



The threatened Swift Parrot migrates to the Central Coast each winter from Tasmania. Council staff have planted flowering native trees and shrubs to restore the habitat and help ensure their continued survival. Photographer: Geoffrey Dabb

ORDINARY MEETING

13 May 2009



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MEETING NOTICE

**The ORDINARY MEETING
of Wyong Shire Council
will be held in the Council Chamber,
Wyong Civic Centre, Hely Street, Wyong on
WEDNESDAY 13 MAY 2009 at 5.00 pm,
for the transaction of the business listed below:**

OPENING PRAYER

ACKNOWLEDGEMENT OF COUNTRY

RECEIPT OF APOLOGIES

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

Kerry Yates
GENERAL MANAGER

1.1 Disclosures of Interest

TRIM REFERENCE: F2009/00008 - D01888797

AUTHOR: ED

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

TRIM REFERENCE: F2009/00008 - D01888813

AUTHOR: ED

SUMMARY

Inspections proposed to be held on 3 June 2009 are listed as follows:

Date of Inspection	Location	Requested By
3 June 2009	Roads and Drainage Rolling Works	Manager Roads and Drainage

RECOMMENDATION

That Council receive the report on Proposed Inspections.

1.3 Address by Invited Speakers

TRIM REFERENCE: F2009/00008 - D01888831

AUTHOR: ED

SUMMARY

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

RECOMMENDATION

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

1.4 Confirmation of Minutes of Previous Meeting

TRIM REFERENCE: F2009/00008 - D01888854

AUTHOR: ED

SUMMARY

Confirmation of minutes of the previous Ordinary Meeting of Council held on 22 April 2009.

RECOMMENDATION

That Council confirm the minutes of the previous Ordinary Meeting of Council held on 22 April 2009.

ATTACHMENTS

- 1 Minutes of Ordinary Meeting held on 22 April 2009

WYONG SHIRE COUNCIL
MINUTES OF THE
ORDINARY MEETING OF COUNCIL
HELD IN THE COUNCIL CHAMBER
WYONG CIVIC CENTRE, HELY STREET, WYONG
ON WEDNESDAY, 22 APRIL 2009,
COMMENCING AT 5.02 PM

PRESENT

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

IN ATTENDANCE

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

ACTING MANAGER CORPORATE AND ADMINISTRATION SERVICES, CULTURAL PLANNER AND CONTRACTOR CONTRACTS.

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

JOHN HARDWICK DELIVERED THE OPENING PRAYER AND READ AN ACKNOWLEDGMENT OF COUNTRY STATEMENT.

APOLOGIES

THERE WERE NO APOLOGIES.

1.1 Disclosure of Interest

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

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

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

AGAINST: NIL.

1.2 Proposed Briefings

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

That Council receive the report on Proposed Briefings.

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

AGAINST: NIL.

1.3 Proposed Inspections

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

That Council receive the report on inspections held on 22 April 2009.

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

AGAINST: NIL.

1.4 Address By Invited Speakers

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

That Council note that there are no speakers.

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

AGAINST: NIL.

1.5 Confirmation of Minutes of Previous Meetings

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

That Council confirm the minutes of the previous Ordinary Meeting of Council held on 8 April 2009 and the Extraordinary Meeting held on 15 April 2009.

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

AGAINST: NIL.

BUSINESS ARISING FROM THE MINUTES

THERE WAS NO BUSINESS ARISING FROM THE MINUTES.

2.1 Proposed Strata Subdivision, Tumbi Umbi

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

That Council approve Development Application 38/2009 subject to the conditions attached to this report. In making this decision, Council have regard to the matters for consideration under Section 79C of the Environmental Planning and Assessment Act, 1979 and other relevant issues detailed in the report.

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

AGAINST: NIL.

3.1 Proposed Easement for Drainage over Lot 390 DP 30316 Eyre Crescent, San Remo

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

- 1 That Council acquire an easement for drainage 3.5m wide and 12m long over Lot 390 DP 30316.**
- 2 That Council authorise the payment of compensation, if necessary, for the acquisition of the easement in Item 1 in accordance with the Land Acquisition (Just Terms Compensation) Act 1991 and based on assessment by a qualified valuer.**
- 3 That Council proceed to compulsorily acquire the easement in the event that negotiations with the property owner cannot be satisfactorily resolved.**
- 4 That Council authorise for the Common Seal of the Wyong Shire Council to be affixed to the formal documents for Transfer of the land and any application for compulsory acquisition.**
- 5 That Council authorise the Mayor and the General Manager to execute all documents.**

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

AGAINST: NIL.

4.1 Contract CPA 149736 - Supply, Delivery and Laying of Turf at Bateau Bay Landfill

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

- 1 That Council decline to accept any of the tenders received.**
- 2 That Council re-invite tenders on the basis of an expanded scope of works to include the supply and placement of the growing medium and turf.**

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

AGAINST: NIL.

4.2 Contract Variations - March 2009

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

That Council note the variations to contracts (Attachment 1).

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

AGAINST: NIL.

5.1 2009 National General Assembly of Local Government

EXTENSION OF TIME

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

That an extension of two minutes be granted to Councillor Eaton.

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

AGAINST: COUNCILLOR McBRIDE AND VINCENT.

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

- 1 That Council authorise interested Councillors to attend the 2009 National General Assembly of Local Government between 21 and 24 June 2009.**
- 2 That Council pay expenses incurred by Councillors attending the Assembly in accordance with Council's Facilities and Expenses Policy for Councillors.**
- 3 That Council determine the Mayor to be the voting delegate.**
- 4 That Council propose the following motions to the Assembly;**
 - a That the Assembly calls on the Federal Government to fund and expedite the F3 to M7 link.**
 - b That the Assembly calls on the Federal Government to fund the construction of a very fast train from Williamstown to Sydney.**

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

AGAINST: COUNCILLORS McBRIDE, MATTHEWS AND VINCENT.

5.2 Re-establishment of Alcohol Free Zones within Wyong Shire

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

- 1 That Council propose the renewal of all Alcohol Free Zones within Wyong Shire until 30 June 2013 as outlined in the attachments and complete the required public consultation process.**
- 2 That Council advise the NSW Anti-Discrimination Board of the proposal.**
- 3 That Council determine the renewal of the Alcohol Free Zone Regulations upon receipt of a report at a later date, following the public consultation process.**

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

AGAINST: NIL.

5.3 Proposed Councillors' Community Improvement Grants

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

That Council allocate an amount of \$7,925 from the 2008-09 Councillors' Community Improvement Grants as outlined in the report.

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

AGAINST: NIL.

5.4 Parental Leave

COUNCILLOR VINCENT LEFT THE CHAMBER AT 5.59 PM AND RETURNED TO THE CHAMBER AT 6.00 PM DURING CONSIDERATION OF THIS ITEM.

COUNCILLOR BEST LEFT THE CHAMBER AT 6.16 PM AND RETURNED TO THE CHAMBER AT 6.17 PM DURING CONSIDERATION OF THIS ITEM.

COUNCILLOR MATTHEWS LEFT THE CHAMBER AT 6.30 PM AND RETURNED TO THE CHAMBER AT 6.31 PM DURING CONSIDERATION OF THIS ITEM.

It was *MOVED* by Councillor WYNN and *SECONDED* by Councillor VINCENT:

That Council authorise the General Manager to vary the 2008-09 Management Plan to allow the immediate introduction of the following parental leave entitlements as standard conditions for staff:

- a Eighteen weeks maternity leave at full pay or 36 weeks at half pay.*
- b Two weeks paternity leave at full pay or four weeks paternity leave at half pay.*
- c That this resolution be forwarded to the 2009 National General Assembly of Local Government between 21 and 24 June 2009 as a motion.*

An *AMENDMENT* was moved by Councillor EATON and seconded by Councillor BEST:

- 1 That Council in principle support additional maternity and paternity leave entitlements.*
- 2 That a resolution of this matter be deferred pending further information on award negotiation progress and other employment outcomes from an investment of \$200,000 per annum.*

The *AMENDMENT* was put to the *VOTE* and declared *LOST*.

FOR: COUNCILLOR EATON.

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

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

That Council authorise the General Manager to vary the 2008-09 Management Plan to allow the immediate introduction of the following parental leave entitlements as standard conditions for staff:

- a Eighteen weeks maternity leave at full pay or 36 weeks at half pay.***
- b Two weeks paternity leave at full pay or four weeks paternity leave at half pay.***
- c That this resolution be forwarded to the 2009 National General Assembly of Local Government between 21 and 24 June 2009 as a motion.***

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

AGAINST: NIL.

5.5 Revised Liquid Trade Waste Policy

COUNCILLOR VINCENT LEFT THE CHAMBER AT 6.41 PM AND RETURNED TO THE CHAMBER AT 6.43 PM AND AS A RESULT TOOK NO PART IN VOTING.

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

- 1 ***That Council exhibit the Liquid Trade Waste Policy for public comment.***
- 2 ***That Council adopt the policy subject to no significant objections as a result of the exhibition.***
- 3 ***That Council consider a further report if there are significant objections.***

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

AGAINST: NIL.

5.6 Proposed Central Coast Water Corporation

COUNCILLOR VINCENT LEFT THE CHAMBER AT 6.41 PM AND RETURNED TO THE CHAMBER AT 6.43 PM DURING CONSIDERATION OF THIS ITEM.

COUNCILLOR BEST LEFT THE CHAMBER AT 7.22 PM AND RETURNED TO THE CHAMBER AT 7.26 PM AND AS A RESULT TOOK NO PART IN VOTING.

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

That Council concur with the process to engage an expert advisor to assist both Wyong Shire and Gosford City Councils to undertake a due diligence analysis to determine and assess any risks or issues in the formation of a Central Coast Water Corporation and to identify potential actions to address these.

An AMENDMENT was moved by Councillor EATON and seconded by Councillor BEST:

That Council invite the proposed expert advisor to address Council prior to a decision on his appointment.

The AMENDMENT was put to the VOTE and declared LOST.

FOR: COUNCILLOR EATON.

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

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

That Council concur with the process to engage an expert advisor to assist both Wyong Shire and Gosford City Councils to undertake a due diligence analysis to determine and assess any risks or issues in the formation of a Central Coast Water Corporation and to identify potential actions to address these.

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

AGAINST: COUNCILLOR EATON.

6.1 Information Reports

COUNCILLOR BEST LEFT THE CHAMBER AT 7.22 PM AND RETURNED TO THE CHAMBER AT 7.26 PM DURING CONSIDERATION OF THIS ITEM.

COUNCILLOR SYMINGTON LEFT THE CHAMBER AT 7.25 PM AND RETURNED TO THE CHAMBER AT 7.28 PM AND AS A RESULT TOOK NO PART IN VOTING.

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

That with the exception of report number 6.3 the information reports be received and the recommendations adopted.

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

AGAINST: NIL.

6.2 Activities of the Development Assessment Unit

COUNCILLOR SYMINGTON LEFT THE CHAMBER AT 7.25 PM AND RETURNED TO THE CHAMBER AT 7.28 PM AND AS A RESULT TOOK NO PART IN VOTING.

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

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

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

AGAINST: NIL.

6.3 General Works In Progress

COUNCILLOR SYMINGTON LEFT THE CHAMBER AT 7.25 PM AND RETURNED TO THE CHAMBER AT 7.28 PM DURING CONSIDERATION OF THIS ITEM.

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

That Council receive the report on General Works In Progress.

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

AGAINST: NIL.

6.4 Water and Sewerage - Works in Progress

COUNCILLOR SYMINGTON LEFT THE CHAMBER AT 7.25 PM AND RETURNED TO THE CHAMBER AT 7.28 PM AND AS A RESULT TOOK NO PART IN VOTING.

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

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

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

AGAINST: NIL.

6.5 Audit for Best Practice Management Guidelines for Water Supply and Sewerage

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

That Council receive the report on Audit for Best Practice Management Guidelines for Water Supply and Sewerage.

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

AGAINST: NIL.

6.6 Minutes of the Wyong Shire Senior Citizens Council Meeting of 26 February 2009

COUNCILLOR SYMINGTON LEFT THE CHAMBER AT 7.25 PM AND RETURNED TO THE CHAMBER AT 7.28 PM AND AS A RESULT TOOK NO PART IN VOTING.

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

That Council receive the report on Minutes of the Wyong Shire Senior Citizens Council Meeting of 26 February 2009.

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

AGAINST: NIL.

6.7 Finalisation of Contracts

COUNCILLOR SYMINGTON LEFT THE CHAMBER AT 7.25 PM AND RETURNED TO THE CHAMBER AT 7.28 PM AND AS A RESULT TOOK NO PART IN VOTING.

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

That Council receive the report on Finalisation of Contracts.

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

AGAINST: NIL.

6.8 Outstanding Questions Without Notice and Notices of Motion

COUNCILLOR SYMINGTON LEFT THE CHAMBER AT 7.25 PM AND RETURNED TO THE CHAMBER AT 7.28 PM AND AS A RESULT TOOK NO PART IN VOTING.

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

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

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

AGAINST: NIL.

8.1 Notice of Motion - Pile Creek Culvert

COUNCILLOR McBRIDE LEFT THE CHAMBER AT 7.34 PM AND RETURNED TO THE CHAMBER AT 7.36 PM DURING CONSIDERATION OF THIS ITEM.

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

That due to the failure of Pile Creek Culvert, Council take a proactive approach to the findings and recommendation of the Ministers investigation into this event through receiving and considering a report from staff at their earliest convenience on this important issue as tabled by Mr Dick Persson and Mr Alan Griffin appointed to investigate.

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

AGAINST: NIL.

8.2 Notice of Motion - Webcasting Council Meetings

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

That Council prepare a report on the cost, feasibility and other relevant issues of webcasting Council meetings.

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

AGAINST: NIL.

8.3 Notice of Motion - Wyong Performing Arts Centre Working Party

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

That a working party consisting of the Mayor, interested Councillors, staff and user group representatives be formed to monitor and progress the Wyong Performing Arts Centre.

An AMENDMENT was moved by Councillor WYNN and seconded by Councillor McBRIDE:

That Council defer this motion until a report is provided on the Wyong Performing Arts Centre in May 2009.

The AMENDMENT was put to the VOTE and declared LOST.

FOR: COUNCILLORS McBRIDE, MATTHEWS, VINCENT AND WYNN.

AGAINST: COUNCILLORS BEST, EATON, GRAHAM, McNAMARA, SYMINGTON AND WEBSTER.

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

That a working party consisting of the Mayor, interested Councillors, staff and user group representatives be formed to monitor and progress the Wyong Performing Arts Centre.

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

AGAINST: COUNCILLORS McBRIDE, MATTHEWS AND VINCENT.

QUESTIONS WITHOUT NOTICE ASKED

Q024 – Traffic Along Coachwood Road, Ourimbah

Councillor EATON

C2009/05521

“Could staff report on accident history and speeding at Coachwood Road, Ourimbah and any proposed/possible traffic calming measures?”

Q025 – Repairs of The Long Jetty

Councillor EATON

F2005/02289

“As The Long Jetty (wooden) has further deteriorated and now is in a dangerous state when will Council commence repairs?”

Q026 – Fish Cleaning Facilities

Councillor WYNN

M2009/00569

“Does Council have any strategic plans for fish cleaning facilities at or near the Shire’s boat ramps?”

Q027 – Virgin Excavated Natural Material (VENM)

Councillor WYNN

F2004/06762

“Is virgin excavated natural material (VENM) from work construction sites deemed contaminated if it is not used within 48 hours and does it then have to be removed to our landfill sites?”

Q028 – Completion of Fisherman’s Wharf

Councillor WEBSTER

CPA/98272

“Could staff please advise when the Fisherman’s Wharf complex at The Entrance will be completed? I make particular reference to the temporary safety rail along the Boardwalk, the refuse area which is exposed and the painting of the building?”

Q029 – Fisherman’s Wharf Waste Removal

Councillor WEBSTER

F2004/06766

“Is there anything that Council can do to encourage the owners to have more than two refuse pickups per week, as the strong odour of rotting food scraps is affecting other businesses in the area?”

THERE BEING NO FURTHER BUSINESS, THE MEETING CLOSED AT 8.29 PM.

.....
CHAIRPERSON

2.1 Notice of Intention to Deal with Matters in Confidential Session

TRIM REFERENCE: F2009/00008 - D01895093

AUTHOR: TAD

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 Section 10A(2)(c) of the Local Government Act 1993:**
 - 10.1 Warnervale Airport**
- 2 That Council note its reason for considering Report No 10.1 as it may confer a commercial advantage (Section 10A(2)(c)) should the discussions be held in a non-confidential environment.**
- 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(c) information that would, if disclosed, confer a commercial advantage on a person with whom the Council is conducting (or proposed to conduct) business;,"

3.1 Draft LEP (Amendment No 172) and Draft DCP 2005 Chapter 110 - Centre Support Development, Bateau Bay

TRIM REFERENCE: RZ/6/2005 - D01885237

AUTHOR: JO

SUMMARY

An application has been received to rezone part of Lot 514 DP 729979 from 5(a) (Clubs and Community Purposes) to 3(b) (Centre Support Zone). This rezoning has required the preparation of draft DCP 2005: Chapter 110 – Centre Support Development, Bateau Bay (Draft DCP).

The draft Local Environmental Plan (LEP) and Draft DCP were publicly exhibited between Wednesday, 5 November 2008 and Friday, 5 December 2008. This report recommends that the Minister for Planning be requested to create the plan and the adoption by Council of draft DCP 2005: Chapter 110 – Centre Support Development, Bateau Bay.

It is proposed that this rezoning will proceed separately to the comprehensive LEP process as the ultimate use of the site will generate employment for the Shire.

RECOMMENDATION

- 1 That subject to the transfer of part Lot 514 to Council in fee simple, Council request the Minister for Planning to create the Local Environmental Plan subject to the following:**
 - a That an appropriate positive covenant be applied to the subdivision plan of Lot 514 DP 729979 which benefits Council with respect to the establishment of a community facility/library to address issues associated with the location and placement of car parking spaces generated by this facility.**
 - b That the existing Deed of Agreement between Wyong Shire Council and the NSW Department of Lands (The Crown) be modified to reflect the above.**
- 2 That Council adopt draft Development Control Plan 2005: Chapter 110 - Centre Support Development, Bateau Bay and provide appropriate public notice within 28 days.**
- 3 That Council resolve that the revised Development Control Plan will become effective on the date of gazettal LEP Amendment No. 172.**
- 4 That Council apply the provisions of the adopted Development Control Plan to all Development Applications received on or after the date of gazettal of LEP Amendment No. 172.**
- 5 That Council forward a copy of DCP 2005 containing the adopted Chapter 110 - Centre Support Development, Bateau Bay to the Director-General of the NSW Department of Planning within 28 days.**
- 6 That Council note its Section 149 Certificates.**
- 7 That Council advise all those who made submissions of Council's decision.**

3.1 Draft LEP (Amendment No 172) and Draft DCP 2005 Chapter 110 - Centre Support Development, Bateau Bay (contd)

INTRODUCTION

Draft LEP (Amendment No. 172) (Draft LEP) involves the rezoning of part of Lot 514 DP 729979 from 5(a) (Clubs and Community Purposes) to 3(b) (Centre Support Zone). This will enable the development of the site for purposes permissible within this zone, including large scale commercial premises (bulky goods). The site adjoins the existing Bay Village Shopping Centre at Bateau Bay.

Council resolved to prepare the draft LEP and draft DCP in December 2005.

The draft LEP and draft DCP were publicly exhibited between Wednesday, 5 November 2008 and Friday, 5 December 2008. This report outlines the issues raised as a result of the exhibition and recommends the adoption of the draft DCP 2005: Chapter 110 – Centre Support Development, Bateau Bay and that Council request the Minister for Planning to create the plan.

BACKGROUND

Council received a rezoning proposal in 1998 to rezone Lot 514 DP 729979 from 5(a) (Clubs and Community Purposes) to 3(a) (General Business). Whilst at that time Council was supportive of the proposed 3(a) (General Business) zone, Council requested a Masterplan for the site to indicate the proposed form, type and location of retail development and services. The applicant declined to prepare a masterplan and the rezoning was withdrawn by the applicant in June 2002.

The applicant subsequently reactivated the rezoning in 2003 and provided Council with updated information in support of this application in August 2005. During this period Council had engaged a Retail Consultant to assess the appropriateness of the original proposed 3(a) (General Business) zone. Their assessment determined that rezoning the site to 3(a) would result in an oversupply of this type of retail activity within the area; however rezoning the site to 3(b) (Centre Support) would not adversely affect the surrounding retail area.

In addition to the above, Council examined the community facility requirements that would be needed for an expanded Bay Village precinct. As the range of businesses, services and visitations to the Bay Village precinct increases there is an increased demand for community services. As a result of investigations, it was determined that there is potential for an Integrated Library and Customer Service Centre in the locality which would include an extended library and a new customer service centre.

At its meeting of 14 December 2005, Council

“Resolved unanimously on the motion of Councillor Stewart and seconded by Councillor Eaton:

- 1 *That a draft Local Environmental Plan be prepared to rezone part Lot 514 DP 729979, Bateau Bay from Zone No 5(a) Special Uses (Clubs and Community Purposes) to Zone No. 3(b) Centre Support under Wyong Local Environmental Plan, 1991.*
- 2 *That the Department of Planning be advised of the decision within 28 days.*

3.1 Draft LEP (Amendment No 172) and Draft DCP 2005 Chapter 110 - Centre Support Development, Bateau Bay (contd)

- 3 *That the Department of Planning be further advised that Council's delegate proposes to exercise the delegations under Section 65 and if appropriate, under Section 69 of the Environmental Planning and Assessment Act 1979.*
- 4 *That upon issue of the Section 65 Certificate, the draft Local Environmental Plan be advertised for 28 days in accordance with the NSW Department of Planning's "LEPs and Council Land: Best Practise Guidelines, January 1997" and referred to the appropriate authorities for comment.*
- 5 *That should no significant objections be received as a result of the exhibition, the Minister for Planning be requested to create the Local Environmental Plan.*
- 6 *That a Deed of Agreement be prepared between the NSW Department of Lands (The Crown) and Wyong Shire Council that transfers in fee simple part of Lot 514 to Council, at no cost, for the development of an Integrated Library and Customer Service centre.*
- 7 *That the land to be transferred in fee simple as part of the Deed of Agreement between The NSW Department of Lands (The Crown) and Council be transferred into Council ownership prior to the rezoning being referred to the Minister for Gazettal under s.69 of the Environmental Planning and Assessment Act 1979 or the site being sold, whichever happens first.*
- 8 *That Council authorise the Mayor and the General Manager to execute all documents relating to the Deed of Agreement between Wyong Shire Council and the NSW Department of Lands (The Crown).*
- 9 *That Development Control Plan 2005 be amended and exhibited to guide future development on Lot 514 DP 729979, Bateau Bay.*
- 10 *That the applicant be requested to submit a detailed traffic report prior to the draft Local Environmental Plan and Development Control Plan being placed on public exhibition.*
- 11 *That Council's Section 149 Certificates be noted."*

In accordance with resolution No. 6 above a Deed of Agreement between Council and the NSW Department of Lands was entered into. This deed actions the transfer of 1,800m² of the rezoned portion of Lot 514 DP 729979 to Council. Transfer of this land into Council ownership must occur prior to the Draft LEP being referred to the Department of Planning (DoP) for gazettal (Section 69 report) or the site being sold, whichever happens first.

The Deed of Agreement also required the lodgement of a positive covenant on the lots created by the subdivision of Lot 514 DP 729979 to ensure that the provision of car parking for the community facility/library is provided by the developer on the adjoining portion of the subject site to be rezoned.

The plan for the subdivision of Lot 514 DP 729979 is expected to be lodged by the Department of Lands (DoL) with the Lands Title Office in the coming weeks. The covenant to be lodged with this subdivision is currently being developed by the DoL in consultation with Council staff. In order to ensure that consistency of lot descriptions is achieved, the current executed Deed of Agreement and the Draft LEP Instrument and Map (Attachments 2 and 3) will need to be amended to reflect the new lot and DP created by the subdivision of Lot 514 DP 729979.

3.1 Draft LEP (Amendment No 172) and Draft DCP 2005 Chapter 110 - Centre Support Development, Bateau Bay (contd)

In accordance with resolution No. 9 above an additional chapter of DCP 2005 was prepared (See Enclosure) to guide future development on Lot 514 DP 729979 once rezoned to 3(b) (Centre Support).

