
WYONG SHIRE COUNCIL

REPORTS TO THE ORDINARY MEETING OF COUNCIL TO BE HELD IN THE COUNCIL CHAMBER, WYONG CIVIC CENTRE, HELY STREET, WYONG ON WEDNESDAY, 25 JULY 2007, COMMENCING AT 4.00 PM

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ORDINARY MEETING OF COUNCIL25 JULY 2007

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WYONG SHIRE COUNCIL

25 July 2007
To the Ordinary Meeting of Council

General Manager's Report

294 Disclosures of Interest

F2006/02282 MW: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 interests and reasons for declaring such interest in the matters under consideration by Council at this meeting.

WYONG SHIRE COUNCIL

25 July 2007
To the Ordinary Meeting of Council

General Manager's Report

295 Proposed Inspections

F2006/02282 MW:SW

SUMMARY

Inspections proposed to be held on Wednesday, 25 July 2007 and prior to the second Ordinary Meeting are listed as follows:

Date of Inspection	Location	Requested By
25 July 2007	Warrigal and Taylor St, The Entrance Road Reconstruction	Director Shire Services
25 July 2007	Bateau Bay Effluent Re-use Ultraviolet Disinfection System	Director Shire Services
25 July 2007	Upgrade to Lower River Transfer System at Mardi	Director Shire Services
25 July 2007	Mardi Dam New Outlet Structure and High Lift Pump Station.	Director Shire Services
25 July 2007	Blue Bell Park, Berkeley Vale	Director Shire Services
25 July 2007	Development Application 3 Bald Street, Noraville	Director Shire Planning
25 July 2007	Road reconstruction Bald Street, Noraville	Director Shire Services

RECOMMENDATION

That the report on inspections to be conducted on Wednesday, 25 July 2007 be received and the information noted.

WYONG SHIRE COUNCIL

25 July 2007
To the Ordinary Meeting of Council

General Manager's Report

296 Proposed Briefings

F2006/02282 MW:SW

SUMMARY

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

RECOMMENDATION

That the report be received and the information noted.

Date	Briefing	Description	Time	Presented by
1 August 2007	Workshop	Various Issues	12.00 noon – 6.00pm	General Manager

25 July 2007
To the Ordinary Meeting of Council

General Manager's Report

297 Address by Invited Speakers

F2006/02282 MW:SW

SUMMARY

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

RECOMMENDATION

- 1** *That the report on Invited Speakers be received and the information noted.*
- 2** *That, should speakers be present at the meeting, standing orders be varied to allow each item to be dealt with following the speaker's address.*

WYONG SHIRE COUNCIL

25 July 2007
To the Ordinary Meeting of Council

General Manager's Report

298 Notice of Intention to Deal With Matters in Confidential Session

F2006/02282 MW:SW

SUMMARY

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

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

RECOMMENDATION

- 1 *That pursuant to Section 10A(2)(g) of the Local Government Act, 1993, the following report be dealt with in Confidential Session:***

W011 – Cabbage Tree Harbour Landslip
- 2 *That the reason for dealing with Report No W011 confidentially is that it contains advice concerning litigation, or advice that would otherwise be privileged from production in legal proceedings on the ground of legal professional privilege.***
- 3 *That, in accordance with the Council resolution, the General Manager will report on this matter to the meeting in Confidential Session.***

25 July 2007
To the Ordinary Meeting of Council

General Manager's Report

299 Confirmation of Minutes of Previous Meeting

F2006/02282 MW:SW

SUMMARY

Confirmation of minutes of the previous Ordinary Meeting of Council held on 11 July 2007.

RECOMMENDATION

That the minutes of the previous Ordinary Meeting of Council held on 11 July 2007 be received and confirmed.

WYONG SHIRE COUNCIL
MINUTES OF THE
ORDINARY MEETING OF COUNCIL
HELD IN THE COUNCIL CHAMBER
WYONG CIVIC CENTRE, HELY STREET, WYONG
ON WEDNESDAY, 11 JULY 2007,
COMMENCING AT 4.03 PM

PRESENT

COUNCILLORS R L GRAHAM (CHAIRPERSON), G P BEST, D J EATON, K M FORSTER, N T ROSE, R C STEVENS, C W VEUGEN AND W J WELHAM.

IN ATTENDANCE

GENERAL MANAGER, DIRECTOR SHIRE SERVICES (ARRIVED 5.05 PM), DIRECTOR CORPORATE SERVICES, DIRECTOR SHIRE PLANNING, ACTING MANAGER DEVELOPMENT ASSESSMENT (ARRIVED 6.50 PM), ACTING MANAGER FUTURE PLANNING (ARRIVED 6.50 PM) AND AN ADMINISTRATION OFFICER.

THE MAYOR, COUNCILLOR R L GRAHAM, DECLARED THE MEETING OPEN AT 4.03 PM AND PASTOR JOHN BETTS DELIVERED THE OPENING PRAYER AT 6.50PM.

APOLOGIES

APOLOGIES FOR THE INABILITY TO ATTEND THE MEETING WERE RECEIVED ON BEHALF OF COUNCILLORS PAVIER AND STEWART DUE TO ILLNESS.

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

That the apologies be accepted and leave of absence from the meeting be granted.

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

That standing orders be varied to enable confidential items to be considered.

AT THE COMMENCEMENT OF THE ORDINARY MEETING REPORT NO 279, WAS DEALT WITH FIRST THEN THE REMAINING REPORTS IN ORDER. HOWEVER FOR THE SAKE OF CLARITY THE REPORTS ARE RECORDED IN THEIR CORRECT AGENDA SEQUENCE.

Minutes of the Ordinary Meeting of Council held on 11 July 2007 (contd)

274 Disclosures of Interest

F2006/02282 ED:MR

277 PROPOSED BRIEFINGS

COUNCILLOR BEST DECLARED A NON-PECUNIARY INSIGNIFICANT CONFLICT OF INTEREST IN THE MATTER FOR THE REASON THAT HIS FAMILY HOLIDAYS IN COUNCIL OWNED PARKS MENTIONED IN REPORT 277 LEFT THE CHAMBER AT 6.56 PM, TOOK NO PART IN DISCUSSION, DID NOT VOTE AND RETURNED TO THE CHAMBER AT 6.59 PM.

COUNCILLOR BEST STATED:

"I CHOOSE NOT TO REMAIN IN THE CHAMBER AND NOT PARTICIPATE IN DISCUSSION AND NOT VOTE AS THE CONFLICT MAY INFLUENCE ME IN CARRYING OUT MY PUBLIC DUTY."

285 TOUKLEY GOLF CLUB – CONTRIBUTIONS TO CAPITAL COST

COUNCILLOR EATON DECLARED A NON-PECUNIARY INSIGNIFICANT CONFLICT OF INTEREST IN THE MATTER FOR THE REASON THAT HE IS A MEMBER OF TOUKLEY GOLF CLUB 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 NOT IN ANY DECISION MAKING POSITION IN THE CLUB."

285 TOUKLEY GOLF CLUB – CONTRIBUTIONS TO CAPITAL COST

COUNCILLOR ROSE DECLARED A NON-PECUNIARY INSIGNIFICANT CONFLICT OF INTEREST IN THE MATTER FOR THE REASON THAT HE IS A MEMBER OF TOUKLEY GOLF CLUB AND PARTICIPATED IN CONSIDERATION OF THIS MATTER.

COUNCILLOR ROSE 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 MEMBER OF TOUKLEY GOLF CLUB BUT DO NOT HOLD ANY MANAGEMENT POSITIONS."

286 ADDITIONAL FEES AND CHARGES

COUNCILLOR FORSTER DECLARED A NON-PECUNIARY SIGNIFICANT CONFLICT OF INTEREST IN THE MATTER FOR THE REASON THAT A FAMILY MEMBER HOLDS AN EXECUTIVE POSITION WITH THE KILLARNEY VALE AFL CLUB LEFT THE CHAMBER AT 7.22 PM, TOOK NO PART IN DISCUSSION, DID NOT VOTE AND RETURNED TO THE CHAMBER AT 7.23 PM.

Minutes of the Ordinary Meeting of Council held on 11 July 2007 (contd)

288 PROPOSED COUNCILLORS' COMMUNITY IMPROVEMENT GRANTS

COUNCILLOR WELHAM DECLARED A NON-PECUNIARY INSIGNIFICANT CONFLICT OF INTEREST IN THE MATTER FOR THE REASON THAT HE IS A PATRON OF TOUKLEY SWIMMING CLUB AND PARTICIPATED IN CONSIDERATION OF THIS MATTER.

COUNCILLOR WELHAM STATED:

"I CHOOSE TO REMAIN IN THE CHAMBER AND PARTICIPATE IN DISCUSSION AND VOTING AS THE CONFLICT HAS NOT INFLUENCED ME IN CARRYING OUT MY PUBLIC DUTY BECAUSE I AM NOT AN EXECUTIVE MEMBER OF THE CLUB AND HAVE NO INVOLVEMENT IN THE RUNNING OF THE CLUB."

RESOLVED unanimously on the motion of Councillor FORSTER and seconded by Councillor STEVENS:

That the report be received and advice of disclosures noted.

276 Proposed Inspections

F2006/02282 ED:MR

RESOLVED unanimously on the motion of Councillor WELHAM and seconded by Councillor STEVENS:

That the report on inspections to be conducted on Wednesday, 25 July 2007 be received and the information noted.

277 Proposed Briefings

F2006/02282 ED:MR

COUNCILLOR BEST DECLARED A NON-PECUNIARY INSIGNIFICANT CONFLICT OF INTEREST IN THE MATTER FOR THE REASON THAT HIS FAMILY HOLIDAYS IN COUNCIL OWNED PARKS MENTIONED IN REPORT 277 LEFT THE CHAMBER AT 6.56 PM, TOOK NO PART IN DISCUSSION, DID NOT VOTE AND RETURNED TO THE CHAMBER AT 6.59 PM.

COUNCILLOR BEST STATED:

"I CHOOSE NOT TO REMAIN IN THE CHAMBER AND NOT PARTICIPATE IN DISCUSSION AND NOT VOTE AS THE CONFLICT MAY INFLUENCE ME IN CARRYING OUT MY PUBLIC DUTY."

Minutes of the Ordinary Meeting of Council held on 11 July 2007 (contd)

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

- 1 *That the report be received and the information noted.*
- 2 *That staff seek an independent financial report on upgrading of the Holiday Parks.*

IN ACCORDANCE WITH CLAUSE 20 OF COUNCIL'S CODE OF MEETING PRACTICE, THE MAYOR RULED THE MOTION OUT OF ORDER.

RESOLVED on the motion of Councillor WELHAM and seconded by Councillor FORSTER:

That the report be received and the information noted.

FOR: COUNCILLORS FORSTER, GRAHAM, ROSE, STEVENS, VEUGEN AND WELHAM

AGAINST: COUNCILLOR EATON

278 Address by Invited Speakers

F2006/02282 ED:MR

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

That the report on Invited Speakers be received and the information noted.

279 Notice of Intention to Deal With Matters in Confidential Session

F2006/02282 ED:MR

COUNCILLOR BEST LEFT THE CHAMBER AT 4.17 PM AND RETURNED TO THE CHAMBER AT 4.18 PM DURING CONSIDERATION OF THIS ITEM.

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

- 1 *That pursuant to Section 10A(2)(g) of the Local Government Act, 1993, the following report be dealt with in Confidential Session:*

*W009 - Life Saving Facilities and Services at Magenta Beach, North Entrance
W010 - Cabbage Tree Harbour Landslip*

Minutes of the Ordinary Meeting of Council held on 11 July 2007 (contd)

- 2 *That the reason for dealing with Report No W009 – Life Saving Facilities and Services at Magenta Beach, North Entrance and Report No W010 - Cabbage Tree Harbour Landslip confidentially is that they contain advice concerning potential litigation, or advice that would otherwise be privileged from production in legal proceedings on the ground of legal professional privilege.*
- 3 *That, in accordance with the Council resolution, the General Manager will report on this matter to the meeting in Confidential Session.*
- 4 *That Council convene a without prejudice open forum with residents of Cabbage Tree Harbour.*

An AMENDMENT was MOVED by Councillor ROSE and SECONDED by Councillor FORSTER:

- 1 *That pursuant to Section 10A(2)(g) of the Local Government Act, 1993, the following report be dealt with in Confidential Session:*

W009 - Life Saving Facilities and Services at Magenta Beach, North Entrance
W010 - Cabbage Tree Harbour Landslip
- 2 *That the reason for dealing with Report No W009 – Life Saving Facilities and Services at Magenta Beach, North Entrance and Report No W010 - Cabbage Tree Harbour Landslip confidentially is that they contain advice concerning potential litigation, or advice that would otherwise be privileged from production in legal proceedings on the ground of legal professional privilege.*
- 3 *That, in accordance with the Council resolution, the General Manager will report on this matter to the meeting in Confidential Session.*

The AMENDMENT was put to the vote and declared CARRIED.

FOR: COUNCILLORS FORSTER, GRAHAM, ROSE, STEVENS AND WELHAM.

AGAINST: COUNCILLORS BEST, EATON AND VEUGEN.

The AMENDMENT became the MOTION.

Minutes of the Ordinary Meeting of Council held on 11 July 2007 (contd)

RESOLVED on the motion of Councillor ROSE and seconded by Councillor FORSTER:

1 That pursuant to Section 10A(2)(g) of the Local Government Act, 1993, the following report be dealt with in Confidential Session:

W009 – Life Saving Facilities and Services at Magenta Beach, North Entrance

W010 - Cabbage Tree Harbour Landslip

2 That the reason for dealing with Report No W009 – Life Saving Facilities and Services at Magenta Beach, North Entrance and Report No W010 - Cabbage Tree Harbour Landslip confidentially is that they contain advice concerning potential litigation, or advice that would otherwise be privileged from production in legal proceedings on the ground of legal professional privilege.

3 That, in accordance with the Council resolution, the General Manager will report on this matter to the meeting in Confidential Session.

FOR: COUNCILLORS FORSTER, GRAHAM, ROSE, STEVENS AND WELHAM.

AGAINST: COUNCILLORS BEST, EATON AND VEUGEN.

OPEN SESSION

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

That Council resume in Open Session.

THE MEETING WAS AJOURNED AT 6.37 PM AND RESUMED AT 6.50 PM.

THE GENERAL MANAGER REPORTED ON PROCEEDINGS OF THE CONFIDENTIAL SESSION OF THE ORDINARY MEETING OF COUNCIL AS FOLLOWS:

**W009 Life Saving Facilities and Services at Magenta Beach,
North Entrance**

F2004/06257 GSM:CM

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

Minutes of the Ordinary Meeting of Council held on 11 July 2007 (contd)

- 1 *That Council continue negotiations with Mirvac to resolve the surf lifesaving equipment required to service Magenta Beach and arrange for the purchase and dedication of such equipment by Mirvac prior to the 2007/2008 surf lifesaving season and that a further report come back to Council following the negotiations.*
- 2 *That Council seek agreement from Mirvac to provide lifeguards at Magenta Beach. That prior to any trial period for the 2007/2008 season, Council formalise an agreement with Mirvac on details of the trial and the trigger for Mirvac to commence a permanent lifeguard service and the draft agreement be reported back to Council.*
- 3 *That Council staff prepare a development application for surf hazard signage to be erected within the road reserve of Magenta Drive and the application be referred to Council for determination.*
- 4 *That the wording on the surf hazard signage be as outlined in paragraph 6.1 of the legal advice dated 26 June 2007.*
- 5 *That Council staff issue a Notice of Intention under Section 121 of the Environmental Planning and Assessment Act, 1979 requiring the owner of the Principal Resort Building to comply with condition 67 of DA/3077/2004.*
- 6 *That Council subject to any granting of development consent referred to in point three above, erect signage as a matter of urgency.*

W010 Cabbage Tree Harbour Landslip

F2004/07782 GW

RESOLVED on the motion of Councillor WELHAM and seconded by Councillor ROSE:

- 1 *That staff prepare an urgent report and recommendation to the meeting of 25 July 2007 based on the legal advice received today and briefed to Councillors this evening and that part of this report include advice from State Wide Mutual Insurance on the recommendation proposed.*
- 2 *That the report also provide advice on holding a forum with the residents of this area.*

FOR: COUNCILLORS FORSTER, GRAHAM, ROSE, STEVENS AND WELHAM.

AGAINST: COUNCILLORS BEST, EATON AND VEUGEN.

Minutes of the Ordinary Meeting of Council held on 11 July 2007 (contd)

280 Confirmation of Minutes of Previous Meeting

F2006/02282 ED:MR

RESOLVED unanimously on the motion of Councillor STEVENS and seconded by Councillor FORSTER:

That the minutes of the previous Ordinary Meeting of Council held on 27 June 2007 be received and confirmed.

BUSINESS ARISING FROM THE MINUTES

THERE WAS NO BUSINESS ARISING FROM THE MINUTES.

281 Mayoral Minute – Performing Arts Centre Trust

F2004/09608

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

That a report be prepared by staff outlining the details of such a trust with identification of the appropriate resolutions by Council to proceed with the trust.

282 Notice of Motion – Cost of Installing a WIFI Hot Spot in The Entrance Mall Area

F2004/07982 DE:MR

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

That Council report on the cost, feasibility and advantages of installing a WIFI Hot Spot Zone in The Entrance Mall area, so tourists and locals can get their wireless internet connection.

Minutes of the Ordinary Meeting of Council held on 11 July 2007 (contd)

283 Notice of Motion – Stem Cell Research

F2004/06351 GB

This MOTION was WITHDRAWN by Councillor Best.

284 Draft Shire-Wide Contributions Plan

F2004/00558 PAB

It was MOVED by Councillor WELHAM and SECONDED by Councillor STEVENS:

- 1 *That in accordance with the provisions of Clause 31(1) of the Environmental Planning and Assessment Regulation 2000, Council approve the draft Contributions Plan for Shire-Wide Infrastructure, Services and Facilities.*
- 2 *That in accordance with the provisions of Clause 31(2) of the Environmental Planning and Assessment Regulation 2000, public notice be given of Council's decision to approve the Plan.*
- 3 *That all development applications lodged after the date of the public notice in the local newspaper be subject to the approved Contributions Plan.*
- 4 *That those parties who made submissions to the public exhibition of the draft Plan be informed of Council's decision.*

An AMENDMENT was MOVED by Councillor EATON and SECONDED by Councillor VEUGEN:

That this matter be deferred pending:

- a *advice from the State Government as to the level of their proposed infrastructure levy; and*
- b *report on revision existing section 94 district plans.*

The AMENDMENT was put to the VOTE and declared LOST.

FOR: COUNCILLORS BEST, EATON AND VEUGEN.

AGAINST: COUNCILLORS FORSTER, GRAHAM, ROSE, STEVENS AND WELHAM.

Minutes of the Ordinary Meeting of Council held on 11 July 2007 (contd)

The MOTION was put to the vote and declared CARRIED.

RESOLVED on the motion of Councillor WELHAM and seconded by Councillor STEVENS:

- 1 That in accordance with the provisions of Clause 31(1) of the Environmental Planning and Assessment Regulation 2000, Council approve the draft Contributions Plan for Shire-Wide Infrastructure, Services and Facilities.***
- 2 That in accordance with the provisions of Clause 31(2) of the Environmental Planning and Assessment Regulation 2000, public notice be given of Council's decision to approve the Plan.***
- 3 That all development applications lodged after the date of the public notice in the local newspaper be subject to the approved Contributions Plan.***
- 4 That those parties who made submissions to the public exhibition of the draft Plan be informed of Council's decision.***

FOR: COUNCILLORS FORSTER, GRAHAM, ROSE, STEVENS AND WELHAM.

AGAINST: COUNCILLORS BEST, EATON AND VEUGEN.

285 Toukley Golf Club – Contributions to Capital Cost

F2004/10902 CT

COUNCILLOR EATON DECLARED A NON-PECUNIARY INSIGNIFICANT CONFLICT OF INTEREST IN THE MATTER FOR THE REASON THAT HE IS A MEMBER OF TOUKLEY GOLF CLUB 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 NOT IN ANY DECISION MAKING POSITION IN THE CLUB."

COUNCILLOR ROSE DECLARED A NON-PECUNIARY INSIGNIFICANT CONFLICT OF INTEREST IN THE MATTER FOR THE REASON THAT HE IS A MEMBER OF TOUKLEY GOLF CLUB AND PARTICIPATED IN CONSIDERATION OF THIS MATTER.

COUNCILLOR ROSE 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 MEMBER OF TOUKLEY GOLF CLUB BUT DO NOT HOLD ANY MANAGEMENT POSITIONS."

Minutes of the Ordinary Meeting of Council held on 11 July 2007 (contd)

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

- 1 That the capital works contributions and the current water charge due by the Toukley Golf Club to Council be deferred for a period of 12 months from 1 August 2007, with the interest charges during the deferral being added to the outstanding loan balance.**
- 2 That Council authorise the General Manager to agree to an amended repayment schedule with Toukley Golf Club consistent with the original agreement.**

286 Additional Fees and Charges

F2006/02294 JK/SG

COUNCILLOR FORSTER DECLARED A NON-PECUNIARY SIGNIFICANT CONFLICT OF INTEREST IN THE MATTER FOR THE REASON THAT A FAMILY MEMBER HOLDS AN EXECUTIVE POSITION WITH THE KILLARNEY VALE AFL CLUB LEFT THE CHAMBER AT 7.22 PM, TOOK NO PART IN DISCUSSION, DID NOT VOTE AND RETURNED TO THE CHAMBER AT 7.23 PM.

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

- 1 That Council adopt the proposed changes to the schedule of Fees and Charges for 2007/2008 as described in the amended report after an exhibition period.**
- 2 That Council advertise the charges for a period of 28 days as per Section 610F and 705 of the Local Government Act 1993.**
- 3 That, subject to no objections, Council apply the proposed fees following the public notification period.**

287 Request to Write Off Sundry Debtor Accounts

F2004/06161 JT/CT

RESOLVED unanimously on the motion of Councillor ROSE and seconded by Councillor STEVENS:

That the total amount of \$36,361.05 be written off as an irrecoverable debt.

Minutes of the Ordinary Meeting of Council held on 11 July 2007 (contd)

288 Proposed Councillors' Community Improvement Grants

F2006/00788, F2007/00729 SG

COUNCILLOR WELHAM DECLARED A NON-PECUNIARY INSIGNIFICANT CONFLICT OF INTEREST IN THE MATTER FOR THE REASON THAT HE IS A PATRON OF TOUKLEY SWIMMING CLUB AND PARTICIPATED IN CONSIDERATION OF THIS MATTER.

COUNCILLOR WELHAM STATED:

"I CHOOSE TO REMAIN IN THE CHAMBER AND PARTICIPATE IN DISCUSSION AND VOTING AS THE CONFLICT HAS NOT INFLUENCED ME IN CARRYING OUT MY PUBLIC DUTY BECAUSE I AM NOT AN EXECUTIVE MEMBER OF THE CLUB AND HAVE NO INVOLVEMENT IN THE RUNNING OF THE CLUB."

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

- 1 That an amount of \$5,800 be allocated from the 2006/2007 Councillors' Community Improvement Grants as outlined in Attachment 1 of the amended report.***
- 2 That an amount of \$9,500 be allocated from the 2007/2008 Councillors' Community Improvement Grants as outlined in Attachment 2 of the amended report.***

289 Minutes of the Conduct Committee Meeting

F2004/06498 KY:LS

RESOLVED unanimously on the motion of Councillor FORSTER and seconded by Councillor WELHAM:

That the minutes of the Conduct Committee Meeting held on 6 June 2007 be received and the recommendations contained therein, adopted.

290 Information Reports

F2006/02282 ED:MR

RESOLVED unanimously on the motion of Councillor ROSE and seconded by Councillor STEVENS:

That the Information Reports of the Ordinary Meeting of Council be dealt with by the exception method.

Minutes of the Ordinary Meeting of Council held on 11 July 2007 (contd)

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

That the Information Reports and recommendations of the Ordinary Meeting of Council, be received and the information noted.

291 Schedule of Bank Balances and Investments – May 2007

F2004/06604 KF

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

That the report be received and the information noted.

**292 Minutes of the NSW Association of Mining Related Councils Inc
Mid Year General Meeting – 11 May 2007**

F2004/07245 MW

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

That the report be received and the information noted.

293 Outstanding Questions Without Notice and Notices of Motion

F2006/02282 MW:SW

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

That the report be received and the information noted.

QUESTIONS WITHOUT NOTICE ASKED

Q064 – Flood Damage to Chandlers Lane, Wyong Creek

Councillor Eaton

F2004/05305, F2007/00900

“Could staff report on flood damage to Chandlers Lane, Wyong Creek and any avenues available to fund repairs?”

Q065 – Recent Developments in relation to the Upgrading of the Pacific Highway through Wyong Township

Councillor Eaton

F2004/13054

“Can staff report on any recent developments in relation to the upgrading of the Pacific Highway through Wyong township?”

Q066 – Development Subdivisions in the Vicinity of Wadalba Hill South

Councillor Best

DA/501/2004/G, DA/796/2007, DA/864/2007

“Could a report be prepared on the timing and extent of development subdivisions in the vicinity of the Wadalba Hill South, Johns Road, Wadalba as I understand there are currently two development applications and one rezoning that Council officers are preparing as reports to Council?”

THERE BEING NO FURTHER BUSINESS, THE MEETING CLOSED AT 7.31 PM.

.....
CHAIRPERSON

WYONG SHIRE COUNCIL

25 July 2007
To the Ordinary Meeting of Council

300 Notice of Motion – Ourimbah Creek Environmental Flows

F2006/01040 MR

Councillor G P Best has given notice that at the Ordinary Meeting of Council to be held on Wednesday, 25 July 2007 he will move the following Motion:

“That staff report to Council in conjunction with our peak environmental groups on the impact to date on the near cessation of stream flows in Ourimbah Creek, below the weir, and prior to the recent storm events.”

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WYONG SHIRE COUNCIL

25 July 2007
To the Ordinary Meeting of Council

301 Notice of Rescission – Minutes of Gosford and Wyong Councils' Water Authority Board Meeting 20 June 2007

F2004/06808 ED

Council, at the Ordinary Meeting held on 27 June 2007, gave consideration to a report regarding Gosford and Wyong Council's Water Authority Board Meeting.

At that meeting, Council resolved as follows:

“That the minutes of the Gosford and Wyong Councils' Water Authority Board meeting held on 20 June 2007 be received and the recommendations contained therein, adopted.”

A Rescission Motion has been received from Councillors Graham, Forster and Stevens to be moved at the Ordinary Meeting of Council to be held on 25 July 2007, as follows:

“MOVE that the following resolution carried at the Ordinary Meeting of Council held on 27 June 2007 be rescinded:

“That the minutes of the Gosford and Wyong Councils' Water Authority Board meeting held on 20 June 2007 be received and the recommendations contained therein, adopted.

5.1 Drought Status Report:

- 1 *Councils' move into Level 3 Water Restrictions from July 9th 2007*
- 2 *The Board continue to review the Drought Status, including the timing of temporary desalination on a regular basis*
- 3 *The existing controls on water tanks be maintained.”*

Should the above Rescission Motion be carried, further notice is given that Councillors Graham, Forster and Stevens will move the following motion:

“MOVE

“That the decision to move from Level 4 water restrictions to Level 3 water restrictions be deferred pending further discussions with Gosford City Council.”

302 Proposed Four Storey Mixed-Use Building at East Toukley (Attachment 1)

Locality Plan



WYONG SHIRE COUNCIL

25 July 2007
To the Ordinary Meeting of Council

Director's Report
Shire Planning Department

302 Proposed Four Storey Mixed-Use Building at East Toukley

DA/2474/2005 DMD/WKW

SUMMARY

An application has been received for a four storey mixed use development at 356-358 Main Road, East Toukley. 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.

Applicant	Zaia Architects
Owner	Ms M and Mr R Gattellari
Application No	2474/2005
Description of Land	Lot 202 DP 543061 and Lots 22 and 23 DP 20636, Main Road, East Toukley
Proposed Development	Four Storey Mixed Use Development comprising 6 retail premises, 14 residential units and basement parking for 44 cars
Site Area	1726.23 m ²
Zoning	3(a) Business Centre and 5(c) Local Road Reservation
Existing Use	7 shops and associated outbuildings and carparking
Total Value	\$5,200,000

RECOMMENDATION

- 1** *That the application be referred to the General Manager for determination having regard to the matters for consideration detailed in Section 79C of the Environmental Planning and Assessment Act and other relevant issues with an indication that based on the information available to it, Council favours approval of the application subject to appropriate conditions.*
- 2** *That those who made submissions be advised of Council's decision.*

Proposed Four Storey Mixed-Use Building at East Toukley (contd)**EXECUTIVE SUMMARY**

The application is reported to Council for approval following a series of meetings with the Architect to resolve previous concerns with the bulk, scale and overall height of the original development. Amended plans have been prepared that substantially address these concerns by reducing the overall height of the development by 900 mm, reducing the amount of development on the upper floor and by altering vertical elements (solid blade walls) at the front of the development. The amended design presents as a three storey building from Main Road, with the fourth floor set well back from the front boundary, thereby ensuring that existing solar access is maintained to the southern footpath of Main Road. Amendments have also been made to improve the relationship of the development to the street and the interaction between the ground floor uses.

It is acknowledged that the type of development proposed is significantly different to the existing character of East Toukley. However, the amended plans seek to reduce the development to a three storey scale at the street boundary, with a recessed fourth storey.

There is no height limit applicable to the site and in the absence of planning guidelines or controls for the Toukley and East Toukley areas, the height and scale of the development is considered acceptable, with privacy and solar access maintained. The development is fully compliant with Council's current development controls for the site.

