor licence under that Act:

- the name and licence number of the contractor; and
- the name of the insurer by whom the work is insured under Part 6 of that Act.

In the case of work to be done by the holder of an owner-builder permit under that Act:

- the name and permit number of the owner-builder.

If arrangements for doing the residential building work are changed while the work is in progress so that the information notified above becomes out of date, further work must not be carried out unless the Principal Certifying Authority for the development to which the work relates (not being the Council), has given the Council written notice of the updated information.

- 5 Prior to works associated with the development commencing, the Principal Contractor (or Owner/Builder) is to erect a suitable sign in a prominent position on the development site (not attached to any tree) identifying the name, address and telephone number of the Principal Certifying Authority (PCA) for the work, the name, address and telephone number (including a number for outside of business hours) of the Principal Contractor for the work (or Owner/Builder) and stating that unauthorised entry to the site is prohibited. The required sign is to be maintained for the duration of works associated with the development. Appropriate signs can be collected from Council's Customer Service Centre, where Council is the nominated Principal Certifying Authority with respect to the development.
- 6 Prior to works associated with the development commencing, suitable toilet facilities must be available or be provided upon the development site, with the required toilet facility(s) maintained until development works are completed at a ratio of one (1) toilet plus one (1) additional toilet for every twenty (20) persons employed at the site. Each toilet must:
- be a standard flushing toilet connected to a public sewer system; or
 - have an on-site effluent disposal system approved under the Local Government Act 1993, or be a temporary chemical closet approved under the Local Government Act 1993, supplied by a suitably licensed contractor.

- 7 Prior to works associated with the development commencing, a suitable metal waste skip (with self-closing lid or secure covering) or lined mesh steel cage(s) is to be provided upon the development site for the duration of the construction phase of the development in accordance with the requirements of Development Control Plan 2005, Chapter 100 – Quality Housing. The required waste receptacle is to be suitably emptied at appropriate times during the construction phase of the development.
- 8 Prior to works associated with the development commencing, where any excavation is proposed in proximity to existing gas and/or electricity networks, the developer is advised to notify 'Dial Before You Dig' of the time and place of work no more than thirty (30) days before the work commences. The developer must satisfy any requirements as set by the network operators in carrying out excavation works.

During Construction Works:

The following conditions must be satisfied during construction works.

- 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.
- 10 Construction or demolition works involved with the development may only be carried out between the hours of 7.00 am and 5.00 pm Monday to Saturday with no construction or demolition works associated with the development permitted to be carried out at any time on a Sunday or a public holiday.
- 11 During the construction phase of the development, all building materials, plant and equipment must be placed on the site of the development in order to ensure that pedestrian and vehicular access within adjoining public roads, footpaths and reserve areas, is not restricted and to prevent damage to public infrastructure.
- 12 During the construction phase of the development, downpipes and the associated stormwater disposal system is to suitably connected to the site stormwater connection point immediately after the roof materials are positioned in order to prevent erosion of the site from roof water run off. The Principal Certifying Authority for the development will not issue a compliance certificate for framing unless connection of the site stormwater (or temporary system) has occurred.

Prior to Release of Occupation Certificate:

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

- 13 Prior to the issue of an Occupation Certificate, pursuant to Clause 97A(3) of the Environmental Planning and Assessment Regulation 2000, it is mandatory that all the commitments listed in the BASIX Certificate applicable to the development are fulfilled.

- 14 Prior to the issue of the Occupation Certificate, the building shall be completed in accordance with the relevant provisions and requirements of the Building Code of Australia.
- 15 Prior to the issue of an Occupation Certificate, the hot water installation is to be suitably tempered in order that hot water not exceeding 50 degrees Celsius is provided at the outlet of the sanitary fixtures used primarily for personal hygiene purposes. Compliance with this temperature limit is optional for kitchen sinks and laundry tubs under the provisions of AS/NZS 3500, Part 4.2 C1.1.6.2.
- 16 Prior to the issue of an Occupation Certificate, the surcharge gully provided with respect to the development, must be located a minimum of 150mm below floor level and 75mm above the surrounding finished ground level.
- 17 Prior to the occupation of the building occurring, an application for an Occupation Certificate for the development must be submitted to and approved by the Principal Certifying Authority. Occupation of the development without an Occupation Certificate is an offence under the provisions of the Environmental Planning and Assessment Regulation, 2000.

Ongoing Operation:

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

No Conditions

SCHEDULE OF CONTRIBUTIONS

Shire Wide Regional Open Space	\$86.65
Shire Wide Performing Arts Centre & Public Art	\$200.55
Shire Wide Administration	\$38.50
The Entrance/Long Jetty Open Space Land	\$199.70
The Entrance/Long Jetty Open Space Works	\$1,183.50
The Entrance Community Facilities Land	\$939.65
The Entrance Community Facilities Works	\$1,219.90
The Entrance Water DSP	\$1,009.80
The Entrance Sewer DSP	\$658.30
The Entrance/Long Jetty Roads	\$3,288.75

SEPP (AFFORDABLE RENTAL HOUSING) 2009 - SCHEDULE 1

For DA 52/2012

SCHEDULE 1 – Development standards for secondary dwellings

Part 1 - Definitions for this Schedule		
<p>"ancillary development" means any of the following that are not exempt development under <i>State Environmental Planning Policy (Exempt and Complying Development Codes) 2008</i>: an access ramp, an awning, blind or canopy, a balcony, deck, patio, pergola, terrace or verandah that is attached to a principal or secondary dwelling, a carport that is attached to a principal or secondary dwelling, a driveway, pathway or paving, a fence or screen, a garage that is attached to a principal or secondary dwelling, an outbuilding, a rainwater tank that is attached to a principal or secondary dwelling, a retaining wall, a swimming pool or spa pool and child-resistant barrier.</p> <p>"outbuilding" means any of the following that are detached from a principal or secondary dwelling: a balcony, deck, patio, pergola, terrace or verandah, a cabana, cubby house, fernery, shed, gazebo or greenhouse, a carport or garage, a rainwater tank (above ground), a shade structure.</p> <p>A word or expression used in this Schedule has the same meaning as it has in <i>State Environmental Planning Policy (Exempt and Complying Development Codes) 2008</i> unless it is otherwise defined in this Schedule.</p> <p>In calculating the area of a lot for the purposes of this Schedule, the area of the access laneway is excluded if it is a battle-axe lot.</p>		
Part 2 - Site requirements		
Criteria	Standard	Compliance Y / N / NA
2 - Lot requirements		
(1) Development for the purposes of a secondary dwelling may only be carried out on a lot that:	(a) at the completion of the development will have only one principal dwelling and one secondary dwelling, and	Yes
	(b) if it is not a battle-axe lot, has a boundary with a primary road, measured at the building line, of at least the following: <ul style="list-style-type: none"> • 12m, if the lot has an area of at least 450m² but less than 900m², • 15m, if the lot has an area of more than 900m² but less than 1500m², • 18m, if the lot has an area of at least 1500m², and 	Compliant
	(c) if it is a battle-axe lot, has an access laneway of at least 3m in width and measuring at least 12m by 12m, excluding the access laneway.	N/A
(2) A lot on which a new secondary dwelling is erected must have lawful access to a public road.		Yes
3 Maximum site coverage of all development		
(1) The site coverage of the principal dwelling, secondary dwelling and all ancillary development on a lot must not be more than the following:	(a) 50% of the area of the lot, if the lot has an area of at least 450m ² but less than 900m ² ,	Complies
	(b) 40% of the area of the lot, if the lot has an area of at least 900m ² but less than 1500m ² ,	N/A
	(c) 30% of the area of the lot, if the lot has an area of at least 1500m ² .	N/A

	<p>For the purpose of calculating the site coverage in subclause (1), the area of any of the following is not included:</p> <p>an access ramp, that part of an awning, blind or canopy that is outside the outer wall of a building, a balcony, deck, patio, pergola, terrace or verandah attached to the principal or secondary dwelling that is not enclosed by a wall higher than 1.4m above the floor level, an eave, a driveway, a farm building, a fence or screen, a pathway or paving, a rainwater tank that is attached to the principal or secondary dwelling, a swimming pool or spa pool.</p>	N/A
4 Maximum floor area for principal and secondary dwelling		
<p>(1) The floor area of a secondary dwelling must not be more than 60m².</p> <p>(2) The floor area of a principal dwelling, secondary dwelling and any carport, garage, balcony, deck, patio, pergola, terrace or verandah attached to either dwelling and enclosed by a wall (other than the external wall of a dwelling) higher than 1.4 metres above the floor level on a lot must not be more than the following:</p>	<p>(a) 330m², if the lot has an area of at least 450m² but less than 600m², (b) 380m², if the lot has an area of at least 600m² but less than 900m², (c) 430m², if the lot has an area of at least 900m².</p> <p>(3) For the purpose of calculating the floor area in subclause (2): "floor area" means the sum of the areas of each storey of each dwelling and each carport, garage, balcony, deck, patio, pergola, terrace or verandah, measured at a height of 1.4 metres above each floor level, where the area is taken to be the area within the outer face of:</p> <p>(a) the external walls of the dwelling, and (b) the walls of the carport, garage, balcony, deck, patio, pergola, terrace or verandah, but excluding any of the following: (c) any part of an awning, blind or canopy that is outside the outer wall of a building, (d) an eave, (e) a lift shaft, (f) a stairway, (g) a void above a lower storey.</p>	<p>Complies</p> <p>Complies N/A N/A</p>
5 Maximum floor area for balconies, decks, patios, pergolas, terraces and verandahs		
<p>(1) The maximum floor area of a balcony, deck, patio, pergola, terrace or verandah attached to a principal dwelling or secondary dwelling with a floor level of more than 3m above ground level (existing) is 12m².</p>	<p>For the purpose of calculating the floor area in subclause (1): "floor area" means the area of the balcony, deck, patio, pergola, terrace or verandah, measured at the floor level, where the area is taken to be the area within the outer face of:</p> <p>(a) the external walls, if the balcony, deck, patio, pergola, terrace or verandah is enclosed, or (b) the balustrade or other safety barrier if the balcony, deck, patio, pergola, terrace or verandah, is not enclosed.</p>	N/A
Part 3 - Building heights and setbacks		
6 Building height	<p>Development for the purposes of a secondary dwelling must not result in a new building or a new part of an existing building having a building height above ground level (existing) of more than 8.5m.</p>	Complies
7 Setbacks from roads, other than classified roads	<p>(1) Development for the purposes of a secondary dwelling must not result in a new building or a new part of an existing building having a setback from the boundary with a primary or parallel road that is not a classified road of less than:</p> <p>(a) the average distance of the setbacks of the nearest 2 dwelling houses having a boundary with the same primary road and located within 40m of the lot on which the principal dwelling is erected, or (b) in any case where 2 dwelling houses are not located within 40m of the lot: (i) 4.5m, if the lot has an area of at least 450m² but less than 900 square metres, or (ii) 6.5m, if the lot has an area of at least 900m² but less than 1500m², or (iii) 10m, if the lot has an area of at least 1500m².</p> <p>(2) Development for the purposes of a secondary dwelling must not</p>	Complies

	<p>result in a new building or a new part of an existing building having a setback from a boundary with a secondary road that is not a classified road of less than:</p> <p>(a) 2m, if the lot has an area of at least 450m² but less than 600m², or</p> <p>(b) 3m, if the lot has an area of at least 600m² but less than 1500m², or</p> <p>(c) 5m, if the lot has an area of at least 1500m².</p>	N/A
<p>8 Setbacks from classified roads</p> <p>Development for the purposes of a secondary dwelling must not result in a new building or a new part of an existing building having a setback from a boundary with a classified road of less than:</p>	<p>(a) if another environmental planning instrument applying to the lot establishes a setback for a dwelling house having a boundary with a classified road, that distance, or</p> <p>(b) 9m in any other case.</p>	N/A
<p>9 Setbacks from side boundaries</p> <p>(1) Development for the purposes of a secondary dwelling must not result in a new building or a new part of an existing building or any new carport, garage, balcony, deck, patio, pergola, terrace or verandah that is attached to such a building having a setback from a side boundary of less than the following:</p>	<p>(a) 0.9m, if the lot has an area of at least 450m² but less than 900m²,</p> <p>(b) 1.5m, if the lot has an area of at least 900m² but less than 1500m²,</p> <p>(c) 2.5m, if the lot has an area of at least 1500m².</p> <p>(2) Development for the purposes of a secondary dwelling that involves the construction of a new building or additions to an existing building where the new or existing building will, at the end of the development, have a building height at any part of more than 3.8m must not result in the new building or any new part of the existing building or any new carport, garage, balcony, deck, patio, pergola, terrace or verandah that is attached to such a building, having a setback from a side boundary of less than the sum of:</p> <p>(a) the amount of the setback specified for the relevant sized lot in subclause (1), and</p> <p>(b) an amount that is equal to one-quarter of the additional building height above 3.8m.</p>	<p>Complies</p> <p>Complies</p>
<p>10 Setbacks from rear boundaries</p> <p>(1) Development for the purposes of a secondary dwelling must not result in a new building or a new part of an existing building or any new carport, garage, balcony, deck, patio, pergola, terrace or verandah that is attached to such a building having a setback from a rear boundary of less than the following:</p>	<p>(a) 3m, if the lot has an area of at least 450m² but less than 900m²,</p> <p>(b) 5m, if the lot has an area of at least 900m² but less than 1500m²,</p> <p>(c) 10m, if the lot has an area of at least 1500m².</p> <p>(2) Development for the purposes of a secondary dwelling that involves the construction of a new building or additions to an existing building where the new or existing building will, at the end of the development, have a building height at any part of more than 3.8 m must not result in the new building or any new part of the existing building or any new carport, garage, balcony, deck, patio, pergola, terrace or verandah that is attached to such a building, having a setback from a rear boundary of less than the sum of:</p> <p>(a) 3m, plus an amount that is equal to three times the additional building height above 3.8m, up to a maximum setback of 8m, if the lot has an area of at least 450m² but less than 900m², or</p> <p>(b) 5m, plus an amount that is equal to three times the additional building height above 3.8m, up to a maximum setback of 12m, if the lot has an area of at least 900m² but less than 1500m², or</p> <p>(c) 10m, plus an amount that is equal to three times the additional building height above 3.8m, up to a maximum of 15m, if the lot has an area of at least 1500m².</p> <p>(3) Despite subclauses (1) and (2), a dwelling on a lot that has a rear boundary with a laneway may have a building line that abuts that boundary for up to 50% of the length of that boundary.</p>	<p>Non compliance.</p> <p>The structure has a 1.5m setback, compliance with BCA</p>

<p>11 Exceptions to side and rear setbacks</p> <p>Despite any other <u>clause</u> in this Part:</p>	<p>(a) development for the purposes of a secondary dwelling must not result in a new building or a new part of an existing building having a setback of less than 3m from a boundary with a public reserve, and</p> <p>(b) side and rear setbacks from the boundary with a road do not apply to allowable encroachments permitted under <u>clause</u> 3.7.1.7 of Volume Two of the <i>Building Code of Australia</i> or any eave or roof overhang that has a horizontal width of not more than 0.45m.</p> <p>Note: The allowable encroachments permitted under <u>clause</u> 3.7.1.7 of Volume Two of the <i>Building Code of Australia</i> include fascias, gutters, downpipes, rainwater tanks, chimneys, flues, domestic fuel tanks, cooling or heating appliances, light fittings, electricity and gas meters, aerials, antennae, pergolas, sun blinds, unroofed terraces, landings, steps and certain ramps.</p>	<p>Complies with BCA</p>
<p>12 Calculating setbacks</p> <p>(1) For the purpose of calculating the setback of an existing dwelling, the location of any of the following is not included:</p>	<p>(a) any part of an existing garage or carport that is located between the building line of the dwelling and a boundary with the primary road,</p> <p>(b) any existing building element of a dwelling that is located within the articulation zone.</p> <p>(2) For the purpose of calculating the setbacks of the nearest 2 dwelling houses, those dwelling houses must be on the same side of the road as the lot.</p> <p>(3) For the purpose of calculating a side or rear setback, the maximum building height of a dwelling on a sloping lot is to be used.</p> <p>(4) A setback is to be calculated at the closest point to the boundary from the building line.</p>	<p>Notes only</p>
<p>13 Articulation zone</p>	<p>(1) Development for the purposes of a secondary dwelling (other than development on a battle-axe lot) must not result in neither the principal dwelling nor the secondary dwelling having a front door and a window to a habitable room in the building wall that faces a primary road.</p> <p>(2) Development for the purposes of a secondary dwelling (other than development on a battle-axe lot) must not result in neither the principal dwelling nor the secondary dwelling having a window to a habitable room in the building wall that faces a parallel road.</p> <p>(3) Development for the purposes of a secondary dwelling may incorporate an articulation zone from the secondary dwelling to a primary road, unless the secondary dwelling has a setback from the primary road of less than 3m.</p>	<p>Non compliance with SEPP however complies with DCP 2005 Chapter 100</p>
<p>14 Building elements within the articulation zone</p> <p>(1) The following building elements are permitted in an articulation zone:</p>	<p>(a) an entry feature or portico,</p> <p>(b) a balcony, deck, patio, pergola, terrace or verandah,</p> <p>(c) a window box treatment,</p> <p>(d) a bay window or similar feature,</p> <p>(e) an awning or other feature over a window,</p> <p>(f) a sun shading feature.</p> <p>(2) A building element must not extend above the eave gutter line, other than a pitched roof to an entry feature or portico that has the same pitch as the roof on the building.</p> <p>(3) The maximum area of all building elements within the articulation zone, other than a building element listed in subclause (1) (e) or (f), must not be more than 25% of the area of the articulation zone, measured through the horizontal plane of the elements.</p>	<p>Complies</p>
<p>15 Privacy</p> <p>(1) Development for the purposes of a secondary dwelling must not result in a new window in the principal or secondary dwelling without a</p>	<p>(a) it is a window in a habitable room, other than a bedroom, that has a floor level of more than 1 metre above ground level (existing), and</p> <p>(b) the wall in which the window is located has a setback of less than 3m from a side or rear boundary, and</p> <p>(c) the window has a sill height of less than 1.5m.</p> <p>(2) Development for the purposes of a secondary dwelling must not result in a new or altered balcony, deck, patio, pergola, terrace or</p>	<p>N/A</p> <p>N/A</p>

privacy screen if:	<p>verandah without a privacy screen if it:</p> <p>(a) has a setback of less than 3m from a side or rear boundary, and</p> <p>(b) has a floor area more than 3m², and</p> <p>(c) has a floor level more than 1m above ground level (existing).</p> <p>(3) Development for the purposes of a secondary dwelling must not result in a new or altered detached deck, patio, pergola or terrace having a floor level that is more than 0.6m above ground level (existing).</p> <p>(4) In this clause "alter" includes making additions to.</p> <p>"privacy screen" means a screen that:</p> <p>(a) faces the boundary identified in subclause (2) (a), and</p> <p>(b) is 1.5m high, measured from the floor level, and</p> <p>(c) has no individual opening more than 30mm wide, and</p> <p>(d) has a total of all openings less than 30% of the surface area of the screen.</p>	
Part 4 - Landscaping		
<p>16 Landscaped area</p> <p>(1) A lot on which development for the purposes of a secondary dwelling is carried out must have a landscaped area of at least the following:</p>	<p>(a) 20%, if the lot has an area of at least 450m² but less than 600m²,</p> <p>(b) 25%, if the lot has an area of at least 600m² but less than 900m²,</p> <p>(c) 35%, if the lot has an area of at least 900m² but less than 1500m²,</p> <p>(d) 45%, if the lot has an area of at least 1500m².</p> <p>(2) At least 50% of the landscaped area must be located behind the building line to the primary road boundary.</p> <p>(3) The landscaped area must be at least 2.5m wide.</p>	Compl es
<p>17 Principal private open space</p>	<p>(1) A lot on which development for the purposes of a secondary dwelling is carried out must have at least 24m² of principal private open space.</p> <p>(2) In this clause, "principal private open space" means:</p> <p>(a) an area that is directly accessible from, and adjacent to, a habitable room, other than a bedroom, and</p> <p>(b) is at least 4m wide, and</p> <p>(c) is not steeper than 1:50 gradient.</p> <p>Note: There is no requirement that additional parking spaces be provided in respect of development for the purposes of a secondary dwelling.</p>	Compl es
Part 5 - Earthworks and drainage		
<p>18 Excavation of sloping sites</p> <p>(1) Excavation associated with development for the purposes of a secondary dwelling must:</p>	<p>(a) be not more than 1m below ground level (existing), and</p> <p>(b) be constructed using a retaining wall or unprotected embankment that meets the standards of subclause (2) or (3), respectively.</p> <p>(2) A retaining wall must not extend more than 1m horizontally beyond the external wall of the principal or secondary dwelling.</p> <p>(3) An unprotected embankment must not extend more than 1m horizontally beyond the external wall of the principal or secondary dwelling.</p>	N/A
<p>19 Fill of sloping sites</p>	<p>(1) Fill associated with development for the purposes of a secondary dwelling must be contained wholly within the external walls of the principal or secondary dwelling.</p> <p>(2) Despite subclause (1), exposed fill may be constructed using an unprotected embankment if the principal or secondary dwelling has a setback of more than 2m from a side or rear boundary, if:</p> <p>(a) the fill is not more than 0.6m above ground level (existing), and</p> <p>(b) the fill (but not the embankment) does not extend more than 1m beyond an external wall of the dwelling, and</p> <p>(c) the toe of the unprotected embankment has a setback of at least 0.4m from a side or rear boundary.</p>	N/A
<p>20 Run-off and erosion controls</p> <p>Run-off and erosion controls</p>	<p>(a) diverting uncontaminated run-off around cleared or disturbed areas, and</p> <p>(b) erecting a silt fence to prevent debris escaping into drainage systems and waterways, and</p>	Constr uction require ment

<p>must be implemented to prevent soil erosion, water pollution or the discharge of loose sediment on the surrounding land by:</p>	<p>(c) preventing tracking of sediment by vehicles onto roads, and (d) stockpiling top soil, excavated materials, construction and landscaping supplies and debris within the lot.</p>	
<p>21 Drainage</p> <p>(1) All stormwater collecting as a result of development for the purposes of a secondary dwelling must be conveyed by a gravity fed or charged system to:</p>	<p>(a) a public drainage system, or (b) an inter-allotment drainage system, or (c) an on-site disposal system. (2) All stormwater drainage systems within a lot and the connection to a public or an inter-allotment drainage system must: (a) if an approval is required under section 68 of the <u>Local Government Act 1993</u>, be approved under that Act, or (b) if an approval is not required under section 68 of the <u>Local Government Act 1993</u>, comply with any requirements for the disposal of stormwater drainage contained in a development control plan that is applicable to the land.</p>	<p>To drain to roadway as adequate fall to street</p>

2.3 DA/246/2012 - Demolition of Existing Garage/Workshop and Carport, Proposed Carport and Detached Secondary Dwelling at Bateau Bay

TRIM REFERENCE: DA/246/2012 - D03002162

MANAGER: Jamie Loader; Manager Building Certification and Health

AUTHOR: Paul Koen; Principal Health and Building Surveyor

SUMMARY

An application has been received for the demolition of an existing outbuilding and carport and to undertake alterations and additions to the existing dwelling, construct a carport and a detached secondary dwelling. 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) 1979, the State Environmental Planning Policy (SEPP) (Affordable Rental Housing) 2009 and other statutory requirements with the issues requiring attention and consideration being addressed in the report.

Applicant	Robert Price
Owner	Dennis and Wendy Antyppas
Application No	DA/246/2012
Description of Land	Lot 56 DP 237347, No 2 Avignon Street Bateau Bay
Proposed Development	Demolition of an existing garage/workshop and carport and for the construction of a carport and a detached secondary dwelling.
Site Area	505.9m ²
Zoning	2A Residential
Existing Use	Residential
Estimated Value	\$70,000

RECOMMENDATION

- 1 ***That Council grant consent subject to the conditions detailed in the schedule attached to the report., having regard to the matters for consideration detailed in Section 79C of the Environmental Planning and Assessment Act and other relevant issues,***
- 2 ***That Council vary DCP 2005 Chapter 99 Building Lines with regard to setbacks to permit the proposed development.***

PRECIS

- An application has been received for demolition of an existing garage/workshop and carport and a the construction of a carport and a detached secondary dwelling.

2.3 DA/246/2012 - Demolition of Existing Garage/Workshop and Carport, Proposed Carport and Detached Secondary Dwelling at Bateau Bay (contd)

- The site is zoned 2(a) Residential under the provisions of the Wyong Local Environmental Plan 1991 (WLEP).
- The development complies with Development Control Plan (DCP) 2005, Chapter 99 Building Lines and Chapter 100 Quality Housing except for the setback for the carport which requires a variation to the side boundary setback..
- The secondary dwelling complies with the relevant development standards for secondary dwellings contained within the SEPP (Affordable Rental Housing) 2009

INTRODUCTION

The Site

The carport is a permissible land use under the provisions of WLEP 1991 and the secondary dwelling is permissible under the provisions of SEPP (Affordable Rental Housing) 2009.

The application has been referred to Council for determination solely based upon the Council resolution of 8th of February 2012, (in particular Resolution 6) which states:

Council at its meeting held on 8th February 2012 Resolved unanimously on the motion of Councillor Best and seconded by Councillor Symington:

- “1 That Council reaffirm its commitment to the principles of affordable housing and its importance in assisting a broad cross section of our community and recognise that Section 94 contributions may be prohibitive to many affordable housing projects.*
- 2 That Council note the decision of Gosford City Council to assist in facilitating affordable housing through the trial waiver of Section 94 contributions for granny flats.*
- 3 That Council support this initiative thereby establishing a regional approach to affordable housing.*
- 4 That Council also waive Section 94 contributions for granny flats on a trial basis till September 2012, concurrent with Gosford City Council and that the outcome of this be reported to Council.*
- 5 That Council receive the report in a timeframe for inclusion in the 2012-13 Annual Plan.*
- 6 That Council implement the trial by way of reporting those relevant development applications to Council for determination.*

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

AGAINST: NIL”

2.3 DA/246/2012 - Demolition of Existing Garage/Workshop and Carport, Proposed Carport and Detached Secondary Dwelling at Bateau Bay (contd)

The approval of the carport and secondary dwelling would not create any adverse impact on adjoining properties. As such, it is recommended that the application be approved subject to conditions.



2.3 DA/246/2012 - Demolition of Existing Garage/Workshop and Carport, Proposed Carport and Detached Secondary Dwelling at Bateau Bay (contd)

VARIATIONS TO POLICIES

There is a variation to the side boundary setback to a public reserve as contained within Council's DCP 2005 Chapter 99 Building Lines.

Clause	3.1 Building Lines
Standard	900mm to a public reserve
LEP/DCP	DCP2005 Chapter 99 Building Lines
Departure basis	A zero setback for the carport is proposed. This represents a 100% variation to the policy.

HISTORY

There is no relevant history with this development application.

PERMISSIBILITY

The subject site is zoned 2(a) Residential zone under the WLEP 1991. The proposed carport is permissible with consent and complies with the objectives of the zone as follows:

- (a) *to provide land primarily for detached housing generally not exceeding a height of 2 storeys and with private gardens in an environment free from commercial and other incompatible activities and buildings, and*
- (b) *to provide for other uses, but only where they:*
 - (i) *are compatible with the residential environment and afford services to residents at a local level, and*
 - (ii) *are unlikely to adversely affect residential amenity or place demands on services beyond the level reasonably required for detached housing, and*
- (c) *to provide for home-based employment where such will not:*
 - (i) *involve exposure to view from any public place of any unsightly matter, or any raw material, equipment, machinery, product or stored finished goods, or*
 - (ii) *have a material adverse impact on residents.*

The proposal is for a carport that integrates with the existing and proposed development. It is proposed to undertake only minimal excavation to the lot. The overall height is consistent with existing development in the area and the development would incorporate appropriate landscaping. The development is to be used for residential purposes only.

The secondary dwelling is permissible under the provisions of SEPP (Affordable Rental Housing) 2009 and is fully compliant with the provisions of this SEPP.

2.3 DA/246/2012 - Demolition of Existing Garage/Workshop and Carport, Proposed Carport and Detached Secondary Dwelling at Bateau Bay (contd)

RELEVANT STATE/COUNCIL POLICIES AND PLANS

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

- SEPP (Affordable Rental Housing) 2009
- WLEP 1991
- Wyong Council DCP Chapters 99 & 100

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 the SEPP (Affordable Rental Housing) 2009, statutory requirements, Council's policies and Section 149 Certificate details, the assessment has identified the following key issues, which are elaborated upon for Council's information. Any tables relating to plans or policies are provided as an attachment.

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

Wyong Local Environmental Plan 1991

The property is zoned 2(a) Residential zone.

The additions of a carport are permissible under the provisions of WLEP and meet the objectives of the zone. The secondary dwelling is proposed under the provisions of SEPP (Affordable Rental Housing) 2009 which overrides any provisions contained with the WLEP.

State Environmental Planning Policy (Affordable Rental Housing) 2009

SEPP (Affordable Rental Housing) 2009 permits secondary dwellings up to a maximum floor area of 60m². The proposed secondary dwelling has a floor area of 60m². The subject allotment also exceeds the minimum area of 450m². All other requirements of the SEPP have been complied with.

Under these circumstances the proposed secondary dwelling is considered justified.

2.3 DA/246/2012 - Demolition of Existing Garage/Workshop and Carport, Proposed Carport and Detached Secondary Dwelling at Bateau Bay (contd)

Development Control Plan 2005 Chapter 99 – Building Lines

Clause 3.1 of Chapter 99 – Building Lines requires a side setback of 900mm to a public reserve. The development is fully compliant with other setbacks to side and rear boundaries.