Key aspects of this draft Chapter 110: Centre Support Development, Bateau Bay include:

- A development bonus of an additional 1,800m² above the maximum allowable floor space under Chapter 81 – Retail Centres (being 5,000m²) subject to the lodgement of a satisfactory development application and assessment under s79C of the EP&A Act;
- The provision of all car parking associated with the community facilities is to be accommodated within the development occurring on the remainder of Lot 514 which is zoned 3(b) (Centre Support);
- Development on Lot 514 to be consistent with the themes and styles of the adjoining Bay Village Development;
- Adequate provision of public transport and upgrading requirements for existing road networks.

GOVERNMENT AGENCY CONSULTATION

During the consultation with Government agencies required under the EP& A Act, 1979 the Roads and Traffic Authority (RTA) held a formal objection to the proposal in relation to:

- Public transport accessibility to the site;
- Road network improvements;
- The consideration of traffic generation from the proposed library / customer service centre;
- The traffic volumes identified within the report; and
- The traffic generation rates for the current Bay Village Shopping centre.

This formal objection has since been removed as a result of the submission of additional traffic studies which satisfied the last three issues identified above. However, the RTA did require that the remaining issues to public transport accessibility and improvements to the road network, were resolved prior to a request being made to the Minister to rezone the land.

Given that the formal Section 62 objection was removed, the plan and draft DCP were placed on public exhibition from 5 November 2008 to 5 December 2008.

Whilst on public exhibition, submissions with regard to the provision of public transport within the Bay Village development were received. As a result of these submissions and further consultation between the RTA and Council staff, the public transport accessibility issues and road network improvements of the RTA have now been resolved to the satisfaction of the parties involved. This will allow the dLEP to proceed.

Additional controls have been incorporated within the draft LEP Instrument and draft DCP to address these issues.

3.1 Draft LEP (Amendment No 172) and Draft DCP 2005 Chapter 110 - Centre Support Development, Bateau Bay (contd)

These controls include:

- Requirement for a formal assessment of the bus interchange options to be conducted by appropriately qualified personnel to the satisfaction of the RTA and Council; and
- Requirements for the intersection upgrade of Bay Village Road and the existing Service Road.

PUBLIC EXHIBITION

As mentioned above both documents were publicly exhibited in accordance with the provisions of Section 66 of the EP& A Act and Clause 18 of the Environmental Planning and Assessment Regulations, 2002, between Wednesday, 5 November and Friday, 5 December 2008.

Six submissions were received and a summary of those submissions and staff responses are outlined in Attachment 2.

Submissions received in response to the dLEP indicated concern that the rezoning of Lot 514 DP 729979 to 3(b) (Centre Support) was being undertaken to offset those 3(b) (Centre Support) zones proposed to be removed in Long Jetty by the draft The Entrance Peninsula Planning Strategy (TEPPS) as publicly exhibited between 26 November 2007 and 29 February 2008.

The previously exhibited draft TEPPS proposed the rezoning of a number of 3(b) (Centre Support) zoned properties along The Entrance Road in Long Jetty to 2(c) (Medium Density Residential) zone. The purpose of such rezoning was to provide an incentive to business property owners to redevelop and improve the amenity of The Entrance Road Corridor, as well as to establish a more viable smaller village type centre in the blocks bounded by The Entrance Road, Tuggerah Parade, Pacific Street and Toowoona Bay Road.

During public consultation of the draft TEPPS, this issue was raised as a significant concern by business owners within the affected area. As a consequence, the draft TEPPS has been revised to significantly reduce the number of properties affected by such a rezoning. Following consideration of the revised draft TEPPS on 8 April 2009, Council:

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

That Council re-exhibit the draft The Entrance Peninsula Planning Strategy for a further 28 days and report back on results of exhibition.

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

AGAINST: COUNCILLORS McBRIDE, MATTHEWS AND VINCENT.”

The amendment of the TEPPS is considered to address those related issues and concerns raised in response to the exhibition of dLEP Draft DCP.

3.1 Draft LEP (Amendment No 172) and Draft DCP 2005 Chapter 110 - Centre Support Development, Bateau Bay (contd)

Other issues raised by submissions included concerns about the permissibility of retail uses on the rezoned portion of Lot 514 DP 729979. There was concern that the rezoning would enable high turnover retail activity which would result in increased competition for the existing 3(b) (Centre Support) zone located in Long Jetty. In accordance with the provisions of Wyong LEP 1991, the following applies to the 3(b) (Centre Support) zone:

The Land Use Table for 3(b) (Centre Support) zone allows for large scale retail activity to be permitted on site, however retail activity that generates high volume traffic or turnover (such as clothing, supermarkets and general merchandise stores) are not permissible under the proposed 3(b) (Centre Support) zone.

It is considered that those issues raised by public submissions have now been resolved and therefore are not considered as significant objections to the draft LEP (Amendment No. 172) as detailed in Council's resolution of 14 December 2005. It is recommended that the Minister for Planning be requested to make the LEP.

CONCLUSION

All of the issues raised through the public exhibition of the draft plan can be readily addressed. Therefore, the Minister should be requested to create draft LEP (Amendment No. 172) pursuant to Section 70 of the *EP&A Act, 1979*.

ATTACHMENTS

- 1 WLEP (Amendment No 172)
- 2 Summary of Submissions
- 3 Land Use Table
- 4 Draft Chapter 110 - Draft Support Development Bateau Bay Enclosure

Wyong Local Environmental Plan 1991 (Amendment No 172)

under the

Environmental Planning and Assessment Act 1979

I, the Minister for Planning, in pursuance of Section 70 of the *Environmental Planning and Assessment Act, 1979* make the local environmental plan set out hereunder.

Minister for Planning

Wyang Local Environmental Plan 1991 (Amendment No 175)

under the

Environmental Planning and Assessment Act 1979

1 Name of plan

This plan applies to *Wyang Local Environmental Plan 1991 (Amendment No. 172)*.

2 Aims of plan

This plan aims to amend *Wyang Local Environmental Plan 1991* so as to allow part of Lot 514 DP 729979 Bay Village Road, east of the service road, to be used for the uses permissible within the 3(b) Centre Support Zone.

3 Land to which plan applies

This plan applies to land situated in the local government area of Wyong, being part of Lot 514 DP 729979, Bay Village Road, as shown edged heavy black on the map marked “Wyang Local Environmental Plan 1991 (Amendment No.172)” deposited in the office of Wyong Council.

4 Amendment of Wyong Local Environmental Plan 1991

Wyang Local Environmental Plan 1991 is amended as set out in Schedule 1.

Schedule 1 Amendments

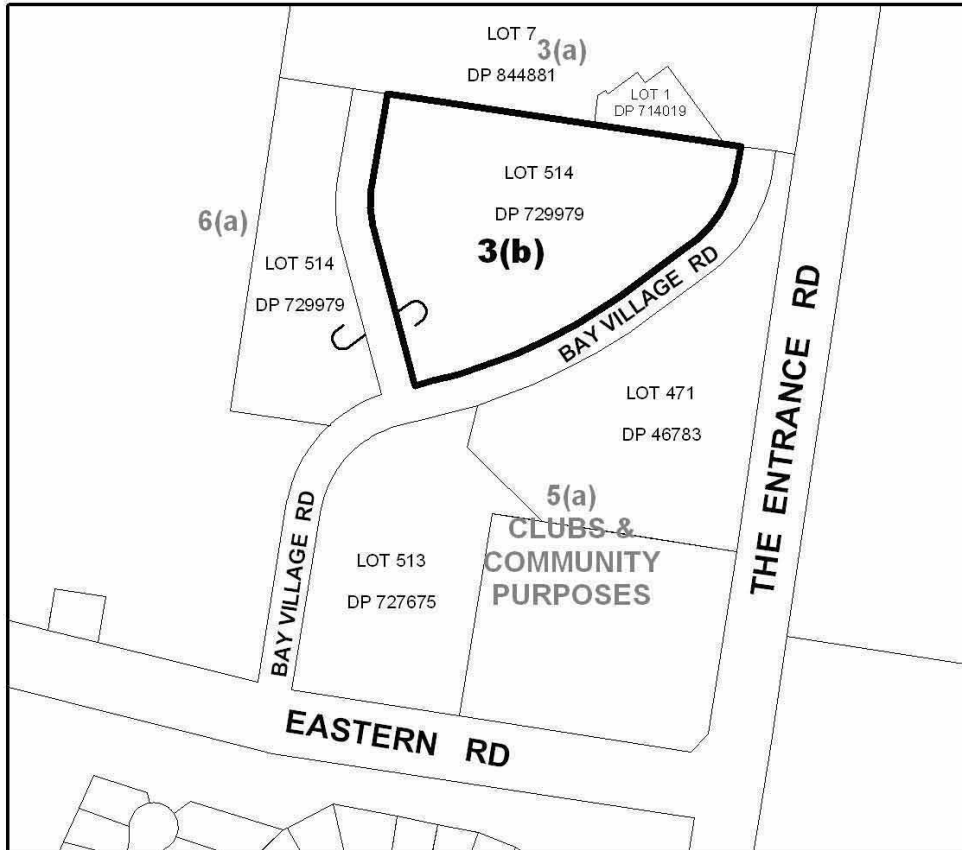
[1] Clause 7 Definitions


The definition of “the map” is amended by the inclusion of a reference to the map accompanying Wyong Local Environmental Plan 1991 (Amendment No. 172) in the list of amending plans.

[2] Schedule 4 – Development Restrictions on Certain Land (Clause 53)

Insert in order within the Schedule:

Land	Development Restriction
Part of Lot 514 DP 729979, Bateau Bay as shown heavy edged on the map marked “Wyong Local Environmental Plan 1991 (Amendment No 172).	No development on the affected lot can occur unless a formal assessment of the bus interchange options has been conducted by appropriately qualified personnel, to the satisfaction of the RTA and Council, and the proposed works to be undertaken are to the satisfaction of the RTA and Council.




 SCALE 1 : 2,500 LOCALITY: BATEAU BAY Legend
 3(b) Centre Support Zone

ENVIRONMENTAL PLANNING AND ASSESSMENT ACT 1979
WYONG
DRAFT LOCAL ENVIRONMENTAL PLAN 1991
(Amendment No 172)

DRAWN BY : J WILLIAMSON DATE : 13/5/08 SUPERVISING DRAFTSPERSON : J GARRATLEY DATE : 13/5/08 PLANNING OFFICER : J OOSTERVEEN CERTIFICATE PLAN NUMBER COUNCIL FILE No. : RZ06/2005 DEPT. FILE No. : CC0000054-1 CERTIFICATE ISSUED UNDER SEC. 65 E.P.A. ACT DATE : 27/10/08	STATEMENT OF RELATIONSHIP WITH OTHER PLANS AMENDS WYONG LOCAL ENVIRONMENTAL PLAN 1991 CERTIFIED IN ACCORDANCE WITH THE ENVIRONMENTAL PLANNING & ASSESSMENT ACT 1979, AND REGULATIONS. GENERAL MANAGER DATE
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Doc No. Submission	Comments	Response
D01356890	<ul style="list-style-type: none"> ▪ No objection to the rezoning. ▪ Adjoining land is bushfire prone on the Wyong Bushfire Prone Land Map. ▪ Any future development will need to comply with the aims and objectives of the <i>Planning for Bushfire Protection 2006</i> (PBP). ▪ Development proposals for the site do not need to be referred to the RFS. 	<ul style="list-style-type: none"> ▪ Noted. ▪ Any development application received for the site will be required to comply with these requirements.
D01361831	<ul style="list-style-type: none"> ▪ Proposed amendment to s2.5a of Draft DCP as follows: “(a) - Public transport (including bus access) is to be provided to the development directly from the north bound carriageway of The Entrance Road via left turn vehicular entry and exit arrangement (one-way bus circulation) with construction of appropriate ramps to access the eastern frontage of the existing Stockland Shopping Centre (DP 844881) area generally along Bay Village Road. It should include a bus interchange located within the eastern car park adjacent to Bay Village Road. It will require removal of several car parking spaces. These are to be provided/replaced elsewhere on the proposed development site. All design and road works associated with this proposal should be carried out in consultation with the Council, RTA, Ministry of Transport and relevant bus companies”. 	<ul style="list-style-type: none"> ▪ Noted. ▪ Further consultation has been undertaken with the Roads and Traffic Authority (RTA) with regard to this issue. ▪ Amendments to the dLEP and draft DCP 2005: Chapter 110 have been made to resolve these concerns and issues. ▪ The amendments include: Requirement for a formal assessment of the bus interchange options to be conducted by appropriately qualified personnel to the satisfaction of the RTA and Council; and Requirements for the intersection upgrade of Bay Village Road and the existing Service Road.

Doc No. Submission	Comments	Response
D01414411	<ul style="list-style-type: none"> ▪ No objection provided it does not justify loss of 3(b) (Centre Support) zonings in Long Jetty as part of TEPPS. 	<ul style="list-style-type: none"> ▪ Noted. ▪ This rezoning has not effected, will not effect, or have any impact, on the decision making process regarding 3(b) zonings in Long Jetty. ▪ The 3(b) zonings are proposed to remain within the Long Jetty. However, the revised draft TEPPS is to be re-exhibited for a further 28 days.
D01358092	<ul style="list-style-type: none"> ▪ Bus supply options for servicing Bay Village. ▪ The option proposed included the construction of a bus interchange between the existing car park within Stocklands on the adjoining allotment and The Entrance Road. This would require construction of on and off ramps to and from The Entrance Road. In addition, this would also require some encroachment into the existing car parking facilities. Any facilities removed through this proposal would need to be located elsewhere on site. 	<ul style="list-style-type: none"> ▪ Noted. ▪ Further consultation has been undertaken with the Roads and Traffic Authority (RTA) with regard to this issue. ▪ Amendments to the dLEP and draft DCP 2005: Chapter 110 have been made to resolve these concerns and issues. ▪ The amendments include: Requirement for a formal assessment of the bus interchange options to be conducted by appropriately qualified personnel to the satisfaction of the RTA and Council; and requirements for the intersection upgrade of Bay Village Road and the existing Service Road.

Doc No. Submission	Comments	Response
D01414737	<ul style="list-style-type: none"> ▪ Removal and competition of 3(b) zonings in Long Jetty, The Entrance and Bateau Bay. 	<ul style="list-style-type: none"> ▪ Noted. ▪ Refer to response for submission D01414411. ▪ The proposed zoning of the site to 3(b) (Centre Support) does not permit general retailing activities. It permits large scale retail activities which have large floor space requirements for low intensity commercial or retail uses. It does not permit retail activity for supermarkets or other food or produce markets, or any other shops with high turnover shops and offices which might be more properly located within the business centre zone.
D01431870	<ul style="list-style-type: none"> ▪ The expansion of 3(b) (Centre Support) zonings should only take place if this does not further disadvantage the existing business owners and operators within the 3(b) (Centre Support) zone at Long Jetty. ▪ The proposed 3b zoning should not enable 3(a) (Business Centre) uses and the expansion of Bay Village Shopping Centre. ▪ The use of Lot 514 DP 752279 as prime retail with high turnover shops and offices. 	<ul style="list-style-type: none"> ▪ Noted. ▪ Refer to response to submission D01414737.

Land Use Table

3(b) (Centre Support Zone)

1 Objectives of zone

The objectives are:

- (a) to provide opportunities for development having relatively low traffic-generating characteristics but not high turnover shops and offices that might more properly be located in the Business Centre Zone, and
- (b) to provide for relatively low intensity commercial and retail uses with extensive floor space requirements, but not including supermarkets or other food or produce markets, and
- (c) to provide for development which does not have the potential to result in a detrimental impact on uses in the Business Centre Zone, and
- (d) to create opportunities for development within district and regional business centres which support and enhance the range of retail opportunities within those centres, and
- (e) to enable the Council to provide more detailed guidelines about preferred retail distribution and development issues in a development control plan.

2 Without development consent

Nil.

3 Only with development consent

Any purpose other than a purpose included in item 4 of the matter relating to this zone.

4 Prohibited

Abattoirs; aerodromes; agriculture; animal establishments; aquaculture; boarding houses; brothels; caravan parks; depots; detached dual occupancies; dual occupancy buildings; dwellings (other than those used in conjunction with a permitted business and situated on the same land as the permitted business); exhibition homes; extractive industries; general stores; generating works; group homes; hazardous industries; hazardous storage establishments; industries; intensive agriculture; light industries; materials recycling depots; mining; offensive industries; offensive storage establishments; plant hire establishments; residential flat buildings; road transport terminals; roadside stalls; rural industries; sawmills; self storage establishments; shops; stock and sale yards; tourist accommodation; toxic waste incinerators; transitional group homes; transport depots; vehicle body repair workshops; warehouses.

4.1 Deed of Agreement for Consolidation of Public Road Closure Land at Ravensdale

TRIM REFERENCE: F2008/02437 - D01889638

AUTHOR: JMT

SUMMARY

Approval is sought to enter into a Deed of Agreement to provide for the consolidation of public road closure land with adjoining land at Ravensdale Road, Ravensdale.

RECOMMENDATION

- 1** *That Council enter into a Deed of Agreement with Zardon Pty Limited, Ronald Laurence Scott and Lynn Lawes Scott that will ensure the consolidation of public road closure land with adjoining land, Lots 5, 126 and 214 DP 755271 at Ravensdale Road, Ravensdale.*
- 2** *That Council authorise the Common Seal of Wyong Shire Council to be affixed to the formal documents as required between Wyong Shire Council and Zardon Pty Limited, Ronald Laurence Scott and Lynn Lawes Scott.*
- 3** *That Council authorise the Mayor and the General Manager to execute all documents.*

BACKGROUND

The owners of Lots 5, 126 and 214 DP 755271 at Ravensdale Road, Ravensdale, Zardon Pty Limited and Ronald Laurence Scott and Lynn Lawes Scott, have applied to the Minister for Lands to close the Council public road and the Crown public road adjoining their property.

Under the road closure procedures adopted by the Department of Lands, applications for the closure of Crown roads are not required to include the consent of Council, however processing by the Department includes referral to Council for comment on the proposal. Council's consent, however, is required for the closure of the Council road.

Council requires the road closure land to be consolidated with the adjoining land so that a new development right is not created by the closing of the road. In this regard, Council has objected to the application until such time as the matter of consolidation is addressed by the applicants.

The Council road is un-constructed and will vest in the Crown on closure.

THE PROPOSAL

The applicants have agreed to consolidate the road closure land with their adjoining property and to enter into a Deed of Agreement with Council in this regard. The Deed of Agreement will also provide for the creation of a Right of Carriageway providing access to Lots 126 and 214 DP 755271 upon the consolidation of the road closure land with the adjoining land and payment of all associated costs by the applicants.

4.1 Deed of Agreement for Consolidation of Public Road Closure Land at Ravensdale (contd)

Upon completion of the Deed, Council will withdraw its objection to the Department of Lands to the closure of the Council and Crown roads adjoining Lots 5, 126 and 214 DP 755271.

The Manager, Roads and Drainage and Council's Development Assessment Panel have agreed to the road closure subject to consolidation with the adjoining land and provision of access to Lots 126 and 214.

OPTIONS

If Council does not agree to enter into the Deed of Agreement with the applicants, the Department of Lands may proceed with the Crown road closure without requiring the applicants to consolidate the road closure land with their adjoining land. Council is not obliged to close the Council road, however the Manager, Roads and Drainage, has advised that the road is un-constructed and not required for future access.

Execution of the Deed of Agreement will ensure that Council's conditions are met in respect to the Crown and Council roads.

CONSULTATION

Corporate Services staff met with the Department of Lands and a Director from Zardon Pty Ltd to resolve problems of property access associated with the proposed Road Closure. In response to the access issues raised by Council the applicants have agreed to consolidate the road closure land with their adjoining property and to enter into a Deed of Agreement with Council. The consolidation of the land contained under the road closure with the adjoining land owned by Zardon's provides a successful outcome for the applicant, Department of Lands and Council.

GOVERNANCE

Council has authority to close public roads under Division 1, Part 4 of the Roads Act 1993. Under s38, un-constructed Council public road vests in the Crown on closure.

CONCLUSION

Approval to enter into the Deed of Agreement with the applicants will ensure that the road closure land is consolidated with the owners' adjoining property and access preserved to Lots 126 and 214.

Location Plan



ATTACHMENTS

Nil.

4.2 Renewal of Lease to The Entrance Pre-School Kindergarten Association Inc - Lots 92 - 93 DP 18372 Norberta Street The Entrance

TRIM REFERENCE: F2005/00274 - D01889887

AUTHOR: SJL

SUMMARY

The Entrance Pre-School Kindergarten Association Inc has requested a renewal of the lease for Lot 92 and 93 DP 18372 at Norberta Street, The Entrance.

RECOMMENDATION

- 1 That Council renew the lease of Lots 92 and 93 DP 18372 Norberta Street, The Entrance to The Entrance Pre-School Kindergarten Association Inc for a period of five years at a nominal rental.**
- 2 That Council authorise the Common Seal of Wyong Shire Council to be affixed to the Lease between Wyong Shire Council and The Entrance Pre-School Kindergarten Association Inc.**
- 3 That Council authorise the Mayor and the General Manager to execute all documents relating to the Lease.**

BACKGROUND

Council owns Lots 92 and 93, DP 18372, 25 Norberta Street, The Entrance (the premises) which is the site of The Entrance Pre-School Kindergarten.

Council leases the premises to The Entrance Pre-School Kindergarten Association Inc (the Pre-School) for use as a Pre-School. The current lease commenced on 1 April 2004 and expires on 31 May 2009. Rent is nominal. The Pre-school is responsible for maintenance and repairs, building and public liability insurance.

THE PROPOSAL

The Pre-School has requested that the lease be renewed, upon the expiration of the current lease, at nominal rental for a term of five years.

The Pre-School is a community based, non profit pre-school. It was founded in 1969 and is operated by a management committee which is made up of parents elected annually.

The Pre-School is licensed by the Department of Community Services and also receives funding from the Department which assists with salaries and running costs to enable fees to be kept at a reasonable rate.

The Pre-school is located in close proximity to The Entrance Community Centre and the primary school, creating a good community "hub" of facilities. Links have been made with the services operating from the community centre and the Pre-School is an important part of the community.

4.2 Renewal of Lease to The Entrance Pre-School Kindergarten Association Inc - Lots 92 - 93 DP 18372 Norberta Street The Entrance (contd)

The Pre-School is licensed for up to 39 children aged two to six years and 55% to 60% of all places are eligible for fee relief from Centrelink. The Pre-School also provides a program for special needs children through funding from SCAN (Supporting Children with Additional Needs).

The land is zoned 2(c) Medium Density Residential and is classified as Operational Land. The total area is 1378.4m².

Council's Customer and Community Services, Development Assessment and Community Development Sections have no objections to the renewal of the lease.

CONSULTATION

The Pre-School has requested renewal of the lease generally in the same terms as the current lease.

GOVERNANCE

The premises are classified as Operational Land and there is no impediment to Council granting a lease for a period of five years.

CONCLUSION

Renewing the lease to the Pre-School for the premises as proposed will provide security of tenure and ensure that the Pre-School is appropriately managed. Successful operation of the facility is of community benefit and in line with Council's strategies for supporting community activities.

Location Plan - Lots 92 – 93 DP 18372 Norberta Street The Entrance



ATTACHMENTS

Nil.

4.3 Proposed Easements for Chittaway Point Pump Station and Boomerang Creek Tunnel

TRIM REFERENCE: CPA/113434 - D01891865

AUTHOR: SJL

SUMMARY

Approval is sought for the acquisition of land and easements to finalise outstanding matters for the Gosford/Wyong Joint Water Supply and the Wyong Shire Sewerage Scheme.

