

WYONG SHIRE COUNCIL



Council celebrated NAIDOC Week earlier this month embracing the national theme: 'Honouring Our Elders, Nurturing Our Youth'. Here, our youth enjoy the annual Community Gathering as part of the celebrations.

ORDINARY MEETING

22 July 2009



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MEETING NOTICE

The **ORDINARY MEETING**
of **Wyong Shire Council**
will be held in the **Council Chamber**,
Wyong Civic Centre, Hely Street, Wyong on
WEDNESDAY 22 JULY 2009 at **5.00 pm**,
for the transaction of the business listed below:

OPENING PRAYER

ACKNOWLEDGEMENT OF COUNTRY

RECEIPT OF APOLOGIES

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

Kerry Yates
GENERAL MANAGER

1.1 Disclosure of Interest

TRIM REFERENCE: F2009/00008 - D01947317

AUTHOR: SW

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

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

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

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

RECOMMENDATION

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

1.2 Proposed Inspections

TRIM REFERENCE: F2009/00008 - D01947326

AUTHOR: SW

SUMMARY

Inspections proposed to be held on 29 July and 5 August 2009 are listed as follows:

Date of Inspection	Location	Requested By
29 July 2009	DA 382/2009 - Boundary Adjustment Corona Lane, Glenning Valley (Previously inspected 19 November 2008)	Director Shire Planning
29 July 2009	DA 525/2009 - Proposed Torrens Title Subdivision Wyong Road Killarney Vale	Director Shire Planning
29 July 2009	DA 1300/2008 - 41 Hutton Road, The Entrance North – Dwelling.	Director Shire Planning
5 August 2009	Rouse Hill Town Centre, Sydney.	Director Shire Planning

RECOMMENDATION

That Council receive the report on Proposed Inspections.

1.3 Address By Invited Speakers

TRIM REFERENCE: F2009/00008 - D01947331

AUTHOR: SW

SUMMARY

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

RECOMMENDATION

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

1.4 Confirmation of Minutes of Previous Meeting

TRIM REFERENCE: F2009/00008 - D01908562

AUTHOR: SW

SUMMARY

Confirmation of minutes of the previous Ordinary Meeting of Council held on 8 July 2009.

RECOMMENDATION

That Council confirm the minutes of the previous Ordinary Meeting of Council held on 8 July 2009.

ATTACHMENTS

1 Minutes of Ordinary Meeting - 8 July 2009 d01961035

WYONG SHIRE COUNCIL
MINUTES OF THE
ORDINARY MEETING OF COUNCIL
HELD IN THE COUNCIL CHAMBER
WYONG CIVIC CENTRE, HELY STREET, WYONG
ON WEDNESDAY, 8 JULY 2009,
COMMENCING AT 5.10 PM

PRESENT

COUNCILLORS R L GRAHAM (CHAIRPERSON), G P BEST (LEFT AT 7.29 PM) D J EATON, E M McBRIDE, J J McNAMARA, L A MATTHEWS, W R SYMINGTON, D P VINCENT, L D WEBSTER AND S A WYNN.

IN ATTENDANCE

GENERAL MANAGER, DIRECTOR SHIRE SERVICES, DIRECTOR SHIRE PLANNING, DIRECTOR CORPORATE SERVICES, MANAGER DEVELOPMENT ASSESSMENT, ACTING MANAGER FUTURE PLANNING, MANAGER WATER AND WASTE.

TEAM CO-ORDINATOR AND SENIOR PLANNER - MAJOR APPLICATIONS, MANAGER AND TEAM CO-ORDINATOR - PLANNING LEGAL AND POLICY, MANAGER DEPOTS AND FLEET, MANAGER CONTRACTS AND TWO ADMINISTRATION STAFF.

THE MAYOR REPORTED THAT BOTH THE NATIONAL GENERAL ASSEMBLY OF THE AUSTRALIAN LOCAL GOVERNMENT ASSOCIATION FROM 21 – 24 JUNE AND THE AUSTRALIAN COUNCIL OF LOCAL GOVERNMENT CONFERENCE ON 25 JUNE WERE HELD IN CANBERRA LAST MONTH. COUNCILLOR EATON, COUNCILLOR WYNN AND HE ATTENDED ON BEHALF OF WYONG SHIRE COUNCIL AND HE GAVE A BRIEF OVERVIEW AS FOLLOWS:

- * AN AMOUNT OF \$1.529M IN FUNDING HAS BEEN MADE AVAILABLE TO WYONG SHIRE COUNCIL. FURTHER FUNDING OF \$648,000, WHICH IS THE SIXTH LARGEST ALLOCATION MADE TO A COUNCIL IN NSW, WILL BECOME AVAILABLE PROVIDED THAT THE ALLOCATION OF \$1.529M HAS BEEN SPENT ON COMMUNITY WORKS COMPLETED BY SEPTEMBER 2009.
- * THREE NOTICES OF MOTION WERE SUBMITTED AT THE NATIONAL GENERAL ASSEMBLY BUT ONLY ONE OF THESE MOTIONS WAS RAISED. THE MOTION FOR EXTENSION OF PARENTAL LEAVE FOR COUNCIL STAFF, HOWEVER, IT WAS NOT SUPPORTED BY ATTENDEES.
- * THE FEDERAL MEMBER FOR DOBELL CRAIG THOMSON ADVISED OF A DECISION BY THE MINISTER OF EMPLOYMENT THAT THE CENTRAL COAST-HUNTER REGION HAS BEEN DESIGNATED AS A PRIORITY EMPLOYMENT AREA AND A LOCAL EMPLOYMENT COORDINATOR WILL BE APPOINTED TO DEAL WITH EMPLOYMENT ISSUES IN PARTICULAR YOUTH EMPLOYMENT WHICH CURRENTLY RUNS AT 40%.

THE MAYOR, COUNCILLOR GRAHAM, DECLARED THE MEETING OPEN AT 5.10 PM AND ADVISED IN ACCORDANCE WITH THE CODE OF MEETING PRACTICE THAT THE MEETING IS BEING RECORDED.

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

APOLOGIES

THERE WERE NO APOLOGIES.

1.1 Disclosure of Interests

3.1 THE ENTRANCE PENINSULA PLANNING STRATEGY

THE MANAGER DEVELOPMENT ASSESSMENT DECLARED A PECUNIARY INTEREST IN THAT PART OF THE MATTER RELATING TO THE NORTH ENTRANCE PRECINCT FOR THE REASON THAT HER HUSBAND IS THE MANAGING DIRECTOR OF ANDREWS NEIL WHO HAS PROVIDED DEVELOPMENT OPTIONS FOR DUNLEITH CARAVAN PARK REMAINED IN THE CHAMBER BUT DID NOT PARTICIPATE IN CONSIDERATION OF THIS MATTER.

3.1 THE ENTRANCE PENINSULA PLANNING STRATEGY

COUNCILLOR WEBSTER DECLARED A NON-PECUNIARY INSIGNIFICANT CONFLICT OF INTEREST IN THE MATTER FOR THE REASON THAT SHE OWNS A UNIT IN THE PRECINCT AND PARTICIPATED IN CONSIDERATION OF THIS MATTER.

COUNCILLOR WEBSTER STATED:

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

3.1 THE ENTRANCE PENINSULA PLANNING STRATEGY

COUNCILLOR EATON DECLARED A NON-PECUNIARY INSIGNIFICANT CONFLICT OF INTEREST IN THE MATTER FOR THE REASON THAT THE CONSULTANT/SPEAKER REFERRED TO CENTRAL COAST GROUP TRAINING IN A LETTER ABOUT THE STRATEGY AND PARTICIPATED IN CONSIDERATION OF THIS MATTER.

COUNCILLOR EATON STATED:

"I CHOOSE TO REMAIN IN THE CHAMBER AND PARTICIPATE IN DISCUSSION AND VOTING AS THE CONFLICT HAS NOT INFLUENCED ME IN CARRYING OUT MY PUBLIC DUTY BECAUSE IT'S A BROADSCALE PLANNING STRATEGY NOT RELATED TO OPERATIONS OF CENTRAL COAST GROUP TRAINING."

3.1 THE ENTRANCE PENINSULA PLANNING STRATEGY

COUNCILLOR BEST DECLARED A NON-PECUNIARY INSIGNIFICANT CONFLICT OF INTEREST IN THE MATTER FOR THE REASON THAT THE SPEAKER REFERRED TO CENTRAL COAST GROUP TRAINING IN A LETTER ABOUT THE STRATEGY AND PARTICIPATED IN CONSIDERATION OF THIS MATTER.

COUNCILLOR BEST STATED:

"I CHOOSE TO REMAIN IN THE CHAMBER AND PARTICIPATE IN DISCUSSION AND VOTING AS THE CONFLICT HAS NOT INFLUENCED ME IN CARRYING OUT MY PUBLIC DUTY BECAUSE THE REFERENCE IS TO A BROAD APPROACH TO PLANNING NOT RELATED TO THE OPERATIONS OF CENTRAL COAST GROUP TRAINING."

4.1 PROPOSED LICENCE AGREEMENT OVER DELTA ELECTRICITY LAND - LOT 82 DP 806672 AND LOT 10 DP 13641 AT MANNERING PARK

COUNCILLOR VINCENT DECLARED A NON-PECUNIARY INSIGNIFICANT CONFLICT OF INTEREST IN THE MATTER FOR THE REASON THAT HE IS AN EMPLOYEE OF DELTA ELECTRICITY AND PARTICIPATED IN CONSIDERATION OF THIS MATTER.

COUNCILLOR VINCENT STATED:

"I CHOOSE TO REMAIN IN THE CHAMBER AND PARTICIPATE IN DISCUSSION AND VOTING AS THE CONFLICT HAS NOT INFLUENCED ME IN CARRYING OUT MY PUBLIC DUTY BECAUSE I AM AN EMPLOYEE AND NOT A BOARD MEMBER."

6.5 PROPOSED COUNCILLORS' COMMUNITY IMPROVEMENT GRANTS

COUNCILLOR EATON DECLARED A NON-PECUNIARY INSIGNIFICANT CONFLICT OF INTEREST IN THE MATTER FOR THE REASON THAT HE IS THE CHAIRMAN OF THE CENTRAL COAST GROUP TRAINING BOARD AND PARTICIPATED IN CONSIDERATION OF THIS MATTER.

COUNCILLOR EATON STATED:

"I CHOOSE TO REMAIN IN THE CHAMBER AND PARTICIPATE IN DISCUSSION AND VOTING AS THE CONFLICT HAS NOT INFLUENCED ME IN CARRYING OUT MY PUBLIC DUTY BECAUSE THIS POSITION IS IN A VOLUNTARY CAPACITY ONLY AND NOT REMUNERATED HAVING NO CONFLICT WITH PUBLIC DUTY."

7.1 MINUTES - WYONG SHIRE GRANTS COMMITTEE EXTRAORDINARY MEETING - 17 JUNE 2009

COUNCILLOR VINCENT DECLARED A NON-PECUNIARY INSIGNIFICANT CONFLICT OF INTEREST IN THE MATTER, FOR THE REASON THAT POST THE GRANTS COMMITTEE MEETING A VOLUNTARY GROUP WAS FORMED TO ASSIST IN THE RUNNING OF THE 2009 GATHERING OF THE CLANS AND HE IS NOW A VOLUNTEER ASSISTING WITH THE RUNNING OF THE EVENT, AND PARTICIPATED IN CONSIDERATION OF THIS MATTER.

COUNCILLOR VINCENT STATED:

"I CHOOSE TO REMAIN IN THE CHAMBER AND PARTICIPATE IN DISCUSSION AND VOTING AS THE CONFLICT HAS NOT INFLUENCED ME IN CARRYING OUT MY PUBLIC DUTY BECAUSE I AM NOT AN OFFICIAL COMMITTEE MEMBER FOR THE EVENT BUT RATHER A VOLUNTEER."

11.1 PROPOSED ACQUISITION - DRAINAGE EASEMENT AT TUGGERAH

COUNCILLOR WEBSTER DECLARED A NON-PECUNIARY SIGNIFICANT CONFLICT OF INTEREST IN THE MATTER FOR THE REASON THAT FAMILY (LANDHOLDERS) ARE FRIENDS OF THE FAMILY. SHE LEFT THE CHAMBER AT 9.22 PM, TOOK NO PART IN DISCUSSION, DID NOT VOTE AND RETURNED TO THE CHAMBER AT 9.23 PM.

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

That the report on Disclosure of Interest be received and advice of disclosures noted.

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

AGAINST: NIL.

1.2 Inspections

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

That Council receive the report on Inspections.

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

AGAINST: NIL.

1.3 Address By Invited Speakers

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

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

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

AGAINST: NIL.

1.4 Confirmation of Minutes of Previous Meeting

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

That Council confirm the minutes of the previous Ordinary Meeting of Council held on 10 June 2009.

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

AGAINST: NIL.

BUSINESS ARISING FROM THE MINUTES

COUNCILLOR BEST ADVISED THAT WHEN HE ASKED QUESTION WITHOUT NOTICE NO Q039 HE REFERRED TO THE LOCATION OF THE BEACH CARPARK SECURITY GATE AS BEING AT NORAH HEAD HOWEVER HE NOW ACKNOWLEDGED THAT HIS REFERENCE WAS INCORRECT AND STAFF HAD CHANGED IT TO THE CORRECT LOCATION AT SOLDIER'S BEACH.

2.1 Notice of Intention to Deal with Matters in Confidential Session

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

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

12.1 Proposed Acquisition - Drainage Easement at Tuggerah

12.2 Proposed Acquisition – Land at Ourimbah

- 2 That Council note its reasons for considering Report Nos 12.1 in Confidential Session in accordance with (Section 10A(2) (g)) that discussion is anticipated which concerns legal proceedings. That Council note its reasons for considering Report No 12.2 in Confidential Session in accordance with (Section 10A(2) (c)) that it may confer a commercial advantage on a competitor of the Council 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.**

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

AGAINST: NIL.

3.1 The Entrance Peninsula Planning Strategy

THE MANAGER DEVELOPMENT ASSESSMENT DECLARED A PECUNIARY INTEREST IN THAT PART OF THE MATTER RELATING TO THE NORTH ENTRANCE PRECINCT FOR THE REASON THAT HER HUSBAND IS THE MANAGING DIRECTOR OF ANDREWS NEIL WHO HAS PROVIDED DEVELOPMENT OPTIONS FOR DUNLEITH CARAVAN PARK REMAINED IN THE CHAMBER BUT DID NOT PARTICIPATE IN CONSIDERATION OF THIS MATTER.

COUNCILLOR WEBSTER DECLARED A NON-PECUNIARY INSIGNIFICANT CONFLICT OF INTEREST IN THE MATTER FOR THE REASON THAT SHE OWNS A UNIT IN THE PRECINCT AND PARTICIPATED IN CONSIDERATION OF THIS MATTER.

COUNCILLOR WEBSTER STATED:

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

COUNCILLOR EATON DECLARED A NON-PECUNIARY INSIGNIFICANT CONFLICT OF INTEREST IN THE MATTER FOR THE REASON THAT THE CONSULTANT/SPEAKER REFERRED TO CENTRAL COAST GROUP TRAINING IN A LETTER ABOUT THE STRATEGY AND PARTICIPATED IN CONSIDERATION OF THIS MATTER.

COUNCILLOR EATON STATED:

"I CHOOSE TO REMAIN IN THE CHAMBER AND PARTICIPATE IN DISCUSSION AND VOTING AS THE CONFLICT HAS NOT INFLUENCED ME IN CARRYING OUT MY PUBLIC DUTY BECAUSE IT'S A BROADSCALE PLANNING STRATEGY NOT RELATED TO OPERATIONS OF CENTRAL COAST GROUP TRAINING."

COUNCILLOR BEST DECLARED A NON-PECUNIARY INSIGNIFICANT CONFLICT OF INTEREST IN THE MATTER FOR THE REASON THAT THE SPEAKER REFERRED TO CENTRAL COAST GROUP TRAINING IN A LETTER ABOUT THE STRATEGY AND PARTICIPATED IN CONSIDERATION OF THIS MATTER.

COUNCILLOR BEST STATED:

"I CHOOSE TO REMAIN IN THE CHAMBER AND PARTICIPATE IN DISCUSSION AND VOTING AS THE CONFLICT HAS NOT INFLUENCED ME IN CARRYING OUT MY PUBLIC DUTY BECAUSE THE REFERENCE IS TO A BROAD APPROACH TO PLANNING NOT RELATED TO THE OPERATIONS OF CENTRAL COAST GROUP TRAINING."

COUNCILLOR VINCENT LEFT THE CHAMBER AT 5.26 PM AND RETURNED TO THE CHAMBER AT 5.28 PM DURING CONSIDERATION OF THIS ITEM.

COUNCILLOR BEST LEFT THE CHAMBER AT 5.42 PM AND RETURNED TO THE CHAMBER AT 5.44 PM DURING CONSIDERATION OF THIS ITEM.

MR MICHAEL MILMAN FROM DUNNETT PROPERTIES, ADDRESSED THE MEETING AT 5.24 PM, ANSWERED QUESTIONS AND RETIRED AT 5.28 PM.

MR JOHN BAMBURY FROM THE ENTRANCE BOWLING CLUB WAS AVAILABLE FOR QUESTIONS.

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

- 1 That Council adopt the draft The Entrance Peninsula Planning Strategy subject to amendment in Precincts 3 and 6 resulting from detailed masterplan adoption in these Precincts.**
- 2 That Council advise the Department of Planning of its decision and forward a copy of the adopted Strategy for information.**
- 3 That Council include the above rezonings in the draft Wyong Local Environmental Plan 2011.**
- 4 That Council write to the NSW Minister for Roads requesting immediate action on the preparation of concept design plans for the upgrading of the Central Coast Highway through Long Jetty and The Entrance.**
- 5 That Council write to the Members for Wyong and The Entrance seeking their support for a ferry link between Wyong township and The Entrance township and a variation of speed limit on Wyong River to facilitate ferry operation with an appropriately designed low wake vessel.**

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

AGAINST: NIL.

3.2 DA 2660/2004 - Proposed Managed Resort Facility and Residential Development, The Entrance

MR JOHN MURRAY ON BEHALF OF THE APPLICANT, ADDRESSED THE MEETING AT 5.47 PM, ANSWERED QUESTIONS AND RETIRED AT 5.52 PM.

MR JIM PRICE ON BEHALF OF WATCH COMMITTEE ADDRESSED THE MEETING AT 5.54 PM, ANSWERED QUESTIONS AND RETIRED AT 5.58 PM.

MR CHRIS BAKER, REPRESENTING THRUM ARCHITECTS, WAS AVAILABLE TO ANSWER QUESTIONS.

DIRECTOR CORPORATE SERVICES LEFT THE CHAMBER AT 6.56 PM AND DID NOT RETURN.

COUNCILLOR McNAMARA LEFT THE CHAMBER AT 5.48 PM AND RETURNED TO THE CHAMBER AT 5.50 PM DURING CONSIDERATION OF THIS ITEM.

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

- 1 That Council indicate its approval in principle in the form of a deferred commencement consent, subject to the imposition of appropriate conditions.**
- 2 That a report on appropriate conditions be brought back to Council meeting.**
- 3 That in developing the conditions of consent, staff consider the following issues:**
 - Management Plan for maintaining public access through the site**
 - Agreement to appropriate staging of the development**
 - Climate change, including in this instance, sea level rise, increased inundation, increased wave attack and storm surges.**
 - Ability of the Development to comply with BASIX principles.**

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

AGAINST: COUNCILLORS SYMINGTON, VINCENT AND WYNN.

3.3 DA 1009/2008 - Proposed Seniors Housing and Residential Aged Care Facility at Kanwal

MR DAVID GOODRICH, REPRESENTING THE APPLICANT, WAS AVAILABLE TO ANSWER QUESTIONS.

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

- 1 That Council refer the application to the General Manager for determination having regard to the matters for consideration detailed in Section 79C of the Environmental Planning and Assessment Act and other relevant issues with an indication that based on the information available to it, Council favours the granting of a "deferred commencement" consent pursuant to Section 80(3) of the Environmental Planning & Assessment Act, 1979.**
- 2 That Council authorise the General Manager to determine any application for minor modifications to the approved development plans or consent conditions.**
- 3 That Council advise those who made written submissions of the decision.**
- 4 That Council make representations to the Roads and Traffic Authority seeking formal recognition of the RTA's contribution to intersection works on the corner of the Pacific Highway and Louisiana Road.**

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

AGAINST: NIL.

SUSPENSION OF STANDING ORDERS

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

That Council suspend standing orders to allow consideration of Item 10.4 – Notice of Motion - Improved Mardi-Mangrove Information Flow.

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

AGAINST: NIL.

FOR THE SAKE OF CLARITY THE MINUTES INCLUDE CONSIDERATION OF ITEM 10.4 – NOTICE OF MOTION - IMPROVED MARDI-MANGROVE INFORMATION FLOW IN THE CORRECT AGENDA SEQUENCE.

3.4 Draft Development Control Plan 2005: Chapter 69 - Controls for Site Waste Management

COUNCILLOR BEST LEFT THE CHAMBER AT 7.29 PM AND DID NOT RETURN TO THE CHAMBER.

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

That Council defer decision pending a briefing and a further report be submitted to Council's meeting on 22 July 2009.

The MOTION was put to the vote and declared LOST.

FOR: COUNCILLORS GRAHAM, EATON, McNAMARA AND WEBSTER

AGAINST: COUNCILLORS McBRIDE, MATTHEWS, SYMINGTON, VINCENT AND WYNN.

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

- 1 That Council adopt Draft Development Control Plan 2005: Chapter 69 - Controls for Site Waste Management in accordance with Section 74C of the Environmental Planning and Assessment Act, 1979 and publish an appropriate public notice within 28 days that the draft Chapter will come into effect as Chapter 69 within DCP 2005 on 17 July 2009;**
- 2 That Council's notice include advice that the provisions of the adopted Chapter 69 and the associated Waste Control Guidelines will be applied to all Development Applications and to Complying Development Applications lodged under Council's LEP/DCP, received from 17 July 2009;**
- 3 That Council adopt draft Policy C6 - Controls for Site Waste Management and publish an appropriate public notice within 28 days that the Policy and the associated Waste Control Guidelines will come into effect and apply to all applications for the approval of an activity, lodged in accordance with Part V of the Environmental Planning and Assessment Act 1979, from 17 July 2009;**

- 4 ***That Council forward a copy of DCP 2005 containing the amended Chapter 69 to the Director General of the NSW Department of Planning within 28 days.***
- 5 ***That Council Section 149 Certificates be noted as to the adoption of Chapter 69.***

FOR: COUNCILLORS McBRIDE, MATTHEWS, SYMINGTON, VINCENT AND WYNN.

AGAINST: COUNCILLORS GRAHAM, EATON, McNAMARA AND WEBSTER.

4.1 Proposed Licence Agreement over Delta Electricity land - Lot 82 DP 806672 and Lot 10 DP 13641 at Mannering Park

COUNCILLOR VINCENT DECLARED A NON-PECUNIARY INSIGNIFICANT CONFLICT OF INTEREST IN THE MATTER FOR THE REASON THAT HE IS AN EMPLOYEE OF DELTA ELECTRICITY AND PARTICIPATED IN CONSIDERATION OF THIS MATTER.

COUNCILLOR VINCENT STATED:

"I CHOOSE TO REMAIN IN THE CHAMBER AND PARTICIPATE IN DISCUSSION AND VOTING AS THE CONFLICT HAS NOT INFLUENCED ME IN CARRYING OUT MY PUBLIC DUTY BECAUSE I AM AN EMPLOYEE AND NOT A BOARD MEMBER."

COUNCILLOR MATTHEWS LEFT THE CHAMBER AT 8.06 PM AND RETURNED TO THE CHAMBER AT 8.08 PM DURING CONSIDERATION OF THIS ITEM.

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

- 1 ***That Council accept a Licence from Delta Electricity for a term of 25 years for a nominal fee for the purpose of constructing a walkway (shared pathway/cycleway) over Lot 82 DP 806672 and Lot 10 DP13641 owned by Delta Electricity.***
- 2 ***That Council approve payment of costs associated in obtaining the licence.***
- 3 ***That Council authorise the Common Seal of Wyong Shire Council to be affixed to the Licence Agreement between Wyong Shire Council and Delta Electricity.***
- 4 ***That Council authorise the Mayor and the General Manager to execute all documents relating to the Licence Agreement between Wyong Shire Council and Delta Electricity.***

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

AGAINST: NIL.

4.2 Proposed Lease over part Public Road Reserve Pheasant Avenue, Bateau Bay adjoining land Lot 526 DP 823144 known as Karagi Court, No 2 Pheasant Avenue, Bateau Bay

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

- 1 That Council grant a Lease to Australian Unity Property Ltd of part of public road reserve Pheasant Avenue, Bateau Bay adjoining Lot 526 DP 823144 Karagi Court, 2 Pheasant Avenue, Bateau Bay for a period of five years commencing as soon as possible for nominal rent of \$500.00 plus GST per annum.**
- 2 That Council agree to an option for renewal of the lease for a further five) years.**
- 3 That Council authorise the Common Seal of Wyong Shire Council to be affixed to the formal documents as required between Wyong Shire Council and Australian Unity Property Ltd.**
- 4 That Council authorise the Mayor and the General Manager to execute all documents relating to the Lease between Wyong Shire Council and Australian Unity Property Ltd.**

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

AGAINST: NIL.

5.1 CPA 150508 - Tender for Hire of Casual Labour

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

- 1 That Council accept all conforming recommended tenders received for Contract CPA/150508 Hire of Casual Labour for the period 9 July 2009 to 8 July 2010.**
- 2 That Council authorise the Director Shire Services to arrange engagement of Casual Labour as required from time to time in accordance with Contract CPA/150508 using the most economical and suitable supplier as each situation demands.**

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

AGAINST: NIL.

5.2 CPA 162813 - Construction of Six Additional Netball Courts at Baker Park, Wyong

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

- 1 That Council accept tender number 6 from Court Craft (Aust) Pty Ltd in the lump sum amount of \$598,761.64 (excl GST).**
- 2 That Council approve a contract budget of \$660,000.00 (excl GST) that provides for a contingency amount of \$60,000.00 (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.**
- 3 That Council allocate any remaining funds to the maintenance and upkeep of existing courts.**

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

AGAINST: NIL.

6.1 Facility Agreement - Westpac Banking Corporation

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

- 1 That Council note the acceptance of loan borrowings for an amount of \$35,000,000 from Westpac Banking Corporation by the General Manager in accordance with the 2008-09 Management Plan and subsequent resolution that Council delegate to the General Manager the authority to accept loan offers in accordance with the proposed borrowings in the Draft Management Plan and borrow a total of \$50,923,000 from financial institutions with an Australian banking licence and \$1,000,000 from the Department of Lands.**
- 2 That Council authorise the Common Seal to be affixed to the Facility Agreement between the Wyong Shire Council and Westpac Banking Corporation.**
- 3 That Council authorise the Mayor and General Manager to execute all documents relating to the Facility Agreement between the Wyong Shire Council and Westpac Banking Corporation.**

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

AGAINST: NIL.

6.2 Payment of Public Liability Professional Indemnity Insurance Premium

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

That Council approve the renewal of Council's Public Liability/Professional Indemnity insurance policy with Statewide Mutual for the period 30 June 2009 to 30 June 2010 for the sum of \$476,900 (excl GST).

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

AGAINST: NIL.

6.3 Payment of Compulsory Third Party Insurance

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

That Council approve the payment of \$217,355.54 being made up of \$158,298.78 premium, \$15,829.87 GST and \$43,226.89 Government Levies for the renewal of Council's Compulsory Third Party insurance with QBE Insurance Ltd for the period 31 May 2009 to 31 May 2010.

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

AGAINST: NIL.

6.4 Payment of Industrial Special Risk Insurance Premium

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

That Council approve the payment of \$530,676.75 (ex GST) premium for the renewal of Council's Industrial Special Risk insurance policy with Statewide Property Mutual for the period 30 June 2009 – 30 June 2010.

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

AGAINST: NIL.

6.5 Proposed Councillors' Community Improvement Grants

COUNCILLOR EATON DECLARED A NON-PECUNIARY INSIGNIFICANT CONFLICT OF INTEREST IN THE MATTER FOR THE REASON THAT HE IS THE CHAIRMAN OF THE CENTRAL COAST GROUP TRAINING BOARD AND PARTICIPATED IN CONSIDERATION OF THIS MATTER.

COUNCILLOR EATON STATED:

"I CHOOSE TO REMAIN IN THE CHAMBER AND PARTICIPATE IN DISCUSSION AND VOTING AS THE CONFLICT HAS NOT INFLUENCED ME IN CARRYING OUT MY PUBLIC DUTY BECAUSE THIS POSITION IS IN A VOLUNTARY CAPACITY ONLY, NOT REMUNERATED, AND HAS NO CONFLICT WITH MY PUBLIC DUTY."

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

- 1 That Council allocate an amount of \$19,155 from the 2008-09 Councillors' Community Improvement Grants as outlined in the report.***
- 2 That Council allocate an amount of \$5,440 from the 2009-10 Councillors' Community Improvement Grants as outlined in the report.***

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

AGAINST: NIL.

6.6 Charter - Wyong Shire Council Sports Committee

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

That Council adopt the amended Charter of the Sports Committee.

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

AGAINST: NIL.

7.1 Minutes - Wyong Shire Grants Committee Extraordinary Meeting - 17 June 2009

COUNCILLOR VINCENT DECLARED A NON-PECUNIARY INSIGNIFICANT CONFLICT OF INTEREST IN THE MATTER, FOR THE REASON THAT POST THE GRANTS COMMITTEE MEETING A VOLUNTARY GROUP WAS FORMED TO ASSIST IN THE RUNNING OF THE 2009 GATHERING OF THE CLANS AND HE IS NOW A VOLUNTEER ASSISTING WITH THE RUNNING OF THE EVENT, AND PARTICIPATED IN CONSIDERATION OF THIS MATTER.

COUNCILLOR VINCENT STATED:

"I CHOOSE TO REMAIN IN THE CHAMBER AND PARTICIPATE IN DISCUSSION AND VOTING AS THE CONFLICT HAS NOT INFLUENCED ME IN CARRYING OUT MY PUBLIC DUTY BECAUSE I AM NOT AN OFFICIAL COMMITTEE MEMBER FOR THE EVENT BUT RATHER A VOLUNTEER."

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

That Council receive the minutes of the Wyong Shire Grants Committee Extraordinary Meeting held on 17 June 2009 and adopt the recommendations contained therein.

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

AGAINST: NIL.

8.1 Information Reports

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

That with the exception of report number 8.3 the information reports be received and the recommendations adopted.

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

AGAINST: NIL.

8.2 Disclosure of Interest Returns

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

That Council receive the report on Disclosure of Interest Returns.

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

AGAINST: NIL.

8.3 Very Fast Train Program

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

- 1 That Council receive the report on the Very Fast Train Program.**
- 2 That Council write to the Federal Member for Dobell and Infrastructure Australia pointing out the benefits that a Very Fast Train connecting Williamstown to Sydney would include the possibility of Williamstown becoming Sydney's second airport and provide adequate commuter transport within the greater Sydney area.**

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

AGAINST: NIL.

8.4 Investments for May 2009

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

That Council receive the report on Investments for May 2009.

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

AGAINST: NIL.

8.5 New Rural Fire Station, Lots 6 and 19, DP 22433, Ourimbah Creek Road, Ourimbah

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

That Council receive the report on New Rural Fire Station, Lots 6 and 19, DP 22433, Ourimbah Creek Road, Ourimbah.

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

AGAINST: NIL.

8.6 Park Beach, The Entrance

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

That Council receive the report on Park Beach, The Entrance.

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

AGAINST: NIL.

8.7 Outstanding Questions Without Notice and Notices of Motion

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

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

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

AGAINST: NIL.

10.1 Notice of Motion - E-Waste

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

- 1 *That Council provide a report on the estimated annual cost per ratepayer for a bi-annual kerbside collection of e-waste, transport and disposal at a recycling processing plant.***
- 2 *That Council report on the current amount Council pays for e-waste in the waste levy to the NSW State Government and the effects of e-waste on the environment.***
- 3 *That Council conduct a six month trial for e-waste drop off once the upgrade works at Buttonderry are completed and at the end of the trial, an information report on the quantity collected and cost of collection be submitted to Council.***
- 4 *That Council identify and link in with existing e waste programs currently operating for example Cartridges for Planet Ark, Council's Chemical Cleanup and Mobile Muster.***

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

AGAINST: NIL.

10.2 Notice of Motion - Container Deposit Scheme

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

- 1 That Council acknowledge the significant environmental, economic and social benefits to ratepayers of adopting a Container Deposit Scheme (CDS) in NSW.**
- 2 That Council support the “Community Attitudes Survey” to be conducted by the Environment Protection and Heritage Council and further investigations of CDS at a State Government level in terms of the logistical and financial implications on local government. This should be achieved through conducting on-ground trials and providing more detailed analysis which is directly relevant to NSW Councils.**
- 3 That Council write to the NSW Premier, the Hon Nathan Rees, and the NSW Minister for Climate Change and the Environment, the Hon Carmel Tebbutt, to urge the NSW Government to initiate or support legislation, after further investigation, to establish such a scheme in NSW in line with points 1 and 2.**

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

AGAINST: NIL.

10.3 Notice of Motion - Joint Regional Planning Panels

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

- 1 That Council raise its grave concerns about the recent statement to Parliament by the Minister for Planning flagging the likely extension of powers of the Joint Regional Planning Panels to prepare and determine Local Environmental Plans, Development Control Plans and Section 94 Developer Contribution Plans on the basis of the serious implications on our local community due to this further loss of local decision making.**
- 2 That Council forward details of its concerns to all local members, the Local Government and Shires Associations and the Minister for Planning.**
- 3 That Council undertake a media campaign to raise awareness within the community of the potential implications of this further reduction in local decision making and the further reduction in the community’s ability to influence its own future.**

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

AGAINST: NIL.

10.4 Notice of Motion - Improved Mardi-Mangrove Information Flow

COUNCILLOR VINCENT LEFT THE CHAMBER AT 7.23 PM AND RETURNED TO THE CHAMBER AT 7.25 PM DURING CONSIDERATION OF THIS ITEM.

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

- 1 That Council seek to improve the transparent and timely dissemination of emerging information through receiving, as a standing agenda item on all future business papers, a project status report outlining key engineering, financial, contractual and compliance issues.**
- 2 That Council provide opportunity to the Project Director Mr Greg McDonald to address Council in chambers on the updated reports to further assist this critical information flow.**

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

AGAINST: NIL.

10.5 Notice of Motion - Code of Meeting Practice

RESOLVED on the motion of Councillor SYMINGTON and seconded by Councillor McBRIDE:

- 1 That Council incorporate into the proposed review of its Code of Meeting Practice an amendment to enable a Councillor to request a development application under Part 4 or an assessment under Part 5 be reported to a meeting of Council for determination.**
- 2 That Council determine the above provisions following a review of the relevant provisions currently in place at adjoining Councils.**
- 3 That this proposal require the application be made by a minimum of two Councillors.**
- 4 That the review consider the number of submissions required to automatically trigger a report to Council.**

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

AGAINST: COUNCILLOR WYNN.

QUESTIONS WITHOUT NOTICE ASKED**Q042 - Infrastructure contributions on subdivisions****Councillor Eaton**

F2004/12201

“Could Council confirm that Hunter Water and Sydney Water no longer charge infrastructure contributions on land subdivision with a consequential reduction in Land subdivision and housing costs?”

Q043 - Impact of proposed Federal carbon tax**Councillor Eaton**

F2004/06772

“Could Council advise whether Buttonderry Tip is affected by the Federal Government’s proposed carbon tax and if so the financial impact of this impost?”

CONFIDENTIAL SESSION

AT THIS STAGE OF THE MEETING BEING 9.21 PM COUNCIL MOVED INTO CONFIDENTIAL SESSION WITH THE PRESS AND THE PUBLIC EXCLUDED.

OPEN SESSION

COUNCIL RESUMED IN OPEN SESSION AT 9.39 PM AND THE GENERAL MANAGER REPORTED ON PROCEEDINGS OF THE CONFIDENTIAL SESSION OF THE ORDINARY MEETING OF COUNCIL AS FOLLOWS:

11.1 Proposed Acquisition - Drainage Easement at Tuggerah

COUNCILLOR WEBSTER DECLARED A NON-PECUNIARY SIGNIFICANT CONFLICT OF INTEREST IN THE MATTER FOR THE REASON THAT FAMILY (LANDHOLDERS) ARE FRIENDS OF THE FAMILY. SHE LEFT THE CHAMBER AT 9.22 PM, TOOK NO PART IN DISCUSSION, DID NOT VOTE AND RETURNED TO THE CHAMBER AT 9.23 PM.

- 1 That Council acquire a drainage easement over an existing constructed drainage line over part Lots 8 and 9 DP 1014170, Lot 3 DP 841170 and Lots 3 and 4 DP 877668.**
- 2 That Council authorise the payment of compensation if necessary for the acquisition of the easement in Item 1 in accordance with the Land Acquisition (Just Terms Compensation) Act 1991 and based on assessment by a qualified valuer.**
- 3 That Council proceed to compulsorily acquire the easement in Item 1 in the event that negotiations with the property owners cannot be satisfactorily resolved.**
- 4 That Council authorise the Common Seal of Wyong Shire Council to be affixed to all documents as required to implement the compulsory acquisition.**
- 5 That Council authorise the Mayor and General Manager to execute all documents relating to the Transfer and/or Plan and all documents relating to the applications to the Department of Local Government.**

11.2 Proposed Acquisition - Land at Ourimbah

- 1 That Council authorise the purchase of Lots 13 and 15 DP 4097 Pryor Road Ourimbah for a purchase price up to an amount assessed by a qualified valuer.**
- 2 That Council authorise the General Manager to bid at auction taking account of Council's valuation.**
- 3 That Council authorise the affixing of the Common Seal of the Wyong Shire Council to all documents relating to the acquisition of the land by Council.**
- 4 That Council authorise the Mayor and the General Manager to execute all documents relating to the acquisition of the land by Council.**
- 5 That Council classify Lots 13 and 15 DP 4097 as Community Land and categorise the land as Natural Area – Bushland in the Plan of Management for community land.**
- 6 That Council exempt this motion from the provisions of the Code of Meeting Practice to allow the motion to be actioned from 9.00am on 9 July 2009 for the reason that the mortgagee in possession proposes an auction sale of the land to be held at 7:00pm on 9 July 2009.**

THERE BEING NO FURTHER BUSINESS, THE MEETING CLOSED AT 9.40 PM.

.....
CHAIRPERSON

2.1 Notification of Dwellings Not Required to be Notified Under Chapter 70

TRIM REFERENCE: F2005/02856 - D01946853

AUTHOR: BF

SUMMARY

On 12 November 2008 Council unanimously adopted the current version of Development Control Plan 2005: Chapter 70 – Notification of Development Proposals (Chapter 70). As part of this resolution to adopt Chapter 70 Council also resolved that;

“Staff prepare a report for Council’s consideration regarding a policy of notification of immediate neighbours in relation to approval of single storey complying residential housing development”.

