
WYONG SHIRE COUNCIL

REPORTS TO THE ORDINARY MEETING OF COUNCIL

TO BE HELD IN THE COUNCIL CHAMBER,
WYONG CIVIC CENTRE, HELY STREET, WYONG
ON WEDNESDAY, 26 MARCH 2008,
COMMENCING AT 4.00 PM

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ORDINARY MEETING OF COUNCIL

26 March 2008

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WYONG SHIRE COUNCIL

26 March 2008
To the Ordinary Meeting of Council

General Manager's Report

111 Disclosures of Interest

F2008/00003 ED:MR

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

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

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

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

RECOMMENDATION

That Councillors now disclose any interests and reasons for declaring such interest in the matters under consideration by Council at this meeting.

WYONG SHIRE COUNCIL

26 March 2008
To the Ordinary Meeting of Council

General Manager's Report

112 Proposed Inspections

F2008/00003 ED:MR

SUMMARY

Inspections proposed to be held on 26 March 2008 and prior to the second Ordinary Meeting are listed as follows:

Date of Inspection	Location	Requested By
26 March 2008	477- 481 The Entrance Road, Long Jetty – Commercial development of restaurant, bulky goods, car parking and demolition of existing structures.	Director Shire Planning
26 March 2008	Buff Point Cycleway	Director Shire Services
26 March 2008	Noraville Cemetery Memorial Gardens – Completion of Stage 1	Director Shire Services
26 March 2008	Dickson Road – Reconstruction	Director Shire Services

RECOMMENDATION

That the report on inspections to be conducted on Wednesday, 26 March 2008 be received and the information noted.

WYONG SHIRE COUNCIL

26 March 2008
To the Ordinary Meeting of Council

General Manager's Report

113 Proposed Briefings

F2008/00003 ED:MR

SUMMARY

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

Date	Briefing	Description	Time	Presented by
26 March 2008	2008/2009 Management Plan	Question and answer session, prior to proceeding with exhibition	2.00 pm – 3.00 pm	Manager Economic/Corporate Planning
1 April 2008	Workshop	Various Issues	12.00 noon – 6.00 pm	General Manager

RECOMMENDATION

That the report be received and the information noted.

WYONG SHIRE COUNCIL

26 March 2008
To the Ordinary Meeting of Council

General Manager's Report

114 Address by Invited Speakers

F2008/00003 ED:MR

SUMMARY

The following person has been invited to address the meeting of Council:

SPEAKERS	REPORT	PAGE NO	DURATION
Ms Caroline Donnelly, resident (against the proposal)	117 - Proposed Wholesale and Retail Plant Nursery and Associated Facilities at Lot 2 DP 1100181 Bundeena Road, Glenning Valley	30	5 minutes

RECOMMENDATION

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

WYONG SHIRE COUNCIL

26 March 2008
To the Ordinary Meeting of Council

General Manager's Report

115 Notice of Intention to Deal With Matters in Confidential Session

F2008/00003 ED:MR

SUMMARY

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

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

RECOMMENDATION

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

***W006 – Land and Environment Court Proceedings 11054 of 2007:
Expansion of Existing Caravan Park (Valhalla) at Mulloway Road,
Chain Valley Bay – DA/2338/2005***

W007 - Waterfront Tourist Park, Canton Beach

- 2 *That the reason for dealing with Report No W006 – Land and Environment Court Proceedings 11054 of 2007: Expansion of Existing Caravan Park (Valhalla) at Mulloway Road, Chain Valley Bay – DA/2338/2005 confidentially is that it contains advice concerning litigation, or advice that would otherwise be privileged from production in legal proceedings on the ground of legal professional privilege.***
- 3 *That the reason for dealing with Report No W007 – Waterfront Tourist Park, Canton Beach confidentially is that it is information that would, if disclosed, confer a commercial advantage on a person with whom the Council is conducting (or proposes to conduct) business.***
- 4 *That, in accordance with the Council resolution, the General Manager will report on this matter to the meeting in Confidential Session.***

26 March 2008
To the Ordinary Meeting of Council

General Manager's Report

116 Confirmation of Minutes of Previous Meeting

F2008/00003 ED:MR

SUMMARY

Confirmation of minutes of the previous Ordinary Meeting of Council held on 12 March 2008.

RECOMMENDATION

That the minutes of the previous Ordinary Meeting of Council held on 12 March 2008 be received and confirmed.

WYONG SHIRE COUNCIL
MINUTES OF THE
ORDINARY MEETING OF COUNCIL
HELD IN THE COUNCIL CHAMBER
WYONG CIVIC CENTRE, HELY STREET, WYONG
ON WEDNESDAY, 12 MARCH 2008,
COMMENCING AT 5.00 PM

PRESENT

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

IN ATTENDANCE

GENERAL MANAGER, DIRECTOR SHIRE SERVICES, DIRECTOR CORPORATE SERVICES, DIRECTOR SHIRE PLANNING, ASSISTANT DIRECTOR SHIRE SERVICES, MANAGER DEVELOPMENT ASSESSMENT, ACTING MANAGER FUTURE PLANNING, AND AN ADMINISTRATION OFFICER.

THE MAYOR NOTED THAT:

- * TONIGHT'S MEETING IS DAVID CATHERS LAST COUNCIL MEETING AND HE FORMALLY THANKED HIM FOR HIS YEARS OF SERVICE IN COUNCIL AND THE IMPACT HE HAS HAD ON WYONG SHIRE OVER THE YEARS.
- * THE OFFICIAL FAREWELL FOR BOB BUTT WAS HELD RECENTLY AND HE EXTENDED HIS THANKS TO HIM, ON BEHALF OF COUNCIL, FOR HIS MANY YEARS OF SERVICE IN COUNCIL.

THE MAYOR, COUNCILLOR W J WELHAM, DECLARED THE MEETING OPEN AT 5.00 PM, ADVISED THAT THE MEETING IS BEING RECORDED AND PASTOR PHIL OLDFIELD DELIVERED THE OPENING PRAYER.

APOLOGIES

THERE WERE NO APOLOGIES.

Minutes of the Ordinary Meeting of Council held on 12 March 2008 (contd)

089 Disclosures of Interest

F2008/00003 ED:MR

098 SUBMISSION ON THE WYONG EMPLOYMENT ZONE

COUNCILLOR EATON DECLARED A NON-PECUNIARY SIGNIFICANT CONFLICT OF INTEREST IN THE MATTER FOR THE REASON THAT HE IS THE SOLICITOR FOR A LANDOWNER OF SIGNIFICANT EMPLOYMENT LAND WHICH COULD BE SEEN AS COMPETING WITH THE WYONG EMPLOYMENT ZONE LEFT THE CHAMBER AT 6.20 PM, TOOK NO PART IN DISCUSSION, DID NOT VOTE AND RETURNED TO THE CHAMBER AT 6.27 PM.

100 RECREATION SMOKE – FREE POLICY

COUNCILLOR PAVIER DECLARED A NON-PECUNIARY INSIGNIFICANT CONFLICT OF INTEREST IN THE MATTER FOR THE REASON THAT THE MOTION INVOLVES “COUNCIL EVENTS” AND PARTICIPATED IN CONSIDERATION OF THIS MATTER.

COUNCILLOR PAVIER STATED:

“I CHOOSE TO REMAIN IN THE CHAMBER AND PARTICIPATE IN DISCUSSION AND VOTING AS THE CONFLICT HAS NOT INFLUENCED ME IN CARRYING OUT MY PUBLIC DUTY BECAUSE THE MATTER IS ONE OF A CONSCIENCE VOTE RATHER THAN A FINANCIAL ONE.”

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

That the report be received and advice of disclosures noted.

090 Proposed Inspections

F2008/00003 ED:MR

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

That the report on inspections to be conducted on Wednesday, 26 March 2008 be received and the information noted.

091 Proposed Briefings

F2008/00003 ED:MR

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

That the report be received and the information noted.

Minutes of the Ordinary Meeting of Council held on 12 March 2008 (contd)

092 Address by Invited Speakers

F2008/00003 ED:MR

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

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

093 Confirmation of Minutes of Previous Meeting

F2008/00003 ED:MR

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

That the minutes of the previous Ordinary Meeting of Council held on 27 February 2008 be received and confirmed.

BUSINESS ARISING FROM THE MINUTES

THERE WAS NO BUSINESS ARISING FROM THE MINUTES.

094 Mayoral Minute – Performance Review

F2004/07000

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

- 1 That the performance management process for the General Manager as outlined in Attachment 1 be adopted.***
- 2 That Council delegate the whole process of performance management to the review panel.***
- 3 That Council nominate a Councillor to be part of the review panel.***
- 4 That an interim performance review occurs as a matter of urgency.***

BUSINESS ARISING

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

That Councillor Forster be nominated to be part of the review panel.

095 Changes To Developer Contributions in New South Wales

F2004/00552 PAB:PAB

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

- 1 *That Council call on the State Government to immediately halt the implementation of the new rules for development contributions until:
 - a *The Department of Planning releases the draft guidelines on the proposed changes to Section 94 contributions to enable Councils to properly assess the potential impacts on local communities.*
 - b *All of these potential impacts on local communities, including both the economic and social ramifications have been properly considered and addressed.**
- 2 *That Council endorse the actions of the Presidents and Executives of the Local Government and Shires Associations in mounting a campaign on the NSW Government's proposed planning changes, including both the issue of section 94 developer contributions and the recommendations in the Government's discussion paper, and preparing an alternative reform package as a basis for discussion with the Government, councils, stakeholders and the community.*
- 3 *That Council consider making a contribution to the Local Government and Shires Associations' costs of engaging high level lobbying and media representation to formulate and assist with the implementation of a continuing public campaign, subject to the exact amount of contribution being brought back to Council for endorsement.*
- 4 *That this matter be raised with the Federal Minister for Local Government, Anthony Albanese, highlighting that Council believes there should be a role for the Federal Government in funding infrastructure in new release areas to assist in making housing costs affordable.*

Minutes of the Ordinary Meeting of Council held on 12 March 2008 (contd)

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

That Council call on the State Government, in conjunction with the Federal Government, to develop a new policy of funding community infrastructure that protects and enhances housing affordability.

FOR: COUNCILLORS **BEST, EATON AND VEUGEN.**

AGAINST: COUNCILLORS **FORSTER, GRAHAM, PAVIER, ROSE, STEVENS, STEWART AND WELHAM.**

The AMENDMENT was put to the VOTE and declared LOST.

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

- 1 That Council call on the State Government to immediately halt the implementation of the new rules for development contributions until:**
 - a The Department of Planning releases the draft guidelines on the proposed changes to Section 94 contributions to enable Councils to properly assess the potential impacts on local communities.**
 - b All of these potential impacts on local communities, including both the economic and social ramifications have been properly considered and addressed.**
- 2 That Council endorse the actions of the Presidents and Executives of the Local Government and Shires Associations in mounting a campaign on the NSW Government's proposed planning changes, including both the issue of section 94 developer contributions and the recommendations in the Government's discussion paper, and preparing an alternative reform package as a basis for discussion with the Government, councils, stakeholders and the community.**
- 3 That Council consider making a contribution to the Local Government and Shires Associations' costs of engaging high level lobbying and media representation to formulate and assist with the implementation of a continuing public campaign, subject to the exact amount of contribution being brought back to Council for endorsement.**

Minutes of the Ordinary Meeting of Council held on 12 March 2008 (contd)

- 4** *That this matter be raised with the Federal Minister for Local Government, Anthony Albanese, highlighting that Council believes there should be a role for the Federal Government in funding infrastructure in new release areas to assist in making housing costs affordable.*

FOR: COUNCILLORS FORSTER, GRAHAM, PAVIER, ROSE, STEVENS, STEWART, VEUGEN AND WELHAM.

AGAINST: COUNCILLORS BEST AND EATON.

096 **Proposed Wholesale and Retail Plant Nursery and Associated Facilities at Lot 2 DP 1100181 Bundeena Road, Glenning Valley**

DA/611/2006 DAL:DAL

THE DIRECTOR SHIRE PLANNING WITHDREW THIS ITEM AS THE APPLICANT REQUESTED AN EXTENSION OF TIME. SINCE THE APPLICANT IS CURRENTLY OVERSEAS, PERMISSION WAS GRANTED FOR THIS ITEM TO BE DEFERRED UNTIL THE NEXT MEETING.

097 **Submission on the Warnervale Town Centre Exhibition**

F2004/00535-04 SCF:SCF

COUNCILLOR BEST LEFT THE CHAMBER AT 6.14 PM AND RETURNED TO THE CHAMBER AT 6.15 PM.

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

- 1 *That Council express its concern to the Minister for Planning that previous submissions and details submitted by staff have not been adequately taken into account.*
- 2 *That Council make a formal submission to the Department of Planning on the Warnervale Town Centre Rezoning and associated documentation along the lines of the enclosed draft submission.*
- 3 *That Council make representation to the Minister for Planning that the issues raised in Council's submission be reviewed and taken into account prior to this rezoning proceeding to gazettal and that such review be undertaken in a timely manner to ensure that amendments to the rezoning plans are made as soon as practical.*
- 4 *That Department of Planning staff continue to liaise with Council staff on at least a fortnightly basis, as agreed by the representatives of the Department of Planning on 27 February 2008.*

Minutes of the Ordinary Meeting of Council held on 12 March 2008 (contd)

- 5 *That the Department of Planning be requested to form a working group consisting of officers of the relevant State Government agencies and Wyong Shire Council staff to mutually resolve the various issues raised by this Council and other stakeholders.*

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

- 1 *That Council express its concern to the Minister for Planning that previous submissions and details submitted by staff have not been adequately taken into account.*
- 2 *That Council make a formal submission to the Department of Planning on the Warnervale Town Centre Rezoning and associated documentation along the lines of the enclosed draft submission.*
- 3 *That Council make representation to the Minister for Planning that the issues raised in Council's submission be reviewed and taken into account prior to this rezoning proceeding to gazettal and that such review be undertaken in a timely manner to ensure that amendments to the rezoning plans are made as soon as practical.*
- 4 *That Department of Planning staff continue to liaise with Council staff on at least a fortnightly basis, as agreed by the representatives of the Department of Planning on 27 February 2008.*
- 5 *That the Department of Planning be requested to form a working group consisting of officers of the relevant State Government agencies and Wyong Shire Council staff to mutually resolve the various issues raised by this Council and other stakeholders.*
- 6 *That Minister Sartor be advised that Council is willing to substantially reduce its Section 94 Contributions to create affordable housing provided the State Government waives its State Infrastructure Charge.*

FOR: COUNCILLORS BEST, EATON, GRAHAM, PAVIER AND VEUGEN.

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

The AMENDMENT was put to the VOTE and declared LOST on the CASTING VOTE OF THE MAYOR.

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

- 1 *That Council express its concern to the Minister for Planning that previous submissions and details submitted by staff have not been adequately taken into account.*

Minutes of the Ordinary Meeting of Council held on 12 March 2008 (contd)

- 2 ***That Council make a formal submission to the Department of Planning on the Warnervale Town Centre Rezoning and associated documentation along the lines of the enclosed draft submission.***
- 3 ***That Council make representation to the Minister for Planning that the issues raised in Council's submission be reviewed and taken into account prior to this rezoning proceeding to gazettal and that such review be undertaken in a timely manner to ensure that amendments to the rezoning plans are made as soon as practical.***
- 4 ***That Department of Planning staff continue to liaise with Council staff on at least a fortnightly basis, as agreed by the representatives of the Department of Planning on 27 February 2008.***
- 5 ***That the Department of Planning be requested to form a working group consisting of officers of the relevant State Government agencies and Wyong Shire Council staff to mutually resolve the various issues raised by this Council and other stakeholders.***

FOR: COUNCILLORS EATON, FORSTER, ROSE, STEVENS, STEWART AND WELHAM.

AGAINST: COUNCILLORS BEST, GRAHAM, PAVIER AND VEUGEN.

098 Submission on the Wyong Employment Zone

F2004/07714: SJD:SJD

COUNCILLOR EATON DECLARED A NON-PECUNIARY SIGNIFICANT CONFLICT OF INTEREST IN THE MATTER FOR THE REASON THAT HE IS THE SOLICITOR FOR A LANDOWNER OF SIGNIFICANT EMPLOYMENT LAND WHICH COULD BE SEEN AS COMPETING WITH THE WYONG EMPLOYMENT ZONE LEFT THE CHAMBER AT 6.20 PM, TOOK NO PART IN DISCUSSION, DID NOT VOTE AND RETURNED TO THE CHAMBER AT 6.27 PM.

COUNCILLOR VEUGEN LEFT THE CHAMBER AT 6.21 PM AND RETURNED TO THE CHAMBER AT 6.22 PM.

COUNCILLOR PAVIER LEFT THE CHAMBER AT 6.21 PM AND RETURNED TO THE CHAMBER AT 6.22 PM.

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

- 1 ***That Council make a formal submission on the Wyong Employment Zone Rezoning to the Department of Planning.***

Minutes of the Ordinary Meeting of Council held on 12 March 2008 (contd)

- 2** *That Council make a formal submission to the Department of Planning on the Wyong Employment Zone and associated documentation along the lines of the attached draft submission.*
- 3** *That Council make representations to the Minister seeking an exemption from the proposed State Infrastructure Charge for the Wyong Employment Zone and requesting that the Wyong Employment Zone rezoning proceed rapidly to gazettal.*

099 **Renewal of Lease to Family Child Care Services Central Coast Incorporated at Lot 3 Part 10 DP 3136, 31 Alison Road, Wyong**

F2004/12954 JMT

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

- 1** *That Council grant a Lease of Lot 3 Section 10 DP 3136 at 31 Alison Road, Wyong to Family Child Care Services Central Coast Incorporated for a term of two years with an option to the lessee for renewal of the lease for a further two years, commencing 1 April 2008 at a rental of \$14,000 per annum, inclusive of GST, and otherwise generally on the same terms as the current lease.*
- 2** *That Council authorise the Common Seal of Wyong Shire Council to be affixed to the Lease between Wyong Shire Council and Family Child Care Services Central Coast Incorporated.*
- 3** *That Council authorise the Mayor and the General Manager to execute all documents relating to the Lease between Wyong Shire Council and Family Child Care Services Central Coast Incorporated.*

100 Recreation Smoke – Free Policy

F2004/06003 SP:SP

COUNCILLOR PAVIER DECLARED A NON-PECUNIARY INSIGNIFICANT CONFLICT OF INTEREST IN THE MATTER FOR THE REASON THAT THE MOTION INVOLVES "COUNCIL EVENTS" AND PARTICIPATED IN CONSIDERATION OF THIS MATTER.

COUNCILLOR PAVIER STATED:

"I CHOOSE TO REMAIN IN THE CHAMBER AND PARTICIPATE IN DISCUSSION AND VOTING AS THE CONFLICT HAS NOT INFLUENCED ME IN CARRYING OUT MY PUBLIC DUTY BECAUSE THE MATTER IS ONE OF A CONSCIENCE VOTE RATHER THAN A FINANCIAL ONE."

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

- 1 That the Proposed Recreation Smoke - Free Zones in the Draft Policy be amended at points 1 and 3, relating to specific locations in Council controlled areas, as follows:*
 - i Delete "golf courses" and insert "golf driving ranges" and "Council events".*
 - ii Insert after "rock pools", "lake and ocean baths; barbeques, picnic furniture areas and alfresco dining areas".*
- 2 That Council place the amended draft "Recreation Smoke-Free" Policy on public exhibition for a period of 28 days to enable the public to make comments or submissions and adopt subject to no significant objections being raised.*

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

That this matter be deferred for a further briefing.

FOR: COUNCILLORS BEST, EATON AND VEUGEN.

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

The AMENDMENT was put to the VOTE and declared LOST.

Minutes of the Ordinary Meeting of Council held on 12 March 2008 (contd)

A further AMENDMENT was MOVED by Councillor PAVIER and SECONDED by Councillor GRAHAM:

- 1 That the Proposed Recreation Smoke - Free Zones in the Draft Policy be amended at points 1 and 3, relating to specific locations in Council controlled areas as follows:
 - i Delete "golf courses" and insert "golf driving ranges and Council events".
 - ii Insert after "rock pools", "lake and ocean baths; barbeques, picnic furniture areas and alfresco dining areas".
- 2 That Council place the amended draft "Recreation Smoke-Free" Policy on public exhibition for a period of 28 days to enable the public to make comments or submissions and a report be brought back to Council.

FOR: COUNCILLORS GRAHAM AND PAVIER.

AGAINST: COUNCILLORS BEST, EATON, FORSTER, ROSE, STEVENS, STEWART, VEUGEN AND WELHAM.

The AMENDMENT was put to the VOTE and declared LOST.

It was MOVED by Councillor BEST and seconded by Councillor VEUGEN:

That the MOTION be put.

RESOLVED on the motion of Councillor BEST and seconded by Councillor VEUGEN:

That the MOTION be put.

FOR: COUNCILLORS BEST, FORSTER, GRAHAM, PAVIER, ROSE, STEVENS, STEWART, AND VEUGEN.

AGAINST: COUNCILLORS EATON AND WELHAM.

Minutes of the Ordinary Meeting of Council held on 12 March 2008 (contd)

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

- 1 That the Proposed Recreation Smoke - Free Zones in the Draft Policy be amended at points 1 and 3, relating to specific locations in Council controlled areas as follows:**
 - i Delete "golf courses" and insert "golf driving ranges" and "Council events".**
 - ii Insert after "rock pools", "lake and ocean baths; barbeques, picnic furniture areas and alfresco dining areas".**

- 2 That Council place the amended draft "Recreation Smoke-Free" Policy on public exhibition for a period of 28 days to enable the public to make comments or submissions and adopt subject to no significant objections being raised.**

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

AGAINST: COUNCILLORS BEST, EATON, GRAHAM, PAVIER AND VEUGEN.

The MOTION was put to the VOTE and declared CARRIED on the CASTING VOTE OF THE MAYOR.

Minutes of the Ordinary Meeting of Council held on 12 March 2008 (contd)

101 Tathra Lifesaving Club National Campaign on Renewable Energy

F2004/00103 DJI

It was MOVED by Councillor PAVIER and SECONDED by Councillor GRAHAM:

- 1 *That the report be received and the information noted.*
- 2 *That Dr Nott be scheduled to address Council on 11 June 2008.*

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

That the report be received and the information noted.

FOR: COUNCILLORS EATON AND STEWART.

AGAINST: COUNCILLORS BEST, FORSTER, GRAHAM, PAVIER, ROSE, STEVENS, VEUGEN AND WELHAM.

The AMENDMENT was put to the VOTE and declared LOST.

RESOLVED on the motion of Councillor PAVIER and seconded by Councillor GRAHAM:

- 1 ***That the report be received and the information noted.***
- 2 ***That Dr Nott be scheduled to address Council on 11 June 2008.***

FOR: COUNCILLORS BEST, FORSTER, GRAHAM, PAVIER, ROSE, STEVENS, VEUGEN AND WELHAM.

AGAINST: COUNCILLORS EATON AND STEWART.

Minutes of the Ordinary Meeting of Council held on 12 March 2008 (contd)

102 Tuggerah Lakes Estuary Coastal and Floodplain Management Committee

F2004/07986 ED

COUNCILLOR PAVIER LEFT THE CHAMBER AT 7.27 PM AND RETURNED TO THE CHAMBER AT 7.29 PM.

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

- 1 That Council request the State Emergency Service to prepare an appropriate emergency response plan to address significant coastal erosion events.***
- 2 That any such emergency response plan be provided to Councillors for their information.***

Information Reports

The information reports were dealt with by the exception method.

103 Wallarah 2 Coal Mine

F2006/01080 GV:NL

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

That the report be received and the information noted.

104 Disclosure of Interest Returns

F2007/01540 ED

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

That the report be received and the information noted.

Minutes of the Ordinary Meeting of Council held on 12 March 2008 (contd)

105 Outstanding Questions Without Notice and Notices of Motion

F2008/00003 MW:SW

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

That the report be received and the information noted.

106 Notice of Motion - Expedition of Toukley Planning Strategy

F2004/07926 MR

COUNCILLOR VEUGEN LEFT THE CHAMBER AT 7.36 PM AND RETURNED TO THE CHAMBER AT 7.37 PM.

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

- 1 That having regard to the continued decline of the Greater Toukley District ie (Toukley East, Canton Beach, Toukley CBD) Council continue its efforts to encourage the State Government to expedite the Central Coast Regional Strategy.**
- 2 That Council formally recognise the significant planning driver, "The Wyong Shire Settlement Strategy" as a KFA (key focus area) for Council's Planning Department and that this KFA be adequately resourced. Further this KFA now be included in the 07/08 – 08/09 Management Plans.**
- 3 That staff brief Council on the now completed Toukley Economic Feasibility Study and discussions be held at the briefing on timing, benefits and disbenefits of the consideration of an icon project for the greater Toukley district.**

Minutes of the Ordinary Meeting of Council held on 12 March 2008 (contd)

107 Notice of Motion - Pipeline Corridor Quarantine Zone

F2006/01080 MW

COUNCILLOR FORSTER LEFT THE CHAMBER AT 8.04 PM AND RETURNED TO THE CHAMBER AT 8.05 PM.

COUNCILLOR ROSE LEFT THE CHAMBER AT 7.56 PM AND RETURNED TO THE CHAMBER AT 7.59 PM.

MR RON SOKOLOWSKI REPRESENTING AUSTRALIAN COAL ALLIANCE, ADDRESSED THE MEETING AT 7.47 PM, ANSWERED QUESTIONS AND RETIRED AT 7.55 PM.

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

- 1 That the new \$100 million Mangrove/Mardi Water Transfer Pipeline is a project of regional significance and is also recognised as infrastructure that is both economically and socially required for development of the Wyong Region, and the Pipeline is absolutely essential to the provision of the future water requirements of the greater urban areas of the Wyong Region and the Central Coast, and that Council make urgent representations to Planning Minister Sartor formally requesting that he cause such actions as may be within his powers and/or the powers of the Government of NSW to be taken to refuse the proposal for the establishment of a an underground long wall mining operation by longwall mining operations by Wallarah 2, due to the significant subsidence that will occur as a result of its proposed operations. On the grounds that any such mining operations will have unacceptable environmental, social, commercial, industrial and community development effects on the Wyong Region.**
- 2 That as the new \$100 Million Mangrove Mardi water transfer pipeline is a project of regional significance and is also recognised as economically and socially vital infrastructure, Council make urgent representations to Planning Minister Sartor, formally requesting the proposed pipeline corridor be quarantined from mining due to the extensive subsidence predicted by Wallarah 2, the mine proponents.**
- 3 That regardless of the outcome of 1 above and in the event that the State Government approves the mine plan, Council request the Minister to condition the applicant Wallarah 2 to fund all costs associated with engineering the pipeline to accommodate predicted subsidence levels.**
- 4 That Council investigate the merit of requesting a pipeline bond fund to be established by Wallarah 2 in the event of a pipeline failure due to mining activities.**

Minutes of the Ordinary Meeting of Council held on 12 March 2008 (contd)

108 Notice of Motion – Warnervale Town Centre Exhibition

F2004/00535

COUNCILLOR GRAHAM LEFT THE CHAMBER AT 8.06 PM AND RETURNED TO THE CHAMBER AT 8.07 PM.

COUNCILLOR PAVIER LEFT THE CHAMBER AT 8.13 PM AND RETURNED TO THE CHAMBER AT 8.15 PM.

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

- 1 That Council make urgent representations to the Member for Wyong, Mr David Harris, and to the Member for Swansea, Mr Robert Coombs, to change residential zones imposed under part 3A applications in Warnervale East and Gwandalan to those consistent with current 2A single cottage residential zones.***
- 2 The representations to the Member for Wyong also suggest the removal of brothel provisions of the Warnervale Town Centre Development Control Plan.***

109 Notice of Motion – Council’s Landholdings

F2004/00535

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

That a report be provided on Council’s landholdings in the Warnervale area including details of current and projected use, zonings and value.

110 Notice of Motion – Submission for Black Spot Funding

F2004/06312

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

- 1 That Council formally make submission to the black spot funding program for:
 - a the roundabout intersection of Wyong Road and Tuggerah Straight**
 - b The Cobbs Road/F3 Interchange.****
- 2 That Council advise the Roads and Traffic Authority (RTA) that it has taken this action because of its extreme concern of the potential for a fatality to occur at both of these locations.**
- 3 That staff report to Council relevant data to support the submission including traffic volumes and accident history.**

LEAVE TO INTRODUCE A MOTION OF URGENCY

COUNCILLOR BEST SOUGHT TO INTRODUCE A MOTION OF URGENCY CONCERNING AN INCIDENT OF FAECAL COLI FORM CONTAMINATION IN THE WATER SUPPLY AT GWANDALAN RECENTLY WHICH HAD THE POTENTIAL FOR SIGNIFICANT DAMAGE TO THE YOUNG AND THE ELDERLY.

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

That Council consider a Motion of Urgency regarding an incident of faecal coli form contamination issue in the water supply at Gwandalan recently.

FOR: COUNCILLORS BEST AND VEUGEN.

AGAINST: COUNCILLORS EATON, FORSTER, GRAHAM, PAVIER, ROSE, STEVENS, STEWART AND WELHAM.

The MOTION was put to the vote and declared LOST.

QUESTIONS WITHOUT NOTICE ASKED**Q012 – Upkeep of Coral Street Carpark, The Entrance****Councillor Stewart**

F2004/13195

“Could staff advise on the upkeep of the Coral Street carpark; in particular the maintenance of the lifts, the landscaping in Duffy’s Lane and the overall cleanliness of the carpark, in particular the stairwells and the louvers in Duffy’s Lane.?”

Q013 – Vehicular Access in Rutleys Road, Doyalson**Councillor Stevens**

DA/204/2007

“Could staff advise Council of the progress/situation in regard to safe vehicular access to and from places of business on Rutleys Road, Doyalson?”

Q014 – Pest/Vermin Control/Eradication Programs scheduled for the Bateau Bay/Shelly Beach areas.**Councillor Forster**

F2004/06940

“Could staff advise what pest/vermin control/eradication programs are currently scheduled for the Bateau Bay/Shelly Beach areas – particularly those for rabbit control?”

Q015 – Legal Proceedings Council vs Darcy Smith**Councillor Pavier**

F2007/01468 and F2004/07626

“Legal results with Darcy Smith are now Smith - 4/ Council - 0 and over \$200,000 of legal expenses for the ratepayers. When is Council proposing to negotiate with Mr Smith and how can Councillors feel comfortable that non-legal avenues are being explored with this person?”

Minutes of the Ordinary Meeting of Council held on 12 March 2008 (contd)

Q016 – Length of time required to prepare an Assessment of Significance

Councillor Pavier

F2004/07052

“How long does it take to do an Assessment of Significance (7 part Test) and would it take longer to process than two weeks?”

Q017 – Date of Proposed Meeting between Council and Minister Nathan Rees

Councillor Eaton

F2004/08792

“Could Council advise if and when the requested meeting between Councillors and Minister Nathan Rees will occur?”

Q018 – Vegetation Study along Hue Hue Road.

Councillor Eaton

CPA/138942

“Could Council advise why and on whose authority Council is undertaking a vegetation study along Hue Hue Road and what rights of entry Council has in relation thereto?”

Q019 – Rezoing application by Westfield for Land at Corner of Cobbs Rd, Tonkiss Street and the F3.

