



Council's Ngura Program is in full swing, encouraging local Aboriginal students on how to lead a healthy lifestyle. Gorokan High School students enjoyed learning traditional Aboriginal games with modern day equipment at Mingara Recreation Club.

# Business Paper

ORDINARY COUNCIL MEETING

14 March 2012



*This page is intentionally blank*

# MEETING NOTICE

The **ORDINARY COUNCIL MEETING**  
of **Wyong Shire Council**  
will be held in the **Council Chamber**,  
**Wyong Civic Centre, Hely Street, Wyong** on  
**WEDNESDAY 14 MARCH 2012** at **5.00 pm**,  
for the transaction of the business listed below:

## OPENING PRAYER

## ACKNOWLEDGEMENT OF COUNTRY

## RECEIPT OF APOLOGIES

### 1 PROCEDURAL ITEMS

1.1	Disclosures of Interest .....	5
1.2	Proposed Inspections and Briefings .....	6
1.3	Confirmation of Minutes of Previous Meeting.....	12
1.4	Notice of Intention to Deal with Matters in Confidential Session.....	28
1.5	Address by Invited Speakers.....	30

### 2 PLANNING REPORTS

2.1	DA 673/2011 - Proposed Additions to an Existing Aged Care Facility at Canton Beach.....	31
2.2	DA 733/2011 - Demolition of Existing Structures, Remediation of Land and Erection of a Large Scale Retail Establishment (BWS Liquor Store).....	39
2.3	DA 848/2011 - Proposed Vehicle Repair Station at Tuggerah.....	71
2.4	DA 924/2011 - Change of Use from Restaurant to Shop (Pharmacy) at Mingara Drive, Tumbi Umbi.....	85
2.5	Works on Private Land as part of the Tuggerah Lakes Estuary Management Plan .....	111

### 3 CONTRACT REPORTS

3.1	CPA/182007 - Upgrade of SPS T22 and Associated Works at Budgewoi.....	118
3.2	CPA/200744 - Asphaltic Heavy Patching Works - T145 Tender Evaluation Report.....	130
3.3	CPA/205366 - Supply and Delivery of Tools and Hardware .....	139
3.4	CPA/205510 - Wyong River Catchments Flood Study.....	163

### 4 GENERAL REPORTS

4.1	Charter - Wyong Shire Council Sports Committee.....	175
4.2	2012 National General Assembly of Local Government .....	185
4.3	Proposed Councillors' Community Improvement Grants .....	188
4.4	Reimbursement Request - Legal Expenses.....	192
4.5	Referendum Popularly Elected Mayor.....	196
4.6	Proposed Road Renaming - Woodland Parkway Buff Point .....	202
4.7	Proposed Road Renaming - Kitchener Road, Long Jetty .....	206
4.8	Proposed Changes to Current Project and Contract Reports to Council.....	211

### 5 INFORMATION REPORTS

5.1	Information Reports .....	216
5.2	Disclosure of Interest Returns - 1 October to 31 December 2011 .....	217
5.3	Mardi to Mangrove Link Project Status .....	219
5.4	Outstanding Questions on Notice and Notices of Motion.....	223

**6 ANSWERS TO QUESTIONS ON NOTICE**

6.1	Q32/11 - Sun Orchids.....	224
6.2	Q37/11 - State of the Lake .....	226
6.3	Q3/12 - Service Delivery Review - Direct Employment of Apprentices and Trainees.....	228

**7 NOTICES OF MOTION**

7.1	Notice of Motion - Central Coast Venues for Off Site Workshops - Weekend Workshops.....	229
7.2	Notice of Motion - Completion of Lake Cycleway.....	230
7.3	Notice of Motion - Extension of the Wyrabalong National Park .....	231
7.4	Notice of Motion - Community Forum to Discuss Access and Disability within the Shire .....	232

**8 CONFIDENTIAL ITEMS**

8.1	Tender Evaluation Report - Construction of the Mannering Park Oval Amenities building - CPA/204382	
-----	--	--

**9 QUESTIONS ON NOTICE ASKED**

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

Michael Whittaker  
**GENERAL MANAGER**

## 1.1 Disclosures of Interest

---

TRIM REFERENCE: F2012/00026 - D02929526

MANAGER: Lesley Crawley; Manager Corporate Governance

AUTHOR: Jacquie Elvidge; Councillor Services Officer

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

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

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

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

### RECOMMENDATION

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

## 1.2 Proposed Inspections and Briefings

TRIM REFERENCE: F2012/00026 - D02929529

MANAGER: Lesley Crawley; Manager Corporate Governance

AUTHOR: Jacque Elvidge; Councillor Services Officer

### SUMMARY

Inspection held on 7 March 2012:

Time	Location	Director
12.20pm-12.40pm	Club Mingara Carpark, 14 Mingara Dr, Tumbi Umbi - Change of use of existing building to Shop (pharmacy) at Mingara Recreation Club	Director Environment and Planning Services
1.00pm – 1.20pm	DA 848/2011 164-166 Pacific Highway, Tuggerah - Automotive Service Centre	Director Environment and Planning Services

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

Date	Briefing	Time	Presented by
14 March 2012	Wallahah 2 Coal	12.00-12.30pm	Manager Development Assessment Wallahah 2 Coal Representative Mr Kerry Heywood
14 March 2012	Grants Review	12.30-1.00pm	Manager Community and Cultural Development
14 March 2012	Waste Levy	1.00-1.30pm	Director Infrastructure Management Manager Waste
14 March 2012	Precinct 7 A - Prior to Consultation	1.30-2.00pm	Manager Land Use and Policy Development Senior Strategic Planner
14 March 2012	Strategic/ Annual Plan	2.00-3.00pm	Director Corporate Services Manager Integrated Planning
14 March 2012	Business Paper Discussion	3.00-3.30pm	N/A
14 March 2012	Councillor Discussion	3.30-4.00pm	N/A

**RECOMMENDATION**

*That Council receive the amended report on Proposed Inspections and Briefings.*

**ATTACHMENTS**

1 OM 14-03-12 Briefing Schedule D02942211

Proposed Quarter	PROPOSED DATE	If more than 30mins required state duration	Briefing Title	Director
1st qtr	14th march		Grants Review	Community & Recreation Services
1st qtr	14th march		Wallarah 2 Coal	Environment and Planning Services
1st qtr	14th march	1hour	Strategic/annual plan	Corporate Services
1st qtr	14th march		Waste levy	Infrastructure Management
1st qtr	14th march		Precinct 7 A - prior to consultation	Environment and Planning Services
2nd qtr	21.3.12	3 hours	Enterprise Risk Management Workshop	Corporate Services/L&R jeff Simpson
1st qtr	28th March		Annual/Strategic Plan	corporate services
1st qtr	28th March		Marketing and branding strategy	Community & Recreation Services
1st qtr	28th March		Heritage Review	Environment and Planning Services
1st qtr	28th March		Affordable Housing Study	Environment and Planning Services
2nd qtr	April		Retail Strategy Review	Environment and Planning Services
2nd qtr	April		Community facilities strategy	Community & Recreation Services
2nd qtr	April		Iconic Site No 5 – Lakeside Plaza	
2nd qtr	April		Tuggerah Town Centre Masterplan	Environment and Planning Services
2nd qtr	April		Precinct 7A Masterplan - Feedback following exhibition	Environment and Planning Services
2nd qtr	April		Strategic Plan 2012-2016	corporate services
2nd qtr	April		Community Learning Strategy	Community & Recreation Services
2nd qtr	April		S94 plan model	corporate services
2nd qtr	April		Strategic Plan	corporate services
2nd qtr	April	1hour	Strategic/annual plan	Corporate Services
2nd qtr	April		The Entrance Sea Wall	Community & Recreation Services
2nd qtr	April		Plan of management central coast caravan parks	Community & Recreation Services
2nd qtr	23rd May		GM's performance Review	Corporate Services
2nd qtr	23rd May		Central Coast Research Foundation	Corporate Services
2nd qtr	23rd May	1hr	Strategic/annual plan	Corporate Services
2nd qtr	May		Porters Creek Floodplain Risk Management Plan	Infrastructure Management



Proposed Quarter	PROPOSED DATE	If more than 30mins required state duration	Briefing Title	Director
2nd qtr	May		Strategic plan fees - Final Draft	corporate services
2nd qtr	May		Greenhouse Mitigation Plan/Green Energy Funds Projects - May 2011	Infrastructure Management
2nd qtr	May/June		Precincts	Community & Recreation Services
2nd qtr	May/June		Volunteer Framework	Community & Recreation Services
2nd qtr	2nd May	1hour	Strategic/annual plan	Corporate Services
2nd qtr	9th May	1hr	Strategic/annual plan	Corporate Services
2nd qtr	June		Customer Service Charter	Community & Recreation Services
2nd qtr	June		Tuggerah Lakes Floodplain Risk management Study and Plan	Infrastructure Management
2nd qtr	13 June 2012		13 June, 2012 -- 1 hour briefing on submissions to the draft to the WSC	Corporate Services
2nd qtr			Greening Wyong Strategy	Community & Recreation Services
2nd qtr			Playground Management program	Community & Recreation Services
2nd qtr			Provide update of plans and financial viability of The Art House and Cultural Development	Community & Recreation Services
2nd qtr			Comprehensive LEP after exhibition	Environment and Planning Services
2nd qtr			Draft Shire-Wide Contributions Plan	Environment and Planning Services
2nd qtr			Industrial Land and employment Lands study	Environment and Planning Services
2nd Qtr			Carbon Management	Environment and Planning Services
2nd Qtr			Natural Resources Strategy	Environment and Planning Services
2nd Qtr			Iconic Development Site No 11 - Council Carpark, Coles, Senior Citizens & Toukley Town Centre	Environment and Planning Services
2nd Qtr			Iconic Development Site No 16 - 216-222 Main Road & Rowland	Environment and Planning Services
2nd Qtr			Iconic Development Site No 13 - Former Shell Service Station, Council carpark & adjoining sites, Main Road, Yaralla Street and Beachcomber	Environment and Planning Services
2nd Qtr			Bushfire Works Plan	Environment and Planning Services

Proposed Quarter	PROPOSED DATE	If more than 30mins required state duration	Briefing Title	Director
2nd qtr	May		Strategic plan fees - Final Draft	corporate services
2nd qtr	May		Greenhouse Mitigation Plan/Green Energy Funds Projects - May 2011	Infrastructure Management
2nd qtr	May/June		Precincts	Community & Recreation Services
2nd qtr	May/June		Volunteer Framework	Community & Recreation Services
2nd qtr	2nd May	1hour	Strategic/annual plan	Corporate Services
2nd qtr	9th May	1hr	Strategic/annual plan	Corporate Services
2nd qtr	June		Customer Service Charter	Community & Recreation Services
2nd qtr	June		Tuggerah Lakes Floodplain Risk management Study and Plan	Infrastructure Management
2nd qtr	13 June 2012		13 June, 2012 -- 1 hour briefing on submissions to the draft to the WSC	Corporate Services
2nd qtr			Greening Wyong Strategy	Community & Recreation Services
2nd qtr			Playground Management program	Community & Recreation Services
2nd qtr			Provide update of plans and financial viability of The Art House and Cultural Development	Community & Recreation Services
2nd qtr			Comprehensive LEP after exhibition	Environment and Planning Services
2nd qtr			Draft Shire-Wide Contributions Plan	Environment and Planning Services
2nd qtr			Industrial Land and employment Lands study	Environment and Planning Services
2nd Qtr			Carbon Management	Environment and Planning Services
2nd Qtr			Natural Resources Strategy	Environment and Planning Services
2nd Qtr			Iconic Development Site No 11 - Council Carpark, Coles, Senior Citizens & Toukley Town Centre	Environment and Planning Services
2nd Qtr			Iconic Development Site No 16 - 216-222 Main Road & Rowland	Environment and Planning Services
2nd Qtr			Iconic Development Site No 13 - Former Shell Service Station, Council carpark & adjoining sites, Main Road, Yaralla Street and Beachcomber	Environment and Planning Services
2nd Qtr			Bushfire Works Plan	Environment and Planning Services

Proposed Quarter	PROPOSED DATE	If more than 30mins required state duration	Briefing Title	Director
3rd qtr	August		Progress on the Community Strategic Plan (SSV)	Corporate Services
3rd qtr	oct		RZ/7/2009 Chittaway Point Rezoning	Environment and Planning Services
3rd qtr			Biodiversity Management Plan	Environment and Planning Services
3rd qtr			Iconic development site No 14 - beach parade Canton Beach	Environment and Planning Services
3rd qtr			Toukley Town centre masterplan	Environment and Planning Services
4th qtr	October		Norah Head Boat ramp Part 2	Community & Recreation Services
4th qtr	October		Full introduction CCWC for the new Council	Corporate Services/
4th qtr			Committee structure	Corporate Services
4th qtr			Wyong Employment Zone - results of DCP and S94 Contributions Plan/Biocertification update, DCP amendment update	Environment and Planning Services
			Central Coast Taxis	Infrastructure Management
			Sea Level Rise Notification & 149 Certificate	General Counsel/Environment and Planning

### **1.3 Confirmation of Minutes of Previous Meeting**

---

TRIM REFERENCE: F2012/00026 - D02895580

MANAGER: Lesley Crawley; Manager Corporate Governance

AUTHOR: Jacquie Elvidge; Councillor Services Officer

#### **SUMMARY**

Confirmation of minutes of the previous Ordinary Meeting of Council held on 22 February 2012.

#### **RECOMMENDATION**

***That Council confirm the minutes of the previous Ordinary Meeting of Council held on 22 February 2012.***

#### **ATTACHMENTS**

- 1 Minutes of Ordinary Meeting held on 22 February 2012      D02928522

**WYONG SHIRE COUNCIL**  
**MINUTES OF THE**  
**ORDINARY COUNCIL MEETING OF COUNCIL**  
**HELD IN THE COUNCIL CHAMBER**  
**WYONG CIVIC CENTRE, HELY STREET, WYONG**  
**ON 22 February 2012**  
**COMMENCING AT 5:00 PM**

---

**PRESENT**

Councillors R L Graham (Chairperson), G P Best, D J Eaton, L A Matthews, E M McBride (arrived at 5.30pm), J J McNamara, W R Symington, D P Vincent and S A Wynn.

**IN ATTENDANCE**

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

Manager Development Land Use and Planning, Manager Integrated Planning and two administration staff.

The Mayor, Councillor Graham, declared the meeting open at 5.01 pm and advised in accordance with the Code of Meeting Practice that the meeting is being recorded.

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

The Mayor expressed his condolences to Councillor Wynn on the recent death of her father.

Councillor Wynn thanked the Mayor and Councillors for their kind wishes and floral tributes.

**APOLOGIES**

An apology for the inability to attend the meeting was received on behalf of Councillor Webster who is unable to attend due to an illness in the family and Councillor Mc Bride who has advised that she will arrive late.

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

***That Council accept the apologies and grant leave of absence from the meeting.***

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

AGAINST: NIL

At the commencement of the ordinary meeting a procedural motion was moved to deal with reports by the exception method, Item no 2.4 was dealt with after Item 1.1. However for the sake of clarity the reports are recorded in their correct agenda sequence.

**PROCEDURAL MOTION**

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

- 1 That Council allow meeting practice to be varied.**
- 2 That Council use the exception method to deal with the balance of the Agenda.**

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

AGAINST: NIL

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

**That with the exception of report numbers 1.1, 2.1, 2.2, 2.3, 2.4, 2.5, 2.6, 3.2, 3.4, 3.5, 3.6, 3.8, 3.10, 5.1 and 5.2 Council adopt the recommendations contained in the remaining reports.**

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

AGAINST: NIL

**1.1 Disclosures of Interest**

---

Councillor McBride arrived at the chamber at 5.30 pm and as a result was not present for voting on this item.

**2.4 Department of Planning and Infrastructure - Potential Home Sites Program**

Councillor Eaton declared a pecuniary interest in relation to Recommendation 5 of the resolution which relates to land at North Wyong, for the reason that, his family company is a land owner in the North Wyong Industrial Estate, left the chamber at 6.37 pm, prior to voting on Recommendation 5, took no part in discussion, did not vote and returned to the chamber at 6.38 pm.

**2.6 Wyong Skills Centre**

Councillor Best declared a pecuniary interest in the matter for the reason that he is the General Manager of CCGT, left the chamber at 7.16 pm, took no part in discussion, did not vote and returned to the chamber at 7.32 pm.

**2.6 Wyong Skills Centre**

Councillor Eaton declared a non-pecuniary significant conflict of interest in the matter for the reason that he is the Chair of CCGT Ltd joint applicant with Wyong Shire Council, left the chamber at 7.18 pm, took no part in discussion, did not vote and returned to the chamber at 7.31 pm.

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

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

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

AGAINST: NIL

### **1.2 Proposed Inspections and Briefings**

---

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

**That Council receive the amended report on Proposed Inspections and Briefings.**

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

AGAINST: NIL

### **1.3 Confirmation of minutes of Previous Meeting**

---

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

**That Council confirm the minutes of the previous Ordinary Meeting of Council and Confidential Session held on 8 February 2012.**

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

AGAINST: NIL

### **Business Arising**

There was no business arising.

**1.4 Address by Invited Speakers**

---

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

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

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

AGAINST: NIL

**PROCEDURAL MOTION**

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

**That Council consider the points of the recommendation for Item 2.1 individually.**

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

AGAINST: NIL

**2.1 2011-15 Strategic Plan - December Quarter Review**

---

Councillor Vincent left the chamber at 6.56 pm and returned to the chamber at 6.57 pm during consideration of this item.

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

- 1 That Council receive the second Quarterly Review Report on progress against the WSC 2011-15 Strategic Plan.

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

AGAINST: NIL

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

- 2 That Council note that Council's Responsible Accounting Officer has declared the financial position of Wyong Shire Council to be satisfactory.

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

AGAINST: NIL



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

- 3 That Council approve budget variations as contained in the detailed report enclosure.**

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

AGAINST: NIL

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

- 4 That Council direct the General Manager to request the Central Coast Water Corporation to review the level of water restrictions with a view to further relax water restrictions.**

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

AGAINST: COUNCILLORS MCBRIDE AND WYNN

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

- 5 That Council vary its policy on the duration of Development Applications to allow for up to 5 year duration for larger developments.**

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

AGAINST: NIL

## **2.2 Review of Asset Portfolio Project - First Stage - Proposed Assessment Tool**

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

- 1 *That Council approve the review of asset portfolio tool attached to this report for use in its process to determine whether its current assets provide an appropriate investment in service delivery.*
- 2 *That Council weight each of the quadruple bottom line factors equally.*

*An AMENDMENT was MOVED by Councillor EATON and SECONDED by Councillor BEST:*

*That Council approve the review of asset portfolio tool attached to this report for use in its process to determine whether its current assets provide an appropriate investment in service delivery.*

**The AMENDMENT was put to the vote and declared CARRIED.**

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

**The AMENDMENT became the MOTION.**

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

**That Council approve the review of asset portfolio tool attached to this report for use in its process to determine whether its current assets provide an appropriate investment in service delivery.**

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

### **2.3 Councillors' attendance at Police Charity Ball 17 March 2012**

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

- 1 That Council authorise any interested Councillor/s and their partners to attend the Central Coast Charity Ball 2012 to be held on Saturday, 17 March 2012.**
- 2 That Council meet any reasonable expenses incurred by Councillors and their partners attending the above function in accordance with Council's Facilities and Expenses Policy For Councillors.**

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

### **PROCEDURAL MOTION**

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

**That Council consider Item 2.4 - Department of Planning and Infrastructure - Potential Home Sites Program in two separate parts, Recommendations 1 – 4 and Recommendation 5, in order to allow Councillor Eaton to leave the chamber during discussion and voting on Recommendation 5 which relates to land at North Wyong.**

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

**2.4 Department of Planning and Infrastructure - Potential Home Sites Program**

Councillor McBride arrived at the chamber at 5.30 pm during consideration of this item.

Councillor McBride left the chamber at 5.47 pm and returned to the chamber at 5.49 pm during consideration of this item.

Councillor Best left the chamber at 6.10 pm and returned to the chamber at 6.11 pm during consideration of this item.

Councillor Symington left the chamber at 6.11 pm and returned to the chamber at 6.13 pm during consideration of this item.

Councillor Matthews left the chamber at 6.28 pm and returned to the chamber at 6.31 pm during consideration of this item.

Mr Peter Johnson, from ADW Johnson Pty Ltd, in favour of the motion, addressed the meeting at 5.14 pm, answered questions and retired at 6.38 pm.

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

- 1 ***That Council acknowledge that the Wadalba East Precinct is already incorporated in Council's Residential Development Strategy and draft Wyong Shire Settlement Strategy with master planning to commence following completion of Precinct 7A.***
- 2 ***That Council note that the current time line for the development of the Wadalba East Precinct is "in the medium term" as established by direction from the Department of Planning and Infrastructure.***
- 3 ***That Council advise the Minister for Planning and Infrastructure that it supports the identification of the Wadalba East Precinct as part of the Potential Home Sites Program subject to the following:***
  - a ***Council not being responsible for the cost of the public infrastructure required to support the development; that such infrastructure should include both hard infrastructure, the roads water and sewer and drainage and soft infrastructure which includes open space, community facilities and environmental corridors.***
  - b ***Council being responsible for managing the rezoning process (at the applicant's cost);***
  - c ***The community being fully engaged as part of the rezoning process;***
  - d ***Performance requirements being placed on the developer (ie; by way of a "sunset clause" or other means) to ensure that the production of lots proceeds within the Government's timeframe. (ie, 3 years); and***
  - e ***Early agreement being reached between the proponents, government and Council regarding not only the range of infrastructure to be provided, but also the cost, timing and responsibility for funding and provision of that infrastructure.***

**4 That Council acknowledges that the Wadalba East Precinct would support the Wyong Town Centre business, recreation and public amenities that already exist.**

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

AGAINST: NIL

Councillor Eaton declared a pecuniary interest in relation to Recommendation 5 of the resolution which relates to land at North Wyong, for the reason that, his family company is a land owner in the North Wyong Industrial Estate, left the chamber at 6.37 pm, prior to voting on Recommendation 5, took no part in discussion, did not vote and returned to the chamber at 6.38 pm.

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

**5 That Council direct the General Manager to approach the Minister for Planning and Infrastructure proposing that its current priority program for housing development be extended to apply to the fast tracking of employment land within North Wyong.**

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

AGAINST: NIL

**2.5 Application for a Liquor Licence - Fishermans Wharf The Entrance**

---

Councillor Best left the chamber at 7.16 pm and returned to the chamber at 7.32 pm and as a result took no part in voting.

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

***That Council resolve that Council make the attached submission to the Casino, Liquor and Gaming Control Authority in respect to the Primary Service Authorisation Application in respect to Shop 4/12 The Entrance Road, The Entrance (being part of the premises known as "Fisherman's Wharf").***

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

AGAINST: NIL

**2.6 Wyong Skills Centre**

---

Councillor Best declared a pecuniary interest in the matter for the reason that he is the General Manager of CCGT, left the chamber at 7.16 pm, took no part in discussion, did not vote and returned to the chamber at 7.32 pm.

Councillor Eaton declared a non-pecuniary significant conflict of interest in the matter for the reason that he is the Chair of CCGT Ltd joint applicant with Wyong Shire Council, left the chamber at 7.18 pm, took no part in discussion, did not vote and returned to the chamber at 7.31 pm.

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

***That Council respond to the Department of Education, Employment and Workplace Relations by 24 February 2012 indicating that Council will work with the Federal Government to meet the criteria to receive funding for the Wyong Skills Centre.***

FOR: COUNCILLORS GRAHAM, MATTHEWS, MCBRIDE, MCNAMARA, SYMINGTON, AND WYNN

AGAINST: COUNCILLOR VINCENT

**3.1 Information Reports**

---

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

***That Council receive the report on Information Reports.***

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

AGAINST: NIL

**3.2 Investment Report for January 2012**

---

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

***That Council receive the report on Investment Report for January 2012.***

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

AGAINST: NIL

**3.3 Activities of the Development Assessment and Building Certification and Health Units**

---

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

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

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

AGAINST: NIL

**3.4 Quarterly Update on Section 94 Contributions**

---

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

**That Council receive the report on Quarterly Update on Section 94 Contributions.**

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

AGAINST: NIL

**3.5 General Works in Progress**

---

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

**That Council receive the report on General Works in Progress.**

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

AGAINST: NIL

**3.6 Disability Accessible Facilities at Council's Holiday Parks**

---

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

- 1 That Council note the report on Disability Accessible Facilities at Council's Holiday Parks.**
- 2 That Council direct the General Manager to invite the Northern Lakes Disability Tourism Precinct Accessible Audit Representatives to be part of, and have input into, the full audit of all facilities within the four Council Holiday Parks.**

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

AGAINST: NIL

**3.7 Works in Progress - Water Supply and Sewerage**

---

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

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

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

AGAINST: NIL

**3.8 Results of Water Quality Testing for Beaches and Lake Swimming Locations**

---

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

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

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

AGAINST: NIL

**3.9 Councillors Community Improvement Grant - St Barnabas Church**

---

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

**That Council note the report on Councillors Community Improvement Grant - St Barnabas Church.**

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

AGAINST: NIL

**3.10 Eraring Power Station-Report on Incident**

---

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

- 1 That Council receive the report on Eraring Power Station-Report on Incident.**
- 2 That Council direct the General Manager to request the Minister for the Environment and Heritage to direct the EPA to conduct an independent review and that the report upon its completion be forwarded to Council.**
- 3 That Council direct the General Manager to request the Minister also direct the EPA to take the responsibility for the investigation of these types of incidents into the future.**

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

AGAINST: COUNCILLOR VINCENT

**3.11 Mardi to Mangrove Link Project Status**

---

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

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

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

AGAINST: NIL



**3.12 Outstanding Questions on Notice and Notices of Motion**

---

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

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

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

AGAINST: NIL

**5.1 Notice of Motion - Status of Women Committee**

---

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

- 1 That Council acknowledge the significance of the United Nations International Women's Day.**
- 2 That Council launch the WSC "Status of Women Committee" on United Nations International Women's Day", Thursday 8 March 2012.**
- 3 That Council promote International Women's Day through the media and community networks.**

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

AGAINST: NIL

**5.2 Notice of Motion - Subsidised Tipping for Residential Ratepayers**

Councillor Wynn left the chamber at 8.25 pm and returned to the chamber at 8.27 pm during consideration of this item.

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

- 1 ***That Council note the current entitlement for ratepayers to dispose of bulk waste is 6 free kerbside pick ups per household, per annum.***
- 2 ***That Council note that some ratepayers who choose to transport their waste directly to the Buttonderry Waste Management Facility are being charged in accordance with WSC fees and charges schedule.***
- 3 ***That Council consider broadening the current waste management regime to accommodate those residents that transport their waste directly to the Buttonderry Waste Management Facility.***
- 4 ***That Council direct the General Manager to report on flexible options to facilitate a more equitable waste disposal regime, such as, but not limited to, providing subsidised tipping coupons in rate notices.***
- 5 ***That Council recognise the benefits of a flexible waste management policy that is more equitable and encourages responsible waste disposal.***
- 6 ***That Council consider a report on the recycling targets set by the State Government, the cost to ratepayers and alternative schemes available.***

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

AGAINST: NIL

**QUESTIONS ON NOTICE****Q3/12 Service Delivery Review - Direct Employment of Apprentices and Trainees  
Councillor Lisa Matthews**

F2004/07718

*“Can staff please report on the progress of the Service Delivery Review goal, to investigate and move to implementation of direct employment by Council of all apprentices and trainees?”*

**Q4/12 Status of Alison Homestead  
Councillor Lisa Matthews**

F2011/02693

*“Can staff please report on the status of Alison Homestead in relation to the recent event?”*

**Q5/12 Wadalba Wildlife Corridor (WWC) Management Plan**

**Councillor Greg Best**

F2005/00562

*“Mr General Manager, further to Q36/11 answered on 22 February 2012, may I further seek advice as to; who took the decision to defer monitoring, when was the decision made, and what meeting was it reported to Council? Also did Council seek concurrence from DECC/OEH/EPA as I understand they are parties to this matter and did they concur with deferring monitoring commencement of the WWC?”*

**Q6/12 Recognition of Staff with regarding to Craigie Park Reserve**

**Councillor Greg Best**

C2012/05338

*“Mr General Manager, my question is directed to the Director Community and Recreation Services in regard to staff activities in and around Craigie Park Reserve, Wyongah. I table correspondence dated 21 February 2012 from a Mr A Smith who has taken the time to provide positive feedback in regard to staff performance, in particular I would like to recognise and thank Mr Ian Clarke and Mr David Norbury for their efforts in assisting with this ratepayer’s enquiries.*

*Could the Director please pass on Council’s appreciation of their effort?”*

**Q7/12 Submissions to Access Federal Government's Graffiti Grants Scheme**

**Councillor Doug Vincent**

F2004/07937

*“Could staff please advise if Council has made a submission to access the Federal Government's new Graffiti Grant scheme? The Federal Government has allocated \$3 million from the Proceeds of Crime Fund to help local councils clean up and prevent graffiti. Grants of \$50,000 to \$150,000 are currently being offered to local governments to invest in measures including cleaning up graffiti, reducing graffiti through improved lighting, CCTV in graffiti hotspots and preventing graffiti through better education.”.*

**Q8/12 Employment and Replacement of Apprentices and Trainees**

**Councillor William Symington**

F2004/07125

*“Can staff please report on the details, over the past 5 years, of the employment and placement of all apprentices and trainees employed by WSC?”*

**Q9/12 Contributions Raised from Section 94A Fees**

**Councillor William Symington**

F2005/03091

*“Can staff please report on the level of contributions raised by the implementation of Section 94A fees?”*

**THE MEETING** closed at 8.38 pm.

## **1.4 Notice of Intention to Deal with Matters in Confidential Session**

---

TRIM REFERENCE: F2010/00500 - D02936970

MANAGER: Lesley Crawley; Manager Corporate Governance

AUTHOR: Jacque Elvidge; Councillor Services Officer

### **SUMMARY**

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

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

### **RECOMMENDATION**

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

***8.1 – Tender Evaluation Report – Construction of the Mannering Park Oval Amenities building – CPA/204382***

- 2 That Council note its reason for considering Report No 8.1 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(a) personnel matters concerning particular individuals (other than Councillors),*

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

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

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

*(i) prejudice the commercial position of the person who supplied it, or*

*(ii) confer a commercial advantage on a competitor of the Council, or*

*(iii) reveal a trade secret,*

#### **1.4 Notice of Intention to Deal with Matters in Confidential Session (contd)**

---

- 2(e) information that would, if disclosed, prejudice the maintenance of law,*
- 2(f) matters affecting the security of the Council, Councillors, Council staff or Council property,*
- 2(g) advice concerning litigation, or advice that would otherwise be privileged from production in legal proceedings on the ground of legal professional privilege,*
- 2(h) information concerning the nature and location of a place or an item of Aboriginal significance on community land.”*

## **1.5 Address by Invited Speakers**

---

TRIM REFERENCE: F2012/00026 - D02929532

MANAGER: Lesley Crawley; Manager Corporate Governance

AUTHOR: Jacquie Elvidge; Councillor Services Officer

### **SUMMARY**

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

### **RECOMMENDATION**

*That Council receive the report on Invited Speakers.*

## 2.1 DA 673/2011 - Proposed Additions to an Existing Aged Care Facility at Canton Beach

---

TRIM REFERENCE: DA/673/2011 - D02909378

MANAGER: Peter Fryar, Manager Development Assessment

AUTHOR: Jenny Webb; Senior Development Planner

### SUMMARY

A development application has been received for additions to an existing Aged Care Facility at Canton Beach. The application has been examined having regard to the matters for consideration detailed in Section 79C of the Environmental Planning and Assessment Act 1979 (EP&A Act) and other statutory requirements with the issues requiring attention and consideration being addressed in the report.

Due to the value of this application (\$14.5m) it will be determined by the Hunter & Central Coast Joint Regional Planning Panel (JRPP) at its meeting to be held on 29 March 2012.

The proposed residential care facility incorporates an improved architectural aesthetic compared to the multiple buildings previously approved; provides greater areas of landscaped open space; incorporates current best practice nursing and care services; and proposes improved ecological outcomes through the offsetting of the removal of EEC vegetation and the formalisation of an arboreal corridor to maintain connectivity to surrounding vegetated areas.

Having regard to the comparative improvement of this development proposal in relation to environmental impact, built form, and social benefits, it is considered that the application is worthy of support.

<b>Applicant</b>	Christadelphian Homes Ltd
<b>Owner</b>	Christadelphian Homes Ltd
<b>Application No</b>	DA/673/2011
<b>Description of Land</b>	Lakefront Village, 1-20 Village Way, Canton Beach
<b>Proposed Development</b>	Additions to an existing Aged Care Facility comprising a proposed Residential Care Facility containing 95 beds and ancillary works
<b>Site Area</b>	49320 m <sup>2</sup>
<b>Zoning</b>	7B Scenic Protection
<b>Existing Use</b>	Aged Care Facility)
<b>Estimated Value</b>	\$14,490,000

### RECOMMENDATION

- 1 ***That Council receive the report on DA 673/2011 - Proposed Additions to an Existing Aged Care Facility at Canton Beach.***
- 2 ***That Council determine whether it wishes to make a submission to the Joint Regional Planning Panel regarding the Application.***

**2.1 DA 673/2011 - Proposed Additions to an Existing Aged Care Facility at Canton Beach (contd)**

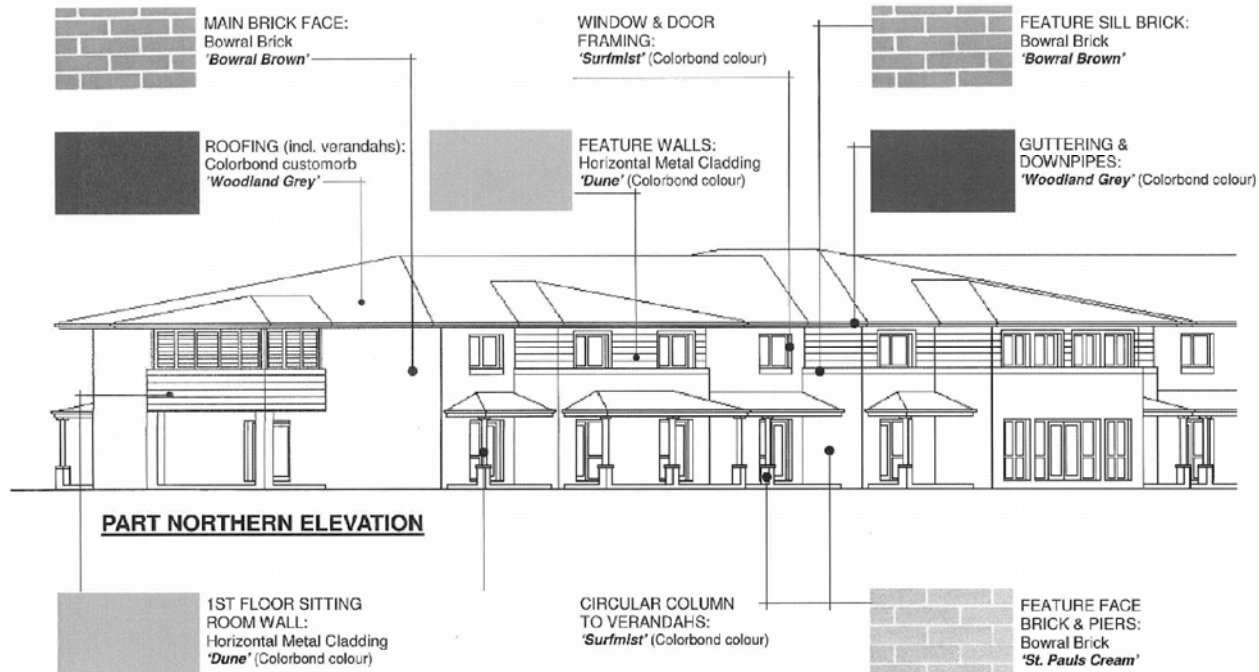
---

Attached is the report being forwarded to the Hunter Central Coast JRPP's meeting to be held at Council on 29 March 2012.

**ATTACHMENTS**

<b>1</b>	Report to Hunter Central Coast Joint Regional Planning Panel	Enclosure	D02920593
<b>2</b>	Conditions of Consent	Enclosure	D02918103
<b>3</b>	Architectural Plans	Enclosure	D02933911
<b>4</b>	Plan of Materials and Finishes		D02919069
<b>5</b>	General Terms of Approval - Mine Subsidence Board		D02800390
<b>6</b>	General Terms of Approval - NSW Rural Fire Service		D02918117
<b>7</b>	SEPP 71 Assessment Table		D02918175
<b>8</b>	Copy of Easements for Asset Protection Zones	Enclosure	D02918173





**MARTIN O'TOOLE**  
ARCHITECTS  
e: mail@martinotoole.com.au  
m: 0423 787 787  
w: www.martinotoole.com.au

**RESIDENTIAL AGED CARE FACILITY**  
for: Christadelphian Aged care  
at: Lot No. 1-20 Village Way,  
**CANTON BEACH**

**COLOUR SCHEDULE**

date: July 2011  
no.: 08225 / CS 01

In reply please send to: Wyong District Office  
 Our reference: FN74-00920W0  
 Your reference: DA 673/2011  
 Contact: Tom Hole (02) 4352 1646

WSC  
 DX 7306  
 WYONG

6 October 2011

Dear Sir or Madam

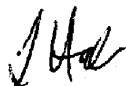
**BUILDING APPLICATION NO. TBA11-18721W1**  
**LOT 602 DP 728967 NO 2 VILLAGE WAY CANTON BEACH**

At their meeting at Newcastle on 28 September 2011, the members of the Mine Subsidence Board have granted their conditional approval of this building application on the following conditions.

1. The final drawings, to be submitted prior to commencement of construction, are to contain a certification by a qualified structural engineer, to the effect that any improvements, constructed to meet the specifications of such final drawings, will be safe, serviceable and repairable, taking into account the following mine subsidence parameters:
  - (a) Maximum vertical subsidence of 150mm.
  - (b) Maximum ground strains of  $\pm 1$  mm/m.
  - (c) Maximum tilt of 2 mm/m.
2. Architectural plans submitted to the Mine Subsidence Board for approval must show the location and detailing of articulation/ control joints in brickwork, taking into consideration the above subsidence parameters and the requirements of the Building Code of Australia.

This approval is current for two (2) years.

Yours faithfully



Tom Hole  
 District Manager



**NEWCASTLE**

Ground Floor  
 NSW Government Offices  
 117 Bull Street  
 Newcastle West 2302  
 PO Box 488G Newcastle 2300  
**Telephone: (02) 4908 4300**  
 Facsimile: (02) 4929 1032  
 DX 4322 Newcastle West

**PICTON**

100 Argyle Street  
 Picton 2571  
 PO Box 40 Picton 2571  
**Telephone: (02) 4677 1967**  
 Facsimile: (02) 4677 2040  
 DX 26053 Picton

**SINGLETON**

The Central Business Centre  
 Unit 6, 1 Pitt Street  
 Singleton 2330  
 PO Box 524 Singleton 2330  
**Telephone: (02) 6572 4344**  
 Facsimile: (02) 6572 4504

**WYONG**

Suite 3 Feldwin Court  
 30 Hely Street  
 Wyong 2259  
 PO Box 157 Wyong 2259  
**Telephone: (02) 4352 1646**  
 Facsimile: (02) 4352 1757  
 DX 7317 Wyong

**HEAD OFFICE**

PO Box 488G  
 Newcastle 2300  
**Telephone: (02) 4908 4395**  
 Facsimile: (02) 4929 1032



**Email**  
[mail@minesub.nsw.gov.au](mailto:mail@minesub.nsw.gov.au)

**Web**  
[www.minesub.nsw.gov.au](http://www.minesub.nsw.gov.au)

**24 Hour  
 Emergency Service**  
 Free Call 1800 248 083

T 01B (Auto) Feb 2002

All communications to be addressed to:

Headquarters  
15 Carter Street  
Lidcombe NSW 2141

Telephone: 8741 5175  
e-mail: csc@rfs.nsw.gov.au

Headquarters  
Locked Bag 17  
Granville NSW 2142

Facsimile: 8741 5433



The General Manager  
Wyong Shire Council  
PO Box 20  
Wyong NSW 2259

Your Ref: DA/673/2011  
Our Ref: D11/1438  
DA11082379446 GB

**ATTENTION:** Jenny Webb

28 September 2011

Dear Sir/Madam

**Integrated Development for 496//755266, 600//728966 & 602//728967 1-20 Village Way Canton Beach 2263**

I refer to your letter dated 15 August 2011 seeking general terms of approval for the above Integrated Development in accordance with Section 91 of the 'Environmental Planning and Assessment Act 1979'.

This response is to be deemed a bush fire safety authority as required under section 100B of the 'Rural Fires Act 1997' and is issued subject to the following numbered conditions:

**Water and Utilities**

The intent of measures is to provide adequate services of water for the protection of buildings during and after the passage of a bush fire, and to locate gas and electricity so as not to contribute to the risk of fire to a building. To achieve this, the following conditions shall apply:

1. Water, electricity and gas are to comply with sections 4.1.3 and 4.2.7 of 'Planning for Bush Fire Protection 2006'.

**Evacuation and Emergency Management**

The intent of measures is to provide suitable emergency and evacuation (and relocation) arrangements for occupants of special fire protection purpose developments. To achieve this, the following conditions shall apply:

2. The existing emergency and evacuation planning shall be amended to include the new additions and shall comply with section 4.2.7 of 'Planning for Bush Fire Protection 2006'.

**Design and Construction**

The intent of measures is that buildings are designed and constructed to withstand the potential impacts of bush fire attack. To achieve this, the following conditions shall apply:

3. The proposed new building shall comply with section 5 (BAL 12.5) Australian Standard AS3959-2009 'Construction of buildings in bush fire-prone areas' and section A3.7 Addendum Appendix 3 of 'Planning for Bush Fire Protection'.

**Landscaping**

4. Landscaping within the site shall comply with the principles of Appendix 5 of 'Planning for Bush Fire Protection 2006'.

**General Advice – consent authority to note**

This assessment is based upon the advice that a 20 metre asset protection zone is in place on the adjoining Crown Reserve south east of the site.

For any queries regarding this correspondence please contact Garth Bladwell on 8741 5175.

Yours sincerely



Nika Fomin  
**Team Leader, Development Assessment**

The RFS has made getting information easier. For general information on 'Planning for Bush Fire Protection, 2006', visit the RFS web page at [www.rfs.nsw.gov.au](http://www.rfs.nsw.gov.au) and search under 'Planning for Bush Fire Protection, 2006'.

## State Environmental Planning Policy No 71 – Coastal Protection

Cl.8	Matters for Consideration	Proposed
a	The aims of the Policy	The proposal does not oppose any of the aims or objectives of the Policy in terms of protection of the coastal zone and environment; and the maintenance of pedestrian access to foreshore areas.
b	Existing public access to and along the coastal foreshore for pedestrians or persons with a disability should be retained and, where possible, public access to and along the coastal foreshore for pedestrians or persons with a disability should be improved.	The proposal results in improved legal access to the foreshore through the transfer of Crown land to Council as a public road.
c	Opportunities to provide new public access to and along the coastal foreshore for pedestrians or persons with a disability.	Access to the foreshore currently exists through the site.
d	The suitability of development given its type, location and design and its relationship with the surrounding area.	The proposed residential care facility is consistent with surrounding land uses and replaces a previously approved aged care development, which would have a greater environmental impact than that currently proposed.
e	Any detrimental impact that development may have on the amenity of the coastal foreshore, including any significant overshadowing of the coastal foreshore and any significant loss of views from a public place to the coastal foreshore.	The proposal would be unlikely to have any detrimental impact on the foreshore.
f	The scenic qualities of the New South Wales coast, and means to protect and improve these qualities.	The proposal would be unlikely to have any detrimental impact on the scenic qualities of the coastline.
g	Measures to conserve animals (within the meaning of the <u>Threatened Species Conservation Act 1995</u> ) and plants (within the meaning of that Act), and their habitats.	The proposed development will impact on an EEC and potential habitat for threatened species. This matter, including mitigation measures are discussed in detail in the body of the report.
h	Measures to conserve fish (within the meaning of Part 7A of the <u>Fisheries Management Act 1994</u> ) and marine vegetation (within the meaning of that Part), and their habitats.	The proposal has no impact on the conservation of fish and marine vegetation.
i	Existing wildlife corridors and the impact of development on these corridors.	The application proposes the establishment of an arboreal corridor within the site and the revegetation/rehabilitation of an area of EEC, which could otherwise be removed without compensation under a previous development consent.
j	The likely impact of coastal processes and coastal hazards on development and any likely impacts of development on coastal processes and coastal hazards.	The site is located outside the area of coastal hazard and would not have any impact of coastal processes.
k	Measures to reduce the potential for conflict between land-based and water-based coastal activities.	The proposal has no impact on water-based coastal activities.
l	Measures to protect the cultural places, values, customs, beliefs and traditional knowledge of Aboriginals.	The subject site does not contain any aboriginal sites or relics, and there are no known sites within the immediate locality.

m	Likely impacts of development on the water quality of coastal waterbodies.	Quality and quantity of stormwater is to be controlled to reduce any impact on downstream water quality.
n	The conservation and preservation of items of heritage, archaeological or historic significance.	The proposal has no impact on items of heritage, archaeological or historic value.
o	Only in cases in which a council prepares a draft local environmental plan that applies to land to which this Policy applies, the means to encourage compact towns and cities.	Not applicable.
p(i)	The cumulative impacts of the proposed development on the environment.	The proposal is not considered to have any adverse cumulative impacts on the environment. The clearing of the site has already been consented to without any requirement for revegetation or offsets. The proposed development incorporated various revegetation and rehabilitation measures to reduce the impact of clearing and would result in a more favourable environmental outcome than the development previously approved over the site.
p(ii)	Measures to ensure that water and energy usage by the proposed development is efficient.	To reduce the need for artificial lighting skylights are proposed and operable window/door systems are incorporated into each room to minimise the need for powered air-conditioning.  An underground rainwater tank is also proposed.
<b>Cl.13</b>	A provision of an environmental planning instrument that allows development within a zone to be consented to as if it were in a neighbouring zone, or a similar provision, has no effect.	The application does not propose to utilise such a clause.
<b>Cl.14</b>	A consent authority must not consent to an if, in the opinion of the consent authority, the development will, or is likely to, result in the impeding or diminishing, to any extent, of the physical, land-based right of access of the public to or along the coastal foreshore.	The proposal will not affect the right of public access to or along the foreshore.
<b>Cl.15</b>	The consent authority must not consent to a development application in which effluent is proposed to be disposed of by means of a non-reticulated system if the consent authority is satisfied the proposal will, or is likely to, have a negative effect on the water quality of the sea or any nearby beach, or an estuary, a coastal lake, a coastal creek or other similar body of water, or a rock platform.	The proposal shall be connected to the existing reticulated sewer system available to the site.
<b>Cl.16</b>	The consent authority must not grant consent to a development application if the consent authority is of the opinion that the development will, or is likely to, discharge untreated stormwater into the sea, a beach, or an estuary, a coastal lake, a coastal creek or other similar body of water, or onto a rock platform.	The proposal incorporates a satisfactory stormwater system.

## 2.2 DA 733/2011 - Demolition of Existing Structures, Remediation of Land and Erection of a Large Scale Retail Establishment (BWS Liquor Store)

TRIM REFERENCE: DA/733/2011 - D02755092

AUTHOR/ MANAGER: Peter Fryar, Manager Development Assessment

### SUMMARY

An application has been received for the demolition of existing structures, remediation of land and erection of a large scale retail establishment (BWS liquor store) at No. 447 – 449 The Entrance Road, Long Jetty. The application has been examined having regard to the matters for consideration detailed in section 79C of the Environmental Planning and Assessment Act (EP&A Act) and other statutory requirements with the issues requiring attention and consideration being addressed in the report.

