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## 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 NOVEMBER 2008,  
COMMENCING AT 5.00 PM

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#### *INDEX*

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	Opening Prayer	
	Receipt of Apologies	
503	Disclosures of Interest .....	5
504	Proposed Inspections .....	6
505	Proposed Briefings.....	8
506	Address by Invited Speakers.....	9
507	Notice of Intention to Deal With Matters in Confidential Session .....	10
508	Confirmation of Minutes of Previous Meeting.....	11
	 <u>Planning Reports</u>	
509	State of the Shire 2008-09 Report.....	35
510	Proposed Boundary Adjustment at Lots 101 and 103 DP 806178 Corona Lane, Glenning Valley .....	38
511	Draft Development Control Plan 2005: Chapter 36 – North Wyong Industrial Area .....	63
512	Proposed Managed Resort and Residential Development, The Entrance Road West, The Entrance.....	68
	 <u>Tender Reports</u>	
513	Contract CPA 135454 - Investigation and Design - Toe Drainage Structure - Cabbage Tree Harbour .....	163
514	Contract Variations.....	173
	 <u>Property Reports</u>	
515	Proposed Lease to the Scout Association of Australia of Lot 102 DP 635277 at 10 Levitt Street, Wyong.....	178
516	Proposed Acquisition of Private Land at Yarramalong Road, Wyong Creek and Boyds Lane Wyong Creek for Road Widening.....	182
517	Surrender of Lease and New Lease to Vodafone Network Pty Ltd of Part Lots 69, 70 and 71 DP 20749 at Long Jetty .....	186
518	Acquisition of Easement for Water Supply over Land in Crown Plan 7064-3070 at Chain Valley Bay .....	190

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## ORDINARY MEETING OF COUNCIL

26 November 2008

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### *INDEX (contd)*

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<b><u>General Reports</u></b>	
519	Tuggerah Lakes Estuary Coastal and Floodplain Management Committee - Trees of Cultural Significance at Budgewoi East..... 193
520	Presentation on 2007-08 Annual Financial Reports ..... 198
521	Proposed Grants Funding Changes ..... 200
522	Councillor Workshop ..... 214
523	Annual Report to the Minister for Local Government ..... 216
524	Review of Council's Project Management Processes ..... 217
525	Adoption of Amendments to the 2008-09 Management Plan..... 222
<b><u>General Manager's Report</u></b>	
526	2008-09 Management Plan – September 2008 Quarter Review..... 233
<b><u>Committee/Board Reports</u></b>	
527	Minutes of the Wyong Shire Governance Committee Meeting – 12 November 2008 ..... 251
528	Minutes of the Gosford/Wyong Councils' Water Authority Board Meeting – 19 November 2008 ..... 252
<b><u>Information Reports</u></b> ..... 253	
529	Activities of the Development Assessment Unit..... 254
530	Results of Water Quality Testing for Bathing Beaches..... 258
531	Report on Investments – September and October 2008 ..... 263
532	Maintenance of Stormwater Treatment Devices ..... 269
533	Water and Sewerage – Works in Progress ..... 275
534	General Works in Progress Report ..... 279
536	Outstanding Questions Without Notice and Notices of Motion..... 286

---

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## ORDINARY MEETING OF COUNCIL

26 November 2008

---

---

### *INDEX (contd)*

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---

	<b><u>Notices of Motion</u></b>	
537	Notice of Motion – Affordable Housing .....	293
538	Notice of Motion – Building and Construction Industry Improvement Act 2005 (BCII) and Australian Building and Construction Commissioner (ABCC).....	304
539	Notice of Motion – Tumby Road Powerline Pollution.....	307
540	Notice of Motion – Super Clinic Sites .....	308
541	Notice of Motion – Extended Safety of Surf Patrol Beaches.....	309
542	Notice of Motion – Continuing Erosion of Cabbage Tree Bay.....	310

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**WYONG SHIRE COUNCIL**

26 November 2008  
To the Ordinary Meeting of Council

General Manager's Report

**503 Disclosures of Interest**

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F2008/01064 MW:SW

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

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

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

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

**RECOMMENDATION**

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

## WYONG SHIRE COUNCIL

26 November 2008  
To the Ordinary Meeting of Council

General Manager's Report

### 504 Proposed Inspections

F2008/00003 MW:SW

#### SUMMARY

Inspections held on Wednesday 19 November 2008, are listed as follows:

Date of Inspection	Location	Requested By/Presented By
19 November 2008	Development Application DA 408/2008 – Boundary Adjustment – Corona Lane, Glenning Valley  <b>Note:</b> A briefing on DA 408/2008 Development was presented on the bus	Director Shire Planning  Manager Development Assessment
19 November 2008	Powerlines at Tumbi Umbi	Councillor Eaton
19 November 2008	Wyong Employment Zone (WEZ) Contributions and Development Control Plan (DCP)  <b>Note:</b> A briefing on (WEZ) was conducted during lunch	Director Shire Planning  Presented by Acting Manager, Future Planning
19 November 2008	Warnervale Town Centre (WTC)  <b>Note:</b> A briefing on (WTC) was conducted during lunch	Director Shire Planning  Team Co-ordinator, Land Use Planning
19 November 2008	Klumper – Redevelopment of El Lago to Major Tourist/Residential Development  <b>Note:</b> A briefing on the Klumper Development was presented on the bus	Director Shire Planning  Manager Development Assessment
19 November 2008	DA/953/2008 - Department of Ageing – Hamlyn Terrace  <b>Note:</b> A briefing on DA/953/2008 was presented on the bus	Director Shire Planning  Manager Development Assessment
19 November 2008	DA/807/2008 - 457 Pacific Highway – Place of Worship  <b>Note:</b> A briefing on DA/807/2008 was presented on the bus	Director Shire Planning  Manager Development Assessment

**Proposed Inspections (contd)**

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Date of Inspection	Location	Requested By/Presented By
19 November 2008	Link Road Watanobbi  <b>Note:</b> A briefing on the Link Road was presented on the bus	Director Shire Services  Manager Contracts and Special Projects and Contract Engineer
19 November 2008	Lakes Anglican Grammar Junior School, along Aldenham Road to the Senior School	Manager Contracts and Special Projects and Contract Engineer

**RECOMMENDATION**

***That Council receive the report on inspections and briefings conducted on Wednesday, 19 November 2008.***

## WYONG SHIRE COUNCIL

26 November 2008  
To the Ordinary Meeting of Council

General Manager's Report

### 505 Proposed Briefings

F2008/00003 MW:SW

#### 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 November 2008	Hunter Valley Research Foundation	Briefing by Hunter Valley Research Foundation on the Central Coast Economy	10.00 am – 11.00 am	Hunter Valley Research Foundation
26 November 2008	Land and Environment Court and Local Environmental Plan (LEP)	Briefing on the Land and Environment Court and LEP processes	11.00 am – 12 noon	Manager Planning Legal and Policy
26 November 2008	Department of Environment and Climate Change (DECC)	Briefing on DECC issues	12 noon – 1.00 pm	Director Shire Services
26 November 2008	Project Management	Briefing on Project Management procedures	1.00 pm – 1.30 pm	Manager Contracts
26 November 2008	Performing Arts Centre	Briefing on the Performing Arts Centre	1.30 pm – 3.00 pm	Manager Future Planning
3 December 2008	Management Plan	Workshop on Councillors procedures for the Management Plan	11.00 am – 1.30 pm	External Facilitator
3 December 2008	The Entrance Strategy	Briefing on The Entrance Peninsula Planning Strategy	1.30 pm – 3.30 pm	Senior Strategic Planner
3 December 2008	Sporting Facilities Strategy	Briefing on the Sporting Facilities Strategy	3.30 pm – 4.00 pm	Landscape Architect
3 December 2008	Shire Strategic Vision	Shire Strategic Vision Consultation and Key Issues	4.00 pm – 6.00 pm	Manager Community Strategic Vision

#### RECOMMENDATION

***That Council receive the report on proposed briefings.***



## WYONG SHIRE COUNCIL

26 November 2008  
To the Ordinary Meeting of Council

General Manager's Report

### **506                      Address by Invited Speakers**

F2008/00003 MW:SW

#### **SUMMARY**

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

<b>SPEAKERS</b>	<b>REPORT</b>	<b>PAGE NO</b>	<b>DURATION</b>
Mr Dennis Banicevic, Price Waterhouse Coopers	- Presentation on 2007/2008 Audited Financial Reports		5 mins

#### **RECOMMENDATION**

- 1        *That Council receive the report on Invited Speakers and the information noted.***
- 2        *That Council agree standing orders be varied to allow Director's and General Manager reports to be dealt with following the speaker's address.***

**507 Notice of Intention to Deal With Matters in Confidential Session**

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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 Council consider in Confidential Session the following matters in accordance with Section 10A(2)(c) of the Local Government Act 1993:***

***W024 – Land at Toukley***

- 2 That Council consider Report No W024 – Land at Toukley confidentially for the reason 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.***
- 3 That Council request the General Manager in accordance with Section 253 of the Local Government Regulations 2005 report on this matter to the meeting in Open Session.***

**WYONG SHIRE COUNCIL**

26 November 2008  
To the Ordinary Meeting of Council

General Manager's Report

**508 Confirmation of Minutes of Previous Meeting**

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F2008/00003 MW:SW

**SUMMARY**

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

**RECOMMENDATION**

*That Council confirm the minutes of the previous Ordinary Meeting of Council held on 12 November 2008.*

**WYONG SHIRE COUNCIL**  
**MINUTES OF THE**  
**ORDINARY MEETING OF COUNCIL**  
**HELD IN THE COUNCIL CHAMBER**  
**WYONG CIVIC CENTRE, HELY STREET, WYONG**  
**ON WEDNESDAY, 12 NOVEMBER 2008,**  
**COMMENCING AT 5.03 PM**

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**PRESENT**

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

**IN ATTENDANCE**

GENERAL MANAGER, DIRECTOR SHIRE PLANNING, DIRECTOR CORPORATE SERVICES, DIRECTOR SHIRE SERVICES (ARRIVED AT 5.13 PM), MANAGER DEVELOPMENT ASSESSMENT, ACTING MANAGER FUTURE PLANNING AND TWO ADMINISTRATION STAFF.

SENIOR TRANSPORT ENGINEER, MANAGER PLANNING – LEGAL AND POLICY AND MANAGER FINANCIAL SERVICES.

THE MAYOR CONGRATULATED COUNCILLOR McBRIDE ON HER NEW ROLE AS CHIEF PHARMACIST AT WYONG HOSPITAL. THE MAYOR SAID COUNCILLOR McBRIDE'S APPOINTMENT WAS WELL DESERVED AND WISHED HER WELL ON BEHALF OF COUNCILLORS.

COUNCILLOR VINCENT PRESENTED A CERTIFICATE OF APPRECIATION TO WYONG SHIRE COUNCIL FROM THE KIDS DAY OUT HELD AT OURIMBAH CAMPUS. COUNCILLOR VINCENT ACKNOWLEDGED COUNCILLOR MATTHEWS' GREAT CONTRIBUTION TO THE EVENT AND SAID HER ONGOING EFFORTS MADE IT A REAL SUCCESS. THE MAYOR CONGRATULATED COUNCILLOR MATTHEWS AND ASKED THAT THANKS BE GIVEN TO THE TEAM.

THE MAYOR, COUNCILLOR GRAHAM, DECLARED THE MEETING OPEN AT 5.03 PM, ADVISED THAT THE MEETING IS BEING RECORDED.

COUNCILLOR MATTHEWS READ AN ACKNOWLEDGING COUNTRY STATEMENT.

PASTOR JOHN BETTS DELIVERED THE OPENING PRAYER.

**APOLOGIES**

THERE WERE NO APOLOGIES.

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


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**469 Disclosures of Interest**


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F2008/01064 ED:MR

**472 - ADDRESS BY INVITED SPEAKERS**

COUNCILLOR EATON DECLARED A NON PECUNIARY SIGNIFICANT CONFLICT OF INTEREST IN THE MATTER FOR THE REASON THAT THE SPEAKER CAMPAIGNED AGAINST HIM AND THREATENED HIM, LEFT THE CHAMBER AT 5.10 PM, TOOK NO PART IN DISCUSSION, DID NOT VOTE AND RETURNED TO THE CHAMBER AT 5.11 PM.

**472 - ADDRESS BY INVITED SPEAKERS**

COUNCILLOR BEST DECLARED A NON-PECUNIARY INSIGNIFICANT CONFLICT OF INTEREST IN THE MATTER FOR THE REASON THAT THE AUSTRALIAN COAL ALLIANCE LOBBIED AGAINST HIM AT THE LAST ELECTION AND PARTICIPATED IN CONSIDERATION OF THIS MATTER.

COUNCILLOR BEST STATED:

*"I CHOOSE TO REMAIN IN THE CHAMBER AND PARTICIPATE IN DISCUSSION AND VOTING AS THE CONFLICT HAS NOT INFLUENCED ME IN CARRYING OUT MY PUBLIC DUTY BECAUSE THAT IS MY VIEW."*

**501 - NOTICE OF MOTION – COAL MINING OBJECTION**

COUNCILLOR EATON DECLARED A NON PECUNIARY SIGNIFICANT CONFLICT OF INTEREST IN THE MATTER FOR THE REASON THAT THE SPEAKER CAMPAIGNED AGAINST HIM AND THREATENED HIM, LEFT THE CHAMBER AT 7.22 PM, TOOK NO PART IN DISCUSSION, DID NOT VOTE AND RETURNED TO THE CHAMBER AT 7.26 PM.

**501 - NOTICE OF MOTION – COAL MINING OBJECTION**

COUNCILLOR BEST DECLARED A NON-PECUNIARY INSIGNIFICANT CONFLICT OF INTEREST IN THE MATTER FOR THE REASON THAT THE AUSTRALIAN COAL ALLIANCE LOBBIED AGAINST HIM AT THE LAST ELECTION AND PARTICIPATED IN CONSIDERATION OF THIS MATTER.

COUNCILLOR BEST STATED:

*"I CHOOSE TO REMAIN IN THE CHAMBER AND PARTICIPATE IN DISCUSSION AND VOTING AS THE CONFLICT HAS NOT INFLUENCED ME IN CARRYING OUT MY PUBLIC DUTY BECAUSE THAT IS MY VIEW."*

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

***That the report be received and advice of disclosures noted.***

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

AGAINST: NIL

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

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**470 Proposed Inspections**

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F2008/00003 ED:MR

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

***That Council receive the report on inspections and briefings to be conducted on Wednesday, 19 November 2008 with an additional inspection of the power lines at Tumbi Umbi to be included.***

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

AGAINST: NIL

**471 Proposed Briefings**

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F2008/00003 ED:MR

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

***That Council receive the report on proposed briefings.***

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

AGAINST: NIL

**472 Address by Invited Speakers**

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F2008/00003 ED:MR

COUNCILLOR EATON DECLARED A NON PECUNIARY SIGNIFICANT CONFLICT OF INTEREST IN THE MATTER FOR THE REASON THAT THE SPEAKER CAMPAIGNED AGAINST HIM AND THREATENED HIM, LEFT THE CHAMBER AT 5.10 PM, TOOK NO PART IN DISCUSSION, DID NOT VOTE AND RETURNED TO THE CHAMBER AT 5.11 PM.

COUNCILLOR BEST DECLARED A NON-PECUNIARY INSIGNIFICANT CONFLICT OF INTEREST IN THE MATTER FOR THE REASON THAT THE AUSTRALIAN COAL ALLIANCE LOBBIED AGAINST HIM AT THE LAST ELECTION AND PARTICIPATED IN CONSIDERATION OF THIS MATTER.

COUNCILLOR BEST STATED:

*"I CHOOSE TO REMAIN IN THE CHAMBER AND PARTICIPATE IN DISCUSSION AND VOTING AS THE CONFLICT HAS NOT INFLUENCED ME IN CARRYING OUT MY PUBLIC DUTY BECAUSE THAT IS MY VIEW."*

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

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

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

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

AGAINST: NIL

**473 Confirmation of Minutes of Previous Meeting**

---

F2008/00003 ED:MR

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

**That Council confirm the minutes of the previous Ordinary Meeting of Council held on 22 October 2008.**

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

AGAINST: NIL

**BUSINESS ARISING FROM THE MINUTES**

THERE WAS NO BUSINESS ARISING FROM THE MINUTES.

**474 Proposed Animal Establishment at Lot 5 DP 247470, No 5 Old Maitland Road, Kangy Angy**

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DA/680/2008 BLF:JD

THE DIRECTOR SHIRE PLANNING ADVISED THAT THIS ITEM HAS BEEN WITHDRAWN.

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

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**475 Draft DCP 2005: Chapter 70 – Notification of Development Proposals**

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F2005/02856 BLF:JD

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

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

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

AGAINST: NIL

**476 Draft DCP 2005: Chapter 111 Hoardings**

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F2008/00850 BLF

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

- 1 That Council adopt draft Development Control Plan 2005 – Chapter in accordance with Clause 21 of the Environmental Planning and Assessment Regulations effective from 1 January 2009.**
- 2 That Council forward Development Control Plan 2005 containing the new Chapter 111 Hoardings to the Director-General of the NSW Department of Planning within 28 days.**



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

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**3 That Council annotate relevant s149 Certificates regarding the adoption of Development Control Plan 2005 – Chapter 111 Hoardings.**

**4 That Council adopt Chapter 111 of Development Control Plan No 2005 as a Council Policy under the Local Government Act.**

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

AGAINST: NIL

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**477 Pacific Highway, Wyong – RTA Preferred Option**

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F2004/08230 RCB

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

- 1 That Council write to the RTA in response to the exhibition of the Preferred Option Study identifying that it considers that the Preferred Option has many deficiencies in that:
 
  - a Detailed traffic analysis to identify the longevity of the Preferred Option has not been provided.**
  - b Not all future development, particularly on the eastern side of the railway line, has been considered in the analysis.**
  - c Appropriate right turning movements for all directions at the River Road, Church Street, Howarth Street (Rose Street), Anzac Avenue and North Road intersections have not been provided.****
- 2 That Council request the RTA to work closely with Council staff to prepare a “Revised Preferred Option Plan”.**
- 3 That Council and the RTA hold a briefing with the Councillors on completion of the “Revised Preferred Option Plan” and prior to exhibition of the plan.**
- 4 That Council consider a further report following the “Revised Preferred Option” briefing to the Councillors.**
- 5 That Council request the RTA to dedicate the small allotment of Crown land adjacent to the Pacific Highway and the Wyong Grove School as a drop off and pick up point for the school.**
- 6 That Council request the RTA to replace, at its cost, any existing parking spaces lost as a consequence of this project under any option selected.**

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


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**7 That Council request the State Government to commit funding for construction of the project.**

**8 That Council advise Mr David Harris MP, the Member for Wyong, in writing of these concerns and include a copy of this report.**

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

AGAINST: NIL

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**478 CPA 149748 – Supply and Delivery of Traffic Control Equipment and Signage**

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CPA 149748 JMC

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

**1 That Council accept tender No 1 from Road Signs and Marking Supplies Pty Ltd for a period of two years from the date of acceptance.**

**2 That Council note the estimated annual expenditure against this contract is \$178,688.00 (excl GST).**

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

AGAINST: NIL

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**479 CPA 149745 – Supply, Delivery and Lay of Cultivated Turf**

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CPA 149745 JMC

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

**1 That Council accept all tenders (scheduled rates) for the supply, delivery and laying of cultivated turf for a period of one year commencing on 1 December 2008.**

**2 That Council note total expenditure for cultivated turf is estimated at \$90,000.00 (excl GST) for the initial year.**

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

AGAINST: NIL

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

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**480 Proposed Licences from the Crown adjacent to Picnic Point Reserve 92238 at The Entrance and Saltwater Creek Reserve – Reserve 93654 at Long Jetty**

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F2008/01576 F2008/01564 SB

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

- 1 That Council accept a Licence from the Crown for the purpose of an access ramp (1.2m x 3m), Jetty (10m x 2m), pontoon (4m x 3m), ramp (12.5m<sup>2</sup> x 15m<sup>2</sup>) and seawall situated on Crown Land below high water mark adjoining Lot 7041 DP 1030785 being Picnic Point Reserve, Tuggerah Parade, The Entrance for a term of 20 years at an annual fee of \$396.00 (excl GST).**
- 2 That Council accept a Licence from the Crown for the purpose of a bridge (1.7m x 1.5m) – access to pontoon, pontoon (14m x 1.5m) and boat ramp (12.8m x 7.7m) situated on Crown Land below high water mark fronting Reserve 92238 for Future Public Requirements notified 24 April 1970 (Lot 362 DP 755263) and Reserve 93654 for Future Public Requirements notified 26 September 1980 (Lot 453 DP 40809) at Long Jetty for a term of 20 years at an annual fee of \$390.00 (excl GST).**
- 3 That Council authorise the Common Seal of Wyong Shire Council to be affixed to the relevant Licence Agreements between Wyong Shire Council and Department of Lands.**
- 4 That Council authorise the Mayor and the General Manager to execute all documents relating to the relevant Licence Agreements between Wyong Shire Council and Department of Lands.**

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

AGAINST: NIL

**481 Renewal of Lease of Part Crown Reserve No 63621 at Adelaide Street, Killarney Vale**

---

F2005/00014 SB

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

- 1 That Council renew the Lease to Killarney Vale Australian Football Club Inc of the clubhouse site on part of Crown Reserve No 63621 at Adelaide Street, Killarney Vale for a period of five years at nominal rental.**

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

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- 2 ***That Council require the lease be subject to the Killarney Vale Australian Football Club Inc acknowledging that the ground amenities are available to all hirers of the grounds and access will not be limited by that Club directly or indirectly.***
  
- 3 ***That Council authorise for the Common Seal of the Wyong Shire Council to be affixed to the Lease Agreement between the Wyong Shire Council and Killarney Vale Australian Football Club Inc.***
  
- 4 ***That Council authorise the Mayor and the General Manager to execute all documents relating to the Lease Agreement between the Wyong Shire Council and the Killarney Vale Australian Football Club Inc.***

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

AGAINST: NIL

**482 Proposed Easement for Electricity Purposes over Lot 10 DP 1128045 Oakland Avenue and Norberta Street The Entrance**

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F2008//02181 JMT

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

- 1 ***That Council grant a right of way for access, an easement for electricity purposes and an easement for electricity substation 5.3 metres wide over Council's land, Lot 10 DP 1128045 at the corner of Oakland Avenue and Norberta Street, The Entrance to Energy Australia.***
  
- 2 ***That Council authorise for the Common Seal of the Wyong Shire Council to be affixed related documents as required.***
  
- 3 ***That Council authorise the Mayor and the General Manager to execute all documents relating to the grant of easement between Wyong Shire Council and Energy Australia.***

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

AGAINST: NIL

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

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**483 Proposed Acquisition of Private Land for Road Widening at Lots 2 and 5 DP 711148 The Ridgeway, Matcham**

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F2008/01727 JMT

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

- 1 That Council acquire part of Lot 2 DP 711148 and part of Lot 5 DP 711148 The Ridgeway, Matcham as public road.**
- 2 That Council authorise the payment of compensation if necessary for the acquisition of the land 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 acquire the land compulsorily in the event that negotiations with the property owners cannot be satisfactorily resolved.**
- 4 That Council authorise the Common Seal of Wyong Shire Council to be affixed to the Transfer and/or Plan and to any necessary applications to the Department of Local Government for the approval of the Minister and the Governor.**
- 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.**

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

AGAINST: NIL

**484 Proposed Acquisition of State Forest Land at Ourimbah for Road**

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F2008/01524 JMT

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

- 1 That Council acquire part of Ourimbah State Forest at Palmdale Road, Ourimbah as public road.**
- 2 That Council authorise the payment of compensation if necessary for the acquisition of the land 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 acquire the land compulsorily in the event that negotiations with the property owners cannot be satisfactorily resolved.**

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


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- 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.*

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

AGAINST: NIL

**485** **Surrender of Lease and New Lease for Lot A DP 355776, 4 Anzac Road, Wyong**

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F2007/01162 JMT

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

- 1** *That Council agree to the surrender of the current lease from Safira Holdings Pty Ltd.*
- 2** *That Council authorise a new lease, in similar terms to the existing lease, of Lot A DP 355776 at 4 Anzac Avenue, Wyong until 31 January 2011 with two options to renew the lease for a further six months each and rent commencing at \$9,500 per month.*
- 3** *That Council authorise the Common Seal of Wyong Shire Council to be affixed to the Surrender of Lease between Wyong Shire Council and Safira Holdings Pty Ltd and to the new Lease between Wyong Shire Council and Safira Holdings Pty Ltd.*
- 4** *That Council authorise the Mayor and General Manager to execute all documents relating to Surrender of Lease between Wyong Shire Council and Safira Holdings Pty Ltd and to the new Lease between Wyong Shire Council and Safira Holdings Pty Ltd.*

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

AGAINST: NIL

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


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**486 Proposed Licence for Kiosk at Shelly Beach Surf Life Saving Club – Part of Lot 7012 DP 1021282**


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F2004/13085 JMT

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

- 1 That Council consent, (subject to the approval of the Minister for Lands) to Shelly Beach Surf Life Saving Club Inc entering into a licence agreement with Shellys Kiosk Pty Ltd for the operation of the kiosk located in the Surf Club premises at Lot 7012 DP 1021282, Shelly Beach Road, Shelly Beach.**
- 2 That Council advise the Shelly Beach Surf Life Saving Club Inc that Council in principle has no objections to entering into a licensing agreement for the Shelly Beach Kiosk at Shelly Beach however Council believes it should be for a maximum of two years and Shelly Beach Surf Life Saving Club Inc enter into negotiations with Council.**
- 3 That in the event that the Club agrees to a two year period the General Manager be authorised to enter into an agreement.**
- 4 That Council authorise affixing the Common Seal of the Wyong Shire Council to the Licence Agreement between the Wyong Shire Council, Shelly Beach Surf Life Saving Club Inc and Shellys Kiosk Pty Ltd.**
- 5 That Council authorise the Mayor and the General Manager, to execute all documents relating to Licence Agreement between the Wyong Shire Council, Shelly Beach Surf Life Saving Club Inc and Shellys Kiosk Pty Ltd.**

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

AGAINST: NIL

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**487 Proposed Renaming of Lot 1 DP 376964 George Downes Drive, Kulnura from Kulnura Reserve to 'Neill's Park'**


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F2004/06023 LS/KD

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

- 1 That Council recommends to the Geographical Names Board the renaming of Lot 1 DP 376964, George Downes Drive, Kulnura as 'Neill Park'.**
- 2 That Council support the renaming of the adjoining hall on Lot 134 DP 755261, George Downes Drive, Kulnura 'Kulnura Pioneer Memorial Hall'.**

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


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- 3** *That Council advertise the proposal to rename the hall on Council's website and in local print media and seek comments from the public regarding names of other pioneers who may have donated land for public use.*
- 4** *That subject to no significant objection being received, Council proceed with the renaming of the hall.*

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

AGAINST: NIL

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**488 Building Adjacent to or Over Council's Sewer Mains Policy**


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F2005/03170: IN/IN

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

- 1** *That Council adopt Policy – Requirements for Building Over Council's Sewer Mains identifying Council's current technical requirements for the enforcement of the protection of sewer mains*
- 2** *That Council place on its web site the policy document along with Council's current technical requirements for the protection of sewer mains.*
- 3** *That Council regularly review/update current technical requirements for the protection of sewer mains when and where considered necessary.*

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

AGAINST: NIL

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**489 2007 - 2008 Annual Financial Reports**


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F2008/00545 SJG

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

*That the Governance Committee recommends to the Ordinary Meeting of Council of 12 November 2008 that it consider the adoption of the following resolutions in respect of the General, Special and Water Supply Authority Accounts:*

- 1** *That Council adopt the draft 2007/2008 Financial Reports;*



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

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- 2 That Council refer the draft 2007/2008 Financial Reports to External Audit;**
- 3 That Council authorise the Mayor, Deputy Mayor, General Manager and Responsible Accounting Officer to execute the required Certificates in relation to the draft 2007/2008 Financial Reports as required by relevant legislation;**
- 4 That Council provide a copy of the Financial Reports and Audit Opinion to the Department of Local Government and the Australian Bureau of Statistics in accordance with Section 417(5) of the Local Government Act 1993.**
- 5 That Council fix 26 November 2008 as the date for the presentation of the audited 2007/2008 Financial Reports and External Audit Report in accordance with Section 419(1) of the Local Government Act 1993.**

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

AGAINST: NIL

**490 Minutes of the Wyong Shire Governance Committee Meeting – 5 November 2008**

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F2004/07245 MW:SW

COUNCILLOR MATTHEWS LEFT THE CHAMBER AT 6.05 PM AND RETURNED TO THE CHAMBER AT 6.07 PM AND AS A RESULT TOOK NO PART IN VOTING.

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

***That Council receive the minutes of the Wyong Shire Governance Committee meeting held on 5 November 2008 and the recommendations contained therein be adopted.***

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

AGAINST: NIL

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

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**Information Reports**

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COUNCILLOR MATTHEWS LEFT THE CHAMBER AT 6.05 PM AND RETURNED TO THE CHAMBER AT 6.07 PM AND AS A RESULT TOOK NO PART IN VOTING.

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

***That with the exception of report number 492 and 493 the information reports be received and the recommendations adopted.***

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

AGAINST: NIL

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**491 Responses to request to Precinct and Progress Committees for their views on Constitutional Recognition of Local Government**

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F2006/01711 MR

COUNCILLOR MATTHEWS LEFT THE CHAMBER AT 6.05 PM AND RETURNED TO THE CHAMBER AT 6.07 PM AND AS A RESULT TOOK NO PART IN VOTING.

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

***That Council note the views expressed to date by Precinct and Progress Committees on Constitutional Recognition of Local Government.***

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

AGAINST: NIL

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

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**492 Changes To Developer Contributions in New South Wales**

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DA/261/2005 MR

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

- 1 *That Council receive the report on changes to developer contributions in New South Wales.*
- 2 *That Council request a report as to whether the State Government is considering any discussion papers that may relieve Councils of their control of existing Section 94 funds and/or their control of raising Section 94 contributions.*

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

FOR: COUNCILLORS BEST, EATON, McNAMARA AND WYNN.

AGAINST: COUNCILLORS GRAHAM, McBRIDE, MATTHEWS, SYMINGTON, VINCENT AND WEBSTER.

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

***That Council receive the report on changes to developer contributions in New South Wales.***

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

AGAINST: NIL

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**493 Response on Request for Public Radiotherapy Service**

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F2004/11290 SG

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

***That Council receive the report response on request for public radiotherapy service.***

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

AGAINST: NIL

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

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**494 Response on the Re-establishment of the NSW Coastal Council**

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F2004/06935 SG

COUNCILLOR MATTHEWS LEFT THE CHAMBER AT 6.05 PM AND RETURNED TO THE CHAMBER AT 6.07 PM AND AS A RESULT TOOK NO PART IN VOTING.

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

***That Council receive the report on Response on the Re-establishment of the NSW Coastal Council.***

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

AGAINST: NIL

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

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F2008/00003 SG

COUNCILLOR MATTHEWS LEFT THE CHAMBER AT 6.05 PM AND RETURNED TO THE CHAMBER AT 6.07 PM AND AS A RESULT TOOK NO PART IN VOTING.

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

***That Council receive the report on the outstanding questions without notice and notices of motion.***

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

AGAINST: NIL

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


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**496 Notice of Motion - Adoption of policy of active resistance to offshore mining and extractive industry activities off the coast of Wyong Shire**


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F2006/00264 SAW

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

- 1 That Council call on both the State and Federal governments to fully assess the environmental impact of both the exploration activity and the potential mining activity associated with this application before any exploration licence application is considered.**
- 2 That Council make a formal submission to both the NSW government and Federal government who are jointly handling the exploration licence application, to reject the application if it is found to be environmentally damaging.**
- 3 That Council call on the NSW and Federal Governments to rule out any further coal exploration off the NSW coast from the Illawarra to Port Stephens.**
- 4 That Council embark on a campaign to inform the public on the process and possible negative impacts of such an offshore mining proposal.**

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

AGAINST: COUNCILLORS McBRIDE, MATTHEWS AND VINCENT

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**497 Notice of Motion - Councillor Attendance at Precinct Committee Meetings**


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F2004/06474 SAW

*It was MOVED by Councillor WYNN and SECONDED by Councillor BEST:*

- 1 That each Wyong Shire Councillor attend or be the contact councillor for the monthly Precinct Committee Meetings.*
- 2 That the Wyong Shire Council Community Precinct Committee Information and Guidelines Booklet be amended to reflect this change.*
- 3 That a list of Councillors and the Precinct Committee they are attending be sent to all Precinct Committees.*

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

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An *AMENDMENT* was *MOVED* by Councillor *GRAHAM* and *SECONDED* by Councillor *McBRIDE*:

- 1 *That Council request all Councillors to remain available for contact by all Precinct Committees and attend as circumstances dictate.*
- 2 *That Council request Precinct Committees to distribute their meeting notices, agendas and minutes to all Councillors on a regular basis.*
- 3 *That Council note that a Precinct Forum is scheduled in these Chambers early in 2009.*

***The AMENDMENT was put to the vote and declared CARRIED.***

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

AGAINST: COUNCILLORS BEST AND WYNN.

***The AMENDMENT became the MOTION.***

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

- 1 ***That Council request all Councillors to remain available for contact by all Precinct Committees and attend as circumstances dictate.***
- 2 ***That Council request Precinct Committees to distribute their meeting notices, agendas and minutes to all Councillors on a regular basis.***
- 3 ***That Council note that a Precinct Forum is scheduled in these Chambers early in 2009.***

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

AGAINST: NIL

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

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**498 Notice of Motion – Central Coast Tourism Inc (CCTI) Funding**

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F2004/07096 DJE

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

***That Council report on funding for Central Coast Tourism Inc (CCTI).***

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

AGAINST: NIL

**499 Notice of Motion – Wyong Parking Initiatives**

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F2008/02372 DJE

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

***1 That Council congratulate the Member for Wyong, Mr David Harris MP, on his support for a joint venture between Council and the State Government to construct additional car parking around the Civic/Justice/Police precinct of Wyong Town Centre.***

***2 That Council request staff to contact appropriate State Government agencies to address this matter.***

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

AGAINST: NIL

**500 Notice of Motion – The Entrance Beach Renourishment**

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F2004/11029 DJ E & RLG

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

***That staff investigate and report on a geotextile bag type training wall generally along the existing stormwater line to renourish the sand on The Entrance beach.***

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

AGAINST: NIL

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

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**501 Notice of Motion - Coal Mining Objection**

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F2006/01080 GPB

COUNCILLOR EATON DECLARED A NON PECUNIARY SIGNIFICANT CONFLICT OF INTEREST IN THE MATTER FOR THE REASON THAT THE SPEAKER CAMPAIGNED AGAINST HIM AND THREATENED HIM, LEFT THE CHAMBER AT 7.22 PM, TOOK NO PART IN DISCUSSION, DID NOT VOTE AND RETURNED TO THE CHAMBER AT 7.26 PM.

COUNCILLOR BEST DECLARED A NON-PECUNIARY INSIGNIFICANT CONFLICT OF INTEREST IN THE MATTER FOR THE REASON THAT THE AUSTRALIAN COAL ALLIANCE LOBBIED AGAINST HIM AT THE LAST ELECTION AND PARTICIPATED IN CONSIDERATION OF THIS MATTER.

COUNCILLOR BEST STATED:

*"I CHOOSE TO REMAIN IN THE CHAMBER AND PARTICIPATE IN DISCUSSION AND VOTING AS THE CONFLICT HAS NOT INFLUENCED ME IN CARRYING OUT MY PUBLIC DUTY BECAUSE THAT IS MY VIEW."*

COUNCILLOR BEST WITHDREW THIS MOTION

**502 Notice of Motion - Dredging Boat Harbour Summerland Point**

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F2008/02368 GPB

MR CHRIS SMITH, REPRESENTING GWANDALAN SUMMERLAND POINT PRECINCT COMMITTEE, ADDRESSED THE MEETING AT 7.26 PM, ANSWERED QUESTIONS AND RETIRED AT 7.39 PM.

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

- 1** ***That Council request staff to report on the following when cost estimates are available:***
  - a** ***the results of the preliminary investigation into the reported shallowing of the channel leading into the Boat Harbour at Summerland Point.***
  - b** ***the necessary approvals required and funding options available to undertake dredging in order to provide safe navigable access for the recreational boating community in the north of Wyong Shire.***
- 2** ***That Council refer this matter/report to the local State Member for Swansea, Mr Robert Coombs, requesting his assistance in gaining the necessary departmental approvals to allow the timely restoration of the Channel and Harbour and funding options available.***

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

AGAINST: NIL



## **Minutes of the Ordinary Meeting of Council held on 12 November 2008 (contd)**

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### **QUESTIONS WITHOUT NOTICE ASKED**

#### **Q061 – Removal of Playground Equipment at Tumbi Umbi**

**Councillor Eaton**

F2004/12026

*“Could Council report on the removal of playground equipment from Roberta Street Hall at Tumbi Umbi and proposals for replacement?”*

#### **Q062 – Reports on the Gwandalan Illegal Tip**

**Councillor Eaton**

F2008/01033

*“When will all of the Adams Reports into the Gwandalan Illegal Tip fiasco be given to Councillors and why haven’t they been released to date?”*

#### **Q063 – Effects of the State Government’s Mini-Budget on Council and the Community**

**Councillor Best**

F2004/06399

*“Mr General Manager the State Government has reviewed its budgetary allocations with the recent announcement of a mini-budget that identifies a raft of taxation and spending variations. Could staff please provide an information report on what benefits or disbenefits the mini-budget may have on our Council and our broader Community.”*

#### **Q064 – Wyong Animal Care Facility (WACF - pound)**

**Councillor Best**

C2008/05339

*“Mr General Manager further to my notice of motion dated 27 August 2008 seconded by Cr Eaton, titled “dog pound upgrade” calling for the then Council to urgently and independently investigate the operations and compliance issues at our pound, a motion further called for staff to be relieved of unenviable task of having to euthanise stray animals - some 650 last year.”*

*Despite the then Council voting this motion down, the staff to their credit saw fit to investigate the concerns raised. As a consequence, of what has now become a complex review, Wyong Animal Care Facility is now being nationally identified as a best case example of restructure and operation. Special thanks must go to Director Gina Vereker’s, Manager of Compliance, Rob Van Hese and his team in particular our Rangers for their outstanding efforts. Understandably Mr General Manager I believe Council under the circumstances would like you to formally recognise all concerned in this tremendous outcome, thank you.”*

*Attachment E-mail from Paul Archer, Managing Director of PACE Australia Pty Ltd*

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

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**Q064 – Wyong Animal Care Facility (WACF - pound) (attachment)****E-MAIL**

**From:** Paul Archer [mailto:parcher@paceaus.com.au]  
**Sent:** Tuesday, 11 November 2008 11:09 PM  
**To:** 'Greg Best'  
**Cc:** 'GRAHAMB@wyong.nsw.gov.au'  
**Subject:** Wyong ACF

Hi Greg

I appreciated the opportunity to speak with you the other day.

Firstly I wanted to warmly congratulate you firstly for the stand that you took in getting this onto the Council Agenda.

Secondly a massive congratulations to Rob Van Hese for the way he has taken up the baton to create change at Charmhaven.

Rob is to be commended in the highest possible terms for the way in which he first accepted the criticism on the chest and then how he has risen to the challenge and created some massive changes there. Finally, but not at all least,, there must be recognition and congratulations to Jody and the Rangers and the whole team at the facility.

They don't know it yet, but this will be a success story told around the country as an example of what can be done, and we hope, a model for others to follow. Our intention is to use this story as a detailed "case study" that we can use to illustrate the possibilities that other Pounds can follow.

Well done to Mayor Graham for enabling this strategy.

Please by all means forward this to all concerned, and we look forward to hearing the sustainable successes over the coming years.

Please let your staff know that we are always available if they need to bounce any ideas with us, or if they need support in any areas.

Best regards

**PAUL ARCHER**  
Managing Director

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THERE BEING NO FURTHER BUSINESS, THE MEETING CLOSED AT 8.05 PM.

.....  
CHAIRPERSON

**WYONG SHIRE COUNCIL**

26 November 2008  
To the Ordinary Meeting of Council

Director's Report  
Shire Planning Department

**509 State of the Shire 2008-09 Report**

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F2004/06956 DM:DM

**SUMMARY**

The draft State of the Shire (SoS) Report is an essential resource for Council's decision making and planning. The report provides a snapshot of the Shire in terms of where we are now, pressures faced, what key drivers impact on issues, how we are responding and where we see the trends taking us in 20 years time. The reporting period for this document is July 2007 to June 2008. In addition, the Local Government Act (LGA) intends that it be used in the preparation of the annual Management Plan which sets the principles, priorities, budgets and directions of Council operations as well as Unit Operational Plans. The report is also widely used as a source of valuable reference material by universities, schools, precinct committees, environmental groups and interested members of the community.

**RECOMMENDATION**

- 1 That Council adopt the State of the Shire 2008-09 report.**
- 2 That Council distribute the State of the Shire Report widely throughout the Shire, including but not limited to;**
  - Government and Non-government Agencies**
  - Schools and University**
  - Precinct Committees and Progress Associations**
  - Chambers of Commerce**
  - Community Organisations**
  - Members of Parliament.**
- 3 That Council approach the Premier's Department seeking a staff presentation of the State of the Shire Report to the Regional Coordination Management Group (ie heads of government agencies).**

**State of the Shire 2008-09 Report (contd)**

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**BACKGROUND**

State of the Environment (SoE) reports have been produced annually by Council since 1994, as required under the NSW Local Government Act (LGA) (1993), Section 428. These reports have evolved over the years into a document recording Council actions and recommending new action for Council's consideration in an effort to reduce certain downward trends and build on some positive trends regarding a range of environmental indicators. Council has also increasingly incorporated elements other than the environment - such as social indicators.

In November 2007, Wyong Shire Council (WSC) resolved to undertake a Shire Strategic Vision (SSV) process and made it a "Key Focus Area" under Council's Management Plan. The work program and timeline endorsed by Council's Strategic Forum and Councillors require that a SoS report for 2007/2008 be produced, with the following objectives:

- To provide an integrated assessment of the current social, economic and environmental state of Wyong Shire;
- To give a report on the infrastructure and governance position of the Shire with initial emphasis on Council;
- To project how the Shire will change if current trends persist;
- To meet statutory requirements for Local Government annual reporting;
- To help Council understand the changes we need to make to achieve our vision for the Shire; and
- To assess how sustainable we are as a community, an environment and an economy.

**STATE OF THE SHIRE**

This year's SoS Report is a first generation document. It has expanded on the previous SoE's by adopting five chapters: Sustainability In Action, Community, Economy, Environment and Governance. These chapters are broken down into thirty-three sections to cover issues across the Shire. This reflects the direction that the Department of Local Government is heading with its Integrated Planning and Reporting requirements for NSW Councils. New legislation is currently being drafted and due for public exhibition before the end of 2008. Discussions with Department of Local Government staff indicate that Council's initiative in preparing the SoS now is encouraged.

## **State of the Shire 2008-09 Report (contd)**

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The topics in the first SoS cover Council activities, Government and the wider community initiatives, programs and actions. Where data was not collected or available this year, data gaps were identified to develop a more comprehensive second generation document next year. As future SoS documents are produced annually, it will monitor progress and highlight issues when things are going well and when things are not going in the "right" direction, thus showing whether the Shire is moving further away from or further towards achieving its Vision in a sustainable way.

This year's report includes an indication of anticipated future trends in all issues describing the likely state of the issue, assuming that we keep doing what we are either currently doing or have committed to doing. Each issue is rated as declining, stable or improving. In the previous 2006-2007 SoE many of the elements identified were rated as 'declining'. Some like drinking water, noise, sewerage management, highlands and valleys, coastlines, oceans and heritage were rated as 'stable'. In this year's SoS some areas indicate continued decline. There are a number of areas, however, which are projected to be stable or improving. For example: community connectedness, arts and culture, wetlands, oceans and governance.

Gaps in current data have been identified in the document. These include detailed data and information from government agencies, non-government organisations and the wider community on actions and programs they are undertaking that will impact upon the overall quality of life of residents and visitors to the Shire. These will be expanded on in the 2008-09 Report. In addition, references for specific areas of the report are identified and hyperlinked to assist readers.

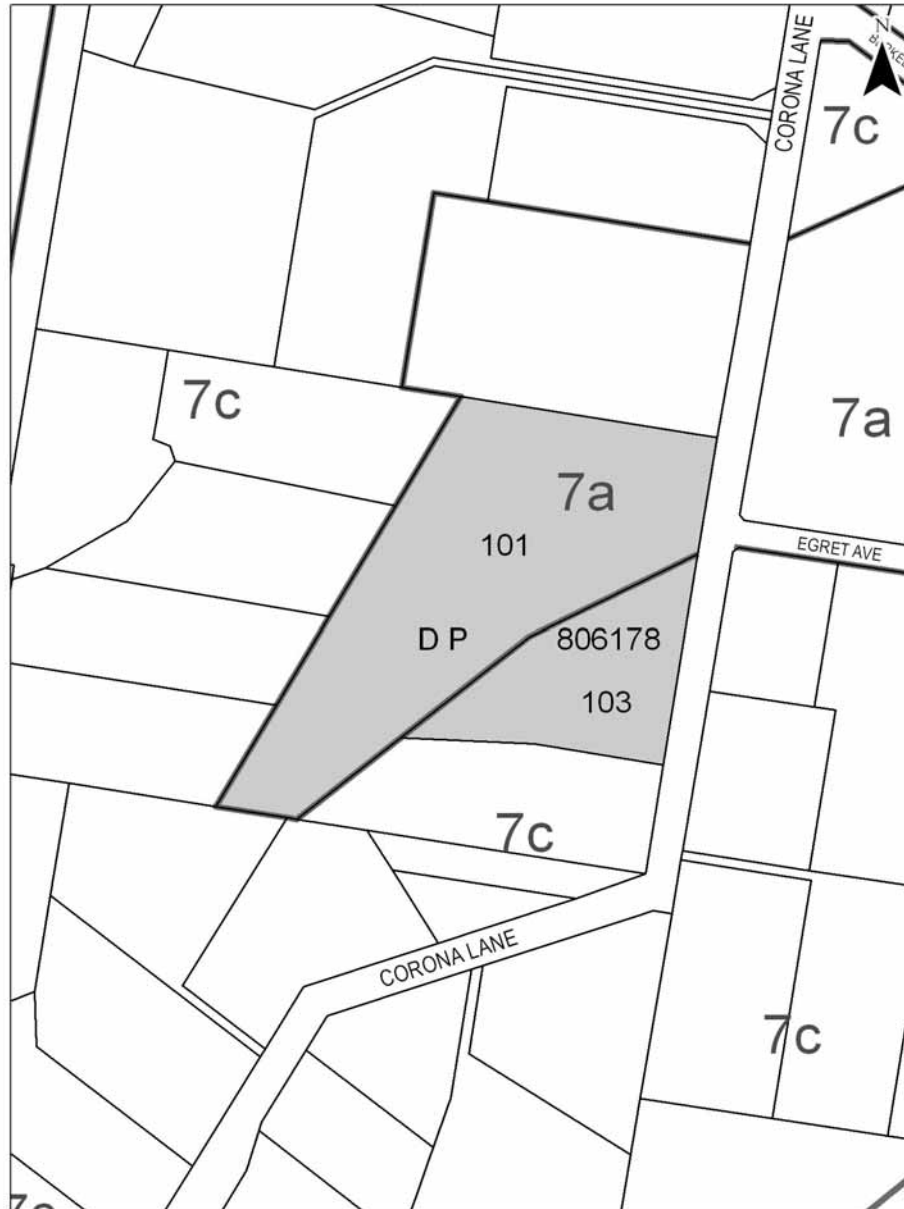
**Enclosure**

***State of the Shire Report 2008-09***

**510 Proposed Boundary Adjustment at Lots 101 and 103  
DP 806178 Corona Lane, Glenning Valley  
(Attachment 1)**

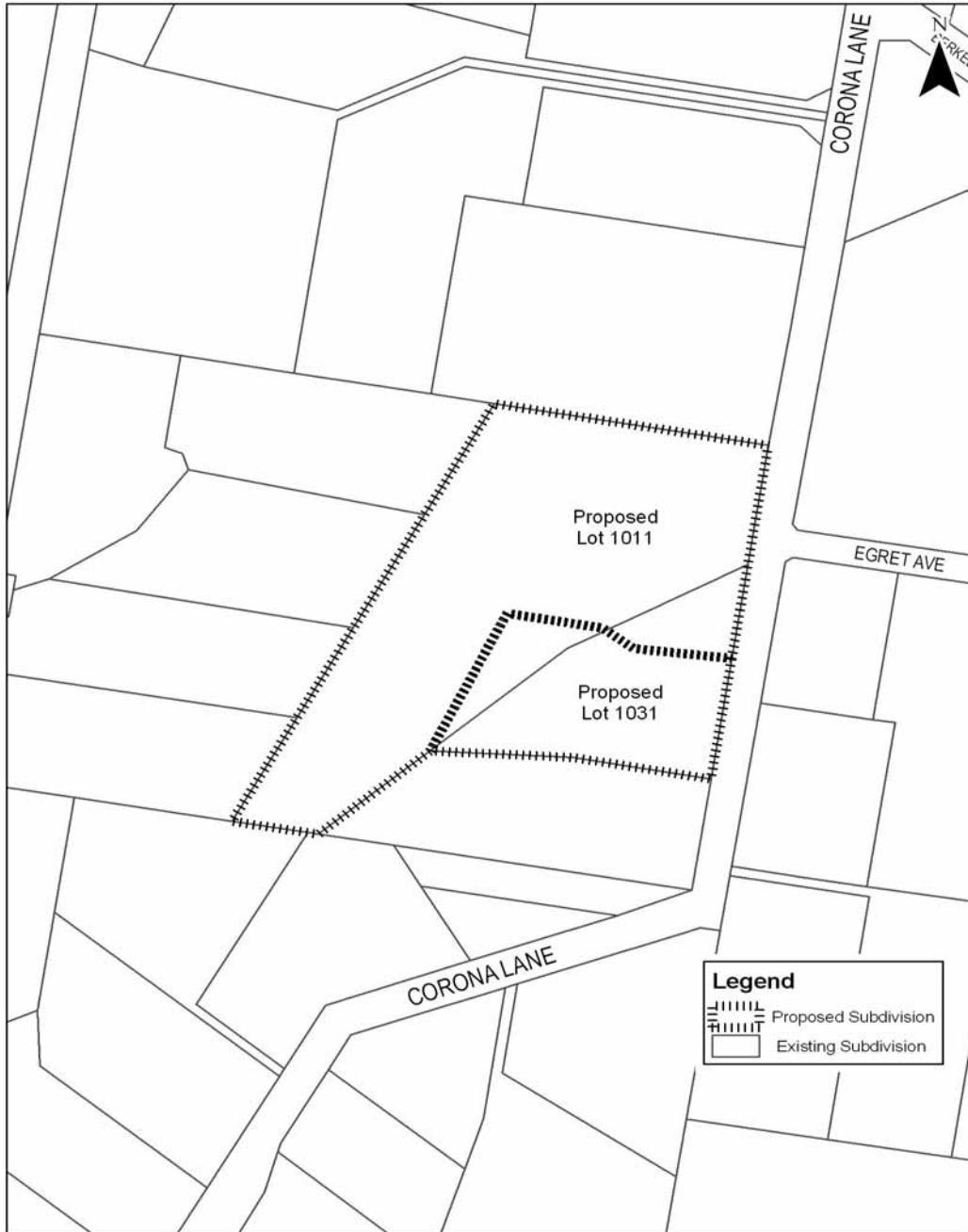
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Locality Plan



**Proposed Boundary Adjustment at Lots 101 and 103 DP 806178 Corona Lane,  
Glenning Valley (Attachment 2)**

**Plan Showing Existing and Proposed Subdivision**



## WYONG SHIRE COUNCIL

26 November 2008  
To the Ordinary Meeting of Council

Director's Report  
Shire Planning Department

### **510                      Proposed Boundary Adjustment at Lots 101 and 103 DP 806178 Corona Lane, Glenning Valley**

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DA/408/2008 MLG

#### **SUMMARY**

An application has been received to adjust the common boundary involving land in Corona Lane, Glenning Valley. The application has been examined having regard to the matters for consideration detailed in section 79C of the *Environmental Planning and Assessment Act* (EP&A Act) and other statutory requirements with the issues requiring attention and consideration being addressed in the report.

<b>Applicant</b>	Highlight Consulting Pty Ltd
<b>Owner</b>	R Law
<b>Application No</b>	408/2008
<b>Description of Land</b>	Lots 101 and 103 DP 806178 Corona Lane, Glenning Valley
<b>Proposed Development</b>	Boundary Adjustment
<b>Site Area/Zoning</b>	Lot 101 = 2.997 hectares, 7(a) Conservation Lot 103 = 1.00 hectare, 7(c) Scenic Protection

#### **RECOMMENDATION**

- 1     *That Council refer the application to the General Manager for determination having regard to the matters for consideration detailed in Section 79C of the Environmental Planning and Assessment Act and other relevant issues with an indication that based on the information available to it, Council favours refusal of the application subject to appropriate reasons for refusal.***
  
- 2     *That Council not support the use of State Environmental Planning Policy No 1 in order to vary the subdivision standards of Wyong Local Environmental Plan 1991.***

#### **PRÉCIS**

- Application involves the adjustment of the common boundary between two properties at Glenning Valley. This form of application is considered as subdivision and the subdivision standards in Council's Planning Instrument apply.
  
- The subject allotments are zoned environmental being conservation and scenic protection.
  
- The applicant proposes the use of State Environmental Planning Policy No 1 (SEPP 1) to vary the subdivision standards of Wyong Local Environmental Plan 1991 (WLEP). The variation extends to 90% of the subdivision standard.



## **Proposed Boundary Adjustment at Lots 101 and 103 DP 806178 Corona Lane, Glenning Valley (contd)**

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### **INTRODUCTION**

#### **The Site**

The subject land involves two parcels held in the same ownership in Corona Lane at Glenning Valley. The site is approximately 1.20 kilometres from Wyong Road via Berkeley Road and is part of the Corona Lane rural residential land precinct.

Lot 103 has an area of one hectare, zoned 7(c) - "*Scenic Protection*" and presently contains a dwelling, inground pool, stables and several other outbuildings. The Scenic Protection zone is described as small rural-residential holdings generally between one and two hectare allotments comprising typically of a residence with broader expanse than urban zones and capable of sustaining minor hobby farm uses. Access is via Corona Lane.

Lot 101 has an area of 2.997 hectares, zoned 7(a) – "*Conservation*" and presently contains horse paddocks and several stables or outbuildings. Throughout the Shire the Conservation Zone is generally land having special aesthetic, ecological and conservation values and generally refers to land best suited in the natural state. The site has frontage though no formal access to Corona Lane.

#### **The Proposed Development**

Consent is sought to adjust the common boundary between lots 101 and 103 in order to establish an additional dwelling site. Currently only existing lot 103 has a dwelling right with a residence approved and constructed in the mid 1990's. Lot 101 does not have any development right due to a Section 88B restriction imposed with the previous subdivision in 1990. A Section 88B restriction (as it is generally referred to) is a restrictive covenant imposed under (Section 88B) of the *Conveyancing Act* with the intent to control land uses (in this case) construction of a dwelling and establish beneficiaries. In the case of this specific 88B Instrument, Wyong Shire Council is a party to the instrument and has the ability to vary it under the application. The 88B would not apply to the newly created lots, thereby allowing for an additional dwelling.

The applicant seeks to adjust the property boundary which currently corresponds to the zone boundary to establish two allotments both of which would be split zoned land. Split zoned land is land affected by two or more different zones described in Council's zoning table. The applicant seeks to use State Environmental Planning Policy No 1 (SEPP 1) in order for Council to vary the development standards of Wyong Local Environmental Plan 1991 (LEP) for the purpose of the boundary adjustment.

**Proposed Boundary Adjustment at Lots 101 and 103 DP 806178 Corona Lane,  
Glenning Valley (contd)**

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SEPP 1 (as it generally referred to) is a planning policy established by the NSW State Government to make development standards more flexible. It allows councils to approve a development proposal that does not comply with a set standard where this can be shown to be unreasonable or unnecessary. However, in this case Council does not support the application for reasons pertaining to planning provisions in addition to current land restrictions and the inability to promote good planning and land management practices. The body of the report provides in-depth detail as to the reasons for refusal.

**VARIATIONS TO POLICIES**

<i>Clause</i>	14(2)
<i>Standard</i>	40 hectares
<i>LEP</i>	Wyong Local Environmental Plan 1991
<i>Extent of variation/departure</i>	90% for proposed lot 1011 50% for proposed lot 1031
<i>Departure basis</i>	Not supported by Council – see report for detail

<i>Clause</i>	13(3)(b)
<i>Standard</i>	10%
<i>LEP</i>	Wyong Local Environmental Plan 1991
<i>Extent of variation/departure</i>	22% for proposed lot 1031
<i>Departure basis</i>	Not supported by Council – see report for detail

**HISTORY****Land History**

Lots 101 and 103 in DP 806178 were registered 4 December 1990 from the subdivision of Lot 9 in DP 739783 approved on 20 July 1990 under Development Consent No 383/90.

**Lot 101 DP 806178**

Council records are limited regarding approvals for the structures presently on this allotment. All structures are non habitable and have not been approved.

One aspect to be noted is that there is a Section 88B restriction on this parcel established at the subdivision stage that prohibits the erection of any building on the land (copy contained in Attachment 3).

## **Proposed Boundary Adjustment at Lots 101 and 103 DP 806178 Corona Lane, Glenning Valley (contd)**

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### **Lot 103 DP 806178**

On 1 November 1994, DA 983/94 for a rural dwelling was approved with construction undertaken during 1995 and 1996.

On 17 September 1999, DA 2634/99 for an inground pool was approved.

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

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

There are no SEPP'S specifically applicable to the site. However the applicant has elected to submit a SEPP 1 objection which is addressed in detail in the body of this report.

The application is subject to assessment against the heads of consideration under Section 79C of the EP&A Act.

The application is defined as "Integrated Development" under the provisions of Section 91 of the EP&A Act. Integrated Development is described as development that requires an approval (licence etc) or concurrence from a state body. In this case, the application was referred to the NSW Rural Fire Service (RFS) as it is bush fire prone land.

NSW RFS responded by granting a "Bush Fire Safety Authority" under the Rural Fires Act.

#### **Wyong Local Environmental Plan 1991**

The subject properties are zoned 7(a) "Conservation" and 7(c) "Scenic Protection" under Clause 10 of Wyong Local Environmental Plan (LEP) 1991.

