



Council and the Entrance Cricket Club have joined forces to save an estimated five million litres of town water every year by switching to recycled water for irrigation. With funding from the Council and the Central Coast Water Savings Fund, the existing town water supply at Eastern Road Oval, Killarney Vale has been replaced with a permanent alternative water supply to water the field

# Business Paper

ORDINARY MEETING

23 June 2010



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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 23 JUNE 2010 at 5.00 pm,**  
for the transaction of the business listed below:

## OPENING PRAYER

## ACKNOWLEDGEMENT OF COUNTRY

## RECEIPT OF APOLOGIES

### 1 PROCEDURAL ITEMS

1.1	Disclosure of Interest.....	5
1.2	Proposed Inspections.....	6
1.3	Address By Invited Speakers .....	7
1.4	Confirmation of Minutes of Previous Meeting.....	8

### 2 KEY ISSUES

2.1	Adoption of Annual Plan 2010-11.....	23
2.2	Making and Fixing of Rates and Charges for 2010-11.....	43
2.3	A Van Stappen Pty Limited -V- Wyong Shire Council Deed of Settlement and Release.....	54
2.4	DA 1396/2009 - Proposed Health Services Facility at Woongarrah .....	64
2.5	Waste Levy - Section 88 Audit Negotiations .....	86
2.6	Wyong Shire Council ats Environment Protection Authority Land and Environment Court Proceedings No 50014, 50015 and 50016 of 2010.....	93
2.7	Proposed Funding Agreement between Wyong Shire Council and Central Coast Tourism Incorporated.....	96

### 3 PLANNING REPORTS

3.1	DA/664/2009 Proposed Dual Occupancy at Lakeside Parade, Long Jetty.....	102
3.2	Comprehensive Local Environmental Plan Review Project .....	122

### 4 CONTRACT REPORTS

4.1	Contract Variations and Finalisation - May 2010.....	144
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### 5 GENERAL REPORTS

5.1	Review of All Boat Ramps within Wyong Shire.....	157
5.2	Policies on Grants and Sponsorship .....	182
5.3	Minutes - Wyong Shire Seniors Citizens Council meeting - 27 May 2010.....	200
5.4	Proposed Councillors' Community Improvement Grants .....	206
5.5	Amendment to Delegation of Authority to General Manager .....	210

**6 INFORMATION REPORTS**

6.1	Information Reports .....	213
6.2	Central Coast Capital - Response from the Minister for Planning.....	214
6.3	Activities of the Development Assessment Unit .....	216
6.4	General Works in Progress .....	221
6.5	Works in Progress Report - Water Supply and Sewerage .....	237
6.6	Mardi to Mangrove Link Project Status .....	242
6.7	Investments for May 2010 .....	245
6.8	Update on the Formation of the Central Coast Water Corporation .....	250
6.9	Outstanding Questions Without Notice and Notices of Motion .....	257

**7 ANSWERS TO QUESTIONS WITHOUT NOTICE**

7.1	Q81/10 - Details of Council's Legal Costs over the Past Five Years .....	262
7.2	Q82/10 - Residential Suburb of Minister for the Central Coast .....	264
7.3	Q83/10 - Library Cards .....	265

**8 NOTICES OF MOTION**

8.1	Notice of Motion - Water Corporation Impact Assessment .....	266
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**9 QUESTIONS WITHOUT NOTICE ASKED**

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

Michael Whittaker  
**GENERAL MANAGER**

## 1.1 Disclosure of Interest

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TRIM REFERENCE: F2010/00009 - D02225012

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

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TRIM REFERENCE: F2010/00009 - D02225014

AUTHOR: SW

### SUMMARY

Inspections proposed to be held on 7 July 2010 are listed as follows:

Date of Inspection	Location	Requested By
7 July 2010	DA 93/2010 -1B Cooranga Road, Wyongah (Single Storey Dwelling)	Director, Shire Planning
7 July 2010	DA/66/2010 – 26 Stewart Street, The Entrance (Proposed two story dwelling and demolition of existing structures)	Director, Shire Planning
7 July 2010	The Entrance Town Centre Tiles	Director, Shire Services
7 July 2010	DA 44/2010 - Lot 148 and 346 in DP 755227 Dog Trap Road, Ourimbah (Boundary Adjustment)	Director, Shire Planning

### RECOMMENDATION

*That Council receive the report on Proposed Inspections.*

### **1.3 Address By Invited Speakers**

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TRIM REFERENCE: F2010/00009 - D02225017

AUTHOR: SW

#### **SUMMARY**

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

#### **RECOMMENDATION**

*That Council receive the report on Invited Speakers.*

## **1.4 Confirmation of Minutes of Previous Meeting**

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TRIM REFERENCE: F2010/00009 - D02225009

AUTHOR: SW

### **SUMMARY**

Confirmation of minutes of the previous Ordinary Meeting of Council held on 9 June 2010.

### **RECOMMENDATION**

***That Council confirm the minutes of the previous Ordinary Meeting of Council held on 9 June 2010.***

### **ATTACHMENTS**

1 Minutes - Ordinary Meeting - 9 June 2010      D02259380



**WYONG SHIRE COUNCIL**

**MINUTES OF THE  
ORDINARY MEETING OF COUNCIL  
HELD IN THE COUNCIL CHAMBER  
WYONG CIVIC CENTRE, HELY STREET, WYONG  
ON 9 June 2010  
COMMENCING AT 5:06 PM**

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**PRESENT**

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

**IN ATTENDANCE**

General Manager, Director Shire Planning, Director Shire Services, Director Corporate Services, Acting Manager Future Planning, Manager Development Assessment and Project Director Mardi to Mangrove Project.

Executive Manager Shire Services, Manager Customer and Community Services, Manager Governance and Administration and three administration staff.

The Mayor extended congratulations to Councillor McNamara on his pre-selection as the Liberal Candidate for the upcoming Federal election for the seat of Dobell.

Councillor Webster on behalf of Central Coast Multiple Sclerosis Society passed on thanks to those Councillors who contributed towards the grant which enabled nine people to enjoy a five day respite at Camp Breakaway.

The Mayor outlined his proposed media release on the State Budget.

The Mayor, Councillor Graham, declared the meeting open at 5.06 pm and advised in accordance with the Code of Meeting Practice that the meeting is being recorded.

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

**APOLOGIES**

There were no apologies.

## **1.1 Disclosures of Interest**

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### **2.1 Proposed lease of Part of Lot 103 DP 877557 at Pacific Highway, Wyong to Wyong Golf club for Car Parking**

Councillor Webster declared a non-pecuniary insignificant conflict of interest in the matter for the reason that her husband is a member of Wyong Golf Club 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."*

### **4.1 Government Review of Joint Regional Planning Panels**

Councillor Eaton declared a non-pecuniary insignificant conflict of interest in the matter for the reason that he is a Joint Regional Planning Panel Member 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 I am a Council appointed panel member."*

### **4.5 Proposed Councillors' Community Improvement Grants**

Councillor Best declared a pecuniary interest in the matter for the reason that he is the General Manager of Central Coast Group Training Inc, left the meeting at 5.58 pm, took no part in voting and returned to the meeting at 6.01 pm.

Councillor Eaton declared a non-pecuniary significant conflict of interest in the matter for the reason that he is the Chairperson of Central Coast Group Training Inc, left the meeting at 5.58 pm, took no part in voting and returned to the meeting at 6.01 pm.

### **5.1 Central Coast Mariners Funding Report**

Councillor Graham declared a non-pecuniary significant conflict of interest in the matter for the reason that he is a Member of the Central Coast Mariners Board of Directors, left the meeting at 6.02 pm, took no part in voting and returned to the meeting at 6.12 pm.

### **9.3 Notice of Motion – Health Studies Mining and Power Stations**

Councillor Vincent declared a non-pecuniary significant conflict of interest in the matter for the reason that he is an employee of Delta Electricity, left the meeting at 7.07 pm, took no part in voting and returned to the meeting at 7.14 pm.

**9.6 Notice of Motion – Drug and Alcohol Clinic Toukley Area**

Councillor McBride declared a non-pecuniary significant conflict of interest in item 2 of the recommendation for the reason that she is an employee of NSCCA, left the meeting at 7.30 pm, took no part in voting and returned to the meeting at 7.58 pm.

**9.7 Notice of Motion - Open Letter to the NSW Parliament in Support of No New coal Power**

Councillor Vincent declared a non-pecuniary significant conflict of interest in the matter for the reason that he works for a coal fuel power station (Delta Electricity), left the meeting at 8.27 pm, took no part in voting and returned to the meeting at 8.28 pm.

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

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

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

AGAINST: NIL

**1.2 Inspections**

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

***That Council receive the report on Inspections.***

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

AGAINST: NIL

**1.3 Address By Invited Speakers**

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

***That Council receive the amended report on Invited Speakers.***

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

AGAINST: NIL

**1.4 Confirmation of Minutes of Previous Meeting**

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

**That Council confirm the minutes of the previous Ordinary Meeting of Council held on 26 May 2010.**

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

AGAINST: NIL

**Business Arising**

There was no business arising.

**2.1 Proposed lease of Part of Lot 103 DP 877557 at Pacific Highway, Wyong to Wyong Golf Club for Car Parking**

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Councillor Webster declared a non-pecuniary insignificant conflict of interest in the matter for the reason that her husband is a member of Wyong Golf Club 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."*

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

- 1 That Council endorse, as the owner Lot 103 DP 877557, a development application by Wyong Golf Club Limited to construct a carpark and a new 18th green.**
- 2 That Council lease part of Lot 103 DP 877557 at Pacific Highway, Wyong to Wyong Golf Club Limited for a term of 10 years at nominal rent for the purpose of car parking subject to development consent being obtained.**
- 3 That Council authorise the Common Seal of Wyong Shire Council to be affixed to the Lease between Wyong Shire Council and Wyong Golf Club Limited.**
- 4 That Council authorise the Mayor and General Manager to execute all documents relating to the Lease between Wyong Shire Council and Wyong Golf Club Limited.**

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

AGAINST: NIL

### 3.1 **Contract CPA/139071 - Supply and Delivery of Stationery and Ancillary products**

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

***That Council exercise its option to extend contract CPA/139071 for the Supply and Delivery of Stationery and Ancillary Products for one year effective from the 1 July 2010 at an estimated annual cost of \$226,611 (excl. GST).***

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

AGAINST: NIL

### 4.1 **Government Review of Joint Regional Planning Panels**

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COUNCILLOR MCNAMARA LEFT THE MEETING AT 05:17 PM AND RETURNED TO THE MEETING AT 05:19 PM DURING CONSIDERATION OF THIS ITEM.

Councillor Eaton declared a non-pecuniary insignificant conflict of interest in the matter for the reason that he is a Joint Regional Planning Panel Member 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 I am a Council appointed panel member."*

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

- 1 That Council request the Minister for Planning to amend his proposal regarding the return of the consent authority role in respect of certain development applications such that the delegation is returned to the Council for applications to be determined in accordance with the Council's current delegations.**
- 2 That Council advise the Minister for Planning that the Specific Precincts within Wyong Shire are:**
  - ***The Entrance Peninsular Planning Strategy***
  - ***Wyong/Tuggerah Strategy***
  - ***Tuggerah Business Park***
  - ***Warnervale Town Centre***
- 3 That Council approach the Local Members of State Parliament requesting that they make representations to the Premier and Minister for Planning regarding the return of all JRPP applications to Council.**

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

AGAINST: COUNCILLORS MATTHEWS, MCBRIDE AND VINCENT

#### **4.2 Tuggerah Lakes Estuary Coastal and Floodplain Management Committee - Water Quality Testing for Beaches and Lake Locations**

COUNCILLOR MCNAMARA LEFT THE MEETING AT 05:39 PM AND RETURNED TO THE MEETING AT 05:40 PM DURING CONSIDERATION OF THIS ITEM.

COUNCILLOR MATTHEWS LEFT THE MEETING AT 05:47 PM AND RETURNED TO THE MEETING AT 05:49 PM DURING CONSIDERATION OF THIS ITEM.

A MOTION was MOVED by Councillor GRAHAM and SECONDED by Councillor WEBSTER:

That Council adopt the recommendations of the Tuggerah Lakes Estuary Coastal and Floodplain Management Committee being:

- a That all lake water quality testing sites that are not designated "lake swimming locations", be removed from future Beachwatch programs commencing 1 July 2010.
- b That future results of water quality testing for lake locations that are not designated swimming locations continue to be monitored to detect changes in water quality and the results of such testing be submitted to the Estuary Management Unit.

AN AMENDMENT was MOVED by Councillor EATON and SECONDED by Councillor BEST:

- 1 That the lakes sites continue to be reported as part of this beachwatch and lake locations report.
- 2 That staff prepare a report on testing of the existing lakes sites for human faecal coliforms.

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

FOR: COUNCILLORS BEST AND EATON

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

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

That Council adopt the recommendations of the Tuggerah Lakes Estuary Coastal and Floodplain Management Committee being:

- a That all lake water quality testing sites that are not designated "lake swimming locations", be removed from future Beachwatch programs commencing 1 July 2010.
- b That future results of water quality testing for lake locations that are not designated swimming locations continue to be monitored to detect changes in water quality and the results of such testing be submitted to the Estuary Management Unit.

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

AGAINST: COUNCILLORS BEST AND EATON

**4.3 NSW Local Government Association Conference 2010**

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

- 1 That Council authorise interested Councillors to attend the Local Government and Shires Association Annual Conference 2010.**
- 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 consider any motions to be submitted to the conference prior to August 2010.**

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

AGAINST: NIL

**4.4 Determination by the Local Government Remuneration Tribunal on Councillor Fees for 2010-11**

---

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

- 1 That Council implement the determination made by the Local Government Remuneration Tribunal in respect of Councillor and Mayoral fees.**
- 2 That Council set the annual Mayoral Fee at \$53,980 for the period 1 July 2010 to 30 June 2011.**
- 3 That Council set the annual Deputy Mayoral fee at \$7,710.15 for the period 1 July 2010 to 30 June 2011 in accordance with Clause 6.2 of Council's Facilities and Expenses Policy.**
- 4 That Council reduce the paid annual Mayoral Fee by \$7,710.15 to fund the annual Deputy Mayoral fee.**
- 5 That Council reduce the paid annual Mayoral Fee by \$1,798.13 for use of the Mayoral Motor Vehicle in accordance with Clause 5.3 of the Council's Facilities and Expenses Policy for Councillors.**
- 6 That Council set the Annual Councillor Fee at \$20,320 for the period 1 July 2010 to 30 June 2011.**

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

AGAINST: NIL

#### **4.5 Proposed Councillors' Community Improvement Grants**

---

Councillor Best declared a pecuniary interest in the matter for the reason that he is the General Manager of Central Coast Group Training Inc, left the meeting at 5.58 pm, took no part in voting and returned to the meeting at 6.01 pm.

Councillor Eaton declared a non-pecuniary significant conflict of interest in the matter for the reason that he is the Chairperson of Central Coast Group Training Inc, left the meeting at 5.58 pm, took no part in voting and returned to the meeting at 6.01 pm.

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

**That Council allocate an amount of \$17,080.00 from the 2009-10 Councillors' Community Improvement Grants as outlined in the report.**

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

AGAINST: NIL

#### **4.6 Facility Agreement - Westpac Banking Corporation**

---

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

- 1 That Council accept the offer of loan borrowings, dated 4 June 2010, for an amount of \$35,000,000 for a 10 year term, based on a 20 year amortisation table, from Westpac Banking Corporation in accordance with the 2009-10 Management Plan.**
- 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 BEST, EATON, GRAHAM, MATTHEWS, MCBRIDE, MCNAMARA,  
SYMINGTON, VINCENT, WEBSTER AND WYNN

AGAINST: NIL



## **5.1 Central Coast Mariners Funding Report**

---

Councillor Graham declared a non-pecuniary significant conflict of interest in the matter for the reason that he is a Member of the Central Coast Mariners Board of Directors, left the meeting at 6.02 pm, took no part in voting and returned to the meeting at 6.12 pm.

Councillor Graham vacated the chair and Councillor Matthews assumed the chair.

COUNCILLOR MCNAMARA LEFT THE MEETING AT 06.03 PM AND RETURNED TO THE MEETING AT 06.05 PM DURING CONSIDERATION OF THIS ITEM.

COUNCILLOR VINCENT LEFT THE MEETING AT 06:09 PM AND RETURNED TO THE MEETING AT 06:11 PM DURING CONSIDERATION OF THIS ITEM AND AS A RESULT TOOK NO PART IN VOTING.

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

- 1 That, subject to Gosford City Council and the Department of Industry and Investment each contributing \$100,000), Council also contribute \$100,000 towards sponsoring the Central Coast Mariners for the 2010/2011 A League season (this may be in-kind).**
- 2 That Council pay the funds within 14 days of the Central Coast Mariners entering into an acceptable sponsorship agreement with Council.**
- 3 That the form of this agreement be reported to Council prior to its execution and the agreement include but not be limited to business plan, marketing plan, financial accounts and viability, game attendances and community involvement activity.**

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

AGAINST: NIL

Councillor Graham assumed the chair.

## **6.1 Delegate's Report - The Place of the Child in Community Building**

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

**That Council receive the Delegate's Report - The Place of the Child in Community Building.**

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

AGAINST: NIL

**7.1 Information Reports**

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

**That with the exception of report number 7.2, Council receive the information reports and adopt the recommendations.**

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

AGAINST: NIL

**7.2 Mardi to Mangrove Link Project Status**

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

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

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

AGAINST: NIL

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

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**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 BEST, EATON, GRAHAM, MATTHEWS, MCBRIDE, MCNAMARA, SYMINGTON, VINCENT, WEBSTER AND WYNN

AGAINST: NIL

**PROCEDURAL MOTION**

A MOTION was *MOVED* by Councillor *BEST* and *SECONDED* by Councillor *EATON*:

*That item 9.6 – Notice of Motion – Drug and Alcohol Clinic Toukley Area be considered next due to the number of people in the gallery.*

FOR: COUNCILLORS BEST AND EATON

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

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

**9.1 Notice of Motion - Department of Housing Expansion**

---

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

***That Council request the Department of Housing to brief Council on the Department's current and future programs of delivering housing stock in this region.***

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

AGAINST: COUNCILLORS GRAHAM, MATTHEWS, MCBRIDE AND VINCENT

**9.2 Notice of Motion - Installation of Disabled Beach Access at the Lakes Beach Surf Club**

---

Mr Garry Blaschke, President of the Disabled Surfers Association, addressed the meeting at 6.33 pm, answered questions and retired at 6.50 pm.

COUNCILLOR MCNAMARA LEFT THE MEETING AT 06:52 PM AND RETURNED TO THE MEETING AT 06:57 PM DURING CONSIDERATION OF THIS ITEM.

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

***That Council support in principle the installation of disabled beach access facilities at the Lakes Beach Surf Club and a status report be brought back to Council.***

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

AGAINST: NIL

### **9.3 Notice of Motion - Health Studies Mining and Power Stations**

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Councillor Vincent declared a non-pecuniary significant conflict of interest in the matter for the reason that he is an employee of Delta Electricity, left the meeting at 7.07 pm, took no part in voting and returned to the meeting at 7.14 pm.

COUNCILLOR MATTHEWS LEFT THE MEETING AT 07:09 PM AND RETURNED TO THE MEETING AT 07:10 PM DURING CONSIDERATION OF THIS ITEM.

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

**That Council write to the Premier, Health Minister, Planning Minister and Environment Minister, and ask them to;**

- a Agree to design and undertake a comprehensive independent population health study to assess the impact of coalmining and coal-fired power stations on the health of residents in the Wyong Shire and any impact on the local water supply and food chain,**
- b Ensure the monitors to be used for air quality monitoring in Wyong Shire can measure particles to 2.5 microns, and can test and analyse the composition and toxic properties of dust pollution in the Wyong Shire,**
- c Make the findings of the health study and all pollution monitoring and any pollution testing data readily available to the public in an accessible format via the internet, in real time,**
- d Establish a permanent and well resourced EPA office in Wyong Shire to investigate and monitor coal mining and coal-fired power related pollution.**

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

AGAINST: NIL

### **9.4 Notice of Motion - Calga Sand Mining Proposal - Support to Local Residents**

---

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

- 1 That Council support residents of the Central Coast and in particular the residents of Somersby in their fight against the proposed extension of the Calga Sand Mine. The proposed extension of mine operations is expected to have significant impacts on surface water and groundwater, Aboriginal heritage, air quality and noise as well as the destruction of a number of hanging swamps and endangered ecological communities. The proposal is being assessed by the Minister for Planning as a Part 3A application. The situation is quite similar to that of Wyong Council and the residents of the Dooralong and Yarramalong Valleys in their fight against the proposed Kores Coal Mine.**
- 2 That Council send a letter of support to the Mayor of Gosford City Council.**

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

AGAINST: NIL

**9.5 Notice of Motion - Water Corporation Impact Assessment**

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The item was withdrawn by Councillor Eaton to be considered at Council's meeting of 23 June 2010.

**9.6 Notice of Motion - Drug and Alcohol Clinic Toukley Area**

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Ms Deborah Meier, addressed the meeting at 7.30 pm, answered questions and retired at 7.39 pm.

Councillor McBride declared a non-pecuniary significant conflict of interest in item 2 of the recommendation for the reason that she is an employee of NSCCAH, left the meeting at 7.30 pm, took no part in voting and returned to the meeting at 7.58 pm.

COUNCILLOR MCNAMARA LEFT THE MEETING AT 07:46 PM AND RETURNED TO THE MEETING AT 07:49 PM DURING CONSIDERATION OF THIS ITEM.

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

- 1 That Council note with concern the recent public announcement proposing the establishment of a Drug and Alcohol Clinic at Toukley / Canton Beach as it is not in keeping with the local residential amenity and does not meet the aims and objectives of the new Draft Toukley Strategy.***
- 2 That Council call on the State Government and the proponents in partnership with Council to identify a more suitable location.***
- 3 That subject to this matter requiring a DA process any determination be by way of a report to Council.***

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

AGAINST: NIL

**9.7 Notice of Motion - Open Letter to the NSW Parliament in Support of No New Coal Power**

COUNCILLOR BEST LEFT THE MEETING AT 07:58 PM AND RETURNED TO THE MEETING AT 08:03 PM DURING CONSIDERATION OF THIS ITEM.

COUNCILLOR MATTHEWS LEFT THE MEETING AT 08:22 PM AND RETURNED TO THE MEETING AT 08:23 PM DURING CONSIDERATION OF THIS ITEM.

Councillor Vincent declared a non-pecuniary significant conflict of interest in the matter for the reason that he works for a coal fuel power station (Delta Electricity), left the meeting at 8.27 pm, took no part in voting and returned to the meeting at 8.28 pm.

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

- 1 That, taking into account the potential significant risk to Wyong Shire from the Proposed Wallarah 2 Coal Mine, Council join with Greenpeace Australia Pacific and the growing number of environmental organisations, community groups and NSW Government to stop further approvals of the new coal fired power stations.**
- 2 That Council, in this regard, become a signatory to the Open Letter to the NSW Parliament in support of no new coal power.**

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

AGAINST: COUNCILLORS BEST, EATON AND MCNAMARA

**QUESTIONS WITHOUT NOTICE****Q85/10 Appreciation of IT Support to Councillors  
Councillor Greg Best**

*“Mr General Manager, as you are aware IT support to Councillors is critical in assisting the timely and effective flow of information from staff and indeed our residents and rate payers. It is with this understanding that I seek your assistance in passing on our sincere appreciation to this staff unit for their understanding, patients and support of Councillors’ IT needs.”*

The General Manager forwarded on his appreciation to the Director Corporate Services at the meeting.

**THE MEETING** closed at 8.29 pm.

## **2.1 Adoption of Annual Plan 2010-11**

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TRIM REFERENCE: F2004/07006 - D02243578

AUTHOR: BR

### **SUMMARY**

The Annual Plan for 2010-11 is presented for Council's consideration and adoption.

#### ***Recommendation***

- 1 That Council receive the submissions concerning the Draft 2010-11 Annual Plan.**
- 2 That Council adopt the Draft 2010-11 Annual Plan and the estimates of income and expenditure inclusive of changes as detailed in this report.**
- 3 That Council set the rate and charge rebates to pensioners for the year 2010-11 in accordance with relevant legislation and Council policy.**
- 4 That Council is of the opinion that the following rateable land will derive benefit from the business related costs of The Entrance Town Centre Management as detailed in Attachment 1:**
  - a All land used for business purposes and categorised as such in accordance with Section 518 of the Local Government Act 1993 in the suburb known as The Entrance.**
  - b All land used as Major Facilities servicing tourists including Service Stations, Camp or Caravan Sites, Registered Clubs, Tourist Accommodation and Hotels/Motels as defined in Council's current Local Environmental Plan (LEP) and District Shopping Centres as defined in Council's current Retail Strategy in the suburbs known as The Entrance North, The Entrance, Blue Bay, Long Jetty, Toowoan Bay, Shelly Beach, Bateau Bay and Magenta.**
  - c All land used as rental accommodation and which is categorised as Residential under Section 516 of the Local Government Act, 1993 which is rented or leased for periods of three months or less in the suburbs known as The Entrance North, The Entrance, Blue Bay and Toowoan Bay.**
- 5 That Council is of the opinion that the following rateable land will derive benefit from the business related costs of the Greater Toukley Vision as detailed in Attachment 2:**

**All land used for business purposes and categorised as such in accordance with Section 518 of the Local Government Act 1993 in the suburbs known as Toukley, Canton Beach, Noraville and Norah Head.**
- 6 That Council is of the opinion that the following rateable land will derive benefit from the business related costs of the Wyong-Tuggerah Chamber of Commerce as detailed in Attachment 3:**

- a** *All land used for business purposes and categorised as such in accordance with Section 518 of the Local Government Act 1993 in the suburb known as Watanobbi.*
- b** *All land used for business purposes and categorised as such in accordance with Section 518 of the Local Government Act 1993 in the suburb known as Wyong, bounded by the following:*
- *North of the Wyong River from Tacoma in the east to the F3 Freeway in the west;*
  - *East of the F3 Freeway from the Wyong River to the suburb boundary between Wyong and Warnervale but to exclude Lot 32 DP 814964;*
  - *South of the northern Wyong boundary to its intersection with the Pacific Highway and then south of the Pacific Highway to the intersection of Pollock Avenue, but to include Lot 400 DP 1114793, Lot 1 DP 411020, Lot 3 DP 607756 and Lot 1 DP 1090455 (these lots being to the north of the Pacific Highway); and*
  - *The eastern boundary of the suburb of Wyong from Johns Road to Wyong River.*
- 7** *That Council set the fees and charges for 2010-11 as detailed in the Revenue Policy and incorporating the changes outlined in this report.*
- 8** *That Council authorise the General Manager to borrow up to a total of \$27,750,000 from financial institutions with an Australian banking licence and \$2,457,000 from the Department of Lands in accordance with the Annual Plan.*

## **BACKGROUND**

The Local Government Act 1993 requires Council to adopt an Annual Plan prior to 30 June each year.

Council recently exhibited the Draft 2010-11 Management Plan in accordance with the provisions of s.405 of the Local Government Act 1993.

The Local Government Act was amended in October 2009 to give effect to the integrated planning and reporting framework. As a result, Council will be adopting an "Annual Plan" (the Plan) for 2010-11.

The Local Government Act provides transitional provisions for the phased take-up of integrated planning and reporting framework.

Council resolved on 10 February 2010 to be in Group 2 for the implementation; this means that Wyong Shire Council will need to develop and adopt a Four-Year Delivery Program, Long-Term Financial Strategy and Asset Management Policy (in addition to the Shire Strategic Vision and Annual Plan) by 30 June 2011.



## **2.1 Adoption of Annual Plan 2010-11 (contd)**

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The Draft Annual Plan was placed on public exhibition from Wednesday, 21 April 2010 to Wednesday, 19 May 2010. Copies of the plan were available for viewing at the Civic Centre in Wyong, at Council's Library and Information Centres, and on Council's website.

In addition to exhibition of the Plan, staff conducted a community briefing on Plan (29 April 2010) which was attended by ten community members. Feedback and suggestions from the briefing proposed a number of changes to the Plan including:

- Expansion of the information provided on the assessment criteria and prioritisation process used for the Rolling Works Program.
- Inclusion of matching grant funds for shared pathways to assist lobbying and advocacy efforts for new shared pathway grants.
- Inclusion of information about Council's planned land sales and expenditure funded from the Land Development Reserve in 2010-11.
- Addition of a note on the total expenditure (\$9.3m) for lakes/lake foreshores to illustrate Council's commitment to the Shire's lakes.
- Emphasis (by comment) on the importance of volunteering to the social, economic and environmental well being of our Shire.
- Inclusion of pie charts of Council's expenditure and source of funds.
- An explanation of Section 94 contributions and how they may be used in the Shire.

The Act requires Council to give due consideration to any submissions made concerning the Plan.

Council received three submissions during the exhibition period on the Draft 2010-11 Management Plan which raised issues including increased funding for Central Coast Tourism, the environment and Land Care groups.

A summary of the submissions is included as Attachment 4 and are available on file for reviewing if required.

### **PROPOSAL – THE ANNUAL PLAN OVERVIEW**

This year's document reflects that it is not 'business as usual' and it shows that Council is reallocating its current effort to emphasise, where possible, the eight Priority Objectives identified in the Shire Strategic Vision.

The Annual Plan for 2010-11, has a new look and feel, having undergone a re-design process to incorporate the new direction of the Shire Strategic Vision. It now details the initial contribution of the organisation towards implementing the Shire Strategic Vision and provides information to the community about the wide range of activities in which the organisation engages in support of that Vision.

In addition to the significant amount of work that can be done within existing resources to work towards the achievement of the priority objectives of the Shire Strategic Vision in 2010-11, additional resources have been added to specific programs including:

- increased maintenance of sports and recreation facilities (fields, courts, swimming pools and recreation centres), to improve the standards of facilities by implementing planned proactive maintenance programs and addressing the backlog of maintenance requirements.

## 2.1 Adoption of Annual Plan 2010-11 (contd)

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- increased maintenance and upgrade of community buildings (senior citizens' centres, community centres and other community buildings), to improve the condition of facilities and to ensure facilities are maintained at an acceptable standard, in line with Council's Asset Management Strategy.
- additional community programs to build community connectedness for example: Get-To-Know Your Neighbours, local street and park parties and community information.
- additional local neighbourhood projects to build community connections and pride (either as a direct service provider or in partnership with community organisations/government).
- utilisation of volunteer groups to tackle graffiti, for example partnering with community or service groups to supply equipment and training to implement volunteer graffiti removal programs in the community.
- compile promotional materials and maintain up-to-date business information to maximise business and employment opportunities within the Shire.

The Draft Plan also includes a continuation of funding for the Aboriginal Community Development Worker (part funding will be sought from other parties) to work with the indigenous population and implement a whole-of-community program to 'bridge the gap'.

Other features of the 2010-11 Annual Plan include:

### **Mardi-Mangrove Link**

The major capital project in the 2010-11 Annual Plan is the construction of the Mardi-Mangrove Link pipeline as part of the Central Coast's long-term water supply strategy, WaterPlan 2050. This project will enhance the region's water supply system and help secure it into the future. This, in turn, will give greater support to the Shire's social fabric, economic base and local environment. Work has begun on the project and completion is expected in late 2011. The Mardi-Mangrove project is an initiative of Gosford City and Wyong Shire Councils with Federal Government funding of \$80.3m for the entire project through the Water Smart Australia Program.

### **Tuggerah Lakes Estuary Management Plan**

The 2010-11 Annual Plan includes \$7.9m for the continuing implementation of the Tuggerah Lakes Estuary Management Plan to help improve the quality of the Shire's waterways and revitalise the recreational, social, environmental and economic values of the lakes and their foreshores.

This budget is funded from the Stormwater Management Levy (\$1.7m), a Federal Government grant (\$5m), a \$1.1m contribution from Holiday Park operations and \$0.1m general fund revenue contribution.

Works to be undertaken in 2010-11 include construction, planning and maintenance of stormwater treatment measures and drainage systems in urban areas, around lake edges and in coastal areas; works to redress the impacts of stormwater on bushland and natural wetlands; restoring rivers and creeks; improving boat access to rivers and improving lakeside

recreation facilities and visual appearance and undertaking community stormwater pollution education campaigns.

## **CHANGES BETWEEN THE DRAFT MANAGEMENT PLAN AND THE ANNUAL PLAN**

### **VOLUME I**

Along with minor typographical amendments, improved wording and minor budget corrections, the following significant changes to the Draft Plan, as exhibited, are proposed:

#### **Principal Activity 1 – A More Sustainable Community**

##### ***1.1.14 Pre-approved Community Sponsorships***

In August 2009 Council withdrew its support of the Sister City Programs and as such the \$10,000 allocated in the budget for Sister Cities has been removed.

##### ***1.7.5 Shared Pathway Improvements***

The draft 2010-11 budget includes \$125,000 for shared pathways. The focus for 2010-11 is the repair and refurbishment of two significant bridges in the shared pathway network.

It is proposed to increase the shared pathways budget in 2010-11 to \$250,000 by including matching grant funds of \$125,000. The grant funds will not be spent until funding has been secured. It is hoped that Council's contribution of \$125,000 will assist lobbying and advocacy efforts for new grants.

#### **Principal Activity 2 – A More Sustainable Economy**

##### ***2.1.6 Warnervale Town Centre Roads***

On 28 April 2010 Council resolved to urgently proceed to construct the entry road to Warnervale Town Centre subject to confirmation of contributions to be paid by Landcom and Woolworths equivalent to the length of the road over their landholdings. The estimated cost of Stage 1 of the entry road is \$5.6m. A grant of \$2m has been secured from the State Government towards this cost, which leaves \$3.6m to be funded by landowners and Section 94 Contributions. Council's contribution has been estimated at 8% of the remaining \$3.6m, which equals \$288,000.

When Council's Draft Plan was developed it was estimated that Wyong Shire Council's portion of the road would be 12% and \$432,000 was included in the draft 2010-11 budget.

The organisation's contribution is to be funded from the Land Sales Reserve (a reduction of \$144,000).

#### **Principal Activity 4 – Infrastructure**

##### ***4.1.8 Street Lighting***

On 15 April 2010 Council received notification that The Australian Energy Regulator (AER) had released its final determination on street lighting charges which advises an increase of 66.7% or \$734,000 for the organisation in 2010-11.

Street lighting charges are made up of three components: energy costs: network costs and capital and maintenance costs. It is the capital and maintenance component that is proposed to increase by 66.7%. For Wyong Shire Council this is an anticipated increase from \$1.1m to

## 2.1 Adoption of Annual Plan 2010-11 (contd)

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\$1.83m. The increase represents a recovery of deferred depreciation costs and a 10.81% return on assets due to the risk of the energy business.

In March 2010 when The AER released its draft determination it was hoped that the increase would be phased in over a four year period as introducing the increase in one hit would have a significant impact on the organisation's ability to deliver services to the community. Council's draft 2010-11 budget for street lighting was developed on the basis that the increase would be phased in and accordingly the draft street lighting budget for 2010-11 was increased by \$178,000.

The 2010-11 budget for street lighting has been increased by a further \$556,000. The budget for street lighting in 2010-11 is now \$2,888,000, with further increases of 3.3% (\$60,000) in 2011-12 and 3.7% in 2012-13 (\$70,000) and 2013-14 (\$73,000) also advised in the determination.

### ***Water, Drainage and Sewer Expenditure***

During the public exhibition period the Water, Drainage and Sewer model was updated to take into account several changes, including:

- Increased energy costs in all operational areas by approximately 30% in accordance with known prices rises.
- The effect of Water Sensitive Urban Design (WSUD) has been built into the Drainage cost estimates, mostly starting in 2015.
- A review of Water and Sewer capital works programs to reflect a more realistic and achievable program in 2010-11.
- Adjustment of prices to reflect the latest Consumer Price Index released by Australian Bureau of Statistics (see below for impact on Water, Drainage and Sewer charges).
- Provision of resources to manage the transition to a water corporation.

These changes are all funded from the Water Supply Authority.

## **Principal Activity 5 – Organisation**

### ***5.2.4 Loan Repayments***

A review of the loan repayment schedules during the public exhibition period identified an error that has been rectified. This resulted in a positive impact to the bottom of line of \$71,000.

### ***5.3.1 & 5.3.2 Plant & Fleet***

During the public exhibition period the plant and fleet operating, capital, and funding budgets have been revised to reflect the most up-to-date financial estimates.

These changes have resulted in a small adjustment in the transfer from the Plant & Fleet Reserve.

### ***Long Time Injury Frequency Rate Performance Measure***

It is proposed to change the target for the Long Time Injury Frequency Rate in 2010-11 from 18 to 28 to more accurately reflect current trends. The Long Time Injury Frequency Rate is the most commonly used safety performance measure and allows comparison between organisations of different types and sizes. In 2008-09 Council's rate was 30.8 and in 2009-10 it again looks like it will be around 30. The average for self-insured Councils is 25.

As part of the organisation's Injury Reduction Program Managers have now been set a target for each of their work areas. The revised target of 28 was derived from the individual targets

set for Managers and reflects an achievable, yet challenging target. Council's Lost Time Injury Reduction program will continue to be implemented in 2010-11 and the target for this performance measure will be reviewed again during the next 12 months.

### **Changes to Source Of Funds**

#### **1.1 Rates Levy**

During the public exhibition period the rate in the dollar values have changed slightly due, in part, to more recent valuation data being available to model Wyong Shire Council's rates on (supplementary valuation lists are now available fortnightly) but more so due to the way that the Division of Local Government has instructed the organisation to treat the recovery of income lost on valuation objections since the 1 July 2008 revaluation. These two factors have resulted in additional \$70,000 revenue in 2010-11.

#### **1.4 Stormwater Management Levy**

The Draft Plan referred to the Waterways Environmental Levy. All references to this charge (throughout Volumes 1 and 2) have been changed to the Stormwater Management Levy.

#### **4.12 On-site Sewer Management Fees**

The budget for On-site Sewer Management Fees has been increased by \$75,000 to \$115,000. This increase is to bring the budget in line with income levels achieved in 2009-10.

#### **4.16 Shop Inspection & Other Licence Fees**

The budget for shop Inspection & Other Licence Fees has been decreased by \$35,000 to \$205,000. This income stream is based on a set program of inspections that results in a set level of income. This reduction reflects the revised budget in 2009-10 where the number of active businesses on Wyong Shire Council's food business inspection register was adjusted down, the annual fee not being applied to school canteens that are operated by P&C or similar volunteer groups and the fact that not all Child Care Centres on the inspection program handle food for sale and therefore do not attract the annual licence fee.

#### **13.4 Other Reserves**

\$135,000 is available to be transferred out of the Stormwater Management Levy – Ocean component to fund the Cabbage Tree Harbour Toe-Drainage structure in line 3.2.6 Cabbage Tree Harbour Works.

#### **13.4 Other Reserves**

In 2009-10 the organisation's investment portfolio has performed above budget expectations and at year end \$200,000. This money will be used in 2010-11 to partially meet the increased costs of street lighting referred to earlier in this report.

#### **2009-10 Revised Budget**

The financial forecasts in the Draft Plan showed, for comparative purposes, revised budget figures for 2009-10 in line with those adopted in the December 2009 Quarter Budget Review.

During the exhibition period Council adopted revised figures for the 2009-10 budget (in the March 2010 Quarter Review) and it is proposed to update the Annual Plan in line with the most current estimates.

**Rolling Works Program**

As a result of feedback received at the community briefing on the Draft Plan the information provided in the Capital Expenditure and Rolling Works Program section of the Plan has been expanded to include further details on the assessment criteria for capital works projects in the following categories:

- Road Upgrade program;
- Road Pavement Renewal program;
- Road Resealing program and
- Footpaving program.

In addition, each of the capital expenditure items in the Rolling Works Program has been identified as new, renewal or upgrade.

**CHANGES BETWEEN THE DRAFT MANAGEMENT PLAN AND THE ANNUAL PLAN**

**VOLUME 2 - Revenue Policy**

**Water and Sewer Charges**

As a Water Supply Authority under the *Water Management Act 2000* WSC's water and sewerage charges are subject to approval by the Minister for Water following determination by the Independent Pricing and Regulatory Tribunal (IPART).

Water and sewerage charges included in the Draft Plan were in line with IPaRT's determination covering the period 1 July 2009 to 30 June 2013 and included an estimated Consumer Price Index (CPI) increase of 2.5% for 2010-11, pending the release of the March quarter CPI figures by The Australian Bureau of Statistics (ABS). During the public exhibition period the March CPI figures were released by ABS and the organisation was advised by IPaRT to use a CPI rate of 1.9% when calculating 2010-11 fees and charges. Accordingly, it is proposed to decrease the draft water and sewer fees and charges included in Volume 2 by 0.6%.

**Typical Residential Ratepayer**

Table 1 shows the impact on an average residential ratepayer (based on an average property values) with water usage of 141KI per annum (which is the average residential demand for all residences).

As noted in the report to adopt the Draft Management Plan for exhibition, the overall increase of 4.6% for the average residential ratepayer is the result of price increases that are beyond Wyong Shire Council's control – in particular the EPA Waste Levy (a charge levied by the State Government that has increased by 25% in 2010-11) and water, sewerage and drainage charges (approved by the Minister for Water, following determination by IPART).

**Table 1: Typical Residential Ratepayer**

(Based on a medium property value valuation of \$157,000)

Rate or Annual Charge	2009-10 (\$)	2010-11 (\$)	Increase (\$)	Increase (%)	As exhibited Draft Plan (\$)
General Rates	666.76	686.59	19.83	3.0%	686.02
Water Availability	117.46	136.05	18.59	15.8%	136.73

Rate or Annual Charge	2009-10 (\$)	2010-11 (\$)	Increase (\$)	Increase (%)	As exhibited Draft Plan (\$)
Sewerage	429.11	437.39	8.28	1.9%	439.84
Drainage Service	83.12	84.72	1.60	1.9%	85.20
Domestic Waste	321.15	348.50	27.35	8.5%	348.50
Stormwater Management Levy	25.00	25.00	0	0%	25.00
<b>Sub-Total</b>	<b>1,642.60</b>	<b>1,718.25</b>	<b>75.65</b>	<b>4.6%</b>	<b>1,721.29</b>
Water Usage (141Kl)	250.98	263.67	12.69	5.1%	265.08
<b>Total</b>	<b>1,893.58</b>	<b>1,981.92</b>	<b>88.34</b>	<b>4.6%</b>	<b>1,986.37</b>

### FEES AND CHARGES

The following changes are recommended to Council's Fees and Charges for 2010-11:

#### *Rate in the Dollar*

The rates in the dollar included in the Exhibition Draft have slightly changed due to supplementary property valuation lists now being available fortnightly and due to the way that the Division of Local Government has instructed the organisation to treat the recovery of income lost on valuation objections since the 1 July 2008 revaluation. A summary of these changes is provided in Table 2 below. As mentioned above, these changes have resulted in additional revenue of \$70,000 in 2010-11.

**Table 2: Rates per dollar land value 2010-2011**

	2009-10 ¢ per \$	Exhibited Plan ¢ per \$	Final Plan ¢ per \$	Revenue \$000s
<b>Ordinary Rates</b>				
Farmland	0.1897	0.1953	0.1953	291
Residential	0.3266	0.3363	0.3366	50618
Business	0.5952	0.6126	0.6130	7286
Mining	3.6358	3.7414	3.7399	285
<b>Special Rates</b>				
The Entrance Town Centre	0.2195	0.2253	0.2238	774
Non Residential Properties Toukley Area	0.2035	0.2137	0.2134	143
Non Residential Properties Wyong Area	0.0836	0.0860	0.0874	64

#### *Interest on Overdue Rates and Charges*

Each year the Minister for Local Government specifies the maximum interest rate to be charged on overdue rates and charges levied under the Local Government Act 1993. The interest rate for 2010-11 has been set and remains at 9%. N.B. The Draft Plan included an interest rate of 9%.

## 2.1 Adoption of Annual Plan 2010-11 (contd)

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The maximum interest rate applicable to overdue charges levied under the Water Management Act 2000 is the rate that applies to Supreme Court judgement debts and that rate is also currently 9%.

### ***Water and Sewerage Charges***

Adjustments have been made to water and sewerage charges in line with the IPART Determination No.2 2009 reported to Council on 26 May 2010.

### **FINANCIAL RISKS**

It is widely acknowledged that many local government authorities are under significant financial pressure and this is exacerbated by State Government activities such as cost shifting to councils, rate pegging, the increased costs of legislative compliance and reductions in levies for developers.

The 2010-11 Annual Plan is based on the continuation of State Government funding – via Cluster Plans, RTA funded works, and other grant funded projects (such as cycle-ways).

The Land & Property Management Authority is required to approve the annual Cluster Plan detailing expenditure (on crown reserves, lakes, etc.) from the surpluses generated from Holiday Park operations.

There are strong indications that the Land & Property Management Authority is taking a more commercial position on return of funds from its Crown land assets in order to improve Crown reserves across the state. There are currently no guidelines in respect to how this commercial approach will be implemented.

Negotiations are continuing (at officer level) to protect the 2010-11 Cluster Plan allocations which have previously been approved in principle, although the Land & Property Management Authority has recently advised that, to ensure adequate funds are retained and focuses on the crown caravan parks, it is anticipated that surplus trust funds available in 2010-11 for other reserve projects may be approximately half of current levels.

As of early June, there have been no indications from the Land & Property Management Authority that Cluster Plan funds will be approved for the dredging and foreshore nourishment program (budget item 3.2.1 - \$231,000) and the implementation of Tuggerah Lakes Estuary Management Plan (budget item 3.2.8 - \$1,118,000). Staff are continuing to negotiate with the Authority.

The proposed 2010-11 Cluster Plan also includes \$400,000 to cover administration costs and, given the Land & Property Management Authority's new commercial focus, this is also at risk. This matter may not be resolved before the start of the 2010-11 financial year however, a range of contingencies and options are being considered to manage any shortfall. For the worst case scenario, programs and projects would need to be reduced to compensate for the income shortfall.

### **BUDGET**

The changes to the Annual Plan (including the Revenue Policy) that impact the "bottom line" result are detailed in Table 3.



## 2.1 Adoption of Annual Plan 2010-11 (contd)

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The Profit and Loss Statement for Wyong Shire Council (group) is shown Table 4 as an extract from the Annual Plan document.

Similarly, Table 5 provides Balance Sheet information.

**Table 3: Changes to 2010-11 Budget**

	<b>Result \$</b>
<b>2010-11 Draft Management Plan</b>	<b>(\$150,000)</b>
Impacts:	
Withdrawal of Sister City program - funding no longer required	10,000
Increased Street Lighting costs	(556,000)
Revised Loan Repayment Schedule	71,000
Increased Rates Revenue	70,000
Increased Revenue for On Site Sewer Management Fees	75,000
Decreased Shop Inspection & Other Licence Fee Revenue	(35,000)
Transfer from Environmental Waterways Levy Reserve (coastal component) to fund Cabbage Tree Harbour works	135,000
Transfer From Reserve – Interest on Investments 2009-10	200,000
Other minor changes	43,000
<b>2010-11 Annual Plan (to be adopted)</b>	<b>(\$137,000)</b>

The consolidated forecast Profit & Loss Statement and Balance Sheet that are being adopted as part of the 2010-11 Annual Plan are reproduced below:

**Table 4 : Consolidated Profit & Loss Statement**

<b>Income</b>	<b>\$'000</b>
Rates and annual charges	122,259
User charges and fees	58,077
Interest	8,722
Other	1,568
Grants & Contributions – operating	19,434
Grants & Contributions – capital	39,760
Net gain from disposal of assets	15,137
<b>Total Income</b>	<b>264,957</b>
<b>Expenses</b>	
Employee costs	78,440
Borrowing costs	12,711
Materials and contracts	44,010
Depreciation	59,529
Other	32,504
Net loss from disposal of assets	
<b>Total Expenses</b>	<b>227,194</b>
<b>Net Operating Result</b>	<b>37,763</b>

Table 5: Consolidated Balance Sheet

	<b>\$'000</b>
<b>Current Assets</b>	
Cash and investments	76,798
Receivables	34,785
Inventories	2,205
Other	844
<b>Total Current Assets</b>	<b>114,632</b>
<b>Non-Current Assets</b>	
Investments	4,239
Receivables	2,764
Infrastructure, Property, Plant and Equipment	1,909,862
Intangible Assets	2,516
<b>Total Non-Current Assets</b>	<b>1,919,381</b>
<b>Total Assets</b>	<b>2,034,013</b>
<b>Current Liabilities</b>	
Payables	44,740
Borrowings	11,304
Provisions	33,246
<b>Total Current Liabilities</b>	<b>89,290</b>
<b>Non-Current Liabilities</b>	
Payables	39
Borrowings	186,688
Provisions	28,598
<b>Total Non-Current Liabilities</b>	<b>215,325</b>
<b>Total Liabilities</b>	<b>304,615</b>
<b>Net Assets</b>	<b>1,729,398</b>
Accumulated Surplus/Deficit	1,285,782
Asset Revaluation Reserve	443,616
<b>Total Equity</b>	<b>1,729,398</b>

**SPECIAL RATES**

Council is required by the Act, to identify in the Plan, properties that will be subject to each special rate and to form an opinion that those properties will benefit from the works, services, facilities or activities provided by each special rate.

**Special Rate - The Entrance Town Centre**

As detailed in Council's 2010-11 Revenue Policy, Council identified the following properties as receiving a benefit from the operations of The Entrance Town Centre:

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

All of the properties identified will gain a benefit from the business-related costs of The Entrance Town Centre Management as detailed in Attachment 1.

All properties identified have a component of their business reliant on tourist visitation to The Entrance and surrounding areas. It is anticipated that the activities of The Entrance Town Centre Management will attract more tourists to the area resulting in these properties obtaining a financial benefit.

**Special Rate - Non Residential Properties – Toukley Area**

This rate applies to properties that have been categorised as business in accordance with Section 518 of the Local Government Act 1993 in the retail and commercial suburbs known as Toukley, Canton Beach, Noraville and Norah Head.

All of the properties identified will gain a benefit from the business-related costs of Greater Toukley Vision as detailed in Attachment 2.

The funds generated will be utilised on marketing and promotion of Toukley and surrounding areas so as to increase retail and commercial activity. As all of the properties identified are of a retail or commercial nature, an increase in this type of activity should result in a financial benefit to these properties.

**Special Rate - Non Residential Properties – Wyong Area**

This rate applies to properties that have been categorised as business in accordance with Section 518 of the Local Government Act 1993 in the retail and commercial areas of the suburbs known as Wyong and Watanobbi.

All of the properties identified will gain a benefit from the business related costs of Wyong-Tuggerah Chamber of Commerce as detailed in Attachment 3.

The funds generated will be utilised on promotions and maintenance so as to increase retail and commercial activity and improve the appearance of the town centre. As all of the properties identified are of a retail or commercial nature, an increase in this type of activity should result in a financial benefit to these properties.

**ATTACHMENTS**

- |          |  |           |
|----------|--|-----------|
| <b>1</b> | Budget - The Entrance Town Centre Management 2010-11 | D02236091 |
| <b>2</b> | Budget - Greater Toukley Vision 2010-11              | D02236088 |
| <b>3</b> | Budget - Wyong Town Centre 2010-11                   | D02236094 |
| <b>4</b> | Summary of Submissions                               | D02245477 |

**The Entrance Town Centre Management 2010-11 Budget**

<b>Expenditure</b>	<b>\$</b>
Events	187,000
Promotions	66,000
Entertainment	53,000
Pelican Feeding	43,000
Administration Costs - Office Rent, Equipment etc	160,000
Administration Costs - Maintenance	73,500
Property	
Cleaning	474,000
Security	120,000
Landscaping	126,000
Maintenance & Pest Control	101,000
Refuse Removal	65,000
Fountains	30,000
Electricity Plaza Street Lighting	25,000
Salaries	241,500
Capital Expenditure	100,000
Transfer to Sinking Funds	36,000
<b>Total Expenditure</b>	<b>1,901,000</b>
<b>Income</b>	
Events	175,500
Outdoor Dining Licences	142,500
Park Income	93,500
Pelican Feeding	39,500
Corporation Income	20,500
Special Promotions	31,000
Advertising Sign Licences	1,700
Street Vending Licences	1,800
Recovery / Miscellaneous Advertising	20,000
<b>Total Income</b>	<b>526,000</b>
<b>Estimated Net Expenditure</b>	<b>1,375,000</b>
Council Contribution	1,375,000

**Visitor Information Centre 2010-11 Budget**

<b>Expenditure</b>	<b>\$</b>
Wages - Visitors Centre	70,000
<b>Total Expenditure</b>	<b>70,000</b>
Council Contribution	70,000

**Greater Toukley Vision 2010-11 Budget**

<b><i>Expenditure</i></b>	<b>\$</b>
Administration Expenses	
Salaries – Marketing and Office	48,000
Office Rent & Utilities	10,000
Other – Insurance, Advertising, Office Supplies	12,000
Marketing and Promotions, Events, Visitors Info Guide	55,000
Contracts for Services	
Cleaning Maintenance	20,000
Security Services	25,000
Beautification/ Flags, signage	5,000
Street Lighting	15,000
<b>Total Expenditure</b>	<b>190,000</b>
<b><i>Income</i></b>	
Sponsorships and Fundraising	30,000
<b>Total Income</b>	<b>15,000</b>
<b>Estimated Net Expenditure</b>	<b>160,000</b>
Council Contribution	143,000
Estimated loss for 2010/11	(\$17,000)
Note: This loss is to be funded from reserves	

### Wyong/Tuggerah Chamber of Commerce 2010-11 Budget

<b><i>Expenditure</i></b>	<b>\$</b>
Town Coordinator	56,000
Advertising (in kind)	42,800
Events and Functions	30,000
Office Management & Training	35,000
Rent	14,400
Insurance	7,000
Telephone/Office Equipment	6,000
Charitable Donations	5,000
Vehicle Mileage	3,000
Paper & Stationery	3,000
Bookkeeping & Auditing	2,500
Conference Expenses	2,000
Executive Meetings	1,000
Uniforms	1,000
<b>Total Expenditure</b>	<b>208,700</b>
<b><i>Income</i></b>	
Advertising (in kind)	42,800
Membership fees	30,000
Sponsorship Australia Day (Council)	5,000
Sponsorship (Other)	20,000
Work for the Dole Trainees	8,000
Event Income	23,900
Fund raising	15,000
<b>Total Income</b>	<b>144,700</b>
<b>Estimated Net Expenditure</b>	<b>64,000</b>
Council Contribution	64,000



### Summary of Submissions – Draft 2010-11 Management Plan

Document Number	Issues	Response
D02223085	<ul style="list-style-type: none"> <li>Consider increasing funding for Central Coast Tourism from \$95,000 to \$180,000 to assist the implementation of various (specified) projects.</li> </ul>	<ul style="list-style-type: none"> <li>Mr Ollie Philpot from Central Coast Tourism will brief Councillors on Wednesday 23 June 2010 on the Draft Central Coast Tourism Destination Management Plan.</li> <li>Council will consider a separate report on the annual funding of Central Coast Tourism on Wednesday 23 June 2010.</li> </ul>
D02242542	<ul style="list-style-type: none"> <li>Selection Criteria for items in Council's Rolling Works Program.</li> <li>Input by Community.</li> </ul>	<ul style="list-style-type: none"> <li>Council's Annual Plan contains a page (page 71 of Exhibition Draft) that explains the assessment criteria and prioritisation process for the Rolling Works Program. The explanations in the draft document will be expanded in the adopted version to better describe the prioritisation process. Essentially Council applies a quantitative (criteria-based scoring) and qualitative (professional judgement) approach to manage its infrastructure portfolio and prioritise capital works.</li> <li>Council adopted the Shire Strategic Vision on 9 September 2009. Immediately following this the Shire Strategic Vision document was distributed to over 60 individuals and organisations (including Precinct Committees) and suggestions were invited for actions to implement the strategies (and therefore achieve the priority objectives) in the Shire Strategic Vision.</li> <li>22 suggestions were received by Council and these were reviewed and, where they were a Council responsibility, incorporated into the five Service Review Workshops undertaken by Councillors in the December quarter of 2009. As a result of the prioritisation process that followed this Service Review, one suggestion from the community has been directly incorporated into (and some others are sub-sets of) the programs and projects included in the 2010-11 Annual Plan.</li> </ul>
D02244260	<ul style="list-style-type: none"> <li>New format of the Management Plan is more readable.</li> <li>Include pie charts of expenditure and sources of funds.</li> <li>Expand reasons for infrastructure and community services expenditure across the Shire.</li> <li>Environment budget is too small given the 2008-09 State of the Shire report.</li> <li>More funding for Land Care groups.</li> <li>New imposts from the State – such as increased street lighting charges - need to be refuted by Council.</li> </ul>	<ul style="list-style-type: none"> <li>Noted.</li> <li>Will be included in the adopted document.</li> <li>Expanded explanation of the assessment criteria and prioritisation process for the Rolling Works Program to be included in adopted version.</li> <li>Council has many competing priorities and has allocated its limited resources to best achieve the priority objectives in the Shire Strategic Vision.</li> <li>Council has many competing priorities and has allocated its limited resources to best achieve the priority objectives in the Shire Strategic Vision.</li> <li>The Southern Sydney Regional Organisation of Councils (SSROC) campaigned to modify the draft determination on behalf of 34 Councils (including Wyong) constituting approximately 94% of all the streetlights in EnergyAustralia's distribution area.</li> </ul>

Document Number	Issues	Response
	<ul style="list-style-type: none"> <li>• An analysis of how Council can reduce its payments to the NSW Government needs to be included – as these are an imposition on top of the state taxes that residents already pay.</li> <li>• A summary of Sec.94 expenditure needs to be included.</li> <li>• Sustainability indicators are needed throughout the document.</li> <li>• Maps of precincts and expenditure by precinct would be useful.</li> <li>• Greater public consultation before the Management Plan is adopted in draft.</li> </ul>	<ul style="list-style-type: none"> <li>• It is widely acknowledged that many local government authorities are under significant financial pressure and this is exacerbated by State Government activities such as cost shifting to Councils, rate pegging, the increased costs of legislative compliance and reductions in levies for developers.</li> <li>• A summary will be included in the adopted version.</li> <li>• Strategic indicators (including sustainability) will be included in the Delivery Program.</li> <li>• The Annual Plan is prepared for the Shire as a whole. It is considered that a breakdown of expenditures by districts could encourage parochialism and distract attention from the issues that concern the entire community.</li> <li>• Council adopted the Shire Strategic Vision on 9 September 2009. Immediately following this the Shire Strategic Vision document was distributed to over 60 individuals and organisations (including Precinct Committees) and suggestions were invited for actions to implement the strategies (and therefore achieve the priority objectives) in the Shire Strategic Vision.</li> <li>• 22 suggestions were received by Council and these were reviewed and, where they were a Council responsibility, incorporated into the five Service Review Workshops undertaken by Councillors in the December quarter of 2009. As a result of the prioritisation process that followed this Service Review, one suggestion from the community has been directly incorporated into (and some others are sub-sets of) the programs and projects included in the 2010-11 Annual Plan.</li> </ul>

## 2.2 Making and Fixing of Rates and Charges for 2010-11

TRIM REFERENCE: F2010/00500 - D02231669

AUTHOR: DT

### SUMMARY

Subject to the adoption by Council of the Annual Plan 2010-11 including Estimates of Income and Expenditure, Council is to formally make the 2010-11 rates and charges for the period 1 July 2010 to 30 June 2011.