<b>Applicant</b>	Mr W T Hunter C/- Trehy Ingold Neate
<b>Owner</b>	Mr W T Hunter
<b>Application No</b>	DA/733/2011
<b>Description of Land</b>	Lot 340 DP 712201, No. 447 – 449 The Entrance Road, Long Jetty
<b>Proposed Development</b>	Demolition of Existing Structures, Remediation of Land and Erection of a Large Scale Retail Establishment (BWS Liquor Store)
<b>Site Area</b>	881m <sup>2</sup>
<b>Zoning</b>	3 (b) (Centre Support Zone)
<b>Existing Use</b>	Service Station
<b>Employment Generation</b>	Three (3) permanent employees and three (3) - five (5) part time employees
<b>Estimated Value</b>	\$440,000

### RECOMMENDATION

- 1 ***That Council refuse development application DA/733/2011, having regard to the matters for consideration detailed in Section 79C of the Environmental Planning and Assessment Act 1979 and other relevant issues, for the following reasons:***
  - a ***Pursuant to Section 79C (1)(c) of the Environmental Planning and Assessment Act 1979 the Statement of Impact submitted with the application has not adequately demonstrated that any of the “at risk” groups in the Local and Broader Community would not be impacted adversely by the establishment of the proposed liquor outlet.***
  - b ***Pursuant to Section 79C (1)(b) of the Environmental Planning and Assessment Act 1979 the proposal will result in an increase in the density of liquor outlets in the locality. The Statement of Impact submitted with the application has not demonstrated that the increase in liquor outlet density will not contribute to an increased risk of social harm to the Local Community across a range of variables.***

## **2.2 DA 733/2011 - Demolition of Existing Structures, Remediation of Land and Erection of a Large Scale Retail Establishment (BWS Liquor Store) (contd)**

---

- c Pursuant to the provisions of Section 79C (1)(b) and (c) of the Environmental Planning and Assessment Act 1979 there is an indication that there may be an increased risk of social harm as a consequence of the proposal and accordingly, the 'precautionary principle' should be applied consistent with the objects of the Act.**
- d Pursuant to the provisions of Section 79C (1)(d) of the Environmental Planning and Assessment Act 1979 the submissions made in objection to the proposal and the information provided in the applicant's Statement of Impact has not provided sufficient evidence to demonstrate that approval of the application will provide a net public benefit to the Local Community.**
- e Pursuant to the provisions of Section 79C (1)(e) of the Environmental Planning and Assessment Act 1979 the proposal is not considered to be in the public interest given it is located adjacent to a sensitive landuse namely a childcare centre.**

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

### **PRECIS**

- The application is for the demolition of existing structures, remediation of land and the erection of a large scale retail establishment trading as a Beer Wine and Spirits (BWS) Liquor Store.
- The proposed use is permissible with Council's consent.
- The NSW Police Force and NSW Health do not support the proposal.
- Application was advertised to 156 adjoining and nearby landowners. 15 submissions including 2 petitions containing a total of 142 signatures were received objecting to the proposal.
- The application does not provide sufficient information to permit a complete assessment of the social impacts arising from the proposal.
- The application is recommended for refusal.

### **INTRODUCTION**

#### **The Site**

The site is known as Lot 340 DP 712201, No. 447 – 449 The Entrance Road, Long Jetty. The site has an area of 881m<sup>2</sup> is zoned 3(b) Centre Support and is currently occupied by a Metro service station.

Immediately to the north of the site is a child care centre known as 'Little Souls Early Learning Centre'. Land to the east and west is predominantly occupied by low – medium density residential development. The land on the corner of Gladstan Avenue and The Entrance Road (immediately south of the proposal) has the benefit of development consent for a new commercial development.



## 2.2 DA 733/2011 - Demolition of Existing Structures, Remediation of Land and Erection of a Large Scale Retail Establishment (BWS Liquor Store) (contd)

---

The site is located within Precinct 11 of The Entrance Peninsula Planning Strategy (TEPPS).



**Figure 1 – Subject Site and Surrounds**

### **The Proposed Development**

The proposal seeks Council's consent for the demolition of the existing service station, remediation of the land and construction and use of a large scale retail establishment being a BWS liquor store.

The development will comprise a single storey building, seven (7) car parking spaces, designated loading dock and a drive through facility with an awning over.

Proposed trading hours are:

Monday to Wednesday – 8am to 8pm

Thursday to Saturday – 9am to 9pm

Sunday - 10am to 7pm

The store will employ three (3) permanent employees and three (3) – five (5) parttime employees.

Advertising signage is proposed in the following form:

- 3 x fascia signs each measuring 800mm x 4560mm LED illuminated located on the northern, eastern and southern elevations of the drive through awning.
- 4 x flush wall signs (specials posters) A0 size attached to the building facade.
- 1 x flush wall sign measuring 600mm x 3000mm non-illuminated over the principal building entry.

## **2.2 DA 733/2011 - Demolition of Existing Structures, Remediation of Land and Erection of a Large Scale Retail Establishment (BWS Liquor Store) (contd)**

---

### **Summary**

The main issue associated with proposed development relates to a lack of sufficient information to permit a complete assessment of the social impacts attributable to the development.

The subject site is located in a local community that suffers from higher than average alcohol-related hospitalisations, assaults (domestic violence), anti-social behaviour and a culture of high risk drinking.

The weight of the academic research both local and international confirms that liquor outlet density is a key factor in negative social impacts associated with the sale of alcohol.

There are already a total of nine (9) licensed premises offering 'take-away alcohol' within a 2 kilometre radius of the proposed BWS liquor store.

In the absence of evidence to the contrary, the precautionary principle should be applied where it could be concluded that the proposal will result in an increase in social harm in the locality.

### **VARIATIONS TO POLICIES**

Nil

### **HISTORY**

7 January 2011 - DA/11/2011 was lodged for the Demolition of Existing Structures, Remediation of Land and Erection of a Large Scale Retail Establishment (BWS Liquor Store) at 447 – 449 The Entrance Road, Long Jetty.

2 March 2011 - Following conclusion of the advertising period and receipt of comments from the NSW Police Force and NSW Roads and Maritime Services (RMS), Council staff wrote to the Applicant raising numerous concerns with the application including:

- Impacts on The Entrance Road and need for a traffic report and traffic management plan,
- Possible increase in anti-social behaviour, proximity to a child care centre and proliferation of liquor stores in the area,
- Layout and design of car parking area,
- Lack of a stormwater management plan,
- Non Compliance with Safer by Design Guidelines,
- Inadequate loading/unloading area,
- No dedicated bin storage area,
- Noise Impacts upon adjoining residential properties; and
- Matters raised in public submissions.

13 May 2011 -The applicant withdrew DA/11/2011.

22 August 2011 – Current development application lodged.

## **2.2 DA 733/2011 - Demolition of Existing Structures, Remediation of Land and Erection of a Large Scale Retail Establishment (BWS Liquor Store) (contd)**

---

### **PERMISSIBILITY**

The subject site is zoned 3(b) (Centre Support Zone) under the Wyong Local Environmental Plan (WLEP) 1991 and the development is permissible with development consent.

The proposed use is considered to comply with the objectives of the 3(b) zone, in particular:

- “(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*

#### Comment

The proposed development is not considered to be a “traffic generating development” as defined under SEPP (Infrastructure) 2007. The traffic volumes associated with the use are considered to be relatively low and therefore consistent with the above objectives of the zone.

- (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*

#### Comment

The proposed Retail Liquor Outlet is not characterised as a supermarket or food or produce market referred to above. The proposal is defined as a “Large Scale Retail Establishment” under the provisions of WLEP 1991. Such retail establishments are permissible within the 3(b) Centre Support Zone and as such are the type of retail activity (by definition) permitted within the zone under the planning instrument.

- (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*

#### Comment

The ‘design’ of the proposed establishment appears to be focused upon passing trade by persons travelling in motor vehicles whereas retail liquor premises established in nearby commercial centres appear more dependant on trade associated with persons shopping elsewhere in the commercial centre. The proposal is considered to be consistent with objective (c) above.

- (d) to create opportunities for development within district and regional business centres which support and enhance the range of retail opportunities within those centres”*

#### Comment

As mentioned above, the proposal is considered unlikely to detrimentally impact on similar established objectives within the nearby commercial centres due to its apparent reliance on passing vehicular trade. As such, the proposal should not detract from existing commercial opportunities within nearby district and regional business centres.

## **2.2 DA 733/2011 - Demolition of Existing Structures, Remediation of Land and Erection of a Large Scale Retail Establishment (BWS Liquor Store) (contd)**

---

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

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

- State Environmental Planning Policy No 55 – Remediation of Land
- State Environmental Planning Policy No 64 –Advertising Signage
- State Environmental Planning Policy No 71 – Coastal Protection
- Environmental Planning and Assessment Act, 1979
- Wyong DCP 2005 Chapter 50 – Advertising Signs
- Wyong DCP 2005 Chapter 61 – Parking
- Wyong DCP 2005 Chapter 69 – Waste Management
- Wyong DCP 2005 Chapter 81 – Retail Centres
- Wyong DCP 2005 Chapter 99 – Building Lines
- The Entrance Peninsula Planning Strategy
- Wyong Shire Council Policy P1 – Potentially Contaminated Land
- The Entrance District Development Contributions Plan

### **ECOLOGICALLY SUSTAINABLE PRINCIPLES**

The proposal has been assessed having regard to ecologically sustainable development principles.

A Waste Management Plan (WMP) has been prepared which identifies the extent of re-use of materials as a consequence of the demolition of the existing premises. The WMP also identifies the continual re-use of waste generated by the proposed facility when operational and has demonstrated good sustainable practices in the re-use of waste materials.

As discussed further in the report, the Statement of Impact submitted with the application dismisses the recognised literature that links liquor outlet density to increased risk of social harm across a wide range of variables.

The objects of the Environmental Planning and Assessment Act 1979 are, amongst others, “to encourage ecologically sustainable development”. Ecologically sustainable development (ESD) involves a cluster of elements or principles. One principle particularly worth highlighting is the precautionary principle. The precautionary principle should not be viewed in isolation, but rather as a package of principles of ESD. In particular, ESD involves principles of inter-generational and intra-generational equity.

When applying the precautionary principle in consideration of the proposed retail liquor shop and in particular, whether there is an indication that there is likely to be an increased risk of social harm as a consequence of the proposed facility, the onus is on the proponent to prove that this is not the case. There is no evidence in the Statement of Impact to demonstrate that no harm will occur to the local and broader community as a consequence of the proposed liquor outlet. Accordingly, it is appropriate to apply the precautionary principle and not approve the proposal based on the information currently supporting the application. Reasons why the precautionary principle should be applied in the circumstances are discussed further in this report.

## **2.2 DA 733/2011 - Demolition of Existing Structures, Remediation of Land and Erection of a Large Scale Retail Establishment (BWS Liquor Store) (contd)**

---

### **ASSESSMENT**

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

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

#### **State Environmental Planning Policy 55 – Remediation of Land**

The Policy aims to promote the remediation of contaminated land for the purpose of reducing the risk of harm to human health or any other aspect of the environment.

Clauses 7, 8 and 9 are applicable to the development. The clauses relevantly provide:

- 7 *“Contamination and remediation to be considered in determining development application. Council is required to consider whether the land is contaminated and whether the site will be suitable for development after remediation of the land.”*

#### Comment

The site contains a development identified in Table 1 under the SEPP (i.e. a service station).

In accordance with the requirements of Clause 7(2), a report titled *Targeted Contamination Assessment Proposed Redevelopment of Service Station Site 447 – 449 The Entrance Road, Long Jetty* prepared by Douglas Partners and dated November 2010 accompanies the application.

Council's Environmental Health Officer has reviewed the report and is satisfied that the land will be suitable for the development after remediation.

- “8 *Remediation work permissible – permits site remediation works to be undertaken with the consent of Council.*
- 9 *Category 1 remediation work: work needing consent – remediation work to be undertaken in a ‘coastal protection’ area (as the subject site is deemed) requires development consent)”.*

#### Comment:

The remediation proposed is a category 1 remediation work and the subject development application seeks consent for the same.

## **2.2 DA 733/2011 - Demolition of Existing Structures, Remediation of Land and Erection of a Large Scale Retail Establishment (BWS Liquor Store) (contd)**

---

### **State Environmental Planning Policy No 64 –Advertising Signage**

The Policy requires that a consent authority (Council) obtain the concurrence of the NSW RMS when considering approval for advertising signage which is within 250 metres and visible from a classified road.

Correspondence received from the NSW RMS dated 17 October 2011 provides concurrence subject to recommended conditions relating to the location and internal illumination of the signage proposed.

### **State Environmental Planning Policy 71 – Coastal Protection**

SEPP 71 – Coastal Protection applies to the development. In accordance with SEPP 71, the proposal has been assessed against the matters for consideration outlined under Clause 8 and found to be satisfactory. A copy of the assessment table is included as an attachment.

### **Crime Prevention Through Environmental Design (CPTED)**

In April 2007, the NSW Minister for Planning introduced Crime Prevention Guidelines to Section 79C of the EP&A Act 1979. These guidelines require consent authorities to ensure that development provides safety and security to users and the community. If a development presents a crime risk, the guidelines can be used to justify modification of the development to minimise crime risk or refusal of the development on the grounds this crime risk cannot be appropriately minimised.

Crime Prevention through Environmental Design (CPTED) is a crime prevention strategy that focuses on the planning, design and structure of neighbourhoods. It aims to reduce opportunities for crime by using design and place management principles.

The Crime Prevention Officer of the Tuggerah Lakes LAC (NSW Police Force) has undertaken a detailed assessment of the proposal under the CPTED guidelines and has provided a report outlining the relevant findings. The report identifies that during the 12 month period (1.7.10 – 30.6.11) there were a total of 44,429 reported crime (incidents) types for the Tuggerah Lakes LAC encompassing the Wyong Shire. The suburb of Long Jetty equates to 3.3% of the total reported incidents which is a relatively low rate compared to the areas of the Tuggerah Lakes LAC.

However, Police responded to a total of 551 anti-social incidents in Long Jetty which equate to 38% of the total incidents. It is also noted that Tuggerah Lakes LAC is currently recorded second highest in the State out of 80 LAC's for domestic violence incidents. The Police reported that during the summer months, domestic violence and personal assaults increase with over 44% on average being alcohol related.

In correspondence dated 1 March 2011, the Crime Prevention Officer of Tuggerah Lakes LAC states:

*“After reading through the plans of the DA application there is no real mention of CPTED principles. The only mention of the CPTED is mentioned on a page of the site plan (southern elevation) where there is only mention of, “new frosted vinyl film to glazing upto 1200mm to obscure view of (cash) register “. As mentioned there is no CPTED principles mentioned or taken into consideration throughout the DA application.*

## **2.2 DA 733/2011 - Demolition of Existing Structures, Remediation of Land and Erection of a Large Scale Retail Establishment (BWS Liquor Store) (contd)**

---

*The surrounding area of the proposed site is high residential and this would be of concern to local residents in relation to a possible increase in anti-social behaviour and possible increase in high vehicular traffic around the proposed site on a already high volume roadway. Hours of operation would have to be closely considered and restrictions in place.*

*I have liaised with S/C Matt Dyer, Licensing Police, Tuggerah Lakes LAC in relation to this DA application.*

*The following has been discussed and agreed. The first issue noted was the absolute close proximity to the "Little Souls Early Learning Centre". This premises is a day care centre, centred around looking after young children, from babies to six years. I am reliably informed that this day care centre has been established for six years.*

*Alcohol consumption or supply can lend itself to anti-social behaviour and the proposal of a bottle shop adjoining a day care centre does not appear appropriate.*

*A recent download of bottle shops/hotels or Registered Clubs in the near vicinity of the proposed site indicate there are already three established bottle shops in the Bateau Bay area. One in the Long Jetty area and one in the Toowoan Bay area. There is also a Hotel (pub) in Long Jetty some 400 metres from the proposed site. Also at Bateau Bay where they both provide already 'take away' alcohol services. There is also Registered Clubs within the area that provide similar services.*

*Information supplied by S/C Dyer is that the Supt. Swilks, Commander, Tuggerah Lakes LAC is against any further licensed premises applications and this strongly supported by the Licensing Unit, Tuggerah Lakes LAC. If S/C Dyer sights an application through the Officer of Liquor and Gaming, he will forward an objection on behalf of the Commander, Tuggerah Lakes LAC. This objection will relate to and will include alcohol related crimes and statistics in the vicinity of the proposed DA site."*

The applicant in the Statement of Environmental Effects submitted with the development application has provided an assessment of the proposal under the CPTED principles.

Contrary to the criticisms raised by NSW Police, a review of the CPTED assessment indicates that the applicant has adequately incorporated the design principles into the proposed development. Should development consent be granted, appropriate conditions should be imposed requiring the implementation of the applicant's proposed CPTED design principles.

A copy of the applicants CPTED assessment is attached to this report.

### **Wyong Local Environmental Plan 1991**

#### **Clause 15 – Development on land containing acid sulfate soils**

The clause relevantly provides:

- "(1) The objective of this clause is to require special assessment of certain development on land identified as being subject to actual acid sulfate soils or potential acid sulfate soils.*
- (2) A person must not, without the consent of the Council, carry out works described in the following Table on land of the class or classes specified for those works in that Table and shown on the Acid Sulfate Soils Planning Map, except as provided by subclause (4).*

**2.2 DA 733/2011 - Demolition of Existing Structures, Remediation of Land and Erection of a Large Scale Retail Establishment (BWS Liquor Store) (contd)**

<b>Class of land shown on Acid Sulfate Soils Planning Map</b>	<b>Works</b>
1	Any works
2	Works below the natural ground surface Works by which the watertable is likely to be lowered
3	Works beyond 1 metre below the natural ground surface Works by which the watertable is likely to be lowered to any point beyond 1 metre below the natural ground surface
4	Works beyond 2 metres below the natural ground surface Works by which the watertable is likely to be lowered to any point beyond 2 metres below the natural ground surface
5	Works which are likely to lower the watertable in adjacent Class 1, 2, 3 or 4 land to any point below 1 metre AHD

(3) For the purposes of subclause (2), works includes:

- (a) any disturbance of more than one tonne of soil (such as occurs in carrying out agriculture, agricultural-related works, the construction or maintenance of drains, engineering works, extractive industries, dredging, the construction of artificial water bodies (including canals, dams and detention basins) or foundations, or flood mitigation works), or
- (b) any other works that are likely to lower the watertable.

(5) The Council must not grant a consent required by this clause unless it has considered:

- (a) the adequacy of an acid sulfate soils management plan prepared for the proposed development in accordance with the Acid Sulfate Soils Assessment Guidelines, and
- (b) the likelihood of the proposed development resulting in the discharge of acid water, and
- (c) (Repealed)"

Comment

The land contains Class 3 acid sulfate soil. The development is likely to disturb more than 1 tonne of soil, includes works beyond 1 metre below the natural ground surface and is likely to temporarily lower the water to a level beyond 1 metre below the natural ground surface.

Accordingly Council must not grant consent to the proposed development unless it has considered the matters identified in sub clause (5) above.

The *Targeted Contamination Assessment Proposed Redevelopment of Service Station Site 447 – 449 The Entrance Road, Long Jetty* prepared by Douglas Partners satisfactorily addresses the requirements of sub clause (5). Should consent be granted, appropriate conditions of consent would be recommended.

Clause 29 – Services

Adequate water supply and facilities for the removal or disposal of sewage and drainage are available to the land.

**Wyong DCP 2005 Chapter 50 – Advertising Signs**

The advertising signage proposed comprises:



## **2.2 DA 733/2011 - Demolition of Existing Structures, Remediation of Land and Erection of a Large Scale Retail Establishment (BWS Liquor Store) (contd)**

---

- 3 x fascia signs each measuring 800mm x 4560mm LED illuminated located on the northern, eastern and southern elevations of the drive through awning.
- 4 x flush wall signs (Specials Posters) A0 size attached to the building facade.
- 1 x flush wall sign measuring 600mm x 3000mm non-illuminated over the principal building entry

The signage proposed complies with the maximum area, design and location requirements under DCP 2005 – Chapter 50.

### **Wyong DCP 2005 Chapter 61 – Parking**

The Chapter requires that car parking be provided at a rate of 1 space per 30m<sup>2</sup> of gross floor area for shops. The gross floor area of the building is 220m<sup>2</sup> and accordingly eight (8) onsite carparking spaces are required to be provided one (1) of which is to be disabled.

The proposal complies with the above providing thirteen (13) spaces as follows:

- 2 staff spaces
- 5 customer spaces including 1 disabled space
- 6 spaces in the drive through facility

A designated loading area is also provided.

### **Wyong DCP 2005 Chapter 69 – Waste Management**

A WMP has been submitted in accordance with DCP Chapter 69.

The submitted waste management plan provides that 2 x 1100 litre bulk bins will be for ongoing waste management, one for waste and the other for glass and paper. A designated bin storage area for the bulk bins is provided. The bin storage area is appropriately located away from the adjoining residential premises and can be accessed by service vehicles.

### **Wyong DCP 2005 Chapter 81 – Retail Centres**

The Chapter provides that Long Jetty has the potential to expand into a Village Centre in the future and include a small supermarket and specialty floorspace of up to 5,000m<sup>2</sup>. The objective of Village Centres is to provide centres which allow for access to daily shopping needs. In the event that Long Jetty becomes a Village Centre, the proposed liquor store would be consistent with this objective. Issues relating to the likely requirements of the proposed retail outlet on similar businesses in existing commercial centres is discussed previously in this report.

### **Wyong DCP 2005 Chapter 99 – Building Lines**

The chapter provides that development may be built to the front, side and rear boundaries subject to satisfactory design. No objection is raised to the proposed building, footprint or its setbacks to adjoining roadways or surrounding properties. The proposed building wall to adjoining properties is “similar” to the wall/elevations of the existing service station building, will be single storey in height and is not considered to have any detrimental visual impact upon those adjoining properties.

## **2.2 DA 733/2011 - Demolition of Existing Structures, Remediation of Land and Erection of a Large Scale Retail Establishment (BWS Liquor Store) (contd)**

---

### **The Entrance Peninsula Planning Strategy**

It is considered that the proposed development generally complies with the Strategy and is in accordance with the objectives/desired character of Precinct 11 of TEPPS.

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

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

The proposal is considered to be consistent with the established retail hierarchy in the locality as discussed previously in this report.

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

The NSW RMS and relevant Council officers have reviewed the application. The assessments revealed that the development is satisfactory from an access / egress, traffic management and traffic generation viewpoint subject to conditions including:-

- Reconfiguration of the existing access driveway,
- Provision of a concrete median in The Entrance Road to restrict access to left in/ left out,
- The car parking area complying with AS/NZS 2890.1:2004 Part 1 and AS/NZS 2890.2:2004 Part 2,
- Signage being wholly located within the site and complying with illumination criteria, and
- Deliveries and garbage collection being conducted outside normal operational hours.

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

The NSW Police Service advise that a problem currently exists with alcohol related anti-social behaviour on the Tuggerah Lake foreshore that regularly culminates in bad language, fights and broken glass on the roadway and cycleway / footpaths. These impacts may be exacerbated in the immediate foreshore area if the availability of liquor is increased.

#### ***The impact on utilities supply***

The proposal is able to be serviced via connection to Council water and sewer services. The site can be serviced for water supply from Council's system located in The Entrance Road.

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

There are no listed heritage items in the vicinity of the site.

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

The site is not known to contain any valuable land resources such as agricultural land, minerals or other extractive resources

## **2.2 DA 733/2011 - Demolition of Existing Structures, Remediation of Land and Erection of a Large Scale Retail Establishment (BWS Liquor Store) (contd)**

---

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

If the application were to be approved then a condition would be recommended requiring low water usage dual flush toilets and tapware with WELS rated 3 stars or more, in keeping with Council's standard practice for reducing potable water consumption.

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

This matter is addressed previously in the report under the separate heading relating to Clause 15 - . Development on land containing acid sulphate soils.

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

No detrimental impacts on air quality or microclimate conditions are anticipated.

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

No issues to report.

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

The submitted waste management plan provides that 2 x 1100 litre bulk bins will be required for the development. A designated bin storage area for the bulk bins is provided. The bin storage area is appropriately located and can be accessed by service vehicles.

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

The proposed building is subject to Part J – Energy Efficiency, of the Building Code of Australia (BCA). Should the development be approved, compliance with the relevant provisions of the BCA would be required.

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

Construction noise and vibration are likely to be issues particularly during the demolition, remediation and construction phase of the development. These impacts could be satisfactorily mitigated through appropriate conditions of consent should the development be approved.

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

The land is affected by sea level rise. If the development were approved, a condition should be imposed requiring the floor level be at an appropriate height recognising the same.

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

There are no known technological hazards that would impact the development.

## **2.2 DA 733/2011 - Demolition of Existing Structures, Remediation of Land and Erection of a Large Scale Retail Establishment (BWS Liquor Store) (contd)**

---

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

The Crime Prevention Through Environmental Design (CPTED) Report accompanying the development application addresses the four CPTED principles and demonstrates how the development can incorporate the CPTED principles in the final design.

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

The Index of Relative Socio-economic Disadvantage (SIEFA Index of Disadvantage) developed from the 2006 ABS Census Data identifies Long Jetty (including the Toowoona Bay sub area) as being ranked 8<sup>th</sup> disadvantage from 28 areas considered in the Wyong Local Government Area. The NSW Police have also identified the locality as comprising a high proportion of vulnerable families and consider it is not appropriate to have a business of the nature proposed situated adjacent to an early childcare centre and within the locality.

The development application was accompanied by a Statement of Impact (Sol) dated 16 May 2011. Council engaged the services of an independent Social Planner to review the Sol.

The main points raised by the Council's independent consultant are summarised below:-

- The proposed BWS development is within a relatively disadvantaged community. All available data indicates that this is an "at risk" community.
- The proposed BWS development adjoins a sensitive use; namely an early childhood learning centre.
- There has been inadequate community consultation on this proposal and no attempt to engage with significant objectors to the development. Significant objectors include the Little Souls Early Learning Centre, The Entrance Community Precinct Committee, NSW Police Force and NSW Health.
- There are a total of 9 licensed premises offering take-away alcohol within a 2 kilometre radius of the proposed BWS development. The weight of the academic research both local and international confirms that liquor outlet density is a key factor in negative social impacts associated with the sale of alcohol.

Note: An approval exists for a tenth liquor store (in Killarney Vale) which is approved but yet to open.

- The Sol dismisses the recognised literature that links liquor outlet density to increased risk of social harm across a range of variables. Even if one were to accept that the literature is inconclusive, the precautionary principle should be applied. If there is some indication that there will be harm then the onus is on the proponent to prove that this is not the case. There is no evidence in the Sol to prove that no harm will occur despite the arguments it makes to the contrary.
- The major concerns of objectors are proximity to a sensitive use and the already high incidence of domestic violence and other alcohol related crime and anti-social behaviour. These concerns are backed up by data presented by NSW Health and the NSW Police Force.

## **2.2 DA 733/2011 - Demolition of Existing Structures, Remediation of Land and Erection of a Large Scale Retail Establishment (BWS Liquor Store) (contd)**

---

- The Sol has not provided sufficient evidence to demonstrate that approval of the application will provide a net public benefit to the local community of Long Jetty.
- There may be positive social impacts associated with this development, particularly employment impacts during construction and operation. These are not adequately detailed in the Sol and the significance given to them in the Sol is questionable.
- BWS is an experienced and successful operator of 108 BWS stores in NSW and has well developed Responsible Service of Alcohol policies. It is highly likely that if approved this will be a well managed operation. However, the actions of individuals beyond the premises cannot be managed by the operator.

In summary, Council's Independent Social Planning Consultant following a review of the applicants Statement of Impact has concluded as follows:

- "The proponent has not adequately engaged with key stakeholders within the community to identify, analyse and/or mitigate potential impacts of the proposed development.
- The proposed BWS store is within disadvantaged community. A substantial body of academic research literature exists that links liquor outlet density to increased risk of social harm across a range of variable and that more disadvantaged communities are more vulnerable to alcohol related crime.
- The proponent states that *"there is no potentially sensitive facilities or services near the proposed premises which could otherwise place the identifiable "at risk" groups ..... at a heightened risk of alcohol harm."* The proposed facility adjoins a sensitive use namely the "Little Souls Early Learning Centre". The Centre reports that they cater for a number of vulnerable families. This view is supported by the NSW Police.
- On the balance, the reviewer believes that the Statement of Impact has not proven that the proposal will be in the public interest. "

A recent decision of the Land & Environment Court (Motto Farm Pty Limited v Port Stephens Council [2011] NSWLEC 1293) examined similar issues to those present in the subject application namely a disadvantaged community and local opposition to a hotel with take-away service. The appeal by the proponent against Council's refusal of the DA was dismissed, largely on social impact grounds. A key issue to the case was a difference in the academic arguments presented on the social impact evidence. At paragraph 64, Commissioner Brown states:

*"64. The potential risk of alcohol-related harm raises a number of separate issues that lead to the different conclusions of Dr Stubbs and Mr Smith. These can be generally be grouped into the following:*

## **2.2 DA 733/2011 - Demolition of Existing Structures, Remediation of Land and Erection of a Large Scale Retail Establishment (BWS Liquor Store) (contd)**

---

### *The academic literature*

65. *The weight to be given to the academic literature was a major difference between Dr Stubbs and Mr Smith and significantly influenced their evidence. I propose to address this in the first instance. I find that the academic literature referred to by Dr Stubbs is, in general terms, a useful and valuable means of addressing the requirement in S79C (1)(b) relating to the social impact of the development in the locality. Like most evidence, it should not be accepted blindly but considered in light of its relevance to the application in question. In this case, I accept that it is relevant and should be given weight in the consideration of those matters relating to social impact. In coming to this conclusion, care needs to be taken in the provision of such evidence so that the research and surveys do not go beyond what is appropriate and necessary in order to consider the social impacts in the locality.*

66. *I am not satisfied that the principal concepts promoted by the academic literature, such as the link between alcohol and violent crime and identification of specific demographic groups who are more likely to be at risk of alcohol-related harm can be dismissed as easily and for the reasons suggested by Mr Smith. These concepts are undisputed in the range of academic literature and have been used regularly by the Court in other appeals in addressing social impact (for example, see *Waugh Hotel Management v Marrickville Council* [2007] 156 LGERA 414 and *WWL Consulting Pty Ltd v at Marrickville Council* [2011] NSWLEC 1161)."*

The proponent is required beyond the planning approval process, to obtain a liquor licence from the Casino, Liquor and Gaming Control Authority (CLGCA). Recently, the head of the State's Liquor Licensing Authority has declared that parts of NSW are saturated with bottle shops and any increase would cause social harm after recently ruling on 20 applications by the supermarket chains Coles, Woolworths and Aldi. While eleven (11) of the applications were approved, eight (8) were deferred until crime statistics were updated or to allow for more community consultation.

One application, for a licence for an Aldi supermarket at Katoomba, was refused because of the risk that it could be "detrimental to the wellbeing of the local or broader community".

In a statement on bottle shops and Alcohol pricing issued by the CLGCA on 26 January 2012, it was stated that:

*"The Casino, Liquor and Gaming Control Authority will continue to assess the potential social impact of alcohol pricing on a case by case basis when considering bottleshop applications, with greater scrutiny of the issue in relation to groups at greater risk of alcohol-related harm.*

*In November and December the Authority deferred bottleshop applications by three large supermarket chains following concerns about the potential social impact of heavily discounted alcohol.*

*The Authority invited submissions from Woolworths, Coles and Aldi addressing issues relating to their discounting policies, the potential impact of cheap alcohol and the weighting the issue should be given when assessing bottleshop applications.*

*After considering submissions from the three supermarket chains and reviewing research into the issue, the Authority found no conclusive evidence of harm on a general, Statewide basis. It resolved at its meeting yesterday (January 25) to continue to investigate the relationship between alcohol abuse and liquor pricing as the evidence is inconclusive.*

## **2.2 DA 733/2011 - Demolition of Existing Structures, Remediation of Land and Erection of a Large Scale Retail Establishment (BWS Liquor Store) (contd)**

---

*“The evidence gathered to date does not clearly establish that current pricing levels lead to increased harm from alcohol”, Authority chairman Chris Sidoti said.*

*“This is a complex issue and we have heard many arguments for and against the proposition that current alcohol pricing increases consumption and associated community impacts. In the absence of conclusive evidence at this stage, we will continue to investigate the matter and gather research.”*

*“What is obvious now is that a ‘one size fits all’ approach cannot be adopted and applied to all liquor licensing applications”.*

*“The Authority will consider every application on a case by case basis, paying attention to the potential social impact of alcohol pricing, among other issues. It invites applicants for bottleshop licences and all those interested in those applications to provide it with evidence on this issue, among others”.*

*“Greater weight will be given to the potential social impact of alcohol pricing on groups vulnerable to alcohol-related harm, taking into account density of licensed venues, alcohol-related crime statistics and socio-economic factors”.*

*“The Authority is particularly concerned about the potential social impact of alcohol pricing on groups at greater risk of harm stemming from violence and anti-social behaviour, public drinking and underage drinking”.*

*“We are equally concerned about introducing new outlets offering heavily discounted liquor in local communities where there are significant numbers of people in groups vulnerable to alcohol-related harm”.*

The Authority yesterday (January 25) considered 20 deferred bottleshop applications by Woolworths (2), Coles (4) and Aldi (14):

- One was refused as the Authority was not satisfied that the overall social impact of the proposed outlet would not be detrimental to the well-being of the local or broader community (Aldi Katoomba);
- Four were deferred so up to date alcohol-related crime statistics could be obtained and submissions received on alcohol-related crime and density of licensed venues (Aldi Hamilton, Aldi Newcastle, Aldi Mudgee, Aldi Orange)
- Four were deferred to allow conferences to be held with applicants and/or objectors including local police, local councils and NSW Health (Aldi Muswellbrook, Aldi Cessnock, Aldi Quakers Hill, BWS Quakers Hill); &
- Eleven were approved of which one had its trading hours reduced and six had a condition imposed requiring the non-refrigeration of products (Aldi Greenhills, Aldi Rutherford, Aldi Cardiff, Aldi Raymond Terrace, Aldi Green Point, Aldi Wyoming, Dan Murphy’s Wolli Creek, Liquorland Coffs Harbour, Liquorland Shellharbour, Liquorland Umina Beach, Liquorland West Ryde).

The Authority will also request the Office of Liquor, Gaming and Racing to review its guidelines on undesirable liquor promotion to ensure the pricing of takeaway alcohol is not promoted in harmful or undesirable ways.

## **2.2 DA 733/2011 - Demolition of Existing Structures, Remediation of Land and Erection of a Large Scale Retail Establishment (BWS Liquor Store) (contd)**

---

The matters raised above are considered to be of relevance for Council in its consideration of the subject proposal. It is interesting to note that the CLGCA has applied the precautionary principle in its recent consideration of a number of liquor licence applications. Of particular note is the fact that the Authority has refused an application where it was not satisfied that the overall social impact of the proposed outlet would not be detrimental on the well-being of the local and trader community. This factor, for reasons stated previously in this report, is considered to be of relevance to the subject proposal and on that basis, amongst others, the development application is not supported on planning grounds.

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

There will be positive economic impacts associated with the development, particularly employment impacts during construction and operation.

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

The proposal has been designed to minimise its impact upon the amenity of the adjoining landuses. The building, car parking, loading docks and illuminated signage are all orientated towards The Entrance Road where possible. It is noted that the drawings are internally inconsistent insofar as the signage drawings show a slightly different car parking arrangement to those prepared by Trehy Ingold Neate. The applicant has advised that the Trehy Ingold Neate drawings take precedence.

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

If the application were to be approved then conditions would be recommended in relation to hours of construction, the preparation and approval of a traffic management plan and protection of existing services.

### ***Any cumulative impacts.***

The ABS data for the Wyong LGA indicates that there is a significant proportion of disadvantaged households within the Long Jetty area. This data indicates that there is significant disadvantage within the Long Jetty area. The area already suffers from higher than average alcohol-related hospitalisations, alcohol-related assaults (domestic violence) and a culture of high risk drinking.

In the absence of evidence to the contrary, the precautionary principle should be applied, i.e. it should be concluded that the proposal may result in an increase in social harm in the locality. The applicant has not demonstrated the contrary.

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

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

Existing data points to the fact that there is significant social disadvantage within the Long Jetty area. It is vulnerable communities that are likely to be disproportionately affected by the problems associated with alcohol.

The weight of the academic research both local and international, confirms that liquor outlet density is a key factor in negative social impacts associated with the sale of alcohol.



## **2.2 DA 733/2011 - Demolition of Existing Structures, Remediation of Land and Erection of a Large Scale Retail Establishment (BWS Liquor Store) (contd)**

---

There are a total of 9 licensed premises offering take away alcohol within a 2 kilometre radius of the proposed BWS.

In the absence of evidence to the contrary, introducing another licensed premises into the locality is considered unacceptable based on an assessment of the facts provided in the application and the conclusions needed by the independent Social Assessment.

For this reason, it is considered that the proposal does not fit in the locality.

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

Following remediation, the site's attributes will be conducive to the development as:-

- The property is zoned 3 (b) (Centre Support) Zone.
- All required utility services are available.
- Vehicular access is available from The Entrance Road.
- It is regular in shape and sufficiently large to accommodate the proposal.

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

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

The application was advertised in accordance with DCP 2005 Chapter 70-Notification of Development Proposals and SEPP 55 – Remediation of Land with 15 submissions including 2 petitions containing a total of 142 signatures being received. The issues raised in the submissions have been addressed in the assessment of the application pursuant to the heads of consideration contained within Section 79C of the Environmental Planning and Assessment Act 1979. A summary of the submissions is detailed in the table below.

**2.2 DA 733/2011 - Demolition of Existing Structures, Remediation of Land and Erection of a Large Scale Retail Establishment (BWS Liquor Store) (contd)**

<b>Doc. No</b>	<b>Summary of Issues</b>	<b>Response</b>
<p>D02765355 D02770710 D02769981 D02776311 D02772958 D02774294 D02794055 D02787412 D02801042 D02826090 D02828778</p>	<p><b>Number of Liquor Outlets in Area</b></p> <p>The area does not need another liquor outlet. There are a sufficient number of liquor outlets in the area.</p> <p>Is there the need for another venue where alcohol can be purchased?</p> <p>There has been an increase in anti-social behaviour over the last few years. Another liquor outlet will only exacerbate this problem.</p> <p>There are too many liquor outlets on the coast already. Why make access to alcohol even easier when as a society we know of the dire problems associated with alcohol.</p> <p>The report by BSV Sol states that Long Jetty is underserviced in the area of alcohol supply and that another liquor outlet will attract residents to Long Jetty. These claims are plainly not true.</p>	<p>The Sol dismisses the recognised literature that links liquor outlet density to increased risk of social harm across a range of variables.</p> <p>It is likely that the development has the potential to cause harm in the community.</p> <p>The onus is on the proponent to prove that this is not the case. There is no evidence in the Sol to prove that no harm will occur despite the arguments it makes to the contrary.</p> <p>This matter warrants refusal of the development application.</p>
<p>D02765355 D02787412 D02826090</p>	<p><b>The Entrance Peninsula Planning Strategy (TEPPS)</b></p> <p>The proposal is inconsistent with The Entrance Peninsula Planning Strategy.</p>	<p>It is considered that the proposed development generally complies with the Strategy and is in accordance with the objectives/desired character of Precinct 11 of TEPPS.</p>

**2.2 DA 733/2011 - Demolition of Existing Structures, Remediation of Land and Erection of a Large Scale Retail Establishment (BWS Liquor Store) (contd)**

<p>D02770710 D02770710 D02794055</p>	<p><b>Parking, Traffic, Safety and Amenity in Gladstan Avenue</b></p> <p>The development could result in customers parking in Gladstan Avenue and blocking driveways.</p> <p>Gladstan Avenue may be used by drink drivers to access the bottle shop via a means of a back way and keeping off the policed roads, i.e. The Entrance Road.</p> <p>Patrons of the bottle shop will start and stop their vehicles in Gladstan Avenue increasing noise and pollution which will impact on the residential character of the area.</p> <p>The McLachlan project is accessed via Gladstan Avenue, the traffic and noise which will occur from this development needs to be considered.</p>	<p>It is unreasonable to assume that customers of a shop will commit drink driving offences and then base a refusal on this assumption.</p> <p>Drink driving is a matter for the Police.</p> <p>The proposal is unlikely to result in a significant number of bottle shop customers using and parking in Gladstan Avenue. The majority of customers will access the site via The Entrance Road and adequate parking is provided within the site.</p> <p>Gladstan Avenue is a public road and any customer of the bottle shop who wishes to park in Gladstan Avenue is entitled to do so.</p> <p>It is reasonable to expect some amenity impacts arising from traffic and parking given Gladstan Avenue is located immediately adjacent to commercial land.</p>
<p>D02770710 D02769981 D02772958 D02794055 D02777411 D02802567 D02826090</p>	<p><b>Proximity to the Little Souls Early Learning Centre</b></p> <p>The Little Souls Child Early Learning Centre is adjacent to the proposal.</p> <p>Little Souls is open until 6:00pm which would mean that in winter the business would be closing in the dark. This would put the children and their parents at risk from alcohol affected persons.</p> <p>It is inappropriate to build a bottle shop beside a pre school.</p> <p>There will be undesirable patrons hanging about the bottle shop which is not conducive to the well being of small children.</p> <p>The safety of children is of great concern given the possible types of people that would frequent the bottle shop.</p>	<p>No evidence has been submitted to support the claim that the customers of a bottle shop would pose a threat to the parents and children of the adjoining child care centre. The NSW Police have advised that a liquor shop should not be situated adjacent to a sensitive land use such as a child care centre.</p> <p>It is understood that Little Souls have a lot of vulnerable families who use their service. This is reflective of the local population.</p> <p>Childcare and early learning are essential components of a support system for at risk families. Concern is raised that these vulnerable families will have easy access to purchasing alcohol when dropping off and picking up their children.</p> <p>This matter warrants refusal of the development application.</p>

**2.2 DA 733/2011 - Demolition of Existing Structures, Remediation of Land and Erection of a Large Scale Retail Establishment (BWS Liquor Store) (contd)**

<p>D02769981 D02774294 D02826090</p>	<p><b>Parking, Traffic, Safety and Amenity in Tuggerah Parade &amp; Venice Street</b></p> <p>Traffic will increase along Tuggerah Parade and Venice Street because there is a median strip along the length of The Entrance Road and any southbound vehicles will have to turn right at Tuggerah Parade and access the bottle shop via Venice Street.</p> <p>More vehicles will mean more noise and will compromise the safety of children in the Tuggerah Parade and Venice Street.</p> <p>There are scores of holes in Tuggerah Parade, the road will further deteriorate with increased traffic.</p>	<p>It is agreed that some south bound customers may turn right at Tuggerah Parade and then turn into either Lake Street, Minto Avenue or Venice Street as a means to re-enter The Entrance Road and then the bottle shop. However this is more likely to be the exception rather than the norm.</p> <p>Any amenity impacts experienced by the residents in these streets would not be so great as to warrant refusal of the application.</p> <p>It is reasonable to expect some amenity impacts arising from traffic and parking given Lake Street, Minto Avenue and Venice Street are located immediately adjacent to commercial land.</p> <p>The development falls within the ambit of the Council's Section 94 Contributions Plan No. 3 – The Entrance District. The plan requires the developer to contribute financially to the maintenance of roads in the area.</p>
<p>D02765355 D02770710 D02794055 D02802567 D02826090</p>	<p><b>Traffic on The Entrance Road</b></p> <p>The proposal will attract more people than the existing service station exacerbating current traffic problems. At peak times The Entrance Road is often very slow or stopped.</p> <p>The Entrance Road already struggles to carry existing traffic and has very limited stopping/ parking spaces. More cars will mean more congestion.</p> <p>The development does not take into account the future road widening of The Entrance Road.</p> <p>The development does not provide sufficient car parking which could result in banking up of traffic onto The Entrance Road.</p>	<p>The NSW RMS has advised that they do not have any final plans to widen The Entrance Road and do not have any proposals that require any part of the subject site.</p> <p>The RMS has not raised any objection to the proposal subject to conditions including the provision of a concrete median in The Entrance Road to restrict access to left in/ left out.</p> <p>Adequate parking is provided on site in the form of seven car parking spaces and in the drive through facility. The number of car parking spaces complies with Council's Wyong DCP 2005 – Chapter 61 Parking.</p>

**2.2 DA 733/2011 - Demolition of Existing Structures, Remediation of Land and Erection of a Large Scale Retail Establishment (BWS Liquor Store) (contd)**

<p>D02765584 D02769981 D02776311 D02772958 D02774294 D02794055 D02787412 D02802567 D02826090</p>	<p><b>Anti-social Behaviour</b></p> <p>The Tuggerah Lakes Local Area Command is ranked number two in the state for domestic violence.</p> <p>We frequently see intoxicated people on the Tuggerah Lake foreshore and are subjected to unacceptable levels of bad language, fights and broken glass on the roadways and footpaths. This behaviour will increase with introduction of another bottle shop in the area.</p> <p>We frequently experience a significant amount of anti-social behaviour in Swadling Street. We are woken late at night when cans and bottles are thrown onto our property and regularly witness violent brawls and assaults.</p> <p>Alcohol related social issues are already problematic on the Central Coast culminating in increase police workloads and serious violence in the emergency departments of our hospitals.</p> <p>Many of the residents in the local community have a problem with excessive consumption of alcohol and their addictions. This is a well known fact, both to Police, health services and residents.</p>	<p>Advice received from NSW Health, the NSW Police Force and published data confirms that there is already a high incidence of alcohol related crime domestic violence and anti-social behaviour in the immediate area.</p> <p>Insufficient information has been provided with the development application to allow an assessment of whether the proposal is likely to contribute to further alcohol-related harm and negative health outcomes for the local community.</p> <p>This matter warrants refusal of the development application.</p>
<p>D02770710</p>	<p>Will Gladstan Avenue remain a cul-de-sac?</p>	<p>The application does not propose to connect Gladstan Avenue to The Entrance Road.</p>
<p>D02770710</p>	<p>The site falls just short of the 1:100 year flood level. Does the development take sea level rise into account?</p>	<p>If the development were to be approved a condition would be recommended requiring the floor level be at an appropriate height recognising sea level rise.</p>
<p>D02765584</p>	<p>Research conducted by the NRDI confirms that an increase in the number of liquor outlets (hotels and/or bottle shops) is associated with an increase in alcohol-related violence and assault in the surrounding area. Regardless of the type of new liquor outlet, most of this increased violence occurs in private homes rather than at licensed premises.</p>	<p>Noted.</p>

**2.2 DA 733/2011 - Demolition of Existing Structures, Remediation of Land and Erection of a Large Scale Retail Establishment (BWS Liquor Store) (contd)**

D02765584	In 2008 Dr Chikritzhs from the NRDI created a model that can predict the likely effect of granting a new liquor licence anywhere in Australia on alcohol-related assaults, hospitalisations, deaths and road crashes. Council should require the applicant to pay for a NRDI study to justify their proposal.	Page 18 of the Sol largely dismisses the research conducted by Dr Chikritzhs stating "Whilst popular and unsubstantiated assumptions might be held that increasing liquor outlet density automatically means a greater likelihood for alcohol related crimes and harm .... the relationship between outlet density and alcohol consumption is far from clear".
D02765079	Will the flood egress route from Gladstan Avenue to The Entrance Road be retained?	Yes.
D02765355	The proposed hours of operation are not in line with other liquor outlets in the area. To open at 8am on Mondays, Tuesdays and Wednesdays is inappropriate.	While the objection does not specify why opening at 8am is inappropriate it is likely that the concern relates to the increased availability of alcohol early in the morning. The local community is disadvantaged and this concern is considered valid.

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

NSW Roads and Maritime Services

Correspondence received from the NSW RMS dated 17 October 2011 states that the RMS does not have any proposals that require any part of the subject site. Furthermore the RMS has no objection to the proposed development subject to the imposition of certain conditions on the development consent including:-

- Provision of a concrete median in The Entrance Road to restrict access to left in/ left out,
- Signage being wholly located within the site and complying with illumination limits,
- Deliveries being conducted outside normal operational hours and
- Stormwater disposal.

NSW Health

Correspondence received from NSW Health raises a number of concerns with the proposal including:-

*"The development is likely to contribute to further alcohol-related harm and negative health outcomes for the local community.*

*The Wyong Shire Council LGA already experiences high levels of alcohol-related harm due to both acute and chronic excessive consumption of alcohol.*

*Alcohol-related harm places a significant strain on the health system with an increasing number of people in NSW being admitted to hospital, requiring ambulance services and visiting emergency departments. Hospitals and other front-line health services in Wyong LGA already bear a substantial burden associated with treating disease and injury associated with excessive alcohol consumption. The proposal is likely to add to that burden and detract from the health system's overall ability to provide care and treatment to the entire community.*

## **2.2 DA 733/2011 - Demolition of Existing Structures, Remediation of Land and Erection of a Large Scale Retail Establishment (BWS Liquor Store) (contd)**

---

*Of particular concern in Wyong LGA are the following matters:*

- *Smoothed alcohol-related hospitalisations are 1.18 times that of the NSW state average.*
- *Smoothed alcohol-related acute Emergency Department presentations are 1.49 times that of the NSW state average.*
- *Smoothed alcohol-related assaults (domestic violence related) are 1.44 times that of the NSW state average.*
- *The prevalence of risk drinking behaviour, aged 16 years and above, is 1.36 percentage points higher than that of the NSW median level.*
- *The prevalence of high risk drinking behaviour, aged 16 years and above, is 2.89 percentage points higher than that of the NSW median level.”*

### NSW Police Force Tuggerah Lakes Local Area Command – Crime Prevention Office

In correspondence received, the following concerns are raised:-

- The supply of alcohol can lend itself to anti-social behaviour. Locating a bottle shop adjoining a child care centre is not appropriate.
- There is the possibility of an increase in anti-social behaviour which will impact upon the surrounding residential area.
- There are sufficient licensed premises (bottle shops, hotels and registered clubs) in the near vicinity.