*"The objectives of the 7(a) "Conservation" zone are:*

- (a) *to restrict the type and scale of development which will be carried out on land possessing special aesthetic, ecological or conservation values to that compatible with such environments, and*
- (b) *to allow such development where:*
  - (i) *it can be demonstrated that it can be carried out in a manner that minimises risks from natural hazards, functions efficiently, does not prejudice other economic development and does not detract from the scenic quality of the land referred to in the objective specified in paragraph (a), and*
  - (ii) *it is unlikely to have a significant detrimental effect on the growth of native plant communities, the survival of native wildlife populations or the provision and quality of habitats for both indigenous and migratory species, and*
  - (iii) *it is unlikely to have an adverse impact on the region's water resources.*

## **Proposed Boundary Adjustment at Lots 101 and 103 DP 806178 Corona Lane, Glenning Valley (contd)**

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*The objectives of the 7(a) "Scenic Protection" zone are:*

- (a) *to enable development for the purposes of small rural-residential holdings to be carried out on land which is suitable for those purposes and which is unlikely:*
  - (i) *to inhibit the potential for urban expansion, particularly at the urban fringe, or*
  - (ii) *to create a demand for the uneconomic provision of services, or*
  - (iii) *to detract from the scenic quality of rural lands."*

The underlying similarity between the two zones is the focus on controlling development on land having scenic quality values.

Subdivision (including boundary adjustment) is defined under Section 4B – *Subdivision of land*, in the EP&A Act 1979. Although not specifically defined in Clause 7 – *Definitions*, of WLEP 1991, the development is separately referred to as "Subdivision" in Clause 13 – *Subdivision of Land*, in the LEP and is permitted with consent.

The proposal is required to meet the criteria of Clause 13(3) of the WLEP, which describes general criteria for boundary adjustments.

Note that the application is also assessed under Clause 14 as the applicant has lodged a SEPP 1 objection under the latter clause provisions.

### **RELEVANT COUNCIL POLICIES AND PLANS**

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

#### **Development Control Plan No 2005 Chapter No 69 – *Waste Management*.**

The application involves designating a waste disposal area for the building envelope on the proposed vacant parcel. Further detail in the body of the report.

#### **W1 – Water Catchment Development Areas**

This policy controls development in the drinking water catchments. Subdivisions are not listed as prohibited development.

## **Proposed Boundary Adjustment at Lots 101 and 103 DP 806178 Corona Lane, Glenning Valley (contd)**

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### **F4 – Flood Plain Development**

This policy controls development on land affected by flooding. The subject land is identified as being affected by 1 in 100 year flood events. The application to adjust the common boundary is not prohibited under this policy; however a merits assessment is required. The flood issue is addressed in greater detail in the body of the report.

### **ASSESSMENT**

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

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

#### **Discussion and assessment of Boundary Adjustment/Subdivision Strategy**

##### **Preamble**

Existing lot 103, the 7(c) zoned parcel, is triangular in shape with its north-western boundary following the zone boundary, the common division with lot 101. It is proposed to absorb the northern part of the land, a dimensional area of about 2,200m<sup>2</sup> into existing lot 101 to create proposed lot 1011. It is this section of land that the applicant identifies as an area for a building envelope for future residential development.

To balance the boundary adjustment, part of existing lot 101, the 7(a) zoned parcel will be absorbed into existing lot 103 to establish proposed lot 1031.

The proposal would effectively create two split zoned parcels when currently both properties are singularly zoned. It is generally not regarded as good planning nor land management to establish split zoned land because of potential zoning and land use conflicts. Historically, Council's LEP prohibited the creation of split zoned parcels.

##### **Background to Previous Subdivision – DC 383/90**

Before addressing the proposal within the LEP provisions it is worth noting the planning framework used in assessing the original subdivision that created the subject allotments as this has a bearing on the assessment of the current application.

## **Proposed Boundary Adjustment at Lots 101 and 103 DP 806178 Corona Lane, Glenning Valley (contd)**

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Lots 101 and 103 along with neighbouring lots 100 and 102 (neither are part of current DA) were created under a four lot subdivision under DC 383/90. The application was assessed under WLEP 1987 which included provisions enabling subdivision of split zoned land. The planning provisions of the day permitted the creation of three lots from the 7(c) zoning with the fourth lot comprising the whole the 7(a) zone which became lot 101.

When approval was granted a condition of consent was imposed that any structure (residential or non-habitable) was prohibited on lot 101, the 7(a) portion of the subdivision. It is noted that the same restriction was also on the parent lot (being lot 9 in DP 739783) prior to the 1990 subdivision. The restriction remains on that land today.

The intent of the restriction is to limit development rights on land established under special subdivision provisions where such land promoted a substandard allotment (in this case lot 101) in terms of minimum dimensional criteria. Being 7(a) zoned land, the minimum area requirement is 40 hectares otherwise where the land does not achieve the standard a dwelling restriction is imposed. The underlying purpose is to ensure that the conservation zone maintains aesthetic value without being compromised by development.

This form of subdivision was an early form of offsets on land recognised for environmental value to allow some development to occur.

The method used in approving DC 383/90 under WLEP Plan 1987 is generally similar to the provisions in the current version of WLEP 1991. If the four lot subdivision was to be considered today the same dwelling prohibition would be imposed as it was in 1990. This aspect is important to note in that the issues associated with the subdivision provisions have not altered in any significant manner since Council's planning instrument of 1987.

### **Property Dimensional Summary**

The following is the status of the current land circumstances and proposed arrangement.

The current lot status:

Lot 101 DP 806178 = 2.997 hectares, 7(a) zoned

Lot 103 DP 806178 = 1.00 hectares, 7(c) zoned

The proposed lot arrangement:

Lot 1011, predominantly from existing lot 101 = 2.997 hectares, 7(a) and 7(c) zoned – no increase in area

Lot 1031, predominantly from existing lot 103 = 1.00 hectare, 7(a) and 7(c) zoned – no increase in area

## **Proposed Boundary Adjustment at Lots 101 and 103 DP 806178 Corona Lane, Glenning Valley (contd)**

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### **Boundary Adjustment Strategy – Clause 13(3) of WLEP**

Boundary adjustments are considered under Clause 13(3) of the WLEP, which provides certain criteria for applications of this nature.

Clause 13(3) states:

***“Subdivision of land - generally***

13(3) *Notwithstanding any other provisions of this plan, including the provisions of clause 14, the Council may consent to a subdivision of land for the purpose of a minor adjustment of the boundary between two lots provided that:*

- (a) the configuration of the allotments remains substantially the same, and*
- (b) the area of each allotment proposed is varied by no more than 10 per cent, and*
- (c) the Council is satisfied that the boundary adjustment is necessary in the circumstances of the case.”*

The following comment is provided with regard to the criteria of 13(3)(a), (b) and (c).

**(a) Configuration**

The configuration is not substantially the same in that the proposed new boundary alignment is not consistent with the zoning and topographical features of the land. The current boundary generally follows the line of flooding. The proposed boundary does not follow any distinct land feature and in fact deviates substantially from the natural contours of the land and indeed the extent of flooding.

In this regard the proposed boundary adjustment does not comply with the criteria of the clause.

**(b) Dimensional Compliance**

While there is a direct land balance between both proposed lots the extent of change to one of the lots is greater than the nominal 10%. For existing lot 103 the change in area of about 2,200m<sup>2</sup> equates to 22% which exceeds the provisions of the clause.

In this regard the proposed boundary adjustment does not comply with the criteria of the clause.

**Proposed Boundary Adjustment at Lots 101 and 103 DP 806178 Corona Lane,  
Glenn Valley (contd)**

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*(c) Circumstances of the case*

There does not appear to be any circumstances that support the need to adjust the boundaries to this extent. The applicant clearly suggests by way of the indicative building envelope that the circumstance is to establish an additional dwelling right.

The intent of the boundary adjustment provisions is not to increase development rights but to merely correct any abnormal boundary situations that may have occurred through historical boundary problems. The purpose of the provision is to "twig" the boundary to overcome site issues.

In this regard the proposed adjustment does not comply with the criteria of the clause.

In summary, the assessment reveals that the proposal is not able to comply with any of the criteria of Clause 13(3) and thus cannot be supported under this provision.

**Subdivision Strategy – Clause 14(2) of WLEP**

As noted in this report the application does not comply with the boundary adjustment criteria of Clause 13(3). Given that the applicant has specifically lodged the application with reference to Clause 14 it is necessary for Council's assessment to extend beyond the boundary adjustment provisions to the subdivision criteria of Clause 14.

Clause 14 states:

***"Subdivision of land within Zone No 1 (a), 1 (c), 7 (a), 7 (b), 7 (c), 7 (d), 7 (e) 7 (f) or 7 (g)***

- 14 (1) *This clause applies to land within Zone No. 1(a), 1(c), 7(a), 7(b), 7(c), 7(d), 7(e), 7(f) or 7(g).*
- (2) *Except as provided by subclauses (3) and (4), a person shall not subdivide land to which this clause applies so as to create an allotment having an area of less than -*
- (a) in the case of land within Zone No. 1(c), 7(a), 7(d), 7(e), 7(f) or 7(g) - 40 hectares;*
  - (b) in the case of land within Zone No. 1(a) or 7(b) - 20 hectares;*
  - (c) in the case of land within Zone No. 7(c) - 2 hectares."*



## **Proposed Boundary Adjustment at Lots 101 and 103 DP 806178 Corona Lane, Glenning Valley (contd)**

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The subdivision does not comply with the minimum dimensional standards of Clause 14(2); therefore the applicant prepared a SEPP 1 objection. The extent of departure to the standards is 92% for proposed lot 1011 and 50% for proposed lot 103.

### **Objection under State Environmental Planning Policy No 1**

It has been recognised by Council in previous instances of applying the criteria of the clause, that the numerical values of Clause 14(2) are able to be varied under SEPP 1.

SEPP 1 provides flexibility in the application of planning controls of development standards in circumstances where strict compliance with those standards would, in any particular case, be unreasonable or unnecessary or tend to hinder the attainment of the objects specified in Section 5 (a) (i) and (ii) of the EP&A Act, which are to encourage proper and appropriate land management within the natural environment.

A Land and Environment Court judgement outlined the procedure for considering SEPP1 objections. The application is assessed in accordance with this procedure. See "Attachment 3" for a full copy of the applicant's SEPP 1 objection.

It must be stated that the applicant's objection is confusing in that part of the submission refers to sections of Clause 14 that are irrelevant to the assessment process for this application. The submission objects to provisions regarding split zoned land and developer contributions which were relevant in the 1990 subdivision proposal but have no bearing on the assessment of the current DA.

*First, is the planning control in question a development standard?*

Putting a numerical description onto the minimum subdivision lot size permissible within particular zones, as identified under Clause 14(2), classifies this as a development standard.

The extent of departure to the minimum standards of clause 14(2) is 90% for proposed lot 1011 and 50% for proposed lot 1031. The extent of departure to the criteria of clause 13(3) is 22% for proposed lot 1031.

It should be noted that council's delegation may not extend to assuming concurrence of the department of planning (DOP) for the use of SEPP 1 in this instance. The delegation notes that council can only assume concurrence for two lot boundary adjustments where both lots are presently below the minimum subdivision standards subject to no additional allotments created, that the agricultural use of the land is not jeopardised and that no additional housing entitlements are created. The last point the issue of doubt. Given that the two lots presently have only one housing entitlement due to the section 88b restriction it is suggested that the proposed boundary adjustment promotes an additional housing entitlement. In this respect if council was of a mind to approve the application, concurrence of the department of planning for the use of SEPP 1 would need to be sought.

**Proposed Boundary Adjustment at Lots 101 and 103 DP 806178 Corona Lane,  
Glenn Valley (contd)**

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*Second, what is the underlying object or purpose of the standard?*

The purpose of the LEP standards in this instance is to protect land with conservation or scenic values. The subject land exhibits a topography that features a broad open space land depression generally following the line of the known flood extent in the area. The original zoning strategy recognised the flood limitations and accordingly the zone boundary reflects the 1 in 100 year flood line.

In addition the subdivision strategy adopted by Council in assessing DC 383/90 also recognised the site constraints which in turn were used in establishing the parameters of the lot size and shape which evolved into lots 100, 101, 102 and 103. It is considered that this determination reflects the full extent of development potential of the land.

In this regard the standard adopted in the LEP has been devised to ensure that the geographical assets identified for respective parcels are contained wholly within those parcels. As such existing lot 101 includes most of the flood affect while lot 103 comprises generally the more aesthetically pleasant and higher part of the original parent property.

The proposed boundary adjustment dramatically alters the balance that was achieved in the 1990 subdivision approval. The proposed layout promotes an allotment shape that in effect would create both parcels as partly flood affected which is not consistent with the objective of the development standard.

*Third, does compliance with the development standard tend to hinder the attainment of the objects specified in S.5 of the EP & A Act.*

It is considered that the proposal does not promote good land management in terms of conserving the natural environment. As noted the proposed shape of the allotments would create both proposed lots 1031 and 1011 as partly flood affected land, a circumstance that existing lot 103 does not experience to any significant degree.

*Fourth, is compliance with the development standard unreasonable or unnecessary in the circumstances of the case?*

The applicant has not provided any justification in real terms as to why the development standards are unreasonable or unnecessary. The objection appears to have an underlying desire to establish an additional dwelling right which is not regarded as grounds for objection. The submission suggests that the boundary adjustment is minor and that no development rights are proposed. This is not true in that an additional dwelling right would be created if the subdivision was to be approved. The previous approval clearly established the potential on each approved lot and that as a package of four allotments (Lots 100, 101, 102 and 103) only three dwelling rights could ever be established those belonging to lots 100, 102 and 103. Lot 101 had a restriction imposed under the LEP that prohibited a dwelling or any building for that matter.

## **Proposed Boundary Adjustment at Lots 101 and 103 DP 806178 Corona Lane, Glenning Valley (contd)**

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### *Fifth, is the objection well founded?*

The applicant's objection is considered as not well founded with no grounds for Council to confidently approve the application. The objection does not prove that the standards hinder the potential of the land nor does the objection appear to counter argue the intent of the original restriction imposed on lot 101. The objection merely concludes that there is suitable land available for another dwelling with no regard to the planning ideology that established the subdivision in 1990.

In summary Council is unable to concur with the applicants' reasoning for the SEPP 1 objection and finds no suitable argument to vary the standards of Clause 14(2) of the LEP.

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

The zone objectives (noted earlier in this report) for the 7(a) and 7(c) zones provide a backdrop by which rural subdivision development is assessed.

As detailed earlier both zone objectives are consistent in approach regarding the aesthetic values of land. The application is however considered to be inconsistent with the objectives in that the change in boundaries would have an impact on natural hazards and could in fact have a detrimental affect on the scenic and conservation values of the respective zones.

Currently the package of the two existing properties (lots 101 and 103) has only one dwelling right which is regarded as the optimum residential density of both lots. As this report identifies there is good reason for the building restriction on lot 101, if the application was to be approved the residential density doubles and effectively erodes the quality of the landscape. The fact that there are existing structures (illegally built) on lot 101 is by no means a reason to continue to promote the land as viable for residential uses. It is accepted that a residence (approved) on lot 103 is sustainable in terms of planning and environmental grounds. What is not acceptable is the proliferation of dwellings that would occur if the subdivision layout was to be supported.

The applicant has verbally indicated that one of the non-habitable structures on lot 101 has been used for residential purposes for many years, been built prior to the introduction of planning legislation. The structure is not listed as a heritage item and resembles an old outbuilding more than likely used in an unauthorised manner over the years as a residence. The applicant is attempting to establish that the shed should be "granted" residential status enabling a pseudo dwelling right on lot 101. It is noted in Council's report of 16 July 1990 (for DC 383/90) that the parcel now known as lot 101 was indeed clear of any structure with several other structures identified as stables and sheds located on the lot now known as lot 103. A survey prepared in 1990 and submitted with DA 383/90 supports this conclusion.

**Proposed Boundary Adjustment at Lots 101 and 103 DP 806178 Corona Lane, Glenning Valley (contd)**

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Given that no approval exists, no residential rights can be considered for any structure on lot 101.

In essence the catchment of land encompassing all four lots (lots 100, 101, 102 and 103) in the previous subdivision has exhausted its residential capacity. That being the 7(c) parcels with a total area of 3.00 hectares has established dwelling rights for lots 100, 102 and 103. Given that there is a restriction on lot 101 no further potential exists. The proposed layout attempts to create the additional dwelling right that was purposely restricted in the 1990 approval process.

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

An additional access is proposed from the existing dwelling on lot 103 to Corona Lane. While there are no apparent traffic safety issues with the new access it does promote an additional access that could create further land erosion issues by way of this construction.

***The impact on utilities supply***

The waste disposal details submitted with the application are not conclusive and given the restrictive area involved with the indicative building envelope of proposed lot 1011, Council cannot be satisfied the issue has been totally resolved.

***The effect on heritage significance***

There are no Aboriginal or European heritage items in or nearby the land.

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

In order to establish the proposed new vehicle access for the existing residence to Corona Lane some tree loss within the roadway would occur. Given that the road reserve is Council controlled "land" the impact to the trees is inappropriate under these circumstances.

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

The issue of flooding has been identified elsewhere in this report. To reiterate, the change in boundaries would effectively establish a dividing line directly in the path of the flood pattern rather than the existing subdivision being sympathetic with the constraints. Where the current common boundary matches the extent of flooding, the proposed boundary ignores the natural flood pattern.

## **Proposed Boundary Adjustment at Lots 101 and 103 DP 806178 Corona Lane, Glenning Valley (contd)**

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The proposed layout promotes both parcels of land as partly flood affected, an undesirable situation compared to the current circumstances. Such a scenario is not encouraged in subdivision design and is not regarded as good planning nor good land management.

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

#### ***Any submission from the public***

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

### **CONCLUSION**

It is considered that the proposal fails to satisfy a fair and accurate assessment under Section 79C on a number of issues including the use of SEPP 1. It is considered that the applicant has not proven that the development standards of Clause 14 are neither unnecessary nor unreasonable in the case of the proposal to warrant Council varying the development standards of the LEP.

In brief the issues of concern are listed below:

- |                          |   |
|--------------------------|---|
| WLEP 1991:               | <ul style="list-style-type: none"> <li>- Non-compliance with Clauses 13(3) and 14(2), the criteria for boundary adjustment and subdivision.</li> <li>- Contrary to the zone objectives of 7(a) and 7(c) zones.</li> </ul>   |
| Suitability of the site: | <ul style="list-style-type: none"> <li>- The proposal promotes a subdivision layout that is not compatible with the natural or physical constraints of the land including the impact of flooding.</li> <li>- The proposal attempts to establish an additional dwelling right beyond the scope of the original subdivision that has direct impact from flooding and aesthetic issues.</li> <li>- Promoting poor land management; creating split zoned land.</li> <li>- Impact to trees within the road reserve.</li> </ul> |
| SEPP 1:                  | <ul style="list-style-type: none"> <li>- The use of SEPP 1 is not supported for this application.</li> </ul>  |
| Precedent                | <ul style="list-style-type: none"> <li>- Unacceptable precedent for similarly affected land throughout the shire.</li> </ul>  |

**Proposed Boundary Adjustment at Lots 101 and 103 DP 806178 Corona Lane,  
Glenn Valley (contd)**

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The precinct, approved in 1990 establishing four parcels (lots 100, 101, 102 and 103) of the original subdivision has exhausted its residential capacity. That is; the 7(c) zoned parcels of land having a total area of 3.00 hectares established dwelling rights (for lots 100, 102 and 103) equating to one dwelling right per hectare which is the basis for the intent of the LEP provision. The proposed layout attempts to create an additional dwelling right beyond the scope of the LEP, the logic for the restriction imposed in the 1990 subdivision approval process.

The proposed boundary adjustment is not supported and accordingly is recommended for refusal. However, should Council be of a mind to approve the application concurrence from the Department of Planning will be required.

<b><i>Attachment 1</i></b>	<b><i>Locality Plan (1 page)</i></b>
<b><i>Attachment 2</i></b>	<b><i>Plan Showing Existing and Proposed Subdivision (1 page)</i></b>
<b><i>Attachment 3</i></b>	<b><i>Section 88B Restriction for Lot 101 (2 pages)</i></b>
<b><i>Attachment 4</i></b>	<b><i>Applicant's SEPP 1 Objection (6 pages)</i></b>
<b><i>Enclosure</i></b>	<b><i>Aerial Photograph</i></b>

**Proposed Boundary Adjustment at Lots 101 and 103 DP 806178 Corona Lane,  
Glenning Valley (Attachment 3)**

**Section 88B Restriction for Lot 101**

INSTRUMENT SETTING OUT TERMS OF EASEMENTS AND RESTRICTIONS  
ON THE USE OF LAND INTENDED TO BE CREATED PURSUANT TO  
SECTION 88B OF THE CONVEYANCING ACT, 1919.

Lengths are in metres (Sheet 1 of 2 Sheets)

Plan: **DP806178** Subdivision of Lot 9, D.P. 739783 covered  
by Council Clerk's Certificate No.  
dated

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PART 1.

<u>Full name and address of the Proprietors of the land:</u>	John Charles Innes and Joan Helen Innes, Corona Park, Corona Lane, Berkeley Vale.
<u>Full name and address of the Mortgagees of the land:</u>	Commonwealth Bank of Australia, 103 Pitt Street, Sydney.  A.G.C. (Advances) Limited, 82 Mann Street, Gosford.

1. Identity of easement or restriction firstly referred to in the above-mentioned plan

<u>Schedule of lots, etc. affected.</u>	
<u>Lots Burdened</u>	<u>Lots Benefited</u>
103 101	101 and Lot 12, DP 739783 Lot 12, DP 739783
  
2. Identity of easement or restriction secondly referred to in the above-mentioned plan

<u>Schedule of lots, etc. affected.</u>	
<u>Lots Burdened</u>	<u>Authority Benefited</u>
101 and 103	Wyong Shire Council
  
3. Identity of easement or restriction thirdly referred to in the above-mentioned plan

<u>Schedule of lots, etc. affected.</u>	
<u>Lots Burdened</u>	<u>Authority Benefited</u>
101	Wyong Shire Council

PART 2

1. Terms of Easement for services firstly referred to in the abovementioned plan.  
 Full and free right for every person or authority who is at anytime entitled to an estate or interest in possession in the land herein indicated as the dominant tenement, or any part thereof which shall be capable of enjoyment of the right, and every person authorised by him to make, layout, construct, erect, install, carry, maintain and use through,

REGISTERED 4.12.1990

**Proposed Boundary Adjustment at Lots 101 and 103 DP 806178 Corona Lane,  
Glenning Valley (Attachment 3) (contd)**

INSTRUMENT SETTING OUT TERMS OF EASEMENTS AND RESTRICTIONS  
ON THE HER OF LAND INTENDED TO BE CREATED PURSUANT TO  
SECTION 88B OF THE CONVEYANCING ACT, 1919.

Lengths are in metres (Sheet 2 of 2 Sheets)

Plan: *D.P. 806178*

Subdivision of Lot 9, D.P. 739783 covered  
by Council Clerk's Certificate No.  
dated

above, on and under the servient tenement all pipes, conduits, poles, wires or other equipment and materials necessary to provide, and carry all or any of water, sewerage, gas, electricity, and telephone services to and from the said dominant tenement TOGETHER WITH the right for the grantee and every person authorized by him, with any tools, implements, or machinery necessary for the purpose to enter upon the servient tenement and to remain there for any reasonable time for the purpose of laying, inspecting, cleansing, repairing, maintaining or renewing such equipment or any part thereof to such extent as may be necessary PROVIDED THAT the grantee and the persons authorized by him will take all reasonable precautions to ensure as little disturbance as possible to the surface of the servient tenement and/or free access to the dominant tenement and will restore without delay that surface as nearly as practicable to its original condition.

2. Terms of Easement for inundation secondly referred to in the abovementioned plan.

The Wyong Shire Council shall have the right to retain water upon and drain water including rain, storm, spring, soakage or seepage water in any quantities from those parts of the lots burdened and denoted \* on the plan and the Wyong Shire Council shall have the right to enter upon the lots burdened for the purpose only of restoring, reinstating, replacing or repairing any damage which shall have been caused by the retention and drainage of such water upon the said parts of the lots burdened.

3. Terms of Restriction on use thirdly referred to in the abovementioned plan.

No building shall be erected or permitted to remain erected on the lot hereby burdened.

Signed in my presence by )  
John Charles Innes and Joan )  
Helen Innes who are )  
personally known to me. )

*[Handwritten signatures]*

*[Handwritten signature]*  
\_\_\_\_\_  
J. C. INNES  
*[Handwritten signature]*  
\_\_\_\_\_  
J. H. INNES

*[Handwritten signature]*  
\_\_\_\_\_  
Council Clerk.

Witnessed  
in the presence of the said company  
by being sworn and affirmed by John Schconbeck  
who is the Branch Manager (NSW)  
in the presence of Linda and Clove.



**Proposed Boundary Adjustment at Lots 101 and 103 DP 806178 Corona Lane, Glenning Valley (Attachment 4)**

**Applicant's SEPP 1 Objection**

**STATE ENVIRONMENTAL PLANNING POLICY NO. 1  
OBJECTION TO DEVELOPMENT STANDARDS**

<i>Name and address of objector</i>	Highlight Consulting Pty Ltd PO Box 4105, Wagstaffe, NSW, 2257
<i>Property description</i>	Lots 101 and 103 DP 806178 Corona Lane, Glenning Valley
<i>Proposed development</i>	re-subdivision of 2 lots into 2 lots/ minor boundary adjustment
1. <i>Development standard to which the objection relates</i>	Wyong LEP Clause 14(2)
<i>Proposed variation to the development standard</i>	standard: 7(a) 40ha minimum; proposal: retain existing size of 2.997ha standard: 7(c) 2ha minimum; proposal: retain existing size of 1ha

*Reason for proposed variation*

It is believed that Lot 101 was created with Consent as a 2.997 ha 7(a) lot and Lot 103 was created as a 1ha 7(c) lot some years **after** the LEP came into force. The current proposal retains those lot sizes but reconfigures the boundaries in order to create a flood-free building envelope and effluent disposal area on proposed Lot 1011.

In these circumstances, application of the LEP standard is unreasonable and unnecessary. The departure from the standard is large (Lot 101) and medium (Lot 103), however the departure has already been consented to by Council. In so doing, Council exercised flexibility in relation to its own planning controls.

According to the S149 Planning Certificate, there is no prohibition on a dwelling on Lot 101. Council is therefore voluntarily introducing flexibility in relation to its own planning controls, which would otherwise prohibit a dwelling on this undersized 7(a) lot. A 7(c) zoning (which applies to Lot 103) favours dwellings on small lots. This proposal addresses both these situations, therefore refusal of a building envelope and dwelling entitlement would be unreasonable.

With the proposed replacement of about 4 Melaleucas (removed for the access onto Lot 103), there is virtually no effect on fauna or ecological communities (cf. S 5(A) EPA Act) from this proposal. A 40ha minimum (7(a)) and a 2ha minimum (7(c)) serves principally to maintain ecological and aesthetic values, as well as to minimise risk from natural hazards. Council has already accepted that in the case of each of these particular lots, the standard for a minimum area in each zone can be significantly reduced, because the zoning in this case reflects a well-defined natural hazard only. Therefore the current objection is well founded.

**Proposed Boundary Adjustment at Lots 101 and 103 DP 806178 Corona Lane,  
Glenning Valley (Attachment 4) (contd)**

Compliance with Council's standard hinders the attainment of the objects specified in 5(a)(i) and (ii) of the EPA Act. The proposal, however, supports infill housing on land where it is explicitly not prohibited. Compliance with the standard is therefore unreasonable in the circumstances of the case.

2. *Development standard to which the objection relates* Wyong LEP Clause 16(1)

*Proposed variation to the development standard*

standard: 7(a) 40ha minimum for a dwelling entitlement; proposal: retain existing size of 2.997ha  
standard: 7(c) 2ha minimum; proposal: retain existing size of 1ha

*Reason for proposed variation*

The proposal is for one dwelling-house to be foreshadowed via a building envelope and dwelling entitlement on 7(c) land, although the 7(c) component on Lot 1011 will be less than the applicable minimum area. Sufficient land needed to be found within the two lots for a flood-free effluent disposal area, as well as a flood-free building envelope. The design achieves this, with no change proposed to the floodway or its buffer area. Therefore the purpose of the development standard is completely fulfilled.

As a result of the objective, the proposal creates a mixed zone lot (Lot 1011), where the area of 7(c) land (of approx. 2054 sq m) on which the building envelope is proposed is considered within the context of a 2.997ha lot. That is, the area of land is not just 2054 sq m, but a total of 2.997 ha. Further, development in the valley floor and watercourse are not proposed, and therefore remain effectively prohibited, which fulfils the original objective of the 7(a) zoning in this case (because there is no other zoning relating to flood-prone land).

Application of the standard is therefore unreasonable and unnecessary. In the case of Lot 1011, the departure from the standard is small, however in the case of Lot 1031 the departure is large. Nevertheless, Lot 1031 is not proposed for further development because a substantial and relatively new dwelling already exists there. On balance, the departure is therefore considered small.

Compliance with Council's standard hinders the attainment of the objects specified in 5(a)(i) and (ii) of the EPA Act. The proposal, however, supports infill housing on land where it is explicitly permissible. Compliance with the standard is therefore unreasonable in the circumstances of the case.

The objection is well founded.

3. *Development standard to which the objection relates*

EPA Act, S94

**Proposed Boundary Adjustment at Lots 101 and 103 DP 806178 Corona Lane,  
Glenning Valley (Attachment 4) (contd)**

*Proposed variation to the development standard* no contribution of land should apply

*Reason for proposed variation*

S94 of the EPA Act states:

**94 Contribution towards provision or improvement of amenities or services**

(1) If a consent authority is satisfied that development for which development consent is sought will or is likely to require the provision of or increase the demand for public amenities and public services within the area, the consent authority may grant the development consent subject to a condition requiring:

- (a) the dedication of land free of cost, or
- (b) the payment of a monetary contribution, or both.

(2) A condition referred to in subsection (1) may be imposed only to require a reasonable dedication or contribution for the provision, extension or augmentation of the public amenities and public services concerned.

As Council has already anticipated (in its S149 Certificate) that an application will be made for a dwelling on Lot 101 and a dwelling has already been approved, constructed and occupied on Lot 103, provision of or an increase in demand for public amenities and public services can be assumed to already have been factored into the previous application which created the two lots along with a number of others in the valley. That subdivision occurred about 20 years ago, with a contribution for additional demand having been made by the developer at that time. Therefore under S94, it would be unreasonable to require an additional contribution.

The arguments in 4. below also apply generally above.

4. *Development standard to which the objection relates* Wyong LEP, Clause 14(3)(b) (with consequent calculation in Cl. 14(4))

*Proposed variation to the development standard* no contribution of either cash or land should apply

*Reason for proposed variation*

The proposal is for a minor boundary adjustment and any dedication of land or cash contribution lacks merit in these circumstances.

A contribution was made by a previous owner at the time when Lots 101 and 103 (with others) were subdivided from a larger holding. The current proposal does not increase the demand for public facilities which usually arises from a subdivision. The current proposal does not create additional lots: it is for a minor boundary realignment. The current proposal has been anticipated by Council, which has

**Proposed Boundary Adjustment at Lots 101 and 103 DP 806178 Corona Lane,  
Glenning Valley (Attachment 4) (contd)**

continued to permit a dwelling on Lot 101 by explicitly not prohibiting one (cf. S149 Planning Certificate). Therefore application of the development standard is both unreasonable and unnecessary.

The extent of the departure from the standard is large, because no further contribution is proposed. However, a contribution has already been made.

The standard exists to cater for provision of public facilities to cater for extra demand when additional lots are created by subdivision. The current proposal does not create additional lots. Additional demand for public facilities appears to have already been factored into the Consent for the subdivision which included Lots 101 and 103, as reflected in the S149 statement that a dwelling on Lot 101 is not prohibited. That statement infers that one was planned for when the contribution calculation was made with that earlier subdivision application and Consent.

This LEP requirement is not considered to be a "development standard".

The number of hectares to be dedicated in accordance with the calculation in Cl. 14(4)(a) and (b) is 7.5ha, which is impossible as the property (2 lots in common ownership) totals only 3.997ha. Further, the clause (14) referring to a contribution to Council relates to mixed zone properties, not to minor boundary adjustments (which is found in Clause 13).

Compliance with the requirement hinders the attainment of the objects specified in 5(a)(i) and (ii) of the EPA Act, as no contribution of land or cash is possible as a consequence of its application in this case.

5. *Development standard to which the objection relates* Wyong DCP 89, side setback

*Proposed variation to the development standard* 10m side setback required; 2m side setback is proposed

*Reason for proposed variation*

The objectives of the DCP (2003) are to

- Reinforce and enhance the rural residential lifestyle;
- Maintain the natural environment;
- Minimise the impact, both within and outside the Valley, of future development;
- Encourage a local sense of community;
- Promote the establishment of a high quality living environment through planning principles which encourage rural residential development."

Clause 2.3 states "Each application shall be considered on its merits. Council may vary its requirements depending upon the circumstances of individual applications." That flexibility is sought in relation to the side setback.

### **Proposed Boundary Adjustment at Lots 101 and 103 DP 806178 Corona Lane, Glenning Valley (Attachment 4) (contd)**

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The proposal addresses the constraints listed in Cl. 2.1, particularly the existing subdivision pattern and the aesthetic impact of further development. Combined with the Cl. 3.4 requirement that all development is to be located above the 1:100 year flood level, a consequence of the Cl. 2.1 concerns is that a building envelope location has been preferred close to its effluent disposal area,, with acknowledgement of existing structures and infrastructure (driveways, vegetation, buildings, services).

Two alternatives existed, in order to meet a 10m side setback. The first was to move the building envelope's location and shape, so that it remained clear of the floodplain but otherwise achieved a 10m side setback. That would necessarily impinge on one or both existing driveways onto the lot. If the driveway to its north was affected, that driveway would have to be moved further north, which risked an unacceptable proximity to the drainage channel. No move to the east was possible, because of the building line which relates to the street frontage. A change in shape to a more rectangular shape would affect the potential design of a new dwelling (but remains a compromise option).

The second alternative was to move the Lot 1011/Lot 1031 boundary to the south. However, to retain Lot 1031 as 1ha (Council's minimum for a 7(c) lot) would push its western boundary further into the floodplain. This was not consistent with the local subdivision pattern (cf. Lot 102 among others), and made Lot 1011 less workable due to the constriction in the valley floor. Adherence to the 1ha minimum was preferred over other design considerations.

As the proposed boundary takes into account several existing structures and a hedge which provides privacy for Lot 1031 as well as for Lot 1011, a smaller setback was preferred. Aesthetically, a future change from the existing structures to a new dwelling may also be considered more desirable than retention of the former. Because those structures already exist, there is unlikely to be a negative impact on Glenning Valley, its sense of community or rural residential living, which are objectives of the DCP. The proposal also addresses the provisions of Cls. 3.13 and 3.14 of the DCP, with the proposed design being the preferred solution to multiple planning issues.

As a result of these design considerations, the application of the DCP's standard is considered both unreasonable and unnecessary. SEPP 1's aim of flexibility in the application of planning controls is addressed here, as it the DCP's own ability to remain flexible. The standard being objected to is not embedded within Council's LEP, but in a weaker planning document.

If no structures existed in the side setback area, then another result may have ensued. However, the standard does not fit the current situation well. Equally, if no hedge existed, then an argument might be mounted that the spaciousness typical of rural residential living would be hindered by this proposal. However, with an existing hedge and a relatively new dwelling on Lot 1031 which is set against its southern boundary at some distance from the Lot 1011 structures, spaciousness has been achieved, both perceptually and in fact. Solar access to the Lot 1031 house and its surrounds will be unaffected by the 2m side setback, partly because of the uphill slope in that area and the distance from the boundary to the dwelling.

**Proposed Boundary Adjustment at Lots 101 and 103 DP 806178 Corona Lane,  
Glenting Valley (Attachment 4) (contd)**

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Compliance with the standard does tend to hinder the attainment of the objects specified in 5(a) (i) and (ii) of the EPA Act, although it is acknowledged that some design options do exist.

## WYONG SHIRE COUNCIL

26 November 2008  
To the Ordinary Meeting of Council

Director's Report  
Shire Planning Department

**511                      Draft Development Control Plan 2005: Chapter 36 – North  
Wyong Industrial Area**

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F2008/01224 DAL:JD

### **SUMMARY**

Development Control Plan 2005 (DCP): Chapter 36 – North Wyong Industrial Area Caravan Parks has been reviewed by staff, discussed with Councillors, landowners and adjoining residents. This report addresses the review and public exhibition of the draft DCP and recommends its adoption by Council.

### **RECOMMENDATION**

- 1     *That Council adopt draft Development Control Plan 2005: Chapter 36 – North Wyong Industrial Area and appropriate public notice be given within 28 days that the draft Chapter will come into effect as Chapter 36 within Development Control Plan 2005 on 1 December 2008.***
- 2     *That Council publicise the major changes and that the provisions of the adopted Chapter will be operational, and applied to all relevant Development Applications received from 1 December 2008.***
- 3     *That Council forward the Development Control Plan 2005 containing the amended Chapter 36 to the Director General of the NSW Department of Planning within 28 days.***
- 4     *That Council annotate relevant s149 Certificates as to the adoption of Chapter 36.***
- 5     *That Council advise all those who made submissions of its decision.***

**Draft Development Control Plan 2005: Chapter 36 – North Wyong Industrial Area (contd)**

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**INTRODUCTION**

The current Development Control Plan 2005: Chapter 36 – North Wyong Industrial Area largely dates from 1998 and does not reflect current regulatory mechanisms, current building practice related to industrial development or current practice with respect to environmental protection. In June 2007 a draft amended Chapter 36 was exhibited to include approximately 9ha of land north of Lucca Road that was the subject of LEP No. 174 (since adopted) and has been rezoned for general industrial purposes.

Council at its meeting held on 26 September 2007 Council resolved as follows:

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

- 1 That draft Local Environmental Plan 174 be referred to the Department of Planning under Section 69 of the Environmental Planning and Assessment Act requesting that the Minister for Planning make the plan.*
- 2 That draft Development Control Plan 2005: Chapter 36 – North Wyong Industrial Area, as amended, be adopted by Council and become effective as at the date of gazettal of draft Local Environmental Plan 174 and to apply to all development applications lodged after the date of public notification.*
- 3 That appropriate public notice be given within 28 days.*
- 4 That a copy of Development Control Plan 2005 containing the amended Chapter 36 be forwarded to the Director General of the NSW Department of Planning within 28 days.*
- 5 That Council's 149 Certificates be noted.*
- 6 That all those who made submissions be advised of Council's decision.*
- 7 That a comprehensive review of Development Control Plan 2005: Chapter 36 North Wyong Industrial Area be undertaken by Council's Planning Legal and Policy Section as a matter of priority.*

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

*AGAINST: COUNCILLOR FORSTER.”*



## **Draft Development Control Plan 2005: Chapter 36 – North Wyong Industrial Area (contd)**

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The current chapter is considered to contain a number of development controls, maps and appendices no longer considered appropriate due to changing development practices and development that has occurred within the DCP chapter area since 1998. The amended chapter seeks to update the development standards to reflect current regulatory and policy positions, whilst retaining the overall objectives to promote development within the North Wyong industrial area.

The draft Chapter was exhibited for a minimum of 28 days. During this period a Councillor briefing and well attended internal and external stakeholders workshops were held.

### **PUBLIC INTEREST**

Draft Chapter 36 was placed on public exhibition between 28 May and 27 June 2008. Four submissions were received by Council, two from landowners, one from the RTA and one from the local residents association. A number of internal submissions were received during initial drafting of Chapter and were incorporated into the final draft document placed on exhibition, with a number of minor amendments made post-exhibition. The issues raised can be summarised as follows:

<b>Document No</b>	<b>Comment</b>	<b>Response</b>
D01185558	Appears to relate to inclusion of specific lots within the area identified on Appendix 5 as "environmentally sensitive land".	The subject lots are not noted as "environmentally sensitive land", and such lands follow the current cadastre boundaries.
D01186733	<p>Want a stronger focus on sustainability criteria, particularly with relation to biodiversity overall and adjoining/downstream conservation areas.</p> <p>Preference for specific sustainability criteria to be included, generally in accordance with existing DCP chapter 49 and proposed Wyong Employment Zone (WEZ) rezoning. This relates to detailed infrastructure provision such as bus routes, cycleways and streetscape controls.</p> <p>Preference for including specific Chapter controls such as tree management, wetlands etc within draft Chapter 36.</p>	<p>It is considered that the existing and proposed control will adequately manage edge effects and downstream impacts at development application stage.</p> <p>Considered that the draft document achieves a reasonable balance between imposition of sustainability measures and encouragement of development within an existing industrial area.</p> <p>Draft document is consistent with Council's approach to reduce the amount of repetition within the overall DCP 2005.</p>

**Draft Development Control Plan 2005: Chapter 36 – North Wyong Industrial Area (contd)**

<b>Document No</b>	<b>Comment</b>	<b>Response</b>
D01195168 NSW RTA	Prefers amendment with reference to setbacks stating " <i>This setback shall apply to any published future Road boundary</i> ".	Considered that setbacks generally apply to current boundaries, any future road widening would be separately considered as part of a development application/rezoning/resumption process.
D01255419	Prefers inclusion of property within Zone B of regulated emission industries on map Appendix 4.  Considers focus on native vegetation landscaping as restrictive.	Given boundaries were generated from previous radii standard and then fixed to current property boundaries it is reasonable to include subject property. Map has been amended.  Given the focus on ESD and particularly maintenance/enhancement of native vegetation where possible it is considered the standards are appropriate. Sufficient flexibility is built into the controls to allow for suitable non-native vegetation where appropriate.

**AMENDMENTS FOLLOWING EXHIBITION**

Following exhibition of the draft document a number of amendments have been made to the DCP chapter. These are summarised below:

- Clarification of Ecologically Sustainable Development objectives and controls;
- minor amendments with respect to building design controls and integration with landscaping;
- additional clarification of carparking requirements;
- simplification of water management methods for land north of Lucca Road (3.4) to provide for greater flexibility; and
- amendment to indicative road layout to improve separation of industrial and residential uses.

**COMMENT REGARDING MINIMUM LOT SIZES**

An issue raised at the Councillor Briefing was whether the minimum industrial lot size should be reduced from 2000m<sup>2</sup>. Staff further reviewed the options with particular reference to recent examples of practice, consideration of minimum setback controls and the provision of safe and efficient vehicle manoeuvring and parking requirements for typical small industrial lots.

## **Draft Development Control Plan 2005: Chapter 36 – North Wyong Industrial Area (contd)**

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The conclusion was reached that for individual Torrens title lots a minimum of 2000m<sup>2</sup> was appropriate. Specific guidance has been provided advising that further strata or other subdivision of developed sites can be undertaken to provide greater flexibility for individual industrial bays. This is undertaken following development of the site, rather than development of raw land for sale.

### **CONCLUSION**

The Draft Development Control Plan 2005: Chapter 36 – North Wyong Industrial Area has been prepared in accordance with legislative and regulatory requirements, as requested by Council at the Ordinary meeting on 26 September 2007. Following the consideration of submissions and amendments discussed above and the Draft DCP is now recommended for adoption.

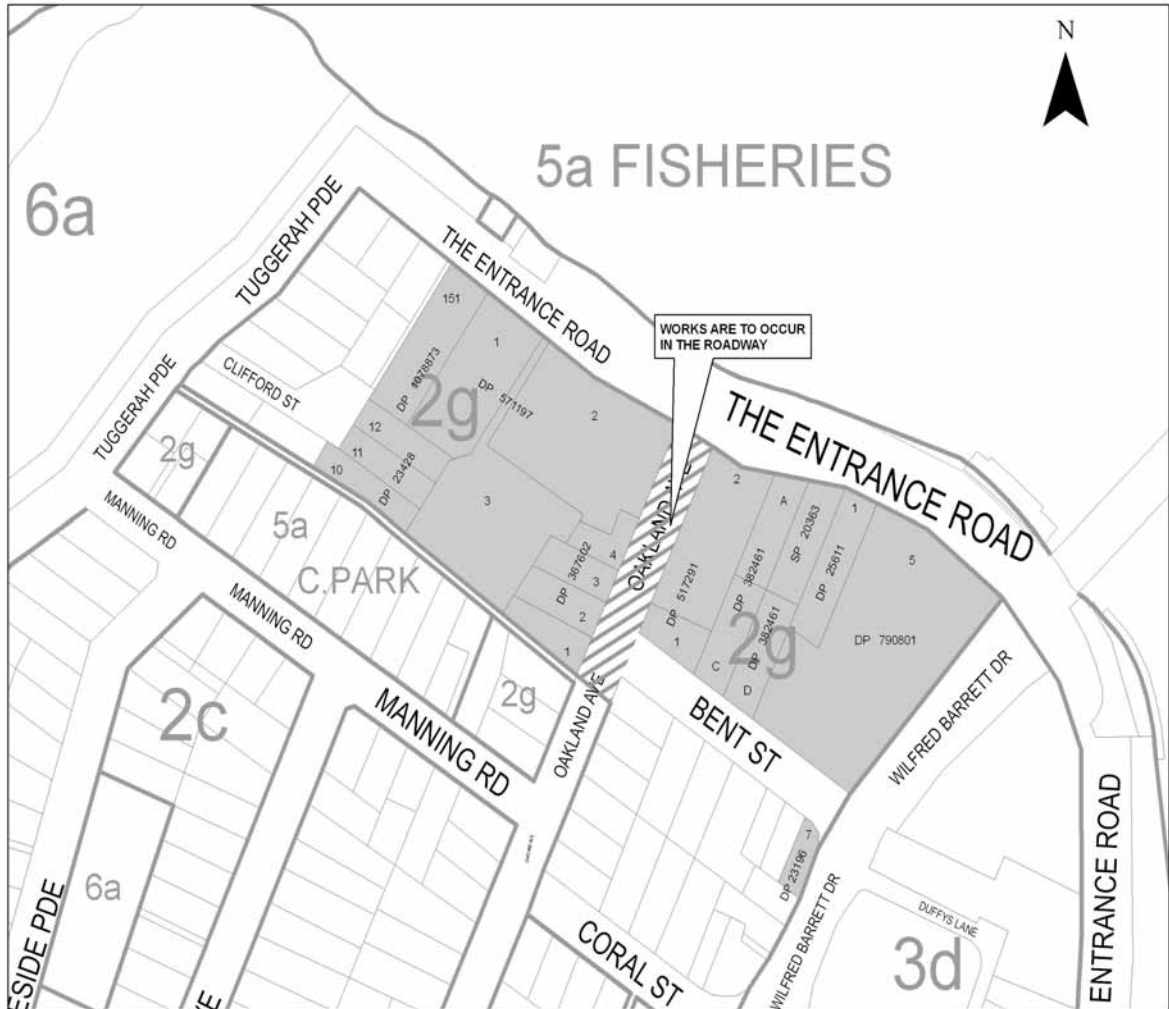
The draft Chapter is now recommended for formal adoption, with proposed implementation on 1 December 2008.

**Enclosure**

***Draft Development Control Plan No 2005: Chapter 36 – North Wyong Industrial Area***

**512 Proposed Managed Resort and Residential Development, The Entrance Road West, The Entrance (Attachment 1)**

**Locality Plan**



## WYONG SHIRE COUNCIL

26 November 2008  
To the Ordinary Meeting of Council

Director's Report  
Shire Planning Department

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

DA/2660/2004 DD:JD

<b>Applicant Owner</b>	Terrigal Grosvenor Lodge Pty Ltd Terrigal Grosvenor Lodge Pty Ltd, (5 Oakland Avenue) Melinda Janyne Stevens, Minister for Primary Industries (9 The Entrance Road) and Wyong Shire Council (various road reserves)
<b>Application No</b>	2660/2004
<b>Description of Land</b>	<i>Eastern site:</i> 31-47 The Entrance Road West, 4 and 11 Bent Street <i>Western site:</i> 9-29 The Entrance Road West, 2-4, Clifford Street, 3-9 Oakland Avenue. 11 Bent Street (southern side of Bent Street) and the partial closure of Oakland Avenue (north of Bent Street intersection) and The Entrance Road West (fronting the development site)
<b>Proposed Development</b>	Managed Resort Facility comprising 509 apartments (tourist and permanent), with a conference centre, retail area, restaurants, cafes, tavern (converted heritage building), child care centre, indoor amusement park, two levels of basement carpark and associated landscaping
<b>Properties</b>	Lot 1 and 2 DP 517291 Lot A, C, D DP 382461 Lot 1 DP 25611 SP 20363 Part Lot 15 DP 832013 Lot 1, 2, 3 DP 571197 Lot 10, 11, 12, DP 23428 Lot 1, 2, 3, 4, DP 367602 Part Lot 7 DP 23196 That part of Oakland Avenue between Bent Street and The Entrance Road That part of The Entrance Road extending 10m north of the northern boundaries of the subject allotments fronting The Entrance Road including the extension of the 10m line across the Oakland Avenue intersection.
<b>Site Area</b>	Eastern Site – 13,855m <sup>2</sup> Western Site – 15,007m <sup>2</sup> 11 Bent Street – 389m <sup>2</sup> Oakland Avenue – 1,723m <sup>2</sup> (road closure) The Entrance Road West – 2,850m <sup>2</sup> (road closure) <b>Total Area = 33,824m<sup>2</sup></b>

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

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<b>Zoning</b>	2(g) Residential Tourist Zone and Road reserve
<b>Existing Use</b>	Motel, caravan park, two storey restaurant (heritage item), various dwellings, vacant allotments and NSW Fisheries building
<b>Value</b>	\$97 Million (note: valued in 2004)

**EXECUTIVE SUMMARY**

- The site that is the subject of this application is one of Council's most important sites in achieving its aims for redevelopment of The Entrance. Its gateway and very strategic location, natural form and orientation provide excellent opportunity for a development that achieves Council's desire for a quality development of high amenity for both residents and the public.
- The application proposed use and development of the site as a Managed Resort Facility complies with the enabling clause within Wyong LEP 1991.
- Following extensive discussions with the applicant a number of amended plans have been provided by the applicant. However, the proposal still fails to adequately address or resolve the significant urban design and amenity concerns with the application. It is therefore recommended for refusal.
- Minor amendments to the plans have been made by the applicant to resolve the encroachment into "Profile D". Council's solicitors have confirmed that the development is no longer prohibited by Clause 42A of the Wyong Local Environmental Plan 1991 (Wyong LEP 1991).
- At its meeting on 10 October 2005, The Hunter Regional Development Committee (HRDC) (attended by Council officers), verbally approved the applicant's proposed resolution to the duplication of The Entrance Bridge. In correspondence dated 4 November 2005, the Roads and Traffic Authority (RTA) agreed to the general concept in principle, subject to modifications.
- The proposal fails does not comply with the requirements of SEPP No. 65 – Design Quality of Residential Flat Development, with regard to urban design. In addition, an independent urban designer has reviewed the application and favours refusal of the application. The proposal was viewed by the Design Review Panel (DRP) who recommends refusal of the application.

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

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- The proposal fails to adequately address the requirements of Development Control Plan (DCP) 2005: Chapter 14 – Tree Management, Chapter 60 – The Entrance, Chapter 61 – Carparking, and Chapter 64 – Multiple Dwelling Residential Development, with regard to aesthetics, overshadowing and solar amenity to permanent units and communal open space. If overshadowing of the adjoining developments was the only concern Council may support the application.
- It is considered that the site has a large potential for quality development, given its consolidated nature and its northern orientation. However the density of the proposal and the outdated design approach to the development is essentially the driver of many of Council's concerns with the proposal.
- Given the number of significant outstanding issues, and the applicant's evident unwillingness to amend the proposal, the application is recommended for refusal. The applicant has been made aware of Council's concerns with the application over a number of years and has failed to submit additional information or amended plans which satisfactorily address the issues. This process has included several meetings with Senior Council staff.

#### **RECOMMENDATION**

- 1** *That Council refer the application to the General Manager for determination having regard to the matters for consideration detailed in Section 79C of the Environmental Planning and Assessment Act and other relevant issues with an indication that based on the information available to it, Council favours refusal of the application subject to appropriate reasons for refusal.*
- 2** *That Council advise those who made written submissions on the application of its decision.*
- 3** *That Council consider issues raised in the assessment of this application in the finalisation of The Entrance Planning Strategy.*

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

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**INTRODUCTION**

Council has received a development application for the one of the key sites in The Entrance precinct. The subject site was identified in the preparation of The Entrance Strategy as a potential site for a key tourist resort development. In Development Control Plan 2005 Chapter 60 – The Entrance, Part 5 – Managed Resort Facilities, the site is identified as Sites 2 and 3.

The development application applies for the following development:

The 'eastern side' comprising six buildings of varying heights, setbacks and uses, as follows;

1	El Lago (East)	9 storeys – tourist residential (84 apartments)
2	El Lago (West)	8 storeys – convention centre and tourist residential (71 apartments)
3	Waterfront Building	5 storeys – child care centre, retail and tourist residential (14 apartments)
4	Quarter Deck Building	9 storeys – laundry, gymnasium, pool, retail and tourist residential (51 apartments)
5	Piazza Building	4 storeys – retail and tourist residential (9 apartments)
6	Foreshore Building	5 storeys – amusement park, retail and tourist residential (8 apartments)

The 'western side' comprising eight buildings of varying heights, setbacks and uses, as follows:

1	Brentwood Building	4 - 8 storeys – permanent residential (52 apartments) with roof terraces
2	Poolside Building	8 storeys – permanent residential (39 apartments) with roof terraces
3	Clifford Building	8 storeys – permanent residential (30 apartments) with roof terraces
4	Pinehurst Building	8 storeys – permanent residential (54 apartments) with roof terraces
5	Winter Garden West	8 storeys – retail and permanent residential (43 apartments) tourist residential (5 apartments) with roof terraces
6	Winter Garden East	4 storeys – residential (16 apartments) with roof terraces
7	Lakefront Building	4 – 6 storeys – retail and permanent residential (19 apartments)
8	Promenade Building	4 storeys – retail and permanent residential (1 apartment) tourist residential (13 apartment)
9	Proposed Tavern	2 storeys - commercial



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

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### **HISTORY**

Development Consent No 933/89 dated 2 September 1991, approved a 14 storey development known as Megatrend, which was not commenced and the consent has subsequently lapsed.

Development Application No 3239/03 (not dissimilar to the current application) was withdrawn by the applicant on 13 October 2004, following preliminary assessment by Council and the Design Review Panel (DRP). The applicant was provided with the detailed concerns of Council to be addressed prior to the submission of any new application. The major issues identified were:

- Report addressing SEPP 10 – Retention of Low- Cost Rental Accommodation;
- Amended plans/additional information addressing the concerns raised by the Regional Traffic Committee and Council's Transportation Engineer and Development Engineer;
- Amended Heritage Impact Statement to address Clauses 32 and 35 (including plans and photographs) addressing impact of proposed development on the listed item;
- Detailed elevations to address Clause 42B and 42CA (indicating finished ceiling levels) addressing the height limitations and Profile 'D' to The Entrance Road West and Oakland Avenue, the heights of waterslides, rides proposed, plus a survey plan indicating natural ground level;
- Flora and fauna report addressing trees along the southern boundary;
- Amended Vegetation Management Plan to provide larger setbacks to Norfolk Island Pines and trees along the southern boundary;
- Amended shadow diagrams (reference to winter solstice) and addressing solar access of private open space (balconies) and overshadowing of adjoining properties;
- Amended plans to resolve privacy issues between buildings proposed on-site and to common boundaries;
- Amend application with regard to energy efficiency, poor solar access for many units and poor water sensitive urban design;
- Amend Statement of Environmental Effects to provide 'Safer by Design' report, especially given the large scale carparks with a transient population utilising them and the public nature of the theme parks and retail/consumer areas;

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

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- That the Social and Economic Impact Assessment be amended to address the impact of the proposed development upon The Entrance commercial district;
- That details of the proposed tavern be forwarded to Council, addressing matters such as servicing, hours, dining, Building Code of Australia issues and a 'social impact statement';
- The submission of an acoustic report;
- Report regarding isolation of No 5 Oakland Avenue and No 9 The Entrance Road West;
- Details of what is proposed on No 11 Bent Street, The Entrance; and
- Strategies for public access to the Mall via the Coral Street Car Park and to the proposed Manning Road Carpark.

**CURRENT APPLICATION**

The applicant's consultant discussed the current application as a preliminary item with Council officers, Councillors and the DRP. The current development application was lodged on 29 October 2004. The following list is a brief outline of Council's actions since lodgement:

Meeting: 4 November 2004 – Landscaping workshop

Meeting: 8 February 2005 – Hunter Regional Development Committee (HRDC) – traffic

Meeting: 16 February 2005 – SEPP 65 DRP

Letter: 22 April 2005

The following issues were raised:

- traffic (including the minutes from the HRDC meeting)
- site remediation
- SEPP 65 – DRP comments
- assessment under WLEP 1991 (flooding, heritage, requirements for The Entrance)

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

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- assessment under Chapter 14 – Trees
- assessment under Chapter 60 – The Entrance (setbacks, solar access, communal and private open space)
- assessment under Chapter 61 – Carparking
- assessment under Chapter 69 – Waste Management
- groundwater
- water and sewer
- stormwater
- acoustics
- landscaping

A response was received in June and a meeting was arranged to discuss the information submitted.

Meeting: 21 July 2005 – HRDC - traffic  
The issue of the duplication of the bridge was raised.