Councillor Welham

RZ/2/2007

“Could staff advise on the progress of the lodged rezoning application by Westfield on the site of the corner of Cobbs Road, Tonkiss Street and the F3?”

Minutes of the Ordinary Meeting of Council held on 12 March 2008 (contd)

Q020 – Competitive Section 94 Analysis**Councillor Best**

F2006/01781, F2006/002289

“Mr General Manager my question is seeking information as to what comparisons were undertaken with regard to contributions levied in other similar Local Government Areas, such as the Lower Hunter, to ensure market parity and competitiveness in the Wyong Employment Zone and the Warnervale Town Centre. Further, on what basis were the standards of provision of facilities and Services in the Warnervale Town Centre determined? Could analysis and summaries please be attached to Staff’s reply?”

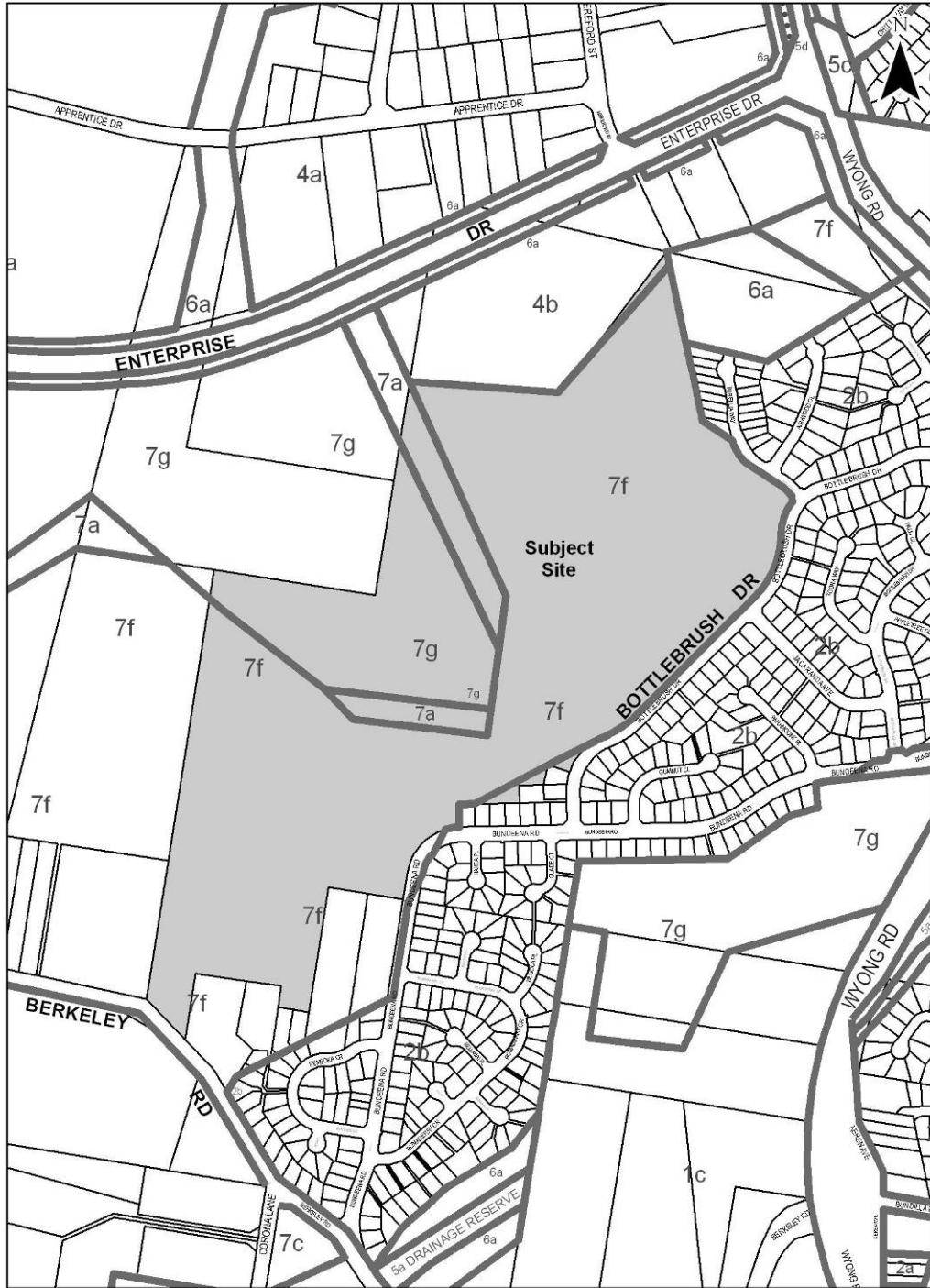
THERE BEING NO FURTHER BUSINESS, THE MEETING CLOSED AT 8.27 PM.

.....
CHAIRPERSON

AN INFORMAL DISCUSSION WAS HELD FROM 8.32 PM AND CONCLUDED AT 9.02 PM.

117 Proposed Wholesale and Retail Plant Nursery and Associated Facilities at Lot 2 DP 1100181 Bundeena Road, Glenning Valley (Attachment 1)

Locality Plan



WYONG SHIRE COUNCIL

26 March 2008
To the Ordinary Meeting of Council

Director's Report
Shire Planning Department

**117 Proposed Wholesale and Retail Plant Nursery and Associated
Facilities at Lot 2 DP 1100181 Bundeena Road, Glenning
Valley**

DA/611/2006 DAL:DAL

SUMMARY

An application has been received for clearing, cut and fill, construction and operation of a wholesale and retail nursery, water management system and associated buildings and facilities on land at Bundeena Rd, Glenning Valley. The application has been examined having regard to the matters for consideration detailed in section 79C of the Environmental Planning and Assessment (EP&A) Act and other statutory requirements with the issues requiring attention and consideration being addressed in the report. Following consideration of these matters and the likely environmental impacts of the development as proposed, the application is recommended for refusal.

Applicant Owner	Planning Workshop Australia Tuta Products Wellington Point Pty Ltd Arminella Pty Ltd CMF Properties Pty Ltd Silkdean Pty Ltd
Application No	DA 611/2006
Description of Land	Lot 2 DP 1100181 - Bundeena Road, Glenning Valley Previously Lot 3000 DP 815746
Proposed Development	Wholesale and retail plant nursery - including vegetation clearing, cut and fill, water management system and associated buildings, facilities and access
Site Area	38.182 hectares
Zoning	7 (a) – Conservation Zone 7(f) - Environmental Protection Zone 7(g) - Wetlands Management Zone 2(b) - Multiple Dwelling Residential Zone Development area entirely within 7(f) portion of site
Existing Use	Vacant land
Employment Generation	Estimated 40 full-time equivalent staff
Value	\$1.95 million

Proposed Wholesale and Retail Plant Nursery and Associated Facilities at Lot 2 DP 1100181 Bundeena Road, Glenning Valley (contd)

RECOMMENDATION

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

PRECIS

- Development of the land for a plant nursery is permissible with Council's consent in the 7(f) Environmental Protection Zone.
- The development will result in the clearing of at least 6.5ha of high quality vegetation (including ~50 hollow bearing trees) and will have significant impacts on an additional 6.9ha of native vegetation (total 13.4ha).
- The lot forms part of a sub-regional wildlife corridor identified under a previous Council planning strategy. The lot adjoins a Council reserve containing a State Environmental Planning Policy (SEPP) 14 Wetland, an Endangered Ecological Community (EEC) and which forms part of the formal Property Vegetation Plan (PVP) entered into with the Hunter-Central Rivers Catchment Management Authority (CMA) on which Council is currently managing approximately \$450,000 of bushland rehabilitation works.
- No water recycling is proposed. The application proposes the release of treated wastewater into the environment downstream of the nursery.
- Council does not have certainty that the development, as proposed, has the ability to mitigate the environmental impacts of the nursery operation.
- The development may result in the equivalent of 40 full-time jobs.
- 165 objections were received following notification of the original application and a further 67 objections received following notification of the amended proposal (a total of 232 objections). It is further noted that there were additional multiple submissions from a number of individuals and organisations.

Proposed Wholesale and Retail Plant Nursery and Associated Facilities at Lot 2 DP 1100181 Bundeena Road, Glenning Valley (contd)

INTRODUCTION

The Site

The subject lot is a 38.182ha irregularly shaped parcel of land with frontage on the eastern side to the Glenning Valley residential area and extending to Berkeley Road to the south. The proposed development is located on the northern part of the site and provision for access has been made via Blade Close (currently under construction) onto Enterprise Drive. The subject site has multiple zonings, with the proposed development area zoned entirely 7(f) - Environmental Protection Zone. The well vegetated site is located above the floodplain and adjoins protected wetlands directly to the south-west owned by Council for community and environmental purposes.

The development footprint has been located away from the existing residential development to minimise social and noise impacts, however this has resulted in the location of the development generally over significantly better quality vegetation and closer to the EEC and wetland on the adjacent Council property, rather than on the somewhat degraded land in the northern extent of the property.

Physical Characteristics

The area of the subject lot containing the proposed development is characterised as the higher slopes of the local topography, predominantly oriented to the south-west and with a slope of 8-9%, terminating in wetland areas to the west and south of the proposed development site. The site is covered in generally high quality vegetation described as Blackbutt Open Forest, with intact ground layers, understorey and canopy. There is some evidence of disturbance related to informal trails, some fill and a low incidence of weeds along the edges.

The site is immediately to the east, and hydrologically above, an extensive existing wetland consisting predominantly of an EEC, Freshwater Wetlands on Coastal Floodplains, mapped under SEPP 14 - Coastal Wetlands and owned by Council. Vegetation surrounding the wetland itself is considered to form the EEC Swamp Sclerophyll Forest on Coastal Floodplains (SSFCF) and this extends onto the subject property, approximately 100m below the proposed development site.

Fieldwork conducted for the development application indicates 67 native fauna species have been encountered on the site which also provides potential foraging, or roosting and breeding habitat for a range of both threatened and more common species. The proposed development footprint contains at least 50 hollow bearing trees with a variety of hollow sizes suitable for a range of fauna (no detailed plan of hollow bearing trees has been provided). The site is noted as Bushfire Prone Land; however, as the proposal is for non-residential purposes, a formal referral to the Rural Fire Service is not required.

Proposed Wholesale and Retail Plant Nursery and Associated Facilities at Lot 2 DP 1100181 Bundeena Road, Glenning Valley (contd)**The Proposed Development**

The application seeks to clear 6.5ha of the site containing predominantly high quality vegetation (Black Butt Open Forest), perform extensive earthworks including the reshaping of the entire development site, construction of two dams, and construction of a wholesale and retail nursery operation.

The proposed nursery consists of four buildings containing shade houses, retail space, administrative areas and servicing facilities. The buildings are joined by entry canopies and the buildings themselves total approximately 3,500m² of floor space. A further 7,700m² of external retail area is available where plants can be displayed and an additional area of approximately 24,000m² forms the wholesale plant growing area. There is an additional 3,200m² of area provided for bulk landscape supplies.

The amended submission indicates that 268 carparking spaces will be provided, including 124 overflow spaces to the south-eastern part of the site. The access and carparking will be required to accommodate heavy vehicles including semitrailers.

The nursery would be accessed via a 20m right-of-carriageway extending from Blade Close, which in turn joins Enterprise Drive. Blade Close is currently being constructed in accordance with a previous development consent (DA 563/1993/A) and the intersection with Enterprise Drive is currently required to be of Type B construction. The volume of traffic generated by the proposed nursery would require the intersection to be upgraded to a Type CH "channelised seagull intersection".

A key issue on the site is the need to manage water on the site to maintain pre-development flows to the retained bushland and maximise the water available for use by the nursery to reduce demand on Council's potable water supply. Due to the particular characteristics of the development site (vegetation types, slope, topography etc) there is a particular need to focus on the ultimate impacts of the proposed development with regard to water management.

The final proposed water management system states that 28 ML of water per year is required to adequately service the nursery. The system seeks to harvest up to 18 ML of water from the roof and carpark areas of the site per year, storing this in four retention tanks totalling 2.35 ML. The proposed system would require a minimum of 10 ML per year (or 52.7 ET) of water to be sourced from Council's potable water supply during an average year. The proposed system does not seek to recycle water captured from pervious areas or nursery operations for reuse as irrigation water. The applicant considers it is not viable to treat run-off water from the nursery to the required standard where it could be reused, however considers that treatment will be adequate to release this water to the sensitive surrounding environment.

Proposed Wholesale and Retail Plant Nursery and Associated Facilities at Lot 2 DP 1100181 Bundeena Road, Glenning Valley (contd)

Run-off from the nursery retail, growing and bulk landscape supplies areas would be directed to two proposed detention ponds for treatment and then released onto the adjoining bushland, in conjunction with water captured from the retained bushland on the northern part of the development site. It is an unacceptable risk to the sensitive receiving environment to rely on potentially polluted flows.

Council has required the submission of significant information regarding the operation and management of the nursery, including a draft Nursery Plan of Management (POM), in order to assess the likely impacts of the proposal. This information has not been provided to Council's satisfaction.

HISTORY

Council originally zoned the subject land and adjoining lands 7(f) - Environmental Protection Zone in 1985 for the purpose of creating a noise buffer zone between the Berkeley Vale West Industrial Area and the Berkeley Vale West residential area (now referred to as Glenning Valley).

Following the introduction of this zone, there had been a number of enquiries and attempts to have portions of the subject site rezoned for other purposes, particularly with the intent of extending residential development west of Bottlebrush Drive. Council files show an extensive history of investigations and negotiations regarding these proposals, particularly focussed on the environmental constraints and likely noise impacts on any future residents. Flora and fauna investigations conducted by Conacher Travers in 2003 subsequently formed the basis of the original environmental assessment information for the current application.

DA 563/1993 approved to subdivide the adjoining 4(b) Light Industrial Zoned lot to the north for industrial purposes. This consent has physical commencement and was amended in October 2006 (DA 563/1993/A) to provide suitable access to the subject lot. The subdivision is currently under construction.

A summary of the current application is attached.

Proposed Wholesale and Retail Plant Nursery and Associated Facilities at Lot 2 DP 1100181 Bundeena Road, Glenning Valley (contd)

STATUTORY REQUIREMENTS**Clause 5A – EP&A Act(1979)**

This clause details the requirements for Council to consider development that is likely to have a significant impact on Threatened Species, Populations and Ecological Communities and requires (in conjunction with Clause 78A) the submission of Seven-Part Tests and suitable Species Impact Statements (SIS) where applicable. Council accepts the validity of the Eight-Part Tests (regulations have changed during the period of the application) originally submitted with the application.

However, following evidence of the likely use of the site by koalas and the subsequent addition to the Department of Environment and Climate Change (DECC) Wildlife Atlas, Council requested the preparation of appropriate Seven-Part Test and potential Species Impact Statement (SIS) with respect to this threatened species. No additional surveys were undertaken by the applicant and there is no detail in the submitted reports demonstrating that spotlight transects were targeted in likely koala habitat areas, or that specialist koala survey techniques were used. Council is unable therefore to reasonably determine the likely impact on a possible koala population or to form a reasonable judgement as to whether the concurrence of DECC is required. Given this, the impacts of the development are uncertain and unquantified, which does not give Council enough certainty to consent to the development.

Clause 78A (8) (b) - EP&A Act(1979)

(8) A development application must be accompanied by:

- (b) if the application is in respect of development on land that is, or is a part of, critical habitat or is likely to significantly affect threatened species, populations or ecological communities, or their habitats—a species impact statement prepared in accordance with Division 2 of Part 6 of the Threatened Species Conservation (TSC) Act 1995 .*

As noted above, the applicant has not submitted the relevant Seven-Part Test with respect to a potential koala population on site, nor supported the assertion of non significance by suitable fieldwork and analysis. Council cannot therefore be reasonably satisfied that this section of the legislation has been adequately observed, nor that formal concurrence of DECC is not required.

Proposed Wholesale and Retail Plant Nursery and Associated Facilities at Lot 2 DP 1100181 Bundeena Road, Glenning Valley (contd)

Wyong Local Environmental Plan (WLEP) 1991

Clause 2 – Aims, objectives etc

The relevant aims and objectives are reproduced below:

- (1) *In accordance with the objects of the Act, the overall aims of this plan are -*
- (a) *to promote the management, development, conservation and economic use of the resources of the Shire of Wyong and to protect the amenity of its environment; and*
 - (b) *to provide a comprehensive planning instrument for the Shire that is clear and explicit but which provides flexibility in its application, and*
 - (c) *to facilitate and encourage ecological, economic and social sustainability.*

Council must be convinced that development of the site provides an appropriate balance between development and conservation, to protect the amenity of the environment, and to facilitate Ecologically Sustainable Development (ESD). As discussed above, the proposed development involves clearing 6.5ha of native vegetation, directly impacting on a further 6.9ha (13.4ha total) and isolating an additional 2.1ha of Council reserve land without offering any vegetation offsets. It is incumbent on Council to ensure that public assets are not unnecessarily degraded by private development thereby transferring a cost to Council and undermining the satisfaction of ESD.

Therefore, it has not been demonstrated that the aims of WLEP 1991 have been satisfied.

It is considered that the Objectives of WLEP 1991 have been satisfied with relation to employment and economic development (b), but that objectives relating to environmental protection and vegetation management have not been satisfied (g & j).

Zoning and permissibility

The proposed nursery development is located within the 7(f) - Environmental Protection Zone. The objective of the zone is:

The objective of this zone is to restrict the type and scale of development which will be carried out on land adjoining major noise generators (or other development with similar detrimental impact) to that compatible with such environments.

Proposed Wholesale and Retail Plant Nursery and Associated Facilities at Lot 2 DP 1100181 Bundeena Road, Glenning Valley (contd)

As discussed above, this particular zone was introduced in 1985 with the purpose of providing an acoustic buffer between residential and industrial areas in the Berkeley Vale West area. It is clear that the operation of a large wholesale and retail nursery will not be significantly impacted by noise generated in the industrial area and that residential noise standards would be inappropriate to be applied to impacts on the nursery.

Compliance with the zone objectives therefore needs to be considered in the context of whether the proposed development would significantly impact on the ability of the buffer area to mitigate noise impacts on adjoining residential areas. Council's Environmental Health Officer has reviewed the acoustic report (Heggies Pty Ltd, March 2007) and has concluded that the nursery would be able to operate in accordance with the Environment Protection Authority (EPS) Industrial Noise Policy and RTA Environmental Criteria for Road Traffic Noise, and therefore there will be no significant noise impacts on surrounding residential areas generated as a result of nursery operations.

With respect to the type and scale of development permissible, agriculture, dams, drainage, nutrient control facilities and plant nurseries are all permissible uses with development consent. The scale of the proposed 6.5ha nursery can be considered with relation to existing nursery operations within the Shire.

Three large nurseries in operation are:

- Burbank Nursery (Kangy Angy) ~6.0ha – established 1970's and no residential areas adjacent;
- Big Flower (Ourimbah) ~2.9ha – established 1993 around the period of development of the adjacent Burns Rd residential area;
- Summerland Nursery (Summerland Point) ~3.0ha – established 1987 and no adjacent residential areas.

The applicant has also made submissions regarding the development of a large nursery in Ryde Council area (Eden Gardens), particularly with regard to Council's ability to use development consent conditions to mitigate environmental impacts. It is noted however that this particular garden centre is on a total site of 2.5ha, is not adjacent to residential development, drains predominantly to the M2 Motorway, has a large proprietary water management system including clarification and infiltration through a hydrocyclone filter and is largely retail-based with no plant stock grown on site. This example is therefore not considered to be analogous to the proposed development.

Proposed Wholesale and Retail Plant Nursery and Associated Facilities at Lot 2 DP 1100181 Bundeena Road, Glenning Valley (contd)

Overall, the proposed development would be the largest nursery operation within Wyong Shire. There are no specific guidelines as to what would constitute appropriate type and scale of development in this zone detailed within Council's planning framework. Noise generation by the proposal should not create significant ongoing impacts on surrounding residential development, and it is therefore considered that the zone objectives have been met. The type and scale of the development with relation to environmental impacts and other planning instruments, other than the zone objective, is considered separately within the report.

Clause 28 - Tree Management

This clause provides regulatory weight and direction as to vegetation management and sets the criteria Council uses for the determination of vegetation modification. The clause requires the submission of sufficient information to enable Council to make an assessment of the importance of the vegetation. As detailed below, insufficient vegetation management information has been provided in support of the application, particularly with regard to the number, type and location of hollow bearing trees and the habitat potential for koala species. The lack of preliminary engineering details regarding the location, size and construction of the various water management elements (in particular the detention ponds and swale systems along the western side of the development) in combination with the slope of the site also suggests that direct impacts on additional vegetation may be likely to occur during the construction phase or as a result of significant earth batters required to retain these structures.

Based on the level of clearing of remnant bushland and the potential impacts of the development on the remaining vegetation on the site and adjacent Council reserve, it is considered the development is inconsistent with Clause 28.

For a detailed assessment of the requirements of Clause 28 please refer to the assessment under Chapter 14 of Council's DCP 2005 below.

COUNCIL POLICY AND STRATEGIC IMPLICATIONS

Development Control Plan 2005 Chapter 14 – Tree Management

The chapter supports Clause 28 of WLEP1991 and provides a greater level of detail with regard to vegetation management. The information provided in support of the application is inadequate with respect to tree survey information, habitat potential and details regarding the significant water management infrastructure. A summary table detailing an assessment of the proposal against the requirements of Section 3.4 of the Chapter is produced as Attachment 2.

Based on this assessment, it is considered that the application fails to satisfy the requirements of this chapter and the application cannot be supported.

Proposed Wholesale and Retail Plant Nursery and Associated Facilities at Lot 2 DP 1100181 Bundeena Road, Glenning Valley (contd)

Development Control Plan 2005 Chapter 69 – Waste Management

No formal Waste Management Plan (WMP) has been submitted in support of the application to deal with removal of rubbish on site, vegetative waste associated with clearing and waste associated with the ongoing operation of the site, as required by Section 2.0 of the Chapter. Council has requested several times that a sufficiently detailed WMP be provided in support of the application. Section 3.0 provides guidance on required information to be submitted and references Council's Waste Management Guidelines. The guidelines require a range of information to be submitted dealing with all stages of clearing, earthworks, construction and operation of developments, including the specific details to be provided on plan drawings for stockpile areas and access etc.

The applicant states that such matters are more appropriately dealt with at Construction Certificate stage and has provided general guidance only. As considered elsewhere within the report, the specific site constraints and sensitivity of the receiving catchment, and the general lack of detail regarding vegetation management and major earthworks on site further emphasise the need for a suitable WMP.

Therefore, based on the above consideration of factors under Chapter 69 of DCP 2005, it is considered that the application fails to satisfy the requirements of this chapter and the application cannot be supported.

Developer Contribution Plan

The application is considered under the South Lakes Contribution Plan and applicable water (52.70 ET) and sewer (3.40 ET) contributions apply under the Water Management Act.

VARIATIONS TO POLICIES

Nil.

Proposed Wholesale and Retail Plant Nursery and Associated Facilities at Lot 2 DP 1100181 Bundeena Road, Glenning Valley (contd)

ECOLOGICALLY SUSTAINABLE PRINCIPLES

As noted above, there is significant legislation that requires Council to have regard to the principles of ESD. Council's recent experience and other relevant judgements in the Land and Environment Court have upheld the relevance and importance of the ESD principles and their role in the decision-making processes of consent authorities. In particular, where there is a lack of certainty, the decision-maker must apply the precautionary principle and avoid, where possible, serious and irreversible damage to the environment.

As detailed under the Act, 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.*
- 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;*
- c) *conservation of biological diversity and ecological integrity, namely, that conservation of biological diversity and ecological integrity should be a fundamental consideration;*
- d) *improved valuation, pricing and incentive mechanisms, namely, that environmental factors should be included in the valuation of assets and services.*

Economic

The application would provide additional local employment, with the applicant stating approximately 40 full-time equivalent positions would be generated once the nursery is operational. This would be a significant benefit to the local community, as would be the addition of further wholesale and retail nursery facilities.

As noted elsewhere in the report, Council has recently entered into a PVP with the Hunter - Central Rivers CMA to expend significant monies restoring public lands on the floodplain directly below the development site. The lack of information provided to support the application, level of clearing proposed and the nature of the activity mean there is a likelihood of negative environmental impacts on the floodplain. As evidenced from recent development on the floodplain within the local area (Apprentice Drive), simply clearing the site in accordance with strict development consent conditions is likely to generate significant weed encroachment, hydrological changes and modification of high quality vegetation outside the development footprint.

Proposed Wholesale and Retail Plant Nursery and Associated Facilities at Lot 2 DP 1100181 Bundeena Road, Glenning Valley (contd)

It has not been demonstrated that significant public sector maintenance and restoration costs will not result from the proposed development application. Equity principles, both within and between generations, need to be considered with respect to the likely costs and benefits flowing from development decisions and ensure that immediate economic benefits (development, employment etc) are not outweighed by future costs to remediate likely impacts of the development.

The application of ESD generally involves internalisation of environmental costs into decision making for development plans likely to affect the environment, and includes both short-term and long-term external environmental costs. This has not been achieved by the current proposal by, for example, providing significant vegetation offsets in exchange for the clearing and modification of existing vegetation.

The proposed water management system has not been designed to ensure the 'polluter pays' principle has been adhered to. The proposed system fails to recycle waste waters generated through the operation of the nursery, and instead proposes to treat such water and release it into the environment. The appropriate internalisation of environmental costs would more likely see such water treated to an appropriate standard to reduce the demand on Council's potable water system, thereby also reducing the need to introduce any water with the potential to pollute to the wider environment. The current proposal provides no economic incentive for the future nursery operation to maintain the proposed treatment system to ensure environmental management is to the appropriate standard, and in fact provides an economic disincentive to do so.

To summarise, the application needs to demonstrate that in accordance with ecologically sustainable development principles, the economic returns to the community need to balance the likely impact on public assets, and the project itself should demonstrate suitable internalisation of environmental costs. The proposal fails to do this.

Environmental

The proposal, as amended, is considered to have a negative environmental impact and this needs to be considered and balanced within the overall context of ecologically sustainable development. The clearing of 6.5ha of good quality natural vegetation, certain indirect impacts on an additional 6.9ha and the potential for significant impacts on habitat for Threatened Species and EECs is of major concern.

Proposed Wholesale and Retail Plant Nursery and Associated Facilities at Lot 2 DP 1100181 Bundeena Road, Glenning Valley (contd)

The current proposal provides for no environmental/vegetation offsets, has insufficient information to demonstrate that environmental impacts can be mitigated, and is located on a highly constrained site. It has not been demonstrated that the site is suitable for large-scale nursery operation or that such an operation would be sustainable in the long term, and it is considered that alternative sites may be more conducive to the sustainable development of a large-scale nursery operation. For example, were the proposal to be located on a more gradually sloping site, consisting of highly degraded vegetation or previously cleared for pasture, and adjacent to a highly modified receiving catchment then Council could reasonably expect to rely on development consent conditions could manage environmental impacts. In that hypothetical situation Council could reasonably expect to reduce the standard of detail necessary to make a judgement regarding the project, and would apply a reduced test when balancing economic benefit and environmental impacts.

In particular, when applying the precautionary principle it is incumbent on Council to evaluate proposals with respect to avoiding serious or irreversible damage to the environment and to consider alternative options to reduce the risk of such damage. Conservation of biological diversity and ecological integrity are not maintained or enhanced by the current application as they lead to further fragmentation of public and private lands providing ecosystem functions and identified as forming part of a likely sub-regional wildlife corridor. There are only limited options available to provide such connected ecosystems within the local area.

Social

As noted previously the social benefits to the community are largely related to provision of additional products and services, and the generation of local employment. Against these benefits must be weighed the concerns of the public as evidenced by a significant objections received in opposition to the application, and consideration of the efforts of local community groups in restoring in maintaining the condition of the public reserve system and wetlands adjacent to the development site that potentially will be impacted by the proposed development.

Temporal

Two issues must be considered with respect to temporal aspects of the proposal.

The first is the permanent removal of 6.5ha of significant vegetation. The permanence of this action is the important factor, as once the decision is made the results are permanent and irreversible.

Proposed Wholesale and Retail Plant Nursery and Associated Facilities at Lot 2 DP 1100181 Bundeena Road, Glenning Valley (contd)

The second is the impact over time on adjoining vegetation proposed privately owned on the subject lot and land owned by the public for conservation purposes to the north-east and the West. Sufficient environmental impact mitigation measures must be required to ensure that this land and its biodiversity values are maintained and the stock of natural capital held by the Wyong community will not be reduced. This has not been sufficiently demonstrated, and is inconsistent with concept of intergenerational equity.

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

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

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

The site is heavily vegetated and currently forms part of the only functional wildlife corridor in this area. As discussed previously, there are significant environmental values in this corridor including the presence of threatened species and an Endangered Ecological Community. The development as proposed will have a significant negative impact on the green corridor by reducing its width, changing hydrological patterns in the area, introducing edge effects and further fragmenting native vegetation.

The site is adjacent to the Glenning Valley residential area and forms part of an environmental buffer to separate industrial development from residential uses, primarily for the purposes of noise reduction. The site also contributes to the visual and environmental amenity of the area and the proposal includes the retention of native vegetation in buffers of 30-110m in width to assist in retaining amenity. The amended proposal does not require access to be constructed to Bottlebrush Drive.

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

The management of water on the development site and associated roads is one of the major impacts to be mitigated. A series of amended water management systems and supporting calculations has been received by Council following extensive negotiations between engineers. As noted above the final submitted plans are schematic only and the lack of detail means concerns remain regarding ultimate impacts on the site related to the construction, operation and maintenance of the proposed system.

Proposed Wholesale and Retail Plant Nursery and Associated Facilities at Lot 2 DP 1100181 Bundeena Road, Glenning Valley (contd)

The two final strategy and water balance reports submitted in support of the application Patterson Britton (October & November 2007) stated the predicted nursery usage would be approximately 28ML/year, the required potable supply would be 10ML/year and the proposed average yearly run-off from the site would be maintained at 16.1ML/year equivalent to the existing conditions. The reports summarised the strategy and water balance as follows:

- Bypass of upstream external catchment through the site. The flow would be discharged below the site via a level spreader to the SEPP 14 wetland catchment.
- Collection of rainfall run-off from impervious surfaces roof/carpark for irrigation purposes in four (4) large storage tanks totalling 2.35ML. Stormwater run-off collected for use by the nursery operation would be treated to ensure appropriate quality standards in accordance with the requirements of the Nursery POM.
- Treatment of all discharged stormwater from the nursery growing and storage areas within the retention basins to ensure that there is no significant environmental impact on the downstream wetlands. The MUSIC Modelling predicts that the overall water quality from the site would be treated to a better than existing condition.

It is noted that the water balance model calculations supporting the strategy were not provided, and Council's modelling using local rainfall data predicts that potable water use would be approximately 15ML/year (approximately 75 dwellings) as opposed to the 10ML/year in the submitted reports. It is noted that ultimate potable water usage, and resultant Water Management Act contributions, could be managed through development consent conditions.