The setback to the south eastern (side) boundary of the secondary dwelling is 1.169m, however a variation for the replacement carport is requested and supported due to minimal impact and precedent this creates. The variation is discussed with regard to the objectives within this report and found to be acceptable as the principle dwelling driveway is located along this side boundary providing for maximum separation and amenity. The variation can also be further justified in terms of:

- (i) being matching and sympathetic to the desirable character and placement of adjoining development;
- (ii) does not impact in any way to the local streetscape;
- (iii) the development retains reasonable privacy for existing and future residents;
- (iv) design features of the proposed development has considered better energy efficiency, enhanced solar access, and retention of significant existing vegetation; and
- (v) does not compromise the integrity of the public reserve including its natural features (including bushland); and
- (vi) has protection from bushfire.

Under these circumstances the variation is justified.

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

The relationship to the regional and local context and setting

The proposed carport and the secondary dwelling are consistent with the scale and character of the local area of Bateau Bay. The scale, bulk, height, massing and choice of materials and finishes for the proposed carport and secondary dwellings are considered appropriate to the local context and will enhance the streetscape.

The access, transport and traffic management measures

Access to the site is provided by an existing driveway from Avignon Street, Bateau Bay.

The SEPP (Affordable Rental Housing) 2009 does not require additional parking or access to be provided for the secondary dwelling.

Any effect on privacy, view loss and overshadowing

An assessment of potential over viewing, privacy and view sharing has been undertaken and it is concluded that the construction of the carport and single storey secondary dwelling is not detrimental to the adjoining properties.

2.3 DA/246/2012 - Demolition of Existing Garage/Workshop and Carport, Proposed Carport and Detached Secondary Dwelling at Bateau Bay (contd)

The impact on utilities supply.

Existing services for the site are adequate for the proposed development.

Any impact on the conservation of water.

A BASIX certificate has been submitted with the application and the proposal involves the use of water saving fixtures and a water tank of a minimum 2500 litre capacity for each toilet and external use on site to contribute to the conservation of water.

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

The proposal does not involve any effect on the conservation of soils or acid sulphate soils.

Any effect on the flora and fauna.

The proposal does not effect flora and fauna.

The provision of waste facilities.

A waste management plan has been submitted with the development application and provides details of how waste will be managed during demolition and construction. The occupants of the secondary dwelling will utilise the waste collection services associated with the primary dwelling.

Whether the development will be energy efficient.

A BASIX certificate has been issued as part of the development application.

Whether the development will cause noise and vibration.

A minimal amount of noise and vibration will be created during the construction phase. A condition will be placed on the consent restricting the hours that construction work can take place.

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

There are no risks from natural hazards applicable to this proposal.

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

During the construction of the works sediment fencing will be installed and construction noise will be minimised via conditions of consent.

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

Whether the proposal fits in the locality.

The proposal meets the objectives of the zone and complies with the criteria contained within the SEPP (Affordable Rental Housing) 2009.

2.3 DA/246/2012 - Demolition of Existing Garage/Workshop and Carport, Proposed Carport and Detached Secondary Dwelling at Bateau Bay (contd)

The development is within a residential area that contains a number of single and multiple dwelling developments. The secondary dwelling will not have any significant impact on the surrounding area and promotes an orderly and economic use of the land.

It is considered the effect on the environment will be minimal and the proposed dwellings will compliment the existing streetscape and social amenity of the locality.

Whether the site attributes are conducive to development.

The site is considered appropriate for the proposed development.

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

Any submission from the public.

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

Any submission from public authorities.

There are no submissions from public authorities.

OTHER MATTERS FOR CONSIDERATION

The property is within The Entrance North – Long Jetty S94 contribution plan created under the provisions of Section 94 of The EP&A Act 1979. Section 94 contributions are applicable to secondary dwellings under this plan as defined under the Affordable Housing SEPP.

Under the contribution plan the secondary dwelling will generate Section 94 contributions totalling \$3,943.90.

CONCLUSION

The development application for the demolition of an existing garage/workshop and a proposed carport and secondary dwelling meets the standards of the relevant chapters of Council's DCP 2005 and the SEPP (Affordable Rental Housing) 2009. The application is recommended for approval subject to the attached conditions.

ATTACHMENTS

- | | | |
|---|---|-----------|
| 1 | Draft Conditions of Consent | D03001771 |
| 2 | Development Plans (A3 Colour) Enclosure | D03002200 |

Date: 11 May 2012
Responsible Officer: Paul Koen
Location: 2 Avignon Street, BATEAU BAY NSW 2261
Lot 56 DP 237347
Owner: Mrs W Antyppas and Mr D Antyppas
Applicant: Mr R Price
Date Of Application: 29 March 2012
Application No: DA/246/2012
Proposed Development: Detached secondary dwelling & carport including demolition of existing garage & carport
Land Area: 505.90
Existing Use: Single Residence

PROPOSED CONDITIONS

- 1 The development taking place in accordance with the approved development plans reference number Antyppas Sheets 1 to 6/A & 01/01 prepared by RJS & CE Price dated March 2012 except as modified by any conditions of this consent, and any amendments in red.

Certificates – Application and Approval

- 2 A Construction Certificate is to be issued by the Principal Certifying Authority prior to commencement of any construction works. The application for this Certificate is to satisfy all of the requirements of the Environmental Planning and Assessment Regulation 2000.
- 3 Where conditions of this consent require approval from Council under the Roads Act 1993, Local Government Act 1993 or Water Management Act 2000, a completed Subdivision Construction Certificate application form must be lodged with Council and be accompanied by detailed design drawings and supporting information. Upon submission to Council, fees and charges will be calculated in accordance with Council's Management Plan. The fees and charges must be paid prior to Council commencing the design assessment.

Prior to Release of Construction Certificate:

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

Contribution Payment Requirements

- 4 Prior to the issue of a Construction Certificate, the payment to Council of contributions (as contained in the attached Schedule) under Section 94 of the Environmental Planning and Assessment Act 1979 and Council's Section 94 and Section 94A Contribution Plan. Council's contributions are adjusted on the first day of February, May, August and November. The amount of the contributions will be adjusted to the amount applicable at the date of payment.

Structural Design Requirements

- 5 Prior to the issue of a Construction Certificate, satisfactory structural plans prepared by a suitably qualified Registered Structural Engineer are to be submitted for the approval of the Accredited Certifier, for the following building elements:
- Slab.

Water and Sewer Services - Design Requirements

- 6 The developer must submit an application to Council under Section 305 of the Water Management Act 2000 for any requirements for the obtaining of a Section 307 Certificate of Compliance. The application must be made prior to the issue of the Construction Certificate. **Note:** The Section 305 Notice may contain requirements associated with the development that must be completed prior to the issue of the Construction Certificate.

Prior to Commencement of Works:

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

Erosion and Sediment Control Requirements

- 7 Prior to works associated with the development commencing, soil erosion and sediment controls measures are to be provided on the development site in accordance with Council's Policy E1 - Erosion and Sediment Control from Building Sites and Development Control Plan 2005, Chapter 67 – *Engineering Requirements for Development* and the approved development plans.
- 8 Prior to works associated with the development commencing, a single all-weather hardstand access, extending from the kerb and gutter/edge of bitumen to the building under construction, is to be installed in order to provide appropriate access to the site during periods of inclement weather.
- 9 Prior to works associated with the development commencing, suitable sediment control kerb inlet trap devices are to be provided downstream of the development site adjoining locations such as kerb inlet drainage pits, in order to prevent any silt that may have left the site from entering the drainage system. The build up of silt and debris behind the required kerb inlet trap devices is to be removed from the site on a daily basis.
- 10 Prior to works associated with the development commencing, an appropriate sign to promote the awareness and importance of the maintenance of on-site sediment control techniques is to be provided on the most prominent sediment fence or erosion control device within the development site, for the duration of the project.

Home Building Act Requirements

- 11 Residential building work within the meaning of the Home Building Act 1989 must not be carried out unless the Principal Certifying Authority for the development to which the work relates (not being the Council) has given the Council written notice of the following information:

In the case of work to be done by the holder of a contractor licence under that Act:

- the name and licence number of the contractor; and
- the name of the insurer by whom the work is insured under Part 6 of that Act.

In the case of work to be done by the holder of an owner-builder permit under that Act:

- the name and permit number of the owner-builder.

If arrangements for doing the residential building work are changed while the work is in progress so that the information notified above becomes out of date, further work must not be carried out unless the Principal Certifying Authority for the development to which the work relates (not being the Council), has given the Council written notice of the updated information.

Roads - Preconstruction Requirements

- 12 Prior to works associated with development commencing, a dilapidation report must be prepared and submitted to Council as the Roads Authority. The required dilapidation report must document and provide photographs that clearly depict any existing damage to the road, kerb, gutter, footpath, driveways, water supply, sewer works, street trees, street signs or any other Council assets in the vicinity of the development. **Note:** The report will be used by Council to determine the extent of damage arising from site and construction works.

Site Requirements

- 13 Prior to works associated with the development commencing, the Principal Contractor (or Owner/Builder) is to erect a suitable sign in a prominent position on the development site (not attached to any tree) identifying the name, address and telephone number of the Principal Certifying Authority (PCA) for the work, the name, address and telephone number (including a number for outside of business hours) of the Principal Contractor for the work (or Owner/Builder) and stating that unauthorised entry to the site is prohibited. The required sign is to be maintained for the duration of works associated with the development. Appropriate signs can be collected from Council's Customer Service Centre, where Council is the nominated Principal Certifying Authority with respect to the development.

- 14 Prior to works associated with the development commencing, suitable toilet facilities must be available or be provided upon the development site, with the required toilet facility(s) maintained until development works are completed at a ratio of one (1) toilet plus one (1) additional toilet for every twenty (20) persons employed at the site. Each toilet must:
 - be a standard flushing toilet connected to a public sewer system; or
 - have an on-site effluent disposal system approved under the Local Government Act 1993, or be a temporary chemical closet approved under the Local Government Act 1993, supplied by a suitably licensed contractor.
- 15 Prior to works associated with the development commencing, a suitable metal waste skip (with self-closing lid or secure covering) or lined mesh steel cage(s) is to be provided upon the development site for the duration of the construction phase of the development in accordance with the requirements of Development Control Plan 2005, Chapter 100 – Quality Housing. The required waste receptacle is to be suitably emptied at appropriate times during the construction phase of the development.
- 16 Prior to works associated with the development commencing, a suitable hoarding or safety fence between the work site and the public place is to be provided in accordance with Work Cover Authority requirements. The required hoarding/fencing is to remain in place during the construction phase of the development. Should the hoarding/fencing be required to be provided within the road reserve area, approval from Council under the Roads Act as the Roads Authority is required to be obtained prior to its erection.
- 17 Prior to works associated with the development commencing, it is the builder's responsibility to confirm the location and depth of the sewer main and connection point in relation to the floor level, to ensure that appropriate connection to the sewer can be achieved.
- 18 Prior to works associated with the development commencing, where any excavation is proposed in proximity to existing gas and/or electricity networks, the developer is advised to notify 'Dial Before You Dig' of the time and place of work no more than thirty (30) days before the work commences. The developer must satisfy any requirements as set by the network operators in carrying out excavation works.

During Construction Works:

The following conditions must be satisfied during construction works.

Approved Plans

- 19 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.

Earthworks and Haulage - Construction Requirements

- 20 All earthworks are to be limited to the area as indicated within the approved development plans. Any additional earthworks and the construction of associated retaining structures outside of the nominated areas, requires separate approval.

Erosion and Sediment Control - Construction Requirements

- 21 Sand and other materials associated with the construction of the development that could potentially be washed off the site during rain periods, are to be stored behind a suitable sediment control barrier.
- 22 All sediment and erosion control devices provided with respect to the development are to be periodically cleaned and maintained in an effective state for the duration of works. On the spot fines for non-compliance with this requirement may be issued under the provisions of the *Protection of Environment Operations Act, 2000*.

Plumbing and Drainage - Construction Requirements

- 23 Council as the Water Supply Authority, under the provisions of the Water Management Act, or in unsewered areas where an onsite sewage management facility is to be installed, is to be notified to undertake inspections of the internal drainage lines, (prior to the pouring of the concrete slab), and external drainage lines inclusive of sewer junction connection, prior to the backfilling of the trenches. These inspections can be arranged by telephoning Council's Customer Contact Centre on (02) 4350 5555 a minimum of twenty-four (24) hours prior to the required time for the inspection. Please note that all drainage inspection fees are to be paid to Council prior to plumbing and drainage works associated with the development commencing.

Site Requirements

- 24 Construction or demolition works involved with the development may only be carried out between the hours of 7.00 am and 5.00 pm Monday to Saturday with no construction or demolition works associated with the development permitted to be carried out at any time on a Sunday or a public holiday.
- 25 During the construction phase of the development, all building materials, plant and equipment must be placed on the site of the development in order to ensure that pedestrian and vehicular access within adjoining public roads, footpaths and reserve areas, is not restricted and to prevent damage to public infrastructure.
- 26 During the construction phase of the development, downpipes and the associated stormwater disposal system is to suitably connected to the site stormwater connection point immediately after the roof materials are positioned in order to prevent erosion of the site from roof water run off. The Principal Certifying Authority for the development will not issue a compliance certificate for framing unless connection of the site stormwater (or temporary system) has occurred.

Prior to Release of Occupation Certificate:

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

BASIX Requirements

- 27 Prior to the issue of an Occupation Certificate, pursuant to Clause 97A(3) of the Environmental Planning and Assessment Regulation 2000, it is mandatory that all the commitments listed in the BASIX Certificate applicable to the development are fulfilled.

Building Code of Australia – Compliance Requirements

- 28 Prior to the issue of the Occupation Certificate, the building shall be completed in accordance with the relevant provisions and requirements of the Building Code of Australia.

Dilapidation Rectification Requirements

- 29 Prior to the issue of an Occupation Certificate, any damage not shown in the Dilapidation Report submitted to and approved by the Principal Certifying Authority prior to site works commencing, will be assumed to have been caused as a result of the site works undertaken with respect to the development and must be rectified at the applicant's expense.

Plumbing and Drainage - Compliance Requirements

- 30 Prior to the issue of an Occupation Certificate, the hot water installation is to be suitably tempered in order that hot water not exceeding 50 degrees Celsius is provided at the outlet of the sanitary fixtures used primarily for personal hygiene purposes. Compliance with this temperature limit is optional for kitchen sinks and laundry tubs under the provisions of AS/NZS 3500, Part 4.2 C1.1.6.2.
- 31 Prior to the issue of an Occupation Certificate, the required rainwater tank is to be provided in the location as detailed within the approved development plans with suitable plumbing connections provided to collect rainwater from the roof area as detailed within the BASIX Certificate applicable to the development. The required rainwater tank is to be installed in accordance with the requirements of the National Plumbing and Drainage Code AS/NZS 3500 and shall be provided with first flow diversion devices fixed to all inflows and a functioning pressure pump plumbed to service all fixtures as detailed within the BASIX Certificate applicable to the development. The required tank must be controlled in order that supplemental flow from domestic mains does not take place until the capacity of the tank has been reduced to 20%.
- 32 Prior to the issue of an Occupation Certificate, the surcharge gully provided with respect to the development, must be located a minimum of 150mm below floor level and 75mm above the surrounding finished ground level.

Stormwater – Compliance Requirements

- 33 Prior to the issue of an Occupation Certificate, stormwater generated from roof areas of the building and any overflows from rain water tanks installed in conjunction with the development, is to be disposed of to Council's street gutter drainage system. Where provided, the existing kerb stormwater connection is to be utilised.

Water and Sewer Services/Infrastructure – Compliance Requirements

- 34 The obtaining of a Section 307 Certificate of Compliance under the Water Management Act 2000 for water and sewer requirements for the development from Wyong Shire Council as the Water Supply Authority prior to issue of the Subdivision/Occupation Certificate. All works for the development must be approved by Council prior to the issue of a Certificate of Compliance.

Ongoing Operation:

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

No Conditions

SCHEDULE OF CONTRIBUTIONS

Shire Wide Regional Open Space	\$86.65
Shire Wide Performing Arts Centre & Public Art	\$200.55
Bateau Bay Open Space Works	\$1,458.65
The Entrance Community Facilities Land	\$939.65
The Entrance Community Facilities Works	\$1,219.90
The Entrance Water DSP	\$1,009.80
Bateau Bay West Sewer DSP	\$430.80
Shire Wide Administration	\$38.50

2.4 DA/253/2012 - Alterations and Additions of an Existing Detached Outbuilding to Create a Secondary Dwelling and Carport at Budgewoi

TRIM REFERENCE: DA/253/2012 - D03004414

MANAGER: Jamie Loader; Manager Building Certification and Health

AUTHOR: Paul Koen; Principal Health and Building Surveyor

SUMMARY

An application has been received for alterations and additions to an existing detached outbuilding to create a secondary dwelling and carport. 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) 1979, the State Environmental Planning Policy (SEPP) (Affordable Rental Housing) 2009 and other statutory requirements with the issues requiring attention and consideration being addressed in the report.

Applicant	Glenn Newberry
Owner	Right choice properties Pty Ltd
Application No	DA/253/2012
Description of Land	Lot 876 DP 774849, No 54 Laelana Avenue, Budgewoi
Proposed Development	Alterations and additions of an existing detached outbuilding to create a secondary dwelling and carport
Site Area	876m ²
Zoning	2A Residential
Existing Use	Residential
Estimated Value	\$40,000

RECOMMENDATION

That Council grant consent, having regard to the matters for consideration detailed in Section 79C of the Environmental Planning and Assessment Act and other relevant issues, subject to the conditions detailed in the schedule attached to the report.

PRECIS

- An application has been received for alterations and additions to an existing detached outbuilding to create a secondary dwelling and carport.
- The site is zoned 2(a) Residential under the provisions of the Wyong Local Environmental Plan 1991 (WLEP).
- The carport complies with Development Control Plan (DCP) 2005, Chapter 99 Building Lines and Chapter 100 Quality Housing.

2.4 DA/253/2012 - Alterations and Additions of an Existing Detached Outbuilding to Create a Secondary Dwelling and Caport at Budgewoi (contd)

- The secondary dwelling complies with the relevant requirements of the SEPP (Affordable Rental Housing) 2009.

INTRODUCTION

The Site

The carport is a permissible land use under the provisions of WLEP 1991 and the secondary dwelling is permissible under the provisions of SEPP (Affordable Rental Housing) 2009.

The application has been referred to Council for determination solely based upon the Council resolution of 8th of February 2012, (in particular Resolution 6) which states:

Council at its meeting held on 8th February 2012 Resolved unanimously on the motion of Councillor Best and seconded by Councillor Symington:

- “1 That Council reaffirm its commitment to the principles of affordable housing and its importance in assisting a broad cross section of our community and recognise that Section 94 contributions may be prohibitive to many affordable housing projects.*
- 2 That Council note the decision of Gosford City Council to assist in facilitating affordable housing through the trial waiver of Section 94 contributions for granny flats.*
- 3 That Council support this initiative thereby establishing a regional approach to affordable housing.*
- 4 That Council also waive Section 94 contributions for granny flats on a trial basis till September 2012, concurrent with Gosford City Council and that the outcome of this be reported to Council.*
- 5 That Council receive the report in a timeframe for inclusion in the 2012-13 Annual Plan.*
- 6 That Council implement the trial by way of reporting those relevant development applications to Council for determination.*

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

AGAINST: NIL”

The approval of the carport and alterations and additions to the existing outbuilding to create a secondary dwelling will not create any adverse impact on adjoining properties. As such, it is recommended that the application be approved subject to conditions.

2.4 DA/253/2012 - Alterations and Additions of an Existing Detached Outbuilding to Create a Secondary Dwelling and Caport at Budgewoi (contd)



2.4 DA/253/2012 - Alterations and Additions of an Existing Detached Outbuilding to Create a Secondary Dwelling and Carport at Budgewoi (contd)

VARIATIONS TO POLICIES

There are no variations to Council's DCP 2005 or development standards for secondary dwellings contained within the SEPP (Affordable Rental Housing) 2009.

HISTORY

A brick and tile single storey dwelling with detached outbuilding currently exists on the site. The outbuilding is to be altered to a secondary dwelling.

PERMISSIBILITY

The subject site is zoned 2(a) Residential zone under the WLEP 1991. The proposed carport is permissible with consent and complies with the objectives of the zone as follows:

- (a) to provide land primarily for detached housing generally not exceeding a height of 2 storeys and with private gardens in an environment free from commercial and other incompatible activities and buildings, and*
- (b) to provide for other uses, but only where they:*
 - (i) are compatible with the residential environment and afford services to residents at a local level, and*
 - (ii) are unlikely to adversely affect residential amenity or place demands on services beyond the level reasonably required for detached housing, and*
- (c) to provide for home-based employment where such will not:*
 - (i) involve exposure to view from any public place of any unsightly matter, or any raw material, equipment, machinery, product or stored finished goods, or*
 - (ii) have a material adverse impact on residents.*

The proposal is for a carport that integrates with the existing and proposed development. It is proposed to undertake only minimal excavation to the lot. The overall height is consistent with existing development in the area and the development would incorporate appropriate landscaping. The development is to be used for residential purposes only.

The secondary dwelling is permissible under the provisions of SEPP (Affordable Rental Housing) 2009.

RELEVANT STATE/COUNCIL POLICIES AND PLANS

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

- SEPP (Affordable Rental Housing) 2009
- WLEP 1991
- Wyong Council DCP Chapters 99 & 100

2.4 DA/253/2012 - Alterations and Additions of an Existing Detached Outbuilding to Create a Secondary Dwelling and Carport at Budgewoi (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 the SEPP (Affordable Rental Housing) 2009, statutory requirements, Council's policies and Section 149 Certificate details, the assessment has identified the following key issues, which are elaborated upon for Council's information. Any tables relating to plans or policies are provided as an attachment.

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

Wyong Local Environmental Plan 1991

The property is zoned 2(a) Residential zone.

The additions of the carport are permissible under the provisions of WLEP and meet the objectives of the zone. The secondary dwelling is proposed under the provisions of SEPP (Affordable Rental Housing) 2009 which overrides any provisions contained within the WLEP.

State Environmental Planning Policy (Affordable Rental Housing) 2009

SEPP (Affordable Rental Housing) 2009 permits secondary dwellings on residential land up to a maximum floor area of 60m². The proposed secondary dwelling has a floor area of 55.15m². The subject allotment also exceeds the minimum area of 450m².

The provisions of Clause 20 and 22 of the SEPP are complied with. Under these circumstances the proposed secondary dwelling is considered justified.

Development Control Plan 2005 Chapter 99 – Building Lines

Clause 3.1 of Chapter 99 – Building Lines requires a side and rear setback of 900mm to an adjoining allotment. The development is also compliant with the secondary street boundary.

The secondary dwelling and carport can also be further justified in terms of:

(i) being matching and sympathetic to the desirable character and placement of adjoining development;

2.4 DA/253/2012 - Alterations and Additions of an Existing Detached Outbuilding to Create a Secondary Dwelling and Carport at Budgewoi (contd)

- (ii) does not impact in any way to the local streetscape;
- (iii) the development retains reasonable privacy for existing and future residents;
- (iv) design features of the proposed development has considered better energy efficiency, enhanced solar access, and retention of significant existing vegetation; and
- (v) has adequate off street and on street parking being available for the dwelling.

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

The relationship to the regional and local context and setting

The proposed carport and the secondary dwelling are consistent with the scale and character of the local area of Budgewoi. The scale, bulk, height, massing and choice of materials and finishes for the proposed primary and secondary dwellings are considered appropriate to the local context and will enhance the streetscape.

The access, transport and traffic management measures

Access to the site is provided by an existing driveway which traverses the adjacent road reserve in Lukela Ave, Budgewoi.

The SEPP (Affordable Rental Housing) 2009 does not require additional parking or access to be provided for the secondary dwelling, however a single carport has been provided.

Any effect on privacy, view loss and overshadowing

An assessment of potential overlooking, privacy and view sharing has been undertaken and it is concluded that the construction of the carport and secondary dwelling is not detrimental to the adjoining properties.

The impact on utilities supply.

Existing services have been provided to the site to cater for the proposed development.

Any impact on the conservation of water.

A BASIX certificate has been submitted with the application and the proposal involves the use of water saving fixtures to contribute to the conservation of water.

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

The proposal does not involve any effect on the conservation of soils or acid sulphate soils.

Any effect on the flora and fauna.

The proposal does not effect flora and fauna.

2.4 DA/253/2012 - Alterations and Additions of an Existing Detached Outbuilding to Create a Secondary Dwelling and Carport at Budgewoi (contd)

The provision of waste facilities.

A waste management plan has been submitted with the development application and provides details of how waste will be managed during construction. The occupants of the secondary dwelling will utilise the waste collection services associated with the primary dwelling.

Whether the development will be energy efficient.

A BASIX certificate has been issued as part of the development application.

Whether the development will cause noise and vibration.

A minimal amount of noise and vibration will be created during the construction phase. A condition will be placed on the consent restricting the hours that construction work can take place.

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

There are no risks from natural hazards applicable to this proposal.

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

During the construction of the works sediment fencing will be installed and construction noise will be minimised via conditions of consent.

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

Whether the proposal fits in the locality.

The proposal meets the objectives of the zone and complies with the criteria contained within the SEPP (Affordable Rental Housing) 2009.

The development is within a residential area that contains a number of single and multiple dwelling developments. The secondary dwelling will not have any significant impact on the surrounding area and promotes an orderly and economic use of the land.

It is considered the effect on the environment will be minimal and the proposed dwellings will compliment the existing streetscape and social amenity of the locality.

Whether the site attributes are conducive to development.

The site is considered appropriate for the proposed development.

2.4 DA/253/2012 - Alterations and Additions of an Existing Detached Outbuilding to Create a Secondary Dwelling and Caport at Budgewoi (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 no submissions being received.

Any submission from public authorities.

There are no submissions from public authorities.

OTHER MATTERS FOR CONSIDERATION

The property is within The Budgewoi S94 contribution plan created under the provisions of Section 94 of The EP&A Act 1979. Section 94 contributions are applicable to secondary dwellings under this plan as defined under the Affordable Housing SEPP.

Under the contribution plan the secondary dwelling will generate Section 94 contributions totalling \$4337.25.

CONCLUSION

The development application for the demolition of an existing detached laundry, alterations and additions to the existing dwelling and a secondary dwelling meets the standards of the relevant chapters of Council's DCP 2005 and the SEPP (Affordable Rental Housing) 2009. The application is recommended for approval subject to the attached conditions.

ATTACHMENTS

- | | | |
|---|---|---------------------|
| 1 | Assessment Report - 5 Groups - 54 Laelana Avenue,
BUDGEWOI NSW Draft Conditions of Consent | D03002779 |
| 2 | Development Plan | Enclosure D03004486 |

Date: 14 May 2012
Responsible Officer: Paul Koen
Location: 54 Laelana Avenue, BUDGEWOI NSW 2262
 Lot 876 DP 774849
Owner: Right Choice Properties Pty Ltd
Applicant: Mr G Newbery
Date Of Application: 30 March 2012
Application No: DA/253/2012
Proposed Development: Alterations & additions to existing garage to create a secondary dwelling
Land Area: 876.00
Existing Use: Residential

PROPOSED CONDITIONS

Approved Plans

- The development is to be undertaken in accordance with the approved development plans and specifications listed below except as modified by any conditions of consent and any amendments in red made to the approved plans:

Title	Drawing No.	Revision	Date	Drawn By
Plan	111212 Sheet A2	B	10/5/2012	PWH Drafting Services
Plan	111212 Sheet A3	A	10/5/2012	PWH Drafting Services

Certificates – Application and Approval

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

Prior to Release of Construction Certificate:

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

Contribution Payment Requirements

- Prior to the issue of a Construction Certificate, the payment to Council of contributions (as contained in the attached Schedule) under Section 94 of the Environmental Planning and Assessment Act 1979 and Council's Section 94 and Section 94A Contribution Plan. Council's contributions are adjusted on the first day of February, May, August and November. The amount of the contributions will be adjusted to the amount applicable at the date of payment.

Structural Design Requirements

- 4 Prior to the issue of a Construction Certificate, satisfactory structural plans prepared by a suitably qualified Registered Structural Engineer are to be submitted for the approval of the Accredited Certifier, for the following building elements:
 - Piers and slab.

Water and Sewer Services - Design Requirements

- 5 The developer must submit an application to Council under Section 305 of the Water Management Act 2000 for any requirements for the obtaining of a Section 307 Certificate of Compliance. The application must be made prior to the issue of the Construction Certificate. **Note:** The Section 305 Notice may contain requirements associated with the development that must be completed prior to the issue of the Construction Certificate.

Prior to Commencement of Works:

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

Ecology/Trees Requirements

- 6 Prior to works associated with the development commencing, all trees nominated for retention are to be suitably protected by fencing or other accepted protection method in accordance with AS/NZS 4970-2009 - *Protection of Trees on Development Sites* and Council's Development Control Plan 2005, Chapter 67 - *Engineering Requirements for Development*. All required tree protection measures are to be maintained for the duration of construction works.