Development Management Panel Meeting of 25 July 2005 resolved:

*“That the application be deferred pending an offer to the applicant to discuss the application with the Ordinary Meeting of Council to give the applicant every opportunity to address the application and explore all issues in relation to the site.”*

*Issues to be addressed:*

- *The proposed development has failed to address the concerns raised by the HRDC with regard to the duplication of The Entrance Bridge;*
- *The proposed development failed to adequately address the design principles stated within State Environmental Planning Policy (SEPP) No 65 – Design Quality of Residential Flat Development;*

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

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- *The proposed development has failed to satisfactorily address Wyong Local Environmental Plan 1991(WLEP), Clauses 9 and 10 – Zones, objectives and the development control table, with regard to two of the objectives of the 2(g) Residential Tourist Zone, being the detrimental impact upon the adjoining zones and that the development is not in context with the locality;*
- *The proposed development has failed to satisfactorily address WLEP 1991, Clause 19 - Development near lakes, rivers and creeks or Clause 23 - Flood prone lands;*
- *The proposed development has failed to adequately address WLEP 1991, Clause 29 - Services, in that the applicant needs to reach agreement with the service providers of the existing services in The Entrance Road West and Oakland Avenue, prior to any sale proceeding;*
- *The proposed development has failed to satisfactorily address WLEP 1991, Clause 32 - Development of heritage items, in that the submitted heritage report has failed to assess the impact on the proposed development upon the listed heritage item;*
- *The proposed development exceeds the restricted height limits and has detrimental impacts upon adjoining residential properties, as a direct result of the reduced setbacks and excessive height of buildings on the western side of the site, contrary to WLEP1991, Clause 42B - Development principles in Zone No's 2(c) and 2(g) – The Entrance;*
- *The proposed development exceeds the restricted setbacks/profile along the Entrance Road West and Oakland Avenue, contrary to WLEP 1991, Clause 42CA - Setbacks for certain buildings fronting The Entrance Road;*
- *The proposed development has failed to adequately address all the trees upon the subject site, including those to be retained (Norfolk Island Pines) and those to be removed (Melaleucas and Norfolk Island Pines), contrary to the requirements of Development Control Plan (DCP) 14 - Tree Management;*
- *The proposed development fails to comply with the following requirements of DCP No. 60 - The Entrance: height; overshadowing; privacy; energy efficiency (including water recycling); stormwater; traffic noise; fencing; pedestrian access (restricted to certain hours, utilising security and barriers); utility services; roof treatment and view sharing;*
- *The proposed development fails to comply with the following requirement of DCP No .61 - Carparking: manoeuvring;*

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

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- *The proposed development fails to comply with the following requirements of DCP No. 64 - Guidelines to Medium and High Density Residential Development: setbacks; private open space; communal open space; and solar access;*
- *The proposed development is likely to have detrimental impacts upon the surrounding locality, with overshadowing and privacy concerns to residents in Manning Road and Clifford Street, plus the resultant traffic noise in Clifford and Bent Streets;*
- *The subject site is deemed unsuitable for the proposed development, in that it is deemed to be an overdevelopment of the site, due to the excessive excavation, excessive height, non-compliance with setback provisions, the likely detrimental impacts with regard to overshadowing, privacy, amenity, noise, groundwater, stormwater (overland flowpaths) and vegetation.*

Letter: 1 August 2005 – outlining the issues raised by the Development Management Panel (DMP).

Letter: 3 August 2005 – Further letter regarding the need for bridge duplication.

Meeting: 12 August 2005 – With Senior Management and the applicant's consultant team to work through the issues remaining with the application.

Letter: 18 August 2005 – legal advice Abbott Tout Lawyers regarding the operation of Profile D.

Meeting: 10 October 2005 – Meeting between the RTA, Council and the applicant's consultants.

Meeting: 14 November 2005 Ordinary Meeting of Council – The application was reported to DMP for refusal where it was resolved:

*"That the application be deferred at this time for further discussion between the owner Mr John Klumper and the General Manager."*

Meeting: 29 November 2005 – Further meeting with Senior Management, including the General Manager and the applicant's consultants to discuss the issues reported to DMP. Mr Klumper did not attend.

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

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Facsimile: 6 December 2005 – Council provided to the applicant a clear list of outstanding issues to be addressed and the suggested way forward to resolve the matters.

The issues included;

- The Entrance Bridge duplication
- LEP Provisions
- Heritage
- SEPP 65 and the internal amenity of the development
- Impacts on adjoining development
- Impacts on groundwater and flooding
- Lowering of Bent Street (infrastructure)
- Acoustics
- Easement
- Car parking

This correspondence also included advice from an independent urban designer regarding the correct interpretation of the design controls under SEPP 65.

Following this advice a series of meetings were held with Council staff to resolve each of the ten issues through January 2006.

Several further meetings were held in February where sketch plans were discussed, these were also considered by DMP which was of the opinion that the primary issues with the development remained and the sketch plans should not be progressed for submission to Council. This was communicated to the applicant.

DMP 10 April 2006. The Panel's recommendation was:

- "1 That the application be referred to Council recommending:*
- a 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 subject to appropriate reasons for refusal.*

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

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*b That the Ordinary Meeting of Council endorse the reasons for refusal contained in the schedule attached to the report should Council determine to refuse the application.*

*c That those who made written submissions be advised of the decision."*

- Report finalised for Council mid 2006.
- Report held in abeyance to allow an independent review of the design by a Panel of urban design experts.
- Notification of Panel appointment by applicant 2007.
- 21 November 2007 - Meeting with Councillors.
- Legal advice requested regarding the operation of "Profile D" and whether it acts to prohibit the development.
- 27 February 2008 amended plans received by applicant connecting intrusion into "Profile D".
- March – May ongoing discussions between applicant's solicitors, Council and Council's Solicitors.
- 23 May 2008 – final advice provided from HWL indicating that the amended plans are no longer prohibited by Wyong LEP 1991.
- Council considered a Notice of Motion at its meeting held on 23 April 2008 regarding the site and it was determined that due to the number of Councillors who felt they had a conflict of interest, no quorum was available to determine the application. As such, the application was held in abeyance.
- 29 July 2008-29 August 2008 re-notification of the application (extended period until 30 September 2008).

### **CURRENT POSITION**

It is clear from the preceding that Council has had ongoing discussion with the applicant and his consultants for a number of years. Following a meeting in late November 2005 between senior management and the applicant, a concise and specific list of issues was provided to the applicant to enable amendments to be made to the proposal. Included in this advice was a report by an independent urban designer on the interpretation of the urban design controls under SEPP 65.

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

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Prior to the application being considered by Council, it was deferred at the applicant's request to allow a comprehensive redesign of the proposal to address Council's concerns. This intent has not been enacted as the amended plans failed to resolve or address the major issues.

The significant issues that remain with the application are listed below and are discussed in greater detail in the body of the report:

<i>Major Issue:</i>	SEPP 65 and the Internal Amenity of the Development
<i>Major Issue:</i>	Consideration of the Heritage Item in the site's redevelopment
<i>Major Issue:</i>	Impact of Acoustics
<i>Major Issue:</i>	Impacts of Lowering Bent Street
<i>Major Issue:</i>	Duplication of The Entrance Bridge
<i>Major Issue:</i>	Provision of adequate parking
<i>Major Issue:</i>	Pedestrian access through the site to the Foreshore and the future Manning Street carpark.
<i>Major Issue:</i>	The road access to the site.
<i>Minor Issue:</i>	Servicing of the development, especially the Tavern in regard to delivery vehicles.
<i>Minor Issue:</i>	Impacts on Vegetation
<i>Minor Issue:</i>	Emergency vehicle access along the foreshore
<i>Minor issue:</i>	Access provision for waste collection
<i>Minor Issue:</i>	Location of sanitary provisions below ground.

### **STATUTORY CONTROLS:**

#### **Environmental Planning and Assessment Act 1979 Section 91 Integrated Development**

The subject site is located within 40m of a natural watercourse (The Entrance Channel) and as such, the proposal is 'integrated development' with a referral having being forwarded to the Department of Natural Resources (DNR). DNR in correspondence dated 6 January 2005 provided its 'general terms of approval' under the *Rivers and Foreshores Improvement Act, 1948* and *Water Act, 1912*. The application was also referred to the Office of Conservation NSW Fisheries, now known as the NSW Department of Primary Industries (DPI) under the integrated development provisions of the EP&A Act 1979. DPI advised that as the work was wholly on land no permits were required, however, conditions were included to ensure the development would minimise any impact on the waterway.



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

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### **State Environmental Planning Policy No 11 – Traffic Generating Developments**

The provisions of SEPP No 11 apply to the development. It is noted that SEPP (Infrastructure) 2007 has since repealed this instrument, but does not apply to this application due to savings provisions.

The application is listed under various subclauses of Schedule 1: *(a) the erection of ... a residential flat building comprising 300 or more dwellings, (b) shops/retail > 2,225 m<sup>2</sup>, (n) ... any other development having ancillary accommodation for 200 or more motor vehicles;* and as such, required referral to the Hunter Regional Development Committee (HRDC). The applicant provided sufficient information for the application to be referred to the HRDC.

The HRDC met on 8 February 2005 to review the proposed development. The Committee raised a number of issues which were referred back to the applicant to address. On receipt of amended details, the proposal was referred back to the HRDC meeting of 26 July 2005 to review the proposed development.

The major issue arising from the HRDC considerations was allowance for the required road widening (previously not identified) associated with the lane duplication of The Entrance Bridge, which would result in the relocation of the south-eastern property boundary (by between 7–11m) along Wilfred Barrett Drive.

Following a meeting between the RTA, Council representatives and the applicant's consultants, this issue was understood to be resolved. In correspondence dated 4 November 2005 and following extensive negotiations facilitated by Council, the RTA agreed to the general concept in principle, subject to modifications, as discussed below.

*“That the dimensions marked on that drawing to mark the “site boundary” being 14.590m at the southern end and 14.500m at the northern be amended to 14.590m at the southern end (no change) and 17.300m at the northern end. The 17.3m is made up of the 14.5m as shown on your drawing + 0.3m additional area required for construction clearance + 0.5m to avoid alteration to the existing bridge structure + 2.0m to allow for cyclists.*

*Please note that the connecting roadway between Bent Street and The Entrance Road required by Wyong Shire Council is to be constructed in the ultimate location and to ultimate levels.*

*An issue that will still need to be resolved is:*

*Provision for cyclists. The lifts alone are not acceptable and another access will need to be provided to The Entrance foreshore to and from the Bridge. This may be ramps or steps with a central ramp where cyclists must dismount to access the bridge/foreshore. Council will be requested to ensure that adequate area is set aside on The Entrance foreshore to enable these works.”*

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

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In subsequent discussions and meetings, the applicant's consultant demonstrated that the above concerns of the RTA could be resolved, though no final documentation regarding the pedestrian/ cyclist ramp/ lift has been provided.

**State Environmental Planning Policy No 55 – Remediation of Land**

The applicant's consultant, Hyder Consulting, has undertaken an Environmental Site Assessment, given the extent of the subject site and the various uses conducted over the years. Council's Environmental Protection Officer has reviewed the information and raises no objections, subject to the imposition of a condition of consent (if approval were granted) relating to compliance with the conclusions and recommendations of the Environmental Site Assessment.

**State Environmental Planning Policy No 65 – Design Quality of Residential Flat Development**

The extent to which the proposed development complies with the design quality principles identified in this SEPP is outlined in the discussion below. It should be noted that the western side of the site is permanent residential and subject to the requirements of the SEPP, the eastern side of the site is tourist accommodation and is not applicable, however, the principles remain the same for both types of residential use. (A table indicating compliance with the core principles of SEPP 65 is included in Attachment 3 to this report.)

In accordance with SEPP 65, the proposal was considered by the DRP on 16 February 2005 and awarded a **D Recommend refusal**. The following comments were made:

**DRP Comment**

**"D Recommend refusal based on:**

- A) *The absence of response to the Panel's recommendations of 9 June 2004, and the applicant's failure to take up the panel's offer of assistance to analyse the context and the site, or to develop a preliminary massing model;*

*The following recommendations were made by the Panel following the preliminary review.*

- *Detailed site and context analysis drawings including plans, sections and elevations indicating the character of the site. This should be a fine grained analysis indicating existing features, attributes and connections to adjacent sites. The Residential Flat Design Code outlines the key components of an analysis;*

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

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- *Draft design objectives which flow from the above analysis;*
- *The proposed programme of uses and gross areas for the site (diagrammatic and/or written form);*
- *Current aerial photos and topographical information of the site and its context;*
- *Existing tree survey and Arborist report identifying primary and critical root zones.*

B) *The following comments from the presentation on 16 February 2005.*

### **Context:**

- *The development deliberately turns away from its context and creates its own internal reality. The Panel feels this is the wrong approach.*
- *There is inadequate recognition of the clear physiographic constraints of the site. The land is low lying, close to sea level and vulnerable to inundation. The proposed resort development significantly modifies the landscape, not only excavating into marine silts and sands but also generating landfill. The ecological and hydrological impacts of this extractive exercise are unknown."*

### **Councils Response**

While the locality is undergoing transition at the present on adjoining sites, the proposed development does not represent good urban design contributing to Council's identified future character.

The lack of building separation (internally and externally) detracts from the amenity of the development and contributes to its excessive bulk and scale.

The development removes significant stands of vegetation and does not adequately address the impacts on the iconic vegetation of the foreshore.

The design does address the street, with tourist/retail activities to the street frontage, however there are significant aspects on the western side of the proposal which internalise the site, failing to contribute to the public realm.

The proposed design will change the sense of place of the precinct to such an extent that the existing character will be lost.

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

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**DRP Comment****“Scale:**

- *The Panel believes that an 8/9 storey height is excessive. The applicant has not demonstrated that 8 storeys are appropriate or acceptable for this site in terms of views from the lake and surrounding catchment.*
- *Judging from the façade drawings it is apparent a 5/6 storey maximum height could produce a much more comfortable and harmonious built form outcome.”*

**Councils Response**

The bulk and scale of the proposal is not in context with the adjoining properties, resulting in detrimental impacts to existing and potential development. The non compliance with building separations diminishes the development rights of the adjoining properties. It is noted that the context will change in the future with adjoining properties being redeveloped; as such the consideration of the scale of the development will change over time.

The development has sought to maximise the building envelope, leading to detrimental overshadowing and amenity impacts both internally and externally.

The zero-lot line to the Clifford building on the western boundary is considered inappropriate.

There is no stated density identified for the site, but given the setback concerns and detrimental impacts, the current proposal is considered unacceptable.

**DRP Comment****“Built Form:**

- *Building separation distances both between buildings on the site and between the proposed buildings on the site and future adjoining developments do not comply with the RFDC resulting in a visual and actual overdevelopment especially when viewed from the lake foreshore and the water.*
- *The current proposal does not accommodate sufficient views into and through the site from the public domain.*
- *Oakland Avenue should be retained as a public street at grade. The view corridor to the water must remain intact as existing from ground level upwards and not be obstructed by any built structures. The maximum intervention could be an avenue of native trees planted along the edges of the existing road corridor.*

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

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- *Fundamentally missing is a clear logic to the design of the site, to the urban form and to the hierarchy of spaces and relationships between the public and private domains in these two large precincts. Circulation and building placement is confused and confusing, and relates to nothing in the surrounding suburban environment.*
- *The current building expression is distinctly institutional or corporate. The nature of this area as a residential and tourist resort precinct is not expressed in a way that is conducive to maintaining or improving the special natural and built characteristics of The Entrance and the Central Coast.*
- *Excavation of approximately 95% of the site to provide basement car parking is excessive.*
- *The many flat roofs proposed do not indicate any ESD provision/treatment."*

### **Councils Response**

Note: Many of the tourist apartments in the development do not achieve the minimum standards for permanent occupation. This includes inadequate solar access and undersized open space. These units will not be able to be converted to permanent residential. As such in reference to the whole site, the percentage of apartments achieving the three hours of sunlight is less.

DCP 2005 Chapter 60 clearly identifies the importance of solar amenity and appropriate scale of design as a consideration in the determination of an appropriate density for the current proposal and the identification of appropriate development yield on the site. The current proposal results in less than 70% of permanent residential development achieving 3 hours of sunlight in mid winter. This is a major deficiency with the design of the site and is discussed further in the report. Similarly, the communal open space experiences significant overshadowing throughout the day. These facts, along with the concerns stated above regarding the bulk and scale of the development, indicate that the density of development proposed is excessive.

The zero-lot line to the western boundary is considered inappropriate.

While the building type is contemporary, the height proposed, lack of separation and reduced setbacks result in poor design and poor internal amenity, especially internal overshadowing, privacy and views.

The building design has a relatively poor northern orientation.

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

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The upper level of units will benefit from views to Tuggerah Lake (northeast to northwest), which will contribute to the amenity and outlook of these units. However, a significant number of units will have views only of adjoining units in close proximity.

**DRP Comment*****“Density:***

- *Visually too dense in bulk, scale, horizontality and height, lack of through views and urban form.”*

**Councils Response**

The proposed development comprises 15 buildings with a total of 509 units (254 permanent residential and 255 tourist), plus retail, conference centre, parking, recreation facilities and the like. Given the proposed amenity impacts and the lack of deep soil open space, the density is considered excessive and not sustainable (refer to the urban design comments in the enclosure).

**“DRP Comment*****Resource Energy and Water Efficiency:***

- *The Panel recommends that this development should achieve self sufficiency in energy and water use.”*

**Councils Response**

The development does not demonstrate efforts to achieve any degree of self sufficiency in energy use or alternative energy generation (eg, solar).

The northeast – northwest orientation of the site should easily permit a minimum of 70% of units to achieve the required 3 hours of direct sunlight to their primary living space; however, only 66.14% achieve the requirement.

Shadow diagrams indicate that a number of adjoining dwellings in Manning Road will be detrimentally impacted.

The redesign has resulted in approximately 80% of the residential units now having adequate cross-flow ventilation. The development now complies with the cross ventilation objectives of the RFDC under SEPP 65.

Rainwater storage and re-use throughout the development has been documented to Council's satisfaction.

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

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### **DRP Comment**

#### ***"Landscape:***

- *Provision of deep soil landscaped areas is inadequate because 95% of the site is covered with basement or road.*
- *The landscape area in the eastern site is unacceptable because it is 6m below natural ground level. (ie 2m below sea level).*
- *The Arborist report tabled assesses only eight trees. This is inadequate as there are many additional trees on the site and in the foreshore area. A survey must be carried out for the remainder of the trees on site. This report should categorise the significance of each tree so that the individual importance of each tree for retention can be assessed.*
- *The treatment of the foreshore reserve is confusing, dysfunctional, alien to the foreshore environment and potentially dangerous at night. It is overly complicated, variations in levels are unnecessary and difficult to negotiate, and it destroys the natural (landscape).*
- *The boardwalk is a barrier and would result in a visual and physical barrier to north/south pedestrian movement.*
- *The foreshore road should be maintained as a public vehicle access road and reconfigured to include a bicycle route connecting up with the round the lake cycle path (which should link over the bridge). Pedestrian circulation should remain as a simple, pleasant wide footpath along the lakeshore, and/or "normal" nature strip footpaths.*
- *The Panel is alarmed at the potential of privatisation of the entire foreshore area and its integration into the commercial shopping precinct of this proposal."*

### **Councils Response**

A communal area of 2730 m<sup>2</sup> is required and has been provided, however, the quality of the communal open space is poorly proportioned and has unacceptable overshadowing at mid-winter.

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

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Minimal area (500m<sup>2</sup>) for additional deep soil planting without basement below has been provided. The area to retain the Norfolk Island Pines is considered to be in addition to this area as its purpose is to maintain the health of these existing trees, rather than to provide opportunity for additional landscaping for the development.

The proposed landscaping does not positively contribute to the subject site. The development will result in the loss of the *melaleucas* along The Entrance Road West and may impact upon all the Norfolk Island Pines as a result of the groundwater issue. These impacts could be mitigated by conditions, but would require the development to maintain the existing conveyance of stormwater to the vegetation and undertake ongoing monitoring. Any impacts on vegetation will diminish the identity of the locality.

**DRP Comment*****“Amenity:***

- *The sunken semi public areas are poorly connected to surrounding streets.*
- *The development has a complete disregard for public through access and proposes to limit access after hours. The existing public link through Oakland Avenue is privatised, severing existing and direct public access to the foreshore.”*

**Councils Response**

The proposal fails to comply with the requirements of the RFDC for building separation in numerous instances. Due to the lack of building separation, acoustic and visual privacy between units is compromised in a number of places in the design.

As detailed in the preceding, due to the reduced distances between buildings, a large number of units will not achieve 3 hours of sunlight to their principal living areas.

**DRP Comment*****“Safety:***

- *It appears fire and emergency access has not been considered.*
- *The proposal relies on a high level of security personnel. The Panel regards this as an outcome of a flawed design approach. Ideally, all opportunities for passive surveillance should be seized.”*



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

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### **Councils Response**

The majority of access will be via the basement carpark and hence the various lifts to the appropriate buildings.

Whilst the pedestrian movement across the site is defined, the individual buildings do not address these core circulation paths with clear entries to individual buildings, creating confusion, lack of safety and visual surveillance.

There is restricted public access through the development, with barriers (dining area in Oakland Avenue and foreshore boardwalk) designed to redirect pedestrian flows to the proposed commercial areas. Public access is to be further restricted between the hours of 10.00 pm and 8.00 am daily.

### **DRP Comment**

#### ***"Social Dimensions:***

- *The proposal creates a secure compound which alienates public access and potentially separates the community from this key waterfront site.*
- *When a project of this scale is being proposed, the public interest in maintaining a wide range of housing, recreation, shopping and cultural activity affordability levels is being jeopardised."*

### **Councils Response**

Housing mix in the permanent residential is poor with 0.3% one bedroom units (1), 23.2% two bedroom units (59), 70.8% three bedroom units (180) and 5.5% four bedroom units (14). The development fails to address the demographics of the ageing population of both The Entrance and Wyong Shire.

The tourist accommodation provided on the eastern side of the site has provided for additional one bedroom units, which slightly improves the housing mix but these are not for permanent accommodation. The high number of existing vacancies in both residential and commercial units within The Entrance has been raised as a significant concern by the community in submissions received for the application.

The restriction of access to The Entrance Channel via Oakland Avenue reduces public access to this public area. Additionally, the proposal has walkways and dining areas positioned across the road, physically blocking access. Public access will be further reduced as a result of proposed security measures between the hours of 10.00 pm and 8.00 am daily.

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

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**DRP Comment*****"Aesthetics:***

- *No comment."*

**Councils Comments**

The composition of the buildings and their orientation add to the visual bulk of the development. This is due to the fact that the development fails to create a rhythm of buildings with appropriate spaces between to allow a view through to the channel.

There are excessive balconies, exaggerating the horizontal perspective of many building façades.

The design dominates the surrounding visual catchment and may result in the loss of culturally significant vegetation on the foreshore of the lake.

**DRP Comment**

***"In summary this proposal fails on all of the ten points in the SEPP.***

**Councils Comments**

Council agrees it is apparent from the above that the proposed development does not sufficiently comply with the design quality principles stated under SEPP No 65 to warrant approval.

**URBAN DESIGN**

Detailed comments provided by an independent urban design company are attached to this report, (See Enclosure 1).

**State Environmental Planning Policy 71 – Coastal Development (gazetted 1 November 2002)**

While the maps defining the coastal zone were gazetted after the lodgement of this application, SEPP 71 does not contain any savings provisions. As such, the application must be assessed in accordance with the SEPP.

Clause 8 lists relevant matters for consideration, all of which are discussed in Attachment 3. The application is considered to be inconsistent with following provisions of SEPP 71.

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

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	<b>Matters for Consideration</b>	<b>Proposed</b>
A	The aims of the Policy as per Clause 2.	The development will have no detrimental impact in regards to achieving the aims of the Policy.
C	Opportunities to provide new public access to and along the coastal foreshore for pedestrians or persons with a disability.	The site has extensive frontage to the foreshore and in its ultimate form will include the closure of Oakland Avenue. No provision has been made for a legible, clear pedestrian access to the foreshore. Council has been working with adjoining landowners to create a pedestrian link adjacent to the western boundary of the site to Council's proposed carpark in Manning Street. The applicant has been unwilling to provide a pedestrian link or adequate setbacks to the boundary to facilitate this. No new opportunities for access to the foreshore have been created.
D	The suitability of development given its type, location and design and its relationship with the surrounding area.	Whilst the site is zoned for high density, the design of the proposal, in particular its bulk, scale and site coverage, make it an unsuitable design response. The development significantly exceeds the density of development that Council has envisaged for the precinct and results in a poor relationship to both the public street and foreshore.
E	Any detrimental impact that development may have on the amenity of the coastal foreshore, including any significant overshadowing of the coastal foreshore and any significant loss of views from a public place to the coastal foreshore.	The proposed development will not overshadow the public foreshore area; however, it will result in the loss of views from public places. The proposed development will limit the views of The Entrance foreshore from surrounding sites, due to both its density and the bulk of development.
F	The scenic qualities of the New South Wales coast, and means to protect and improve these qualities.	The proposed building will detract from the sense of place and character of the precinct, and will not add to the scenic quality of The Entrance.

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

	<b>Matters for Consideration</b>	<b>Proposed</b>
p(i)	The cumulative impacts of the proposed development on the environment.	The site has an excessive site coverage reducing the deep soil areas available for groundwater recharge. The applicant has failed to provide documentation demonstrating that the proposed development would not have a detrimental impact on the environment, specifically with regard to Norfolk Island Pines, groundwater and flooding.
p(ii)	Measures to ensure that water and energy usage by the proposed development is efficient.	Water collection and re-use is proposed, but only 66.14% of the permanent units have satisfactory solar access.

*Clause 14 Public access*

*A consent authority must not consent to an application to carry out development on land to which this Policy applies if, in the opinion of the consent authority, the development will, or is likely to, result in the impeding or diminishing, to any extent, of the physical, land-based right of access of the public to or along the coastal foreshore.*

The total development proposal includes the closure of the northern end of Oakland Avenue and a 10 metre wide strip of The Entrance Road West along the frontage of the subject site. Council proposes in conjunction with the development, to 'traffic control' (close) the remaining portion of The Entrance Road West fronting the development to create a pedestrian mall in the future. This would be an extension of the current Entrance Mall east of the bridge, allowing it to continue through to Picnic Point Reserve to the west of the site. It is argued by the applicant that the pedestrian mall will increase public usage of the coastal foreshore.

The development application proposes works in Oakland Avenue will become part of the internal serviced part of the site. These areas are proposed to have restricted access at night.

No provision has been made for a legible, clear pedestrian access to the foreshore. Council has been working with other applicants to create a pedestrian link adjacent to the western boundary of the site to Council's proposed carpark in Manning Street. The applicant has been unwilling to provide adequate setbacks to the boundary to facilitate this.

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

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While the closure of the roads will reduce vehicle access to the area, the proposed development will replace the northern end of Oakland Avenue with a slip road along the eastern boundary of the site (adjoining Wilfred Barrett Drive) to retain vehicle access to both The Entrance Hotel and the recreational boat hire operator. Additionally, a large number of public car spaces will be provided within the basement carpark of the development, to which access to the foreshore will be provided via stairways and lifts.

### *Clause 15 Effluent disposal*

*The consent authority must not consent to a development application to carry out development on land to which this Policy applies in which effluent is proposed to be disposed of by means of a non-reticulated system if the consent authority is satisfied the proposal will, or is likely to, have a negative effect on the water quality of the sea or any nearby beach, or an estuary, a coastal lake, a coastal creek or other similar body of water, or a rock platform.*

The subject site is sewered and as such, no effluent is likely to enter the coastal lake.

### *Clause 16 Stormwater*

*The consent authority must not grant consent to a development application to carry out development on land to which this Policy applies if the consent authority is of the opinion that the development will, or is likely to, discharge untreated stormwater into the sea, a beach, or an estuary, a coastal lake, a coastal creek or other similar body of water, or onto a rock platform.*

The proposed development will re-use a percentage of water through the site and only discharge treated stormwater to the coastal lake.

### **State Environmental Planning Policy – State Significant Development 2005 (gazetted 25 May 2005)**

The development application was lodged with Council 29 October 2004, and as such, the Policy does not apply.

### *Clause 14 Transitional provisions*

- (1) *This policy does not apply to or in respect of the determination of a development application that was made, but not finally determined, before the commencement of this Policy.*

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

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**State Environmental Planning Policy – Major Projects 2005 (gazetted 30 September 2005)**

This SEPP replaced State Significant Development 2005 (above) and given the development application was lodged prior to 30 September 2005 and was not State significant development, as the Policy did not apply, this Policy does not apply.

*Clause 14 Transitional provisions*

- (1) *If, immediately before the commencement of this Policy on 25 May 2005:*
- (a) *a development application in respect of any development had been made but not finally determined, and*
  - (b) *the development was not State significant development, this Policy (as in force on that commencement) does not apply to or in respect of the determination of that development application.*

**Wyong LEP 1991***Clause 10 – Zone objectives and development control table*

The subject site is zoned 2(g) Residential Tourist Zone and the objectives of the zone are:

- “(a) to encourage residential development of various types primarily intended to accommodate tourists and visitors..., and*
- (b) to accommodate other types of development which complement tourist uses, and*
- (c) to ensure that tourist development does not significantly adversely impact on the amenity of residential areas in adjacent zones, and*
- (d) to ensure that the scale and function of tourist development is appropriate in the context of the form of development which might occur in the zone for tourist purposes.”*

The proposal has not satisfactorily addressed objectives (a) (c) and (d), which are discussed later in the report. The contextual fit of the development is one of Council's key concerns with the proposal.

In addition, the retail component forms a significant part of the proposal. The retail premises/use is otherwise prohibited in this zone unless the use is ancillary to tourist accommodation/development. Given the size of the proposed retail use, it appears, this use is much more than being just ancillary and therefore not permissible unless there is a significant reduction in its proposed size ie, floor area.

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

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### *Clause 15 – Development on land containing acid sulphate soils*

The subject site is indicated on the Acid Sulphate Soils Planning Map as being Class 2 and 3 and as the proposal includes a two level basement carpark, the applicant was required to address the requirements of subclause 4, and submitted a preliminary assessment in accordance with the Acid Sulphate Soils Assessment Guidelines. Council's Environmental Protection Officer has reviewed the information and raises no objection; subject to the imposition of a condition (should consent be granted) relating to compliance with the conclusions and recommendations of the Assessment.

### *Clause 19 – Development near lakes, rivers and creeks*

The subject site is located less than 40m from The Entrance Channel and this clause requires consideration of the impact of the development on water quality and quantity, the effects on water supply, detrimental impacts on the watercourse through erosion or sedimentation and whether the development incorporates best practice water sensitive urban design techniques. Concept plans indicate two gross pollutant traps be located downstream of the development, but Council would require modifications to this system to include additional water quality facilities.

### *Clause 23 – Flood prone lands*

The subject site is flood affected, with the majority of the retail area proposed below the 1 in 100 year flood level (2.2mAHD). The application proposes to control flooding from the lake/channel via a landscape levee, along the 10 metre section of The Entrance Road West frontage being set at RL 2.7mAHD. This levee would be required to be continuous across the frontage of the site and divert water into the adjoining public streets at each end. Such a levee, dependent on design, may reduce pedestrian movement in the reserve.

The applicant has also attempted to address the impacts that local flooding/overland flows in Oakland Avenue and Bent Street will have on the development. The documentation and plans originally provided failed to satisfactorily address this issue; however, with appropriate conditions, Council's concerns regarding the inundation of the basement car parks, tourist units and other facilities (child care centre and amusement centre) and the need for evacuation in a flood event could be resolved. The lowering of Bent Street and the impacts upon services and access issues for properties on the opposite side of the street remain unresolved.

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

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*Clause 29 – Services*

The subject site is serviced with water and sewer. The proposed lowering of Bent Street (500 mm) by the applicant's hydrological engineer in an attempt to redirect overland flows, cannot be agreed to at this stage, given no documentation has been received with regard to the services (water and sewer) located within the road reserve, and whether they are able to be relocated.

There is significant infrastructure located within the road reserves with both Energy Australia and Agility (Gas) having objected to the likely impact of the proposed development upon their infrastructure. The applicant has failed to obtain agreements from the service providers with regard to the proposed development and the purchase of The Entrance Road West frontage (10.0m wide) and the designated portion of Oakland Avenue.

*Clause 32 – Development of heritage items*

The subject site contains a listed heritage item of local significance at Lot 2, DP 571197 (western corner of The Entrance Road and Oakland Avenue).

A heritage impact statement was provided with the SEE, prepared by City Plan Heritage dated November 2004. The statement simply refers to the architectural plans, stating that it is proposed to convert the building to a tavern. There will also be adjoining retail development to the south (upper ground level), tavern extension and residences (Level 1), residences (Levels 2 and 3), plus large open balcony (west) and adjoining 'winter garden'.

Council engaged its own heritage consultant to review the proposed development and its impact on the significance and fabric of the heritage item. He concluded that *"this is a very large site and substantial opportunity exists for retention of the building in a meaningful form, with original detail and viable setting."*

Extracts from his assessment are included below:

*Significance:*

*"The site formed the north eastern corner of lands developed in 1903 as Pinehurst Guesthouse by Mr A C Taylor, son of The Entrance pioneer R B Taylor. The guesthouse reflected the low cost seaside aspirations of early tourism at The Entrance. Pinehurst comprised a core building located to the west of the subject building, with 'gunyahs' (essentially sophisticated camping structures) between this core building and the subject building.*



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

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*This analysis is supported by a review of the fabric of the current building which suggests that the lightweight infill in the western side of the building may relate to previous openings to serve provisions to the adjoining 'gunyahs'. As such, much of the significance of the building relates to its context, setting and relationship to the adjoining open space that formed the camping grounds. There is no clear evidence in the application that the proposal will retain sufficient detail or setting of the building for this to be considered an acceptable form of conservation."*

*Impacts of proposed development on the fabric of the building:*

*"The proposed development retains little of the building beyond elements of the principle street façades and a reconstruction, in altered form, of the existing roof profile. This will result in just the external skin of the façade being retained with the conversion of the building resulting in the demolition of the roof, interiors, shopfront windows and awning. The interiors of the building especially are important to the significance and character of the building.*

*Given the proposed excavation underneath the building for basement works (toilets, storerooms and carpark), it is questionable whether the fabric of these façades will survive the demolition/construction phases of the development.*

*To the south of the existing building there is proposed a four storey contemporary building (retail/residential building) abutting the heritage item. The building is not sympathetic and instead seeks to contrast with the heritage item".*

As discussed earlier in the report, a meeting was held on 13 January 2006 between the applicant's consultant, applicant's heritage consultant, Council's heritage consultant and Council staff to discuss the impact.

It was agreed at the meeting that:

- 1 There would be no excavation beneath the heritage item;
- 2 That the main building would be retained (additions to be removed); and
- 3 Further discussions take place with the applicant's architect to resolve what was appropriate with regard to development sympathetic to the heritage item.

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

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Council's Heritage Consultant's assessment of the current plans is enclosed. In conclusion he states *'as the applicant appears to have substantially ignored previous recommendations and not provided alternative options which maintain and enhance the heritage significance of the listed item, the current application is not supported.'* Council concurs with this assessment.

*Clause 42B – Development principles in Zone No 2(g) – The Entrance*

Subclause 1 relates to the building height map, which generally permits a 12 metre building height around the street frontages and a central core height of 24m. A review of the proposed building heights with reference to an incomplete survey plan indicates that the development meets the building height requirement.

In order to achieve compliance with the height restriction the proposal has been detrimentally amended with the floor to ceiling heights reduced from 2.7m to 2.4m. While the restrictive nature of the height is noted, the size of the subject site should be ample in order for the applicant to not have to squeeze units into the designated envelope, in order to achieve a desired density. This reflects Council's position that the proposal is an overdevelopment of the site.

Subclause 8 states: *"The objective of this clause is to facilitate the construction of larger scale buildings on amalgamated land parcels in a form that is consistent with the natural topography of the land, and where it can be demonstrated to the Council's satisfaction that the potential impacts associated with such development would be within acceptable limits."*

The proposal has not satisfactorily addressed subclause 2, in that the proposed development has clear impacts (beyond acceptable limits) upon the existing dwellings in Manning Road and to units within the development.

The proposal has not satisfactorily addressed the requirements within subclause 6 with regard to the overshadowing impact of adjacent residential areas, future neighbourhood character, roof structure and various design matters stated within the related development control plans, issues which are supported by the comments of the SEPP 65 – DRP.

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

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### *Clause 42CA – Setbacks for certain buildings fronting The Entrance Road*

The intent of the profile restriction is to provide guidance on the maximum building line permitted along these road frontages, to ensure that buildings maintain a suitable scale to a pedestrian precinct. Profile D is applicable to the subject site along The Entrance Road West and extends along Oakland Avenue.

Council, in its assessment of the application, raised the issue that the proposed dining/retail area in Oakland Avenue, contravened this clause and that those structures should be removed, as Council has no power to vary the profile, as per subclause 2.

An opinion was sought from Council's legal advisers with regard to the operation of the building profile along Oakland Avenue, as the development envisages that the extent of Oakland Avenue through the site will be closed after the development is determined, recent amendments to the plan have removed this encroachment.

### *Clause 68 – Managed resort facilities – The Entrance*

This clause specifically states that the subject site permits a managed resort, meaning “... an establishment providing for holiday accommodation or recreation and may include permanent accommodation, entertainment facilities, recreation facilities, a boat shed, boat landing facilities, a general store, convention facilities, holiday cabins, a hotel, house boat facilities, a marina, a motel, restaurants, tourist shops ancillary to the establishment or a club used in conjunction with any such facility.”

Additionally, subclause 4 states that Council may consent to the use for permanent residence of up to 75% of the accommodation provided by the managed resort facility. With 254 permanent residential units proposed from the total 509 units, this equates to 49%, well below the stated maximum. However, the application is likely to be staged, with either the eastern or western sites being developed separately. If the western site was developed first, then all the residential units would exceed the stated 75% requirement and the western site could be completed and the eastern site never commenced.

If consent was able to be granted, Council would need to appropriately condition the consent, to ensure that the development complied at all times with the provisions of Clause 68, which may require a condition stating that a certain number of units on the western side be utilised for tourist accommodation in the short term, if that side of the development was developed first, or a similar restrictive covenant. Additionally, any future retail uses would need to demonstrate consistently with this clause to ensure permissibility.

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

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**COUNCIL DCP 2005 AND RELEVANT COUNCIL POLICIES:**

The proposed development is required to comply with the requirements of the following Chapters within Council Development Control Plan 2005 and relevant policies.

**Chapter 14 – Tree Management**

Whilst this Chapter has not been addressed in the submitted Statement of Environmental Effects (SEE), a landscape plan and report have been submitted. The report fails to satisfactorily address existing trees located on-site, including the *melaleucas* along The Entrance Road West frontage that are proposed to be removed.

Council originally raised concerns regarding the potential impacts of the development on the Norfolk Island Pines located both on-site and along the foreshore, especially the potential impact that the excavation works, and changes to the groundwater regime that will result from the development. It is felt that these trees have cultural and iconic significance to The Entrance foreshore and Council needs to be assured that they are able to be maintained and protected both during and after the development of the site. This could be resolved by detailed conditions requiring the maintenance of groundwater conveyance, ongoing monitoring and protection during construction.

**Landscape Policy No L1**

The proposal requires the submission of a Category 3 landscape plan and design report. Both were submitted with the report and plans provided sufficient detail, including proposed planting in reconstituted soil.

The comments of the SEPP 65 – DRP have been addressed in the further submission from the consultant, refuting issues regarding deep soil planting and stating that on-slab planting will be suitable to ensure the long term success of this landscaping. However, the revised information has failed to address the issue of below ground landscaping and the boardwalk barrier to north/south pedestrian traffic.

With regard to the *melaleucas* along the Entrance Road West frontage, the landscape architect has stated "... *there was limited ability to keep the stand intact and to create a vibrant retail frontage at this most westerly portion of the newly activated foreshore.*"

As stated earlier in the report, Council remains concerned about the removal of the *melaleucas* and the long term health of the Norfolk Island Pines on the foreshore.

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

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### **DCP 2005 Chapter 64 – Multiple Dwelling Residential**

The primary urban design controls for development are included in the following table. All the remaining relevant provisions of Chapters 60 and 64 to the proposal are tabulated in Attachment 3.

<b>Aspect</b>	<b>Proposal</b>	<b>Complies</b>
<b>Site and Local Context Analysis</b>	Information submitted is inadequate and does not include an opportunity and constraints analysis. Council does not concur with the contextual analysis that initiated the design.	No
<b>Compatibility with the objectives of the zone</b>	The proposed residential flat building is inconsistent with the objectives of 2(g) zone namely:  (a) Primarily intended a) to encourage residential development of various types primarily intended to accommodate tourists and visitors and not exceeding a height of 3 storeys (except as otherwise provided for in clause 42B), and  (c) <i>to ensure that tourist development does not significantly adversely impact the amenity of residential areas in adjacent zones and</i>  (d) <i>to ensure the scale and function of tourist development is appropriate in the context of the form of development which might occur in the zone for tourist purposes.</i>	No
<b>Building Height</b> 12-24m as indicated on Building Height Map (WLEP)	Site area = 33,824 m <sup>2</sup>  WLEP D Profile: this is exceeded in Oakland Avenue. This provision is not able to be varied by Council.	Yes  No
<b>BUILT FORM</b> Respond sensitively to context in terms of scale, functionality and sustainability.	The scale of development is not consistent with either the objectives of the zone or the surrounding buildings. The internal design of the western site is considered poor with regard to building separation and solar access.	No

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

<b>AMENITY</b>			
<b>Open Space Objectives</b>	To provide residents with both active and passive recreational opportunities	No the majority of the communal open space is traversed with various ramps and walkways, limiting its usability.	No
	To allocate an area on site that enables soft landscaping as well as deep soil planting.	Some areas of deep soil are provided, although little landscaping with significant trees is proposed.	No
	To ensure that communal open space is consolidated, configured and designed to be usable and attractive.	The main consolidated area of communal open space is utilised for the pool, leaving little quality open space that achieves sunlight for recreation.	No
	To provide a pleasant outlook.	Many balconies will achieve reasonable ocean views	Yes
<b>Private Open Space</b>	10m <sup>2</sup> with min. dimension 2.0 m, directly accessible from living areas.	Western site - permanent residential The southern end units on Lakefront (4 floors) and Pinehurst do not meet the requirements.	No
<b>Solar Access</b>			
All units to have minimum three hours between 9.00 am and 3.00 pm mid-winter to 75% of required private open space	There is poor solar access for many of the permanent residential units (33%) and there is extensive overshadowing of the communal open space area from the Wintergarden, Promenade and Pinehurst buildings.		No
<b>Privacy</b>	Due to the lack of separation between buildings, there are numerous instances where there are both visual and acoustic privacy concerns.		No
<b>Acoustic Privacy</b>	Due to the lack of separation between buildings, there are numerous instances where there are acoustic concerns. Additionally, the design and location of the convention centre, directly across the road from residences in Bent Street remains unresolved		No

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

Aspect	Objective	Proposal	Complies
<b>Views</b>			No
Minimise loss of views.	The development presents a wall of buildings blocking the views of both potential and existing development surrounding the site. Many public vistas will be obscured.		No
Public views and vistas retained.			No
<b>Streetscape</b>		Development does not enhance streetscape character, and will dramatically change the sense of place of the locality	No

**DCP 2005 Chapter 60 – The Entrance**

Those issues applicable under Chapter 60, which have not been addressed above are discussed in the following table.

Aspect	Proposal	Complies
<b>Overshadowing</b>	The resort courtyard (eastern side) is below natural ground level and would be overshadowed as would lower level apartments and some south facing units. Although they are not for permanent residential use, they should still experience high amenity.	No
Avoid unreasonable reduction in solar access.		
Required open space is to have a minimum of 3 hours of continuous and unobstructed sunlight.	The communal courtyard (western side) is below natural ground level and would be overshadowed. Many units are either overshadowed by other buildings on-site or are overshadowed by their own building (specifics listed below).	No
	Significant impact to No's 14–26 Manning Road, due to the height and setback of the Brentwood, Poolside and Clifford buildings (specifics listed below)	No
<b>Critical Design Considerations</b> -Intrusiveness of the development? -Compatibility with broader urban context (existing and future) - Human scale	The proposed development does not represent good urban design and does not contribute positively to Council's identified future character.  A number of specific concerns have been raised by the SEPP 65 – DRP in regard to the buildings contextual fit (comments above).  An independent urban designer has reviewed the application and concluded that: <i>The design standard of the development in terms of its massing, open space, connectivity, sense of address and architectural expression is poor.</i>	No
<b>Maritime Design Theme</b>	The proposed development addresses the concept of a Maritime theme	Yes
<b>Pedestrian Access</b>	Minimal links provided along The Entrance Road and no link provided through to the future Manning Road carpark.	No

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

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**DCP 2005 Chapter 69 – Site Controls for Waste Management**

A report has been submitted with the application, as required by the Chapter and addresses the ongoing requirements for the site. The plans indicate a large garbage collection area within the eastern and western components of the site, with all servicing to occur within the basement levels.

Council's Waste Management Co-ordinator is supportive of the proposal; however, the current plans still indicate that the access grades proposed for all service vehicles still do not comply with AS2890.2 and need to be modified prior to the determination of the application. The ramp transitions need to be amended to resolve this issue and this may require amendments to the floor levels of the basement.

**DCP 2005 Major Variations***Solar Access and Amenity*

At the meeting with the applicant in July, negotiations were undertaken regarding the requirements for solar access to the apartments. Council's standard requirements for permanent residential apartments is that 100% of the units receive three hours of direct sunlight to the private open space (balcony) of the unit in mid-winter. In negotiation with the applicant, it was resolved that Council, in order to progress the application, would take the lesser requirements of the Residential Flat Design Code (RFDC) as the benchmark for this development. The RFDC requires only 70% of units to receive the minimum three hours of direct sunlight to their living areas between 9.00 am and 3.00 pm in mid-winter.

The applicant undertook a solar analysis of the permanent residential apartments on the western portion of the site. The diagrams are taken as being accurate, but a review of the analysis undertaken by the consultant has indicated some errors, amending their conclusion that resulted in 168 of 254 units complying = 66.14%. Council's review of the application and the analysis revealed the following errors:

- The applicants review is based on 182 units however the plans detail 181 permanent residential units.
- A detailed review of the tabulated results also revealed discrepancies in the identification of units that received three hours of sun, with some units receiving less than this benchmark being counted as compliant. The affected unit is in the Brentwood building, ground floor unit G.



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

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- A detailed review was then undertaken of the projected vertical shadow elevations. A number of units were then excluded due to insufficient sunlight access to the primary windows of the living space, ie less than 50% of the glass area.

These units were:

Clifford Building:	Ground level Unit B Level 1 Unit B Level 2 Unit B
Poolside Building:	Level 5 Unit B
Brentwood Building:	Ground level Unit B Ground level Unit E Ground level Unit H Level 1 Unit H Level 2 Unit H
Pinehurst Building:	Level 2 Unit F Level 3 Unit F

Once these units are removed, 168 units out of 254 achieve three hours of sunlight (66.14%). This indicates that the applicant has failed to address the agreed benchmark of 70% of permanent residential apartments receiving a minimum of three hours sunlight in mid-winter.

It is also likely that the Lakefront building would experience overshadowing from the adjoining approved building that is finalising construction, however, this was not included in the analysis. This would affect at least a further four units.

The communal open space area for the permanent residential component (western site) will be significantly overshadowed in mid-winter as indicated in the shadow diagrams in the enclosure.

### *Privacy*

The development creates privacy conflicts within the development due to the reduced building separations. These issues have been raised repeatedly by the SEPP 65 panel, the independent urban designer and Council. The applicant has been consistently advised of this concern.

There will be significant safety issues with the arrangement shown including concealment within entry areas, no visual connection from entries to the street and the location of many entry points right next to car park ramps. This does not offer positive amenity or represent good design.

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

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**ECOLOGICALLY SUSTAINABLE PRINCIPLES:**

Ecologically sustainable development can be achieved 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) *intergenerational 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, and*
- (d) *improved valuation, pricing and incentive mechanisms – namely that environmental factors should be included in the valuation of assets and services.*

Principles (a), (b) and (c) are relevant to the assessment of this application.

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

It is Council's view that the proposal represents an overdevelopment of the site in a manner that is not considered to be in the public interest and would set an undesirable precedent for similar development proposals in the locality.

Intergenerational equity requires that Council take into consideration the rights of future generations, by ensuring that the existing quality of the environment is maintain or enhanced by the proposal. It is Council's view that the development proposed is not consistent with this principle as it reduces the landscaped character and visual amenity of the locality and will detrimentally affect the amenity of future residents of the development.

**RELEVANT ISSUES:**

Having regard to Section 79C EP&A Act 1979, it is considered that the following matters require further consideration and are addressed in the following sections:

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

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### **Access, Transport and Traffic**

#### *Duplication of the Entrance Bridge*

The bridge duplication issue still needs to be confirmed with the RTA as the most recent advice received from the RTA in its letter dated 4 November 2005, requested that a 14.590m setback be provided at the southern end, and a 17.3m setback be provided at the northern end. This is contrary to the agreement the applicant claims was given at a meeting held on 10 October 2005 with the RTA. The RTA also requested that provisions for cyclist facilities were to be provided by the developer, separate to the provision of a lift access to connect Wilfred Barrett Drive with the Entrance foreshore to/from the bridge. As discussed previously, this access is not shown on the current plans.

#### *Road Access to the Site*

Council's Engineers have raised the following concerns with the current design:

- The Oakland Avenue/Bent Street intersection needs to be revised. Turning movements need to be defined and assigned priorities. There is also limited separation/storage capacity between the Bent Street intersection and basement carpark entries which may impact on the operation of the carpark and spill over into Bent Street. Critical surface levels in Bent Street to accommodate for 'bending' the overland flow need to be considered when revising options.
- The taxi/mini bus facility located on the western side of Oakland Avenue and in close proximity to the down/up ramp to the western basement carpark needs to be modified to reduce potential conflicts. The facility may need to be relocated elsewhere i.e. to the northern side of Bent Street near the Centre Point entry. However, this may impact on the space set aside for coach parking.
- The car park access on the eastern side of the site from Bent Street should also be made left in/left out as the right turn manoeuvre would not appear viable.

The proposed carparking layouts do not meet the relevant design standards AS2890.1 and AS2890.2 or best practice as follows:

- The access proposed to the western carpark from the roundabout in Oakland Avenue is unacceptable as it does not provide for the class of users or category of development in accordance with AS2890.1 Section 3. There are over 300 parking spaces off this access and wider separate ingress/egresses should be provided to accommodate the higher level of users.

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

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- Queue length provisions and grades on the exit ramps to all carparks appear to be unacceptable. For example, for the truckway egress, a 7m standing area at only 6.25% slope is provided. This is of concern as one car would necessitate a truck/car to wait behind on a 15.4% grade. This is unsatisfactory as a starting grade, for a truck or car. Similarly for the 300+ carpark on the western side there is capacity for only two cars to stand on a flat grade before cars are forced to wait on grades as steep as 20%. It is also unclear what queue length is being provided from the property boundary/roundabout at the Bent Street/Oakland Avenue intersection into the eastern and western basement carparks to ensure traffic does not back up in Oakland Avenue.
- Council has determined that the rates of change of grades on both the truckway ingress and egress ways on the east of the site, and the garbage truck ingress/egress on the west of site still do not meet the maximum rates of change of grades permissible in AS2890.2 T3.2. This was raised previously. Resolving these grade issues will have an impact on the building design to accommodate the flatter grades required over longer distances.
- The location of security grilles at the bottom of steep grades. Grilles are currently proposed at the bottom of steep grades. For the truck ingress, the location of the grille is on a 15.4% grade, and for the private carpark – east on a 20% grade. This is unacceptable in the event that the grille does not open and a truck/car must reverse out. There are also no provisions for a vehicle to bypass a standing truck in the event that a truck must wait for a grille to open.

*Emergency Vehicle Access*

The need to maintain emergency and service vehicle access to The Entrance Road foreshore has been raised with the applicant from the onset, with the applicant previously responding that the comment is noted however the foreshore reserve is not part of the DA site and the design will therefore not be changed. The current plans again do not appear to have been modified to accommodate emergency and service vehicle access to the existing wharf and boat shed, and it appears access along The Entrance Road foreshore area would not be achievable based on the current masterplan.

*Service Vehicle Access*

The applicant has been requested to confirm the service arrangements proposed for the retail and tavern components on the Entrance Foreshore, along with the transfer of garbage within all basement carparks from temporary garbage rooms to central garbage rooms.

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

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The applicant has also previously been instructed that the use of the Entrance Foreshore for access to service components within this development should not be relied upon. All service arrangements need to be confined and provided for within the development boundaries. The applicant's response states that servicing of the tavern component is proposed via the Entrance Foreshore. This access would be across a pedestrian promenade with the potential for conflicts with pedestrians. This is clearly a safety issue and an alternative service arrangement for the tavern should be provided.

The applicant has confirmed that waste will be transferred between temporary garbage and central garbage rooms by small delivery vans or a tractor, which is considered acceptable.

### *Pedestrian and Cyclist Requirements*

The local bus service (Red Bus) has indicated that it will not service the subject site and as such, provision has been made to ensure that there is pedestrian access to The Entrance Road.

From Council's earliest assessment, the applicant has been requested to confirm proposed pedestrian linkages with public transport facilities, The Entrance foreshore, the Entrance Town Centre and the future Manning Street Carpark. The applicant has since responded with the provision of a Pedestrian Linkages Diagram, outlining the main thoroughfares proposed for the development. Generally, linkages proposed included thoroughfares through the development to connect the Oakland Avenue/Bent Street intersection with Picnic Point and The Entrance foreshore, and a main pedestrian link along the proposed new road adjacent to Wilfred Barrett Drive, connecting the Foreshore with other pedestrian linkages to the Town Centre. In previous correspondence, the applicant also stated that thoroughfares through the development would be restricted to between 8.00 am and 10.00 pm only for the public. This is not considered acceptable.

The applicant has failed to demonstrate that a direct pedestrian linkage between the proposed future Manning Street Carpark and the Entrance Foreshore will be provided. The preferred option would be to provide an additional pathway adjacent to 1 Tuggerah Parade, along the western boundary of the development, linking the foreshore area directly with the future Manning Street Carpark. There is an existing 2.0m drainage reserve (Lot 13 DP 23428) in this vicinity and Council would raise no engineering reasons to restrict its use as a pedestrian thoroughfare. The dedication of a further 1.0m (minimum) along the entire western boundary to accommodate a more desirable thoroughfare is recommended.

Bicycle parking facilities have not been provided on any of the plans.

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

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**Public Domain**

As stated earlier in the report, concern is raised with regard to the pedestrian linkages through the site and particularly between the future public carpark in Manning Road and the foreshore. The design of the proposed development also restricts pedestrian traffic along Oakland Avenue, with dining areas and a boardwalk creating a barrier to the lake and channel.

Further to this, it is the developer's intention to close pedestrian links through the resort/retail portion of the development between 10.00 pm and 8.00 am and provide private security. Given this, it is likely that the public carpark would also be restricted between these hours. This will impact on the active use of the foreshore during these times, diminishing the opportunity for locals/tourists to access the recreational/fishing opportunities of the Lake.

**Utilities**

As stated earlier in the report, the applicant has failed to address the concerns that service providers AGL and Energy Australia have with the proposed works. Critical and non-critical infrastructure will be made redundant and would need to be relocated as a result of the development proceeding, as does the dedication of necessary easements not shown on the revised drawings to ensure relocation is possible prior to approval. Both AGL and Energy Australia have objected to the proposed development to date, due to the conflicts with their existing infrastructure.

The applicant has also not provided details on the infrastructure that will be affected by the proposed lowering of Bent Street.

*The location of rainwater tanks below ground* - Rainwater tanks are proposed in basement parking levels well below ground level and the connection point to Tuggerah Lakes. This is not consistent with Council's approach to keep rainwater tanks at a height which permits free discharge to the downstream system. Some rainwater tanks may be able to be relocated to the lower ground floor level; however, space provisions may impact on the building.

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

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*The location of sanitary units below ground* - Similar to above, Council's current policy insists on the provision of sanitary provisions above the invert level of sewer to enable gravity discharge. Council does not accept proposed private pumping stations for this reason. The plans indicate Child Minding and Gymnasium centres at RL-0.900 on the eastern side of the development. Council's assessment indicates that it is unlikely that these sanitary devices could drain to the sewer (invert of the existing sewer is approximately RL1.0 in this vicinity). For the western side, there may be similar concerns with the pool and gym amenities set at RL0.35. In this vicinity, the existing invert of the sewer is approximately RL0.5m, which may lead to the same problem. Sewer may be directed to lower manholes downstream; however, a preliminary investigation has also concluded that this would not be possible. To rectify this issue, the building design would need to be amended to ensure that all sanitary facilities are relocated at a level that enables gravity discharge to Council's sewer.

### **Groundwater**

One of the ongoing issues since Council's initial assessment of this application has been the clarification of what the groundwater impacts may be due to the proposed basement carparking construction stretching across the majority of the site at levels ranging from RL - 3.2m on the west and RL -4.7m on the east. Whilst Council has requested additional studies including three dimensional modelling prior to the determination of the application, this information has not been received. However, Council's Flooding Engineer considers that the applicant's consultants could achieve a reasonable outcome at detail design stage.

With regard to quality of groundwater being dewatered from the basement or pumped from the site during construction, consent conditions would require appropriate testing, licensing and disposal requirements to be adhered to throughout construction and post construction.

Thus groundwater issues are now considered to have been addressed satisfactorily and no further information on these issues is required.

### **Noise and Vibration**

Given the extent of the excavation proposed and the likely ongoing nature of works for many years that would result should the proposed development be approved and built, there are likely noise and vibration impacts. A standard condition of consent would require that dilapidation reports be prepared for all adjoining sites prior to any works commencing.

With regard to noise, Council's Senior Environmental Health Officer has raised the issue that the increased traffic flows in Clifford and Bent Streets warrants the review of the noise impact to the existing residents, as does the operation of the convention centre and its impact on residents opposite in Bent Street.

The noise report provided by the applicant has failed to address these concerns.

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

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**Natural Hazards**

The subject site is flood affected and a comprehensive flood study was prepared by Hyder Consulting for the project. A number of issues were raised with this original report, generally relating to assumptions and modelling discrepancies. Hyder Consulting has responded to the most recent list of issues raised by Council and the presented information is deemed satisfactory subject to the implementation of appropriate consent conditions ensuring that works recommended by Hyder are implemented and a full flood management/evacuation plan be prepared and approved by Council prior to the issue of any Construction Certificate.

**Social Impact in the Locality**

The proposed development will significantly change the immediate locality and irrevocably change the public foreshore interface. While the majority of the site is currently utilised for tourist activities (caravan park, motel, restaurant), the public access via Oakland Avenue and The Entrance Road West, will be altered.

The increased number of permanent and temporary residents will change the area from a quiet lakeside area to a bustling and hopefully vibrant precinct, with the interaction of residential and commercial activities, complementing The Entrance Business District.

An increased population will result in the better utilisation of the existing infrastructure and services within The Entrance locality.

**Economic Impact in the Locality**

The short term benefits relate to construction jobs and longer term will be for those people employed in the resort, retail tenancies and flow on employment into the local community.

The staging of the development, however, will impact on retail supply depending on which component of the development is constructed first. An earlier study of the retail composition of The Entrance indicates that the current retail stocks are approximately 21,787m<sup>2</sup>. This development would add to this stock by up to 3,710m<sup>2</sup>. It is noted that it will also increase demand for retailing by adding up to 254 permanent residential units and 256 tourist units. According to Cordell's, an additional 1,988 dwellings are due for completion in The Entrance in 2008. Assuming that it is averaged at 2.23 persons per permanent household, at the completion of the development this could add up to 4,473 persons in already approved developments and 566 persons within the permanent residential development of this site. There is currently a ratio of square metres of retail space per person of approximately 0.81m<sup>2</sup>/person; following construction of this development the ratio will approximate 0.80m<sup>2</sup>/person. Therefore, the development maintains the current retail supply. The proposed retail area is also consistent with the Regional Retail Strategy which indicates that The Entrance has a retail capacity of 30,000m<sup>2</sup>.