RECOMMENDATION

- 1 That Council acquire Lot 1 DP 1042059 within Lot 515 DP 755266 Tall Timbers Road Lake Munmorah for the purpose of Oxygen Injection Facility (shown in Figure 1).**
- 2 That Council acquire Lot 1 DP 1006585 associated with Chittaway Point Pump Station Chittaway Point Rising Main and Gwandalan-Mannering Park Effluent Disposal Main by compulsory process under the Land Acquisition (Just Terms Compensation) Act 1991 by authority contained in the Water Management Act 2000 for the purposes of Wyong Shire Sewage Scheme (shown in Figure 2).**
- 3 That Council acquire the following easements over Crown Land by compulsory Process under the Land Acquisition (Just Terms Compensation) Act 1991 by authority contained in the Water Management Act 2000 for the Purposes of Wyong Shire Sewage Scheme (shown in Figures 2 and 3).**
 - Easements for sewer pipeline shown in DP 1006585 (Figure 2)**
 - An easement for sewer pipeline shown in DP 647728 (Figure 3).**
- 4 That Council acquire the following easements by compulsory process under the Land Acquisition (Just Terms Compensation) Act 1991 by authority contained in the Water Management Act 2000 for the purposes of Gosford Wyong Outstanding Land Matters:**
 - An easement for Water Supply Pipeline (beneath the surface only over the site shown as "Proposed Stratum Easement for Water Supply Tunnel" shown in DP 649792.**
- 5 That Council authorise the Common Seal of Wyong Shire Council to be affixed to all documents relating to the application for approval by the Minister and Governor to proceed with the compulsory acquisition.**
- 6 That Council authorise the Mayor and the General Manager to execute all documents relating to above application.**

BACKGROUND

The Department of Commerce (DoC) has advised Council of a number of outstanding land matters/acquisitions that require finalisation for the Gosford/Wyong Joint Water Supply and the Wyong Shire Sewerage Scheme.

DoC is now no longer providing its previously held role in finalising outstanding land matters on behalf of Council. This situation has occurred as a result of changes to the Country Towns Water Supply and Sewerage Program in 2005 with Council now responsible to finalise outstanding land matters. In this regard DoC is available in a consultancy role to facilitate land matters via the State Property Authority.

Due to the specialised nature of the work and the existing "in house" knowledge of the issues by DoC, Council has requested the State Property Authority to undertake all work to finalise the identified land matters on behalf of Council.

THE PROPOSAL

The State Property Authority has been engaged to carry out acquisitions for the Gosford/Wyong Joint Water Supply and the Wyong Shire Sewerage Scheme. Plans have been prepared to enable the acquisition of associated land and easements. The plans have been lodged at Land and Property Information NSW (LPI NSW).

The State Property Authority proposes that the land and easements be acquired with the agreement of the owners, or in the case of affected Crown Land, by the compulsory acquisition process in accordance with the Land Acquisition (Just Terms Compensation) Act under the authority of the Water Management Act 2000.

The land acquisitions and easements affect both private and crown land as follows:

- Lot 1 DP 1042059, the site of the proposed Oxygen Injection Facility, is privately owned.
- Lot 1 DP 1006585, the site of the Chittaway Point Pump Station and associated works is held by the Crown.
- All of the easements required for the Wyong Sewerage Scheme are over Crown land.
- The easements required for the Water Supply Pipeline are over a mixture of Crown Forestry and private land.

The State Property Authority is now in a position to settle the acquisition of the interests in land and requires a resolution of Council authorising the acquisitions on its behalf.

The State Property Authority will liaise with the Department of Water and Energy to gain the necessary Ministerial and Executive Council approval.

STRATEGIC LINKS

Financial Implications

It is estimated that the cost of acquisition of the easements and land including disbursements will be \$20,000.

4.3 Proposed Easements for Chittaway Point Pump Station and Boomerang Creek Tunnel (contd)

Subsidy funding is still available from Department of Water and Energy (DWE) for land matter costs subject to an expenditure allocation being sought by Council for the predicted expenditure.

As some of the costs relate to the Joint Water Supply these costs will be ultimately be shared with Gosford City Council.

CONSULTATION

The State Property Authority has contacted all of the affected owners advising them of the proposal and the action to acquire the land or easements.

GOVERNANCE

Acquisitions of easements and land for the purposes of the Water Supply Authority is authorised pursuant to the Water Management Act 2000. Any compulsory acquisitions are required to be completed in accordance with the Land Acquisition (Just Terms Compensation) Act 1990.

CONCLUSION

Approval will enable the completion of the acquisition of land and easements to finalise outstanding matters for the Gosford/Wyong Joint Water Supply and the Wyong Shire Sewerage Schemes.

Figure 1



Figure 2



Figure 3



ATTACHMENTS

Nil

4.4 Proposed Sale of Council Land at Charmhaven

TRIM REFERENCE: F2008/02625 - D01893240

AUTHOR: PF

SUMMARY

Approval is sought to dispose of Council land Lot 83 DP 27286 Charmhaven Avenue, Charmhaven and Lot 94 Section 1 DP 11824 Moala Parade, Charmhaven.

RECOMMENDATION

- 1 That Council authorise the sale of Lot 83 DP 27286 Charmhaven Avenue, Charmhaven and Lot 94 Section 1 DP 11824 Moala Parade, Charmhaven for an amount not less than market value for each parcel as determined by an independent registered valuer.**
- 2 That Council authorise the Common Seal of the Wyong Shire Council to be affixed to the formal the documents for the Sale and Transfer of the land.**
- 3 That Council authorise the Mayor and the General Manager to execute all documents.**

BACKGROUND

At its meeting held on the 14 May 1980 Council considered a report concerning the necessity to establish a road link between Charmhaven Avenue and Moala Parade, Charmhaven in anticipation of the proposed future closure of Moala Parade to the Pacific Highway. It was resolved that Council endeavour to acquire the properties at the end of Allan Avenue to permit the extension of that street.

Council subsequently purchased those properties being Lot 83 DP 27286, No 74 Charmhaven Avenue, Charmhaven and Lot 94 Section 1 DP 11824 No 81 Moala Parade, Charmhaven.

A recent approach to Council by a resident requested Council to upgrade the land as public open space and provide pedestrian access through the land. The resident's letter sought to formalise an informal public use that has apparently evolved over time. This letter led to Council staff to question the need to retain the land for the purpose for which it was acquired.

Council staff have advised the land was originally acquired for the extension of a public road and not as an Open Space and Recreation asset. No current plans or funds exist to develop the land as a park.

PROPOSAL

There is a de-facto pathway through these properties worn from informal public use providing an un-formed pedestrian link between Charmhaven Avenue and Moala Parade for residents living north of Charmhaven Avenue, wanting to go to the Lake Haven shopping centre.

4.4 Proposed Sale of Council Land at Charmhaven (contd)

If Council intends to provide this route as an alternate pedestrian link to the shopping centre the land should be retained for this purpose.

Pedestrian access to the shopping centre is currently provided via a walkway at the western end of Charmhaven Avenue to the constructed pathway south along the Pacific Highway to Moala Parade. This route is approximately 370m longer, however, it does offer legal and safe pedestrian access.

Wyong Shire Council as a Roads Authority has certain protections under the Roads Act 1993 in respect of use of public roads by the public and the potential liabilities that may arise from mis-use.

WSC is not afforded the same protection from liability in respect of public use for the purposes of thoroughfare through Council land that does not have the status of public road.

Council no longer has plans to close Moala Parade to the Pacific Highway nor is there any other alteration to the road network in this area proposed. The area is also now established with a bus route to the Lake Haven shopping centre via Moala Parade. On that basis the subject land is no longer required for the purpose of constructing a new road to connect Charmhaven Avenue and Moala Parade.

Currently there is a 150mm sewer gravity main at the rear of Lot 83 in DP 27286. There is no need to acquire easement over the sewer main which services the properties in the area including the subject parcels. There are no other existing or proposed water supply and sewerage infrastructure issues that are likely to impact on the sale of the properties.

Accordingly, as the land is no longer required for the purpose it was acquired and there are no plans or funds to develop the land as a recreation area or as public pedestrian access, the subject land is now surplus to Council's operational needs.

The two parcels of land are zoned 2(a) Residential, 74 Charmhaven Avenue having an area of 556.4m² and 81 Moala Parade having an area of 695.5m².

The allotments being zoned 2(a) Residential each have the potential for a single dwelling house on each allotment or a dual occupancy on each allotment subject to compliance with Council's DCP 2005 Chapter 58 - Dual Occupancy.

GOVERNANCE

Lot 83 DP 27286 No 74 Charmhaven Avenue and Lot 94 Section 1 DP 11824 No 81 Moala Parade are both classified as Operational land for the purposes of the Local Government Act 1993 and there is no impediment to the disposal of these properties by Council.

The subject land is being used by the public as a road for pedestrian access and whilst such access is not officially recognised or authorised by Council, as the land does not have the status of public road Council does not have the level of protection from claims for liability that is afforded a roads authority under the Roads Act 1993.

OPTIONS

1. That Council sell the properties subject to the sale price reaching the value set by an independent valuer. Council may determine that part of the funds from the sale of the land be made available to improve pedestrian accessing the area generally by providing a footpath along the walkway at the end of Charmhaven Avenue.

4.4 Proposed Sale of Council Land at Charmhaven (contd)

2. That Council retain the land in its current form and undertake no improvements.
3. That Council retain the land for development as a small public park and public pedestrian access. If this option is desired Council will need designate the asset owner and allocate funds.

FINANCIAL IMPLICATIONS

Recent sales in the area have reflected firm prices on the back of interest generated from the first home buyer's scheme. The Federal Government is currently advising that this scheme will end on 30 June 2009. If the scheme ceases on that date prices in this sector of the market are expected to drop significantly and remain depressed for some time.

If the sale price fails to reach the price set by an independent valuer Council should continue to hold the properties for future sale when the property market recovers from the current financial crisis.

CONCLUSION

The property is not required for operational purposes and retention of the properties is not consistent with Council's Investment Policy. Disposal will terminate Council's interest and remove Council from any liability associated with unauthorised public use.

Location Plan



ATTACHMENTS

- 1 Confidential Enclosure - expected return on sale (under separate cover)

5.1 Contract CPA 127662 - Construction of Mardi Dam Transfer and High Lift Systems

TRIM REFERENCE: CPA/127662 - D01891039

AUTHOR: GCL

SUMMARY

Evaluation and selection of combined lump sum and schedule of rates negotiated tender for Contract CPA/127662 – Construction of Mardi Dam Transfer and High Lift Systems. This project is being funded jointly by Wyong Shire Council and Gosford City Council as part of augmentations to the joint water supply scheme.

RECOMMENDATION

- 1 That Council accept in accordance with the approved Tender Evaluation and Negotiation Plan, the negotiated tender from Baulderstone Pty Ltd in the amount of \$41,464,576.36 (excl GST) for Contract CPA/127662.**
- 2 That Council approve a contract budget of \$45,664,576.36 (excl GST) that provides for a contingency amount of \$4,200,000.00 (excl GST) representing approximately 10% of the contract value, to provide for any unforeseen additional works that may become necessary during the course of the project.**

BACKGROUND

General

As part of its strategy to augment and secure the region's water supply, Gosford and Wyong Councils determined, amongst other initiatives, to undertake significant amplification works to the headworks at Mardi Dam.

The augmentation works include:

- Upgrading of the Lower Wyong River to Mardi Dam transfer system.
- Modifying the Mardi Dam to Mardi Water Treatment Plant (WTP) transfer system.
- New Mardi High Lift Pumping Station.
- High Voltage Power upgrade works.
- New Mardi Dam to Mangrove Dam transfer system.

The proposed new works at Mardi Dam are shown in Figure 1 at the end of the report.

The proposed augmentation works are part of the medium term works that are intended to enhance the system's yield and provide for future increases in demand. The works will also enhance the system's flexibility by improving the current rate at which water can be transferred between the Wyong and Gosford water supply systems.

These are considered to be essential works that have been approved by IPART. They have been included in the 2009/10 Management Plan and funding provisions have been made in the Financial Model. It is important to note that these works are not part of the Mardi Dam Mangrove Link Project, but will complement the works to be provided under that project.

5.1 Contract CPA 127662 - Construction of Mardi Dam Transfer and High Lift Systems (contd)

Council has undertaken a number of actions to procure these improvements as detailed in the following section of this report. The tender recommendation is the culmination of design and procurement processes over the past four years that will give Council value for money in achieving the necessary augmentation of the water supply headworks.

Tender Process to Date

An "Early Contractor Involvement" (ECI) process was adopted for the contract development. The ECI process involved the potential tenderers shortlisted from the Expression of Interest (EOI) phase being involved in the finalisation of design and development of the Request for Tender (RFT) documentation. The process leads to optimum constructability of the design and more acceptable commercial conditions of contract in the final RFT documentation, potentially leading to the best value for money from the contracting exercise. The ECI process was adopted as an effective tool to manage and mitigate the considerable risks presented by the size, complexity and value of this project.

During the months of October to November 2007, tenders were invited from the five shortlisted tenderers from the EOI and ECI phases. Tenders closed on Thursday 29 May 2008 and three tenders were received.

None of the tenders received was substantially conforming. The tender panel considered that the best way forward was to decline to accept any tenders and initiate a negotiation process in accordance with the Local Government (General) Regulation 2005 to seek the most favourable outcome for Council. Under this negotiation process, alternatives and qualifications (even of a substantial nature) could be considered and assessed by Council if they represented value for money.

At the Ordinary Meeting of 10 December 2008, after considering a report on the three non-conforming tenders received, Council:

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

- 1 That Council decline to accept any tenders in accordance with Local Government (General) Regulations 2005 Clause 178 (1) (b) due to all tenders being qualified and non-conforming.*
- 2 That Council not invite fresh tenders in accordance with the initiatives outlined in Clause 178 (3) (b)-(d) of the Local Government (General) Regulation 2005 for the following reasons:*
 - a that the tender process has received a number of responses from appropriate persons with generally favourable amounts and terms and no further commercial or practical advantage to Council would be expected by re-tendering;*
 - b re-tendering would also involve a significant delay and allocation of further resources without any material benefit being envisaged.*
- 3 That Council enter into negotiations with all three tenderers with a view to entering into a contract with one of the tenderers.*

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

AGAINST: NIL."

NEGOTIATION PROCESS

The tender panel considered that best value for money to Council would be achieved by the inclusion in the negotiation process of a submission by the tenderers of a revised price schedule. This would provide the tenderers with an opportunity to incorporate allowances for all requirements including:

- The delay since the close of tenders in May 2008;
- The significantly altered financial market; and
- Non-conformances identified in the original tender submissions.

The Probity Officer and Councils legal counsel, HWL, confirmed that the submission of a revised price schedule was acceptable within a negotiation process and did not constitute re-tendering or continuation of the previous tender process, provided that the ensuing documentation was sound for the purpose of negotiation and not for the purpose of a tender process. The submission of a revised price schedule was included in the Tender Evaluation and Negotiation Plan (TENP) which was approved by the Probity Officer.

The submission of a revised price schedule was invited from the three tenderers on 24 December 2008. Submission documents and addenda were made available via Council's e-tendering web site. The letters inviting the responses were reviewed before issue by Councils Contract Systems Coordinator, the Probity Officer and Council's legal counsel HWL. These reviews ensured that the process was a negotiation and not a continuation of the original tender process.

Submission of revised price schedules closed at 2pm on 5 February 2009. Three submissions were received.

Submissions were evaluated by a panel of four members (two from Council and two from the Department of Commerce). The independent Probity Officer was engaged to oversight the process.

The evaluation was conducted according to the following process, and followed the approved TENP.

- Assessment of receipt of revised price schedules.
- Assessment of conformance of revised price schedules.
- Shortlisting of revised price schedules.
- Detailed weighted evaluation of negotiated tenders.
- Due diligence checks on preferred tenderers.
- Independent review of the negotiated tender selection process.

Assessment of Receipt

The following revised price schedules were received and are listed below in alphabetical order.

	Revised Price Schedule	Amount (excl GST)	Status
1	Baulderstone Pty Ltd	\$43,841,775.45	Submitted on time
2	Fulton Hogan Pty Ltd	\$46,028,070.91	Submitted on time
3	MacMahon Constructions Pty Ltd	\$41,428,602.73	Submitted on time

Assessment of Conformance

The revised price schedules were assessed for conformance with the general requirements including the specification.

Revised price schedule number 1 (from Baulderstone Pty Ltd) contained a number of qualifications, clarifications and alternative offers. The tender panel sought clarification and considered that all matters could be successfully resolved.

Some errors were noted in the schedule of rates and lump sum schedules. The tender panel sought clarification and the tenderer advised that it had made an error of calculation in the amount of \$293,563.64 (excl GST), which adjusted the revised price schedule to \$44,135,339.09 (excl GST). The panel accepted the correction since it was considered to be a simple calculation error and did not substantially alter the revised price schedule or unfairly disadvantage other tenderers. The submission included all the completed schedules and acknowledged receipt of all addenda.

Revised price schedule number 2 (from Fulton Hogan Pty Ltd) contained one qualification and several alternatives. The qualification was of a minor nature and acceptable so no clarification was sought. The submission included all the completed schedules and acknowledged receipt of all addenda.

Revised price schedule number 3 (from MacMahon Constructions Pty Ltd) contained a number of qualifications and alternative offers. The tender panel sought clarification and considered that all matters could be successfully resolved. The submission included all the completed schedules and acknowledged receipt of all addenda.

All three submissions were progressed to the next stage of the assessment.

Shortlisting

The revised price schedules were shortlisted against the criterion for "Price".

Revised price schedule number 1 from Baulderstone Pty Ltd submitted a revised price of \$43,841,775.45 (excl GST) that was less than Council's pre-tender estimate of \$43.9m (excl GST). It also included an alternative for spoil re-use that offered significant savings to Council. This submission was competitive and progressed to the next stage of assessment.

Revised price schedule number 2 from Fulton Hogan Pty Ltd submitted a revised price of \$46,028,070.91 (excl GST) that was 4.8% higher than the pre-tender estimate and 12% higher than the lowest apparent revised price. Regardless of how it rated on non-price criteria the price difference would make it unlikely for this submission to rate as the preferred option after a full weighted evaluation. In accordance with the TENP, this submission was therefore set aside pending further negotiations with the other two lower priced submissions.

Revised price schedule number 3 from MacMahon Constructions Pty Ltd submitted a revised price of \$41,428,602.73 (excl GST) that was less than Council's pre-tender estimate. This submission was competitive and progressed to the next stage of assessment.

Weighted Evaluation

Evaluation of Non-Price Criteria

The information submitted by the two shortlisted tenderers was evaluated against the non-price criteria in accordance with the Tender Evaluation and Negotiation Plan.

a. Weighted Non-Price Score

The non-price scores were weighted and totalled out of 40. The total non-price scores are summarised below. The independent probity officer required the scores to be reported to one decimal place.

	Tenderer	Total Non- Price Score
1	Boulderstone Pty Ltd	24.1
3	MacMahon Constructions Pty Ltd	23.7

Evaluation of Price Criteria

a. Examination of Tendered Rates

The rates and lump sum amounts submitted in the revised price schedules were compared with the pre-tender estimate. The comparison revealed some variability in rates but values were generally considered reasonable and acceptable.

b. Negotiation of Qualifications and Departures

Both submissions included qualifications and departures which included both higher prices and reduced prices. There were a number of qualifications that involved significant risk that needed to be assessed for value to Council. In order to compare the submissions on an equal basis, the values of the qualifications and departures were assessed and the outcome of the negotiation is included below.

	Boulderstone Tender	MacMahon Constructions Tender
Revised Price Schedule (excl GST)	\$43,841,775.45	\$41,428,602.73
Total Qualifications or Departures	-\$2,377,199.09	-\$160,622.73
Negotiated Tender Amount (excl GST)	\$41,464,576.36	\$41,267,980.00

The negotiated tendered amount is within 5% of the estimate and is considered to represent a reasonable price for the contract works.

c. Sensitivity Analysis

A sensitivity analysis on the negotiated rates and prices was used to assess the impact on the rankings of possible variations in the quantities of work such as rock excavation. The analysis established that the relativity of the submissions was not affected if the quantities are varied by +/- 10%.

5.1 Contract CPA 127662 - Construction of Mardi Dam Transfer and High Lift Systems (contd)

d. Weighted Price Score

The Negotiated Tender Amounts were used to calculate weighted price scores out of 60. The independent probity officer also required these scores to be reported to one decimal place.

	Tenderer	Total Assessed Price Score
1	Baulderstone Pty Ltd	59.8
3	MacMahon Constructions Pty Ltd	60.0

Combined Weighted Evaluation

Total scores were obtained for each tenderer by adding the weighted non-price and price scores. The total scores are summarised below.

	Tenderer	Total Non Price Score	Total Price Score	Total Score
1	Baulderstone Pty Ltd	24.1	59.8	83.9
3	MacMahon Constructions Pty Ltd	23.7	60.0	83.7

The Tender Evaluation and Negotiation Plan requires that “the tender with the highest score will be identified as the Preferred Tender”.

The negotiated tender from Baulderstone is the highest scoring tender (price and non-price combined) but has a higher negotiated tender amount than MacMahon Constructions. Irrespective of this higher price, in accordance with the Tender Evaluation and Negotiation Plan, the Preferred Tenderer is Baulderstone Pty Ltd.

Due to the closeness of the scoring and the negotiated tender amounts, both tenders were progressed to the due diligence stage of the evaluation.

Due Diligence

Both Baulderstone and MacMahon Constructions were subjected to a financial assessment, an in-house safety/environment system assessment and referee checks.

On the basis of the information provided by the tenderers, Council’s independent financial assessor Kingsway Financial Assessments and independent referees, it is considered that both firms possess all of the technical, financial and managerial resources necessary to satisfactorily complete the works.

Both Baulderstone and MacMahon Constructions have Sydney based offices with a history of successfully completed contracts similar in nature and scope to the current works. Each company has in place fully documented Occupational Health, Safety and Rehabilitation Management and Environmental Management systems.

Process Review

This evaluation process and recommendations have been endorsed by the Contract Systems Co-ordinator.

RISK ASSESSMENT

General

When letting a contract various risks exist that may result in the final contract cost exceeding the initial contract sum. These risks vary depending upon the type of work being undertaken; for example, design work versus construction work; and the type of contract, for example Lump Sum versus Schedule of Rates.

Generally, the contract is structured to have the party best placed to manage the risk responsible for that risk outcome. Some risks are passed on to the contractor, with the cost of those risks reflected in the tendered price. Other risks are best managed by Council rather than the contractor, as they would inflate the tender price whether the risk eventuated or not. For this reason Council retains and is required to manage some risks. These are minimised by Council's contract administration processes. However, to manage these risks it is necessary to provide a contingency sum in addition to the tender price to allow for unforeseen additional works that may become necessary during the course of the project.

Contract Risks

Contract risks include Generic Risks (generally found in most contracting situations) and Specific Risks leading to contract variations that have particular application to an individual contract. The major risks are summarised below:

Generic Risks

These are risks that Council manages through its contract administration procedures and processes. Major generic risks and mitigation measures for this contract include:

- Contractor experiences financial difficulties or goes into liquidation, leading to additional project delays and costs. Mitigated through financial and referee checks before contract award and timely progress payments.
- Completion time exceeds target leading to delays and damage to Council's reputation. Mitigated through close supervision and prompt directions where required.
- Liability for injury and/or damage to people, property and the environment. Mitigated through on-going validation of contractor's insurances, safety and environmental management systems, together with close supervision including site audits.
- Contract dispute over rights and obligations of the parties. Mitigated through use of Australian Standards General Conditions of Contract, which include dispute resolution mechanisms.

Specific Risks Leading to Contract Variations

The following are the major risks that Council bears in relation to this contract:

- The quality of the design is sub-standard resulting in additional costs during the construction phase. Mitigated by through appropriate technical reviews by others to ensure design meets requirements. This includes the Designer, Project Manager and Council.

5.1 Contract CPA 127662 - Construction of Mardi Dam Transfer and High Lift Systems (contd)

- Changes to regulatory design standards requiring project re-design. Mitigated by using latest information in tender documents and minimising delays in award of contract.
- The price of materials may increase significantly which will impact the Contractors price to Council for the finished work. The contract allows for the rise and fall of some pumps and valves. This is a shared risk between Council and the Contractor.
- Quantities for work items under the contract are greater/lesser than pre-award estimates leading to variation claims by the contractor. Mitigated through the tender process by requiring specified rates for each work item under a Schedule of Rates arrangement with upper and lower control limits. Contract payments are then calculated by multiplying the actual quantity for each work item by the tendered rate. Actual quantities are confirmed by Council through measurement / survey prior to payment.
- Quantities for spoil to be reused on the dam embankments may be less than anticipated reducing the savings to Council. Mitigated through a refinement of the technical specification, geotechnical investigation and close onsite supervision.
- Unexpected ground conditions particularly with penstock and pump stations. Mitigated through geotechnical investigations and assessments.
- Unexpected services are damaged or cause interruption. Mitigated through desktop review of work as executed documentation and site investigations.
- Council initiates scope changes. Mitigated through extensive consultation process during pre-construction phase.
- Delays to commissioning of the works due to the unavailability of power. Mitigated through the earlier procurement of high voltage power under a separate contract.
- Adverse impact on water quality in Mardi Dam. Mitigated through appropriate siltation, pollution and risk control measures during construction.