This report was prepared and reviewed by Council at its meeting held on 28 January 2009. At this meeting Council resolved unanimously on the motion of Councillor Symington and seconded by Councillor Eaton:

“That Council defer consideration of this item pending a briefing of Councillors to explain the State Government changes of notification requirements”.

A briefing was held with Councillors on 27 May 2009 to outline the current requirements and Council’s notification process. This report now provides options for post-determination notification of Development applications that do not require notification under Chapter 70.

RECOMMENDATION

- 1 That Council receive the report on Notification of Dwellings not Required to be Notified Under Chapter 70.**
- 2 That Council adopt Option 1 as contained in this report as Council’s procedure for the notification of single storey dwelling houses that are otherwise exempt from notification under DCP 2005, Chapter 70.**

INTRODUCTION

As part of the decision to adopt an amended Chapter 70, Council resolved that staff consider how Council could implement a policy of notification of immediate neighbours in relation to approval of single storey complying residential housing development. This report outlines the options available to address this issue.

Council has now adopted the amendments to Chapter 70 which commenced on 1 January 2009. The amendments adopted included the removal of the notification requirements for single storey dwelling houses and single storey alteration/additions that comply with the provisions of Chapter 99 – Building Lines and Chapter 100 – Quality Housing (Chapter 99 and Chapter 100). This has helped to streamline the assessment process for dwelling houses and additions that don't seek any variations to Chapters 99 and 100, and reduce delays in assessment and determination that result from the former 14 day advertising period. Generally, applications that do not have any significant issues are now being determined on average, in approximately 11 working days compared to the previous time frame of approximately 19 working days.

Council also resolved on 12 November 2008, while considering the amendments to Chapter 70, to consider a policy of notification of immediate neighbours in relation to approvals granted to single storey complying residential housing development. The options for advising adjacent neighbours of development approvals that do not require formal notification are considered in this report.

On 12 November 2008, Staff submitted a report to Council to adopt the amended version of Chapter 70 – Notification of Development Proposals. At this meeting Council resolved unanimously on the motion of Councillor Symington and seconded by Councillor Eaton:

1. *That Council adopt draft Development Control Plan 2005 – Chapter 70 Notification of Development Proposals in accordance with Clause 21 of the Environmental Planning and Assessment Regulations effective from 1 January 2009.*
2. *That Council apply the provisions of the adopted Development Control Plan to all Development Applications received on or after 1 January 2009.*
3. *That Council forward the Development Control Plan 2005 containing the amended Chapter 70 Notification of Development Proposals to the Department of Planning within 28 days.*
4. *That Council annotate relevant Section 149 Certificates regarding the adoption of Development Control Plan 2005 – Chapter 70 Notification of Development Proposals.*
5. *That Council request staff to prepare a report for Council's consideration regarding a policy of notification of immediate neighbours in relation to approval of single storey complying residential housing development.*

On 28 January 2009, staff reported on resolution five above and it was resolved unanimously on the motion of Councillor Symington and seconded by Councillor Eaton:

“That Council defer consideration of this item pending a briefing of Councillors to explain the State Government changes of notification requirements”.

2.1 Notification of Dwellings Not Required to be Notified Under Chapter 70 (contd)

Following this resolution, a Councillor briefing was held on 27 May 2009. At this briefing Councillors were informed about the current notification procedures under the Environmental Planning & Assessment Act 1979 (EP&A Act), Environmental Planning & Assessment Regulations 2000 and Chapter 70. The briefing also included an update on the recently State initiated State Environmental Planning Policy (Exempt and Complying Code) 2008.

OPTIONS

Following are options for development applications that do not require notification under Chapter 70.

Option 1: Letter Following Determination

A letter can be sent to neighbouring properties, following determination of the development application, advising that an approval has been granted by Council for the proposed works. This would be in a similar format to the letter that is sent out following the determination of a Complying Development Certificate (CDC). An example of this letter is included as Attachment 1. This letter can be generated and sent out as part of the determination process. A template can be created and stored in Pathways, Council's electronic system for development assessment processing.

This option would ensure that owners are made aware of works that are approved on neighbouring properties and may help to reduce the number of complaints or queries that may be received once works commence.

This option is recommended.

Option 2: Letter on Receipt of Application

A letter can be sent to adjoining properties when an application has been received by Council for single storey dwellings or alteration/additions that comply with Chapters 99 and 100. However, this would be similar to notifying the application under Council's notification policy but without the opportunity for submissions. This could result in some confusion as there would be no opportunity to lodge a submission during assessment and the application may not be subsequently approved by Council, therefore leading to uncertainty.

This option is not recommended.

Option 3: No Letter or Notification

Chapter 70 has been adopted and does not currently require notification of certain single storey dwelling houses or alteration and additions to single storey dwelling houses. As such there is currently no requirement to send out any form of notification letter and therefore Council could determine the applications without any form of notice or post determination notice. However, this option does not keep residents informed and may result in questions and complaints once building works commence.

This option is not recommended.

2.1 Notification of Dwellings Not Required to be Notified Under Chapter 70 (contd)

Who Will Be Notified?

Should Option 1 be adopted as recommended it is proposed to send the letter to adjoining land owners who include:

- Persons who own land that share a common property boundary with the site and land directly on the opposite side of a creek, road, pathway or similar thoroughfare; and
- Persons who own land within the Cities of Gosford, Greater Cessnock or Lake Macquarie which adjoins the boundary of Wyong Shire and the site which is the subject of the development application.

Where adjoining or neighbouring land is owned under Strata Title or Community Title, notification shall be sent to the Manager or Secretary of the Owners Corporation or Association.

Council will not separately notify the tenants of adjoining or neighbouring land of approvals granted.

Where adjoining or neighbouring land is owned by more than one person, a notice to one owner will be appropriate.

It should be noted that the above parameters are consistent with the notification procedure adopted in Chapter 70.

NSW Planning Law Reforms

It should be noted that new planning reforms became effective in February 2009. The intent of the new SEPP (Exempt and Complying Codes) 2008 (Codes SEPP) is that many residential developments, including detached single and double storey dwellings, home extensions and other ancillary development can proceed on lots greater than 450m² as complying development. These certificates can be issued by Council or a private certifier. While these complying developments do not require notification there is a requirement under the EP&A Regulation that a post – determination notification letter be sent to owners or occupiers of land within 40m within 2 days of determination. This requirement came into force on 27 February 2009. In addition, a recent amendment to the EP&A Regulations has meant that Council no longer must notify owners of vacant land within 40m of an approved Complying development site.

While these amendments only cover CDCs, which are not covered by Chapter 70, it is argued that DA's that are approved without initial notification (similar to a CDC) should also be subject to post- determination notification.

RELATIONSHIP TO WYONG LEP 1991

The amended Chapter 70 which was adopted on 12 November 2008 commenced on 1 January 2009. As a matter of practice and pending Council's decision on this matter, the Shire Planning Department has introduced a process where Council issues post-determination letters to notify immediate adjoining neighbours that a DA has been approved on the adjoining site. As a result, the use of letters under Option 1 could also be commenced immediately. This is not a legislative requirement but an additional process that could be undertaken in Council's Shire Planning Department.

CONCLUSION

It is recommended that Option 1, requiring a letter to be sent out following approval of an application, be adopted as a procedure for single storey dwelling houses or alterations/additions that are otherwise exempt from notification under Chapter 70.

ATTACHMENTS

- 1 Sample Letter D01945885

DA/xx/xx
Date

Mr & Mrs Sample
6 Sample Cl
SAMPLE NSW 2259

Dear Sir/Madam

Property:
Applicant's Name:
Description:

I refer to the above property and wish to advise that Wyong Shire Council has issued Development Consent No. xxx in relation to the above property.

This application complies with the criteria set down in Council's Development Control Plan 2005: Chapter 99 – Building Lines and Chapter 100 – Quality Housing and as such does not require neighbour notification under Chapter 70 – Notification of Development Proposals.

The intent of this letter is to advise you that an approval has been granted. Construction can only commence after issue of a Construction Certificate and compliance with relevant conditions of the development consent. The owner/applicant has two years to commence construction. This may be extended a further one year upon application to Council. Should you wish to view the approved plans you may contact Wyong Shire Council to arrange a time. Should you require further information, please contact me to discuss the matter.

Yours faithfully

NAME
ENVIRONMENTAL HEALTH OFFICER/ PLANNER

2.2 E1 - Erosion and Sedimentation Control Policy

TRIM REFERENCE: F2009/00055 - D01923550

AUTHOR: RM

SUMMARY

This report outlines a review of the current Erosion and Sedimentation Control Policy that was identified as an action in Council's 2008-2009 Management Plan.

The Draft Policy has been produced following consultation with relevant staff and has been placed on public exhibition for 28 days with the public being encouraged to provide comment.

The adoption of the revised version of Council's Erosion and Sedimentation Control Policy is recommended for Council approval.

RECOMMENDATION

- 1 That Council adopt the updated Draft E1- Erosion and Sedimentation Control policy and appropriate public notice be given.**
- 2 That Council's policy manual be updated accordingly and Policy E1 be made available to the public and staff via Council's webpage following adoption.**

BACKGROUND

Council's 2008-2009 Management Plan lists specific Strategic Directions for providing environmental improvement in Wyong Shire. With regard to the issue of Land, Council's Strategic Direction is:

"to minimise land degradation as a result of urban development, to limit the impact of coastal processes on the built and natural environment and to safeguard the environment through monitoring and mitigation".

To achieve this strategic direction one of the listed targets in the Management Plan was the development and implementation of a revised erosion and sedimentation policy.

The initial review of Policy E1 indicated that:

- 1 Policy E1 and Development Control Plan 2005 Chapter 67 – Engineering Requirements for Development provide duplicated and potentially conflicting information. Though the main thrust of existing Policy E1 is toward single dwelling and small scale development, Policy E1 endeavours to cover all forms of development. Chapter 67 provides detailed information with regard to larger scale and more complex development such as large scale greenfield subdivisions.
- 2 The current Policy only applied to development applications. This is only a small part of the works being undertaken in Wyong Shire that require erosion and sedimentation controls.
- 3 The Policy does not clearly specify the different requirements of Council for relatively small and simple sites as compared to large and/or complex sites.

- 4 The current Policy does not provide examples of the current best practice with regard to suitable forms of erosion and sediment controls for sites that are subject to the Policy.

The proposed changes to Policy E1 – Erosion and Sedimentation Control are summarised as follows:

- A The deletion of the term “building sites” from the title and references to building sites throughout the document to reflect that the Policy now applies to all sites where building works or construction activities are being undertaken, where soil is disturbed or where materials are stockpiled. The revised Policy deals with, relevant development applications, exempt or complying development and other activities being undertaken under Part 5 of the Environmental Planning and Assessment Act, including works undertaken by Council. .
- B Reformatting of the document to be consistent with the current approved format of Council Policy Documents.
- C Elimination of references to controls for large scale development. Details of requirements for these larger sites is dealt with under Chapter 67.
- D Explanation of when an Erosion and Sedimentation Control Plan is required and what this plan needs to include.
- E Explanation of the Principles of Erosion and Sedimentation Control to be undertaken on all sites subject to Policy E1.
- F A list of suggested Erosion and Sedimentation Control measures that are considered to be current best practice and when these should be implemented.

Chapter 67 is currently under review. When the amended Chapter 67 is adopted (which at this stage appears to be late 2009), revised Policy E1 will be consolidated into Chapter 67.

NOTIFICATION

In accordance with Council’s Procedure for Adoption of Policies, Draft Policy E1 Sedimentation and Erosion Control was placed on Public Exhibition for 28 days. No public submissions were received during this period.

CONCLUSION

It is recommended that Draft Policy E1- Sedimentation and Erosion Control be adopted and incorporated within the Wyong Shire Council Policy Manual.

ATTACHMENTS

- 1 Erosion and Sedimentation Control Policy D01923560

E1 EROSION & SEDIMENTATION CONTROL

Department:	Shire Planning
Unit:	Planning - Legal and Policy
Review Details:	
File:	F2009/07011
Adopted: 2006	Amended on: xxxx

OBJECTIVES

- 1 To prevent the pollution of land and watercourses, or the potential pollution of land and watercourses due to inadequate erosion protection.
- 2 To prevent degradation of land, lakes, watercourses and drainage systems by reducing erosion and minimising the loss of sediment from sites where building works or construction activities are being undertaken, where the soil is disturbed, or where materials are stockpiled.
- 3 To prevent blockages of the drainage system, including gutters, table drains, stormwater pipes and pits and watercourses thus reducing the likelihood of property damage due to blockages of those systems.
- 4 To implement and enforce uniform erosion and sedimentation control standards and guidelines for relatively small sites.
- 5 To promote ecologically sustainable development principles with regard to erosion and sedimentation control.

PREAMBLE

Wyang Shire Council is committed to the protection and restoration of our lakes, watercourses and drainage systems. Urban runoff is a major source of pollutants entering our waterways and the sediment within this runoff is immensely detrimental to the well being of the lakes and wetlands.

The majority of the soils in Wyong Shire have high erosion potential and the soils are highly dispersible. As such, there is a high erosion hazard for work sites whereby sediment is readily mobilised from exposed soils. This sediment once mobilised, is fine sediment that will travel long distances in the stormwater system prior to settlement. The settlement of the fine dispersible sediment usually occurs when this material reaches the aquatic environment such as wetlands, rivers and lake systems.

Managing Urban Stormwater; Soils and Construction by LANDCOM, known in the building and civil engineering industries as the "Blue Book", is considered to be the industry standard for erosion and sedimentation control. While the current version of the Blue Book is generally referred to as being best practice, it does not address local conditions and is not particularly user friendly for small scale developers. To address this issue Wyong Shire Council has developed this Policy document to assist those who are undertaking works on a relatively small scale. This document generally applies to all work sites with an area of up to 2500m².

RELATED POLICIES AND LEGISLATION

- **Local Government Act 1993**
- **Environmental Planning and Assessment Act 1979**
- **Protection of the Environment Operations Act 1997**
- **Development Control Plan 2005 – Chapter 67 – Engineering Requirements for Development**

POLICY REQUIREMENTS

1.0 PREPARATION FOR WORK

1.1 Is a plan required?

All Development Application proposals, Exempt or Complying Development proposals or an application for the assessment of an Activity as described under Part 5 of the Environmental Planning and Assessment Act, where the project involves site disturbance, excavation, stockpiling or filling, must consider erosion and sedimentation control for the subject site.

- **Small Sites 0 -250 m²**

The development of small sites (disturbance of less than 250m² of land) does not require the preparation of a formal plan, but the project will still need to be undertaken in accordance with the principles detailed in this Policy.

- **Site Disturbance 250m² -2500m²**

For sites with an area of between 250 and 2500m², Council requires that the proposed method of erosion and sedimentation control is provided in the form of an Erosion and Sedimentation Control Plan (ESCP). These sites are subject to this Policy.

- **Site Disturbance 2500m² or greater**

Erosion and sedimentation control requirements for sites with an area of 2500m² or greater are covered in Appendix A of Development Control Plan 2005, Chapter 67 Engineering Requirements for Developments and are to be accompanied by a Soil and Water Management Plan (SWMP).

- **Environmentally Sensitive Sites**

Environmentally sensitive sites (i.e. - sites on >10% slope or sites adjacent to a watercourse or other environmentally sensitive areas) will require more detailed consideration. Environmentally sensitive sites with an area of less than 250m² are to be accompanied by an ESCP. Environmentally sensitive sites with an area of 250 to 2500m² are to be accompanied by an SWMP.

It is advisable that you contact Council if you are unsure which description best fits your site.

1.2 Principles of Erosion and Sedimentation Control

1.2.1 Erosion Prevention

The most effective form of erosion and sedimentation control is to prevent erosion occurring. This can be achieved by minimising the portion of a site being disturbed at any one time and the diversion of upstream catchment to ensure that there are no concentrated flows on to the site. Disturbed areas shall be stabilised or revegetated as soon as possible. Undeveloped areas should be protected by appropriate barrier fencing to prevent undue site disturbance.

Some controls and measures to reduce erosion include:

- Divert clean “run-on” water from up stream of the site via the use of stabilised or lined diversion drains. Note that water cannot be diverted onto other sites, and the diversion must run through the subject site.
- Protect natural vegetation and only disturb the minimum site area necessary to undertake the works.
- A singular stabilised vehicle accesses shall be used on all sites in accordance with SD-A2 STABILISED CONSTRUCTION ENTRANCE (refer to attachments).
- Downpipes shall be connected to the drainage system immediately after roof gutters are installed.
- Earthworks operations shall be managed so that they do not unnecessarily concentrate water flow.
- Topsoil shall be retained for effective restabilisation of the site.
- Progressive revegetation of the site shall be undertaken as soon as works staging permits.
- Where possible development and clearing should be staged to ensure site disturbance at any one time is minimised.

1.2.2 Sedimentation Control

Sedimentation Control is the control of any sediment that may become mobilised during the works and rainfall events. Where possible, the control of sediment laden water should be undertaken at the source rather than only at one final point on the site.

Sedimentation Controls may include the use of silt fences, stormwater pit inlet protection devices, and shaker grids on site entrances as minimum requirements. Other devices such as sediment capture devices and sediment ponds may be required (refer to attachments for examples of erosion and sedimentation control devices).

All sedimentation control measures must be installed prior to any excavation or earthmoving works taking place on site. Sedimentation Controls must be maintained in a functional condition throughout the course of construction and until such time as the site is satisfactorily landscaped or turfed. Examples of appropriate sedimentation control measures can be found as attachments to this Policy.

1.2.3 Revegetate or Stabilise

Revegetation or stabilisation of disturbed areas shall be commenced as soon as possible on all sites. This includes turfing, seeding, bitumen straw mulching, and landscape planting.

1.3 Extent of Works

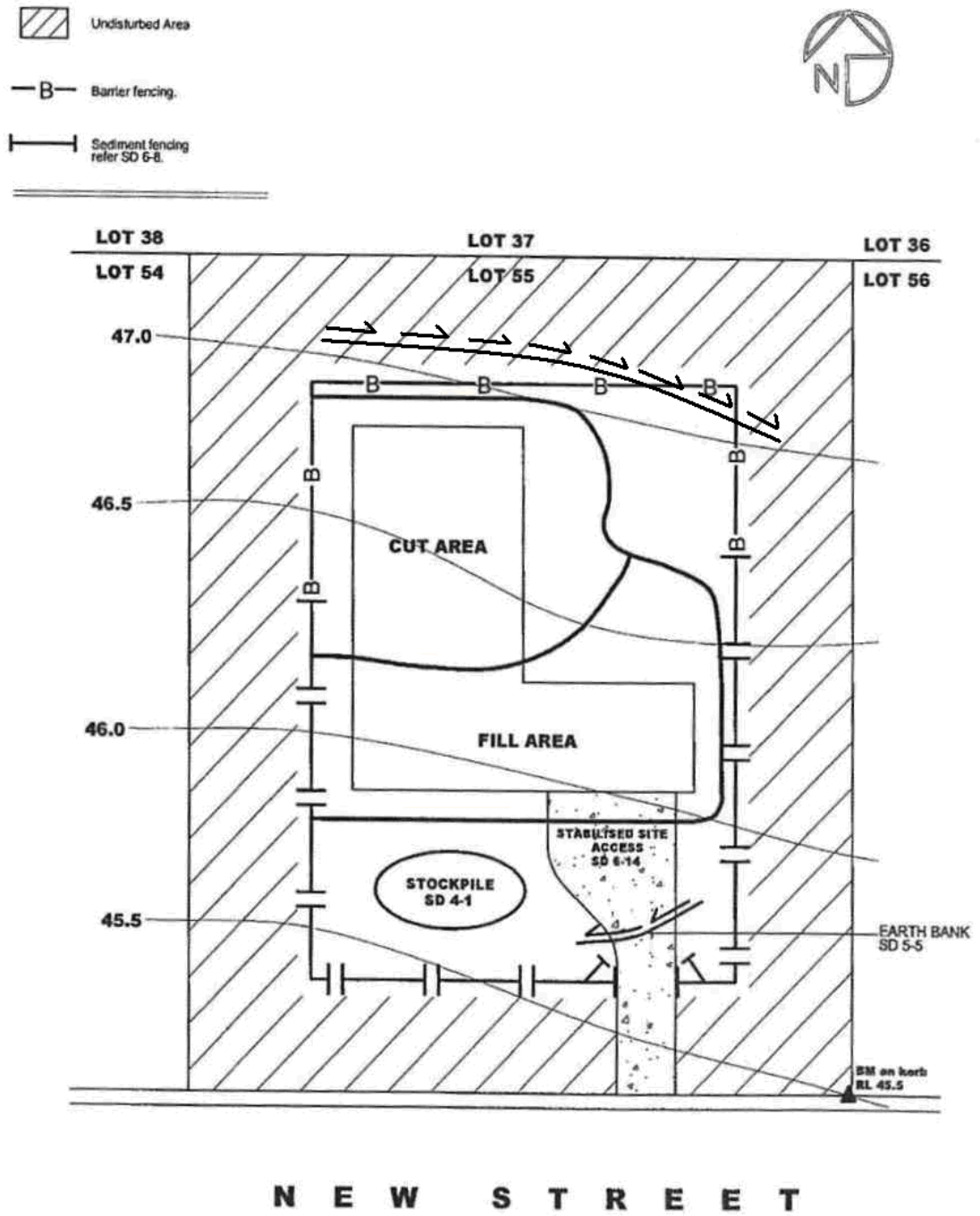
If development activity extends onto neighbouring properties (e.g. access tracks, storage of materials, etc), the permission of the affected property owner must be provided in writing along with details of all sedimentation control requirements that will extend to that property. No works or material storage is permitted on footpaths, reserve land or near watercourses.

1.4 Erosion and Sedimentation Control Plans

A significant number of development and work sites fall within the 250 -2500m² category and an erosion and sedimentation control plan will need to be prepared prior to work commencing on these sites. The plan shall show all controls and measures to prevent stormwater pollution throughout the construction phase up until the time the site is landscaped, revegetated or adequately stabilised. The plan may need to be revised during the course of the works to suit the staging of construction activities. As such, the ESCP shall be considered to be a living document that will be required to be reviewed and regularly updated. The plan should include a diagram containing the information indicated below and may also include a supporting written statement.

At a minimum the Erosion and Sediment Control Plan is to indicate the following:

1. Property boundaries.
2. North point and scale.
3. Construction site/disturbed area boundary, outside of which no works, vehicle movement or stockpiling of materials are to occur.
4. Nominated access points to the construction site, with details of the access control measures.
5. Existing contours of the site including catchment areas and boundaries (generally 1.0 metre for residential blocks).
6. Location of existing vegetation to be retained and vegetation protection fences.
7. Location of existing watercourses.
8. Existing site drainage, such as location of roads, drainage easements and other impervious surfaces.
9. Details of erosion and sedimentation controls, including diversion drains for uncontaminated runoff/run-on.
10. Schedule of works, including erosion and sedimentation control.
11. Material stockpile locations and associated control methods.
12. Revegetation proposals and techniques, including specifications of materials used, methods of application and finished contours.
13. Design details and calculations for all major erosion and sedimentation control facilities, including drawings (minimum scale 1:200).
14. Location and capacity of the proposed temporary and permanent site drainage or stormwater system.
15. Monitoring and progressive maintenance program for erosion and sediment controls.
16. Monitoring and maintenance details for rehabilitation program including types and rates of fertilisers and other soil ameliorants, mulching details and scheduling details.



SD-A1 TYPICAL EROSION AND SEDIMENTATION CONTROL PLAN

2.0 ON-SITE RESPONSIBILITIES

2.1 Installation of controls

Before works commence on site, the sedimentation and erosion controls shall be installed, and Wyong Shire Councils Erosion Control Warning Sign (nominating responsibilities and penalties for non compliance) shall be installed. A recommended procedure for installation of devices is as follows:

- Establish a single stabilised construction entrance.
- Install sediment fences along the lower side of the site.
- Install upslope clean water diversion drains, including stabilisation and outlet structures.
- Install barrier fences to prevent excess and undue clearing of the site.
- Install specific stockpile areas, waste disposal areas, and washout areas.
- Commence works.

2.2 Maintenance of controls

To ensure correct operation of erosion and sedimentation control devices, an inspection and maintenance program shall be implemented. Inspections shall be performed at least weekly, prior to forecast rainfall events and after each rainfall event.

Maintenance activities shall include as a minimum, the removal of silt collected in sediment capture devices, gravel added to stabilised construction entrance, repairing of scour, stabilisation of diversion structures and the repair of damage to sediment fences. Records of maintenance activities shall be kept on site and made available to Council Staff if required.

2.3 Finalisation of works

All erosion and sedimentation control devices shall be maintained until the site has been adequately revegetated and no soil remains exposed. If landscaping is not complete by the time of handover of the site to new owners, ensure that the new owners are aware of their responsibilities under this policy. All controls are to be removed once the site has been adequately revegetated and stabilised.

3 PENALTIES FOR POLLUTION INCIDENTS UNDER THE PROTECTION OF THE ENVIRONMENT OPERATIONS ACT 1997

This document provides direction for addressing erosion and sedimentation control but the preparation of a plan alone does not ensure that pollution incidents will not occur. The discharge of any sediment from the site may constitute an offence. Maintenance and attention to potential problems is essential.

The responsibility of site maintenance is that of the applicant, builder or site foreman. There should be no reliance on those undertaking works on surrounding development sites to provide adequate erosion and sedimentation control for a site that you are responsible for.

Council will be regularly inspecting the erosion and sediment controls provided for sites where soil disturbance is taking place. These controls are to be maintained at all times. Failure to implement the erosion and sediment controls may result in action being taken under the relevant legislation. On the spot fines may be imposed by Council Officers and Officers from the Environment Protection Authority. Further action including larger fines may be incurred through legal action, for significant incidents.

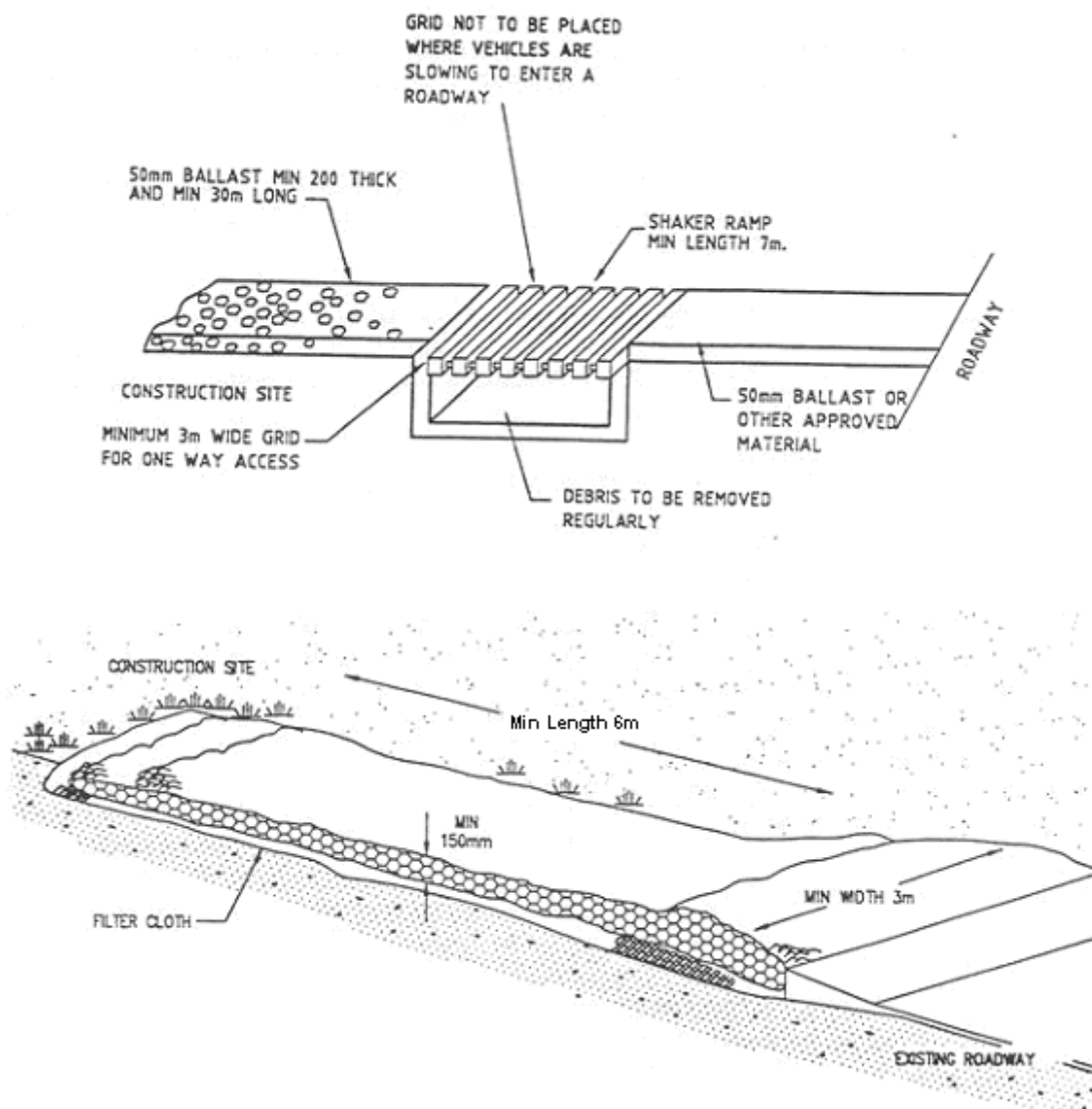
ATTACHMENTS

Examples of Erosion and Sedimentation Control Devices

Stabilised Site Entrance

All construction sites shall have a Stabilised Construction Entrance, which shall be maintained during the course of the works. Care should be taken to ensure that construction entrances do not divert dirty water from the site onto the roadway, and they may require the use of a bund/diversion drain to direct rainfall runoff towards sediment capture devices. Only 50mm rock ballast or clean 50mm recycled concrete shall be utilised in their construction, and any rubbish such as wire, steel, plastic, or other contaminants will not be allowed.

On all sites where trucks will be regularly entering/exiting, for example haulage of excess soils, a shaker grid shall be installed in the construction entrance. All material used in the construction of the stabilised entrance shall be removed at the completion of works and the area satisfactorily restored.

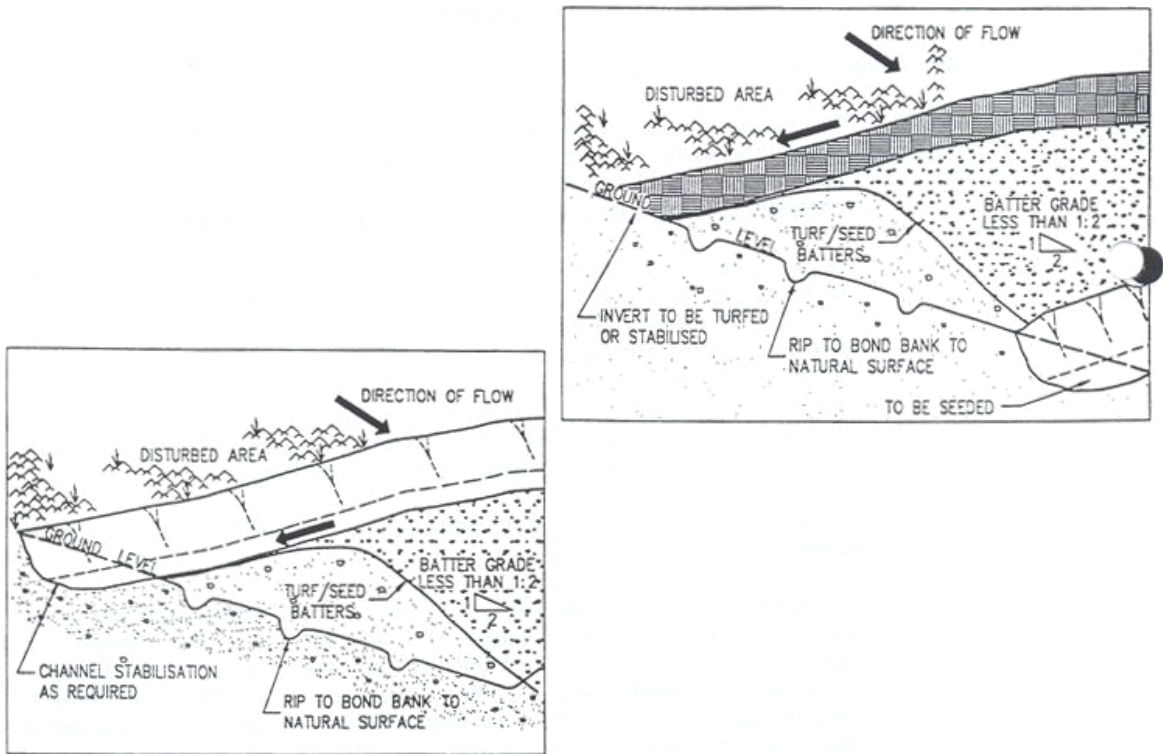


SD-A2 STABILISED CONSTRUCTION ENTRANCE

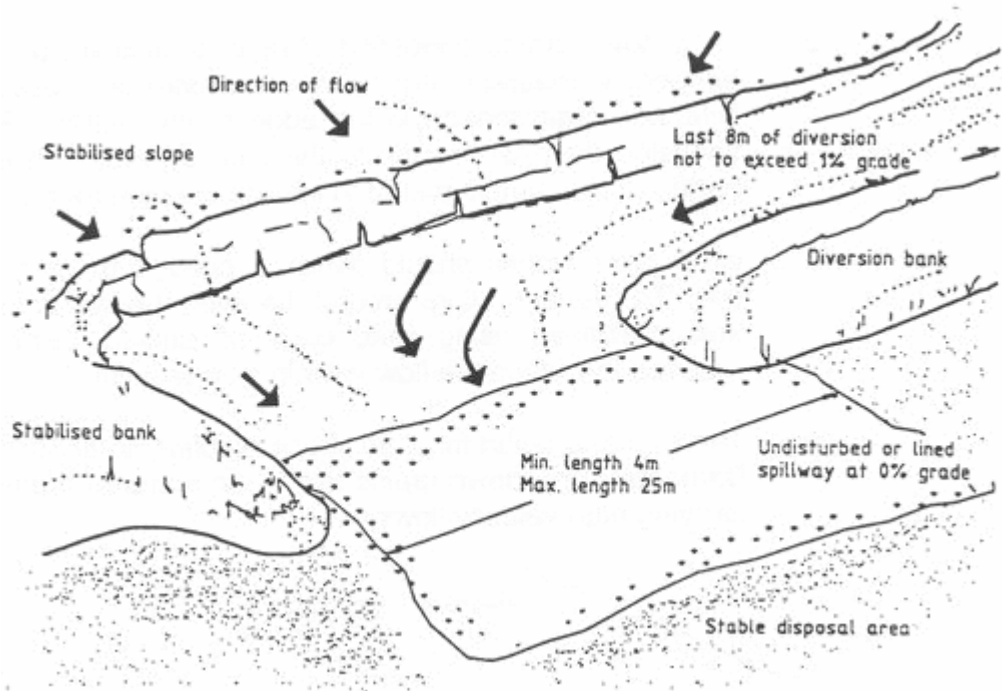
Diversion Drains and Level Spreaders

On construction sites where run-on stormwater may create issues with erosion, diversion drains shall be installed on those run-on stormwater areas to convey clean water around the site. It should be noted that this water cannot be deliberately diverted onto other properties except for where the existing natural flow existed.

Care should be taken when designing diversion drains to ensure that erosion does not occur. Diversion drains shall have a flat base where possible, be revegetated as a minimum, and where longitudinal grades exceed 5%, reinforced turf or erosion control matting shall be used to line diversion drains.



SD-A3 DIVERSION DRAIN



SD-A4 LEVEL SPREADER

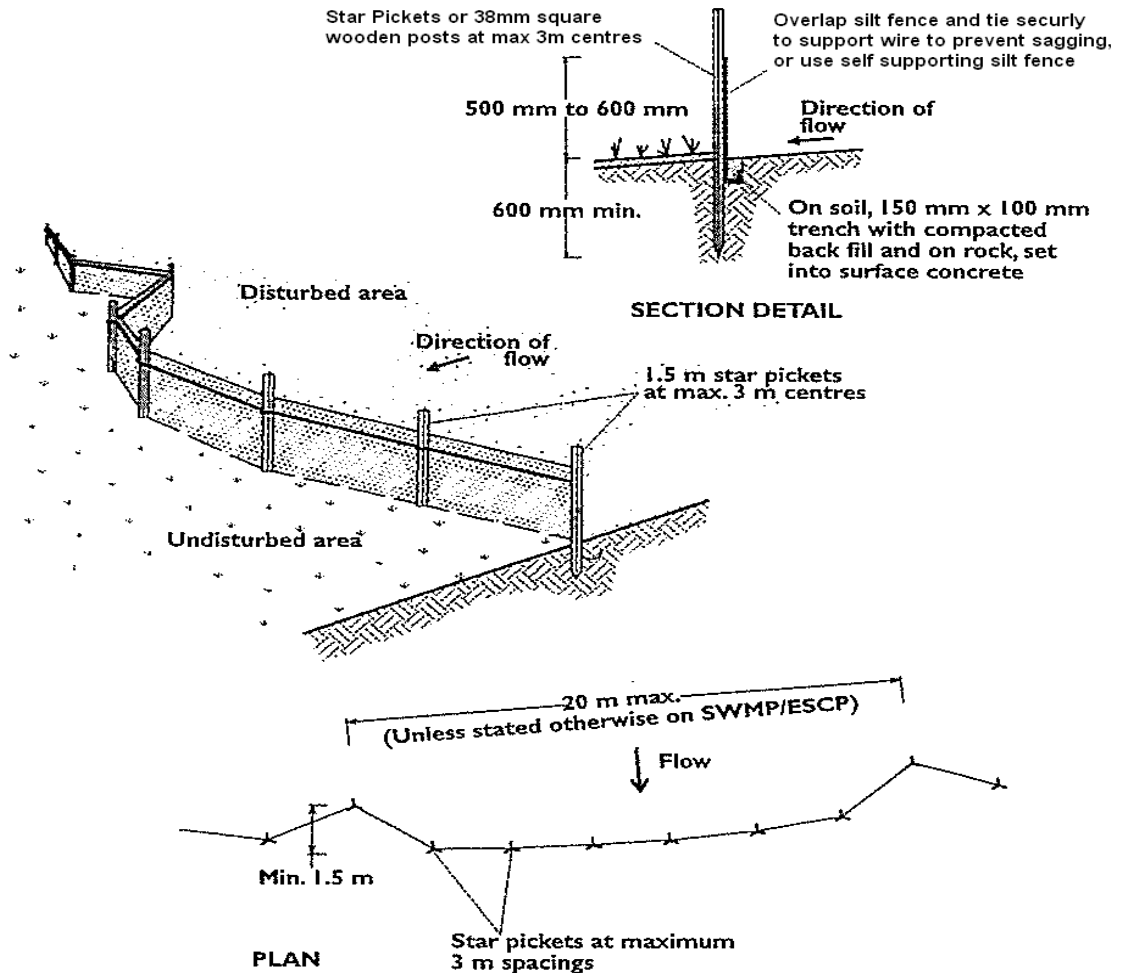
Silt Fence

Silt fences filter sediment laden stormwater run-off leaving the site, trapping the coarse sediment and allowing partially filtered water to pass.

