



Central Coast Wood Turners reflecting the Senior's Week theme of 'live life'.

# ORDINARY MEETING

25 March 2009



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# MEETING NOTICE

The **ORDINARY MEETING**  
of **Wyong Shire Council**  
will be held in the **Council Chamber**,  
**Wyong Civic Centre, Hely Street, Wyong** on  
**WEDNESDAY 25 MARCH 2009** at **5.00 pm**,  
for the transaction of the business listed below:

**OPENING PRAYER**

**ACKNOWLEDGEMENT OF COUNTRY STATEMENT**

**RECEIPT OF APOLOGIES**

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10.1	Detailed Expressions of Interest - Conduct Review Panel
10.2	Notice of Motion - Waste and Environmental Management

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

Kerry Yates  
**GENERAL MANAGER**

## **1.1 Disclosure of Interest**

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TRIM REFERENCE: D01750639

AUTHOR: SW

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

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

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

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

### **RECOMMENDATION**

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

## 1.2 Proposed Briefings

TRIM REFERENCE: D01837512

AUTHOR: SW

### SUMMARY

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

Date	Briefing	Description	Time	Presented by
25 March 2009	Shire Strategic Vision	SSV Strategies	10.00 am – 3.30 pm	Manager Community Strategic Vision
1 April 2009	Workshop	Various Issues	12 noon – 6.00 pm	General Manager

### RECOMMENDATION

*That Council receive the report on Proposed Briefings.*

### **1.3 Proposed Inspections**

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TRIM REFERENCE: D01837752

AUTHOR: SW

#### **SUMMARY**

Inspections proposed to be held on 25 March 2009 have been cancelled to allow for an additional Briefing session.

#### **RECOMMENDATION**

***That Council note that inspections previously scheduled for 25 March 2009 have now been cancelled.***

## **1.4 Address By Invited Speakers**

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TRIM REFERENCE: D01837747

AUTHOR: SW

### **SUMMARY**

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

### **RECOMMENDATION**

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



## **1.5 Confirmation of Minutes of Previous Meeting**

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TRIM REFERENCE: D01837756

AUTHOR: SW

### **SUMMARY**

Confirmation of minutes of the previous Ordinary Meeting of Council held on 11 March 2009.

### **RECOMMENDATION**

*That Council confirm the minutes of the previous Ordinary Meeting of Council held on 11 March 2009.*

### **ATTACHMENTS**

- 1 Minutes of the Ordinary Meeting held on 11 March 2009

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

TRIM REFERENCE: D01846880

AUTHOR: MW

### **SUMMARY**

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

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

### **RECOMMENDATION**

- 1 That Council consider the following matters in Confidential Session, pursuant to Sections 10A(2)(c), (a) and (g) of the Local Government Act 1993:**
  - 10.1 Detailed Expressions of Interest – Conduct Review Panel**
  - 10.2 Notice of Motion – Waste and Environmental Management**
- 2 That Council note its reason for considering Report No 10.1 as it may confer a commercial advantage (Section 10A(2)(c)) and Report No 10.2 is that discussion is anticipated which concerns the rights of individuals (Section 10A(2)(a)) or Council's legal privilege (Section 10A(2)(g)) should the discussions be held in a non-confidential environment.**
- 3 That Council request the General Manager to report on this matter in open session of Council.**

Note: Explanation - Section 10A of the Local Government Act 1993 states:

*"2(a) personnel matters concerning particular individuals (other than Councillors),*

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

*2(g) advice concerning litigation, or advice that would otherwise be privileged from production in legal proceedings on the ground of legal professional privilege."*

### **3.1 Proposed Twenty Lot Residential Subdivision at Lot 312 DP 808521 and Lot 8106 DP 1085360, Johns Road, Wadalba**

TRIM REFERENCE: D01769842

AUTHOR: MG

#### **SUMMARY**

An application has been received for a residential subdivision in Johns Road at Wadalba. 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.

Whilst the application could be determined under delegation, it has been called to Council for determination by a Councillor.

<b>Applicant</b>	ADW Johnson
<b>Owner</b>	Westminster and Wadalba Central Developments
<b>Application No</b>	59/2007
<b>Description of Land</b>	Proposed lot 229 & 230 from lot 312 DP 808521 and lot 8106 DP 1085360, Johns Road, Wadalba
<b>Proposed Development</b>	20 Lot Subdivision
<b>Zoning</b>	2(e) Urban Release, 7(a) Conservation and 10 (a) Investigation
<b>Existing Use</b>	vacant land

#### **RECOMMENDATIONS**

- 1 That Council refer the application to the General Manager for determination having regard to the matters for consideration detailed in Section 79C of the Environmental Planning and Assessment Act and other relevant issues with an indication that based on the information available to it, Council favours approval of the application subject to appropriate conditions.***
- 2 That Council keep confidential the places and site locations of Aboriginal Heritage items identified in the full version of the report prepared by Total Earth Care in February 2009 titled "Aboriginal Cultural Heritage Assessment and Management Plan, Wadalba Hill, Wyong Shire" to ensure the ongoing security of these sites.***

#### **PRECIS**

- The subject site encompasses further subdivision of proposed lots 229 and 230 that formed part of a previous super lot subdivision approval.
- The site is zoned 2(e) Urban Release, 7(a) Conservation and 10(a) Investigation.
- The land has been specially zoned for residential development with the potential impacts being offset through the preservation of land in the Wadalba Wildlife Corridor Management Plan.
- If approved, 1.69 hectares of land will be transferred to Council as part of the wildlife corridor.

- The proposal will result in the following yields:
  - 12 residential lots
  - 4 residue lots identified by the applicant for future subdivision
  - 1 lot for transfer to the Wadalba Wildlife Environmental Corridor
  - 1 lot to be dedicated as a drainage reserve
  - 1 lot to be transferred as a utilities parcel
  - 1 lot to be dedicated as a public pathway
- The proposal was referred to the NSW Rural Fire Service, Department of Water and Energy and Mines Subsidence Board with each authority providing concurrence for approval to Council.
- Concerns with regard to the site containing potential Aboriginal archaeological sites have been addressed by the applicant and verified by independent expert. No sites are located within the development footprint.

### **VARIATIONS TO POLICIES**

There are no variations to Council's codes and policies.

### **INTRODUCTION**

#### **The Site**

The subject land is located on the north side of Johns Road and forms an extension of a recently completed subdivision to the west, not yet completed. This adjoining subdivision features the extended link of Orchid Way from Johns Road through the wildlife corridor to the Wadalba village.

The site of the proposed subdivision is a residue lot from a super lot subdivision approval under Development Application 2201/2005. This 2005 approval specifically created larger parcels with the purpose of establishing zone boundary parameters for future subdivisions. This subdivision application further subdivides the residential zoned 2(e) land.

To the west of the site lies an intermittent water course extending to Johns Road while the Wadalba wildlife environmental corridor borders the north of the land. The east and south directions of the site comprise of bush land rezoned in 2008 from 10 (a) "Investigation" zone to the residential 2(e) zoning.

#### **The Proposed Development**

Consent is sought for the subdivision of the subject land into 20 lots comprising 12 lots for residential development, four residue lots for future subdivisions, and one parcel each for a drainage reserve, utilities reserve, public pathway and the wildlife corridor. Residue lots are often created in subdivisions to contain the remaining land that is not available for residential use due to rezoning or other issues.

Kuttabul Road, having been established in an earlier stage of subdivisions, is to be extended with the addition of two new roads, each terminating with temporary arrangements until future subdivision of the neighbouring land occurs.

### **3.1 Proposed Twenty Lot Residential Subdivision at Lot 312 DP 808521 and Lot 8106 DP 1085360, Johns Road, Wadalba (contd)**

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Issues such as the configuration of the subdivision and the relationship with the neighbouring land, bush fire protection, scenic protection and archaeological issues were required to be addressed by the applicant along with threatened species and tree retention. The applicant has adequately addressed these and other issues that have arisen during the assessment process.

In addition, the application has generated extensive public interest with 19 submissions received indicating concern for the proposed development.

As a result of Council's assessment of the issues, it is concluded that the application can be supported. It is therefore recommended that the application be approved subject to appropriate conditions.

#### **HISTORY**

At the time of introduction of the Wyong Local Environmental Plan 1991 (Wyong LEP 1991) the entire site and surrounding land was zoned 1c – Rural Holdings.

On 25 February 2000 LEP 121 was Gazetted. This amendment to the Wyong LEP 1991 rezoned the land into three separate zones being 2(b) Multiple Dwelling Residential, 7(a) Conservation and 1(c) Rural Holdings. Since this time the land was again rezoned under LEP 135 with the 2(b) section of land being rezoned to 2(e) and the 1(c) land being rezoned to 10(a) Investigation Precinct.

With respect to development approvals the subject land comprises of proposed lots 229 and 230 from the subdivision of DA 2201/2005, a super lot approval which is yet to be registered. No other relevant approvals exist.

#### **THE PROVISIONS OF ANY ENVIRONMENTAL PLANNING POLICIES**

##### **State Environmental Planning Policies**

There are no state policies that apply to the proposed development.

##### **Regional Planning Policies**

The Central Coast Regional Strategy was adopted by the NSW Government providing a strategy direction for population and employment growth for the Central Coast for the period from year 2006 – 2031. This strategy broadly promotes the same ideals as contained in WSC DCP 2005 for the Wadalba/Hamlyn Terrace areas.

##### **Environmental Planning and Assessment Act 1979**

The application is defined as "Integrated Development" under the provisions of Section 91 of the Environmental Planning and Assessment Act and was referred to the NSW Rural Fire Service (RFS), Department of Water and Energy (DWE) and Mines Subsidence Board.

NSW RFS responded by granting a "Bush Fire Safety Authority" under the Rural Fires Act. DWE responded with general terms of approval and Mines Subsidence Board granted its approval. In the event the application is approved, the requirements of the authorities will be included as conditions of approval.

### Wyong Local Environmental Plan (LEP) 1991

Subdivision is defined under Section 4B – *Subdivision of land*, in the Environmental Planning and Assessment Act 1979. Although not specifically defined in Clause 7 – *Definitions*, of Wyong Local Environmental Plan 1991 (LEP), the development is separately referred to as “Subdivision” in Clause 13 – *Subdivision of Land*, in the LEP and is permitted with consent.

The land is also subject to the following clauses (relevant clauses only) in the LEP:

Clause 29 – *Services*. This matter is addressed in the body of the report. The application can comply with the provisions in the clause.

Clause 35 – *Development near Heritage Items*. This issue is addressed in the body of the report.

Clause 42D – *Minimum Lot Sizes*. This clause requires a minimum of 450 sq metres per lot. The application complies with the provisions of the clause.

### THE PROVISIONS OF ANY DEVELOPMENT CONTROL PLAN

#### Development Control Plan 2005

The proposed development is considered with regard to the plans and policies identified in the Section 149 property certificate, with particular reference drawn to the following development guidelines:

Development Control Plan No 2005: Chapter No 67 – *Engineering*  
Chapter No 14 – *Tree Management*  
Chapter No 49 - *Warnervale East and Wadalba*  
Chapter No 66 - *Subdivision*

Each of the above mentioned chapters are discussed where relevant in the body of this report. In brief the proposed development is not contrary to the provisions of any DCP chapters and thus does not rely on any variations to policies.

### REFERRALS

The application is defined as “Integrated Development” under the provisions of Section 91 of the Environmental Planning and Assessment Act and was referred to the NSW Rural Fire Service (RFS), Department of Water and Energy (DWE) and Mines Subsidence Board.

The integrated agencies have all provided their conditional approval to the application. As a result the application is able to be approved incorporating these agencies requirements.

## ECOLOGICALLY SUSTAINABLE PRINCIPLES

As detailed under the Act, Ecologically Sustainable Development (ESD) can be addressed through the implementation of the following principles:

- (a) *the precautionary principle, namely, that if there are threats of serious or irreversible environmental damage, lack of full scientific certainty should not be used as a reason for postponing measures to prevent environmental degradation.*

The application has been subject to vigorous appraisal with regard to environmental impact providing sound assurance that any environmental impact will be within acceptable limits.

- (b) *inter-generational equity, namely, that the present generation should ensure that the health, diversity and productivity of the environment are maintained or enhanced for the benefit of future generations;*

Although there will be vegetation removed to facilitate the subdivision, the retention of the wildlife corridor throughout the Wadalba district and adjacent to this site ensures the maintenance of the identified species for future generations.

- (c) *conservation of biological diversity and ecological integrity, namely, that conservation of biological diversity and ecological integrity should be a fundamental consideration;*

The subdivision includes a section of land that is regarded as an intermittent water course which is to be conserved in its natural state.

It is considered that the subdivision is consistent with the ESD principles by assisting in providing long-term biodiversity established as the wildlife corridor which extends throughout the Wadalba precinct and also within the natural drainage systems nearby the site.

## ASSESSMENT

Having regard for the matters for consideration detailed in Section 79C of the Environmental Planning and Assessment Act 1979 and other statutory requirements, Council's policies and Section 149 Certificate details, tables comparing the proposed development with the requirements of the key plans and policies have been attached to this report. The assessment has identified the following key issues, which are elaborated upon for Council's information:

### **The likely impacts of the development (s79C(1)(b) ):**

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

The subject land is a "super lot" residue parcel conceived as an extension of Kuttabul Road, a road established in the previous adjoining stage of subdivision. The proposed subdivision represents an initial release of 12 residential lots (20 in total including residue lots and lots to be dedicated for special uses) from an area east of the water course and adjacent to Johns Road.

The proposed subdivision represents an extension of the estate attempting to maintain the same character and context already established in the area. One of the key factors for the design of the subdivision is the singular access route from Kuttabul Road, the only access in the interim stage of subdividing the precinct east of the drainage line and within the current zoning parameters.

Land slopes vary across the 12 proposed residential lots (identified as lots 1 – 12), 18% being the greatest slope. While most gradients remain manageable for a variety of dwelling construction methods including “slab on ground” designs, in some circumstances not all allotments in the subdivision would enjoy a freedom of design. Proposed lots 7, 8, 9, 10, 11 and 12 are likely to require special care in residential design. It is possible that rather than slab on ground, pier foundations may be the best approach in design. The applicant has provided indicative details how the issue of design could be addressed, in each case the solutions offer garages below and pier foundations proving a dwelling can be established on those lots mentioned. Even so it is considered necessary to impose specific restrictions primarily prohibiting slab on ground design for certain lots in an effect to limit cut and fill, a typical concern normally associated with benching the land. Prohibiting slab on ground construction is not regarded as an onerous restriction on a land owner with several other cost effective construction opportunities generally used in residential design.

Proposed lots 5 and 6 are affected by bush fire asset protection zones (APZ's). The necessary APZ would have an impact on lot 5 and partially lot 6. Land title restrictions would be required specifically identifying where the dwelling can be positioned on those allotments.

Lot 5, 10 and 11 are adjacent to the water pump station and are affected by current access servicing arrangements to and from the station. It is recommended that a restriction be imposed on those allotments for the purpose of access and residential development.

The remaining residue parcels, specifically lots 15 – 17 and 19 would be subject to the lodgement of separate development proposals. For the moment each of these parcels would be subject to restrictions prohibiting subdivision. Lot 18 is to be transferred to Council as part of the wildlife corridor.

‘Planning Principals’ established by case law identify issues that should be considered in assessing subdivision development. The findings of *Parrott v Kiama Council 2004* and *Wallis & Moore v Sutherland Shire Council 2006* established an approach to assessing the future development potential of proposed vacant allotments including reference to solar access.

In assessing applications for residential subdivisions the Court places major emphasis on the ease with which future dwellings with good solar access can be erected on the proposed allotments. In general, this condition is best fulfilled when the side boundaries of the majority of the allotments are on or near a north-south axis; however, there may be other solutions. What is important is to think of the subdivision beyond the subdivision stage and strive for a future residential area in which the great majority of dwellings can achieve good solar access. The layout promotes the qualities mentioned in the planning principals with a subdivision configuration that would create acceptable building potential with adequate solar access.

It is considered that the subdivision promotes a configuration consistent with the general design principles in Council’s subdivision guidelines within Chapters 49 and 66 (Wadalba and subdivision chapters) of DCP 2005. Furthermore the proposal represents a satisfactory extension to the subdivision strategies for the Wadalba precinct.

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

The road network is similar but not entirely consistent with the layout in chapter 49 of DCP 2005. The point of inconsistency relates to the DCP requiring Kuttabal Road to be extended direct to the bubble head (shown as dashed adjacent to lot 15) rather than proposed as unlinked on the current plan. Geographically the current route is better providing manageable road grades in lieu of the DCP sketch. It is acknowledged that the DCP layout is only indicative and depends on detailed investigation which has been undertaken with this DA.



To assist Council's assessment of the proposed subdivision the applicant submitted preliminary engineering design plans demonstrating a subdivision layout over the entire precinct in order to prove effective consideration has been given to the future road pattern. Although no definite decision has been made for the location of the intersection from the east "precinct" to Johns Road the preliminary design at least proves that the future road alignment is compatible with the road layout proposed with the current application.

In this regard the preliminary design satisfies Council's concerns that sufficient investigation has taken place at least conceptually that the remainder of the precinct can be developed without any prejudice to or form the current application.

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

The site is subject to the presence of trunk water mains, a pumping station and the Wadalba reservoir. These structures and infrastructure are located nearby proposed lots 3 – 5, 10, 11 and 15

Consideration is given to the protection of the existing trunk water mains and other requirements associated with the water supply automated valves and the Wadalba Reservoir. Appropriate easements and rights of way are proposed to accommodate the aforementioned services.

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

Any subdivision proposal of urban release land particularly land in an undisturbed state (no previous development) requires investigation into the potential that the land may contain Aboriginal artefacts exhibiting cultural heritage. The Wadalba district is known for the presence of artefact sites, surveyed and officially recognised (registered with Department of Environment and Climate Change) as culturally significant findings.

As required Clause 35 of the LEP and Chapter 49 of DCP 2005, due regard has been given to the impact by the subdivision on known sites.

Clause 35 states:

***"Development in the vicinity of heritage items, archaeological sites or potential archaeological sites***

- 35 *The Council must take into consideration the likely effect of the proposed development on the heritage significance of a heritage item, archaeological site or potential archaeological site and on its setting, when determining an application for consent to carry out development on land in its vicinity."*

Council's assessment involves establishing the authenticity of the artefact site and then be satisfied that the sites can retain their integrity within the context of the subdivision.

The subdivision precinct was surveyed by *Mary Dallas Consulting Archaeologists* in 2000 documenting several sites believed to be authentic. The subsequent re-investigation in July 2007 by the author of the original heritage survey did not find any additional evidence of aboriginal artefacts. Several issues of contention from the Guringai Tribal Link were addressed in the recent investigation with no evidence to support any new claims. The local Darkinjung Aboriginal Land Council concurred with the consultant's July 2007 assessment.

Notwithstanding the comprehensive investigation (as noted above) already undertaken, the site was inspected in 2008 by the Department of Environment and Climate Change (DECC) as a result of community representation. DECC recommended to Council that a further independent study be prepared, which was undertaken by *Total Earth Care Pty Ltd* (TEC report 2009). The latest findings generally support the earlier studies, in addition to offering specific recommendations to protect heritage items. An extract of the public findings are attached to this report.

Specifically several sites including scar trees and axe grooves/grindings were surveyed and investigated in detail. The “canoe” tree and the scar tree identified in surveys as having aboriginal heritage are not within the subject site. These trees are located in the designated small park allotment approved under a neighbouring subdivision (DA 2201/2005/A) and are about 60 and 40 metres respectively from proposed construction works and thus are not expected to be impacted by the subdivision. These artefacts are protected by appropriate conditions of consent to ensure that no damage occurs through misadventure, the trees or during construction.

Two groove sites were identified in the course of the studies. The grooves relate to axe grinding or stone sites. One of those sites is within the adjacent small park which as noted is not in the subject area of this application. The other site is located in the watercourse and is to be preserved within the drainage corridor in its natural state. The TEC 2009 report provides some guidance for protection from development pressures by suggesting appropriate buffer dimensions. In particular the grindings found in the lower part of the watercourse nearby the proposed road No 11 (as designated on the plan) extension requires examination. The report indicates that a buffer of 20 metres is required to protect the surveyed site. In this regard it is recommended that proposed road No 11, intended to extend beyond the subdivision, be temporarily terminated adjacent to proposed lot 1. This will achieve a full 50 metres buffer to the artefact site. The future extension of the road and ultimate subdivision layout beyond the scope of the current application can be addressed at a later stage. Whatever change in the future subdivision strategy required to protect the aboriginal site would have no adverse impact on the current application.

Appropriate conditions will be imposed on the approval to ensure adequate protective measures are observed during construction.

As for other recent suggestions from the community of new heritage sites the report indicates that such claims are baseless. It is therefore concluded that the subdivision application (with minor adjustment to the road as noted) has taken adequate consideration into the likely effect of the proposed development on the heritage significance of an archaeological site.

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

The Wadalba Urban Release Area is bound by the Pacific Highway in the north and west, Johns Road in the south and the formed and unformed sections of Louisiana Road in the east. The Wadalba Wildlife Corridor consists of an area of land that extends from the north-west corner to the south-east corner of the Wadalba Urban Release Area.

Wyong Shire Council initially requested Species Impact Statements (SIS) to be completed for most residential subdivision development applications within the Wadalba Urban Release Area. Following detailed surveys and completion of several of these Species Impact Statements, the need for a more co-ordinated approach to the long-term protection and management of remnant habitat areas was identified by the Department of Environment and Conservation (Now known as the Department of Environment and Climate Change – referred to hereafter as DECC).

### 3.1 Proposed Twenty Lot Residential Subdivision at Lot 312 DP 808521 and Lot 8106 DP 1085360, Johns Road, Wadalba (contd)

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Agreement was reached that through the establishment of the Wadalba Wildlife Corridor and the preparation of the Wadalba Wildlife Corridor Management Plan the DECC would be in a position to issue deemed concurrence to subdivision applications in the Wadalba Urban Release Area. The deemed concurrence permits Wyong Shire Council to assume DECC's concurrence for ecological impacts associated with vegetation removal, providing they occur in accordance with the concurrence terms of the DECC. This deemed concurrence has been instigated to address subdivision proposals within the area that are deemed to have a significant impact, within the meaning of the *Environmental Planning and Assessment Act* (1979) and *Threatened Species Conservation Act* (1995) upon locally occurring threatened species, endangered populations or endangered ecological communities.

The Councils assumed concurrence does not negate the relevant provisions of Section 5A of the *Environmental Planning and Assessment Act* (1979). Each Development Application still requires a 7-part test to be prepared and submitted to Council with the Development Application.