Risk Contingency

The above risks are considered to be medium for this contract given the value of the contract and the nature of the work. Accordingly, it is recommended that a contingency sum of \$4.2m (excl GST) representing approximately 10% of the contract sum be approved.

Based on experience with contracts of this nature and an analysis of the risks, it is estimated that there is a low to medium probability that the contract budget, which incorporates the contingency allowance, will be exceeded.

BUDGET

This project is being jointly funded by Gosford and Wyong Councils, through the Joint Water Authority. Gosford Council has confirmed budgetary allowance has been made for the project and agreed for the project to proceed. A project budget that is adequate to provide for this predicted contract amount, including contingency funds, has previously been approved by both Councils. The present budget has some capacity to provide for further costs and will be preserved to accommodate possible additional funding that may be required during the construction phase.

The final contract value will depend on the actual quantities of schedule of rates items and variations.

TIME-FRAME

Based on an anticipated award date of late May 2009 the contract is expected to be completed by November 2010.

LOCAL CONTENT

The preferred tenderer has not indicated how much local content from the Central Coast will be involved in the contract works. However, it is estimated that due to the size and complexity of the works a majority of labour and materials will probably come from outside the local area. However it is still expected that significant local content will be utilised from within the Central Coast.

CONCLUSION

The negotiated tender from Baulderstone Pty Ltd is the highest scoring tender based on price and non-price criteria and meets all of Council's requirements for this contract, but isn't the lowest negotiated tender amount. The negotiated tender amount from MacMahon Constructions is \$196,596.36 (excl GST) less than the Baulderstone negotiated tender amount (0.5% difference). Both negotiated tenders represent value for money to Council.

However in accordance with the approved TENP, the negotiated tender with the highest score is the Preferred Tender for recommendation to Council i.e. Baulderstone Pty Ltd.

Therefore it is recommended that in accordance with the approved TENP, Council accept the negotiated tender amount from the second lowest tenderer, Baulderstone Pty Ltd, as being the "Preferred Tenderer" in the amount of \$41,464,576.36 (excl GST).

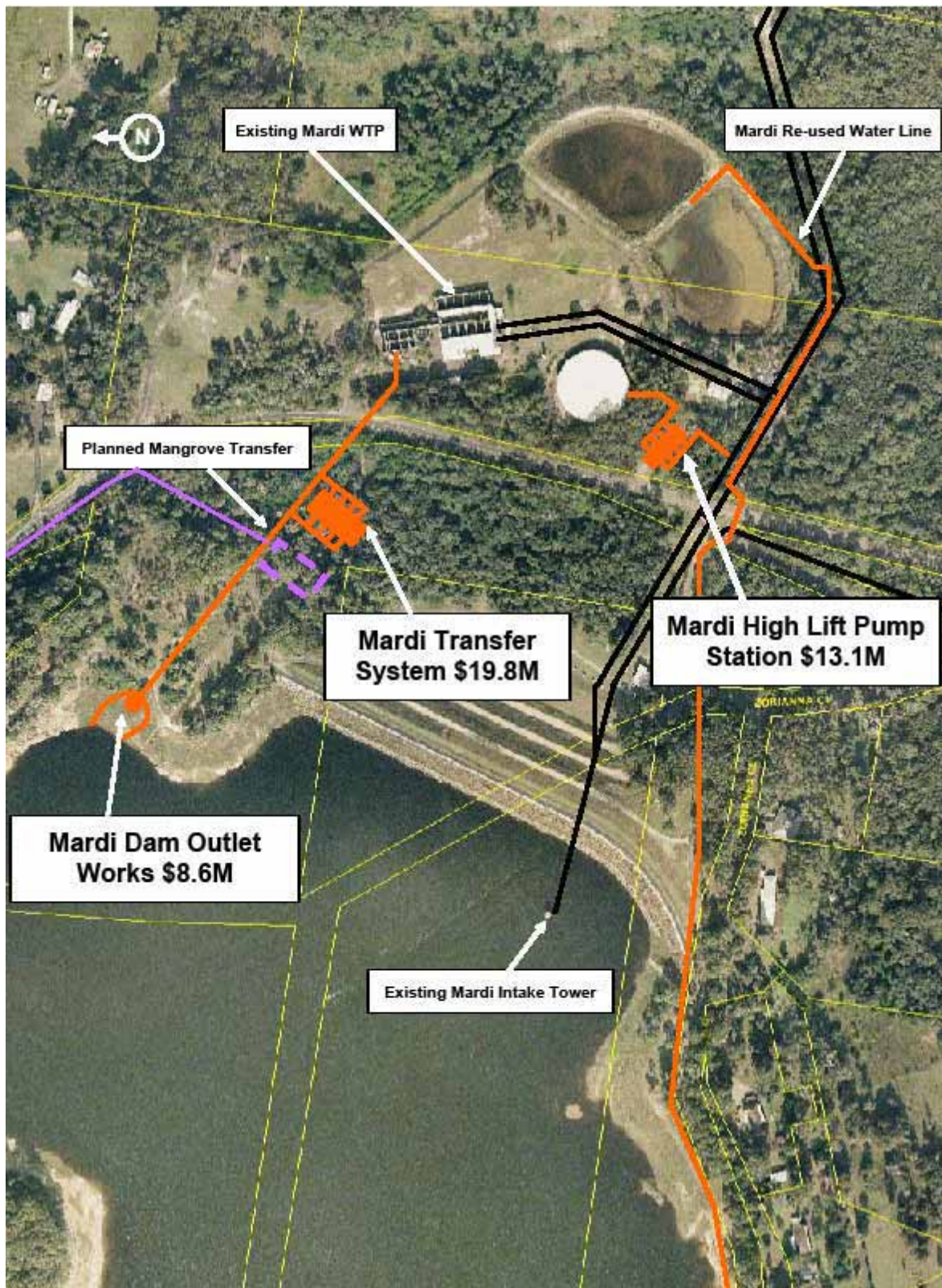


Figure 1 - Proposed Augmentation Works at Mardi Dam

ATTACHMENTS

Nil.

5.2 Contract CPA 157278 - Replacement of 600 Metres of 250mm Asbestos Concrete Water Main - McDonagh Road, Wyong

TRIM REFERENCE: CPA/157278 - D01889140

AUTHOR: EC

SUMMARY

Evaluation and selection of tenders for Contract CPA 157278 Replacement of 600m of 250mm AC (asbestos cement) water main – McDonagh Road, Wyong.

RECOMMENDATION

- 1 That Council accept Tender No 7 from Mudix Pty Ltd in the lump sum amount of \$302,148.00 (excl GST).***
- 2 That Council approve a contingency amount of \$30,214.80 (excl GST), representing approximately 10% of the contract value, to provide for any unforeseen additional works that may become necessary during the course of the project.***

BACKGROUND

The subject water main comprises of about 600m length of 200mm Class C AC main constructed in 1966. The water main was originally laid in swamp land. Over time further development in the area has increased the ground surface levels and deepened (approx 2m) the water main making maintenance and repairs difficult. The main has had 15 failures between Lewis Ave and the Fish Co-Op along McDonagh Road at Tacoma over the last three years, with three failures during October 2005. This is the second stage of the project. The first stage of the project has already been completed in June 2006

As a result of filling the AC main is approximately 2 to 3m below existing ground level. Three options for replacement were considered. The option of replacing existing pipe by pipe bursting was rejected as this option would make the water main too deep. Open trenching was rejected due to the risks associated with acid sulphate soils and erosion and sedimentation control issues adjacent to a sensitive wetland. A third option of directional drilling (not requiring open trenching) was considered, however this would result in the old main being left in the ground. The pipeline, having asbestos content, has the potential to be a pollutant but is only considered by the Department of Environment and Climate Change to be so when removed from the ground and disposed elsewhere. It is not considered to pose a risk while it remains buried. As the main is 2 to 3 m below ground level there is little risk of exposure through future excavation as it is deep and away from existing services of all utilities. This arrangement would allow the AC pipe to remain in ground without causing any potential risk in the future while constructing the new pipeline above it. The old main will remain on Council's asbestos register and Council's Dial Before You Dig register in order to alert people of its potential risk in future excavations. Therefore, a trenchless method (a non-surface disruptive method - directional drilling) was recommended as the most appropriate option under such circumstances.

Tender Process

Tenders were invited by way of public invitation using Council's e-Tender system. Advertisements were placed in the Sydney Morning Herald on 27 January 2009 and the Central Coast Express Advocate on 28 January 2009.

The invitation documents called for lump-sum tenders, based on a detailed specification. Tenderers were requested to provide the best price for compliant tenders.

No pre-tender meetings were organised however all requests for information were forwarded to the contact officer.

Tenders closed at Council Chambers at 2pm on 19 February 2009.

EVALUATION OF TENDERS

Tenders were evaluated by a panel of three staff members (two of whom were from units other than the one managing the procurement process) using the following threshold and weighted criteria:

- * Conformance with the requirements of the tender documents.
- * Ability to manage operational, financial and safety risk.
- * Price.
- * Verified Experience.

The evaluation criteria and their weightings were documented in the Contract Development Plan and approved by the Director Shire Services prior to tenders being invited. The Contract Development Plan is available on file.

To assess tenders against the evaluation criteria, the panel used information obtained from the tender documents and related correspondence, referees, external advisors and interviews with the two lowest priced tenderers.

The evaluation was conducted according to the following process.

- Assessment of receipt of tenders.
- Assessment of conformance of tenders.
- Shortlisting of tenders.
- Interviews by the panel.
- Detailed weighted evaluation of shortlisted tenders.
- Due diligence checks on preferred tenderers.
- Independent review of the tender selection process.

5.2 Contract CPA 157278 - Replacement of 600 Metres of 250mm Asbestos Concrete Water Main - McDonagh Road, Wyong (contd)

Assessment of Tenders Received

The following tenders were received and are listed in alphabetical order.

Tender No.	Tender	Tendered Lump Sum (Ex. GST)	Status
1	ABK Construction Pty Ltd.	\$261,900.00	Submitted on time
2	Arogen Pty Ltd	\$437,451.30	Submitted on time
3	Austerberry Directional Drilling Services	\$474,881.22	Submitted on time
4	Codmah Pty Ltd	\$538,001.20	Submitted on time
5	Cornish Property Services & Exact Civil Joint Venture	\$875,407.48	Submitted on time
6	Milbant Constructions Pty Ltd.	\$375,178.26	Submitted on time
7	Mudix Pty Ltd.	\$302,148.00	Submitted on time

* See Assessment of Conformance below.

Assessment of Conformance

Tenders were assessed for conformance with the general tender requirements, including the specifications. All tenders received conformed to the submission time requirements and were progressed to the next stage of evaluation.

Shortlisting

In order to simplify the tender review, tenders priced above the average were analysed using a price sensitivity analysis. The three lowest tenders were progressed to the next stage of the evaluation.

Assessment of Conformance of Shortlisted Tenders

The shortlisted tenders were assessed for conformance in terms of tender pricing anomalies, alternatives submitted or tender qualifications. Tenderers were requested to clarify aspects of their tender and these matters are included in the panel's detailed evaluation notes.

The Contract Development Plan states that Non-conforming tenders will be eliminated, except where they represent an overall advantage to Council or where minor issues can be readily resolved. The shortlisted tenders were examined in detail in regard to the extent and impact of any anomalies, alternatives and qualifications and taking into account any clarification received from the tenderers. Where the alternative, qualification, anomaly or clarification were considered to have an impact on the overall cost to Council in regard to that tender, an assessment was made of the valuation of that cost impact (positive or negative) on the tendered price.

The details of the assessed valuations of the alternatives, qualifications, anomalies or clarifications are included in the panel's detailed evaluation notes.

5.2 Contract CPA 157278 - Replacement of 600 Metres of 250mm Asbestos Concrete Water Main - McDonagh Road, Wyong (contd)

The following tabulation shows the tendered prices for the lowest three tenders and the adjusted price following corrections for clarification of omissions and/or errors and estimates of the assessed cost of tender qualifications or tender alternatives have been adjusted accordingly.

Tender No.	Tender	Tendered Lump Sum (Ex. GST)	Adjusted Lump Sum (Excl GST)	Comment
1	ABK Construction Pty Ltd.**	\$261,900.00	\$272,450.00	Approx 10% lower than next tender. Non-conforming
6	Milbant Constructions Pty Ltd.	\$375,178.26	\$375,728.26	Minor non-conformance
7	Mudix Pty Ltd.	\$302,148.00	\$302,698.00	Minor non-conformance

** Tender No. 1- ABK Constructions was not considered for further evaluation due to:

- Non conformance with the requirements of the tender documents in relation to dewatering and Acid Sulphate soil treatment.
- The tenderer expressed his willingness in writing to withdraw the tender if the variation requested is not considered.
- Lack of experience in executing works in excess of \$75,000 in value.
- No experience with water main/ house connections installations.

Of the remaining two tenders, both contain some minor non-conforming elements. However, they have been included in the next stage of the evaluation process due to the fact that the non-conformances are considered to be of a minor impact only.

Weighted Evaluation

Tenders were scored against each of the weighted evaluation criteria (including price and non-price elements), and are listed below in descending order of weighted evaluation scores.

Tender No.	Tender	Lump Sum (Ex. GST)	Weighted Evaluation Score
7	Mudix Pty Ltd	\$302,698.00*	97
6	Milbant Constructions Pty Ltd	\$375,728.26*	86

*Adjusted for comparison purposes

Tender No 7 (from Mudix Pty Ltd) is an Australian company operating in Cardiff since 1988. Mudix is a long-established firm with long term repeat clients with a primary focus on directional drilling. Favourable reference was obtained from Sydney Water. The tender price is adjusted by an increase of \$550 for the minor exclusion of the treatment of Acid Sulphate Soils. The Tenderer has indicated that subcontractors Ken Kar Plastics and Gerrard Murphy Plumbing will be engaged for the water main installation.

Tender No 6 (from Milbant P/L) is a local based firm with a primary focus on construction works and no experience with directional drilling. Similarly, the tender price is adjusted by an increase of 550 for the minor exclusion of the treatment of Acid Sulphate Soils.

Tender No 7 (from Mudix Pty Ltd), being the highest scoring tender, was progressed to the due diligence stage of the evaluation.

Due Diligence

Tender No 7 (from Mudix Pty Ltd) was subjected to a financial assessment, an in-house safety/environment system assessment and referee checks.

On the basis of the information provided by the tenderer, Council's independent financial assessor Kingsway Financial Assessments, and independent referees were undertaken to assess the suitability of the Tenderer. The outcomes reveal that Mudix Pty Ltd possesses all of the technical, financial and managerial resources necessary to satisfactorily complete the works.

Mudix Pty Ltd is a Cardiff based contractor with a history of successfully completed contracts similar in nature and scope to the proposed works. The company has in place fully documented Occupational Health Safety and Rehabilitation Management and Environmental Management systems.

The amount tendered by Mudix Pty Ltd is within 5% of Council's pre-tender estimate and is considered to represent a reasonable price for the contract works.

Process Review

This evaluation process and recommendations have been endorsed by the Contract Systems Co-ordinator.

RISK ASSESSMENT**General**

When letting a contract various risks exist that may result in the final contract cost exceeding the initial contract sum. These risks vary depending upon the type of work being undertaken; for example, design work versus construction work; and the type of contract, for example Lump Sum versus Schedule of Rates.

Generally, the contract is structured to have the party best placed to manage the risk responsible for that risk outcome. Some risks are passed on to the contractor, with the cost of those risks reflected in the tendered price. Other risks are best managed by Council rather than the contractor, as they would inflate the tender price whether the risk eventuated or not.

For this reason Council retains and is required to manage some risks. These are minimised by Council's contract administration processes. However, to manage these risks it is necessary to provide a contingency sum in addition to the tender price to allow for unforeseen additional works that may become necessary during the course of the project.

Contract Risks

Contract risks include Generic Risks (generally found in most contracting situations) and Specific Risks leading to contract variations that have particular application to an individual contract. These major risks are summarised below for this contract.

Generic Risks

These are risks that Council manages through its contract administration procedures and processes. Major generic risks and mitigation measures for this contract include:

- Contractor experiences financial difficulties or goes into liquidation, leading to additional project delays and costs.
Mitigated through financial and referee checks before contract award and timely progress payments.
- Completion time exceeds target leading to delays and damage to Council's reputation.
Mitigated through close supervision and prompt directions where required.
- Liability for injury and/or damage to people, property and the environment.
Mitigated through on-going validation of contractor's insurances, safety and environmental management systems, together with close supervision including site audits.

Specific Risks Leading to Contract Variations

The following are the major risks that Council bears in relation to this contract:

- The quality of the design is sub-standard resulting in additional costs during the construction phase.
Mitigated by appropriate technical reviews by others to ensure design meets requirements.
- Changes to regulatory design standards requiring project re-design.
Mitigated by using latest information in design standards and minimising delays in award of contract.
- Specification does not adequately cover all required work and additional investigations are found to be necessary during the consultancy.
Mitigated by preparation of comprehensive Brief and peer review of documentation prior to inviting tenders.
- Due to deep excavations, underground conditions could pose risks related to poor ground conditions, raised ground water levels resulting in extensive dewatering and storm damage due to inclement weather.
Mitigation by providing Management and Traffic Control Plan prior to commencement of works
- Under boring for the house connections across the road. Underground conditions, services, traffic and space for launch and recovery pits.
Mitigation by providing Management and Traffic Control Plan prior to commencement of works

Risk Contingency

The above risks generally are considered to be low for this contract but risks associated with deep excavation could be medium. Accordingly, it is recommended that a contingency sum of \$30,214.80 (excl GST) representing approximately 10% of the contract sum be approved.

Based on previous experience with contracts of this nature and analysis of the risks involved, it is anticipated that there is a good probability that the contract budget of \$332,362.80, which incorporates the contingency allowance, will not be exceeded.

BUDGET

Funding for the project is available in the Shire Services capital works budget.

TIME-FRAME

The timeframe for this project is 20 weeks from the Date of Acceptance of Tender.

LOCAL CONTENT

The tenderer has indicated that the contract works are expected to generate approximately 64 person-weeks of labour requirements and that all labour resources to be employed on the project will be sourced from within the Central Coast.

CONCLUSION

Tender No 7 from Mudix Pty Ltd is the highest scoring tender and meets all of Council's requirements for this contract. On balance, this tender represents the best value-for-money for Council. It is recommended that the tender from Mudix Pty Ltd be accepted.

ATTACHMENTS

Nil.

5.3 Contract CPA 158361 - Estuary Management Plan - Rehabilitation and Bush Regeneration Works Saltwater Creek - Reach 2

TRIM REFERENCE: CPA/158361 - D01891033

AUTHOR: JR

SUMMARY

Evaluation and selection of lump sum tenders for Contract CPA/158361 - Estuary Management Plan - Rehabilitation and Bush Regeneration Works Saltwater Creek – Reach 2.

RECOMMENDATION

- 1 That Council accept Tender number 2 from Hunter Land Management Pty Ltd in the lump sum amount of \$522,000.00 (excl GST).**
- 2 That Council approve a contract budget of \$574,200.00 (excl GST) that provides for a contingency amount of \$52,200.00 (excl GST) representing approximately 10% of the contract value, to provide for any unforeseen additional works that may become necessary during the course of the project.**

BACKGROUND

Wyong Shire Council through the Estuary Management Unit is implementing the Tuggerah Lakes Estuary Management Plan. The Plan proposes to undertake a number of projects over the next five years within the catchment, enabling the improvements to water quality and foreshore ecology in Tuggerah Lake, Budgewoi Lake and Lake Munmorah.

As part of this Plan stormwater treatment works were identified as being required in Saltwater Creek Management Reach 2. The works consist of the rehabilitation of approximately 650m of vegetated swale and 15,000m² of bush regeneration adjacent to an existing concrete lined channel. Also included in the contract is an independent review of the quality of the work to be progressively undertaken by a recognised environmental scientist.

Design solutions were developed for this project being cognisant of Council's Draft 'Water Sensitive Urban Design (WSUD) Management Guidelines' that take into account sustainability.

The principal objectives of this contract are:

- 1 Protect the environment throughout the life of the project.
- 2 Construct the works in a way that ensures the desired outcome is achievable without causing further damage to the environment.
- 3 Control the amount, quality and speed of stormwater that is reaching and eroding stream banks.
- 4 Improve the quality of stormwater entering the Tuggerah Lakes Estuary.
- 5 Improve the water quality of the Tuggerah Lakes.
- 6 Improve the riparian zone ecology.

The environmentally sensitive nature of these works necessitate that time cannot be the overriding criterion during the delivery process.

Location of Stormwater Works in Saltwater Creek



- Notes:
1. Reach 2 is located along the eastern boundary of the EDSACC Sports fields for a distance of 1.1km
 2. The circled numbers shown represent the Reach designation within Saltwater Creek.
 3. The bracketed numbers shown represent the priority score for the respective reach.

Tender Process

Tenders were invited by way of public invitation. Advertisements were placed in the Sydney Morning Herald on 24 February 2009 and the Central Coast Express Advocate on 25 February 2009. Tenders were also advertised on Council's e-Tender site. The advertised closing date was 26 March 2009.

5.3 Contract CPA 158361 - Estuary Management Plan - Rehabilitation and Bush Regeneration Works Saltwater Creek - Reach 2 (contd)

The invitation documents called for lump-sum tenders based on a detailed specification and suite of supporting documentation.

The following addenda were issued to all prospective tenderers during the invitation period.

- 1 Alterations to the specification (25 February 2009) due to the requirement to provide - Peer Review: Environmental Management Measures.
- 2 Alterations to the specification (12 March 2009) due to the requirements of Notice of Determination LA/207/2008 issued pursuant to Part 5 of the Environmental Planning and Assessment Act 1979.

Tenders closed at Council Chambers at 2pm on 26 March 2009.

EVALUATION OF TENDERS

Tenders were evaluated by a panel of four staff members (three of whom were from a unit other than the one managing the procurement process) using the following threshold and weighted criteria:

- Compliance with Tender documents, including lodgement of tender by specified time
- Ability to manage financial, environmental, operational and safety risk.
- An Environment Management System.
- Conformity with Brief / Specification.
- Proposed methodology / construction program / environmental management.
- The tendered price and structure; as well as any other potential costs to Council that may be identified.
- Experience in the specific field.

The evaluation criteria and their weightings were documented in the Contract Development Plan and approved by the Director Shire Services prior to tenders being invited. The Contract Development Plan is available on file.

To assess tenders against the evaluation criteria, the panel used information obtained from the tender documents and related correspondence, referees, external advisors and presentations made by the shortlisted tenderers.

The evaluation was conducted according to the following process.

- Assessment of receipt of tenders.
- Assessment of conformance of tenders.
- Detailed weighted evaluation of shortlisted tenders.
- Due diligence checks on preferred tenderers.
- Independent review of the tender selection process.

Assessment of Receipt

The following tenders were received and are listed in alphabetical order.

	Tender	Tendered Lump Sum (Ex. GST)	Status
1	Environmental Land Contracting Pty Ltd	\$822,845.00	Submitted on time.
2	Hunter Land Management Pty Ltd	\$522,000.00	Submitted on time.

5.3 Contract CPA 158361 - Estuary Management Plan - Rehabilitation and Bush Regeneration Works Saltwater Creek - Reach 2 (contd)

Assessment of Conformance

Tenders were assessed for conformance with the general tender requirements, including the specification. Both tenders received conformed to all requirements and were progressed to the next stage of evaluation.

Weighted Evaluation

Tenders were scored against each of the weighted evaluation criteria (including price and non-price elements) and are listed below in descending order of weighted evaluation scores.

	Tender	Lump Sum Ex. GST)	Weighted Evaluation Score
2	Hunter Land Management Pty Ltd	\$522,000.00	79
1	Environmental Land Contracting Pty Ltd	\$822,845.00	65

Tender number 2 (from Hunter Land Management), being the highest scoring tender, was progressed to the due diligence stage of the evaluation.

Due Diligence

Tender number 2 (from Hunter Land Management Pty Ltd) was subjected to a financial assessment, an in-house safety/environment system assessment and referee checks.