Silt fences shall be placed on the contour or slightly convex to the contours. If placed on the contour, the ends of the fence shall be turned up slope to ensure that the fence creates a 'stilling pond' upslope of the fence. Fences should not be run downslope without regular 'turn outs', as this will concentrate water flows along the fence and create scour/erosion. "Turnouts" are where the silt fence is turned back up slope along the line to create 'stilling ponds' and shall be performed at maximum 20m spacing.

The area below a silt fence must be undisturbed or stabilised. Silt fences should also have a stable outlet or overflow point in case the flow rates exceed the fence's capacity to filter water. The following diagram gives specific requirements for silt fence installation.

Silt fences require regular maintenance. Trapped sediments should be removed, posts/pickets straightened, filter cloth resecured and tightened and reinstalled/rectified when heavily contaminated with silt.



SD-A5 SILT FENCING

Silt Fencing Installation

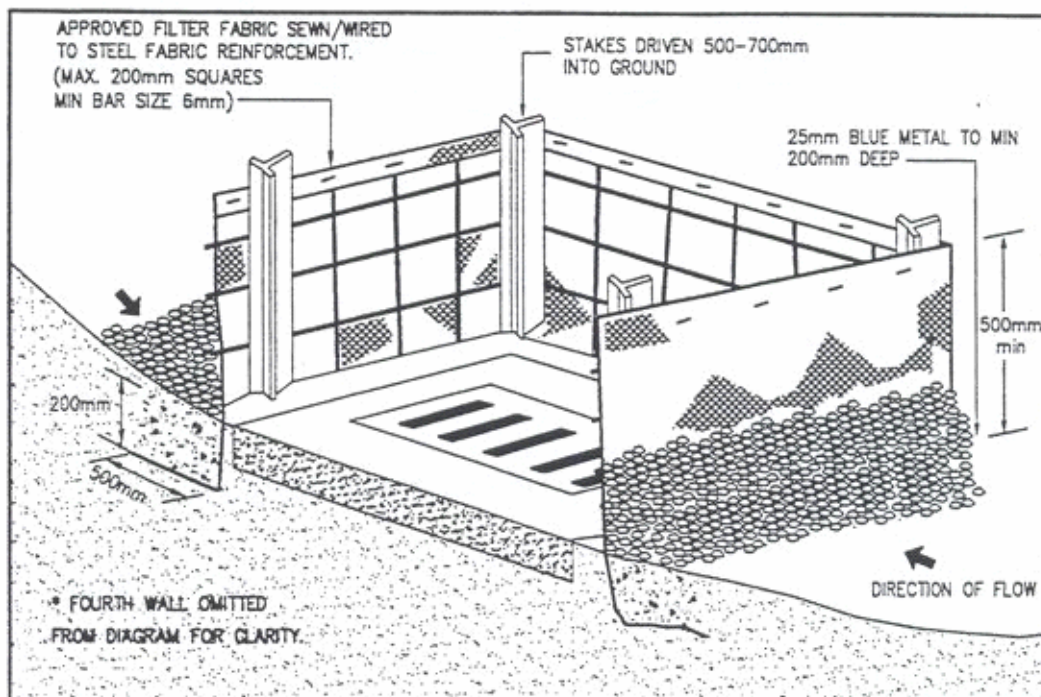
- Dig a trench along the line of the intended fence. The trench is most effectively constructed using a ditch witch or similar machine. Where a barrier is to be formed over any distance, the fence should consist of a series of overlapped fences. Fences shall be overlapped a minimum of 3m and shall end at pegs.
- The line of the fence should be slightly convex to the water flow and the ends turned up to create a stilling effect.
- Lay out the silt fence fabric on the uphill side of the trench.
- Drive 38mm square wooden pegs or star pickets along the downhill slope of the trench.
- Stand the fence fabric against the posts and pull taut. Place bottom 150-200mm of silt fence fabric flat on the floor of the trench, backfill and compact.
- Provide protective caps to posts and star pickets.
- Secure fabric to the fence using wire staples. If wooden posts are used, further support can be given to the fence by nailing a narrow wood strip through the fabric to the post or use gang nails.
- Self supporting silt fences shall be used, or with non-self supporting fences, No. 8 - 10 wire shall be strung along the line of the fence and the fence tied to this wire.

Stormwater Pit Protection

- Such sediment traps are used at stormwater inlets, both within and immediately downstream of the site.
- They are built from silt fences, rock filled groynes, masonry blocks or sandbags (or saron type materials) filled with blue metal. The choice of material or type of structure depends on the size of the drainage area, and the physical structure surrounding the stormwater inlet.
- These traps should be regularly maintained and restored to their original condition after rain.

Surface Inlet Pit

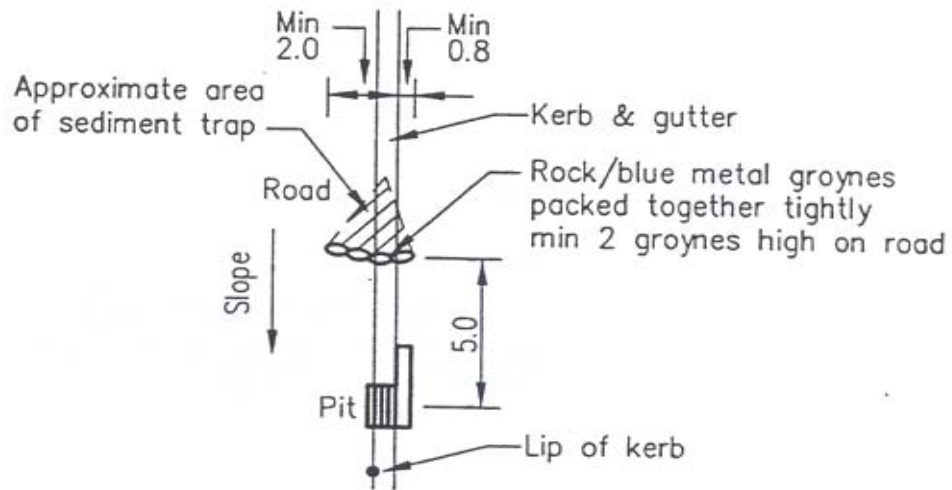
Surface inlet pits shall be protected with rock filled groynes, sand bags or silt fences to prevent sediment laden water entering the pit in normal rainfall events. Note that this protection shall be built so that in extended periods of heavy rainfall, these structures shall overtop and not block the stormwater pits. Wrapping the grates of stormwater pits with geotextile or filter material is generally not an acceptable method as this restriction to pit inlet capacity can cause excess water to flood downstream.



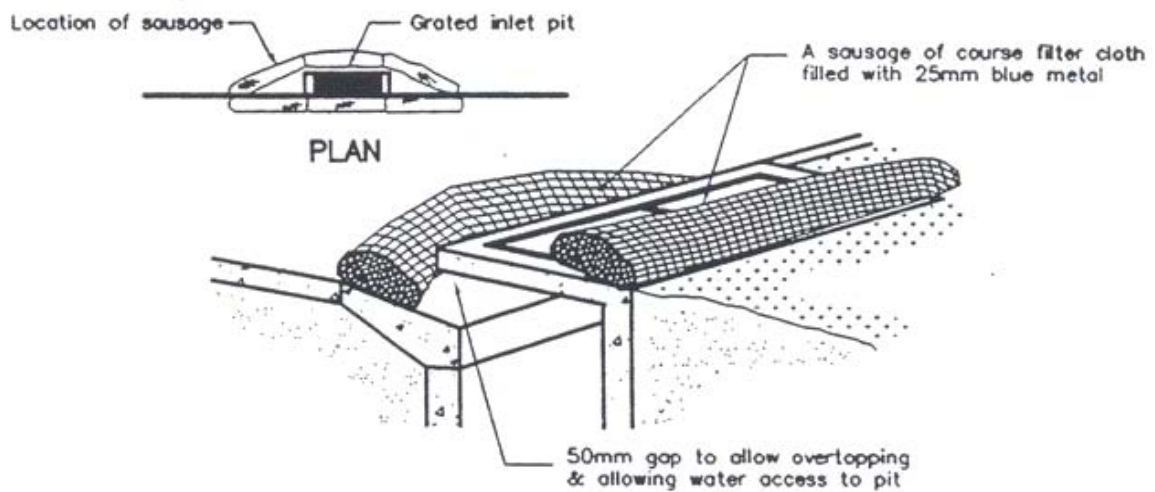
SD-A6 SURFACE INLET PIT

Kerb Inlet Pit

Kerb inlet pits shall be generally protected via the use of rock filled groynes or sandbags. Note that sandbags shall be built to a minimum of 2 bags deep and shall extend behind the kerb line where possible.



SD -A7 KERB INLET PIT ON GRADE



SD-A8 KERB INLET PIT - SAG

3.1 Acquisition of Easements and Land for Warnervale Town Centre Sewerage Infrastructure at Sparks Road, Virginia Road, Warnervale Road and Minnesota Road

TRIM REFERENCE: F2008/02526 - D01937315

AUTHOR: JT

SUMMARY

Approval is sought to acquire easements to drain sewage over 16 lots at Minnesota Road, Virginia Road, Warnervale Road and Sparks Road, Hamlyn Terrace: Sparks Road, Woongarra: Virginia Road, Warnervale and to acquire land for a sewer pump station over Lot 48 DP 7091 Virginia Road, Hamlyn Terrace.

RECOMMENDATION

- 1 That Council acquire easements to drain sewage, generally 5m wide over the following land:**

<i>Lot 38 DP 7091</i>	<i>90-100 Minnesota Road, Hamlyn Terrace</i>
<i>Lot 49 DP 7091</i>	<i>107-171 Virginia Road, Warnervale</i>
<i>Lot 14 DP 371162</i>	<i>112-116 Warnervale Road, Hamlyn Terrace</i>
<i>Lot 101 DP 829060</i>	<i>93-123 Warnervale Road, Hamlyn Terrace</i>
<i>Lot 3 DP 559441</i>	<i>38-58 Virginia Road, Hamlyn Terrace</i>
<i>Lot 42 DP 7091</i>	<i>102-112 Minnesota Road, Hamlyn Terrace</i>
<i>Lot 1E DP 24673</i>	<i>30-34 Virginia Road, Hamlyn Terrace</i>
<i>Pt Lot 3 DP 748588</i>	<i>98 Sparks Road, Hamlyn Terrace</i>
<i>Lot 45 DP 7091</i>	<i>121-131 Minnesota Road, Hamlyn Terrace</i>
<i>Lot 48 DP 7091</i>	<i>107-171 Virginia Road, Warnervale</i>
<i>Lot 111 DP 705880</i>	<i>10-28 Virginia Road, Hamlyn Terrace</i>
<i>Lot 1 DP 700096</i>	<i>119-121 Sparks Road, Woongarra</i>
<i>Lot 41 DP 7091</i>	<i>109-119 Minnesota Road, Hamlyn Terrace</i>
<i>Lot 36 DP 7091</i>	<i>100-134 Virginia Road, Hamlyn Terrace</i>
<i>Lot 40 DP 7091</i>	<i>100-134 Virginia Road, Hamlyn Terrace</i>
<i>Lot 44 DP 7091</i>	<i>100-134 Virginia Road, Hamlyn Terrace</i>

- 2 That Council acquire part of Lot 48 DP 7091, 107-171 Virginia Road, Warnervale for a sewerage pump station.**
- 3 That Council authorise the payment of compensation, if necessary, for the acquisition of the easements in Item 1 and the acquisition of the land in item 2 in accordance with the Land Acquisition (Just Terms Compensation) Act 1991 and based on assessment by a qualified valuer.**
- 4 That Council proceed to compulsorily acquire the easements and land in the event that negotiations with the property owners cannot be satisfactorily resolved.**
- 5 That Council authorise the Common Seal of Wyong Shire Council to be affixed to the formal documents relevant to the acquisition.**
- 6 That Council authorise the Mayor and the General Manager to execute all documents.**

3.1 Acquisition of Easements and Land for Warnervale Town Centre Sewerage Infrastructure at Sparks Road, Virginia Road, Warnervale Road and Minnesota Road (contd)

BACKGROUND

A sewer trunk main and pump station is to be constructed to service the Warnervale Town Centre. Approval is required to acquire easements to drain sewage over the properties affected by the route of the sewer main and to acquire the land for the pump station.

THE PROPOSAL

Council proposes to construct a sewer trunk main generally within a 5m wide easement proposed to be acquired over the following properties:

Description	Address	Area (m ²)	Zoning
Lot 38 DP 7091	90-100 Minnesota Road, Hamlyn Terrace	52760	10(a), 1(c)
Lot 49 DP 7091	107-171 Virginia Road, Warnervale	66690	1(c)
Lot 14 DP 371162	112-116 Warnervale Road, Hamlyn Terrace	20070	10(a)
Lot 101 DP 829060	93-123 Warnervale Road, Hamlyn Terrace	102800	10(a), 7(g)
Lot 3 DP 559441	38-58 Virginia Road, Hamlyn Terrace	60250	10(a)
Lot 42 DP 7091	102-112 Minnesota Road, Hamlyn Terrace	52760	10(a), 1(c)
Lot 1E DP 24673	30-34 Virginia Road, Hamlyn Terrace	13960	10(a)
Pt Lot 3 DP 748588	98 Sparks Road, Hamlyn Terrace	16900	10(a)
Lot 45 DP 7091	121-131 Minnesota Road, Hamlyn Terrace	59150	10(a), 1(c)
Lot 48 DP 7091	107-171 Virginia Road, Warnervale	63910	1(c)
Lot 111 DP 705880	10-28 Virginia Road, Hamlyn Terrace	38570	10(a)
Lot 1 DP 700096	119-121 Sparks Road, Woongarra	57300	10(a)
Lot 41 DP 7091	109-119 Minnesota Road, Hamlyn Terrace	59200	10(a), 7(g)
Lot 36 DP 7091	100-134 Virginia Road, Hamlyn Terrace	56660	10(a), 7(g), 1(c)
Lot 40 DP 7091	100-134 Virginia Road, Hamlyn Terrace	56660	7(g), 1(c)
Lot 44 DP 7091	100-134 Virginia Road, Hamlyn Terrace	56660	7(g), 1(c)

It is also proposed to construct a sewer pump station on Lot 48 DP 7091.

Access will be required to the affected properties in February 2010 for construction.

Associated with the sewer trunk main, it will be necessary to acquire easements generally 5m wide over the affected properties to satisfy Council's requirements in respect to the operation and maintenance of the main.

Associated with the sewerage pump station, it will be necessary to acquire part of Lot 48 DP 7091 to satisfy Council's requirements in respect to the operation and maintenance of the pump station.

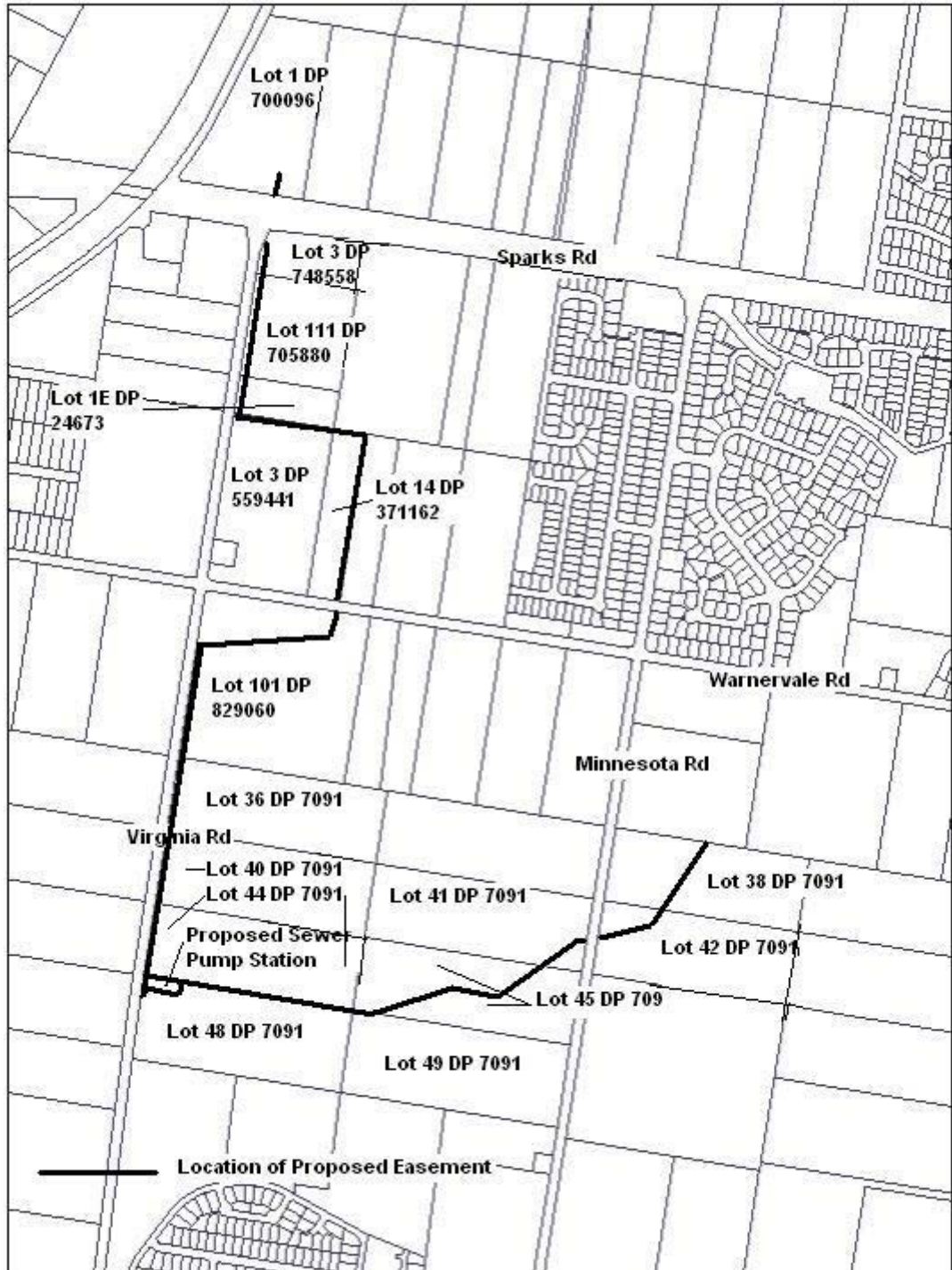
The route of the trunk main is in accordance with the sewerage network proposed in the Draft Warnervale District Planning Strategy.

OPTIONS

The options for the proposal were considered by Council during the design of the proposed trunk main.

3.1 Acquisition of Easements and Land for Warnervale Town Centre Sewerage Infrastructure at Sparks Road, Virginia Road, Warnervale Road and Minnesota Road (contd)

Locality Plan



**3.1 Acquisition of Easements and Land for Warnervale Town Centre
Sewerage Infrastructure at Sparks Road, Virginia Road, Warnervale Road
and Minnesota Road (contd)**

STRATEGIC LINKS

Management Plan

<i>Principal Activity</i>	<i>Key Issues and Objectives</i>	<i>Financial Line Item No and Description</i>
Infrastructure	A cost effective sewerage service that meets customer service standards and conforms to health and environmental requirements	4.4.9 Sewerage – Refurbishment (Capital)

Financial Implications

Funds are available in the 2009-10 Management Plan as indicated above.

Principles of Sustainability

A Review of Environmental Factors was prepared by GHD to assess the potential environmental impacts associated with the installation of the sewerage infrastructure. The assessment concluded that the proposed activities are unlikely to have a significant impact on any ecological matter.

CONSULTATION

The owners of the affected properties have been advised of the proposal and negotiations for the acquisition of the easements will proceed subject to Council's approval.

GOVERNANCE

Council has the authority to acquire easements and land under the Water Management Act 2000 and, if compulsory acquisition is necessary, the Land Acquisition (Just Terms Compensation) Act 1991 provides the procedure to be undertaken.

CONCLUSION

The acquisition of the land and easements is to facilitate Council's project in order to provide sewerage services to the new development of Warnervale Town Centre and adjacent areas. The project cannot proceed without the access provided by the easements and the acquisition of the land.

ATTACHMENTS

Nil.

3.2 Acquisition of Easements and Land for Wyong Employment Zone Sewerage Infrastructure at Sparks Road, Halloran

TRIM REFERENCE: F2008/02626 - D01945025

AUTHOR: SB

SUMMARY

Approval is sought to acquire part of Lot 23 DP 259530 for a sewerage pump station and associated easements to drain sewage 5m wide and a right of carriageway at Sparks Road, Halloran.

RECOMMENDATION

- 1 That Council acquire part of land (approximately 725m²) for sewerage pump station and easements to drain sewage, generally 5m wide and a right of carriageway over Lot 23 DP 259530.**
- 2 That Council authorise the payment of compensation, if necessary, for the acquisition of the proposed pump station land and the easement in Item 1 in accordance with the Land Acquisition (Just Terms Compensation) Act 1991 and based on assessment by a qualified valuer.**
- 3 That Council proceed to compulsorily acquire the land and easement in the event that negotiations with the property owners cannot be satisfactorily resolved.**
- 4 That Council authorise the Common Seal of Wyong Shire Council to be affixed to the formal documents relevant to the acquisition.**
- 5 That Council authorise the Mayor and the General Manager to execute all documents.**

BACKGROUND

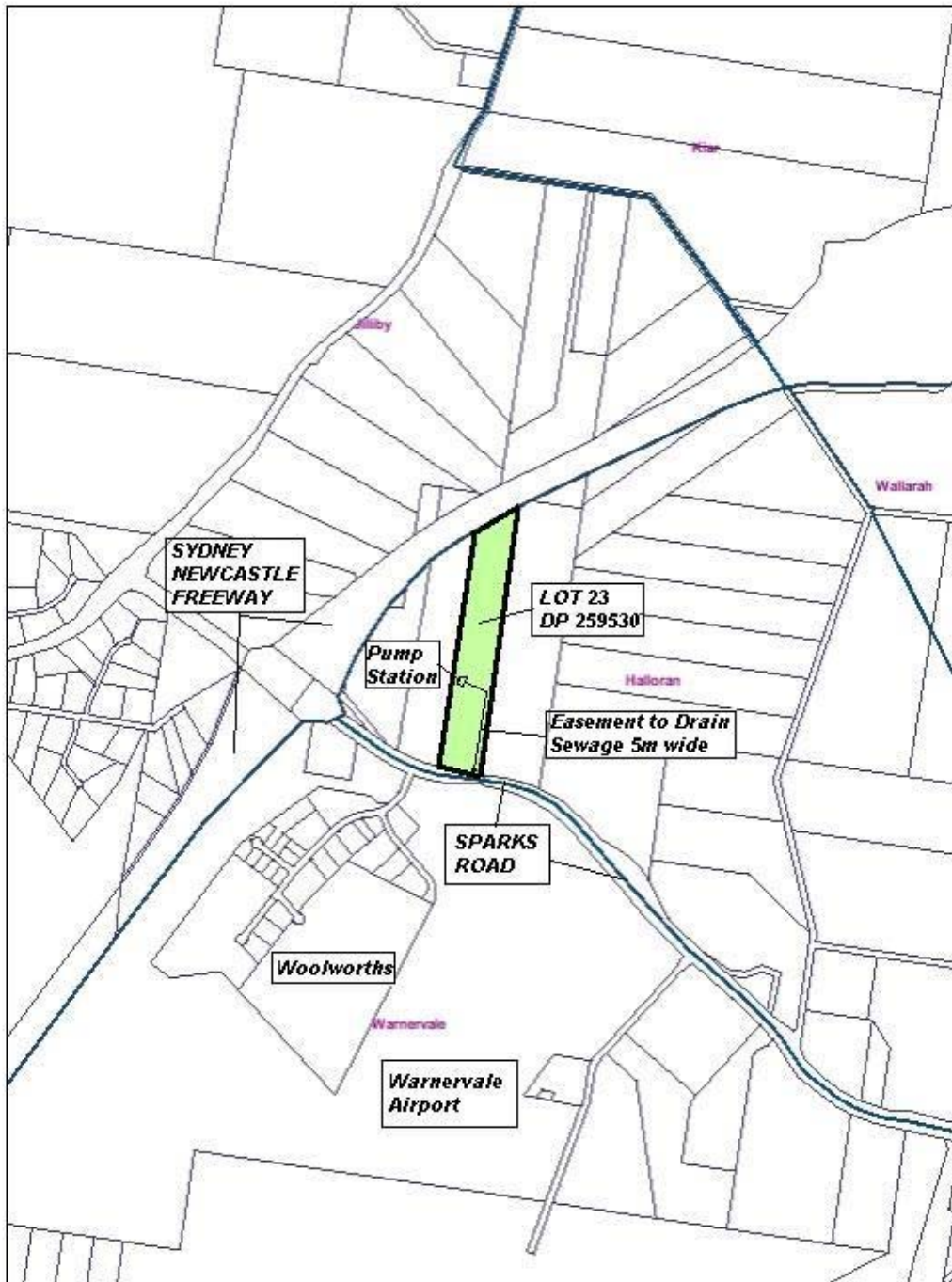
As part of its program of works, Council proposes to construct a sewer trunk main and pump station to service the Wyong Employment Zone.

THE PROPOSAL

Council proposes to construct a sewer trunk main generally within a 5m wide easement proposed to be acquired over part of Lot 23 DP 259530.

It is also proposed to construct a sewerage pump station on Lot 23 DP 259530. To accommodate the pump station, it will be necessary to acquire part of the property having an area of approximately 725m².

The route of the trunk main is in accordance with the sewerage network proposed in the Draft Warnervale District Planning Strategy.

Location Plan of Proposed Easement**OPTIONS**

Consideration was given to the location of the sewer trunk main during the initial design process. Part of the trunk main can be located within public road or Council land; however it will be necessary to acquire the above easements over privately owned land.

STRATEGIC LINKS

Management Plan

<i>Principal Activity</i>	<i>Key Issue(s) and Objective (s)</i>	<i>Financial Line Item No and Description</i>
Infrastructure	A cost effective sewerage service that meets customer service standards and conforms to health and environmental requirements.	4.4.9 Sewerage – Refurbishment (Capital)

Financial Implications

Funds are available in the 2009-10 Management Plan as indicated above.

Principles of Sustainability

A Review of Environmental Factors was prepared by GHD to assess the potential environmental impacts associated with the installation of the sewerage infrastructure. The assessment concluded that the proposed activities are unlikely to have a significant impact on any ecological matter.

CONSULTATION

The owner of the affected property has been advised of the proposal and negotiations for the acquisition of the easements will proceed subject to Council's approval.

GOVERNANCE

Council has the authority to acquire land or interests in land for the purposes of the Water Management Act 2000 and if compulsory acquisition is necessary the Land Acquisition (Just Terms Compensation) Act 1991 provides the procedure to be undertaken.

CONCLUSION

That Council proceed to acquire the land and the easements for sewerage and a right of carriageway and authorise payment of compensation to the owners and proceed to compulsory acquisition if necessary.

Access will be required to the affected property in June 2010 for construction.

ATTACHMENTS

Nil.

3.3 Proposed Land Acquisition for Car Parking - Lot 9 DP 14527, No 18 Manning Road, The Entrance

TRIM REFERENCE: F2009/01093 - D01949520

AUTHOR: PF

SUMMARY

Approval is sought to acquire Lot 9 DP 14527 at No18 Manning Road, The Entrance for car parking purposes.

RECOMMENDATION

- 1 That Council authorise the acquisition by purchase of Lot 9 DP 14527 at No 18 Manning Road, The Entrance for an amount based on an assessment by a qualified valuer.**
- 2 That Council propose classification of Lot 9 DP 14527 as Operational Land.**
- 3 That the proposal be advertised in accordance with Section 34 of the Local Government Act, 1993.**
- 4 That Council confirms the classification subject to no adverse submissions being received.**
- 5 That Council authorise a residential lease of No 18 Manning Road, The Entrance for market rent.**
- 6 That Council authorise the Common Seal of Wyong Shire Council to be affixed to the formal documents as required between Wyong Shire Council and the owner of Lot 9 DP 14527.**
- 7 That Council authorise the Mayor and the General Manager to execute all documents.**

BACKGROUND

Wyong Shire Council Local Environmental Plan 1991 (LEP) was amended on 22 December 2000 to rezone land in The Entrance and Long Jetty to achieve greater densities and amend height controls applying to development. Part of the amendment included provision of land zoned 5 (a) Special Uses Car-park – Manning Road, The Entrance.

Clause 44A of the LEP applies to land at Manning Road, The Entrance which is zoned Special Uses 5 (a) Carpark and includes Lot 9 DP 14527. Clause 44A provides that the owner of any land which is the subject of this clause may, by notice in writing, require Council to acquire that land and that the Council shall acquire that land on receipt of such notice.

3.3 Proposed Land Acquisition for Car Parking - Lot 9 DP 14527, No 18 Manning Road, The Entrance (contd)

Lot 9 DP 14527 is 758.8 m² and is improved by a three bedroom cottage with sunroom and a detached lockup double garage and storage.

In accordance with the Public Land Classification Table adopted by Council at its meeting held on 14 August 1996, land owned by Council for car-parking should be classified as Operational Land.

Under Section 34 of the Local Government Act 1993 Council is required to give public notice of the proposal to classify land for a period of 28 days before confirming classification. If no adverse submission is received Council's proposed land classification will be taken as adopted upon expiration of the notification period.

THE PROPOSAL

The Solicitor acting for the owner of 18 Manning Road, The Entrance (Lot 9 DP 14527) has requested in writing that Council purchase the property. The owner has sought a price of \$490,000 based on the owner's own enquiries. A valuation will be obtained and negotiations will be entered into to achieve the best possible price for Council.

Council has acquired five of the 11 properties within the Special Uses 5 (a) Car-park zone and is not pursuing acquisition of the remaining properties at this time unless required to by the owner pursuant to clause 44A of the WLEP. As the property is not expected to be required for car-park for some time, it is proposed that 18 Manning Road, The Entrance be leased for residential use to ensure security of the premises and raise rent revenue in the meantime.

Rent of approximately \$12,000 per annum could be expected under a residential tenancy.

OPTIONS

Clause 44A of the WLEP requires Council to acquire the land on receipt of written notice to acquire.

STRATEGIC LINKS

Financial Implications

Funds for the purchase of the property are available from Section 94 Developer Contribution Plans.

CONSULTATION

The owner of the property has requested that Council purchase the property as required by the LEP. Negotiations will proceed subject to Council approval.

GOVERNANCE

The Wyong Local Environment Plan requires Council to acquire the land zoned 5(a) special Uses - Carpark and the Local Government Act 1993 authorises Council to acquire land for public purposes.

Locality Plan



CONCLUSION

Council's adopted LEP places a requirement on Council to acquire land, if requested, that is subject to Clause 44A of the LEP. Council has received such a request in respect of the property described and must proceed accordingly.

ATTACHMENTS

Nil.

3.4 Proposed Dedication of Council Land Lot 2 DP 1068298, 5A King Street Ourimbah for Public Road

TRIM REFERENCE: F2009/01379 - D01950469

AUTHOR: SB

SUMMARY

Authority is sought to dedicate as public road Lot 2 DP 1068298, 5A King Street, Ourimbah.

RECOMMENDATION

That Council dedicate Lot 2 DP 1068298, 5A King Street Ourimbah as public road by way of notification in the NSW Government Gazette.

BACKGROUND

The Owners Corporation SP 72821 is the registered owner of land Lot 0 SP 72821, 5 King Street, Ourimbah.

Council owns adjoining land Lot 2 DP 1068298, 5A King Street, Ourimbah which is currently being used as a public car park.

SP 72821 is now for sale and the Owners Corporation has discovered that whilst it gains access through the car park land to its property, on the basis the car park land is held in fee simple by Council, SP 72821 has no public road access and is landlocked.

THE PROPOSAL

The Owners Corporation of SP 72821 has requested that Council dedicate Lot 2 DP 1068298 as public road to allow access from King Street, Ourimbah to Lot 0 SP 72821.

The approval granted for the building works on SP 72821 required dedication of the car park with the intent of establishing the land as public road once it transferred to Council ownership. Accordingly it is now proposed to formalise the physical arrangement by dedicating the land to Public Road. Eventually the service road will extend around the commercial zone.

The only portion of car park that Council owns that has not been dedicated as public road is Lot 2 DP 1068298. On this basis it is important that the car park be identified as public road in order to continue the intent of Chapter 3 of Council's DCP 2005 specific for that area and provide appropriate road frontage for the subject site.

Council requires retention of Lot 2 DP 1068298 for its current use as car park and public road status does not constrain that intent.

The whole of Lot 2 DP 1068298 being an area of 615.2m² is required for the dedication. Lot 2 DP 1068298 is classified operational land and dedication of the land will not affect that status.

**3.4 Proposed Dedication of Council Land Lot 2 DP 1068298, 5A King Street
Ourimbah for Public Road (contd)**

OPTIONS

Council has the option to:

- 1 Dedicate Lot 2 DP 1068298 as Public Road to allow the Owners Corporation of SP 72821 access from King Street, Ourimbah to Lot 0 SP 72821, or
- 2 Refuse to dedicate Lot 2 DP 1068298 thereby leaving Lot 0 SP 72821 land locked with no legal access available from King Street, Ourimbah.

Financial Implications

There is no monetary cost to Council to implement road dedication.

GOVERNANCE

Lot 2 DP 1068298 is classified as Operational Land pursuant to the provisions of the Local Government Act 1993 and there is no impediment to the dedication of the land as public road.

If Council dedicates the road as public road then the dedication will be noted in the Government Gazette.

Location Plan of proposed land to be dedicated as public road**CONCLUSION**

Given that Lot 0 SP 72821 is currently legally inaccessible from King Street, Ourimbah and that the only access is via Council owned car park land Lot 2 DP 1068298, it is recommended that Council dedicate this land as public road by way of notice in the Government Gazette.

ATTACHMENTS

Nil.

3.5 Proposed Sale of Land at Lot 83 DP 27286 and Lot 94 Section 1 DP 11824 Charmhaven

TRIM REFERENCE: F2008/02625 - D01954917

AUTHOR: PF

SUMMARY

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

RECOMMENDATION

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

BACKGROUND

Council at its meeting held on 13 May 2009 considered a report proposing the sale of Lot 83 DP 27286 Charmhaven Avenue and Lot 94 Section 1 DP 11824 Moala Parade, Charmhaven and resolved to defer the sale pending a report by staff as to the usage of the informal path through these properties.

PROPOSAL

A table showing the pedestrian traffic count sought by Council is included in this report. In providing the traffic count Shire Services has advised that the use shown of the informal access by the public is minimal. The majority use is by school children accessing a bus stop in the morning and afternoon school peak hours. During the period of the count there was no use made of the Council land to access the nearby shopping complex.

Further, the steep and uneven nature of the informal path is hazardous and use as a pedestrian thoroughfare exposes Council to potential liability claims. Council should at the very least fence it to prevent public use and minimise its risk.

Council has contacted the bus company to ascertain the status of the bus stop adjacent to the vacant Council owned land. Staff were advised the bus stop was provided by Busways to accommodate several local children. It was only used in the mornings by school children whilst in the afternoon they used the formal stop near the Pacific Hwy end of Moala Parade. Busways advised the stop did not have formal approval, was difficult to access a bus from because of the natural footpath configuration and they would immediately decommission the bus stop, remove the signage and advise the local residents that the formal bus stops are to be used in the future. Busways indicated it was also exposed to liability by this informal stop and so was comfortable with its removal. Therefore, this bus stop is no longer relevant as is access from the vacant Council land.

The formal bus stops are located towards the top of the hill, west of the vacant Council land in Moala Parade and also along the Pacific Hwy. These together with the alternate pedestrian route and informal unapproved school bus stop are shown on the attached plan.

Council's land falls sharply into an open drain at its frontage with Moala Parade making it hazardous to pedestrians. The alternative route detailed in the report is more easily accessible by the users of the Council land and is a less hazardous route to negotiate on the basis of its formation as a pedestrian thoroughfare which includes a constructed footpath along the Pacific Highway. Use of the proper pedestrian thoroughfares in the area will be encouraged in lieu of the use of Council land with Busways advising local residents of the changes.

The attached plan shows the location of the vacant Council land, the decommissioned bus stop, the formal bus stops and the alternate pedestrian route to be used by residents.

OPTIONS

1 Do nothing

Do nothing continues to expose Council to liabilities arising from unauthorised misuse of the land and injuries caused to people whilst on the land.

2 Formalise the pedestrian route by converting the land from Fee Simple ownership to public road or public park

Converting the land to public road and forming a safe pathway duplicates an already safe route albeit a longer one. Staff consider the cost of this option to be significant against other priorities.

3 Fence the property preventing access

Fencing the property would solve the liability issue at least for a time. Given the nature of the informal access across the land, it is a reasonable assumption that fencing could be subject to vandalism. The purpose is thus defeated.

4 Sell the land and exit all risk of liability

Selling the land exits Council from all liability. No plans exist for the public use of the land. Development of the property privately would redirect foot traffic along the safe route.

3.5

**Proposed Sale of Land at Lot 83 DP 27286 and Lot 94 Section 1 DP 11824
Charmhaven (contd)**

PEDESTRIAN COUNT							
Suburb: Charmhaven							
Street: Moala Parade							
Actual: Location: Through Lot 83 DP 27286 and Lot 94 Section 1 DP 11824							
Date: 2nd June 2009							
Day	Weather	AM	Children	Adults	Children	Adults	Total
Tuesday	O'Cast		North	North	South	South	
		7.00/7.15	0	0	0	0	0
		7.15/7.30	0	0	1	0	1
		7.30/7.45	0	0	2	1	3
		7.45/8.00	0	0	2	0	2
		8.00/8.15	0	1	6	1	8
		8.15/8.30	0	0	1	1	2
		8.30/8.45	0	1	0	0	1
		8.45/9.00	1	1	0	3	5
		9.00/9.15	0	3	0	1	4
		9.15/9.30	0	1	0	0	1
Final Totals:			1	7	12	7	27
Day	Weather	AM/PM	Children	Adults	Children	Adults	Total
Tuesday	O'Cast		North	North	South	South	
		11.00/11.15	0	1	0	0	1
		11.15/11.30	0	0	0	0	0
		11.30/11.45	2	0	0	0	2
		11.45/12.00	0	0	0	0	0
		12.00/12.15	0	0	0	0	0
		12.15/12.30	0	0	0	3	3
		12.30/12.45	0	0	0	0	0
		12.45/1.00	0	0	0	0	0
Final Totals:			2	1	0	3	6
Day	Weather	PM	Children	Adults	Children	Adults	Total
Tuesday	O'Cast		North	North	South	South	
		2.00/2.15	0	2	0	0	2
		2.15/2.30	0	1	0	0	1
		2.30/2.45	0	2	0	0	2
		2.45/3.00	1	2	0	0	3
		3.00/3.15	2	0	0	0	2
		3.15/3.30	9	3	0	0	12
		3.30/3.45	0	0	0	0	0
		3.45/4.00	0	0	0	0	0
Final Totals:			12	10	0	0	22

Location Plan



FOR INTERNAL USE ONLY Scale 1:2000

CONCLUSION

Informal use of the land is low, rendering further investment a costly option. Council has no planned use of the land and is currently exposed to risk. These two factors combined suggest a sale of the land to be the best way forward.