### NSW Police Force Tuggerah Lakes Local Area Command (LAC) – Licensing Unit

In correspondence received, the following concerns are raised:-

- The area of Long Jetty has higher than average unemployment rates. A large portion of the community is from a low socio economic background.
- There is no suggestion that there is a projected population growth for the Long Jetty area in the future.
- There is a lack of resources in The Entrance Sector and the sector police are also required to provide assistance to fellow LAC police which means that officers have the entire northern half of the Central Coast to police.
- Intelligence suggests that there is widespread underage drinking in the Long Jetty area. There is council signage prohibiting alcohol consumption in the area generally however this has little effect because under recent changes, the consumption of alcohol in alcohol free zones does not attract a penalty notice.
- The proposed location of the BWS development is on The Entrance Road which is the main route into The Entrance CBD. The Entrance attracts a large number of visitors during the holiday period that leads to concerns of drink walking and drink driving in the area.
- There are already a number of licensed premises offering take away alcohol within a 2 kilometre radius of the proposed BWS.

## **2.2 DA 733/2011 - Demolition of Existing Structures, Remediation of Land and Erection of a Large Scale Retail Establishment (BWS Liquor Store) (contd)**

---

- Data indicates that between July 2010 – June 2011, 44% of those persons involved in alcohol related crime in Long Jetty had been drinking in the home. In comparison, persons linked to consumption on licensed premises amounts to less than 18% for the same period. These statistics indicate that a person who consumes “take away” alcohol is more likely to be a victim of crime than when consumed on licensed premises.
- The responsible service of alcohol and awareness of local issues has assisted in keeping down incidents in licensed premises; the likelihood of reducing incidents in residential homes however is low despite many education programs and campaigns that have been introduced by government bodies and Local Liquor Accords.
- The proposal shares a border with the Little Souls Early Learning Centre. Police believe that the location of a licensed premise in the immediate vicinity of a child care facility cannot be beneficial for the area or the centre.
- There are sufficient ‘take away’ alcohol providers within the Long Jetty area.

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

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

Approval of a development application would not be in the public interest given there are already a sufficient number of liquor outlets in the local area and the proposed use is located immediately adjacent to a sensitive landuse frequented by vulnerable persons.

### **OTHER MATTERS FOR CONSIDERATION**

#### ***Contributions***

The proposal falls within the ambit of the Council’s Section 94 Contributions Plan No. 3 – The Entrance District.

#### ***Political Donations or Gifts***

Any political donations or gifts disclosed?      No

#### **Conclusion**

While the proposed use is a legitimate business and permissible in the zone, Council needs to be cautious about increasing liquor outlet density in an area of high risk and in close proximity to a sensitive use. The applicant has not undertaken comprehensive community consultation or proved beyond reasonable doubt that no adverse impacts will arise as a result of the development.

On balance the application has not proven that this proposal will be in the public interest.

Accordingly it is recommended that the application be refused.



**2.2 DA 733/2011 - Demolition of Existing Structures, Remediation of Land and  
Erection of a Large Scale Retail Establishment (BWS Liquor Store) (contd)**

---

**ATTACHMENTS**

1	SEPP 71 Compliance Table		D02858533
2	Applicant's Crime Prevention Through Environmental Design Report		D02929542
3	Development Plans	Enclosure	D02842100
4	Map of Licensed Premises within a 2km Radius Selling Take Away Alcohol	Enclosure	D02849532

## ATTACHMENT 3 – SEPP 71 COMPLIANCE TABLE

CI 8	Matters for Consideration	Proposed
a	The aims of the Policy	The proposal is compliant with the objectives of the Policy in terms of protection of the coastal zone and environment.
b	Existing public access to and along the coastal foreshore for pedestrians or persons with a disability should be retained and, where possible, public access to and along the coastal foreshore for pedestrians or persons with a disability should be improved.	The proposal will not affect public access to nearby foreshore areas.
c	Opportunities to provide new public access to and along the coastal foreshore for pedestrians or persons with a disability.	The proposal does not provide new public access to the foreshore as it is not located adjacent to the foreshore.
d	The suitability of development given its type, location and design and its relationship with the surrounding area.	A bottle shop in this location is not considered suitable, for reasons detailed in the report.
e	Any detrimental impact that development may have on the amenity of the coastal foreshore, including any significant overshadowing of the coastal foreshore and any significant loss of views from a public place to the coastal foreshore.	A problem currently exists with individuals drinking alcohol on the Tuggerah Lake foreshore. Alcohol fuelled anti-social behaviour, bad language, fights and broken glass on the roadway and cycleway / footpaths frequently result. It is possible that locating a bottle shop close to the foreshore will increase these occurrences effectively reducing the amenity of the foreshore area.
f	The scenic qualities of the New South Wales coast, and means to protect and improve these qualities.	The proposal will not have an adverse impact on the scenic qualities of the coastline.
g	Measures to conserve animals (within the meaning of the <u>Threatened Species Conservation Act 1995</u> ) and plants (within the meaning of that Act), and their habitats.	The subject site does not contain any threatened species or their habitat.
h	Measures to conserve fish (within the meaning of Part 7A of the <u>Fisheries Management Act 1994</u> ) and marine vegetation (within the meaning of that Part), and their habitats.	The proposal has no impact on the conservation of fish and marine vegetation or their habitat.
i	Existing wildlife corridors and the impact of development on these corridors.	The proposal will not affect any identified wildlife corridor.
j	The likely impact of coastal processes and coastal hazards on development and any likely impacts of development on coastal processes and coastal hazards.	The proposed development will not be affected and will have no affect on coastal processes or hazards.
k	Measures to reduce the potential for conflict between land-based and water-based coastal activities.	The proposal has no impact on water-based coastal activities.
l	Measures to protect the cultural places, values, customs, beliefs and traditional knowledge of Aboriginals.	The subject site does not contain any aboriginal sites or relics, and there are no known sites within the immediate locality.
m	Likely impacts of development on the water quality of coastal water bodies.	The proposal will not adversely affect the downstream water quality.
n	The conservation and preservation of items of heritage, archaeological or historic significance.	The site does not contain any and will have no impact on items of heritage, archaeological or historic value.
o	Only in cases in which a council prepares a draft local environmental plan that applies to land to which this Policy applies, the means to encourage compact towns and cities.	Not applicable.

p(i)	The cumulative impacts of the proposed development on the environment.	The proposal is not considered to have any adverse cumulative impacts on the environment.
p(ii)	Measures to ensure that water and energy usage by the proposed development is efficient.	The application proposes compliance with Section J of the BCA for energy efficiency.

**Attachment 3** to *Statement of Impact* – Crime Prevention through Environmental Design (CPTED)



*Crime Prevention through Environmental Design* (CPTED) focuses on the planning and design of developments to reduce opportunities for crime by using design and management principles to reduce the likelihood of crime. CPTED principles aim to create the reality (or perception) that the costs of committing crime are greater than the likely benefits.

*BWS - Beer Wine Spirits* stores achieve this by creating environmental and social conditions that:-

1. Maximise risk to offenders (increasing the likelihood of detection, challenge and apprehension);
2. Maximise the effort required to commit crime (increasing the time, energy and resources required to commit a crime);
3. Minimise the actual and perceived benefits of a crime (removing, minimising or concealing crime attractors and rewards); and
4. Minimise excuse making opportunities (removing conditions that encourage/facilitate rationalisations of inappropriate behaviour).

CPTED principles employ four key strategies (**surveillance and lighting, territorial reinforcement, space/activity management and access control**). Each are discussed below:-

<b>Surveillance and Lighting</b>	
<p><b>Natural surveillance</b> is achieved when normal space users can see and be seen by others. This highlights the importance of building layout, orientation and location; the strategic use of design, landscaping and lighting. Natural surveillance is a by-product of well-planned, well-designed and well-used space.</p>	<p>Careful consideration is given to the design and/or internal layout of <i>BWS - Beer Wine Spirits</i> stores to foster natural surveillance. It is recognised that by maximising surveillance there is an increase sense of safety which can deter criminal activity. Design features of <i>BWS - Beer Wine Spirits</i> stores include:-</p> <ul style="list-style-type: none"> <li>• Clear sightlines are maintained through the sensitive location of the entranceway to the store relative to its position to the check-out counter and the remaining internal layout of the store;</li> <li>• Where possible, pathways to the <i>BWS - Beer Wine Spirits</i> store are designed to minimise sudden changes of grade and blind corners. Car parks and stairwells ensure pedestrian corridors and destination points are easily identifiable with generous sightlines and lighting.</li> <li>• Entry points to all <i>BWS - Beer Wine Spirits</i> stores are well defined.</li> <li>• Aisles are wide allowing customers to move about easily</li> </ul>

	<p>and staff to effectively monitor customer movements.</p> <ul style="list-style-type: none"> <li>• Landscaping is discrete and does not interfere with clear lines of sight. Further, it will not provide concealment or entrapment areas.</li> <li>• Natural surveillance of each store is high. The checkout area is always located to the front of the store and staff are trained and instructed to interact with customers.</li> </ul>
<p><b>Technical/mechanical surveillance</b> is achieved through mechanical/ electronic measures such as a closed circuit television ( "CCTV") help points and mirrored building panels. Technical/mechanical surveillance is commonly used as a "patch" to supervise isolated, higher risk locations.</p>	<p>Each <i>BWS - Beer Wine Spirits</i> store has a high level of technical mechanical surveillance, with each store fitted with a sophisticated security system that provides for a minimum of 2 cameras and at least 1 monitor in-store. In addition, each store is fitted with a back to base security alarm system. Opportunities for unlawful access to liquor products are limited. Each <i>BWS - Beer Wine Spirits</i> Store is fitted with an electronic article surveillance (" EAS") system, which permits specific electronic bottle caps to be affixed to identified higher priced and (a attractive to thief type products). When these products are presented at the counter the <i>BWS - Beer Wine Spirits</i> staff use a unique tool to remove the bottle cap. The product is then scanned through the cash register. Any product that has not had the bottle cap removed will trigger the alarm as the customer crosses the exit "checking" point.</p>
<p><b>Formal (or organised ) surveillance</b> is achieved through the tactical positioning of guardians. An example would be the use of on-site supervisors or security guards at higher risk locations.</p>	<p>All <i>BWS - Beer Wine Spirits</i> stores are branded through signage and colour, making each store instantly recognisable. Entrances are clearly defined with staff checkout areas located to the front of the store. Each store provides for a high level of formal (or organised) surveillance through its trained staff (who wear a uniform making them clearly recognisable) on the shop floor.</p>
<p><b>Lighting.</b> There is a proven correlation between poor lighting, fear of crime, the avoidance of public places and crime opportunity. Good lighting can assist in increasing the usage of an area.</p>	<p>Internally each <i>BWS - Beer Wine Spirits</i> store is brightly lit. Security lighting is available on external areas during non-trade hours. Light fixtures are high mounted, vandal resistant and deflect light downwards. Where possible, pathways and potential entrapment spaces are lit rather than windows and roads, with the lighting identifying 'safe routes'. The external lighting to all <i>BWS- Beer Wine Spirits</i> stores is positioned so that it will not be blocked by mature vegetation.</p>
<p><b>Territorial Re-enforcement</b></p>	
<p><b>Territorial Re-enforcement.</b> Criminals rarely commit crime in areas where the risk of detection and challenge are high. People who have guardianship of areas are more likely to provide effective supervision and intervene in crime than passing strangers and communicate to people where they should not be and inappropriate activities.</p>	<p><i>BWS - Beer Wine Spirits</i> stores are the subject of corporate signage (subject to Council approval) on the external facade, as well as throughout the site, clearly identify the building and its use. <i>BWS - Beer Wine Spirits</i> stores provide for a high level of territorial re-enforcement measures through its trained staff who are instructed to interact with customers on the shop floor (as provided above). All staff wear a uniform which distinguishes staff from customers and therefore it is clear to any observer who has guardianship of the store.</p>

Space/Activity Management	
<p><b>Environmental Maintenance.</b> All space, even well planned and well-designed areas need to be effectively used and maintained to maximise community safety. Places infrequently used are commonly abused. There is a high correlation between urban decay, fear of crime and avoidance behaviour.</p>	<p>All internal areas of the <i>BWS - Beer Wine Spirits</i> store are effectively used and maintained. Effective internal design features limit opportunities for concealment.</p>
<p><b>Space/Activity management.</b> Space/activity management strategies are an important way to develop and maintain natural community control. Space management involves the formal supervision, control and care of the development. All space, even well planned and well-designed areas need to be effectively used and maintained to maximise community safety. Places that are infrequently used are commonly abused</p>	<p>This has, to some extent, been addressed above. With respect to external areas, Woolworths Ltd ensures such areas are maintained and are clean and devoid of litter. The building frontage of all <i>BWS- Beer Wine Spirits</i> stores provides a sense of activity and by trading they increase activity on the site; thereby adding a sense of management of the overall site.</p> <p><i>BWS - Beer Wine Spirits</i> stores increase activity and natural surveillance of the area, thereby providing increased safety to users.</p>
Access Control	
<p><b>Access Control.</b> Access control treatments restrict, channel and encourage people and vehicles into, out of and around the development. Way-finding, desire lines and formal/informal routes are important crime prevention considerations. Access control is used to increase the time and effort required to commit crime and to increase the risk to criminals. Natural access control includes the tactical use of landforms and waterways features, design measures including building configuration; formal and informal pathways, landscaping, fencing and gardens. Technical/mechanical access control includes the employment of security hardware and formal (or organised) access control includes on-site guardians such as employed security officers.</p>	<p>Careful consideration is given to <i>Access Control</i> measures at each site. For instance:-</p> <ul style="list-style-type: none"> <li>• There are clear routes for the use of vehicles and pedestrians in of and out of the site, which do not conflict which each other;</li> <li>• Vehicles enter and exit the site in a forward direction;</li> <li>• Consideration or special arrangements are made for deliveries;</li> <li>• Lighting is provided in the carpark and pedestrian areas (as above);</li> <li>• landscaping is low lying and does not provide screened areas or concealment sections (as above);</li> <li>• The entrance to the <i>BWS - Beer Wine Spirits</i> store is clearly defined (as above);</li> <li>• CCTV is extended to external areas (where necessary).</li> <li>• Each store is fitted with additional security such as the EAS system (as set out above);</li> <li>• Highly trained staff on duty at each <i>BWS - Beer Wine Spirits</i> store ensures customers have a sense of safety.</li> </ul>

## **2.3 DA 848/2011 - Proposed Vehicle Repair Station at Tuggerah**

---

TRIM REFERENCE: DA/848/2011 - D02837673

MANAGER: Peter Fryar; Manager Development Assessment

AUTHOR: Katrina O'Malley; Development Planner

### **SUMMARY**

An application has been received for a vehicle repair station at Pacific Highway, Tuggerah. The application has been examined having regard to the matters for consideration detailed in section 79C of the Environmental Planning and Assessment Act (EP&A Act) and other statutory requirements with the issues requiring attention and consideration being addressed in the report.

<b>Applicant</b>	D Rybie C/- Express Lube
<b>Owner</b>	F & D Smith
<b>Application No</b>	848/2011
<b>Description of Land</b>	Lot 62 DP 1040302 (164-166) Pacific Highway, Tuggerah
<b>Proposed Development</b>	Vehicle Repair Station
<b>Site Area</b>	1862m <sup>2</sup>
<b>Zoning</b>	3(b) Centre Support Zone
<b>Existing Use</b>	Commercial Premise
<b>Employment Generation</b>	4 staff
<b>Estimated Value</b>	\$5,000

### **RECOMMENDATION**

- 1 That Council grant consent subject to the conditions detailed in the schedule attached to the report having regard to the matters for consideration detailed in Section 79C of the Environmental Planning and Assessment Act and other relevant issues.**
- 2 That Council advise those who made written submissions of its decision.**
- 3 That Council vary the Development Control Plan 2005 Chapter 61 - Carparking to permit the development.**

### **PRECIS**

- The application is for a vehicle repair station at Tuggerah.
- The site is zoned 3(b) Centre Support Zone under the Wyong Local Environmental Plan 1991 (WLEP).

- The proposal involves a variation of 65.6% to Council's carparking requirements for vehicle repair stations which is provided under Development Control Plan 2005, Chapter 61 – Carparking.
- It is recommended the application be approved.

### INTRODUCTION

#### The Site

The site is located within the 'Tuggerah Straight Commercial Area' that contains a number of varying uses. Land to the north of the site currently contains a commercial building consisting of six tenancies whilst land to the south contains a large scale commercial premises consisting of two tenancies. The rear of the site currently consists of a carpark for the adjoining property to the south and beyond that a freshwater wetland within which an endangered ecological community of wetland vegetation is located. Land further west of the wetland is zoned for industrial use whilst land to the east of the site on the opposite side of the railway line contains the old pioneer dairy.

The site currently contains two existing commercial premises with one building containing an electrical supply business whilst the other building contains a glass tinting business including the unit the subject of the current application. Parking for tenants and clients is provided between the existing buildings at the centre of the site.

#### The Proposed Development

The proposed development is for the regularisation of an existing use at the site as a vehicle repair station. The operator is known as "Express Lube". The business provides quick maintenance services rather than a full compliment of mechanical services. The business operation is an express, no appointment, drive through minor vehicle service centre.

The use includes three work bays and a waiting room and office space. Five (5) on-site car spaces are available at the front of the unit whilst an additional three (3) spaces could be provided in front of the roller doors. The business employs a maximum of 4 full time staff and would service a maximum of approximately 30 vehicles each day. The hours of operation for the development are:

Monday to Friday	8am to 4.30pm
Saturday	8am to 2pm

#### Summary

The application is for the use of the site as a vehicle repair station. The development has been assessed against Council's requirements and has been found to be consistent with the relevant standards. The on-site carparking for the development has been assessed on its merits and is considered to be adequate for the proposed use. The proposed use is recommended for approval.



**VARIATIONS TO POLICIES**

Clause	3.0
Standard	0.75 spaces / 100m <sup>2</sup> site area plus 6 spaces / work bay
LEP/DCP	DCP 2005, Chapter 61 – Carparking
Departure basis	32 spaces required. 11 spaces (including workbays) provided (65.6% variation)

**HISTORY**

The operation, the subject of this development application, was established within the subject premises without Council consent. Following receipt of a complaint, a service request was lodged with Council stating that the business was operating from the site without prior approval. Investigations were then undertaken by Council's Senior Compliance Officer who advised the operator that development consent was required for the use of the site as a vehicle repair station. The operator was also advised that a development application would need to be lodged for the use of the site should consent be sought. The current application proposes to formalise the use of the site whilst a Building Certificate was lodged for the building works undertaken on the site without consent.

**PERMISSIBILITY**

The subject site is zoned 3(b) Centre Support Zone under the WLEP 1991. The proposed development, defined as a vehicle repair station, is permissible with consent and complies with the objectives of the zone.

**RELEVANT STATE/COUNCIL POLICIES AND PLANS**

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

- State Environmental Planning Policy 71 – Coastal Protection (SEPP 71)
- Wyong Local Environmental Plan 1991 (WLEP)
- Development Control Plan 2005, Chapter 50 – Advertising Signs (Chapter 50)
- Development Control Plan 2005, Chapter 61 – Carparking (Chapter 61)
- Development Control Plan 2005, Chapter 80 – Tuggerah Precinct (Chapter 80)
- Development Control Plan 2005, Chapter 81 – Retail Centres (Chapter 81)

**ECOLOGICALLY SUSTAINABLE PRINCIPLES**

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

The proposed development is considered to incorporate satisfactory waste management systems including the re-use of products where available.

**ASSESSMENT**

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

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

Carparking

Parking Requirements

Development Control Plan 2005 - Chapter 61 requires vehicle repair stations to provide on-site carparking at the rate of 0.75 spaces per 100m<sup>2</sup> of site area plus six (6) spaces per work bay.

The total site area is 1,862m<sup>2</sup>. Council's carparking requirements for vehicle repair stations applies a parking rate based on site area in addition to a rate for individual work bays. In this instance, where the use occupies a large site, the DCP appears to be "unreasonable" in its carparking requirements. When applying the DCP carparking rate, a total of 14 on site carparking spaces are required based on the site area plus 18 on-site carparking spaces for the three work bays being a total parking requirement of 32 on site carparking spaces. Council's carparking requirements appear to "double dip" where rates are applied to vehicle repair stations. It does not appear reasonable in the circumstances to require 14 carparking spaces on the basis that the use occupies a property having a large site area.

The proposal provides a total of five (5) on-site carparking spaces within a common carparking area at the front of the Unit. An additional three (3) carparking spaces can be provided within areas adjacent (in front) of the roller shutter doors. It is also considered appropriate to allow for the three (3) work bays which are used for carparking while servicing occurs to be included in the on-site carparking provision.

The site also previously provided an additional two spaces in the eastern portion of the site however these spaces were removed when the Pacific Highway was widened. The spaces at the front of the site were however replaced with three indented spaces located on the Pacific Highway. These spaces were intended to be for the use of the adjoining properties and could therefore also be available for the proposed use should they be required at any time.

Support for a variation of On-Site Carparking Requirements

As previously stated in this report, the carparking requirements for vehicle repair stations contained within the provisions of DCP 2005, Chapter 61 are considered to be onerous and in the circumstances relevant to the subject proposal, totally inappropriate when considering the specific characteristics of the proposed use. The DCP carparking rate imposes a parking requirement based on the site area in addition to a rate for individual workbays provided for the use. The larger the site area, the greater the on-site carparking requirements which appears inappropriate in the circumstances.

The guidelines for Traffic Generating Development adopted by the Roads and Maritime Services (RMS) do not apply a specific carparking rate for “vehicle repair stations’. However, the RMS guidelines adopt carparking rates for similar uses namely a Service Station (6 spaces/workbay) and a car tyre retail outlet (3 spaces) per 100m<sup>2</sup> GFA (gross floor area or 3 spaces/workbay whichever is greater). It should be noted that the RMS guidelines do not apply additional carparking rates for similar uses based on the area of the site upon which the use is to be located.

It should be noted that draft DCP 2012 in the Chapter dealing with parking requirements has been revised for vehicle repair stations such that there will no longer be a calculation based on site area.

The proposed use “Express Lube” is an express no appointment service centre. The business operates under a “first come” “first serve” system where if immediate service is not available, the customer is required to come back at a later time. Customer vehicles are typically onsite for a period of approximately 40 minutes with the customer waiting on-site while the vehicle is serviced.

The use also provides preventative and maintenance services rather than a full complement of mechanical services that would require vehicles to be parked on-site for an extended period of time typically all day. Vehicles are therefore not held on the site waiting servicing.

The nature of the proposed business is for fast turn around servicing that does not involve the storing of cars on the site for extended periods of time. The type of business proposed is not that of a typical vehicle repair station where vehicles are usually dropped off and picked up at a later time. As such, the parking demand on the site is greatly reduced. The amount of parking available on the site is considered acceptable for the type of business that is proposed. The variation to Council’s carparking requirements is therefore supported.

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

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

The site is currently located within a commercial area that has an industrial area located to the west of the site. The surrounding development along Tuggerah Straight consists of a number of uses and the existing commercial building is considered to be compatible with these uses.

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

Access to the site is via a stretch of the Pacific Highway known as Tuggerah Straight which has recently been widened by the Roads and Traffic Authority. The site has one entry point with parking provided at the centre of the site. Issues relating to parking on the site have been discussed previously in the report.

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

Nil impact

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

Nil impact

## 2.3 DA 848/2011 - Proposed Vehicle Repair Station at Tuggerah (contd)

---

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

Nil impact

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

Nil impact

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

Nil impact

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

The site is identified as containing potentially Category 3 Acid Sulphate Soils. The proposed development is for the use of an existing building and will not require the removal of any soils from the site. As such, an acid sulphate management plan is not required for the proposed development.

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

As the proposal will be conducted within the factory unit the anticipated generation of emissions and odours to the atmosphere is considered to be minimal.

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

Nil impact

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

The generation of waste by this proposal is anticipated to be acceptable provided that the appropriate services are organised to collect, handle and transport to a facility which is licensed to receive that material.

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

Nil impact

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

The vehicle repair station has the potential to generate some noise through the use of tools, however given the location of the site and the design of the development it is unlikely that the use would impact upon any adjoining uses within the area.

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

The site is currently identified as being bushfire prone land is fully flood affected. The proposed development is however to be undertaken within an existing building and as such no further requirements in regards to bushfire and flooding are required.

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

Nil impact

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

Nil impact

*Any social impact in the locality.*

Nil impact

*Any economic impact in the locality.*

Nil impact

*Any impact of site design and internal design.*

Nil impact

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

Nil impact

*Any cumulative impacts.*

Nil impact

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

*Whether the proposal fits in the locality.*

The proposed development is to be undertaken within an area that consists of a number of commercial properties in close proximity to the development. The development is considered to be in keeping with other development in the locality.

*Whether the site attributes are conducive to development.*

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

*Any submission from the public.*

The application was not advertised in accordance with DCP 2005 Chapter 70-Notification of Development Proposals however one submission was received. The issues raised in the submissions have been addressed in the assessment of the application pursuant to the heads of consideration contained within Section 79C of the EP & A Act 1979. A summary of the submissions is detailed in the table below.

## 2.3 DA 848/2011 - Proposed Vehicle Repair Station at Tuggerah (contd)

Doc. No	Summary of Issues	Response
D02803370	<ul style="list-style-type: none"><li>* The proposed development does not provide sufficient parking on the site to meet Council's requirements.</li> <li>* Advertising for the development may not be in accordance with Council requirements.</li> <li>* There is no escape door from the workshop to the outside.</li></ul>	<ul style="list-style-type: none"><li>* The development will be restricted in the number of vehicles permitted to be on the site at any one time to address the limited parking on the site. Given the express servicing nature of the business the variation is also considered acceptable for the proposal.</li><li>* An assessment of the advertising provided for the development has found it to be consistent with Council's advertising requirements.</li><li>* The development has been assessed against the BCA 2011 Volume 1 and has been found to provide exit travel distances in accordance with the requirements.</li></ul>

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

Nil impact

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

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

#### **OTHER MATTERS FOR CONSIDERATION**

##### *Contributions*

The site is currently captured by the Wyong and Shire Wide S94 Contribution Plans. The development is for the use of an existing commercial premise and will not create any additional demand on services. As such, contributions will not be required for the proposed development.

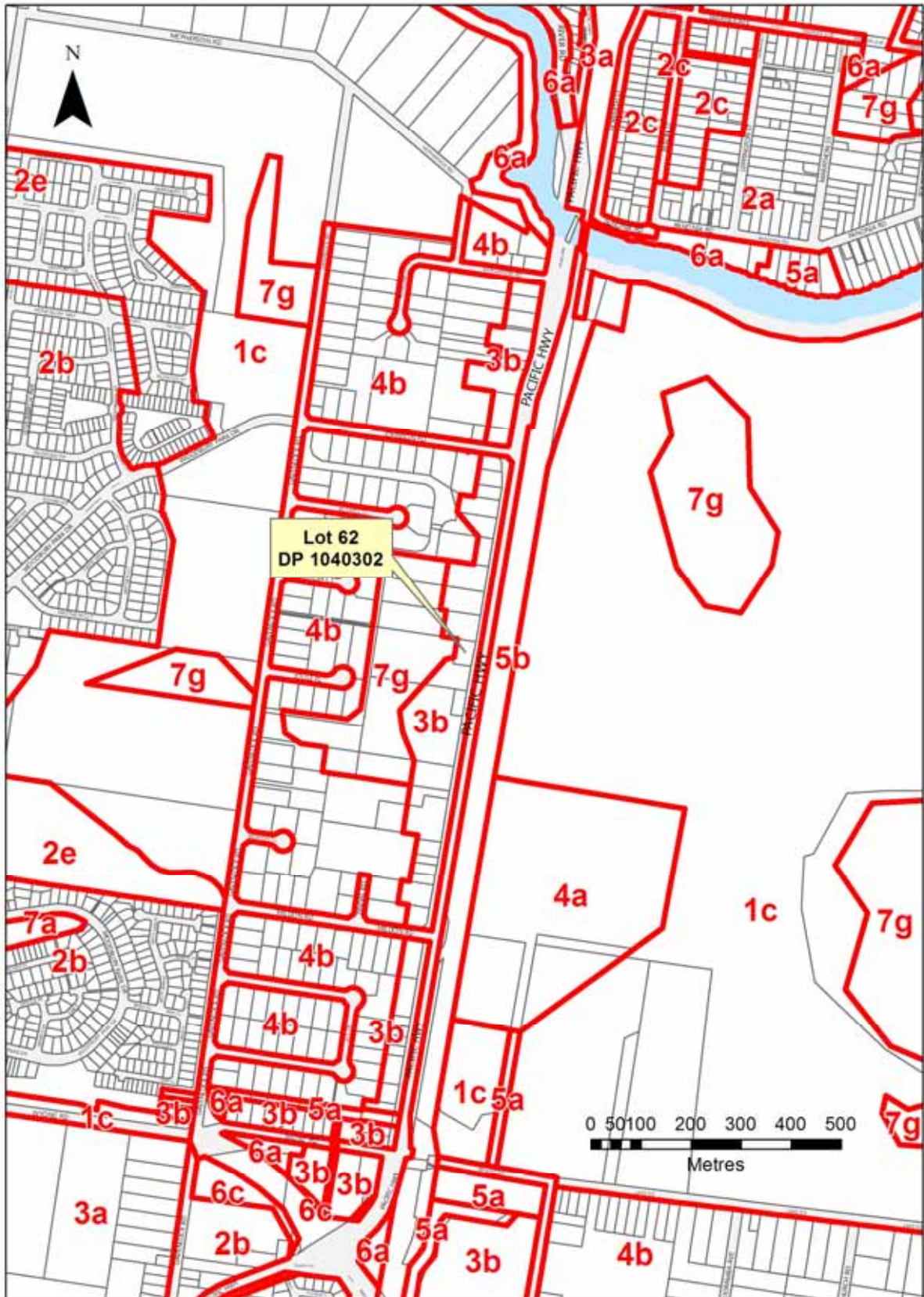
##### ***Political Donations or Gifts***

Any political donations or gifts disclosed? /No

### **CONCLUSION**

The proposed development is for the use of the site for a vehicle repair station. The development has been assessed against the relevant policies and guidelines and has been found to be compliant with the requirements except for a variation to carparking. The variation to carparking is considered acceptable for the use proposed given the nature of the use. The application is therefore recommended subject to suitable conditions of consent.

Locality Plan



**ATTACHMENTS**

- 1 Draft Conditions D02842509
- 2 Development Plans Enclosure D02837739



**Date:** 18 November 2011  
**Responsible Officer:** Katrina O'Malley  
**Location:** 164-166 Pacific Highway, TUGGERAH NSW 2259  
 Lot 62 DP 1040302  
**Owner:** Mr D N Smith and Mrs F M Smith  
**Applicant:** Express Lube  
**Date Of Application:** 20 September 2011  
**Application No:** DA/848/2011  
**Proposed Development:** Vehicle Repair Station  
**Land Area:** 3724.00

## PROPOSED CONDITIONS

### Approved Plans

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

Title	Drawing No.	Revision	Date	Drawn By
Proposed establishment of use of an existing commercial premise Lot 62 DP 1040302	10482 Sheets 1-3	3	August 2011	Sherry Denting Drafting Service

### Certificates – Application and Approval

- Prior to the occupation or use of the building/structure, an application for an Occupation Certificate for the development must be submitted to and approved by the Principal Certifying Authority.

## Prior to Release of Construction Certificate:

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

No Conditions

## **Prior to Commencement of Works:**

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

No Conditions

## **During Construction Works:**

*The following conditions must be satisfied during construction works.*

No Conditions

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

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

### **Building Code of Australia – Compliance Requirements**

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

### **Bunding**

- 4 All service entries to workshop areas must be provided with a trafficable bund with a minimum height of 100mm to prevent any spillage exiting the workshop area and entering the stormwater system.
- 5 All bulk liquids must be banded. Bunding is to be structurally sound, impervious to materials stored, exclude rainwater and capable of containing 110% of the largest volume stored taking into account the displacement of all vessels within the banded area.

### **Disabled Access Requirements**

- 6 Prior to the issue of an Occupation Certificate, access to and throughout the buildings shall comply with AS 1428.1-2009 and the objectives of the *Disability Discrimination Act 1992* (Commonwealth).

### **Statutory Certificate Requirements**

- 7 In accordance with considerations outlined in Clause 93 of the Environmental Planning and Assessment Regulation 2000, the following works are to be undertaken to ensure that the building is provided with a satisfactory level of fire risk;

- i. The unit shall be serviced by emergency lighting in accordance with the requirements of Clause E4.2, E4.4 of the BCA 2011 and AS2293.1. In this respect, emergency lighting shall be installed in every passageway or corridor that is a path of travel to an exit and in every room or space where there is public access.
  - ii. The unit shall be serviced by exit signs in accordance with the requirements of Clause E4.5, E4.6, E4.8 of the BCA 2011 and AS2293.1. In this respect an illuminated exit sign shall be provided on or above the PA door located in the mechanic workshop.
- 8 The submission to Council of a completed Fire Safety Certificate as required by the Environmental Planning and Assessment Regulation certifying that all the fire safety measures within the building have been designed and installed in accordance with the relevant Australian standards. A copy of the final Fire Safety Certificate/Annual Fire Safety Statement is to be displayed and fixed to a wall in the building capable of being viewed by the public and relevant authorities.

## Ongoing Operation:

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

### Advertising Sign Requirements

- 9 No advertising sign/s shall be erected on or in conjunction with the use and/or development without prior development consent unless the advertisement is an 'approved sign' under Development Control Plan 2005, Chapter 50 - *Advertising Signs*.

### Dangerous and Hazardous Goods Storage/Handling Requirements

- 10 All chemicals on the premise shall be stored in accordance with:
  - EPA's *Manual for Authorised Officers: Bunding and Spill Management*,
  - Australian Standard AS 1940B1993: The Storage and Handling of Flammable and Combustible Liquids
  - Australian Standard AS 4452B1997: The Storage and Handling of Toxic Substances, and
  - the *Dangerous Goods Act 1975*.

### Industrial/Commercial Operational Requirements

- 11 Servicing, detailing and repairs of vehicles or vehicle parts being conducted in a covered, bunded area. Vehicles awaiting repair, under repair or awaiting delivery, shall not be stored, parked, or otherwise in a vicinity which can pollute the environment. All such vehicles shall be accommodated within the premises.
- 12 Spray painting is not to be carried out on the premises at any time.
- 13 No vehicle is to be repaired or serviced unless it is completely within the boundaries of the land.

**Restrictions on Use Requirements**

- 14 All work and the storage of goods or materials must be confined to within the building. Separate development consent is required for external work or storage.
- 15 The premises must not have more than six customer vehicles on the site at any one time without the further consent of the Consent Authority.

**Spill Clean Up Requirements**

- 16 Sufficient supplies of appropriate absorbent materials shall be kept on site to recover any liquid spillage. Liquid spills shall be cleaned up using dry methods, by placing absorbent material on the spill and sweeping or shovelling the material into a secure bin. Absorbent materials used to clean up must be disposed of to an appropriately licensed waste facility.

**Stormwater – Ongoing Maintenance Requirements**

- 17 The business shall be operated in a manner so that no contaminants from the workshop are able to enter the stormwater drainage system by the washing down of work areas, the disposal of waste and spills.

**Waste Management – Compliance Requirements**

- 18 All waste generated on the premises shall be stored in a manner so that it does not pollute the environment.
- 19 All waste generated on the premises shall be transported to a facility which is licensed to receive that material.

## 2.4 DA 924/2011 - Change of Use from Restaurant to Shop (Pharmacy) at Mingara Drive, Tumbi Umbi

---

TRIM REFERENCE: DA/924/2011 - D02920980

MANAGER: Peter Fryar, Manager Development Assessment

AUTHOR: Mark Greer; Senior Development Planner

### SUMMARY

An application has been received pursuant to Section 82A of the Environmental Planning and Assessment Act (EP&A Act) 1979 for the review of a determination of a development application for a pharmacy in the Mingara Club precinct at Tumbi Umbi. The review has been carried out in accordance with the provisions of the EP&A Act 1979. As a consequence of the review it is recommended that the original determination be amended and that the application be approved.

<b>Applicant</b>	Lin Armstrong - Stevens Group
<b>Owner</b>	Mingara Recreation Club Limited
<b>Application No</b>	DA/924/2011
<b>Description of Land</b>	Lot 72 DP 1011971, No. 14 Mingara Drive, Tumbi Umbi
<b>Proposed Development</b>	Change of Use from Restaurant to a Shop (Pharmacy)
<b>Site Area</b>	400m <sup>2</sup> (building site of DA) and 197,600m <sup>2</sup> (Mingara land)
<b>Zoning</b>	5(a) Special Uses – Club and Community Purposes
<b>Existing Use</b>	Vacant Building – Previously occupied by Krispy Kreme Doughnuts
<b>Employment Generation</b>	12 full time staff and 6 casual staff
<b>Estimated Value</b>	\$200,000

### RECOMMENDATION

- 1 ***That Council approve the application subject to appropriate conditions, having regard to the matters for consideration detailed in Section 82A of the Environmental Planning and Assessment Act 1979 and other relevant issues.***
- 2 ***That Council advise those who made written submissions of its decision.***

### PRECIS

- A development application for use of an existing building previously occupied by "Krispy Kreme Doughnuts" for a pharmacy was refused under delegated authority on 23 November 2011.

## 2.4 DA 924/2011 - Change of Use from Restaurant to Shop (Pharmacy) at Mingara Drive, Tumbi Umbi (contd)

---

- A request for review of the application has been made under Section 82A of the EP&A Act 1979. The basis for the review is additional information included for assessment to address the concerns raised under the original determination.

### INTRODUCTION

#### The Site

The pharmacy is proposed to be located within the Mingara Recreation Club site in the south-east corner within a free-standing building that was once occupied by Krispy Kreme Doughnuts. The subject site is on the southern side of Wyong Road and to the west of the cul-de-sac end of Mingara Drive with its intersection with Hansens Road.



*Former "Krispy Kreme" premises*

The Mingara Recreation Club is a regional recreation facility which includes a number of sporting and recreation facilities as well as a large registered Club. The building that is the subject of this application is currently vacant.

Surrounding development comprises the Mingara Recreation Club to the west, residential dwellings to the south, a service station, carwash and tyre business to the east and a number of restaurants to the north including McDonalds and Dominos Pizza.

## 2.4 DA 924/2011 - Change of Use from Restaurant to Shop (Pharmacy) at Mingara Drive, Tumbi Umbi (contd)

---



*Aerial view of development site*

### **Proposed Development**

The proposed development involves the change of use of the building from the Krispy Kreme Doughnut restaurant to a shop (pharmacy). A car park is located at the front of the premises, a loading dock and a service road at the rear.

The proposed pharmacy will offer a large range of pharmaceutical products and will include a dispensary, counselling room, lunch room, toilet, shelving for product display and a cash and wrap area.

A total of 12 full time staff and 6 casual staff will be employed in conjunction with the proposed use and will include the following personnel:

- 2 permanent Pharmacists
- 1 Casual Pharmacist
- 1 permanent Dispensary Assistant
- 1 Trainee Pharmacist (University student)
- 1 permanent Point of Sale
- 1 casual assistant Point of Sale
- 1 permanent Manager
- 4 permanent Floor staff
- 2 Casual Floor staff
- 2 permanent Stock control & loss prevention
- 2 Casual cleaning staff

The application was refused by Council on 23 November 2011 on the basis that insufficient information was lodged to substantiate the required appropriate integration between the proposal and the primary land use being the Mingara Recreational Club. Due to this lack of substantiation provided, the use was therefore deemed not permissible under the provisions of Clause 60(A) of the Wyong Local Environmental Plan (WLEP 1991).

## **2.4 DA 924/2011 - Change of Use from Restaurant to Shop (Pharmacy) at Mingara Drive, Tumbi Umbi (contd)**

---

Subsequent to the determination, the applicant was invited to a meeting of Council's newly constituted Planning Mediation Panel. The Panel was chaired by the Director of Environment and Planning Services and the members of the Panel were the General Manager, Council's General Counsel and the Acting Manager, Development Assessment. The Panel outlined the inadequacies of the applicant's original submission which did not justify or substantiate the permissibility of the proposed use, the applicant's were given clear direction on the information that would need to be lodged should a Section 82 A Review be submitted. Subsequent to the Panel meeting the applicant lodged a request for Council's review of the determination under Section 82A of the EP&A Act. Section 82A provides the opportunity for the consent authority under certain circumstances to review a decision, whether it is consent conditions or in this instance an unfavourable determination of the application.

In accordance with the Panel's direction, the Section 82A application has been supported by a new planning assessment in response to the reasons for refusal. Accordingly, Council has undertaken a review of the application combining the information contained in the original development application and the recent planning submission accompanying the Section 82A application.

### **HISTORY**

The Mingara Recreation Club was approved as an "Integrated Entertainment, Leisure & Recreation Facility" on 13 February 1995. The Mingara site encompasses several allotments previously known as lot 1007 in DP 864115 and lots 226 and 227 in DP 864114. In 2000, a land consolidation created lots 71 and 72 in DP 1011971.

There have been a number of development applications determined in relation to the use of the land, including various alterations to the club over the past 15 years, restaurants, mini-golf course and an outdoor terrace.

The Krispy Kreme Doughnut premises were approved as a "Restaurant with associated drive through facility and signage" on 29 March 2005 under DA/2681/2004. A Section 96 application to modify the original (Krispy Kreme) consent was approved on 1 September 2006, reducing the size of the building under DA/2681/2004/A.

On 23 November 2011, Development Application No 924/2011 for Change of Use from Restaurant to Shop (Pharmacy) was refused for the following reasons:

- 1. Pursuant to Section 79C(1)(a)(i) of the Environmental Planning and Assessment Act 1979, the application for a shop (pharmacy) is contrary to the provisions of Clause 60A(2) of Wyong Local Environmental Plan 1991 in that the Council must not grant consent to development on this land other than an integrated entertainment and recreation complex.*
- 2. Pursuant to Section 79C(1)(a)(i) of the Environmental Planning and Assessment Act 1979, the application for a shop (pharmacy) is contrary to the provisions of Clause 60A (2)(a) of Wyong Local Environmental Plan 1991 in that the proposal is not appropriately integrated with the primary use of the land, being an entertainment and recreation complex.*
- 3. Pursuant to Section 79C(1)(a)(iii) of the Environmental Planning and Assessment Act 1979, the application was not accompanied by a Waste Management Plan in accordance with the provisions of Development Control Plan 2005 – Waste Management.*
- 4. Pursuant to Section 79C(1)(a)(iv) of the Environmental Planning and Assessment Act 1979, the Statement of Environmental Effects submitted with the application failed to provide information in accordance with Schedule 1 of the Environmental Planning and Assessment Regulations 2000.*



## **2.4 DA 924/2011 - Change of Use from Restaurant to Shop (Pharmacy) at Mingara Drive, Tumbi Umbi (contd)**

---

5. Pursuant to Section 79C(1)(b) of the Environmental Planning and Assessment Act 1979, the application has failed to demonstrate the likely impacts of the development in the locality.
6. Pursuant to Section 79C(1)(c) of the Environmental Planning and Assessment Act 1979, the application has failed to demonstrate the suitability of the site for the development.

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

#### **Environmental Planning and Assessment (EP&A) Act 1979**

The application is submitted under the provisions of Section 82A of the EP & A Act. Section 82A states in part:

*"82A Review of determination*

- (1) *If the consent authority is a council, an applicant may request the council to review a determination of the applicant's application, other than:*
  - (a) *a determination to issue or refuse to issue a complying development certificate, or*
  - (b) *a determination in respect of designated development, or*
  - (c) *a determination in respect of integrated development, or*
  - (d) *a determination made by the council under Division 4 in respect of an application by the Crown.*
- (4A) *As a consequence of its review, the council may confirm or change the determination."*
  - (b) *if the determination was made by the council—the council."*

In accordance with the above provisions, the applicant requested Council's review within the required time frame (6 months from determination date) and Council has subsequently notified the public of the application.

#### **Wyong Local Environmental Plan 1991 (WLEP)**

The subject site is zoned 5(a) Special Uses – Club and Community Facilities under WLEP 1991. There are no prohibited uses within this zone and any proposed development is permissible with consent providing it complies with the objectives of the zone. The objectives of the zone are:

- (a) *to cater for the provision of community and public facilities and services, and*

Comment:

The existing Mingara Recreation Club and other approved uses on the land have been determined by Council to be primarily for community and public purposes consistent with the above objective. Where a use has been determined to be inconsistent with the above objective, the provisions of Clause 60A of the WLEP 1991 have been relied upon for permissibility.

- (b) *to provide for any other development of land within this zone, with the Council, provided that:*
  - (i) *the other development is ancillary to or related to the current or future use of the land for the purpose of a community or public facility or service, and*
  - (ii) *the other development does not adversely affect the current or future usefulness of the land for the purpose of those facilities or services.*

## **2.4 DA 924/2011 - Change of Use from Restaurant to Shop (Pharmacy) at Mingara Drive, Tumbi Umbi (contd)**

---

Comment:

Irrespective of the above objective of the zone, Clause 60A of the WLEP 1991 prevails in that development only for the purpose of an “integrated entertainment and recreation complex including carparking, club entertainment centre, motel, recreation area, reception facility and restaurant’s is permitted or any other use which is compatible with the previous described use.

Notwithstanding the absence of specific land uses nominated for the zone, in this instance, there is an enabling clause in WLEP 1991 that applies to the land which specifically permits an integrated entertainment and recreation complex including carparking, club, entertainment centre, motel, recreation area, recreation facility and restaurants or any other use subject to Council being satisfied that the proposed development is compatible with and appropriately integrated with the previous use of the land namely an integrated entertainment and recreation complex.

It should be noted that Lot 1007 referenced in Clause 60A has since been redefined by subdivision as Lots 71 and 72 in DP 1011971.

### **Wyong Shire Development Control Plan 2005**

#### Chapter 79 – Lower Tumbi Valley Urban Release

Chapter 79 aims to facilitate development for primarily residential purposes and relates essentially to the lower Tumbi Valley Urban Release Area located adjacent to the Mingara complex. For the most part, the Chapter has been fulfilled in terms of controlling development establishing several residential estates, the Glengara retirement village, the Mingara Recreational Club and several fast food outlets/restaurants.

Accordingly, the DCP has limited application to the subject proposal.

#### Chapter 61 – Car Parking

For reasons stated further in the report, the proposed use is defined as a “shop” which requires carparking to be calculated at a rate of 1 space per 30m<sup>2</sup> Gross Floor Area (GFA).

The proposed use of the premises as a “shop” requires the provision of 11 carparking spaces (1 space per 30m<sup>2</sup> for 322m<sup>2</sup> GFA). There are 32 car parking spaces provided, which includes two (2) designated disabled spaces, therefore the application complies with Chapter 61 requirements.

### **ECOLOGICALLY SUSTAINABLE PRINCIPLES**

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

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

The Section 82A application has been supported by two submissions (dated 5 December 2011 and 9 January 2012) prepared by the applicant addressing the reasons for refusal.

## 2.4 DA 924/2011 - Change of Use from Restaurant to Shop (Pharmacy) at Mingara Drive, Tumbi Umbi (contd)

---

The Applicant's submission is included as Attachment 3.:

The subject site is zoned 5(a) Special Uses –Club and Community purposes under the provisions of the WLEP 1991. The landuse table under Clause 10 permits development for “any purpose” with the consent of Council, however, the provisions of Clause 60A above provide that notwithstanding any other provision in the plan, development only for the purpose of “an integrated entertainment and recreation complex including carparking, club entertainment centre, motel, recreation facility and restaurant” is permitted on the land. Development for a purpose other than detailed above is permissible if it satisfies the criteria specified under subclause 60A(2)(a) and (b).

The proposed use is defined as a “shop” under Clause 7 of WLEP 1991 as being:

**"shop"** means a building or place used for the purpose of selling, (whether by retail or auction), hiring or displaying for the purpose of selling or hiring of items (whether goods or materials), but does not include a building or place elsewhere specifically defined in this clause, or a building or place used for the purpose elsewhere specifically defined in this clause.

The submission of the applicant detailed in Attachment 3 presents an argument that the proposed pharmacy is both compatible with and appropriately integrated with the primary use of the land for an integrated entertainment and recreation complex (Mingara). The submission of the applicant in relation to the criteria under Clause 60A(2)(a) is supported for the following reasons:

- The Mingara recreation precinct caters for a number of sporting and medical facilities including an indoor swimming pool, gymnasium and fitness centre, physiotherapist and other medical related activities. A pharmacist would complement these existing facilities by providing products and medications which would be used at times by persons attending/using the sporting and medical services.
- The pharmacy will provide treatment and preventative services to the local community which includes diabetes diagnosis and assessment, blood pressure readings, dietary advice, mobility aids and medicines for treatment and prevention of illness. Persons attending the existing Mingara facility would most probably use the services of the proposed pharmacy while frequenting the Club.
- The existing building has been located on the site in such a manner that it forms an integrated part of the site. The proposal is for a change of use of the premises and does not involve any alteration to the external functioning and appearance of the existing building. The design and location of the building satisfies the compatibility and integration requirements of the Clause.