A Deed of Agreement exists between Wyong Shire Council and landowners within the Wadalba Urban Release Area. This Deed of Agreement has been prepared to allow for developer contributions to Council to allow Council to purchase parcels of property within the WWC currently under private ownership. After acquisition these lands will be zoned 7(a) Conservation under the Wyong Local Environmental Plan 1991.

In accordance with the Deed of Agreement, the section of the subject site currently zoned 7(a) Conservation is to be dedicated to Council as a condition of consent for this subdivision.

The Wadalba Wildlife Management Plan in particular addresses:

- *Signage*
- *Weed Control*
- *Bushfire Management*
- *Rubbish Dumping*
- *Prohibited Uses*
- *Cultural Values*
- *Community Education*
- *Stormwater Structure Management*
- *Stormwater Quality*
- *Community Vigilance and Reporting*
- *Habitat Enhancement Initiatives*
- *Habitat Tree Relocations/Maintenance*
- *Frog Habitat Features*
- *Monitoring and Reporting Regime*

To compliment the objectives of the management plan and given that the site adjoins the corridor an Ecological assessment was undertaken concluding that the site did not contain any threatened flora or fauna species.

The site comprises generally of disturbed land with re-growth of spotted gums and melaleuca scrub. A vegetation management plan was submitted which did not specifically recommend the retention of any particular trees however apart from necessity for road and service construction, tree removal would be on a lot by lot merit assessment at the residential building stage. No trees are to be removed in the wildlife corridor area.

Appropriate consent conditions are to be imposed that restricts tree removal to those areas of work directly required for road and services construction. Tree removal will be restricted to those trees identified on sheet 7 of the approved plans.

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

**Bush Fire**

The land is subject to the risk of bush fire. NSW RFS has provided General Terms of Approval (GTA's) which impact on the layout, specifically lots 5 and 6, as noted earlier in this report. Lots 1, 2, 7 and 8 require a 6.50 metres building line setback to accommodate appropriate asset protection zones (APZ's).

The layout requires clearing to provide APZ's for lots 1, 4, 11 and 12. The RFS indicates 35 metres is required to offer protection to those allotments, the clearing accommodated in the neighbouring residential land, held in the same ownership.

Note that the asset protection zones imposed for the subdivision are temporary (except for lots 5 and 6 which are permanent) and can be removed as a title restriction once neighbouring subdivisions have been established, thereby eliminating the fire risk.

**Flooding**

Although there is potential for localised flooding immediately adjacent to the watercourse, the subdivision layout for this DA is sufficiently clear of the estimated 1% flood extent.

**Ground Stability**

The site does not exhibit any significant broad scale geo-technical problems that would preclude the development of a residential subdivision. Each allotment would be individually classified upon completion of works establishing foundation requirements for future building.

***Any Stormwater Management requirements***

**Drainage**

The catchment of the subdivision will be directed toward the southern part of the land adjacent to Johns Road before discharging via pipe culverts in a southerly direction under Johns Road. Specific conditions shall be imposed on the developer to collect road and surface flows and where necessary establish inter-allotment pipe systems. A new bio retention system is required to filter flow prior to discharge into the Johns Road culverts.

The proposed drainage reserve (identified as lot 20 on the plan) is designed to accommodate the natural intermittent watercourse and existing dam and is approximately 40 metres wide. Ultimately the drainage reserve will extend to Johns Road once residue lot 19 is further subdivided. In the interim lot 20 will be transferred to Council and eventually rezoned to an appropriate special use zone.

While it is preferred that the water course is left in a natural state (to occur where possible) it is understood that improvement works are necessary to define the proposed drainage reserve with perimeter delineation (roads, retaining walls, protective fencing etc.) that may require altering the shape of the existing natural buffer adjacent to the current line of the watercourse. DWE in issuing its approval under the Water Management Act included several requirements to ensure adequate regard is given to the present and future integrity of the water course. Those requirements will be included in the engineering design for the subdivision.

Water Sensitive Urban Design

The objectives of “Water Sensitive Urban Design” have been considered in the assessment of the subdivision layout.

*Protect natural systems:* As noted above the aim is to retain as much as practical the natural depression adjacent to the subdivision. An appropriate natural buffer (agreed by DWE) is to be established to separate the subdivision from the watercourse.

*Integrate stormwater into landscape:* All subdivision runoff will be directed toward the watercourse/depression. Once residential development occurs, each dwelling will incorporate rain water tanks and establish individual landscaped areas.

*Protect water quality:* A new storm water basin is to be established near Johns Road in order to treat water runoff. The proposed subdivision will drain directly to the basin prior to continuing through the Johns Road culverts.

*Reduce runoff and peak flows:* As noted above, measures will be adopted to reduce flows with dwelling development in the form of tanks and landscaping. In the interim, trunk flow rates will be controlled within the existing basin system.

*Add value while minimising costs:* Minimal cost is required to establish the subdivision. Most major works such as the new basin can be retained for further subdivision of the precinct. Apart from road drainage systems the other main stormwater costs are the improvements to the proposed drainage reserve.

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

The provision of the pedestrian pathway (shown as lot 13 on the plan) is to be integrated with the small park and wildlife corridor adjacent to the subdivision. In this respect the pathway, aimed at connecting the north part of the precinct to the small park is considered to provide acceptable safety in design.

***Are Developer Contributions applicable (water, sewer, open space, etc.,)***

Contributions apply under Section 94 (EP & A Act) and Water Management Act and are levied only for proposed lots 1 – 12. Other parcels such as the residue lots with respective building restrictions would be subject to contributions when further subdivided.

**The suitability of the site for the development (s79C(1)(c)):**

***Whether the proposal fits in the locality and whether the site attributes are conducive to development.***

Council recently rezoned land immediately to the east of the subject land to residential 2(e) zoning, being in the same precinct and held for most part in the same ownership as the current application. Overall a total of about 80 lots may in the future be achieved on land east of the drainage line.

Chapter 49 of DCP 2005 states:

*"2.15 Where "super lots" (lots in excess of 1,000 square metres intended for future development) are proposed, the applicant is required to demonstrate that the allotment(s) can be appropriately developed in the future by submitting concept plans at the initial subdivision stage. In this regard "super lots" should be purpose designed to accommodate an identified future use."*

As required by the DCP, the applicant submitted an indicative subdivision overlay supported with preliminary engineering design plans for the remainder of the precinct identifying a subdivision strategy for the future release of land beyond the scope of the current application.

The preliminary plans have been examined and found to be satisfactory in terms of a conceptual review. In this regard the current application has adequately demonstrated that it would not prejudice the strategic planning for the proposed adjoining residential zone.

**Any submissions made in accordance with this Act or Regulations (s79C(1)(d)):**

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

The application was advertised in accordance with Council's Notification Policy, with nineteen (19) submissions being received. The submissions were generally similar in content, concentrating on environmental and social themes. For reporting purposes, where possible similar submissions are grouped together.

Issues raised in the submissions have been addressed in the assessment of the application pursuant to the heads of consideration in Section 79C of the EP & A Act. A summary of the submissions is detailed in the attachment to this report.

Doc. No	Summary of Issues	Response
D00786375 D00786605 D00791079 D00794781 D00795604 D00788053	Concern for impact to wildlife – impact to flora and fauna.	The establishment of the Wadalba Wildlife Environmental Corridor extending from the Van Stappen corner on the Pacific Highway to Louisiana Road (distance of about 1.80 kilometres) is designed to compensate for the loss of native vegetation from the residential zoned land.
D00805377 D00799142 D00786569 D00799851	Congestion of local roads.	The expansion of the urban release areas usually heralds new roads and/or upgrading of the existing road network. There are examples of new and upgrading works completed (or near completion) in the local area, specifically the intersections of the Pacific Highway and Johns Road and the Pacific Highway and Figtree Boulevard in addition to certain sections of Johns Road leading towards the subject site. Provided road works correspond with advancing urban release the local road system would have acceptable capacity to accommodate the anticipated traffic volumes. If necessary, interim measures would be employed to address any “weak links” in the local road system; however for this application there is unlikely to be any cause to introduce such measures.
	Increased demand on water.	There is no evidence to suggest that the proposed subdivision would have any detrimental impact on water supply in terms of local infrastructure. Furthermore the introduction of sustainable subdivision and housing designs including water tanks and improved landscaping techniques provides the opportunity for reducing water consumption.
	Disturbance of Aboriginal artefacts.	The only artefacts within the subject site are the presence of an axe grind rocks to be preserved within the drainage corridor in the natural state. Appropriate changes to the road layout will provide acceptable buffer to the site.
	No demand for urban land.	The real estate market will generally dictate demand for urban land from which developers can then gauge which residential zoned areas are best suited for subdivision opportunities. It would appear that the Johns Road precinct is beginning to gain wider appeal from developers and the public with most properties involved in subdivisions (completed, under construction or approval pending). Very few parcels of land are not under some form of development consideration.
	Impact of tree clearing in 10(a) zone. [Since the submission was received the land has been rezoned to 2(e) Residential]	The land previously zoned 10(a) has been rezoned to 2(e) however the issue is addressed with the same intent as the objectors point, being the impact of tree felling. It is acknowledged that tree removal is proposed for the purpose of bush fire asset protection zones and road way extensions. Ultimately this section of land will be further subdivided requiring the removal of most trees. Appropriate conditions will be imposed to ensure wildlife are protected during construction.

## 3.1

**Proposed Twenty Lot Residential Subdivision at Lot 312 DP 808521 and Lot 8106 DP 1085360, Johns Road, Wadalba (contd)**

Doc. No	Summary of Issues	Response
D00797372	<p>Wildlife corridor insufficient in size to cater for flora and fauna.</p> <p>Destruction of native trees.</p>	<p>The wildlife corridor was established through extensive consultation with developers, Council and the Department of Environment and Conservation (DEC) and was based on thorough investigation into flora and fauna threatened species. The dimensions of the corridor have been finalised by the above mentioned negotiations and are considered appropriate to maintain and foster flora and fauna.</p> <p>The introduction of the Wadalba Wildlife Environmental Corridor is in part acknowledging that the residential zoned land will result in the removal of native trees. In effect the establishment of the corridor is an equitable "trade-off" between land development and land retention.</p>
D00789608	<p>Application to be determined by "full" Council.</p>	<p>Although not able to be requested by a member of the public, the application is to be forwarded to the ordinary meeting of Council for determination. The applicant has been advised on this matter.</p>



Doc. No	Summary of Issues	Response
D00798687 D00798734 D00798741 D00799066	Area contains threatened species.	A thorough flora and fauna assessment was undertaken across the site and the results were that no threatened species found.
	Area may contain more Aboriginal artefacts.	The "canoe" tree and the "scar" tree identified in surveys as having aboriginal heritage are not within the subject site. These trees are located in the designated small park allotment approved under DA 2201/2005/A. These trees will be protected during construction of the subdivision and post establishment of the park. They are not within the current residential subdivision.  The axe grind rock has been identified and is to be preserved within the drainage corridor in the natural state with appropriate buffer to the development site.  Subsequent investigation in July 2007 by the author of the original heritage survey (Mary Dallas Consulting) and an independent study in 2008 as recommended by DECC has not found any further evidence of aboriginal artefacts.
	No demand for urban land.	The real estate market will generally dictate demand for urban land from which developers can then gauge which residential zoned areas are best suited for subdivision opportunities. It would appear that the Johns Road precinct is beginning to gain wider appeal from developers and the public with most properties involved in subdivisions (completed, under construction or approval pending). Very few parcels of land are not under some form of development consideration.
	Impact of tree clearing in 10(a) zone. [Since the submission was received the land has been rezoned to 2(e) Residential]	The land previously zoned 10(a) has been rezoned to 2(e) however the issue is addressed with the same intent as the objectors point, being the impact of tree felling. It is acknowledged that tree removal is proposed for the purpose of bush fire asset protection zones and road way extensions. Ultimately this section of land will be further subdivided requiring the removal of most trees. Appropriate conditions will be imposed to ensure wildlife are protected during construction.
	Area contains high value biodiversity.	There were no threatened species found on the site. In the interests of biodiversity, the subdivision proposes to retain a drainage corridor over the route of the natural (intermittent) water course. Otherwise the site of the subdivision does not represent high value in terms of biodiversity.
D00801967	The submission is concerned that there is an abundance of urban release land available elsewhere within the Wadalba and Warnervale districts and questions the sustainability of establishing further land creating over supply.	Land is zoned by Council for urban release purposes and at some stage will be developed for residential use. The economic climate generally dictates investment in real estate which in turn creates interest in the availability of land. The Johns Road precinct is beginning to gain wider appeal from developers and the public with most properties involved in subdivisions (completed, under construction or approval pending). Very few parcels of land are not under some form of development consideration.

Doc. No	Summary of Issues	Response
	<p>The submission is concerned that the Wadalba Wildlife Corridor is not sufficient in this area to properly sustain the purpose of the corridor.</p> <p>The submission was concerned for the timing of the Wadalba district centre with respect to continual residential subdivision.</p> <p>The submission was concerned for the removal of native trees in the shape of "clear felling" that can occur with land subdivision.</p> <p>The submission was concerned that the Aboriginal heritage features are too close to the subdivision.</p> <p>The submission was concerned that there is no open space provided with the DA.</p>	<p>The parameters and specifics of the corridor have been previously addressed between land owners, Council and the DECC, and is in the body of this report.</p> <p>The establishment of the Wadalba centre is dependant on many factors, not the least the expansion of the residential communities in the area. Being essentially private owned sectors in the centre, the growth of facilities and services is hand in hand with growth of the urban release areas. Already a major commercial centre and school is operating with a child care centre presently under consideration by Council.</p> <p>The subdivision proposal does not necessitate the removal of all vegetation over the land. It is accepted that if approval is granted, trees within the road reserve and service corridors would need to be removed unless otherwise stated for protection. Other trees, those within the lots can remain, but realistically may would be removed at the future dwelling stages.</p> <p>The body of this report mentions in detail the location and measures undertaken to protect any artefact or feature identified in recent surveys. None of the Aboriginal features exist within the confines of the subject small lots of this DA. However due recognition has been given and as a result the DA is not expected to interfere with any relic.</p> <p>This a correct assumption, however the proposed subdivision is actually part of an overall group of subdivisions within the precinct that ultimately include the provision of a small park which has been identified within the super lot approval of DA 2201/2005/A. The park of 5,000m<sup>2</sup> will be located adjacent to the new road that serves proposed lots 212 – 215 and comprises land that contains the Aboriginal tree features. The applicant has indicated that the park will be constructed concurrently with the subdivision.</p>
D00801967 (continued)	<p>The submission was concerned that the subdivision has not been designed within the parameter of a master plan.</p> <p>The submission was concerned about water and sewer services.</p> <p>The submission was concerned for suitability of transport services.</p>	<p>The proposed subdivision has been designed within the context of an overall concept plan (similar to a master plan) identified with the existing subdivision of DA 3880/2002 and as future subdivision of the rezoned 10(a) land.</p> <p>Investigation has been undertaken to establishing the availability of services and capacity to accommodate additional loadings. Developer contributions apply to the subdivision in accordance with Council's contributions schemes.</p> <p>The subdivision is in close proximity to bus transport with services in Johns Road and Orchid Way that extend to all significant centres in the region.</p>

Doc. No	Summary of Issues	Response
D00799851	<p>The proposal does not meet the ESD principals.</p> <p>Clear felling of trees is prohibited in the 10(a) zone. [Since the submission was received the land has been rezoned to 2(e) Residential]</p> <p>Area contains Aboriginal artefacts</p> <p>No demonstrated demand for urban land.</p>	<p>Noted earlier in the body of this report is discussion that concludes the subdivision is consistent with the principals of ESD.</p> <p>The land previously zoned 10(a) has been rezoned to 2(e) however the issue is addressed with the same intent as the objectors point, being the impact of tree felling. It is acknowledged that tree removal is proposed for the purpose of bush fire asset protection zones and road way extensions. Ultimately this section of land will be further subdivided requiring the removal of most trees. Appropriate conditions will be imposed to ensure wildlife is protected during construction.</p> <p>The “canoe” tree and the “scar” tree identified in surveys as having aboriginal heritage are not within the subject site. These trees are located in the designated small park allotment approved under DA 2201/2005/A. These trees will be protected during construction of the subdivision and post establishment of the park. They are not an issue with the current residential subdivision.</p> <p>The axe grind rock has been identified and is to be preserved within the drainage corridor in the natural state with suitable buffer to the development site.</p> <p>Subsequent investigation in July 2007 by the author of the original heritage survey (Mary Dallas Consulting) and an independent study in 2008 has not found any further evidence of aboriginal artefacts.</p> <p>The Johns Road precinct is beginning to gain wider appeal from developers and the public with most properties involved in subdivisions (completed, under construction or approval pending). Very few parcels of land are not under some form of development consideration.</p>
D00825548	<p>Area is of high cultural significance to Aboriginal people with some artefacts known in area.</p>	<p>The submission is from the Guringai Tribal Link, a body that is not native title holders of the land. The heritage survey (Mary Dallas Consulting) provides advice from the Elders of the Darkinjung Council that indicates that the subdivision land is not considered as an area of high cultural significance.</p> <p>The known artefacts that the submission identifies have been established through survey and as stated previously in this report is to be protected and conserved within the context of the subdivision.</p>

## **CONCLUSION**

The application represents the next stage of the adjoining subdivisions in the Johns Road Wadalba precinct. Two major subdivision applications have been approved, 97 lots in 2002 and 29 lots in 2007. The former has been completed and registered, the latter recently approved, though construction has not yet commenced. However this is the first occasion a subdivision stage is proposed to the east of the natural drainage depression that defines the precinct. The subject site was part of a super lot approval granted in 2005 establishing larger parcels for the purpose of subdivision release.

Unfortunately due to the previous zoning provisions and ownership interests, the applicant is unable to submit a complete subdivision package for the remainder of the precinct. Notwithstanding, the applicant has undertaken appropriate investigation for not only the current DA site but also over the entire precinct area providing Council with confidence in assessing the current application that engineering, environmental and heritage considerations all of which are important in this area have been adequately considered.

## **ATTACHMENTS**

- 1** Locality Plan
- 2** Development Plans
- 3** Consultants Report for Wadalba Hill by Oliver Brown

### 3.2 Comprehensive LEP Review

TRIM REFERENCE: D01783935

AUTHOR: PB

#### SUMMARY

Local Environmental Plans are an integral part of the NSW Planning system. They are created by local Councils to control the form and location of new development, along with protecting open space and environmentally sensitive areas. Planning Reforms implemented by the NSW State Government have required each Council in NSW to prepare a new Local Environmental Plan (LEP) which is consistent with the Standard Instrument (Local Environmental Plans) Order, 2006, referred to as the Standard Instrument. The reform is designed to simplify the planning system in NSW.

This report recommends the formal commencement of the proposed draft Wyong Local Environmental Plan 2011 (WLEP 2011) under Section 54 of the Environmental Planning and Assessment Act, 1979 (EP&A Act). In addition, the report details the preparation of a number of other planning documents that will inform and supplement the new LEP. These include the Shirewide Settlement Strategy and review of Development Control Plan 2005 – Development Controls for Wyong Shire (DCP 2005); and presents procedures for the lodgement and assessment of rezoning requests anticipated during the project.

#### RECOMMENDATION

- 1 ***That Council commence, pursuant to Section 54(1) of the Environmental Planning and Assessment Act, 1979, the preparation of draft Wyong LEP 2011 in accordance with the Standard Instrument (Local Environmental Plans) Order, 2006,***
- 2 ***That Council notify the Department of Planning of the decision as soon as practicable.***
- 3 ***That Council advise the Department of Planning that it does not intend to request 'Written Authorisation to Exercise Delegation' under Section 65 and Section 69 of the Environmental Planning and Assessment Act, 1979.***
- 4 ***That Council refer the project to the appropriate authorities for comment under Section 62 of Environmental Planning and Assessment Act, 1979.***
- 5 ***That Council prepare a Settlement Strategy to support the preparation of draft Wyong LEP 2011 further to Council's resolution of 12 March 2008, .***
- 6 ***That Council request the Department of Planning to confirm that the Settlement Strategy will replace the function of a Local Environmental Study required under Section 57 of the Environmental Planning and Assessment Act, 1979.***
- 7 ***That Council prepare pursuant to Section 74C of the Environmental Planning and Assessment Act, 1979, Development Control Plan (DCP) 2011 – Development Controls for Wyong Shire to support Wyong LEP 2011.***
- 8 ***That Council adopt the Rezoning Requests Strategy and fee schedule for the lodgement and receipt of anticipated rezoning requests during the life of the project.***

- 9 *That Council still consider rezoning proposals that facilitate significant employment generating developments as matters of priority further to resolution 8 above.*
- 10 *That Council revise the timeframe for the completion of the project to be consistent with the State Government's program, that is March 2011.*
- 11 *That Council update its Section 149 Certificates.*

### INTRODUCTION

NSW has been moving through a series of Planning Reforms since 2004. Reforms to date have included several amendments to the EP&A Act which is the primary legislation that guides planning and environmental assessment in NSW. The Planning Reforms have required each Council in NSW to undertake a comprehensive review of their respective LEPs and prepare a new LEP in accordance with the Standard Instrument gazetted in 2006. The Instrument is part of a broader package which aims to improve local planning across the State.

For Wyong Shire, the comprehensive review of its existing primary planning instrument, WLEP 1991, will deliver three primary outputs. In 2008 Council committed to preparing a Shirewide Settlement Strategy, which will inform the preparation of the proposed draft WLEP 2011, in parallel to this, Council's DCP will be reviewed resulting in the adoption of a new Development Control Plan 2011 – Development Controls for Wyong Shire (DCP 2011). These documents will guide the growth of the shire into the future.

### PROJECT OUTPUTS

#### 1. Shirewide Settlement Strategy

Council, on 12 March 2008, committed to the preparation of a Shirewide Settlement Strategy and identified the project as a Key Focus Area within the 2008/2009 Management Plan.

Replacing the function of a Local Environmental Study (LES), which may be required under Section 57 of the EP&A Act, the Settlement Strategy will establish a framework for land use and development activities which are consistent with state, regional and local planning objectives. The Settlement Strategy will inform the Comprehensive LEP Review project by presenting actions and recommendations for inclusion within the proposed draft WLEP 2011 and DCP 2011.

The Settlement Strategy will be structured to align with the 2006 Central Coast Regional Strategy (CCRS) and will consider issues relating to:

- Centres and housing;
- Economy and employment;
- Environment, heritage, recreation, and open space;
- Natural resources;
- Natural hazards, including climate change;
- Water;
- Sustainability;
- Infrastructure; and
- Transport.