On the basis of the information provided by the tenderer, Council's independent financial assessor Kingsway Financial Assessments and independent referees, it is considered that Hunter Land Management Pty Ltd possesses all of the technical, financial and managerial resources necessary to satisfactorily complete the works.

Hunter Land Management Pty Ltd is a Maitland based contractor with a history of successfully completed contracts similar in nature and scope to the current works. The company has in place fully documented Occupational Health Safety and Rehabilitation Management and Environmental Management systems.

The limited number of tenderers for this contract could be due to a number of reasons. It is speculated that this variability could be related to factors that might include the number of suitably experienced contractors competing for work; a misinterpretation by some tenderers of information in the tender documents; the quantum of other similar work available at the time; different perceived project risks or other unknown factors. It is noted that this contract and contract CPA/158923 were both advertised over the same period, albeit each contract was for different types of environmental work that may not have suited all contractors.

The amount tendered by Hunter Land Management Pty Ltd was found to be 24% greater than Council's pre-tender estimate prepared by the design consultant. A significant component of the works (25%) consists of the labour required for bush regeneration. Allowing for the type of specialised environmental work to be undertaken, limited number of companies of sufficient size available and small number of tenders received it was not considered that re-tendering the work would lead to more competitive tenders. A review by the design consultant of the tenders received and its pre-tender estimate indicate that the man hours allowed for this element of the works are significantly lower for the pre-tender estimate whilst the hourly rates are comparable. The design consultant acknowledged that the hours were underestimated and has confirmed the tendered hours are more appropriate. On balance it is considered the tendered amount from Hunter Land Management Pty Ltd represents a reasonable price for the contract works.

5.3 Contract CPA 158361 - Estuary Management Plan - Rehabilitation and Bush Regeneration Works Saltwater Creek - Reach 2 (contd)

Process Review

This evaluation process and recommendations have been endorsed by the Contract Systems Co-ordinator.

RISK ASSESSMENT

General

When letting a contract various risks exist that may result in the final contract cost exceeding the initial contract sum. These risks vary depending upon the type of work being undertaken; for example, design work versus construction work; and the type of contract, for example;

Lump Sum versus Schedule of Rates

Generally, the contract is structured to have the party best placed to manage the risk responsible for that risk outcome. Some risks are passed on to the contractor, with the cost of those risks reflected in the tendered price. Other risks are best managed by Council rather than the contractor, as they would inflate the tender price whether the risk eventuated or not. For this reason Council retains and is required to manage some risks. These are minimised by Council's contract administration processes. However, to manage these risks it is necessary to provide a contingency sum in addition to the tender price to allow for unforeseen additional works that may become necessary during the course of the project.

Contract Risks

Contract risks include Generic Risks (generally found in most contracting situations) and Specific Risks leading to contract variations that have particular application to an individual contract. These major risks are summarised below for this contract.

Generic Risks

These are risks that Council manages through its contract administration procedures and processes. Major generic risks and mitigation measures for this contract include:

- Contractor experiences financial difficulties or goes into liquidation, leading to additional project delays and costs. Mitigated through financial and referee checks before contract award and timely progress payments.
- Completion time exceeds target leading to delays and damage to Council's reputation. Mitigated through close supervision and prompt directions where required.
- Liability for injury and/or damage to people, property and the environment. Mitigated through on-going validation of contractor's insurances, safety and environmental management systems, together with close supervision including site audits.
- Contract dispute over rights and obligations of the parties. Mitigated through use of Australian Standards General Conditions of Contract, which include dispute resolution mechanisms.

5.3 Contract CPA 158361 - Estuary Management Plan - Rehabilitation and Bush Regeneration Works Saltwater Creek - Reach 2 (contd)

Specific Risks Leading to Contract Variations

The following are the major risks that Council bears in relation to this contract:

- The quality of the design is sub-standard resulting in additional costs during the construction phase. Mitigated by appropriate technical reviews by others to ensure design meets requirements.
- Changes to regulatory design standards requiring project re-design. Mitigated by using latest information in tender documents and minimising delays in award of contract.

Risk Contingency

The above risks are considered to be low for this contract given the value of the contract and the nature of the work. Accordingly, it is recommended that a contingency sum of \$52,200.00 (excl GST) representing approximately 10% of the contract sum be approved.

Based on previous experience with contracts of this nature and analysis of the risks involved, it is estimated that there is a good probability that the project budget of \$574,200.00 (excl GST), which incorporates the contingency allowance, will not be exceeded.

BUDGET

Funding: Estuary Management Unit

Funding of this work of \$420,000.00 is provided from the Department of Environment, Water, Heritage and the Arts through the Caring for Our Country agreement. The additional cost for the contract will be funded from the Stormwater Levy.

Although the value of the tendered works is \$522,000.00 (excl GST), the actual value will depend on the quality of design documentation and the administration of the contract over the life of the works. The total amount of the contract as defined could therefore vary marginally during the execution of the works.

TIME-FRAME

It is expected that the works will be completed within 18 months of commencement largely as a result of the weed species seed bank, growing cycles and seasonal effects. Hunter Land Management Pty Ltd has advised they can mobilise within two weeks of contract award.

LOCAL CONTENT

The tenderer has indicated that the contract works are expected to generate approximately 180 person-weeks of labour requirements and that labour resources to be employed on the project will be sourced from the Hunter.

5.3 Contract CPA 158361 - Estuary Management Plan - Rehabilitation and Bush Regeneration Works Saltwater Creek - Reach 2 (contd)

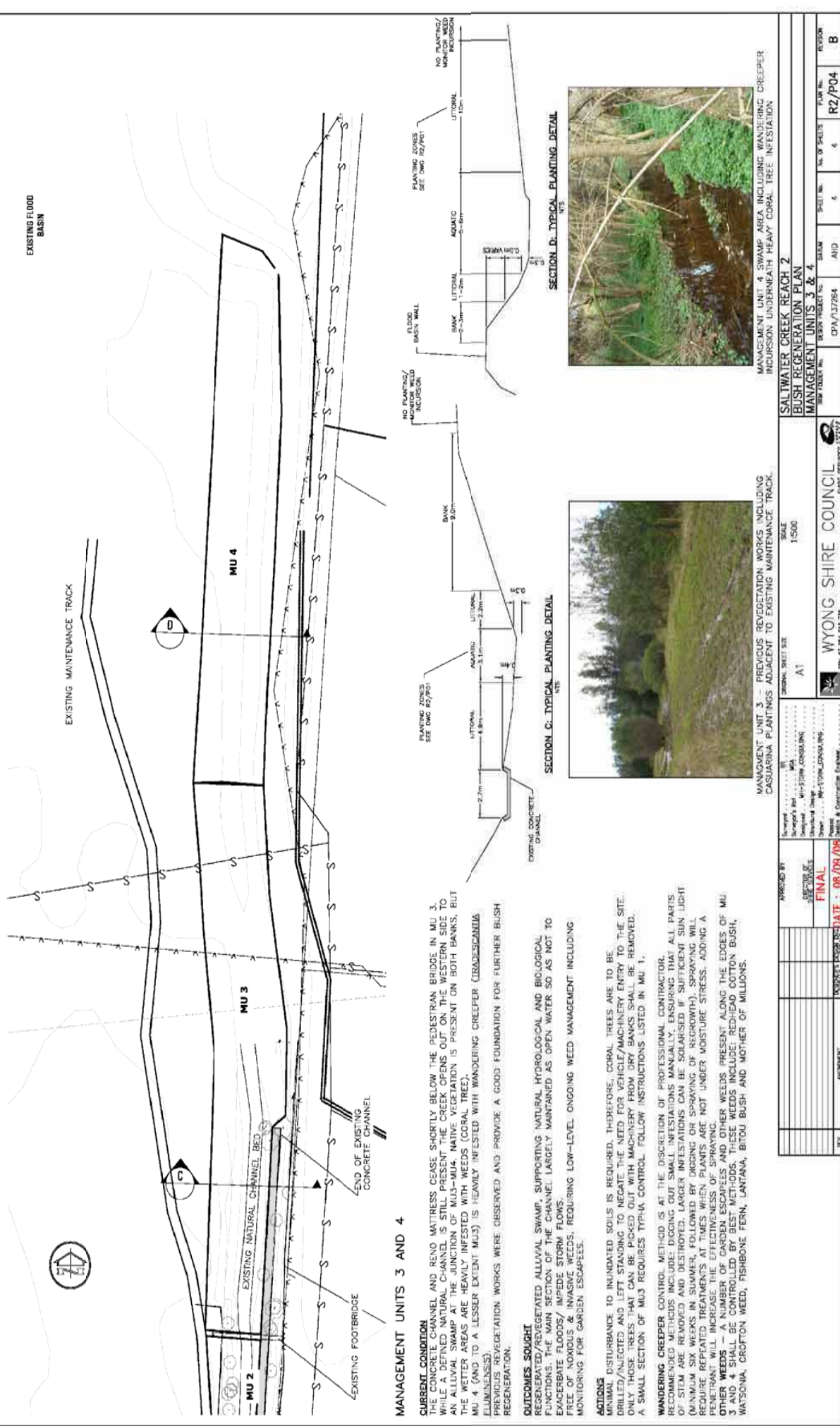
CONCLUSION

Tender number 2 from Hunter Land Management Pty Ltd in the amount of \$522,000.00 (excl GST) is the highest scoring tender and meets all of Council's requirements for this contract. On balance, this tender represents the best value-for-money for Council. It is recommended that the tender be accepted.

ATTACHMENTS

- 1 Reach 4 Bush Regeneration Plan
- 2 Reach 2 Bush Regeneration Plan

MANAGEMENT UNITS 3&4



MANAGEMENT UNITS 3 AND 4

CURRENT CONDITION
 THE CONCRETE CHANNEL AND RENO MATRESS CEASE SHORTLY BELOW THE PEDESTRIAN BRIDGE IN MU 3. WHILE A DEFINED NATURAL CHANNEL IS STILL PRESENT THE CREEK OPENS OUT ON THE WESTERN SIDE TO AN ALLUVIAL SWAMP AT THE JUNCTION OF MU3-MU4. NATIVE VEGETATION IS PRESENT ON BOTH BANKS, BUT THE WETTER AREAS ARE HEAVILY INFESTED WITH WEEDS (CORAL TREE). MU 4 (AND TO A LESSER EXTENT MU3) IS HEAVILY INFESTED WITH WANDERING CREEPER (BRADSEZANILIA ELLUMINENSIS).
 PREVIOUS REVEGETATION WORKS WERE OBSERVED AND PROVIDE A GOOD FOUNDATION FOR FURTHER BUSH REGENERATION.

OUTCOMES SOUGHT
 RESTORED/REVEGETATED ALLUVIAL SWAMP, SUPPORTING NATURAL HYDROLOGICAL AND BIOLOGICAL FUNCTIONS. IF MAIN SECTION OF THE CHANNEL LARGELY MAINTAINED AS OPEN WATER, SO AS NOT TO EXACERBATE FLOODS/IMPIDE STORM FLOWS.
 FREE OF NOXIOUS & INVASIVE WEEDS, REQUIRING LOW-LEVEL ONGOING WEED MANAGEMENT INCLUDING MONITORING FOR GARDEN ESCAPEES.

ACTIONS
 MINIMAL DISTURBANCE TO INUNDATED SOILS IS REQUIRED, THEREFORE, CORAL TREES ARE TO BE DRILLED/INJECTED AND LEFT STANDING TO NEGATE THE NEED FOR VEHICLE/MACHINERY ENTRY TO THE SITE. ONLY THOSE TREES THAT CAN BE PICKED OUT WITH MACHINERY FROM DRY BANKS SHALL BE REMOVED. A SMALL SECTION OF MU3 REQUIRES TYPIA CONTROL FOLLOW INSTRUCTIONS LISTED IN MU 1.

WANDERING CREEPER CONTROL METHOD IS AT THE DISCRETION OF PROFESSIONAL CONTRACTOR. RECOMMENDED METHODS INCLUDE: DIGGING OUT SMALL INFESTATIONS MANUALLY, ENSURING THAT ALL PARTS OF STEM ARE REMOVED AND DESTROYED. LARGER INFESTATIONS CAN BE SOLARISED IF SUFFICIENT SUN LIGHT (MINIMUM SIX WEEKS IN SUMMER, FOLLOWED BY DIGGING OR SPRAYING OF REGROWTH). SPRAYING WILL REQUIRE REPEATED TREATMENTS AT TIMES WHEN PLANTS ARE NOT UNDER MOISTURE STRESS. ADDING A PENETRANT WILL INCREASE THE EFFECTIVENESS OF SPRAYING.
OTHER WEEDS - A NUMBER OF GARDEN ESCAPEES AND OTHER WEEDS PRESENT ALONG THE EDGES OF MU 3 AND 4 SHALL BE CONTROLLED BY BEST METHODS. THESE WEEDS INCLUDE: REDHEAD COTTON BUSH, WATSONIA, CROFTON WEED, FISHBONE FERN, LANTANA, BITOU BUSH AND MOTHER OF MILLIONS.



SECTION D: TYPICAL PLANTING DETAIL



SECTION C: TYPICAL PLANTING DETAIL

MANAGEMENT UNIT 3 - PREVIOUS REVEGETATION WORKS INCLUDING CASUARINA PLANTINGS ADJACENT TO EXISTING MAINTENANCE TRACK.

MANAGEMENT UNIT 4 SWAMP AREA INCLUDING WANDERING CREEPER INCURSION UNDERNEATH HEAVY CORAL TREE INFESTATION

APPROVED BY	DATE	SCALE	SHEET NO.	NO. OF SHEETS	PLAN NO.	REVISION
PROJECT MANAGER	08/09/08	1:500	4	4	R2/P04	B
SALWATER CREEK REACH 2 BUSH REGENERATION PLAN MANAGEMENT UNITS 3 & 4						
DESIGN PROJECT NO.	CPA/137264	A1D				
DESIGN PROJECT NO.	CPA/137264	A1D				
DATE	08/09/08					
WYONG SHIRE COUNCIL	DATE SERVICES 15/1/17					

5.4 Contract CPA 158923 - Estuary Management Plan - Stormwater Treatment Works - Lowana Avenue, Charmhaven

TRIM REFERENCE: CPA/158923 - D01891023

AUTHOR: JR

SUMMARY

Evaluation and selection of lump sum tenders for Contract CPA/158923 - Estuary Management Plan – Stormwater Treatment Works Project – Lowana Avenue, Charmhaven.

RECOMMENDATION

- 1 That Council accept Tender number 3 from Enviropacific Services Pty Ltd in the lump sum amount of \$342,396.60 (excl GST).**
- 2 That Council approve a contract budget of \$376,636.00 (excl GST) that provides for a contingency amount of \$34,239.00 (excl GST) representing approximately 10% of the contract value, to provide for any unforeseen additional works that may become necessary during the course of the project.**

BACKGROUND

Wyong Shire Council through the Estuary Management Unit is implementing the Tuggerah Lakes Estuary Management Plan. The Plan proposes to undertake several projects for the next five years within the catchment, enabling the improvement of water quality and foreshore ecology in Tuggerah Lake, Budgewoi Lake and Lake Munmorah.

As part of this Plan stormwater treatment works were identified as being required in Lowana Avenue, Charmhaven. The works consist of the installation of a proprietary Gross Pollutant Trap and headwall together with an 850m² freshwater wetland adjacent to the lake. Also included is an independent review of the quality of the construction work that is to be progressively undertaken by a recognised environmental scientist.

Design solutions were developed for this project being cognisant of Council's Draft 'Water Sensitive Urban Design (WSUD) Management Guidelines' that take into account sustainability.

The principal objectives of this contract are to:

- 1 Protect the environment throughout the life of the project.
- 2 Construct the works in a way that ensures the desired outcome is achievable without causing further damage to the environment.
- 3 Control the amount, quality and speed of stormwater that is reaching and eroding stream banks.
- 4 Improve the quality of stormwater entering the Tuggerah Lakes Estuary.

5.4 Contract CPA 158923 - Estuary Management Plan - Stormwater Treatment Works - Lowana Avenue, Charmhaven (contd)

5 Improve the water quality of the Tuggerah Lakes.

6 Improve the riparian zone ecology.

The environmentally sensitive nature of these works necessitates that time cannot be the over riding criterion during the delivery process.

Tender Process

Tenders were invited by way of public invitation. Advertisements were placed in the Sydney Morning Herald on 24 February 2009 and the Central Coast Express Advocate on 25 February 2009. Tenders were also advertised on Council's e-Tender site. The advertised closing date was 26 March 2009.

The invitation documents called for lump-sum tenders based on a detailed specification and suite of supporting documentation.

The following addenda were issued to all prospective tenderers during the invitation period.

- 1 Alterations to the specification (25 February 2009) due to the requirement to provide - Peer Review: Environmental Management Measures.
- 2 Confirmation of NSW Legislation (25 February 2009) regarding – Spoil Classification – EPA Act.
- 3 Alterations to the specification (19 March 2009) due to the requirements of Notice of Determination LA/267/2008 issued pursuant to Part 5 of the Environmental Planning and Assessment Act 1979.

Tenders closed at Council Chambers at 2pm on 26 March 2009.

EVALUATION OF TENDERS

Tenders were evaluated by a panel of three staff members (one of whom was from a unit other than the one managing the procurement process) using the following threshold and weighted criteria:

- Compliance with Tender documents, including lodgement of tender by specified time.
- Ability to manage financial, environmental, operational and safety risk.
- An Environment Management System.
- Conformity with Brief / Specification.
- Proposed methodology / construction program / environmental management.
- The tendered price and structure; as well as any other potential costs to Council that may be identified.
- Experience in the specific field.

The evaluation criteria and their weightings were documented in the Contract Development Plan and approved by the Director Shire Services prior to tenders being invited. The Contract Development Plan is available on file.

To assess tenders against the evaluation criteria the panel used information obtained from the tender documents and related correspondence, referees, external advisors and presentations made by the shortlisted tenderers.

5.4 Contract CPA 158923 - Estuary Management Plan - Stormwater Treatment Works - Lowana Avenue, Charmhaven (contd)

The evaluation was conducted according to the following process.

- Assessment of receipt of tenders.
- Assessment of conformance of tenders.
- Detailed weighted evaluation of shortlisted tenders.
- Due diligence checks on preferred tenderers.
- Independent review of the tender selection process.

Assessment of Receipt

The following tenders were received and are listed in alphabetical order.

	Tender	Tendered Lump Sum (excl GST)	Status
1	Austexc Pty Ltd.	\$342,090.00	Submitted on time.
2	Environmental Land Contracting Pty Ltd.	\$442,520.00	Submitted on time.
3	Enviropacific Services Pty Ltd.	\$342,396.60	Submitted on time.
4	Kingston Civil Pty Ltd.	\$339,218.00	Submitted on time.
5	Pluim Constructions Pty Ltd	\$540,085.00	Submitted on time.
6	Quality Management Constructions Pty Ltd.	\$453,000.00	Submitted on time.
7	Scape Construction Pty Ltd.	\$532,394.90	Submitted on time.

Assessment of Conformance

Tenders were assessed for conformance with the general tender requirements including the specification. Tender number 2 (from Environmental Land Contracting), Tender number 3 (from Enviropacific Services) and Tender number 6 (from Quality Management Constructions) conformed to all requirements and were progressed to the next stage of evaluation. Tender number 7 (from Scape Construction) was also included, however the adequacy of its Environmental Management Systems required further demonstration as to its quality.

Tender number 5 (from Pluim Constructions), Tender number 4 (from Kingston Civil) and Tender number 1 (from Austec) were excluded as nonconforming with Threshold Criteria regarding Environmental Management Systems. The excluded tenderers did not demonstrate that they had systems of adequate quality to comply with the requirements for this contract.

Weighted Evaluation

Tenders were scored against each of the weighted evaluation criteria (including price and non-price elements), and are listed below in descending order of weighted evaluation scores.

	Tender	Lump Sum (excl GST)	Weighted Evaluation Score
3	Enviropacific Services Pty Ltd.	\$342,396.60	85
2	Environmental Land Contracting Pty Ltd.	\$442,520.00	76
6	Quality Management Constructions Pty Ltd	\$453,000.00	66
7	Scape Construction Pty Ltd	\$532,394.90	57

Tender number 3 (from Enviropacific Services), being the highest scoring tender, was progressed to the due diligence stage of the evaluation.

Due Diligence

Tender number 3 (from Enviropacific Services) was subjected to a financial assessment, an in-house safety/environment system assessment and referee checks.

On the basis of the information provided by the tenderer, Council's independent financial assessor Kingsway Financial Assessments and independent referees, it is considered that Enviropacific Services possesses all of the technical, financial and managerial resources necessary to satisfactorily complete the works.

Enviropacific Services Pty Ltd is a Newcastle based contractor with a history of successfully completed contracts similar in nature and scope to the current works. The company has in place fully documented Occupational Health Safety and Rehabilitation Management and Environmental Management systems.

The seven submitted tenders ranged in price from \$339,218.00 to \$540,085.00. This spread of tenders is indicative of the variation in pricing that has been received for some projects tendered recently under the Estuary Management Plan. It is speculated that the reasons for this variability could be related to factors that might include the number of suitably experienced contractors competing for work; a misinterpretation by some tenderers of information in the tender documents; the quantum of other similar work available at the time; different perceived project risks or other unknown factors.

Process Review

This evaluation process and recommendations have been endorsed by the Contract Systems Co-ordinator.

RISK ASSESSMENT

General

When letting a contract various risks exist that may result in the final contract cost exceeding the initial contract sum. These risks vary depending upon the type of work being undertaken; for example, design work versus construction work; and the type of contract, for example Lump Sum versus Schedule of Rates.

Generally, the contract is structured to have the party best placed to manage the risk responsible for that risk outcome. Some risks are passed on to the contractor, with the cost of those risks reflected in the tendered price. Other risks are best managed by Council rather than the contractor, as they would inflate the tender price whether the risk eventuated or not. For this reason Council retains and is required to manage some risks. These are minimised by Council's contract administration processes. However, to manage these risks it is necessary to provide a contingency sum in addition to the tender price to allow for unforeseen additional works that may become necessary during the course of the project.

Contract Risks

Contract risks include Generic Risks (generally found in most contracting situations) and Specific Risks leading to contract variations that have particular application to an individual contract. These major risks are summarised below for this contract.

Generic Risks

These are risks that Council manages through its contract administration procedures and processes. Major generic risks and mitigation measures for this contract include:

- Contractor experiences financial difficulties or goes into liquidation, leading to additional project delays and costs. Mitigated through financial and referee checks before contract award and timely progress payments.
- Completion time exceeds target leading to delays and damage to Council's reputation. Mitigated through close supervision and prompt directions where required.
- Liability for injury and/or damage to people, property and the environment. Mitigated through on-going validation of contractor's insurances, safety and environmental management systems, together with close supervision including site audits.
- Contract dispute over rights and obligations of the parties. Mitigated through use of Australian Standards General Conditions of Contract, which include dispute resolution mechanisms.

Specific Risks Leading to Contract Variations

The following are the major risks that Council bears in relation to this contract:

- The quality of the design is sub-standard resulting in additional costs during the construction phase. Mitigated by appropriate technical reviews by others to ensure design meets requirements.
- Changes to regulatory design standards requiring project re-design. Mitigated by using latest information in tender documents and minimising delays in award of contract.

Risk Contingency

The above risks are considered to be Low for this contract given the value of the contract and the nature of the work. Accordingly, it is recommended that a contingency sum of \$34,239 (excl GST) representing approximately 10% the contract sum be approved.

Based on previous experience with contracts of this nature and analysis of the risks involved, it is estimated that there is a good probability that the project budget of \$376,636 (excl GST), which incorporates the contingency allowance, will not be exceeded.

BUDGET

Funding: Estuary Management Unit

The total project budget initially assigned to this Stormwater Treatment Works Project was \$220,000.00 based upon the pre-tender estimate prepared by an independent cost estimator engaged by Council to provide a pre-tender estimate for this contract. The amount tendered by the preferred tenderer, Enviropacific Services Pty Ltd was found to be 54% higher than Council's pre-tender estimate prepared by this estimator. A review of the tender prices received and the pre-tender estimate has led to acknowledgement by the independent estimator that there were significant differences between assumptions made in the preparation of the pre-tender estimate and the tenders received, and that the extent of work associated with the construction of a wetland was misunderstood by the consultant. Although higher than the pre-tender estimate, the tendered price from Enviropacific Services Pty Ltd is considered to be representative of market value for this contract as seen by the number and range of tendered prices received. It was not considered that re-tendering the work would lead to more competitive tenders. The tendered sum from Enviropacific Services Pty Ltd is considered to represent a reasonable price for the contract works. The additional cost for this contract will be funded from the Stormwater Levy.