The final amended application has been readvertised with a total of 162 submissions received during the advertising period, followed by an additional 352 submissions by way of form letters after the notification period closed. These submissions, together with the 606 submissions received during the original notification period, raise issues of height, character, privacy and overshadowing. Form letters also raise objections to a proposed four storey development in Fravent Street, Toukley. It is Council's assessment that these issues have been addressed by the amendments to the architectural design. It is recognised, however that there is still significant community concern with the proposal.

INTRODUCTION**The Site**

The site is located on the northern side of Main Road, opposite Ray Street, within the East Toukley local centre. The site has a 48 metre frontage to Main Road and a depth of approximately 38 metres. Vehicles currently access rear parking and a servicing area via a driveway between two shops at the eastern end of the site.

Proposed Four Storey Mixed-Use Building at East Toukley (contd)

The Proposal

Consent is sought for the demolition of existing shops and construction of a four storey building with basement parking for 44 cars; six retail premises, communal open space, a loading dock and laneway/driveway at ground floor level; and fourteen residential units (5x1 bedroom, 8x2 bedroom and 1x3 bedroom) at first, second and third floor levels.

Vehicular access to the development will be via Main Road until such time as Bucks Lane is extended from Evans Road to the site. This will occur at the time the adjoining property is redeveloped as a requirement of any consent issued. A driveway along the eastern boundary and that section of the future lane located on the subject site will provide access to the rear loading dock and ramp to the basement carpark.

HISTORY

The owner of the site has been in discussions with Council for the past two years regarding potential redevelopment of the land, with various options and layouts put forward.

The current application was submitted in December 2005 and was referred to the SEPP 65 Design Review Panel in February 2006. The Panel recommended refusal of the application.

The applicant was requested to withdraw the application, given the SEPP 65 Panel's recommendation for refusal, objections raised by the Roads and Traffic Authority (RTA) and concerns with the design of the basement, access arrangements and lack of information regarding impacts on groundwater.

The applicant did not withdraw the application, instead meeting with senior staff to discuss the various issues with the proposal and how they might be addressed.

Amended plans were received in September 2006 and whilst addressing RTA and numerous other concerns, key design concerns remained unresolved and a draft report to Council was prepared. At this point, the applicant reconvened negotiations with Council, achieving a number of substantial amendments to the previous design as follows:

Bulk Height and Setbacks

- * An apartment has been deleted. This has allowed a large increase in the top floor setbacks to the Eastern and Western sides of the building. As a result of this adjustment, the bulk and scale of the building as a whole has been significantly reduced.
- * The height of the vehicular access has been reduced from 4.5m to 3.6m resulting in an overall building height which is generally 900mm lower than previously proposed.

Proposed Four Storey Mixed-Use Building at East Toukley (contd)

- * The Penthouse Apartment roof form has been changed from a skillion roof to a flat clerestory roof. This roof form provides a ceiling height of 4.2m with glazing on three sides, while the overall height of the roof from is approximately 600mm lower than the ridge line of the skillion. The flatter roof form provides a more subtle visual impact in the overall appearance of the building whilst maintaining consistency with other horizontal elements.
- * The appearance of the top floor in relation to Units 10 and 12 has been improved. These apartments have been opened up to the side boundaries with glazing and terrace areas providing enhanced amenity to the occupants and a much improved street address for the façades to the eastern and western sides of the building.

Communal Open Space

- * Two common open space areas are now provided at ground level and roof level, achieving compliance with Council's area requirements.

Treatment of the Footpath and Ground Floor Retail Uses

- * The vertical columns have been re-designed as a more skeletal built form. The walls have been provided with generous openings at ground floor to successfully connect the outdoor space associated with the retail premises.
- * The shops are now to be constructed at the same level as the footpath and are no longer separated by large vertical walls in response to the concerns of Council and the SEPP 65 Panel and to address the need for appropriate disabled access.

STATUTORY REQUIREMENTS**Integrated Development****Mine Subsidence Board**

The subject site is within a proclaimed Mine Subsidence District and the proposed development therefore requires approval from the Mine Subsidence Board [MSB]. After consideration of the proposal, the MSB has granted its conditional approval for the development. A condition of consent will ensure compliance with the requirements of the MSB.

Proposed Four Storey Mixed-Use Building at East Toukley (contd)

State Environmental Planning Policy No 65 – Design Quality of Residential Flat Buildings (SEPP 65)

The original application was referred to the Central Coast SEPP 65 Design Review Panel (the Panel) for consideration at its meeting of 15 February 2006. The Panel recommended refusal of the application based on the comments outlined below. The amended plans have not been considered by the Panel as they have been designed to address many of the concerns raised by the Panel and are considered a significant improvement on the previous proposal. Additionally, the Panel's primary concern was that of height, which Council believes has been satisfactorily addressed in the amended proposal.

“The Panel has determined to recommend refusal primarily based on the height issue.

Context:

- * *The four storey proposal as presented is considered to be excessive for the context of East Toukley as the existing and likely future development on the main road would tend not to support the height proposed.*
- * *The context of the site is also sensitive in that it forms a threshold between commercial and residential 2(a) to the rear. It is normal for such sites to be restricted in development to ensure the maintenance of existing adjoining residential amenity.*

Scale:

The East Toukley area displays a number of height precedents (including two buildings and predominant natural tree lines) which suggest that a two storey street frontage and a third floor that is set back would be more in keeping with the existing and likely future character.

Density:

The density of the residential component should be reduced to accommodate the modifications suggested and to ensure appropriate objectives for East Toukley are met.”

Applicant's Comments

The applicant responded to these issues by redesigning the development as outlined in the preceding discussion.

Proposed Four Storey Mixed-Use Building at East Toukley (contd)

Council Comments

Based on the content of the draft Toukley Planning Strategy (which recommends a height limit of three storeys in East Toukley but is yet to be finalised and adopted) Council agreed with the comments made by the Panel in terms of height, context and scale. The applicant was requested to reduce the height of the building to three storeys and reconsider the scale of the development having regard to the likely future character of the East Toukley commercial centre and the potential impacts on the single and double storey dwellings immediately to the north of the site.

In the absence of a height limit and having regard to the fact that the draft Toukley Planning Strategy is currently under review, with one of the main changes being considered by staff a potential increase in building heights along Main Road East Toukley, Council staff were willing to enter into discussions with the applicant regarding means of addressing Panel and Council concerns.

In response to these discussions, the applicant has reduced the overall height of the building and further set back the fourth storey. Whilst not reducing the number of storeys of the building, the reduced height and increased setbacks on the top floor result in a built form which is considered acceptable.

In reference to the Panel's concerns regarding the impacts of the proposed development on the 2(a) Residential land to the rear of the site, the following needs to be considered:

- * The properties are to the north of the development site, so the proposal has no overshadowing impacts on these properties;
- * The laneway at the rear of the site provides adequate distance between the proposed building and dwellings to the north to ensure privacy and amenity is maintained;
- * Whilst privacy has been raised as a concern by both the objectors and the Panel, the distance between the face of this development and the boundary of the lots zoned 2(a) to the north is more than 16.8m, (which is in excess of the total building separation distance required between residential flat buildings under the *Residential Flat Design Code* to achieve solar access, privacy and appropriate scale). This is considered to be a more than adequate separation distance.
- * Views from the north facing balconies are predominantly distant ones to the lake and possibly the ocean meaning that residents are unlikely to focus their attention in the immediate foreground.

Proposed Four Storey Mixed-Use Building at East Toukley (contd)

The draft Toukley Planning Strategy was placed on public exhibition in March 2006 and while not providing clear development guidance in the form of a DCP or policy document, it indicates the desired future character for this location and the form of development Council is likely to support in the future. In response to the strategy's objectives, the redesign has removed the barriers between the ground floor retail shops and the public footpath to recreate the current active and vibrant feel of the existing retail uses. The strategy encourages the use of upper floors for residential purposes, which this proposal achieves.

The extent of the development on the fourth floor has been reduced and will not be visible from the public street. The dominant vertical elements of the design (the vertical blade walls and the fire stairs) have been reworked by reducing their emphasis, to give a better contextual fit to existing two storey development.

"Built Form:

- * *Relocate the temporary driveway on the opposite side of the building. This would allow for half of the future lane way zone at the rear of the building to be deleted in favour of deep soil landscaped area.*
- * *It is strongly suggested that the common residential entry lobby be redesigned to be indented and recessive rather than projecting. This would allow the provision of a more generous entry foyer. It is also suggested that the entry foyer be connected to the rear common landscaped areas.*
- * *The Panel is concerned with the design of the shop fronts and terraced areas. These areas should be redesigned to be at the same level as the footpath and less divided by blade walls to provide more open and generous spaces."*

Applicant's Comments

- * The access driveway has been relocated to the eastern end of the site as recommended. The existing power pole will need to be relocated to accommodate this requirement. Council requires the laneway to be dedicated as public road and part of it cannot therefore be used as a landscaped area.
- * An internal access corridor has been provided linking the front foyer area to the rear of the building as recommended.

Council Comments

- * The relocation of the temporary driveway addresses RTA and Council concerns regarding access and is acceptable. The provision of a corridor from the entry foyer to the rear of the building is also acknowledged and will assist in activating the lane when it is constructed in the future. There is potential in the future that the retail shops could be reconfigured to front the laneway once it is constructed.

Proposed Four Storey Mixed-Use Building at East Toukley (contd)

- * The shops are now to be constructed at the same level, as the footpath is no longer separated by large vertical walls in response to Council and the Panel's concerns and to address disabled access and street activation.

"Resource Energy and Water Efficiency:

- * *The Panel acknowledges the substantial positive outcomes in this regard."*

Council Comments

The Applicant proposes retention (in 2 x 5,000 litre tanks) and reuse of rainwater in laundries and external taps and for the flushing of toilets in the communal areas. It is proposed to condition the development to incorporate the required reuse.

It is also acknowledged that all residential units achieve a 5 star energy efficiency rating, predominantly due to living areas and balconies having a northerly aspect.

"Landscape:

- * *Provide a row of closely spaced large species trees hard against the full length of the northern boundary to provide a foliage screen to the residential properties adjoining. Regardless of what happens with the laneway in the future the designated area should be landscaped now to provide a soft amenity for the residents.*
- * *The Panel questions whether the basement parking area should extend underneath the future lane. It would be preferable for the carpark to be reduced accordingly and to provide deep soil opportunity for the full width and length of the future lane."*

Applicant's Comments

- * Landscaped areas have been added to the rear of the site to allow deep screen planting between the subject site and the adjacent residential dwellings.
- * The rear communal landscaped area has been consolidated into one large space to improve the quality of this area. The space is separated visually from the laneway by landscaping to its northern periphery.
- * No change to the basement under the rear laneway.

Proposed Four Storey Mixed-Use Building at East Toukley (contd)

Council Comments

The amended design includes a row of screen trees along the rear of the laneway. The basement carpark has also been set back 1.5m from the common boundary to allow deep soil planting to improve the potential for these plantings to achieve maturity. The reduction in excavation away from the boundary will also increase the buffer between this development and the Norfolk Pine on the adjoining site.

- * Consolidation of the communal open space has improved its usability and amenity. Additional communal open space has also been provided on the top floor for use by all the residents.

“Amenity:

- * *The internal planning and vertical access arrangements require modification to avoid the proposed narrow corridor and to ensure natural light at the central lift stair location and at each end of the corridor.*
- * *Any future redesign should incorporate a fully integrated awning to provide pedestrian protection over the street.”*

Applicant's Comments

- * The Panel's comments on amenity of residents is ill informed and shows a lack of understanding of the layouts. A crossover type apartment is provided to *maximise* the amenity of the apartments, allowing both cross ventilation and solar access. The internal corridors are limited to egress corridors only and arise from the crossover arrangement.

Council Comments

The amended design includes a row of screen trees along the rear of the laneway. The basement carpark has also been set back 1.5m from the common boundary to allow deep soil planting to improve the potential for these plantings to achieve maturity. The reduction in excavation away from the boundary will also increase the buffer between this development and the Norfolk Pine on the adjoining site.

Consolidation of the communal open space has improved its usability and amenity. Additional communal open space has also been provided on the top floor for use by all the residents.

Proposed Four Storey Mixed-Use Building at East Toukley (contd)***“Amenity:***

- * *The internal planning and vertical access arrangements require modification to avoid the proposed narrow corridor and to ensure natural light at the central lift stair location and at each end of the corridor.*
- * *Any future redesign should incorporate a fully integrated awning to provide pedestrian protection over the street.”*

Applicant's Comments

- * The Panel's comments on amenity of residents is ill informed and shows a lack of understanding of the layouts. A crossover type apartment is provided to *maximise* the amenity of the apartments, allowing both cross ventilation and solar access. The internal corridors are limited to egress corridors only and arise from the crossover arrangement.
- * Awnings have been provided to outdoor courtyard areas to provide shade and wet weather cover to the public as they use the retail facilities. This arrangement is in keeping with the current shop design.

Council Comments

Due to the cross over nature of the majority of apartments, the corridor only occurs on level three. It is long on this floor, but given that it therefore does not rely on similar corridors on the remaining floors, it is considered an efficient use of space when the whole development is considered.

Awnings over the footpath would reduce the potential for the street trees proposed to reach maturity. As such, awnings will be provided over the outdoor area of the shop fronts, but not to the public footpath area.

“Comments to Council

The Panel is concerned regarding the future of East Toukley in that there does not seem to be any current development/urban design guidance. It is suggested that the necessary studies be undertaken to provide effective guidance on desired future character and appropriate development controls.”

Proposed Four Storey Mixed-Use Building at East Toukley (contd)

Council Comments

Council engaged a consultant to prepare the draft Toukley Planning Strategy in consultation with the local community. The draft Strategy was placed on public exhibition in March 2006 for a period of 10 weeks. Shortly after exhibition, the draft Central Coast Regional Strategy was released by the State Government, with Council directed to limit work on any local strategies that could be impacted in the regional strategy. As such, Council resources have been focused on responding to the adequacy and accuracy of the regional strategy and on ensuring other local strategies are consistent with this overriding strategy. As a result, the draft Toukley Planning Strategy is not consistent with the draft Regional Strategy. Completion of this planning document was deferred and no funds for its completion have been included in the 2007-2008 Management Plan.

The draft Toukley Planning Strategy identifies East Toukley as a distinct precinct and aims to maintain a "village (scale) character". A three storey height limit is recommended with the third level to be set back from the front building alignment to maintain a two storey "street wall".

An increased height limit (allowing a fourth level, provided it is 'room-in-roof') is one of the changes to the draft strategy being considered by Council staff. The amended plans for the proposed development incorporate a three storey street wall with a reduced fourth storey.

The plans and photo-montages clearly indicate that with the incorporation of the awning roof to the retail shops and the width of the pedestrian footpath, pedestrians at street level will only perceive the first three storeys of the development.

Nevertheless, it is acknowledged that the building proposed is a substantial departure from the scale and form of development that currently exists in East Toukley. On balance, however, the design is of high quality, results in little additional overshadowing over residential zoned land, privacy or view impacts or other environmental impacts and will add to the urban quality of the suburb.

Wyong Local Environmental Plan 1991 (Wyong LEP)

Clause 10 – Zone objectives and development control table

The subject site is zoned 3(a) Business Centre and 5(c) Local Road Reservation under Clause 10. The objectives of the 3(a) zone are:

- (a) *to provide for the primary opportunity for the development of retail and commercial activities that are appropriate to the character and needs of individual business centres within the retail hierarchy proposed by a development control plan prepared by the Council for the purpose, and*

Proposed Four Storey Mixed-Use Building at East Toukley (contd)

- (b) *to provide for higher intensity retail and commercial uses, while allowing for low intensity retail and commercial uses in other business zones, and*
- (c) *to enable the Council to provide more detailed guidelines about preferred retail distribution and development issues in a development control plan.*

The commercial component of the development is considered to be consistent with these aims (refer to comments under the heading *DCP 2005, Chapter 81 – Retail Centres* later in the report regarding the retail component of the development and how it fits within the East Toukley commercial centre).

The ground floor commercial component of the proposal is defined as a *Shop* while the residential component is defined as *Residential Flat Building* under Wyong LEP. Shops are a permissible use in the 3(a) Business Centre zone with development consent. Residential flat buildings are prohibited in the 3(a) zone, except where attached to other permitted buildings. The proposed residential flat building is attached to the ground floor shops and is therefore permissible.

Council is generally supportive of 'shop-top housing' within the 3(a) zone where the height and form of new development is compatible with the existing and envisaged future character of the area. In the absence of an adopted strategy that details the desired future character of the locality, Council must assess the development against the LEP zone objectives. It is Council's assessment that the development is consistent with the stated objectives.

The 5(c) zoned section of the site is identified on the plans as future laneway and a right of carriageway will be created over this section of the land to ensure its permanent use for access and servicing purposes. Registration of the right of carriageway achieves the same outcome as dedication of the future laneway and therefore complies with the objectives of this zone.

Clause 29 – Services

Services are already connected to the site and can adequately cater for the proposed development. A majority of stormwater is capable of draining to the street, with some stormwater proposed to be directed to the rear laneway. The appropriateness of this is discussed under the heading *Stormwater Management* in the *Relevant Issues* Section of the report.

Clause 42 – Floor space ratio

The subject site is zoned 3(a) and is within a local centre, as identified in DCP 2005, Chapter 81. As such, the 0.5:1 commercial floor space ratio applies to the commercial component of the proposed development.

Proposed Four Storey Mixed-Use Building at East Toukley (contd)

The site has an area of 1726.23m² and the commercial component of the proposed development has a floor area of 661m², resulting in a floor space ratio of 0.38:1. The commercial component of the proposal therefore complies with Clause 42.

COUNCIL POLICY AND STRATEGIC IMPLICATIONS

Development Control Plan 2005, Chapter No 61 – Carparking (Chapter 61)

Carparking requirements for the development have been assessed in accordance with Chapter 61 for the commercial component and Chapter 64 for the residential flat building component. The following table shows the number of spaces required by these documents and the number proposed:

Component	Area and no. spaces required	Resident Parking Required	Visitor / Public Parking Required	Proposed
Commercial (6 units)	661m ² @1space/30m ² (commercial premises/shop)		22.0	22.0
Sub Total			22.0	22.0
Residential (15 units)	1 x 3 bedrooms @1.5 spaces/unit	1.5	1 space / 3 units	22 Visitor + Retail spaces including 1 car wash bay
	8 x 2 bedrooms @1.2 spaces/unit	9.6		
	5 x 1 bedrooms @1.0 spaces/unit	5		
Sub Total		16.0	5.0	22.0
TOTAL		16.0	27.0	44.0

As the above table shows, the development is fully compliant for both the commercial and the residential components.

A revised basement plan indicates the provision of 45 spaces, which is satisfactory; however it is recommended that space 45 be converted to a turning area to permit vehicles to turn around more easily in the event that no more parking spaces are available. Forty four spaces are therefore provided, which provides an excess of one space.

Proposed Four Storey Mixed-Use Building at East Toukley (contd)**Development Control Plan 2005, Chapter No 64 - Guidelines to Medium and High Density Residential Development (Chapter 64)**

Assessment of the proposal against the relevant provisions of Chapter 64 has been undertaken with the results shown in the following table:

Aspect	Requirement	Proposal	Complies
Density			
No density requirement for 3(a) sites.			
Construction and Appearance of Development			
Discussed in detail under the heading <i>State Environmental Planning Policy No 65 – Design Quality of Residential Flat Buildings</i> in the <i>Statutory Requirements</i> Section.			
Setbacks			
No setback requirements for shop-top housing. Merits based assessment carried out, taking into consideration context and character of existing streetscape.			
Building Heights			
No height limit in 3(a) zone. Discussed in detail under the heading <i>State Environmental Planning Policy No 65 – Design Quality of Residential Flat Buildings State Environmental Planning Policy No 65</i> in the <i>Statutory Requirements</i> Section.			
Sustainability			
BASIX	Submission of a BASIX Certificate.	BASIX Certificate submitted with DA meets energy and water efficiency and sustainability targets.	Yes
Open Space			
Private Open Space – Option 1	Min 10m ² balcony with min dimension of 2m directly accessible from living area.	All residential units comply with excellent solar access (northerly aspect).	Yes
Communal Open Space – Option 1	Min 20m ² /dwelling with min width of 5m. REQUIRED AREA = 14 dwellings x 20m ² = 280m ² .	Level 1 communal open space: 145 m ² Roof top communal open space: 145 m ² Total: 290 m ²	Yes
Car Parking and Vehicular Access			
See calculations and discussion regarding carparking under the heading <i>DCP 2005, Chapter No 61 – Carparking</i> above.			Yes
Solar Access			
Sunshine and amenity	All dev to have 75% of each required private open space to have unobstructed sunlight for minimum 3 hours between 9.00 am and 3.00pm June 21.	Acceptable for all residential units and communal open space.	Yes

Proposed Four Storey Mixed-Use Building at East Toukley (contd)

Aspect	Requirement	Proposal	Complies
Shadow diagrams	Two storeys = to provide shadow diagrams based on survey plan.	Provided and acceptable.	Yes
Privacy			
Acoustic Privacy	Site layout should separate active recreation areas, parking areas and vehicle access ways etc from bedrooms.	Basement carparking ensures maximum acoustic privacy for bedrooms.	Yes
	Dev adjacent to high levels of uncontrollable ext noise to incorporate building design to minimise noise.	Units facing Main Road or the public laneway will need to be constructed of and/or fitted with noise minimising materials to limit traffic noise. No acoustic details have been provided to date, consent will be conditioned to achieve compliance.	Yes
Facilities and Amenities			
Waste Disposal	Information must be provided - Individual or bulk	Application accompanied by a Waste Management Plan, waste storage and collection details are acceptable.	Yes
Laundries	Individual laundry for each dwelling	Each unit provided with separate laundry.	Yes
Carwash Facility	Each Dev to have car washing facility - Bunded area and connected to sewer - Hardstand area drained to grassed area	Car wash facility designated in basement carpark although this would have to be deleted and Council does not allow the used water to be pumped to the sewer. There is scope to accommodate a car wash facility at ground level in the loading area.	Yes

Development Control Plan 2005, Chapter No 69 – Controls for Site Waste Management (Chapter 69)

In accordance with the requirements of Chapter 69, the applicant has prepared and submitted a Waste Management Plan detailing the proposed waste management techniques to be used during the demolition, construction and ongoing phases of the development. The plan is considered adequate and the proposed method of storage and collection of rubbish is acceptable.

Proposed Four Storey Mixed-Use Building at East Toukley (contd)

Development Control Plan 2005, Chapter No 81 – Retail Centres (Chapter 81)

The ground floor commercial component of the development complies with the aims of Chapter 81 in that it reinforces the main function of the commercial centre.

The amount of commercial floor space is not reduced from that which is currently provided, nor does it impact on other higher order centres within the Shire, including Toukley District Centre.

Landscape Policy and Guidelines

The proposal is classified as a Category 3 development under Council's Landscape Policy L1 given the site's location on Main Road and visibility from the surrounding area.

A landscape plan has been submitted; however it has not been prepared by an approved Category 3 Landscape Consultant and is therefore non-compliant. A landscape design report has also not been submitted. Given the small area available for landscaping on the site it is considered acceptable to approve the landscaping scheme in principle and seek a Category 3 landscape design prior to the issue of the Construction Certificate.

VARIATIONS TO POLICIES**DCP 2005**

Nil.

Landscape Policy and Guidelines

Category 3 Landscape Plan and Design Report not submitted.

Proposed Four Storey Mixed-Use Building at East Toukley (contd)

ECOLOGICALLY SUSTAINABLE PRINCIPLES

The proposal has been assessed having regard for ecologically sustainable development principles and is considered to be consistent with the principles. The proposed development is considered to incorporate satisfactory stormwater and drainage and is unlikely to have any significant impacts on the natural environment. The proposal does not result in the disturbance of any endangered flora and fauna habitats.

RELEVANT ISSUES

Having regard to Section 79C of the Environmental Planning and Assessment Act, it is considered that the following matters require further consideration and are addressed in the following sections:

Context and Setting

Draft Toukley Planning Strategy:

The predominant existing built form and scale of the East Toukley local centre is one and two storey commercial development with little or no residential development. Council is generally supportive of 'shop-top housing' within the 3(a) zone to ensure the longer-term viability of the shops and facilitate diversified housing choice, however the height and form of new development should accord with the existing and envisaged future character of the area.

The draft strategy, whilst it does not have statutory weight, does give an indication of Council's envisaged future character for the area. East Toukley has a distinct village character. The development proposed in this application would change this character, irrespective of whether it was three or four storeys as it would be substantially different to the existing development. However in reviewing the objectives of the draft Toukley Planning Strategy for the redevelopment of East Toukley, the proposed development in the majority complies with the objectives.

Proposed Four Storey Mixed-Use Building at East Toukley (contd)

Draft Toukley Planning Strategy Objectives	Proposal
Maintain and enhance the role of East Toukley as a local centre with active commercial and retail uses at ground level.	Complies.
Encourage a future built form that is lower scale and that differentiates East Toukley from other centres in the area. Encourage shop top housing within the commercial area.	Whilst the development is four storeys, it will still be a lower scale than the five storey developments approved in Toukley. The site is also located in the centre of the East Toukley Village which supports the additional height as it will act as the focus for the street. If the strategy was adopted, the development of the adjoining sites for 2/3 storey development would be compatible.
Facilitate mixed use residential and commercial developments up to three storeys in height at the street frontage [third storey set back]	The proposal is mixed use but is four storeys with the fourth significantly setback from the street frontage,
Maintain best practice requirement for solar access to public areas especially on the southern side of Main Road.	The overshadowing diagrams submitted with the application demonstrate that even on the worst day of the year (22 June) the development will not overshadow the public area on the southern side of Main Road any more than the existing buildings do, other than at midday.
Encourage low scale medium density residential development to the south of East Toukley shops.	N/A

Whilst these objectives have not yet been adopted within the Strategy, a detailed urban design analysis would support their intent. Approval of this development is not considered incompatible with the objectives of the strategy.

Treatment of the boundary walls to the East and West

There are no current approvals on the adjoining lots. Given that it is unlikely that the adjoining properties will redevelop in the near future, it is considered that the boundary walls should incorporate some public art feature, especially in the upper two floors adjoining Main Road. A condition of consent will require incorporation of such features prior to occupation of the development.

Proposed Four Storey Mixed-Use Building at East Toukley (contd)

Access, Transport and Traffic

Vehicular access to the development will be via Main Road until such time as Bucks Lane is extended from Evans Road to the site. A driveway along the eastern boundary and that section of the future laneway located on the subject site will provide access to the rear loading dock and ramp to the basement carpark. As the laneway is located directly above a private basement carpark, dedication of the laneway is not considered appropriate. Rather, a right of carriageway will be created to ensure access and servicing can occur at the rear of the development once Bucks Lane is extended to the site.

Revised plans received indicate that proposed access and servicing arrangements and basement carpark design comply with DCP 2005 Chapter 61 and Australian Standard AS 2890.1:2004.

Swept path analysis confirms that a Waste Collection Vehicle could turn around on site, though waste collection operations will impact on the flow of traffic to the basement and within the future laneway. Disruption is not considered to be significant and servicing/delivery operations could be restricted to outside peak traffic hours (ie 8–10am and 3–7pm).

The application was referred to the RTA for comment in relation to traffic generation and safety. The RTA raised no objection to the development, subject to a number of conditions being met. These conditions will form part of any consent issued.

Utilities

Council's existing water and sewer systems can adequately service the proposed development.

Stormwater Drainage

A majority of the site's stormwater can gravitate to the existing carriageway within Main Road via an above-ground on-site detention system, which is acceptable and appropriate conditions will form part of the consent.

Stormwater generated from the future laneway at the rear of the site will eventually be piped and connected to the kerb and gutter within Evans Road. In the interim, stormwater will be collected and discharged to the kerb and gutter within Main Road via a pump system. This proposal has been assessed and is considered acceptable. Conditions of consent will ensure this pump system is designed and operated in accordance with Council's requirements.

Proposed Four Storey Mixed-Use Building at East Toukley (contd)

Water, Soils, Air and Microclimate

The subject site is not adversely affected by any of the above issues and the proposed development would not result in any detrimental impacts in terms of water, soils or air.

As previously stated, it is proposed to retain rainwater in 2 x 5,000 litre tanks and reuse for laundries, external taps and communal toilets.

A Groundwater Study will be required as part of the development consent to identify any potential impacts of the basement carpark on groundwater levels and quality.

Noise and Vibration

Noise and vibration would be created during construction; however the proposal is not likely to generate unacceptable levels of noise and vibration during operation.

Given its location on Main Road, the proposed development constitutes noise sensitive development and noise amelioration measures must be provided in accordance with current environmental standards. The consent will be conditioned to ensure the development achieves the noise level targets set out in the Environment Protection Authority's *Environmental Criteria for Road Traffic Noise* (ECRTN).

Safety, Security and Crime Prevention

The building design allows for passive surveillance of Main Road and the rear public lane from shops and upper residential levels.

The large blade walls at the front of the shops have been redesigned to address previous concerns regarding concealment and entrapment. Elements such as lighting, access control and self-closing doors will improve safety and security around the building and the redesigned blade walls provide a shared open and informal gathering area in front of the shops.

Social and Economic Impact in the Locality

The proposed development is likely to have positive economic and social impacts in the locality by providing employment during construction and in the longer term and increasing local housing choice. Provision of 10% of apartments for adaptable housing will be conditioned.