### RECOMMENDATION

- 1 That Council **make** the following ordinary rates for 2010-11 consisting of a base amount to which an ad valorem amount is added, pursuant to Sections 492-494, 497-500, 535-537 of the Local Government Act 1993:

<b>Ordinary Rate Category Under Section 493</b>	<b>Base Amount</b>	<b>% revenue sourced from base amount for each category</b>	<b>Ad Valorem Amount (cents in the \$)</b>
<i>Farmland</i>	\$158.00	7.73%	0.1953
<i>Residential</i>	\$158.00	19.07%	0.3366
<i>Mining</i>	\$158.00	0.33%	3.7399
<i>Business</i>	\$158.00	5.63%	0.6130

- 2 That Council **make** the following special rates and amounts for 2010-11 consisting of a base amount to which an ad valorem amount is added, pursuant to Sections 492, 495, 497-500, 535-538 of the Local Government Act 1993:

<b>Special Rate</b>	<b>Base Amount</b>	<b>% revenue sourced from base amount for each category</b>	<b>Ad Valorem Amount (cents in the \$)</b>
<i>The Entrance Town Centre</i>	\$71.00	13.53%	0.2238
<i>Non Residential Properties Toukley Area</i>	\$71.00	10.13%	0.2134
<i>Non Residential Properties Wyong Area</i>	\$71.00	17.97%	0.0874

- 3 That Council **adopt** the following descriptions of rateable land to which each special rate will apply for 2010-11, pursuant to Section 495 of the Local Government Act 1993:

- a **The Entrance Town Centre Special Rate will apply to the following rateable land:**
- i **All land used for business purposes and categorised as such in accordance with Section 518 of the Local Government Act 1993 in the suburb known as The Entrance.**
  - ii **All land used as Major Facilities servicing tourists including Service**

*Stations, Camp or Caravan Sites, Registered Clubs, Tourist Accommodation and Hotels/Motels as defined in Council's current Local Environmental Plan (LEP) and District Shopping Centres as defined in Council's current Retail Strategy in the suburbs known as The Entrance North, The Entrance, Blue Bay, Long Jetty, Toowoan Bay, Shelly Beach, Bateau Bay and Magenta.*

- iii All land used as rental accommodation and which is categorised as Residential under Section 516 of the Local Government Act, 1993 which is rented or leased for periods of three months or less in the suburbs known as The Entrance North, The Entrance, Blue Bay and Toowoan Bay.*
- b The Non Residential Properties Toukley Area Special Rate will apply to all rateable land used for business purposes and categorised as such in accordance with Section 518 of the Local Government Act 1993 in suburbs known as Toukley, Canton Beach, Noraville and Norah Head.*
- c The Non Residential Properties Wyong Area Special Rate will apply to all rateable land used for business purposes and categorised as such in accordance with Section 518 of the Local Government 1993 in the following areas:*
  - i The suburb known as Watanobbi.*
  - ii The suburb known as Wyong, bounded by the following:*
    - North of the Wyong River from Boyce Avenue in the east to the F3 Freeway in the west.*
    - East of the F3 Freeway from the Wyong River to the suburb boundary between Wyong and Warnervale but to exclude Lot 32 DP 814964.*
    - South of the northern Wyong boundary to its intersection with the Pacific Highway and then south of the Pacific Highway to the intersection of Pollock Avenue, but to include Lot 400 DP 1114793, Lot 1 DP 411020, Lot 3 DP 607756 and Lot 1 DP 1090455 (these lots being to the north of the Pacific Highway).*
    - The eastern boundary of the suburb of Wyong from Johns Road to Wyong River.*

- 4 That Council make the following schedule of annual charges for stormwater management services for 2010-11, pursuant to Sections 496(A) and 510(A) of the Local Government Act 1993:**

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

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

**5 That Council make the following Domestic Waste Management Charges for 2010-11, pursuant to Section 496 of the Local Government Act 1993:**

<b>Description</b>	<b>Charge each</b>
<i>Domestic Waste Management Charge</i>	\$348.50
<i>Domestic Waste Management Availability Charge</i>	\$ 51.75
<i>Domestic Waste Management Charge – Additional 240 litre Vegetation Bin Service</i>	\$ 75.70
<i>Domestic Waste Management Charge – 240 litre Waste Upgrade</i>	\$ 76.50
<i>Domestic Waste Management Charge – Additional 240 litre Waste Bin Service</i>	\$287.60
<i>Domestic Waste Management Charge – Additional 140 litre Waste Bin Service</i>	\$188.90
<i>Domestic Waste Management Charge – Additional 240 litre Recycling Bin Service</i>	\$ 63.40
<i>Domestic Waste Management Charge – West of F3 Freeway</i>	\$286.20
<i>Domestic Waste Management Charge – Additional Short Term Extra Service – 140 litre Waste Bin - price per service</i>	\$ 13.35
<i>Domestic Waste Management Charge – Additional Short Term Extra Service – 240 litre Waste Bin - price per service</i>	\$ 14.10
<i>Domestic Waste Management Charge – Additional Short Term Extra Service – 240 litre Recycling Bin - price per service</i>	\$ 12.35
<i>Domestic Waste Management Charge – Additional Short Term Extra Service – 240 litre Vegetation Bin - price per service</i>	\$ 13.00

**6 That Council continue the current policy of not providing a Domestic Waste Management service to parcels of land which have no Council approval for a residential building.**

**7 That Council make the following Waste Management Charges for 2010-11, pursuant to Section 501 of the Local Government Act 1993:**

<b>Description</b>	<b>Charge each</b>
<i>Waste Management Charge – 140 litre Waste Bin Service</i>	\$ 204.70
<i>Waste Management Charge – 240 litre Recycling Bin Service</i>	\$ 63.40
<i>Waste Management Charge – 240 litre Vegetation Bin Service</i>	\$ 75.70
<i>Waste Management Charge - 240 litre Waste Bin Service</i>	\$ 311.40
<i>Waste Management Charge - 660 litre Waste Bin Service</i>	\$1,242.00
<i>Waste Management Charge - 1.1 cubic metre Waste Bin Service</i>	\$1,794.00
<i>Waste Management Charge - 1.5 cubic metre Waste Bin Service</i>	\$2,422.00
<i>Waste Management Charge - 3.0 cubic metre Waste Bin Service</i>	\$4,174.00

- 8 *That Council apply a proportional charge adjustment, calculated on a weekly basis, where Domestic Waste Management or Waste Management services commence or cease during the year.*
- 9 *That Council charge the maximum interest rate as specified by the Minister for Local Government and published in the Government Gazette in respect of overdue rates and charges levied under the Local Government Act 1993 and this interest be calculated on a daily basis using the simple interest method in accordance with Section 566 of the Local Government Act 1993, for the period of 1 July 2010 to 30 June 2011.*
- 10 *Incentive Scheme*
- a *That Council offer an incentive scheme for those eligible ratepayers who elect to pay, their 2010-11 Rates and Charges in full by 31 August 2010 and for those ratepayers who elect to pay by direct debit.*
- b *That Council implement the incentive scheme in accordance with the rules detailed in Attachment 1.*
- c *That Council consider a report detailing the success or otherwise of the scheme following the scheme period.*

## **BACKGROUND**

The Annual Statement of Revenue Policy, contained in the Annual Plan 2010-11, proposes that Council levy Ordinary Rates in accordance with the Ad Valorem method (land value x rate in the \$) with a base amount of \$158.00 for each category.

In accordance with State Government Rate-Pegging Legislation, rate revenue has been increased by 2.6% in 2010-11 from that raised in 2009-10.

In 2010-11 Council will be using the latest valuations from the Valuer General's Department for the calculation of ordinary rates and, where applicable, special rates. These valuations have a base date of 1 July 2008, as a general revaluation of land was undertaken in Wyong Shire for the 2009-10 rating year.

Revaluations usually occur every three years for local government rating purposes.

### **Special Rates**

Following approval by the Minister for Local Government, Council has previously adopted the following special rates:

- \* Special Rate - The Entrance Town Centre
- \* Special Rate - Non Residential Properties Toukley Area
- \* Special Rate - Non Residential Properties Wyong Area

When reviewing these special rates, a number of scenarios on the make-up of the rates were examined, with a base charge and an ad valorem component being adopted. This achieved

## 2.2 Making and Fixing of Rates and Charges for 2010-11 (contd)

an equitable distribution of rates compared to the benefit derived from expenditure of revenue raised by the respective special rates.

In terms of Section 536 of the Local Government Act 1993, it is proposed that for 2010-11 Council again levy a base charge with an ad valorem component on the above special rates. This will achieve a similar equitable distribution of the rating burden compared to the benefit derived from expenditure of revenue raised by the respective special rate.

The proposed base rate for the above special rates is to be set at \$71.00.

### Stormwater Management Charge

The State Government during 2005-06, approved the provision of a new funding mechanism to improve the management of urban stormwater in NSW. The Local Government Amendment (Stormwater) Act 2005 amended the Local Government Act 1993 to allow councils the option to make a charge for the provision of stormwater management services outside their capped rate arrangements.

In accordance with the Local Government Amendment (Stormwater) Act (under Section 496(a) of the Local Government Act 1993) Council introduced a Stormwater Levy Charge in 2006-07 to provide funds towards the implementation of the Tuggerah Lakes Estuary Management Plan, as well as undertake works on the Shire's other waterways. The stormwater management works have been developed in reference to the objectives of the Hunter Central Rivers Catchment Management Authority's Draft Catchment Action Plan.

Council, in partnership with the State Government, has been studying and planning ways to maintain, improve and protect our lakes and waterways. The Shire's waterways are an integral part of our community's lifestyle and are the focus of many recreational activities including fishing, boating, cycling, walking and picnicking. Their long-term protection will ensure that they are there for current and future generations to enjoy.

Originally identified as a Stormwater Levy, this charge was identified as the Waterways Environmental Levy in 2009-10. To align with the relevant legislation, in 2010-11 it will be identified as the Stormwater Management Charge and will apply to the urban area of the Shire – defined as the area to the east of the F3 Freeway plus the Highway Service Centre and any industrial-zoned land to the west of the Freeway. Vacant properties (ie those without impervious surfaces) are not subject to this levy.

Council can only spend the Stormwater Management Charge on specific works relating to the management of stormwater, and not on its other areas of responsibility.

The works to be funded from the Stormwater Management Charge and other funding sources are detailed in the table below:

<b>Project</b>
Construction, planning and maintenance of stormwater treatment measures in urban areas <ul style="list-style-type: none"><li>• Construction of gross pollutant traps, constructed wetlands and grassed swales</li><li>• Removing sediment and nutrients from urban stormwater to improve the water quality of Tuggerah Lakes</li><li>• Creating open space recreation areas along stream banks in suburbs</li><li>• Improving the visual appearance of urban streams and adjacent lands</li></ul>

<b>Project</b>
<p>Construction, planning and maintenance of stormwater treatment measures around the lake edges</p> <ul style="list-style-type: none"> <li>• Improving access along the foreshore</li> <li>• Regrading the foreshore</li> <li>• Replanting saltmarsh</li> <li>• Re-establishing natural processes to halt ooze accumulation</li> <li>• Building boardwalks linking natural and recreational parts of the foreshores</li> <li>• Interpretive signage</li> <li>• Improving fish habitat and fishing</li> </ul>
<p>Planning and undertaking community stormwater pollution education campaigns</p> <ul style="list-style-type: none"> <li>• School education programs</li> <li>• School competitions</li> <li>• Community consultation and education</li> <li>• Linking to University programs, Discovery Centres, and Pioneer Dairy Centre</li> </ul>
<p>Planning, construction and maintenance of drainage systems in coastal areas</p> <ul style="list-style-type: none"> <li>• Formalising stormwater drainage systems</li> <li>• Halting coastal erosion related to stormwater</li> <li>• Protecting ocean water quality</li> </ul>
<p>Planning, construction and maintenance of stormwater treatment measures around Lake Macquarie</p> <ul style="list-style-type: none"> <li>• Construction of gross pollutant traps, constructed wetlands and grassed swales</li> <li>• Removing sediment and nutrients from urban stormwater to improve the water quality of Lake Macquarie</li> <li>• Creating open space recreation areas along stream banks in suburbs</li> <li>• Improving the visual appearance of urban streams and adjacent lands</li> </ul>
<p>Works to redress the impacts of stormwater on bushland and natural wetlands</p> <ul style="list-style-type: none"> <li>• Rehabilitation of key habitats from stormwater impacts</li> </ul>
<p>Restoring rivers and creeks</p> <ul style="list-style-type: none"> <li>• Replanting of trees along rivers and creeks</li> <li>• Increasing fish numbers by improving habitat and fish passage</li> <li>• Protection of public assets (such as roads)</li> <li>• Preventing stream banks eroding into creeks</li> </ul>
<p>Improving boat access to rivers</p> <ul style="list-style-type: none"> <li>• Dredging river mouths</li> <li>• Improve river flushing</li> <li>• Improve boat access to creeks and rivers</li> </ul>
<p>Improving lakeside recreation facilities and visual appearance</p> <ul style="list-style-type: none"> <li>• Creating beach areas</li> <li>• Beach cleaning</li> <li>• Turfing recreational areas</li> <li>• Shady tree planting</li> <li>• Providing barbecues and playground equipment</li> <li>• Providing showers, toilets and car parking facilities</li> <li>• Extending cycleways</li> </ul>



Project
<ul style="list-style-type: none"> <li>• Boat ramps/boat storage areas</li> <li>• Dredging adjacent to boat ramps</li> <li>• Improving the ability to boat on Tuggerah Lakes</li> <li>• Reliability lake foreshores</li> </ul>

### Rate Payment Incentive Scheme

For 2010-11 it is proposed that Council again offer a shopping voucher to the value of \$5,000 as the prize for the 2010-11 rate payment incentive scheme. The voucher will only be valid in the Wyong Shire area and may not be spent at any business owned by a Councillor. To ensure that the voucher is expended in the correct manner it is planned that Council either make payment direct to the business or alternatively reimburse the recipient upon production of documentary evidence that indicates the voucher being expended.

To ensure Council gains the maximum return on the incentive scheme, in addition to those ratepayers who elect to pay their rates in full by 31 August 2010, it is proposed that those ratepayers who commit to paying their rates in full by 31 August 2010 or by quarterly instalments using the Direct Debit method also be included in the draw.

Under the Direct Debit system ratepayers authorises the transfer of funds from their Bank, Building Society or Credit Union on the date the payments are due. All payments are then received by Council by electronic funds transfer.

An analysis undertaken has indicated the savings to Council of around \$6.00 per assessment will be achieved by ratepayers committing to pay by this method. This is a result of the transaction cost of eight cents for the Direct Debit system compared to a cost of \$1.55 per transaction for Post Office collections.

As the greatest financial benefit to Council is for ratepayers to pay in full, it is proposed that ratepayers who elect to do so receive two tickets in the draw and that those ratepayers paying by quarterly instalments using the Direct Debit method receive a single ticket.

### THE PROPOSAL

That Council formally make the rates and charges as detailed within the recommendation of this report.

### OPTIONS

The proposed rates and annual charges reflect those contained in Council's in the Exhibition Draft Annual Plan. Any variance from the general structure of the rates and charges contained in the Exhibition Draft Annual Plan would require Council to re-exhibit the document. That in turn would significantly defer the levying of 2010-11 rates and charges.

**STRATEGIC LINKS**

**Annual Plan**

The proposed rates and annual charges are the funding source of a multitude of Council's General Fund operations.

**Contribution of Proposal to the Principal Activity**

The proposed rates and annual charges represent approximately 35% of Council's total revenue for 2010-11.

**Financial Implications**

The proposed rates and annual charges will generate revenue of \$80,856,000 as detailed in the Estimates of Income and Expenditure to be considered by Council.

**Principles of Sustainability**

The proposed rates and annual charges underpin the economic elements within Council's proposed Annual Plan 2010-11.

**CONSULTATION**

Consultation with the general community has occurred through Council's Exhibition Draft Annual Plan 2010-11.

**GOVERNANCE**

Council is required to formally make rates and charges prior to levying same in order to comply with the relevant provisions of the Local Government Act 1993.

**CONCLUSION**

The making and fixing of rates and charges is necessary to enable Council to levy and collect these revenue items in accordance with the relevant legislative requirements.

**ATTACHMENTS**

- |   |   |           |
|---|---|-----------|
| 1 | Rate Incentive Scheme Conditions Of Entry 2010-11- Attach 1 | D02231952 |
| 2 | Comparison of Rates and Charges 2010-11- Attach 2           | D02231959 |

**RATE INCENTIVE SCHEME CONDITIONS OF ENTRY**

- The competition is open to all eligible ratepayers of Wyong Shire Council who have paid all rates and charges, including arrears, by 31 August 2010 or who elect to pay their rates by direct debit. All ratepayers who meet these criteria will automatically be entered into the competition.
- Ratepayers who elect to pay in full by 31 August 2010 will receive 2 tickets, with ratepayers paying in full or by quarterly instalments using the Direct Debit method receiving a single ticket.
- The winner will be drawn at a meeting of Wyong Shire Council.
- The winner will be notified by Mail and the result will be published in a local newspaper.
- Councillors and staff of Wyong Shire Council, and their immediate families are not eligible to enter.
- The prize is non-transferable and non-redeemable for cash and will only be available for the prize specified.
- Rate payments made by Federal and State Government Departments and other public instrumentalities are not eligible to enter.
- The prize voucher may not be spent at any business owned by a Councillor.

## Comparison of Rates and Charges

	Unit of Charge	2009-10	2010-11 Exhibition Draft Management Plan	2010-11 Final Management Plan
<b>Ordinary Rates</b>				
Farmland	Cents in \$	0.1897	0.1953	0.1953
Residential	Cents in \$	0.3266	0.3363	0.3366
Business	Cents in \$	0.5952	0.6126	0.6130
Mining	Cents in \$	3.6358	3.7414	3.7399
Base Amount – all categories	Each	\$154.00	\$158.00	\$158.00
<b>Special Rates</b>				
The Entrance Town Centre	Cents in \$	0.2195	0.2253	0.2238
Non Residential Properties Toukley Area	Cents in \$	0.2035	0.2137	0.2134
Non Residential Properties Wyong Area	Cents in \$	0.0836	0.0860	0.0874
Base Amount – all Special Rates	Each	\$69.00	\$71.00	\$71.00

	Unit of Charge	2009-10	2010-11 Exhibition Draft Management Plan	2010-11 Final Management Plan
<b>Waterways Environmental Levy</b>				
Residential	Per property	\$25.00	\$25.00	\$25.00
Residential Strata	Per lot	\$12.50	\$12.50	\$12.50
Residential Company Title	Per company title complex apportioned according to shareholding	\$25.00	\$25.00	\$25.00
Business	Per 850 m <sup>2</sup> or part thereof - maximum charge of \$5,000	\$25.00	\$25.00	\$25.00
Business Strata	Per 850 m <sup>2</sup> or part thereof - maximum charge of \$5,000 – apportioned equally to each lot	\$25.00	\$25.00	\$25.00
Business Company Title	Per 850 m <sup>2</sup> or part thereof - maximum charge of \$5,000 - apportioned according to shareholding	\$25.00	\$25.00	\$25.00

	Unit of Charge	2009-10	2010-11 Exhibition Draft Management Plan	2010-11 Final Management Plan
<b>Domestic Waste Management</b>				
Availability	Each	\$ 50.00	\$ 51.75	\$ 51.75
Domestic Waste Management - Service	Each	\$321.15	\$348.50	\$348.50
Domestic Waste Management – West of F3	Each	\$258.45	\$286.20	\$286.20
240 litre upgrade	Each	\$ 63.10	\$ 76.50	\$ 76.50
Additional 240 litre recycling bin	Each	\$ 61.50	\$ 63.40	\$ 63.40
Additional 240 litre waste bin	Each	\$268.40	\$287.60	\$287.60
Additional 140 litre waste bin	Each	\$167.80	\$188.90	\$188.90
Additional 240 litre vegetation bin	Each	\$ 73.50	\$ 75.70	\$ 75.70
Additional Short Term Extra Service – 140 litre waste bin	Per service	\$ 12.90	\$ 13.35	\$ 13.35
Additional Short Term Extra Service – 240 litre waste bin	Per service	\$ 13.55	\$ 14.10	\$ 14.10
Additional Short Term Extra Service – recycling bin	Per service	\$ 12.00	\$ 12.35	\$ 12.35
Additional Short Term Extra Service – vegetation bin	Per service	\$12.60	\$ 13.00	\$ 13.00
<b>Waste Management (non domestic)</b>				
140 litre waste bin	Each	\$ 190.75	\$ 204.70	\$ 204.70
240 litre recycling bin	Each	\$ 61.50	\$ 63.40	\$ 63.40
240 litre vegetation bin	Each	\$ 73.50	\$ 75.70	\$ 75.70
240 litre waste bin	Each	\$ 290.50	\$ 311.40	\$ 311.40
660 litre waste bin	Each	\$1,067.30	\$1,242.00	\$1,242.00
1.1 cubic metre waste bin	Each	\$1,586.85	\$1,794.00	\$1,794.00
1.5 cubic metre waste bin	Each	\$2,146.45	\$2,422.00	\$2,422.00
3 cubic metre waste bin	Each	\$3,761.00	\$4,174.00	\$4,174.00

## **2.3 A Van Stappen Pty Limited -V- Wyong Shire Council Deed of Settlement and Release**

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TRIM REFERENCE: DA/651/1993 - D02254836

AUTHOR: MJ

### **SUMMARY**

This report outlines the background to the matter, sets out options available to Council and recommends settlement of the matter.

### **RECOMMENDATION**

- 1 That Council endorse the Settlement Agreement outlined in the Deed of Settlement and Release.**
- 2 That Council authorise the General Manager to execute the Deed of Settlement and Release.**

### **BACKGROUND**

Development Application Number 651/1993 (DA/651/1993 – the consent) granted approval on 1 November 1994 for a 68 lot industrial subdivision at North Wyong. Conditions requiring payment of s94 contributions and construction of roads (relevantly Road 1) were imposed on the consent. A locality plan, including the location of Road 1, is depicted in attachment1.

The consent covered land in four (4) ownerships namely:

- a Eaton & Sons Pty Ltd (EA) – Lot 1 DP 661016
- b A Van Stappen Pty Ltd (AVS) – Lot 5 DP 431152 and Lot 30 DP663079
- c Larbane Pty Ltd – Lot 1212 DP 818944
- d Saddington Pty Ltd – Lot 1213 DP 818944

The consent has been modified on a number of occasions (7 in total) since it was originally granted in 1994. The modifications relevant to the current matter are DA/651/1993/D and DA/651/1993/G.

At the time of the issue of the consent, there were certain improvements on the EA and AVS lands.

During 1999 subdivision works commenced on the EA and AVS lands.

On 22 August 2006, EA and AVS, applied to Council for a Subdivision Certificate (No 136/06) for the subdivision of the EA and AVS lands. Council granted Subdivision Certificate No.136/06 on 25 September 2006.

The subdivision of the EA and AVS lands has been completed (with the exception of relatively minor outstanding works for which bonds are held by Council) and buildings have been erected on some of the newly created lots.

**Relevant History**

The s94 contributions imposed under the original 1994 consent were for the following works and values:

- Roads - \$508,675
  - Drainage Catchment F - \$138,917
  - Drainage Catchment G - \$354,025
- Total \$1,001,617

Indexation applied in accordance with Council's normal conditions of contribution.

A modification application under s96 of the Environmental Planning and Assessment Act 1979 (EPA Act) prepared in November 2004, dealt with road layouts and the intersection with the Pacific Highway, which was required to be moved and signalised. This modified consent also required the provision of a rear lane access to residential houses adjoining the industrial land and fronting the Pacific Highway. This requirement was imposed by Council and was not part of the Applicant's s96 modification application request. A small increase in lot numbers was also involved.

At the time of the 2004 s96 modification application, Council had brought in a new Section 94 Contributions Plan – 7A. The new Section 94 Contributions Plan required additional s94 contributions for road works, including some \$500,000 relating to the access land for the residential properties fronting the Pacific Highway. There were also new s94 contributions for drainage land, drainage work and water quality work. The new s94 contributions totalled some \$3,231,812. A difference of \$2.2 million was thus sought under the 2004 s96 modification application from that required under the original consent.

In 2006, AVS (the applicant), sought release of the subdivision certificate by Wyong Shire Council (Council). This required payment of the s94 contributions and the construction of Road1 for its entire length (across all the properties, the subject of the consent, not just across the EA and AVS lands as had occurred). At the time the applicant argued about the quantum of contributions, advising that the commercial reality of needing the subdivision certificate was such that it, under protest, paid the increased contributions. The Road 1 issue (ie, not being fully constructed) was dealt with via an agreement pursuant to S109J of the EPA Act.

There was no actual payment (exchange of money) between AVS and Council as substantial works had been carried out by the applicant (including the rear laneway servicing the residential properties fronting the Pacific Highway and the signalised intersection on the Highway) and thus credit ensued to them, when offsetting their public works against the required s94 contributions.

At the time, there was specific debate on the calculation of the drainage contributions and the making of allowance for the existing development which had been on the site and discounting by reference to it. Following a number of meetings and argument in relation to the contributions, Council agreed to refund \$48,000 on the basis of the pre and post development, taking into account only the pre existing hardware store and its immediate surrounds. The applicant believed however, this figure should have related not simply to the existing hardware store but to all of the development that then existed over the entire site.

**First Court Proceedings (No. 40891 of 2006)**

Larbane Pty Limited (an adjoining landowner to the immediate south of the EA and AVS land) and whose land formed part of 'the original consent', filed an application in the Land and Environment Court of NSW on 25 September 2006 which sought, inter alia, the following relief:-

- 1 A declaration that in respect of the consent, one or more conditions of that consent, by its terms, is required to be complied with before a subdivision certificate may be issued in relation to the plan of subdivision, had not been complied with.
- 2 An order restraining Council from issuing a subdivision certificate for the subdivision, unless and until every condition of consent that, by its terms, is required to be complied with before a subdivision certificate may be issued, in relation to the plan of subdivision, has been complied with.
- 3 An order restraining EA and AVS from lodging with the Department of Lands any subdivision certificate which may have been issued by Council in respect to application 136/2006 (the subdivision certificate application).
- 4 Costs

The application was subsequently amended to include an order restraining Council from releasing the linen plan until specific conditions of the consent had been complied with (conditions 14, 18 & 31).

The original application was again amended on 29 September 2006, replacing 1 and 2 above with an order seeking a declaration that Subdivision Certificate No. 136/2006 issued by Council on 21 (sic) September 2006 was invalid.

In order to release the subdivision certificate (in order to facilitate employment generating development), an agreement pursuant to S109J of the EPA Act was entered into between Council and EA and AVS on 22 September 2006. The agreement was put in place to ensure Council's legal and statutory obligations were satisfied prior to the release of Subdivision Certificate No. 136/2006. Relevantly, the agreement provides for:-

- (a) A bank guarantee of \$545,000 from EA and AVS for the cost of constructing the remaining portion of 'Road 1' over Lot 1212 in DP 818944 (Larbane's land) and Lot 1213 in DP 818944 (Saddington's land) in accordance with the consent.



- (b) Council to complete construction of that remaining portion of 'Road 1 over Lots 1212 and 1213 in DP 818944 within 12 months of the dedication of that remaining portion to Council (calling upon the bank guarantee for the purpose of constructing the remaining portion of 'Road 1').
- (c) Acknowledges receipt of bank guarantees as follows as security for EA and AVS completing the works listed below:
- |  |           |
|--|-----------|
| (i) General maintenance bond   | \$50,000  |
| (ii) Completion of Road 1 to the southern boundary<br>(with Larbane Pty Ltd) | \$25,000  |
| (iii) Servicing Lot 24   | \$27,000  |
| (iv) Sewer to dwelling on Lot A  | \$17,000  |
| (v) Landscaping  | \$140,000 |
| (vi) Demolition  | \$26,000  |
- (d) EA and AVS were to complete the works listed in (c)(ii) above within 12 months from the date of the agreement and were entitled to a release from those guarantees in respect of each work performed to Council's satisfaction within the timeframe.
- (e) In the event of failure by EA and AVS to comply within the 12 month time period set out in (d) above, the agreement provided that Council may, at its discretion, determine that the guarantees listed in (c) above, would be forfeited to Council and it would carry out the works, utilising those monies.

It is the bank guarantee identified in (a) above and the bonds identified in (c) above, that form part of the current Deed of Settlement and Release. The current status of these bonds is as follows:-

- 1 Bank guarantee - \$545,000 - still in place, remaining portion of Road 1 over Lots 1212 and 1213 in DP 818944 was not constructed. Council has chosen not to construct Road 1. This Bank Guarantee was taken to enable release of the Construction Certificate and the release of industrial land, hence, provide employment generating development. Council's intention was not to build the road, and in fact, Council has never called up a bond in order to complete works not undertaken by a private developer. Further, a private agreement between Larbane Pty Limited and AVS now ensure that Road 1 can now be built when required.
- 2 General Maintenance Bond - \$50,000 - released \$45,000, \$5,000 retained.
- 3 Completion of Road 1 to the southern boundary - \$25,000 - not constructed and bond held.
- 4 Servicing Lot 24 - \$27,000 - not done and bond held.
- 5 Sewer to dwelling on Lot A - \$17,000 - not constructed and bond held.
- 6 Landscaping - \$140,000 - partly completed bond reduced to \$50,000.
- 7 Demolition - \$26,000 - not done and bond held.

(Note: an additional cash erosion bond of \$15,000 is also currently held by Council).

On 4 October 2007, Douglas Eaton, Solicitor for EA and AVS requested release of the \$545,000 bond for the construction of the remaining portion of Road 1. The decision to release this bond and those referred to above is discussed further below.

### **Second Court Proceedings (No 40502 of 2008)**

AVS on 20 May 2008 commenced proceedings in the Land and Environment Court against Council in which it sought, inter alia, the following orders:-

- 1 A declaration that condition 3 of the 2004 modified consent was void and of no effect (relating to the imposition of s94 contributions).
- 2 An order that Council repay AVS the amount of \$1,282,599 together with indexation.
- 3 An alternative to 2 above, a declaration that AVS is entitled to a credit in the amount of \$1,282,599 (plus indexation) to be used as an offset against s94 contributions due to AVS in respect of any other developments that AVS may carry out in the future.
- 4 A declaration that in failing to have regard to and make allowance for existing development on the land (the subject of the consent) when assessing any contribution payable by AVS, Council breached the provisions of the EPA Act.
- 5 An order that Council pay to AVS the amount of \$299,850 plus indexation from the date of filing.
- 6 In the alternative to 5 above, an order that Council grant a credit to AVS of \$299,850 plus indexation from the date of filing to be offset against s94 contributions due to AVS in respect of any other developments that the applicant may carry out in the future.
- 7 Costs.

Two (2) significant issues arose from these proceedings namely:-

- (a) Acknowledgment of credits for pre-existing development (which had not been Council's practice to that point); and
- (b) Legal advice which indicated that the EP&A Act prohibits the levying of Section 94 Contributions under s96 modification applications (which had happened with the 2004 modification of the consent).

AVS lodged a s96 modification application with Council on 15 December 2008 which sought modification of Condition No. 3 of the consent ( seeking a reduction in the s94 contributions).

Following a number of negotiation meetings, involving Council's Solicitors, Council Staff (Martin Johnson and Paul Bowditch) and the General Manager, a way forward was negotiated.

A Deed of Settlement and Release was ultimately agreed and signed between the parties. The Deed provides for the following:-

- (a) AVS and Council each agree to orders being made by consent, dismissing the proceedings (with each party to bear its own costs of the proceedings).
- (b) EA and AVS release and discharge Council from all actions, claims, demands etc in anyway related to anyone of the following:-
  - (i) the Land and Environment Court proceedings
  - (ii) the circumstances recited in the Deed
  - (iii) the allegations or circumstances arising out of or in anyway connected with the Land and Environment Court proceedings
  - (iv) any rights to or in relation to s94 contributions paid by or levied on AVS by Council under the consent
- (c) EA and AVS agree to give up any claim in relation to the \$137,440.00 contributions paid in credits by AVS for the laneway which AVS argued did not fairly and reasonably relate to the development.
- (d) AVS agree to withdraw the s96 application before Council and further agrees that no similar application will be made by it or its employees, agents etc in the future dealings with amendments or challenges to s94 contributions under the consent.
- (e) AVS and Council agreed to a methodology to determine the extent of credit attributable to the pre-existing development at a time immediately prior to the issue of the consent (an independent hydraulic engineer was engaged to determine the hydraulic analysis of runoff in m<sup>3</sup>/sec from the AVS land immediately prior to the grant of the consent).

Following submission of the reports identified in (e) above and based on the findings of that report (on the proper construction of the Deed), the sum of \$110,430.00 was refunded to AVS on 17 August 2009

### **Third Court Proceedings (66195/2010)**

AVS commenced the current Supreme Court proceedings in March 2010. The proceedings seek an Order for the payment by Council to AVS in the sum of \$946,426.75 (including interest and costs).

The basis of the claim relates to 'the proper construction and effect of the relevant provisions of the Deed of Settlement and Release executed to settle the earlier, second court proceedings.

The former General Manager and based on advice from Council solicitors and negotiations with the solicitor representing AVS, entered into the current Deed of Settlement and Release which has yet to be executed by Council.

Advice from Council's solicitor suggest that the wording/construction of the Deed of Settlement and Release which settled the second court proceeding, is 'ambiguous' and hence is open to challenge. It should be noted that as this deed was prepared and drafted by HWL EBSWORTH on behalf of Council, they have agreed to consider making a financial contribution toward the settlement of the matter.

### **Discussion**

The basis of the negotiations between AVS and Council were around the road bond (\$545,000) and the amount of credit which should be attributable to the pre-existing development on the AVS' land.

### **Roads and Bonds**

The road bonds (\$545,000 and \$25,000) should no longer be held by Council as:-

- 1 The period in which the roads should have been constructed (either by AVS or Council), has expired.
- 2 AVS has paid Larbane Pty Limited the sum of \$20k to build the road up to the boundary between the respective properties.
- 3 The ownership of the land between the end of Road 1, as constructed by AVS, and the southern boundary with Larbane's land, (approximately a 10m strip), has been transferred to Council. A 'grudge' strip cannot therefore be established.
- 4 The provision for an easement for services and temporary road construction along Larbane's land to the east of Road 1 (5m wide) was abolished by s96 modification application 'G'. Thus, Road 1 as originally envisaged to be constructed under the original consent (as shown on the approved plans), cannot be built (unless agreement is gained from the adjoining owner).
- 5 It is impossible to build Road 1 as set out in the S109J agreement as circumstances have changed and in particular Road 1 would be some 2 metres above ground level, with no ability to provide a batter or any construction on the adjoining land.
- 6 Council does not need to call up the bond as when market conditions improve and the next stage of the subdivision is developed, the road must be constructed by that developer.

It is Wyong Shire Council practice to hand back bonds where the work required under the bond is either no longer required, no longer practical or possible or has been completed.

Whilst the road bonds no longer perform any function and should be returned, the balance of the bonds under Council's current policy and practices, still have a role to play, namely, the works for which the bonds were taken, have yet to be completed. Therefore, under 'normal' circumstances, these bonds would not be released.

It is unclear why these 'additional' bonds were included in the Deed of Settlement and Release.

Under the former Deed of Settlement and Release, AVS agreed to release any claim over any s94 entitlements (whether cash or credit) for the laneway constructed by AVS. This would seem to be no longer the case, as it forms part of the current Deed of Settlement and Release.

### **Legal Option Available to Council**

The following legal options are presently available to Council:

1. Complete an exchange of the Deed of Settlement and Release that has been executed by EA and AVS and left with Council by their representative solicitor, Mr Eaton on Friday, 21 May, on the basis that as a result of the discussions that took place at the meeting between the former General Manager, Mr Kerry Yates and Mr Eaton when they met on 7 May 2010 and the exchange of correspondence that occurred later that day between Mr Eaton and Council's Solicitors (which confirmed the settlement terms agreed between Mr Yates and Mr Eaton), there is a binding contract between Council and EA and AVS which compromised the NSW Supreme Court proceedings between AVS and Council in relation to the Deed of 15 May 2009, and that the terms of that settlement are documented in the Deed of Settlement and Release executed by EA and AVS.
2. If Council now has an issue with any of the terms of settlement agreed between Mr Yates and Mr Eaton at their meeting on 7 May 2010, namely the bonds, other than the road bonds, (and confirmed in the subsequent correspondence of that date between Mr Eaton and Council's solicitors), attempt to negotiate with Mr Eaton (on behalf of AVS) a variation of the terms (and the Deed of Settlement and Release) so as to address any such issue to Council's satisfaction.
3. Assert that the NSW Supreme Court proceedings have not been settled and continue to resist the claim made in those proceedings by AVS on the grounds that, on the proper construction of the relevant provisions of the 15 May 2009 Deed, the amount that was payable to AVS under the Deed has been paid by Council and, in the alternative, if the proper construction of the Deed is not as contended for by Council, the Deed should be rectified to reflect the common intention of the parties as to the manner of calculation of the amount of the section 94 credit to be given by Council to AVS under that Deed in respect of section 94 contributions previously paid by AVS to Council.

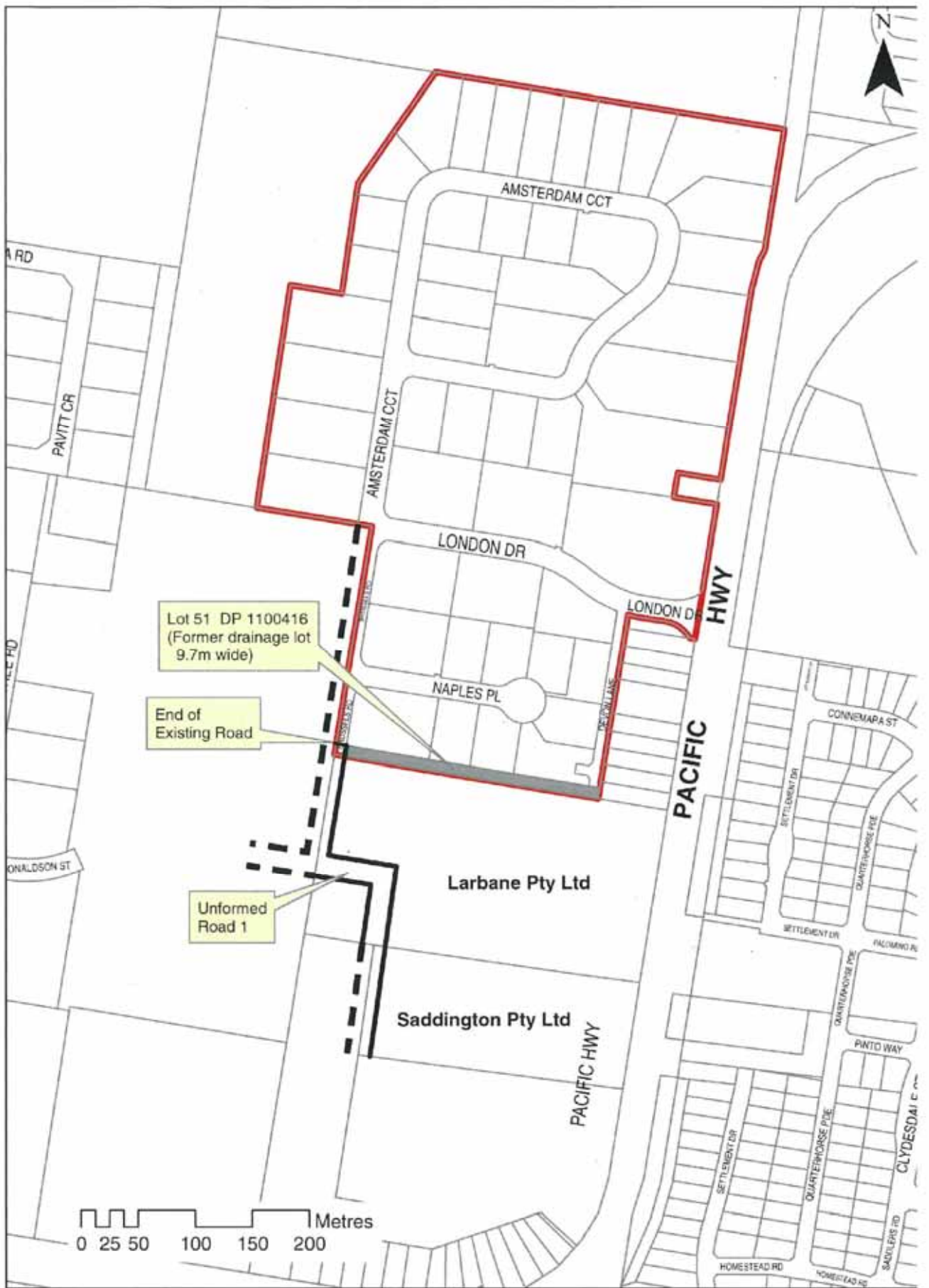
### **Conclusion**

The advice of Council's solicitors is that there is a binding contract in place between Council and AVS by which AVS and Council compromised the NSW Supreme Court proceedings on the terms as set out in correspondence between AVS and Council (and the Deed of Settlement and Release). Should Council wish to further negotiate with AVS, with a view to varying the terms of settlement agreed upon and should these further negotiations fail, AVS may bring a further claim in the New South Wales Supreme Court seeking a declaration that there was a binding contract made between Council and AVS, by which all issues in the proceedings have been compromised and seeking an Order that Council perform that Contract.

Therefore, on balance and having regard to the advice from Council's Solicitors, Council's normal position to negotiate settlements wherever possible, the potential financial implications of either breaking a binding contract or in proceed to defend the proceedings and the ambiguity in the former Deed of Settlement and Release dated 15 May 2009, it is recommended that WSC proceed to execute the Deed of Settlement and Release negotiated by the former general manager and signed by AVS.

**ATTACHMENTS**

- |   |   |           |           |
|---|---|-----------|-----------|
| 1 | Locality Plan (Colour)  |           | D02259233 |
| 2 | Deed of Settlement and Release (CONFIDENTIAL- distributed under separate cover) | Enclosure | D02258849 |



## **2.4 DA 1396/2009 - Proposed Health Services Facility at Woongarra**

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TRIM REFERENCE: DA/1396/2009 - D02267000

AUTHOR: EG

### **SUMMARY**

Council has received an application for a proposed “*health services facility*” as defined under State Environmental Planning Policy (SEPP) (*Infrastructure*) 2007. The subject site is located at 85 Sparks Road Woongarra, adjacent to Mackillop Catholic College with the main access to the development being from Minnesota Road which will be extended as part of the construction of the proposed development. The site is zoned R1 General Residential under SEPP (Major Development) 2005 with a “*health services facility*” being permissible with development consent by virtue of Clause 57 of SEPP (*Infrastructure*) 2007.

The application has been examined having regard to the matters for consideration detailed in section 79C of the Environmental Planning and Assessment Act and other statutory requirements with the issues requiring attention and consideration being addressed in the report.

<b>Applicant</b>	Warnervale Medical Service Pty Limited c/o MSK Architects
<b>Owner</b>	Trustees of the Roman Catholic Church
<b>Application No</b>	DA/1396/2009
<b>Description of Land</b>	Lot 8 in Deposited Plan 7738, No 85 Sparks Road Woongarra
<b>Proposed Development</b>	Health Services Facility
<b>Site Area</b>	13,480m <sup>2</sup>
<b>Zoning</b>	R1 General Residential
<b>Existing Use</b>	Vacant land
<b>Employment Generation</b>	110
<b>Estimated Value</b>	\$15, 814, 702.00

### **RECOMMENDATION**

- 1** *That the application be approved subject to the conditions detailed in the schedule attached to the report.*
- 2** *That the Hunter and Central Coast Joint Regional Planning Panel vary the height requirements specified in SEPP (Major Development) 2005 to permit the development.*
- 3** *That the Director-General/ Hunter and Central Coast Joint Regional Planning Panel, grant concurrence to the variation to the maximum height of the building.*
- 4** *That Council advise those who made written submissions of the Hunter and Central Coast Joint Regional Planning Panel’s decision.*



## PRECIS

- The proposal involves the construction of a “*health services facility*”, as defined under State Environmental Planning Policy (SEPP) (Infrastructure) 2007, and comprises a series of interconnected two and three storey buildings incorporating a broad range of health/medical related services.
- The main vehicular access to the site is from the proposed extension to Minnesota Road off the intersection of Sparks Road. Access to staff parking (30 spaces) in the basement has been provided from the private road, Mackillop Close, that provides access to Mackillop Catholic College.
- The proposed development will employ approximately 110 persons including doctors, nurses, allied health care workers, educators, pharmacists, administration and cleaning/maintenance staff.
- The main facility will operate 24 hours a day and the ancillary services will generally operate between the hours of 7.00am to 10.00pm, Monday to Friday, and 7.00am to 7.00pm, Saturday and Sunday.
- The proposal complies with the provisions of SEPP (Infrastructure) 2007.
- The proposed development requires a variation to the provisions of SEPP (Major Development) 2005 in relation to the building height.
- The proposal requires a variation to the provisions of the Warnervale Town Centre (WTC) Development Control Plan (DCP) 2008 with regard to carparking and the requirement for a Public Domain Plan.
- The proposal is classified as Integrated Development in accordance with Section 91 of the Environmental Planning and Assessment Act 1979, having regard for referral to the NSW Rural Fire Service and Mine Subsidence Board.
- The proposal was referred to the RTA for comment in accordance with the provisions of Schedule 3 of SEPP (Infrastructure) 2007. The RTA has no objection to the proposal subject to conditions of consent.
- The proposed development was advertised on two separate occasions in accordance with DCP 2005 Chapter 70-Notification of Development Proposals.
- The application is recommended for approval.

## INTRODUCTION

### The Site

The subject site is located on the northern side of Sparks Road and forms part of Lot 8 in Deposited Plan 7738, No 85 Sparks Road Woongarra (refer figure 1). The development is proposed in the south western corner of Lot 8 immediately north of the private access road to the school, known as Mackillop Close.

The area of the site is approximately 13,480m<sup>2</sup> and is rectangular in shape with a frontage of approximately 140 metres to the existing access road serving Mackillop Catholic College

School, Mackillop Close, and 120 metres to the partially constructed carriageway of Minnesota Road to the east. The topography of the site is relatively level with a cross fall of approximately five degrees from the north-east to the south-west.



Figure 1: Aerial photograph of subject site

The site on which the “*health services facility*” is proposed to be located is identified as being bushfire prone containing Category 1 Vegetation and buffer zone. The vegetation on this portion of Lot 8 has been substantially cleared with few remnant trees and an understorey dominated by Kikuyu. The demountable classrooms which were previously located in this area have been relocated to the vacant area on the south western side of Mackillop Close, which is the private access road to Mackillop Catholic College.

A separate development application (DA/226/2010) has been lodged by the land owner and is currently under assessment. This application is for the subdivision of the subject lot, Lot 8, and adjoining lots, Lot 7 in DP 7738 and Lot 16 in DP 573234, where the school is located, to provide five allotments, with the “*health services facility*” occupying proposed Lot 3. However, there is no certainty of the outcome of the subdivision application, and this current application for a “*health services facility*” does not rely upon the future determination of the subdivision application.

The subject site forms part of the Warnervale Town Centre which is subject to the provisions of SEPP (Major Development) 2005 and the Warnervale Town Centre Development Control Plan 2008.

### The Proposed Development

The proposed development involves the establishment of a “*health services facility*” and the subsequent strata subdivision of the building.

An amendment to SEPP (Major Development) 2005 was gazetted on 23 April 2010, which allows development in the Warnervale Town Centre to utilise the provisions of SEPP (Infrastructure) 2007.

SEPP (Infrastructure) 2007 allows for the development of a “*health services facility*” in the R1 General Residential zone. A “*health services facility*” is defined as follows: “*Health Services Facility*” means a facility used to provide medical or other services relating to the maintenance or improvement of the health, or the restoration to health, of persons or the prevention of disease in or treatment of injury to persons, and includes the following:

- (a) day surgeries and medical centres,
- (b) community “*health services facility*”,
- (c) health consulting rooms,
- (d) facilities for the transport of patients, including helipads and ambulance facilities,
- (e) hospitals”.

The amendment to SEPP (Major Development) 2005 permits a “*health services facility*” subject to development consent, in the R1 General Residential zone in the Warnervale Town Centre, which includes the proposed GP Super Clinic site. It is important to note that in spite of its definition as a “*health services facility*” under SEPP (Infrastructure) 2007, the development is also categorised as a ‘GP Super Clinic’ for the purposes of obtaining Commonwealth funding.

The proposed facility comprises a series of interconnected two and three storey buildings incorporating a broad range of medical related services including hospital accommodation, consulting rooms, surgical theatre, recovery rooms, endoscopy unit, consulting rooms, radiology, pathology, dietary counselling, physiotherapy, general counselling, and diabetic education. The proposal also includes a range of ancillary and related services such as a chemist, café, optometrist, hydrotherapy pool, gymnasium, a conference room and administration offices.

A total of 226 carparking spaces are proposed, 30 within a partially excavated basement level under the southern section of the building which will be used for employees only, and 196 spaces located within a two level above ground carpark located to the north-west of the proposed buildings.

Vehicular access to the site is proposed via a combined entry/exit driveway located along the proposed extension of Minnesota Road to the east, with an entry only driveway proposed via a fourth leg in the existing roundabout located on the access road serving Mackillop College (referred to as Mackillop Close), and an exit only driveway located approximately mid-way along Mackillop Close.

The proposal also involves the inclusion of one building sign proposed on the southern elevation of the building fronting Mackillop Close. The signage has been excluded from the assessment and determination of the application given the lack of detail in relation to dimensions, illumination, impact on amenity of adjoining residential land and pedestrians and motorist safety, and compliance with the provisions of Wyong DCP 2005 Chapter 50–Advertising Signs, Warnervale Town Centre (WTC) DCP 2008 (Section 4.3 *Advertisements and Signage*) and SEPP 64 –Advertising and Signage. A condition of consent will require the lodgement of a separate development application for any signage that is not classified as an ‘approved sign’ under DCP 2005, Chapter 50-Advertising Signs.

The application also seeks approval for strata subdivision of the proposed development. However, due to a number of concerns relating to the proposed strata subdivision and the potential delay that addressing these issues would create, the determination of that part of the proposal is not being made under this application.

There is a high demand for health services, general practitioners and specialist services on the Central Coast however there is currently a low supply of these much needed services. The Commonwealth Department of Health's guide for good doctor-to-patient ratios is 1:1100 to 1:1200 persons. This ratio is substantially exceeded in Wyong at 1:1574 and even higher in the northern parts of the Shire. As at June 2007 there were 294 GPs working on the Central Coast of which a higher proportion of General Practitioner's (GP's) worked in Gosford LGA (182 GPs or 62%), compared with Wyong LGA (112 GPs or 38%). The average age of GP's is 53 years.

The location of the proposed development, within the fast growing Warnervale-Wadalba Social Planning District (SPD) of Wyong Shire, is considered beneficial to the community, particularly in this location, given this SPD is expected to accommodate most of the growth in the Shire over the next 20 – 25 years and is expected to attract predominantly a young and mature family housing market and some retirees. These population groups place a high demand on health services.

### Summary

During the assessment process issues relating to traffic generation, vehicular access into the site, the number of carparking spaces required, height, the nature of those uses deemed 'ancillary', drainage, and flora and fauna were raised. Amended plans were submitted and re-notified. The amended information is considered to address concerns raised by Council.

### VARIATIONS TO POLICIES

Clause	23
Standard	Height of Buildings
Environmental Planning Instrument	SEPP (Major Development) 2005
Required	Maximum 9m
Provided	Maximum 13.4m
Departure basis	Maximum 4.4m or 48.9%

### HISTORY

A preliminary meeting was held in September 2009 regarding the proposed facility. Since lodgement of the development application and the preliminary assessment of the proposal, meetings have been held with the Development Management Panel, Department of Planning, Department of Premier and Cabinet, Federal Member for Dobell, community representatives and Council staff to discuss issues raised during the assessment process.

## PERMISSIBILITY

The subject site is zoned R1 Residential under Schedule 3, Part 16 (*Warnervale Town Centre*) of SEPP (Major Development) 2005. A *“health services facility”* is permissible with consent by virtue of the provision of Schedule 3, Part 16, Clause 21 which does not “restrict or prohibit, or enable the restriction or prohibition of, the carrying out of any development that is permitted to be carried out with or without consent or that is exempt development under SEPP (Infrastructure) 2007”. As such, development within the Warnervale Town Centre is able to be carried out in accordance with Clause 57 of SEPP Infrastructure which permits the *“health services facility”* in the R1 General Residential zone.

Under Clause 9 of SEPP Major Development (2005), the consent authority must have regard for the objectives of a zone when determining a development application. The proposed *“health services facility”* is a land use that will provide a service that meets the day to day needs of residents by providing much-needed health services, general practitioners and specialist services in the northern part of the Central Coast.

Clause 20 specifies that land within the Warnervale Town Centre may be subdivided with development consent. The proposal involves the strata subdivision of the building which is considered satisfactory and is not contrary to the objectives of the zone.