Although the value of the tendered works is \$342,396.60 (excl GST), the actual value will depend on the quality of design documentation and the administration of the contract over the life of the works. The total amount of the contract as defined could therefore vary marginally during the execution of the works.

TIME-FRAME

It is expected that the works will be completed within 12 weeks of commencement. Enviropacific Services Pty Ltd has advised they can mobilise within two weeks of contract award.

LOCAL CONTENT

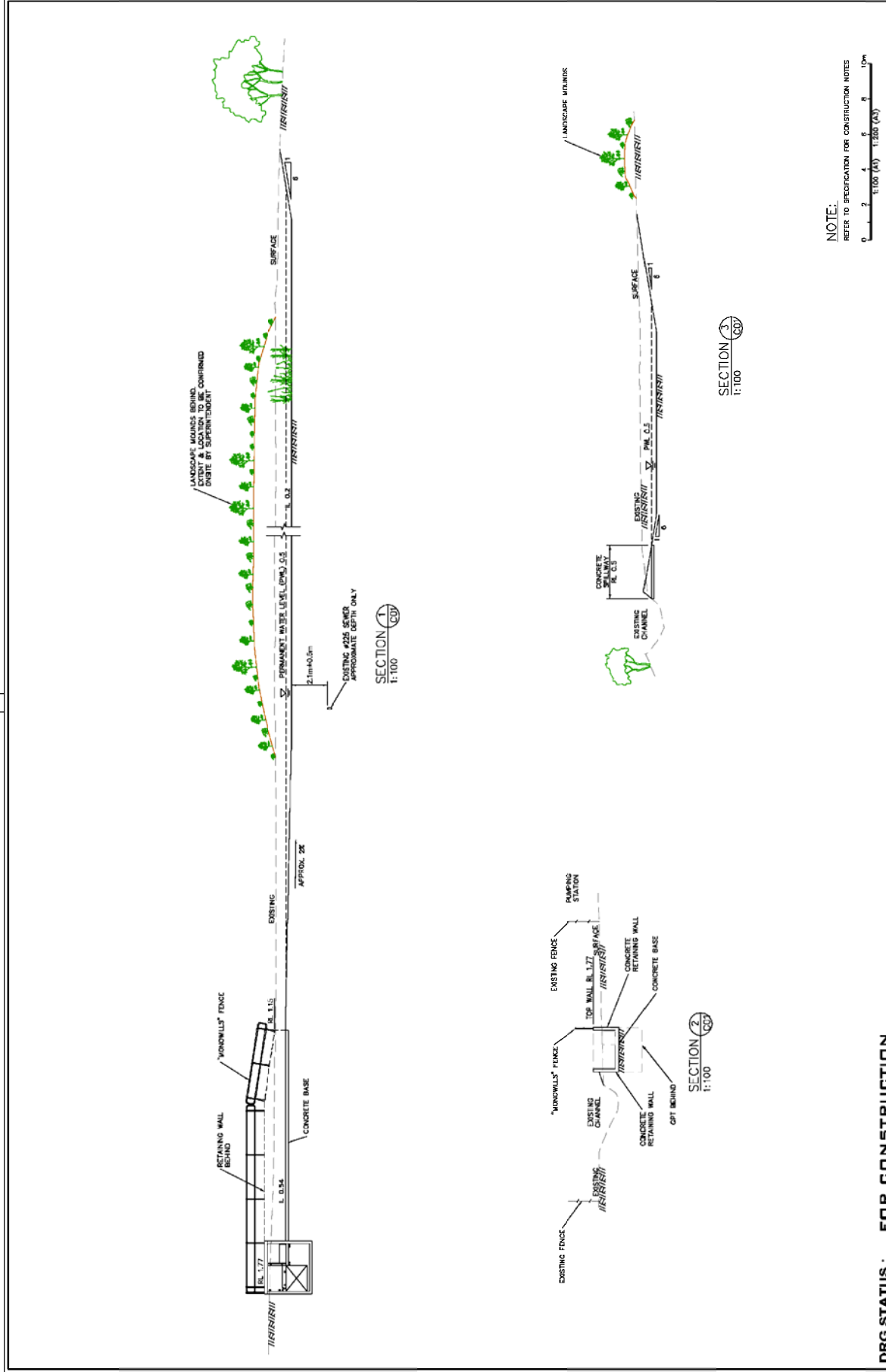
The tenderer has indicated that the contract works are expected to generate approximately 75 person-weeks of labour requirements and that labour resources to be employed on the project will be sourced from the Wyong and Newcastle regions.

CONCLUSION

Tender number 3 from Enviropacific Services Pty Ltd in the amount of \$342,396.60 (excl GST) is the highest scoring tender and meets all of Council's requirements for this contract. On balance, this tender represents the best value-for-money for Council. It is recommended that the tender be accepted.

ATTACHMENTS

- 1 Basin Typical Sections
- 2 General Arrangement



NOTE:
REFER TO SPECIFICATION FOR CONSTRUCTION NOTES



DRG STATUS : FOR CONSTRUCTION

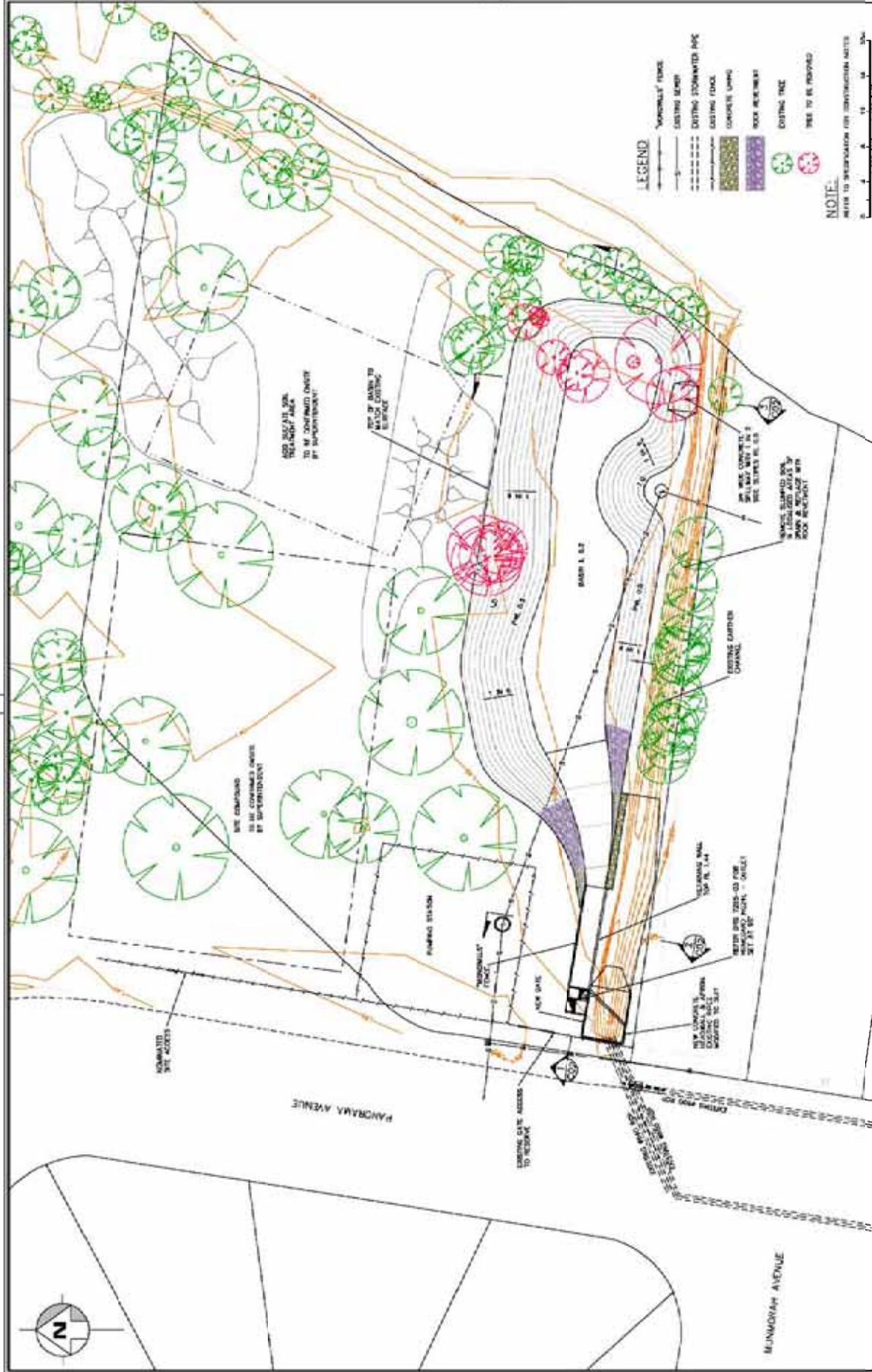
Issue	Date	By	Appr'd	Date
C	24.11.08	B.PATTERSON		
A	23.08	S.W. BP		

DETAILS SHOWN IN THE ADJACENT DRAWING ARE UNLESS OTHERWISE SPECIFIED TO BE CONFORMANT WITH THE AS/NZS 1108:2007 STANDARD. ALL DIMENSIONS ARE TO FACE UNLESS OTHERWISE SPECIFIED. THE CONTRACTOR SHALL BE RESPONSIBLE FOR VERIFYING THE EXISTING CONDITIONS AND PROVIDING THE NECESSARY DIMENSIONS TO THE CONTRACTOR. THE CONTRACTOR SHALL BE RESPONSIBLE FOR VERIFYING THE EXISTING CONDITIONS AND PROVIDING THE NECESSARY DIMENSIONS TO THE CONTRACTOR.

WorleyParsons
 CONSULTANTS & ENGINEERS
 11 Greenway
 11 Greenway
 11 Greenway
 11 Greenway

Client: **WYONG SHIRE COUNCIL**
 Project: **STORMWATER TREATMENT WORKS**
 PROJECT # 131866 (EXPANDED)

Title: **LOWANA AVENUE, CHARMHAVEN**
 Drawing No: **7285-03**
 Issue: **0**
 Cadd File No: **7285-03**
 Xref (I):



DRG STATUS: FOR CONSTRUCTION

Issue	Date	Drawn	Checked	Approved	Date
C		SD	NH	BP	25/10/08
A		SD	SW	BP	22/08/08

DETAILS SHOWN IN THE ADJACENT ISSUE
 UNLESS OTHERWISE SPECIFIED, ALL DIMENSIONS ARE IN METRES.
 UNLESS OTHERWISE SPECIFIED, ALL DIMENSIONS ARE TO FACE.
 ALL DIMENSIONS ARE TO FACE UNLESS OTHERWISE SPECIFIED.
 ALL DIMENSIONS ARE TO FACE UNLESS OTHERWISE SPECIFIED.
 ALL DIMENSIONS ARE TO FACE UNLESS OTHERWISE SPECIFIED.

WorleyParsons
 AECOM
 11 Green Lane
 Warkworth, North East
 Auckland 061 008 0077
 Auckland 09 414 0000
 A01 031210

Client: **WYONG SHIRE COUNCIL**
 Project: **STORMWATER TREATMENTWORKS PROJECT # 131982 CPAN3520**

Title: **LOWANA AVENUE, CHARMHAVEN GENERAL ARRANGEMENT**

Drawing No. **7265-02**
 Issue **0**
 Old File No. **7265-02**
 Ref(s)

6.1 Proposed Councillors' Community Improvement Grants

TRIM REFERENCE: C2009/01723 - D01889417

AUTHOR: SG

SUMMARY

Councillors propose the following allocation of funds for expenditure from Councillors' Community Improvement Grants (CCIG).

RECOMMENDATION

That Council allocate an amount of \$10,800 from the 2008-09 Councillors' Community Improvement Grants as outlined in the report.

BACKGROUND

Provision has been made in Council's Management Plan for each Councillor to recommend to Council the donation of funds to individuals, local service, charitable or community organisations that operate in the Shire or provide a benefit specifically to the residents of the Shire.

Donations may also be made to individuals or groups in pursuit of excellence, including sporting and cultural excellence, subject to CCIG Policy. Funds may also be allocated for emergency assistance in the event of natural disasters such as bushfires, flood or drought anywhere in Australia, subject to CCIG Policy. The funds are granted subject to approval of the Council as a whole.

THE PROPOSAL

To allocate funding to community groups or individuals in accordance with the CCIG Policy.

OPTIONS

Under the Policy all proposed allocations are subject to the approval of the Council as a whole.

STRATEGIC LINKS

Management Plan

<i>Principal Activity</i>	<i>Key Issue(s) and Objective (s)</i>	<i>Financial Line Item No and Description</i>
A better community	Enhance the quality of life of the Shire's residents	1.1.11 – Community Financial Support

6.1 Proposed Councillors' Community Improvement Grants (contd)

Contribution of Proposal to the Principal Activity

The Councillors' Community Improvement Grants were developed to help charitable community groups and in doing so helping the broader community.

Financial Implications

Expenditure is approved until the end of the current financial year. Unspent approvals lapse 30 June 2009.

CONSULTATION

Applications that met the criteria were distributed to Councillors for their consideration. Applications received directly from Councillors were not distributed to other Councillors.

GOVERNANCE

All expenditure recommended is permissible under Section 24 and 356(1) of the Local Government Act 1993.

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.

COUNCILLORS' COMMUNITY IMPROVEMENT GRANTS ALLOCATION		Best	Eaton	Graham	Matthews	McBride	McNamara	Symington	Vincent	Webster	Wynn	SUB TOTAL
Allocation 01/12/2008 - 30/06/2009		7,500	7,500	7,500	7,500	7,500	7,500	7,500	7,500	7,500	7,500	75,000
Expenditure up to and including Ordinary Council Meeting of 22/04/2009		1,255	1,150	3,664	2,905	1,881	4,650	0	5,520	3,490	2,600	27,115
Available allocation as at 13/05/2009		6,245	6,350	3,836	4,595	5,619	2,850	7,500	1,980	4,010	4,900	47,885
Proposed Allocations for 13 May 2009												
1st Ourimbah Scout Group	Assist to purchase group shirts and help promote scouting in the Ourimbah District		300	500	150	500						1,450
Australian Volunteer Coast Guard	Assist with replacement of gear box of rescue vessel	500									500	1,000
Brackets & Jam Central Coast - North	Assist to purchase a shipping container for community storage of equipment	250	150		100				500			1,000
Greek (Hellenic) Community of Central Coast	Assist to provide large shade area for the young and elderly at Chittaway Community Hall		500	500	150	250				500	500	2,400
San Remo Neighbourhood Centre	Assist with lining of bathroom, screen for welding equipment and signage for Community's Men's Shed								800			800

6.1 Proposed Councillors' Community Improvement Grants (contd)

COUNCILLORS' COMMUNITY IMPROVEMENT GRANTS ALLOCATION		Best	Eaton	Graham	Matthews	McBride	McNamara	Symington	Vincent	Webster	Wynn	SUB TOTAL
Allocation 01/12/2008 - 30/06/2009		7,500	7,500	7,500	7,500	7,500	7,500	7,500	7,500	7,500	7,500	75,000
Mangrove Mountain District Fair	Assist with funding for a display at the District Fair celebrating agriculture and rural heritage of the area encompassing Wyong Shire Residents		100		100							200
Norah Head Hockey Club	Assist to purchase set of goal gear training equipment to encourage participation in sport										500	500
Northern Lakes Junior Rugby League Football Club & Sport and Rec Club	Assist to complete irrigation of the fields							1,250			500	1,750
The Entrance Men's Shed Inc	Assist to purchase a slide compound power saw and small hand tools		200							500		700
Toukley Swimming Club Inc	Assist to purchase team uniforms, club banner and new timing equipment						500					500
Woongarrah Wildcats Football Club Inc	Assist to purchase soccer balls, training and safety equipment for newly established football club						500					500
Total Proposed Allocations for 13/05/2009		750	1,250	1,000	500	750	1,000	1,250	1,300	1,000	2,000	10,800
Total Accumulated Allocations as at 13/05/2009		2,005	2,400	4,664	3,405	2,631	5,650	1,250	6,820	4,490	4,600	37,915
Total Pending Allocations to next meeting or requiring further information		0	2,500	1,150	1,750	0	0	0	0	700	0	6,100
Balance Uncommitted as at 13/05/2009		5,495	2,600	1,686	2,345	4,869	1,850	6,250	680	2,310	2,900	30,985

ATTACHMENTS

Nil.

6.2 Precinct Support Program

TRIM REFERENCE: F2004/06474 - D01890560

AUTHOR: TAD

SUMMARY

Reporting on past, current and future opportunities regarding levels of support provided to Community Precinct Committees.

RECOMMENDATION

- 1 That Council receive the report on support for precinct committees.*
- 2 That Council receive a further report from staff following the Community Precinct Committee workshop scheduled for 26 May 2009.*

BACKGROUND

At its meeting held on 11 February 2009, Council:

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

- 1 That Council reaffirm its support and commitment to its Precinct Committee network while recognising their valuable contribution to the community.*
- 2 That Council, in partnership with our local Precinct Committees, review its current level of assistance with a view to growing and supporting this important community network and its membership.*
- 3 That staff report to Council, after the Precinct Committee Forum to be held on Wednesday 1 April 2009, on past, current and future recommendations regarding levels of support required to achieve 2 above.*

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

AGAINST: NIL."

Precinct Committees were set up on:

Name	Date
Gwandalan / Summerland Point Community Precinct Committee	20 October 1997
Wallarah North Community Precinct Committee	24 November 1997
Lakes Community Precinct Committee	26 November 1997
The Entrance District Community Precinct Committee	2 December 1997
Bateau Bay, Killarney Vale Community Precinct Committee	9 December 1997
Munmorah, Chain Valley Bay Community Precinct Committee	11 February 1998
Berkeley Vale, Glenning Valley Community Precinct Committee	11 February 1998

6.2 Precinct Support Program (contd)

Name	Date
Ourimbah Community Precinct Committee	5 April 1998
Wyong, Tuggerah Mardi Community Precinct Committee	21 April 1998
Watanobbi Warnervale Community Precinct Committee	1 July 1998
Budgewoi Community Precinct Committee	19 February 2009

The Berkeley Vale / Glenning Valley Community Precinct and Wyong / Tuggerah / Mardi Community Precinct Committees subsequently closed on 29 June 2000 and 11 July 2001 respectively.

The following assistance has been provided to Community Precinct Committees in the past:

Type of Support	Officer/Section
Audits of CPC financial records	Finance Manager
Consideration of funding requests to cover CPC operating costs (eg. Postage, stationery, etc)	Finance Manager
Provision of staff as guest speakers at CPC meetings on topical matters if requested	Relevant Director
Promotion of CPC meetings and membership through media advertisements	Communications Manager
Provision of information and guidelines to assist with the running of CPC meetings	Administration and Councillor Services
Provision of a Council Officer to act as Returning Officer at each Precinct AGM	Administration and Councillor Services
Direct CPC requests through to appropriate Council Officers for action	Customer Service
Established a Contact List for Council Officers	Administration and Councillor Services
Established a Precinct Committee Contact List	Administration and Councillor Services
Council Website includes a map of suburbs covered by each Community Precinct and contact details	Communications Manager
Precinct Forums held in May 2007 and April 2009	Administration and Councillor Services
Workshop held in August 2007 and a workshop is scheduled for 26 May 2009	Administration and Councillor Services
Provision for storage of items that pertain to the "Local Studies Collection"	Tuggerah Library
Advice and help in the formation of new Precinct Committees	Administration and Councillor Services

BACKGROUND

Council currently provides up to \$500 per year financial assistance to each Precinct Committee to assist with operational expenses. If a committee's expenses exceed \$500 per year they can apply to Council for further assistance where necessary.

6.2 Precinct Support Program (contd)

At present all enquiries from Community Precinct Committee are directed through to Customer Service staff on the corporate phone number or in person to Council's Customer Service Centre Offices located at the Administration Building and Libraries. The Customer Service staff will attempt to answer the enquiry in the first instance or refer them to a Council officer where appropriate.

At the recent Community Precinct Forum on 1 April 2009 a number of the Precinct Committees requested that Council provide them with a single point of contact in the Council to answer their enquiries and provide them with support. The Entrance Community Precinct Committee raised the suggestion that this position report directly to the Mayor as was the case during the Mayoral term of Fay Brennan. However, a review of this position indicates that it reported to the Director of Corporate Services and not the Mayor. When the Community Precinct Committees were first established in 1997 a support officer was provided to help established and set up the new Precinct Committees. During this initial set up period the support role to the Precinct Committees was the major focus of this position. Since 1998 the position of support officer to Precinct Committees has not been a full position within Council and had traditionally formed part of the duties of an administration officer.

At the Precinct Forum the General Manager advised the executive committee members in attendance that Council currently allocated a number of specialist staff to deal with particular enquiries from Precinct Committees. A Council contact list was supplied to all members attending the Precinct Forum, a copy of this list was also supplied to the Precinct Committees immediately following the forum with the minutes of the meeting. The Mayor and General Manager indicated to the Forum that they believed that the current means of allocating enquiries direct to the specialist areas of Council was a more efficient and effective way to respond to Precinct Committee enquiries and support.

At the Precinct Forum on 16 May 2007 Council agreed to provide two workshops per year with the executive members of the Precinct Committees. To date only one workshop has been held on 28 September 2007. Following the April 2009 Precinct Forum a workshop has been scheduled to take place on 26 May 2009. This workshop will provide an opportunity for Precinct Committee executive to raise procedural issues with staff together with any current concerns and suggestions for improvement in the way that they can operate with Council.

CONCLUSION

The recommendation seeks that Council note this report and that a further report be submitted to the Council following the workshop on 26 May 2009. This workshop will also provide the Precinct Committees with an opportunity to raise any requests for additional support or resources from Council to better enable them to fulfil their roles. These issues will be included in the subsequent report to Council.

ATTACHMENTS

Nil.

6.3 Proposed Loan Financing to The Entrance District Cricket Club Inc

TRIM REFERENCE: F2004/06616 - D01892333

AUTHOR: CT

SUMMARY

The Entrance District Cricket Club Inc has requested Council's financial assistance in the form of a loan to cover the purchase of an ex-Council roller for use by the Club in maintaining the turf cricket pitch at the Jubilee Park Oval.

RECOMMENDATION

- 1** *That Council provide to The Entrance District Cricket Club Inc an interest free loan of \$5,900 over a four year period for the purchase of an ex-Council roller.*
- 2** *That Council authorise the General Manager to execute the loan agreement.*

BACKGROUND

Council is in the process of disposing of a roller suitable for maintaining the Jubilee Park Oval cricket pitches. Council has valued this roller at \$8,000 and had been intending to auction this item.

The Entrance District Cricket Club Inc has made a request purchase this roller.

The Club has advised that currently their roller is 35 years plus and that there are major issues with the gear box and, because of the machine's age, that they are unable to carry out the necessary repairs. Additionally, they advised the machine does not have any safety devices fitted making it an OH&S risk to the Club. (Copy of letter of request included as Attachment 1)

The Entrance District Cricket Club Inc has an active and on-going relationship with Council and is well recognised by Council for their contribution to the maintenance of the Jubilee Park and facilities. In the past the Club has contributed financially to maintaining the assets of the park.

Council may provide financial assistance by way of a loan to assist in this purchase.

THE PROPOSAL

Council provide an interest free loan for \$5,900 to The Entrance District Cricket Club Inc for the purchase of the roller.

Council sell the roller to the Cricket Club directly for \$8,000.

The \$2,100 contribution from the Councillor's Community Improvement Grants be applied to the purchase by The Entrance District Cricket Club Inc, per Council's resolution on 22 April 2009.

6.3 Proposed Loan Financing to The Entrance District Cricket Club Inc (contd)

The Club has proposed the following repayment schedule:

January 2010	\$2,000
January 2011	\$2,000
January 2012	<u>\$1,900</u>
Total repayments	\$5,900

OPTIONS

Council donate the asset as a donation at a one-off cost to Council of \$5,900. This would require Council's resolution.