Erosion and Sediment Control Requirements

- 7 Prior to works associated with the development commencing, soil erosion and sediment controls measures are to be provided on the development site in accordance with Council's Policy E1 - Erosion and Sediment Control from Building Sites and Development Control Plan 2005, Chapter 67 – *Engineering Requirements for Development* and the approved development plans.
- 8 Prior to works associated with the development commencing, a single all-weather hardstand access, extending from the kerb and gutter/edge of bitumen to the building under construction, is to be installed in order to provide appropriate access to the site during periods of inclement weather.
- 9 Prior to works associated with the development commencing, an appropriate sign to promote the awareness and importance of the maintenance of on-site sediment control techniques is to be provided on the most prominent sediment fence or erosion control device within the development site, for the duration of the project.

Home Building Act Requirements

- 10 Residential building work within the meaning of the Home Building Act 1989 must not be carried out unless the Principal Certifying Authority for the development to which the work relates (not being the Council) has given the Council written notice of the following information:

In the case of work to be done by the holder of a contractor licence under that Act:

- the name and licence number of the contractor; and
- the name of the insurer by whom the work is insured under Part 6 of that Act.

In the case of work to be done by the holder of an owner-builder permit under that Act:

- the name and permit number of the owner-builder.

If arrangements for doing the residential building work are changed while the work is in progress so that the information notified above becomes out of date, further work must not be carried out unless the Principal Certifying Authority for the development to which the work relates (not being the Council), has given the Council written notice of the updated information.

Roads - Preconstruction Requirements

- 11 Prior to works associated with development commencing, a dilapidation report must be prepared and submitted to Council as the Roads Authority. The required dilapidation report must document and provide photographs that clearly depict any existing damage to the road, kerb, gutter, footpath, driveways, water supply, sewer works, street trees, street signs or any other Council assets in the vicinity of the development. **Note:** The report will be used by Council to determine the extent of damage arising from site and construction works.

Site Requirements

- 12 Prior to works associated with the development commencing, the Principal Contractor (or Owner/Builder) is to erect a suitable sign in a prominent position on the development site (not attached to any tree) identifying the name, address and telephone number of the Principal Certifying Authority (PCA) for the work, the name, address and telephone number (including a number for outside of business hours) of the Principal Contractor for the work (or Owner/Builder) and stating that unauthorised entry to the site is prohibited. The required sign is to be maintained for the duration of works associated with the development. Appropriate signs can be collected from Council's Customer Service Centre, where Council is the nominated Principal Certifying Authority with respect to the development.

- 13 Prior to works associated with the development commencing, suitable toilet facilities must be available or be provided upon the development site, with the required toilet facility(s) maintained until development works are completed at a ratio of one (1) toilet plus one (1) additional toilet for every twenty (20) persons employed at the site. Each toilet must:
 - be a standard flushing toilet connected to a public sewer system; or
 - have an on-site effluent disposal system approved under the Local Government Act 1993, or be a temporary chemical closet approved under the Local Government Act 1993, supplied by a suitably licensed contractor.
- 14 Prior to works associated with the development commencing, a suitable metal waste skip (with self-closing lid or secure covering) or lined mesh steel cage(s) is to be provided upon the development site for the duration of the construction phase of the development in accordance with the requirements of Development Control Plan 2005, Chapter 100 – Quality Housing. The required waste receptacle is to be suitably emptied at appropriate times during the construction phase of the development.
- 15 Prior to works associated with the development commencing, a suitable hoarding or safety fence between the work site and the public place is to be provided in accordance with Work Cover Authority requirements. The required hoarding/fencing is to remain in place during the construction phase of the development. Should the hoarding/fencing be required to be provided within the road reserve area, approval from Council under the Roads Act as the Roads Authority is required to be obtained prior to its erection.
- 16 Prior to works associated with the development commencing, the existing sewer manhole within the site is to be located and suitably protected from damage for the duration of the construction phase of the development. Should the works associated with the development result in the need for the existing manhole to be raised or lowered, approval of Council as the Water and Sewer Authority is required.
- 17 Prior to works associated with the development commencing, it is the builder's responsibility to confirm the location and depth of the sewer main and connection point in relation to the floor level, to ensure that appropriate connection to the sewer can be achieved.
- 18 Prior to works associated with the development commencing, where any excavation is proposed in proximity to existing gas and/or electricity networks, the developer is advised to notify 'Dial Before You Dig' of the time and place of work no more than thirty (30) days before the work commences. The developer must satisfy any requirements as set by the network operators in carrying out excavation works.

During Construction Works:

The following conditions must be satisfied during construction works.

Approved Plans

- 19 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.

Ecology/Trees - Construction Requirements

- 20 No tree (or other vegetation) other than those specifically notated on the approved plan(s) as "tree to be removed" shall be felled, lopped, topped, ring-barked, uprooted, or otherwise wilfully destroyed or removed, without the further written consent of the Consent Authority.
- 21 All services, including water and electricity, must be located, designed and installed to minimise or prevent root damage to retained trees. Methods for the installation of services within the tree's canopy perimeter are contained within AS/NZS 4970-2009 - *Protection of Trees on Development Sites* and Development Control Plan 2005, Chapter 67 - *Engineering Requirements for Development* and include under boring and excavation by hand.

Erosion and Sediment Control - Construction Requirements

- 22 Sand and other materials associated with the construction of the development that could potentially be washed off the site during rain periods, are to be stored behind a suitable sediment control barrier.
- 23 All sediment and erosion control devices provided with respect to the development are to be periodically cleaned and maintained in an effective state for the duration of works. On the spot fines for non-compliance with this requirement may be issued under the provisions of the *Protection of Environment Operations Act, 2000*.

Plumbing and Drainage - Construction Requirements

- 24 Council as the Water Supply Authority, under the provisions of the Water Management Act, or in unsewered areas where an onsite sewage management facility is to be installed, is to be notified to undertake inspections of the internal drainage lines, (prior to the pouring of the concrete slab), and external drainage lines inclusive of sewer junction connection, prior to the backfilling of the trenches. These inspections can be arranged by telephoning Council's Customer Contact Centre on (02) 4350 5555 a minimum of twenty-four (24) hours prior to the required time for the inspection. Please note that all drainage inspection fees are to be paid to Council prior to plumbing and drainage works associated with the development commencing.

Site Requirements

- 25 Construction or demolition works involved with the development may only be carried out between the hours of 7.00 am and 5.00 pm Monday to Saturday with no construction or demolition works associated with the development permitted to be carried out at any time on a Sunday or a public holiday.
- 26 During the construction phase of the development, all building materials, plant and equipment must be placed on the site of the development in order to ensure that pedestrian and vehicular access within adjoining public roads, footpaths and reserve areas, is not restricted and to prevent damage to public infrastructure.
- 27 During the construction phase of the development, downpipes and the associated stormwater disposal system is to suitably connected to the site stormwater connection point immediately after the roof materials are positioned in order to prevent erosion of the site from roof water run off. The Principal Certifying Authority for the development will not issue a compliance certificate for framing unless connection of the site stormwater (or temporary system) has occurred.

Prior to Release of Occupation Certificate:

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

BASIX Requirements

- 28 Prior to the issue of an Occupation Certificate, pursuant to Clause 97A(3) of the Environmental Planning and Assessment Regulation 2000, it is mandatory that all the commitments listed in the BASIX Certificate applicable to the development are fulfilled.

Building Code of Australia – Compliance Requirements

- 29 Prior to the issue of the Occupation Certificate, the building shall be completed in accordance with the relevant provisions and requirements of the Building Code of Australia.

Plumbing and Drainage - Compliance Requirements

- 30 Prior to the issue of an Occupation Certificate, the hot water installation is to be suitably tempered in order that hot water not exceeding 50 degrees Celsius is provided at the outlet of the sanitary fixtures used primarily for personal hygiene purposes. Compliance with this temperature limit is optional for kitchen sinks and laundry tubs under the provisions of AS/NZS 3500, Part 4.2 C1.1.6.2.

Stormwater – Compliance Requirements

- 31 Prior to the issue of an Occupation Certificate, stormwater generated from roof areas of the building and any overflows from rain water tanks installed in conjunction with the development, is to be disposed of to Council's street gutter drainage system. Where provided, the existing kerb stormwater connection is to be utilised.

Water and Sewer Services/Infrastructure – Compliance Requirements

- 32 The obtaining of a Section 307 Certificate of Compliance under the Water Management Act 2000 for water and sewer requirements for the development from Wyong Shire Council as the Water Supply Authority prior to issue of the Subdivision/Occupation Certificate. All works for the development must be approved by Council prior to the issue of a Certificate of Compliance.

Ongoing Operation:

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

No Conditions

SCHEDULE OF CONTRIBUTIONS

Shire Wide Cycleway Network	\$177.75
Shire Wide Performing Arts Centre & Public Art	\$200.55
Shire Wide Administration	\$38.50
Budgewoi District Administration	\$251.85
Budgewoi Open Space Works	\$1,951.55
Budgewoi Community Facilities Works	\$1,630.40
Budgewoi Water DSP	\$1,521.30
Budgewoi Sewer DSP	\$1,291.05
Shire Wide Regional Open Space	\$86.65

2.5 DA/101/2012 - Change of use from Real Estate Office to Take Away Food Shop at 638 Pacific Highway, Lake Munmorah

TRIM REFERENCE: DA/101/2012 - D03016820

MANAGER: Peter Fryar; Manager Development Assessment

AUTHOR: Katrina O'Malley; Development Planner

SUMMARY

An application has been received for a change of use for an existing commercial premise to a take away food shop at Lake Munmorah. 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.

Applicant	E Lim
Owner	E Lim
Application No	101/2012
Description of Land	Lot 10 DP 25687 (638) Pacific Highway, Lake Munmorah
Proposed Development	Change of use – Commercial Premises
Site Area	822m ²
Zoning	2(a) Residential
Existing Use	Commercial Premise
Employment Generation	2 employees
Estimated Value	\$50,000

RECOMMENDATION

- 1 ***That Council grant consent, having regard to the matters for consideration detailed in Section 79C of the Environmental Planning and Assessment Act and other relevant issues, subject to the conditions detailed in the schedule attached to the report.***
- 2 ***That Council advise those who made written submissions of its decision.***

PRECIS

- The site is located at 638 Pacific Highway, Lake Munmorah
- The site is zoned 2(a) Residential under Wyong Local Environmental Plan 1991 (WLEP 1991).
- The application is for the use of an existing commercial premise for a take away food shop.
- The proposed development is permissible under Existing Use Rights legislation.

2.5 DA/101/2012 - Change of use from Real Estate Office to Take Away Food Shop at 638 Pacific Highway, Lake Munmorah (contd)

- The proposal was placed on public notification for a period of 14 days in accordance with Development Control Plan 2005, Chapter 70 – Notification of Development Proposals. Eight (8) submissions were received during the notification period.

INTRODUCTION

The Site

The site is located at 638 Pacific Highway, Lake Munmorah. The site currently contains an existing commercial premise and carparking area at the rear of the site. The premises were previously used as a real estate office. Land to the east, south and west currently contains residential development consisting of detached residences. Land to the north of the site, on the opposite side of the Pacific Highway, consists of a mixture of larger rural residential properties, traditional residential properties and a number of education establishments. Land further west of the site also contains a motel, restaurant and bowling club whilst a small group of shops is also located further to the south of the site.



Figure 1. Site as viewed from the Pacific Highway

The Proposed Development

The proposed development is for conversion of the existing commercial premise to a take-away food shop. The proposed take-away food shop is to operate seven days a week between the hours of 8.00am to 8.00pm. Carparking for the development is proposed to be provided at the rear of the site with parking for approximately eighteen (18) cars. No details as to the type of signage to be installed have been provided with the application.

Summary

The proposed development is for the use of an existing commercial premise which is located within a residential area. The proposed development is therefore only permissible utilising existing rights legislation. A number of submissions have been received from local residents regarding the proposal. The proposed development is recommended for approval subject to suitable conditions of consent.

VARIATIONS TO POLICIES

No variations to report

HISTORY

The site has historically been used as a commercial premise for a number of years. The site was originally used a take-away food shop known as “Ned’s Pit Stop”. The site contained a small take-away service area at the front of property with a residence located at the rear of the shop. Access to the take-away shop was from the Pacific Highway with an additional access available from the rear of the site via an adjoining property at Acacia Avenue.

The take-away shop was subsequently converted to a real estate office in 1990 under Development Application No 631/90. The real estate consent also included the conversion of the existing dwelling into part of the real estate office. The real estate office continued full operations from the site until May 2011 and continued to use the site up until December 2011.

PERMISSIBILITY

The subject site is zoned 2(a) Residential under WLEP 1991. The proposed development, defined as a “shop”, is not permissible under the WLEP 1991. However, the site has been used as a commercial premise for a number of years with existing use rights previously identified for the property. The site can therefore continue to be used for a commercial premise subject to existing use rights legislation. A discussion in relation to the permissibility of the development is provided further in the report.

RELEVANT STATE/COUNCIL POLICIES AND PLANS

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

- Wyong Local Environmental Plan 1991 (WLEP)
- Environmental Planning and Assessment Regulation 2000
- State Environmental Planning Policy 71 – Coastal Protection (SEPP 71)
- Development Control Plan 2005, Chapter 50 – Advertising Signs (Chapter 50)
- Development Control Plan 2005, Chapter 61 – Carparking (Chapter 61)
- Development Control Plan 2005, Chapter 70 – Notification of Development Proposals (Chapter 70)

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.

2.5 DA/101/2012 - Change of use from Real Estate Office to Take Away Food Shop at 638 Pacific Highway, Lake Munmorah (contd)

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):

Existing Use Rights

The site is currently zoned 2(a) Residential under WLEP 1991. The proposed use of the site, as a "shop" is prohibited under the WLEP 1991. However, the change of use can be permitted under the legislative provisions relating to existing uses.

The site currently benefits from Existing Use Rights, as provided by a previous consent issued for the site for a real estate office and evidence that the approved real estate office operated within the premises up until December 2011. As such, it has been demonstrated that the site benefits from existing use rights and that the non-conforming use has continued on the land and the use has not ceased for more than a twelve month period.

Recent changes to the Environmental Planning and Assessment Act, 1979 (EP&A Act) allow an existing commercial use to be changed to another commercial use even though that use is prohibited under the WLEP 1991. Clause 41 of the Environmental Planning and Assessment Regulation 2000 states:

- "(1) An existing use may, subject to this Division:*
- (e) if it is a commercial use—be changed to another commercial use (including a commercial use that would otherwise be prohibited under the Act),*
 - (2) However, an existing use must not be changed under subclause (1) (e) or (f) unless that change:*
 - (a) involves only alterations or additions that are minor in nature, and*
 - (b) does not involve an increase of more than 10% in the floor space of the premises associated with the existing use, and*
 - (c) does not involve the rebuilding of the premises associated with the existing use, and*
 - (d) does not involve a significant intensification of that existing use.*
 - (3) In this clause:*
commercial use means the use of a building, work or land for the purpose of office premises, business premises or retail premises (as those terms are defined in the Standard Instrument (Local Environmental Plans) Order 2006)."

The proposed use is for the change of use from a commercial use to another commercial use as both the previous real estate office and proposed food and drink premises are contained within the "commercial premises" definition under the Standard Instrument (Local Environmental Plans) Order 2006.

2.5 DA/101/2012 - Change of use from Real Estate Office to Take Away Food Shop at 638 Pacific Highway, Lake Munmorah (contd)

The proposed development involves a change of use of the existing premises and does not include any alterations or additions to the building that are not of a minor nature and will not intensify the use of the site. The development is therefore considered to be consistent with the requirements of the EP&A Regulations 2000 and is therefore permissible under Clause 41(1)(e).

Planning principles in relation to Existing Use Rights were established by Senior Commissioner Roseth in *Fodor Investments v Hornsby Shire Council [2005] NSWLEC 71*. The four principles are as follows:

- *How do the bulk and scale (as expressed by height, floor space ratio and setbacks) of the proposal relate to what is permissible on surrounding sites?*
- *What is the relevance of the building in which the existing use takes place?*
- *What are the impacts on the adjoining land?*
- *What is the internal amenity?*

Responses to these questions are as follows:

- *How do the bulk and scale (as expressed by height, floor space ratio and setbacks) of the proposal relate to what is permissible on surrounding sites?*

The site is located within a residential area that generally consists of detached housing with floor space ratios no greater than 0.5:1 and that are generally no more than two storeys in height. The site currently contains a detached single storey building that is of a scale similar to residences within the immediate locality. No external alterations are proposed to be undertaken to the building which will ensure that it is in keeping with the bulk and scale of surrounding residences. The local area is likely to remain residential in character and as such the existing building will remain in scale with surrounding development in the future.

- *What is the relevance of the building in which the existing use takes place?*

The proposed development is to be undertaken within an existing building with no external works proposed to be undertaken. There would therefore be no additional impacts from the development in regards to bulk and scale.

- *What are the impacts on the adjoining land?*

The impacts of the proposed development have been assessed under the provisions of Section 79C of the Environmental Planning and Assessment Act 1979. The likely impacts of the development on adjoining land include noise from vehicle and customer movements and odour and noise from mechanical exhaust system for the cooking facility.

The potential impacts of the development will be controlled through the implementation of conditions of consent controlling parking, hours of operations, waste management, noise, odour and other relevant issues.

- *What is the internal amenity?*

The proposed development is for the use of an existing commercial premise for a take-away food shop. The development will not change the external appearance of the building beyond advertising.

2.5 DA/101/2012 - Change of use from Real Estate Office to Take Away Food Shop at 638 Pacific Highway, Lake Munmorah (contd)

An opportunity exists to improve the appearance of the site by formalising the rear carparking area and the provision of landscaping at the rear. A requirement for the formalisation of a rear carpark and associated landscaping will improve the internal appearance of the development.

Based on the above principles the proposed development is considered to be compatible with the current and future residential context of the area, subject to appropriate conditions being imposed on a development consent.

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

The relationship to the regional and local context and setting

The immediate local area consists of predominantly detached residential dwellings however the site has historically been used for commercial purposes. Although not consistent with the immediate adjoining uses the proposed development is an existing commercial premise and suitable controls will be implemented to maintain the amenity of the surrounding residences.

The access, transport and traffic management measures

Vehicle access to the site is provided via the Pacific Highway with a large gravel area located on the shoulder of the road allowing extra room for entry and exit from the highway. Parking for the development is to be provided at the rear of the site which is accessed via a driveway located along the western boundary of the site. Parking is proposed to be provided along both side boundaries of the site for a total of eighteen (18) vehicles. Based on the floor area of the commercial premises the development would be required to provide only five (5) spaces based on the requirements of Council's DCP 2005 Chapter 61 Carparking.

A reduction in the amount of onsite parking would provide an opportunity for screen planting to be provided adjacent to neighbouring properties whilst also allowing additional landscaping to be undertaken within the rear of the site. The small carparking area would also be required to be sealed to reduce any impacts from dust to adjoining properties. One of the carspaces to be provided will also be required to be a disabled space. Parking at the front of the site should not be permitted and will be conditioned appropriately.

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

Nil Impact

The impact on utilities supply.

All services are currently available for the site and are capable of catering for the proposed development.

The effect on heritage significance.

Nil Impact

Any effect on other land resources.

Nil Impact

2.5 DA/101/2012 - Change of use from Real Estate Office to Take Away Food Shop at 638 Pacific Highway, Lake Munmorah (contd)

Any impact on the conservation of water.

Nil Impact

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

Nil Impact

Any effect on quality of air and microclimate conditions.

The proposed development will be required to ensure that neighbouring properties are not impacted upon by the generation of any odours or fumes that may be generated by the use. Relevant conditions are recommended should consent be granted.

Any effect on the flora and fauna.

Nil Impact

The provision of waste facilities.

A waste management plan has been submitted for the development outlining the proposed waste management techniques to be implemented for the development. The proposed development will be required to operate in accordance with the plan provided.

Whether the development will be energy efficient.

No details of any energy efficient measures have been provided with the application.

Whether the development will cause noise and vibration.

Appropriate controls will be put in place to ensure the business operates without disturbing adjoining properties in regards to noise generation. Such controls will include restricting the hours of operation and ensuring mechanical ventilation systems do not generate noise significantly above the existing background levels.

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

The site is currently identified as partially bushfire prone land and is also located within a Mine Subsidence District. The proposed development is to be undertaken within an existing building and as such no further requirements in regards to bushfire are required. Given the proposed development is to be undertaken within a commercial premise and the works proposed are of a minor nature, the development is therefore granted a Deemed Approval from the Mine Subsidence Board.

Any risks from technological hazards.

Nil Impact

2.5 DA/101/2012 - Change of use from Real Estate Office to Take Away Food Shop at 638 Pacific Highway, Lake Munmorah (contd)

Whether the development provides safety, security and crime prevention.

The proposed development is to be undertaken within an existing commercial premise. The proposed development is unlikely to generate any additional crime risk within the local area.

Any social impact in the locality.

The proposed development will provide a new facility for the local community. The proposed development should not have any negative social impacts. The premises are located in close proximity to an adjoining residence located adjacent to the eastern boundary. To ensure the privacy of the adjoining residence is maintained any windows along the eastern elevation will be required to be enclosed or made opaque to remove opportunity for overlooking.

Any economic impact in the locality.

Nil impact

Any impact of site design and internal design.

No details of any signage to be provided on the site have been submitted. All signage to be provided on the site will be required to comply with the relevant requirements and require the approval of Council prior to installation.

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

Nil impact

Any cumulative impacts.

Nil impact

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

Whether the proposal fits in the locality.

The proposed development is for the use of an existing commercial premise that is surrounded by residential development. Although the development is not consistent with the land use of the immediate locality, it is consistent with other commercial developments that exist within the locality that also operate under existing use rights.

Whether the site attributes are conducive to development.

The proposed development is to be undertaken within an existing commercial premise which also provides adequate parking on the site to meet the demand generated by the development. The site attributes are therefore considered to be suitable for the development.

2.5 DA/101/2012 - Change of use from Real Estate Office to Take Away Food Shop at 638 Pacific Highway, Lake Munmorah (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 eight (8) submissions being received. A petition has also been provided by the applicant with a large number of signatures in support of the proposal on the site. The issues raised in the submissions have been addressed in the assessment of the application pursuant to the heads of consideration contained within Section 79C of the EP&A Act 1979. A summary of the submissions is detailed in the table below.

Doc. No	Summary of Issues	Response
D02933374	<ul style="list-style-type: none"> • When purchasing premises objector was under impression it would never again be a take away food premise. • The development will be an invasion of privacy due to the proximity of the proposal to the adjoining residence. • The development will result in users of the business loitering outside of adjoining residences and leaving pushbikes, etc against residential properties fencing. • The development would create an undesirable odour for adjoining residences. • There are potential conflicts between pedestrians and vehicles leaving the carparking area at the rear of the property due to poor sight lines. 	<ul style="list-style-type: none"> • Existing use rights legislation allows the continued use of the site as a commercial premise which includes a take away food shop. • Suitable screening will be required to be provided to the building to maintain privacy to the adjoining property. • The development will be required to operate to ensure that it does not cause a nuisance to adjoining properties. • The use will be required to install a mechanical ventilation system in accordance with the relevant requirements which will reduce any odour impacts to adjoining properties. • The site has historically provided parking at the rear of the site. The proposed use continues to provide parking in the same manner.

2.5 DA/101/2012 - Change of use from Real Estate Office to Take Away Food Shop at 638 Pacific Highway, Lake Munmorah (contd)

Doc. No	Summary of Issues	Response
D02941919	<ul style="list-style-type: none"> • Development will result in litter left behind and vehicles parking across residential driveways. • There are potential conflicts between pedestrians and vehicles leaving the carparking area at the rear of the property due to poor sight lines. • The extended operating hours would create noise impacts to residents in the area and is likely to invite antisocial behaviour. • There could be potential impacts from the exhaust vents and grease traps on adjoining residents. • The rear carpark is not sealed and as such its use would create dust which would impact on adjoining residential properties. 	<ul style="list-style-type: none"> • The development will be required to operate to ensure that it does not cause a nuisance to adjoining properties. • The site has historically provided parking at the rear of the site. The proposed use continues to provide parking in the same manner. Parking numbers will be reduced to further reduce any potential impacts. • The development will be required to operate to ensure that it does not cause a nuisance to adjoining properties. The operator will also be required to ensure antisocial behaviour is avoided and managed should it occur by way of a recommended condition of consent. • Any exhaust vents or grease traps on the site will be required to operate in accordance with the relevant standards. • A condition is recommended requiring the sealing of the access driveway and rear carparking area.

2.5 DA/101/2012 - Change of use from Real Estate Office to Take Away Food Shop at 638 Pacific Highway, Lake Munmorah (contd)

Doc. No	Summary of Issues	Response
D02941928	<ul style="list-style-type: none"> • The site is zoned residential and is therefore not a permitted use. • Given the speed of the adjoining highway there are potential impacts from vehicles entering and leaving the site. • The parking of vehicles at the rear of the site would impact on adjoining residence's privacy. • There are potential impacts from lighting of the rear carpark on adjoining properties. • The noise generated by vehicles and clients in the rear of the site would impact upon residences. • There are potential health and waste management issues for the site. • Any future outdoor dining is considered to be contrary to the residential setting of the site. • There are likely to be impacts from exhaust extractors and the long trading hours of the business. • There could be potential conflicts between commercial vehicles and other vehicles, structures or pedestrians on the site. 	<ul style="list-style-type: none"> • Existing use rights legislation allows the continued use of the site as a commercial premise which includes a take away food shop. • There is adequate area on the shoulder of the road to allow the safe entry and exit to the site from the Pacific Highway. • The rear of the site has been used as a carparking area for a number of years. Its continued use is consistent with previous uses on the site. • No lighting is proposed to be provided. However should any lighting be provided it will be required to be installed in accordance with the relevant standards to ensure adjoining properties are not impacted upon. • The rear of the site has been used as a carparking area for a number of years. Its continued use is consistent with previous uses on the site. • A waste management plan has been submitted for the use to ensure waste is properly managed on the site. • No outdoor dining is proposed under the current application. Any outdoor dining would require separate consent. • The use will be required to install a mechanical ventilation system in accordance with the relevant requirements which will reduce any impacts to adjoining properties. The hours of operation have also been reduced on weekends to reduce any impacts. • Previously addressed

2.5 DA/101/2012 - Change of use from Real Estate Office to Take Away Food Shop at 638 Pacific Highway, Lake Munmorah (contd)

Doc. No	Summary of Issues	Response
D02943409	<ul style="list-style-type: none"> • The rear parking area is unlit and will create an area for unsocial behaviour. • If lighting is to be provided to the rear carpark it would impact upon adjoining residences. • The carpark access road is likely to result in conflicts between vehicles and pedestrians. • Waste would not be able to be catered for by the normal domestic bins and is likely to result in vermin on the site. • Should approval is granted it is likely that the hours of operation would be later than the 8pm proposed. • The takeaway is likely to generate additional antisocial behaviour amongst local youth. • Property prices are likely to be affected by the proposal. • There are enough take away outlets within the locality and other vacant premises where the business could be located. 	<ul style="list-style-type: none"> • The development will be required to operate to ensure that it does not cause a nuisance to adjoining properties. The operator will also be required to ensure antisocial behaviour is avoided and managed should it occur by way of a recommended condition of consent. • No lighting is proposed to be provided. However should any lighting proposed to be provided it will be required to be installed in accordance with the relevant standards to ensure adjoining properties are not impacted upon. • The rear of the site has been used as a carparking area for a number of years. Its continued use is consistent with previous uses on the site. • A waste management plan has been submitted for the use to ensure waste is properly managed on the site. • The hours of operation will be restricted to 8pm. Any trading beyond this time would require the prior consent of Council. • The operator will also be required to ensure antisocial behaviour is avoided and managed should it occur by way of a recommended condition of consent. • Council currently has no evidence that the proposed development would result in decreased property values within the locality. • The proposed use is permissible on the site and as such is not required to be located elsewhere.
D02943723	<ul style="list-style-type: none"> • There are safety concerns regarding the movement of traffic on the site. • The parking of vehicles in front of the premises will force pedestrians to walk closer to the highway. • Insufficient information has been provided in regards to waste management and dining on the site. 	<ul style="list-style-type: none"> • The rear of the site has been used as a carparking area for a number of years. Its continued use is consistent with previous uses on the site. • All vehicles visiting the site will be required to park at the rear of the site, ensuring that pedestrian access is maintained. • Additional waste management details have been submitted outlining the management of all waste generated on the site. No outdoor dining is proposed to be provided on the site.
D02943730 & D02943731	<ul style="list-style-type: none"> • Photos provided issues with visibility due to vehicles located adjacent to the Pacific Highway. 	<ul style="list-style-type: none"> • All vehicles visiting the site will be required to park at the rear of the site, ensuring that existing sight lines are maintained.

2.5 DA/101/2012 - Change of use from Real Estate Office to Take Away Food Shop at 638 Pacific Highway, Lake Munmorah (contd)

Doc. No	Summary of Issues	Response
D02945304	<ul style="list-style-type: none"> • The proposed development would impact upon the residential setting of the site. • The business would result in an increase in noise and car movements on the site above what was generated by the real estate agent. • Headlights from cars would impact upon adjoining properties. The use of the rear carpark would impact upon the privacy of residents. The carpark is also likely to result in antisocial behaviour within the carpark. • Should the rear carpark be sealed it would result in runoff to adjoining properties and generate additional heat however should it not be sealed it would generate dust. • Road safety would be compromised. • The proposal does not adequately address waste management of the business. • There are enough take away outlets within the locality and other vacant premises where the business could be located. 	<ul style="list-style-type: none"> • Existing use rights legislation allows the continued use of the site as a commercial premise which includes a take away food shop. • Any potential increase in car movements would be able to be catered for on the site. The development will be required to operate in a manner which ensures that adjoining properties have minimal impacts in regards to noise. • Screening and landscaping will be required to be provided at the rear of the site to maintain privacy and alleviate any issues in regards to headlights. The operator will also be required to ensure antisocial behaviour is avoided and managed should it occur by way of a recommended condition of consent. • Any sealing of the rear carpark would be required to include adequate drainage to capture runoff and heat generated would not be above what is generated by the current gravel surface. • The site has been used as a commercial premise for a long period of time. The use should not create any additional safety issues for the site. • An amended waste management plan has been submitted for the use which adequately identifies the waste management techniques to be implemented for the site. • The proposed use is permitted on the site under existing use rights legislation and as such is not required to be located elsewhere.
D02945643	<ul style="list-style-type: none"> • The application is inconsistent with what is proposed by the owner. • Smokers will be outside the premises. Adequate separation between the food and smokers should be provided. 	<ul style="list-style-type: none"> • The applicant will be required to comply with what is proposed under the current application. Any variation to this would require the prior consent of Council. • A restriction on outdoor dining is proposed by way of a recommended condition of consent.