## RELEVANT STATE/COUNCIL POLICIES AND PLANS

The Council has assessed the proposal against the relevant provisions of the following Environmental Planning Instruments, plans and policies:

- SEPP (Infrastructure) 2007
- SEPP (Major Development) 2005
- Warnervale Town Centre Development Control Plan 2008
- Development Control Plan 2005

Chapter 14-Tree Management

Chapter 67-Engineering Requirements

Chapter 70-Notification of Development Proposals

## ECOLOGICALLY SUSTAINABLE PRINCIPLES

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

The proposed *“health services facility”* is considered to incorporate satisfactory stormwater, drainage and erosion control and the retention of vegetation where possible and is unlikely to have any significant adverse impacts on the environment and will not decrease environmental quality for future generations. The assessment of significance carried out in accordance with Part 5A of the Environmental Planning and Assessment Act 1979 has demonstrated that the proposal will not result in the disturbance of any endangered flora or fauna habitats and is unlikely to significantly affect fluvial environments.

## Climate Change

The potential impacts of climate change on the proposed development have been considered by Council as part of its assessment of the application. This assessment has included consideration of such matters as potential rise in sea level, potential for more intense and/or frequent extreme weather conditions including storm events, bushfires, drought, flood and coastal erosion; as well as how the proposed development may withstand these potential impacts.

The proposal is considered satisfactory having regard for the setback of the “*health services facility*” to bushfire risk with the appropriate Asset Protection zones to be implemented around the development. The development has also incorporated sustainable design principles and resource efficient measures within the building and rainwater reuse on site.

## ASSESSMENT

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

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

Under Clause 23 of Schedule 3, Part 16-*Warnervale Town Centre*, SEPP (Major Development) 2005 the maximum height of a building shall be 9 metres. The maximum building height proposed extends to a maximum of 13.4 metres in the southern portion of the site. As such, the maximum variation proposed to the height requirements on the subject site is 4.4m or 48.9%. This is discussed further below.

#### *Applicant's Submission*

*“In general terms, compliance with the 9 metre building height control is unreasonable and unnecessary in the particular circumstances on the basis that:*

- The proposed development has been designed to define the public domain, reinforce the alignment of the surrounding road network, and contribute to a landscaped setting commensurate with the function and character of the site;*
- The facility has been designed to reflect the sloping topography of the site and minimise the extent of ground disturbance;*
- The interconnected arrangement of buildings and the treatment of the external facades provide extensive articulation to minimise the apparent bulk and scale of the built form;*
- The proposed development has been designed to complement the architectural style and form of the Mackillop Catholic College School to the west, which provides a series of interconnected buildings of a similar height and scale to the proposed development;*
- Extensive landscaping is proposed around the perimeter of the site comprising a mix of canopy trees and lower level shrubs and groundcovers;*

- *Provision has been made for the continuous planting of canopy trees along the adjacent road reserves to supplement the on-site landscaping and define the public domain;*
- *The building height in part reflects the nature of the use to the extent that “health services facility” generally require more generous internal floor to ceiling heights than comparable residential buildings;*
- *A proportion of the non-compliance relates to the roof form which is specifically intended to provide good light penetration to improve the internal amenity of the facility;*
- *The site benefits from having a frontage to road carriageways along the eastern, southern and western boundaries, circumstances in which the potential impacts on the amenity of surrounding land is substantially diminished;*
- *The frontage to a road carriageway along the entirety of the southern boundary mitigates against any potential for overshadowing of surrounding land;*
- *The Warnervale Town Centre DCP provides for the development of the land on the opposite side of the adjacent road carriageways, circumstances in which the visual impact of the proposed development will be further diminished in the future; and*
- *The proposed development extends to a maximum vertical level of 39.93 AHD, and remains substantially below the obstacle limitation contour applying to the site of 90-100 AHD.*

*In the circumstances, strict compliance with the height control is unreasonable and unnecessary, and there are sufficient environmental planning grounds to justify the partial contravention of the standard”.*

#### Comment

Despite the fact that Clause 5 of Part 16 Schedule 3 SEPP (Major Development) 2005 states that SEPP No 1 Development Standards does not apply to Warnervale Town Centre, the objectives of Clause 25 ((2)(a) and (b)) of Part 16 allow for flexibility in applying certain development standards to particular development. This enables consent to be granted even though the development would contravene a development standard imposed by this SEPP or any other environmental planning instrument, unless that standard is expressly excluded from the operation of Clause 25. The development standard relating to height is not excluded from the operation of Clause 25.

In order for consent to be granted to a development that contravenes a development standard the consent authority must be satisfied that the applicant’s written request has adequately addressed the matters required to be demonstrated in Clause 25(4) and that the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives of the zone (cl 25(4)(a)(i)(ii)).

The applicant’s written request for the proposed variation to the development standard, and considered to be reasonable in the circumstances of the case. Whilst the objectives for the building height standard are not expressly stated, it can be considered that the controls are aimed at constraining the adverse impacts on adjoining properties and surrounding areas, such as the new release areas, and, in the circumstances of the development of a new town centre, achieving a particular urban character (*Veloshin v Randwick Council* [2007] NSWLEC 428)).

Having regard for the provisions of Clause 25(4), consideration has also been given to the planning principles established by Roseth SC on the assessment of height and bulk, as set

out in *Veloshin v Randwick Council* [2007] NSWLEC 428. The questions relating to the planning principles are set out below.

*Are the impacts consistent with impacts that may be reasonably expected under the controls?*

The proposed development encroaches on the maximum building height of 9m identified on the Warnervale Town Centre Height of Buildings Map, Sheet HOB 001. The extent of variation is outlined in the table below.

	<b>Area</b>	<b>Percentage</b>
Total Building Area	6470.84sqm	100%
Building Area over 9m	2447.85sqm	37.8%
Building Area over 11m	1186.25sqm	18.3%
Building Area over 13m	84.6sqm	1.3%

The subject site has a gradual fall towards the southern boundary adjoining the Mackillop Close and Minnesota Road intersection. As a result, the height of the development above the existing ground level varies from nine metres to 13.4m, with the variation extending over 57.4% of the building footprint.

The additional height proposed has been designed to cater for the use of the building as a “*health services facility*” and one which is more commercial in nature to that of a residential flat building, thus it will provide for more appropriate and adequate internal amenity for users. The additional height will not detrimentally increase overshadowing or create any other undue impact of adjoining properties, and it is considered that the proposed development will nonetheless meet the assumed objectives of the standard and objectives of the R1 General Residential zone and planning instrument in which they are contained.

The modulated façade proposed as a result of the interconnected two and three storey buildings, particularly along the extension to Minnesota Road, presents a variety of scales that appears well proportioned and balanced. The varied roof form which provides visual interest to the overall design of the building, responds to the orientation of the site and relates to the size and scale of the building, and the lift overruns and plant rooms, which are included in the calculation of height, contribute significantly to the encroachment of height of the proposed building above the 9m height limit. It is considered unreasonable for Council to request amendment to the roof design in an attempt to make the building compliant with the height requirement when it assists in breaking down the apparent mass/bulk of the building and minimises the visual intrusiveness of service elements by integrating them into the design of the roof.

*How does the proposal’s height and bulk relate to the height and bulk desired under the relevant controls?*

When considering if the proposal is consistent with the bulk and character intended by the planning controls it is considered necessary to have regard for the layout of the height of buildings map and the way in which heights have been planned within the Warnervale Town Centre (WTC). The clear intent is for those buildings of greater height, that is, 18 and 21 metres, to be concentrated in the core of the town centre with buildings of a maximum height of 12 metres or less being located to the south and east of the town centre on its periphery and closer to the residential housing areas nominated for WTC.



It is considered that the proposed development will look appropriate in its context and will be of an appropriate bulk that was intended by the planning controls, with the scale of building proposed being appropriate for its setting, particularly having regard for the school that is already existing on the adjoining property and the location of the subject site to the WTC.

It is also important to note that the proposal is not contrary to the objectives of the R1 General Residential zone, one of which allows for other land uses "that provide facilities or services to meet the day to day needs of residents". The "*health services facility*" is consistent with this land use. Furthermore, it is reasonable to assume that a complying proposal would not result in a better design outcome than that which would be achieved under current planning controls, particularly having regard for the topography of the site, the site being bounded by road carriageways and the overall design of the building in its interconnected arrangement.

Additionally, the proposal is considered to be consistent with the aims of SEPP (Major Development) 2005 (Part 1 Clause 2), which requires the "facilitation of development of important regional sites that are of economic and social significance to the State whilst facilitating service delivery outcomes for a range of public services...for a public purpose". As discussed previously, the location of the proposed "*health services facility*" in the fast growing Warnervale-Wadalba Social Planning District of Wyong Shire is considered beneficial to the community, particularly in this location, given this District is expected to accommodate most of the growth in the Shire over the next 20 – 25 years.

Clause 25 (5) of SEPP (Major Development) 2005 requires the concurrence of the Director-General for a variation to the development standard prior to a consent being issued. Should the Hunter and Central Coast Joint Regional Planning Panel agree to the variation proposed to Clause 23, then concurrence is sought from the Director-General for the proposed variation to height.

#### **Public Domain**

Clause 4 of Warnervale Town Centre (WTC) DCP outlines the objectives of what is anticipated for the public domain for the WTC. The proposed development is considered to be of a good design and will contribute positively to the architectural quality and streetscape of the Town Centre. This will be achieved through the form, articulation and finish of the building exterior, the use of appropriate landscaping, the provision of active street frontages to Mackillop Close and Minnesota Road, the incorporation of safer by design elements in the design, and appropriate pedestrian linkages within and surrounding the development.

The building form of the proposed "*health services facility*" is appropriate in that it fits sensitively into the existing streetscape, having regard for the bulk and scale of the existing school adjoining the subject site, and will be of an appropriate scale for the desired future character of the immediate area and Town Centre.

Clause 4.1(a) of the WTC DCP 2008 requires the consent authority to prepare a Public Domain Plan that complies with the controls in this Clause, prior to any development of the WTC. A Public Domain Plan is currently being prepared by Council. Discussions with the Department of Planning have indicated that the consent authority has the ability to use their discretion when determining a development application in the WTC prior to completion of the Plan.

As there is no direct nexus between the establishment of a "*health services facility*" and the need for a Public Domain Plan, and the facility does not propose to create public open space, nor does it incorporate any residential development which would generate a greater

need for the provision of public open space areas, then it is considered that determination of the subject application would not contravene the objectives of this section of the WTC DCP and can therefore be undertaken prior to finalisation of the Public Domain Plan.

### **Carparking**

Clause 7.4 of WTC DCP 2008 requires the provision of adequate on-site parking that complies with Table 4 which details the required parking rates for the Town Centre. The proposed development will provide a total of 226 carparking spaces, 196 located within a 2-level car structure located to the north west of the buildings and 30 in the basement. Table 4 requires a minimum of 265 spaces based on Gross Floor Area (GFA). This is a variation of 39 spaces or 15% if shared use of facilities is not taken into consideration. However, when carparking rates have regard for the shared usage of facilities within the development then the proposal complies with the minimum number of carparking spaces required under the WTC DCP 2008.

### **Comment**

A Traffic and Parking Report prepared by URaP-TTW Consulting Services, reviewed staff attendance peaks and the number of persons per day expected to attend the *“health services facility”*. Estimations were made on the arrival and departure times, the mode of transport and the vehicle occupancy for each of the employee categories and for visitors. Using this data, estimates were made of the accumulation of parked vehicles at the facility throughout a normal day.

The estimated peak parking demand generated was approximately 190 vehicles based on the number of persons on the site (staff and visitors) at its peak activity time on a weekday. Underpinning the calculation were the following assumptions:

- Total number of staff: 106
- Total number of visitors per peak hour on a normal day (i.e. 80% of total capacity and considering that more than 20% visitors will have a multipurpose use of the site e.g. seeing a GP and then going to radiology): 106
- Staff drive car: 85% x 106 =90
- Visitors drive car: 90% x 106 =95
- Consideration was also given for future public transport provision for the area.

Parking demand for the proposed facility has been based on the following:

Staff parking =90 spaces  
 Visitors =95 spaces  
 Couriers/delivery vehicles =5 spaces  
 Total =190 spaces

It is considered that the above estimation represents a conservative level of carparking demand for the site, particularly given that not all staff will be present on site at all times and the facility will not be operating at full capacity all the time. Therefore, the provision of 226 carparking spaces, an additional 36 spaces above estimated peak parking demand, is expected to meet the proposed *“health services facility’s”* anticipated demand.

Under Clause 7.4 of WTC DCP 2008, table 4 outlines parking rates for specific land uses. Although there are no specific requirements for a *“health services facility”*, individual components of the building have been calculated separately. The table below identifies the

following number of spaces required for the uses proposed within the development as calculated by the applicant.

Use	Gross Floor Area	Rate	Parking Requirement
Medical Centre	5785m <sup>2</sup>	1/25m <sup>2</sup>	232
Cafe	110m <sup>2</sup>	15/100m <sup>2</sup>	17
Optometry	47m <sup>2</sup>	5.6/100m <sup>2</sup>	3
Pharmacy	233.5m <sup>2</sup>	5.6/100m <sup>2</sup>	13
<b>TOTAL</b>	<b>6175.5m<sup>2</sup></b>		<b>265</b>

Table 1: Applicant's proposed carparking rates based on clause 7.4 Warnervale Town Centre DCP 2008

The subject site makes provision for 226 carparking spaces. As shown in table 1, the proposed development requires a total of 265 carparking spaces which is a shortfall of 39 spaces required under WTC DCP 2008, based on GFA. These calculations do not take into consideration the shared usage of facilities within the development. As discussed above, there is no deficiency in carparking if calculations are based on total peak parking demand as provided in the Traffic and Parking Report accompanying the application. In fact, the facility would be providing an additional 36 spaces to that which was required.

Furthermore, the proposed development complies with the parking requirements outlined in WTC DCP 2008, providing an additional five spaces to that which is required, if the parking calculations take into consideration the shared usage of facilities within the development. Council has undertaken its own carparking calculations incorporating a comparison between the carparking rates required under WTC DCP 2008 and Wyong DCP 2005 Chapter 61-Carparking Requirements for information purposes. Although the requirements set out in Wyong DCP 2005 Chapter 61-Carparking are not applicable to this development, it is interesting to note that the proposed development would also comply with the carparking requirements outlined in Chapter 61. Council's calculations have been based on the assumptions that there will be shared use of some of the facilities within the development and not all the GP's will be operating at the same time (refer Table 2). These are assumptions that were not made by the applicant nor considered in the calculations shown in Table 1.

Medical Centre	WTC DCP 2008	Wyong DCP 2005 Chapter 61-Carparking Requirements
<b>Total</b>	221	223.5

Table 2: Wyong Council carparking calculations-comparison rates

It is reasonable to consider the aspect of shared usage of facilities, particularly given a visit to the pharmacy, café, rehabilitation gym or hydrotherapy pool are anticipated to be used in conjunction with a visit to a health professional, that is, separate visits will not be made to the facility to utilise these facilities in isolation. Therefore, separate carparking calculations for these individual uses are not necessary and therefore, the parking rates calculated in Table 2 are more realistic parking rates to that which are shown in Table 1 which indicate a variation to WTC DCP 2008, yet the rates are calculated based on each individual component of the building with no consideration of the shared nature of the uses within the development.

In relation to shared uses within the development, the gross floor areas for the rehabilitation gym and conference room have been included in the applicant's calculations for the medical centre with some of the carparking in the development being apportioned to these uses (approximately eight and 21 spaces respectively). It is considered reasonable for the carparking for the gym and pool to be subsumed in the carparking requirements for the medical centre as it is anticipated that these facilities will only be utilised in conjunction with visits to a health professional for rehabilitation purposes and will not be used for commercial purposes. This will be conditioned accordingly.

There is no specific carparking requirement outlined in Table 4 of WTC DCP 2008 or the RTA Guide for Traffic Generating Development for a conference room. In determining what type of carparking calculations a use of this nature would generate, it was considered appropriate to find a use that could be considered similar for the purposes of estimating a possible shortfall in the number of carparking spaces provided in relation to this component of the "*health services facility*". The RTA Guide referred to a 'function room' which was based on 15 spaces/100m<sup>2</sup> (Gross Floor Area). On this basis, a conference room of this size (207m<sup>2</sup>) would generate approximately 31 additional carparking spaces.

The conference room is anticipated to be used predominantly for the purposes of internal education of staff that work in the building. That being the case, it is assumed that this would not occur until after the peak periods anticipated for the "*health services facility*". Accordingly, it is considered that there would be adequate carparking available for use of the room; particularly given staff parking has been taken into consideration in the parking calculations. It is anticipated that any hiring of the conference room to external parties would occur on an infrequent basis, would be solely related to the medical profession and generally a percentage of those attending the conference room would be staff that currently work in the building.

In the event that external training or the like was proposed in the conference room during a peak period, there is the potential for a shortfall of 32 spaces on site. However, this can be managed if appropriate conditions of consent are imposed relating to the hours of operation and nature of the use of the conference room.

As an alternative to private car-based transport it is noted that the WTC, in the future, will include adequate access to bus, train and taxi modes of transport. Additionally, conditions have been included to ensure that adequate bicycle parking and related facilities are provided as part of the development.

Given the nature and use of the proposed development for a "*health services facility*", a variation to parking rates in respect of those components discussed above is warranted and supported, particularly in light of the calculations undertaken by the qualified traffic consultant. It is considered reasonable to accept the findings of the Traffic and Parking report and rely upon those figures, in conjunction with Council's own carparking calculations relating to WTC DCP 2008, for the purposes of calculating the total number of carparking spaces required for the proposed development.

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

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

The proposed "*health services facility*" will provide a service that is needed in the community. Although the facility is proposed within a residential area, it is considered that the amenity of

existing and future residents will be preserved by way of the design of the development and the nature of the uses proposed.

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

Roads, Access and Traffic – External

The construction of the Minnesota Road extension north of Sparks Road was completed with the development of the MacKillop Catholic College. Minnesota Road will be as part of with the development application to facilitate access to the proposed “health services facility”. Conditions have been recommended which require road formation to be constructed in accordance with the WTC DCP 2008 and Wyong Council DCP2005 Chapter 67-Engineering Requirements.

The notable exceptions are the conditions requiring the design and construction of a roundabout at the existing MacKillop Close (school access road) and Minnesota Road intersection. The traffic report prepared by URaP-TTW Consulting Services states that a roundabout is required at this intersection once the future Mataram Road extension is completed. The scenarios examined by the consultant assume that the proposed second access road to the school will be in operation, however the road is outside the scope of the current application and there is no certainty this will occur.

Supplementary assessment by Council indicates that the provision of a roundabout at this intersection will provide a satisfactory level of service without completion of the second access road or the Mataram Road extension. Additionally, a condition has been recommended requiring the dedication of the Minnesota Road extension, from Sparks Road to the proposed Mataram Road extension. Relevant conditions have been recommended accordingly.

As part of the road formation required under the WTC DCP 2008, a 2.5 metre wide off road combined footpath/cycleway is required as well as a requirement for the missing links of the footpath to the existing bus stops at the Minnesota/Sparks Road intersection to be completed.

Roads, Access and Traffic – Internal

The proposed internal parking and access design has been designed generally in accordance with Australian Standard AS/NZS2890 – parts 1, 2 and 6 with regard to parking module layout, space geometry, pedestrian circulation and access to the site.

Conditions have been recommended requiring the detailed design to be completed in accordance with abovementioned standards, including a 2.5 metre wide concrete footpath and vehicle crossing design for Mackillop Close, mini bus parking facilities and the provision of a taxi rank. Additionally, a condition has been recommended requiring the provision of vehicle and pedestrian lighting to be designed and installed in accordance with Australian Standards for the protection of staff and customers, and the future residential lands adjoining the site. Further, the lighting of the existing roundabout must be redesigned to cater for the additional leg and the removal of a light pole.

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

The site is serviced by reticulated water supply, and the proposed development makes provision for connection to the reticulated sewerage system extending along Sparks Road.

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

The Water Sensitive Urban Design and Stormwater Management Report prepared by Ryan Consulting Group has been assessed and is considered generally in accordance with the intent of the Warnervale Town Centre (WTC) DCP and the WTC Integrated Water Cycle Management Strategy (IWCM) prepared by Ecological Engineering (November 2006). The performance measures identified in the IWCM relate to flooding, wetland hydrology, potable water and stormwater quality and the measures have satisfied or exceeded the identified performance measures and the proposed development is considered satisfactory. The consent has been conditioned accordingly.

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

The vegetation on the portion of Lot 8 whereby the “health services facility” is proposed, has been substantially cleared and the vegetation is now limited to a few remnant trees and an understorey dominated by Kikuyu. There is also one hollow bearing tree present on the subject site that is proposed to be removed.

The application was accompanied by a *Flora and Fauna Impact Assessment* and an Assessment of Significance, carried out under Section 5A of the Environmental Planning and Assessment Act 1979, was carried out for Squirrel Glider habitat. The impact assessment concluded that the ‘loss of a single hollow-bearing tree and a relatively small area of marginal potential habitat for the threatened species of interest will not result in a significant impact on any listed species or communities. Given the minor nature of the losses and the loss of the habitat features of the site will be part of the offset conservation actions within the Biocertification Application process no mitigative measures are recommended’. The Assessment of Significance concluded that the proposal is unlikely to have any significant impact on the Squirrel Glider or its habitat.

The *Flora and Fauna Impact Assessment* and Assessment of Significance were reviewed by Council’s Consulting Ecologist who concurs with the findings of both the impact assessment and Assessment of Significance. Appropriate conditions have been imposed on the consent in relation to tree retention and protection requirements.

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

Adequate waste facilities and storage areas are provided within the basement in addition, a Waste Management Plan was submitted with the application which is considered satisfactory.

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

The applicant submitted a statement with the proposal outlining the energy and water efficient measures for the proposal. These include:

- Maximise solar access and natural lighting in the design by maximising the number of windows in the northern face of the building and minimising glazed areas on the eastern and western walls of the building. Where feasible skylights, clerestory windows and light wells have been included.
- Measures have been included to maximise natural heating, cooling and ventilation as well as incorporating external shading devices for all west facing windows. All windows are rated to at least 4 heating stars under the Australian Windows Council's Windows Energy Rating System (WERS). Openable windows, grills, etc provided into the building. Appropriate insulation has been included into walls, floors and ceilings (Section J BCA).
- The development incorporates water efficiency measures such as all taps, shower heads and toilet suites in the development are rated to at least 4 stars under the National Water Efficient Labelling and Standards (WELS) Scheme. A site water management plan is to be prepared which is proposed to reduce the reliance of mains water supply by the following:
  - Preparation of an integrated water collection and recycling system for the capture and recycling of rainwater. The system is to be integrated into the mains supply water system and used primarily for dust control, car washing, watering of gardens, flushing of toilets and similar uses.
  - Capturing and reusing grey water used primarily for dust control, water of gardens and flushing of toilets. Grey water will be required to be separated and treated before reuse.
- The development includes energy efficiency measures such as energy efficient hot water systems with an energy rating of at least 4 stars; efficient air conditioning; energy efficient lighting and lighting control systems including the use of compact fluorescent lamps; the use of triphosphor fluorescent instead of halophosphor fluorescent lights; the use of electronic ballast instead of magnetic ballast in fluorescent lights; the use of low voltage tungsten halogen lights instead of tungsten spotlights; the use of solar powered or metal halide or sodium discharge lamps for outside areas, for example, the carpark.
- Solar panel heating for the indoor pool.

A condition of consent relates to the implementation of those measures outlined in the *Water Conservation and Energy Minimisation Standards* statement within the development.

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

Clause 8.9 of WTC DCP 2008 discusses the minimisation of noise and vibration impacts from the railway corridor and Sparks Road. The clause requires the submission of a noise study for development applications that relate to properties fronting Sparks Road, identifying appropriate noise amelioration measures for dwelling design and acoustic buffer design.

It is considered that given the setback of the proposed facility to Sparks Road, and the nature of the use of the development for non-residential purposes, that an acoustic report is not required in this instance. However, having regard for the residential area proposed to the east of the subject site it is considered reasonable to impose conditions of consent relating to hours of operation and after-hours use of the facility that will mitigate any potential noise impacts the proposed development may have on the adjoining residential area.

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

The portion of Lot 8 containing the proposed development is identified as primarily bushfire prone buffer zone with a small portion of Category 1 vegetation on the proposed northern boundary of the site. A bushfire threat assessment was submitted with the application and reviewed by the NSW Rural Fire Service (RFS) who have issued a Bushfire Safety Authority for the development. Details of RFS comments are provided further in the report.

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

The proposed development provides adequate passive surveillance within and surrounding the facility, particularly with the presence of staff and visitors to the site seven days a week, which will facilitate territorial reinforcement and space management. The following measures will ensure safety and security is maximised and that crime is minimised:

- natural surveillance of the perimeter of the site by patients, visitors and staff;
- well located lighting and creation of clear sightlines around the building and the site in general;
- well defined access and entry into the development and building;
- employment of a caretaker to ensure general cleanliness and maintenance of the site and rapid repair of damage; and
- landscaping and pathways to clearly delineate the areas available to staff, visitors and patients along with distinguished carparks associated with the individual buildings;

In addition to the above, the future fit-out of the building will incorporate appropriate surveillance measures including the provision of a CCTV system to the interior and exterior of the facility as well as the incorporation of a vandal proof lighting system installed to all external areas. This requirement will be conditioned accordingly.



***Any social/economic impact in the locality.***

Wyong Shire's socio-economic status and demographic structure has significant implications for the provision of health services in the area. Population growth and the ageing population has placed considerable pressure upon the resources of Northern Sydney Central Coast Area Health to meet the changing needs of the area. The Shire has a higher proportion of people aged over 65 than NSW which is increasing yearly as the 'baby boomers' generation ages and as more people move into the Shire to retire. This age group has a high demand for all types of health services. The ageing of the population will continue to change the pattern of health problems. The Shire is also characterised by a higher proportion of children. This age group also places high demands on health services.

In addition to the above, the Central Coast Regional Strategy highlights health and community services as a key economic sector on the Central Coast and it is recognised that the health services sector is expected to experience strong growth over the next 25 years. The strategic direction for health, as outlined in the Wyong Shire Council Plan of Management, is to *facilitate the provision of health services in the Shire...and to improve access to general practitioners*. Part of the ongoing service for Council is to assist in the establishment of new GP practices in the Shire. The proposed development is providing for the addition of another GP practice in the Shire.

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

The proposed development has been designed to define the public domain, reinforce the alignment of the surrounding road network, and contribute to a landscaped setting commensurate with the function and character of the precinct.

***Disabled access and facilities***

An accessible path of travel is to be maintained throughout the development. Accessible parking spaces are provided in close proximity to the entries for buildings and accessible toilets and other facilities are provided within the development. Under Table 4 of WTC DCP 2008, one disabled space is required for every one hundred carparking spaces. The proposed development provides 29 disabled carparking spaces which are significantly more than the minimum requirement (that being 2). A condition is to be included requiring the development to comply with the requirements of the Disability Discrimination Act (DDA).

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

The construction of the proposed development will create noise during the construction phase. However, the consent will be conditioned to comply with the interim construction noise guidelines and to ensure that environmental impacts during construction are appropriately managed and mitigated. These conditions include the adoption of sediment and erosion control measures and preparation of a site management plan that includes measures for traffic and pedestrian management, tree protection, noise control, waste storage, dust suppression, and impact monitoring.

**THE SUITABILITY OF THE SITE FOR THE DEVELOPMENT (s79C(1)(c)):*****Whether the proposal fits in the locality.***

The location of the proposed "health services facility" is considered satisfactory having regard for the zoning, future planning of the area and consideration of already approved development in the area. The subject site is located within close proximity to Warnervale Town Centre and is located in an area that has been identified as a regional growth centre to be developed over the next 25 years with facilities such as that which is proposed, providing opportunity for employment and a much community service now and in the future.

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

The proposed development will be located within the nominated buffer zone identified on site, however, adequate Asset Protection Zones (APZ) have been incorporated into the design of the site to appropriately manage and provide adequate setback to the risk.

**ANY SUBMISSION MADE IN ACCORDANCE WITH THIS ACT OR REGULATIONS (s79C(1)(d)):*****Any submission from the public.***

The application was advertised on two separate occasions from 10 December 2009 to 5 January 2010 with this period being extended to 19 February 2010 to cater for the Christmas and school holiday period, and 25 May 2010 to 11 June 2010. Notification of the application was carried out in accordance with DCP 2005 Chapter 70-Notification of Development Proposals with 101 submissions and one petition with 97 signatures being received in the first notification period, and no submissions being received in the second notification period. The second notification of the development application involved the exhibition of the amended plans and additional information relating to a "health services facility".

The issues raised in the submissions received in the first notification period have either been addressed via amendments made to the design of the development or have been addressed in the assessment of the application pursuant to the heads of consideration contained within Section 79C of the Environmental Planning and Assessment Act 1979.

Issues raised in the first notification period related to the following matters:

- Access to the site
  - Increase in traffic accessing Mackillop Close will increase congestion around the school
  - Increased congestion at Sparks Road intersection
  - Safety for students, parents, buses and patients of the facility
  - Consideration should be given to access from Minnesota Road and not Mackillop Close
- Traffic
  - School peak periods will be exacerbated
  - Traffic flows through the main intersection (Minnesota and Sparks Roads) and associated queuing
- Parking in school grounds
- Safety during construction of the proposed development
- Noise pollution

- Relocate facility closer to railway lines
- Complete Mataram and Minnesota Roads before allowing the clinic to develop
- There is a need for additional GP's, particularly in the northern area of the Central Coast,
- Inadequate carparking spaces being made available on site
- It would be of greater benefit if the development was located closer to the Warnervale Town Centre
- No consideration of future growth of Mackillop Catholic College
- Appropriateness of this development to the site

The advertising of the amended plans resulted in no submissions being received. As such, it can be assumed that the amended design has alleviated the concerns of the community. However, the issues raised above were still considered during the assessment process and in some cases, have been addressed via conditions of consent.

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

NSW Rural Fire Service

The proposed "health services facility" is classified as Special Fire Protection Purpose (SFPP) development and was referred to the NSW Rural Fire Service (RFS) for their concurrence under Section 91 of the EP&A Act 1979.

RFS issued their General Terms of Approval on 4 February 2010 subject to conditions of consent relating to asset protection zones, landscaping, the provision of water and location of utilities, access, and evacuation and emergency management.

RTA

The proposed development was referred to the RTA who raises no objection to the proposal subject to conditions of consent relating to the provision of appropriate road infrastructure.

Mine Subsidence Board

The "health services facility" is proposed in a mines subsidence district and was therefore referred to the Mines Subsidence Board in accordance with Section 91 of the EP&A Act 1979. The Mines Subsidence Board has issued their General Terms of Approval for the proposed development.

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

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

The Wyong Shire Community Plan (2008 – 2013) identifies Council's main role in relation to health as being:

- To lobby for additional resources to improve health services for residents of Wyong Shire, and;
- To advocate for improved provision and access to health services including access to GPs for residents.

Council officers have invested significant time and resources in the provision of information to any party or individual applying for the Commonwealth Governments GP Super Clinic funds. Any application which will result in the establishment of new and innovative models of health service provision in the Shire, particularly in the north, is considered to warrant support.

The Central Coast Regional Strategy was released on 26 June 2008. The strategy allows population increase with associated increases in housing and employment provision. The subject site is located within one of the identified major corridors between Wyong and Wadalba and the nature of the proposed development is considered to provide the additional community and health care facilities envisaged under the strategy and will not prejudice the objectives of the strategy having regard for housing supply, centres development and Greenfield development.

## **OTHER MATTERS FOR CONSIDERATION**

### **Voluntary Planning Agreement**

Under Clause 271B of the Environmental Planning and Assessment Regulation 2000 a development application in relation to all or part of the Warnervale Town Centre State Significant Site (the subject site included) must not be determined by the consent authority unless a contributions plan under Section 94E of the Act has been approved for that State Significant Site. No Contributions Plan has been approved to date and no transitional arrangements have been included into the legislation. A draft plan is not anticipated to be adopted until late 2010.

However, Council may dispense of this requirement if the developer has entered into an agreement with the consent authority that makes adequate provision with respect to the matters that may be the subject of a contributions plan. As such, a Voluntary Planning Agreement (VPA) has been entered into with Council, in accordance with Council's Planning Agreements Policy. If agreed upon, it will enable the issue of a Notice of Determination prior to the adoption of a Section 94 Plan for the area subject to an appropriate condition of consent being imposed relating to execution of the agreement prior to the release of the first Construction Certificate.

Council had anticipated receiving the final signed VPA at the same time as the amended plans so that they could both be put on public exhibition concurrently, however this did not occur. Notwithstanding this, Clause 25D(1)(a)(ii) of the Environmental Planning and Assessment Regulation 2000 allows for the following:

- 1) *If a planning authority proposes to enter into a planning agreement, or an agreement to amend or revoke a planning agreement, in connection with a development application or a project application, the planning authority is to ensure that public notice of the proposed agreement, amendment or revocation is given:*

*...in the case of an agreement in connection with a development application:*

- (i) if practicable, as part of and contemporaneously with, and in the same manner as, any notice of the development application that is required to be given by a consent authority for a development application by or under the Act, or*
- (ii) if it is not practicable for notice to be given contemporaneously, as soon as possible after any notice of the development application that is required to be given by a consent authority for a development application by or under the Act and in the manner determined by the planning authorities that are parties to the agreement"*

Previous legal advice has been obtained from Council's Solicitors in relation to the above who have advised that the terms of the VPA have to be agreed to and signed but the document does not have to be executed prior to the Notice of Determination being issued. As such, it is considered acceptable that should the HCCJRPP recommend approval of the application that a condition be imposed requiring the execution of the agreement in accordance with the agreed and publicly exhibited terms of agreement.

Once the signed document has been received and reviewed by Council's Solicitors, the VPA will be placed on public exhibition in accordance with Section 93G of the Environmental Planning and Assessment Act 1979, for a period of 28 days. It is anticipated that the VPA will be on exhibition prior to any Notice of Determination being issued.

The VPA requires the Developer to pay Council Monetary Contributions towards various categories of local community infrastructure which would otherwise be a requirement under a Section 94 Development Contributions Plan. The Monetary Contributions outlined in the VPA are consistent with those outlined in the Draft Warnervale Town Centre Development Contributions Plan. If the development does not proceed prior to adoption of the Warnervale Town Centre Contributions Plan, then contributions will be levied under the Contributions Plan if lower than those outlined in the VPA.

## CONCLUSION

The proposed "*health services facility*" complies with the objectives of the R1 General Residential zone and the requirements of the relevant Environmental Planning Instruments. Although variation is sought to Building Height under SEPP (Major Development) 2005 it is considered reasonable as the development has been designed to relate well with the topography of the site, provide architectural interest and provide a development that maximises energy efficiency.

The variation proposed to the parking rates under Table 4 of Warnervale Town Centre DCP 2008 is considered reasonable and warranted in this particular circumstance having regard for the shared nature for some of the uses within the facility and the findings of the Traffic and Parking report. Furthermore, given the context of the site and the nature of the development it is anticipated that the proposed development will result in creating a positive community benefit by providing much-needed health facilities to the north of the Central Coast.

The application has been assessed in accordance with the relevant Environmental Planning Instruments and Section 79C of the Environmental Planning and Assessment Act 1979 with no significant issues being raised, as such, the proposed "*health services facility*", as defined under SEPP (Infrastructure) 2007 is recommended for approval.

## ATTACHMENTS

- 1 Development Plans (A3 Black & White) Enclosure D02267155

## **2.5 Waste Levy - Section 88 Audit Negotiations**

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TRIM REFERENCE: F2010/00500 - D02259728

AUTHOR: MJ

### **SUMMARY**

Department of Environment, Climate Change and Water (DECCW) conducted an audit (under Section 88 of the *Protection of the Environmental Operations Act 1997* (POEO Act)) on waste levy compliance at Buttonderry Waste Facility in the years 1999 to 2005.

During those years, Council received waste material from its own operations which it described as 'clean fill'. It claimed exemptions for the use of this material as "VENM" (Virgin Excavated Natural Material). As Council's records of receipt referred to "Clean fill" rather than "VENM", the records did not match its claims for the exemption and rebate, DECCW alleged that Council was not entitled under the law to those exemptions and rebates. DECCW's claim was for some \$4 million.

### **RECOMMENDATION**

**That Council endorse the agreement reached between the parties.**

### **DISCUSSION**

Section 88 of the POEO Act imposes upon the operators of waste facilities a contribution which is payable to the Environment Protection Authority (EPA) "in respect of all waste received at the facility". Regulations have been made defining the quantum of the contribution, the circumstances in which it is payable and providing for exemptions and rebates (s88 (5); POEO (Waste) Regulation 1998). The contribution is now referred to as the "waste and environment levy."

DECCW conducted an audit of Councils compliance with Section 88. The draft audit report indicated that Council has underpaid its contributions and claimed exemptions where none were available. It says that Council is liable to pay the EPA in the order of \$4 million, a sum which does not include any interest which might be payable under section 88(7) of the POEO Act.

The dispute between DECCW and Council over the contributions has been unresolved since 2006. Whilst not related to the three prosecution actions commenced by the EPA in respect to Gwandalan, Toukley and Mardi, both parties saw the prosecution actions as a means to also resolving the outstanding contributions matter.

With this in mind, the General Manager met representatives of DECCW on 24 May 2010. The following four (4) matters were the main topics for discussion;

1. Council's paper trail (i.e. receipts). It is alleged by DECCW that Council could not substantiate (through receipts etc) the claims for exemption. There is some truth to this issue as Council did not maintain accurate records. Whilst this maybe the case, the error is most likely an "administrative" error, an error which Council is now allowed to correct through the reconstruction of its records and substantiate its claim for exemption.

It was the opinion of Senior Counsel (SC), that, even if Council was unable to substantiate its claim for exemption, it would owe some hundreds of thousands of dollars, not the millions alleged.

2. There were components of the findings of the draft audit report which are uncontested.
3. Council has SC advice that Council is in a strong position to resist DECCW's claims in relation to the classification of waste. The SC advice however recommends that Council enter into negotiations with DECCW.
4. Any liability for unpaid contributions which occurred more than six (6) years ago had been extinguished by the *Limitation Act 1969*.

Based on the discussion it was agreed that DECCW would relook at the matter, particularly in light of the six (6) year statute of limitation. The audit period would be shortened to the last two years of the original period claimed (1 July 2003 – 31 December 2004). It was agreed that, based on a two (2) year audit period, Council owed the EPA approximately \$1.6million, plus interest. A payment plan was also discussed, whereby Council would repay the contributions over three (3) years, \$600,000.00 by 30 June 2010, and \$500,000 each subsequent year. If Council defaulted, interest would be applied.

DECCW by letter dated 7 June 2010 confirms the agreement reached above. The letter also advises that DECCW has finalised the waste levy compliance audit of the Buttonderry Waste Management Facility (for the period 1 July 1999 to 30 June 2005). A final audit report is attached to the letter. As a result of the final audit, DECCW has determined that Wyong Shire Council is required to pay \$1,665,731.34 in outstanding waste levy comprising of:

- i 10% of reported VENM previously exempted from the calculation of the waste contribution (including \$17,797.92 relating to seagrass classified as VENM - \$400,887.84.
- ii Segregated bricks and concrete previously exempted from the calculation of the Waste Contribution - \$355,815.15.
- iii Rebates claimed in the calculation of the Waste Contribution for the period 1 July 2003 to 31 December 2004 - \$855,887.35.
- iv July 2003 underpayment due to weighbridge malfunction - \$53,141.00.

As negotiated and agreed, DECCW has allowed Council to liquidate its waste levy liability in three separate instalments as follows;

- I. \$665,731.34 payable within 21 days
- II. \$500,000.00 by 1 June 2011, and
- III. \$500,000.00 by 1 June 2012.

Council's forward estimates have been adjusted to take account of these payments.

**CONCLUSION**

Negotiations between DECCW and Council have resulted in a resolution of the long outstanding levy issue, the terms of which are outlined above. Councils endorsement of the terms of the agreement is sought.

**ATTACHMENTS**

- 1 Environment Climate Change & Water Cover letter and Invoice D02269505





Environment,  
Climate Change  
& Water

Our reference : DOC10/24918  
Licence No. : 5955

Mr Michael Whittaker  
General Manager  
Wyong Shire council  
PO Box 20  
WYONG NSW 2259

REGISTERED POST & ELECTRONIC MAIL

Dear Mr Whittaker

I am writing to you in relation to the finalisation of the waste levy compliance audit of the Buttonderry Waste Management Facility for the period 1 July 1999 to 30 June 2005.

Please note that, although the Environment Protection Authority ("EPA") is now a part of the Department of Environment, Climate Change and Water ("DECCW"), certain statutory functions and powers continue to be exercised in the name of the EPA.

I also refer to a meeting between Wyong Shire Council and DECCW on 2 June 2010 to discuss the final draft audit report.

DECCW notes that Council accepts the general principles underlying the audit findings and the monetary values attached to those findings, with the exception of the monetary value attached to the findings relating to the claim for Operational Purpose Rebates.

During this meeting, Council identified the potential implications of the *Limitations Act 1969* on the ability to recover a debt after six years. Having considered Council's position in relation to the application of the *Limitations Act 1969*, it was agreed between the parties that the disallowance of the Operational Purpose Deduction would be limited to the period 1 July 2003 to 31 December 2004.

DECCW has finalised the waste levy compliance audit of the Buttonderry Waste Management Facility for the period 1 July 1999 to 30 June 2005. Please find enclosed a copy of the final audit report for your information.

As a result of the final audit, DECCW has determined that Wyong Shire Council is required to pay \$1,665,731.34 in outstanding waste levy. Details on the breakdown of the outstanding waste levy liability are provided in the attached audit report.

As agreed, Wyong Shire Council will be allowed to liquidate its waste levy liability in three separate instalments, as follows.

- i) \$ 665,731.34 payable per an invoice which will accompany the Report of Audit (within 21 days);

PO Box A290 Sydney South NSW 1232  
59-61 Goulburn St Sydney NSW 2000  
Tel: (02) 9995 5000 Fax: (02) 9995 5999  
TTY (02) 9211 4723  
ABN 30 841 387 271  
[www.environment.nsw.gov.au](http://www.environment.nsw.gov.au)

- ii) \$ 500,000 by 1 June 2011; and
- iii) \$ 500,000 by 1 June 2012.

Reminders by way of invoices will issue to Council by 1 March in the two subsequent years.

However, if Wyong Shire Council fails to adhere to these terms the entire balance outstanding will become immediately due and payable with interest calculated from the due date of the initial invoice which will accompany the Audit Report.

DECCW appreciates Council's willingness to resolve this long standing waste levy matter.

If you have any questions, please do not hesitate to contact me on (02) 9995 5760.

Yours sincerely



7 JUN 2010

**STEVE BEAMAN**  
**Director Executive Services**  
**Department of Environment, Climate Change and Water**

Att. Final – Audit Report (7 June 2010)  
Invoice





## **2.6 Wyong Shire Council vs Environment Protection Authority Land and Environment Court Proceedings No 50014, 50015 and 50016 of 2010**

TRIM REFERENCE: F2010/00500 - D02259733

AUTHOR: MJ

### **SUMMARY**

This report outlines the background to the matters, outlines an agreement reached between the parties and seeks Council's endorsement to action the agreement.

### **RECOMMENDATION**

- 1 That Council endorse the agreement reached between the parties.**
- 2 The Council authorise the General Manager to action the agreement.**

### **INTRODUCTION**

The Environmental Protection Authority NSW (EPA) on 16 April 2010 commenced 3 actions against Council in the Land and Environment Court (LEC). The actions relate to the use of sites at Gwandalan, Toukley and Mardi for the purpose of waste facilities without lawful authority. Specifically it is alleged in all three actions that "Wyong Council committed an offence against s144(1) of the Protection of the Environment Operations Act 1997 (POEO Act) in that, it being the occupier of land, used the land as a waste facility without lawful authority".

The nature of the alleged "unlawfulness" was;

- a) The facility required an Environmental Protection Licence under the POEO Act, and/or;
- b) The waste facility was not lawful under the Environmental Planning and Assessment Act 1979 (EPA Act).

Section 144 (1) of the POEO Act states

*"A person who is the owner or occupier of any land and who uses the land, or causes or permits the land to be used as a waste facility without lawful authority is guilty of an offence.*

#### *Maximum Penalty*

- a) *In the case of a corporation - \$1,000,000 and, in the case of a continuing offence, a further penalty of \$120,000 for each day the offence continues, or*
- b) *In the case of an individual - \$250,000 and, in the case of a continuing offence a further penalty of \$60,000 for each day the offence continues".*

Note: The EPA has advised that it does not intend to take any action against any individual.

## **2.6 Wyong Shire Council vs Environment Protection Authority Land and Environment Court Proceedings No 50014, 50015 and 50016 of 2010 (contd)**

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Council's Solicitors have undertaken considerable background and preparatory work in the anticipation that the EPA would lodge actions in respect to the 3 sites following site investigations. The background work undertaken by Council's Solicitors ensured Council was "on the front foot", particularly in relation to understanding the cases that Council may have to answer, and informing the Council (including briefing Councillors) as to Council's potential exposure (both in terms of possible liability and penalties, including costs). Due to the background work, Council and its Solicitors were in a relatively good position when it received the prosecution actions. Council's understanding of the actions assisted in the negotiations with the EPA as outlined below.

### **THE NEGOTIATIONS**

The General Manager met with representatives of the EPA on 24 May 2010 with the objective of reaching an agreement which was acceptable to both parties. From Council's perspective the following factors formed the basis of the negotiation:

1. Negotiate a resolution which was in the best interests of the community;
2. The desire to narrow the number of prosecutions – i.e.: seek agreement to drop actions at Gwandalan and Mardi;
3. Where prosecutions were to proceed, they be proceeded on the basis of agreed facts;
4. The ability to file "mitigating" circumstances in order to minimise possible penalties;
5. Minimise costs to Council;
6. Maintain and protect the working relationship between Council and DECCW;
7. The outcome was "fair" and provided "certainty";
8. Need to act in accordance with statutes;
9. Whilst statutes may have been breached, the use of the Toukley site for recycling purposes, was consistent with the overall intent/objectives of the POEO Act; and
10. Council has implemented process and cultural change, even though there was still some way to go.

### **OUTCOME OF NEGOTIATIONS:**

The following agreement was reached;

1. DECCW would drop the Gwandalan prosecution;
2. The prosecutions at Toukley and Mardi would proceed;
3. Best endeavours would be used to get agreed facts settled and filed before pleadings;
4. Council would plead guilty to the alleged breaches at Toukley and Mardi;
5. Council would seek the 25% reduction at next suitable mention (for both sites);
6. Council would file mitigation circumstances at the appropriate time;
7. DECCW agreement to work collaboratively to assist Council in moving Council to a higher level/paradigm in terms of its environmental management practices (including assistance in developing an environmental management system (EMS); and
8. Any costs award against Council would go towards environmental project(s) in Wyong Shire. The project(s) would be identified by DECCW and managed by both organisations. This would be achieved through the Court issuing an environmental service order.

## **DISCUSSION**

Council was unsuccessful in having the Mardi prosecution dropped, notwithstanding the argument against Council was technical. DECCW was emphatic on prosecuting this matter because it involved asbestos.

Council was successful in having the Gwandalan prosecution dropped given the difficulty in determining the source of the majority of the material deposited at this site.

On the considerable research undertaken by Council's staff and Solicitors, Council was exposed at Toukley.

Council will file agreed facts before pleading and file affidavits outlining what steps Council has taken in addressing its past practices (contrition and remorse). This is a significant compromise on DECCW's part, and will assist in reducing likely penalties (including costs) issued by the Court. Council's subsequent actions places it in a good position to demonstrate much improved environmental management practices. It is noted that contrition and remorse will be more likely shown by the offender taking actions, rather than simply offering apologies through their legal representatives.

On the above basis, Council should plead guilty at the next appropriate mention of the matters. A sentencing court is required to take into account the fact that an offender has pleaded guilty at the time of the plea. The court may impose a lesser penalty than it would have otherwise imposed. The range in which the penalty can be reduced is up to 25%. A primary consideration in determining where in the range a particular case should fall is on the timing of the plea.

There is significant benefit in having DECCW work with Council in improving its environmental management practices and assisting ongoing culture change programs at Council. The agreement builds on Council's relationship with DECCW and enables a constructive partnership to continue to develop.

Finally the agreement whereby the Court will issue an environmental service order, in which any fines awarded will be directed to environmental works within Wyong, provides a significant opportunity to undertake key environmental works within Wyong for the benefit of the Wyong Community.

Whilst costs have yet to be determined, Council will incur prosecution costs, any investigation costs by DECCW and its own legal costs.

## **CONCLUSION**

On balance, the negotiated agreement set out above, is the best outcome for Council. It will;

- minimise Council's costs,
- enable Council to work with DECCW in achieving improved environmental management practices, and
- will see all fines awarded against Council directed to key environmental work within Wyong.

## **ATTACHMENTS**

Nil

## 2.7 Proposed Funding Agreement between Wyong Shire Council and Central Coast Tourism Incorporated

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TRIM REFERENCE: F2004/07096 - D02267033

AUTHOR: GM

### SUMMARY

Reporting on the current and proposed funding agreement between Central Coast Tourism Incorporated and Wyong Shire Council.

Recommendation

- 1 ***That Council allocate a further \$55,000 to Central Coast Tourism Inc (CCTI) for the 2010-11 financial year bringing the total subsidy for the 2010-11 financial year to \$150,000 and that Council determine the source of funding from the list of allocations made to their priority list projects which are attached to the report.***
- 2 ***That Council enter into a Memorandum Of Understanding with CCTI that addresses funding, reporting and compliance with the destination management plan prior to allocation of funding in the 2011-12 Management Plan.***

### BACKGROUND

Council at its meeting of 26 May 2010 resolved as follows:

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

- 1 *That Council congratulate Central Coast Tourism Inc (CCTI) on the restructuring, rebranding and improved servicing of the important local tourism industry.*
- 2 *That Council in recognition of such improvement review CCTI core operational funding.*
- 3 *That Council receive a briefing on 23 June 2010 with CCTI to discuss operational issues with a report to 23 June 2010 meeting documenting service improvements, identifying how funding from Council should be improved to around \$150,000 (excl GST ) per annum.*

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

AGAINST: NIL”

### HISTORY

During the 1980's the tourist associations of Tuggerah Lakes and Gosford acted independently but were represented by Central Coast Tourism in activities external to the



## **2.7 Proposed Funding Agreement between Wyong Shire Council and Central Coast Tourism Incorporated (contd)**

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Central Coast. These two associations amalgamated with Central Coast Tourism to form Central Coast Tourism Incorporated.

At the same time two organisations that encouraged employment industries to relocate to the Central Coast, being the Central Coast Regional Development Corporation and the Regional Development Organisation, the latter being funded by both Gosford and Wyong Councils existed on the Central Coast.

During the late 1990's a proposal to amalgamate Central Coast Tourism and the two Regional Development Organisations was considered however only the development organisations were amalgamated to form the Central Coast Regional Development Organisation. This organisation was succeeded by Business Central Coast in 2002, following the signing of an agreement between Gosford City Council, Wyong Shire Council and the New South Wales State Government.

In 1998 an agreement between Wyong Shire Council, Gosford City Council and Central Coast Tourism Inc was signed for a period of three years. The principal objective of this agreement was to enable Central Coast Tourism to promote and develop the Central Coast as a domestic and international visitor destination thereby ultimately increasing the economic benefits of the Central Coast. To achieve this, Council agreed to provide ongoing funding for the term of the agreement. The agreement lapsed in 2000 and whilst funding continued the agreement was not formally extended or renewed.

In 2005, Council entered into a Memorandum of Understanding between the Minister for Regional Development, Gosford City Council and Business Central Coast to provide core funding to Business Central Coast for three years effective from 1 July 2005 until 30 June 2008. Upon entering this agreement contributions to Central Coast Tourism Incorporated were made direct to that organisation rather than through Business Central Coast, which it had been prior to the signing of the Memorandum of understanding.

At the ordinary meeting of Council held on 13 February 2008 Council resolved not to continue the funding agreement with Business Central Coast and to provide a project budget in order to partner with other public or private organisations for particular projects to promote the Shire.

In recent years there have been a number of questions without notice raised by Councillors about the operations of CCTI, generally enquiring as to whether the objectives of the business plan or promotional program, that were required by the agreement had been met or the reports provided had satisfied the intent of the agreement. The responses provided addressed the questions raised but did not canvass the issue of renewing the agreement that had expired in 2000.

As a result of these ongoing concerns and the strained relationship between CCTI and Council it was resolved at the Ordinary meeting of Council held on 27 May 2009 to reallocate the funding proposed for CCTI in the 2009-10 financial year towards project based proposals that related to tourism marketing and promotions that generated significant employment opportunities.

In late 2009, a new CEO was appointed to CCTI and as a result a new line of communication began between the organisations and negotiation between Council and the new Chief Executive Officer of CCTI resulted in the renewal of direct funding to CCTI although the

## **2.7 Proposed Funding Agreement between Wyong Shire Council and Central Coast Tourism Incorporated (contd)**

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amount of \$95,000 per annum however this funding was significantly less than the \$175,000 previously given to CCTI for tourism purposes.

### **DISCUSSION**

After Council's decision to reallocate the funding from CCTI to a project based scheme, the then CEO made a number of submissions to Council for this funding including one submission for \$222,000 plus GST to operate and maintain The Entrance Visitors Centre, however none of the proposals put forward by CCTI were accepted by Council.

In 2009 with the appointment of CCTI's new CEO came a more positive approach from CCTI and a line of communication was again operating between the two bodies. As a result a number of meetings took place between Council and CCTI, in an endeavour to reach agreement on a funding package for CCTI. Council initiated a strategic shift as a result of these discussions and instructed CCTI to discuss with The Entrance Town Centre Management (TETCM) the possibility of that organisation operating The Entrance Visitors Centre. These discussions resulted in an agreement that would see TETCM operate the visitors centre. Whilst TETCM sought and was granted an additional \$70,000 per annum to operate The Entrance Visitors Centre, based on the costing provided by the out going CEO of CCTI of \$220,000 per annum, Council will need to closely monitor the situation to ensure that the level of service expected from the visitors centre is met.

The negotiations also required CCTI to enter into a memorandum of understanding with Council before any agreement on funding could be reached. The MOU required 4 core objectives to be met, which are:

- 1 The CCTI board agrees to move to a skills based board and aim to have a new constitution in place by the 1 July 2010.
- 2 CCTI board agrees to endorse a destination management approach to planning the Central Coast and aim to have such plan in place by May 2010.
- 3 CCTI board agree to introduce a new membership structure.
- 4 CCTI agree to endorse an agreement reached with TETCM for the ongoing operation of The Entrance Visitors Centre.

As a result of this new line of communication and endeavours by CCTI to address Council's concerns a report was presented to the Ordinary meeting of Council on the 9 December 2009. The report highlighted that other organisations including Toukley Greater Vision and The Entrance Town Centre had made application for tourist related projects from the funding previously allocated to CCTI. The meeting resolved to allocate approximately \$45,000 towards these projects, \$70,000 to The Entrance Town Centre to operate The Entrance Visitors Centre, (\$35,000 for the remainder of the 2009/2010 financial Year) and \$95,000 to CCTI.

### **CENTRAL COAST TOURISM INC.**

For many years CCTI has been the principal agency that has had the carriage of promoting tourism across the Central Coast region. It has established a Gateway visitors centre at Mount Penang and operates satellite centres in both Gosford and Wyong Local Government areas.

## **2.7 Proposed Funding Agreement between Wyong Shire Council and Central Coast Tourism Incorporated (contd)**

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Despite Council's concern of the overall management of CCTI, the organisation has developed a sound reputation in some niche areas of tourism which has resulted in some positive outcomes for the Central Coast.

The appointment of Oliver Philpot to the position of CEO of CCTI has resulted in some significant changes to the structure of the organisation and opened up an open line of communication between the partners responsible for an effective tourism industry on the Central Coast.

The four core objectives of the MOU between Council and CCTI have either been completed in the first 5 months of the agreement or will be in the near future.

To date the membership system has been overhauled and restructured, with over 60 new members joining CCTI and several old members, such as Crown Plaza Terrigal rejoining. The destination management plan has been compiled and it is currently being distributed for comment, with the aim to have the document endorsed and in operation at the beginning of the new financial year.

The Board has moved to a skills based operation and has developed a new constitution which is in the final stages of adoption.

Agreement has also been reached with TETCM and the operation of the Visitors Centre is now being conducted by TETCM.

The new leadership team at CCTI has faced many challenges in the past six months including a review of their financial situation in an effort to realign and consolidate the business to a viable and sustainable future. CCTI has developed a strategic, coordinated and holistic approach to the management of tourism and its stakeholders on the Central Coast.