Assisting with the implementation of state and regional plans, including the NSW State Plan, CCRS, Central Coast Regional Conservation Plan; Regional Economic Development and Employment Lands Strategy (REDES), the Settlement Strategy will build upon the preliminary work undertaken by the Department of Planning (DoP) for the North Wyong Shire Structure Plan (NWSSP). In addition, it will collate actions identified by various local planning policies, including but not limited to, the Shire Strategic Vision (SSV) and Sustainability Street and will replace Council's existing Residential Development Strategy. More detailed information on planning considerations is provided in this report.

While there is no statutory framework for the preparation of the Settlement Strategy, a cross-organisational approach will ensure that matters of importance are considered at a holistic level. In order to ensure that the established planning directions remain consistent with state and regional policies, regular consultation will occur with the relevant State Government authorities, while ongoing consultation will be required with some of the larger state agencies.

### **2 Wyong Local Environmental Plan 2011**

At present, WLEP 1991 is the primary planning instrument which applies to the Wyong Local Government Area (LGA). The LEP establishes a framework for a range of land use activities which occur within the Shire. Given that most of the planning for Council's existing LEP was undertaken approximately 20 years ago, and that the context has changed for a range of issues and challenges that face the Shire, the Planning Reforms have provided an opportunity to undertake a major review of the provisions of WLEP 1991.

As previously discussed, the proposed draft WLEP 2011 is required to be consistent with the format and content outlined within the Standard Instrument. The Instrument prescribes a standard dictionary of definitions, identifies the available range of zones and certain zone objectives, and mandates permitted and prohibited land uses. Further detail on the Standard Instrument is provided within this Report.

WLEP 2011 will apply to all land within the Shire, with the exception of lands identified by State Environmental Planning Policy (SEPP) (Major Projects), 2005, such as the Warnervale Town Centre and Wyong Employment Zone, and certain lands within Gwandalan.

### **3. Development Control Plan (DCP) 2011 – Development Controls for Wyong Shire**

In December 2005, Councils within NSW were advised that changes to the EP&A Act had introduced a requirement 'that only one DCP (per planning authority) may apply to the same land.' In this regard, a consolidated DCP was prepared, and came into effect on 6 January 2006.

DCP 2005 contains provisions for specific matters as well as providing area specific policies for lands within Wyong Shire. As the current DCP references the existing WLEP 1991 and supports the current practices and policies of the Council, a number of chapters within DCP 2005 will be amended or made redundant by the gazettal of the proposed draft WLEP 2011. Given that the provisions of the WLEP 1991 will be revised and that new planning directions will be established by the Settlement Strategy, it is recommended that Council review the existing DCP and commence preparation of a draft DCP 2011.

Draft DCP 2011 aims to remain consistent with the provisions of the state and regional planning objectives and the recognised directions of the proposed draft WLEP 2011. Where strategic and policy principles are not implemented through the new LEP, DCP 2011 will act as a mechanism for their implementation.

### OVERVIEW OF PROJECT

The Comprehensive LEP Review Project and completion of the three project outputs has been broken into five phases, as listed below. The anticipated timeframes for the completion of these phases are further provided within this report.

- Phase 1. Preliminary and Project Establishment.
- Phase 2. Preliminary LEP Review.
- Phase 3. Settlement Strategy.
- Phase 4. Draft Wyong LEP 2011 and DCP 2011.
- Phase 5. Exhibition, Adoption/Gazettal and Implementation.

### INTERRELATIONSHIP BETWEEN PROJECT COMPONENTS

Each of the identified project outputs are integral to the preparation and completion of the Comprehensive LEP Review project. As such, the Settlement Strategy, preparation of the proposed draft WLEP 2011 and DCP 2011 will occur simultaneously over the next two years.

### PROJECT TIMEFRAME

While DoP requires Wyong Shire to have prepared an operational LEP by March 2011, Council has previously considered the Comprehensive LEP Review in the context of the Future Planning Unit's Work Program at its meeting held on 12 July 2006. At that time, Council resolved that the Comprehensive LEP Review be recognised as a Priority Project, with an estimated date for completion being April 2010.

The reconsideration of the LEP timeframe is considered necessary for the following reasons:

- A substantial amount of work has been undertaken on the Comprehensive LEP Review project. A preliminary conversion of the existing WLEP 1991 in line with the Standard Instrument has reinforced the need for a Settlement Strategy to revisit existing provisions and explore new directions for the Shire.

While it was not recognised as a primary project output at the time of Council's original resolution, the Strategy will provide the mechanism for the resolution of recently identified issues and guide the revision and/or development of provisions within the new principal plan.

- The proposed draft WLEP 2011 is reliant upon the completion and adoption of various studies and plans that are identified by the CCRS and which are the responsibility of various State Government Departments. Such plans and studies include the NWSSP; REDES; and Regional Conservation Plan (RCP). Significant delays in the adoption of the final CCRS prevented the commencement of these studies in accordance with DoPs original timeframe. Delays in completing these studies will adversely impact on Council's ability to finalise WLEP 2011 by March 2011.
- The Standard Instrument is subject to further amendments, as the State Government introduces new legislation and guidelines. However, it is important to note that there will be ongoing amendments to the Standard Instrument after the proposed draft WLEP 2011 is gazetted.
- Deadlines established by DoP took into account the volumes of work required to review individual LEPs. In this regard, the phased introductions of gazetted LEPs are to occur in 2006, 2009 and 2011. By conforming to the State Government's deadline for Wyong LGA, Council has the opportunity to both consult with, and learn from other LGAs who were required to prepare their LEPS by 2006 and 2009.



### 3.2 Comprehensive LEP Review (contd)

In light of the above, it is recommended that Council revise the timeframe for the preparation of the proposed draft WLEP 2011 to remain consistent with the deadline prescribed by the State Government, i.e. March 2011.

Having consideration for the recommended revised deadline of March 2011, the anticipated timeframe associated with the completion of key milestones is as follows:

<b>PHASE / TASK</b>		<b>STATUS / TIMEFRAME</b>
<b>Phase 1 - Preliminary and Project Establishment</b>		
i.	Project Outline	Complete.
ii.	Rezoning Requests Strategy	March 2009.
iii.	Council Report (Section 54)	March 2009.
<b>Phase 2 - Preliminary LEP Review</b>		
i.	Background and Legislative Review	Complete.
ii.	Conversion of Wyong LEP 1991 to Instrument	Complete.
iii.	Position and Issues Paper	Complete.
iv.	Commence preparation of LEP and DCP.	March 2009.
<b>Phase 3 - Settlement Strategy</b>		
i.	Component Papers	September 2009.
ii.	Settlement Strategy	December 2009.
iii.	Exhibition of Settlement Strategy	March 2010.
iv.	Adoption of Settlement Strategy	June 2010.
<b>Phase 4 – Draft Wyong LEP 2011 and DCP 2011</b>		
i.	Finalise draft <i>WLEP 2011 and DCP 2011</i> .	June 2010
ii.	Section 62 Consultation with State Government.	August 2010
<b>Phase 5 - Exhibition, Adoption / Implementation and Gazettal</b>		
i.	Public Exhibition	December 2010
ii.	Prepare Section 68 Report to DoP.	March 2011
iii.	Adoption, gazettal and implementation,	Dependant on DoP.

### PLANNING CONSIDERATIONS

Preliminary work undertaken to date has enabled Council to consider the scope of the Comprehensive LEP Review Project. Legislative and background reviews, as well as an initial conversion of the existing WLEP 1991 in line with the provisions of the Standard Instrument, have identified a range of issues for further consideration. It is important to note that the exact scope of the project is difficult to define and will be subject to change as the Planning Reforms continue to progress.

### 3.2 Comprehensive LEP Review (contd)

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While the considerations listed below do not form a definitive list, the Comprehensive LEP Review project will generally:

- Review Council's existing Residential Development Strategy (2002) and investigate additional housing opportunities, within the context of the centres hierarchy, particularly within existing urban, Metropolitan Development Program (MDP) and future greenfield urban release areas, and the redevelopment of significant government landholdings so as to achieve dwelling targets.
- Investigate strategies and implement actions identified by Promoting Choice: A Local Housing Strategy for Wyong Shire, 2008 to provide for a mix of accommodation opportunities, including low-cost housing, housing for ageing populations; and the protection of existing affordable housing stock.
- Investigate opportunities to provide for enterprise corridors, expand upon employment nodes, and ensure sufficient zoned land is available to achieve employment capacity targets and improve levels of self-containment within the Region.
- Identify current and potential future mining issues in consultation with the NSW Department of Primary Industries and Mine Subsidence Board and develop actions to ensure development does not sterilise the future potential of the land.
- Identify land with high state or regional environmental, agricultural, resource, vegetation, habitat, waterways, wetland or coastline values and develop actions to conserve and protect sensitive lands from inappropriate development, which is consistent with relevant legislation.
- Undertake a review of Aboriginal and non-Aboriginal heritage items and prepare guidelines to facilitate their conservation.
- Consider appropriate land uses for areas subject to high hazard and develop actions for lands with potential to be affected by the impacts of climate change, including sea level rise, inundation, flooding, coastal processes and bushfire; and prepare or consider floodplain, estuary and coastal management plans and incorporate measures to reduce risks from natural hazards in area where development is considered appropriate.
- Review existing zones to ensure that they best represent the development constraints and opportunities of the land.
- Consult with State Government agencies to ensure that road, rail, water and utilities are considered when developing the planning framework for Wyong LGA.
- Develop water efficiency, integrated water cycle management and water sensitive urban design initiatives for inclusion within local planning, development standards, policies and LEPs.
- Integrate Council's Guiding Principles for Sustainability into plan making decisions to ensure a balance between short-term and long-term requirements.

## STATUTORY REQUIREMENTS

### ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979

The EP&A Act governs the plan-making process and specifies requirements with for the commencement of a new draft LEP. Accordingly, the preparation of the proposed draft WLEP 2011 must comply with the provisions of the Act. An overview of the plan making process is provided in Attachment 1 and A Flow-chart extracted from Planning Circular PS06-005 is provided as Attachment 2.

### STANDARD INSTRUMENT

The Standard Instrument contains standard definitions, zones and clauses and establishes the required format for new principal LEPs. A brief overview of the Standard Instrument is provided below.

#### Definitions

The Dictionary of Standard Definitions provides terms relevant to land use activities and the interpretation of LEPs. It aims to standardise planning terminology across the state of NSW. The definitions prescribed within the Standard Dictionary are mandatory, however, those terms not used within the gazetted LEP do not need to be reproduced. Councils cannot alter or add their own definitions to the Standard Instrument.

#### Zones

The Standard Instrument prescribes 32 zones for Councils to use when preparing new principal LEPs. An overview of the purpose of each zone is provided in Attachment 3. Council will be able to select which zones are appropriate to the requirements of Wyong Shire. Only those zones which are included within the new LEP need to be identified. Council cannot add new zones, create sub zones, or change the name of a zone.

#### *Zone Objectives*

Each standard zone establishes core objectives for development. While the core objectives aim to ensure consistency between zones across the State, Council can prepare additional local objectives to ensure its intent is appropriate to individual local government areas. Additional local objectives cannot be inconsistent with either the prescribed core objectives or relevant state and regional planning directions.

An example of core zone objectives, in respect of the RU1 Primary Production Zone, is outlined in Attachment 4.

#### *Permitted and Prohibited Land Uses*

The land use table in the Standard Instrument mandates certain prohibited and permitted land uses in zones. For each zone, mandated uses are set out under Item 2 (Permitted without consent; Item 3 (Permitted with consent); and Item 4 (Prohibited).

An example of the mandated prohibited and permitted land use activities, in respect of the RU1 Primary Production Zone, is outlined in Attachment 4.

Provided that they remain consistent with the zone objectives and relevant state or regional planning directions, Council can develop land use tables for activities defined within the Standard Dictionary.

### Clauses

The Standard Instrument mandates 38 clauses for inclusion within new principal LEPs. The 38 clauses are classified as compulsory or optional clauses. Compulsory clauses are identified as 'compulsory' or 'compulsory if applicable', while optional clauses are those that a council may elect to include within their LEP.

An example of a 'compulsory' clause includes 'Clause 2.4 Unzoned Land' under Part 2 Permitted or prohibited development. Clause 2.4 Unzoned Lands states:

- (1) Development may be carried out on unzoned land only with consent.*
- (2) Before granting consent, the consent authority:*
  - (a) must consider whether the development will impact on adjoining zoned land and, if so, consider the objectives for development in the zones of the adjoining land, and*
  - (b) must be satisfied that the development is appropriate and is compatible with permissible land uses in any such adjoining land.'*

An example of a 'compulsory if applicable' clause includes 'Clause 5.7 Development below high water mark' under Part 5 Miscellaneous Provisions. This Clause must be included within any LEP that contains tidal waters within its LGA boundary. Clause 5.7 states

- (1) The objective of this clause is to ensure appropriate environmental assessment for development carried out on land covered by tidal waters.*
- (2) Development consent is required to carry out development on any land below the mean high water mark of any body of water subject to tidal influence (including the bed of any such water).'*

### Local Provisions

Council's can add local provisions to address specific circumstances. An example of an additional local provision can be found within Canada Bay LGA, new principal LEP. Clause 6.4 of Canada Bay LEP 2008 in relation to the development on the foreshore, states:

*'In deciding whether to grant consent for development in the foreshore area, the consent authority must consider whether and to what extent the development would encourage the following:*

- (a) continuous public access to and along the foreshore through or adjacent to the proposed development,*
- (b) public access to link with existing or proposed open space,*
- (c) public access to be secured by appropriate covenants, agreements or other instruments registered on the title to land,*
- (d) public access to be located above mean high water mark,*
- (e) the reinforcing of the foreshore character and respect for existing environmental conditions.'*

Council will be able to insert local clauses into the proposed draft WLEP 2011 provided that they do not undermine the effect of existing mandated clauses or are inconsistent with relevant state or regional policies, strategies and directions. Where individual councils have separately proposed similar clauses that have been agreed to by the Parliamentary Counsel, DoP will encourage the use of those clauses in LEPs, where relevant.

### *Principal Development Standards*

The Standard Instrument includes optional clauses such as development standards for minimum subdivision lot sizes, heights of buildings and floor space ratio. If Council resolves to specify requirements for these development standards, then they must be included within the principal LEP and not through mechanisms such as development control plans.

### **Schedules**

The Standard Instrument contains five schedules, although there is a provision for additional schedules to be included over time. As a result of local provisions, a council can add locally specific schedules. An example of a mandated schedule includes Schedule 5 Environmental Heritage, which will list the location and nature of any heritage item, heritage conservation area and/or archaeological sites within Wyong LGA.

### **SEPPs**

SEPPs deal with issues of significance at the state level. Consideration has been given to the range of existing and draft SEPPs and their relevance to the Comprehensive LEP Review Project. Those SEPPs which will be required to be considered in the formulation of the Settlement Strategy and preparation of the proposed draft WLEP 2011 and DCP 2011 will be included within Council's Section 54 Notification to DoP.

### **REGIONAL ENVIRONMENTAL PLANS (REPs)**

Consideration has been given to a range of existing and draft REPs and their relevance to the project. Those REPs which are required to be considered in the formulation of the Settlement Strategy and preparation of the proposed draft WLEP 2011 and DCP 2011 will be included within Council's Section 54 Notification to DoP.

### **SECTION 117 MINISTERIAL DIRECTIONS**

Under Section 117 (s117) of the EP&A Act the Minister for Planning may issue directions to councils to require certain issues to be considered in the preparation of LEPs and other planning matters. There are a number of s117 Ministerial Directions applying to land within Wyong Shire.

Those s117 Directions required to be considered in the formulation of the Settlement Strategy and the preparation of the proposed draft WLEP 2011 and DCP 2011 will be included within Council's Section 54 Notification to DoP.

## **OTHER MATTERS FOR CONSIDERATION**

### **Central Coast Regional Strategy (CCRS)**

The CCRS was released by the DoP in 2006. The CCRS aims to guide future development on the Central Coast until 2031. The primary objectives of the strategy are to: ensure that adequate land is available and appropriately located to sustainably accommodate the projected housing needs; promote local employment opportunities over the next 25 years; and provide a framework for local councils in the preparation of new principal LEPs. A s117 Direction requires the proposed draft WLEP 2011 to be consistent with the CCRS.

### **North Wyong Shire Structure Plan (NWSSP)**

Recognised for further investigation within the CCRS, the NWSSP will be the focus of future greenfield development on the Central Coast and identify land suitable for residential, employment and conservation purposes. Undertaken by DoP, the timely finalisation of the NWSSP in 2009 is crucial to the completion of the Comprehensive LEP Review project.

### **Central Coast Regional Conservation Plan (RCP)**

The Central Coast RCP is being prepared to identify state and regional biodiversity values including buffer areas and aims to provide certainty for development. The RCP is being prepared by the Department of Environment and Climate Change (DECC) in parallel to the NWSSP so that 'biodiversity planning can both guide future development and be balanced against the social and economic objectives for development in that area.'

### **Regional Economic Development and Employment Lands Strategy (REDES)**

The REDES is being prepared by DoP and will inform Council's proposed draft WLEP 2011. The CCRS states that REDES is being prepared to assist job growth in response to the forecasted population growth for the Shire to 2031. The Strategy aims to maintain the region's environmental and lifestyle attributes while diversifying and deepening the economic base over the next 25 years.

## **ECOLOGICALLY SUSTAINABLE PRINCIPLES**

The Local Government Amendment (Ecologically Sustainable Development) Act, 1997 amended the Local Government Act (LGA) 1993 to require Council to give consideration to the principles of Ecologically Sustainable Development, namely the adoption of the precautionary principle, intergenerational equity, the conservation of biological diversity and ecological integrity, and improved valuation, pricing and incentive mechanisms. The Comprehensive LEP Review Project will have regard for these principles to ensure that the proposed draft WLEP 2011 is consistent with the provisions of the LGA Act.

## **IMPLICATIONS OF PROJECT**

### **Rezoning Requests Strategy**

One of the implications of undertaking the Comprehensive LEP Review project, is the likelihood of a large influx of potential rezoning requests. Over the last few years, Spot Rezoning requests have been discouraged if they are inconsistent with advice received from DoP (August 2005 and November 2008), that states an amendment may only be considered if:

*'The amendment is to facilitate an employment generating activity, if existing provisions undermine the State Government Policy; the amendment implements agreed strategic direction for development in the area; and/or Council has completed strategic work and delays in implementing recommendations would be unreasonable or inefficient.'*

In considering that advice, Council at its meeting on 13 December 2006, resolved the following:

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

- 1 *That Council adopt the Spot Rezoning Procedure and fees as outlined in the attachment and including the amendments to the Rezoning Process outlined in this report.*
- 2 *That Council strongly discourage spot rezonings unless they demonstrate a direct relationship to an adopted strategy of Council or the State Government.*
- 3 *That the Spot Rezoning Procedure be distributed to development industry bodies and planning consultants who regularly deal with Council.*
- 4 *That Council staff continue to hold briefing and consultation sessions with the development industry to enable opportunities for sharing information on development, rezoning and strategic planning issues.*
- 5 *That the Spot Rezoning Procedure be made available, free of charge, at all Council branches and on Council's website.*
- 6 *That the Rezoning Fees for the 2006/2007 financial year be advertised for a period of 28 days in accordance with section 705 of the Local Government Act 1993, as follows:*
  - Phase 1 Lodgement Fee (\$3,000)*
  - Phase 2 Report, Further Assessment and DLEP Preparation – Actual Cost Basis (Initial Fee \$7,000 and “pay in advance”)*
  - Phase 3 Public exhibition, Submissions and Finalisation Actual Cost Basis (Initial Fee \$5,000 and “pay in advance”)*
- 7 *That should no objections be received, the fees be adopted after the 28 day advertising period and included in Council's 2006/2007 Management Plan – Fees and Charges.*

In accordance with the resolution, Council staff have discouraged requests for spot rezoning and applicants have been advised that such requests would more appropriately be considered as part of the Comprehensive LEP and Settlement Strategy.

Under the criteria established by DoP and Council (specifically, when rezoning proposals are perceived to have merit in accordance with established strategies and directions), the receipt, assessment and determination of the proposal is undertaken in accordance with Council's adopted Spot Rezoning Procedure and fee schedule. A copy of the Spot Rezoning Procedure is included as Attachment 5. This involves the 'bundling' of a number of proposals which aims to reduce to administrative workloads and submissions to DoP. While the current Spot Rezoning Procedure is valid for assessing requests for amendments to the existing WLEP 1991, the Comprehensive LEP Review project provides an opportunity to process requests for minor amendments, which may ordinarily not be considered.

A Rezoning Requests Strategy has been developed in accordance with the Comprehensive LEP Review project. It enables the lodgement and assessment of rezoning proposals for consideration under the Settlement Strategy and for those that are supported to be realised through the gazettal of WLEP 2011. In communicating the proposed Rezoning Requests Strategy, staff will identify those areas that have already been identified by Council on requiring review. Individual applications for rezonings will not be required for these localities.

A copy of the Rezoning Requests Strategy is provided in Attachment 6, while a flow chart indicating how rezoning proposals would be considered in terms of the project components is provided in Attachment 7.

It is recommended that Council adopt the Rezoning Requests Strategy and fee structure for the duration of the project.

### **LEP Bundles 3 and 4**

In accordance with Council's Spot Rezoning Procedure, the next 'bundled' amendments to WLEP 1991 include LEP Bundles 3 and 4. Given that the timing for LEP Bundles 3 and 4 will coincide with the preparation of the proposed draft WLEP 2011, it is considered appropriate for the amendments outlined within LEP Bundles 3 and 4 to be incorporated into the draft WLEP 2011. Bundles 3 and 4 do not include any employment generating proposals.

The Future Planning Unit has carried out a review of LEP Bundles 3 and 4 and has identified that the main components include amendments relating to the following:

1. Substantial Zone Changes and Development Management Panel Actions;
2. Zoning Anomalies and Minor Zone Changes;
3. Unzoned Land;
4. Road Widening;
5. Lot Amalgamation boundaries;
6. LEP Text Issues; and
7. Those amendments where no further action is required.

A separate report is currently being prepared which will identify the components of the LEP Bundles 3 and 4 in more detail and recommend inclusion of the amendments within the Comprehensive LEP Review process. Discussions with DoP has supported this process.

### **Masterplan**

Council's implementation of the e-planning initiative 'Masterplan' will be carried out in conjunction with the Comprehensive LEP Review Project. Undertaken in two phases, the Masterplan project will initially facilitate public access to E-view, Council's current property database. It will culminate in public access, via Council's website, to a property database which will enable enquiries on individual parcels of land with regard to relevant provisions of the proposed draft WLEP 2011, supporting DCP 2011 and any relevant state, regional and council policies.