In regard to Clause 60A(2)(b) of the WLEP, the location and design of the building and associated car parking will not cause or create an adverse impact on the amenity of any nearby residential areas. The use is considered to be appropriate for the facility and can be adequately accommodated on the site and within the building.

Section 82A of the EP&A Act 1979 enables Council to review its decision in relation to determination of a development application and as a consequence of the review, the Council may continue or change the determination. In response to the grounds for refusal, the following comments are provided:-

## **2.4 DA 924/2011 - Change of Use from Restaurant to Shop (Pharmacy) at Mingara Drive, Tumbi Umbi (contd)**

---

### **Reason for refusal**

Pursuant to Section 79C(1)(a)(iii) of the Environmental Planning and Assessment Act 1979, the application was not accompanied by a Waste Management Plan in accordance with the provisions of Development Control Plan 2005 – Waste Management.

### Applicant's Submission

*"Given that the building is in existence the waste management plan would relate to the future use of the facility by the pharmacy and a normal garbage collection arrangement would apply.*

*Please see the waste management plan attached and previously submitted with the DA."*

### Assessment Review

The applicant submitted a waste management plan with the Section 82A review. The plan outlines day to day operation of the premises suggesting that a typical waste bin storage associated with the existing premises would satisfy the proposed pharmacy. Special bin storage may be necessary and if so would be positioned in a secure location.

### **Reason for refusal**

Pursuant to Section 79C(1)(a)(iv) of the Environmental Planning and Assessment Act 1979, the Statement of Environmental Effects submitted with the application failed to provide information in accordance with Schedule 1 of the Environmental Planning and Assessment Regulations 2000.

### Applicant's Submission

*"Additional information has not been requested in relation to the proposed use. Any information required in relation to Schedule 1 of the EP & A Regulations 2000 that is deemed necessary by Council can be provided upon request."*

### Assessment Review

The original assessment of the application revealed a lack of information primarily in relation to the operation of the business. The commercial nature of the pharmacy was a concern, particularly with regard to whether or not the business was a wholesale distributor with no professional services.

Subsequent to refusing the application, the applicant provided evidence suggesting the business is a pharmacy principally for the dispensing of pharmaceutical needs and professional advice. The retail of other products is an acceptable form of business ancillary to the function of most pharmacies.

## **2.4 DA 924/2011 - Change of Use from Restaurant to Shop (Pharmacy) at Mingara Drive, Tumbi Umbi (contd)**

---

### **Reasons for refusal**

Pursuant to Section 79C(1)(b) of the Environmental Planning and Assessment Act 1979, the application has failed to demonstrate the likely impacts of the development in the locality.

and,

Pursuant to Section 79C(1)(c) of the Environmental Planning and Assessment Act 1979, the application has failed to demonstrate the suitability of the site for the development.

### **Applicant's Submission**

*"The establishment of a pharmacy in the approved Krispy Kreme building is unlikely to generate any significant environmental effects. In this regard the traffic associated with the previous shop is considered likely to have been commensurate with any traffic generated by a proposed pharmacy.*

*It is considered that Council can be satisfied that the proposed development will not unduly impact on the amenity of nearby existing or potential future residential areas, particularly in respect of acoustics, illumination, traffic and access considerations. In this regard significant buffer areas exist between the club and the surrounding residential areas. The building to be occupied by the pharmacy is already in existence with car parking, access and illumination arrangements in place. The proposed use is not one that will generate a significant volume of noise beyond that associated with traffic which has been previously assessed in Council's approval of the existing building, access and parking arrangements. It should be noted that the majority of traffic visiting the facility is likely to be associated with shared usage of other services and facilities offered within the precinct."*

*"The site is located within an existing urban release area. The use is proposed within an existing vacant building previously occupied by Krispy Kreme Donuts as a shop. The site is readily accessible in terms of vehicular access. In this regard adequate car parking is available within the precinct to accommodate the demand generated by a pharmacy which is considered equivalent to that of a shop. The site is also readily accessed by pedestrians in the locality.*

*In this regard pedestrian linkages have been provided between the neighbouring urban release area and the club under earlier development consents. A pedestrian bridge also provides access from the neighbouring retirement village. Public transport is available to the site. Many patrons also use transport provided by the club or arrive by coach on a variety of day trips and tours. As noted previously club patrons will utilise the services provided by the pharmacy when visiting the entertainment/recreation precinct. The site is therefore considered suitable for the use proposed in terms of access. The site is also suitable in terms of the use being integrated with the club."*

### **Assessment Review**

The original assessment of the application revealed a lack of information concerning the compatibility between the proposed pharmacy and other land uses in the Mingara precinct.

## **2.4 DA 924/2011 - Change of Use from Restaurant to Shop (Pharmacy) at Mingara Drive, Tumbi Umbi (contd)**

---

The Mingara Recreation Club provides a number of facilities and uses within its precinct, including:

### **Services**

- Post Office & Newsagency
- Ticketek agency
- Bottle Shop (take-away alcohol purchases)
- Event Management office
- The Playhouse (occasional child care facility)

### **Restaurants**

- Ming Dragon
- The Coffee Shop
- Indigo
- Fortune Cookie (noodle bar)

### **Wellness**

- Mingara One Fitness Dragon
- "6S" (Physio, Chiro, Podiatry, Massage, Nutrition, Sports Medicine)
- Coco for Beauty
- Gorgeous Please – Hair Design
- Black Belt Martial Arts

### **Aquatic**

- Heated Indoor Olympic Pool
- Heated Leisure Pool
- Rapid River
- Spa Pools

### **Other sports**

- Mini Golf (18 hole course)
- Athletics Track

All of the above facilities are ancillary to the primary role of the Mingara Club for reasons stated previously in this report. The proposed pharmacy is regarded in a similar manner, seen as a facility with patronage predominantly from the club base.

The proposed development is not likely to pose any significant impact on the local amenity. Traffic generation would be comparable to the previous use of the building by "Krispy Kreme" doughnuts and that anticipated in the original assessment of the master plan for the ancillary business precinct.

Like most facilities associated with the Mingara Club, shared patronage is common place. That is, persons using the sport facilities are likely to use the club or restaurant facilities. Similarly, users of the 'wellness' and 'aquatic' facilities are likely to frequent the pharmacy.

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

The proposal involves the occupation of the existing building which is located at the entry to the Mingara club precinct. The roundabout entry is in close proximity to the car park and subject building, which provides suitable traffic management.

## **2.4 DA 924/2011 - Change of Use from Restaurant to Shop (Pharmacy) at Mingara Drive, Tumbi Umbi (contd)**

---

The land uses within the local setting relate to club and recreation facilities.

The relationship of the proposed pharmacy is compatible with the character and amenity of the locale, as it introduces a new land use appropriate for the context of the surroundings.

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

The subject site is accessible off Mingara Drive, from the roundabout with Hansens Road. Direct entry from Mingara Drive into the allocated car park adjacent to the vacant building is well marked. There are raised traffic calming devices at the entry and within this car park area to limit speed and traffic movements on the site. It is considered that the development poses no traffic safety concerns.

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

The development is not likely to impact the public domain. There are numerous sports facilities and open space areas in the Mingara precinct none of which would be affected by the proposed pharmacy.

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

Water, sewer, electricity and telephone services are available to the site.

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

The site is not heritage listed and there are no heritage listed properties within the vicinity of the site.

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

There are no unreasonable or adverse impacts on other land resources associated with the proposal.

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

The proposal is not regarded as a significant water use development.

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

No building works are proposed.

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

There are no unreasonable or significant adverse impacts upon the air quality and microclimate conditions associated with the application.

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

There will be no effect on flora and fauna as a result of the proposed use.

## **2.4 DA 924/2011 - Change of Use from Restaurant to Shop (Pharmacy) at Mingara Drive, Tumbi Umbi (contd)**

---

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

A waste management plan was submitted with the development application and found to be acceptable.

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

This application is for the occupation of an existing vacant building.

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

This application is for the occupation of an existing vacant building. The use of the building as a pharmacy would generate less noise and vibration than that of the previous use as a restaurant.

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

The property is not at risk from flooding, tidal inundation, bushfire, mines subsidence or slip.

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

No issues to report.

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

The principles of Crime Prevention Through Environmental Design (CPTED) have been considered under this application to discourage anti-social behaviour and minimise the opportunities for criminal activities. The building sits alone in the south east corner of the Mingara Club Precinct and has clear visual surveillance to and from the street. Located at the entry to the Club precinct, there is pedestrian and vehicular traffic movements consistently throughout the day and night, 7 days a week, providing scrutiny and observation from patrons.

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

The proposed development is not regarded as the scale or form of development that would create any social issues. All services will be undertaken wholly within the premises and when special consultations are required those will be undertaken at prescribed times generally in the normal day time periods. The nearest child care centre is 600 metres away (by road distance) and is not likely to be subject to anti-social behaviour.

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

The business will provide 18 jobs and ensure the rental viability of the premises.

As for the impact of an additional pharmacy on similar local businesses - this aspect is governed by licensing (issued by the Australian Community Pharmacy Authority - ACPA) separate to the development consent.



## **2.4 DA 924/2011 - Change of Use from Restaurant to Shop (Pharmacy) at Mingara Drive, Tumbi Umbi (contd)**

---

A pharmacist must apply for approval under section 90 of the National Health Act:

- \* to open a new pharmacy;
- \* to relocate an existing pharmacy;
- \* to expand or contract the size of an existing pharmacy;
- \* to change the address of an existing pharmacy, even if the premises have simply been renumbered and the premises remain unchanged; or
- \* to change the ownership of an existing pharmacy, including changes resulting from the death of an owner.

The ACPA sets criteria some of which regulates the location of new pharmacies based on distances to commercial and residential areas. There are different types of pharmacy licences however apart from requiring development consent from Council, this matter is not for the consent authority to control.

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

There will be no alteration to the existing site design. Internal alterations will be undertaken for the fit-out of the shop to be used as a pharmacy/dispensary, lunch room, packing area, display shelving and cash & wrap area.

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

Conditions to be imposed on a consent issued for the development that relate to fire safety, disabled access and building requirements under the Building Code of Australia (BCA).

### ***Any cumulative impacts.***

There are no significant or unreasonable cumulative impacts associated with the proposal.

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

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

The occupation of the building as a pharmacy is compatible in the locality as noted elsewhere in detail in this report.

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

The site attributes are conducive to the proposed development. The previous use as a drive-through restaurant provides good vehicular access to the site, with a laneway at the rear so that car can travel the site in a forward direction. There is a loading bay available for trucks bringing stock to the building to be safely unloaded as well as designated disabled car parking spaces.

There is adequate car parking available to accommodate occupation of the building with raised traffic calming thresholds to manage and regulate traffic movements on the site. There is also a raised pedestrian crossing directly to the front door of the building for safety and convenience of customers.

## **2.4 DA 924/2011 - Change of Use from Restaurant to Shop (Pharmacy) at Mingara Drive, Tumbi Umbi (contd)**

---

The site is well landscaped and the occupation of the building would assist in providing value to the Club precinct.

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

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

The application was advertised in accordance with DCP 2005 Chapter 70 - Notification of Development Proposals with ten (10) submissions being received. The assessment table also includes several submissions (5) received prior to formal notification of the Section 82A application.

A summary of the submissions is detailed in Attachment 3. For ease in reporting, replica submissions are grouped together.

### **CONCLUSION**

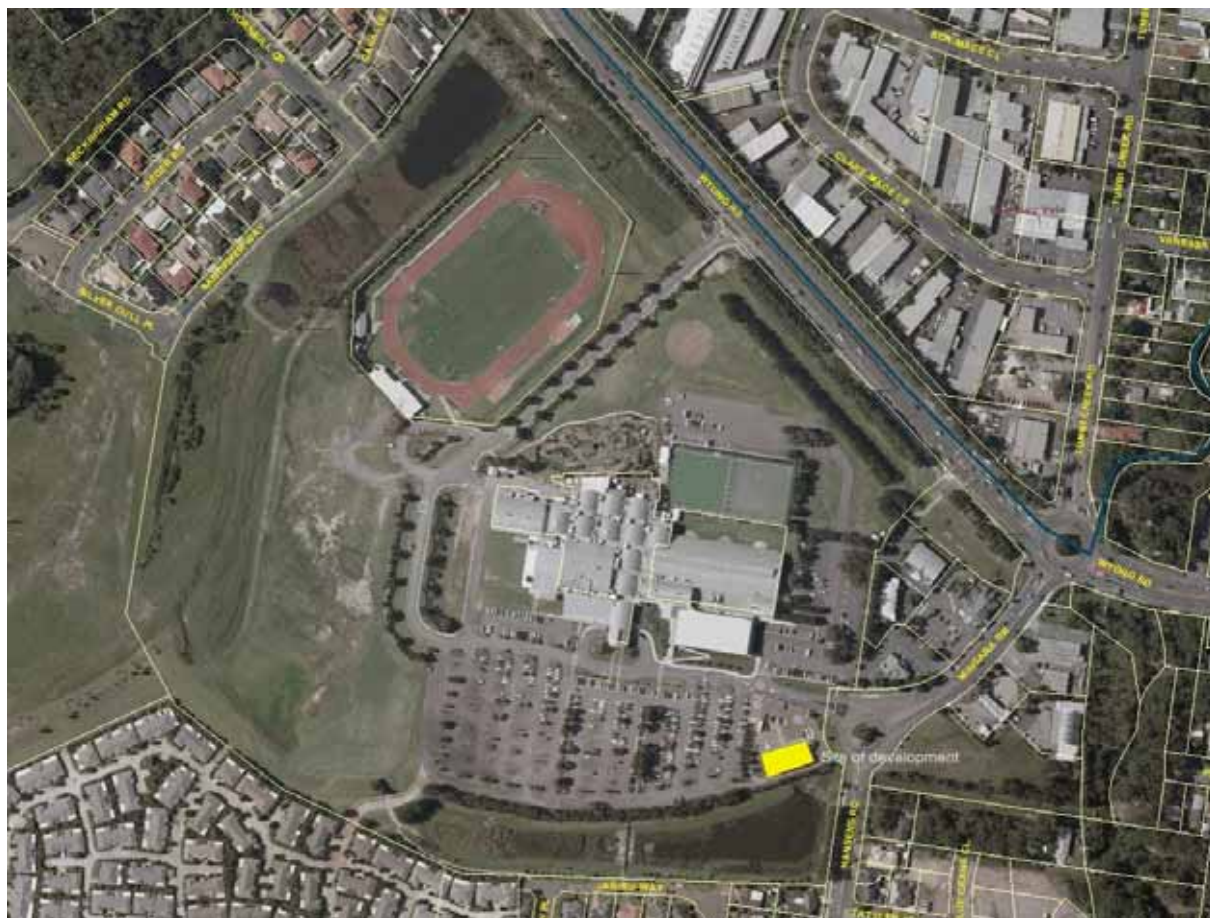
Clause 60A of WLEP requires the development to be an integrated entertainment and recreation complex and lists other land uses such as restaurants, motel and sports facilities. Council must be satisfied that the development is a compatible land use with the primary use of the land established by the Mingara recreation complex.

It is important to understand the broadness of the Mingara "community" precinct. Apart from the general facilities (entertainment, gaming, food etc.,) that the registered club provides in the main building, there is a web of ancillary land uses ranging from sporting venues and food outlets to health related businesses all of which serve the demand of the member based community. In this respect it is considered that the proposed pharmacy is consistent with other ancillary businesses particularly those involved in sport and health care.

**2.4 DA 924/2011 - Change of Use from Restaurant to Shop (Pharmacy) at Mingara Drive, Tumbi Umbi (contd)**

---

**Attachment 1 – Aerial View of Mingara Precinct**



*Aerial view of Mingara complex with site of development in yellow shade*

**2.4 DA 924/2011 - Change of Use from Restaurant to Shop (Pharmacy) at Mingara Drive, Tumbi Umbi (contd)**

**Attachment 2 – Table of Public Submissions**

Doc. No	Summary of Issues	Response
D02898190 D02898186 D02868838 D02879241 D02888220 D02858586	<p>Is the proposal the transfer of an established pharmacy licence?</p> <p>Inappropriate land use in the 5(a) zone.</p> <p>Lack of car parking.</p> <p><i>"Disturbing rather than serving the community"</i>.</p> <p>Social impacts – bad behaviour, impact to local child care centres, etc.,.</p> <p>Will employment numbers change to those submitted with the application.</p>	<p>The applicant has indicated that the proposed pharmacy is a new licence and not the transfer of a local business.</p> <p>Noted in the report is a detailed account of the permissibility of the development. Given that the conclusion of Council's review of the application is that the development satisfies the provisions of special clause 60A in the LEP, the response to the enquiry is that the pharmacy is an appropriate land use and consistent with the intent of the Mingara precinct.</p> <p>The author incorrectly notes that the proposal includes eight (8) doctors. Car parking is acceptable.</p> <p>The author suggests that the pharmacy would disturb the nearby residents of the Glengara village. It is difficult to imagine just how the development would disturb the residents of the village. The nature of the business is relatively low key and is about 200 metres from the nearest village occupancy.</p> <p>The author suggests that patients may create anti social behaviour problems and cause potential harm to local child care centres.</p> <p>All services will be undertaken wholly within the premises and when special consultations are required those will be undertaken at prescribed times generally in the normal day time periods. The nearest child care centre is 600 metres away (by road distance) and is not likely to be subject to anti-social behaviour.</p> <p>As noted in the report up to 18 staff may be required during the operation of the business. It is difficult to say with certainty that these numbers will remain constant. It is likely that staffing will be subject to the success of the business. In any event whether the staff numbers change is not a major consideration other than to ensure that acceptable parking is available for staff and patrons during the operation of the business.</p>

**2.4 DA 924/2011 - Change of Use from Restaurant to Shop (Pharmacy) at Mingara Drive, Tumbi Umbi (contd)**

Doc. No	Summary of Issues	Response
D02866823 D02866821	<p>Inappropriate land use in the 5(a) zone.</p> <p>Social impacts – bad behaviour etc.</p>	<p>Noted in the report is a detailed account of the permissibility of the development. Given that the conclusion of Council's review of the application is that the development satisfies the provisions of clause 60A in the LEP, the response to the enquiry is that the pharmacy is an appropriate land use and consistent with the intent of the Mingara precinct.</p> <p>The author suggests that patients may create anti social behaviour problems.</p> <p>All services will be undertaken wholly within the premises and when special consultations are required those will be undertaken at prescribed times generally in the normal day time periods.</p>
D02879254	Impact of additional pharmacy on similar local businesses.	<p>Impact of an additional pharmacy on similar local businesses is governed by licensing (issued by the Australian Community Pharmacy Authority - ACPA) separate to the development consent.</p> <p>A pharmacist must apply for approval under section 90 of the National Health Act.:</p> <ul style="list-style-type: none"> <li>* to open a new pharmacy;</li> <li>* to relocate an existing pharmacy;</li> <li>* to expand or contract the size of an existing pharmacy;</li> <li>* to change the address of an existing pharmacy, even if the premises have simply been renumbered and the premises remain unchanged; or</li> <li>* to change the ownership of an existing pharmacy, including changes resulting from the death of an owner.</li> </ul> <p>Part of the pharmacy license is the need to gain an approval from the local consent authority.</p> <p>The ACPA sets criteria some of which regulates the location of new pharmacies based on distances to commercial and residential areas. There are different types of pharmacy licences however apart from requiring development consent from Council, this matter is not for the determining authority to control.</p>

**2.4 DA 924/2011 - Change of Use from Restaurant to Shop (Pharmacy) at Mingara Drive, Tumbi Umbi (contd)**

Doc. No	Summary of Issues	Response
D02879241	<p>Inappropriate land use in the 5(a) zone.</p> <p>Social impacts – bad behaviour, impact to local child care centres, etc.,.</p>	<p>Noted in the report is a detailed account of the permissibility of the development. Given that the conclusion of Council's review of the application is that the development satisfies the provisions of special clause 60A in the LEP, the response to the enquiry is that the pharmacy is an appropriate land use and consistent with the intent of the Mingara precinct.</p> <p>The author suggests that patients may create anti social behaviour problems and cause potential harm to local child care centres.</p> <p>All services will be undertaken wholly within the premises and when special consultations are required those will be undertaken at prescribed times generally in the normal day time periods. The nearest child care centre is 600 metres away (by road distance) and is not likely to be subject to anti-social behaviour.</p>
D02866812 D02879249 D02879250	<p>Inappropriate land use in the 5(a) zone which is noted for recreational uses.</p>	<p>Noted in the report is a detailed account of the permissibility of the development. Given that the conclusion of Council's review of the application is that the development satisfies the provisions of special clause 60A in the LEP, the response to the enquiry is that the pharmacy is an appropriate land use and consistent with the intent of the Mingara precinct.</p>

**2.4 DA 924/2011 - Change of Use from Restaurant to Shop (Pharmacy) at Mingara Drive, Tumbi Umbi (contd)**

Doc. No	Summary of Issues	Response
D02866661 D02866816	<p>Inappropriate land use in the 5(a) zone which is noted for recreational uses.</p> <p>Impact of additional pharmacy on similar local businesses.</p>	<p>Noted in the report is a detailed account of the permissibility of the development. Given that the conclusion of Council's review of the application is that the development satisfies the provisions of special clause 60A in the LEP, the response to the enquiry is that the pharmacy is an appropriate land use and consistent with the intent of the Mingara precinct.</p> <p>Impact of an additional pharmacy on similar local businesses is governed by licensing (issued by the Australian Community Pharmacy Authority - ACPA) separate to the development consent.</p> <p>A pharmacist must apply for approval under section 90 of the National Health Act.:</p> <ul style="list-style-type: none"> <li>* to open a new pharmacy;</li> <li>* to relocate an existing pharmacy;</li> <li>* to expand or contract the size of an existing pharmacy;</li> <li>* to change the address of an existing pharmacy, even if the premises have simply been renumbered and the premises remain unchanged; or</li> <li>* to change the ownership of an existing pharmacy, including changes resulting from the death of an owner.</li> </ul> <p>Part of the pharmacy license is the need to gain an approval from the local consent authority.</p> <p>The ACPA sets criteria some of which regulates the location of new pharmacies based on distances to commercial and residential areas. There are different types of pharmacy licences however apart from requiring development consent from Council, this matter is not for the determining authority to control.</p>

**ATTACHMENTS**

- |   |                             |           |           |
|---|-----------------------------|-----------|-----------|
| 1 | Draft Conditions of Consent |           | D02920400 |
| 2 | Development Plans (A3)      | Enclosure | D02932844 |
| 3 | Applicant's Submission      |           | D02941884 |

**Date:** 17 February 2012  
**Responsible Officer:** Mark Greer  
**Location:** Club Mingara Carpark, 14 Mingara Dr, TUMBI UMBI NSW 2261  
 Lot 72 DP 1011971  
**Owner:** Trustees Mingara Recreation Club Ltd  
**Applicant:** Professional Construction Services Pty Ltd  
**Date Of Application:** 12 October 2011  
**Application No:** DA/924/2011  
**Proposed Development:** Change of use of existing building to Shop (pharmacy) at Mingara Recreation Club  
**Land Area:** 197600.00

## PROPOSED CONDITIONS

### Approved Plans

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

Title	Drawing No.	Revision	Date	Drawn By
Pharmacy	D62 01	-	29/9/2011	'AB3D'

### Certificates – Application and Approval

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



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

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

### **Contribution Payment Requirements**

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

### **Car Parking**

- 5 Prior to the issue of a Construction Certificate, suitable design details for the upgrade of the existing accessible carparking spaces servicing the premises are to be provided for the approval of the accredited certifier. Such upgrade of the existing accessible carparking spaces is to comply with the requirements of AS 1428.1-2009.

## **Prior to Commencement of Works:**

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

### **Site Requirements**

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

## **During Construction Works:**

*The following conditions must be satisfied during construction works.*

### **Approved Plans**

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

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

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

### **Building Code of Australia – Compliance Requirements**

- 8 Prior to the issue of the Occupation Certificate, the building shall be completed in accordance with the relevant provisions and requirements of the Building Code of Australia.
- 9 Prior to the issue of the Occupation Certificate, access to internal circulation space requirements and fixtures within the existing unisex disabled sanitary facility are to comply with the requirements of AS 1428.1-2001.

### **Liquid Trade Waste – Requirements**

- 10 Where the proposed use of the development discharges waste other than domestic sewage, then the submission of a liquid trade waste application and subsequent approval by Council as the Water and Sewer Authority, to discharge liquid trade waste into the sewerage system is required prior to issue of the Occupation Certificate.

## **Ongoing Operation:**

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

### **Advertising Sign Requirements**

- 11 No advertising sign/s shall be erected on or in conjunction with the use and/or development without prior development consent unless the advertisement is an 'approved sign' under Development Control Plan 2005, Chapter 50 - *Advertising Signs*.

### **Hours of Operation Requirements**

- 12 For the purposes of preserving the amenity of neighbouring occupants and residents, hours of operation are restricted to between:
  - 8am to 8pm, Monday to Sunday.
- 13 Any security alarm installed on the premises must be fitted with a 'cut-off' device limiting any sounding of the alarm to a maximum duration of ten (10) minutes, with no repeat sounding until manually reset; and or 'silently wired' to a security firm.

## **SCHEDULE OF CONTRIBUTIONS**

Section 94A Levy

\$1,000.00

*Attachment 3 – Applicant's Submission*

*“This clause (60A) has been implemented on a number of occasions in relation to the club including in respect of the Krispy Kreme building itself which would be defined as a shop under the Council's planning scheme. Council's previous measure of integration has related to the architectural design and finishes of the buildings within this precinct.*

*Notwithstanding, the Mingara Club is an entertainment and recreation complex and is partially owned by Council. In this regard the indoor swimming pool, gymnasium and fitness centres are supported by physiotherapists and other medical related activities. The occupation of the existing Krispy Kreme building for a health facility is consistent with other uses in the precinct.*

*The use is also integrated in terms of servicing the membership of the club. Other uses have been approved within the precinct and under the same roof as the club and include travel agencies, banks, etc which have been justified on the basis of servicing the needs of the club patrons. It is open to Council to take the same approach in relation to the current application.*

*As outlined in our mediation meeting, the Mingara precinct has a long history in terms of its establishment in the first instance as a community club and its extension to incorporate a Council owned indoor pool, gymnasium and general community health, fitness and recreational facility. By virtue of Clause 60A of the WLEP the land and existing buildings have become known as an integrated entertainment and recreation complex. Whilst this is not a specific definition under the LEP, entertainment facilities and recreation facilities are both specifically defined uses and reference to these definitions offer some assistance in determining whether the primary use of the land for the purposes for which it is zoned.’*

*Wyong Local Environmental Plan 1991 defines an Entertainment Facility to mean:*

*“a building or place designed, equipped and used for the purpose of sport, entertainment, exhibitions or displays, and includes:*

- (a) sports stadiums, showgrounds, race courses and the like, and*
- (b) theatres, cinemas, music halls, concert halls, open air theatres, and drive-in theatres and the like.*

*Wyong Local Environmental Plan 1991 defines an Recreation Facility to mean:*

*“a building or place designed, equipped and used for indoor recreation, such as a billiard saloon, table tennis centre, squash court, swimming pool, gymnasium, health studio, bowling alley and fun parlour, whether used for the purpose of gain or not, but (in the Table to clause 10) does not include anything elsewhere defined in this clause.’*

*It is clear that the use of the word Integrated in Clause 60A of the LEP is intended to ensure that the entertainment and recreation aspects of the facility are tied together in some form. Council has been in the past taken the attitude that this form may be of an architectural nature, this is particularly evident in relation to the existing Tumbi Tyres building which has been previously established on the land prior to the current reference in the LEP to the specific land use that exists on each allotment in the precinct.*

*In terms of actual land use compatibility it is clear that the existing Council owned Recreation Facility is aimed at enhancing community health, fitness and wellbeing. The facility is utilised for fitness, hydrotherapy purposes, rehabilitation and a range of other health and well being purposes.*

*The club itself is located within the Tumbi Urban Release Area and has been developed in conjunction with the neighbouring residential area which previously formed part of the club's land holdings. In particular, the Glengara Retirement Village which immediately adjoins to the south of the club has been developed as an integrated land use with the club facility. In this regard footpaths, pedestrian bridges, cycleways and walking trails link the residential area and in particular the retirement village to the club in recognition of the substantial patronage of the facilities by the residents.*

*There have been a number of ancillary land uses approved in relation to the site that provide services to the patrons of the club and (sic) these have ranged from banking facilities through to travel agencies, cafes, restaurants, medical centres, physiotherapy services etc. The proposed medical centre is considered to be similarly compatible and integrated with the primary use of the land as an entertainment and recreation complex. In this regard the pharmacy will provide treatment and preventative services to the local community. Examples of the services that will be available from the facility include; diabetes diagnosis and assessment, blood pressure readings, dietary advice, nutritional supplements, mobility aids and medications for prevention and treatment of illness.*

*These services are considered to augment the existing services offered by the club to its members and guests.*

*As outlined in previous submissions to Council, the use of the existing premises as a pharmacy is permissible under both Clause 60A of the LEP as a health service facility under the Infrastructure SEPP or as a pharmacy or shop or medical centre under Clause 60A of the LEP.*

*It is relevant that Council considered a report on 23 November 2005 and resolved to endorse a master plan for the Mingara Recreation Club. In considering the master plan the officers report makes reference to a proposed medical centre which was to accommodate up to 10 medical suites. The report stated that the centre would be defined as a "Medical Centre" pursuant to the LEP and went on to state:*

*"In this regard, it is noted that no uses are prohibited within the 5(a) zone, the major focus being on whether the proposal is "ancillary to.... or adversely affects the current or future usefulness of the land for the.... specified purpose". The applicant has in this case provided a statement in support of the proposed use, which makes the point that the intention is to replace the existing medical centre which has operated on the site for the past eight years.*

*Mingara is closely affiliated with a number of sporting organisations, and has a membership of 24,000 people, with the recreation facilities including a large sports stadium and associated facilities, a swimming pool, and bowling greens. Further, the Club hosted 1,127 sporting events in the last financial year, including Club meetings, AGM's, competitions and social games catering for 49,720 people.*

*Mingara is also one of four NSW Institute of Sports Regional High Performance Centres, is home to the Central Coast Academy of Sport, and the Central Coast Mariner's A-League Soccer Club. In addition, Mingara operates a Leisure Centre and Health Club with 1,796 members, with 79,540 people having utilised the swimming pool during the last financial year. It is felt that the use of the Medical Centre is ancillary to the predominant use of the site, and will continue to provide services to the large range of sporting users of the site.*

*The preceding demonstrates that the provision of the range of services proposed within the Medical Centre is consistent with the role that the Club fulfils as a major health centre. It is considered that the Medical Centre satisfies the objectives of the zone, as well as the site specific requirements contained within Cl.60 (a) of the LEP, and is accordingly supported."*

*It is considered given the nature and range of the uses proposed to be provided by the pharmacy that the services are consistent with enhancing the health and wellbeing of the local community which is entirely consistent with the primary use of the land as an integrated entertainment and recreation facility, particularly given the role that the club plays as a major health centre.*

*Given that Council has already approved the existing building it can be concluded that Council has determined that the building itself is physically integrated with the existing club facility. Previous submissions to Council have indicated that Council has required various architectural features to be incorporated within buildings on the site in particular the use of specific paint colours, roof forms, landscape treatments, vehicle and pedestrian circulation paths etc”*

In consideration of the submission made by the Applicant in support of the subject S82A review application, Council must assess whether the proposed pharmacy is a use that is permissible under the provisions of WLEP 1991. More specifically, Clause 60A of WLEP 1991 applies to the land and states:

*“integrated entertainment and recreation complex at Tumbi Umbi*

- 60A (1) *This clause applies to land being Lot 1007, DP 864115 and Lots 226 and 227, DP 864114, Mingara Drive, Tumbi Umbi, as shown as being within Zone No. 5(a) on the map marked "Wyong Local Environmental Plan 1991 (Amendment No. 94)".*
- (2) *Notwithstanding any other provision of this plan, the Council must not grant consent to development on land to which this clause applies for purposes other than an integrated entertainment and recreation complex including carparking, club entertainment centre, motel, recreation area, recreation facility and restaurants unless:*
- (a) *the Council is satisfied the proposed development is compatible with and appropriately integrated with the primary use of the land for an integrated entertainment and recreation complex; and*
- (b) *the Council is satisfied that the proposed development will not unduly impact on the amenity of nearby existing and likely future residential areas, particularly in respect of acoustic illumination, traffic and access considerations.*
- (3) *Pursuant to Section 29 of the Act, development to be carried out on land to which this clause applies for the purpose a sports stadium, of which the seating capacity exceeds 10,000 seats, is declared to be designated development for the purposes of the Act.*

## **2.5 Works on Private Land as part of the Tuggerah Lakes Estuary Management Plan**

---

TRIM REFERENCE: F2011/01716 - D02912647

MANAGER: Greg White, Manager Environment and Natural Resources

AUTHOR: Nicole Dixon; Ecologist, Estuary Management

### **SUMMARY**

Section 67 of the Local Government Act 1993 (LGA) requires Council approval for works to be undertaken on private property. The works detailed in this report are in relation to the delivery of the Tuggerah Lakes Estuary Management Plan (TLEMP) and are funded through the Federal Government's "Caring for our Country" grant (CFoC).

### **RECOMMENDATION**

***That Council approve the works detailed in Table A to be carried out on the following property under the Tuggerah Lakes Estuary Management Plan. All works are to be at no cost to the property owner, being funded by the Federal Government's "Caring for our Country" grant :***

***Lot 945 DP 626561, 912 Ourimbah Creek Road Palm Grove***

### **BACKGROUND**

The TLEMP has been developed to improve water quality, ecology, general amenity and the foreshore areas of Tuggerah Lake, Budgewoi Lake and Lake Munmorah. The TLEMP provides for a range of projects to be carried out over a five year period. A number of these projects relate to reducing the amount of sediment entering the lakes as a result of bank erosion in the various streams, creeks and rivers that discharge into the lakes. The works are being fully funded through the CFoC Federal Government grant.

In 2008, consultant engineers, Cardno Lawson Treloar undertook an assessment of Wyong River and Ourimbah Creek to identify areas of streambank degradation and to prioritise areas for rehabilitation. That assessment is documented in the Streambank Management Plans for Wyong River and Ourimbah Creek. A number of the sites identified within these plans are located on private property. The prioritisation of sites within these plans forms the basis for funding under the Federal grant.

This report identifies a private property that has been prioritised for improvement works under the TLEMP implementation. Council's approval is required for the expenditure of the CFoC funds on private property.

**PROPOSAL****Works on Private Property**

Section 67 of the LGA relates to Council undertaking works on private property. This section outlines procedures for circumstances where Council expends public money to undertake works on private lands, and those works improve the land/provide the private landowner with a benefit (compared to where Council expends public moneys on public infrastructure/public benefit). Examples of such work referenced under this Section, which are relevant to works being undertaken under the TLEMP include excavation, fencing, tree planting, tree maintenance, land clearing and tree felling and bank stabilisation using rock or soft engineering works as applicable.

Where Council is undertaking these types of works on private property and does not have an approved fee, or is charging less than an approved fee, Council must, by resolution, approve the works before they are carried out. Funding for these works may be from various sources and are not necessarily revenue funds.

Where it is proposed to undertake works on private property, an agreement is entered into with the property owner relating to the sharing of costs. Agreements are based on the following principles:

- Council, through CFoC funding, will provide all rehabilitation works.
- Council, through CFoC funding, will provide initial maintenance (up to 12 months) to establish tube stock planted as part of the works.
- If, as a result of the rehabilitation works, off-stream stock watering is required, this is to be provided by the land owner at his/her cost.
- The property owner will provide for the ongoing maintenance of any fencing and maintenance of revegetated areas after the initial maintenance period, including removal of reoccurring Weeds of National Significance (WoNS) and other environmental weeds for a minimum of five (5) years.
- On properties where the removal of aquatic weed occurs, the follow up maintenance programs will also be provided by the property owner for a minimum of five (5) years.

Should a major flood event occur that results in damage to rehabilitated areas, beyond that which could be carried out as part of normal maintenance, any resulting remedial works would be subject to a separate round of assessment under the TLEMP.

**Causes of Erosion and Rehabilitation Methods**

The 2008 report prepared by Cardno Lawson Treloar, Consultant Engineers identified areas of significant erosion within Wyong River and Ourimbah Creek. The large amounts of sediment that erode from these stream banks are a result of excessive clearing of trees close to the streambank, uncontrolled stock access to the stream, intrusion of weeds such as privet and lantana (that do not have root systems capable of holding the soil in flood events) and gradual erosion resulting in over-steepening of the bank, which has the potential for significant slippage when saturated.



## **2.5 Works on Private Land as part of the Tuggerah Lakes Estuary Management Plan (contd)**

---

The typical rehabilitation methods detailed within the report, and which form the basis for works to be carried out at individual sites, include:

- Excavation of the streambank to provide a batter that will support revegetation.
- Revegetation of the riparian zone to further stabilise the bank.
- Fencing to prevent stock access to the stream and revegetated areas.
- Clearing of weeds/undesirable vegetation.
- The provision of toe protection to eroding streambanks. This is achieved by either hard engineering works such as the placement of sandstone rock work/construction of retaining walls or softer works such as the placement of local materials (eg. tree trunks and timber piles). This serves to protect the eroding bank until such time as native vegetation is re established.

The Streambank Management Plans independently prepared for Council, investigate every section of all waterways that eventually end up in the Tuggerah Lakes system. These plans prioritise all 'hotspots' for potential sediment and nutrient input into each creek or river, irrespective of the ownership of the adjacent land. These works are designed to achieve important environmental outcomes by greatly reducing the amount of sediment/nutrient entering the waterways, eventually clogging river/creek mouths and the Tuggerah Lakes. That is, the works are designed to treat the long term cause rather than simply treating the resultant effect using methods such as the continual dredging of river mouths and the lakes, which is a highly unsustainable practice.

### **OPTIONS**

Not all property owners consider that these works will benefit them directly. Concerns raised include fencing off stock from the river resulting in owners having to install off-stream watering. In addition, revegetation of streambanks which are fenced to prevent stock access to new plants may be viewed as a loss of pasture. Similarly, battering of the streambank to be revegetated and fenced is also seen as a loss of pasture.

While it may be considered that the works outlined above provide long term assets such as fences and riparian vegetation for the properties concerned, many owners have indicated that they will not consent to the works being undertaken if they are required to make any significant monetary contribution. Therefore there are no viable alternative options if Council is to pursue the desired environmental and water quality outcomes for the Tuggerah Lakes.

### **PROPOSED WORKS**

As part of the ongoing works for the 2011/12 works program for the TLEMP it is proposed to undertake construction work on the property as detailed in Table A. These works will provide significant environmental benefits by stabilising and controlling areas identified as having high erosion risk, and providing appropriate revegetation and fencing to assist in the long term sustainability of these works.

**Table A. Proposed Work on Private Property as Part of the Tuggerah Lakes Estuary Management Plan**

<b>Property Description</b>	<b>Extent of Proposed Work</b>	<b>Approximate Cost of Work (excl GST)</b>
Lot 945, DP 626561 912 Ourimbah Creek Road Palm Grove	Removal of fallen trees which are contributing to additional bank erosion. Timber piling and toe protection to eroded streambank together with brushing of bank. Riparian planting and relocation and reinstatement of 100m of fencing Works to provide 1000 sq metres of planting and 30 metres of bank protection.	\$89,900

## **STRATEGIC LINKS**

### **Annual Plan**

<b>Principal Activity</b>	<b>Strategy or Program</b>	<b>Financial Line Item No and Description</b>
A More Sustainable Community	By completing these works, the rural community will have a better knowledge and understanding of the benefits of environmental management.	
A More Sustainable Economy	Not applicable	
A More Sustainable Environment	Implementation of Tuggerah Lakes Estuary Management Plan.	3.2.8
Infrastructure	Not applicable	
Organisation	Not applicable	

### **Contribution of Proposal to the Principal Activity**

The proposed works are one of the identified projects under the TLEMP and will provide ongoing improvements to water quality in the affected streams and for water entering Tuggerah Lake.

### **Link to Shire Strategic Vision**

<b>Priority Objective</b>	<b>How the proposal contributes or links to the Priority Objectives in Shire Strategic Vision and Annual Plan</b>
<b>Communities</b> - Communities will be vibrant, caring and connected with a sense of belonging and pride in their local neighbourhood.	Community awareness of these types of initiatives should foster a sense of belonging and pride and enable the community to recognise it's contribution to protection of the environment.

<b>Priority Objective</b>	<b>How the proposal contributes or links to the Priority Objectives in Shire Strategic Vision and Annual Plan</b>
<b>Facilities and Services</b> - Communities will have access to a diverse range of affordable and coordinated facilities, programs and services.	The landholders within the Shire's water catchment areas will see this environmental project as an example of land use best practice.
<b>Education</b> - The community will be well educated, innovative and creative. People will attain full knowledge potential at all stages of life.	In accordance with the EMP works, the community education programs will describe the benefits these works will have for the environment.
<b>Employment</b> - There will be a strong and sustainable business sector and increased local employment built on the Central Coast's business strengths.	Temporary bush regeneration employees will be working on these projects.
<b>Natural Areas</b> - Areas of natural value in public and private ownership will be enhanced and retained to a high level in the context of ongoing development.	The health of the Shire's waterways will be enhanced by the restoration of degenerated streams and the education of landholders.
<b>Environmental Programs</b> - There will be a sense of community ownership of the natural environment through direct public involvement with environmental programs.	As part of the EMP, implementation of these projects will contribute to the community's ownership and understanding of the importance of the Shire's waterways.

### Financial Implications

The works are fully funded through the TLEMP using Federal Government grant funding.

### Principles of Sustainability

The works, when established, will provide a natural long term solution to stream degradation and erosion issues, as well as protection for the rivers and estuary.

## 2.5 Works on Private Land as part of the Tuggerah Lakes Estuary Management Plan (contd)

---

### CONSULTATION

Where rehabilitation works are proposed to be undertaken on private land, extensive discussions are held with owners to obtain their permission to undertake the works. This is a requirement under Section 67 of the LGA, together with consideration of possible cost sharing arrangements. Extensive consultation has occurred with landholders, relevant Council authorities, the Hunter Central Rivers CMA, the Office of Environment and Heritage, and the local community - particularly through the Tuggerah Lakes Estuary, Coastal and Floodplain Management Committee.

### GOVERNANCE

The works have been approved by the Federal Government under its CFoC initiative.

### CORPORATE RISKS

<b>Risk</b>	<b>Possible Outcome</b>	<b>Mitigation Method</b>
Risk of non-compliance with Section 67 of Local Government Act	Loss of Council reputation. Penalties from non-compliance	Obtain Council approval prior to expenditure of funds
Fraud and corruption allegations from favouring certain land-owners	Loss of Council reputation. Investigations into Council practices and possible penalties	Works identified in independently prepared Streambank Management Plan on behalf of Council for determining priority sites. Obtain Council approval prior to expenditure of funds

### CONCLUSION

It is proposed to undertake the described rehabilitation works on private property to achieve the objectives of the TLEMP utilising funding through the Federal Government's CFoC grant. The works listed in Table A (above) are scheduled for completion in the 2011/12 financial year as part of the TLEMP. Council approval is therefore recommended for the undertaking of these works on private property at no direct cost to the property owner.

### ATTACHMENTS

- 1 Location Plan D02936312

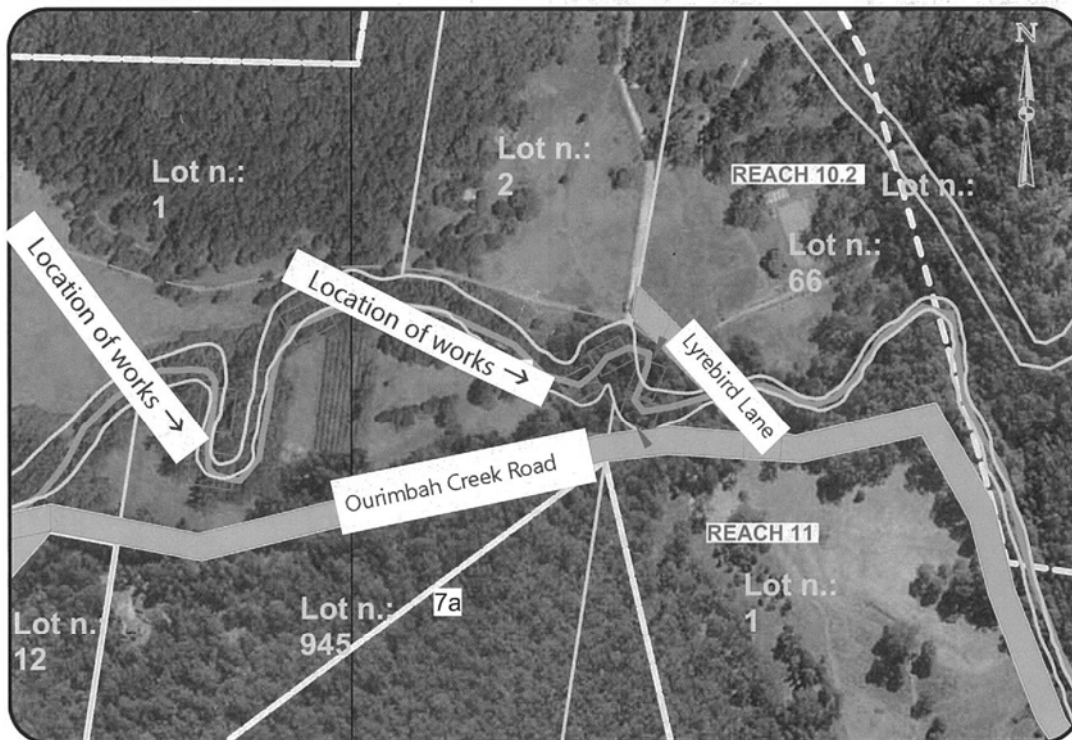
# OURIMBAH CREEK

REACH OUR 10.2/11

912 Ourimbah Creek Road

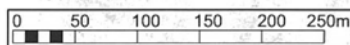


## REACH LOCATION



APPLIED ECOLOGY PTY LTD Ourimbah map 2010 A4 v1.dwg

Legend	
	Ourimbah creek
	Zonage
	Cadastre
	Main access (heavy machinery)
	Auxiliary access (light machinery)
	Road



Scale 1/5000 @A4

Data extracted from GIS data provided by the client and Applied Ecology ground truthing (December, 2009).  
Coordinates system Map Grid of Australia Zone 56 using GDA94 datum, MGA-56.

Planning Assessment Design Approval

### **3.1 CPA/182007 - Upgrade of SPS T22 and Associated Works at Budgewoi**

---

TRIM REFERENCE: CPA/182007 - D02921361

MANAGER: David Witherdin, Manager Contract and Project Management

AUTHOR: Martin Drake; Project Manager

#### **SUMMARY**

Evaluation and selection of tenders for Contract No. CPA/182007 - Upgrade of SPS T22 and Associated Work at Budgewoi.

#### **RECOMMENDATION**

- 1 That Council accept the tender from Eire Contractor Pty Ltd in the estimated total amount of \$2,323,000.00 (excl GST) for Contract CPA/182007 - Upgrade of SPS T22 and Associated Work.**
- 2 That approve a contract budget for Contract CPA/182007 of \$2,553,000.00 (excl GST) that provides for a contingency amount of \$230,000.00 (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**

##### **Current Conditions at SPS T22**

Sewer pump station T22 (SPS T22) was originally built in 1979 under the Gosford - Wyong Regional Sewerage Scheme. The pump station is situated on the south-western side of Budgewoi Road (Central Coast Hwy) and east of existing John Slade Park car park at Budgewoi. Residential properties are located approximately 45 metres north-east of the site across Budgewoi Road; Northlakes United Rugby clubhouse is located to the south; an active recreational playing field is located to the south-east of the site; and a passive recreational park area is located directly north-west.

SPS T22 receives sewage flows from the Budgewoi and Halekulani catchments, which are located to the north and west of the site. The majority of the catchment area is located on the western side of Budgewoi Creek. SPS T22 currently operates with two 85kw pumps in parallel, which operate at a combined flow rate of approximately 150L/s at approximately 45m head.

There are six (6) existing pumps in the wet well, however only three (3) currently work. The existing 600mm knife gate valve that controls inflow to pump station wet well also no longer closes.

### 3.1 CPA/182007 - Upgrade of SPS T22 and Associated Works at Budgewoi (contd)

---

The existing 5 metre diameter T22 wet well is constructed adjacent to a substantial brick building, which houses the electrical switch control assembly (SCA). The SCA building is situated above the 6.5 metre diameter underground pump station valve pit. Austgrid's electrical kiosk/transformer has recently been relocated from inside the larger of the SCA buildings two rooms to a new outside position adjacent the rugby field, leaving that room empty.