Proposed Four Storey Mixed-Use Building at East Toukley (contd)**Public Interest**

The original development proposal was advertised for a period of four weeks, in excess of the requirements of *Development Control Plan 2005, Chapter 70 – Notification of Development Proposals*. During this period, 603 submissions (23 individual letters and 580 form letters) were received from adjoining owners and local residents. Three letters of support for the development were also received, discussing the dilapidated nature of East Toukley and the need to encourage new mixed use development to ensure the area's viable economic future and diversified housing choice.

The development was advertised for a further two weeks following the submission of the first set of amended plans. Thirteen additional submissions from previous objectors were received during this period.

The final amended application was readvertised with a total of 162 submissions received. An additional 352 submissions (by way of form letters) were received after the notification period closed. These form letters addressed concerns with both this application and the proposed development at Fravent Street, Toukley. Many of the issues raised in the public submissions relate to height, character, privacy and overshadowing. It is Council's assessment that these issues have been addressed by the amendments to the architectural design. It is recognised however that there is still significant community concern with the proposal.

A summary of the issues raised in the public submissions (and pro-forma letters) and appropriate responses are outlined in the following table:

Summary of Issues	Response
Trees - Impact on boundary trees in relation to the basement carpark.	The basement will be constructed 1.5 metres off the rear boundary. To ensure it will not impact on mature Norfolk Island Pine trees on neighbouring properties, conditions will be placed on the consent requiring an arborist report prior to Construction Certificate. Given the distance from the development, it is considered that any recommendations of such a report could be implemented.
Height - No other developments in the area over two storeys and this is out of character.	It is acknowledged that the building proposed is a substantial departure from the scale and form of development that currently exists in East Toukley. On balance, however, the design is of high quality, results in little additional overshadowing over residential zoned land, privacy or view impacts or other environmental impacts and will add to the urban quality of the suburb.
Village Character - Out of character with the existing area of low rise mixed commercial and residential properties. Development will cause the area to lose its "village feel".	Refer above and discussion in report.

Proposed Four Storey Mixed-Use Building at East Toukley (contd)

Summary of Issues	Response
Privacy - All north facing units will have balconies and living areas overlooking private yards and homes in Hammond Road and other residential properties nearby.	The distance between the face of this development and the boundary of the lots zoned 2(a) to the north is more than 16.8m, which is in excess of the total building separation distance required between residential flat buildings under the <i>Residential Flat Design Code</i> to achieve solar access, privacy and appropriate scale. It is therefore considered that with the incorporation of balcony planters the development will not significantly overlook the properties adjoining.
Losing 50% of our South Western horizon due to the loss of vision of winter sunsets.	Not considered to be an issue warranting refusal of the application.
Overshadowing of business areas during winter, which would be for 2/3rds of the day.	The footpaths on both the northern and southern sides of Main Road are already overshadowed in winter by the existing buildings and awnings. The overshadowing diagrams submitted with the application demonstrate that even on the worst day of the year (June 22 nd) the development will not increase overshadowing of the public areas on the southern side of Main Road other than at midday.
Increased Traffic , turning onto busy road. Entry/Exit for all vehicles from driveway is equal to a "T" intersection - big hazard to all pedestrians, especially school children using footpath for access to all areas.	Traffic generated by the development can be accommodated by the existing road network and safety can be addressed through the use of appropriate signage and other management techniques. The access via Main Road is only a temporary measure until permanent access is provided via a future public laneway to the rear of the site.
Bus Stop - The existing bus zone creates a bigger hazard for exit/entry which would be left turn only. The exit into Ray St, is a danger at any time for pedestrians, this will only increase.	The RTA has considered these issues and does not raise concerns. The bus stop and associated traffic restrictions can still be accommodated while providing safe access/egress to/from the proposed development, including service vehicles.
Service Vehicles - Provision for commercial vehicles to service shops, these people generally ignore these provisions and park illegally which adds to the danger to all.	

Proposed Four Storey Mixed-Use Building at East Toukley (contd)

Summary of Issues	Response
<p>Infrastructure - Toukley does not have the infrastructure for such development. Already experiencing water shortages, a shortage of hospital and medical facilities and dwindling police numbers.</p>	<p>Except for water, these are state issues and cannot be addressed through this application. Water supplies are available to the site and the Shire's water supply is capable of accommodating the minor growth resulting from the proposed development.</p>
<p>Non compliance with DCP 2005, Chapter 64 in relation to scale, built form and also the 10 principles of SEPP 65.</p> <p>Object to proposed height, bulk, scale and architectural aspect of the building.</p>	<p>The development is fully compliant with Council's controls.</p> <p>As previously discussed, it is also considered to be consistent with the SEPP 65 principles.</p>
<p>Traffic management in relation to construction of the building, removal of asbestos when existing building being demolished.</p>	<p>These are issues which would otherwise be conditioned and enforced during the construction period, as with any other development.</p>
<p>Why hasn't Wyong Council fixed the planning issues which it said it would after the Fravent Street proposal a few years ago?</p>	<p>Council is working towards new development guidelines and controls for the greater Toukley area. A draft Planning Strategy has been exhibited and submissions received are being considered. It is hoped that the Strategy will be further developed in consultation with the community and relevant land owners and turned into clear guiding controls in the near future.</p>

The proposed development meets both statutory and Council requirements, as discussed within the report. It is acknowledged that the public submissions received during the notification periods raise various concerns with the development; however, it is considered that the amended plans achieve resolution of many of these concerns.

Proposed Four Storey Mixed-Use Building at East Toukley (contd)**CONCLUSION**

The proposed development complies with the requirements of Wyong Local Environmental Plan 1991 and Development Control Plan 2005. No variations are proposed to either of these statutory documents.

The building will provide diversified retail and housing choice within a high amenity locality and set the benchmark for future similar developments in East Toukley.

Many of the issues raised by Council, the Design Review Panel and within the public submissions in response to the initial design related to height, character, privacy and overshadowing. It is Council's assessment that these issues have been addressed by the amendments to the architectural design.

Given the above and the reasons detailed in the report, it is considered that the proposal is worthy of support and the application is therefore recommended for approval, subject to appropriate conditions.

Attachment 1
Attachment 2

Locality Plan (1 page)
SEPP 71 Assessment (2 pages)

Enclosures

***Perspective
Plans***

Proposed Four Storey Mixed-Use Building at East Toukley (Attachment 2)

State Environmental Planning Policy No 71 – Coastal Protection (SEPP 71)

The subject site is located within the coastal zone and is therefore affected by SEPP 71. The proposal is considered to meet the aims of the policy.

Clause 8 lists the relevant matters for consideration, which are discussed below:

	Matters for Consideration	Proposed
a	The aims of the Policy.	The development will have no detrimental impact in regards to achieving the aims 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 development will not impact upon any public access to and along the coastal foreshore.
c	Opportunities to provide new public access to and along the coastal foreshore for pedestrians or persons with a disability.	The site has no frontage to the foreshore and therefore providing new opportunities for public access is not achievable.
d	The suitability of development given its type, location and design and its relationship with the surrounding area.	The proposed residential flat building is consistent with existing and future desired residential buildings in the immediate area.
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 proposed development will not overshadow any public foreshore area nor will it result in the loss of views from public places.
f	The scenic qualities of the New South Wales coast, and means to protect and improve these qualities.	The proposed building will not detract from any scenic qualities.
g	Measures to conserve animals (within the meaning of the Threatened Species Conservation Act 1995) and plants (within the meaning of that Act), and their habitats.	There will be no impact on any threatened species.

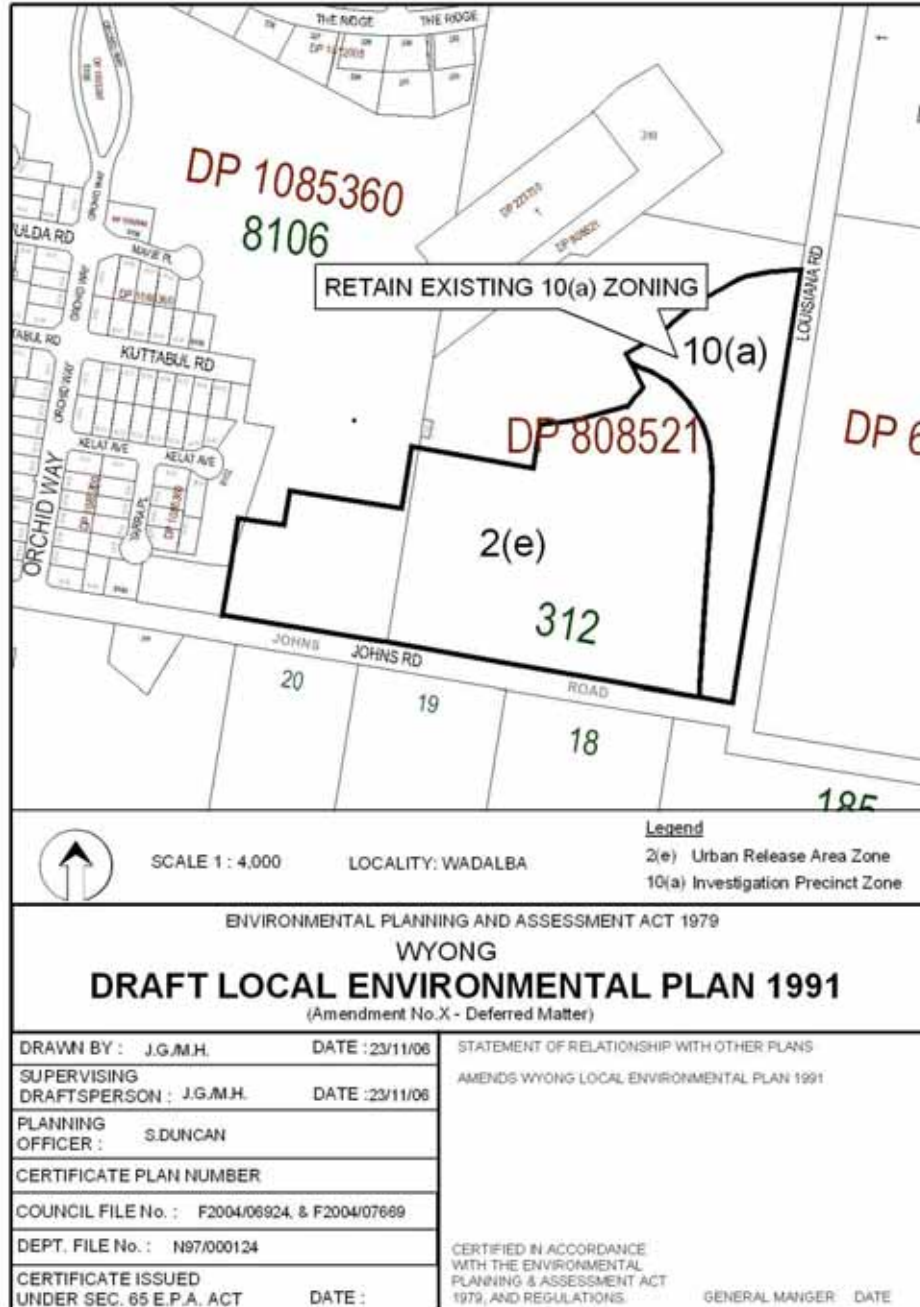
**Proposed Four Storey Mixed-Use Building at East Toukley (Attachment 2)
(contd)**

	Matters for Consideration	Proposed
h	Measures to conserve fish (within the meaning of Part 7A of the Fisheries Management Act 1994) and marine vegetation (within the meaning of that Part), and their habitats.	There will be no impact on the conservation of fish or marine vegetation.
i	Existing wildlife corridors and the impact of development on these corridors.	No wildlife corridors are located near the subject site.
j	The likely impact of coastal processes and coastal hazards on development and any likely impacts of development on coastal processes and coastal hazards.	The site does not have ocean frontage and is not located on sand dunes. The proposal would not have any likely impact of coastal processes or hazards.
k	Measures to reduce the potential for conflict between land-based and water-based coastal activities.	The proposed building will not impact on land or water based activities.
l	Measures to protect the cultural places, values, customs, beliefs and traditional knowledge of Aboriginals.	There are no aboriginal characteristics related to the proposed development or the subject site.
m	Likely impacts of development on the water quality of coastal water bodies.	Stormwater runoff from the site will need to comply with Council's water quality and quantity requirements.
n	The conservation and preservation of items of heritage, archaeological or historic significance.	No such items exist on or adjacent to the site.
o	Only in cases in which a council prepares a draft local environmental plan that applies to land to which this Policy applies, the means to encourage compact towns and cities.	N/A
p(i)	The cumulative impacts of the proposed development on the environment.	The proposed development is not expected to have any unreasonable impacts on the environment.
p(ii)	Measures to ensure that water and energy usage by the proposed development is efficient.	A BASIX certificate has been submitted with the application.

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303 Rezoning of Deferred Area from Wyong LEP 1991 - Lot 8106 DP 1085360 and part of Lot 312 DP 808521 Johns Road, Wadalba (Attachment 1)

Draft LEP Map



WYONG SHIRE COUNCIL

25 July 2007
To the Ordinary Meeting of Council

Director's Report
Shire Planning Department

303 Rezoning of Deferred Area from Wyong LEP 1991 - Lot 8106 DP 1085360 and part of Lot 312 DP 80852 Johns Road, Wadalba

F2005/00562 SI/SD:NH

SUMMARY

At its Meeting held on 13 December 2000, Council resolved to defer rezoning a portion of the land affected by Wyong Local Environmental Plan (WLEP) 1991 (Amendment No 131), pursuant to the provisions of Section 68(5) of the Environmental Planning and Assessment (EPA) Act 1979. This report seeks Council's resolution to:

- * Confirm recommencement of the rezoning of the deferred area;
- * Confirm the use of appropriate zone types;
- * Request authorisation from the Department of Planning (DoP) to exercise delegations at Section 69;
- * Seek a new Opinion from Parliamentary Counsel; and
- * Request that the Minister create the Local Environmental Plan.

RECOMMENDATION

- 1 *That, in accordance with Section 68(6) of the Environmental Planning and Assessment Act, 1979, Council resolve to proceed with the "deferred matter" from Wyong Local Environmental Plan Amendment No 131 to rezone part of Lot 8106 DP 1085360 and part of Lot 312 DP 808521 to 2(e) Urban Release Area Zone as indicated on the draft Local Environmental Plan map.***
- 2 *That the Department of Planning be advised of the decision and further that Council requests the issue of "Written Authorisation to Exercise Delegation" at Section 69 and seeks an Opinion from Parliamentary Counsel that the draft Local Environmental Plan can be made.***
- 3 *That subject to two above, the Minister be requested to create the Local Environmental Plan in accordance with Section 70 of the Environmental Planning and Assessment Act, 1979.***
- 4 *That Council's Section 149 Certificates be noted.***

Rezoning of Deferred Area from Wyong LEP 1991- Lot 8106 DP 1085360 and part of Lot 312 DP 80852 Johns Road, Wadalba (contd)

BACKGROUND

Council originally resolved on 14 October 1998 to prepare a draft Local Environmental Plan (dLEP) to rezone various parcels of land in Wadalba in accordance with Council's urban release area program. This was later modified by Council's decision in November 1999 to proceed with dLEP (Amendment No 121) (see enclosure) which had the effect of rezoning ridgetop areas to 7(a) (Conservation) and other sites to 2(b) (Multiple Dwelling Residential). Council was concerned about the potential impacts of odour associated with the operation of nearby poultry farms which resulted in a large area of land which was proposed to be zoned 2(b) (Multiple Dwelling Residential) along Johns Road to be deferred pursuant to Section 68(5) of the EPA Act, 1979. The remainder of the plan was referred to the Minister for gazettal. The deferred land included part Lot 8106 DP 1085360 (previously Part Lot 28 DP 755245) and part Lot 312 DP 808521, ie the land the subject of this report.

Council subsequently requested the applicant to conduct an odour study which examined the impact of the poultry farms on the proposed residential development. An assessment of likely odour impacts of existing poultry farms on the proposed subdivision was conducted and odour buffers were established which allowed part of the subdivision proposal to proceed. As a result, the amount of land which was originally deferred as part of WLEP (Amendment No 121) was reduced when Council resolved to proceed with dLEP (Amendment No 131) on 13 December 2000.

Furthermore, Council resolved at its Meeting of 13 December 2000 that:

"Council enter into a Deed of Agreement with Westminster Developments to favourably consider rezoning to residential the remainder of the deferred matter following closure of the Bowen Broiler farm."

This Deed was prepared and executed.

On 12 April 2005, Council received a letter from the owner of the poultry farm advising that the poultry farming business had ceased operations, with the majority of the sheds having been removed from the site. Furthermore, the land owner also acknowledged that any existing use rights pertaining to the land as a result of the previous business had lapsed with no intentions of reactivating the business or non-conforming use of the site in the future.

Further confirmation was received in June 2005, stating that existing use rights had been relinquished by the land owner and confirming the cessation of use of the poultry farm on the site.

Rezoning of Deferred Area from Wyong LEP 1991- Lot 8106 DP 1085360 and part of Lot 312 DP 80852 Johns Road, Wadalba (contd)

On this basis, Council commenced negotiations with the DoP regarding the deferred matter and is now able to proceed to implement the resolution of 13 December 2000, as reflected in the Deed of Agreement with Westminster Developments and to proceed to rezone the deferred area.

Note: In 2003 Amendment No 135 (Major Amending LEP) changed the 2(b) (Multiple Dwelling Residential) zone that occurred across the land release areas to 2(e) (Urban Release Area) zone and the 1(c) (Rural Holding) zone to a 10(a) (Investigation Precinct) zone. The 1(c) zone was converted to a new zone – 1(c) (Urban Constrained Lands) zone. In relation to the subject land, this did not alter the possible land uses from those originally intended for this area.

RELEVANT ISSUES

Adjacent Poultry Farm

The objections to the rezoning of this land were in relation to the proximity of the proposed residential development to existing and operative poultry farms at Johns Road, Wadalba and associated issues relating to odour, noise, dust and vermin. The objection from the Department of Agriculture was based on the adoption of the NSW Poultry Farming Guidelines. These guidelines stated that a recommended separation distance of 500 metres for poultry developments to new residential developments was required.

The subject land was within 500 metres of the farm.

Matters Raised by Department of Planning

Council wrote to the DoP on 22 February 2006 requesting advice on requirements to advance this rezoning. Over the next 12 months, a number of meetings and discussions were held with DoP staff regarding the land. This occurred in parallel with negotiations on the Wadalba Wildlife Corridor Management Plan and involved DoP, DECC, landowners, consultants and the Wadalba Association. On 12 February 2007, the DoP agreed to allow the rezoning process to be continued as a "deferred matter" in accordance with the provisions of Section 68(6), provided:

- 1 *"There are Council resolutions in place to support the finalisation of the deferred matter in the manner proposed."*

Comment:

The object of this report is to fulfil this requirement and gain Council's approval to recommence and finalise this part of the original rezoning.

- 2 *"The 7 (a) Conservation zone component is to be excluded as the zone was not involved in the original deferred area."*

Rezoning of Deferred Area from Wyong LEP 1991- Lot 8106 DP 1085360 and part of Lot 312 DP 80852 Johns Road, Wadalba (contd)

Comment:

In February 2006, Council staff asked DoP to consider a 7(a) (Conservation) zone over part of Lot 312 (previously proposed to be all zoned residential). This proposal was a result of the detailed work undertaken as part of the renegotiated Wadalba Wildlife Corridor. The DoP declined this as it was not proposed or part of the original rezoning and can be considered more strategically at a later date as part of the extension of the Wadalba Wildlife Corridor. This area therefore remains 10(a) (Investigation) zone – unchanged at this time.

- 3 *“Council advise previous objectors and neighbouring owners and interested groups of the status of the dLEP as appropriate.”*

Comment:

Council has fulfilled this requirement and written to the original objectors, adjoining land owners and interest groups. Notwithstanding that this advice was not a public exhibition and did not call for submissions, one submission was received from the Wadalba Association. Issues raised are outlined below.

- 4 *“Upon completion of the above items, Council should request written authorisation to exercise delegations at Section 69 and obtain a new Parliamentary Counsel opinion. Council should then submit to DoP a new Section 69 report and supporting documentation.”*

Comment:

This report recommends Council resolve to adopt appropriate resolutions to recommence the rezoning and finalise the matter in accordance with these instructions from the DoP.

Submission by Wadalba Association

A submission on the rezoning was made by the Wadalba Association on 14 May 2007. The Wadalba Association objects to the rezoning proposal and requests Council to start the rezoning process from the beginning, as opposed to proceeding with the proposal using deferred provisions under Section 68(5) of the Act. The Association requests that all of the studies which were originally done to support the original rezoning in the late 1990s be updated and a sustainability based Masterplan adopted for future development concepts. It was also requested that any decision be delayed until such time that the Department of Environment and Climate Change (DECC) finalises the Central Coast Conservation Plan. The Association has also requested that Council consider the draft Central Coast Regional Strategy. Council staff met with representatives of the Wadalba Association on 25 June 2007 to fully explain the rezoning proposal and to give them the opportunity to discuss their concerns.

Rezoning of Deferred Area from Wyong LEP 1991- Lot 8106 DP 1085360 and part of Lot 312 DP 80852 Johns Road, Wadalba (contd)

There was no change to the Association's view on the area or on the content of their submission. However, they did appreciate Council staff taking time to meet with them and discuss more fully the planning legislation and this process.

Response

There is no requirement to restart the rezoning process. All the studies, exhibition processes and consultation processes were satisfied as part of the original rezoning process to enable this rezoning to proceed through 1998-2000. All issues with Government agencies have been resolved and Council was merely waiting for the decommissioning of nearby poultry sheds prior to forwarding the deferred portion of the original rezoning proposal to the Minister for Planning. The Minister has the power to decide if the rezoning process should be recommenced, and if he decides to do this, then Council will need to restart the rezoning process. However, advice from the Department of Planning has indicated that it is possible to continue to deal with this proposal as a deferred matter. No benefit can be seen in re-starting the rezoning process, as it would take a substantial amount of time and staff resources. Westminster Developments would be required to pay substantial costs to do new studies for a new rezoning, and in all probability, it would not substantially change the outcome from that which exists with the current proposal. DECC has already endorsed the Wadalba Wildlife Corridor planning process when it provided a deemed concurrence to various residential developments in the Wadalba Urban Release Area in December 2004. It is unlikely that these arrangements will be altered by the finalisation of the Central Coast Conservation Plan. Council also has the Deed of Agreement with Westminster Developments to rezone the land. This has given an undertaking to complete the rezoning once the poultry farm is closed.

Deed of Agreement

The Deed requires Council to proceed with the rezoning "*...as soon as practical after the poultry farm ceases operation and existing use rights are relinquished*". The provisions of the EPA Act allow this to occur and the DoP has confirmed the ability for Council to proceed.

Council's Solicitor advises that this is a fairly solid agreement with Westminster Developments that Council has, up to date, fulfilled. If Council was to resolve to go back to the start of the rezoning process, it may be able to be determined that Council was not doing its best to fulfil the operative part of the Deed as the planning legislation permits deferred matters and the DoP has supported Council's request to progress the rezoning using that legislation. Further, the significant costs that Westminster would incur (likely to be approximately \$150,000 to \$200,000 in studies, Local Environmental Study, staff cost recovery) may be arguable through the courts.

Rezoning of Deferred Area from Wyong LEP 1991- Lot 8106 DP 1085360 and part of Lot 312 DP 80852 Johns Road, Wadalba (contd)

CONCLUSION

Section 68(6) of the EPA Act 1979, enables Council to re-initiate a "deferred matter" and continue the processing of the dLEP to finalisation without having to restart the rezoning process from the beginning (Section 54 stage). Staff have liaised with the DoP regarding the procedures to do this and they have concurred subject to new Council resolutions, Section 69 delegations being issued and objectors and land owners being advised of the matter. It is therefore recommended that Council adopt the recommendations of this report and continue the rezoning process.

Attachment 1***Draft LEP Map (1 page)*****Enclosure*****Plan Showing Extent of LEP 1991 Amendment No 121***

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WYONG SHIRE COUNCIL

25 July 2007
To the Ordinary Meeting of Council

Director's Report
Shire Planning Department

304 Draft Local Environmental Plan – Louisiana Road, Hamlyn Terrace

F2004/07783 JEL:JP

SUMMARY

Wyong LEP (Amendment No.163) and draft amendment to DCP 2005: Chapter 49 Warnervale East and Wadalba North West Urban Release Area (Chapter 49) were publicly exhibited from Wednesday, 13 December 2006 to Wednesday, 21 February 2007. Nine submissions were received. This report outlines the issues raised in those submissions. There is a minor change to the LEP concerning a road crossing and some amendments to Chapter 49. It is recommended that the rezoning process continue and Chapter 49 become effective once the LEP is gazetted.

INTRODUCTION

Council resolved to commence the rezoning process in December 2004. Draft LEP (Amendment No. 163) proposes to rezone approximately 70 hectares of land at Hamlyn Terrace to allow for the establishment of a new residential area. The draft LEP applies to land located north of the Pacific Highway and the existing Wadalba Local Centre, and to the south of Woongarra and developed areas of Hamlyn Terrace. The Wyong Hospital is located northeast of the investigation area. The draft LEP incorporates rezoning of land from 10(a) Investigations Precinct Zone, 1(c) Non Urban Constrained Lands Zone or 2(e) Urban Release Area Zone to 2(a) Residential Precinct Zone, 2(b) Multiple Dwelling Zone or 1(c) Non Urban Constrained Lands Zone to allow for residential development and to appropriately reflect environmental constraints. The draft LEP also removes Clause 18 of *Wyong Local Environmental Plan 1991* relating to lot amalgamation provisions that apply to Lots A and B in DP 31271; Lots 6, 7, 8 and 9 in DP 201174; and Lots 43 and 47 in DP 7091. The draft LEP instrument and map are included as Attachments 1 and 2 to this Report.

The draft LEP was publicly exhibited from Wednesday, 13 December 2006 to Wednesday, 21 February 2007 (an extension of two weeks was granted). This report outlines issues raised as a result of the exhibition.

In addition, an amendment to draft DCP 2005: Chapter 49 Warnervale East and Wadalba North West Urban Release Area were exhibited. This amendment proposes new controls relevant to development of this area.

A Planning Agreement is being developed for negotiation with AV Jennings (the key land owner) with the aim of including developer contributions for items such as recurring costs not covered by Section 94. If an agreement is reached it would be publicly exhibited and any comments received would be reviewed, before adoption by Council.

Draft Local Environmental Plan – Louisiana Road, Hamlyn Terrace (contd)**RECOMMENDATION**

- 1** *That draft LEP (Amendment 163) be referred to the Minister for Planning in accordance with Section 70 of the Environmental Planning and Assessment Act, 1979 with a request that it be created.*
- 2** *That in accordance with Clause 21 of the Environmental Planning and Assessment Regulations 2000, the amendment to draft DCP 2005: Chapter 49 Warnervale East and Wadalba North West Urban Release Area be adopted and become effective as of the date that LEP (Amendment 163) is gazetted.*
- 3** *That the Department of Planning be requested to revise the wording of draft Clause 42G contained in draft LEP (Amendment 163) to provide more detail concerning the monetary contribution amount and intended uses targeted by the Regional Transport Infrastructure and Services Levy.*
- 4** *That those who made submissions be advised of Council's decision.*

BACKGROUND

On 8 December 2004, Council resolved to prepare a draft LEP to rezone land centred around Louisiana Road, Hamlyn Terrace and to amend DCP 49 to cover this land. The resolution was as follows:

- "1 That a draft Local Environmental Plan be prepared to rezone the land subject to this report, in accordance with the draft Local Environmental Plan map for Option B as outlined in this report.*
- 2 That the Department of Infrastructure, Planning and Natural Resources be advised of the decision.*
- 3 That the draft Local Environmental Plan be advertised and referred to appropriate authorities for comment.*
- 4 That Development Control Plan No. 49 – Warnervale East and Wadalba North West and Section 94 Plan be revised to include the land subject to this report.*
- 5 That the draft revised Development Control Plan No. 49 – Warnervale East and Wadalba North West and Section 94 Plan be advertised for 28 days and referred to appropriate authorities for comment.*
- 6 That should no significant objections be received as a result of the exhibition:*
 - a the Minister for Planning be requested to create the Local Environmental Plan; and*

Draft Local Environmental Plan – Louisiana Road, Hamlyn Terrace (contd)

- b draft revised Development Control Plan No. 49 - Warnervale East and Wadalba North West be adopted upon gazettal of the draft Local Environmental Plan and appropriate public notice be given.*
- 7 That should no objections be received as a result of the exhibition of the Section 94 Plan, that the Plan be adopted upon gazettal of the draft Local Environmental Plan and appropriate public notice be given."*

Council forwarded the Section 54 Notification letter to DIPNR, now Department of Planning (DoP), on 14 February 2005 advising of Council's intention to prepare the draft LEP. Following this, Section 62 Consultation referrals were forwarded to relevant government agencies and authorities.

On 22 September 2005 (seven months later) a response to the Section 54 Notification from DoP was received. It advised that an LES would need to be prepared to support the draft LEP and two further government agencies should be consulted.

The LES was prepared and further government agency consultation undertaken. On 17 March 2006 Council forwarded a letter with the Section 64 Documentation, and a request for clarification of the application of Section 117 Direction No. 15 Flood Prone Land. The letter also requested clarification on whether Council could exercise delegation with regard to Section 65 and if not, that the Department issue a Section 65 Certificate.