The collection and discharge of run-off generated by the nursery plant growing area to the two (2) retention/detention basins has been supported by MUSIC Modelling and RAFTS stormwater drainage calculations. The discharge from the basins to a level spreader across the rear of the site is designed to maintain the environmental flows to the wetland catchment. The aim of the treatment of this discharge is to reduce the pollution loads to the pre-development condition in accordance with DECC Best Practice Water Quality Targets.

Such modelling does not however incorporate management of herbicides, pesticides, weed propagules etc, all of which are considered to be significant factors in treating water generated through nursery operations.

No preliminary engineering details have been provided to support the modelling or provide likely sizing for elements of the system particularly the significant bio-retention basins, swales and outlet controls delivering water from the nursery. No detail has been provided with regard to the practical operation of the system such as final landforms, incorporation of access or management of large-scale rain events, particularly over time. The outlet controls are also shown as located outside the general development footprint and do not appear to have been considered in other supporting documents.

Proposed Wholesale and Retail Plant Nursery and Associated Facilities at Lot 2 DP 1100181 Bundeena Road, Glenning Valley (contd)

No recycling of water used in nursery operations is proposed, and all run-off from approximately 3.2ha (consisting of bulk landscape supplies area, plant production area, retail area and overflow carparking) is to be released into the environment. In short, the water management system uses water once only and all run-off from the production areas is then considered not treatable to a sufficient standard for it to be utilised again for plant production. This water will then be released into the environment following biological treatment only.

The construction, operation, maintenance and overall performance of the bio-retention swales and basins are therefore considered critical to ensure the appropriate treatment and removal of all contaminants, pathogens, propagules etc prior to the release of this water into the environment. As noted previously however, there is little detail apart from modelling on how this is to be achieved, and no economic incentive for future nursery operators to do so. Once the water has drained to the lowest part of the site there is little chance it will impact on the quality or production levels of the nursery.

Given the levels of uncertainty presented and the sensitivity of the receiving catchments Council cannot support the proposal in its current form as it has not been sufficiently demonstrated that relevant environmental impacts related to water management can be appropriately mitigated. Further, it is considered inconsistent with the principles of ESD and impractical to rely on development consent conditions in such a sensitive location.

Any effect on the flora and fauna - overall

A minimum of 6.5ha will be cleared and subject to extensive earthworks under this proposal. Despite requests from Council, no preliminary engineering plans have been provided for the nursery other than for one of the carparks. The plans submitted for the overall nursery are schematic only, and therefore the extent of ground disturbance and cut and fill within the development area cannot be accurately determined based on the information submitted. Given the slope of the site, the type of development proposed and the large size of water storage and treatment devices required, major cut and fill and ground disturbance will occur within the development area. Given these constraints and the absence of a tree plan nominating trees for retention (as requested by Council), it must be assumed that all trees and vegetation within the 6ha development area would be cleared.

As a result of the clearing there will be further modification and fragmentation of additional areas of vegetation even before potential indirect impacts of the nursery development are considered in full. Council's development ecologist has made an estimate of the area to be impacted by edge effects following clearing, using the following calculations. Firstly, the proposed clearing would completely isolate the approximately 4.5 ha of vegetation along Bottlebrush Drive and Torellia Way, surrounding it with urban development.

Proposed Wholesale and Retail Plant Nursery and Associated Facilities at Lot 2 DP 1100181 Bundeena Road, Glenning Valley (contd)

Secondly, assuming 50m of edge effects along the 480m western edge of the nursery, a further 2.4 ha would be impacted in this area. In addition, the most recent iteration of the proposed water management system shows 4 outlet structures to be located outside the development footprint.

Therefore, at least 12.9 ha of remnant, good quality vegetation and associated habitats would be degraded by clearing, fragmentation and edge effects. No offsets for this clearing have been proposed by the applicant, despite recommendations from Council officers that protection of vegetation and habitats elsewhere on the site would be important to meet Council's requirements in regard to ESD. It is further noted that the additional approval required from the CMA under the Native Vegetation Act would be likely to require significant vegetation offsets to permit clearing in a non-urban zone. As EEC vegetation will not be directly cleared and is outside the accepted 50m extent of the edge effects, the application has not been advertised as "Threatened Species Development" (S.5 (1) (c) EP&A Regs, 2000) and DECC has not been consulted with regard to the application.

Any effect on the flora and fauna - Direct impacts of clearing on threatened fauna

The clearing is not expected to impact any threatened flora species, but would impact the habitat of threatened fauna as discussed below.

The subject site provides potential foraging, roosting and breeding habitat for a range of threatened fauna species in the form of wetlands, drainage lines, hollow bearing trees, food resources, shelter and rocky outcrops. The hollow bearing trees identified by Conacher Travers were found to contain small (<10cm) to large (>30cm) hollows suitable for a range of fauna. As no tree plan has been provided nominating trees for retention, it is unknown how many, if any, of the approximately 50 hollow bearing trees within the development area can be retained. It is expected that most would require removal for the development and for safety reasons.

In addition to the Endangered Ecological Communities that occur on the site, threatened fauna species that have been recorded on this site in recent years are Eastern Bentwing-bat, (Ambrose Ecological and Conacher Travers) and Koala (public report and DECC Wildlife Atlas). The proposal would remove known foraging habitat for the Eastern Bentwing-bat, but is unlikely to remove roosting habitat for this species.

Proposed Wholesale and Retail Plant Nursery and Associated Facilities at Lot 2 DP 1100181 Bundeena Road, Glenning Valley (contd)

A sighting and photographic evidence of a koala scat and tracks on the site was reported to Council and DECC in March 2007. There are few recent records of koalas east of the F3 freeway and none of these are in the southern area of the Shire, so this record is a potentially significant find. In response to the sighting, Council under the advice of DECC koala experts requested that the applicant undertake further targeted koala surveys and assessment. Additional surveys were not undertaken by applicant, instead an assessment of potential koala habitat under SEPP 44 – Koala Habitat Protection was submitted, which is of limited relevance for this assessment given the species is assumed to occur on the site. Spotlighting was previously undertaken on the site, but it is not shown in the report submitted where the spotlight transects were located, including whether they included areas with koala food tree species (Swamp Mahogany).

Where koalas are considered likely to occur, specialist koala survey techniques are required to be used, such as detailed scat searches within a grid (DECC, 2004). These surveys have not been undertaken. Importantly, an Assessment of Significance (7 Part Test) to determine the likely impact of the development on the koala as required by Section 5A of the EP&A Act has not been submitted at any stage, despite Council requesting this information.

In the absence of this assessment and given the habitats available both within the development area and the Swamp Sclerophyll Forest, Council cannot assume that there is unlikely to be a significant impact, and cannot approve the development without submission of a Species Impact Statement and concurrence from DECC.

The Wallum Froglet has been recorded in the adjacent SEPP 14 wetland and on a nearby site at Apprentice Drive (Andrews Neil and DECC Wildlife Atlas). Any potential changes in water quality and quantity as discussed below have the potential to impact this species. Other records in the DECC Wildlife Atlas for the wetland show an additional two microbat species and Spotted-tailed Quoll. Other threatened fauna that were not recorded on the site but have potential to occur based on local records and habitats present include gliders, bats and birds including owls.

The site forms part of an important wildlife corridor linking Glenning Valley with Ourimbah Creek. The proposed development would reduce the size of this corridor and the types of habitats available within it, particularly with regard to the Blackbutt Forest that would be subject to clearing. Additionally, there is potential for a significant impacts related to edge effects including water quality changes and weed spread discussed further below.

The clearing of 6ha of land including 50 hollow bearing trees in conjunction with the associated habitat degradation of a further 6.4ha as discussed above therefore has the potential to impact a wide range of species, including the threatened species discussed above.

Proposed Wholesale and Retail Plant Nursery and Associated Facilities at Lot 2 DP 1100181 Bundeena Road, Glenning Valley (contd)

Any effect on the flora and fauna - Edge effects

This is a term used to describe the various consequences, on vegetation and wildlife that occur as a result of natural vegetation sharing a border with developed lands. It has been long established that edge effects have a range of negative impacts on conservation areas where sufficient measures have not been put in place on the developed land to mitigate impacts.

Chapter 30 of DCP 2005 - Wyong Shire Wetland (1999) provides significant background and to detail regarding suitable measures to manage wetland edges. This DCP does not specifically apply to the subject site as the development footprint does not encroach on the 7 (a) Conservation Zoned part of the lot on the western boundary. There is however particular concern given the specific characteristics of the site and the scale and nature of the nursery proposal with the potential to substantially change water quality and quantity, input significant nutrient loads into the catchment, or spread undesirable vegetation seed or propagules.

Similarly, clause 41A of WLEP 1991 - Development of Land within Zone No 7(g) - does not specifically apply to the subject land but provides clear Council policy guidance.

Edge effects include:

- Microclimatic changes, including increased sunlight, changes to humidity, air temperature, wind speed etc;
- weed invasion through windblown seed, vegetation propagules, birds etc;
- noise, light and movement impacts, particularly on the ability of fauna to utilise that habitat;
- pollution including dust, spray drift, littering, chemical spills;
- changed fire regimes related to the need to protect economic assets; and
- hydrological and hydraulic changes, both of surface water and ground water.

In combination, the various impacts can act over time to significantly change the condition and types of vegetation, resulting in significantly different habitat. The subject site is relatively steep, contains an EEC, is immediately upstream from a significant SEPP 14 wetland and identified wildlife corridor and the proposal is for a wholesale and retail scale nursery. This emphasises the importance of having supporting information of sufficient level of detail to demonstrate to Council that proposed water management systems, nursery operations, landscape buffers, setbacks etc will be able to mitigate potential impacts.

Proposed Wholesale and Retail Plant Nursery and Associated Facilities at Lot 2 DP 1100181 Bundeena Road, Glenning Valley (contd)

The current amended application has not provided sufficient preliminary engineering and landscaping details to demonstrate that the water management system depicted schematically in submitted drawings, and the water management system separately described in a written submission to Council can physically be located, constructed and maintained to a satisfactory standard to ensure impacts can be mitigated on an ongoing basis. Whilst modelling has been presented in support of a proposed water management system, in this particular case, it is considered insufficient given the particular sensitivity of the site and the nature and scale of the proposed nursery. The applicant maintains that development consent conditions can be suitably imposed to require this detail to be provided at Construction Certificate stage, however, Council's recent practical and Land and Environment Court experience has demonstrated that it is inappropriate to rely on the development consent conditions to this extent in such situations.

DECC has previously advised in detail that edge effects must be managed and that Council must ensure the mitigation of these impacts at the point of issuing development consent. This is of particular importance as DECC has not been directly consulted as part of this application process for the reasons discussed above.

Any effect on the flora and fauna - Water quality and quantity management

Changes in water quality and quantity have the potential to impact the bushland, EEC, SEPP 14 wetland and threatened frog habitat downstream of the subject site. Council's Engineer and Environmental Monitoring Officer have provided detailed review in relation to water quality and quantity. Run-off from nurseries is characteristically high in nitrogen and phosphorus, chemicals (pesticides, herbicides), sediment and also contains plant propagules and plant pathogens. It is thus potentially a biologically and chemically contaminating industry.

Clean water collected in rainwater tanks is proposed to be used in the nursery operations, as opposed to suitably treating and recycling run-off from the nursery. A potential resource therefore becomes a potential pollution problem to be managed above high quality vegetation and a wetland. There are further concerns regarding a statement in the draft Nursery POM (Horticultural Communications Pty Ltd) regarding additional use of groundwater, that has not been otherwise addressed in the overall water management system, and that has the potential to further impact on inflows to the wetland.

It is proposed that "dirty" run-off from the nursery, including retail and growing areas, would be directed by swales to bio-retention basins at the lower end of the site where it would be polished before overtopping into the bushland area as part of environmental flows to the retained vegetation in conjunction with diversion of water from upslope of the nursery.

Proposed Wholesale and Retail Plant Nursery and Associated Facilities at Lot 2 DP 1100181 Bundeena Road, Glenning Valley (contd)

The system proposed would require ongoing maintenance to ensure adequate treatment where there is no economic incentive to do so. Little detail has been provided as to the ultimate physical construction of swales, level spread outlets and basins and practicalities of servicing these elements of the system to ensure that water can be treated to an appropriate standard on an ongoing basis.

For instance, it is unclear as to whether the system would provide sufficient detention times for breakdown of chemicals, and what is to occur in periods of high flows. Areas of concern include whether dirty water would be able to bypass the system, or if detention times are reduced to a point where the bio-retention system doesn't function, potentially allowing the release of high levels of nutrients, sediment, propagules and chemicals into the sensitive receiving environment.

The level of uncertainty that this engenders regarding the mitigation of impacts, the difficulty and costs of enforcement and the lack of economic incentive for operators to ensure water quality considered cumulatively mean that Council cannot support the application in its current form.

Any effect on the flora and fauna - Impact of weeds

The Co-operative Research Centre (CRC) for Australian Weed Management has recently commissioned a study of the impact of weeds on threatened biodiversity in NSW and found that weeds posed a threat to 45% of the plants, animals, populations and ecological communities listed under the *Threatened Species Act* and *Fisheries Management Act*, including the Swamp Sclerophyll Forest EEC. This represented the second highest threat to this biodiversity, with land clearing the primary threat. Weeds impact native species and communities primarily through competition and habitat degradation.

Gardens and nurseries are a recognised source of weed invasions of native bushland and it was found that 65% of weed species identified as threatening biodiversity were identified as "garden escape" plants, species that had been deliberately introduced as ornamental plants, and many are still available for sale in NSW nurseries. Even where nurseries are reasonably well managed, wherever plants are grown outdoors as is proposed here, plant propagules can spread by wind blown seed, be carried by animals such as birds, bats and small mammals or be contained in run-off containing seeds or other parts of plants. Any nursery on this site, regardless of size and nature, would have difficulty managing such impacts given the quality of vegetation and sensitivity of the local environment. Therefore, a high level of detail is required at development application stage to demonstrate these likely impacts can be managed.

Proposed Wholesale and Retail Plant Nursery and Associated Facilities at Lot 2 DP 1100181 Bundeena Road, Glenning Valley (contd)

It is considered that relying on development consent conditions to prevent the cultivation or sale of potentially invasive species would be unenforceable and unlikely to result in sufficient protection of the environment in the long term particularly if operators were to change over time. This also fails to take into account changes to the level of risk resulting from trends in the nursery industry combined with the impacts of climate change, as new weed species are constantly emerging and changed environmental conditions would be likely to exacerbate this. In addition, native plants from other areas of Australia can also become weeds and have detrimental impacts on the ecology of native bushland areas, posing a threat to biodiversity even though they may not be listed as noxious weeds or yet considered as environmental weeds.

As well as being a major ecological problem, weeds are a major economic burden for management of bushland areas, and it should be noted that Wyong Shire Council is currently spending significant amounts of public money on weed control in the wetlands directly downstream of this site as part of a PVP agreement with the CMA. Weeds also have a social impact, with community groups such as Landcare spending significant amounts of time on weed control in bushland areas.

Lastly, it is also noted that weed proliferation would be further encouraged by any increased volume and velocity of run-off and any increased nutrient levels, discussed above.

Any effect on the flora and fauna - Impact of plant diseases and pests

The establishment of a nursery in this bushland setting would introduce plant pathogens to the site. The Nursery POM details some strategies for reducing disease and pest incidence within the nursery, such as using a UV treatment system and sand filtration is proposed to be used to disinfect irrigation water for the nursery "*to ensure that diseases have been eliminated*". It is notable however that no such treatment process is proposed for the water that would discharge to the environment from the bio-retention basins.

The spores of pathogens that can cause serious plant diseases, such as root rot, are spread large distances via stormwater run-off. Infection of native plants by *Phytophthora cinnamoni* (a form of root rot) is listed as a Key Threatening Process under the TSC Act. It infects a wide range of native species, particularly in coastal forests, causing damage and death to plants and also causing habitat degradation. This threat has not been addressed in any supporting information and as discussed above, the proposed water management system will release water directly into a sensitive receiving catchment. The proposed system does not include disinfection or UV treatment etc for water to be released into the environment, despite requiring this of stormwater captured for use in nursery plant production. It is also noted that dieback caused by *Phytophthora cinnamoni* is also listed as a Key Threatening process under the federal Environment Protection and Biodiversity Conservation (EPBC) Act.

Proposed Wholesale and Retail Plant Nursery and Associated Facilities at Lot 2 DP 1100181 Bundeena Road, Glenning Valley (contd)

The statement in the Nursery POM that biological control agents, "*bugs that control bugs*", would be released throughout the garden centre on a regular basis is also of concern. Again, the proposed location adjacent to high quality native vegetation increases the level of risk of negative environmental impacts and is indicative of the unsuitability of the site for the proposed development.

The access, transport and traffic management measures.

The submitted Traffic Report prepared by Transport and Traffic Planning Associates states that the development will generate less than 250 carparking spaces and that the development will not warrant the upgrading of the Enterprise Drive/Blade Close intersection currently under construction. The supporting SIDRA modelling indicates that the approved Enterprise Drive/Blade Close intersection (DA 563/93A) has sufficient capacity to accommodate the increased traffic generated by the nursery.

Examination of the modelling reveals that it is incomplete and inconsistent in output traffic figures. However, regardless of the modelling undertaken by the applicant's traffic consultant, reference to the AUSTRROADS "Guide to Traffic Engineering Practice" (incorporating recent Council traffic survey data together with the traffic consultant's predicted traffic generation) results in a minimum Type CH channelized intersection configuration. It is noted that the site would be serviced by a significant volume of heavy vehicle traffic engaged both during and post-construction related to delivery of plant stock and bulk landscape supplies etc.

The submission prepared by the applicant (Planning Workshop) indicates that 268 carparking spaces will be provided, including 124 overflow spaces. Based on this generation, the application was referred to the Hunter Regional Development Committee. The Committee raised no objection to the development, subject to the upgrading of the intersection currently under construction to a painted seagull type intersection designed to a 90kph speed limit accommodating B-Doubles. A concept plan for the intersection showing the integration of Hereford Road was also required. The applicant for the DA/609/2007 (proposed Service Station and Carwash) within Lot 1 DP 1100181 Blade Close has prepared a layout plan for the construction of a channelized seagull Type C intersection at the Enterprise Drive/Blade Close Intersection. Access from Blade Close would be via a suitable 13m wide carriageway constructed within an established 20m wide right-of-way under DA 563/1993/A at the applicant's expense. Suitable access design details have been submitted in support of the application.

If the application were to be supported, suitable development consent conditions could be applied.

Proposed Wholesale and Retail Plant Nursery and Associated Facilities at Lot 2 DP 1100181 Bundeena Road, Glenning Valley (contd)

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

As noted above, much adjoining land is owned by Council and is considered to have vegetation with high conservation value. This land and the subject development form part of a sub-regional wildlife corridor identified in previous planning studies. As a public reserve, it is important that this high quality vegetation is not negatively impacted by the construction and ongoing operation of a large-scale nursery operation. This land is available for use by the community for educational purposes, the provision of ecosystem services, conservation of threatened species and passive recreation. Potential environmental impacts are discussed at length elsewhere within the report.

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

No heritage report was submitted in support of the application however the application could be suitably conditioned with respect to undiscovered items of heritage significance.

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

As noted previously, the slope and landform of the site, extent of the proposed water management system, access requirements and construction of the nursery growing area and associated buildings will result in extensive modification of the landform. Insufficient detail has been provided for Council to make a full assessment of the extent of modification, and further, it is unclear as to whether additional disturbance would be required outside the footprint of the development during the construction phase in order to provide for batters, retaining walls etc to construct water management infrastructure and access.

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

The clearing of approximately 6.5ha of vegetation will have negative impacts on the remaining vegetation through the exposure of trees to increased winds, loss of soil moisture and the introduction of weed species and an altered fire regime. These factors have the potential to further affect the viability of retained vegetation and threatened species habitat.

Concerns have been raised regarding the impacts of chemical spray drift and odour during the operation of the nursery, however, it is considered that suitable development consent conditions could be applied to sufficiently mitigate these impacts.

Proposed Wholesale and Retail Plant Nursery and Associated Facilities at Lot 2 DP 1100181 Bundeena Road, Glenning Valley (contd)

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

As noted previously, significant concerns have been raised with regard to the location of such a development within land zoned predominantly to provide a noise buffer to the adjacent Berkeley Vale industrial area. The application has been supported by a comprehensive acoustic study demonstrating that through the use of significant buffers to residential areas, that particular layout will be able to meet the appropriate noise control standards.

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

The site is noted as bushfire prone land. At the development is not for residential purposes the application has not been referred to the Rural Fire Service. It is considered that given the nature of the development and the location of significant proposed water management infrastructure and access trails along the southern and western sides of the proposed development, no further specific bushfire protection measures would be required apart from appropriate construction standards. The original plan showing connections to the residential area and significant additional clearing for asset protection zones was considered inappropriate and amended following consultation with the applicant. The development could be suitably conditioned if supported.

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

As previously noted, there would be positive social impacts through the generation of local employment and provision of additional goods and services within the local area. However, there has been significant public opposition to the proposal following notification. This is discussed further below.

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

The proposed development layout has clearly been designed to provide for generous setbacks from existing residential areas to minimise acoustic and visual impacts on local residents. However, this has resulted in the development footprint being located largely within high quality vegetation as opposed to more degraded bushland located in the proposed residential buffers. As discussed at length elsewhere in the report, insufficient detail has been provided with regard to preliminary engineering design, particularly with regard to the extensive water management system proposed and it is unclear whether environmental impacts can be contained to the development footprint.

Proposed Wholesale and Retail Plant Nursery and Associated Facilities at Lot 2 DP 1100181 Bundeena Road, Glenning Valley (contd)

As noted elsewhere, there will be significant cut and fill required across the development site that has not been adequately detailed, and may lead to further additional impacts on vegetation that is proposed to be retained by direct impacts and also by interruption to existing hydrological patterns.

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

There will be significant impacts on both vegetation to be removed and the vegetation to be retained adjacent to the development during the construction phase. It is expected there would also be significant noise, and potentially dust, impacts on surrounding residential areas during the clearing and construction phase, as little detail has been provided with regard to the final estimates of cut and fill and the type of material to be encountered.

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

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

As noted elsewhere in the report, there are significant concerns regarding the further clearing and fragmentation of high quality native vegetation forming part of an overall sub-regional wildlife corridor. Vegetation removal will also have a significant negative impact on visual amenity from surrounding residential areas. The high number of objections received by Council following notification further demonstrates there are also significant community concerns regarding the suitability of the site.

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

Given the issues discussed at length above regarding environmental impacts, the sensitivity of the receiving catchment, the type and scale of activity proposed and the high level of uncertainty as to the ability to sufficiently mitigate impacts by the development, it is clear that this site cannot be considered suitable for a large wholesale and retail nursery operation.

Proposed Wholesale and Retail Plant Nursery and Associated Facilities at Lot 2 DP 1100181 Bundeena Road, Glenning Valley (contd)

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

Any submission from the public.

The application was originally notified in March 2006 and the amended application re-notified in April 2007. A total of 232 separate submissions were received, with a number of individuals and organisations making additional multiple submissions to Council. A summary table of the major issues identified in submissions (including a percentage indicating the number of submissions raising the issue) along with a brief planning comment is provided below. It is considered that generally, the issues have been dealt with within the body of the report.

Table 1: Summary of issues raised in public submissions

Issue	No of Submissions	Planning Comment
<p>Traffic</p> <ul style="list-style-type: none"> • Volume • Noise • Safety • Access from Bottlebrush Drive • Adequacy of the existing street network to accommodate the additional traffic 	<p>185 (80%)</p>	<p>Access and traffic issues have been considered within the body of the report. It is noted that the amended plans no longer show any connection to Bottlebrush Drive.</p> <p>Development on the scale proposed would require upgrading of the Blade Close/Enterprise Drive intersection.</p>
<p>Water</p> <ul style="list-style-type: none"> • Water shortages and restrictions • Adequacy of detention ponds • Water pollution by chemical contamination 	<p>189 (81%)</p>	<p>Water management has been considered at length within the body of the report with issues raised in submissions specifically addressed. Levels of water use for particular proposals are considered holistically and must be balanced with potential positive impacts such as local employment generation and provision of additional goods and services.</p>

Proposed Wholesale and Retail Plant Nursery and Associated Facilities at Lot 2 DP 1100181 Bundeena Road, Glenning Valley (contd)

Issue	No of Submissions	Planning Comment
<p>Air Quality</p> <ul style="list-style-type: none"> • Dust • Airborne chemicals (herbicides/pesticides) • Odours 	<p>186 (80%)</p>	<p>Air quality issues considered within the report, it is acknowledged there are potential significant impacts related to both the construction and operation of the nursery.</p>
<p>Vegetation management</p> <ul style="list-style-type: none"> • Excessive clearing • Destruction of bushland • Impact on EECs and SEPP 14 wetlands • Introduction of weeds 	<p>176 (76%)</p>	<p>The level of clearing required and the impacts on threatened communities have been discussed within the report.</p>
<p>Wildlife</p> <ul style="list-style-type: none"> • Adverse impact on wildlife and habitat • Introduction of pests 	<p>180 (78%)</p>	<p>Impacts on threatened and more common species have been considered within the report. The potential impacts of the introduction of pest species have been considered particularly with regard to changing environmental conditions.</p>
<p>General Degradation Environmental</p> <ul style="list-style-type: none"> • Pollution 	<p>164 (71%)</p>	<p>The scope for pollution and potential impacts has been considered within the body of the report.</p>

Proposed Wholesale and Retail Plant Nursery and Associated Facilities at Lot 2 DP 1100181 Bundeena Road, Glenning Valley (contd)

Issue	No of Submissions	Planning Comment
<p>Health</p> <ul style="list-style-type: none"> • Use of pesticides in close proximity to residents • Algal outbreaks and mosquito breeding in detention ponds • Implications of airborne particulates/chemicals 	<p>17 (7%)</p>	<p>There is no evidence presented that pesticide use will have any likely direct impact on residential areas. Chemical use is regulated under separate legislation and appropriate development consent conditions could be applied if the application were supported.</p>
<p>Amenity</p> <ul style="list-style-type: none"> • Noise of operation • Inadequate buffer and loss of buffer • Scale • Aesthetics 	<p>202 (87%)</p>	<p>A detailed acoustic report has been submitted in support of the application. Council's technical staff have assessed the report and consider appropriate standards can be met within the guidelines of the EPA Industrial Noise Policy and RTA Guidelines.</p>
<p>Economic Impact</p> <ul style="list-style-type: none"> • Property price decline • Impact on existing businesses • Oversupply • Sustainability 	<p>33 (14%)</p>	<p>There is no evidence to support the claim that property prices will be negatively impacted.</p> <p>The proposed development is permissible with consent and is assessed on merit.</p>

Proposed Wholesale and Retail Plant Nursery and Associated Facilities at Lot 2 DP 1100181 Bundeena Road, Glenning Valley (contd)

Issue	No of Submissions	Planning Comment
<p>Other</p> <ul style="list-style-type: none"> • Permissibility/appropriateness in the zone • Creation of undesirable precedent • Length of advertising period • Overloading of public infrastructure 	<p>52 (22%)</p>	<p>The proposed development is permissible with consent and is assessed on merit. Whilst noted as an Environmental Protection Zone, the zone objective and history demonstrate that noise amelioration between the Berkeley Vale west industrial area and the Glenning Valley residential area is the primary purpose of the zone.</p> <p>Council has twice notified the application and worked with local residents to ensure public consultation is of an appropriate standard.</p> <p>The application has been considered by the appropriate Council engineering specialists with regard to impact on infrastructure. Any infrastructure construction or upgrading would be in accordance with Council requirements.</p>

Any submission from public authorities.

In July 2007, advice was received from the NSW Department of Primary Industries that it had no formal objection to the proposal, but expressing concern that *“the removal of natural vegetation and the management of water/nutrients on the steep side not only will provide a challenge to the environmental sustainability of the enterprise but also implies that the site is not suitable for such a development”*.

Proposed Wholesale and Retail Plant Nursery and Associated Facilities at Lot 2 DP 1100181 Bundeena Road, Glenning Valley (contd)

CONCLUSION

In conclusion, whilst a plant nursery is permissible with development consent within the 7(f) - Environmental Protection Zone under WLEP 1991, it is considered that the likely environmental impacts arising from the development, the scale of the proposal and the significant public objections demonstrate the unsuitability of the site for the development in its current form.

Further, it is considered that the particular characteristics of the site, in combination with the nature of the development, result in a high level of uncertainty that significant impacts can be mitigated given the level of information provided in support of the application. Where there is a lack of certainty, decision-makers must apply the precautionary principle and avoid, where possible, serious and irreversible damage to the environment. It is therefore inappropriate to attempt to mitigate likely environmental impacts through the use of development consent conditions alone where suitably detailed plans and supporting information has not been provided.

Therefore the application is recommended for refusal.

Attachment 1	Locality Plan (1 page)
Attachment 2	DCP 2005 Chapter 14 Tree Management - Summary Table (2 pages)
Attachment 3	Typical view of site looking generally south (1 page)
Attachment 4	Typical view of site looking generally west (1 page)
Attachment 5	Summary of current application (2 pages)
Enclosures	Major Components Development Footprint Sections

**Proposed Wholesale and Retail Plant Nursery and Associated Facilities at
Lot 2 DP 1100181 Bundeena Road, Glenning Valley (Attachment 2)****DCP 2005 Chapter 14 Tree Management - Summary Table**

Part 3.4	Consideration
A	The clearing is proposed for the construction and operation of a plant nursery (permissible use with consent).
B	Information provided shows there are a number of keystone species listed under section 7.2 of the DCP located within the development footprint. As no tree survey has been provided in support of the application there is insufficient detail regarding the number and type of particular species, the condition and the existence of hollows etc. Given the limited detail provided regarding engineering and earthworks it is assumed that all trees within the development footprint are to be cleared. As noted elsewhere, the lack of engineering details suggests there may be significant additional clearing outside the development footprint in relation to detention basins and drainage swale construction.
C	The condition, maturity and useful life expectancy of native vegetation on the subject land appear generally good with intact structures and a range of age classes. No specific information has been provided for individual trees.
D	The application provides for significant buffers to be retained and enhanced between the development footprint and surrounding residential development. If the application were to receive support, suitable development consent conditions could be applied to improve these relatively degraded areas outside the development footprint.
E	As discussed at length elsewhere in this report, there are significant concerns regarding the impact of edge effects on residual conservation land to the west and south in particular. There is particular concern over medium-term impacts of water management and nursery operations on EEC vegetation and retained bushland. Whilst it is apparent there are at least 50 hollow bearing trees within the development footprint no detail has been provided to demonstrate the overall impacts of the removal of these trees on both common and threatened species or the availability of suitable secure habitat.
F	The amended layout locating buildings within the centre of the development footprint and with carparking and water management facilities adjacent to retained bushland will negate the need for specific bushfire protection measures.
G	Nutrient release and weed invasion is likely to occur as a result of the clearing, construction works and potentially as a result of the ongoing operation of the nursery. Permanent mitigation measures have been shown in schematic form and supported by some modelling, however insufficient detail has been provided by Council to place a high degree of certainty that existing high-quality bushland will not be negatively impacted by the development.
H	No detail regarding the means of clearing has been provided in support of the application. Given the specific characteristics of the site, notably slope and sandstone soil types in combination with the significant earthworks required, there are major concerns that vegetation outside the development footprint will be materially impacted.
I	No detail has been provided regarding vegetation management or soil and water management plans during construction stages. Standard siltation controls will not be adequate due to the slope of the site and proximity to high quality vegetation, EEC vegetation and a SEPP 14 wetland in the receiving environment.
J	Whilst the majority of the site retains vegetation, it is considered that there will be significant edge effect impacts on much of this native vegetation as detailed elsewhere in this report. It is noted that a major subregional corridor is located directly to the west of the site and this will reduce the size of the corridor and the range of habitats available. It is further noted that the Council reserve directly adjoining the site to the north-east will essentially become isolated and of lower ecological value.