ATTACHMENTS

Nil.

3.6 Wyong Shire Family Day Care Lease at 31 Alison Road, Wyong

TRIM REFERENCE: F2004/12954 - D01950104

AUTHOR: PF

SUMMARY

Approval is sought to terminate the lease of Lot 3 Section 10 DP 3136 Alison Road Wyong to Wyong Shire Family Day Care Service without penalty and to relet the premises to Central Coast Legal Centre.

RECOMMENDATION

- 1 That Council agree to the early termination of the lease of Lot 3 DP Section 10 DP 3136 Alison Road Wyong to Family Childcare Services Central Coast Inc. without penalty.**
- 2 That Council grant a lease of Lot 3 Section 10 DP 3136 at 31 Alison Road Wyong to Central Coast Legal Centre for a period of five years at a commencing rent of \$20,800.00 per annum plus GST.**

BACKGROUND

In 1996 State Forests determined that premises owned by it being a former Forestry Office, Lot 3 Section 10 DP 3136 at No 31 Alison Rd Wyong was surplus to its requirements and was to be sold. At that time the premises was leased to Family Child Care Services Central Coast Inc. (FCCSCC).

Sale of the premises by Forestry would have jeopardised the ongoing tenure by FCCSCC. In order to secure its long term occupation of the premises, and without having funds of its own for purchase, FCCSCC made representations to Council requesting that Council purchase the premises from State Forests for the purpose of allowing it to continue its occupation under lease from Council.

Council at its meeting held on 11 September 1996 resolved to purchase the former Forestry Office at No 31 Alison Road Wyong for the purpose of allowing FCCSCC to continue its occupation of the premises under a lease from Council

FCCSCC has since occupied the premises at No 31 Alison Road Wyong under a lease from Council. The current lease expires on 31 March 2010 and rent for the leased premises paid by FCCSCC is \$14,000.00 per annum. The revenue for Central Coast Legal Centre will be \$20,800 P.A.

THE PROPOSAL

On 15 June 2009 FCCSCC advised, that due to the growth of the organisation the premises at No 31 Alison Rd has become too small and it is looking to relocate to larger premises. On that basis FCCSCC has requested that Council release it from the current lease without penalty. FCCSCC has secured alternative rental accommodation and is looking to vacate Council's premises in early August 2009.

Lot 3 Section 10 DP 3136 is zoned 2(c) Medium Density Residential and has an area of 1214 m². Improvements include a former brick and tile cottage that has been fitted out and approved for use as office accommodation with wheelchair access, a relocatable building with large awning and a detached lock up double garage.

As part of the process of seeking to relocate, it appears that representatives of FCCSCC have made it known in the Community and as a consequence Council has received an application by Central Coast Legal Centre that when FCCSCC vacate that they be offered a lease on the premises and have offered to pay rent of \$20,800 per annum exclusive of GST.

In May 2008 Central Coast Community Legal Centre (the Legal Centre) sought accommodation in Council premises however at the time Council had no suitable vacant buildings to assist the Legal Service.

The Legal Centre has advised that in recent times it has become increasingly apparent the premises it occupies at No 1 Rankens Court, Wyong are not suitable for their operations. The Legal Centre has advised that it was established in 1996 and is a community based non-profit organisation that provides free legal assistance and support to disadvantaged people across the Central Coast.

The Legal Centre has further advised that it receives annual funding as part of the Community Legal Service Funding Program (CLSP) to which both State and Federal Attorney General's Departments contribute. Rent and outgoings for leased premises is allocated for in the Legal Services budget, paid from the annual CLSP funding it receives.

The Legal Centre also advises that it auspices the Children's Court Assistance Scheme and supports the solicitor duty roster for the Central Coast Domestic Violence Court Assistance Scheme.

Allowing a new lease to the Legal Centre to commence immediately upon termination of the lease to FCCSCC will have the benefit of ensuring the continued security of the premises, the continuation of the revenue received from rent for the premises and provision of support to an important community program.

A lease to a community based organisation at less than market rent will provide for the tenant to maintain, insure and pay rates for the lease premises. These are the obligations not normally contained within a commercial lease where the lessor is responsible. This is the case with the current lease to FCCSCC. Rates for the premises are \$4,197.06 per annum, insurance premium is estimated at \$500.00 per annum and maintenance costs may be up to \$5000.00 per annum. The market rent for a commercial lease forgone will be offset by these savings to Council.

OPTIONS

Council release FCCSCC from its obligations under the lease from Council of the premises at No 31 Alison Rd Wyong and thereafter let the premises to Central Coast Community Legal Centre for rent of \$20,800.00 per annum continuing the annual rent revenue for the premises. Market rent for the premises has been assessed at \$30,000.00 per annum and Council would be allowing a concession to Central Coast Community Legal Service.

Council release FCCSCC from its obligations under the lease from Council of the premises at No 31 Alison Rd Wyong and thereafter sell the premises for market value estimated at \$390,000.00.

Financial Implications

If Council allows a seamless takeover of the rental accommodation by the Legal Centre there will be no interruption to the revenue stream from rent for the premises however in allowing the concessional rent Council will be forgoing revenue estimated at \$10,000.00 per annum. Security and maintenance obligations will continue with the new tenant.

GOVERNANCE

Lot 3 Section 10 DP 3136 is classified as Operational land pursuant to the Local Government Act 1993 and there is no impediment to the lease or sale of the land.

Location Plan



CONCLUSION

Terminate the lease of Lot 3 Section 10 DP 3136 Alison Road Wyong to Wyong Shire Family Day Care Service without penalty and letting the premises to Central Coast Community Legal Centre is in line with Council's strategies for supporting organisations that provide community benefit and will ensure ongoing security and management of the premises.

ATTACHMENTS

Nil.

4.1 Contract Variations and Finalisation - May and June 2009

TRIM REFERENCE: D01926294

AUTHOR: GP

SUMMARY

This paper reports on variations to contracts with a value greater than \$150,000 (excl GST). Approval is sought for increases to contract expenditure to ensure completion of work in each case.

The report covers contract variations processed in May and June 2009 plus completed contracts for which the final contract value is now available for reporting.

RECOMMENDATION

- 1 *That Council note the variations to contracts in Attachment 1.*
- 2 *That Council approve increases to the contract budgets for the following contracts to provide for further potential variations.*

Contract Name	Contract No.	Increase to Contract Budget \$ (ex GST)
Cabbage Tree Harbour - Investigation And Design Of Toe Drainage Structure	CPA/135454	116,000.00
Manufacture, Supply and Deliver Liquid Aluminium Sulphate For a 3 year period	CPA/107734	88,000.00
Concept Design, Detail Design and Tender Documentation Water Supply Trunk Mains Warnervale Town Centre and Wyong Employment Zone Stages I & II	CPA/130591	65,000.00
Investigation and Design Consultancy for Woongarra Sportsfields	CPA/94559	60,000.00

- 3 *That Council note that commensurate changes will be made to the Management Plan to reflect revisions to contract budgets.*

BACKGROUND

Contracts entered into by Wyong Shire Council (WSC) are awarded either by Council resolution or under delegated authority. Section 55 of the Local Government Act requires that contracts of an estimated value greater than \$150,000 (excl GST) must be publicly tendered and approved by Council resolution.

Contracts of an estimated value less than \$150,000 (excl GST) are awarded under Delegations of Authority made to the General Manager.

The value of a contract budget is the amount tendered by the recommended tenderer (including contingencies) and approved by Council or staff delegation, as the case may be. Construction and Service Contracts routinely require variations during the course of the contract due to unforeseeable circumstances, changes in design or changes in service demand on the finished product.

A Contract that guarantees WSC a fixed schedule of rates for goods or services to be supplied over time, may require variations to the original estimated value due to the changes in demand for the goods / services, or as at result of adjustments to rates that may be applicable under the contract.

Contracts for Consultants or Professional Services also may change during the course of an agreement due to changes in outcomes being sought by WSC, or changes enforced by circumstances affecting the work being done.

Contracts routinely include a contingency sum to cover a level of variations acknowledged in contracting as "normal". Contingency amounts are generally expressed as a percentage of the contract value, commonly 10% of the contract value, but vary between 5% and 30%, or may be expressed as a specific dollar value.

Contingencies provide authority for staff to approve variations up to the contingency amount.

For contracts that have been finalised in the reporting period, such contracts are also reported for information once the final value of the contract is established.

THE PROPOSAL

The need to vary contracts (explained above) arises out of differences in estimating strategies where two basic ends of a range of risk offer WSC a choice of budget methodology.

Estimates could be assembled solely on known factors and the associated design costs with no allowance for unforeseen issues and factors. The risk is that variations may require considerable additional and potentially unavailable, funding.

The alternative and opposite end of the spectrum, is to estimate at a conservative extreme and avoid the need to seeking approval to variations. This strategy has the effect of substantially reducing the initial annual works programme, placing efficient use of funds at risk, locking funds away from urgent needs and potentially leaving a surplus of unexpended funding.

Currently WSC estimates on the basis of known costs of assessment, design and construction plus a 10% contingency for unforeseen changes. This approach allows budgets to include a larger number of works in an annual programme and runs a lesser risk of the programme being curtailed to a serious degree as unforeseen needs arise.

To enable completion of four projects arising from the contracts in this report, it is necessary for WSC to provide further funding commensurate with the actual scope of works completed by the contractor.

For three of the seven contracts with variations for the reporting period, funds previously approved by Council are at this time considered sufficient to ensure completion of that contract.

No contracts were finalised during the reporting period.

FINANCIAL IMPLICATIONS

The variations have had a total negative impact of \$329,000. Funding for the additional contract budget requirements will be achieved by adjusting levels of expenditure on other capital works activity and increased operational revenue during 2009-2010 and in following years as follows:

- Section 94 Contributions and Developer Service Plans - \$125,000
- Additional funding from DECC and/or Management Plan Adjustments - \$116,000
- Off-set via increased revenue from water rates - \$88,000

CONCLUSION

The need to provide further funding is determined by the unknown factors encountered during the planning and construction phases of contracting. Current estimate strategies are appropriate but have created the need for additional funding approvals.

ATTACHMENTS

- 1 Contract Variations - May & June 2009 - Attachment D01948770

Contract Variations For May & June 2009 - Attachment Upgrade Works to The Buttonderry Waste Management Facility

Contract Number	Date of Council Approval	Contractor	(a) Approved Contract Value \$	(b) Total Approved Budget (incl. contingency) \$	(c) Value of Variations Previously Reported \$	(d) Value of Variations For Reporting Period \$	(e) = (c) + (d) Total Value of Variations \$	(f) = (a) + (e) Actual Contract Value \$	Source of Funds
152870	11-02-09	G W H Construction NSW Pty Ltd	2,658,878.00	2,924,778.00	Nil	30,537.42	30,537.42	2,689,415.42	Management Plan Line 4.5.17
Individual Variations For Reporting Period									
Description					Value \$	Description			Value \$
Variation 1 – <u>Credit</u> for deletion of underground 15,000 ltr rainwater reuse tank to be installed at Small Vehicle Transfer Area. Opportunity taken to provide larger aboveground tanks to increase security of supply (costs for new tanks to be part of separate variation).					(13, 088.80)	Variation 4 - Latent condition: removal and replacement of unsuitable material encountered during subgrade preparation. Geotechnical work was undertaken during the investigation stage but there was still variability across the site. Although a lump sum contract, removal of unsuitable material was specified to be paid if required at rates submitted in tender to reduce risk to Council by only paying for work actually found to be necessary.			23,309.55
Variation 2 – Latent conditons: removal of extensive buried tree roots encountered during subgrade preparation and associated re-compaction and testing of work area.					4,661.91	Variation 5 - Additional survey work directed during subgrade preparation for car park area to verify levels and adjust finish grades as required.			1,540.00
Variation 3 – Increase height of corner walls at Small vehicle Transfer Area to restrict waste material spill into public area during collection of waste. Identified as necessary improvement to ensure public safety.					8,570.76	Variation 6 - Upgrade to potable and non potable water tanks for administration building from 2 x 5,000 litres to 2 x 10,000 litres tanks. Opportunity taken to increase security of supply for future demand.			5,544.00

The contract is approx. 35% complete. The remaining contingency funds are considered at this time to be sufficient to realise completion of the works.

Cabbage Tree Harbour - Investigation And Design Of Toe Drainage Structure

Contract Number	Date of Council Approval	Contractor	(a) Approved Contract Value \$	(b) Total Approved Budget (incl. contingency) \$	(c) Value of Variations Previously Reported \$	(d) Value of Variations For Reporting Period \$	(e) = (c) + (d) Total Value of Variations \$	(f) = Initial contract value + (e) Actual Contract Value \$	Source of Funds
135454	Initially approved under staff delegation At Council meeting of 26-11-08 additional funds were approved	Shirley Consulting Engineers Pty Ltd	237,061.70 (as adjusted by Council resolution)	237,061.70	202,061.70	58,785.00	260,846.70 (represents increase over initial contract value of \$35,000)	295,846.70	50/50 DECC & Council (\$565k each) Final funding split to be determined once construction tenders are called.
Individual Variations For Reporting Period									
Description									Value \$
Variation 6 – Scope variation to complete additional pre-construction activities identified as necessary to obtain project approval. This included community consultations, amending strategy to incorporate community concerns and amending all documentation to incorporate changes recommended by expert peer review.									58,785.00

An initial consultancy was undertaken by Shirley Consulting Engineers for preliminary advice and concept design of the Toe Drainage Structure (to the value of \$35 000). Additional stages of the project were then required, including site surveys, detailed design, design review and tender preparation. These were added to the original contract as variations to the scope of work, and this was reported to Council at the Ordinary Meeting of 26-11-08. The actual contract value shown in column (f) has been calculated using the original contract value of \$35 000 plus variations to cover additional phases of work at \$202 061.70 and the current variation 6 for \$58 785, a total of \$295 846.70.

The consultancy is 65% complete. The reported Variation 6 has been approved under delegation to ensure timely completion of this urgent work.

Scope changes for variation 6 are necessary following peer review of the design and to meet expected approval requirements, which necessitated design changes to the structure and increased design costs.

A further variation to this consultancy covering the construction management phase of the project is still pending. To cover the estimated cost of this variation an additional contingency amount of \$116,000.00 is required.

Mardi to Mangrove Link Easement Surveys

Contract Number	Date of Council Approval	Contractor	(a) Approved Contract Value \$	(b) Total Approved Budget (incl. contingency) \$	(c) Value of Variations Previously Reported \$	(d) Value of Variations For Reporting Period \$	(e) = (c) + (d) Total Value of Variations \$	(f) = (a) + (e) Actual Contract Value \$	Source of Funds
139707	Approved under staff delegation 14-11-08	Chase Burke & Harvey Pty Ltd	150,000.00	150,000.00	Nil	81,710.00	81,710.00	231,710.00	50/50 Wyong & Gosford Councils
Individual Variations For Reporting Period									
Description				Value \$	Description			Value \$	
Variation 1 – Survey of road route for Sector 6 following a decision to re-route pipeline to road along this Sector. Included surveys for all services, road details and boundary surveys.				12,250.00	Variation 2 - Survey of easements for entire length of pipeline were brought forward from end of project as part of compulsory acquisition process for 6 properties. Additional survey also required for all Crown Land properties along pipeline route where easement acquisitions are necessary.			69,460.00	

The original contract was approved under delegated authority, and resulted from competitive quotations from 8 local survey companies. To meet project timeframes following the realignment of the pipeline to the road in Sector 6, urgent variations were priced using the consultant's tendered rates for this work. These rates were very competitive. Variations were raised to ensure timely completion of this urgent work to complete surveys for the final route for the pipeline. Expenditure is currently still within the approved budget, but with these two variations the Actual Contract Value will become \$231,710.00 as shown above. This is considered sufficient to ensure completion of the work.

No additional contingency funds are sought.

Manufacture, Supply and Deliver Liquid Aluminium Sulphate for a 3 year period

Contract Number	Date of Council Approval	Contractor	(a) Approved Contract Value	(b) Total Approved Budget (incl. contingency)	(c) Value of Variations Previously Reported	(d) Value of Variations For Reporting Period	(e) = (c)+(d) Total Value of Variations	(f) = (a)+(e) Actual Contract Value	Source of Funds
			\$	\$	\$	\$	\$	\$	
107734	13-12-06	Omega Chemicals Pty Ltd	262,500.00	262,500.00	Nil	17,431.69	17,431.69	279,931.69	Water Fund On-going
Individual Variations For Reporting Period									
Description				Value		Description			
				\$					
Variation 1 – Liquid Aluminium Sulphate requirements greater than estimated budget.				17,431.69					

This is a schedule of rates contract. The contract was initially approved using an estimate of 1,500 tonnes of product. Actual usage to date is 1,503 tonnes, with an estimate of a further 403 tonnes required over the remaining life of the contract.

The quantity of aluminium sulphate required in the treatment of raw water is proportional to water quality and water consumption. Following the relaxation of water restrictions additional product has been required. Rate adjustment under the contract has also impacted the budget, with a price of \$204.45 per tonne being the current contract rate.

An additional \$88,000.00 increase to the contract budget is sought to reflect the revised estimate of product required under the contract.

Concept Design, Detail Design and Tender Documentation Water Supply Trunk Mains Warnervale Town Centre and Wyong Employment Zone Stages I & II

Contract Number	Date of Council Approval	Contractor	(a) Approved Contract Value \$	(b) Total Approved Budget (incl. contingency) \$	(c) Value of Variations Previously Reported \$	(d) Value of Variations For Reporting Period \$	(e) = (c) + (d) Total Value of Variations \$	(f) = (a) + (e) Actual Contract Value \$	Source of Funds
130591	26-03-2008	SMEC Australia Pty Ltd	255,440.00	280,985.45	5,300.00	Nil	5,300.00	260,740.00	Development Servicing Plan
Individual Variations For Reporting Period									
Description					Value \$	Description			Value \$
No variations for reporting period.									

Work under this consultancy is 80% complete.

Three further variations are anticipated in respect of the work. These include design for an additional water booster pump station found to be required until the Mardi to Mangrove Link project comes on line; electronic detection of underground services and further ground investigations directed to confirm existing water main locations. These variations are yet to be valued and approved, however the remaining contingency funds within the contract budget are not expected to be sufficient to cover these variations.

An increase to the contract budget of \$65,000 is sought for the anticipated variations.

Investigation and Design Consultancy for Woongarra Sportsfields

Contract Number	Date of Council Approval	Contractor	(a) Approved Contract Value	(b) Total Approved Budget (incl. contingency)	(c) Value of Variations Previously Reported	(d) Value of Variations For Reporting Period	(e) = (c) + (d) Total Value of Variations	(f) = (a) + (e) Actual Contract Value	Source of Funds
			\$	\$	\$	\$	\$	\$	
94559	9-11-05	Northrop Pty Ltd	282,895.00	330,895.45	33,065.45	7,750.00	40,815.45	323,710.45	Section 94 Contributions
Individual Variations For Reporting Period									
Description				Value \$	Description				Value \$
Variation 6 - Additional engineering and architectural costs associated with increased size of amenities building to meet agreed requirements of user groups.				7,750.00					

Work under this consultancy is considered to be 90% complete. Construction work commenced in June 2009.

The project had a number of directed design and scope changes during the design phase to accommodate user group requirements and other issues that arose as the concept was developed. The consultant has worked with Council to minimise impacts on design costs, and has provided a satisfactory service.

As part of the finalisation process for this consultancy additional claims for costs relating to scope and process changes have been received in May 2009. These are currently being evaluated.

The remaining contingency funds are not expected to cover these potential increased claim costs.

An additional contingency amount of \$60,000.00 is sought to ensure completion of project.

Mardi To Mangrove Creek Link Design And Approvals Consultant

Contract Number	Date of Council Approval	Contractor	(a) Approved Contract Value \$	(b) Total Approved Budget (incl. contingency) \$	(c) Value of Variations Previously Reported \$	(d) Value of Variations For Reporting Period \$	(e) = (c) + (d) Total Value of Variations \$	(f) = Initial contract value + (e) Actual Contract Value \$	Source of Funds
130386	12-12-07	GHD Pty Ltd	11,000,476.36 As adjusted by Council resolutions of 27-08-08 and 27-05-09. Includes \$715k for <u>Construction phase work.</u>	12,225,476.36	2,302,039.22	257,000.00	2,559,039.22 (represents increase over initially awarded contract of \$5.94 million)	8,503,515.58 (see further explanation below)	50/50 Wyong & Gosford Council's
Individual Variations For Reporting Period									
Description				Value \$	Description				Value \$
Variation 22.2 – Directed works to provide detailed probabilistic cost estimate for project including engagement of sub-consultant to prepare estimates, workshops, additional meetings and internal and external reviews. Work was not included in scope of original contract specification.				90,000.00	Variation 28 – Provision of design drawings showing pipe longitudinal sections for both pressure mains. Work was not included in scope of original contract specification and is consider necessary for full and complete tender documentation.				37,000.00
Variation 24 - Design changes not in original scope of work covering pump station transfer capabilities and spacing of pipeline valves; clarification of Mardi Dam raising issues and changes to Wyong river transfer system and associated works. The work was necessary to realise significant cost reductions of \$2.5M to construction as a result of removing stand-by pumps at Wyong River and Mangrove Pumping Station and incorporating the existing Wyong River Pump Station into the new network.				130,000.00					

Work under this consultancy is 65% complete for pre-construction activities. Council has previously revised the contract budget. At this time, of the \$10.285 million for pre-construction works, only \$8.5 million of work has been allocated. The approved contract budget of \$12.225 million, as shown in column (b), including contingency funds, is at this time considered sufficient to ensure completion of pre-construction work under the contract.

The contract budget includes an amount of \$715k for the Construction phase of the project and has been carried forward from the original contract value. As per previous reports to the Water Authority & Council, further variations to the Construction phase component of the contract are anticipated once this phase of the project commences.

At this stage it is envisaged that the consultancy will be completed within the approved contract budget including contingency.

4.2 CPA 150848 - Stormwater Treatment Works Project - Bundilla Parade, Berkeley Vale

TRIM REFERENCE: CPA/150848 - D01935792

AUTHOR: JR

SUMMARY

Evaluation of schedule of rates tenders and recommendation to decline all tenders received for Contract CPA/150848 - Stormwater Treatment Works Project – Bundilla Parade, Berkeley Vale.

RECOMMENDATION

- 1 That Council decline all tenders received for Contract CPA/150848 – Stormwater Treatment Works Project – Bundilla Parade, Berkeley Vale in accordance with Section 178 (1) (b) of the Local Government (General) Regulations.**
- 2 That Council cancel Contract CPA/150848 – Stormwater Treatment Works Project – Bundilla Parade, Berkeley Vale in accordance with Section 178 (3) (a) of the Local Government (General) Regulations.**

BACKGROUND

Schedule of rates tenders were called in late 2008 for the construction of a 370m long, low-flow “Bio-Swale” and associated works adjacent to an existing concrete stormwater channel located off Bundilla Parade, Berkeley Vale. The intent of this project was to capture and divert low flows from the concrete channel and pass them through a “Bio-Swale”, or vegetated channel, to improve water quality. The works would also capture and retain sediment and gross pollutants before they reached Tuggerah Lake.

The construction of this low flow “Bio-Swale” forms part of the implementation of stormwater treatment works under the Tuggerah Lakes Estuary Plan.

TENDER PROCESS

Tenders were invited by way of public invitation. Advertisements were placed in the Sydney Morning Herald on 26 August 2008 and the Central Coast Express Advocate on 27 August 2008. The advertised closing date was 9 October 2008. The tender was also published on Council's E-tendering website.

The invitation documents called for schedule of rates tenders based on detailed drawings and specifications.

Tenders closed at Council Chambers at 2.00 pm on 9 October 2008.

EVALUATION OF TENDERS

Six tenders were received for the works with extended Schedule of Rates prices ranging from \$794,642.00 to \$1,856,773.00 (excl GST). These prices were prior to any assessment for conformance with the tender requirements. Tenders were received from:

- * Bolte Civil Pty Ltd.
- * Environmental Land Clearing Pty Ltd.
- * Kingston Civil Construction Pty Ltd.
- * P & H Constructions Pty Ltd.
- * Scape Constructions Pty Ltd.
- * Timecon Pty Ltd.

An initial assessment of tenders received was undertaken to determine the likely variation in prices for fully conforming tenders. This assessment revealed that conforming bids ranged from approximately \$1.11m to \$1.85m (excl GST).

The initial pre-tender estimate for these works prepared by the design consultant was \$400,000.00 (excl GST). However, a detailed assessment of the design consultant's estimate identified significant errors in the allowances made for the handling of Potential Acid Sulphate Soils (PASS) and Actual Acid Sulphate Soils (AASS) to the value of \$290,000.00. In addition, other allowances for various factors including constructability of the design were identified that added a further \$160,000.00 to the estimate. Together these adjustments revised the pre-tender estimate to \$850,000.00.

DISCUSSION

A detailed assessment was undertaken of the tenders received to ascertain why the prices received were significantly higher than the adjusted pre-tender estimate. This involved close examination of all rates and assessment of the costs of a related project at Saltwater Creek Reach 10. This was used as a benchmark project.

It appears that at Bundilla Parade the rates submitted for disposal and/or reuse of 4,200 tonnes of spoil made up of predominantly PASS and AASS received wide and varied interpretation amongst tenderers, including any commercial opportunities available to re-use the materials.

Even with the adjustments to the pre-tender estimate the lowest conforming tendered sum of \$1,111,403.00 still represents a 30% premium over this estimate and is not considered to be a reasonable price.

A benchmark project with similar project elements, that of Saltwater Creek Reach 10, was also reviewed to determine if the tendered rates for that contract were representative of similar works at the Bundilla Parade site. The Saltwater Creek project was delivered for its contract price, with reasonable variations of less than 10% resulting from unexpected site conditions. Based upon the Saltwater Creek project it was concluded that the market's interpretation of the work required at the Bundilla project were such that the project should be deferred and reviewed to determine where cost efficiencies could be made.

From the above it is considered that the lowest conforming tender did not represent value-for-money when compared to the benchmark project and acceptance of that tender cannot be recommended.

To ameliorate the impact of PASS and AASS on the commercial outcome for the Bundilla project it is proposed that the current design solution be reconfigured to incorporate all surplus spoil (modified as necessary to meet legislative requirements) into the work site. Should this project be re-tendered it is considered that the present market conditions may attract more competitive prices that would make this a viable project for the Tuggerah Lakes Estuary Management Plan. Alternatively, Council's own in-house resources may be available to construct the works. The decision to complete the works in-house or under contract will be dependent upon capacity and other workloads.

Deferring the Bundilla project until later in the Tuggerah Lakes Estuary Management Plan project delivery schedule will have no impact on expenditures as other projects have been moved forward to maintain cash flows, and this project does not involve Federal funding. The deferral of this project will similarly have no adverse impact on the overall water quality in Tuggerah Lake due to the substitution of other similar projects.

LOCAL GOVERNMENT ACT

It is not considered that this project should proceed in its present form based upon the prices received.

Section 178 of the Local Government (General) Regulations 2005, requires Council in considering tenders to either:

- (a) accept the tender that, having regard to all the circumstances, appears to be the most advantageous or
- (b) decline to accept any of the tenders.

Further, when declining all tenders, the Regulations require Council to pass a resolution as to what subsequent action will be taken in relation to the contract. For the subject contract it is recommended that in accordance with Section 178 (3) (a) of the Regulations, Council cancel the proposed contract for the whole of the works.

Further action on this project will be reviewed to determine the most appropriate construction method.

PROCESS REVIEW

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

CONCLUSION

It is recommended that no tender received for this contract be accepted. It is further proposed that the design documentation be amended to improve the viability of this project in conjunction with selection of the most appropriate construction method.

ATTACHMENTS

Nil.

4.3 CPA 158140 - Upgrade of Existing Boat Ramp, Seawall and Roadworks at Picnic Point, The Entrance

TRIM REFERENCE: CPA/158140 - D01943401

AUTHOR: KM

SUMMARY

Evaluation and selection of lump sum tenders for Contract CPA/158140 - Upgrade of Existing Boat Ramp, Seawall and Roadworks at Picnic Point, The Entrance.

RECOMMENDATION

- 1 That Council accept Tender number 2 from Bixli Pty Ltd t/a P & H Constructions including acceptable alternatives in the lump sum amount of \$280,306.36 (excl GST).**
- 2 That Council approve a budget of \$308,306.36 (excl GST) that provides for a contingency amount of \$28,000.00 (excl GST), representing approximately 10% of the contract value, to provide for any unforeseen additional works that may become necessary during the course of the project.**

BACKGROUND

General

The existing Picnic Point Reserve boat ramp shows significant signs of deterioration and aging, including dilapidation of the concrete launching ramp and timber jetty, erosion of the existing foreshore protection structures and deterioration of the access road. Tenders were invited for the reconstruction of this facility and included widening of the boat ramp and other improvements to provide additional user capacity.

The proposed upgrade works include the following major items:

- Increase in width of the existing concrete boat ramp from 2 lanes to 4 lanes.
- Replacement of the existing timber wharf.
- Installation of a new floating pontoon and gangway.
- Reconstruction of the existing sea walls and bank protection system.
- Improvements to the existing access road, trailer manoeuvring area and parking facilities.
- Demolition of the existing fish cleaning table and replacement with a new covered fish cleaning table.

The Department of Commerce was engaged to review the original pre-tender estimate, manage the tendering process and administer the construction phase of the project.

Tender Process

Tenders were invited by way of public invitation. Advertisements were placed in the Newcastle Herald on 4 April 2009 and the Sydney Morning Herald on 7 April 2009. Tenders were also placed on Wyong Shire Council's e-Tendering web site. The original advertised closing date was 16 April 2009.

4.3 CPA 158140 - Upgrade of Existing Boat Ramp, Seawall and Roadworks at Picnic Point, The Entrance (contd)

The tender documents called for lump sum tenders with a 12 week construction period to minimise disruption to users during the busier summer period. Alternative boat ramps will be available at North Entrance and Saltwater Creek during construction. The provision of alternative tenders was also allowed under the Conditions of Tender.

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

- 1 Issued 1 April 2009. Extension of the closing date by one week. This was considered appropriate as the tender period extended over the Easter break.
- 2 Issued 15 April 2009. Clarification relating to the required sandstone facing on the block walls following request for additional information.
- 3 Issued 22 April 2009. Provision of additional information relating to tender evaluation criteria.

Tenders closed at Council Chambers at 2 pm on 23 April 2009.

EVALUATION OF TENDERS

Tenders were evaluated by a panel of three members comprising two Council staff and one officer from the Department of Commerce. The following threshold and weighted criteria were used.

Threshold Criteria

- Conformance with the specification/brief and other tender requirements.
- Ability to manage financial risk.
- Possession of an Environmental Management System and a Safety Management System.

Weighted Criteria

- The tendered price and price structure, as well as any other potential costs to Council that may be identified.
- Experience on projects of a similar nature.
- Performance on similar projects including subcontractors, backed up by referee reports.
- Methodology and construction program.
- Implementation and performance of environmental and safety management systems.

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

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

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 tenderer.

Assessment of Receipt

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

No.	Tender	Tendered Lump Sum (Ex. GST)	Status
1	GW Building Pty Ltd	\$609,148.18	Received by e-Tender on time
2	P & H Constructions (Bixli Pty Ltd)	\$351,403.64	Received manually on time
3	P Geddes Construction Pty Ltd	\$469,000.00	Received manually on time
4	Sydney Marine Contracting Pty Ltd	\$540,654.55	Received by e-Tender on time
5	Talon Civil	\$692,653.73	Received manually on time

No late tenders were received.

Assessment of Conformance

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

All alternatives were assessed by the Tender Evaluation Panel and ranked Acceptable or Not Acceptable based on potential cost savings for Council and suitability.

With the exception of the tender submitted by Tenderer number 1 (GW Building Pty Ltd), all other tenders contained alternatives as summarised in the following table. An assessment was conducted by the tender evaluation panel to determine whether the proposed alternatives were acceptable or not and the results are shown in the table.

No.	Tender	Adjusted Acceptable Alternative Lump Sum Tender Price* (Excl. GST)	Alternatives Offered by the Tenderer	Comment
2	Bixli Pty Ltd t/a P & H Constructions	\$280,306.36	<p>Pour concrete ramp insitu using alternative pile system in lieu of precast slabs and concrete piles.</p> <p>Install alternative pile system for timber jetty in lieu of specified piles.</p> <p>Install split sandstone block sea walls in lieu of sawn blocks outside of ramp area.</p> <p>Replace floating pontoon and ramp with timber wharf (not suitable for disabled access).</p>	<p>Saving \$60,643.00. <u>Acceptable</u></p> <p>Saving \$3,636.00. <u>Acceptable</u></p> <p>Saving \$6,818.0. <u>Acceptable.</u></p> <p>Saving of \$18,182.00. <u>Not Acceptable.</u></p>
3	P Geddes Constructions Pty Ltd	\$464,455.00	<p>Alternative pontoon and ramp system.</p> <p>Alternative timber piles in lieu of specified concrete piles.</p> <p>Steel piles for pontoon in lieu of concrete to save</p>	<p>Saving \$4,545.00. <u>Acceptable.</u></p> <p>Saving \$16,364.00. <u>Not Acceptable.</u></p> <p>No cost saving.</p>

No.	Tender	Adjusted Acceptable Alternative Lump Sum Tender Price* (Excl. GST)	Alternatives Offered by the Tenderer	Comment
			construction time.	<u>Acceptable.</u>
4	Sydney Marine Contracting Pty Ltd	\$645,200.00	Alternative marine pontoon and ramp system. Alternative Bellingham Marine Custom Boat Ramp pontoon	Extra \$13,636.00. <u>Not Acceptable.</u> Extra \$90,909.00. <u>Not Acceptable.</u>
5	Talon Civil	\$686,322.00	Use screw piles in lieu of specified piles under ramp. Alternative ramp attachment to block wall. Additional inspection points in fish cleaning table drainage line. Provide full engineering drawings for pontoon and ramp.	Saving \$8,182.00. <u>Acceptable.</u> Extra \$1,300.00. <u>Acceptable.</u> Extra \$550.00. <u>Acceptable.</u> Extra \$3,800.00. <u>Not Acceptable.</u>

* The Adjusted Acceptable Alternative Lump Sum Tender Price comprises the original Tendered Lump Sum adjusted with the savings or extras shown as "Acceptable" in the last column in the table.

Shortlisting

Tenders were shortlisted against Criterion No. 3 – Price. Tender numbers 1, 4 and 5 (from GW Building Pty Ltd, Sydney Marine Contracting Pty Ltd and Talon Civil) tendered respective amounts of 114%, 141% and 173% higher than the pre-tender estimate. These amounts were also 75%, 102% and 173% higher respectively than the lowest priced tender. The suspected reason for the substantial difference between the lowest two tenders and the highest three tenders was because the lowest two tenders were from local contractors with lower establishment costs and greater knowledge of the local conditions.

Regardless of how they rated on non-price criteria the substantial price difference would make it virtually impossible for any of the highest three tenderers to rate as the preferred option after a full weighted evaluation. Furthermore, at the prices offered by the highest three tenders Council would need to reconsider the overall viability of the project. These tenders were therefore eliminated to allow the panel to concentrate its assessment efforts on the lowest two competitive tenders, being Tender number 2 (from P&H Constructions) and Tender number 3 (from P Geddes Constructions Pty Ltd).

Weighted Evaluation

The two lowest tenders were scored against each of the weighted evaluation criteria (including price and non-price elements). They are listed in the table below in descending order of weighted evaluation scores.

No.	Tender	Lump Sum (Ex. GST) (Conforming Alternative)	Weighted Evaluation Score
2	Bixli Pty Ltd t/a P & H Constructions	\$280,306.00	81
3	P Geddes Constructions Pty Ltd	\$464,455.00	75

Tender number 2 (from Bixli Pty Ltd t/a P & H Constructions), being the highest scoring tender, was progressed to the due diligence stage of the evaluation.

Due Diligence

Tender number 2 (from Bixli Pty Ltd t/a P & H Constructions) was subjected to a financial assessment, and assessed in-house for its safety/environment systems and referee checks.

Council's independent financial assessor Kingsway Financial Assessments was engaged to assess the tenderer's financial position. That assessment revealed a potential short-fall in working capital. However, the short-fall is relatively minor and the risk to Council will be mitigated through the provision of security in the form of a bank guarantee as required under the contract. The tenderer has successfully completed contracts of a similar nature and value for both Wyong and Gosford Councils without any adverse financial issues. The risk is considered to be acceptable.

On the basis of the information provided by the tenderer and independent referees, it is considered that Bixli Pty Ltd t/a P & H Constructions possesses all of the technical and managerial resources necessary to satisfactorily complete the works.

Bixli Pty Ltd t/a P & H Constructions is a Killarney Vale 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.

Process Review

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

RISK ASSESSMENT

General

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

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

Contract Risks

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

Generic Risks

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

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

Specific Risks Leading to Contract Variations

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

- The quality of the design is sub-standard resulting in additional costs during the construction phase. Mitigated by appropriate technical reviews by others to ensure design meets requirements.
- The price of materials may increase significantly which will impact the Contractor's price to Council for the finished work. The contract does not allow for the rise and fall in the price of materials to be passed on to Council.

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. The proposed construction method will allow for the work on the boatramp to be undertaken behind a cofferdam and hence "in the dry". The lake environment at this location is not as hostile as a coastal site and the usual construction risks will be the responsibility of the contractor. Accordingly, it is recommended that a budget contingency sum of \$28,000.00 (excl GST) representing approximately 10% of the contract sum be approved.

Based on previous experience with contracts of this nature and analysis of the risks involved, it is estimated that there is a high probability that the contract budget of \$308,000.00 (excl GST), which incorporates the contingency allowance, will not be exceeded.

BUDGET

The amount tendered by Bixli Pty Ltd t/a P & H Constructions, including the accepted alternatives, is within 11% of Council's pre-tender estimate and is considered to represent a reasonable price for the contract works.

Subsidised Estuary Management funding for the project was originally sought through the NSW Caring for Our Country program in 2007/2008 but was unsuccessful.

A subsequent request for subsidised funding through NSW Maritime's Maritime Infrastructure Program was successful with an offer of \$125,000.00 (being 50% of the then- estimated total cost of \$250,000.00) made to Wyong Shire Council (WSC) in February 2009. This funding must be expended by February 2010. The grant is to be included in Management Plan line item 3.2.5 Lakes Improvement funding.

A further \$245,000.00 will be provided for Lakes Improvement works from Holiday Park funds. This includes an amount of \$175,000.00 that will be rolled over into 2009/10 and has not yet been shown in Management line item 3.2.5. These funds are to cover not only the contract costs but also project management costs and minor associated works on site undertaken by Council.