Considerable time elapsed due in part to DoP's attempt to establish and apply a Regional Infrastructure Levy (RIL). The RIL generally aims to raise developer contributions toward the provision of regional infrastructure such as roads, public transport, education and health facilities. For this particular draft LEP, the RIL being sought by DoP is a contribution toward 'regional transport infrastructure and services' (RTIS) and does not involve a levy toward other infrastructure such as health or education. The RTIS amount payable has been negotiated in principle between DoP and A V Jennings. Indications are that this figure is approximately \$5,000 per lot and it does not apply to land presently zoned 2(b) Multiple Dwelling. DoP has advised that there is currently no finality to this figure and that this will be finalised at DA stage in negotiations between A V Jennings and the Director General of DoP. To this end, DoP has established a legal framework to levy the RTIS via an LEP clause to be included as part of draft LEP Amendment 163.

Draft Local Environmental Plan – Louisiana Road, Hamlyn Terrace (contd)

In November 2006, the DoP issued a conditioned Section 65 Certificate. The certificate required clarification of certain flood related matters in the LES and the inclusion in the draft LEP of Clause 42G requiring the RTIS. As mentioned above, the clause does not specify a monetary amount as at the time the Section 65 Certificate was issued, an 'in principle' agreement had not been reached between DoP and A V Jennings. It is suggested that DoP revise the wording of draft Clause 42G to provide more indication of the funding amount and the nature of the infrastructure and services being targeted by the RTIS.

The issues raised by government agencies and authorities have been addressed in detail in the Local Environmental Study (LES) prepared to support the draft LEP (refer to Attachment 4).

PUBLIC EXHIBITION AND ISSUES RAISED

Draft LEP (Amendment No. 163) was publicly exhibited in accordance with the provisions of Section 66 of the *EP&A Act, 1979*, together with an amendment to draft DCP 2005: Chapter 49 Warnervale East and Wadalba North West Urban Release Area (Chapter 49) between Wednesday, 13 December 2006 and Wednesday, 21 February 2007. Nine submissions were received. Key issues raised included:

Major issues raised during the public exhibition and responses are provided below:

Issue

Flooding and stormwater management issues.

Response

Comprehensive flood studies have been completed to manage flooding and drainage issues associated with the rezoning (see Section 3.2.5 – Direction No 15 – Flood Prone Land for further information). Chapter 49 – Warnervale East and Wadalba North West Urban Release Area has included some specific WSUD objectives and provisions which will need to be incorporated in new residential subdivision proposals.

Issue

Environmental impacts of clearing (clear felling) and ensuring that development is consistent with ESD principles.

Draft Local Environmental Plan – Louisiana Road, Hamlyn Terrace (contd)

Response

Community concerns have been expressed about native vegetation removal in the nearby Wadalba Urban Release Precinct. This rezoning proposal is considered to be consistent with ESD principles and includes a number of positive environmental outcomes. These include:

- * Most of the area which is proposed to be rezoned residential is already cleared.
- * Environmentally sensitive areas e.g. vegetation qualifying as Endangered Ecological Communities, wildlife corridors and known areas of threatened species constraint are mostly located on land which is proposed to be rezoned 1(c) (Non Urban Constrained Lands) Zone. These areas will eventually be managed under Council ownership.
- * A Conservation Management Plan is being prepared for the restoration and ongoing maintenance of the floodplain and wildlife corridors which form part of this development.

Issue

Concerned with increased population resulting from the anticipated additional 1,500 residents and that the proposal does not comply with SEPP 66 - Integrated Land Uses and Transport, 2001.

Response

There is no inconsistency with SEPP 66 - Integrated Land Use and Transport 2001. The area adjoins a major bus route and has excellent access to public transport. The Wyong Residential Development Strategy 2002 (RDS) has identified this area as being a suitable location for residential development. Council's RDS identifies a range of residential density targets across the greater Warnervale residential release area. The target residential density averages are higher closer to the proposed Warnervale Railway Station. The RDS endorsed a density of 13 dwellings per hectare as proposed under the DCP Chapter 49 Amendment.

Issue

Development contributions (including the State's RIL) for the infill precinct needs to be further developed to address the needs of the future population in the Warnervale/Wadalba Growth Centre, in particular with respect to service provision and timing. Additional contributions should also be sought as part of Council-Community Agreements.

Draft Local Environmental Plan – Louisiana Road, Hamlyn Terrace (contd)**Response**

The Department of Planning is still in the process of developing a RIL for new urban development on the Central Coast. The RIL generally aims to raise developer contributions toward the provision of regional infrastructure such as roads, public transport, education, health and other public facilities. However, for this particular proposal the Department of Planning has agreed to restrict any application of a RIL to regional transport infrastructure and services. It should also be noted that Council will also be requiring the finalisation of a Planning Agreement with a major land owner (AV Jennings). The Section 94 Contribution Plan covering the rezoning proposal has recently been reviewed which will put into place appropriate funding arrangements for infrastructure to services.

Issue

Concerned that the proposed traffic lights on the Louisiana Road and Pacific Highway intersection will not be completed until after the development has been completed.

Response

Chapter 49 – Warnervale East and Wadalba North West Urban Release Area has been amended to include a requirement that the signals be installed by the developer with the first stage of development which has access to Louisiana Road

Issue

Support Master Plan approach but access to transport, open space, pedestrian access, noise disturbance minimization and well located facilities (for children and seniors) requires closer scrutiny.

Response

Access to public transport complies with current standards of the Ministry of Transport. Extensive cycling and walking paths are proposed for this area. A noise assessment report will be required for future development close to Pacific Highway and this calls for consideration of other potential noise sources.

Issue

Suggested changes to the Structure Plan and residential development controls in Chapter 49 – Warnervale East and Wadalba North West Urban Release Area.

Draft Local Environmental Plan – Louisiana Road, Hamlyn Terrace (contd)

Response

A large number of technical amendments were requested to the above mentioned DCP to clarify building, streetscape and road design issues. Some proposals were accepted and others were not (see Attachment 3 for a detailed analysis). A number of other minor matters were also included as part of minor amendments to which covered such matters as definitions, diagrams and unclear wording.

Detailed comment on each issue and any recommendations is contained in the table of submissions in Attachment 3.

Council Officers presented at Watanobbi/Warnervale Community Precinct Committee on 6 February 2007 and to a public meeting at the Wyong Administration Building on 8 February 2007 with approximately 10 members of the public attending each meeting.

CHANGES TO THE PLAN POST EXHIBITION

No change is required to the draft LEP (Amendment 163) Instrument as a result of the exhibition and referral to government agencies. However a minor change is proposed to the draft LEP Map. In order to ensure that the same environmental requirements for neighbourhood roads are applied to residential zones and the road crossing over the South-western Tributary it is proposed to extend the 2(a) Residential Zone to the west to account for the east-west collector road that is identified in the Structure Plan within the DCP. There is no need to re-exhibit as this is a technical zoning matter to find the correct zone for urban infrastructure that is already identified as a road in the Structure Plan within the DCP.

Some minor changes are proposed to DCP 2005 Chapter 49 in response to submissions. These are outlined in Attachment 3. The amended Chapter 49 document is Attachment 5.

STATUTORY PLANNING CONSIDERATIONS

The draft LEP is not inconsistent with any existing or draft State Environmental Planning Policy or any relevant Regional Environmental Plans. The following have been considered in more detail:

1 Regional Environmental Plans (REPs) and Draft REPs

1.1 Draft Sydney REP for Coal Mining on the Central Coast

The draft Sydney REP for Coal Mining on the Central Coast applies to the area. The area is included in Precinct 8 of this REP. Future residential development of the land is suggested by this draft plan.

Draft Local Environmental Plan – Louisiana Road, Hamlyn Terrace (contd)**2 Other Regional Strategies and Plans****2.1 Greater Sydney Metropolitan Strategy – Shaping Our Cities (DUAP, 1999)**

The Greater Sydney Metropolitan Strategy, *Shaping our Cities* applies to LGAs extending from Wollongong in the south to Newcastle in the north. It seeks to coordinate growth and change in our cities by promoting the principles of more compact cities, economic and ecological sustainability and effective implementation. No specific provisions under the Strategy apply to the site.

2.2 Shaping the Central Coast Planning Strategy

The draft Action Plan expands on the broad objectives that the *Shaping the Central Coast Planning Strategy* identified and builds on the *Gosford - Wyong Structure Plan, 1977*. The plan provides the framework for new and ongoing government and community policies and initiatives to meet the needs of current and future residents.

Outcomes relevant to the subject site include 'smart growth in settlement patterns taking advantage of existing infrastructure and protecting natural environment features.' The proposed rezoning facilitates a logical extension of the residential zone boundary between existing residential development to the north and south. It is in accordance with Council's anticipated plans for the remaining sections of the Warnervale East Release Area, as proposed in the RDS and the original DCP for the area. The site will take advantage of existing infrastructure provisions and will have the capacity to service the proposed development. The natural environment will be largely protected and in part rehabilitated.

2.3 Draft Central Coast Regional Strategy

The draft Central Coast Regional Strategy has been publicly exhibited and is yet to be endorsed by the NSW State government. The rezoning proposal is not inconsistent with this aims and action plans that form part of the draft strategy. Rezoning the Louisiana Road Infill Precinct will assist the State government in meeting its population and dwelling targets for the Central Coast. One of the key actions arising from this document is the completion of the North Wyong Structure Plan. The Louisiana Road Infill Precinct rezoning falls within the area identified as the Stage 1 – Structure Plan Area. The draft Central Coast Regional Strategy aims to concentrate the majority of future greenfield development around the Warnervale Town Centre. The proposed Louisiana Road Infill Precinct rezoning is consistent with this principle as well.

Draft Local Environmental Plan – Louisiana Road, Hamlyn Terrace (contd)

2.4 Residential Development Strategy, 2002 (RDS)

Council's *RDS* aims to encourage development that is environmentally, economically and socially sustainable; and recognises the need for a locally relevant approach to urban development. The *RDS* has been endorsed by both Council's and the NSW Government, as establishing the policy for residential development in the Shire. *RDS* recognises the need for a locally relevant approach to urban development.

The *RDS* identifies the subject site for development in the short to medium term, placing the timing in the present

3 State Environmental Planning Policy Framework

3.1 State Environmental Planning Policies (SEPPs) and DRAFT SEPPs

3.1.1 SEPP 44 – Koala Habitat Protection

SEPP 44 Koala Habitat Protection aims to 'encourage the proper conservation and management of areas of natural vegetation that provide habitat for koalas and to ensure a permanent free-living population over their present range and reverse the current trend of population decline.' Schedule 2 of *SEPP 44* lists ten tree species which are considered indicators of potential koala habitat.

A flora and fauna survey of the subject site identified Swamp Mahogany *Eucalyptus robusta* on the subject site. This species, as it exists on the site, has the potential to support koala, however it is not considered to be core koala habitat.

3.1.2 SEPP 55 – Remediation of Land

SEPP 55 Remediation of Land aims to promote the remediation of land for the purpose of reducing the risk of harm to human health or any other aspect of the environment. *SEPP 55* Requires Council to consider whether the land proposed for rezoning is contaminated.

While Preliminary Contamination Assessments undertaken by both Douglas Partners Pty Ltd and GHD Pty Ltd indicate that the rezoning of the subject site to residential and other associated land uses can proceed; potential for contamination in some areas of the study area exist. Subject to the implementation of recommendations outlined by GHD Pty Ltd, it is considered that the draft LEP is consistent with *SEPP 55 Remediation of Land*.

Draft Local Environmental Plan – Louisiana Road, Hamlyn Terrace (contd)**3.2 Section 117 (s117) Ministerial Directions**

The following s117 Ministerial Directions were considered to be relevant to this amendment; and are not inconsistent with any of the directions under s117 of the *Environmental Planning and Assessment Act, 1979*.

3.2.1 Direction 1 – Acid Sulphate Soils (ASS)

The objective of *Direction No. 1 Acid Sulphate Soils* is to ensure that any use of land that is mapped as having a probability of containing ASS will not result in significant environmental impacts. Council must consider the ASS Planning Guidelines adopted by the Director-General when preparing a draft LEP that applies to any land identified on the ASS Risk Maps, as having high or low probability of ASS.

3.2.2 Direction No. 4 - Central Coast

Direction No. 4 Central Coast states the draft LEPs shall be generally consistent with the *Gosford - Wyong Structure Plan, 1977*. The Structure Plan identified medium and long term urban development needs in Wyong Shire and also laid the groundwork for future development. The area is identified as future urban as part of the Warnervale/Wadalba Urban Release Area and principles – outlined in *Shaping the Central Coast*. The draft LEP is considered to be consistent with this direction.

3.2.3 Direction No. 5 - Coal, Minerals, Petroleum and Extractive Resources

Direction No. 5 Coal, Other Minerals, Petroleum and Extractive Resources aims to ensure that State or regionally significant reserves of coal, other mineral, petroleum and extractive resources are adequately considered when preparing a draft LEP, and that inappropriate development does not compromise the future expansion of these resources. Direction No. 5 requires Council to consult with the Department of Primary Industries (DPI) to identify any resources of coal, other minerals, petroleum or extractive materials of state or regional significance, and seek advice on the development potential of resources identified.

Council has consulted with the DPI under Section 62 (s62) of the *EP&A Act, 1979*. The DPI advised that although there are no objections with respect to coal issues within the study area; any development must be to Mine Subsidence Board (MSB) design parameters.

Draft Local Environmental Plan – Louisiana Road, Hamlyn Terrace (contd)

3.2.4 Direction No. 11 - Development in a Mine Subsidence District

Direction No. 11 Development in a Mine Subsidence District or on Unstable Land aims to prevent damage to life, property and the environment by ensuring that appropriate provisions are made for the development of land identified as unstable or subject to mine subsidence. Direction No. 11 states that in the preparation of a draft LEP, Council shall where land is subject to mine subsidence, consult with the MSB to ascertain if the Board has any objection to the draft LEP and the scale, density and type of development proposed.

Council has consulted with the MSB under S62 of the *EP&A Act, 1979*. The MSB has indicated that it has no objection to the rezoning provided development in the area is in accordance with the Board's surface development guidelines and Chapter 49 of DCP 2005. Draft LEP (Amendment No. 163 is considered to be consistent with *Direction No. 11 Development in a Mine Subsidence District*.

3.2.5 Direction No. 15 - Flood Prone Land

Direction No. 15 Flood Prone Land aims to ensure that the development of flood prone land is consistent with the NSW Government's Flood Prone Land Policy and the principles of the Floodplain Development Manual 2005. Furthermore, it aims to ensure that the provision of an LEP on flood prone land is commensurate with flood hazard and includes consideration of the potential impacts both on and off the subject site.

The draft LEP is considered consistent with Direction 15 as outlined below:

Draft Local Environmental Plan – Louisiana Road, Hamlyn Terrace (contd)

- (1) *A draft LEP shall include provisions that give effect to and are consistent with the NSW Flood Prone Land Policy and the principles of the Floodplain Development Manual, 2005.*

Draft LEP Amendment 163 (the draft LEP) includes provisions that are consistent with the NSW Flood Prone Land Policy and the principles of the Floodplain Development Manual, 2005. The plan provides for land below the 1% AEP flood level to be zoned 1C Non-Urban Constrained Land to exclude urban development which, in conjunction with existing DCPs, will require new development to comply with minimum flood levels consistent with the abovementioned Policy and Manual.

- (2) *A draft LEP shall not rezone land within the flood planning areas from Special Area, Recreation, Rural or Environmental Protection Zones to a Residential, Business, Industrial or Special Area Zone.*

The draft LEP will not include any Residential Zone (or any other urban zone), which is currently Special Area, Recreation, Rural or Environmental Protection Zone (1C Non-Urban Constrained and 10A Urban Investigation Zone in this instance) that will be within the flood planning area. The flood planning area is defined in the *Floodplain Development Manual, 2005* in Appendix K as the area below the flood planning level (1% AEP flood event plus 0.5m freeboard).

- (3)(a) *A draft LEP shall not contain provisions that apply to the flood planning areas which permit development in floodway areas,*

The draft LEP does not contain provisions applicable to the flood planning areas which permit development in floodway areas.

- (3)(b) *A draft LEP shall not contain provisions that apply to the flood planning areas which permit development that will result in significant flood impacts to other properties*

Given that the development layout for Louisiana Road encroaches into the floodplain, a consultant was engaged to assist with determining the impact on the 1% Annual Exceedance Probability (AEP) flood levels along Bingarra Channel and the south-west tributary. The flood modelling undertaken by the consultant also included the proposal for floodplain filling upstream of Louisiana Road in relation to a separate development (DA/236/2005) and for the raising of Louisiana Road and the east-west link road between Precincts B and C to be trafficable in a 1% AEP flood event.

Draft Local Environmental Plan – Louisiana Road, Hamlyn Terrace (contd)

The flood study indicated that the impact of catchment urbanisation and floodplain filling resulted in a flood level increase of no more than 100mm, with an average increase along the Bingarra and south-western channel reach of 50mm. This increase in flood level can be accommodated within the development and flood risk to surrounding properties would not be compromised. The flood planning levels shall be the 1% AEP plus 600mm freeboard. Flood modelling also shows that floodplain revegetation works can be successfully implemented without impacting on surrounding properties.

- (3)(c) *A draft LEP shall not contain provisions that apply to the flood planning areas which permit a significant increase in the development of that land,*

The draft LEP does not contain provisions applicable to the flood planning areas that permit a significant increase in the development of that land.

- (3)(d) *A draft LEP shall not contain provisions that apply to the flood planning areas which are likely to result in a substantially increased requirement for government spending on flood mitigation measures, infrastructure or services,*

The draft LEP does not contain provisions that apply to the flood planning areas which are likely to result in a substantially increased requirement for government spending on flood mitigation measures, infrastructure or services.

- (3)(e) *A draft LEP shall not contain provisions that apply to the flood planning areas which permit development to be carried out without development consent except for the purposes of agriculture (not including dams, drainage canals, levees, buildings or structures in floodways or high hazard areas) or exempt development.*

The draft LEP does not contain provisions that apply to flood planning areas which permit development without consent excepting for the purposes of agriculture (not including dams, drainage canals, levees, buildings or structures in floodways or high hazard areas) or exempt development.

The draft LEP is considered consistent with all other requirements of Direction 15.

Council has considered flooding and stormwater impacts of the development upon the wider region, Section 4.1.2 further discusses Direction No. 15 Flood Prone Land with regards to draft LEP (Amendment No. 163).

Draft Local Environmental Plan – Louisiana Road, Hamlyn Terrace (contd)**3.2.6 Direction No. 17 - Integrated Land Use and Transport**

Direction No. 17 Integrated Land Use and Transport states that draft LEPs shall locate zones for urban purposes and include provisions that give effect to and are consistent with the aims, objectives and principles of *Improving Transport Choice – Guidelines for Planning and Development* and *Right Place for Business and Services – Planning Policy*, prepared by the Department of Urban Affairs and Planning (DUAP) (now the Department of Planning) in 2001.

The area immediately adjoins an existing bus route. The preparation of the draft LEP complies with relevant technical documents for bus services, transport choice and access. Council has consulted with Transport NSW and the local bus companies to ensure compliance with this Direction. The study area adjoins public transport services and in Wadalba Village Centre.

While the publication *The Right Place for Business and Services* is not relevant to the draft LEP.

3.2.7 Direction No. 19 - Planning In Bushfire Prone Areas

Direction No. 19 Planning in Bushfire Prone Areas aims to protect life, property and the environment from bushfire hazards, by discouraging establishment of incompatible land uses in bushfire prone areas; and to encourage sound management of bushfire prone areas.

This Direction requires the Commissioner of the NSW Rural Fire Service (RFS) to be consulted under s62 of the *EP&A Act, 1979* and that the draft LEP has regard to the document, *Planning for Bushfire Protection, 2006*. Section 4.1.4 of the LES further discusses the proposed rezoning in relation to *Direction 19 Planning in Bushfire Prone Areas*.

3.2.8 Direction No. 21 - Residential Zones

Direction No. 21 Residential Zones aims to ensure the orderly and economic use or development of residential land. *Direction No. 21 Residential Zones* states the draft LEPs shall contain a requirement that:

- * Permits dwelling-houses;
- * Residential development that is not permitted until land is adequately serviced with water and sewerage (or arrangements, satisfactory to the Council, have been made to service it);
- * Permits dual occupancy;
- * Encourages housing variety; and
- * Does not reduce the maximum permissible density.

Draft Local Environmental Plan – Louisiana Road, Hamlyn Terrace (contd)

The study area is capable of being serviced by water and sewer infrastructure.

The provision of water and sewer infrastructure will be required to be funded and constructed as part of the subdivision process. The proposed zonings will facilitate a range of dwelling types including dual occupancy and will not impose restrictions on the maximum permissible density. Draft LEP (Amendment No. 163) is considered to be consistent with *Direction No. 21 – Residential Zones*.

3.2.9 Direction No. 22 - Rural Zones

Direction No. 22 Rural Zones aims to protect the agricultural production value of existing rural land. The Direction applies when a Council prepares a draft LEP that creates, removes or alters a rural zone boundary or rural zone provisions. A draft LEP may be inconsistent if the action is justified by an environmental study, or is of relatively minor significance, or the land has been identified in a Strategy prepared by Council and signed off by the Director-General.

The proposed study area, as reflected in the draft LEP, is identified in Council's *RDS*. The *RDS* has been endorsed by both Council and the NSW Government as establishing the policy for residential development in Shire. Furthermore, the LES justifies the proposed rezoning in relation to *Direction No. 22 Rural Zones*.

3.2.10 Direction No. 25 - Site Specific Zonings

Direction No. 25 Site Specific Zonings aims to make the range of uses permissible in zones as flexible as possible, and applies when a Council prepares any draft LEP to allow a particular development proposal to be carried out.

The draft LEP proposes to rezone the land to a zone that already exists under the *Wyong LEP 1991* and does not impose any additional development standards or requirements to those that already apply in the zone. Therefore, the rezoning proposal is considered consistent with *Direction No. 25 Site Specific Zonings*.

3.3 Related Legislation

- * Commonwealth Environmental Protection and Biodiversity Conservation Act 1999.
- * NSW Threatened Species Conservation Act, 1995.
- * Rural Fires and Environmental Legislation Amendment Act, 2002.
- * The Native Vegetation Act, 2003.
- * Rivers and Foreshore Improvement Act, 1948.

Draft Local Environmental Plan – Louisiana Road, Hamlyn Terrace (contd)**CONCLUSION**

All of the issues raised through the Public Exhibition of the draft plan have been readily addressed. Upon resolution of a satisfactory Planning Agreement and/or Section 94 Contribution Plan amendment, the Minister will be requested to create draft LEP (Amendment No.163) pursuant to Section 70 of the *EP&A Act, 1979*.

It is also recommended that DCP 2005: Chapter 49 Warnervale East and Wadalba North West Urban Release Area (as amended post public exhibition) be adopted effective as of the date of the draft LEP (Amendment 163) being gazetted.

<i>Attachment 1</i>	<i>Proposed Draft Local Environmental Plan – Amendment 163 – Map (1 page)</i>
<i>Attachment 2</i>	<i>Proposed Draft Local Environmental Plan – Amendment 163 – Instrument (2 pages)</i>
<i>Attachment 3</i>	<i>Public Exhibition Submissions (13 pages)</i>
<i>Attachment 4</i>	<i>Views of Public Authorities (5 pages)</i>
<i>Enclosure</i>	<i>DCP 2005 Chapter 49</i>

**Draft Local Environmental Plan – Louisiana Road, Hamlyn Terrace –
(Attachment 2)**

**Wyang Local Environmental Plan 1991
(Amendment No. 163)**

under the

Environmental Planning and Assessment Act, 1979

1 Name of plan

This plan is *Wyang Local Environmental Plan 1991 (Amendment No. 163)*

2 Aims of plan

This plan aims to:

- a) Rezone certain land to which the plan applies from 10(a) Investigation Precinct Zone, 1(c) Non Urban Constrained Land Zone or 2(e) Urban Release Area Zone to 2(a) Residential Precinct Zone and 2(b) Multiple Dwelling Residential Zone to allow for residential development.
- b) Rezone certain land from 10(a) Investigations Precinct Zone to 1(c) Non Urban Constrained Land to reflect relevant constraints.
- c) Remove the lot amalgamation provisions that apply to Lots A and B in DP 31271; Lots 6, 7, 8 and 9 in DP 201174; and Lots 43 and 47 in DP 7091.

3 Land to which plan applies

This plan applies to the land situated in the local government area of Wyong shown edged heavy black on the map marked 'Wyang Local Environmental Plan (Amendment No. 163)' deposited in the office of Wyong Shire Council.

4 Relationship to other environmental planning instruments

This plan amends *Wyang Local Environmental Plan 1991* in the manner set out in Clause 5.

5 Amendment of Wyang Local Environmental Plan 1991

Wyang Local Environmental Plan 1991 is amended in the following manner:

- a) By inserting in the appropriate order in the definition of *the map* in clause 7(1) of the following words:

Wyang Local Environmental Plan (Amendment No. 163)

**Draft Local Environmental Plan – Louisiana Road, Hamlyn Terrace –
(Attachment 2) (contd)**

- b) By deleting the distinctive edging and marked 'lot amalgamation' on the map on Lots A and B, DP 31271; Lots 6, 7, 8 and 9, DP 201174; and Lots 43 and 47, DP 7091.
- c) By deleting in the appropriate order under the headings 'Locality', 'Street' and 'Description' within Schedule 5 the following words:

'Hamlyn Terrace', 'Pacific Highway' and 'Lot 6 DP 201174'.
- d) By inserting in the appropriate order the following clause:

42G Hamlyn Terrace –subdivision and regional transport infrastructure

- (1) This clause applies to land shown edged heavy black on the map marked 'Wyong Local Environmental Plan 1991 (Amendment No. 163)'.
- (2) The object of this clause is to require assistance towards the provision of regional transport infrastructure and services to satisfy needs that will arise from development of land to which this clause applies, but only if that land is developed intensively for urban purposes.
- (3) Despite any other provision of this plan, consent must not be granted for a subdivision of land to which this clause applies, that will
- (a) create a lot with an area of less than 40 hectares, in the case of land that was in the Non-Urban Constrained Land Zone immediately before the commencement of *Wyong Local Environmental Plan 1991 (Amendment No 163)*, or
- (b) create a lot that was in the Investigation Precinct Zone immediately before the commencement of that plan,
- unless the Director-General has certified in writing to the Council that satisfactory arrangements have been made to contribute to the provision of regional transport infrastructure and services in relation to the land comprising that lot.
- (4) The reference in sub clause (3) to a lot does not include a reference to any such lot:
- (a) identified in the certificate as a residue lot, or
- (b) that is proposed in the development application to be reserved or dedicated for public open space, public roads, public utilities, educational facilities, or any other public purpose.
- (5) Sub clause (3) does not apply to a subdivision for the purpose only of rectifying an encroachment on any existing allotment.
- (6) *State Environmental Planning Policy No 1—Development Standards* does not apply to this clause.
- (7) This clause has effect despite any other provision of this plan.

**Draft Local Environmental Plan – Louisiana Road, Hamlyn Terrace –
(Attachment 3)**

PUBLIC EXHIBITION SUBMISSIONS

Doc No	Submission Comments	Response
D00794965	<ul style="list-style-type: none"> • Being downstream we are concerned about excess stormwater runoff flowing onto our property. • Concerned about fencing between our property and adjoining proposed open space land. • Increased traffic and pedestrian activity. • Zoning change will devalue our property as over 50% will be 1(c) which is worthless. • We have no option to move and are concerned about fencing and sound barriers between our property and the Jennings development. • We will go from rural to residential and have no say in the matter despite us owning the property. • We don't want the proposed 5 residential properties backing onto our property. • Concerned that the proposed traffic lights at the Louisiana Road and Pacific Highway intersection won't be complete until after the development is complete. 	<ul style="list-style-type: none"> • The majority of the land to be rezoned lies downstream of this property. There are only 9 small existing residential sized properties upstream. Measures are in place to manage stormwater runoff as part of the proposed development of this precinct. • The DCP has been amended requiring the cost of common boundary fencing to rest with the developer. • Agreed. A change to an urban zone will result in this occurring. • Council cannot provide a professional opinion on this issue. However, a property value increase is more likely given that part of the land will be rezoned to residential 2(a). • As stated above, the DCP has been amended to require common boundary fencing costs to rest with the developer. The type of fencing should be assessed at DA stage. • The rezoning itself will not result in a change of use on individual properties, unless they choose to either sell or develop. • The final subdivision configuration will be subject to a DA which will be notified to adjacent property owners. A proposed change in zoning on a property and adjacent properties may in time result in a change in land use. • The DCP has been amended to include a requirement that the signals be installed by the developer with the first stage of development which has access to Louisiana Road.

**Draft Local Environmental Plan – Louisiana Road, Hamlyn Terrace –
(Attachment 3) (contd)**

Doc No	Submission Comments	Response
D00794277	<ul style="list-style-type: none"> • Development needs to be done in an ecologically sustainable (ESD) manner. • The proposal highlights the need for district facilities, open spaces and environmental protection in the Wadalba and Hamlyn Terrace District. • Council should review the infrastructure needs around Hamlyn Terrace and Wadalba Central. • Need for equality in service standards for developers in all parts of the Wadalba and Hamlyn Terrace areas such as bus shelters, street tree planting etc. • Should be a review of clear felling within the Wadalba Release area and Hamlyn Terrace. • Shortage of open space in LRIP and Hamlyn Terrace and Wadalba districts generally. 	<ul style="list-style-type: none"> • Agreed. • Agreed. The development of the LEP and DCP amendment follow and adopt ESD principles. The proposal will contribute to these by way of precinct specific improvements and through contributions. • Section 94 Contribution Plan 7 has recently been reviewed which considers infrastructure requirements in these areas. It is anticipated that this will be publicly exhibited in the coming months. • Council has DCP Chapters in place that set out development requirements for subdivision and residential development. These requirements are revised periodically therefore changes do occur. Furthermore different developers bring different approaches to development. • Notice of Motion 082 regarding clear felling considered by Council on 28 February 2007. The Notice of Motion was lost. • While there are examples of local open space shortage, the LRIP plans adequate local, and district level open space, playing fields and cycling/walking tracks in line with Chapter 49.