An existing pressure vessel/surge tank is located approximately 15 metres north-west of the pump station. The purpose of surge tank is to dampen water hammer surge pressures, however it has not operated for a number of years, and the air compressor which is associated with this surge tank (located in the valve pit) has also not operated for at least 3 years. The inoperability of the surge tank has not been an issue to date because the pumping station has been operating at about one-third its design capacity.

An oxygen tank is located on the north-western side of the building. The oxygen is injected into the rising main for odour / septicity control. The oxygen tank is functioning correctly.

Sewage is pumped from SPS T22 directly to Toukley Sewage Treatment Plant via an existing 525mm diameter asbestos cement (A.C.) rising main. There is uncertainty with regards to the beginning lengths of the rising main, because it is not known where the 450mm cast iron pipe tapers up to the 525mm diameter AC pipe. The work-as-executed drawings from 1979 are ambiguous. Nevertheless, the total length of rising main is 4,725m and there are three non-functioning 450mm stop valves located in valve pits at chainages 1,110m, 1,980m, and 3,285m.

#### **Need for Upgrading SPS T22**

It has been identified that existing SPS T22 requires upgrading to meet future forecast demands. The upgrade works would reduce the risk of sewage overflow due to capacity issues and/or pump station malfunction, and would ensure community health and safety for many years to come. Augmentation works would involve increasing the capacity of the existing pump station to an ultimate design flow rate of 330L/s.

Pump capacities need to be increased to cater for the ultimate design flow. The larger pumping capacity would in turn require the power supply to be upgraded, along with an upgrade of the switch gear and control gear assembly (SCA).

Deficiencies have also been identified with the pumping station with regards to safe access for maintenance; operation of valves; and pipe work and fittings being in poor condition. These deficiencies would also be addressed as part of the proposed works.

The proposed upgrade of SPS T22 involves the following works:

Replacement of three (3) existing DN450 stop valves and associated fittings on rising main T22 at approximate chainages 1,110m (Stop Valve 1), 1,980m (Stop Valve 2) and 3,285m (Stop Valve 3); Draining/scouring of rising main T22 (approx. 950KL) for the rising main stop valve replacements, including the transportation of drained and incoming sewage to Toukley Sewage Treatment Plant whilst rising main is off line (the rising main needs to be entirely drained prior to a temporary by-pass system being connected); Designing, installing, commissioning, operating, monitoring, and decommissioning temporary sewer bypass system for upgrade works to SPS T22; Demolition, disassembly and recovery works; Upgrading of existing Budgewoi SPS T22 pump station by installation of new pumps, pipework, valves, surge suppression vessel, electrical switchgear, and lifting equipment;

### 3.1 CPA/182007 - Upgrade of SPS T22 and Associated Works at Budgewoi (contd)

---

Installation of new mezzanine, baffle wall and benching in SPS T22 wet well; Design and installation of mechanical ventilation for new SCA room; Testing and Commissioning for all upgrade works; Site restorations to pre-construction conditions or better; Supply of Operation and Maintenance Manual/s and Work as Executed Drawings; Training of WSC operations staff.

#### **Tender Process**

Tenders were invited by way of public invitation. Advertisements were placed in the Sydney Morning Herald on 29 November 2011 and the Central Coast Express Advocate on 30 November 2011. Tenders were also advertised on Council's e-Tender website. The advertised closing date was initially 22 December 2011, but later extended to 12 January 2012.

Invitation documents called for a lump-sum and schedule of rate tender, based on a detailed specification. The contract is set up primarily as a lump sum basis, however an additional "Schedule of Rates for Variations" schedule is also included for the purpose of being used by the Superintendent for valuing works completed in the event that any listed potential variation items are directed.

The potential variation items listed are items that were identified as potentially presenting costly risks to the project, but for various reasons the existing conditions could not be established or quantified during the design phase. The need for implementing these potential variation items will not be known until construction is commenced. It was decided to include these items in a "Schedule of Rates for Variations" as a risk management strategy to secure a firm price or rate, prior to awarding the construction Contract. The potential additional project costs associated with these potential variation items will be absorbed in the project contingency allowance.

A mandatory pre-tender meeting was held at the proposed work sites on 9 December 2011 to allow tenderers to become familiar with site conditions. Following a site induction, prospective tenderers were informed an overview of the scope of works and major deliverables, and then were invited to inspect all of the existing facilities associated with the project. All facilities (including existing T22 wet well, SCA room, valve pit, surge vessel and pit, and all three rising main stop valve pits) were opened by Wyong Shire Council staff for inspection. Several Council Water and Sewer staff were also on site to answer technical questions.

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

#### Addendum 1 (13 December 2011)

- Extension of Tender Closing date from 22 December 2011 to 12 January 2012 as several tenderers requested additional time due to expected delays obtaining supplier feedback during the Christmas holidays.

#### Addendum 2 (13 December 2011)

- Minutes of the pre-tender meeting.
- Stilling tubes and floats added to Project Drawings; Revision to analogue inputs on electrical drawings
- Sheet numbers adjusted
- Revised submersible pump Specification
- Clarification that date for Practical Completion is thirty (30) weeks from and including the Date of Acceptance of tender.



### 3.1 CPA/182007 - Upgrade of SPS T22 and Associated Works at Budgewoi (contd)

---

- Delay costs are to be allowed for in Returnable Schedule 14 regarding pricing for possible variations

#### Addendum 3 (15 December 2011)

- Photographs of inside existing T22 pump station valve pit (for information)
- Additional Electrical Returnable Schedules added

#### Addendum 4 (4 January 2012)

- Clarification about valve gearing ratios being 3 to 1
- Clarification about Variable Speed Drives (VSD's) being positioned in accordance with design plan

Tenders closed at Council Chambers at 2:00pm on 12 January 2011.

### **EVALUATION OF TENDERS**

Tenders were evaluated by a panel of three staff members using the following threshold and weighted criteria:

#### Threshold Criteria:

- 1 Compliance with Tender documents, including lodgement of tender by specified time;
- 2 Evidence of corporate systems to effectively manage environmental, quality and safety risk;

#### Weighted Criteria:

- 3 Assessed level of Local Content (refer Local Preference Policy – Procurement);
- 4 Demonstrated ability to successfully design, commission, operate, monitor, and decommission a suitable temporary sewer by-pass system whilst upgrade works are being carried out at SPS T22. This also includes demonstrated ability to adequately respond to any emergencies and/or failures of the temporary by-pass system;
- 5 General overall construction methodology and programme – logic and clarity;
- 6 Tendered price and structure; as well as any other potential costs to Council that may be identified;
- 7 Demonstrated recent successful performance on similar scale and complexity projects;
- 8 Demonstrated experience in similar scale and complexity projects.

The evaluation criteria and their weightings were documented in the Contract Development Plan and approved by the Director Infrastructure Management 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, and external advisors.

### 3.1 CPA/182007 - Upgrade of SPS T22 and Associated Works at Budgewoi (contd)

The evaluation was conducted according to the following process.

- Assessment of receipt of tenders.
- Assessment of conformance of tenders.
- Shortlisting 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 numerical order, from lowest to highest.

Tender No	Tender	Tendered Lump Sum (Ex. GST)	Status
1	Carey Constructions Pty Ltd	\$2,181,769.01	Submitted on time
2	Eire Contractors Pty Ltd	\$2,323,000.00	Submitted on time
3	Kerroc Constructions Pty Ltd	\$2,364,120.00	Submitted on time*
4	Patroy Enterprises Pty Ltd	\$4,092,368.00	Submitted on time*

\* See Assessment of Conformance and Shortlisting below.

#### Assessment of Conformance

Tenders were assessed for conformance with the general tender requirements, including the specification.

Tender No 2 (from Eire Contractors Pty Ltd) conformed to all requirements and was progressed to the next stage of evaluation.

Tender No 1 (from Carey Constructions Pty Ltd) contained a number of inconsistencies. The Tenderer did not submit prices and rates in the Schedule 14 "Schedule of Rates for Variations"; the Tendered lump sum price was not shown on Schedule 1 "Tender Form"; Item 8f in Schedule 12 "Schedule of Prices" was qualified as "Provisional"; and the Tenderer provided generic bypass methodologies and construction programs rather than site specific. The panel sought clarifications from the firm on the abovementioned inconsistencies. The Tenderer confirmed their applicable prices and rates for each of the items left blank in Schedule 14 is zero dollars (\$0), and removed the "Provisional" qualification for Item 8f in Schedule 12. All other inconsistencies were also adequately addressed without impacting the submitted tendered price or substantially altering the tender. Therefore, the panel decided to progress Tender No 1 to the next stage of evaluation.

### 3.1 CPA/182007 - Upgrade of SPS T22 and Associated Works at Budgewoi (contd)

---

Tender No 3 (from Kerroc Constructions Pty Ltd) contained a number of inconsistencies. The Tenderer states that prices and rates submitted in Schedule 14 "Schedule of Rates for Variations" plus items 4h and 12d in Schedule 13 "Schedule of Prices" are "Provisional"; a rate was not submitted for Item P4 in the Schedule 14 "Schedule of Rates for Variations"; an alternative offer was submitted regarding submersible pumps, but Schedule 2 "Compliance and Departures" was not adequately completed; Schedule 4 "Financial and Corporate Information" was not adequately completed; the Tenderer did not submit required dollar values in Schedule 10 "Local Preference policy – Local Content Schedule" and Schedule 11 "Other Anticipated Sub-Contracting Proposals"; various ambiguities were identified in Schedule 15 "Technical Schedules – Mechanical & Electrical". The panel sought clarifications from the firm on the abovementioned inconsistencies. The Tenderer refused to remove the "Provisional" qualification from their submitted prices and rates for Schedule 14 "Schedule of Rates for Variations", hence deeming their tender submission a Non-Conforming Tender. Several of the other inconsistencies were also inadequately addressed. Therefore, Tender No 3 was eliminated from further consideration.

Tender No 4 (from Patroy Enterprises Pty Ltd) contained a number of inconsistencies. Several returnable Schedule items were not adequately completed, and the Tenderer did not submit prices and rates in Schedule 14 "Schedule of Rates for Variations", except for Item P4, therefore deeming it a non-conforming tender. Due to the relatively high tender price and shortlisting process (see below), the panel decided not to seek further clarifications from the firm on the abovementioned inconsistencies, and Tender No 4 was eliminated from further consideration.

#### **Shortlisting**

Tenders were shortlisted against Criterion No 6 "The tendered price and structure". Tender No 4 (from Patroy Enterprises Pty Ltd) tendered a lump sum price 88% higher than the lowest priced tender. In comparison, the price from Tender No 2 was only 6% higher than the lowest priced tender, and Tender No 3 was 8% higher.

The reason for the substantial difference is Tender No 4 (from Patroy Enterprises Pty Ltd) appears to have heavily over estimated on all items, except for the replacement of existing rising main stop valves, when compared to the other three tender submissions.

Regardless of how it rated on non-price criteria the substantial price difference would make it virtually impossible for this tender to rate as the preferred option after a full weighted evaluation. Furthermore, at the rate offered in the tender, Council would need to reconsider the overall viability of the project. The tender was therefore eliminated to allow the panel to concentrate its assessment efforts on the two competitive and conforming tenders.

#### **Weighted Evaluation**

Evaluation scoring was conducted in two stages i.e:

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

**1 - Scoring - Pre-Application of the Local Preference Policy**

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

Tender No.	Tender	Tendered Lump Sum (Ex. GST)	Weighted Evaluation Score (Pre application of Local Preference)
			Most Competitive Offer
2	Eire Contractors Pty Ltd	\$2,323,000.00	75.9
1	Carey Constructions Pty Ltd	\$2,181,769.01	68.5

Tender No 1 (from Carey Constructions Pty Ltd) submitted the lowest tendered lump sum price, however following a thorough tender evaluation and weighting of the non-price criteria, Tender No 2 (from Eire Contractors Pty Ltd) scored the highest weighted evaluation score, and therefore offers the most competitive offer.

Following is an explanation why Tender No 2 scored a higher weighted score:

At the mandatory pre-tender site meeting held on 9 December 2011, prospective tenderers were informed the non-price criteria involving preliminary bypass and emergency response methodologies would be a heavily weighted item in the tender evaluation process. The high weighting on this particular criteria is because of the relatively high operational and environmental risks associated with bypassing the major sewer pumping station T22 whilst upgrade works are carried out. Council’s Water and Sewer Operations staff expressed their desire to be comfortable with the bypassing method and emergency response procedures proposed by the Tenderer, prior to awarding the Contract.

Overall, Tender No 1 and Tender No 2 scored similarly in the non-price criteria in the tender evaluation, except for Criterion No 4 requiring “Demonstrated ability to successfully design, commission, operate, monitor, and decommission a suitable temporary sewer by-pass system whilst upgrade works are being carried out at SPS T22. This also includes demonstrated ability to adequately respond to any emergencies and/or failures of the temporary by-pass system”.

Tenderer No 2 initially submitted a more detailed bypass methodology than Tenderer No 1. However, given that Tenderer No 1 submitted a substantially lower tender price, and both Tenderer’s demonstrated, in principle, ability to carry out the bypass works, the Tender Evaluation Panel agreed to seek further clarification from both Tenderers regarding their respective bypass and emergency response methodologies.

Upon review of responses to the Panel’s clarification requests, Tenderer No 2 convincingly demonstrated superior ability to carry out the required bypass works by submitting a comprehensive 43 page draft Sewer Bypass Management Plan for SPS T22. The draft plan addresses in detail the proposed bypassing method and emergency response procedures. In comparison, Tenderer No 1 submitted a 2 page bypass methodology and sketch plan, which briefly explains the bypassing proposal, and does not address proposed emergency response procedures in any detail.

### 3.1 CPA/182007 - Upgrade of SPS T22 and Associated Works at Budgewoi (contd)

#### 2 – Scoring Post Application of Local Preference Policy

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

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

Policy Criteria	Criteria Applied to Tender Assessment
Category of Contract	Works
Method to Determine Financial Impact Limitations	1.5% above price component of Most Competitive Offer, with a maximum of \$35,000.00
Price Component of Most Competitive Offer	\$2,323,000.00
Financial Impact Limitation To Be Applied to Preferred Offer	\$34,845.00

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

Tender No	Tender	Tendered Lump Sum (Ex. GST)	Weighted Evaluation Score	Value of Assessed Local Content (Ex. GST)	Weighted Evaluation Score
			(Pre-application of Local Preference)		(Post application of Local Preference)
			Most Competitive Offer		Preferred Offer
2	Eire Contractors Pty Ltd	\$2,323,000.00	75.9	\$580,000.00	78.4
1	Carey Constructions Pty Ltd	\$2,181,769.01	68.5	\$476,962.50	70.7

#### Due Diligence

Tender No 2 (from Eire Contractors 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, and independent referees, it is considered that Eire Contractors Pty Ltd possesses all of the technical, financial and managerial resources necessary to satisfactorily complete the works.

Tender No 2 (from Eire Contractors Pty Ltd) is a Wauchope 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 Quality, Occupational Health Safety and Rehabilitation Management and Environmental Management systems.

The amount tendered by Eire Contractors Pty Ltd is within 10% 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, delay costs and damage to Council's reputation. Mitigated through close supervision and prompt directions where required.

### 3.1 CPA/182007 - Upgrade of SPS T22 and Associated Works at Budgewoi (contd)

---

- 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. Contractor is required to prepare a site specific Construction Environmental Management Plan (CEMP) and obtain Council approval of that plan prior to stating works. The Contractor is also required to prepare a suitable Sewer Bypass Management Plan, which includes site specific risk assessments and appropriate emergency response procedures to minimise safety and environmental impacts should any mishaps occur.
- 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.
- Specification does not adequately cover all required work and additional investigations are found to be necessary during the works. Mitigated by preparation of comprehensive Specification and peer review of documentation prior to inviting tenders.
- 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 inviting a lump sum contract.
- Uncertainty regarding condition of various existing pump station components / infrastructure due to inaccessibility during design phase, thus leading to uncertainty regarding necessity to upgrade or replace those potentially expensive items. Mitigated through the tender process by adding a "Schedule of Rates for Variations" where Tenderers submit prices and rates for the listed items. Variation payments, should they be directed, are then paid either at the unit price tendered, or 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.

#### **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 \$230,000.00 (excl GST) representing approximately 10% of the contract sum be approved.

Potential additional project costs associated with items listed in the "Schedule of Rates for Variations" would be adequately covered, should they be required, within the recommended contingency allowance.

### **3.1 CPA/182007 - Upgrade of SPS T22 and Associated Works at Budgewoi (contd)**

---

Therefore, based on previous experience with contracts of this nature and analysis of the risks involved, it is estimated that there is a high probability that the contract budget of \$2,553,000.00 (excl GST), which incorporates the contingency allowance, will not be exceeded.

#### **BUDGET**

Adequate project funds are available to accommodate this Contract in the Water and Sewer 2011/12 Capital Works Budget, and funding is available for carry over into the 2012/13 budget. It is anticipated approximately \$1,000,000 (excluding GST) would be expended during the 2011/12 financial year, and the remainder expended within the 2012/13 financial year.

The funding source is 100% Revenue.

#### **TIME-FRAME**

With a 30 week contract period, the sewer pumping station upgrade works are expected to be completed within the second half of 2012.

#### **APPROVALS**

The following approvals have been obtained that are required to enable the work under the contract to be undertaken:

- Part 5 approval under the Environmental Planning & Assessment Act.

#### **CONCLUSION**

Tender No 2 from Eire Contractors Pty Ltd is the highest scoring tender and meets all of Council's requirements for this contract. On balance, this tender represents the best value-for-money for Council. It is recommended that: the tender be accepted.



Figure 1:



**Location Plan** – Showing SPS T22, T22 Rising Main route and Rising Main Stop Valve Replacement Locations.

**ATTACHMENTS**

Nil.

### **3.2 CPA/200744 - Asphaltic Heavy Patching Works - T145 Tender Evaluation Report**

---

TRIM REFERENCE: CPA/200744 - D02864179

MANAGER: Andrew Pearce; Manager, Roads and Stormwater

AUTHOR: Sue Ralph; Tech Officer Contracts Administrator

#### **SUMMARY**

Evaluation and selection of tenders for Contract No. CPA/200744 - Asphaltic Heavy Patching Works.

#### **RECOMMENDATION**

- 1 That Council accept the tender from The Asphalt Man as the 1<sup>st</sup> ranked supplier for an initial period of 2 years for Contract CPA/200744 – Asphaltic Heavy Patching. The estimated annual expenditure against this contract is \$828,890.98 (excl GST), however actual expenditure may vary significantly with fluctuations in demand.**
- 2 That Council accept the tender from Fulton Hogan Industries Ltd as the 2nd ranked supplier for an initial period of 2 years for Contract CPA/200744 – Asphaltic Heavy Patching.**
- 3 That Council authorise the General Manager to offer The Asphalt Man and or Fulton Hogan Industries Ltd a 1 year extension to the contract period in the approximate schedule of rates amount of \$828,890.98 (excl GST) subject to ongoing satisfactory performance.**

#### **BACKGROUND**

The contract contains a number of requirements to provide a full range of services for the supply, delivery and laying of a variety of asphaltic concrete products. These services are utilised to complete Councils ongoing pavement maintenance and rehabilitation programs in addition to contract works for NSW Roads and Maritime.

Asphaltic Concrete heavy patching works are carried out when “hot mixed “surfaced roads require remediation caused by localised failures in the pavement. This work returns the pavement back to serviceability with out the need for full reconstruction of the entire road.

This contract is for a period of 2 years with a one year extension option, subject to the ongoing satisfactory performance by all contractors.

### 3.2 CPA/200744 - Asphaltic Heavy Patching Works - T145 Tender Evaluation Report (contd)

---

Although it is possible for Council to recommend a single service provider it is unlikely that a single contractor can meet all of Roads and Drainage construction and maintenance work activities consistently over a 3 year period. Consequently, a back up contractor has been recommended in the event the first ranked supplier does not have the capacity to meet Council's work schedules or provides poor performance.

The Conditions of Tenderising allowed Council to accept one or more tenderers and to rank tenderers in accordance with a value-for-money tender assessment. This right has been enacted in the context of this recommendation.



#### Tender Process

Tenders were invited by way of public invitation. Advertisements were placed in the Sydney Morning Herald on 30 August 2011 and the Central Coast Express Advocate on 31 August 2011. Tenders were also advertised on Council's e-Tender website. The advertised closing date was 22 September 2011.

The invitation documents called for schedule of rate tenders, based on a detailed specification. However, to allow Council to consider cost saving alternatives to the materials component of the works, tenderers were asked to consider and propose innovative approaches to this component.

A compulsory pre-tender meeting was held 2 Hely St Wyong on 7 September 2011 to allow tenderers to become familiar with site conditions.

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

- 1 Minutes of the pre-tender meeting (9 September 2011).
- 2 Alterations to the specification to clarify expectations of the tender evaluation (9 September 2011).

Tenders closed at Council Chambers at 2:00PM on 22 September 2011.

### 3.2 CPA/200744 - Asphaltic Heavy Patching Works - T145 Tender Evaluation Report (contd)

---

#### EVALUATION OF TENDERS

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

Threshold Criteria:

- 1 Compliance with the requirements of the tender documents.
- 2 Ability to manage financial, environmental, operational and safety risk.

Weighted Criteria:

- 3 Assessed level of Local Content (MANDATORY)
- 4 Experience
- 5 Price.
- 6 Sustainability and recycling in the manufacturing process

The evaluation criteria and their weightings were documented in the Contract development Plan and approved by the Director Infrastructure Management 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 and external advisors.

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 order of value.

Tender No	Tender	Tendered Lump Sum (Ex. GST)	Status
1	The Asphalt Man Pty Ltd	\$1,578,839.20	Submitted on time
2	Ozpave (Aust) Pty Ltd	\$1,631,855.20	Submitted on time
3	Tropic Asphalts Pty Ltd	\$1,801,992.50	Submitted on time
4	Fulton Hogan Industries Pty Ltd	\$1,990,717.95	Submitted on time
5	Asphalt Laying Services Pty Ltd	\$2,073,450.00	Submitted on time
6	Sharpe Bros (Aust) Pty Ltd	\$2,259,206.02	Submitted on time
7	Accurate Asphalt Pty Ltd	\$2,820,180.00	Submitted on time

### 3.2 CPA/200744 - Asphaltic Heavy Patching Works - T145 Tender Evaluation Report (contd)

---

#### Assessment of Conformance

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

#### Weighted Evaluation

Evaluation scoring was conducted in two stages i.e:

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

#### 1 - Scoring - Pre-Application of the Local Preference Policy

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

Tender No.	Tender	Tendered Lump Sum (Ex. GST)	Weighted Evaluation Score (Pre application of Local Preference)
			Most Competitive Offer
1	The Asphalt Man	\$1,578,839.00	80
4	Fulton Hogan Industries Ltd	\$1,990,718.00	67
2	Ozpave (Aust) Pty Ltd	\$1,631,855.00	57.3
3	Tropic Asphalts Pty Ltd	\$1,801,993.00	54.9
5	Asphalt Laying Services Pty Ltd	\$2,073,450.00	52.3
6	Sharpe Bros	\$2,259,206.00	37.5
7	Accurate Asphalt Pty Ltd	\$2,820,180.00	28.7

All Tenderers met the evaluation criteria and have proven ability to undertake the work as required. Tenderer No 1 from The Asphalt Man and Tenderer No 4 from Fulton Hogan Industries Ltd are local companies with depots situated within Wyong Shire.

This contract has an allowance for a panel of contractors to be appointed by Council. In the event that the preferred contractor is unable to complete works in a timely manner the second ranked tenderer will be called upon to undertake works as required.

### 3.2 CPA/200744 - Asphaltic Heavy Patching Works - T145 Tender Evaluation Report (contd)

#### 2 – Scoring Post Application of Local Preference Policy

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

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

Policy Criteria	Criteria Applied to Tender Assessment
Category of Contract	Works
Method to Determine Financial Impact Limitations	1.5% above the price component of the most competitive offer, up to a maximum of \$35,000
Price Component of Most Competitive Offer	\$1,578,839.20
Financial Impact Limitation To Be Applied to Preferred Offer	\$23,682.88

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

Tender No	Tender	Tendered Lump Sum (Ex. GST)	Weighted Evaluation Score	Value of Assessed Local Content (Ex. GST)	Weighted Evaluation Score
			(Pre-application of Local Preference)		(Post application of Local Preference)
			Most Competitive Offer		Preferred Offer
1	The Asphalt Man	\$1,578,839.00	80	\$23,682.88	80.2
4	Fulton Hogan Industries Ltd	\$1,990,718.00	67	\$21,314.59	67.1
2	Ozpave Pty Ltd	\$1,631,855.00	57.3	\$17,762.16	57.4
3	Tropic Asphalts Pty Ltd	\$1,801,933.00	54.9	\$ NIL	54.9
5	Asphalt Laying Services	\$2,073,450.00	52.3	\$ NIL	52.3
6	Sharpe Bros	\$2,259,206.00	37.5	\$23,682.88	37.6
7	Accurate Asphalt Pty Ltd	\$2,820,180.00	28.7	\$ 3,552.43	28.7

Following assessment of Local Content, there was no change to the order of ranking for tenders i.e. the most Competitive Offer of Tender no. 1 from The Asphalt Man was assessed as the Preferred Offer and was therefore progressed to the due diligence of evaluation.

### **3.2 CPA/200744 - Asphaltic Heavy Patching Works - T145 Tender Evaluation Report (contd)**

---

The Asphalt Man, Fulton Hogan and Sharpe Bros are local companies, with The Asphalt Man and Sharpe Bros purchasing product from Fulton Hogan. Fulton Hogan maintains an asphalt plant at Doyalson with local staff employed to operate the plant and on the work crews. Ozpave Pty Ltd proposes to purchase asphalt product from Fulton Hogan's Doyalson Plant and Accurate Asphalt Pty Ltd propose to utilise local traffic control companies.

#### **Due Diligence**

Tender No 1 (from The Asphalt Man) 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 The Asphalt Man possesses all of the technical, financial and managerial resources necessary to satisfactorily complete the works.

The Asphalt Man is a Wyong 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 amount tendered by The Asphalt Man is within 10% of Council's pre-tender estimate and is considered to represent a reasonable price for the contract works.

Tender No 4 (from Fulton Hogan Industries 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 Fulton Hogan Industries Pty Ltd possesses all of the technical, financial and managerial resources necessary to satisfactorily complete the works.

Fulton Hogan Industries Pty Ltd is a Doyalson 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 amount tendered by Fulton Hogan is within 15% 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 Manager.

### **3.2 CPA/200744 - Asphaltic Heavy Patching Works - T145 Tender Evaluation Report (contd)**

---

#### **RISK ASSESSMENT**

##### **General**

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

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

##### **Contract Risks**

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

##### **Generic Risks**

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

- 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 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 in the price of materials to be passed on to Council.



### **3.2 CPA/200744 - Asphaltic Heavy Patching Works - T145 Tender Evaluation Report (contd)**

---

- 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.

#### **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 \$78,941.95 (excl GST) representing approximately 5% of the contract sum be approved, to cover potential variations in supply requirements.

Based on previous experience with contracts of this nature and analysis of the risks involved, it is estimated that there is a high probability that the contract budget of \$1,657,781.95 (excl GST), which incorporates the contingency allowance, will not be exceeded.

#### **BUDGET**

Because the contract is of the nature of a standing offer arrangement, purchases will be funded from responsibility centres as transactions are processed, rather than from an allocation made to this contract itself. The estimated value of the arrangement is therefore not a budget figure, but rather it is simply an indication of the overall scope of the arrangement. Although the estimated value of the arrangement is \$1,657,781.95 (\$828,890.98 per annum), the actual value will depend on the quantities ordered as requirements arise over the life of the arrangement. The total amount ordered under this arrangement could therefore vary significantly if demand patterns alter for this product/service.

It is proposed that contract variations required due to additional supply requirements may be approved by the General Manager provided the additional supplies are fully funded.

#### **TIME-FRAME**

This Contract is a fixed price Contract for two years and subject to the option of a 12 month extension based on performance.

#### **APPROVALS**

No approvals are required.

### **3.2 CPA/200744 - Asphaltic Heavy Patching Works - T145 Tender Evaluation Report (contd)**

---

#### **CONCLUSION**

Tender No 1 from The Asphalt Man is the highest scoring tender and meets all of Council's requirements for this contract. On balance, this tender represents the best value-for-money for Council. It is recommended that: the tender be accepted. As this is a panel contract the other tenderers could be called upon to undertake works if Tenderer No 1 The Asphalt Man is unable to complete issued work.

#### **ATTACHMENTS**

*Nil.*

### **3.3 CPA/205366 - Supply and Delivery of Tools and Hardware**

---

TRIM REFERENCE: CPA/205366 - D02922408

MANAGER: David Witherdin, Manager Contract and Project Management

AUTHOR: John McCarthy; Purchasing Coordinator

#### **SUMMARY**

Evaluation and selection of tenders for Contract CPA/205366 – Supply and Delivery Tools and Hardware.

#### **RECOMMENDATION**

- 1** *That Council accept the tender from J Blackwood and Son Limited for the items identified in attachment 1 for a period of up to 3 years for Contract CPA/205366 – Supply and Delivery Tools and Hardware. The estimated annual expenditure against this contract is \$137,205.33 (excl GST), however actual expenditure may vary significantly with fluctuations in demand.*
- 2** *That Council accept the tender from J Blackwood and Son Limited under the State Government contract C500 for the items identified in attachment 1 for Contract CPA/205366 – Supply and Delivery Tools and Hardware. The estimated annual expenditure against this contract is \$35,212.80 (excl GST), however actual expenditure may vary significantly with fluctuations in demand.*
- 3** *That Council accept the tender from Express Industrial Supplies Pty Ltd for the items identified in attachment 1 for a period of up to 3 years for Contract CPA/205366 – Supply and Delivery Tools and Hardware. The estimated annual expenditure against this contract is \$117,098.26 (excl GST), however actual expenditure may vary significantly with fluctuations in demand.*
- 4** *That Council accept the tender from CDA Eastland Trade Supplies Pty Ltd for the items identified in attachment 1 for a period of up to 3 years for Contract CPA/205366 – Supply and Delivery Tools and Hardware. The estimated annual expenditure against this contract is \$89,112.80 (excl GST), however actual expenditure may vary significantly with fluctuations in demand.*
- 5** *That Council approve a \$56,000.00 per annum contingency representing 15% of the contract value to cater for the addition of superior quality hardware items in the event upgrading is required.*

#### **BACKGROUND**

Council utilises many different types of tools and hardware products for various operational maintenance, construction and workshop activities conducted in the main, by field based staff. In total, Council acquires 659 different types of hardware related products on a recurring basis. These products are generally stocked and distributed from Council's stores operations at Charmhaven and Long Jetty.

### **3.3 CPA/205366 - Supply and Delivery of Tools and Hardware (contd)**

---

The Contract offered is for a three year period and tenderers were asked to provide fixed rates on each of a total of 659 line items. Price variations are permissible on an annual basis.

The Conditions of Tender set out Council's options to award the Contract to one or more tenderers and to obtain materials from one or more sources of supply. This right has been enacted in the context of this report.

Suppliers, Express Industrial Supplies Pty Ltd trading as Brisbane Water Industrial Products and J Blackwood and Son Limited have successfully supplied Council's requirements over the last three years under contract CPA/149751. The current contracts expire on 31 January 2011.

#### **Tender Process**

Tenders were invited by way of public invitation. Advertisements were placed in the Sydney Morning Herald on the 13 December 2011 and the Central Coast Express Advocate on the 9 December 2011 and electronically via Council's e-Tenders portal. The advertised closing date was 12 January 2012.

The invitation documents called for a Schedule of Rates tender, based on a detailed specification.

A condition of tendering was for all prospective tenderers to inspect Council's product range to ensure pricing offered conformed with the existing product range.

Tenders closed at Council Chambers at 2.00 pm, on the 12 January 2012.

#### **EVALUATION OF TENDERS**

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

Threshold Criteria:

- 1 Compliance with Tender documents, including lodgement of tender by specified time, quality of products offered and completeness of price schedules
- 2 Limitations imposed by the Tenderer in relation to minimum order quantities
- 3 Previous experience with Council or other similar organisations

Weighted Criteria:

1. Assessed level of Local Content (MANDATORY)
2. Price and payment terms discounts offered
3. Lead time of supplies
4. Tenderer's Quality Control process including where applicable, accreditation to recognised Australian Standards
5. Access to supply point and discount structure offered for non contracted line items procured via procurement cards

### 3.3 CPA/205366 - Supply and Delivery of Tools and Hardware (contd)

The evaluation criteria and their weightings were documented in the Contract Development Plan and approved by the Director Infrastructure Management 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.

#### Assessment of Receipt

The following tenders were received and are listed in numerical order, from lowest to highest.

Tender No	Tender	Estimated Annual Expenditure (Ex GST)	Status
1	J Blackwood and Son Limited offer 1	\$461,890.46	On time
2	J Blackwood and Son Limited offer 2 (State Gov contract pricing C500)	\$485,703.91	On time
3	CDA Eastland Trade Supplies Pty Ltd	\$487,474.00	On time
4	Express Industrial Supplies Pty Ltd	\$504,309.33	On time

\* See Assessment of Conformance below.

All tenders were progressed to an assessment of conformance.

#### Assessment of Conformance

All tenders were assessed for conformance against the tender conditions, including the specification.

Tenderers were requested to price 659 hardware items. CDA Eastland Trade Supplies Pty Ltd could only supply 558 items, both J Blackwood and Son Limited offers could supply 653 items and Express Industrial Supplies Pty Ltd could supply 651 items. In order to obtain an aggregated value across all suppliers the value of the most expensive line item offered was used where a supplier could not supply an item for comparison purposes.

Although all suppliers did not quote on all items it was not deemed a reason to eliminate any supplier. Minor price adjustments were made where suppliers had priced items as "Each" in lieu of the specified unit of measure such as a "Pack of 100". These adjustments were clarified with all suppliers and are reflected in the Assessment of Receipt aggregated value stated above.

All tenderers meet threshold criteria and were progressed through to the weighted evaluation stage of the tender evaluation.

### 3.3 CPA/205366 - Supply and Delivery of Tools and Hardware (contd)

#### Weighted Evaluation

Evaluation scoring was conducted in two stages i.e:

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

#### 1 - Scoring - Pre-Application of the Local Preference Policy

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

Tender No.	Tender	Estimated Annual Expenditure (Ex GST)	Weighted Evaluation Score (Pre application of Local Preference)
			Most Competitive Offer
1	J Blackwood and Son Limited offer 1	\$461,890.46	85
4	Express Industrial Supplies Pty Ltd	\$504,309.33	83
2	J Blackwood and Son Limited offer 2 (State Gov contract pricing C500)	\$485,703.91	81
3	CDA Eastland Trade Supplies Pty Ltd	\$487,474.00	79

#### 2 – Scoring Post Application of Local Preference Policy

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

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

Policy Criteria	Criteria Applied to Tender Assessment
Category of Contract	Goods
Method to Determine Financial Impact Limitations	5% above price component of Most Competitive Offer, with a maximum of \$20,000 applicable to this category of contract
Price Component of Most Competitive Offer	\$ 1,385,671.38 (expenditure over 3 years)
Financial Impact Limitation To Be Applied to Preferred Offer	\$6,928.35

### 3.3 CPA/205366 - Supply and Delivery of Tools and Hardware (contd)

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

Tender No	Tender	Estimated Annual Expenditure (Ex GST)	Weighted Evaluation Score	Value of Assessed Local Content (Ex. GST)	Weighted Evaluation Score
			(Pre-application of Local Preference)		(Post application of Local Preference)
			Most Competitive Offer		Preferred Offer
1	J Blackwood and Son Limited offer 1	\$461,890.46	85	\$461,890.46	95
4	Express Industrial Supplies Pty Ltd	\$504,309.33	83	\$504,309.33	93
2	J Blackwood and Son Limited offer 2 (State Gov Contract C500)	\$485,703.91	81	\$485,703.91	91
3	CDA Eastland Trade Supplies Pty Ltd	\$487,474.00	79	\$487,474.00	89

All suppliers have benefited equally in respect to the Local Preference Policy as they all have business premises located on the Central Coast.

Following assessment of Local Content, there was no change to the order of ranking for tenders.

In order to determine which suppliers were to be put through to the due diligence stage of the tender evaluation the following options were considered.

#### Options

The following 3 options are available to Council in respect to acceptance of tenders with option 3 recommended as the best value option.

#### Option 1

Accept the J Blackwood and Son Limited offer 2 for all items under the state government contract C500 at an estimated per annum cost to Council of \$485,703.91.

### 3.3 CPA/205366 - Supply and Delivery of Tools and Hardware (contd)

---

#### Option 2

Accept the J Blackwood and Son Limited offer 1 for all items under WSC conditions of contract at an estimated per annum cost to Council of \$461,890.46. This represents a \$23,813.45 per annum saving relative to the state government contract.

#### Option 3

Accept all 4 offers and price rank suppliers at line item level.

Analysis of the result has concluded the following:

<b>The supplier who tendered the least cost line item to WSC</b>	<b>Number of items tendered out of 659 representing the least cost to WSC</b>	<b>Aggregated value of the least cost items per annum</b>
CDA East Trade Supplies Pty Ltd	230	\$89,112.80
Express Industrial Supplies Pty Ltd	216	\$117,098.26
J Blackwood and Son Limited offer 1	128	\$137,305.53
J Blackwood and Son Limited offer 2 (State Gov pricing C500)	85	\$35,212.80
<b>Total</b>	<b>659</b>	<b>\$378,729.19</b>

By accepting all four offers and ranking them by price, WSC can obtain a \$106,974.72 per annum saving relative to the state government contract C500 and an \$83,161.27 per annum saving relative to the best value offer received from an individual supplier.

The conditions of tendering allow WSC to accept more than one tenderer. As such, it is recommended that all tenders be accepted for the line items specified in the above table.

#### Due Diligence

Express Industrial Supplies Pty Ltd and J Blackwoods and Son Limited are Council's incumbent contractors. Both have had a long standing history with Council having supplied Council's hardware needs over the last decade. Contact with key warehousing staff has indicated they are fully satisfied with the responsiveness and all round service provided by both suppliers.

CDA Eastland Trade Supplies Pty Ltd is a new supplier to Council and reference checks were conducted with representatives from Daracon Pty Ltd and Thiess Pty Ltd. Both referees indicated they have no concerns with the product range and service provided by CDA Eastland Trade Supplies Pty Ltd.

#### PROCESS REVIEW

This evaluation process and recommendations have been endorsed by the Contract Systems Manager.



## 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 delays and costs. Mitigated through acceptance of more than one supplier.
- 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 Local Government Procurements standards General Conditions of Contract, which include dispute resolution mechanisms.

### **3.3 CPA/205366 - Supply and Delivery of Tools and Hardware (contd)**

---

#### **Specific Risks Leading to Contract Variations**

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

- The main risk associated with this tender is the quality of items tendered by suppliers is inferior to current quality levels resulting in delays at work sites or unnecessary utilisation of materials due to inferior quality e.g. if a grinding disk wears quickly you inevitably use more. This risk is mitigated in part as it was mandatory that all tenderers inspected the current range of hardware items prior to tenders closing. In addition, contract conditions stipulate the quality of items supplied is to be no worse than current levels and Council will have the discretion to approve or reject items based on quality. Where a supplier has offered a hardware item that proves to be unsatisfactory, it will be awarded to the next ranked supplier for that item. The bedding down of this process over the initial weeks of the contract will result in cost variations, consequently a 15% contract contingency is required in order to cater for the correct allocation of items due to adjustments in quality levels as well as to cater for annual contract price reviews.
- Quantities of items estimated under the contract are greater/lesser than pre-award estimates leading to variation claims by the contractor. Mitigated through the contract conditions stating the contract is based on an estimate only and is not a commitment to buy actual quantities.

#### **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 \$56,000.00 (excl GST) per annum representing approximately 15% 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 high probability that the contract budget of \$1,304,187.00 (excl GST), which incorporates the contingency allowance, will not be exceeded.

#### **BUDGET**

The contracts will be offered as a fixed schedule of prices per item. Purchases will be funded from Council cost centres as transactions occur. The estimated value of the contract (based on previous years' usage) is \$1,136,187.57 over three years (\$378,729.19 pa excl GST). Actual value will depend on the quantities ordered as requirements arise over the life of the contract. The total amount may vary significantly from estimates.

#### **TIME-FRAME**

The contract commences 1 February 2012 and runs for a period of three years ending 30 January 2015.

#### **APPROVALS**

The quality of items provided from all tenders may differ from current levels. It is only after materials are in use in the field will the acceptance of quality levels be known.

**CONCLUSION**

The four offers of interest to Council are close in extrapolated value and ranking and all are capable of supplying the majority of Councils needs. All prospective suppliers enable full coverage of Councils product requirements when considered together, whereas on their own, no supplier covers the full range. Pricing varies between the suppliers such that if Council is able to use all suppliers, significant additional savings (22%) are available. It is prudent to award four contracts.

**ATTACHMENTS**

- 1 Hardware items allocated per tenderer D02922420

## Attachment 1

The following table details the least cost items tendered by CDA Eastlands Trade Supplies

Item Number	Description of Item
1646.4	ADHESIVE BOSTIK CONTACT BOND 1 LTR
1615.1	EPOXY INJECTION; CARTRIDGES (BOX OF 2)
4908.9	1/4" P/DRIVE BIT PHILLIPS 49MM
4909	1/4" P/DRIVE BIT PHILLIPS 70MM
4910.8	1/4" P/DRIVE BIT POZIDRIVE 49MM
4912.1	1/4" P/DRIVE BIT POZIDRIVE 70MM
4913.3	1/4" P/DRIVE BIT SLOTTED
2645.7	ABRASIVE CLOTH 25 MM X 50; METRE P240
2232.9	ABRASIVE GARNET PAPER 100; GRIT
5013.2	ABRASIVE GARNET PAPER 120 GRIT
5012	ABRASIVE GARNET PAPER 80 GRIT
2864.7	ABRASIVE PAPER WET/DRY; P1200
2782.3	ADHESIVE MAX BOND.; 310G CARTRIDGE
3829.6	AUGER BIT 10MM X 400MM
3825.9	AUGER BIT HARDWOOD 1/2"
3827.2	AUGER BIT HARDWOOD 3/4"
3823.5	AUGER BIT HARDWOOD 3/8"
3826	AUGER BIT HARDWOOD 5/8"
3824.7	AUGER BIT HARDWOOD 7/16"
3656.7	AXE CHALLENGER 2 KG; WITH HANDLE TROJAN 118-168
3703	BAR FENCING SPUD 1800MM; X 25MM HEX EVRO 3362
2300.1	BAR WRECKING 600MM X 20MM
6553.8	BATTEN SCREW SS304 TYPE17 14G X 100MM; HEX (500)
6555.1	BIT INSERT HEX 5MM X 33MM
5414.3	BIT POWER 1/4 HEX PHILLIPS No2 152MM
5411.8	BIT POWER 1/4 HEX PHILLIPS No2 25MM
5413.1	BIT POWER 1/4 HEX PHILLIPS No2 76MM
6088.1	BLADE FILLING TRADELINE 7402 (SET OF 4)
3349.7	BLADES TRIMMING PKT/5; STANLEY 11-921
2034.8	BOLSTER BRICK 115MM; EVRO 1104
2574.9	BOLT & NUT CUPHEAD GALV; M10 X 120MM
2575	BOLT & NUT CUPHEAD GALV; M10 X 130MM
2577.4	BOLT & NUT CUPHEAD GALV; M10 X 150MM
2578.6	BOLT & NUT CUPHEAD GALV; M10 X 170MM
2579.8	BOLT & NUT CUPHEAD GALV; M10 X 180MM
2581.7	BOLT & NUT CUPHEAD GALV; M10 X 65MM
2582.9	BOLT & NUT CUPHEAD GALV; M10 X 75MM
2583	BOLT & NUT CUPHEAD GALV; M10 X 90MM
2265.5	BOLT & NUT HYDRANT 1/2"; HEAD 16MM X 75MM GALV
155.5	BOLT ONLY HEX HEAD S/STEEL; UNC 1/4" X 1" GDE 316
163.5	BOLT ONLY HEX HEAD S/STEEL; UNC 5/16" X 1" GDE 316
3105	BOX TOOL 533 X 235 X 279MM; HEAVY DUTY
2790.3	BRUSH BRISTLE FITCH 6MM
2260.6	BRUSH PAINT 100MM; HANDYMAN 128100 (ROKSET)
3929.3	BRUSH WIRE 4 ROW STEEL
3121	BUCKET UTILITY 9 LITRE; ROUND
3801.4	CAN OIL 250 ML NO.030

767.6	CEMENT TYPE C LOW HEAT; 20KG BAG
3391	CHEESECLOTH 1 KG ROLL; STOCKINETTE
3219.9	CHEMSET INJECTION NOZZLES; SINGULAR
6645.5	CHISEL WOOD PLAIN EDGE 12MM
858.1	CHISEL WOOD PLAIN EDGE; 25MM
3937.3	CLAMP G 100MM H/DUTY
3939.7	CLAMP G 200MM H/DUTY
3936.1	CLAMP G 75MM H/DUTY
3796.9	CLIPS HOSE SIZE 2 35-53MM
1076.1	CLOTH ABRASIVE 50MM X; 50MTR 100 GRIT
263.2	CLOUTS GALV 30MM X 2.8MM; (500GM)
1057.6	COMPOUND CUTTING 500ML
327.2	CONCRETE MIX 20KG BAG
2672.2	CONTACT BOND BOSTIK 50ML TUBE
360.4	CRACKAJOINT 25MM X 3 METRE; (PACK OF 10) TO25B
4853	DETERGENT DISHWASHING 1LTR
554.2	DISC GRINDING RAISED HUB; 100MM X 6MM X 16MM
581.8	DISC GRINDING RAISED HUB; 115MM X 6MM X 22.2MM
1038	DISINFECTANT GO GETTER 5 LTR
3635.8	DISPENSER ROLL TOWEL 4941
3156	DRILLS H/S/S STRAIGHT; SHANK 1/16"
3157.2	DRILLS H/S/S STRAIGHT; SHANK 1/2"
3158.4	DRILLS H/S/S STRAIGHT; SHANK 1/4"
3159.6	DRILLS H/S/S STRAIGHT; SHANK 1/8"
3161.5	DRILLS H/S/S STRAIGHT; SHANK 11/64"
3162.7	DRILLS H/S/S STRAIGHT; SHANK 13/32"
3163.9	DRILLS H/S/S STRAIGHT; SHANK 13/64"
3164	DRILLS H/S/S STRAIGHT; SHANK 15/32"
3165.2	DRILLS H/S/S STRAIGHT; SHANK 15/64"
3166.4	DRILLS H/S/S STRAIGHT; SHANK 17/64"
3167.6	DRILLS H/S/S STRAIGHT; SHANK 19/64"
3168.8	DRILLS H/S/S STRAIGHT; SHANK 21/64"
3170.7	DRILLS H/S/S STRAIGHT; SHANK 23/64"
3171.9	DRILLS H/S/S STRAIGHT; SHANK 25/64"
3172	DRILLS H/S/S STRAIGHT; SHANK 27/64"
3173.2	DRILLS H/S/S STRAIGHT; SHANK 29/64"
3174.4	DRILLS H/S/S STRAIGHT; SHANK 3/16"
3175.6	DRILLS H/S/S STRAIGHT; SHANK 3/32"
3176.8	DRILLS H/S/S STRAIGHT; SHANK 3/8"
3178.1	DRILLS H/S/S STRAIGHT; SHANK 31/64"
3179.3	DRILLS H/S/S STRAIGHT; SHANK 5/16"
3180	DRILLS H/S/S STRAIGHT; SHANK 5/32"
3181.2	DRILLS H/S/S STRAIGHT; SHANK 5/64"
3182.4	DRILLS H/S/S STRAIGHT; SHANK 7/16"
3183.6	DRILLS H/S/S STRAIGHT; SHANK 7/32"
3184.8	DRILLS H/S/S STRAIGHT; SHANK 7/64"
3187.3	DRILLS H/S/S STRAIGHT; SHANK 9/32"
3188.5	DRILLS H/S/S STRAIGHT; SHANK 9/64"
3393.4	DRILLS H/S/S; STRAIGHT SHANK 11/32"
568.3	DRILLS MASONARY T/CARB TIP; 10MM
664.3	DRILLS MASONARY T/CARB TIP; 16MM
3487.5	DRILLS MASONARY T/CARB; TIP 1/4"
3488.7	DRILLS MASONARY T/CARB; TIP 12MM SINGLE BRICK
3489.9	DRILLS MASONARY T/CARB; TIP 6MM SF