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

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Given that an earlier study estimated the vacancy rate in the current 'strip shopping' area fronting The Entrance Road is at approximately 3.3%. A 2006 survey of The Entrance (Leyshon Consulting) estimated the vacancy rate at 1,190 m<sup>2</sup> (ie 13 premises) or 6%., Council's concern is the possibility that the development will encourage the focus of the town away from the existing shopping strip, potentially increasing the vacancy rate in this location.

### **Suitability of the Site for the Development**

The subject site is suitable for a development of this nature, although some of the physical restrictions still need to be addressed, eg groundwater and flooding. The proposal has excessive excavation, poor design and detrimental impacts from overshadowing, privacy concerns, road alignments and servicing. As such, the proposed development is considered unsuitable for the subject site, that is, it is an overdevelopment of the site.

### **Public Interest**

The application was placed on public exhibition for an extended period from 8 December 2004 to 4 February 2005. A full schedule of the submissions and the issues raised are included in Attachment 3. Council received seventy-five submissions, with the concerns raised listed and discussed below. The application was more recently placed on public exhibition from 29 July 2008 and extended until 30 September 2008. Council received 33 submissions. A full schedule of the submissions and the issues raised under this more recent exhibition period are included in Attachment 2.

- 1 That the proposal involves the sale of public land to a private developer, and reduces public access to the foreshore.**

#### ***Comment***

The proposal does involve the closure of Oakland Avenue from north of the Bent Street intersection and 10m along the frontage of the site, being The Entrance Road West. It should be noted that the remainder of The Entrance Road West (width varies between 5.0 – 10.0m) will remain under Council's control and the proposed public carparks within the development will provide access to the foreshore area. (albeit at a greater distance).

It should be noted that the closure and sale of these roads is subject to a separate process and is being undertaken by Council's Property Section.

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

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- 2 That the Lakefront building does not comply with the setback requirements of Chapter 64, resulting in excessive overshadowing, privacy and amenity problems for adjoining properties.**

***Comment***

The Lakefront building does not comply with the building separation/setback provisions of either the RFDC or Chapter 64. While the overshadowing will dissipate before 12 noon to the western properties, there is excessive overshadowing internally which is also a problem. The setback non-compliances also result in privacy and amenity problems, to both adjoining neighbours and internally.

- 3 That the proposed development and subsequent residents/tourists will create additional rubbish in The Entrance.**

***Comment***

The application has been reviewed with regard to the waste management and found to be satisfactory.

- 4 That the proposed development and subsequent residents/tourists will create higher demands for water and electricity.**

***Comment***

Water demand is considered by Council at a strategic level when lots are zoned for development. The proposed development, if approved, would be subject to significant Section 94 Contributions relating to water and sewer infrastructure works. The provision of electricity is subject to the requirements of Energy Australia, which may also require additional works eg substations to be provided as part of the proposal.

- 5 That the proposed development will result in additional congestion of the local road network.**

***Comment***

The development will obviously result in additional traffic in the local road network, the question is whether the existing network could accommodate the additional traffic with the required works to the road network including the works to the Entrance Bridge. The location of the proposal close to the Oakland Avenue by-pass will mean that vehicles (especially tourists) will tend to utilise the by-pass and not congest the smaller interlocking network of roads in the locality.

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

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- 6 That the subject site is flood affected and therefore the proposal should be refused.**

***Comment***

The subject site is flood affected; however, Council can approve developments subject to adequate controls to prevent flooding of the site and detrimental impacts on adjoining properties.

- 7 That the proposed development is an overdevelopment of the site with inadequate building separation and set backs and is too high, bulky and exceeds the height limits. The proposal has poor aesthetics and an unreasonable impact on the character of The Entrance.**

***Comment***

As stated above in the assessment of the application, the proposed development does comply with the height restrictions of the subject site, although the proposed bulk and height of the development along with the poor building separation and reduced setbacks have been issues raised by the DRP and an independent urban design firm.

- 8 That the proposal has insufficient landscape/common areas compared to the increased density.**

***Comment***

The proposed development does have numerically sufficient landscaping/communal open space as stated above in the report, but these areas are provided below natural ground level and deemed to be of a poor quality.

- 9 That the proposed development will overshadow properties in Manning Road.**

***Comment***

The properties in Manning Road are overshadowed by the proposed development as stated above in the report, specifically Numbers 14-26 Manning Road.

It should be noted that a majority of these properties are zoned 5(a) Carpark and in accordance with Clause 44A of Wyong LEP 1991, are to be purchased. Council currently owns four of the 11 properties and while the use of these properties may change in the future, the impact on these residences remains an important consideration with regard to this application.

Furthermore, should the site be developed in a similar manner to the Coral Street Carpark (ie with residential apartments atop the carpark), then any overshadowing from the proposed development would remain a factor.

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

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- 10 That the 'Clifford Park' building will result in a loss of privacy for residents in Manning Road, due to the orientation of balconies.**

***Comment***

The design has been amended to orient much of the living areas and balconies of these units away from this boundary. The setback has also been increased.

- 11 That the proposed development will result in the removal of many significant trees and the destruction of the natural character of the area.**

***Comment***

As stated above, the *melaleucas* (Paperbarks) fronting The Entrance Road West are proposed to be removed. The extensive excavation of the site will result in the loss of many trees, though the Norfolk Island Pines in the south-western corner of the western site are proposed to be retained.

- 12 That the proposed basement carparks (and related access points) will generate noise and pollution, and reduce the amenity of adjoining residents.**

***Comment***

The proposed basement carparks are located below ground and as such, should not pose any problems with regard to noise and pollution, with the exception of those properties in Clifford Street, which will experience a significant increase in traffic movements. It should be noted that because of the below natural ground level of the centrally located communal areas, this will naturally ventilate parts of the first level of basement carparking.

- 13 That the proposed development will be staged once approved, with the western site to be constructed first.**

***Comment***

Should the application be approved, Council is likely to include conditions of consent that would require the provision of communal services as the western site was developed. Additionally, as Clause 68 of Wyong LEP 1991 only permits permanent residential units to represent 75% of the total accommodation provided on-site, conditions of consent will restrict the amount of permanent residential development that can occur, thereby ensuring that the predominantly residential western site is not all that is built.

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

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- 14 That the closure of The Entrance Road West will restrict access to the wharf from which Lake Cruises operates, affecting the servicing and operation of the business.**

***Comment***

The closure of The Entrance Road is subject to a different statutory process but it is proposed in conjunction with this development.

- 15 That the slip road to be provided is not of the same standard as Oakland Avenue, can't accommodate tourist coaches, has no on-street parking, has no footpaths on either side and hasn't made provision for the future widening of the bridge.**

***Comment***

These matters have all been assessed by Council's Engineering staff, the Regional Development Committee and the RTA and the slip road will provide a footpath to one side, on-street parking one side and has accommodated the duplication for The Entrance Bridge. The servicing of The Entrance Hotel and boat hire business will be maintained via the slip road.

- 16 That the proposed development has insufficient parking and removes on street parking that is both convenient and available 24 hours.**

***Comment***

The proposed parking exceeds the requirements of Chapter 61 as stated above. Although it is noted that the parking will be less convenient, there will be more spaces provided for visitors and residents of The Entrance than are currently available on the street.

- 17 That the proposed basement carpark is inefficient and confusing, and that the loading facilities are inadequate. There is limited access for emergency vehicles, garbage trucks and tourist coaches.**

***Comment***

These concerns have been noted and aspects of the design have not been amended to satisfactory address these concerns.

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

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- 18 Economic viability and justification for the development given the unsold units and vacant shops in the vicinity of the site.**

***Comment***

Concerns have been raised regarding the level of future demand that will exist for units in the development given the existence of currently unoccupied units.

- 19 Poor environmental sustainability for the development. Development has a high reliance on non renewable electricity and has not considered climate change.**

***Comment***

This concern has also been raised by the DRP.

- 20 Inadequate security and management measures to reduce opportunities for criminal and anti social behaviour.**

***Comment***

A greater level of detail in the design may be warranted to address this issue, particularly in consideration of additional licensed activities and the overall legibility of the development design and layout.

- 21 That the information provided with the application with regard to the proposed tavern is insufficient for any consent to be granted.**

***Comment***

From the above report, it is clear that the heritage report is deficient and as such, this alone would form a reason for refusal. Other issues such as servicing and waste disposal also need to be addressed, although it would appear that these could be accommodated within the design before Council. As with the retail components of the development, Council would request a separate development application to be submitted for the use of the existing building as a tavern at a later date and proceed to assess and determine that application.

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

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### **CONCLUSION**

The proposed development for a *Managed resort facility* on the subject site cannot be supported in its current form, due to the applicant's failure to resolve a number of essential issues.

However the most significant design problems associated with the development proposal is the failure to resolve the overdevelopment of the western side (permanent residential), resulting in bulk and scale issues, poor solar access, reduced building separation (noise and privacy problems), communal area predominantly below natural ground level the aesthetically undesirable presentation of the development given its offshore position and high visibility as a gateway site within The Entrance.

There are also numerous non-compliances with various planning instruments, such as: SEPP 11; SEPP 65; Wyong LEP 1991 ,Development Control Plan 2005 Chapter 60 (overshadowing, pedestrian links); Chapter 61 (parking, manoeuvring); and Chapter 64 (solar access, communal open space, setbacks, privacy, noise generation). As such, Council is unable to support the application in its current form.

<b><i>Attachment 1</i></b>	<b><i>Locality Plan (1 page)</i></b>
<b><i>Attachment 2</i></b>	<b><i>Table of Submissions July 2008-September 2008 (8 pages)</i></b>
<b><i>Attachment 3</i></b>	<b><i>Table of Submissions December 2004-February 2005 (9 pages)</i></b>
<b><i>Attachment 4</i></b>	<b><i>Extracts from Compliance tables (35 pages)</i></b>
<b><i>Enclosures</i></b>	<b><i>Urban Design Advice - GM Urban Design and Architecture Heritage Advice – Colin Brady Architecture and Planning Development plans</i></b>

**Proposed Managed Resort and Residential Development, The Entrance Road West, The Entrance (Attachment 2)****Table of Submissions – DA/2660/2008 July 2008 – September 2008**

<i>Doc No.</i>	<i>Issues</i>
D01242921	<p>Proposal is an overdevelopment with inadequate setbacks and building separation. Objection to western side setback impacts to adjoining property (1m –retail level, 0.5m- Level 1 balcony, 1-2m Levels 2 and 3). Insufficient plan details for setback dimension. Inconsistent requirements – as approval for adjoining development, DCP Chapter 64 and SEPP 65 all require provision greater setbacks and building separation distances than proposed.</p> <p>Amenity impacts (overshadowing, privacy loss, minimal landscaping)</p>
D01259794	<p>Population and demand for new units is static due to lack of jobs, public transport, geographical and infrastructure limitations on growth, hence, the demand and justification for this development is questioned.</p>
D01258988	<p>Concern with closure of northern end Oakland Avenue and western end The Entrance Road. Loss of on street parking and ready access to foreshore, boat ramp, Fisherman's Wharf, Bottle Shop and hotel and existing end of mall. Costly to relate existing underground electricity cables from road. Basement parking will likely not be available 24 hours like the existing on street parking. Future replacement of The Entrance Bridge will be difficult with road closure. Increased traffic congestion relating the cumulative developments proposed within The Entrance.</p>
D01262864	<p>Poor environmental sustainability – development has high reliance on non renewable electricity; no alternative energy proposed (eg solar, gas); sea level rise and climate change not considered (eg. in design of basement parking); Precautionary principle not considered; excavation required for development will require thousands of heavy vehicles movements to export fill off site.</p> <p>Economic viability – Many unsold units (about 1/3) and vacant shops (about 28) already in the vicinity of site, no direct economic benefits to local community (during construction not use local suppliers and not provide local jobs); Built capacity retail floor space would be double that Council's adopted retail strategy.</p> <p>Social/community – development could revitalise town but closure of 2 streets means reduced public access to foreshore, existing traffic congestion along The Entrance Road worsened (1300 new parking spaces), cumulative impacts of development in the area (Magenta, Lakeside Plaza and Part 3A 'key site'; Need RTA agreement to widen bridge to 4 lanes. Closing Oakland Avenue would reduce potential for second bridge across the lake. Proposal does not include good planning to reduce car dependence; Height of buildings excessive (26 metre high wall of buildings for almost length of foreshore – excessively bulky and unattractive entry to the Entrance Road. Loss of foreshore access and on street parking.</p>



**Proposed Managed Resort and Residential Development, The Entrance Road West, The Entrance (Attachment 2) (contd)**

<i>Doc No</i>	<i>Issues</i>
D01245540	Development sets a precedent. In consistency in consideration of what is a satisfactory proposal.
D1258799	<p>Contrary to public interest. Inadequate security and management measures to reduce the opportunities for crime, anti social behaviour and to mitigate likely adverse social impacts. Already sufficient licensed premises in the vicinity of development to service the needs of local community.</p> <p>Traffic and parking. Insufficient parking provided for the uses proposed and a reduction in existing car parking opportunities. Proposal based on out of date and unreliable traffic data (5 years ago). Proposal fails to consider long term alternative traffic options and results in an unreasonable concentration of traffic on Oakland Road and Bent Street.</p>
D01257747	<p>Permanent road closures will deprive a lot of seniors of the existing ability to drive to view the foreshore by car for a short or long stay and to use the wharf including the loss of on street parking. Under no circumstances should public land (roads) be given to a developer particularly when results in adverse amenity impacts to residents and ratepayers.</p> <p>No consideration of climate change and the increased flooding risk of basement car park.</p> <p>Development is of immense proportions out of scale with existing CBD destroying the existing character of The Entrance.</p>
D01251548	<p>Strongly opposed to road closure. Little consideration of loss of direct access to foreshore for local fishermen, families, the aged and disabled. These groups are the mainstay for businesses during the lean off season months and have problems using underground parking with escalators/elevators. Clarification is sought regarding the terms of the transfer of land (wholly private or public access allowed?); the likelihood of parking fees and time limits being imposed for parking?; Was the transferred road previously donated by a private individual (Taylor?) for community purposes only?; What has Council done to identify potential traffic issues in absence of RTA traffic study plan?.</p> <p>The proposed new entry road onto The Entrance Road west will conflict with Bridge traffic, the Coral Street carpark exit, and the entry to the proposed hotel redevelopment off Wilfred Barrett Drive.</p> <p>The proposal changes a vital part of The Entrance tourist attraction...its fishing and boating and accessibility to the waterfront.</p> <p>Wyong families and residents and day trippers are the mainstay of The Entrance tourist industry and come all year round. Concern that lack of recognition of this will create a negative experience for The Entrance in the case of this development.</p>

**Proposed Managed Resort and Residential Development, The Entrance Road West, The Entrance (Attachment 2) (contd)**

Doc No.	Issues
D01251652	<p>No consideration of climate change in the design. No adequate consideration of sustainability (high electricity demand but no provision for solar panels). Insufficient provision of large trees.</p> <p>Underground parking will require the regular use of pumps.</p> <p>Road closures will disadvantage the elderly and disabled in regard to fishing along the lake wall during winter months.</p> <p>Why is there no green star rating or equivalent for the proposal that those responsible developers are all currently applying for to ensure their developments are environmentally responsible?</p>
D01237634	<p>Does the proposal comply with and satisfy the planning principle applying to development at the zone interface (Seaside Property Development)?</p>
D01234553	<p>Overdevelopment of existing low density site.</p> <p>Natural area already over stressed. Water quality of lake deteriorating and channel silted up and stormwater from proposal will worsen this situation. Proposal contravenes Council's controls. Nine storey height inappropriate and not supported. Insufficient parking, open space, pollution controls.</p> <p>Loss of amenity to residents and visitors from increased activity, light, noise in a currently quiet location.</p> <p>Aesthetics of development are terrible and out of character. Destruction of the natural character of this area by over commercialisation. DA does not offset the increased problems it will cause. Bad and ugly precedent will degrade and devalue the unique lake foreshore area making it inaccessible.</p>
D01234549	<p>Overdevelopment of this overstrained natural area. Adverse impacts of development on lake are already evident and this proposal will worsen.</p> <p>Loss of amenity and increased costs for residents and visitors. Insufficient parking, open space, pollution controls, bad aesthetics, non compliance with Council's controls, and irretrievably destroying the naturalness of area.</p> <p>The increased impacts of the development will be borne by the community (policing, traffic control, noise/water/light pollution, and waste control). Bad precedent destroying the free enjoyment of this area by over development.</p>
D01234023	<p>Proposal will degrade the appearance of the waterfront. This pristine location at lakes edge demands that the buildings be of a more superior and glamorous appearance than those proposed. Concern with road closures and loss of public access.</p>

**Proposed Managed Resort and Residential Development, The Entrance Road West, The Entrance (Attachment 2) (contd)**

<i>Doc No</i>	<i>Issues</i>
D01232860	<p>Concern road closure and loss of public use of this area currently used for family and recreational pursuits would change the nature of the use of area. Transfer of the public domain into private hands and the effective privatisation of waterfront land is unacceptable.</p> <p>Isolation of boatshed and lack of access for their heavy equipment. Lack of vehicular access of public moorings along the waterfront would require boat owners to carry motors and other gear a long distance to access their boats.</p> <p>The scale of development excessive and uncharacteristic for area and cannot be supported.</p>
D01236933	<p>Lack of vehicular access required to our business 'The Entrance Boathouse' including access for deliveries, trailer boats requiring Waterways inspections, Council trucks and dredge personnel who use our wharf facilities free of charge, emergency vehicles, elderly and disabled clients, parents with prams, tourists with eskies, rods, tackle boxes and nets. The location of the boatshed is not shown correctly on the plans.</p>
D01231138	<p>The inclusion of a tavern with gaming machines within the resort complex is inconsistent with Government and Industry Regulator guidelines and focus and not in the best interest of the community.</p>
D011231050	<p>Objection to land alienation as it diminishes recreational use of popular public owned area. Readily available parking would need to use inconvenient underground car park thereby reducing the public amenity of the area. Inadequate justification for giving away public land to private developers. Question the legal status of the alienated land –to be leased or sold and what obligations does not the developer need to meet? No finer details provided and the devil is in the detail. It is infinitely better for Wyong residents to retain all the land under Council's control. Loss of public land in this manner is contrary to the majority of residents opinion. DA is out of touch with the public and the reality of why people love The Entrance. Unfair process as only few people ever object even though contrary to public good. Poll of ratepayers would clearly show lack of support.</p>
D01229311	<p>Objection to more retail shops when so many are vacant (know of 18). Council need to promote and advertise the area if demand is to grow.</p>
D01229295	<p>Objection to proposed road closure. Long term residents and tourists should be considered above the developer.</p> <p>Does height of development contravene State Governments height restrictions of 8 stories for land fronting lake or ocean? Objection to any more hotels.</p> <p>Development too intrusive and large.</p> <p>Waterfront land should be reserved as community land rather than lost to developers.</p>
D01227154	<p>Uncertain whether demand exists for residential units.</p> <p>Objection to any more taverns or hotels as too many already exist in area.</p> <p>Inadequate existing roads will worsen.</p> <p>Objection to building height and its visual impact and the loss of the existing village atmosphere.</p>

**Proposed Managed Resort and Residential Development, The Entrance Road West, The Entrance (Attachment 2) (contd)**

<i>Doc No</i>	<i>Issues</i>
D01225453	<p>Site should accommodate a development that is community beneficial rather than only commercially beneficial. Too many units and shops have been developed and are unoccupied.</p> <p>Impacts of flooding not considered.</p> <p>Development needs to enhance the area. Any high rise should be limited to old WSC and El Lago site only. Oakland Road should be kept open for a future bridge.</p>
D01224607	<p>Proposal has varied little from 2005 and remains an overdevelopment and is contrary to the desired future character for The Entrance. The proposal will permanently change the character of the area.</p> <p>Infrastructure facilities already stretched. Burden on water supplies will worsen with development. The development will worsen traffic congestion in the area given the lack of public transport servicing The Entrance.</p>
D01223975	<p>Objection to height. Development contradicts the belief of the closer to water, the lower the height required to ensure view sharing. Does the zoning allow this height and does the FSR comply?</p> <p>Development contrary to streetscape character and results in excessive overshadowing impacts and lack of on street parking.</p> <p>Street closures – how can the developer purchase and close public owned roads?</p>
D01219328	<p>Objection to road closures as this public motorist access is well used by people fishing and boating and selling it off to developers is contrary to public rights to use the area. No significant amendment to proposal so the previously raised issues in 2005 still stand.</p>
D01218856	<p>Objection to proposed tavern. No details of the type of license. Tavern not dealt with a licence type under new casino liquor and gaming control authority. No community impact statement included as required under the new liquor guidelines and no issues addressed under new liquor reforms.</p>

**Proposed Managed Resort and Residential Development, The Entrance Road West, The Entrance (Attachment 2) (contd)**

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<i><b>Doc No</b></i>	<i><b>Issues</b></i>
D01219209	<p>Department of Primary industries (DPI) concern that any increased stormwater discharges from site may significantly impact on sea grass beds in the vicinity of discharge points (by scouring, sedimentation and freshwater inundation). Council should ensure that any new discharge points should be design to reduce these impacts. The potential impacts of acid water during construction could also potentially impact on the estuary. DPI recommends that the ASS management plan stipulates zero discharge of water below pH7 from the site during construction.</p>
D01218658	<p>Why is the development not a Part 3A proposal to be considered by the Department of Planning? Unresolved matters from earlier proposal include road closures, road access through El Lago site for access to hotel, underground car park, staging of development, public access to waterfront, accessibility of recreational entertainment by non resort guests.</p> <p>Insufficient consideration of environmental sustainability given the scale of the development (no Greenstar rating or Australian Building Greenhouse Rating ABGR). Request public forums for the development proposal to obtain community feedback.</p>
D01217123	<p>Inadequate information and unresolved issues regarding the proposal. Concern regarding increased traffic generation, adequacy of roads and design of any bridge extension.</p> <p>Council need to ensure 24 hour pedestrian access to, in, around and along foreshore (including through development). Need clearer delineation of public/private areas.</p> <p>Staging of construction and concern that half the site will remain a waste land in limbo until funds available. Underground car park need to be wholly complete prior to construction of any towers. Also concern with timing/ staging of road closures and any road works.</p> <p>Limited access to/with the development for emergency vehicles and garbage trucks, tourist coaches.</p> <p>No evidence to demonstrate how the proposal reduces it's carbon footprint in the building design.</p> <p>Building height shows little imagination and need to be site specific. Low versus high rise debate.</p> <p>Poor aesthetics in the building design result in unreasonable visual impacts (ie wall of buildings viewed from north side of lake)</p>

**Proposed Managed Resort and Residential Development, The Entrance Road West, The Entrance (Attachment 2) (contd)**

<b><i>Doc No</i></b>	<b><i>Issues</i></b>
D01212052	Issue of flooding and climate change not addressed. No demonstrated demand for additional residential units or new shops where so many are currently vacant. Tourists perception of The Entrance needs to be of a thriving community not appearing half deserted due to the overdevelopment.
D01213468	Objection to use of existing cul-de-sac (Clifford Street) to access 500 parking spaces in underground car park. Need to find an alternative access arrangement (eg. opposite Bent street). Increased noise and fumes from vehicular traffic for existing residents. Increased pedestrian activity and on street parking along Clifford Street. Inadequate parking provision (need around 3000 spaces) Flood impacts underestimated, will restrict exits for the development. Reduction in property values for Clifford Street residents. Infrastructure already overburdened and needs upgrading (water, electricity, sewerage, roads). Increased pollution impacts
D01213314	Petition objection
D01234697	Objection to proposed road closures. Removing easy access of waterfront land particularly for the elderly and disabled. Visual impact of the residential buildings will detract from area and create eyesores.  Environmental impact on the area not adequately considered.  Inadequate energy infrastructure for existing development let alone proposed.  High number of unoccupied units already – question justification for the development when there is little demand. Public views of the lake are being lost by high rise buildings. The development will detract from the scenic appearance of the area.  Reduction in property values due to impacts from high rise.  The development should have water conservation measures included. Roads need to be upgraded and public transport to the area improved. There is a lack of planning for the increased population and impacts (privacy, shadowing) and an overabundance of units with inferior workmanship.

**Proposed Managed Resort and Residential Development, The Entrance Road West, The Entrance (Attachment 2) (contd)**

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<b><i>Doc No</i></b>	<b><i>Issues</i></b>
D01275476	<p>Objection to road closure. The Entrance Road provides vital parking for fishing, boat hire and Fisherman's Wharf. Oakland Road provides the main access road for Fisherman's Wharf, the lakefront, boat ramp and the hotel and bottle shop.</p> <p>Main electricity supply cables (recently upgraded) will need to be relocated at high cost and difficulty. Underground parking unlikely to be available 24 hours a day and so are not the same as replacing on street parking.</p> <p>The Entrance Bridge will need to be replaced or duplicated at some time in the future and the road closure of part of Oakland Avenue would make this extremely difficult.</p> <p>Cumulative impact of this development and others- Council should enter into consultation RTA and residents regarding upgrading works to bridge.</p>

**Proposed Managed Resort and Residential Development, The Entrance Road West, The Entrance (Attachment 3)****Table of Submissions – December 2004 – February 2005**

<b>Doc No</b>	<b>Issue</b>
D00106062	Closure of Oakland Avenue unacceptable. This development will generate another 1352 extra vehicles. How will this impact on local traffic network? 500 Apartments - how can you approve this development in light of water crisis?
D00107601	Road Closures - Effect on residents Selling off Foreshores to greedy Developers
D00111599	Overdevelopment of the site; Impact on the character of the area; Impact on current infrastructure; Current water shortage - impacts; Motor vehicle movements - impact on local road network; Carparking for construction workers.
D00107601	Road Closures - Effect on residents Selling off Foreshores to greedy Developers
D00111599	Overdevelopment of the site; Impact on the character of the area; Impact on current infrastructure; Current water shortage - impacts;
D00112295	Road Closures; Proposal to replace lost parking along The Entrance Road; Monetary contributions for future parking not acceptable compromise; Proposed substitute access road inadequate to allow for existing vehicular movements along The Entrance Road to and from the western extremity of The Entrance Mall; Safety Concerns - Access to Bent Street from Wilfred Barrett Dr, should be closed and Bent Street and Oakland Avenue upgraded to handle traffic flow to the resort, lakefront, The Entrance Hotel, The Mall that will never impact upon the unrestricted access of emergency vehicles; Lack of internal access roads for emergency vehicles within the development; No nominated proposal for service vehicles access roads to cafes, function centre, tavern etc; Vehicle access to Bent Street should be banned. Vehicle access to the development via Oakland Avenue will alleviate traffic conflict between resort and local vehicular traffic; Vehicle access to the development via Clifford Street should be banned to maintain some sense of residentiality for the area outside of the proposed resort; All 'new' buildings should have 5 m landscape buffer to separate development from surrounding residential neighbourhood; Size and scope of proposed landscaping appears very lacking for a development of this size; No landscaping indicated on the western, Southern and eastern boundaries; Proposed speed humps, pedestrian crossings at Oakland Avenue/Bent Street intersection is not compatible with the anticipated traffic flow.



**Proposed Managed Resort and Residential Development, The Entrance Road West, The Entrance (Attachment 3) (contd)**

<b>Doc No</b>	<b>Issue</b>
D00160161	Road closures; Access to Foreshore effected for nearby residents; Traffic congestion at holiday times.
D00160168	Access to Foreshore; Road sale to Developers
D00173933	Road sale to Developers; Road Closures.
D00174865	Road Closures; Access to foreshores severely effected
D00114891	Overall height and scale of the proposed buildings too high, keep to 6 storeys;
D00160161	Road closures; Access to Foreshore effected for nearby residents; Traffic congestion at holiday times.
D00160168	Access to Foreshore; Road sale to Developers
D00173933	Road sale to Developers; Road Closures.
D00174865	Road Closures; Access to foreshores severely effected
D00114891	Overall height and scale of the proposed buildings too high, keep to 6 storeys;
D00114996	Size of the facility - should be in keeping with surrounding areas; Occupancy - The number of proposed residential and resort apartments are too high for the area. The site itself, the surrounding support and density of people are not in keeping with the nature and facility offered in the area. Traffic Density - total occupancy and proposed car spaces will abate serious congestion and danger for the surrounding area.' Additional area - Contribution. The developer should contribute to additional lifestyle and activity centres and attractions in the area, especially in the age groups of 8-16 yrs old. Conference Centres - no indication of size of attendees, could impact on parking and traffic, should be limited to 50.
D00115208	Impact on noise with regard to extra traffic, congestion on the bridge. Existing area used for walkers, foreshore activities, cutting off access will severely impact. Additional area - Contribution. The developer should contribute to additional lifestyle and activity centres and attractions in the area, especially in the age groups of 8-16 yrs old. Conference Centres - no indication of size of attendees, could impact on parking and traffic, should be limited to 50.

**Proposed Managed Resort and Residential Development, The Entrance Road West, The Entrance (Attachment 3) (contd)**

<b>Doc No</b>	<b>Issue</b>
D00115208	Impact on noise with regard to extra traffic, congestion on the bridge. Existing area used for walkers, foreshore activities, cutting off access will severely impact.
D00114996	Size of the facility – should be in keeping with surrounding areas; Occupancy – The number of proposed residential and resort apartments are too high for the area. The site itself, the surrounding support and density of people are not in keeping with the nature and facility offered in the area. Traffic Density – total occupancy and proposed car spaces will abate serious congestion and danger for the surrounding area.' Additional area – Contribution. The developer should contribute to additional lifestyle and activity centres and attractions in the area, especially in the age groups of 8-16 yrs old. Conference Centres – no indication of size of attendees, could impact on parking and traffic, should be limited to 50.
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D00115208	Impact on noise with regard to extra traffic, congestion on the bridge. Existing area used for walkers, foreshore activities, cutting off access will severely impact.
D00115881	Object to the size of the development in respect to the no of units. Is there a demand for more units in this area? Water shortage – will a development of this size cope? Roads are overcrowded now, what impacts? Population – where will people come from to fill these units?
<b>D00116063</b>	Road Closures – impact on fisherman; Isolation of boat shed for those wishing to hire boats would be required to carry equipment a significant distance from cars to the boats; Lack of access to private moorings along the water front. Scale of proposal is not in keeping with the surrounding area.

**Proposed Managed Resort and Residential Development, The Entrance Road West, The Entrance (Attachment 3) (contd)**

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<b>Doc No</b>	<b>Issue</b>
D00116405	Height of the building, keep to 6 storeys only; Were not notified directly of the proposal, I am a ratepayer, why can't Council notify me direct and not go through Strata Plan.
D00116445	Height of the building, keep to 6 storeys only; Were not notified directly of the proposal, I am a ratepayer, why can't Council notify me direct and not go through Strata Plan.
D00116713 Petition	Letter stating that the same petition lodged against DA 3239/2004 should be lodged against this DA.
D00117506	Area already over developed with high rise, we do not need this one. Services greatly impacted on Closures of roads Bulk and scale of the development - unacceptable Parking proposed totally inadequate for a development of this size.
D00118008	Height of proposal - too high Not notified, Strata plan does not notify me Notification - not enough time, bad time as people are away on holidays.
D00118084	Why are owners of units not notified? 9 storeys - too high Major traffic issues, How can you approve without traffic study. Council only concerned with money revenue.
D00118102	Should not exceed height limit of 6 storeys; Not notified of the proposal – Why
D00118408	Was not notified; Over the top development, serious percussions on the well being of residents Exceed the six storeys in height
D00118416	Was not notified 9 storeys too high.
D00118670	Overall height of the development too high Not notified direct
D00119606	Car park entrance/exit to the western section for vehicular traffic via Clifford Street 500 spaces - impacts Currently houses in Clifford Street are built close to roadway, - impact on this. Pedestrian traffic increase in Clifford S near out home. Parking - where will people par their 2nd car? Flood impacts

**Proposed Managed Resort and Residential Development, The Entrance Road West, The Entrance (Attachment 3) (contd)**

<b>Doc No</b>	<b>Issue</b>
D00120252	Height of development Setbacks to The Entrance Road non complying with DCP 60 Scale of Development Impact on residents in surrounding area eg overshadowing, traffic noise etc. Road closures
D00120285	Overdevelopment of the site; Not in keeping with surrounding area; Citigate Sebel will appear to be boxed in around high rise development. Not informed about DA - why does Council not inform directly unit holders? 6 storey limit, not 9 storeys.
D00120287 Dept Primary Industries	Stormwater discharges from the site. Significant impact on sea grass beds; Acid water during construction phase also has the potential to cause impact on the estuary.
D00120763	Overall height and bulk of building 9 storeys too high. Not notified. Advertised during holiday period, not enough time for people to respond.
D00120874	Overall height of the development; Not notified; 6 storeys would be better than 9 storeys.
D00121505	Road closures Sale of public road way to Developers Impact on not accessing foreshore especially residents that own boats Water shortage, how will development deal with water restrictions?
D00121920	Development much too large for the area. This development will spoil the village atmosphere of the area. Pollution to the Channel Impacts on infrastructure Not exhibited at Tuggerah Library on 15/1/05 why?
D00122115	Height - out of scale for area Bulk of proposed development; Loss of views Overshadowing to our property Should only be 6 storeys.
D00122365	Closures of roads which will alienate this area from public use. Bulk of development Its unimaginative style Lack of landscaping Overshadowing of adjoining properties

**Proposed Managed Resort and Residential Development, The Entrance Road West, The Entrance (Attachment 3) (contd)**

<b>Doc No</b>	<b>Issue</b>
D00122115	Height - out of scale for area Bulk of proposed development; Loss of views Overshadowing to our property Should only be 6 storeys.
D00122365	Closures of roads which will alienate this area from public use. Bulk of development Its unimaginative style Lack of landscaping Overshadowing of adjoining properties lack of car parking Occupancy of the units.
D00122568	Height of the building Bulk and scale of development – out of context Overshadowing impacts on neighbouring properties Keep up to 6 storeys only.
D00122588	Closure of roads Lack of public parking when closures happen, where will the public park? Social and Economic Impact Statement – deficient in information. Deferral of road closures – how can this happen before DA approved? No architectural merit for the units.
D00122674	Arrange for Council to have a public meeting, but still waiting. Public access will be severely impacted Public land being sold to private developers for leased for long terms. Clear of access to the water front in The Entrance Road must be opposed.
D00122687	Closures of the roads Sale of public road way to Developers Impacts on fishing along foreshore Impact on young families that come here for a holiday
D00122703	Concern for public amenity in relation to road closures. Swimming feature is to be fresh water not sea water? Traffic impacts
D00123071	No extra facilities have been provided for all proposed extra people and visitors except for them to go to eat at an expensive restaurant. The Entrance natural built environment is struggling Bulk of the development FSR does not comply Light reflection and pollution fro roof material Small living areas will result in roof tops being used, thus creating noise Will set a precedent in the area. Negative impact on residential amenity. Lack of carparking manoeuvring space Stormwater impacts not resolved strain on services Plans submitted to Council can't understand them, lack of detail.

**Proposed Managed Resort and Residential Development, The Entrance Road West, The Entrance (Attachment 3) (contd)**

<b>Doc No</b>	<b>Issue</b>
D00123589	Road closures No easy access to foreshore Not enough public parking Impact on services, especially traffic Water shortage
D00123609	Height, too big Breezes, wind flows affected
D00123716	Impact on traffic for residents in Clifford Street traffic impacts Relocate Council car park from Manning Road to Development entrance Safety - Traffic impacts
D00123911	The development being assessed even though The Entrance Strategy not completed. No research on truck and traffic movements to be used, dumping of waste and building materials while construction underway. Height – consider SEPP 65 comments Commence building from western side where residential component is proposed so tourist activities will not be built for some time Overshadowing of proposed Council carpark to neighbouring properties. Overshadowing, loss of privacy for the residents in local area Removal of trees adjoining residences along Manning Road. Council to call a public meeting to discuss development – needs to be organised.
D00124068	Height of building keep to 6 storeys Demand – is there a need of have
D00124212	Not in context with surrounding area. Overshadowing of dwellings Closures of roads , impact on local fishing Who is going to fill the 500 units?
D00124216	Closure of roads Extending the property boundary to The Entrance Road Traffic congestion Lack of public car parking Height
D00124221	Closure of roads Public roadway – do not sell to greedy developer Traffic impacts Access to the foreshore for elderly residents Height and bulk – too big Advertising time should be extended
D00124284	No sale of public land to developers for this site. Traffic impacts – road closures Social impacts on residents of the area.

**Proposed Managed Resort and Residential Development, The Entrance Road West, The Entrance (Attachment 3) (contd)**

<b>Doc No</b>	<b>Issue</b>
D00124299	Height of the development Wind breezes, flows severely impacted Traffic issues
D00124544	Closure of roads Public roadway – do not sell to greedy developer
D00124557	Height of buildings Services – impact on roads, water, electricity etc.
D00125002	Closure of roads Deprive residents of their pleasures
D00125064	Closure of roads Public roadway - do not sell to greedy developer
D00125268	Road closures Scale of development - too large Demand for these units - who will fill them?
D00125193	Closure of roads Water crisis - surely an impact to consider Impact on services The Entrance is becoming a Gold Coast.
D00125741	Setbacks - don't comply with DCP 64 Overshadowing of adjoining properties Loss of a residential community
D00125955	Transfer 10m of public land to Developer - no way Flooding issues - have they been resolved? Likelihood of parking fees to be imposed - another way for Council to raise their revenue No RTA Study received as yet; the DA cannot be approved until resolved. Gas emissions from underground carpark Will resort activities be open to the community as a whole?
D00126369	Road closures Accessing the water front via proposed underground carpark using elevators/escalators would be detraction for this area who is responsible for ownership and maintenance of public car park Will there be parking fees Flood levels 1;100 year event has this been taken into account Are CCTV cameras being installed in public carpark for safety Traffic issues what has been resolved.
D00126571	Effect of development on the environment
D00126588	Road closures Deliveries to my business will be effected due to the road closure Access for emergency vehicles Car parking at our wharf no longer will be there, effect on my business Loss of accessibility to our business will effect cruises Lack of landscaping No architectural merit for the units.

**Proposed Managed Resort and Residential Development, The Entrance Road West, The Entrance (Attachment 3) (contd)**

<b>Doc No</b>	<b>Issue</b>
D0127236	Road Closures; Is there a demand for another 500 units at The Entrance?
D00129965	Not informed of DA, Council should inform unit holders directly Too high, bulky, should not exceed 6 storeys Overshadowing on adjoining properties Lack of landscaping details Traffic studies not provided
D0013285	Water crisis, impact on development Sale of private road to Developer Impact on Services
D00139300	Road closures, very important to keep business going Traffic impacts on surrounding businesses, keep in mind Road closures to keep same the character and amenity of what is there now 9 m does not allow kerb side parking to be provided to both sides of new road when potentially widening of The Entrance Bridge is taken into account. Road widths Proposed parking facilities Carpark layout Projected traffic generation
D0014391	Traffic Analysis - Study to take in the following: Road network/access, carparking, pedestrian/cyclist, service vehicles and public transport
D00158255	Road closures Keep public roads, don't give to Developers
D00160134	Road closures Access by residents, tourists effected to the foreshore
D00160141	Road should not be sold to private Developer
D00160157	Road Closures access to foreshore affected



**Proposed Managed Resort and Residential Development, The Entrance Road West, The Entrance (Attachment 4)**

***State Environmental Planning Policy No 71 – Coastal Development***

	<b>Matters for Consideration</b>	<b>Proposed</b>
A	The aims of the Policy as per Clause 2.	The development will have no detrimental impact in regards to achieving the aims of the Policy.
B	Existing public access to and along the coastal foreshore for pedestrians or persons with a disability should be retained and, where possible, public access to and along the coastal foreshore for pedestrians or persons with a disability should be improved.	The development will change/improve the public access to and along the coastal foreshore (discussed below re: Clause 14).
C	Opportunities to provide new public access to and along the coastal foreshore for pedestrians or persons with a disability.	The site has extensive frontage to the foreshore and will provide new opportunities for public access.
D	The suitability of development given its type, location and design and its relationship with the surrounding area.	Whilst the site is zoned for high density the design of the proposal, in particular its bulk, scale and site coverage, make it an unsuitable design response. The development exceeds the density of development that Council has envisaged for the precinct and results in a poor relationship to both the public street and foreshore.
D	The suitability of development given its type, location and design and its relationship with the surrounding area.	The proposed development is consistent with the aims and objectives of the Residential Tourist zoning and would provide additional commercial and recreational space and housing choice, optimising the coastal location.
E	Any detrimental impact that development may have on the amenity of the coastal foreshore, including any significant overshadowing of the coastal foreshore and any significant loss of views from a public place to the coastal foreshore.	The proposed development will not overshadow the public foreshore area nor will it result in the loss of views from public places. The proposed development will limit the views of The Entrance foreshore, due to the density and bulk of development.
F	The scenic qualities of the New South Wales coast, and means to protect and improve these qualities.	The proposed building will detract from the sense of place and character of the precinct, and will not add to the scenic quality of The Entrance.
G	Measures to conserve animals (within the meaning of the <a href="#">Threatened Species Conservation Act 1995</a> ) and plants (within the meaning of that Act), and their habitats.	Council would be conditioning the consent to ensure that the stormwater leaving the site will have no impact on any threatened species.

**Proposed Managed Resort and Residential Development, The Entrance Road West, The Entrance (Attachment 4) (contd)**

	<b>Matters for Consideration</b>	<b>Proposed</b>
H	Measures to conserve fish (within the meaning of Part 7A of the <a href="#">Fisheries Management Act 1994</a> ) and marine vegetation (within the meaning of that Part), and their habitats.	There will be no impact on the conservation of fish or marine vegetation.
I	Existing wildlife corridors and the impact of development on these corridors.	No wildlife corridors are located near the subject site.
J	The likely impact of coastal processes and coastal hazards on development and any likely impacts of development on coastal processes and coastal hazards.	The site does not have ocean frontage and is not located on sand dunes. However, the applicant's failure to address groundwater processes, raising concern with regard to detrimental impact on coastal processes.
K	Measures to reduce the potential for conflict between land-based and water-based coastal activities.	The proposed development will not create any conflicts between land and water based activities.
L	Measures to protect the cultural places, values, customs, beliefs and traditional knowledge of Aboriginals.	There are no aboriginal characteristics related to the proposed development or the subject site.
M	Likely impacts of development on the water quality of coastal water bodies.	Stormwater runoff from the site would need to comply with Council's water quality and quantity requirements.
N	The conservation and preservation of items of heritage, archaeological or historic significance.	There is a likely detrimental impact upon the heritage item (Lot 2, DP 571197), which the applicant proposes to excavate beneath, remove the majority of the structure and build unsympathetic structures adjoining.
O	Only in cases in which a council prepares a draft local environmental plan that applies to land to which this Policy applies, the means to encourage compact towns and cities.	Not applicable.
P(i)	The cumulative impacts of the proposed development on the environment.	With appropriate conditions and ongoing monitoring, the development should have no cumulative impacts on the environment.
P(ii)	Measures to ensure that water and energy usage by the proposed development is efficient.	Water collection and re-use is proposed. In terms of thermal design but less than 70% of the permanent residential units have satisfactory solar access, reducing their energy efficiency.

**Proposed Managed Resort and Residential Development, The Entrance Road West, The Entrance (Attachment 4) (contd)**

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***State Environmental Planning Policy No 65 – Design Quality of Residential Flat Development***

Principle	Proposal	Meets SEPP 65 objectives
<p><b>Principle 1 – Context</b></p> <ul style="list-style-type: none"> <li>• Good design responds and contributes to its context.</li> <li>• Context is defined as key natural and built features of an area.</li> <li>• In responding to context of an area has the development/application identified the desirable elements of a location's current character, or in the case of precincts (areas) undergoing a transition, the desired future character stated in planning and design policies?</li> <li>• Does the new building contribute to the quality and identity of the area?</li> </ul>	<p>While the locality is undergoing transition at the present on adjoining sites, the proposed development does not represent good urban design contributing to Council's identified future character.</p> <p>The lack of building separation (internally and externally) detracts from the amenity of the development and contributes to its excessive bulk and scale.</p> <p>The development removes significant stands of vegetation and does not adequately address the impacts on the iconic vegetation of the foreshore.</p> <p>The design does address the street, with tourist/retail activities to the street frontage, however there are significant aspects on the western side of the proposal which internalise the site, failing to contribute to the public realm.</p> <p>The proposed design will change the sense of place of the precinct to such an extent that the existing character will be lost.</p>	<p>No</p> <p>No</p> <p>No</p> <p>No</p> <p>No</p>

**Proposed Managed Resort and Residential Development, The Entrance Road West, The Entrance (Attachment 4) (contd)**

<b>Principle</b>	<b>Proposal</b>	<b>Meets SEPP 65 objectives</b>
<p><b>Principle 2 – Scale</b></p> <ul style="list-style-type: none"> <li>• Good design provides an appropriate scale in terms of bulk and height that suite the scale of the street and surrounding buildings.</li> <li>• What is the scale of existing development? Has the proposal considered and responded to this scale?</li> <li>• In areas undergoing transition, does the proposed bulk and height achieve the scale identified for the desired future character of the area?</li> </ul>	<p>The bulk and scale of the proposal is not in context with the adjoining properties, resulting in detrimental impacts to existing and potential development. The non compliance with building separations diminishes the development rights of the adjoining properties.</p> <p>The development has sought to maximise the building envelope, leading to detrimental overshadowing and amenity impacts both internally and externally.</p> <p>The zero-lot line to western boundary is deemed inappropriate.</p> <p>There is no stated density identified for the site, but given the setback, separation concerns and detrimental impacts, is deemed unacceptable.</p>	<p>No</p> <p>No</p> <p>No</p> <p>No</p>

**Proposed Managed Resort and Residential Development, The Entrance Road West, The Entrance (Attachment 4) (contd)**

Principle	Proposal	Meets SEPP 65 objectives
<p><b>Principle 3 – Built form</b></p> <ul style="list-style-type: none"> <li>• Good design achieves appropriate built form for a site and the buildings purpose, in terms of building alignments, proportions, building type and manipulation of building elements.</li> <li>• Does the built form define the public domain, contribute to the character of the streetscape and parks, including their views and vistas and provide internal amenity and outlook?</li> </ul>	<p>DCP 2005 Chapter 60 clearly identifies the importance of solar amenity and appropriate scale of design as a consideration in the density of development for the site. Given the identified issues with the application is considered that the proposal does not have and appropriate development yield.</p> <p>The zero-lot line to western boundary is deemed inappropriate.</p> <p>While the building type is contemporary, the lack of separation and reduced setbacks results in poor design and poor internal and external amenity especially internal overshadowing, privacy, views.</p> <p>The building design has a relatively poor northern orientation.</p> <p>Cross-flow ventilation is generally satisfactory.</p> <p>The upper level of units will benefit from views to Tuggerah Lake (northeast to northwest), which will contribute to the amenity and outlook of these units. However, a significant number of units will have views only of adjoining units in close proximity to their private open space.</p>	<p>No</p> <p>No</p> <p>No</p> <p>No</p> <p>Yes</p> <p>Yes</p>

**Proposed Managed Resort and Residential Development, The Entrance Road West, The Entrance (Attachment 4) (contd)**

<b>Principle</b>	<b>Proposal</b>	<b>Meets SEPP 65 objectives</b>
<p><b>Principle 4 – Density</b></p> <ul style="list-style-type: none"> <li>• Good design has a density appropriate for the site and its context in terms of floor space yield (or no. units or residents).</li> <li>• Is the density sustainable and consistent with the area?</li> <li>• In areas undergoing transition are densities consistent with the desired future density?</li> <li>• Sustainable densities respond to the regional context, availability of infrastructure, public transport community facilities and environmental quality.</li> </ul>	<p>The proposed development comprises of 15 buildings with a total of 509 units (254 permanent residential and 255 tourist), plus retail, conference centre, parking, recreation facilities and the like. Given the proposed amenity impacts, setback and separation concerns and the lack of deep soil open space the density is deemed excessive and not sustainable.</p> <p>The proposed development does not represent good urban design contributing positively to Council's identified future character. Being such a key site in Council's vision for The Entrance, it is considered that the development has a role in establishing the character of The Entrance. It is Council's view that the development proposal is not a positive contribution.</p> <p>The increased density of the locality will enable the existing infrastructure to be better utilised.</p>	<p>No</p> <p>No</p> <p>Yes</p>
<p><b>Principle 5 – Resource, energy and water efficiency</b></p> <ul style="list-style-type: none"> <li>• Good design makes efficient use of natural resources, energy and water through its full life cycle including construction. Sustainability is integral to the design process.</li> <li>• Aspects include demolition of existing structures, recycling of materials, selection of appropriate sustainable materials, adaptability and reuse of existing buildings, layouts and built form, passive solar design principles, efficient appliances and mechanical services, soil zones for vegetation and reuse of water.</li> </ul>	<p>The northeast – northwest orientation of the site should permit a majority of units to achieve the required 3 hours direct sunlight to their primary living area 75%, however, only 66.14% achieve the requirement.</p> <p>Shadow diagrams indicate that a number of adjoining dwellings in Manning Road will be detrimentally impacted.</p> <p>A majority of the units will have adequate cross-flow ventilation.</p> <p>Rainwater storage and re-use throughout the development has been documented to Council's satisfaction.</p>	<p>No</p> <p>No</p> <p>Yes</p> <p>Yes</p>

**Proposed Managed Resort and Residential Development, The Entrance Road West, The Entrance (Attachment 4) (contd)**

Principle	Proposal	Meets SEPP 65 objectives
<p><b>Principle 6 – Landscape</b></p> <ul style="list-style-type: none"> <li>• Good design recognises that together landscape and buildings operate as an integrated and sustainable system, resulting in greater aesthetic quality and amenity for both occupants and the adjoining public domain.</li> <li>• Does the landscape design build on the existing site natural and cultural features in responsible and creative ways?</li> <li>• Does landscaping enhance the developments natural environmental performance by co-ordinating water and soil management, solar access, microclimate, tree canopy and habitat values?</li> <li>• Does the landscaping contribute to the positive image and contextual fit of the development through respect for streetscape and neighbourhood character, or desired future character?</li> </ul>	<p>A communal area of 2730 m<sup>2</sup> is required and has been provided however the quality of the communal open space is poorly proportioned and almost totally overshadowed at mid-winter.</p> <p>A significant portion of the communal open space (half) is below natural ground level and the remainder is located between buildings.</p> <p>Minimal area (500m<sup>2</sup>) for deep soil planting has been provided. The area to retain the Norfolk Island Pines has not been considered (already planted).</p> <p>The proposed landscaping does not positively contribute to the subject site. The development will result in the loss of the <i>melaleucas</i> along The Entrance Road West and may impacts upon the Norfolk Island Pines. These impacts on vegetation will diminish the identity of the locality.</p>	<p>No</p> <p>No</p> <p>No</p> <p>No</p>

**Proposed Managed Resort and Residential Development, The Entrance Road West, The Entrance (Attachment 4) (contd)**

Principle	Proposal	Meets SEPP 65 objectives
<p><b>Principle 7 – Amenity</b></p> <ul style="list-style-type: none"> <li>• Good design provides amenity through the physical, spatial and environmental quality of the development.</li> <li>• Has the development optimised amenity through appropriate room dimensions and shapes, access to sunlight, natural ventilation, visual and acoustic privacy, storage, indoor and outdoor space, efficient layouts and service areas, outlook and ease of access for all age groups and degrees of mobility?</li> </ul>	<p>The proposal has several non compliances with the Residential Flat Design Code (RFDC) in terms of solar access and natural ventilation.</p> <p>The proposal fails to comply with the requirements of the RFDC for building separation in numerous instances. This will unfairly impact on the development potential of the adjoining sites, as they will be forced to provide more than 50% of the required setback.</p> <p>Due to the lack of building separation acoustic and visual privacy between units is compromised in a number of places in the design.</p> <p>A majority of units would have direct water views, with lifts provided to all units.</p>	<p>Yes</p> <p>No</p> <p>No</p> <p>Yes</p>



**Proposed Managed Resort and Residential Development, The Entrance Road West, The Entrance (Attachment 4) (contd)**

Principle	Proposal	Meets SEPP 65 objectives
<p><b>Principle 8 – Safety and security</b></p> <ul style="list-style-type: none"> <li>• Good design optimises safety and security both internal to the development and for the public domain.</li> <li>• Has this been achieved by maximising overlooking of the public and communal spaces while maintaining internal privacy, avoiding dark and non-visible areas, maximising activities on streets, providing clear safe access points, providing quality public spaces that cater for the desired recreational uses, providing lighting appropriate to the location and desired activities, and a clear definition between public and private spaces?</li> </ul>	<p>The majority of access will be via the basement carpark and hence the various lifts to the appropriate buildings.</p> <p>Whilst the pedestrian movement across the site is defined, the individual buildings do not address these core circulation paths with clear entries to individual buildings, creating confusion, lack of safety and visual surveillance.</p> <p>As indicated in the proceeding the development does not create quality communal open space that is able to be utilised for a variety of recreational opportunities.</p> <p>The eastern side of the development generally relates to existing street frontages, providing passive surveillance to the adjoining road and retail activities.</p> <p>There is restricted public access through the development, with barriers (dining area in Oakland Avenue and foreshore boardwalk) designed to redirect pedestrian flows to commercial areas. Further public access is to be restricted between the hours of 10.00 pm and 8.00 am daily.</p>	<p>Yes</p> <p>No</p> <p>No</p> <p>Yes</p> <p>No</p>

**Proposed Managed Resort and Residential Development, The Entrance Road West, The Entrance (Attachment 4) (contd)**

<b>Principle</b>	<b>Proposal</b>	<b>Meets SEPP 65 objectives</b>
<p><b>Principle 9 – Social dimensions</b></p> <ul style="list-style-type: none"> <li>• Good design responds to the social context and needs of the local community in terms of lifestyles affordability and access to social facilities.</li> <li>• Has the development optimised the provision of housing to suit the social mix and needs in the neighbourhood or in the case of areas undergoing transition, provide for the desired future community?</li> </ul>	<p>0.3% 1 bedroom units, 23.2% 2 bedroom units, 70.8% 3 bedroom units and 5.5% 4 bedroom units. Fails to address the ageing population of both The Entrance and Wyong Shire.</p> <p>The tourist accommodation provided on the eastern side of the site has provided for some more 1 bedroom units, which slightly improves the housing mix.</p> <p>The restriction of access to The Entrance Channel via Oakland Avenue reduces public access to this public area. Additionally, the proposal has walkways and dining areas positioned across the road, physically blocking access. Further public access is to be restricted between the hours of 10.00 pm and 8.00 am daily.</p> <p>Disabled access is provided to the units, the applicant has demonstrated than 10% of units achieve AS4299 Adaptable housing</p>	<p>No</p> <p>Note</p> <p>No</p> <p>Yes</p>
<p><b>Principle 10 – Aesthetics</b></p> <ul style="list-style-type: none"> <li>• Quality aesthetics require the appropriate composition of building elements, textures, materials and colours and reflect the use, internal design and structure of the development.</li> <li>• Does the aesthetics respond to the environmental and context, particularly to desirable elements of the existing streetscape or in areas undergoing transition, contribute to the desired future character of the area?</li> </ul>	<p>The composition of the buildings (height, dimensions and setbacks) and their orientation add to the visual bulk of the development.</p> <p>There are excessive balconies, exaggerating the horizontal perspective of many building facades.</p> <p>The design dominates the surrounding visual catchment and may result in the loss of culturally significant vegetation on the foreshore of the lake.</p>	<p>No</p> <p>No</p> <p>No</p>

**Proposed Managed Resort and Residential Development, The Entrance Road West, The Entrance (Attachment 4) (contd)**

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**Chapter 60 – The Entrance (Major Aspects)**

Aspect	Requirement	Proposal	Meets Council's Objectives
<p><b>Part 2 - Controls and Design Guidelines</b></p> <p><b>Building height</b></p>	<p>Building height map indicates 12 – 24m</p> <p>Architect stated that top floors would have floor-ceiling height 2.4m to comply. This is below the 2.7m recommended by the RFDC</p>	<p>Survey plan doesn't cover the eastern side of eastern site.</p> <p>East NGL low as RL 2.20m Ceiling 14.02m (assuming 2.4m floor – ceiling) = 11.82m</p> <p>East NGL low as RL 2.25m Ceiling 25.95m (assuming 2.4m floor – ceiling) = 23.70m</p> <p>West NGL low as RL 2.10m Ceiling 14.02m (2.4m floor – ceiling) = 11.92m</p> <p>West NGL low as RL 2.10m Ceiling 25.95m = 23.85m</p>	<p>Yes</p> <p>Yes</p> <p>Yes</p> <p>Yes</p>

**Proposed Managed Resort and Residential Development, The Entrance Road West, The Entrance (Attachment 4) (contd)**

Aspect	Requirement	Proposal	Meets Council's Objectives
<p><b>Overshadowing</b></p> <p>Detailed analysis of the permanent residential component provided earlier in the report.</p>	<p>Avoid unreasonable reduction in solar access.</p> <p>Required open space is to have a minimum of 3 hours of continuous and unobstructed sunlight.</p>	<p>The resort courtyard (east side) is below natural ground level and would be overshadowed as would lower level apartments and some south facing units., though they are not for permanent residents they should still achieve good solar access.</p> <p>The communal courtyard (west side) is below natural ground level and would be overshadowed. Many units are either overshadowed by other buildings on-site or are overshadowed by their own building (specifics listed above)</p> <p>Significant impact to No's 14–26 Manning Road, due to the height and setback of the Brentwood, Poolside and Clifford buildings (specifics listed below).</p>	<p>No</p> <p>No</p> <p>No</p>
<p><b>Privacy</b></p>	<p>Avoid overlooking of living spaces. How is it achieved?</p>	<p>Eastern site. There are numerous instances of privacy loss due to minimal distances between balconies, which could be reduced if the plans were amended to reduce the amount and predominance of balconies.</p> <p>Western site. Within the Brentwood building there are balconies 2.4m apart. The Clifford and Lakefront buildings have balconies at 1.0 m from the common boundary.</p>	<p>No</p> <p>No</p>

**Proposed Managed Resort and Residential Development, The Entrance Road West, The Entrance (Attachment 4) (contd)**

Aspect	Requirement	Proposal	Meets Council's Objectives
<b>Part 3 - Design Considerations</b>	Intrusiveness of the development (bulk, scale, design or colour). Compatibility with broader urban context (relationship with existing and future development),	The proposed development does not represent good urban design and does not contribute positively to Council's identified future character.	No
	Human scale (relationship of building compared to the scale of activities at street level).	A number of specific concerns have been raised by the SEPP 65 – DRP (comments above)	No
	Vehicle access and local street system capacity and main road impact,  Adequacy of carparking, Impact of road noise on development, and  Pedestrian access at street frontage and shelter from the elements.	Vehicular access to the development is acceptable. Local and main roads have capacity to handle additional traffic. Unsatisfactory parking design. Traffic noise on development, not addressed. Pedestrian access to the street satisfactory, with various awnings for shelter provided.	Yes Yes No No Yes
	Boundary treatments and fencing.	1800 mm high decorative walls to various boundaries, though no specific details provided. Nothing indicated along the western or southern boundary.	No
<b>Part 4</b>			
<b>Land Use Precinct 1 – Tourist Activities</b>			
<b>Development Principles</b>	Buildings should address the street with a quality urban residential streetscape and character.	Buildings address street and foreshore frontages.  Fail to provide quality urban residential/commercial streetscape and character.	Yes  No
	View sharing	Concern that the proposal to construct over Oakland Avenue will reduce the view corridor to the lake and channel.	No
	Carparking and impact on street frontages.	Basement carpark does not detrimentally affect any frontage.	Yes

**Proposed Managed Resort and Residential Development, The Entrance Road West, The Entrance (Attachment 4) (contd)**

Aspect	Requirement	Proposal	Meets Council's Objectives
<b>Part 5 – Managed Resort Facilities</b>			
<b>Pedestrian Access</b>	Provision is to be made for pedestrian access from The Entrance Road through the development to link to alternative pedestrian routes and carparking in Manning Road.	Minimal links provided along The Entrance Road and no link provided through to the future Manning Road carpark.	No

**Minor Aspects of Chapter 60 – The Entrance**

Aspect	Requirement	Proposal	Meets Council's Objectives
<b>Ceiling heights</b>	Residential 2.7m habitable rooms.  Commercial 3.3m.	Residential floor – ceiling heights generally 2.7m, with a 190 mm slab, but some reduced to 2.4m. (top floor)  Commercial floor – ceiling height appear to be 3.4m, with a 190 mm slab.	Yes  No  Yes
<b>Landscaping</b>	Category 3 Landscape Plan and report required.	Category 3 Consultant has provided the Landscape Plan and Design Report.	Yes
<b>Footpath</b>	Footpath pavement materials in accord with Council preferred treatment.	Would form a condition of consent if consent granted.	Yes
<b>Maritime Design Theme</b>	Precinct 1 requires proposals to incorporate architectural design features and cosmetic elements that adopt a maritime theme. Desired features: water features, sails, wave and dune shapes, murals, bollards, ropes, masts and flags, cable and decking. Colour schemes for residential buildings shall be maritime theme related.	The proposal has a stepped building form, curves, bollards, water features, is a contemporary design, utilising a sympathetic seaside colour scheme with subdued colours.	Yes

**Proposed Managed Resort and Residential Development, The Entrance Road West, The Entrance (Attachment 4) (contd)**

<b>Aspect</b>	<b>Requirement</b>	<b>Proposal</b>	<b>Meets Council's Objectives</b>
<b>Stormwater nutrient and sediment control</b>	Comply with Council's Stormwater Management Plan by submitting a Stormwater Concept Plan.	Stormwater drainage concept plan is not deemed satisfactory, with many outstanding issues.	No
<b>Security</b>	Safety, security and crime prevention.	Security for permanent residents is satisfactory.  There are pedestrian access problems through the site, especially from the future Manning Road carpark, along Oakland Avenue to the foreshore and through the retail component, with barriers and security guards proposed after general business hours.	Yes  No
<b>Utility Services</b>	Utility Services.	Available in locality, but may need relocating.	Yes
<b>Restrictions</b>	Easements, covenants or agreements.	There are various easements and covenants which haven't been resolved. It is understood that there is a recent agreement, regarding the road reserve closure and sale.	No
<b>Building Code of Australia</b>	Building Code of Australia	Satisfactory, can be resolved at the construction certificate stage.	Yes
	Disabled access	Numerous lifts and ramps provided throughout the development, with a number of disabled car spaces provided.	Yes

**Proposed Managed Resort and Residential Development, The Entrance Road West, The Entrance (Attachment 4) (contd)****Chapter 61 – Carparking**

Component	DCP Requirement (without consideration for co-use)	Req'mnt	Discount % for co-use at peak	Discounted Council's Req'mnt	Proposal
<b>Western Site</b>					
Residential Units 273					
198 – 3/4 bdrm	2 spaces/unit	396	100%	396	
75 – 1/2 bdrm	1.5 spaces/unit	113	100%	113	
Commercial Retail 1410m2					
cafés/ restaurants (50%)	15 spaces/100m2 GFA	106	50%	53	
- 705m2 retail (50%)	1 space/30m2 GFA	24	50%	12	
- 705m2					
Tavern 500m2					
Lic. Floor area - 450m2	1 space/5m2	90	50%	45	
Bistro – 50m2	15 spaces/100m2 GFA	8	50%	4	
<b>Total West</b>		<b>737</b>		<b>623</b>	<b>753</b>
(incl. Public Parking)	residual			(350)	(270)
(incl. Private Parking)	273 units @1 space/unit			(273)	(483)
<b>Eastern Site</b>					
Tourist Apartments 312 (potential units)					
74 - 3 bdrm	1 space/unit +	312	100%	312	
79 - 3 bdrm dual apartments, can be split into 2 units (=158)					
80 - 1/2 bdrm	1 space/mgr +	1	100%	1	
1 - manager	1 space/2 staff	10	100%	10	
20 - staff					
Commercial Retail 1750m2					
cafés/restaurants (50%)	15 spaces/100m2 GFA	131	50%	66	
- 875m2 retail (50%)	1 space/30m2 GFA	29	50%	15	
- 875m2					
Child Care Centre - 250m2	1 space/4 children	0*			
Gymnasium - 200m2	7 spaces/100m2 GFA	14	0%**		
Convention Centre - 975m2 or 600 seats	Lesser of 15 spaces/100m2 GFA or 1 space/3 seats (Reception establishment)	146	60%	88	



**Proposed Managed Resort and Residential Development, The Entrance Road West, The Entrance (Attachment 4) (contd)**

<b>Total East</b>		808		<b>575</b>	<b>606</b>
Entertainment/Amusement Centre - 1650m2	1 space 10m2 GFA (Place public assembly)	165	50%	83	
(incl. Public Parking)	residual			(252)	(151)
(incl. Private Parking)	312 @ 1space/unit + 11 staff			(323)	(455)
<b>TOTAL</b>		1619		<b>1198</b>	<b>1359</b>
(incl. Public Parking)				(602)	(421)
(incl. Private Parking)				(596)	(938)
Spaces lost as a result of closure of Oakland Avenue and the Entrance Road		+ 92	100%	+ 92	
Spaces added as a result of the new access road on eastern side of development		- 12	100%	- 12	
<b>TOTAL incl on street</b>				<b>1278</b>	<b>1359</b>
(incl. Public Parking)	As previous + lost on-street			(682)	(421)
(incl. Private Parking)	As previous			(596)	(938)

\* Likely a crèche or walk up facility for patrons staying in tourist accommodation only or nearby residents. Consent could be conditioned to ensure this assumption is valid.