**Draft Local Environmental Plan – Louisiana Road, Hamlyn Terrace –
(Attachment 3) (contd)**

Doc No	Submission Comments	Response
D00794277	<ul style="list-style-type: none"> • Support Master Plan approach but access to transport, open space, pedestrian access, noise disturbance minimization and well located facilities (for children and seniors) requires closer scrutiny. 	<ul style="list-style-type: none"> • Access to public transport complies with current standards of the Ministry of Transport. Extensive cycling and walking paths are proposed for this area. A noise assessment report will be required for future development close to Pacific Highway and this calls for consideration of other potential noise sources.
	<ul style="list-style-type: none"> • Further planning and funding needed to conserve floodplain and other sensitive ecology. Management should be included in the Wadalba Wildlife Corridor Management Plan (Wyong Shire Council 2006). • Open Space facilities need to be provided upfront, experience in Wadalba shows after nine years such basic facilities (playground) not provided. • LRIP should only be provided when it complies with SEPP 66 Integrated Land uses and Transport 2001. Given the estimated additional 1500 residents. • Council should adopt population carrying capacity guidelines under the principles of the proposed Commonwealth Sustainable Cities Charter under the House of Representatives Sustainable Cities (HR 2005). Reference should also be made to the Wyong Shire Population Summit Report. 	<ul style="list-style-type: none"> • A Conservation Management Plan is being prepared for the restoration and ongoing maintenance of the floodplain and other sensitive ecology. This is similar but separate to the existing Wadalba Wildlife Corridor Management Plan (Wyong Shire Council 2006). • This is subject to Section 94 funds being available. • The Wyong Residential Development Strategy 2002 identifies a range of residential density targets across the greater Warnervale residential release area. The target density averages are higher closer to the proposed Warnervale railway Station. The RDS endorsed a density of 13 dwellings per hectare as proposed under the DCP Chapter 49 Amendment. • Noted.

**Draft Local Environmental Plan – Louisiana Road, Hamlyn Terrace –
(Attachment 3) (contd)**

Doc No	Submission Comments	Response
D00794277	<ul style="list-style-type: none"> • A Developer contribution plan including the State's Regional Infrastructure Levy for the infill precinct needs to be further developed to address the needs of the future population of the Warnervale/Wadalba Growth Centre especially regarding implications for service provision and timing thereof. 	<ul style="list-style-type: none"> • Contributions both at a local and state level are being prepared for this proposal. The lower population growth targets in the draft CCRS don't in themselves necessarily mean the contributions require review as slower development growth generally translates to slower demand for services. Any real or perceived lags between demand and supply of infrastructure and facilities is a separate issue.
	<ul style="list-style-type: none"> • There needs to be reference to European and Aboriginal Heritage reflected in a land development of this size. • A Louisiana Precinct 'Council-Community Agreement' should be developed which spells out the commitments expected from developers of the precinct. • Council's place management program, needs to be widened 	<ul style="list-style-type: none"> • Preservation of the rural road system in keeping Louisiana Road open will preserve this reference to the original Albert Warner subdivision. The area of key indigenous importance being the floodplain will be preserved and enhanced under the proposed development. • The LEP and DCP are the legal planning mechanisms for guiding development in the precinct. • Council employs a Warnervale Project Manager to oversee the development and service provision in the wider Warnervale area.
D00796558	<ul style="list-style-type: none"> • DNR is generally satisfied that the major natural resource features and values have been accounted for in both the draft LEP and Chapter 49. • There may be groundwater dependent ecosystems present within the site and the impact on such features may need to be assessed. 	<ul style="list-style-type: none"> • Noted. • This may need to be addressed through the development assessment process. If a DA is an integrated DA, then it will be referred to DNR.

**Draft Local Environmental Plan – Louisiana Road, Hamlyn Terrace –
(Attachment 3) (contd)**

Doc No	Submission Comments	Response
D00798336	<ul style="list-style-type: none"> • The LEP Zone boundaries do not accord with the proposed lot boundaries in the northern part of the LRIP. • Should the description of the DCP under Ch 1(a) be 'Chapter 49 of DCP 2005'? • Part 3.1. Final paragraph; it should be noted that the Annand Alcock physical plan of subdivision contained in the master plan document has evolved during subsequent detailed design by landowners and is therefore indicative only. • Part 4.1. Suggest cul-de-sac diagram be deleted as these are not generally supported by the Annand Alcock Master Plan. • Part 4.2. Density of 13 dwellings per Hectare – how is this calculated, in particular what is included in net land area. A definition may be useful. Add 'density' after 'residential' in (second) last sentence. • Part 4.2.1(b). Wording unclear. 	<ul style="list-style-type: none"> • The rear portion of the two proposed lots (located on the southern side of 'Precinct A' southern boundary road) is affected by the 1%AEP flood line and therefore has been zoned to reflect this constraint. Future dwellings will be located on the front portion of these lots. These lots are larger to accommodate APZ to the rear within private ownership. • The decision has been made to keep the original description throughout all Chapters until all are revised for the sake of consistency. • This is effectively noted in Section 4.15.1. • This Section deals with areas in addition to the LRIP that may accommodate cul-de-sac development. A note has been added to the DCP stating that cul-de-sac development is not encouraged in the LRIP. • The density definition used is the one defined in draft SEPP 66. This is now referenced in the DCP CH 49. Noted. • Noted. DCP has been changed to promote clarification.

**Draft Local Environmental Plan – Louisiana Road, Hamlyn Terrace –
(Attachment 3) (contd)**

Doc No	Submission Comments	Response
D00798336	<ul style="list-style-type: none"> • Part 4.2.1(c). Advise that applications for integrated housing to include a complete set of architectural plans and supporting consultant reports to meet the development application requirements? • Part 4.2.1 (d-f). Reference to cul-de-sacs not relevant. • Part 4.2.2. To assist readability the introduction of this section could refer readers interested in development of the LRIP to Section 4.15. • Part 4.2.2(a). Setbacks to small lots should be different to conventional lots. Suggest 3m front and 1.5m to side. • Part 4.2.2(c). Figure 2 not titled. 	<ul style="list-style-type: none"> • Agreed. Amendment to DCP 49 has been made. • Not relevant to development in the LRIP, this has been noted in the DCP. • Agreed. The heading of this section excludes the LRIP but the DCP has been amended to refer readers to Section 4.15 • Noted. These controls are not part of the LRIP. They will be reviewed however when a more comprehensive review of Chapter 49 occurs. • Noted. DCP has been amended to reflect this.
	<ul style="list-style-type: none"> • Table 3C. We note in Table 3B that access streets that serve less than 500vpd require only a road pavement width of 5.5m within a 14.5m road reserve. This should be the case in the LRIP for roads serving less than 500vpd. Street Bioswales can still be accommodated. 	<ul style="list-style-type: none"> • Council is moving away from the narrower streets such as what was proposed in Wadalba (Table 3B) and is accepting generally the principles of Landcom's Street Design Guidelines. Furthermore, what is proposed in the LRIP is consistent with what Council is considering in the revision of the Sub-Division DCP Chapter 66. For a street with development both sides (Volume 0- 500 vpd) – a carriageway width of 7.6 metres with vertical kerb both sides will be required.

**Draft Local Environmental Plan – Louisiana Road, Hamlyn Terrace –
(Attachment 3) (contd)**

Doc No	Submission Comments	Response
D00798336	<ul style="list-style-type: none"> • Table 3C. The Rear Access Laneway width of 8m is considered excessive. Other LGA's allow 6-7m to consolidate density. We request the laneway width be reduced to 7m. • Table 3C. Consideration should be given to the use of upright kerbs for all streets to restrict use of verges for vehicle parking. • Part 4.8 Streetscape. Reference is made to a Category 3 Landscape Report but there is no definition. This should be included in the DCP. • Part 4.8(c). Road widths table should be deleted as it does not add any new information and may actually confuse the situation. • Part 4.15. Introductory paragraph should read 'inconsistencies'. 	<ul style="list-style-type: none"> • The 8 metre rear lane width is consistent with Landcom's Street Design Guidelines. This width provides for adequate vehicle turning, pedestrian and tree planting accommodation. A reduction in width is not considered necessary given that 8 metres is likely to be adopted as Council's standard. • The use of upright kerbs is supported for the reasons stated. However to achieve this, the road pavement widths need to be increased from 7m to 7.3m. A note has been added to Table C allowing this option. • Noted. DCP amended to refer to Council Landscape Policy L1. • Noted. This has been deleted from the DCP. • Noted. DCP has been amended.
	<ul style="list-style-type: none"> • Part 4.15.1 Structure Plan. Reference regarding the Structure Plan preparation should be made to the property owner. Also, the plan should be referred to as Version 2. • Supports the objectives outlined in the Structure Plan Section. 	<ul style="list-style-type: none"> • Agreed. DCP has been amended in relation to the first point. Disagree with the last point, no change recommended. • Noted.

**Draft Local Environmental Plan – Louisiana Road, Hamlyn Terrace –
(Attachment 3) (contd)**

Doc No	Submission Comments	Response
	<ul style="list-style-type: none"> <li data-bbox="395 394 804 640">• Part 4.15.2.1 Principles. It is difficult to see how attached town houses that face north to the floodplain will be able to meet the principle of attached townhouses generally being located north of open space to achieve a rear facing rear yard. It is suggested that this principle be removed. <li data-bbox="395 674 804 909">• Part 4.15.2.2 Figures 11 and 12. We do not object to the density targets but note the numbers are very specific and rigid. We suggest the numbers be rounded down in each precinct as well as a statement requiring an overall minimum of 13 dwellings per hectare. <li data-bbox="395 943 804 1043">• Part 4.15.3.2. This point should be expanded to state 'No vehicle access' to allow for pedestrian and cycle access. <li data-bbox="395 1077 804 1155">• Part 4.15.3.2. Final paragraph is unclear where it states 'terete suon as Hakeas'. <li data-bbox="395 1189 804 1357">• Part 4.15.4 Bushfire Asset Protection. We note that the Bushfire Protection Guidelines have been reviewed and it may be appropriate to review this section in the context of this. 	<ul style="list-style-type: none"> <li data-bbox="820 394 1436 495">• This issue is recognised. An amendment has been made to the DCP to refer to townhouses other than those fronting the floodplain to remove the potential confusion and conflict. <li data-bbox="820 674 1436 797">• The figures will be referenced as indicative only. The terminology for the targets will be revised to requiring a minimum 13 dwg/ha over the combined LRIP and a minimum of 12dwg/ha for precinct A and C and a minimum of 14.5 dwg/ha for Precinct B. <li data-bbox="820 943 1436 965">• Agreed. DCP amended. <li data-bbox="820 1077 1436 1099">• DCP amended to read 'terete suon as Hakeas'. <li data-bbox="820 1189 1436 1301">• The perimeter roads were revised in accordance with the draft guidelines before they came into force. The controls are generally in accordance with the guideline.

**Draft Local Environmental Plan – Louisiana Road, Hamlyn Terrace –
(Attachment 3) (contd)**

Doc No	Submission Comments	Response
D00798336	<ul style="list-style-type: none"> • Part 4.15.4(h). Developer funding to ongoing maintenance of APZ's. We question the practicality of this approach particularly long-term and consider it an unreasonable impost on the development. We recommend it be removed and request the opportunity to discuss this matter further. • Part 4.15.5.2 Environmental and Vegetation Protection. Figure 15 should be referenced in the text acknowledging that part of the periphery of the vegetation will be removed by the urban footprint and this is considered acceptable in environmental terms. • Part 4.15.6 Water Cycle Management Requirements. Have not had the opportunity to review the Water Management Strategy and suggest this should be subject to further discussions with us, Council and the consultant. Figure 16 although indicative shows Bioswales in most streets and we suggest this may not be practical or beneficial and we would like to discuss this further with Council. • Part 4.15.7(a) Acoustic Development Requirements. The trigger for acoustic reports for development 'close enough to the Highway that they will potentially be subject to and acoustic impact' is ambiguous. It needs to be clearer such as lots and/or dwellings that front directly or back directly onto the Pacific Highway. 	<ul style="list-style-type: none"> • Revised wording '...funding may be sought...'. Further discussion with a major property owner on this funding will be required. • Agreed. DCP has been amended to clarify this. • DCP has been amended to provide some flexibility whilst maintaining the WSUD objectives. • Agreed. DCP has been amended to clarify this point.

**Draft Local Environmental Plan – Louisiana Road, Hamlyn Terrace –
(Attachment 3) (contd)**

Doc No	Submission Comments	Response
D00798336	<ul style="list-style-type: none"> • Part 4.15.7(e). In light of the urban design features sought to the Highway (no noise wall and dwellings addressing a service road) we question the ability of dwellings, even with the inclusion of noise buffering measures to meet AS 2107.200. We support the urban design outcomes but believe potential buyers of property will account for proximity to the Highway when purchasing. We note this sub clause provides opportunity for the acoustic report to acknowledge this issue that this should be more explicitly stated. • We understand Council commissioned an acoustic report and recommendations contained in it should be discussed and the DCP to provide more certain requirements. • Part 4.15.8 Figure 17 Concept Lot Type. Figure 17 should be referenced in the text and noted that, as it is a guide only to the distributions of lots. • Part 4.15.8.1(d). The illustrative photo includes a dwelling on the side of a steep hill which is not indicative of the prevailing landform. • Part 4.15.8.1(a) Terrace Lots. The illustrative photograph includes a three storey dwelling which is not supported by the DCP. A more suitable image is suggested (two storey example). 	<ul style="list-style-type: none"> • It is considered this section provides enough flexibility giving the acoustic report the ability to overrule the other requirements in this section. • Council did not engage a noise consultant and therefore the requirement has been carried over into the DCP. • This point is considered valid and the DCP has been amended accordingly. • Noted. A more suitable photograph has been included. • This point is considered valid and the DCP has been amended accordingly.

**Draft Local Environmental Plan – Louisiana Road, Hamlyn Terrace –
(Attachment 3) (contd)**

Doc No	Submission Comments	Response
D00798336	<ul style="list-style-type: none"> • Part 4.15.8.1(a) Terrace lots. The requirement that only 50% of dwellings may have double garage is unreasonable. Streetscape objectives in rear laneways can be achieved by other methods such as recessed gates to rear yard with landscaping. 	<ul style="list-style-type: none"> • Double width garaging is already restricted from the primary street front. Where a rear lane is proposed to provide vehicle access, then no restriction on double width garaging is needed. DCP has been amended to reflect this.
	<ul style="list-style-type: none"> • Part 4.15.8.1(b) Courtyard Lots. The requirement that only 50% of dwellings may have double garage is unreasonable. Streetscape objectives in rear laneways can be achieved by other methods such as recessed gates to rear yard with landscaping. • Part 4.15.8.2 General Residential Design Requirements (a) to (i). The need for detailed architectural design requirements in this part and its sub clauses is questioned. The DCP should not over design or over regulate the built environment as this has a tendency to obliterate any inherent sense of place or local diversity. The DCP must contain flexibility to allow development to evolve and impart its own character on the environment. • Appendix B, Extract from Streetscape Guidelines. The images and text do not reproduce well and should be revised with better quality to assist with legibility and usability of the document. 	<ul style="list-style-type: none"> • Noted. The DCP has been amended to delete this requirement, but require appropriate landscape and treatment such as recessed rear gates. • Disagree. The design controls have been specifically developed for the LRIP in order to achieve a consistent and high standard of urban design but there remains enough flexibility for architectural freedom. Therefore, there is no change to the DCP. • Agreed. This has been addressed.

**Draft Local Environmental Plan – Louisiana Road, Hamlyn Terrace –
(Attachment 3) (contd)**

Doc No	Submission Comments	Response
D008008717	<ul style="list-style-type: none"> The proposed 2(b) zone boundary was to have run alongside the new sewer main to limit compensation payable for the easement by Council. It had previously been confirmed that the boundary between the 1(c) and 2(b) zones had been straightened. What happened to this amendment? 	<ul style="list-style-type: none"> This issue was first raised by Johnson Partners and addressed by Council staff in September / October 2001. Council's Planning Co-ordination Engineer established that the limit of fill and development adjacent to Minnesota Road could extend no further than 220 metres north of Pacific Highway. This represents a further 30m beyond the boundary shown in DCP 2005 Chapter 49. The Director of the Strategic Planning Department at the time indicated that this change should be implemented with a draft LEP rezoning lands fronting Louisiana Road. This approach has been adopted. This adjustment to the zone boundary has been made under Amendment 163 and results in a straightened edge perpendicular to Minnesota Road approximately 30m further north, though not in the location sought by the land owner.
D00761591	<ul style="list-style-type: none"> Figure 10 in Section 12.4 of Chapter 49 which deals with the allocation of underground services is inconsistent with the Institute of Public Works Engineering Australia Ltd (IPWEA) Streets Opening Conference (SOC) or EA's published network Standard NS 130 –"Specification for Laying of Underground Cables up to 22kV concerning allocation of services within footpath reservation". Recommend Council revises Figure 10 in line with the" Guide to Codes and Practices for Street Opening 2002". 	<ul style="list-style-type: none"> Noted. DCP has been amended in accordance with these requirements.
D00763048	<ul style="list-style-type: none"> No objection provided development in the area is in accordance with the Board's Surface Development Guidelines. 	<ul style="list-style-type: none"> Noted

25 July 2007
To the Ordinary Meeting of Council

Director's Report
Shire Planning Department

**Draft Local Environmental Plan – Louisiana Road, Hamlyn Terrace –
(Attachment 3) (contd)**

Doc No	Submission Comments	Response
D00783524	<ul style="list-style-type: none"> Comments regarding need to revise Section 2.2, section 2.4 and section 2.9 of DCP 2005 Chapter 83 Commercial Hydroponic and Horticultural Development with Crop Protection Technology. 	<ul style="list-style-type: none"> Noted. Not relevant to DCP 49. To be considered when Chapter 83 is reviewed.
D007855200	<ul style="list-style-type: none"> No comments from Agriculture of Fisheries. Minerals: Any surface development must be designed to meet building design guidelines established by the MSB. Sydney Gas currently are exploring for Coal Bed Methane resources (CBM) in the Wyong district however given the location and surrounding residential zoning there is no likelihood of CBM being tested on the subject land. There are no known metallic or extractive industrial resources within the subject land. 	<ul style="list-style-type: none"> Noted. Noted. DCP 49 includes provisions for relevant applications to be referred to MSB or comply with their provisions. Noted. Noted.

**Draft Local Environmental Plan – Louisiana Road, Hamlyn Terrace –
(Attachment 4)****VIEWS OF PUBLIC AUTHORITIES**

The draft LEP was referred under s62 and s34A to DEC to an extensive range of Government agencies and bodies in March 2005. The matters raised have been incorporated into the finalisation of the LES and the draft LEP, and are summarised as follows:

Agency	Issues
NSW Department of Primary Industries	<ul style="list-style-type: none"> ▪ Agriculture has several concerns relating to any intensive agriculture operations (mushroom farming or egg production) in the area that will be continuing and will therefore need to have an adequate buffer from residential areas. ▪ Fisheries only concern is the management of the channel through the development area and would recommend that the channel be zoned for water conservation or similar and be protected with a 40m buffer zone for open space.
NSW Rural Fire Service	<ul style="list-style-type: none"> ▪ APZs are to comply with <i>Planning for Bushfire Protection, 2001</i> and must be provided within individual property boundaries. ▪ The access requirements of <i>Planning for Bushfire Protection, 2001</i> are to be complied with. A perimeter road system is the preferred option for new subdivision as indicated in <i>Planning for Bushfires Protection, 2001</i>. It is therefore advised that, where possible, new development be designed to incorporate a perimeter road. Public roads are to comply with Section 4.3.1 of <i>Planning for Bushfire Protection 2001</i>. ▪ The section on Bushfire Planning proposes to provide APZs within swales, ponds and other low maintenance water management features. As indicated above, APZs are to be provided within individual property boundaries except in the most exceptional circumstances. ▪ The management of any reserves and open spaces that are retained within the subject site should be assessed and include the preparation of a plan of management that addresses the following: <ul style="list-style-type: none"> i. Contact person / department and details. ii. Schedule and description of works for the construction of APZs and their continued maintenance. iii. Management strategies, proposed schedule and description of works of any remnant bushland within the property boundary. iv. Details of access through any gate / fire trail system for remnant bushland areas. v. Review period and reporting changes of contact details. vi. Reporting of works completed.

**Draft Local Environmental Plan – Louisiana Road, Hamlyn Terrace –
(Attachment 4) (contd)**

Agency	Issues
<p>NSW Roads and Traffic Authority</p>	<ul style="list-style-type: none"> <li data-bbox="560 443 1430 741"> <p>▪ Major roundabouts in Minnesota Road and Louisiana Road appear to be acceptable. However, the minor intersection with left-in / left-out traffic arrangement in Louisiana Road immediately north of the Pacific Highway intersection appear to be a safety concern, being close to the signalised intersection. Ingress and egress from the access way on the eastern side of Louisiana Road may also cause traffic conflicts and reduce traffic safety at the left-in / left-out intersection. Cardno MBK report considered only one access point properly at the roundabout. This left-in / left-out intersection should be closed to create a cul-de-sac arrangement.</p> <li data-bbox="560 757 1430 1055"> <p>▪ Density distribution plan and Draft LEP Map for Option B show Bingarrah Road connecting Louisiana Road to Pacific Highway south of Wyong Hospital. The draft Structure Plan shows vegetation in this area. It would appear that draft LEP excluded this road from the study area but Cardno MBK report considered it to be a flood prone area. RTA requires this road to be developed as a local road and not connected to the Pacific highway. Closure of this access and the access noted above is required to better control traffic movements and improve safety in Pacific Highway by reducing the number of merging and converging conflict points.</p> <li data-bbox="560 1070 1430 1279"> <p>▪ Provision of higher density towards the south-western section of the rezoned area will require access to future retail on the southern side of Pacific Highway as noted in Council's report. For this to occur, full street frontage in Pacific Highway to the extent of the rezoning will need to be provided with kerb and gutter. It is noted that an off-road shared path is proposed to be provided to the full frontage of the Pacific Highway.</p> <li data-bbox="560 1294 1430 1391"> <p>▪ No vehicular access will be permitted to the Pacific Highway frontage between Minnesota Road, but pedestrian and bicycle access may be permitted.</p> <li data-bbox="560 1406 1430 1615"> <p>▪ While traffic control signals appear to be the most appropriate form of control, Cardno MBK report did not consider any other form of control measures. For traffic signal option, average delay per vehicle had not been modelled to assess the performance of the existing Minnesota Road / Pacific Highway intersection. Future development applications for subdivisions would require this issue to be undertaken in accordance with RTAs Road Design Guide.</p> <li data-bbox="560 1630 1430 1765"> <p>▪ The design of traffic signals at Louisiana Road intersection will need to consider the provision of deceleration and acceleration tapers and left turn slip lanes in and out of Louisiana Road and the provision of 1.5m wide on road bicycle lanes.</p>

**Draft Local Environmental Plan – Louisiana Road, Hamlyn Terrace –
(Attachment 4) (contd)**

Agency	Issues
NSW Roads and Traffic Authority contd...	<ul style="list-style-type: none"> <li data-bbox="561 409 1422 607">▪ North-western corner of Louisiana road and Pacific Highway is affected by road widening proposal as noted in DP 258538. Design of the traffic signals should utilise this road widening strip. Council must ensure that appropriate Section 94 plan(s) for the area makes appropriate provision for the acquisition and dedication of this land for public road and any other part of land required for intersection upgrade. <li data-bbox="561 618 1422 725">▪ Council is advised also to ensure that Section 94 Plan(s) makes provision for the construction cost of the intersection upgrade. This must be discussed with this office to agree upon a reasonable estimate of the works. <li data-bbox="561 736 1422 804">The RTA is not in a position to be able to contribute funds to any works as a result of developments that may occur as a result of this rezoning. <li data-bbox="561 815 1422 882">▪ Should the development proceed, the developer(s) will require entering into a Works Authorisation Deed (WAD) for the intersection construction works. <li data-bbox="561 893 1422 960">▪ No reliance should be given to on street parking in the Pacific Highway in the determination of parking needs in relation to works resulting from the LEP.
Department of Environment and Conservation (NSW)	<ul style="list-style-type: none"> <li data-bbox="561 992 1422 1077">▪ The flora and fauna assessment recorded a population of <i>Grevillea parviflora</i> subsp. <i>Parviflora</i> and areas of Sydney Coastal Estuarine Swamp Forest Endangered Ecological Community in vegetated section of the subject site. <li data-bbox="561 1088 1422 1196">▪ DEC has records of the threatened species, <i>Petaurus norfolcensis</i> Squirrel Gilder from several years ago, while a few species of bats have been recorded in the vicinity. <li data-bbox="561 1207 1422 1274">▪ DEC supports the proposal to retain the vegetated areas where threatened wildlife has been recorded in 1(c) Non Urban Constrained Lands Zone. <li data-bbox="561 1285 1422 1352">▪ A mechanism for long term protection of these lands from clearing or further development should be considered. <li data-bbox="561 1364 1422 1431">▪ The proposal to retain and rehabilitate a previously cleared linkage across Louisiana Road is also supported. <li data-bbox="561 1442 1422 1509">▪ Retention of a vegetated link to the east of Louisiana Road should also be planned for. <li data-bbox="561 1520 1422 1588">▪ APZs should be contained within the development footprint, on already cleared lands, as should any footpaths or cycle tracks. <li data-bbox="561 1599 1422 1839">▪ There are no objections to the proposal to include constructed wetlands and other WSUD features within the APZs, provided they are on already cleared land and there is still enough distance between the structures and the vegetation for water to infiltrate in a diffuse manner. These measures should assist in management of water and nutrient inflows onto the floodplain and minimise impacts on sensitive forest vegetation, while ensuring efficient land use.

**Draft Local Environmental Plan – Louisiana Road, Hamlyn Terrace –
(Attachment 4) (contd)**

Agency	Issues
Mine Subsidence Board	<ul style="list-style-type: none"> ▪ No objection to the rezoning provided the development in the area is in accordance with the Board's surface development guidelines and DCP 49.
Minister for Gaming and Racing Minister for the Central Coast	<ul style="list-style-type: none"> ▪ No comment to make on proposal.
Gosford City Council	<ul style="list-style-type: none"> ▪ No comment to make on proposal.
Lake Macquarie City Council	<ul style="list-style-type: none"> ▪ Raises no issues or objections.
Department of Planning	<ul style="list-style-type: none"> ▪ The outcomes of the studies prepared for/by Council on this proposal should be consolidated to provide an integrated justification of the proposal. In accordance with s74(2)(b) of the EP & A Act 1979 Council is directed to prepare an LES. ▪ The LES is to provide a synthesis of the outcomes of the contamination, aboriginal heritage, traffic and transport, floodplain, watercycle management and any other relevant studies that have been prepared for this site. ▪ The LES is to document how the Louisiana Road proposal fits within the structure of the wider Warnervale/Wadalba area including how it will relate to existing and future land uses. ▪ The LES should justify the need for the rezoning at this time. ▪ Report on flooding matters including how proposed filling and development would affect other areas on the floodplain, Porters Creek wetland and how development elsewhere would affect this proposal. ▪ Discuss Proposed Zonings and land uses within the proposed zones. ▪ Discuss and justify the proposed removal of land amalgamation provisions. ▪ Show proposed zonings overlain on the structure plan for the site. ▪ Document infrastructure requirements and sources of funding differentiating between local and regional infrastructure. ▪ In addition to the directions already covered in Council's business paper, consideration should be given to s117 Direction 15 G25 flood Liable Land (now Direction No. 15 Flood Prone Land); G8 Rural Land (now G22 rural Zones) and G26 Residential Allotment Sizes (now deleted). ▪ It is recommended that you consult with Department of Natural Resources (DNR) under S62 of the Act.

**Draft Local Environmental Plan – Louisiana Road, Hamlyn Terrace –
(Attachment 4) (contd)**

Agency	Issues
<p>Department of Natural Resources</p>	<ul style="list-style-type: none"> <li data-bbox="564 421 1433 584">▪ A permit under Part 3A of the Rivers and Foreshore Improvement Act, 1948 (RFIA) is necessary to approve works that have the potential to cause adverse impacts on 'protected waters,' such as increased erosion or sedimentation, bed lowering and bank collapse and obstructing or detrimentally stream flow, leading to long term stability problems. <li data-bbox="564 622 1433 748">▪ Any works associated with future development of the subject site which involves excavation on 'protected land' will require a permit under the RFIA. Council is encouraged to ensure that development is excluded from these areas via appropriate zoning. <li data-bbox="564 779 1433 958">▪ If future development is allowed on 'protected land', the following riparian buffer widths will be required as a component of the development proposals to ensure that the intent of the RFIA is achieved: <ul style="list-style-type: none"> <li data-bbox="603 891 938 920">- Bingarra Channel – 20m. <li data-bbox="603 931 938 958">- Western Tributary – 10m. <li data-bbox="564 994 1433 1120">▪ Riparian buffer should consist of local native plant species and be provided along the length of the watercourse. All structural works, including works for stormwater capture and treatment should preferable by outside the riparian buffer. <li data-bbox="564 1155 1433 1281">▪ Any Asset Protection Zone (APZ) required for bushfire protection under the <i>Rural Fires Act, 1997</i> should also be outside the riparian buffer. If there are strong reasons to depart from the approaches outlined above, this can be considered when the appropriate level of detail is available. <li data-bbox="564 1317 1433 1375">▪ The Director-General of the Department of Planning should be contacted to obtain advice on whether the rezoning is 'of minor significance.'