Proposed Wholesale and Retail Plant Nursery and Associated Facilities at Lot 2 DP 1100181 Bundeena Road, Glenning Valley (Attachment 2) (contd)

K	No detail has been provided for Council to specify protection measures for particular trees or habitat.
L	The proposed method of disposal has not been specified in any detail but it is noted there will be significantly larger volumes of vegetated matter to be disposed of, and this needs to be considered in the context of nutrient leaching and fire safety impacts during any clearing phase.
M	Supervision of the clearing works by a suitably qualified ecologist is required to protect environmental values of retained vegetation and to oversee relocation of native animals, and could be suitably conditioned.
N	The current vegetation is in generally good condition and protection of retained vegetation is considered to be at a significant risk due to the operation of earthmoving machinery and the construction of drainage infrastructure outside the identified development footprint. The lack of engineering detail regarding proposed structure means Council is unable to determine likely impacts and necessary rehabilitation measures
O	No offsets are proposed as part of the application despite the clearing of 6.5ha of native vegetation. No landscape plan or detail regarding rehabilitation of the northern and eastern buffers has been provided and these would require substantial maintenance and enhancement including bush regeneration and supplementary planting.
P	The clearing will cause the viability and quality of native vegetation (bushland) to be greatly reduced as discussed elsewhere in this report.
Q	Insufficient information has been provided as to the ultimate impact on the existing vegetation or that proposed for retention. No specific mitigation measures have been provided apart from the construction of a water management system and as noted elsewhere in this report this has insufficient detail to demonstrate that impacts can be successfully mitigated over time.
R	NSW Department of Primary Industries, whilst advising of no formal objection to the proposal, expressed the concern that <i>"the removal of natural vegetation and the management of water/nutrients on the steep side not only will provide a challenge to the environmental sustainability of the enterprise but also implies that the site is not suitable for such a development"</i> . In addition, despite Council advising a separate clearing approval would be required from the Hunter - Central Rivers CMA the applicant has chosen not to commence negotiations to date. As noted elsewhere within this report it is considered that significant vegetation offsets will be required for any approval to be granted under the Native Vegetation Act 2003.
S	As discussed elsewhere in this report, it is considered that the requirements of SEPP 44 - Koala Habitat had not been adequately addressed. Separate approval will be required under the Native Vegetation Act 2003 likely to involve significant vegetation offsets in perpetuity. There has been insufficient consideration of the requirements of the TSC Act 1995.
T	As noted elsewhere in the report the site is known to contain suitable habitat for a number of threatened species listed in schedule 1 or 2 of the TSC Act.
U	If the application were considered worthy of support a detailed Vegetation Management Plan would be required to be submitted for approval prior to the commencement of any clearing works.

**Proposed Wholesale and Retail Plant Nursery and Associated Facilities at
Lot 2 DP 1100181 Bundeena Road, Glenning Valley (Attachment 3)**

Typical view of site looking generally south



26 March 2008
To the Ordinary Meeting of Council

Director's Report
Shire Planning Department

**Proposed Wholesale and Retail Plant Nursery and Associated Facilities at
Lot 2 DP 1100181 Bundeena Road, Glenning Valley (Attachment 4)**

Typical view of site looking generally west



Proposed Wholesale and Retail Plant Nursery and Associated Facilities at Lot 2 DP 1100181 Bundeena Road, Glenning Valley (Attachment 5)

Summary of Current Application

March 2006: A pre-lodgement meeting was held to discuss issues and provide direction on information requirements.

April 2006: The subject development application was lodged and notified in accordance with Council's DCP 2005 - Chapter 70 Notification of Development Proposals.

May 2006: Council received additional environmental assessment information including eight-part tests for identified flora and fauna species.

July 2006: Council wrote to the applicant requesting significant further information following an assessment of the original development proposal.

August 2006: Council staff met with applicant to discuss design and information provision.

March 2007: Council received amended plans and significant additional information. Due to the amendments to the application it was re-notified and further submissions were accepted.

March 2007: A local resident provided material suggesting that a koala was using the site. Council staff sought expert advice from the (then) Department of Environment and Conservation, who concurred that fieldwork should be undertaken. Council subsequently advised the applicant that suitable additional fieldwork was required to determine the presence or absence of a koala on-site.

June 2007: Council wrote to the applicant requesting significant further information following assessment of the revised plans and supporting information, specifically with regard to the mitigation of likely negative impacts resulting from the operation of the proposed nursery and water management system.

July 2007: Council received advice from the NSW Department of Primary Industries advising of no formal objection to the proposal, but expressing concern that "*the removal of natural vegetation and the management of water/nutrients on the steep side not only will provide a challenge to the environmental sustainability of the enterprise but also implies that the site is not suitable for such a development*".

Proposed Wholesale and Retail Plant Nursery and Associated Facilities at Lot 2 DP 1100181 Bundeena Road, Glenning Valley (Attachment 5) (contd)

August 2007: The applicant and senior staff held a meeting to discuss the application. This resulted in agreement for the submission of further information within a specific timetable, broadly reiterated issues raised and clarified the level of detail required with relation to the particular characteristics of the site, type of operation and discussed the consideration of significant vegetation offsets to balance the significant impacts of clearing and modification of retained bushland.

September 2007: Council wrote to the applicant requesting the final submission of information as agreed in the meeting.

October 2007: Council received further amended plans and supporting information.

November 2007: Council staff and engineering consultants conducted a series of additional negotiations and communications with respect to the proposed water management system.

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WYONG SHIRE COUNCIL

26 March 2008
To the Ordinary Meeting of Council

Director's Report
Shire Services Department

118 Contract CPA 130591 – Concept Design, Detail Design and Tender Documentation for Water Trunk Mains at Warnervale Town Centre and Wyong Employment Zone

CPA/130591 LM

SUMMARY

Evaluation and selection of tenders for Contract CPA 130591 – Concept Design, Detail Design and Tender Documentation of Water Supply Trunk Mains at Warnervale Town Centre and Wyong Employment Zone.

RECOMMENDATION

- 1 *That Council accept Tender No 9 from SMEC Pty Ltd in the combined lump sum and schedule of rate amount of \$280,984 including GST (\$255,440 excluding GST).***

- 2 *That Council approve a contingency amount of \$28,100 including GST (\$25,545.45 excluding GST), representing approximately 10% of the contract value, to provide for any unforeseen additional works that may become necessary during the course of the project.***

BACKGROUND

Council is proposing to construct trunk water supply components in the Warnervale Town Centre (WTC) and Wyong Employment Zone (WEZ) areas to supplement existing water supply infrastructure. These works are intended to facilitate the development of the district for residential and commercial purposes and service the significant population growth expected to occur in the area.

Following completion of this design work, staged construction of trunk water mains in the Warnervale area will be undertaken. This will include the various proposed pipelines shown in Enclosure 1.

This design engagement involves the preparation of Concept Design, Detailed Design and Tender Documentation for trunk water supply components to provide water to WTC Precinct 7A and WEZ Precinct 14. Following completion of this engagement, tenders for construction of the infrastructure will be called and will be the subject of a separate report to Council.

The provision of trunk water supply components to WTC Precinct 7A will involve:

- 1 1500m of 375mm pressure main along Sparks Road from the intersection with Albert Warner Drive terminating at the south west corner of Precinct 7A immediately east of the Main Northern rail line.

- 2 Crossing of the Main Northern Railway and Sparks Road.

Contract CPA 130591 – Concept Design, Detail Design and Tender Documentation for WTM at Warnervale Town Centre and WEZ (contd)

The provision of trunk water supply components to WEZ Precinct 14 will involve:

- 1 1000m of 375mm pressure main along Sparks Road from Hue Hue Road connecting to an existing 375mm main in Sparks Road at Burnett Road.
- 2 2500m of 200mm pressure main along Hue Hue Road from Sparks Road to Kiar Ridge Road.
- 3 Crossings of the F3 Freeway, Sparks Road and Buttonderry Creek.

The water trunk mains the subject of this design consultancy are part of the overall water supply strategy for the northern precincts of the shire up to the year 2050. The strategy is based on the future construction of reservoirs and associated pipelines at Kiar Ridge and Bushells Ridge and provides for all expected development in the northern precincts, including the recently announced 'Bluetongue' brewery in Warnervale Business Park and all other potential release areas. This strategy has been incorporated into computer modelling of the whole shire's water supply network currently being undertaken by the Department of Commerce.

Council's policy is to provide water trunk mains down to 200 mm diameter and reticulation using smaller diameter mains is the responsibility of developers. Accordingly, the developer of WEZ Precinct 14 will be required to make satisfactory provision for water reticulation within that precinct after the footprint of roads has been determined.

Different circumstances will apply to extending the trunk water main throughout WTC Precinct 7A. The extension by developers from the connection point to be provided by Council in the south west corner of the precinct will need to be a 375 mm pipeline, which would normally have been undertaken by Council. Because the location of roads has not yet been determined within this precinct, it is not possible for Council to undertake the design and construction of this 375 mm pipeline at this point in time. When the road layout is finalised, the 375 mm pipeline will be extended throughout the town centre (along with other services such as gas, telephone and electricity) by the developers.

In the event that an alternative location along Hue Hue Road or the oil/gas pipeline easement may be determined in the future for the proposed 750 mm water pipeline from Mardi dam (under Tuggerah 2 reservoir head), there is flexibility in the system to accommodate this change by additional and modified valving arrangements at certain locations. Supply of water to the higher areas of WTC Precinct 7A is dependent on the construction of this 750 mm pipeline under the head of Tuggerah 2 reservoir. Neither the existing 375 mm pipeline nor the new Hunter connection pipeline in Sparks Road can satisfy this need as both are under Kanwal reservoir head which is insufficient to drive water to these higher areas in the town centre. If construction of this 750 mm pipeline is delayed, a temporary booster pump station will be installed on the existing 375 mm water trunk main in Sparks Road to provide water to the higher areas of WTC Precinct 7A until such time as the 750 mm pipeline is constructed.

Contract CPA 130591 – Concept Design, Detail Design and Tender Documentation for WTM at Warnervale Town Centre and WEZ (contd)

Tender Process

Tenders were invited by way of public invitation. The tender was published on the e-Tendering website on 14 August 2007. Advertisements were placed in the Sydney Morning Herald on 14 August 2007, the Central Coast Advocate on 15 August 2007 and the Newcastle Herald on 16 August 2007. The advertised closing date was 6 September 2007.

The invitation documents called for lump-sum tenders, based on a detailed specification. One Addendum, described below, was issued to all prospective tenderers during the invitation period.

Addendum 1 (issued 28 August 2007) included:

- Adjustment of the deliverables required for concept and detailed designs;
- Clarified the requirements of survey work, location of services, geo-technical investigations and acid sulphate soil investigations;
- Amended the fee schedule.

Tenders closed at 2:00pm on 6 September 2007. Tenders could be submitted electronically via the e-Tendering website or by hard copy in Council's tender box.

EVALUATION OF TENDERS

The NSW Department of Commerce (Commerce) was responsible for overseeing the evaluation of tenders as part of providing project management services to Council under Contract CPA/94424. A potential conflict of interest with Commerce performing this role was identified when it was discovered that NSW Water Solutions, a business unit of Commerce, had submitted a tender for this Contract. No prior communication had been entered into by Commerce with NSW Water Solutions regarding its intention to submit a bid.

This potential conflict of interest was addressed as follows.

- 1 The preliminary ranking based on submitted unadjusted prices was completed. These rankings and the details of the matter were provided to Council and the evaluation process suspended at that point.
- 2 To ensure equity and probity in the evaluation, a procedure was developed based on *PWM-0633- Commerce Tendering Manual* and specifically *Appendix 7D "Formal separation between Units Submitting and Evaluating Tenders"*. The procedure was tailored to the needs of the contract for provision of project management services (CPA/94424) between Council and Commerce and can be found in the file.

Contract CPA 130591 – Concept Design, Detail Design and Tender Documentation for WTM at Warnervale Town Centre and WEZ (contd)

- 3 Tenders were evaluated by a panel of three staff members, two from Council and only one from Commerce and all panel members signed Conflict of Interest Declarations.

The above steps were undertaken to ensure the probity of the tender evaluation process was maintained.

The development of this procedure took some time and was in part the reason for the delay in reporting this evaluation of tenders to Council. The other reason for the delay was that it was considered inappropriate to submit the matter to Council until the issue that led to the rescission motion on the associated report to Council at the Ordinary Meeting held on 12 December 2007 regarding Contract CPA 130590 - Concept Design, Detail Design and Tender documentation for Sewerage Trunk Mains at Warnervale Town Centre and Wyong Employment Zone was resolved. That matter was resolved at the Ordinary Meeting held on 23 January 2008 with a resolution to proceed to award that contract.

The following threshold criteria were used:

- 1 Conformance with the brief and requirements of the tender documents.
- 2 Ability to manage quality, safety and environmental risk.

The following weighted criteria were used:

- 1 Price.
- 2 Methodology and understanding of the work.
- 3 Demonstrated capacity to complete the works within the time specified.
- 4 Demonstrated performance of project team supported by referee reports on similar projects.

The evaluation criteria and their weightings were documented in the Contract Development Plan (CDP) and approved by the Director Shire Services prior to tenders being invited. The CDP is available on file. To assess tenders against the evaluation criteria, the panel used information obtained from the tender documents and related correspondence, referees and external advisors.

The evaluation was conducted according to the following process outlined in the CDP.

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

Contract CPA 130591 – Concept Design, Detail Design and Tender Documentation for WTM at Warnervale Town Centre and WEZ (contd)

- 3 Detailed weighted evaluation of tenders
- 4 Due diligence checks on preferred tenderers
- 5 Independent review of the tender selection process by Council's Manager Contracts.

Assessment of Receipt

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

No.	Tender	Tendered Lump Sum (ex GST)	Status
1	Bonacci Group Pty Ltd	\$181,285.00	Submitted on time
2	Bonacci Group Pty Ltd (Alternate 1)	\$170,285.00	Submitted on time
3	Cardno NSW Pty Ltd	\$270,120.00	Submitted late* (eliminated)
4	Cardno NSW Pty Ltd (Alternate 1)	\$245,120.00	Submitted late* (eliminated)
5	Cardno NSW Pty Ltd (Alternate 2)	\$255,120.00	Submitted late* (eliminated)
6	Cardno NSW Pty Ltd (Alternate 3)	\$260,120.00	Submitted late* (eliminated)
7	Connell Wagner	\$289,245.45	Submitted on time
8	NSW Water Solutions	\$255,000.00	Submitted on time
9	SMEC Australia Pty Ltd	\$205,440.00	Submitted on time
10	Treers Rose Associates Pty Ltd	\$195,550.00	Submitted late* (eliminated)
11	Treers Rose Associates Pty Ltd (Alternate 1)	\$184,550.00	Submitted late* (eliminated)

*See Assessment of Late Tenders below.

Assessment of Late Tenders

Tender Numbers 10 and 11 (Treers Rose Associates) were not logged into the e-Tendering website in sufficient time to allow completion of the tender upload until five minutes past the tender closing time.

Late tenders must be assessed in accordance with Clause 117 of the Local Government Regulation (General) 2005. Previous legal advice has confirmed that with respect to such circumstances the tender must be considered late and Tender Numbers 10 and 11 were eliminated from further consideration. This Tenderer also sent an email with these tenders in an unsecured email to Council prior to the closing time. This lodgement method was not provided for in the tender documents and these tenders cannot be accepted.

Contract CPA 130591 – Concept Design, Detail Design and Tender Documentation for WTM at Warnervale Town Centre and WEZ (contd)

Tender Numbers 3 to 6 (Cardno) were not logged into the e-Tendering website in sufficient time to allow completion of the tender upload until twenty four minutes past the tender closing time. Previous legal advice has confirmed that with respect to such circumstances the tender must be considered late and Tender Numbers 3 to 6 were eliminated from further consideration. This Tenderer also sent an email with these tenders in an unsecured email to Council after the tender closing time. This lodgement method was not provided for in the tender documents and these tenders cannot be accepted.

Tender Numbers 3, 4, 5, 6, 10 and 11 were therefore late and eliminated from further consideration.

Tender Numbers 1 and 2 from Bonacci, Tender Number 7 from Connell Wagner, Tender Number 8 from NSW Water Solutions and Tender Number 9 from SMEC were progressed to an assessment of conformance.

Assessment of Conformance

The remaining tenders were assessed for conformance with the general tender requirements, including the specification, with the results summarised below.

Tender No 1 (Bonacci)

Several non-conformances were identified in Tender No 1 from Bonacci. They related to the submitted program, methodology and evidence of Quality, Safety and Environment Systems. Additional information and clarifications, requested to address the identified non-conformances, were submitted within the timeframes specified by the RFT document and resolved these issues. Tender No 1 from Bonacci was passed onto the next stage of evaluation.

Tender No 2 (Bonacci - alternative)

Tender No 2, an alternative from Bonacci Group Pty Ltd, did not comply with the geotechnical requirements of the brief. This alternative proposed locating geotechnical boreholes at considerably greater spacing's than specified in the Brief and this was considered to present an unacceptable risk to Council. Tender No 2 from Bonacci was eliminated from further consideration.

Tender No 7 (Connell Wagner)

A number of non-conformances and qualifications were identified in Tender No 7 from Connell Wagner. Connell Wagner advised they would limit their liability and included CPI indexing of charge rates for extended contract periods. The tender made no allowance for confined space work, access to the rail corridor, set out of boreholes and some traffic control situations. It also assumed that insurances, commensurate with the head contract, would be negotiated with sub-contractors at no cost to Connell Wagner, and a preferred route would be pegged out by others prior to commencement of geotechnical investigations. It imposed a condition that a minimum of four hours would be chargeable for staff attending site on days of inclement weather.

Contract CPA 130591 – Concept Design, Detail Design and Tender Documentation for WTM at Warnervale Town Centre and WEZ (contd)

These issues would not be easily resolved at a later date and the tender did not have the potential to represent superior value to Council. Tender No 7 from Connell Wagner was eliminated from further consideration.

Tender No 8 (NSW Water Solutions)

Several non-conformances were identified in Tender No 8 from NSW Water Solutions. There was no allowance for a Present Worth analysis and exposure of existing services as required in the brief. The geotechnical component was priced based on boreholes spaced at unacceptably wide distances. This was not in accordance with the RFT and had previously been determined to present an unacceptable risk to Council. These issues would not be easily resolved at a later date and the tender did not have the potential to represent superior value to Council. Tender No 8 from NSW Water Solutions was eliminated from further consideration.

Tender No 9 (SMEC)

No non-conformances were identified in Tender No 9 from SMEC. Tender No.9 from SMEC was passed onto the next stage of evaluation.

Weighted Evaluation

The remaining Tenders 1 and 9 were scored against each of the weighted evaluation criteria nominated in the Contract Development Plan (including price and non-price elements). The results are listed below in decreasing weighted evaluation score.

Tender	Tendered Lump Sum (Ex. GST)	Adjusted * Tendered Lump Sum (Ex. GST)	Weighted Evaluation Score
9 SMEC Australia Pty Ltd	\$205,440.00	\$255,440.00	81
1 Bonacci Group Pty Ltd	\$181,285.00	\$231,285.00	78

*Adjustment to tendered lump sum includes an extended Schedule of Rate item - \$50,000 for exposure and survey of existing inground services.

Due to their thorough methodology, strong design team, and excellent referees, SMEC's scoring exceeded Bonacci's scoring in all of the non-price criteria and resulted in a higher overall weighted score for SMEC. The weighted scores are close and largely a result of SMEC exceeding the scores of Bonacci in non-price criteria. This has offset the higher price from SMEC. Further justification for this relative assessment is provided below.

Contract CPA 130591 – Concept Design, Detail Design and Tender Documentation for WTM at Warnervale Town Centre and WEZ (contd)

The evaluation panel was concerned about Bonacci's capacity to deliver this project to programme. All tenderers were requested to provide information on the size of similar projects undertaken in the past that demonstrated their capacity to undertake the work. Bonacci submitted one project of a similar size as this project. However, given Council's very limited experience with this company and the fact that Bonacci had recently been awarded a sizable contract for "*CPA/130590 – Concept Design, Detail Design and Tender Design of Sewerage Trunk Mains at Warnervale Town Centre and Wyong Employment Zone*", the panel was of the view that despite requests for information Bonacci had not provided evidence of sufficient capacity to meet the tight timeframe for this engagement in parallel with the sewerage design contract.

Additionally, the panel noted the increased business risk to Council in awarding both contracts to one company, notwithstanding the possibility of some possible synergies with the sewerage contract work. In the event of performance problems with the contract already awarded or with the capacity of the company to undertake both contracts concurrently, each contract could potentially be detrimentally affected.

Given that the Department of Planning has recently advertised the rezoning for the planned development of WTC and WEZ to occur, it is important that the design (and construction) of this trunk water and sewer infrastructure is not unduly delayed.

Overall, Tender No 9 from SMEC Australia Pty Ltd was the highest scoring and preferred tender and was progressed to the due diligence stage of the assessment.

Due Diligence

Tender Number 9 from SMEC is 3% greater than Council's pre-tender estimate (not including the estimated schedule of rate item) and represents a reasonable price for the contract works. SMEC's referee checks exceeded the minimum requirements of the brief in all areas and provided very positive reports on the company.

On the basis of the information provided by the tenderer, Council's independent financial assessor Kingsway Financial Assessments conducted the financial check and has assessed SMEC as having a superior financial rating.

It is considered that SMEC Pty Ltd possesses all of the financial, technical and managerial resources necessary to complete the works. It has a history of successfully completed contracts similar in nature and scope to the current works. The company has in place a documented Occupational Health and Safety System and an accredited Quality Management System compliant with the requirements of AS/NZS ISO 9001:2000.

SMEC has extended their offer to be available for acceptance until 9 April 2008.

Contract CPA 130591 – Concept Design, Detail Design and Tender Documentation for WTM at Warnervale Town Centre and WEZ (contd)

Process Review

This evaluation process and recommendations have been endorsed by the Contract Systems Coordinator.

BUDGET

Funding for the project is available through Development Servicing Plan (DSP) funds. This project has been identified in Council's Rolling works Programme.

TIME-FRAME

The program submitted by SMEC Pty Ltd complies with the requirements of the contract. It demonstrates an ability to deliver detailed final design documentation of the works within 19 weeks of the award of contract. This will enable calling of tenders for construction by approximately August 2008 and delivery of the water supply infrastructure by approximately March 2009.

LOCAL CONTENT

SMEC propose to engage a local contractor, Barry Hunt Associates, to carry out Service Location Plan, Survey and Physical Exposure of In-Ground Services to the value of \$63,250 (incl GST) plus \$1,100 (incl GST) per instance for physical exposure of in-ground services. No other local labour utilisation is envisaged.

CONCLUSION

Tender No 9 from SMEC Pty Ltd meets all of Council's requirements for this contract. This tender represents the best value-for-money for Council and minimises Council's exposure to risk. It is recommended that Tender No 9 be accepted in the combined lump sum and schedule of rate amount of \$255,440 excluding GST.

Enclosure

Plan showing proposed works

26 March 2008
To the Ordinary Meeting of Council

Director's Report
Shire Services Department

**119 Contract CPA 136486 – Concept Design, Detail Design and
Tender Documentation for Toukley STP Inlet Works Upgrade**

CPA/136486 LM

SUMMARY

Evaluation and selection of tenders for Contract CPA 136486 - Concept, Detailed Design and Tender Documentation for Toukley Sewage Treatment Plant (STP) Inlet Works Upgrade.

RECOMMENDATION

- 1 *That Council accept Tender No 2 from Maunsell Australia Pty Ltd in the combined lump sum and schedule of rates amount of \$164,052.90 including GST (\$149,139 excluding GST).***

- 2 *That Council approve a contingency amount of \$16,405 including GST (\$14,914 excluding GST), representing approximately 10% of the contract value, to provide for any additional works that may become necessary during the course of the project.***

BACKGROUND

The Toukley Sewage Treatment Plant was constructed by the former NSW Department of Public Works in 1986. Upgrading of the Inlet Works has been identified as essential to meet the demands of current and future flows to the Plant. This contract involves the necessary design and documentation of the required improvements to the Inlet Works to allow constructions tenders to be invited.

The NSW Department of Commerce produced a Strategy Report dated September 2007 that sets out the recommended scope of works for the upgrade works. In brief these works included:

- * New screens and automated washing, compaction and storage equipment.
- * New automated grit removal, washing and storage equipment.
- * New bunded area to control drainage.
- * Automated odour control equipment for the existing inlet works.
- * Investigation of suitable protective coatings for concrete channels and chambers.

The estimated cost for construction of the improvement works is \$2.1M.

This report reviews tenders received to undertake the necessary design and contract documentation required to implement the above works.

Contract CPA 136486 – Concept Design, Detail Design and Tender Documentation for Toukley STP Inlet Works Upgrade (contd)

TENDER PROCESS

Tenders were invited by way of public invitation. Advertisements were placed on Council's e-Tendering website on 12 December 2007. Tenders were also advertised in the Sydney Morning Herald on 17 December 2007 and the Central Coast Express Advocate on 19 December 2007. The advertised closing date was 17 January 2008.

The tender documents called for consultants to undertake Concept and Detail Designs and the provision of Tender Documentation to enable calling of tenders for construction of the inlet works upgrade. A separate report will be provided to Council in relation to the construction contract. The invitation documents called for lump sum tenders, based on a detailed Engagement Brief and Request for Tender (RFT) documents.

Two separate Schedule of Rates items were also included in the tender schedules. One item was for locating existing onsite buried services, and one was for hourly rates for provision of post-design advice. Extended Schedule of Rates amounts for these items have been combined in the adjusted tendered lump sum price in this report.

Tenders closed at Council Chambers at 2.00pm on 17 January 2008. Two tenders were received.

EVALUATION OF TENDERS

Tenders were evaluated by a panel of four, comprising two representatives from the Department of Commerce and two representatives from Wyong Shire Council.

The following threshold and weighted criteria were used to evaluate the Tenders:-

Threshold Criteria

- 1 Conformance with the specification/brief and other tender requirements.
- 2 Ability to manage financial, quality, safety and environmental risks.

Weighted Evaluation Criteria

- 1 The tendered price and price structure.
- 2 Methodology and understanding of the work.
- 3 Demonstrated capacity to complete the works within the time specified.
- 4 Demonstrated performance of the project team supported by referees' reports on similar projects.

Contract CPA 136486 – Concept Design, Detail Design and Tender Documentation for Toukley STP Inlet Works Upgrade (contd)

The evaluation criteria and their weightings were documented in the Contract Development Plan (CDP) and Tender Evaluation Plan.

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

The evaluation was conducted according to the following process outlined in the CDP.

- 1 Assessment of receipt of tenders.
- 2 Assessment of conformance of tenders.
- 3 Detailed weighted evaluation of tenders.
- 4 Due diligence checks of preferred tenderers.
- 5 Independent review of 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	GHD Pty Ltd	\$163,500	Submitted on time
2	Maunsell Australia Pty Ltd	\$142,084	Submitted on time

There were no issues with receipt and both tenders were progressed to an assessment of conformance.

Assessment of Conformance

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

Tender No 1 (GHD Pty Ltd) included qualifications and departures on various aspects of the specification. Following enquiries to the Tenderer all qualifications and departures were withdrawn with the exception of one qualification for geotechnical investigation that will increase the tendered lump sum fee by \$8,000. This qualification was allowed to be added to the tendered lump sum in accordance with the tender regulations as the requirement for geotechnical investigations was stipulated in the tender documents.

Contract CPA 136486 – Concept Design, Detail Design and Tender Documentation for Toukley STP Inlet Works Upgrade (contd)

Tender No 2 (Maunsell Australia Pty Ltd) also included qualifications and departures. All except one qualification was withdrawn or deemed to be acceptable to the tender panel after clarification was sought. This qualification (for confined space training) may result in an adjustment to the tendered lump sum of \$2,000 (ex. GST) should it be required during the work. This amount was accepted as it was deemed to be in accordance with the tender regulations, and was used in a further comparison of tenders in the weighted evaluation section of this report.

Both tenders were progressed to the next stage of the evaluation.

Weighted Evaluation

An assessment was made by scoring price and non-price criteria. These scores were weighted and summed to provide weighted evaluation scores. The results are shown in the following table in descending order of weighted evaluation scores:

Tender	Adjusted* Tendered Lump Sum (excl. G.S.T.)	Weighted Evaluation Score
2 Maunsell Australia Pty Ltd	\$149,139.00	81
1 GHD Pty Ltd	\$176,695.00	75

* Adjusted Tendered Lump Sum includes extended amounts for two Schedule of Rate items for post-design advice and service locations plus \$8000.00 for geotechnical investigation for GHD and \$2000.00 for confined space training for SMEC.

An assessment was made of the tenders after incorporating costs for potential additional costs relating to confined space training (\$2,000) for Tender No 2 (Maunsell) and geotechnical investigation (\$8,000) for Tender No 1. This changed the adjusted lump sum of Tender No 2 (Maunsell) to \$149,139 (excl. GST) and Tender No 1 (GHD) to \$176,695 (excl. GST). The corresponding weighted evaluation scores were then 75 for GHD and 81 for Maunsell.

On this basis Tender No 2 (Maunsell) was identified as the preferred Tenderer and was progressed to the due diligence stage of the evaluation.

Contract CPA 136486 – Concept Design, Detail Design and Tender Documentation for Toukley STP Inlet Works Upgrade (contd)

Due Diligence

Maunsell Australia Pty Ltd is a Sydney based consultant with a history of successfully completed engagements similar in nature and scope to the current works. The consultant has an ISO quality accredited OHS&R management system with Compliance Australia Certification Services and an environmental management system accredited with the Construction Policy Steering Committee.

Reference checks were made on Maunsell using the nominated referees. Both referees provided positive feedback regarding the company's performance on previous projects.

Council's independent financial assessor, Kingsway Financial Assessments Pty Ltd assessed Maunsell as having a satisfactory financial rating.

The amount tendered by Maunsell Australia Pty Ltd is 25% above Council's pre-tender estimate. Considering the small field of tenderers, and the closeness of the two tenderers prices (within 15%), it is considered that the pre-tender estimate was an underestimate. A more realistic price for the work is \$150,000 (excl. GST), and it is considered that the price tendered by Maunsell represents a reasonable price for the contract works.

Process Review

This evaluation process and recommendations have been endorsed by the Contract Systems Coordinator.

BUDGET

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

TIME-FRAME

The programme submitted by Maunsell Australia Pty Ltd demonstrates an ability to deliver detailed final documentation as per the tender stipulated time frame of 18 weeks from the date of issue of Letter of Acceptance.

LOCAL CONTENT

The tenderer has indicated that the engagement is expected to generate approximately 60 man-hours of labour requirements for sub-consultants. Sub-consultants to be employed on the project will be sourced from the Central Coast.