TIME-FRAME

The specified contract period is 12 weeks. Every endeavour will be made to complete sufficient components of the work to allow public access to the boatramp by the October 2009 school holidays. The works will be completed in time to meet the expiry date for the Maritime grant of February 2010.

LOCAL CONTENT

The tenderer has indicated that the contract works are expected to generate approximately 50 person-weeks of labour requirements and that all labour resources to be employed on the project will be sourced from within the Central Coast.

CONCLUSION

The conforming tender from Bixli Pty Ltd t/a P & H Construction 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 this tender be accepted.

ATTACHMENTS

Nil.

4.4 CPA 159880 - Construction of Mannering Park Sewage Treatment Plant Inlet Works

TRIM REFERENCE: CPA/159880 - D01953440

AUTHOR: LP

SUMMARY

Evaluation and selection of lump sum tenders for Contract CPA/159880 – Construction of Mannering Park Sewage Treatment Plant Inlet Works.

RECOMMENDATION

- 1 That Council accept in accordance with the approved Tender Evaluation Plan, Tender No. 3 from Eire Contractors Pty Ltd in the amount of \$1,191,000.00 (excl GST) for Contract CPA/159880.**
- 2 That Council approve a contract budget of \$1,369,000.00 (excl GST) that provides for a contingency amount of \$178,000.00 (excl GST), representing approximately 15% of the contract value, to provide for any unforeseen additional works that may become necessary during the course of the project.**

BACKGROUND

The existing Inlet Works at the Mannering Park Sewage Treatment Plant (STP) is in poor condition due to the effects of gas generation and attack on concrete components. The existing inlet works also has no provision to install screens for removal of rags and debris.

A previous contract for this work (CPA/130010) was terminated by Council in February 2009 due to unsatisfactory contractor performance. CPA/159880 is a new contract initiated following termination of this contract.

The new contract is similar to the previous contract and requires the construction of a reinforced concrete Inlet Works adjacent to the existing Works. This will be provided with automatic mechanical step screens and a soil bed filter odour control system. An open sided roofed structure is also to be provided as part of the contract. Demolition and removal of the existing inlet works is required following commissioning of the new structure, which will cater for ultimate loads to 2050.

The construction period allowed for this lump sum contract is 40 weeks.

Tender Process

Tenders were invited by way of public invitation. Advertisements were placed in the Newcastle Herald on 4 April 2009, Sydney Morning Herald on 7 April 2009 and the Central Coast Express Advocate on 8 April 2009. Tenders were also advertised on Council's e-Tender website. The advertised closing date was 7 May 2009.

The invitation documents called for lump-sum tenders based on a detailed specification.

One Addendum was issued to all prospective tenderers during the invitation period as follows:

4.4 CPA 159880 - Construction of Mannering Park Sewage Treatment Plant Inlet Works (contd)

Addendum 1 Extension of closing date by one day due to technical difficulties with the e-Tender site.

Tenders closed at Council Chambers at 2:00 pm on Friday 8 May 2009.

EVALUATION OF TENDERS

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

Threshold Criteria

- 1 Compliance with Tender documents, including lodgement of tender by specified time.
- 2 Ability to manage financial, environmental, quality, operational and safety risk.

Weighted Criteria

- 1 Conformity with tender documents and specification.
- 2 Proposed methodology / construction program.
- 3 The tendered price and structure; as well as any other potential costs to Council that may be identified.
- 4 Experience in the specific field.
- 5 Management of construction on an operational site.

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

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

The evaluation was conducted according to the following process.

- Assessment of receipt of tenders.
- Assessment of conformance of tenders.
- 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 alphabetical order.

No.	Tender	Tendered Lump Sum (Ex. GST)	Status
1	Abergeldie Contractors Pty Ltd	\$1,752,699.00	Submitted on time
2	Carey Constructions Pty Ltd	\$1,489,819.00	Submitted on time
3	Eire Contractors Pty Ltd	\$1,191,000.00	Submitted on time
4	Gongues Constructions Pty Ltd	\$1,873,900.00	Submitted on time
5	Greg White	N/A	Submitted on time
6	Hannas Civil Engineering	\$2,067,040.00	Submitted on time
7	Kerroc Constructions Pty Ltd	\$1,985,000.00	Submitted on time

4.4 CPA 159880 - Construction of Mannering Park Sewage Treatment Plant Inlet Works (contd)

8	Lahey Constructions Pty Ltd	\$1,370,829.55	Submitted on time
9	Ledonne Constructions Pty Ltd	\$2,237,978.00	Submitted on time
10	Process Engineering Technologies Pty Ltd	\$1,940,083.00	Submitted on time
11	Quality Management & Constructions Pty Ltd (T/A QMC Group)	\$1,764,000.00	Submitted on time

All tenders were submitted on time and were progressed to an assessment of conformance.

Assessment of Conformance

Tenders were assessed for conformance with the general tender requirements, including the specification.

Tender no. 5 (from Greg White) was incomplete, offering bobcat, excavator and tipper hire only and was not considered further.

Tender no. 3 (from Eire Contractors Pty Ltd), Tender no. 8 (from Lahey Constructions Pty Ltd), Tender no. 2 (from Carey Constructions Pty Ltd), Tender no. 11 (from QMC Group), Tender no. 7 (from Kerroc Constructions Pty Ltd), and Tender no. 9 (from Ledonne Constructions Pty Ltd) conformed to all requirements and were progressed to the next stage of evaluation.

Tender no. 1 (from Abergeldie Contractors Pty Ltd), Tender no. 4 (from Gongues Constructions Pty Ltd), Tender no. 10 (from Process Engineering Technologies Pty Ltd) and Tender no. 6 (from Hannas Civil Engineering) contained numerous assumptions and exclusions of a minor nature. These tenders were progressed to the next stage of evaluation since it was considered likely that the matters could be resolved by the time the panel was ready to finalise its recommendation.

Shortlisting

Tenders were shortlisted against Criterion No. 3 – Price. Tender no. 1 (from Eire Contractors Pty Ltd) tendered a competitive price 21% under the pre-tender estimate of \$1,500,000.00. Tender no. 8 (from Lahey Constructions Pty Ltd), and Tender no. 2 (from Carey Constructions Pty Ltd) tendered competitive prices that were approximately 9% and 0.7% below the pre-tender estimate. These three tenders were progressed to a full weighted evaluation.

Tender no. 1 (from Abergeldie Contractors Pty Ltd), Tender no. 11 (from QMC Group), Tender no. 4 (from Gongues Constructions Pty Ltd), Tender no. 10 (from Process Engineering Technologies Pty Ltd), Tender no. 7 (from Kerroc Constructions Pty Ltd), Tender no. 6 (from Hannas Civil Engineering) and Tender no. 9 (from Ledonne Constructions Pty Ltd) tendered amounts ranging from 17% to 19% higher than the pre-tender estimate and 47% to 88% higher than the lowest priced tender.

Regardless of how these tenders rated on non-price criteria the substantial price difference would make it virtually impossible for these tenders to rate as the preferred option after a full weighted evaluation. These tenders were therefore not included in the short list to allow the panel to concentrate its assessment efforts on the three competitive tenders.

Weighted Evaluation

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

No.	Tender	Lump Sum (Excl GST)	Weighted Evaluation Score
3	Eire Contractors Pty Ltd	\$1,191,000.00	84
8	Lahey Constructions Pty Ltd	\$1,370,829.55	73
2	Carey Constructions Pty Ltd	\$1,489,819.00	66

Tender no. 3 (from Eire Contractors Pty Ltd) was complete and professionally presented and did not contain any qualifications or departures that would result in increased cost and risk to Council. This tender met the Threshold Criteria and was considered by the Panel to be conforming in terms of the scope of work offered. Eire included a draft construction program and methodology and provided evidence of accreditation of their Corporate OHS Management System. Recent works by Eire include pipelines and sewage pump station upgrades. They are currently working on sewage pump station upgrade, pipeline and offline storage facilities for Hunter Water Corporation. Their tendered price of \$1,191,000.00 (excl GST) was the most competitive of the ten prices received (about 21% under the current pre-tender estimate of \$1,500,000.00), and demonstrates the highly competitive nature of the current market. For comparison purposes Council's pre-tender estimate for the previous (terminated) contract CPA/130010 was \$1,100,000.00 in 2008, while the previous accepted contract price was \$1,420,000.00. The current pre-tender estimate was based on the previous contract price with an allowance for CPI increases. The Panel progressed Tender no. 3 to the next stage of evaluation.

Tender no. 8 (from Lahey Constructions Pty Ltd) also contained no qualifications or departures that would result in increased cost and risk to Council. This tender met the Threshold Criteria and was considered by the Panel to be conforming in terms of the scope of work offered. The tender included a draft construction program and provided evidence of accreditation of their Corporate OHS Management System. Lahey are currently undertaking works of a similar nature for Kempsey Shire Council to the value of \$7,500,000.00. Their tendered price was approximately 9% below the pre-tender estimate and 15% higher than Tender no. 3. The Panel progressed Tender no. 8 to the next stage of evaluation.

Tender no. 2 (from Carey Constructions Pty Ltd) similarly contained no qualifications or departures that would result in increased cost and risk to Council. This tender met the Threshold Criteria and was considered by the Panel to be conforming in terms of the scope of work offered. The tender included a draft construction program. Carey Constructions specialise in the construction of sewage and water pump stations. The tendered price was 0.7% below the pre-tender estimate and approximately 25% higher than Tender no. 3. The Panel progressed Tender no. 2 to the next stage of evaluation.

Sensitivity Analysis

As part of the evaluation process a sensitivity analysis was carried out on the three remaining tenders using the "non-price" evaluation criteria. These criteria were given artificially increased scores for the tenders of Lahey Constructions Pty Ltd (Lahey) and Carey Constructions Pty Ltd (Carey). These were then compared to the score for Eire Constructors Pty Ltd (Eire). This did not change the respective relativities.

A further check was made by significantly lowering the scores for “non-price” criteria for Eire and again comparing the new weighted evaluation score with the artificially increased scores for Lahey and Carey. It required at least two of the criteria for Eire to be lowered before the increased score for Lahey exceeded the score for Eire.

As a result of these assessments it was concluded that Eire remained the preferred tenderer with the highest weighted evaluation score and also the lowest tendered price.

Tender no. 3 (from Eire Contractors Pty Ltd), being the highest scoring tender, was progressed to the due diligence stage of the evaluation.

Due Diligence

Tender no. 3 (from Eire Contractors Pty Ltd) was subjected to a financial assessment, an in-house safety/environment system assessment and referee checks.

Referees provided by the company were contacted and reported that recent contracts with Eire Contractors Pty Ltd were well managed, timely and provided a quality finished product.

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 Eire Contractors Pty Ltd possesses all of the technical, financial and managerial resources necessary to satisfactorily complete the works.

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 Occupational Health Safety and Rehabilitation Management and Environmental Management systems.

The tender amount for Eire Contractors Pty Ltd is approximately 21% lower than Council's pre-tender estimate and is considered to represent a reasonable price for the contract works.

Process Review

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

RISK ASSESSMENT

General

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

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

Contract Risks

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

Generic Risks

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

- Contractor experiences financial difficulties or goes into liquidation, leading to additional project delays and costs. Mitigated through financial and referee checks before contract award and timely progress payments.
- Completion time exceeds target leading to delays and damage to Council's reputation. Mitigated through close supervision and prompt directions where required.
- Liability for injury and/or damage to people, property and the environment. Mitigated through on-going validation of contractor's insurances, safety and environmental management systems, together with close supervision including site audits.
- 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 or varied site findings would result in additional costs during the construction phase. Mitigated by appropriate technical reviews by others to ensure design meets requirements.
- The price of materials may increase significantly and will impact the Contractor's price to Council for the finished work. Mitigated by assessing tenders in an appropriate timeframe and awarding the contract as soon as reasonably practicable after close of tenders.
- Contractor may have priced work low and seeks excessive variations. Assessment of prices shows that while contract price is competitive, it is in line with Council's 2008 pre-tender assessment and is also reasonably close to two other tenders. Price appears reasonable for the works.

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 \$178,000.00 (excl GST) 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 good probability that the contract budget of \$1,369,000.00 (excl GST), which incorporates the contingency allowance, will not be exceeded.

BUDGET

Funds for the Project are available from the Capital Works Refurbishment for Sewage Treatment Works.

TIME-FRAME

The program submitted by Eire Contractors Pty Ltd demonstrates an ability to deliver the works within the required 40 weeks from the date of issue of the Letter of Acceptance.

LOCAL CONTENT

The tenderer has indicated that where ever practicable local labour would be employed. Further, the electrical sub-contract works will be undertaken by a local Central Coast firm. This would generate about 1,400 local man hours.

CONCLUSION

Tender no. 3 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.

ATTACHMENTS

Nil.

4.5 CPA 163500 - Hire of Plant and Trucks for the Operation of Buttonderry Waste Management Facility

TRIM REFERENCE: CPA/163500 - D01954131

AUTHOR: CD

SUMMARY

Evaluation and selection of schedule of rates tenders for Contract CPA/163500 - Hire of Plant and Trucks for the Operation of Buttonderry Waste Management Facility.

RECOMMENDATION

- 1** *That all complying tenders received for the hire of plant/trucks for the operation of Buttonderry Waste Management Facility be accepted for inclusion on a priority ranking list for a period of 12 months.*
- 2** *That Council approve a contract budget of \$1,188,000.00 (excl GST) that provides for a contingency amount of \$100,000.00 (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.*
- 3** *That the Director Shire Services be authorised to arrange engagement of plant as required from time to time for the effective operation of the facility in accordance with Contract CPA/163500 Hire of Plant for the Operation of Buttonderry Waste Management Facility.*

BACKGROUND

Since January 1999 Council has operated the Buttonderry Waste Management Facility using a combination of hired plant and trucks, contracted services and internal labour. Due to the specialised, consistent and long-term nature of the work at the Buttonderry Waste Management Facility it has been found advantageous to create a pool of available hired plant and trucks specifically for work at the facility. To ensure that plant and trucks are secured at the most competitive rates schedule of rates tenders have been invited for various individual items of plant and for various combinations of plant and operators as follows:

- Dozer D6 with operator.
- Bogie trucks with operators.
- 20 tonne Excavators with operators.
- Backhoe and truck combination with two operators.

The Dozer is mainly required to spread topsoil and cover material and assist with the construction of batters and cell walls. The Dozer is required on average three days per week.

Bogie trucks are required to transport cover material, crushed concrete, rock or waste material. From time to time Bogie trucks may also be required to collect materials such as clay from locations outside the facility. Generally, three Bogie trucks are required five days per week.

4.5 CPA 163500 - Hire of Plant and Trucks for the Operation of Buttonderry Waste Management Facility (contd)

The 20 tonne Excavators are required to remove cover material, load cover material, rocks, crushed concrete or other materials onto Bogie trucks, construct and remove batters and bund walls, push up stockpiles, cover asbestos waste and screen concrete or rocks at the Buttonderry Waste Management Facility. Generally, two 20 tonne Excavators are required five days per week.

The Backhoe is required to load waste materials disposed of in the Small Vehicle Area onto a Bogie truck for transfer to the landfill face. The Backhoe may also be directed to escort vehicles carrying asbestos to the designated asbestos disposal area and cover asbestos. The Backhoe and truck combination is required seven days per week.

All complying plant and trucks will be placed on a priority list in order of their ranking. Arrangements will be made to hire plant and trucks as required. While it may be likely for trucks ranked 4 or lower on the priority list to be called upon from time to time during times of high activity, from experience there is a low probability for a Backhoe or dozer with a ranking of 2 or lower or Excavators with a ranking below 3 to be required.

TENDER PROCESS

Tenders were invited by way of public invitation. Advertisements were placed in the Sydney Morning Herald on 12 May 2009 and the Central Coast Express Advocate on 13 May 2009. Tenders were also advertised on Council's e-Tender website. The advertised closing date was 4 June 2009.

The invitation documents called for hourly rates for each required plant item as listed above.

The proposed contract is for a period of 12 months commencing on 10 August 2009. The tender documents required that all tendered rates be fully inclusive of GST, operating, maintenance and fuel costs.

Tenders closed at Council Chambers at 2:00pm on 4 June 2009.

EVALUATION OF TENDERS

Tenders were evaluated by a panel of three staff members using the following threshold and weighted criteria:

- 1 Conformance with the specification and requirements of the tender documents.
- 2 Ability to manage safety risk.
- 3 Price.
- 4 Equipment offered and compliance with technical requirements.
- 5 Performance on other contracts and track record.

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

To assess tenders against the evaluation criteria the panel used information obtained from the tender documents and related correspondence, referees, external advisors and plant and truck inspections undertaken by a Council motor mechanic.

The evaluation was conducted according to the following process:

- 1 Assessment of receipt of tenders.
- 2 Assessment of conformance of tenders.

- 3 Detailed weighted evaluation of tenders.
- 4 Due diligence checks on all tenderers.
- 5 Independent review of the tender selection process.

Assessment of Receipt

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

No.	Tender	Tendered plant	Estimated annual cost (Ex GST)*	Status
1	Australian Grader Hire Pty Ltd	Dozer	\$196,376.00	Submitted on time
		Bogie Trucks (x2)	\$212,424.00	
		20 Tonne Excavator	\$252,649.00	
		Backhoe and Bogie Truck Combination	\$328,900.00	
2	Bennetts Excavations Pty Ltd	No individual items listed, general information brochure submitted only.	No prices listed	Submitted on time
3	Bowers Family Trust T/A Serious About Civil	Bogie Truck 1	\$129,592.00	Submitted on time
		Bogie Truck 2	\$133,600.00	
		20 Tonne Excavators (x5)	\$173,060.00	
		Backhoe and Bogie Truck Combination	\$298,409.00	
4	Complete Excavations Pty Ltd	Dozer	\$223,155.00	Submitted on time
		Bogie Trucks (x3)	\$225,905.00	
		20 Tonne Excavator	\$291,518.00	
		20 Tonne Excavator	\$316,968.00	
		Backhoe and Bogie Truck Combination	\$552,500.00	
5	Duncan Excavations (NSW) Pty Ltd	Bogie Truck	\$213,760.00	Submitted on time
		20 Tonne Excavators (x2)	\$320,670.00	
		Backhoe and Bogie Truck Combination	\$552,500.00	

4.5

CPA 163500 - Hire of Plant and Trucks for the Operation of Buttonderry Waste Management Facility (contd)

No.	Tender	Tendered plant	Estimated annual cost (Ex GST)*	Status
6	T & M Campbell Pty Ltd T/A Final Trim Excavations	Bogie Truck	\$133,600.00	Submitted on time
		20 Tonne Excavator	\$203,600.00	
7	Hall Group Enterprises Pty Ltd T/A Hall Earthmoving	Dozer	\$142,008.00	Submitted on time
		20 Tonne Excavators (x2)	\$182,777.00	
8	John E Hogan Pty Ltd	Bogie Trucks (x3)	\$184,368.00	Submitted on time
		Backhoe and Bogie Truck Combination	\$416,000.00	
9	Kenna Contract Hire Pty Ltd	No prices listed for items requested in the tender.	-	Submitted on time
10	MAAS Group Pty Ltd	Dozer	\$193,401.00	Submitted on time
		Bogie Truck (x3)	\$206,473.00	
		20 Tonne Excavators (x2)	\$249,410.00	
		Backhoe and Bogie Truck Combination	\$552,500.00	
11	Mozaf Pty Ltd T/A Active Excavation Works	Dozer	\$338,114.00	Submitted on time
		Bogie Truck	\$182,182.00	
		Bogie Trucks (x2)	\$187,040.00	
		20 Tonne Excavators (x2)	\$251,030.00	
		Backhoe and Bogie Truck Combination	\$649,970.00	
12	R. K. Talbot Enterprises Pty Ltd	Bogie Trucks (x3)	\$180,360.00	Submitted on time
		Backhoe and Bogie Truck Combination	\$366,068.00	
		Backhoe and Bogie Truck Combination (Bobcat included in price)	\$403,000.00	
		Backhoe and Bogie Truck Combination (with Quick Hitch Attachments)	\$405,954.00	
13	R L Equipment Pty Ltd	Bogie Trucks (x2)	\$149,632.00	Submitted on time

No.	Tender	Tendered plant	Estimated annual cost (Ex GST)*	Status
14	R. W. Leete Pty Ltd	Dozer	\$185,963.00	Submitted on time
		20 Tonne Excavator	\$190,621.00	
15	Scape Constructions Pty Ltd	20 Tonne Excavators (x2)	\$229,050.00	Submitted on time
16	Schembri's Earthmoving Pty Ltd	Bogie Trucks (x3)	\$200,400.00	Submitted on time
		Backhoe and Bogie Truck Combination	\$568,750.00	
17	TCX Pty Ltd	Bogie Trucks (x3)	\$145,138.00	Submitted on time
		20 Tonne Excavator	\$189,487.00	
		Backhoe and Bogie Truck Combination	\$331,500.00	
18	Underground Water Solutions Pty Ltd	Bogie Trucks (x3)	\$157,891.00	Submitted on time
		Backhoe and Bogie Truck Combination	\$409,205.00	
19	Wyong Shire Council	20 Tonne Excavator	\$199,255.00	Submitted on time
		Backhoe and Bogie Truck Combination	\$355,254.00	

* GST was deducted from the tendered rates to calculate the estimated annual cost exclusive of GST

All tenders were submitted on time and were progressed to an assessment of conformance.

Assessment of Conformance

Tenders were assessed against:

- Compliance to specification.
- Provision of all requested information (including copies of required insurances).
- Completion of Form of Tender and all Schedules.

The tender documents required an hourly rate to be submitted for a D6 Dozer, Bogie trucks, 20 tonne Excavator and a Backhoe and Bogie truck combination.

Tender no. 12 (from R. K. Talbot Enterprises Pty Ltd) included two alternative tenders in addition to a conforming tender as allowed under the contract. One alternative tender included a rate for a Backhoe and Bogie truck combination plus a Bobcat. The second alternative included a rate for the Backhoe and truck combination plus "Quick Hitch" attachments that can be added to the Bogie truck to perform tasks such as sweeping. While these alternatives can offer benefits to the operation in the future when the new transfer area is completed, they are less advantageous under the current arrangement and were therefore not included in the detailed evaluation.

4.5 CPA 163500 - Hire of Plant and Trucks for the Operation of Buttonderry Waste Management Facility (contd)

Tender no. 2 (from Bennett Excavations Pty Ltd) did not conform to the tender requirements as neither the Form of Tender nor any of the Schedules were submitted. This tender was therefore excluded from further detailed assessment.

Tender no. 9 (from Kenna Contract Hire Pty Ltd) did not conform to the tender requirements as rates were not submitted for the specified plant and trucks. Kenna Contract Hire included rates for alternative plant which are of no value to the operation of the Waste Management Facility. This tender was therefore excluded from further detailed assessment.

The remaining 17 tenders were conforming and were progressed for detailed assessment.

Detailed Weighted Evaluation

Tenders were scored against each of the weighted evaluation criteria (including price and non-price elements). The score for the equipment offered was determined through inspections undertaken by a Council motor mechanic.

Some plant could not be inspected after reasonable attempts to contact the tenderer to book an inspection were unsuccessful or the company or plant were located away from Wyong Shire and this made it impractical to attend at the site to inspect the plant.

All plant that could not be inspected received a minimum score based on the average score for the plant type. A sensitivity analysis was then undertaken for each plant item. This resulted in a ranking on the priority list that indicated it was unlikely these items of plant would be required for work. In the unlikely event that these plant items might be required to work at the Buttonderry Waste Management Facility, a plant inspection would need to be carried out prior to commencement of work.

The weighted assessment process achieved the following results:

DOZER

No.	Tenderer	Make / Model	Estimated Annual cost (excl GST)	Assessment Score	Rank
7	Hall Group Enterprises Pty Ltd T/A Hall Earthmoving	Cat D6R	\$142,008.00	92	1
14	R. W. Leete Pty Ltd	Cat D6H	\$185,963.00	79	2
1	Australian Grader Hire Pty Ltd	Cat D6H	\$196,376.00	68	3
10	MAAS Group Pty Ltd	Cat D6R	\$193,401.00	68	3
4	Complete Excavations Pty Ltd	CAT 2002	\$223,155.00	58	5
5	Mozaf Pty Ltd T/A Active Excavation Works	CAT (TBA)	\$338,114.00	8	6

Tender no. 7 (from Hall Group Enterprises Pty Ltd T/A Hall Earthmoving) was the highest scoring tender. Referee checks confirmed that the company has extensive experience in operating plant at Waste Management Facilities. Hall Group Enterprises rated highly on both quality and performance. The Evaluation Panel considers this tender to offer best value for money.

BOGIE TRUCKS

No.	Tenderer	Make / Model	Estimated Annual cost (excl GST)	Assessment Score	Rank
3	Bowers Family Trust T/A Serious About Civil	Truck 1: Ford CTS 9000	\$129,592.00	97	1
		Truck 2: Mack Superliner	\$133,600.00	96	2
6	T & M Campbell Pty Ltd T/A Final Trim Excavations	Truck 1: Ford LGS9000	\$133,600.00	94	3
13	R L Equipment Pty Ltd	Truck 1: Volvo F10	\$149,632.00	90	4
17	TCX Pty Ltd	Truck 1: Western Star 4800	\$145,138.00	89	5
		Truck 2: Kenworth T600	\$145,138.00	89	5
		Truck 3: Ford LTS	\$145,138.00	89	5
13	R L Equipment Pty Ltd	Truck 2: Mitsubishi KS418	\$149,632.00	88	8
12	R. K. Talbot Enterprises Pty Ltd	Truck 1: Western Star 4800FX	\$180,360.00	76	9
18	Underground Water Solutions Pty Ltd	Truck 1: Mercedes Benz 2435	\$157,891.00	75	10
		Truck 2: Freightliner FL112, 1193	\$157,891.00	75	10
		Truck 3: ACCO	\$157,891.00	75	10
8	John E Hogan Pty Ltd	Truck 1: Internat'l 3600 1997	\$184,368.00	74	13
		Truck 2: Internat'l 3600 1996	\$184,368.00	74	13
12	R. K. Talbot Enterprises Pty Ltd	Truck 2: Western Star 4000	\$184,368.00	73	15
		Truck 3: Western Star 4864 1996	\$184,368.00	72	16
8	John E Hogan Pty Ltd	Truck 3: TBA	\$184,368.00	64	17
11	Mozaf Pty Ltd T/A Active Excavation Works	Truck 1: Hino FS270, 2 Nissan UD CWB350	\$182,182.00	64	17
		Truck 2: UD CWB350	\$187,040.00	62	19
		Truck 3: UD CWB350	\$187,040.00	62	19
5	Duncan Excavations (NSW) Pty Ltd	Mitsubishi Fuso	\$213,760.00	60	21
16	Schembri's Earthmoving Pty Ltd	Truck 1: No details provided	\$200,400	57	22
		Truck 2: No details provided	\$200,400	57	22
		Truck 3: No details provided	\$200,400	57	22
4	Complete Excavations	Truck 1: Kenworth 450	\$225,905.00	54	25
		Truck 2: Freightliner 400	\$225,905.00	52	26

4.5

CPA 163500 - Hire of Plant and Trucks for the Operation of Buttonderry Waste Management Facility (contd)

No.	Tenderer	Make / Model	Estimated Annual cost (excl GST)	Assessment Score	Rank
10	MAAS Group Pty Ltd	Truck 1: Nissan UD	\$206,473.00	52	26
		Truck 2: Nissan UD	\$206,473.00	52	26
		Truck 3: Isuzu FV2	\$206,473.00	52	26
1	Australian Grader Hire Pty Ltd	Truck 1: Mitsubishi FV418	\$212,424.00	50	30
		Truck 2: Mitsubishi FV517	\$212,424.00	50	30
4	Complete Excavations Pty Ltd	Truck 3: Kenworth 450	\$225,905.00	44	32

Tender no. 3 (from Bowers Family Trust T/A Serious About Civil) ranked first and second for the two Bogie trucks tendered. Tender No 6 from T & M Campbell Pty Ltd T/A Final Trim Excavations ranked third. The Evaluation Panel considers these tenders to offer best value for money.

Bowers Family Trust T/A Serious About Civil is a current contractor at Buttonderry Waste Management Facility and has been found to be very cooperative with work completed to a high standard. T & M Campbell Pty Ltd T/A Final Trim Excavations received a sound reference which indicated the company had developed a good reputation over a number of years. Generally only three Bogie trucks are required at any one time at the facility.

EXCAVATOR

No.	Tenderer	Make / Model	Estimated Annual Cost (excl GST)	Assessment Score	Rank
3	Bowers Family Trust T/A Serious About Civil	Excavator 1: Kobalco SK250	\$173,060.00	98	1
		Excavator 2: ZX 230 Hitachi	\$173,060.00	97	2
		Excavator 3: Semitano SH-3	\$173,060.00	93	3
17	TCX Pty Ltd	Hitachi ZX210K	\$181,669.00	90	4
7	Hall Group Enterprises Pty Ltd T/A Hall Earthmoving	Excavator 1: Caterpillar 322	\$182,777.00	89	5
		Excavator 2: Caterpillar 323	\$182,777.00	89	5
19	Wyong Shire Council	Komatsu PC120-6	\$199,255.00	88	7
6	T & M Campbell Pty Ltd T/A Final Trim Excavations	Kobalco SK200-8	\$203,600.00	86	8
14	R. W. Leete Pty Ltd	Hyundai R210	\$190,621.00	86	8
15	Scape Constructions Pty Ltd	Excavator 1: PC200LC-7	\$229,050.00	77	10
		Excavator 2: PC200LC-8	\$229,050.00	76	11
1	Australian Grader Hire Pty Ltd	Semitano SH280-3	\$252,649.00	65	12
10	MAAS Group Pty Ltd	Excavator 1: Komatsu PC200	\$249,410.00	64	13

4.5

CPA 163500 - Hire of Plant and Trucks for the Operation of Buttonderry Waste Management Facility (contd)

No.	Tenderer	Make / Model	Estimated Annual Cost (excl GST)	Assessment Score	Rank
		Excavator 2: Komatsu PC200	\$249,410.00	64	13
11	Mozaf Pty Ltd T/A Active Excavation Works	TBA	\$251,030.00	64	13
		TBA	\$251,030.00	64	13
4	Complete Excavations Pty Ltd	Excavator 1: Hitachi 1999	\$291,518.00	58	17
		Excavator 2: Hitachi 2008	\$316,968.00	48	18
2	Duncan Excavations (NSW) Pty Ltd	Excavator 1: Hyundai R210	\$320,670.00	47	19
		Excavator 2: Volvo BL71	\$320,670.00	47	19

Tender no. 3 (from Bowers Family Trust T/A Serious About Civil) is ranked first, second and third for the three Excavators tendered. Bowers Family Trust T/A Serious About Civil is a current contractor at the facility with proven track record and performance and work is completed to a high standard. The Evaluation Panel considers this tender to offer best value for money. Generally only two Excavators are required at any one time at the facility.

BACKHOE AND BOGIE TRUCK COMBINATION

No.	Tenderer	Make & Model	Estimated Annual Cost (excl GST)	Assessment Score	Rank
3	Bowers Family Trust T/A Serious About Civil	Backhoe: JCB 3CX	\$298,409.00	97	1
		Bogie Truck: Mack Superliner			
17	TCX Pty Ltd	Backhoe 1: Terex 820	\$331,500.00	89	2
		Bogie Truck 1: Kenworth T600			
		Backhoe 2: CASE 590super MPS	\$331,500.00	89	2
		Bogie Truck 2: Western Star 4800			
19	Wyong Shire Council	Backhoe: John Deere 315SG	\$355,254.00	87	4
		Bogie Truck: Nissan UD CW 320			
1	Australian Grader Hire Pty Ltd	Backhoe: CASE 580SR	\$328,900.00	86	5
		Bogie Truck: FV517			
12	R. K. Talbot Enterprises Pty Ltd	Backhoe: JCB	\$366,068.00	85	6
		Bogie Truck: Western Star			
8	John E Hogan Pty Ltd	Backhoe: Terex 820	\$416,000.00	75	7
		Bogie Truck: International S Line			
18	Underground Water Solutions Pty Ltd	Backhoe: TBA	\$409,204.00	68	8
		Bogie Truck: Mercedes Benz			
5	Duncan Excavations (NSW) Pty Ltd	Backhoe: Volvo BL71	\$552,500.00	48	9
		Bogie Truck: Mitsubishi Fuso			

No.	Tenderer	Make & Model	Estimated Annual Cost (excl GST)	Assessment Score	Rank
4	Complete Excavations Pty Ltd	Backhoe: John Deere	\$552,500.00	40	10
		Bogie Truck: Volvo			
10	MAAS Group Pty Ltd	Backhoe: Komatsu WD93R	\$552,500.00	38	11
		Bogie Truck: Isuzu FVZ1400			
16	Schembri's Earthmoving Pty Ltd	Backhoe: no details	\$568,750.00	36	12
		Bogie Truck: no details			
11	Mozaf Pty Ltd T/A Active Excavation Works	Backhoe: no details	\$649,970.00	19	13
		Bogie Truck: no details			

Tender no. 3 (from Bowers Family Trust T/A Serious About Civil) is the highest scoring tender for the Backhoe and Bogie Truck combination. The company is a current contractor at the facility and with a good track record and proven performance and work is completed to a high standard. The Evaluation Panel considers this tender to offer best value for money. Generally only one Bogie/Backhoe Truck combination is required at any one time at the facility.

Due Diligence

All conforming tenders were subjected to an in-house safety system assessment and referee checks. All tenderers are considered able to manage OH&S risks and received satisfactory references.

All tenderers ranked high on the priority list are local contractors with a history of successfully completed contracts similar in nature and scope to the current 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:

- Liability for injury and/or damage to people, property and the environment are mitigated through on-going validation of contractor's insurances, safety and environmental management systems, together with close supervision including site audits. Additionally, the Contractor will attend and participate in a Kick-off Meeting, to be conducted by the Superintendent. In part, the purpose of the meeting will be to ensure all OH&S controls required to be deployed prior to commencement of the works are in place and that all attendees understand Contract OH&S and environmental responsibilities. The agenda will include key OH&S issues associated with the site and the Safe Work Method Statements.
- Contract dispute over rights and obligations of the parties. Mitigated through use of 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:

- Unforeseen circumstances or conditions may require a greater utilisation of plant and trucks than anticipated or additional plant to be brought in thus increasing the estimated contract cost mitigated through approval of an appropriate contingency amount.

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 \$100,000.00 (excl GST) representing approximately 10% of the contract sum be approved.

Based on previous experience with contracts of this nature and analysis of the risks involved, it is estimated that there is a high probability that the contract budget of \$1,188,000.00 (excl GST), which incorporates the contingency allowance, will not be exceeded.

BUDGET

The source of funds for the contract is line item 4.5.13 Tip Operations in Council's Management Plan.

The tendered rates are not subject to rise and fall adjustments.

TIME-FRAME

The contract period is 12 months commencing on 10 August 2009.

LOCAL CONTENT

The contract works are expected to generate employment for seven to eight full time staff on the Central Coast based on the estimated and historic work patterns at the site.

CONCLUSION

An assessment has been made of tenders received for various combinations of plant to be used at the Buttonderry Waste Management Facility. The ranked tenders shown for plant items listed in this report are recommended for acceptance and engagement in order of priority as shown in the report.

ATTACHMENTS

Nil.

5.1 NSW Local Government Association Conference 2009

TRIM REFERENCE: F2004/06517 - D01934409

AUTHOR: ED

SUMMARY

The Local Government Association of NSW Annual Conference will be held between 24 and 28 October 2009. Council has the opportunity to submit motions and nominate any interested Councillors to attend.

RECOMMENDATION

- 1 That Council authorise interested Councillors to attend the Local Government and Shires Association Annual Conference 2009.**
- 2 That Council pay reasonable expenses incurred in Councillors attending the conference in accordance with Council's policy.**
- 3 That Council determine the five delegates with voting entitlements should more than five Councillors indicate their intention to attend the conference.**
- 4 That Council determine any additional motions to be submitted to the conference prior to 10 August 2009.**

BACKGROUND

The Conference entitled of *Tough Times, Smart Solutions* will be held in Tamworth between 24 and 28 October 2009.

Delegate's Entitlements

Councils are entitled to nominate voting delegates on a population basis. Council is entitled to nominate five voting delegates.

In accordance with Section 1.3 of Council's Facilities and Expenses Policy for Councillors the following applies:

"The maximum number of Councillors that may be authorised to attend a conference or seminar is three. However, this restriction on numbers will not apply to attendance by Councillors at the annual conference or a special conference of the NSW Local Government Association or National Congress of the Australian Local Government Association.

A Councillor may attend a maximum of three conferences per year excluding the NSW Local Government Association annual conference."

Councillors Eaton, McBride, McNamara and Wynn have expressed an interest in attending the Conference.

Motions to Local Government Associations Conference 2009

Motions should seek to alter existing policy through the addition or deletion of elements or to introduce new policy. To guide the process, the Association's current policy statements (resulting from the 2008 conference business paper) are available at <http://www.lgaactionreport.lgsa.org.au/>. Policy statements will not be discussed during the course of debate, except by way of motions which propose specific amendments.

Motions seeking to vary existing policy or to address new or emerging policy issues will be classified as Category One and scheduled for debate at the conference.

Motions reaffirming existing policy or calling for actions to be taken within existing policy will be classified as Category Two. Motions in Category Two will be included in the Business Paper and may be individually brought forward to be debated with the agreement of the conference. Otherwise, they will be referred to the Executive of the Association for consideration. Where appropriate, some may be actioned prior to conference.

The deadline for submission of motions is 5pm on Monday 10 August 2009. Any motions received after 10 August will be considered late motions. Late Motions received up until close of business on 12 October 2009 will be included in a special edition of the Weekly to be published on 16 October 2009. Late motions will be dealt with at the conference after all other business has been concluded. Late motions will not be accepted at the conference, however the President or Office Bearers shall have the right at any time to introduce any matter considered emergent to be put before the conference.

At its meeting held on 25 March 2009 Council resolved to forward two motions to the Conference regarding the following:

Ensuring Compliance of Guttering with Building Code of Australia

"That Council alert the Australian Building Codes Board and Standards Australia in writing of the problem regarding high fronted gutters and bring this issue to the next Local Government Association Conference."

Encouraging Responsible Disposal of Asbestos

- "1 That Council note the information on the progress of the campaign to encourage Responsible Asbestos Disposal.*
- 2 That Council retain the current reward of \$500 for reporting of illegal dumping under the "dob in a dumper" (DIAD) campaign that leads to a fine.*
- 3 That Council lobby State Government to significantly increase penalty notices for illegal dumping from currently \$750 to \$2,000 to provide a greater deterrent for dumpers.*
- 4 That Council seek the support of the Local Government Association by resolution to the next Annual Conference in relation to increasing the fine as set out in item 3."*

ATTACHMENTS

Nil.