\*\* Likely to be used by patrons staying in tourist accommodation only or nearby residents. Consent could also be conditioned to ensure this assumption is valid.

As seen above whilst the total parking provision is adequate, a discrepancy in the allocation of public versus private parking spaces is evident. At a previous meeting with the applicant 1 March 2006 however Council resolved with the applicant that the discrepancies in parking allocation could be resolved at detail design stage via a condition of consent.

**Proposed Managed Resort and Residential Development, The Entrance Road West, The Entrance (Attachment 4) (contd)**

<b>Aspect</b>	<b>Requirement (without consideration of co-use components)</b>	<b>Proposal</b>	<b>Complies (Discount for co-use shown)</b>
<b>Lost On-Street Parking (Oakland Avenue and The Entrance Road West)</b>	80 spaces (92 spaces lost, but 12 spaces provided in slip road).		80 spaces (None)
<b>Grand total</b>	1628 spaces	<b>1371 spaces</b>	<b>Yes 1279 spaces</b>
Manoeuvring	Entry/exit in forward direction and internal access sufficient.	There remain unresolved issues with regard to height clearances and various manoeuvring issues.	No
Aisle Width	2.5 metre wide spaces require a 6.7 metre wide aisle.	Generally acceptable.	Yes

Note: The retail/café (restaurants) areas have been combined and it is assumed that there will be an even split between the uses, especially given the restricted retail/commercial uses permissible on the site. This will only become a problem later on when these percentages are not met, with regarding to parking and Section 94 Contributions.

**Proposed Managed Resort and Residential Development, The Entrance Road West, The Entrance (Attachment 4) (contd)****Chapter 64 - Multiple Dwelling Residential Development (Major Aspects)**

	REQUIREMENT	PROPOSED	COMPLIES
<b>2.0 APPLICATION REQUIREMENTS</b>			
	Kerb and guttering existing?	Kerb and gutter exist to The Entrance Road West and Oakland Avenue., but nothing to Bent Street. Standard conditions to construct crossings and repair any damage.	Yes
<b>4.0 SCALE</b>			
<b>Building Height</b>	12-24m as indicated on Building Height Map (WLEP 1991).	Site area = 33,824 m <sup>2</sup>  Height = Proposal within 12-24 metre height limit.	Yes  Yes
<b>5.0 BUILT FORM</b>			
<b>Construction and Appearance</b>	Respond sensitively to context in terms of scale, functionality and sustainability.	The scale of development is consistent with the zoning and surrounding buildings, however, the internal design of the western site is considered poor with regard to separation and solar access.	No
<b>Roof Design</b>	Relate roof design to desired built form and the size and scale of the building.	Roof terraces are incorporated into roof design. Some concern though with regard to the conservatory on the eastern side of the site.	No
	Minimise intrusiveness of service elements.	Concern with regard to the lift overruns.	No
	Roof terraces to be setback from building edge.	Roof terraces setback from building edge.	Yes
<b>Setbacks</b>			
<b>North - (The Entrance Road West)</b>	<b>Permitted</b>	<b>Proposal</b>	<b>Meets Council's Objectives</b>
<b>Profile D</b>	Ground and 1 <sup>st</sup> floor - boundary 2 <sup>nd</sup> floor - 2.5m  3 <sup>rd</sup> floor - 5.0m  4 <sup>th</sup> - 7 <sup>th</sup> floors	Building Profile amended to comply.	Yes  Yes  Yes

**Proposed Managed Resort and Residential Development, The Entrance Road West, The Entrance (Attachment 4) (contd)**

	REQUIREMENT	PROPOSED	COMPLIES
	Ground and 1 <sup>st</sup> floor - boundary 2 <sup>nd</sup> floor - 2.5m 3 <sup>rd</sup> floor – 5.0m  4 <sup>th</sup> – 7 <sup>th</sup> floors	Building Profile amended to comply.	Yes  Yes Yes  Yes
<b>Central – Oakland Avenue</b>			
<b>Profile D</b>	Development meets requirements ground and 1 <sup>st</sup> floor - boundary	Separation between easements in the roadway and those on development lots	Yes
<b>Bent Street</b>			
<b>Front setback</b>	7.5m	Convention Centre – on the boundary Tourist building – on the boundary Further encroachments to building envelope by El Lago building – 4 <sup>th</sup> to 6 <sup>th</sup> floor. 200 mm setback at 3 bed unit.	No  No No
<b>Wilfred Barrett Drive</b>			
<b>Front setback</b>	7.5m	El Lago building – 5.5m Further minor encroachments to building envelope by El Lago building – 4 <sup>th</sup> to 7 <sup>th</sup> floor.	No

**Proposed Managed Resort and Residential Development, The Entrance Road West, The Entrance (Attachment 4) (contd)**

	REQUIREMENT	PROPOSED	COMPLIES
<b>Western boundary – Western Site</b>			
	Ground - 6.0m	Boundary - Clifford building, 10m – Pinehurst building and 2.5 metre Lakefront building.	No Yes
	1 <sup>st</sup> floor – 6.0m	Boundary - Clifford building, 10m – Pinehurst building and 2.0 metre Lakefront building.	No Yes
	2 <sup>nd</sup> floor – 6.0m	Boundary - Clifford building, 10m – Pinehurst building and 2.0 metre Lakefront building.	No Yes
	3 <sup>rd</sup> floor – 6.0m	Boundary - Clifford building, 10m – Pinehurst building and 2.0 metre Lakefront building.	No Yes
	4 <sup>th</sup> floor – 9.0m	Boundary - Clifford building, 10m – Pinehurst building and 2.5 metre Lakefront building.	No No
	5 <sup>th</sup> floor – 9.0m	Boundary - Clifford building, 10m – Pinehurst building and 2.5 metre Lakefront building.	No No
	6 <sup>th</sup> floor – 9.0m	Boundary - Clifford building and 10m – Pinehurst building.	No Yes
	7 <sup>th</sup> floor – 9.0m	Boundary - Clifford building and 12m – Pinehurst building.	No Yes

**Proposed Managed Resort and Residential Development, The Entrance Road West, The Entrance (Attachment 4) (contd)**

	REQUIREMENT	PROPOSED	COMPLIES
<b>Southern boundary – Western Site</b>			
Note the applicant has mounted an argument that they comply with the given setback as the site adjoins a Council easement 1.5m wide, they have considered this as part of their setback. The dimensions given here are from the property boundary.	Ground - 6.0m	14.0m Clifford building, 7.5m Poolside building and 4.5m Brentwood building.	Yes Yes No
	1 <sup>st</sup> floor – 6.0m	7.5m Clifford building, 7.5m Poolside building and 4.5m Brentwood building	Yes Yes No
	2 <sup>nd</sup> floor – 6.0m	7.5m Clifford building, 7.5m Poolside building and 4.5m Brentwood building	Yes Yes No
	3 <sup>rd</sup> floor – 6.0m	7.5m Clifford building, 7.5m Poolside building and 4.5m Brentwood building	Yes Yes No
	4 <sup>th</sup> floor – 9.0m	7.5m Clifford building, 7.5m Poolside building and 7.5m Brentwood building.	No No No
	5 <sup>th</sup> floor – 9.0m	7.5m Clifford building, 7.5m Poolside building and 7.5m Brentwood building.	No No No
	6 <sup>th</sup> floor – 9.0m	7.5m Clifford building, 7.5m Poolside building and 7.5m Brentwood building.	No No No
	7 <sup>th</sup> floor – 9.0m	7.5m Clifford building, 3.5m Poolside building and 5m Brentwood building	No No No
<b>Vehicular Access Design</b>			
<b>Basement Parking</b>	Facilitate natural ventilation.	Mechanical ventilation required, some ventilation into the sunken communal space (west)	Not applicable
	Ventilation grills to be integrated with design or screened.	Ventilation grill not visible from street.	Yes
<b>Pedestrian Access Design</b>	Clear pedestrian access to development	Pedestrian access improved to the site, with the future closure of The Entrance Road West.	Yes
	Consider public through-site access ways in larger developments.	Pedestrian access restricted through the site and Manning Street carpark connection not addressed.	No

**Proposed Managed Resort and Residential Development, The Entrance Road West, The Entrance (Attachment 4) (contd)**

	REQUIREMENT	PROPOSED	COMPLIES
<b>7.0 SUSTAINABILITY</b>			
<b>BASIX</b>	BASIX Certificate.	Lodged prior to 1 October 2005	Not applicable
<b>Waste Management</b>	WMP submitted.	WMP submitted.	Yes
	Location of bins to be accessible and not visually intrusive.	It is proposed to store bulk bins within the basement carpark, where they will be serviced.	Yes
	Garbage chute to be provided.	Garbage chutes not provided.	No
<b>Stormwater Management</b>	SWMP submitted	Assessed by Council's Development Engineer and found to be satisfactory, subject to conditions.	Yes
	On-site detention	Not applicable, given the location of site to lake.	NA
	Evidence of agreement for easements.	Not applicable.	NA
	Groundwater study.	Report provided is not satisfactory.	No
<b>8.0 LANDSCAPE</b>			
<b>Landscape Design</b>	Category 3 Landscape design.	Category 3 Landscape design and report provided.	Yes
<b>Deep Soil Zones</b>	Residential zones require 50%, but site is a mixed zone.	Approximately 1000m <sup>2</sup> - eastern side and 960.25m <sup>2</sup> - western side. Equates to 5.7%	No
<b>Street Trees</b>	2 semi advanced trees per 15 m frontage.	Category 3 Landscape design and report provided.	Yes
<b>9.0 AMENITY</b>			
<b>Private Open Space</b>	Grade not to exceed 1:14	Balconies basically level.	Yes
	10m <sup>2</sup> with min. dimension 2.0 m, directly accessible from living areas.	Western site - perm. residential The southern end units on Lakefront (4 floors) and Pinehurst do not meet the requirements.	No
<b>Communal Open Space</b>	10 m <sup>2</sup> per unit = 2730m <sup>2</sup> , minimum dimension 5.0m, in 2 locations.	Western site - perm. residential Communal courtyard 1100m <sup>2</sup> , but below natural ground level – overshadowed. Another 1500m <sup>2</sup> in linked areas throughout the site, and some overshadowed.	No
	Communal open space not to be within front setback.	Located centrally.	Yes
	Provide facilities e.g. BBQ, seating, pool.	Gymnasium, indoor and outdoor pools, BBQ and lounge area.	Yes

**Proposed Managed Resort and Residential Development, The Entrance Road West, The Entrance (Attachment 4) (contd)**

	<b>REQUIREMENT</b>	<b>PROPOSED</b>	<b>COMPLIES</b>
<b>Solar Access</b>	All units to have 75% of required private open space to have unobstructed sunlight for min 3 hours between 9.00 am - 3.00 pm mid-winter.	There is poor solar access for many of the permanent residential units (38%) and there is extensive overshadowing of the communal open space area from the Wintergarden, Promenade and Pinehurst buildings.	No
	Development not to unreasonably impact adjoining properties.	Overshadowing of the properties in Manning Road, will also lead to further energy inefficiencies.	No
<b>Privacy</b>	Building layout (windows, balconies, screening and landscaping) to min. direct o/looking of internal living areas and private o/space.	Due to the lack of separation between buildings, there are numerous instances where there are privacy concerns.	No
<b>Acoustic Privacy</b>	Site layout should separate active recreation areas, parking areas, vehicle accessways etc., from bedrooms.	Due to the lack of separation between buildings, there are numerous instances where there are acoustic concerns. Additionally, the design and location of the convention centre, directly across the road from residences in Bent Street.	No
<b>Views</b>	Minimise loss of views.	Generally complies with building envelopes, but some excessive roof structures.	Yes
	Public views and vistas retained.	Buildings and structures encroaching into Oakland Avenue.	No
<b>10.0 SAFETY AND SECURITY</b>			
Crime Prevention	Crime Risk Assessment (CPTED)	The western side will be secured for permanent residents, with the remainder of the site controlled by barriers and private security.	Yes
<b>11.0 SOCIAL DIMENSIONS</b>			
Housing Choice	Mix of 1, 2 and 3 bedroom units	Housing mix is poor and fails to address the ageing population of both The Entrance and Wyong Shire.	No



**Proposed Managed Resort and Residential Development, The Entrance Road West, The Entrance (Attachment 4) (contd)**

	REQUIREMENT	PROPOSED	COMPLIES
	10% of units to be suitable for adaptation for disabled/elderly persons.	Given the eight permanent buildings (western side) all have lifts and the majority have ground floor access, it is deemed that more than 10% could be made suitable for adaptation for disabled/elderly persons.	Yes
Facilities and Amenities	Each dwelling to have individual laundry.	Provided within each unit.	Yes
	Drying areas in accordance with BCA.	Internal drying is proposed.	Yes
	Car wash facility	Provided within the basement.	Yes
	Mailboxes	Provided in building foyers.	Yes
	Storage: 1-2 beds - 3m <sup>2</sup> 3+ beds - 6m <sup>2</sup>	Built in storage provided within each unit (linen cupboards).	Yes
<b>12.0 AESTHETICS</b>			
Fencing	Details to be provided.	No details provided with regard to fencing.	No
Streetscape	Development is to enhance streetscape character.	Development will dramatically change the streetscape character of the locality.	No

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**WYONG SHIRE COUNCIL**

26 November 2008  
To the Ordinary Meeting of Council

Director's Report  
Shire Services Department

**513                      Contract CPA 135454 - Investigation and Design - Toe  
Drainage Structure - Cabbage Tree Harbour**

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CPA 135454 GHK

**SUMMARY**

Report seeking approval for variations for Contract CPA 135454 - Investigation and Design - Toe Drainage Structure - Cabbage Tree Harbour.

**RECOMMENDATION**

- 1     *That Council approve the four urgent variations already directed with respect to Contract CPA 135454 in the amount of \$142,900.00 (excl GST).***
- 2     *That Council approve the contract variation in the amount of \$59,161.70 (excl GST) to allow completion of the pre-construction works and assistance during construction as detailed in Attachment 1.***

**BACKGROUND****Brief History**

Natural coastal erosion of the cliffs around Cabbage Tree Harbour (CTH) at Norah Head has impacted existing residential development, particularly properties located at the top of the cliffs to the west of the public boatramp at Bald Street. . A major storm event in June 2007 resulted in slope failure and surficial landslips occurring in the dunal slope above the beach and five private properties being severely affected.

Enclosure 1 shows a locality map.

Initial drainage works installed by Council at the base of the cliff several years ago have been damaged by storm events, and these surficial landslips. Historical data shows that existing developments have been affected from the erosion of the cliff face since the 1950's.

Confidential reports have previously been submitted to Council on 11 July 2007, 25 July 2007 and 23 January 2008 preceded by briefings relating to the matter. A further confidential briefing of Council is intended in the first quarter of 2009. Based on legal advice, none of the subject matter considered in these reports, briefings, updates or resolutions should be made public without the consent of Council's insurer and no further background information is therefore provided in this report. These previous confidential reports to Council have been circulated to Councillors under separate cover for information and background on this issue.

**Contract CPA 135454 - Investigation and Design - Toe Drainage Structure - Cabbage Tree Harbour (contd)**

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**Engagement of Shirley Consulting Engineers**

Immediately following the June 2007 storms and landslips Council engaged Shirley Consulting Engineers (SCE) to urgently undertake investigations and provide advice on geotechnical issues associated with the landslips. At the time, Councillors were advocating that staff urgently action investigations on the matter. SCE were also requested to provide a status report incorporating an assessment of the risks involved and to develop appropriate actions to ameliorate potential harm to life and property.

SCE were already engaged as a sub-consultant to Umwelt (Australia) Pty Ltd that had been engaged to produce hazard assessment maps as part of the Coastline Management Plan. SCE's background knowledge of the area and their understanding of the possible underlying factors for the landslips date back approximately 25 years.

Part of SCE's initial brief was to develop concepts to address all of the issues arising from the landslips at CTH. The concept of a toe-drainage structure as an interim solution was proposed by SCE in consultation with officers from the Coastal Unit of the Department of Environment and Climate Change (DECC). At that stage SCE was also requested by Council to provide an estimate for the construction cost of a toe-drainage structure to allow Council to apply for grant funding from DECC's Coastal Management Programme. A grant of \$565,000 (excl GST) has been secured with DECC on a 50:50 cost sharing basis using the estimated construction, design and implementation cost. The matching \$565,000 of General Revenue is included in Council's 2008-2009 Management Plan.

Due to SCE being well placed to provide appropriate services and the urgency of the investigation and advice required at the time (given the political environment, level of community concerns and potential legal implications of the landslips), SCE were initially engaged under the provisions of the Local Government Act 1993 that a contract made in a case of emergency is exempt from tendering and approval by Council. Rates provided for the works were considered to be reasonable and comparable to other similar qualified Consultants. It was also considered at the time of this engagement that there was an unacceptable risk should other firms have been asked to provide advice and proposed concept options while not knowing the full background of the existing issues at the site.

It should be noted that there was a clear need for urgency in this matter due to the potential for further landslip and the need to ensure the protection of public safety.

The initial engagement of SCE was in an amount of \$35,000.00 (excl GST). With this engagement a grant of \$45,500.00 was secured from DECC on a 50:50 basis for concept design and additional works up to the next stage of the project.

## **Contract CPA 135454 - Investigation and Design - Toe Drainage Structure - Cabbage Tree Harbour (contd)**

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### **Design Intent**

Once constructed, the proposed toe-drainage structure is designed to resist a 1 in 50 year return interval storm event. This short/medium term solution is intended to serve both as a robust drainage filtration system and an erosion control mechanism for the toe of the cliff slope while the Coastal Management Plan is finalised. The Coastal Management Plan will provide guidance into the long term management of this site and other eroding coastlines throughout the Shire.

### **STATUS OF PRE-CONSTRUCTION WORK**

#### **Initial Engagement**

The engagement of SCE effectively commenced in November 2007 and was originally intended to be finalised by January 2008. The original scope of the engagement was to:

- develop a preliminary concept design in conjunction with DECC to address the urgent situation present at CTH
- develop beach modelling to predict the impacts on the beach of the proposal
- prepare a preliminary design and
- prepare a construction cost estimate.

#### **Investigation Findings**

Geotechnical investigations undertaken by SCE indicated that there was considerable potential for groundwater movement in the area. Further, the cliff is a "poorly cemented" sand dune, which makes it susceptible to various types of erosion. The slumped sand materials that comprise the cliff have lost their cementing effects due to the ongoing coastal erosion processes, causing "surficial soil" failures and material sliding down the slope to the beach.

The site presented significant complexities and design challenges. For this reason the work required an "iterative" design process to be undertaken between Council and SCE. The difficult site conditions, the political environment and community concerns all influenced the progression of the design. SCE also had to consider visual and aesthetic impacts and design a structure that would not significantly reduce the amenity of the beach for the community. The constructability of the structure in a high hazard area such as the beach was another factor that had to be taken into account.

**Contract CPA 135454 - Investigation and Design - Toe Drainage Structure - Cabbage Tree Harbour (contd)**

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**Extensions to Work and Variations to Date**

As investigations were undertaken extensive environmental, geotechnical and engineering issues were encountered that required changes to the scope of the engagement. As a result, variations to the contract were directed over the period from January 2008 until May 2008 to address these issues. This included concept design development for two possible options (a 1 in 50 year and a 1 in 20 year return interval storm event) and the preparation of a Review of Environmental Factors.

SCE was faced with challenges largely associated with the fact that the structure required an innovative design. The proposed structure had to consider the limited coastal protection provided by this particular location, facilitate (and restore) the natural drainage in the cliff and to serve as an energy dissipater for wave action.

The following table summarises the variations directed at this stage of the pre-construction process. The total value of all directed variations to date is \$142,900.00 (excl GST). These variations were assigned to SCE without competitive tendering under the emergency provisions of the Local Government Act as the work required was still of an urgent nature at the time the variations were directed. The actual expenditure to 30 October 2008 on this contract is \$119,161.70 (excl GST). All tasks identified in the following table have been completed for this cost and it is apparent that the full amount of the \$142,900.00 (excl GST) in directed variations will not be expended. This results in an amount of \$58,738.30 (excl GST) being available to offset expenditure related to the next steps in the process identified below in the "Additional Variation Required to Complete the Project" section. Whilst these actions are designated as variations in terms of the contract expenditure, they were in fact further steps in the overall design process necessary to enable the construction of the toe wall structure to commence as early as practicable. These actions are in reality, therefore not unanticipated or over-expenditure but rather expenditure required and budgeted for to enable the project to move expeditiously to the next phase of design.

These variations to the contract have been previously reported to the Extraordinary Meeting of Council held on 30 July 2008.

**Contract CPA 135454 - Investigation and Design - Toe Drainage Structure - Cabbage Tree Harbour (contd)**

	Description of Extension of Work	Amount (Excl GST)
VO1	Undertake additional site inspection. Identify coastal factors that might affect the proposed structure. Assess influence of dyke on the proposed structure. Develop an initial cost estimate. Meet at Council to discuss the concept design (structure, materials, quantities, cost estimate and required documentation).	\$8,900.00
VO2- VO3	For two design options: Option A (1 in 20 year event) and Option B (1 in 50 year event), develop: Concept designs and draft technical specification, construction cost estimates, Meet at Council to brief Councillors	\$35,000.00
VO4	Investigate gabions and alternative rock types for the armourstone protection. Review and discussion of Coastal engineer's report. Further development of design for Option B. Further adjustment of construction cost estimates and technical specification. Preparation of a Review of Environmental Factors.	\$99,000.00
<b>Total (Excl GST)</b>		<b>\$142,900.00</b>

**ADDITIONAL VARIATION REQUIRED TO COMPLETE THE PROJECT**

While the total of all variations to date is almost at the \$150,000 threshold requiring public tendering, these variations were undertaken as emergency works and did not need to be formally tendered. The remaining variations required to complete pre-construction activities are now such that the works can only be effectively completed by SCE for the reasons detailed below.

**Contract CPA 135454 - Investigation and Design - Toe Drainage Structure - Cabbage Tree Harbour (contd)**

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Given the extent of SCE's engagement to date, there are efficiencies in continuing the present engagement to undertake tasks required to complete the project rather than engage another consultant resulting from a competitive tendering process. The cost of the consultancy services is not the most important criteria for this project. It is paramount that an appropriately skilled and experienced consultant undertakes the work.

Notwithstanding this criterion, the estimated cost associated with this additional variation is based on realistic estimated hours to complete the required tasks and typical rates for consultants with this level of expertise. It represents fair value compared to the cost that could be expected from other consultants similarly experienced. The intellectual knowledge built up by SCE by its involvement to date with this project, together with its knowledge of the history of the site over the last 25 years, is considered to place SCE as the preferred consultant to complete the required tasks. Under the terms of the engagement with SCE, if SCE is not assigned the remaining tasks to complete the project the intellectual knowledge developed to date by SCE will not be available to another consultant.

It is considered that any additional savings that a competitive tendering process might achieve over a further variation fee with SCE would be negated by:

- the increased risk to the project from loss of continuity
- delays to the project
- loss of intellectual property already developed
- loss of background knowledge and expertise possessed by SCE.

It is therefore considered that an alternative consultant should not be engaged to undertake the remaining work for this project as detailed below.

The remaining tasks required of the consultant to complete the project are provided in detail with cost estimates in Attachment 1. The more significant tasks are summarised below:

- 1 Completion of designs and technical specifications for tender documentation for construction.
- 2 Provide presentation and assistance during the community consultation process.
- 3 Attend the pre-tender meeting, provide technical advice to answer questions from potential tenderers and for the issue of any Addenda.



**Contract CPA 135454 - Investigation and Design - Toe Drainage Structure - Cabbage Tree Harbour (contd)**

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- 4 Be a member of the tender evaluation panel for the assessment of the construction tenders.
- 5 Provide construction inspections to ensure the design intent is achieved by the construction contractor.

The total value of this additional variation is estimated at \$117,900.00 (excl GST). An amount of \$58,738.30 (excl GST) from unexpended amounts in approved variations to date identified above is available to offset this expenditure. This results in an amount of \$59,161.70 (excl GST) being required out of the existing allocation in the 2008-2009 Management Plan.

**CONTRACT SUMMARY**

Table 1 summarises the main areas of expenditure on this contract to date. Further details are shown in Attachment 1.

**Table 1 Summary of Main Areas of Expenditure**

<b>Original Approved Funds (Excl GST)</b>	<b>Directed Variations to Scope for Investigation and Design (Excl GST)</b>	<b>Required for Final Design and Assistance (Excl GST)</b>	<b>Total Recommended Variations to the Contract (Excl GST)</b>	<b>Total Contract Sum (Excl GST)</b>
<b>(1)</b>	<b>(2)</b>	<b>(3)</b>	<b>(2) + (3)</b>	<b>(1) + (2) + (3)</b>
\$35,000.00	\$142,900.00	\$59,161.70	\$202,061.70	\$237,061.70

**Assessment of Final Consultancy Contract Cost**

The current estimated construction cost for the toe-drainage structure based on the present preliminary design is approximately \$1.1M (excl GST). This estimate is based on the best information currently available and with reasonable assumptions about the method of construction and impact of ocean and storm conditions. It must be acknowledged that the actual final cost will be dependent on the value placed on these risks by the construction industry as reflected in tender prices.

Allowing for other estimated project related costs (project management, investigation and design, 15% construction contingency) the anticipated final project cost is approximately \$1.4M (excl GST). The current final estimated consultancy cost for SCE of \$237,061.70 (excl GST) represents approximately 17% of this estimated project cost.

**Contract CPA 135454 - Investigation and Design - Toe Drainage Structure - Cabbage Tree Harbour (contd)**

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It is typical for investigation and design costs only for a project to be up to 8% of the project cost. Given that the services required of SCE to complete the required tasks for the project extend beyond investigation and design to include involvement in community consultation, tender assessment and construction inspection, the estimated cost is considered to be reasonable.

Funding is available from Council's revenue and DECC to complete this consultancy contract at the expected final cost of \$237,061.70 (excl GST). It is expected that following completion of designs, community consultation and approvals, a pre-tender estimate will be prepared and reviewed prior to inviting tenders. Confirmation of the availability of funding to match this pre-tender estimate will be made and tenders called for the work. It is currently anticipated that a further report on the tenders received will be made to Council in April 2009. Completion of the proposed toe-drainage structure is expected by September 2009 assuming all required processes can be completed expediently.

**CONCLUSION**

During the course of this contract a significant number of changes to the original scope of the consultancy were required to address emerging issues with the design of the toe-drainage structure at Cabbage Tree Harbour. Four urgent variations were directed to progress the project, increasing the cost for the original consultancy works to \$177,900.00 (excl GST). To 30 October 2008 \$119,161.70 (excl GST) has been expended, leaving \$58,738.30 (excl GST) available to offset expenditure related to the next steps in the process to complete SCE's tasks.

All of these variations were considered to be urgent at the time and were undertaken by the consultant to a high standard. They are considered to be a reasonable price for the works undertaken and have been budgeted for in Council's Management Plan. These variations were reported to the Extraordinary Meeting of Council held on 30 July 2008.

A further variation is required to finalise the design and provide assistance to Council during the tendering and construction stages of the project estimated at \$117,900.00 (excl GST). The variation price for this work proposed by the consultant is considered to be reasonable. The consultancy contract cost will be increased to \$237,061.70 (excl GST) with this new variation.

It is recommended that Council approve the variations directed to date for this consultancy and approve the variation of \$59,161.70 (excl GST) as discussed in this report.

**Attachment 1*****New Variation No 5 Submitted by the Consultant (2 pages)*****Enclosure*****Locality Map***

**Contract CPA 135454 - Investigation and Design - Toe Drainage Structure - Cabbage Tree Harbour (Attachment 1)**

<b>Task No.</b>	<b>Description of Tasks Included in the New Variation Variation No 5</b>	<b>Amount (Excl. GST)</b>
1	<b>Liaison with Council:</b> General liaison with Council regarding the proposed Toe Drainage Structure and the construction phase of the project, including initial planning of the community consultation, contract issues and approach to tenders.	\$9,500.00.00
2	<b>Initial Meeting with Council (Contracts and Special Projects Team):</b> Initial meeting with Council on 10 October 2008 and allowance for additional meetings with Senior Consultant and Associate following issue of revision drawings and final Council comments.	\$4,400.00.00
3	<b>Tender Set of Documents (viz: nominally For Construction Revision 0):</b> Prepare and supply Drawings, Design Report, Technical Specification and Schedule of Quantities for tender purposes, incorporating amendments discussed with Maunsell (Coastal Engineer), ENSR (Environmental Consultant) and Council.	\$14,500.00
4	<b>Review of Environmental Factors:</b> Review the impact of environmental factors on the design, and consider the possible changes to the REF as required, including related liaison with ENSR.	\$2,000.00
5	<b>Community Consultation:</b> Provide assistance to Council during the community consultation process, preparation of brief PowerPoint presentation for consultation process, Senior Consultant and Associate attendance at 1 x 2-hrs local meeting in the Norah Head area, related travel and documentation.	\$6,000.00
6	<b>Site Meeting with Contractors:</b> Senior Consultant and Associate attendance at a pre-tender site meeting with potential contractors (2 hours) to discuss the design issues and technical specification, coastal hazards, proposed method of site access and construction approach, discussions regarding alternate tender, contract and related issues, including travel and associated file documentation.	\$2,500.00

**Contract CPA 135454 - Investigation and Design - Toe Drainage Structure - Cabbage Tree Harbour (Attachment 1) (contd)**

<b>Task No.</b>	<b>Description of Tasks Included in the New Variation Variation No 5</b>	<b>Amount (Excl. GST)</b>
7	<b>Updated Documents and Notices to Tenderers for Contract Purposes:</b> Review the tender set of documents in light of community consultation, Part 5 assessment and pre-tender meeting with the potential contractors at the compulsory site meeting, undertake minor changes to the documents and issue appropriate 'Notice to Tenderers' for final tender purposes.	\$3,500.00
8	<b>Tender Evaluation Panel:</b> Participate as a member of the tender evaluation panel. Assist Council with the evaluation of short listed compliant tenders (up to 3 tenders to be evaluated), including discussions with Council.	\$9,000.00
9	<b>Construction Inspections and Discussions:</b> Prepare for and undertake construction inspections during the construction of the Toe Drainage Structure, including related discussions and liaison with Council and Contractor, office documentation of site activities, project overview by Associate and Senior Consultant. Assumes a 16 week contract period, with 32x 2 hrs inspection (Experienced Engineer – 2 per week), 4x inspections by Associate and 1x inspections by Senior Consultant. Note; The fees under this Budget Item are provided for information and planning purposes; the actual fees are to be charged in accordance with the actual inspections undertaken during construction.	\$47,500.00
10	<b>Disbursements:</b> Includes photocopies, printing, CAD, photographs, etc., external and sub-contract, environmental sub-consultant expenses and construction travel expenses.	\$19,000.00
<b>Total (Excl. GST)</b>		<b>\$117,900.00</b>

## WYONG SHIRE COUNCIL

26 November 2008  
To the Ordinary Meeting of Council

Director's Report  
Corporate Services Department

### **514 Contract Variations**

F2007/01410 GP

#### **SUMMARY**

This paper updates the status of contracts with an approved original value over \$150,000 (excl GST) and requests approval for further contingency funding.

The report also provides a historical picture of contract variations, (some of which started over three years ago), to illustrate the normalcy of construction contract works.

#### **RECOMMENDATION**

*That Council approve additional contingency amounts for the following contracts to provide for further potential variations (values are excl GST).*

• <i>Design and Documentation For Mardi Water Transfer System and Dam Raising</i>	<i>CPA/112242</i>	<i>\$10,000.00</i>
• <i>Documentation Concept and Detailed Design and Mardi High Lift Pump Station</i>	<i>CPA/108619</i>	<i>\$10,000.00</i>
• <i>Supply and Installation of Switch Control Assemblies and Associated Work for Lower Wyong River Water Pump Station No 1</i>	<i>CPA/122601</i>	<i>\$10,000.00</i>
• <i>Lower Wyong River to Mardi Upgrade Pump Station No 1 – Construction of High Voltage Power Supply</i>	<i>CPA/123594</i>	<i>\$10,000.00</i>
• <i>Design and Construction - Woongarra Sportsground</i>	<i>CPA/94559</i>	<i>\$20,000.00</i>
• <i>Intersection Upgrade – Warnervale and Minnesota Roads</i>	<i>CPA/137955</i>	<i>\$60,000.00</i>
• <i>Warnervale Water Supply And Sewerage Review of Environmental Factors</i>	<i>CPA/122995</i>	<i>\$40,000.00</i>

## **Contract Variations (contd)**

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### **BACKGROUND**

Contracts entered into by Council are awarded either by Council resolution or under delegated authority. Section 55 of the Local Government Act requires that contracts of an estimated value greater than \$150,000.00 (excl GST) be publicly tendered and approved by Council resolution.

Contracts of an estimated value less than \$150,000.00 (excl GST) are awarded under Delegations of Authority made to the General Manager.

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

### **The Nature of Variations**

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

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

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

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

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

### **Variation Reporting**

On Contracts approved by Council Resolution, (ie >\$150,000.00 excl GST), variation expenditure approved under Delegated Authority (ie within the contingency amount) will now be reported to Council on a monthly basis. For variations that exceed the contingency amount, authority will be requested from Council on a monthly basis.

For Contracts awarded by Delegated Authority, variations will be reported and authority requested for additional contingency, on a monthly basis, if the final contract amount is expected to exceed \$150,000.00 (excl GST).

## **Contract Variations (contd)**

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Council resolved (July 2008) to have variation outcomes reported to Council upon the completion of Contracts. A review of project procedures was also required by Council.

This report is the initial monthly report and has taken some time to assemble due to the long age of contract periods involved, number of Contracts and complexity of major project Contracts. The report covers the period up to 31 October 2008.

Whilst the recommendation seeks approval to extend some contract amounts, the report also provides historical variation data to establish a reporting baseline.

The attached Enclosure also details those historical variations that have been directed by the contract superintendents in the past.

### **Current Status**

The recommendations address contingency needs currently known. However, four other contracting arrangements will be the subject of individual separate reports.

These contracts are not reported in the enclosed data as they require greater detail not available in this report. The contracts that will be separately reported are detailed in the following table:

<b>Contract Number</b>	<b>Description</b>
2328	Coastline Hazard Management Plan and Study
94531	Investigation and Design Consultancy - Link Road, Watanobbi to Warnervale and Trunk Water Main
135454	Cabbage Tree Harbour - Investigation And Design Of Toe Drainage Structure
Various	Contracts for the Investigation and Clean-up of Closed Landfill Sites

The attached Enclosure provided details of contracts for which variations have been directed in the past and detailed explanations of the reasons for those variations. None of those variations that are beyond the total approved budgets for each contract have been formally approved by Council.

Where further variations are currently anticipated, Council approval is now sought for additional contingency amounts to meet that additional anticipated expenditure, to provide for such eventualities. Tables 1 and 2 below provide summary information about the historically directed variations and the requested additional contingency amount (refer to the Enclosure 1 for more details).

**Contract Variations (contd)**

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In seeking Council's resolution to approve expenditure, all amounts are exclusive of GST.

*N.B. Actual payments made to contractors include GST, however Council recovers the same amount from the Government. As such, GST is neutral and irrelevant to the financial approvals sought.*

The numbering convention used to identify contracts in this report varies. Most contracts are prefixed with the acronym "CPA" which denotes "Contract Purchase Agreement" with the number being generated by Council's contract management system. Some older contracts that were awarded prior to the implementation of the current contract system are simply identified as a number.

**Enclosure 1****Table 1 – Additional Contingency Approval Request****Enclosure 2****Table 2 – Additional Contingency Approval Request****Contracts Exceeding Approved Budget for Period to 31 October 2008 – (Initial Report)**



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**515 Proposed Lease to the Scout Association of Australia of Lot 102 DP 635277 at 10 Levitt Street, Wyong (Attachment 1)**

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**Locality Plan**



**WYONG SHIRE COUNCIL**

26 November 2008  
To the Ordinary Meeting of Council

Director's Report  
Corporate Services Department

**515 Proposed Lease to the Scout Association of Australia of Lot 102 DP 635277 at 10 Levitt Street, Wyong**

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F2004/08838 JMT

**SUMMARY**

The Scout Association of Australia has requested a renewal of lease 10 Levitt Street, Wyong.

**RECOMMENDATION**

- 1 That Council renew the lease to the Scout Association of Australia of Lot 102 DP 635277 at 10 Levitt Street, Wyong for a period of five years at nominal rent.**
- 2 That Council authorise the Common Seal of the Wyong Shire Council to be affixed to the Lease Agreement between Wyong Shire Council and the Scout Association of Australia.**
- 3 That Council authorise the Mayor and the General Manager to execute all documents relating to the Lease Agreement.**

**BACKGROUND**

The Scout Association of Australia (Scouts) currently lease 10 Levitt Street, Wyong as the site of Wyong Scout Hall. The current lease commenced on 1 March 1999 and expires on 28 February 2009 and Scouts has requested renewal of the lease on the same terms and conditions for a further ten year period.

Under the terms of the lease, Scouts are responsible for maintenance, repair and replacement in respect of the leased area as well as requiring the lessee to insure the building and carry public liability insurance. Improvements erected on the land by Scouts may be required to be removed by Scouts upon termination of the lease. Rent is nominal at \$1 per annum.

The current lease provides a Right of Way to Lot 102 DP 635277 for Scouts over part of Lot 1011 DP 831978 also owned by Council and this right should continue under a new lease.

The Scout Hall is a double brick, single storey construction and contains shower, toilet and kitchen facilities, a main hall for cub and scout activities and an adjoining garage for storage. Maintenance of the hall is funded from fund raising undertaken by the group's leaders and members. The Scout group presently comprises 12 cub scouts, 6 scouts and 6 leaders.

**Proposed Lease to the Scout Association of Australia of Lot 102 DP 635277  
at 10 Levitt Street, Wyong (contd)**

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Scouts have allowed the use of the hall by the State Emergency Services during periods of peak demand and has also made the hall available for suitable public use. It is proposed that nominal rent for the lease continue on the basis that the improvements remain the property of the Scouts Association and the community services provided by Scouts.

The land is zoned 6 (a) Open Space and Recreation and has a total area of 365 m<sup>2</sup>.

Lot 102 DP 635277 is classified as Community Land and is included in Plan of Management No 3, Baker Park and Surrounds Wyong for General Community Use. Lease of the land is permitted under the Plan of Management.

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

Council's Development Assessment and Customer and Community Services have no objection to the renewal of the Lease.

Future Planning considers renewal of the lease for five years preferable to a term of ten years as the Masterplan for Baker Park is under investigation and the land forms part of the Baker Park recreation precinct.

**Attachment 1**

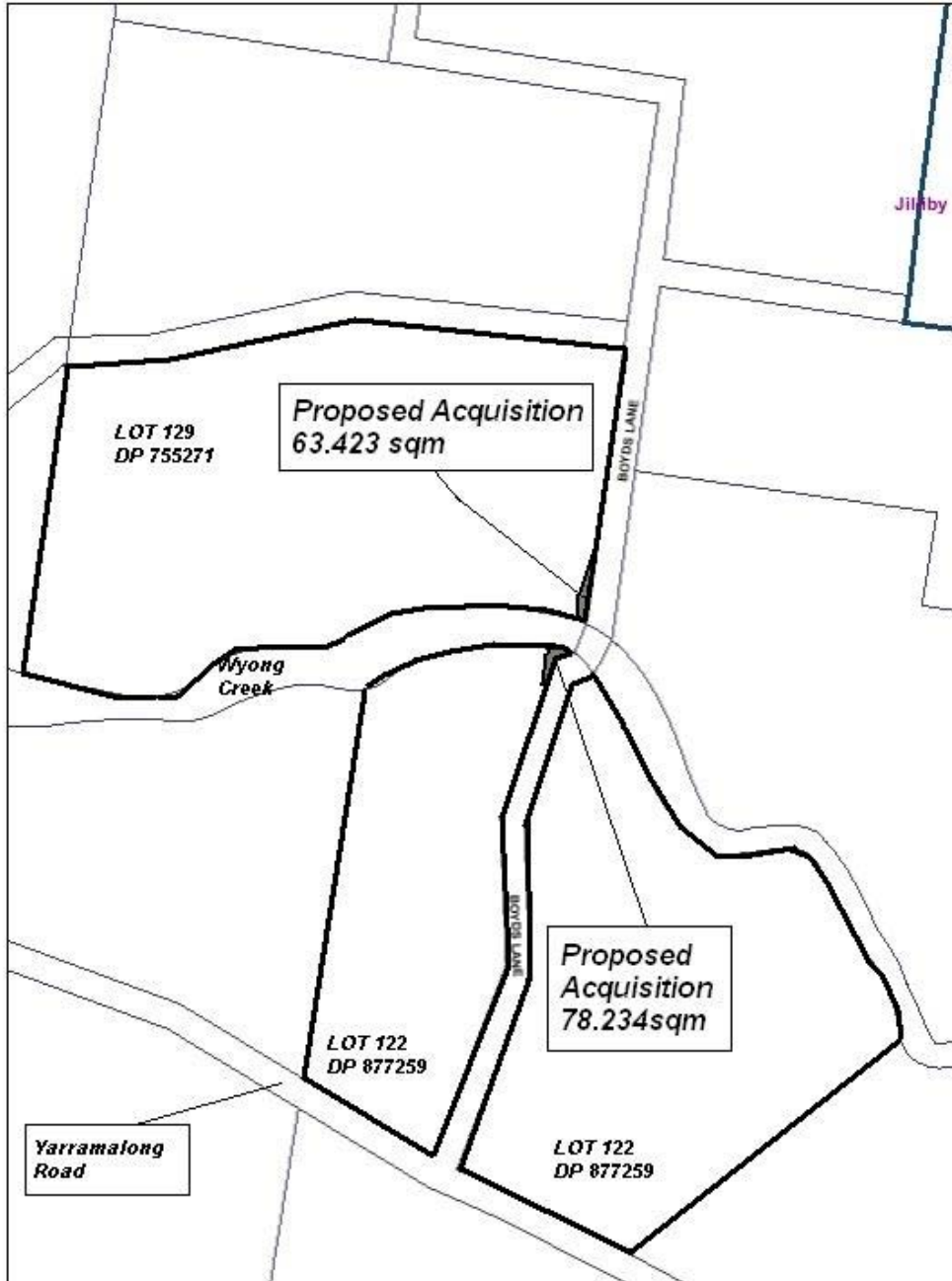
**Locality Plan (1 page)**

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**516 Proposed Acquisition of Private Land at Yarramalong Road, Wyong Creek and Boyds Lane Wyong Creek for Road Widening (Attachment 1)**

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**Locality Plan**



**WYONG SHIRE COUNCIL**

26 November 2008  
To the Ordinary Meeting of Council

Director's Report  
Corporate Services Department

**516 Proposed Acquisition of Private Land at Yarramalong Road,  
Wyong Creek and Boyds Lane Wyong Creek for Road  
Widening**

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F2008/02123 F20008/02124 SB

**SUMMARY**

Council is seeking to acquire land for road widening at Boyds Lane, Wyong Creek.

**RECOMMENDATION**

- 1 That Council acquire part of Lot 122 DP 877259 Yarramalong Road, Wyong Creek and part of Lot 129 DP 755271 Boyds Lane, Wyong Creek as public road.**
- 2 That Council authorise the payment of compensation if necessary for the acquisitions of the land in Item 1 in accordance with the Land Acquisition (Just Terms Compensation) Act 1991 and based on assessment by a qualified valuer.**
- 3 That Council proceed to compulsorily acquire the land in Item 1 in the event that negotiations with the property owners cannot be satisfactorily resolved.**
- 4 That Council authorise the Common Seal of Wyong Shire Council to be affixed to formal documentation required to complete the transfer.**
- 5 That Council authorise the Mayor and the General Manager to execute all documents relating to the Transfer and/or Plan and all documents relating to the applications to the Department of Local Government.**

**BACKGROUND**

Council proposes to construct a new concrete bridge across the Wyong River at Boyd's Lane Yarramalong as part of its 2008-09 Roads and Drainage Rolling Works Program. The previous timber bridge was critically damaged in 2005 when traversed by a 20T excavator undertaking works on an adjoining private property. Council subsequently installed a temporary modular steel bridge on Boyd's Lane to maintain access to a small number of properties located on the northern bank of the Wyong River.

Council has since progressed with the necessary detailed designs and obtained the extensive approvals required for the construction of a permanent bridge at this location. Tenders for the construction of the bridge are scheduled to be called in January and construction to commence in April subject to contractor availability.

**Proposed Acquisition of Private Land at Yarramalong Road, Wyong Creek and Boyds Lane Wyong Creek for Road Widening (contd)**

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The new bridge will be aligned to the west of its existing location where it will be necessary to install road batters (an embankment which ties the design surface of the bridge with the natural land) which will affect part of Lot 122 DP 877259 Yarramalong Road, Wyong Creek and part of Lot 129 DP 755271 Boyds Lane, Wyong Creek.

Work is due to commence in 2009 and will be funded from Council's general fund – Management Plan Line 4.2.6 (Bridge Construction).

The construction of the permanent bridge will affect Lot 122 DP 877259 and Lot 129 DP 755271 and it will be necessary to acquire part of those properties as public road.

Lot 122 has an area of 118,300 m<sup>2</sup> and the road widening has an area of approximately 78.234 square metres. Lot 122 is zoned 1A Rural Zone.

Lot 129 has an approximate area of 171,802.29 m<sup>2</sup> and the road widening has an area of approximately 63.423 m<sup>2</sup>. Lot 129 is zoned 1A Rural and 7A Conservation.

**Attachment 1**

***Plan of proposed acquisition Boyds Lane and Yarramalong Road, Wyong Creek, shaded (1 page)***



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**517 Surrender of Lease and New Lease to Vodafone Network Pty Ltd of Part Lots 69, 70 and 71 DP 20749 at Long Jetty (Attachment 1)**

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**Locality Plan**



## WYONG SHIRE COUNCIL

26 November 2008  
To the Ordinary Meeting of Council

Director's Report  
Corporate Services Department

**517 Surrender of Lease and New Lease to Vodafone Network Pty Ltd of Part Lots 69, 70 and 71 DP 20749 at Long Jetty**

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F2004/08734 JMT

### SUMMARY

Council leases land to Vodafone Network Pty Ltd for purpose of citing communication equipment. Vodafone Network Pty Ltd wishes to extend the existing lease and include an additional alternative.

### RECOMMENDATION

- 1 That Council accept the surrender of the current lease of part of Lots 69, 70 and 71 DP 20749 at the Reservoir, Gilbert Street, Long Jetty to Vodafone Network Pty Ltd.**
- 2 That Council grant a new lease commencing on 1 January 2008, on similar terms to the existing lease, of part of Lots 69, 70 and 71 DP 20749 at the Reservoir, Gilbert Street, Long Jetty to Vodafone Network Pty Ltd until 31 December 2019.**
- 3 That Council authorise the Common Seal of Wyong Shire Council to be affixed to formal documentation required to complete the transfer.**
- 4 That Council authorise the Mayor and General Manager to execute all documents.**

### BACKGROUND

Council leases part of Lots 69, 70 and 71 DP 20749 at the Reservoir, Gilbert Street, Long Jetty (the land) to Vodafone Network Pty Ltd (Vodafone) for the purpose of constructing, maintaining and operating a telecommunications network and telecommunications service.

The current lease expires on 31 December 2009 and is followed by two consecutive five year leases which will expire on 31 December 2019. The leased area includes an equipment hut, cabling and eight antenna locations on the reservoir.

**Surrender of Lease and New Lease to Vodafone Network Pty Ltd of Part Lots 69, 70 and 71 DP 20749 at Long Jetty (contd)**

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Vodafone has installed an additional antenna on the reservoir outside the leased area and has agreed to pay additional rent of \$3,000.00 (excl GST) per annum for the additional antenna location commencing from 1 January 2008. The current rent is \$24,378.01 (excl GST) per annum.

The Manager, Water and Waste Services, has previously given consent to the new works on the reservoir.

The land has an area of approximately 2,086 m<sup>2</sup> and is zoned 2 (c) Medium Density Residential and is Operational Land.

**Surrender of Lease and New Lease**

Vodafone has proposed a surrender of the current lease and requested that Council approve a new lease generally on the same terms and conditions as the current lease but which will include a new lease plan and increased rent commencing on 1 January 2008.

The term of the new lease will not extend beyond that provided under the current lease and two consecutive five year leases.

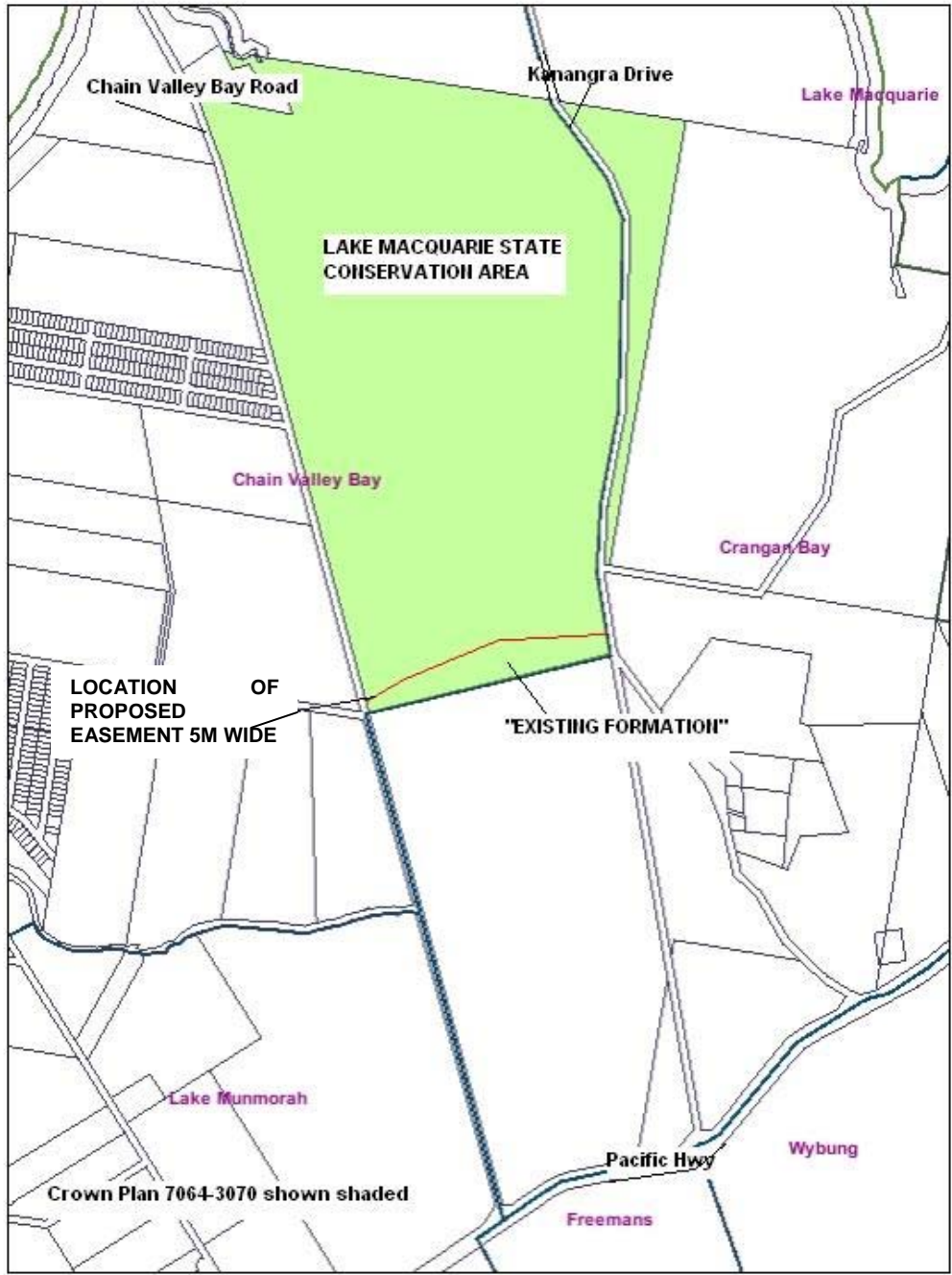
**Attachment 1****Locality Plan (1 page)**

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**518                    Acquisition of Easement for Water Supply over Land in Crown  
Plan 7064-3070 at Chain Valley Bay  
(Attachment 1)**

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**Locality Plan**



**WYONG SHIRE COUNCIL**

26 November 2008  
To the Ordinary Meeting of Council

Director's Report  
Corporate Services Department

**518                      Acquisition of Easement for Water Supply over Land in Crown  
Plan 7064-3070 at Chain Valley Bay**

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F2008/01213 JMT

**SUMMARY**

Approval is sought to acquire an easement for water supply over part of the land in Crown Plan 7064-3070, Chain Valley Bay Road, Chain Valley Bay.