### **CONCLUSION**

Wyong Shire Council is required to prepare a new principal LEP in accordance with the provisions of the Standard Instrument by March 2011. The project will form a significant part of the Council's work programme for the next two years. Through the preparation of the Shirewide Settlement Strategy, the Planning Reforms have provided Council with the opportunity to revisit existing planning practices and establish new guidelines for the future of Wyong Shire.



The Comprehensive LEP Review will also ultimately ensure that WLEP 2011 and DCP 2011 are consistent with state, regional and local policies. Given the tasks associated with the project, it is important that the timeframe for completion of the project is revised to March 2011 and that Council formally commence the preparation of the proposed draft WLEP 2011 in accordance with the provisions of Section 54 of the EP&A Act.

**ATTACHMENTS**

- 1 EPAA Act Requirements
- 2 LEP Process
- 3 Standard Zone Summary
- 4 RU1 Primary Production
- 5 Spot Rezoning Procedure
- 6 Rezoing Requests Strategy
- 7 Rezoning Requests Flowchart

#### **4.1 Proposed Easement for Drainage over Lot 103 DP 24621 Barry Street Bateau Bay**

TRIM REFERENCE: D01758286

AUTHOR: SB

#### **SUMMARY**

Approval is sought to acquire an easement for drainage over Lot 103 DP 24621, 14 Barry Street, Bateau Bay to enable construction of additional drainage pipes to alleviate flooding of properties.

#### **RECOMMENDATION**

- 1 That Council acquire an easement for drainage 2m wide over Lot 103 DP 24621.**
- 2 That Council authorise the payment of compensation, if necessary, for the acquisition of the easement in Item 1 in accordance with the Land Acquisition (Just Terms Compensation) Act 1991 and based on assessment by a qualified valuer.**
- 3 That Council proceed to compulsorily acquire the easement in the event that negotiations with the property owner cannot be satisfactorily resolved.**
- 4 That Council authorise for the Common Seal of the Wyong Shire Council to be affixed to the Transfer and/or Plan and to any necessary applications to the Department of Local Government for the approval of the Minister and the Governor in order to proceed with the compulsory acquisition.**
- 5 That Council authorise the Mayor and the General Manager to execute all documents relating to the Transfer and/or Plan and all documents relating to the applications to the Department of Local Government.**

#### **BACKGROUND**

Council currently has an easement running along the boundary of the adjoining property being 2 Toongara Avenue, Bateau Bay. This existing easement has limited accessibility due to the proximity of the existing dwelling and a pool that was approved and constructed in the late 1970's. Given the limited access to the easement it is proposed to create a new easement on the adjoining property, 14 Barry Street, Bateau Bay.

Council proposes to construct additional drainage pipes in the area of Barry Street, Bateau Bay. Approval is required to acquire an easement for drainage over Lot 103 DP 24621.

#### **THE PROPOSAL**

Council proposes to alleviate flooding to neighbouring properties within the area of Barry Street, Bateau Bay by the construction of additional drainage pipes within a 2m wide easement over Lot 103 DP 24621.

Associated with the construction of the additional drainage pipes, it will be necessary to acquire an easement 2m wide over the subject property to satisfy Council's requirements in respect to the operation and maintenance of the installation.

## **CONSULTATION**

The owners of Lot 103 DP 24621 have been approached by Council in order to obtain the granting of the easement and have indicated their willingness to provide Council with their consent to the easement. A Transfer Granting Easement will be forwarded to the owners for signature and return to Council prior to the works commencing. The granting of the easement and registration of the Transfer Granting Easement will proceed subject to Council's approval.

## **GOVERNANCE**

Council has the authority to acquire land or interests in land for the purposes of the Local Government Act 1993 and if compulsory acquisition is necessary the Land Acquisition (Just Terms Compensation) Act 1991 provides the procedure to be undertaken.

## **CONCLUSION**

There are no apparent downsides to creating the new route for stormwater pipes, the need of which has been driven by changes beyond Council's control. Continual flooding of neighbouring properties within the area of Barry Street, Bateau Bay will be alleviated and early completion of the work will precede the winter.

## **ATTACHMENTS**

- 1 Location plan - Lot 103 DP 24621 Barry Street Bateau Bay

## **4.2 Renewal of Lease to Tunkuwallin Tennis and Sports Club Ltd of Part Lot 4 DP 263812, No 20 Summerland Road, Summerland Point**

TRIM REFERENCE: D01836804

AUTHOR: JMT

### **SUMMARY**

Tunkuwallin Tennis and Sports Club Ltd has requested a new lease of the clubhouse and tennis courts at 20 Summerland Road, Summerland Point.

### **RECOMMENDATION**

- 1 That Council renew the lease to Tunkuwallin Tennis and Sports Club Ltd of part of Lot 4 DP 263812 for the club premises and tennis courts at 20 Summerland Road, Summerland Point for a period of five years commencing on 1 June 2009 for concessional rent of \$1,348 per annum plus annual CPI increases on condition that the club provides Council with a current business and activity plan for the term of the lease.**
- 2 That Council agree to an option for renewal of the lease for a further five years from 1 June 2014.**
- 3 That Council authorise the Common Seal of Wyong Shire Council to be affixed to the formal documents as required between Wyong Shire Council and Tunkuwallin Tennis and Sports Club Ltd.**
- 4 That Council authorise the Mayor and the General Manager to execute all documents.**

### **BACKGROUND**

#### **Present Leasing Arrangement**

Tunkuwallin Tennis and Sports Club Ltd (the Club) presently leases part of Lot 2 DP 263812 at 20 Summerland Road, Summerland Point and the leased premises comprise the registered Club building and the adjacent tennis courts.

The agreement with the Club is in the form of two interdependent leases, one in respect of the registered Club building and the other in respect of tennis courts adjacent to the Club building. The current leases commenced on 1 June 2004 and expire on 30 May 2009.

The current rent for the Club building lease is \$12,000 pa which is reduced to \$1,200 pa provided that the Club satisfactorily implements the program of annual improvements, maintenance and expenditure for the tennis courts. The rent for the tennis courts lease is nominal.

#### **History of Management of the Tennis Courts**

The Club was previously known as Tunkuwallin Tennis Club and was formed in 1981. The Club constructed the four tennis courts and the club facilities on Council land. The tennis courts and facilities were operated pursuant to what would now be known as a Section 355 Committee for Tunkuwallin Park which was managed by the Club.

In 1998 the Club requested a lease of the land to facilitate its application for a liquor licence and full time operation of the function hall which it had constructed on the land. Council provided one third of the cost of the function hall, \$133,777, from Section 94 contributions and an interest free loan of \$28,900. The remainder of the costs were met by the Club. On 30 September 1998, Council agreed to lease the Club buildings and the tennis courts to the Club initially for a term of five years.

### **THE PROPOSAL**

The current leases are due to expire on 30 May 2009 and the Club has requested renewal on the same terms and conditions.

Each lease is interdependent and conditional upon the continuation of the lease between Council and the lessee in respect of the adjoining leased premises. There is significant administrative advantage in uniting the leases to improve clarity in the arrangement.

The Club has requested that the concessional rent of \$1,200 for the building, continue on the basis that it proposes to continue to improve the Club premises and the tennis courts. During the last five years, the Club has made improvements to the Club premises and substantially improved the tennis courts and surrounds. Courts 3 and 4 were resurfaced in June 2008 at a cost to the Club of \$26,000.

The Club intends to continue its improvement program for the building and the tennis courts and has requested that the new lease be for a period of 10 years with a 10 year option to give it greater security over the premises.

Section 46 of the Local Government Act 1993 allows leasing of Community Land for up to 21 years (including any option period). Council leases for Community Land are usually for five years to allow for review of lessees performance. The Club has demonstrated its ability to improve the facilities and accordingly a longer term lease for five years with an option for renewal for a further five years is recommended.

Council's Development Assessment Panel has advised that a Development Consent was issued for the clubhouse building in conjunction with the activity of the playing of tennis. The lease of the clubhouse building and the tennis courts should be combined and a single lease comprising the operations of the clubhouse and tennis courts to reflect conditions of the development consent.

Lot 2 DP 263812 is zoned 6 (a) Open Space and Recreation and has a total area of approximately 10.53 ha. The area leased for the Club is approximately 4,988m<sup>2</sup> and the area leased for the tennis courts is approximately 8,070m<sup>2</sup>.

### **OPTIONS**

Council has the following options:

- Renew the lease of the Club building and of the tennis courts generally on the same terms and conditions as the current leases with each to be interdependent on the other allowing a concessional rent.
- Renew the lease of the Club building and of the tennis courts generally on the same terms and conditions as the current leases, allowing a concession rent, however incorporating the Club building and the tennis courts into one lease.

- Council may choose to adopt other scenarios that rearrange any of the critical items that comprise the arrangements including having either one, two or no new leases, the interdependence or otherwise of the leases, rent being concessional or market, the period of the lease or leases and any other requirement Council considers appropriate.

### **CONSULTATION**

Subsequent to the receipt of the Club's request for renewal of the leases, agreement has been reached with the Club subject to the approval of Council to:

- Incorporate the separate leases into one lease generally on the same terms as the current leases
- Renew the lease for a period of five years with an option to renew the lease for a further five years which gives the Club an element of security not included in the current arrangement
- That concessional rent of \$1,348 per annum apply being an increase in line with CPI increases since the commencement of the current leases and provide for annual CPI increases in the new lease and that to qualify for the concession the Club will continue to provide a business and activity plan for the periods of the lease.

### **GOVERNANCE**

Lot 2 DP 263812 is classified as Community Land and is included in Plan of Management No. 14 Tunkuwallin Reserve Gwandalan and Summerland Point for General Community Use. Lease of the land is permitted under the Plan of Management.

Section 46 of the Local Government Act, 1993 provides that Council may lease Community Land authorised in a Plan of Management for a period not exceeding 21 years.

### **CONCLUSION**

Granting the new lease to the Club for the Club building and courts as proposed in the attached recommendation will provide security of tenure to the Club and ensure that the Club building and courts are appropriately managed. Successful operation of the combined facility is of community benefit and in line with Council's strategies for supporting sporting activities.

### **ATTACHMENTS**

- 1 Location Plan

## **5.1 Contract CPA 154992 - Supply, Delivery and Installation of a Modular Truck Wheel Washing Unit for the Buttonderry Waste Management Facility**

TRIM REFERENCE: D01775715

AUTHOR: DT

### **SUMMARY**

Evaluation and selection of tenders for Contract No CPA/154992 - The Supply, Delivery and Installation of a Modular Truck Wheel Washing Unit for the Buttonderry Waste Management Facility.

### **RECOMMENDATION**

- 1 That Council accept Tender No 2.2 from Greenbank Terotech Pty Ltd in the amount of \$196,440.00 (excl GST).**
- 2 That Council approve a contract budget of \$216,440.00 (excl GST) that provides for a contingency amount of \$20,000.00 (excl GST) representing approximately 10% of the contract value, to provide for any unforeseen additional works that may become necessary during the course of the project.**

### **BACKGROUND**

Council is seeking to engage a contractor to design and install a modular truck wheel washing unit at Buttonderry Waste Management Facility. While the central access road within the facility is sealed, the access roads to the various disposal locations are unsealed. These unsealed roads are the source of significant sediment particularly during wet weather which may be tracked onto public roads outside the Facility. Mud tracked onto external roads may result in environmental deterioration if allowed to wash into drains or water ways. Muddy roads may also constitute a safety hazard. It is therefore important to Council to install a system that will assist in removing mud from vehicles prior to leaving the Facility.

In the past Council has relied on the use of shaker grids, a water cart and street sweeper to control the tracking of mud from the Facility. The wheel wash unit would provide a reliable method to clean vehicles prior to leaving the site and therefore eliminate the need for a street sweeper and water cart to remove mud tracked outside of the Facility.

The wheel wash works by pumping large volumes of water onto the wheels and undercarriage of vehicles as they pass through the unit, the water is then recycled through recycling tanks where the sediment is screened out, allowing the water to be reused.

### **TENDER PROCESS**

Tenders were invited by way of public invitation advertised on Council's e-tendering website. The invitation documents called for Lump Sum tenders, based on a detailed specification. Tenders closed at Council Chambers at 2:00pm on Thursday, 22 January 2009.

### **EVALUATION OF TENDERS**

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

## 5.1 Contract CPA 154992 - Supply, Delivery and Installation of a Modular Truck Wheel Washing Unit for the Buttonderry Waste Management Facility (contd)

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### Threshold Criteria

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

### Weighted Criteria

- 1 Conformity with Brief / Specification
- 2 The tendered price and structure; as well as any other potential costs to Council that may be identified
- 3 Suitability of proposed wheel wash unit including design, materials and features
- 4 Time for completion as indicated in the Preliminary Programme of Works
- 5 Experience in the specific field
- 6 Availability of parts, servicing and maintenance.

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

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

The evaluation was conducted according to the following process:

- Assessment of receipt of tender/s
- Assessment of conformance of tender/s
- Detailed weighted evaluation of tender/s
- Due diligence checks on preferred tenderer/s
- Independent review of the tender selection process.

### Assessment of Receipt

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

	Tender	Tendered Lump Sum (Ex. GST)	Status
1	Fleetwash Industrial Systems	\$179,208.00	Submitted on time
2.1	Greenbank Terotech Pty Ltd – Option 1	\$180,065.00	Submitted on time
2.2	Greenbank Terotech Pty Ltd – Option 2	\$205,419.00	Submitted on time
3	Rocktec Ltd	\$269,965.77	Submitted on time
4	Wheelwash Australia	\$185,233.00	Submitted on time

All tenders were progressed to an assessment of conformance.

### Assessment of Conformance

Tenders were assessed for conformance with the general tender requirements, including the Specification. Tender No 1 (from Fleetwash Industrial Systems) and Tender No 2.2 (from Greenbank Terotech Pty Ltd) conformed to all requirements and were progressed to the next stage of evaluation.

Tender No 3 (from Rocktec Ltd) did not include a flocculent dosing system. This was considered as a non-conforming tender since it did not meet the requirements of the Specification and was not progressed to the next stage of the evaluation.



**5.1 Contract CPA 154992 - Supply, Delivery and Installation of a Modular Truck Wheel Washing Unit for the Buttonderry Waste Management Facility (contd)**

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Tender No 4 (from Wheelwash Australia) was for supply only and did not include installation of the unit. This was considered as a non-conforming tender since it did not meet the requirements of the Specification and was not progressed to the next stage of the evaluation.

Tender No 2.1 (from Greenbank Terotech Pty Ltd) was for a smaller wheel wash unit which was not considered adequate to fulfil the Specification requirements. This was considered as a non-conforming tender and was not progressed to the next stage of the evaluation.

**Weighted Evaluation**

Tenders were scored against each of the weighted evaluation criteria (including price and non-price elements).

Due to the nature of the project and the differences between the tendered wheel wash units, it was necessary in some cases to add or subtract items considered as 'optional extras' to ensure all wheel wash units were being compared at a standard benchmark. The additional items selected included shaker grids and a traffic control system. Original tender prices for each company were adjusted depending on whether they offered these features in their original tender price or as optional extras. All prices for optional extras were provided with the original tender submissions that were received prior to the closing date.

Tender No 2.2 totalled \$205,419.00 which included an additional 5.5kw pump costing \$5,066.00 and an additional 5000 litre water storage tank costing \$3,913.00 that were not required to meet Council's specification requirements and were removed from the original tender price. Therefore, the tendered price was adjusted to \$196,440.00.

Tender No 1 totalled \$179,208.00 but the evaluation panel deemed that items 2 and 3 of the optional equipment list be added to the tender price to meet Council's specification requirements. Item 2 was a pump house to protect the 45kw pump from the elements and vandalism costing \$2,950.00 and item 3 was a shaker grid costing \$4,375.00. Therefore, the tendered price was adjusted to \$186,533.00.

Tenders are listed below in descending order of weighted evaluation scores.

	<b>Tender</b>	<b>Adjusted Lump Sum (Ex. GST)</b>	<b>Weighted Evaluation Score</b>
2.2	Greenbank Terotech Pty Ltd	\$196,440.00	92
1	Fleetwash Industrial Systems	\$186,533.00	89

The wheel wash system tendered by Greenbank Terotech Pty Ltd is a MobyDick unit. It is manufactured from quality robust galvanised steel and is a modular system that can be relocated at a later date. The wheel wash system is a heavy water type deluge system that uses the maximum amount of water (5800 l/min) without high pressure type spray, eliminating the risk of damage to vehicles. The pump system is energy efficient using only 16.5kw of power to pump 5400 l/min which is ideal for the Buttonderry Facility due to the limited power resources.

Greenbank Terotech Pty Ltd is part of the Halley & Mellowes group of companies that have been supplying and servicing councils, mines and power stations for over 40 years. Greenbank Terotech Pty Ltd are the sole distributor of the MobyDick wheel wash system in Australia and with over 3000 wheel wash systems worldwide it ensures that Council will be purchasing a quality wheel wash from a reliable local company.

## **5.1 Contract CPA 154992 - Supply, Delivery and Installation of a Modular Truck Wheel Washing Unit for the Buttonderry Waste Management Facility (contd)**

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Fleetwash Industrial Systems also has significant experience in installing wheel wash systems, however the system proposed is considered less suitable and robust than the Greenbank system. Disadvantages of the Fleetwash system include; it is unable to be relocated in the future, the power requirements to operate the wheel wash are significantly higher than the Greenbank system and that the Buttonderry Facility currently does not have sufficient power to service a pump of that size. The cost of upgrading the power at the Buttonderry Facility to meet the requirements of this system could not be justified. In addition, comments made by referees indicated a problem with the performance of the water recycling system that caused a sandblasting effect on customer vehicles due to the combination of high water pressure generated by the 45kw pump and the failure to filter the recycled water properly. Both referees also commented that they received poor after sales service from Fleetwash.

Tender No 2.2 (from Greenbank Terotech Pty Ltd), being the highest scoring tender, was progressed to the due diligence stage of the evaluation.

### **Due Diligence**

Greenbank Terotech Pty Ltd possesses all of the technical and managerial resources necessary to satisfactorily complete the works.

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

Reference checks undertaken on Greenbank Terotech Pty Ltd established that the company is highly professional, very cooperative and achieves high customer satisfaction. Redland Shire Council stated that they experienced problems due to the location they had chosen to install the wheel wash unit and found that Greenbank Terotech Pty Ltd went beyond their contractual duties to resolve the problems at no additional cost to Council.

### **Process Review**

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

## **RISK ASSESSMENT**

### **General**

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

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

**5.1 Contract CPA 154992 - Supply, Delivery and Installation of a Modular Truck Wheel Washing Unit for the Buttonderry Waste Management Facility (contd)**

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**Contract Risks**

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

**Generic Risks**

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

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

**Risk Contingency**

The above risks are considered to be low for this contract given the value of the contract and the nature of the work. Accordingly, it is recommended that a contingency sum of \$20,000.00 (excl GST) representing approximately 10% of the contract sum be approved. Based on previous experience with contracts of this nature and analysis of the risks involved, it is estimated that there is a good probability that the contract budget of \$216,440.00 (excl GST), which incorporates the contingency allowance, will not be exceeded.

**BUDGET**

The budget for this project is \$260,000.00 (excl GST) and the source of funds is Management Plan Line Item 4.5.17. The amount tendered by Greenbank Terotech Pty Ltd is considered to represent a reasonable price for the contract works and is close to pre-tender estimates.

**TIME-FRAME**

It is anticipated that the wheel wash unit will be installed and commissioned within 17 weeks from the date of engagement.

**LOCAL CONTENT**

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

**5.1 Contract CPA 154992 - Supply, Delivery and Installation of a Modular Truck Wheel Washing Unit for the Buttonderry Waste Management Facility (contd)**

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**CONCLUSION**

Tender No 2.2 from Greenbank Terotech Pty Ltd is the highest scoring tender and meets all of Council's requirements for this contract. On balance, this tender represents the best value-for-money for Council. It is recommended that Tender No 2.2 from Greenbank Terotech Pty Ltd be accepted.

**ATTACHMENTS**

*Nil.*

## **5.2 Contract Variations - February 2009**

TRIM REFERENCE: D01836766

AUTHOR: GP

### **SUMMARY**

Reporting on variations made to contracts with a value greater than \$150,000 (excl GST) and, where necessary, approval is sought for additional contingency funding. The report covers approved variations for the period 1 January to 31 January 2009.

### **RECOMMENDATION**

*That Council note the variations to contracts in Attachment 1.2*

### **BACKGROUND**

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

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

The Final Value of a contract is the amount tendered by the recommended tenderer (incl contingencies) and approved by Council or staff delegation, as the case may be.

Construction and Service Contracts routinely require variations during the course of the contract due to unforeseeable circumstances, changes in design or changes in service demand on the finished product.

A Contract that guarantees Council a fixed schedule of rates for goods or services to be supplied over time, may require variations to the original estimated value due to the changes in demand for the goods / services.

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

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

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

### **THE PROPOSAL**

To enable completion of the project arising from the contract in this report, it is necessary for Council to provide funding commensurate with the actual scope of works completed by the contractors.

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

**FINANCIAL IMPLICATIONS**

On contracts approved by Council Resolution, variation expenditure approved under delegated authority (ie within the contingency amount) is reported to Council on a monthly basis. For variations that exceed the contingency amount, authority will be requested from Council on a monthly basis.

For contracts awarded by Delegated Authority, variations are reported and authority requested for additional contingency, on a monthly basis, if the final contract amount is expected to exceed \$150,000 (ex GST).

In seeking Council's resolution to approve expenditure, all amounts are expressed exclusive of Goods & Services Tax.

**CONCLUSION**

The single contract with variations for the reporting period has at this time sufficient remaining contingency funds to complete the project. Reported for information only.

**ATTACHMENTS**

- 1 Contract Review January 2009

## 6.1 Councillor Attendance at Training

TRIM REFERENCE: D01744647

AUTHOR: ED

### SUMMARY

This report considers the merits of Councillor attendance at specific training for governance skills and knowledge.

### RECOMMENDATION

***That Council note the Mayor and General Manager's approval for Councillor Eaton to attend the Councillor Weekend Program being held in Coffs Harbour on 27-28 March 2009 and for payment of reasonable expenses in accordance with the Facilities and Expenses Policy for Councillors.***

### BACKGROUND

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

Councillor Eaton expressed interest in attending *The Councillor Weekend Program* in March and to expedite his registration and accommodation bookings, the Mayor and General Manager approved his attendance. Council endorsement of that action is now required.