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**305 Renewal of Lease to Girl Guides Association (NSW) for
Kooloora Road, Noraville (Attachment 1)**

Location plan of leased area shown shaded



WYONG SHIRE COUNCIL

25 July 2007
To the Ordinary Meeting of Council

Director's Report
Corporate Services Department

**305 Renewal of Lease to Girl Guides Association (NSW) for
Kooloora Road, Noraville**

F2004/10840 JMT

SUMMARY

Approval is sought to renew the lease of Lot 1 DP 746917, 33 Kooloora Road, Noraville to the Girl Guides Association (NSW) for the purposes of Girl Guides.

RECOMMENDATION

- 1 *That Council lease Lot 1 DP 746917, 33 Kooloora Road, Noraville to the Girl Guides Association (NSW) for a term of 21 years commencing 3 October 2007 for nominal rent.***
- 2 *That the proposed lease be advertised in accordance with Section 47 of the Local Government Act 1993.***
- 4 *That, if no adverse submissions are received, the lease in item 1 be completed.***
- 5 *That Council authorise the Common Seal of the Wyong Shire Council to be affixed to the Lease between the Wyong Shire Council and the Girl Guides Association (NSW).***
- 6 *That Council authorise the Mayor and the General Manager to execute all documents relating to the Lease between the Wyong Shire Council and the Girl Guides Association (NSW).***

BACKGROUND

Council currently leases Lot 1 DP 746917, 33 Kooloora Road, Noraville to the Girl Guides Association (NSW) for the purposes of Girl Guides, Brownies, Rangers and meetings of parents and committees of the Association only or for the purposes of raising funds for the lawful purposes and objects of the Girl Guides Association.

The current lease, for a period of 21 years and an annual rent of \$10, expires on 2 October 2007.

The lessee has requested that the lease be renewed for a term of 21 years upon expiry of the current lease generally on the same terms.

Girl Guides also lease properties from Council at Levitt Street, Wyong and Tuggerawong Road, Wyongah. The leases for these properties expire on 28 February 2014.

**Renewal of Lease to Girl Guides Association (NSW) for Kooloora Road,
Noraville (contd)**

The land is classified as Community Land and is categorised for General Community Use under Plan of Management No 5. It is zoned 6 (a) Open Space and Recreation. Section 46 of the Local Government Act 1993 (the Act) provides that Community Land cannot be leased for a period in excess of 21 years. Section 47 of the Act requires Council to give public notice of its intention to lease Community Land for a period in excess of five years.

Council's Shire Services and Shire Planning Departments have no objections to the renewal of the lease.

Attachment 1

Location plan of leased area shown shaded (1 page)

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WYONG SHIRE COUNCIL

25 July 2007
To the Ordinary Meeting of Council

Director's Report
Corporate Services Department

306 **Classification of Land at 63-73 and 75-85 Mataram Road,
Woongarra**

DA/678/2005 SB

SUMMARY

Authority is sought to classify Lot 2 DP 1104475 and Lot 3 DP 1104475 as Operational Land.

RECOMMENDATION

- 1** *That Council propose classification of Lot 2 DP 1104475 and Lot 3 DP 1104475 as Operational Land.*
- 2** *That the proposal be advertised in accordance with Section 34 of the Local Government Act 1993.*
- 3** *That, if no adverse submissions are received, the classification be adopted.*

BACKGROUND

Lot 2 DP 1104475 in a subdivision at Mataram Road, Woongarra has been dedicated to Council by the Minister for Education and Training as Drainage Reserve from the plan of subdivision pursuant to a condition of consent.

Lot 3 DP 1104475 in a subdivision at Mataram Road, Woongarra has been dedicated to Council by the Minister for Education and Training as Future Road from the plan of subdivision pursuant to a condition of consent.

Lot 2 DP 1104475 is 14950 square metres and is zoned 2E Urban Release Area Zone.
Lot 3 DP 1104475 is 909.7 square metres and is zoned 2E Urban Release Area Zone.

In accordance with the Public Land Classification Table Adopted by Council at its meeting held on 14 August 1996 land owned by Council for drainage purposes and future road should be classified as Operational Land.

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

Attachment 1 ***Plan showing the location of the dedications for drainage
reserve and future road highlighted (1 page)***

WYONG SHIRE COUNCIL

25 July 2007
To the Ordinary Meeting of Council

Director's Report
Corporate Services Department

307 **Classification of Land at 283-303 Warnervale Road, Hamlyn Terrace**

DA/902/1997 SB

SUMMARY

Authority is sought to classify Lot 196 DP 1089251 and Lot 198 DP 1089251 as Operational Land.

RECOMMENDATION

- 1** ***That Council propose classification of Lot 196 DP 1089251 and Lot 198 DP 1089251 as Operational Land.***
- 2** ***That the proposal be advertised in accordance with Section 34 of the Local Government Act 1993.***
- 3** ***That, if no adverse submissions are received, the classification be adopted.***

BACKGROUND

Lot 196 DP 1089251 and Lot 198 DP 1089251 in a subdivision at Warnervale Road, Hamlyn Terrace has been dedicated to Council by Wingo Fong Pty Ltd as Drainage Reserve from the plan of subdivision pursuant to a condition of consent.

Lot 196 DP 1089251 is 237 square metres and is zoned 2E Urban Release Area Zone.
Lot 198 DP 1089251 is 9043 square metres and is zoned 2E Urban Release Area Zone.

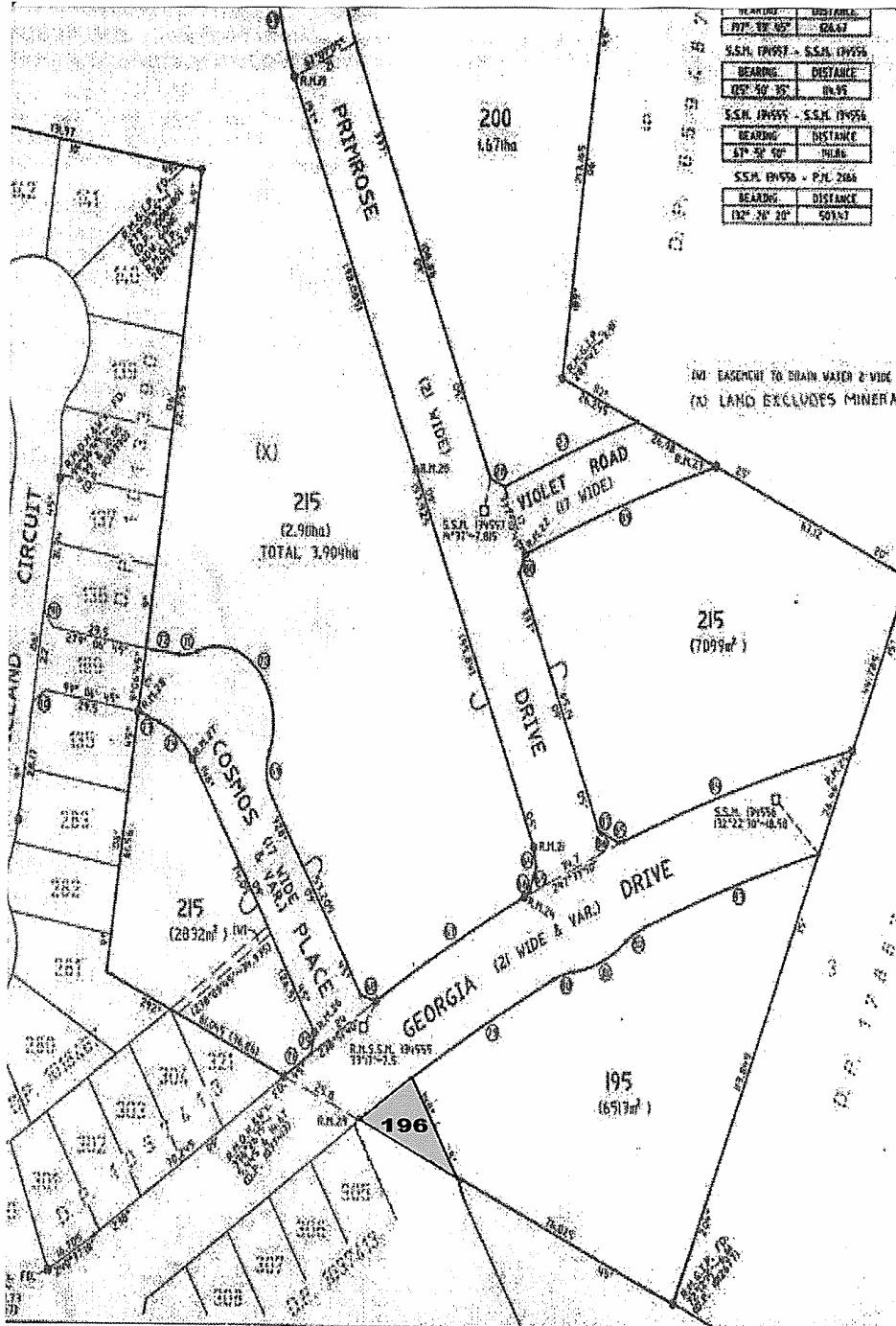
In accordance with the Public Land Classification Table Adopted by Council at its meeting held on 14 August 1996 land owned by Council for drainage purposes should be classified as Operational Land.

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

<i>Attachment 1</i>	<i>Overall Site Plan Showing all Public Land (1 page)</i>
<i>Attachment 2</i>	<i>Copy Deposited Plan 1089251 (2 pages)</i>
<i>Attachment 3</i>	<i>Extract Map from DCP 49 (1 page)</i>

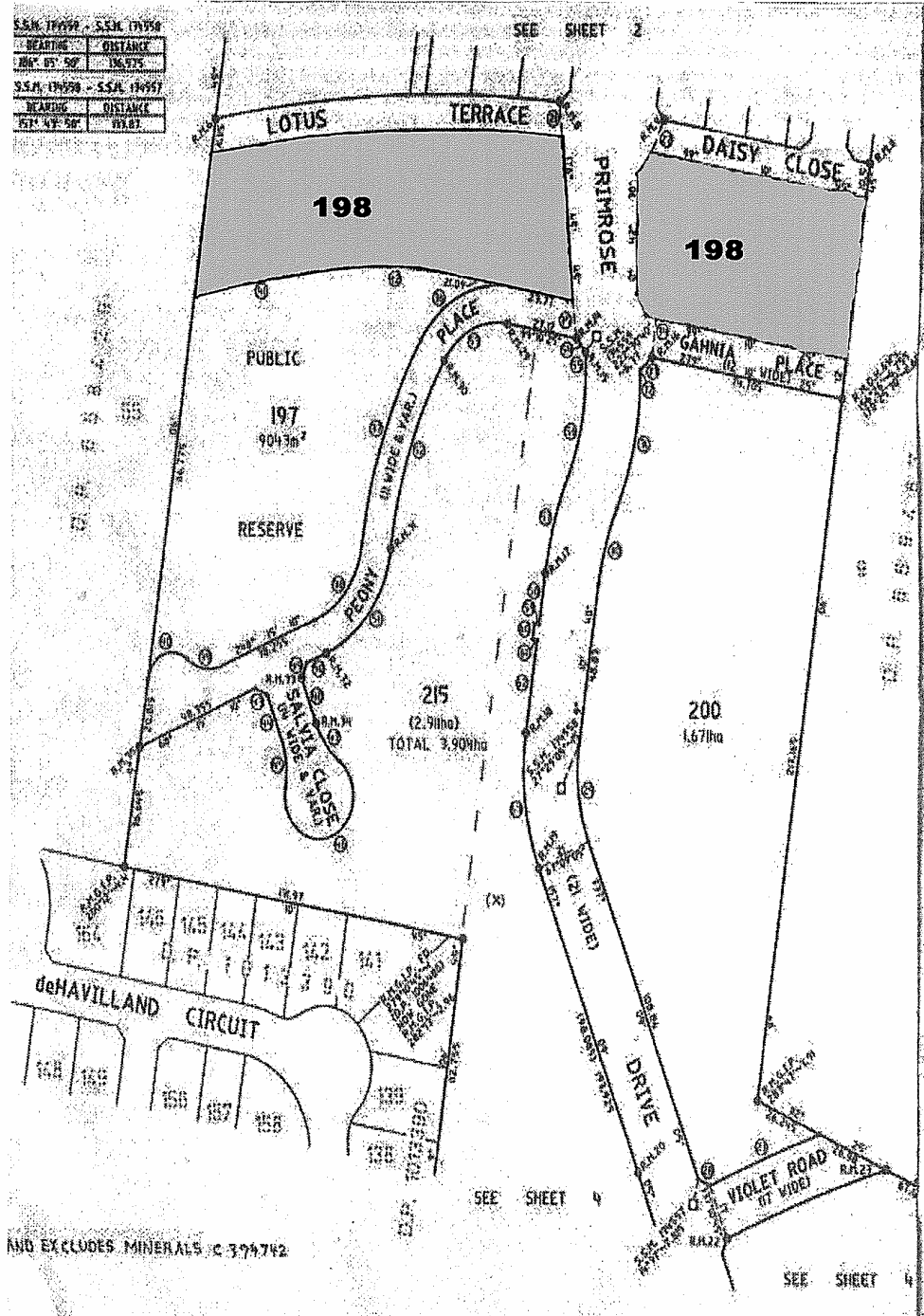
**Classification of Land at 283-303 Warnervale Road, Hamlyn Terrace
(Attachment 2)**

Copy Deposited Plan 1089251 Showing Lot 196 (page 1)



**Classification of Land at 283-303 Warnervale Road, Hamlyn Terrace
(Attachment 2) (contd)**

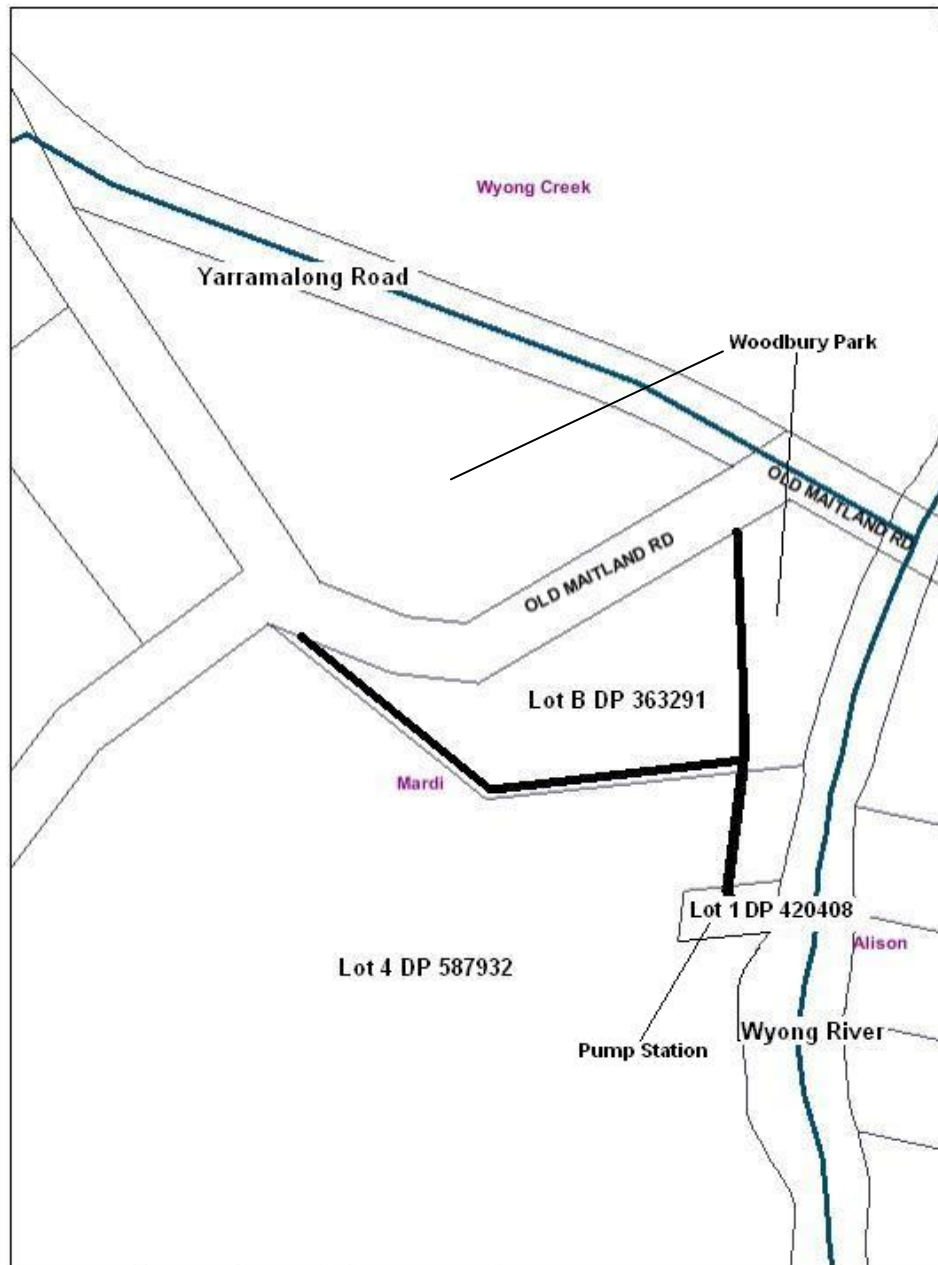
Copy Deposited Plan 1089251 Showing Lot 196 (page 2)



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308 Easements for Power Supply over Council's Land at Wyong Creek (Attachment 1)

Location plan of the proposed electricity supply



Proposed upgraded power supply

WYONG SHIRE COUNCIL

25 July 2007
To the Ordinary Meeting of Council

Director's Report
Corporate Services Department

308 Easements for Power Supply over Council's Land at Wyong Creek

F2007/00800 PF

SUMMARY

Deeds of Agreement for Easements for Power Supply are required to be signed prior to construction of the power upgrade for the Lower Wyong River to Mardi Dam Transfer Upgrade.

RECOMMENDATION

- 1** *That Council grant easements for electricity purposes to Energy Australia over Lot B DP363291 Woodbury Park and Lot 1 DP 420408 being the site of the water supply pump station.*
- 2** *That Council as the owner of Lot B DP363291 and Lot 1 DP 420408 endorse the Deed of Agreement with Energy Australia that undertakes to grant the easements in Item 1.*
- 3** *That Council endorse the Deed of Agreement between Energy Australia and the owner of Lot 4 DP 587932 Old Maitland Road Mardi on the basis that Council owns a Right of Way affecting that land.*
- 4** *That Council authorise for the Common Seal of the Wyong Shire Council to be affixed to the Transfer Granting Easement document and the Deeds of Agreement between the Wyong Shire Council and Energy Australia.*
- 5** *That Council authorise the Mayor and the General Manager to execute all documents relating to the Transfer Granting Easement document and the Deeds of Agreement between the Wyong Shire Council and Energy Australia.*

BACKGROUND

The Lower Wyong River to Mardi Dam Transfer Upgrade is a project to increase the transfer capacity of an existing Pump Station on Council land Lot 1 DP 420408 adjacent to Wyong River off Old Maitland Road Mardi, from 72 to 125 ML per day. Associated with the project it is necessary to upgrade the high voltage power supply to the pump station.

After lodging an application with Energy Australia to increase the power supply to the pump station, Energy Australia has designed a proposal which requires the construction of underground power cables from Old Maitland Road through Woodbury Park and then through a Council Right of Way on private property to the pump station.

Easements for Power Supply over Council's Land at Wyong Creek (contd)

Energy Australia requires that easements be created for electrical assets and also for vehicular and personnel access to allow it to construct the new power supply over Council's land and the affected private property.

The Council land is Lot B DP 363291 being Woodbury Park and Lot 1 DP 420408 being the site of the pump station.

Lot B DP 363291 has an area of 9933.7, is zoned 6(a) Open Space and Recreation and is classified community land. Plan of Management No 5 applies to this land and authorises the use of the land for the construction of service utilities such as power supply.

Lot 1 DP 420408 has an area of 638.6 square metres, is zoned 1(a) Rural Holding and is unclassified on the basis it is Water Supply Authority land, therefore permitting the use of the land for the construction of service utilities such as power supply.

The private property affected by the Energy Australia infrastructure is Lot 4 DP 587932 owned by Candy Lee Hoddinott. That land is affected by a Right of Carriageway in favour of Council which provides access to the pump station from Woodbury Park. To facilitate the expedient completion of easements Council endorsement of the Deed between Energy Australia and the private owner is required.

DEEDS OF AGREEMENT

As a precursor to the construction Energy Australia is required to enter into an agreement with the contractor and before Energy Australia completes its arrangement with the contractor it requires deeds of agreement to be entered into that will ensure that all the affected owners will create easements over their properties in favour of Energy Australia to satisfy its requirements in respect to the construction, operation and maintenance of the service.

The Deed of Agreement provides that the owners of affected land will grant the required easement and sets out the procedure for the grant of easements including time frames.

The Deed also provides that electrification of the Energy Australia works will not take place until energy Australia is satisfied that it has an enforceable interest in the site of the proposed easements.

FINANCIAL IMPACT

The property access matters being the subject of this report will incur minor incidental costs for the preparation and registration of documents. Funds are available within the broader project budget to cover those costs.

Attachment 1***Plan showing the location of the proposed electricity supply
(1 page)***

WYONG SHIRE COUNCIL

25 July 2007
To the Ordinary Meeting of Council

Director's Report
Corporate Services Department

309 Revised Code of Meeting Practice

F2004/06502 ED

SUMMARY

Reporting submissions received following exhibition of Council's Revised Code of Meeting Practice.

RECOMMENDATION

That the Code of Meeting Practice be adopted.

BACKGROUND

At its meeting held on 9 May 2007, Council resolved in part:

- "1 *That Council adopt in principle the Revised Code of Meeting Practice and place it on public exhibition for 28 days in order to seek public comment, as required by section 361(2) and 361(3) of the Local Government Act, 1993.*
- 2 *That Council receive public submissions on the Revised Code of Meeting Practice for the mandatory 42 days, as required by section 361(4) of the Local Government Act, 1993.*
- 3 *That a further report be brought back to Council following the exhibition."*

Public submissions closed on 13 July 2007, and no submissions were received. Accordingly, the Code of Meeting Practice is recommended for adoption.

Enclosure

Revised Code of Meeting Practice

WYONG SHIRE COUNCIL

25 July 2007
To the Ordinary Meeting of Council

Director's Report
Corporate Services Department

310 Proposed Councillors' Community Improvement Grants

F2006/00788, F2007/00729 SG

SUMMARY

Councillors proposed the following allocation of funds for expenditure from Councillors' Community Improvement Grants.

RECOMMENDATION

- 1** *That an amount of \$1,525 be allocated from the 2006/2007 Councillors' Community Improvement Grants as outlined in Attachment 1.*
- 2** *That an amount of \$1,550 be allocated from the 2007/2008 Councillors' Community Improvement Grants as outlined in Attachment 2.*

BACKGROUND

Funds are available and expenditure is permissible under Section 24 and 356(1) of the Local Government Act, 1993.

- | | |
|---------------------|--|
| Attachment 1 | <i>Councillors' Community Improvement Grants 2006/2007
(1 page)</i> |
| Attachment 2 | <i>Councillors' Community Improvement Grants 2007/2008
(1 page)</i> |

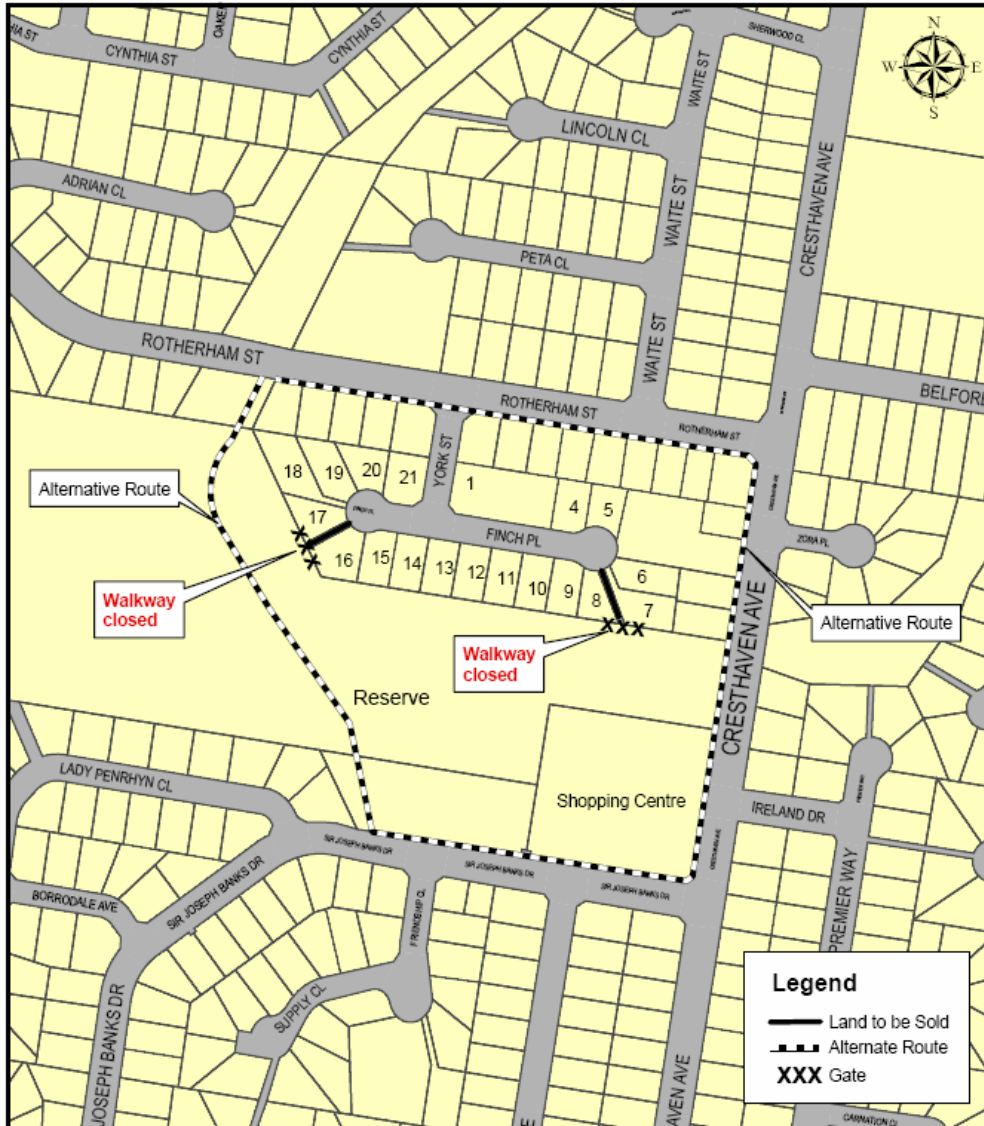
Proposed Councillors' Community Improvement Grants (Attachment 2)**Proposed Councillors' Community Improvement Grants 2007/2008**

COUNCILLORS' COMMUNITY IMPROVEMENT GRANTS ALLOCATION		Best	Eaton	Forster	Graham	Pavler	Rose	Stevens	Stewart	Veugen	Welham	SUB TOTAL
Allocation 01/07/2007 - 30/06/2008		7,500	7,500	7,500	7,500	7,500	7,500	7,500	7,500	7,500	7,500	75,000
Expenditure up to and including Ordinary Council Meeting of 11/07/2007		1,500	500	0	1,500	50	500	0	1,750	250	1,750	7,800
Available allocation as at 11/07/07		6,000	7,000	7,500	6,000	7,450	7,000	7,500	5,750	7,250	5,750	67,200
25 July 2007												
Central Coast Indian Myna Action Group	Assist with purchase of brochures, stickers, cages, gas bottles for euthanasia of birds and box trailer to carry cages	150							500			650
Kanwal Adult Day Care	Assist with ongoing cost of meals and cost of transport	50										50
Northlakes Public School - Aboriginal Parent Group	Assist to conduct NAIDOC Day educational and cultural activities	50									200	250
Tuggerah United Soccer Club	Assist with lighting of football fields	100	250						250			600
Total Proposed Allocations for 25/07/2007		350	250	0	0	0	0	0	750	0	200	1,550
Total Accumulated Allocations as at 25/07/2007		1,850	750	0	1,500	50	500	0	2,500	250	1,950	9,350
Balance Uncommitted as at 25/07/2007		5,650	6,750	7,500	6,000	7,450	7,000	7,500	5,000	7,250	5,550	65,650

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311 Closure of Walkways at Finch Place, Bateau Bay (Attachment 1)

Location Plan



**Finch Place
Bateau Bay**

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Base cadastre is part of the Digital Cadastral Database supplied by The Department of Lands. Any persons whose legal rights may be affected, or intends to act on any cadastral information shown on this plan should verify such information by consulting The Department of Lands.
K. Yates
General Manager



WYONG SHIRE COUNCIL

25 July 2007
To the Ordinary Meeting of Council

Director's Report
Shire Services Department

311 Closure of Walkways at Finch Place, Bateau Bay

F2006/00505 TC:SMF

SUMMARY

Report on the success of the closure of the two walkways with a view to finalising the matters.