**RECOMMENDATION**

- 1     *That Council acquire an easement for water supply 5.0 m wide over land in Crown Plan 7064-3070 chain Valley Bay Rd Chain Valley Bay.***
- 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 or in the event that the property owner cannot be identified.***
- 4     *That Council authorise the Common Seal of Wyong Shire Council to be affixed to formal documentation required to complete the transfer.***
- 5     *That Council authorise the Mayor and the General Manager to execute all documents relating to the Transfer Granting Easement and/or Plan and all documents relating to the applications to the Department of Water and Energy.***

**BACKGROUND**

Council proposes to construct a 200 mm water main from Kanangra Drive to Chain Valley Bay Road, Chain Valley Bay over the land in Crown Plan 7064-3070. The work is likely to commence in 2010 and will be funded from the 2009/10 Water and Waste Capital Works Programme. The pipeline will enhance supply to Gwandalan, Summerland Point and Chain Valley Bay.

Associated with the works, it will be necessary to acquire an easement 5.0 m wide over the subject property to satisfy Council's requirements in respect to the operation and maintenance of the installation.

**Acquisition of Easement for Water Supply over Land in Crown Plan 7064-3070 at Chain Valley Bay (contd)**

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The affected property is approximately 259 hectares part of which was declared to be part of the Lake Macquarie State Conservation Area pursuant to a notification in the NSW Government Gazette on 18 April 1997 and under the control of National Parks and Wildlife Service.

The proposed easement is within the subject property but south and outside of the area declared for State Conservation. No title information in relation to the land is held at Land and Property Information and neither the Crown nor National Parks and Wildlife claim ownership of the affected land.

As ownership of the land cannot be established it will be necessary to acquire the easement by compulsory acquisition. A notice of Proposed Acquisition will be notified in local media inviting anyone who claims an interest in the land to lodge a claim for compensation.

The water main is to be underground and the work will not have a major effect on the amenity of the property.

**Attachment 1**

**Location Plan (1 page)**



## WYONG SHIRE COUNCIL

26 November 2008  
To the Ordinary Meeting of Council

Directors Report  
Shire Planning Department

### **519                    Tuggerah Lakes Estuary Coastal and Floodplain Management Committee - Trees of Cultural Significance at Budgewoi East**

**F2004/06954, F2004/07986 PJK:PJK**

#### **SUMMARY**

Reporting on a recommendation from the Tuggerah Lakes Estuary Coastal and Floodplain Management Committee.

#### **RECOMMENDATION**

***That Council, in considering the request to have the large stand of old growth paper bark trees, located at East Budgewoi, listed as Trees of Cultural Significance, initiate the following:***

- a    Consideration be given, as part of the quarterly review of the 2008-2009 Management Plan, to the provision of funding to an amount of \$20,000 for the engagement of an independent arborist to carry out a study to survey the species and condition of the trees in the area and identify the cultural value of the trees to the community.***
- b    The outcome of the above study be reported back to Council for consideration as to whether the Legal and Policy Works Program should be amended to incorporate a revision to Development Control Plan 2005, Chapter 14 to list the relevant vegetation as Trees of Cultural Significance.***

#### **BACKGROUND**

At the 7 August 2008 meeting of the Tuggerah Lakes Estuary Coastal and Floodplain Management Committee, Mr Phil Heaton, a community representative, reported his concerns regarding two stands of broad leaf paper-bark (*melaluca quinquinervia*) growing in East Budgewoi. Due to pressures on these forests from urbanisation of the area, in particular the Budgewoi Tourist Park, Mr Heaton requested assistance in having these trees preserved by having them listed as Trees of Cultural Significance.

The Committee resolved as follows:

*“That as Budgewoi Tourist Park contains the largest stand of old growth paper bark trees in the area and these trees are a pivotal part of the identity of East Budgewoi, the Committee request Wyong Shire Council to place onto the Legal and Policy Unit’s Work Program, as a priority, to have these trees listed as Trees of Cultural Significance.”*

**Tuggerah Lakes Estuary Coastal and Floodplain Management Committee  
Trees of Cultural Significance at Budgewoi East (contd)**

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**DEVELOPMENT CONTROL PLAN 2005: CHAPTER 14 – TREE MANAGEMENT**

'Trees of Cultural Significance' within the Shire are protected under the provisions of Section.7.2.5 of Development Control Plan 2005 (DCP 2005): Chapter 14 - Tree Management. Chapter 14 currently lists trees located within the localities of Wyongah, Willow Creek and Bateau Bay East as *Trees of Cultural Significance* (Chapter 14, pages 43 – 49).

Individual development applications for the removal of trees within these areas are considered on a case by case basis, even when located within 3 metres of an approved building (i.e., there is no exemption from approval under the "3 metre Rule"). However, the DCP also provides a further option that where works are conducted in accordance with an approved Vegetation Management Plan prepared by an AQF 5 Arborist (designed to be implemented as a management regime over a 2 – 5 year period) no further consent is required.

Should Council wish to pursue the identification and protection of the old growth paper bark trees at East Budgewoi as *Trees of Cultural Significance*, as defined in the DCP, the following process would need to be undertaken.

- 1 The extent, health and cultural significance of the population of paper bark trees would need to be assessed by a qualified arborist. Council would need to engage a consultant to undertake this work, and therefore an amendment to the current 2008-09 Management Plan would be required to provide a relevant budget (in the vicinity of \$20,000 – the cost of the Wyongah Study).
- 2 Upon completion of the study the matter would be reported back to Council to consider whether or not the listing within Section.7.2.5 should proceed. Should the trees not be considered culturally significant no further action would be taken (other than advice back to the Tuggerah Lakes Estuary Coastal and Floodplain Management Committee).
- 3 Should the trees be determined to be culturally significant the Shire Planning Legal and Policy Works Program would be amended to incorporate a task involving a draft amendment to Chapter 14 to include a new listing of Trees of Cultural Significance.
- 4 The draft amendment to Chapter 14 would proceed through a public exhibition process.
- 5 Dependent upon submissions received the amended Chapter 14 would be reported to Council for adoption.

### **Tuggerah Lakes Estuary Coastal and Floodplain Management Committee – Trees of Cultural Significance at Budgewoi East (contd)**

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It is likely that the time period required for the consultant to undertake the study, reporting the findings back to Council and the potential follow up preparation of a draft amendment to the DCP, including public exhibition, would be approximately six to eight months. The commencement of the project would depend on Council's voting of funds for the consultant and the potential competing priorities within the Legal and Policy Works Program.

#### **THE VEGETATION COMMUNITY**

The area in and around East Budgewoi (particularly within the Budgewoi Tourist Park) has a vegetation type known as *Coastal Sand Mahogany – Paperbark Swamp Forest* with the dominant tree species being *Eucalyptus robusta*, *Casuarina glauca* and *Angophora costata*. The smaller trees are *Melaleuca quinquinervia*, *Acacia irrota*, *Glochidon ferdinandi* and *Melaleuca linarifolia*.

The dominant species within the caravan park is *Melaleuca quinquinervia* (Paperbark) which is a common species within that community. The trees are primarily mature in nature and are common throughout the whole tourist park.

*Melaleuca quinquinervia* so far has not been listed as a tree of Local Conservation significance under Section.7.2.4 of DCP 2005: Chapter 14, but it is currently listed as a Tree of Cultural Significance under Section.7.2.5 within Bateau Bay East. (DCP 14 page 40). The trees are also listed as Keystone species (7.2.3) within patches at North Entrance due to potential species impact on the Ringtail Possum and the Squirrel Glider if removed.

The preceding map above highlights the extent of the community and the listing of the trees as an Endangered Ecological Community on Council's GIS mapping. Therefore, the trees already have endangered community status and the progression to an area of *Trees of Cultural Significance* would be a natural progression. The area encompasses the whole caravan park and into the national park. Future development (if listed) would require the trees to be considered as a community, but even if the trees were not listed as *Trees of Cultural Significance* they are still under the umbrella of an EEC and would still need to be considered as part of that community if/when any development took place.

**Tuggerah Lakes Estuary Coastal and Floodplain Management Committee –  
Trees of Cultural Significance at Budgewoi East (contd)**

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**MANAGEMENT OF BUDGEWOI TOURIST PARK**

Budgewoi Tourist Park consists of over 300 cabin and caravan sites, with additional camping sites, infrastructure and amenities buildings. The Park contains only 15 permanent residents and provides a low budget coastal holiday experience, nestled within the paperbark trees adjacent to Lake Munmorah and the Pacific Ocean, in close proximity to a hotel, restaurants and boat hire services.

Council has implemented a Vegetation Management Plan for the Park, based on the results of an Audit of all trees within the Park, conducted by Council's relevant technical officer in May 2006. The Plan locates by GPS and identifies the species of every tree in the Park, detailing its age and condition, and includes recommendations for individual management of the trees within the vegetation community, including the lopping and selective pruning of branches, etc., to maintain the health and safety of the tree. This information is currently available on Council's GIS system and is recommended for re-evaluation after two years (now due).

As part of the preparation of this report, Council's Manager Business Units was consulted.

The Manager advised that the listing of the vegetation community within the park as 'Trees of Cultural Significance' would raise the following potential economic concerns:

- Each of Council's tourist parks operate on a self-funding basis and therefore must meet their own costs;
- The costs of funding the study if taken out of the tourist park budget would excessively burden the operation of the park;
- The listing may limit the future development potential of the Tourist Park;
- The listing would require more detailed planning of the park;
- The listing may lead to reduced flexibility in the use of existing sites and requirements for the provision of replacement trees in locations which may limit / restrict / decrease the economic areas of the Park;
- The cost of purchasing, planting and maintaining replacement plantings;
- The listing may lead to a decrease in the number of sites and therefore a decrease in income; and
- Potential difficulties in general management of the Park.

## **Tuggerah Lakes Estuary Coastal and Floodplain Management Committee – Trees of Cultural Significance at Budgewoi East (contd)**

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### **Comment**

Whilst it is agreed that a listing in Chapter 14 may impact in some way on the future development of the Park, future development within the park is already limited by the fact that the subject vegetation is currently identified as an EEC. Taking into account that an initial audit has been carried out, it would now be considered appropriate to engage our external independent arborist to assess the value of the vegetation community as Trees of Cultural Significance. Revisiting the audit of individual trees carried out in 2006 will not enable Council to make this assessment for the following reasons:

- Purpose: the purpose of the 2006 audit was only to determine the health and safety of individual trees relative to the commercial operation of the Park. This did not include an overall assessment of the value of the trees or consideration of whether the community is worthy of protection. What is now recommended is an evaluation of the value of the vegetation community in terms of cultural significance.
- Expertise: the previous audit was undertaken by a Council officer, with expertise in horticulture with specialist skills in Arboriculture. The evaluation now proposed should be undertaken by an independent qualified arborist. Council does not have this level of expertise in-house.

### **CONCLUSION**

The ongoing management of the Budgewoi Tourist Park will necessarily involve the determination of a management regime for the vegetation community. The Vegetation Management Plan developed in 2006 is due for update and revision where necessary. It is considered that Council should engage an appropriately qualified consultant to undertake the required study and update Council's database, so that it can be determined whether to manage the area utilising provisions under Chapter 14 – Tree Management or by utilising the Vegetation Management Plan process. Having evaluated the significance and health of the vegetation community, Council will then be in an informed position to determine the most satisfactory option for protection of the vegetation.

### **Enclosure**

***Map highlighting the extent of the Community and the listing of the trees as an ECC.***

26 November 2008  
To the Ordinary Meeting of Council

Director's Report  
Corporate Services Department

## **520 Presentation on 2007-08 Annual Financial Reports**

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F2008/00864 SG

### **SUMMARY**

Report on the presentation by Council's External Auditor of the audited 2007-08 Financial Reports and External Audit Report.

### **RECOMMENDATION**

- 1 That Council presents the Audited Financial Reports for 2007-08 in accordance with the Local Government Act 1993.**
- 2 That Council invite the External Auditor, Mr Dennis Banicevic (representing Price Waterhouse Coopers) to present the Auditor's report on Council's Annual Financial Reports for 2007-08.**

### **BACKGROUND**

Council at its meeting held on 12 November 2008 resolved as follows:

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

*That the Governance Committee recommends to the Ordinary Meeting of Council of 12 November 2008 that it consider the adoption of the following resolutions in respect of the General, Special and Water Supply Authority Accounts:*

- 1 That Council adopt the draft 2007/2008 Financial Reports.*
- 2 That Council refer the draft 2007/2008 Financial Reports to External Audit.*
- 3 That Council authorise the Mayor, Deputy Mayor, General Manager and Responsible Accounting Officer to execute the required Certificates in relation to the draft 2007/2008 Financial Reports as required by relevant legislation.*
- 4 That Council provide a copy of the Financial Reports and Audit Opinion to the Department of Local Government and the Australian Bureau of Statistics in accordance with Section 417(5) of the Local Government Act 1993.*
- 5 That Council fix 26 November 2008 as the date for the presentation of the audited 2007/2008 Financial Reports and External Audit Report in accordance with Section 419(1) of the Local Government Act 1993.*

26 November 2008  
To the Ordinary Meeting of Council

Director's Report  
Corporate Services Department

### **2007-08 Annual Financial Reports (contd)**

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

*AGAINST:* NIL"

In accordance with No 5 of the above resolution, Council's External Auditor, Mr Dennis Banicevic of Price Waterhouse Coopers will present the audited 2007-08 Financial Reports and External Audit Report.

**521 Proposed Grants Funding Changes**F2008/02110 F2004/06624 ED

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**SUMMARY**

Proposal to establish a Wyong Shire Grants Committee and amend Policy C5 Councillor's Community Improvement Grants.

**RECOMMENDATION**

- 1** *That Council adopt the proposed Charter for the Wyong Shire Grants Committee.*
- 2** *That Council elect Committee representatives, for the term of Council, in accordance with the Charter.*
- 3** *That Council use its Code of Meeting Practice to conduct all business of the Wyong Shire Grants Committee.*
- 4** *That Council adopt the amended Policy C5 Councillor's Community Improvement Grants.*

**BACKGROUND**

Council has three grant programs established to provide financial assistance to individuals, non-profit organisations and groups via small grants for projects that contribute to objectives and targets identified in Council's Management Plan and Community Plan.

Grants are also approved for programs that contribute to Council's Cultural Plan.

Councillors Community Improvement Grants (CCIGs) also provide financial assistance to individuals, organisations and groups, meeting certain criteria, for projects not specifically provided for in Council's Management Plan.

To pursue a consistent policy approach in respect of the allocation of grants, Councillor members of the Community Benefit Grants Panel proposed that one Committee should consider the Community Benefit Grants, Cultural Development Grants and the Sports Equipment and Recreational Grants with consistent procedures for each Grant.

A proposed charter has been prepared for the proposed Wyong Shire Grants Committee.

If the charter is adopted, Committee members will require to be appointed. A proposed new charter is included as Attachment 1.



26 November 2008  
To the Ordinary Meeting of Council

Director's Report  
Corporate Services Department

### **Proposed Grants Funding Changes (contd)**

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As part of the amendment to procedures for the above Grants, staff were also requested to ensure that the criteria for Councillors Community Improvement Grants was also consistent with that proposed for the other grants. A copy of the proposed new CCIGs policy is included as Attachment 2 with amendments highlighted in bold italics.

***Attachment 1***  
***Attachment 2***

***Proposed Wyong Shire Grants Committee Charter (4 Pages)***  
***C5 Councillor's Community Improvement Grants (8 Pages)***

**Proposed Grants Funding Changes (Attachment 1)**

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**WYONG SHIRE GRANTS COMMITTEE  
CHARTER**

**Membership:** The Mayor (as a member of all Committees)  
Three Councillors  
General Manager's Nominee

Community Development Worker / Cultural Planner / Recreation Officer to attend as required

**Purpose and Objectives:**

The Wyong Shire Grants Committee is set up to assess applications received for the following grants:

- Community Benefit Grants
- Cultural Development Grants
- Sports Equipment and Recreational Grants

The Committee will assess applications that meet the objectives and requirements of their individual operating charters.

The Committee will report to Council on any recommended funding.

**Meetings**

The interval between meetings will not exceed three months. Notification of meetings will be given by the General Manager at least one week in advance together with a copy of the Business Paper. Meetings will be conducted in accordance with Council's adopted Code of Meeting Practice.

**Quorum**

A quorum will consist of two Councillors and the General Manager's nominee.

If for any reason a quorum is not present within half an hour of the scheduled commencement of the meeting, the meeting shall be rescheduled.

If, before the scheduled meeting date, the Chairperson has knowledge that a quorum will not be present, the Chairperson shall reschedule the meeting for another time.

## **Proposed Grants Funding Changes (Attachment 1) (contd)**

### **Scope**

To provide financial assistance to individuals, organisations and groups for proposals that provide benefit to the social, economic and / or environmental well being of the broader community by contributing to meeting objectives and targets contained in Council's Management Plan.

The Committee will act with fairness and not be seen as favouring any individual or organisation. The Committee must also ensure that any application/s received for the three type of grants available, that there is no "double up" of funding provided.

### **Committee Members' Non-Attendance at Meetings**

Committee members are expected to attend all committee meetings where possible.

Where a Committee Member fails to attend three successive meetings without submitting a satisfactory explanation, a report will be submitted to Council for consideration.

### **Non-Members' Attendance at Committee Meetings**

Persons other than Committee members/alternates shall be permitted to attend meetings subject to:

- Prior agreement at the previous meeting, if the invitee is known, or
- Agreement by the Chairperson or Mayor.

Such person may be requested to provide input by virtue of having special knowledge or information for the benefit of members, or may come as an observer, in which case no contribution is allowed nor may they vote on recommendations made to Council.

Permission to attend the meeting can be withdrawn at any time by the Chairperson or Mayor.

### **Vacancy**

If for any reason a vacancy in the Committee membership occurs, the position shall be filled by nomination from interested persons or by appointment as soon as practicable after the vacancy has occurred.

### **Chairperson**

The Chairperson will be a Councillor.

**Proposed Grants Funding Changes (Attachment 1) (contd)**

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**Secretary**

There is no secretary, as Governance and Councillor Services staff will service the Committee meetings.

**Meeting Place**

A suitable meeting place and facilities will be made available by Council for the conduct of Committee meetings.

**Agenda**

All agenda items shall be submitted to Governance and Councillor Services staff 14 days before the next scheduled meeting date. Members submitting items should ensure the content is given in sufficient detail to assist members understand the issues raised, or by providing additional supporting information.

If a committee member wishes to raise an urgent/late item that is not on the agenda, the Chairperson shall determine the appropriate manner for dealing with the matter in accordance with Council's adopted Code of Meeting Practice.

**Minutes**

Minutes of all committee meetings will be kept in the Corporate Information electronic filing system of Council.

The minutes shall contain:

- a Description of the meeting, date, time and venue at which the meeting was held,
- b A list of persons present,
- c Notation of adoption of minutes from previous the meeting,
- e Whether there was business arising from the minutes,
- f Notation of reports, correspondence and recommendations,
- g Items of general business,
- h Time meeting closed, date and venue for next meeting.

The Committee Business Paper will be prepared in a format similar to Council's Business Paper.

## **Proposed Grants Funding Changes (Attachment 1) (contd)**

### **Procedure for Changing the Charter**

The following procedure shall apply for amending the Charter:

- Any proposed changes to the Charter shall be submitted to the General Manager at least 21 days before any Committee meeting so that notice may be given to all members at least 14 days in advance of any meeting.
- Any proposed changes will require the support of the majority of the Committee membership.
- Proposed amendments to the Charter can be effective only after approval by Council.

Any requests from Council management to amend the charter shall be made through the General Manager for submission to the Committee.

### **Sunset Clause**

The Committee will report to the Council and cease operation at 5.00 pm on the day preceding the next Local Government election.

The Committee will cease to operate before 5.00 pm on the day preceding the next Local government election if Council adopts a review of the Committee by the General Manager which indicates that the Committee is either not fulfilling or is in breach of its Charter.

Established:           October 2008  
Reports to:            Council  
File Reference:        F2008/02110

**Proposed Grants Funding Changes (Attachment 2)**

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**C5 COUNCILLOR'S COMMUNITY IMPROVEMENT GRANTS**

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<b><u>Department:</u></b>	<b><u>Corporate Services</u></b>
<b><u>Unit:</u></b>	<b><u>Governance and Councillor Services</u></b>
<b><u>Review Details:</u></b>	
<b><u>Responsible Officer:</u></b>	<b><u>Director Corporate Services</u></b>
<b><u>File:</u></b>	<b><u>F2004/06624</u></b>
<b><u>Adopted on:</u></b>	<b><u>Amended on: 10 September 2008</u></b>

**OBJECTIVE**

To provide financial assistance to individuals, organisations and groups, meeting certain criteria, for projects not specifically provided for in Council's Management Plan.

**PREAMBLE**

Provision is made in the annual budget for a vote of funds which is available in equal proportions to all Councillors to recommend to Council the donation of such funds to specific projects, individuals and/or organisations for purposes that comply with the provisions of the Local Government Act, 1993.

The voting of and the provision of the funds is a function of the Council and advice by Councillors to individual organisations must acknowledge this.

Councillors must not give any advice or indication that funds have been donated to a project, individual and/or organisation until after the matter has been determined by Council. Advice prior to the formal determination must be restricted to advice that a recommendation has been made and will be determined by Council.

**INTRODUCTION**

In accordance with Section 356 of the Local Government Act, Council may, in accordance with a resolution of the Council, contribute money or otherwise grant financial assistance to persons for the purpose of exercising its functions.

This policy provides for the function of the allocation of funds for Councillors' Community Improvement Grants.

**REQUIREMENTS****1 Councillors**

1.1 Each Councillor is allocated a one tenth share of a total amount identified annually in Council's Management Plan.

## **Proposed Grants Funding Changes (Attachment 2) (contd)**

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- 1.2 Each Councillor may recommend to Council portions of that amount identified in Clause 1.1 to be donated to applicants who meet the criteria in this Policy.
- 1.3 Applications not meeting the criteria set in this Policy will not be reported to Council for consideration, regardless of a Councillor's recommendation and will be returned to the applicant indicating that the application did not meet the criteria. **A memo or e-mail will be provided advising the Councillor/s why the application will not be considered.**
- 1.4 Recommendations for donations may not exceed the allocation to an individual Councillor in any financial year.
- 1.5 In accordance with the Local Government Act 1993, funds may not be transferred to applicants until a resolution of Council determining the application is made, with the exception of Clause 1.6.
- 1.6 The General Manager is authorised to approve emergency payment provided the application meets the criteria set in this Policy and the matter is reported to the next meeting of Council.
- 1.7 Councillors must not give any advice or indications that funds have been approved until after the matter has been determined by Council.
- 1.8 A recommendation by an individual Councillor must be made on either the Councillors' Community Improvement Grants application form, the Councillors' Community Improvement Grants memo **or by e-mail advice.**
- 1.9 **No recommendation will be accepted without the necessary documentation.**
- 1.10 **Councillors cannot nominate allocations from the floor of the Chamber when a report is considered.**
- 1.11 A proposed allocation must not be in contravention of the Local Government Act 1993 or any policy of Council.

## **2 Funding**

- 2.1 Unallocated funds from individual Councillors will lapse on 30 June of each year **and be returned to General Fund.**
- 2.2 In the **financial** year preceding a Local Government election, the allocation to the individual Councillors will be 75% of the allocation identified in Clause 1.1 and will be available to Councillors from 1 July **to 31 May** of that year.

**Proposed Grants Funding Changes (Attachment 2) (contd)**

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- 2.3** *After a Local Government election, the allocation to the individual Councillors will be 50% of the allocation identified in Clause 1.1 and will be available from 1 December of that year to 30 June of the following year.*
- 2.4** *If a Councillor is pre selected by a political party or nominates for election to Federal or State Governments, the allocation is suspended from:*
- a day of nomination if less than three months prior to the Election date; or*  
*b three months prior to the Election date*
- until three months after the election date.*
- 2.5** *Only one application per financial year or one application per project will be considered.*
- 2.6** *Funds approved will only be up to the amount requested on the application.*

**3 Pecuniary Interest / Conflict of Interest**

- 3.1 In accordance with the provisions of the Local Government Act, Councillors must nominate any Pecuniary Interest or Conflict of Interest relating to a funding recommendation.

**4 Eligible Criteria**

- 4.1 *Category One – Community / Service / Charitable Groups, Organisations or Individuals*
- 4.1a In order to be eligible for consideration for Councillors' Community Improvement Grants funding for Category 1 the applicant must be an individual, or an official representative of a group or organisation that:
- has a community, service or charitable purpose,
  - provides a benefit to the residents of Wyong Shire, and
  - the funding sought must be used to facilitate that role.
- 4.1b The signature of the individual or a representative of an organisation or group on Council's Councillors' Community Improvement Grants application form will certify that the applicant meets the criteria set out in Clause 4.1a of this Policy.
- 4.1c Councillors' Community Improvement Grant funds may be allocated for emergency assistance in the event of natural disasters such as bushfire, flood or drought anywhere in Australia. The applicant must be an individual, or an official representative of a group or organisation that has a community, service or charitable purpose.



## **Proposed Grants Funding Changes (Attachment 2) (contd)**

### *4.2 Category 2 – Pursuit of Excellence*

4.2a Application for funding may be made by an individual or groups in pursuit of excellence in a given field (eg cultural, sporting, educational pursuits, student exchange).

4.2b Applicants in Category 2:

- must reside in Wyong Shire or participate in a group located in Wyong Shire, and
- the purpose of the funding must highlight or promote Wyong Shire.

4.2c The signature of the individual or of a representative of an organisation or group on Council's Councillors' Community Improvement Grants application form will certify that the applicant meets the criteria set out in Clauses 4.2a and 4.2b.

### *4.3 Category 2a – Pursuit of Excellence – Sporting or Cultural Excellence*

4.3a In addition to the criteria in Clauses 4.2a and 4.2b those applicants for pursuit of sporting or cultural excellence must apply for funding, in the first instance, from either of the funding programs identified below.

- Wyong Shire Council Sportsperson Grant Programme (Regional Country or State representative level).
- Central Coast Regional Organisation of Councils Sporting or Cultural Sponsorship Program (National or International representative level).

Written advice from either program advising that the applicant was unsuccessful is required before an application will be considered under this Policy.

**4.4 Applicants who have previously obtained funding from Council under any of Council's Grant programs will not be eligible to apply for assistance until that previous grant has been acceptably accounted for.**

**4.5 Applications for the following are ineligible:**

- a Retrospective funding of any activity;**
- b A project, event, service or activity which in the opinion of the Director, Corporate Services, would be better funded by State or Federal Government or by corporate sponsorship or a philanthropic trust;**

**Where alternative funding options exist for any of the above exclusions, applicants will be advised accordingly.**

**Proposed Grants Funding Changes (Attachment 2) (Contd)**

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- 4.6 Applications from Government Departments or Agencies and Wyong Shire Council will not be considered (excluding schools / pre schools / playgroups).**
- 4.7 Schools are ineligible for funding, being core budget items for State Government. However, some activities of parent organisations could qualify when it can be demonstrated that activities help low income, disabled or otherwise disadvantaged students, or contribute to their welfare. This would generally cover activities such as out-of-hours programs for troubled students, counselling, or drug and alcohol services.**
- 4.8 Applications that have been successful in other grant programs for the same project will not be considered.**
- 4.9 The following are ineligible for funding:**
- **Rate rebates - 355 Committees and progress associations under the care and control of Council\***
  - **Water rebates - 355 Committees and progress associations under the care and control of Council\***
  - **Events over \$2,000**
- Applications for these rebates must be made on the Community Benefit Grants form and submitted for funding through that process.**
- 4.10 A proposed allocation must not be in contravention of the Local Government Act 1993 or any Procedure of Council.**

**5 Application and Additional Documentation**

- 5.1 All applications for funding must be made on the Wyong Shire Council Councillors' Community Improvement Grants application form and be certified by the individual applicant or representative of the group / organisation in accordance with Clauses 4.1b or 4.2c.**
- 5.2 In accordance with taxation requirements of the Federal Government the applicant must disclose an Australian Business Number (ABN).**
- 5.3 If the individual, group or organisation is registered for the GST and does not have an ABN, or chooses to withhold the ABN, the completion and endorsement of the Australian Tax Offices' "Statement by Supplier" form is received and is attached to the application form.**

## **Proposed Grants Funding Changes (Attachment 2) (contd)**

- 5.4 If the organisation seeking funds is registered for GST then Council must allocate additional funds for the GST payment. The Councillors' Community Improvement Grants application form will constitute a tax invoice.
- 5.5 If the organisation seeking funds has an ABN but is not registered for GST, a "Statement of Supplier" form is not required and Council is not required to allocate additional funds for the GST payment. The Councillors' Community Improvement Grants application form will constitute an invoice.

### **6 Procedural Requirements**

- 6.1 Applications may be submitted in two ways:
- a Fully completed and submitted to an individual Councillor who will then forward the application to Council staff. Satisfactory applications are then forwarded to the remaining Councillors for consideration.
  - b Fully completed and submitted directly to Council staff and then be forwarded to individual Councillors for consideration.
- 6.2 Upon recommendation from Councillor/s the application will be reported to Council for determination.
- 6.3 Applications submitted in accordance with Clause 6.1a will be forwarded to the remaining Councillors concurrently with the original recommendation of the Councillor/s being reported to Council for determination.

### **7 Incomplete Applications**

- 7.1 Applications submitted direct to Council or via a Councillor that do not contain sufficient detail to be assessed or processed will not be forwarded to the remaining Councillors or Council for consideration until all the correct information is provided.
- 7.2 Applicants submitting incomplete applications will be advised of the information required and given one month from the date of that advice to provide the information. Should the information not be received within this period the application will be cancelled and the applicants, and if applicable the recommending Councillor/s, will be advised.

**Proposed Grants Funding Changes (Attachment 2) (contd)**

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**8 Unsuccessful Applications**

- 8.1 Applications that have met all criteria set under this Policy, and have not been nominated for funding by individual Councillors or approved by a resolution of Council, will be considered unsuccessful and the applicant advised.

**9 Successful Applications**

- 9.1 Once an application has been approved by a resolution of Council, funds will be forwarded by cheque or electronic funds transfer (EFT) in accordance with the option nominated on the Councillors' Community Improvement Grants application form, within ten working days of the Council resolution.

**9.2 *Council funds may only be used as agreed with Council and may not be diverted to another purpose.***

**9.3 *Funds must be expended within three months of receipt and a report on the outcome together with receipts (if appropriate) are to be provided to Council immediately on completion of the project.***

**9.4 *Failure to comply with Clause 9.3 above will disqualify the applicant from future grants.***

**9.5 *Unspent funds must be returned to Council.***

**10 Works in Kind**

- 10.1 The Council and / or the applicant may determine that the carrying out of works by Council or a contractor is a more economical option for which funds are sought (eg driveway, kerb and gutter works, building, electrical works). Provision is made on the Councillors' Community Improvement Grants application form to nominate this option.

10.2 Where a contractor option is chosen, the contractor must comply with Council standards and demonstrate relevant expertise, to the satisfaction of the Department Head and the cost of the project charged against the Councillor's allocation is all sums paid to the contractor net of GST plus any other direct cost to Council.

10.3 Where Clause 10.1 is enacted the estimate prepared by the Department Head and approved by Council is to be the sum charged against the Councillors total allocation irrespective of the final cost. All over expenditures in excess of 10% are to be reported to Council.

## **Proposed Grants Funding Changes (Attachment 2) (contd)**

10.4 Priority for works approved under this policy are not to interfere with Councils priority program without the express approval of Council.

### **11 Goods and Services Tax**

11.1 Where any charge, fee, supply of products or services under this policy is subject to a Goods and Services tax (GST) an amount equal to the GST paid or payable in respect of the charge fee, supply of products or services shall be indicated in the amount of consideration paid or payable under this policy.

LEGISLATION: LOCAL GOVERNMENT ACT 1993, SECTION 356  
DEPARTMENT: CORPORATE SERVICES

26 November 2008  
To the Ordinary Meeting of Council

Director's Report  
Corporate Services Department

## **522 Councillor Workshop**

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F2004/06466 KMA

### **SUMMARY**

It is proposed that Councillors and senior staff participate in a weekend briefing session in February 2009.

### **RECOMMENDATION**

***That Council approve a strategic workshop for Councillors to be held at Nelson Bay on 6 February to 8 February 2009.***

### **BACKGROUND**

Council has acknowledged that detailed and focused time by Councillors is required to advance the Shire Vision and long term financial strategy. It is considered important to ensure Councillors and senior management have the time to deal with these key issues in an environment free of interruption and conducive to creative efforts.

A draft workshop plan has been developed which will include workshops and team building opportunities to assist Councillors and staff to achieve the workshop objectives. It is proposed that the briefing will commence at 7.00 pm Friday 6 February until 12 noon of Sunday 8 February 2009.

The objectives of the weekend briefing session will include;

- 1 To address the Ideal Visions, objectives and actions for the seven Shire Strategic Vision themes.
- 2 Provide input into the Asset Management Improvement Programme
- 3 Provide input into the Long Term (20 year) Financial Strategy
- 4 Provide input into the 2009-10 Management Plan.

Quotes have been obtained from a number of conference centres in seeking a suitable location containing conference and accommodation facilities on similar terms.

To ensure that the selected conference location can be obtained, formal attendance numbers and facility needs are required to be determined.

**Councillor Workshop (contd)**

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Quotation figures obtained from a number of conference locations:

<b>Workshop Requirements</b>	<b>Location</b>	<b>Approx Travel Time</b>	<b>Quotations</b>
Accommodation/meals/conference facilities for 20 people - from Friday 6 to Sunday 8 February 2009	Peppers Guest House Hunter Valley NSW	1.5 Hours	\$16,760.00
	Grand Mercure Hunter Valley NSW	1.5 Hours	\$15,060.00
	Shoal Bay Resort Nelson Bay NSW	1.5 Hours	\$14,800.00
	Sebel Resort Hawkesbury NSW	1.5 hours	\$14,000.00

*Note: All conference facilities are currently still available*

All conference centre locations provide standard conference centre facilities however Shoal Bay Resort provides a state of the art conference centre including a variety of breakout areas throughout the resort, while also providing an additional location attraction of Shoal Bay Beach nearby.

26 November 2008  
To the Ordinary Meeting of Council

Director's Report  
Corporate Services Department

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**523                      Annual Report to the Minister for Local Government**

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F2008/01498 SG

**SUMMARY**

Reporting Council's Annual Report to the Minister for Local Government.

**RECOMMENDATION**

*That Council adopt the Annual Report for 2007-08.*

**BACKGROUND**

Council is required to present an Annual Report to the Minister for Local Government by 30 November each year and all in accordance with the Local Government Act 1993.

A checklist of required information is included at the beginning of the Annual Report, indicating each separate requirement for the Annual Report under the legislation.

Council's Annual Report is enclosed for the information of Councillors. It incorporates:

- Enclosure 1 - Council's Financial Reports
- Enclosure 2 - The 2007-08 Management Plan
- Enclosure 3 - The State of the Environment Report (incorporating the State of the Environment report)
- Enclosure 4 - Facilities and Expenses Policy for Councillors

Enclosures 1, 2, 3 and 4 have been reported to Council previously.

It is intended to post the 2007-08 Annual Report and Enclosures on the website after adoption by Council.

**Enclosure                      Annual Report 2007-08**



**WYONG SHIRE COUNCIL**

26 November 2008  
To the Ordinary Meeting of Council

Director's Report  
Shire Services Department

**524                      Review of Council's Project Management Processes**

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F2007/01410 GHK

**SUMMARY**

This report provides a draft consultant's brief to undertake a review of Council's existing project management improvement process for Council's approval.

**RECOMMENDATION**

***That Council approve the draft consultant brief on the review of Council's Project Management processes.***

**BACKGROUND**

At the Ordinary Meeting held on 30 July 2008 Council resolved as follows:

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

- 1     That the report be received and the information noted.*
- 2     The Council continue to pursue current initiatives to strengthen its project management capabilities.*
- 3     That staff obtain a short list of independent suitably experienced consultants for Council's consideration with a view to appointing a consultant to undertake a review of Council's project management processes to further assist with the strengthening of its capability in achieving its objectives in this vital aspect of its operations.*
- 4     That prior to conducting the review identified in 3 above, staff report to Council a draft consultant's brief identifying all key aspects of the proposed review including the various policies, procedures and overall costs associated with the review.*
- 5     That all major contract variation outcomes be reported as information reports to Council at the completion of the various tenders.*
- 6     That reports to Council on major projects highlight the potential risks and consequences in order to facilitate consideration of the nature of those risks and the adequacy of actions on place to mitigate them by both executive management and Councillors.*
- 7     That the quarterly reports on the Management Plan include a summary report on significant contract/project variations for the quarter."*

This report addresses Resolution No. 4 above.

## **Review of Council's Project Management Processes (contd)**

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### **Existing Contract**

Council undertakes a wide range of projects on a regular basis as part of its daily business activities. These projects are handled across all Departments and by staff with varying project management skills.

It was recognised that there was a need to strengthen the organisation's project management capabilities to improve the standard of delivery of both small and large projects. To address this need, quotations were called late in 2007 for suitably qualified management consultants to work with Council to institute improvements to Council's existing project management systems and provide targeted training to staff. Sixteen companies provided quotations and were assessed on a number of criteria.

Consultant Blue Visions Management Pty Ltd provided a comprehensive proposal and was highly recommended having undertaken similar work with other Local Government and State Government authorities. The company was subsequently engaged in April 2008 under staff delegation to undertaking the following work:

- 1 Review Council's existing project management capability, system and processes;
- 2 Identify and develop improvements to the existing system and processes;
- 3 Develop documentation and templates to standardise project management documentation throughout Council and
- 4 Develop and implement a staged project management training programme for staff.

To date Blue Visions has completed items 1 and 2 above, and is in the implementation and testing stage of item 3.

### **Proposed Actions**

As required by Resolution 4 from the Council meeting of 30 July 2008, a Brief has been prepared for Council's consideration to engage a consultant to review Council's project management processes. This draft Brief is shown as Attachment 1.

The draft Brief is envisaged to build on the work already completed under the existing consultancy with Blue Visions, and is structured to review completed and proposed work by Blue Visions. It would provide possible recommendations to improve the outputs and deliverables achieved by that consultancy. In addition, aspects of risk evaluation and management of estimates would be reviewed, and a review of the effectiveness of training programmes would be undertaken.

**Attachment 1**

***Draft Consultants Brief (3 pages)***

## **Review of Council's Project Management Processes (Attachment 1)**

Following approval to the attached draft Brief, it is proposed to call Expressions of Interest from suitably qualified consultants to undertake the work. The submissions received will be assessed and a further report provided to Council early in 2009 addressing Resolution No. 3 above for Council's consideration. It is estimated that the costs associated with this review could be up to \$20,000.00.

### **DRAFT CONSULTANT BRIEF**

#### **1 Introduction**

Wyong Shire is located approximately 100 km north of Sydney and is a rapidly developing growth region. Some statistics will serve to highlight to size and complexity of this area.

Wyong Shire has a population of over 145,000 people; a total area of 827 sq km; and over 1,000 km of roads. The annual Council expenditure is in excess of \$360 million and the Council employs over 1,200 staff. In the last two years over 525 contracts were managed, many being part of much larger projects.

In order to provide improved services, new facilities and upgrade infrastructure, Council staff are involved in the execution of numerous projects annually. These projects may take the form of civil construction and maintenance projects; park development projects; building projects; IT projects; as well as community and organisational projects. They are managed across all sections and all Departments of Council, including the Corporate Services Department, Shire Planning Department and Shire Services Department.

They may vary in size from very small, straightforward projects to substantial and very complex projects. Improvements in the management of these projects will result in the more efficient utilisation of Council's funds and resources.

Council has determined there is a need to develop the project management skills of Council staff involved in the execution of projects as part of their position with Council, and to provide them with improved project management tools to assist them in these tasks.

Council has already engaged the services of a consultant (Blue Visions Management Pty Ltd) to review Council's existing project management systems and processes with a view to making improvements so that they will integrate with a staged project management training programme that is also to be developed as part of that consultancy. The status of that consultancy is that an assessment of Council's capability has been completed, improved procedures are being developed and documented and templates are being developed and tested to standardise project management documentation. Staff training is to commence in January/February 2009.

**Review of Council's Project Management Processes (Attachment 1) (contd)****2 Objectives**

This consultancy is required to undertake an independent review of the completed and proposed work under the existing project management improvement consultancy and provide (any) recommendations to improve the outputs and deliverables of that consultancy.

Particular areas of review are to include risk and estimating procedures, and the effectiveness of the staff training provided.

**3 Scope of Work**

The Consultant is required to undertake all activities required, provide all labour and materials and commit other resources as necessary to ensure the successful completion of the Principal's objectives for this project.

The work proposed under this consultancy is an independent review of the project management improvement process and training already underway and/or implemented. This will require:

- A review of the present consultant's findings of the capability assessment of the organisation in respect to project management;
- A review of the present consultant's recommended improvements to existing systems, document templates and procedures;
- A review of the proposed new project management system;
- A review of the proposed integration of the new project management system with other existing systems and procedures (including but not limited to, for example, the present contract development and management system) within Council's Intranet (SharePoint);
- A review of the proposed training programme to be developed, including training materials and proposed initial training of Council staff and ongoing training support;
- A specific review of risk and estimating procedures incorporated into the project management procedures and processes;
- Recommendations (if any) to improve the outcomes of the present revision of Council's project management systems and processes.

**4 Information to be Supplied by Council**

The Principal shall make available to the consultant access to the existing consultant's deliverables under its contract with Council as well as access to other relevant Council business management systems, if required.

## **Review of Council's Project Management Processes (Attachment 1) (contd)**

### **5 Deliverables**

The deliverables will be a report documenting the consultant's methodology adopted for the review, the findings and (any) recommendations for improvements.

### **6 Timeframe**

The consultancy is required to be completed within 4 weeks of award.

### **7 Liaison and Consultation**

The Consultant may be required to present its findings to the Council's Senior Management Team for endorsement.

## WYONG SHIRE COUNCIL

26 November 2008  
To the Ordinary Meeting of Council

Director's Report  
Shire Services Department

**525 Adoption of Amendments to the 2008-09 Management Plan**

F2004/07006 NS:BR

**SUMMARY**

Report on proposed advertised amendments to the adopted 2008-09 Management Plan.

**RECOMMENDATION**

- 1** *That the 2008-09 Management Plan be amended by incorporating additional expenditure of \$1,040,000 for the design, investigation and approval of a number of capital works projects including the upgrading of Darren Kennedy Oval, floodlighting, subsoil drainage, playground construction, and surf club refurbishments/rebuilding works.*
- 2** *That Council acknowledge that if recommendation 1 is adopted, that Item 6 of the resolution of Council at its meeting held on 23 July 2008 will also need to be considered for funding during the development of the Management Plans in 2009-10-11 to complete the remaining \$6,090,000 in construction works.*
- 3** *That Council note that staff have explored where matching or other grants could be sourced and that details of funding sources are contained within this report.*
- 4** *That Council adopt the lists of works and timetables as contained in this report (including adopting staff recommendations for minor changes to the \$7.13 Million funding split between the lists of works) for consideration for implementation, subject to the timing and availability of revenue.*
- 5** *That Council Section 13 of the Fees and Charges in the 2008-09 Revenue Policy be amended to exempt school canteens operated by the P&C or P&F Committee from Fee 13.1 Food Shops Annual Administration Charge, Fee 13.2 Improvement Notice Served Under Food Act and Fee 13.3 Reinspection.*

**BACKGROUND**

Council at its meeting held on 23 July 2008, resolved unanimously on the motion of Councillor PAVIER and SECONDED by Councillor GRAHAM:

- "1 *That Council agree, in principle, to proceed with the previously identified list of high priority works in need of funding as follows;*
- a** *\$1.24 Million for items 1 to 10 of the floodlight upgrade priority list as identified by staff. For clarity, No 1 is the Ourimbah soccer oval and up to including No 10 EDSAAC Netball Courts. These items have been previously reported to Council.*
  - b** *\$890,000 towards installation of sub-soil drainage on sports grounds as priority identified in a Council report of January 2005.*

### **Adoption of Amendments to the 2008-09 Management Plan (contd)**

- c *\$500,000 for playground land acquisition in Ourimbah to provide for a playground site. \$1 Million to meet the identified high priority playgrounds strategy as identified in previous reports and briefings to Council as early as 2005.*
  - d *\$3 Million towards a rebuild/refurbishment program, conditional on an agreed program of works between Council and the surf clubs. Council notes that the surf clubs have presented recently their priority list of clubs rebuild/refurbishment, in Wyong Shire.*
  - e *\$500,000 towards management and upgrading of Darren Kennedy Oval Toukley (Council report November 2005 and February 2007).*
- 2 *That staff, as a result of the above funding, explore where matching or other grants could be sourced eg from State and Federal Governments etc to assist in the delivery/acceleration of the above works. As a result of the recent surf club briefing, Council strongly encourage and also write to the surf club movement, urging them to lobby their respective State and Federal Members of Parliament to assist in further additional funding opportunities.*
  - 3 *That Council seek to amend the 2008-09 Management Plan to include an expenditure of \$1,330,000 from land sales and developer contributions for those works identified above to be carried out in the current financial year.*
  - 4 *That the amendment be exhibited for a minimum period of 28 days.*
  - 5 *That a report be brought back to Council following this exhibition. This report is to include the list of works, timetable and the results of 2 above.*
  - 6 *That, in formulating the 2009/2010/2011 Management Plans, Council gives consideration to the expenditure of \$5,800,000 from land sales and developer contributions for the remainder of the works identified above."*

The proposed amendments to Volume I of the 2008-09 Management Plan were advertised for 28 days and no submissions were received.

This report provides details as to potential sources of matching funds or other grants, potential lists of works and timetables, as well as details of Council staff's contact with the surf club movement. It should be noted that the identified potential grant funds are not certain and that the cost estimates are preliminary in nature and subject to revision as the projects are developed in more detail.

Expenditure (funded from land sales (\$512,350) and developer contributions (\$527,650)) totalling \$1,040,000 is proposed in 2008-09 to be utilised for the design, investigation and approvals of a range of capital works projects including upgrading of Darren Kennedy Oval, floodlighting, subsoil drainage, playground land acquisition, playground construction and surf club refurbishments/rebuilding works. An additional \$6,090,000 expenditure will need to be considered in 2009-10 and future years to construct and complete the works once initial design and approvals have been obtained.

**Adoption of Amendments to the 2008-09 Management Plan (contd)**

However, it should be noted that due to recent announcements by the State Government relating to developer contributions, the impact of the global financial crisis on the development industry and the current level of developer contributions held, no guarantee can be given that developer contributions funds can be used to fund these and other projected works.

During the formulation of the 2009-10 and 2010-11 Management Plans, Council will need to balance the priorities for expenditure emanating from the Shire Strategic Vision and the Asset Management Improvement Project, against further expenditure on these projects.

Note that the implementation of the proposed works can be scheduled to match the timing and availability of funds.

**POTENTIAL EXTERNAL FUNDING SOURCES**

Staff have explored where matching funds or other grants could be sourced to assist in the delivery/acceleration of the works.

Table 1 summarises potential funding sources.

**Table 1: Potential funding sources available to supplement revenue funds.**

<i><b>Anticipated Funding Sources available</b></i>	<i><b>Floodlighting</b></i>	<i><b>Sub Soil Drainage</b></i>	<i><b>Playground</b></i>	<i><b>Surf Clubs</b></i>	<i><b>Darren Kennedy Oval</b></i>
NSW Sport and Recreation Capital Assistance Program (CAP)	\$80,000	\$80,000	\$30,000	N/A	\$35,000
Playground Equipment Upgrade Grant	N/A	N/A	\$20,000	N/A	N/A
Metropolitan Greenspace	N/A	N/A	\$30,000	N/A	N/A
Australia Council, Projects with Public Outcomes	N/A	N/A	\$100,000	N/A	N/A
Australia Council, Creative Community Partnership Initiative	N/A	N/A	\$50,000	N/A	N/A
CMA Grants, Hunter Central Rivers, Natural Heritage Trust	N/A	N/A	\$40,000	N/A	N/A
NSW Sport and Recreation and SLSA Surf Club Facility Development Program	N/A	N/A	N/A	\$1,750,000	N/A
Federal Government Grant Program to be announced 2010-11	N/A	N/A	N/A	\$1,100,000	N/A
<b>Total</b>	<b>\$80,000</b>	<b>\$80,000</b>	<b>\$270,000</b>	<b>\$2,850,000</b>	<b>\$35,000</b>



## **Adoption of Amendments to the 2008-09 Management Plan (contd)**

*Note: The figures summarised above indicate the level of funding that staff believe is achievable. These are not guaranteed. Potential funding sources total \$3,315,000. Staff have taken into account matching funds requirements, results of previous similar grant applications and available timeframes.*

As a result of the recent surf club briefing and Council's subsequent resolution, Council staff have written to Surf Life Saving Australia, Surf Life Saving Central Coast and all six Wyong Shire Surf Life Saving Clubs, urging them to lobby their respective State and Federal Members of Parliament to assist in further additional funding opportunities. Council staff also met with Surf Life Saving Central Coast on 1 October 2008 and again on 8 October 2008, along with all six surf clubs, to strongly encourage the surf club movement to lobby their State and Federal members for additional funding. The Surf Life Savings Clubs and Surf Life Saving Central Coast have been consulted on the proposed surf club works listed in this report and support the approach presented in it.

### **PROPOSED LISTS OF WORKS AND PROGRAM**

Proposed lists of works for floodlight upgrade, sub-soil drainage, playgrounds, surf clubs and Darren Kennedy Oval upgrade are provided below.

The costings are preliminary estimates only and are provided as a guide as to the anticipated cost break-up per specific project in each works program. Actual costings per specific project may vary based on final design solutions resulting from the investigation of site and soil conditions. The agreed final scope of works and costings will also be subject to the changing buying power of the Australian dollar where materials are sourced overseas, such as for Playgrounds.

Council staff will source Consultants to carry out initial investigations and then prepare final designs for authority approval. During the investigation and design stage the final scope of works per project will be finalised to align with overall available funds. Site variables such as soil conditions, equipment configuration, suitability of available power supply (in the case of sportsfield new flood lights), footing design and so on will be costed to allow for greater confidence prior to proceeding to construction tender.

Specific projects will be amended as design progresses and site-issues are identified to ensure overall budget is not exceeded per each works program (such as the overall budget for sub soil drainage) and that works are delivered within the proposed timescale provided in the following tables.

The content of the attached tables of works are in line with Council's Resolution of 23 July 2008 with some minor adjustments to costings.

These minor adjustments have been incorporated to reflect revised current cost estimate data, as well as updated cashflow projections for anticipated expenditures for the remainder of 2008-09 for investigation, design and approvals.

The original nominated individual projects remain as per the list of works in Council's Resolution of 23 July 2008.

**Adoption of Amendments to the 2008-09 Management Plan (contd)****Floodlights**

The list of works program in Table 2 details the timetable and cost estimates to complete items 1 to 10 on the floodlight upgrade priority list as per the Resolution. Costs include an allowance for proposed grant funds.

Table 2: Floodlight works program.

<i>Item</i>	<i>Proposed 2008-09</i>	<i>Potential 2009-10</i>	<i>Total Costs</i>
Investigation, design and approvals	\$130,000 *		\$130,000
Ourimbah Soccer Oval No.1 and 2		\$200,000	\$200,000
Ourimbah Rugby Oval		\$110,000	\$110,000
Joseph Banks Oval		\$140,000	\$140,000
Slade Park		\$130,000	\$130,000
Kurraba Oval No.1 and 2		\$170,000	\$170,000
Watanobbi Oval No.1		\$145,000	\$145,000
Watanobbi Oval No.2		\$160,000	\$160,000
EDSACC Netball Courts No.1 and.2		\$135,000	\$135,000
<b>Total</b>	<b>\$130,000</b>	<b>\$1,190,000</b>	<b>\$1,320,000</b>

*Noted changes: The above list combines Ourimbah Soccer Ovals 1 and 2 as well as Kurraba Ovals 1 and 2 as one project item. Proposed total expenditure including extra potential grant funding of \$80,000 is estimated to be \$1,320,000.*

*\* Indicates items for which the level of confidence in cost estimates is relatively high (not expected to exceed +15%). The remainder of the items are only pre-design estimates of works, are subject to a high degree of variability and therefore a lower level of confidence. Costs for these items may vary by up to approximately +60%. The estimates for these remaining items do not have as high a degree of confidence for varying reasons such as lack of site investigation and geotechnical information, lack of recent historical expenditure data on similar projects and unconfirmed final project deliverables.*

**Sub Soil Drainage**

The works program in Table 3 details the timetable and cost estimates to complete items 1 to 14 on the sub soil drainage priority list as per the Resolution. Costs listed include an allowance for proposed grant funds.

**Adoption of Amendments to the 2008-09 Management Plan (contd)**

Table 3: Sub Soil Drainage works program.

<i>Item</i>	<i>Proposed 2008-09</i>	<i>Potential 2009-10</i>	<i>Potential 2010-11</i>	<i>Total Costs</i>
Investigation, design and approvals	\$120,000 *			\$120,000
Ourimbah Soccer No 1 and 2		\$130,000 *		\$130,000
Lake Haven Oval No 1 and 2		\$130,000 *		\$130,000
EDSACC Nth No 1 and 2			\$130,000 *	\$130,000
EDSACC Sth No 1 and 2			\$130,000 *	\$130,000
Kurraba Oval No 1		\$70,000 *		\$70,000

<i>Item</i>	<i>Proposed 2008-09</i>	<i>Potential 2009-10</i>	<i>Potential 2010-11</i>	<i>Total Costs</i>
Kanwal Oval No 1 and 2			\$110,000 *	\$110,000
Killarney Vale Athletics Field	\$110,000 *			\$110,000
Halekulani Oval No 1 and 2			\$110,000 *	\$110,000
<b>Total</b>	<b>\$230,000</b>	<b>\$330,000</b>	<b>\$480,000</b>	<b>\$1,040,000</b>

*Noted Changes: The above list combines Ourimbah Soccer Ovals 1 and 2, Kanwal Ovals 1 and 2, EDSACC North 1 and 2, EDSACC South 1 and 2 and Halekulani Ovals 1 and 2 as one project item. Proposed total expenditure including additional potential grant funding is estimated to be \$1,040,000. This comprises \$890,000 as per the original Resolution plus \$80,000 grants estimate, plus a proposed reallocation of \$70,000 redirected from the Upgrading Darren Kennedy list of works.*

*\* Indicates items for which the level of confidence in cost estimates is relatively high (not expected to exceed +15%). The remainder of the items are only predesign estimates of works, are subject to a high degree of variability and therefore a lower level of confidence. Costs for these items may vary by up to approximately +60%. The estimates for these remaining items do not have as high a degree of confidence for varying reasons such as lack of site investigation and geotechnical information, lack of recent historical expenditure data on similar projects and unconfirmed final project deliverables.*

**Playgrounds**

The works program in Table 4 details the timetable and cost estimates to complete priority items on the Local Parks Strategy 2005 as nominated in the Resolution and includes replacement of current, high priority aging current playground infrastructure. Costs listed include an allowance for proposed grant funds.

**Adoption of Amendments to the 2008-09 Management Plan (contd)**

Table 4: Local Parks Action Plan works program.

<i>Item</i>	<i>Proposed 2008-09</i>	<i>Potential 2009-10</i>	<i>Potential 2010-11</i>	<i>Total Cost</i>
Investigation, design and approvals	\$100,000			\$100,000
Construction of local playground Bateau Bay	\$150,000 *			\$150,000
Construction of playground Long Jetty - (Lions Park)	\$100,000 *			\$100,000
Replacement of aging playground equipment to meet safety standards	\$100,000 *	\$100,000 *	\$30,000 *	\$230,000
Construction of local playground Lake Haven, Kylie Close		\$220,000 *		\$220,000
Playground Equipment at Pat Morley Oval		\$30,000 *	\$60,000 *	\$90,000
Ourimbah - Acquire land and develop a local park.			\$500,000	\$500,000

<i>Item</i>	<i>Proposed 2008-09</i>	<i>Potential 2009-10</i>	<i>Potential 2010-11</i>	<i>Total Cost</i>
Construction of local playground Tuggerawong, Rocky Point			\$240,000	\$240,000
Construction of local playground Elizabeth Bay, Lake Munmorah			\$70,000	\$70,000
Construction of local playground San Remo, Wills Road			\$70,000 *	\$70,000
<b>Total</b>	<b>\$450,000</b>	<b>\$350,000</b>	<b>\$970,000</b>	<b>\$1,770,000</b>

*Noted Changes: Proposed total expenditure including additional potential grant funding is estimated to be \$1,770,000. This comprises \$1,500,000 as per the original Resolution plus \$270,000 grants estimate.*

*\* Indicates items for which the level of confidence in cost estimates is relatively high (not expected to exceed +15%). The remainder of the items are only predesign estimates of works, are subject to a high degree of variability and therefore a lower level of confidence. Costs for these items may vary by up to approximately +60%. The estimates for these remaining items do not have as high a degree of confidence for varying reasons such as lack of site investigation and geotechnical information, lack of recent historical expenditure data on similar projects and unconfirmed final project deliverables. The cost estimate for investigation, design and approvals may vary depending on the proportion of design work that is performed by Council staff.*

**Surf Clubs**

The works program in Table 5 details the timetable and cost estimates to replace or refurbish five of the six Surf Clubs. Toowoong Bay Surf Club was recently rebuilt and opened in 2005 and is therefore not included in the refurbishment program. The Surf Clubs and Council staff will review the scope of works and order of proposed works after receipt of a Consultant's

**Adoption of Amendments to the 2008-09 Management Plan (contd)**

Needs Analysis report. The scope and order of works have the potential to change as detailed information becomes available and as available grant funding to support the works program is confirmed. The delivery of the works program will therefore need to be flexible and subject to regular review to ensure that the program remains within the approved total budget. The surf clubs are aware of this situation and support the approach taken. Costs listed include an allowance for proposed grant funds.