### **FUNDING**

Prior to Council's resolution of the 27 May 2009 Council had provided \$175,000 per annum from general revenue to CCTI to assist with the operation of their organisation. As a result of this resolution the funding was available for other organisations to make application for tourist or promotional projects that were employment generating.

The appointment of a new CEO to CCTI in late 2009 resulted in Council allocating \$70,000 towards The Entrance Town Centre to operate The Entrance Visitors Centre and \$95,000 to CCTI towards their operations. Funding for these amounts has been proposed in the 2010/2011 Management Plan and should Council wish to increase the funding to CCTI for the 2010/2011 financial year, the additional funds would need to be sourced from other areas within the budget.

### **CONCLUSION**

A well managed and resourced tourism body on the Central Coast will assist Council with many of the visions outlined in the Shire Strategic Vision.

Figures from Tourism Research Data indicate that the tourism industry is worth \$750 million annually to the Central Coast. It is also recognised that the industry has been in decline in recent years and it is considered that additional funding to a well structured and managed tourism body will result in an increase in the tourism industry across the Central Coast region.

The efforts of the new CEO and restructured board over the past 6 months have indicated that CCTI is now in a position to make a significant contribution to the tourism sector across the Central Coast and it is therefore recommended that Council increase the support for CCTI to \$150,000 for the 2010/2011 financial year.

## **ATTACHMENTS**

- 1 Councillor Priority List Allocations      D02269172

<b>Councillor Priority List Allocations</b>	<b>\$'000</b>
<b>Community Buildings - Maintenance &amp; Upgrade</b>	<b>455</b>
<b>HR Unit</b>	<b>263</b>
<b>Depot Maintenance</b>	<b>255</b>
<b>Sports Facilities - Maintenance, Operations &amp; Renewal</b>	<b>170</b>
<b>Community Connectedness</b>	<b>135</b>
<b>Recreation Centres - Maintenance</b>	<b>100</b>
<b>Swimming Pools - Operations &amp; Maintenance</b>	<b>93</b>
<b>Civic Centre Maintenance</b>	<b>60</b>
<b>Support of Economic Organisations</b>	<b>59</b>
<b>Graffiti</b>	<b>50</b>
<b>Rangers</b>	<b>49</b>
<b>Community Centres - Maintenance</b>	<b>49</b>
<b>Sports &amp; Recreation Participation</b>	<b>40</b>
<b>Wrack management</b>	<b>37</b>
<b>Seniors - Facilities</b>	<b>25</b>
<b>Pool Audits</b>	<b>25</b>
<b>TOTAL</b>	<b>1,865</b>

### 3.1 DA/664/2009 Proposed Dual Occupancy at Lakeside Parade, Long Jetty

TRIM REFERENCE: DA/664/2009 - D02231028

AUTHOR: SR

#### SUMMARY

An application has been received for the demolition of an existing fibro dwelling and structures and the construction of two new dwellings as a detached dual occupancy development at 33 Lakeside Parade, Long Jetty. Having regard for the matters for consideration detailed under Section 79C of the Environmental Planning and Assessment Act 1979 (EP&A Act), the application is recommended for refusal.

The application is reported to Council in accordance with Council's resolution of 10 March 2010 regarding applications affected by the State Government's Sea Level Rise Policy. The proposal does not comply with a number of provisions within DCP 2005, Chapter 58 Dual Occupancy Development.

<b>Applicant</b>	Legge Architects
<b>Owner</b>	L Capolupo; M Capolupo & C Capolupo
<b>Application No</b>	664/2009
<b>Description of Land</b>	Lot 5 DP 21512 (No 33) Lakeside Parade, The Entrance
<b>Proposed Development</b>	Demolition and Construction of a Proposed Dual Occupancy
<b>Site Area</b>	733m <sup>2</sup>
<b>Zoning</b>	2(a) Residential
<b>Existing Use</b>	Existing dwelling
<b>Employment Generation</b>	No
<b>Estimated Value</b>	\$290,000

#### RECOMMENDATION

***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 is not supportive of the proposed development.***

#### BACKGROUND

The current development application proposes to demolish existing structures and construct two new dwellings as a detached dual occupancy development.

The proposal features a number of departures from Council's design requirements applicable to dual occupancy development. The property is part classified as 'high hazard flooding' and accordingly, a development of this nature is not permitted under Council's Flood Prone Land Development policy.

Incorporating sea level rise projections, the whole of the property could be classified as 'high hazard flooding'. According to Councils Flood Prone Land Development Manual, new development is not permitted in high hazard flooding areas. Despite Council's written advice raising these concerns, the applicant has failed to redesign and address high hazard flooding and sea level rise predictions. Therefore, due to the intensification of landuse and subsequent population density increase and the potential risk to property and life as a result of the development, the application is recommended for refusal.

## INTRODUCTION

The subject site extends between Tuggerah Parade in its west and Lakeside Parade in its east, having a land area of 733m<sup>2</sup>. The topography of the site ranges from 1.05metres AHD at the Tuggerah Parade boundary to a high point of 2.01metres AHD at the Lakeside Parade boundary. There are a number of small shrubs located within the property and a fibro clad dwelling and a shed. Existing development in the locality is typically old clad dwelling-houses, interspersed with occasional modern residential developments. The subject site is partly high hazard flood affected, as is most of the immediate surrounding area to the north and south.

## VARIATIONS TO POLICIES

<b>LEP/DCP</b>	DCP Chapter 58
<b>Clause</b>	4.1
<b>Standard</b>	Building Height – with minimum floor height level, proposal exceeds 7m building height limit
<b>Departure basis</b>	Not supported

<b>LEP/DCP</b>	DCP Chapter 58
<b>Clause</b>	5.2
<b>Standard</b>	Filling - Fill proposed for landscape design is inappropriate given the location in a floodplain Filling;
<b>Departure basis</b>	Not supported

<b>LEP/DCP</b>	DCP Chapter 58
<b>Clause</b>	9.1 –
<b>Standard</b>	Private Open Space - Unit 2 courtyard is isolated from the internal living area
<b>Departure basis</b>	Not supported

<b>LEP/DCP</b>	DCP Chapter 58
<b>Clause</b>	9.2 –
<b>Standard</b>	Overshadowing - Applicant has not satisfactorily demonstrated that property to south west will not be affected by over shadowing
<b>Departure basis</b>	Not supported

<b>LEP/DCP</b>	DCP Chapter 58
<b>Clause</b>	9.3
<b>Standard</b>	Privacy - – Direct overlooking from first floor balcony of Unit 2 to neighbouring properties
<b>Departure basis</b>	Not supported

## HISTORY

An application for dual occupancy on the subject site was refused in 1994, one of the reasons being the impact of flooding.

## PERMISSIBILITY

The subject site is zoned 2(a) (Residential Zone) under the Wyong Local Environmental Plan (WLEP) 1991. The proposed development for the purpose of a “detached dual occupancy” is permissible with consent and generally complies with the objectives of the zone, which are:

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

## RELEVANT STATE/COUNCIL POLICIES AND PLANS

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

- State Environmental Planning Policy 71 (Coastal Protection)
- NSW Government “Sea Level Rise Policy Statement”
- Development Control Plan 2005 Chapter 58 (Dual Occupancy Development)
- Development Control Plan 2005 Chapter 67 (Engineering Requirements)
- Development Control Plan 2005 Chapter 69 (Waste Management)
- Flood Prone Land Development Policy F5
- Landscape Policy L1

## ECOLOGICALLY SUSTAINABLE PRINCIPLES

The proposal has been assessed having regard to Ecologically Sustainable Development (ESD) principles and is considered to be inconsistent with the ESD principles.



### 3.1 **DA/664/2009 Proposed Dual Occupancy at Lakeside Parade, Long Jetty (contd)**

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The proposal does not result in the disturbance of any endangered flora or fauna habitats and is unlikely to significantly affect fluvial environments.

Consideration of the potential impacts of climate change on the proposed development reveals that the proposal is not suitable for the subject site. The development, if approved, would not be sustainable and is not consistent with the overall objective of Ecologically Sustainable Development in particular:

- the precautionary principle – potential serious and irreversible damage to the environment as a result of the proposed development being situated in a highly vulnerable location. Lack of full scientific certainty should not be used as a justification for postponing measures to prevent such damage.
- inter-generational equity - the proposal does not have regard for maintaining the quality of the environment for future generations. The proposal would be highly vulnerable to risk of flooding, which would potentially result in damage to the built environment and environs.

#### **ASSESSMENT**

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

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

##### **Climate Change**

A list of various publications and relevant discussion papers regarding consideration of climate change in development assessment is attached to this report for information.

##### **NSW Government Policy**

The Department of Environment, Climate Change and Water (DECCW) published a '*NSW Sea Level Rise Policy Statement*' (Policy Statement) in 2009, which sets benchmarks for sea level rise above 1990 mean sea levels of 400mm by 2050 and 900mm by 2100. The planning benchmarks have been derived from credible national and international projections of sea level rise, as explained in the technical note that accompanies the Policy Statement.

The Department of Planning (DoP) recently released a draft "*NSW Coastal Planning Guideline: Adapting to Sea Level Rise*," which adopts the sea level rise planning benchmarks in the NSW Sea Level Rise Policy Statement and outlines a proposed approach to assist Councils, State agencies, planners and development proponents when addressing sea level rise in land-use planning and development assessment. It is based around six principles to guide sustainable development:

- (1) *Assess and evaluate coastal risks taking into account the NSW sea level rise planning benchmarks;*
- (2) *Advise the public of coastal risks and to ensure that informed land use planning and*

*development decision-making can occur;*

- (3) Avoid intensifying land use in coastal risk areas through appropriate strategic and land use planning;*
- (4) Consider options to reduce land use intensity in coastal risk areas where feasible;*
- (5) Minimise the exposure to coastal risks from proposed development in coastal areas; and*
- (6) Implement appropriate management responses and adaptation strategies, with consideration for the environmental, social and economic impacts of each option.*

The Policy Statement is intended to be used by local Councils to assist in assessing the influence of sea level rise on new development and to incorporate the projected impacts of sea level rise in predicted flood risks and coastal hazards - among other things.

The Policy Statement provides: *“The goal is to ensure that (development of land that is projected to be affected by sea level rise) recognises and can appropriately accommodate the projected impacts of sea level rise on coastal hazards and flooding over time, through appropriate site planning, design and development control.”* However, there will be some properties that are affected in such a manner and/or to such an extent that new development is not appropriate; as it would put lives and property at great risk if the sea level rise benchmarks are realised. This is the case with respect to the subject site.

### **SEPP 71 – Coastal Protection**

The subject site is within the ‘coastal zone’ as defined in this Policy. Accordingly, an assessment against the relevant provisions of this Policy has been undertaken and the results are summarised in the table attached to this report. The proposal is generally compliant, with the exception of Clauses 8 (d) and (j).

The aims of the policy are:

- “(a) to protect and manage the natural, cultural, recreational and economic attributes of the New South Wales coast, and*
- (b) to protect and improve existing public access to and along coastal foreshores to the extent that this is compatible with the natural attributes of the coastal foreshore, and*
- (c) to ensure that new opportunities for public access to and along coastal foreshores are identified and realised to the extent that this is compatible with the natural attributes of the coastal foreshore, and*
- (d) to protect and preserve Aboriginal cultural heritage, and Aboriginal places, values, customs, beliefs and traditional knowledge, and*
- (e) to ensure that the visual amenity of the coast is protected, and*
- (f) to protect and preserve beach environments and beach amenity, and*
- (g) to protect and preserve native coastal vegetation, and*
- (h) to protect and preserve the marine environment of New South Wales, and*
- (i) to protect and preserve rock platforms, and*
- (j) to manage the coastal zone in accordance with the principles of ecologically sustainable development (within the meaning of section 6 (2) of the Protection of the Environment Administration Act 1991), and*

- (k) to ensure that the type, bulk, scale and size of development is appropriate for the location and protects and improves the natural scenic quality of the surrounding area, and  
(l) to encourage a strategic approach to coastal management.”

The development is not considered to be consistent with objective (j) due to the proposal not being ecologically sustainable, objective (k) due to its type, scale & size of development for the site and objective (l) due to insufficient consideration to coastal management.

As part of the SEPP 71 assessment, the application is required to take into consideration *Clause 8 – Matters of consideration*. Accordingly, the relevant provisions of this Policy have been given consideration and the results are summarised in the table attached to this report. In summary, the proposal is generally compliant, with the exception of Clauses 8 (a) due to its inconsistency with the objectives of the policy, (d) due to unsuitability of the design and (j) due to its likely impact of the development on the coastal processes.

### **The Proposed Development**

The current development application proposes to demolish existing structures and construct two new dwellings as a detached dual occupancy development. This intensifies the population and building density of the site.

The development application and Statement of Environmental Effects precluded any information in relation to the subdivision of the proposed dual occupancy. Accordingly, the application has not been assessed as including subdivision also.

The proposed dwelling fronting onto Tuggerah Parade (Unit 1) is part two storeys and requires an elevated external stair entry to access the ground floor. The front façade is dominated by a double garage and the main bedroom has been set into the roof space to avoid the appearance of a three storey building. The construction of this unit will produce unreasonable overshadowing of the property to the south.

The proposed building fronting onto Lakeside Parade (Unit 2) is also two storeys with a hipped roof and elevated entry. The lower storey offers little interaction at street level as the bedrooms are on the ground floor level with the living spaces on the second storey with two decks leading from this area. The rear balcony will create overlooking into the rear courtyard and private open space of Unit 1 and the adjoining property to the south, while the front deck will overlook the street. A double garage also dominates this street façade.

The proposed design does not have due regard for the privacy or amenity of neighbouring properties and the private open space of Unit 1. In this regard, the application fails to clearly demonstrate the likely impact of overshadowing on the adjoining property which would be increased if the floor levels were raised to cater for sea level rise. The first floor of unit 2 incorporates a large open balcony accessible from the living areas, which offers the potential for direct overlooking to neighbouring properties, with no suitable screening.

The subject site is recognised as flood affected (part of which is high hazard and part low hazard flooding). A flooding notation is identified on the Section 149 Planning Certificate for the property. The current designated flood level (1% AEP) for the site is 2.2metres AHD, with a Flood Planning Level of 2.7metres AHD.

**3.1 DA/664/2009 Proposed Dual Occupancy at Lakeside Parade, Long Jetty (contd)**

Incorporating the sea level rise benchmark of 900mm from NSW Sea Level Rise Policy Statement for the proposed development, the predicted 1% AEP flood level increases to 3.10metres AHD; with a Flood Planning Level, incorporating sea level rise, of 3.60metres AHD.

The survey plan of the property indicates natural ground levels ranging from 1.05metres AHD at the front boundary at Tuggerah Parade up to 2.01metres AHD at the highest point at the boundary of Lakeside Parade. In order to design new development to comply with the flood planning level incorporating sea level rise, the floor levels of habitable rooms in the development would be approximately 1.90metres to 2.40metres above the natural ground level. Furthermore, there would be no safe (i.e. low hazard flooding) escape route for future occupants of the development.

**DCP 2005 Chapter 58 - Dual Occupancy Development**

The application has been assessed against the provisions of this Chapter, with a summary provided in the table attached to this report. The proposal incorporates the following areas of non-compliance:

<b>DCP NON-COMPLIANCE</b>	<b>COMMENT</b>
Aims and objectives	The proposal does not fully comply with the objectives of the policy in relation to the provision of sustainable development
Scale	The proposed two storey development would exceed the policy's 7m height limit when the minimum floor heights are imposed
Built Form	The double garages to each unit dominate the streetscape
Cut & Fill	Fill proposed for landscape design is inappropriate in a floodplain
Amenity	Unit 2 private open space is isolated from the internal living area and is 1.5m lower than the FFL of the unit
Solar Access	Initial assessment indicates that overshadowing will occur to the adjoining property to the south
Privacy	Direct overlooking from the first floor balcony of Unit 2 to the private open space of Unit 1 and neighbouring properties

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

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

Whilst the proposal does not meet Council's Flood Planning Level incorporating the sea level rise benchmark, if the development was raised to meet that level, the habitable floor levels would be approximately 1.90 metres – 2.40 metres above the natural ground level which introduces additional privacy, amenity and design concerns. Accordingly, the proposal would not be in keeping with the local context and setting.

*The access, transport and traffic management measures.*

The proposed access and parking design is satisfactory.

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

### 3.1 DA/664/2009 Proposed Dual Occupancy at Lakeside Parade, Long Jetty (contd)

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The site is identified as having class 2 soils according to the Acid Sulphate Soils Planning Map. In accordance with WLEP Clause 15, a preliminary site investigation is justified where works are proposed below the natural ground level. This is not applicable to the proposed development.

*Any effect on the flora and fauna.*

The proposal would have a minor impact on flora and fauna, with the proposed removal of a few small shrubs from the site.

*The provision of waste facilities.*

Basic details of waste management during construction have been provided, and if the application was supported by Council suitable conditions of consent could require preparation of a formal waste management plan prior to issue of a Construction Certificate.

*Whether the development will be energy efficient.*

A satisfactory BASIX Certificate for the development has been provided, which achieves the nominated energy and water efficiency targets.

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

#### **Flooding & Sea Level Rise**

The proposed development is considered “new development” under Council’s Flood Policy, which means:

*“Development of a completely different or more intense nature, or likely to increase the population density compared with that associated with the existing zoning. Dual occupancy development shall also be considered as new development”.*

Council’s Flood Policy prohibits new development in high hazard flood areas or in areas where evacuation routes are through high hazard flood areas. The current 1% AEP flood level is RL 2.20metres AHD, which would flood part of the site up to depths of 1.15metres. This depth is considered high hazard flooding under Council’s Flood Prone Land Development Policy and the NSW Floodplain Development Manual. Accordingly, approximately half of the site is currently considered high hazard flooding.

The Applicant’s proposed evacuation route via Lakeside Parade to the east is not supported as the existing ground levels of the surrounding road system and escape route to the east of the proposed development start at approximately RL 2.10metres AHD. These levels are below the existing 1% AEP flood level, and approximately 1.0metre below the projected 1% AEP flood level with sea level rise.

The proposed dual occupancy will replace an existing single dwelling on the site, thereby increasing the population at risk in the floodplain.

The predicted flood level, including sea level rise, is 3.10metres AHD, as discussed earlier in this report.

In the event that a designated flood occurs in 2100 with the predicted sea level rise, the proposed development would be isolated and occupants trapped, as the surrounding land

and roads would also be inundated to a high hazard depth pursuant to Council's Flood Prone Land Development Policy and the NSW Floodplain Development Manual.

The proposal is also contrary to the principles within the Draft NSW Coastal Planning Guideline titled 'Adapting to Sea Level Rise', including:

- Avoiding intensification of land use in coastal risk areas;
- Minimising exposure to coastal risks from proposed development in coastal areas;
- Implementing appropriate management responses and adaption strategies, with consideration for environmental, social and economic impacts.

Over and above the sea level rise affect on the designated flood level there is also the prospect that the property will be inundated by lake water in combination of the high tide and flooding in the locality.

A statistical analysis to establish the mean lake level was undertaken on the Tuggerah Lakes water levels between 1984 and 1989. This statistical analysis determined that once every twenty hours the lake level may be as high as 0.55metres AHD. When the predicted sea level rise is added to the lake level this means that at 2050 the lake level could increase up to RL 0.95metres AHD and at the 2100 lake level could increase up to RL 1.45metres AHD.

Based on the information above, the property has the potential to be inundated by Tuggerah Lakes without flooding, up to 400mm deep with the high tide.

In times of flood, the Electricity Authority may be required to shut down the network in the flood areas where sewer pump stations are located due to inundation of flood waters.

The NSW Department of Health consider all flood waters as potentially contaminated and may contain untreated sewage. They advise that all unnecessary contact with flood waters should be avoided and children should be kept away from flood waters. This is pertinent to the safe evacuation of residents particularly children in deeper flood waters.

As discussed earlier in the report, the Flood Planning Level incorporating sea level rise projections is 3.6metres AHD. The proposed development incorporates habitable floor levels of 2.7metres AHD, which is insufficient to safeguard against a designated flood event beyond the year 2065. However, to increase the floor levels to 3.6metres AHD would introduce privacy, amenity and aesthetic concerns.

The Draft NSW Coastal Planning Guideline - Adapting to Sea Level Rise (DoP 2009) provides detail about the consideration of flooding and sea level rise information in land use planning and development assessment.

The 0.5m freeboard outlined in the NSW Floodplain Development Manual (NSW Government 2005) for general residential development provides a factor of safety to ensure that the risk exposure selected is accommodated. This freeboard includes a component related to climate change impacts on flood levels in both coastal and non-coastal areas and for a wide variation in sensitivity of estimated design flood levels as well as other unquantified factors, such as wind-wave impacts. The freeboard provides only a relatively small allowance to accommodate some of the projected increases in rainfall intensity of flood-producing storm events associated with climate change, which has currently not been accurately quantified or included with the sea level rise projections. The manual's small allowance for climate change in the 0.5metres freeboard figure should be considered to only address some of the uncertainty associated with estimating climate change impacts.

Freeboard should not therefore be used to allow for sea level rise impacts, which should be quantified and applied separately.

*Any social impact in the locality.*

The proposed development is considered likely to have negative social impacts if it were to be approved by Council, as a result of placing people and property in "new development" that would be vulnerable to flooding during its lifecycle.

*Any economic impact in the locality.*

The proposed development is considered likely to have negative economic impacts if it were to be approved by Council, as a result of relying on emergency services personnel to assist occupants in the event of a flood in rectifying flood damaged property; and placing greater demands on surrounding services and infrastructure in this locality in order to sustain the development in its vulnerable location.

*Any impact of site design and internal design.*

The proposed design does not demonstrate due regard for the privacy or amenity of neighbouring properties. In this regard, the application fails to clearly demonstrate to Council the likely impact of overshadowing on the adjoining property to the south. The impacts of overshadowing would be increased if the floor levels of the proposed development were raised to cater for sea level rise projections.

The difference in level between the natural ground levels and proposed finished floor levels (approx 1.5metres) negates the privacy affect of boundary fences (1.8metres high). With sea level rise projections added to the flood planning level, there would be between 1.9metres and 2.4metres difference between the natural ground levels and the floor levels. The first floor of unit 2 incorporates a large open balcony accessible from the living areas, which provides direct overlooking to neighbouring properties and the private open space of proposed Unit 1, with no suitable screening provided.

*Any cumulative impacts.*

To permit the proposed development, which is contrary to Council's Flood Prone Land Development Policy, the NSW Floodplain Development Manual and published sea level rise planning benchmarks, would contravene Council's obligation to consider certain matters as specified in Section 79C of the EP&A Act, including the likely impacts the development, ecologically sustainable development and the public interest.

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

As outlined earlier in this report, the proposed development is not considered suitable for the site given its location in a high hazard flood area. The proposed floor levels do not adequately cater for sea level rise. There is no available safe escape route for future occupants in the event of flooding and the development would result in adverse privacy, amenity and aesthetic impacts which would be exacerbated if the floor levels were raised to incorporate the predicted 2100 sea level rise planning benchmark.

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

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

**Any submission from Public Authorities.**

Nil.

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

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

The information currently available to Council indicates that the site will be inundated if a designated flood event (1% AEP) occurs during the life of the proposed development. The information relied upon to make this prediction includes Council's flood studies and the sea level rise planning benchmarks published by the state government: "Sea Level Rise Policy Statement 2009". Having assessed the proposal in accordance with the Council's Flood Prone Land Development Policy, the NSW Floodplain Development Manual and the projected sea level rise of 900mm by 2100 the development is not considered suitable for the site. To permit the development on the basis of a lack of full scientific certainty with respect to sea level rise may result in lives and property being placed under threat.

**CONCLUSION**

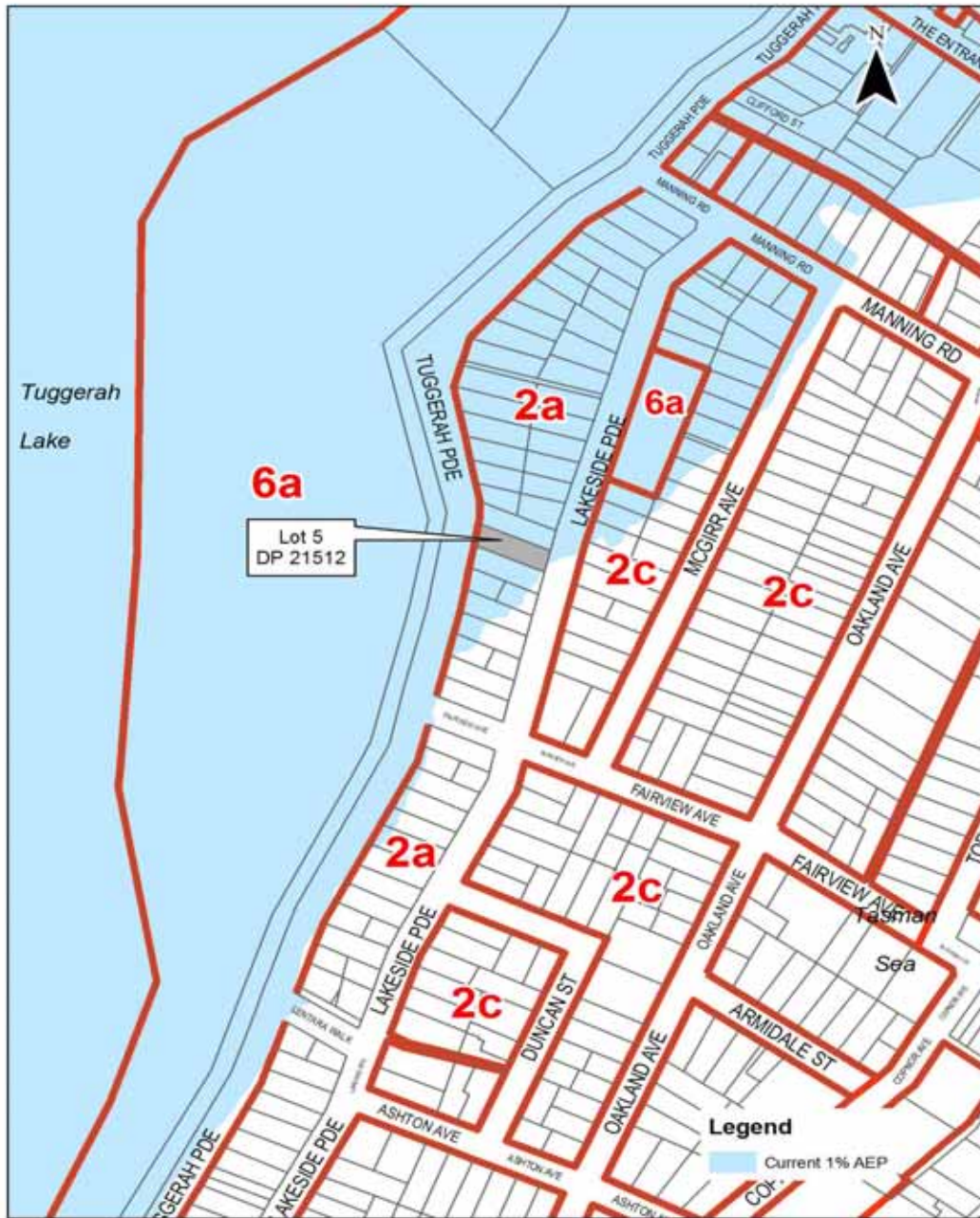
The development is not considered to warrant Council support due to departures from DCP 2005 – Chapter 58 Dual Occupancy and on the grounds of high hazard flooding and taking into consideration the NSW Government's sea level rise benchmark. In order to satisfy the 2100 flood planning level, the development would require floor levels of 3.6metres AHD, which would be up to 2.2metres above the natural ground level, with flooding of up to 2.2metres depth within the site. Furthermore, the site cannot offer a suitable, low-hazard evacuation route for future occupants in the event of such a flood.

Due to these non-compliance issues with DCP 2005 - Chapter 58, the impact of flooding and sea level rise on the development, the proposal deviates from Council's requirements for dual occupancy development in various ways as discussed in the report, and those variations are not considered to be warranted in this instance.

It is therefore recommended that the application be refused.



Locality Plan



ATTACHMENTS

- |   |                                     |                     |
|---|-------------------------------------|---------------------|
| 1 | Chapter 58 Assessment Table Summary | D02224377           |
| 2 | Sepp 71 Assessment Summary          | D02188019           |
| 3 | Development Plans (A3 Plans)        | Enclosure D02238476 |

## DCP 2005 Chapter 58 Assessment Summary

Section	Required	Proposed	Comply?
Aims & Objectives	Innovation in individual design; functional and aesthetic quality in development; high architectural quality; development appropriate in its context; sustainable development; compatible with existing/desired environmental character.	The proposal complies with the majority of these aims as they relate to architectural merit. However, the development is not considered sustainable due to the impacts of flooding when sea level rise is considered.	No.
Application Requirements	<p>Relevant info to be submitted with DA in accordance with Table 1.</p> <p>Details of existing and proposed services to be provided.</p> <p>Kerb and gutter shall be required unless exceptional circumstances apply.</p> <p>Subdivision of dual occupancy must show ROW's and easements etc; and comply with BCA.</p>	<p>Relevant information submitted.</p> <p>Proposed services indicated.</p> <p>Kerb and gutter exists in Lakeview Pde and could be conditioned for Tuggerah Pde if the DA was supported.</p> <p>Dual street frontage available.</p>	<p>Yes</p> <p>Yes</p> <p>Yes</p> <p>Yes</p>
Context	Site Analysis to be provided in accordance with S3.1.1.	Site Analysis satisfactory.	Yes
Scale	<p>Buildings in the 2(a) 2(b) 2(e) zone shall generally not exceed two storeys / 7 metres.</p> <p>25% site area at ground level shall be 'soft' landscaped.</p> <p>FSR maximum 0.5:1.</p>	<p>Two storeys, 7 metres proposed (however, to meet the flood planning level of 3.75m AHD the development would exceed the 7m height).</p> <p>The soft landscaped portion exceeds 25%.</p> <p>FSR of 0.48:1.</p>	<p>No</p> <p>Yes</p> <p>Yes</p>
Built Form	<p><u>Building Design</u> Development shall demonstrate compatibility with zone objectives.</p> <p>High architectural quality in appearance and functionality.</p> <p>For elevated designs, sub-floor fender walls required.</p> <p>Mirror-image designs not acceptable.</p>	<p>Generally consistent.</p> <p>High architectural quality in appearance.</p> <p>Sub-floor fender walls not suitable in floodplain.</p> <p>Mirror-image is not proposed.</p>	<p>Yes</p> <p>Yes</p> <p>N/A</p> <p>Yes</p>

	<p>No unbroken lengths of wall &gt; 10 m length and 3m height.</p> <p>Garages shall not dominate the streetscape.</p> <p>Architectural features to provide visual relief and minimise bulk and scale.</p> <p><u>Roof Design</u> Relate roof design to desired built form (see recommended solutions):</p> <p>Roof design to relate to size and scale of building.</p> <p>Roof design to respond to orientation of site.</p> <p>Integrate any service elements into the roof design.</p> <p>Rooftop structures not to detract from architectural merit.</p> <p>Rooftop terraces should be suitably setback from building edge for privacy.</p> <p><u>Build to Boundary</u> Comply with S5.1.3.</p> <p><u>Design Integration</u> Comply with S5.1.4</p> <p><u>Cut / Fill</u> For all development, cut/fill should be minimised by stepping buildings down the slope; locating FFL close to the ground; etc.</p> <p>Cut/fill not to impact existing services.</p> <p>Retaining walls visible from street must be masonry and integrate with the development.</p> <p>All dividing fencing shall be erected on ground level.</p> <p>No boundary retaining wall shall exceed 900mm.</p> <p>Where a setback is &lt;1.3m cut</p>	<p>No unbroken lengths of wall proposed.</p> <p>Double garages do dominate, however, articulation of buildings and timber doors assist with presentation.</p> <p>The buildings are suitably articulated in this regard.</p> <p>The roof design of each building is considered appropriate in scale and form.</p> <p>Complies.</p> <p>Complies.</p> <p>N/A.</p> <p>N/A.</p> <p>N/A.</p> <p>N/A.</p> <p>No building to boundary proposed.</p> <p>Existing buildings to be demolished.</p> <p>Fill proposed for landscape design is inappropriate given the location in a floodplain.</p> <p>N/A.</p> <p>No retaining walls visible to street.</p> <p>Complies.</p> <p>None proposed.</p> <p>N/A.</p>	<p>Yes</p> <p>Yes</p> <p>Yes</p> <p>Yes</p> <p>Yes</p> <p>Yes</p> <p>N/A</p> <p>N/A</p> <p>N/A</p> <p>Yes</p> <p>Yes</p> <p>No</p> <p>N/A</p> <p>Yes</p> <p>Yes</p> <p>Yes</p> <p>N/A</p> <p>N/A</p>
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	<p>shall not exceed 600mm at the boundary.</p> <p>Where a setback is &gt;1.3m cut shall not exceed 900mm at the boundary.</p> <p>All fill shall be contained within the footprint via drop-edge beam construction.</p> <p>Battered fill / retaining walls external to the building shall not exceed 600mm.</p> <p><u>Building Lines</u>  4.5m front setback  6.0m garage setback  0.9m side setback  4.5m rear setback</p> <p>Setbacks to be landscaped.</p> <p><u>Car Parking</u>  2 spaces / 3bed unit.</p> <p>Stacked parking not encouraged.</p> <p>Parking &amp; access shall comply with AS2890.1.</p> <p>Each unit must have one enclosed space.</p> <p><u>Vehicle Access</u>  Optimise opportunities for active street frontages by minimising access ways and widths.</p> <p>Min pavement width 3m.</p> <p>Ground level parking should be hidden behind the building where possible; and integrated with overall design.</p> <p>Driveways shall not be continuous straight lines and shall be offset by landscaping (2m setback at front bdy; tapering to 0.5m side).</p> <p>Battleaxe subdivision of dual occ only where 3.5m access way available.</p>	<p>N/A.</p> <p>N/A.</p> <p>N/A.</p> <p>5.5m to front facades  6m to garages  1m minimum  4.5m rear setback from unit 2;  1.5m setback for unit 1 (This satisfies the <u>objective</u> of the requirement)</p> <p>Landscape plan provided.</p> <p>2 spaces each dwelling.  No stacked parking relied on.</p> <p>Complies. Double garage to each unit.</p> <p>Complies.</p> <p>Each driveway is minimal width.</p> <p>Complies.</p> <p>Integrated appropriately.</p> <p>N/A.</p> <p>N/A.</p>	<p>N/A</p> <p>N/A</p> <p>Yes  Yes  Yes  Yes</p> <p>Yes</p> <p>Yes</p> <p>Yes</p> <p>Yes</p> <p>Yes</p> <p>Yes</p> <p>Yes</p> <p>Yes</p> <p>Yes</p> <p>N/A</p> <p>N/A</p>
Density	Lot size required:	733m2.	Yes

	700 for “front/rear” style; or “dual street frontage” style.		
Sustainability	<b>BASIX Certificate to be submitted, achieving the targets.</b>	<b>BASIX certificate submitted.</b>	<b>Yes</b>
	<b><u>Waste</u></b> Waste may be managed via individual bins for each unit.	Complies.	Yes
	Ongoing management of waste must be detailed in a waste management plan.	Minimal waste management details provided. If the DA was supported, further details could be required prior to CC.	No
	<b><u>Stormwater</u></b> Stormwater management plan to be submitted, incorporating OSD; on-site infiltration to avoid increased runoff; or a combination of both.  Stormwater runoff to be directed to either a street system of inter-allotment drainage system (via gravity).	Stormwater management plan submitted.  A drainage easement over proposed Lot 1 would be required.	Yes  Yes
Landscape	Compliance with Landscape Policy L1 for category 2 development; as well as improving the amenity of open space areas through landscape design; contributing to streetscape and responding to the sites characteristics.  Street trees to be provided at a rate of 1/15m frontage.	Suitable landscape plan submitted.	Yes
Amenity	<b><u>Private Open Space</u></b> 60m2 each unit; with min, dimension 4.5 metres.	Unit 1 has 60m2 Unit 2 has 69m2	Yes Yes
	Directly accessible from internal living areas.	Unit 2 courtyard is isolated from the internal living areas; and is approx. 1.5m lower than the FFL of the unit.	No
	Not permitted in front setback areas to Category C roads.	Not located in front setbacks.	Yes
	Up to two locations for each unit; subject to maintaining the minimum dimensions.	One consolidated area for each unit.	Yes
	Courtyards not to exceed 1:14 grade.	Generally level areas provided.	Yes
	Wherever a dimension is less than the requirement, that portion is not considered in the calculation of area.	Complies.	Yes

	<p><b><u>Solar Access</u></b> 75% of required open space areas shall receive min. 3hours sunlight between 9am-3pm during winter solstice.</p> <p>A weather protected entrance shall be provided to each unit.</p> <p>Developments 2 storey and greater shall provide shadow diagrams to demonstrate their suitability.</p> <p><b><u>Privacy</u></b> Direct overlooking from living areas to surrounding dwellings shall be minimised by building layout, windows and screening devices.</p> <p>Where living area windows or balconies are in close proximity to adjacent dwellings, they shall be offset/obscure glass/ or screened for visual privacy.</p> <p>To optimise acoustic privacy, recreational areas, parking areas and vehicle access ways should be located away from bedrooms.</p> <p><b><u>Views</u></b> New development to be designed from the ground up, in accordance with S9.4.</p>	<p>It is not clear from the proposed plans whether the shadowing of the adjoining property to the south-west caused by the proposal is reasonable. Further details would be required in order for Council to be satisfied in this regard.</p> <p>Weather protected entries provided.</p> <p>Shadow diagrams submitted but these are inconclusive as they are not to scale and the FFL of the buildings would need to be further raised to cater for sea level rise.</p> <p>Direct overlooking from the first floor balcony of unit 2 to neighbouring properties and to proposed unit 1 is of concern.</p> <p>As above.</p> <p>Garages are located at street front and living areas are generally away from bedrooms of the other unit.</p> <p>The development is considered consistent with view sharing principles.</p>	<p>No</p> <p>Yes</p> <p>No</p> <p>No</p> <p>Yes</p> <p>Yes</p>
Safety & Security	<p>Pedestrian access shall be clearly defined and appropriately lit.</p> <p>Development shall be designed in accordance with CPTED principles.</p>	<p>Complies.</p> <p>The proposal is consistent.</p>	<p>Yes</p> <p>Yes</p>
Social Dimensions	<p>An individual laundry shall be provided within each unit.</p> <p>Drying areas shall be provided in accordance with BCA.</p> <p>Mailboxes shall be provided which do not clutter the appearance of the development.</p>	<p>Provided.</p> <p>Drying areas available for each unit.</p> <p>Complies.</p>	<p>Yes</p> <p>Yes</p> <p>Yes</p>

	Storage shall be provided in the form of internal cupboards or a space within the garage: 3m <sup>2</sup> for 1-2 bedrooms; 6m <sup>2</sup> for 3+ bedrooms.	Storage provided in the form of large laundries, linen cupboards and walk-in wardrobes.	Yes
Aesthetics	<p><b>Fencing</b> Details of all fencing shall be provided.</p> <p>Fencing shall delineate the private and public realm without compromising safety and security.</p> <p>Contribute to the beauty, amenity and usability of open spaces by incorporating seats, planters, pergolas, BBQs, water features.</p> <p>Avoid the use of long blank walls at street level and use planting to soften raised terraces.</p> <p>Select suitable graffiti resistant materials.</p> <p>Courtyard fencing is to be 1.8m height and decorative.</p> <p>Courtyard fencing not permitted in front setback to Category C roads.</p> <p>Fencing which is visible from public places must be decorative in style. Plain colourbond / timber are not acceptable.</p> <p>No structures or landscaping within the sight preservation triangle on corner lots.</p> <p><b>Streetscape</b> Development shall enhance the streetscape character, complementing the surrounding built form, and conditions of the locality.</p> <p>Building design, roofline, detailing, colours materials, etc shall be compatible with any desirable design themes in the locality.</p> <p>Building entry points should be emphasised and visually integrate with the rhythm of the streetscape.</p>	<p>Fencing details satisfactory; provided at ground level. However, given the difference in level between FFL and NGL privacy is a concern.</p> <p>The development satisfactorily addresses each street frontage and relates to human scale.</p> <p>Compatible with lakeside location.</p> <p>Entries are clearly visible and suitable in design.</p>	<p>Yes</p> <p>Yes</p> <p>Yes</p> <p>Yes</p>

NB: Non-applicable provisions of the Chapter have been excluded from the above table.

## STATE ENVIRONMENTAL PLANNING POLICY 71 – COASTAL PROTECTION

Cl.8	Matters for Consideration	Proposed
a	The aims of the Policy	The proposal is consistent with objectives of the Policy.
b	Existing public access to and along the coastal foreshore for pedestrians or persons with a disability should be retained and, where possible, public access to and along the coastal foreshore for pedestrians or persons with a disability should be improved.	The proposal does not affect public access to foreshore areas.
c	Opportunities to provide new public access to and along the coastal foreshore for pedestrians or persons with a disability.	If the application was supported by Council, conditions could have been imposed to construct suitable footpaving.
d	The suitability of development given its type, location and design and its relationship with the surrounding area.	The proposal is not considered suitable in terms of design and relationship with the neighbouring properties.
e	Any detrimental impact that development may have on the amenity of the coastal foreshore, including any significant overshadowing of the coastal foreshore and any significant loss of views from a public place to the coastal foreshore.	The proposal has no adverse impact on views.
f	The scenic qualities of the New South Wales coast, and means to protect and improve these qualities.	The proposal will have no adverse impact on the scenic qualities of the coastline.
g	Measures to conserve animals (within the meaning of the <u>Threatened Species Conservation Act 1995</u> ) and plants (within the meaning of that Act), and their habitats.	The subject site does not contain any threatened species or habitat.
h	Measures to conserve fish (within the meaning of Part 7A of the <u>Fisheries Management Act 1994</u> ) and marine vegetation (within the meaning of that Part), and their habitats.	The proposal has no impact on the conservation of fish and marine vegetation.
i	Existing wildlife corridors and the impact of development on these corridors.	The proposal will not affect any identified wildlife corridor.
j	The likely impact of coastal processes and coastal hazards on development and any likely impacts of development on coastal processes and coastal hazards.	However, the proposed flood evacuation route via Lakeside Pde dunes is not considered suitable given the depth of flooding experienced over the route.
k	Measures to reduce the potential for conflict between land-based and water-based coastal activities.	The proposal has no impact on water-based coastal activities.
l	Measures to protect the cultural places, values, customs, beliefs and traditional knowledge of Aboriginals.	The subject site does not contain any aboriginal sites or relics, and there are no known sites within the immediate locality.
m	Likely impacts of development on the water quality of coastal waterbodies.	The proposal would not adversely affect the downstream water quality.
n	The conservation and preservation of items of heritage, archaeological or historic significance.	The proposal has no impact on items of heritage, archaeological or historic value.
o	Only in cases in which a council prepares a draft local environmental plan that applies to land to which this Policy applies, the means to encourage compact towns and	Not applicable.



	cities.	
p(i)	The cumulative impacts of the proposed development on the environment.	The proposal is not considered to have any significant cumulative impacts on the environment.
p(ii)	Measures to ensure that water and energy usage by the proposed development is efficient.	The proposal includes a satisfactory storm water management plan.
Cl.13	A provision of an environmental planning instrument that allows development within a zone to be consented to as if it were in a neighbouring zone, or a similar provision, has no effect.	The application does not propose to utilise such a clause.
Cl.14	A consent authority must not consent to an if, in the opinion of the consent authority, the development will, or is likely to, result in the impeding or diminishing, to any extent, of the physical, land-based right of access of the public to or along the coastal foreshore.	The proposal will not affect the right of public access to or along the foreshore.
Cl.15	The consent authority must not consent to a development application in which effluent is proposed to be disposed of by means of a non-reticulated system if the consent authority is satisfied the proposal will, or is likely to, have a negative effect on the water quality of the sea or any nearby beach, or an estuary, a coastal lake, a coastal creek or other similar body of water, or a rock platform.	The proposal is proposed be connected to the existing reticulated sewer system available to the site.
Cl.16	The consent authority must not grant consent to a development application if the consent authority is of the opinion that the development will, or is likely to, discharge untreated stormwater into the sea, a beach, or an estuary, a coastal lake, a coastal creek or other similar body of water, or onto a rock platform.	The proposal incorporates satisfactory roof water management. The stormwater management plan satisfactorily incorporates on site retention for reuse of roofwater.

### 3.2 Comprehensive Local Environmental Plan Review Project

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TRIM REFERENCE: F2009/00680 - D02204479

AUTHOR: PB

#### SUMMARY

Reporting on the implications of the delay in the preparation of the North Wyong Shire Structure Plan (NWSSP) and the Central Coast Regional Conservation Plan (CCRCP), and the impacts upon Council's Comprehensive Local Environmental Plan (CLEP) Review project.

#### RECOMMENDATION

- 1 ***That Council continue to progress the Comprehensive Local Environmental Plan Review Project in accordance with Option 3 outlined within this report.***
- 2 ***That Council continue to lobby the Department of Planning and Department of Environment, Climate Change and Water regarding the importance of finalising the North Wyong Shire Structure Plan and Central Coast Regional Conservation Plan.***

#### BACKGROUND

At its meeting held on 11 November 2009, Council considered a report on the implications of the potential delay in the gazettal of Wyong Local Environmental Plan (WLEP) 1991. At that meeting, Council resolved as follows:

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

- 1 *That Council note that current spot rezoning proposals that will facilitate significant employment generating developments are being processed as a high priority with the aim to include these as an amendment to Wyong LEP 1991.*
- 2 *That Council exclude those spot rezoning proposals not included in No 1 above as an amendment to Wyong LEP 1991 at this stage.*
- 3 *That Council re-assess this situation early in 2010 following the completion of the North Wyong Shire Structure Plan and Central Coast Regional Conservation Plan.*

FOR: COUNCILLORS BEST, MATTHEWS, MCBRIDE, SYMINGTON, VINCENT, WEBSTER AND WYNN.

AGAINST: NIL

COUNCILLOR GRAHAM RESUMED THE CHAIR"

In relation to Resolution No 3 above, an assessment of the delays to the progression of the NWSSP and CCRCP and the impacts upon Council's own strategic planning processes, namely the CLEP Review Project has been undertaken. The findings of the assessment and options to progress with the CLEP Review Project are contained within this report.

### **NWSSP and CCRCP**

The preparation of the NWSSP and CCRCP were recognised as key actions out of the State Government's Central Coast Regional Strategy (CCRS), 2008.

Currently being prepared by the Department of Planning (DoP), the NWSSP will ascertain appropriate locations to accommodate the designated dwelling and employment targets contained within the CCRS. It will also provide a staging and sequencing plan to inform both State and Local Government planning. The CCRCP being prepared by the Department of Environment, Climate Change and Water (DECCW), will identify regional conservation priorities for the Central Coast and detail an off-set strategy for land contained within the NWSSP Study Area.

### **Project History and Delays**

Initially scheduled for finalisation in 2008, concerns regarding the continuing delays to the release of the NWSSP and CCRCP were formally expressed by Council on 9 September 2009, and again on, 24 February 2010.

On 9 September 2009, Council resolved as follows:

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

*That taking into account recent verbal advice from the Department of Planning (DoP) and Department of Environment Climate Change (DECCW) regarding the delays associated with the preparation of the North Wyong Shire Structure Plan (NWSSP) and Central Coast Regional Conservation Plan (CCRCP):*

- 1 That Council express its concerns to DECCW and the Minister for Climate Change regarding delays associated with the preparation of the CCRCP.*
- 2 That Council recognise that any delay will impact upon the timing of the completion of the Shirewide Settlement Strategy, and consequently the gazettal of Wyong LEP 2011.*
- 3 That Council request that DoP, DECCW and the two relevant Ministers to publicly exhibit the draft NWSSP and draft CCRCP concurrently to ensure that the Wyong Shire community is made fully aware of the content of both documents and is given an opportunity to comment on both documents at the same time.*
- 4 That Council also raise its concerns that should the two documents not be finalised concurrently, the implications of this will be that Council will be faced with the responsibility of assessing the environmental attributes of a development site on a case-by-case (i.e. individual development application) basis, thereby putting conservation outcomes at risk and placing additional cost to the development industry.*

### 3.2 Comprehensive Local Environmental Plan Review Project (contd)

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5 That Council thank the Members for Wyong and Swansea for their support on the issue.

6 That Council staff report on the implications of the delays of the gazettal of Wyong LEP 2011, in particular in bringing forward appropriate spot rezonings.'

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

AGAINST: NIL

In response to Resolution No 3 above, DoP and DECCW acknowledged that there had been delays to the progression of the NWSSP and CCRCP. Furthermore, Council was advised that the relevant Departments supported Council's proposal to simultaneously exhibit the draft Plans. Copies of the correspondence are provided as Attachment 1 and 2.

As part of the resolution associated with the adoption of the quarterly review of the Management Plan on 24 February 2010, Council resolved:

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

3 That Council write to the Minister for Planning and Mr David Harris, MP Parliamentary Secretary for the Central Coast expressing Council's concern at the continuing delay in the release of the CCRCP and NWSSP which in turn impinges Council's ability to progress the Shirewide LEP and conduct future planning for our Shire."

Subsequent discussions with staff from DoP's Central Coast Regional Office indicate that the finalisation of the NWSSP has further been delayed and is now not expected to be exhibited until the 'third-quarter of 2010.' While it is understood that this recent delay is due to the loss of the consultant engaged to prepare the NWSSP; Council has been advised that the DoP are undertaking the necessary processes to engage a replacement consultant to finalise the NWSSP.

No commitment has been received from DECCW as to the scheduling of the public exhibition of the CCRCP. However, despite initial assurances that the CCRCP would be exhibited concurrently with the NWSSP; officers from DECCW have advised that the exhibition of Regional Conservation Plan will commence 2-3 months after the exhibition of the NWSSP.

#### **CLEP Review Project**

On 25 March 2009, Council resolved to commence the CLEP Review project in response to Planning Reforms initiated by the NSW Government. For Wyong Shire, the CLEP Review will culminate in the delivery of three primary project outputs, namely a Shirewide Settlement Strategy; draft Wyong LEP (WLEP) 2011 and Wyong DCP (WDCP) 2011.

In addition to providing a new planning framework for Wyong Shire, the CLEP Review project will facilitate the implementation of the NWSSP and CCRCP by supporting State Government objectives within the Shirewide Settlement Strategy, and incorporating land use controls within WLEP 2011 and WDCP 2011. A flow-chart depicting the relationship between the CLEP Review and various State Government Plans, including the NWSSP and CCRCP is provided in Attachment 3.

A discussion of the each of the CLEP Review project deliverables is provided below.

### **Settlement Strategy**

The Settlement Strategy was identified in Council's Management Plan as a Key Focus Area in 2008, with its completion identified as a priority action within the adopted Shire Strategic Vision, *Our Shire, Our Future*.

Examining how Council can sustainably manage population growth, increase local employment opportunities, and provide access to a range of infrastructure, including community and recreational facilities over the next 25 years; the Settlement Strategy will ensure that the desired environmental qualities of Wyong Shire be maintained.

In reaffirming its commitment to the delivery of the Settlement Strategy, Council, on 25 March 2009, considered a schedule of indicative timeframes for the completion of the CLEP Review project milestones. In this regard, and to coincide with the public exhibition of the NWSSP, the Settlement Strategy was to be publicly exhibited in March 2010. It was further anticipated that the Settlement Strategy would be adopted by Council in June 2010.

### **Relationship of the Settlement Strategy to the NWSSP and CCRCP**

Further to the flow-chart provided in Attachment 3, the Settlement Strategy will ensure that the required actions of the CCRS, and its subsequent plans, including the NWSSP and CCRCP, are considered and implemented through the provisions of Wyong Shire's new planning framework.

### **WLEP 2011**

As the primary catalyst for the CLEP Review Project, the preparation of WLEP 2011 is required by the State Government Planning Reforms initiated in 2004. Council formally resolved to commence the preparation of draft WLEP 2011 under Section 54 of the Environmental Planning and Assessment Act, 1979 (EP&A Act, 1979) on 25 March 2009.

The timeframes presented within Council's Report of 25 March 2009 proposed that the following key milestones would need to be achieved in order for Council to adhere to the deadlines imposed by the State Government, initially established as March 2011.

- Section 62 (Government Agency) Consultation: August 2010
- Public Exhibition: December 2010
- Preparation of Section 68 Report (at completion of exhibition): March 2011
- Adoption, gazettal and implementation: Dependent on DoP

### **Reprioritisation Survey**

In April 2009, Council received correspondence from DoP highlighting its proposal to reprioritise the Standard Instrument LEP Program for NSW and which affirmed that 'progress in implementing the program had not been as quick as initially anticipated.' The correspondence, provided in Attachment 4, required individual Councils to justify why their respective LEPs should be progressed as matters of priority and ultimately be gazetted within a two-year timeframe.

In light of Council's resolution to commence the CLEP Review project and consideration that the finalisation of the NWSSP and CCRCP would assist detailed strategic planning to complement the comprehensive review of WLEP 1991 Wyong Shire should be recognised as a Priority Local Government Area (LGA). Council responded that On 10 August 2009, the former Minister for Planning, the Hon. Kristina Keneally and the Minister for Local Government, the Hon. Barbara Perry, confirmed that Wyong Shire was one of 67 LGAs nominated to complete their Standard Instrument LEPs by June 2011. A copy of the correspondence is provided in Attachment 5.

Following receipt of this advice, Council was provided with an indicative work program which would facilitate the delivery of WLEP 2011. In October 2009, Council staff raised concerns with the DoP that the work program and allocated timeframes for the completion of key milestones were unable to be achieved due to the continual delays with the release of the NWSSP and CCRCP. A realistic, albeit, tight schedule to achieve the State Government deadline was provided to the DoP by Council staff. To date, no response has been received.

### **Relationship of WLEP 2011 to the NWSSP and CCRCP**

Illustrated by the flowchart provided in Attachment 3, both DoP and DECCW intend to utilise the provisions of Wyong LEP 2011 to implement their respective plans. At this point in time, Council staff are in discussions with DoP and DECCW as to how to implement the provisions of the NWSSP and CCRCP through WLEP 2011.

### **WDCP 2011**

In December 2005, Councils within NSW were advised that changes to the EP&A Act, 1979 had introduced a requirement 'that only one DCP (per planning authority) may apply to the same land.' In response to the changes, a consolidated DCP (known as DCP 2005) was prepared and came into effect on 6 January 2005.

In conjunction with the resolution to prepare WLEP 2011 under Section 54 of the EP&A Act, 1979, Council resolved to commence preparing WDCP 2011 on 25 March 2009.

### **Relationship of Wyong DCP 2011 to the NWSSP and CCRCP**

The flowchart provided in Attachment 3 illustrates the relationship between the State Government's CCRS, NWSSP and CCRCP; and Council's own plans and policies. The establishment of new planning directions by the Shirewide Settlement Strategy, in addition to the revised provisions of WLEP 1991, substantiates a major review of DCP 2005.

### **Implications of Delays to the CLEP Review Project**

At a Councillor Briefing in March this year, the relationship between the CLEP Review project deliverables and the State Government's NWSSP and CCRCP were discussed. In particular, consideration was given to the implications of achieving the June 2011 deadline imposed by the NSW Minister for Planning.

At that time, it was recognised that the finalisation of the Settlement Strategy was ultimately dependent upon the completion of the NWSSP and CCRCP by DoP and DECCW, and that these delays have a consequential impact upon the 'comprehensive' review of Council's existing primary planning instruments. In light of the advice contained within this report, particularly in relation to the scheduling of the public exhibition of the NWSSP and CCRCP later in 2010; an assessment of Council's available options has been undertaken.

### Options to progress with CLEP Review

#### 1 Cease working on the CLEP Review project until the NWSSP and CCRCP are released.

An option available to Council is to cease working on the CLEP Review project until such time that the NWSSP and CCRCP are released and finalised. After adoption of the NWSSP, the CCRCP and subsequently, the finalisation of the Settlement Strategy, work on preparing draft WLEP 2011 and WDCP 2011 would recommence.

Adopting Option 1 would enable Council to prepare and adopt a Shirewide Settlement Strategy which is sympathetic to the desired visions of the Wyong LGA and is consistent with the objectives and strategies associated with the NWSSP and CCRCP. In addition, it would holistically consider the designated dwelling targets established by the CCRS, 2008 and would assist the DoP in its upcoming review of the Strategy.