2.5 DA/101/2012 - Change of use from Real Estate Office to Take Away Food Shop at 638 Pacific Highway, Lake Munmorah (contd)

Doc. No	Summary of Issues	Response
D02946162	<ul style="list-style-type: none"> • The rear parking area is unlit and will create an area for unsocial behaviour. • If lighting is to be provided to the rear carpark it would impact upon adjoining residences. • The carpark access road is likely to result in conflicts between vehicles and pedestrians. • Waste would not be able to be catered for by the normal domestic bins and is likely to result in vermin on the site. • The existing building will require significant upgrades and is likely to contain asbestos. • Should approval is granted it is likely that the hours of operation would be later than the 8pm proposed. • The takeaway is likely to generate additional antisocial behaviour amongst local youth. • Property prices are likely to be affected by the proposal. • There are enough take away outlets within the locality and other vacant premises where the business could be located. 	<ul style="list-style-type: none"> • The development will be required to operate to ensure that it does not cause a nuisance to adjoining properties. The operator will also be required to ensure antisocial behaviour is avoided and managed should it occur by way of a recommended condition of consent. • No lighting is proposed to be provided. However should any lighting proposed to be provided it will be required to be installed in accordance with the relevant standards to ensure adjoining properties are not impacted upon. • The rear of the site has been used as a carparking area for a number of years. Its continued use is consistent with previous uses on the site. • A waste management plan has been submitted for the use to ensure waste is properly managed on the site. • Any upgrades required for the building will be required to comply with the relevant standards. Any asbestos would also be required to be suitably disposed of. • The hours of operation will be restricted until 8pm. Any trading beyond this time would require the prior consent of Council. • The operator will also be required to ensure antisocial behaviour is avoided and managed should it occur by way of a recommended condition of consent. • Council currently has no evidence that the proposed development would result in decreased property values within the locality. • The proposed use is permissible on the site.

Any submission from public authorities.

None received

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

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

2.5 DA/101/2012 - Change of use from Real Estate Office to Take Away Food Shop at 638 Pacific Highway, Lake Munmorah (contd)

OTHER MATTERS FOR CONSIDERATION

Nil.

CONCLUSION

The proposed development is for the use of an existing commercial premise for a take-away food shop. The proposed development is permissible under existing use rights legislation and has been found to be consistent with the relevant requirements. Although a number of submissions have been received raising objection to the proposal, these are able to be mitigated through the implementation of suitable conditions of consent. The proposed development is therefore recommended for approval.

ATTACHMENTS

- | | | |
|---|----------------------------|-----------|
| 1 | Draft Condition of Consent | D03019101 |
| 2 | Plans | D03020542 |

Date: 25 May 2012
Responsible Officer: Katrina O'Malley
Location: 638 Pacific Highway
 LAKE MUNMORAH NSW 2259
 Lot 10 DP 25687
Owner: Ms E Lim
Applicant: Ms E Lim
Date Of Application: 14 February 2012
Application No: DA/101/2012
Proposed Development: Change of use to take away food shop
Land Area: 822.00
Existing Use: XXXX

PROPOSED CONDITIONS

Approved Plans

- 1 The development is to be undertaken in accordance with the approved development plans and specifications listed below except as modified by any conditions of consent and any amendments in red made to the approved plans:

Title
Floor Plan for Lot 10 - 638 Pacific Highway, Lake Munmorah
Site Plan Lot 10 – 638 Pacific Highway, Lake Munmorah (as amended in red)

Certificates – Application and Approval

- 2 A Construction Certificate is to be issued by the Principal Certifying Authority prior to commencement of any construction works. The application for this Certificate is to satisfy all of the requirements of the Environmental Planning and Assessment Regulation 2000.
- 3 Prior to the occupation or use of the building/structure, an application for an Occupation Certificate for the development must be submitted to and approved by the Principal Certifying Authority.

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.

Landscaping Design Requirements

- 4 Prior to the issue of a Construction Certificate, landscape design drawings, prepared by an approved consultant, must be provided for the approval of the Accredited Certifier for the rear of the site. Such landscape design plans must be prepared in accordance with Council's Landscape Policy L1 for a Category 2 development. The design is to include the screening of carparking areas to adjoining properties

Water and Sewer Services - Design Requirements

- 5 All water and sewer works or works impacting on water and sewer assets must be designed and constructed to the requirements of Council as the Water Supply Authority. The requirements are detailed in the Section 306 Notice of Requirements letter attached to this consent. **Note:** The Section 306 Notice contains requirements associated with the development that must be completed prior to the issue of the Construction Certificate.

Prior to Commencement of Works:

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

Site Requirements

- 6 Prior to works associated with the development commencing, the Principal Contractor (or Owner/Builder) is to erect a suitable sign in a prominent position on the development site (not attached to any tree) identifying the name, address and telephone number of the Principal Certifying Authority (PCA) for the work, the name, address and telephone number (including a number for outside of business hours) of the Principal Contractor for the work (or Owner/Builder) and stating that unauthorised entry to the site is prohibited. The required sign is to be maintained for the duration of works associated with the development. Appropriate signs can be collected from Council's Customer Service Centre, where Council is the nominated Principal Certifying Authority with respect to the development.

- 7 Prior to works associated with the development commencing, a suitable metal waste skip (with self-closing lid or secure covering) or lined mesh steel cage(s) is to be provided upon the development site for the duration of the construction phase of the development in accordance with the requirements of Development Control Plan 2005, Chapter 100 – Quality Housing. The required waste receptacle is to be suitably emptied at appropriate times during the construction phase of the development.

During Construction Works:

The following conditions must be satisfied during construction works.

Demolition - Compliance Requirements

- 8 Any demolition work carried out with respect to the development is to be carried out in accordance with the requirements of AS 2601-2001 – *The Demolition of Structures*.
- 9 The disposal of any asbestos materials must be in accordance with the requirements of WorkCover NSW and AS 2601-2001 – *The Demolition of Structures*. The asbestos materials are to be disposed of at an approved waste management facility in accordance with the procedures the facility has for the disposal of asbestos. Upon completion of these works, the Principal Certifying Authority is to be supplied with disposal receipts within seven (7) days to verify that this requirement has been complied with.

Erosion and Sediment Control - Construction Requirements

- 10 Sand and other materials associated with the construction of the development that could potentially be washed off the site during rain periods, are to be stored behind a suitable sediment control barrier.

Site Requirements

- 11 Construction or demolition works involved with the development may only be carried out between the hours of 7.00 am and 5.00 pm Monday to Saturday with no construction or demolition works associated with the development permitted to be carried out at any time on a Sunday or a public holiday.
- 12 During the construction phase of the development, all building materials, plant and equipment must be placed on the site of the development in order to ensure that pedestrian and vehicular access within adjoining public roads, footpaths and reserve areas, is not restricted and to prevent damage to public infrastructure.

Prior to Release of Occupation Certificate:

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

Building Code of Australia – Compliance Requirements

- 13 Prior to the issue of the Occupation Certificate, the building shall be completed in accordance with the relevant provisions and requirements of the Building Code of Australia.

Food Act Requirements

- 14 No food handling, (as defined by the NSW Food Act 2003), is permitted in the food premises prior to the issue of the Occupation Certificate.
- 15 All liquid trade waste is required to pass through a basket arrestor with fixed screens, fitted to all floor wastes and sinks, before being discharged into the sewerage system.
- 16 Compliance with the requirements of the New South Wales Food Act 2003, the Food Regulation 2004, and AS4674–2004 – Design, Construction and Fitout of Food Premises, and AS1668, Part 11 – Mechanical Ventilation, for all food preparation and food storage areas, including liquor areas.
- 17 The installation of hand wash facilities with a minimum dimension of 500mm x 400mm providing warm running water through a common mixing spout with hands-free tap operation (consisting of elbow or wrist operated tap levers, foot or hip operated tap levers, or electronic sensor tap operation).

Privacy

- 18 To maintain the privacy of adjoining residents any windows located on the eastern side of the building are to be enclosed or made opaque prior to the issue of the Occupation Certificate.

Vehicle Access and Parking – Compliance Requirements

- 19 The rear carparking area is to provide five carspaces, including one disabled space. The carpark area is to be sealed and suitably drained prior to the issue of the Occupation Certificate. The design drawings for the carpark shall be prepared in accordance with the requirements of AS/NZS 2890.1 2004 and be approved by the Accredited Certifier prior to the issue of an Occupation Certificate.

Ongoing Operation:

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

Advertising Sign Requirements

- 20 No advertising sign/s shall be erected on or in conjunction with the use and/or development without prior development consent unless the advertisement is an 'approved sign' under Development Control Plan 2005, Chapter 50 - *Advertising Signs*.
- 21 Advertising signs must not contain any flashing light, animated or reflective or moving parts, no iridescent or fluorescent colours or materials shall be used on the external surface of the sign. The colours to be used in the advertisement to be exhibited on the sign shall not result in any adverse impact on the amenity of the surrounding area.

Lighting Spill Requirements

- 22 All external lighting shall be designed in accordance with the requirements of AS4282-1997 (*Control of the obtrusive effects of outdoor lighting*) to minimise overspill of lighting onto adjoining residences.

Noise Control Requirements

- 23 The use of the premises shall not give rise to:
 - Transmission of offensive noise to any place of different occupancy.
 - A sound pressure level at any affected premises that exceeds the background (LA90eg15) noise level in the absence of the noise under consideration by more than 5dB(A). The source noise level shall be assessed as an LA10eg15 and adjusted in accordance with EPA guidelines for tonality, frequency weighting, impulsive characteristics, fluctuations and temporal content.
 - A sound pressure level at any affected premises that exceeds the recommended planning levels outlined in the NSW EPA Guidelines.

Restrictions on Use Requirements

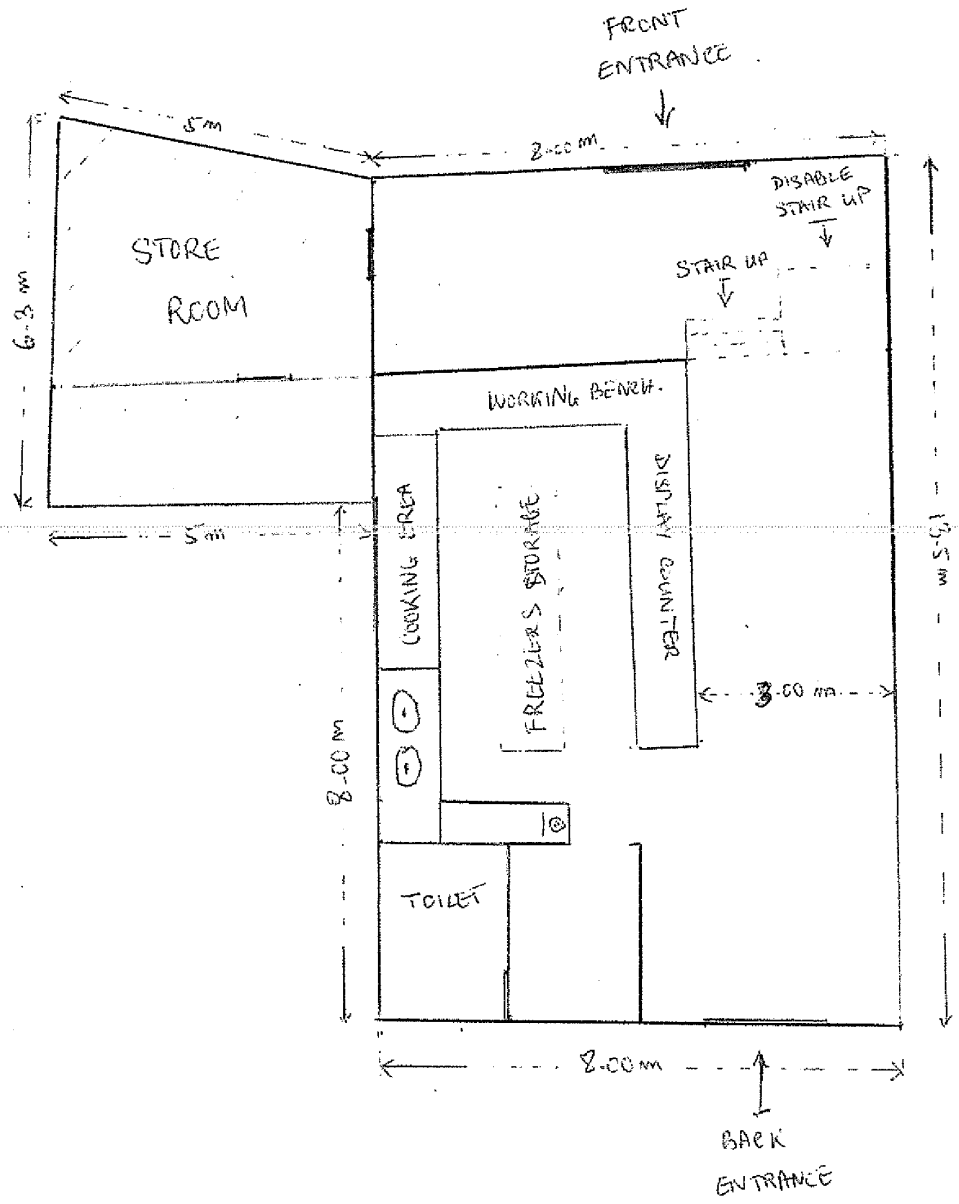
- 24 The hours of operation of the activity to which this development consent relates are:
 - 8.00 am to 8.00 pm Monday to Friday.
 - 9.00am to 8.00pm Saturday, and
 - 10.00am to 8.00pm Sundays
- 25 All carparking for the development is to be provided at the rear of the site and be available between the operating hours of the development each day. An appropriate sign directing clients to the carparking area is to be provided at the front of the site.
- 26 No outdoor dining by way of the placement of tables and chairs is to be provided for the use without the prior approval of Council.

Site Appearance, Maintenance and Security Requirements

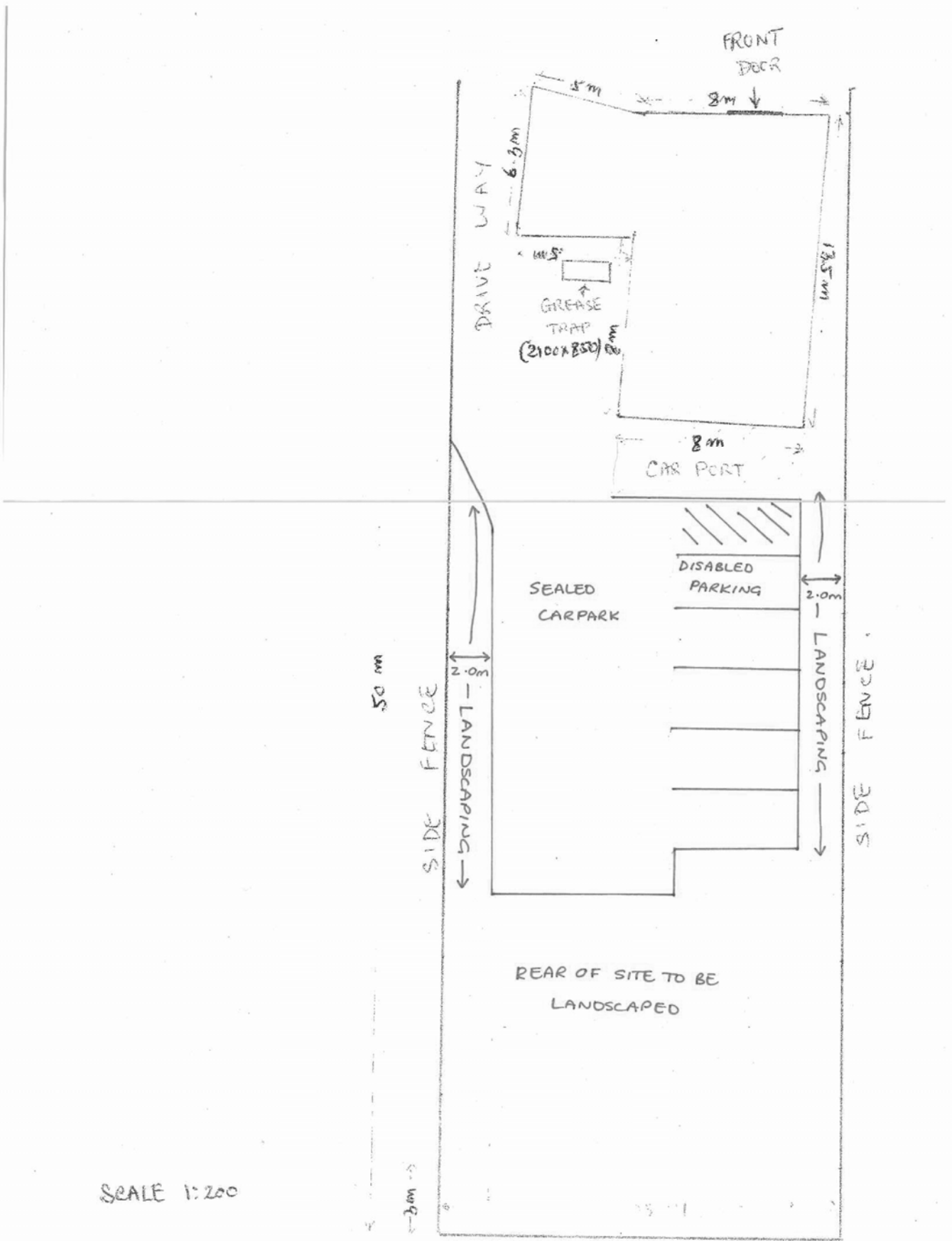
- 27 The owner/operator(s) must effectively manage any incidences of anti-social behaviour or nuisance on the site during the approved business hours by implementing appropriate responses to such incidences if they occur. The owner/operator(s) must also take appropriate measures after any such incident to reduce the likelihood of such incidences reoccurring on the site.

Waste Management – Compliance Requirements

- 28 All waste generated on the premises shall be collected and stored in a manner so that it does not pollute the environment.



FLOOR PLAN FOR LOT 10 SCALE 1:100
638 PACIFIC HWAY LAKE MINNORAH



SIDE PLAN LCT 10 638 PACIFIC HWY LAKE MUNDRAIT

2.6 Planning Proposal - RZ/1/2012 - 'Key' Site, The Entrance

TRIM REFERENCE: RZ/1/2012 - D02993106

MANAGER: Paul Bowditch; Manager Place Management

AUTHOR: Stephen Ashton; Senior Strategic Planner

SUMMARY

Reporting on the submission of a Planning Proposal for the 'Key Site' in The Entrance.

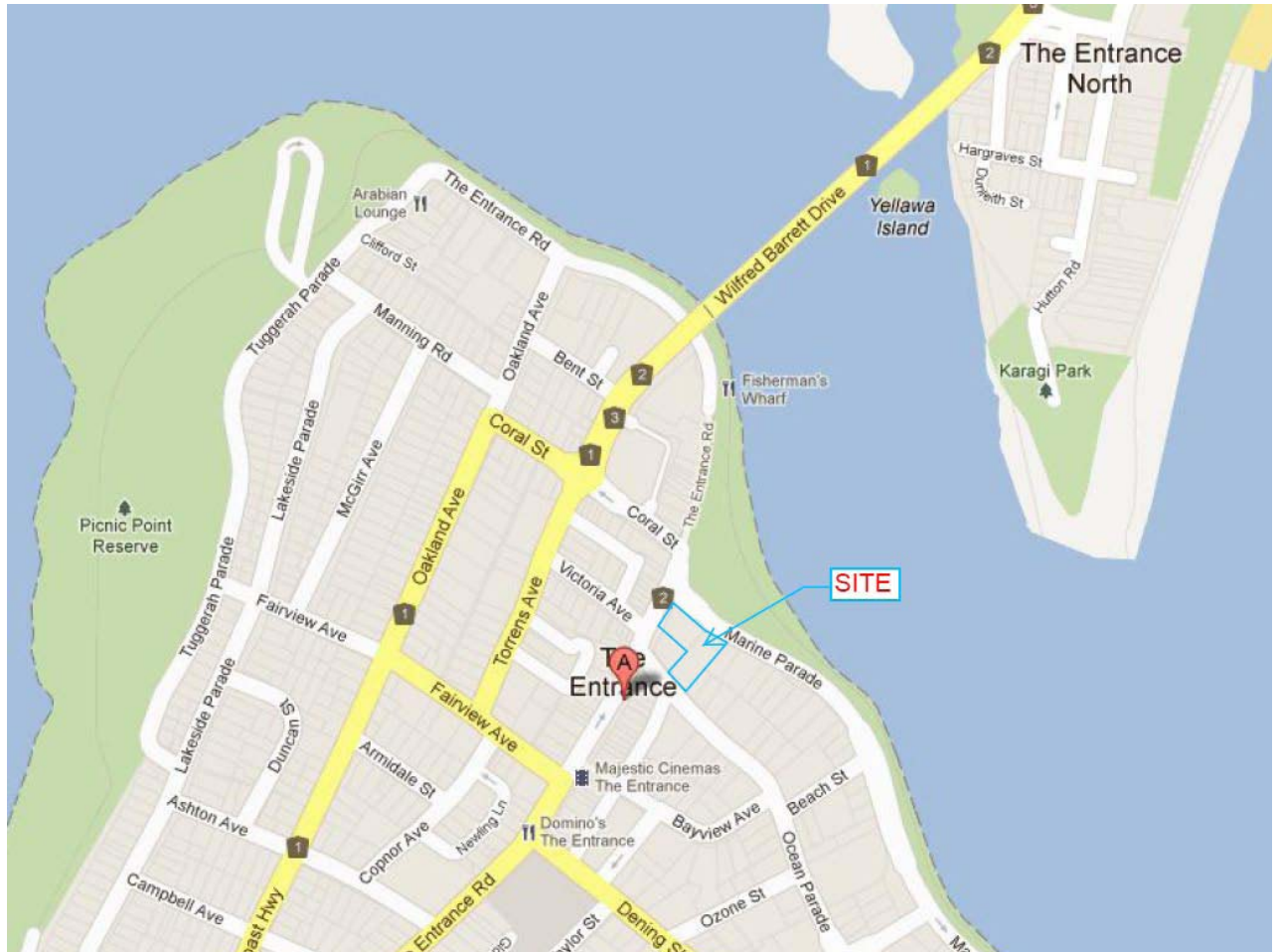
An assessment of the proposal has been undertaken, having regard for local, regional and State strategies and policies, State Environmental Planning Policy (SEPP) 65 Design Review Panel evaluation and comments, and the applicable legislative requirements. The assessment has identified that the proposal has merit and should be supported.

Rezoning Application:	RZ/1/2012
Applicant:	Ingham Planning Pty Ltd
Owner:	Pelican Horizons Pty Ltd
Description of Land:	Lot 1 DP 513519 (2 Ocean Parade, The Entrance)/Lot 2 DP 536168 (14 The Entrance Road, The Entrance).
Proposal:	To amend <i>Wyong Local Environmental Plan 1991</i> to permit redevelopment in accordance with the proposed development described in this report.
Site Area:	3,762m ²
Zoning:	3(d) (Tourist Business)
Existing Use:	Vacant land.

RECOMMENDATION

- 1 That Council initiate the Planning Proposal to amend *Wyong Local Environmental Plan (WLEP) 1991* in accordance with Section 55 of the *Environmental Planning and Assessment Act 1979*, by endorsing the planning proposal prepared by the applicant.**
- 2 That Council forward the Planning Proposal to the Director General, Department of Planning and Infrastructure requesting a 'Gateway' determination, pursuant to Section 56(1) of the *Environmental Planning and Assessment Act 1979*.**
- 3 That Council undertake community consultation on the Planning Proposal, in accordance with the Gateway Process and Director General's direction, subject to the Director General's approval.**
- 4 That Council request the Department of Planning and Infrastructure to prepare the draft *Local Environmental Planning Instrument* and that the Minister be requested to make the plan, subject to there being no objections received that cannot be resolved by minor amendments to the Planning Proposal.**

Locality Plan



INTRODUCTION

Council has received a Planning Proposal (RZ/1/2012) for the land comprising Lot 1 DP 513519 (2 Ocean Parade, The Entrance) and Lot 2 DP 536168 (14 The Entrance Road, The Entrance), commonly known as the 'Key' Site.

Planning proposals relate to either rezonings and/or amendments to Local Environmental Plans (LEPs), they are not development applications.

The planning proposal will amend *Wyang Local Environmental Plan (WLEP) 1991* by 'switching off' Clauses 42C, 42CA and 68 and inserting enabling provisions into Part 3, Division 6 of *Wyang Local Environmental Plan (WLEP) 1991*, including a sunset clause (for the purpose of encouraging development to commence earlier rather than later). The planning proposal will facilitate an important employment generating development (described in this report) in a strategically significant location and has been lodged in response to Council's adopted Key (Iconic) Development Site draft Development Control Plan (DCP).

The Planning Proposal is considered essential in providing a catalyst to stimulate future economic growth and revitalisation of The Entrance Town Centre.

PROPOSED PLANNING PROPOSAL (WYONG LOCAL ENVIRONMENTAL PLAN 1991 AMENDMENT) DESCRIPTION

The planning proposal (LEP Amendment request) seeks to 'switch off' existing LEP Clauses 42C, 42CA and 68 relating to building height, setback and use mix (which are currently considered to be constraining development of the site and arguably a significant contributor as to why the site has remained vacant) and insert enabling provisions into Part 3, Division 6 of *WLEP 1991*, (which includes a sunset clause to require development approval to be granted within 5 years of gazettal of the proposed LEP amendments, to encourage construction to occur promptly), to facilitate the proposed development. A copy of the clauses proposed to be "switched off" is attached.

Figure 1: Site Plan.



The amendments aim to achieve the same outcomes proposed in relation to 'Key (Iconic) Development Sites' in the Composite LEP, presently awaiting S64 consideration.

Therefore the objectives of the Planning Proposal are generally the same as those for many of the Key (Iconic) Development Sites, and aim to:

- Create a vibrant/viable town centre.
- Promote viable/feasible development.
- Promote design excellence.
- Provide an appreciable community benefit.
- Encourage development that can act as a catalyst for other development.
- Encourage the development of land that has been vacant and unutilised for many years.

The proponents have considered their options in relation to whether to wait for Council's current draft Composite LEP 2012 process to be finalised or whether to submit a Planning Proposal for amendment to the WLEP 1991. The proponents acknowledge that, whilst the overall intent is to facilitate necessary planning changes through Council's draft Composite LEP, this is a complex process that may take significant time to resolve.

As all the key stakeholders in the process, including the land owner, Council, State Government and the local community, want to see prompt, positive and real action to implement the stated vision for The Entrance, the proponents have decided that the preferred course of action is to put forward the planning proposal to amend Council's current LEP.

The proponent's genuine commitment to the development of this vacant site, (which has been unused for around 20 years), is demonstrated by their intention to lodge the planning proposal initially, followed by a development application in the near future, to enable both applications to be exhibited concurrently, should the "Gateway" process determine to allow the proposal to proceed.

The proponents will also submit a voluntary planning agreement with the planning proposal, prior to public consultation, which will contain an offer of \$1.55m in commitments to fund public benefit, largely in the form of public domain improvements adjacent to the site, in exchange for increased development potential, which complies with all planning merit considerations (eg. overshadowing, impact on neighbouring properties and town centre). It should be noted that such an offer of "public benefit" is in accordance with Council's Iconic Development Site Process and has been reviewed by an Internal Governance Panel established to review such offers.

PROPOSED DEVELOPMENT DESCRIPTION

The Planning Proposal is intended to facilitate the construction of a mixed use building comprising a 2 to 4 storey podium of primarily tourist retail and commercial uses and a 17 storey residential tower above. The building is intended to provide:

- 1,565m² of Gross Floor Area (GFA) for retail/food outlets
- 690m² of GFA for commercial premises
- 178 car spaces and a loading/unloading area
- 93 apartments comprising 8 x 1 bedroom, 52 x 2 bedroom and 33 x 3 or 4 bedrooms
- 218-247 full-time and part time construction jobs for one year.
- 120 retail/commercial jobs in perpetuity.

The total GFA is 14,645m², which equates to a Floor Space Ratio (FSR) of 3.9:1

Figure 2: Artist's Impression of the Proposed Future Development, when viewed from The Entrance Road/Marine Parade Junction.



SITE CONTEXT

Description

The site has been vacant for a number of years and is presently grassed, with a large Norfolk Island Pine tree being the only other vegetation on the site. The land falls consistently from the southern to the northern boundary, dropping around 5m from Ocean Parade to the Marine Parade frontage. The subject site has an irregular (essentially L shaped) shape, and a total area of approximately 3,762m².