5.2 Proposed Councillors' Community Improvement Grants

TRIM REFERENCE: C2009/01723 - D01950600

AUTHOR: SG

SUMMARY

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

RECOMMENDATION

- 1 That Council allocate an amount of \$7,694 from the 2008-09 Councillors' Community Improvement Grants as outlined in the report.*
- 2 That Council allocate an amount of \$975 from the 2009-10 Councillors' Community Improvement Grants as outlined in the report.*

BACKGROUND

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

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

THE PROPOSAL

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

STRATEGIC LINKS

Management Plan

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

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.

5.2 Proposed Councillors' Community Improvement Grants (contd)

Financial Implications

Expenditure is approved until the end of the 2008-09 financial year. Unspent approvals lapse 30 June 2009. Expenditure is approved until the end of the 2009-10 financial year. Unspent approvals lapse 30 June 2010.

CONSULTATION

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

GOVERNANCE

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

CONCLUSION

The proposed allocations contained in this report are permissible under the Council's policy on Councillors' Community Improvement Grants. The process has been correct and Council may confirm the grants at its option.

Councillors' Community Improvement Grants 2008-09

COUNCILLORS' COMMUNITY IMPROVEMENT GRANTS ALLOCATION	Best	Eaton	Graham	Mathews	McBride	McNamara	Symington	Vincent	Webster	Wynn	SUB TOTAL
Allocation 01/12/2008 - 30/06/2009	7,500	7,500	7,500	7,500	7,500	7,500	7,500	7,500	7,500	7,500	75,000
Expenditure up to and including Ordinary Council Meeting of 08/07/2009	4,425	7,500	7,500	7,500	2,881	7,500	7,500	7,500	7,500	7,500	67,306
Available allocation as at 22/07/2009	3,075	0	0	0	4,619	0	0	0	0	0	7,694
Proposed Allocations for 22 July 2009											
Berkeley Vale Public School P & C (\$1,700) (recd \$950)					750						750
Budgewoi / Buff Point Community Precinct Committee (\$200)	179										179
Central Coast Multiple Sclerosis Branch (\$1,600) (recd \$1,400)					200						200
Central Coast Symphony Orchestra (\$250) (recd \$100)					150						150
Family Child Care Services Central Coast Inc (\$5,000) (recd \$1,490)					1,971						1,971
Gwandalan / Summerland Point Community Precinct Committee (\$200)	179										179
Lakes Community Precinct Committee (\$200)	179										179

5.2 Proposed Councillors' Community Improvement Grants (contd)

Councillors' Community Improvement Grants 2008-09 (contd)

COUNCILLORS' COMMUNITY IMPROVEMENT GRANTS ALLOCATION		Best	Eaton	Graham	Matthews	McBride	McNamara	Symington	Vincent	Webster	Wynn	SUB TOTAL
Proposed Allocations for 22 July 2009												
Lions Club of Gwandalan Inc (\$1,998) (recd \$1,700)	Replacement of BBQs used for fund raising					298						298
Munmorah / Chain Valley Bay Community Precinct Committee (\$200)	Assist with printing costs	179										179
Spirited Communities (\$1,500) (recd \$750)	Assist with providing support to host an event for families focussed at connecting families with fun and educational activities					750						750
The Entrance Amateur Swimming Club (\$500)	Assist to purchase and install new "honour roll" boards					500						500
Wallahah North Community Precinct Committee (\$200)	Assist with printing costs / stationery	179										179
Wamervale Rugby Club Inc (\$3,000)	Assist with OHS, safety and first aid equipment for junior players	2,000										2,000
Watanobbi / Wamervale Community Precinct Committee (\$200)	Assist with two community BBQs for residents in Watanobbi and Wamervale in September 2009	180										180
Total Proposed Allocations for 22/07/2009		3,075	0	0	0	4,619	0	0	0	0	0	7,694
Total Accumulated Allocations as at 22/07/2009		7,500	7,500	7,500	7,500	7,500	7,500	7,500	7,500	7,500	7,500	75,000
Balance Uncommitted as at 22/07/2009		0	0	0	0	0	0	0	0	0	0	0

Councillors' Community Improvement Grants 2009-10

COUNCILLORS' COMMUNITY IMPROVEMENT GRANTS ALLOCATION		Best	Eaton	Graham	Matthews	McBride	McNamara	Symington	Vincent	Webster	Wynn	SUB TOTAL
Allocation 01/07/2009 - 30/06/2010												
		15,000	15,000	15,000	15,000	15,000	15,000	15,000	15,000	15,000	15,000	150,000
Expenditure up to and including Ordinary Council Meeting of 08/07/2009		0	1,100	2,000	1,500	0	400	0	750	190	0	5,940
Available allocation as at 08/07/2009		15,000	13,900	13,000	13,500	15,000	14,600	15,000	14,250	14,810	15,000	144,060
Proposed Allocations for 22 July 2009												
Budgewoi / Buff Point Community Precinct Committee (\$200)	Assist with printing costs	21										21
Glengara Seniors Computer Club (\$2,000)	Assist to upgrade projector to be used for learning, entertainment and club meetings				100					500		600
Gwandalan / Summerland Point Community Precinct Committee (\$200)	Assist with letterbox drops	21										21
Lakes Community Precinct Committee (\$200)	Assist with printing costs	21										21
Munmorah / Chain Valley Bay Community Precinct Committee (\$200)	Assist with printing costs	21										21
Wallahah North Community Precinct Committee (\$200)	Assist with printing costs / stationery	21										21

5.2 Proposed Councillors' Community Improvement Grants (contd)

Councillors' Community Improvement Grants 2009-10 (contd)

COUNCILLORS' COMMUNITY IMPROVEMENT GRANTS ALLOCATION		Best	Eaton	Graham	Matthews	McBride	McNamara	Symington	Vincent	Webster	Wynn	SUB TOTAL
Proposed Allocations for 22 July 2009												
Watanobbi / Wamervale Community Precinct Committee (\$200)	Assist with two community BBQs for residents in Watanobbi and Wamervale in September 2009	20										20
Youth Connections (\$250)	Retail Skills Showcase 24-25 June 2009								250			250
Total Proposed Allocations for 22/07/2009		125	0	0	100	0	0	0	250	500	0	975
Total Accumulated Allocations as at 22/07/2009		125	1,100	2,000	1,600	0	400	0	1,000	690	0	6,915
Balance Uncommitted as at 22/07/2009		14,875	13,900	13,000	13,400	15,000	14,600	15,000	14,000	14,310	15,000	143,085

ATTACHMENTS

Nil.

5.3 Webcasting of Council Meetings

TRIM REFERENCE: F2004/00210 - D01950184

AUTHOR: GA

SUMMARY

Reporting on relevant information on the webcasting of Council Meetings.

RECOMMENDATION

- 1 That Council receive the report on Webcasting of Council Meetings.**
- 2 That Council receive a demonstration on the systems available prior to making a final decision.**

BACKGROUND

At the Council Meeting held on 22 April 2009 Council resolved unanimously on the motion of Councillor EATON and seconded by Councillor BEST:

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

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

AGAINST: NIL.

Over the last few years technology development has seen changes to the way this type of system can be provided, particularly in the use of cameras and the linking of these to the sound system. With any webcasting of Council meetings it should be always noted that for the system to be used by the general public and to portray a positive picture of Council, Council should ensure that the technology used provides for this. Staff have investigated the solution currently in use at Warringah Council and a number of solutions and believe that the following provides an overall view of what technology is available.

Advice from Warringah Council is that whilst they do not have accurate figures, it is estimated that between 60-100 members of the public regularly view the Council meetings. In regard to the system being provided at Warringah the screen size is 85mm x 65mm which does not provided a large coverage of what is occurring at the meeting. The reason for this is to enable the general public with low broadband bandwidth to also have reasonable access speed.

In addition, at the Council Meeting held on 13 May 2009 it was resolved that Council seek legal advice on the legal exposure of Councillors and staff associated with the webcasting of Council Meetings. The advice is that Council should delay the broadcast to allow the webcasts to be monitored and filtered as necessary prior to it being placed on Councils website. Costs for this process have been included in the on-going costs.

OPTIONS**1 Operations through a 3rd Party**

This option which is what has been proposed by *apStream Pty Ltd*, which provides the webcasting service at Warringah Council, is one where the webcasting is undertaken in the Council meeting room and transferred through the internet for storage by *apStream*. Council's home webpage would have a link to this site where the general public would be able to access.

Cameras for this type of setup could be either single or a number depending on the quality of webcasting that is required. These cameras would be operated by staff and be turned on or off depending on who is speaking.

The capital costs of this option are estimated to be \$40,000 made up as follows:

Hardware (Cameras/Computers)	\$18,000
Cabling	\$ 6,000
Consultants Fees	\$ 8,000
Other Costs	<u>\$ 8,000</u>
Total	\$40,000

In addition to the capital costs, it is estimated that ongoing annual costs of \$50,000 based on 23 meetings would be as follows:

Monitoring Cameras/Sound System	\$10,000
Filtering Webcasts	\$23,000
Staff Training/Legal Costs	\$10,000
Licensing/Maintenance Costs	<u>\$ 7,000</u>
Total	\$50,000

As mentioned earlier this system is based on the operation of one or more cameras. An inspection of the Council Chambers indicates that due to size of the meeting room it is estimated that at least seven cameras would be required to provide a reasonable coverage.

The webcasting would then be transferred to *apStream* for storage following filtering and be able to be accessed by the general public through Councils home page.

To improve the quality of the webcasting Council could mount individual cameras for each of the Councillors, staff and public speaker podium. Whilst ongoing annual costs would be similar capital costs would increase by around \$5,000.

FINANCIAL IMPLICATIONS

It should be noted that there are currently no funds allocated in the budget for this project. If approved, funds would need to be transferred from another program.

CONCLUSION

As detailed in the report, technology is available to allow webcasting of Council meetings. However, legal advice (see attachment 1) is that this should not be done live and that it be filtered prior to being made available on Council's website. If Council is of a mind to progress this further it may be appropriate to develop a proof of concept and arrange for a special presentation to Councillors. This will provide Councillors a clearer picture of the webcasting solution and particularly the quality that will be able to be accessed by the general public.

ATTACHMENTS

- 1 HWL Ebsworth response - webcasting of Council meetings D01962563



Our Ref: DXW:CAD:179334

2 July 2009

Wyong Shire Council
PO Box 20
WYONG NSW 2259

**Attention: Ms Lesley Crawley
Manager of Governance & Administration**

By Email: LCrawley@wyong.nsw.gov.au

This document, including any attachments, may contain privileged and confidential information intended only for the addressee named above. If you are not the intended recipient please notify us. Any unauthorised use, distribution or reproduction of the content of this document is expressly forbidden.

Dear Lesley

Wyong Shire Council- Advice: Liability for Recording and Webcasting of Council Meetings

We refer to the email from your personal assistant, Bev Davis of Wyong Shire Council ("Council") to Jeff Reilly of our office sent on 26 June 2009.

In accordance with a request from Kerrie Donelan of Council, Council has sought our advice on the following motion:

"That Council seek legal advice on the legal exposure of Councillors and staff associated with the current practice of recording Council meetings and any future proposal to webcast Council meetings."

We provide our advice as follows.

1. Assumptions and Facts

1.1 Our advice has been based on the following assumptions and facts:

1.1 In relation to the recording of Council meetings:

- (a) the recordings are for the sole purpose of providing a record of Council meetings;
- (b) the recordings are not readily available to the public; and
- (c) the recordings are only accessible internally by Councillors or other Council employees and staff.

1.2 In relation to webcasting of Council meetings:

- (a) the webcasts will be hosted by Council on Council's website;
- (b) the webcasts will be in real time and accessible to all users of the internet; and

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- (c) at a later time the webcasts will be uploaded by Council and will be permanently accessible for download by the general public from the Council website.

2. Areas of Prospective Liability

2.1 The areas of prospective liability to Council, Councillors and Council staff associated with the current practice of recording Council meetings and any future proposal to webcast Council meetings will include the following main areas of liability:

- (a) Defamation;
- (b) Misleading and deceptive conduct; and/or
- (c) Negligence.

2.2 The primary potential area of liability which will be of concern to Council, Councillors and/or Council staff is a claim in defamation.

2.3 Given that defamation is the main area of prospective liability of Council, Councillors and Council staff we have focused on this potential area of liability. We can provide a further advice on the areas of liability that are less likely to arise should you wish.

3. Defamation

3.1 There is no clear definition of "defamation" in the *Defamation Act 2005 (NSW)* ("**Defamation Act**").

3.2 Defamation is essentially any communication that causes the reader or listener to think less of the defamed or shun and avoid them.

3.3 There are three (3) elements required to establish defamation:

- (a) a publication to a third party of a communication (can be words spoken or written, a gesture, a sign or photo);
- (b) of an concerning the person defamed (i.e. it needs to be about that particular person); and
- (c) that it is defamatory.

3.4 It is important in claims for defamation that a distinction is drawn between defamation of a corporation the one hand and defamation of a person on the other.

3.5 Section 9 of the *Defamation Act* provides that a corporation has no cause of action for defamation unless:

- (a) the objects for which it is formed do not include obtaining financial gain for its members or corporators; or
- (b) the corporation employs fewer than ten (10) persons and is not related to another corporation,

and the corporation is not a public body.

3.6 Section 9 of the *Defamation Act* operates to severely limit the availability of the remedy of defamation to companies.

3.7 The most important element of a claim for defamation is what was actually said, written or communicated orally.

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- 3.8 The potential liability of Council, a Councillor or a Council staff member responsible for the publication of defamatory material by way of a recording or webcasting of a Council meeting will depend on a variety of factors, including but not limited to, the following:
- (a) who said the defamatory material and in what capacity?;
 - (b) what was said?;
 - (c) who it was said to and if more than one, how many people?;
 - (d) does the defamer have any relationship with the person they have defamed? If so, what is that relationship?;
 - (e) the extent of knowledge of the actual truth of what was said of the defamer;
 - (f) the information relied upon and the nature of the information which forms the basis of what was said;
 - (g) motive of the defamer – why did they say it?;
 - (h) proportionality between what was said and what the true facts are – can the allegation be proved?; and
 - (i) will the comment cause the person referred to any damage to their reputation?
- 3.9 Once a decision is made as to whether the publication is defamatory by either a Judge or Jury, the onus then shifts to the defamer to raise one of or more of the possible defences to the claim for defamation.
- 3.10 It is important to bear in mind that unlike Commonwealth or Federal Parliament, there is no clear defence of absolute privilege to comments made within Council's Chambers. In Commonwealth and State Parliaments absolute privilege applies to comments made. This is commonly referred to as "parliamentary privilege". It means that all comments made in that forum are absolutely protected from any defamation claim irrespective of the nature of the comment or whether there is any basis in fact for it.
- 3.11 That defence does not clearly apply to Council meetings. This means that Councillors and members of Council staff who speak during Council meetings must rely on the general law of defamation in the absence of this defence applying.
- 3.12 The main alternate defences which may be relevant and available to Council, a Councillor and/or a Council staff member associated with the publication of defamatory material through the recording and/or webcasting of Council meetings are as follows:
- (a) Truth Defence- Section 25 of the *Defamation Act* would provide a complete defence to Council, a Councillor and/or a Council staff member for the publication of defamatory material through a recording or webcasting of a Council meeting if council, the Councillor and/or the relevant Council staff member involved can prove, on the balance of probabilities, that the defamatory imputations carried by the matter of which the defamed person complains of are substantially true. This is known as the "defence of justification" or the "truth defence". The words "substantially true" are defined in Section 4 of the Defamation Act as meaning "true in substance or not materially different from the truth." This in practical terms means that the imputation does not need to be precisely true but substantially so.
 - (b) Qualified Privilege – in general, there is a defence of qualified privilege which could be raised by Council, a Councillor and/or the relevant Council staff member on an occasion where the publication, by way of a recording or webcasting of a Council meeting, is:

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- (i) made in pursuance of a legal, social or moral duty to a person who has a corresponding duty or interest to receive it;
 - (ii) made for the protection or furtherance of an interest to a person who has a common or corresponding duty or interest to receive it; or
 - (iii) Made to a person sharing a common interest; and
 - (iv) Not be malicious (not made with reckless indifference to the truth of the comment or with the intent to damage the reputation of the person referred to).
- (c) The "Political matters" Defence – the "Political matters" defence is an extended defence in defamation for government and political matters. The Council, a Councillor and/or the relevant Council staff member may have a defence where the defamatory matter involved communication to the public of a government or political matter and the publication was "reasonable". This defence is based on the premise that each member of the community has an interest in disseminating in receiving information, opinions and arguments concerning government and political matters that affect the general public. Whether the making of a publication was "reasonable" depends on all of the circumstances of the case, but generally requires that the publisher:
- (i) had reasonable grounds for believing that the comment was true;
 - (ii) took proper steps to verify the accuracy of the material;
 - (iii) did not believe the comment to be untrue; and
 - (iv) unless it was impracticable or unnecessary to do so, sought a response and published/ repeated any response from the person defamed.
- 3.13 Any or all of the above defences referred to in paragraph 3.12 above may apply in certain circumstances.
- 3.14 However each defamatory publication must be taken on a case by case basis. Whether defences apply ultimately depends on what was said and what context those defamatory comments were made.
- 4. Forms of Publication**
- 4.1 On the basis of Council's instructions and assumptions referred to in Section 1 above, there are two (2) main forms of publication of defamatory material:
- (a) recordings (and subsequent transcripts) of Council meetings conducted in council's chambers; and
 - (b) webcasts of Council meetings that are;
 - (i) available and accessible in real time on Council's website; and
 - (ii) are, at a later time, uploaded by Council onto the Council website and available and accessible for downloaded by internet users through Council's website.
- 4.2 The forms of publication are relevant to the defamed person proving what was actually said by the defamer.

Wyong Shire Council

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A question of proof

- 4.3 By its nature a comment made by a Councillor or member of Council staff during the course of a Council meeting is an oral defamation. That is, it is spoken. Oral defamation is traditionally and notoriously difficult to prove. This is because what people "hear" may be a subtly but importantly different sentiment to what may have been expressed by the speaker. As you can imagine, there is often a great scope for dispute about what was said by the person who is alleged to have made the defamatory comment. They generally deny what is alleged against them.
- 4.4 For the defamed person to establish their case they need to call into evidence from the person who heard the comment to prove what was said. The hearer is ordinarily and regularly challenged in cross-examination as to the strength and precision of their memory on a particular point.
- 4.5 The recording and transcription of Council meetings provides a record of what has occurred in Chambers that is to all intents faithful and accurate. The webcasting of meetings is a more refined record. That is it marries a visual impression of the manner of expression of the Councillor or a member of Council staff along with what they have said. The presence of this material makes it significantly easier for a person to allege a claim against a Councillor or member of Council staff, or for that matter, the Council itself prospectively should they be able to access it.
- 4.6 Obviously this undesirable element must be weighed against the public interest and administrative benefits conferred on Council by holding a record of Council meetings in this formal, accurate and permanent manner.

Who is liable?

- 4.7 Given the different formats of the recording/transcription of Council meetings and the webcast there may be different areas of liability.
- 4.8 A comment made by a Councillor or member of Council staff in a Council meeting, if recorded/transcribed, may give rise to a liability for that Councillor or member of Council staff personally. A claim could be made against them. It is less clear whether a claim exists against Council.
- 4.9 The only clear basis upon which a claim could be credibly asserted is if the Council had a measure of control of what was said during the course of the meeting and, for example, the Mayor had the capacity to stop the defamatory comment being published. This is less practically likely in the often robust dialogue and proceedings of a Council meeting in a contentious political context.
- 4.10 However, the circumstances are different for the potential webcast. It will be uploaded by Council itself on the Council website. There is a strong argument to say this is an independent and separate publication of defamatory material by the Council itself and beyond the meeting itself. It may be considered to be the contemporaneous republication by Council of the defamatory material. This may give rise to liability against the Council because it is itself affecting the publication of the defamatory material spoken by the Councillor or member of Council staff in the Council meeting via the webcast. It is analogous to a TV broadcaster being liable for defamatory comments made by presenters on live television.
- 4.11 It is important in this context to consider these issues in the circumstances of our advice in Section 5 below that Section 731 of *Local Government Act 1993* (NSW) "**Local Government Act**") operates to provide a prospective general defence to Council in certain circumstances.

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5. Section 731 of the *Local Government Act*– Liability of Council, Councillors, Employees and other Persons

5.1 Section 731 of the *Local Government Act* provides that:

“A matter or thing done by the Minister, the Director-General, a council, a councillor, a member of a committee of the council or an employee of the council or any person acting under the direction of the Minister, the Director-General, the council or a committee of the council does not, if the matter or thing was done in good faith for the purpose of executing this or any other act and for and on behalf of the Minister, the Director-General, the council or a committee of the council, subject to a councillor, a member, an employee or a person so acting personally to any action, liability, claim or demand.”

5.2 On the assumption that the matter published was:

- (a) in good faith; and
- (b) for the purpose of executing the *Local Government Act* or any other act,

the Council, a Councillor, a Council employee or any other Council staff member has a complete defence for any action, liability claim or demand, including any claims in defamation, misleading and deceptive conduct and/or negligence arising out of content or defamatory material published by way of a recording or webcasting of a Council meeting.

5.3 If there is nothing to indicate that the relevant defamatory comments were not made in good faith or outside the relevant persons capacity as a Councillor or Council staff member, a complete defence to a claim in defamation or otherwise would arise under Section 731 of the *Local Government Act* providing the matter or thing was done for the purpose of executing the *Local Government Act* or any other act.

5.4 Section 7(c) of the *Local Government Act* provides that one of the purposes of the *Local Government Act* includes the following:

“to encourage and assist the effective participation of local communities in the affairs of local government...”

5.5 Section 731 of the *Local Government Act* applies generally to Council staff and Councillors for comments made in Council Chambers as long as the two (2) qualifications (in good faith and for the purpose of executing the *Local Government Act* to any other Act) are satisfied.

5.6 Section (7)(c) of the *Local Government Act* is particularly relevant for the webcast and the potential application of Section 731.

5.7 We assume the primary purpose of the webcast is transparent and open Government. That is, making accessible the events of Council Chambers to those who are not necessarily in a position to attend Council meetings. They may vicariously participate in the democratic process by observing what has transpired at a Council meeting at a later time by way of the internet. Should this be the case, there are strong arguments, in our view, to say that Section (7)(c) of the *Local Government Act* is the primary purpose for the webcast being undertaken and that, in turn, provides the relevant motive for Section 731 to apply in relation to the webcast. This defence would possibly avail to Council but may be less clear in relation to Councillors or Council staff.

5.8 If Section 731 of the *Local Government Act* does not apply in the circumstances, Council, the Councillor or the relevant Council staff member concerned would need to consider raising one of the general defamation defences referred to in paragraph 3.12 above.

Wyong Shire Council

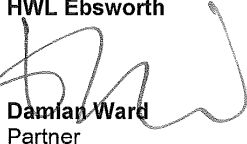
2 July 2009

6. Summary of Advice

- 6.1 In short, the Council, a Councillor, a Council employee and/ or any other relevant Council staff member has a complete defence for any action, liability, claim or demand arising out of recording or webcasting of a Council meeting, including but not limited to claims in defamation, misleading and deceptive conduct and/or negligence, if the matter or thing:
- (a) was done in good faith; and
 - (b) for the purpose of executing the *Local Government Act* or any other Act.
- 6.2 On balance we are of the view that Council should delay the broadcasting of webcasts of Council meetings on council's website to exclude "real time" availability of those recordings. That is, ensure that there is a time delay between the time in which the actual Council meeting is recorded and the downloading of that webcast onto Council's website. This will ultimately assist in minimising any claims in defamation or otherwise by Council providing itself with the opportunity to monitor and filter as necessary the content of the webcast prior to uploading those webcasts onto the Council website.
- 6.3 We recommend that the practice suggested in paragraph 6.2 above be implemented by Council for the future webcasting of any Council meetings, notwithstanding the fact that a potential claim may be defensible pursuant to Section 731 of the *Local Government Act* or the other possible defences to claims in defamation outlined in paragraph 3.12 above.
- 6.4 Even a defensible claim could cost Council significant amounts of money in litigated proceedings and is best to be avoided in the first instance where possible.
- 6.5 So as to make this strategy effective it may be important for relevant Council officers to have some training under the law of defamation so they are aware of what to look for in the process of reviewing Council meetings and taking out or limiting what is published by way of the web cast. Further, Councillors and Council staff may benefit from training in the law of defamation so as to ensure that they are armed with information necessary as to how this principle operates so as to assist in minimising liability.

Please do not hesitate to contact us if you have any queries in relation to our advice.

Yours faithfully
HWL Ebsworth



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5.4 Bid to Host the NSW Surf Lifesaving Championships

TRIM REFERENCE: F2006/00977 - D01957029

AUTHOR: GM

SUMMARY

At the ordinary meeting of Council held on 10 June 2009 Council resolved to support Surf Lifesaving Central Coast's bid to host the 2011, 2012 and 2013 New South Wales State Surf Lifesaving Championships. Council also resolved to seek support and partnership of Gosford City Council to afford the event regional status. Since that meeting a number of key stakeholders have met to progress the bid with this report providing additional information to place Council in a position to resolve to support a formal bid to the championships.

RECOMMENDATION

That Council prepare a joint submission with Gosford City Council to seek the 2011, 2012, 2013 State Surf Life Saving Championships.

BACKGROUND

At its meeting of 10 June 2009, Council resolved unanimously on the motion of Councillor Best and seconded by Councillor Matthews:

- “1 *That Council support Surf Lifesaving Central Coast's bid to host the 2011, 2012 and 2013 NSW Surf Lifesaving Championships.*
- 2 *That Council seek the support and partnership of Gosford City Council to afford the event regional status.*
- 3 *That Council provide a comprehensive report to Council's meeting on 22 July 2009 with a view to submitting a joint expression of interest from the two Councils in conjunction with Surf Lifesaving Central Coast in accordance with the bid's August deadline.*
- 4 *That subject to a Joint Meeting of Gosford/Wyong Councils being convened prior to the bid deadline this matter be included as an agenda item.:*

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

AGAINST: NIL.”

DISCUSSION

The purpose of Surf Life Saving competition is to attract and retain members and improve their lifesaving skills. The New South Wales (NSW) State Surf Lifesaving Championships provides for 62,000 Surf Lifesaving members from within NSW, that are spread across 11 branch areas the opportunity to compete against top quality athletes from within the State.

It also provides an opportunity to the younger surf lifesavers to display the skills that they are developing and have acquired in this very important community field of Surf Lifesaving. The NSW Surf Lifesaving Championships is conducted across seven days over two consecutive weekends, with the event usually held in late February or early March. Lake Macquarie City Council acquired the Championships for a three year period in 2008, with the final Championship to be conducted in 2010. Surf Life-Saving NSW has now placed the Championships out from an expression of interest to host the championships for the 2011 and 2012 seasons with an option to extend the hosting rights for a third season. The Expression of Interest will close on 31 August 2009 with the successful tender being advised towards the end of the year. The announcement of the successful tender is usually made public on the final day of the State Championships at the current venue. It is a formal ceremony and is kept confidential so that all parties have an even opportunity to secure accommodation in the area of the successful tenderer.

STAKEHOLDERS

Since the Council resolution in June a number of key stakeholders have been identified to assist Council in the formation of the formal bid to acquire the Championships. The key stakeholders currently identified include:

- Wyong Shire Council
- Gosford City Council
- Central Coast Surf Lifesaving
- Central Coast Tourism
- NSW Chamber of Business
- The Entrance Town Centre, Toukley Greater Vision and Toukley Chamber of Commerce

Should the bid proceed other stakeholders will be identified including local businesses that may be in a position to support and promote this exciting event. Council has had extensive discussions with the representative from Surf Lifesaving Central Coast and their organisation is committed to assisting Council in securing the event for the Central Coast community. Discussions have also been held with representatives from Gosford City Council and it was resolved at their Council Meeting on Tuesday 7 July 2009 to partner Wyong Council in the bid to acquire the championships. The 2011 Championship would be held in one Local Government area and in the other Local Government area the following year with the location for the final season to be agreed to. Further and more complex discussions will occur between the two Councils when it has been formally resolved to support the bid to obtain the Championships for the Central Coast community.

THE CHAMPIONSHIPS

The NSW Surf Lifesaving Championships are an iconic event that epitomise the Australian way of life over the summer months. The Championships are held in February or March of each year over two weekends, with the first weekend being set aside for the junior movement (ages 8-14 years) and the second weekend for the Masters and Open competitors. Whilst it is agreed that the estimation of the number of competitors and spectators attending the event differ depending upon the source, a summary conducted by Lake Macquarie City Council of the 2008 State Surf Lifesaving titles produced the following statistics:

- 3,370 junior competitors
- 1,245 master impediments
- 2,995 open competitors
- 15,220 spectators
- 275 officials
- 450 workforce

5.4 Bid to Host the NSW Surf Lifesaving Championships (contd)

- 70 club volunteers
- 400 events comprising of 1,800 races.

It is also interesting to note that over the 10 day period only one complaint was received about the event and that there were no complaints to police. This statistic would indicate that the event is well-organised and competitors are well behaved. Central Coast Surf Lifesaving believe that should the Central Coast be successful in acquiring these Championships, that a sound marketing campaign through both local and city media outlets would result in the number of spectators attending the event being significantly increased.

PROPOSED VENUES

At this stage no venues have been selected however in Wyong Shire the beaches of Shelly Beach, North Entrance, Soldiers Beach and the Lakes Beach will be considered. Whilst in Gosford City the Wamberal/Terrigal strip and the Ocean Beach/Umina location will also be considered. Early discussions between both Local Government representatives have concluded that rather than identify one beach for the three seasons that the event will be rotated over three separate locations. Unlike the recent bid for the Australian Lifesaving Championships there is no need to provide the amount of back of beach works that were proposed for the Lakes Beach. The Lakes bid was one that provided the community and Council with a restored beach and a community facility for future generations and had substantial financial support from the NSW State Government. Depending on the location chosen there is no doubt that some back of beach works will be required such as additional or modified beach accesses and possibly some restoration works at the completion of each event. These works will provide long term benefit to both Council and the community by providing access paths that meet current standards and restoration of the dune system that will address coastal erosion in the vicinity of the event. The cost of the works could be in the vicinity of up to \$50,000 depending on the beach chosen.

COST OF STAGING THE NSW STATE SURF LIFESAVING CHAMPIONSHIPS

Surf Lifesaving NSW has identified a hosting fee of \$60,000 per season plus GST and CPI. In addition there will be in-kind support required which will among other things include machinery, traffic control, waste and sanitary provisions, electricity upgrading, additional Beach entry points, fencing and other logistical support. Lake Macquarie City Council advised that this can vary from between \$50,000-\$75,000 per year. Therefore the cost to each council will be \$30,000 plus GST per season for the hosting fee and approximately \$40,000 per season for in-kind support. Central Coast Surf Lifesaving has advised that they would provide the workforce for the setting up of the event, water safety, catering to officials and volunteers.

At this stage Council has not had any in-depth discussions with Surf Lifesaving NSW, however it is Council's intention to discuss the opportunity of securing local sponsorship to support the in-kind costs associated with the event. As an example it may be possible to secure a sponsor that would fund the removal of the waste generated from this event.

ECONOMIC BENEFITS OF THE EVENT TO THE CENTRAL COAST REGION

Surf Lifesaving NSW estimate that based on the number of competitors and spectators and advice from Tourism Australia that the event would inject a minimum of \$18m into the local economy over the three seasons. Whilst it is often difficult to quantify the veracity of the anticipated income generated by an event such as this there is no doubt that it would be well in excess of the money required by both Councils to secure and run the event. Tourism NSW state that each tourist spends approximately \$150 per day. The assessment undertaken of the 2008 Titles held at Blacksmiths Beach by Lake Macquarie City Council confirmed that 8,000 competitors and 15,000 spectators attended the Championships. Assuming that the

spectators and competitors stay three nights over the period of the Championships a minimum of \$10m would be injected into the local economy annually.

Historically late February and early March are considered fringe periods for local tourism operators and a sporting event with competitor and spectator numbers such as those provided by the NSW Surf Lifesaving State Titles is no doubt one that would provide a tremendous boost to the economy of the Central Coast. This event will provide a significant boost in revenue to the accommodation providers of the Central Coast across all levels of the service, as historically surf lifesaving competitors and their families stay at all types of accommodation venues ranging from first class motels to caravan parks and tent sites.

Because of our proximity to the major cities of Sydney and Newcastle it could be argued that many competitors will drive from their residences to the event daily. This claim is not supported as many events begin as early as 7am and it is proven that surf lifesavers tend to secure accommodation in close proximity to the event. Competitors who attended the State Championships in Lake Macquarie sought accommodation from Newcastle to the northern part of the Central Coast to enable them to be in close proximity to the event. It is also important to note that by attracting this number of people to the Central Coast that it will also expose them to the facilities and natural beauty of the region and attract some to revisit the area at other times of the year.

MEDIA COVERAGE

The recent NSW Body Boarding Championships held at Soldiers Beach attracted daily media coverage within the local and city press as well as coverage each night on NBN news. Considering the NSW Surf Lifesaving Championships are much larger than that event it is reasonable to assume that greater coverage will be given and result in the Central Coast being showcased to a much larger audience. In addition free to air television stations are commencing to operate sports channels and are actively seeking sports to broadcast. It is quite possible that by the time the first event is held that the State titles may very well be telecast live and thereby giving the Central Coast region greater exposure.

CONCLUSION

Securing the right to host the 2011-2013 NSW State Surf Lifesaving Championships will provide enormous economic and social advantages for the Central Coast region. The Championships will also present an opportunity for Council to showcase the region to a wider audience and display the region's ability to host major events which may lead to other organisers of major sporting or social events staging events on the Central Coast. An event that may attract up to 8,000 competitors and 15,000 spectators over a two week period is an event that will benefit the Central Coast community in many areas and should be secured.

ATTACHMENTS

Nil.

5.5 Minutes - Wyong Shire Senior Citizens' Council Meeting - 28 May 2009

TRIM REFERENCE: F2008/00407 - D01952376

AUTHOR: AE

SUMMARY

Report on the Minutes of Senior Citizens' Council meeting held 28 May 2009.

RECOMMENDATION

That Council receive the minutes of the Wyong Shire Senior Citizens' Council Meeting held on 28 May 2009 and adopt the recommendations contained therein.

A meeting of the Wyong Shire Senior Citizens Council was held on 28 May 2009. The minutes are included as Attachment 1.

ATTACHMENTS

1 Minutes - Wyong Shire Senior Citizens' Council - 28 May 2009 D01945663

Item Description	Responsibility
<p>Guest Speaker: Bob Burch, Senior Transport Engineer (cont)</p> <p>Consultation – the bus companies must review their services without increasing the total kilometres travelled. This means that any submissions are really considering trading one bus route for another so that the total kilometres travelled does not change, only the routes.</p> <ul style="list-style-type: none"> - submissions should identify peak times and peak locations for bus service patronage. It should also identify where the shortfalls are in public transport and what needs are expressed in the local community. - submissions should usually demonstrate that they are informed by the interests and concerns of local groups and residents e.g. Budgewoi – Tuggerah Westfield Movie bus on Friday nights - any submissions made to Bus Companies (Busways and Red Bus) should go directly to the company with a copy sent to Bob Burch at Council so he can maintain an overall picture of what local residents want. <p>Bob Burch explained that the Ministry of Transport has previously been willing to trial pilot projects during school holidays by running special bus routes, e.g. the funding of the bus from Budgewoi to take children and young people to the Tuggerah Shopping Centre. Contact for this is Mr. Bob Thomas.</p> <p>June commented that there was a problem inherent in the dominance of the car culture. Bob gave examples of RTA projects to enhance public transport use such as the “bus jump queues” to give the advantage to the buses; and car pooling sites that utilise locations that had developed informally such as that at Ourimbah next to “Big Flower”.</p> <p>In the discussion that followed the question of the use of shuttle buses and courtesy buses from various social clubs was raised. Bob also referred to some of the lessons from his travels. He gave Perth as a good example where a system of mini-buses linked to shuttle buses was operating.</p> <p>Members of the Seniors Council thanked Mr. Burch for his interesting information.</p>	

	Item Description	Responsibility
2.2	<p>Senior Resident - Mrs Merle Kemp</p> <p>Annette Evans introduced Mrs. Merle Kemp, who is very interested in “Broadband for Seniors” and wanted to present her concerns to the SCC.</p> <p>Mrs. Kemp explained how she thought that many people aged in their 70’s are not “computer literate”. After speaking to the Wyong Senior Citizens Centre which is located on the Old School Site in Wyong she has been able to collect over eighty signatures of people who are interested in gaining computer knowledge. Mrs Kemp is looking for a way to be able to use the Federal Government’s idea of “computer kiosks” and wanted support from the Senior Citizens Council.</p> <p>There are a number of guidelines for the funding of “computer kiosks”:-</p> <ol style="list-style-type: none"> 1) volunteers who can teach the basics of computer use at a pace that is suitable for the older generation 2) it must be free and accessible to the senior community 3) with a minimum use of at least 20 hours per week for seniors. <p>Bruce Pyke suggested that the vacant area in the Wyong “Village” Complex would be a suitable place for such a kiosk. There was a lively discussion around this topic with the suggestion that the matter could be discussed with Mr. Kevin Flaks, the Wyong Chamber of Commerce. Annette suggested that the local Wyong Family History Group who hire rooms on the Old School Site in Wyong might also be interested in hosting a “kiosk”.</p> <p>Annette will work with Mrs. Kemp to find a community based location that would be interested in hosting the “kiosk”.</p>	ALL
3.	BUSINESS ARISING FROM PREVIOUS MINUTES	
3.1	<p>Park Bench Design</p> <p>Bruce Kirkness reported that Mr David Winter of Gorokan High School will contact Annette re the design. It was agreed that Bruce Kirkness and Annette should visit the school. Bruce Kirkness will contact David Winter to find a suitable time for a visit.</p>	BK

3.2	<p>Positive Aging Survey Results</p> <p>One hundred and ninety-seven surveys have been collated. Surveys have been completed by retirees.</p> <p>Annette Evans, Bruce Pyke and June Goss have begun to review the information from the comments section (“3 highest priorities”) so as to incorporate these into the proposed report.</p> <p>Annette and Bruce Pyke had begun working out more general categories under which to group the various headings. (see the Pie Chart). There was a deal of discussion about what would fit these categories and there were six headings proposed. They were: Mental Health; Physical Health; Lifestyle; Society; Community; Services.</p> <p>Annette read out some of the more interesting comments from the survey.</p> <p>Discussion of best ways to use the information from the surveys and what other information would be useful and different techniques for finding it.</p>	AE/JG/BP
3.3	<p>Media Update</p> <p>Annette has not collected copies of all the “free” papers and magazines aimed at seniors. She asked the members if they could bring in any copies of these that they come across to the next meeting.</p> <p>Bruce Pyke pointed out just how expensive advertising could be in this media and there was not always acceptance of editorial material.</p> <p>It was decided to invite Annette Young who works in the Wyong Council’s communication dept to attend a Seniors Council meeting July 23rd.</p>	ALL
3.4	<p>Suggested Program of Guest Speakers</p> <p>25 June Dan Smith - Shire Strategic Vision 23 July NSCCAHS – Mark O’Dwyer & Carol Hume Communications Dept - Annette Young 27 Aug Trevor Drowley - Sister City Committee 24 Sept Sian Fawcett - Estuary Management</p>	AE
3.5	<p>Seniors Information Forum Halekulani - Juliet Axford</p> <p>Juliet Axford and Patricia Parperis attended on behalf of the Seniors Council and presented information with Annette from Council. Juliet reported that the information and presentations were quite interesting. She reported that the Health Department representative spoke about falls prevention and other health matters. The representative from the Police spoke on safety needs, for example, doors being left unlocked and windows left open. A local lawyer gave information about planning for wills and importantly for powers of attorney and enduring guardianship. She said that the representative from banking industry was unfortunately boring and barely relevant but overall the day was good value.</p> <p>The consensus was that when planning a one day forum it must be well organised, varied, informative and fun.</p>	JA/AE

Item Description		Responsibility
4.	CORRESPONDENCE	
4.1	Correspondence – Out – none recorded	AE
4.2	Correspondence – In - none recorded	AE
Item Description		Responsibility
5.	INFORMATION SHARING	
5.1	<p>The time is approaching to review the work of the Seniors Council and prepare a report. June Goss, Bruce Pyke and Juliet Axford agreed to assist Annette. Annette took on the responsibility to do a review of the last year's activity.</p> <p>Arising from this John Cochrane asked a question relating to the validation of the Seniors Council within the Wyong Shire Council. He said he felt it was important that Councillors hear the ideas and experiences of the Senior Council. He expressed his dismay that the Mayor had been unable to stay and meet SCC members when he attended the Launch of Seniors Week 2009.</p> <p>John suggested there is a need for the Seniors Council to prepare a report that would include the survey so the Councillors are made aware of the positive and negative in the lives of the Shire's senior citizens.</p> <p>Annette spoke about the concept of a "Briefing for the Councillors".</p>	
5.2	<p>Just prior to the closing of the meeting John Cochrane raised the matter of a representative from the Darkinjung Aboriginal Community in Wyong being included as a member of the Seniors Council.</p> <p>Annette stated that there was a current application from a resident who had strong links to the Aboriginal community through her involvement in the Eleanor Duncan Aboriginal Health Centre. Her name is Maryanne Housham.</p> <p>It was moved by Bruce Pyke and seconded by Juliet Axford that we recommend to the Wyong Shire Council that MaryAnn Housham be offered membership of the SCC in line with the Terms of Reference. Carried</p>	
5.2	<p>Your Community Connections Update</p> <p>'Musicals and Movies' presented by Long Jetty Seniors Entertainment Group – 20th & 25th June</p> <p>Annual Arts and Crafts Show - 27-28 June –</p> <p>'Knit In' – Wrapped with Love and ABC August 07, 10.00am at Erina Fair.</p>	ALL

	The date and page number were recommended for formatting future minutes which would make it easier to refer to the minutes and notate any changes. The meeting closed at 4.06pm	
7.	NEXT MEETING	
7.1	25 June 2009	
	1:00pm – 4:00pm	
	Wyong Shire Council Civic Centre Function Room Guest Speaker: Dan Smith – Shire Strategic Vision	

22 July 2009

Board/Committee/Panel Meeting
Report

To the Ordinary Meeting

Corporate Services Department

6.1 Minutes - Central Coast Regional Organisation of Councils - 17 June 2009

TRIM REFERENCE: F2004/06390 - D01951041

AUTHOR: ED

SUMMARY

A meeting of the Central Coast Regional Organisation of Councils was held on 17 June 2009.