Delaying the preparation of WLEP 2011 would allow Council to prepare and have gazetted a planning instrument which appropriately provides land use controls and therefore certainty for environmental and development outcomes within the northern part of Wyong LGA. Option 1 would enable the State Government to progress and resolve issues associated with additional amendments to the EP&A Act, 1979 prior to WLEP 2011 being gazetted and would enable the concurrent and comprehensive review of DCP 2005.

However, identifying Option 1 as the most appropriate course to proceed with the CLEP Review project, will not guarantee that the NWSSP and CCRCP will be exhibited in late 2010 nor prevent the identification of additional issues that would require resolution prior to their adoption. Delaying the preparation of a new environmental planning instrument will also extend the current level of uncertainty to the development industry and landowners and will prevent the implementation of rezonings identified by adopted Town Centre Planning Strategies.

Perhaps the biggest risk relates to the consequences of not preparing WLEP 2011 by the State Government's imposed deadline of June 2011. Although unlikely, under the provisions of the EP&A Act, 1979, the Minister for Planning can remove Council's planning powers and appoint an independent planning panel to oversee its decision-making functions. This risk would be mitigated by requiring the Ministers for Planning and Local Government to agree to the removal of Wyong Shire from the Priority LEP list established in 2009.

As the State Government cannot guarantee dates for the public exhibition of the NWSSP and CCRCP; a revised indicative timeframe for the completion of the CLEP Review cannot be established.

In summary, Option 1 is not considered preferable.

#### 2 Continue to progress with the CLEP Review Project

Council can continue to progress with the CLEP Review Project and attempt to deliver the three project deliverables in a manner which is consistent with the timetable reported to Council in March 2009.

One benefit associated with adopting Option 2 includes progressing the Shirewide Settlement Strategy to enable public exhibition and commence consultation with the relevant State Government Agencies under Section 62 of the EP&A Act, 1979 in regard to draft WLEP 2011.

However, Council's Settlement Strategy is unable to be finalised until the NWSSP and CCRCP is released by DoP and DECCW. In addition, the Strategy cannot consider land located within the NWSSP study area boundary or appropriately reflect environmental attributes on a Shirewide scale. Furthermore, Council would be required to amend, re-exhibit and adopt the Settlement Strategy upon completion of the NWSSP and CCRCP to ensure consistency with the State Government Plans, and that Shirewide issues, including the management of population growth, are considered in a broader context.

As previously discussed, WLEP 2011 and WDCP 2011 have been nominated as the vehicles to implement the NWSSP and CCRCP. Commencing legislated consultations with State Government Agencies prior to the finalisation of the NWSSP and CCRCP is considered premature and Council would be required to repeat these processes once the relevant plans are adopted.

Council is unable to determine a revised anticipated timeframe for the gazettal of WLEP 2011 given that the implementation plans and associated mechanisms for the NWSSP and CCRCP have not been determined.

In summary, Option 2 is not considered desirable.

### **3 Prepare a Conversion LEP**

As a final option and having regard for the deadline imposed by the NSW State Government for the gazettal of WLEP 2011, Council can revisit the CLEP Review project by resolving to progress with an LEP which directly converts or translates the provisions of WLEP 1991 in line with the Standard Instrument.

Taking into account the amount of work expended on preparing the Shirewide Settlement Strategy, Council could postpone its exhibition until the NWSSP and CCRCP are progressed by DoP and DECCW. The Settlement Strategy can then be exhibited and adopted once the NWSSP and CCRCP are complete. Deferring the Settlement Strategy will enable Council and State Government resources to focus on progressing WLEP 2011; avoid duplicating the steps required to finalise the Settlement Strategy; and by first establishing priorities, ensure consistency between both State and Local plans.

While adopting Option 3 may ultimately facilitate Council achieving the NSW State Government deadline, it is emphasised that this approach retains its significance and would allow Council to rectify over 300 mapping anomalies; rescind provisions that are now redundant due to new state environmental planning instruments; and facilitate the implementation of a number of Planning Strategies, including The Entrance Peninsula; Wyong/Tuggerah; and Toukley Planning Strategies.

It is important to note, that in the Councillor Briefing held in March, the possibility of progressing the CLEP Review in line with Option 3 was raised. At this time, it was agreed that Council staff would commence discussions with the DoP as to the possibility of preparing a 'conversion LEP.'



Due to delays with the exhibition of the NWSSP, the Central Coast Regional Office of the DoP has advised that they would be 'supportive of (an) ... LEP which implements the Standard Instrument, with a subsequent amendment to incorporate the Settlement Strategy.' A copy of this advice is provided as Attachment 6.

Council and the DoP will need to re-establish the timeframes associated with the completion of key milestones to ensure WLEP 2011 is gazetted. In addition, the DoP and Council need to agree on a method for dealing with development and conservation issues for areas located within the NWSSP.

Option 3 is considered desirable, as it addresses the State Government's timeframe; minimises risks associated with not completing WLEP 2011 and respects the community's expectation of the project.

### **Associated Considerations**

#### ***Rezoning Requests Strategy***

Councillors would recall that the Rezoning Requests Strategy, adopted in March 2009, enabled specific rezoning proposals to be considered under the context of the Shirewide Settlement Strategy and where appropriate, implemented through the first version, or subsequent amendments to WLEP 2011.

In accordance with the State Government planning direction the Rezoning Requests Strategy does not apply to land located west of the F3 Freeway; nor does it apply to a future urban release area precinct identified by the Residential Development Strategy, 2008 or an area identified by a local Town Centre Planning Strategy as these areas will automatically be considered as part of the Comprehensive LEP.

In response to Council's invitation, 15 rezoning proposals were received. Given the delays to the progression of the NWSSP and the impacts upon Council's CLEP Review, consideration as to how to progress these rezoning requests is required.

Council has committed to undertaking an assessment of the 10 rezoning proposals which are located in areas outside of the NWSSP study area boundary. Accordingly, it is recommended that the desktop assessments of individual applications be finalised and subject to Council's determination should be included within the WLEP 2011.

There are 5 rezoning requests located within the NWSSP study area boundary. Determination of how to proceed with these requests is subject to the release of the NWSSP and CCRCP by the State Government. In this regard, Council has no alternative, than to postpone assessment of these rezoning requests until such time as the NWSSP and CCRCP are released and the Settlement Strategy is finalised.

### Priority LEP Amendments

Having regard for the Rezoning Requests Strategy and the need to support employment generating opportunities, Council, in considering the CLEP Review project, Council resolved at its meeting held on 25 March 2009 as follows:

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

- 9 *That Council still consider rezoning proposals that facilitate significant employment generating developments as matters of priority.”*

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

AGAINST: NIL.

As previously highlighted, on 11 November 2009, Council considered a report on the implications of the potential delays in the gazettal of WLEP 1991, particularly on the progression of Priority LEP Amendments. Council resolved to progress current rezoning proposals which ‘facilitate significant employment generating developments as a matter of priority with the aim of including these as an amendment to WLEP 1991.’ As such, there are no impacts upon the progression of these amendments.

### LEP Bundle 3

In accordance with Council’s Spot Rezoning Procedure, the next ‘bundled’ amendment to Wyong LEP 1991 is LEP Bundle 3. Generally, LEP Bundle 3 considers matters relating to LEP anomalies and is therefore supported for inclusion within the CLEP Review Project by both Council and DoP.

A separate Council report is currently being prepared which will identify the components of LEP Bundle 3 in more detail and recommend inclusion of the amendments with the preparation of Wyong LEP 2011.

### CONCLUSION

Given the synergies between the NWSSP, the CCRCP and the CLEP Review Project, Council is unable to progress with a ‘comprehensive’ review of WLEP 1991 until such time as DoP and DECCW release their respective plans for public comment. Continued delays to the scheduling of the exhibition of the NWSSP and CCRCP impact upon Council’s ability to adhere to the deadline imposed by the NSW State Government for the gazettal of WLEP 2011.

An examination of the options available to prepare WLEP 2011 has been undertaken, and it is recommended that Council adopt Option 3. Preparing a conversion LEP in the first instance will enable the finalisation of the NWSSP and CCRCP prior to the adoption of the Shirewide Settlement Strategy. A major amendment to WLEP 2011 will be undertaken at this time.

**ATTACHMENTS**

- |          |  |           |
|----------|--|-----------|
| <b>1</b> | Support Exhibition Draft Plans - North Wyong Shire Structure Plan<br>NWSSP - Wyong Shire Settlement Strategy - Department Environment<br>Climate Change and Water                | D02100732 |
| <b>2</b> | Advise Intend Exhibit ASAPp - North Wyong Structure Plan - Working<br>towards Concurrent Exhibition - Central Coast Regional Conservation<br>Plan - The Hon Kirstina Keneally MP | D02099686 |
| <b>3</b> | Flowchart - Central Coast Regional Strategy - 30-4-2010  | D02227691 |
| <b>4</b> | Reprioritisation Survey - Comprehensive LEP Review - F2008/00774 -<br>Letter from Minister for Planning - April  | D02263025 |
| <b>5</b> | Response - Reprioritisation Survey - Comprehensive LEP Review -<br>F2008/00774 - Letter from Minister for Planning - 10 August 09<br>(D01997928)                                 | D02263029 |
| <b>6</b> | Wyong LEP 2011 - Settlement Strategy - seeking comment from the<br>Department of Planning (D02221997)  | D02267332 |

Your reference: F2008/00777; D02012606  
Our reference: MD09/4517 Doc09/51354; FIL08/15168

Ms Gina Vereker  
Director Shire Planning  
Wyong Shire Council  
PO Box 20  
WYONG NSW 2259

1/12/09

Dear Ms Vereker

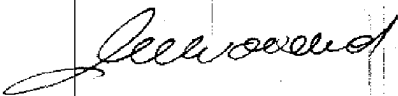
I refer to your letter of 21 October 2009, to the Minister for Climate Change and the Environment, the Hon John Robertson MLC, regarding the North Wyong Shire Structure Plan (NWSSP) and the Central Coast Regional Conservation Plan (CCRCP). The Minister referred your letter to the Department of Environment, Climate Change and Water (DECCW) and I am responding on his behalf.

I note Council's concerns about the possible impacts that may result from a delay in the exhibition of the draft plans. As you would be aware, preparation of the NWSSP is the responsibility of the Department of Planning, and DECCW, as an advisory body, works within the timeframes set by the Department of Planning. I acknowledge that there has been some delay with the preparation of the NWSSP. This is due to a number of issues, including defining the urban footprint and addressing conservation matters. I can assure you DECCW is committed to the earliest possible timeframe for finalisation of the NWSSP.

DECCW supports the concurrent exhibition of the draft plans. I encourage Council to continue liaising with the Department of Planning and DECCW to achieve this outcome. I am pleased to note that Council also aims to advertise its Wyong Shire Settlement Strategy at the same time.

Should you have any further enquiries concerning these matters, please contact Diane Crosdale, DECCW's Acting Manager Planning and Aboriginal Heritage, on 4908 6825.

Yours sincerely



**JOE WOODWARD**  
Deputy Director General  
Environment Protection and Regulation

The Department of Environment and Climate Change is now known as the Department of Environment, Climate Change and Water

PO Box A290 Sydney South NSW 1232  
59-61 Goulburn St Sydney NSW 2000  
Tel: (02) 9995 5000 Fax: (02) 9995 5999  
TTY (02) 9211 4723  
ABN 30 841 387 271  
[www.environment.nsw.gov.au](http://www.environment.nsw.gov.au)

Department of  
**Environment, Climate Change and Water NSW**

**NSW** | The Hon **Kristina Keneally** MP  
Minister for Planning | Minister for Redfern Waterloo

Ms Gina Vereker  
Director  
Shire Planning  
Wyong Shire Council  
PO Box 20  
WYONG NSW 2259

D09/6166

- 3 DEC 2009

Dear Ms Vereker

I refer to your representations concerning the North Wyong Shire Structure Plan and the Central Coast Regional Conservation Plan.

There has been a delay with the Structure Plan due to a need to address a number of conservation issues. Given the importance of finalising the Structure Plan, it is intended to exhibit this as soon as possible.

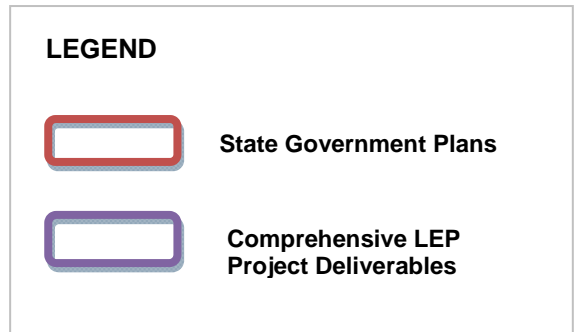
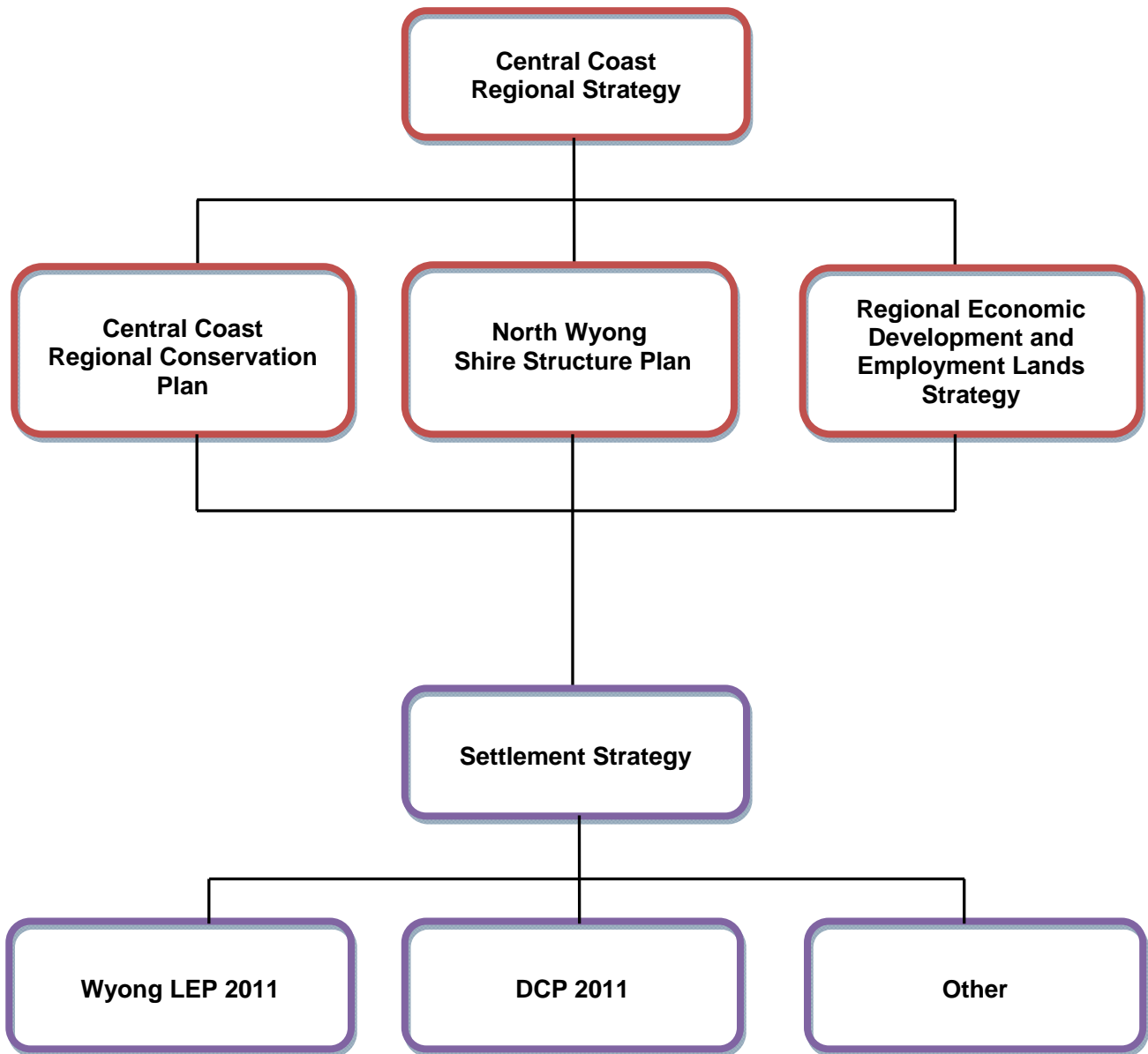
The Department of Environment, Climate Change and Water (DECCW) has advised that it will work towards a concurrent exhibition of the Conservation Plan with the Structure Plan.

Should you have any further enquiries about this matter, I have arranged for Mr Michael Leavey, Regional Director Hunter & Central Coast Region, of the Department of Planning, to assist you. He can be contacted on telephone number (02) 4904 2708. For any specific enquiries in relation to the Central Coast Regional Conservation Plan, it would be best to raise these directly with DECCW.

Yours sincerely



The Hon Kristina Keneally MP





To: All councils in NSW

Attention: Mayor and General Manager

Contact: Neil Selmon  
Comprehensive LEP Implementation  
NSW Department of Planning  
T: 02 9228 6259  
E: neil.selmon@planning.nsw.gov.au

17 April 2009

Dear Sir/Madam

### **REPRIORITISING THE STANDARD LOCAL ENVIRONMENTAL PLAN (LEP) PROGRAM**

We are writing to you regarding the Department of Planning's proposal to reprioritise the Standard Instrument LEP Program in the State.

You are no doubt aware the Standard Instrument (Local Environmental Plans) Order 2006 was introduced in order to introduce a single strategically based statutory instrument which would streamline the number of land-use zones, development controls and development definitions.

A timetable was set for all 152 local government areas to have a Standard Instrument LEP by 2011. The first 92 LEPs using the Standard Instrument were to be completed by March 2009.

It is clear that progress in implementing the Standard LEP Program has not been as quick as initially anticipated.

There is no single reason for the delays in implementing the Standard Instrument. Experience is proving that the preparation of Standard Instrument LEPs is more intensive than originally anticipated. Rather than being an exercise in converting existing planning instruments to the new form, the overwhelming majority of Standard Instruments are appropriately giving effect to strategic planning and policy changes that require extensive community consultation, but also place increased demands on the resources of councils, the consulting industry, the Department of Planning and Parliamentary Counsel.

In discussions with the Local Government Planning Directors Group, we have considered that some councils have a clear need to prioritise their LEP and allocate resources to this work now, while other councils would need to redirect resources to meet the deadline yet would receive little benefit in the short term.

The Department of Planning is looking to establish a clear list of priority LEPs which can be progressed to gazettal over the next two years. The criteria which will be used to prioritise these LEPs are:

1. Whether the LEP is already substantially progressed, in particular whether a section 65 certificate has been issued or is imminent or the LEP is otherwise significantly advanced.
2. Whether the LEP relates to a high growth area of the State with significant development pressures.
3. Whether the LEP is strategically important in meeting housing or employment targets set by the Metropolitan Strategy, regional strategy or subregional strategy.
4. Whether current planning controls are outdated and creating significant planning issues.

Where an LEP is not placed on the two year priority list, it will be necessary for the Department of Planning to suspend work on that LEP in order that sufficient resources can be allocated to successfully delivering the priority LEPs. Work on delivering the next set of LEPs will occur following delivery of the two year priority list.

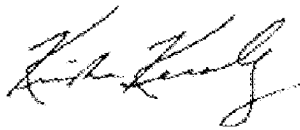
NSW Department of Planning, Head Office, 23-33 Bridge Street Sydney NSW 2000 GPO Box 39 Sydney NSW 2001  
DX 22 Sydney Telephone: (02) 9228 6111 Facsimile: (02) 9228 6191 Website: [www.planning.nsw.gov.au](http://www.planning.nsw.gov.au)

**The Department of Planning will work with councils which are not allocated to the two year priority list to progress any spot rezonings that are justified and considered important to delivering housing, employment or other opportunities in a priority manner. The Department will also work with those councils in supporting other higher priority strategic work such as residential, employment, and retail strategies.**

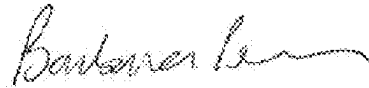
We have attached a survey from the Department of Planning with a series of questions that will assist us to work with local government to prioritise LEPs. We would appreciate if you could return this information to the Department of Planning by 15 May 2009. Please return the form to Neil Selmon, Department of Planning, GPO Box 39, Sydney 2001 or by email to [neil.selmon@planning.nsw.gov.au](mailto:neil.selmon@planning.nsw.gov.au).

If you have any questions regarding the above information please contact Neil Selmon on 9228 6259 or your regional Department of Planning office.

Yours sincerely



**The Hon. Kristina Keneally, MP**  
Minister for Planning  
Minister for Redfern Waterloo



**The Hon. Barbara Perry, MP**  
Minister for Local Government  
Minister Assisting the Minister for  
Health (Mental Health)









To: All councils in NSW  
Attention: Mayor and General Manager

Contact: Neil Selmon  
Planning Operations Coordinator  
NSW Department of Planning  
T: 02 9228 6259  
E: neil.selmon@planning.nsw.gov.au

10 August 2009

Dear Sir/Madam

### **REPRIORITISING THE STANDARD LOCAL ENVIRONMENTAL PLAN (LEP) PROGRAM**

On 17 April 2009 we wrote to all councils about the Department of Planning's proposal to reprioritise the Standard Instrument LEP Program, and requested completion and return of a survey to assist us in establishing a list of priority LEPs.

We would like to thank councils for their prompt and positive response to our letter. The vast majority of councils have indicated that they wish to complete their Standard Instrument LEP as a priority. They emphasised the need to continue the important work of rolling out modern and transparent planning controls across NSW to deliver important State and local planning outcomes.

The fact remains, however, that delivery of this important program means that resources must now be focused on achieving the gazettal of a number of LEPs over the next two years.

A list is attached of those local government areas where a proactive and focused approach to delivery of Standard Instrument LEPs will now be commenced. We have asked representatives from the Department's regional teams to contact each of these councils in the near future to formulate an implementation plan to support the finalisation of the Standard Instrument LEPs and facilitate their gazettal in agreed time frames.

**If your council is not on this list, it is important to note that the NSW Government will continue working with all other NSW councils with a view to having Standard Instrument LEPs in place as soon as practicable.**

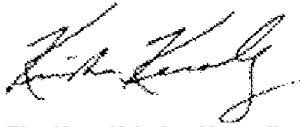
**Financial and advisory support for the preparation of LEPs will continue as before. Please refer to the 'Questions and Answers' attached to this letter for more information.**

This has been made possible by the additional funding made available by the NSW Government in the 2009–10 Budget. This provided significant additional funding for the Department of Planning, including \$12 million over four years to establish a Project Delivery Branch. This Branch will play an important part in assisting the Department to deliver the LEP Program across NSW.

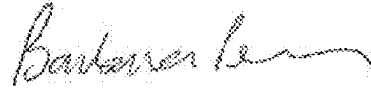
If councils are able to develop draft Standard Instrument LEPs faster than expected, the Department will make every effort to accommodate revised time frames and continue to provide advice and assistance as required.

We look forward to working with councils in implementing these important improvements to the NSW planning system.

Yours sincerely



**The Hon. Kristina Keneally, MP**  
Minister for Planning  
Minister for Redfern Waterloo



**The Hon. Barbara Perry, MP**  
Minister for Local Government  
Minister Assisting the Minister for Health  
(Mental Health)

Encl.

Attachment 1 – Standard Instrument LEP Program – List of Prioritised LEPs

Attachment 2 – Implementing the Standard Instrument LEP Program – Questions and Answers

Attachment 1

**Standard Instrument LEP Program – List of Prioritised LEPs\***

<b>Rural and Regional</b>	<b>Metropolitan</b>
<b>Hunter Central Coast (8)</b> Cessnock Gloucester Gosford Greater Taree Lake Macquarie Maitland Newcastle Wyong	<b>Sydney Region West (9)</b> Auburn Blacktown Camden Fairfield Hawkesbury Holroyd Parramatta Penrith Wollondilly
<b>Northern (13)</b> Ballina Bellingen Byron Clarence Valley Coffs Harbour Kempsey Kyogle Lismore Nambucca Port Macquarie Hastings Richmond Valley Tamworth Tweed	<b>Sydney Region East (14)</b> Botany Bay Burwood (Town Centre) Hurstville Lane Cove Leichhardt Marrickville Mosman North Sydney Rockdale Ryde Sydney City Warringah Waverley (Bondi Junction Town Centre) Willoughby
<b>Southern (14)</b> Albury Bega Valley Coolamon Eurobodalla Kiama Queanbeyan Shellharbour Shoalhaven Temora Tumbarumba Upper Lachlan Wagga Wagga Wingecarribee Wollongong	
<b>Western (9)</b> Balranald Bathurst Bland Dubbo Forbes Mid Western Murray Orange Wentworth	
<b>Rural and Regional = 44</b>	<b>Metropolitan = 23</b>
<b>Total = 67</b>	

\*Councils preparing comprehensive LEPs that are not on the prioritised list will still receive support and advice from the Department of Planning.

Attachment 2

## **Implementing the Standard Instrument LEP Program – Questions and Answers**

### **Why are we implementing a Standard Instrument LEP across NSW?**

Local environmental plans (LEPs) are an integral part of the NSW planning system. In 2006, the NSW Government created a common structure and language for LEPs through a 'Standard Instrument'. One Standard Instrument LEP will replace all existing LEPs in each local government area (LGA). The aim is to simplify the planning system for residents, businesses and councils by significantly reducing the overall number of LEPs, and by introducing a consistent approach to land use planning controls across NSW.

### **What is the Program for completing the Standard Instrument LEPs?**

The NSW Government is implementing the Standard Instrument LEP across NSW. Accordingly it has identified 67 councils with which it is working to ensure they have Standard Instrument LEPs in place by June 2011. The NSW Government will continue working with all other NSW councils with a view to having Standard Instrument LEPs in place as soon as practicable.

### **How did the Department develop its Program for implementing the Standard Instrument LEPs?**

Delivery of modern and transparent planning controls across the State is a high priority for the NSW Government. In order to confirm which LEPs are close to completion, key to delivering land for employment and housing, or in areas experiencing strong growth pressures but with outdated controls, the Department of Planning has consulted with councils to identify a list of priority LEPs that it seeks to deliver over the next two years. This has resulted in a list of 67 LEPs which are identified for priority delivery by June 2011.

### **What does it mean to be on the 'prioritised' list?**

Being on the priority list means an implementation plan will be developed in consultation with the councils for early delivery of these LEPs. The Department's regional teams will meet with each of the councils in coming months to agree detailed timeframes for each stage of the process, taking account of identified information gaps and available resources.

### **How will the other Standard Instrument LEPs be progressed?**

Feedback from councils indicated a wish to continue to progress their Standard Instrument LEPs. It is therefore expected that financial and advisory support for the preparation of LEPs for those councils not on the list will continue as before. The Department's regional planning teams will discuss the current status and progress of these plans with councils and extensions to existing time frames will be considered and agreed where appropriate.

### **How can councils progress their LEPs as quickly as possible?**

Councils should contact the Department's regional planning team to confirm the status of their LEPs and current time frames for delivery. The Department will make every effort to accommodate revised time frames and will continue to provide advice and assistance as required.

### **Is financial assistance available to councils to complete their Standard Instrument LEP?**

Through Rounds 1 to 6 of the Planning Reform Fund the Department of Planning has provided approximately \$23 million dollars to councils across the State to help fund the delivery of new LEPs and key strategic planning projects. Further allocations to assist in completion of this important work will be made from the Planning Reform Fund.

From: Michael Leavey [Michael.Leavey@planning.nsw.gov.au]
Sent: Wednesday, 21 April 2010 2:06 PM
To: Bowditch, Paul
Cc: Garry Hopkins
Subject: Re: Wyong LEP 2011 - Settlement Strategy - seeking comment from the Department of Planning Paul

The Department would be supportive of a Comprehensive LEP that implements the SI, with a subsequent amendment to incorporate the Settlement Strategy, provided that we are able develop an agreed program to have the plan gazetted by 30 June 2011. We appreciate this is a tight timeframe, but the Government has committed to the delivery of new LEPs for priority Councils by this date.

Delivery of an LEP after 30 June 2011 would require further discussion, including the likely timing of the Structure Plan and Council's Settlement Strategy.

Apart from the normal LEP processes we are finding that local clauses and mapping are some of the major issues that can lead to delays with comprehensive LEPs and we would be happy to discuss these with Council and how they may impact on the meeting the timeframe. Additionally, the approach to zoning land in the Structure Plan area will be a matter that we will need to discuss in more detail.

I'd be happy to discuss this further if that would assist.

regards

Michael

Michael Leavey
Regional Director
Hunter & Central Coast Region
Department of Planning

Ph: 02 4904 2700
Mob: 0438 662 942

L2/26 Honeysuckle Drive
Newcastle NSW 2330

>>> "Bowditch, Paul" <BOWDITCH@wyong.nsw.gov.au> 16/04/2010 14:36 >>>
Hi Michael

As discussed, please see the attached executive summary of the recent Council briefing on the Comprehensive LEP Review and Settlement Strategy. In regard to the 5th dot point under the 'Agreed Outcomes' could you please provide a written response (email is fine) on the Department's stance of Council proceeding with LEP 2011 as a 'major amendment' or conversion of WLEP 1991 into the standard instrument format.

We are currently preparing a report for Council's consideration on the pros and cons of the various options for proceeding with the LEP and would appreciate if you could provide this response by April 30 (if possible).

If you would like to discuss this matter further, please give me a call.

Thank you

Paul Bowditch
Acting Manager
Future Planning
Wyong Shire Council
P.O. Box 20 WYONG NSW 2253
Tel: 02 4351 5924 Fax: 02 4351 7088
E-mail: Paul.Bowditch@wyong.nsw.gov.au WWW: http://www.wyong.nsw.gov.au

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\*\*\*\*\*
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#### 4.1 Contract Variations and Finalisation - May 2010

TRIM REFERENCE: D02257234

AUTHOR: GP

##### SUMMARY

This paper reports on variations, proposed variations or finalisations to contracts with a value greater than \$150,000 (excl GST).  
The report covers contract variations and finalisations processed in May 2010.

##### RECOMMENDATION

- 1 That Council note the *Contract Variations and Finalisation May 2010 report (Attachment 1)*.
- 2 That Council approve additional expenditure above resolved estimates for the following contracts:

<b>Contract Title</b>	<b>Contract No</b>	<b>Additional Expenditure</b>
<b>Wyang Coastline Management Plan</b>	<b>2328</b>	<b>\$10,000.00</b>
<b>Local Area Newspaper Advertising</b>	<b>CPA/132383</b>	<b>\$100,000.00</b>

3. That Council note the additional expenditure requested is within approved program budgets for

##### BACKGROUND

Contracts entered into by Wyong Shire Council (WSC) are awarded either by Council resolution or under delegated authority. The Local Government Act 1993 (s.55) 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 made by Council to the General Manager or his/her delegate.

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. 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.

All contracts commonly include a contingency sum to cover unforeseen changes. It is generally expressed as a percentage of the contract value, normally 10% of the contract value, but varies between 5% and 30%, or expressed as a specific dollar value.

The need to vary contracts (explained above) arises out of differences in estimating strategies where two extremes denote a range of risk that offers WSC a choice of budget/estimate methodology.



## THE PROPOSAL

WSC estimates on the basis of known costs of assessment, design and construction - an approach which allows budgets to maximise the number of works in an annual program at the optimal risk level of programs being materially curtailed as unforeseen needs arise.

### Summary for May period.

Contracts reported for May 2010	10
Contracts requiring increase to the contract budget	2
Contract where current funds are sufficient to complete	8
Contracts finalised in period	0

### Variations this month

Newspaper advertising is a schedule of rates contract likely to exceed original estimates over the balance of the initial three year period of the contract.

Wyong Coastline Hazard Management Plan will require an increase to the approved budget.

### Impact on Management Plan

Contract No.	Description	Source of Funds	Management Plan Budget Impact	Impact \$
2328	Wyong Coastline Mgmt Plan.	Sustainability Programme 50% DECCW 50%	Unfavourable – Commensurate increase to grant funding.	\$5,000
CPA/ 132383	Local Area Newspaper Advertising	Various Operational Budgets	None - Advertising requirements for operational areas have sufficient budget provisions.	0

### CONCLUSION

Contract control is a discipline under continual improvement and scrutiny, particularly as new budget management systems are being put in place for 2010-2011. The issues raised in this report are demonstrative of the improved scrutiny in this area.

### ATTACHMENTS

- 1 OM 23-06-10 Attachment 1 Contract Variations May 2010 D02257237

## Attachment 1 – Contract Variations for May 2010

## Construction of Rural Fire Station Building - Ourimbah

Contract Number	Date of Council Approval	Contractor	(a) Approved Contract Value \$	(b) = (a) + contingency Total Approved Budget \$	(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	Expenditure to Date \$
158359	9-12-2009	GWH Constructions (NSW) Pty Ltd	378,000.00	416,000.00	4,571.95	2,094.75	6,666.70	384,666.70	Grant Funding – Rural Fire Service	384,115.45
Individual Variations For Reporting Period										
Description					Value \$	Description			Value \$	
Variation 8: Scope change - provision of 3 additional power outlets at request of Rural Fire Service to meet their operational needs. Price is considered reasonable.					367.50	Variation 11: Scope change - contractor was requested to provide controllers to allow for remote operation of the two roller doors housing the response fire engines. This change was requested by the RFS to ensure that door operation does not adversely impact response times.			980.00	
Variation 10: Scope change - as a result of a recommendation by the contractor's fire extinguisher inspection / supply company the Contractor was directed to supply and install an additional two fire extinguishers to ensure full compliance with Australian Standards. These standards are very open to interpretation however the recommendations are considered reasonable and will improve fire safety within the building. The contractors price is reasonable					196.00	Variation 12: Scope change - contractor was requested to provide an automatic water diversion system (RainAid) for installation of the rainwater tanks being supplied by the RFS. The RainAid system allows for automatic topping up of the tanks supplying water for toilet flushing and other non potable use.			551.25	

Work under the contract is estimated at 99% complete and is being fully funded by the RFS. Council has agreed to provide bridging funds of \$250,000 until October 2010 when further RFS grant funds are expected to be provided.

With the information currently available, the contract budget as approved by Council is considered sufficient to cover these anticipated variations. No increase to the contract budget is therefore sought.

## Construction of Mardi Dam Transfer & Highlift System

Contract Number	Date of Council Approval	Contractor	(a) Approved Contract Value \$	(b) = (a) + contingency Total Approved Budget \$	(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	Expenditure to Date \$
127662	13-05-2009	Baulderstone Pty Ltd	41,464,576.36	45,664,576.36	88,274.18	194,116.34	282,390.53	41,746,966.89	50/50 Gosford & Wyong Councils	28,120,593.02
Individual Variations For Reporting Period										
Description					Value \$	Description				Value \$
Variation 52: Scope change - increase size of the two transformers for the Transfer Pump Station from 1000KW to 1500KW to allow for size of final pumps selected with adequate spare capacity. The increased size will ensure the transformers can meet all demand situations and also have long life and reliability.					26,620.00	Variation 85: Scope change - additional 38 metres length of Gabion mattress from discharge point of reused water line on inside of dam wall to new low water level to reduce the scouring effect that water flow will have on the dam embankment. The contract design did not allow for the varying water level that is now proposed for the operation of Mardi Dam. Variation will protect Council's asset during future operation.				26,102.38
Variation 63: Credit Variation - Deduction for smaller lifting beams at pump station.					(-370.00)	Variation 92: Scope change - an additional valve is required to allow isolation of the High Lift Pump Station from the water supply system. Not included in original design, but will assist in the commissioning of the new works and also allow future maintenance without disruption to the water supply system.				87,450.00
Variation 80: Latent condition - poor foundation conditions found for the access road to the High Lift Pump Station. Good foundation material re-used from other site excavation to provide a long term stable asset at least cost to Council.					5,543.09	Variation 94: Scope change - realignment of suction pipework at High Lift Pump Station due to conflict with the completed retaining wall footing. Responsibility for costs will be pursued with others, but solution was most economical method to correct problem. This was considered the cheapest option to correct a problem caused by a poor design. The designer will be asked to pay full costs.				48,770.88

Work under the contract is estimated at 60% complete.

With the information currently available, the contract budget as approved by Council is considered sufficient to cover these anticipated variations. No increase to the contract budget is therefore sought.

## Construction of Woongarra Sports Facility

Contract Number	Date of Council Approval	Contractor	(a) Approved Contract Value \$	(b) = (a) + contingency Total Approved Budget \$	(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	Expenditure to Date \$
153228	08-04-2009	Maincon Pty Ltd	4,620,995.00	5,203,095.00	536,382.34	9,832.00	546,214.34	5,167,209.34	Section 94	5,119,655.59
Individual Variations For Reporting Period										
Description					Value \$	Description				Value \$
Variation 28: Scope change - concrete mowing strips were extended along northern boundary between playing surface and landscaped areas. This will reduce future maintenance costs by minimising time required to remove grass growing into landscaped areas. Price is reasonable.					9,832.00					

Work under the contract is estimated at 98% complete.

With the information currently available, the contract budget as approved by Council is considered sufficient to cover these anticipated variations. No increase to the contract budget is therefore sought.

## Mardi To Mangrove Creek Link Design And Approvals Consultant

Contract Number	Date of Council Approval	Contractor	(a) Approved Contract Value \$	(b) = (a) + contingency Total Approved Budget \$	(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	Expenditure to Date \$
130386	12-12-2007	GHD Pty Ltd	12,900,476.36  (As revised by Council August 2008 & June 2009)  Original Value \$5.944M	14,125,476.36  (As revised)	5,832,488.25  (includes all Increases over original contract value)	40,000.00	5,872,488.25	11,816,964.25	50/50 Wyong & Gosford Councils	11,011,633.54
<b>Individual Variations For Reporting Period</b>										
<b>Description</b>										<b>Value \$</b>
Variation 34: Scope change - further hydrodynamic modelling to gain a better understanding of the mixing processes in Mardi Dam and the effect of the inlet main location on the water quality received at the Mardi Water Treatment Plant.  The modelling will also help determine the level of risk to the drinking water supply and be used to test various control measures.										40,000.00

The design phase of the contract has been completed at a cost of \$10.961M. During the construction phase, GHD will GHD will:

- respond to Requests For Information raised by the Construction Contractor or Project Team;
- review/comment on alternative designs submitted by the Construction Contractor;
- review/comment on designs submitted by the Construction Contractor, as required under the Construction Contract;
- additional design work as required by the Project Team;
- attendance at meetings;
- attendance during testing and commissioning;
- additional design work to address identified errors or omissions;

- environmental support services; and
- OHS support services.

With the information currently available, the contract budget as approved by Council is considered sufficient. No increase to the contract budget is therefore sought.

## Concept Design, Detail Design and Tender Documentation for Sewerage Trunk Mains at Warnervale Town Centre and Wyong Employment Zone

Contract Number	Date of Council Approval	Contractor	(a) Approved Contract Value \$	(b) = (a) + contingency Total Approved Budget \$	(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	Expenditure to Date \$
130590	12-12-2007	Bonacci Group Pty Ltd	433,500.00	658,955.00	124,162.50	30,546.37	154,708.87	588,208.87	Section 94	480,787.50
Individual Variations For Reporting Period										
Description				Value \$	Description				Value \$	
Variation 11: Scope change - additional design requirements to obtain power supply to the three proposed sewer pump stations for Warnervale.  This is a result of Energy Australia's Contestable Works requirement and is additional to the scope of works originally allowed for by consultant.				26,910.00	Variation 12: Scope change - concept design for the realignment of WTC sewer main in Precinct 7A and relocation of pump station in and around Virginia Rd, Warnervale.  This is required to accommodate newly proposed Land Use boundaries for Precinct 7A that has changed the development, flood storage and floodway boundaries.				3,636.37	

Work under the contract is estimated at 85% complete.

With the information currently available, the contract budget as approved by Council is considered sufficient to cover these anticipated variations. No increase to the contract budget is therefore sought.

Design of power supply was not in this civil consulting scope because Energy Australia (EA) requires electrical designs to be done by designers specifically accredited by EA. It was originally intended to undertake the electrical design through a separate consultancy but because of the complexity of integrating the electrical design into the civic design, this variation is for the civil designer to engage and manage an EA accredited electrical designer.

## Investigation and Design - Toe Drainage Structure - Cabbage Tree Harbour

Contract Number	Date of Council Approval	Contractor	(a) Approved Contract Value \$	(b) = (a) + contingency Total Approved Budget \$	(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	Expenditure to Date \$
135454	26-11-2008	Shirley Consulting Engineers	237,061.70	353,061.70	58,785.00	10,383.10	69,168.10	306,229.80	50/50 DECC & Council (\$565k each) Final funding split to be determined once construction tenders are called.	291,712.47
Individual Variations For Reporting Period										
Description					Value \$	Description				Value \$
Variation 7: Scope change - this variation required additional investigation and reporting on the feasibility of an alternate lower cost option for the toe drainage structure.  The variation was necessary because the estimated construction cost of the toe drainage structure exceeded the available budget. The beneficial outcome was that it was determined that a lower cost option was feasible.					10,383.10					

Work under the contract is estimated at 70% complete.

There will be additional consultancy costs to re-design and document the lower cost option for the Toe Drainage Structure as approved by Council at the meeting of 14<sup>th</sup> April 2010. A proposal has been requested from the consultant and a recommendation to adjust the contract budget will be included in a future monthly Contract Variation report.

Given the extent of SCE's engagement to date, there are efficiencies in continuing the present engagement to undertake tasks required to complete the project rather than engage another consultant from a competitive tendering process. The estimated cost associated with this variation is based on estimated hours to complete the tasks and typical rates for consultants with this level of expertise. It represents fair value compared to the cost that could be expected from other similarly experienced consultants.

The estimated additional cost for completion of investigation, design, revised environmental assessment and construction supervision is estimated at \$150,000 but will vary depending on the final scope of services.

Until such time as the proposal is received, no request for additional funding is necessary at this time.



## Management of Toukley Aquatic Centre, Wyong Olympic Pool, The Entrance Ocean Baths and/or Lake Haven Recreation Centre

Contract Number	Date of Council Approval	Contractor	(a) Approved Contract Value \$	(b) = (a) + contingency Total Approved Budget \$	(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	Expenditure to Date \$
158914	27-05-2009	YMCA of Sydney	1,389,000.00	1,530,000.00	Nil	36,930.58	36,930.58	1,425,930.58	Management Plan lines 1.7.13 and 1.7.14 Pools & Recreation Centre	327,830.58
Individual Variations For Reporting Period										
Description				Value \$	Description				Value \$	
<p>Variation 2: Scope change - payment to be made to YMCA for pre-paid 2009/10 gym memberships. These memberships were previously paid to Leisure Co by customers of the Lake Haven Recreational Centre in 2008/09.</p> <p>Leisure Co went into liquidation on 6 July 2009 and was unable to reimburse YMCA for the gym memberships they had collected.</p> <p>Council, as the asset owner, is paying YMCA to honour these outstanding pre-paid gym memberships for 2009/10.</p>				36,805.57	<p>Variation 3: Scope change - previous management company LeisureCo Pty Ltd left Council with unpaid electricity account. This variation is payment of that account by YMCA on Council's behalf.</p>				125.01	

The contract is in its second year of operation.

With the information currently available, the contract budget as approved by Council is considered sufficient to cover these anticipated variations. No increase to the contract budget is therefore sought.

### Excavation and Lining of Cell 4.2B at Buttoderry Waste Management Facility

Contract Number	Date of Council Approval	Contractor	(a) Approved Contract Value \$	(b) = (a) + contingency Total Approved Budget \$	(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	Expenditure to Date \$
164633	14-10-2009	Robson Civil Projects Pty Ltd	4,198,468.64	5,000,000.00	(-192,095.70)	29,938.00	(-162,157.70)	4,036,310.94	Management Plan, Line item 4.5.13 Waste Facilities	2,670,957.19

#### Individual Variations For Reporting Period

Description	Value \$	Description	Value \$
<p>Variation 4: Scope change - additional work to widen road approaches and extend drainage at the access area to new waste cell to provide for safe vehicle turning and access for waste placement into the cell.</p> <p>This work was to be managed by Council personnel following completion of the construction contract and as part of project works ancillary to the contract.</p> <p>The Variation realises an opportunity to have the work undertaken by experienced contractor with no mobilisation or site establishment costs, at reasonable cost, in minimal time and as part of the contract works. Work will ensure cell is ready to receive waste immediately on completion of contract construction. Represents good value for money for Council.</p>	29,938.00		

Work under the contract is estimated at 85% complete.

With the information currently available, the contract budget as approved by Council is considered sufficient to cover these anticipated variations. No increase to the contract budget is therefore sought.

## Wyong Coastline Management Plan

Contract Number	Date of Council Approval	Contractor	(a) Approved Contract Value	(b) = (a) + contingency  Total Approved Budget	(c) Value of Variations Previously Reported	(d) Value of Variations For Reporting Period	(e) = (c) + (d) Total Value of Variations	(f) = (a) + Original Contract Value  Actual Contract Value	Source of Funds	Expenditure to Date
			\$	\$	\$	\$	\$	\$		\$
2328	28-01-2009 (Revised scope)  26-11-2003 (Original scope)	Umwelt Pty Ltd	549,509.43 (As revised by Council )  Original Value 245,712.30	638,570.3	337,858.00	35,000.00	372,858.00  (Includes all variations over original contract value)	618,570.30	50/50 Council & DECCW	503,390.73
Individual Variations For Reporting Period										
Description										Value \$
Variation 1: Scope change - additional work to define geotechnical hazard lines where they overlap with the hazard line for beach erosion for the development of the Coastline Management Plan.										35,000.00

Work under the contract is estimated at 95% complete.

The contract was varied in January 2009 to enable work to be completed under a revised modelling system in lieu a system that had been successfully challenged through court action by another NSW local government body in a separate matter.

The reported variation of \$35,000 is historic and relates to additional work that was required to be performed by the geotechnical sub-consultant.

Additionally, it is anticipated that a further \$30,000 is required to fund remaining works under the contract. Therefore, an increase to the contract budget of \$10,000 is requested to meet the shortfall between 'Actual Contract Value and Total Approved Budget.

### Local Area Newspaper Advertising – Initial Period of 3 Years

Contract Number	Date of Council Approval	Contractor	(a) Approved Contract Value	(b) = (a) + contingency Total Approved Budget	(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  Actual Contract Value	Source of Funds	Expenditure to Date
			\$	\$	\$	\$	\$	\$		\$
132383	28-11-2007	Nationwide News Pty Ltd t/as Central Coast Express	482,958.00	482,958.00	-	-	-	467,732.04	Various Operational Budgets	467,732.04
<b>Individual Variations For Reporting Period</b>										
<b>Description</b>										<b>Value \$</b>
No variation – contract budget increase sought.										Nil

The contract was awarded for an initial three year period, commencing January 2008. Actioning of an optional two year extension will be separately reported to Council in the 4<sup>th</sup> quarter of 2010.

The 2008 contract estimate for expenditure on local print advertising across all sections of Council stated that:

***The estimated annual expenditure against this contract is \$161,000 [per year] EX GST however actual expenditure may vary significantly with fluctuations in demand.***

The Corporate communications component of advertising which formed the basis for the estimated contract value, predominantly Shirewide page/s, remains within its estimated budget of \$100K per annum.

Post award of the contract, increased advertising from projects with significant communication requirements stipulated under Federal or State Government grant funding conditions, e.g. Estuary Management Plan, Mardi to Mangrove Link, E-Waste, Central Coast Community Recovery Fund and RTA safety campaigns has led to approx. \$60K of additional advertising during the contract period to date.

With grant funded advertising removed, expenditure to date of \$14K per month is approx. 4.5% over the initial estimate.

Based on expected advertising needs over the balance of the initial contract period and a small contingency for any unknown requirements that may eventuate, an increase to the contract budget of \$100K is therefore sought for advertising requirements until the extension option is actioned or a new contract is awarded.

## 5.1 Review of All Boat Ramps within Wyong Shire

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TRIM REFERENCE: M2009/00569 - D02154884

AUTHOR: BMc

### SUMMARY

Reporting on the review of all boat ramps and adjacent infrastructure on land within Wyong Shire including those facilities with a frontage to Lake Macquarie.

### RECOMMENDATION

- 1 ***That the Future Planning Unit work programme for 2010/2011 be amended to incorporate the development of a Boat Ramp/Aquatic Infrastructure Strategy for Council's consideration.***
- 2 ***That the Draft Strategy include the following:***
  - ***Locational principles;***
  - ***Levels of Service;***
  - ***Priorities for upgrading, maintenance, replacement or removal;***
  - ***Work program to be incorporated into the 4 year Delivery Plan.***
- 3 ***That the Draft Strategy (and pending preparation of the Strategy, any proposal for upgrading boat ramp infrastructure) be subject to a comprehensive community engagement process.***

### BACKGROUND

At its meeting held on 26 August 2009, Council *resolved unanimously on the motion of Councillor SYMINGTON and seconded by Councillor GRAHAM:*

*That Council conduct an audit/review of all boat ramps and adjacent infrastructure in those areas of Wyong Shire that have frontage to Lake Macquarie."*

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

AGAINST: NIL

### LAKE MACQUARIE BOAT RAMPS

A review has been completed of boat ramps and adjacent infrastructure on land within Wyong Shire with a frontage to Lake Macquarie comparable to that carried out for The Tuggerah Lakes Estuary Management Plan Recreation Facilities Strategy. The review incorporated an assessment of the recreation utilisation, function and quality of the sites. This review was undertaken in conjunction with an audit of aquatic infrastructure being carried out as part of the Asset Management Strategy.

From a recreation point of view, boat ramps act as the major focal point for boating access to Lake Macquarie from Wyong Shire. The presence of a boat ramp also generates use of the adjacent open space both for parking and launching and for associated recreation activities. Through this process they are often associated with the provision of intensive recreation facility development for the area where they are located.

All boat ramps on land with a frontage to Lake Macquarie provide access to Lake Macquarie and the ocean beyond. On this basis, they are potentially significant as an access to a regional waterway. The ramps are well distributed around the shoreline which helps to spread the load of parking and noise.

### **ALL BOAT RAMPS WITHIN THE SHIRE**

In addition to the above information relating to the boat ramp facilities on land with a frontage to Lake Macquarie, an Aquatic Infrastructure Audit and Review of Principles has been conducted for all boat ramps within the Shire.

### **Principles**

Based upon the investigation there are several principles of boat ramp development that Council can use to test its recreation provision. Australian Standards 3962 – 2001 Marinas and 4997 – 2005 have been consulted in the formulation of the principles set out below:

- Boat Ramps should be structurally sound. (Refer Aquatic Infrastructure Audit.)
- Boat ramps should have uniform grade. (Variations to grade should be sign posted at the head of the ramp.)
- The junction between ramp and approach should have a suitable vertical curve to allow a smooth transition and satisfactory vehicle clearances.
- Boat ramps should have a non slip surface. (In concrete - provide non-slip grooves at 45 degrees to fall – not raked or rough broomed.)
- Boat ramps should have adequate width (min lane width 4.0m single without kerbs and 3.7m multiple)
- Boat Ramps should not have drops more than 200mm from ramp to adjacent surfaces.
- Reversing should not have a complex path from carpark to ramp.
- Reversing should not cross trafficable roads.
- Parking areas should have a minimum 10 trailer spaces and 1 disabled car space and spaces should be clearly marked separate to adjacent roads for safe and efficient use.
- Navigable approaches should be safe – have adequate depth, be free of hazards and aligned into dominant wave direction.

The report below discusses the publicly accessible boat ramps tested by application of the principles above.

### ***Ramp Tenure and Asset Ownership***

Not all of the publicly available ramps are considered Council assets due to the origin or maintenance of the asset. Council has not applied for a licence for those ramps or for all the ramps it currently maintains.

## 5.1 Review of All Boat Ramps within Wyong Shire (contd)

All ramps are considered to be at least partially on Crown Land no matter what the tenure of the adjacent public domain as they are constructed over that land within the inter tidal zone and on the bed of a sea, lake or river.

Investigation and consultation revealed there is conflicting advice from external stakeholders over the maintenance responsibility of Council for Mannering Park Yacht Club ramp and Osborne Park ramp.

### **Structural Integrity**

The first criteria for assessment above is structural integrity. The audit of boat ramps suggests the following ramps are defective and will need replacement or closure.

### **Structurally Defective Ramps**

**Table 1**

Site/Road	Water Body	Land Tenure	Cond*	Replacement Cost	Life Remaining in Years	Retire Date
Rutleys Road, Mannering Park	Lake Macquarie	Crown Land	5	\$20,000	0	2009
Sunshine Reserve, Chittaway Point	Ourimbah Creek	Crown Land	4	\$30,000	0	2009
Kalua Drive, Chittaway Bay	Ourimbah Creek	Crown Land	4	\$30,000	0	2009
South Tacoma Road, South Tacoma	Wyong River	WSC	4	\$30,000	5	2009
Bald Street, Norah Head	Tasman Sea	WSC	4	Min \$600,000	5	2014
Lions Park, Gwandalan	Lake Macquarie	WSC	4	\$30,000	10	2019
Mulloway Road, Chain Valley Bay	Lake Macquarie	Crown Land	4	\$20,000	10	2019
Peel Street, Toukley	Budgewoi Lake	Crown Land	4	\$20,000	10	2019
Vales Point Park, Peverill Street	Lake Macquarie	Crown Land	4	\$40,000	15	2024

### **\* Condition Key**

Average Condition Rating = X

- 1 – Excellent
- 2 – Good
- 3 – Average
- 4 – Poor
- 5 – Failed

**Risk of Operation**

The boat ramps have also been assessed in terms of risk of operation. Those ranked above 3 are included in the table below. The first three ramps require replacement. The ramp at Buff Point will continue to collect weed until it is rebuilt as a convex arrangement.

**Table 2**

Site	Water Body	Land Tenure	Risk*	Replacement Cost	Life	Retire Date
Bald Street, Norah Head	Tasman Sea	WSC	5	\$600,000	5	2014
Lions Park, Gwandalan	Lake Macquarie	WSC	4	\$30,000	10	2019
Vales Point Park, Peverill Street	Lake Macquarie	Crown Land	4	\$40,000	15	2024
Narambi Avenue, Buff Point	Budgewoi Lake	Crown Land	3.5	\$20,000	15	2024

**\* Risk Key**

Risk Rating = Y

- 1 – Insignificant
- 2 – Minor
- 3 – Moderate
- 4 – Major
- 5 – Severe

**Ramp Design**

The launching of boats is directly affected by the operability of the ramp. The table below sets out the results of the assessment. Importance of criteria is ranked from left to right from drops on the side and toe to the presence of a regular grade.

**Table 3**

Name, Road, Suburb	Drops less than 200mm	Width 4m	Non slip grooves	Regular Grade
Electricity Pylon, Rutleys Road, Mannering Park	n	n	n	n
Oakland Street, Wyongah	n	n	n	n
The Entrance North Reserve, Wilfred Barrett Drive	n	n	n	y
Garema Road, Gwandalan	n	n	y	y
Saltwater Creek Reserve, Long Jetty	n	y	n	n
The Peninsular, Killarney Vale	n	y	n	n
John Slade Reserve, Budgewoi	n	y	n	n



## 5.1 Review of All Boat Ramps within Wyong Shire (contd)

Name, Road, Suburb	Drops less than 200mm	Width 4m	Non slip grooves	Regular Grade
Marine Parade, The Entrance	n	y	y	n
Lions Park, Gamban Road, Gwandalan	n	y	y	y
Colongra Bay Road, Lake Munmorah	n	y	y	y
Cabbage Tree Harbour, Bald Street, Norah Head	n	y	y	y
Reserve, Mulloway Road, Chain Valley Bay North	y	n	n	n
South Tacoma Road, South Tacoma	y	n	n	n
Toowoan Bay	y	y	n	n
Kalua Drive, Chittaway Bay	y	n	n	n
Peel Street, Toukley	y	n	n	y
Wallarrah Point Park, Gorokan	y	n	n	y
Vales Point Park, Peverill Street, Mannering Park	y	n	y	y
Chain Valley Bay Reserve, Lloyd Street	y	n	y	y

### **Navigation**

Navigability is an important part of boat ramp operation. Ramps have been assessed on the basis of visible or advised hazard and depth of water served by the ramp. The table below shows those ramps which have hazards or very shallow water adjacent to them.