26 March 2008
To the Ordinary Meeting of Council

Director's Report
Shire Services Department

Contract CPA 136486 – Concept Design, Detail Design and Tender Documentation for Toukley STP Inlet Works Upgrade (contd)

CONCLUSION

Tender No 2 from Maunsell Australia 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 the Council. It is recommended that Tender No 2 Maunsell Australia Pty Ltd be accepted in the combined lump sum and Schedule of Rates amount of \$149,139 (excl GST) or \$164,052.90 (incl GST).

26 March 2008
To the Ordinary Meeting of Council

Director's Report
Shire Services Department

**120 Contract CPA 137955 – Minnesota and Warnervale Roads
Intersection Upgrade, Hamlyn Terrace.**

CPA/137955 BW

SUMMARY

Evaluation and selection of tenders for Contract CPA/137955 – Minnesota and Warnervale Roads Intersection Upgrade, Hamlyn Terrace.

RECOMMENDATION

- 1 *That Council accept Tender No.2 from C&W Constructions Pty Ltd in the lump sum amount of \$1,090,672.00 including GST (\$991,520.00 excluding GST).***
- 2 *That Council approve a contingency amount of \$110,000.00 including GST (\$100,000.00 excluding GST), representing approximately 10% of the contract value, to provide for any unforeseen additional works that may become necessary during the course of the project.***

BACKGROUND

In 2003/04 the State Government proposed provision of a new school on land adjacent to the intersection of Minnesota Road and Warnervale Road at Hamlyn Terrace. By 2006 the rezoning of land for the Hamlyn Terrace Primary School had been completed and a Development Application was submitted to Council.

All conditions to be applied to Development Applications lodged by the Crown are determined by negotiation with Council. In this instance the allocation of funding responsibilities for the necessary upgrades to the intersection, including new traffic lights, became an issue of dispute between Council and the State Government. Following unsuccessful mediation the Minister for Planning was required to determine the matter, and the Minister's determination came into force in June 2007.

The Ministerial determination required the Department of Education to contribute to a significantly reduced quantum of work at the intersection, with the balance of works to be funded and undertaken by Council. The total cost of the works to be funded by Council is estimated to be approximately \$1.3M, including the construction contract that is the subject of this report. The contribution from the State Government to the total intersection project is \$112,000 or 9% of the value of the works.

Contract CPA 137955 – Minnesota and Warnervale Roads Intersection Upgrade, Hamlyn Terrace (contd)

The intersection upgrade works proposed under contract CPA/137955 are unrelated to the upgrading of Minnesota Road between Warnervale Road and the Pacific Highway at Wadalba. This is a separate matter that was reported to the Council meeting of 27 February 2008 and the subject of a briefing on 12 March 2008. Irrespective of the outcome of the resolution on the upgrading of Minnesota Road, the intersection at Minnesota Road and Warnervale Road must be upgraded as a priority due to the impending opening of the new school. The upgrade works to the intersection will also need to proceed irrespective of the ultimate alignment of Minnesota Road.

Contract CPA/137955 is a lump sum, construct-only contract with an anticipated completion date of September 2008. The proposed upgrade of the intersection will include:

- * Widening and construction of shoulders on Minnesota and Warnervale Roads
- * New kerb and guttering
- * Partial road pavement reconstruction
- * Drainage including sub-soil drainage
- * Road line marking and sign posting
- * Provision and commissioning of traffic signals.

Road works immediately adjacent to the new primary school are being undertaken by the developer of the school, Hansen Yuncken Pty Ltd, as part of the school construction. Council's intersection upgrade will marry into these works to provide improved traffic and pedestrian control.

Council's contract manager will work closely with the selected contractor and the contractors building the school road frontage to minimise the usual construction risks associated with this intersection upgrade.

Every effort has been made to fast track the works and to complete sufficient sections to enable the intersection to be operational in time for the planned opening of the new school on 21 July 2008. Some final finishing works are expected to be completed within one month after this date subject to favourable weather conditions.

Tender Process

Tenders were invited by way of public invitation. Advertisements were placed in the Sydney Morning Herald on 15 December 2007 and the Central Coast Express Advocate on 19 December 2007 with all tender documentation placed on the Wyong Shire Council e-Tendering website. The advertised closing date was 31 January 2008.

Contract CPA 137955 – Minnesota and Warnervale Roads Intersection Upgrade, Hamlyn Terrace (contd)

The invitation documents called for lump sum tenders based on detailed drawings and specification.

One Addendum was issued to all prospective tenderers during the invitation period. This Addendum provided:

- 1 Revised detail drawings and intersection layout to meet the requirements of the RTA.
- 2 Details for relocation of a 150mm water main under Minnesota Road to meet Council requirements.

Tenders closed at Council Chambers and on the e-Tendering Website at 2:00pm on 31 January 2008.

EVALUATION OF TENDERS

Tenders were evaluated by a panel of three members, one from Council and two from the Department of Commerce (Wyang Project Office) using the following threshold and weighted criteria:

Threshold Criteria

- 1 Conformance with the specification and requirements of the tender documents.
- 2 Ability to manage financial, quality, safety and environmental risks.
- 3 Contractor or proposed Subcontractor to be TS02 accredited (minimum) with RTA for traffic signals.

Weighted Criteria

- 1 Price.
- 2 Experience and Track Record – Experience in the construction of road works similar to this project.
- 3 Program – Details and logic of the tender program and demonstrated ability to meet key deliverable dates.
- 4 Demonstrated Performance – Previous good performance supported by reference reports on similar projects.

Contract CPA 137955 – Minnesota and Warnervale Roads Intersection Upgrade, Hamlyn Terrace (contd)

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

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

The evaluation was conducted according to the following process.

- 1 Assessment of receipt of tenders.
- 2 Assessment of conformance of tenders.
- 3 Detailed weighted evaluation of tenders.
- 4 Due diligence checks on preferred tenderer.
- 5 Independent review of tender selection process.

Assessment of Receipt

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

Tender	Tendered Lump Sum (Excl. GST)	Status
1 Bolte Civil Pty Ltd	\$1,157,883.10	Submitted late (eliminated)
2 C&W Constructions Pty Ltd	\$962,120.00	Submitted on time

Tender No.1, submitted by Bolte Civil Pty Ltd was hand delivered to Council 15 minutes after the closing time. Under Clause 117 (2) of the Local Government Regulation (General) 2005, Council is not permitted to consider late tenders. The tender was also noted to include a number of qualifications and departures. This tender was not considered further.

No issues were identified with Tender No.2 (C&W Constructions) and this tender was progressed to an assessment of conformance.

Assessment of Conformance

Tender No.2 (C&W Constructions) was assessed for conformance with the general tender requirements, including the specification.

Contract CPA 137955 – Minnesota and Warnervale Roads Intersection Upgrade, Hamlyn Terrace (contd)

Tender No.2 (C&W Constructions) contained several qualifications and departures as follows:

- * The Tenderer had allowed for all excavation to be in material other than rock.
- * The Tenderer would relocate existing services including relocation of the watermain at cost plus 22.5% for profit and overheads.

As a result clarifications were sought from the Tenderer on these qualifications with the following results.

- * The Tenderer clarified the rates for rock excavation in their tender in compliance with the tender regulations.
- * The Tenderer withdrew this qualification on advice that relocations of Telstra, gas and Energy Australia services would be undertaken by others.
- * The Tenderer provided a firm price of \$29,400 excluding GST for trenching of a water main relocation as required by the Addendum. The price was reasonable and allowed as a minor omission to the tender price in accordance with the tender regulations. The adjusted tender price then became \$991,520.00

Weighted Evaluation

The tender from C&W Constructions was scored against each of the weighted evaluation criteria (including price and non-price elements) with the following result.

Tender	Tendered Lump Sum (Ex. GST)	Adjusted Lump Sum (Ex GST)	Weighted Evaluation Score
2 C&W Constructions P/L	\$962,120.00	\$991,520.00	92

The weighted evaluation score indicates that this Tenderer is well above the benchmark level sought for this tender. The tender was progressed to the due diligence stage of the evaluation.

Due Diligence

C&W Constructions Pty Ltd is a Newcastle/Maitland based construction contractor with a history of successfully completed contracts similar in nature and scope to the current works.

The adjusted tender price from C&W Constructions Pty Ltd is approximately 5% below the pre-tender estimate. The adjusted tender price is considered to be a reasonable price for the contract works.

Contract CPA 137955 – Minnesota and Warnervale Roads Intersection Upgrade, Hamlyn Terrace (contd)

Tender No.2 (C&W Constructions) meets the threshold criteria of conformance with the specification and requirements of the tender documents. The tender meets the quality, safety and environmental requirements of the tender documents. The Tenderer will engage a TS02 accredited sub-contractor to complete the traffic signals in accordance with RTA requirements.

Tender No.2 (C&W Constructions) was subjected to a financial assessment and reference check from the referees that were provided in the tender. The reference checks indicated they had successfully completed contracts for various public and private bodies including Maitland City Council.

It is considered that C&W Constructions Pty Ltd is an appropriately experienced and capable construction company in the construction of roadworks with favourable reports from all referees.

On the basis of the information provided by the Tenderer, the independent financial assessor Kingsway Financial Assessments indicated that C&W Constructions Pty Ltd possesses the financial resources necessary to satisfactorily complete the works. The outcome of the Kingsway Financial Assessment is rated as good. The financial assessment is held on Council file.

Process Review

This evaluation process and recommendations have been endorsed by the Contract Systems Coordinator.

BUDGET

The project is funded under the Capital Works Expansion programme with funding from Section 94 Contributions with a State Government contribution of \$112,000.

This work was not included in the original 2007/2008 Rolling Works Programme, and is being undertaken as a priority project due to the late decision of the State Government not to undertake these works as part of the development of the new school. The intersection upgrade is therefore being managed by Council.

TIME-FRAME

It is anticipated that the contract will commence in April 2008 with a completion time of 16 weeks. Contract completion is expected by September 2008 (weather permitting). It is expected that sufficient work for the intersection to be operational will be completed to coincide with the opening of the school in July 2008.

Contract CPA 137955 – Minnesota and Warnervale Roads Intersection Upgrade, Hamlyn Terrace (contd)

LOCAL CONTENT

Construction materials for the works will generally be sourced from the local area. There will be opportunities for local employment for subcontractors. Most service relocations will be undertaken by local service providers and their workforce.

CONCLUSION

Tender No.2 (C&W Constructions) is the highest scoring tender and meets all of Council's requirements for this contract. On balance, this tender is considered to represent the best value-for-money for Council. It is recommended that the tender from C&W Constructions Pty Ltd be accepted.

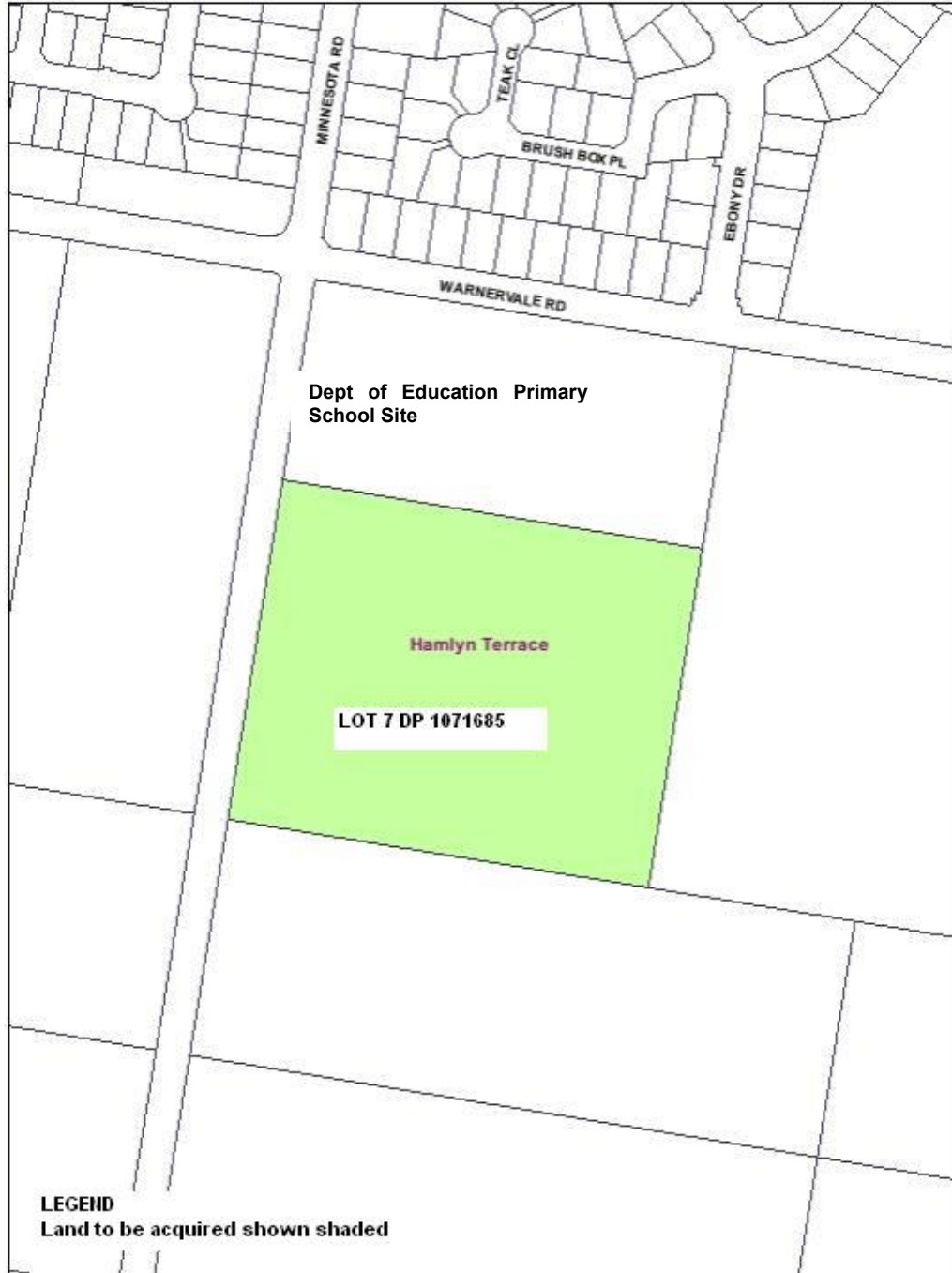
Enclosure

Plan showing intersection design plan

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**121 Acquisition of Land at Hamlyn Terrace - Lot 1 DP 1071685
(Attachment 1)**

Locality Plan



WYONG SHIRE COUNCIL

26 March 2008
To the Ordinary Meeting of Council

Director's Report
Corporate Services Department

121 Acquisition of Land at Hamlyn Terrace - Lot 1 DP 1071685

F2007/01688 JMT

SUMMARY

Approval is sought to permit the compulsory acquisition of Lot 7 DP 1071685, 180 -188 Minnesota Road, Hamlyn Terrace for use as sporting fields, courts, associated amenities and community facilities.

RECOMMENDATION

- 1 *That Council authorise the payment of compensation for the acquisition of Lot 7 DP 1071685 Minnesota Road, Hamlyn Terrace in accordance with the Land Acquisition (Just Terms Compensation) Act 1991 and based on assessment by a qualified valuer.***
- 2 *That, in the event it is deemed that agreement with the property owners cannot be achieved, Council authorise acquisition by compulsory process.***
- 3 *That Council authorise for the Common Seal of the Wyong Shire Council to be affixed to the necessary applications to the Department of Local Government for the approval of the Minister and the Governor, to proceed with the compulsory acquisition.***
- 4 *That Council authorise the Mayor and the General Manager to execute all documents relating to the necessary applications to the Department of Local Government for the approval of the Minister and the Governor, to proceed with the compulsory acquisition.***
- 5 *That Council propose classification of Lot 7 DP 1071685 as Operational Land.***
- 6 *That the proposal be advertised in accordance with Section 34 of the Local Government Act 1993.***
- 7 *That, subject to no significant objections being received, the classification be confirmed.***

BACKGROUND

Compulsory Acquisition

On 26 September 2007, in Confidential Session of Council's Ordinary Meeting, Council authorised the acquisition of Lot 7 DP 1071685, 180 -188 Minnesota Road, Hamlyn Terrace (the land) for use as sporting fields, courts, associated amenities and community facilities in the Hamlyn Terrace area. At the time of this report the potential requirement for compulsory acquisition was not addressed.

Acquisition of Land at Hamlyn Terrace - Lot 1 DP 1071685 (contd)

Council has been negotiating with the owners of the land since 18 October 2007 for the purchase of their property. The owners have indicated that the land is not for sale and they do not wish to negotiate further with Council in this matter.

Lot 7 was previously part of a larger parcel of land the northern part of which was acquired by the Department of Education for a primary school site. The Department of Education was unable to secure that site by private treaty and were required to compulsorily acquire from the same owner that Council is now dealing with in respect of the playing fields site.

The priority for the development of the Hamlyn Terrace Sporting Facility is increasing. Early acquisition is necessary to achieve the desired timetable for development. It is unlikely that a negotiated agreement for the purchase of Lot 7 DP 1071685 will be reached and if Council wishes to secure the property it is likely to be necessary to commence compulsory acquisition action in accordance with the Land Acquisition (Just Terms Compensation) Act 1991.

The Department of Local Government requires a specific resolution to seek the Ministers approval and the Governors consent to compulsorily acquire land.

The land has an area of approximately 5.08 hectares and is zoned 1 (c) Non Urban Constrained Lands and 10 (a) Investigation Precinct Zone and is vacant land.

Funds are available from Section 94 Contributions for the acquisition of the property.

Classification

In accordance with the Public Land Classification Table adopted by Council at its meeting held on August 14 1996 land owned by Council for playing fields should be classified as community land and land owned by Council for community facilities should be classified as operational land. Given that the land is proposed to contain both playing fields as well as community facilities, it is proposed to initially classify the land as operational. When the development for playing fields and community facility is complete the classification can be reviewed. It is expected that part will remain operational land and part will be reclassified to community land.

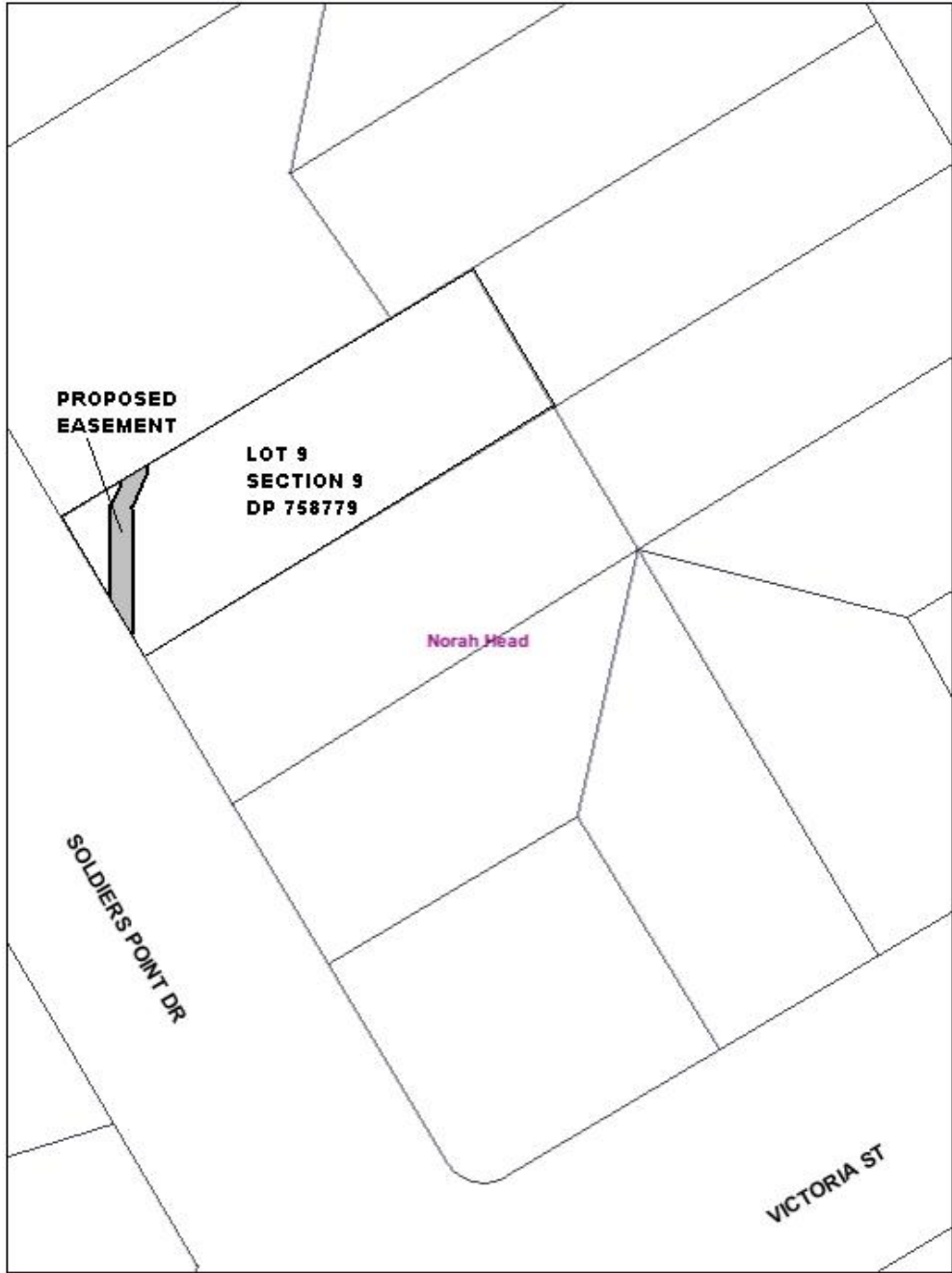
Under Section 34 of the Local Government Act 1993, Council is required to give public notice of the proposal to classify land for a period of 28 days before confirming classification after acquisition.

Attachment 1***Plan showing location of Lot 1 DP 1071685 (1 page)***

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**122 Acquisition of Easement for Drainage over existing pipes at
Lot 9 Section 9 DP 758779 Soldiers Point Drive, Norah Head
(Attachment 1)**

Plan Showing Proposed Easement (highlighted)



WYONG SHIRE COUNCIL

26 March 2008
To the Ordinary Meeting of Council

Director's Report
Corporate Services Department

**122 Acquisition of Easement for Drainage over existing pipes at
 Lot 9 Section 9 DP 758779 Soldiers Point Drive, Norah Head**

F2007/01595 SB

SUMMARY

Approval is sought to acquire an easement for drainage over Lot 9 Section 9 DP 758779 Soldiers Point Drive, Norah Head.

RECOMMENDATION

- 1 *That Council acquire an easement for drainage four (4) metres wide over Lot 9 Section 9 DP 758779.***
- 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 the Common Seal of 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

Lot 9 Section 9 DP 758779 Soldiers Point Drive, Norah Head has an existing drainage pipeline which currently drains stormwater from Soldiers Point Road through to Bungary Road, affecting the property.

In order to protect its interest in respect of the operation and maintenance of the drainage line, Council proposes to establish an easement to drain water 4 metres wide over the existing drainage pipeline over Lot 9 Section 9 DP 758779. The easement will provide for the existing drainage pipe and a 100 year overland flow path.

**Acquisition of Easement for Drainage over existing pipes at Lot 9 Section 9
DP 758779 Soldiers Point Drive, Norah Head (contd)**

Lot 9 Section 9 DP 758779 is 613.4 square metres and zoned 2A Residential. It is not considered that the easement will have a major effect on the amenity of the property on the basis that the works are already in place.

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

The cost of this acquisition is provided for within Council's existing drainage budget.

Attachment 1

Plan showing proposed easement (highlighted) (1 page)

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**123 Release of Easement for Water Main at Lot 10 DP 25355, 1A
Yates Road, Ourimbah (Attachment 1)**

Locality Plan



WYONG SHIRE COUNCIL

26 March 2008
To the Ordinary Meeting of Council

Director's Report
Corporate Services Department

**123 Release of Easement for Water Main at Lot 10 DP 25355, 1A
 Yates Road, Ourimbah**

F2007/01898 SB

SUMMARY

Approval is sought to release the easement for water main three (3) metres wide in favour of Council affecting Lot 10 DP 25355, 1A Yates Road, Ourimbah.

RECOMMENDATION

- 1 *That Council release the Easement for Water Main three (3) metres wide affecting Lot 10 DP 25355 for an amount of compensation to be determined by a qualified valuer and agreed to between the parties.***
- 2 *That Council authorise the affixing of the Common Seal of Wyong Shire Council to the Transfer Releasing Easement.***
- 3 *That Council authorise the execution of all documents relating to the Transfer Releasing Easement by the Mayor and the General Manager.***

BACKGROUND

Lot 10 DP 25355, 1A Yates Road, Ourimbah is affected by an Easement for Water Main three (3) metres wide. Council is the beneficiary of the easement on the basis the easement was transferred to Council by the Commissioner for Main Roads in 1978.

In November, 2007 Leishman Investments Pty Limited, the owner of Lot 10 DP 25355, wrote to Council advising of its intention to sell the above property and requesting the cancellation of the Easement. In requesting the release of the easement the owners advised that the easement has not been used by Council and that the water main is situated outside the property.

A search of Council records has been unable to determine the reason for the transfer of the easement to Council. The easement for water main affects the subject property generally from Yates Road to its northern boundary with Lot 1 DP 59131. Lot 1 DP 59131 is not burdened by a water main easement which would tend to indicate that there is no requirement for an easement over the subject land as it is not continuous.

Council's Development Services Unit has advised it has no objection to the extinguishment of the easement for watermain subject to verification of the owners claim that there are no services in the easement.

**Release of Easement for Water Main at Lot 10 DP 25355, 1A Yates Road,
Ourimbah (contd)**

Council's Manager Water and Waste has advised that the water main servicing this area is located on the southern alignment of Yates Road and that there are no water and sewer services located within the easement nor are there any proposals to locate services in the easement in future. Accordingly there is no need to retain the easement and the easement may be extinguished subject to the applicant meeting all the costs associated with the extinguishment and paying compensation to Council being the market value of the easement.

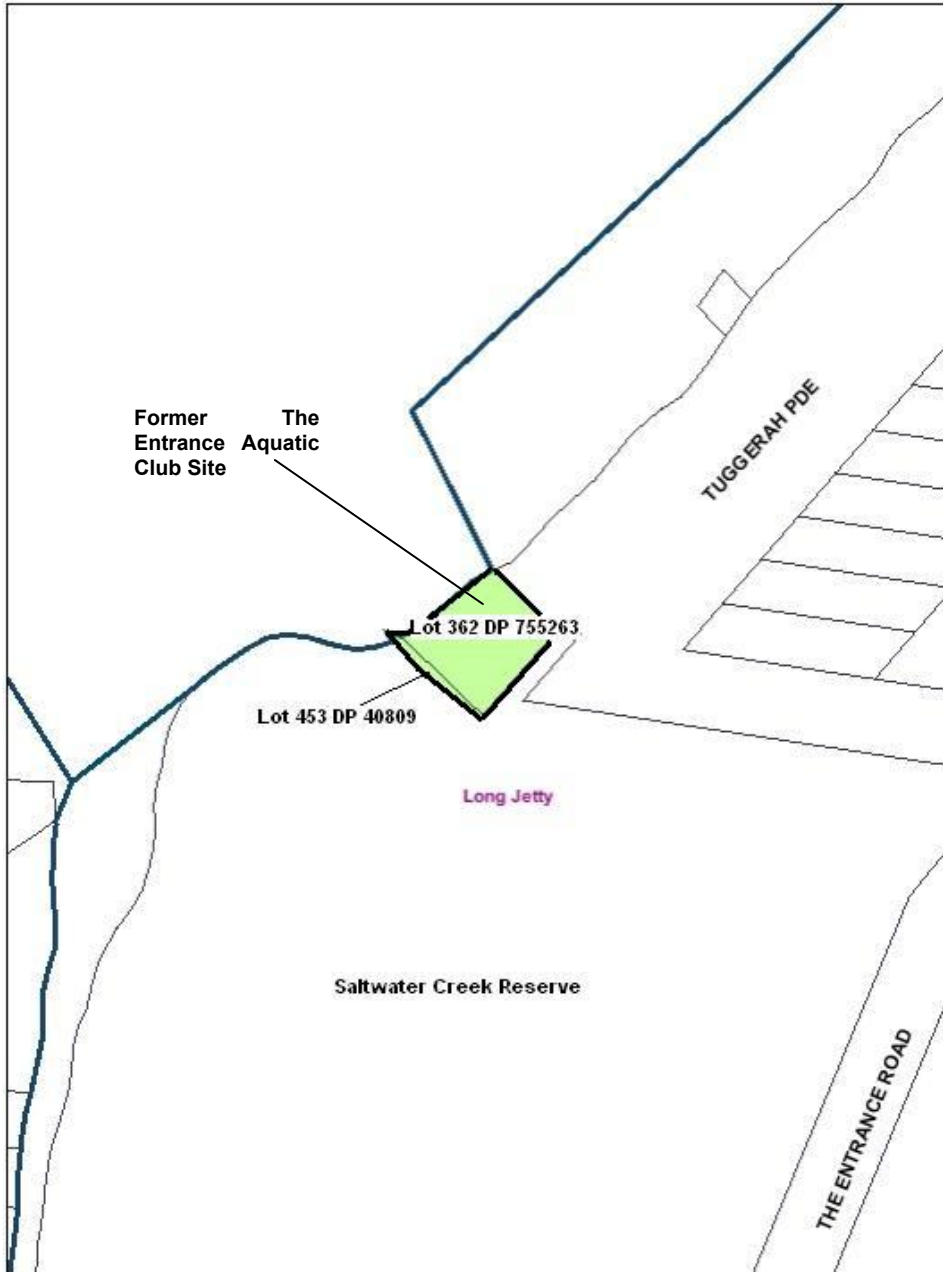
Attachment 1

***Plan showing the location of the Easement for Water Main
(shaded) (1 page)***

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**124 Reservation of Crown Land for Public Recreation at Saltwater
Creek Long Jetty - Lot 453 DP 40809 and Lot 362 DP 755263
(Attachment 1)**

Locality Plan



WYONG SHIRE COUNCIL

26 March 2008
To the Ordinary Meeting of Council

Director's Report
Corporate Services Department

**124 Reservation of Crown Land for Public Recreation at Saltwater
Creek Long Jetty - Lots 453 DP 40809 and Lot 362 DP 755263**

F2007/01913 PF

SUMMARY

Approval is sought for Council to apply to the Crown to Reserve Lots 453 DP 40809 and Lot 362 DP 755263 and add that land to Saltwater Creek Reserve (R84059) for Public Recreation.

RECOMMENDATION

That Council apply to the Department of Lands to have Lot 453 DP 40809 and Lot 362 DP 755263 reserved for Public Recreation and for that land to be added to Saltwater Creek Reserve (R84059) for Public Recreation.

BACKGROUND

Saltwater Creek Reserve (R84059) for Public Recreation at Long Jetty is being upgraded to provide a regional facility for Wyong Shire. The proposed upgrade will provide an all access playground including a liberty swing for wheelchair bound children, new picnic and BBQ facilities, improved car and boat parking area and general landscaping of the park. The park currently provides a shared pathway along the foreshore reserve and a BMX facility.