The site is located in the heart of The Entrance Town Centre and is bounded by retail and commercial development to the south-west including a two storey restaurant/take-away (KFC) building and ancillary car parking directly to the south-west along The Entrance Road, at 16 The Entrance Road.

The current owners maintain they have previously held 'options' to purchase the KFC site, however they considered the asking price greatly exceeded the relevant market price and was one of the reasons why previous proposals have not proceeded. The option to purchase this site was not renewed when it expired.

The site has direct frontage to The Entrance Road to the west of the site, Ocean Parade to the south, and Marine Parade to the north. Further to the north is the Memorial Park, a major open space area in The Entrance Town Centre. A mixed use development adjoins the site to the east along Marine Parade and further east along Marine Parade is residential development. Residential development adjoins the site along Ocean Parade to the east.

The site is located in an existing developed area that is well provisioned in relation to normal service infrastructure (electricity, telecommunications, water, sewer and drainage).

A traffic and carparking assessment report demonstrates that the site has good vehicular access to abutting roads (Marine and Ocean Parades) and future traffic generation and movements. Carparking can be catered for without unreasonable impact on the local network. The cumulative impacts from all Key (Iconic) Development Sites in The Entrance have been analysed and further analysis based on proposed changes to the local road network envisaged in The Entrance Town Centre Masterplan are currently being considered by Council's Transportation Engineer.

Environmental, Social and Economic Impact

Environmental

There are no critical habitat or threatened species, populations or ecological communities, or habitats on or near the site. There is only one tree on the site, a Norfolk Island Pine, which has previously been recommended for removal due to poor condition.

The site is not subject to inundation from current flood levels or levels having regard to climate change scenarios.

There are no other potential hazards that the site may be subject to with the exception of acid sulfate soils, which can be suitably addressed at DA stage.

In relation to visual impact, the Planning Proposal will facilitate a development of far greater visual quality than is likely to occur under the existing controls (the existing controls limit height of the building to 24 metres). The quality of existing development approved under these controls will be able to be seen from the surrounding area. While higher in form than existing development in the vicinity, the iconic quality that Council is encouraging in its Key (Iconic) Development Sites process and Town Centre Masterplan has been demonstrated in Councillor Briefings and by the Planning Proposal documentation. In terms of height, the proposed building is consistent with the overall vision for The Entrance Town Centre, where buildings of similar height on other Key (Iconic) Development Sites will be established (Refer Figure 3).

The proponents also took the opportunity to present their proposal to the SEPP 65 Design Review Panel. This Panel comprises independent design experts and was established by the Minister to review and provide comment on multi-storey developments. The Panel provided feedback to the proponents that could further enhance the building design. Ultimately, any future development application submitted for the site will be forwarded to the SEPP 65 Panel for comment.

Figure 3: Overall Vision for The Entrance Town Centre



In relation to impacts on surrounding properties, the Planning Proposal will not facilitate development that will unreasonably or adversely impact neighbouring properties. The normal planning merit controls remain unchanged in the LEP and State Planning Legislation and any future development must comply with such controls. A mooted development concept (refer Figure 2) demonstrates that a development design can comply with the Planning Proposal (proposed LEP amendments) without having unreasonable impact on neighbouring properties.

The analysis of this development concept shows that:

- All properties in the immediate vicinity will retain sufficient mid-winter sun to relevant solar access standards.
- Views from neighbouring properties will not be unreasonably impacted, as they will still retain views to Memorial Park, The Entrance Channel, Tuggerah Lake and/or Pacific Ocean.
- Future development potential of the KFC site is respected, commensurate with existing planning controls.
- Near, mid and distant views to the development from important viewpoints around The Entrance and The Entrance North are acceptable, particularly taking into account the overall vision for The Entrance Town Centre (refer Figure 3)

Social

The Planning Proposal indicates that it will not result in any adverse social issues as the proposed development remains consistent with the existing zoning of the land. The proposal forms part of Council's overall revitalisation strategy for The Entrance Town Centre that has been widely workshoped and discussed with the local community, business owners and stakeholder groups. The proposal is seen as a major catalyst in this revitalisation and therefore will be of great social benefit.

Economic

The Planning Proposal indicates that it will not result in any negative economic impacts, as the proposed development remains consistent with the existing zoning of the land. No major retail space is provided, ensuring that the development will not compete with the role of the more central precincts of the Town Centre.

The proposal will result in a significant number of local jobs both during construction and in the longer term, attracting more permanent residents to the area and catering for tourists which will increase the amount of spending in the Town Centre.

The proposed development has an estimated construction cost in the order of \$40-45 million. Using the Australian National Accounts Input-Output data, this construction investment would generate direct employment of 218-247 full-time and part time jobs for one year. These construction jobs would be spread over the development timeframe for the subject site.

The proposed development would also generate additional jobs in supporting industries and other businesses servicing the employed workers. This is an indirect employment benefit generated during the construction phase of the subject site.

The proposed commercial areas will generate approximately 120 jobs in perpetuity and the proposed residential use will also increase demand for goods and services and therefore create indirect employment.

STRATEGIC CONTEXT

The NSW Government and Council have prepared a number of strategic documents that relate to The Entrance Town Centre, which provide the planning context for the Planning Proposal.

The Planning Proposal:

- Furthers the future strategic direction for Town Centres in the Central Coast Regional Strategy
- Furthers the future strategic direction for and character of Precinct 6 in The Entrance Peninsula Planning Strategy 2009
- Contributes to the vision and is consistent with the provisions of The Entrance Town Centre Masterplan 2011
- Is consistent with all applicable State Environmental Planning Policies
- Is consistent with all applicable Section 117 Directions
- Is consistent with the Department of Planning and Infrastructure's (DoPI's) criteria for spot rezonings

LEP AMENDMENT PROCESS - The Gateway Process

The current LEP Amendment Process, known as the Gateway Process, was introduced via changes to the *Environmental Planning and Assessment Act* (EP&A Act) 1979, effective 1 July 2009. The process has been implemented in order to streamline the LEP amendment process, reduce timeframes for undertaking LEP amendments and increase the transparency of the process.

The introduction of the Gateway process has resulted in a number of changes to terminology and processes involved in LEP amendments. In short, any submission a Council makes to the DoPI to amend an existing LEP must be supported by a Planning Proposal prepared in accordance with the DoPI guidelines.

Planning Proposals under this process must document the objectives, proposed provisions, justification and proposed community consultation processes to be undertaken for each proposal.

Prior to community consultation being undertaken, the Planning Proposal must be supported by the local DoPI office, the LEP Review Panel and the Gateway (generally the Minister). The Gateway determination can endorse the proposal, require amendments to the proposal or refuse the proposal in its entirety. If endorsed for consultation, the Gateway will also determine timeframes for completing procedures within the process. Council no longer has delegation to approve a draft LEP for public exhibition.

The legislative amendments also provide for a feedback loop to the Gateway should a Council decide to amend a Planning Proposal for any reason during the process.

This enables the Gateway to determine any additional consultation requirements considered necessary.

CONSULTATION

Under the Gateway process the State and Commonwealth public authorities to be consulted are nominated by the Gateway determination and the views of these authorities are, therefore, not known until after the initial Gateway determination.

Under the Gateway process the level of community consultation is tailored for each Planning Proposal by the initial Gateway determination.

The Planning Proposal will be updated accordingly following this consultation.

CONCLUSION

This LEP Amendment request, in respect of WLEP 1991, for the purpose of 'switching off' Clauses 42C, 42CA and 68 and inserting enabling provisions into Part 3, Division 6 of the *Wyang Local Environmental Plan (WLEP) 1991*, to permit the proposed development described above, has been assessed and is supported for the following reasons:

- It provides for an employment generating development at a strategically significant location that is considered important for the evolution of The Entrance Town Centre and has significant potential to provide the catalyst to stimulate further economic development and growth and revitalise The Entrance Town Centre.
- It is consistent with Council's strategic planning, The Entrance Peninsula Planning Strategy and The Entrance Town Centre Masterplan.
- It is consistent with State Government strategic planning, The Central Coast Regional Strategy.
- The site is not affected by any significant hazards that could not be mitigated.
- The site does not possess any known significant environmental sensitivities that could not be mitigated.
- The site has access to all relevant infrastructure and services.
- The site can be provided with adequate access arrangements.
- The future development/use of a mixed use development on the site could comply with all the relevant Chapters of Wyong Development Control Plan (DCP) 2005.
- The future development/use of a mixed use development on the site could comply with all the relevant provisions of the Wyong Retail Centres Strategy.
- It is consistent with all relevant State Environmental Planning Policies (SEPPs).
- It is consistent with all relevant s117 (Ministerial) Directions.
- It is consistent with all of the DoPI's criteria for spot rezonings.

This Planning Proposal can be seen as the next step in the planning process that aims to achieve the revitalisation of The Entrance Town Centre. It follows a significant undertaking by Council in the preparation of The Entrance Peninsula Planning Strategy, the draft Iconic Sites DCP and The Entrance Town Centre Master Plan. This process has involved extensive consultation with the local community, business owners and relevant stakeholders. As discussed in detail in this report, the Planning Proposal is fully consistent with these documents and also the relevant regional planning strategies and state policies.

It is therefore recommended that LEP Amendment request, RZ/1/2012, be supported for assessment through the Gateway Process (see above for a description of this process) for the purpose of 'switching off' Clauses 42C, 42CA and 68 and inserting enabling provisions into Part 3, Division 6 of the *Wyong Local Environmental Plan (WLEP) 1991*, to permit the proposed development described above.

ATTACHMENTS

- 1 Existing Clauses to be Switched Off by the Planning Proposal - RZ/1/2012 - 'Key' Site, The Entrance D02997950
- 2 Planning Proposal - The Key Site - 14 The Entrance Road & 2 Ocean Parade, The Entrance - Ingham Planning (distributed under sperate cover)

EXISTING CLAUSES TO BE “SWITCHED OFF” BY THE PLANNING PROPOSAL

As mentioned above, the Planning Proposal seeks to switch off Clauses 42C, 42CA and 68 of WLEP 1991. These clauses are reproduced as follows:

Clause 42C - Development in Zones Nos 3 (a) and 3 (d) at The Entrance

- (1) This clause applies to the land within Zone No 3 (a) or 3 (d) shown edged heavy black on the building height map.
- (2) The objective of this clause is to control the impact of development within the commercial area of The Entrance.
- (3) In the case of development on land within Zone No 3 (d), any permanent residential accommodation to be provided within the buildings on that land is to occupy less than fifty percent of the gross floor area of all of the buildings on that land.
- (4) For the purposes of this clause, a **building height** is the vertical distance from natural ground level at any point within a building to the top-most ceiling of the building directly above that point.
- (5) The Council may grant consent to the erection of a building on the land to which this clause applies, no building height of which at any point exceeds the height nominated for the land at that point on the building height map, but only where it is satisfied that:
 - (a) Having regard to the future neighbourhood character, the proposed building will not be visually intrusive by way of its bulk, scale, design or colour; and
 - (b) The proposed building will not unreasonably overshadow any public space or adjacent residential area or significantly impact on privacy or views; and
 - (c) Any roof structure over and above the height nominated for the land beneath it on the building height map is designed and incorporated into the building in a way that is both interesting and attractive; and
 - (d) An assessment of the effects (including cumulative effects) of wind tunneling has been made and that the wind impacts will be within acceptable limits; and
 - (e) The development incorporates appropriate measures for convenient, sheltered access for pedestrians, including access to other land; and
 - (f) The development makes appropriate provision for the supply of parking space demanded by the proposed development, whether on the same land as the development or other land, or both, taking into account the characteristics of the proposed development, possible future changes of use of the land and the capacity of the street system serving the land on which the development is to be carried out; and
 - (g) The proposed uses will complement or reinforce the retail functions of the town centre, particularly at street level or where associated with pedestrian accessways; and
 - (h) The development does not by its design or siting preclude any necessary traffic improvement works; and
 - (i) Due regard has been given in the design to any other matters that may be specified in a development control plan applying to the land.

- (6) State Environmental Planning Policy No.1 – Development Standards does not apply to height requirements for buildings on land to which this clause applies.

Clause 42CA - Setbacks for certain buildings fronting The Entrance Road

- (1) Buildings erected on land to which Building Profile A, B, C or D applies, as shown on the building height map, must not protrude beyond the profile established for those buildings on that map, despite any other provision in this plan.
- (2) State Environmental Planning Policy No.1 – Development Standards does not apply to a requirement made by this clause.

Clause 68 - Managed resort facilities—The Entrance

- (1) This clause applies to:
- (a) Lots 1 and 2, DP 536168 and Lot 1, DP 513519, being land within Zone No 3 (d) and having frontage to Marine Parade, The Entrance Road and Ocean Parade, The Entrance, and
 - (b) Lot 5, DP 790801, Lots A, C and D, DP 382461, Lots 1–4, SP 20363, Lots 1 and 2, DP 517291 and Lot 1, DP 25611, being land within Zone No 2 (g) and having frontage to Wilfred Barrett Drive, The Entrance Road West, Oakland Avenue and Bent Street, The Entrance, and
 - (c) Lots 1, 2 and 3, DP 571197, Lots 1–4, DP 367602, Lot 10–12, DP 23428 and Lot 15, DP 832013, being land within Zone No 2 (g) and having frontage to The Entrance Road West, Oakland Avenue and Clifford Street, The Entrance.
- (2) In this clause, **managed resort facility** means an establishment providing for holiday accommodation or recreation and may include permanent accommodation, entertainment facilities, recreation facilities, a boat shed, boat loading facilities, a general store, convention facilities, holiday cabins, a hotel, house boat facilities, a marina, a motel, restaurants, tourist shops ancillary to the establishment or a club used in conjunction with any such facilities.
- (3) Despite the provisions of clause 10 of this plan, a person may, with the consent of the Council, carry out development for the purpose of a managed resort facility on the land to which this clause applies.
- (4) The Council may consent to the use for permanent residence of up to seventy-five per cent of the accommodation provided by a managed resort facility. In determining the proportion concerned, the Council must have regard to the nature of the facility and its relationship to surrounding land uses, and must be satisfied that the granting of the consent will not result in the dominant use of the land on which the facility is located being for a purpose other than that of a managed resort facility.
- (5) **Note:** Subclause (5) (including the Table) as contained in draft *Wyang Local Environmental Plan 1991 (Amendment No 118)* is excluded and comprises deferred matter as referred to in section 70 (4) and (5) of the Environmental Planning and Assessment Act 1979.

3.1 Review of Investment Policy

TRIM REFERENCE: F2004/07245 - D02942127
MANAGER: Carlton Oldfield; Financial Controller
AUTHOR: Devini Susindran; Financial Accountant

SUMMARY

This report presents a revised Investment Policy for Council's approval.

RECOMMENDATION

That Council adopt the Investment Policy and Guidelines detailed in Attachment 1.

BACKGROUND

Legislation requires Council's to maintain an Investment Policy that complies with the Local Government Act 1993, the Local Government (General) Regulation 2005, Ministerial Investment Order of 12 January 2011 as advised to WSC by way of DLG Circular 11-01 17 February 2011 and Investment Policy Guidelines, issued by the Division of Local Government, Department of Premier and Cabinet in relation to comparative benchmarks used in investment decisions as well as Council's current investment strategy.

Council wishes to reinforce its ongoing commitment to maintaining a conservative risk / return investment portfolio.

WSC's Investment Policy and guidelines are also required to establish the mandatory requirements for the management of WSC's cash and investment portfolio. The Policy is designed to safeguard WSC's cash and investments, achieve appropriate earnings and manage WSC's cash resources to ensure sufficient liquidity to meet WSC's business objectives over the long, medium and short term and is supported by the Investment Guidelines.

Guidelines are further needed in relation to asset allocation, performance measurement, risk management, and operational management of WSC's surplus cash and investments in accordance with the Investment Policy. Refer Attachments 2 and 3.

The Policy and Guidelines require updating from time to time.

The Local Government Code of Accounting Practice & Financial Reporting requires WSC to undertake an annual review (or as required in the event of legislative changes) of its Investment Policy and Investment Strategy.

DRAFT

THE PROPOSAL

It is proposed to make minor changes to:-

1. the Investment Policy :-
 - a. to include an updated list of authorised and prohibited investments in accordance with DLG Circular 11-01 17 February 2011.
 - b. to amend the list persons/positions with delegated authority to invest surplus funds. The list is expanded to accommodate the changed structure in the Finance Unit.
2. the Investment Guidelines:-
 - a. to amend the benchmark comparative rates from Commonwealth Bond Yield to Bank Bill Swap Reference rates to align WSC with the DLG investment guidelines.

FINANCIAL IMPLICATIONS

Investment earnings are a significant source of revenue for Council and it is important that returns are maximised, risk minimised and that Council's investments are made in accordance with the relevant legislation.

GOVERNANCE

Legislation requires that councils must maintain an Investment Policy that complies with the Local Government Act, the Local Government (General) Regulation and the Ministerial Investment Order.

CORPORATE RISKS

Council officers must act with the duty of care, skill, prudence and diligence that a prudent person would exercise when investing and managing their own funds. However, by the very nature of investments, there are some risks associated. WSC's internal controls are in place to ensure that assets are safeguarded.

CONCLUSION

An annual review of the investment policy is a requirement of The Local Government Code of Accounting Practice & Financial Reporting and a revised policy and Guidelines are required for Council's consideration.

ATTACHMENTS

- | | | |
|---|--|-----------|
| 1 | Investment Policy | D02990591 |
| 2 | Investment Performance and Risk Management Guidelines 1 May 2012 | D03004242 |
| 3 | Investment Asset Allocation Guidelines 1 May 2012 | D02990583 |

Policy on the Investment of Council Funds

POLICY NO	CI1
POLICY CLASSIFICATION	Council
AUTHOR	Director Corporate Services
AUTHORITY	Council
COUNCIL RESOLUTION	13/6/2012
COMMENCEMENT DATE	13/6/2012
PUBLIC AVAILABILITY	Yes
REVIEW DATE	July 2012

A. POLICY SUMMARY

- A.1 This policy defines the circumstances under which Wyong Shire Council (WSC) may invest Council funds not required for immediate and short-term operational purpose.
- A.2 It sets the risk profile, investment strategy and authorities to execute investment instruments.

B. POLICY BACKGROUND

- B.1 Council is given statutory functions, duties and powers under the Local Government Act. It is specifically required to conduct the affairs of the Council in accordance with its Charter s.8, operate particularly in accordance with Chapter 12 of the Act - and all other relevant requirements of the Act.
- B.2 All investments are to comply with:-
 - B.2.1. Local Government Act 1993;
 - B.2.2. Local Government– Ministerial Order dated 12 January 2011;
 - B.2.3. The Trustee Amendment (Discretionary Investments) Act 1997 – Sections 14A(2), 14C(1) & (2); Local Government Code of Accounting Practice and Financial Reporting;
 - B.2.4. Local Government (General) Regulation 2005;
 - B.2.5. Division of Local Government Circular 11-01
 - B.2.6. The Trustee Amendment (Discretionary Investments) Act 1997 – Sections 14A(2), 14C(1) & (2); and
 - B.2.7. Australian Accounting Standards.
- B.3 The Department of Local Government releases guidance to Councils on investment management from time to time.

C. POLICY OBJECTIVES

- C.1. To provide a framework for the investing of Council's funds at the most favourable rate of interest available to it at the time whilst having due consideration of risk and security for that investment type and ensuring that its liquidity requirements are being met.
- C.2. While exercising the power to invest, consideration is to be given to the preservation of capital, liquidity and the rate of return of the investment.

D. DEFINITIONS

- D.1. **Delegated Authority** - means any function, duty or power vested in the Council by the Act, that the Council may, within the terms of the Act, delegate to a Council member, Committee of the Council, General Manager, employee or person or class of persons approved for the purpose.
- D.2. **Policy** – a statement by the Council or General Manager that defines WSC's position or attitude toward any issue.
- D.3. **Council** – means the group of elected members that form the Wyong Shire Council governing body.

- D.4. **Investment** - means the placement of Council monies in any form of investment instrument that provides for returns by way of interest payments regardless of capital gain or loss. It does not include any investment made in capital assets, people or property. An investment must comply with Council's adopted Investment Policy.

E. POLICY STATEMENTS

- E.1. This policy does not confer any delegated authority upon any person.
- E.2. Council will not instruct the General Manager in any manner that requires the General Manager to breach his/her statutory responsibilities in respect of investments.
- E.3. Subject to any functions, duties or powers conferred directly on a Council or General Manager by the Act, the Council will delegate to the General Manager, the power to make decisions relating to the effective and efficient management of investments in accordance with this policy.
- E.4. The General Manager may, in exceptional or emergency circumstances, approve an action outside the requirements of this policy provided that any such variation to this policy is reported to Council within 21 days.
- E.5. Other investment acquisitions - the Council alone may approve the acquisition of land or holding of any shares or interests in a body corporate, partnership, joint venture or other association of persons; or settle, or be, or appoint a trustee of, a Trust.
- E.6. The Council will not delegate to any person the authority to raise capital or to specifically borrow money by any means, including options, swaps, or any other non balance-sheet items.
- E.7. Council will only allow investment for the purpose of achieving the effective and efficient on-going management of the Council organisation in accordance with the Act, Four Year Delivery Plan, Annual Plan, Long Term Financial Strategy and any other policy made from time to time.
- E.8. Investments will be managed with the care, diligence and skill that a prudent person would exercise and officers shall not engage in activities that would conflict with the proper execution and management of Council's investment portfolio.
- E.9. Subject to functions, duties or powers conferred upon the General Manager by the Act, all delegated authorities must be exercised in accordance with relevant WSC policies and procedures set by the Council or General Manager from time to time.
- E.10. Variations, reviews or additions to this policy shall be approved by resolution of the Council.
- E.11. All investment securities must be denominated in Australian Dollars.
- E.12. New Investments shall be limited to (by statute):-
- E.12.1. Any public funds or securities issued by or guaranteed by the Commonwealth, any State or a Territory;
 - E.12.2 Any debentures or securities issued by a Council;
 - E.12.3. Interest bearing deposits with, or any debentures or bonds issued by, an authorised deposit-taking institution (ADI), as defined in the Banking Act 1959 (Cwth), but excluding subordinated debt obligations;

- E.12.4. A deposit with NSW Treasury Corporation or investments in a Hourglass Investment Facility of the NSW Treasury Corporation;
- E.12.5 Any bill of exchange which has a maturity date of not more than 200 days; and if purchased for value confers on the holder in due course a right of recourse against a bank which has been designated as an authorised deposit-taking institution by the Australia prudential Regulation Authority.
- E.13. Council may not invest in suspended instruments formerly available but may retain such investments until maturity or sale, whichever is the sooner.
- E.13.1. Deposits in prescribed securities that either have a minimum long term credit rating of 'A' or short term rating of 'A1' from Standard & Poor's (S&P) or Fitch Ratings/Moody Investor Services (Moody's) equivalent (where not otherwise open – for example, where they are issued by a bank).
- E.13.2. Managed funds with a minimum long term S&P credit rating of 'A' or better, or Fitch/Moody's equivalent.
- E.14. This investment policy prohibits but is not limited to any investment carried out for speculative purposes including:
- E.14.1. Derivative based instruments;
- E.14.2 Principal only investments or securities that provide potentially nil or negative cash flow;
- E.14.3 Stand alone securities issued that have underlying futures, options, forwards contracts and swaps of any kind;
- E.14.4. The use of leveraging (borrowing to invest) of an investment.
- E.15. The General Manager, in consultation with Council staff shall issue guidelines reviewed at least annually, for the management of the following risk classes:-
- Credit Risk Management** which must include:-
- E.15.1. Maximum portfolio weighting by total assets in an asset grouping.
- E.15.2. Maximum amount to be held with an individual institution within an asset grouping.
- Term to Maturity Framework**
- E.15.3. Asset groupings will be defined with reference to credit rating and whether or not they fall within the "closed to new investment" category detailed above.
- E.15.4. The amount of investment risk attached to a particular security is in part related to its term to maturity. Guidelines for the management of term to maturity risk shall at a minimum prescribe the maximum exposure by term to maturity groupings, as an example, percentage of portfolio maturing in three to four years.
- E.16. This policy is not dependent on the terms of any other policy or procedures except the Act or direct, lawful instruction under the terms of the Act.

F. PROCEDURES

- F.1. Council will comply with appropriate accounting standards in valuing its investments and quantifying its investment returns.
- F.2. Investment income must be recorded according to accounting standards, published reports may show a break down of its duly calculated investment returns into capital gains and losses, and interest.
- F.3. A monthly report will be provided to Council. The report will detail the investment portfolio in terms of performance, percentage exposure of total portfolio, maturity date and changes in market value.
- F.4. From time to time financial assets may be acquired at a discount or premium to their face value. Discount or premium is to be taken into account in line with relevant Australian Accounting Standards.
- F.5. For audit purposes, certificates must be obtained from the banks/fund managers/custodian confirming the amounts of investment held on Council's behalf at 30 June each year.
- F.6. The General Manager, in consultation with council staff, will approve investment guidelines, within this policy, as part of the annual review, which will set the general direction for the purchase and sale of investment assets for the coming period and prescribe performance targets by asset category.
- F.7. Management of the risks associated with delegation of authority shall be achieved by way of detailed regular reporting on the exercise of all functions, duties and powers delegated throughout the organisation and by the Council.
- F.8. The performance of the portfolio will be assessed against a benchmark set annually in the Annual Plan.
- F.9. From time to time, Council may utilise the services of a suitably qualified and experienced investment advisor for the purposes of achieving the aims of this policy.
- F.10. The Investment Policy will be reviewed annually or as required in the event of legislative changes.

ENDS

Investment (Performance Measurement and Risk Management) Guidelines

Measurement

The performance of each investment should be greater than or equal to the applicable benchmark.

Investment Category	Horizon (at purchase date)	Benchmark
Working capital funds	0-3 months	Official cash rate + 10 basis points*
Short term funds	3-12 months	Bank Bill Swap Rate ("BBSW")
Short-Medium term funds	1-2 years	18 Month BBSW +10 basis points
Medium term funds	2-5 years	3 year BBSW+10 basis points
Long term funds	5 years	5 year BBSW

- At the time of writing this spread was available on the market for 11 a.m. money with AA institutions. This benchmark needs regular review based on market experience.

Credit Risk Guidelines – Managed Funds

The ability to invest in Managed Funds has now been suspended for new investments post the Cole Report of April 2008. Existing Managed Fund investments have been "Grandfathered" and can be continued to be held by Council.

Credit Risk Guidelines – Direct Investments

Before entering into any investment transaction with a new institution there will be a diligent review of the creditworthiness of that institution. Council must form its own opinion of the risk attached to an institution and not merely rely on published credit ratings. Nevertheless, all investments will be at investment grade, namely Standard & Poor's (S&P) BBB long term (or equivalent) or above.

Council will not invest in subordinate debt.

Portfolio Credit Framework

The portfolio credit guidelines to be adopted will be based on the S&P ratings system criteria. The maximum available limits in each rating category are as follows:

Long Term Credit Ratings	Short Term Credit Ratings	Target Credit Weighting
AAA Category	A-1+	10%
AA Category	A-2	45%
A Category*	A-2*	30%
BBB Category*	A-3*	10%
Grandfathered & Unrated	Unrated*	15%

* Investments with counterparties below AA Category (Long Term) and below A-1 (Short Term) are to be restricted to authorised deposit-taking institutions.

Counterparty/Institution Credit Framework

Exposure to individual counterparties/financial institutions will be restricted by their S&P rating so that single entity exposure is limited, as detailed in the table below:

Individual Institution Limits		
Long Term Credit Ratings	Short Term Credit Ratings	Direct Securities Maximum Limit
AAA Category**	A-1+	20%
AA Category**	A-1+	15%
A Category*	A-2*	10%
BBB Category*	A-3*	5%
Unrated Category*	Unrated*	Grandfathered investments only

*Investments with counterparties below AA Category (Long Term) and below A-1 (Short Term) are to be restricted to authorised deposit-taking institutions.

**The limit may be exceeded temporarily to the extent that the excess represents funds held on deposit awaiting reinvestment.

Term to Maturity Framework

The investment portfolio is to be invested with the following term to maturity constraints:

Description	Maximum Exposure
Portfolio allocation:	
Portfolio % < 1Year	100%
Portfolio % > 1 Year < 3 Years	70%
Portfolio % >3 Years < 5 Years	30%
Portfolio % > 5 Years	30%
Maturity of financial institution securities:	
ADI issues rated A or above	10 years
ADI issues rated BBB to A-	3 years
ADI issues non-rated	nil

Authorised: D.J.Jack
Director Corporate Services
May 2012

Investment (Asset Allocation) Guidelines

Council is a risk-averse investor. It is intended to maximise investment returns while maintaining the security of investments through the prudent management of risk.

RISK MANAGEMENT

Detailed decisions on the purchase and sale of investment assets will be mindful of the following risk categories.

Risk	Mitigant
Risk of Capital Loss	Matching investment maturity dates to known cash outflows, investment strategy to buy and hold until maturity, diversification constraints and diligent product research.
Concentration risk ("all eggs in one basket")	Credit Risk management guidelines by individual investment (see table below).
Credit Risk	Credit Risk management guidelines by asset class (see table below).
Interest Rate (duration) risk	Term to Maturity Guidelines (see table below).
Market timing risk ("not getting a good price on the day")	Stagger investment dates, maintain spread of maturity dates.
Regulatory risk	Regulation embedded in Investment Policy. Portfolio actively managed to comply with Policy.
Product risk	Undertake rigorous product research.
Liquidity risk	Cash flow forecasting, allocation of investment funds to time horizons, maintenance of a "liquidity reserve" through conservative assumptions in cash flow forecasting.
Income risk	Conservative approach to investment income budgeting.
Fraud risk	Documented investment procedures, separation of responsibilities for investment decision making and transaction settlement, only one account for payment of redemption proceeds, use of licensed custodians or third party registries where applicable.
Safe keeping / Clear title risk	Documented investment procedures.