**Table 4**

Name, Road, Suburb	Safe Clear Navigation	Comments
Cabbage Tree Harbour, Bald Street, Norah Head	n	Surf. Rocks in water near ramp.
Toowoan Bay	n	Across sand to surf beach.
Marine Parade, The Entrance	n	High velocity cross - current.
Canton Beach Reserve	n	Very shallow approach.
Wallarrah Point Park, Gorokan	n	Very shallow approach.
The Peninsular, Killarney Vale	n	Very shallow approach.
Edgewater Park, Narambi Road, Buff Point	n	Continuous heavy weed build up.
Chain Valley Bay Reserve, Lloyd Street	n	Rocks in water near ramp.
Reserve, Garema Road, Gwandalan	n	Rocks in water near ramp.
Reserve, Oakland Street, Wyongah	n	Rocks in water near ramp.

### **Trailer Reversing Environment**

Reversing the trailer to the ramp also contributes to the operability and safety of the boat ramp environment. Reversing should be a simple curve to the ramp alignment and not cross

## 5.1 Review of All Boat Ramps within Wyong Shire (contd)

traffic in the reversing motion. The table below shows the ramps which do not meet these criteria.

**Table 5**

Name, Road, Suburb	Simple Reversing Approach	Reversing Out of Traffic
Marine Parade, The Entrance	y	n
Reserve, South Tacoma Road, South Tacoma	y	n
Cabbage Tree Harbour, Bald Street, Norah Head	y	n
Toowoan Bay	y	n
Reserve, Peel Street, Toukley	y	n
The Entrance North Reserve, Wilfred Barrett Drive	y	n
Reserve, Mulloway Road, Chain Valley Bay North	n	y
Gwandalan Lioness Park, Koowong Road	n	y

### **Condition of Carpark**

The carpark of a ramp is a heavily used asset and its condition will have an impact on the safety and operability of the site and contribute to the potential cost of running the site.

An assessment has been made of the current condition and material of the car parks that serve boat ramps.

**Table 6**

Site/Road	Suburb	Carpark Surface	Condition*
Gwandalan Lioness Park, Koowong Road	Gwandalan	Asphalt	1
Yacht Club, Grace Street	Mannering Park	Asphalt	1
Reserve, Diamond Head Drive	Budgewoi	Asphalt	1
Lake Munmorah Reserve, Colongra Bay Road	Lake Munmorah	Asphalt	1
Canton Beach Reserve, Beach Parade	Canton Beach	Asphalt	1
Wallarah Point Park, Wallarah Road	Gorokan	Asphalt	1
Cabbage Tree Harbour, Bald Street	Norah Head	Asphalt	1
Reserve, Peel Street	Toukley	Asphalt	1
Osbourne Park, Peel Street	Toukley	Asphalt	1
Chain Valley Bay Reserve, Lloyd Street	Chain Valley Bay	Spray seal	2
Lions Park, Gamban Road	Gwandalan	Spray seal	2
Reserve, Garema Road	Gwandalan	Unsealed	2
Vales Point Park, Peverill Street	Mannering Park	Spray seal	2

## 5.1 Review of All Boat Ramps within Wyong Shire (contd)

Site/Road	Suburb	Carpark Surface	Condition*
Boat Harbour, Cams Boulevard	Summerland Point	Spray seal	2
Sunshine Reserve, Sunshine Avenue	Chittaway Point	Unsealed	2
Picnic Point Reserve, Tuggerah Parade	The Entrance	Asphalt	2
John Slade Reserve, Budgewoi Road	Budgewoi	Spray seal	2
Edgewater Park, Narambi Road	Buff Point	Spray seal	2
Budgewoi Sailing Club, Natuna Avenue	Halekulani	Spray seal	2
Reserve, Brudenell Avenue	San Remo	Unsealed	2
Toukley Sailing Club, Moss Avenue	Canton Beach	Unsealed	2
Toowoan Bay, Toowoan Bay Road	Toowoan Bay	Asphalt	2
Reserve, Mulloway Road	Chain Valley Bay North	Spray seal	3
Reserve, Oakland Street	Wyongah	Unsealed	3
Reserve, The Peninsular	Killarney Vale	Spray seal	3
Wallarrah Creek Park, Emu Drive	San Remo	Spray seal	3
Reserve, Wolseley Ave	Tacoma	Unsealed	4
Terilbah, The Entrance North	The Entrance North	Spray seal	4
Reserve, Kalua Drive	Chittaway Bay	Asphalt	5
Saltwater Creek Reserve, Tuggerah Parade	Long Jetty	Unsealed	5
Electricity Pylon, Rutleys Road	Mannering Park	Unsealed	5
Memorial Park, Marine Parade	The Entrance	N/A	N/A
Reserve, South Tacoma Road	South Tacoma	N/A	N/A

### Condition Key

\*Average Condition rating = X

- 1 - Excellent
- 2 - Good
- 3 - Average
- 4 - Poor
- 5 - Failed

### ***Car and Trailer Parking Facilities***

All boat ramps require car and trailer parking and this has a direct impact on the capacity and safe use of the ramp and the surrounding recreation area. An assessment has been made of the current capacity of the carparks that serve boat ramps.

All ramps should have at least one disabled carpark in close proximity to the ramp. Of the sites assessed 24 do not have a designated disabled parking space.

## 5.1 Review of All Boat Ramps within Wyong Shire (contd)

It is suggested that all higher order ramps should have at least 10 trailer spaces serving the ramp and local ramps should have at least 5 designated trailer parking spaces. Of the sites assessed 19 have less than 10 and 12 have less than 5 trailers spaces.

The table below shows the results of this parking capacity assessment ranked by trailer capacity and then car capacity.

**Table 7**

Site/Road	Trailer Spaces	Car Spaces	Disabled Spaces
Bald Street, Norah Head	50	15	1
Picnic Point Reserve, The Entrance	50	10	0
Boat Harbour, Summerland Point	30	20	1
Osbourne Park, Toukley	20	6	0
North Entrance Reserve, The Entrance North	14	0	0
Wallarah Point Park, Gorokan	11	27	4
Diamond Head Drive, Budgewoi	10	30	0
Lions Park, Gwandalan	10	15	0
Canton Beach Reserve	10	15	5
Chain Valley Bay Reserve, Chain Valley Bay	10	8	1
Emu Drive, San Remo	8	0	0
Mulloway Road, Chain Valley Bay	7	0	0
Vales Point Park, Peverill Street	6	10	0
Toowoan Bay	5	24	1
Sunshine Reserve, Chittaway Point	5	5	0
Kalua Drive, Chittaway Bay	5	2	0
The Peninsular, Killarney Vale	5	2	0
John Slade Reserve, Budgewoi	3	13	0
Gwandalan Lioness Park, Gwandalan	2	4	0
Oakland Street, Wyongah	2	0	0
Narambi Road, Buff Point	0	10	0
Garema Road, Gwandalan	0	2	0
Rutleys Road, Mannering Park	0	0	0
Colongra Bay Road, Lake Munmorah	0	0	0
Brudenell Avenue, San Remo	0	0	0
Peel Street, Toukley	0	0	0
South Tacoma Road, South Tacoma	0	0	0
Saltwater Creek Reserve, Long Jetty	0	0	0
Wolseley Avenue, Tacoma	0	0	0
Marine Parade, The Entrance	0	0	0

**LEVEL OF SERVICE**

There are several principles identified to identify the level of service provided by a boat ramp. These are listed below.

- The aggregation of facilities should be related to the capacity of the boat ramp and the recreation hierarchy of the open space it occupies from regional to local.
- Jetties should be provided wherever Council intends to invest in the continued provision of a higher order boat ramp.
- There should be an equitable distribution of accessible floating jetties throughout the higher order ramps in the Shire.
- In high demand waterways, there should be higher capacity ramps and facilities, such as wharves, fish cleaning tables, lighting and sewer pump-out facilities.
- All developed residential areas east of the freeway should have reasonable access (15 minutes drive) to a local facility.

**Jetties and Wharves**

The presence of a stable and safe jetty or wharf close to a boat ramp also has a direct impact on capacity and safe operation of the ramp.

Two boat ramps, Chain Valley Bay Reserve and Garema Road Reserve do not have jetties. Two sites, Gwandalan Lioness Park and Gwandalan Lions Park have jetties in very poor condition.

The presence of a floating jetty increases the accessibility of boating. There is one floating jetty site in Wyong Shire at Picnic Point.

Those Council ramps that do not have an adjacent wharf or jetty are tabled below.

**Table 8**

<b>Site/Road</b>	<b>Suburb</b>	<b>Water Body</b>
Chain Valley Bay Reserve, Lloyd Street	Chain Valley Bay	Lake Macquarie
Reserve, Garema Road	Gwandalan	Lake Macquarie
Edgewater Park, Narambi Road	Buff Point	Budgewoi Lake
Canton Beach Reserve, Beach Parade	Canton Beach	Tuggerah Lake
Cabbage Tree Harbour, Bald Street	Norah Head	Tasman Sea
Reserve, South Tacoma Road	South Tacoma	Wyong River
Reserve, Oakland Street	Wyongah	Tuggerah Lake
Reserve, Kalua Drive	Chittaway Bay	Ourimbah Creek
Memorial Park, Marine Parade	The Entrance	Tuggerah Lake
Toowoan Bay, Toowoan Bay Road	Toowoan Bay	Tasman Sea

**Capital Works Summary Table**

The table below identifies the works proposed to address the above assessments. Responses are designed to refurbish or replace existing assets to restore and maintain a reasonable level of service in keeping with the delivery of the Shire Strategic Vision. The costs are opinions of probable costs only and are not estimates from construction documents.

**Table 9**

Site/Road	Item	Capital cost \$
Boat Harbour, Summerland Point	Install an accessible jetty	45,000
Mulloway Road, Chain Valley Bay	Reconstruct ramp in a better location.	30,000
Lions Park, Gwandalan	Complete the toe of the ramp.	5,000
Lions Park, Gwandalan	Clean the ramp.	1,000
Lions Park, Gwandalan	Mark and sign disability parking space.	500
Gwandalan Lioness Park, Gwandalan	Signage - change use to dinghies and paddle craft only.	250
Gwandalan Lioness Park, Gwandalan	Mark and sign disability parking space.	500
Chain Valley Bay Reserve, Chain Valley Bay	Widen ramp	10,000
Chain Valley Bay Reserve, Chain Valley Bay	Remove rocks from approaches	1,000
Chain Valley Bay Reserve, Chain Valley Bay	Construct Jetty	45,000
Yacht Club, Grace Street	Not council asset	0
Garema Road, Gwandalan	Widen Ramp.	10,000
Garema Road, Gwandalan	Construct jetty	45,000
Garema Road, Gwandalan	Remove rocks from approaches.	1,000
Garema Road, Gwandalan	Mark and sign disability parking space.	500
Garema Road, Gwandalan	Form and mark trailer parking to road verges	10,000
Vales Point Park, Peverill Street	Reconstruct ramp.	40,000
Rutleys Road, Mannering Park	Close ramp. Install bollards and advisory signage.	1,000
Elizabeth Bay Park, Elizabeth Bay Drive	Not council asset	0
Colongra Bay Road, Lake Munmorah	Construct batters to ramp sides.	2,000
Colongra Bay Road, Lake Munmorah	Form and sign trailer parking to road verges	5,000

## 5.1 Review of All Boat Ramps within Wyong Shire (contd)

Edgewater Park, Narambi Road, Buff Point	Reconstruct ramp as a convex alignment	30,000
Edgewater Park, Narambi Road, Buff Point	Construct jetty	45,000
Edgewater Park, Narambi Road, Buff Point	Form and mark trailer parking to road edge.	10,000
Edgewater Park, Narambi Road, Buff Point	Mark and sign disability parking space.	500
Budgewoi Sailing Club, Natuna Avenue	Not council asset	0
John Slade Reserve, Budgewoi	Infill ramps and batter sides	5,000
John Slade Reserve, Budgewoi	Mark and sign disability parking space.	500
Emu Drive, San Remo	Mark and sign disability parking space.	500
Brudenell Avenue, San Remo	Mark and sign disability parking space.	500
Diamond Head Drive, Budgewoi	Mark and sign disability parking space.	500
Canton Beach Reserve	Signpost shallow water.	250
Bald Street, Norah Head	Seek grant funding for complete replacement.	600,000
Peel Street, Toukley	Close ramp. Install bollards and advisory signage to nearest alternative.	1000
Wallarrah Point Park, Gorokan	Widen ramp. Signpost shallow water.	10,000
Oakland Street, Wyongah	Widen ramp. Batter sides of ramp	10,000
Oakland Street, Wyongah	Remove rocks from approaches.	1,000
Oakland Street, Wyongah	Improve carpark surface	5,000
Oakland Street, Wyongah	Mark and sign disabled carpark	500
Osbourne Park, Toukley	Mark and sign disability parking space.	500
Wolseley Avenue, Tacoma	Construct trailer carpark	20,000
South Tacoma Road, South Tacoma	Reconstruct the ramp.	30,000
South Tacoma Road, South Tacoma	Erect advisory signage on South Tacoma Road	250
South Tacoma Road, South Tacoma	Form trailer parking to road verge	5,000
Toukley Sailing Club, Moss Street	Not council asset	0
Toowoan Bay	Signpost for ocean launch craft only.	250
Kalua Drive, Chittaway Bay	Close ramp to public. Install removable bollards and advisory signage.	1,000
Picnic Point Reserve, The Entrance	Mark and sign disabled carpark	500
Saltwater Creek Reserve, Long Jetty	Reconstruct in Estuary Management Plan.	0
North Entrance Reserve, The	Widen ramp. Form batters to sides of	10,000

**5.1****Review of All Boat Ramps within Wyong Shire (contd)**

Entrance North	ramp.	
North Entrance Reserve, The Entrance North	Erect advisory signs and underprune to maintain sightlines.	750
North Entrance Reserve, The Entrance North	Mark and sign disabled carpark	500
The Peninsular, Killarney Vale	Batter sides.	2,000
The Peninsular, Killarney Vale	Signpost shallow water.	250
The Peninsular, Killarney Vale	Mark and sign disabled carpark	500
Sunshine Reserve, Chittaway Point	Construct single concrete ramp over earthen formation.	30,000
Sunshine Reserve, Chittaway Point	Mark and sign disabled carpark	500
Marine Parade, The Entrance	Close ramp to all but emergency craft. Install removable bollards and advisory signage.	2,000

***Aquatic Infrastructure Audit***

An audit of all Aquatic Infrastructure has been completed by Council staff and has been used in the preparation of this report. The audit has been reformatted and is presented as an attachment.

**CONCLUSION**

Council will struggle to fund its current asset. There are no clear guidelines within Council and the community as to what is Council's responsibility or strategy for boat ramps. The review of these sites has highlighted a number of opportunities for improvements to address the review. This information will be used by staff to prioritise works within existing resources. It is also recommended that the 2010/11 work programme for the Future Planning Unit be amended to include a new project being the development of a Boat Ramp Strategy.

The initial focus for works should be on the removal of identified hazards and the refurbishment of failed ramps. The first responses necessary to address this can be undertaken next financial year to allow time for engagement to develop a Boat Ramp Strategy.

There is a need to develop a Boat Ramp Strategy for Regional, District and Local ramp facilities to prioritise any major works as part of future delivery programs. The proposed strategy will also identify the level of service for this hierarchy of facilities in-addition to the modelled cost to meet this level of service. Any such Strategy will be prepared using engagement with the community and boat ramp users. At present there is no discernable consistency in level of service for boat ramps with catchments from Regional to Local facilities. The development of a hierarchy of ramps with capacity to match catchment will assist in the identification of deficiencies and planning for funding of facilities.



## **5.1 Review of All Boat Ramps within Wyong Shire (contd)**

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For major facilities of District and Regional capacity funding of refurbishment and renewal is likely to be beyond Council's capacity and the Strategy will form the basis of grant funding applications from other sectors.

Given the highly aggressive environment boat ramps are constructed in, considerations of asset management have to be foremost to maximise the sustainability of the infrastructure provided.

### **ATTACHMENTS**

<b>1</b>	Summary of Results of Sites	D02214176
<b>2</b>	Reformatted Aquatic Infrastructure Audit table based on Information from Asset Management	D02247663
<b>3</b>	Surrounding Recreation Assets	D02255431
<b>4</b>	Key Map of Boat Ramps A4	D02255727

## Attachment 1 - Summary Of The Results Of The Review Of Each Of The Sites Containing A Boat Ramp

### ASSESSMENT

#### 1 Lions Park Gamban Road Gwandalan

- This is a high value recreation facility with good capacity and a range of facilities including fish cleaning table, BBQ, shelters, play equipment and toilets.
- The boat ramp is in medium condition and not complete with a drop off and slippery surface.
- A jetty also exists at the site which is in poor condition.
- Both the boat ramp and adjoining park have high use.
- The ramp at Gwandalan Lions Park has razor clams in the water and green weed growing on the ramp which makes access and egress dangerous. Liaison with fisheries will be required to determine an effective response.
- Car park is in good condition and capacity.

#### 2 Gwandalan Lioness Park - Koowong Road – Gwandalan

- This site is a district open space reserve and community focal point with good capacity and a range of facilities including a swimming enclosure, BBQ, shelters, play equipment and toilets.
- There is a single boat ramp on the site, however, reversing access is very poor and appears to have a low frequency of use. It is more suited to dinghies and paddle craft.
- A jetty exists on site which is also in poor condition.
- The car parking near the ramp is poor but there is adjacent high quality parking.

#### 3 Garema Road Reserve Gwandalan

- This is a local open space reserve with low capacity and limited facilities. The boat ramp is in good condition but is too narrow.
- Access in the street approach is also narrow and there is no off-street parking. There is damage from the road drainage in the vicinity of the ramp and foreshore.
- Navigation to the boat ramp can be difficult and there is no access jetty.
- There are a large number of dinghies stored to access the moorings in the bay.

#### 4 Boat Harbour - Cams Boulevard - Summerland Point

- This site provides a district open space focal point with a high capacity and range of facilities (including fish cleaning tables, shelters, play equipment and toilets) able to accommodate large groups.
- The boat ramp is in good condition with good access. There is also a jetty and wharf present at the site with sewer pump out. Both the boat ramp and adjoining park have high use.

Car parking is in reasonable condition and capacity.

**5 Mannering Park Sailing Club Grace Street Mannering Park**

- This boat ramp is not maintained by Council, although it is noted that it is in good condition.

**6 Vales Point Park**

- The Vales Point Park is a high value district recreation focal point with a good capacity and range of facilities. The park contains a swimming enclosure, jetty, wharf, sewer pump out, shelters and toilets.
- There is a double boat ramp with reasonable access, although the ramp is considered poor and may have failed. Both the boat ramp and carpark have high use.
- Car park is in good condition and capacity but not well marked.

**7 Rutleys Road**

- A parcel of land created to support a high capacity electrical tower. The boat ramp is located at the end of the peninsula.
- The ramp is of poor quality, has dangerous access and has very low use.

Parking is poor and low quality and unsafe access to and from Rutleys Road.

**8 Chain Valley Bay North, Mulloway Road**

- This site contains locally important parkland. However, there is limited capacity and range of facilities.
- The boat ramp is in very poor condition.
- The site does contain a jetty which is in good condition.
- Trailer access is difficult and car parking is medium condition only, but good capacity.

**9 Chain Valley Bay Reserve, Lloyd Street**

- The Chain Valley Bay Reserve is a high value recreation focal point with good capacity and a range of facilities (including shelters, playground and toilets) with good access. The ramp channel is protected.
- The boat ramp is narrow, with rock hazards and there is no jetty at the ramp.
- The reserve does contain a swimming enclosure. Both the boat ramp and adjoining reserve have high use.
- Car park is in good condition and capacity.

**10 Elizabeth Bay Park, Elizabeth Bay**

- This site is within National Parks and Wildlife Service tenure. It is a locally important site for access to the deep water Lake Munmorah.

**11 Lake Munmorah Reserve, Colongra Bay Road, Lake Munmorah**

- This site is located with a range of district level recreation and community facilities and the start of the Lake Munmorah shared pathway.
- The ramp and approach is in good condition.
- Parking is only available in the adjacent area and on the road and is in good condition but there is not adequate capacity.
- The site is identified for an accessible playground in the Estuary Management Plan.

#### **12 John Slade Reserve, Budgewoi Road**

- This site is part of a heavily used area of parkland in the Budgewoi area.
- The ramps are at two levels and have an adjacent jetty.
- Car parking is reasonable.

#### **13 Diamond Head Drive Reserve, Diamond Head Drive, Budgewoi**

- This site is on the opposite side of Budgewoi channel and has medium use.
- It has a wharf and a carpark which are in reasonable condition.
- It is located on the Budgewoi to Buff Point shared path.

#### **14 Budgewoi Sailing Club, Natuna Parade, Halekulani**

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- This boat ramp is not maintained by Council, although it is noted that it is in good condition.

#### **15 Edgewater Park, Narambi Drive, Buff Point**

- This site is a very popular park on Budgewoi Lake with a range of recreation facilities including the shared pathway.
- The ramp is in good condition but its recessed design entraps weed and creates navigation and launching hazards.
- The ramp does not have an adjacent jetty.
- There is no marked trailer parking.

**16 Wallarah Creek Park, Emu Drive, San Remo**

- This site is a local ramp within Wallarah Creek Park with adjacent recreation facilities, shared pathway and a jetty.
- The ramp is in good condition.
- There is limited parking with no marking.

**17 Reserve, Brudenell Avenue, San Remo**

- This site is a very low key ramp within the road reserve on Wallarah Creek leading into Budgewoi Lake with access to the shared pathway but it does have a jetty.
- The ramp is in good condition.
- There is very limited parking of low quality.
- It is very close to the Emu Drive site.

**18 Cabbage Tree Harbour, Bald Street, Norah Head**

- This site is a double ramp within the Cabbage Tree Harbour Reserve with adjacent beach and recreation facilities and is heavily used.
- The ramp is in poor condition and requires reconstruction to remain usable due to the coastal environment in which it is located.
- There is no wharf or jetty and the navigation is dangerous in some sea conditions.
- It is an alternative ocean access to Lake Macquarie and Toowoan Bay but is limited to medium sized boats.
- There is reasonable condition parking with good capacity.

**19 Canton Beach, Beach Parade, Toukley**

- This site is a single ramp within Canton Beach with adjacent regional recreation facilities and a shared pathway.
- The ramp is in good condition but the navigation approach is very shallow which limits its use.
- There is no jetty.
- There is moderate high quality parking of good capacity.
- Canton Beach is proposed for beach nourishment as part of the Tuggerah Lakes Estuary Management project.

**20 Toukley Sailing Club, Moss Parade, Toukley**

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- This boat ramp is not maintained by Council, although it is noted that it is in good condition.
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**21 Osbourne Park, Peel Street, Toukley**

- This site is a triple ramp within Osbourne Park with adjacent recreation facilities and is heavily used.
- The ramp is in reasonable condition but does require cleaning due to the presence of weed.
- There is a wharf in reasonable condition.

- There is reasonable parking with good capacity.

**22 Reserve, Peel Street, Toukley**

- This site is a single ramp within the Peel Street road reserve adjacent to the Osborne Park triple ramp.
- The ramp is in good condition but the vehicular approach is on Peel Street itself which makes its use potentially dangerous.
- There is a jetty in reasonable condition which is used more than the ramp.
- There is no marked parking.

**23 Wallarah Point Park, Wallarah Road, Gorokan**

- This site is a single ramp within the high profile Wallarah Point Park with a wide range of adjacent recreation facilities and is moderately used. Many parts of the foreshore park are over mature.
- The ramp is in medium condition and is recessed so it requires cleaning to remove entrapped weed.
- There is a jetty.
- Navigation is difficult due to shallow approaches.
- Carparking is adequate and good quality.

**24 Reserve, Oakland Street, Wyongah**

- This site is a single ramp within the Oakland Street reserve on Tuggerah Lake with adjacent local recreation facilities and low local usage.
- The site is important due to lack of adjacent ramps.
- The ramp is in medium condition but is narrow and short for the grade.
- There is no jetty
- Navigation is difficult due to adjacent rocks.
- Carparking is unsealed and very limited.

**25 Reserve, Wolseley Avenue, Tacoma**

- This site is a single ramp within the reserve on Wyong River with no adjacent recreation facilities.
- The ramp is in good condition and is popular due to the ease of navigation to Tuggerah Lake.
- There is a wharf in good condition.
- Carparking is unsealed and unmarked with the road reserve.

**26 Reserve, South Tacoma Road, South Tacoma**

- This site is a small single ramp within the reserve on Wyong River with no adjacent recreation facilities.
- The site is important due to the distance to adjacent ramps.
- The ramp is in poor condition and is a local use only ramp.
- The vehicle approach uses South Tacoma Road and relies on the low traffic volume to be efficient.
- Carparking is unsealed and unmarked within the road reserve.

**27 Sunshine Reserve, Sunshine Avenue, Chittaway Point**

- This site is an earthen single ramp within the Sunshine Reserve on Chittaway Creek with adjacent recreation and community facilities.
- The site is important due to the distance to adjacent ramps.
- The ramp is in reasonable condition but is limited by the surface to lighter craft.
- Carparking is unsealed and unmarked with the reserve carpark but is in good condition.

**28 Reserve, Kalua Drive, Chittaway Bay**

- This site is an informal single ramp within the Road Reserve on Chittaway Creek with no adjacent recreation facilities with low observed use.
- The ramp is failing.
- Car parking is sealed, in poor condition and unmarked.

**29 Reserve, The Peninsular, Killarney Vale**

- This site is a single ramp within the Reserve on Tumbi Creek with access to the shared pathway.
- The ramp is in reasonable condition and there is an adjacent wharf with low observed use.
- Navigation is limited by shallow approaches.
- Carparking is sealed, in medium condition and unmarked of low capacity.

**30 Saltwater Creek Reserve, The Entrance Road , Long Jetty**

- This site is a double ramp within the Reserve on Tuggerah Lake with the adjacent shared path and regional recreation facilities with very high use.
- The current ramp and carparking are in poor condition and are identified for redevelopment in the Tuggerah Lakes Estuary Management plan.

**31 Toowoan Bay, Toowoan Bay Road, Toowoan Bay**

- This site has a single ramp on the edge of the beach car park at Toowoan Bay with the recreation facilities and very high use.
- The site has limited utility for boats over a small size as water access is over the sand not from the ramp which functions as a beach access only.
- The current ramp and carparking are in good condition but trailer parking is severely impacted by demand for parking at beach level by cars.
- The site was redeveloped by Coastal Improvements Program.

**32 Memorial Park Boat Ramp, Marine Parade, the Entrance**

- This is a single ramp on a road edge adjacent to Regional recreation facilities, shared pathway and commercial centre.
- The ramp is in good condition but has drop offs.
- The manoeuvring area is on Marine Parade and creates a potential traffic hazard when in use.
- The ramp was retained for commercial fishermen in The Entrance Redevelopment but is now used by jet skis and life guards.
- The adjacent current is often very strong and navigation in normal boats is difficult and potentially hazardous even on a strong ebb with moderate swell at the bar.

**33 Picnic Point Reserve, Tuggerah Parade, The Entrance**

- This site has a new double ramp within the Picnic Point Reserve on Tuggerah Lake with the adjacent shared path and recreation facilities with very high use.
- The site has a fixed and floating jetty.
- The current ramp and carparking are in good condition and capacity.
- The site was redeveloped by the Tuggerah Lakes Estuary Management plan.

**34 North Entrance Reserve, Wilfred Barrett Drive, The Entrance North**

- This site has a single ramp on the reserve with adjacent recreation facilities, shared pathway and boat hire.
- The ramp is good condition and is popular.
- There is a wharf in good condition.
- Carparking is in poor condition and access is across the access road to the boat hire. Capacity is reasonable.



**Aquatic Infrastructure Audit**

The table below shows an audit of the current condition, risk and the observed use of the ramps completed by Asset Management. The scoring included in the table highlights the facilities in highest need of maintenance, refurbishment or replacement.

Site / road	Suburb	Water Body	Cond.	Risk	Utility (Usage)	Score
Cabbage Tree Harbour, Bald St	Norah Head	Tasman Sea	4	5	5	94
Lions Park, Gamban Rd	Gwandalan	Lake Macquarie	4	4	4	80
Vales Point Park, Peverill St	Mannering Park	Lake Macquarie	4	4	3	76
Reserve, Mulloway Rd	Chain Valley Bay North	Lake Macquarie	4	3	2	62
Sunshine Reserve, Sunshine Ave	Chittaway Point	Ourimbah Creek	4	3	2	62
Edgewater Park, Narambi Ave	Buff Point	Budgewoi Lake	2	3.5	3.5	61
John Slade Reserve, Budgewoi Rd	Budgewoi	Budgewoi Lake	3	3	3	60
Reserve, Peel St	Toukley	Budgewoi Lake	4	3	1	58
Reserve, Oakland St	Wyongah	Tuggerah Lake	3	3	2	56
North Entrance Reserve, The Entrance North	The Entrance North	Tuggerah Lake	2	3	3	54
Saltwater Creek Reserve, Tuggerah Pde	Long Jetty	Tuggerah Lake	2	3	3	54
Canton Beach Reserve, Beach Pde	Canton Beach	Tuggerah Lake	3	2	3	50
Toowoan Bay, Toowoan Bay Rd	Toowoan Bay	Tasman Sea	2	3	2	50
Memorial Park, Marine Pde	The Entrance	Tuggerah Lake	2.5	3	1	49
Chain Valley Bay Reserve, Lloyd St	Chain Valley Bay	Lake Macquarie	2	2	4	48
Osbourne Park, Peel St	Toukley	Budgewoi Lake	2	2	4	48
Reserve, Kalua Dve	Chittaway Bay	Ourimbah Creek	4	2	1	48
Reserve, Garema Rd	Gwandalan	Lake Macquarie	3	2	2	46
Wallarrah Point Park, Wallarrah Rd	Gorokan	Budgewoi Lake	2	2	3.5	46
Picnic Point Reserve, Tuggerah Pde	The Entrance	Tuggerah Lake	1	2	5	46
Lake Munmorah Reserve, Colongra Bay Rd	Lake Munmorah	Lake Munmorah	2	2	3	44
Wallarrah Creek Park, Emu Dve	San Remo	Budgewoi Lake	2	2	3	44
Reserve, Wolseley Ave	Tacoma	Wyong River	1	2	4	42
Reserve, The Peninsular	Killarney Vale	Tumbi Creek	2	2	2	40
Gwandalan Lioness Park, Koowong Rd	Gwandalan	Lake Macquarie	2	2	2	40
Reserve, Diamond Head Dve	Budgewoi	Budgewoi Lake	2	2	2	40
Boat Harbour, Cams Blvd	Summerland Point	Lake Macquarie	2	1	3.5	36
Reserve, Brudenell Ave	San Remo	Budgewoi Lake	2	2	1	36
Reserve, South Tacoma Rd	South Tacoma	Wyong River			1	4
Electricity Pylon, Rutleys Rd	Mannering Park	Lake Macquarie			1	4

Site / road	Suburb	Water Body	Cond.	Risk	Utility (Usage)	Score
Toukley Sailing Club, Moss St	Canton Beach	Tuggerah Lake			0	0
Yacht Club, Grace St	Mannering Park	Lake Macquarie			0	0
Elizabeth Bay Park, Elizabeth Bay Dve	Lake Munmorah	Lake Munmorah			0	0
Budgewoi Sailing Club, Natuna Ave	Halekulani	Lake Munmorah			0	0

\* No scoring indicates ramp is not maintained by Council.

#### Key to scoring:

Average rating =X	Condition	Risk Rating=Y	Utilisation Rating=Z	Total Score=X*Y*Z
1 - Excellent		1 - Insignificant	1 - Low Usage	Min. Total Score = 1*1*1 =1
2 - Good		2 - Minor	2 - Medium Usage	
3 - Average		3 - Moderate	3 - High Usage	
4 - Poor		4 - Major	4 - Very High Usage	
5 - Failed		5 - Severe		Max. Total Score = 5*4*5 =100

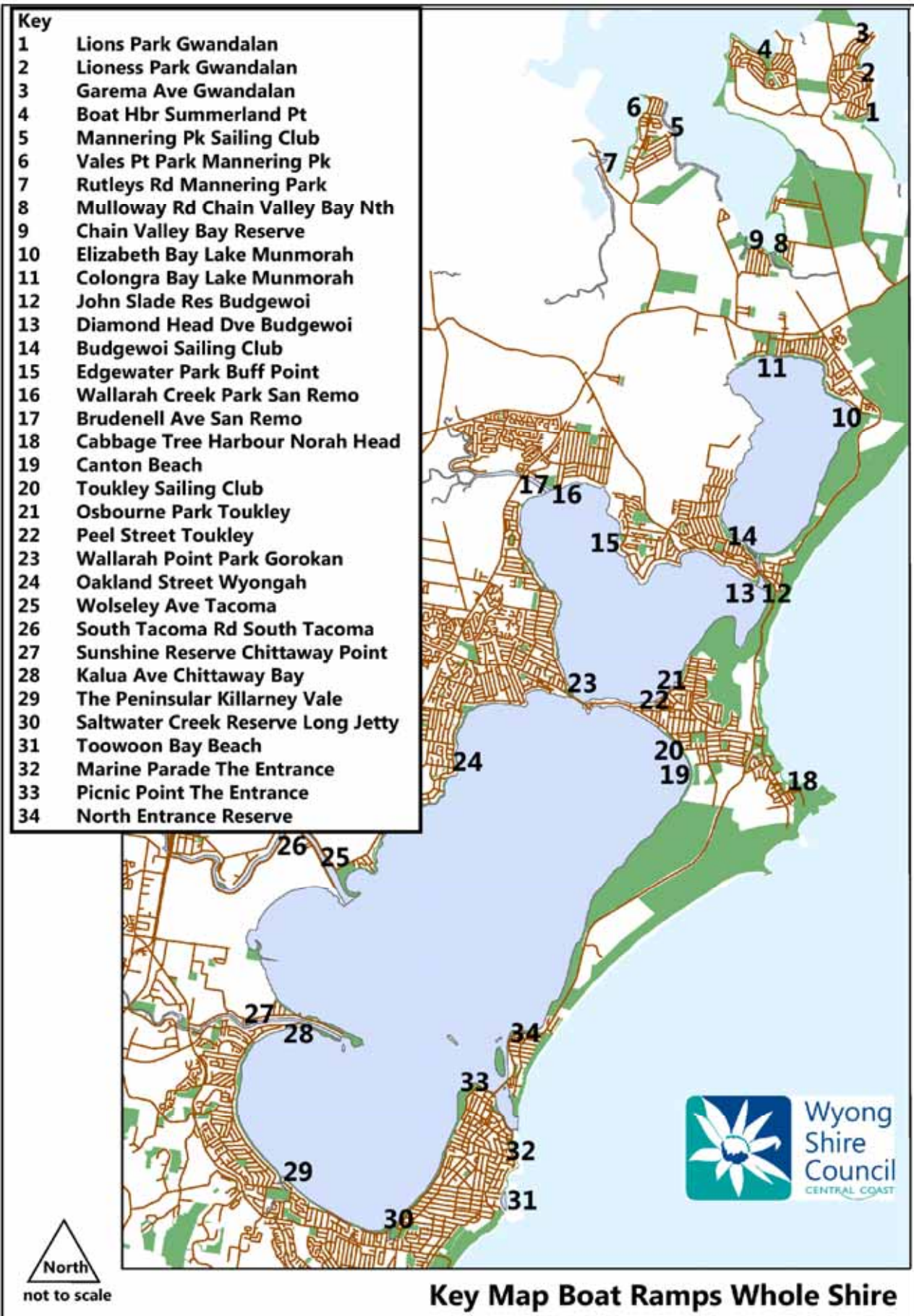
## SURROUNDING RECREATION ASSETS

Surrounding assets help to create the capacity and the level of development of a recreation site that contributes to the experience of the user. Where toilets and BBQ facilities are provided at a ramp it will attract a broader range of users to the site and elevate its catchment to a higher order.

Site/Road	Surrounding Assets	Trailer Parks
Picnic Point Reserve, The Entrance	J,AJ,FC,CP,TO,PG,SH,TA,SK8.	50
Saltwater Creek Reserve, Long Jetty	J,CP,APG,TO,SH,TA,S,BBQ.	0
Boat Harbour, Summerland Point	2W,FC,CP,TO,PG,SH,BBQ.	30
Lions Park, Gwandalan	J,FC,CP,TO,PG,SH,2BBQ.	10
Gwandalan Lioness Park, Gwandalan	J,N,CP,TO,PG,SH,BBQ.	2
Toowoan Bay	CP,PG,TO,SH,TA,SLSC.	5
Colongra Bay Road, Lake Munmorah	J,CP,TO,PG,SH,BBQ.	0
John Slade Reserve, Budgewoi	J,CP,TO,PG,SH,BBQ.	3
Canton Beach Reserve	CP,TO,SH,APG,BBQ.	10
Bald Street, Norah Head	FC,CP,TO,PG,S,CT.	50
Chain Valley Bay Reserve, Chain Valley Bay	N,CP,TO,PG,TA,S.	10
Wallarrah Point Park, Gorokan	J,CP,TO,PG,SH,TA	11
Emu Drive, San Remo	J,CP,TO,SF,SK8.	8
Narambi Ave, Buff Point	CP,TO,PG,SH,TA.	0
Sunshine Reserve, Chittaway Point	W,CP,PG,TO,TA.	5
Osbourne Park, Toukley	W,CP,TO,PG,TA.	20
North Entrance Reserve, The Entrance North	J,CP,TO,PG,TA.	14
Vales Point Park, Peverill Street	W,N,CP,TO,TA.	6
Mulloway Road, Chain Valley Bay	J,CP,PG,TA.	7
Oakland Street, Wyongah	PG,TA,S.	2
Garema Road, Gwandalan	TO,S,TA.	0
Brudenell Ave, San Remo	J,CP.	0
Diamond Head Drive, Budgewoi	W,CP.	10
The Peninsular, Killarney Vale	J,CP.	5
Kalua Drive, Chittaway Bay	CP.	5
Wolseley Ave, Tacoma	W.	0
Peel Street, Toukley	J	0
Rutleys Road, Mannering Park		0
South Tacoma Road, South Tacoma		0
Marine Pde, The Entrance		0

**Key to Surrounding Assets:**

AJ	Accessible Jetty
J	Jetty
W	Wharf
N	Netted Enclosure
FC	Fish Cleaning Table
CP	Car Park
APG	Accessible Play Ground
PG	Play Ground
TO	Toilet
SH	Shelter
BBQ	Barbeque
S	Seat
TA	Table and seats
SK8	Skatepark
SLSC	Surf Lifesaving Club



## **5.2 Policies on Grants and Sponsorship**

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TRIM REFERENCE: F2004/07011 - D02251458

AUTHOR: DJ

### **SUMMARY**

Policies for grants and sponsorship management provide a framework for ensuring that Council and staff take a consistent approach in providing or receiving funds (or services in kind) to/from community individuals, groups or organisations.

Two policies (Outward Sponsorship and Inward Sponsorship) are presented for council's consideration.

### **RECOMMENDATION**

- 1 That Council adopt the Policy on Grants and Sponsorship (Outward).**
- 2 That Council adopt the Policy on Corporate Sponsorships and Donations (Inward).**
- 3 That Council agree the Grants Committee Charter be amended to include the oversight of all outward grants and sponsorships and the amendment subsequently approved by Council resolution.**
- 4 That Council authorise staff to reflect the change to the Charter in the Grant Committee's internal procedural document.**

### **BACKGROUND**

Wyong Shire Council (WSC) creates a number of grants and sponsorship programs that provide funding or in kind support across a range of activities encompassing community, cultural, economic and environmental aspects of life in the community.

Alternatively, on occasions, WSC has sought external sponsorship to obtain additional resources for the support of Council driven community activities or programs.

WSC recognises that there are risks associated with either approach.

In the past, sponsorship / grant "applications" have been considered by Council based on individual considerations with comparatively few controls in place.

Alignment between grants and Council's strategic intentions has suffered due to a lack of strategy leaving decisions to be made based on criteria established by staff. Those criteria have no foundation in the planning regime either.

Council's Grants Committee (established 26.11.08) has been the major means of managing grants and specifically deals with grants for the purpose of:-

## 5.2 Policies on Grants and Sponsorship (contd)

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- Community Benefit,
- Sports Equipment & Recreational, and
- Cultural Development.

The Grants Committee has evaluated applications for council approval, against a procedure established by staff but not formally adopted by the Committee or Council. The procedure is thorough in its coverage but does not link decisions with the SSV, Council's strategies or service intentions except for arts and culture content being assessed against the Cultural Plan for Wyong Shire 2005.

Councillor Community Improvement Grants operate under an adopted policy that is currently isolated from the Grants Committee process.

Other sponsorships outside those managed by the Grants Committee have been made as required by Council or the GM.

No policy exists, other than the Code of Conduct, for the management of inbound sponsorship or donations.

Recent probity reviews (e.g. Mariners sponsorship) and compliance investigations (Adams) have underlined the need for Council to have robust policies that ensure open and transparent handling of all applications, expressions of interest for grant assistance or Council sponsorship – "inward" and "outward".

Council recognises that sponsorships, donations and grants provide significant opportunity to achieve gains in the community by supporting appropriate endeavours or be supported by external funding in delivering Council's objectives.

### **THE PROPOSAL**

The need for a single policy was considered and discarded in favour of twin policies because of the differing nature of the issue albeit the issue of probity is common to both.

Regardless of the sponsorship direction of flow, both proposals seek to allow maximum flexibility and opportunity to facilitate best value to the community. Balancing that intention is the need to demonstrate and manage probity in respect of all such arrangements.

The policies have been proposed with those key objectives in mind. The main points of each document are:-

#### **Outward Grants & Sponsorship**

- Funding or in kind grants and sponsorship must have been budgeted in the Annual Plan and approved by Council – excluding individual Councillor Community Improvement Grants and Community Benefit grants which are budgeted as a whole.
- A grant or sponsorship must not compromise the functions of Council in any way nor limit the impartiality of Council performing those functions.
- Separation of involvement:- It is important for probity that Councillors and staff engaged in arranging any application for Council funds etc., must not be engaged in the assessment process of any such application.

- Council must determine, on a case-by-case basis, if any grants/sponsorship should be put to public tender. This requirement is subject to the nature of the activity planned and is to ensure compliance with s.55 of the Local Government Act (the Act).
- WSC will only provide grants/sponsorships to specific groups and will not provide for political or religious activities, individuals, commercial ventures, commercial endorsements or charities.
- Controls (procedures) on all arrangements are significantly improved to ensure that WSC gets an agreed value from the grants/sponsorships on behalf of the community.
- The responsibility of the Grants Committee is expanded to include governance oversight of all outward grants and sponsorships.

#### **Inward Sponsorship & Donations**

- Discretion is accorded to the General Manager and Senior Staff to facilitate engagement with potential sponsors. Thresholds set will escalate approvals of inbound proposals up to Council.
- Sponsorships are encouraged by ensuring that WSC may consider and accept unsolicited offers – or prospect for such offers.
- WSC will not accept any Sponsorship that compromises or may compromise, WSC's reputation, public image, probity or ability to fulfil its functions.
- Separation of involvement:- It is important for probity that Councillors and staff engaged in arranging any application for Council funds etc., must not be engaged in the assessment process of any such application.
- Structured management of arrangement is essential and controls on WSC people are increased to ensure that the operational impact of any proposals is well thought through and that the benefits of any proposal represent best value for the Wyong community.

All grants, sponsorships or donations will be recorded on individual registers by council Services but may be managed by various individual officers at management direction. Oversight and reporting on all activity is attached to the Director Corporate Services under GM delegations.

#### **OPTIONS**

1. Adopt the policies in the simple formats proposed which are designed to facilitate arrangements while concurrently providing for probity and risk management in a manner encompassing compliance and transparency.
2. Adopt a prescriptive, defensive approach (long version) which will ensure absolutely that WSC is 100% directed in its risk management of all sponsorships and can demonstrate its process
3. Not adopting the Policies would see a continuation of the past ad-hoc manner in handling applications which does not ensure open and transparent handling of applications.



**STRATEGIC LINKS**

**Management Plan** Organisation and effectiveness of the Council organisation Item 5.4.

- Improve efficiency

**Contribution of Proposal to the Principal Activity**

See below – focus areas.

**Links to Key Focus Areas**

Sponsorships are key in facilitating WSC's connection with the community and community programs as outlined in the Shire Strategic Vision (SSV). In particular inbound sponsorship offers opportunity for the community and sponsoring organisations to obtain mutual benefits that improve the quality and range of council's activities.

**Financial Implications**

There are no additional financial implications other than the intended improvement to expenditure controls.

**Principles of Sustainability**

Council regularly reviews its governance, performance and financial position to ensure an efficient use of resources.

**CONSULTATION**

The policies have been prepared to ensure that activities are carried out in an open and transparent manner and accordingly consultation with the wider community was not warranted. However, following adoption publicity will be arranged.

**GOVERNANCE**

The implementation of the Policy applies good governance and improved processes and outcomes for the community.

**CORPORATE RISKS**

Implementation of the policies will reduce any exposure WSC may have had.

**CONCLUSION**

Council is keen to facilitate community activity that pursues the Shire Vision in a fashion that ensures best value for money. Equally Council wishes to encourage engagement with external sponsors to achieve similar goals.

Council has not had comprehensive specific policy governing grants, sponsorships or donations, notwithstanding the requirements of the Code of Conduct

Recent events and the need for transparency in all Council activity dictate that Council not only ensure transparent proper management of grants, sponsorships and donations, but can also demonstrate that transparency.

To meet the combined objectives, simple policies will enable facilitation and flexibility of sponsorships, yet provide for the control and risk management essential for probity.

**ATTACHMENTS**

- |   |   |           |
|---|---|-----------|
| 1 | Grants and Sponsorships (outward)             | D02251496 |
| 2 | Corporate Sponsorships and Donations (Inward) | D02251501 |

# *Policy*

## *On*

### *Grants and Sponsorships (Outward from WSC )*

		Date
<b>POLICY No.</b>	CP	
<b>Written By</b>	O'Connor Marsden	
<b>Gazette Date</b>		
<b>Authority Signature – General Manager</b>		
<b>Authority Signature Mayor &amp; one Councillor (If Required)</b>	..... ..... .....	
<b>Adopted by Council Resolution (If applicable)</b>		
<b>Reviewed Date</b>		
<b>Amended Date</b>		
<b>Approved by</b>		

## Table of Contents

<u>A.</u>	<u>POLICY SUMMARY</u> .....	3
<u>B.</u>	<u>POLICY BACKGROUND</u> .....	3
<u>C.</u>	<u>DEFINITIONS</u> .....	3
<u>D.</u>	<u>POLICY STATEMENTS</u> .....	4
<u>E.</u>	<u>POLICY IMPLEMENTATION - PROCEDURES</u> .....	6

## A. POLICY SUMMARY

- A.1.** Wyong Shire creates a number of grants and sponsorships programs that provide funding or in-kind support across a range of activities encompassing community, cultural, economic and environmental.
- A.2.** This Policy outlines which grants or sponsorships WSC will or will not consider and the manner in which they shall be managed.

## B. POLICY BACKGROUND

- B.1.** Funding and support through WSC's grants and sponsorships assists a diverse range of services and projects that directly benefit the community, and contribute to the life of the Shire.
- B.2.** WSC acknowledges that risks associated with grants and sponsorship include:
- i. Potential for perceptions of improper conduct
  - ii. Improper conduct.
  - iii. Potential for, and breaches of WSC's accounting requirements
  - iv. Overvaluing of benefits to WSC and/or the community.
  - v. Potential for conflict with WSC's priority programs and commitments.
- B.3.** The Local Government Act 1993 permits Council, by resolution, to contribute money or otherwise grant financial assistance to persons for the purpose of exercising its functions.

## C. DEFINITIONS

- C.1.** **The Act** shall mean the Local Government Act 1993
- C.2.** **Council** shall mean the elected members that form the governing body (Council) of the Wyong Shire Council.
- C.3.** **Wyong Shire Council (WSC)** shall mean the organisation established to administer Council affairs and operations and Council policy and strategies.
- C.4.** **Conditions** means the agreed terms of the grant or sponsorship arrangement as documented in the formal agreement / contract.
- Value in-kind** means those things which WSC would normally charge for, but which it provides at a reduced rate or free of charge.)
- C.5.** **Council Policy** shall mean policy created and approved by the elected members of the Wyong Shire Council.
- C.6.** **Organisational Policy** shall mean policy created by the GM and management for operational purposes including the implementation of Council resolutions, decisions and Council policy.
- C.7.** **Grants** means any grant or sponsorship where funds are given by WSC to groups or organisations to assist with the services or projects they provide in the community where WSC receives only acknowledgement as the grant giver.

- C.8.** **Grants Committee** shall mean the Committee established by Council for the purposes of assessing grant or sponsorship applications and recommending approval or otherwise to Council.
- C.9.** **Plans** shall mean WSC's Four Year Delivery Plan, Annual Management Plan, Shire Plan, Development Control Plans, Local Environment Plan and/or Long Term Financial Strategy (Strategic Plan).
- C.10.** **Project** means the activity (e.g. event, program or service) to which a grant/sponsorship is being applied.
- C.11.** **Regulation** means the enforcement of a rule or order, such as specified by the Local Government Act 1993, the Local Government (General) Regulation 2005 and the Environmental Planning and Assessment Act.
- C.12.** **Sponsored organisation** means any person, group or organisation receiving a grant or "in kind" resources from WSC, in return for specific benefits.
- C.13.** **Sponsorship** means a grant arrangement between WSC and a recipient where WSC receives benefits on behalf of the community.
- C.14.** **Terms** - refer also to conditions.
- C.15.** **Director** means the Director of Corporate Services, Wyong Shire Council

#### D. POLICY STATEMENTS

- D.1.** This policy covers all elected members of WSC, all personnel employed by WSC, any person or organisation contracted to or acting on behalf of the WSC, any person or organisation employed to work on WSC premises or facilities and all activities of the WSC.
- D.2.** This policy does not confer any delegated authority upon any person.
- D.3.** This Policy does not apply to sponsorships or donations received by WSC.
- D.4.** Funding by way of grants shall be in accordance with a budgeted WSC program as contained within a WSC Annual Plan.
- D.5.** Grants will be classified as Community Benefit Grants (CBG) or Councillors Community Improvement Grants (CCIG).
- D.6.** WSC may, at the General Managers sole discretion, give small gifts to organisations from time to time or provide support for Civic functions.
- D.7.** WSC may, at the General Manager's sole discretion, elect to provide any sponsorship by way of 'in-kind' provision of goods or services.
- D.8.** WSC will not make a grant that compromises WSC's reputation, public image, probity, or its ability to fulfil its functions or that would limit, or appear to limit WSC's ability to carry out its functions fully or impartially.
- D.9.** Councillors and WSC staff engaged in making a grant application must have no involvement in the assessment of such application or the regulation and inspection of the sponsored organisation.

- D.10.** Council will determine in each case, if a proposed grant greater than \$150,000 (ex gst) is required to be put to tender due to the nature of the activity to be funded.
- D.11.** A grant provided must not replace a service WSC is required to provide under the Local Government Act 1993 or other legislation
- D.12.** The existence of a grant will not be considered in WSC's exercise of its planning, regulatory or inspectorial functions, and must not influence WSC's decisions or actions.
- D.13.** WSC will not provide grants to groups or organisations that are not:
- i. benevolent 'not-for-profit' in purpose,
  - i. an incorporated body that is, legally constituted and registered with the Australian Taxation Office via an Australian Business Number.
  - ii. Free of having acquitted previous WSC grants and have no outstanding debt to WSC.
- D.14.** WSC will not provide grants to individuals or make general donations to Charities (N.B. WSC may provide grants to specific projects run by charities where they meet the criteria)
- D.15.** WSC will not waive Council fees for recipients of grants or sponsored organisations. Grants may include the provision of cash to the recipient to assist with those costs.
- D.16.** WSC will not support political activities or activities that could be perceived as benefiting a political party or political campaign.
- D.17.** WSC must not be the only source of funding for the proposed project.
- D.18.** WSC will not provide grant recipients/sponsored organisations with commercial endorsements.
- D.19.** WSC will not accept applications from commercial organisations operating on an actual or expected/intended profit basis.
- D.20.** This policy shall be reviewed in accordance with WSC's procedures, at least once every three years.

**E. POLICY IMPLEMENTATION - PROCEDURES**

- E.1. The management of Grants and Sponsorships (Outward) shall be the responsibility of the Director under delegation from the General Manager
- E.2. All arrangements with agents or brokers must be in writing and include definition of how each party will exercise control over the deliverables due under a grant or sponsorship.
- E.3. Arrangements shall define the financial and legal commitments of each Party.
- E.4. Any grant recipient/sponsored organisation, agent or broker must disclose any potential conflict of interest between their activities and WSC prior to entering into any agreement with WSC.
- E.5. Grant applications must include a formal business case analysis that clearly demonstrates the benefit of any grant to the community
- E.6. All grants applications and proposals received by WSC are to be assessed in accordance with pre-established selection criteria.
- E.7. All grants applications received by WSC are to be assessed initially by the Director prior to final assessment by the Grants Committee.
- E.8. The Grants Committee will report to the Council as a Whole following the assessment of the application for consideration and endorsement of the recommendation via Council resolution.
- E.9. WSC must enter into a signed agreement with any successful applicant for grants / sponsorship before any funding will be released.
- E.10. The Director will determine how funds are to be released after taking into account the needs of the recipient, the nature of the project to which the funds are being supplied and any other criteria the Director may consider relevant
- E.11. 'In-kind' contributions will be costed by WSC and identified in the total level of funding prior to payment of the balance. Value in-kind sponsorships shall be valued at the price that would have been charged if the value in-kind were not part of the grant or sponsorship.
- E.12. Approved grants and sponsorships will only be paid upon receipt of a complying Tax Invoice from the recipient of the sponsorship.
- E.13. The Director must be provided with a project management plan by the grant recipient/sponsored organisation which includes an event timeline, with invitation, PR and print deadlines.
- E.14. The Director must be provided with regular updates on the proposed use of the grant/sponsorship at his/her request.
- E.15. Successful applicants are required to provide the Director for presentation to the WSC Grants Committee:
  - i. regular reports on the progress of the project and financial expenditure
  - ii. a final written report on the outcome of the project within three months of completion
  - iii. a final written report on the approved expenditure, highlighting WSC's sponsorship and the benefits that accrued from the sponsorship/grant.
  - iv. adequate evidence that the project funding has been acquitted in accordance with approved expenditure for the project



- E.16.** Sponsorship activities will initially be evaluated by the Director or his/her delegate, regularly against measurements established in consultation with the grant recipient/sponsored organisation.
- E.17.** WSC will maintain a database register of all grants and sponsorships.
- E.18.** All grants excluding Councillor Community Grants must be included within the annual operational budget approved by Council prior the beginning of each financial year.
- E.19.** All grants made will be listed in the Annual Report.

# *Policy*

## *On*

### *Corporate Sponsorships & Donations (Inward)*

		Date
<b>POLICY No.</b>	CP	
<b>Written By</b>	O'Connor Marsden	
<b>Gazette Date</b>		
<b>Authority Signature – General Manager</b>		
<b>Authority Signature Mayor &amp; one Councillor (If Required)</b>	..... ..... .....	
<b>Adopted by Council Resolution (If applicable)</b>		
<b>Reviewed Date</b>		
<b>Amended Date</b>		
<b>Approved by</b>		

## Table of Contents

<u>A.</u>	<u>POLICY SUMMARY</u> .....	3
<u>B.</u>	<u>POLICY BACKGROUND</u> .....	3
<u>C.</u>	<u>DEFINITIONS</u> .....	3
<u>D.</u>	<u>POLICY STATEMENTS</u> .....	4
	<u>This Policy has been developed to provide a transparent approach in the interests of public accountability.</u> .....	4
<u>E.</u>	<u>POLICY IMPLEMENTATION – PROCEDURES</u> .....	5

## A. POLICY SUMMARY

- A.1.** The Corporate Sponsorship & Donations Policy what sponsorships or donations (sponsorships) WSC will or will not accept, and the rights and responsibilities of all parties involved to ensure there is neither conflict of interest nor negative impact on WSC's reputation or probity.