The improvements are being undertaken as part of Council's Estuary Management Plan and the Saltwater Creek Redevelopment Plan which also provide the funding for the project.

Lot 453 DP 40809 and Lot 362 DP 755263 is Crown land adjoining the Saltwater Creek Reserve which was formerly the subject of Special Lease 75013 from the Crown to The Entrance Aquatic Club Ltd. Located on the Special Lease premises is the Entrance Aquatic Club building, a jetty and boat ramp.

The Department of Lands has advised that The Entrance Aquatic Club Ltd had abandoned its occupation and lease of the premises and a more recent occupation by Samaritans Foundation has also been abandoned. Accordingly Special Lease 75013 of the premises from the Crown has lapsed.

The existing Aquatic Club building, adjacent to the boat ramp, is currently in a severe state of disrepair and would require considerable work to enable use in its current form.

Reservation of Crown Land for Public Recreation at Saltwater Creek Long Jetty - Lot 453 DP 40809 and Lot 362 DP 755263 (contd)

Associated with the upgrade of Saltwater Creek Reserve Council proposes to take over the responsibility for and facilitate public use of the existing boat ramp and to upgrade the boat ramp to provide for safer and more efficient use of this facility. The upgrade will include a pontoon for wheelchair access and an extension of the existing jetty for Council's lake cleaning activities.

Should Council wish to pursue its proposal in respect of Lot 453 DP 40809 and Lot 362 DP 755263 it will be necessary to secure tenure of the site from the Crown.

The Department of Lands has suggested that upon receipt of an application from Council it may reserve the land for public recreation and add the land to the existing Saltwater Creek Reserve for which Council is the appointed manager of the Reserve Trust. In this regard the Department has given its approval in principle subject to Council specifying the purpose for which it would apply for reservation of the land.

The Crown has advised that as the site was abandoned by The Entrance Aquatic Club and subject to a subsequent occupation by the Samaritans. The Crown has not pursued any remediation of the site with past lessees. In any event this is a matter between the Crown and those lessees. The Crown has advised that it is a condition of any reservation to Council that the Crown not bear any remediation costs.

Council proposes to demolish and remove from the site the former The Entrance Aquatic Club building. This would be undertaken in association with and funded by the Estuary Management and Saltwater Creek Redevelopment Plans

Attachment 1***Plan showing the location of the former The Entrance Aquatic Club site (1 page)***

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125 Proposed Renaming of Lot 15 DP 789442, Lot 4 DP 734269 and Lot 12 DP 789442 to Peter Clifford Reserve - Shelly Beach (Attachment 1)

Locality Plan



WYONG SHIRE COUNCIL

26 March 2008
To the Ordinary Meeting of Council

Director's Report
Shire Services Department

**125 Proposed Renaming of Lot 15 DP 789442, Lot 4 DP 734269 and
Lot 12 DP 789442 to Peter Clifford Reserve - Shelly Beach**

F2004/06023 LS/CAM

SUMMARY

A proposal has been received from community representatives requesting that Council rename the land located at 3W Shelly Beach Road, Shelly Beach, 9W Laird Close, Shelly Beach and 1W Phillip Street, Shelly Beach, as "Peter Clifford Reserve" in recognition of Mr Peter Clifford who was an avid supporter and spokesperson for the local environment. This report gives consideration to the proposal that the land, otherwise known as Lot 15 DP 789442, Lot 4 DP 734269 and Lot 12 DP 789442 should be renamed.

RECOMMENDATION

- 1 That Council support the renaming of the reserve Lot 15 DP 789442, Lot 4 DP 734269 and Lot 12 DP 789442 as "Peter Clifford Reserve".**
- 2 That the proposal to rename the reserve be advertised on Council's website and in local print media seeking comments from the public for a period of 28 days.**
- 3 That subject to no significant objection being received, Council apply to the Geographical Names Board for the reserve to be named "Peter Clifford Reserve".**

BACKGROUND

On 18 September 2007, John Asquith, Chairman of Community Environment Network Inc. wrote to Council requesting that consideration be given to the renaming of the land "Lot 15 DP 789442, Lot 4 DP734269 and Lot 12 DP 789442 as Peter Clifford Reserve. The land is located at 3W Shelly Beach Road, Shelly Beach, 9W Laird Close, Shelly Beach and 1W Phillip Street, Shelly Beach. It is Council owned and is zoned 6a Open Space and Recreation.

A locality map is shown at Attachment 1.

Proposed Renaming of Lot 15 DP 789442, Lot 4 DP 734269 and Lot 12 DP 789442 to Peter Clifford Reserve - Shelly Beach (contd)

The tract of land has been identified as part of an important "stepping stone corridor" for wildlife to travel between the two halves of the Wyrabalong National Park. From 1985 to 1990, Mr Clifford conducted plantings near Shelly Beach Road to the rear of the high school. Also, during this time Peter Clifford worked on a substantial section of the corridor together with a Geography teacher from The Entrance High School.

The proposal received from Mr John Asquith cites Mr Clifford as a keen conservationist and bush regenerator and states that Mr Clifford had an extensive knowledge of native plants and bush regeneration techniques. As a member of the North Entrance Protection Society, he successfully preserved a large tract of land in the Wyrabalong National Park. In 1996, Mr Clifford co-authored an environmental study into "Wetlands of the Tuggerah Lakes Catchment". Mr Clifford originally started Tentacle, a group of volunteers who have been working in the North Wyrabalong area for 13 years and have achieved extensive conservation in the local area. Mr Clifford passed away in April 2007.

From the information available the request to rename the reserve Peter Clifford Reserve is appropriate. Prior to forwarding the naming proposal to the Geographical Names Board, Council should first seek public comment on the renaming. Previous renaming proposals have undertaken this approach with exhibition periods typically lasting 28 days.

Following exhibition of the proposal, and provided no significant objections are received, a formal request for the renaming can then be made to the Geographical Names Board.

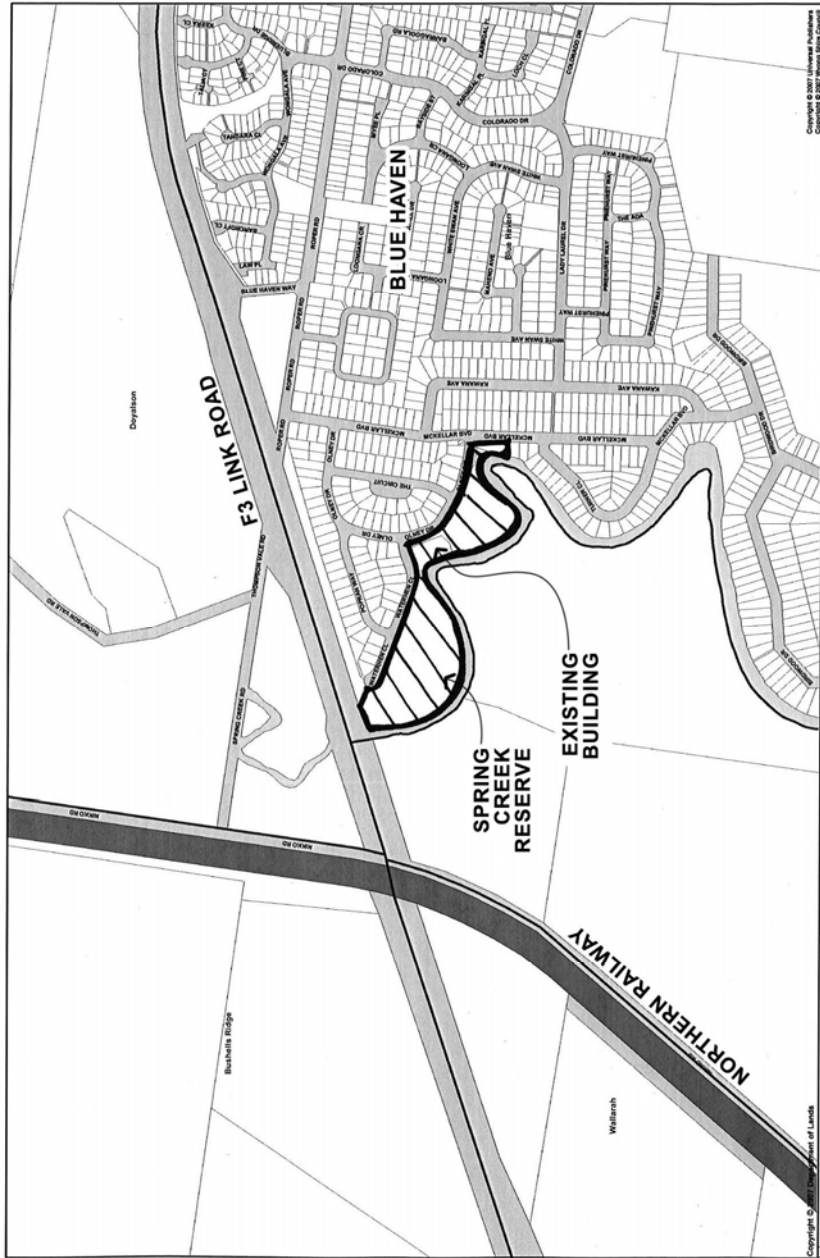
Attachment 1

Locality Map (1 page)

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126 **Blue Haven Neighbourhood Centre
(Attachment 1)**

Locality Plan



Scale 1:5729 LOCATION PLAN

WYONG SHIRE COUNCIL

26 March 2008
To the Ordinary Meeting of Council

Director's Report
Shire Services Department

126 Blue Haven Neighbourhood Centre

F2005/02949 KS

SUMMARY

This report outlines the details for the demolition of the old Blue Haven Neighbourhood Centre in Spring Creek Reserve at McKellar Boulevard, Blue Haven.

RECOMMENDATION

That Council approve the demolition of the old Blue Haven Neighbourhood Centre building and amenities block.

LOCATION

The Blue Haven Neighbourhood Centre is located in the Spring Creek Reserve within Lots 3 and 5 DP 815400 and Lots 994-996 DP 1035659 at the western end of Blue Haven. The reserve is bounded by Spring Creek to the south and west, by the F3 Link Road, Waterhen Close and Olney Drive to the north and by McKellar Boulevard to the east. The land is owned by Wyong Shire Council.

BACKGROUND

A new community facility has been constructed on Colorado Drive, Blue Haven and commenced operation in March 2007. This facility incorporates all functions previously undertaken at the now unused Blue Haven Neighbourhood Centre.

The Spring Creek Reserve on which the unused Blue Haven Neighbourhood Centre is situated has been scheduled for upgrade in the 07/08 financial year.

In order for the upgrade of the facility to proceed, the existing Neighbourhood Centre on the site will need to be removed.

A meeting was conducted on site on 16 November 2006 with all Council's internal stakeholders to discuss the need of the existing Blue Haven Neighbourhood Centre. It was agreed that the building should be disposed of as it is no longer required due to the construction of the new Community Facility on Colorado Drive. All of the groups who previously utilised the Centre have been relocated into the new building, which has purpose built facilities for these groups. There are presently no groups utilising the Neighbourhood Centre.

Blue Haven Neighbourhood Centre (contd)

The existing building is no longer used and is beyond its economic life. The cost to upgrade the building to a state that is usable including the provision for parking is not a viable option. There is currently no identifiable use for the building and it is a cause of concern with local residents due to the constant vandalism imposed on the building.

A community meeting was held at the site on 13 December 2007 to discuss the proposed reserve upgrade. During this discussion the issue of the existing building and its apparent disrepair was raised by the community. The existing building has been subject to continual vandalism and is currently boarded up and locked. The local residents at the meeting supported the removal of the building.

Funding

Funding is available in 2007/2008 through S94 for the upgrading of the reserve and will be allocated towards the removal of the building. The estimated cost for demolition of the building is \$25,000.

Conclusion

There is no demonstrated need to retain the Blue Haven Neighbourhood Centre as all former user groups have been relocated to the new facility on Colorado Drive.

Attachment 1**Location Plan (1 page)****Enclosures****Plan of stage 1 works****Photograph of subject building**

WYONG SHIRE COUNCIL

26 March 2008
To the Ordinary Meeting of Council

Director's Report
Corporate Services Department

127 Polling Places

F2007/01531 JB:JB

SUMMARY

This report provides an update on discussions held with the NSW Electoral Commission (NSWEC) on ways to reduce the additional costs to be charged to Council for the upcoming local election. It particularly considers the decision about polling places.

RECOMMENDATION

That Council advise the NSW Electoral Commission of the preferred number and location of polling places.

BACKGROUND

On 14 November 2007 Council considered a report about the NSWEC's intention to significantly increase the amount to be charged to Council for the upcoming local government election. The estimated cost provided to Council was approximately \$700,000. This represents a significant increase compared to the cost of the 2004 election which was \$260,000. At that meeting, Council resolved:

- "1 That Council make formal representations to Electoral Commission NSW and the local State and Federal Members of Parliament seeking their assistance in having the cost to be borne by Council, reduced.*
- 2 That should item 1 above not result in a positive outcome, Council apply to pay the cost of the 2008 Local Government Election over four years.*
- 3 That the Tony Sheridan Function Room at the Civic Centre, be offered to the Electoral Commission NSW as accommodation for the Returning Officer and principal polling place.*
- 4 That due to the Electoral Commission's indicated costs, a maximum of 15 booths be established in each ward and that these booths be located as far as possible within Council owned premises."*

Since this time staff have continued discussions with the NSWEC in order to reduce costs. The NSWEC have advised that Council's proposed reduction in polling places would only save Council in the order of \$8,000. However, this would result in a significant inconvenience to electors. The average number of votes cast at each of the proposed polling places would be 2,600 compared to 1,600 under the proposal by the NSWEC.

Polling Places (contd)

In considering Council's proposal further, the NSWEC visited the San Remo area to consider the effect of reducing the number of polling places in that area from 2 to 1. In the opinion of the NSWEC the San Remo Neighbourhood Centre (premises and car parking) would not cope with the expected increase in voter numbers. At this particular venue, voter number could be as high as 5,200.

Council has also been advised that the final decision on the appointment of polling places rests with the NSWEC. If Council wanted to pursue the matter further, the NSWEC would undertake site visits to be satisfied that no other situations such as that at San Remo would eventuate. Council has been quoted a cost of up to \$4,000 for such work.

In relation to establishing a more detailed budget estimate, several attempts have been made in recent months to source an updated budget from the NSWEC. Our most recent advice indicates that this will be available in early April.

CONCLUSION

In order for the NSWEC to finalise the budget for the election Council is required to indicate its final position on the number of polling places.

Attachment 1
Attachemnt 2

List of 2004 Polling Places and Votes Cast (3 pages)
Map showing Wards and Polling Places (1 page)

Polling Places (Attachment 1)

LIST OF POLLING PLACES AND VOTES CAST

A WARD		
Location	Booth Name and Address	Votes Cast
Budgewoi Central	Budgewoi Public School Lukela Avenue, Budgewoi	1,789
Buff Point	Budgewoi Scout Hall 48 Narambi Road, Buff Point	1,648
Charmhaven	Charmhaven Community Hall Narara Avenue, Charmhaven	1,142
San Remo	San Remo Neighbourhood Centre 28 Brava Avenue, San Remo	1,874
Blue Haven	Blue Haven Public School 37 Colorado Drive, Blue Haven	2,406
Gorokan North	Gorokan Public School Dudley Street, Gorokan	2,599
Gorokan South	Gorokan Progress Hall Brennon Road, Gorokan	1,307
Kanwal	Kanwal Public School Craigie Avenue, Kanwal	2,898
Lake Haven	Gorokan High School Goobarabah Avenue, Lake Haven	1,781
Summerland Point	Summerland Point Hall Cams Boulevard, Summerland Point	1,203
Gwandalan	Gwandalan Community Hall 1 Koowong Road, Gwandalan	1,546
Chain Valley Bay	Chain Valley Bay Community Hall Scaysbrook Avenue, Chain Valley Bay	951
Lake Munmorah	Lake Munmorah Senior Citizens Club Lot 1 Acacia Avenue, Lake Munmorah	2,692
Mannering Park	Mannering Park Community Centre Dunvegan Street, Mannering Park	1,317

Polling Places (Attachment 1) (contd)**LIST OF POLLING PLACES****A WARD (Contd)**

Location	Booth Name and Address	Votes Cast
Norah Head	Norah Head Community Hall Bungary Road, Norah Head	992
Toukley (East)	Toukley Neighbourhood Centre Hedor Street, Toukley	1,555
Toukley (West)	Toukley & District Senior Citizens Club 1 Hargraves Street, Toukley	1,784
Tacoma	Tacoma Public School Hillcrest Avenue, Tacoma	431
Tuggerawong	Tuggerawong Progress Hall Tuggerawong Road, Tuggerawong	524
Wyongah	Wyongah Progress Association 159a Tuggerawong Road, Wyongah	888
Wadalba	Wadalba Community School Orchid Way, Wadalba	197
Warnervale	Warnervale Public School Lot 75 Warnervale Road, Warnervale	1,998
Woongarra *	Woongarra Public School 63 – 73 Mataram Road, Woongarra	-

* Added since 2004 election

B WARD

Location	Booth Name and Address	Votes Cast
The Entrance North	Glenvale Special School Hutton Road, North Entrance	638
The Entrance	The Entrance Community Centre Cnr The Entrance Road and Campbell Street, The Entrance	1,818
Toowoona Bay	1 st Tuggerah Lakes Scout Group Kitchener Road, Long Jetty	1,040
Long Jetty	Long Jetty Senior Citizens Committee 6 Thompson Street, Long Jetty	1,488

Polling Places (Attachment 1) (contd)**LIST OF POLLING PLACES****B WARD (Contd)**

Location	Booth Name and Address	Votes Cast
Bateau Bay	Tuggerah Lakes Secondary College – The Entrance Campus The Entrance Road, Bateau Bay	2,293
Bateau Bay (Central)	Nareen Gardens Retirement Village Bias Avenue, Bateau Bay	867
Bateau Bay (East)	Bateau Bay Public School Waratah Street, Bateau Bay	1,967
Bateau Bay (South)	Banksia Family Centre 7 Sir Josephs Banks Drive, Bateau Bay	1,401
Bateau Bay (West)	Youth Cottage, Debra Ann Drive Bateau Bay	406
Killarney Vale	Brooke Ave Primary School Brooke Avenue, Killarney Vale	3,544
Killarney Vale	Killarney Vale Public School Henricks Road, Killarney Vale	1,422
Tumbi Umbi	Tumbi Community Hall Roberta Street, Tumbi Umbi	1,070
Berkeley Vale	Berkeley Vale Public School Henry Parkes Drive, Berkeley Vale	2,841
Berkeley Vale (North)	Myrtle Brush Park Community Hall Panorama Avenue, Berkeley Vale	1,284
Chittaway Point	Chittaway Point Hall Sunshine Avenue, Chittaway Point	418
Chittaway (South)	Chittaway Bay Primary School Chittaway Road, Chittaway Bay	2,667
Mardi	Woodbury Park Community Centre Woolmers Crescent, Mardi	743
Tuggerah	Tuggerah Community Hall Anzac Road, Tuggerah	952
Ourimbah	Ourimbah Public School 121 Pacific Highway, Ourimbah	2,178
Jilliby	Jilliby Primary School Jilliby Road, Jilliby	558 A ward only

Polling Places (Attachment 1) (contd)

LIST OF POLLING PLACES**B WARD (Contd)**

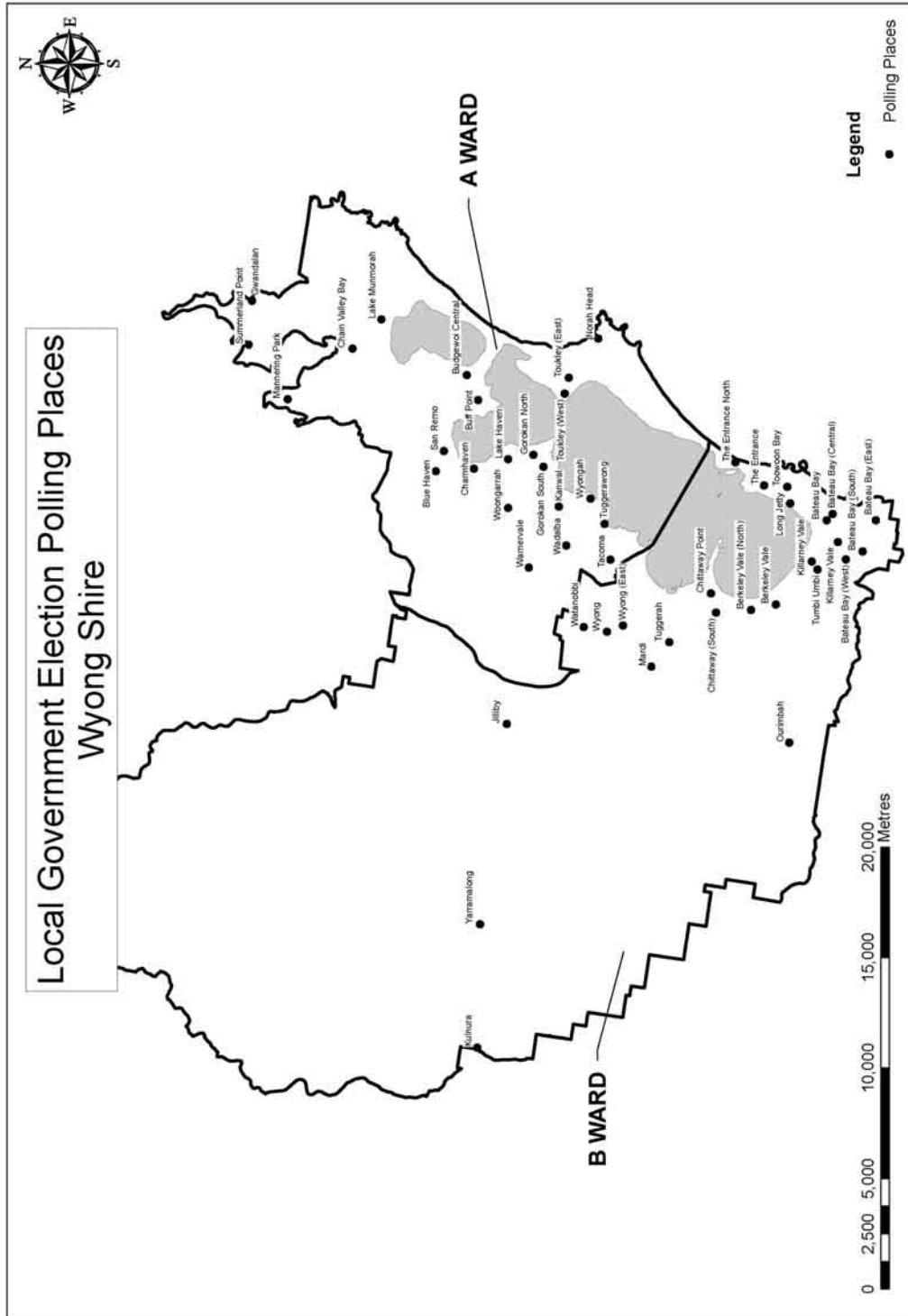
Location	Booth Name and Address	Votes Cast
Yarramalong	Yarramalong Public School Yarramalong Road, Yarramalong	275
Kulnura	Kulnura Hall Cnr Greta Road and George Downes Drive, Kulnura	197

BOTH A and B WARD

Location	Booth Name and Address	Votes Cast
Watanobbi	Wyong Public School Cutler Drive, Wyong	A Ward 126
		B Ward 1,485
Wyong	Wyong Memorial Hall Anzac Avenue, Wyong	A Ward 446
		B Ward 1,357
Wyong (East)	Wyong Anglican Church 27 Byron Street, Wyong	A Ward 64
		B Ward 665

Polling Places (Attachment 2)

Locality Plan



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WYONG SHIRE COUNCIL

26 March 2008
To the Ordinary Meeting of Council

Board Report

128 **Item WA013 of the Gosford/Wyong Councils' Water Authority
Board Meeting – 20 February 2008**

F2004/06808 SW

SUMMARY

Item WA013 of the Gosford/Wyong Councils' Water Authority Board meeting held on 20 February 2008.

RECOMMENDATION

That item WA013 of the minutes of the Gosford/Wyong Councils' Water Authority Board meeting held on 20 February 2008 be received and the recommendation contained therein, adopted.

BACKGROUND

At its meeting held on 27 February 2008, Council considered a report containing the minutes of the Gosford/Wyong Councils' Water Authority Board Meeting – 20 February 2008.

At that meeting, Council resolved the following:

"That WA013 be dealt with as a separate item."

The item was not discussed and has been resubmitted for consideration.

Attachment 1 ***Item WA013 extracted from the Minutes of Gosford/Wyong
Councils' Water Authority Board Meeting held on 20 February
2008 (1 page)***

**Item WA013 of the Gosford/Wyong Councils' Water Authority Board Meeting
– 20 February 2008 (Attachment 1)**

WA013 Vales Point and Munmorah Power Stations Effluent Reuse

F2004/06808

013/08 *RESOLVED unanimously on the motion of Mr Wilson and seconded by Mr Cathers:*

That the report be received and the information noted.

WYONG SHIRE COUNCIL

26 March 2008
To the Ordinary Meeting of Council

Panel Report

129 Minutes of Community Benefit Grants Panel - 13 March 2008

F2004/06570 JV

SUMMARY

Council's Community Benefit Grants Panel met on 13 March 2008 to consider applications for funding under the Community Benefit Grants program. A copy of the minutes is attached.

RECOMMENDATION

That the reports and recommendations of the Community Benefit Grants Panel be received and the recommendations contained therein be adopted.

Attachment 1

Minutes of the Community Benefit Grants Panel meeting held on 13 March 2008 (5 pages)

Minutes of Community Benefit Grants Panel - 13 March 2008 (Attachment 1)

WYONG SHIRE COUNCIL

**MINUTES OF THE
WYONG SHIRE COMMUNITY BENEFIT GRANTS PANEL
HELD IN THE DEVELOPMENT ASSESSMENT UNIT CONFERENCE ROOM, LEVEL 3
WYONG CIVIC CENTRE, HELY STREET, WYONG
ON WEDNESDAY 13 MARCH 2008
COMMENCING AT 1.18 PM**

PRESENT

COUNCILLORS W J WELHAM (CHAIRPERSON), R C STEVENS AND R E STEWART.

IN ATTENDANCE

COMMUNITY DEVELOPMENT MANAGER, COMMUNITY DEVELOPMENT POLICY OFFICER AND AN ADMINISTRATION OFFICER.

APOLOGIES

AN APOLOGY FOR THE INABILITY TO ATTEND THE MEETING WAS RECEIVED ON BEHALF OF COUNCILLOR R L GRAHAM.

26 March 2008
To the Ordinary Meeting of Council

Panel Report

Minutes of Community Benefit Grants Panel - 13 March 2008 (Attachment 1) (contd)

CBG01 Disclosure of Pecuniary Interest

F2004/06507 ED

CBG03 Applications for Trimester 3 2007/2008

COUNCILLOR WELHAM DECLARED A NON-PECUNIARY INSIGNIFICANT CONFLICT OF INTEREST IN THE MATTER FOR THE REASON THAT THE APPLICANT, SAN REMO NEIGHBOURHOOD CENTRE MENTIONED THEY HAVE GOROKAN/KANWAL LIONS CLUB ARE A SUPPORTING ORGANISATION IN THE APPLICATION AND PARTICIPATED IN CONSIDERATION OF THIS MATTER.

COUNCILLOR WELHAM STATED:

"I CHOOSE TO REMAIN IN THE CHAMBER AND PARTICIPATE IN DISCUSSION AND VOTING AS THE CONFLICT HAS NOT INFLUENCED ME IN CARRYING OUT MY PUBLIC DUTY BECAUSE I AM ONLY A MEMBER OF GOROKAN/KANWAL LIONS CLUB."

PANEL RECOMMENDATION

That the report be received and advice of disclosure noted.

CBG02 Minutes of Ordinary Meeting 31 October 2007 – Allocation of Funding

F2005/01881 ED

PANEL RECOMMENDATION

That the report be received and the information noted.

**Minutes of Community Benefit Grants Panel - 13 March 2008 (Attachment 1)
(contd)****CBG03 Applications for Trimester 3 2007/2008**

F2005/01881 MD

COUNCILLOR WELHAM DECLARED A NON-PECUNIARY INSIGNIFICANT CONFLICT OF INTEREST IN THE MATTER FOR THE REASON THAT THE APPLICANT, SAN REMO NEIGHBOURHOOD CENTRE MENTIONED THEY HAVE GOROKAN/KANWAL LIONS CLUB ARE A SUPPORTING ORGANISATION IN THE APPLICATION AND PARTICIPATED IN CONSIDERATION OF THIS MATTER.

COUNCILLOR WELHAM STATED:

"I CHOOSE TO REMAIN IN THE CONFERENCE ROOM AND PARTICIPATE IN DISCUSSION AND VOTING AS THE CONFLICT HAS NOT INFLUENCED ME IN CARRYING OUT MY PUBLIC DUTY BECAUSE I AM ONLY A MEMBER OF GOROKAN/KANWAL LIONS CLUB."

COUNCILLOR STEVENS LEFT THE CONFERENCE ROOM AT 1.37 PM AND RETURNED TO THE CHAMBER AT 1.45 PM DURING CONSIDERATION OF THIS ITEM.

PANEL RECOMMENDATION

That a report be referred to Council's Ordinary Meeting of 26 March 2008 recommending the following:

- 1 That \$41,509.38 be allocated from the 2007/2008 Community Financial Support to the following applications under Trimester 3 of the 2007/2008 Community Benefit Grants program:***

Recipient	Purpose	Recommended Funding (\$)
Australia F1 Superboat Series Management	F1 Superboat Grand Prix Round 2 – Toukley.	\$5,000+
Australian and Italian Friendship Association	3 rd Anniversary Celebration.	\$1,000
Bateau Bay PCYC	ID&C Dance Project.	\$2,200
Brackets and Jam	Coastfest.	\$5,000 (in-kind contribution any left over funds up to \$5000 to be given in cash)
Candles Cancer Support Group Inc	Upgrade of existing office support equipment and general administration expenses.	\$2,000
Central Coast Ugnay Kabayan Inc	Filipino Australian Barrio Fiesta.	\$2,000

**Minutes of Community Benefit Grants Panel - 13 March 2008 (Attachment 1)
(contd)****CBG03 Applications for Trimester 3 2007/2008 (Contd)**

Recipient	Purpose	Recommended Funding (\$)
Central Coast Pelicans Aboriginal Corporation	Brother Yarn and Sister Speak.	\$1,600
Country Women's Association of NSW, Mannering Park Branch	Facility upgrade.	\$2,000
Lake Munmorah and District Senior Citizens Club Inc	Beginners Computer Training for Seniors.	\$3,600
Lions Club of Killarney-Bateau Inc	KB Singers Entertainment Group.	\$2,939
Long Jetty Hospital Auxillary	Equipment purchase.	\$1,016
Pioneer Dog Training School Inc	Wyong Pet Expo 2008.	\$2,000
San Remo Community Garden	Tank, stand and newsletter.	\$2,450
San Remo Neighbourhood Centre	G.O.A.T.S. Family Festival.	\$7,500
Toukley Haven Scouts	Tropical Ice Box.	\$299
Wyong Creek Literary Institute Inc	Wyong Creek Community Hall.	\$455.48
Yarramalong School of Arts	Refund of Rates.	\$449.90

- 2 That the remaining applications from Trimester 3 2007/2008 be determined as indicated in the table below and the applicants be advised and where relevant, directed to alternate funding programs or invited to resubmit amended applications for consideration under a future Community Benefit Grants Trimester:**

Name	Description of Proposal	Amount (\$)	Panel Recommendation
Berkeley Vale Neighbourhood Centre	Community information resources.	\$3,368.94	Does not meet the program's criteria – Applicant will be referred to alternate external funding options such as CDSE

**Minutes of Community Benefit Grants Panel - 13 March 2008 (Attachment 1)
(contd)**

CBG03 Applications for Trimester 3 2007/2008 (Contd)

Name	Description of Proposal	Amount (\$)	Panel Recommendation
Community Environment Network	Blue Haven Waterwatch.	\$2,800	Does not meet the program's criteria – Applicant will be referred to alternate external funding options such as CDSE
NAIDOC Week School Initiatives	School initiatives.	\$450	Does not meet the program's criteria
Spirit of the Coast Harmony	To cover costs of overseas travel for choir.	\$3,000	Does not meet the program's criteria

- 3** *That an amount of \$1,000 be allocated from the Community Benefits Grant budget to purchase sew on patches showing supported by Wyong Shire Council.*
- 4** *That the remaining balance of \$21,438.62 be preserved for any late applications received up to the end of the 2007/2008 financial year, at which stage the remaining balance to be allocated to the Community Pride Strategy.*

There being no further business the panel meeting concluded at 3.00 pm

Information Reports

The following information reports are to be dealt with by the exception method.