3490.6	DRILLS MASONARY T/CARB; TIP 8MM
569.5	DYNABOLT STAINLESS STEEL; 10MM
1228.1	DYNABOLT STAINLESS STEEL; 8MM
609	EDGER CONCRETE 75MM X; 140MM X 12MM MASTER FINISH 401
3701.7	EDGER KERB & GUTTER 150MM; X 25(R) MASTER FINISH 701
733.8	EXPANSION JOINT 100MM X; 2.4M
735.1	EXPANSION JOINT 150MM X; 2.4M
732.6	EXPANSION JOINT 75MM X; 2.4M
841.5	FILE 1/2 ROUND BASTARD; 250MM
751.1	FILE 1/2 ROUND S/CUT; 200MM
842.7	FILE 1/2 ROUND S/CUT; 250MM
933.2	FILE 1/2 ROUND S/CUT; 300MM
3815.5	FILE BASTARD WARDING 100MM
3816.7	FILE BASTARD WARDING 200MM
3805.1	FILE FLAT BASTARD 200MM; 07073603
3806.3	FILE FLAT BASTARD 250MM; 07073700
3808.7	FILE FLAT SMOOTH 250MM; 07075203
3809.9	FILE FLAT SMOOTH 300MM; 07075300
3817.9	FILE HORSE RASP REG 350
3810.6	FILE ROUND BASTARD 200MM
3811.8	FILE ROUND BASTARD 250MM
625	FILE ROUND SECOND CUT; 150MM
752.3	FILE ROUND SECOND CUT; 200MM
627.4	FILE SECOND CUT WARDING; 150MM
535.7	FILE SLIM TAPER SMOOTH; 100MM
626.2	FILE SLIM TAPER SMOOTH; 150MM
753.5	FILE SLIM TAPER SMOOTH; 200MM
3813.1	FILE SQUARE BASTARD 200MM
3814.3	FILE SQUARE BASTARD 250MM
3605.7	FINISHING BROOM LIGHT; WEIGHT 900MM FOR USE WITH BULL FLOAT; MASTER FINISH 1574
205.4	FLOAT BULL ALUMINIUM BLADE; & BRACKET 900MM MASTER FINISH 1063.
2610.7	FLOAT STEEL 210MM X 160MM; MASTER FINISH 209
2611.9	FLOAT WOODEN 300MM X 115MM; MASTER FINISH 801
2612	FLOAT WOODEN 450MM X 115MM; MASTER FINISH 803
3749.6	FLUX PASTE COPPER & BRASS 113GM;
5432.7	FOAM POLYURETHANE AEROSOL 525GM SISTA
1872.2	FORK GARDEN H/DUTY GALV; DEE HANDLE
5407.5	FRAM NAIL 75MMX3.06 (3000/BOX+3GASCELL)
3431.6	GALMET ROAC (RED) PAINT; SUPER PRIME.4 LITRE TIN (NO SUBSTITUTE)
5537.3	GOGGLES SAFETY UVEX ULTRASONIC 9302-345.; AS1337
6074	GUN APPLICATOR RAMSET UNIVERSAL
3338.1	GUN HAND RIVITER CHERRY; SR1
2930.6	HAMMER ENGINEERS BALL; PEIN 450 G TROJAN 136-616
2931.8	HAMMER ENGINEERS BALL; PEIN 900 G TROJAN 136-632
685.2	HAMMER SLEDGE; 1800 G TROJAN 130-192
1015.8	HAMMER SLEDGE; 4500 G TROJAN 130-222
2114.8	HANDLE ADJUSTABLE FOR BULL; FLOAT 3000MM TO 5100MM MASTER; FINISH 1066;
2294.4	HANDLE CLUB 260MM; HELY 1052
3819.2	HANDLE FILE 100MM
3821.1	HANDLE FILE 150MM
5154.6	HANDLE TELESCOPIC SUIT ROLLER 0.6 - 1.2M
5008.8	HANDLE TELESCOPIC SUIT ROLLER 1.2 - 2.4
2102	HINGE BUTT BRASS 63MM; FIXED PIN

6533	HOE SWAN NECK 150MM
6701	HOLDER HARD HAT CAP GRIP ORANGE
475.4	HOOP IRON GALV 38MM X; 1.2MM X 50 MTR 86325
5307.8	HOSE REEL AIR
5306.6	HOSE REEL OXY/ACETYLENE
438.5	HYDROSEAL BITUMEN HEAVY BLACK PABCO 4LITRE (NO SUBSTITUTE)
6422.8	JERRY CAN PLASTIC 20LTR
1600.9	JERRY CAN, PLASTIC, 10 LTR; CAPACITY. MUST COMPLY WITH AS.2906. WEDCO OR SIMILAR BRAND
5143	JUG MEASURING 1LTR LONG SPOUT GRADUATED
2999.4	KEYS ALLEN METRIC UNBRAKO; POUCH (SET OF 10)
532.1	KNIFE TRIMMING STANLEY; 10-097
1340.1	LADDER EXTENSION ALUMINIUM 10' TO 16.4'; HILLS
2382.4	LEVEL LINE; IRWIN 125-50
1461.8	LIME HYDRATED 25 KG BAG
3883.7	LOXINS 3/8"
5550.8	MALLET RUBBER 90MM 900GM
3541.7	MATTOCK HEAD ONLY
6096.1	NAILS JOLT HEAD 75MM X 3.75MM (500GM)
6102.9	NAILS ROOFING GAL 60MM X 3.75MM (500GM)
2112.4	NOZZLE FOR GREASE GUN FLEXIBLE RYCO R4101
6187.7	NUTSETTER MAGNETIC 1/4 41364
6189	NUTSETTER MAGNETIC 3/8 41374
6188.9	NUTSETTER MAGNETIC 5/16 41369
3800.2	PENCIL CARPENTERS MEDIUM
3201	PLIERS LONG NOSE 150MM
3778.5	PUNCH CENTRE 125MM
3779.7	PUNCH CENTRE 150MM X 10MM
1187.4	RIVETS POP 1/4" 26AS5810S; 73AS 8-10 (BOX/250)
289	RIVETS POP 4.8MM X 31.50MM; (BOX/250)
5007.6	ROLLER PAINT FRAME 270MM OLDFIELDS
1349.8	RUBBER MOULD FOR CASTING; ANCHOR EYES PROD; 1RFR0
5529.3	RUST PAINT GALMET AERO 350GR BLACK GLOSS; (NO SUBSTITUTE)
5370	RUST PAINT GALMET AERO 350GR SILVER; (NO SUBSTITUTE)
2394.1	SAW BOW 760MM WITH BLADE; JACK 4/220-760
2055.7	SCREED ALUMINIUM 1200MM; F12
3955.7	SCREED ALUMINIUM 2100MM
854.4	SCREWDRIVER TANG-THRU; 250MM STANLEY 65-572
2153	SCREWS COACH 2 1/2" X 3/8"; GALV
2154.2	SCREWS COACH 3" X 3/8"; GALV
2156.6	SCREWS COACH 4" X 3/8"; GALV
2150.5	SCREWS COACH 40MM X 8MM; GALV
2149.8	SCREWS COACH 50MM X 10MM; GALV
2151.7	SCREWS COACH 50MM X 8MM; GALV
2152.9	SCREWS COACH 65MM X 8MM; GALV
4566.8	SEALANT AUTO SIKAFLEX 221 310ML GREY
1017.1	SEALANT NO MORE GAPS; 450G CARTRIDGE
6076.4	SECATEUR 200MM SOFTGRIP
5394.5	SHARPENER PENCIL CARPENTERS
2722.1	SHOVEL POSTHOLE SQUARE; MOUTH SPLITTERS CYCLONE
3382.9	SHOVEL SQUARE MOUTH ALL; STEEL
1873.4	SHOVEL SQUARE MOUTH GALV; DEE HANDLE
2258.7	SHOVEL TRENCHING LONG HANDLE
1713.5	SOLDER SILVER FLUX BLUE; COATED AG45 1.5MM (STICKS) AGR + (NO; SUBSTITUTE);

1871	SPADE GARDEN H/DUTY GALV; DEE HANDLE CYCLONE
5130.1	SUNSCREEN C/WITH INSECT REPELLANT SPF30+; 125ML
3832.7	TAPS WHIT 1/4" (1 SET)
3834	TAPS WHIT 3/8" (1 SET)
3830.3	TAPS WHIT 5/32" (1 SET)
5254.3	TIP CONTACT 0.9MM TWECO #4
3678.8	TROWEL POINTED STEEL 500MM; X 115MM MASTER FININSH 193A
993.4	TROWEL POINTED STEEL FLOAT; 405MM X 115MM MASTER FINISH 191A
3952.1	TROWEL POINTING 180MM
592.3	TROWEL SQUARE 280MM X; 120MM MASTER FINISH 102A
2608.8	TROWEL STEEL 115MM X 405MM; MASTER FINISH 181A
3677.6	VEE JOINTER CONCRETE 75MM; X 10MM MASTER FINISH 301
3874.5	WASHER GALV 1"
1071.2	WASHER GALVANISED 16MM X; 50MM X 5MM THICK
6128.7	WASHER SQUARE M16X50X50X5 GAL
916	WASHER STAINLESS STEEL; 3/4" GRADE 316
921.5	WASHER STAINLESS STEEL; 3/8" GRADE 316
1046	WASHER STAINLESS STEEL; 5/16" GRADE 316
1180.1	WASHER STAINLESS STEEL; 7/8" GRADE 316
5582.2	WHEEL FLAP MOUNTED 40X20 P 80 6MM SHANK
5533.6	WHEEL TO SUIT BARROW O/PN1610
1523.4	WHEELBARROW MASTER; BUILDERS S POLY TRAY 16 X 6.5 X+ PN; WHEEL
2118.5	WRENCH 300MM ADJUSTABLE; FOOTPRINT



The following table details the least cost items tendered by J Blackwoods and Sons

Item Number	Description of Item
534.5	BARRIER CREAM SUPREGA 250 ML FLIP TOP; CONTAINER
3851.2	350MM MEDIUM BROOM;
1055.2	ALL PURPOSE SPRAY BOTTLE; 500 ML
991	ANTI SEIZE ROCOL NICKLE; 400G AEROSOL (NO SUBSTITUTE)
3152.3	ARALDITE 200ML 5 MINUTE; SELLEYS (NO SUBSTITUTE)
361.6	BAG NAIL LEATHER
3153.5	BLEACH LIQUID CONCENTRATE 5LTR; SEPTONE 4% NO SUBSTITUTE
3104.9	BOX TOOL 406 X 140 X 127MM; HANDYMAN
1798.3	BROOM MILLET 5 TIE; COMPLETE WITH HANDLE
2830.9	BRUSH BANNISTER VINYL OATES
2829.1	BRUSH MARINE SCRUB NYLON; OATES 12402
853.2	BRUSH SCRUBBING 10"; 250MM NYLON
119.8	BURNER SINGLE PRIMUS 2077-75
4571.2	BUTANE GAS REFILL 200GM BR200 WELLER
2998.2	CAP TRIANGULAR TO SUIT STAR POST; WHITE WIRES 12 322.
1460.6	CEMENT STANDARD 20KG BAG; BLUE CIRCLE SOUTHERN (NO SUBSTITUTE)
2306.2	CHALK ENGINEERS 44 STICKS EC101075
628.6	CHISEL COLD ENGINEERS FLAT; 150MM
754.7	CHISEL COLD ENGINEERS FLAT; 200MM
3938.5	CLAMP G 150MM H/DUTY
3794.5	CLIPS HOSE SIZE 0 16-27
3793.3	CLIPS HOSE SIZE 00 13-20
3792.1	CLIPS HOSE SIZE 000 9-12
3795.7	CLIPS HOSE SIZE 1 22-38
3797	CLIPS HOSE SIZE 3 52-70
3798.2	CLIPS HOSE SIZE 4 65-90
3799.4	CLIPS HOSE SIZE 5 89-105
6179.7	CLIPS R FIXIT KIT CA1745 1/8 - 1"
1039.2	CONTAINER NATURAL PLASTIC; 5 LTR, WITH LID
2977.3	CONTAINER ROUND NATURAL PLASTIC 1 LTR; C/W SCREW LID
1511.7	COUPLING MALE 1 1/2"; BSP QUELL GUNMETAL
2175.1	CUTTER TUBE RIDGID 151 6-42MM OD
3942.8	CYLINDER PRIMUS 2KG PRI2012C EXT VALVE
5057.4	DEGREASER 5LTR DEGREASE IT
2097.5	DUST PAN METAL ENAMEL; FINISH
598.4	DYNABOLT 12MM X 70MM STAINLESS STEEL
2856.7	EXTRACTOR SCREW SET; P&N 15A
1400.4	FIRECLAY 25KG BAG
747.9	FLUX SILVER BRAZING NO 2; 200G (NO SUBSTITUTE)
3853.6	GARBAGE BIN PLASTIC 73 LTR
3640.2	GASKET MATERIAL 0.5 MM JOINTING; 1000MM X 1500MM
6318.8	GLEN 20 300G
6075.2	GLUE LOCTITE CONTROL GEL 3G
1019.5	GREASE SAPPHIRE CARTRIDGE AQUA 450 GR; ROCOL (NO SUBSTITUTE)
3576.7	GUN GREASE ALEMITE; V15060
6421.6	HAMMER COPPER & RAWHIDE NoA/208 25MM
2067.4	HAND CLEANER 31909 LOCTITE; FAST ORANGE 4 LTR(NO SUBSTITUTE)

1149.3	HANDLE HAMMER SLEDGE; 600MM HELY 1044
2291.9	HANDLE HATCHET 400MM; HELY 1022
2296.8	HANDLE MATTOCK 900MM; HELY 1130
605.3	HANDLE RAKE / BROOM; 1370MM X 25MM OATES 11514
2982.8	HASP & STAPLE ZINC PLATED 90MM
2554.1	HINGE BUTT STEEL 100MM; LOOSE PIN
949.7	HINGE NARROW BUTT S/STEEL; 304 F/PIN 100MM
2555.3	HINGE STAINLESS STEEL 85MM; LOOSE PIN
2100.7	HINGES BUTT STEEL 100MM; FIXED PIN
2101.9	HINGES BUTT STEEL 85MM; FIXED PIN
1996.4	HOLDER TOILET ROLL WHITE; EPOXY DUALINE; COMBINED PACKAGING, 7/8136
2804.5	HOSE CONNECTOR 19MM; NYLEX G916
1395.9	HOSE FIRE 38MM X 30MT MK5; ASTRON (MUST BE GENUINE QUELL)
214.6	HOSE FIRE 62MM X 30MT; ( QUELL SELECTOR BRAND )
1073.6	HOSE LAYFLAT DELIVERY; 50MM.100MTR ROLL
2145	HOSE TAP NUT 18MM NYLEX; G902
3298.6	INSECT REPELLANT TROPICAL STRENGTH; AEROSOL CAN 150 GRAM
5419.2	INSECT REPELLENT AEROSOL BUSHMAN 130G
3858.5	JUG ALPINE 5 LTR C/W TAP
2179.9	KEROSENE HOUSEHOLD (4LTR); GLENDALE
946.1	KEY STEEL; 300MM X 1/4"
948.5	KEY STEEL; 300MM X 3/8"
585.5	LADDER EXTENSION ALUMINIUM; 12' TO 22'
687.6	LADDER STEP ALUMINIUM 1800MM HILLS
329.6	LANKO 311 5 LTR; (NO SUBSTITUTE)
6186.5	LANOX 5LTR MX-4; (NO SUBSTITUTE)
5371.2	LANOX AEROSOL 300GR MX-4; (NO SUBSTITUTE)
221.4	LINES BRICKLAYERS NO.8 LIME; (100 MTR)
333.9	LOCTITE 242 250ML; (NO SUBSTITUTE)
262	METHYLATED SPIRITS; (5LTR BOTTLE) GLENDALE(NO SUBTITUTE)
2177.5	MINERAL TURPS 4LTR BOTTLE; GLENDALE (NO SUBSTITUTE)
3004.1	MOP HEAD COTTON NO.24 450; PREMIUM OATES MH-C024BW
2832.2	MOP SPONGE SQUEEZE REFILL MUST BE OATES; 2 HOLE ONLY
1795.8	MOP SPONGE SQUEEZE; COMPLETE OATES MS001BW
3198.9	MULTIGRIPS 375MM; SIDCHROME 28108
6100.5	NAILS FLAT HEAD GAL 150MM X 5.6 (500GM)
331.5	NIGHTLATCH LOCKWOOD 100; (NO SUBSTITUTE)
5319.5	NOZZLE ADJUSTABLE NYLEX
766.4	OIL SORBENT BOOM 3MTR X; 20CM 3M T270 (NO SUBSTITUTE)
3845.6	PADBOLT 100MM ZINC PLATED
5542.8	PADLOCK MASTER 40MM 3LFD
5545.3	PADLOCK MASTER 51MM 5LF
659.9	POST FENCE STAR TYPE; 1650MM BLACK METAL
1914.1	ROPE, SILVERLINE 12MM; DIA (250 MTR ROLL)
257.6	ROPE, SILVERLINE 6MM PLEASE SUPPLY ON; REEL ( P/347006A ); (125 MTR ROLL)
4105.5	RUBBER INSERTION 1/16"
4108	RUBBER INSERTION 1/4"
4107.9	RUBBER INSERTION 1/8"
3526.9	RULE STEEL 300MM
4521.4	SCREW KIT SELF TAPPING S/STEEL CHAMPION; PAN HEAD
3351.6	SCREWDRIVER PHILLIPS 100MM; STANLEY 65-584
639.1	SCREWDRIVER PHILLIPS; 150MM STANLEY 65-525
3350.4	SCREWDRIVER STUMPY 38MM; STANLEY 65-555

142.6	SCREWS S/STEEL SELF TAPPER; 1" X 8G PHILLIPS HEAD (200/BOX)
1952.2	SILASTIC BLACK TUBE 150GM; DOW CORNING (NO SUBSTITUTE)
1186.2	SILASTIC CLEAR CARTRIDGE; 732 DOW CORNING (NO SUBSTITUTE)
1951	SILASTIC CLEAR TUBE 150GM; DOW CORNING (NO SUBSTITUTE)
2236.6	SILICONE SELLEYS ROOF AND; GUTTER SEALANT (NO SUBSTITUTE) 310; GRAM CARTRIDGE
3859.7	SPONGE CLOTH BLUE 28CM X 2.5MTR WETTEX; (NO SUBSTITUTE)
2831	SQUEEGEE 450MM
1056.4	STEEL WOOL MEDIUM GRADE 1; 500GM PACK
1463.1	TABLET URINAL 100 GRAM; BLUE DISC 15KG; COMBINED PACKAGING, C15215
3777.3	TAGS PLASTIC KEY WITH RING
1504.9	TAPE FIXING 50MM X 75MT; BROWN SCOTCH GRIP 3715
1257	TAPE OUTERWRAP PVC DENSO; 931 150MM X 30M (NO SUBSTITUTE)
1030.6	TAPE PIPE SEALING; 48MM X 30MT SILVER
6417.3	TAPE WHITE 3M 983-10ES 50MM X 15M
6416.1	TAPE YELLOW 3M DG3-993ES 50MM X 15M
1967.5	TARP H/D 3.7 X 3.7
3945.3	TORCH EVEREADY
665.5	TURNBUCKLE HOOK/EYE GALV; 16MM
3586	VISQUEEN 2 MTR NATURAL; VQ102 150 UM
3549.1	WASHER LOCK DMR GALVANISED; TYPE 5/8"
3879.4	WASHER SPRING SQUARE 5/8"
3785.3	WEDGES AXE
2398.9	WINDOW CLEANER SPRAY; JOHNSONS 500ML WINDEX (NO SUBSTITUTE)
2157.8	WIRE TIE 1.60MM DIA = 16G; GALV (5KG COIL)
137.1	WRENCH ADJ CRESCENT 150MM
3948.9	WRENCH ADJ CRESCENT 300MM
3949	WRENCH ADJ CRESCENT 375MM
3950.8	WRENCH ADJ CRESCENT 450MM; 05534403

The following table details the least cost items tendered by J Blackwoods and Sons und the state contract C500

Item Number	Description of Item
1992.7	ACROW TIES 125MM (LOOPED; END WIRE TIES) GALV
1991.5	ACROW TIES 150MM LOOPED; END WIRE TIES
449	ADAPTOR 2 1/2" FBF X; 1 1/2" BSPM QUELL
2572.5	ADAPTOR 2 1/2" X 1"; M+F QUELL
203	BAR CHAIR PLASTIC CROW 50; & 65MM + BASE BAG/100
204.2	BAR CHAIR PLASTIC CROW 75; & 90MM BAG/100
2316.6	BEARING BLUE 25G TUBE; HOLTS (NO SUBSTITUTE)
3670.3	BIRD WIRE 150MM X 12.5MM; X 0.6MM (50 MTR ROLL)
1487.6	BLADE BUSHMAN 750MM "JACK"; BRAND (NO SUBSTITUTE)
3563.8	BOLT ONLY HEX HEAD S/STEEL; UNC 3/8" X 2" GDE 316
162.3	BOLT ONLY HEX HEAD S/STEEL; UNC 5/16" X 1 1/2" GDE 316
164.7	BOLT ONLY HEX HEAD S/STEEL; UNC 5/16" X 2" GDE 316
703.7	BOLTS & NUTS N/C H/T H/H; 2 1/2" X 1/2"
980.5	BOLTS & NUTS N/C H/T H/H; 4" X 3/8"
721	BOLTS & NUTS SAE H/T H/H; 2" X 1/2"
6180.4	CIRCLIP FIXIT KIT CA1760 INT & EXT
5549	CLIPS WIRE NETTING 16 X 2MM
5060.5	CONCRETE MIX RAPID SET 20KG
3645.1	COUPLER FOR GREASE GUN; WITH BALL CHECK RYCO
1510.5	COUPLING FEMALE 1 1/2"; BSP QUELL
3030.5	COUPLING MALE 2"; QUELL SUIT DELIVERY HOSE
3512.8	COUPLING QUELL 2" FEMALE; TO SUIT DELIVERY HOSE
5032.8	COVER FAB NOOK & CRANNY 110MM OLDFIELDS
2178.7	DISTILLED WATER 5 LTR; GLENDALE (NO SUBSTITUTE)
5106.1	DRILL METRIC JOBBER HS 9.50MM BLUE
1509.8	DRILLS CENTRE 60 DEGREES; BS4
3774.8	EXTRACTOR PACKNG CHEST #3; 04879318
3807.5	FILE FLAT BASTARD 350MM; 07073904
749.2	FILE MILLSAW BASTARD; 200MM
840.3	FILE MILLSAW BASTARD; 250MM
3818	FILE WOOD RASP 350MM
3803.8	FILES CHAIN SAW 3/16"
3802.6	FILES CHAIN SAW 5/32"
3782.8	FUNNEL PLASTIC 100MM
3781.6	FUNNEL PLASTIC 200MM
1611.4	GREASE ALVANIA R3; CARTRIDGE 450GM SHELL (NO; SUBSTITUTE);
6184.1	GROMMETS BLANK FIXIT KIT CA90
2234.2	HANDLE AXE 800MM KRUGER
963.3	HANDLE HAMMER BALL PEIN; 350MM HELY 1034
2293.2	HANDLE HAMMER SLEDGE 900MM; HELY 1046
2295.6	HANDLE HOE 1650MM HELY 1116
3543	HANDLE SHOVEL LONG 1240MM KRUGER
2979.7	HASP & STAPLE ZINC PLATED 115MM
2980.4	HASP & STAPLE ZINC PLATED 150MM
484.6	HESSIAN 14 OZ WT 50 MTR X; 1.83 WIDE
3789	HOSE JOINER NYLEX G931
5569.8	HOSE PRESSURE 25MM TS TMP TRANSLUC PVC
5372.4	INOX AEROSOL 400GR; (NO SUBSTITUTE)

256.4	JACK CHAIN 2.5MM ZINC; (30 MTR ROLL)
2709.7	JOINTING POLY 150; MM X 10MM X 25MTR
396.6	KEYS ALLEN IMPERIAL; (SET OF 10)
5373.6	LOCTITE 567 MASTER PIPE SEALANT; (NO SUBSTITUTE)
5374.8	LOCTITE 577 HIGH PRESSURE PIPE SEALANT; (NO SUBSTITUTE)
6097.3	NAILS CLOUTS GALV 20MM X 2.8MM (500GM)
6098.5	NAILS CLOUTS GALV 40MM X 2.8MM (500GM)
6099.7	NAILS FLAT HEAD GAL 100MM X 4.5 (500GM)
3696.1	NAILS FLAT HEAD GAL 50MM; X 2.8MM (500 G PKT)
6101.7	NAILS FLAT HEAD GAL 75MM X 3.75 (500GM)
913.5	NAILS JOLT HEAD 100MM X; 3.75MM (500 G PKT)
911.1	NAILS JOLT HEAD 50 X; 3.15MM
6094.8	NAILS JOLT HEAD 50MM X 3.15MM (500GM)
912.3	NAILS ROOF PLAIN 60 X; 3.75MM
6181.6	O RINGS FIXIT KIT CA115 IMPERIAL
6182.8	O RINGS FIXIT KIT CA116 METRIC
5544.1	PADLOCK MASTER 45MM 1DLJ
4113.5	PIN LYNCH 1/4 INCH NO. B2
6177.3	PIN LYNCH 4.5 x 32MM
6178.5	PIN LYNCH 5/16 INCH
1407.7	PIN LYNCH 7/16 INCH NO.; B18
5548.9	PLIERS WIRE NETTING CLIP
1064.4	PLUG STAR PLASTIC GREEN; 50MM (50/PKT)
660.6	POST FENCE STAR TYPE; 1650MM WHITE PLASTIC
3838.8	PVC TUBE CLEAR 05.0MM
3842	PVC TUBE CLEAR 10.0MM
3843.2	PVC TUBE CLEAR 12.5MM
6610.5	RULE STEEL 150MM MET/IMP
3200.9	SCREWDRIVER PHILLIPS 45MM; STANLEY
465	SCREWS BRASS CHEESE HEAD; 1" X 3/16" 200/BOX
875.3	STAPLES FENCING; 25MM X 3.15MM (500 G PKT)
6297.8	SUGAR SOAP SELLEYS 750ML
357.3	TAPE DENSO 600 150MM X 10M; (NO SUBSTITUTE)
6064.7	TAPE PAINTERS SCOTCH BLUE 2090 36MM
3107.4	TIE TOOL ACROW
746.7	WASHER BRASS 3/16"; 200/BOX
3048.3	WRENCH STILLSON 300MM OPEN; RECORD GEDORE 225

The following table details the least cost items tendered by Express Industrial Supplies

Item Number	Description of Item
6157.6	ADAPTOR H/SHANK ALU CAMLOCK 33E GP 50MM
5944	ADAPTOR PRIMUS
6085.6	ADAPTOR PRIMUS
2726.9	ALL CLEANER SPRAY MR MUSCLE
6104.2	ALLTHREAD ST/STEEL 316 M10 X 1MTR
6105.4	ALLTHREAD ST/STEEL 316 M12 X 1MTR
1513	ALLTHREAD STAINLESS STEEL; BSW 1/2 " X 3FT GRADE 316
1514.2	ALLTHREAD STAINLESS STEEL; BSW 1/4" X 3 FT GRADE 316
1515.4	ALLTHREAD STAINLESS STEEL; BSW 3/4" X 3 FT GRADE 316
1516.6	ALLTHREAD STAINLESS STEEL; BSW 3/8" X 3FT GRADE 316
1517.8	ALLTHREAD STAINLESS STEEL; BSW 5/16" X 3 FT GRADE 316
1519.1	ALLTHREAD STAINLESS STEEL; BSW 5/8" X 3 FT GRADE 316
1520.9	ALLTHREAD STAINLESS STEEL; BSW 7/8" X 3 FT GRADE 316
2657.4	ALLTHREAD STAINLESS STEEL; METRIC 16MM X 1 MTR GRADE 316
3558.3	ALLTHREAD STAINLESS STEEL; UNC 1/2" X 3FT GRADE 316
461.3	ARALDITE SUPER STRENGTH; 1 LTR SELLEYS (NO SUBSTITUTE)
3082.7	AUGER EYED 14MM; RING PATTERN
3083.9	AUGER EYED 19MM; RING PATTERN
6583.9	BATTEN SCREW SS304 TYPE17 14G X 150MM; HEX (500)
5512.7	BATTERY 1.5V PX76A675AB (00519537)
941.2	BLADE HACKSAW 18TPI X; 300MM HIGH SPEED
942.4	BLADE HACKSAW 24TPI X; 300MM HIGH SPEED
943.6	BLADE HACKSAW 32TPI X; 300MM HIGH SPEED
2573.7	BOLT & NUT CUPHEAD GALV; M10 X 100MM
728.3	BOLT & NUT GUTTER 1/4" X; 2" ZINC PLATED PKT/200
147.5	BOLT ONLY HEX HEAD S/STEEL; BSW 3/4" X 3 1/2" GDE 316
2658.6	BOLT ONLY HEX HEAD S/STEEL; METRIC 16MM X 65MM GRADE 316
2659.8	BOLT ONLY HEX HEAD S/STEEL; METRIC 16MM X 75MM GRADE 316
3555.8	BOLT ONLY HEX HEAD S/STEEL; UNC 1/2" X 2" GDE 316
3557.1	BOLT ONLY HEX HEAD S/STEEL; UNC 1/2" X 3" GDE 316
158	BOLT ONLY HEX HEAD S/STEEL; UNC 3/8" X 1 1/2" GDE 316
159.2	BOLT ONLY HEX HEAD S/STEEL; UNC 3/8" X 1" GDE 316
161.1	BOLT ONLY HEX HEAD S/STEEL; UNC 3/8" X 3/4" GDE 316
3850	BROOM ROAD POLY/WIRE 14"
391.7	BRUSH PAINT 12MM; (OLDFIELD,CRAFTMENS)
3534.9	BRUSH PAINT 25MM; TRADE SPECIAL 2381
2319.1	BRUSH PAINT 50MM; HOUSEPAINTER 2383
2261.8	BRUSH PAINT 75MM; HANDYMAN 12875
3852.4	BRUSH TOILET OATES LUSTER; J BLACKWOOD
690.7	BUCKET MOP PLASTIC YELLOW; 19 LTR OATES 1W003
702.5	COUPLING BRASS FEMALE; 2 1/2" ( QUELL BRAND ); 100309
3857.3	CAN WATERING 9 LTR PLASTIC
330.3	CEMENT ACCELERATOR LANKO 302; (NO SUBSTITUTE)
2987.7	CORD VENETIAN BLIND NO.15; POLYESTER (500 MTR) BDP 15 500 F
6156.4	COUPLER H/SHANK ALU CAMLOCK 33C GP 50MM
2565.7	CRC 5.56; LUBRICANT & PENETRANT
112.5	CUTTER BOLT 1070MM RECORD; 942
3933.6	CUTTER BOLT 600MM

111.3	CUTTER BOLT 910MM RECORD; 936
2569.4	DISC CUTTING MASONARY 350M; M X 20MM FLEXOVIT CODE FH3714 NO SUBSTITUTES.
499.9	DISC CUTTING MASONARY 9" X; 1/8" X 7/8"
964.5	DISC CUTTING MASONARY; 350MM X 25MM X 3.8MM "RATING MUST BE; ABOVE 5000 RPM";
5052.5	DISC CUTTING METAL 100 X 1MM
738.7	DISC CUTTING METAL 102MM X; 2.5MM X 16MM
6532.9	DISC CUTTING METAL 115 X 1MM
5053.7	DISC CUTTING METAL 127 X 1MM
3702.9	DISC CUTTING METAL 356MM; X 25.4MM X 3.8MM
580.6	DISC CUTTING METAL; 115MM X 2.5MM X 22.2MM
1230	DISC FIBERLOC CUTTING FH38A; 9" X 7/8"
2643.3	DISC FIBRE NORTON; METALITE F226 178MM P24
3414.4	DISC FLAP FLEXOFIT (NO; SUBSTITUTES) Z40 102 X 16
3413.2	DISC FLAP FLEXOVIT (NO; SUBSTITUTE) Z60 115 X 22
1231.2	DISC GRINDING RAISED HUB; 9" X 7/8"
1449.5	DISC MASONARY 4"
5087.5	DRILL METRIC JOBBER HS 1.00MM BLUE
5088.7	DRILL METRIC JOBBER HS 1.50MM BLUE
5107.3	DRILL METRIC JOBBER HS 10.00MM BLUE
5108.5	DRILL METRIC JOBBER HS 10.50MM BLUE
5109.7	DRILL METRIC JOBBER HS 11.00MM BLUE
5110.4	DRILL METRIC JOBBER HS 11.50MM BLUE
5111.6	DRILL METRIC JOBBER HS 12.00MM BLUE
5112.8	DRILL METRIC JOBBER HS 12.50MM BLUE
5114.1	DRILL METRIC JOBBER HS 13.00MM BLUE
5089.9	DRILL METRIC JOBBER HS 2.00MM BLUE
5090.6	DRILL METRIC JOBBER HS 2.50MM BLUE
5091.8	DRILL METRIC JOBBER HS 3.00MM BLUE
5093.1	DRILL METRIC JOBBER HS 3.50MM BLUE
5094.3	DRILL METRIC JOBBER HS 4.00MM BLUE
5095.5	DRILL METRIC JOBBER HS 4.50MM BLUE
5096.7	DRILL METRIC JOBBER HS 5.00MM BLUE
5097.9	DRILL METRIC JOBBER HS 5.50MM BLUE
5098	DRILL METRIC JOBBER HS 6.00MM BLUE
5099.2	DRILL METRIC JOBBER HS 6.50MM BLUE
5100	DRILL METRIC JOBBER HS 7.00MM BLUE
5101.2	DRILL METRIC JOBBER HS 7.50MM BLUE
5102.4	DRILL METRIC JOBBER HS 8.00MM BLUE
5103.6	DRILL METRIC JOBBER HS 8.50MM BLUE
5104.8	DRILL METRIC JOBBER HS 9.00MM BLUE
3186.1	DRILLS H/S/S STRAIGHT; SHANK 9/16"
1049.6	DRILLS H/S/S TAPER SHANK; 5/8"
1172.1	DYNABOLT STAINLESS STEEL; 6MM
1599	EYE ANCHOR 65MM 1.3 TONNE; CAPACITY PROD; 1EA065
3780.4	FLINT GUN TYPE XLI
286.5	FLINTS REPLACEMENT CIG; (BOX/10) (NO SUBSTITUTE)
5490.5	FLYSPRAY RAID ODOURLESS 450GM
6432.1	FRAM NAIL 50MMX2.87 (3000/BOX+3GASCELL)
6083.2	GLOVES COTTON INTERLOCK LRG GKIN0005
5480.1	GLOVES RIGGERS GRAN PRIX LRG
5479.4	GLOVES RIGGERS GRAN PRIX MED
5489.8	GLOVES RIGGERS GRAN PRIX XL
2539.3	GUN CARTRIDGE SPRING LOADED

3128.3	HACKSAW FRAME 300MM.; SANDVIK MODEL 225S (NO; SUBSTITUTES);
2253.8	HAMMER CLAW 24OZ F/GLS HANDLE 675 G
1007.8	HAMMER COPPER & RAWHIDE
604.1	HAMMER MASONS CLUB MASH; 1350 G TROJAN 130-257
3352.8	HAMMER WELDERS CHIPPING; STEEL
6312.7	HANDLE FILE PFERD FH2/10
6313.9	HANDLE FILE PFERD FH4/10
6314	HANDLE FILE PFERD FH5/10
6315.2	HANDLE FILE PFERD FH5-1/10
6316.4	HANDLE FILE PFERD FH5-1/10
2981.6	HASP & STAPLE ZINC PLATED 180MM
2250.2	HINGE LIFT OFF LEFT; 1109.01
2249.5	HINGE LIFT OFF RIGHT; 1109.02
3195.3	HOLLOW PUNCH SET
1699.8	HOOKS REF NO.9176 DOG; CLIPS SIEPER 50-16
2803.3	HOSE CONNECTOR 12MM; NYLEX G915
512.4	HOSE GARDEN 12MM; 30 MTR ROLL NYLEX COMMANDO
513.6	HOSE GARDEN 19MM; 100 MTR ROLL NYLEX COMMANDO
588	HOSE PRESSURE PVC 12.5MM TRANSLUCENT
5253.1	INSULATOR TWECO NO.4 ADJUST OTW34A
328.4	LANKO 752 1 LTR; (NO SUBSTITUTE)
3341.2	LEVEL SPIRIT 1000MM
3340	LEVEL SPIRIT 1800MM; STANLEY FAT MAX
3342.4	LEVEL SPIRIT 400MM
1609.5	LUMBER CRAYON WHITE; CARSON (NO SUBSTITUTE)
1608.3	LUMBER CRAYON YELLOW; CARSON (NO SUBSTITUTE)
1437.8	MARKER DIA GRAPH GP-X; BLACK
3625.4	MARKER DIA GRAPH GP-X; WHITE
3197.7	MULTIGRIPS 255MM; SIDCHROME 28107
3887.4	NAILS MASONARY 2"
3888.6	NAILS MASONARY 3"
3788.9	NOZZLE CASCADE GUN SG-4200
5251.8	NOZZLE TWECO NO.4 ADJUST OTW24A/62 16MM
527.7	NUTS BRASS 5/32" 281AF; 100/BOX
528.9	NUTS BRASS 3/16" 324AF; 100/BOX
1512.9	NUTS ONLY HEX HEAD S/STEEL; BSW 1/2 " GDE 304
2656.2	NUTS ONLY HEX HEAD S/STEEL; METRIC 16MM GRADE 304
3553.4	NUTS ONLY HEX HEAD S/STEEL; UNC 1/2" GDE 304.
3560.2	NUTS ONLY HEX HEAD S/STEEL; UNC 1/4" GDE 304
3561.4	NUTS ONLY HEX HEAD S/STEEL; UNC 3/4" GDE 304
3562.6	NUTS ONLY HEX HEAD S/STEEL; UNC 3/8" GDE 304.
3565.1	NUTS ONLY HEX HEAD S/STEEL; UNC 5/16" GDE 304
3566.3	NUTS ONLY HEX HEAD S/STEEL; UNC 5/8" GDE 304
166	NUTS ONLY HEX HEAD S/STEEL; UNC 7/8" GDE 304
3144.3	PAD SCOURER 23 X 15CM
3846.8	PADBOLT 150MM ZINC PLATED
1782.9	PAINT PRESSURE PACK GALMET; COLD GALVANIZING 400G (NO SUBSTITUTE);
1305.6	PENETR8 CRC 5501; AEROSOL 400G
657.5	PLIER CUTTING DIAGONAL
3199	PLIERS COMBINATION 200MM; SIDCHROME 28212
1848.2	PLIERS FENCING 250MM
3584.7	PLIERS VICE GRIP 250MM; VISE-GRIP 10CR
4522.6	PLUG MASONARY PVC BLUE 50MM; PACKET OF 50



741.8	PRESSTITE 25MM X 25MM X; 20 MTR (10/BOX) TREMCO (NO; SUBSTITUTE);
3196.5	PUNCH PIN SET
3840.7	PVC TUBE CLEAR 06.0MM; J BLACKWOOD
3841.9	PVC TUBE CLEAR 08.0MM; J BLACKWOOD
3844.4	PVC TUBE CLEAR 20.0MM
3654.3	RAKE GRASS LEAF; WITH HANDLE
1799.5	RAKE SOLID STEEL 14 TEETH; COMPLETE WITH HANDLE
1799.5	RAKE SOLID STEEL 14 TEETH; COMPLETE WITH HANDLE
3194.1	RATCHET 10" 1/2" SQ DRIVE
5398.2	REEL RECOILA ELECTRIC 20MX240V 10A CABLE
5424.7	REEL RECOILA ELECTRIC 20MX240V 15A CABLE
1488.8	RIVETS POP 1/8" (100/BOX)
1490.7	RIVETS POP 3/16"MARSON; BRAND NO SUSTITUTES (50/BOX)
5011.9	ROLLER COVER PAINT 270MM OLDFIELDS
6073.9	ROLLER COVER PAINT LONG NAP 270MM
5031.6	ROLLER NOOK & CRANNY 110MM OLDFIELDS
2395.3	SAW CARPENTER HAND 8PT X; JACK PLUS
4017.5	SCRAPER PAINT 100MM
4016.3	SCRAPER PAINT 50MM
640.9	SCREWDRIVER TANG-THRU; 150MM STANLEY 65-570
762.7	SCREWDRIVER TANG-THRU; 200MM STANLEY 65-596
940	SCREWDRIVER TANG-THRU; 300MM STANLEY 65-573
2155.4	SCREWS COACH M10 X 9; GALV
457	SCREWS S/STEEL SELF TAPPER; 1 1/2" X 8G PAN HEAD (200/BOX)
469.8	SCREWS S/STEEL SELF TAPPER; 1" X 6G PAN HEAD (200/BOX)
471.7	SCREWS S/STEEL SELF TAPPER; 1" X 8G COUNTER SUNK PHILLIPS HEAD; (200/BOX);
917.2	SCREWS S/STEEL SELF TAPPER; 3/4" X 8G COUNTER SUNK PHILLIPS HEAD; (200/BOX);
2176.3	SNIPS TIN STRAIGHT 250MM
332.7	SOLDER 50/50 CONSOLIDATED ALLOYS
1815.6	SOLDER RESIN CORED 16 GGE; CONSOLIDATED ALLOYS (NO SUBSTITUTE)
3132.6	SOLDER SILVER 2.4MM CONSOLIDATED ALLOYS
805.8	SPIKE DECK SQUARE GALV 10MM X 225MM
536.9	SPIKE DECK SQUARE GALV 10MM X 100MM
629.8	SPIKE DECK SQUARE GALV 10MM X 150MM
755.9	SPIKE DECK SQUARE GALV 10MM X 200MM
844	SPIKE DECK SQUARE GALV 10MM X 250MM
5531.2	SPRAYER PRESSURE 10 LTR C/W VITON SEALS
3037.8	TAPE 30 MTR STANLEY
1979.2	TAPE INSULATION PVC; ELECT 20 MTR X 18MM WHITE
5126.9	TAPE MASKING 18MM X 50 MTR; NORTON
2793.9	TAPE MASKING 24MM X 50 MTR; NORTON
3354.1	TAPE MEASURE 8 MTR X 25MM; STEEL "STANLEY" BRAND
5010.7	TRAY PAINT SUIT ROLLER 270MM
3953.3	TROWEL BRICK 325MM
3954.5	TROWEL GAUGING 200MM
1189.8	WASHER GAL SQUARE 3/4; 75 X 75 X 6
3870.8	WASHER GALV 1/2"
3869	WASHER GALV 3/8"
3868.9	WASHER GALV 5/16"

492.6	WASHER STAINLESS STEEL; 1/2" X 1 1/4" X G14 GRADE 316
498.7	WASHER STAINLESS STEEL; 1/4" X 5/8" X G18 GDE 316
1050.3	WASHER STAINLESS STEEL; 5/8" GRADE 316 OD 1 1/4"
3741.1	WEBBING JUTE 50MM X 72; YDS LONG HESSIAN
3786.5	WEDGES HAMMER
5583.4	WHEEL FLAP MOUNTED 30X15 P 60 6MM SHANK
5584.6	WHEEL FLAP MOUNTED 60X30 P 60 6MM SHANK
5034.1	WIPES PHONE ISO
2205.3	WIRE CHAIN 900 X 50 X 2.5; GREEN PVC COATED (15MTR ROLL)
2160.9	WIRE FENCING 3.15MM STD; GALV X 450 MTR
3946.5	WRENCH ADJ CRESCENT 200MM
3947.7	WRENCH ADJ CRESCENT 250MM
2846.3	WRENCH STILLSON 460MM; OPEN RECORD GEDORE 225

### **3.4 CPA/205510 - Wyong River Catchments Flood Study**

---

TRIM REFERENCE: CPA/205510 - D02921902

MANAGER: Robert Fulcher, Manager Asset Management

AUTHOR: Shah Alam; Engineer Hydrology

#### **SUMMARY**

Evaluation and selection of tenders for Contract No. CPA/205510 – Wyong River Flood Study.

#### **RECOMMENDATION**

- 1** *That Council accept tender no. 3 from BMT WBM Pty Ltd in the lump sum amount of \$156,260.00 excluding GST.*
- 2** *That Council approve a contingency amount of \$15,600 excluding GST representing approximately 10% of the contract value, to provide for any unforeseen additional works that may become necessary during the course of the project.*

#### **BACKGROUND**

Wyong River catchment occupies a large area of 440 square kilometres and includes the following sub catchments: Wyong River, Cedar Brush Creek, Jiliby Creek, Deep Creek, Porters Creek, Mardi Creek and Tuggerah Creek. It drains a large proportion of the shire's area to Tuggerah Lakes. The catchment has a history of both mainstream and overland flooding. The catchment experienced major flood events in year 1949, 1964, 1990, 2004 and 2007.

Council has received a state government grant, on a two for one basis, for the year 2011-12 for this flood study.

This contract will see the preparation of a flood study suitable for preparing a floodplain risk management study and plan for this catchment. Council's intention is to complete this project within fifty two (52) weeks after the successful consultant receives the commissioning letter.

#### **Tender Process**

Tenders were invited by way of public invitation and closed at Council Chambers at 2.00 pm, on 19 January 2012.

### 3.4 CPA/205510 - Wyong River Catchments Flood Study (contd)

---

#### EVALUATION OF TENDERS

Tenders were evaluated using the following threshold and weighted criteria by a panel of three staff members:

Robert Fulcher – Manager, Asset Management

Shah Alam – Engineer Hydrology

Michael Cantali – Project Manager, CPM Team 3

The panel benefited in its deliberations from expert technical advice provided by an officer from the Office of Environment and Heritage (the funding body).

#### **Tender Assessment Criteria:**

The following criteria were used:

##### Threshold Criteria

1. The proposed methodology and work activities to meet the study purpose and requirements
2. The consultant's resources and expertise, including capability of the proposed study team and their experience in similar projects.
3. The consultant's ability to complete the Study within the stipulated time frame
4. The consultant's proposed budget, as well as resource allocations and hourly rates.
5. Compliance with Tender documents, including lodgement of tender by specified time.

##### Weighted Criteria

6. Relevant experience (10%)
7. Methodology (20%)
8. Time performance (20%)
9. Price (30%)
10. Conformity with Brief / Specification (10%)

##### Local Content

11. Assessed level of Local Content (refer Local Preference Policy – Procurement)  
**(10% - fixed) this is a MANDATORY weighted criteria**

The evaluation criteria and their weightings were documented in the Contract Development Plan and approved by the Manager Asset Management prior to tenders being invited. The Contract Development Plan is available on TRIM (Document no. D02846286).

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.

### 3.4 CPA/205510 - Wyong River Catchments Flood Study (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.

#### Assessment of Receipt

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

Tender No	Tender	Tendered Lump Sum (Ex. GST)	Status
1	ADW Johnson Pty Ltd - Tuggerah	\$104,230	Submitted on time and then withdrawn
2	Arup Pty Ltd - Sydney	\$119,977	Submitted on time
3	BMT WBM Pty Ltd	\$156,260	Submitted on time
4	Cardno NSW Pty Ltd - Gordon	\$129,260	Submitted on time
5	Catchment Simulation Solutions	\$135,458	Submitted on time
6	GHD Pty Ltd - Tuggerah	\$119,742	Submitted on time
7	Henry & Hymas	\$114,644	Submitted on time
8	Lyll & Associates Consulting Engineers Pty Ltd	\$129,990	Submitted on time
9	SMEC Australia Pty Ltd - Newcastle	\$139,420	Submitted on time
10	WMAwater	\$226,160	Submitted on time
11	Worley Parsons - North Sydney	\$97,490	Submitted on time

\* See Assessment of Conformance below.

#### Late Tenders:

There was no late tender.

#### Assessment of Conformance

Totally conforming:

Tenders were assessed for conformance with the general tender requirements, including the specification. Tender No 3 (from BMT WBM Pty Ltd), Tender No 5 (from Catchment Simulation Solutions), Tender No 6 (from GHD Pty Ltd - Tuggerah), Tender No 7 (from Henry & Hymas), Tender No 8 (from Lyll & Associates Consulting Engineers Pty Ltd), Tender No

### **3.4 CPA/205510 - Wyong River Catchments Flood Study (contd)**

---

10 (from WMAwater) and Tender No 11 (from Worley Parsons - North Sydney) conformed to all requirements and were progressed to the next stage of evaluation.

Substantially conforming:

Tender No 2 (from Arup Pty Ltd - Sydney) proposed lower professional indemnity insurance of \$5,000,000 instead of the project's required insurance amount of \$10,000,000.

Tender No 4 (from Cardno NSW Pty Ltd - Gordon) proposed monthly progress payment instead of Council's preferred method of stage/milestone payment method.

Tender No 9 (from SMEC Australia Pty Ltd - Newcastle) proposed an alternative modelling approach for part of the catchment, which is not favoured by Council.

These tenders were also considered for the next stage of assessment and their departures from the tender/ brief specification were considered in the weighted assessments.

Withdrawn:

Tender No 1 (from ADW Johnson Pty Ltd - Tuggerah) has been withdrawn by the tenderer and that advice was confirmed by an email from the tenderer.