ALLOCATION OF FUNDS

The Target Asset Allocation (TaR) will be determined from time to time having regard to the economic conditions that are prevalent. The table below headed "Target Asset Allocation and Return Expectations" outlines the TaR.

The TaR will be established between the minimum and maximum allocation range shown in the table below. The factors and/or information used to determine the TaR include, but are not limited to:

- Council's liquidity requirements;
- The shape of the bank bill swap curve (yield curve);
- Term deposit spread curve (i.e. the rate financial institutions are paying above the relevant BBSW rate);
- Credit spreads; and
- Macro economic variables.

Investment Category	Investment Horizon	Minimum Allocation	Target Allocation	Maximum Allocation
Working capital funds	0-3 months	10.0%	See table below	100.0%
Short term funds	3-12 months	20.0%	See table below	100.0%
Short-Medium term funds	1-2 years	10.0%	See table below	70.0%
Medium term funds	2-5 years	0%	See table below	30.0%
Long term funds	5 years	0%	See table below	30.0%

In setting the strategic asset allocations, Council is relying upon assumptions of expected investment returns and market conditions.

REBALANCING

Each investment category will be re-balanced back to the target asset allocation weight at least quarterly. The tolerance range outside of the target asset allocation is reflected in the table below.

Investment Category	Tolerance range outside of target asset allocation
Working capital funds	$\pm 10.0\%$
Short term funds	$\pm 10.0\%$
Short-Medium term funds	$\pm 7.5\%$
Medium term funds	$\pm 7.5\%$
Long term funds	$\pm 5.0\%$

BENCHMARKING AND MONITORING

Each investment in the portfolio is to be evaluated and monitored against a performance benchmark appropriate to the risk and time horizon of the investment concerned. The objective is to ensure that all investments considered can deliver a level of return commensurate with their risk profile and that they are competitive with an appropriate peer group of alternative investment options. During the currency of this Strategy Document, no assets other than those listed will be eligible.

Compliance of the portfolio with this Investment Strategy shall be reported to the General Manager quarterly.

IMPLEMENTATION and AUTHORITY TO AMEND STRATEGY

This Investment Strategy sets out the intended approach to investments in the market conditions that are expected to prevail over the medium to long term investment horizon. However, there will be periods, sometimes sustained, where “normal” market conditions do not apply.

For example, periods where short term interest rates are higher than long term interest rates, or investments of similar credit quality offer different yields due to liquidity differences.

The General Manager may approve a variation to this strategy if the investment is to the Council’s advantage or due to revised legislation.

PROFESSIONAL ADVICE

Council may seek professional, external investment advice from time to time to provide assistance in Investment Strategy formulation, portfolio implementation and monitoring.

D.J. Jack

Director Corporate Services

May 2012

TARGET ASSET ALLOCATION & RETURN EXPECTATIONS

Investment Category	Investment Horizon	Target Allocation* %	Net Target Over Bank Bills	Suitable products
Working capital funds	0-3 months	30.0%	-0.20% - 0.50%	11am,,overnight call and cash A/Cs, short dated bank bills, TCorp Hour-Glass Cash Facility
Short term funds	3-12 months	45.0%	0.30% - 0.60%	TCorp Hour-Glass Strategic Cash, term deposits
Short-Medium term funds	1-2 years	10.0%	0.50% - 1.00%	Term deposits, senior ADI FRN's, short dated bonds
Medium term funds	2-5 years	7.5%	0.80% - 1.20%	Term deposits, senior ADI FRNs and bonds
Long term funds	5 years	7.5%	1.00% - 1.50%	"Grandfathered" investments
TOTAL		100.0%		

* Council's Target Asset Allocation is derived from the expected funds available to invest in each nominated investment category. This will be reviewed annually at a minimum. At times the actual allocation will differ from the target allocation until such times as normal investment conditions return. The rationale for any differences between actual and target allocation will be detailed in Council's semi annual portfolio reviews.

APPROVED INVESTMENT TYPES & BENCHMARKS BY INVESTMENT CATEGORY

Investment Category	Horizon (at purchase date)	Benchmark	Council specific considerations	Suitable Instruments
Working capital funds	0-3 months	Official cash rate + 10 basis points	Same day or following day access;	11am and cash A/Cs, short dated bank bills, TCorp Hour-Glass Cash Facility
Short term funds	3-12 months	BBSW	Liquid enough to sell or redeem in one or two weeks if necessary without expressive buy-sell spread	TCorp Hour-Glass Strategic Cash, term deposits,
Short-Medium term funds	1-2 years	18 Month BBSW +10 basis points	Council general maintains its holding in bonds and similar instruments in third part registries, e.g. Bank treasury section	Term deposits, senior ADI FRN's, bond, short dated bonds
Medium term funds	2-5 years	3 year BBSW+10 basis points	As above	Term deposits, senior ADI FRNs and bonds
Long term funds	5 years	5 year BBSW yield	Held by custodian	"Grandfathered" investments only

Notes:

1. The eligibility of an investment is determined by the NSW Local Government Minister's Order dated 12 January 2011.

3.2 Flexible Life Guard Service Options - July 2012 School Holidays

TRIM REFERENCE: F2004/06257 - D02924491

MANAGER: Maxine Kenyon; Director

AUTHOR: Tara Mills; Manager Sport Leisure Rec

SUMMARY

This report is in response to Councils request for a report on the provision of a flexible lifeguard service during the July 2012 school holidays in response to variable weather patterns. There are many factors to consider when operating such a service. These are considered in this report.

RECOMMENDATION

- 1 That Council receive the report on Flexible Service Options.**
- 2 That Council request the General Manager to trial a flexible service during the 2012 July school holiday period between the hours of 9.30am to 4.30pm on Soldiers and Shelly Beaches subject to variable weather patterns and the following criteria:**
 - a) the availability of qualified professional lifeguards**
 - b) the outside temperature being over 20° celcius**
 - c) the water temperature is 20° Celsius and there is little or no wind.**
- 3 That Council consider allocating an amount of \$26,738.00 in the first quarter review of 2012/13 to fund the additional service. This amount includes \$1,200.00 to fund additional signage on the two beaches.**
- 4 That Council request a report on the usage and cost of this service be presented to Council at the completion of the trial.**

BACKGROUND

At its meeting held on 26 October 2011, Council:

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

- 1 That Council receive the report on the Trial Extension of Lifeguard Service to Soldiers Beach and Shelly Beach.**
- 2 That Council request the General Manager to operate a seven day extended lifeguard service during May and September 2012 at Soldiers Beach and Shelly Beach.**

3.2 Flexible Life Guard Service Options - July 2012 School Holidays (contd)

- 3 That Council request the General Manager to provide a report on flexible service options with regard to the July school holiday period as a response to variable weather patterns.

FOR: COUNCILLORS BEST, MATTHEWS, SYMINGTON, VINCENT, WEBSTER AND WYNN

AGAINST: COUNCILLORS EATON, GRAHAM AND MCNAMARA”

This report addresses point three above.

Previous trials

In 2010 during the winter period, a trial was conducted at both Shelly Beach and Soldiers Beach. The trial covered from July through to September. The average 3.00pm temperature at Norah Head weather station was 17.1 degrees Celsius with 35 rain days.

In May 2011 another trial was undertaken to provide a four week extension of the lifeguard season. Soldiers Beach and Shelly Beach were patrolled between 8:30am and 5:00pm each day with two lifeguards on duty at all times. The actual cost of the four week trial, which included two weekends, was \$34,900.00.

The data collected by lifeguards as well as an independent survey, indicated similar results. On average there were six swimmers per hour at Shelly Beach and four swimmers per hour at Soldiers Beach. Surfers averaged 10 per hour at both beaches. Note, these figures could be doubled up as counts are hourly and recorded into a database (i.e. if a person is at the beach from 9:00am till 11:30am, they will be counted three times; 9:00am to 10:00am, 10:00am to 11:00am and 11:00am to 12:00pm). Similarly if somebody is at the beach, leaves and returns within an hour, they may be counted twice within that hour.

A comparison of data collected from the Winter Trial 2010 compared with the May Trial 2011 is provided below.

Comparison - Winter Trial 2010 – May Trial 2011

	Winter 2010 Shelly Beach	Winter 2010 Soldiers Beach	May 2011 Shelly Beach	May 2011 Soldiers Beach
Average swimmers per hour	9	5	6	4
Average beach users per hour	50	22	33	28
Average mean temperature at 3:00pm Norah Head	17.1 ⁰ C	17.1 ⁰ C	17.8 ⁰ C	17.8 ⁰ C

The statistics on the usage captured during both trials highlighted that there were very few swimmers at the beach and most beach users did not enter the water. The majority that did enter the water were surf craft riders.

Surrounding Local Government Area's patrol periods

A survey of nine Local Government Areas (LGAs) undertaken in May 2011 revealed five did not provide a service outside of the normal season (September to April) whilst three LGAs patrolled one beach and one LGA patrolled two beaches year round. The LGAs that provide a year round service are Wollongong, Waverley, Newcastle and Coffs Harbour.

In March 2012 Gosford, Lake Macquarie and Newcastle LGAs were again contacted to gain further information. Gosford Council do not provide a service in July school holiday periods or on weekends and have difficulty in providing a flexible service in response to weather patterns. Gosford undertook a winter trial service in 2006 and resolved not to open during the winter period. If a beach is closed, the supervisor makes the decision to either leave the lifeguards on the closed beach or relocate them to another beach. Community expectation is difficult to manage and requires the supervisor to immediately update the website and put out a media alert.

Lake Macquarie Council does not provide a service in July school holiday periods and do not patrol outside of the normal season. Beaches can close due to weather but lifeguards are left on the beach.

Newcastle has two beaches open year round from 8:00am to 4:30pm. Beaches can close due to weather but lifeguards remain on the beach.

Weather / water temperatures

The Bureau of Meteorology advised that the previous 16 years average outside temperature during July was 17° Celsius with 19.9 rain days. The temperature for July last year was 9.2 to 16.9° Celsius. The water temperature from 1961 to 1990 as per the Bureau of Meteorology for the month of July averages 18° Celsius. From statistics collected by lifeguards, this temperature typically does not encourage swimmers and the overall beach numbers were at their lowest.

THE PROPOSAL

To provide a flexible lifeguard service in response to weather patterns in July, the following would need to be considered:

Determining which beaches

Previous trials have been held on Soldiers and Shelly Beaches as they are considered to have the highest usage. Based on this the figures provided in this report are relating to this variable service in these two beaches alone.

Determining the weather and water temperatures

If Council were to provide a lifeguard service in July in response to weather conditions, determination on what is appropriate weather and water temperature to provide the service is needed. The Bureau of Meteorology advises that the recommended sea temperature for comfortable swimming is 20° Celsius.

From experience, the current lifeguard supervisor advised that beach goers are unlikely to go in the water when the outside temperature is under 20° Celsius or if it is a windy day. It was noted that the wind chill factor impacts on beach attendance. The statistics from the winter trial in 2010 demonstrated that July had the coldest temperatures of the trial with an average temperature of 16° Celsius and also had the lowest number of beach goers.

Therefore, if this flexible service is resolved it is recommended that it be provided when the outside temperature reaches 20° Celsius, the water temperature is at least 20° Celsius and there is little or no wind.

Information to the community

Advertising and providing a consistent message to residents and visitors to our beaches would be difficult if the service was only based on favourable weather conditions. If based on weather conditions, a decision to operate a service would most likely be made one or two days in advance. This would pose various limitations to advertising the service to the community and visitors, therefore using signage on the beach would be essential.

If lifeguards are seen on a beach the expectation may be that lifeguards will be on patrol all day every day during the period. This may pose risks to swimmers expecting lifeguards to be present.

Managing community and visitor expectations is critical to ensuring safety on the beach. It is considered that if you advertise to have beaches open for the school holiday period, then the belief will be that the lifeguards will be in attendance, whether the beach is closed or not, as this is how Council currently manages the beach during the patrol season.

The placement of signage to cover the normal accesses to the beach to ensure visitors know the beach is closed and unattended would be required (currently during the season when a beach is closed the lifeguards are still on duty). Typically when a beach is closed, lifeguards stay at the beach. The exception is Gosford Shire and they have advised this is difficult to manage. The lifeguard supervisor has the authority to contact the media direct with this information.

Therefore, if this flexible service is resolved, it is recommended that at a minimum signage will be required at the accesses to the two beaches advising that lifeguards are on duty.

Staffing

During the season Council's permanent lifeguards accrue leave-in-lieu, rostered days off (RDOs), annual and long service leave during the season due to the additional hours worked. This accrued leave is then typically taken outside of the normal patrol season.

Working during July will further limit the months available for leave periods, already limited due to the extended season and this has impacts on budget and leave entitlements for staff. In addition, the availability of staff to work at short notice, which would be required if responding to variable weather patterns, would require an increase in Full Time Employee (FTE) and budget for casuals during this period.

Another consideration is around the work programs and important functions undertaken by lifeguards. During the winter months when lifeguards are not on leave they perform other duties as part of work programs. Supervisors of these work programs will not be able to rely on lifeguards during that period. Lifeguards are also programmed to provide first aid training and work on educational programs during the winter months.

Any trial would be subject to the availability of the professional lifeguards. The staff costs for a further extended period have not been budgeted for.

Currently, Surf Life Saving are volunteers and do not patrol outside of the October to April period. We have spoken to Surf Life Saving Central Coast and they have advised that their clubs would not be capable of providing any additional patrol periods after Anzac Day.

Financial impact

Council's previous decision to extend the lifeguard season was not budgeted for, nor are there funds for an extension in July. The cost for one weekend for two beaches is \$4,576.00 and \$1,181.00 per weekday.

If every day during school holidays is appropriate weather, the financial impact for the 16 days during July (being 10 weekdays and three weekends) would be an additional \$25,538.00 over and above the current budget. This takes into consideration the use of at least three casuals and overtime for weekends.

To place signage at the two main entrances of Soldiers and Shelly Beaches would be \$1,200.00.

OPTIONS

1. Trial a flexible service during the 2012 July school holiday period 9.30am to 4.30pm on Soldiers and Shelly Beach in response to weather patterns subject to the availability of staff, the outside temperature being over 20°Celsius, the water temperature at least 20°C and there is little or no wind.

If Council resolve this option the following would need to occur:

- a. decision made by the Manager Sport, Leisure and Recreation based on planned temperature for the day for at least a day in advance
 - b. decision will be based on the availability of staff
 - c. notice provided on Council's website, via Facebook and Twitter
 - d. signage be placed on the beach advising that it is patrolled
 - e. if the weather changed and was not conducive to swimming the day before or during the day a beach is patrolled, the lifeguards would remain at the beach and the beach would be closed.
2. Do not trial a flexible service during the July school holidays in response to variable weather patterns. There is some merit in undertaking a trial, however the issues identified in this report would need to be managed.

STRATEGIC LINKS**Wyong Shire Council Strategic/ Annual Plan**

<i>Principal Activity</i>	<i>Service</i>	<i>Key Action and Objectives</i>	<i>Funding Source and Description</i>	<i>Impact on Key Performance Indicators/ Service Performance Indicators</i>
2 – Community Recreation	Sport Leisure and Recreation	Lifeguard Patrol Services - No deaths within flagged beach areas whilst patrolled	Revenue	Increased cost of service

Contribution of Proposal to the Principal Activity

The proposal, if adopted, provides a greater level of service during the July school holidays.

Long Term Financial Strategy

This will impact on future budgets due to the increase in cost.

Asset Management Strategy

Nil impact.

Workforce Management Strategy

This proposal, if adopted, will impact on the ability for lifeguards to take their annual and long service leave at a time that does not impact on the service. It also decreases the lifeguards ability to take leave during school holiday periods.

In addition this will require further FTE allocation.

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

If resolved, this proposal will require a maximum budget increase of \$25,538.00 per annum plus a one off cost of \$1200.00 for signage.

CONSULTATION

Consultation from Sport Leisure and Recreation staff.

GOVERNANCE AND POLICY IMPLICATIONS

Nil.

MATERIAL RISKS AND ISSUES

Providing this flexible service has the potential of creating community expectations that lifeguards will be on duty when that may not be the case.

This limits the opportunity for staff to take their leave entitlements.

CONCLUSION

During July there may be days where the weather is appropriate for swimming, trialling this variable service will require the availability of Council's professional lifeguards and weather above 20° with little or no wind. Managing the communication to the community on this option will be critical.

When staff are available in the off season they will continue to provide education on beach safety to the public and offer first aid training to staff.

ATTACHMENTS

Nil.

3.3 Determination by the Local Government Remuneration Tribunal on Councillor Fees for 2012-13

TRIM REFERENCE: F2004/06505 - D03012908

MANAGER: Lesley Crawley; Manager Corporate Governance

AUTHOR: Sonia Witt; TL Governance and Councillor Services

SUMMARY

Report on a Determination made by the Local Government Remuneration Tribunal in respect of Councillor fees for the 2012-13 financial year.

RECOMMENDATION

- 1** *That Council implement the determination made by the Local Government Remuneration Tribunal in respect of Councillor and Mayoral fees.*
- 2** *That Council set the annual Mayoral Fee at \$57,660 for the period 1 July 2012 to 30 June 2013.*
- 3** *That Council set the annual Deputy Mayoral fee at \$8,072.40 for the period 1 July 2012 to 30 June 2013.*
- 4** *That Council reduce the paid annual Mayoral Fee by 14% (\$8,072.40) to fund the annual Deputy Mayoral fee.*
- 5** *That Council reduce the paid annual Mayoral Fee by \$1,906.64 for use of the Mayoral Motor Vehicle.*
- 6** *That Council set the Annual Councillor Fee at \$21,700 for the period 1 July 2012 to 30 June 2013.*

BACKGROUND

The Local Government Act 1993 (the Act) sets out the requirements governing the payment of fees to elected members (s.239-s241). Payments to the Deputy Mayor are further prescribed by s.249 of the Act.

Previously the Local Government Remuneration Tribunal (the Tribunal) has made determinations under Section 239 and 241 of the Local Government Act 1993 (the Act) for fees payable to the Mayor and Councillors.

On 27 June 2011, the Parliament passed amendments to the Act to apply the same government public sector wages cap that binds the Industrial Relations Commission to the determination of ranges for fees for Councillors and Mayors. Therefore, no increase beyond 2.5% may be applied by the Tribunal to the minimum and maximum amounts of fees to be paid to Councillors and Mayors.

3.3 Determination by the Local Government Remuneration Tribunal on Councillor Fees for 2012-13 (contd)

The effect of the amendments to the LG Act was to remove the Tribunal's discretion to determine any increase in the minimum and maximum fees beyond 2.5%.

In January 2012 the Tribunal invited Councils to make submissions in regards to the categories of Councils under s.240 of the Act. Council did not make a submission in 2012.

Each financial year the Local Government Remuneration Tribunal sets a minimum / maximum fee for the Mayor and Councillors within each local government category. It is a matter for each Council to fix the fees payable to the Mayor and Councillors within the range set by the Tribunal. Since June 2002, Council has resolved that payments be fixed at the maximum allowable fees for the Mayor and Councillors.

THE PROPOSAL

The Tribunal conducted the 2012 annual review between January and April 2012.

After considering all submissions and reviews, the Tribunal found that there was no strong case to significantly alter the current categories of Councillor and Mayoral offices or to move individual councils between categories.

The Tribunal has determined an increase of 2.5% in the fees for Councillors and Mayors for the year 1 July 2012 to 30 June 2013. WSC is included in the Metropolitan Centre category.

Category Title	Councillor / Member Annual Fee		Mayor / Chairperson Additional Fee *	
	Minimum	Maximum	Minimum	Maximum
Principal City	23,250	34,100	142,250	187,180
Major City	15,490	25,580	32,940	74,530
Metropolitan Major	15,490	25,580	32,940	74,530
Metropolitan Centre	11,640	21,700	24,700	57,660
Metropolitan	7,740	17,060	16,480	37,230
Regional Rural	7,740	17,060	16,480	37,230
Rural	7,740	10,220	8,220	22,310
County Council – Water	1,540	8,530	3,300	14,000
County Council - Other	1,540	5,100	3,300	9,310

NB

- * This fee must be paid in addition to the fee paid to the Mayor as a Councillor (Section 249(2))
- A copy of the report and determinations made by the Tribunal is available at http://www.remtribunals.nsw.gov.au/local_government/current_determinations

The current Mayoral fee for Wyong Shire Council is \$56,250 and the current Councillor fee is \$21,170.

In 2011 Council resolved that the Deputy Mayor allowance would be 14% of the Mayoral allowance.

3.3 Determination by the Local Government Remuneration Tribunal on Councillor Fees for 2012-13 (contd)

The Deputy Mayoral fee for the 2012-13 year will increase from \$8,033.98 to \$8,072.40 subject to the Mayoral fee increasing by 2.5%.

OPTIONS

- 1 Pay the fees as outlined above. This increase has been taken into account when preparing the Strategic Plan for 2012-13.
- 2 Retain the current fee structure resulting in a saving of \$6,710 on forecast maximum level expenditure.
- 3 Pay a fee structure anywhere between the new minimum and maximum levels set by the Tribunal.
- 4 Reduce the fees paid to the minimum (or any amount between that and the maximum) at a corresponding saving of \$133,560.

Financial Implications

There is minimal impact on the 2012-2013 Strategic Plan – estimates of the determination are included in the financial projections.

CONCLUSION

No obligation exists for Council to pass on the determination of 2.5%, provided that the Councillor and Mayoral fees are set within the range determined by the Tribunal.

Council has the opportunity to establish any other level it so chooses for any reason.

Council has historically chosen to set the fees at the maximum allowable rate and the recommendation has been established on that basis.

Council has no obligation to reduce the annual Mayoral fee or to set a Deputy Mayoral fee. Council has done this historically.

ATTACHMENTS

Nil.

3.4 Works on Private Land - 370 and 380 Bruce Crescent, Wallarah

TRIM REFERENCE: F2010/02141 - D03018239

MANAGER: Greg McDonald; Director Infrastructure Management

AUTHOR: Andrew Pearce; Manager, Roads and Stormwater

SUMMARY

Council has been in receipt of ongoing representations from a resident of 380 Bruce Crescent, Wallarah requesting Council undertake stream bank stabilisation works along a section of stream bank located within 370 and 380 Bruce Crescent. The resident believes Council has a responsibility to undertake the works on the basis that an existing upstream road culvert is contributing to the erosion. Section 67 of the Local Government Act 1993 (LGA) requires Council approval for works to be undertaken on private property.

RECOMMENDATION

That Council approve the undertaking of stream bank stabilisation works in the vicinity of the road culvert at 370 & 380 Bruce Crescent subject to the land owners committing to 50% of the project costs to an upper limit of \$25,000 and entering into a deed of agreement with respect to long term maintenance of works on private property.

BACKGROUND

Council has been in receipt of representations from the owners of 380 Bruce Crescent, Wallarah requesting Council undertake stream bank stabilisation works within a watercourse located within both 370 and 380 Bruce Crescent. The landowners concerns are that progressive erosion of the stream bank was reducing the available land area of their property and had the potential to impact on the abutments of an existing deteriorated downstream bridge which represented the sole access to the residence on the property.

The watercourse is a small unnamed intermittent tributary of Spring Creek and ultimately flows into the Tuggerah Lakes system. The upstream catchment comprises of rural lands before flowing through a road culvert under Bruce Crescent and into 370 & 380 Bruce Crescent, Wallarah. It is not known when the culvert was constructed however it is believed to have been built at the time of the original subdivision of the area and well before the purchase of the property by the current owners.

Council is within its legal rights under the Roads Act 1993 to maintain the culvert within the road reserve for the purposes of conveying flows from the natural watercourse under the road. The subject culvert is similar to various others located throughout the Shire. It is accepted that the design of the culvert would have incorporated some improved energy dissipation measures had it been designed and constructed to current standards. At the time of construction though no energy dissipation was incorporated into the design.

Staff have previously written to the owner advising that the "Spring and Wallarah Creeks Stream Bank Condition and Conservation Report" did not identify this location as a priority for stream bank works under Council's Estuary Management Plan and it was thereby the owner's responsibility to undertake appropriate riparian zone management.

Since this time there have been ongoing representations from the resident and resulting communications and onsite meetings between various engineering and Estuary Management Staff and some Councillors. It has been further conveyed that the stream bank works are unable to be completed under the Estuary Management Plan on the basis the site does not meet the criteria for stream bank rehabilitation works. Issues include the lesser extent of erosion relative to other priority locations, resident's non acceptance towards Estuary Management Plan stream bank rehabilitation techniques involving the battering back of the bank and planting plants, and non commitment to controlling the access of goats away from the stream bank throughout the property.

At the ordinary meeting of Council on the 8th February 2012 Councillor Eaton asked the following Question Without Notice:

"Could staff confirm:

- a) That Council previously gave a written undertaking to Ms Kylie Albanese of Bruce Crescent, Wallarah to rock stabilise the creek from Council's road culvert at the front of her property for some 30 metres.*
- b) That this work would be performed in the 2011/12 financial year.*
- c) That this work has not been performed, and can I be advised when this work will be performed?"*

Staff reported at the Ordinary Meeting of Council on the 28th March 2011 that there was no formal agreement to complete works, any such capital works were yet to be approved by Council and programmed for inclusion in a future years capital works program and approval was required from Council under S. 67 of the Local Government Act 1993.

Various written communications with the resident of 380 Bruce Crescent between 2008 and 2010 clearly declined any offer of assistance stream bank works at the subject location. In 2011 following an onsite meeting, a survey of the location was completed which identified that the culvert outlet was actually in 370 Bruce Crescent and following further communications a concept drawing was completed by Council's student engineer and issued to the residents for comment. Although there was no written undertaking to do the works, correspondence issued in early 2011 implied the works could commence the following financial year, as part of the future 2011/2012 works program.

Since this time staff have further met with the resident and a Councillor and advised that if Council were to fund future works using its own revenue funding, this would be subject to Council determination attaining the necessary approval under S.67 of the Local Government Act to complete works on private property. Should that approval be received then staff would then be in a position to complete detailed engineering designs, attain resident's agreement to the design, attain the necessary environmental approvals and complete the works.

CURRENT STATUS

High stream flows over the past 12 months have accelerated the extent of bank erosion. The soils of the area are highly erosive and due to the loss of native vegetation in the area the bank continues to be undermined and collapse. There has also been the formation of a scour hole downstream near the bridge which is increasing in size and in time may compromise the abutments of the existing deteriorated timber bridge.

Council has undertaken a full survey of the location and completed some preliminary drawings involving the lining of the watercourse with rough rock and the construction of a rock wall. The option of battering the creek bank back and planting has also been investigated however this has not to date been accepted by the landowner.

Funding for the project has been incorporated into the 2012/2013 drainage capital works budget. Completion of the works will be subject to Councils approval under s.67 of the Local Government Act 1993 and subsequent approval between landowners and Council over a design.

THE PROPOSAL

Works on Private Property

Section 67 of the LGA relates to Council undertaking works on private property. This section outlines procedures for circumstances where Council expends public money to undertake works on private lands, and those works improve the land/provide the private landowner with a benefit (compared to where Council expends public moneys on public infrastructure/public benefit).

Where Council is undertaking these types of works on private property and does not have an approved fee, or is charging less than an approved fee, Council must, by resolution, approve the works before they are carried out.

Where it is proposed to undertake works on private property, an agreement will need to be entered into with the property owner relating to ongoing maintenance, future asset renewal or circumstances where a major flood event occurs that results in damage.

The proposed works would likely consist of excavation and bank stabilisation using rock or soft engineering works as applicable.

OPTIONS

1 Do nothing

This will result in continuing stream bank erosion downstream of the road and culvert located within a rural area resulting in a widening of the channel and increased sediment transport downstream. The resident is also likely to have to undertake their own works to stabilise their private bridge abutments.

2 Undertake stream bank works

Undertake a combination of rough rock placement within the channel of the watercourse to reduce velocities and rock lining the embankments for a distance of approximately 20-25 metres. Some battering back of the stream banks should also be completed to allow for plantings. The site should then be fenced and stock excluded from the site. The estimated cost of these works is \$50,000.

3 Council undertake works in road reserve only

There is a limited road reserve width of approximately 4 metres between the culvert and private property. An existing concrete apron extends from the culvert into private property and is underlain by utility services. It is not feasible to undertake beneficial works solely within the road reserve.

4 Council undertakes streambank work but owner contributes

The undertaking of the works will derive a benefit to the landowner through both a reduction in the future loss of land from erosion of the stream bank and facilitate a future access around or across the streambank. The owner has also requested some additional rock be placed approximately 30 metres downstream at the bridge abutments to reduce scour. Another option under consideration of the landowner is to construct a new access road to the west of the drainage channel thereby negating the need to rehabilitate or replace the existing bridge. These works would only become viable if the embankment of the stream is retained as a result of Council's works.

It is considered reasonable that the landowner contribute to the funding of works for which they derive a direct benefit. The scope of works will require further negotiation between staff and the landowner as part of the design and deed of agreement process.