WYONG SHIRE COUNCIL

26 March 2008
To the Ordinary Meeting of Council

Director's Report
Shire Planning Department

130 Activities of the Development Assessment Unit

F2004/07830 NL:NL

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.

RECOMMENDATION

That the report be received and the information noted.

Development Applications Received and Determined

Type:	Number Received:	Estimated Value \$:	Number Determined:	Estimated Value \$:
Commercial	27	22,124,612	19	79,592,587
Industrial	3	111,300	0	0
Residential	97	5,957,561	76	9,450,759
Other	23	1,470,000	14	386,800
Total	150	29,663,473	109	89,430,146

Subdivision Applications Received and Determined

Type:	Number Received:	Number of Lots:	Number Determined:	Number of Lots:
Commercial	1	1	1	7
Industrial	0	0	1	6
Residential	3	3	1	1
Rural	0	0	0	0
Total	4	4	3	14

Activities of the Development Assessment Unit (contd)

Mean Turn-around Time

Two priority applications (additions to Westfield and a service station and carwash at Berkeley Vale) were determined during the month with a mean (average) turn-around time in calendar days of 43 days.

Both of these applications involved extensive external referrals.

The mean (average) turn-around time in calendar days for development applications determined during the month was 35 days.

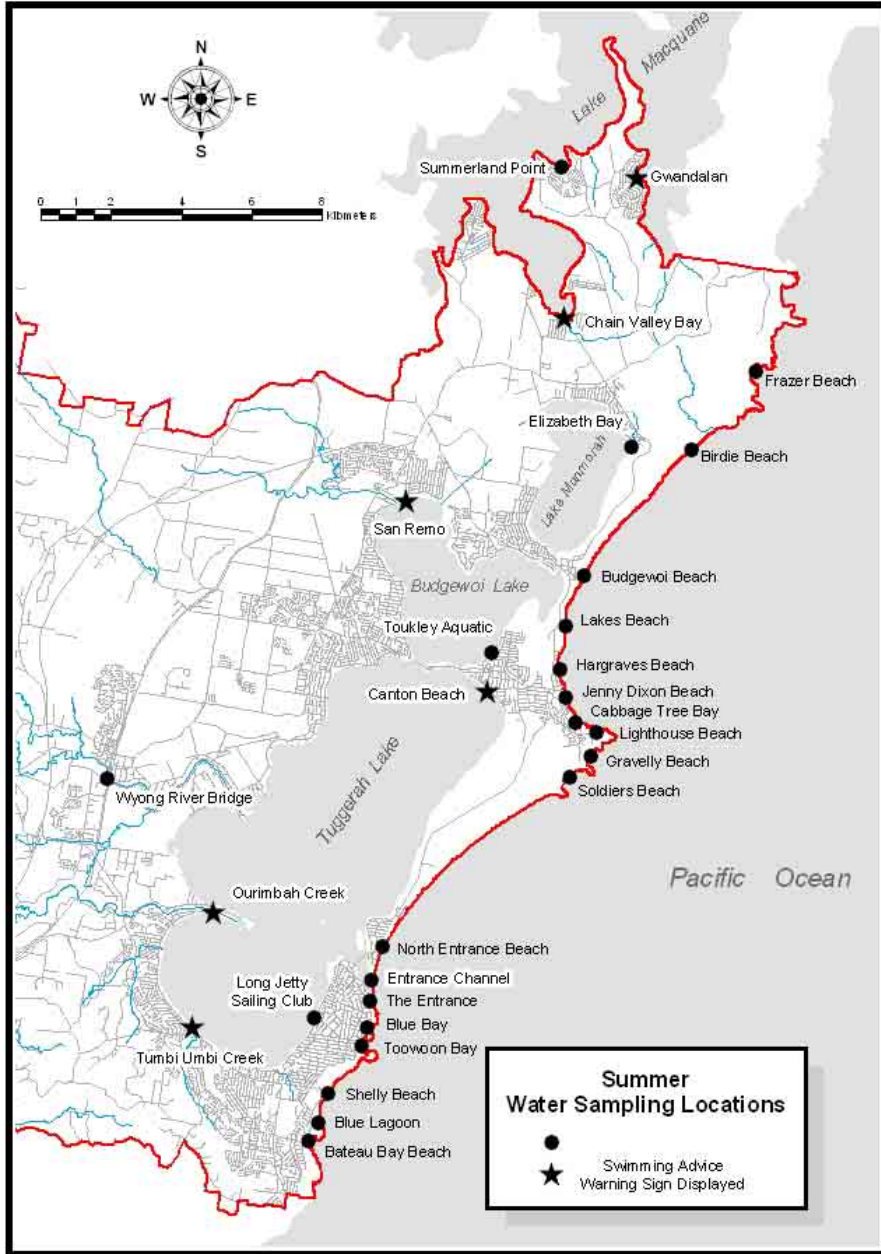
Other Approvals and Certificates

Type:	Number Determined:
Trees	39
Section 149 D Certificates	16
Construction Certificates	70
Complying Development Certificates	14

Enclosure

***Graphs – Development Applications Lodged and
Development Applications Determined***

131 Results of Water Quality Testing for Bathing Beaches (Attachment 1)



WYONG SHIRE COUNCIL

26 March 2008
To the Ordinary Meeting of Council

Director's Report
Shire Planning Department

131 Results of Water Quality Testing for Bathing Beaches

F2004/06822 JS:JS

SUMMARY

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

RECOMMENDATION

That the report be received and the information noted.

Primary Recreation Water Quality Monitoring Program

Wyong beaches are regularly monitored for swimming safety in accordance with the *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*.

During the bathing (Summer) season, Wyong Council undertakes this monitoring program in partnership with the NSW DECC Beachwatch Program. Sampling of all beaches occurs 5 times each month as required to report against the NHMRC Guidelines. The Beachwatch program recommenced in October.

The ocean beaches adjacent to the outfalls are required to be monitored 5 times a month throughout the year by the NSW DECC ocean outfall licences for Norah Head and Wonga Point.

Results of Water Quality Testing for Bathing Beaches (contd)**Summary of Results for February 2008**

In February, all the Ocean and all but one Lake beaches were rated as 4 star – good water quality. Pelican Beach was the exception, with this lake beach ranking 3 stars – fair water quality (still safe for swimming), along with Long Jetty and Toukley Aquatic. Tumbi Creek and Wyong River continued to have bad water quality ranking 2 star, along with San Remo and Gwandalan. Council is currently investigating the water quality of the lake and river sites in accordance with s.5.2.2 of the Estuary Management Plan.

Table 2: OCEAN BEACHES – February 2008

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
Toowoan Bay	****	Site is safe for swimming
Blue Bay	****	Site is safe for swimming
Blue Lagoon	****	Site is safe for swimming
Bateau Bay	****	Site is safe for swimming
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
North Entrance	****	Site is safe for swimming
The Entrance	****	Site is safe for swimming

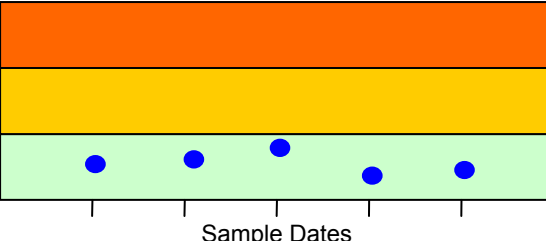
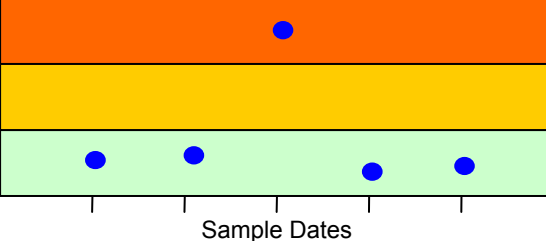
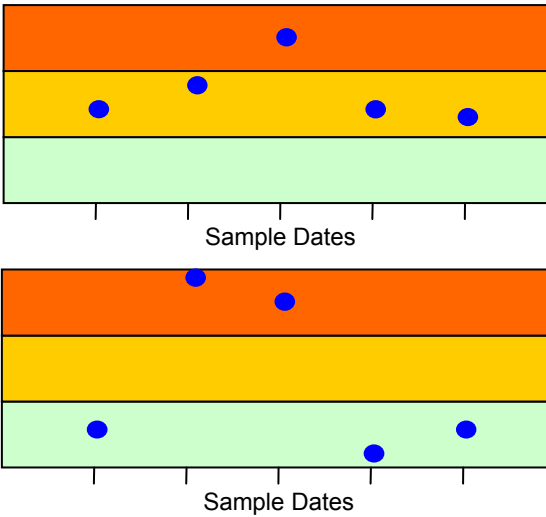
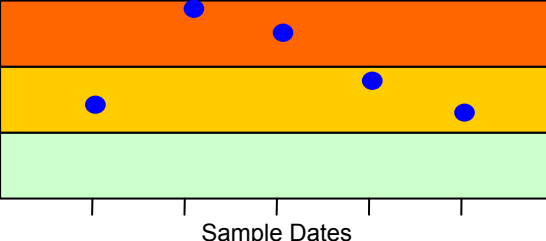
Results of Water Quality Testing for Bathing Beaches (contd)**Table 3: RIVER AND LAKE BEACHES – February 2008**

LOCATION	STAR RATING	RECOMMENDATIONS
Ourimbah Creek Chittaway Point	****	Site Is safe for swimming
Summerland Point	****	Site is safe for swimming
Elizabeth Bay	****	Site is safe for swimming
Canton Beach	****	Site is safe for swimming
Chain Valley Bay	****	Site is safe for swimming
Long Jetty	***	Site is safe for swimming
Toukley Aquatic	***	Site is safe for swimming
Pelican	***	Site is safe for swimming
Gwandalan	**	Site Is unsafe for swimming
Wyong River at Wyong	**	Site Is unsafe for swimming
Tumbi Creek Tumbi Umbi	**	Site Is unsafe for swimming
San Remo	**	Site Is unsafe for swimming

Attachment 1**Table 1: NHMRC Star Rating Interpretation (1 page)**

Results of Water Quality Testing for Bathing Beaches (Attachment 1)

Table 1: NHMRC Star Rating Interpretation

Star Rating	Interpretation	Graphic Representation
****	Good: NHMRC indicates site safe for swimming	
***	Fair: NHMRC indicates site is safe for swimming	
**	Poor: NHMRC indicates swimming at site is not recommended. 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.	

WYONG SHIRE COUNCIL

26 March 2008
To the Ordinary Meeting of Council

Director's Report
Corporate Services Department

132 Finalisation of Contracts

F2005/03113 GJP/ GJP

SUMMARY

Reporting on details of contracts in excess of \$150,000 that have been completed and finalised during the period October 2007 to January 2008.

RECOMMENDATION

That the report be received and the information noted.

BACKGROUND

Section 55 of the Local Government Act 1993 defines the circumstances under which a council must invite tenders before entering into a contract. Part 7 of the Local Government (General) Regulation 2005 prescribes the procedural process to be adopted for the invitation, submission, opening, consideration and acceptance of tenders.

Whilst the circumstances covered by Section 55 of the Act are numerous and varied, the requirement most generally applicable to the majority of works or services undertaken by Wyong Council is that tenders must be invited for any works or services involving an estimated expenditure of \$150,000 or more. Council is at liberty, but is not obliged under the Act, to invite tenders for any works and services involving an estimated expenditure of less than \$150,000.

In accordance with those provisions, all Council contracts involving estimated expenditure of \$150,000 or more are tendered in accordance with the Regulation and reported to Council for determination.

Enclosed are details of all contracts determined by Council for acceptance that have been completed in the period from October 2007 to January 2008. Definitions of each type of contract are as shown below.

- * "Construction Contracts" - those contracts usually associated with the construction of new or replacement community infrastructure.
- * "Consultancy Contracts" – those contracts usually involving the investigation or design of new or replacement community infrastructure.
- * "Service Contracts" – those contracts usually involving the provision of a community service over an extended time period.

Finalisation of Contracts (contd)

- * "Supply Contracts" – those contracts relating to the supply of an asset such as an item of plant, a consumable such as a material supply or a combination of the two, such as the supply and laying of asphaltic concrete.

Of the twelve reported contracts, seven were either a Service or Supply type. Service and Supply contracts are based upon Schedule of Rates for the various items / services to be supplied under the contract, with the award amount being an estimate using an extrapolation of historical and/or anticipated needs for each item/service. The remaining five contracts were Construction type contracts and used Lump Sums and/or Schedule of Rates. The award amount for Construction contracts being the anticipated budget for that project based on the tendered Lump Sum and/or an extrapolation of the Schedule of Rates for each item/service, plus a contingency amount for variations.

The final cost for Service and Supply contracts was within the estimate for four of the seven contracts.

For Construction type contracts, the final cost was within the project budget (i.e. approved contract award amount plus any contingency allowance) for all five of those contracts. Note that a contingency allowance is usually included in the recommendations made to Council for the award of Construction based contracts, and these are included in the information provided in the Enclosure.

In the case of those contracts where the contingency was not fully expended, the balance of the funds remained in the relevant operational area.

A separate report on Finalisation of Contracts titled "Hunter Connection – Major Contracts Summary Report" will be included in the 9 April 2008 Business Paper.

Enclosure

Significant Contracts Finalised in the Period October 2007 to January 2008

WYONG SHIRE COUNCIL

26 March 2008
To the Ordinary Meeting of Council

Director's Report
Shire Services Department

133 Wyong Shire Library Statistics

F2004/11651 JM

SUMMARY

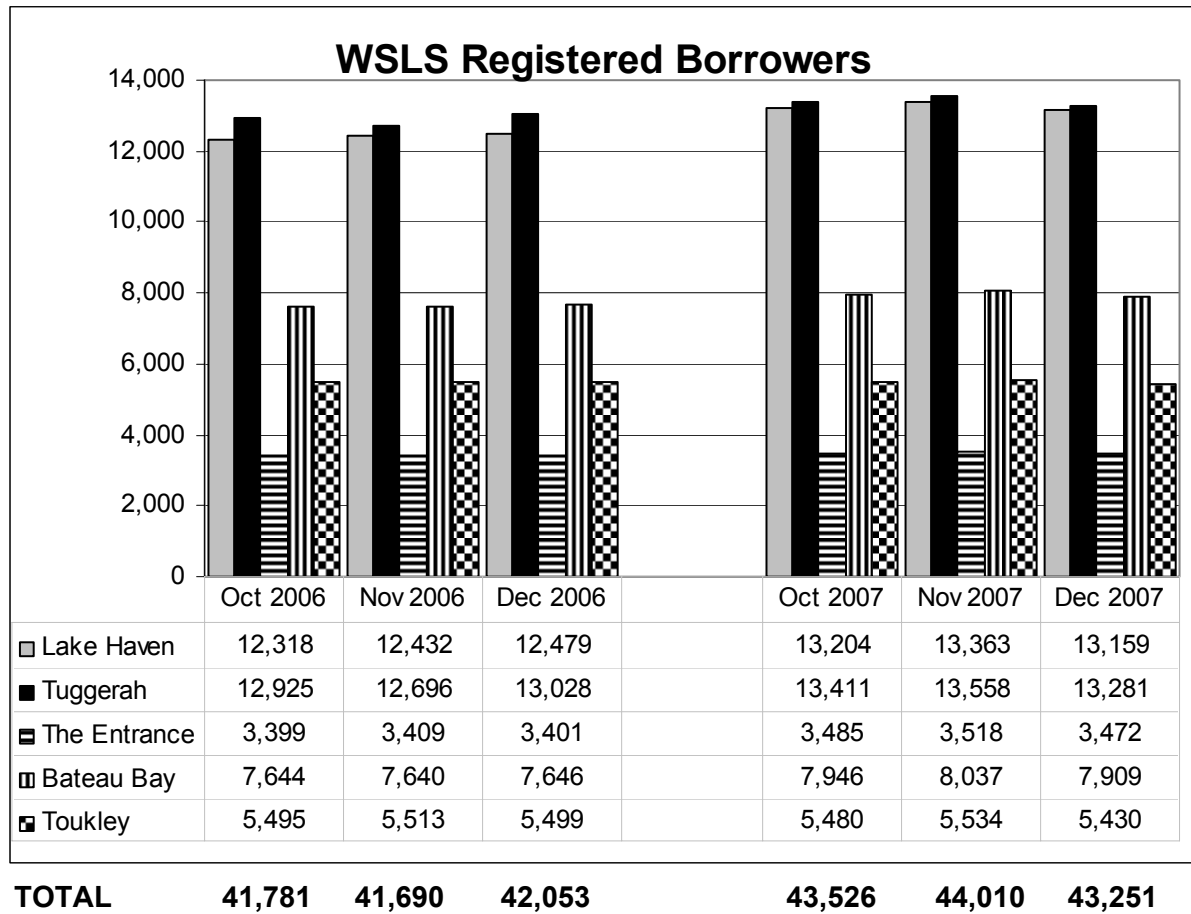
Statistical report on the activities of Wyong Shire Library Service.

RECOMMENDATION

That the report be received and the information noted.

BACKGROUND

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

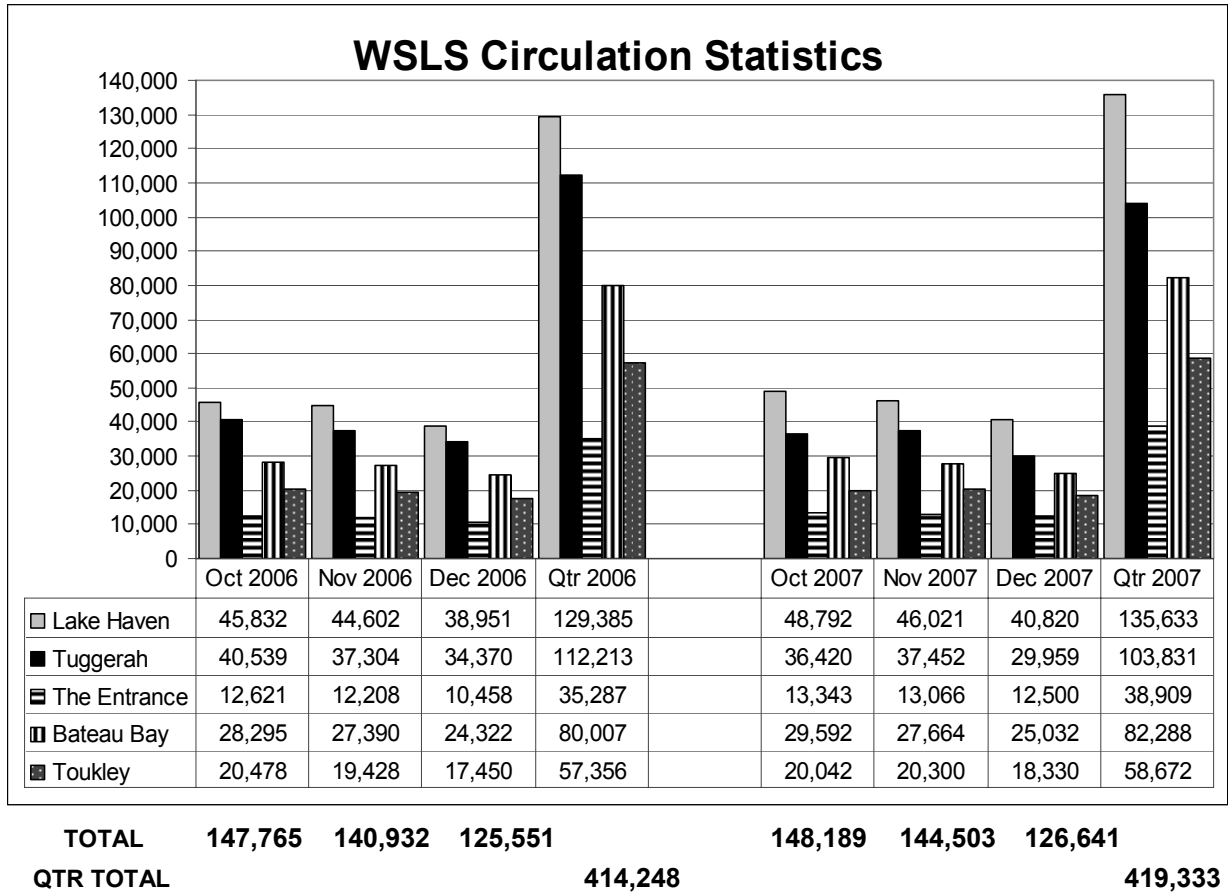
Wyong Shire Library Statistics (contd)

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

The total number of registered borrowers at December 2007 has increased by approximately 2.8% compared to 2006.

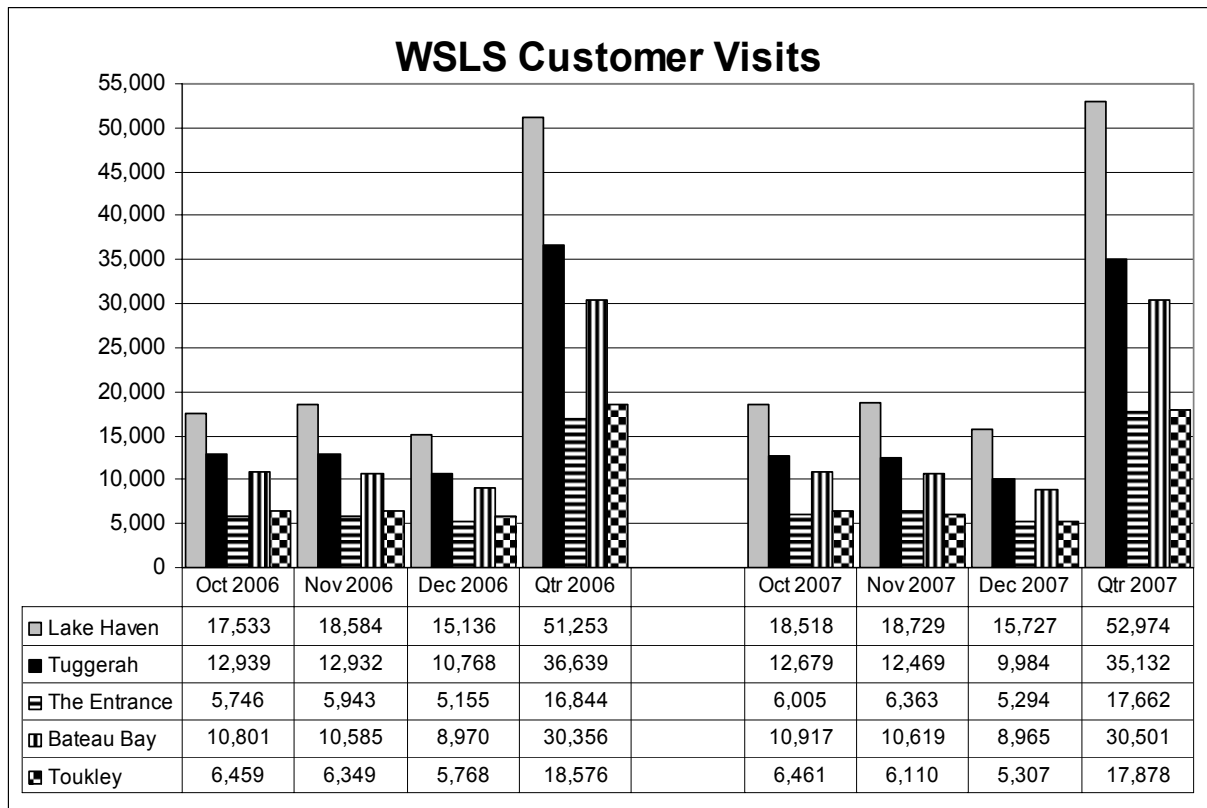
The total number of borrowers now represents approximately 33% of the Wyong Shire population. The average of similar Councils to Wyong is 44.1%. The State average is 47.5% of the population from the State Library of New South Wales Statistics.

Wyong Shire Library Statistics (contd)



The number of items circulated includes loans and returns and has shown a slight decrease at Tuggerah during the 2007 quarter.

Overall, there has been a small increase in the circulation of items in this quarter when compared to the same period last year.

Wyong Shire Library Statistics (contd)

TOTAL 53,478 54,393 45,797

54,580 54,290 45,277

QTR TOTAL

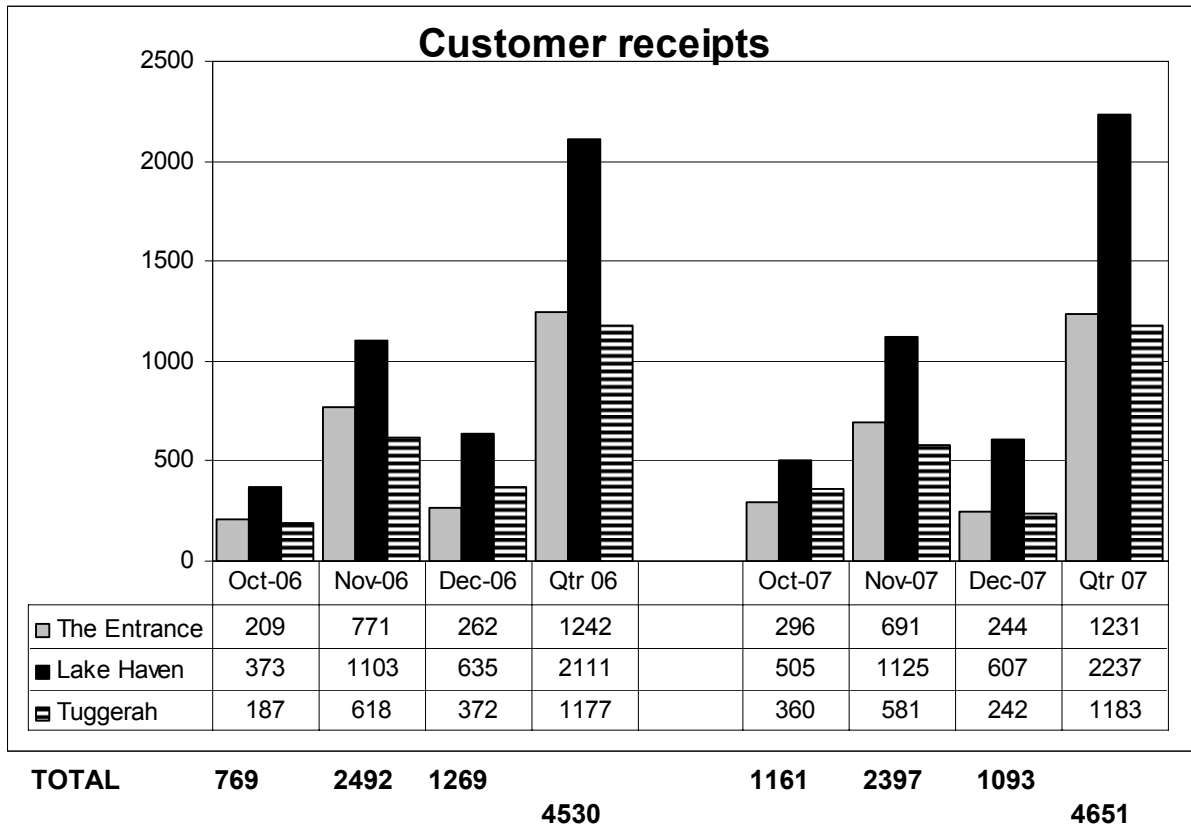
153,668

154,147

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

Overall, the quarterly figures show a slight increase compared to the same quarter last year.

Wyong Shire Library Statistics (contd)



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

The total number of receipts issued at the library based Council customer service centres has risen by 2.6% in this period compared to the same period in the previous year.

26 March 2008
To the Ordinary Meeting of Council

Director's Report
Shire Services Department

134 Works in Progress Report – Water and Sewerage

F2004/07830 KRG:DP

SUMMARY

Water supply and sewerage works in progress and completed for February 2008.

RECOMMENDATION

That the report be received and the information noted.

WATER SUPPLY

Work has commenced on the relocation of water services along Machlan Avenue between The Central Coast Highway and Lindsay Street at Long Jetty.

The work consists of the adjustment of approximately 30 water services. The existing water services are being lowered to facilitate the construction of road and drainage works that are to be undertaken along this section of Machlan Avenue. Due to the complexity of the work, water & sewerage staff are required to co-ordinate closely with the road construction gangs to ensure that the water services are lowered on an "as required" basis to suit the excavated road box out and culvert drainage levels.

The work, estimated to cost \$30,000, is being carried out by Council's Water & Sewerage day labour staff and is due for completion in April 2007. The work is being funded from Council's Roads and Drainage rolling works programme.

Water Storage

As at 17 March 2008 the storage in Mangrove Creek Dam was 22% while the total system storage was 26.5%. Mardi Dam was at 97.6% and Mooney Dam 100%.

Works in Progress Report – Water and Sewerage (contd)

SEWERAGE

Sewer main investigation and maintenance works are being undertaken along Scribbly Gum Close and Brava Avenue San Remo.

The vitreous clay (VC) sewer mains in this area are experiencing a higher than normal number of sewer main chokages associated with tree root penetration and are subject to increasing flows as a result of development. The work involves cleaning of the mains and closed circuit television (CCTV) surveying to identify and record sections of damaged or deteriorated main.

This work will input into Council's asset management program to replace or repair sections of sewer mains, sewer junctions and manholes that have been damaged by tree roots. The work is being undertaken by Council's Water & Sewerage daylabour staff and is due for completion by mid March 2008. The work is being funded from the Water and Sewerage Maintenance budget.

PROCESS

Water Treatment

All water produced by the Water Treatment Plant, for the period 1 February 2008 to 29 February 2008, has met National Health and Medical Research Council Guidelines.