RECOMMENDATION

That Council receive the minutes of the Central Coast Regional Organisation of Councils meeting held on 17 June 2009 and adopt the recommendations contained therein.

A meeting of the Central Coast Regional Organisation of Councils was held on 17 June 2009. The minutes of that meeting are attached.

ATTACHMENTS

- 1 Minutes - Central Coast Regional Organisation of Councils Enclosure D01951003

7.1 Information Reports

TRIM REFERENCE: F2009/00008 - D01947344

AUTHOR: SW

SUMMARY

In accordance with Council's Code of Meeting Practice reports for the Information of Council are provided for adoption either by nominated exception or engloba.

RECOMMENDATION

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

ATTACHMENTS

Nil.

7.2 General Works in Progress

TRIM REFERENCE: F2004/07830 - D01952322

AUTHOR: ML; AP

SUMMARY

This report shows the current status of completed significant General Works and General Works in Progress for capital and maintenance expenditure, as at the end of June 2009. Water and Sewerage services are not included.

RECOMMENDATION

That Council receive the report on General Works in Progress.

ROADS AND DRAINAGE SECTION OVERVIEW

Capital Works In Progress

The table below is a status report of current major new and upgrade road drainage projects.

Item Description	Estimated Cost \$	% Completed	Estimated Completion Date	Comments
Sunrise Avenue – Halekulani Constructed wetlands	250,000	90	Sept 2009	Construction of wetland on foreshore off Sunrise Avenue between Lukela Avenue and Ulana Avenue Halekulani. Works include installation of drainage line including inline GPT, construction of wetland with water control devices and planting program. Earthworks and preliminary planting completed. Once these plants have established, further planting will be carried out to enable the drainage to be brought online and finalise project.

Item Description	Estimated Cost \$	% Completed	Estimated Completion Date	Comments
Fairport Avenue and Ocean Parade – The Entrance. Intersection and drainage upgrade	890,000	95	July 2009	Construction of roundabout at intersection, upgrading of drainage lines, renewal of kerb and gutter, road reconstruction and installation of pedestrian refuges and traffic facilities Roadworks and drainage have now been finalised. Linemarking to take place to complete project.
Campbell Avenue And Warrigal Street – The Entrance Drainage Construction.	1,488,000	25	August 2009	Upgrading of existing under capacity pipe drainage, to box culverts enabling water to disperse more freely alleviating flooding to shops in the area. Works incorporate Gosford Avenue, Warrigal Street, Taylor Street, The Entrance Road and Campbell Avenue. Drainage works have been completed in the car park to the rear of The Entrance Road, along Campbell Avenue and across the intersection with The Entrance Road. Drainage works are continuing along Warrigal St
Wattle Street And Banksia Street – Canton Beach Drainage and Kerb and Gutter Construction.	610,000	90	July 2009	Drainage upgrade to pipelines in Wattle, Banksia and Oleander streets, Canton Beach to alleviate flooding of houses in the area. Drainage works are now complete in Wattle, Oleander Streets, Banksia Street. Roadworks to be finalised.
Norah Head Lighthouse Carpark	146,000	60	July 2009	Works to include formalisation and sealing of carpark and include installation of kerb and gutter, linemarking and traffic facilities, footpath and bus parking. Earthworks on project have been completed, kerb and gutter installed and seal has been placed. Awaiting placement of asphalt and linemarking to finish project.

General Maintenance Work

The following is a list of general works undertaken during this period:

	North	South
Drainage Maintenance	Buff Point Budgewoi Blue Haven	Killarney Vale Wyang on
Replacement of Damaged Foot paving	Noraville Gorokan	The Entrance Killarney Vale
Sign Maintenance	Toukley Kanwal Hamlyn Terrace Blue Haven Wadalba Budgewoi Tuggerawong San Remo Canton Beach Wyangah Jilliby Yarramalong Buff Point Gwandalan Summerland Point	Toowoan Bay Berkeley Vale Ourimbah Long Jetty The Entrance Killarney Vale Shelly Beach Bateau Bay Tuggerah Wyang Mardi Chittaway
Shoulder Restoration	Wyangah Warnervale	Nil
Heavy Patching	Gorokan	Tumbi Umbi
Table Drain Maintenance	Charmhaven Budgewoi Toukley Gwandalan San Remo Wyangah	Berkeley Vale Long Jetty Bateau Bay Killarney Vale Tumbi Umbi Glennig Valley
Rural Road Grading	Dooralong Yarramalong Ravensdale Jilliby Kiar	Ourimbah Palmdale
Carpark Maintenance	Toukley Budgewoi Norah Head Gorokan	Berkeley Vale
Fencing	Nil	Nil

	North	South
Vegetation control	Jilliby Woongarra Halloran Hamlyn Terrace Toukley Manning Park Yarramalong Dooralong	Tuggerah Berkeley Vale Tumbi Umbi Ourimbah Watanobbi Wyong The Entrance Killarney Vale Long Jetty

CONTRACTS AND SPECIAL PROJECTS SECTION

The table below is a status report of current major projects.

Contract No	Contract Description	Contract Status	% Completed
Contract 2408	Capture and Commercial Utilisation of Landfill Gas from Buttonderry Landfill	The Deed has been executed by both parties and the contract is now in place. The first milestone is design of the gas extraction system expected by end of August 2009.	5
CPA/94559	Design and Documentation of Woongarra Sports Fields	Contract drawings revisions completed. Action commenced to finalise commission.	99
CPA/98240 complete, becomes CPA/152870	Implementation of Buttonderry Waste Management Facility Entry Master Plan	Contract has been let to GWH Construction (NSW) Pty Ltd. Works commenced in March 2009 with completion by November 2009. Estimated contract value is \$2.7M.	30
CPA/117144	Design and Construct Toukley Reclaimed Effluent Treatment Plant Augmentation	Contract awarded to Water Treatment (Australia) Pty Limited in February 2008. All items including the UV equipment have been installed. Precommissioning to commence end of June 2009 for completion by August 2009. Estimated project construction cost is \$2.72M.	95
CPA/130590	Consultancy for Investigation and Design of Trunk Sewer Mains to Warnervale Town Centre and Wyong Employment Zone.	Contract awarded to Bonacci Group Pty Ltd January 2008. Detail design for Stage 1 is being reviewed. The date for the commencement of construction for Stage 1 which will service the southern section of the Warnervale Town Centre is being scheduled to meet the development demand and construction schedules of the relevant landowners. Estimated project construction cost \$9M, with this consultancy costing \$670,000.	75

7.2

General Works in Progress (contd)

Contract No	Contract Description	Contract Status	% Completed
CPA/130591	Consultancy for Investigation and Design of Trunk Water Mains to Warnervale Town Centre and Wyong Employment Zone.	Contract awarded to SMEC Australia Pty Ltd April 2008. Anticipate completion of design and tender documentation by July 2009. A temporary booster pump station has been added as a variation to the contract. The date for the commencement of construction of the water mains is being scheduled to meet the development demand and construction schedules of the relevant landowners. Project construction cost \$2M, with this consultancy costing approximately \$280,000.	80
CPA/135454	Investigation, Design and Construction Supervision for Toe Drainage Structure at Cabbage Tree Harbour Norah Head	Contract awarded to Shirley Consulting Engineers. Design specification and Review of Environmental factors complete. Anticipate construction commencing October 2009 and completion April 2010. Estimated construction cost \$1.3M and this consultancy \$296K including all variations to date. Budget may need to be reviewed given high risk associated with location of site.	65
CPA/136020 and CPA/162445	Gwandalan Landfill Remediation – Investigations Only	The Stage 1 investigation (CPA/136020) for remediation has been completed. Tenders for Stage 2 detailed investigation (CPA/162445) for remediation of the site closed end June 2009. Tenders will be reported to Council in August 2009.	35
CPA/136021	Tumbi Landfill Remediation – Preliminary Investigations	Draft report with Auditor for review. Finalisation of this consultancy anticipated July 2009. Detailed (stage 2) investigations, Remediation Action Plan (RAP) and design will follow preliminary investigations.	25
CPA/136398 to CPA/136401	Holiday Parks Upgrade Works – Year 2 (2008)	Contract resolution and finalisation continuing with legal advice. Remaining works to be completed by August 2009. Project value \$ 1.84M	99
CPA/136486	Investigation, Design and Documentation of Toukley Sewage Treatment Plant Inlet Works Upgrade	Contract awarded to Maunsell Australia Pty Ltd April 2008. Construction is expected to commence October 2009 and be completed by April 2010. Estimated project cost \$2.05M, with this consultancy costing \$164,000.	95
CPA/140816	The Entrance Community Facility Stage 2 – Construction	Contract works achieved Practical Completion on 24 April 2009. Minor outstanding works and defects now complete. Outstanding contractor claims yet to be finalised. Project value is \$2.5M.	99

Contract No	Contract Description	Contract Status	% Completed
CPA/142750	Shelly Beach Landfill Remediation – Investigations	Site survey completed. Contract for (stage 1) preliminary investigations for remediation of the former landfill site has been awarded. Field work completed. Draft report forwarded to independent site Auditor for review. Finalisation of consultancy is expected by mid August 2009. Contract value is \$30,000. Tenders for (Stage 2) detailed investigations will follow finalisation of Stage 1.	15
CPA/144336 CPA/144337 CPA/144338 CPA/144339 CPA/144340	Reaches 9, 10, 11, 4 and 1 Saltwater Creek, Long Jetty / Bateau Bay.	Rehabilitation continuing for approximately 1km of creek inclusive of 2.3ha of bush regeneration works. Estimated completion date progressively from June 09 to September 09 depending upon Provenance plant stock availability. Contract value \$1.24M.	85
CPA/145543 CPA/145982 CPA/150515 CPA/156188 F2008/02699 (Kemp Close)	Construction of Buff Point Shared Pathway	Construction complete for Stage 1 from Edgewater Park to 600m past Matumba Road – approx. 1.6km of total 3km of planned pathway. Design work complete for steep section (Stage 3) near Kemp Close. Planning approval issued. Federal funds (\$227K) received for this section and construction will be complete by 30 September 2009. Estimated overall cost of construction for Buff Point is \$935K.	50
CPA/145814	Design and Tender Documentation for No 3 Aeration Tank – Charmhaven STP	Contract awarded to Cardno (QLD) Pty Ltd October 2008. Detail design has been reviewed. Final design documentation is being checked. Disposal of large quantity of material to be excavated under review. Estimated project cost \$11M, with this consultancy costing \$160,000.	90
CPA/149519	Design and Construct Upgrade of Fuel Dispensing Area at Charmhaven Depot	Ongoing. New roof concept determined and structural design has commenced. Investigation only of Long Jetty depot fuel dispensing area to be included with Charmhaven work. Estimated value of work \$170,000.	30
CPA/152818	Consultancy for Investigation, Design and Documentation for B9 Sewer Rising Main Extension to B1 Pump Station	Contract awarded to GHD Pty Ltd January 2009. Detail design commenced on preferred option. Construction expected to commence November 2009 and be completed May 2010. Estimated project cost currently \$3M, with this consultancy costing \$148,000.	45

Contract No	Contract Description	Contract Status	% Completed
CPA/153228	Construction of Woongarra Sports Facility	Contract awarded to Maincon P/L April 2009. Construction started 18 May 2009. Target is for playing fields to be ready for the winter 2010 season. Significant rain delays in June 2009. Stockpile found to be wet in places. Site stripped, trees removed/mulched and small amount of fill placed. Estimated total project construction cost \$6.1M	2
CPA/153765 to CPA/153784	Holiday Parks Upgrade Works – Year 3 (2009)	Budgewoi, Toowoomb Bay and Norah Head Upgrade Works now underway with brickwork complete and carpentry works well advanced. Estimated total project costs \$765K. Completion is expected by October 2009.	20
CPA/155267	Hamlyn Terrace Community and Sporting Facility	Design is proceeding, with draft site Master Plan and Community Centre and amenities buildings designs now well advanced. Estimated project cost is \$9.7M, with this consultancy \$348K. Completion of designs and approvals is expected by December 2009.	30
CPA/155526 and CPA/160213	Mardi Landfill – Remediation Action Plan (RAP) and Concept Design and Asbestos Removal Works (DECC Clean Up Notice)	Contract for RAP and concept design awarded (CPA/155526). Work was delayed pending action to remove asbestos material from the site – now completed. Draft report has been forwarded to Auditor for review. This contract should be completed by August 2009, depending the scope of modifications required by the Auditor. Tenders will then be invited for detailed design following completion of RAP and concept design. Cost of remediation works yet to be determined but will be estimated as part of the concept design. Construction is not expected to commence until 2010-11.	40
F2008/02390, CPA/156894 and CPA/156896	Design for Construction of Proposed New Cell 4.2B at Buttonderry Waste Management Facility	Leachate system investigation report received (CPA/156894). Detailed design documentation (CPA/156896) complete. Tender documentation complete. Tenders for construction advertised through July 2009. Tenders to be reported to Council at end September 2009. Regular contact has been maintained with DECC during design process – their final approval of design and construction quality assurance are required prior to operation of the new waste cell.	80

Contract No	Contract Description	Contract Status	% Completed
CPA/159872	Surf Clubs Upgrade Works Need Analysis & Concept/DA Designs	Consultation and investigations now complete. Draft 'Needs Analysis' reviewed. Project funding was to be supplemented by Government grants funding but yet to be confirmed. Estimated project construction cost is \$5.75M (WSC funding \$3.0M), with current consultancy \$80K.	30
CPA/160358	Project Management Services for the Clearing and Engineering Works Associated with Sub division of Council land at Sparks Road Warnervale	Contract let to Trehy Ingold Neate Pty Ltd in March 2009. Initial surveying work and preparation of application to allow staging of the development is being undertaken. Estimated completion date for this contract is March 2010. Target date for land to be available for sale off the plan is Dec 2010. Consultancy value \$95K.	15
F2008/02700 CPA/164477 CPA/164479	Investigate and Design for Mannering Park Shared Pathway	REF submitted end March 2009. Approval issued 22 May 2009. Construction south of Caravan Park will be by contract with rest by Council staff. Federal funds approved (\$235,000) will enable 800m to Campbell Parade to be completed. Further extension will require funds and REF following investigations for endangered species.	50
CPA/164633	Construction of Proposed New Cell 4.2B at Buttonderry Waste Management Facility	Proposed to call tenders July 2009 and report to Council in September 2009 for completion by July 2010. Site preparation works (clearing) to commence July 2009.	1

CONTRACTS STILL IN DEFECTS LIABILITY PERIOD			
Contract No	Contract Description	Contract Status	% Completed
		NIL	

ATTACHMENTS

Nil.

7.3 Corporate Uniform

TRIM REFERENCE: F2004/09186 - D01948244

AUTHOR: JM

SUMMARY

Reporting advice concerning the sourcing of an Australian owned and produced corporate uniform.

RECOMMENDATION

That Council receive the report on Corporate Uniform.

BACKGROUND

At its meeting held on 13 May 2009 Council resolved unanimously on the motion of Councillor McBRIDE and seconded by Councillor SYMINGTON:

- "1 That Council investigate and report on sourcing an Australian owned and produced corporate uniform.*
- 2 That the report identify whether the full range of the corporate uniform can be sourced from a single or multiple supplier.*
- 3 That Council also report on existing supply contracts and the way Council supports Australian and locally produced goods and services."*

This report deals with items 1 and 2 with item 3 to be reported in conjunction with the following resolution.

At its meeting held on 27 May 2009 Council resolved unanimously on the motion of Councillor McBRIDE and seconded by Councillor EATON:

- "1 That Council adopt a local preference policy to be included in the evaluation of tenders, quotations and Council procurement.*
- 2 That the potential impact of this criteria on stimulating the local economy and creating local jobs be evaluated.*
- 3 That a policy be prepared and submitted to Council for consideration."*

It is anticipated that this report will be submitted to the 26 August 2009 Meeting.

Council currently spends \$155,000 per annum on corporate uniforms. This equates to around \$500 per uniform.

THE PROPOSAL

Council has contacted the following companies who were put forward as sources for an Australian made and produced uniform either in entirety or part:

- Image Design Workwear
- Focus Uniforms
- Rundle Tailoring
- LJ Apparel
- Ausmark
- Neat and Trim

A summary of their products together with any additional costs is as follows:

	Full uniform range offered?	Indicative costing	Australian made
Image Design Workwear	No, women's uniforms only. Six style options to choose from. Made to measure sizes 6 to 26. No men's uniform offered.	50% more than current Yakka Stylecorp range	Yes, made on site in Adelaide.
Focus Uniforms	Yes, men's and women's corporate uniform range available. Garments are made to measure to standard sizes only.	Potentially equivalent with current pricing however is subject to minimum order quantities of 50 items per fitting. Fabric may require pre purchase depending on uniqueness of fabric selected. Cost of garments increases if volumes drop below 50 items per production run.	Yes made on site in Strathfield.
Rundle Tailoring	Yes, men's and women's corporate uniform range available. Garments are made to measure to standard sizes only. All garments are 100% Australian made with the possible exception being women's blouses and men's shirts. These garments could be made locally but would recommend imported garments as options would be limited in terms of range offered.	100% more than current Yakka Stylecorp range. Fabric may require pre purchase depending on uniqueness of fabric selected. No minimum order charge applies with the exception of ladies blouses and men's business shirts.	Yes, made on site in Newcastle.

	Full uniform range offered?	Indicative costing	Australian made
LJ Apparel	Only produce polo shirts and school uniform range locally. No corporate uniform range offered that is locally produced.		No.
Ausmark	Only provide limited casual and work wear range produced locally i.e. polo shirts. No corporate uniform range offered that is locally produced.		No.
Neat and Trim (NTT)	No locally produced corporate uniform range offered. Range is fully imported with embroidery done locally. Range is off the rack similar to Stylecorp. Neat and Trim (NTT) are owned by Pacific Brands		No.

Current staff costs would be similar if Council was able to single source the entire uniform.

CONCLUSION

Based on this information, it is anticipated that whilst an Australian owned and produced uniform can be sourced, it may result in additional costs depending on the volume of garments to be produced and the type and availability of fabric.

If Council is of a mind to source an Australian owned and produced corporate uniform, it would be appropriate that this be considered in conjunction with any changes that may be required to Council's procurement policy as will be reported to the 26 August 2009 Meeting.

Whilst an Australian owned and produced uniform may be able to be sourced as the total costs are in excess of \$150,000 public tenders would have to be called.

Also, Council should be mindful of the current stock of \$20,000 and the compatibility it would not have with any new sourced uniform.

ATTACHMENTS

Nil.

7.4 Results of Water Quality Testing for Beaches and Lake Locations

TRIM REFERENCE: F2004/06822 - D01950588

AUTHOR: JS

SUMMARY

Reporting on the results of bacteriological tests for primary recreation water quality for beaches in Wyong Shire for the months of May and June 2009.

RECOMMENDATION

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

Primary Recreation Water Quality Monitoring Program

Wyong beaches are regularly monitored for swimming safety in accordance with the National Health and Medical Research Council (*NHMRC Guidelines for Recreational Water Use* (1990)). These guidelines allow for beaches to be awarded a star rating based upon the potential for sewage and stormwater contamination. These star ratings are awarded as detailed in the table attached *Table 1: NHMRC Star Rating Interpretation*.

Wyong Council has been in partnership with the Department of Environment and Climate Change (DECC) in implementing the "Beachwatch" program during the bathing season of summer, October through to April. This involves the sampling of 26 monitoring locations, 5 times each month as required by the NHMRC Guidelines and the Beachwatch program. These monitoring locations include 17 ocean beaches and nine coastal lake sites in the Tuggerah Lakes catchment.

During the winter season the Beachwatch program becomes inactive, where the sampling regime is reduced to once a month. If these monthly results indicate high levels of sewage and stormwater contamination further investigations are triggered to determine the source of it's origin.

Additionally, Council is still required to monitor the ocean outfalls at Norah Head and Wonga Point 5 times a month throughout the year. This monitoring and sampling regime is undertaken in accordance with the DECC "Environmental Protection License's"

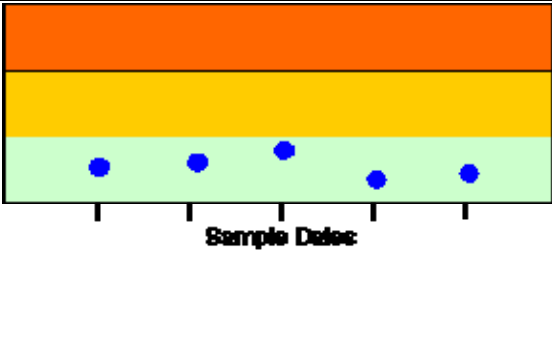
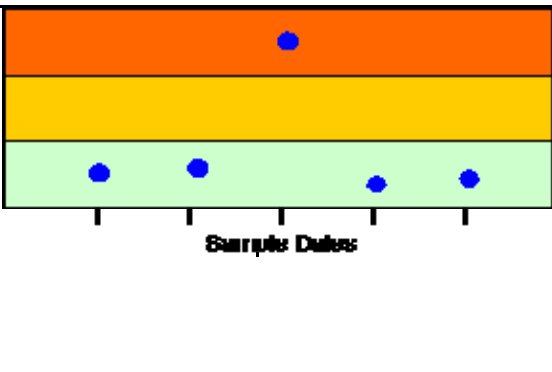
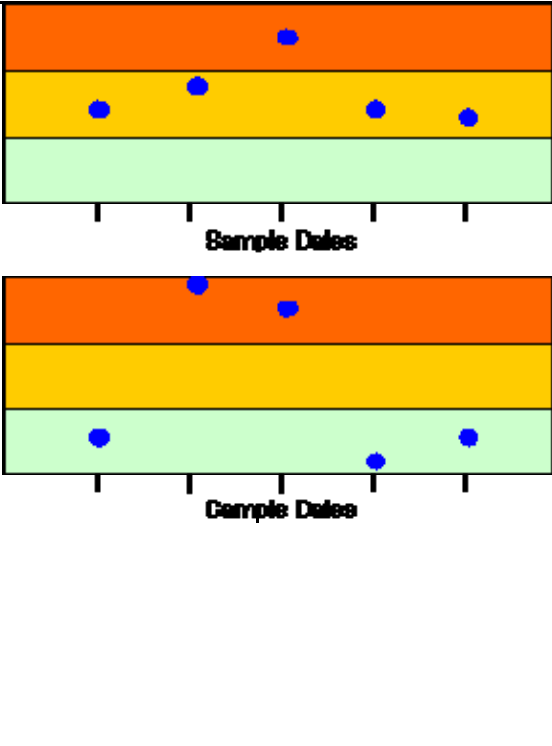
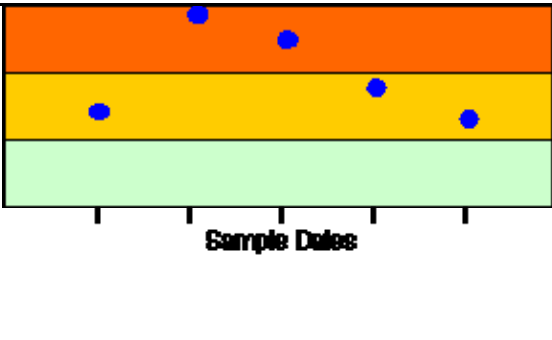
Summary of results for May and June 2009

For the start of the Winter period, all of the nominated Ocean and Lakes beaches received a star rating that was safe for swimming and is in accordance with the NHMRC guidelines for "Recreational Water Use".

Table 2: OCEAN BEACHES – May and June 2009

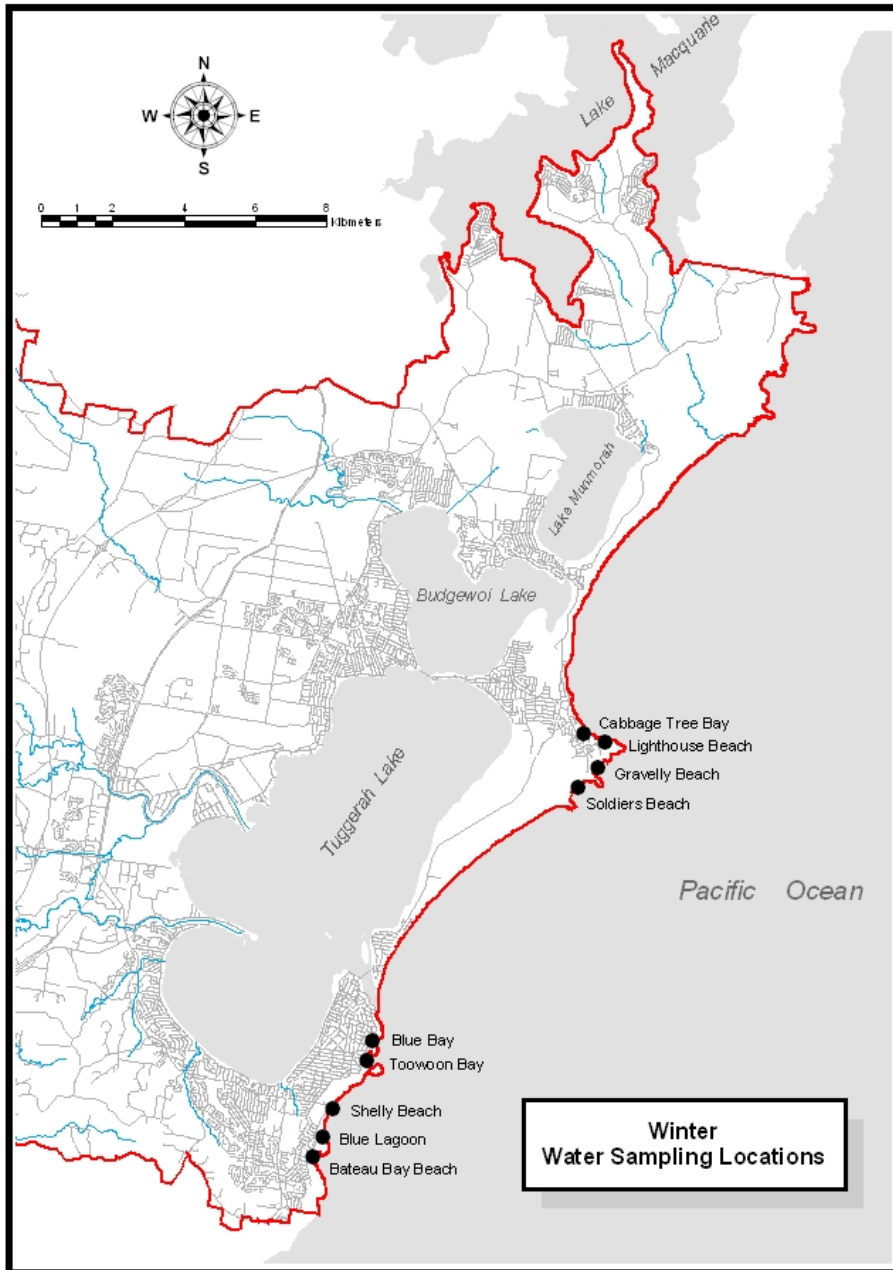
LOCATION	STAR RATING	RECOMMENDATION
Cabbage Tree Bay	****	Site is safe for swimming
Soldiers Beach	****	Site is safe for swimming
Outfall Norah Head	****	Site is safe for swimming
Gravelly Beach	****	Site is safe for swimming
Lighthouse Beach	****	Site is safe for swimming
Shelly Beach	****	Site is safe for swimming
Toowoan Bay	****	Site is safe for swimming
Blue Bay	****	Site is safe for swimming
Blue Lagoon	****	Site is safe for swimming
Bateau Bay	****	Site is safe for swimming
Wonga Point	****	Site is safe for swimming

Table 1: NHMRC Star Rating Interpretation

Star Rating	Interpretation	Graphic Representation
****	<p>Good: NHMRC indicates site safe for swimming</p>	<p>All 5 samples during the month were under the NHMRC safe value for swimming.</p> 
***	<p>Fair: NHMRC indicates site is safe for swimming</p>	<p>The median of all samples is low, but one sample during the month exceeded the NHMRC maximum safe value for swimming.</p> 
**	<p>Poor: NHMRC indicates swimming at site is not recommended.</p>	<p>The median of all samples is high and one sample exceeded the NHMRC maximum safe value for swimming;</p> <p>Or</p> <p>The median of all samples is low, but two samples exceeded the NHMRC maximum safe value for swimming.</p> 
*	<p>Bad: NHMRC indicates swimming at site is not recommended.</p>	<p>The median of all samples is high and two or more samples exceeded the NHMRC maximum safe value for swimming.</p> 

ATTACHMENTS

- 1 Map of Winter Sampling D01950611



7.5 Activities of the Development Assessment Unit

TRIM REFERENCE: F2004/07830 - D01953473

AUTHOR: JD

SUMMARY

The report includes information and statistics regarding the operations of the Development Assessment Unit and covers the submission and determination of development, construction and subdivision applications for the months of May and June 2009.

RECOMMENDATION

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

Development Applications Received and Determined – May 2009

Type:	Number Received:	Estimated Value \$:	Number Determined:	Estimated Value \$:
Commercial	9	2,331,990	14	7,589,800
Industrial	2	1,505,000	4	650,000
Residential	97	12,184,914	68	6,171,908
Other	31	1,459,890	13	204,300
Total	139	17,481,794	99	14,616,008

Subdivision Applications Received and Determined – May 2009

Type:	Number Received:	Number of Lots:	Number Determined:	Number of Lots:
Commercial	-	-	-	-
Industrial	1	2	2	8
Residential	4	14	-	-
Rural	-	-	-	-
Total	5	16	2	8

DRAFT

Development Applications Received and Determined – June 2009

Type:	Number Received:	Estimated Value \$:	Number Determined:	Estimated Value \$:
Commercial	19	35,297,200	18	5,849,410
Industrial	4	6,092,000	1	1,500,000
Residential	106	8,913,452	85	7,397,327
Other	18	1,479,394	15	2,610,000
Total	147	51,782,046	119	17,397,327

Note: The lodgement of the Mariner's application at Tuggerah represents \$25m of this estimated value.

Subdivision Applications Received and Determined – June 2009

Type:	Number Received:	Number of Lots:	Number Determined:	Number of Lots:
Commercial	-	-	-	-
Industrial	1	2	2	8
Residential	4	14	-	-
Rural	-	-	-	-
Total	5	16	2	8

Net Median Turn-around Time

The net median turn-around time in working days for priority applications determined during the month of May was 27 days. During the month, Council determined two priority applications which included alterations and additions to an existing building for a supermarket and restaurant in Toukley and a Bulk Transport Terminal at Warnervale. During the month of June the net median turn-around time in working days for priority applications was 5 days. Council determined one priority application which was an approval for a call centre at Tuggerah.

The net median turn-around time in working days for development applications determined during the month of May and June were 14 days.

Other Approvals and Certificates

Type:	Number Determined May 2009	Number Determined June 2009
Trees	39	42
Section 149 D Certificates	14	11
Building Certificates	15	12
Construction Certificates	60	66
Complying Development Certificates	12	10

State Environmental Planning Policy No 1

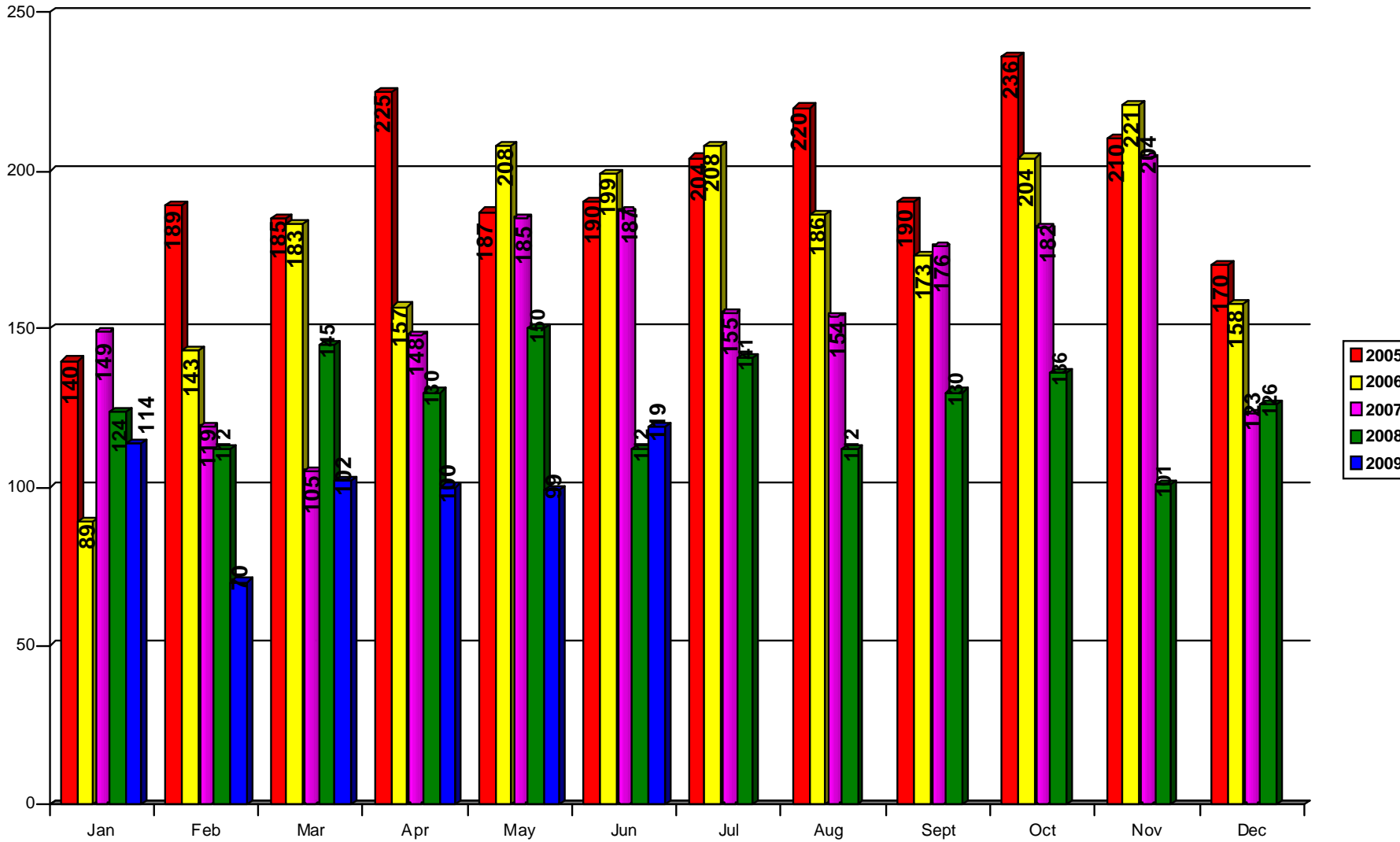
There were no applications determined during the months of May and June that relied on a numerical variation to SEPP 1 in excess of 10%.