PROPOSED WORKS

Council has allocated a budget to complete the works as part of the 2012/13 Roads and Drainage capital works program in the event Council resolves to undertake this work. These works will provide environmental and social benefits by stabilising areas identified as having erosion risk.

STRATEGIC LINKS**Wyong Shire Council Strategic/ Annual Plan**

Principal Activity	Service	Key Action and Objectives	Funding Source and Description	Impact on Key Performance Indicators/ Service Performance Indicators
Environment and Land Use	6.4 - EPS Major Projects Mgt	<ul style="list-style-type: none"> Implement Stream bank, stormwater and wetland works to ensure that the quality of water meet the needs of the community and lakes and rivers. Ensure social and economic needs of the community are met while protecting the environment of the coastal zone. 	The works are not considered to meet the criteria for Caring for our Country funding as part of the implementation of the Tuggerah Lakes Estuary Management Plan. Funding would need to come from Councils revenue funding.	

Contribution of Proposal to the Principal Activity

The works will provide ongoing improvements to water quality in the affected stream and for water entering Tuggerah Lakes.

Link to Community Strategic Plan (2030)

Priority Objective	How the proposal contributes or links to the Priority Objectives in Shire Strategic Vision and Annual Plan
Natural Areas - Areas of natural value in public and private ownership will be enhanced and retained to a high level in the context of ongoing development.	The health of the Shire's waterways and natural areas will be enhanced by the restoration of the eroded stream bank.

Financial Implications

The works would be fully or partially funded from Councils revenue funding and provision has been made as part of the 2012/2013 Roads & Stormwater capital works program.

Principles of Sustainability

The works, when established, will provide a long term solution to localised stream degradation and erosion issues.

Long term Financial Strategy

Nil impact.

Asset Management Strategy

Nil impact.

Workforce Management Strategy

Nil impact.

Link to Community Strategic Plan (2030)

Nil impact.

Budget Impact

Nil impact.

CONSULTATION

Where rehabilitation works are proposed to be undertaken on private land, extensive discussions will need to be held with owners to obtain their permission to undertake the defined scope of works and agreement to ongoing maintenance and future renewal responsibilities. This is a requirement under Section 67 of the LGA, together with consideration of possible cost sharing arrangements.

Consultation has occurred with the relevant landholders over appropriate stream bank rehabilitation options at the subject location. In principle agreement to enter the property and undertake the works has been given subject to landowner agreement with the final design.

GOVERNANCE AND POLICY IMPLICATIONS

There are large numbers of existing culvert and pipe crossings located within natural water courses under the Shire's roads which legally direct water through private property in accord with the natural topography of the land.

Many of these will be characterised as having minor erosion at the device outlets. Undertaking the subject works could expose Council to further requests to undertake similar works on other private properties.

CORPORATE RISKS

Risk	Possible Outcome	Mitigation Method
Risk of non-compliance with Section 67 of Local Government Act	Loss of Council reputation. Penalties from non-compliance	Obtain Council approval prior to expenditure of funds
Fraud and corruption allegations from favouring certain land-owners	Loss of Council reputation. Investigations into Council practices and possible penalties	Obtain Council approval prior to expenditure of funds

MATERIAL RISKS AND ISSUES

Nil impact.

CONCLUSION

It is proposed to undertake the described stream bank rehabilitation works on private property subject to agreement on a design and entering into a deed of agreement for the landowners to fund 50% of the works to an upper limit of \$25,000 and commit to any long term maintenance responsibilities within private property. The works are in response to an existing road culvert being contributory factor towards the stream bank erosion immediately downstream combined with previous communications which imply Council would undertake some form of works to mitigate the problem.

ATTACHMENTS

Nil.

3.5 Proposed Councillors' Community Improvement Grants

TRIM REFERENCE: C2012/01723 - D03029394

MANAGER: Lesley Crawley; Manager Corporate Governance

AUTHOR: Kay Matthews; Administration Assistant

SUMMARY

Councillors propose the following allocation of funds for expenditure from Councillors' Community Improvement Grants (CCIG).

RECOMMENDATION

That Council allocate an amount of \$24,878.00 from the 2011-12 Councillors' Community Improvement Grants as follows:

Proposed Allocations for 13 June 2012		
Australian Air League Doyalson Girls' Squadron (\$994)	Two laptops for Visual digital inter-active learning program to assist in dyslexia, dyspraxia and others	100.00
Bateau Bay Men's Shed Inc (\$1700)	Materials for new community garden	500.00
Berkeley Vale Soccer Club Inc (\$1500)	Training equipment for juniors	600.00
Budgewoi Netball Club Inc (\$1500)	Small lockable storage container	500.00
Camp Breakaway (\$5225) (\$1800 already allocated)	To purchase a bed-bath trolley for people with disabilities.	2000.00
Central Coast Group Training (\$2000)	Awards Night	1402.50
Central Coast Hash House Harriers (\$2000)	Administrative costs	474.00
Central Coast Multiple Sclerosis and Handicapped Group (\$1389)	Bus upgrade	1389.00
Central Coast Woodturners Co op Ltd (\$1098)	Fine particulate dust filters	1098.00
Coastal Knockouts Inc (\$1500)	Initial purchase of skates for children & youth in Gwandalan area for after school activity	1500.00
Conquer Cancer (\$250)	Lesley Poulton to compete in Ride to Conquer Cancer	250.00
Homeless No More (\$2000) (\$800 already allocated)	Fundraising walkathon for needy	250.00
Lions Club of Gwandalan Inc (\$2238.50)	Marquee & banners for Gwandalan Leo Club (Junior Lions)	1250.00

<i>Proposed Allocations for 13 June 2012</i>		
Long Jetty District Senior Citizens' Club Inc (\$1500)	<i>Remove blinds & tint all glass areas</i>	500.00
Norah Head Ratepayers Residents & Coastcare Ass Inc (\$500)	<i>Replace & upgrade community signs & information boards</i>	250.00
Northern Women's Health Centre Wyong (\$500) (\$50 already allocated)	<i>Upgrade library with personal development texts</i>	250.00
ORRCA Inc (\$2000)	<i>Emergency hotline for injured marine mammals</i>	750.00
Positive Support Network Inc (\$1800) (\$100 already allocated)	<i>Printing of magazine for Gay & Lesbian Community & people with HIV & Aids</i>	300.00
San Remo Tidy Towns (\$1000) (\$100 already allocated)	<i>To purchase equipment to maintain San Remo area</i>	250.00
Summerland Point Gwandalan Tidy Towns & Landcare (\$836)	<i>Purchase of equipment & funding of awards registration fees</i>	750.00
The Entrance Rugby Club Inc (\$3983)	<i>Sporting equipment</i>	600.00
The Entrance Surf Club (Tuggerah Tuffs Winter Swim Club Inc) (\$1800)	<i>Drinks fridge for use in surf club</i>	600.00
Toukley Torch Bearers for Legacy (\$1000)	<i>Annual Legacy Golf Day</i>	411.50
Tuggerah Lakes Memorial Pistol Club Inc (\$1600)	<i>Stormwater plumbing & roadbase to Range 3 to prevent erosion</i>	1000.00
Tuggerah United Football Club (\$2000)	<i>Gazebos & additional sporting equipment</i>	600.00
Warnervale Family & Community Centre (\$500)	<i>Multicultural cooking classes - food & venue</i>	90.00
Woongarra Wildcats Football Club (\$2000) (\$300 already allocated)	<i>To organise an Opening Day for the new Hamlyn Terrace Complex</i>	870.00
Wyong District Netball Association Inc (\$2000)	<i>Improvements to downstairs area</i>	2000.00
Wyong Neighbourhood Centre Inc and Iris Foundation (\$10000) (\$100 already allocated)	<i>Slither and Slumber Sleep Out - early intervention projects for prevention of suicide</i>	1750.00
Wyong Shire Garden Competition Committee Inc (\$1930) (\$569.60 already allocated)	<i>Function Room hire, expenses for 4 cars & printing of competition schedules</i>	593.00
2261 Out of the Box Inc (\$2000)	<i>Activities, resources, media & training of volunteers</i>	2000.00

BACKGROUND

Provision has been made in Council's Annual Plan for each Councillor to recommend to Council the donation of funds to individuals, local service, charitable or community organisations that operate in the Shire or provide a benefit specifically to the residents of the Shire.

Donations may also be made to individuals or groups in pursuit of excellence, including sporting and cultural excellence, subject to CCIG Policy. Funds may also be allocated for emergency assistance in the event of natural disasters such as bushfires, flood or drought anywhere in Australia, subject to CCIG Policy. The funds are granted subject to approval of the Council as a whole.

In accordance with Clause 2.2 of the Councillor's Community Improvement Grants Policy available funding for the 2011/2012 financial year is \$112,500. Clause 2.2 states:

"In the financial year preceding a Local Government election, the allocation to the individual Councillors will be 75% of the allocation identified in Clause 1.1 and will be available to Councillors from 1 July to 31 May of that year."

This is the last allocation of funding until the CCIG program opens again in December 2012.

THE PROPOSAL

Under Council's Policy, all proposed allocations are subject to the approval of the Council as a whole.

3.5

Proposed Councillors' Community Improvement Grants (contd)

The proposed allocations are listed below:

COUNCILLORS' COMMUNITY IMPROVEMENT GRANTS ALLOCATION	Best	Eaton	Graham	Matthews	McBride	McNamara	Symington	Vincent	Webster	Wynn	SUB TOTAL	Declaration of Interest
Allocation 01/07/2012 - 31/05/2012	11,250.00	11,250.00	11,250.00	11,250.00	11,250.00	11,250.00	11,250.00	11,250.00	11,250.00	11,250.00	112,500.00	
Expenditure up to and including Ordinary Council Meeting of 9 May 2012	10,756.50	8,992.50	7,126.00	9,929.00	4,550.00	8,380.00	7,215.50	9,877.50	9,507.00	11,250.00	87,584.00	
Available allocation as at 9 May 2012	493.50	2,257.50	4,124.00	1,321.00	6,700.00	2,870.00	4,034.50	1,372.50	1,743.00	0.00	24,916.00	
Proposed Allocations for 13 June 2012												
Australian Air League Doyalson Girls' Squadron (\$994)	100.00										100.00	
Bateau Bay Men's Shed Inc (\$1700)			500.00								500.00	
Berkeley Vale Soccer Club Inc (\$1500)			600.00								600.00	
Budgewoi Netball Club Inc (\$1500)					500.00						500.00	
Camp Breakaway (\$5225) (\$1800 already allocated)						2,000.00					2000.00	
Central Coast Group Training (\$2000)		1,402.50									1402.50	
Central Coast Hash House Harriers (\$2000)			474.00								474.00	
Central Coast Multiple Sclerosis and Handicapped Group (\$1389)	100.00				978.00			311.00			1389.00	
Central Coast Woodturners Co op Ltd (\$1098)		355.00							743.00		1098.00	
Coastal Knockouts Inc (\$1500)					1000.00		500.00				1500.00	
Conquer Cancer (\$250)			250.00								250.00	
Homeless No More (\$2000) (\$800 already allocated)								250.00			250.00	
Lions Club of Gwandalan Inc (\$2238.50)							1250.00				1250.00	
Long Jetty District Senior Citizens' Club Inc (\$1500)					500.00						500.00	
Norah Head Ratepayers Residents & Coastcare Ass Inc (\$500)							250.00				250.00	
Northern Women's Health Centre Wyong (\$500) (\$50 already allocated)					250.00						250.00	
ORRCA Inc (\$2000)							750.00				750.00	
Positive Support Network Inc (\$1800) (\$100 already allocated)				200.00	100.00						300.00	
San Remo Tidy Towns (\$1000) (\$100 already allocated)								250.00			250.00	
Summerland Point Gwandalan Tidy Towns & Landcare (\$836)							750.00				750.00	
The Entrance Rugby Club Inc (\$3983)			600.00								600.00	
Toukley Torch Bearers for Legacy (\$1000)	100.00							311.50			411.50	
Tuggerah Lakes Memorial Pistol Club Inc (\$1600)		500.00	500.00								1000.00	
Tuggerah Tuffs Winter Swim Club Inc (\$1800)			600.00								600.00	
Tuggerah United Football Club (\$2000)			600.00								600.00	
Warnervale Family & Community Centre (\$500)	90.00										90.00	
Woongarrah Wildcats Football Club (\$2000) (\$300 already allocated)						870.00					870.00	
Wyong District Netball Association Inc (\$2000)	100.00			1121.00	779.00						2000.00	Cr McBride player & patron
Wyong Neighbourhood Centre Inc and Iris Foundation (\$10000) (\$100 already allocated)					500.00			250.00	1000.00		1750.00	
Wyong Shire Garden Competition Committee Inc (\$1930) (\$569.60 already allocated)					593.00						593.00	
2261 Out of the Box Inc (\$2000)					1500.00		500.00				2000.00	
Total Proposed Allocations for 13 June 2012	490.00	2,257.50	4,124.00	1,321.00	6,700.00	2,870.00	4,000.00	1,372.50	1,743.00	0.00	24,878	
Total Accumulated Allocations as at 13 June 2012	11,246.50	11,250.00	11,250.00	11,250.00	11,250.00	11,250.00	11,250.00	11,215.50	11,250.00	11,250.00	112,462.00	
Balance Uncommitted as at 13 June 2012	3.50	0.00	0.00	0.00	0.00	0.00	34.50	0.00	0.00	0.00	38.00	

OPTIONS

- 1 Approval of applications as submitted will provide a community benefit residents of the Shire.
- 2 Non approval could result in assistance not being provided to the community.

STRATEGIC LINKS

Annual Plan

<i>Principal Activity</i>	<i>Strategy or Program</i>	<i>Financial Line Item No and Description</i>
A More Sustainable Community	Enhance the quality of life of the Shire's residents	1.1.11 – Community Financial Support

Contribution of Proposal to the Principal Activity

The Councillors' Community Improvement Grants were developed to help charitable community groups and in doing so helping the broader community.

Link to Shire Strategic Vision

<i>Priority Objective</i>	<i>How the proposal contributes or links to the Priority Objectives in Shire Strategic Vision and Annual Plan</i>
Communities - Communities will be vibrant, caring and connected with a sense of belonging and pride in their local neighbourhood.	Funding is available to projects not specifically nominated in Council's Annual Plan that contribute to the priority objective.
Facilities and Services - Communities will have access to a diverse range of affordable and coordinated facilities, programs and services.	Funding is available to projects not specifically nominated in Council's Annual Plan that contribute to the priority objective.

Financial Implications

Expenditure is approved until the end of the 2011-12 financial year. Unspent approvals lapse 31 May 2012.

Principles of Sustainability

The CCIG program is aligned with the principles of sustainability in that it would:

- Improve and maintain safety, wellbeing and sense of community
- Use locally available resources to increase our self-reliance
- Support local and regional economic prosperity
- Build and strengthen partnerships and alliances

CONSULTATION

Applications that met the criteria were distributed to Councillors for their consideration.

GOVERNANCE

All expenditure recommended is permissible under Section 24 and 356(1) of the Local Government Act 1993.

CORPORATE RISKS

Nil impact.

CONCLUSION

The proposed allocations contained in this report are permissible under the Council's policy on Councillors' Community Improvement Grants. The process has been correct and Council may confirm the grants at its option.

ATTACHMENTS

Nil.

3.6 Format of Future Notices of Motion - Resource Utilisation Leading up to the Local Government Election - September 2012

TRIM REFERENCE: F2004/06502 - D03022245

MANAGER: David Jack; Director Corporate Services

AUTHOR: Lesley Crawley; Manager Corporate Governance

SUMMARY

Reporting information requested by Council concerning future Notices of Motion.

RECOMMENDATION

1 That Council receive the report on Format of Future Notices of Motion - Resource Utilisation Leading up to the Local Government Election - September 2012.

2 That Council amend the Wyong Shire Council Code of Meeting Practice as follows:

(A) Insert New Definition –

Unlawful means, for the purposes of cl. 3.1.1 and 5.2.2 of this Code, any of the following:

- (a) any act or omission that infringes a statutory or common law prohibition;**
or
- (b) any act or omission constituting an offence against domestic or foreign law”**
or
- (c) any act or omission that :**

- (i) is inconsistent with the Charter set out in s. 8(1) of the Local Government Act 1993; or**
- (ii) is not in the proper exercise of a function conferred on Council under the Local Government Act 1993 or any other Act or law; or**
- (iii) where it involves a councillor exercising his or her role as a member of the governing body of Council, is inconsistent with the scope of that role as prescribed by s. 232(1) of the Local Government Act 1993, which states:**

The role of a councillor is, as a member of the governing body of the council:

- To provide a civic leadership role in guiding the development of the community strategic plan for the area and to be responsible for monitoring the implementation of the council's delivery program**
- To direct and control the affairs of the council in accordance with this Act**
- To participate in the optimum allocation of the council's resources for the benefit of the area**

3.6 Format of Future Notices of Motion - Resource Utilisation Leading up to the Local Government Election - September 2012 (contd)

- *To play a key role in the creation and review of the council's policies and objectives and criteria relating to the exercise of the council's regulatory functions*
- *to review the performance of the council and its delivery of services, and the delivery program and revenue policies of the council.*

(B) by inserting the statement: "That the General Manager's opinion on what is unlawful will be influenced by the context of the Notice of Motion with regards to how and why the Notice of Motion may have been put forward by a Councillor for the intent of attracting media attention."

3 *That Council give public notice of its intention to amend its Code of Meeting Practice allowing 42 days for the making of public submissions.*

4 *That Council adopt the amended WSC Code of Meeting Practice should no significant objection be received to the proposed amendment.*

BACKGROUND

At its meeting held on 23 May 2012 Council considered a Mayoral Minute in relation to the utilisation of WSC resources leading up to the Local Government election in September 2012.

Council resolved:

- "1 That the report be received and noted and that all Councillors conform to the intent of this Mayoral Minute.*
- 2 That the General Manager provide a briefing and report to the next Council meeting 13 June 2012 indicating options and the supporting arguments to ensure legitimacy and correctness on all future Notices of Motions."*

The Local Government Act 1993 ("the **Act**") and Regulations place considerable emphasis on a Council giving "*due notice*" of its intended business to the community or any other interested party. Business is brought before Council by way of motions put before Council as staff recommendations, from the floor when permitted, or by Notice of Motion.

Recent incidents have challenged Council's general appreciation of what is "lawful" to be debated in the chamber.

Legislative Context

Clause 240 of the Local Government (General) Regulation, 2005 ("the **Regulations**") authorises the General Manager to withhold matters from the agenda of the Council if, in his opinion, the matters are unlawful.

"The general manager must not include in the agenda for a meeting of the council any business of which due notice has been given if, in the opinion of the general manager, the business is (or the implementation of the business would be) unlawful. The general manager must report (without giving details of the item of business) any such exclusion to the next meeting of the council."

This requirement is repeated in clause 3.1.1 of the Council's Code of meeting Practice ("the **Code**").

Clause 238 of the Regulations imposes a duty on the Chairperson to rule out any motion that is unlawful or the implementation of which would be unlawful. This requirement is repeated in clause 5.2.2 of the Council's Code.

The Act and Code do not define what may be unlawful, and in order to avoid challenges and debate in chambers, Council should create a definition of what is unlawful, which is to be adopted by Council. This definition will clearly assist the General Manager and a Chairperson determine what is 'Unlawful'.

CURRENT STATUS

The debates in Chambers have demonstrated the potential for business to be raised by Council which may or may not be unlawful.

As a matter of compliance, Council codes, Regulations, Acts and other relevant legislations collectively define 'Lawful'. It is the ambiguity of the word '*Unlawful*', and lack of a definition in the Act and Code, which has led to misunderstandings meeting of Council.

This type of misunderstandings in Chambers has the potential to delay the business of Council pursuant to the Act and as defined by the Council Charter and Council Functions.

The issue to be considered by Council is the achievement of clarity in respect of what is unlawful.

A matter that does not comply with or fall outside of the provisions contained in the Local Government Act, other relevant legislation or Regulations and could be deemed as unlawful.

For the purposes of what Council wishes to allow as lawful Business of Council, is clearly defined by the relevant Acts and Codes. A definition needs to be adopted for Unlawful. A has been provided by The Executive Manager to the General Manager

Unlawful means, for the purposes of cl. 3.1.1 and 5.2.2 of this Code, any of the following:

- (a) *any act or omission that infringes a statutory or common law prohibition; or*
- (b) *any act or omission constituting an offence against domestic or foreign law"; or*
- (c) *any act or omission that :*
 - (i) *is inconsistent with the Charter set out in s. 8(1) of the Local Government Act 1993;*
 - or*
 - (ii) *is not in the proper exercise of a function conferred on Council under the Local Government Act 1993 or any other Act or law;*
 - or*
 - (iii) *where it involves a councillor exercising his or her role as a member of the governing body of Council, is inconsistent with the scope of that role as prescribed by s. 232(1) of the Local Government Act 1993, which states:*

The role of a councillor is, as a member of the governing body of the council:

3.6 Format of Future Notices of Motion - Resource Utilisation Leading up to the Local Government Election - September 2012 (contd)

- *to provide a civic leadership role in guiding the development of the community strategic plan for the area and to be responsible for monitoring the implementation of the council's delivery program*
- *to direct and control the affairs of the council in accordance with this Act*
- *to participate in the optimum allocation of the council's resources for the benefit of the area*
- *to play a key role in the creation and review of the council's policies and objectives and criteria relating to the exercise of the council's regulatory functions*
- *to review the performance of the council and its delivery of services, and the delivery program and revenue policies of the council.*

The legislative authority is clear that only the General Manager may determine the legality of a motion before a meeting, whilst the Chairperson has the authority during a meeting of the Council to rule a Motion unlawful.

The proposed definition of the word 'Unlawful' needs to be used in the context of the intention of the Act and Code. It is clear, that the General Manager has to determine the unlawfulness of a motion before Council meetings. The wording of the Act and Code provides for "*the opinion of the general manager*". An opinion is defined as a formal expression or a professional judgment given by a person after appraisal of facts and circumstances. The General Manager will and has the authority to exercise an opinion on what he/she deems as unlawful, in determining what is reasonable, the General Manager is to exercise this function by adopting a *reasonable person test* within the Wyong Shire Community and reviewing the Motions put forward by Councillors and make a ruling if such motion is unlawful and if unlawful remove any such motion from the Business Papers.

The Chairperson will be required to rule out of order any motion that is unlawful, as defined by Council or the implementation of which would be unlawful. Therefore, the Chairperson, may rule a motion unlawful, if the Chairperson is satisfied that such motion is Unlawful. If the definition is adopted by Council, it will provide a platform for the Chairperson to clearly rule on a motion that is unlawful without the need for a matter to be debated by Council

PROPOSAL

It is further proposed the following definition is adopted into the Wyong Shire Code of Meeting Practice:-

Unlawful means, for the purposes of cl. 3.1.1 and 5.2.2 of this Code, any of the following:

- (a) *any act or omission that infringes a statutory or common law prohibition; or*
- (b) *any act or omission constituting an offence against domestic or foreign law"; or*
- (c) *any act or omission that :*

(i) is inconsistent with the Charter set out in s. 8(1) of the Local Government Act 1993;

or

(ii) is not in the proper exercise of a function conferred on Council under the Local Government Act 1993 or any other Act or law;

or

(iii) where it involves a councillor exercising his or her role as a member of the governing body of Council, is inconsistent with the scope of that role as prescribed by s. 232(1) of the Local Government Act 1993, which states:

The role of a councillor is, as a member of the governing body of the council:

- *to provide a civic leadership role in guiding the development of the community strategic plan for the area and to be responsible for monitoring the implementation of the council's delivery program*
- *to direct and control the affairs of the council in accordance with this Act*
- *to participate in the optimum allocation of the council's resources for the benefit of the area*
- *to play a key role in the creation and review of the council's policies and objectives and criteria relating to the exercise of the council's regulatory functions*
- *to review the performance of the council and its delivery of services, and the delivery program and revenue policies of the council.*

In practice the process is suggested as follows:

1. NOM submitted by Councillor to WSC Corporate Governance within timeframe set out in the WSC Code of Meeting Practice.
2. NOM reformatted to meet WSC standard wording by Manager Corporate Governance (Councillor consulted).
3. NOM accepted or declined by General Manager based upon the definition of unlawful. Councillor advised if declined. GM report to Council any declined motions.
4. Accepted NOM included in next Agenda for Council meeting. Format of NOM to include:
 - Title of Motion
 - Content of Motion
 - GM's Note
 - Resources proposed and possible funding source (if required)
5. Staff comments on any resourcing on policy impacts.

Amendments to the Code of Meeting Practice must be made by adoption of a new code. Council must advertise the proposal for a period of 42 days for public comment. Should no significant objection be received it is proposed to adopt the new Code.

CONCLUSION

Council has sought advice as to options for ensuring the legitimacy of motions.

The business of Council is established by legislation including the Act, Regulations and the Code.

The General Manager must comply with the requirements of the Regulation and the Code in determining matters to be put on the Agenda for Council meetings as the business to be conducted by Council.

The proposal for Council to clarify the issue is by including a clear definition of what is unlawful for a Notice of Motion in the Code of meeting practice.

ATTACHMENTS

Nil.

4.1 Information Reports

TRIM REFERENCE: F2012/00026 - D03017139
MANAGER: Lesley Crawley; Manager Corporate Governance
AUTHOR: Monica Redmond; Councillor Services Officer

SUMMARY

In accordance with Council's Code of Meeting Practice reports for the Information of Council are provided for adoption either by nominated exception or in total.

RECOMMENDATION

That Council receive the report on Information Reports.

ATTACHMENTS

Nil.

4.2 Coal Seam Gas Enquiry

TRIM REFERENCE: F2004/07086 - D02999400

MANAGER: Peter Fryar; Manager Development Assessment

AUTHOR: Jane Doyle; Senior Administration Support Officer

SUMMARY

Reporting on a response received from Chris Hartcher MP, Minister for Resources and Energy, Special Minister of State and Minister for the Central Coast concerning coal seam gas enquiry.

RECOMMENDATION

That Council receive the report on Coal Seam Gas Enquiry.

BACKGROUND

Council at its meeting held on 14 September 2011 resolved unanimously on the motion of Councillor Wynn and seconded by Councillor Vincent:

"That Wyong Shire Council:

- 1 Write and thank the State Government for banning the chemicals used in the tracking process.*
- 2 Support the Coal Seam Gas (CSG) inquiry being undertaken by the NSW Legislative Council;*
- 3 Call on the NSW Government to ensure the role of councils is adequately considered in dealing with CSG exploration and production; and*
- 4 Calls on the government to institute a full moratorium on all forms of coal seam gas drilling until the environmental, social and health impacts have been rigorously and independently assessed.*
- 5 Rejects suggestions by industry that coal seam gas development is appropriate in residential areas, and calls on the government to rescind exploration licences over residential areas.*
- 6 Place a prohibition on coal seam gas exploration and mining in important bushland, valuable farmland, groundwater aquifers and public lands.*

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

AGAINST: NIL"

Council has now received a response from Chris Hartcher MP, Minister for Resources and Energy, Special Minister of State and Minister for the Central Coast concerning coal seam gas enquiry which is attached for your information.

ATTACHMENTS

- 1 Letter from Chris Hartcher MP (dated 26 April 2012) D02991743



Chris Hartcher MP
Minister for Resources and Energy
Special Minister of State and
Minister for the Central Coast

IM12/9849
MF12/2200

Ms Gina Vereker
Acting General Manager
Wyong Shire Council
PO Box 20
WYONG NSW 2259

Dear Ms Vereker

Thank you for your letter of 7 March 2012 to the Hon Robyn Parker MP, Minister for the Environment, Minister for Heritage, regarding Council's resolution of 14 September 2011 concerning the coal seam gas industry. As this matter falls within my portfolio administration, your correspondence was forwarded to me for reply.

The NSW Government has introduced stringent controls to address community concerns about the environmental impacts of coal seam gas exploration and production.

The Government's Strategic Regional Land Use Policy, announced on 6 March 2012, introduces a comprehensive range of environmental protections; a tough, independent assessment process for major resources projects, provides greater protection for our groundwater sources through the introduction of a new Aquifer Interference Policy, whilst providing certainty for industry by establishing clear rules and transparent assessment processes.

A draft Code of Practice for Coal Seam Gas Exploration (Code) and new community consultation guidelines have been released as part of a suite of tough controls regulating the industry under the NSW Government's Strategic Lands package.

The Code establishes a best practice framework covering community relations, landholder involvement and the use and protection of water resources. Compliance with the Code will be required as a condition of Exploration Licences. The draft Code was released for public comment until 3 May 2012 to allow the community and stakeholders to have a say.

Further information is available at www.haveyoursay.nsw.gov.au/regionallanduse.

Coal seam gas exploration in NSW is assessed under the *Environmental Planning and Assessment Act 1979*. As part of the approvals process, proponents are required to submit a Review of Environmental Factors that addresses all potential impacts of the proposal, including potential impacts on water resources. Companies now also provide details of chemicals to be used in coal seam gas drilling and their management.

IM12/9849
MF12/2200

Coal seam gas production proposals are required to obtain development consent under the State Significant Development provisions of the *Environmental Planning and Assessment Act 1979*. As part of this approval process, proponents are required to prepare and submit a comprehensive environmental assessment that addresses all potential impacts of the proposal, including impacts to aquifers and groundwater resources. The planning process also allows for community and agency consultation.

All applications for drilling and associated activities (including hydraulic fracturing – which is subject to an extended moratorium until April 2012) are required to identify the use of any chemical additives. These applications are jointly assessed by the Division of Resources and Energy (DRE), the Office of Environment & Heritage, the NSW Office of Water and the Department of Planning & Infrastructure as well as the Sydney Catchment Authority (where applicable). The knowledge and expertise contributed by each of these agencies ensures that all potential impacts of these activities are properly considered as part of the approval process.