### THE PROPOSAL

Local Government Learning Solutions (part of the Local Government Association of NSW and the Shires Association of NSW) has advised of Councillor Weekends in 2009 which will provide both new and experienced councillors with the opportunity to attend mini professional development modules over the Friday / Saturday period.

The Councillor Weekend at Coffs Harbour to be held on 27 and 28 March 2009 will explore the principles of good governance, the Councillor's role in the planning system, meeting skills for Councillors, community leadership and change management.

### Financial Implications

Cost per attendee is estimated as follows:

Registration	\$ 880
Accommodation (three nights)	\$ 477
Meals	\$ 160
Travel (Council vehicle petrol)	\$ 100
Total	\$1,617

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

**GOVERNANCE**

The LG Learning Solution is an opportunity for Councillors to extend their understanding of the role governance plays in any organisation but this seminar especially expresses governance in the context of local government. It appears to have relevance to Councillors of Wyong.

**CONCLUSION**

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

Council may consider it useful to send other Councillors if late registration is possible.

**ATTACHMENTS**

*Nil.*



## 6.2 Code of Conduct Review

TRIM REFERENCE: D01838925

AUTHOR: TAD

### SUMMARY

This report summarises the outcome of advertising the Model Code of Conduct on public display following a review of Council's Code of Conduct on 22 October 2008 and the invitation of expressions to form a panel of members who can be drawn to form a Conduct Review Committee when required.

### RECOMMENDATION

- 1 ***That Council adopt the Code of Conduct contained in the Code of Conduct Review as reported to Council at the Ordinary meeting on 25 March 2009.***
- 2 ***That Council appoint:***
  - ***Mark Brady,***
  - ***Barry Davidow (Fraud Services),***
  - ***John Gordon, Steve Kent (Internal Audit bureau of NSW)***
  - ***James Marshall (Insite Social & Economic)***
  - ***Colin Cowan (Insite Social & Economic),***
  - ***Rob Malik,***
  - ***Brian McHugh,***
  - ***Kath Roach (Sinc Solutions )******as a Conduct Review Panel for the period 1 April 2009 until 20 June 2011.***

### BACKGROUND

Section 440 of the Local Government Act, 1993, requires all New South Wales councils to adopt a "Code of Conduct". In adopting a Code of Conduct Council is required to ensure that the code includes as a minimum the provisions contained in the Model Code produced by the Department of Local Government and implemented from 20 June 2008.

Following the introduction of the Model Code of Conduct and prior to the local government general election in September 2008 Corporate Service staff conducted a review of Council's existing Code of Conduct and incorporated the provisions of the Model Code of Conduct in a Draft Code of Conduct that was considered by Council on 22 October 2008.

Council last adopted changes to its Code of Conduct in March 2003. Section 440 (3) of the Local Government Act 1993 requires Council to adopt a Code of Conduct that incorporates the requirements of the Model Code. The Draft Code of Conduct reported to the meeting on 22 October 2008 updated Council's Code to incorporate the changes introduced by the Department of Local Government in the Model Code of Conduct legislated on 20 June 2008.

Council has the opportunity to add to the provisions of the Model Code as long as the additional provisions supplement the Model Code and are more onerous than those provisions contained in the Model Code. Such additional or more onerous provisions will have no effect where they are inconsistent with any provisions contained in the Model Code.

The draft Code reported to Council on 22 October 2008 contained additional provisions that were over and above those contained in the Model Code of Conduct. These additional provisions were identified in section 15 of this Draft Code and reflected similar provisions that were previously adopted by Council in the last review of the Code of Conduct in March 2003. In this Code these additional provisions over and above the Model Code of Conduct were identified in section 12.

In response to changes introduced in the Model Code of Conduct requiring Councils to appoint a Conduct Review Committee on 22 October 2008 Council also resolved to determine a panel of five members to form the Conduct Review Committee and invited expressions of interest to fill the positions on a Conduct Review Panel.

At its meeting held on 22 October 2008 Council resolved as follows:

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

- 1 That Council place the Department of Local Government Model “Code of Conduct” on public exhibition for a period of 28 days for comment.*
- 2 That Council determine a panel of five members who the General Manager can call upon from time to time to form the Conduct Review Committee.*
- 3 That Council invite expressions of interest from appropriately qualified persons who are independent of Council to fill the positions on the Conduct Review Panel and provide appropriate remuneration.*
- 4 That Council consider any public submissions on the ‘Code of Conduct’ for possible inclusion in the Code.”*

The effect of this resolution was that Council’s 2003 Code remains in force in so far as it does not contradict the Model Code which is in place by law and must be complied with as a minimum.

This report seeks to finalise the Code of Conduct Review.

### **Submissions Received from Advertising the Model Code**

The Model Code of Conduct was advertised in local papers circulating throughout the Shire and on Council’s website for a period of 28 days and invited public submissions by 10 December 2008.

No submissions were received following public exhibition of the Model Code.

It remains for Council to decide the final form of its Code of Conduct review

### **Expressions of Interest for Appointment to a Code of Conduct Review Panel**

Council joined with the eleven Councils comprising Hunter Councils Incorporated to advertise expression of interest for appointment to a joint panel of 12 Councils from which the Councils could each appoint a Conduct Review Panel as and when required.

The twelve Councils that joined in the expression of interest were Wyong, Newcastle, Lake Macquarie, Maitland, Cessnock, Singleton, Muswellbrook, Dungog, Upper Hunter, Great Lakes, Port Stephens and Gloucester. Due to the Christmas New Year holiday period advertising was extended to a 6 week period closing on 31 January 2009. While Gosford City Council was invited to participate in the joint Expression of Interest they elected to advertise on their own behalf and they appointed their own panel at their ordinary meeting on 24 February 2009.

Wyong Council also undertook separate advertising to invite expressions of interest for appointment to a Conduct Review Panel. Wyong Shire Council's advertising was taken to also coincide with the Hunter Council Inc. advertising and also closed on 31 January 2009.

The results of the separate advertising produced exactly the same nominations being received for appointment to the Wyong Code of Conduct Review Panel.

The Expressions of Interest are summarised in Attachment 3.

## **THE PROPOSAL**

### **Code of Conduct**

Council currently has a Code of Conduct which is inconsistent with the Model Code of Conduct. Those inconsistencies are over-ruled by the Model Code in practice however Section 440 (3) of the Local Government Act prescribes that:

*"A council must adopt a code of conduct (the "adopted code") that incorporates the provisions of the model code. The adopted code may include provisions that supplement the model code."*

Regardless of this provision of the Act, Council would be unwise to have two documents providing a framework for behaviour. Confusion and ambiguity result.

On 20 October 2008 Council signalled an intention to incorporate only the Model Code of Conduct provisions in its own Code of Conduct by placing the Model Code of Conduct on public display and inviting public submissions for possible inclusion in the Code.

As there were no public submissions received from the public exhibition of the Model Code the attached Draft Code of Conduct incorporates only the provisions of the Model Code. Included below are comments on the additional requirements in the 2003 Code of Conduct over and above the Model Code that have now been deleted from the Draft Code.

### **Comments on the Additional Requirements over and above the Model Code of Conduct**

An Extract of the Section 12 provisions contained in the March 2005 Code of Conduct is included as attachment 4.

### 12.1 Up-dating of Pecuniary Interest Returns

This clause was included in Council's Code of Conduct on 3 November 2004 by resolution of Council following the adoption of recommendations contained in an Independent Commission Against Corruption (ICAC) letter dated 27 September 2007. The ICAC recommendations followed a review of complaints about potential conflicts of interest by Wyong Councillors and ICAC believed implementation of their recommendations would improve Council's ability to better manage conflicts of interest and corrupt conduct.

ICAC recommended that all Councillors and designated persons be encouraged to keep their pecuniary interest returns up to date at all times by making discretionary disclosures pursuant to clause 40L of the Local Government (General) Regulation 1999.

This clause is an explanatory comment on the requirements set out in sections 449 and 459 of the Local Government Act 1993 and in section 7.7 of the Model Code. Removal of this clause from the Code of Conduct does not change the requirement to ensure that conflict of interest declarations are current at all times. The clause does serve to emphasise the comments contained in the September 2004 ICAC recommendations and it is considered that the provision should be retained.

### 12.2 Approval of development contrary to staff advice

This clause was also included in Council's Code of Conduct on 3 November 2004 by resolution of Council following the adoption of recommendations from ICAC referred to above.

ICAC recommended that Council implement the recommendation contained in its December 2002 publication, *"Taking the Devil Out of Development: Recommendations for Statutory reform"* that whenever Council approves a development application despite contrary advice from staff, Council should be obliged to provide and record reasons for its decision in Council records and notices of determination.

Whilst this requirement is still not incorporated in any legislative changes to the Environmental Planning and Assessment Act the provisions contained in the Model Code of Conduct state that in relation to development matters absolute compliance with the principles of ethical decision making is not optional but mandatory. Leaving this clause out of the Code of Conduct does not alter the requirement for Council to fully explain the reasons that have been relied upon to approve or refuse a development application. It is considered that this provision should be retained in line with the ICAC recommendation.

### 12.3 Access to council documentation

This clause is procedural in nature and requires requests from councillors to access council held documents to be in writing to establish a documented audit trail. The rights of councillors to access council documents are dealt with under section 12A of the Local Government Act and in section 10 of the model code. Removal of this clause from the Code of Conduct would not alter councillors' rights to access council documents.

**12.4 Participation in workshops and briefings**

This clause is also explanatory and highlights the obligations of council officials set out in section 451(2) of the Local Government Act and section 7.17 of the Model Code in relation to conflict of interests. The requirement to declare a pecuniary or conflict of interest under section 451 of the Local Government Act equally applies to councillor participation in committee meetings, advisory committee meetings briefings and workshops, closed council and committee meetings. Removal of this clause would not change the requirement under the Act for council officials to properly manage a pecuniary or conflict of interest.

**12.5 Development information to be available to all councillors**

This clause highlights particular considerations that apply when councillor officials are dealing with statutory powers such as planning. The clause mirrors the case study set out in section 4.1B Lobbying on Development Decisions on p14 of the Guidelines for the Model Code of Conduct – October 2008 published by the Department of Local Government. Removal of this clause would not change the requirement of council officials to properly manage lobbying on development decisions.

**12.6 Model Code of Conduct Guidelines**

The previous Code of Conduct provided a summary of the significant items included in the Guidelines for the Model Code of Conduct produced by the Department of Local Government. The Department has updated these guidelines in October 2008 and a copy of the Guidelines is included in Attachment 2.

**12.7 Stand down from Role as Councillor under Certain Circumstances**

This clause has been inserted in the Draft Code to reflect the resolution of Council on 27 January 2005. The model code of conduct (section 12) sets out the grounds for suspension of a Councillor and section 275 of the Local Government Act set out the grounds for disqualification of a Councillor. This clause represents a requirement imposed by Council over and above the requirements of the Act or Model Code. Removal of this clause from the Code of Conduct would mean Council could not impose this sanction on a Councillor until they were convicted of an offence. This would not remove the right of the Department of Local Government to issue such a sanction. It is considered that this provision should be retained in line with the January 2007 Council resolution.

**Conduct Review Committee**

In accordance with the resolution of the Council on 22 October public expressions of interest have been invited from people qualified to form a panel of members from which a Code of Conduct Review Committee could be appointed. A summary of those expressions of interests is included as Attachment 3.

The recommendation supports the appointment of all people and organisations who have lodged an Expression of Interest. There is a wide diversity of skills and experience to deal with different situations that may come before the Conduct Review Committee in this list.

## **CONCLUSION**

Council needs to ensure clarity in prescribing the rules to regulate the behaviour of Council officials. Following the changes to the Model Code of Conduct gazetted on 20 June 2008 Council is required to review its Code of Conduct and ensure that it complies with the minimum requirement of the Model Code of Conduct. This report satisfies the requirements of that review and the recommendation supports the adoption of a Code of Conduct that incorporates the provisions of the Model Code of Conduct.

Staff have conducted a robust process to identify members of a panel from which the General Manager can form a Conduct Review Committee to consider potential breaches of the Code of Conduct. The nominees have been drawn from two separate expressions of interest and are people thought to be of suitable experience and calibre.

## **ATTACHMENTS**

- 1** Wyong Shire Council Draft Code of Conduct 25 March 2009
- 2** Guidelines for the Model Code of Conduct - October 2008
- 3** Expressions of Interest Conduct Review Panel
- 4** Extract from Wyong Shire Council Code of Conduct Adopted March 2003 - WSC Additional Requirements

### **6.3 Dedication of a Drainage Area**

TRIM REFERENCE: D01841099

AUTHOR: DT

#### **SUMMARY**

The Independent Pricing and Regulatory Tribunal (IPaRT) are in the process of determining that a separate Drainage Service Charge will become applicable from 1 July 2009. This charge is currently part of existing water and sewage charges.

However before the new drainage charge can be applied by Council, the Water Management Act requires Council to have previously defined a "Drainage Area" formally declared by the Governor of NSW. This paper sets out the issues.

#### **RECOMMENDATION**

***That Council authorise the General Manager to obtain a Declaration of Drainage Areas with Wyong Shire in accordance with the Water Management Act 2000 (Section 308(2)).***

#### **THE ISSUE**

- IPaRT intend to split drainage charges from existing water and sewage charges for the 2009-2010 year.
- They will determine the quantum and terms of any drainage charge.
- Council must have a "Drainage Area" defined by Governor Declaration before it can apply a drainage charge.
- IPaRT will not finalise their determination until May 15<sup>th</sup> 2009.
- Council needs to ensure it is able to make charges for the 2009-10 year and needs to have a "Drainage Area" declared as soon as possible to avoid later delays.

#### **BACKGROUND**

In accordance with IPaRT's previous directives, Council's submission (August 2008) to IPaRT in respect of a price path for its Water and Sewerage Fees and Charges from 1 July 2009 included a proposal to introduce a Drainage Service Charge.

The IPaRT proposal represents a significant change from Council current pricing system to form a discrete, identifiable charge to fund drainage capital works and maintenance functions.

Previously these items have been funded through water supply and sewerage charges.

Council's original submission to IPaRT proposed levying a Drainage Service Charge on properties in the shire based on their geographical location – i.e. those that are located to the east of the F3 Freeway plus the Highway Service Centre (northbound) and any industrial-zoned land to the west of the F3 Freeway.

## 6.3 Dedication of a Drainage Area (contd)

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IPaRT's Draft Determination, released 4 March 2009, however provides for a different methodology to that first proposed by Council in that the charge is to apply to properties which are connected to Council's water supply system.

The effect of this pricing approach is that Council cannot continue to charge properties that have access to water systems, but are not connected –i.e. the “availability” component. **This charge is currently collected via water and sewage charges and amounts to \$135,000 of revenue that will be lost to Council.**

Council will be submit a response to the draft determination which seeks to have the pricing methodology originally proposed by Council incorporated into IPaRT's final determination which is expected to be released 15 May 2009.

Given the draft determination, and the nature of IPaRT it is not possible to place any firm reliance on the exact form of pricing the May 15<sup>th</sup> 2009 Determination may take.

### **PROPOSAL**

Council will have no choice (required by IPaRT) in proceeding with a Drainage Service Charge which will be offset by corresponding reductions in both water supply and sewerage service charges.

Council must have a defined Drainage Area(s) “declared” under the Water Management Act before any charges can be levied and collected.

### **NB**

***Defining a drainage area allows Council to levy a drainage charge.***

***The amount and conditions of any charge are determined by IPaRT***

The effect of having a Drainage Area “declared” is to establish a footprint within which Council may levy Drainage Service Charges as the Water Management Act 2000 provides that a Drainage Service Charge may only be levied on properties within a declared Drainage Area.

Accordingly it is necessary to have a Drainage Area declared and gazetted prior to Council adopting a Drainage Service Charge. Such declaration is required to be made by way of an order of the Governor published in the Government Gazette following an application by Council to the Minister for Water Energy.

Council may then formally advise (in writing) affected property owners of its intention to levy the new charge and offer a period during which owners may lodge a formal written objection to the charge.

Declaration of a Drainage Area on its own does not entitle Council to levy Drainage Services Charges on all or any of the properties located within that area. There are several further processes that must be completed before that may occur.

Properties that are to be levied with a Drainage Service Charge are identified through those subsequent processes being the IPaRT determination process, Council's adoption of Water Sewerage and Drainage charges and the Minister's subsequent approval of those charges,.

These subsequent steps must be completed before Council is able finally resolve to levy a Drainage Service Charge, which will then determine specifically which properties are to attract the Drainage Service Charge.



Once determined by IPaRT, Council will be legally compelled to levy the Drainage Service Charge on all properties that meet the criteria as set out in IPaRT's final determination.

It is equally important to consider that any proposal to change the basis of the Drainage Service Charge at any future time would require a submission to IPaRT and would involve the usual public consultation process that IPaRT conducts.

### OPTIONS

The following approaches have been considered for the purpose of defining a Drainage Area;

- 1 Based on the pricing criteria
- 2 Based on a geographical area.

#### 1 Pricing Criteria option

Under this option the Drainage Area could be defined as "*properties to which water is supplied or to which it is reasonably practicable for water to be supplied*". The wording of this definition reflects the provisions in the Water Management Act 2000 in regards to land in respect of which Council may levy water service charges and closely mirrors the pricing methodology within IPaRT's current draft determination.

Features and benefits of this option include:

- Area closely corresponds with IPaRT's draft determination and therefore would not encapsulate any significant areas, particularly west of the F3 Freeway that are not proposed to be subject the Drainage Service Charge.
- Until IPaRT's final determination is made (expected 15 May 2009) this definition can not be finalised and this timing would not to allow adequate time to have a Drainage Area declared for 2009-2010 Revenue.
- Should the final determination differ to that in the current draft determination then;
  - Levying of a Drainage Service Charge on properties outside the declared Drainage Area could readily be subject to legal challenge under the Water Management Act 2000.
  - Not levying a Drainage Service Charge on properties outside the declared Drainage Area would be in breach of IPaRT's pricing determination.

#### 2 Geographical Area option

By defining a Drainage Area on a geographical basis many of the above issues around the uncertainty of IPaRT's final determination could be limited or avoided.

Options within this approach that have been considered are;

**1 Whole of Shire**

Features and benefits of this option include:

- Potential perception that Council has an intention to levy Drainage Service Charges on properties that do not meet either Council's proposed methodology or that contained in IPaRT's current draft determination.
- Provide Council with future flexibility in regards to levying of Drainage Service Charges on properties outside the area that it is proposed to levy those charges for 2009/10. Of course this would require IPaRT's determination of a pricing methodology different to that currently envisaged and in that process a public consultation process would occur.
- Administrative efficiency, in the event of a future pricing methodology different to those currently proposed or envisaged, in so far as Council would not be required to seek a further declaration of a Drainage Area.

**2 An area of the Shire east of the F3 Freeway plus any property on the western side of the F3 Freeway that is partly or wholly within 1.5 kilometres of the western edge of the F3 Freeway.**

- Adequately defines a Drainage Area to include **all** properties within the pricing methodology proposed by Council and that contained in IPaRT's draft determination
- Limiting the number of properties within the Drainage Area that would not be subject to the Drainage Service Charge, as proposed by Council or IPaRT.
- Reduced likelihood for any perception of any intention to levy Drainage Service Charges on properties that do not meet either Council's proposed methodology or that contained in IPaRT's current draft determination.
- Provide Council with the limited flexibility in regards to levying of Drainage Service Charges on properties outside the area that it is proposed to levy those charges for 2009/10. Of course this would require IPaRT's determination of a pricing methodology different to that currently envisaged and in that process a public consultation process would occur.
- Allows Council reasonable flexibility in the event that the IPaRT final Determination is different from that proposed

**3 That area of the shire located to the east of the F3 Freeway plus the Highway Service Centre (northbound) and any industrial-zoned land to the west of the F3 Freeway.**

- Area corresponds with Council's proposed pricing methodology and therefore would not encapsulate any properties that would not be subject the Drainage Service Charge, in terms of Councils proposal.
- Does not include a number of properties that would otherwise be subject to a Drainage Service Charge as proposed in IPaRT's draft determination
- Until IPaRT's final determination is made (expected 15 May 2009) this definition can not be finalised and this timing would not to allow adequate time to have a Drainage Area declared.

- Should the final determination differ to that in the Council's current submission then;
  - Levying of a Drainage Service Charge on properties outside the declared Drainage Area could readily be subject to legal challenge under the Water Management Act 2000.
  - Not levying a Drainage Service Charge on properties outside the declared Drainage Area would be in breach of IPaRT's pricing determination.

**STRATEGIC LINKS**

**Management Plan**

<i>Principal Activity</i>	<i>Key Issue(s) and Objective (s)</i>	<i>Financial Line Item No and Description</i>
Infrastructure	Funding for drainage capital works and maintenance	4.02.01 Drainage Maintenance 4.02.02 Drainage Capital Works

**Contribution of Proposal to the Principal Activity**

In accordance with IPaRT's previous directive and anticipated determination, to separately identify Drainage Service Charges for funding drainage capital works and maintenance functions.

**Link to Key Focus Areas**

Not applicable

**Financial Implications**

The declaration of a Drainage Area is a legal requirement under the Water Management Act 2000 to enable the adoption and levying of Drainage Service Charges in accordance with IPaRT's pricing determination. The proposed new Drainage Service Charge will have no financial impact on Council due to proposed corresponding reductions in both water supply and sewerage service charges. There is a risk to revenue levels if the Drainage Charges cannot be levied due to no "Drainage Area" having been defined.

**Principles of Sustainability**

Not applicable.

**CONSULTATION**

Consultation has occurred and is continuing through the IPaRT pricing determination process.

**GOVERNANCE**

Legislative compliance with Section 308 (2) of the Water Management Act 2000.

**CONCLUSION**

Regulations relating to the introduction of Drainage Service charges are contained in several pieces of legislation some of which creates conflict in term of implementation process. If it was determined, through the current pricing IPaRT determination process, or at some future time, to apply Drainage Service Charges to properties that do not lie within any declared Drainage Area, it would be necessary to make a further request to the Minister to expand an existing Drainage Area, or to have an additional Drainage Area declared.

## 6.3 Dedication of a Drainage Area (contd)

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This could be problematic for Council given the time frames that Council must operate within in accordance with the Water Management Act 2000 and the IPaRT pricing determination process.

In the absence of a final determination from IPaRT at this time there remains some question in regard to the area within which Drainage Service charges will ultimately be applicable to.

It is therefore prudent to have a Drainage Area declared that is broad enough to capture the all properties that may, within reason, meet the criteria that IPaRT ultimately determine.

Council has options to define the drainage area “by connection” or “by graphical area”. The key influences on choosing an option are;

- a The criteria to be contained in IPaRT pricing determination and;
- b Flexibility for Council to expand its drainage area without undue red tape preventing Council from responding to change.