RECOMMENDATION

- 1** *That Council approve the permanent closure of the two walkways in Finch Place, Bateau Bay.*
- 2** *That Council approve:*
 - * *An application to the Minister for Lands for the Closure of the Public Road status for the walkways.*
 - * *The lands from the closed walkways be classified as Operational Land.*
 - * *The proposed Operational Classification be advertised in accordance with Section 34 of the Local Government Act 1993. That, if no adverse submissions are received, the classification be confirmed.*
- 3** *That subject to recommendations 1 and 2 above, Council authorise:*
 - * *Disposal of the land to adjoining owners in each case at a market price based on assessment by a qualified valuer.*
 - * *The sale of the lands be subject to a reservation in favour of Council of easement rights.*
 - * *In the event agreement with the adjoining property owners cannot be achieved in the terms set by Council, a further report be submitted to Council on the prospects for retention or other distribution of the land.*
- 4** *That Council authorise the Common Seal of Wyong Shire Council to be affixed to the Transfers.*
- 5** *That Council authorise the Mayor and the General Manager to execute the transfers.*

Closure of Walkways at Finch Place, Bateau Bay (contd)

BACKGROUND

Following a number of reports, by local residents, of incidents of vandalism and anti-social behaviour by individuals utilising the walkways at Finch Place, and an investigation by Council staff, a report was submitted to Council at the Ordinary Meeting held on 13 September 2006.

At that meeting, the following resolution was adopted:

- "1 That, subject to the necessary processes being observed, regulation be enforced to deny all public use of the walkways leading from Finch Place, Bateau Bay to the public reserve to the south.*
- 2 That upon completion of these processes a further report be considered by Council concerning the success of the closure with a view to finalising the matter."*

Response to Closures

The physical closures were implemented by Council's Roads and Drainage Construction section in December 2006 by the erection of an open metal coloured steel security type picket fence with integral locked gates, at the reserve end of each walkway.

No reported incidents have been received by Council regarding issues in either of the two walkways and no reported vandalism has occurred to the fencing since the installation was completed.

Following a survey of residents, it was found that the majority of the residents surveyed were in favour of the closures, and that anti-social behaviour in the immediate area had significantly decreased since implementing the walkway closures. Further, no public comment has been received indicating that the closure of the walkways has been ineffective in curbing anti-social behaviour.

Two of the residents surveyed commented that they now had to proceed around the Cresthaven Avenue / Rotherham Street intersection rather than using the route through the walkway previously available. No comment was offered by these residents regarding incidents of anti-social behaviour.

Closure of Walkways at Finch Place, Bateau Bay (contd)

Disposal of Land

It is proposed to pursue disposal of the walkways at Finch Place. Disposal of this land would be subject to Council acquiring easement rights for access to services (eastern walkway) and easement rights for drainage (western walkway). Disposal of this land to one or both adjoining owners at a market price is considered acceptable.

No expressions of interest to purchase the land have been received at this stage by Council from the residents.

Future of the Walkways

With the exception of easement rights for service access and drainage respectively, the two walkways at Finch Place are not required by Council for operational purposes, and the land is considered surplus to requirements.

Attachment 1

Location Plan (1 page)

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WYONG SHIRE COUNCIL

25 July 2007
To the Ordinary Meeting of Council

Board Report

312 Gosford and Wyong Councils' Water Authority Board Meeting

F2004/06808

SUMMARY

Minutes of the Gosford and Wyong Councils' Water Authority Board meeting held on 18 July 2007.

RECOMMENDATION

That the minutes of the Gosford and Wyong Councils' Water Authority Board meeting held on 18 July 2007 be received and the recommendations contained therein, adopted.

A meeting of Gosford and Wyong Councils' Water Authority Board was held on 18 July 2007. The minutes of that meeting are enclosed.

Enclosure

Minutes of the Gosford and Wyong Councils' Water Authority Board meeting held on 18 July 2007

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WYONG SHIRE COUNCIL

25 July 2007
To the Ordinary Meeting of Council

General Manager's Report

313 Information Reports

F2006/02282 MW:SW

SUMMARY

In accordance with Council's Code of Meeting Practice reports for the information of Council are provided for adoption either individually, by nominated exception or englobo.

RECOMMENDATION

That Council determine the method of adoption of the Information Reports for this meeting.

314 State and Federal Government Budgets for 2007/2008F2004/06377 NS:NS

SUMMARY

Report on the impact on Wyong of the State and Federal Government Budgets for 2007/08.

RECOMMENDATION

That the report be received and the information noted.

BACKGROUND

This report details the impacts of the recent State and Federal Budgets on Wyong Shire.

State Government Budget

The office of the Member for Wyong and the offices of other State Ministers have provided the following information on the benefits to Wyong Shire and Central Coast in the 2007/2008 State Government Budget.

Wyong Shire – Specific Allocations**Police***** *Wyong Police Centre***

The State Budget includes \$1.3 million funding for the new Wyong Police Centre. The new facility will improve operational procedures and communications by housing detectives, general duties and forensic police in the one centre. The facility will also include holding cells so that offenders will no longer need to be transferred to Gosford Police Station.

Transport*** *Road***

Funding of \$17.8 million has been allocated for road upgrades in Wyong Shire.

This includes:–

- \$12 million to continue the upgrade from Tuggerah to Wyong to a dual carriageway between Anzac Road and Johnson Road;

State and Federal Government Budgets for 2007/2008 (contd)

- \$1.2 million for repairing Deep Creek Bridge on the F3 at Mardi;
- \$300,000 for intersection improvements on Pacific Highway and Mataram Road in Charmhaven;
- \$143,000 for school crossing supervisors,
- \$100,000 for Wyong town centre planning on the Pacific Highway.

** Rail*

To improve rail services for the Central Coast, the State Budget provides funding of \$3 million for the \$4.2 million Tuggerah station commuter car park and interchange.

The budget also provides \$50 million to continue the roll out of the new outer suburban carriages (OSCARs) to the Central Coast. It is anticipated that the roll out of these new carriages will be completed by mid 2008. To help ensure the long-term safety and reliability of passenger rail services \$37.2 million will be spent on rail maintenance in the Central Coast region.

** Buses*

Under the new Outer Metropolitan bus contracts worth \$900 million over seven years, private bus operators in the Central Coast will share in approximately \$86 million in funding, which includes provisions for the purchase of 34 new and replacement buses – 30 for Busways / Coastal and four for Red Bus.

Water

The State Government has allocated \$5 million funded by the Hunter Water Corporation for upgrades within the Hunter Water Supply System to upgrade the capacity to transfer water to the Central Coast.

Education

The State Budget includes funding for Trade School facilities at Wyong TAFE and completion of the \$8.248 million public school at Hamlyn Terrace.

Environment

The State Budget continues funding of the National Park Enhancement Program with \$700,000 allocated to complete the redevelopment of Freeman's camping area and Birdie Beach visitor precinct in the Munmorah State Conservation Area. Another 2007/08 budget highlight includes funding for a new visitor centre and National Parks and Wildlife Service office at Munmorah State Conservation Area.

State and Federal Government Budgets for 2007/2008 (contd)

The national parks and reserves in our area will also be a major focus for anti-dumping squads and special operations designed to catch out waste operators flouting the Government's waste and anti-pollution laws.

Funds will also be given to create several new staff positions to manage new reserves acquired under the Continuous Reserves program – an initiative aiming for a corridor of continuous reserves from the Hunter Valley to the Victorian border.

Health

An allocation of \$4.1 million is included in the State Budget to continue the redevelopment of Wyong Hospital. The total cost of this project is \$95 million. Funding will also be provided for an additional eight new high dependency beds at Wyong Hospital.

Specific allocations for Central Coast include:

- \$1.1 million of improvements to facilities for Mandala Mental Health Unit at Gosford;
- Pathways Home Program - \$2.4 million for the Woy Woy Transitional Care Unit;
- \$500,000 for the Central Coast Critical Care Network for rapid response and transfer of critically ill patients; and
- \$400,000 to establish an eating disorders service on the Central Coast.

Housing

The State Budget includes an allocation of \$9.1 million for new public housing and the upgrade of existing public housing in the Wyong electorate. Capital improvements to existing public and community housing stock will include modernising and upgrading kitchens, bathrooms, floor coverings, painting, improving fire safety, security and design.

These improvements will also include modifying homes for people with disabilities and mobility problems to allow them to live comfortably and independently. Modifications include bathrooms with hand rails and easy to use taps, new kitchens with lower bench tops and access ramps.

Funding to Benefit the Broader Central Coast Community

The Central Coast Academy of Sport will receive \$155,000, which includes money to support the staging of the 2007 Regional Academy Games to be held in October 2007. At least 700 athletes from the 10 independent Academies of Sport and the Far West Academy of Sport will take part in this large-scale, high-level sporting event.

State and Federal Government Budgets for 2007/2008 (contd)

Broken Bay and Milson Island Sport and Recreation Centres on the Hawkesbury River will be among the 11 sport and recreation centres to share \$5.5 million in this year's budget. Works include an ongoing program of upgrades to allow the Centres to better meet the needs of clients, whether they are school children on an outdoor education program, corporate or community groups.

Funding of \$500,000 has been allocated to allow for a start to work on a new recreation hall at Milson Island Sport and Recreation Centre. The new hall will provide a suitable place for campers and the Centre's other clients to carry out a broader range of activities in wet weather.

Federal Government Budget

The office of the Member for Dobell provided the following information on the benefits to Wyong Shire and the Central Coast in the 2007/2008 Federal Government Budget.

Wyong Shire – Specific Allocations

Transport

* *Auslink Roads to Recovery*

In the recent Federal budget the Australian Government announced an extra grant allocation for Council to fund three local road projects as part of the AusLink Strategic Regional Program. The projects to be funded are:

- Link Road \$3 million – Construction of approximately 3.1 km of new road linking Watanobbi to Warnervale;
- Dickson Road Upgrade \$800,000 – realign, widen and provide an initial seal to an 800 metre gravel section of Dickson Road Jilliby; and
- Brush Road Upgrade \$675,000 – construct the remaining 920 metre gravel section of Brush Road, linking Ourimbah to Tumbi Umbi.

The above amounts have been included in Council's 2007/08 budget.

Other Funding Allocations

Community Services

The Federal Budget includes an extension of the carer's bonus, providing an additional one off payment of \$1,000 (to those who receive the Carer Payment) or \$600 (to those who receive the Carer Allowance).

State and Federal Government Budgets for 2007/2008 (contd)

The Federal Budget includes a one off bonus payment for seniors those who are eligible for either the utilities allowance or concession allowance. Recipients of Mature Age Allowance, Widows Allowance and Partner Allowance are also eligible.

Education

The Federal Budget includes the establishment of the new higher education endowment fund, with an initial investment of \$5 billion funded from the 2006/2007 Budget surplus. This additional funding will boost capital infrastructure and allow universities to be more flexible and responsive to the needs of students, employers and the economy.

The Federal Budget includes \$457.4 million over four years for the National Literacy and Numeracy Vouchers programme, to assist parents of students who have not achieved minimum standards in reading, writing and mathematics in Years 3, 5, 7 and 9 access extra help for their children.

Transport

The Federal Government is contributing \$36 million toward the widening of the F3 freeway to three lanes in each direction from Cowan to Mt Colah. The Government has contributed \$95.2 million in total for the project. It is expected that the project will be completed and opened to traffic by mid 2008.

Water and the Environment

The Community Water Grants programme has been extended and includes \$201 million over six years for the installation of water tanks and other water saving devices by school and community groups.

The Federal budget provides \$741 million for practical climate change initiatives including the doubling of rebates for the installation of solar panels by households.

WYONG SHIRE COUNCIL

25 July 2007
To the Ordinary Meeting of Council

Director's Report
Shire Services Department

315 Wyong Shire Library Statistics

F2004/11651 JM/JM

SUMMARY

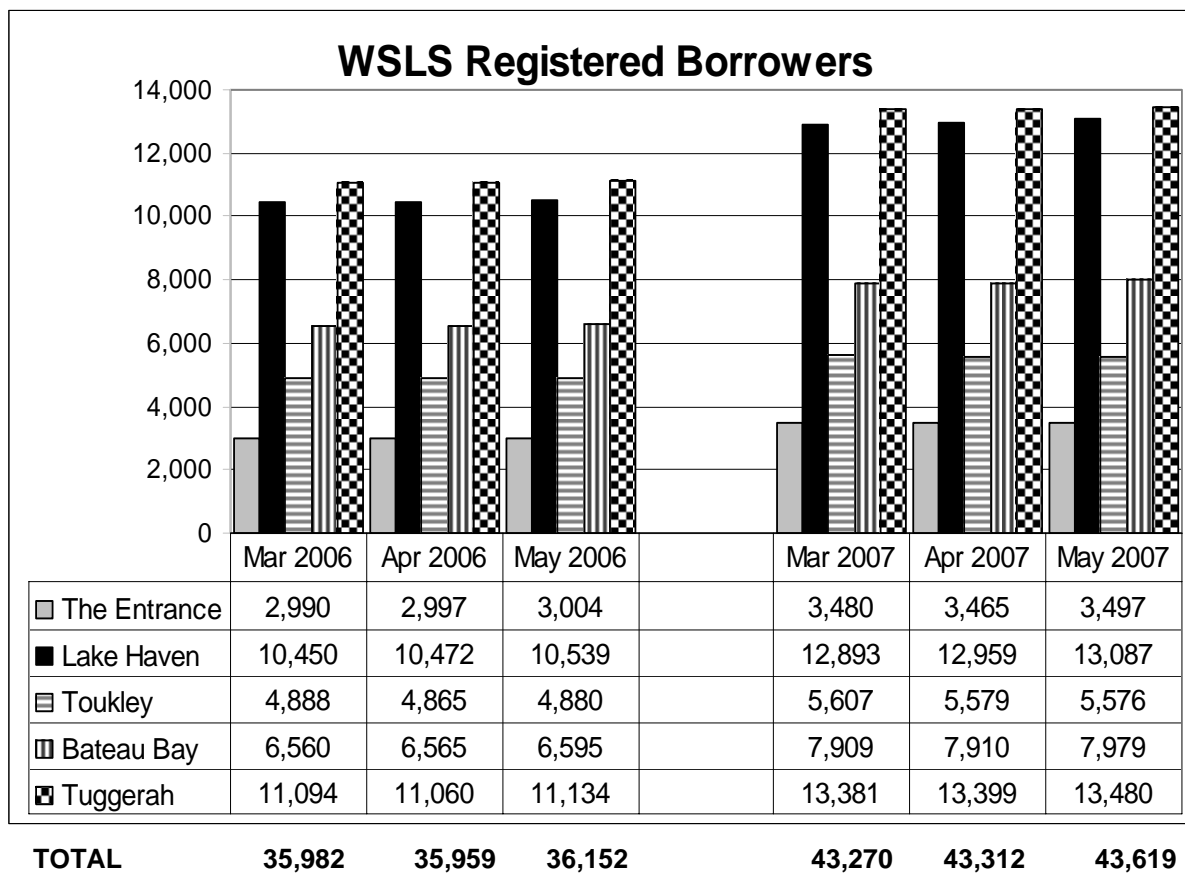
Statistical report on the activities of the Wyong Shire Library Service.

RECOMMENDATION

That the report be received and the information noted.

BACKGROUND

The following statistics present a picture of the activity experienced by the Wyong Shire Library Service in the months March to May 2007 and the corresponding months of the previous year.

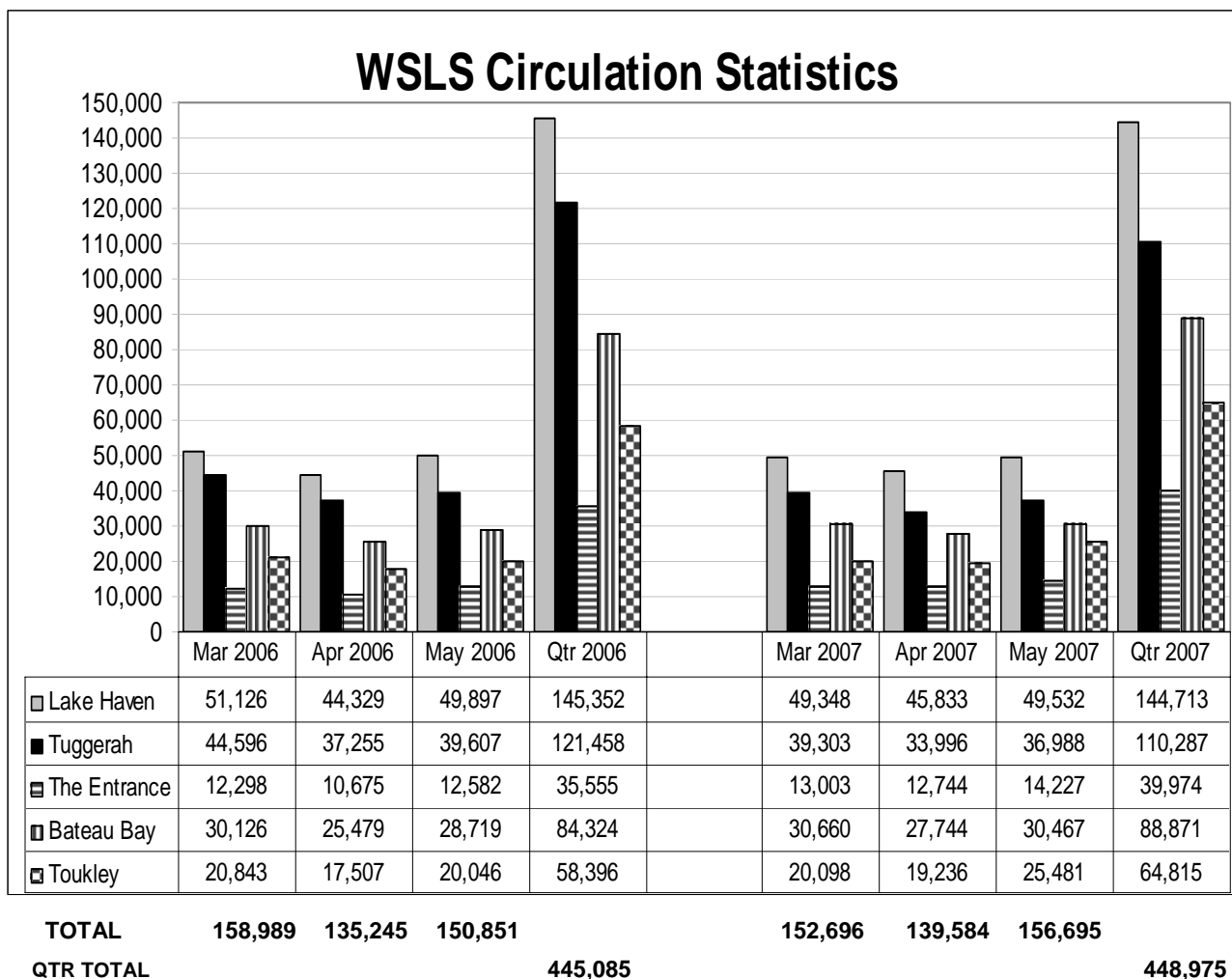
Wyong Shire Library Statistics (contd)

These figures reflect current users of the library service. Borrowers who have not used the Library for a number of years are deleted from the database on a monthly basis.

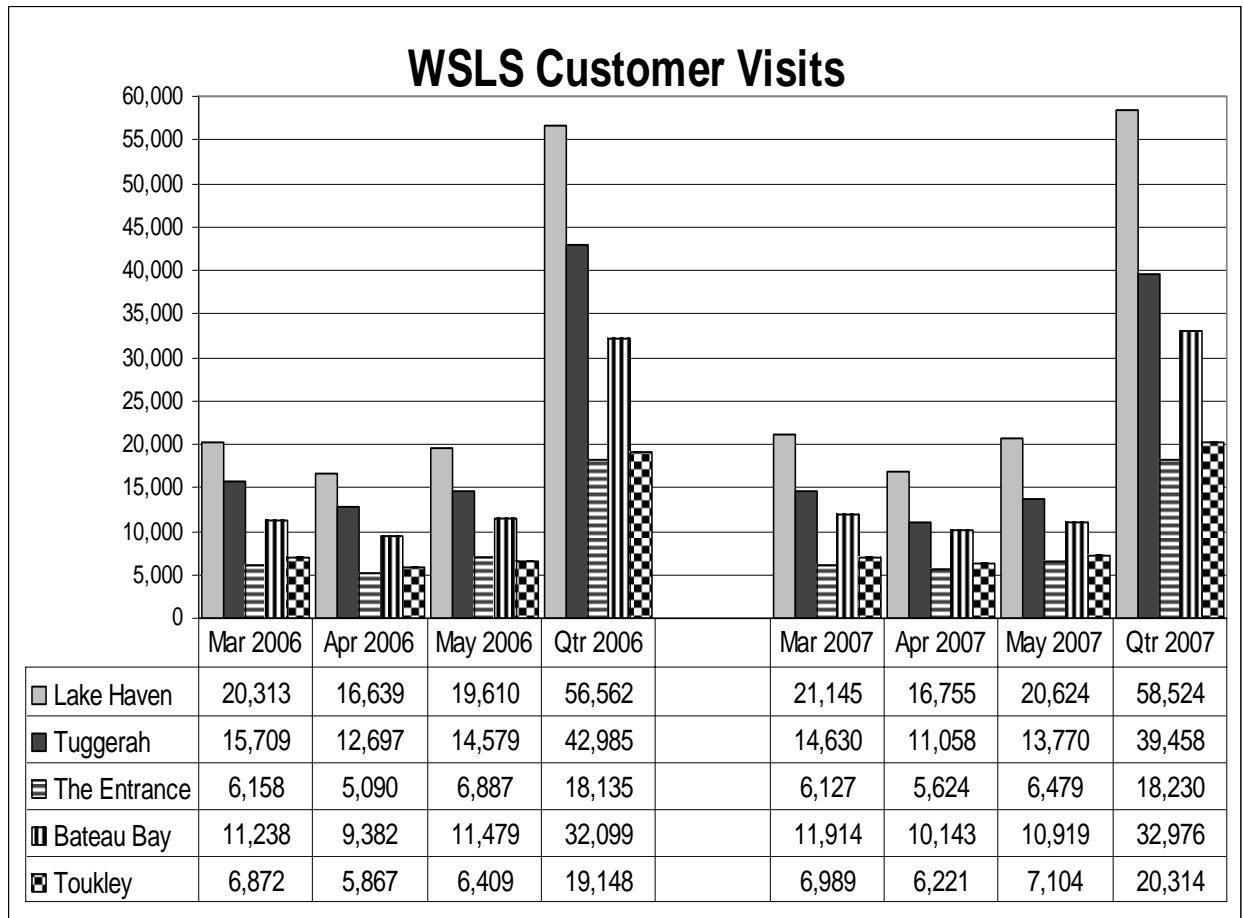
The total number of registered borrowers at May 2007 has increased by approximately 20% compared to 2006. There are a number of reasons why this has occurred including a change in August 2006 to the parameters used to delete inactive members (inactive for three years instead of two), active encouragement of young children having their own card and the use of library databases which require library membership but can be accessed remotely.

While this is a significant increase in the number of people choosing to acquire a library card, there has not been a similar increase in the circulation and library visits.

The total number of borrowers now represents approximately 33% of the Wyong Shire population. The average of similar Councils' to Wyong is 44.1%. The State average is 47.5% of the population from the Department of Local Government statistics.

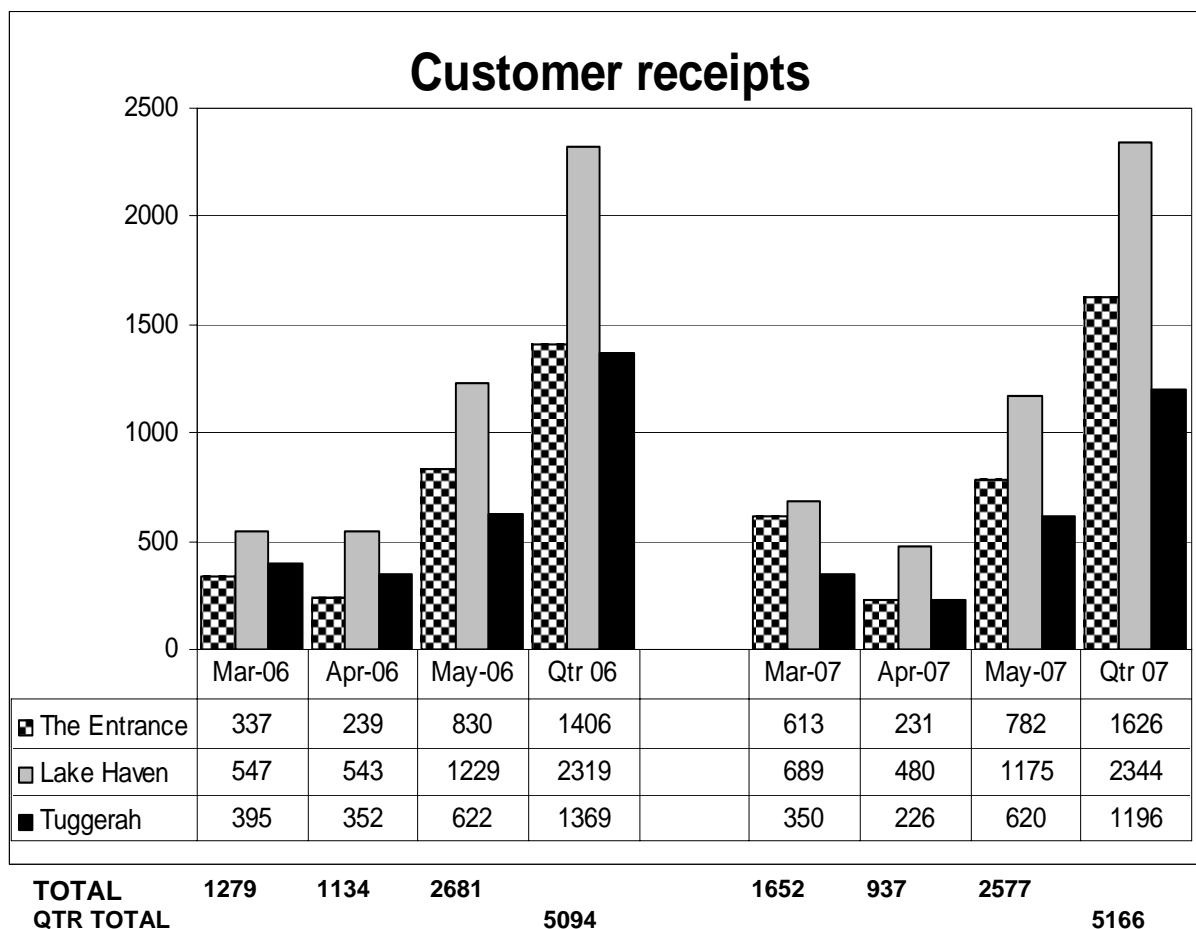
Wyong Shire Library Statistics (contd)

The number of items circulated (this figure includes loans and returns) increased at all libraries during the 2007 quarter with the exception of Tuggerah and Lake Haven. Overall, there has been an increase in the circulation of items in this quarter when compared to the same period last year.

Wyong Shire Library Statistics (contd)

TOTAL	60,290	49,675	58,964		60,805	49,801	58,896	
QTR TOTAL				168,929				169,502

The visits are measured by door counters in all libraries. The purpose of library visits is varied and may encompass participation in story time sessions, use of the Internet, research or study, as well as borrowing or returning items. At the Tuggerah, Lake Haven and The Entrance libraries the visitors may also be conducting Council business. Overall, the figures show a small decrease.

Wyong Shire Library Statistics (contd)

The number of receipts for financial transactions (enumerated in the table above) is one measure of the activity undertaken relating to Council customer service, but does not include enquiries which are made at the libraries relating to Council business.

The reduction in the number of receipts issued at Tuggerah may be due to the proximity of the Library to the main Council building and the other avenues of payment available to customers in the Tuggerah Shopping Centre.

The total number of receipts issued at the library based Council customer service centres has risen by 1.4% in this period compared to the same period in the previous year.

25 July 2007
To the Ordinary Meeting of Council

Director's Report
Shire Planning Department

316 Crown Land at Lake Road, Tuggerah

F2004/08318 NAL:NAL

SUMMARY

Advice received from the Department of Lands.

RECOMMENDATION

That the report be received and the information noted.

BACKGROUND

At its Meeting held on 28 March 2007, in respect of the sale of Crown Land in Lake Road, Tuggerah, Council resolved:

"That in light of the current tender by the State Government for a feasibility study of developing or disposing of Crown Land in Lake Road, Tuggerah adjacent to the Pioneer Dairy, Council make urgent representations to the State Government for a significant amount of the proceeds of any sale or development of this land, be directed back into the restoration and improvement of the Pioneer Dairy site."

A copy of the response from the Department of Lands is attached.

Attachment 1

Response from the Department of Lands (1 page)

25 July 2007
To the Ordinary Meeting of Council

Director's Report
Shire Planning Department

Crown Land at Lake Road, Tuggerah (Attachment 1)



Department of Lands

*Land Administration & Management
Property & Spatial Information*

Cnr Newcastle Road & Banks Street
PO Box 6 EAST MAITLAND NSW 2323
Telephone: (02) 4937 9323
Facsimile: (02) 4934 2252
gary.wood@lands.nsw.gov.au
www.lands.nsw.gov.au

Your reference: F2004/08318
Our Reference: 07/1127

General Manager
Wyong Shire Council
PO Box 20
WYONG NSW 2259

Attention: Lynda Howson

STRATEGY REPORT FOR CROWN LAND SITE LAKE ROAD TUGGERAH

I refer to Council's letter 16 April 2007 and apologise for the delay in responding.