STRATEGIC LINKS

Link to Key Focus Areas

<i>Key Focus Area</i>	How the proposal contributes or links to the Key Focus Areas in Council's Management Plan
Sports Grounds	A Better Community Enhance the quality of life of the Shires Residents

Financial Implications

The proposal is for the asset sale of a roller for \$8,000 with deferral payment of \$5,900 cost of purchase by way of a four year loan. The funding is of a one-off nature but will result in future year cash flow repayments of the principal to Council. Council will be forfeiting interest on the loan.

CONSULTATION

Requests for funding were addressed to the Mayor and discussions were held by the Manager of Customer and Community Services and agreed with the Manager Plant and Fleet.

GOVERNANCE

The granting of financial assistance by way of a loan is required to be approved by Council in accordance with Section 356 of the Local Government Act.

CONCLUSION

That Council provide financial assistance by way of a loan to The Entrance District Cricket Club Inc for the purchase of an ex-Council roller. Council is not financially disadvantaged by the proposal except to the extent of the foregone interest.

ATTACHMENTS

- 1 Letter from The Entrance District Cricket Club Inc



THE ENTRANCE DISTRICT CRICKET CLUB INC.

P.O. BOX 6114, LONG JETTY, NSW 2261 ABN 47 817 916 631

President – Mr Jim Reynolds
Secretary – Mr Brian Emanuel
Treasurer – Mr Brad Eirth

Ph. 0412 687 211
Ph. 0422 017 213
Ph. 0402 072616

Email – president@theentrancedistrictcc.com
Email – secretary@theentrancedistrictcc.com
Email – treasurer@theentrancedistrictcc.com

Mr. Bob Graham,
Mayor
Wyong Shire Council

Dear Bob,

During our telephone conversation yesterday morning you suggested that I put down in writing the issues that The Entrance District Cricket Club has in relation to a roller for the turf pitch at Jubilee Park.

The roller that TEDCC currently owns is 35 years plus old and there are major issues with the gear box and, because of the machines age, we are unable to get parts to carry out the necessary repairs. Even if we were able to secure parts for the machine it is of an age where there are no safety devices fitted making it an OH&S risk to our Club.

We very much appreciated the efforts of WSC's, Steve Trigg, for his efforts over the last few months where he was able to secure for us a roller that has been earmarked by Council as a trade-in. Without a roller we would be unable to prepare a pitch that would be suitable and safe to play on. Unfortunately for us the roller was taken away last Friday and we have had to hire a roller to prepare the pitch.

It is our understanding that WSC has two rollers for trade-in; the one that we were using at Jubilee is at the Long Jetty depot and a similar roller at the Doyalson depot. Both rollers are in very good condition and obviously meet all the OH&S requirements.

TEDCC would like to know if there is anyway that WSC would be able to secure one of these machines at their trade in value for us to use at Jubilee Park. As a volunteer organisation our finances are very limited and any money that we do have left over is put back into equipment for our players, so any assistance in this matter would be appreciated.

As you know, Jubilee Park is a show piece for the local community, and TEDCC is committed to ensuring that it remains that way. We worked very closely with Council during the development of Jubilee Park and we fully appreciate the large investment that Council has in this ground.

As a sign of the commitment of TEDCC to Jubilee Park we also contributed nearly \$7,000 just prior to the erection of the amenities block to have the footings strengthened for future development. More recently we have been in discussion with Keith Ollier and Steve Trigg to express our concerns about the use of recycled water on the pitch and the possible damage that it may cause to ensure that Council are aware of the issue.

Having had a season for the pitch to settle in we are confident that the CCCA will use Jubilee Park to host games during the upcoming semi final and finals. We would hate to see the good it ruined because we were unable to properly prepare the pitch.

Your help in this matter would be very much appreciated by our Club. Thanks you for your time.

Regards,

Jim Reynolds,
President
The Entrance District Cricket Club

6.4 Councillor Attendance at Training

TRIM REFERENCE: F2004/06517 - D01896445

AUTHOR: ED

SUMMARY

This report considers the merits of Councillor attendance at specific training for media skills.

RECOMMENDATION

That Council note the Mayor and General Manager's approval for Councillor Vincent to attend the Local Government Learning Solutions "Advanced Media Skills" workshop in Sydney, 12 May 2009 and for payment of expenses in accordance with Council Policy.

BACKGROUND

In accordance with the provisions of Council's Facilities and Expenses Policy for Councillors, Councillors are encouraged to attend conferences, seminars and external training sessions that will support their professional development as a Councillor. Reasonable expenses incurred in Councillors attending the conferences are met in accordance with that policy.

Councillor Vincent has expressed interest in attending the *Advance Media Skills* workshop on 12 May 2009 and to expedite his registration, the Mayor and General Manager approved his attendance. Council endorsement of that action is now required.

THE PROPOSAL

Local Government Learning Solutions (part of the Local Government Association of NSW and the Shires Association of NSW) has advised of the media skills workshop which will provide both new and experienced Councillors with the opportunity to learn and expand on skills.

The workshop in Sydney to be held on 12 May 2009 will provide Councillors with realistic techniques to enable them to be more comfortable, confident and effective in dealing with the media.

Financial Implications

Cost per attendee is estimated as follows:

Registration	\$660
Travel (Council vehicle petrol and parking)	\$ 60
Total	\$720

Funds are available in the Councillor Support Budget. Attendance and payment of costs involved are in accordance with the Facilities and Expenses Policy for Councillors.

GOVERNANCE

The LG Learning Solution practical workshop has been designed to provide Councillors with realistic techniques to enable them to be more comfortable, confident and effective in dealing with the media.

CONCLUSION

Training is considered part of the professional development program for Councillors provided by the Local Government Association of NSW. The Mayor and General Manager appropriately approved Cr Vincent's attendance for reasons of urgency and Council confirmation of their action is required.

ATTACHMENTS

Nil.

6.5 Federal Government Jobs Fund Grant Program

TRIM REFERENCE: F2004/06377 - D01904765

AUTHOR: SB

A report will be provided and distributed under separate cover.

ATTACHMENTS

Nil

7.1 Information Reports

TRIM REFERENCE: F2009/00008 - D01903260

AUTHOR: SW

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 englobo.

RECOMMENDATION

That Council deal with the following Information Reports by the exception method.

ATTACHMENTS

Nil.

7.2 Investments for February and March 2009

TRIM REFERENCE: D01873464

AUTHOR: HS

SUMMARY

The following report provides details of Council's investments as at 28 February and 31 March 2009.

RECOMMENDATION

That Council receive the report on Investments for February and March 2009.

BACKGROUND

Wyong Shire Council's (WSC) investment portfolio has been conservatively managed providing a defence against the world financial crisis. However, Council's investments in managed funds have been impacted by the loss of market confidence and liquidity, resulting in a lower market valuation. WSC's strategy to hold to maturity will minimise the negative effects of realising under-valued assets.

WSC had adopted a conservative "wait and see" policy in respect of investments until Christmas 2008. Subsequent moves by the Federal Government to ensure confidence in financial markets made it prudent to shift investments into the banking sector when possible and practical.

Council made no provision for capital loss in the original budget but it is expected investments that have suffered losses will recover most of their value over the longer term.

The realisable capital value of Council's investments has lost ground against the face value to date by \$6.02m over a total investment portfolio of \$103m. These investments remain in place until favourable market conditions return and each investment can be reassessed.

Total return for the month of February was a net loss of \$679,000 consisting of interest earnings \$376,000 and capital losses \$1,056,000. The total return for March was a net loss of \$144,000 consisting of interest earnings \$576,000 and capital losses \$712,000.

CURRENT STATUS

Council's investments are made in accordance with the Local Government Act (1993), the Local Government (General) Regulation (2005) Council's Investment Policy and the Minister for Local Government's Investment Order issued on August 2008.

Council's total investments for the month of February 2009 (Table 1(a)) and March 2009 (Table 1(b)) are as follows:

Table 1(a) Investment Portfolio by Risk Category (February 2009)

	February 2009	Year-to-Date Total Returns	Year-to-Date Returns Interest Only	Year-to-Date Returns Interest Only
	\$ '000	%	%	\$ '000
Cash at Call	20,641	6.62	6.62	852
Term Deposits	27,504	6.49	6.49	588
Cash Plus Funds	14,982	-5.71	4.02	569
Cash Management Funds	31,371	-4.69	5.90	1,050
Enhanced Income Funds	12,537	-11.07	0.88	145
Total Investments	107,035	-2.87	4.63	3,204

Table 1 (b) Investment Portfolio by Risk Category (March 2009)

	March 2009	Year-to-Date Total Returns	Year-to-Date Returns Interest Only	Year-to-Date Returns Interest Only
	\$ '000	%	%	\$ '000
Cash at Call	12,698	6.69	6.69	923
Term Deposits	34,504	5.57	5.57	688
Cash Plus Funds	14,741	-7.00	3.79	568
Cash Management Funds	24,383	-4.07	5.43	1,108
Enhanced Income Funds	12,450	-11.67	2.95	484
Senior Bonds	4,260	5.17	5.17	2
Total Investments	103,036	-2.76	4.90	3,773

7.2 Investments for February and March 2009 (contd)

Investment transactions and earnings during February and March 2009 are shown in the following table:

Table 2 Portfolio Performance

	Oct to Dec 2008	Jan 2009	Feb 2009	Mar 2009	Year to Date 2008/09	Full Year Projected
	\$m	\$m	\$m	\$m	\$m	\$m
<i>Movement in Assets</i>						
Opening Balance	104.79	111.83	104.05	107.03	115.41	115.41
Capital Gain/Loss – (see below)	(2.65)	(0.20)	(1.06)	(0.24)	(6.01)	(6.21)
Net Cash/Investments(Withdrawals)	9.69	(7.58)	4.04	(3.75)	(6.36)	20.89*
Closing Balance	111.83	104.05	107.03	103.04	103.04	130.09*
<i>Trading Position</i>						
Capital Gain/(Loss) Realised	(0.23)	-	-	-	(0.23)	(0.23)
Capital Gain/(Loss) Unrealised	(2.41)	(0.20)	(1.06)	(0.71)	(5.78)	(5.98)
Interest Earnings	1.34	0.31	0.38	0.57	3.77	4.63
Total Return for Period	(1.30)	0.11	(0.68)	(0.14)	(2.24)	(1.58)

* The full year projected balance of investments reflects the draw down of 2008-09 water and sewer loans and timing of related expenditures.

The full year projected returns are a best estimate in a continuing volatile investment market. However, Council's returns will be impacted by valuation adjustments and timing of distributions from managed fund investments, making it difficult to forecast in light of these external factors.

Table 3 Interest Only Performance

Investment Source	YTD Budget \$000s	YTD March \$000s	Var. \$000s	Annual Budget \$000s	Projected Year End \$000s	Var. \$000s
General Funds	2,160	2,403	243	2,857	2,768	(89)
Water (all)	597	659	62	806	909	103
Sewerage (all)	738	710	(28)	1,049	953	(96)
Total	3,495	3,772	277	4,712	4,630	(82)

The March returns included a catch up distribution from Macquarie Enhanced Cash Managed Fund of \$340,000.

Negative trading returns will only occur if Council were to realise those investments where capital values have fallen. It is not intended to take such action unless the possibility of institutional failure becomes evident.

Council's investment "trading" position is a mix of capital gain (loss) and interest earned. The table interest returns in line with budget.

Unrealised capital losses for March were \$0.71m (year to date \$6.01m). Council's investment of \$23m in the Macquarie Income plus fund fell in value by \$0.42m. The loss results mainly from a fall in the market prices for mortgage-backed securities which represented 34% of the fund's assets.

Black Rock Care and Maintenance Fund

Currently the BlackRock Diversified Credit Fund and its successor the BlackRock Care & Maintenance Fund are reflecting unrealised losses making up 64% of Council's current status.

In November 2008 Council's total interest in the original fund was transferred into the Care and Maintenance Fund which will hold the original portfolio assets until maturity. Council expects this process will result in most of the reported unrealised capital losses on this fund being reversed. This strategy is endorsed by Council investment advisers, CPG Advisers.

It is anticipated the Black Rock Care and Maintenance Fund will close by November 2018.

Aberdeen Cash Plus Fund

The Aberdeen fund assets held by Council are currently valued at \$10.3m having made \$1.1m in unrealised losses since 1 July 2008. This financial year the fund has not made any income distributions and is only accepting limited redemptions.

ING Enhanced Cash Fund

Council has an investment valued at \$3.1m in this fund. The fund has announced it will close leaving council with a possible loss in value between \$0.2m to \$0.8m. However if enough members subscribe to a Care and Maintenance scheme the fund assets will be distributed to members in kind rather than in cash, giving Council a chance to recoup the unrealised losses.

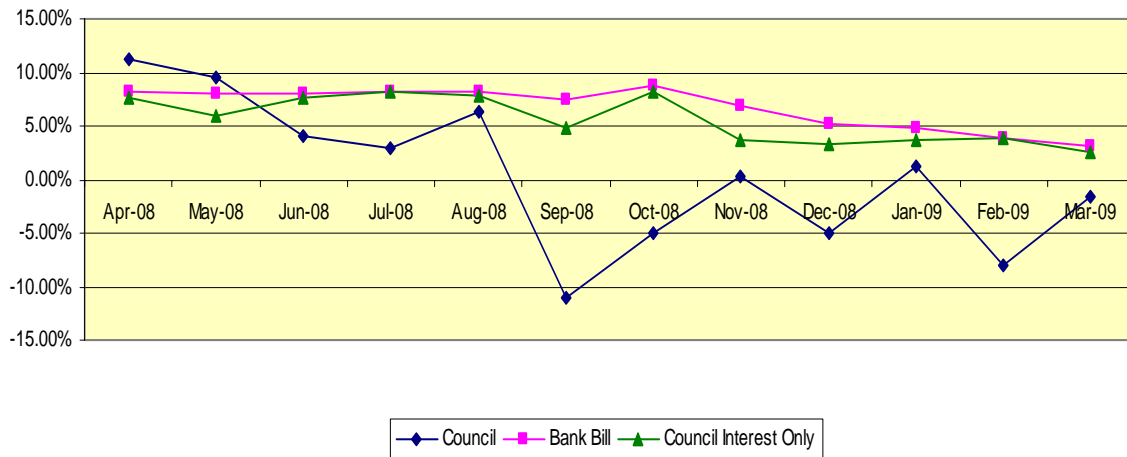
Council's investment advisers are working with ING to implement this strategy.

Monthly Annualised Returns

Council's overall investment return is compared to the UBSA (Union Bank of Switzerland Australia) Bank Bill Index. This index is in common use among councils and is a measure of the top rated reliable cash rates. Using the index for Council establishes a minimum performance comparison.

A graph detailing the monthly return on a 12 monthly basis is as follows:

**Monthly Annualised Returns (Interest and Capital Movements)
Portfolio Performance Comparison to UBSA Bank Bill Index**



Council: Council Total Return (Interest and Capital)
Bank Bill: UBSA Bank Bill Reference Rate
Council Interest Only: Council Interest Earnings

Council’s investments in term deposits include a WorkCover guarantee of \$9.46m which is required to be invested with NSW Treasury Corporation. However, this investment is earning 3.18% which is under the annualised BBSW index. Council is currently reviewing the opportunity cost against the cost of a bank guarantee.

INVESTMENT STATEMENT

In accordance with the Local Government (General) Regulation 2005, Part 9, Division 5, Clause 212, it is certified that the investments held as at 28 February 2009 and 31 March 2009 have been made in accordance with the Act, the Regulations and Council's Investment Policies.

CONCLUSION

Whilst Council’s trading position shows an accumulated unrealised loss of capital value, the portfolio’s ability to “ride-out” market volatility remains strong due to a diversified, low risk management approach. Continuing in this direction is essential for minimising long term actual loss and loss of interest income.

ATTACHMENTS

Nil.

7.3 Community Recycling Initiative "freecycle.com"

TRIM REFERENCE: F2004/06769 - D01889029

AUTHOR: EB

SUMMARY

This report provides information on the FreeCycle recycling initiative.

RECOMMENDATION

That Council receive the report on Community Recycling Initiative "freecycle.com".

BACKGROUND

At the Ordinary meeting held on 11 March 2009, Council:

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

That Council investigate the benefits to our community of Council supporting and promoting the Free Cycle recycling initiative.

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

AGAINST: NIL."

This report summarises investigations made into the FreeCycle recycling initiative and describes how the program works and the benefits it provides.

FreeCycle Initiative

The FreeCycle site (www.freecycle.org.au) promotes itself as providing an opportunity for residents to offer or obtain unwanted goods free of charge. The intent is to avoid sending these goods to landfill thus saving landfill space and conserving scarce resources. The site is for community recycling and does not permit the selling of goods.

Residents wishing to offer goods must log onto the site and first time users must register before being permitted to post a "recycling classified". Recycling Classifieds are advertisements that provide information on the goods available, their condition, size or colour etc. The user's personal details are not displayed in the classifieds for security reasons with only general information such as postcode, telephone number and city/suburb are shown.

Residents wishing to obtain goods do not have to register to identify available goods by type, sort classifieds by postcode and obtain summarised information on the goods. However, residents must register if they wish to obtain more detailed information on the goods or wish to make arrangements to pick them up.

The site also permits residents to post a Recycling Classified if they are looking for goods.

Benefits

The FreeCycle Network is open to anyone in the community who either wants to offer or acquire something for free.

Potential benefits to the community include:

- The life of recycled goods are extended thus conserving finite resources.
- Some good and reusable items are diverted from landfill.
- Building and sustaining a community aware of environmental and waste management issues.
- Possibly establishing a better sense of community fellowship since community members are meeting each other to give and/or receive free goods.

RECOMMENDATION

The FreeCycle recycling initiative is already well established and operating using a web-based format. While it was not possible to obtain detailed information on the success of the program, it is apparently operating successfully in a number of Australian states.

For people who wish to utilise the FreeCycle services, a link will be created on Council's website. Further information will also be included on Council's promotional material and Council publications.

ATTACHMENTS

Nil.

7.4 Legal Advice - Stop the Coal Mine

TRIM REFERENCE: F2006/01080 - D01895011

AUTHOR: TAD

SUMMARY

Response received from Council's Legal Advisers.

RECOMMENDATION

That Council receive the report on Legal Advice - Stop the Coal Mine.

At its meeting held on 11 February 2009, Council:

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

- 1 That Council receive the report on Response on a Notice of Motion on the "Private Members Bill to Stop the Coal Mine".*
- 2 That Council thank Mr Craig Thomson, Member for Dobell for his continued support regarding this issue.*
- 3 That Council seek advice as to what legislative powers the Federal Government may be able to rely upon to veto any State approvals.*

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

AGAINST: NIL.

The advice requested under 3 above has now been received and is attached for information.

ATTACHMENTS

- 1 Legal Advice from HWL Ebsworth

HWL
EBSWORTH

LAWYERS

Our Ref: JAC:JMR:174494

24 March 2009

The General Manager
Wyang Shire Council
DX 7306
WYONG NSW

E-MAILED
24.03.09

Attention: Martin Johnson

Dear Sir

Legislative powers available to the Federal Government in relation to State Planning Approvals

Introduction

We refer to your request for advice regarding what, if any, legislative powers are available to the Federal Government to veto any New South Wales planning approvals.

If legislative powers are available, you then ask to advise upon any ways Council can initiate Federal Government action to exercise those powers.

The questions asked of us arise in the context of a declaration by the NSW Minister for Planning that the proposed coalmine in the Dooralong and Yarralong valleys is a 'Major Project' pursuant to Part 3A of the *Environmental Planning & Assessment Act* 1979.

Under Part 3A, the NSW Minister for Planning becomes the consent authority, rather than Council.

The removal of Council from that role understandably produces a concern as to how Council is thereafter able to have input into the decision making process.

We are instructed that the Member for the Federal seat of Dobell, Mr Craig Thompson, has advised Council that if the NSW Minister for Planning was to grant an approval to proceed with construction of the mine, then he would move to "*formulate my Private Members Bill to the Federal Government.*"

Presumably, the purpose of the Private Members Bill would be to prevent the coalmine from proceeding.

Brisbane
Melbourne
Norwest
Sydney

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Federal Government action and NSW planning powers

24 March 2009

In that context, Council seeks to understand what legislative powers are available to the Federal Government to veto a consent granted by the NSW Minister for Planning.

Summary of Advice

There is no legislative power available to the Federal Government to veto or overturn a grant of development consent by the NSW Minister for Planning.

However, there are legislative powers available to the Federal Government to frustrate or ultimately prevent the coalmine from proceeding under any consent granted.

Generally speaking, there is nothing Council can do to initiate Federal Government action, beyond continuing to lobby local members and other interested parliamentarians. However, if there are legislative changes in relation to the *Environment Protection and Biodiversity Protection Act 1999* (Commonwealth), then Council may have a formal ability to refer the development to the Federal Environment Minister for consideration under that Act.

The Australian Constitution

The starting point for examining legislative powers available to the Federal Government is the Australian Constitution and in consequence their interrelationship with State government powers.

The Constitution specifies, at section 51, a range of legislative powers of the Federal Parliament. The Federal Government, via the Federal Parliament, cannot pass legislation except in respect of the matters listed at section 51.

By contrast, the Australian States have legislative power to make laws in respect of any subject matter, unless otherwise constrained.

Section 109 of the Constitution provides that where a law of a State is inconsistent with the law of the Commonwealth, the Commonwealth law shall prevail.

The Australian Constitution does not give the Federal Parliament legislative power in relation to what can be broadly described as land use planning or the environment. Nevertheless, a number of powers specifically given to Federal Parliament have been utilised to achieve environmental outcomes.

Such powers include the ability to make laws in relation to "*trade and commerce with other countries and among the States*" (s.51(1)). As Council has previously identified, the Federal Government has utilised that constitutional power to prevent mining developments that rely upon exports for their market, even in circumstances where the relevant state government had granted approval (*Murphyores Inc Pty Limited v. Commonwealth* (1976) 136 CLR1). In *Murphyores*, Stephen J of the High Court set out the traditional understanding of the arrangement of powers between the Commonwealth and states in relation to planning and environmental law when His Honour remarked:

Federal Government action and NSW planning powers

24 March 2009

"Thus, although the control of the plaintiff's mining operations and of their effect upon a local environment is, no doubt, essentially a matter for the state, the power to prohibit exports, which lies within the legislative competence of the Commonwealth, is inherently capable of having an impact upon the plaintiff's activities."

The external affairs power, found at section 51(xxix), permits the Federal Parliament to pass laws implementing international conventions that concern the environment. That power, together with the power to pass laws relating to Federally-owned land and Federal administrative actions, permitted the Federal Parliament to enact the *Environment Protection & Biodiversity Conservation Act 1999* (Cth).

The Federal government, via the Parliament, also has power under the Constitution to make laws in respect of foreign corporations and financial and trading corporations (Section 51(xx)). The courts have interpreted that power to permit the Federal government to control a range of matters carried on by corporations, including activities that affect the environment (*Commonwealth v Tasmania* (1983) 158 CLR 1) and employment relationships where the relevant employer is a corporation (*New South Wales v Commonwealth* [2006] HCA 52).

In other words, once it is established that the Federal government via Parliament has power under the Constitution to make laws with respect to, for example, foreign affairs, exports or imports, or corporations, then the use of that power to make laws that require consideration of environmental outcomes is permitted.

Absence of a direct power to veto a state planning decision

In the absence of a direct power to set aside land use planning decisions by the State of New South Wales, the Federal government cannot veto or invalidate any development consent the New South Wales Minister for Planning might grant to Kores.

Nonetheless, and although the approach to be undertaken will of necessity be complicated, it is open to the Federal government to use any one or more of the powers identified above to enact laws that frustrate or ultimately prevent the mine going ahead (physically or commercially).

Possible legislative options open to the Federal Government

If the Federal government determines to frustrate or prevent the mine proceeding, there appear to us to be a number of potential approaches it could use, including:

1. Identifying Dooralong and Yarramalong Valleys as National Heritage Places pursuant to section 324C of the *Environment Protection & Biodiversity Conservation Act 1999*. It is an offence under that Act to carry out an action without approval from the Commonwealth Environment Minister where that action is likely to have, or will have, a significant impact on relevantly an item of the National Heritage.