## B. POLICY BACKGROUND

- B.1.** WSC wishes to ensure that sponsorship (inward) activity is a key concern for all staff, contractors and councillors are aware of their primary responsibility for probity.
- B.2.** Sponsorship is sought and used by a number of WSC divisions to obtain additional resources with which to support specific activities or programs.
- B.3.** WSC recognises there are risks associated with sponsorships including:
- i. perceptions of improper conduct
  - ii. the potential to embarrass WSC through associating a WSC project with an inappropriate sponsor
  - iii. undertaking an activity on the basis of the promise of corporate sponsorship which then does not materialise
  - iv. breaches of WSC's accounting requirements
  - v. undervaluing or overvaluing sponsorship projects to potential sponsors
  - vi. not being cost effective
  - vii. Being incapable of surviving critical public scrutiny.
- B.4.** WSC has a "Grants & Sponsorship (Outward) Policy which does not apply to "inbound" sponsorship activity.

## C. DEFINITIONS

- C.1.** **The Act** means the Local Government Act 1993
- C.2.** **Benefits for sponsors** include, but are not limited to, branding, hospitality and advertising.
- C.3.** **Benefits for WSC** means resources gained by WSC to enhance or to offset the cost of producing and promoting WSC events, programs and services.
- C.4.** **Council** means the elected members that form the governing body (Council) of the Wyong Shire Council.
- C.5.** **Wyong Shire Council (WSC)** means the organisation established to administer Council affairs and operations and Council policy and strategies.
- C.6.** **Conditions** means the agreed terms and conditions of the corporate sponsorship arrangement as documented in the formal agreement / contract.

- C.7. Value in-kind** means those things for which WSC would normally charge, but which it provides at a reduced rate or free of charge, including:
- i. park hire
  - ii. venue hire
  - iii. banner pole hire
  - iv. workspace accommodation (including offices and creative spaces)
- C.8. Council Policy** means policy created and approved by the elected members of the Wyong Shire Council.
- C.9. Organisational Policy** means policy created by the General Manager and management for operational purposes including the implementation of Council resolutions, decisions and Council policy.
- C.10. Project** means the activity (e.g. event, program or service) to which a grant/sponsorship is being applied.
- C.11. Regulation** means the enforcement of a rule or order, such as specified by the Local Government Act 1993, the Local Government (General) Regulation 2005 and the Environmental Planning and Assessment Act.
- C.12. Sponsor** means any organisation or individual providing resources to WSC for use in achieving WSC objectives in return for specific benefits. An organisation or individual providing a “gift” with no benefits in return is not a sponsor.
- C.13. Donor** means any person, group or organisation providing resources to WSC for use in achieving WSC objectives which is not in return for specific benefits but may include attached conditions which may commit WSC to other obligations.
- C.14. Sponsorship** means any sponsorship or donation (real or in kind) provided to WSC by any person, group or organisation for the benefit of WSC.
- C.15. Terms** refer also to conditions.
- C.16. Plans** shall mean WSC’s Four Year Delivery Plan, Annual Management Plan, Shire Plan, Development Control Plans, Local Environment Plan and/or Long Term Financial Strategy (Strategic Plan).

#### D. POLICY STATEMENTS

This Policy has been developed to provide a transparent approach in the interests of public accountability.

- D.1.** This policy covers all elected members of WSC, all personnel employed by WSC, any person or organisation contracted to or acting on behalf of the WSC, any person or organisation employed to work on WSC premises or facilities and all activities of the WSC.
- D.2.** This policy does not confer any delegated authority upon any person.
- D.3.** This policy is subject to WSC’s Code of Conduct which shall prevail.
- D.4.** This Policy does not cover grants and sponsorships issued by WSC, which are the subject of the WSC *Grants and Sponsorships (Outward) Policy*.
- D.5.** WSC will not accept any Sponsorship that compromises or may compromise, WSC’s reputation, public image, probity or ability to fulfil its functions.

- D.6.** Sponsorships accepted by WSC will not influence decisions or action by WSC or appear to limit its ability to carry out its functions fully and impartially.
- D.7.** Staff or councillors involved in a corporate sponsorship arrangement must have no involvement in the regulation or inspection of the sponsored organisation.
- D.8.** The General Manager or his /her delegate may accept or decline any sponsorship at their discretion.
- D.9.** WSC will not accept sponsorships that:-
- i. require or imply WSC's endorsement or commercial products, services, companies or individuals
  - ii. restrict access to WSC events, products and services to the widest audience possible
  - iii. are not consistent with WSC's social justice principles of equity, access, participation, rights and accessibility for all groups in the community
  - iv. personally benefit individual WSC employees or their friends/family
  - v. conflict with the objectives of WSC
  - vi. imply WSC endorsement of contentious community issues
- D.10.** WSC will not enter into corporate sponsorship arrangements that do not have clearly-defined objectives (in writing) which allow the sponsor and WSC to evaluate the outcome and results of the arrangement.
- D.11.** WSC will consider unsolicited sponsorship offers from people, groups or organisations.
- D.12.** WSC may wish to test the market when unsolicited offers are received.
- D.13.** WSC will protect the commercially valuable ideas and strategies of the person, group or organisation that proposed an original unsolicited offer.
- D.14.** WSC may also directly approach potential sponsors in accordance with the terms of this Policy.
- D.15.** The General Manager must prior approve sponsorship negotiations where the market has not been tested and/or an unsolicited offer is recommended to be accepted.

## **E. POLICY IMPLEMENTATION – PROCEDURES**

- E.1.** Grants and Sponsorships (Inward) shall be the responsibility of the appropriate Director under delegation from the General Manager.
- E.2.** Management of the business arrangements shall be the responsibility of the Direct Corporate services
- E.3.** Protecting the WSC's reputation and its compliance role must be expressed as a term, or terms, in a Sponsorship Agreement. The terms to be included depend on the nature and scope of the sponsorship. For example, WSC will consider the inclusion of the following terms:-
- i. WSC's logo is not to be used without its specific permission
  - ii. the sponsorship deal is not regarded as a general endorsement by WSC of the business activity of the other party

- iii. the sponsorship deal will not fetter WSC's ability to undertake its regulatory and compliance roles
  - iv. WSC will continue to own any intellectual property developed by WSC in the course of any sponsorship
- E.4.** WSC staff must agree with any sponsor, and record in a written agreement (see below):
- i. The exact sponsorship amount, in Australian currency or in kind.
  - ii. A precise description of what is being sponsored and the benefits to be delivered by WSC.
  - iii. The identity of any potential, real or perceived conflicts of interest for WSC personnel.
- E.5.** Staff must ensure that WSC's goals will clearly benefit from the sponsorship.
- E.6.** All corporate sponsorship applications received by WSC are to be assessed by a panel of at least three members of the WSC Senior Management Team.
- E.7.** WSC must record and be able to clearly demonstrate reasons for selecting or not selecting sponsors.
- E.8.** A Letter of Agreement will be executed for sponsorship agreements with a value of up to \$20,000 (excl. GST).
- E.9.** A formal Sponsorship Contract will be executed for sponsorship arrangements with a value of more than \$20,000 (excl. GST).
- E.10.** Sponsorship agreements to a total value in excess of \$201,000, whether a single year or multi-year sponsorship agreement, will be put to Council for approval.
- E.11.** Sponsorship agreements in excess of \$101,000, whether a single year or multi-year sponsorship agreement, will be put to the General Manager for approval.
- E.12.** Sponsorship agreements up to a total value of \$100,000, whether a single year or multi-year sponsorship agreement, will be put to the relevant Director for approval in accordance with WSC's delegations.
- E.13.** A register of sponsorships must be maintained and all grants and sponsorships will be reported in WSC's Annual Report.
- E.14.** Staff must ensure that sponsorship agreements include an obligation on sponsors to keep WSC information obtained by them in the course of a sponsorship, confidential unless otherwise approved by appropriate Director.

### **5.3 Minutes - Wyong Shire Seniors Citizens Council meeting - 27 May 2010**

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TRIM REFERENCE: F2008/00407 - D02252433

AUTHOR: ED

#### **SUMMARY**

A meeting of the Senior Citizens' Council was held on 27 May 2010

#### **RECOMMENDATION**

***That Council receive the report on Minutes – Wyong Shire Senior Citizens' Council Meeting – 22 April 2010 and adopt the recommendations contained therein.***

A meeting of the Wyong Shire Senior Citizens Council was held on 22 April 2010. The minutes of that meeting are attached.

#### **ATTACHMENTS**

- 1 Minutes - Seniors Council D02250630



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**WYONG SHIRE COUNCIL****MINUTES OF THE  
SENIOR CITIZENS' COUNCIL OF COUNCIL  
HELD IN THE FUNCTION ROOM  
WYONG CIVIC CENTRE, HELY STREET, WYONG  
ON 27 May 2010  
COMMENCING AT 1.00 PM**

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**PRESENT**

Ms J Goss (Chairperson)	Older Women's Network, isolated neighbourhoods
Mr L Bruni (entered 1.42 pm)	Italian community
Ms M Housham	Aboriginal and Torres Strait Island Communities; grandparents groups
Mr B Kirkness	Toukley Senior Citizens Club
Ms P Parperis	Long Jetty Seniors Choral Group
Mr B Pyke	National Seniors Association

**IN ATTENDANCE**

Ms A Evans	Wyong Shire Council
Ms R Steel	Wyong Shire Council

**APOLOGIES**

Ms D Thompson	National Serviceman's Association
Mrs J Axford	Seniors health & fitness community

June Goss declared the meeting open at 1.07 pm and advised that the meeting is being recorded.

Reports were dealt with in order except for Report 4.1. However for the sake of clarity the reports are recorded in their correct agenda sequence.

**PROCEDURAL ITEMS****1.1 Disclosure of Interest**

---

**COMMITTEE RECOMMENDATION**

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

**CONFIRMATION OF MINUTES OF PREVIOUS MEETINGS****2.1 Confirmation of Minutes of Previous Meeting - 22 April 2010**

---

Bruce Pyke indicated that he was mentioned under General Business item 21/10 yet he had not been present. It was noted the minutes should have indicated a statement by Bruce Kirkness.

**COMMITTEE RECOMMENDATION**

*That the Committee receive the minutes of the previous Senior Citizens' Council Meeting held on 22 April 2010.*

**BUSINESS ARISING FROM THE MINUTES**

THERE WAS NO BUSINESS ARISING FROM THE MINUTES.

**GENERAL REPORTS****3.1 Review of Charter**

---

**RECOMMENDATION**

- 1 *That the Seniors Council adopt the suggested Charter.*
- 2 *That the Seniors Council endorse the change of name to the Wyong Shire Senior Citizens Consultative Committee.*

**COMMITTEE RECOMMENDATION**

- 1 *That the Charter be deferred for consideration by the Seniors Council at its meeting to be held on 24 June 2010.*
- 2 *That members of the Seniors Council submit comments to Council's Community Development Worker by 7 June 2010 for possible inclusion in the Charter.*

**INFORMATION REPORTS****4.1 Speaker - Susan Rigby, Council's Communications Section**

---

At this stage being 2.10pm, Susan Rigby address the Seniors Council outlining the activities undertaken by the Communications Section and how the section disseminated information through such things as the rates newsletter / radio / print media / electronic means. Community information could be included in Council's media releases / promotions but needed to be received early and groups should be aware that requests were prioritised and may not always be successful. Items, including jpeg photographs could be emailed to her at [susan.rigby@wyong.nsw.gov.au](mailto:susan.rigby@wyong.nsw.gov.au)

She also advised that the web page is currently being reviewed and update with attention being paid to assisting the hearing / vision impaired and she would appreciate any feedback following the launch of the new web site. Rachel Steel gave the quality review example where a group of young people had been used to test out the BLUE PLANET website before it was launched.

**COMMITTEE RECOMMENDATION**

***That the Senior Citizens' Council receive the report on Speaker - Susan Rigby, Council's Communications Section.***

**4.2 Wyong Performing Arts Centre Committee**

---

In the absence of Juliet Axford, Annette Evans advised that the meeting scheduled for 17 May had been deferred until 7 June 2010. She tabled the newsletter issued on the Cultural Centre project.

**COMMITTEE RECOMMENDATION**

- 1 That the Senior Citizens' Council receive the report on Wyong Performing Arts Centre Committee.***
- 2 That WSC be requested to distribute the newsletter to other key groups and hard copies provided to Seniors Groups for distribution to members.***

**4.3 Council Rebates**

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Annette Evans advised that concessions were available for property and water rates and information will be included in the residents guide.

**COMMITTEE RECOMMENDATION**

***That the Senior Citizens' Council receive the report on Council Rebates.***

## 5.0 GENERAL BUSINESS

### **GB36/10 Energy Charges**

F2008/00407

A letter from Member for Swansea, Mr Robert Coombs MP was tabled advising what services were available from the NSW Government to assist families and seniors having difficulty with energy bills.

### **GB37/10 Memory Loss Forum at Toukley Senior Citizens Club**

F2008/00407

Bruce Kirkness advised that the forum will be run by North Sydney Central Coast Area Health Services and 60 people have registered to date.

### **GB38/10 Youth Engagement Strategy exhibition**

F2009/00383

Rachel Steel outlined the content of the Strategy which is on exhibition until mid June. A lot of comment and input had been received from business and community groups and now comment from the wider community was being sought. As the Strategy is something not usually done by councils, staff have been requested to address a forthcoming conference at Newcastle. Annette commented that the development of this strategy gave some indication of the work that might be involved in developing an Age-Friendly strategy for the Shire.

### **GB39/10 Proposed Forum - Alzheimer's Australia NSW Branch**

F2008/00407

Rachel Steel advised that she had been contacted the Alzheimer's Australia NSW which was interested in holding a forum at the Civic Centre on 23 July 2010 involving peak organisations. Bruce Pyke expressed concern that the forum could be used as an opportunity by the Protective Commission to gain additional business. Annette Evans commented that the issues that would be addressed at such a forum were both sensitive and complex. She also informed the meeting that the public authority of both the Protective Office and the Office of the Public Guardian were written into legislation as a responsibility of 'last resort' and must therefore be represented. Rachel said that a recent Access Economics Report had predicted that Wyong Shire would experience the third largest prevalence in the numbers of people with dementia over the next 40 years in NSW.

At this stage being 1.42 pm, Luigi Bruni entered.

**GB40/10 Inserts for Residents Guide**

F2008/00407

Annette Evans advised that four information sheets have been developed and would be inserted into the residents guide when relevant.

**GB41/10 Park Bench design**

f2008/00407

Annette Evans reminded the meeting of the need to complete the recommendations regarding the guidelines proposed for the design of park benches.

**GB42/10 Age Friendly Community Around the World Conference**

F2008/00407

Annette Evans provided an update on her attendance and this conference in Melbourne and advised that 'Checklist for Essential Features of Age-Friendly Cities' developed by the World Health Organisation Global project was a valuable resource.

**GB43/10 Playground Equipment for Seniors / Rehabilitation**

F2008/00407

Annette Evans tabled brochures entitled "you are never too old to play" which highlight play equipment which could be used by the general public but was directed towards the senior population and those undergoing rehabilitation.

**GB44/10 "How companion animals can strengthen social fabric"**

F2008/00407

Patricia Parperis advised that the publication was very well written and a worthwhile resource which included case studies from Local Governments around Australia who had dealt with the issue by a variety of different programs.

**CORRESPONDENCE****Resignation – Bruce Pyke**

The Chairperson tabled a letter of resignation from Bruce Pyke. The Seniors Council accepted the resignation with much regret and reluctance. Annette Evans expressed her personal appreciation for his input on various issues including transport and surveys. Bruce offered input for specific projects if he was available in the future.

**THE MEETING** terminated at 2.42 pm.

## 5.4 Proposed Councillors' Community Improvement Grants

TRIM REFERENCE: C2010/01723 - D02256165

AUTHOR: SG

### SUMMARY

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

### RECOMMENDATION

***That Council allocate an amount of \$10,736.00 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.

### OPTIONS

- 1 Approval of applications as submitted will provide a community benefit residents of the Shire.
- 2 Non approval could result in assistance not being provided to the community.

### STRATEGIC LINKS

#### Management Plan

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

#### Contribution of Proposal to the Principal Activity

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

## 5.4 Proposed Councillors' Community Improvement Grants (contd)

### Link to Key Focus Areas

Funding is available specifically to projects outside of Council's Management Plan.

### Financial Implications

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.

### 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 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 09/06/2010	14,097	13,800	12,248	12,649	11,241	10,850	11,508	13,475	15,000	14,575	129,443
Available allocation as at 09/06/2010	903	1,200	2,752	2,351	3,759	4,150	3,492	1,525	0	425	20,557
Proposed Allocations for 23 June 2010											
Brackets & Jam Central Coast Inc (\$1,000)				300							300
Brackets & Jam Central Coast Inc (\$2,000)	100										100
Cancer Council / Central Coast Football (\$2,000)			500								500
Central Coast Aboriginal Community Congress (\$2,000)		150	100	1,000	500		250				2,000

## 5.4 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
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 09/06/2010	14,097	13,800	12,248	12,649	11,241	10,850	11,508	13,475	15,000	14,575	129,443
Available allocation as at 09/06/2010	903	1,200	2,752	2,351	3,759	4,150	3,492	1,525	0	425	20,557
Proposed Allocations for 23 June 2010											
Central Coast Community Women's Health Centre (Rose Cottage) (\$800)	100				400						500
Central Coast Multiple Birth Association (\$1,480)		300		400							700
Central Coast Sporting Horse Association (\$1,466)						1,466					1,466
Doyalson-Wyee Cricket Club (\$1,800)	100	350					600				1,050
Karen Knight (Brooke Avenue School Breakfast Club) (\$1,000)	100	200			300						600
Mingara Athletics Club (\$1,900)	100				300						400
Summerland Point Gwandalan Tidy towns & Landcare (\$1,000)	100						750				850
The Entrance Community Precinct Committee (\$250)	50				100						150
The Entrance Hotel (\$1,500)			500		250						750
Toukley Torchbearers for Legacy (\$1,000)				200							200



## 5.4 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
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 09/06/2010	14,097	13,800	12,248	12,649	11,241	10,850	11,508	13,475	15,000	14,575	129,443
Available allocation as at 09/06/2010	903	1,200	2,752	2,351	3,759	4,150	3,492	1,525	0	425	20,557
<b>Proposed Allocations for 23 June 2010</b>											
Tracey Maguire in conjunction with San Remo Neighbourhood Centre (\$2,254)	100										100
Tuggerah Tuffs Winter Swim Club Inc (\$267)			267								267
Wyong Hospital (\$150)			150								150
Wyong Public School (\$5,000)	153	200									353
Yarramalong Rural Fire Brigade (\$300)								300			300
<b>Total Proposed Allocations for 23/06/2010</b>	<b>903</b>	<b>1,200</b>	<b>1,517</b>	<b>1,900</b>	<b>1,850</b>	<b>1,466</b>	<b>1,600</b>	<b>300</b>	<b>0</b>	<b>0</b>	<b>10,736</b>
<b>Total Accumulated Allocations as at 23/06/2010</b>	<b>15,000</b>	<b>15,000</b>	<b>13,765</b>	<b>14,549</b>	<b>13,091</b>	<b>12,316</b>	<b>13,108</b>	<b>13,775</b>	<b>15,000</b>	<b>14,575</b>	<b>140,179</b>
<b>Balance Uncommitted as at 23/06/2010</b>	<b>0</b>	<b>0</b>	<b>1,235</b>	<b>451</b>	<b>1,909</b>	<b>2,684</b>	<b>1,892</b>	<b>1,225</b>	<b>0</b>	<b>425</b>	<b>9,821</b>

## ATTACHMENTS

Nil

## **5.5 Amendment to Delegation of Authority to General Manager**

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TRIM REFERENCE: F2010/00500 - D02270021

AUTHOR: BS

### **SUMMARY**

This paper concerns the review and re-establishment of delegated authority to the General Manager.

### **RECOMMENDATION**

- 1 That Council revoke any previous delegation or sub-delegation of the functions of the Council to the General Manager of the Council;**
- 2 That Council delegates to the General Manager of the Council all of its functions except for those functions which must not be delegated pursuant to section 377(1) of the Local Government Act, 1993 or those specifically excluded within this instrument;**
- 3 That Council sub-delegates to the General Manager of the Council all functions delegated to the Council except as provided in the relevant instrument of delegation to the Council;**
- 4 That Council fixes the amount of \$5,001 as the amount above which debts, rates, charges and related interest charges owed to the Council may be written off only by resolution of the Council, pursuant to clauses 131(1) and 131(2) of the Local Government (General) Regulation 2005 (NSW);**
- 5 That Council authorise these delegations to be effective from 23 June 2010.**

### **BACKGROUND**

Concurrent with the arrival of Wyong Shire's (WSC) new General Manager, is an audit review of delegations and a management review of all delegated authorities.

Delegations within the organisation have long been considered at a task level of permission as opposed to an accountability level of authority. The outcome has been formal instruments of delegation that are lengthy and prescriptive to a point where delegations have been restrictive, not permissive which is the fundamental reason for delegating authority.

The current General Manager's delegations were reviewed and in consultation with a number of Senior Management staff, a new instrument of Delegation has been developed.

### **PROPOSAL**

It is proposed that delegations take an approach that facilitates the effectiveness and efficiency of the organisation and focuses the use of delegated authority by the General Manager on accountability for the performance of WSC.

The approach seeks to avoid the common distractions created by a prescriptive approach which are likely to limit the ability of a GM in the delivery of their legislated obligations.

Use of delegations to achieve outcomes is effected by applying the express requirements of the Act and any material implied obligation in the Act, where the General Manager requires specific delegation not actually expressed. Existing delegations to the GM are characterised by procedural prescription which unnecessary given the procedural compliance obligations placed on GMs by legislation.

The proposal excludes circumstances where the Council may authorise specific procedural authority to the General Manager.

In creating a revised delegation to the GM there is a need to revoke any previous delegation or sub-delegation of the functions of the Council made to the General Manager.

Council is required to delegate to the General Manager of the Council all of its functions except for those functions which must not be delegated pursuant to section 377(1) of the Local Government Act, 1993 or those specifically excluded within the instrument of delegation.

Council is, by definition, further required to sub-delegate to the General Manager all functions delegated to the Council except as provided in the relevant instrument of delegation to the Council.

An element of the required delegation is the limit of authority to be given the General Manager in respect of write-off required when debts, rates, charges and related interest charges owed to the Council are unrecoverable. Ref clauses 131(1) and 131(2) of the Local Government (General) Regulation 2005 (NSW); above the limit set by Council, write-off must be made by Council resolution.

The limit is best set at a level commensurate with the level of authority that provides for effective management and governance. It is proposed that limit be set at \$5001.00 and above.

### **CONCLUSION**

The existing delegation is prescriptive to a level not contemplated by legislation making a revised desirable.

A simplified instrument of delegation reflects the authority required to be delegated by Council correctly provides for the General Manager to meet his/her legislated accountabilities.

### **ATTACHMENTS**

- 1 Instrument of Delegation to General Manager D02270574

## Instrument of Delegation to General Manager, Michael Whittaker

The Council of the Shire of Wyong has resolved 23 June 2010 to:

- 1 Revoke any previous delegation or sub-delegation of the functions of the Council to the General Manager of the Council;
- 2 Delegate to the General Manager of the Council all of its functions except for those functions which must not be delegated pursuant to section 377(1) of the Local Government Act, 1993 or those specifically excluded within this instrument;
- 3 Sub-delegate to the General Manager of the Council all functions delegated to the Council except as provided in the relevant instrument of delegation to the Council;
- 4 Fix the amount of \$5,001 as the amount above which debts, rates, charges and related interest charges owed to the Council may be written off only by resolution of the Council, pursuant to clauses 131(1) and 131(2) of the Local Government (General) Regulation 2005 (NSW);

This instrument of delegation shall take effect on 23 June 2010).

I hereby accept the delegations made to me by this instrument.

Michael Whittaker  
**GENERAL MANAGER**

Dated:

## **6.1 Information Reports**

---

TRIM REFERENCE: F2010/00009 - D02258777

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 in total.

### **RECOMMENDATION**

*That Council deal with the following Information Reports by the Exception Method.*

### **ATTACHMENTS**

Nil

## **6.2 Central Coast Capital - Response from the Minister for Planning**

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TRIM REFERENCE: F2004/06545 - D02248268

AUTHOR: PB

### **SUMMARY**

Submitting a response from The Hon Tony Kelly MLC, Minister for Planning in relation to Council's request for recognition of the Wyong/Tuggerah area as the future capital/co-capital of the Central Coast.

### **RECOMMENDATION**

***That Council receive the report on Central Coast Capital - Response from the Minister for Planning.***

At its meeting held on 11 November 2009, Council resolved unanimously on the motion of Councillor Eaton and seconded by Councillor Best:

- "1 That Council adopt in principle that Wyong/Tuggerah be recognised as the future capital/co-capital of the Central Coast.*
- 2 That Council write to the Minister for the Central Coast and the Parliamentary Secretary for the Central Coast to advise of Council's position and to request future editions of the Central Coast State Plan recognise this change.*

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

AGAINST: NIL"

A response has now been received from The Hon Tony Kelly MLC, Minister for Planning and is attached.

### **ATTACHMENTS**

- 1 Response from the Minister for Planning D02247647



Hon Tony Kelly MLC  
Minister for Planning  
Minister for Infrastructure  
Minister for Lands  
Deputy Leader of the Government in the Legislative Council  
Leader of the House in the Legislative Council

Ms Gina Vereker  
Director Shire Planning  
Wyong Shire Council  
PO Box 20  
WYONG NSW 2259

10/03471

19 MAY 2010

Dear Ms Vereker

I refer to Council's letter to the former Premier concerning the Central Coast Capital which was forwarded for my consideration as the responsible Minister.

Council's resolution of 11 November 2009 to recognise Wyong/Tuggerah as the future capital/co-capital of the Central Coast is noted.

The Central Coast Regional Strategy (CCRS) recognises Tuggerah-Wyong as performing vital economic, employment, civic, residential, social and cultural roles for the northern half of the Central Coast. The importance placed on the major centre is exemplified by the State Significant Site process currently underway.

As Council suggests, the five-yearly review of the CCRS will provide an opportunity for a comprehensive review including consideration of the Central Coast regional centres and employment hierarchy.

Thank you for bringing this matter to my attention. Should you have any further enquiries about this matter, I have arranged for Garry Hopkins, Gosford Planning Team, Department of Planning to assist you. Mr Hopkins can be contacted on telephone number (02) 4348 5002.

Yours sincerely,

Tony Kelly MLC  
Minister for Planning

### 6.3 Activities of the Development Assessment Unit

TRIM REFERENCE: F2004/07830 - D02256939

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 month of May.

#### RECOMMENDATION

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

#### Development Applications Received and Determined

Type:	Number Received:	Estimated Value \$:	Number Determined:	Estimated Value \$:
Commercial	10	882,200	20	4,569,400
Industrial	3	323,100	-	-
Residential	114	14,413,412	118	13,741,446
Other	32	6,835,784	18	1,225,000
<b>Total</b>	<b>159</b>	<b>22,454,496</b>	<b>156</b>	<b>19,535,846</b>

**NOTE:** *Included in the number of development applications determined in the "Commercial" category were approvals for the alterations and additions to St John Fisher Primary School at Tumbi Umbi as well as internal alterations to Club Mingara at Tumbi Umbi valued at \$3.4 m.*

#### Subdivision Applications Received and Determined

Type:	Number Received:	Number of Lots:	Number Determined:	Number of Lots:
Commercial	-	-	1	6
Industrial	-	-	-	-
Residential	4	6	2	4
Rural	3	21	1	-
Other	-	-	1	-
<b>Total</b>	<b>7</b>	<b>27</b>	<b>5</b>	<b>10</b>



**Net Median Turn-around Time**

The net median turn-around time in working days for development applications determined during the month was 16 days. There were priority applications determined during the month.

**Other Approvals and Certificates**

<b>Type:</b>	<b>Number Determined:</b>
Trees	30
Section 149 D Certificates	7
Construction Certificates	96
Complying Development Certificates	10

**State Environmental Planning Policy No 1**

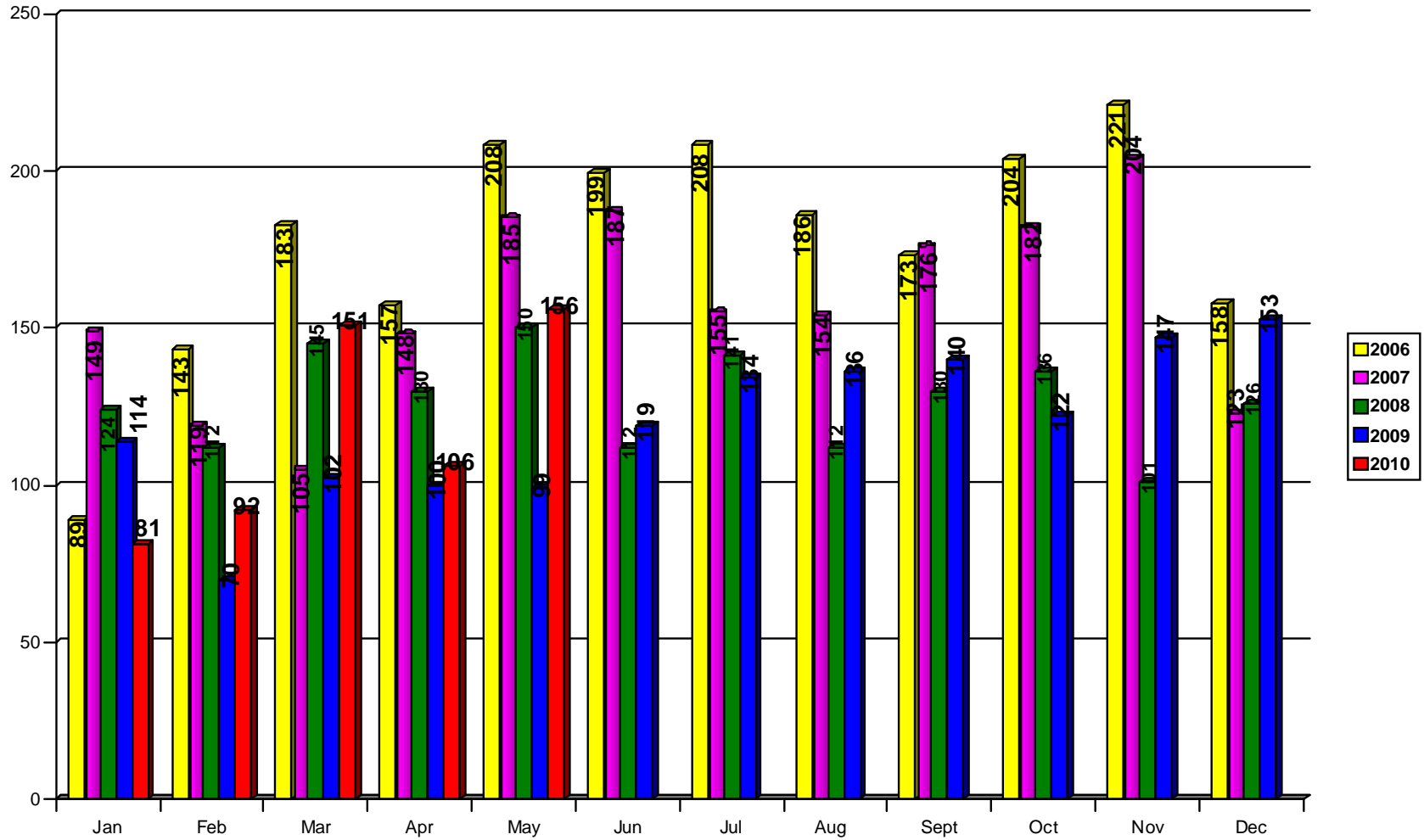
There were no applications that relied on SEPP 1 variations for the Month of May.

**ATTACHMENTS**

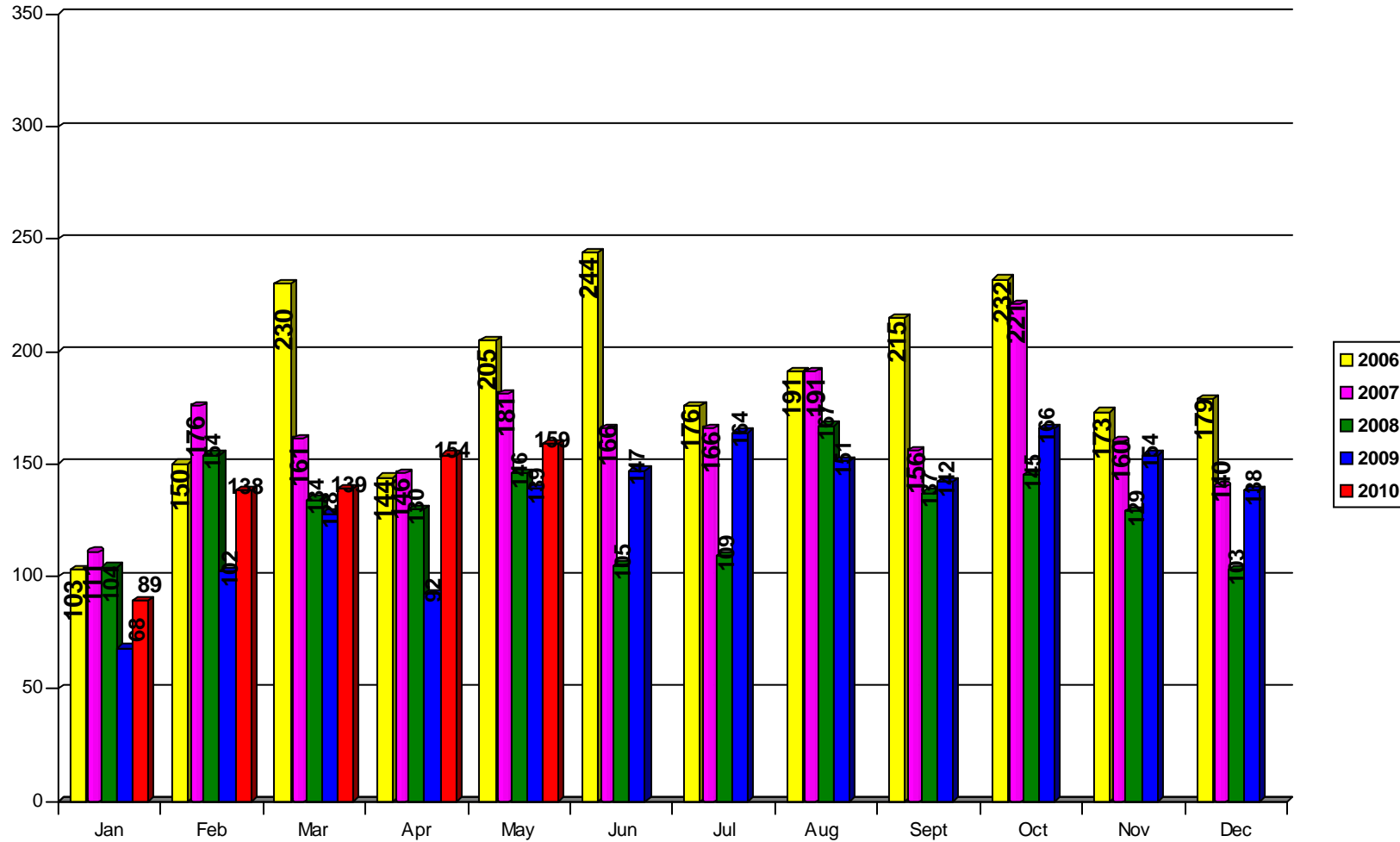
- 1 Graphs: Development Applications Lodged, Determined and Construction Certificates Determined

D02257819

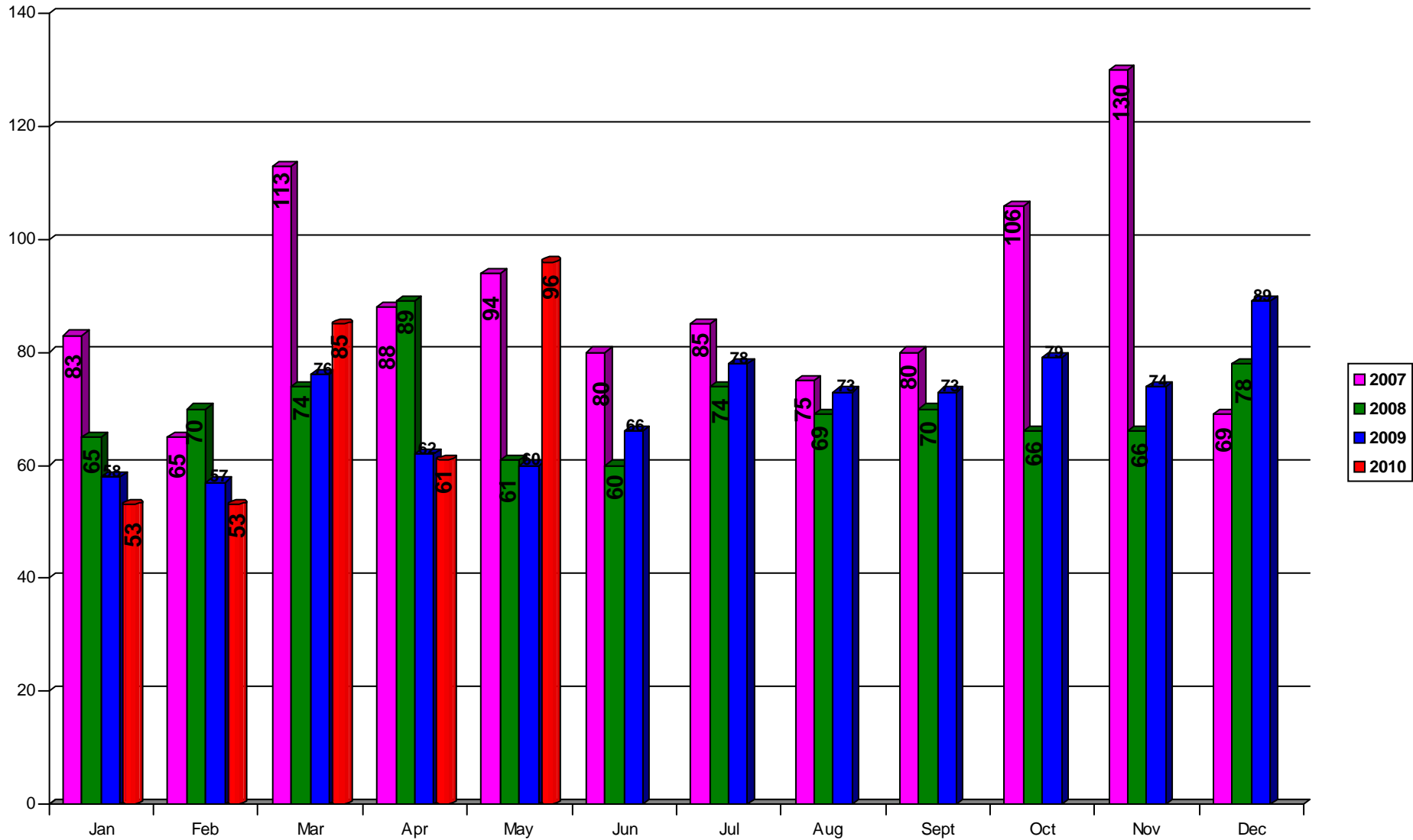
**DAs DETERMINED**



**DAs LODGED**



**CCs DETERMINED**



## 6.4 General Works in Progress

TRIM REFERENCE: F2004/07830 - D02239623

AUTHOR: SK; MC

### SUMMARY

This report shows the current status of significant General Works and General Works in Progress for capital and maintenance expenditure, as at the end of May 2010. 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 roads and drainage projects.

Item Description	Est Cost	Start Date	% Spent	% Comp	Est Comp Date	Comments
Quinalup Street, Gwandalan Stage 1A Drainage	\$690K	01/02/10	98	98	May 2010	Drainage system upgrade involving new pipes and pits, a Gross Pollutant Trap, minor road reconstruction, and kerb and gutter in from the east side of Winbin Cres to the outlet on the corner of Koowong Rd and Noamunga Cres.  The works will alleviate flooding of properties and improve water quality.

## 6.4

## General Works in Progress (contd)

Item Description	Est Cost	Start Date	% Spent	% Comp	Est Comp Date	Comments
Perouse Avenue, San Remo Proposed Drainage Improvements - Stage 2	\$975K	05/05/2010	20	25	August 2010	This project was initiated to resolve flooding and erosion problems. These works form Stage 2 of the previous drainage upgrading works in Perouse Ave. Works involve construction of an upgraded stormwater drainage system in Perouse Ave, Richardson Rd and Eyre Cr, road reconstruction and kerb and gutter. Road shoulder reconstruction only will be carried out where appropriate.
Goorama Avenue / Emu Dr Intersection and Goorama Ave (near Callen Ave), San Remo – Proposed Traffic calming	\$168K	31/05/2010	40	20	June 2010	Works involve constructing an asphalt raised intersection at the Goorama Ave/Emu Dr intersection and construction of new kerb on the eastern side of the intersection.  Four road cushions will be installed in Goorama Ave, near the Callen Ave intersection, for traffic calming purposes.
Chittaway Rd, Chittaway Bay Pavement renewal	\$470K	12/04/10	60	80	June 2010	Pavement works between Burregah Road and Kauai Avenue have been predominantly completed. A primer spray seal has been applied, with the final asphalt wearing course and speed humps to be installed by Contractors.
Roslyn Place, Noraville Drainage	\$102K	26/04/10	70	90	May 2010	Stormwater drainage system upgrade to alleviate localised flooding.

Item Description	Est Cost	Start Date	% Spent	% Comp	Est Comp Date	Comments
Brush Road Ourimbah Road Reconstruction	\$1.3M	11/01/10	105	99	May 2010	Widening, re-alignment, reconstruction and sealing of existing 1 km unsealed road. All works have been completed with the exception of minor restoration works. <i>The over expenditure is mainly due to having been charged domestic waste disposal charges for what was budgeted to be clean fill disposal (2/3 of which was EPA levy).</i>
Bush Street Norah Head Stage 1 Drainage and Roadworks	\$656K	26/11/09	109	100	June 2010	Road rehabilitation and drainage upgrade works completed. Asphalt outstanding, awaiting contractor for AC placement, scheduled to become available June. <i>The over-expenditure is due to no funds being allocated for a power-pole relocation (\$40K) and increased establishment costs due to the need to stop the job over holiday periods.</i>
Toowoan Bay Rd and Nirvana St Long Jetty Drainage	\$1.5M	23/03/10	40	30	July 2010	Major stormwater drainage system upgrade to alleviate localised flooding, road reconstruction and a mini roundabout at the intersection of Toowoan Bay Rd and Nirvana St. Drainage works continue across Nirvana and along Toowoan Bay Road. All works to be completed by end of July.

### General Maintenance Work

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

	North	South
<b>Drainage Maintenance</b>	Lake Haven Hamlyn Terrace	Killarney Vale Long Jetty Berkeley Vale Bateau Bay Chittaway Bay

	North	South
<b>Replacement of Damaged Foot paving</b>	Hamlyn Terrace Wyong	The Entrance Berkeley Vale Tumbi Umbi
<b>Sign Maintenance</b>	Toukley Kanwal Hamlyn Terrace Blue Haven Wadalba Budgewoi Tuggerawong San Remo Canton Beach Wyongah Jilliby Yarramalong Buff Point Gwandalan Summerland Point	Toowoan Bay Berkeley Vale Ourimbah Long Jetty The Entrance Killarney Vale Shelly Beach Bateau Bay Tuggerah Wyong Mardi Chittaway
<b>Shoulder Restoration</b>	Nil	Nil
<b>Heavy Patching</b>	Gorokan Charmhaven	Nil
<b>Table Drain Maintenance</b>	Charmhaven Budgewoi Toukley Gwandalan San Remo Wyongah	Long Jetty Bateau Bay Killarney Vale Tumbi Umbi Berkeley Vale
<b>Rural Road Grading</b>	Dooralong Yarramalong Ravensdale Jilliby Kiar	Ourimbah Palmdale
<b>Carpark Maintenance</b>	Nil	Nil
<b>Fencing</b>	Nil	Nil
<b>Vegetation control</b>	Jilliby Woongarra Halloran Hamlyn Terrace Toukley Mannering Park Yarramalong Dooralong	Tuggerah Berkeley Vale Tumbi Umbi Ourimbah Watanobbi Wyong The Entrance Killarney Vale Long Jetty Tumbi Umbi



**CONTRACTS AND SPECIAL PROJECTS SECTION**

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

<b>Item Description</b>	<b>Est Cost</b>	<b>Start Date</b>	<b>% Spent</b>	<b>% Comp</b>	<b>Est Comp Date</b>	<b>Comments</b>
Contract 2408 Capture and Commercial Utilisation of Landfill Gas from Buttonderry Landfill	Potential for return to Council	May 2010	25	25	Jun 2010	Approval for the methane gas extraction system and power plant has been issued. It is anticipated the power plant will be operational by end of June 2010. The Deed of Agreement provides for Royalty payments to Council of 15% from the sale of electricity generated.
CPA/164957 Saltmarsh Rehabilitation – Consultancy for the preparation of a detailed rehab plan, REF and mosquito management plan for 10 sites	\$80K	Aug 2009	95	95	Jun 2010	Contract awarded to Umwelt Pty Ltd. Documents submitted to Council for review.
CPA/159848 Reservoir Lining – Tuggerah 1 and Ridgeway	\$350K	Oct 2009	10	20	Sep 2010	Construction tenders for the lining have been called and closed 27 May 2010. Tenders under review.
F2008/01053 Saltmarsh Rehabilitation – construction of LM7 & LM8 in Lake Munmorah	\$380K	May 2010	60	60	Jun 2010	Earthworks almost complete. High lake levels are delaying finalisation of earthworks and planting of the lower levels of saltmarsh.
CPA/94559 Design and Documentation of Woongarra Sports fields	\$350K	Nov 2005	99	99	Jul 2010	Claim to finalise earlier commission work resolved and paid. Expect to finalise consultancy by July 2010.

## 6.4

## General Works in Progress (contd)

Item Description	Est Cost	Start Date	% Spent	% Comp	Est Comp Date	Comments
CPA/115479 The Rehabilitation and Redevelopment of Bateau Bay Landfill	\$17M	Dec 2006	95	95	Fields available for use towards end 2010	Construction works proceeding under Council's direct management. Turf now completed to all fields. Softball fencing to be erected and carpark final sealing to be completed. Anticipate turf will be established and ready for use towards end of 2010.
CPA/137501 Streambank Rehabilitation Wyong River Reaches 36, 61, 81 & 104	\$730K	Mar 2010	35	90	May 2010	Earthworks complete on all sites except Reach 36 which has minor works to complete. Bush regeneration works yet to be completed on 2 sites. Works will be completed under budget.
CPA/138216 Streambank Rehabilitation Ourimbah Creek Reaches 41 & 45	\$800K	Feb 2010	45	95	May 2010	Earthworks are complete. Bush regeneration works are yet to be completed on one site. Works will be completed under budget.
CPA/179982 Replacement of Pope Air Conditioning Equipment at Wyong Civic Centre	\$240K	Jan 2010	5	20	Sep 2010	Tenders for replacement of 2 existing AC units have been called. Tenders closed on 27 May 2010 and under review.
CPA/177219 Amenities Block at Tenth Avenue, Budgewoi	\$100K	Dec 2009	0	45	Aug 2010	Contract awarded to Landmark for fabrication and installation. Fabrication and installation expected by beginning July, with final connection of services by August 2010.

## 6.4

## General Works in Progress (contd)

Item Description	Est Cost	Start Date	% Spent	% Comp	Est Comp Date	Comments
CPA/130590 Consultancy for Investigation and Design of Trunk Sewer Mains to Warnervale Town Centre and Wyong Employment Zone	\$720K	Jan 2008	75	88	Oct 2010	Contract awarded to Bonacci Group Pty Ltd. Design finalisation expected in October 2010. Revised maximum forecast flood heights have generated changes to the location of a pump station and sewer main alignments. Estimated project construction cost \$9M, with this consultancy costing \$720K.
CPA/172474 Construction of 300mm diameter bypass Gravity Sewer main, Gavenlock Rd, Tuggerah	\$600K	Feb 2010	2	10	Jul 2010	Contract awarded to Eire Contractors Pty Ltd. Currently in negotiations with Contractor in light of costs to manage latent conditions in deeper sewer line.
CPA/147230 – Pre-Construction Documentation and Construction of 150mm diameter Water main Upgrade along Pollock Avenue	\$366K	Apr 2010	1	15	Feb 2011	Documentation preparation underway to allow approvals to be sought and construction tenders to be called.
CPA/147230 - Consultancy for Investigation and Design of T8 Sewer Pump Station upgrade – Norah Head	\$92K	Nov 2008	50	95	Jun 2010	Contract awarded to Cardno (NSW) Pty Ltd. Completion of design and tender documentation expected by end of June 2010. Designs impacted by release of Coastal Management Plan documents. Predicted Project construction cost \$1.32M, with this consultancy costing approximately \$92K.

## 6.4 General Works in Progress (contd)

Item Description	Est Cost	Start Date	% Spent	% Comp	Est Comp Date	Comments
CPA/144772 - Consultancy for Investigation and Design of T22 Sewer Pump Station upgrade – Budgewoi	\$120K	Nov 2008	40	75	Jun 2010	Contract awarded to Cardno (NSW) Pty Ltd. Completion of design and tender documentation expected by end of June 2010. Predicted Project construction cost \$2.43M, with this consultancy costing approximately \$120K.
CPA/155500 - Consultancy for Investigation and Design of C3 and C6 Sewer Pump Station upgrades, and new C16 Sewer Pump Station – San Remo and Blue Haven	\$180K	Mar 2009	15	80	Jun 2010	Contract awarded to SMEC Australia Pty Ltd. Completion of design and tender documentation expected by end of June 2010. Predicted Project construction cost \$1.72M, with this consultancy costing approximately \$180K.
CPA/130591 Consultancy for Investigation and Design of Trunk Water Mains to Warnervale Town Centre and Wyong Employment Zone	\$370K	Apr 2008	20	95	Sep 2010	Contract awarded to SMEC Australia Pty Ltd. Completion of design and tender documentation expected by end of September 2010. Project construction cost \$3M, with this consultancy costing approximately \$370K.
CPA/135454 Investigation, Design and Construction Supervision for Toe Drainage Structure at Cabbage Tree Harbour Norah Head	\$307K	Aug 2007	70	70	Sep 2010 for this consultancy	Contract awarded to Shirley Consulting Engineers (SCE). This consultancy \$307K including all variations to date. Approval to proceed with reduced cost option resolved by Council at 14 April 2010 meeting. Variation proposal and cost to develop concept into a detailed design requested from SCE.

## 6.4

## General Works in Progress (contd)

Item Description	Est Cost	Start Date	% Spent	% Comp	Est Comp Date	Comments
CPA/135790 Pioneer Dairy – Hydrologic Assessment and Wetland Concept Study	\$370K	1) Feb 2008  2) Mar 2010	90	1) 100  2) 90	1) May 2010  2) May 2010	1) Contract awarded to Storm Consulting Pty Ltd for design of constructed wetland. Design complete. Approvals obtained. 2) Work undertaken on site by Council resources, and completed southern section of wetland. Later work to be undertaken on northern section with future funding.
CPA/136020 (complete), CPA/162445 (complete) and CPA/181535 Gwandalan Landfill Remediation – Investigations Only	\$290K	Nov 2007	70	70	Nov 2010 (RAP & concept design)	Preliminary site investigation and detailed site investigation completed. (cost \$162K). Tenders invited for remedial action plan (RAP) & concept design. Anticipated completion November 2010.
CPA/136021 (complete) and CPA/168802 (complete) Tumbi Landfill Remediation – Investigations only	\$190K	Nov 2007	70	70	Dec 2010 (RAP & concept design)	Preliminary site investigation and detailed site investigation completed (cost \$77K). Tenders being prepared for remedial action plan (RAP) & concept design. Anticipated completion December 2010.
CPA/136486 Investigation, Design and Documentation of Toukley Sewage Treatment Plant Inlet Works Upgrade	\$164K	Apr 2008	100	99	Sep 2010	Contract awarded to Maunsell Australia Pty Ltd. Construction has commenced. This consultancy will continue to provide input during construction phase. Estimated project cost \$2.05M, with this consultancy costing \$164K.

## 6.4 General Works in Progress (contd)

Item Description	Est Cost	Start Date	% Spent	% Comp	Est Comp Date	Comments
CPA/142750 (complete) and CPA/173290 Shelly Beach Landfill Remediation – Investigations only	\$85K	Nov 2007	70	60	Jul 2010 (Detailed investigation)	Preliminary investigation completed (\$30K). Contract for detailed site investigation (CPA/173290) awarded to SMEC Australia Pty Ltd. Field work is complete and laboratory analysis in progress. Draft report expected in July. The cost of this consultancy is \$55K.
CPA/145543 CPA/145982 CPA/150515 CPA/156188 F2008/02699 (Kemp Close) F2007/01457 (eastern section).  Construction of Buff Point Shared Pathway  (includes Kemp Close section which has attracted a Federal grant)	\$250K per year x 3 years (EMP funds – holiday parks)+ \$250K Federal grant = \$1m + future \$300K for completion to Sonoma Road.	Nov 2007	70	80	Jun 2010 (current funds)	Construction complete from Edgewater Park to opposite Nacooma Road – approx. 1.9km of total 3km of pathway. Estimated overall cost of construction for all Buff Point pathways is \$1.3M. Construction for next (100m) portion at eastern end planned for June 2010. CEMP approved and tenders received. EMP to fund plus \$25K Greenspace Grant.
CPA/145814 Design and Tender Documentation for No 3 Aeration Tank – Charmhaven STP	\$190K	Oct 2008	80	98	Jul 2010	Contract awarded to Cardno (QLD) Pty Ltd. Final design documentation is under review. Odour control unit has been added to scope. Estimated project cost \$11M, with this consultancy costing \$190K.
CPA/149519 Design and Construct Upgrade of Fuel Dispensing Area at Charmhaven Depot (future works – groundwater monitoring wells will be required at both Charmhaven & Long Jetty depots)	\$170K	Jul 2008	99	99	May 2010	All work complete with signage to finalise.

## 6.4

## General Works in Progress (contd)

Item Description	Est Cost	Start Date	% Spent	% Comp	Est Comp Date	Comments
CPA/164637 (awarded) Toukley Landfill (Sewage Treatment Plant and Transfer site) Remediation – Investigations only	\$250K (two contracts)	Dec 2009	75	40	May 2010 (Preliminary works)  Oct 2010 (Detailed site investigation)	Draft report on preliminary investigations has been submitted for review. Tenders for detailed site investigation to be called in June 2010.
CPA/152818 Consultancy for Investigation, Design and Documentation for B9 Sewer Rising Main Extension to B1 Pump Station	\$148K	Jan 2009	88	97	Jul 2010	Contract awarded to GHD Pty Ltd. Detail design nearing completion. Construction expected to commence November 2010 and be completed June 2011. Estimated project cost \$3M, with this consultancy costing \$148K.
CPA/153228 Construction of Woongarra Sports Facility	\$6.1M	Apr 2009	98	98	Jun 2010	Contract awarded to Maincon Pty Ltd. Turf completed. Civil, building & landscape planting works complete. All other works expected to be completed by end of May 2010. Handover planned for 9 June 2010, with opening currently scheduled for 27 June 2010.
CPA/154562 Toukley Sewage Treatment Plant Inlet Works Upgrade	\$2.05M	Oct 2009	30	40	Aug 2010	Contract awarded to Process Engineering Technologies Pty Ltd. Pre-commencement documents accepted. Construction commenced February 2010.
CPA/172612 Construction of Hamlyn Terrace Community and Sporting Facility	\$8.3M	Apr 2010	3	4	Apr 2011	Site establishment and preliminary ecological works now well advanced.