ATTACHMENTS

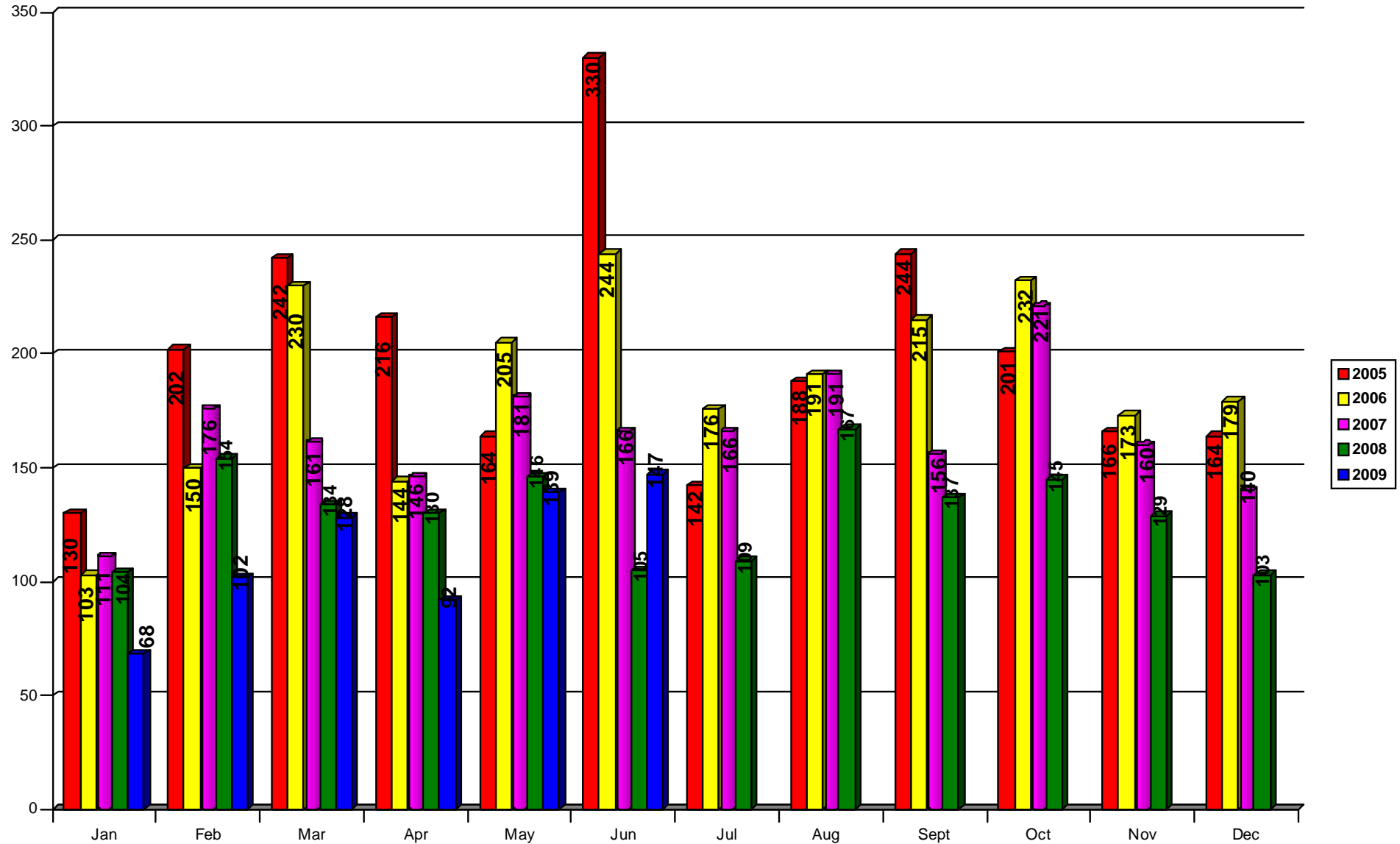
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DA's DETERMINED

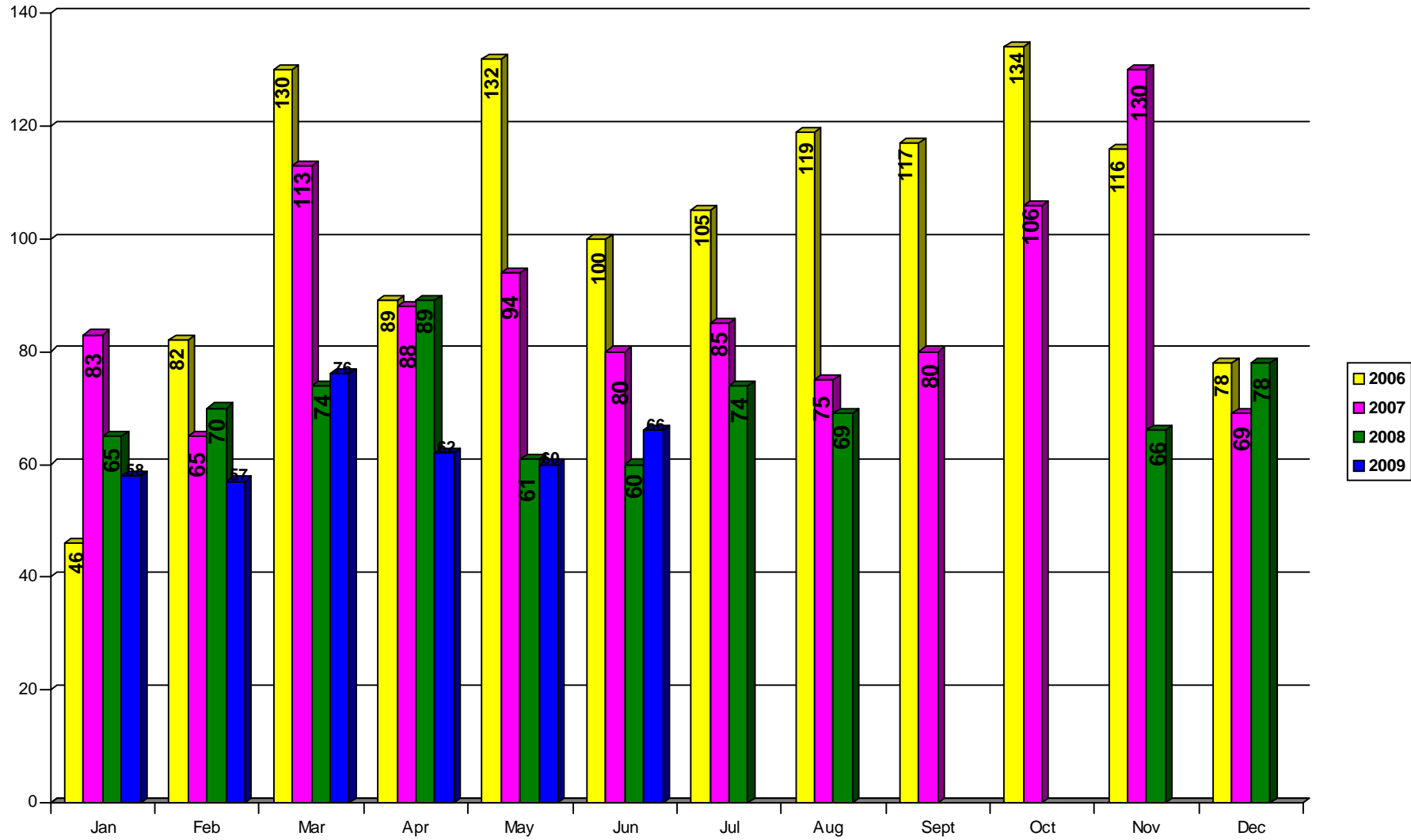
certificates Determined



DAs LODGED



CCs DETERMINED



7.6 Water and Sewerage - Works in Progress

TRIM REFERENCE: F2004/07830 - D01952351

AUTHOR: DM

SUMMARY

Water supply and sewerage works in progress and completed for June 2009.

RECOMMENDATION

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

WATER SUPPLY

The table below is a status report of current major new and upgrade water projects.

Item Description	Estimated Cost \$	% Completed	Estimated Completion Date	Comments
Fairport Ave and Ocean Pde, The Entrance.	55,000	Complete	June 2009	The relocation and replacement of approximately 90 metres of 150mm asbestos cement water main with 150mm pipe. This work forms part of Roads and Drainage Program to construct a roundabout at the intersection of Fairport Ave and Ocean Pde and is being funded by Roads & Drainage. Estimated completion date extended to June 2009 to work in with Roads & Drainage whilst they are completing their drainage construction work. Work completed mid-June 09.
Charmhaven The Entrance Long Jetty Killarney Vale	10,000	Ongoing	June 2009	Ongoing fittings and replacement works as part of the water maintenance program. The work is being funded by Water and Sewerage Capital Works Program.

Item Description	Estimated Cost \$	% Completed	Estimated Completion Date	Comments
Warrigal St, The Entrance	43,000	50%	July 2009	This work involves the relocation of a 250mm water main that crosses Warrigal St in favour of drainage works. This work forms part of the Roads and Drainage Works Program and is being funded by Roads and Drainage.
Pacific Hwy Ourimbah and Johnson Road Tuggerah	40,000	75%	July 2009	Ongoing works associated with water main adjustments as part of the RTA Pacific Highway, Ourimbah and Johnson Road, Tuggerah upgrading.
Wattle St and Oleander St, Canton Beach.	30,000	Complete	June 2009	The relocation and lowering of 2x100mm diameter asbestos cement water mains with an equivalent size pipe. This work forms part of the Roads and Drainage Works Program at the intersection of Wattle St and Oleander St and is being funded by Roads and Drainage. Work completed on time and within budget.
Pacific Highway, Charmhaven, between Charmhaven Ave to Wyreema Ave	60,000	50%	June 2009	Ongoing fittings and replacement works as part of Roads and Drainage Footpath program. The work is being partially funded by Water and Sewerage Capital Works program and Roads and Drainage Footpath Program.
Hakone Rd, Woongarra	110,000	10%	July 2009	The relocation and upgrade of 200mm water main. This work forms part of the Contract and Special Projects works for the Woongarra Sporting Fields and is being funded by Contracts and Special Projects.

SEWERAGE

The table below is a status report of current major new and upgrade sewerage projects.

Location	Estimated Cost \$	% Completed	Estimated Completion Date	Comments
Tuggerawong Rd, Wyongah.	300,000	70%	July 2009	Work commenced on 30 March 2009 and includes restoring approximately 33 metres of 150mm vitreous clay sewer pipe and the existing drainage embankment to reinforce and stabilise the drainage line as a result of a land slippage during June 2007 storms. Construction of the 3 gabion walls is completed. Work has commenced on restoring 33 metres of sewer pipe which is expected to be completed by end July 09.
Killarney Vale Wyong Lake Munmorah	10,000	Ongoing	June 2009	Ongoing sewer main and manhole replacement and adjustment works. Council's maintenance program of CCTV inspections, replacing sections of sewer mains and repairing manholes and junctions causing operational problems due to root infestation and stormwater infiltration.
Pacific Highway Ourimbah and Johnson Road Tuggerah	20,000	Ongoing	July 2009	Manhole replacement and adjustment works as part of the RTA Pacific Highway, Ourimbah and Johnson Road, Tuggerah upgrading.
Baker Park Netball Courts	52,000	10%	July 2009	The work involves the relocation and replacement of 70m of 225mm sewer rising main with an equivalent size PVC class 12 pipe. This work forms part of the Contract and Special Projects works for the construction of an additional 6 netball courts and is being funded by W&S Capital Works Program.
Warrigal St, The Entrance	90,000	60%	June 2009	This work involves the upgrade of an existing gravity sewer main from 150mm to 225mm. This work forms part of the Roads and Drainage Works Program and is being funded by Roads and Drainage.
Brisbane and Boree Streets,	50,000	1%	July 2009	Replace 30metres of 300mm sewer rising main.

Location	Estimated Cost \$	% Completed	Estimated Completion Date	Comments
Noraville				This is part of Council's Sewer Main Refurbishment Works funded by W&S Capital Works Program.
Scenic Drive Budgewoi	10,000	5%	June 2009	Raising 3 sewer manholes in front of Budgewoi shops. This work forms part of the Road and Drainage Works Program and is being funded by Road and Drainage.

PROCESS

Water Treatment

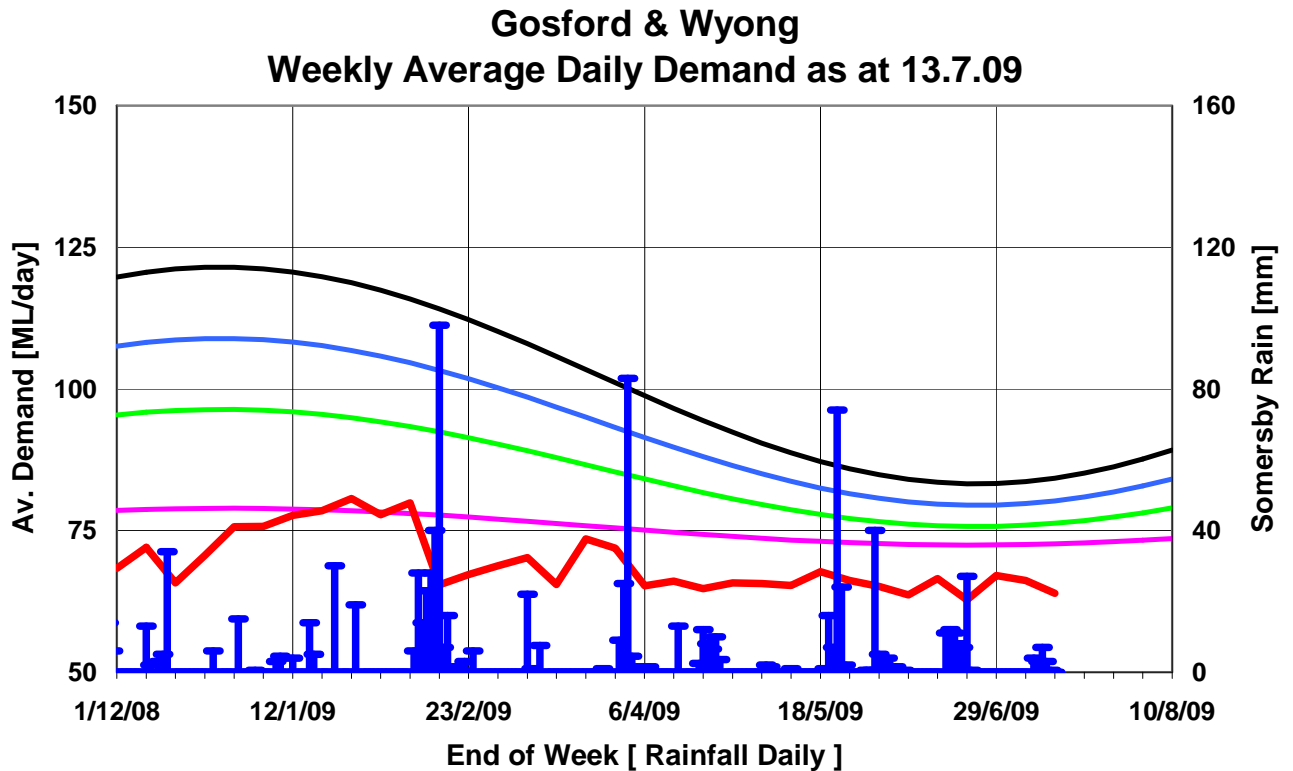
All water produced by the Water Treatment Plant, for the period 1 June 2009 to 30 June 2009, has met National Health and Medical Research Council Guidelines.

Sewage Treatment

All effluent discharged from the sewage treatment plants, for the period 1 June 2009 to 30 June 2009, has met Environmental Protection Authority Licence requirements.

WATER STORAGE

Monday, 13 July 2009				
STORAGES				
Storage	Capacity Full [MI]	Volume in Storage [MI]	Percent Full [%]	Storage Change over last Week
Mangrove Dam	190000	53,862	28.3	Up 56 ML
Mardi Dam	7400	6,030	81.5	Down 243 ML
Mooney Dam	4600	4,600	100.0	Unchanged
Total	202000	64,492	31.9	Down 187 ML
<p>STORAGE:</p> <ul style="list-style-type: none"> Total stored water volume is 0.3% lower than a month ago. This day last year the volume stored as a percentage of total capacity was 2.0% lower. <p>HUNTER TRANSFERS:</p> <ul style="list-style-type: none"> Hunter Water Corporation supplied 41.2 ML last week increasing this year's supply to 426 ML. Gosford/Wyong supplied 0.0 ML to Hunter Water last week keeping this year's supply to 68.2ML <p>GROUND WATER BORES:</p> <ul style="list-style-type: none"> Groundwater Bores supplied 5.5ML last week increasing this years supply to 183.5 ML 				
WATER USAGE & RAINFALL				
Period	Water Usage [MI]	Rainfall [mm]		
		Somersby WTP	Mardi WTP	Mangrove Dam
Week to date	447	18	20	13
Previous week	463	0	0	0
Current week last year	443	2	4	10
This year to date	13,399	840	552	46
Same period last year	12,787	1,18	937	75
		2		0
<p>Week to date consumption was 447 ML, 0.9% more than the same week last year and 3.5% less than the previous week.</p> <p>Consumption this year to date is 13,399 ML, 4.8% more than the same period last year.</p> <p>Level 3 Water Consumption Target for the week ending Monday, 20 July 2009 is 510 ML</p>				



- 1 Black Line** Wyong Shire's normal demand when no restrictions are in place.
- 2 Blue line** 8% reduction (based on the 'black line') over the entire year.
- 3 Green Line** 16 % reduction (based on the 'black line') over the entire year.
- 4 Pink Line** 24% reduction (based on the 'black line') over the entire year.
- 5 Orange Line** 32% reduction (based on the 'black line') over the entire year.
- 6 Blue Bars** Rainfall at Somersby in mm/day.
- 7 Red Line** Wyong Shire's average daily demand.

ATTACHMENTS

Nil.

7.7 Outstanding Questions Without Notice and Notices of Motion

TRIM REFERENCE: F2009/00008 - D01952434

AUTHOR: SG

SUMMARY

Report on outstanding Questions Without Notice and Notices of Motion.

RECOMMENDATION

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

Question Asked / Councillor	Department	Meeting Asked	Status
<p>Q068 - Education Program into Toddler Drowning</p> <p><i>It would appear that my Notice of Motion 297 Education Program into Toddler Drowning unanimously endorsed by Council on 25 June 2008 has fallen off the radar and is currently not listed in report 536 Outstanding Questions without Notice and Notices of Motion on this business paper. It has been some six months since the motion attached was moved. Having regard to the recent backyard pool tragedies experienced in Gosford, when will staff report on this critical community issue?</i></p> <p>541- Extended Safety of Surf patrol Beaches</p> <p>1 <i>That having regard to the increasing incidence of unseasonably warm weather associated with global warming and the resultant high beach usage outside current patrol hours Council take a proactive approach with a view to providing our residents and ratepayers with greater coverage of patrolled surf beaches.</i></p> <p>2 <i>That Council receive a briefing on current coverage and resources required to patrol our Shire's beaches including any recommendation for Council to consider a more flexible approach to beach patrol timetables.</i></p>	Shire Planning / Shire Services	26 November 2008 Cr Best	Report to be provided for Council's meeting of 12 August 2009.
<p>Q036 – The Entrance Town Centre Accounts</p> <p><i>Question Without Notice asked in Confidential Session.</i></p>	Corporate Services	27 May 2009 Cr Matthews	Letter issued – a response will be submitted to a Council meeting once received.
<p>Q037 – Purchase of Crown Land</p>	Corporate Services	10 June 2009 Cr Eaton	A response will be submitted to Council's meeting of 12 August 2009.

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

Question Asked / Councillor	Department	Meeting Asked	Status
<p>Q042 – Infrastructure Contributions on Subdivisions</p> <p><i>Could Council confirm that Hunter Water and Sydney Water no longer charge infrastructure contributions on land subdivision with a consequential reduction in Land subdivision and housing costs?</i></p>	Shire Planning	8 July 2009 Cr Eaton	A response will be submitted to Council's meeting of 12 August 2009.
<p>Q043 – Impact of Proposed Federal Carbon Tax</p> <p><i>Could Council advise whether Buttonderry Tip is affected by the Federal Government's proposed carbon tax and if so the financial impact of this impost?</i></p>	Shire Services	8 July 2009 Cr Eaton	A response will be submitted to Council's meeting of 26 August 2009.

Notice of Motion	Department	Meeting Resolved	Status
<p>326 - National Natural Disaster Funding</p> <p>1 <i>That Council, via the Federal Local Members, request National Natural Disaster Funding include coastal erosion events and Council expenditure on preventative and remedial action.</i></p> <p>2 <i>That the Local Government Association via its annual conference be invited to support this initiative</i></p> <p>3 <i>That a further report be brought back to Council on information on predication on climate change impacts as a result of studies being undertaken by consultants in conjunction with the Coastal Hazard Study.</i></p>	Shire Planning	8 August 2007 Cr Eaton / Cr Best	Letter sent to Local Government Association (LGA) applying for funding. Reply received advising Council was unsuccessful. Letter currently being prepared to the LGA requesting coastal erosion and risk management issues to be included in future funding.
<p>231 – Poll on Popularly Elected Mayor and Electricity Privatisation</p> <p><i>A further report be reported to Council at a briefing session outlining the ramifications of a popularly elected Mayor detailing exactly how the numbers equate in three wards concerned.</i></p>	Corporate Services	28 May 2008 former Cr Stewart / Cr Graham	A report will be subject to future briefing session for Council. The report will provide an outline of possible ward boundaries.
<p>295 – Wyong Pool Maintenance Policy</p> <p>1 <i>That Council defer any further decisions regarding Wyong Pool pending discussions with the Wyong Tennis Club Administrator.</i></p> <p>2 <i>That the Mayor and General Manager report to Council on discussions.</i></p>	General Manager's Unit	25 June 2008 former Cr Pavier / Cr Graham	Discussions continuing with Administrator.
<p>298 – The Long Jetty Commercial Options Initiative</p> <p>1 <i>That Council receive a briefing as part of the Long Jetty master</i></p>	Shire Planning	25 June 2008 Cr Best / Cr Eaton	To be given further consideration following the adoption of the Draft Entrance Peninsula

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

Notice of Motion	Department	Meeting Resolved	Status
<p><i>planning that will occur following the potential adoption The Entrance Long Jetty Strategy on the permissibility and benefits / disbenefits of considering sub leasing (subject to Departmental approval) an area of the Long Jetty to cater for a commercial operation such as a cafe with possible education aspects.</i></p> <p><i>2 That any economical benefit derived from this activity be allocated to the maintenance and upkeep of the Long Jetty.</i></p>			<p>Planning Strategy. (The TEPPS encourages this type of potential development).</p>
<p>9.1 – Motor Sports Facility</p> <p><i>1 That Council recognise in principle the need to establish a regional motor sport and driver education facility with a view to catering for a broad range of activities including driver education and training opportunities.</i></p> <p><i>2 That Council determine, in partnership with the relevant Government Departments and various peak motor sport organisations, the level of industry support for the establishment of such a regional community facility.</i></p> <p><i>3 That Council seek Expressions of Interest from potential user groups to provide User Group requirements including their potential usage level of such a facility and indicative list of potential events which may be attracted including races showcasing vehicles using alternative technologies.</i></p> <p><i>4 That Council investigates possible locations for a motor sport and driver education facility based on user group requirements.</i></p> <p><i>5 That Council seek Expressions of Interest to build, operate and manage the facility including any alternate Financial Models including any benefits and revenue to the community and Council. Responses should include how they intend to offset green house gas emissions to make the motor sport carbon neutral.</i></p>	<p>Shire Planning</p>	<p>25 February 2009 Cr McNamara / Cr Vincent</p>	<p>Expressions of Interest (EOI) have been called and advertised in the local newspaper and on Council's Website on 1 July and 8 July 2009. EOI close 17 July 2009. Investigations into possible locations for a motor sport and driver education facility are underway.</p>

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

Notice of Motion	Department	Meeting Resolved	Status
<p>9.4 – Council's Animal Care Facility Review</p> <p>1 <i>That Council acknowledge the strategic and operational review of the Animal Care Facility undertaken by the Regulation and Compliance Unit in late 2008.</i></p> <p>2 <i>That Council reiterate the earlier congratulations extended to the Manager of Regulation and Compliance and his team for "the complex review" undertaken which led to the Wyong Animal Care Facility "being nationally identified as a best case example of restructure and operation" as advised by Councillor Best in his Question Without Notice to the Ordinary Meeting held on 12 November 2008.</i></p> <p>3 <i>That staff report to Council on further options for the future management of the facility following the completion of the RSPCA's strategic review of its operations which Council is advised will take approximately 12 months.</i></p> <p>4 <i>That in response to the success of the joint efforts of staff and animal rescue groups resulting in increased re-homing rates, Council acknowledge the need to provide additional kennels and cattery space and therefore give consideration to the provision of capital funds for the extension of the facility as part of its consideration of the 2009-10 Management Plan. However, should additional funds be voted, that the expenditure of such funds not occur until the outcome of the RSPCA strategic review.</i></p> <p>5 <i>That Council embark on a public awareness campaign focusing on responsible pet ownership.</i></p>	Shire Planning	25 February 2009 Cr Best / Cr Matthews	A report will be submitted to Council following completion of the RSPCA Strategic Review.
<p>9.2 – Recording of Council Meetings</p> <p>1 <i>That Council seek legal advice on the legal exposure of Councillors and staff associated with the current practice of recording Council meetings and any future proposal to webcast Council meetings.</i></p> <p>2 <i>That a report on the legal advice be presented to Council at the earliest opportunity.</i></p>	Corporate Services	13 May 2009 Cr McBride /	Report will be provided when legal advice received.

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

Notice of Motion	Department	Meeting Resolved	Status
<p>10.5 – Local Preference Policy</p> <p>1 <i>That Council adopt a local preference policy to be included in the evaluation of tenders, quotations and Council procurement.</i></p> <p>2 <i>That the potential impact of this criteria on stimulating the local economy and creating local jobs be evaluated.</i></p> <p>3 <i>That a policy be prepared and submitted to Council for consideration.</i></p>	<p>Shire Services/Corporate Services</p>	<p>27 May 2009 Cr McBride / Cr Eaton</p>	<p>A report on this matter will be submitted to Council's meeting of 23 September 2009.</p>
<p>11.1 – Notice of Motion – Review of the Code of Meeting Practice</p> <p>1 <i>That a comprehensive review of the Code of Meeting Practice be undertaken, including a briefing and a subsequent report provided to Council.</i></p> <p>2 <i>That Council offer an orientation to the Council Chamber and familiarisation with the Code of Meeting Practice/Meeting Procedure including mock debate to new Councillors.</i></p>	<p>Corporate Services</p>	<p>10 June 2009 Cr McBride /Cr Best</p>	<p>Briefing scheduled for 26 August 2009</p>
<p>11.3 – Notice of Motion – Toukley Gathering of the Clans</p> <p>1 <i>That Council note the offer by "Brackets and Jam" to host and facilitate the 2009 Toukley Gathering of the Clans and that Council support their initiative.</i></p> <p>2 <i>That Council's Grants Committee consider an allocation of funds for the 2009 Toukley Gathering of the Clans at an extraordinary meeting to be held on 17 June 2009.</i></p> <p>3 <i>That Council consider a report on the cost benefits of appointing a Shire wide events co-ordinator.</i></p>	<p>Corporate Services</p>	<p>10 June 2009 Cr Best/Cr Vincent</p>	<p>Items 1 and 2 were considered at the extraordinary meeting of Council's Grants Committee held on 17 June 2009. A report on item 3 will be submitted to Council's meeting of 12 August 2009</p>

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

Notice of Motion	Department	Meeting Resolved	Status
<p>10.1 – Notice of Motion – E-Waste</p> <ol style="list-style-type: none"> 1 <i>That Council provide a report on the estimated annual cost per ratepayer for a bi-annual kerbside collection of e-waste, transport and disposal at a recycling processing plant.</i> 2 <i>That Council report on the current amount Council pays for “e” waste in the waste levy to the NSW State Government and the effects of e-waste on the environment.</i> 3 <i>That Council conduct a six month trial for e-waste drop off once the upgrade works at Buttonderry are completed and at the end of the trial, an information report on the quantity collected and cost of collection be submitted to Council.</i> 4. <i>That Council identify and link in with existing e waste programs currently operating for example Cartridges for Planet Ark, Council’s Chemical Cleanup and Mobile Muster.</i> 	Shire Services	8 July 2009 Cr Wynn / Cr McBride	Report to be provided for Council’s meeting of 9 September 2009.
<p>10.2 – Notice of Motion – Container Deposit Scheme</p> <ol style="list-style-type: none"> 1 <i>That Council acknowledge the significant environmental, economic and social benefits to ratepayers of adopting a Container Deposit Scheme (CDS) in NSW.</i> 2 <i>That Council support the “Community Attitudes Survey” to be conducted by the Environment Protection and Heritage Council and further investigations of CDS at a State Government level in terms of the logistical and financial implications on local government. This should be achieved through conducting on-ground trials and providing more detailed analysis which is directly relevant to NSW Councils.</i> 3 <i>That Council write to the NSW Premier, the Hon Nathan Rees, and the NSW Minister for Climate Change and the Environment, the Hon Carmel Tebbutt, to urge the NSW Government to initiate or support legislation, after further investigation, to establish such a scheme in NSW in line with points 1 and 2.</i> 	Shire Services	8 July 2009 Cr Wynn / Cr Webster	Report to be provided for Council’s meeting of 9 September 2009.

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

Notice of Motion	Department	Meeting Resolved	Status
<p>10.3 – Notice of Motion – Joint Regional Planning Panels</p> <p>1 <i>That Council raise its grave concerns about the recent statement to Parliament by the Minister for Planning flagging the likely extension of powers of the Joint Regional Planning Panels to prepare and determine Local Environmental Plans, Development Control Plans and Section 94 Developer Contribution Plans on the basis of the serious implications on our local community due to this further loss of local decision making.</i></p> <p>2 <i>That Council forward details of its concerns to all local members, the Local Government and Shires Associations and the Minister for Planning.</i></p> <p>3 <i>That Council undertake a media campaign to raise awareness within the community of the potential implications of this further reduction in local decision making and the further reduction in the community's ability to influence its own future.</i></p>	Shire Planning	8 July 2009 Cr Graham / Cr Wynn	Correspondence prepared.
<p>10.4 – Notice of Motion – Improved Mardi-Mangrove Information Flow</p> <p>1 <i>That Council seek to improve the transparent and timely dissemination of emerging information through receiving, as a standing agenda item on all future business papers, a project status report outlining key engineering, financial, contractual and compliance issues.</i></p> <p>2 <i>That Council provide opportunity to the Project Director Mr Greg McDonald to address Council in chambers on the updated reports to further assist this critical information flow.</i></p>	Shire Services	8 July 2009 Cr Best / Cr Wynn	An initial report will be submitted to Council's meeting of 12 August 2009 and thereafter to all future meetings. The Project Director will be in attendance at these meetings.

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

Notice of Motion	Department	Meeting Resolved	Status
<p>10.5 – Notice of Motion – Code of Meeting Practice</p> <p>1 That Council incorporate into the proposed review of its Code of Meeting Practice an amendment to enable a Councillor to request a development application under Part 4 or an assessment under Part 5 be reported to a meeting of Council for determination.</p> <p>2 That Council determine the above provisions following a review of the relevant provisions currently in place at adjoining Councils.</p> <p>3 That this proposal require the application be made by a minimum of two Councillors.</p> <p>4 That the review consider the number of submissions required to automatically trigger a report to Council.</p>	Corporate Services	8 July 2009 Cr Symington / Cr McBride	To be included in Briefing already scheduled for 26 August 2009.

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

Question without Notice / Notice of Motion	Date Asked / Resolved	Outcome
<p>Q037 – Purchase of Crown Land</p> <p><i>Could Council advise on the feasibility of purchasing Crown Land on which its caravan parks are located given the advice ostensibly given to Tuggerah Lakes Golf Course that it could buy Crown Land golf course for its clubhouse?</i></p>	10 June 2009 Cr Eaton	Response included in this business paper
<p>Q038 – Aged Housing Units</p> <p><i>Could Council report on the number of aged housing units built in the last five years, approved or under assessment in the Warnervale, Kanwal area compared to standard housing units?</i></p>	10 June 2009 Cr Eaton	Response included in this business paper
<p>Q039 – Soldiers Beach Carpark Security Gate</p> <p><i>Could staff please advise what actions are being taken to replace the now rusted out and unusable security gate particularly as this area is of high concern due to vandalism?</i></p>	10 June 2009 Cr Best	Response included in this business paper
<p>Q008 - Draft Community Facilities Strategy</p> <p><i>Can staff advise when Councillors should expect to receive the Draft Community Facilities Strategy?</i></p>	25 February 2009 Cr Matthews	A Councillor Briefing was held 8 July 2009. Executive Summary to be provided to Councillors.
<p>8.2 – Webcasting Council Meetings</p> <p><i>That Council prepare a report on the cost, feasibility and other relevant issues of webcasting Council meetings.</i></p>	22 April 2009 Cr Eaton / Cr Best	Response included in this business paper

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

Question without Notice / Notice of Motion	Date Asked / Resolved	Outcome
<p>9.1 – Corporate Uniform</p> <p>1 <i>That Council investigate and report on sourcing an Australian owned and produced corporate uniform.</i></p> <p>2 <i>That the report identify whether the full range of the corporate uniform can be sourced from a single or multiple supplier.</i></p> <p>3 <i>That Council also report on existing supply contracts and the way Council supports Australian and locally produced goods and services.</i></p>	<p>13 May 2009 Cr McBride</p>	<p>Response included in this business paper</p>
<p>10.1 – Support for Council Law Enforcement Officers</p> <p>1 <i>That Council write to all local State Members of Parliament, urging them to support the Crimes (Sentencing Procedure) Amendment (Council Law Enforcement Officers) Bill 2009.</i></p> <p>2 <i>That Council conduct a PR campaign in support of the work their members do on behalf of Councils and their communities.</i></p>	<p>27 May 2009 Cr Best / Graham</p>	<p>Bill has now passed through Parliament. A press release was issued on 3 July 2009 welcoming recent changes to the Crimes Sentencing Act. Appropriate PR campaign will now commence.</p>
<p>11.4 - Motion of Urgency – Bid to Host the NSW Surf Lifesaving Championships</p> <p>1 <i>That Council support Surf Lifesaving Central Coast's bid to host the 2011, 2012 and 2013 NSW Surf Lifesaving Championships.</i></p> <p>2 <i>That Council seek the support and partnership of Gosford City Council to afford the event regional status.</i></p> <p>3 <i>That Council provide a comprehensive report to Council's meeting on 22 July 2009 with a view to submitting a joint expression of interest from the two Councils in conjunction with Surf Lifesaving Central Coast in accordance with the bid's August deadline.</i></p> <p>4 <i>That subject to a Joint Meeting of Gosford/Wyong Councils being convened prior to the bid deadline this matter be included as an agenda item.</i></p>	<p>10 June 2009 Cr Best/Cr Matthews</p>	<p>Response included in this business paper</p>

ATTACHMENTS

Nil.

8.1 Answers to Question Without Notice

TRIM REFERENCE: F2004/12148 - D01935105 AUTHOR: DD

8.1 Q038 - Aged Housing Units

The following question was asked by Councillor Eaton at the Ordinary Meeting on 10 June 2009:

“Could Council report on the number of aged housing units built in the last five years, approved or under assessment in the Warnervale, Kanwal area compared to standard housing units?”.

Between 10 June 2004 and 10 June 2009, 548 development applications were lodged for the following residential developments:

Type of Development	Under Assessment	Approved	Occupancies	Approximate No of People
Dwellings	4	544	548	1315
Dual Occupancy	-	12	12	29
Residential Flat Units	-	2	31	74
Aged Care	Nil	4	1361	3266

The table above indicates that a significant portion of the population for Warnervale, Wadalba and Kanwal area are housed in aged care facilities.

ATTACHMENTS

Nil.

8.2 Answers to Question Without Notice

TRIM REFERENCE: F2004/05301 - D01935108 AUTHOR: MA

8.2 Q039 - Soldier's Beach Carpark Security Gate

The following question was asked by Councillor Best at the Ordinary Meeting on 10 June 2009:

“Could staff please advise what actions are being taken to replace the now rusted out and unusable security gate particularly as this area is of high concern due to vandalism?”

Council maintenance staff confirm that the gate requires replacement. A replacement gate has been received and staff are making appropriate arrangements to have the new gate installed by the end of July 2009.

These arrangements include co-ordinating a traffic control team to be available on the day as the works may involve closure of the road for approximately half a day.

ATTACHMENTS

Nil.

9.1 Notice of Motion - Livistonia Australis

TRIM REFERENCE: F2004/08306 - D01949042

AUTHOR: SW

Councillor Wynn has given notice that at the Ordinary Meeting to be held on Wednesday 22 July 2009 she will move the following Motion:

“That as part of the Revegetation Plan for the Crown Land behind the proposed Cabbage Tree Harbour Toe-drainage Structure, Council incorporate a trial planting of the endemic species Livistonia australis, commonly known as Cabbage Tree Palm.”

9.2 Notice of Motion - Community Gardens

TRIM REFERENCE: F2006/01028 - D01949053

AUTHOR: SW

Councillor Wynn has given notice that at the Ordinary Meeting to be held on Wednesday 22 July 2009 she will move the following Motion:

“That Council develop a Strategic Policy for Community Gardens which involves the following:

- 1 That a policy to support the development of Community Gardens be formulated for Wyong Shire. This policy shall be guided by the following requirements:*
 - a Establish community gardens in new and existing residential areas in partnership with local residents.*
 - b Ensure that sufficient land is made available in newly planned residential areas to provide for community gardens, in a similar way in which open space is planned as part of contemporary town planning practice.*
 - c The policy should provide opportunities to retrofit community gardens in established residential areas where it can be established that there is sufficient community will and interest to justify one.*
 - d That clearly identifies Council's roles and responsibilities.*
- 2 That Council identify funding opportunities eg grants and other forms of in kind assistance to help community groups.*
- 3 That the process for establishing community gardens be simplified by providing information to assist community groups in being able to meet Council requirements. This would involve the identification of suitable land upfront by Council and providing documentation which carefully explains what is needed in terms of development consent, consultation processes with nearby residents/competing user groups for existing open space, land leasing requirements and insurance liability requirements.*
- 4 That this policy be prepared by the Shire Planning Department and submitted to Council for consideration.”*

COUNCILLOR'S NOTE

Community gardening is a valuable activity that contributes to people's well being, social interaction, community development, environmental education and assists people to live more sustainably. The motion has been put forward to enable Council to better support community groups who seek to establish community gardens in Wyong Shire. It is stressed that such proposals need to be handled sensitively, especially to ensure that existing park users are not displaced as a result of community gardens and that the views of adjoining residents sought before a community garden is proposed.

9.3 Notice of Motion - Forum on Community Facilities

TRIM REFERENCE: F2007/01569 - D01960448

AUTHOR: MR

Councillors McBride, Matthews and Vincent have given notice that at the Ordinary Meeting to be held on 22 July 2009 they will move the following Motion:

“That Council invite community groups, sporting associations, Non Government Organisations, charities, 355 Committees and corporate clients to a community forum to discuss topics including but not limited to:

- * community facilities: availability/utilisation,*
- * conducting/hosting events: application process,*
- * support available – financial/in kind,*

with a view to engaging residents by responding to community needs and appropriate utilisation of facilities consistent with Shire Strategic Vision, Assessment Management Strategy, long term financial strategy, Management Plan 2009-10, Community Plan 2008 and Cultural Plan 2008.

9.4 Notice of Motion - Youth Employment Target

TRIM REFERENCE: F2004/00342 - D01960450

AUTHOR: MR

Councillor Eaton has given notice that at the Ordinary Meeting to be held on 22 July 2009 he will move the following Motion:

“That Council adopt a target of 10% of its workforce as being young persons aged 25 or less.”