The ideal solution is defining a drainage area by simple geographical means to reflect the connection and service configuration in the Shire.

The criteria most likely to be contained in IPaRT’s final determination would appear to be limited to properties which;

- have a connected water supply service or to which a water supply service is available but not connected, or
- are located to east of the F3 Freeway plus the Highway Service Centre (northbound) and any industrial-zoned land to the west of the F3 Freeway

These two areas, whilst not aligning exactly, do align quite closely in so far as properties to the west of the Freeway to which water supply services are currently available are limited to several areas, all of which lie within 1.5 km west of the F3 Freeway.

Accordingly, a Drainage Area defined as the part of the shire *east of the F3 Freeway plus any property on the western side of the F3 Freeway that is partly or wholly within 1.5 kilometres of the western edge of the F3 Freeway* appears the most appropriate in terms of IPaRT’s likely final determination, and would perception that Council was intending to impose a Drainage Service Charge on properties outside these serviced by the water supply system.

## ATTACHMENTS

- 1 Proposed Drainage Area

## **6.4 Encouraging Responsible Disposal of Asbestos**

TRIM REFERENCE: D01775516

AUTHOR: EB

### **SUMMARY**

Report on progress of the campaign to Encourage Responsible Asbestos Disposal.

### **RECOMMENDATION**

- 1** *That Council note the information on the progress of the campaign to encourage Responsible Asbestos Disposal.*
- 2** *That Council retain the current reward of \$500 for reporting of illegal dumping under the "dob in a dumper" (DIAD) campaign that leads to a fine.*
- 3** *That Council lobby State Government to significantly increase penalty notices for illegal dumping from currently \$750 to \$2,000 to provide a greater deterrent for dumpers.*

### **BACKGROUND**

At the Ordinary Meeting of Council on 28 January 2009, it was resolved unanimously on the motion of Councillor BEST and seconded by Councillor EATON:

- "1 That as a consequence of escalating public health concerns over the frequent illegal dumping of asbestos material, Council review its asbestos waste disposal policy to further encourage responsible disposal.*
- 2 That as Council has significantly reduced its asbestos tipping charges which are now equivalent to the general waste charges, Council highlight this cost saving initiative while reinvigorating our DIAD campaign.*
- 3 That to further strengthen the DIAD campaign Council extends its \$10,000 vandalism reward incentive to also include the DIAD campaign.*
- 4 That staff report to Council on the operational issues associated with the initiative above, with further recommendations by staff being encouraged in the report.*
- 5 That Council carry out an advertising and education campaign highlighting the health risks associated with illegal dumping and explaining the cost effectiveness of asbestos disposal at Buttonderry tip.*

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

AGAINST: NIL."

Asbestos was widely used in Australia until 31 December 2000 when all forms of asbestos were banned. The use of brown and blue asbestos which was used in the manufacture of cement sheets, pipes, casings for water/electrical and telecommunication services and thermal and chemical insulation eg limpet spray, lagging and gaskets, was already prohibited in the mid 1980's. White asbestos was used in the manufacture of asbestos cloth, ropes, tapes, gaskets and thermal insulation.

Asbestos can be bonded or friable. Bonded asbestos is any material that contains asbestos in a bonded matrix. It includes products such as flat or corrugated asbestos cement sheeting, water, drainage, flue and electrical asbestos cement pipes or brake and clutch linings. If maintained in good order these products do not present a significant health risk. Most illegally dumped waste is bonded asbestos.

Friable asbestos contains asbestos in the form of powder or can be reduced to powder by hand pressure when dry. Examples of friable asbestos are asbestos cloth and rope, pipe and boiler lagging and millboard. Any asbestos cement products that have been subjected to weathering, or are damaged by hail, fire or water blasting, are also considered friable asbestos. An asbestos removal contractor with a WorkCover licence for friable asbestos is required for the removal of this type.

During 2008, about 4,300 tonnes of asbestos was received at the Buttonderry Waste Management Facility from domestic and commercial sources and 140 tonnes from Council's operations. In addition, 15 reports of illegally dumped asbestos could be identified in Council's Customer Relationship Management system for 2008.

Illegally dumped asbestos creates potentially serious health risks for residents who may come in contact with this asbestos, particularly children who may be unaware of the hazard. It also contaminates the environment and is costly to clean up.

The purpose of this report is to provide an update on the progress of the campaign to encourage responsible asbestos disposal.

**Resolution 1. That as a consequence of escalating public health concerns over the frequent illegal dumping of asbestos material, Council review its asbestos waste disposal policy to further encourage responsible disposal.**

Council's asbestos disposal policy requires that all asbestos be wrapped in two layers of plastic sheets with a thickness of at least 0.2 mm. Each bundle must not exceed 0.5m in height and be sealed using adhesive packaging tape or similar. The purpose of these requirements is to ensure that loads remain intact and do not tear open during unloading at Buttonderry Landfill which is frequently the case when bundles are too large. These requirements cannot be relaxed without jeopardising staff, contractors and customers.

Under the current policy, asbestos is not accepted at the facility on weekends as it is financially not viable to provide plant to cover the small number of asbestos loads received on weekends. In order to offer greater flexibility for the disposal of household quantities of asbestos, from 6 March 2009, household quantities of asbestos are accepted on Saturdays between 10.00am and 1.00pm. These minor quantities will be covered using the Traxcavator which is a routine plant item which is utilised every day including weekends. Extending the disposal hours for asbestos on Saturday beyond the three hours may jeopardise other operational works at the site. The Traxcavator is generally not utilised to cover asbestos waste and in order to carry out this function on Saturdays it will be diverted from its core role of spreading waste and applying cover material. Limiting the acceptance of asbestos from 10.00 am to 1.00 pm will ensure that there is sufficient time to provide cover material for the asbestos unloading area in the morning and for the Traxcavator to catch up and complete its core tasks prior to the facility closing at the end of the day. While demand for asbestos disposal on Sundays is relatively low, similar arrangements to Saturdays will also be made in regard to acceptance of asbestos waste between the hours of 10 am and 1 pm on Sundays.

**Resolution 2. That as Council has significantly reduced its asbestos tipping charges which are now equivalent to the general waste charges, Council highlight this cost saving initiative while reinvigorating our DIAD campaign**

The tipping fee of \$125.40 per tonne for asbestos at the Buttonderry Waste Management Facility is significantly lower compared to Woy Woy Landfill (\$215.44/tonne) and Kimbriki waste management facility (\$350/tonne) to provide an incentive for the safe disposal of asbestos. This fact will be highlighted during the asbestos education campaign and will be included in all advertisements. The availability of rewards under the "dob-in-a-dumper" campaign will be highlighted in all asbestos advertisements and other education material produced for this campaign.

**Resolution 3. That to further strengthen the DIAD campaign Council extend its \$10,000 vandalism reward incentive to also include the DIAD campaign, and**

**Resolution 4. That staff report to Council on the operational issues associated with the initiative above, with further recommendations by staff being encouraged in the report.**

It is recommended that the current reward of \$500 for a report of illegal dumping of waste that leads to a fine be retained. The current fine for illegal dumping is \$750. It is critical that the reward is not higher than the fine otherwise an incentive is created to commit fraud by parties colluding in reporting an illegal dumper, paying the fine and then collecting the reward which may be far in excess of the fine.

A fine of \$750 is not considered a significant deterrent to prevent illegal dumping of waste. As this dumping fine is stipulated by the Protection of the Environment Operations (Penalty Notices) Regulation 2004, it is recommended that the State Government be lobbied to review the appropriateness of the dumping penalty and increase the rate to \$2,000 to provide a greater deterrent effect.

**Resolution 5. That Council carry out an advertising and education campaign highlighting the health risks associated with illegal dumping and explaining the cost effectiveness of asbestos disposal at Buttonderry tip.**

A fact sheet has been developed, providing details on the health implications associated with asbestos, hints for safe asbestos removal and disposal, implications of dumping including the DIAD program and tipping fees. This fact sheet is available in the Council foyer, Council libraries, branch offices and the Buttonderry Waste Management Facility.

In addition, this fact sheet has been placed onto Council's Website to further disseminate the information on responsible disposal of asbestos.

Placement of four advertisements in the Central Coast Express Advocate commenced on 20 March 2009 and will continue into April 2009. The advertisements will further highlight the impacts of illegal dumping of asbestos and advise residents of safe disposal options. A press release focusing on DIAD was issued on 20 March 2009 and a 2GO radio mention on this subject was aired on 23 March 2009. The campaign will be continued with the placement of regular advertisements reminding residents of the impacts of illegal dumping and the associated fines.

## **ATTACHMENTS**

*Nil.*

## **7.1 Information Reports**

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TRIM REFERENCE: D01837759

AUTHOR: SW

### **SUMMARY**

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

### **RECOMMENDATION**

*That Council deal with the following information reports by the exception method.*

### **ATTACHMENTS**

*Nil.*



## 7.2 Proposed Managed Resort and Residential Development, The Entrance Road West, The Entrance

TRIM REFERENCE: D01840283

AUTHOR: SP

### SUMMARY

The purpose of this report is to provide an update on this application as required by the Council resolution of 26 November 2009.

### RECOMMENDATION

***That Council receive the report on Proposed Managed Resort and Residential Development, The Entrance Road West, The Entrance.***

<b>Applicant</b>	Terrigal Grosvenor Lodge Pty Ltd
<b>Owner</b>	Terrigal Grosvenor Lodge Pty Ltd, (5 Oakland Avenue) Melinda Janyne Stevens, Minister for Primary Industries (9 The Entrance Road) and Wyong Shire Council (various road reserves)
<b>Application No</b>	2660/2004
<b>Description of Land</b>	<i>Eastern site:</i> 31-47 The Entrance Road West, 4 and 11 Bent Street <i>Western site:</i> 9-29 The Entrance Road West, 2-4, Clifford Street, 3-9 Oakland Avenue. 11 Bent Street (southern side of Bent Street) and the partial closure of Oakland Avenue (north of Bent Street intersection) and The Entrance Road West (fronting the development site)
<b>Proposed Development</b>	Managed Resort Facility comprising 509 apartments (tourist and permanent), with a conference centre, retail area, restaurants, cafes, tavern (converted heritage building), child care centre, indoor amusement park, two levels of basement carpark and associated landscaping
<b>Properties</b>	Lot 1 and 2 DP 517291 Lot A, C, D DP 382461 Lot 1 DP 25611 SP 20363 Part Lot 15 DP 832013 Lot 1, 2, 3 DP 571197 Lot 10, 11, 12, DP 23428 Lot 1, 2, 3, 4, DP 367602 Part Lot 7 DP 23196 That part of Oakland Avenue between Bent Street and The Entrance Road That part of The Entrance Road extending 10m north of the northern boundaries of the subject allotments fronting The Entrance Road including the extension of the 10m line across the Oakland Avenue intersection.

## 7.2 Proposed Managed Resort and Residential Development, The Entrance Road West, The Entrance (contd)

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<b>Site Area</b>	Eastern Site – 13,855m <sup>2</sup> Western Site – 15,007m <sup>2</sup> 11 Bent Street – 389m <sup>2</sup> Oakland Avenue – 1,723m <sup>2</sup> (road closure) The Entrance Road West – 2,850m <sup>2</sup> (road closure) <b>Total Area = 33,824m<sup>2</sup></b>
<b>Zoning</b>	2(g) Residential Tourist Zone and Road reserve
<b>Existing Use</b>	Motel, caravan park, two storey restaurant (heritage item), various dwellings, vacant allotments and NSW Fisheries building
<b>Value</b>	\$97 Million (note: valued in 2004)

### INTRODUCTION

The application was considered at Council's Ordinary meeting held 26 November 2008 with a recommendation for refusal by Council officers.

At this meeting held 26 November 2008 Council:

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

- 1 *That Council defer the application for discussion between the applicant and Council with the indication that:
  - a *Council supports the development of the site as a managed resort facility in accordance with the long-term strategic planning for the area.*
  - b *Council recognises the significance of the proposed private investment in the Shire and the resulting potential for increased tourism and job creation.**
- 2 *That a comprehensive briefing of the Councillors by the applicant and by staff be arranged as soon as possible and the applicant be requested to address the items mentioned in the Executive Summary of the GM Urban Design and Architecture report dated September 2006.*
- 3 *That this matter be reported back to Council no later than 31 March 2009.*

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

AGAINST: COUNCILLOR SYMINGTON.”

Since the consideration of the application by Council in late November, staff have met with the applicant to progress action on the above resolution. As a result of these meetings, the applicant has indicated that they propose to delete one residential flat building from the overall development. The building they have nominated for deletion is the western side of the Brentwood building. Refer attachment 1.

A comprehensive briefing was held with Council officers, Councillors and representatives of the applicant on the 4 March 2009 regarding the proposal. At this briefing the issues raised in the Executive Summary of the GM Urban Design and Architecture report dated September 2006 were discussed as well as the applicant's proposed amendments.

## **7.2 Proposed Managed Resort and Residential Development, The Entrance Road West, The Entrance (contd)**

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As discussed at this briefing, it is difficult to ascertain the extent of improvement that might result as a consequence of the indicated change without amended plans. Council staff will finalise assessment of the application upon lodgement of the amended plans and supporting documents, such as the solar impact analysis, and forward the final assessment to Council for their consideration.

### **ATTACHMENTS**

- 1** Locality Plan
- 2** Site Plan

### 7.3 Activities of the Development Assessment Unit

TRIM REFERENCE: D01840174

AUTHOR: JD

#### SUMMARY

The report includes information and statistics regarding the operations of the Development Assessment Unit and covers the submission and determination of development, construction and subdivision applications for the month of February 2009. Councillors have previously been provided a Business Update detailing staffing and resource responses to the changes in application volumes being experienced.

#### RECOMMENDATION

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

#### Development Applications Received and Determined

Type:	Number Received:	Estimated Value \$:	Number Determined:	Estimated Value \$:
Commercial	18	7,042,644	16	31,333,010
Industrial	4	169,100	-	-
Residential	73	4,198,729	46	58,236,696
Other	7	-	8	260,000
<b>Total</b>	<b>102</b>	<b>11,410,473</b>	<b>70</b>	<b>89,829,706</b>

A number of significant applications were determined in the month of February, resulting in a higher than average estimated value for applications determined. These include:

- The proposed Aldi Store at Wyong;
- An amended application for the Primo facility in Burnet Road, Warnervale; and
- The proposed Aged Care Facility by the Department of Ageing, Disability and Home Care at Kanwal.

#### Subdivision Applications Received and Determined

Type:	Number Received:	Number of Lots:	Number Determined:	Number of Lots:
Commercial	-	-	-	-
Industrial	-	-	-	-
Residential	1	2	5	30
Rural	-	-	-	-
<b>Total</b>	<b>1</b>	<b>2</b>	<b>5</b>	<b>30</b>

#### Net Median Turn-around Time

The net median turn-around time in working days for priority applications determined during the month was 26 days. There were two priority applications during the month which included an amendment to a Coldstore & Distribution Centre and a 100 Bed Aged Care Village for People with Disabilities.

The net median turn-around time in working days for development applications determined during the month was 17 days.

**Other Approvals and Certificates**

<b>Type:</b>	<b>Number Determined:</b>
Trees	36
Section 149 Certificates	22
Section 149 D Certificates	21
Construction Certificates	57
Complying Development Certificates	11

**State Environmental Planning Policy No 1**

There were no applications that relied on SEPP 1 variations for the month of February.

**ATTACHMENTS**

- 1 Activities Report Graph

## **7.4 Results of Water Quality Testing for Bathing Beaches, Lake and River Locations**

TRIM REFERENCE: D01838366

AUTHOR: JS

### **SUMMARY**

Reporting on the results of bacteriological tests for primary recreation water quality for beaches in Wyong Shire for the month of February.

### **RECOMMENDATION**

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

#### **Primary Recreation Water Quality Monitoring Program**

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

Wyong Council has been in partnership with the Department of Environment and Climate Change (DECC) in implementing the "Beachwatch" program during the bathing season of summer, October through to April. This involves the sampling of 29 monitoring locations, 5 times each month as required by the NHMRC Guidelines and the Beachwatch program. These monitoring locations include 17 ocean beaches, nine coastal lake sites and three river sites in the Tuggerah Lakes catchment.

During the winter season the Beachwatch program becomes inactive, where the sampling regime is reduced to once a month. If these monthly results indicate high levels of sewage and stormwater contamination further investigations are triggered to determine the source of it's origin.

Additionally, Council is still required to monitor the ocean outfalls at Norah Head and Wonga Point 5 times a months throughout the year. This monitoring and sampling regime is undertaken in accordance with the DECC "Environmental Protection License's"

#### **Summary of Results for February 2009**

Studies from the Estuary Management Plan have determined that the water quality of the river sites are predominately impacted upon by animal faecal contamination within each of their catchments, for example birds, horses, cattle, cats and dogs. February results reflect this determination because of the prolonged rainfall washing the faecal matter down into the local stormwater systems making Tumby, San Remo, Ourimbah and Wyong Creek unsafe for swimming. All of our other 25 Ocean and Lakes beaches were not impacted by the rainfall and received a star rating that was safe for swimming and is in accordance with the NHMRC guidelines for "Recreational Water Use".

Table 2: OCEAN BEACHES – 2009

LOCATION	STAR RATING	RECOMMENDATION
Cabbage Tree Bay	****	Site is safe for swimming
Soldiers Beach	****	Site is safe for swimming
Gravelly Beach	****	Site is safe for swimming
Lighthouse Beach	****	Site is safe for swimming
Shelly Beach	****	Site is safe for swimming
The Entrance Channel	****	Site is safe for swimming
Blue Bay	****	Site is safe for swimming
Blue Lagoon	****	Site is safe for swimming
Bateau Bay	****	Site is safe for swimming
Frazer	****	Site is safe for swimming
Birdie	****	Site is safe for swimming
Budgewoi	***	Site is safe for swimming
Lakes	****	Site is safe for swimming
Hargraves	****	Site is safe for swimming
Jenny Dixon	****	Site is safe for swimming
The Entrance	****	Site is safe for swimming
Toowoan Bay	****	Site is safe for swimming
North Entrance	****	Site is safe for swimming

Table 3: LAKE BEACHES –2009

LOCATION	STAR RATING	RECOMMENDATIONS
Gwandalan	****	Site is safe for swimming
Summerland Point	****	Site is safe for swimming
Long Jetty	****	Site is safe for swimming
Canton Beach	***	Site is safe for swimming
Chain Valley Bay	***	Site is safe for swimming
Elizabeth Bay	***	Site is safe for swimming
Toukley Aquatic	***	Site is safe for swimming
San Remo	**	Site is unsafe for swimming

Table 4: RIVER LOCATIONS

<b>LOCATION</b>	<b>STAR RATING</b>	<b>RECOMMENDATIONS</b>
Ourimbah Creek Chittaway Point	*	Site Is unsafe for swimming
Wyong River at Wyong	*	Site Is unsafe for swimming
Tumbi Creek Tumbi Umbi	*	Site Is unsafe for swimming



Table 1: NHMRC Star Rating Interpretation

Star Rating		Interpretation	Graphic Representation
****	Good: NHMRC indicates site safe for swimming	All 5 samples during the month were under the NHMRC safe value for swimming.	
***	Fair: NHMRC indicates site is safe for swimming	The median of all samples is low, but one sample during the month exceeded the NHMRC maximum safe value for swimming.	
**	Poor: NHMRC indicates swimming at site is not recommended.	The median of all samples is high and one sample exceeded the NHMRC maximum safe value for swimming;  Or  The median of all samples is low, but two samples exceeded the NHMRC maximum safe value for swimming.	
*	Bad: NHMRC indicates swimming at site is not recommended.	The median of all samples is high and two or more samples exceeded the NHMRC maximum safe value for swimming.	

**ATTACHMENTS**

- 1 Summer Water Sampling Locations

## 7.5 General Works In Progress

TRIM REFERENCE: D01775266

AUTHOR: AP; ML

### SUMMARY

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

### RECOMMENDATION

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

### ROADS AND DRAINAGE SECTION OVERVIEW

#### Capital Works In Progress

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

Item Description	Estimated Cost \$	% Completed	Estimated Completion Date	Comments
Panorama Avenue Charmhaven. Road and drainage reconstruction	695,000	90	March 2009	Upgrading of the existing road pavement and intersection at Charmhaven Avenue to current standards including installation of kerb and guttering, traffic islands and concrete footpath.  Kerb and gutter has been installed and asphalt pavement completed. Footpath and restoration to be finalised before completion.
Glen Road Ourimbah. Road and drainage reconstruction	610,000	90	March 2009	Reconstruction and sealing of existing section of gravel road to current standards, including widening, realignment works and associated drainage works.  Works completed on both the road and drainage, with the sealing of pavement. Restoration required for final completion.

Item Description	Estimated Cost \$	% Completed	Estimated Completion Date	Comments
Lakedge Avenue Berkeley Vale. Road and drainage upgrades.	433,000	100	February 2009	Upgrading/stabilisation of existing pavement and AC overlay. Upgrading of existing drainage including K&G. Drainage works through existing easement. Works now completed.
Manoa Road Halekulani Drainage Upgrade	315,000	80	March 2009	Drainage upgrade and construction of kerb and gutter. Drainage completed. Kerb and gutter completed. Minor roadworks and driveways to be constructed.
Eastern Road – Tumbi Umbi. Roadworks and drainage reconstruction.	485,000	80	March 2009	Rehabilitation of existing pavement by stabilisation and AC overlay. Upgrading of existing drainage. Installation of shared pathway.  Drainage works completed. Works continuing on shared pathway.
Eastern Road – Long Jetty. Footpath construction on the intersection with Central Coast Highway.	43,000	100	February 2009	Construction of concrete footpath on Eastern Road between Bay Village Road and the Central Coast Highway. Installation of pedestrian refuge.