Sewage Treatment

All effluent discharged from the sewage treatment plants, for the period 1 February 2008 to 29 February 2008, has met Environmental Protection Authority Licence requirements.

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

Enclosure ***Water Storage, Water Usage and Rainfall***

Works in Progress Report – Water and Sewerage (Attachment 1)**Monday, 17 March 2008****STORAGES**

Storage	Capacity Full [MI]	Volume in Storage [MI]	Percent Full [%]	Storage Change over last Week
Mangrove Dam	190000	41,742	22.0	Up 17 ML
Mardi Dam	7400	7,222	97.6	Down 103 ML
Mooney Dam	4600	4,600	100.0	Unchanged
Total	202000	53,564	26.5	Down 86 ML

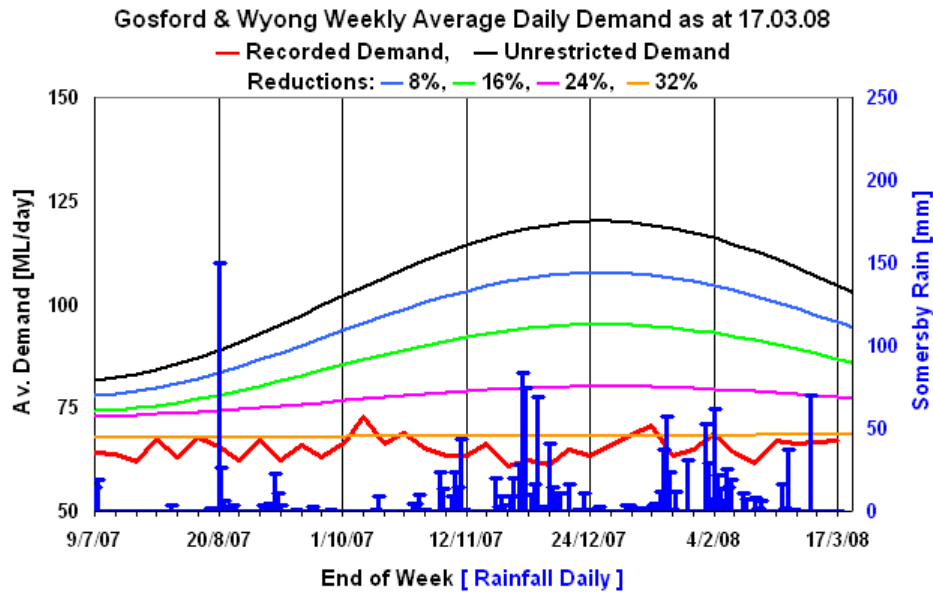
Total stored water volume has increased by 0.4% since last month.
 This day last year the volume stored as a percentage of total capacity was 12.5% lower.
 Hunter Water Corporation supplied 0 ML last week keeping this years supply at 41 ML.
 Gosford/Wyong supplied 0 ML to Hunter Water last week keeping this years supply at 80 ML.
 Groundwater Bores supplied 2.1 ML last week increasing this years supply to 18.3 ML.

WATER USAGE AND RAINFALL

Period	Water Usage [MI]	Rainfall [mm]		
		Somersby WTP	Mardi WTP	Mangrove Dam
Week to date	469	0	0	0
Previous week	467	70	29	18
Current week last year	426	31	11	24
This year to date	5,105	604	440	392
Same period last year	5,064	346	260	303

Week to date consumption was 469 ML, 10.1% more than the same week last year and 0.4% more than the previous week.
 Consumption this year to date is 5,105 ML, 0.8% more than the same period last year.
 Level 4 Water Consumption Target for the week ending Monday, 24 March 2008 is 475 ML

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



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

26 March 2008
To the Ordinary Meeting of Council

Director's Report
Shire Services Department

135 General Works in Progress Report

F2004/07830 JEM

SUMMARY

General works in progress and completed works for the period January 2008 to February 2008.

RECOMMENDATION

That the report be received and the information noted.

ROADS AND DRAINAGE SECTION OVERVIEW

Capital Works In Progress

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

Item Description	Estimated Cost \$	% Completed	Estimated Completion Date	Comments
Gareema Road Gwandalan – Drainage, (From Billabourie Road to Eucla Road)	129,500	30	March 2008	Upgrading of the existing drainage pipework, kerb and guttering and shoulder reconstruction. Drainage line in progress
Acacia Avenue, Lake Munmorah footpath works.	22,500	90	March 2008	Additional footpath under construction, between The Lake Munmorah bowling Club and Boronia Road.
Scaysbrook Avenue – Drainage upgrade, (Corner of Scaysbrook Avenue and Elsinore Avenue Chain Valley Bay South.	94,000	80	March 2008	Upgrading of existing drainage, shoulder reconstruction and the installation of new kerb and guttering,

General Works in Progress Report (contd)

Item Description	Estimated Cost \$	% Completed	Estimated Completion Date	Comments
Lauren Avenue Lake Munmorah, Drainage Works (between Lakeway Drive and Anita Avenue)	552,500	20	April 2008	<p>Upgrading existing drainage. Works include new pipe work down Lauren Avenue across Anita Avenue and out to the foreshore. Roadworks reinstatement required on completion of drainage.</p> <p>Drainage works on foreshore and in Anita Avenue now under construction.</p>
The Ridgeway Stage 1b, Tumbi Umbi CH:2165 to CH:2815 650m Section (Between Koorin Road and Awabakil Road.	954,000	4	June 2008	<p>Upgrading of the existing gravel road (approximately 650m) to current standards including sealing upgrade, concrete dish drains and installation of guardrails. Excavation will require significant rock cutting.</p> <p>Further tree removal is required for service pole relocation. A DA is being processed for this. The expected project completion date has now been estimated to be in June 2008.</p>

General Works in Progress Report (contd)

Item Description	Estimated Cost \$	% Completed	Estimated Completion Date	Comments
Eloora Road Stage 1b, Long Jetty (Between Pacific Street and Toowoan Bay Road including the closure of Thompson Street at Eloora Road).	560,000	95%	March 2008	<p>Upgrading existing road and drainage. Minor drainage works include upgrading the existing road crossing and additional drainage in the nature strip areas in Eloora Road works include upgrading the existing pavement to a 10m wide road with new kerb and gutter with a new roundabout at the intersection of Pacific Street and Eloora Road.</p> <p>Excavation has proceeded to Toowoan Bay Road. Works in Eloora Road have been completed. Roundabout on the intersection of Eloora Road and Pacific Street installed. Linemarking due to be completed in March.</p>
Berkeley Road Stage 1, Berkeley Vale Road and Drainage Reconstruction Works (CH:1000 to CH:1622)	980,000	90	March 2008	<p>Upgrading existing road and drainage. Drainage works include upgrading the existing road crossing with triple 900 RCP and Headwalls. Road works include upgrading the existing pavement to an 11-12m wide road with new asphalt seal, new kerb and gutter and concrete v drains.</p> <p>Drainage works completed. Road excavation completed. Concrete V drains installed. The process of spreading and compacting base course now underway.</p>

General Works in Progress Report (contd)

Item Description	Estimated Cost \$	% Completed	Estimated Completion Date	Comments
Dickson Road Jilliby Stage 1b chainage (2040 to 2320)	480,000	90	February 2008	Upgrading of the existing gravel road (approximately 300m) to current standards including pavement upgrade, sealing works, concrete dish drains and drainage improvement. Drainage works complete. Roadworks now completed. Linemarking and traffic facilities to be installed.
Dickson Road Jilliby Stage 2 chainage (2600 to 2900)	350,000	50	March 2008	Upgrading of the existing gravel road (approximately 300m) to current standards including pavement upgrade, sealing works, concrete dish drains and drainage improvement. Road excavation completed. Drainage works completed. Road Pavement under construction

General Maintenance Work

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

	North	South
Drainage Maintenance	San Remo Budgewoi Lake Munmorah Dooralong	Berkeley Vale Ourimbah North Entrance Wyong
Replacement of Damaged Foot paving	Nil	Nil

General Works in Progress Report (contd)

	North	South
Sign Maintenance	Toukley Kanwal Hamlyn Terrace Blue Haven Wadalba Budgewoi Tuggerawong San Remo Canton Beach Wyongah Tuggerawong Jilliby Yarramalong Buff Point	Toowoona Bay Berkeley Vale Ourimbah Long Jetty The Entrance Killarney Vale Shelly Beach Bateau Bay Tuggerah Wyong Mardi Chittaway
Shoulder Restoration	San Remo Gorokan	Long Jetty
Heavy Patching	Jilliby	Nil
Table Drain Maintenance	Lake Haven Mannering Park Chain Valley Bay San Remo Charmhaven Canton Beach Budgewoi Toukley	Berkeley Vale Long Jetty Bateau Bay Killarney Vale Tuggerah
Rural Road Grading	Dooralong Yarramalong Ravensdale Jilliby Kiar	Ourimbah Palmdale
Foot paving Construction	Nil	Nil
Carpark Maintenance	Toukley Budgewoi Norah Head Gorokan	
Fencing	Charmhaven	Nil

General Works in Progress Report (contd)

	North	South
Vegetation control	Dooralong Jiliby Budgewoi Buff Point Woongarrah Halloran Hamlyn Terrace Lake Haven Toukley Chain Valley Bay South	Tuggerah Berkeley Vale Tumbi Umbi Ourimbah Watanobbi Wyong The Entrance Killarney Vale

CONTRACTS AND SPECIAL PROJECTS SECTION

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

Contract No	Contract Description/Contractor	Contract Status	% Completed
Contract CPA 94531	Consultancy for investigation and design of Link Road and trunk water main to Mardi Dam	Design and tender documentation of Link Road and adjacent trunk water main complete. Construction is anticipated to commence June 2008 and for completion by August 2009 subject to resolution of funding issues. (State Government altered Section 94 funding regulations during tender period – seeking urgent clarification prior to further tender recommendations). Design and tender documentation of trunk water main connection back to Mardi Dam will be completed by June 2008 to allow construction as a separate contract. This construction is expected to commence September 2008 with completion by March 2009, again subject to funding resolution.	70
Contract CPA 94559	Design and Documentation of Woongarrah Sportsfields	Current DA Application has been withdrawn and resubmitted for a Part 5 assessment under the new SEPP Infrastructure. Detailed design and documentation is well advanced to allow tenders to be called by April 2008. Construction anticipated commencing mid 2008, with completion by August 2009. Facility expected to be available for use in April 2010. Estimated construction cost \$4.7M.	65

General Works in Progress Report (contd)

Contract No	Contract Description/Contractor	Contract Status	% Completed
Contract CPA 94561	Dredging of Tumbi Creek	Dredging work is due for completion in March 2008. Approximately 90% of spoil has been disposed of to Landfill. Completion of the remaining site works including, salt marsh establishment and restoration will be completed by June 2008. Environmental surveys and other related project works are expected to be completed by December 2008. Total project cost is estimated to be \$1.8M.	90 (dredging contract)
Contract CPA 97897	Feasibility Study – shared pathway linking The Entrance North and Toukley	Overall route still to be determined, with effort concentrated on southern section from Terilbah Place north to National Park. Set route for pathway through Crown land has been surveyed and permission granted in principal from Crown for concept access through their land. Total project cost will depend on final route but will be significant. Work will be undertaken in stages as funds are available. Further sections of pathway will be constructed by July 2008 to match available funds.	7
Contract CPA 98240	Implementation of Buttonderry Waste Management Facility Entry Masterplan	This project involves design followed by construction of upgraded entry and administration areas. Development approval expected by March 2008. Design/documentation for construction expected to be ready by late March 2008. Pre-construction works for Stage 1 will commence in March 2008 with completion of Stage 2 by December 2008.	30
Contract CPA 99940	Construction of Wadalba Sports Facility	Turf cover to playing fields was completed in October 2007. Some further slit drains and sand topdressing works to be done at end of 2008. This work was delayed due to unavailability of a specialised subcontractor. Winter sports can still be played on the fields from April 2008. Official opening of the field is scheduled for 29 March 2008. Approximate contract value is \$6M.	98

General Works in Progress Report (contd)

Contract No	Contract Description/Contractor	Contract Status	% Completed
Contract CPA 107166	Warnervale District Sports Fields	Some preliminary investigations and property issues only have been completed. Project still on hold until the Warnervale Town Centre Master Plan is finalised.	2
Contract CPA 110431	Mardi Landfill Remediation – Investigations Only	The draft final report for the Mardi Landfill site is to be reviewed by Council's independent auditor by March 2008. Remediation works on the site will be a separate future contract based on Stage 2 report detailing the site investigation of the Mardi Landfill and surrounding sites. The value of these required remediation works is yet to be determined. Construction is not expected to commence until 2009/10.	15
Contract CPA 113367	The Entrance Community Facility Stage 2 – Design and Documentation for Refurbishment of Building C (Arts and Culture), Building D (Activities), Building E (Education), Building F (Mens' Shed) and Design only for Building AA (Family and Children's' Services).	Pre-construction activities are close to completion. DA consent has been issued. Tender documents for refurbishment of Buildings C, D, E and F have been reviewed and final revisions are being made. Updated estimate to be submitted by consultant prior to decision to tender. Site works are programmed to commence in June 2008 for completion in December 2008.	15
Contract CPA 115479	Bateau Bay Landfill Rehabilitation and Redevelopment	Impact compaction and installation of the landfill gas collection pipework over the entire site has been completed. Work is continuing on the installation of the synthetic capping liner, however, as the work is extremely sensitive to wet weather progress has been significantly delayed. Work commenced at the beginning of February on the new amenities building for the new AFL/Softball Oval on the southern side of the site with the pile foundation being completed. Contract completion date expected to be July 2008, with turf fields able to be used by April 2009 for winter sports of soccer and AFL. Estimated contract value is \$12M.	25

General Works in Progress Report (contd)

Contract No	Contract Description/Contractor	Contract Status	% Completed
Contract CPA 116883	Construction of underground tank for oval irrigation. Kanwal Oval, Kanwal.	Tank construction and associated drainage works have been completed. Installation of pump, connection to existing irrigation system and commissioning have been delayed by wet weather and will now be completed by March 2008. Contract value is \$72,000.	90
Contract CPA 116884	Construction of underground tank for oval irrigation – Halekulani Oval, Budgewoi.	Construction of concrete tank has been completed. Pump installation, connection to existing irrigation system and commissioning have been delayed by wet weather and will now be completed by end of March 2008. Contract value is \$63,000.	90
Contract CPA 137955	Construction of Intersection Upgrade at Minnesota and Warnervale Roads	Tenders have been assessed for upgrade of intersection at Minnesota Road and Warnervale Road, Hamlyn Terrace. Relocation of services has commenced on site with engagement of principal construction contractor by mid April. Work includes new traffic lights outside new school. Work is expected to be completed by end of August 2008. Estimated cost \$1.3M.	12
F2007/01153	Widening of Culverts at Mataram Road and associated Road Construction	Final design and documentation received. Construction tenders to be called in March for widening of culverts and provision of road works and shared pathways at Mataram Road. Anticipate construction to be completed by mid September 2008. Estimated cost \$ 700,000.	8
F2004/07982	The Entrance Town Centre Refurbishment Works	Current actions being undertaken to address 5 year work programme for TETC include: 1 Installation of five pedestrian ramps to lower end of The Entrance Road to be completed by April 2008. 2 Replacement of lights to Fountains: Lights have been ordered and anticipate installation completed by April 2008	65

General Works in Progress Report (contd)

Contract No	Contract Description/Contractor	Contract Status	% Completed
F2004/07982 (contd)		<p>3 Tile samples have been received from Ryowa, Japan. Accelerated slip testing has been completed to ensure compatibility with existing tiles and not increase any slip risks. Anticipate replacement tiles to be delivered by August 2008.</p> <p>4 Plan to install remaining portion of stainless fencing to playground by March 2008.</p> <p>5 Quotes for replacement timber to decks under sails have been obtained. Temporary repairs have been made to holes. The work will be undertaken in 2008/09 budget.</p>	
Contract 2408	Capture and Commercial Utilisation of Landfill Gas from Buttonderry Landfill	The Agreement that will form the basis of the contract has been the subject of protracted negotiations between Council, Council's legal representatives and the contractor. No site works have commenced or are possible until the Agreement is finalised. Several significant issues including insurances have now been resolved and it is anticipated that the Agreement will be finalised by March 2008.	5

CONTRACTS STILL IN DEFECTS LIABILITY PERIOD			
Contract CPA 98601	Design, Development and Construction of the Morisset to Warnervale water trunk main	Contract works in Defects Liability Period until 28 September 2008.	100
Contract CPA 112098	Design and Construction of Berkeley Vale Skate Park.	Contract works in Defects Liability Period until 5 April 2008.	100
Contract CPA 113366	Detail Design and Construction of Central Coast Lifetime Learning Centre (CCLLC) at Palmdale	Contract works in Defects Liability Period until 1 June 2008.	100

WYONG SHIRE COUNCIL

26 March 2008
To the Ordinary Meeting of Council

Director's Report
Corporate Services Department

136 Outstanding Questions Without Notice and Notices of Motion

F2008/00003 MW:SW

SUMMARY

Report on outstanding Questions Without Notice and Notices of Motion.

RECOMMENDATION

That the report be received and the information noted.

Question Asked	Asked By	Meeting Asked	Department
Q110 – Purchase of a 3D Fly Through Planning System (Investigations have commenced and a response will be reported once costings have been received)	Councillor Stewart	31 October 2007	Shire Planning
Q114 – Float trikes (A response will be reported when a response has been received from State Member for Swansea, Mr Coombes)	Councillor Welham	14 November 2007	Shire Planning
Q123 - Darcy Smith Court Case (A response will be reported to Council when the case has been finalised in the LEC)	Councillor Pavier	12 December 2007	Shire Planning
Q006 – Misuse of Ratepayers Fund (A report will be submitted to Council at the 9 April 2008 Ordinary Meeting.)	Councillor Best	13 February 2008	General Manager's Unit

Outstanding Questions Without Notice and Notices of Motion (contd)

Question Asked	Asked By	Meeting Asked	Department
<p>Q008 - Demolition of Burnt Out Houses in The Entrance Road and Bayview Avenue</p> <p>(A report will be submitted to Council at the 9 April 2008 Ordinary Meeting)</p>	Councillor Stewart	27 February 2008	Shire Planning
<p>Q012 – Upkeep of Coral Street Carpark, The Entrance</p> <p>(A report will be submitted to Council at the 23 April 2008 Ordinary Meeting)</p>	Councillor Stewart	12 March 2008	Shire Services
<p>Q013 – Vehicular Access in Rutleys Road, Doyalson</p> <p>(A report will be submitted to Council at the 23 April 2008 Ordinary Meeting)</p>	Councillor Stevens	12 March 2008	Shire Services
<p>Q014 – Pest/Vermin Control/Eradication Programs Scheduled for the Bateau Bay/Shelly Beach Areas</p> <p>(A report will be submitted to Council at the 23 April 2008 Ordinary Meeting)</p>	Councillor Forster	12 March 2008	Shire Services
<p>Q015 – Legal Proceedings Council vs Darcy Smith</p> <p>(A report will be submitted to Council at the 9 May 2008 Ordinary Meeting)</p>	Councillor Pavier	12 March 2008	Shire Planning
<p>Q016 – Length of Time Required to Prepare an Assessment of Significance</p> <p>(A report will be submitted to Council at the 9 April 2008 Ordinary Meeting)</p>	Councillor Pavier	12 March 2008	Shire Planning

Outstanding Questions Without Notice and Notices of Motion (contd)

Question Asked	Asked By	Meeting Asked	Department
Q017 – Date of Proposed Meeting Between Council and Minister Nathan Rees (A response will be reported when a reply has been received from the Minister)	Councillor Eaton	12 March 2008	General Manager's Unit
Q018 – Vegetation Study Along Hue Hue Road (A report will be submitted to Council at the 23 April 2008 Ordinary Meeting)	Councillor Eaton	12 March 2008	Shire Planning
Q019 – Rezoning Application by Westfield for Land at Corner of Cobbs Road, Tonkiss Street and the F3 (A report will be submitted to Council at the 23 April 2008 Ordinary Meeting)	Councillor Welham	12 March 2008	Shire Planning
Q020 – Competitive Section 94 Analysis (A report will be submitted to Council at the 23 April 2008 Ordinary Meeting)	Councillor Best	12 March 2008	Shire Planning

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	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 2009.

Outstanding Questions Without Notice and Notices of Motion (contd)

Notice of Motion	Department	Meeting Resolved	Status
<p>440 – Drainage on Tuggerah Straight</p> <p><i>Report required on RTA, State Rail Authority and the Member for Wyong responses regarding the blockage at the traffic lights near the Tuggerah Railway Station on Tuggerah Straight.</i></p>	Shire Services	31 October 2007	A report will be provided when responses received.
<p>470 – Ferry Service between Wyong and The Entrance</p> <p><i>Report to be provided on investigation of a wharf and passenger ferry service between Wyong and The Entrance.</i></p>	Shire Planning	14 November 2007	Report to be submitted following exhibition. A Councillor briefing has been scheduled for 7 May 2008.
<p>009 – Fairer Beach Access for Dog Owners</p> <p><i>That Council review its policies associated with beach access for dogs to provide responsible dog owners greater and fairer use of our Shire's beaches particularly during low usage periods.</i></p>	Shire Planning	23 January 2008	A report will be submitted to Council at the 23 April 2008 Ordinary Meeting.
<p>106 – Expedition of Toukley Planning Strategy</p> <p><i>That Council encourage the State Government to expedite the Central Coast Regional Strategy. That Council recognise the planning driver, "The Wyong Shire Settlement Strategy" as a key focus area for Council's Planning Department, be adequately resourced and included in the 07/08 – 08/09 Management Plans. That staff brief Council on the now completed Toukley Economic Feasibility Study.</i></p>	Shire Planning	12 March 2008	Letter drafter. Briefing being scheduled for May 2008.

Outstanding Questions Without Notice and Notices of Motion (contd)

Notice of Motion	Department	Meeting Resolved	Status
<p>107 – Pipeline Corridor Quarantine Zone</p> <p><i>That Council make urgent representations to Planning Minister Sartor to refuse Wallarah 2 application for longwall mining in Wyong Region. If approval granted for long wall mining: Pipeline Corridor be quarantined from mining, Wallarah 2 be requested to fund all costs associated with engineering requirements for combat subsidence. That a pipeline bond fund be established to cover event of pipeline failure.</i></p>	Shire Planning	12 March 2008	Staff are preparing a letter to issue to the Minister in response to resolution.
<p>108 – Warnervale Town Centre Exhibition</p> <p><i>That Council make representations to the Member for Wyong, Mr David Harris, and to the Member for Swansea, Mr Robert Coombs, to change residential zones imposed under part 3A applications in Warnervale East and Gwandalan to 2A residential zone and also suggest the removal of brothel provisions of the Warnervale Town Centre Development Control Plan.</i></p>	Shire Planning	12 March 2008	A meeting has been organised with the Member for Wyong, Mr David Harris. Council's submission on the WTC includes the deletion of brothels from the DCP.
<p>109 – Council's Landholdings</p> <p><i>Report to be provided on Council's landholdings in the Warnervale area including details of current and projected use, zonings and value.</i></p>	Corporate Services	12 March 2008	Awaiting clarification from Councillor Eaton on the area to be included within the report.
<p>110 – Submission for Black Spot Funding</p> <p><i>That Council formally make submission to the black spot funding program for a roundabout intersection on Wyong Road and Tuggerah Straight and Cobbs Road/F3 interchange. That Council advise the Roads and Traffic Authority of the potential for a fatality to occur at both of these locations. Staff report to Council relevant data supporting the submission including traffic volumes and accident history.</i></p>	Shire Services	12 March 2008	Relevant supporting data is being collected for the completion of the funding application.

26 March 2008
To the Ordinary Meeting of Council

Director's Report
Corporate Services Department

Outstanding Questions Without Notice and Notices of Motion (contd)

Motion of Urgency	Department	Meeting Resolved	Status
042B – Motion of Urgency – Proposal by EnergyAustralia to install High Voltage Overhead Power Lines	Shire Planning	13 February 2008	Briefing was held on 20 February 2008. Response received from Energy Australia. A Councillor Business Update is currently being prepared.

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WYONG SHIRE COUNCIL

26 March 2008
To the Ordinary Meeting of Council

Shire Services Department

Answers to Questions Without Notice

Q005 – Maintenance Program on the Jubilee Oval

Asked by Councillor Stewart at the Ordinary Meeting held on 13 February 2008
F2004/00479

“Could I please be advised on the maintenance program on the Jubilee Oval?”

The current maintenance programme undertaken at Jubilee Oval is as follows:

Playing Field

- * Mowed by tractor to standard once/week between beginning of October and end of April and every third week from May to end of September.
- * Oval crew attends complex at least once per week for playing field inspection and any required activities, including; minor turf repair, minor weed control on playing surface, irrigation servicing and litter collection.
- * Weed spraying twice/year for seasonal weeds.
- * Soil pH amendments applied in September.
- * Playing field fertilised in September, December and March.
- * Playing field topdressing in November/December where required.
- * Aeration of playing surface September and March (minimum).
- * Initial preparation of turf cricket pitch throughout September.
- * Spray control for turf pests as required.

Gardens and Surrounds

- * Hand mowing, weeding, spraying and general garden maintenance is scheduled for every six weeks during growing season and eight weeks during low growth periods, however turf and playing field maintenance are given priority within existing budget funds. The last garden maintenance service occurred in November 2007.
- * Gardens mulched and playground soft-fall topped up during the winter months or as identified to maintain standard depth.

Answers to Questions Without Notice (contd)

Q005 – Maintenance Program on the Jubilee Oval (contd)

- * Toilets maintained four times weekly (between Monday and Friday).
- * Play equipment safety inspection every three months and repairs undertaken as required.
- * Building maintenance undertaken as requested or as a result of acts of vandalism.
- * Graffiti removed as identified and reported.

Answers to Questions Without Notice (contd)

Q009 – Application of Special Rate to Fisherman’s Wharf, The Entrance

Asked by Councillor Stewart at the Ordinary Meeting held on 27 February 2008
RA/007838

“Can I have advice on the situation of the “special rate” of The Entrance being applied to the new Fisherman’s Wharf?”

The Fisherman's Wharf site is located on a combination of Council owned land and Crown land that is leased to Council. The site also adjoins a proposed boardwalk which is located partly on a licence from the Crown.

Previously the land has been treated as non-rateable vacant public land. Due to the commercial nature of the development the land is now rateable from 1 July 2007. The issue of rates for the land has been delayed due to errors in the valuation records of the Department of Lands. Council has been liaising with the Department since September 2007 to have the valuation records corrected to accurately reflect the ownership and intended use of the land.

Council staff have been in regular contact with the Department to resolve the matter. It is expected that updated valuation records will be issued in the next few months following which Council will be able to levy all relevant rates and charges, including The Entrance Special Rate, retrospectively from 1 July 2007.

Answers to Questions Without Notice (contd)

Q010 –Commencement of Council Meetings at the Allocated Time

Asked by Councillor Graham at the Ordinary Meeting held on 27 February 2008
F2004/06496

“Could the Mayor ensure that future Council meetings commence at the allocated time?”

The clock in the Council Chambers has been adjusted to show the correct time.

Answers to Questions Without Notice (contd)

Q011 – Effects of Dredging on Islands in The Entrance Channel

Asked by Councillor Pavier at the Ordinary Meeting held on 27 February 2008
F2007/01516

“With regard to the islands in The Entrance Channel, directly west of the Entrance Bridge – have the dredging practices of Council undermined any of the vegetation root systems on those islands?”

Council’s dredging program has been operating in The Entrance Channel since 1993. Since 1998 no dredging has taken place west of The Entrance Bridge in the proximity of the islands in question.

Furthermore, in areas where dredging has previously been completed, there has been no evidence that indicates that any vegetative root systems have been significantly undermined. During all dredging operations, Council maintains a constant high visual inspection of works as they progress. This includes monitoring the sand that is discharged onto the beach.

If there is any undermining of vegetative root systems on the islands west of The Entrance Bridge, it was most likely caused by erosion due to the June long weekend storm event.

Representatives of Council’s management staff will attend site and inspect the islands in question to ascertain the extent of any undermining.

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WYONG SHIRE COUNCIL

26 March 2008
To the Ordinary Meeting of Council

**137 Notice of Motion – Proposed Inclusion of Council’s Opposition
to Wallarah 2 Coalmine on Council’s Website**

F2004/00210

Councillor D J Eaton has given notice that at the Ordinary Meeting of Council to be held on Wednesday 26 March 2008, he will move the following Motion:

“That Council’s website be updated to include a page on Councils’ opposition to the proposed Wallarah 2 Coalmine and links to ACA, SKCM and other relevant sites.”

WYONG SHIRE COUNCIL

26 March 2008
To the Ordinary Meeting of Council

138 Notice of Motion – Affordable Housing Summit

F2004/09609

Councillor D J Eaton has given notice that at the Ordinary Meeting of Council to be held on Wednesday 26 March 2008, he will move the following Motion:

“That Council convene an Affordable Housing Summit.”

WYONG SHIRE COUNCIL

26 March 2008
To the Ordinary Meeting of Council

139 Notice of Motion – 2007 Warnervale Rail Station

DA/26/2005

Councillors G P Best and D J Eaton have given notice that at the Ordinary Meeting of Council to be held on Wednesday 26 March 2008, they will move the following Motion:

“That staff report to Council on the key issues still surrounding the delay of the Warnervale Rail Station Development Application currently before Council.”

COUNCILLORS NOTE

Council may recall that this economically and socially viable infrastructure was scheduled to be open and operational by 2007 as set out in the Transport Action Plan.

WYONG SHIRE COUNCIL

26 March 2008
To the Ordinary Meeting of Council

**140 Notice of Motion – Mowing and Maintenance of Open Space
and Park Areas**

F2004/06144

Councillor G P Best has given notice that at the Ordinary Meeting of Council to be held on Wednesday 26 March 2008, he will move the following Motion:

- “1 That further to the increased community concerns regarding the scheduling of maintenance works related to Open Space/Parks, staff report on the adequacy of the current scheduling and targets achieved.*

- 2 That Council recognise the efforts of staff in delivering the various maintenance programs, particularly having regard to urban expansion and current resource levels.”*

WYONG SHIRE COUNCIL

26 March 2008
To the Ordinary Meeting of Council

141 Notice of Motion – Parking Fine Review Panel (PFRP)

F2004/00468

Councillor G P Best has given notice that at the Ordinary Meeting of Council to be held on Wednesday 26 March 2008, he will move the following Motion:

- “1 That staff report on the number of parking infringement notices and their total value issued by Council over the past two years.*
- 2 That Council in co-operation with the State Government Process Infringement Branch investigate and report whether there is scope to establish a PFRP, with a view to providing a mechanism for our residents and ratepayers with extenuating circumstances, an avenue of appeal other than the costly and often lengthy court process.”*

WYONG SHIRE COUNCIL

26 March 2008
To the Ordinary Meeting of Council

142 Notice of Motion – Leadership Consultant’s Program

F2004/07000

Councillor K M Forster has given notice that at the Ordinary Meeting of Council to be held on Wednesday 26 March 2008, she will move the following Motion:

“Could Council receive a report on the Leadership Consultant’s Program including detailed information on total costs to Council and outcomes achieved.”