Federal Government action and NSW planning powers

24 March 2009

2. Examining the *Customs Act 1901* (Cth) and its associated regulations with a view to preventing exportation of any coal extracted by Kores from the state approved mine.
3. Utilising the corporation power under the Constitution to require all corporations seeking to carry out specified mining activities to first obtain permission from the relevant arm of the Federal government.

As already mentioned, the approach taken will in a large part depend upon the enthusiasm of the Federal government to frustrate or prevent the Kores coalmine proceeding. It may be that the Federal government determines that it will not intervene where the New South Wales Minister of Planning has granted consent, on the basis that a case by case review and refusal of State government decisions in relation to planning is not an appropriate use of Federal government power and resources. Much depends upon the attitude finally taken by the Federal government, and indeed the ability of the Federal government to secure support of the Senate to any legislative amendment required.

Initiating Federal Government action

Council also asks how can it initiate Federal government action to exercise the powers identified in this advice.

There is no formal ability to initiate those actions, save for the avenue discussed below. It appears to us that Council's continued dialogue with the Federal member for Dobell is an entirely appropriate way of seeking to ensure that Council's position is before the Federal government.

Ultimately, the question of achieving the outcome of Federal government exercising its powers will be, from Council's perspective, a political question.

One avenue, apart from continued lobbying, that it appears to us that Council can undertake, is a two step process under the *Environment Protection & Biodiversity Act 1999*.

Our review of the National Heritage List under that Act has been unable to identify the Dooralong and Yarramalong valleys as a site of "National Heritage". The first step, therefore, is to request the Federal government to include the valleys on that list.

If the Federal government does include the valleys on the List, then Council may be formally entitled under the Act to refer the Kores proposal to the Federal Minister for the Environment for a decision as to whether or not the coalmine is a controlled action under the *Environment Protection & Biodiversity Conservation Act 1999*, such that the Minister is required to consider the question. As an item of National Heritage, it is a breach of that Act to carry out an action that will have, or is likely to have, a significant impact upon items of "national environmental significance", which includes sites listed in the National Heritage List.

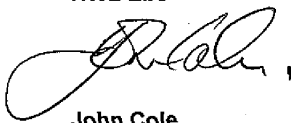
Federal Government action and NSW planning powers

24 March 2009

As a final aside, as Council would be aware, there is also the possibility for anyone to take proceedings in the Land and Environment Court seeking to set aside any consent granted if it exhibits a legal error in its administrative processing. We note however that for Part 3A matters this is likely to be more difficult than is usually the case, as the Part 3A process is specifically set up to avoid such legal challenges.

We trust the above is of assistance. Should you have any queries, please do not hesitate to contact John Cole or Jeff Reilly of this office.

Yours faithfully
HWL Ebsworth



John Cole
Partner

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7.5 Outstanding Questions Without Notice and Notices of Motion

TRIM REFERENCE: F2009/00008 - D01889987

AUTHOR: SG

SUMMARY

Report on outstanding Questions Without Notice and Notices of Motion.

RECOMMENDATION

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

Question Asked / Councillor	Department	Meeting Asked	Status
Q123 – Darcy Smith Court Case former Cr Pavier	Shire Planning	12 December 2007	A response will be submitted to Council's meeting on 27 May 2009.
Q068 - Education Program into Toddler Drowning Cr Best	Shire Planning	26 November 2008	This report will be provided to Council concurrently with the report resulting from the briefing on Notice of Motion 541 – Extending Safety at Surf Patrol Beaches.
Q008 - Draft Community Facilities Strategy Cr Matthews	Shire Planning	25 February 2009	A Councillor Briefing is being proposed for May 2009 which will provide details of recommendations and actions arising from Stage 1 of the Strategy.
Q014 – Costs Incurred for Performing Arts Centre Cr McBride	Shire Planning	25 February 2009	A report on the proposed Performing Arts Centre will be forwarded to Council in May this year. The report will include the total costs incurred by Council on investigation, planning and reports for the proposed centre. A Councillor Business Update was issued on 16 April 2009 in relation to the Costs to Date.

7.5 Outstanding Questions Without Notice and Notices of Motion (contd)

Question Asked / Councillor	Department	Meeting Asked	Status
Q018 – Amalgamation of Central Coast Area Consultative Committee (CCACC) and Business Central Coast (BCC) Cr Eaton	General Manager's Unit	25 March 2009	A response will be submitted to Council's meeting on 10 June 2009.
Q019 - Lease Negotiations and Activities at the Oasis Youth Centre Cr Graham	Shire Services	8 April 2009	A response will be submitted to Council's meeting of 27 May 2009.
Q021 – Development at Corner Coral Street and The Entrance Road, The Entrance Cr McBride	Shire Planning	8 April 2009	A response will be submitted to Council's meeting of 27 May 2009.
Q022 – The Entrance Town Centre Cr McBride	Shire Planning	8 April 2009	A response will be submitted to Council's meeting of 27 May 2009.
Q023 – Hall on Council Land at Lot 82 DP 221815 Acacia Avenue, Lake Munmorah Cr Wynn	Shire Services	8 April 2009	A response will be submitted to Council's meeting of 27 May 2009.

Notice of Motion	Department	Meeting Resolved	Status
326 - National Natural Disaster Funding <i>Report required on climate change impacts.</i>	Shire Planning	8 August 2007 Cr Eaton / Cr Best	A report will be submitted to Council when response from Department of Environment and Climate Change (DECC) is received. Finalisation of Coastline Management Plan is not anticipated until January/February 2010.
231 – Poll on Popularly Elected Mayor and Electricity Privatisation <i>A further report be reported to Council at a briefing session outlining the ramifications of a popularly elected Mayor detailing exactly how the numbers equate in three wards concerned.</i>	Corporate Services	28 May 2008 former Cr Stewart / Cr Graham	A report will be subject to future briefing session for Council. The report will provide an outline of possible ward boundaries.
295 – Wyong Pool Maintenance Policy <i>That Council defer any further decisions regarding Wyong Pool pending discussions with the Wyong Tennis Club Administrator. That the Mayor and General Manager report to Council on discussions.</i>	General Manager's Unit	25 June 2008 former Cr Pavier / Cr Graham	A meeting was held with the Administrators for Wyong Tennis Club. Awaiting further information once received a report will be submitted to Council.

7.5 Outstanding Questions Without Notice and Notices of Motion (contd)

Notice of Motion	Department	Meeting Resolved	Status
<p>298 – Long Jetty Café</p> <p><i>That Council receive a briefing as part of the Long Jetty master planning on the permissibility and benefits / disbenefits of considering sub leasing an area of the Long Jetty to cater for a commercial operation.</i></p>	Shire Planning	25 June 2008 Cr Best / Cr Eaton	To be given further consideration following the adoption of the Draft Entrance Peninsula Planning Strategy. (The TEPPS encourages this type of potential development).
<p>383 – Central Coast Regional Strategy – Toukley</p> <p><i>That as a result of the recent release of the Central Coast Regional Strategy by the Department of Planning, staff report on the implications of the strategy on existing Council projects. In particular, the report should address the impacts on the Future Planning Unit's work program and staff should also report on the now likely timelines and processes required to deliver the Toukley Strategy.</i></p>	Shire Planning	13 August 2008 Cr Best / former Cr Stevens	A briefing workshop is expected to be held with Councillors in May 2009.
<p>384 – Central Coast Regional Strategy</p> <p><i>That Council, in conjunction with Shire Planning staff, workshop the Central Coast Regional Strategy with a view to determining a position statement for the Department of Planning.</i></p>	Shire Planning	13 August 2008 former Cr Pavier / Cr Eaton	A briefing workshop is expected to be held with Councillors in May 2009.
<p>498 - Central Coast Tourism Inc (CCTI) Funding</p> <p><i>That Council report on funding for Central Coast Tourism Inc (CCTI).</i></p>	General Manager's Unit	12 November 2008 Cr Eaton / Cr Graham	A report will be submitted to Council's meeting on 27 May 2009.
<p>499 - Wyong Parking Initiatives</p> <p><i>That Council congratulate the Member for Wyong, Mr David Harris MP, on his support for a joint venture between Council and the State Government to construct additional car parking around the Civic/Justice/Police precinct of Wyong Town Centre.</i></p> <p><i>That Council request staff to contact appropriate State Government agencies to address this matter.</i></p>	Shire Planning	12 November 2008 Cr Eaton / Cr Best	A report will be submitted to Council upon response from State Government Agencies.

7.5 Outstanding Questions Without Notice and Notices of Motion (contd)

Notice of Motion	Department	Meeting Resolved	Status
<p>9.1 – NSW State Body Board Championships</p> <p>1 <i>That Council allocate \$10,000 from the 2008-09 budget for Community Support and Development to secure major sponsorship of the NSW State Body Board Championships and Australasian Pro Tour to be held on 2, 3, 4 and 5 April 2009 at Soldiers Beach.</i></p> <p>2 <i>That Council transfer the \$10,000 from the amount allocated in the 2008-09 budget to the “Central Coast Pro Surfing Competition” which has been cancelled.</i></p> <p>3 <i>That Council consider allocating a similar amount to the “NSW Body Board Championships” in the 2009-10 budget provided it can be demonstrated that the event continues to provide significant benefit to the Shire.</i></p> <p>4 <i>That a report on attendance, economic benefits etc of the event be presented to Council at the completion of the championships.</i></p>	Shire Services	11 February 2009 Cr McNamara / Cr Best	A report will be submitted to Council's meeting on 27 May 2009.
<p>9.5 – Closed Circuit TV Toukley</p> <p>1 <i>That further to the continuing and escalating incidents of vandalism and graffiti in and around the Toukley and Toukley East areas, staff report on the findings of the recently conducted Toukley Community Safety Audit soon to be released.</i></p> <p>2 <i>That staff report to Council on the feasibility of installing a Closed Circuit TV network in the Toukley area similar to the recently federally funded 27 camera system now being installed in the Woy Woy business district.</i></p>	Shire Services	11 February 2009 Cr Best / Cr Wynn	A report will be submitted to Council's meeting on 27 May 2009.

7.5 Outstanding Questions Without Notice and Notices of Motion (contd)

Notice of Motion	Department	Meeting Resolved	Status
<p>9.1 – Motor Sports Facility</p> <p>1 <i>That Council recognise in principle the need to establish a regional motor sport and driver education facility with a view to catering for a broad range of activities including driver education and training opportunities.</i></p> <p>2 <i>That Council determine, in partnership with the relevant Government Departments and various peak motor sport organisations, the level of industry support for the establishment of such a regional community facility.</i></p> <p>3 <i>That Council seek Expressions of Interest from potential user groups to provide User Group requirements including their potential usage level of such a facility and indicative list of potential events which may be attracted including races showcasing vehicles using alternative technologies.</i></p> <p>4 <i>That Council investigates possible locations for a motor sport and driver education facility based on user group requirements.</i></p> <p>5 <i>That Council seek Expressions of Interest to build, operate and manage the facility including any alternate Financial Models including any benefits and revenue to the community and Council. Responses should include how they intend to offset green house gas emissions to make the motor sport carbon neutral.</i></p>	<p>Shire Planning</p>	<p>25 February 2009 Cr McNamara / Cr Vincent</p>	<p>Councillors will be updated as information is obtained.</p>
<p>9.2 – The Entrance Channel WebCam</p> <p>1 <i>That Council investigate the possible benefits of utilising the growing web technology known as “webcam” in The Entrance Channel to assist various organisations, departments and the general public to gain important information vital to improved channel management.</i></p> <p>2 <i>That Council also investigate the possibility of sponsorship financing the channel webcams, instead of Council funding.</i></p>	<p>Shire Services</p>	<p>25 February 2009 Cr Best / Cr Webster</p>	<p>A report on this matter will be submitted to Council’s meeting of 27 May 2009.</p>

7.5 Outstanding Questions Without Notice and Notices of Motion (contd)

Notice of Motion	Department	Meeting Resolved	Status
<p>9.4 – Council’s Animal Care Facility Review</p> <p>1 <i>That Council acknowledge the strategic and operational review of the Animal Care Facility undertaken by the Regulation and Compliance Unit in late 2008.</i></p> <p>2 <i>That Council reiterate the earlier congratulations extended to the Manager of Regulation and Compliance and his team for “the complex review” undertaken which led to the Wyong Animal Care Facility “being nationally identified as a best case example of restructure and operation” as advised by Councillor Best in his Question Without Notice to the Ordinary Meeting held on 12 November 2008.</i></p> <p>3 <i>That staff report to Council on further options for the future management of the facility following the completion of the RSPCA’s strategic review of its operations which Council is advised will take approximately 12 months.</i></p> <p>4 <i>That in response to the success of the joint efforts of staff and animal rescue groups resulting in increased re-homing rates, Council acknowledge the need to provide additional kennels and cattery space and therefore give consideration to the provision of capital funds for the extension of the facility as part of its consideration of the 2009-10 Management Plan. However, should additional funds be voted, that the expenditure of such funds not occur until the outcome of the RSPCA strategic review.</i></p> <p>5 <i>That Council embark on a public awareness campaign focusing on responsible pet ownership.</i></p>	<p>Shire Planning</p>	<p>25 February 2009 Cr Best / Cr Matthews</p>	<p>A report will be submitted to Council following completion of the RSPCA Strategic Review.</p>
<p>9.5 – Extending the Lapsing Period of a Consent</p> <p>1 <i>That Council, in determining applications for employment generating development extend the lapsing period of a Consent under Section 95 of the Environmental Planning and Assessment Act 1979 to three years for the purpose of assisting local employment during the current economic downturn.</i></p> <p>2 <i>That the fees for extending a consent for a further one year period be reviewed in conjunction with the next Management Plan.</i></p>	<p>Corporate Services</p>	<p>25 February 2009 Cr Eaton / Cr Graham</p>	<p>Fees for extension of consent to be reviewed in conjunction with the Management Plan 2009-10. Report to be provided in conjunction with the Draft Management Plan to 10 June 2009 Council meeting.</p>

7.5 Outstanding Questions Without Notice and Notices of Motion (contd)

Notice of Motion	Department	Meeting Resolved	Status
<p>10.2 – Council Facility Fees</p> <p>1 <i>That Council staff investigate and report on the fees, including bonds levied on community groups, NGO's and sporting associations for the use of Council facilities including open space.</i></p> <p>2 <i>That staff conduct a comprehensive audit of the fee structure with a view to minimising the financial impact on community groups working within the Wyong Shire to achieve social engagement.</i></p>	Shire Services	8 April 2009 Cr Matthews / Cr McBride	A report on this matter will be submitted to Council's meeting of 27 May 2009.
<p>8.1 – Pile Creek Culvert</p> <p><i>That due to the failure of Pile Creek Culvert, Council take a proactive approach to the findings and recommendation of the Ministers investigation into this event through receiving and considering a report from staff at their earliest convenience on this important issue as tabled by Mr Dick Persson and Mr Alan Griffin appointed to investigate.</i></p>	Shire Services	22 April 2009 Cr Best / Cr Eaton	A report on this matter will be submitted to Council's meeting of 10 June 2009.
<p>8.2 – Webcasting Council Meetings</p> <p><i>That Council prepare a report on the cost, feasibility and other relevant issues of webcasting Council meetings..</i></p>	Corporate Services	22 April 2009 Cr Eaton / Cr Best	A report on this matter will be submitted to Council's meeting of 22 July 2009.
<p>8.3 – Wyong Performing Arts Centre Working Party</p> <p><i>That a working party consisting of the Mayor, interested Councillors, staff and user group representatives be formed to monitor and progress the Wyong Performing Arts Centre.</i></p>	Shire Planning	22 April 2009 Cr Eaton / Cr Graham	A report on this matter will be submitted to Council's meeting of 27 May 2009.

Questions Without Notice and Notices of Motion Removed from the Above Lists since the Previous Meeting

Question without Notice / Notice of Motion	Date Asked / Resolved	Outcome
<p>8.1 – Community Recycling Initiative "freecycle.com"</p> <p><i>That Council investigate the benefits to our community of Council supporting and promoting the Free Cycle recycling initiative.</i></p>	11 March 2009 Cr Best / Cr Graham	A report is included in this business paper.

7.5 Outstanding Questions Without Notice and Notices of Motion (contd)

Question without Notice / Notice of Motion	Date Asked / Resolved	Outcome
<p>9.4 – Precinct Support Program</p> <p>1 <i>That Council reaffirm its support and commitment to its Precinct Committee network while recognising their valuable contribution to the community.</i></p> <p>2 <i>That Council, in partnership with our local Precinct Committees, review its current level of assistance with a view to growing and supporting this important community network and its membership.</i></p> <p>3 <i>That staff report to Council, after the Precinct Committee Forum to be held on Wednesday 1 April 2009, on past, current and future recommendations regarding levels of support required to achieve 2 above.</i></p>	<p>11 February 2009 Cr Best / Cr McNamara</p>	<p>A report is included in this business paper.</p>
<p>Q020 – Sister City Agreements Cr Eaton</p>	<p>8 April 2009</p>	<p>A response is included in this business paper.</p>

ATTACHMENTS

Nil.

8.1 Answers to Question Without Notice

TRIM REFERENCE: D01888656

8.1 Q020 - Sister City Agreements

The following question was asked by Councillor Eaton at the Ordinary Meeting on 8 April 2009:

“Could staff advise briefly on the duration of the existing Sister City Agreements and recent activity under these agreements?”

Wyong Shire has two sister city ties to promote the international ideals of peace and goodwill. The first is with the City of Tanabe in Japan which was originally signed in 1993. Council resolved to renew the Tanabe agreement for an unlimited time period. The second agreement is with Southland District in New Zealand which was signed in 1995. The agreement is due to be renewed by 30 June 2009.

Recent activities include the Ambassador Program that aspires to enrich communities by encouraging social and cultural interaction. In 2008 Ms Teressa Stanford was awarded the Tanabe Scholarship and visited Tanabe as Wyong's Sister City Ambassador in October 2008. Wyong hosted Southland's Youth Ambassador in February 2009. Wyong had appointed an Ambassador to visit Southland in April / May 2009. The Southland Ambassador has recently advised the Sister City Committee that she would be unable to take up the exchange due to work commitments. This was the second time in 12 months that the appointed Southland Ambassador withdrew from the program.

The Sister City Committee hosts student exchanges from the Tanabe International Exchange Society (TIES) on a regular basis. The last TIES exchange was in July / August 2008. The next TIES exchange was scheduled to occur in July / August 2009. Council has approached the TIES Committee to defer the 2009 visit to allow the Sister City Committee to review and revitalise the Ambassador Program.

The Kii Mimpo Art exhibition is also held annually with local primary schools exchanging artwork with Tanabe students.

In 2008 the Committee arranged a school tie between Tuggerah Lakes Secondary College and Kashima High School. The tie aims to promote goodwill, through mutual trust, understanding, respect and friendship. In doing so, the schools pledge their support to promote the development of cultural, educational, youth, municipal and recreation exchanges between the students of each of the respective schools.

The Committee recently facilitated establishment of a 'Friendship Tie' between Wyong and Southland Quilters groups and other proposed ties are with golf and bridge clubs. These ties are not funded by Council but the Committee connects the groups and acts as a liaison. The initial tie has been successful in encouraging community involvement and the exchange of craft.

The Mayor, General Manager, Councillor representatives on the Sister City Committee and the Manager Corporate & Administration Services recently met to consider ways that Council can revitalise the Sister City Committee and the current sister city relationships. A discussion paper will be considered by the Sister City Committee on 7 May 2009 to identify ways to rejuvenate Council's involvement in sister city. Following review of this discussion paper by the Sister City Committee the Manager Corporate & Administration Services will report to Council.

ATTACHMENTS

Nil.

13 May 2009

To the Ordinary Meeting

Councillor

9.1 Notice of Motion - Corporate Uniform

TRIM REFERENCE: F2004/09186 - D01894107

AUTHOR: EM

Councillor McBride has given notice that at the Ordinary Meeting to be held on 13 May 2009 she will move the following Motion:

- "1 That Council investigate and report on sourcing an Australian owned and produced corporate uniform.*
- 2 That the report identify whether the full range of the corporate uniform can be sourced from a single or multiple supplier."*

GENERAL MANAGER'S NOTE

Council currently obtains corporate uniforms under a two year Local Government Procurement Contract (LGPC) with the Department of Commerce from Yakka Aust. The Company is a wholly owned subsidiary of Pacific Brands. The current contract runs to 30 June 2009 and has options for 2 one year renewals by the Department of Commerce.

This is the only uniform supplier listed under the LGPC program. The uniforms are sourced from overseas.

Preliminary enquiries to source a uniform manufacturer that produces uniforms in Australia has identified only one supplier being Rundles in Newcastle. Part of their product line is imported and part made locally.

Currently Rundles produce slacks, pants, skirts and jackets locally all other product lines are imported. The locally produced garments in the Rundles Range are currently priced between 43% and 93% above that of our current supplier.

13 May 2009

To the Ordinary Meeting

Councillor

9.2 Notice of Motion - Recording of Council Meetings

TRIM REFERENCE: F2004/06496 - D01894116

AUTHOR: EM

Councillor McBride has given notice that at the Ordinary Meeting to be held on 13 May 2009 she will move the following Motion:

- "1 That Council seek legal advice on the legal exposure of Councillors and staff associated with the current practice of recording Council meetings and any future proposal to webcast Council meetings.*
- 2 That a report on the legal advice be presented to Council at the earliest opportunity."*

13 May 2009

To the Ordinary Meeting

Councillor

9.3 Notice of Motion - Review of Briefing Schedule

TRIM REFERENCE: F2006/00856 - D01897126

AUTHOR: GB

Councillors Best and Wynn have given notice that at the Ordinary Meeting to be held on 13 May 2009 they will move the following Motion:

“That Council set aside at the conclusion of staff briefings (3:30pm) a 30 minute Councillor discussion session that will afford Councillors the opportunity to discuss key and emerging issues.”

13 May 2009

To the Ordinary Meeting

Councillor

9.4 Notice of Motion - Monthly Payment of Rates

TRIM REFERENCE: F2004/10991 - D01900987

AUTHOR: GB

Councillors Best and Eaton have given notice that at the Ordinary Meeting to be held on 13 May 2009 they will move the following Motion:

- "1 That in order to minimise the hardship of the rate increases proposed to be introduced by Council in the 2009-10 financial year, Council promote the option for ratepayers to pay their rates by monthly or fortnightly instalments.*
- 2 That Council publicise the option in 1 above at the time the 2009-10 rate notices and instalment reminders are posted to ratepayers.*
- 3 That Council publicity include the provision of a leaflet with the rate notice explaining the option to pay by monthly or fortnightly instalments together with press and website promotion."*

COUNCILLORS' NOTE

The 2009-10 Draft Management Plan and Revenue Policy proposed to be placed on public display provides for rate increases in the order of \$170 per annum for an average ratepayer. In the face of the current financial crisis Council should be actively promoting ways of reducing the financial burden of rate increases on our ratepayers.

The option of paying rates by regular instalments would be an attractive option for many ratepayers. Currently Council promotes lump sum payment or quarterly instalments. The option to pay by regular instalments is currently available to all ratepayers, however, it is not actively promoted by Council.

If this payment option was encouraged through direct debit from ratepayer's bank accounts the processing cost to Council would be minimal and it could be more than offset by Council getting a more regular monthly cash flow and reduced rate arrears.

13 May 2009

To the Ordinary Meeting

Councillor

9.5 Notice of Motion - "E" Coal Poll

TRIM REFERENCE: F2004/07086 - D01900991

AUTHOR: GB

Councillors Best and Eaton have given notice that at the Ordinary Meeting to be held on 13 May 2009 they will move the following Motion:

- "1 That in response to the Korean Coal Company Kores' proposal to develop Australia's largest long wall coal mine in our Shire, that will have a profound social and environmental impact on our scenic Central Coast, Council provide its citizens with the opportunity to collectively voice their concerns through Council conducting an online coal poll.*
- 2 That the findings of the poll be forwarded to our State and Federal Members and the relevant Government Departments.*
- 3 As this matter is now in its final stage of Ministerial and Departmental review, the proposed poll be conducted as soon as practical."*

COUNCILLORS' NOTE

This important and creative community based initiative was suggested and referred to Councillor Eaton and myself by the local residential anti coal mining group located in our Shire's north known as SKCM "Stop Korean Coal Mining".

SKCM have recognised that Kores appears to be relying on the silent majority to promote the view that few are opposed to their mining proposal. Hence, the need for a coal poll to dispel this myth.

SKCM are seeking to address Council to provide Councillors' with an overview of their proposal.