## 6.4 General Works in Progress (contd)

Item Description	Est Cost	Start Date	% Spent	% Comp	Est Comp Date	Comments
CPA/159872 CPA/172606 CPA/172609 Surf Clubs Upgrade Works Needs Analysis & Concept/DA Designs - Investigation	\$150K	Mar 2009	99	99	Jun 2010	Final scope is subject to Federal Government grant funding with announcement expected May 2010. Design work undertaken by Andrews Neill.
CPA/159880 Construction of Manning Park Sewage Treatment Plant Inlet Works	\$1.5M	Jul 2009	70	85	Jun 2010	Contract awarded to Eire Contractors Pty Ltd. Works progressing. Expected completion June 2010.
CPA/160330 Upgrade to Floodlighting at Various Ovals in the Southern Region of Wyong Shire	\$432K	Feb 2010	30	50	Jun 2010	Contract awarded to Smada Electrical Services Pty Ltd. All light poles placed and cables laid at 4 ovals. Electrical switchboards being installed.
Design, Documentation and Investigative works for Streambank Rehabilitation of Ourimbah Creek and Wyong River	\$240K	Oct 2009	90	90	Jun 2010	Designs and REF's completed and Part 5 approvals sought for Ourimbah Creek and Wyong River Streambank Rehabilitation Projects.
CPA/160331 Upgrade to Floodlighting at Various Ovals in the Northern Region of Wyong Shire	\$737K	Feb 2010	80	70	Jun 2010	Contract awarded to Master Electrical Contractors Pty Ltd. Three of five ovals completed and operational. Currently installing floodlights at Watanobbi Oval.
CPA/160358 Project Management Services for the Clearing and Engineering Works Associated with Sub Division of Council land at Sparks Road Warnervale	\$95K	Mar 2009	60	58	Jul 2010	Contract let to Trehy Ingold Neate Pty Ltd. Vegetation clearing will start in June 2010. Target date for cleared land to be available for sale is July 2010. Consultancy value \$95K.



## 6.4

## General Works in Progress (contd)

Item Description	Est Cost	Start Date	% Spent	% Comp	Est Comp Date	Comments
CPA/160794 Construction of the Northern Section of the Link Road	Construction cost \$9.2M	Mar 2009	30	45	Nov 2010	Construction of road pavement by Robson Civil Projects Pty Ltd is heavily impacted by major replacement of 80 m of Hunter Link water trunk main. Issues to be resolved include placement of significant amounts of spoil.
CPA/164633 Excavation & Lining of Cell 4.2B at Buttonderry Waste Management Facility (BWMF)	\$6M	Oct 2009	85	85	Jul 2010	Tender for construction awarded to Robson Civil Projects Pty Ltd. Contract progressing on schedule. Extensions have occurred due to wet weather in February, March, April and May. Installation of cell lining system and drainage layer are well under way. Completion expected end June 2010
CPA/170570 – Toowoomb Bay Holiday Park Resort Pool	\$521K	April 2010	18	15	Sep 2010	Pool excavation and preparatory works complete, pool formwork and reinforcing now underway
CPA/171026 Installation of Subsoil Drainage at Halekulani, Killarney Vale and Kurraba Playing Fields	\$287K	Feb 2010	10	5	Nov 2010	This contract was awarded to Green Horticultural Group Pty Ltd. Commencement of field works has been deferred at no extra cost to coincide with the end of the winter sports season 2010 and minimise impact on sporting groups.

## 6.4 General Works in Progress (contd)

Item Description	Est Cost	Start Date	% Spent	% Comp	Est Comp Date	Comments
CPA/173286 (complete) CPA/181554 Remediation of Mardi Landfill – Design only	\$300K	N/A	15	5	Apr 2011 (Detailed design)	Expressions of Interest (EOI) for design (CPA/173286) closed in February. A panel of consultants for detailed design was selected from the EOI. Tenders for design (CPA/181554) are being prepared for invitation. Expected to report to Council in September 2010 for determination. Detailed design will follow.
CPA/177377 – Shelly Beach SLSC Documentation & CPA/177378 – Soldiers Beach SLSC Documentation	\$180K	Mar 2009	75	75	Jun 2010	Documentation for both new surf clubs now well advanced.
CPA/158361 Construction Work for Stormwater Treatment Works in Reach 2, Saltwater Creek	\$630K	May 2009	65	65	May 2013	Hunter Land Management has achieved the first funding milestone for works completed at 31 March 2010. Bush regeneration works continue.
Design, Documentation and Investigative works for Stormwater Treatment and Streambank Rehabilitation Projects (2009)- various	\$235K	Dec 2009	65	65	Jun 2010	First funding milestone for works completed at 31 March 2010 achieved. Part 5 Applications have been lodged with Council.
Design, Documentation and Investigative works for Stormwater Treatment Projects (2007) - various	\$100K	Dec 2009	65	65	Jul 2010	Part 5 Applications have been lodged with Council.
F2009/02444 Tunkuwallin (Oval to Primary School) Shared Pathway. (investigation, designs, approvals and construction)	\$170K	Nov 2009	5	40	Target Jun 2010	Environmental assessment approved, and contract awarded, with anticipated start last week of May. Completion by end of June anticipated.

Item Description	Est Cost	Start Date	% Spent	% Comp	Est Comp Date	Comments
F2008/02335 Colongra Bay Shared Pathway	\$200K	Nov 2009	3	30	Initial target Jun 2010  Revised Target Nov 2010	Survey and design complete. Delays in preparing REF and approvals due to work priorities mean anticipated completion now November 2010.
F2009/01909 Mannering Park Footpath – Cheryl St & Warwick Ave Shared Pathway – reserve	\$140K (previous \$105K)	Sep 2009	60	80	Target Jun 2010	Construction of 1.2m wide path in Warwick Ave (160m) and 80m in Cheryl St complete. Environmental assessment for remaining section in reserve approved. Anticipate start (using in-house resources) early June, with completion by 30 June.
F2009/02299 Investigations for Osborne Pk shared pathway, Toukley.	\$50K	Nov 2009	30	25	Approvals only required by Jun 2010	Surveys complete. Environmental assessment underway. Approvals only sought by June 2010. On track.
F2009/02359 F2008/01716 Killarney East shared pathway.	\$51K (RTA)	Jun 2008	25	30	Jun 2010	Approvals received and work started. Expect completion of three bridges by end May 2010.

CONTRACTS STILL IN DEFECTS LIABILITY PERIOD			
Contract No	Contract Description	Contract Status	% Completed
CPA/152870	Buttonderry Waste Management Facility Entry Upgrade Works	Practical Completion - Three Portions of the Contract: Portion 1 – 17 September 2009 Portion 2 – 31 October 2009 Portion 3 – 12 November 2009	Portion 1–70 Portion 2-60 Portion 3- 50
CPA/117144	Toukley Reclaimed Effluent WTP Augmentation Works	Practical Completion 20 August 2009	80
CPA/140816	The Entrance Community Facility Stage 2 – Construction	Practical completion 24 April 2009. Defects liability period expired 24 April 2010. Final sundry defects currently being addressed by contractor. Final account yet to be finalised	100

## 6.4 General Works in Progress (contd)

CPA/137264 to CPA/144340 Design, Documentation and Investigative work for Stormwater Treatment Works in Saltwater Creek	Design, Documentation and Construction work for Stormwater Treatment Works in Saltwater Creek	Practical Completion Construction Contracts: Reach 11 – 24 August 2009 Reach 10 – 30 June 2009 Reach 9 – 22 April 2009 Reach 4 – 31 July 2009 Reach 1 – 24 August 2009	95
CPA/157278	Replacement of 600 metre length of 250mm water main – McDonagh Rd	Practical completion 22 January 2010	40
CPA/153765 to CPA/153784	Year 3 Upgrade Works to all Holiday Parks	Practical Completion for all contracts was approx 30 September 2009.	67

### ATTACHMENTS

*Nil.*

## 6.5 Works in Progress Report - Water Supply and Sewerage

TRIM REFERENCE: F2004/07830 - D02244238

AUTHOR: VT

### SUMMARY

Water supply and sewerage works in progress and completed for June 2010.

### RECOMMENDATION

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

### WATER SUPPLY

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

Item Description	Est Cost \$	Start Date	% Spent	% Comp	Est Comp Date	Comments
Tumbi Umbi Rd, Tumbi Umbi	50,000	31/5/10	5	5	30/6/10	<p>Work has commenced to replace and lower approximately 16 water services as part of road resurfacing works for Roads and Drainage.</p> <p>The work is being funded by Roads and Drainage Capital Works Program.</p> <p>All works are to be completed by June 2010.</p>
Toowoan Bay, Budgewoi, Canton Beach, Norah Head Caravan Parks	6,000	31/5/10	5	10	30/6/10	<p>Hydrant maintenance works for Caravan Parks at various locations.</p> <p>The work is being funded by Water and Sewerage Operations and Maintenance Program.</p>

Item Description	Est Cost \$	Start Date	% Spent	% Comp	Est Comp Date	Comments
Toowoon Bay Rd, Nirvana St & Archbold Rd Long Jetty	200,000	8/2/10	55	60	30/6/10	<p>Work is under way to divert the 375mm water trunk main over a stormwater box culvert as part of the intersection upgrade for Roads and Drainage.</p> <p>The work completed to date included relocating a 100mm water main and replacing various fittings and water services.</p> <p>The work is being partly funded by Water and Sewerage Capital Works Program (fitting replacements) and Roads and Drainage Capital Works Program.</p> <p>All works to be completed by June 2010.</p>
Perouse Ave & Eyre Cres, San Remo	40,000	19/4/10	68	98	31/5/10	<p>The relocation of a 100mm diameter water main and the lowering of a number of water services is completed.</p> <p>Works have been delayed by an additional week due to wet weather. The remaining work includes the removal of a stop valve and final restoration works.</p> <p>The work is being jointly funded by Water &amp; Sewerage and Roads &amp; Drainage Capital Works Program and is in aid of drainage upgrade works.</p>

**SEWERAGE**

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

Location	Est Cost \$	Start Date	% Spent	% Comp	Est Comp Date	Comments
Kelsey Rd Noraville	250,000	15/3/10	92	85	31/5/10	<p>Work has been delayed by an additional 2 weeks due to wet weather, however is nearing completion. The remaining work includes minor alterations to the existing water main and final connections into the existing sewer rising main.</p> <p>The existing 300mm asbestos cement rising main is approximately 36 years old and is being replaced due to the outer layer of the pipe deteriorating. The pipe is half way through its design life.</p> <p>The work is being carried out by the Water and Sewerage day labour staff and is being funded from Water and Sewerage Capital Works Program.</p>
Killarney Vale Berkeley Vale Bateau Bay Long Jetty Lake Munmorah Blue Haven Budgewoi Gorokan	50,000	11/1/10	80	90	30/6/10	<p>Ongoing sewer main and manhole replacement and adjustment works are underway to improve system operations.</p> <p>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.</p> <p>This work is funded by the Water and Sewerage Operations and Maintenance Program.</p>

**PROCESS****Water Treatment**

All water produced by the Water Treatment Plant, for the period 1 to 23 June 2010 has met National Health and Medical Research Council Guidelines.

**Sewage Treatment**

All effluent discharged from the sewage treatment plants, for the period 1 to 23 June 2010 has met Environmental Protection Authority Licence requirements.

**WATER STORAGE**

<b>Monday, 14 June 2010</b>				
<b>STORAGES</b>				
<b>Storage</b>	<b>Capacity Full [MI]</b>	<b>Volume in Storage [MI]</b>	<b>Percent Full [%]</b>	<b>Storage Change over last Week</b>
Mangrove Dam	190000	53,184	28.0	Down 151 ML
Mardi Dam	7400	1,600	21.6	Down 20 ML
Mooney Dam	4600	3,391	73.7	Up 89 ML
<b>Total</b>	<b>202000</b>	<b>58,175</b>	<b>28.8</b>	<b>Down 82 ML</b>

**CURRENT WORKS:**

- Upgrade works essential for the long term secure operation of Mardi Dam and Central Coast water supply system are being undertaken. The works include the construction of a new intake tower, two pump stations and new pipelines at Mardi Dam.
- These works have been timed to coincide with the seasonal drop in the Mardi Dam. Levels will return to normal once the work is complete.
- The work is on schedule for the new outlet tower.

**STORAGE:**

- Total stored water volume has increased by 0.4% since last month. Mardi Dam storage level is being lowered for the construction of the new outlet tower. The lowering of the dam will be managed to optimise extraction from Wyong River.
- This day last year the volume stored as a percentage of total capacity was 3.4% higher.

**HUNTER TRANSFERS:**

- Hunter Water Corporation supplied 1.4ML last week keeping this years supply at 904 ML.
- Gosford/Wyong supplied 0ML to Hunter Water last week keeping this year's supply to 0ML.

**GROUND WATER BORES:**

- Groundwater Bores supplied 1.8ML last week increasing this years supply to 112ML



<b>WATER USAGE &amp; RAINFALL</b>				
<b>Period</b>	<b>Water Usage [MI]</b>	<b>Rainfall [mm]</b>		
		<b>Somersby WTP</b>	<b>Mardi WTP</b>	<b>Mangrove Dam</b>
Week to date	470	0	0	0
Previous week	469	110	87	62
Current week last year	466	0	0	0
This year to date	11,890	648	627	556
Same period last year	11,500	746	426	424

Week to date consumption was 470 ML, 0.9% more than the same week last year and 0.2% more than the previous week.

Consumption this year to date is 11,890 ML, 3.4% more than the same period last year.

Level 3 Water Consumption Target for the week ending Monday, 21 June 2010 is 513 ML

**ATTACHMENTS***Nil.*

## 6.6 Mardi to Mangrove Link Project Status

TRIM REFERENCE: F2010/00500 - D02257333

AUTHOR: CC

### SUMMARY

Report on status of Mardi to Mangrove Link Project.

### RECOMMENDATION

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

### PROJECT SCOPE

- Wyong River off-take structure and pumping station
- Wyong River to Mardi-Dam 2.1 kilometre pipeline
- Mardi-Mangrove transfer pumping station
- Mardi Dam to Mangrove Creek Dam 19 kilometre pipeline

### CURRENT STATUS

<b>Expenditure to date</b>	\$38.8m
<b>Project Estimate</b>	\$120.6m

### Construction Status

	<b>Scheduled Start</b>	<b>Scheduled Completion</b>	<b>% Work Complete</b>
Pre-construction – Management Plans & Approvals	4 January 2010	2 June 2010	100%
Work Package 1 – Wyong River Off-take	7 April 2010	14 January 2011	13%
Work Package 2 – Wyong River Pump Station	19 February 2010	16 January 2011	10%
Work Package 3 – Wyong Mardi Rising Main 3	16 February 2010	3 August 2010	5%
Work Package 4 – Wyong Mardi Inlet	6 May 2010	2 December 2010	10%
Work Package 6 – Mardi Mangrove Transfer Pump Station	21 June 2010	14 January 2011	2%
Work Package 7 – Mardi Mangrove Transfer Main	1 March 2010	12 January 2011	9%
Work Package 18 – Wyong Weir, Fishway & Gauging	4 August 2010	25 November 2010	
Commissioning	17 January 2011	19 April 2011	

**Key Dates**

	<b>Scheduled Completion</b>	<b>Actual Completion</b>	<b>Complete</b>
Review of Environmental Factors (REF) submitted	30 June 2009	30 June 2009	<input checked="" type="checkbox"/>
Call for Expressions of Interest (EOI)	9 July 2009	9 July 2009	<input checked="" type="checkbox"/>
EOI closes	30 July 2009	30 July 2009	<input checked="" type="checkbox"/>
Determination Approval	14 October 2009	23 September 2009	<input checked="" type="checkbox"/>
Issue Request for Tenders (RFT)	16 October 2009	16 October 2009	<input checked="" type="checkbox"/>
Tenders close	12 November 2009	12 November 2009	<input checked="" type="checkbox"/>
Council consider Award of Construction Contract	9 December 2009	9 December 2009	<input checked="" type="checkbox"/>
Expiry of PAN 90 day notification period	31 December 2009	31 December 2009	<input checked="" type="checkbox"/>
Minister/Governor determination of compulsory acquisition applications	27 January 2010	27 January 2010	<input checked="" type="checkbox"/>
Pipeline Construction	12 January 2011		<input type="checkbox"/>
Transfer Pump Station Construction	14 January 2011		<input type="checkbox"/>
Commissioning	19 April 2011		<input type="checkbox"/>
Project Completion	June 2011		<input type="checkbox"/>

**Land Matters**

- Individual Property Management Plans (PMP) are currently being prepared for each property and will include all items agreed between each landowner and Council. Forty seven (47) out of fifty five (55) PMPs have been finalised and agreed with property owners.
- Three (3) out of four (4) landowners whose easements were compulsory acquired have accepted their compensation offers (as determined by the Valuer General). This means these acquisitions will be shortly finalised without any appeals. A compensation offer was made to the remaining owner on 28 May based on the Valuer General's assessment.

**Stakeholder Liaison****Community**

- A media release was issued in relation to construction and traffic updates including lane closures in Yarramalong Road.
- Traffic updates continue to be given to local emergency services, schools and bus companies every week.
- Traffic updates are also uploaded on the Mardi-Mangrove Link (MML) Project pages of the GWCWA website and issued to the media.
- Traffic information has also been running in Councils' ShireWide News column every fortnight. General project information is also running in the Gosford Council news column approximately once per month.
- Project information displays have been updated at three major local shopping centres

## 6.6 Mardi to Mangrove Link Project Status (contd)

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– Erina Fair, Westfield Tuggerah and Lake Haven.

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### Landholder

- Traffic updates were issued to landholders each week who have signed up to receive regular traffic updates. Other landholders have been invited to join this email list.
- A mailout was issued to landholders in relation to general construction issues and traffic management issues including lane closures in Yarramalong Road.
- Direct landholder liaison is continuing as required.

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### Government

- A mailout was issued to all local MPs in relation to general construction issues and traffic management issues.

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### Incidents

- There have been no OH&S or environmental incidents during the last reporting period.

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### Major Achievements / Issues

- Approximately 400m of pipe for Work Package 7, Mardi Mangrove Transfer Main, has been laid as of 15 June. Two pipe laying crews are currently working with a third crew expected to be established shortly.
- Work is continuing on the new Mardi Dam inlet structure located at the saddle dam (northern end of the Mardi Dam facility). The gabion mattress base to the inlet pipework is almost complete, and excavations have now started for the break tank.
- Sheet piling for the Wyong River off-take structure is complete.

### ATTACHMENTS

*Nil.*

## 6.7 Investments for May 2010

TRIM REFERENCE: f2004/06604 - D02258817

AUTHOR: HS

### SUMMARY

The following report details Council's investments as at 31 May 2010.

### RECOMMENDATION

*That Council receive the report on Investments for May 2010.*

### BACKGROUND

Conservative management of Wyong Shire Council's (WSC) investment portfolio throughout the last financial year provided a sound defence against the world financial crisis. The "hold to maturity" strategy adopt in 2008-2009 has proven to be appropriate and successful.

Investment in the ING managed fund has been largely redeemed due to fund closure, however WSC still has a significant holding in the Blackrock Care and Maintenance Fund, Macquarie Income Cash Plus fund, and LGFS Fixed Out-Performance Fund.

In 2009/10, recovery of capital value has occurred and is expected to continue for those managed fund assets still in Council's portfolio.

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

### CURRENT STATUS

In May 2010, the total net return was \$0.07 million consisting of interest earnings \$0.68 million and unrealised capital losses of \$0.61 million. Council's total investments as at May 2010 are summarised in Table 1 and detailed in Attachment 1.

**Table 1 Investment Portfolio by Risk Category**

	May 2010 \$ '000	Year-to-Date Returns		
		Total %	Interest Only \$ '000	Interest Only %
Cash at Call	12,192	4.78	810	4.78
Term Deposits	46,066	5.08	2,359	5.08
Cash Plus Funds	20	11.22	45	0.80
Cash Management Funds	19,852	9.97	1,333	6.37
Enhanced Income Funds	14,238	10.75	524	4.18
<b>Total Investments</b>	<b>92,368</b>	<b>7.05</b>	<b>5,071</b>	<b>4.94</b>

## 6.7 Investments for May 2010 (contd)

Year-to-date returns of 7.05% (total) reflect WSC's capital recovery and compare favourably with the year-to-date UBSA Bank Bill Index of 3.79%.

WSC's investments have regained \$2.16 million in value from the 2008-09 year end position – the recovery being equivalent to 54% of the paper losses in the previous financial year. Further substantial recovery through the 2009-2010 year is forecast based on the nature of assets retained in the managed funds portfolio.

Investment transactions and earnings during May 2010 are shown in Table 2 - Portfolio Performance.

**Table 2 Portfolio Performance**

	<b>July - Dec 2009 \$m</b>	<b>Jan - Mar 2010 \$m</b>	<b>April 2010 \$m</b>	<b>May 2010 \$m</b>	<b>Year to Date 2009-10 \$m</b>
<i>Movement in Assets</i>					
<b>Opening Balance</b>	<b>99.22</b>	<b>118.03</b>	<b>92.40</b>	<b>99.71</b>	<b>99.22</b>
Capital Gain/Loss – (see below)	1.86	0.69	0.22	-0.61	2.16
Net Cash/Investments( Withdrawals)	16.95	-26.32	7.09	-6.73	-9.01
<b>Closing Balance</b>	<b>118.03</b>	<b>92.40</b>	<b>99.71</b>	<b>92.37</b>	<b>92.37</b>
<i>Trading Position</i>					
Capital Gain/(Loss) Realised	-	-	-	-	-
Capital Gain/(Loss) Unrealised	1.86	0.69	0.22	-0.61	2.16
Interest Earnings	2.76	1.27	0.35	0.68	5.06
<b>Total Return for Period</b>	<b>4.62</b>	<b>1.96</b>	<b>0.57</b>	<b>0.07</b>	<b>7.22</b>

### Interest Returns

Interest returns (year to date) continue above original budget by \$0.85 million and \$0.4 million above revised budget, reflecting the general recovery of the financial markets. Application of these funds to new projects, however, is not recommended, since much of the benefit accrues to restricted funds such as water, sewer and section 94 developer contributions. As well, Council should continue to apply any favourability against realised capital losses.

Council's holdings in managed funds and the manner in which interest on these funds is distributed, makes it difficult to make precise predictions of future interest earnings. Global markets are not having a direct impact on WSC's investment quality, however if global confidence diminishes then there is the possibility of knock-on effects in local confidence.

Workcover require that Council deposit \$9.89m with TCorp. The return from this investment of 4.05% in May is below WSC's general investment rates achieved, however the alternative is a bank guarantee which will cost WSC more than the opportunity cost of the lower return. The interest rates on deposits in the month range from 5.85% to 6.50% and these rates all exceed the Union of Switzerland Australia (UBSA) Bank Bill Index for May which was 4.51%.

Banks operating in the domestic markets have suffered funding shortages over the past period, and this resulted in term deposits offered at premium rates. This situation is unlikely to continue indefinitely and in the months to come term deposit rates are expected to move downward to the benchmark.

**Table 3 Interest Only Performance at 31 May 2010**

<b>Investment Source</b>	<b>YTD Revised Budget \$ '000</b>	<b>YTD Actual \$ '000</b>	<b>Var. \$ '000</b>	<b>FYR Revised Budget \$'000</b>
General Fund	2,248	2,702	454	2,453
Water	1,294	987	(307)	1,412
Sewerage	1,128	1,382	254	1,231
<b>Total</b>	<b>4,670</b>	<b>5,071</b>	<b>401</b>	<b>5,096</b>

**Black Rock Care and Maintenance Fund**

The estimated return for the month of May is an overall loss of \$0.56 million. Total capital gains continue to be positive for the year to date being \$0.75 million.

Regular close monitoring of the status of this investment continues and, over time, the “hold to maturity” strategy is seeing positive gains as markets have improved.

**Aberdeen Cash Plus Fund**

At 1 July 2009 WSC’s holding was \$10.66 million and \$0.58 million has been the amount of capital gains since then. On 8 January 2009, Aberdeen declared the fund closed, and stated that it would be selling off the fund assets in an orderly fashion.

Under advice from CPG, as at April WSC had redeemed \$9.60m of the investment which reflected the sale (by Aberdeen) of the fund’s more liquid assets. The fund officially terminated in May with Council now retaining no holdings in the fund.

Our advisors will report to us the amount of any crystallised capital loss shortly, but it is expected that the amount will be less than \$0.20 million.

**LGFS Fixed Out-performance Cash Fund**

Council held \$12.19m in this fund at 31 May 2010. CPG has advised that the Local Government Superannuation Fund (LGFS) investment service is likely to suffer a downgrading in its credit rating, and recommended a reduction in WSC’s exposure to this institution. Accordingly, \$8.00 million was redeemed in early June bringing the total investment back to \$4.19 m. CPG recommend to continue a holding of not more than 5% of the total portfolio.

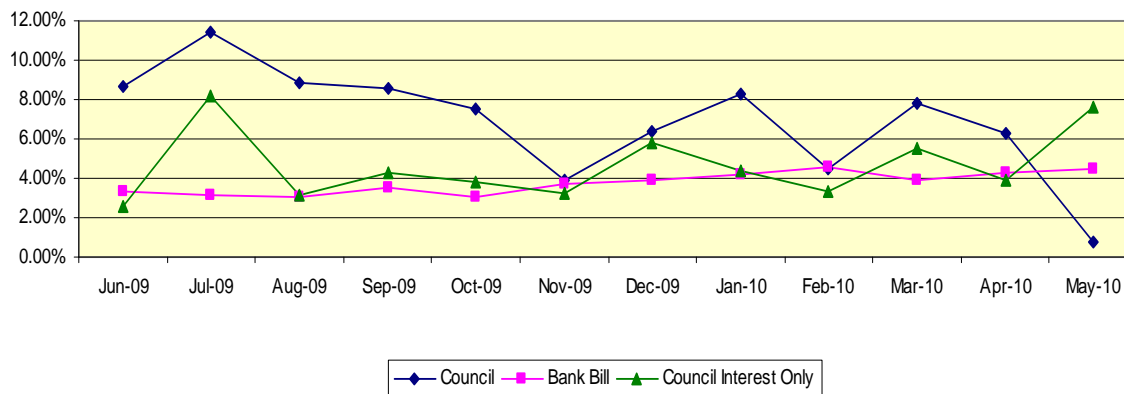
**Benchmark - Monthly Returns (Annualised)**

Council’s overall investment return is compared to the UBSA Bank Bill Index. This is a common benchmark used in Local Government and establishes a minimum performance level.

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

**Table 4 Monthly Annualised Returns (Interest and Capital Movements)**

**Portfolio Performance Comparison to UBSA Bank Bill Index**



**Council:** Council Total Return (Interest and Capital)  
**Bank Bill:** UBSA Bank Bill Index  
**Council Interest Only:** Council Interest Earnings

**INVESTMENT STATEMENT**

In accordance with the Local Government (General) Regulation 2005, Part 9, Division 5, Clause 212, it is certified that the investments held as at 31 May 2010 have been made in accordance with the Act, the Regulations and Council's Investment Policies.

**CONCLUSION**

Council has significantly reduced its holdings in managed funds and more reductions have been recommended by the advisor. The challenge now is to add value in a portfolio where there are significant legislative constraints on new acquisitions.

**ATTACHMENTS**

- 1 Summary of Investments by Type as at 31 May 2010 D02258828



**Wyong Shire Council**  
**Summary of Investments - By Type**  
**As at 31 May 2010**

FUND MANAGER	MATURITY	ESTIMATED PORTFOLIO BALANCE \$	ESTIMATED INCOME FOR MONTH \$	INTEREST RATES % p.a.
<b>CASH AT CALL:</b>				
ANZ High Yield Cash Account (AA)	Daily	12,191,776	44,028	
<b>Total Cash At Call</b>		<b>12,191,776</b>	<b>44,028</b>	
<b>TERM DEPOSITS &amp; BONDS</b>				
T-Corp (WorkCover NSW)	02/06/2010	9,896,000	34,040	4.05
Bank of Cyprus Term Depsoit	26/05/2010	-	20,836	5.85
NAB Term Deposit	05/07/2010	5,000,000	25,479	6.00
Bank of Qld Term Deposit	12/07/2010	5,000,000	26,753	6.30
SunCorp Term Deposit	19/07/2010	5,000,000	27,603	6.50
CitiBank Term Deposit	24/08/2010	5,000,000	26,668	6.28
BankWest Term Deposit	12/10/2010	5,000,000	25,479	6.00
SunCorp Term Deposit	26/11/2010	2,000,000	10,701	6.30
Bendigo/Adelaide Term Deposit	15/04/2011	5,000,000	27,178	6.40
Westpac Deposit Bond	24/09/2012	4,169,833	24,429	5.13
<b>Total Term Deposit &amp; Bonds:</b>		<b>46,065,833</b>	<b>249,166</b>	
<b>CASH PLUS:</b>				
Aberdeen Cash Plus Fund (A)	Liquidated - Fund Terminated May-10	-	12,566	
ING Enhanced (A)	To be liquidated - Fund Termination in Process.	20,657	4	
<b>Total Cash Plus</b>		<b>20,657</b>	<b>12,570</b>	
<b>CASH MANAGEMENT FUNDS:</b>				
BlackRock Care & Maintenance Fund	June 2015 (Estimate)	7,666,679	(227,213)	
LGFS Fixed Out-Performance Cash Fund (AA-f)	Open Ended	12,185,312	50,474	
<b>Total Cash Management Funds</b>		<b>19,851,991</b>	<b>(176,739)</b>	
<b>ENHANCED INCOME:</b>				
Macquarie Income Cash Plus (A)	Open Ended	14,237,892	(55,695)	
<b>Total Enhanced Income</b>		<b>14,237,892</b>	<b>(55,695)</b>	
<b>TOTAL</b>		<b>92,368,149</b>	<b>73,330</b>	

## **6.8 Update on the Formation of the Central Coast Water Corporation**

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TRIM REFERENCE: F2004/08792 - D02269747

AUTHOR: GM

### **SUMMARY**

This report updates Council on issues related to the formation of the Central Coast Water Corporation.

### **RECOMMENDATION**

*That Council note the report on the Update on the Formation of the Central Coast Water Corporation.*

### **BACKGROUND**

The *Central Coast Water Corporation (CCWC) Act 2006* was enacted in November 2006 to provide for the creation of an independent corporation jointly owned by Gosford City and Wyong Shire Councils to provide water, wastewater and drainage services to the residents of the Central Coast. The Central Coast Water Corporation would be governed by an independent board according to commercial, social and environmental objectives and be subject to an operating licence articulating levels of service.

As shareholders, the Councils would be entitled to a commercial return on their investment (dividend) based on the efficient and prudent operation of the business. The Councils' shareholding interest will be represented on the Board of Directors (One Director each) and the Councils as shareholders will also have input into the preparation of the annual Statement of Corporate Intent which establishes the Central Coast Water Corporation's commercial, social and environmental objectives.

Over the years there has been various discussions and correspondence between the two Councils and the Government on various matters that were of concern to the two Councils in relation to the formation of a water corporation under the *Central Coast Water Corporation (CCWC) Act 2006*.

These were discussed at a joint workshop of the two Councils held on 19 August 2009. Each Council held extraordinary meetings following the workshop and resolved that the *Central Coast Water Corporation Act 2006* be amended to:

- *Give the power to the Councils as to what assets would be transferred and when,*
- *That the Councils' status as water supply authorities should continue after the Water Corporation became a water authority under the Water Management Act 2000 for transitional arrangements, and*
- *That the decisions as to the status of the Councils as water authorities and their ceasing to be same be a decision made by the Councils.*

Wyang Shire Council resolved at its Extraordinary Meeting on 19 August 2009 as follows:

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

- 1 That Wyong and Gosford Councils approach the Minister for Water, The Hon Phillip Costa MP, with a request to make amendments to the Central Coast Water Corporation Act to provide for the proposed amendments in the Expert Advisor’s report.*
- 2 That subject to suitable amendments being made, the Councils proceed to take the necessary steps (as identified in section 7 of the Expert Advisor’s Report) to establish the Central Coast Water Corporation as per the following:*
  - a That Wyong and Gosford Councils develop with the assistance of the Department of Water and Energy and appropriate expert advisors, a detailed work program and milestones for the formation of the Corporation, the execution of the necessary due diligence investigations and the documentation for the formation of the Corporation including; Statements of Corporate Intent, Constitution, Shareholders agreement, Delegations from the Councils to the Corporation and any other documentation required to facilitate its establishment.*
  - b That the Councils second a suitable officer to manage the work program for the establishment and formation of the Corporation.*
  - c That the Mayors and General Managers of the two Councils meet with the Minister as soon as practicable to convey the decisions of the two Councils.*
- 3 In regard to the resolution of the United Services Union, the Mayors and General Managers take the issue to the meeting with State Minister for Water, The Hon Phillip Costa MP, and suggest that the Minister meet with the Unions.*

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

AGAINST: NIL.”

## REPORT

Gosford City and Wyong Shire Councils have reached agreement with the Minister for Water Utilities to amend the CCWC Act 2006 in accordance with the Resolutions of both Councils of 19 August 2009.

The amendments will provide the Councils with greater control over the transfer of Council assets and liabilities to the CCWC and the progression of the CCWC to water supply authority status. The amendments to be made to the Act are set out in a Memorandum of Understanding (MOU). The MOU provides for a 5 stage transition from the current operating status to an independently governed water supply authority.

The first or initial phase ("Phase 1") will involve the Councils delegating to the CCWC high level strategic planning and related functions akin to the functions currently performed by the Councils' Joint Water Authority.

Under the terms of the MOU, the Councils are required to prepare a cost benefit analysis within 15 months of the commencement of each phase. If the cost benefit analysis determines there is no net benefit in proceeding to the next phase Councils are not required to move to that next Phase. (Either Council can however refer the matter to an independent expert for review if one Council disagrees with the findings of the cost benefit analysis. The Minister does not however have the right under the MOU to challenge the findings of the cost benefit analysis.)

The proposed MOU was discussed at a joint workshop of the two Councils held on 18 March 2010 and the Councils each held extraordinary meetings following the workshop and Wyong Council resolved as follows:

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

*That Council authorise the Mayor to sign the Memorandum of Understanding, with a new consideration in clause 2.4 – the implications for the community involving community consultation.*

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

AGAINST: COUNCILLORS BEST AND EATON"

The MOU is yet to be signed by both Mayors and the Minister as the Minister's agreement is subject to Cabinet approval. Cabinet approval has not been given at this point. Following Cabinet approval it is expected that the amending Bill will be entered into Parliament during the 2010 Spring session.

The proposed amendments to the Legislation as set out in the MOU require the Councils to use their best endeavours to form the Central Coast Water Corporation within 90 days of the amended Act being passed in Parliament. Consequently before the commencement of the Corporation it will be necessary to undertake a number of activities to ensure that:

- The structure of the corporation will provide the greatest benefit to the shareholders
- The necessary legal instruments (specifically the Constitution of the Corporation and Shareholders Agreements) are prepared in accordance with the determined corporate structure
- Implementation of the transition arrangements to allow the formation of the Corporation.

There will be a period of time following the formation of the Corporation where it will not actually be operational in any real sense as it will need to appoint the Board of Directors, Chief Executive Officer (CEO) and any other staff as may be required to meet its objectives. Work can begin now however in determining the appropriate corporate structure in this early phase, what financing arrangements will be made in order for the corporation to operate and what arrangements need to be made with the Councils in regard to Service Level Agreements.

During Phase 1 of the Corporation's life, it will need to have a number of Service Level Agreements with the shareholding Councils to provide support services such as IT support, HR support etc. Also in order to move to the next phase, the Corporation needs to begin working through the agreed cost benefit analysis referred to in the MOU.

On 7 June 2010 the two General Managers held a meeting and agreed to form a Steering Committee to oversee the project. The Steering Committee would comprise the General Managers of both Councils and would oversee a Project Control Group comprising officers of both Councils. Reporting to the Project Control Group would also be a project team headed by a Project Manager seconded from either Gosford City or Wyong Shire Council/

The preliminary project scope of the project team is to determine the most appropriate governance, legal and financial frameworks to support the new Corporation. The adopted structure should provide the greatest benefit to the shareholders (Council representing the community). As such, part of the Charter of the project team will be to consider the effects of the Corporation's establishment on the two shareholding Councils.

In the event that there are competing benefits between financial, legal and governance the project team under the direction of the Project Control Group will prioritise these on a risk basis in order to finalise the governance and corporate structures. The initial tasks for the planning stage include:

- 1 Appointment of a Project Manager to liaise with core Council staff members from both Councils.
- 2 Establishing team member's roles and responsibilities.
- 3 Determining external resources (financial and legal expertise) required to assist with the preliminary work.
- 4 Undertake a Planning Workshop/s as part of the preliminary work to determine:
  - a Guiding principles on, financial, corporate structure, asset ownership, operational sewerage and drainage and interrelationships for the various phases
  - b Risks to Councils (financial, legal, social and probity)
  - c Skill gaps (additional resources needed to be utilised on the project team – accounting/ finance, legal, operational, Human Resource, IT, Asset Management, Communications, Property, administrative, Risk Management, probity)
  - d Other issues as determined by the project team.

- 5 Discussions with Unions and key staff representatives to discuss potential engagement frameworks for staff.

Once the guiding principles are established in the planning stage a wider project scope can be developed, a detailed project Management Plan prepared and the following work undertaken to form the Corporation, including but not limited to:

- 1 Development of documentation required for the Corporation's establishment including Constitution, shareholders agreements, delegations and licences.
- 2 Agreed strategy for valuing of assets when transferred and valuing of liabilities.
- 3 Staff transfer issues – how are two HR policies managed and is a new one developed for the new entity.
- 4 The appropriate use of support services for each Council. (Service Level Agreements with HR, IT, Payroll etc).
- 5 Undertaking, as may be required, the valuing of assets and valuing of liabilities.
- 6 Investigating possible commercial arrangements including risk.
- 7 What liabilities will be transferred, future workers compensation, annual leave liability etc
- 8 Branding as appropriate for the documentation and establishment arrangements of the Corporation
- 9 Investigation of customer service for inclusion in the establishment arrangements during the formation period

To progress the formation of the Corporation, the two Councils propose to call for expressions of interest for a Project Officer and to establish a Project Control Group. These officers will report to the Steering Committee comprising the General Managers of both Councils.

A range of Legal, financial and engineering advice will also be required during the formation of the corporation and it is proposed to obtain expressions of interest from suitably qualified consultants who can assist in the project.

Additional Council staff will be required to provide support and information to the Project Officer in regard to the impacts in areas such as IT, HR, finance and communications. These staff will be utilised on the project team as and when required.

The proposed structure is outlined in fig1 below.

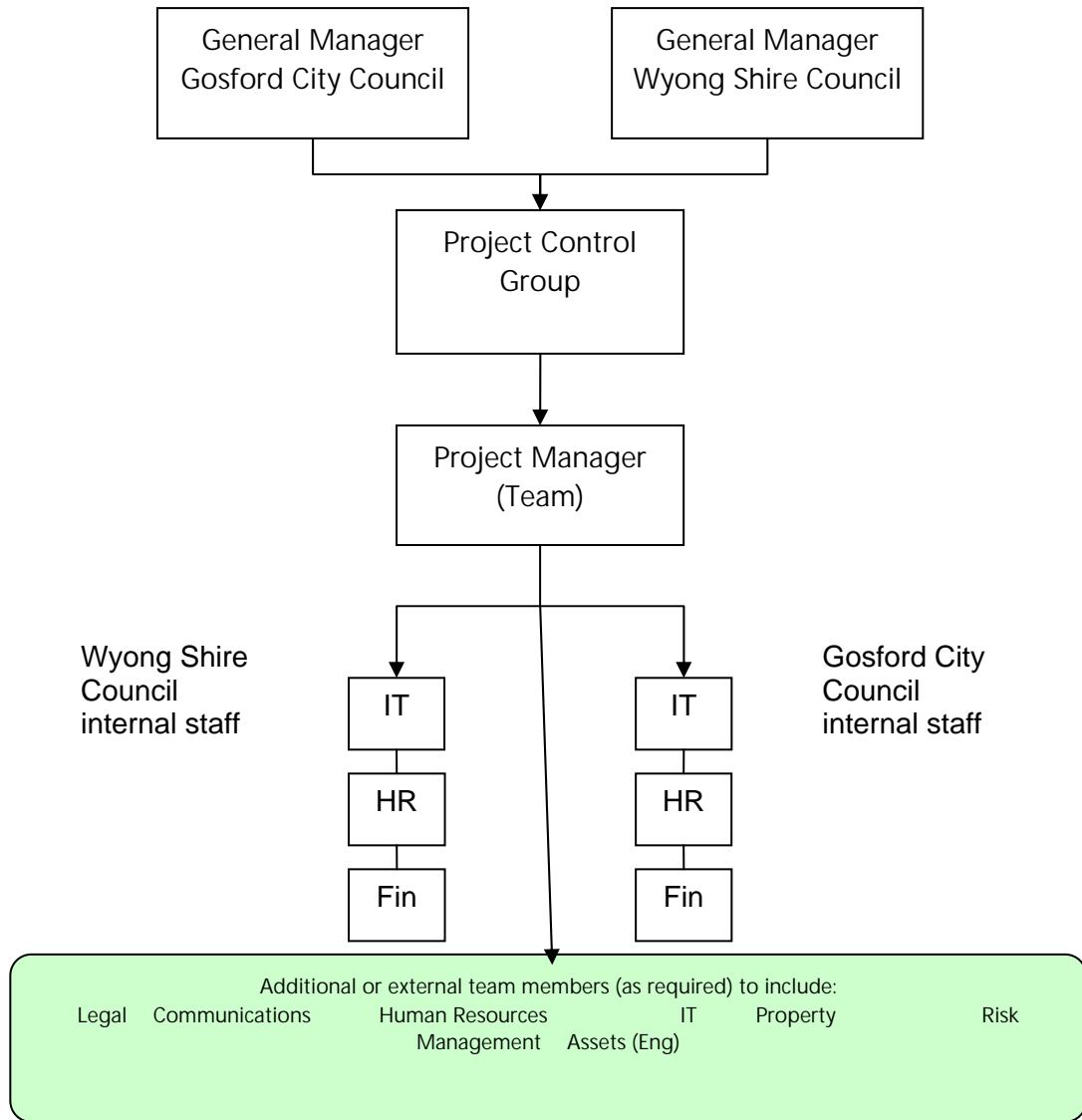


Fig1 – Proposed project staffing structure

A regular report will be provided to Councillors in regard to the development of the Central Coast Water Corporation and any issues that arise during its formation.

**FINANCIAL IMPACT STATEMENT**

Councillors will be advised of Financial Impacts as the project progresses. The appointment of a Project Manager to manage the process will be undertaken within the existing resources.

The two Council's have funds in their 2010/11 budgets; \$500,000 from each Council to undertake the necessary work to prepare the necessary documentation for the forming of the Corporation. This budget is for the initial expenses for the Project Manager and engagement of expert advisors. The two Councils will also provide in-kind support from staff in the specific areas of IT, Finance, HR, Engineering and Communications as required.

**ATTACHMENTS**

*Nil.*



## 6.9 Outstanding Questions Without Notice and Notices of Motion

TRIM REFERENCE: F2010/00009 - D02258839

AUTHOR: MR

### 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
Q78/10 Dredging of The Entrance Channel	Shire Services/Shire Planning	28 April 2010 Cr Best	A response will be submitted to Council during July 2010.
Q84/10 Tacoma Public School	Shire Services	26 May 2010 Cr Best	A response will be submitted to Council's meeting of 14 July 2010.

Notice of Motion	Department	Meeting Resolved	Status
326 - National Natural Disaster Funding	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 sent to the LGA requesting coastal erosion and risk management issues to be included in future funding. No response received.  A report will be submitted to Council once the project plan for the Coastline Management Plan has been finalised.

## 6.9 Outstanding Questions Without Notice and Notices of Motion (contd)

Notice of Motion	Department	Meeting Resolved	Status
298 – The Long Jetty Commercial Options Initiative	Shire Planning	25 June 2008 Cr Best / Cr Eaton	Currently preparing the project Management documentation to initiate the commencement of the project for masterplanning the Long Jetty Village Centre. This project will consider the matters raised in Council's resolution. The Masterplan project is expected to commence in 2011/2012.
9.2 – Notice of Motion – Community Gardens	Shire Planning	22 July 2009 Cr Wynn / Cr Graham	A report will be prepared for Council's consideration once community consultation has been completed.  The draft Policy has been incorporated within the Legal and Policy Unit Work Program to be developed in the third quarter of 2009-10.
8.1 - Notice of Motion – Energy Reduction Targets	Shire Planning	9 September 2009 Cr Wynn / Cr Best	This report has not been finalised due to other earlier priorities such as Climate Change requiring an additional resource. A secondment from Shire Services has now commenced.  A draft report has been prepared, however taking into account the broad range of issues that effect energy usage and energy reduction, the report is being rewritten to canvass a broader range of options than requested in Council's resolution. The report will be finalised in July.
8.4 - Notice of Motion – Proposed Additional Development Policy	Shire Planning	11 November 2009 Cr Best / Cr Webster	The drafting of this policy has been placed on Legal and Policy Works program for 2010/2011. Commencement of drafting this policy will occur when current projects are completed.
5.1 - Notice of Motion – Planning Disputes Mediation Process Trial	Shire Planning	10 February 2010  Cr Eaton / Cr Graham	This item has been included in the Legal and Policy Works Program to be commenced mid 2010.

## 6.9 Outstanding Questions Without Notice and Notices of Motion (contd)

Notice of Motion	Department	Meeting Resolved	Status
5.2 - Notice of Motion – Elected Council Independent Legal Advisor	Shire Planning	10 February 2010  Cr Eaton / Cr Graham	This NOM has been superseded by the intended recruitment of a General Counsel.
10.1 – Notice of Motion – LDO Coal Chain Valley Bay Colliery	Shire Planning	10 March 2010  Cr Wynn / Cr Vincent	A letter has been issued to the LDO informing it of the Council resolution.  A letter was forwarded to Department of Planning in relation to Resolution 4.  To address Resolution 5, an audit and assessment of roads impacted by the proposal has been completed. Impact considered to be negligible. Council will continue to monitor.  DOP have requested an Adequacy Review be undertaken by Council. A letter of response has been prepared incorporating Council's comments.
10.5 - Notice of Motion – Traffic Gridlock San Remo	Shire Planning	10 March 2010  Cr Matthews / Cr Vincent	A letter has been issued to the RTA.  A report will be forwarded to Council once a response has been received from the RTA.
9.4 - Notice of Motion – Costs of the Survey and Preliminary Design to the Entry Road and Intersection at Warnervale Town Centre	Shire Planning	24 March 2010  Cr Graham / Cr Vincent	Ongoing discussions being held with all relevant stakeholders to facilitate cost of survey and preliminary designs to Warnervale Town Centre.
8.1 - Notice of Motion – Bike Racks on buses	Shire Planning	14 April 2010 Cr Best / Cr Wynn	A report will be submitted to Council in July 2010.

## 6.9 Outstanding Questions Without Notice and Notices of Motion (contd)

Notice of Motion	Department	Meeting Resolved	Status
8.2 - Notice of Motion – Access to Council Information – Anywhere, Anyhow, Anytime	Corporate Services	14 April 2010 Cr McNamara / Cr Graham	A briefing has been scheduled for 23 June 2010. A report will be submitted to Council following the briefing.
8.4 - Notice of Motion – Public Access to Coast via Tuggerah Lakes Golf Course	Corporate Services	14 April 2010 Cr Eaton / Cr Best	A report will be prepared for Councils consideration once legal advice has been received.
7.1 Notice of Motion - Traffic Jams Priority List	Shire Planning	28 April 2010 Cr Eaton / Cr Best	A report will be submitted to Council in August 2010.
7.2 Notice of Motion – Shared Pathway (matching funds)	Shire Services	12 May 2010 Cr Wynn / Cr Vincent	In reference to Resolution 4, draft guidelines will be prepared for a briefing of Councillors in July with the aim to report the guidelines to Council in August 2010.
7.3 Notice of Motion – Proposed Closure – Tristram Close and Renee Close Laneway, Lakehaven	Shire Services	12 May 2010 Cr Best / Cr McNamara	Staff have initiated investigations. Actions to date include research into the purpose of the laneway and its existing condition, the mailout of a survey to residents, requests for information from NSW Police. Investigations are anticipated to be completed by the end of June 2010.
7.6 Notice of Motion – Warnervale Town Centre Viability	Shire Planning	12 May 2010 Cr Eaton / Cr Best	A report will be submitted to Council in August 2010.
9.1 Notice of Motion – Warnervale City project Team	Shire Planning	26 May 2010 Cr Best / Eaton	A report will be submitted to Council in July 2010.
9.4 Notice of Motion – Exhibition Period of Policies and Strategies	Shire Planning	26 May 2010 Cr Wynn/Eaton	A report will be submitted to Council in July 2010.
9.5 Notice of Motion – Community Twenty20 (T20) Cricket	Shire Services	26 May 2010 Cr McNamara/ Graham	A report will be submitted to Council's meeting of 14 July 2010.

## 6.9 Outstanding Questions Without Notice and Notices of Motion (contd)

Notice of Motion	Department	Meeting Resolved	Status
9.1 Notice of Motion – Department of Housing Expansion	Shire Planning	9 June 2010 Cr Best / Eaton	The Department of Housing has been contacted.
9.2 Notice of Motion – Installation of Disabled Beach Access at the Lakes Beach Surf Club	Shire Services	26 May 2010 Cr Vincent / Matthews	

### 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
Q081/10 Details of Council's Legal Costs over the Past Five Years	12 May 2010 Cr Best	Response included in this business paper.
Q082/10 Residential Suburb of the Minister for the Central Coast	12 May 2010 Cr Best	Response included in this business paper.
Q083/10 Library Cards	26 May 2010 Cr Matthews	Response included in this business paper.
9.3 - Notice of Motion - Review of All Boat Ramps with Lake Macquarie Frontage.	26 August 2009 Cr Symington / Cr Graham	A report on this item is included in this business paper.
9.1 Notice of Motion – Central Coast Tourism Annual Funding	26 May 2010 Cr Webster/Graham	A briefing has been scheduled for 23 June 2010. A report on this item is included in this business paper.

### ATTACHMENTS

*Nil.*

## **7.1 Answers to Question Without Notice**

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TRIM REFERENCE: F2004/00405 - D02256528 AUTHOR: KD

### **0.0 Q81/10 - Details of Council's Legal Costs over the Past Five Years**

The following question was asked by Councillor Best at the Ordinary Meeting on 12 May 2010

*Could you please provide information preferably in a bar graph format outlining Council's legal costs over the past five calendar years and as to why this Council has not seen the need to consider the appointment of an on staff legal counsel?"*

The table following indicates total legal costs for the past five (5) years. Included in the total are both costs of managing cases in the Land and Environment Court, actions where they occurred in the Supreme Court and the overall cost of obtaining legal advice. Local Court matters are not included.

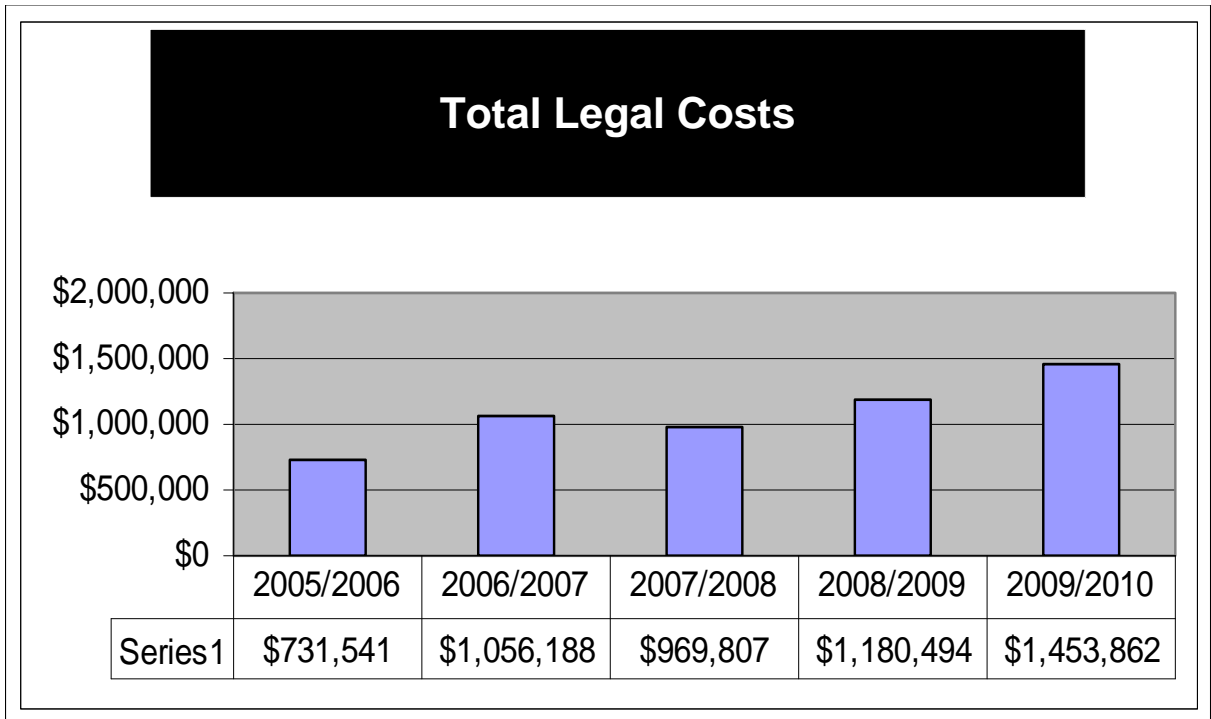
Whilst the table shows that overall legal costs have increased over the five (5) year period, the major contributing factor to this increase has been the impact of one-off significant legal cases such as Darcy Smith's Bateau Bay 2009 case and Neumann's 2010 case. In addition the need for a significant level of legal advice created by one-off large cost projects, namely the Mardi to Mangrove Pipeline Project and DECCW investigations has also contributed to the increased legal costs for 2009-2010.

However, on the positive side, Land and Environment Court costs in respect of planning appeals have declined significantly since a peak in 2006-2007. The reasons for this significant decline include:

- 1 Close case management of appeals and legal matters generally by way of the creation of a specific operational unit within Shire Planning to co-ordinate and manage legal advice and court action
- 2 Significant use of alternative dispute resolution techniques (mediation, negotiation etc) during the current financial year. (Note: 6 of 19 cases have been resolved to Council's satisfaction through mediation, 7 are the subject of ongoing mediation with an expectation that the matters will be resolved out of court, 5 have been either dismissed or withdrawn, and 1 was upheld (Darkinjung land claim at San Remo).
- 3 Down turn in development activity due to the Global Economic Crisis; and
- 4 Significant resource being directed to resolving development issues prior to determination of development applications.

Wyong Shire Council compares favourably when ranked against the ten highest Councils by total number of appeals in 2008/2009 (Local Development Performance Monitoring 2008-2009).

It was the decision of the former General Manager, in 2007, not to appoint an on-staff Solicitor.



**Note:** Does not include Local Court Matters

**ATTACHMENTS**

*Nil.*

## **7.2 Answers to Question Without Notice**

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TRIM REFERENCE: F2010/00500 - D02243742 AUTHOR: ED

### **7.2 Q82/10 - Residential Suburb of Minister for the Central Coast**

The following question was asked by Councillor Eaton at the Ordinary Meeting on 12 May 2010:

*“Could staff tell Council what suburb does the Minister for the Central Coast, the Hon Ian Macdonald come from / live?”.*

Despite one email and two telephone calls to Mr Macdonald's office, no response of any kind has been received.

Given Mr Macdonald's recent resignation as a Minister, no further action is proposed.

### **ATTACHMENTS**

*Nil.*



### **7.3 Answers to Question Without Notice**

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TRIM REFERENCE: F2004/11651 - D02258616 AUTHOR: JM

#### **7.3 Q83/10 - Library Cards**

The following question was asked by Councillor Matthews at the Ordinary Meeting on :

*“Could staff please explain why library cards expire if they are not used within a year?”*

Council's current library management system is set up to require all library cards to be re-registered every twelve months. The objective of this process is to ensure the integrity of the data in the library database. The registration process requires a check of the borrower's details to ascertain if any thing has changed such as address, telephone, or email address. Failure to re-register does not mean the card cannot be used or that the borrower will be deleted from the library database.

A resident's library membership is only deleted from the database when their card has not been used for a period of three years and the card has not been re-registered for at least twelve months.

The membership database is also used to calculate the percentage of the population who are active members of the library and is reported to the State Library of New South Wales. Data accuracy is maintained through this re-registration process.

#### **ATTACHMENTS**

*Nil.*

23 June 2010

To the Ordinary Meeting

Councillor

## **8.1 Notice of Motion - Water Corporation Impact Assessment**

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TRIM REFERENCE: F2004/08792 - D02267025

AUTHOR: DE; GB

Councillors Eaton and Best have given notice that at the Ordinary Meeting to be held on 23 June 2010 they will move the following Motion:

- "1 That Council prepare an internal impact assessment report on the impacts to Council arising from the formation of the proposed Central Coast Water Board and consequent loss by Council or its water authority status.*
- 2 That the impact assessment be reported to a Council meeting as soon as practicable."*