### General Maintenance Work

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

	North	South
<b>Drainage Maintenance</b>	Yarramalong Cedar Brush Creek Buff Point	Bateau Bay Tuggerah
<b>Replacement of Damaged Foot paving</b>	Toukley Woongarah Hamlyn Terrace Budgewoi	The Entrance Killarney Vale

	North	South
<b>Sign Maintenance</b>	Toukley Kanwal Hamlyn Terrace Blue Haven Wadalba Budgewoi Tuggerawong San Remo Canton Beach Wyongah Jilliby Yarramalong Buff Point Gwandalan	Toowoona Bay Berkeley Vale Ourimbah Long Jetty The Entrance Killarney Vale Shelly Beach Bateau Bay Tuggerah Wyong Mardi Chittaway
<b>Shoulder Restoration</b>	Nil	Nil
<b>Heavy Patching</b>	Charmhaven Lake Munmorah Rocky Point Woongarra	Fountaindale Tuggerah South Tacoma
<b>Table Drain Maintenance</b>	Lake Haven Manning Park Chain Valley Bay San Remo Charmhaven Jilliby Budgewoi Toukley Lake Munmorah Gwandalan Halekulani San Remo	Berkeley Vale Long Jetty Bateau Bay Killarney Vale Tumbi Umbi
<b>Rural Road Grading</b>	Dooralong Yarramalong Ravensdale Jilliby Kiar	Ourimbah Palmdale
<b>Carpark Maintenance</b>	Toukley Budgewoi Norah Head Gorokan	Berkeley Vale
<b>Fencing</b>	Nil	Nil
<b>Vegetation control</b>	Dooralong Jilliby Budgewoi Buff Point Woongarra Halloran Hamlyn Terrace Lake Haven Toukley Chain Valley Bay South and North	Tuggerah Berkeley Vale Tumbi Umbi Ourimbah Watanobbi Wyong The Entrance Killarney Vale Long Jetty

## CONTRACTS AND SPECIAL PROJECTS SECTION

## 7.5 General Works In Progress (contd)

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

Contract No	Contract Description	Contract Status	% Completed
Contract 2408	Capture and Commercial Utilisation of Landfill Gas from Buttonderry Landfill	The contractor, LMS, has indicated it is willing to adjust its earlier position regarding OH & S clauses in the Deed of Agreement to better align with Council's requirements. It is now expected it will not be necessary to take alternative action. The agreement should be possible during March 2009.	5
CPA/94531	Consultancy for investigation and design of Link Road and trunk water main to Mardi Dam	Design and tender documentation of the Link Road and adjacent trunk water main complete. Design and tender documentation for the trunk water main connection back to Mardi Dam has been put on hold. If the southern section of Link Road does not proceed, an alternative route for the trunk water main has to be determined.	90
CPA/94559	Design and Documentation of Woongarra Sports fields	Tender review complete and scheduled for 25 March Council meeting. Construction is anticipated to commence April 2009. Target for playing fields to be available for use in April 2010 (for winter season). The estimated total construction cost is \$6.1M, with contract contingency of \$0.5M.	100
CPA/98240 complete, becomes CPA/152870	Implementation of Buttonderry Waste Management Facility Entry Master plan	Contract has been let to GWH Construction (NSW) Pty Ltd. Anticipate that works will start in early March 2009 with completion by December 2009. Estimated contract value is \$2.7M.	0
CPA/155526	Mardi Landfill – Remediation Action Plan (RAP) and Concept Design	Contract for RAP and concept design awarded and expected to be completed by June 2009. Work temporarily on hold pending the removal of asbestos containing material from the access tracks on the site. Detailed design tenders will follow RAP and concept design. Cost of remediation works yet to be determined but will be estimated as part of the concept design. Construction is not expected to commence until 2010-11. Preparatory survey has been completed. Site fencing underway for completion late March.	10
CPA/136021	Tumbi Landfill – Remediation – Preliminary Investigations	Contract for the first stage of investigations for the remediation of the site has been awarded and is expected to be completed by June 2009. Preparatory vegetation slashing has been completed. Site survey will be commenced in March. Detailed investigations, remediation action plan (RAP) and design will follow preliminary investigations.	1
CPA/114612	Don Small Oval Lighting	Contract awarded October 2008. Foundations for lighting poles have been placed with completion of work and commissioning programmed for March 2009. Contract value \$157,000.	35

## 7.5

## General Works In Progress (contd)

Contract No	Contract Description	Contract Status	% Completed
CPA/117144	Design and Construct Toukley Reclaimed Effluent Treatment Plant Augmentation	Contract awarded to Water Treatment (Australia) Pty Limited in February 2008. There is a delay in getting the UV equipment in time. It is planned to commission the new works by end of March 2009 without the UV equipment. Final commissioning with UV equipment expected in June 2009. Estimated project construction cost is \$2.72M.	70
CPA/130590	Consultancy for Investigation and Design of Trunk Sewer Mains to Warnervale Town Centre and Wyong Employment Zone.	Contract awarded to Bonacci Group Pty Ltd January 2008. Sewer alignment changes have been finalised and process to acquire easements commenced. Detail design for Stage 1 expected in March 2009 and construction expected to commence in August 2009 and be completed February 2010. Estimated project construction cost \$8M, with this consultancy costing \$580,000.	70
CPA/130591	Consultancy for Investigation and Design of Trunk Water Mains to Warnervale Town Centre and Wyong Employment Zone.	Contract awarded to SMEC Australia Pty Ltd April 2008. Anticipate completion of design and tender documentation by March 2009. Construction expected to commence August 2009 and be completed by December 2009. Project construction cost \$2M, with this consultancy costing \$265,000.	75
CPA/136020	Gwandalan Landfill Remediation – Investigations Only	The accredited auditor has reviewed and provided comments on the Preliminary Investigation Report (some issues raised – namely the encroachment of the landfill on adjoining properties). On finalisation of Preliminary Report, proposals to be invited for detailed investigation and report for remediation of the site. Contract value \$500,000.	15
CPA/136398 to CPA/136401	Year Two Upgrade Works – All Holiday Parks (CPA/136398 to CPA/136401)	Council completed critical works prior to the start of the peak season. Claims to be settled with Contractor on adjustments to the contracts. Remaining works including camp kitchen to be completed after holiday period and arranged by Council. Contact value \$ 1.84m	96
CPA/136486	Investigation, Design and Documentation of Toukley Sewage Treatment Plant Inlet Works Upgrade	Contract awarded to Maunsell Australia Pty Ltd April 2008. Detail design and tender documentation are being reviewed. Construction is expected to commence May 2009 and be completed by December 2009. Estimated project cost \$2.05m, with this consultancy costing \$164,000.	80
CPA/140816	The Entrance Community Facility Stage 2 – Construction	Contract works are progressing. Works are scheduled for completion by March 2009. Project value is \$2.5m.	80

Contract No	Contract Description	Contract Status	% Completed
CPA/145543 CPA/145982 CPA/150515 CPA/156188	Construction of Buff Point Shared Pathway	Construction 100% complete for Stage 1 from Edgewater Park to 600m past Matumba Road – approx. 1.6km of total 3km of planned pathway. Design work complete for steep section (Stage 3) near Kemp Close. REF being finalised. Stage 2 (easternmost 1km) REF complete but will need revision to include creek crossing. Both these REFs to be Part 5, but under LEP roads provisions and will need Dept of Land's OK. Current funds for this financial year only allow Stage 1 to be completed. Federal funding likely to permit construction of Stage 3 mid-late 2009. Council funds likely to be available for Stage 2 work mid-late 2009. Estimated cost of construction \$935,000 (overall).	50
CPA/145814	Design and tender documentation for No 3 Aeration Tank – Charmhaven STP	Contract was awarded to Cardno (QLD) Pty Ltd October 2008. Preliminary design has been reviewed. Expected completion of the design is April 2009. Estimated project cost \$11M, with this consultancy costing \$160,000.	40
CPA/152818	Consultancy for Investigation, Design and Documentation for B9 sewer rising main extension to B1	Contract awarded to GHD Pty Ltd on 06 January 2009. Option report is in progress. Construction is expected to commence November 2009 and be completed by February 2010. Estimated project cost \$2.15m, with this consultancy costing \$148,000.	20
CPA/153765 to CPA/153784	Holiday Park Upgrade works 2009	Construction tenders closed 10 December 2008. Tender being evaluated.	5
CPA/155267	Hamlyn Terrace Community and Sporting Facility	Design tender closed 18 December 2008. Tenders being evaluated.	5
F2004/07982	The Entrance Town Centre Refurbishment Works	Current actions being undertaken to address five year work program for TETC include: 1. Installation of five pedestrian ramps to lower end of The Entrance Road to be completed by end of June 2009. 2. Quotes for purchase of tiles for maintenance purposes have been called. Quotes have increased significantly due to fall in Australian dollar against foreign currencies.	50

## 7.5

## General Works In Progress (contd)

Contract No	Contract Description	Contract Status	% Completed
F2008/02390	Design for Construction of Proposed New Cell 4.2B at Buttonderry Waste Management Facility	Minor contracts for preliminary investigation works awarded. Geotechnical investigations and survey completed. Preliminary design for new cell completed. Contract has been awarded for leachate system investigation (CPA/156894). Contract has been awarded for detailed design documentation (CPA/156896). Program is for construction tenders to be called July 2009 for completion by July 2010.	15
F2008/02700	Investigate & Design for Mannering Park Shared Pathway	Survey complete. Acid sulphate soils (ASS) near completion. Draft REF received and now being finalised. Significant local objections. Delta Elec amenable to route in Delta land at southern end. Budget (Federal \$259K) may only allow path from Waverly to Campbell Pde and not to Griffiths St as originally envisaged.	40
CPA/149519	Design & construct upgrade of fuel dispensing area at Charmhaven Depot	Ongoing. Structural design concept commission commenced. Special fuel area requirements report from Petrolink received.	25

**CONTRACTS STILL IN DEFECTS LIABILITY PERIOD**

Contract No	Contract Description	Contract Status	% Completed
		NIL	

**ATTACHMENTS**

*Nil.*



## **7.6 Water and Sewerage - Works in Progress**

TRIM REFERENCE: D01775498

AUTHOR: GM

Water supply and sewerage works in progress and completed for February 2009.

### **RECOMMENDATION**

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

### **WATER SUPPLY**

Work has commenced on the replacement of the 100mm diameter asbestos cement (AC) water distribution main at the intersection of Lilo Avenue and Manoa Road Halekulani.

The main will be replaced as part of the proposed upgrade to drainage works in Manoa Road. The drainage is being upgraded by Roads and Drainage day labour staff to alleviate future flooding in the area. The existing 100mm AC distribution main was installed in 1967 and is due for replacement. The work is being undertaken as a proactive measure to minimise the risk of future leakage due to breakages under the new pavement. The work consists of the replacement of approximately 50 metres of 100mm AC pipe with 100mm polyvinylchloride (UPVC) class 16 water pipe and associated fittings. During the work the main will be shut-down with no water supply interruptions to residents in Lilo Avenue and surrounding streets.

The replacement work, estimated to cost \$50,000, is being carried out by Water and Sewerage day labour staff and is due for completion by the end of March 2009. The work is being funded from the Water and Sewerage Capital Works program.

### **Water Storage**

As at 23 February 2009 the storage in Mangrove Creek Dam was 28%, Mardi Dam was at 89.2% and Mooney Dam 100%, while the total system storage was 31.8%.

See following tables for Weekly Storage and Demand Performance information.

**Monday, 23 February 2009**

### STORAGES

Storage	Capacity Full [MI]	Volume in Storage [MI]	Percent Full [%]	Storage Change over last Week
Mangrove Dam	190000	53,109	28.0	Up 243 ML
Mardi Dam	7400	6,599	89.2	Up 606 ML
Mooney Dam	4600	4,600	100.0	Unchanged
<b>Total</b>	<b>202000</b>	<b>64,308</b>	<b>31.8</b>	<b>Up 849 ML</b>

**STORAGE:**

- Total stored water volume has fallen by 0.3% since last month.
- This day last year the volume stored as a percentage of total capacity was 5.8% lower

**HUNTER TRANSFERS:**

- Hunter Water Corporation supplied 0ML last week keeping this years supply to 0ML.
- Gosford/Wyong supplied 0ML to Hunter Water last week keeping this years supply at 0ML

**GROUND WATER BORES:**

- Groundwater Bores supplied 7.7 ML last week increasing this years supply to 43.6 ML

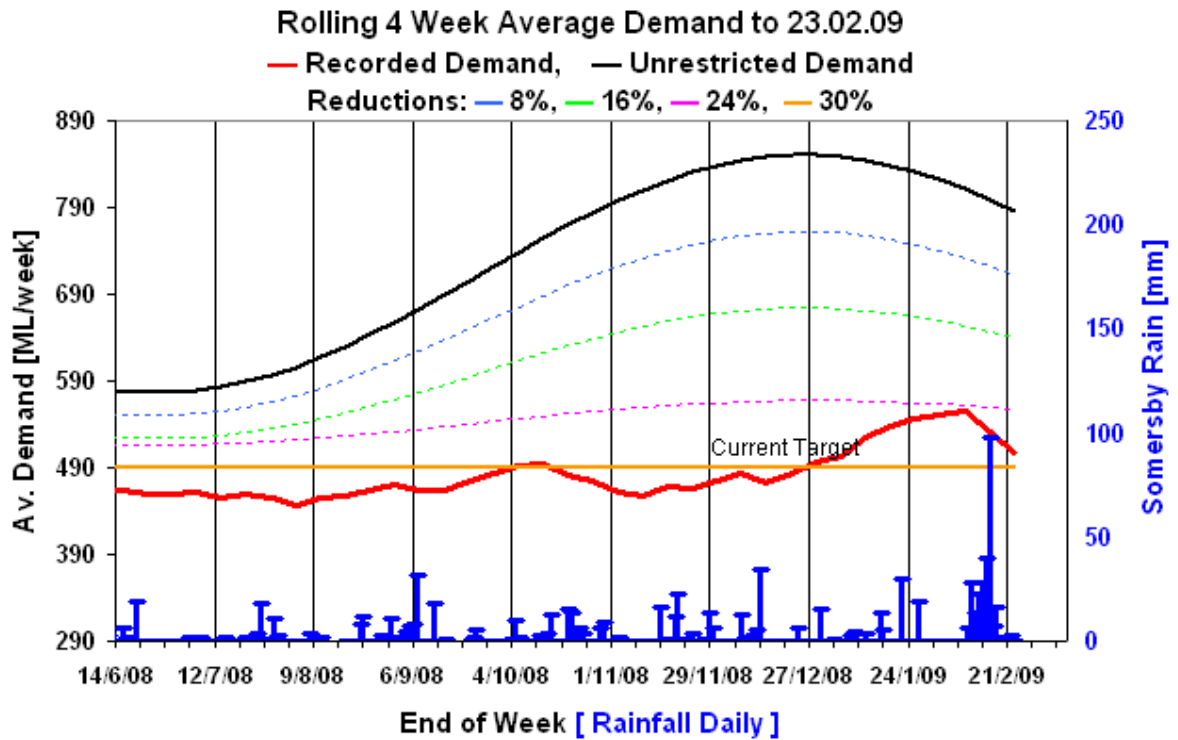
### WATER USAGE & RAINFALL

Period	Water Usage [MI]	Rainfall [mm]		
		Somersby WTP	Mardi WTP	Mangrove Dam
Week to date	470	28	26	18
Previous week	458	237	126	149
Current week last year	469	8	12	1
This year to date	4,071	345	172	208
Same period last year	3,567	478	355	312

Week to date consumption was 470 ML, 0.2% more than the same week last year and 2.6% more than the previous week.

Consumption this year to date is 4,071 ML, 14.1% more than the same period last year.

Level 3 Water Consumption Target for the week ending Monday, 2 March 2009 is 490 ML



- 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.

**SEWERAGE**

Work has commenced on the replacement of the 150mm diameter vitreous clay (VC) sewer gravity main at Manoa Road Halekulani.

The main will be replaced in addition to the water main as part of the proposed drainage works at the intersection of Lilo Avenue and Manoa Road. The drainage is being upgraded by Roads and Drainage day labour staff to minimise future flooding in the area. The existing 150mm VC sewer main is approximately 26 years old and was found to have root infestation. The work is being undertaken as a proactive measure to minimise the risk of future main collapse under the new pavement. The work consists of the replacement of approximately 30m of 150mm VC sewer pipe with 150mm ultra polyvinylchloride rubber ring sewer pipe.

The upgrade work, estimated to cost \$50,000, is being carried out by Water and Sewerage day labour staff and is due for completion by March 2009. The work is being funded from the Water and Sewerage Capital Works program.

**PROCESS****Water Treatment**

All water produced by the Water Treatment Plant, for the period 1 to 28 February 2009, has met National Health and Medical Research Council Guidelines.

**Sewage Treatment**

All effluent discharged from the sewage treatment plants, for the period 1 to 31 February 2009, has met Environmental Protection Authority Licence requirements.

**ATTACHMENTS**

*Nil.*

## **7.7 Further Response to the Central Coast Express Advocate Article Concerning the Welcome to Wyong Shire Sign at Tuggerah**

TRIM REFERENCE: D01837794

AUTHOR: ED; SM

### **SUMMARY**

Further response concerning an article which appeared in the Express Advocate on 21 January 2009.

### **RECOMMENDATION**

***That Council receive the report on Further Response to the Central Coast Express Advocate Article Concerning the Welcome to Wyong Shire Sign at Tuggerah.***

### **BACKGROUND**

At the Ordinary Meeting on 11 February 2009, Council:

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

*That further to the sensationalised report in the Express Advocate published on 21 January 2009 under the headline "Welcome To a Shire Shambles", and following the report (9.10) presented to the ordinary meeting of Council on 28 January 2009, Staff report on the following:*

- 1 Did the Express/Advocate, as reported in the article, ask Council to verify this story before it went to press and, if so, when did this occur?*
- 2 Did any Councillors ask for any clarification of this incident further to the Question Without Notice No. QO75 asked by Councillor Best at the Ordinary Meeting on 10 December 2008?*
- 3 Were Staff able to provide the facts as contained in Report No (9.10) and if so, when?*
- 4 If staff did not to respond to these requests, why not?*
- 5 Does Council's media section have a working relationship with the local press and, if so, how can we reinforce this relationship to ensure that we get the facts in the hands of the journalists to prevent the publication of non verified and/or grandstanding articles in the future.*

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

AGAINST: NIL."

**7.7 Further Response to the Central Coast Express Advocate Article Concerning the Welcome to Wyong Shire Sign at Tuggerah (contd)**

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This report provides responses to the above questions.

**1 *Did the Express/Advocate, as reported in the article, ask Council to verify this story before it went to press and, if so, when did this occur?***

The Express Advocate contacted Communications staff on Tuesday morning 20 January 2009 at 9.32am, just prior to their deadline, requesting a response to Cr Best's claims and giving until 11am to respond. The Communication Unit immediately contacted Contracts and Special Projects who were able to give a comment after returning from a meeting at 10am.

The Communications Officer prepared a response and tried to contact the journalist at 10.41am to advise that the information was ready, however, that journalist was out of the office and did not have a mobile phone number. Having not been able to make verbal contact, the information was emailed at 11.27am.

On realising the story was not going to be run with Council's response in the paper, the Communications Officer e-mailed the journalist on Tuesday afternoon before Wednesday's paper to express concern given that staff had acted in the time frame provided.

The journalist in question was understanding of Council's point of view and the result was an article, complete with Council's response and correcting some misinformation from Wednesday's article, appearing as the Page 3 lead of Friday's paper.

**2 *Did any Councillors ask for any clarification of this incident further to the Question Without Notice No. Q075 asked by Councillor Best at the Ordinary Meeting on 10 December 2008?***

Council staff involved in managing the Entry Signs project did not receive any request by any Councillor for further clarification on this incident.

**3 *Were Staff able to provide the facts as contained in Report No (9.10) and if so, when?***

Yes, Q075 from Councillor Best was answered in Council's "Answers to Questions Without Notice" Section 9.12 of the 28 January 2009 business paper.

**4 *If staff did not to respond to these requests, why not?***

Not Applicable

**5 *Does Council's media section have a working relationship with the local press and, if so, how can we reinforce this relationship to ensure that we get the facts in the hands of the journalists to prevent the publication of non verified and/or grandstanding articles in the future.***

Council has an excellent working relationship with the local media.

The most recent media survey (August 2008) conducted by local research company Micromex showed journalists are highly satisfied with the work of Council's communications unit, ranking our overall performance at 100%.

## **7.7 Further Response to the Central Coast Express Advocate Article Concerning the Welcome to Wyong Shire Sign at Tuggerah (contd)**

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Comments made by the local media for this survey included "staff are accessible and respond quickly / they are prolific in the information they provide and always follow up requests / they go above and beyond to help with your request and will chase up the information / they keep us in touch and respond quickly to any requests".

In addition to media releases, information is posted in detail on Council's website and journalists receive several updates daily from 'twitter' feed - a new online service. Office and mobile phone numbers are readily provided to make information as accessible as possible.

Council has an excellent working relationship but is unable to prevent the privately-owned publications printing articles without all the facts. When these situations arise staff request that the other side of the story be told at the next available opportunity, which in this case it was. Council would not consider legal action over a misrepresented article unless it was a matter of defamation and all attempts at public redress had been exhausted.

On Tuesday 3 March, the Mayor and senior members of the communications team met with Express Advocate editor Geoff Hawthorne and Council reporter Errol Smith to discuss the working relationship between the two organisations. This included clarifying the process for seeking timely responses from Council to balance stories, and the provision of mobile phone numbers for both journalists and Council staff. New mediums including the Express' website and Council's Twitter feed were discussed.

### **ATTACHMENTS**

*Nil.*

## 7.8 Outstanding Questions Without Notice and Notices of Motion

TRIM REFERENCE: D01839516

AUTHOR: SG

### SUMMARY

Report on outstanding Questions Without Notice and Notices of Motion.

### RECOMMENDATION

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

Question Asked / Councillor	Department	Meeting Asked	Status
Q123 – Darcy Smith Court Case former Cr Pavier	Shire Planning	12 December 2007	A response will be reported to Council when the case has been finalised in the Land and Environment Court.
Q068 - Education Program into Toddler Drowning Cr Best	Shire Planning	26 November 2008	A response to this question will be prepared after the briefing workshop on current coverage and resources required to patrol beaches is held. This briefing is scheduled to be held in April 2009.
Q008 - Draft Community Facilities Strategy Cr Matthews	Shire Planning	25 February 2009	A Councillor Briefing is being proposed for May 2009 which will provide details of recommendations and actions arising from Stage 1 of the Strategy.
Q009 – Recreation Smoke Free Policy Publicity Cr Webster	Shire Services	25 February 2009	A response will be submitted to Council's meeting of 8 April 2009.
Q010 – Central Community Group Database Cr Vincent	Corporate Services	25 February 2009	A response will be submitted to Council's meeting of 8 April 2009.
Q011 – Waste Management Facility Telephone Number Cr Wynn	Shire Services	25 February 2009	A response will be submitted to Council's meeting on 8 April 2009.
Q012 – Maintenance of Fire Trails Cr Eaton	Shire Services	25 February 2009	A response will be submitted to Council's meeting on 8 April 2009.