#### **Shortlisting**

Tenders were shortlisted against Weighted Criterion No. 9 – Price (30%).

Tender No 10 (from WMAwater) tendered an amount (\$226,160) that is 131% higher than the lowest priced tender (\$97,490). Regardless of how Tender No 10 rated on non-price criteria, the substantial price difference would make it virtually impossible for this tender to rate as the preferred option after a full weighted evaluation. Furthermore, at the rate offered in the tender, Council would need to reconsider the overall viability of the project from a funding point of view. The tender was therefore eliminated to allow the panel to concentrate its assessment efforts on the nine other tenders.

#### **Weighted Evaluation**

Evaluation scoring was conducted in two stages i.e:

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

### 3.4 CPA/205510 - Wyong River Catchments Flood Study (contd)

#### 1 - Scoring - Pre-Application of the Local Preference Policy

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

Tender No.	Tender	Tendered Lump Sum (Ex. GST)	Weighted Evaluation Score (Pre application of Local Preference)	Most Competitive Offer Rank
3	BMT WBM Pty Ltd	\$156,260.00	69.9	1
5	Catchment Simulation Solutions Pty Ltd	\$135,458.00	67.3	2
6	GHD Pty Ltd - Tuggerah	\$119,742.00	66.2	3
11	Worley Parsons - North Sydney	\$97,490.00	66.0	4
2	Arup Pty Ltd - Sydney	\$119,977.00	65.1	5
7	Henry & Hymas	\$114,644.00	62.7	6
8	Lyall & Associates Consulting Engineers Pty Ltd	\$129,990.00	61.0	7
4	Cardno NSW Pty Ltd - Gordon	\$129,260.00	60.2	8
9	SMEC Australia Pty Ltd - Newcastle	\$139,420.00	57.1	9

**Tender No 11 (from Worley Parsons - North Sydney)** tendered the lowest price of \$97,490 excluding GST. The Tender No 11 allocated lowest time, approximately 577 hours, over a period of 49 weeks for completion of the project. It is unlikely that suitable outcomes of the project can be achieved within the stipulated time. After full weighted evaluation the Tender No 11 ranked 4.

**Tender No 6 (from GHD Pty Ltd - Tuggerah)** tendered an amount of \$119,742 excluding GST. The company has good experience for a range of similar projects. The Project Manager has 15 years of experience in the water industry, including good experience in hydrological and hydraulic modelling for similar projects. The hydrological/hydraulic modeller, who will play vital role in producing quality analysis and results of the project, has less experience. Approximately 517 hours are allocated for modelling, a key item of the project. The Tender No 6 includes local content of an amount of \$3,400.00 excluding GST. Accordingly the Tender No 6 ranked 3.

**Tender No 5 (from Catchment Simulation Solutions)** tendered the fourth highest price of \$135,458 excluding GST. The Project Manager has 10 years of experience in the water industry including extensive experience in hydrological and hydraulic modelling for similar projects but for small catchments. The hydrological/hydraulic modeller has approximately 9 years of experience in related projects.

### **3.4 CPA/205510 - Wyong River Catchments Flood Study (contd)**

---

The Tender No 5 has a good understanding of the scope of work and has a well described methodology to meet all requirements of the brief. Approximately 560 hours have been allocated for hydrological and hydraulic modelling, a key item of the project. The Tender No 5 has offered life time free use of the software that will be used in hydrological modelling. However such software will provide of limited benefit to Council in the future. After full weighted evaluation, the Tender No 5 ranked 2.

**Tender No 3 (from BMT WBM Pty Ltd)** tendered the second highest price of \$156,260 excluding GST. The company has extensive experience in a range of similar projects. The Project Manager has 17 years of experience in water industry including extensive experience in hydrological and hydraulic modelling for similar projects. The hydrological/hydraulic modeller has approximately 8 years of experience in related projects.

The Tender No 3 has a thorough understanding of the scope of work and has a well described methodology to meet all requirements of the brief. The proposed methodology and program are consistent and achievable to meet the required quality output. Approximately 668 hours have been allocated for hydrological and hydraulic modelling, a key item of the project.

In addition, the Tender No 3 has offered the creation and maintenance of a project based webpage for community consultation and for reporting project progression to stakeholders, throughout the project period. The advantage of such a facility would be substantial – stakeholders, including the community would be able to write and upload their responses directly to the webpage and to view the progress of the study. The cost for this attractive and efficient facility was factored into the tender price. This facility will reduce associated costs involved in community consultation that would be otherwise need to be carried out directly by staff anyway. None of the other tenders has offered such facilities within their tendered price. The tender No 3 has also offered a detailed project handover with a half (½) day training session to familiarise Council's staff with the key aspects of the project, including the technical details of the modelling aspects. The cost for such a comprehensive project handover has been factored in the tendered price. None of the other tenders has offered a similar type handover. After full weighted evaluation, the Tender No 3 ranked 1.

The tenders require professional services to develop a flood study. Each tenderer has offered a slightly different proposal to develop the study. Therefore, the tenders do not offer a price to provide exactly the same service to council. The ranking is based on the service offered to council and the associated price.

This ranking of tenders acknowledges that fact the most competitive offer is from the second highest priced tender. It reflects the panel's view that the second highest priced tender does offer the best value for money to council for the services proposed.

### **2 – Scoring Post Application of Local Preference Policy**

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

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



### 3.4 CPA/205510 - Wyong River Catchments Flood Study (contd)

Tender No	Tender	Tendered Lump Sum (Ex. GST)	Weighted Evaluation Score	Value of Assessed Local Content (Ex. GST)	Weighted Evaluation Score
			(Pre-application of Local Preference)		(Post application of Local Preference)
			Most Competitive Offer		Preferred Offer
3	BMT WBM Pty Ltd	\$156,260.00	69.9	nil	69.9
5	Catchment Simulation Solutions	\$135,458.00	67.3	nil	67.3
6	GHD Pty Ltd - Tuggerah	\$119,742.00	66.2	\$3,371.00	66.4
11	Worley Parsons - North Sydney	\$97,490.00	66.0	nil	66.0
2	Arup Pty Ltd - Sydney	\$119,977.00	65.1	nil	65.1
7	Henry & Hymas	\$114,644.00	62.7	nil	62.7
8	Lyall & Associates Consulting Engineers Pty Ltd	\$129,990.00	61.0	nil	61.0
4	Cardno NSW Pty Ltd - Gordon	\$129,260.00	60.2	nil	60.2
9	SMEC Australia Pty Ltd - Newcastle	\$139,420.00	57.1	nil	57.1

Following assessment of Local Content, there was no change to the order of ranking for the preferred tender i.e. the most Competitive Offer of Tender No. 3 from BMT WBM Pty Ltd was assessed as the Preferred Offer and was therefore progressed to the due diligence phase of evaluation.

#### Due Diligence

Tender No. 3 from BMT WBM Pty Ltd was subjected to an in-house safety/environment system assessment and financial and referee checks.

On the basis of the information provided by the tenderer and independent referees (Referee Check Document no D02921504, D02921407 and D02921892), it is considered that Tender No. 3 from BMT WBM Pty Ltd possesses all of the technical and managerial resources necessary to satisfactorily complete the project.

The amount tendered by BMT WBM Pty Ltd is 20% below the Council's pre-tender estimate and is considered to represent a reasonable price for the contract works.

#### **PROCESS REVIEW**

This evaluation process and recommendations has 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.
- 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 is the major risk that Council bears in relation to this contract:

- Changes to regulatory standards requiring additional flood modelling or revision to the existing model. Mitigated through the tender process by requiring specified rates for each work item under a Schedule of Rates arrangement. Variation amount will then calculated be based on the estimated hours required multiplied by the hourly rates presented at the time of tender. Variation will be approved by the Unit manager prior to progress with the additional work.

#### Risk Contingency

The nature of the proposed contract is professional service involving technical study. 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 \$15,600 (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 high probability that the contract budget of \$171,860 (excl GST), which incorporates the contingency allowance, will not be exceeded.

#### BUDGET

Council has been awarded with a total Grants funding of \$260,000 under the 2011/12 Floodplain Risk Management Grants Scheme. The contract will be carried out in accordance with the NSW Floodplain Management Program with a 2:1 funding agreement for State: Local Government respectively.

A formal request will be made to NSW Office of Environment and Heritage (OEH) for approval of **\$114,575** excluding GST to complete this study within its approved grants program. Accordingly, Council will be required to contribute **\$57,285** excluding GST to complete this study. Funding has been allocated for this project in the 2011/2012 Asset Management Unit's annual budget. The contract will be carried out as task 1 under the project number -15416, which has been created for the Wyong River Catchment Flood Study.

#### TIME-FRAME

BMT WBM Pty Ltd indicate that they are capable of completing the contract works within the designated time frame of 46 weeks from the date of engagement.

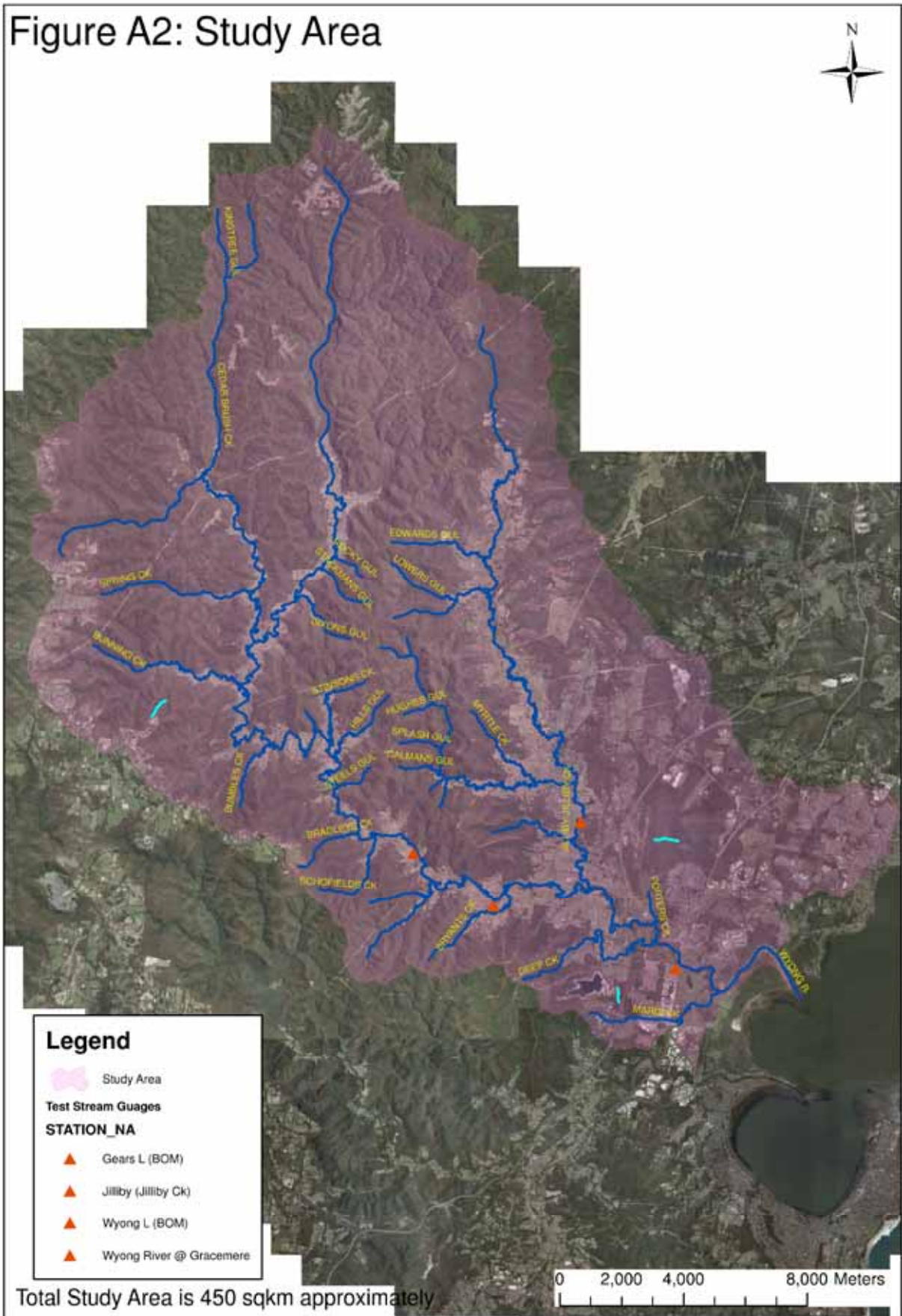
#### CONCLUSION

Tender No 3 (from BMT WBM Pty Ltd) is the highest scoring tender and meets all of Council's requirements for this contract. On balance, this tender represents the best value-for-money for Council.

It is recommended that the tender be accepted.

**ATTACHMENTS**

- |   |   |           |           |
|---|---|-----------|-----------|
| 1 | Figure A2-Study Area  |           | D02865346 |
| 2 | Wyong River Catchment Flood Study Brief_Final   | Enclosure | D02865339 |
| 3 | Wyong River Catchment Flood Study - Submitted Proposal  |           | D02934675 |
| 4 | BMT WBM Proposal for Consultancy Services - Wyong River Catchment Flood Study ( <i>Distributed under seperate cover</i> ) | Enclosure | D02934667 |





BMT WBM Pty Ltd  
126 Belford Street  
BROADMEADOW NSW 2292  
Australia  
PO Box 266  
Broadmeadow NSW 2292

Tel: +61 2 4940 8882  
Fax: +61 2 4940 8887

ABN 54 010 350 421 003

[www.wbml.com.au](http://www.wbml.com.au)

Our Ref: DJL: L.N2273.001.WyongRiver.docx

19 January 2012

The General Manager  
Wyong Shire Council  
PO Box 20  
Wyong, NSW 2259

Attention: Shah Alam

Dear Shah

**RE: Wyong River Catchment Flood Study**

BMT WBM is pleased to submit a proposal to undertake the Wyong River Catchment Flood Study following Wyong Shire Council's invitation. Please find attached copy of our proposal document included in the electronic submission made this day.

We see this as a key flood study project in the region, and being local consultants, have a keen interest in the study development and outcomes. Accordingly, we trust that we have provided a technically sound and competitive proposal for Council's consideration.

We look forward to the opportunity to work with Council on this project. Should you require additional information, please contact the undersigned.

Yours Faithfully

**BMT WBM Pty Ltd**

A handwritten signature in black ink, appearing to read "DL", with a long horizontal flourish extending to the right.

Darren Lyons  
Newcastle Water & Environment Manager

#### **4.1 Charter - Wyong Shire Council Sports Committee**

---

TRIM REFERENCE: F2004/06231 - D02890457

MANAGER: Tara Mills, Manager Sport Leisure Rec

AUTHOR: Tracy Southern; Sport and Recreation Development Manager

#### **SUMMARY**

This report supplies detail of a proposed amendment to the Charter of the Sports Committee.

#### **RECOMMENDATION**

*That Council adopt the proposed Charter of the Sports Committee.*

#### **BACKGROUND**

The Sports Committee have recently reviewed and discussed both the membership and the objectives of the Sports Committee Charter. The purpose was to develop a more relevant and streamlined Charter that is aligned to Council's strategic plans, plus complements and supports other regional sports organisations.

The current Charter was approved in February 2009 following a restructure to include a representative from each of the eight most well attended sports using Wyong Shire Council facilities. These were from Central Coast Football, Central Coast Rugby Union, Central Coast Cricket Association, Wyong District Netball Association Inc., Wyong Athletics and Board of Directors Athletics NSW, Australian Football League (AFL), Northumberland and NSW Tennis Association, and Central Coast Division of Rugby League. There was one position allocated for a representative from a custom-built or commercial recreation facility operating within Wyong Shire. The Charter retained two community representatives. Ex-officios included a representative from Council's Customer and Community Services Unit, NSW Sport and Recreation (Central Coast Office), and Surf Lifesaving Central Coast. There were four Councillors represented on the Sports Committee. The total Sports Committee membership from February 2009 to date was therefore 18 including three ex-officio members.

#### **THE PROPOSAL**

At the meeting held on the 20 October, 2011, the Sports Committee resolved to amend the Charter to better reflect the changing needs of the Shire. The Sports Committee resolved unanimously to support all recommended adaptations to the Sports Committee Charter at the 16 December 2011 meeting.

The proposed Charter (as attached) has a membership of 21 members including six ex-officio members. The changes include the removal of Central Coast Lifesaving membership, at its request (as it is represented on the Beach Liaison Committee) and the addition of four ex-officio representatives from Central Coast Academy of Sport (CCAS), Central Coast Sports Federation (CCSF), Central Coast Tourism (CCT), Wyong Shire Schools (representing primary school, high school, Catholic school and independent school needs) and a second Council representative from Community and Recreation Services. All other membership categories remain unchanged.

The Charter objectives have also been reviewed and streamlined from those presented in 2009. This was undertaken to ensure that the Wyong shire Council Sports Committee and other regional sports organisations, such as CCSF, CCAS and CCT are aligned on their objectives to support the collective needs of sport, through facility provision, programming, services and events. The intention is to ensure that the objectives of each group complement each other with minimal duplication.

Objectives have been streamlined from 13 to six.

Any amendments to a Charter of a Committee of Council require Council resolution. The Sports Committee have debated all issues and are satisfied that the proposal meets the needs of regional and local sports groups, clubs and organisations in Wyong Shire and the strategic requirements of Council.

Adoption of the new Charter will welcome new and relevant representatives to the Committee, giving the Sports Committee additional depth and strength, as well as provide objectives that give the Committee a strategic focus.

## **OPTIONS**

1. That Council adopt the amended Charter of the Sports Committee.
2. That the Charter remains unchanged.

Option 1 is recommended as all changes and improvements have been developed to meet Council's Strategic Plans, to complement and support other regional sports organisations such as the CCSF, and have been unanimously supported by the Sports Committee.

## **STRATEGIC LINKS**

### **Wyong Shire Council Strategic/ Annual Plan**

The WSC Sports Committee supports the key activity of "collaborating with recreation user groups" (*WSC Strategic Plan*, 2011, p.20) under Principal Activity 2 – Community Recreation.

The Committee supports two key critical challenges under Principal Activity 2 – Community Recreation. They are:

- Managing community and Council expectations to ensure that they are in keeping with the staffing and financial ability to provide sport and recreation programs and facilities.
- Liaison with Federal and State governments, other councils and the community on the provision of recreation and sporting facilities and services. (ibid)



<i>Principal Activity</i>	<i>Service</i>	<i>Key Action and Objectives</i>	<i>Funding Source and Description</i>	<i>Impact on Key Performance Indicators/ Service Performance Indicators</i>
2. Community Recreation	Service 2.1, Open Space  And  Service 2.2, Sport, Leisure and Recreation	<p><b>The Sports Committee support the following 1 year Annual Plan actions:</b></p> <ul style="list-style-type: none"> <li>• Develop an approach to increasing sports events to the Shire.</li> <li>• Undertake a sports study to indentify participation rates, emerging sports and facility needs.</li> <li>• Develop, in partnership with others, two workshops to support the development of sporting clubs.</li> <li>• Review sports grants programs and processes.</li> <li>• Review all booking procedures for parks, reserves and ovals.</li> </ul> <p>(Service 2.2, Sport, Leisure and Recreation, p.45).</p>		<ul style="list-style-type: none"> <li>• Community satisfaction for parks, reserves and sports fields is 7.5 (Service 2.1, Open Space, p.44).</li> <li>• 5% increase in community participation across all sports and recreation facilities (Service 2.2, Sport, Leisure and Recreation, p.46).</li> </ul>

### **Contribution of Proposal to the Principal Activity**

Principle Activity 2 – Community recreation involves the need for well-maintained buildings, facilities and services for recreation use and enjoyment. Council supplies 'fit for purpose' facilities and services to support this endeavour and in doing so subsidises the lifecycle maintenance of recreation and sports facilities including 64 hard courts, 36 sports ovals, three swimming complexes and two recreation centres.

Working effectively with regional sporting bodies and community representatives through the Sports Committee supports this important process. The proposed Charter has been adapted to specifically meet Council's Strategic Plans and the changes that have been made since 2009. (Reference: *Council's Strategic Plan 2011-14*, p.20)

### **Long Term Financial Strategy**

There are no financial implications to accepting the proposed Charter.

**Asset Management Strategy**

A key challenge for Council is to determine how to best sustainably balance investment in new asset intensive services against the need to maintain existing services at levels of cost and quality which are acceptable to the community. The WSC Sports Committee Charter has been adapted to ensure that this is considered by the sporting regional bodies in Wyong Shire.

**Workforce Management Strategy**

N/A

**Link to Community Strategic Plan (2030)**

Council’s Community Strategic Plan outlines how we can achieve the best quality of life in the future and focuses on the community’s long-term aspirations. It provides eight objectives. This report addresses objective 3 in particular.

<p><b>3. Facilities and Services</b> - Communities will have access to a diverse range of affordable and coordinated facilities, programs and services.</p>	<p>The Sports Committee gives Council the opportunity to work with regional and local sports organisations, groups and providers to encourage connected and sustainable communities. The Sports Committee provides and advocates a forum for local sports associations, sports clubs, sport and recreation participants, volunteers, supporters and administrators to express their views and issues, thereby promoting cooperation.</p>
<p>The proposed Charter targets the following objectives:</p> <ul style="list-style-type: none"> <li>a) Providing and maintaining local and regional community facilities for recreation, culture, health and education.</li> <li>b) Providing and maintaining a range of community programs focused on community development, recreation, culture, environment, education and other issues.</li> <li>c) Promoting community facilities to help maximise their benefits and use.</li> <li>d) Balancing the varying provision of facilities and amenities between towns/suburbs to enhance the quality of life in the Shire.</li> <li>e) Maximise the access to, and potential for, new and existing facilities/infrastructure to support growth.</li> </ul>	

**Budget Impact**

N/A

**CONSULTATION**

The Sports Committee voted unanimously to support all recommended adaptations to the Sports Committee Charter at the 16<sup>th</sup> December 2012 meeting. Groups and organisations consulted and those supporting the proposed changes are:

- Central Coast Football
- Central Coast Rugby Union

- Central Coast Cricket Association
- Wyong District Netball Association Inc.
- Wyong Athletics & Board of Directors Athletics NSW
- Australian Football League NSW-ACT
- Northumberland and NSW Tennis Association
- Central Coast Division of Rugby League
- Mingara Recreation Club
- NSW Sport and Recreation (Central Coast Office)
- Central Coast Academy of Sport (CCAS)
- Central Coast Sports Federation (CCSF)
- Central Coast Tourism (CCT)
- PSSA President representing Wyong Shire Schools (representing primary schools, high schools, Catholic schools and independent schools)
- Councillor McNamara
- Councillor Symington
- Councillor McBride
- The Mayor (if he/she chooses)

#### **GOVERNANCE AND POLICY IMPLICATIONS**

The current and proposed Sports Committee Charter has clear procedures for changing the Charter.

They are:

- i. Any proposed changes to the Charter shall be submitted to the General Manager at least 21 days before any Committee meeting so that notice of the proposed changes may be given to all members at least 14 days in advance of any meeting.
- ii. Any proposed changes will require the support of the majority of the committee membership.
- iii. Proposed amendments to the Charter can be effective only after approval by Council.

The above criteria has been fulfilled.

Any requests from Council management to amend the Charter shall be directed to the management representative for submission to the Committee.

The Charter's sunset clause states that the Committee will report to Council and cease operation on September 1, 2012.

Council adoption of the recommendation held within this report meets governance requirements.

#### **MATERIAL RISKS AND ISSUES**

N/A

**CONCLUSION**

Any amendments to a Charter of a Committee of Council require Council resolution. The Sports Committee have debated all issues and are satisfied that the proposal meets the needs of regional and local sports groups, clubs and organisations in Wyong Shire and the strategic requirements of Council.

Adoption of the new Charter will welcome new and relevant representatives to the Committee, giving the Sports Committee additional depth and strength, as well as provide objectives that give the Committee a strategic focus.

The Sports Committee voted unanimously to support all recommended adaptations to the Sports Committee Charter at the 16<sup>th</sup> December 2011 meeting. It is recommended that Council support the recommendation held within this report and that Council adopt the proposed Charter of the Sports Committee.

**ATTACHMENTS**

- 1 Sports Committee charter 12 - revised Feb 2012      D02915844

## WYONG SHIRE COUNCIL SPORTS COMMITTEE

### 2012 Charter

#### Membership:

*Council* 4 Councillors (being the Mayor as member of all Committees and three Councillors)

*Ex-Officio* 2 representatives of Council's Community and Recreation Services Department.  
1 representative of Department of Sport and Recreation (Central Coast Office)  
1 representative of Central Coast Academy of Sport  
1 representative of Central Coast Sports Federation  
1 representative of Central Coast Tourism  
1 representative of school sport in Wyong Shire

*External* 8 representatives from Wyong Shire sporting associations:

- i. A representative from Central Coast Football
- ii. A representative from Central Coast Rugby Union
- iii. A representative from Central Coast Cricket Association
- iv. A representative from Wyong District Netball Association Inc
- v. A representative from Wyong Athletics & Board of Directors Athletics NSW
- vi. A representative from AFL (Central Coast affiliate)
- vii. A representative from Northumberland and NSW Tennis Association
- viii. A representative from Central Coast Rugby League

1 representative from a custom-built recreation facility or a commercial recreation facility operating within Wyong Shire.  
2 community representatives who reside in Wyong Shire

**Total:** 21 including 7 ex officio members.

### Objectives

1. To review and provide recommendations that will increase sports participation in Wyong Shire.
2. To actively facilitate and support sport tourism in Wyong Shire.
3. To advocate and support partnerships in order to increase sports participation.
4. To provide a forum to communicate the sports community's needs in Wyong Shire.
5. To consider and provide recommendations regarding the development and usage of facilities, programs, services and events.

**Meeting Timeframes**

The interval between meetings will not exceed three months. Notification of meetings will be given by the Chairperson at least one week in advance together with a copy of the proposed agenda. Meetings are to be held on the third Thursday of each month, except January.

**Scope**

The Committee will promote strategic discussion and investigations on matters relating to the improvement of the quality of sporting facilities and services within Wyong Shire. This process of improvement will include the coordination with Gosford and Lake Macquarie Councils for the provision of Regional Facilities and Services.

The Committee will provide a forum for:

1. Advising of the grants relating to sports and recreation for which Council has applied.
2. Advising of the rolling works and planned future works relating to sports and recreation which Council is undertaking, and the progress thereof.

**Decision Making Procedures**

As a formally constituted Committee of Council, reports are to be submitted to the Director of Community and Recreation Services and, where Council input is required, to the Council.

**Quorum**

A quorum shall consist of five, comprising representation from Council management, a minimum of one Councillor and a minimum of three external members.

If for any reason a quorum is not present within half an hour of the scheduled commencement of the meeting, the meeting shall be rescheduled.

The Chairperson shall be a Councillor. If, before the scheduled meeting date, the Chairperson has knowledge that a quorum will not be present, the Chairperson shall reschedule the meeting for another time.

**Committee Members Non-Attendance at Meetings**

Committee members are expected to attend all Committee meetings.

Where a representative fails to attend three successive meetings without submitting a satisfactory explanation, a replacement representative will be sought either by nomination or by public advertisement.

**Non-Members Attendance at Committee Meetings**

Persons other than Committee members/alternates shall be permitted to attend meetings subject to:

- i Prior agreement at the previous meeting, if the invitee is known, or
- ii Agreement by the Chairperson.

Such person may be requested to provide input by virtue of having special knowledge or information for the benefit of members, or may come as an observer, in which case no contribution is allowed. Permission to attend the meeting can be withdrawn at any time by the Chairperson.

Representatives from all senior and junior sporting associations are welcome to attend the meetings as observers.

**Vacancy**

If for any reason a vacancy is created, a replacement representative shall be sought either by nomination or public advertisement.

**Chairperson**

The Chairperson will be the Councillor designated by Council. In the absence of the Chairperson/other Councillor, the Council's Community and Recreation Services ex-officio member will be the Chairperson, and in his/her absence, the meeting may continue on an information basis only.

**Secretary**

The position shall be filled either by a Committee member or by a suitable Council staff member nominated by Council management.

A suitable meeting place and facilities will be made available by Council for the conduct of Committee meetings.

**Agenda**

All agenda items shall be submitted to the Chairperson fourteen days before the meeting. Members submitting items should ensure the content is given in sufficient detail to assist members understand the issues raised, or by providing additional supporting information.

If a Committee members wishes to raise an urgent/late item that is not on the agenda, it is at the Chairperson's discretion to determine the appropriate manner for dealing with the matter.

**Minutes**

Minutes of all ordinary/extraordinary Committee meetings will be kept in the Central Records filing system.

The Secretary is responsible for recording the minutes, which shall contain:

- i Description of the meeting (ie name of Committee, ordinary meeting, etc), date, time and venue at which the meeting was held.
- ii A list of persons present.
- iii Notification of endorsement of minutes from the previous meeting.
- iv Where there was business arising from the minutes.
- v Notation of reports or correspondence.
- vi Items of general business.
- vii Time meeting closed, date and venue for next meeting.

The Secretary will dispatch copies of the minutes together with the agenda for the following meeting to each Committee member, and a copy of the minutes to the Director of Community and Recreation Services.

Following adoption by the Committee and signature by the Chairperson, the minutes shall be placed in the Central Records filing system for access when required.

**Procedure for Changing the Charter**

The following procedure shall apply for amending the Charter:

- i. Any proposed changes to the Charter shall be submitted to the General Manager at least twenty one days before any Committee meeting so that notice of the proposed changes may be given to all members at least fourteen days in advance of any meeting.
- ii. Any proposed changes will require the support of the majority of the committee membership.
- iii. Proposed amendments to the Charter can be effective only after approval by the Council.

Any requests from Council management to amend the Charter shall be directed to the management representative for submission to the Committee.

**Sunset Clause**

The Committee will report to the Council and cease operation on September 1, 2012.

The Committee will cease to operate on September 1, 2012 if Council adopts a review of the Committee by the General Manager which indicates that the Committee is either not fulfilling or is in breach of its Charter.

**Expenses of Committee Members**

Each participating individual with membership of the Committee shall meet all costs of participation and attendance at Committee Meetings.



## **4.2 2012 National General Assembly of Local Government**

---

TRIM REFERENCE: F2004/06466 - D02915031

MANAGER: Lesley Crawley; Manager Corporate Governance

AUTHOR: Sonia Witt; TL Governance and Councillor Services

### **SUMMARY**

The 2012 National General Assembly of Local Government will be held at the National Convention Centre in Canberra between 17 and 20 June 2012.

### **RECOMMENDATION**

- 1 That Council authorise motions to be submitted to the National General Assembly of Local Government prior to 27 April 2012.**
- 2 That Council authorise interested Councillors and the General Manager or his delegate to attend the 2012 National General Assembly of Local Government between 17 and 20 June 2012.**
- 3 That Council reimburse expenses incurred by Councillors attending the Assembly in accordance with Council's Facilities and Expenses Policy for Councillors.**
- 4 That Council determine the voting delegate should the Mayor not attend.**

### **BACKGROUND**

The National General Assembly of Local Government (NGA) is the largest and most important event on the Local Government calendar. It is convened by the Australian Local Government Association (ALGA) for local councils across Australia to develop and express a united voice on the core issues affecting local government and their communities.

The NGA provides an important platform to showcase local government to influential decision-makers of the Federal Government, at both the political and departmental levels.

Discussions and debate at the NGA will focus around the themes 'National Voice, Local Choice – Infrastructure, Planning, Services'. ALGA is inviting councils to submit motions for consideration at the NGA with the release of a discussion paper on the theme. All councils are encouraged to contribute to the shaping of Local Government's national direction by submitting motions to this year's NGA.

### **Submission of Motions**

The NGA theme is 'National Voice, Local Choice – Infrastructure, Planning, Services'. The NGA theme reflects current issues being debated nationally and priority issues facing local government.

To assist Councils in preparing motions, a discussion paper has been prepared and attached:

- \* Infrastructure;
- \* Planning; and
- \* Services.

Motions for the 2012 Assembly are required to fall under one of the above themes, be relevant to the work of local government nationally; and complement or build on the policy objectives of state or territory association in order to be considered eligible for inclusion.

To assist Councils in submitting motions for debate at the Assembly, a Discussion Paper has been prepared. This paper provides background information on the themes and designed to assist Councils when developing motions. A copy of the discussion paper is attached.

Motions that are carried by the National General Assembly become Resolutions. These resolutions are then considered by the ALGA Board when setting national local government policy and will also feed into the Australian Council of Local Government processes.

A delegate of Wyong Shire Council does not need to attend to have a motion put forward, another Council may put forward a motion on behalf of this Council.

Motions must be endorsed by Council and submitted to the NGA by 27 April 2012. This would mean that any proposal for a motion should be considered no later than the 26 April 2012 Ordinary Meeting.

### **OPTIONS**

The Council may choose to submit or not submit motions to the NGA. The Council may or may not agree to reimbursement of expenses incurred.

### **STRATEGIC LINKS**

The Assembly is an opportunity for Councillors to bring forward issues affecting the Shire that are of National relevance.

**Financial Implications**

The table below indicates the cost for attendance at the Conference and associated travel expenses per Councillor:

<b>National General Assembly 2011</b>	<b>(\$)</b>
Registration (early bird rate payment prior to 27 April 2012)	\$880
Travel (own vehicle / petrol)	\$600
Travel (flight)	\$400
Accommodation (based on approx \$280 per night for 4 nights)	\$1,120
Other disbursements (meals, taxis etc) say	\$400
<b>Total - estimate</b>	<b>\$3,400</b>

**CONSULTATION**

Nil Impact

**GOVERNANCE**

Reimbursement of costs is in accordance with the provisions of Council's Facilities and Expenses Policy for Councillors.

Clause D5 of the Policy provides that WSC will reimburse a Councillor for attendance at a maximum of three conferences per year (not including the NSW LGA conference). There is no restriction of the number of Councillors that may attend the National General Assembly.

**CORPORATE RISKS**

Nil impact.

**CONCLUSION**

The Assembly is an opportunity for Council to ensure issues of concern are debated widely and for Councillors to network with other elected representatives from throughout Australia.

Submission made by Councillors on behalf of Council will ideally require presentation at the Assembly. Attendance by the appropriate Councillor(s) would be necessary if submissions are made.

**ATTACHMENTS**

- 1 National General Assembly 2012 - Discussion Paper - Final document - ALGA Enclosure D02912370
- 2 National General Assembly of Local Government 2012 Enclosure D02933070

### 4.3 Proposed Councillors' Community Improvement Grants

TRIM REFERENCE: C2012/01723 - D02922950  
MANAGER: Lesley Crawley; Manager Corporate Governance  
AUTHOR: Lisa Martin; Grants Officer

#### SUMMARY

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

#### RECOMMENDATION

***That Council allocate an amount of \$11,300.00 from the 2011-12 Councillors' Community Improvement Grants as follows:***

<i>Proposed Allocations for 14 March 2012</i>		
<i>1st Ourimbah Scout Group (\$1200)</i>	<i>To purchase PFD life jackets for youth members</i>	<i>600</i>
<i>Central Coast CC Australian Italian Friendship Society Inc. (\$2000)</i>	<i>Provide assistance of Italian origin who may need it due to unfortunate health and/or financial issues to facilitate recreational and social activities for the lonely and infirm to help them integrate into the general community.</i>	<i>1,350</i>
<i>Horizons Central Coast Family Services Inc. - Grandparents support group. (\$1021.20)</i>	<i>To assist with room hire costs.</i>	<i>900</i>
<i>Indian Educational and Cultural Org. of Australia (\$2000)</i>	<i>Celebration of Australia-India Day.</i>	<i>2,000</i>
<i>Michael Leard (\$2000) (\$450 already allocated)</i>	<i>To help participate at the Under 14's National Championships in Perth</i>	<i>1,550</i>
<i>Razorbacks Rugby Club (Ourimbah) (\$2000) (\$500 already allocated)</i>	<i>To purchase a shipping container to prevent vandals stealing stock and equipment.</i>	<i>1,500</i>
<i>Shelly Beach Surf Life Saving Club (\$2500) (\$850 already allocated)</i>	<i>Surf Life Saving Equipment</i>	<i>250</i>
<i>Success Women's Network (\$2000) (Emergency approved by GM)</i>	<i>International Women's Day 8 March 2012</i>	<i>2,000</i>
<i>Take 3 (\$1000)</i>	<i>Development of educational resources and visits to Wyong Shire schools for educational activities.</i>	<i>250</i>
<i>Toukley &amp; District Art Society Inc.</i>	<i>Purchase of a laptop.</i>	<i>900</i>

#### BACKGROUND

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

### 4.3 Proposed Councillors' Community Improvement Grants (contd)

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

In accordance with Clause 2.2 of the Councillor's Community Improvement Grants Policy available funding for the 2011/2012 financial year is \$112,500. Clause 2.2 states:

*"In the financial year preceding a Local Government election, the allocation to the individual Councillors will be 75% of the allocation identified in Clause 1.1 and will be available to Councillors from 1 July to 31 May of that year."*

#### THE PROPOSAL

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

#### OPTIONS

- 1 Approval of applications as submitted will provide a community benefit residents of the Shire.
- 2 Non approval could result in assistance not being provided to the community.

#### STRATEGIC LINKS

##### Annual Plan

<b><i>Principal Activity</i></b>	<b><i>Strategy or Program</i></b>	<b><i>Financial Line Item No and Description</i></b>
A More Sustainable Community	Enhance the quality of life of the Shire's residents	1.1.11 – Community Financial Support

##### Contribution of Proposal to the Principal Activity

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

##### Link to Shire Strategic Vision

<b><i>Priority Objective</i></b>	<b><i>How the proposal contributes or links to the Priority Objectives in Shire Strategic Vision and Annual Plan</i></b>
<b>Communities</b> - Communities will be vibrant, caring and connected with a sense of belonging and pride in their local neighbourhood.	Funding is available to projects not specifically nominated in Council's Annual Plan that contribute to the priority objective.

<p><b>Facilities and Services -</b> Communities will have access to a diverse range of affordable and coordinated facilities, programs and services.</p>	<p>Funding is available to projects not specifically nominated in Council's Annual Plan that contribute to the priority objective.</p>
--	--

### **Financial Implications**

Expenditure is approved until the end of the 2011-12 financial year. Unspent approvals lapse 31 May 2012.

### **Principles of Sustainability**

The CCIG program is aligned with the principles of sustainability in that it would:

- Improve and maintain safety, wellbeing and sense of community
- Use locally available resources to increase our self-reliance
- Support local and regional economic prosperity
- Build and strengthen partnerships and alliances

### **CONSULTATION**

Applications that met the criteria were distributed to Councillors for their consideration.

### **GOVERNANCE**

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

### **CORPORATE RISKS**

Nil impact.

### **CONCLUSION**

The proposed allocations contained in this report are permissible under the Council's policy on Councillors' Community Improvement Grants. The process has been correct and Council may confirm the grants at its option.

## Councillors' Community Improvement Grants 2011-12

COUNCILLORS' COMMUNITY IMPROVEMENT GRANTS ALLOCATION		Best	Eaton	Graham	Matthews	McBride	McNamara	Symington	Vincent	Webster	Wynn	SUB TOTAL
Allocation 01/07/2011 - 31/05/2012		11,250.00	11,250.00	11,250.00	11,250.00	11,250.00	11,250.00	11,250.00	11,250.00	11,250.00	11,250.00	112,500
Expenditure up to and including Ordinary Council Meeting of 8 February 2012		8,356.50	6,092.50	5,928.00	7,579.00	2,750.00	5,590.00	5,665.50	7,227.50	4,907.00	8,450.50	62,547
Available allocation as at 8 February 2012		2,893.50	5,157.50	5,322.00	3,671.00	8,500.00	5,660.00	5,584.50	4,022.50	6,343.00	2,799.50	49,954
Proposed Allocations for 14 March 2012												
1st Ourimbah Scout Group (\$1200)	To purchase PFD life jackets for youth members		400		200							600
Central Coast CC Australian Italian Friendship Society Inc. (\$2000)	Provide assistance of Italian origin who may need it due to unfortunate health and/or financial issues to facilitate recreational and social activities for the lonely and infirm to help them integrate into the general community.	100	500		250			250			250	1,350
Horizons Central Coast Family Services Inc. - Grandparents support group. (\$1021.20)	To assist with room hire costs.	100	150		200	200		250				900
Indian Educational and Cultural Org. of Australia (\$2000)	Celebration of Australia-India Day.		500		500		500				500	2,000
Michael Leard (\$2000) (\$450 already allocated)	To help participate at the Under 14's National Championships in Perth				200	1,100	250					1,550
Razorbacks Rugby Club (Ourimbah) (\$2000) (\$500 already allocated)	To purchase a shipping container to prevent vandals stealing stock and equipment.		250	250	250		500	250				1,500
Shelly Beach Surf Life Saving Club (\$2500) (\$850 already allocated)	Surf Life Saving Equipment				250							250
Success Women's Network (\$2000) (Emergency approved by GM)	International Women's Day 8 March 2012				500	500				500	500	2,000
Take 3 (\$1000)	Development of educational resources and visits to Wyong Shire schools for educational activities.										250	250
Toukley & District Art	Purchase of a laptop.		200				200				500	900
Total Proposed Allocations for 14 March 2012		200.00	2,000.00	250.00	2,350.00	1,800.00	1,450.00	750.00	0.00	500.00	2,000.00	11,300.00
Total Accumulated Allocations as at 14 March 2012		8,556.50	8,092.50	6,178.00	9,929.00	4,550.00	7,040.00	6,415.50	7,227.50	5,407.00	10,450.50	73,846.50
Balance Uncommitted as at 14 March 2012		2,893.50	3,157.50	5,072.00	1,321.00	6,700.00	4,210.00	4,834.50	4,022.50	5,843.00	799.50	38,653.50

## ATTACHMENTS

Nil.

#### **4.4 Reimbursement Request - Legal Expenses**

---

TRIM REFERENCE: F2004/06497 - D02928518  
MANAGER: David Jack; Director Corporate Services  
AUTHOR: Lesley Crawley; Manager Corporate Governance

#### **SUMMARY**

Reporting a request received to reimburse expenses for legal advice sought by Councillor Symington.

#### **RECOMMENDATION**

***That Council consider varying its Policy on Facilities and Expenses for Councillors to permit reimbursement of \$825 (inc GST) for legal advice sought by Councillor Symington, dated 22 July 2011.***

#### **BACKGROUND**

Section 252 of the Local Government Act 1993 (the Act) requires the Wyong Shire Council (WSC) to adopt a policy concerning the payment of expenses incurred or to be incurred by the provision of facilities to elected members in relation to discharging the functions of Civic Office.

WSC's Policy for Facilities and Expenses meets the requirements of the Act.

The Policy ensures that councillors have a framework that allow them to recover adequate and reasonable expenses and provides for the facilities needed in carrying out their civic duties in an accountable and transparent manner.

The policy is the only means of facilitating Councillor reimbursement of expenditure unless Council makes a special circumstance by formal resolution.

The policy is adopted annually by Council in September and re-adopted when Council determines adjustments are necessary. The most recent re-adoption of the policy was gazetted in January 2012 and involved the inclusion of additional clauses relating to the reimbursement of legal expenses.

#### **CURRENT STATUS**

An application has been received from Councillor Symington for reimbursement of expenses incurred as a result of legal advice requested by Councillors Symington, Matthews, McBride and Vincent in July 2011.

The Councillors commissioned the legal advice as a result of disputing the legality of the Chairman's ruling and management of the resolution regarding the possible amalgamation of Wyong and Gosford Councils, made at the 13 July 2011 Ordinary meeting – item 7.2.4 Commercial Agreements - Central Coast Mariners Football Club Agreement. The amount incurred and claimed of \$825 (inc GST) has been paid by Councillor Symington.



#### 4.4 Reimbursement Request - Legal Expenses (contd)

---

The application has been assessed by staff in accordance with the applicable policy as at July 2011 and whilst the policy contains clauses relating to legal expenses, there is no provision to enable the reimbursement for the legal expenses claimed.

Council revised the policy to allow such compensation however the revised policy did not become effective until January 27<sup>th</sup> 2012 – before the claim was received but after the incident and the commissioning of the expenses claimed.

The claim is beyond the jurisdiction of staff to resolve.

#### PROPOSAL

It is proposed that Council determine if the expenses claimed, be reimbursed to Cr Symington and if so, on what basis the policy is to be varied.

The policy applicable as at July 2011 contained provisions to reimburse legal expenses for the following items:

- “D37 WSC will indemnify or reimburse the reasonable legal expenses of a Councillor in the circumstances described below:*
- (a) a councillor defending an action arising from the performance in good faith of a function under the Local Government Act (section 731 refers) (as distinguished from merely something a Councillor has done during his/her term of office); or*
  - (b) a councillor defending an action in defamation provided the statements complained of were made in good faith in the course of exercising a function under the Act; or*
  - (c) a councillor for proceedings before the Local Government Pecuniary Interest and Disciplinary Tribunal or an investigative body provided the subject of the proceedings arises from the performance in good faith of a function under the Act and the Tribunal or investigative body makes a finding substantially favourable to the councillor.*
- D38 WSC will also reimburse legal costs for an inquiry, investigation or hearing into a Councillor’s conduct by an appropriate investigative or review body including:*
- Local Government Pecuniary Interest and Disciplinary Tribunal*
  - Independent Commission Against Corruption*
  - Office of the NSW Ombudsman*
  - Division of Local Government, Department of Premier and Cabinet*
  - NSW Police Force*
  - Director of Public Prosecutions*
  - Council’s Conduct Review Committee/Reviewer.*

*provided that the subject of the inquiry, investigation or hearing arises from the performance in good faith of a councillor’s functions under the Act and the matter before the investigative or review body has proceeded past any initial assessment phase to a formal investigation or review.*

#### 4.4 Reimbursement Request - Legal Expenses (contd)

---

- D39 *A conduct complaint made against a councillor, resulting in legal costs for a Councillor shall only qualify for reimbursement where a matter has been referred by the General Manager to a conduct reviewer/conduct review committee to make formal enquiries into that matter in accordance with the procedures in the Code of Conduct.*
- D40 *Pecuniary interest or misbehaviour matters, shall qualify for reimbursement of legal costs if a formal investigation has been commenced by the Division of Local Government.*
- D41 *WSC will only reimburse legal costs where the investigative or review body makes a finding that is not substantially unfavourable to the Councillor.*
- D42 *WSC will not meet the legal costs of legal proceedings initiated by a Councillor under any circumstance.*
- D43 *WSC will not meet the legal costs of a councillor seeking advice in respect of possible defamation, or in seeking a non-litigious remedy for possible defamation.*
- D44 *WSC will not meet legal costs in the following circumstances:*
- (d) An action in defamation taken by a councillor as plaintiff.*
  - (e) A councillor seeking advice in respect of possible defamation, or in seeking a non-litigious remedy for possible defamation.”*

It does not appear to staff that Cr Symington's claim is covered by the above however neither is it apparent that Council believes that such a claim would be refused, given Council's subsequent change to the policy which became effective on January 27<sup>th</sup> 2012.

In November 2012 Council resolved to amend the policy to include the following additional clause in relation to legal expenses. The policy was advertised with no submissions received and gazetted on 27 January 2012:

- D40 *A Councillor/s may be reimbursed up to \$1,500 (including GST) for external legal services only where all of the following circumstances exist:*
- (a) the legal advice is not on a matter excluded from being reimbursed by the Local Government Act and/or Regulations, or any other clause in this Policy; and*
  - (b) the matter about which advice has been sought is a serious matter affecting the proper administration of Wyong Shire Council; and*
  - (c) more than 4 Councillors have requested that Council staff provide legal advice on the subject matter of the advice, and Council staff have been unable to provide those councillors with legal advice, due to a conflict of interest or similar prohibition that precludes those staff from providing that advice, or where staff are unwilling to obtain independent legal advice; and*
  - (d) the matter had not already been the subject of independent legal advice to Council; and*
  - (e) the legal advice is proven to be valuable towards Council's decision making; and*
  - (f) no more than one payment is to be paid to any one or more of the councillors in respect to advice provided by councillors on the subject matter; and*

#### **4.4 Reimbursement Request - Legal Expenses (contd)**

---

- (g) *the request for reimbursement, under this clause, has been authorised by the Council;*
- (i) *The written brief, original written legal advice and tax receipt will need to be provided to Council as its record to allow consideration of payment.”*

Had the request for legal advice occurred after the new clause was added the reimbursement would meet the requirements of the policy subject to Council's endorsement as required by Clause 40g.

#### **STRATEGIC LINKS**

Nil

#### **Budget Impact**

Reimbursements for legal expenses under this policy are budgeted in the WSC Annual Plan. The reimbursement of this claim is within budget.

#### **CONSULTATION**

In accordance with the requirements of the Local Government Act the recent amendment to the policy was placed on public exhibition. No submissions were received.

#### **GOVERNANCE AND POLICY IMPLICATIONS**

There is no means of facilitating Councillor reimbursement of expenditure other than by this policy. In order to approve the claim the Council must endorse variation of the policy as at the time the costs were incurred.