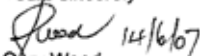
The strategy study being prepared for the Department's Maitland Office will provide valuable information for future use decisions for the Lake Road Crown land site. I understand the consultant's report will be available to the Department in September 2007.

Council's interest in securing additional funding for the adjoining Pioneer Dairy Reserve is noted.

However should the report identify the Lake Road site as appropriate for development or sale, any revenue obtained would be allocated in accordance with government priorities and Treasury directions.

Should Council require further information or discussion, please contact the undersigned at Maitland District Office.

Yours sincerely


14/6/07
Gary Wood
Acting Programme Manager
Commercial
Sydney Hunter
Crown Lands Division



317 Works in Progress Report – Water and Sewerage

F2004/07830 KRG:DP

SUMMARY

Water supply and sewerage works in progress and completed for June 2007.

RECOMMENDATION

That the report be received and the information noted.

WATER SUPPLY

Work has started on the repair of damaged water and reclaimed water mains along Wilfred Barrett Drive at Noraville.

The work consists of the replacement of approximately 25 metres of 300mm diameter uPVC water main and 25 metres of 250mm diameter uPVC reclaimed water main. These Council owned mains provide supply to the Magenta Shores development at North Entrance and were damaged during the June long week-end storms. The work also includes substantial trench stabilisation, site restoration and drainage work to prevent further erosion of the site through another storm event. The development is currently receiving its water supply from The Entrance area through a smaller supplementary water main.

The work, estimated to cost \$30,000.00 is being undertaken by Council's Water and Sewerage Day labour staff and is due to be completed in early July 2007. Applications have been submitted to have these works funded through the Governments Disaster Fund.

Water Storage

As at the 16 July 2007 the storage in Mangrove Creek Dam was 17.6% while the total system storage was 22.5%. Mardi Dam was at 100% and Mooney Dam 100%.

Water Usage and rainfall data is detailed at Attachment 1.

SEWERAGE

Sewer mains refurbishment work has commenced in Buff Point Ave, Buff Point and Lomandra Street, Woongarra. These works form part of Council's ongoing maintenance program of replacing sections of sewer mains and repairing manholes and junctions that are causing operational problems due to tree root infestation and storm water infiltration.

Works in Progress Report – Water and Sewerage (contd)

PROCESS

Water Treatment

All water produced by the Water Treatment Plant, for the period 29 May 2007 to 28 June 2007, has met National Health and Medical Research Council Guidelines.

Sewage Treatment

All effluent discharged from the sewage treatment plants, for the period 29 May 2007 to 28 June 2007, has met Environmental Protection Authority Licence requirements.

Effluent Re-use Projects

Tenders for the augmentation of the Toukley Effluent Reuse Treatment Plant have closed and are currently under review. The project will lift production capacity from 3.6ML/day to 7.2ML/day. The additional plant capacity will allow the expansion of the supply system to ovals not currently served.

The Magenta Shores Golf Club has expressed interest in purchasing additional supply capacity to the Golf Course. The project will also improve the treatment process, ensuring ongoing compliance with recently revised National and NSW Quality Guidelines. The revised process will include a flocculation and clarification process ahead of the filters resulting in increased particle removal. The plant will also incorporate ultra violet disinfection facilities providing a secondary disinfection process similar to that recently commissioned at the Bateau Bay treatment plant.

Attachment 1 Water Storage, Water Usage and Rainfall (2 pages)

Works in Progress Report – Water and Sewerage (Attachment 1)**Monday, 16 July 2007****STORAGES**

Storage	Capacity Full [MI]	Volume in Storage [MI]	Percent Full [%]	Storage Change over last Week
Mangrove Dam	190000	33,422	17.6	Up 105 ML
Mardi Dam	7400	7,400	100.0	Unchanged
Mooney Dam	4600	4,600	100.0	Unchanged
Total	202000	45,422	22.5	Up 105 ML

Total stored water volume has increased by 0.7% since last month.

This day last year the volume stored as a percentage of total capacity was 6.9% lower. Hunter Water Corporation supplied 0 ML last week keeping this years supply at 2423 ML. Gosford/Wyong supplied 0 ML to Hunter Water last week keeping this years supply at 268 ML.

Groundwater Bores supplied 3.5 ML last week increasing this years supply to 328 ML.

WATER USAGE AND RAINFALL

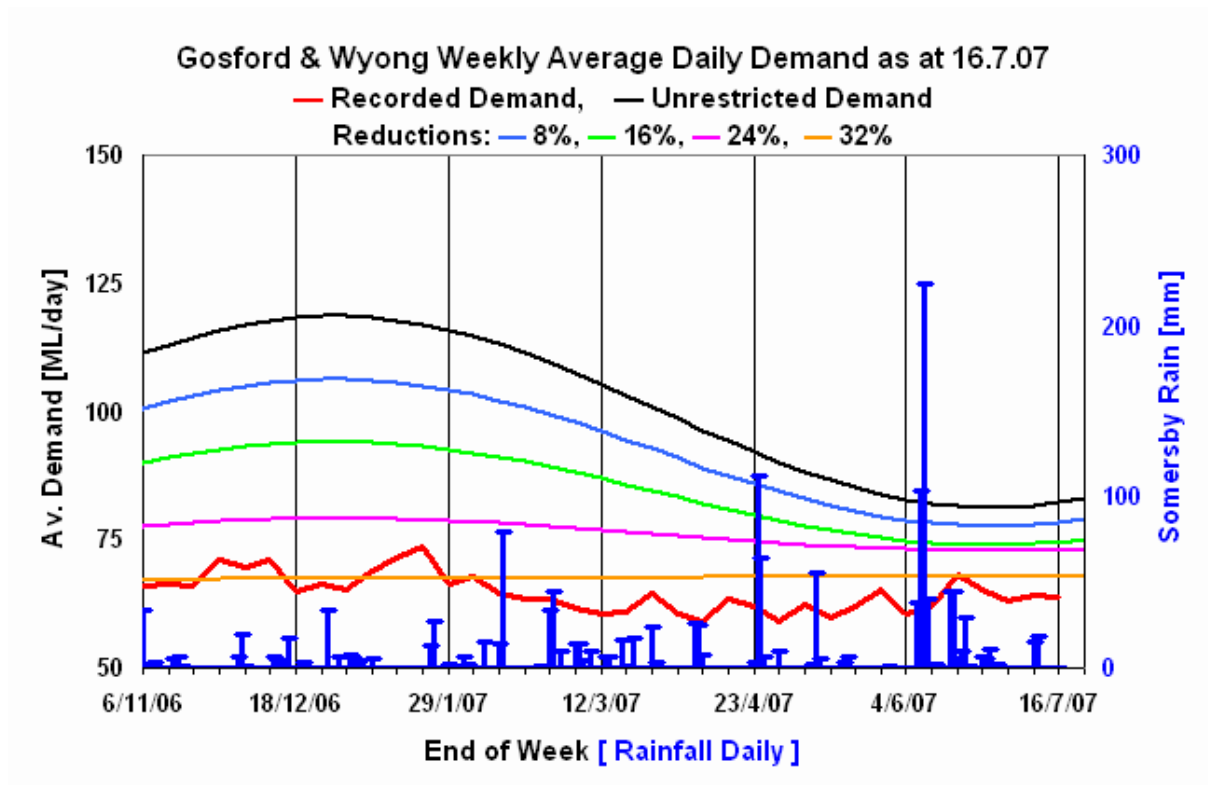
Period	Water Usage [MI]	Rainfall [mm]		
		Somersby WTP	Mardi WTP	Mangrove Dam
Week to date	448	19	24	9
Previous week	449	15	24	11
Current week last year	473	13	18	12
This year to date	12,587	1,330	1,118	924
Same period last year	14,981	470	453	286

Week to date consumption was 448 ML, 5.3% less than the same week last year and 0.2% less than the previous week.

Consumption this year to date is 12,587 ML, 16.0% less than the same period last year.

Level 4 Water Consumption Target for the week ending Monday, 23 July 2007 is 475 ML

Works in Progress Report – Water and Sewerage (Attachment 1) (contd)



- 1 **Black Line** Wyong Shire's normal demand when no restrictions are in place.
- 2 **Blue line** 8% reduction (based on the 'black line') over the entire year.
- 3 **Green Line** 16 % reduction (based on the 'black line') over the entire year.
- 4 **Pink Line** 24% reduction (based on the 'black line') over the entire year.
- 5 **Orange Line** 32% reduction (based on the 'black line') over the entire year.
- 6 **Blue bars** Rainfall at Somersby in mm/day.
- 7 **Red line** Wyong Shire's average daily demand.

25 July 2007
To the Ordinary Meeting of Council

Director's Report
Shire Services Department

318 Works in Progress Report - General

F2004/07830 JEM

SUMMARY

General works in progress and completed for the period May 2007 to June 2007.

RECOMMENDATION

That the report be received and the information noted.

ROADS AND DRAINAGE SECTION OVERVIEW

In mid June 2007 a significant rain event resulted in a large portion of programmed roads and drainage work being deferred while staff responded to the effects of the storms.

Prior to the rain event, new works included the upgrade of the road pavement and minor drainage works had commenced at Station Road East, Fountaindale.

Works are continuing at The Ridgeway (Stage 1a), Tumbi Umbi (at the intersection of Awabakil Road – 300 m length of works), Dicksons Road, Jilliby (1.7 km from Hue Hue Road – 375 m length of works), and Eastern Road, Tumbi Umbi. All crews are committed to maintenance work in the short term due to the recent events on the Central Coast.

Capital Works In Progress

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

Item Description	Estimated Cost \$	% Completed	Estimated Completion Date	Comments
Panorama Ave – Road and Drainage, Stage 3 Charmhaven (From Jetty Ave to Wirriga Ave) CH:480.00 to CH:255.00 (225m Section)	775,000	2	November 2007	Upgrading existing drainage and pavement with new asphalt seal, new kerb and gutter and mid block traffic calming device. Works include extending the existing box culverts and construction of a footpath on the western side of Panorama Ave.
Eastern Road Stage 3, Tumbi Umbi	904,000	90	July 2007	Upgrading existing pavement with new asphalt seal, new kerb and gutter and mid block traffic calming device. Works include a shared path each side of Eastern Road.

Works in Progress Report – General (contd)

Item Description	Estimated Cost \$	% Completed	Estimated Completion Date	Comments
Station Road East, Fountaindale	745,000 (including school contribution 214,000)	15	September 2007	Upgrade of existing rural road and drainage to current standards including asphalt, KandG and concrete dish drain, parking, drop and kiss zone for the school and a roundabout at the intersection of Station Road and Catarmaran Road to facilitate truck turning movements in the industrial area.
Dicksons Road, Jilliby Ch: 1635 to Ch: 2010 Stage 1, 2007. (1.7 km from Hue Hue Road)	290,000	100	May 2007	Upgrading of the existing gravel road (approximately 320m) to current standards including sealing upgrade of culverts and placing concrete dish drain.
The Ridgeway Stage 1a, Tumbi Umbi (Awabakil Road intersection) CH: 3215 to CH:3515 300m Section.	420,000	95	July 2007	Upgrading of the existing gravel road (approximately 300m) to current standards including sealing upgrade, concrete dish drains and installation of guardrails. Project will be finalised when the temperature increases and the final seal is placed.

GENERAL MAINTENANCE WORK

	North	South
Drainage Maintenance	Hamlyn Terrace Woongarra Lake Munmorah San Remo Jilliby	Killarney Vale Wyong Berkeley Vale
Replacement of Damaged Footpaving	Budgewoi Woongarra Toukley Noraville Canton Beach	Tumbi Umbi

Works in Progress Report – General (contd)

	North	South
Sign Maintenance	Toukley Kanwal Hamlyn Terrace Blue Haven Wadalba Budgewoi Tuggerawong San Remo Canton Beach Wyongah Tuggerawong Jilliby	Toowoan Bay Berkeley Vale Ourimbah Long Jetty The Entrance Killarney Vale Shelly Beach Bateau Bay Tuggerah Wyong Mardi Chittaway
Shoulder Restoration	Jilliby Yarramalong Toukley	
Heavy Patching	Charmhaven Warnervale	Bateau Bay Tumbi Umbi
Table Drain Maintenance	Gwandalan Summerland Point Mannering Park Chain Valley Bay San Remo Charmhaven Canton Beach Budgewoi Toukley	Berkeley Vale Long Jetty Bateau Bay Ourimbah Fountaindale Killarney Vale
Rural Road Grading	Dooralong Yarramalong Ravensdale Jilliby Kiar	Ourimbah Palmdale
Footpaving Construction	Nil	Nil
Carpark Maintenance	Toukley Budgewoi Norah Head	Wyong Tuggerah
Fencing	Charmhaven	Nil
Vegetation control	Dooralong Jilliby Yarramalong Budgewoi Buff Point Woongarra Halloran Hamlyn Terrace	Tuggerah Berkeley Vale Tumbi Umbi Ourimbah Watanobbi Wyong The Entrance Killarney Vale

Works in Progress Report – General (contd)**CONTRACTS AND SPECIAL PROJECTS SECTION**

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

Contract No	Contract Description/Contractor	Contract Status	% Completed
CPA/94532	Excavation and lining of cell 4.2A, Buttonderry landfill	Contract works in Defects Liability Period until October 2007. Cell commenced receiving waste on 2 November 2006.	100
CPA/94560	Construction of Sewer Pumping Stations B3, B4 and pipelines, Lucinda Avenue Killarney Vale	Contract works in Defects Liability Period until 30 July 2007.	100
CPA/94531	Consultancy for investigation and design of Link Road and trunk water main	Consultancy expected to be complete by end of July 2007. Fast tracking design and tender documentation for northern section of project adjacent to Lakes Anglican Grammar School for separate construction contract to be awarded to enable access to the senior school for Term 1 2008.	80
CPA/98601	Design, Development and Construction of the Morisset to Warnervale water trunk main	Pipeline connecting Morisset to Warnervale completed and commissioned on 15 December 2006 and has been in operation since. It is anticipated that Practical Completion of all works including site restoration will be achieved on 19 July 2007.	99
CPA/97897	Feasibility Study – shared pathway linking The Entrance North and Toukley	Overall preferred route option still under review. Commenced process for obtaining approvals by January 2008 for likely route through Crown land north from Terilbah Place, North Entrance. Short 200m section of pathway from caravan park to 50m south of Terilbah Place, North Entrance has been completed.	6
CPA/99940	Construction of Wadalba Sports Facility	Issues with the quality of the soil for playing field turf have delayed completion. A technical solution to address the soil issue has been proposed by the Contractor and this is under review. Other landscaping, building and facility works still progressing. Anticipate completion of works by October 2007 with use of fields by May 2008.	85

Works in Progress Report – General (contd)

Contract No	Contract Description/Contractor	Contract Status	% Completed
CPA/94559	Design and Documentation of Woongarra Sportsfields.	Master Plan to be finalised now that Rugby has confirmed it will not be proceeding with the Clubhouse and spectator seating facility. Cost plan under review due to changes in scope. Purchase of land from developer to be finalised. Catchment Management Authority's Property Vegetation Plan agreement is currently being finalised for parties to sign. Construction is likely to start in April/May 2008 and finish May 2009.	41
CPA/104754	Construction of Fishway, Ourimbah Creek Upper Weir.	Construction complete. Commissioning/testing complete. Adjustments of rockwork to improve performance, scheduled for when creek flows reduce and allow access.	95
CPA/98705	Construction of Edwards Creek Bridge, Dooralong.	Contract in Defects Liability Period until October 2007.	100
CPA/97631	Lake Haven Leisure Centre Upgrade Works	Contract works in Defects Liability Period.	100
CPA/96544	Blue Haven Community Centre	Contract works in Defects Liability Period until 31 January 2008	100
CPA/110431	Mardi Landfill Remediation	Stage 1 works (provision of the Reverse Brief for additional investigations to the Mardi Landfill site) is completed. Stage 2 (provision of additional report from the investigations to the Mardi Landfill site in accordance to the Reverse Brief) works to start early July 2007, after the tender evaluation of the submitted quotes has been completed. Remediation works will be a separate contract based on Stage 2 report.	10
CPA/107166	Warnervale District Sports Fields	Project still on hold until the Warnervale Town Centre Master Plan is finalised. No change to status.	5

Works in Progress Report – General (contd)

Contract No	Contract Description/Contractor	Contract Status	% Completed
CPA/94561	Dredging of Tumbi Creek	Dredging contract awarded and due for completion September 2007. Contractor was delayed commencing work on site by June floods. Now targeting to commence dredging by mid-July 2007. Completion of project will require additional work including special saltmarsh remediation works on foreshore and assessment report, final environmental studies and Fisheries reports. All of this work to be completed by April 2008.	10
CPA/116881	Construction of underground concrete tank for wicket irrigation - Taylor Park, The Entrance	Construction of tank and associated civil works completed. Irrigation system has been commissioned.	100
CPA/116882	Construction of underground concrete tank for wicket irrigation – Harry Moore Oval, Toukley	Construction of tank and associated civil works completed. Irrigation system has been commissioned.	100
CPA/115906	Construction of underground concrete tank for wicket irrigation – Baker Park Oval, Wyong	Construction of tank and associated civil works completed. Pump and connection to irrigation system to be completed by mid July 2007, with commissioning by end July.	95
CPA/116822	Construction of underground concrete tank for oval irrigation – Bill Sohler Park, Ourimbah	Construction of tank and associated civil works completed. Connection to irrigation system and commissioning to be completed by end July 2007.	95
CPA/116947	Construction of underground tank for oval irrigation – Kurraba Oval, Berkeley Vale.	Earthworks for tank construction has been completed. Tank construction delayed due to storm damage and will be completed by mid July 2007. Associated civil works, pump installation and commissioning to be completed by end July 2007.	25
CPA/116883	Construction of underground tank for oval irrigation. Kanwal Oval, Kanwal.	Earthworks for tank construction have commenced with completion of tank expected by end of July 2007. Associated civil works, including pump installation and connection to irrigation system, to be completed by mid August, with commissioning to follow.	10

Works in Progress Report – General (contd)

Contract No	Contract Description/Contractor	Contract Status	% Completed
CPA/112098	Design and Construction of Berkeley Vale Skate Park	Skatepark completed beginning of April 2007. Contract works in Defects Liability Period.	100
CPA/113366	Detail Design and Construction of Central Coast Lifetime Learning Centre at Palmdale	Contract for the construction works in Defects Liability Period. Council to conduct fitout of the CCLLC Facility to be completed by mid July 2007. At this stage the CCLLC Facility is scheduled to be opened on 23 July 2007.	95
F2004/07982	The Entrance Town Centre Refurbishment Works	Current actions include: 1 Rubber wetpour to steps in Vera's Watergarden: Contract let, materials coming from UK, anticipate commencement at end of August 2007. 2 Tiles for pedestrian ramps coming from Italy, anticipate commencement end of July 2007. 3 Replacement of lights to Fountains: Suitable replacement lights have been sourced. Expect installation end August 2007. 4 Refurbishment of public toilets beside Visitor Information Centre scheduled to be completed September 2007.	65
CPA/105697	Toukley Aquatic Centre Refurbishment	Contract works in Defects Liability Period ending 1 November 2007. Finalising payments for work.	100
CPA/98240	Implementation of Buttonderry Waste Management Facility Entry Masterplan	Evaluation of the submitted consultant's quotations has been completed. Council to issue orders for the design documentation for Stages 1 and 2. Aim to submit DA by mid July 2007. Pre-construction work for Stage 1 is expected to commence around October 2007 with completion of Stage 2 expected by December 2008.	25
CPA/113367	The Entrance Community Facility Stage 2 – Design and Documentation for refurbishment of Building C (Arts and Culture), Building D (Activities), Building E (Education), Building F (Mens' Shed) and Design only for Building AA (Family and Children's Services).	Design consultant appointed to commence pre-construction activities. Consultant completing documents for DA submission. Consultant scope includes tender documents. Site works programmed to commence January 2008 for completion in August 2008.	20

25 July 2007
To the Ordinary Meeting of Council

Director's Report
Shire Services Department

Works in Progress Report – General (contd)

Contract No	Contract Description/Contractor	Contract Status	% Completed
CPA/115479	Bateau Bay Landfill Rehabilitation and Redevelopment	Design completed and tendered. Construction tender let to Neumann Contractors in December 2006. Site establishment and earthworks commenced on-site 2007. Various construction issues have been identified during initial site works and are currently under review.	10
CPA/122995	Warnervale Town Centre and Wyong Employment Zone Water Supply and Sewerage, Review of Environmental Factors (REF)	Consultancy for REF awarded to GHD Pty Ltd. Commenced preliminary investigations. Field investigations delayed by wet weather.	5
Contract 2408	Captive and Commercial Utilisation of Landfill Gas from Buttonderry Landfill	The agreement which will form the basis of the contract is under review by Councils' and the contractor's legal representatives.	5

WYONG SHIRE COUNCIL

25 July 2007
To the Ordinary Meeting of Council

Director's Report
Corporate Services Department

319 Outstanding Questions Without Notice and Notices of Motion

F2006/02282 MW:SW

SUMMARY

Report on outstanding Questions Without Notice and Notices of Motion.

RECOMMENDATION

That the report be received and the information noted.

Question Asked	Asked By	Meeting Asked	Department
Q038 – International Cities, Town Centres and Communities Organisation and Conference (A response will be reported once a reply is received from Councillor Welham)	Councillor Pavier	28 March 2007	Corporate Services
Q053 – Sale of No 20 Manning Road, The Entrance (A response will be reported at a future Ordinary Meeting)	Councillor Stewart	23 May 2007	Corporate Services
Q055 – Development of Shire's Employment Lands (A response will be reported to the Ordinary Meeting on 8 August 2007)	Councillor Eaton	13 June 2007	Shire Planning
Q061 - Shire Media Advertising Budget (A response will be reported to the Ordinary Meeting on 8 August 2007)	Councillor Eaton	27 June 2007	General Manager's Unit
Q063 - Norah Head Lighthouse Trust (A response will be reported to the Ordinary Meeting on 8 August 2007)	Councillor Veugen	27 June 2007	Corporate Services

Outstanding Questions Without Notice and Notices of Motion (contd)

Question Asked	Asked By	Meeting Asked	Department
Q064 – Flood Damage to Chandlers Lane, Wyong Creek (A response will be reported to the Ordinary Meeting on 22 August 2007)	Councillor Eaton	11 July 2007	Shire Services
Q065 – Recent Developments in relation to the Upgrading of the Pacific Highway through Wyong Township (A response will be reported to the Ordinary Meeting on 22 August 2007)	Councillor Eaton	11 July 2007	Shire Planning
Q066 – Development Subdivisions in the Vicinity of Wadalba Hill South (A response will be reported to the Ordinary Meeting on 22 August 2007)	Councillor Best	11 July 2007	Shire Planning

Notice of Motion	Department	Meeting Asked	Status
314 – Regional Sporting Facilities <i>Investigations into the possibility of constructing an integrated regional sporting/educational facility to service the Tuggerah / Mardi area.</i>	Shire Planning	9 August 2006	A prospective purchaser has been asked to include the development of regional sports fields in their feasibility investigations. This includes the need for seasonal flora and fauna surveys due to the presence of threatened species. The results will be reported back to Council as soon as Council receives a reply.

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Answers to Questions Without Notice

Q057 – Anvil Hill Coal Mine

Asked by Councillor Veugen at the Ordinary Meeting held on 13 June 2007
F2006/00259

“As a member of the Association of Coal Mine Related Councils, could staff write to the Association in regards to their view on the Anvil Hill Coal Mine which was recently approved by Minister Sartor, in regards to community concerns?”

The following response has been received from the Association of Coal Mine Related Councils:

“I refer to your communication of June 18 2007 (Reference F2006/00259) seeking the Association’s views on community concerns regarding the approval of the Anvil Hill Coal Mine in the Muswellbrook Shire.

Muswellbrook Council is a member of the Association and aptly represented by two councillors as delegates, one of whom has served on the Executive Committee of the Association for a considerable time. The Association functions in an egalitarian manner by consensus vision, in support of its member Councils. Therefore, it is appropriate that the views of that Council are put forward in response to your query.

The Minister for Planning approved the mine as a Major Project under Part 3A of the Environmental Planning and Assessment Act. Muswellbrook Council voted in support of the mine because of its socio-economic benefits, including increased local employment opportunities and contribution to community infrastructure and facilities.

Anvil Hill Mine will be a significant contributor to the local and regional economy by generating 200 direct construction jobs, up to 240 operational jobs and the potential of 1,000 indirect jobs. The mine represents between 10% to 15% of NSW’s future electricity supply.

Notwithstanding its support of the project, the Council did raise a number of issues and views on behalf of the community, voiced at many forums over a six year extensive community consultation period, including the community consultative committee established with an independent Chair, during the exploration stage. Numerous environmental and technical studies have been undertaken in response to those issues culminating in the approval of this project.

It is interesting to note that an adjoining member council of the Association gave its tacit approval for the project, but also resolved to support submissions put forward by the community, for the Department’s consideration in setting appropriate consent conditions to manage any adverse impacts.”

To the Ordinary Meeting of Council

Answers to Questions Without Notice (contd)

Q058 – Use of High Pressure Hoses at Charmhaven Pound

Asked by Councillor Veugen at the Ordinary Meeting held on 13 June 2007
F2004/06957

"Myself and Councillor Best have been approached by a local resident regarding high pressure hoses being used to clean out dog cages at our Charmhaven Pound while the animals are still in their cages. Could staff report on whether this is common practice and that there is no bedding or blankets supplied especially during winter?"

Council staff operate the animal care facility at Charmhaven strictly in accordance with the NSW Animal Welfare Code of Practice Number 5 - Dogs and Cats in Animal Boarding Establishments.

Under no circumstances are dogs retained within the kennel when cleaning is undertaken with a high pressure hose. As the pound is usually full, routine cleaning is ordinarily undertaken twice a day, with a hose operating at normal household water pressure, whilst the dogs remain within the kennel.

Extreme care is taken by staff to undertake the cleaning task without wetting the dogs, which is not difficult given there is sufficient room within each kennel for the dog to be well clear of the cleaning process.

All dog kennels have a raised sleeping area consisting of a trampoline-style bed, as required by the Code. Blankets or soft bedding are only provided on a very limited basis to old or very young dogs when conditions require, as the laundering requirements for such a large animal care facility would lead to significant increases in operating and employee costs.

An inspection of the pound by the RSPCA was undertaken on 3 July 2007, without the prior knowledge of pound staff. The inspection concluded that all facets of the operation meet with the RSPCA's approval.

Attachment 1

Inspection Report from RSPCA (1 page)

To the Ordinary Meeting of Council

Answers to Questions Without Notice (contd)

Q058 – Use of High Pressure Hoses at Charmhaven Pound (Attachment 1)



For all creatures great and small.

General Manager Wyong Council:

At 10:35am on Tuesday 3rd July 2007, I carried out a full pound inspection as requested by Chief Ranger Jody Hind.

I checked the size and material the pens are made out off and found that they are large enough to house dogs comfortably as well as being secure for the safety of the animals. The pens are sealed in an Epoxy paint hence gives them a non porous protection. And the slope of the floor prevents any build up of water.

The pens in the old and new section have water bowls, trampoline beds and are well protected from the elements.

The head Ranger assured me that when housing on a daily bases there is great care given not to wet the impounded animals. And when the cages are cleaned with a high pressure hose the impounded animals are removed.

After the inspection I find no concerns for the way the daily maintenance is carried out and the pound meets all the requirements necessary for the housing of animals. Also I observed that any special requirements were met for example when necessary dogs were given coats and extra blankets and dooners.

Any further questions I can be contacted on 0413622007.

Graeme Dymond

RSPCA Inspector
Central Coast and Hunter Regions.

The Royal Society
for the Prevention of
Cruelty to Animals
New South Wales
rspcansw.org.au

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Hon.
John Brogden, MP

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Answers to Questions Without Notice (contd)

Q059 – Stormwater Levy

Asked by Councillor Best at the Ordinary Meeting held on 13 June 2007
F2004/00118

“I table a letter from Mr Peter Killen regarding Stormwater Levy, could the General Manager provide a response?”

A response to Mr Killen was issued on 6 July 2007.

25 July 2007
To the Ordinary Meeting of Council

Shire Services Department

Answers to Questions Without Notice (contd)

Q060 – Reluctance of Joint Water Authority to apply to IPART for the Introduction of Inclined Block Tariffs

Asked by Councillor Best at the Ordinary Meeting held on 13 June 2007
F2004/06782

“I table an E-mail received from Mr Phil Heaton regarding the reluctance of the Joint Water Authority to apply to IPaRT for introduction of Inclined Block Tariffs. Could the General Manager provide a response?”

A response to Mr Phil Heaton was issued on 11 July 2007.

Answers to Questions Without Notice (contd)

Q062 – State Government Infrastructure Levies for Warnervale Town Centre

Asked by Councillor Eaton at the Ordinary Meeting held on 27 June 2007
F2004/12201

“Can Council confirm State Government Infrastructure Levies for Warnervale Town Centre have been discussed at levels of \$100,000 - \$200,000 per block, assuming 10 blocks per hectare?”

The Regional Infrastructure Levies are still under discussion by the State Government. Council staff have provided Council input and proposed costings in respect of Section 94 contributions for both the Warnervale Town Centre and WEZ to the Department of Planning. However, no decision on the amount of the regional levy or how it will be applied has been advised to date. It has been suggested by members of the development industry that amounts in the vicinity of \$100,000 per hectare (rather than per block) have been mentioned by the Department; however, Council is yet to receive any formal notification.