Question Asked / Councillor	Department	Meeting Asked	Status
Q013 – Hazard Reduction in the Shire Cr Eaton	Shire Services	25 February 2009	A response will be submitted to Council's meeting on 8 April 2009.
Q014 – Costs Incurred for Performing Arts Centre Cr McBride	Shire Planning	25 February 2009	A report on the proposed Performing Arts Centre will be forwarded to Council in April this year. This report will include the total costs incurred by Council on investigation, planning and reports for the proposed centre.
Q016 – Community Reserve near Applegum Place, Woongarra Cr Vincent	Shire Services	11 March 2009	A response will be submitted to Council's meeting on 22 April 2009.

Notice of Motion	Department	Meeting Resolved	Status
326 - National Natural Disaster Funding <i>Report required on climate change impacts.</i>	Shire Planning	8 August 2007 Cr Eaton / Cr Best	A report will be submitted to Council when response from Department of Environment and Climate Change (DECC) is received. Finalisation of Coastline Management Plan is not anticipated until January/February 2010.
470 – Ferry Service between Wyong and The Entrance <i>Report to be provided on investigation of a wharf and passenger ferry service between Wyong and The Entrance.</i>	Shire Planning	14 November 2007 Cr Eaton / Cr Best	To be reported to Council in April/May 2009 as part of the adoption of The Entrance/Long Jetty Strategy.
231 – Poll on Popularly Elected Mayor and Electricity Privatisation <i>A further report be reported to Council at a briefing session outlining the ramifications of a popularly elected Mayor detailing exactly how the numbers equate in three wards concerned.</i>	Corporate Services	28 May 2008 former Cr Stewart / Cr Graham	A report will be subject to future briefing session for Council. The report will provide an outline of possible ward boundaries.
293 – The Entrance Long Jetty Strategy Meeting <i>That Council facilitate a meeting with Key Stake holders – The Entrance Bowling Club, Lakeside Plaza and Wyong Shire Council. That the Mayor chair the meeting, report back on the progress or otherwise.</i>	Shire Planning	25 June 2008 former Cr Pavier / Cr Graham	Meeting was held on 30 July 2008. Council update issued regarding outcomes. Formal report back to Council as part of adoption of The Entrance / Long Jetty strategy to be submitted to Council in April/May following feedback sessions with peak community groups.

Notice of Motion	Department	Meeting Resolved	Status
<p>295 – Wyong Pool Maintenance Policy</p> <p><i>That Council defer any further decisions regarding Wyong Pool pending discussions with the Wyong Tennis Club Administrator.</i></p> <p><i>That the Mayor and General Manager report to Council on discussions.</i></p>	General Manager's Unit	25 June 2008 former Cr Pavier / Cr Graham	A meeting was held with the Administrators for Wyong Tennis Club. Awaiting further information once received a report will be submitted to Council.
<p>298 – Long Jetty Café</p> <p><i>That Council receive a briefing as part of the Long Jetty master planning on the permissibility and benefits / disbenefits of considering sub leasing an area of the Long Jetty to cater for a commercial operation.</i></p>	Shire Planning	25 June 2008 Cr Best / Cr Eaton	To be given further consideration following the adoption of the Draft Entrance Peninsula Planning Strategy. (The TEPPS encourages this type of potential development).
<p>383 – Central Coast Regional Strategy – Toukley</p> <p><i>That as a result of the recent release of the Central Coast Regional Strategy by the Department of Planning, staff report on the implications of the strategy on existing Council projects. In particular, the report should address the impacts on the Future Planning Unit's work program and staff should also report on the now likely timelines and processes required to deliver the Toukley Strategy.</i></p>	Shire Planning	13 August 2008 Cr Best / former Cr Stevens	A briefing workshop is expected to be held with Councillors in May 2009.
<p>384 – Central Coast Regional Strategy</p> <p><i>That Council, in conjunction with Shire Planning staff, workshop the Central Coast Regional Strategy with a view to determining a position statement for the Department of Planning.</i></p>	Shire Planning	13 August 2008 former Cr Pavier / Cr Eaton	A briefing workshop is expected to be held with Councillors in May 2009.
<p>498 - Central Coast Tourism Inc (CCTI) Funding</p> <p><i>That Council report on funding for Central Coast Tourism Inc (CCTI).</i></p>	General Manager's Unit	12 November 2008 Cr Eaton / Cr Graham	A report will be submitted to Council's meeting on 22 April 2009.
<p>499 - Wyong Parking Initiatives</p> <p><i>That Council congratulate the Member for Wyong, Mr David Harris MP, on his support for a joint venture between Council and the State Government to construct additional car parking around the Civic/Justice/Police precinct of Wyong Town Centre.</i></p> <p><i>That Council request staff to contact appropriate State Government agencies to address this matter.</i></p>	Shire Planning	12 November 2008 Cr Eaton / Cr Best	A report will be submitted to Council upon response from State Government Agencies.

Notice of Motion	Department	Meeting Resolved	Status
<p>541 – Extended Safety of Surf Patrol Beaches</p> <p><i>That having regard to the increasing incidence of unseasonably warm weather associated with global warming and the resultant high beach usage outside current patrol hours Council take a proactive approach with a view to providing our residents and ratepayers with greater coverage of patrolled surf beaches.</i></p> <p><i>That Council receive a briefing on current coverage and resources required to patrol our Shire's beaches including any recommendation for Council to consider a more flexible approach to beach patrol timetables.</i></p>	Shire Services	26 November 2008 Cr Best / Cr Eaton	A briefing workshop is scheduled to be held in April 2009 on current coverage and resources required to patrol beaches.
<p>570 – Joint Council Meetings with Gosford Council</p> <ol style="list-style-type: none"> <li>1 <i>That Council support regular joint meetings with Gosford Council to determine major water policy and other common issues.</i></li> <li>2 <i>That any such meetings to be convened as formal council meetings of both Councils to enable prompt efficient and consistent decision making.</i></li> <li>3 <i>That a copy of this resolution be forwarded to Gosford City Council for its consideration and support.</i></li> </ol>	Corporate Services	10 December 2008 Cr Eaton / Cr Best	Gosford City Council resolved to support regular joint meetings and has asked the two General Managers to discuss processes.
<p>9.1 – NSW State Body Board Championships</p> <ol style="list-style-type: none"> <li>1 <i>That Council allocate \$10,000 from the 2008-09 budget for Community Support and Development to secure major sponsorship of the NSW State Body Board Championships and Australasian Pro Tour to be held on 2, 3, 4 and 5 April 2009 at Soldiers Beach.</i></li> <li>2 <i>That Council transfer the \$10,000 from the amount allocated in the 2008-09 budget to the "Central Coast Pro Surfing Competition" which has been cancelled.</i></li> <li>3 <i>That Council consider allocating a similar amount to the "NSW Body Board Championships" in the 2009-10 budget provided it can be demonstrated that the event continues to provide significant benefit to the Shire.</i></li> <li>4 <i>That a report on attendance, economic benefits etc of the event be presented to Council at the completion of the championships.</i></li> </ol>	Shire Services	11 February 2009 Cr McNamara / Cr Best	A report will be submitted to Council's meeting on 27 May 2009.

Notice of Motion	Department	Meeting Resolved	Status
<p>9.4 – Precinct Support Program</p> <p>1 <i>That Council reaffirm its support and commitment to its Precinct Committee network while recognising their valuable contribution to the community.</i></p> <p>2 <i>That Council, in partnership with our local Precinct Committees, review its current level of assistance with a view to growing and supporting this important community network and its membership.</i></p> <p>3 <i>That staff report to Council, after the Precinct Committee Forum to be held on Wednesday 1 April 2009, on past, current and future recommendations regarding levels of support required to achieve 2 above.</i></p>	Corporate Services	11 February 2009 Cr Best / Cr McNamara	A report on the forum will be submitted to Council's meeting on 13 May 2009.
<p>9.5 – Closed Circuit TV Toukley</p> <p>1 <i>That further to the continuing and escalating incidents of vandalism and graffiti in and around the Toukley and Toukley East areas, staff report on the findings of the recently conducted Toukley Community Safety Audit soon to be released.</i></p> <p>2 <i>That staff report to Council on the feasibility of installing a Closed Circuit TV network in the Toukley area similar to the recently federally funded 27 camera system now being installed in the Woy Woy business district.</i></p>	Shire Services	11 February 2009 Cr Best / Cr Wynn	Safety Audit to be conducted by NSW Police. Staff will liaise with NSW Police to determine when the Safety Audit will be made available.

Notice of Motion	Department	Meeting Resolved	Status
<p>9.1 – Motor Sports Facility</p> <p>1 <i>That Council recognise in principle the need to establish a regional motor sport and driver education facility with a view to catering for a broad range of activities including driver education and training opportunities.</i></p> <p>2 <i>That Council determine, in partnership with the relevant Government Departments and various peak motor sport organisations, the level of industry support for the establishment of such a regional community facility.</i></p> <p>3 <i>That Council seek Expressions of Interest from potential user groups to provide User Group requirements including their potential usage level of such a facility and indicative list of potential events which may be attracted including races showcasing vehicles using alternative technologies.</i></p> <p>4 <i>That Council investigates possible locations for a motor sport and driver education facility based on user group requirements.</i></p> <p>5 <i>That Council seek Expressions of Interest to build, operate and manage the facility including any alternate Financial Models including any benefits and revenue to the community and Council. Responses should include how they intend to offset green house gas emissions to make the motor sport carbon neutral.</i></p>	Shire Planning	25 February 2009 Cr McNamara / Cr Vincent	Councillors will be updated as information is obtained.
<p>9.2 – The Entrance Channel WebCam</p> <p>1 <i>That Council investigate the possible benefits of utilising the growing web technology known as “webcam” in The Entrance Channel to assist various organisations, departments and the general public to gain important information vital to improved channel management.</i></p> <p>2 <i>That Council also investigate the possibility of sponsorship financing the channel webcams, instead of Council funding.</i></p>	Shire Services	25 February 2009 Cr Best / Cr Webster	A report on this matter will be submitted to Council’s meeting of 27 May 2009.
<p>9.3 – Recycle/Re-use Initiative</p> <p><i>That staff provide a preliminary report to Council on the recycle/re-use initiative of Cessnock and Lake Macquarie City Councils known as the Tip Shop/Re-use Centre hosted at the Councils’ respective waste management facilities.</i></p>	Shire Services	25 February 2009 Cr Wynn / Cr Best	A report on this matter will be submitted to Council’s meeting of 8 April 2009.

Notice of Motion	Department	Meeting Resolved	Status
<p>9.4 – Council’s Animal Care Facility Review</p> <p>1 <i>That Council acknowledge the strategic and operational review of the Animal Care Facility undertaken by the Regulation and Compliance Unit in late 2008.</i></p> <p>2 <i>That Council reiterate the earlier congratulations extended to the Manager of Regulation and Compliance and his team for “the complex review” undertaken which led to the Wyong Animal Care Facility “being nationally identified as a best case example of restructure and operation” as advised by Councillor Best in his Question Without Notice to the Ordinary Meeting held on 12 November 2008.</i></p> <p>3 <i>That staff report to Council on further options for the future management of the facility following the completion of the RSPCA’s strategic review of its operations which Council is advised will take approximately 12 months.</i></p> <p>4 <i>That in response to the success of the joint efforts of staff and animal rescue groups resulting in increased re-homing rates, Council acknowledge the need to provide additional kennels and cattery space and therefore give consideration to the provision of capital funds for the extension of the facility as part of its consideration of the 2009/2010 Management Plan. However, should additional funds be voted, that the expenditure of such funds not occur until the outcome of the RSPCA strategic review.</i></p> <p>5 <i>That Council embark on a public awareness campaign focusing on responsible pet ownership.</i></p>	Shire Planning	25 February 2009 Cr Best / Cr Matthews	A report will be submitted to Council following completion of the RSPCA Strategic Review.
<p>9.5 – Extending the Lapsing Period of a Consent</p> <p>1 <i>That Council, in determining applications for employment generating development extend the lapsing period of a Consent under Section 95 of the Environmental Planning and Assessment Act 1979 to three years for the purpose of assisting local employment during the current economic downturn.</i></p> <p>2 <i>That the fees for extending a consent for a further one year period be reviewed in conjunction with the next Management Plan.</i></p>	Corporate Services	25 February 2009 Cr Eaton / Cr Graham	Fees for extension of consent to be reviewed in conjunction with the Management Plan for 2009-10.

Notice of Motion	Department	Meeting Resolved	Status
<p>8.1 – Community Recycling Initiative “freecycle.com”</p> <p><i>That Council investigate the benefits to our community of Council supporting and promoting the Free Cycle recycling initiative.</i></p>	Shire Services	11 March 2009 Cr Best / Cr Graham	A report on this matter will be submitted to Council's meeting of 13 May 2009.
<p>8.2 – Buy Local Jobs Initiative</p> <p>1 <i>That further to the Federal Government's recent announcement of injecting some \$42 billion into the national economy in response to the global financial crisis, the Council in partnership with our local Federal Members, business and the community, capitalise on this spending initiative through promoting a “buy local goods and services” campaign with a view to locally harnessing the \$200m now earmarked for Central Coast expenditure to support and generate local jobs.</i></p> <p>2 <i>That Council invite Gosford City Council to join it thereby making this a regional “buy local goods and services” job initiative.</i></p> <p>3 <i>That Council formally congratulate the local Federal Members for their support of our region in this economic global crisis.</i></p> <p>4 <i>That Council request the Business Enterprise Centre (BEC) be the lead agency in partnership with key stakeholders to facilitate this initiative.</i></p>	Corporate Services	11 March 2009 Cr Best / Cr Wynn	Letters prepared for issue to local Federal Members and the Business Enterprise Centre.

Motion of Urgency	Department	Meeting Resolved	Status
<p>Pacific Brands Redundancy</p> <p>1 <i>That having regard to the disgraceful behaviour of Pacific Brands towards its workers and the abuse of taxpayer funds, Council, as a major client of Pacific Brands through our corporate wardrobe, forward strongly worded correspondence via the General Manager regarding its concerns over their treatment of their staff.</i></p> <p>2 <i>That Council thank our United Services Union for their support with regard to this matter.</i></p>	Corporate Services	11 March 2009 Cr Best / Cr Graham	Letters prepared for issue to Pacific Brands and United Services Union.

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

Question without Notice / Notice of Motion	Outcome
Q066 – Discussions with Developers	Response included in this business paper.
Q006 – Council Committees	Response included in this business paper.
9.2 – Central Coast Express Advocate article	A report is included in this business paper.
10.2 – Encouraging Responsible Disposal of Asbestos	A report is included in this business paper.

**ATTACHMENTS**

*Nil.*



## **8.1           Answers to Question Without Notice**

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TRIM REFERENCE: D01844770

### **8.1           Q066 - Discussions with Developers**

The following question was asked by Councillor Symington at the Ordinary Meeting on 26 November 2008:

*“With reference to Report 512 Proposed Managed Resort and Residential Development, The Entrance Road West, The Entrance, could staff report on previous directions given to Councillors regarding discussions with developers who have development applications being currently assessed?”*

The attached legal advice was sought in response to the above question and was discussed at the Councillor Briefing held on 4 March 2009. Please refer to the attached.

### **ATTACHMENTS**

- 1 Copy of Legal Advice dated 16 February 2009

## 8.2 Answers to Question Without Notice

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TRIM REFERENCE: D01783489

### 8.2 Q006 – Council Committees

The following question was asked by Councillor McBride at the Ordinary Meeting on 11 February 2009:

*“What is the annual cost to Council of the Council Committees? What is the criterion for the formation of a Committee and what is the cycle for review of Committees?”*

Committees are set up at the discretion of Council and are reviewed in accordance with their Charter. All committees that are set up by Council have a “sunset” clause which requires the reappointment of the committees immediately following the general election of Councillors.

Council may review a committee's operation at any time.

The following committees have legal or statutory authority beyond section 355 of the Local Government Act and can not be dissolved by a resolution of Council:

- Traffic Committee
- Consultative Committee
- Gosford Wyong Councils' Water Authority

Traffic Committee is set up under the authority of the Roads Act and the Committee is not directly controlled by Council. Consultative Committee is set up under the authority of the Local Government Employees Award. Gosford Wyong Councils' Water Authority is set up through a legal instrument.

Tuggerah Lakes Estuary, Coastal and Floodplain Management Committee has been set up for the Estuary, Coastal and Floodplain Management Plans in response to the State Government funding guidelines. Whilst Council could dissolve this committee such a decision could impact on the level of State Government funding.

The Beach Liaison Committee will cease to operate if a Beach Management Plan is adopted by Council before the next general election.

The following table lists all Committees and the details of the number of times they meet per annum and the estimated time staff spend servicing the committee. The staff time recorded against each committee is based on estimates provided by the managers and directors responsible for each committee. The report has been based on estimates because staff time and resources are not costed direct to the committees.

Committee Name	Meeting Schedule	Administration Staff		Managers & Directors	
		Time in Hours	Cost @ \$60 Hr	Time in Hours	Cost @ \$150 Hr
Beach Liaison	6	24	1,440	213	31,950
Consultative	11	44	2,640	30	4,500

Committee Name	Meeting Schedule	Administration Staff		Managers & Directors	
Gosford Wyong Councils' Water Authority	4	92	5,520	100	15,000
Governance	5	80	4,800	120	18,000
Grants	4	28	1,680	40	6,000
Traffic	11	1,638	98,280	180	27,000
Tuggerah Lakes Estuary, Coastal and Floodplain Management	11	231	13,860	280	42,000
Seniors Council	11	165	9,900	11	1,650
Sister City	5	75	4,500	15	2,250
Sports	4	28	1,680	30	4,500
<b>Total</b>		<b>2,405</b>	<b>\$144,300</b>	<b>1,019</b>	<b>\$152,850</b>

The estimate of administrative time shown in the table above refers to the staff providing administrative support such as preparing agendas, minute taking and minute preparation. The estimate of managers and directors time represents their time preparing reports, attending meetings and implementing committee outcomes.

The cost per hour of staff time used in the table above is based on average salary costs including support costs.

The printing costs to produce the business papers and minutes of these committees is estimated at \$50,000 per annum.

When the above costs are taken into account a conservative estimate of the cost of operating Council's committees is shown below:

	\$
Administration Cost	144,300
Management & Directors Costs	152,850
Printing Costs	<u>50,000</u>
Total Cost of Committees (estimates)	<u>\$347,850</u>

The above Cost of \$347,850 is the estimated cost of operating all Council committees. If the cost of operating Traffic Committee, Consultative Committee, Gosford Wyong Councils' Water Authority and Tuggerah Lakes Estuary, Coastal and Floodplain Management Committee is removed from this estimate the cost of operating the remaining committees is estimated to be \$138,350 per annum.

## ATTACHMENTS

*Nil.*

## **9.1 Notice of Motion - Woodfired Heaters**

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TRIM REFERENCE: D01840185

AUTHOR: SW

Councillor Graham has given notice that at the Ordinary Meeting to be held on 25 March 2009 he will move the following Motion:

*“That in accordance with Council's support for sustainability initiatives and to minimise the potential negative social and environment impacts of woodfired heaters, Council staff report on:*

- 1 Options to encourage the community to embrace the responsible operation of woodfired heaters, including the use of legislation and enforcement; and*
- 2 Options for promoting the responsible operation of woodfired heaters by way of a media campaign leading into the winter months.”*

## **9.2 Notice of Motion - Proposed Trial of Green Concrete**

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TRIM REFERENCE: D01845415

AUTHOR: SW

Councillor Wynn has given notice that at the Ordinary Meeting to be held on 25 March 2009 she will move the following Motion:

*“That, following the report on the use of ‘Green Concrete’, from the 11 March 2009 Ordinary Council meeting:*

- 1 Council notify Zeobond that, if the company wishes to have a small scale field trial in NSW, this Council would be interested in being in that trial.*
- 2 Council endeavour to purchase and use the material to replace partially or wholly Portland cement where it is deemed a suitable if E-crete becomes available in NSW.”*

### **9.3 Notice of Motion - Ensuring Compliance of Guttering with Building Code of Australia**

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TRIM REFERENCE: D01845645

AUTHOR: SW

Councillor Wynn has given notice that at the Ordinary Meeting to be held on 25 March 2009 she will move the following Motion:

- "1 That Council consider a report as to how Council can immediately amend the standard conditions of consent to explicitly ensure that all new approvals for building works involving new or replacement guttering comply with the Building Code of Australia.*
  
- 2 That Council use local media outlets to alert the community to the problem"*

#### **9.4 Notice of Motion - Safety Concern Regarding an Unfenced Pool at Summerland Point**

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TRIM REFERENCE: D01845651

AUTHOR: SW

Councillor Symington has given notice that at the Ordinary Meeting to be held on 25 March 2009 he will move the following Motion:

- "1 That Council as a matter of urgency erect a temporary construction type fence along the North West boundary of the public walkway between 32 and 34 Gordon Avenue Summerland Point. The fence is to extend from the front boundary along Gordon Avenue, down to the waters edge of Lake Macquarie in such a manner as to make safe the unfenced pool in the rear yard of No 34 Gordon Avenue.*
  
- 2 That Council contact the appropriate State Government Minister and request that pool fencing legislation be revised and/or amended to ensure this ridiculous anomaly is removed from the legislation."*

#### **COUNCILLORS NOTE**

This situation has been before Council for approximately three years and remains unresolved.

No 34 Gordon Avenue is an absolute waterfront property and as such is not subject to standard pool fencing legislation. The owner of No 34 has installed an inground swimming pool in his rear yard and has declined to fence the pool or the side boundary that adjoins a public walkway which provides access to the Lake. This then exposes direct access to the unfenced pool.

The owner has made repeated attempts to purchase the walkway from Council which have been refused.

NSW State Government have recently completed a review of pool fencing but neglected to address this anomolous situation even though submissions were made by the Precinct body and others.

Council have sought legal advice but have no power to enforce the fencing of the pool and therefore it is imperative that this temporary fence be erected to prevent a possible drowning tragedy.

## **9.5 Notice of Motion - Surf and Sand Series (SSS)**

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TRIM REFERENCE: D01846794

AUTHOR: MW

Councillor G P Best has given notice that at the Ordinary Meeting to be held on he will move the following Motion:

- "1 That further to Surf Life Savings Central Coast's request for Council assistance with their proposed new surf championship initiative known as Surf and Sand Series, Council give consideration as to the benefits of sponsoring such an event.*
- 2 That subject to Councils support, Council fund the event from the line item 1.1.15 08/09 budget unallocated residual funds."*

### **COUNCILLORS NOTE**

Attached is a brief overview of the concepts, objectives, goals and benefits. Further, a representative from Surf Life Saving will be on hand at Council's meeting to assist Councillors in their consideration. I commend the motion to the Chamber.

- 1 Notice of Motion Cr Best Surf and Sand Series Attachment**