**Table 5: Surf Club works program.**

<i>Item</i>	<i>Proposed 2008-09</i>	<i>Potential 2009-10</i>	<i>Potential 2010-11</i>	<i>Total Cost</i>
Planning Investigations	\$100,000			\$100,000
Minor Refurbishment – The Lakes Surf Club		\$650,000		\$650,000
Minor Refurbishment – North Entrance Surf Club		\$650,000		\$650,000
Major Refurbishment – The Entrance Surf Club		\$425,000	\$550,000	\$975,000
Major Refurbishment – Soldiers Beach Surf Club		\$425,000	\$550,000	\$975,000
Replace – Shelly Beach Surf Club			\$2,500,000	\$2,500,000
<b>Total</b>	<b>\$100,000</b>	<b>\$2,150,000</b>	<b>\$3,600,000</b>	<b>\$5,850,000</b>

*Noted Changes: Proposed total expenditure including additional potential grant funding is estimated to be \$5,850,000. This comprises \$3,000,000 as per the original Resolution plus \$2,850,000 grants estimate. The cost estimate for a replacement club is based on a recent project in Gosford Council area but is acknowledged that depending on the requirements identified in the needs analysis to be undertaken in the 2008-09 financial year, that the local requirements identified for the construction of a new building in the Wyong Shire may result in this estimate needing to be adjusted. Additionally, the works program in Table 5 is indicative only as the 2009-10, and 2010-11 works program that is listed is dependant on the outcomes of the needs analysis and available grant funding. The needs analysis will further determine planning implications, actual building requirements, and a preferred priority order of works which may vary considerably from that which is indicated in Table 5.*

*The planning investigations allowance above is indicative only and may vary by up to +50% depending on the level of complexity undertaken in the initial investigation – for example the degree of investigation into the coastal hazards line. The remainder of the items are only predesign estimates of works, are subject to a high degree of variability and therefore a lower level of confidence. Costs for new surf club construction for example may vary by up to approximately +25% but again this will vary based on results of coastal hazard risks, footing design and actual sitting location of the surf club building. Refurbishment of clubs will be managed so that agreed scope of works aligns with available allocated budget. The estimates for these remaining items do not have as high a degree of confidence for varying reasons such as lack of site investigation and geotechnical information, lack of recent historical expenditure data on similar projects and unconfirmed final project deliverables.*

**Darren Kennedy Oval**

The works program in Table 6 details the timetable and cost estimates to upgrade Darren Kennedy Oval. Costs listed include an allowance for proposed grant funds.

**Adoption of Amendments to the 2008-09 Management Plan (contd)**

Table 6: Darren Kennedy Oval works program.

<i>Item</i>	<i>Proposed 2008-09</i>	<i>Potential 2009-10</i>	<i>Total Cost</i>
Investigation into Floodlight design, car park design and amenities building design.	\$30,000		\$30,000
Upgrade floodlights to standard		\$210,000	\$210,000
Improve irrigation	\$15,000		\$15,000
Upgrade amenities building	\$110,000		\$110,000
Formalise and seal car park	\$100,000		\$100,000
<b>Total</b>	<b>\$255,000</b>	<b>\$210,000</b>	<b>\$465,000</b>

*Noted Changes: Proposed total expenditure including additional potential grant funding is estimated to be \$465,000. This comprises \$430,000 from the original Resolution plus \$35,000 grant estimate. Based on current revised cost estimates, staff recommend a \$70,000 reallocation of funds from the original \$500,000 nominated amount to be redirected to the Sub Soil Drainage list of works.*

*The cost items in table 6 are only predesign estimates of works, are subject to a high degree of variability and therefore a lower level of confidence. Costs for these items may vary by up to approximately +30% but will generally be managed so that the agreed scope of works aligns with the available budget. The floodlight budget however is subject to higher than +30% variation depending on the results of site and soil investigation and determination as to available power supply.*

**CASH FLOW PROJECTION SUMMARY**

Table 7 summarises potential cash flow for each of the proposed three year programs to design, document and construct these works. The estimated completion dates for individual nominated projects may vary subject to any issues identified during the design and approvals process. Adjustments to the works schedule may also be necessary due to revenue allocation, changes in grant funding availability or the grant terms and conditions.

Table 7. Revenue Expenditure cash flow projection summary - subject to approval of funding in future Management Plans.

<i>Items</i>	<i>Floodlight Upgrades</i>	<i>Sub Soil Drainage</i>	<i>Playgrounds</i>	<i>Surf Clubs Rebuilds/ Refurbishment</i>	<i>Darren Kennedy Oval</i>	<i>Total</i>
2008-09 Revenue	\$130,000	\$230,000	\$350,000	\$100,000	\$230,000	\$1,040,000
<i>Possible Grants</i>			\$100,000		\$5,000	\$105,000
2009-10 Revenue	\$1,110,000	\$290,000	\$300,000	\$1,650,000	\$200,000	\$3,550,000
<i>Possible Grants</i>	\$80,000	\$40,000	\$50,000	\$500,000	\$30,000	\$700,000
2010-11 Revenue		\$440,000	\$850,000	\$1,250,000		\$2,540,000
<i>Possible Grants</i>		\$40,000	\$120,000	\$2,350,000		\$2,510,000
<b>Total Revenue</b>	<b>\$1,240,000</b>	<b>\$960,000</b>	<b>\$1,500,000</b>	<b>\$3,000,000</b>	<b>\$430,000</b>	<b>\$7,130,000</b>
<b>Total including Grants</b>	<b>\$1,320,000</b>	<b>\$1,040,000</b>	<b>\$1,770,000</b>	<b>\$5,850,000</b>	<b>\$465,000</b>	<b>\$10,445,000</b>

## **Adoption of Amendments to the 2008-09 Management Plan (contd)**

*Note: The above table includes Council Revenue Expenditure and the \$3,315,000 potential grant funding sources as detailed in Table 1. The potential grant funds have been included in each of the lists of works detailed in Tables 2 to 6. The figures summarised above indicate the level of funding that staff believe is achievable as indicated in Tables 2 to 6. These are not guaranteed and will need to be flexible and subject to regular review to ensure that the program remains within the approved total budget*

### **FOOD SHOP INSPECTION AND RE-INSPECTION FEES**

As part of the regulatory partnership that Council has entered into with the NSW Food Authority, legislative changes came into effect on 1 July 2008 that transferred responsibility to inspect all retail food businesses to Council.

Previously under the Central Coast Environmental Plan, school canteens were the responsibility of the Public Health Unit (of the Area Health Service). Whilst it was Council's intention to extend the waiver of fees to other non-profitable organisations, such as Meals on Wheels, our advice is that these activities are inspected by the NSW Food Authority, not Council.

Following representations from local schools, it was deemed necessary to amend the Section of the Revenue Policy relating to Food Shop Inspection and Reinspection fees.

In accordance with Section 705 of the *Local Government Act 1993* an amendment was advertised that proposed no change to the fees adopted in June 2008, but included an exemption for school canteens operated by the P&C or P&F Committee from Fee 13.1 Food Shops Annual Administration Charge, Fee 13.2 Improvement Notice Served Under Food Act and Fee 13.3 Reinspections.

As no written submissions were received on this proposal; it is recommended that Council incorporate this exemption into Section 13 of the Fees and Charges in its Revenue Policy.

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**WYONG SHIRE COUNCIL**

26 November 2008  
To the Ordinary Meeting of Council

General Manager's Report

**526 2008-09 Management Plan – September 2008 Quarter Review**

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F2004/07006 BR

**SUMMARY**

Quarterly report on progress against Council's 2008-09 Management Plan.

**RECOMMENDATION**

- 1** *That Council receive and note the report and endorse budget amendments proposed in this report.*
- 2** *That Council note the advice from Council's Responsible Accounting Officer that in accordance with the Local Government (General) Regulation 2005 (Part 9 Division 3; Clause 203) that Council's financial position is satisfactory.*

**BACKGROUND**

Section 407 of the Local Government Act 1993 requires the General Manager to report to Council within two months after the end of each quarter as to the extent to which the performance targets set by Council's current Management Plan have been achieved during that quarter.

This report contains an overview of progress against Council's Key Focus Areas and the Performance Measures and Strategic Programmes identified in the 2008-09 Management Plan. It highlights achievements during the quarter and potential impediments to undertaking actions or meeting performance targets.

**HIGHLIGHT OF THE QUARTER**

On 23 August 2008 Liberty Playground at Saltwater Creek Reserve, Long Jetty was officially opened.

The playground was a joint project between Council and a local parents' group, POP4KIDS (Plenty of Parks for Kids) in partnership with the Benevolent Society (Southern Lakes Communities for Children Initiative).

The playground is the first of its kind in Wyong Shire as it was specifically designed and built for both disabled and able-bodied children. The facility is also securely fenced, has soft-fall flooring, climbing and general play equipment and includes a Liberty swing that is suitable for people who use wheelchairs.

The opening celebrations included fun activities, food and entertainment for the community.

**2008-09 Management Plan – September 2008 Quarter Review (contd)****KEY FOCUS AREAS**

In addition to Council's ongoing commitment to a range of services and facilities, the 2008-09 Management Plan includes a list of priority medium-term actions, or Key Focus Areas.

The twelve key focus areas area:

<b>Reference</b>	<b>Key Focus Area</b>
1 Performing Arts Centre	<ul style="list-style-type: none"> <li>Build a performing arts/entertainment centre in Wyong</li> </ul>
2 Sports Grounds	<ul style="list-style-type: none"> <li>Construct sports grounds at Warnervale-Wadalba</li> </ul>
3 Shared Pathways	<ul style="list-style-type: none"> <li>Extend the shared pathway system</li> </ul>
4 Warnervale Town Centre	<ul style="list-style-type: none"> <li>Complete the Warnervale town centre – including construction of a Recreation and Aquatic Centre</li> </ul>
5 Employment projects	<ul style="list-style-type: none"> <li>Implement employment generating projects</li> </ul>
6 Town Centre Strategies	<ul style="list-style-type: none"> <li>Complete Stage I of the town centre strategies at The Entrance, Toukley, Warnervale and Wyong/Tuggerah</li> </ul>
7 The Entrance Town Centre	<ul style="list-style-type: none"> <li>Complete The Entrance town centre upgrade</li> </ul>
8 Estuary Management Plan	<ul style="list-style-type: none"> <li>Adopt, seek funding for and implement the Estuary Management Plan</li> </ul>
9 Pacific Highway	<ul style="list-style-type: none"> <li>Lobby for funding for the Pacific Hwy between Tuggerah and North Wyong</li> </ul>
10 Water Supply	<ul style="list-style-type: none"> <li>Secure the water supply</li> </ul>
11 Buttonderry	<ul style="list-style-type: none"> <li>Plan for the future of Buttonderry Waste Management Facility</li> </ul>
12 Shire Strategic Vision	<ul style="list-style-type: none"> <li>Develop an integrated sustainable Shire Strategic Vision</li> </ul>

Action plans have been developed to implement each of the twelve key focus areas and they are being emphasised in work programmes across the organisation. Pages 107-108 of the Management Plan Quarterly Review enclosure contain the timelines for the Key Focus Area projects.

Progress to date is reported below:

**1 Performing Arts Centre**

An extended peer review of the Business Plan and Design Brief for the proposed Performing Arts Centre was undertaken to: better define capital and operational costs; review cost escalation over the project duration; identify asset management expenditures over a 20 year period; and review the initial assumptions made on the Memorial Hall and River Road sites. As part of the peer review process, staff also inspected the Cessnock Performing Arts Centre, Hunter School of Performing Arts Theatre and MacKillop College Theatre.

## **2008-09 Management Plan – September 2008 Quarter Review (contd)**

The results of the peer review were presented to a Councillor Briefing on 4 June 2008. Comparing the estimated cost of the River Road site (\$44m) with a flat site (\$29.8m) clearly demonstrated that a flat site is critical for achieving an economical building.

The next step in developing the project involves the investigation of two alternative site options within Wyong Town Centre. \$700,000 has been allocated in the 2008-09 Management Plan to proceed with the planning of this facility from preliminary design to development application. A further briefing is scheduled for 26 November 2008 to report on the outcome of these site investigations.

The draft Business Plan identified an on-going annual operational loss of between \$0.8m and \$1.4m for the Performing Arts Centre.

Potential external funding sources have been identified but none have been confirmed. No funding commitments were made during the 2007 Federal election campaign and the State Government has not committed any grants to the project.

The legislation governing the changes to developer contributions has been passed however, the Department of Planning is yet to release the accompanying guidelines. Indications are that this project still may be negatively impacted by the changes to developer contributions. The legislation now states that Councils will be able to collect contributions for "district" sporting, recreational and cultural facilities if there is a direct connection with the development to which a contribution relates. It is anticipated that the definition of "district" will be clarified in the guidelines.

In light of these recent developments, the Project Control Group will continue to undertake a complete review of its funding options.

It is estimated that the shortest time in which the Performing Arts Centre could be designed and constructed is four years once a site is selected and funds identified, i.e. completion in 2012 at the earliest.

## **2 Sportsgrounds**

After some delays in finalising designs and environmental issues, Part 5 approval for the Woongarra sports field development was sought and granted in October 2008. It is anticipated that tenders will be called in November, and should allow construction to commence by March 2009. With staged construction it is expected that the turf fields should be ready for use by April 2010 for the winter sports season.

Further progress on detailed investigations and design for the Warnervale District Fields (off Virginia Road) are still dependent upon the State Government resolving the Warnervale Town Centre Master Plan and clarifying developer contribution issues. No dates are available as to when these issues will be resolved.

**2008-09 Management Plan – September 2008 Quarter Review (contd)**

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Implementation of Council's decision to develop land in Minnesota Road adjacent to the new Warnervale Public School for the Hamlyn Terrace sports fields has been delayed due to the need to undertake a compulsory acquisition process. The legal process of compulsory land acquisition is nearing completion. A concept masterplan for the site is complete. A new community centre is also planned for the site. Detailed investigation and design of the new sporting facilities will now commence by the end of 2008.

**3 Shared Pathways**

Shared pathways at Buff Point (1 km) and Killarney Vale (0.6 km) were constructed during the June 2008 Quarter. Planning for the construction of a further 0.3 km section of pathway at Buff Point later this year was undertaken in the September quarter.

In addition the shared pathway past residences in Terilbah Place, The Entrance North, was completed as a boardwalk. Initial clearing of a route through Crown Land has been undertaken with approval from the Lands Department and a Part 5 approval application was submitted in October 2008.

In 2008-09 the emphasis at The Entrance North will continue to be on obtaining approvals for the selected route through Crown Land and progressive construction of the pathway. With the funds available it is expected that material to form a base for the pathway over the existing sandy soils can be provided from Terilbah Place at The Entrance North almost to the National Park boundary.

**4 Warnervale Town Centre*****New Railway Station/Interchange at Warnervale***

The development application for the railway station to be constructed at Warnervale town centre remains underdetermined due to outstanding issues relating to stormwater, traffic and access, water, sewer, landscaping and threatened species. In particular, whilst the applicant has prepared a Species Impact Statement (SIS) to address the issue of the Heath Wrinklewort (Wyong Daisy) which was referred by Council to the Department of Environment, Conservation and Climate Change (DECC) for consideration, DECC has refused to give concurrence to the development application.

DECC has advised Council that, as an alternative means of resolution, the impacts on the Heath Wrinklewort (Wyong Daisy) associated with the proposed Warnervale Railway Station could be dealt with as part of the biocertification application for the Warnervale Town Centre. However, the issue of biocertification of the town centre itself remains unresolved and may be unable to be resolved in the short-term. Based on this, Council has identified that a way forward would be for the new railway station/interchange to be constructed under the State Environmental Planning Policy (infrastructure) and that the development application be withdrawn.

## **2008-09 Management Plan – September 2008 Quarter Review (contd)**

Council has therefore written to the applicant (Railcorp) as well as the Member for Wyong and the Minister for Transport requesting that the current application be withdrawn and considered under State Environmental Planning Policy (infrastructure).

Council resolved on 22 October 2008 that consideration of this matter be deferred pending further information and a report on the potential reasons for Council to recommend refusal of the application to the Minister for Planning.

### ***Warnervale Town Centre Masterplan***

The Warnervale Town Centre was “called in” by the Minister for Planning in June 2006. The Department of Planning has prepared and publicly exhibited a draft Development Control Plan, Masterplan, amendment to the Major Projects SEPP, State Infrastructure Contribution and Biocertification Report.

The draft plans were publicly exhibited for a period of five weeks to 19 March 2008 and Council made a formal submission to the department. Ongoing meetings and liaison with Department of Planning representatives have occurred to discuss matters raised in Council's submission.

The Department of Planning has since revised the design of the town centre to address the issues raised by Council. Unresolved issues include the Department of Planning's directive to remove Section 94 charges for riparian corridors and the decision by the Department of Environment and Climate Change to withhold biocertification. The Department has recently advised that the rezoning is now being finalised and is expected to be gazetted in the near future.

The delay in finalising the Masterplan for the Warnervale Town Centre has stopped all works on the Aquatic and Recreation centre project until the constraints of the project and the location of the future facilities are known, and issues in respect of Section 94 funding are clarified.

## **5 Employment Projects**

The Department of Planning has publicly exhibited amendments to the Major Project State Environmental Planning Policy (SEPP), State Significant Sites Study, State Infrastructure Contribution Plan and supporting studies to enable the Wyong Employment Zone (WEZ) to proceed. The exhibition closed on 19 March 2008. Council made a formal submission to the department regarding the exhibition documents. The Department of Planning has recently advised that the final approval of the SEPP by the Minister is imminent. In conjunction with the State Government exhibition Council placed on exhibition its draft Section 94 Contributions Plan and draft Development Control Plan. These plans will now proceed to Council for adoption on 26 November 2008.

**2008-09 Management Plan – September 2008 Quarter Review (contd)**

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A "Part 3A" application has been publicly exhibited by the Department of Planning for Precinct 14 which is part of the WEZ. Precinct 14 is located on the western side of the freeway and north of Sparks Road. Council staff have assessed this proposal and a submission was forwarded to the Minister of Planning outlining key issues and recommended development consent conditions.

Council's revised Retail Strategy and DCP were adopted by Council in December 2007. This long-term strategy provides Council and the community with direction for its retail development over the next 25 years.

**6 Town Centre Strategies**

The progress of strategies has continued to be impacted by discussions and decisions arising from the recently (27 June 2008) finalised and released Central Coast Regional Strategy (CCRS) and the implications of the State Government requirement for a Shire-wide population capacity target model.

Notwithstanding this however, Council has adopted the Wyong/Tuggerah Planning Strategy. The strategy identified three distinct areas: Wyong town centre, Tuggerah Straight and Tuggerah. One of the outcomes of the Wyong/Tuggerah Strategy was for Council to prepare masterplans for the river foreshore and Baker Park precincts. These masterplans have progressed to draft stage. Staff are currently reviewing these draft masterplans and it is anticipated that they will be finalised early in 2009. Concurrently, work on the draft LEP amendment (rezoning) and amendment to DCP Chapter 7 is proceeding. In the December quarter Council is looking to engage consultants to refine the theme for the Wyong town centre and review the heritage development criteria.

Westfield has lodged a rezoning application for the 42ha former abattoir site to be known as the "Westfield Gateway Site" as a "Part 3A" application with the Minister for Planning. The rezoning proposes the establishment of a mixed commercial precinct including a "Norwest" style business park as well as homemaker centre, high density residential, hotel conference centre, entertainment and recreation facilities, as well as open space and flood management features. The project is expected to play a significant role in generating employment both during the ten-year construction phase and upon completion. Staff have undertaken a preliminary review of the submission to identify issues and discussions have taken place with both Westfield and the DOP in respect of these matters. Council is yet to be advised of whether the Minister has accepted Westfield's application. The latest advice from the DOP is that the Department is proposing to coordinate a project, involving Council, to undertake more detailed planning of a broader area (incorporating sites to the east and west of Westfield, the Tuggerah town centre and connections to the railway station) prior to consideration of the Gateway rezoning and concept plan.

Council has completed the exhibition of The Entrance Peninsula Planning Strategy. It is anticipated that following consideration of all submissions received The Entrance Peninsula Planning Strategy will be presented to Council for consideration in December 2008. Implementation of key recommendations will follow (such as rezonings, revised contribution plans, area specific masterplans, etc.)

## **2008-09 Management Plan – September 2008 Quarter Review (contd)**

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With respect to the Draft Toukley Planning Strategy an Economic Viability Study, to inform and underpin the Planning Strategy, has been completed and signed-off by the project manager. A review and revision of the March 2006 draft Toukley Planning Strategy document has now commenced and is considering factors such as the public submissions, WaterPlan 2050, the final version of the Central Coast Regional Strategy and the recently finalised Toukley Economic Viability Study. At this stage, it is anticipated that the Toukley Strategy will be reported to Council in mid-2009 and implementation of the key recommendations will follow.

Work on the Ourimbah Town Centre Strategy will continue in 2008-09 pending resolution of issues relating to the RTA upgrade of the Pacific Highway, sporting field upgrades, the Ourimbah Sawmill review and Ourimbah campus master planning.

### **7 The Entrance Town Centre**

This Key Focus Area – completion of The Entrance Town Centre upgrade works – was finalised in 2007.

### **8 Estuary Management Plan**

Following the Federal Government's \$20 million funding allocation announcement for the implementation of the Plan, the Estuary Management Unit was established to coordinate the implementation of the Plan. The May 2008 Federal Budget announced the funding will be managed by the Federal *Caring For Our Country* program. Council is currently developing contract documentation with *Caring For Our Country* program staff and negotiations are proceeding in respect of the scope of the funding to ensure the consistency of projects with the program guidelines. It is anticipated that a contract will be signed in November 2008.

The Stormwater Levy and Tourist park Cluster fund projects are progressing in accordance with the works program.

### **9 Pacific Highway**

#### ***Tuggerah***

Four lanes of the Pacific Highway between Anzac Road and Mildon Road were opened to traffic on 4 April 2008. The tender for construction of Stage 2 (Mildon Road to Johnson Road) was awarded to Nace Constructions, the company that constructed Stage 1. Stage 2 construction commenced on 28 April 2008. It is anticipated to be completed by the end of 2009. \$13 million has been allocated by the State Government for 2008-09. The RTA has agreed that the Pacific Highway/Wyong Road intersection is strategically important. However, there remains no commitment from the RTA for improvements to the intersection. The State Government has allocated \$250,000 in 2008-09 to start planning for the intersection improvements.

**2008-09 Management Plan – September 2008 Quarter Review (contd)**

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**Wyong**

The first round of concept plans for the redevelopment of the Pacific Highway through Wyong was exhibited in November 2006. Council made a submission on the exhibited plans. The RTA exhibited its Preferred Option on 30 July 2008 and a briefing session with the Councillors was held on 27 August 2008. The RTA had requested comments on the proposal by 5 September 2008. Council requested and has been granted an extension of time to 28 November 2008. A briefing by Council staff to the Councillors on the RTA's Preferred Option and other alternatives was held on 22 October 2008. The RTA was invited to attend this briefing. Following this a report will be presented to Council on 12 November 2008. The RTA has allocated \$500,000 in 2008-09 for the "Wyong Town Centre Study – Planning".

**Ourimbah**

The RTA completed construction of Stage 1 (Dog Trap Road, including the intersection at the Pacific Highway) in July 2007. Stage 2 (Burns Road to Glen Road) construction contract commenced in June 2008, with its anticipated completion date in 2010. The RTA is not intending to do any works at the roundabout at the intersection of Pacific Highway/Chittaway Road intersection. The RTA anticipates that this roundabout (Pacific Highway/Chittaway Road) will provide adequate service for the next 10 to 15 years. The State Government has allocated \$18 million in 2008-09. The treatment of Burns Road is still being discussed with the RTA.

**10 Water Supply**

The details of Council's progress to secure the water supply via drought management and recovery initiatives are detailed in the Board papers for the meeting of the Gosford/Wyong Councils' Water Authority scheduled for 19 November 2008 and in the enclosure to that report.

**11 Buttonderry**

Planning for the future of the Buttonderry Waste Management Facility involves maximising the value of the asset and optimising the financial and operational performance of the facility. The development of a Masterplan for the site was completed in June 2007.

Tenders were recently called to develop a commercial strategy to maximise the economic value of the site and to ensure long-term access for waste disposal. Council decided not to pursue this proposal at present and resolved to develop a scoping paper to identify potential alternative use options for the western side (Area 5) of the Buttonderry Waste Management Facility. A scoping paper will be developed in the December quarter. Consultants will then be engaged to investigate in detail each alternative use options and develop a commercial strategy. It is anticipated that this strategy will be completed by September 2009.



## **2008-09 Management Plan – September 2008 Quarter Review (contd)**

A business analysis for Buttonderry Waste Management Facility was completed in December 2007 which will be used, together with the commercial strategy, to develop a long-term financial strategy for the site and a site management plan.

Earthworks for the new transfer area at Buttonderry have been completed. Tenders for the construction of the transfer area roof, site shed and storage area together with the construction of the office, amenities and car park will be called in December 2008. The transfer area is scheduled for completion by June 2009.

Stage 2 of the upgrade will include the construction of a new staff and visitors' car park, office and amenities which is scheduled for completion by December 2009.

### **12 Shire Strategic Vision**

The Shire Strategic Vision (SSV) programme continued with all activities on schedule during the quarter.

Progress included:

- Publication of "Our Profile 2008" which provides a snapshot of basic statistics concerning the Shire
- Public launch of a DVD describing the SSV program now that it is approximately half completed.
- The completion of the Assimilation Activity for the project which included:
  - training six Council staff in systems analysis;
  - briefing three Liaison Groups (Community, Council, State Government) on background material and systems analysis;
  - conducting workshops with each of the Liaison Groups to formulate Network Maps of the key issues faced by the Shire under eight different themes
  - synthesising the three sets of Network Maps into a single concise set and presenting them back to the Liaison Groups for amendment/endorsement.
- Formulation of an initial set of Future Options where future emphasis would lead to improvement of the quality of life in the Shire.
- Ongoing liaison and consultation with community groups, Council's Youth Advisory Council and key stakeholders concerning the status of the SSV program and draft Future Options. This included several presentations to community groups, media briefings and an open public meeting in September.
- Councillor Briefing held on 8 October 2008.

### **PERFORMANCE MEASURES**

The 2008-09 Management Plan includes performance measures to assess whether Council is moving towards its longer term goals of a better society, a better economy and a better environment. Twenty three long-term performance measures have been included in the 2008-09 Management Plan and are updated on an annual basis.

**2008-09 Management Plan – September 2008 Quarter Review (contd)**

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Volume I of the Management Plan identifies 41 performance measures against Council's Key Issues which will be reviewed and reported on a quarterly basis. Council has direct control over the majority of these indicators and, at the end of September, most of these indicators met the targets identified in the Management Plan.

Since the adoption of Council's 2008-09 Management Plan a number of minor amendments have been made to several adopted performance measures. These changes are explained below:

- **Kilometres of shared pathways constructed per annum as part of Estuary Management Plan works**

Negotiations are proceeding in respect of the scope of the Federal Government Estuary Management Plan funding to ensure the consistency of projects with the program guidelines. There are indications that there may be restrictions on the types of works to be funded from the grant funds, so the expected 1 kilometre of shared pathways to be constructed at Buff Point has been reduced to 300 metres during 2008-09. This pathway will be funded from the surplus from Council's holiday park operations via the Cluster Plan allocations. Work on the 300 metres east from Matumba Road Buff Point will be completed by January 2009. The target for 2008-09 has been revised from 4km to 3.3km.

- **Processing Time of Priority Development Applications**

The target that was adopted in Council's 2008-09 Management Plan for the above performance measure was <49 calendar days. This target has been amended to 35 working days. This change was made to bring the performance measure in line with benchmarking provided by the Department of Planning Local Development Monitoring Report. During the September quarter Council achieved 32 working days for this performance measure.

- **Overdue Service Requests**

Due to enhanced reporting capabilities the method used to calculate this performance measure has been amended in 2008-09. Previously this measure was reported as at a point in time (i.e. the final day of the quarter). The reporting system now allows us to report on activity over the quarter, which more accurately reflects Council's performance.

- **Heavy Plant Utilisation**

This measure is the time that Council's heavy plant items are running divided by the total available hours. The target for 2008-09 was inadvertently overstated and is now set at 75%, which is an increase on last year's actual result of 73%.

**2008-09 Management Plan – September 2008 Quarter Review (contd)****STRATEGIC TARGETS**

The 2008-09 Management Plan identifies 73 strategic targets (or actions) to achieve Council's objectives.

At the end of September it was anticipated that 67 (or 92%) of the 73 actions would be achieved by 30 June 2009 and 4 (or 5%) are currently uncertain as to whether they will be achieved by 30 June 2009. Of the 2 actions (or 3%) that are not anticipated to meet their original timeframe all were due to factors outside of Council's control.

**2008-09 Management Plan - Summary of Strategic Targets**

	A Better Society	A Better Economy	A Better Environment	Infrastructure	Organisation	Totals
Currently on track to meet original timeframe	24	6	13	14	10	<b>67</b>
Currently uncertain to meet original timeframe	4	0	0	0	0	<b>4</b>
Currently not on track to meet original timeframe <b>Matter outside Council control</b>	2	0	0	0	0	<b>2</b>
Currently not on track to meet original timeframe <b>Matter within Council control</b>	0	0	0	0	0	<b>0</b>
<b>Total</b>	<b>30</b>	<b>6</b>	<b>13</b>	<b>14</b>	<b>10</b>	<b>73</b>

**2008-09 Management Plan – September 2008 Quarter Review (contd)**

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The following strategic targets were identified in the September quarter as not on target to be completed within their original timeframe:

**Outside Council's Control****1.1.4.1 Assist with preparation of specific disaster management sub-plans for high risk emergencies (storm, flooding and bushfire).**

Rural Fire Services has advised the revised timeframe as October 2009. Following the appointment of Councillor Vincent as Chairperson of the Bushfire Management Committee the review and development of a new model and bushfire risk management plan for Council and Local Emergency Management Committee (LEMC) will now be undertaken. Council will be working closely with Rural Fire Services and other organisations in the development of the plan.

**Revised Completion Date – October 2009****1.8.3.1 Construct the third stage of the North Entrance Cycleway and liaise with relevant external agencies with respect to further route development.**

Part 5 approval sought October 2008 after liaison with stakeholders including Department of Lands and local indigenous groups. Route from Terilbah Place to National Park boundary cleared and avoids endangered communities. Limited funding available in 2008-09 to allow completion of pathway but anticipate base material could be placed for this length.

**Revised Completion Date – December 2009.**

**2008-09 Management Plan – September 2008 Quarter Review (contd)**

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**ACTIONS CARRIED OVER FROM 2007-08 MANAGEMENT PLAN**

As foreshadowed in the June Review of the 2007-08 Management Plan, the actions that were not completed during 2007-08 will continue to be monitored and reported on until they are finalised.

Of the 17 actions from 2007-08 Management Plan that were not completed, 5 (29%) were incorporated into 2008-09 or future actions of the Management Plan and 12 (71%) are in progress. 10 of these actions are expected to be completed in 2008-09 and 2 in later years.

**2007-08 Management Plan - Actions Carried Forward**

	<b>Better Society</b>	<b>Better Economy</b>	<b>Better Environment</b>	<b>Infrastructure</b>	<b>Organisation</b>	<b>Totals</b>
Incorporated into 2008-09 or future actions	1	0	3	0	1	5
In progress	4	1	1	5	1	12
<b>Total</b>	<b>5</b>	<b>1</b>	<b>4</b>	<b>5</b>	<b>2</b>	<b>17</b>

**CONTRACT VARIATIONS**

Council resolved on 30 July 2008 *‘that the quarterly review reports on the Management Plan include a summary report on significant contract/project variations for the quarter’*.

Subsequent to the above resolution of Council a Councillor Briefing was held on 6 August 2008 regarding Staff Delegations and Approvals Process for Contract Variations. One of the agreed outcomes from that Briefing was that a monthly report be presented to Council which details expenditure under contracts where variations have occurred.

This will be reported separately to Council and details of contract variations are not included in this report on the quarterly review of Council's Management Plan.

**2008-09 Management Plan – September 2008 Quarter Review (contd)**

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**BUDGET OVERVIEW**

Operational results year-to date for September 2008 reflect a start to the financial year consistent with previous years, where expenditure activity is typically slower than other quarters.

Evident is under-expenditure against budget targets (notwithstanding capital “phasing” issues) in most areas that will be picked up particularly in the December and March quarters as works and planning programmes progress. The veracity of year-to-date budget figures is questionable in some areas – especially those which include capital expenditure, where actual expenditure may vary from the budget shown.

However, that aside, the reports do focus attention on Council's ability to achieve works programmes.

Of concern is a number of significant negative variations that will carry through the year unless corrective action is taken. Potential expenditure over-runs and income shortfalls are apparent in some service activities and the forecast year-end position contained in the 2008-09 Management Plan of (\$16,000) could be affected materially if not addressed now.

Income (as opposed to capital works funding) from rates is behind target as a result of lower than anticipated growth. This has been more than offset by the increase in the untied Financial Assistance Grant.

Increases in motor vehicle and heavy plant running costs and reduction in resale values driven by higher fuel prices, are likely to impact the Shire by raising the cost of delivering services and, in some areas, reducing the level of service being delivered. Staff contribution to passenger vehicles will be increased to partially offset this increase.

Increased environmental management costs for tip closures are due to contractual and legislative requirements however these can be met from reserve funds established for the purposes of tip closures – known as Tip Remediation Reserves. Reserve accounts may provide cash management assistance in the short term but replacement income will be required over an acceptable period.

Toukley stockpile site has been traditionally used to hold materials for re-processing and re-use. As ordered by the Department of Environment and Climate Change (DECC), this practice has ceased and all materials have been removed and the site made clean. The cost to clean up the site and dispose of materials will be apportioned between Roads (40%), Drainage (30%) and Water and Sewer (30%).

### **2008-09 Management Plan – September 2008 Quarter Review (contd)**

The main issues (and possible solutions) facing the year-end projections are:

	Estimated Impact on Year-End Projection (Favourable)/Unfavourable
<p>Reduced costs Tuggerah Straight Stage 1 (RTA works) Through extended negotiations with the Roads and Traffic Authority from the time the original budget for this work was developed, Council has been able to reduce the agreed value of work attributed to Council, thus achieving significant savings.</p>	(\$770,000)
<p>Reduced secondary roads rehabilitation to offset Toukley stockpile site clean up costs. Deferred works include The Corso \$500,000, Mataram Rd \$280,000 and Lakedge Rd \$350,000. Alternative stockpiling options are being progressively implemented to offset the lost benefits that the Toukley site provided.</p> <p>Currently the Buttonderry Waste Management site is the only permanent stockpiling and reprocessing site. Whilst this site has appropriate management controls in place, it is not optimal as it is some distance from actual sites of work. The establishment of an additional permanent site could take up to twelve months, provided a suitable site is found.</p>	(\$1,130,000)
<p>Motor Vehicle fleet – light vehicles. A projected annual operating cost increase of \$3,000 per vehicle has been driven by a significant reduction in the resale value of vehicles and increases in fuel prices. This is offset by an increased contribution from staff with passenger vehicles of approximately \$250,000 per annum. This increased contribution will commence 1 January 2009 and therefore only half of the savings will be achieved this financial year.</p>	\$464,000
<p>Estimated increased site surveillance at Cabbage Tree Harbour up to 31 December 2008. This surveillance is for public safety in response to landslip after the June 2007 storms. Timing is dependant on toewall construction and landowners carrying out remedial works. Delays by owners have extended the surveillance period and required Council to commence legal proceedings.</p>	\$115,000
<p>Waste management costs Gwandalan landfill \$700,000 and Shelly Beach \$60,000. This cost represents the final position of remediation work within known requirements. However potential exists for further risk from future environmental imperatives.</p>	\$760,000
<p>Tip Reserve Funds will be used to accommodate these costs however, the Reserve will then be empty and Council will need to rebuild the funds to meet future tip remediation costs.</p>	(\$760,000)

**2008-09 Management Plan – September 2008 Quarter Review (contd)**

Estimated Impact on Year-End Projection continued (Favourable)/Unfavourable	
Environmental management costs – (General Fund component only). Toukley stockpile site has been traditionally used to hold materials for re-processing and re-use. This practice has ceased and all materials have been removed and the site made clean. The clean up of the site and disposal of materials has cost in total \$3,044,000. This cost will be apportioned to the most significant beneficiaries of the site being Roads (40%), Drainage (30%) and Water and Sewer (30%).	\$1,218,000
Financial Assistance Grant Increase in the annual untied grant paid by the Federal Government.	(\$385,000)
Rates Levies Rates revenue is less than original budget as a result of lower than anticipated growth. This includes General Rates and Special Rates levies.	\$300,000
Various other minor adjustments	(\$113,000)
<b>Total Forecast Unfavourable Position for 2008-09</b>	<b>\$75,000</b>

***Other Impacts on work programmes***

Tipping fees for all operational areas have increased significantly as all excess material from projects now has to be disposed of at Buttoderry Landfill. This will increase total operational costs between \$1m to \$2m. Combined with the (\$900,000) increase in internal heavy plant hire charges, there are significant unbudgeted operational cost increases that have to borne for the remainder of the 2008-09 financial year. This will potentially decrease the level of service available in some areas and/or cause projects to be delayed.

Several areas of opportunity have been identified where cost savings can be made including: Improvements to project design, increased recycling of materials, reduction in non-urgent maintenance, reduction in fuel usage and general improvements to waste management.

Corrective actions, as identified above, to reduce the negative impact will continue to be sought. Some reduction in service levels, reduced contractor costs and direct overheads, are the principal means of recovery action.

A year-end projection nine months out is, by definition, a broad forecast. It is expected that the remaining estimated shortfall (i.e. \$75,000) is within an acceptable range and will be managed out of the equation by year-end. Alternative options for reducing expenditure (e.g. reduced employment levels) have longer lead-times and are unlikely to deliver gains in the current year.



### **2008-09 Management Plan – September 2008 Quarter Review (contd)**

The proposed new monthly reporting suite will lift the level of financial control to enhance senior management's ability to identify potential issues, detail specific responsive actions and pro-actively plan avoidance of pitfalls.

As part of Council's standard annual process, works-in-progress are identified and funding is approved to be "carried-over" to the next financial year. These funds and projects have been incorporated into the revised budget for 2008-09 with no overall net impact on the bottom line. However, this does result in an increase on both expenditure and source of funds of \$11.655m. This includes grants, Section 94, contributions and revenue-funded works.

**Enclosures**

***September Quarter Review – 2008-09 Management Plan  
(distributed under separate cover)  
Budget Summary 2008-09 Management Plan September  
Quarterly Review  
Detailed Budget 2008-09 Management Plan September  
Quarterly Review***

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**WYONG SHIRE COUNCIL**

26 November 2008  
To the Ordinary Meeting of Council

Committee Report

**527**                    **Minutes of the Wyong Shire Governance Committee Meeting –  
12 November 2008**

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F2004/07245 MW:SW

**SUMMARY**

Minutes of the Wyong Shire Governance Committee Meeting held on 12 November 2008.

**RECOMMENDATION**

*That Council receive the minutes of the Wyong Shire Governance Committee meeting held on 12 November 2008 and the recommendations contained therein be adopted.*

**BACKGROUND**

A meeting of the Wyong Shire Governance Committee meeting was held on 12 November 2008. The minutes of that meeting are enclosed.

**Enclosure**

***Minutes of the Wyong Shire Governance Committee held on  
12 November 2008***

**WYONG SHIRE COUNCIL**

26 November 2008  
To the Ordinary Meeting of Council

Committee Report

**528**                    **Minutes of the Gosford/Wyong Councils' Water Authority  
Board Meeting – 19 November 2008**

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F2004/06390 ED

**SUMMARY**

Minutes of the Gosford/Wyong Councils' Water Authority Board meeting held on 19 November 2008.

**RECOMMENDATION**

***That Council receive the minutes of the Gosford/Wyong Councils' Water Authority Board meeting held on 19 November 2008 and the recommendations contained therein be adopted.***

A meeting of Gosford/Wyong Councils' Water Authority Board was held on 19 November 2008. The minutes of that meeting are enclosed.

**Enclosure**

***Minutes of the Gosford/Wyong Councils' Water Authority  
Board Meeting held on 19 November 2008***

## **Information Reports**

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

## WYONG SHIRE COUNCIL

26 November 2008  
To the Ordinary Meeting of Council

Director's Report  
Shire Planning Department

### **529                      Activities of the Development Assessment Unit**

F2004/07830 JD:JD

#### **SUMMARY**

The report includes information and statistics regarding the operations of the Development Assessment Unit and covers the submission and determination of development, construction and subdivision applications for the months of August and September.

#### **RECOMMENDATION**

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

#### **Development Applications Received and Determined - August 2008**

<b>Type:</b>	<b>Number Received:</b>	<b>Estimated Value \$:</b>	<b>Number Determined:</b>	<b>Estimated Value \$:</b>
Commercial	24	19,956,400	22	1,520,371
Industrial	5	142,000	3	1,529,750
Residential	120	16,381,169	72	7,249,853
Other	18	379,790	15	4,830,000
<b>Total</b>	<b>167</b>	<b>36,859,359</b>	<b>112</b>	<b>15,129,974</b>

#### **Subdivision Applications Received and Determined - August 2008**

<b>Type:</b>	<b>Number Received:</b>	<b>Number of Lots:</b>	<b>Number Determined:</b>	<b>Number of Lots:</b>
Commercial	-	-	-	-
Industrial	-	-	1	4
Residential	2	4	3	3
Rural	-	-	-	-
Other	3	68	2	5
<b>Total</b>	<b>5</b>	<b>72</b>	<b>6</b>	<b>12</b>

**Activities of the Development Assessment Unit (contd)****Development Applications Received and Determined - September 2008**

Type:	Number Received:	Estimated Value \$:	Number Determined:	Estimated Value \$:
Commercial	18	221,341,161	17	10,304,000
Industrial	10	6,778,500	2	139,000
Residential	90	9,910,311	93	10,022,862
Other	19	3,997,151	18	367,790
<b>Total</b>	<b>137</b>	<b>242,027,123</b>	<b>130</b>	<b>20,833,652</b>

**Subdivision Applications Received and Determined – September 2008**

Type:	Number Received:	Number of Lots:	Number Determined:	Number of Lots:
Commercial	-	-	-	-
Industrial	-	-	1	1
Residential	2	5	4	6
Rural	-	-	-	-
Other	-	-	1	4
<b>Total</b>	<b>2</b>	<b>5</b>	<b>6</b>	<b>11</b>

**Note:** The figures for September are unusually high due to the lodgement of DA 10009/2008, Housing for Older People and People with a Disability at Pacific Highway, Kanwal. The development proposes 554 dwellings, 180 domestic care beds and associated facilities. It has an estimated value of \$201 million.

**Net Median Turn-around Time**

The net median turn-around time in working days for priority applications determined during the month of August was 5 days. These included a shop fit out at Tuggerah and a proposed warehouse at Berkeley Vale. There were no priority applications determined during the month of September.

The net median turn-around time in working days for development applications determined during the month was 14 days for August and 14 days for September 2008.

**Activities of the Development Assessment Unit (contd)**

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**Other Approvals and Certificates**

<b>Type:</b>	<b>Number Determined August 2008</b>	<b>Number Determined September 2008</b>
Trees	28	43
Section 149 D Certificates	18	14
Construction Certificates	69	70
Complying Development Certificates	15	11

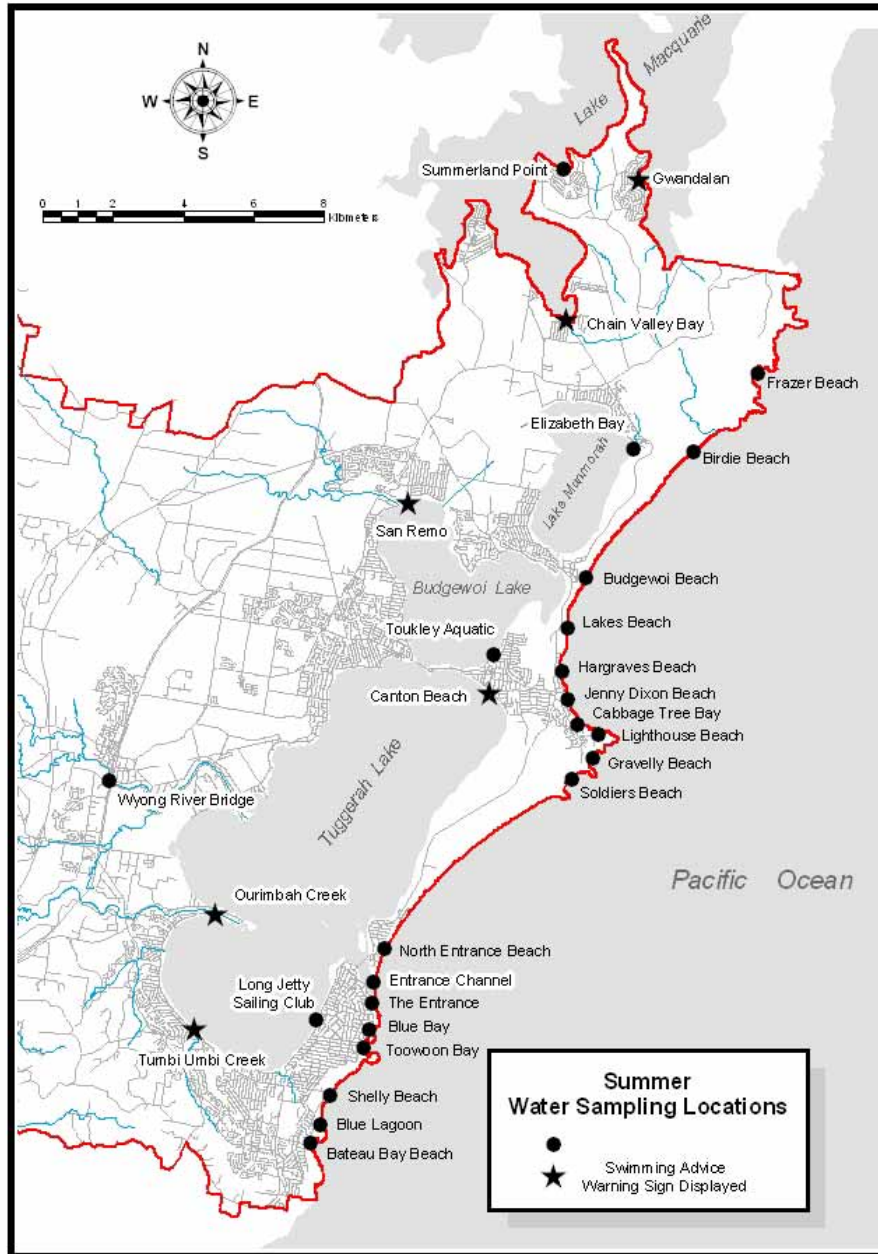
**Enclosure*****Graphs – Development Applications Lodged and  
Development Applications Determined***



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530

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



**WYONG SHIRE COUNCIL**

26 November 2008  
To the Ordinary Meeting of Council

Director's Report  
Shire Planning Department

**530 Results of Water Quality Testing for Bathing Beaches**

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F2004/06822 JS:JD

**SUMMARY**

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

**RECOMMENDATION**

***That Council received the report on Results of Water Quality Testing for Bathing Beaches.***

**BACKGROUND****Primary Recreation Water Quality Monitoring Program**

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

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

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

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

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

In October, all the Ocean and a majority of the Lakes beaches were rated as 4 star – good water quality. The Entrance Channel and Gwandalan Beach was the exception, where they had a ranking of 3 stars – fair water quality (still safe for swimming). All the rivers sites with the exception of Tumbi Creek were also rated as 4 star – good water quality. As Tumbi Creek continues to have a ranking that is unsafe for swimming, Council is currently investigating the water quality of this system in accordance with s.5.2.2 of the Estuary Management Plan, where it is anticipated to have a resolution of these findings by January 2009.

**Table 2: OCEAN BEACHES – October 2008**

<b>LOCATION</b>	<b>STAR RATING</b>	<b>RECOMMENDATION</b>
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 – October 2008**

<b>LOCATION</b>	<b>STAR RATING</b>	<b>RECOMMENDATIONS</b>
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
Wyong River at Wyong	****	Site is safe for swimming
San Remo	****	Site is safe for swimming
The Entrance Channel	***	Site is safe for swimming
Gwandalan	***	Site is safe for swimming
Tumbi Creek Tumbi Umbi	*	Site is unsafe for swimming

**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	<p>The graphic shows three horizontal bands: orange (top), yellow (middle), and green (bottom). Five blue dots representing samples are all located within the green band. The x-axis is labeled 'Sample Dates'.</p>
***	Fair: NHMRC indicates site is safe for swimming	<p>The graphic shows three horizontal bands: orange (top), yellow (middle), and green (bottom). Five blue dots representing samples are shown. One dot is in the orange band, and the other four are in the green band. The x-axis is labeled 'Sample Dates'.</p>
**	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.	<p>The graphic shows two scenarios. The top scenario has three horizontal bands (orange, yellow, green) and five blue dots: one in orange, one in yellow, and three in green. The bottom scenario has the same three bands and five blue dots: two in orange, one in yellow, and two in green. The x-axis is labeled 'Sample Dates'.</p>
*	Bad: NHMRC indicates swimming at site is not recommended.	<p>The graphic shows three horizontal bands (orange, yellow, green) and five blue dots: two in orange, two in yellow, and one in green. The x-axis is labeled 'Sample Dates'.</p>

## WYONG SHIRE COUNCIL

26 November 2008  
To the Ordinary Meeting of Council

Director's Report  
Corporate Services Department

### **531 Report on Investments – September and October 2008**

F2004/06604 SJG

#### **SUMMARY**

The following report provides details of Council's investments as at 30 September 2008 and 31 October 2008.

#### **RECOMMENDATION**

*That Council receive the report on Investments for September and October 2008.*

#### **BACKGROUND**

Council's investments are made in accordance with the Local Government Act (1993), the Local Government (General) Regulation (2005) and Council's Investment Policy.

As at 30 September 2008 and 31 October 2008 Council's total investments were as follows:

**Table 1**

	<b>September 2008</b>	<b>October 2008</b>
	<b>\$ '000</b>	<b>\$ '000</b>
Cash	20,563	20,358
Cash Plus	26,264	26,110
Cash Management Funds	21,131	25,365
Enhanced Income	36,828	22,157
<b>Total Investments</b>	<b>104,786</b>	<b>93,990</b>

The above table demonstrates the dimensions of Council's investment portfolio for each of September and October, by earning category. The fund classifications equally reflect the degree of risks being assumed.

**Report on Investments – September and October 2008 (contd)**

Table 2

	July	August	Sept	Oct	Period to Date
	\$M	\$M	\$M	\$M	\$M
<i>Movement in Assets</i>					
<b>Opening Balance</b>	<b>115.41</b>	<b>112.18</b>	<b>109.35</b>	<b>104.79</b>	<b>115.41</b>
Capital Gain/(Loss)	(0.51)	(0.14)	(1.56)	(1.11)	(3.32)
Net Cash Withdrawals	(2.72)	(2.69)	(3.00)	(9.69)	(18.10)
<b>Closing Balance</b>	<b>112.18</b>	<b>109.35</b>	<b>104.79</b>	<b>93.99</b>	<b>93.99</b>
<i>Trading Position</i>					
Capital Gain/(Loss)	(0.51)	(0.14)	(1.56)	(1.11)	(3.32)
Interest Earnings	0.79	0.73	0.47	0.67	2.66
<b>Total Return for Month \$</b>	<b>0.28</b>	<b>0.59</b>	<b>(1.09)</b>	<b>(0.44)</b>	<b>(0.66)</b>

Movements in investment values are partly due to assessed losses in capital values that are only realised if council exits any particular investment or institutional failure occurs. Until recently Council has been advised to hold its current position in the light of world financial market volatility.

New moves by the federal government to guarantee non-bank deposits in addition to the banking sector, now make it prudent to shift investments into that sector where low-cost exits from current investments are practical and feasible. That process has started during November.

Other movement in investment levels is due to the money being extracted and put to its allocated purpose – i.e. funding capital expenditure.

Council's investment "trading" position is a mix of capital gain (loss) and interest earned (lost). The table reflects a satisfactory performance of the portfolio in terms of interest returned to Council despite the unrealised current devaluation of capital.

Of the capital loss shown above, \$1,434,000 is represented by adverse movements in the BlackRock Diversified Credit Fund since 1 July 2008.

In October a \$4,075,416 component of Council's investment in the BlackRock Diversified Credit Fund was transferred into the BlackRock Care and Maintenance Fund. The total remaining in the BlackRock Diversified Credit Fund at 31 October is \$9,395,658.



## **Report on Investments – September and October 2008 (contd)**

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Once all the assets have been transferred, Council will be in a facility where the Fund will not need to manage redemptions and ratings so the fixed interest securities can be run to maturity. This should ensure that Council's portfolio is protected against reductions in capital value, other than those arising from the default of an individual security.

Similarly \$511,000 was the negative capital return recorded by the Aberdeen Cash Plus Fund in the same period. Council's investment advisors Grove Research and Advisory have recommended that Council retain its interest in this fund in the short to medium term.

A balance of \$647,000 represents the negative returns for the year in Council's other interest in managed funds. Our investment advisors have recommended that of these funds Council divests its interest in funds managed by ING, QIC and Perennial in order to reduce our overall exposure to managed funds.

### **Investment Review**

Council is currently undertaking, through its investment advisors Grove Research and Advisory Pty Ltd, a further review of its investments to try and minimise Council's exposure to the credit crisis. In addition, Council is engaging the services of an independent investment advisor to review Council's current portfolio.

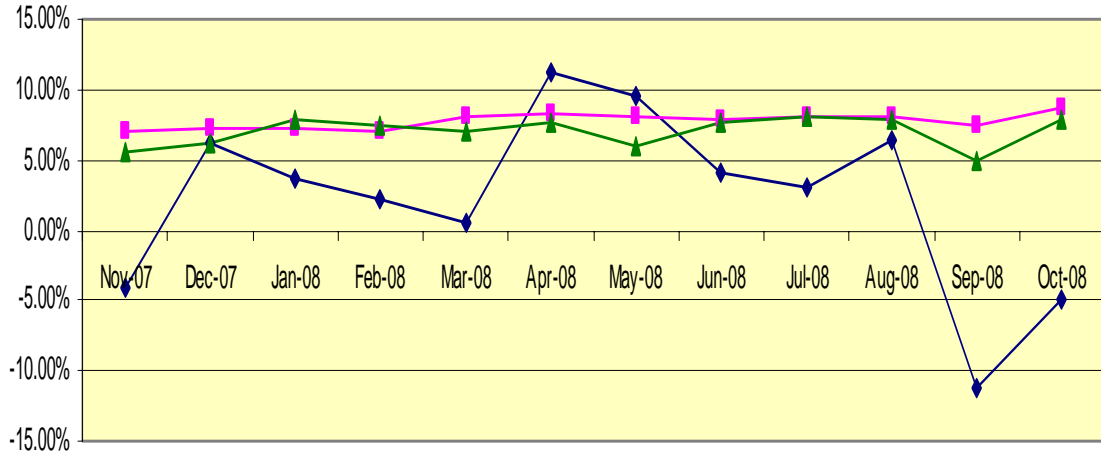
### **Monthly Annualised Returns**

Council's overall investment return is compared to the UBSA (Union Bank of Switzerland Australia) Bank Bill Index, this index is used by organisations as a benchmark on the return it receives from its investments.

**Report on Investments – September and October 2008 (contd)**

A graph detailing the monthly return on a twelve monthly basis is as follows:

**Monthly Annualised Returns (Interest and Capital Movements)  
Portfolio Performance Comparison to UBSA Bank Bill Index**



◆ Council   
 ■ Bank Bill   
 ▲ Council Interest Only

**Council:** Council Total Return (Interest and Capital)  
**Bank Bill:** UBSA Bank Bill Reference Rate  
**Council Interest Only:** Council Interest Earnings

## **Report on Investments – September and October 2008 (contd)**

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### **Major Variations to Investment Return:**

#### **November 2007**

There was a negative return in the Enhanced Income Sector of the portfolio, due in the main to flow on effects of the collapse in the US sub-prime mortgage market.

#### **March 2008**

There was a sudden and apparently permanent increase in the credit spread, which represents the difference between the interest rates applicable to credit-rated securities compared with interest rates on Government securities. This means that the interest rates applicable to credit-rated securities are higher, resulting in investment returns on existing securities falling.

#### **July 2008**

A fall in credit-rated securities values resulted from market concerns about the stability of major US financial institutions.

#### **September 2008**

Significant events occurred in world financial markets, requiring a substantial injection of funds by the central banks of the advanced economies. The major investments of Council's current portfolio which contributed to the poor performance for the month were:

##### **Macquarie Income Plus Fund:**

Market value of Macquarie's portfolio as at 1 September, 2008 was \$23,171,608, and the reduction in value for the month was \$678,811. Weakness in the financial sector continued to undermine performance. The fund had a 1.7% exposure to Lehman Brothers.

##### **BlackRock Diversified Credit Fund:**

Market value of BlackRock's portfolio as at 1 September, 2008 was \$14,724,273, and the reduction in value for the month was \$389,531, leaving a closing balance of \$14,334,742. Some portfolio securities had to be sold at a discount given the adverse environment in the market in credit-rated securities.

#### **October 2008**

##### **BlackRock Diversified Credit Fund:**

In the month as a whole the reduction in the value Council still had in the fund amounted to \$863,667.

Interest receipts and distributions from other managed funds for the month were \$454,000.

## **Report on Investments – September and October 2008 (contd)**

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### **INVESTMENT STATEMENT**

In accordance with the Local Government (General) Regulation 2005, Part 9, Division 5, Clause 212, it is certified that the investments held at 30 September 2008 and 31 October 2008 have been made in accordance with the Act, the Regulations and Council's Investment Policies.

**WYONG SHIRE COUNCIL**

26 November 2008  
To the Ordinary Meeting of Council

Director's Report  
Shire Services Department

**532 Maintenance of Stormwater Treatment Devices**

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F2004/00165 KEG

**SUMMARY**

This report provides information on the maintenance of Council's stormwater treatment devices across the Shire.