#### **MATERIAL RISKS AND ISSUES**

Nil

#### **CONCLUSION**

A request has been received for reimbursement of costs incurred by four Councillors in seeking legal advice in respect of the Mayor's chairmanship being in accordance with the Act or the Code of Meeting Practice during a formal Ordinary Meeting of Council.

Council's the current policy on Facilities and Expenses for Councillors at the time of the costs being commissioned did not address such an expense. Council has recently added a clause to that policy that would now enable it to approve the reimbursement.

A resolution of policy variation is required to approve the expense.

#### **ATTACHMENTS**

Nil

## **4.5 Referendum Popularly Elected Mayor**

---

TRIM REFERENCE: F2011/01766 - D02928511

MANAGER: David Jack, Director Corporate Services

AUTHOR: Lesley Crawley; Manager Corporate Governance

### **SUMMARY**

This report provides information on Council's proposal to conduct a referendum for a Popularly Elected Mayor (PEM) in conjunction with the 2012 Local Government election.

### **RECOMMENDATION**

- 1 That Council receive the report on Referendum Popularly Elected Mayor.**
- 2 That Council approve the following question for the Referendum to be conducted in conjunction with the 2012 Local Government Election:**

***"The mayor of Wyong Shire Council is currently elected annually by the councillors.***

***Do you favour changing the way the mayor is elected from an annual election by Councillors to election by all the electors every four years and the number of councillors on the council being increased to 11?***

***Yes/No"***

### **BACKGROUND**

Council resolved (9 November, 2011) to conduct a constitutional referendum on a popularly elected Mayor and 10 Councillors; being the number to form Wyong Shire Council, to be held in conjunction with the 2012 Wyong Shire Council Local Government Elections.

At that meeting, Council further resolved to request the General Manager to provide a report on any progress to date with regard to this issue and what further processes and time frames are required to achieve this outcome.

*Specifically the Resolution was:-*

- 1 That Council engage the NSW Electoral Commission to conduct the Local Government Election and any referendums or polls for Wyong Shire up to and including 2012.**
- 2 That Council minimise the cost of the election by working cooperatively with Gosford City Council and other savings as outlined in this report.**

- 3 *That Council reaffirm its previous decision to provide our residents and ratepayers the opportunity at the upcoming Council elections to also vote on whether they support a popularly elected mayor or not.*
- 4 *That Council request the General Manager to report on any progress to date with regard to this issue and what further processes and time frames are required to achieve this outcome.*
- 5 *That Council retain its current wards and Councillor numbers, such that a popularly elected Mayor becomes the eleventh Councillor and forms Wyong Shire Council, subject to constitutional referendum being passed.*
- 6 *That Council conduct a constitutional referendum on a popularly elected Mayor and 11 Councillors; being the number to form Wyong Shire Council, be held in conjunction with the 2012 Wyong Shire Council Local Government Elections.*
- 7 *That Council request the NSW State Government return on a equitable basis to Councils across the state the amount collected in the form of fines imposed on the population that didn't vote to defray the cost of the Council election on ratepayers.*
- 8 *That the General Manager approach Gosford City Council to seek an agreement to share costs on common matters for the Central Coast region in the lead up to the 2012 Wyong Shire Council Local Government Elections.*

#### **Legislative Framework – Representation Model**

Electing a Mayor by popular vote across the whole shire requires consideration of the overall representation model particularly to impact on:

- The number of Councillors - which may need to increase or decrease.
- Number of Wards – which Council may choose to change
- Ward boundaries.

Specific considerations are:-

1. WSC currently has two wards with five Councillors representing each ward.
2. A Mayor is considered as a Councillor for the purposes of the number of Councillors for each local government area (LG area) – i.e. the Shire (s282).
3. Each ward must have an equal number of Councillors (S280).
4. A PEM is excluded from that number and elected by all electors comprising of the LG area (S280).
5. An area may or may not be divided into wards (s210).
6. Wards must have an equal number of electors (+/- 10%).

Council has resolved that the representation model which will be put to a referendum in 2012 is:

- Retention of the current wards

- Addition of an 11<sup>th</sup> Councillor as a popularly elected Mayor.

### Legislative Framework – Referendum

A constitutional referendum is a poll initiated by a council in order to give effect to any of the following matters (S15, 16):

- (a) divide its area into wards or abolish all wards in its area,
- (b) change the basis on which the mayor attains office (that is, by election by the councillors or by election by the electors),
- (c) increase or decrease the number of councillors in accordance with the limits under section 224,
- (d) change the method of ordinary election of councillors for an area divided into wards.

### CURRENT STATUS

The Wyong Shire 2012 referendum will poll the community on items (b) and (c) above.

The decision made at a constitutional referendum binds the Council until changed by a subsequent constitutional referendum (S17). If the community opinion is for the proposal, the additional Councillor, as PEM, will be elected at the 2016 Local Government Election.

If a council resolves to take a constitutional referendum or council poll, the general manager is to notify the Electoral Commission of the resolution within 21 days after the council makes the resolution (if the Electoral Commissioner is to administer the referendum or poll) (LGA Schedule 10)

The NSWEC has been advised that Council intends to undertake a constitutional referendum at the 2012 LG Election.

If a constitutional referendum or council poll is to be held in conjunction with an election of councillors, the general manager must (if he or she has not already done so) notify the Electoral Commission of the question to be asked at the referendum or poll no later than 12 noon on the nomination day for the election (if the Electoral Commissioner is to administer the referendum or poll and the election) (LGA Schedule 10).

The deadline to advise the NSWEC of the question is 8 August 2012.

The election manager is to notify in a newspaper circulating in the area in which a referendum is to be taken, or the area or part of the area in which a poll is to be taken, the date of the referendum or poll, the question to be asked at the referendum or poll and the locations and times of polling for the referendum or poll at the same time as the election manager publishes a notice under clause 300 of this Regulation in relation to the election (LGA Schedule 10).

The NSWEC (election manager) will give this notice.

The poll-paper at a constitutional referendum or council poll is to be in the approved form as required by Form 16 in schedule 11 (LGA Schedule 10).

## 4.5 Referendum Popularly Elected Mayor (contd)

---

The Council will determine wording and form with guidance from the NSWEC and DLG if appropriate.

The DLG advises the following in relation to Councils undertaking a constitutional referendum:

*“It is of critical importance that the referendum question or questions are carefully framed to ensure that workable decisions are achieved. All questions put at a referendum should be clear, concise, and capable of being responded to with a ‘yes’ or ‘no’ answer.*

*If more than one referendum question is being asked on a particular subject then extra care needs to be taken to ensure that the possible combinations of ‘yes’ and ‘no’ answers do not produce a conflicting decision.*

*Councils are responsible for the preparation and publicity of the required explanatory material. Councils must ensure this material presents a balanced case both for and against any proposition to be put to a constitutional referendum. (DLG Circular 11-30 (10/11))”*

### **PROPOSAL**

It is proposed to ask the following question in the referendum:-

*“The mayor of Wyong Shire Council is currently elected annually by the councillors.*

*Do you favour changing the way the mayor is elected from an annual election by Councillors to election by all the electors every four years and the number of councillors on the council being increased to 11?*

Yes/No”

The question asked has to satisfy the fundamental question of “Does the community want to elect its Mayor as opposed to the existing position where Councillors elect the Mayor”

Concurrently the answer must ensure a response from voters that agrees/disagrees with a PEM and its impact on the number of Councillors to be elected – i.e. the inherent condition of the basic question is that the number of Councillors will be increased.

Difficulties arise if two questions are asked – i.e. If both questions were asked the response could create an ambiguous outcome to the basic question because people might agree with a PEM but not if it means an increase in councillors.

More than one question introduces a major and complex essential need for the voter to have complete understanding of the nuances in the representation model. The response to the fundamental question then stands to be corrupted and the referendum would be useless.

WSC has reviewed questions asked by other councils in the 2008 election and the proposed wording is consistent with advice received from the DLG in Circular 11-30.

### **Community Engagement**

An engagement period of three months is proposed for July – September 2012 and will include:-

## 4.5 Referendum Popularly Elected Mayor (contd)

---

- A balanced case for and against the proposal
- Simple and clear language
- Understanding that the community will not be voting for a PEM until the 2016 election (subject to the outcome of the referendum)
- Combine the question of the PEM with the question on the reduction of Councillors
- Align message from WSC with any advertising from NSWEC

The following methods for engaging the community are proposed.

- Dedicated page on WSC website
- Media releases
- Brochure to community groups
- Advertising in Shire Wide
- Promotion through Precinct Committees.

### Process

The table below indicates the actions and timeframes proposed for the conduct of the constitutional referendum.

Action	Date
Agree on Representation model	Agreed. Resolution of Council 9 November 2011
Advise NSWEC of intention to conduct a constitutional referendum	November 23 2011
Determine wording of Referendum question	March 14 2012 Ordinary Meeting of Council
Advise NSWEC wording of Referendum	By 8 August 2012
Community Engagement Period	July – September 2012

### FINANCE

The EC has recently advised that the cost to hold a referendum in conjunction with the next election would be between 10% and 20% of the overall election cost.

The estimated cost of the 2012 Local Government Election is \$681,000 which would indicate a cost of between \$68,100 and \$136,200.

The cost of the referendum has been included in the budget for the 2012 Election as part of the 2012/2013 Annual Plan.



**CONCLUSION**

Council has resolved to have a referendum for a Popularly Elected Mayor.

Legislation establishes the timeframes and the forthcoming Local Government elections set the management requirements for the referendum.

The question to be answered by the referendum is critical to ensuring the outcome of the vote is aligned to the primary intention of the referendum.

**ATTACHMENTS**

*Nil.*

## **4.6 Proposed Road Renaming - Woodland Parkway Buff Point**

---

TRIM REFERENCE: F2004/06560 - D02840161

MANAGER: Gina Vereker; Director Environment and Planning Services

AUTHOR: Lyn Littlefield; Team Coordinator

### **SUMMARY**

This report proposes the renaming of a section of Woodland Parkway, Budgewoi due to the segmenting of the road by a Council reserve.

### **RECOMMENDATION**

- 1 That Council give public notice in accordance with the requirements of the Roads Regulation 2008 of its intention to rename the segmented sections of Woodland Parkway, Budgewoi including written notification to affected property owners and relevant public authorities.**
- 2 That, subject to no significant objections being received, Council rename:**
  - a That section of Woodland Parkway between Sonoma Road and Scenic Drive, "Sonoma Road" being a continuation of the existing street, and**
  - b That section of Woodland Parkway between Sonoma Road and the Council reserve "Raft Close"**

### **BACKGROUND**

A local resident has raised concern with the current segmenting of Woodland Parkway, Buff Point. An incident occurred in relation to an emergency vehicle being delayed due to confusion locating a property in Woodland Parkway. This was due to the current road name configuration where Woodland Parkway is physically separated by a Council reserve. Adding to the confusion is that the road also crosses two suburbs being Buff Point and Budgewoi.

### **THE PROPOSAL**

As a result of the representations from the local resident it is considered appropriate to proceed with the renaming of the segmented portion of Woodland Parkway.

The NSW Geographical Names Board (GNB) produces Guidelines for the naming of roads which include:

- Aboriginal names
- Local history
- Early explorers, pioneers, settlers and other eminent person
- War/causality list
- Thematic names such as flora, fauna or ships

The NSW GNB Guidelines state that while directional names (eg Smith Road East and Smith Road West) can be used to achieve uniqueness for segments of the same road, where such segments are unconnected and are likely to remain unconnected for the foreseeable future, consideration should be given to renaming one or each of the unconnected segments. The guidelines also refer to the Australian Standards whereby a road name should be as short as possible especially where the road itself is short.

In this instance, the name "Raft Close" for that section of the road which provides access to the creek and to Budgewoi Lake is considered appropriate. This name would also comply with the Australian Standards guidelines.

### **OPTIONS**

A local resident has raised concern following an incident where an emergency vehicle experienced difficulty in locating a premises in Woodland Parkway due to the separation of the road by a public reserve.

Should no action be taken, the potential risks identified by the local resident will remain.

In view of their request, it is considered appropriate to commence the formal process for the renaming of the segmented portions of Woodland Parkway

### **STRATEGIC LINKS**

Nil impact.

#### **Wyong Shire Council Strategic/ Annual Plan**

Nil impact.

#### **Contribution of Proposal to the Principal Activity**

Nil impact.

#### **Long term Financial Strategy**

Nil impact.

#### **Asset Management Strategy**

Nil impact.

#### **Workforce Management Strategy**

Nil impact.

#### **Link to Community Strategic Plan (2030)**

Nil impact.

**Budget Impact**

Nil impact.

**CONSULTATION**

The proposal will be publicly exhibited in accordance with the relevant provisions of the Roads Regulation 2008. Affected landowners will be consulted and invited to lodge a submission.

**GOVERNANCE AND POLICY IMPLICATIONS**

Nil impact.

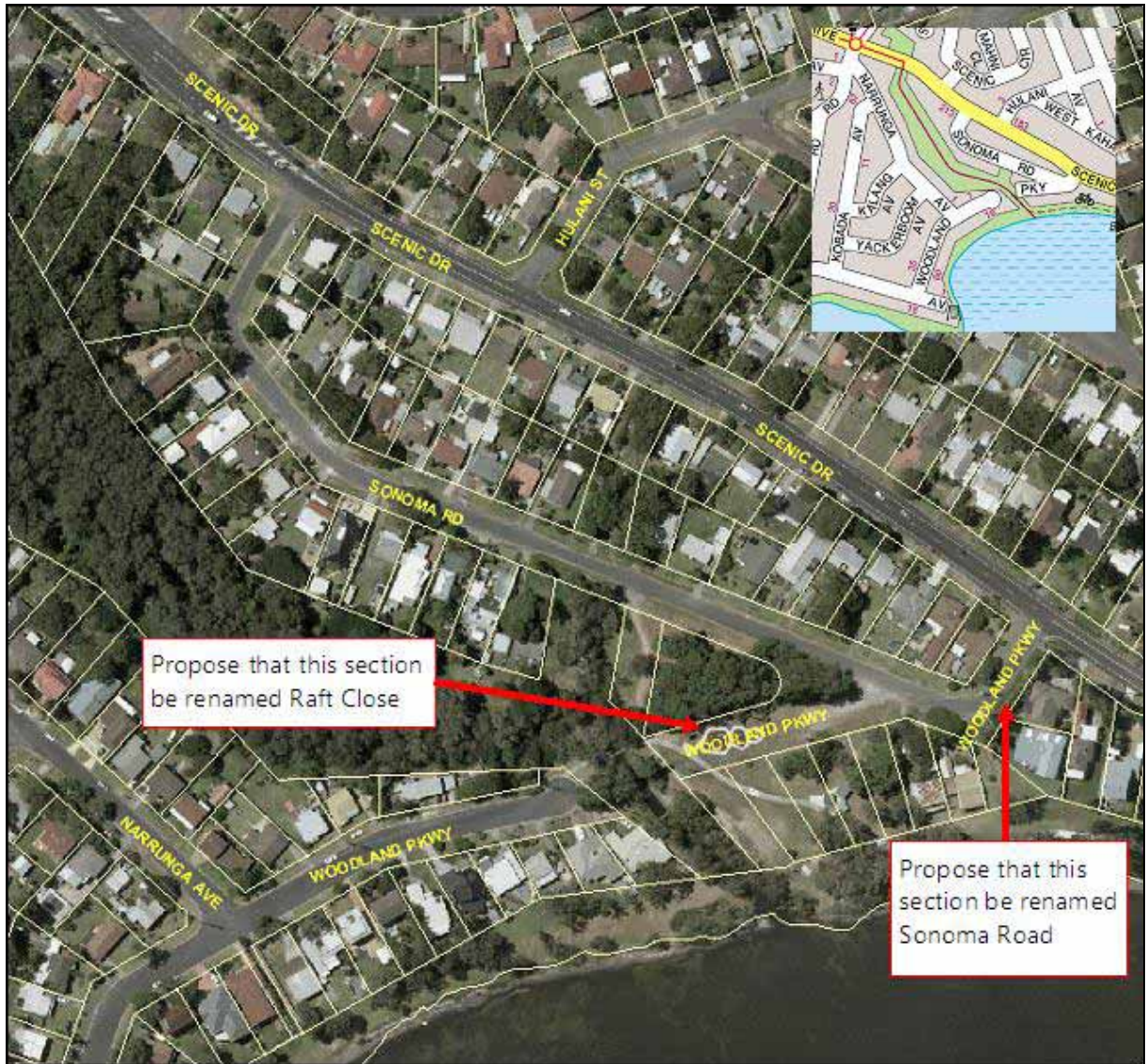
**MATERIAL RISKS AND ISSUES**

Nil impact.

**CONCLUSION**

Having regard to the representations made by the local resident, and to alleviate confusion for both residents and visitors, it is recommended that the section of Woodland Parkway between Sonoma Road and Scenic Drive, be renamed "Sonoma Road" being a continuation of the existing street, and that the section of Woodland Parkway between Sonoma Road and the Council reserve, be renamed "Raft Close".

Locality Plan for proposed Road Renaming



ATTACHMENTS

Nil.

## **4.7 Proposed Road Renaming - Kitchener Road, Long Jetty**

---

TRIM REFERENCE: F2004/06560 - D02839049

MANAGER: Gina Vereker; Director Environment and Planning Services

AUTHOR: Lyn Littlefield; Team Coordinator

### **SUMMARY**

This report proposes the renaming of sections of Kitchener Road, Long Jetty due to the segmenting of the road as a result of redevelopment of Jubilee Park.

### **RECOMMENDATION**

- 1** *That Council give public notice in accordance with the requirements of the Roads Regulation 2008 of its intention to rename the segmented sections of Kitchener Road, including written notification to affected property owners and relevant public authorities.*
- 2** *That, subject to no significant objections being received, Council rename:*
  - a** *That section of Kitchener Road to the north of Jubilee Park "Sutton Avenue" being a continuation of the existing street, and*
  - b** *That section of Kitchener Road between Jubilee Park and Archbold Road, "Price Place".*

### **BACKGROUND**

The Entrance Peninsula Community Precinct Committee has requested clarification of the street name of Kitchener Road, Long Jetty either side of Jubilee Park. A section of Kitchener Road was previously closed under the Roads Act 1993 to enable the redevelopment of Jubilee Park. The Committee has raised concerns in relation to the potential for emergency services having difficulty locating properties when the street is separated by the Park. The Committee has suggested the names Kitchener Road North and Kitchener Road South.

### **THE PROPOSAL**

In view of the concerns raised by the Precinct Committee it is considered appropriate to commence the formal process for the renaming of the segmented portions of Kitchener Road.

The NSW Geographical Names Board (GNB) produces Guidelines for the naming of which include:

- Aboriginal names
- Local history

## 4.7 Proposed Road Renaming - Kitchener Road, Long Jetty (contd)

---

- Early explorers, pioneers, settlers and other eminent person
- War/casualty list
- Thematic names such as flora, fauna or ships.

The GNB guidelines state that while directional names (eg Smith Road East and Smith Road West) can be used to achieve uniqueness for segments of the same road, where such segments are unconnected and are likely to remain unconnected for the foreseeable future, consideration should be given to renaming one or each of the unconnected segments.

In keeping with the theme of early pioneers and settlers it has been established that Mr William Henry Price purchased farm land in Long Jetty on behalf of his company, W H Price and Co. He was also responsible for the construction of the original jetty at Long Jetty which was built in 1915.

The street names suggested by the Precinct Committee, being Kitchener Road North and Kitchen Road South, are considered to still have the potential to cause confusion and are not in accordance with the guidelines of the Geographical Names Board.

### **OPTIONS**

The request for the road renaming has been put forward to Council through the local Precinct Committee. They have expressed concern in relation to the potential for emergency vehicles experiencing difficulty in locating properties as the street is now physically separated following the redevelopment of Jubilee Park.

Should no action be taken, the potential risks identified by the Precinct Committee will remain.

In view of their request, it is considered appropriate to commence the formal process for the renaming of the segmented portions of Kitchener Road.

### **STRATEGIC LINKS**

Nil impact.

#### **Wyong Shire Council Strategic/ Annual Plan**

Nil impact.

#### **Contribution of Proposal to the Principal Activity**

Nil impact.

#### **Long term Financial Strategy**

Nil impact.

#### **Asset Management Strategy**

Nil impact.

**Workforce Management Strategy**

Nil impact.

**Link to Community Strategic Plan (2030)**

Nil impact.

**Budget Impact**

Nil impact.

**CONSULTATION**

The proposal will be publicly exhibited in accordance with the relevant provisions of the Roads Regulation 2008. Affected landowners will be consulted and invited to lodge a submission.

**GOVERNANCE AND POLICY IMPLICATIONS**

Nil impact.

**MATERIAL RISKS AND ISSUES**

Nil impact.

**CONCLUSION**

Having regard to the concerns raised by the Precinct Committee and to alleviate confusion for both residents and visitors, it is recommended that the section of Kitchener Road to the north of Jubilee Park be renamed 'Sutton Avenue' being a continuation of the existing street, and the section of Kitchener Road between Jubilee Park and Archbold Road, be renamed 'Price Place'.



Locality Plan for proposed Road Renaming



**ATTACHMENTS**

- 1 Letter from The Entrance Peninsula Community Precinct Committee D02840804

D02822830



THE ENTRANCE PENINSULA  
COMMUNITY PRECINCT

ENCOMPASSING: THE ENTRANCE; THE ENTRANCE NORTH; LONG JETTY TOOWOON BAY; BLUE BAY; SHELLY BEACH & MAGENTA

P0 Box 349 The Entrance 2261  
www.theentranceprecinct.org

30 October, 2011

Michael Whittaker  
The General Manager,  
Wyong Shire Council,  
PO Box 20,  
Wyong 2259

SUBJECT: **NEED TO CLARIFY ADDRESSES IN KITCHENER ROAD, LONG JETTY**

Dear Michael,

At the General Meeting of TEPCP on 18th October, 2011, it was resolved to write to Council requesting you investigate the need to clarify addresses in Kitchener Road, Long Jetty to aid emergency vehicles locating properties.

- 7.2. **Kitchener Road:** Concern was raised about Kitchener Road being divided by Jubilee Park. Emergency vehicles may have trouble locating properties. One end needs to be renamed or made Kitchener Road North and Kitchener Road South.

**ACTION:** Secretary to write to Council about the need to clarify the Street name.

There seems to be a genuine need to change the name of part of this road and TEPCP commends the suggestion to Council for your consideration



Thanking you in anticipation.

Yours Sincerely

Douglas Darlington  
Secretary  
The Entrance Peninsula Community Precinct  
Committee  
Phone/Fax: 4332 5593  
Email: doug@darlington.id.au

#### **4.8 Proposed Changes to Current Project and Contract Reports to Council**

---

TRIM REFERENCE: F2004/13168 - D02924975

MANAGER: Greg McDonald, Director Infrastructure Management

AUTHORS: David Witherdin; Manager Contract and Project Management

Belinda Vance; Personal Assistant to Manager

#### **SUMMARY**

Councillors were briefed on 8 February 2012 on a review of Project and Contract Reports currently provided to Council. The review has recommended a number of changes to the current reporting structure to ensure statutory compliance, the confidentiality of commercial information and for good governance. Council's endorsement of the recommendations is sought.

#### **RECOMMENDATION**

***That Council approve the changes to reporting as recommended in Option 2 of this report.***

#### **BACKGROUND**

The Contract and Project Management (CPM) service unit has undergone significant change during this financial year with the appointment of a new manager and the creation of a new position of Contract Systems Manager. There have also been a number of reports including the Department of Local Government Section 430 Report, the subsequent Deloitte report and the Link Road Audit. Recommendations from these reports have required changes and improvements to the processes and systems that support the CPM service unit.

As part of the review and change process within the CPM service unit the opportunity has been taken to undertake a comprehensive review of the reporting that is currently provided to Council. There are statutory reporting requirements relating to the award of contracts that are specified under the Local Government Act and Regulation. The Department of Local Government (DLG) has also published Tendering Guidelines for NSW Local Government.

A review of reporting to open council meetings for a wide range of NSW councils was also undertaken. This highlighted that although there were inconsistencies in reporting across all of the councils reviewed there was a consistent approach in ensuring the confidentiality of commercial information.

Key issues identified from the review are:-

- Disclosure of commercially sensitive information that should be confidential
- Publication of details relating to unsuccessful tenders
- Disclosure of contingency amounts in the award of contracts

## **4.8 Proposed Changes to Current Project and Contract Reports to Council (contd)**

---

- Inconsistency in reporting to Council

A presentation was provided to Councillors at the Councillor Briefings on 8 February 2012. Following this briefing the Mayor directed that a report be prepared for Council seeking approval of the proposed reporting changes.

### **CURRENT STATUS**

There are a number of reports that are provided to Council on a regular basis. These are discussed below in detail along with recommendations for change.

#### **Tender Evaluation Report**

The Tender Evaluation Report is provided to Council for all contracts in excess of \$150,000. This is a requirement of section 55 of the Local Government Act which requires the approval of Council to award such contracts.

A review of the current reporting template has highlighted the following:-

- Recommendations in the report are made public via the Council business papers prior to Council's determination. The DLG Guidelines state that "Information in the report should remain confidential pending Council's determination"
- The tendered prices for both successful and unsuccessful tenderers are provided in the business papers. The DLG Guidelines state that "Information relating to unsuccessful tenders remains confidential"
- The contingency amount approved by Council is provided in the business papers. This highlights to the successful tenderer that Council has already allocated additional budget, based on assessed contract risks, and has the potential to highlight the opportunity for claiming contract variations.
- Information including discussion on past performance, references and financial capacity is provided in the business papers. Disclosure of such information may be commercially damaging to tenderers and may give rise to subsequent legal action. By maintaining the confidentiality of this information it is possible to be more candid with the discussion in the report and for Councillors to receive more detailed information for their consideration.

Providing improved confidentiality of commercial information is important as it encourages businesses to tender for our work without concern for potential damage to their reputation or disclosure of commercial rates.

#### **Contract Variation and Finalisation Report**

The Contract Variation and Finalisation report details all variations to contracts, for those contracts that are greater than \$150,000. The report seeks the approval of Council for each variation, irrespective of the amount of the variation, and even if the variation is within the Council approved contingency amount.

This report is not a statutory requirement but has evolved as a measure of governance for major contracts.

The following issues have been identified with the current report:-

## **4.8 Proposed Changes to Current Project and Contract Reports to Council (contd)**

---

- Approval is sought from Council for variations that are within the current approved contract funding
- The variations are often of a minor nature
- For large construction contracts there may be numerous variations making it difficult for Council to consider them in a timely manner

### **General Works in Progress Report**

The General Works in Progress Report is provided to Council each month with the purpose of tracking progress on contracts in excess of \$150,000 that have previously been approved by Council. It also details contracts reaching Practical Completion and contracts still within Defects Liability.

The following issues have been identified with the current report:-

- There are only minor changes in the report from month to month
- There is no high level overview of how contracts are progressing
- The report does not detail contracts that are finalised

### **THE PROPOSAL**

Improvements to the reporting system on contracts to Council are required in order to ensure that Council is compliant with relevant legislation and guidelines. It is also important that Council is able to undertake a role of corporate governance by being kept well informed of progress against contracts greater than \$150,000 that have been awarded by Council.

The following improvements are proposed:-

### **Tender Evaluation Report**

- Provide a summary report in the General Business papers with the detailed Tender Evaluation Report to be provided as a confidential attachment
- The report in the General Business papers will not disclose pricing other than for the awarded tender and will not detail whom the contract is being awarded to. Following Council passing its resolution the successful contractor will be published in the minutes of the meeting
- Contingency amounts associated with a contract will not be published but will be detailed in the confidential attachment

### **Contract Variation and Finalisation Report**

- Report only on variations to the contract budget that exceed the current total approved by Council. i.e., Contract amount + contingency
- Seek approval from Council for budget variations only where current approved total budget has been exceeded and the General Manager does not have the delegation to approve

### **General Works in Progress Report**

- Change from a monthly to a quarterly report
- Report only on contracts over \$150,000

## 4.8 Proposed Changes to Current Project and Contract Reports to Council (contd)

---

- Report against each contract using a 'traffic light' system i.e. *On Track – green; At Risk – orange; In Trouble – red*
- Provide remedial actions for all contracts not *On Track*
- Provide a one page summary report on all completed construction contracts greater than \$1M, highlighting positives, negatives and lessons learned.

### OPTIONS

1. Maintain the status quo
  - Fails to satisfy legislative requirements
  - Divulges commercial information that may discourage prospective tenders
2. Adopt the recommendations as proposed
  - Ensures legislative compliance
  - Ensures confidentiality of commercial information
  - Does not burden Council with having to approve variations that are within previously approved budgets
  - Provides Council with improved information
3. Adopt the recommendations with other changes as specified by Council

### STRATEGIC LINKS

#### Contribution of Proposal to the Principal Activity

Not applicable.

#### Long term Financial Strategy

Nil impact.

#### Asset Management Strategy

Nil impact.

#### Workforce Management Strategy

Nil impact.

#### Link to Community Strategic Plan (2030)

Not applicable.

#### Budget Impact

Nil impact.

## **CONSULTATION**

Councillors were provided a presentation at the Councillor Briefings on 8 February 2012.

## **GOVERNANCE AND POLICY IMPLICATIONS**

Under the Local Government Act, Council is required to approve all contracts in excess of \$150,000. Keeping Council informed of progress with these contracts and changes to approved budgets is a key governance measure.

## **MATERIAL RISKS AND ISSUES**

By achieving improved compliance with legislative requirements and ensuring the confidentiality of commercial information, Council reduces the risk of non-compliance or legal action from a contractor.

## **CONCLUSION**

Alignment of Council's contract reporting with the Local Government Act and Regulation and the Department of Local Government Guidelines is an important action. Further to this it is necessary that Council receives regular and accurate reporting on the contracts that it approves to enable it to undertake a governance role.

The contract reporting system will be periodically reviewed to ensure that it continues to deliver the necessary information to Council.

## **ATTACHMENTS**

*Nil.*

## **5.1 Information Reports**

---

TRIM REFERENCE: F2012/00026 - D02929544

MANAGER: Lesley Crawley; Manager Corporate Governance

AUTHOR: Jacquie Elvidge; Councillor Services Officer

### **SUMMARY**

In accordance with Council's Code of Meeting Practice reports for the Information of Council are provided for adoption either by nominated exception or in total.

### **RECOMMENDATION**

***That Council receive the report on Information Reports.***

### **ATTACHMENTS**

*Nil.*



## **5.2 Disclosure of Interest Returns - 1 October to 31 December 2011**

---

TRIM REFERENCE: F2011/01634 - D02922856

MANAGER: Lesley Crawley, Manager Corporate Governance

AUTHOR: Sonia Witt; TL Governance and Councillor Services

### **SUMMARY**

The Local Government Act, 1993 requires Disclosure of Interest (DOI) Returns for Councillors and Designated Persons to be lodged with the General Manager who, in turn is required to keep a register of the Disclosure of Interest Returns.

The Act further requires the DOI Returns lodged with the General Manager to be tabled at a meeting of Council.

### **RECOMMENDATION**

***That Council receive the report on Disclosure of Interest Returns - 1 October to 31 December 2011.***

### **BACKGROUND**

In accordance with the Local Government Act 1993, staff are required to lodge a Return within three months of being appointed to a designated position. Councillors and staff are also encouraged to lodge an amended return if circumstances change during the year.

Section 450A(2)(a) also specifies that the General Manager must table the returns lodged under Section 449(1). The returns for the period 1 October to 31 December 2011 are now tabled.

### **NB**

Sections 449(1) and (5) of the Local Government Act, 1993 - Disclosure of Interest Returns for Councillors and Designated Persons to be lodged with GM

Section 450A(1) – register required of the Disclosure of Interest Returns lodged.

Section 450A(2) - Returns lodged with the General Manager under section 449(1) to be tabled at a meeting of Council.

### **ATTACHMENTS**

- 1 List of Disclosures of Interest 1 October to 31 December 2011 D02922962

**Disclosures of Interest  
1 October to 31 December 2011**

**Councillors**

-

**Staff**

Ashe G (resignation)  
Baker T (amended)  
Blackburn E (resignation)  
Blue A  
Byrne G  
Critchley L (resignation)  
Dickson D (resignation)  
Long M (resignation)  
Manley P (resignation)  
Pathinather L (resignation)  
Witherdin D



**Construction Status**

	<b>Scheduled Start</b>	<b>Scheduled Completion</b>	<b>% Work Complete</b>
<b>Milestone 1:</b>		February 2012	99%
Pre-construction – Management Plans & Approvals	4 January 2010		100%
Work Package 1 – Wyong River Off-take	7 April 2010		100%
Work Package 2 – Wyong River Pump Station	19 February 2010		99%
Work Package 3 – Wyong Mardi Rising Main 3	16 February 2010		100%
Work Package 4 – Wyong Mardi Inlet	6 May 2010		100%
Work Package 7 – Mardi Mangrove Transfer Main	1 March 2010		100%
Work Package 18 – Wyong Weir, Fishway & Gauging	5 August 2010		100%

<b>Milestone 2:</b>		4 April 2011	100%
Work Package 6 – Mardi Mangrove Transfer Pump Station	21 June 2010		100%
<b>Milestone 3:</b>		April 2012 *	85%
Commissioning	1 August 2011		

*(Dates as per JH latest program C25) \* excl 2 week contractor's float*

**Key Dates**

	<b>Scheduled Completion</b>	<b>Actual Completion</b>	<b>Complete</b>
Review of Environmental Factors (REF) submitted	30 June 2009	30 June 2009	<input type="checkbox"/>
Call for Expressions of Interest (EOI)	9 July 2009	9 July 2009	<input type="checkbox"/>
EOI closes	30 July 2009	30 July 2009	<input type="checkbox"/>
Determination Approval	14 October 2009	23 September 2009	<input type="checkbox"/>
Issue Request for Tenders (RFT)	16 October 2009	16 October 2009	<input type="checkbox"/>
Tenders close	12 November 2009	12 November 2009	<input type="checkbox"/>
Council consider Award of Construction Contract	9 December 2009	9 December 2009	<input type="checkbox"/>
Expiry of PAN 90 day notification period	31 December 2009	31 December 2009	<input type="checkbox"/>
Minister/Governor determination of compulsory acquisition applications	27 January 2010	27 January 2010	<input type="checkbox"/>
Pipeline Construction	27 January 2011	25 September 2011	<input type="checkbox"/>
Transfer Pump Station Construction	31 January 2011	4 April 2011	<input type="checkbox"/>
Commissioning	6 May 2011		<input type="checkbox"/>
Project Completion	June 2011		<input type="checkbox"/>

**Land Matters**

- Pipe laying has been completed on all properties.
  - 54/56 properties have been restored (excluding minor outstanding works).
  - Works have been 100% completed by John Holland on 54/56 properties.
  - 45/56 landholders have signed releases.
  - Easement Plans have been prepared for all properties and have been sent to the Office of Water.
- 

**Stakeholder Liaison**

**Media**

- No media releases this week.

**Resident communication**

- Direct liaison with affected landholders is ongoing via the Project Team.
- 

**Incidents**

- No significant Environmental or safety incidents occurred in the last period.
  - Ongoing monitoring of siltation controls at Ingram property.
- 

**Major Achievements / Issues**

Note: there will not be any extractions from Wyong river or Ourimbah creek for the purpose of testing the Mardi Mangrove transfer pumps at a low level of Mardi Dam (55%).

- Work Package 1: All work has been completed including commissioning
- Work Package 2: All work has been completed including commissioning
- Work Package 3: Work on this package has been completed. JH are required to re-pig WP03, JH have scheduled this activity after intergraded commissioning.
- Work Package 4: Construction of the Mardi Dam Discharge Structure has been completed.

- Work Package 6: Construction of the Mardi to Mangrove Transfer Pump Station has been completed. Commissioning of the transfer pump station has now commenced.
  - Commissioning is 85% complete
  - Testing the pumps at 55% Mardi Dam level has commenced
- Work Package 7: Construction of the pipeline is now completed.
- Work Package 18: Wyong River weir has now been completed.
- Intergraded commissioning will take place after testing the pumps a 55% (mid March)



WP 18, Wyong river Weir  
**(Work Package 7)**

## **ATTACHMENTS**

*Nil.*

## **5.4 Outstanding Questions on Notice and Notices of Motion**

---

TRIM REFERENCE: F2012/00026 - D02919915

MANAGER: Lesley Crawley, Manager Corporate Governance

AUTHOR: Susanna Gardiner; Councillor Services Officer

### **SUMMARY**

Report on outstanding Questions on Notice and Notices of Motion.

### **RECOMMENDATION**

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

### **ATTACHMENTS**

- 1 Table of Outstanding Questions on Notice and Notices of Motion - 14 March 2012

Enclosure D02919912

## 6.1 Answers to Question on Notice

---

TRIM REFERENCE: F2010/02209 - D02912634

MANAGER: Martin Johnson; Manager Land Use Planning Policy Development

AUTHOR: Scott Duncan; Senior Strategic Planner

### Q32/11 - Sun Orchids

The following question was asked by Councillor Wynn at the Ordinary Meeting on 14 December 2011:

*"It is my understanding that sun orchids are listed as a CI Critically Endangered plant and a plan of management is required by Council:*

- a *Do we have a plan of management for sun orchids in Pollock Avenue, Wyong and do we know why there has been such a dramatic decline in their numbers in Pollock Avenue, Wyong?*
- b *It is asserted sun orchids exist on areas of the Country Music Festival site, does Council have a management plan, relating to the Sun Orchids, for this site?"*

The Sun Orchid *Thelymitra adorata* is listed as critically endangered under the *Threatened Species Conservation Act, 1995*. There is a Plan of Management (PoM) for the Wyong Regional Sporting Complex contains two specific management requirements for *Thelymitra adorata* in regard to avoiding the use of herbicides and ensuring that road side slashing does not occur when orchid buds are forming or flowering occurs. Council does not have a specific PoM providing for management actions for weed control and monitoring methodology.

Council's Development Ecologist has been undertaking an annual census of the population at the Pollock Avenue site on 4 separate occasions as part of a scientific study process for her own professional development. The population count for the *Thelymitra adorata* population at Pollock Avenue in 2011 did show a significant reduction in flower stems when compared to surveys conducted in previous years. Council does not know why the population appears to be in decline and further monitoring will need to be conducted to confirm if this trend will continue to persist in the future. Likely pressures include inappropriate slashing times, inadequate weed control, grazing pressure and climatic variables.

The Country Music Festival site was surveyed by Umwelt, Environmental Consultants, in 2011 who were engaged to undertake the ecological assessment for the Precinct 7A rezoning. However, the species was not detected on the site during the survey period. Umwelt Consultants did locate a large new population of the species [REDACTED] south of the Warnervale Town Centre.

\*Withheld at the request of the Office of Environment & Heritage (OEH).



## **6.1 Q32/11 - Sun Orchids (contd)**

---

Council has been advised by a local orchid enthusiast that the species was detected on the site in spring 2011. No Wildlife Atlas records exist for the species on the site, although there is a record nearby in Porters Creek Wetland (which is not proposed to be developed as part of the Precinct 7A rezoning process). Council's consultant has been asked to contact the orchid enthusiast to find out where the species was detected in 2011 and to provide support documentation.

### **ATTACHMENTS**

*Nil.*

## **6.2 Answers to Question on Notice**

---

TRIM REFERENCE: F2011/00006 - D02913969  
AUTHOR/ MANAGER: David Ryan; Manager Estuary Management

### **Q37/11 - State of the Lake**

The following question was asked by Councillor Greg Best at the Ordinary Meeting held on 14 December 2011:

*“While Council recognises the efforts of staff and our Lakes Committee in endeavouring to maintain our lakes system, I note in the recently released State of the Shire Report under Environment that many categories/environs such as Coastline and Wallarah Peninsula are declining, wetlands are declining, bio-diversity is declining and numerous other environmental indicators are also declining of which all are intricately linked with our lakes system. However, the SOE indicator for the lakes system itself if identified as ‘stable’ not declining as are the surroundings”.*

The principle objective of the Estuary Management Plan (EMP) is to improve the Tuggerah Lakes estuary, in particular, by improving the areas of the catchment that are in decline. This includes improvements to our river systems/riparian zones, wetlands, land-use and stormwater treatment etc that have previously had very little improvement works focussed on them. Council is endeavouring to arrest decline in all natural areas in the face of urban sprawl, past inappropriate land use and development and population growth. Prior to and during the 1980's, the lakes were in a more degraded state than currently exists. This was largely due to the regular seepage of raw sewerage into the estuary from ineffective on-site sewer management systems. The comparative current identification of the lakes as “stable” is accurate, however, decades of catchment degradation means the intervention works being implemented will not be realised in the short term.

Previous State of the Environment (SOS) reports have indicated declining trends for the condition of the Lakes. With the implementation of the Tuggerah Lakes Estuary Management Plan (TLEMP) and other works in the Shire, the condition of the lakes is currently considered to be stable. The State of the Shire's "current state" assessment is based on weighing up the current state of a natural area against the impacts of mitigation works undertaken during the year.

## **6.2 Q37/11 - State of the Lake (contd)**

---

Similarly, the "Future Trends" status looks at the current and predicted future pressures on a given area and assesses whether current trends or actions are considered to be sufficient to have a long term impact. Of the areas nominated within the Environment chapter, only the lakes and creeks/rivers were considered to have a future trend of "improving" This is due to the focus of attention being placed on this issue and its resultant funding and resourcing that has been provided in this category through the Federal 'Caring for our Country' grant under the first stage of the Estuary Management Plan Implementation. While other areas linked with the lakes, such as wetlands and biodiversity are thought to be declining, the amount of current intervention in other areas such as creeks and foreshores is maintaining the health of the lake in a stable condition with possible improvement in the future. Any improvement would be dependent upon an improvement in the other areas aforementioned impacting on the health of the lake. Therefore, the "Current State" is only considered to be "stable" and not improving.

The pressures in all areas of the environment will continue to increase in the future as the Shire's population grows. This current stage of the EMP implementation will increase attention on areas such as wetlands, however much more attention is needed in these areas to improve their long-term future health.

The important factor in environmental works is to acknowledge that it takes a long period of time to identify improvements just as the neglect and exploitation of the lake system has occurred over many years, and in this regard comprehensive monitoring is paramount. Consequently, the EMP programme has just commenced a comprehensive monitoring programme for water quality and is undertaking an investigation into the high profile issue of black ooze around the margins of the system. This will give more robust evidence for future 'current state' assessments noting that long-term improvement works and monitoring are paramount.

Further, the coastline and Wallarah peninsula are not directly linked to the estuary and is mainly ocean catchment. This impacts the lake in relation to the quality of water being exchanged at the entrance being approximately 1% of the total volume of the lakes. Of the "Land" sections of the SoS that do directly impact the lake, one - Highlands and Valleys - has a current state assessed as "Stable" and the other being Coastal Lowlands and Floodplains, has a current state assessed as "declining" due to the level of development in this area.

### **ATTACHMENTS**

*Nil.*

### **6.3 Answers to Question on Notice**

---

TRIM REFERENCE: F2004/07718 - D02936013  
AUTHOR/ MANAGER: Marie Hanson-Kentwell; Manager Human Resources

#### **Q3/12 - Service Delivery Review - Direct Employment of Apprentices and Trainees**

The following question was asked by Councillor Matthews at the Ordinary Meeting on:

*“Can staff please report on the progress of the Service Delivery Review goal, to investigate and move to implementation of direct employment by Council of all apprentices and trainees?”*

#### **CURRENT STATUS**

Council staff have been in the process of formulating a draft Youth Employment Strategy.

A component of that work was a cost benefit analysis to determine the most cost-effective practice of employing apprentices.

The analysis highlights direct employment of apprentices would result in a significant increase in annual costs based on the number of apprentices currently employed per year (currently 24).

The second draft of the Youth Employment Strategy is being finalised and will be considered by management during March. Fundamentally, the projected increased costs of self-employing apprentices out-weighs any perceived advantages.

The final draft Youth Employment Strategy is anticipated to be presented to a Councillor briefing in May-June.

#### **ATTACHMENTS**

*Nil.*

14 March 2012

To the Ordinary Council Meeting

Councillor

## **7.1 Notice of Motion - Central Coast Venues for Off Site Workshops - Weekend Workshops**

---

TRIM REFERENCE: F2011/01862 - D02930792

AUTHORS: Bob Graham; Councillor  
Doug Vincent; Councillor

Councillors Graham and Vincent have given notice that at the 14 March 2012 Ordinary Council Meeting to be held on they will move the following Motion:

*“That Council consider holding all future off-site Councillor workshops, including the Councillor Weekend Workshops at locations on the Central Coast.”*

### **RESOURCES**

The submission will be managed within existing staff resources.

14 March 2012

To the Ordinary Council Meeting

Councillor

## **7.2 Notice of Motion - Completion of Lake Cycleway**

---

TRIM REFERENCE: F2004/07891 - D02934786

AUTHORS: Doug Eaton; Councillor

Greg Best; Councillor

Councillors Eaton and Best have given notice that at the Ordinary Council Meeting to be held on 14 March 2012 they will move the following Motion:

- "1 That Council reiterate its support for the missing link cycleway connection through Wyrabalong National Park at North Entrance, as a priority project.*
- 2 That Council seek to convene a working group, consisting of the members for The Entrance and Wyong and representatives of the Premiers Office, the National Parks and Wildlife Service, Councillors and Council staff, to progress this key initiative."*

### **RESOURCES**

Note: In 2012 Council adopted the On-Road Bicycle and Shared Pathway Strategy. The proposed link is not one of the 11 top priority links.

In 2010 National Parks and Wildlife confirmed Council should seek revision of the Plan of Management to allow for cycleways in the National Park off access roads. In 2011 Council was sent the draft Plan of Management for Wyrabalong National Park and provided comments in relation to this issue. Council have yet to receive any information back.

Staff resources to support a working group would be \$350 per meeting. Dependant on what actions are identified through the meetings, the staff time and other resources would increase.

If Council decide to make this link a priority, resources will need to be reallocated from the existing shared pathway priorities.

14 March 2012

To the Ordinary Council Meeting

Councillor

### **7.3 Notice of Motion - Extension of the Wyrabalong National Park**

---

TRIM REFERENCE: F2005/02995 - D02938761

AUTHORS: Greg Best; Councillor

John McNamara; Councillor

Councillors Best and McNamara have given notice that at the Ordinary Council Meeting to be held on 14 March 2012 they will move the following Motion:

- "1 That Council recognise the importance of permanent protection and preservation of the important environmental coastal corridor through Lakes beach to Birdie beach.*
- 2 That Council in partnership with the local community and various environmental organisations give consideration to approaching National Parks and Wildlife with a view to extending the spectacular Wyrabalong National Park to Birdie beach, thereby providing permanent intergeneration protection of this sensitive environment precinct.*
- 3 That Council request the General Manager to report at appropriate milestones, progress on this important coastal protection initiative."*

#### **RESOURCES**

The implementation of this NOM could not be commenced until the 2012/2013 budget year when the reallocation of FTES from within the Environment & Planning Services Department (EP&S) into Environment and Natural Resources (ENR) takes place. At that time this action would form part of the ENR works program and be implemented by staff during the budget year.

14 March 2012

To the Ordinary Council Meeting

Councillor

## **7.4 Notice of Motion - Community Forum to Discuss Access and Disability within the Shire**

---

TRIM REFERENCE: F2004/07891 - D02939561

AUTHORS: Emma McBride; Councillor

Lisa Matthews; Councillor

Councillors McBride and Matthews have given notice that at the Ordinary Council Meeting to be held on Wednesday 14 March 2012 they will move the following Motion:

- "1 That Council facilitate a community forum to discuss access and disability in Wyong Shire.*
- 2 That Council note the objective of the forum is to achieve a community led approach to future engagement, consultation, service provision and infrastructure regarding access and disability in Wyong Shire."*
- 3 That Council invite residents, community groups, service providers and relevant agencies to the forum."*

Community & Cultural Development are active members of the following committees, Central Coast Aged and Disability Association and the Central Coast Disability Services Interagency. These forums provide support and strategic discussion for state and federal government bodies and funded services.

Council also participate in the Central Coast Disability Expo held as part of International Day of People with a Disability, celebrated on December 3<sup>rd</sup> each year.

As part of the 2012/13 Service Unit Business Plan Community & Cultural Development plan to undertake an access audit on community facilities. In addition, in-house training will also be provided on the changes to the Building Code for access issues and the Disability Discrimination Act.

Ideally any community seminars should be linked with existing structures and support networks.

### **RESOURCES**

1. Such a community forum would require a 2 months lead time and potentially be undertaken via a world café engagement process requiring up to 8 staff resources on the day. Venue hire, catering and staff resources are estimated at \$6000. There is no budget or staff allocation to this event.
2. Staff would note the objectives via invitation and planning of the event. Ideally any such forum would be linked and promoted as part of the International Day for People with a Disability Celebrations held in December.
3. Residents and community groups would be invited via existing networks and advertisements via Shirewide.