Coal seam gas activities are regulated under the *Petroleum (Onshore) Act 1991*. Section 22 of the *Petroleum (Onshore) Act 1991* does not enable the Government to cancel an exploration licence if a company is legally conducting exploration in areas where it has landholder access approvals on what is a valid exploration licence.

The Government is committed to delivering the best protection for agricultural land in Australia and extremely tough controls on the coal seam gas industry.

Thank you for bringing this matter to my attention.

Yours sincerely



Chris Hartcher MP

26.4.12.

4.3 Coal Mining under Wyong Valleys

TRIM REFERENCE: F2006/01080 - D02999531

MANAGER: Peter Fryar; Manager Development Assessment

AUTHOR: Jane Doyle; Senior Administration Support Officer

SUMMARY

Council considered a Mayoral Minute at the 26 October 2011 Ordinary Meeting regarding the proposed Kores Wallarah 2 Coal Mine and a response has now been received from Darren Webber Member for Wyong.

RECOMMENDATION

That Council receive the report on Coal Mining under Wyong Valleys.

BACKGROUND

At the 26 October 2011 Ordinary Council meeting, Council considered a Mayoral Minute regarding KORES and resolved the following:

“RESOLVED unanimously on the motion of Councillor GRAHAM:

- 1 That Council request the General Manager write to the NSW Premier seeking the introduction of 'special legislation' to protect the Wyong Shire water catchment and valleys from mining.*
- 2 That Council request the General Manager to include, in Council's response to the Director-General of the DoP & I, a request that the Director-General's Requirements not be issued and the application by the Wyong Areas Coal Joint Venture for State Significant Development be refused.*
- 3 That taking into account the previous commitment by Gosford City Council in opposing the earlier application by KORES, Council request the General Manager write to Gosford City Council, the Central Coast Water Corporation and Lake Macquarie City Council requesting their support for the matters outlined in 1& 2 above.*
- 4 That Council request the General Manager write to the Federal Member for Dobell, Minister for the Central Coast and State Members for Wyong, The Entrance, Gosford and Lake Macquarie calling on their support in opposing this new application for coal mining in our valleys and water catchment.*
- 5 That Council direct the General Manager to also write to the Federal Member for Dobell on the status of his Private Members Bill.*

4.3 Coal Mining under Wyong Valleys (contd)

- 6 That Council direct the General Manager write to the Minister for Primary Industries requesting that the current exploration licence for Kores P/L not be renewed.

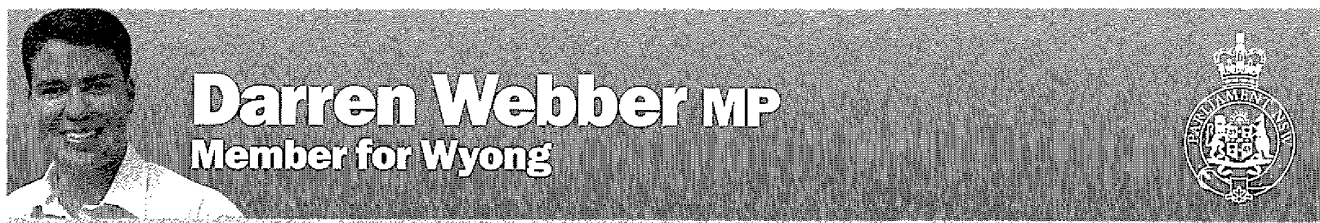
FOR: COUNCILLORS BEST, EATON, GRAHAM, MATTHEWS, MCNAMARA, SYMINGTON,
VINCENT, WEBSTER AND WYNN

AGAINST: NIL”

A response has now been received from Darren Webber MP, Member for Wyong which is attached for your information.

ATTACHMENTS

- 1 Letter from Darren Webber MP Member for Wyong D02867589



9 December 2011

Mr Michael Whittaker
General Manager
Wyong Sire Council
PO Box 20
WYONG NSW 2259

Dear Mr Whittaker

I write in response to your letter dated 4 November 2011 regarding Coal Mining under Wyong Valleys.

Please allow me to reaffirm my opposition to coal mining in the Wyong Valleys and my commitment to protecting the water catchment area of the Central Coast.

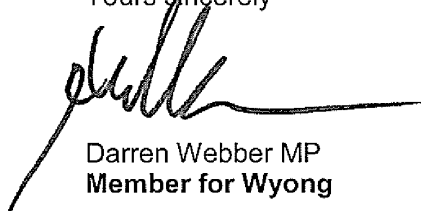
Along with the Australian Coal Alliance, I celebrated the mine being stopped, believing - as the entire Central Coast did - that the bid for a mine was finished.

Following the election, as part of the newly elected Coalition Government, we discovered Labor had not in fact stopped the mine at all – they had left the exploration licence in force.

I am opposed to coal mining within the Wyong Valleys and will continue to lobby my Government to protect the water catchment areas.

My office will endeavour to keep you up to date with any advances on this issue.

Yours sincerely



Darren Webber MP
Member for Wyong

4.4 Aboriginal Land Claims on land adjacent to Lakes Beach Surf Club Precinct

TRIM REFERENCE: CPA/169320 - D02948940

MANAGER: Gina Vereker; Director

AUTHOR: Lyn Littlefield; Team Coordinator

SUMMARY

This report provides information regarding aboriginal land claims that may relate to the 110 ha parcel of land surrounding the Lakes Beach Surf Club precinct.

RECOMMENDATION

That Council receive the report on aboriginal land claims on land adjacent to the lakes Beach Surf Club Precinct.

BACKGROUND

Council at its meeting held 8 February 2012, resolved unanimously on the motion of Councillor Graham and seconded by Councillor McNamara:

- "1 That Council request the General Manager to direct the Director Environment and Planning Services to investigate the implications of the Darkinjung and future land claims.*
- 2 That Council request the General Manager to submit a report detailing the outcome of the above investigations for its consideration.*

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

AGAINST: NIL"

Following investigations with the Department of Primary Industries a response was provided which advised Council as follows:

"Aboriginal Land Claim 35962 was lodged on 1st February 2012. There has been no notification in relation to this claim. Currently the Maitland office has no time frame for dealing with the claim. Unless a management direction to allocate resources for the priority investigation of the claim is received, it will remain a low priority.

The claim is over Lot 7318 DP1148096. This land is part of an existing Crown Reserve for Public Recreation (R88683) with Council as the appointed Trust Manager. Records available indicate that Council has been and continues to actively managing the reserve in accordance with its declared purpose.

4.4 Aboriginal Land Claims on land adjacent to Lakes Beach Surf Club Precinct (contd)

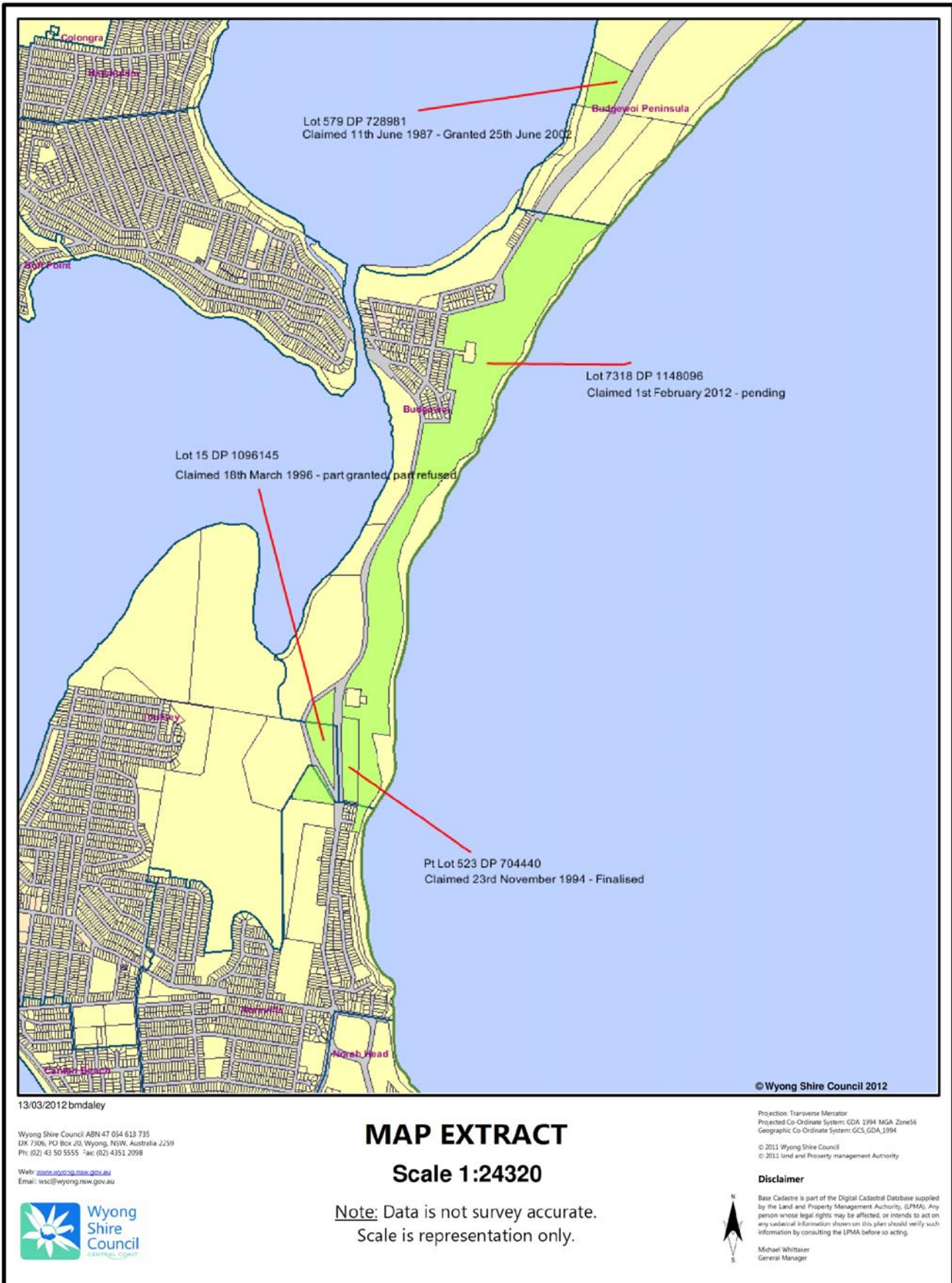
If this is true and council has the documentation to substantiate the management as evidence of lawful use and occupation as at the date of lodgement of the claim, then the land would not be claimable and a recommendation would be submitted to refuse the claim.

On this basis Council should continue to manage the reserve as if the claim did not exist.

If Council is aware of any reason why its management may not be in accordance with the purpose of the reserve then the Maitland office should be advised as soon as possible. I am aware from available aerial imagery, that the claimed part of the reserve is along the sea coast and is largely in what appears to be a natural state. There are areas where parking and access to the beach are provided and maintained, these include the Lakes Surf Life Saving Club. There are also large areas of vegetated land with some walking track visible. The important thing is to evidence management of these 'natural' areas, possibly by council arranged 'dune care' or similar projects."

ATTACHMENTS

- | | | |
|---|---|---------------------|
| 1 | Map of Budgewoi land claims summary (A4 Colour) | D02994126 |
| 2 | Copy of Report to Council 9 November 2011 | Enclosure D02828182 |



4.5 Mardi to Mangrove Link Project Status

TRIM REFERENCE: F2007/01120 - D03014388

MANAGER: Greg McDonald; Director Infrastructure Management

AUTHOR: Doug Marchant; Project Director

SUMMARY

Report on status of Mardi to Mangrove Link Project.

RECOMMENDATION

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

PROJECT SCOPE

- Wyong River off-take structure and pumping station
- Wyong River to Mardi-Dam 2.1 kilometre pipeline
- Inlet works at Mardi Dam
- Mardi-Mangrove transfer pumping station
- Mardi Dam to Mangrove Creek Dam 19 kilometre pipeline
- Lower Wyong River Weir, Fishway and Gauging

CURRENT STATUS

Expenditure to date	May 2012	\$107.4m
Value of works Complete	May 2012	\$114.2m
Approved Budget		\$120.6m
Overall Construction Status (excluding Commissioning)	Completion Date: June 2012	% Work Complete: 99%

Construction Status

	Scheduled Start	Scheduled Completion	% Work Complete
Milestone 1:		June 2012	99%
Pre-construction – Management Plans & Approvals	4 January 2010		100%
Work Package 1 – Wyong River Off-take	7 April 2010		100%
Work Package 2 – Wyong River Pump Station	19 February 2010		99%
Work Package 3 – Wyong Mardi Rising Main 3	16 February 2010		100%

4.5 Mardi to Mangrove Link Project Status (contd)

Work Package 4 – Wyong Mardi Inlet	6 May 2010		100%
Work Package 7 – Mardi Mangrove Transfer Main	1 March 2010		100%
Work Package 18 – Wyong Weir, Fishway & Gauging	5 August 2010		100%

Milestone 2:		4 April 2011	100%
Work Package 6 – Mardi Mangrove Transfer Pump Station	21 June 2010		100%
Milestone 3:		18 April 2012 *	100%
Commissioning	1 August 2011		

* **Formal agreement pending**

Key Dates

	Scheduled Completion	Actual Completion	Complete
Review of Environmental Factors (REF) submitted	30 June 2009	30 June 2009	☑
Call for Expressions of Interest (EOI)	9 July 2009	9 July 2009	☑
EOI closes	30 July 2009	30 July 2009	☑
Determination Approval	14 October 2009	23 September 2009	☑
Issue Request for Tenders (RFT)	16 October 2009	16 October 2009	☑
Tenders close	12 November 2009	12 November 2009	☑
Council consider Award of Construction Contract	9 December 2009	9 December 2009	☑
Expiry of PAN 90 day notification period	31 December 2009	31 December 2009	☑
Minister/Governor determination of compulsory acquisition applications	27 January 2010	27 January 2010	☑
Pipeline Construction	27 January 2011	25 September 2011	☑
Transfer Pump Station Construction	31 January 2011	4 April 2011	☑
Commissioning	6 May 2011	18 April 2012 *	☑
Project Completion	June 2011		☐
* Formal agreement pending			

Land Matters

- All properties have been restored (excluding minor outstanding works).
- 50/56 landholders have signed releases.
- Easement Plans have been prepared for all properties and have been sent to the Office of Water.

Stakeholder Liaison

Media

- Gosford City and Wyong Shire Councils, in collaboration with engineering partner GHD, have received industry recognition for the design of the Mardi-Mangrove Link in the Engineers Australia Excellence Awards, Newcastle Division for 2012.



Resident communication

- Direct liaison with affected landholders is ongoing via the Project Team.

Incidents

- No Environmental incidents.
- No Safety incidents.

Major Achievements / Issues

- Work Package 1: All construction work has been completed including commissioning. An issue with the pressure rating of the inlet mains is still to be resolved
- Work Packages 2, 3, 4, 6, 7, 18: All work has been completed (except for minor defects) including commissioning

4.5 Mardi to Mangrove Link Project Status (contd)

- Integrated commissioning is complete
- Operator training complete
- Council has taken over operation of the system under the 'Early Use' provisions of the Contract. The formal contractual handover is awaiting resolution of a number of defects to be completed by the Contractor. These defects are not interfering with the harvesting of water and transfers to Mangrove Creek Dam.

Major Achievements / Issues

Note: there are a number of minor outstanding works that do not affect operation of the pump stations

- Work Package 1: All construction work has been completed including commissioning. An issue with the pressure rating of the inlet mains is still to be resolved
- Work Package 2: All work has been completed including commissioning
- Work Package 3: All work has been completed including commissioning.
- Work Package 4: All work has been completed including commissioning
- Work Package 6: All work has been completed including commissioning
- Work Package 7: All work has been completed including commissioning.
- Work Package 18: All work has been completed including commissioning
- Intergraded commissioning is complete
- Operator training will commence this week, with project handover after training

ATTACHMENTS

Nil.

4.6 Private Construction of Shared Footpath on Southern Side of Alison Road, Wyong

TRIM REFERENCE: F2008/02123 - D03018434

MANAGER: Greg McDonald; Director Infrastructure Management

AUTHOR: Andrew Pearce; Manager, Roads and Stormwater

SUMMARY

Reporting to council on the circumstances surrounding the private construction of the shared pathway situated on the southern side of Alison Road, Wyong.

RECOMMENDATION

That Council receive the report on Private Construction of Shared Footpath on Southern Side of Alison Road, Wyong.

RESOLUTION OF COUNCIL 9 MAY 2012

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

- 1 That Council request the General Manager to report on the circumstances surrounding the private construction of the footpath situated on the southern side of Alison Road, Wyong.*
- 2 That Council request the General Manger to include in the report, but not be limited to, the following:*
 - the Council approvals required and the approvals obtained*
 - any potential liability and ongoing maintenance issues/costs to Council.*

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

AGAINST: NIL”

BACKGROUND

In March 2010 the LA Group of companies wrote to the then General Manager seeking Council's cooperation with it entering into a partnership to construct the 'Wyong River – Community Pathway'. The proposal was to construct a 3.15km shared path/cycleway over four stages from River Road Wyong following the river behind Wyong High School, continuing along Alison Road westward past the old dairy and finishing at Frames Lane located immediately east of the Wyong River Bridge on Yarramalong Road.

The proposal identified a number of sources of funding, including grant funding through the NSW state government under the then Community Building Partnerships Program (\$124,000) and a request for equal matched cash funding from Wyong Shire Council. The majority of construction labour was to be sourced through the entity of Youth Connections whom operate a program to assist young people aged 13-19 on the Central Coast to access employment, education, and training.

In addition to the cash contribution, further funding from Council was sought by way of the provision of works in kind by Council including the provision of required plant and machinery, some labour, resources to complete preconstruction planning/design/approvals, meet waste pickup/transport/disposal costs, and provide various other ancillary items.

In April 2010 the then Manager Customer and Community Services, whom had responsibility for shared pathways under the organisational structure at that time, wrote to the LA Group of Companies advising that Council was unable to support the request for funding however Council would support the project by way of in-kind professional assistance in the form of limited project management and attaining approvals. The basis of this decision was that Council's funding was already committed to other priority Council endorsed projects and that the subject shared pathway was not an identified priority within the adopted On-Road Bicycle and Shared Pathway Strategy Action Plan.

It is general practice that private entities construct pathways as conditions of consent of Development Applications assessed in accordance with Part 4 of the Environmental Planning and Assessment Act 1979. Council would then assess and approve the engineering details and undertake a program of development compliance inspections. In this unusual situation however the works were not associated with any adjoining or related development approval.

In the case of private developments and utility providers undertaking any type of works within Councils road corridor there is also a requirement to submit an application to Council for a Road Opening Permit or Roads Act approval prior to commencement of works. A requirement with the application is the submission of a Traffic Control Plan completed by a NSW Roads & Maritime accredited person and copies of relevant Public Risk and Workers Compensation Insurances. Council engineering staff would then review the proposal, issue the permit with conditions, and undertake compliance inspections.

Following further consideration and discussion between staff and LA Group in 2010, the relevant staff dealing with the matter from the previous Customer and Community Services Unit determined that the only approvals required were the internal consideration of the project under Part 5 of the Environmental Planning & Assessment Act 1979 on the basis that the works were deemed to be done for and on behalf of Council. This negated the need to submit a DA to Council or attain a controlled activity permit for excavation works within 40m of a waterway in accordance with the Water Management Act 2000.

Staff from the previous Customer and Community Service Unit assisted LA group in completing an environmental assessment under Part 5 of the Environmental Planning & Assessment Act 1979 for the first stage of the project encompassing the section along Alison Road between the old milk factory (dairy) and the Porters Creek Bridge. An internal Part 5 Environmental Assessment was subsequently endorsed in accordance with Council's procedure and correspondence issued to the LA Group by the Manager Customer and Community Services in April 2010 providing approval to proceed with the project.

4.6 Private Construction of Shared Footpath on Southern Side of Alison Road, Wyong (contd)

Construction commenced in October 2010 at around which time Development and Asset Management engineering staff became aware of the project and raised a number of concerns with respect to conflicts of utilities, the need to meet Austroads guideline standards, conflict with a proposed road pavement renewal project on Alison Road, traffic control, and construction quality. Engineering staff then became engaged (at no cost to the proponent) in the project and managed these issues directly with the relevant representatives from both Youth Connections and the LA Group. Construction was completed in early 2011.

Completion of the path has provided a beneficial asset to the community at minimal upfront cost to Council. There were a number of site constraints which limited the ability to construct the path at the current location however appropriate measures were implemented including narrowing the path around obstructions, raising of services, installation of barriers and drainage works.

Council will be required to meet the ongoing maintenance and operating costs of the pathway and ultimately asset renewal requirements into the future as is the case with any new pathway constructed in the Shire.

Since the completion of the construction it is noted that an isolated section of the pathway at a drainage crossing has suffered from premature failure and has since been replaced by Council.

A section of the pathway adjoining the Wyong River has recently been undermined as a result of ongoing stream bank erosion at this location. It is not considered that the shared pathway has contributed to the recent acceleration of the stream bank erosion. Reinstatement of this section of pathway will be undertaken as part of the planned Alison Road stream bank rehabilitation works scheduled for 2012/2013.

The LA Group has recently written to Council requesting in-principle approval to proceed with the next stage of the project (River Road to Hope Street). Council's Infrastructure Management, Environment & Planning and Community and Recreation Directorates are currently working together with the LA Group to consider the proposal and will ensure that Council is kept informed prior to any commitments to the project. Currently there is no commitment of Council to resource or fund the project.

ATTACHMENTS

Nil.

4.7 Outstanding Questions on Notice and Notices of Motion

TRIM REFERENCE: F2012/00026 - D03017142

MANAGER: Lesley Crawley; Manager Corporate Governance

AUTHOR: Monica Redmond; Councillor Services Officer

SUMMARY

Report on outstanding Questions on Notice and Notices of Motion.

RECOMMENDATION

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

ATTACHMENTS

- | | | | |
|---|---|-----------|-----------|
| 1 | Table of Outstanding Questions on Notice and Notices of Motion 13 June 2012 | Enclosure | D03022123 |
|---|---|-----------|-----------|

13 June 2012

To the Ordinary Council Meeting

Councillor

5.1 Notice of Motion - Hunter Link Opportunities

TRIM REFERENCE: F2004/07706 - D03018265

AUTHORS: Doug Eaton; Councillor
Bob Graham; Councillor

Councillors Doug Eaton and Bob Graham have given notice that at the Ordinary Council Meeting to be held on 13 June 2012 they will move the following Motion:

- "1 That Council note that the F3 freeway extension to Branxton is due for completion in about 1 year.*
- 2 That Council note that the link will reduce travel time from Wyong Shire to the Hunter mines to around 1 hour in comparison to travel from Newcastle to the mines of around 90 minutes.*
- 3 That Council investigate the opportunities for employment and economic development that the completion of this link will provide."*

RESOURCES

Likely resourcing would be in the vicinity of \$10-\$20K, to engage a consultant to prepare a scoping paper quantifying the opportunities and to identify key strategies that would enable Council to capitalise on this opportunity.

COUNCILLORS NOTE

This new road may allow viable commuting of our residents into these employment areas, allow mine related industries to locate in our employment areas and further encourage logistics businesses to locate around the F3 - Sparks Road intersection.

13 June 2012

To the Ordinary Council Meeting

Councillor

5.2 Notice of Motion - Circuses Using Council Facilities

TRIM REFERENCE: F2004/07706 - D03022208

AUTHOR: Sue Wynn; Councillor

Councillor Sue Wynn has given notice that at the Ordinary Council Meeting to be held on 13 June 2012 she will move the following Motion:

- "1 That Council immediately cease hiring parks, reserves and other Council facilities to circuses which include trained wild animals in their performances, such as elephants, lions, tigers, monkeys and apes.*
- 2 That Council require circuses using Council premises to limit their use of animals to domesticated animals.*
- 3 That Council request that the RSPCA ensure that such animals are kept in suitably large and comfortable enclosures and are subject to an appropriate level of inspection/supervision for the duration of their use of Council's facilities."*

RESOURCES

The implementation of this NOM will be undertaken by existing staff within the Environment and Planning Services Department. It is not envisaged that any additional resources would be required.

13 June 2012

To the Ordinary Council Meeting

Councillor

5.3 Notice of Motion - Cabbage Tree Bay, Norah Head Spearfishing Closure

TRIM REFERENCE: F2004/07706 - D03028484

AUTHOR: Greg Best; Councillor

Councillor Greg Best has given notice that at the Ordinary Council Meeting to be held on 13 June 2012 he will move the following Motion:

- "1 That Council recognise the potential risks associated with the confined and conflicting recreational usages within Cabbage Tree Bay, Norah Head, as a consequence of the increased popularity of family bathing, spear fishing and recreational boating.*

- 2 That Council proactively commence dialogue with Fisheries, Waterways (RMS) and key stake holder groups to better manage the environs and reduce risks associated with conflicting usages and with a view to establishing a spear fishing closure within the Cabbage Tree Bay."*

RESOURCES

Initial consultation, draft reports and research required to respond will take approximately 70 hours with the utilisation of 1 staff member as a resource.

- 1 Cabbage Tree Harbour Map D03029566**



Spear Fishing Closure - Cabbage Tree Bay, Norah Head

13 June 2012

To the Ordinary Council Meeting

Councillor

5.4 Notice of Motion - Whale Dreamers Festival 2012

TRIM REFERENCE: F2004/07706 - D03028501

AUTHOR: Greg Best; Councillor

Councillor Greg Best has given notice that at the Ordinary Council Meeting to be held on 13 June 2012 he will move the following Motion:

- "1 That Council recognise the outstanding conservational and educational efforts of our local community and council staff in the delivery of the seventh annual Whale dreamers festival scheduled for 1 July 2012.*
- 2 That Council actively promote this important event through its various media/communications mediums.*
- 3 That Council reaffirms, as an advocate on behalf of our local community, its strong opposition to the continued commercial whaling within the Antarctic's Marine/Whale Sanctuary."*

RESOURCES

The implementation of this NOM will be undertaken by existing staff within the Community and Recreation Services Department.

It is not envisaged that any additional resources would be required.

13 June 2012

To the Ordinary Council Meeting

Councillor

5.5 Notice of Motion - Shooting in National Parks and Conservation Areas

TRIM REFERENCE: F2004/07706 - D03028415

AUTHOR: Sue Wynn; Councillor

Councillor Sue Wynn has given notice that at the Ordinary Council Meeting to be held on 13 June 2012 she will move the following Motion:

- "1 That Council note that the NSW Government is to allow shooting in National Parks and other conservation reserves.*
- 2 That Council note that the NSW Government is to allow shooting in conservation reserves in the Wyong Shire Local Government Area.*
- 3 That Council note that it is irresponsible for any government to be proposing an activity which will endanger members of the public and others who use conservation reserves for recreational purposes.*
- 4 That Council oppose this dangerous proposal by the NSW government.*
- 5 That Council write to the Premier of NSW and the Environment Minister in opposition to the proposal to allow private shooting in conservation reserves."*

RESOURCES

The implementation of this NOM will be undertaken by existing staff within the Environment and Planning Services Department. It is not envisaged that any additional resources would be required.

COUNCILLORS NOTE

That Council note:

1. The NSW Government is to allow shooting in 79 National Parks and other conservation reserves.
2. The NSW Government is to allow shooting in conservation reserve in the Wyong Shire Local Government Area.
3. Feral animals need to be controlled but amateur recreational hunting is not an effective way to do it.
4. Public safety will be put at risk.
5. Parks when hunting takes place? Animal welfare will be put at risk. There can be no assurances that hunting will be humane.

5.5 Notice of Motion - Shooting in National Parks and Conservation Areas (contd)

6. The conservation of threatened species and breeding birds will be put at risk. Consider that internationally important wetlands and havens for birdlife like Macquarie Marshes and Myall Lakes will be open to hunting.
7. More than two million hectares of other public land, such as State Forests, are already accessible to hunters for their recreation.
8. Feral animal control requires well designed, sustained, targeted and humane eradication strategies. No mainstream conservation organisation supports recreational hunting for feral animal control. Even the Invasive Species Council, which campaigns specifically for effective feral animal control, rejects recreational hunting in National Parks because evidence shows that recreational hunting usually does not provide effective feral animal control and creates a serious risk of worsening feral animal problems.
9. Government codes of practice specify that ground shooting is ineffective to control most feral animals including foxes, pigs, goats and rabbits.
10. Ad hoc recreational hunting can be counter productive to feral animal control. It can scare feral animals into new areas, make them increasingly wary to the efforts of professional shooters and can even increase localised feral animal breeding rates. For example, shooting foxes can be futile because most young foxes do not live long unless an adult fox dies creating a vacancy for them to occupy. Shooting the occasional fox creates that vacancy. In most cases, killing one feral animal means that another will survive to take its place and population reduction is not achieved.
11. The Invasive Species Council has compiled statistics which show the number of feral animals killed by hunters between 2006 and 2008 amounted to less than two feral animals on average per licenced hunter and less than one animal killed per hunting day. Such trivial hunting rates will not improve in National Parks and will not assist genuine feral animal control.
12. Victoria had a fox bounty in 2002-03 that resulted in 170,000 dead foxes, but was abandoned because it didn't work. A 2005 review of the scheme by DPI biologists found that it reduced fox abundance in less than 4% of the state and that numbers would quickly bounce back or climb even higher as a consequence of hunting.