**RECOMMENDATION**

***That Council receive the report on the maintenance of stormwater treatment devices.***

**BACKGROUND**

At its meeting held on 23 July 2008, Council resolved as follows:

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

*That due to concerns raised through the Estuary Management Committee, staff report on the maintenance of stormwater treatment devices across the Shire. The report should include, but not necessarily be limited to, relevant aspects of budgets and responsibilities associated with stormwater asset maintenance, design, construction and performance for intended objectives covering both new and existing development areas."*

In response to concerns raised by the Estuary Management Committee, Council's Manager Roads and Drainage delivered a presentation on the Shires stormwater treatment devices and their maintenance to the Committee in August 2008.

Improving the quality of stormwater runoff has been a major focus for Council over recent years.

The strategy adopted by Council involves the implementation of a Water Sensitive Urban Design (WSUD) philosophy for new stormwater drainage systems and Stormwater Treatment Devices to improve the quality of runoff entering sensitive environments (predominately Tuggerah Lakes) The proposed strategy is considered Best Management Practice in the field of stormwater management.

## **Maintenance of Stormwater Treatment Devices (contd)**

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Generally, the devices that are utilised to be installed in existing stormwater drainage catchments are:

- *Gross Pollutant Traps (GPT's)* – these normally consist of a concrete chamber, screens, either above or below ground, with mechanisms to trap and collect insoluble pollutants, debris and sediment.
- *Stormwater Treatment Zones (STZ's)* – these consist of a natural earth excavation up to 20m<sup>3</sup> at the foreshore end of stormwater systems that discharge into the lakes. These sites are vegetated with appropriate vegetated species.
- *Constructed wetlands* – these wetlands are artificially constructed in the form of open water bodies that contain aquatic vegetation which treats stormwater by immobilising and retaining pollutants including; heavy metals, sediments, phosphorus and nitrogen.

At present, Council has approximately 100 Gross Pollutant Traps, 250 Stormwater Treatment Zones and 22 constructed (artificial) wetlands.

The maintenance of these assets is presently undertaken by Council and contract staff, in both the Roads and Drainage and Open Space and Recreation areas. The Open Space and Recreation unit is responsible for maintaining the stormwater treatment devices that are located around the lake foreshore as well as vegetation control in constructed wetlands, and the Roads and Drainage precinct maintenance crews are responsible for the remainder.

The inspection and cleaning of these devices is endeavoured to be completed twice per year, with more frequent attention being required if significant floods or rainfall events are experienced. Open Space and Recreation staff also undertake regular wetland inspection and maintenance (monthly), specialising in aquatic plant and weed management in the wetlands as required from time to time.

Council has recently improved its system for prioritising maintenance of its stormwater treatment works, with a move from a reactive to a proactive approach. A wetland operation and maintenance manual is currently being formulated by Councils Natural Resources Unit to guide ongoing maintenance of Wetlands which often require a specialist understanding of wetland ecology and hydrology.

### **Experience to Date**

The success or failure of a device to provide effective stormwater treatment relies on adequate design and maintenance that can provide a satisfactory level of treatment and also allows for necessary servicing and maintenance. Maintenance is cost effective if it is properly planned and carried out in a timely manner.

## **Maintenance of Stormwater Treatment Devices (contd)**

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Unfortunately, some devices that have been used in the past have proved very difficult to service and maintain and require design modification or rehabilitation.

Also, it is important to note that constructed wetlands will improve stormwater quality provided that they are of sufficient area and it is challenging to find such space within the existing urban environment. i.e. wetlands tend to be undersized and hence become overloaded and choked which then requires major maintenance

Recently, the effective maintenance of the foreshore Stormwater Treatment Zones has been made much more difficult as protected vegetation is self established within and adjacent to these devices. Legislation requires that these endangered ecological communities, which include salt marsh, casuarinas and other species, not to be disturbed. Council has written to the Department of Environment and Climate Change requesting approval to undertake maintenance of a number of stormwater treatment devices influenced by these ecological communities.

### **New Development**

Construction of new stormwater treatments works throughout the Shire is ongoing by both Council and developers.

A number of projects in the Tuggerah Lakes Catchment are being undertaken by Council as part of both the Estuary Management Plan and Stormwater Levy. Works in the Lake Macquarie catchment are being undertaken by Council using funds from the stormwater levy and Lake Macquarie Improvement program funding.

Council is currently in the final stages of drafting a DCP for Water Sensitive Urban Design which will guide future development in the Shire to help meet improved stormwater quality outcomes. It is proposed that a briefing of Councillors with respect to the proposed DCP and ongoing operational forecasts and financial implications will be presented to Councillors in early 2009.

### **Servicing and Maintenance Costs**

The budget currently allocated for servicing and maintaining stormwater treatment devices is approximately \$405,000/pa. The source of funds for maintenance of stormwater treatment devices is currently a combination of the drainage component of the Water and Sewer fund and Councils general fund. Effective July 1 2009 Council will have a separate drainage charge which will be IPART determined thereby effectively fixing the source of funds related to operational drainage expenditure for a period of 3 years.

**Maintenance of Stormwater Treatment Devices (contd)**

As the number of these devices increases a significant increase in maintenance expenditure will be required. Furthermore, the cost of maintaining existing assets continues to increase due to such factors as the increasing costs of waste disposal and new devices requiring increased labour and contract services to maintain.

The following table provides a comparison of the number of current devices and expenditure relative to a 3 year projection based on the current levels of service. The number of device projections is based on existing works programmes (currently funded by the Estuary Management Plan and Stormwater Levy) and projections of future development in the Shire based on information available at this time.

	Current 2008		Three Year Forecast – 2009 - 2011	
	Qty	Maint Cost \$	Cumulative Qty	Maint Cost \$
Constructed Wetlands - Developer Funded			35	
Constructed Wetlands- Estuary Management Plan/Stormwater Levy			10	
Total Constructed Wetlands	22	108,000	45	220,000
GPT's (Council, EMP, Developer Funded)	100	197,000	130	256,000
Stormwater Treatment Zones	730	100,000	730	100,000
<b>TOTAL COST</b>		<b>405,000</b>		<b>576,000</b>

The above mentioned works and preliminary costings have been built in to Council's Financial Model, which for the budget year 2011/2012 includes a forecast of \$638,000 for stormwater treatment maintenance. However, it should be noted that the Financial Model also forecasts a shortfall of \$188,000 in the estimated revenue available to fund the maintenance cost.

Based on the above table it is clear that the level of funding required to undertake stormwater treatment device maintenance works will increase into the future and exceeds the current budget allocations. These increasing costs will need to be factored into Council's forward financial planning.



## **Maintenance of Stormwater Treatment Devices (contd)**

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It should be noted that the expenditure forecasts over 3 years are based on the provision of the existing levels of service. Should the levels of service increase then the level of expenditure will increase proportionally. Industry guidelines for stormwater treatment devices indicate that maintenance costs for many of these devices can be as high as 2-4% of capital costs and on this basis the maintenance costs would be 3-4 times those presently being experienced by Council.

Opportunities for sourcing additional funds include Councils general fund, and the use of existing grants and levy funds. Limited opportunity exists to raise funds through the drainage charge in the next 3 years due to the IPART determination. Each funding source has funding restrictions which are currently being investigated to determine the most feasible options.

### **Future Challenges**

In the context of Council's commitment to sustainability it intends to implement Water Sensitive Urban Design strategies to new development areas and introduce new Stormwater Treatment Devices in existing areas which will result in improving the quality of stormwater runoff.

The challenges for Council is implementing this programme include:

- Finding suitable locations and sufficient space to allow a cost effective storm water treatment device to be constructed. Retrofitting existing urban areas to ensure adequate treatment of stormwater in order to protect sensitive downstream ecosystems
- Ensuring Council allocates sufficient funds to ensure these devices can be adequately maintained, taking into account increased costs of waste disposal, environmental protection, fuel costs and others
- Ensuring devices are suitably designed to provide an adequate level of treatment and are capable of being serviced and maintained at a reasonable cost. This will be achieved through the WSUD strategy, which will require reviewing and updating to ascertain the effectiveness and for the ability of the organisation to adopt Best Management Practice.
- Ensuring compliance with the ever increasing requirements of legislation across all areas including environmental protection, occupational health and safety and waste disposal
- Obtaining staff or contract services with the skills required to undertake the necessary maintenance and servicing of these devices.

**Maintenance of Stormwater Treatment Devices (contd)**

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- Change current practises in both planning and operations and to educate Council staff on what Best Practise Management is for stormwater
- Developing a broad education program for both community and council staff that will explain why it is necessary to adopt WSUD
- Monitor progress and effectiveness of Council Policies and Strategies.
- Reduce amount of solid waste removed from stormwater treatment devices that is taken to landfill as this is costly. Develop appropriate recycling and reuse schemes that are suitable for WSC.

It is also important for Council to continue to improve consultation with the community and to engage the community in future planning. Council's Estuary Management Committee and Natural Resources Unit has an important role to play in ensuring Council meets these key challenges.

**WYONG SHIRE COUNCIL**

26 November 2008  
To the Ordinary Meeting of Council

Director's Report  
Shire Services Department

**533 Water and Sewerage – Works in Progress**

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F2004/07830 IC:DP

**SUMMARY**

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

**RECOMMENDATION**

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

**WATER SUPPLY**

Work has commenced on the inspection and refurbishment of the two existing 600mm diameter, high pressure, mild steel cement lined, water trunk mains along Johns Rd Wadalba.

The two water mains will be located beneath proposed road upgrading works along the western end of Johns Road. The roadway is being widened and upgraded by developers, as part of residential redevelopment works in the area. The steel water mains are in excess of 25 years of age, with a number of pipe joints having been found to be leaking due to corrosion. The inspection and rehabilitation work is being undertaken as a proactive measure to ensure that the pipe joints are sound, to minimise the risk of future leakage that would damage the new road pavement. The work consists of the exhumation of approximately 40 pipe joints along the roadway, removal of the joint coating, cleaning, inspection, welding to repair any corrosion and re-wrapping of the joint with a petrolatum coating to prevent future corrosion. The work has been difficult requiring rock excavation and traffic control using portable traffic lights. Council staff have also been working with Energy Australia (EA) to provide "pole holders" to a number of power poles that were adjacent to the excavations.

The refurbishment work, estimated to cost \$150,000, is being carried out by Water and Sewerage day labour staff and is due for completion by December 2008. The work is being funded from the Water and Sewerage Capital Works program.

**Water Storage**

As at 17 November 2008 the storage in Mangrove Creek Dam was 27.3%, Mardi Dam was at 96.2% and Mooney Dam 90.6%, while the total system storage was 31.3%.

**SEWERAGE**

Ongoing sewer main connections and manhole replacement and adjustment works have been occurring as part of the RTA works of upgrading the Pacific Highway at Ourimbah, Tuggerah and Charmhaven. The works, estimated to cost \$100,000, have been carried out by Water and Sewerage day labour staff and are being funded by the Developer.

**Water and Sewerage – Works in Progress (contd)**

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Council's maintenance program of replacing sections of sewer mains and repairing manholes and junctions that are causing operational problems due to root infestation and storm water infiltration is ongoing in the areas of Buff Point, Charmhaven, Wadalba, Watanobbi, Bateau Bay, Berkeley Vale, Killarney Vale and Tumbi Umbi.

**PROCESS****Water Treatment**

All water produced by the Water Treatment Plant, for the period 1 October 2008 to 31 October 2008, has met National Health and Medical Research Council Guidelines.

**Sewage Treatment**

All effluent discharged from the sewage treatment plants, for the period 1 October 2008 to 31 October 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 November 2008****STORAGES**

Storage	Capacity Full [MI]	Volume in Storage [MI]	Percent Full [%]	Storage Change over last Week
Mangrove Dam	190000	51,936	27.3	Up 18 ML
Mardi Dam	7400	7,121	96.2	Down 156 ML
Mooney Dam	4600	4,169	90.6	Up 55 ML
Total	202000	63,226	31.3	Down 83 ML

**STORAGE:**

- Total stored water volume is the same as a month ago.
- This day last year the volume stored as a percentage of total capacity was 7.8% lower.

**HUNTER TRANSFERS:**

- Hunter Water Corporation supplied 0 ML last week increasing this years supply to 85 ML.
- Gosford/Wyong supplied 69 ML to Hunter Water last week increasing this years supply at 184 ML.

**GROUND WATER BORES:**

- Groundwater Bores supplied 4.0 ML last week increasing this years supply to 169 ML

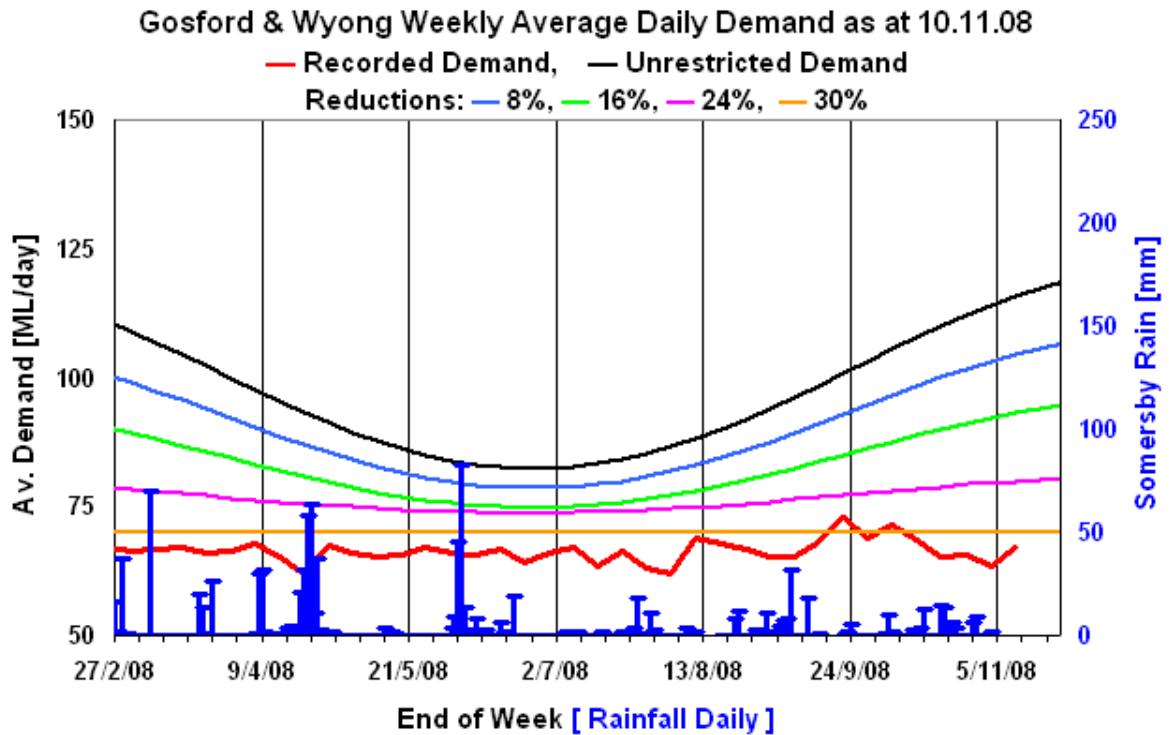
**WATER USAGE AND RAINFALL**

Period	Water Usage [MI]	Rainfall [mm]		
		Somersby WTP	Mardi WTP	Mangrove Dam
Week to date	500	17	10	13
Previous week	468	1	2	3
Current week last year	466	0	0	0
This year to date	21,387	1,456	1,267	98
Same period last year	20,780	1,743	1,487	1,194

Week to date consumption was 500 ML, 7.3% more than the same week last year and 6.8% more than the previous week.

Consumption this year to date is 21,387 ML, 2.9% more than the same period last year.

Level 3 Water Consumption Target for the week ending Monday, 24 November 2008 is 490 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.

## WYONG SHIRE COUNCIL

26 November 2008  
To the Ordinary Meeting of Council

Director's Report  
Shire Services Department

### 534 **General Works in Progress Report**

F2004/07830 JEM

#### SUMMARY

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

#### RECOMMENDATION

*That Council receive the general works in progress report.*

#### 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
The Ridgeway Stage 1b, Tumbi Umbi CH:2165 to CH:2815 650m Section (Between Koorin Road and Awabakil Road.	954,000	98	November 2008	Upgrading of the existing gravel road (approximately 650m) to current standards including widening of road, primer seal, concrete dish drains and installation of guardrails.  All works completed other than Final Seal.
Pollock Ave - Wyong 1.050km from Kooindah Boulevard to Jenson Road Road Reconstruction	1.1M	95	November 2008	Reconstruction of existing road to current standards, including widening, realignment works and associated drainage works.  All works completed other than final seal.

**General Works in Progress Report (contd)**

<b>Item Description</b>	<b>Estimated Cost \$</b>	<b>% Completed</b>	<b>Estimated Completion Date</b>	<b>Comments</b>
McLachlan Ave -Long Jetty The Entrance Road to Lindsay Street. Road and Drainage Reconstruction	1.9M	90	December 2008	Upgrade of existing road includes full pavement reconstruction with traffic calming devices, concrete footpath. Upgrade of drainage works includes new box culverts, pipes, kerb and gutter. All works completed other than footpaths, splitter islands and final seal.
Bush Street – Norah Head Road and Drainage Reconstruction	455,000	100	October 2008	Upgrade existing road, construct car parking bays, kerb and gutter and emulsion seal from eastern side of Young Street through to the gates entry road to lighthouse.
Cutler Drive, Wyong Car Park Reconstruct Car Park, Treelands Preschool	206,000	100	October 2008	Upgrading existing facility. Reconstruct car park pavement including kerb and gutter, drainage, footpaths and protective fencing.
Yakalla St Bateau Bay, formalise existing car parking bays  Repair/ replace vandalised barriers.	15,000	55	November 2008	Remove existing telegraph pole barriers between car parking bays and footpath. Replace with wheel stops and bollards Line marking 41 bays
Fern St Ourimbah, 516 linear metres of roadworks. Upgrade existing road and drainage.	210,000	15	December 2008	Define road width, add gravel and two coat seal Drainage, pipe road crossings and pits.
Lakedge Ave Berkeley Vale. 150 linear metres of roadworks Upgrade existing road and drainage	433,000	50	November 2008	Upgrading/stabilisation of shoulders both sides of existing road and drainage. Drainage works through existing easement



**General Works in Progress Report (contd)****General Maintenance Work**

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

	<b>North</b>	<b>South</b>
<b>Drainage Maintenance</b>	Lake Munmorah Halekulani Budgewoi	Bateau Bay Tuggerah Palmdale
<b>Replacement of Damaged Foot paving</b>	Buff Point	Nil
<b>Sign Maintenance</b>	Toukley Kanwal Hamlyn Terrace Blue Haven Wadalba Budgewoi Tuggerawong San Remo Canton Beach Wyongah Jilliby Yarramalong Buff Point	Toowoan Bay Berkeley Vale Ourimbah Long Jetty The Entrance Killarney Vale Shelly Beach Bateau Bay Tuggerah Wyong Mardi Chittaway
<b>Shoulder Restoration</b>	Noraville	Long Jetty
<b>Heavy Patching</b>	Yarramalong Jilliby Dooralong Noraville	Bateau Bay
<b>Table Drain Maintenance</b>	Lake Haven Mannering Park Chain Valley Bay San Remo Charmhaven Jilliby Budgewoi Toukley Lake Munmorah Gwandalan	Berkeley Vale Long Jetty Bateau Bay Killarney Vale Glenning Valley Fountaindale Tumbi Umbi Chittaway Bay
<b>Rural Road Grading</b>	Dooralong Yarramalong Ravensdale Jilliby Kiar	Ourimbah Palmdale

**General Works in Progress Report (contd)**

	North	South
<b>Carpark Maintenance</b>	Toukley Budgewoi Norah Head Gorokan	Berkeley Vale
<b>Fencing</b>	Nil	Nil
<b>Vegetation control</b>	Dooralong Jilliby Budgewoi Buff Point Woongarra Halloran Hamlyn Terrace Lake Haven Toukley Chain Valley Bay South and North	Tuggerah Berkeley Vale Tumbi Umbi Ourimbah Watanobbi Wyang The Entrance Killarney Vale Long Jetty

**CONTRACTS AND SPECIAL PROJECTS SECTION**

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

Contract No	Contract Description	Contract Status	% Completed
CPA 94531	Consultancy for investigation and design of Link Road and trunk water main to Mardi Dam	Design and tender documentation of the Link Road and adjacent trunk water main complete.  Design and tender documentation for the trunk water main connection back to Mardi Dam has been put on hold. If the Link Road does not proceed, an alternative route for the trunk water main has to be determined.	90

**General Works in Progress Report (contd)**

<b>Contract No</b>	<b>Contract Description</b>	<b>Contract Status</b>	<b>% Completed</b>
CPA 94559	Design and Documentation of Woongarra Sports fields	Part 5 approval received 22 October 2008. Detailed designs complete and estimate revised. Tenders called in first week of November, closing 18 December 2008. Construction is anticipated to commence by April 2009. Target for playing fields to be available for use in April 2010. The estimated construction cost is \$5M, with contingency of \$0.5m.	95
CPA 98240	Implementation of Buttoderry Waste Management Facility Entry Master plan	Development Approval for upgrade of entry and administration areas received March 2008. Tenders have been called and close early December 2008. Pre-construction work for Stage 1 has been completed. It is anticipated that Stage 1 and 2 works will start early 2009 with completion of all works by June 2009. Estimated contract value is \$2.7M.	90
CPA 99940	Construction of Wadalba Sports Facility	Facility in use. Further slit drains and sand topdressing to be completed in December 2008. Some defects still to be rectified. Estimated contract value is \$6M.	99
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
CPA 110431	Mardi Landfill Remediation – Investigations Only	Final report for the Mardi Landfill site has been completed. A consultant will be engaged to prepare a Remedial Action Plan (RAP) for the site. Remediation works on the site will be a separate future contract based on the recommendation of the RAP and completion of the detail design works. Cost of remediation works yet to be determined. Construction is not expected to commence until 2010-11.	25
CPA 117144	Design and Construct Toukley Reclaimed Effluent Treatment Plant Augmentation	Contract awarded to Water Treatment (Australia) Pty Limited in February 2008 for completion by March 2009. Site works progressing satisfactorily. Estimated project construction cost is \$2.2M.	30

**General Works in Progress Report (contd)**

<b>Contract No</b>	<b>Contract Description</b>	<b>Contract Status</b>	<b>% Completed</b>
CPA 130590	Consultancy for Investigation and Design of Trunk Sewer Mains to Warnervale Town Centre and Wyong Employment Zone.	Contract awarded to Bonacci Group Pty Ltd January 2008. Final concept designs received and reviewed. Sewer alignment changes have been finalised and process to acquire easements has commenced. Stage 1 construction is expected to commence in March 2009. Estimated project construction cost \$8M, with this consultancy costing \$530,000.	60
CPA 130591	Consultancy for Investigation and Design of Trunk Water Mains to Warnervale Town Centre and Wyong Employment Zone.	Contract awarded to SMEC Australia Pty Ltd April 2008. Anticipated completion of design and tender documentation by December 2008. Construction is expected to commence April 2009 and be completed by August 2009. This consultancy involves extensive field work over an extensive area, including geotechnical investigations and preparation of a detailed environmental assessment. Estimated Project construction cost \$2M, with this consultancy costing \$265,000.	70
CPA 136486	Investigation, Design and Documentation of Toukley Sewage Treatment Plant Inlet Works Upgrade	Contract awarded to Maunsell Australia Pty Ltd April 2008. Anticipate completion of design and tender documentation by December 2008. Construction is expected to commence April 2009 and be completed by December 2009. This work is confined to within the treatment works site with relatively few unknown elements. Estimated project cost \$2.05M, with this consultancy costing \$164,000.	60
CPA 140816	The Entrance Community Facility Stage 2 – Construction	Contract works are progressing. Works are scheduled for completion in February 2009. Project value is \$2.5M.	25

**General Works in Progress Report (contd)**

Contract No	Contract Description	Contract Status	% Completed
CPA 145543	Construction of Buff Point Shared Pathway	<ul style="list-style-type: none"> <li>Construction complete for stage 1 from Edgewater Park to Matumba Rd – approx. 1km of total 3km of planned pathway.</li> <li>Contract awarded for an additional 300 metre section east from Matumba Rd Work expected to be complete by December 2008</li> <li>Design work continuing for steep section near Kemp Close.</li> <li>Funds for this financial year will only allow an additional 300 metres to be completed and other designs to be progressed.</li> <li>Estimated cost of construction \$935,000 (overall).</li> </ul>	40
CPA 149519	Fuel Spillage Collection System for Charmhaven Depot.	Concept and general arrangements finalised. DA submitted end October 2008. Detail design to follow. Anticipate work to be undertaken February – June 2009. Project construction cost estimated \$75,000.	20
Contract 2408	Capture and Commercial Utilisation of Landfill Gas from Buttonderry Landfill	The preferred contractor, LMS Generation Pty Ltd (LMS), continues to be problematic in finalising the OH&S clauses in the Deed of Agreement between the parties. There are continuing difficulties in resolving these OH&S issues. The matter is being reviewed in conjunction with Council's legal advisors for advice in respect to Council's ability to terminate the contract under frustration.	5
F2004/07982	The Entrance Town Centre Refurbishment Works	Current actions being undertaken to address 5 year work program for TETC include: <ol style="list-style-type: none"> <li>Installation of five pedestrian ramps to lower end of The Entrance Road to be completed by end of November 2008.</li> <li>Second batch of tile samples have been received from Ryowa, Japan. Only high friction finish is now manufactured. Tenders for purchase of tiles for maintenance purposes to be issued by end of November 2008.</li> </ol>	40

**CONTRACTS STILL IN DEFECTS LIABILITY PERIOD**

Contract No	Contract Description	Contract Status	% Completed
		NIL	

## WYONG SHIRE COUNCIL

26 November 2008  
To the Ordinary Meeting of Council

Director's Report  
Corporate Services Department

### **536 Outstanding Questions Without Notice and Notices of Motion**

F2008/00003 SG

#### **SUMMARY**

Report on outstanding Questions Without Notice and Notices of Motion.

#### **RECOMMENDATION**

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

<b>Question Asked / Councillor</b>	<b>Department</b>	<b>Meeting Asked</b>	<b>Status</b>
Q123 – Darcy Smith Court Case Councillor Pavier	Shire Planning	12 December 2007	A response will be reported to Council when the case has been finalised in the Land and Environment Court
Q058 – Use of Public Land at Mannering Park Councillor Eaton	Shire Services	22 October 2008	A report will be submitted to the 10 December 2008 Council meeting
Q059 - Drainage Issues 4 Ventura Avenue, Bateau Bay Councillor Eaton	Shire Services	22 October 2008	A report will be submitted to the 10 December 2008 Council meeting
Q060 – Bulk Kerbside Collection and Tip Charges Councillor Best	Shire Services	22 October 2008	A report will be submitted to the 10 December 2008 Council meeting
Q061 – Removal of Playground Equipment at Tumbi Umbi Councillor Eaton	Shire Services	12 November 2008	A response to this question will be submitted to the 28 January 2009 Council meeting
Q062 – Reports on the Gwandalan Illegal Tip Councillor Eaton	Shire Services	12 November 2008	A response to this question will be submitted to the 10 December 2008 Council meeting
Q063 – Effects of the State Government's Mini-Budget on Council and the Community Councillor Best	General Manager's Unit	12 November 2008	A response to this question will be submitted to the 28 January 2009 Council meeting

### **Outstanding Questions Without Notice and Notices of Motion (contd)**

<b>Question Asked / Councillor</b>	<b>Department</b>	<b>Meeting Asked</b>	<b>Status</b>
Q064 – Wyong Animal Care Facility (WACF – pound) Councillor Best	General Manager's Unit	12 November 2008	A response to this question will be submitted to the 10 December 2008 Ordinary Meeting.

<b>Notice of Motion</b>	<b>Department</b>	<b>Meeting Resolved</b>	<b>Status</b>
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.
470 – Ferry Service between Wyong and The Entrance <i>Report to be provided on investigation of a wharf and passenger ferry service between Wyong and The Entrance.</i>	Shire Planning	14 November 2007	Report to be submitted in conjunction with The Entrance Strategy report to the 10 December 2008 Council meeting.
231 – Poll on Popularly Elected Mayor and Electricity Privatisation <i>A further report be reported to Council at a briefing session outlining the ramifications of a popularly elected Mayor detailing exactly how the numbers equate in three wards concerned.</i>	Corporate Services	28 May 2008	A report will be subject to future briefing session for the new Council.  The report will provide an outline of possible ward boundaries.
293 – The Entrance Long Jetty Strategy Meeting <i>That Council facilitate a meeting with Key Stake holders – The Entrance Bowling Club, Lakeside Plaza and Wyong Shire Council.  That the Mayor chair the meeting, report back on the progress or otherwise.</i>	Shire Planning	25 June 2008	Meeting was held on 30 July 2008. Council update issued regarding outcomes. Formal report back to Council as part of adoption of The Entrance / Long Jetty strategy to be submitted to the 10 December 2008 Council meeting.

**Outstanding Questions Without Notice and Notices of Motion (contd)**

Notice of Motion	Department	Meeting Resolved	Status
<p>295 – Wyong Pool Maintenance Policy</p> <p><i>That Council defer any further decisions regarding Wyong Pool pending discussions with the Wyong Tennis Club Administrator.</i></p> <p><i>That the Mayor and General Manager report to Council on discussions.</i></p>	General Manager's Unit	25 June 2008	A meeting was held with the Administrators for Wyong Tennis Club. Awaiting further information once received a report will be submitted to the new Council.
<p>298 – Long Jetty Café</p> <p><i>That Council receive a briefing as part of the Long Jetty master planning on the permissibility and benefits / disbenefits of considering sub leasing an area of the Long Jetty to cater for a commercial operation.</i></p>	Shire Planning	25 June 2008	To be given further consideration following the adoption of the Draft Entrance Peninsula Planning Strategy. (The TEPPS encourages this type of potential development).
<p>319 – Proposal to Name Lot 1 DP 942380 and Lot 1 DP 663618 Corner of Church and Margaret Streets Wyong as Arthur Mollett Reserve</p> <p><i>That Council place on exhibition its proposal for Lot 1 DP 942380 and Lot 1 DP 663618 to be named the Arthur Mollett Reserve and recommend to the Geographical Names Board should no significant objections be received.</i></p>	Shire Services	9 July 2008	Names Board application approved. Advertisement to be placed for 1 month in local paper prior to ratifying park name.
<p>383 – Central Coast Regional Strategy – Toukley</p> <p><i>That as a result of the recent release of the Central Coast Regional Strategy by the Department of Planning, staff report on the implications of the strategy on existing Council projects. In particular, the report should address the impacts on the Future Planning Unit's work program and staff should also report on the now likely timelines and processes required to deliver the Toukley Strategy.</i></p>	Shire Planning	13 August 2008	A report will be submitted to Council following the workshop to be held early 2009.



### **Outstanding Questions Without Notice and Notices of Motion (contd)**

<b>Notice of Motion</b>	<b>Department</b>	<b>Meeting Resolved</b>	<b>Status</b>
<p>384 – Central Coast Regional Strategy</p> <p><i>That Council, in conjunction with Shire Planning staff, workshop the Central Coast Regional Strategy with a view to determining a position statement for the Department of Planning.</i></p>	Shire Planning	13 August 2008	Workshop to be held early 2009.
<p>385 – Clearing of Wetland Areas at Wadalba</p> <p><i>That staff provide a report back to Council with including a brief history of the agreement between developers and Council with the deemed concurrence of DECC aimed at 'streamlining' the Species Impact Statement / environmental approvals process and history of and reasons for Council apparently extending a number of DA's beyond their usual period. Also to outline further the history of inspections carried out, reports and follow-up action taken by Council officers in an endeavour to fulfil its responsibilities for a periodic review of the management plan and ensure all other parties have properly fulfilled their responsibilities.</i></p>	Shire Planning	13 August 2008	Investigations have commenced and it is intended to be reported to Council at the 10 December 2008 Council meeting.
<p>468 - Warnervale Town Centre and WEZ Projects</p> <p><i>That this motion be deferred to a future Council meeting and a report be provided on the Regional Coordination Committee from the Central Coast Office of the Premier's Department.</i></p>	Shire Planning	22 October 2008	A report will be submitted to the 10 December 2008 Ordinary Meeting.

**Outstanding Questions Without Notice and Notices of Motion (contd)**

Notice of Motion	Department	Meeting Resolved	Status
<p>496 - Adoption of policy of active resistance to offshore mining and extractive industry activities off the coast of Wyong Shire</p> <p><i>That Council call on both the State and Federal governments to fully assess the environmental impact of both the exploration activity and the potential mining activity associated with this application before any exploration licence application is considered.</i></p> <p><i>That Council make a formal submission to both the NSW government and Federal government who are jointly handling the exploration licence application, to reject the application if it is found to be environmentally damaging.</i></p> <p><i>That Council call on the NSW and Federal Governments to rule out any further coal exploration off the NSW coast from the Illawarra to Port Stephens.</i></p> <p><i>That Council embark on a campaign to inform the public on the process and possible negative impacts of such an offshore mining proposal.</i></p>	Shire Planning	12 November 2008	A Councillor Business Update will be forthcoming early 2009 detailing actions taken from the resolution.
<p>497 - Councillor Attendance at Precinct Committee Meetings</p> <p><i>That Council request all Councillors to remain available for contact by all Precinct Committees and attend as circumstances dictate.</i></p> <p><i>That Council request Precinct Committees to distribute their meeting notices, agendas and minutes to all Councillors on a regular basis.</i></p> <p><i>That Council note that a Precinct Forum is scheduled in these Chambers early in 2009.</i></p>	Corporate Services	12 November 2008	Action to be taken as requested.

### **Outstanding Questions Without Notice and Notices of Motion (contd)**

<b>Notice of Motion</b>	<b>Department</b>	<b>Meeting Resolved</b>	<b>Status</b>
<p>498 - Central Coast Tourism Inc (CCTI) Funding</p> <p><i>That Council report on funding for Central Coast Tourism Inc (CCTI).</i></p>	Corporate Services	12 November 2008	A report will be submitted to the 10 December 2008 Ordinary Meeting.
<p>499 - Wyong Parking Initiatives</p> <p><i>That Council congratulate the Member for Wyong, Mr David Harris MP, on his support for a joint venture between Council and the State Government to construct additional car parking around the Civic/Justice/Police precinct of Wyong Town Centre.</i></p> <p><i>That Council request staff to contact appropriate State Government agencies to address this matter.</i></p>	Corporate Services	12 November 2008	Action to be taken as requested.
<p>500 - The Entrance Beach Renourishment</p> <p><i>That staff investigate and report on a geotextile bag type training wall generally along the existing stormwater line to renourish the sand on The Entrance beach.</i></p>	Shire Planning	12 November 2008	A report will be forthcoming upon receipt of a concept plan and costing from the manufacturer.
<p>502 - Dredging Boat Harbour Summerland Point</p> <p><i>That Council request staff to report on the following when cost estimates are available:</i></p> <p><i>a the results of the preliminary investigation into the reported shallowing of the channel leading into the Boat Harbour at Summerland Point.</i></p> <p><i>b the necessary approvals required and funding options available to undertake dredging in order to provide safe navigable access for the recreational boating community in the north of Wyong Shire.</i></p> <p><i>That Council refer this matter/report to the local State Member for Swansea, Mr Robert Coombs, requesting his assistance in gaining the necessary departmental approvals to allow the timely restoration of the Channel and Harbour and funding options available.</i></p>	Shire Services	12 November 2008	A report will be submitted to 28 January 2009 Council meeting. A letter will be forwarded to Member for Swansea, Mr Robert Coombs by 26 November 2008.

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## WYONG SHIRE COUNCIL

26 November 2008  
To the Ordinary Meeting of Council

### **537                      Notice of Motion – Affordable Housing**

F2004/09609 SW

Councillor S A Wynn has given notice that at the Ordinary Meeting of Council to be held on Wednesday, 26 November 2008 she will move the following Motion:

- "1        *That Council acknowledge that adequate, safe, secure and affordable housing is a human right:*
  
- 2        *That Council note, however, that the NSW State Government currently empowers only two councils, via SEPP 70, to levy affordable housing contributions as a condition of development approval.*
  
- 3        *That Council therefore urge the State Government to:*
  - a        *categorise the provision of affordable housing as 'key community infrastructure' in planning legislation; and*
  
  - b        *support the Environmental Planning and Assessment Amendment (Affordable Housing Development Contributions) Bill 2008, moved by Greens MLC Sylvia Hale, which is currently before the NSW Legislative Council.*
  
- 4        *That Council note that the Affordable Housing Bill would enable Council to levy developer contributions for affordable housing where:*
  - *Council has identified a need within the Local Government Association for more affordable housing to support objectives for community sustainability;*
  
  - *Council's development contributions plan includes provision for affordable housing contributions (with reference to the Council's housing strategy, where such a strategy has been developed);*
  
  - *Council's Local Environment Plan includes affordable housing provisions and specifies in which locations levies are to be imposed;*
  
  - *Council has determined the quantum of levies to be imposed (which may vary from 0% to a maximum of 25%) in the context of levies imposed for other public and community purposes and Council's identified priorities;*
  
  - *the development to which the levy is applicable is a multi-unit development of 10 dwellings or more.*

## **Notice of Motion – Affordable Housing (contd)**

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- 5 *That Council write to the Premier, Hon. Nathan Rees MP, the Minister for Planning, Hon. Kristina Kenneally MP, the Minister for Housing, Hon. David Borger MP, the Leader of the Opposition, Barry O'Farrell MP, the Shadow Minister for Planning, Brad Hazzard MP, and local Member of Parliament informing them of Council's resolutions and seeking their support for the Bill."*

### **BACKGROUND**

#### **Increasing Rents and House Prices**

Rents and house prices in NSW have been accelerating at a rate greater than average weekly earnings and the Consumer Price Index (CPI). This means that the housing is becoming more unaffordable especially for those on lower incomes.

**Rents** have increased significantly. The *NSW Rent and Sales Report* covering the last quarter of 2007 indicated that Sydney rental prices were growing at more than 5 times the rate of inflation and wage increases.

The average rent for a two-bedroom apartment in Sydney jumped by almost 13% in 2007, with a similar increase for the average Sydney three bedroom house. In the same period, the Consumer Price Index rose by just 2.4%.

In the quarter to March 2008 NSW commencing rents increased 11% relative to tenancies commencing the same quarter last year. The median rent for Sydney tenancies was up 9.4% relative to March 2007. A drop in bonds lodged down 7.4% to the March quarter 2007, and down 14.4% from the March quarter five years ago, indicate fewer tenants are moving house.

The Sydney vacancy rate is difficult to calculate, but is approximately 1.2% for the past 12 months. Other regional areas such as the Illawarra and Hunter were below 2%.

**House prices** have increased to roughly seven times average weekly earnings. In the March quarter 2008 the median Sydney house price was \$554,000.

Other areas of NSW such as Byron Shire are experiencing relatively high median house prices as well. Housing affordability decreased in NSW by 9% from the March Quarter 2008 compared to the March Quarter 2007.

26 November 2008  
To the Ordinary Meeting of Council

## **Notice of Motion – Affordable Housing (contd)**

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There has been a slight improvement due to interest rate reductions however auction clearance rates are at very poor levels – less than 50% in NSW of houses on the market are selling.

### **Current Affordable Housing Arrangements - State Environmental Planning Policy No 70**

State Environmental Planning Policy No 70—Affordable Housing (Revised Schemes) is a planning instrument made by the Minister. At present it specifies that levies for affordable housing purposes may only be applied in line with the *Sydney Regional Environmental Plan No 26—City West Willoughby Local Environmental Plan 1995 and South Sydney Local Environmental Plan 1998*.

Within the Sydney metropolitan area in the areas that these plans specify – in actual fact this applies to a limited number of precincts in Willoughby LGA, Green Square and Ultimo-Pyrmont. The levies specified range from 0.8 to 4%. The Minister has sole power to alter the SEPP.

Within the planning legislation, it specified explicitly that councils cannot require developer contributions for affordable housing unless the scheme is in SEPP 70.

Councils can, under the section dealing with voluntary planning agreements', come to an agreement with a developer on affordable housing – however a council cannot impose a requirement as a condition for consent. The Greens Bill, if passed would allow a council to impose such a requirement (up to a limit of 25%).

The Greens Bill removes the need for a scheme to appear in a SEPP (which is determined solely by the Minister) and hands a general power over to the council to set levies.

### **Flexibility in the Bill**

The Greens Bill allows councils to determine what is required for its own LGA.

The council must first;

- 1 Determine if there is a need for more affordable housing – which the Council may have already done within its Social Plan or Affordable Housing Plan/Strategy,
- 2 Work out the details of any affordable housing contributions plan such as:
  - i the percentage that will apply and
  - ii in which areas of the LGA the levy will apply, keeping in mind the council's priorities,
- 3 include this within the LEP.

## **Notice of Motion – Affordable Housing (contd)**

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A council can set differing levels of requirement in different areas, or based on the value or size of development. For example, a council may decide for a 400-unit development in a growth area such as a town centre requires a 20% levy, but in every other part of the LGA the council may require a 10% levy. Specifying this within a plan allows certainty for developers, however the levy cannot be so onerous as to cause the developer to abandon their plan, and the council needs to take into account the other levies that will apply for other purposes on that site.

The Bill offers a compromise between specifying a rigid levy (for example, 15% in all new multi-unit developments) and a totally voluntary approach (which is currently what section 93F of the Act does). The Greens approach gives council more say on how much the levies should be and where to apply them, given local conditions and housing needs, but is flexible enough to allow for different conditions throughout NSW - for example, North Sydney Council probably has more need for affordable housing in new developments than does Yass Shire council.

The Bill empowers councils to make the decision.

### **NSW Greens**

#### **Affordable Housing through Planning Law Reform – Briefing Note**

##### **What is affordable housing?**

Affordable housing is housing, usually rental, which is subsidised (cheaper than market) and available to means-tested applicants on low to average incomes. It differs from social housing in that a wider range of income groups are targeted, and it can create a surplus due to the range of incomes of the tenants.

Affordable housing is offered to those on low to median incomes. It is usually subsidised by some mechanism or combination of mechanisms – up-front grants from Government, developer contributions, and/or ongoing income subsidies to tenants (such as Rent Assistance).

The Greens Bill would allow Councils to require a developer to contribute in the form of a percentage of housing units or equivalent value, for affordable housing purposes (up to 25% maximum). The title to the units or monetary equivalent has to be used for affordable housing purposes. This is often called 'inclusionary zoning'.

##### **Mix of Tenants**

Affordable housing, because of the ability to house people on low to moderate incomes, can produce a financial surplus (positive rental returns). Two-thirds of tenants of NSW's City West Housing Company, for example, are in the workforce. The City West affordable housing scheme was kick-started by combining State and Federal grants, and developer contributions in the Pyrmont-Ultimo (and now Green Square) areas.



26 November 2008  
To the Ordinary Meeting of Council

### **Notice of Motion – Affordable Housing (contd)**

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Once a scheme is set up, rental income from affordable housing can produce a surplus over time, allowing the scheme to expand. Like public housing, rents are still linked to income (30%) until a certain amount is earned, whereupon rents are capped at 'market'.

The Greens Bill proposes that developers can be required by a council to contribute up to 25% for affordable housing. The council will have to specify the details of the levy and the areas to which it applies in a contributions plan. This will provide certainty to developers.

Where there is a new development and the contributions are sought, the council will then use the contributions (in the form of money actual housing units) for an affordable housing purpose, or transfer the contributions to an organisation that will operate the scheme.

Affordable housing fills a real need – it provides affordable accommodation for those workers on low incomes who are not eligible for social housing, but cannot afford, and currently suffer high housing costs in the private market.

In Sydney and in NSW, there are no official targets for affordable housing provision, despite statistics showing how many people are living in housing stress, and a recommendation that this be done in the State Plan.

In development areas, the Government's affordable housing requirements have been modest – around 1-1.5%, only in a handful of areas. This may be what Government thinks developers can 'live with'. It is clearly insufficient, and the percentages chosen have no basis in research or statistics showing housing need.

It's not just Sydney either – affordability problems are increasing in coastal areas of NSW as well, in particular in Northern NSW. The Greens Bill will apply to the whole of NSW.

## **Notice of Motion – Affordable Housing (contd)**

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### **Real examples of affordable housing schemes via inclusionary zoning**

City West Housing Company



(Architects: **Tonkin Zulaikha Greer**)

City West Housing Company was established in June 1994 to provide affordable housing in Pyrmont-Ultimo. It expanded its operations to Green Square in 1999.

In 2007 City West recorded a surplus of over \$7m, including \$3.86m in rental income and \$4.8m in developer contributions.

As of today, the company owns 491 units housing approximately 1000 people. The company has a development approval to conduct an additional 57 units at Greens Square – due to be completed in April 2010.

City West was established with funding from three sources: the Building Better Cities Program funding, State Government funding, and developer contributions.

City West Housing is structured as a company, but the government is the chief 'shareholder', with the others being held by community sector and City of Sydney members. The City West area is shown on the map in [State Environment Planning Policy no. 70](#), which allows a levy on development in the areas specified.

26 November 2008  
To the Ordinary Meeting of Council

### **Notice of Motion – Affordable Housing (contd)**

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City West Housing Company accepts three categories of tenant: very low income, low income and moderate income. It tries to maintain a balanced mix of tenants so that it generates enough rent to pay for costs and maintenance. The actual mix of tenancies in 2007 was 22% very low income, 41% low income, and 37% moderate income. Income eligibility range from very low statutory incomes up to \$76,949. Applicants must also show local connection to the area to be eligible.

City West generates about \$7m surplus per annum and reinvests this into new units. It is vertically integrated (that is, it acts and housing manager, property developer, builder and architect).

#### **London – Imperial Wharf, Hammersmith and Fulham**



In England, affordable housing is a 'material consideration' for the granting of planning permission, under section 106 of the 1947 Town and Country Planning Act. Most contributions are given as on-site housing units. This produces 20,000 units per annum.

Since 1996, developers have had to meet a quota of social housing, typically 25 per cent at schemes of more than 15 homes. In the [London Plan](#), the former Mayor, Ken Livingstone, recommended an increase to a 50% affordable target for all new housing developments in the Greater London area.

At Imperial Wharf, a redevelopment of a gasworks site near the Thames, the council has negotiated 500 affordable housing units (58% of the residential site).

There are 125 homes allocated to shared-ownership schemes, 50 set aside for key workers who can rent for about 40 per cent below market value, and discount sale homes, where people can purchase for about 30 per cent below market value. There is also housing for the elderly and students.

26 November 2008  
To the Ordinary Meeting of Council

## **Notice of Motion – Affordable Housing (contd)**

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USA – San Francisco Bay Area, California



### **8th + Howard/SOMA Studios**

In the USA, hundreds of communities have established inclusionary zoning programs since the first policy was adopted in 1972. Well over 300 jurisdictions – cities, towns and counties – have an inclusionary zoning ordinance on the books. Inclusionary zoning is well-established in the US and produces hundreds of thousands of affordable homes. There is tremendous diversity in the structure and goals of inclusionary zoning (IZ) programs throughout the country.

Inclusionary zoning is widely prevalent in the San Francisco Bay Area. As of 2002, seven of the 10 counties and 48 of the 104 incorporated cities and towns in the metropolitan area had adopted some form of IZ.

In two of the three counties without countywide IZ, Santa Clara and Sonoma, a majority of the cities and towns have adopted their own IZ ordinances. Moreover, most programs in the Bay Area are mandatory: all county-wide IZ ordinances are mandatory, and only four cities have voluntary programs.

26 November 2008  
To the Ordinary Meeting of Council

## **Notice of Motion – Affordable Housing (contd)**

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Approximately 45 percent of IZ ordinances in the Bay Area require that up to 10 percent of units be designated as affordable, while another one-third of jurisdictions require between 11 and 15 percent of units to be affordable. The highest share of affordable units required was 25 percent (Corte Madera in Marin County). In terms of the level of subsidies, the most common targets are a combination of very-low, low and moderate-income households (39%) and low- and moderate-income households (34%).

Across the whole area, a total of 9154 affordable units reportedly have been developed as of 2003.

### **What is the Labor Government doing about it in NSW?**

There is no affordable housing strategy for NSW. We have had a succession of Housing Ministers, but none have really innovated and there has been no advance on the limited affordable housing schemes operating in NSW.

The Rudd Government has announced measures such as the National Rental Affordability Scheme which will create some incentive through tax for new supply, but NSW's share of new units will be limited.

The Rudd Government has put most of its money into assisting first home-buyers, but increases to the First Home Owners Grant for existing houses will simply rise to match the grant. Any subsidies should be targeted at new-build housing only.

### Greens housing directions

The Greens Bill, if supported, will allow Councils to use planning powers to levy developers, if the council identifies a need for affordable housing and chooses to do so. We need more affordable housing for low-income workers, the elderly, students, apprentices, etc. Obviously councils cannot set a levy at a level that would make a project unviable, otherwise there will be no development to levy.

The Greens will continue to push for more funding for social and community housing.

The Greens support additional housing and support services approach for the chronically homeless.

The Greens support the upgrading of housing in rural and remote NSW with a focus on disadvantaged and Aboriginal communities.

The Rudd Government's increases to the First Home Owners Grant for existing houses will simply rise to match the grant. Any subsidies should be targeted at new-build housing only.

### Arguments from Opponents of the Bill

The levy will kill off private development projects?

## **Notice of Motion – Affordable Housing (contd)**

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**This argument is being advanced by Ken Morrison of the Property Council of NSW.**

But both in NSW and overseas, these levies are in place and have not killed off the development industry.

In fact, the NSW Government already imposes these types of levies on developers for affordable housing purposes in a limited number of areas— so it's already being done.

The affordable housing levy has the advantage of working well in high-cost, high building activity areas. The Greens have written this Bill in such a way as to leave leeway for councils to set levies at levels that the industry can live with.

Councils will take a sensible approach – after all, they cannot extract affordable housing contributions from a building that is not built.

A number of studies of US and UK jurisdictions where inclusionary zoning exists found that it had not diminished housing production or the resale value of surrounding market-rate housing.

We should recognize that the property industry looks at levies through a prism of self-interest. The Greens are looking at it from another perspective: creating healthy mixed communities and cities.

The cost of this levy be passed on to market buyers

There is no doubt that demand for private market housing outstrips supply. Developers set the price at a point where sales can occur and, although developers groan about levies and say they pass them on to buyers, they will drop the price if they cannot sell. Building will not stop because of this levy. That has not happened in all the other places where inclusionary zoning operates.

**We're already doing enough, the government will say.**

Earlier this year, housing was at its lowest level of affordability ever.

Rents are going up and vacancy rates are tight.

The National Affordable Rental Scheme will create only 50,000 units Australia-wide in its first phase to 2012.

The increases to the First Home Owners Grant for existing houses will simply rise to match the grant. Any subsidies should be targeted at new-build housing only. Social housing is not keeping pace with population and only houses 5% of people.

26 November 2008  
To the Ordinary Meeting of Council

### **Notice of Motion – Affordable Housing (contd)**

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The NSW Government's Centre for Affordable Housing has produced only a few dozen units.

Low-waged workers are simply not eligible for social housing, Rent Assistance, public housing or RentStart. The government has not addressed the thousands of people living in unaffordable private rental.

Inclusionary zoning is completely within the state government's power to enact. Government already allows limited mandatory inclusionary zoning in NSW, therefore, the government already supports this in principle. This Bill simply proposes that it be expanded.

Further reading on Affordable Housing

About City West Housing Company  
<http://www.citywesthousing.com.au/>

'Levying developers for affordable housing', Craig Johnston, Shelter Brief 23 (November; updated February 2008). <http://www.shelternew.org.au/docs/rpt08levy-sb23.pdf>

Affordable Housing in London  
<http://www.london.gov.uk/london-life/housing/affordable-housing.jsp>

**For more info:** Policy Officer: Hazel Blunden  
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**WYONG SHIRE COUNCIL**

26 November 2008  
To the Ordinary Meeting of Council

**538                    Notice of Motion – Building and Construction Industry Improvement Act 2005 (BCII) and Australian Building and Construction Commissioner (ABCC)**

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F2007/01819 SW

Councillor S A Wynn has given notice that at the Ordinary Meeting of Council to be held on Wednesday, 26 November 2008 she will move the following Motion:

*“This local council notes that:-*

- i        The Building and Construction Industry Improvement Act 2005 (BCII Act) renders virtually all forms of industrial action unlawful and subjects unions and individual workers to massive fines.*
- ii       The BCII Act gives the Australian Building and Construction Commission (ABCC) unprecedented coercive powers to force people to answer questions under oath, provide information or documents about everyday industrial relations issues, and establishes gaol terms of up to 6 months for those who refuse to comply.*
- iii      A Victorian unionist, Noel Washington, has been charged with breaching these laws and now faces the prospect of six months imprisonment.*
- iv      The International Labour Organisation’s Committee of Experts and Committee on Freedom of Association have condemned these laws as with International Conventions signed by Australia.*

*This local Council calls on the Federal Labor Government to immediately repeal the BCII Act and to disband the ABCC.”*

**BACKGROUND**

Just over three years ago, around 900,000 Australian workers lost their right to basic freedoms – freedom to associate, freedom to choose legal representation, freedom to silence, and freedom to take action over life-threatening health and safety issues.

The Australian Building and Construction Commission (ABCC) – budgeted to cost taxpayers more than \$165 million over the five years from mid-2007 – treats the 900,000 carpenters, crane operators, plumbers, bricklayers, electricians and labourers differently from all other workers across the country.



26 November 2008  
To the Ordinary Meeting of Council

**Notice of Motion – Building and Construction Industry Improvement Act 2005 (BCII) and Australian Building and Construction Commissioner (ABCC) (contd)**

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While other people facing questioning from authorities can select their own lawyer, construction workers called before ABCC inquisitors cannot. While other employees can refuse to front up to interrogations, construction workers and their union representatives face six months jail time if they decline to attend. And while other workers can take industrial action over serious safety concerns in their workplace, people in the construction industry face a hefty fine – up to \$22,000 for an individual – if they act to ensure that they and their colleagues are safe from harm in one of the most inherently dangerous workplaces in the country.

No Australian worker is above the law. If any citizen or resident – bricklayer or investment banker – breaks the law, they can be held accountable by the legal system that protects and governs us all.

The Australian Building and Construction Commissioner was set up under the Howard government. It is seen as the most extreme aspect of the Coalition's industrial relations laws. The Rudd government to date has refused to repeal these laws.

The ABCC has the power to interrogate construction workers. If they refuse to answer questions or report on their colleagues, they can be fined or face imprisonment. Those singled out by the ABCC may not be entitled to choose their own lawyer and they cannot tell anyone, except the lawyer, about what has happened to them during the interrogation.

The ABCC claims credit for reductions in lost time in the construction industry. But a comparison of industrial disputes shows that there was less time lost in 1995 under a Labor government with the Brereton industrial laws, than in 2005 under Howard's laws.

All the published studies of labour productivity in the construction industry, including the paper prepared for the Cole Commission, show Australia's industry close to the top of the table.

For the last one hundred and fifty years the CFMEU and its predecessor unions have struggled to civilise the construction industry. This work has resulted in achieving decent wages, working conditions and improved safety for construction workers.

The aim of the ABCC is to wind back many of these improvements in workplace conditions.

The construction industry is very dangerous and the unionised workforce as played a key role in changing the work culture so safety comes first. But there are still employers in the construction industry who expose workers to unsafe conditions, work excessive hours, and who use phoenix companies to avoid paying worker's entitlements. There are others who exploit guest workers, the most vulnerable of our workforce by using the 457-visa scheme.

26 November 2008  
To the Ordinary Meeting of Council

**Notice of Motion – Building and Construction Industry Improvement Act 2005 (BCII) and Australian Building and Construction Commissioner (ABCC) (contd)**

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The CFMEU construction division is working with responsible employers and investors to make the industry safer and more productive. In 2005 the CFMEU training centres in every state trained over forty thousand people in important skills like occupational health and safety, scaffolding, rigging, crane driving, safe asbestos removal, occupational first aid and many other skills vital to the future of their industry.

Supporters of civil rights and construction workers will rally against the ABCC on Tuesday, 2 December – the date the CFMEU official Noel Washington goes on trial for refusing to submit to an ABCC interrogation. The case against Noel Washington arises from a meeting that he attended in his capacity as a union official. The ABCC demanded that Noel give details of who was at the meeting. He refused to answer any questions, this makes him liable for six months' jail.

Assemble at Sydney Town Hall Square at 11:45 am to march to the ABCC office at 255 Elizabeth Street. In the mean time, sign the petition to abolish the witch hunt at [www.rightsonsite.org.au](http://www.rightsonsite.org.au)

The Rights on Site campaign is aiming to get 10,000 signatures to deliver to Canberra in November to help repeal these laws.

**WYONG SHIRE COUNCIL**

26 November 2008  
To the Ordinary Meeting of Council

**539 Notice of Motion – Tumby Road Powerline Pollution**

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F2006/00475 DE

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

*“That Council express its disappointment at the visual pollution and increased motor vehicle accident potential caused by Energy Australia along Tumby Road.”*

**WYONG SHIRE COUNCIL**

26 November 2008  
To the Ordinary Meeting of Council

**540 Notice of Motion – Super Clinic Sites**

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F2004/11290 DE:GB

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

*“That Council staff report on the availability of land in the shire for large medical centres such as the proposed GP Super Clinics.”*

**WYONG SHIRE COUNCIL**

26 November 2008  
To the Ordinary Meeting of Council

**541 Notice of Motion – Extended Safety of Surf Patrol Beaches**

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F2004/06257 GB

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

- “1 That having regard to the increasing incidence of unseasonably warm weather associated with global warming and the resultant high beach usage outside current patrol hours Council take a proactive approach with a view to providing our residents and ratepayers with greater coverage of patrolled surf beaches.*
- 2 That Council receive a briefing on current coverage and resources required to patrol our Shire’s beaches including any recommendation for Council to consider a more flexible approach to beach patrol timetables.”*

**WYONG SHIRE COUNCIL**

26 November 2008  
To the Ordinary Meeting of Council

**542                      Notice of Motion – Continuing Erosion of Cabbage Tree Bay**

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F2004/07782 GB

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

*“That having regard to continuing erosion of Cabbage Tree Bay and that this situation will likely be exacerbated by the approaching Christmas King Tides staff report to Council on the progress to date regarding current initiatives proposed. Further the report should cover a brief indicative outline as to the possible merits of considering ocean sand dredging as a part solution to replenishment and re-establishment of Cabbage Tree Beach.”*